



UNSW
A U S T R A L I A



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

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1. Executive Summary

It is important that Australia leads the world in ecologically sustainable development, given our resources, education and understanding of threats to ecosystems from anthropogenic developments. This includes the important role of identification and mitigation of threats to biodiversity and ecosystem services, while improving efficiency of agricultural production. The EPBC Act was established to ensure that threats to nationally and internationally important biodiversity values, including ecosystems, could be protected through rigorous assessment processes. The role of the Commonwealth Government is critical in terms of assessing matters of national and international environmental importance. In relation to main terms of reference, this submission makes the following comments in relation to agriculture and food production:

i. Environmental referrals, assessment and approval requirements and listing and delisting processes for species and ecological communities under the EPBC Act

- Most referrals in the 19 years of the EPBC Act have not involved agriculture, given most agricultural activities are 'routine' and exempt under the Act.
- Intensive agriculture is known to cause significant impacts on natural ecosystems, biodiversity and ecosystem services.
- Potentially deleterious agricultural and food production activities to the environment need to be referred and assessed, particularly given Australia's national and international obligations to the United Nations Sustainable Development Goals, many of which encompass ecologically sustainable development, such as the Montreal Protocol, Kyoto Protocol, the Ramsar Convention on wetlands and the Convention on Biological Diversity.
- If referrals of known deleterious agricultural or food production developments are not referred and assessed, it raises complex equity issues in relation to other types of development which would be assessed (e.g. industry, urban).
- Rigorous Commonwealth referral and assessment processes should not defer to State process that may not adequately assess priority State projects.
- Referrals and assessment should consider the impacts of cumulative agricultural developments and food production to ensure ecological sustainability.
- The integrity of the independent Threatened Species Committee under the EPBC Act needs to be maintained and potentially strengthened.
- Listing and delisting of species and communities needs to be independent and

reliant on the evidence base and not conflated with policy and management interpretations. Potential changes to the criteria will also undermine the Memorandum with the States and Territories in relation to a common assessment method (CAM).

ii. *Harmonisation between the EPBC Act and each state and territories' native vegetation management regimes*

- In 2016, State, Territory and Commonwealth Governments signed an Memorandum of Understanding on a Common Assessment Method (CAM) to harmonise listing of species and ecological communities. Only two state/territory (NSW and ACT) governments are implementing the agreement. The Australian Government should consider implementing this agreement, demonstrating leadership to remaining states/ territories.
- This would significantly harmonise listing processes and reduce duplication.
- All state legislation in relation to native vegetation management needs to adequately protect native vegetation communities. Currently legislation and policy differs across different jurisdictions, potentially significantly undermining restoration with tree planting and international obligations including the Paris Agreement where the status of native vegetation is a significant measure of effectiveness in reaching targets.

iii. *Enhancing the EPBC Act to support agriculture and food production (e.g. certification schemes)*

- Reward structures for ecologically sustainable development in agriculture are to be supported wherever possible. There is increasing market discernment of product origin and for Australia to maintain its position in agriculture, it will need to ensure that products are ecologically sustainable.
- There is a clear need to ensure that labelling is transparent and certification is auditable to ensure that products reflect their commitment to ecologically sustainable production.

iv. *Other relevant issues*

- *Resourcing* – It is essential that funding be provided to track risks to threatened ecological communities and species and build the information base for biodiversity.
- *Monitoring* – It is critical to improve monitor the status of threatened species and ecological communities. There is relatively little investment, relative to the number of threatened species and ecological communities.

- *Knowledge base* – There is a need for improving the information base on environmental legislation across different jurisdictions through investments in outreach.
- *Compliance* – There is generally poor compliance in relation to environmental legislation and its interaction with natural resource management. Increased resourcing and transparency in compliance will improve agricultural image in terms of sustainability as well as protecting the environment.

2. Centre for Ecosystem Science, UNSW Sydney

The Centre for Ecosystem Science (CES), UNSW Sydney, supports instruments of government, including strategies, policy and legislation that improve effectiveness of biodiversity conservation, founded on a strong evidence base. Current rates of biodiversity loss around the world and in Australia are unprecedented. Researchers in CES have established track records in the research and management of Australia's biodiversity, both within and outside protected areas. In particular, researchers focus on the three main realms of biodiversity (freshwater, terrestrial, marine) in the natural world (<https://www.ecosystem.unsw.edu.au/>). The Centre for Ecosystem Science welcomes the opportunity to provide a submission to the Review of the interaction between the Environment Protection and Biodiversity Conservation Act 1999 and agriculture and food production. This submission focuses on the three main elements of the review.

3. Making recommendations in relation to environmental referrals, assessment and approval requirements, and listing and delisting processes for species and ecological communities under the EPBC Act

i. Background

In relation to agriculture and food production, the number of referrals to the EPBC Act is relatively small over the 19 years that the legislation has been in place. This is primarily because most agricultural activities are defined as 'routine' and therefore exempt from regulation.

Ongoing agricultural activities should remain exempt in the delivery of ecologically sustainable development. However, poorly planned intensive agricultural is accelerating biodiversity loss and environmental degradation (Donald *et al.*, 2001; Foley *et al.*, 2011; Tilman *et al.*, 2011), and also threatening sustainable agriculture (Klein *et al.*, 2007). This intensive agricultural development can also compromise Australia's ability to meet its international obligations under the Montreal Protocol, Kyoto Protocol, the Paris Agreement on Climate Change, the Ramsar Convention and the Convention on Biological Diversity. Some intensive agriculture can also have significant impacts on adjacent agricultural lands.

Identifying and rewarding sustainable agriculture will also be critical, ensuring Australia

meets its international obligations, reflecting the importance of intergenerational equity and allowing future generations benefit from the ecosystem services and biodiversity enjoyed by our generation. Unsustainable agricultural activities need to be identified and assessed for their impacts on national and internationally important matters, through the EPBC Act and relevant state legislation.

ii. Environmental referrals and approvals

The EPBC Act should continue to have significant developments, including agricultural developments, referred for assessment of likely impacts on the environments. Importantly, if such developments were exempt, it would raise equity issues given the known impacts of intensive agriculture on biodiversity and ecosystems. For example, similar or even less deleterious developments from industry or urban sectors may be assessed at a higher standard than agriculture, raising issues of sector bias. Further, the Australian Government should not necessarily defer assessment to the States, particularly as some state priority projects may be ‘fast-tracked’ under state legislation and policy without adequate assessment as to their environmental impact. In addition, it is important that the EPBC Act adequately assess the cumulative impacts of deleterious developments. Many small development (e.g. small agricultural developments) could impact negatively on biodiversity and ecosystem services, as they cumulatively amount to a large impact (Odum, 1982).

iii. Listing and delisting processes for species and ecological communities

Australia has a highly respected commitment to assess and monitor the status of its biodiversity to high international standards. The Threatened Species Scientific Committee was established under the EPBC Act to advise the minister on listings and management of threatened species, ecological communities and key threatening processes. Listing and delisting should continue to be oversighted by an independent Scientific Committee which can rigorously assess the evidence of risk to extinction of species or collapse of ecosystems. The Committee is composed of high-calibre independent scientists with expertise across the full range of Australian biodiversity.

There is a need to liaise with other jurisdictions to ensure that species and communities most at risk of extinction or collapse are adequately assessed. Importantly, the listing and delisting processes should remain independent of any referral process or mitigation or management processes. Measures to reduce regulatory burden should not compromise the internationally regarded scientific integrity of the listing process. For Australia to meet its international reporting obligations on biodiversity, listings must be assessed transparently on scientific grounds without conflating various other socio-economic factors and stakeholder issues. The latter need to be considered through separate mechanisms so that decisions about action are clearly separated from questions about current status of biodiversity. It should remain immaterial what type of development is considered whether agriculturally based or some other development (e.g. industry, urban).

4. Identify opportunities for harmonisation between the EPBC Act and each state and territories' native vegetation management regimes

There is a need to continue to harmonise Commonwealth and State processes for the listing, assessment and approval of developments. The rigour of assessments should be comparable. In 2016, State, Territory and Commonwealth governments signed an Memorandum of Understanding on a Common Assessment Method (CAM) aimed at harmonising the listing of species and ecological communities across jurisdictions. Implementation has produced significant benefits in reducing duplication and 'red tape' for all stakeholders, including farmers, as well as fostering closer co-operation between all governments.

This is the most significant innovation to reduce regulatory burden in the past decade, without increasing risk for ecological communities. Progress on implementing the agreement for ecological communities has stalled, awaiting formal Commonwealth agreement to opt in to this part of the agreement (two state/territory governments have already opted in, in good faith). Commonwealth support by opting in to the CAM agreement for ecological communities would be the most tractable measure to promote harmonisation and alignment of Australian environmental legislation across jurisdictions. It would also provide necessary leadership for remaining jurisdictions and lead to more efficient integration and application of environmental legislation and policy in Australia.

There is also a need to ensure that native vegetation legislation adequately promotes ecologically sustainable development, reduces long-term impacts on biodiversity, and meets national and international obligations for international agreements. In addition, governments all around Australia are investing considerably in restoration of landscapes through planting of native vegetation and yet there is evidence that unsustainable land clearing is also continuing (Evans, 2016). Long-term ecologically sustainable agriculture should be a key goal, increasing efficiencies on land already developed and limiting impacts on natural areas.

5. Identify opportunities to enhance the EPBC Act to support agriculture and food production to take advantage of domestic and international demand for sustainable agriculture, such as certification schemes and 'clean and green' food

Reward structures for any legislation are important to support, particularly in relation to ecologically sustainable development. For example, there is increasing evidence that some organic beef production (e.g. channel country of Lake Eyre Basin) is significantly financially rewarded by demonstrating ecologically sustainable development (Brook, 2017). This includes visits by buyers to demonstrate the relatively intact nature of the landscape. Opportunities to increasingly certify such production processes should be encouraged at the

same time that deleterious developments are discouraged.

Certification of clean and green foods is an excellent mechanism to encourage, promote and reward good environmental management of production lands. It is important that standards for certification are set high to ensure outcomes are achieved and they are transparently audited and so consumers have confidence in the process. Market measures also need to be put in place to ensure transparent labelling to support consumer choice.

6. Other relevant matters

i. Resourcing

If Australia is to establish leadership in ecologically sustainable agriculture, it will need to adequately ensure there is good information on the status of Australian ecosystems. Funding to support recovery of threatened ecological communities is waning as current programs come to an end and need to be boosted with new investments to ensure dual outcomes for food production and biodiversity. It is essential that the information base for biodiversity be provided investment and so decisions on the environment can be supported by a good evidence base.

ii. Monitoring of effectiveness

There is currently relatively little monitoring of effectiveness of mitigation measures or impacts of developments or other threatening processes on threatened species or ecological communities. Governments need to invest more resources into improving the certainty for ecological sustainable development through improved information base on threatened species and communities and trajectories of change.

iii. Knowledge base

There are different national and state processes for the conservation of biodiversity and mitigating the impacts of deleterious developments. There is a need to better explain how this sometimes complex system inter-relates and how it attempts to avoid replication (see comment above). Farmers need support to obtain a clear understanding of complex regulatory frameworks and to distinguish Commonwealth and State processes and obligations. This requires a significant boost to extension resources, enabling farmers to get quick and simple answers to questions about opportunities and obligations under the EPBC Act.

iv. Compliance

Legislative arrangements provide the essential structure for ensuring ecological sustainability. However there is a need for resources provided for compliance. Unsustainable practices may continue without government oversight. This was most recently identified during alleged water resource development, with poor compliance

identified along Murray-Darling Basin Rivers (Besser, 2017) and independent assessment (Matthews, 2017). There is a clear need to resource compliance to ensure that legislation and policies are respected by both government and communities. Increasingly sophisticated tools in remote sensing (Thomas *et al.*, 2015) are providing Governments with opportunities to more effectively regulate agricultural activities which are unsustainable.

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