

Our ref: CTS 17177/18
Your ref:

- 6 JUL 2018

Dr Wendy Craik
Agriculture Review (Aither)
agreview@aither.com.au

Dear Dr Craik *Wendy*

Thank you for the opportunity to provide comments towards the independent review of interactions between the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and the agriculture sector, being undertaken by Aither.

The Queensland Department of Agriculture and Fisheries (DAF) is an economic development agency that provides leadership and support to promote a sustainable and innovative agriculture, fisheries and forestry sector.

DAF is supportive of a review into the impact of the EPBC Act and the agriculture and fibre production sector. DAF has assisted farmers undertake development applications for a range of activities including aquaculture, irrigation development, abattoir management and tree clearing under previous Queensland vegetation management legislation for high value agriculture.

The fundamental issue emerging from the briefing paper and previous reviews of the Commonwealth legislation concerns farmers' lack of understanding and awareness of how the EPBC Act and Matters of National Environmental Significance may affect them. This includes listing of threatened species and ecological communities, condition thresholds aimed at clarifying what are higher quality/significant areas, and determining how significant an impact might be through a risk-based approach. Provision of easier-to-digest information and assistance with determining significance is a key area where the EPBC Act implementation could be improved and farmers aided in understanding what is needed for compliance.

Detailed feedback addressing the review's specific questions is included at Attachment 1.

If you require any further information, please contact Ms Jenny Daly, Director, Resources and Planning on telephone 07 3096 6181 or by email at jenny.daly@daf.qld.gov.au.

Yours sincerely

A handwritten signature in cursive script that reads "Elizabeth Woods".

Dr Elizabeth Woods
Director-General
Department of Agriculture and Fisheries

Att (1)

Cover Sheet – Written Submissions to Independent Reviewer

Review of the interaction between the Environment Protection and Biodiversity Conservation Act 1999 and agriculture and food production

Contact details	
Name of Organisation:	Queensland Department of Agriculture and Fisheries
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Date of Submission:	

Confidentiality

People who to make submissions to the review should be aware of the way in which their input will be handled by the review team and by Department of the Environment and Energy (the Department).

Once a submission has been received, the independent reviewer will decide whether it contains feedback that is within the scope of the Review and will then accept it as a submission and authorise its publication. Submissions regarded as not addressing the review's terms of reference may not be considered in the review but will still be published. All submissions will be provided to the Department and published on the Department's website

To protect the privacy of submitters, the review team will remove your postal address, email address and/or phone number from your submission prior to publication. Unless requested, your name and the state you reside in will be published on the Department's website alongside your submission. To assist the review, we encourage you to include your postal address, email address and/or phone number in a covering letter or email, not in the body of your submission.

Commercial-in-confidence material

All submissions will be treated as public documents, unless the author of the submission has requested the submission not be published because its publication could reasonably be expected to substantially prejudice the commercial interests of the author or another person. Confidential submissions will not be published but will be provided to the Department. While it will not be published, a detailed account of consultations undertaken will be provided to the Department in the form of a consultation outcomes report. If any part of a submission should be treated as confidential, please provide two versions of the submission, one with the confidential information removed for publication. If you choose not to use this template (provided on the Department website: <http://www.environment.gov.au/>) and wish your submission to remain confidential then the document should be clearly marked as confidential.

Freedom of Information

A request made under the *Freedom of Information Act 1982* for access to a submission marked confidential will be determined in accordance with that Act. If your submission includes matters of a private nature that could lead to the identification of individuals, you should contact the review team at agreview@aither.com.au before lodging your submission.

Do you want this submission to be treated as confidential? ☐ Yes ☒ No

Feedback towards the Aither review of Interactions between the EPBC Act and the agricultural sector 2018

Queensland Department of Agriculture and Fisheries
June 2018

DAF Response:

The Queensland Department of Agriculture and Fisheries (DAF) understands that the independent review of interactions between the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and the agriculture sector focuses on terrestrial food and fibre production, but also includes consideration of aquaculture development where there is interaction with the referral, assessment and approval provisions of the EPBC Act.

The fundamental issue emerging from the briefing paper and previous reviews of the Commonwealth legislation concerns farmers' lack of understanding and awareness of how the EPBC Act and Matters of National Environmental Significance (MNES) may affect them. This includes listing of threatened species and ecological communities, condition thresholds aimed at clarifying what are higher quality/significant areas, and determining how significant an impact might be through a risk-based approach. Provision of easier-to-digest information and assistance with determining significance is a key area where the EPBC Act implementation could be improved and farmers aided in understanding what is needed for compliance.

As DAF does not have direct referral responsibilities under the EPBC Act and does not assist landholders to prepare applications for EPBC Act assessment, DAF comments will be restricted to review questions 9 and 10 only.

How do you think the Australian Government can improve achievement of its environmental protection and biodiversity conservation objectives through its interactions with the agriculture sector?

Education:

DAF supports the comments in the Aither briefing document regarding the possibility of proponents not understanding their obligations under the EPBC Act, and the low number of referrals may be a result of this lack of awareness.

DAF suggests improving access to information and education materials to assist landholders in understanding their EPBC Act obligations. For example, more information in order to determine whether a proposed development is a 'controlled action', how to evaluate distance from a site of MNES and whether the development would affect the site, could be of benefit. Similarly, further information as to what is 'impact on biodiversity and threatened species', could be of assistance with respect to thinning for vegetation management (including thinning for fire management and weed control).

As the EPBC Act process is a proponent driven referral, DAF suggests a more proactive engagement mechanism for proponents and consultants to ensure requirements for referral to the EPBC Act are met. The level of understanding of the various state and Federal triggers is not as high for small operators as it is for larger corporations that progress large scale projects. In large cases a level of

pre-lodgement and regulatory engagement is critical to ensure the correct triggers are addressed. Greater engagement with smaller-scale proponents could enable prompt identification of proposals requiring referral.

It is recognised that there is a Memorandum of Understanding between the State and Federal government for large developments that require an EIS such as mines and aquaculture; however, there has not been a similar understanding for smaller developments for agriculture.

DAF suggests a direct line of contact to relevant Department of Environment and Energy (DoEE) officers, such as a hotline/information telephone number that could assist people obtaining appropriate information in a timely manner, with the ability to tailor the information to the needs of the recipient. Additional website material and factsheets with information on threatened species and communities arranged by state or easily identifiable bioregions may be of assistance in spreading awareness.

DoEE website:

The website requires considerable time spent searching and navigating extensive and sometimes circular information, referrals to other websites, as well as requiring an understanding of what is being searched for, such as locations and scientific species names. For example, a search for 'EPBC' returns a range of web pages, documents, resources and links without a clear EPBC landing page. The development of a One Stop Shop would need to meet the expectations for producers and quite literally be a single place to find all of the relevant information on one website.

Simplification of the database for species of national environmental significance is suggested, as at present, the national grid basis is too difficult to interpret and most producers do not have access to GIS mapping software without the aid of consultants. Straight-forward access, for example via a direct website link, to the current list of threatened animals under the EPBC Act with a general bio-regions classification, could be of immediate assistance in determining whether further determinations or investigations are required.

Moreover, DAF suggests a map similar to the Australian conservation atlas may be beneficial for determining a starting point for EPBC determinations. This could assist people through identification of potential areas requiring further consideration, as well as providing an indication of the requirement; such as scale and intensity. For example, the map may provide a hierarchy of assessment such as 'not a controlled action', 'minor controlled action', 'significant controlled action', dependent upon the community or species under threat (threatened, endangered, critical).

Is there anything else you would like to raise in relation to the interaction between the EPBC Act and the agriculture sector?

Significant Impact:

DAF suggests more assistance be available to farmers to enable them to recognise important vegetation on their land and whether proposed agricultural activities will have 'significant impact'.

One Stop Shop:

DAF supports streamlining processes that involve both the Queensland and Federal Governments. The use of bilateral agreements, the Common Assessment Method and the proposed

One Stop Shop appear to be useful tools to reduce red tape and costly duplication of work to be undertaken by farmers in order to fulfil environmental requirements.

DAF recommends provision of a user-friendly website that will guide a landholder step by step through the process. At present, there are many links to information on the website but it is time consuming and difficult to determine how a landholder should proceed. For a landholder in a rural or remote area with poor Internet access this would be even more challenging.

The One Stop Shop service would ensure the appropriate triggers are recognised and appropriate projects referred. DAF suggests incorporating web-based spatial platforms with the capacity for EPBC Act spatial layers to be correlated with the various state interests with legislative triggers, and further the ability of landholders to determine if EPBC Act referral has been triggered.

Offsets:

DAF supports the opportunities that EPBC Act off-set requirements may provide as an additional income stream for agricultural landholders. However, DAF also recognises that in some instances land of State Planning Policy and regional planning significance, for example Agricultural Land Classification classes A and B land, should be avoided for offset purposes where, as a result, the availability of land is diminished or fragmented, so as to ensure a no-net-loss of agricultural production. Similarly, land set aside for aquaculture development areas, currently being identified in Queensland, should also be avoided for offset purposes unless complementary to aquaculture development.

Aquaculture concerns:

The aquaculture sector is regulated by a number of different agencies at different levels of government. In the Great Barrier Reef Marine Park (GBRMP), an additional level of regulation is imposed by the GBRMP Authority where waste water is discharged directly into the Park. While a single assessment and approval process for all Federal Government approvals in the GBRMP has been implemented, it may prolong an assessment decision and impose further requirements.

As a case study, the application process for a new aquaculture development at Guthalungra took over 10 years and involved an Environmental Impact Assessment and expensive application costs. In January 2008, the Queensland Coordinator-General recommended approval of the project subject to environmental and social conditions. Subsequent to the Queensland assessment of the project, approval was also required under the EPBC Act. Prior to making a decision, an independent review was requested by the then Department of Environment, Water, Heritage and the Arts (DEWHA) to assess the EIS and Coordinator-General's conditions. The review, undertaken by CSIRO and the Australian Institute of Marine Science, concluded the project posed no risk of significant impact on the World Heritage Area or its values. Despite this finding, concerns were raised in regard to the proposed offsets by DEWHA. Following long delays, due to discussions regarding additional offset and wastewater discharge conditions, an approval was issued in March 2010. A variation of conditions of approval was issued in November 2011, following further discussion between the Federal Government and the applicant.

The approval required the farm to operate a zero net discharge regime. Although the 'zero net discharge' requirement could possibly be met with the use of cutting edge technology, it may not be economically achievable, particularly for smaller aquaculture operations.

Additionally, offshore marine aquaculture (for example, sea cages) may be located in and impact on Commonwealth marine areas. While there is guidance on offshore aquaculture and the EPBC Act

(EPBC Act Policy Statement 2.2 Offshore Aquaculture – August 2006), it is recommended that this statement be reviewed and updated. The statement was finalised prior to the GBRMP being included as a MNES under the EPBC Act.

Further guidance on whether or not aquaculture actions impact on all MNES (for example, the GBRMP) would be beneficial, including actual aquaculture case studies to provide more certainty. For example, under EPBC Act Policy Statement 2.2, it is not clear if (minor) increases in sedimentation and turbidity are considered to have a significant impact or not.

With respect to ease of accessibility of information, as per other Industry guidelines, the EPBC Act Policy Statement 2.2 Offshore Aquaculture, should be available in both .pdf and word (.rtf) format for search-ability. Similarly, guidance on land-based aquaculture and its impacts on MNES would be beneficial.