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Introduction

Monaro Farming Systems (MFS) welcomes the opportunity to **make the following submission to the *Independent Review of the interaction between Agriculture and the Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act)***.

The specific focus of this submission relates to the listing of the Natural Temperate Grassland of the South Eastern Highlands (NTG-SEH) under the EPBC Act, which encompasses amongst a significantly larger area, all privately held Agricultural land on the Monaro.

The NTG-SEH listing

As recommended by the Threatened Species Scientific Committee (the Committee), the NTG-SEH was listed under the EPBC Act as critically endangered on the 6th of April 2016 by the Minister for the Environment Greg Hunt. This listing was a modification to a previous listing for *Natural Temperate Grasslands of the Southern Tablelands of New South Wales and the Australian Capital Territory* which was listed as endangered in 2000.

The Committee also provided the Conservation Advice document to be adopted as the approved conservation advice for the listing area; this document is the key regulatory document for compliance and achieving listing conservation outcomes.

Monaro Farming Systems

MFS is a professionally run producer group owned and driven by its progressive and innovative members. The group's aims are to provide members with proven, relevant and targeted information which improves knowledge and profitability, while being a strong forum for networking, support and learning.

The group has 72 farm businesses as members (totalling ~ 250 individuals) representing approximately 45% of the annual produce from the Monaro. Collectively they manage 123,988 hectares, run 375,500 sheep and 25,000 head of cattle, producing on average 1,875,845kg of wool, 2,500,000 kg of sheep meat and 4,207,000 kg of beef annually.

MFS has traditionally focused on production issues and has not been involved in lobbying or political issues. MFS involvement in the EPBC Act has been driven by a vote of the overwhelming majority of members to do so, as they consider the matter to be of critical importance to their business.

MFS's submission illustrates the following:

- Low levels of member awareness of EPBC Act listing, both before and after the listing date;
- The Conservation Advice criteria for grassland assessment are highly complex and beyond the skillset of competent landholders, and creates additional significant economic and opportunity costs for agricultural enterprises;
- The listing by design regulates a significant proportion of the Monaro grasslands, while targeting only a small area for conservation;
- The Conservation Advice fails to adequately address the conservation threat of highly invasive noxious weeds on the Monaro; and
- The EPBC Act listing operates in addition to State vegetation legislation, causing confusion and an administrative burden for landholders, as well as differing conservation outcomes.

It is member belief that the issues illustrated in this submission have arisen as result of poor engagement with landholders, and a limited understanding of the agricultural operational environment within the regulated area. MFS strongly believes that conservation outcomes can be best achieved if landholders are engaged and have input into regulation design and testing. MFS would welcome any opportunity to work with the Department of Environment and Energy to strengthen conservation and agricultural outcomes under the EPBC Act.

1) Low awareness of EPBC Act Listing

MFS can report based on member feedback a significantly low level of awareness of the NTG-SEH listing under the EPBC Act. Specifically MFS has noted:

- Few, if any members were aware of the upcoming listing prior to 6th April 2016;
- Few, if any members were aware of the listing post 6th April 2016;
- The first point of contact for this listing for most members was when an alleged breach of the Conservation Advice was brought to public attention;
- Most members who are now aware of the listing have little to no understanding of the Conservation Advice and its application to landholders; and
- State employed Land Management Officers had little to no awareness of the listing.

Based on MFS observations it would appear:

- There was limited/if any consultation with landholders on the Monaro prior to the listing coming to effectiveness on the 6th April 2016;
- There was no rollout/education/extension provided to landholders since 6th April 2016 to notify or assist landholders of/with compliance requirements;
- The Department of Environment and Energy (DoEE) not only made no effort to inform farmers about the listing when it happened, but they refused to send a representative when

MFS held an information day on native vegetation legislation, despite being approached by LLS to do so ie they still have made no attempt to rectify the lack of information re listing.

- The DoEE is only now (June 2018), in response to Monaro Landholder questioning, drafting Policy Statements to be provided to landholders to assist with understanding and complying with listing requirements.

2) Complexity of Conservation advice and effect on Agriculture

The Conservation Advice imposes a complex assessment process on landholders that does not practically translate into modern agricultural land management practices. The Conservation Advice document has been written with the focus on identifying patches of ecological communities of Moderate Conservation Value (MCV) or higher through a number of assessment methods and thresholds. This imparts a requirement on landholders to show that an agricultural activity doesn't meet any of the assessment guidelines. Complexity is further added by the following:

- Exotic annual plants are excluded from pasture composition thresholds resulting in areas of lower levels of native plant dominance being subject to detailed assessment requirements;
- The minimum patch size stipulated within the Conservation Advice is 0.1 HA, meaning an average size paddock of 35HA could have 350 individual areas of assessment of consequence that a landholder would need some surety over before commencing agricultural activities;
- Where MCV or High Conservation Value (HCV) grasslands are not easily identified by the dominance of three core species, as is commonly the case in Low Conservation Value (LCV) grasslands, where a landholder would perform broad acre agricultural activities they are required to show by sampling 0.04HA plots that:
 - Less than 8 non-grass native species (less than 4 in non-favorable sampling times) are present;
 - Less than 2 of approximately 216 indicator species (less than 1 in non-favorable sampling times) are present; and
 - A Floristic Value Score of less than 5 (less than 3 in non-favorable sampling times).

These assessment criteria are:

- Beyond the reasonable skillset of a landholder, and commercial agronomist, requiring landholders to employ the limited regional resource of a botanist to evidence that LCV areas do not meet any Conservation Advice thresholds. Imposing an otherwise unrequired cost on LCV grasslands and demand on limited resources.
- Timing criteria means that landholders are dependent on a favorable season in order to demonstrate a patch doesn't meet Conservation Advice thresholds. It has been noted by State based Natural Resource Managers that the non-favorable sampling time thresholds would capture most grasslands on the Monaro; requiring patch referral to DoEE for approval of activities.

3) Quantifying Conservation Area v. Regulated Area

Within the listing documentation, the DoEE has been unable to determine the area or locations of HCV or greater grasslands that are intended to be protected under the EPBC Act. The Conservation Advice notes the Committee concluded the NTG-SEH originally comprised of an area of 500,000HA pre-European Settlement. It now estimates that 3% of this ecological community remains i.e. 15,000HA, although further figures of 4.6% and 10% are also referred to in the Conservation Advice.

Thus, best estimates are of potentially 15,000-50,000HA of applicable targeted grasslands within the entire listing area; resulting in all other LCV grasslands being subject to Conservation Advice assessment requirements as outlined above for any broad acre agricultural activities. The area of grasslands falling under regulation of the Conservation Advice is not quantified in supporting documentation, but is estimated by aerial survey data (performed by Southern Rivers Catchment Management Authority) to be approximately 658,000 HA on the Monaro alone.

MFS notes that:

- The Department/Committee has made no attempt to accurately identify the area or location of NTG-SEH areas before listing; nor
- Has the Department/Committee performed on ground validation of the Conservation Advice on the Monaro to determine the extent of over regulation of Agricultural Grasslands.

It is worth noting that locally based State Natural Resource Managers have commented that the assessment criteria and 'Condition Thresholds' are so low that nearly all grasslands barring those that were highly improved would meet one of the criteria to be defined as at least MCV. This would require a landholder referring their planned activity to Federal officials for a determination as to whether it would have a 'significant impact' on critically endangered species.

4) Management of Invasive Noxious Weeds under the Listing

The Monaro grasslands are highly threatened by invasive noxious weeds, the most detrimental being African Love Grass, but also including species such as Serrated Tussock and Chilean Needle Grass. These species represent as great a threat to productive agriculture as they do to grassland conservation outcomes. The listing documentation fails to recognize the conservation threat of these plant species on the Monaro, and further limits the control activities landholders can implement to reduce or prevent degradation of native grasslands by invasive weeds.

The Conservation Advice limits weed control activities in regulated grasslands to the practice of spot spraying or plant targeted mechanical control unless levels of infestation shift grassland species content to a level of greater than 50% perennial exotic (at this point the grassland is not considered of high enough value to be protected under the Act).

It is MFS opinion that individual noxious plant targeted controls become ineffective at very low population levels within grassland environments. Based on experience, once these weeds exceed a density of 15% then spot spraying or other control methods will not stop the spread of the weeds. This is due to their ability to avoid visual detection within native grasses, their low level of animal palatability, and aggressive reproduction rates. These species are better targeted with uniform

broad acre controls and introduced plant based competition in instances occurring well before weed populations exceed 50% of the perennial plant population of the grassland.

If the limit of 50% remains then large areas, agriculture and conservation, will be lost to these perennial weeds. This has already occurred in the area between Canberra and Cooma so there is a case study of what can happen.

MFS:

- Have recognized a knowledge/research gap in highly invasive weed control in grasslands on the Monaro and are developing projects in order to understand the best control techniques for achieving conservation outs.
- Believes the Conservation Advice does not adequately address the conservation threats of highly invasive noxious weeds on the Monaro, and due to high thresholds (>50%) imposed on control techniques, this may pose conservation threats in its own design.

5) Conflict with State Vegetation Legislation

MFS has noted that NSW State vegetation laws and the EPBC Act listing regulations differ substantially; especially around their treatment of exotic annual grass species in pasture composition assessments for applicability of regulation (exotic annual plants are excluded under the Conservation Advice). This leads to quite common scenarios where landholder activities are deemed legal under State legislation, but are prohibited under the EPBC Act.

At the very minimum landholder administrative burden has now doubled as they must show compliance with two differing pieces of legislation that are aiming to achieve conservation outcomes.

It is of further note, that while a proportion of annual plant species are exotic they have become naturalized in the landscape over the last 150 years. Members perceive it to be an artificial assessment to ignore them and this factor is leading to confusion and additional work. The areas of HCV will be naturally free of these annual plants, thus the exclusion of them in the assessment process seems to bring larger areas of LCV grasslands under listing regulation for no additional conservation value.

John Murdoch

Board Director – Monaro Farming Systems

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