SUBMISSION TO SENATE ENQUIRY INTO NATIVE VEGETATION LAWS, GREENHOUSE GAS ABATEMENT AND CLIMATE CHANGE MEASURES

6 April 2010

1. Introduction

Australia derives a significant proportion of the nation's wealth from its natural and environmental assets, including agriculture, mining and tourism. Seventy per cent of Australia's land is managed by farmers[1]. The practices adopted by land managers can contribute to environmental sustainability, and equally, the long term viability and health of natural resources used to maintain and build the productivity capacity of Australia's agricultural industries.

Native vegetation is a key part of Australia's environmental assets – it supports Australia's wildlife and provides critical ecosystem services such as protecting soil and its nutrients, purifying water, regulating the climate, absorbing and transforming wastes, preventing disease and providing genetic resources for exploring new medicines.

Native vegetation is all vegetation cover that is locally indigenous to a particular site or landscape. The condition of native vegetation can range from relatively pristine to having a degree of disturbance from human impacts such as clearing or the spread of exotic species (Native Vegetation Framework Review Task Group, 2009). There are varying definitions across different states and territories of what constitutes native vegetation.

All vegetation, whether native or introduced can provide benefits. Native vegetation is an important primary production asset providing a range of economic benefits, such as fodder for stock and sustainable forest operations. It also provides other benefits such as clean water, habitat for maintaining beneficial insects for integrated pest management, stock shade and shelter and prevention of soil and water degradation.

Compared with the year 1750, the internationally recognised benchmark for pre-European native vegetation in Australia, approximately 13 per cent of native vegetation has been cleared in Australia, of which 8 per cent has been replaced with non-native vegetation (Lesslie et al. 2010; AFF at a glance 2008). However, in some intensive land use zones only 10 per cent of some original ecological communities remain and their original extent has been fragmented and the condition modified or transformed. For some communities less than one percent remains (Beeton et al. 2006).

[1] Caring for Our Country Business plan 2009-2010. Sixty percent of Australian land is privately owned and managed by different types of landholders (Native vegetation framework consultation draft 2010).

Agriculture has a long history of land clearing in Australia. Since the 1860's land clearing has been used to diversify land use and increase the area of production. After World War Two, heavy machinery brought land clearing to marginal areas and in previously unused areas such as the brigalow lands of southern Queensland.

In recent decades, clearing has decreased and farmers and communities have contributed to revegetation for environmental reasons, including through Landcare activities. For example, the Australian Buruea of Statistics (ABS) reported around 1.4 million hectares of revegetation activities on private land over the period 2005-2006, including 101 hectares of new plantings and 1.3 million hectares of regeneration or enhancement via fencing to exclude grazing (based on 2005–06 ABS Agricultural Census).

Australia's rural natural resources are now challenged by climate change, water scarcity and the legacy of past land management practices, feral animals, weeds and inappropriate development particularly in coastal and peri-urban areas. Land clearing is identified as a threatening process in the *National Strategy for the Conservation of Australia's Biological Diversity* (1996) and a direct cause of habitat loss, degradation and fragmentation in *Australia's Native Vegetation Framework* (1996) (currently a public consultation draft).

The Australian Government participates in protecting the national environmental assets and facilitating sustainable agriculture and natural resource management. This requires environmental, economic and social knowledge and planning, and facilitating the adoption of sustainable practices. To achieve these objectives requires research and development, information and data on actual and predicted environmental outcomes, integrated regional planning, and investment and support for land managers to adopt practices that could not be achieved through ad hoc voluntary actions via grants and Landcare groups.

The following sections provide information on the Senate Inquiry Terms of Reference:

> (1) (d) The impact of native vegetation laws and legislated greenhouse gas abatement measures on landholders, including any other related matter
>
> (2) the impact of the Government's proposed Carbon Pollution Reduction Scheme and the range of measures related to climate change.

The sections outline the various mechanisms which the Australian Government has used, or is using to engage in the management of native vegetation; the economic issues where native vegetation laws relate to Australian farmland; and the proposed Carbon Pollution Reduction Scheme and the measures related to climate change.

2. Native vegetation laws in Australia

2.1 State and territory legislation

The states and territories have primary responsibility for the legislative and administrative framework within which natural resources, including native vegetation,

are managed. Over the past 20 years or so, state and territory governments have introduced and progressively strengthened legislation controlling the clearing of native vegetation, and the legislative framework continues to evolve. This has been largely due to an improved understanding of the impacts on natural resources and public expectations for improved environmental protection.

Each jurisdiction has its own suite of laws which typically set out when permits or approvals must be obtained by landholders who intend to clear native vegetation on their properties.

2.2 Commonwealth legislation

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) is the primary vehicle establishing a national approach to a wide range of environmental protection and biodiversity conservation matters and for implementing ecologically sustainable development at the Commonwealth level. The EPBC Act was enacted with the general objective of protection of the environment and the conservation of biodiversity, particularly with respect to matters of national environmental significance (NES) and Commonwealth areas, and to assist in the cooperative implementation of Australia's international environmental responsibilities.

The 1997 Council of Australian Governments (COAG) Heads of Agreement on Commonwealth/State Roles and Responsibilities for the Environment states that Commonwealth responsibilities and interests should be focussed on matters which are of genuine national environmental significance. There are eight defined matters of NES:

- World Heritage properties
- Ramsar listed wetlands
- national heritage places
- listed threatened species and ecological communities
- migratory species
- nuclear activities
- Commonwealth marine environment
- Great Barrier Reef Marine Park

The conservation of listed threatened species and ecological communities is one of the matters of NES. A species or ecological community is listed by the Environment Minister based on the advice of the Threatened Species Scientific Committee. Currently there are a range of ecological communities and over 1600 listed species with extensive geographic coverage across Australia.

Protection of listed threatened species and ecological communities includes the requirement for a person, prior to taking an action that has, will have, or is likely to have a significant impact on a matter of NES (which includes threatened species and ecological communities) to refer that action to the Environment Minister for consideration under the Act. Failure to seek approval may attract significant penalties.

Cases in which environmental approvals are not needed include actions with prior authorisation or where the action is a lawful continuation of the use of land. The prior

authorisation exemption allows persons who held an environmental authorisation prior to commencement of the EPBC Act (on 16 July 2000) and in certain circumstances, to take an action covered by that authorisation without EPBC Act approval. The continuing use exemption allows persons, in certain circumstances, to take an action without EPBC Act approval if the action was a lawful continuation of the use of land before commencement of the EPBC Act. If there is a change in this land use, such as where the action involves an enlargement, expansion or intensification, and the nature of activities comprising that land use will have a significant impact on the protected species or ecological community, then the action will require referral under the EPBC Act.

The Australian Government Minister for the Environment may make or adopt and implement recovery plans for threatened species and ecological communities listed under the EPBC Act. Recovery planning is a key mechanism for the long-term recovery of threatened species and ecological communities. As at June 2009, 354 recovery plans were in place and 259 were in preparation (Hawke, 2009).

In April 2001 land clearance was included as a key threatening process under the EPBC Act. A key threatening process is one that threatens or may threaten the survival, abundance or evolutionary development of a native species or ecological community. The Threatened Species Scientific Committee recommended that a threat abatement plan was not considered a feasible, effective or efficient way to abate the process. Recognising that each state and territory needs an appropriate response to this key threatening process the Committee further advised the Minister for the Environment that the Commonwealth should encourage and support land management quality assurance and planning mechanisms at the appropriate scales to ensure the conservation of biodiversity, especially threatened species and ecological communities.

3. Australian Government involvement in native vegetation

The Australian Government plays a further role in native vegetation management through participating in national agreements and strategies for improved native vegetation management, and through funding programs. These are frequently implemented subject to bilateral or multilateral agreements with other jurisdictions.

3.1 Council of Australian Governments agreements

The Council of Australian Governments (COAG) has made a number of intergovernmental agreements that have described the role of the Commonwealth in environmental matters and set the strategic direction for action on environmental issues. The objectives of these agreements are achieved through a variety of tools including regulation, the development and implementation of national collaborative environmental policies, and providing funding through programs to address environmental problems.

The 1992 COAG Intergovernmental Agreement on the Environment established a framework for intergovernmental action on environmental issues. The Agreement was a mechanism to better define of the roles of the respective governments, and amongst other things, agreed to integrate environmental considerations into their decision making and

pursue the principles of ecological sustainable development. Section 3 of the Agreement relates to the principles of environmental policy and includes the following to inform policy making and program implementation:

- precautionary principle
- intergenerational equity
- conservation of biological diversity and ecological integrity
- improved valuation, pricing and incentive mechanisms.

In 1997 COAG agreed in principle to the Heads of Agreement on Commonwealth/State Roles and Responsibilities for the Environment. This aimed to develop a more effective framework for intergovernmental relations. This applied to:

- matters of national environmental significance
- environmental assessment and approval processes
- listing, protection and management of heritage places
- compliance with state and territory environmental and planning legislation
- better delivery of national programs.

In relation to native vegetation the agreement provided that 'The Commonwealth interest involves taking programme and cooperative measures with the States and other interested parties to conserve and manage native vegetation and fauna'.

With respect to environmental approval processes, the Australian Government's role was limited to assessing those proposals which may have a significant impact on the defined matters of NES including nationally endangered or vulnerable species and ecological communities.

The 1997 COAG Heads of Agreement set out 23 additional matters of NES where the Commonwealth has 'interests and obligations' such as the conservation of native vegetation and fauna, and reducing emissions of greenhouse gases and enhancing greenhouse sinks. In 1999, consistent with the COAG Heads of Agreement these matters of NES were excluded from the list of protected matters that would trigger the assessment and approval processes of the EPBC Act. This was because there was other legislation and other tools such as the Natural Heritage Trust which addressed these NES matters.

3.2 Natural Heritage Trust – phase 1

Phase 1 of the Natural Heritage Trust (Trust) commenced in 1996–97 and concluded in 2001–02. The Trust was established under the *Natural Heritage Trust of Australia Act 1997*.

The goal of phase 1 was "to stimulate activities in the national interest to achieve the conservation, sustainable use and repair of Australia's natural environment".

Five specific projects or initiatives each with their own goals and objectives were identified, including the National Vegetation Initiative.

The COAG Intergovernmental Agreement on the Environment provided the framework for implementation of the Trust. It included the principles outlined under section 3 of the

Agreement relating to environmental policy, and other related national or state strategies agreed by the parties.

The Trust sought to focus on on-ground activities, and funding was made available through community grants, regional strategies, national partnerships and for Australian Government initiatives concerning broad strategic research and policy development.

Bilateral agreements between the Commonwealth and the state and territory governments in 1997 were a key part of delivery of funding. They aimed to provide a framework for achieving on-ground results and integrating delivery at the state level. The agreements also sought to ensure that the state policies and regulations were consistent with national objectives.

Generally, the agreements contained the principles of the partnership, the roles of the Australian and state and territory governments, the financial arrangements to enable funds to flow to projects, the principles of delivery of Trust programs, conflict resolution, review procedures, and the goals, objectives, outcomes and performance indicators to be covered by the agreement. Agreements also recognised that the Trust was based on an understanding that environmental protection (including biodiversity conservation), sustainable agriculture and natural resources management have complementary goals.

Through the partnership agreements the Australian, state and territory governments committed themselves to the national goal of reversing the decline in the quality and extent of Australia's native vegetation cover by 2001. This was to be delivered through programs including Bushcare: the National Vegetation Initiative, and Landcare.

The Bushcare Program environmental outcomes included having effective measures in place to retain and manage native vegetation. This included having controls on clearing and avoiding or limiting any further broad-scale clearance of native vegetation consistent with ecologically sustainable management and bioregional planning, to those instances in which regional biological diversity objectives are not compromised. In the NHT 1 bilateral agreements, the national goal, objectives and outcomes for Bushcare were the same for all states and territories.

Through Bushcare, landholders were able to receive financial assistance for the cost of on-ground works such as fencing and/or receive a rebate for land set aside. Bushcare resulted in activities such as widespread tree planting, native vegetation works, fencing and covenanting areas to protect native vegetation.

The Landcare Program helped give effect to the Trust priorities on agricultural land through measures to protect biodiversity, reduce land degradation, control and measure the clearing of native vegetation that leads to the degradation of land and water quality and unsustainable use, reverse the decline in extent and quality of Australia's vegetation, and address the decline in river systems. As well as the key Trust priorities, specific outcomes to be pursued by Landcare included improvement in the clarity and certainty of property rights to underpin sound management practices, and development and implementation of best practice systems including codes of practice and environmental

management systems (NRMMC, 2002). In the NHT 1 bilateral agreements, the national goal, objectives and outcomes for Landcare were the same for all states and territories.

The emphasis of the National Landcare Program was on changing attitudes and practices, community capacity building, the provision of facilitators and coordinators, and information, research and monitoring. Phase 1 of the Trust was seen as an opportunity to broaden Landcare to include nature conservation, achieve institutional reform and engage the community. The expectation was that the Trust would make significant progress in addressing land clearing and the decline in native vegetation through engaging the farming community on environmental issues and institutional reform. Projects supported by the National Landcare Program involved the adoption of minimum tillage, sustainable grazing, adoption of property management planning, and conservation covenants.

3.3 Natural Heritage Trust – phase 2

In 2001, the Australian Government commenced an extension to the Trust for a further five years, from 2002–03 to 2006–07 to repair and conserve the natural environment and ensure the sustainable use of the nation's natural resources. The 2004 Budget subsequently extended the Trust until 2007–08.

The Framework for the Extension of the Trust (2002) shifted towards a more targeted approach to environmental and natural resource management in Australia with an emphasis on regional delivery. Similar to the National Action Plan for Salinity and Water Quality the investment model comprised:

- bilateral and regional partnership agreements
- investment against accredited regional plans
- provision of foundation and priority funding.

New bilateral agreements were made with the states and territories setting out how the second phase of the Trust (2002–03 to 2007–08) was to be delivered in each state and territory. The agreements also included institutional reform, capacity building, facilitators/ coordinators, funding arrangements, monitoring and evaluation, and information management. Amongst other things, the parties agreed to pursue the national goals, priorities and outcomes of programs including Bushcare and Landcare, work jointly to accredit regional plans and invest jointly in the implementation of activities to meet the identified priorities in the regional plans that meet the Trust objectives.

For the Bushcare program the national framework for the extension of the Trust had similar outcomes to phase 1 of the Trust. These included implementing effective measures to control the clearing of native vegetation, specifically the limitation of broadscale clearing to those instances where regional biodiversity objectives are not compromised.

The Landcare Program also helped give effect to the Trust priorities on agricultural land through measures to reduce land degradation, and controlling and measuring the clearing of native vegetation that leads to the degradation of land and water quality and unsustainable use. The program outcomes and activities funded were similar to phase 1 of the Trust.

Natural Heritage Trust phase 2 state bilateral agreements

Implementation of bilaterals was different in each state and territory reflecting local issues. The following examples highlight the different approaches.

Queensland (18 June 2004)
The Australian and Queensland Governments agreed to progress the conservation, management and protection of native vegetation to achieve biodiversity goals and to reduce the risk of land degradation and salinity. The state agreed to protect vegetation communities 'of concern' and phase out broadscale clearing of remnant vegetation by December 2006.

The state agreed to continue to improve biodiversity, salinity and land degradation information by, for example, enhancing the usability of biodiversity information, including definitions of High Nature Conservation areas; further analysing and interpreting threatened species information to facilitate application of the data at the property scale; and continuing to enhance the quality of information on the basis of new biodiversity, salinity and land degradation assessments and strategies.

New South Wales (14 August 2003)
New South Wales committed to 'the conservation, rehabilitation and protection of significant native vegetation and ecological communities against land clearance and resource degradation and improved quality and quantity of native vegetation, as well as protection of wildlife habitats and threatened species, populations and ecological communities on private land'.

The agreement also committed 'New South Wales agreed to pursue measures, consistent with the National Objectives and Targets for Biodiversity Conservation 2001–05 to prevent clearance of ecological communities with an extent below 30 per cent of that present pre-1750, to assess native vegetation condition, to contribute to reducing the national net rate of land clearance to zero, and to develop an integrated native vegetation information system'.

Victoria - 12 December 2002
Victoria agreed to continue to improve mechanisms that controlled and prohibited clearance of native vegetation by enhancing and implementing a native vegetation clearing permit tracking system through local governments. This was to enable the regions to monitor the cumulative impacts of planning permits issued in Trust regions by December 2003, to ensure that there was an adequate and effective system for assessment and mapping of native vegetation which linked to the permit tracking system, and to ensure the information on vulnerable areas for water quality and salinity hazard was current and available to decision-makers to develop a program based on land stewardship principles which supported the protection of native vegetation within broader farming systems.

Victoria also agreed to review and amend the Victorian Planning Provisions by December 2004 to ensure consistency with and support for fully implementing *Victoria's Native Vegetation Management – A Framework for Action*. Victoria amended planning provisions to require that where native vegetation must be removed during a land use development, responsible authorities will seek to achieve a net gain in native vegetation.

3.4 Outcomes of NHT phase 1 and 2

A focus of the NHT was engaging large numbers of individuals in small on-ground works. Up to 2003[2], the Natural Heritage Trust had funded more than 12 000 projects around Australia involving about 400 000 volunteers (Australian Government 2004). The Trust phase 1 was delivered within 21 resource-specific programs, which made it difficult to assess achievements as a whole. As at May 2004, 2,137 projects within seven of the One-Stop-Shop Programs had reported on-ground outputs: 1.57 million hectares of native vegetation works had been completed, more than 113 000 km of fencing was constructed and 63 million seedlings were planted. This included fencing to exclude stock grazing pressures to remnant vegetation, the adoption of other sustainable grazing practices, and changes in attitudes toward vegetation management by landholders (Hassall and Associates Pty Ltd, 2005).

The Australian Government Envirofund under NHT 2[3] also funded community groups and individuals to undertake on-ground projects and other actions to target local problems aimed at conserving biodiversity and promoting sustainable resource use. A number of these provided vegetation management outcomes (see Table).

Protection or rehabilitation of native vegetation from completed Envirofund projects[4]	
Area of native vegetation protected by fencing	15 496 ha
Area of native vegetation enhanced or rehabilitated	5 286 ha
Area revegetated with native vegetation	2 622 ha
Area revegetated with exotic vegetation	3 737 ha
Number of conservation agreements or covenants established	39
Area covered by conservation agreements or covenants	2 670 ha

The total area of native vegetation protected, enhanced, rehabilitated or revegetated with native species under Envirofund funding to date, would at most amount to around 90 000 hectares[5] across Australia.

Evaluation of NHT phase 1 found that achievements were limited by the lack of a strategic framework to direct and prioritise activities, but the Trust was successful at encouraging cooperative partnerships through both formal and informal arrangements, and led to improved cooperation, communication, relations and trust between stakeholder groups and between partners (Hassall and Associates Pty Ltd, 2005). An overall evaluation of NHT phase 2 was not conducted. However, a series of evaluations were conducted of different priority areas. Native vegetation was not specifically analysed, but evaluation of "biodiversity outcomes of regional investment" found that overall the regional model is working for biodiversity conservation, and recognised that long term planning and investment is required to achieve desired outcomes.

[2] Date not stated in the report – data obtained from Australian Government, 2004.
[3] Centre for International Economics 2005, *Evaluation of the Natural Heritage Trust Envirofund.* A report prepared for the Department of Environment and Heritage.
[4] Only those projects for which final reports had been submitted up to June 2005
[5] The areas of native vegetation protected by fencing, enhanced, rehabilitated or revegetated with nature species indicated in table 4.1 have been multiplied by 4 as a very rough order of magnitude to take account of projects which have not submitted final reports.

Market-based instruments for vegetation management

Market-based instruments are alternative approaches to legislation or grants to improve vegetation conservation.

In 2000–01, Victoria introduced Bushtender, an auction-based approach which paid landholders for managing nominated patches of remnant native vegetation on the basis of its biodiversity value.

Subsequently, Victoria introduced EcoTender, which built upon Bushtender expanding it to account for the multiple environmental outcomes produced by land and native vegetation management. The competitive tender process under EcoTender creates the incentive for landholders to reveal the cost to them of undertaking the actions in their bids. Landholders' bids are assessed as a function of the environmental benefits they offer and the cost of their bid, and contracts are offered to those who produce the most environmental value for money.

In 2007 the New South Wales Government introduced the Biodiversity Banking and Offsets Scheme (or 'BioBanking') to help address the loss of biodiversity values, including threatened species.

To operate effectively, these programs require good information and a legislative framework to underpin them. Particular challenges include estimating the quality and quantity of environmental outcomes that result from landholder actions, ensuring landholders undertake the agreed land management actions despite the difficulty in monitoring individual actions and ensuring any negative environmental impacts of land management are accounted for.

The Australian Government as part of Caring for our Country is now implementing an Environmental Stewardship Program involving direct payments to landholders to maintain and improve the quality and extent of high public value environmental assets listed under the *Environment Protection and Biodiversity Conservation Act (1999)*.

Australia's Native Vegetation Framework (consultation draft) proposes to develop, resource and implement a range of innovative approaches and incentive programs including economic/ business opportunities to deliver ecosystem services that encourage land managers to maintain and increase native vegetation.

3.5 National Action Plan for Salinity and Water Quality

In 2000, the Australian Government and state and territory governments made a joint commitment over 7 years to the National Action Plan for Salinity and Water Quality (NAP). The NAP was endorsed by COAG on 3 November 2000. The goal of the Plan was to motivate and enable regional communities to use coordinated and targeted action to prevent, stabilise and reverse trends in dryland salinity affecting the sustainability of production, the conservation of biological diversity and the viability of our infrastructure,

and to improve water quality and secure reliable allocations for human uses, industry and the environment.

Land clearing in salinity risk areas was identified as a primary cause of dryland salinity and effective controls on land clearing were required in each jurisdiction. Any Commonwealth investment in the catchment/region plans was to be contingent upon land clearing being prohibited in areas where it would lead to unacceptable land or water degradation, and the Commonwealth required agreement from relevant states/territories (particularly Queensland, New South Wales and Tasmania) that their vegetation management regulations would be effectively used or, where necessary, amended to combat salinity and water quality issues.

An overarching Intergovernmental Agreement on a National Action Plan for Salinity and Water Quality was signed by the Commonwealth and State and Territory governments. There were 21 catchments/regions identified as priority regions for which block funding for accredited plans would be provided under the Agreement.

The Agreement addressed land and water management policy. The parties agreed on "...the need for an improved policy framework, including clarifying property rights, establishing appropriate pricing of water, and introducing regulatory reforms for water and land use, to secure government investments and to motivate best practice in land and water resource management" (Clause 25).

The states and territories agreed to institute controls on land clearing by June 2002 or as otherwise agreed in bilateral agreements, which at a minimum prohibit land clearing in the priority catchments/ regions where it would lead to unacceptable land or water degradation (Clause 27). For the purpose of this clause 'unacceptable land and water degradation' was "defined in conjunction with the development of interim standards to be developed under clause 20". [Under Clause 20 the Parties agreed to "develop standards on salinity, water quality and associated water flows by December 2001, with interim standards by March 2001 building on existing standards where possible"].

The intergovernmental agreement also included a clause (47) on compensation:

> "The Parties agree that compensation to assist adjustment where property rights are lost will be addressed in developing catchment/regional plans noting that, while such compensation is the responsibility of the states and territories, the Commonwealth is prepared to consider making an additional contribution, separate from the $700 million mentioned above."

No extra financial contribution was appropriated from the Commonwealth for this reason.

Bilateral agreements specified in detail the agreements between the Commonwealth and individual states and territories on how the NAP would be implemented. Under the Intergovernmental Agreement, parties agreed that the bilateral agreements between the Commonwealth and the respective state and territory would be developed and would detail the relevant state and territory aspects including institutional arrangements for each region, agreed policy reforms and milestones for each, and the process for accrediting integrated catchment/regional plans. The catchment/regional plans were to be based upon

analysis of natural resource problems and priorities carried out at the catchment/regional level by local communities assisted by governments in the context of wider objectives.

Applying the NAP in New South Wales

As with the NHT, the NAP was applied differently in each state reflecting relevant priorities and institutional arrangements. NSW provides an example of applying the NAP in a state where there were significant salinity issues and a statutory basis for regional bodies and plans.

Twenty-one integrated catchment/regional management plans (Catchment Blueprints) were accredited for the purposes of joint investment under NHT2. The NSW NHT2 bilateral agreement acknowledged that related resource-specific plans such as Regional Vegetation Management Plans, were to be integrated with Catchment Blueprints and mutually supportive of the sustainable management of natural resources

The Catchment Blueprints were considered by the Parties for accreditation as integrated catchment/regional management plans for the purposes of joint investment under the NAP, in accordance with Clause 14 and 15 of the Intergovernmental Agreement. As outlined in the Legislative and Planning Framework for Land and Water Management in New South Wales (Schedule 2), the Catchment Blueprints, amongst other things, contributed to implementation of legislation such as the *Native Vegetation Conservation Act* (Schedule 2B). Also, in developing a Catchment Blueprint, a Catchment Management Board was to have had due regard for the provisions of any environmental planning instrument prepared under the *Environmental Planning & Assessment Act 1979*.

The New South Wales NAP bilateral recognised that implementation of the agreement would occur within the existing framework of state legislation, policies and strategies (described in Schedule 2 to the agreement), including the *Native Vegetation Conservation Act 1997* which, amongst other things, controls the clearance of native vegetation and provides that Regional Vegetation Management Plans (RVMPs) have the status of planning instruments under the *Environmental Planning and Assessment Act 1979*. Consequently, the plans may contain regulatory provisions relating to native vegetation clearing that control development and land use.

3.7 Outcomes of NAP

The majority of National Action Plan funding and around half the NHT extension funding was invested to pursue targets and priorities developed by regional communities and articulated in plans accredited by governments (National Action Plan for Salinity and Water Quality and Natural Heritage Trust Regional Programs Summary Report 2004–05).

Once regions had their regional plans ready for implementation, investment shifted from planning and resource assessment activities required to establish regional bodies, to implementing on-ground activities to bring about resource condition change. Significant regional investment was directed at issues associated with the long-term resource condition targets, with the majority of funding being directed towards land salinity, native vegetation and rivers and wetlands.

In general, the NAP and NHT regional results were not separated and total outputs were reported under NHT. Annual NHT reports for 2005–06 and 2006–07 focus on the funds invested against each priority strategy, and indicate that these were allocated to regional natural resource management plans and investment strategies[6]; baseline, trend or condition studies; information management systems and other decision support tools; resource assessment such as weed mapping and biodiversity surveys; and research and development. The 2004–05 regional summary report gives a clearer indication of the on-ground activities for improved agricultural systems and revegetation and rehabilitation (National Action Plan for Salinity and Water Quality and Natural Heritage Trust Regional Programs Summary Report 2004–05). This reported that through the NAP and the regional component of the Trust:

- Over 340 000 hectares of agricultural land had been improved through activities such as perennial pasture establishment and the application of lime to address acid soils.
- Sustainable irrigation systems have been established on over 19 000 hectares of land.
- Regions have developed nearly 3500 sub-catchment plans, nearly 6500 property management plans and close to 120 species recovery plans for threatened flora and fauna.
- Revegetation and rehabilitation activities had been conducted across 300 000 hectares of land, 1.4 million hectares of land had been protected for native species, and almost 16 million hectares managed for pest plants and animals (National Action Plan for Salinity and Water Quality and Natural Heritage Trust Regional Programs Summary Report 2004–05).
- In addressing native vegetation, regions had:
    - developed almost 1420 conservation covenants and agreements
    - enhanced and revegetated over 180 000 hectares
    - carried out over 8600 surveys, over more than 29 million hectares.

3.8 Caring for our Country

Caring for our Country is the Australian Government's new environmental management initiative. It aims to achieve an environment that is healthy, better protected, well-managed, resilient and provides essential ecosystems in a changing climate.

Caring for our Country integrates delivery of the Australian Government's previous natural resource management programs, including the Natural Heritage Trust. In its first

[6] The NHT annual reports do not provide detail on the investment under the regional strategy, which was probably reported through individual regional reports to the Australian Government.

five years (from July 2008 to June 2013) the Australian Government will invest $2 billion to secure improved strategic outcomes across six national priority areas:

- the National Reserve System
- biodiversity and natural icons
- coastal environments and critical aquatic habitats
- sustainable farm practices
- natural resource management in northern and remote Australia, and
- community skills, knowledge and engagement.

To ensure that the funds are invested in a strategic manner across the highest priorities, the government has approved a series of specific outcomes. The outcomes are in the context of 20 year projections of results the Australian Government expects to deliver in each of the six national priority areas. A series of short-term targets have been developed to help prioritise investment and assist in delivering the five year outcomes. To date two business plans have been released seeking proposals for funding in 2009–10 and 2010–11.

Bilateral agreements include guiding principles for Caring for our Country implementation. For example, in the Interim Bilateral Agreement between the New South Wales Government and the Commonwealth Government for Caring for our Country (Clauses 5.1 and 5.2) it states:

- The principles guiding the Commonwealth in the development and implementation of Caring for our Country under the Agreement include that the Commonwealth will make investments against the Caring for our Country national priorities areas.
- The principles guiding all Parties under the Agreement include:
  - continue to support regional delivery to achieve outcomes that address the decline in Australia's natural resources through targeted investment in Caring for our Country priorities.
  - work together to make strategic investment decisions and encourage complementary investments in order to optimise Caring for our Country outcomes.
  - work to ensure complementary investments are made that assist in alignment of effort between Commonwealth and State priorities.

In New South Wales, for example, the bilateral includes that the Parties acknowledge that existing Catchment Action Plans and 2008–09 Catchment Management Authority Investment Programs were used to determine Caring for our Country investments that best complement and contribute to the Commonwealth's Caring for our Country priorities and outcomes for the 2008–09 financial year (variation dated 1 July 2009, Clause 7.3).

Under the Intergovernmental Agreement (IGA) on Federal Financial Relations, a National Partnership Agreement (NPA) for the Caring for our Country initiative is currently being negotiated between the Commonwealth and states and territories.

In Caring for our Country, all national priority areas contribute to improving the condition and extent of native vegetation, particularly the National Reserve System, Biodiversity and Natural Icons, and Sustainable Farm Practices areas.

The National Reserve System has been established to protect native ecosystems present in Australia. It complements other efforts, including improving vegetation and native species and their habitats. The Australia's National Reserve System five year outcomes include:

- Expand the area that is protected within the National Reserve System to at least 125 million hectares (a 25 per cent increase),with priority to be given to increasing the area that is protected in under-represented bioregions
- Expand the contribution of Indigenous Protected Areas to the National Reserve System by between 8 and 16 million hectares (an increase of at least 40 per cent)
- Increase from 70 per cent to 100 per cent the proportion of Australian Government funded protected areas under the National Reserve System that are effectively implementing plans of management.

Funding is provided in two ways.

1. Organisations can apply for funding to help them buy land for conservation. The Government provides up to two-thirds of the purchase price for a property and the partner organisation contributes the rest. The partner then owns the property and manages it for conservation.
2. Organisations can apply for funding to work with landholders, helping them establish perpetual conservation covenants on parts of their private land.

Biodiversity and Natural Icons has a number of five year outcomes including:

- increasing, by at least one million hectares, the area of native habitat and vegetation that is managed to reduce critical threats to biodiversity and to enhance the condition, connectivity and resilience of habitats and landscapes. This is addition to the 125 million hectares that is to be protected within the National Reserve System.

The strategies to achieve these five year outcomes included enhancing the connectivity of native habitats and ecological communities across the Australian landscape and supporting the systematic appraisal of biodiversity in regions.

Sustainable Farm Practices has three five year outcomes:

1. Assist at least 30 per cent of farmers to increase their uptake of sustainable farm and land management practices that deliver improved ecosystem services
2. Increase the number of farmers who adopt stewardship, covenanting, property management plans or other arrangements to improve the environment both on-farm and off-farm.
3. Improve the knowledge, skills and engagement of at least 30 per cent of land managers and farmers in managing our natural resources and environment.

For 2009–10 and 2010–11, the targets related to the second outcome have focused on increasing landscape scale conservation. In 2009–10 investment was targeted in south eastern Australian woodlands. The target aims to increase by 6700, the number of farmers adopting activities by 2013 that contribute to the ongoing conservation and protection of biodiversity. The types of activities eligible for funding include the development of management plans, on-ground works including fencing and planting of seedlings and the development and distribution of guidelines.

Three high profile programs address priority areas in Caring for our Country: Landcare (within Sustainable Farm Practices), Environmental Stewardship Program (Biodiversity and Natural Icons) and Reef Rescue (Coastal Environments and Critical Aquatic Habitat). The Environmental Stewardship Program is outlined in the box below.

Reef Rescue is an Australian Government election commitment and is part of the Caring for our Country initiative. Over $200 million has been committed over five years to reduce the decline in water quality by providing assistance to land managers in the reef catchments to accelerate the uptake of improved land management practices. Reef Rescue has also contributed to the management of native vegetation through providing funding to assist graziers undertake riparian restoration and management activities (stock exclusion) to address stream bank erosion, and in the more intensive industries, providing limited funding for the construction and rehabilitation of native riparian corridors.

The Sustainable Farm Practices national priority area and Reef Rescue are also assisting farmers to adopt practices that improve groundcover, including native pasture.

Environmental Stewardship Program

The Caring for our Country Environmental Stewardship Program provides $42.5 million funding over four years from 2007-2008 to 2010-2011 and targets matters of National Environmental Significance (NES) as listed under the EPBC Act.

The objective of the Environmental Stewardship Program is to maintain and improve the condition and extent of targeted high public value environmental assets on private land. Environmental Stewardship use a voluntary, marked-based incentive mechanism to invest against program objectives. This complements the regulatory mechanisms described by the Act by funding eligible private land managers to actively manage and protect specific matters of NES on their land.

By entering into a fee-for-service contract with participants for up to 15 years, this ensures specific long term conservation benefits on private land are achieved. Funds are used to assist land managers to undertake conservation management actions, and to cover the costs of delivery agents to provide expert field services during program implementation.

The program commenced investment by targeting the nationally endangered White Box-Yellow Box-Blakely's Red Gum grassy woodland and derived native grassland ecological community (Box Gum grassy woodlands) of south eastern Australia. This ecological community occurs as scattered remnants over about 405 000 ha through the wheat-sheep belt of Queensland, New South Wales and Victoria. To date four funding rounds have been carried out in a number of NRM regions in NSW and Queensland: in the Lachlan and Murrumbidgee, Central West, Namoi and Border Rivers-Gwydir-Maranoa-Balonne, Condamine and South East Queensland. To date 161 land managers have been approved for funding. A fifth tender round in the Lachlan, Murrumbidgee and Central West NRM regions of NSW is being concluded.

In 2010-2011 the program will target multiple ecological communities in South Australia and northern New South Wales. The South Australian project covers the Adelaide and Mount Lofty, Northern and Yorke and South Australia Murray Darling NRM regions, and targets three endangered ecological communities:

- Peppermint Box (*Eucalyptus odorata)* grassy woodland of South Australia
- Iron-grass natural temperate grassland of South Australia
- Swamps of the Fleurieu Peninsula

The NSW project builds on earlier tenders round in the Central West, Namoi and Border Rivers-Gwydir NRM regions and targets three endangered ecological communities:

- White Box-Yellow Box-Blakely's Red Gum grassy woodland and derived native grassland ecological community (Box Gum grassy woodlands)
- Natural grasslands on basalt and fine-textured alluvial plains of northern New South Wales and southern Queensland
- Weeping Myall woodlands

Both of these projects will involve a single tender round and will be completed by June 2011.

3.9 Outcomes under Caring for our Country

In 2008–09, 139 Landcare Sustainable Practices Grants worth $27.901 million were funded along with 47 Sustainable Farm Practices Open Grants worth $9.343 million.

From regional and competitively funded projects in 2008–09, 405 farmers were recorded to have undertaken activities that contribute to the ongoing conservation and protection of biodiversity.

In 2008–09 a total of 147 000 hectares were added to the National Reserve System through the support of the acquisition of 16 properties. In the same year, a total of 330 276 hectares were added to the National Reserve System program through Indigenous Protected Areas. Also in 2008–2009, 12 272 hectares were recorded as allocated to the Environmental Stewardship Program.

In 2008–09 the Australian Government also invested in projects to reduce critical threats to biodiversity and to enhance the condition, enhance connectivity and resilience of habitats and landscapes on over 1.2 million hectares. This is additional to the 125 million hectares that is to be protected within the National Reserve System. –

The 2007–08 Australian Resource Managers survey was conducted by the Australian Bureau of Statistics (ABS) and provides detailed statistics at the national, state/territory and regional levels, on the major agricultural activities undertaken, land use, and key land management practices. The Department of Agriculture, Fisheries and Forestry commissioned ABS to develop and conduct the survey to form a baseline to measure the progress towards achieving two of the three sustainable farm practices 5-year outcomes for Caring for our Country: assisting 30 per cent of farmers to increase their uptake of sustainable farm and land management practices, and increasing the number of farmers who adopt stewardship, covenanting, property management plans or other arrangements to improve the environment both on-farm and off-farm.

The ARM survey indicated that out of 140 704 agricultural businesses, 91 701 had native vegetation on their holdings. On average, 52.7 per cent of farm holdings indicated they are undertaking action to protect native vegetation.

Results of Australian Resource Managers survey

	NSW	VIC	QLD	SA	WA	TAS	NT	Total
Agricultural businesses (no.)	44521	34177	29121	14996	13084	4200	605	140704
Native vegetation on holding	30556	18064	21476	9020	9964	2621	464	91701
Holdings undertaking activities to protect native vegetation (%)	45.3	56.4	48.3	57.6	63.5	49.3	49.1	

3.10 National Biodiversity Strategy and Native Vegetation Framework

The National Biodiversity Strategy and Native Vegetation Framework are guiding policy frameworks for all sectors (governments, businesses and the community) for the management of native vegetation, as their commitment and contribution is required to achieve environmental outcomes.

The original *National Strategy for the Conservation of Australia's Biological Diversity* was prepared by the Australian and New Zealand Environment and Conservation Council (ANZECC) and endorsed by the Council of Australian Governments (COAG) in 1996. The Strategy is currently under review by the Natural Resource Management Ministerial Council. The revised strategy is intended to guide activities to assist meeting international obligations, protect matters of national significance and improve regional biodiversity outcomes.

In 1999 The *National Framework for the Management and Monitoring of Australia's Native Vegetation* was released as the basis for developing and implementing a range of consistent government policies, programs and legislation on native vegetation management. This included reversing the long term decline in the quality and extent of Australia's native vegetation and phasing out and avoiding the clearance or degradation of significant native vegetation. The framework was an initiative of the former Australian and New Zealand Environment and Conservation Council (ANZECC).

The National Framework has been reviewed by the Natural Resource Management Ministerial Council and a new draft Framework is currently released for public consultation until 7 April 2010 (www.environment.gov.au/native-vegetation-review). As part of the review jurisdictions examined changes in native vegetation management due to the 1999 framework. Changes included a significant legislative reform, including development and amendment of laws, policies and guidelines related to broadscale clearing.

The new draft framework includes five goals, including to increase the national extent of native vegetation to build ecosystem resilience and improve the productive capacity of the landscape. Relevant actions include undertaking risk assessments to prioritise where work on condition or extent of vegetation is needed, developing regional plans and programs to reduce threats (amongst other things), and integrating native vegetation protection into planning instruments through implementing a decision-making hierarchy where the first aim is to avoid loss (Native Vegetation Review Task Group, 2009).

The Strategy and the Framework recognise farmers as a major partner in delivering native vegetation outcomes on private land and aim to facilitate further native vegetation protection through the development of appropriate policies and programs. The formation of enduring partnerships with the private sector will help to ensure that common biodiversity objectives and investments are understood and coordinated.

4 Economic issues from native vegetation laws relating to Australian farmland

4.1 Productivity Commission

The Productivity Commission undertook an inquiry into the impacts of native vegetation and biodiversity regulations in 2004.

The Commission received evidence from landholders and determined that clearing controls have four broad types of impact on farming practices:

- preventing expansion of agricultural activities
- preventing changes in land use (for example, from grazing to cropping) and adoption of new technologies
- inhibiting routine management of vegetation regrowth and clearing of woodland thickening to maintain areas in production
- inhibiting the management of weeds and vermin.

Many landholders in Victoria and New South Wales commented on the detrimental impact of regulation that reclassifies regrowth, including grasses, more than 10 years old, as remnant.

The Commission found that state native vegetation and biodiversity regulations are imposing significant and unnecessary costs on landholders. A recommendation was that before introducing new or amending existing native vegetation and biodiversity policy, a comprehensive regulation impact statement or its equivalent should be prepared which includes an assessment of alternative instruments.

The Commission also recommended that current regulatory approaches should comply with good regulatory practice. This included the consideration of economic and social factors where applications to clear are requested on environmental grounds (a 'triple bottom line' approach), with reasons for decisions to be given and reported (Productivity Commission, 2004).

The Commission recommended greater flexibility in regulatory regimes to allow variation in requirements at a local level (i.e. for native vegetation regrowth), and over and above landholder responsibilities, that additional conservation apparently demanded by society should be purchased from landholders where intervention is deemed necessary and cost-effective.

A case study in the Commission's inquiry estimated that the potential impact of broadscale clearing restrictions in Moree Plains and Murweh Shire could reduce the present value of expected net returns (2003 dollars) to land, capital and management (over a 40 year period) in Moree Plains Shire (NSW) by $27-84 million, depending on the productivity of newly-cleared land and by $42-$124 million in Murweh Shire (Queensland) depending on the outlook for future cattle prices and whether woodland thickening can be countered effectively.

In June 2005 COAG noted the work of the state and territory governments in the area of management of native vegetation and biodiversity and encouraged their continued examination of appropriate regulation. In February 2006 COAG agreed to reduce the regulatory burden across all three levels of government including through a range of measures to ensure best-practice regulation making and review and action to address six specific regulation 'hotspots' where cross-jurisdictional overlap is impeding economic activity. In July 2006 COAG agreed to add environmental assessment and approval processes as an area for cross-jurisdictional regulatory reform.

4.2 Economic analyses

All state and territory governments have introduced legislation to restrict broadscale clearing in an attempt to conserve the native vegetation that exists on privately managed agricultural land. In order to investigate whether these environmental outcomes can be delivered at least cost, or whether the environmental benefits can be maximised for a given budget, a clear understanding of the costs associated with mandated native vegetation conservation is required. ABARE studies (Davidson et al. 2006a and Davidson et al. 2006b) have shown that land clearing restrictions in Queensland, New South Wales and Southern Australia, in an effort to improve environmental outcomes, impose negative impacts on agricultural producers as they forego potential increases in agricultural production and income.

The analysis suggests that the opportunity costs (foregone agricultural production and income) of native vegetation laws could be higher for some producers than others.

The ABARE analysis by Davidson et al. (2006a) is based on a survey undertaken in the rangeland and cropping areas of southern and western Queensland, a region of around 540 000 square kilometres. Regulations intended to conserve native vegetation were identified by farmers as by far the most important constraint to development. Up to 14 per cent of the survey region was identified by farmers as being affected by existing nation vegetation regulation. The estimated cost of foregone agricultural development opportunities in the survey region is around $520 million in net present value terms. While the median cost of a foregone rangeland development was estimated at $217 000 per farm, the private costs of native vegetation regulation varied widely. However, for 90 per cent of farmers in the survey region, the opportunity cost of foregone development across farms' operating areas ranged between $26 a hectare and $838 a hectare.

ABARE also conducted a survey of 386 broad acre farms in a 400 000 square kilometre region of New South Wales to quantify the impact of native vegetation restrictions on farm productivity and returns (Davidson et al. 2006b). In general, farms with lower vegetation density had higher total factor productivity. Around 20 per cent of farmers reported that they would like to clear rangelands for development. The opportunity cost of preventing this development in order to conserve native vegetation for environmental services was estimated to be as much as $1.1 billion in net present value terms across the study region. Again, the potential opportunity cost of conserving native vegetation varied widely from $1445 per hectare to $129 per hectare.

ABARE compiled a set of case studies to provide an overview of landholder perspectives about on-farm vegetation management and non-broadscale land clearing restrictions in Southern Australia (Mallawaarachchi and Szakiel, 2007). The study found that, in general, land clearing restrictions did not have significant impact on the operation of farms, with the exception of the Bordertown region of South Australia. The case studies suggested that larger properties have greater flexibility in matching land use to land capacity and can more easily target areas for establishing vegetation cost-effectively.

The highly skewed distribution of costs throughout and across the study regions indicates that while the impacts of native vegetation laws are widespread and frequently small and moderate, it is likely that the impact in some areas could be severe. Given the significant variation in costs across regions, it is unlikely that the expected total public benefits from enforced conservation will exceed the total costs of achieving the environmental outcomes in the regions. Reliance on a regulatory regime to manage native vegetation is unlikely to lead to an outcome with environmental services delivered at least cost.

The costs of conserving a given level of native vegetation could be lowered if, through some market-based policy instrument(s), tradeoffs between agricultural development in one area and increased native vegetation conservation in another were allowed. In other words, the considerable variation in costs of conserving native vegetation within and across regions suggests that there may be scope to achieve the desired level of environmental outcomes at lower cost to the farm sector if more flexible policy instruments were adopted. All of the ABARE studies suggest that the adoption of a more flexible approach in the way in which environmental targets are met, may improve environmental outcomes that are of benefit to society in ways that minimise the costs incurred by private land holders.

5. Proposed Carbon Pollution Reduction Scheme (CPRS) and range of measures related to climate change

In November 2009, the Australian Government made a policy commitment to exclude agriculture indefinitely from the CPRS.

It is intended the government will establish offset arrangements for crediting of abatement from agricultural emissions and other sources not covered by the CPRS that are counted towards Australia's international climate change obligations. This will allow offsets to be generated from the following sources for crediting within the CPRS from 1 July 2011 (subject to the development of robust methodologies):

- livestock
- manure management
- fertiliser use
- burning of savannas
- burning of agricultural residues
- rice cultivation
- avoided deforestation
- legacy waste
- emissions from closed landfill facilities.

In addition, the Government will promote voluntary market offsets through implementation of the National Carbon Offset Standard for emissions sources currently not counted towards Australia's obligations under the Kyoto Protocol, including:

- grazing and crop land management (including biosequestration through soil carbon and biochar);
- enhanced forest management (forests established before 1990); and
- non-forest revegetation (and vegetation management).

The CPRS will provide CPRS permits for net increases in the carbon stored in eligible Kyoto compliant forest projects from 1 July 2010, including:

- 'reforestation' – forests established by people since 1990 on land that was clear of forest on 31 December 1989, and
- 'regrowth' forests – forests established by people since 1990 on land that was legally converted to a non-forest use (eg agriculture) between 1 January 1990 and 31 December 2008.

Each forest project must have a potential height of at least two metres, a potential crown cover of at least 20 per cent, and be established in patches greater than 0.2 hectares.

The Government will also provide credits for soil carbon on deforested land (land that was legally converted to an alternative land use between 1 January 1990 and 31 December 2008) from 2013.

Participation in the CPRS through the inclusion of eligible forest or soil carbon projects will be voluntary.

Therefore, under the proposed changes agriculture will have opportunities for greenhouse gas abatement through the following schemes: Kyoto compliant CPRS offsets; voluntary market offsets; and CPRS opt-in.

The department's Australia's Farming Future Climate Change Research Program will research mitigation opportunities to support the development of the methodologies for the offset programs.

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