

Dr Wendy Craik
Agriculture Review (Aither)
Level 2, 45 Exhibition St
Melbourne
VIC 3000

By email: agreview@aither.com.au

21 June 2018

Dear Dr Craik

Independent review of interactions between the EPBC Act and the agriculture sector

Australia has 56 regional natural resource management (NRM) organisations; a mix of statutory based and non-government organisations (NGOs). Many of these have existed since the mid-1990s.

NRM Regions Australia is the representative body of the national NRM organisations' Chairs. We are pleased to have the opportunity to contribute to the review of the interaction between the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) and agriculture and food production.

The 56 NRM regional organisations cover Australia's land, estuarine and coastal areas. While NRM organisations have different constitutions they have all been recognised as regional NRM organisations by the Australian Government as part of the Natural Heritage Trust and its successor programs including the National Landcare Programme.

Regional NRM organisations work from the paddock to regional to multi-regional scale to address issues that require a landscape perspective, while addressing national priorities. Our approach enables us to better address long term strategic issues of national importance, and our regional NRM strategies are fundamental to this.

In this context, we work with farmers and the agricultural sector to improve sustainability and productivity outcomes. Some of our activities include:

- assisting farmers to build natural capital in conjunction with productive practices, and advance economic benefits associated with biodiversity, improved water quality and carbon farming on properties;
- combating pest plant and feral animal damage (estimated annual cost of pest damage to the agricultural sector is \$5b annually); and
- signing a memorandum of understanding between the National Farmers Federation and NRM Regions Australia in June 2017 to collaborate on productive, profitable and sustainable agriculture.

NRM organisations work closely with the agricultural sector and are well placed to assist practical efforts for farmers to better understand and meet their obligations under the EPBC Act.

Comments on the current status of the review and Aither Briefing Paper

Set out below are our brief comments on the Terms of Reference and the briefing paper to inform public consultations produced by Aither: “*An independent review of interactions between the EPBC Act and the agriculture sector*” (the **Briefing Paper**).

We identify three issues in particular – the need to improve access to simple and relevant material for the agricultural sector, the benefits of building capacity in the sector in this regard, and the potential for better utilising strategic assessments to minimise the burden upon individual properties or enterprises.

NRM Regions Australia considers that many of the issues raised for discussion in the Briefing Paper can be addressed through changes to policy and guidance materials, as well as restructuring of available public materials on the EPBC Act.

Given the comprehensive statutory review of the EPBC Act must commence in the next 12-16 months, any short-term changes should focus on non-regulatory measures that can assist participants in the agriculture sector. Such measures could include:

- revising EPBC Act website content to group information by sector – including the search functions for EPBC Act referrals (so that farmers can more readily find examples of similar proposals and how they were treated). Also enabling information about strategic assessments to be located more easily;
- developing online sector-specific checklists (with hyperlinks to useful practical information and tools (such as the protected matters search tool, guidance on exemptions to referral, approval or assessment, links to state/territory resources)).
- encouraging other agencies, authorities and organisations, in particular local planning / development approval agencies, to ensure they identify EPBC Act triggers or checklists in material provided to farmers/agricultural sector participants when they consider or propose new activities or land uses on farms;
- developing sector-specific best practice guidance on approaches to new activities and new land uses for large and smaller agricultural holdings (using practical examples from common issues and highlighting the types of consultants (ecologists, etc.) that may be of assistance);
- more accessible and/or new categories of discount or waiver for farmers in relation to cost-recovery services and engagement with the Department. (*It is noted some exemptions and waivers may apply under existing arrangements, however the Cost Recovery Implementation Statement, which guides this process, is a large and technical document of around 85 pages*); and
- allocating appropriately qualified staff to assist farmers navigate requirements and better understand the types of activities and/or changes to land use requiring referral and assessment under the EPBC Act (including the protections these processes can provide to a farmer when the activity is conducted).

It may be premature and potentially inefficient (given the pending statutory review), to advance regulatory reforms that address larger operational items as part of this discrete review process. Larger operational items include matters like the interaction between State/Territory and Commonwealth laws with respect to land clearing and native vegetation/biodiversity offsetting. Any streamlining in this area should also examine land sector aspects of the Emissions Reduction Fund

(or Carbon Farming Initiative), to ensure that any environmental co-benefits associated with carbon projects are rewarded under one scheme only.

Item 3 of the Terms of Reference requests that the review outline options to reduce the 'regulatory burden' faced by farmers and applicants. The Briefing Paper notes:

"Since 2000, the number of referrals under the EPBC Act from the agriculture sector has remained consistently low, compared with referrals from other sectors. Most referred actions in the agriculture sector have been determined not to require further assessment under the EPBC Act. Almost all controlled actions in the agriculture sector assessed over the past 18 years have ultimately been approved." (page 5)

Progress on many issues raised in the Briefing Paper can be made by implementing non-regulatory changes or promoting greater use of existing mechanisms, such as strategic assessments. Evaluating environmental values and risks at a landscape scale through strategic assessments also facilitates clear consideration of cumulative impacts (as required in approval assessments under the EPBC Act).

Ten years ago, Dr Hawke noted in the 2008 independent statutory review of the EPBC Act that strategic assessments can be a useful and cost-effective approach to landscape-scale assessments and addressing cumulative impact risks. Further, the process can deliver a broad range of benefits at a landscape-scale (as noted on the Department's website).¹

We believe, and made this point after the review, that regional NRM organisations are well placed in many parts of Australia to deliver strategic landscape-scale assessments. This work complements the existing roles of regional NRM organisations, most significantly the regional NRM strategies.

Essentially, strategic assessments mean that if the Minister is satisfied that a strategic plan or program will deliver acceptable environmental outcomes, then developments in accordance with the plan or program do not require further Australian Government environmental assessment.

The examples below reflect the flexibility and diversity of strategic assessments completed under the EPBC Act, with a variety of parties, including:

- BHP Billiton Iron Ore Pty Ltd - strategic assessment of an area in the Pilbara region of Western Australia and assessed the cumulative impacts of their future iron ore mines on matters protected under the EPBC Act.
- SA Government - strategic assessment of fire management policies and procedures for lands under the care and control of the South Australian Minister. The process approved actions associated with bushfire management on public lands in South Australia as described in the endorsed Policy.
- Gandangara Local Aboriginal Land Council (GLALC) - strategic assessment of the proposed development at Heathcote Ridge, NSW. The *Program Report for the Strategic Assessment of the Heathcote Ridge Development, West Menai* was approved and allows for development and other related activities identified in the program.

¹ See < <http://www.environment.gov.au/protection/assessments/strategic> > accessed 18 June 2018. Advantages identified include: greater certainty to local communities and developers over future development; reduced administrative burden for strategic assessment partners and government; the avoidance of potentially duplicative and separate environmental assessments by different types of government (such as Australian, state, territory or local governments); capacity to achieve better environmental outcomes and address cumulative impacts at the landscape level; coordinated establishment and management of offsets flexible timeframes to better meet planning processes.

There are a number of other examples of completed and ongoing strategic assessments from private proponents and government. The Briefing Paper notes the potential expense and difficulty in finding an authority to be responsible for implementing a strategic plan. However, non-regulatory approaches could be used to facilitate greater uptake of landscape-scale strategic assessments.

NRM regions would be keen to bring their significant landscape planning and community engagement skills to undertaking strategic assessments.

NRM Regions Australia welcomes the opportunity to provide further input and information as the review progresses.

Contact: Kate Andrews, EO NRM Regions Australia, [REDACTED]