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21 June 2018

Dr Wendy Craik  
C/-Agriculture Review (Aither)  
Level 2, 45 Exhibition Street  
MELBOURNE VIC 3000  
By email: [agreview@aither.com.au](mailto:agreview@aither.com.au)

Dear Dr Craik,

**RE: Public Submission by the Kimberley Pilbara Cattlemen's Association to the EPBC Act Ag Review**

The Kimberley Pilbara Cattlemen's Association Inc was formed in April 2015 as the Kimberley Cattlemen's Association to represent the interests of pastoralists in the region. In December 2016, the organisation's name was formally changed to the Kimberley Pilbara Cattlemen's Association (KPCA). Today the KPCA represents the interests of an estimated 350,000 head of cattle and a number of related businesses across the Kimberley, Pilbara and Gascoyne regions of WA who are actively seeking to Develop the North in a sustainable manner and for the benefit of the communities across the regions.

In July 2017, the KPCA provided a submission to the Senate Inquiry into the Effect of Red Tape on the Economy and the Community: Environmental Assessment and Approvals which was pivotal in shining a light at both the Commonwealth and State level on impediments faced by the agricultural sector in obtaining timely approvals to underpin development in the north west of WA.

As such, the KPCA was pleased to hear of the announcement by the Hon David Littleproud MP, Minister for Agriculture and Water Resources, on 29 March 2018 of the Independent Review of Interactions between the *Environment Protection and Biodiversity Conservation Act 1999* Cth (EPBC Act) and the Agriculture Sector as it provides us with an opportunity to provide further examples of where clear disconnects and inefficiencies have been faced by KPCA primary producer members in progressing development approvals relating to irrigation of fodder crops and groundwater extraction in both the Kimberley and Pilbara regions.

Due largely to resource sector related development and approvals requirements and studies that have been conducted in the Kimberley and Pilbara over at least the last 10 years, there are significantly improved levels of baseline environmental and cultural heritage knowledge that do

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make it possible for pastoralists and other developers to take a risk based approach to managing the impacts of development. Given that by and large pastoralists do not necessarily have the same resources at their disposal to undertake environmental and cultural heritage surveys as large resource sector companies do in the context of multi-billion dollar developments, it is imperative that a fit-for-purpose, pragmatic and risk based approach is taken when it comes to approvals for agricultural developments. Further, pastoralists relationships with the land is typically one that entails long term stewardship with the land (sometimes over multiple generations) in contrast to greenfields resource sector developments where there is not necessarily the benefit of the knowledge associated with a longer term management relationship of the land.

In terms of the issues the KPCA wishes to raise as part of its submission, these best align to some of the key emerging issues and concerns listed in section 2 of the Aither Briefing Paper to inform public consultations rather than the specific key questions for consultation in section 2. In particular:

- Understanding the obligations of individual farmers under the EPBC Act;
- The time and cost implications for farmers;
- Determining how 'significant' an impact is as part of a risk-based approach; and
- Alignment barriers between State and Commonwealth law.

It is of significant concern from a KPCA perspective, that based on experiences of a number of proponents, that those wishing to progress irrigated agriculture developments in the regions, run the risk of finding themselves disconnected situations between the State and Commonwealth environmental regulatory systems with no circuit breaker. In particular, we believe there are clear cut examples of where the EPBC Act processes have been proven to not be fit-for-purpose to enable sustainable development and are completely out of alignment with what we believe are very robust State based processes under the *Environmental Protection Act 1986* WA (EP Act) and the *Rights in Water and Irrigation Act 1914* WA (RiWI Act), including the State and Commonwealth deeming magnitudes of impact differently and with the Commonwealth issuing controlled actions based on a level of potential impact on Matters of National Environmental Significance (MNES) that are not demonstrably significant.

This brings to light not only whether the Bilateral Agreement between the Commonwealth and WA Government is currently operable when it comes to the Assessment on Referral Information level of assessment but also whether the spirit of the Bilateral Agreement is being adhered to as described in Objects C:

"The Commonwealth and WA are jointly committed to maintaining high environmental standards and working together to streamline environmental assessment by this agreement,

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as a step to establishing a 'one-stop-shop' for environmental approvals. This is about setting the highest standards, making swift decisions and delivering certain outcomes."

Further, there is also a question about the higher level issue of harmonization of Commonwealth and WA processes to ensure a common assessment process (as distinct to accreditation in the circumstances contemplated under the Bilateral Agreement) which still largely remains unresolved and, in principle if tackled, would ensure the Commonwealth's approval processes do not cut across the State's processes in an inconsistent manner.

It is also clear that there is an opportunity for DoEE to provide more information to assist proponents in determining potential levels of impact on MNES to inform decisions in relation to referral in addition to the opportunity for DoEE to proactively coordinate and seek advice from the WA EPA and relevant agencies on such matters. Further, the DoEE could consider issuing more robust and comprehensive guidance statements on how to/methodologies demonstrate levels of impact on MNES.

Given the focus and attention of the Commonwealth Government on prioritizing the Development of the North, it is imperative that the EPBC Act operate in such a way so as to achieve a sensible and balanced outcome in the interests of the region and the broader community. This will also be of particular important in the further progression of agricultural development proposals in the Fitzroy Valley, in the context of the National Heritage listing, including how the Commonwealth will consider and assess impacts to intangible cultural heritage sites and its interrelationship with the State based Aboriginal heritage processes, which are currently being reviewed.

Please do not hesitate to contact KPCA CEO Emma White via [ceo@kpca.net.au](mailto:ceo@kpca.net.au) or 0499 331 643 should you require any further information or wish to discuss the issues raised in this submission further.

Yours sincerely,



David Stoate  
**Chairman**