



## **The Wilderness Society Ltd submission to the Review of the interaction between the Environment Protection and Biodiversity Conservation Act 1999 and agriculture and food production**

### Introduction

The Wilderness Society (TWS) is pleased to provide this submission into the Review of the interaction between the Environment Protection and Biodiversity Conservation (EPBC) Act 1999 and agriculture and food production.

The Wilderness Society is an independent environmental advocacy organisation supported by around 30,000 members. The work we do leverages our strong base to build a mass movement for climate action and nature conservation in Australia.

Since 1976, we've stood at the forefront of the country's most historic campaigns, including the Franklin River, Fraser Island, Tasmanian Forests, James Price Point in the Kimberley and numerous World Heritage Areas. Today, we're training a new generation of environmental leaders with a sophisticated community organising program, while building support for effective and lasting change through our communications. Australia's natural environment and the life it supports is its great advantage. The Wilderness Society exists to protect it.

TWS recognises the significant economic and social contribution made by the agriculture and food production sector to the Australian economy and society.

We do also recognise that the operation of the agriculture and food sector has a range of environmental impacts which must be ameliorated and addressed if Australian agriculture is to continue to make a significant economic contribution into the future as consumer and market expectations continue to change in the face of a growing global awareness of the critical importance of sustainability in all facets of the economy.

TWS asserts that the long term environmental sustainability of the agriculture and food sector will continue to be in doubt whilst a range of environmentally destructive activities, such as deforestation and land clearing, remain a central component of the the agricultural business model.

We are also concerned that any review of the relationship between the EPBC Act and the agricultural sector needs to take account of the threats and opportunities presented to the sector by the impacts of climate change.

#### Response to discussion paper

We inherently disagree with the premise underlying this review that we can examine “the appropriateness of the current regulatory settings of the EPBC Act in regard to their impact on the agriculture sector” - or indeed, any specific sector.

The purpose and objects of the EPBC Act outline its role in protecting matters of national environmental significance (MNES) and thus its application to any activity that may affect such MNES, regardless of the sector in which that activity occurs.

Empirical evidence confirms that over the life of the operation of the EPBC Act there have been very few referrals for assessment from the agricultural sector and that many farmers appear both unaware of the obligations created by the Act and also do not have the information and resources available to respond to these obligations.

Further, we do not believe that the small number of referrals demonstrates that agricultural activities, particularly in respect to deforestation and land clearing, have not have a impact on matters of national environmental significance as defined by the Act.

We agree that the operational standards and availability of technical information available required to determine when agricultural activities may be likely to have a ‘significant impact’ upon matters of national environmental significance remain unclear and opaque and require simplification and clarification.

We agree that the use of regional or bioregional strategic assessments could be an important mechanism in addressing the negative environmental impacts of agricultural activities, but only as part of a much more comprehensive suite of reforms aimed at providing both consistent national policy direction and enforceability of policy outcomes.

We also concur that there must be alignment and consistency of policy, information and outcomes between all tiers of government.

However, we believe a clear leadership role for the Australian Government in terms of both environmental and economic policies is required as the foundation for building alignment. This is in contrast to the position of the current Australian Government to date which can be characterised as diminishing the role for national policy leadership in respect to environmental outcomes in favour of a states- based approach to environmental protection.

We contend that the lack of national leadership and consistent policy has resulted in an increase in confusion and disjunct between state and federal regulations that has increased complexity and

regulatory burden for agricultural producers and has also meant that Australia is now failing to meet its international obligations to protect the environment, including biodiversity.

### Agriculture and the environment

The EPBC Act outlines a clear role for the Australian Government in the protection of matters of national environmental significance.

The objects of the Act provide a clear role for the Australian Government to, amongst other things;

- 3 (a) to provide for the protection of the environment, especially those aspects of the environment that are matters of national environmental significance; and*
- (b) to promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources; and*
- (c) to promote the conservation of biodiversity*

Matters of national environmental significance include the protection of nationally listed threatened species and ecological communities and a range of heritage values including world heritage and national heritage.

In respect to the obligations on both the Australian Government and the agricultural sector created by the objects of the EPBC Act, TWS notes that deforestation and land clearing of Australia's forests, woodlands and native grasslands continues to be a key management practice of the agricultural sector.

TWS also asserts, as outlined below, that deforestation and land clearing has been shown to be a major threat to the ongoing health of matters of national environmental significance, including to threatened species and ecological communities, and to the health of World Heritage areas.

Yet despite this, TWS asserts that the relevant objects of the EPBC Act are routinely and systematically ignored by the Australian Government and the agricultural sector, and this requires immediate and urgent reform.

### The Deforestation crisis

The scientific consensus is clear that the clearing, degradation and conversion of Australia's forests, woodlands and native grasslands for agricultural production has led to significant negative environmental impacts, including for those environmental values considered to be of national or international environmental significance.

Despite this, our national environment laws do little to address this key threatening process.

It is estimated that 235 million hectares of the Australian continent were covered by forests and woodlands at the time of European colonisation.



Since that time approximately 104 million hectares (44%) have been entirely cleared. This level of clearing has been marginally offset by regrowth of 2.9% of the original cleared area.

Approximately 29.9% of original forests and woodlands remain undisturbed however these are largely restricted to mountainous coastal areas of eastern and western Australia and have been fragmented. These remaining areas are also under stress from invasive species, poor fire management, ongoing grazing and a rapidly changing climate.<sup>1</sup>

Deforestation is not a historical artefact. In Queensland over the past 4 years, over 1.2 million hectares of forest and bushland were cleared, approximately 300,000 hectares each year.<sup>2</sup>

Eastern Australia is again a deforestation hotspot with deforestation rates comparable to the Amazon, Congo and Borneo. Led by Queensland, Eastern Australia has been recognised as one of eleven “deforestation fronts” in the world, according to WWF-International.<sup>3</sup> “Deforestation fronts” are defined in the Report as “the places where the largest concentrations of forest loss or severe degradation are projected between 2010 and 2030.”<sup>4</sup> Australia is the only developed country with a deforestation front, and sits alongside places like the Amazon, the Congo and Borneo.

The environmental impacts of deforestation and land clearing are well documented.

The most recent State of Environment report stated that;

*“Land clearing is a fundamental pressure on the environment. It causes the loss, fragmentation and degradation of native vegetation, and a variety of impacts on our soils (e.g. erosion and loss of nutrients), waterways and coastal regions (e.g. sedimentation and pollution)*

*The fragmentation and degradation of remnant vegetation can, in turn, disrupt essential ecosystem processes such as pollination, seed dispersal and regeneration. Smaller fragments of remnant vegetation are also vulnerable to invasive species and fire. Half of Australia’s species listed as threatened under the EPBC Act are considered to be at risk from habitat fragmentation. Habitat loss and fragmentation are identified as major threats that are responsible for the extinction of 11 Australian mammal species, and place significant pressure on a further 19 threatened species and 15 near threatened species.”<sup>5</sup>*

The impacts of deforestation and land clearing upon the health of the Great Barrier Reef World Heritage Area are well documented. These impacts include high sediment, pesticide and nutrient loads that follow land clearing and should be considered a significant impacts to matters of national environmental significance under the Act.

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<sup>1</sup> Places You Love Alliance, The Australia We Love Report, 2014, pp. 24-5

<sup>2</sup> Qld Govt ‘State Landcover & Trees Study’ reports, 2012-16.

<sup>3</sup> WWF International, WWF International, Living Forests Report (2015) , Chapter 5: Saving Forests at Risk [http://awsassets.panda.org/downloads/lfr\\_chapter\\_5\\_executive\\_summary\\_final.pdf](http://awsassets.panda.org/downloads/lfr_chapter_5_executive_summary_final.pdf)

<sup>4</sup> WWF-International, 2015. *Living Forests Report (Chapter 5: Saving Forests at Risk)*, p. 2.

<sup>5</sup> Australian Government, Australia: State of the Environment 2016 Overview, p.16.

Controls on land clearing within Reef Catchments was a key commitment made to UNESCO by the Australian and Queensland Governments as part of the Reef 2050 plan to ensure that the outstanding universal world heritage values of the Reef were protected into the future.

Despite this, between 2012 and 2016, 480 000 hectares of forest and woodland were cleared in the Reef catchments. In 2015–16 alone, the Great Barrier Reef catchments had a total woody vegetation clearing rate of 158,000 hectares (up from 74,000 in 2011-12).<sup>6</sup> Yet only one EPBC referral was made for vegetation clearing in a Reef catchment that that year.

Furthermore, between 2013 and 2016, according to analysis conducted by WWF Australia, approximately 300 000 hectares of land clearing took place on land which is habitat of EPBC listed threatened species and ecological communities without a single EPBC referral.

Deforestation and landclearing clearly poses significant and ongoing threats to matters of national environmental significance. Despite this, the EPBC Act is almost entirely ignored by the Australian Government and the agricultural sector.

#### Regulatory failure

Despite the threat posed by deforestation and landclearing to matters of national environmental significance, few referrals for assessment of the impacts have been made. Only five Queensland land clearing activities have been referred under the *EPBC Act* (according to the EPBC referrals list) in the last two years, despite almost 400,000 hectares of forest and bushland being cleared in 2015-16 in Queensland alone.<sup>7</sup> Recent analysis by WWF-Australia has found that 99.92% of properties that appear to be undertaking clearing that needs Federal Government approval in Queensland are going ahead without approval.<sup>8</sup> The study found over half of the properties where MNES were potentially triggered fell in Great Barrier Reef catchments. Further, a total of 106 threatened species (38 animals and 68 plants) were potentially affected through clearing of known and likely habitat.

Documents TWS obtained from the federal Department under FOI states that: “In Queensland, between 2014 and 2015, the state government granted 59 permits to property owners to clear about 112,000 ha for agricultural development...The Department investigated the 59 permits for potential impacts on matters of national environmental significance. To date, three Queensland land holders have referred their agricultural developments for assessment and one additional agricultural development proposal has been deemed referred by the Minister. Two investigations are still ongoing. The Department has closed 57 of the investigations and no further action was taken for 49 of the permits.”

It is worth noting that the Department has only considered clearing that was granted HVA permits. Between 2014-16, there was nearly 700,000 hectares of clearing in Queensland yet only 112,000 has been considered by the Department.

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<sup>6</sup> Queensland Department of Science, Information Technology and Innovation (2017) Land cover change in Queensland 2015–16: a Statewide Landcover and Trees Study (SLATS) report.

<sup>7</sup> <http://epbcnotices.environment.gov.au/referralslist/>

<sup>8</sup> WWF Australia (2017) Pervasive inaction on national conservation law in Qld. Available online via <http://www.wwf.org.au/knowledge-centre/resource-library#gs.qD39tiE>



Out of those 59 permits that were considered, in total only 5 properties have even been referred: Kingvale Station (deemed referred); Byrne Valley Station; Wombinoo Station (referred after investigation into unauthorised clearing); Mio College (now approved) and Meadowbank Station (now approved). 4 of those properties are in Reef catchments.

Transparency is poor with regard to which properties need to refer, and what happens when there is potential breach of obligations to refer. For example, most of the planned bulldozing in Great Barrier Reef catchments under an HVA permit is on the large Olive Vale Station on Cape York Peninsula, a catchment area for Princess Charlotte Bay, near Kingvale Station. The current owners have a permit to bulldoze 32,000 hectares in total. This project has still not even been called in for assessment by the Federal Department of Environment. The area on Olive Vale station is a known habitat of several endangered and rare species and is in the Great Barrier Reef catchment. About 2,000 hectares was torn down with bulldozers and chains in 2015. Although the Federal Environment Department found the tree clearing had no impact of national environmental significance, it said any further clearing would need to be referred for assessment under the Environmental Protection and Biodiversity Conservation Act. On 14 July 2015, then Minister Hunt wrote to conservation groups stating that *“the landholder agreed to cease clearing on the property until such time as the balance of the clearing, approximately 30,000 ha, can be formally assessed under the Environment Biodiversity and Conservation Act 1999 (the Act.)”* In 2017, the landholder cleared more than 100 hectares of bushland despite not having federal approval. The clearing still has not been called in by the Department.

It is also unclear how cumulative impacts on the Great Barrier Reef are being taken into account. A draft report by the Department of the Environment and Energy has recommended that the government allow the mass vegetation clearing at Kingvale Station on Cape York Peninsula. This despite strong independent advice from the Great Barrier Reef Marine Park Authority that the development is likely to *“impact key values and attributes of the GBRWHA through increasing the amount of fine sediments and nutrients entering the Reef,”*<sup>9</sup> and advice from erosion expert Dr Jeff Shellberg that the development is *“likely to cause erosion and sediment movement which is likely to impact the Reef”*<sup>10</sup>. The Department has indicated that cumulative impacts of mass deforestation in Great Barrier Reef catchments has not been subject to cumulative impact assessment.

Wombinoo Station was called in for EPBC assessment following the bulldozing of 560 hectares that an independent report found was likely to have had a significant impact on matters of national environmental significance. TWS referred evidence to the Federal Department that further unauthorised clearing had taken place in 2017. What followed was the incorrect (and un-rescinded) assertion by the Australian Minister for the Environment that claims that a landowner wrongly cleared were “unfounded” when subsequent investigation showed that was not the case.<sup>11</sup>

<sup>9</sup>[http://epbcnotices.environment.gov.au/\\_entity/annotation/aae7671b-5d44-e811-886f-005056ba00a8/a71d58ad-4cba-48b6-8dab-f3091fc31cd5?t=1526277622508](http://epbcnotices.environment.gov.au/_entity/annotation/aae7671b-5d44-e811-886f-005056ba00a8/a71d58ad-4cba-48b6-8dab-f3091fc31cd5?t=1526277622508)

<sup>10</sup>[http://epbcnotices.environment.gov.au/\\_entity/annotation/42c47d5a-5e44-e811-886f-005056ba00a8/a71d58ad-4cba-48b6-8dab-f3091fc31cd5?t=1526277406602](http://epbcnotices.environment.gov.au/_entity/annotation/42c47d5a-5e44-e811-886f-005056ba00a8/a71d58ad-4cba-48b6-8dab-f3091fc31cd5?t=1526277406602)

<sup>11</sup><http://www.abc.net.au/news/2018-01-08/north-qld-station-owner-cleared-land-without-federal-approval/9312742>

Examples from other states show the uneven application of the EPBC regarding clearing. Clearing of as little half a hectare has been successfully prosecuted in Victoria, yet there has not been a single prosecution for agricultural clearing in Queensland. No referral was made for approximately 20,000 hectares of clearing of remnant forest on Maryfield Station in the Northern Territory, despite the fact that species of national environmental significance will potentially be affected.

#### Emissions reduction, deforestation and the agricultural sector

Land clearing, logging and poor land management practices (including inappropriate fire management) are a major contributor to greenhouse gas pollution. On the other hand, Australia is uniquely placed to sequester large amounts of greenhouse gases via natural ecosystem restoration, providing also a potentially vast economic opportunity. These opportunities were outlined in the Climateworks study, released in 2014.<sup>12</sup>

However, currently Federal Government policy on carbon emissions from the land sector are counter-productive. Under the centrepiece Federal Government climate change policy, the Emissions Reduction Fund (ERF), \$1.5 billion has been spent on vegetation projects for 125.5 Mt CO<sub>2</sub>-e of abatement.<sup>13</sup> Those emissions savings will be wiped out by three years of land clearing on current rates (based on Federal Government projections of emissions from deforestation).<sup>14</sup>

Expert land carbon scientists argue that if the goal is preserving and growing carbon stocks in the land, the hierarchy of priority actions is to (1) stop deforestation, land clearing and native forest logging (2) protect regrowth and allow natural regeneration to occur (3) better manage land with fire and ferals and (4) revegetate. We have a unique opportunity to end destruction and turn to incentivising restoration in our federal policy settings. Please see recommendations below.

#### Industry reform and opportunities for change

Emerging global demand for 'zero deforestation' agricultural commodities provide a major opportunity for Australian agriculture to eliminate deforestation and land clearing from its practices, and national laws that protect all old growth and high conservation value vegetation would enable Australia's agricultural producers, processors and retailers to comply with such demands.

Major financial institutions, international corporations and peak bodies associated with agricultural commodities are increasingly adopting zero deforestation policies to counter the damaging environmental impacts of deforestation and land clearing. There are a number of high profile zero-deforestation initiatives including the New York Declaration on Forests as well as the Consumer Goods Forum and the Banking and Environment Initiative.

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<sup>12</sup><http://climateworks.com.au/project/national-projects/pathways-deep-decarbonisation-2050-how-australia-can-prosper-low-carbon>

<sup>13</sup> Clean Energy Regulator (15 June 2018) Emissions Reduction Fund Cumulative seventh auction results <http://www.cleanenergyregulator.gov.au/PublishingImages/auction-results-June-2018/Cumulative%20seventh%20auction%20results%20June%202018.jpg> <http://www.cleanenergyregulator.gov.au/PublishingImages/auction-results-June-2018/Cumulative%20seventh%20auction%20results%20June%202018.jpg>

<sup>14</sup> The projected deforestation emissions are: 49Mt in 2017, 53Mt in 2018, and 51Mt in 2019: Department of the Environment and Energy (2016) Australia's emissions projections 2016 Chart data <http://www.environment.gov.au/climate-change/publications/emissions-projections-2016>



The New York Declaration on Forests, with its commitment to ‘end natural forest loss’ from 2014 was endorsed by 36 national governments, 53 companies and 54 civil society organizations. Many of the same companies are also part of the Consumer Goods Forum that represents 400 companies across 70 countries and has committed to eliminating products of deforestation from company supply chains.

As an example of an individual private company commitment, for example, McDonalds has a policy of “...eliminating deforestation from our global supply chains”.<sup>15</sup> The China Meat Association recently signed the Chinese Sustainable Meat Declaration that commits to “...avoiding land degradation, deforestation and conversion of natural vegetation in the livestock production value feed chains”<sup>16</sup>. Australian agriculture has an opportunity to lead the world in sustainable produce and if we had strong and well-enforced environmental protection laws this would assist the sector in complying with zero deforestation policies.

## **Recommendations**

### *National policy leadership and direction*

Under the EPBC Act, the Australian Government has a clear responsibility to regulate and control land clearing when it affects matters of national environmental significance, specifically the responsibility to protect threatened species and ecological communities, migratory species, internationally important wetlands and World Heritage and National Heritage Areas.

Land clearing is also listed as a key threatening process under the Act. In the immediate term, we strongly believe that the Act must be applied in its current form, and that the Australian Government should make a major effort to ensure that the agricultural sector is aware of its obligations regarding land clearing and complies with them.

In the medium term The Wilderness Society proposes a range of reforms which can be addressed through this review, but require a complete overhaul of the national environment laws and the creation of strong and independent institutions to ensure the laws are implemented and environmental outcomes are significantly improved.

Key elements of a new approach to the protection of environmental values threatened by the activities of the agricultural sector include the development of a national deforestation policy statement which commits the Australian Government and State and Territory Governments to the protection from deforestation and land clearing of;

- high conservation value forests, woodlands and grasslands,
- threatened, endangered and critically endangered species and ecological communities habitat,
- national heritage and world heritage values and properties,
- Internationally significant wetlands

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<sup>15</sup> <http://corporate.mcdonalds.com/corpmcd/scale-for-good/our-planet/conserving-forests.html>

<sup>16</sup> <https://www.beefcentral.com/news/chinas-sustainability-declaration-an-opportunity-for-farmers-says-wwf/>



- & the assessment of all remaining landclearing proposals (excluding those listed above) of a specific size and scale with a policy goal of at least a 50% reduction in landclearing and deforestation by 2020 and a policy goal of zero deforestation by 2025.

### ***Strong laws to end deforestation and land clearing***

Permanently protect our forests and woodlands by ending land clearing and logging of old growth and high conservation value native vegetation, including disallowing the burning of native forests as a form of renewable energy.

### ***National land and carbon fund to support landholders***

Establish a dedicated fund that maximises biodiversity conservation and the long-term sequestration of carbon, while supporting communities to take advantage of this economic opportunity.

### ***Data and expertise***

It is clear at the moment that there is not consistent monitoring or mapping of land clearing across the country, which compounds the lack of clarity on when the EPBC Act applies for individual landholders. TWS recommends that the Federal Government implement a consistent national land clearing monitoring program, taking the best elements from the current national greenhouse gas inventory, Queensland's "SLATs" and the latest remote sensing research to monitor all woody vegetation change and their associated emissions. The data should be readily available to the public as soon as the data is scientifically validated (as opposed to release of a Government report), including interactive maps, GIS data, detailed breakdown of clearing by land use / sector, and the disaggregation of land sector emissions accounts.

This could be integrated with, or exist alongside, an interactive regulatory map showing individual farmers (and others) where they need to seek EPBC approval. The map could contain no-go zones, along with areas where EPBC referral is needed. This could be overlaid with property data so that all a landholder would need to do is click on their property and they would receive a notification of what types of environmental approval they may need.

*Prepared by Lyndon Schneiders, Jess Panegyres, Suzanne Millthorpe, Jess Lerch & Glenn Walker on behalf of The Wilderness Society Ltd.*

