Senate Environment and Communications
References Committee
Answers to questions on notice
Environment and Energy portfolio

Inquiry name:Inquiry into Australia's faunal extinction crisis

Hearing date: 23 August 2019

Question No: 1

Question Date: 23 September 2019

Question Type: Written

Question Text:

1. Have any current or previous Ministers or their offices sought advice in relation to the compliance action relating to the land part owned by Minister Taylor?

   a) Further to the answer provided to QoN #6 from the hearing of 23 August 2019 (received 6 September 2019), please confirm whether Ministers Price or Ley or their offices sought advice from the Department in relation to compliance actions.

   b) If yes, please identify which Minister or which Minister's office, the date on which advice was sought, the dates on which were advice was provided, and whether in seeking advice any Minister or their office communicated the relevant interest to Minister Taylor.

Answer:

a) Yes

b) (i) 15 February 2017, Office of Minister Frydenberg
(advice provided 15 February 2019)

(ii) 28 July 2017, Office of Minister Frydenberg
(advice provided 28 July 2017)

(iii) 12 October 2017, Office of Minister Frydenberg
(advice provided 12 October 2017)

The Department is not aware of what, if anything, the Office of Minister Frydenberg communicated to Minister Taylor in any of these instances.

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References Committee
Answers to questions on notice
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Inquiry name:Inquiry into Australia's faunal extinction crisis

Hearing date: 23 August 2019

Question No: 2

Question Date: 23 September 2019

Question Type: Written

Question Text:

2. Minister Taylor has said that Minister Frydenberg was aware of his interest in Jam Land Pty Ltd prior to the meeting between Mr Taylor as the Member for Hume and DoEE staff on 20 March 2017. Did Minister Frydenberg or anyone from the Minister's office advise DoEE of this interest when requesting that DoEE staff meet with Mr Taylor?

Answer:

No.

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Inquiry name:Inquiry into Australia's faunal extinction crisis

Hearing date: 23 August 2019

Question No: 3

Question Date: 23 September 2019

Question Type: Written

Question Text:

3. Have Minister Frydenberg or Minister Taylor sought legal advice from the Department about their actions or behaviour, compliance with the Ministerial Standards, or any related issues, in relation to the grasslands compliance matter?

Answer:

No. Ministerial behaviour, compliance with Ministerial Standards and issues related to them are not matters on which the Department provides legal advice to Ministers. The Ministerial Code of Conduct falls within the responsibilities of the Department of the Prime Minister and Cabinet.

Senate Environment and Communications
References Committee
Answers to questions on notice
Environment and Energy portfolio

Inquiry name:Inquiry into Australia's faunal extinction crisis

Hearing date: 23 August 2019

Question No: 4

Question Date: 23 September 2019

Question Type: Written

Question Text:

4. a) Prior to the meeting with Mr Taylor on 20 March 2017, did any internal meetings take place with DoEE staff to discuss the scope of the meeting and the importance of avoiding discussion of the compliance action?

   b) If so, who attended that meeting?

   c) Were minutes taken?

   d) What, if any, rules or parameters were established to protect the integrity of the compliance investigation?

Answer:

a) Yes (17 March 2017).

b) Geoff Richardson and two other staff from the Department.

c) A meeting brief was informed by this discussion.

d) If asked about compliance, the discussion would be limited to providing advice about the Department's general approach to compliance activities. No specific details of any of the Department's investigations would be provided.

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Inquiry name:Inquiry into Australia's faunal extinction crisis

Hearing date: 23 August 2019

Question No: 5

Question Date: 23 September 2019

Question Type: Written

Question Text:

5. a) Prior to the Monaro site visit on 9 March 2018, did any meetings take place between DoEE staff, or between DoEE staff and NSW Land Services staff to discuss the importance of avoiding discussion of the compliance action?

   b) If so, who attended that meeting?

   c) Were minutes taken?

   d) What, if any, rules or parameters were established to protect the integrity of the compliance investigation?

Answer:

a) No.

b) n/a

c) n/a

d) n/a

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Environment and Energy portfolio

Inquiry name:Inquiry into Australia's faunal extinction crisis

Hearing date: 23 August 2019

Question No: 6

Question Date: 23 September 2019

Question Type: Written

Question Text:

6. a) Does the Department have any internal codes, policies or guidelines for managing conflict of interest situations such as that arising from Minister Taylor's interest in a company under investigation by the Department?

   b) If so, what steps did Departmental officials take to satisfy themselves that the code, policy or guidelines had been complied with?

   c) Did the Department seek any legal advice regarding compliance with the code, policy or guidelines?

Answer:

a) Yes. The Department's employees are bound by the Code of Conduct contained in the *Public Service Act 1999*.

b) The Department is confident that Departmental employees have complied with the Code of Conduct contained in the *Public Service Act 1999.* The Ministerial Code of Conduct falls within the responsibilities of the Department of the Prime Minister and Cabinet.

c) No.

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Inquiry name:Inquiry into Australia's faunal extinction crisis

Hearing date: 23 August 2019

Question No: 7

Question Date: 23 September 2019

Question Type: Written

Question Text:

7. a) At what level were the FOI exemptions approved within the Department for the 2017 documents released to Guardian Australia?

   b) Did any officials within the Department discuss those FOI exemptions with any Minister or Minister's office?

Answer:

a) The relevant decisions under the *Freedom of Information Act 1982* were made by authorised officers at the Assistant Secretary (SES Band 1) level, in accordance with authorisations issued by the Secretary of the Department.

b) Discussions with Ministerial offices occurred in relation to these FOI requests. The Department's standard practice is that FOI decision makers engage with Ministerial offices where there are relevant issues arising from FOI requests. This occurs where the request captures documents that originated in Ministers' offices. The purpose of the engagement is to explain the issue that is covered by the documents and to ask whether additional information or briefing will be required when the documents are released to the public. Departmental FOI decision makers are aware that it is their responsibility to make a decision in accordance with the FOI Act, including in relation to exemptions. The Office of the Australian Information Commissioner has accepted this approach.

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Inquiry name:Inquiry into Australia's faunal extinction crisis

Hearing date: 23 August 2019

Question No: 8

Question Date: 23 September 2019

Question Type: Written

Question Text:

8. a) Did the Craik review team seek meetings with any Members of Commonwealth Parliament who are not members of the Liberal or National parties?

   b) If so, how were these meetings organised and by whom?

   c) When did they occur?

Answer:

a) and c) Dr Craik met with then Shadow Minister for the Environment, the Hon. Tony Burke MP, on 21 May 2018.

b) The Department assisted with arranging this meeting, in consultation with Ministers' offices.

Senate Environment and Communications
References Committee
Answers to questions on notice
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Inquiry name:Inquiry into Australia's faunal extinction crisis

Hearing date: 23 August 2019

Question No: 9

Question Date: 23 September 2019

Question Type: Written

Question Text:

9. a) Who made suggestions during the 7 May 2018 meeting, as to where the Craik Review team should visit?

   b) Were those suggestions taken up?

Answer:

a) Relevant actions arising from the 7 May 2018 meeting with Minister Frydenberg and Assistant Minister Price were for Dr Craik to meet with then Shadow Minister for the Environment, the Hon. Tony Burke MP, and with the Environment Back-bench Committee.

b) Yes. These meetings took place on 21 May and 22 May 2018 respectively.

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Inquiry name:Inquiry into Australia's faunal extinction crisis

Hearing date: 23 August 2019

Question No: 10

Question Date: 23 September 2019

Question Type: Written

Question Text:

10. a) Which Coalition MPs or offices did the Craik review team meet with in October 2018?

    b) Who was present besides Dr Craik?

    c) What was the purpose of the meetings?

Answer:

a) The Department does not have a list of attendees from the meetings of the National Party Room and the Coalition members briefing that Dr Craik attended in October 2018.

b) The Department is aware that in addition to Dr Craik, the National Party Room meeting was attended by then Minister Price, a ministerial advisor, and a representative from Aither. The same attendees plus a Departmental officer were present at the Coalition members' briefing.

c) The purpose of the meetings was for Dr Craik to provide a summary of feedback received during the consultation process, and an overview of her findings.

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Hearing date: 23 August 2019

Question No: 11

Question Date: 23 September 2019

Question Type: Written

Question Text:

11. In evidence to the Committee, Dr Knudsen indicated that there was a general desire amongst various stakeholders for the review to be undertaken quickly. The final report was delivered to the government in October 2018, but not released publicly until June 2019:

    a) Did Ministers Price or Ley consult with the Department or with Dr Craik regarding the public release of the final report?

    b) If yes, what issues were raised regarding the release date?

    c) What reasons were given for the delayed release?

Answer:

Public release of the report was a matter for Government. Ministers' offices kept the Department appropriately informed regarding release of the report.

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Inquiry name:Inquiry into Australia's faunal extinction crisis

Hearing date: 23 August 2019

Question No: 12

Question Date: 23 September 2019

Question Type: Written

Question Text:

12. In relation to the procurement CN3497206-A1 for the consultancy with Aither Pty Ltd:

a) Were any other providers approached under the Standing Offer besides Aither Pty Ltd?

b) Was a request for quote (RFQ), request for proposal (RFP) or some other form of request provided to Aither Pty Ltd and other potential suppliers?

c) If so, on what date was that request provided?

d) On what dates were responses from Aither Pty Ltd and any other potential suppliers received?

e) Was approval provided and recorded under S23 of the PGPA Act for the commitment of funds for the consultancy?

f) If so, by whom was the approval provided, and on what date was it recorded?

Answer:

a) No. The Deed of Standing Offer for the Environment Research an Analysis Panel (SON2615371) does not require the Department to approach more than one provider, and Aither Pty Ltd had the specialist skills and knowledge required.

b) and c) No. The Deed of Standing Offer for the Environment Research an Analysis Panel (SON2615371) does not require the Department to provide a formal Request for Quote (RFQ). A meeting between the Department and Aither Pty Ltd was held on 16 March 2018 to discuss the requirements.

d) Aither Pty Ltd provided the Department with a proposal on 28 March 2018. Further revised proposals were provided 5 April and 6 April 2018.

e) Yes.

f) James Tregurtha, (then First Assistant Secretary, Environment Standards Division) on 15 February 2018.

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Hearing date: 23 August 2019

Question No: 13

Question Date: 23 September 2019

Question Type: Written

Question Text:

13. Dr Craik's appointment was announced on 28 March 2018, while the contract with her consultancy company, Aither Pty Ltd, was not finalised until 9 April 2018:

    a) Is it unusual for an announcement to be made in advance of formal contract negotiations being completed?

    b) Is this practice consistent with Departmental procurement rules?

Answer:

a) It is not unusual for contract negotiations to be ongoing, finalising minor details, after Government has released an announcement.

b) The Departmental procurement rules relate to the contracting and procurement process and do not specify how this process should operate in relation to Government announcements.

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Inquiry name:Inquiry into Australia's faunal extinction crisis

Hearing date: 23 August 2019

Question No: 14

Question Date: 23 September 2019

Question Type: Written

Question Text:

14. The contract with Aither was amended shortly after its commencement in April 2018 to increase the contract price by $77,000 and extend the end of the contract period by several weeks. Why were these amendments necessary?

Answer:

The contract was varied to allow for additional consultation and engagement.

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Hearing date: 23 August 2019

Question No: 15

Question Date: 23 September 2019

Question Type: Written

Question Text:

15. Please provide the committee with the following Department of the Environment and Energy (DoEE) documents, which are referenced in the Final Report of the Review of interactions between the EPBC Act and the agriculture sector (linked) and listed in that report's Bibliography as follows:

    •DoEE (2018a) Nationally protected grasslands and farming in the Monaro region of New South Wales (draft);

    • DoEE (20 18b) National Temperate Grassland of the South Eastern Highlands (including Monaro region) - key facts and issues. Department of the Environment and Energy;

    DoEE (2018f) Advice to the Agricultural Sector Review. Office of Compliance. Department of the Environment and Energy;

    • DoEE (2018g) Agriculture Review - Threatened Ecological Communities and EPBC Referrals. Biodiversity Conservation Division. Department of the Environment and Energy; and

    • DoEE (2018h), Listing of nationally threatened species. Biodiversity Conservation Divison. Department of the Environment and Energy.?

Answer:

15. The documents are as attached. Note that some information has been redacted for privacy reasons or on matters that if released would have an adverse effect on the proper and efficient conduct of the operations of the Department.

DRAFT TO PUBLIC AFFAIRS AND GRAPHIC DESIGNER – 13_04_18

Australian Government

Department of the Environment and Energy

Nationally protected grasslands and farming in the Monaro region of New South Wales

Agriculture Note Series

April 2018

Introduction

This guide aims to help landholders in the Monaro region more easily understand whether they have nationally protected grasslands on farm, and when national environmental law will apply.

The information in this guide relates only to farming in the Monaro region of New South Wales occurring on naturally treeless pastures on derived basalt or mixed sedimentary soils south of the Australian Capital Territory.

Comprehensive technical information about the nationally protected grasslands is provided in the Conservation Advice for the Natural Temperate Grassland of the South Eastern Highlands ecological community.

Key messages

① Grasslands with a native component are widespread in the Monaro and underpin the resilience and prominence of the regions agricultural productivity.

② National environmental law applies only to the *species-rich* and or *rare* forms of native grasslands (referred to in this guide as nationally protected grassland).

③ *Species-rich* native grasslands are primarily those that have had no to very little modification history other than from grazing.

4 *Rare* natural grasslands are those that are either limited in extent due to historical clearing, are unique occurrences of biodiversity and or play an important connectivity and refuge role in the landscape.

⑤ A landholder's knowledge of past and present land use and management is vital to helping determine what areas of their property will be nationally protected grassland and when national environmental law will apply (see visual).

⑥ National environmental law only interacts with farming in the Monaro region in very specific circumstances in nationally protected grasslands (see visual).

⑦ National environmental law does not restrict existing grazing and weed management regimes or routine maintenance activities in the Monaro region.

Grasslands in the Monaro region

The Monaro region of south eastern New South Wales comprises a mix of pasture types ranging from species-rich and rare native grasslands; a mix of introduced pasture grasses and native species; and introduced pasture. The dominant pasture type is grazed native dry tussock grasslands. The condition, species richness and structure of these grasslands vary greatly and are influenced primarily by past and present land use but also geology, topography, aspect, soil structure and fertility, rainfall and climate.

Nationally protected grasslands in the Monaro region

It is only the species-rich and rare native grasslands of the Monaro region that are protected under national environmental law. They form part of the Natural Temperate Grassland of the South Eastern Highlands ecological community.

Why are these species-rich and rare grasslands nationally protected?

The species-rich and rare native grasslands of the Monaro region are nationally protected because they have an endemic assemblage of species not found in any other ecosystem. Further the loss and modification of the grasslands since European settlement is such that the grasslands are threatened with extinction. National environmental law is preserving this unique biodiversity.

The Grassland Earless Dragon *Tympanocryptis pinguicolla* is an example of the unique biodiversity of the Monaro grasslands. It is endemic and highly specialised to the grasslands. Its colouring and patterning blend in with the basalt soils and dry tussock grasses on the Monaro. It does not occur in wooded or shrubby areas – it is a grassland specialist.

Where can I get help?

You can talk to us, the Department of the Environment and Energy on 1800 803 772. We will assist with advice about nationally protected matters, significant impacts and, if required, how to seek approval under national environmental law. We are keen to work with and support farmers, especially those who may not have considered the Act in the past.

You can also talk to people in your local community who can come to your property to discuss your plan. This includes Local Land Services officers, qualified experts such as an ecologist or agronomists. State land management officers can assist with advice about

mapping, regional ecosystems, protected matters, native vegetation clearance and how state laws apply to your property.

Figure 1- What types of native grassland are nationally protected and what does this mean for landholders?

Pasture Type	Application of national environmental law	Importance	National Conservation Priorities	Regulated agricultural dev.

PASTURE 1–CROPS

Winter crops of wheat, barley or canola. Generally a history of lime or gypsum, weed control, tillage practices and fertiliser and herbicide applications. Limited in extent by terrain, soil fertility and structure, rainfall and climate.

PASTURE 2–INTRODUCED PASTURE

Phalaris, cocksfoot, perennial ryegrass, tall fescue pasture with essential legume component of Lucerne, clovers etc. Usually a history of cultivation and herbicide and or fertiliser application.

PASTURE 3–GRAZED MIXED PASTURE

Mix of introduced pasture grasses and native species, typically including legumes and a history of fertiliser application. May still retain some native forb component and resurgent native grass species like *Stipa* or *Rytidosperma* spp. Is considered heavily modified from its natural state as a result of weed and pest control in preceding years, direct drilling or surface sowings.

PASTURE 4–GRAZED NATIVE GRASSLANDS WITH OR WITHOUT FERTILISER HISTORY

Native grasslands, grazed continuously with no history of purposeful introduction of introduced pasture species. Largely *Poa, Stipa* or *Rytidosperma* spp dominant tussock grasslands in varying forms of condition, diversity and structure due to present land use; particularly intensity of fertiliser application and stocking rates, geology, topography, soil type and fertility, aspect, rainfall and climate.

PASTURE 5–UNIMPROVED SPECIES-RICH NATIVE GRASSLANDS

Natural grassland with little to no past or present fertiliser or herbicide use. No introduced pasture grasses. Not grazed or grazed only periodically and or sympathetically, retaining biodiversity. Mostly occurring in the non-arable areas, areas purposefully set aside on grazing properties or on Travelling Stock Reserves. Contain a higher diversity of native grass species and herbaceous groundcover than Pasture 4 grasslands.

PASTURE 6–RARE NATIVE GRASSLANDS

Natural grasslands dominated by kangaroo grass or river tussock grasslands. Indicative of no tilling or fertiliser or herbicide input and no or highly sympathetic grazing regimes. Most known occurrences are in Travelling Stock Reserves, cemeteries, along roadsides, railway easements, town commons or reserves. Potential to occur on private lands in non arable and rarely used areas of a property, abandoned properties or for the river tussock grasslands in grazed properties along drainage lines or on river flats.

NATIONAL ENVIRONMENTAL LAW DOES NOT APPLY TO PASTURES 1, 2 or 3.

Not species-rich

National environmental law applies PASTURE 4 when it is species-rich.

Apply minimum condition thresholds method B in the Conservation Advice to Pasture 4 to determine if it is species-rich and therefore nationally protected grassland. Generally the lower the

Species-rich

National environmental law applies to PASTURES 5 and 6.

METHOD A IN CONSERVATION ADVICE applies to these nationally protected grasslands.

Importance	National Conservation Priorities	Regulated agricultural development
Species-rich Pasture 4 is important for maintaining landscape connectivity for the nationally protected grasslands and threatened species.	Education, awareness and investment to support landholders retain the extent and condition of Pasture 4.	Conversion of species-rich Pasture 4 to crop, introduced pasture or improved mixed pasture.
Pasture 5 is important to the long term viability of nationally protected grasslands. This pasture type is the most abundant form of nationally protected grasslands.	Increase landholder awareness of occurrence and conservation value of Pasture 5. Seek conservation agreements with landholders to support current land management practices (e.g. spot spraying methods for weed control) which are preserving the nationally protected grassland and threatened species.	Conversion of Pasture 5 to crop, introduced pasture or improved mixed pasture and improvement for the purpose of weed control.
Pasture 6 is most at risk of extinction and best represents the pre-European state of the nationally protected grasslands in the Monaro region. Pasture 6 is largely under the responsibility of local and state governments and is protected. It only rarely occurs on private lands.	Collaborate with landholders and governments to Identify occurrence of Pasture 6 and support future protection and sympathetic management.	Conversion to crop, introduced pasture or mixed native and introduced pasture and improvement for the purpose of weed control.

*Managing natural pastures sympathetically is ensuring these natural grasslands maintain existing stocking rates within historical quotas, resting, stock reduction or rotation from these areas during spring and early summer to allow for seed set, no fertiliser use or if history of fertiliser use exists not applied outside of historical quotas, no introduction of exotic pasture grasses or legumes and no boom spraying with herbicides or insecticides.

Natural Temperate Grassland of the South Eastern Highlands (including Monaro region) – key facts and issues – 21 May 2018

Importance of the listed native grassland and why it is threatened

- This ecological community is representative of one of the most cleared vegetation types and most threatened ecosystems in Australia.
- While the overall distribution of the native grassland is wide, and some large patches remain due to good management, its extent has declined by around 90 percent due to outright clearing in a number of areas (e.g. for towns, roads and other infrastructure) and conversion to pastures dominated by exotic grasses in many other areas. The remaining patches are typically smaller, far less connected, and degraded by invasive species and other threats displacing the majority of native plant and animal species.
- This has resulted in large reductions in the regional populations of many plants and animals, including many local extinctions, particularly of ground-dwelling fauna and the most disturbance-sensitive flora. The decline in biodiversity is expected to be ongoing without restoration efforts by governments, local community groups and landholders.
- The independent Threatened Species Scientific Committee reviewed the ecological community listing between 2014-16 and concluded it was critically endangered against three EPBC Act criteria due to historic losses in area, the fragmented nature of the remaining grasslands, loss of ecological integrity, and a variety of very serious and ongoing threats.
- The native-dominant grasslands can be important for agriculture as they provide year round forage, and are relatively drought tolerant, including some species recovering quickly from extended drought. This can make them particularly useful in low input production systems, and for fine wool production.
- Conserving native grasslands also conserves other ecosystem services such as water infiltration, soil health (reducing soil erosion and loss), carbon storage, suppressing weeds, and maintaining pollinators and other species that can help with landscape productivity.
- Areas in the Monaro region in NSW are also important as grassland remnants provide vital habitat for at least 19 nationally threatened species.
- A comprehensive analysis against the EPBC Act listing criteria is within the Conservation Advice (Appendix E) at:

  http://www.environment.gov.au/biodiversity/threatened/communities/pubs/152-conservation-advice.pdf

Understanding of the listing review or 'new' listing in April 2016 (with condition thresholds)

- The native grassland has been listed on the Monaro under the EPBC Act since it started in July 2000, originally called the 'Natural Temperate Grassland of the Southern Tablelands of NSW and the ACT'.
- Following the Threatened Species Scientific Committee review, the ecological community was renamed the 'Natural Temperate Grassland of the South Eastern Highlands' and 'up-listed' to the Critically Endangered category on 6 April 2016 by Minister Hunt.
- The reviewed listing also led to a more explicit definition that focussed protection on the most important remaining grassland, by introducing minimum condition thresholds for the first time to exclude areas of lowest quality.

- The Department anticipated the reviewed listing would help to reduce the potential regulatory burden for Monaro farmers. Prior to 2016, the old listing did not explicitly exclude small or low diversity native pastures that are more extensive on the Monaro than larger, high diversity, less modified grasslands.

- Some stakeholders perceive the revision as an entirely new national listing that brings a new regulatory burden or that the condition thresholds are lowering the bar for what they believe should be protected by the EPBC Act from significant impacts.

- Some stakeholders are confused about the difference between 'conditions thresholds' and 'significant impact' thresholds. Condition thresholds are recommended by the Threatened Species Scientific Committee based on science and expert advice on the biology and ecology of the ecological community and different condition classes. Whereas, 'significant impact' is used to determine whether an action needs to be assessed and approved under the EPBC Act.

- As for other ecological community listings, these condition thresholds were introduced primarily to provide more certainty for landholders (and developers) about when the listed grassland is present and to explicitly exclude areas (particularly farmland) that are of less significant conservation value.

- These condition thresholds mean that small and/or degraded patches or patches lacking high native diversity—such as remnants where native species have been largely replaced by perennial weeds, which represent many mixed native pastures on the Monaro—are excluded from the nationally listed ecological community and hence any actions that may significantly impact them do not need to be considered under the EPBC Act.

- The draft condition thresholds released for public consultation were modified following a submission from the National Farmers' Federation (NFF) to simplify application for farmers. The final condition thresholds were designed to provide certainty of when a protected grassland may be present, reflect that native composition is an important indicator of past land-use history of a grassland and to align with state native vegetation regulations. Where a minimum threshold number of native plant species occur is where the Committee, in consultation with grassland experts, identified higher conservation value grasslands. In summary, three general questions apply:
    i. Is an area of grassland at least 1000m^2?; AND
    ii. Is that area still dominated by tussocks of kangaroo grass, river tussock grass or *Carex bichenoviana* sedges (all of which are rare and indicative of low disturbance history or high landscape values)?; OR
    iii. Is that area dominated by any native grassland flora AND contains a minimum number of other native species?
- Significant impact decisions are then made when determining if the EPBC Act may apply to a referred action that is impacting on a protected patch of the grassland. They are based on full consideration of the impacts and context. Not all impacts to protected patches will be determined to be significant.

- In addition to publishing the Conservation Advice, an information guide was developed with NFF input following the revised listing in 2016. The guide was then published online and copies sent to local government and Local Land Services offices in the region. The guide is intended to help landholders to understand the listing and the EPBC Act, and potential opportunities to manage threats and restore grasslands through government programs.

- There remains concerns that the EPBC Act and listing is still not well known about and that even with published information guide on the definition and condition thresholds, it can be challenging for some landholders to identify the condition of grassland.

- The next step in determining whether the EPBC Act applies (continuing use and significant impact) can also be difficult.

- It is clear that some landholders did not know about the original national grassland listing and/or the revised listing. In addition, some landholders continue to be unsure of the other many threatened species and other ecological communities listed in the region, and/or EPBC Act obligations (especially compared to state obligations).A list of some of the national, state and regional level activities undertaken in the region related to the national listing of the grassland, and that informed and assisted landholders, is at Appendix A.

- The Department of the Environment and Energy continues to meet with farmer representatives, NSW Office of Environment and Heritage (OEH) and Local Land Services officers on the Monaro; and is considering other more focussed information specifically for farmers to improve understanding of when national environmental law is likely to apply, or not apply to the grassland, including in relation to weed management.

Consultation history for the listing review

- Minister Hunt added the grassland review to the Committee's (published) annual priority assessment list in 2013, with an initial assessment completion date of 31 July 2014.
    - The listing deadline was extended through to April 2016 to allow more time.

- The formal consultation during the assessment met the Committee's requirements set out in the Act, which requires a publication on the internet for at least 30 business days.

- In addition, the Committee's consultation notice was sent to a wide range of stakeholders and the consultation period was extended on two occasions. To assist with the Committee's consultation on a new proposed definition and 'uplisting', the Department produced a specific consultation guide including a section on what it would mean for landholders.

- Local Land Services (LLS), Local Councils, the National Farmers' Federation (NFF), and NSW Farmers' Association were consulted during the process of revising the listing in 2014-2016. The former Departmental NFF liaison officer helped with this. The targeted request for comment sent to these groups asked them to consider forwarding it on through their member networks and newsletters. The federal Agriculture Minister and his Department were also asked during the review to help inform the farming community.

- South-East LLS officers were familiar with the original listing and the organisation has received several Australian Government grants to help manage the grassland. LLS officers attended an expert workshop that was part of the listing review and were involved in subsequent consultation with experts throughout the review.

- The NFF provided a submission. The Department responded via a meeting and detailed letter addressing each concern raised. There were ongoing conversations with the NFF about the grasslands listing review over almost 2 years following their submission and before Minister Hunt made the final listing decision on 6 April 2016.

- The NFF submission raised concerns about farmers understanding the thresholds and EPBC Act obligations. To help address this the Department collaborated with NFF to develop the post-listing information guide, which includes a flowchart about how to

recognise a patch of the grassland and what condition it might be in. It also includes other useful information and key contacts regarding the EPBC Act and potential funding initiatives to manage the grassland and its threats. As mentioned above, the Department is considering further guidance

Listing of 'grasses' that readily grow back

- There are media reports referring to protection of "grasses", but the ecological community is a diverse mix of native grasses, wildflowers and grassland specialist animals...
- The best quality patches of the ecological community are more likely to occur on crown land (e.g. travelling stock reserves, cemeteries) or in paddocks with minimal or no disturbance history. Even though some native grasses will grow back in previously disturbed paddocks, it is worth noting that that claims of grasses readily returning is not always the case.
- Importantly, an ecological community will typically not return to meet the national listing definition (including condition) without assistance through removal of key threats and/or active restoration This is because not all components (e.g. a diversity of native forbs) of the ecological community will be able to grow back and much of the associated fauna of the ecological community is typically lost. In addition, when native grasses grow back they will also not represent the full range of grass diversity that was present prior to the disturbance. This is particularly the case in paddocks that have had nutrient enrichment and have been dominated by non-native species for many years.

What is the impact for most farmers on the Monaro

- Most individual landholders in the region do not need to refer under the EPBC Act because they either:
  - do not have native grassland on their property, particularly of the size and quality required to meet the EPBC definition (many have mixed pastures, with ample native grasses, but dominated by exotic grasses); and/or
  - most ongoing and routine farm management activities in a given area, such as ongoing grazing, are a continuing use exempt from EPBC Act consideration (on the Monaro most farming activities involve long term grazing and long-term improved pastures); and/or
  - because routine farming practices, including typical changes in grazing practices, would not have a significant impact.
- Since listing in 2000, there have been no EPBC Act referrals for agriculture in the Monaro region.
- No further regulatory requirements resulted from the revised listing, that had been in place since 2000.
- The type of activities that may require a referral include clearing, non-targeted boom-spraying of chemicals, and/or sowing in new areas where the ecological community is present are examples of activities that are not ongoing or routine and would require EPBC Act consideration if they may kill or otherwise have a significant impact on the ecological community.
- Threatened ecological communities, including these listed grasslands, continue to be key targets for Australian Government funding e.g. under the current round of the National Landcare Program. Farmers can benefit from these programs directly (on their farm) and

indirectly because they often target common threats to agriculture and biodiversity e.g. control weeds or feral animals; or revegetation of gullies to control erosion.

Is an entire paddock protected if a small area of EPBC-defined grassland is present?

- No. If high quality grasslands that meet the minimum size threshold (i.e. the listed ecological community) are present within parts of a paddock it does not follow that the entire paddock is therefore classed as the listed ecological community; only areas that meet the minimum condition thresholds are and only if they may be significantly impacted by a new activity (not continuing use, such as ongoing grazing practices).

Relationship to NSW groundcover definition / Not listed under NSW legislation

- The description and condition thresholds for the ecological community were closely developed with officers from the NSW Office of Environment and Heritage; and designed to be consistent with definitions for state-protected native grassland.
- One of the requirements for grasslands to be considered as potentially the EPBC-listed ecological community is that native species cover is greater that perennial exotic species cover. Only perennial weeds are measured because annual or otherwise intermittent "flushes" of annual weeds are less of a threat to persistence of a native grassland. This is consistent with the NSW native vegetation groundcover methodology, which requires groundcover to be measured at the time of the year when native groundcover is at its maximum (i.e. when annual exotics are not abundant).
- The grasslands are recognised as highly threatened in NSW, even though they have not formally been listed as an ecological community under NSW legislation. The Department has been informed that the revised EPBC listing is being used as a basis for going through the NSW nomination and listing process.
- The Department is working with state Local Land Services officers across NSW as they implement new state native vegetation regulations. The regulations recognise the importance of protecting high value grassland but the new state rules for this are still being finalised. Where ecological communities are listed nationally and by NSW, the LLS is using the national condition thresholds to help define high value areas. We understand a similar approach of consistency with the national grassland listing has been recommended so far by NSW OEH in drafting the rules for high value grassland.

Managing weeds / Listing not recognising threat from weeds (e.g. African lovegrass)

- There have been claims in the media that farmers cannot manage weeds in the ecological community when the weeds comprise less than 50% of the grasslands, and that species such as African lovegrass should be managed before their cover reaches 25%.
- Careful management of weeds (e.g. selective spraying, mechanical removal of individual plants, grazing techniques) in the ecological community would not be considered a significant impact. This type of grassland management is highly encouraged in the Conservation Advice for the ecological community and explained in the Information Guide.
    - e.g. Info guide – "…the following actions are unlikely to trigger national environment law:… targeted control of weeds and spraying for pests on individual properties or roadside verges"
- The method of managing weeds suggested in some media reports appears to be intensive, broadscale spraying of herbicide that also kills native grasses and forbs that make up the

ecological community, followed by sowing with improved pasture. This may encourage more weeds in the long-term, particularly if fertilisers are also applied. On the other hand, a relatively undisturbed native grassland with good cover will help suppress weeds.

- Selective weed control methods using herbicide and/or removal of individual plants or small weed patches is effective for key weeds such as African lovegrass before they gain major coverage within a paddock or grassland patch that meets the national definition. However, it is understood this can be impractical in circumstances where weed coverage is significant.

- For weeds to become a major problem, the soil will have been typically disturbed and the native grassland structure will typically have been converted and hence in many cases not have met the national definition and condition thresholds for some time (this is why the ecological community is extinct at most locations). Therefore, boom spraying for weeds may be employed across the majority of paddocks on the Monaro because they don't have the national ecological community.

- In some cases though, paddocks may still contain substantial patches that meet the national definition (minimum size and condition thresholds) and are invaded by weeds such as African lovegrass. The EPBC Act assessment provisions could be triggered if the weeds are not dealt with in a way that avoids significant destruction of large and high quality grassland. In this case, boom spraying could still be employed but it would be best to avoid significant impacts by concentrating herbicide application on the areas of the paddock that are dominated by weeds, rather than areas that are high quality grassland.

Field visit to [redacted] on 9 March 2018

- The Department recently attended a field day on [redacted], south of Cooma, along with representatives from the NFF and NSW Farmers, LLS, and other landholders. [redacted] is a major property in the area renowned for sustainable wool production and as an ongoing agriculture research facility.

- From what was seen on that visit, it is likely that no activities are likely to require approval under the EPBC Act on [redacted] This is because most of the areas seen on the field day were pastures that were first converted long ago and therefore, as would be expected, high quality native grasslands in these areas have been largely lost and no longer meet the minimum condition of the EPBC-listed grasslands.

- Furthermore, if there are areas of higher quality native grassland at [redacted] (unconfirmed), there were no apparent actions by the landholders that may be having a significant impact through intensifying or expanding activities (i.e. activities were long-term continuing-use grazing of improved pastures and/or grazing and other activities with no likely significant impact).

- [redacted] appears to be an example of where the grassland has been heavily lost and the EPBC Act does not currently impose restrictions on land use due to the grassland.

Possibility of reconsidering the listing

- The Threatened Species Scientific Committee considers all nominations when determining which species or ecological communities to consider in the upcoming year. As part of this decision, the TSSC considers whether there is new, scientific evidence that would be significant enough to change the status of the listing.

- However, the Department considers that the Threatened Species Scientific Committee

would be unlikely to recommend it for listing assessment as they have only recently reviewed and up-listed it to critically endangered. In addition, an assessment by the Committee is unlikely to lead to a recommendation to change the listing status. The Department is unaware of any data or other evidence that would demonstrate that the ecological community is improving in extent or condition since 2016.

  - The grassland continues to be cleared for development around Canberra for instance, and as noted recently by farmers, the invasive species problem is worsening.

- When deciding on whether to list or change the status of an ecological community, the Minister can only consider whether it meets one or more listing criteria and the effect listing could have on its survival.

Results from the national grassland listing

- The revised listing in 2016 has helped raise awareness of the grasslands as an important natural asset of the South Eastern Highlands region (and indeed, raised awareness of the EPBC Act and other nationally significant matters protected in the region). The updated information in the new conservation advice, and accompanying information guide, provides greater guidance and certainty for identifying and managing the grasslands.
- The minimum condition thresholds and additional information for the revised listing is welcomed by many stakeholders, including some state agencies and developers, because it provides more certainty about when nationally-listed ecological community is present.
- As mentioned above, there have been almost 50 environment assessments due to developments impacting on the grassland; most of these have been for urban development around Canberra, and include strategic assessments of major new urban subdivisions – as part of approval conditions, several new nature reserves have been gazetted in the ACT to help protect the grassland.
- There have been a large number of other Commonwealth and state government investments and communication initiatives to help landholders and community groups to manage and recover the grassland on the Monaro (see Appendix A).

APPENDIX A - **National, state and regional level activities related to the national listing of the grassland in the Monaro region**

- There have been a large number of Commonwealth and state government investments and communication initiatives to help landholders and community groups to manage and recover the grassland on the Monaro, particularly in relation to weeds that threaten both the environment and agriculture. For instance, the South East Local Land Services provided $74,000 recently for at least three weed management projects with farmers to identify, control and manage invasive weeds that threaten the nationally-listed grassland in the Monaro area:
  - a project to build the knowledge and skills of 60 farmers in the Snowy-Dalgety area;
  - a project to support landholders in the Corrowong region to undertake landscape scale weed management through group-based training on best practice weed control and how to enhance the health of the nationally-listed Natural Temperate Grasslands; and
  - a project near Cooma to protect Natural Temperate Grasslands by undertaking best practice weed control and engaging the local community in annual monitoring surveys and field days.
- The Australian Government, through Green Army Round 3, is also supporting at least four weed management projects on the Monaro targeting the nationally-listed grassland.
- Threatened ecological communities, including these listed grasslands, continue to be targets under the current round of the National Landcare Program.

Summary of NSW Office of Environment and Heritage activities on the EPBC-listed Natural Temperate Grassland (as supplied in 2015; during the listing review).

1. Survey of NTG and its component species. Survey work has included a comprehensive coverage of the South Eastern Highlands Bioregion, identifying sites with NTG and those containing the grassland plants, reptiles, birds and invertebrates that this endangered ecological community supports. Over the last 20 years, our team, and people associated with it in some way (e.g., environmental consultants and project officers engaged by the Natural Temperate Grassland National Recovery Team), have identified in excess of 900 sites containing NTG across the South Eastern Highland IBRA Bioregion, with sites being defined as discrete areas of NTG not connected to another, or if adjacent, then containing either a different vegetation type, or a different condition state. Sites range in size from small roadside reserves to large paddocks on freeholdings. Early work on survey of NTG sites was carried out with Australian Government funding.

   NTG sites have been identified from the following land tenure types:
   - Private land holdings, including hobby farms and production landscapes;
   - Crown land and council reserves including cemeteries;
   - Roadside and rail easement reserves;
   - Travelling stock reserves and routes;
   - Sites identified through development assessment processes; and
   - Sites identified for offsets through the environmental planning processes

of development projects, including BioBanking sites (see below).

Threatened plant species that have specifically been surveyed for, or that have had locations identified incidentally, mostly by OEH staff and consultants either under contract to NSW OEH or independents, include:

- Mauve Burr-daisy (*Calotis glandulosa*);
- Creeping Hopbush (*Dodonaea procumbens*);
- Omeo Stork's-bill (*Pelargonium* sp. (G.W. Carr 10345);
- Tarengo Leek orchid (*Prasophyllum petilum*);
- Summer Leek Orchid (*Prasophyllum analiculatum*);
- Button Wrinklewort (*Rutidosis leptorrhynchoides*);
- Monaro Golden Daisy (*Rutidosis leiolepis*);
- Austral Toadflax (*Thesium australe*);
- Basalt Peppercress (*Lepidium hyssopifolium*); and
- Small Purple-pea (*Swainsona recta*).

Threatened reptile species that have specifically been surveyed for or that have had locations identified incidentally by OEH staff, consultants either under contract to OEH or independents, and university researchers, include:

- Grassland Earless Dragon (*Tympanocryptus pinguicolla*);
- Striped Legless Lizard (*Delma impar*);
- Little Whip Snake (*Sula flagellum*); and
- Pink-tailed Worm-lizard (*Aprasia parapulchella*).

In addition, OEH has supported work that has uncovered additional locations for Golden Sun Moth (*Synemon plana).*

2. Databasing, mapping, modelling and community classification of NTG. OEH, often in collaboration with other groups, has developed products, including a grassy ecosystems database, remote sensing modelling, connectivity modelling and community classification, as follows:
    a. The Grassy Ecosystems Database contains data from over 9000 grassland and grassy woodland site datapoints (plots, regional surveys, site visits, site assessments, monitoring sites, including baseline and follow-ups, recap visits, etc), from not only the South Eastern Highlands Bioregion, but from across eastern NSW, as well as a number of NTG sites in Victoria. This dataset comprises location and attribute data, including vegetation classification and condition information, and full flora species lists for most sites.
    b. Preparation of a pre-European natural grassland boundary map. This was created and first published in Rehwinkel, R. (1997) Joint Regional Biodiversity Survey of Grassy Ecosystems Project - Stage 1. New South Wales National Parks and Wildlife Report, and subsequently in Planning Framework for Natural Ecosystems of the ACT and NSW Southern Tablelands (Fallding, 2002)
    c. Preparation of a multi-image, remotely-sensed spectral analysis model of grassy ecosystems for the ACT and sub-region (ERIC (2001) Remote Sensing Detection of Native Grasslands using Mu/ti-Image Spectral Analysis in the South Eastern Highlands of NSW Report prepared for the

New South Wales National Parks and Wildlife Service). This was commissioned by R. Rehwinkel (OEH). This work was undertaken with funding from the Australian Government;

d. Preparation of a multi-image, remotely-sensed spectral analysis model of grassy ecosystems for the Monaro region (Walter, K., & Schelling, K. (2004) Remote Sensing Mapping of Grassy Ecosystems in the Monaro. Report to the New South Wales Department of Environment and Conservation). This was funded by South East Local Land Services (SE LLS) and commissioned by R. Rehwinkel (OEH);

e. Preparation of a multi-image, remotely-sensed spectral analysis model of grassy ecosystems for the Upper Shoalhaven region (Walter, K., & Schelling, K. (2005) Remote sensing mapping of grassy ecosystems in the upper catchment of the Shoalhaven River (Southern Tablelands Region). Report to the New South Wales Department of Environment and Conservation). This was funded by SE LLS and commissioned by R. Rehwinkel (OEH);

f. Preparation of a revision of the Monaro grassland model (Rehwinkel, R. (2005) Revision of Monaro Grassland Mapping, NSW Dept. Environment and Conservation report prepared for the Southern River Catchment Management Authority);

g. Data collection for, and analysis and publication of a grassland community classification (Armstrong, RC., Turner, K.D., McDougall, K.L., Rehwinkel, R., & Crooks, J.I. (2013) Plant communities of the upper Murrumbidgee catchment in New South Wales and the Australian Capital Territory, Cunninghamia 13(1): 125-265; and

h. Preparation of parameters, data inputs and provision of technical assistance for connectivity modelling for grassy ecosystems species (Love, J., Rehwinkel, R. and Moyle, K. (in prep) Southern Rivers NRM Stream 1 Habitat and Connectivity Modelling Project - The mapping of fauna habitat and connectivity values in the South East Local Land Services area).

3. Community engagement with a wide range of stakeholders. OEH has engaged with many different types of stakeholders to engage the community about the conservation and management of NTG EEC and its component threatened fauna and flora. This has included the following:

   a. Development of the Southern Tablelands Grassy Ecosystems Conservation Management Network (STGE CMN). A CMN is the network of remnants of native vegetation, their owners or managers and other interested individuals, focussing on a single ecological community because the management needs of each community are relatively uniform. An important purpose of a CMN is to assist landholders and land managers in the management of remnant native vegetation. The STGE CMN was established under Australian Government funding, but is now in abeyance, though the website that was produced as part of this project is still operational; see: http://www.gbwcmn.net.au/node/10. This work was undertaken with funding from the Australian Government;

   b. Preparation and delivery of field days, courses, workshops, forums, conference presentations, university lectures and tutorials, to communicate the values of NTG to participants. Stakeholders that have participated have included

- Local Government agency staff;
- Local Land Service staff
- members of the Grassy Ecosystems CMN;
- Friends of Grasslands, Australian Network for Plant Conservation and other non- government groups;
- NSW NPWS staff and their community network contacts;
- Landcare groups;
- K2C members and K2C partners;
- other community groups; and
- individuals, especially landholders with NTG on their properties.

The above events have covered topics, including

- field recognition of the vegetation communities comprising NTG;
- training in the use of the Floristic Value Score method (see below);
- grassland plant identification;
- discussion of values, threats, conservation management and planning matters;
- connectivity modelling;
- remote-sensing modelling;
- plant classification; and
- fauna values.

4. <u>Creation of reserves and the application of other conservation mechanisms.</u>
A number of NTG sites have been identified and subsequently have had conservation mechanisms applied.

Sites with the highest level of formal protection include the following nature reserves, managed by NSW National Parks and Wildlife Service, in order of acquisition:

a. Turallo Nature Reserve near Bungendore, which has 25 ha of highly diverse NTG and one threatened reptile species;
b. Kuma Nature Reserve near Cooma, which has 120 ha of NTG and several threatened reptile species;
c. An addition of a 60 ha area of NTG to Queanbeyan Nature Reserve (Queanbeyan), that includes populations of several threatened grassland flora and fauna species;
d. An addition of a highly significant area of NTG to the South East Forests National Park near Nimmitabel; and
e. Mcleods Creek Nature Reserve near Gundaroo, which contains about 5 ha of NTG;

In addition provision of advice to the Victorian Government from OEH contributed to the creation of Bendoc Nature Conservation Reserve at Bendoc, Victoria, which contains a small sample of NTG.

Sites with the various lower levels of protection include the following sites, managed by various agencies, in order of establishment:

f. Gundaroo Common, a crown reserve with large areas of NTG and several threatened species that has a management trust that has received OEH assistance with development of a conservation

management plan;

g. Old Cooma Common, a council reserve with a large area of NTG and threatened flora that was identified by OEH and has subsequently received assistance with NSW Environmental Trust funding and volunteers help from Friends of Grasslands to fence and remove weeds from this site;
h. Days Hill, Bungendore, a council reserve with areas of NTG; NSW OEH and Australian Government Department of Environment assisted Palerang Council in the development of this council reserve;
i. 'Parlour', Braidwood area, a private landholding with large areas of highly intact NTG that was identified by OEH staff, subsequently purchased by the NSW Nature Conservation Trust and ultimately on-sold with an in-perpetuity conservation covenant to private landholders as an offset under EPBC processes as an offset for development on NTG on a site near Canberra;
j. 'Bunhybee', Braidwood area, a private landholding with large areas of highly intact NTG that was identified by OEH staff, subsequently purchased by the NSW Nature Conservation Trust and ultimately on-sold with an in-perpetuity conservation covenant to private landholders;
k. 'Weeroona' and 'Lochlea', Monaro region, are two large freehold properties that have been set aside as NSW BioBanking offset sites following the development of the Boco Rock Windfarm; NSW BioBanking sites have formal protection under in-perpetuity covenants;
l. 'Llanelly', Michelago, a private landholding with large areas of NTG with threatened flora that was identified by OEH staff, subsequently purchased by the NSW Nature Conservation Trust and will ultimately be on-sold with an in-perpetuity conservation covenant to private landholders;
m. 'Garruwanga', near Nimmitabel, a private landholding with areas of NTG that was identified by OEH staff, subsequently purchased by the NSW Nature Conservation Trust and will ultimately be on-sold with an in-perpetuity conservation covenant to private landholders; and
n. Yass Gorge, Yass, a council reserve with outstanding scenic qualities and a rare sample of a NTG grassland type that is confined to steep rocky sites. The site was identified by OEH staff and is currently a subject of a Green Army team that is removing weeds. In a separate project, collaboration between Yass Landcare, Yass Valley Council and K2C is developing a community engagement project and developing a management plan, with NSW Environmental Trust funding.

5. <u>Working on the conservation management of NTG and its component species.</u>
OEH has collaborated with its many partners to raise awareness of NTG and its component threatened species. OEH has also collaborated to undertake on-ground works, as follows:

a. Undertaking long-term research and conservation management of populations of Small Purple-pea (*Swainsona* recta) at a railway easement near Williamsdale;
b. Undertaking conservation management and assisting CSIRO with long-term research on populations of Button Wrinklewort *(Rutidosis leptorrhynchoides)* throughout the region;
c. Assisting the funding of fencing for protection of NTG and populations of Button Wrinklewort *(Rutidosis leptorrhynchoides)* at Gundary TSR (Goulburn);
d. Undertaking long-term monitoring of NTG condition and monitoring

and surveys for threatened flora and/or reptiles at the following sites:

- Kuma Nature Reserve;
- Queanbeyan Nature Reserve; and
- Turallo Nature Reserve.

e. Undertaking translocation experiments with Aromatic Peppercress *(Lepidium hyssopifo/ium),* trialling translocation to new localities from an existing population (in collaboration with Friends of Grasslands and NSW NPWS);

f. Collecting bulk seeds of Aromatic Peppercress *(Lepidium hyssopifolium)* for lodgement in seedbanks at Mt Annan Botanic Gardens and Australian National Botanic Gardens;

g. Contracting surveys and monitoring for Summer Leek Orchid *(Prasophyllum canaliculatum),* at Packers Swamp near Nimmitabel, with funding from the NSW Saving Our Species program;

h. Contracting fencing and weed spraying at sites with populations of Omeo Stork's-bill *(Pelargonium* sp. (G.W. Carr 10345) at Lake Bathurst and Maffra Lake TSR near Nimmitabel, with funding from the NSW Saving Our Species program;

i. Working with NSW NPWS rangers and field staff on the conservation management of NTG at Kuma Nature Reserve, Queanbeyan Nature Reserve, Mcleods Creek Nature Reserve, Turallo Nature Reserve and South Eastern Forests National Park, where we have undertaken, or assisted with various trials, including weed control trials and biomass removal trials (burning, slashing and grazing), all with associated monitoring.

6. Working collaboratively with partners. OEH has a track record of working in partnership with other agencies in its efforts in the conservation of NTG. Partnerships have been developed with many government and non-government agencies, including:

   a. ACT Government staff, working particularly with its researchers and ranger staff on many cross-border issues;

   b. the Natural Temperate Grassland National recovery Team, alongside the ACT Government and other government and NGO groups to develop the NTG National Recovery Plan and cooperatively carry out its actions;

   c. partners in the community, in particularly with private landholders, including farmers, who have NTG on their properties;

   d. South East Local Land Services (SE LLS and its predecessors, the Murrumbidgee and Southern Rivers Catchment Management Authorities), particularly in strategic management of NTG and assistance in developing planning documents and policy documents;

   e. Kosciuszko to Coast (K2C). OEH has been a strong supporter of this landscape partnership since its inception in 2007. K2C has included grasslands amongst its six landscape targets. K2C has recently competed a three-year grassland project funded by the Myer Foundation. The Myer Foundation project has:

      - developed a new Building Understory Diversity website, in collaboration with Greening Australia (yet to be formally launched);

- worked with many stakeholders in the region (including landholders, researchers, Government staff and NGOs);
- commissioned the analysis of grassland management plot data (Josh Dorrough, in prep), in collaboration with SE LLS;
- held a number of Grassland Symposia, both in Canberra and Melbourne, to foster cross agency – cross border collaboration; and
- facilitated collaboration in the publication of a new publication on grassland management: Williams, N. and Marshall. A. (eds) (2015) *Land of Sweeping Plains - Managing and Restoring the Native Grasslands of South-eastern Australia* CSIRO Publishing (see: http://www.publish.csiro.au/pid/7219.htm);

f. Local government agencies, many of which have developed positive outcomes for NTG sites as a result of advice from OEH. Outstanding examples have been the collaboration with

   Yass Valley LGA in its work at Yass Gorge and Palerang Council in its work on Days Hill Reserve (see above);

g. Department of Primary Industries (Lands), particularly in our role of providing advice on the management of NTG on Crown Land reserves including two large and important reserves containing natural grassland:
   - Lake Bathurst; and
   - Rowes Lagoon;

h. Crown land trusts, particularly in our role of providing advice on the management of NTG on Crown Land reserves, and in particular at Gundaroo Common (see above);

i. Managers of travelling stock reserves (currently LLS), particularly in our role of providing advice on the management of NTG on travelling stock reserves, and particularly as a result of work with the NTG National Recovery Team, the identification of sites that have subsequently received Australian Government funding for management; and

j. NSW National Parks and Wildlife Service, particularly in our role of providing advice on the management of NTG on their reserves (see above).

7. Producing and collaborating on strategic documents. NSW OEH has developed, mostly in consultation with other agencies or groups, a range of strategic documents that deal with the conservation and management of NTG, including:

   a. Preparation, in collaboration with the ACT Government, of the initial nomination that resulted in the listing of NTG as an EEC under the EPBC Act;

   b. Collaboration with the ACT Government and Australian Government Department of Environment staff on the recent update of the listing of NTG EEC (see more details, below);

   c. Collaboration in the preparation of the NTG National Recovery Plan;

   d. Preparation of, or collaboration with others in the National Recovery Plans for a range of NTG flora and fauna species, including:
      - Creeping Hopbush *(Dodonaea procumbens);*
      - Omeo Stork's-bill *(Pelargonium* sp. (G.W. Carr 10345);

- Tarengo Leek orchid *(Prasophyllum petilum);*
- Button Wrinklewort *(Rutidosis leptorrhynchoides);*
- Monaro Golden Daisy *(Rutidosis leiolepis)*
- Small Purple-pea (*Swainsona recta);*
- Aromatic Peppercress *(Lepidium hyssopifolium);*
- Grassland Earless Dragon *(Tympanocryptis pinguicolla);*
- Striped Legless Lizard *(Delma impar);*
- Little Whip Snake *(Suta flagellum);*
- Pink-tailed Worm-lizard *(Aprasia parapulchella);* and
- Golden Sun Moth *(Synemon plana).*

e. Preparation of an information gap analysis to identify survey needs (Rehwinkel, R. (1997) *Joint Regional Biodiversity Survey of Grassy Ecosystems Project - Stage 1.* New South Wales National Parks and Wildlife Report);

f. Collaboration with a team that included ACT and NSW government and NGOs, including the Housing Industry Association, which resulted in the preparation of *The Planning Framework for Natural Ecosystems of the ACT and NSW Southern Tablelands* (Fallding, 2002). This work was undertaken with major funding from the Australian Government and included development of remote-sensing modelling and regional threatened grassland reptile surveys (see above);

g. Assistance with the preparation of a planning framework for Cooma-Monaro Shire;

h. Assistance with, and provision of data for, a range of local government strategic plans and local environment plans; including for:

- Yass Valley LGA;
- Upper Lachlan LGA;
- Goulburn-Mulwaree LGA;
- Palerang LGA;
- Queanbeyan City LGA;
- Cooma-Monaro LGA;
- Snowy River LGA; and
- Bombala LGA.

i. Routine checking by our planning team of environmental assessments undertaken by consultants for developers and local government agencies (LGAs), where impacts have affected NTG and its component species. These have resulted in correspondence with proponents and LGA staff, and in many cases have involved field work with the above;

j. South East Local Land Services (SE LLS and its predecessors, the Murrumbidgee and Southern Rivers Catchment Management Authorities), with OEH staff assisting in development of their Catchment Action Plans and their reviews; SE LLS has the NTG EEC amongst its landscape targets;

k. Assistance in the preparation of the Kosciuszko to Coast (K2C) Conservation Action Plan, and in particular, identifying NTG as one of the core targets for K2C to work on; see: http://k2c.org. au/;

l. Development of a robust, reliable and repeatable assessment methodology for the identification of NTG values (Rehwinkel, 2007; Rehwinkel, in prep.) see: http://www.gbwcmn.net.au/sites/default/files/GrasslandAssessmentMethod.pdf. This method, known as the Floristic Value Score (FVS) Method, has been produced in collaboration with many OEH staff, Australian Government Department of Environment staff and external partners, including consultants and

LLS staff. As the method is required both for NSW processes and under the proposed Australian Government's EPBC Act NTG EEC re-listing, strenuous efforts have been made to ensure that the FVS scores will be uniform for use in both jurisdictions.

The FVS method was original developed for the Australian Government as an action identified in the NTG National Recovery Plan, and has now been widely accepted by various groups; including:

- ACT Government staff, who use the method to assess grassland values and for monitoring grassland sites;
- community groups, who have been using the method for monitoring; and
- consultants, who have been employing the method for use in development applications for NSW processes;
- Greening Australia, who have used the method for assessment of grassland values prior to grassland restoration works being carried out at the Canberra Airport, and for subsequent monitoring.

The FVS method was formally presented at a workshop at an Australian Network for Plant Conservation conference in Canberra in 2012, and following that, extensively reviewed by NSW, ACT and Victorian grassland specialists. It has recently been proposed for adoption under formal NSW policy processes in a review of environmental acts, and has recently been subject to more extensive review by OEH and LLS staff. During these processes, the method has been developed for use in other grassland regions throughout NSW, with tools for the FVS method having been completed for two other NSW regions (Riverina and Brigalow Belt South), and work commencing for an additional three regions (Cumberland Plain, NSW South Western Slopes and Darling Riverine Plain).

m. Assistance in the development of OEH policies dealing with NTG, and provision of relevant data for these processes; including:
   - NSW BioMetric; and
   - NSW BioBanking;

n. Development of profiles for the NTG EEC and its associated threatened species: see: http://www.environment.nsw.gov.au/threatenedspecies/; and

o. Development of Saving Our Species project plans for a select group of NTG-associated threatened species.

8. Developing publications or collaborating in their development. OEH has collaborated on a number of publications related to the identification, management and conservation of NTG, including books, field guides, handbooks and brochures, the most important of which are listed below:

   a. Grassland Flora - a field guide for the Southern Tablelands (NSW & ACT) (Eddy, D., Mallinson, D., Rehwinkel, R. and Sharp, S., 1998);

   b. Managing native grassland: a guide to management for conservation production and landscape protection (Eddy, 2002); Managing Native Pastures for Agriculture and

Conservation (Langford, C.M., Simpson, P.C., Garden, D.L., Eddy, D.A., Keys, M.J., Rehwinkel, R., and Johnston, W.H., 2004);

c. Grassy Ecosystems Management Kit (Sharp, S., Dorrough, J., Rehwinkel, R., Eddy, D. & Breckwoldt, A., 2005);

d. Understanding our Native Grasslands (Natural Resources Advisory Council, 2010); and

e. Land of Sweeping Plains - Managing and Restoring the Native Grasslands of South-eastern Australia Williams, N. and Marshall. A. (eds) 2015, CSIRO Publishing);

DEPARTMENT OF THE ENVIRONMENT AND ENERGY

To: Dr Wendy Craik (For Information)

OFFICE OF COMPLIANCE ADVICE TO THE AGRICULTURAL SECTOR REVIEW

Clearing Officer: Sent 13/04/2018	Monica Collins	Chief Compliance Officer, Office of Compliance	Ph: 6274 [redacted] Mob: [redacted]

Key Points:

1. From our engagement with the agricultural sector we know that
    a. There is low awareness amongst the sector of obligations under national environmental law.
    b. The tools currently offered by the Department do not adequately support land owners to meet their obligations under national environmental law.
2. The Department's approach to supporting landowner compliance with national environmental law is to help landowners know about their obligations and assist them to comply.
3. Through our engagement with the agricultural sector, the Department is developing a range of tools to improve regulatory clarity for the sector and minimise inadvertent non-compliance with national environmental law. Attachments A to D refer.
4. An overview of the regulation of agricultural development under national environmental law is provided at Attachment E.
5.

Sensitivities and Handling

6. The products provided in Attachments B to D are under development. Please do not distribute these products.

ATTACHMENTS

- **A:** Case Study 1 Helping land owners know about their obligations
- **B:** Case Study 2 Using engagement to better understand the needs of the agricultural sector
- **C:** Case Study 3 Providing regulatory clarity on common land management practices
- **D:** Case Study 4 Providing regulatory clarity on significant impacts from agricultural development
- **E:** National environmental law and regulation of agricultural development – Overview
- **F:** Agriculture and the EPBC Act– Horizon Scan

Attachment A

CASE STUDY 1: HELPING LAND OWNERS KNOW ABOUT THEIR OBLIGATIONS

Changing legislation in New South Wales may create uncertainty for land owners in understanding their obligations under national environmental law.

Our approach to support land owner compliance with national environmental law is focused on helping land owners know about their obligations.

- Skilled and experienced assessment staff who are ready to assist land owners to determine whether, and/or how, the national environmental laws might apply to them.
- Working with the NSW Department of Primary Industries on tailored training for Local Land Services staff – a trusted key point of contact for landowners when understanding their regulatory obligations. Delivery of training commenced in the North West region in October 2019.
- Developing plain English information products to support land owners make decisions about if and/or how national environment laws might apply to their land management activities.
- Clearly communicating to New South Wales regulators the need to consider national and state environment law in parallel when planning agricultural development.
- Seeking opportunities to undertake communication in partnership with New South Wales regulators as they communicate about what the NSW reforms mean for land owners.

Supporting Documents:

i. Overview of the NSW Land Management Roadshow - Presentation;
ii. Fact Sheet - agricultural development and national environmental law

Australian Government
Department of the Environment and Energy

NSW Land Management Roadshow

Forests Section, Land & Outreach Branch

5 December 2017

Context

Agricultural development, state native vegetation law reform and national environmental law

The emerging compliance risk

The compliance objective

Minimise inadvertent non-compliance by ensuring landowners are aware of their obligations and assisting them to comply.

The strategic response

Our collaborators:

- Assessments (NSW/ACT) & Fuel Branch
- Protected Species and Communities Branch
- Policy and Reform Branch
- Communications, Innovation and Partnerships Branch
- ERIN Branch
- Program Delivery Branch

Our partners:

National Farmers' Federation

NSW Farmers

NSW Government | Department of Primary Industries

Tailored training

Informing landowners of their obligations

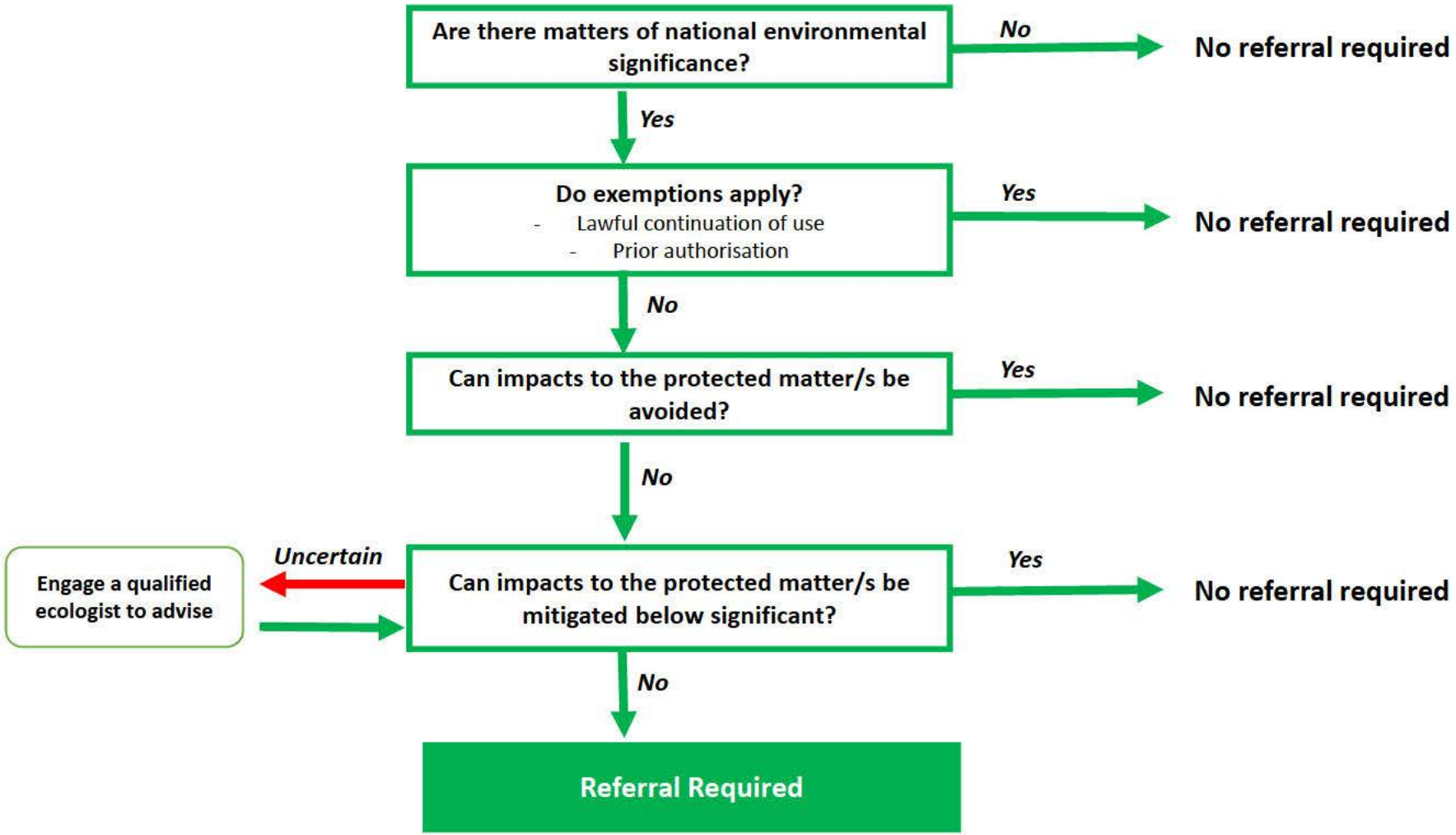
A risk-based approach

Training prioritised for regions of increasing agricultural development in NSW:

- North West
- Northern Tablelands
- North Coast
- Central West
- South East

Building the capacity of LLS staff

LOCAL LAND SERVICES EPBC DUE DILIGENCE PATHWAY



Key Learnings

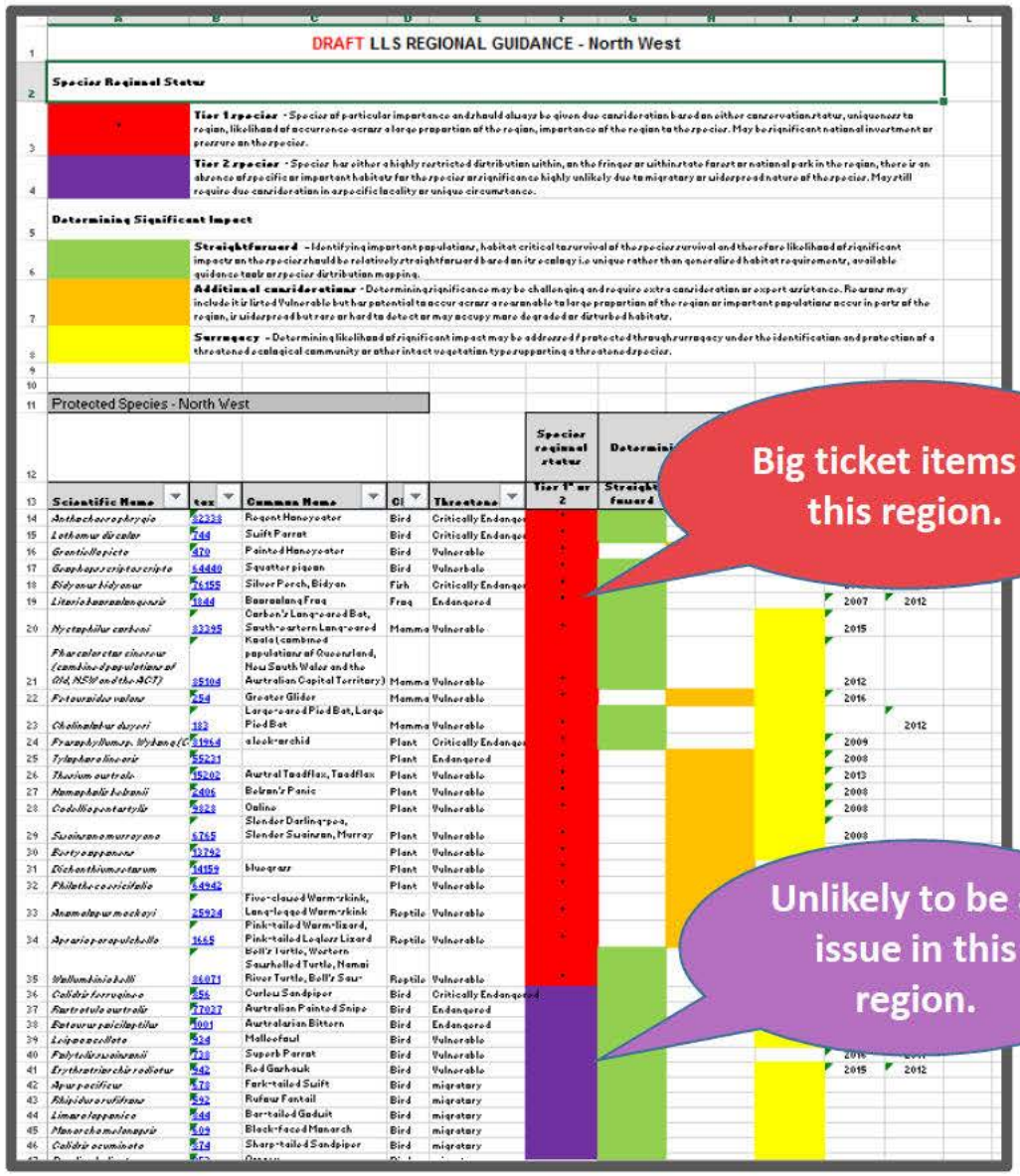
Making it easier to comply

Where do I start..?!..

If we improve the clarity around what we care about…

Protected Species - North West

	Scientific Name	taxon_	Common Name	Class	Threatened St	Migrat	Marine	Cetac	Presence R	Presence Rank text*
5	Euphrasia arguta	4325		Plant	Critically Endangered				26	Species or species habitat known to occur within area
6	Anthochaera phrygia	82338	Regent Honeyeater	Bird	Critically Endangered				21	Breeding known to occur within area
7	Calidris ferruginea	856	Curlew Sandpiper	Bird	Critically Endanger	Migratory			26	Species or species habitat known to occur within area
8	Lathamus discolor	744	Swift Parrot	Bird	Critically Endangered				36	Species or species habitat likely to occur within area
9	Prasophyllum sp. Wybong (C.Phelps ORG.	81964	a leek-orchid	Plant	Critically Endangered				26	Species or species habitat known to occur within area
10	Bidyanus bidyanus	76155	Silver Perch, Bidyan	Fish	Critically Endangered				26	Species or species habitat known to occur within area
11	Tylophora linearis	55231		Plant	Endangered				26	Species or species habitat known to occur within area
12	Cynanchum elegans	12533	White-flowered Wax Plant	Plant	Endangered				36	Species or species habitat likely to occur within area
13	Rostratula australis	77037	Australian Painted Snipe	Bird	Endangered				36	Species or species habitat likely to occur within area
14	Litoria booroolongensis	1844	Booroolong Frog	Frog	Endangered				36	Species or species habitat likely to occur within area
15	Botaurus poiciloptilus	1001	Australasian Bittern	Bird	Endangered				26	Species or species habitat known to occur within area
16	Hakea pulvinifera	14228	Lake Keepit Hakea	Plant	Endangered				26	Species or species habitat known to occur within area
17	Dasyurus maculatus maculatus (SE mainl	75184	Spot-tailed Quoll, Spotted-tail Quoll, '	Mammal	Endangered				26	Species or species habitat known to occur within area
18	Eriocaulon australasicum	7649	Austral Pipewort, Southern Pipewort	Plant	Endangered				26	Species or species habitat known to occur within area
19	Diuris pedunculata	18325	Small Snake Orchid, Two-leaved Gold	Plant	Endangered				26	Species or species habitat known to occur within area
20	Lepidium monoplocoides	9190	Winged Pepper-cress	Plant	Endangered				36	Species or species habitat likely to occur within area
21	Anomalopus mackayi	25934	Five-clawed Worm-skink, Long-legge	Reptile	Vulnerable				26	Species or species habitat known to occur within area
22	Acacia pubifolia	19799	Velvet Wattle	Plant	Vulnerable				36	Species or species habitat likely to occur within area
23	Pomaderris brunnea	16845	Rufous Pomaderris	Plant	Vulnerable				36	Species or species habitat likely to occur within area
24	Thesium australe	15202	Austral Toadflax, Toadflax	Plant	Vulnerable				26	Species or species habitat known to occur within area
25	Homopholis belsonii	2406	Belson's Panic	Plant	Vulnerable				36	Species or species habitat likely to occur within area
26	Leipoa ocellata	934	Malleefowl	Bird	Vulnerable				26	Species or species habitat known to occur within area
27	Cadellia pentastylis	9828	Ooline	Plant	Vulnerable				36	Species or species habitat likely to occur within area
28	Picris evae	10839	Hawkweed	Plant	Vulnerable				36	Species or species habitat likely to occur within area
29	Aprasia parapulchella	1665	Pink-tailed Worm-lizard, Pink-tailed L	Reptile	Vulnerable				26	Species or species habitat known to occur within area
30	Marsdenia longiloba	2794	Clear Milkvine	Plant	Vulnerable				36	Species or species habitat likely to occur within area
31	Callistemon pungens	55581		Plant	Vulnerable				36	Species or species habitat likely to occur within area
32	Lepidium aschersonii	10976	Spiny Pepper-cress	Plant	Vulnerable				36	Species or species habitat likely to occur within area
33	Eucalyptus mckieana	20199	McKie's Stringybark	Plant	Vulnerable				36	Species or species habitat likely to occur within area
34	Eucalyptus caleyi subsp. ovendenii	56193	Ovenden's Ironbark	Plant	Vulnerable				26	Species or species habitat known to occur within area
35	Petrogale penicillata	225	Brush-tailed Rock-wallaby	Mammal	Vulnerable				26	Species or species habitat known to occur within area
36	Androcalva procumbens	87153		Plant	Vulnerable				36	Species or species habitat likely to occur within area
37	Nyctophilus corbeni	83395	Corben's Long-eared Bat, South-east	Mammal	Vulnerable				26	Species or species habitat known to occur within area
38	Phascolarctos cinereus (combined popul	85104	Koala (combined populations of Queer	Mammal	Vulnerable				26	Species or species habitat known to occur within area
39	Eucalyptus nicholii	20992	Narrow-leaved Peppermint, Narrow-l	Plant	Vulnerable				26	Species or species habitat known to occur within area
40	Petauroides volans	254	Greater Glider	Mammal	Vulnerable				26	Species or species habitat known to occur within area
41	Swainsona murrayana	6765	Slender Darling-pea, Slender Swainso	Plant	Vulnerable				36	Species or species habitat likely to occur within area
42	Chalinolobus dwyeri	183	Large-eared Pied Bat, Large Pied Bat	Mammal	Vulnerable				26	Species or species habitat known to occur within area
43	Pteropus poliocephalus	186	Grey-headed Flying-fox	Mammal	Vulnerable				22	Roosting known to occur within area
44	Polytelis swainsonii	738	Superb Parrot	Bird	Vulnerable				26	Species or species habitat known to occur within area
45	Uvidicolus sphyrurus	84578	Border Thick-tailed Gecko, Granite Be	Reptile	Vulnerable				26	Species or species habitat known to occur within area
46	Pseudomys pilligaensis	99	Pilliga Mouse, Poolkoo	Mammal	Vulnerable				26	Species or species habitat known to occur within area
47	Haloragis exalata subsp. velutina	16839	Tall Velvet Sea-berry	Plant	Vulnerable				26	Species or species habitat known to occur within area
48	Pseudomys novaehollandiae	96	New Holland Mouse, Pookila	Mammal	Vulnerable				36	Species or species habitat likely to occur within area
49	Cryptostylis hunteriana	19533	Leafless Tongue-orchid	Plant	Vulnerable				36	Species or species habitat likely to occur within area
50	Bertya opponens	13792		Plant	Vulnerable				36	Species or species habitat likely to occur within area
51	Dichanthium setosum	14159	bluegrass	Plant	Vulnerable				26	Species or species habitat known to occur within area
52	Homoranthus prolixus	55198		Plant	Vulnerable				36	Species or species habitat likely to occur within area
53	Tasmannia glaucifolia	21975	Fragrant Pepperbush	Plant	Vulnerable				36	Species or species habitat likely to occur within area
54	Maireana cheelii	8008	Chariot Wheels	Plant	Vulnerable				36	Species or species habitat likely to occur within area
55	Erythrotriorchis radiatus	942	Red Goshawk	Bird	Vulnerable				36	Species or species habitat likely to occur within area
56	Wollumbinia belli	86071	Bell's Turtle, Western Sawshelled Turt	Reptile	Vulnerable				26	Species or species habitat known to occur within area
57	Grantiella picta	470	Painted Honeyeater	Bird	Vulnerable				26	Species or species habitat known to occur within area
58	Philotheca ericifolia	64942		Plant	Vulnerable				26	Species or species habitat known to occur within area
59	Apus pacificus	678	Fork-tailed Swift	Bird		Migratory			36	Species or species habitat likely to occur within area
60	Rhipidura rufifrons	592	Rufous Fantail	Bird		Migratory			26	Species or species habitat known to occur within area
61	Limosa lapponica	844	Bar-tailed Godwit	Bird		Migratory			26	Species or species habitat known to occur within area
62	Monarcha melanopsis	609	Black-faced Monarch	Bird		Migratory			26	Species or species habitat known to occur within area
63	Calidris acuminata	874	Sharp-tailed Sandpiper	Bird		Migratory			26	Species or species habitat known to occur within area
64	Pandion haliaetus	952	Osprey	Bird		Migratory			26	Species or species habitat known to occur within area
65	Myiagra cyanoleuca	612	Satin Flycatcher	Bird		Migratory			26	Species or species habitat known to occur within area
66	Hirundapus caudacutus	682	White-throated Needletail	Bird		Migratory			26	Species or species habitat known to occur within area



DRAFT LLS REGIONAL GUIDANCE - North West

Species Regional Status

Tier 1 species - Species of particular importance and should always be given due consideration based on either conservation status, uniqueness to region, likelihood of occurrence across a large proportion of the region, importance of the region to the species. May be significant national investment or pressure on the species.

Tier 2 species - Species has either a highly restricted distribution within, on the fringe or within state forest or national park in the region, there is an absence of specific or important habitat for the species or significance highly unlikely due to migratory or widespread nature of the species. May still require due consideration in a specific locality or unique circumstance.

Determining Significant Impact

Straightforward - Identifying important populations, habitat critical to survival of the species survival and therefore likelihood of significant impacts on the species should be relatively straightforward based on its ecology i.e unique rather than generalised habitat requirements, available guidance tools or species distribution mapping.

Additional considerations - Determining significance may be challenging and require extra consideration or expert assistance. Reasons may include it is listed Vulnerable but has potential to occur across a range able to large proportion of the region or important populations occur in parts of the region, is widespread but rare or hard to detect or may occupy more degraded or disturbed habitats.

Surrogacy - Determining likelihood of significant impact may be addressed if protected through surrogacy under the identification and protection of a threatened ecological community or other intact vegetation type supporting a threatened species.

Protected Species - North West

Scientific Name	tsx	Common Name	Cl	Threatene	Species regional status Tier 1* or 2	Determi... Straight... forward				
Anthochaera phrygia	82338	Regent Honeyeater	Bird	Critically Endange	*					
Lathamus discolor	744	Swift Parrot	Bird	Critically Endange	*					
Grantiella picta	429	Painted Honeyeater	Bird	Vulnerable	*					
Geophaps scripta scripta	64440	Squatter pigeon	Bird	Vulnerable	*					
Bidyanus bidyanus	76155	Silver Perch, Bidyan	Fish	Critically Endange	*					
Litoria booroolongensis	1644	Booroolong Frog	Frog	Endangered	*				2007	2012
Nyctophilus corbeni	83395	Corben's Long-eared Bat, South-eastern Long-eared	Mamma	Vulnerable	*				2015	
Phascolarctos cinereus (combined populations of Qld, NSW and the ACT)	85104	Koala (combined populations of Queensland, New South Wales and the Australian Capital Territory)	Mamma	Vulnerable	*				2012	
Petaurus norfolcensis	264	Greater Glider	Mamma	Vulnerable	*				2016	
Chalinolobus dwyeri	183	Large-eared Pied Bat, Large Pied Bat	Mamma	Vulnerable	*					2012
Prasophyllum sp. Wybong (C	81964	a leek-orchid	Plant	Critically Endange	*				2009	
Tylophora linearis	55231		Plant	Endangered	*				2008	
Thesium australe	15202	Austral Toadflax, Toadflax	Plant	Vulnerable	*				2013	
Homopholis belsonii	5406	Belson's Panic	Plant	Vulnerable	*				2008	
Codonopsis cunninghamii	9828	Native Bluebell	Plant	Vulnerable	*				2008	
Swainsona murrayana	5765	Slender Darling-pea, Slender Swainson, Murray	Plant	Vulnerable	*				2008	
Rutidosis leptorrhynchoides	13792		Plant	Vulnerable	*					
Dichanthium setosum	14159	bluegrass	Plant	Vulnerable	*					
Philotheca ericifolia	64942		Plant	Vulnerable	*					
Anomalopus mackayi	25924	Five-clawed Worm-skink, Long-legged Worm-skink	Reptile	Vulnerable	*					
Aprasia parapulchella	1665	Pink-tailed Worm-lizard, Pink-tailed Legless Lizard	Reptile	Vulnerable	*					
Wollumbinia belli	86071	Bell's Turtle, Western Saurhelled Turtle, Namoi River Turtle, Bell's Saur	Reptile	Vulnerable	*					
Calidris ferruginea	856	Curlew Sandpiper	Bird	Critically Endangered						
Rostratula australis	77037	Australian Painted Snipe	Bird	Endangered						
Botaurus poiciloptilus	1001	Australasian Bittern	Bird	Endangered						
Leipoa ocellata	824	Malleefowl	Bird	Vulnerable						
Polytelis swainsonii	738	Superb Parrot	Bird	Vulnerable						
Erythrotriorchis radiatus	942	Red Goshawk	Bird	Vulnerable					2015	2012
Apus pacificus	678	Fork-tailed Swift	Bird	migratory						
Rhipidura rufifrons	592	Rufous Fantail	Bird	migratory						
Limosa lapponica	844	Bar-tailed Godwit	Bird	migratory						
Monarcha melanopsis	609	Black-faced Monarch	Bird	migratory						
Calidris acuminata	874	Sharp-tailed Sandpiper	Bird	migratory						

Big ticket items in this region.

Unlikely to be an issue in this region.

...we make it easier to comply.

Next Steps

Training for southern NSW Local Land Services staff

Regulatory clarity priorities

Training for southern NSW LLS staff

…the training was invaluable…

…building really good professional relationships…

…ongoing relationship as a result of this initiative…

Regulatory clarity priorities

- Guidance for LLS on threatened species regional status and determining significant impact.
- Access to the EMMA Tool for LLS staff.
- Policy statements on common land management challenges:
  - managing invasive native species and regrowth
  - removal of paddock trees
  - continuing use exemptions.

Australian Government
Department of the Environment and Energy

Agricultural development and national environmental law

Some agricultural development needs to be approved under national environmental law before it can start, and so landholders and land managers need to know about the *Environment Protection and Biodiversity Conservation Act 1999* (the Act).

The Act is Australia's premier environmental law. The Act is administered by the Australian Government Department of the Environment and Energy.

The Act protects matters that are of national environmental significance. Those that could be impacted by agricultural development include:

- threatened plant and animal species
- threatened ecological communities
- migratory species
- wetlands of international importance (Ramsar Wetlands)
- world and national heritage properties
- the Great Barrier Reef (indirect impacts from runoff of sediment or nutrients).

To see if there are any nationally protected matters in your area, you can do a protected matters search at: www.environment.gov.au/epbc/protected-matters-search-tool.

When do I need approval for my agricultural development?

You do not need to seek approval under national environmental law if your agricultural development is:

- **a routine land management activity** such as maintaining existing fence lines and fire breaks, managing weeds and pests
- **an ongoing activity that you commenced prior to July 2000**, such as cropping or grazing practices, as long as you are not expanding or intensifying that activity
- **an activity that received all the required environmental authorisations prior to July 2000** and those authorisations remains in force. For example, an environmental authorisation may be a state land clearing permit.

Only a new, expanded or intensified agricultural development that is likely to have a significant impact on a nationally protected matter needs approval under national environmental law.

Not all agricultural developments affecting nationally protected matters will have a significant impact and require approval under the Act. Determining whether your activity is likely to have a significant impact can be complex. We can provide advice about nationally protected matters, significant impacts and the Act generally. There is also information on our website: www.environment.gov.au/about-us/business-us/permits-assessments-licences.

If you need assistance or are unsure whether you need approval call us on 1800 803 772.

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What is a significant impact?

A significant impact is something that can affect the overall health and survival of a protected matter. Significance is judged as impacts on whole populations, not impacts on individual members of a species. It is looked at on a case-by-case basis, factoring in:

- **Status of the protected matter**—a small impact may be significant for a species that is critically endangered but not for one that is vulnerable.
- **Intensity**—felling or killing plants is more likely to have a significant impact than pruning or slashing where plants can recover.
- **Extent**—the larger the size of the impact, the more likely the impact will be significant.
- **Duration**—short-term impacts are less likely to be significant than irreversible, permanent ones.

Agricultural development unlikely to trigger national environmental law include:

- ongoing grazing, horticultural or cropping activities
- maintaining existing fences, access tracks and firebreaks
- maintaining existing farm gardens and orchards
- maintaining existing farm dams or water storages
- maintaining existing pumps and clearing drainage lines
- replacing and maintaining sheds, yards and other buildings
- targeted control of weeds and spraying for pests on individual properties or roadside verges with minimal disturbance to native species (e.g. selective spot spraying)
- road maintenance, including grading on the road edges
- moving farm vehicles and machinery providing there is a minimal impact on native vegetation
- the continuation of historic controlled burning for wild fire protection
- removing or trimming individual native trees or small stands that are over an exotic or degraded understorey.

Agricultural development most likely to impact nationally protected matters include:

- clearing or thinning high quality areas of a threatened ecological community or species habitat
- introducing grazing, significantly intensifying grazing or changing from grazing to cropping within or near some threatened ecological communities and species habitats, and Great Barrier Reef or Ramsar wetland catchments
- substantially changing or intensifying methods of weed control or fertiliser use in or next to a high quality area of a threatened ecological community or species habitat or Ramsar wetland
- intensifying methods of fertiliser use in or near to a Ramsar wetland
- improving pasture, where it is good quality threatened ecological community, by introducing exotic plant species or by mechanical disturbance
- irrigation of new high quality areas of a threatened ecological community or species habitat
- extensive habitat removal such as rock removal or rock crushing and stag removal, in a good quality threatened ecological community.

How do I get approval and what help is available?

Seeking approval is done online by submitting a referral: https://onlineservices.environment.gov.au/.

If you need assistance or are unsure whether you need approval call us 1800 803 772. We will help you to complete the process and can provide advice at each stage.

What will it cost?

If you are an individual, or small business with an aggregated turnover of less than $10 million, in the previous financial year, you are likely to be eligible for an exemption from fees.

More information on cost recovery is available at www.environment.gov.au/epbc/cost-recovery.

How long will it take?

Decision on referral (if required):
Estimated time—20 business days. The decision on referral determines whether the proposed agricultural development requires further assessment. If no further assessment is required, you can proceed with your development.

Assessment (if required):
Estimated time—at least 50 business days. The assessment is undertaken by you the landholder or your consultant. The time required depends on how quickly the assessment is completed.

Approval decision:
Estimated time—40 business days. The Minister makes the final approval decision and decides conditions of approval.

After approval (post approval, if required):
If your approval has conditions, we will work with you to complete them.

What happens if I break the law?

If you think you may have broken the law it is best to contact us as soon as possible to explain what has happened. We will work with you to enable your agricultural development to be undertaken lawfully.

Contact us on **1800 803 772**.

We take our responsibilities under national environmental law seriously. Where serious non-compliance occurs we will take appropriate compliance action.

Is there funding available to support me to manage biodiversity on my property?

Having a nationally protected matter such as a threatened ecological community or species on your property may be a source of income. It can potentially be used by developers as an **environmental offset**. The payment and income structure is negotiated directly between you and the developer.

There are also opportunities under the Australian Government's **Emissions Reduction Fund and the National Landcare Program**.

The Emissions Reduction Fund provides landholders with new ways to increase the productivity of their land and generate revenue by lowering emissions. Information about the fund is available at: www.environment.gov.au/climate-change/emissions-reduction-fund.

The National Landcare Program supports sustainable land management practices as well as supporting the protection, conservation and rehabilitation of Australia's natural environment. Information about the program is available at: nrm.gov.au/.

More information about our range of funding and investment programs is available at: www.environment.gov.au/about-us/grants-funding.

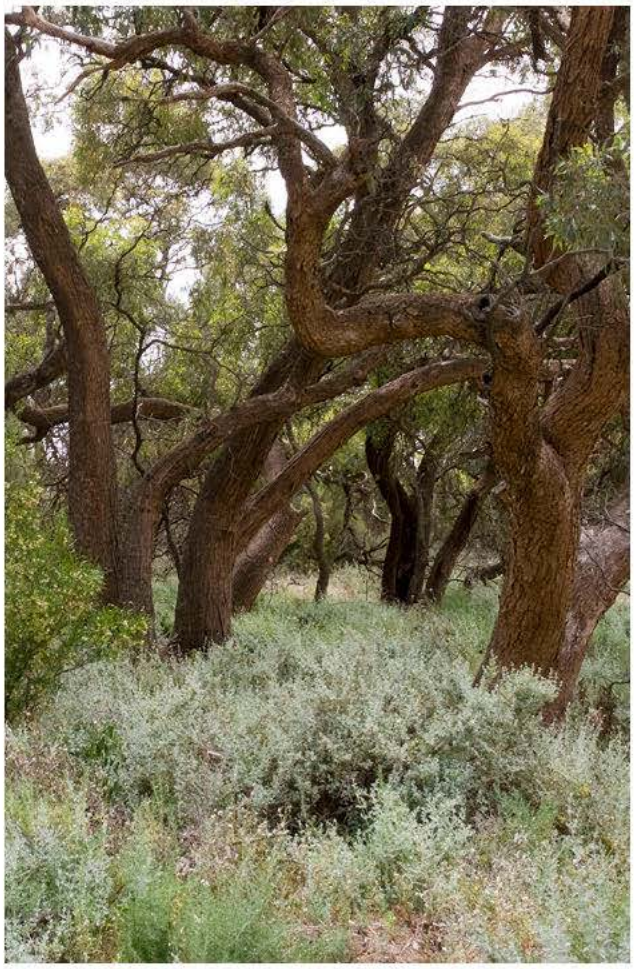
Who can I talk to for more information?

You can talk to us, the Department of the Environment and Energy on **1800 803 772**. We will assist with advice about nationally protected matters, significant impacts and, if required, how to seek approval under national environmental law. We are keen to work with and support farmers, especially those who may not have considered the Act in the past.

Information about the Act is also available at www.environment.gov.au/epbc.

You can also talk to:

- **people in your local community** who can come to your property to discuss your plan. This includes Natural Resource Management, Catchment Management or Local Land Services officers, local council environment officers, Landcare officers or 'Friends of' groups and qualified experts such as an ecologist.
- **state land management officers** who can assist with advice about mapping, regional ecosystems, protected matters, native vegetation clearance and how state laws apply to your property.



(Top) Floodplain vegetation (© John Baker and the Department of the Environment and Energy)
(Above) Grey box grassy woodland (Matt White)

Attachment B

CASE STUDY 2: USING ENGAGEMENT TO BETTER UNDERSTAND THE NEEDS OF THE AGRICULTURAL SECTOR

In 2016, the Department established the Agriculture and Environment Consultative Committee. The Committee comprises representatives from the National Farmers' Federation, the Environment Standards Division, Biodiversity Conservation Division, Office of Compliance and Domestic Emissions Reduction Division. The Committee provides a forum for open consultation on issues of mutual interest. (Supporting document *i.* refers.)

The Department is also using engagement to better understand the practical implementation of national environmental law in agricultural landscapes. A recent Monaro Farm Visit initiated a meaningful relationship with farmers in the Monaro region and improved the Department's understanding of the application of an ecological community listing in the region (Natural Temperate Grassland of the South Eastern Highlands).

With an improved understanding of the issues surrounding the application of the listing in the Monaro region, the Department is developing plain English advice for the region that incorporates land use history and pasture type into the identification of the grasslands protected under national environmental law (Supporting documents *ii.* and *iii.* refer).

Supporting Documents:

i. ***Agriculture and Environment Consultative Committee Terms of Reference***

ii. ***Monaro Grasslands Issues Map – Draft***

iii. ***Nationally protected grasslands and farming in the Monaro region of New South Wales - Draft***

Australian Government
Department of the Environment

Agriculture and Environment Consultative Committee
Terms of Reference

1. Definition

The Agriculture and Environment Consultative Committee ('the Committee') is a consultative committee of the Department of the Environment ('the Department') with representatives from the agricultural industry (as represented by the National Farmers' Federation). The Committee provides a forum for open consultation between the agricultural industry and the Department.

2. Purpose

In building the Department's regulatory maturity, it is putting in place measures to ensure that communication with key stakeholders is user-focused and consistent, and engagement is two-way.

Recognising the importance of the agricultural industry, the Department is seeking ongoing and structured engagement with the sector to ensure two-way communication on issues of mutual interest.

The objective of the Committee is to build understanding between the Department and the sector with a view to balancing protection of the environment with the needs of the sector. This will be achieved by:

a) sharing information, including on communicating the Department's forward work programme on relevant issues;
b) discussing emerging and strategic issues;
c) providing an avenue for feedback on the effectiveness of the Department's policies, programmes, processes and engagement methods;
d) providing an avenue for feedback from the sector about opportunities to reduce regulatory burden;
e) providing an opportunity, where appropriate,
    - for co-design of policies or processes; and
    - strengthening working relationships.

3. Working groups

The Committee is supported by working groups as required. Initially these working groups are Strategic approaches working group and Key issues and engagement working group.

3.1 Strategic approaches working group

This working group explores strategic approaches to address issues and opportunities of mutual interest. The objectives of the working group are to:

a) explore opportunities to further streamline environmental regulation through strategic approaches;
b) discuss emerging issues or trends of mutual interest; and
c) discuss and provide feedback on Departmental policies, programmes and engagement methods.

3.2 Key issues and engagement working group

This working group will examine key areas of the regulatory framework that are of specific concern to the sector. It will seek to develop a common understanding of the current regulatory framework and the policies of the Department, and identify opportunities to improve. This will include improving engagement with the agricultural sector to ensure the sector has information

on opportunities available under Departmental programmes, as well as their obligations under environmental legislation. For example:

a) co-design of targeted outreach and guidance products, and

b) dissemination of information via members' respective distribution channels.

4. Operation

Meetings of the Committee are every *two* months. The Committee directs the work programme of the working groups, which will report back to each Committee meeting.

Decisions of the Committee will be made by consensus.

The Committee will report back to the Commonwealth Minister for the Environment every six months or as determined by the Committee.

5. Committee Membership and Responsibilities

The Committee will be alternately chaired by the First Assistant Secretary of the Environment Standards Division and the Chair of the Natural Resources Committee of the National Farmers' Federation, or their respective delegates.

The Committee membership will comprise of the following positions or their delegates:

- Chair, Natural Resources Committee, National Farmers' Federation (alternating chair)
- Manager, NRM Policy, National Farmers' Federation
- First Assistant Secretary, *Environment Standards Division* (alternating chair)
- First Assistant Secretary, Domestic Emissions Reduction Division
- First Assistant Secretary, Wildlife, Heritage and Marine Division
- Assistant Secretary, Environment Standards Division who will be the lead for engagement with the sector

The Committee may also invite representatives from other groups for discussions on particular issues as relevant.

The Committee will determine representation of the initial working groups at the first meeting of the Committee.

6. Secretariat

The Department provides the Secretariat for the Committee to schedule meetings, circulate meeting papers, and maintain a record of decisions and action lists. Meetings will be held alternately at the Department and National Farmers' Federation offices unless otherwise agreed by the Committee.

7. Review of Terms of Reference

These Terms of Reference will be reviewed at least every 12 months or as agreed by the Committee members.

A review of the effectiveness of the operation of the Committee, and its progress will be conducted annually in a form that is agreed by the Committee.

	Low to high quality pasture types in the Monaro region with regards to biodiversity value						
Pasture type	**PASTURE 1 - Cultivated crop**	**PASTURE 2- Introduced grass pasture**	**PASTURE 3- Mixed improved pasture**	**PASTURE 4 - Grazed native grasslands**		**PASTURE 5 - Highly diverse native grassland**	**PASTURE 6 - Rare native grasslands**
Approximate % of Monaro pastures	**10%**	**20%**	**30%**	**30% (GREY AREA)**		**10%**	**10%**
Description	Winter or summer forage crops of oats, wheats, ryegrass, canola etc, no native composition, likely fertiliser and herbicide applications, previous and ongoing ploughing.	Usually with fertiliser application comprising phalaris, cocksfoot, perennial ryegrass and tall fescue grass with essential legume component of Lucerne, clovers etc.	A mix of native grassland species and introduced pasture grasses, legumes with history of fertiliser application. Typically on a slower fertiliser cycle but still can contain some native forb diversity. On slower improvement cycles there can be a resurgent native tussock cover.	Dominanted by native tussocks abut has a legume dominanted groundcover with some native component, has a history of fertiliser but no introduced pasture grasses - High sticking rates	Dominanted by native tussocks and has either a dominant native herbaceous ground cover with some weediness, some infrequent use of fertiliser but no introduced pasture grasses. Low to medium stocking rates.	No fertiliser / herbicide or pasture improvement history, absence of introduced pasture grasses, Diversity of grass species and forbs. Grazed sympathetically i.e rarely, lightly or infrequently. Most likely in in non-arable parts of properties.	Generally floristically diverse and contain 50% foliage cover of Kangaroo grass, river tussock grass or native sedge Carex spp, usually very little to no history of disturbance or stocking. Most common in TSR's cemeteries, roadsides, ralway easements etc commons etc and on private lands it would be most likely in in non-arable parts of properties
Key determining indicator	History of cropping and dominated by introduced pasture species	Dominated by introduced pasture species	History of fertiliser application and even mix of introduced pasture species and natives	Absence of introduced pasture grasses and no to little native floristic diversity discovered through application of Method B in the Conservation Advice.	Absence of introduced pasture grasses and native floristic diversity identified through application of Method B in the Conservation Advice.	No exotic pasture species introduction or fertiliser history.	50% foliage cover of Kangaroo grass, river tussock grass or native sedge Carex spp as outlined in Conservation Advice Method A
EPBC SCOPE	**NO RESTRICTIONS TO LANDHOLDERS UNDER NATONAL ENVIRONMENTAL LAW**				**PROTECTION, REGULATION AND INVESTMENT UNDER NATIONAL ENVIRONMENTAL LAW**		
CONTINUING USE EXEMPTION FOR GRAZING	**EXISTING GRAZING REGIMES IN THESE PASTURES CAN CONTINUE UNDER NATIONAL ENVIRONMENTAL LAW**						
INTRODUCTION OF OR INTENSIFICATION OF GRAZING	**NO RESTRICTIONS TO LANDHOLDERS UNDER NATONAL ENVIRONMENTAL LAW**				**SYMPATHETIC GRAZING REQUIRED TO COMPLY WITH NATIONAL ENVIRONMENTAL LAW**		
INTRODUCTION OF OR INTENSIFICATION OF FERTILISER USE i.e lifting lifting P and S	**NO RESTRICTIONS TO LANDHOLDERS UNDER NATONAL ENVIRONMENTAL LAW**				**WHEN INTRODUCING OR INTENSIFYING FERTILISER APPLICATION TO THESE PASTURES NATIONAL ENVIRONMENTAL LAW APPLIES**		
MANAGING WEEDS i.e. African love grass and serrated tussock	**NO RESTRICTIONS TO LANDHOLDERS UNDER NATONAL ENVIRONMENTAL LAW**				**SPOT SPRAYING OR COMMITMENT TO PROTECTION REQUIRED TO COMPLY WITH NATIONAL ENVIRONMENTAL LAW**		
CHANGE IN LAND USE	**NO RESTRICTIONS TO LANDHOLDERS UNDER NATONAL ENVIRONMENTAL LAW**				**WHEN CONVERTING TO CROPPING, INTRODUCED PASTURE SPECIES OR MIXED IMPROVED PASTURES NATIONAL ENVIRONMENTAL LAW APPLIES**		
THREATENED SPECIES e.g. grassland earless dragon, listed flora species etc	**NO RESTRICTIONS TO LANDHOLDERS UNDER NATIONAL ENVRONMENTAL LAW - NO TO LITTLE VALUE FOR THREATENED SPECIES**				**CONTEXT DEPENDENT**	**SYMPATHETIC LAND MANAGEMENT REQUIRED TO COMPLY WITH NATIONAL ENVIRONMENTAL LAW**	
BEST VALUE AND OUTCOME FOR MONARO	**NO OPPORTUNITIES OR COMMONWEALTH INTEREST**				**PRIORITY**	**CONTEXT DEPENDENT**	

Attachment C

CASE STUDY 3: PROVIDING REGULATORY CLARITY ON COMMON LAND MANAGEMENT PRACTICES

Through our engagement with the agricultural sector, we have identified three priority land management issues on which the sector is seeking regulatory clarity: clearing of paddock trees; treatment of invasive species; and continuing use.

The Department has developed a draft national policy on clearing of paddock trees in agricultural landscapes. The draft policy clarifies the circumstances when clearing paddock trees may have a significant impact on nationally protected matters.

Of the more than 1800 species protected, only 18 may be impacted by paddock tree clearing. For each of these 18 species, guidance is provided on the circumstances in which referral would be required under national environmental law (i.e. when removing paddock trees is likely to cause a significant impact on a nationally protected matter).

Supporting Documents:

i. Draft National Paddock Tree Policy

Australian Government

Department of the Environment and Energy

Draft National Paddock Tree Policy

Agriculture Note Series
March 2018

Disclaimer

While reasonable efforts have been made to ensure that the contents of this publication are factually correct, the Commonwealth does not accept responsibility for the accuracy or completeness of the contents, and shall not be liable for any loss or damage that may be occasioned directly or indirectly through the use of, or reliance on, the contents of this publication.

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Policy summary

- State and Territory governments have primary responsibility for the management of native vegetation including, paddock trees.
- National environmental law only regulates the clearing of paddock trees when a 'significant impact' on a nationally protected species[1] is likely to occur.
- Appendix A lists the 18 nationally protected species which may be significantly impacted by the clearing of paddock trees. It provides guidance on when a significant impact to these species is likely and when you will need to refer your proposed paddock tree clearing.
- There are mitigation measures that can ensure some clearing of paddock trees is lawful and does not require referral under national environmental law (refer section 6).
- This policy should be read in full when determining whether you need to refer your proposed paddock tree clearing under national environmental law.

[1] Nationally protected species are listed threatened species in the critically endangered, endangered or vulnerable categories under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

1. Introduction

Landowners and land managers play an important role in managing the Australian landscape through their agricultural practices and development. Some agricultural development needs to be approved under national environmental law before it can start. It is important for landowners and land managers to know when their agricultural development needs to be referred for approval under national environmental law[2].

This policy outlines the circumstances in which clearing of paddock trees is likely to have a significant impact on nationally protected matters and will require referral under national environmental law (Appendix A refers). It also identifies opportunities that may be available to landowners and land managers to retain or restore trees and other areas of native vegetation on their property (Section 8 refers).

2. What is the importance of paddock trees in agricultural lands?

Paddock trees are valuable to landowners and wildlife conservation:

- Paddock trees contribute to salinity mitigation, reduce erosion, help recycle nutrients and provide shade and shelter for stock.
- Paddock trees contribute to the viability of wildlife populations in agricultural landscapes by maintaining connectivity between larger patches of vegetation and they may provide important breeding, roosting and foraging habitat for some threatened species.

3. Who regulates the clearance of paddock trees on agricultural land?

State and Territory governments have primary responsibility for regulating the clearing and management of native vegetation, including paddock trees.

National environmental law only regulates the clearing of paddock trees when a significant impact on a nationally protected species is likely.

Whether or not the clearing of paddock trees is likely to have a significant impact depends upon:

- the **sensitivity** (e.g. limit of the species breeding range v areas only known to support foraging), **value** (e.g. breeding vs roosting), and **quality** (e.g. old growth with hollows vs regrowth) **of the environment** which is impacted, and

- the **intensity** (e.g. use of bulldozer and chain vs chainsaw), **duration** (e.g. irreversible impacts), **magnitude** (e.g. impacts to native understorey v impacts to exotic understorey) and **geographic extent** (e.g. one paddock tree in a 10 ha paddock vs 400 paddock trees across 1000 ha) **of the impacts**.

For more information on 'significant impacts' visit the Significant Impact Guidelines 1.1 - Matters of National Environmental Significance.

[2] National environmental law refers to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) administered by the Department of the Environment and Energy.

4. What are paddock trees?

For the purposes of national environmental law, the term 'paddock tree/s' refers only to native species of tree on agricultural land. It can represent:

- An individual native tree in a paddock.
- Multiple native trees in small areas of a paddock or scattered across a paddock.
- Multiple well-spaced native paddock trees across a large paddock/s.

Paddock trees may or may not contain hollows for use by wildlife, they can be dead or alive and be in varying degrees of health and they can occur in paddocks with a native, exotic or cultivated groundcover.

5. When is the clearing of paddock trees likely to require referral under national environmental law?

While national environmental law protects more than 1800 threatened species, only 18 nationally threatened species may be impacted by clearing paddock trees:

- Five birds listed endangered or critically endangered under national environmental law where the paddock trees **are** habitat critical to their survival.
- Twelve other fauna listed either critically endangered, endangered or vulnerable under national environmental law where the paddock trees support an important population and/or **are** habitat critical to the survival of these species.
- One critically endangered tree species where the loss of individual trees will interfere with the species recovery.

Appendix A lists the 18 nationally protected species which could be significantly impacted by the clearing of paddock trees and provides guidance on when you need to refer your proposed paddock tree clearing[3].

5.1 Habitat critical to the survival of a species

In the context of paddock trees in agricultural landscapes, habitat critical to the survival of a species refers to areas that are **necessary** for activities such as foraging, breeding, roosting or dispersal.

Whether or not your property provides habitat for a species listed in Appendix A can be discovered through the SPRAT profile for each species [access through hyperlinked species names in Appendix A].

Each species' profile has an interactive map of the species' distribution and information about their ecology.

[3] State and Territory governments have primary responsibility for regulating clearing and management of vegetation including paddock trees and native wildlife. Please check your responsibilities under state or territory and local government laws before clearing paddock trees. Refer to section 8 for advice about available help to understand your regulatory responsibilities.

5.2 Endangered and critically endangered species

Endangered and critically endangered species are more vulnerable to habitat impacts such as the loss of a single hollow bearing tree. These species can have life history characteristics including slow reproductive rates, small population sizes and or specialised nesting and feeding requirements which limit their ability to recover.

When paddock trees provide habitat critical to the survival of an endangered or critically endangered species listed in Appendix A, clearance of a paddock tree/s will require referral under national environmental law (Appendix A refers).

5.3 Vulnerable species

When paddock trees provide habitat critical to the survival of an important population of a vulnerable species listed in Appendix A, clearance of these trees will require referral under national environmental law (Section 6 refers).

5.4 Multiple well-spaced paddock trees across a large paddock/s

Multiple well-spaced paddock trees across a large paddock/s may be habitat critical to a species survival if they provide important movement corridors, breeding or refuge sites for species listed in Appendix A. Where this occurs clearing these trees will require referral under national environmental law (Section 6 and Appendix A refers).

5.5 Paddock trees in native pastures

Many nationally listed plants and animals, such as orchids and reptiles, inhabit natural pastures in agricultural areas. In these areas, major ground cover disturbance through the removal of multiple paddock trees may significantly impact a nationally protected species.

If you are planning to clear multiple paddock trees in an area with a dominant native groundcover you are advised to seek additional guidance on the occurrence of nationally protected species not listed in Appendix A. Expert advice can help design your proposal to ensure your clearing is lawful and does not require referral under national environmental law (Section 6 refers).

5.6 New listing decisions

New species are listed and delisted regularly under national environment law. The Department will update Appendix A of this policy to reflect any changes to the list of protected species that may be significantly impacted by paddock tree clearing.

Appendix A is current as of March 2018.

6. What about paddock tree clearing and tree species listed under national environmental law?

Approximately 16 trees listed as threatened under national environmental law are known to or may occur as paddock trees on agricultural land in Australia. Only one of these species, the Ormeau bottle tree (*Brachychiton sp. Ormeau* (L.H.Bird AQ435851)) is likely to be significantly impacted by paddock tree clearing (Appendix A refers).

The remaining 15 tree species are unlikely to be significantly impacted by paddock tree clearing because:

- Their important populations occur in regulated stands of remnant vegetation on private land or in protected areas; or
- The nature of their occurrence in agricultural landscapes infers that important populations are unlikely to be significantly impacted.

7. Can mitigation avoid the need to refer the clearing of paddock trees?

If it is not possible to avoid clearing paddock trees, the way in which a paddock tree is cleared can avoid a significant impact on nationally protected species and consequently, the need for you to refer your proposed paddock tree clearing.

Mitigation measures that can avoid significantly impacting nationally protected species listed in Appendix A include:

- Retaining trees of particular importance for a nationally protected species i.e. breeding and roosting trees, trees critical for the movement of the species across the landscape.
- Engaging an expert or another suitably qualified third party to supervise clearing. Methods employed include: flushing or relocating animals from paddock trees proposed to be cleared; choosing the timing of clearing to avoid presence of individuals in the tree.

Mitigation is not possible in all circumstances of paddock tree clearing. Appendix A identifies where mitigation may avoid the need to refer your paddock tree clearing.

8. Who can I talk to if I am uncertain about how to proceed with my agricultural development?

You can talk to us, the Department of Environment and Energy on 1800 803 772. We will assist with advice about nationally protected matters, significant impacts and, if required, how to refer and seek approval under national environmental law (Sections 9-11 refer).

You can also talk to:

- People in your local community, local ecologists, naturalist groups or non-government organisations running monitoring programs for threatened species in your area, or
- State or local government land management officers.

9. If I determine a referral is required for clearing paddock trees, what are the next steps?

Referral is an online submission: https://onlineservices.environment.gov.au/.

10. What will it cost?

If you are an individual, or small business with an aggregated turnover of less than $10 million, in the previous financial year, you are likely to be eligible for an exemption from fees.

More information on cost recovery is available at www.environment.gov.au/epbc/cost-recovery.

11. How long will it take?

i. Decision on referral:

Estimated time—20 business days. The decision on referral determines whether the proposed agricultural development requires further assessment. If no further assessment is required, you can proceed with your development.

ii. Assessment (if required):

Estimated time—at least 50 business days. The assessment is undertaken by you the landholder or your consultant. The time required depends on how quickly the assessment is completed.

iii. Approval decision:

Estimated time—40 business days. The Minister makes the final approval decision and decides conditions of approval.

iv. After approval (post approval, if required):

If your approval has conditions, we will work with you to complete them.

12. Is there funding available to support me to retain and restore paddock trees on my property?

National Landcare Program

The National Landcare Program is a nationwide effort to address problems such as loss of vegetation and soil degradation.

The Australian Government is investing more than $1 billion in the next phase of the National Landcare Program. The majority of the investment will be delivered over a period of five years—from July 2018 to June 2023. The investment is being delivered by the Department of the Environment and Energy and the Department of Agriculture and Water Resources and will include a range of measures to support natural resource management and sustainable agriculture, and to protect Australia's biodiversity.

Information about the program is available at: www.nrm.gov.au/

Emissions Reduction Fund

The Emissions Reduction Fund supports Australian businesses, farmers and land managers to take practical actions to reduce emissions and improve the environment. It provides landholders with new ways to increase the productivity of their land and generate revenue by lowering emissions.

The Emissions Reduction Fund is helping to achieve Australia's 2020 emissions reduction target of 5% below 2000 levels by 2020 and 26-28% below 2005 emissions by 2030. The Government has so far provided $2.55 billion of funding toward the Emissions Reduction Fund.

The Emissions Reduction Fund Information about the fund is available at: www.environment.gov.au/climate-change/emissions-reduction-fund.

More information about our range of funding and investment programs is available at:

www.environment.gov.au/about-us/grants-funding.

Appendix A – Species which are likely to be significantly impacted by clearing paddock trees

Appendix A lists the nationally protected species that are likely to be significantly impacted by clearing paddock trees and when referral of proposed paddock tree clearing is required. In determining the circumstances in which paddock tree clearing is required to be referred under national environmental law, factors considered include: the species listing status, type of habitat provided by the paddock trees, the species area of occupancy, population size, its life history and ecology and paddock tree clearing methods.

There are currently no listed threatened species in the Northern Territory which would be significantly impacted by paddock tree clearing. In addition there are no species **endemic** to Victoria, New South Wales or the Australian Capital Territory which would be significantly impacted by paddock tree clearing.

Table 1: Multi-jurisdictional species

[M] There are mitigation measures that you **can** adopt for this species to avoid having to refer your proposed paddock tree clearing.

[H] Paddock trees are habitat critical to this species survival and mitigation **cannot** avoid having to refer your proposed paddock tree clearing.

State / Territory	Region / location	Species	Listing status	Type of habitat provided by paddock tree	Referral Required
Multi-jurisdictional Species					
Vic/SA	Far south-western Victoria and adjacent parts of South Australia.	**Red-tailed Black-Cockatoo**[H] *Calyptorhynchus banksii graptogyne*	CE	Breeding and foraging	Clearing a paddock tree/s that is a remnant Buloke tree or a dead or *alive Eucalyptus* tree in this species' known breeding range.
Qld/NSW	South of Rockhampton, Qld to Lismore in NSW.	**Coxens fig parrot** [H] *Cyclopsittadiophthalma coxeni*	CE	Foraging	Any clearing of old growth fig paddock trees in areas of known visitation by this species.

Vic/ACT/NSW/ Qld	Widespread across these states.	**Regent Honeyeater** *Anthochaera phrygia*	CE	Foraging	Clearing ironbark paddock trees within known breeding areas or frequented visitation sites [see **recovery plan** for breeding and frequented visitation sites].
Vic/SA	South-east South Australia and western Victoria	**Southern Bent wing bat** [M] *Miniopterus orianae bassanii*	CE	Foraging supporting breeding	Clearing multiple old growth paddock trees within 35 km of known maternity sites.
TAS, Vic, NSW and Qld	Widespread across these states.	**Swift parrot** [H] *Lathamus discolor*	CE	Foraging supporting breeding	Clearing Tasmanian blue gum and black gum paddock trees in known **breeding areas** [this applies to Tasmania part of its range only]
Vic/NSW/ACT	South eastern Australia.	**Superb parrot** [M] *Polytelis swainsonii*	V	Breeding and foraging	Clearing paddock trees that are known nesting trees within a main breeding area [see **conservation advice** for three main breeding areas].
Vic/NSW/Qld/ACT/SA	Widespread across these states.	**Painted honeyeater** [M] *Grantiella picta*	V	Foraging	Clearing old growth eucalyptus paddock trees containing mistletoe within known breeding areas.
Vic/NSW/Qld/SA	Central Queensland, central western NSW, north-western Victoria and eastern South Australia.	**Eastern long eared bat** [M] *Nyctophilus corbeni*	V	Breeding and roosting	Clearing hollow bearing paddock trees in the species known distribution without mitigation.

WA/NT/ SA	Arid regions of Western Australia, the Northern Territory, and South Australia.	**Princess Parrot** [M] *Polytelis alexandrae*	V	Breeding	Clearing hollow bearing eucalyptus paddock trees close to water courses and which are known breeding sites.
SA/NSW/Vic	Semi-arid interior of south eastern mainland Australia.	**Regent parrot** [M] *Polytelis anthopeplus monarchoides*	V	Breeding	Clearing hollow bearing river red gum paddock trees within 120 m of water along the Murray River, lower Wakool River, lower Murrumbidgee and Wimmera River floodplains or associated anabranch creeks and lakes.
NSW/Qld	The listed species range extends from north-eastern Queensland to the Victorian border.	**Koala** [M] *Phascolarctos cinereus*	V	Dispersal and foraging	Clearing paddock trees where they **are habitat critical to the species survival** or provide the only movement opportunity / refuge to or between areas of habitat critical to the species survival.

Table 3: Species endemic to South Australia

[M] There are mitigation measures that you **can** adopt for this species to avoid having to refer your proposed paddock tree clearing.

[H] Paddock trees are habitat critical to this species survival and mitigation **cannot** avoid having to refer your proposed paddock tree clearing.

State / Region	Species	Listing status	Type of habitat provided by paddock tree	Referral Required
Species endemic to South Australia				
Kangaroo Island.	**Glossy black cockatoo** [H] (Kangaroo Island) *Calyptorhynchus lathami halmaturinus*	E	Breeding and foraging	Clearing hollow bearing paddock trees of the following eucalyptus species: Sugar Gum (*Eucalyptus cladocalyx*), Blue Gum (*Eucalyptus leucoxylon*) or Manna Gum (*E. viminalis*). Also clearing of Drooping Sheoak paddock trees (*Allocasuarina verticillata*).

Table 4: Species endemic to Tasmania

[M] There are mitigation measures that you **can** adopt for this species to avoid having to refer your proposed paddock tree clearing.

[H] Paddock trees are habitat critical to this species survival and mitigation **cannot** avoid having to refer your proposed paddock tree clearing.

State / Region	Species	Listing status	Type of habitat provided by paddock tree	Referral Required
Species endemic to Tasmania				
South-eastern Tasmania, including Flinders Island and some offshore islands.	**Forty-spotted pardalote** *Pardalotus quadragintus*	E	Dispersal	Clearing paddock trees where they provide dispersal opportunities between white gum woodland patches occupied by this species.
Tasmania including offshore islands.	**Masked Owl (Tasmanian)** [M] – *Tyto novaehollandiae castanops*	V	Breeding	Clearing a paddock tree which provides a known nesting site.

Table 5: Species endemic to Queensland

[M] There are mitigation measures that you **can** adopt for this species to avoid having to refer your proposed paddock tree clearing.

[H] Paddock trees are habitat critical to this species survival and mitigation **cannot** avoid having to refer your proposed paddock tree clearing.

State / Region	Species	Listing status	Type of habitat provided by paddock tree	Referral Required
Species endemic to Queensland				
Gold coast area, south east Queensland.	**Ormeau bottle tree** *Brachychiton sp. Ormeau* (L.H.Bird AQ435851)	CE	Listed entity	Clearing multiple individuals of this species.
Northern Brigalow Belt between Moranbah and Emerald near Clermont.	**Retro slider** *Lerista allanae*	E	Refuge, breeding and foraging	Clearing a paddock tree in the known distribution of this reptile.
Southern Wet Tropics of north Qld, from the Hull River (east of Tully) south to Ollera Creek, south-east of Ingham, and extending inland about 100km.	**Mahogany glider** [M] *Petaurus gracilis*	E	Dispersal	Clearing paddock trees when they provide for the movement of this between isolated areas of vegetation.

Table 6: Species endemic to Western Australia

[M] There are mitigation measures that you **can** adopt for this species to avoid having to refer your proposed paddock tree clearing.

[H] Paddock trees are habitat critical to this species survival and mitigation **cannot** avoid having to refer your proposed paddock tree clearing.

State / Region	Species	Listing status	Type of habitat provided by paddock tree	Referral considerations
Species endemic to Western Australia				
Wheatbelt of Western Australia.	**Carnaby's black cockatoo**[H] *Calyptorhynchus latirostris*	E	Breeding	Clearing a hollow bearing paddock tree in this species breeding range.

APPENDIX B – Proposed paddock tree clearing case studies

Case Study 1 – Paddock tree clearing and the koala

Case Study: The paddock in this image is 115 ha in size. The paddock contains 19 old growth poplar box trees of varying health amongst a crop of sorghum. The landholder is proposing to clear the 19 paddock trees to improve manoeuvring of automated harvesting machinery.

Step 1 Protected species search: Following cross referencing of the property location with protected species identified in Appendix A of the National Paddock Tree Policy, the koala is the only nationally protected matter likely to be significantly impacted by paddock tree clearing. The koala is listed vulnerable under national environmental law.

Step 2 Habitat context: Potential habitat requirement of the koala from these paddock trees is dispersal (movement through the landscape).

Step 3 Landscape context: The landscape is fragmented. Remnant vegetation along the riparian zone and numerous roadside remnants provide the key movement corridors in this landscape context.

Step 4 Scale of action and magnitude of impact: Clearing the 19 paddock trees is highly unlikely to create a barrier to koala movement in this fragmented landscape.

A significant impact on the koala could result from multiple koalas being in the paddock trees when clearing is undertaken. This is because the mortality of the koalas would affect the recovery of a local population thereby further exacerbating decline in the local koala population.

Step 5 Mitigation: Mortality of the koala can be mitigated by undertaking the paddock tree clearing when there are no koalas in the paddock trees. A suitably qualified expert should undertake this mitigation measure.

Step 6 Referral recommendation: If appropriate mitigation measures are adopted, the proposed clearing of the paddock trees does not require referral under national environmental law.

Case Study 2 – Paddock tree clearing and the Red tailed Black-Cockatoo

Case Study: The paddock in this image is 100 ha in size. The paddock contains 56 old growth eucalyptus paddock trees including five dead gums with hollows. To the east are stands of brown Stringybark trees (*Eucalyptus baxterii*) and along the roadsides are stands of yellow gum (E. *leucoxylon*) and Buloke (*Allocasuarina luehmannii*). The landholder is planning to install a new centre pivot irrigation crop in the northern half of this paddock. To support this agricultural development, the landholder is proposing clear half of the paddock trees, including two of the five dead gum trees with hollows.

Step 1 Protected species search: Following cross referencing of the property location with protected species identified in Appendix A of the National Paddock Tree Policy, the South-eastern Red-tailed Black-Cockatoo (SERTBC) is the only nationally protected matter likely to be significantly impacted by paddock tree clearing. SERTBC is listed critically endangered under national environmental law.

Step 2 Habitat context: Potential habitat use by the SERTBC from these paddock trees is breeding and foraging. The species is frequently sighted in this area and endemic to the region.

Step 3 Landscape context: The landscape is fragmented, however, there are large remnants of woodland nearby and well vegetated paddocks and roadsides surrounding the paddock.

Step 4 Scale of action and magnitude of impact: The landholder engaged a local ecologist to survey the paddock trees on the property. Signs of feeding by the SERTBC across the site were identified including evidence of nesting in one of the two dead gum trees proposed to be cleared. The clearing of just one hollow bearing dead tree is likely to adversely impact the SERTBC population.

Step 5 Mitigation: Mitigation will not avoid significant impacts because hollow bearing trees are critical to the species survival. Significant impacts could only be avoided if the centre pivot irrigation system is relocated to not impact on any feeding or nesting trees.

Step 6 Referral recommendation: That the landholder submits a referral under national environmental law due to the likelihood of significantly impacting the nationally protected SERTBC.

Attachment D

CASE STUDY 4: PROVIDING REGULATORY CLARITY ON SIGNIFICANT IMPACTS FROM AGRICULTURAL DEVELOPMENT

Through our engagement with Local Land Services staff, we identified a need for regional guidance on significant impacts to nationally protected matters from agricultural development. This guidance is needed to support Local Land Services staff advise land owners on when a referral is required under national environmental law.

The regional threatened species guidance provides a regional profile of protected matters and prescribes the circumstances in which a significant impact is likely to occur and a referral recommended.

The guidance is a synthesis of technical information published by the Department at the time of listing a protected matter and the types of agricultural development occurring in a region.

The guidance also includes an indication of the likelihood that NSW Land Management Code activities (e.g. thinning, invasive native species removal) will significantly impact nationally protected matters.

Supporting Documents:

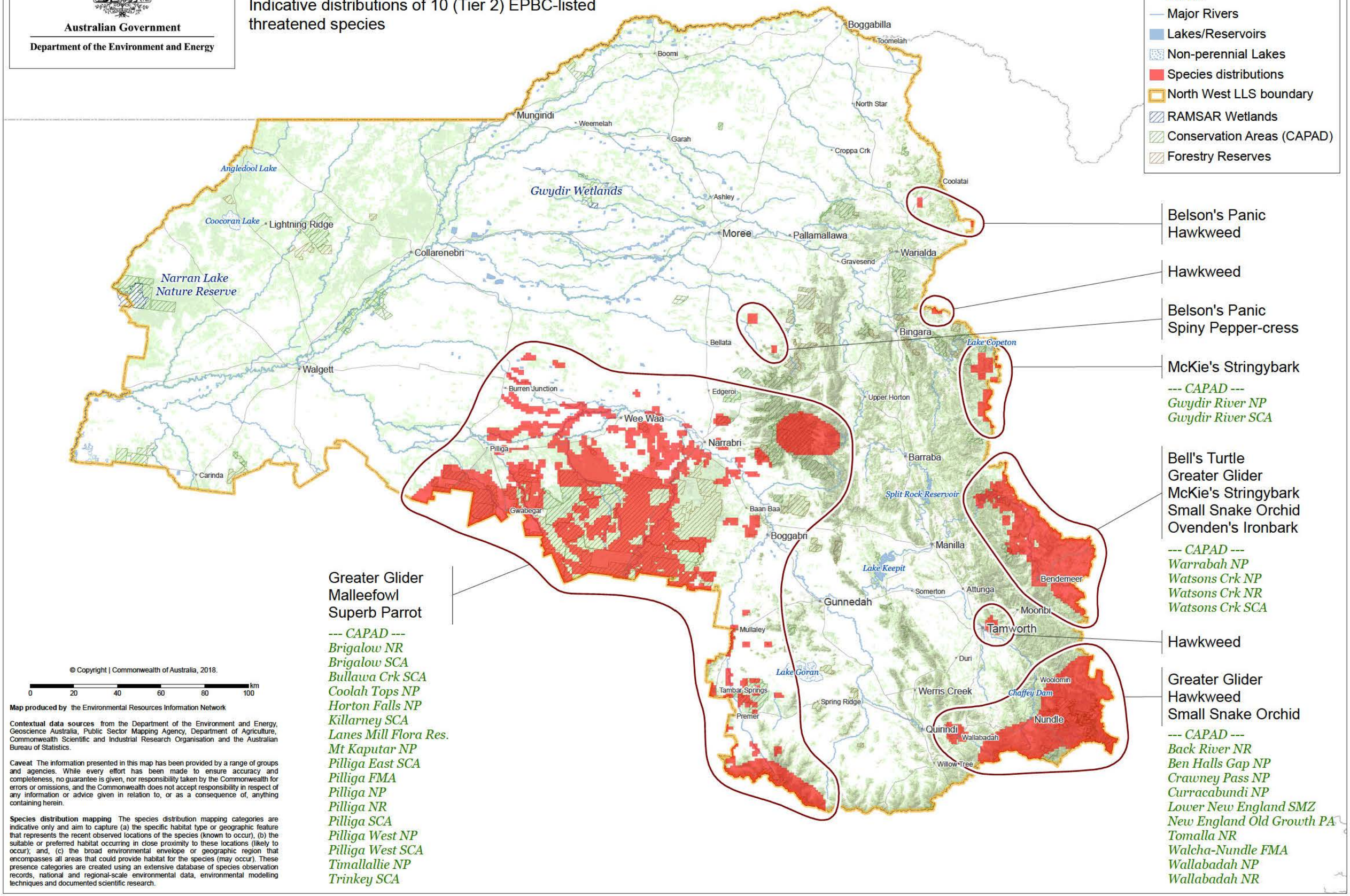
i. ***Threatened Species Guidance for Local Land Services Officers in the North West Region – Draft***

Australian Government

Department of the Environment and Energy

North West Local Land Services Region

Indicative distributions of 10 (Tier 2) EPBC-listed threatened species



- Cities and Towns
- Roads
- Major Rivers
- Lakes/Reservoirs
- Non-perennial Lakes
- Species distributions
- North West LLS boundary
- RAMSAR Wetlands
- Conservation Areas (CAPAD)
- Forestry Reserves

Belson's Panic
Hawkweed

Hawkweed

Belson's Panic
Spiny Pepper-cress

McKie's Stringybark

--- CAPAD ---
Gwydir River NP
Gwydir River SCA

Bell's Turtle
Greater Glider
McKie's Stringybark
Small Snake Orchid
Ovenden's Ironbark

--- CAPAD ---
Warrabah NP
Watsons Crk NP
Watsons Crk NR
Watsons Crk SCA

Hawkweed

Greater Glider
Hawkweed
Small Snake Orchid

--- CAPAD ---
Back River NR
Ben Halls Gap NP
Crawney Pass NP
Curracabundi NP
Lower New England SMZ
New England Old Growth PA
Tomalla NR
Walcha-Nundle FMA
Wallabadah NP
Wallabadah NR

Greater Glider
Malleefowl
Superb Parrot

--- CAPAD ---
Brigalow NR
Brigalow SCA
Bullawa Crk SCA
Coolah Tops NP
Horton Falls NP
Killarney SCA
Lanes Mill Flora Res.
Mt Kaputar NP
Pilliga East SCA
Pilliga FMA
Pilliga NP
Pilliga NR
Pilliga SCA
Pilliga West NP
Pilliga West SCA
Timallallie NP
Trinkey SCA

0 20 40 60 80 100 km

Map produced by the Environmental Resources Information Network

Contextual data sources from the Department of the Environment and Energy, Geoscience Australia, Public Sector Mapping Agency, Department of Agriculture, Commonwealth Scientific and Industrial Research Organisation and the Australian Bureau of Statistics.

Caveat The information presented in this map has been provided by a range of groups and agencies. While every effort has been made to ensure accuracy and completeness, no guarantee is given, nor responsibility taken by the Commonwealth for errors or omissions, and the Commonwealth does not accept responsibility in respect of any information or advice given in relation to, or as a consequence of, anything containing herein.

Species distribution mapping The species distribution mapping categories are indicative only and aim to capture (a) the specific habitat type or geographic feature that represents the recent observed locations of the species (known to occur), (b) the suitable or preferred habitat occurring in close proximity to these locations (likely to occur); and, (c) the broad environmental envelope or geographic region that encompasses all areas that could provide habitat for the species (may occur). These presence categories are created using an extensive database of species observation records, national and regional-scale environmental data, environmental modelling techniques and documented scientific research.

LEGEND

NATIONALLY THREATENED SPECIES RANKINGS	ADVICE to LLS
Tier 1 species - These species are most likely to be impacted by agricultural development in this region. Characteristics include: a species distribution is widespread and/or endemic to this region; the region provides important resources or recovery value for a species; the region provides for a large proportion of a species range.	In this region, these species will most often trigger the need for referral under the EPBC Act. Familiarisation with the ecology of and significant impacts on these species is highly recommended.
Tier 2 species - These species may in specific localities or unique circumstances be impacted by agricultural development in this region. Characteristics include: a species is known to have important occurrences, habitat or populations in the region. Refer to Map 1.	In this region, these species will at times trigger the need for referral under the EPBC Act. Most of these species are data deficient or have outdated information. Engaging regional expertise to better understand the ecology and significant impacts on these species is highly recommended.
Tier 3 species - These species are unlikely to be impacted by agricultural development in this region. Characteristics include: an absence of important habitat for a species in the region; a species is now generally absent from this region; a species is restricted to unique habitats or protected areas in this region which are unlikely to be subject to agriculture practices; a species has very limited occurrence in the region.	Consideration of these species will be required where very large actions are proposed immediately adjacent protected areas or where there may be indirect impacts on protected areas. In this region, these species will not need to be considered for most agricultural development. (see tab x)

ADDITIONAL CONSIDERATIONS MAY OR LIKELY TO BE REQUIRED	ADVICE to LLS
Yes - Determining the likelihood of significant impacts is likely to be complex or subjective and will involve additional considerations including expert advice.	Advise the landholder that additional/expert advice is required to determine if the proposed agricultural development needs to be referred under the EPBC Act. Additional/expert advice may be required to provide certainty about the occurrence and likely impacts on the species. This may include verbal consultation, further desktop analysis and/or detailed field investigations.

WHY ADDITIONAL CONSIDERATIONS MAY BE REQUIRED	ADVICE to LLS
Detectability [D]	Species can be hard to detect because of its cryptic nature leaving uncertainty about its presence on a site. If suitable habitat is present then targeted surveys are likely to be required by an ecologist. Alternatively if high quality habitat exists and desktop evidence supporting likelihood of occurrence exists then the precautionary principle can be applied and species assumed present. Assuming presence of a species streamlines a referral-approval process because expert advice is not required.
Data deficient [DD]	Uncertainty exists about the species distribution in this region because it has not been subject to recent surveys or research. A species may be more widespread than what is known given its broad ranging habitat preferences. A landholder is likely to need to engage a local ecologist to get a regional perspective on likely occurrence or to undertake targeted surveys for it on site if suitable habitat exists. Where resources allow, a regional assessment of priority species to better understand their distribution, ecology and significant impacts is highly recommended.
Habitat dependant [HD]	A species is widespread in region and/or may be known to occupy disturbed environments. Determination of species habitat dependence is related to the habitat quality i.e. presence of an important population which may be driven by habitat critical to the survival of the species. Alternatively, a species is endangered and has very specific habitat requirements that need to be verified by an experience ecologist. Engaging a local ecologist to undertake a habitat assessment is highly recommended. Targeted surveys may also be required to determine if an important population is present and whether the habitat is critical to the species survival.

ACTIONS UNDER THE LAND MANAGEMENT (Native Vegetation) CODE 2017	ADVICE TO LLS
Low – Low likelihood of this type of action requiring a referral for significant impacts on the species.	Advise the landholder that the proposed development is unlikely to have a significant impact on the threatened species and therefore will not require referral to the Australian Government.
Low with Mitigation – If appropriate mitigation is adopted then their is a low likelihood of this type of action requiring referral. Mitigation could involve spotter catcher / ecologist being engaged to supervise clearing, flush trees and advise on timing of tree clearing, outline trees for retention amongst those to be cleared, outline breeding habitats for avoidance. Also can advise on appropriate burning times i.e. not during breeding /egg laying times of certain species like reptiles. If mitigation is not adopted then likelihood of a referral could be possibly be high.	Advise the landholder of mitigation that will reduce the impact of the development on the threatened species to below significant. If these mitigations are implemented in full, referral is not required. If mitigations are not wholly implemented, the likelihood of a referral being required is high.
Possibly high – Possibly high likelihood of this type of action requiring a referral. Dependent upon context including, location, proximity to breeding habitat, populations, water etc.	Advise the land holder that a referral under the EPBC Act may be required because there is potential for the agricultural development to significantly impact on nationally listed species. Recommend investing extra resources into the proposal i.e. contracting a local ecologist to undertaken on ground investigations and provide local knowledge of the species or consider seeking advice from the Australian government regarding likelihood of impact on species. This may result in a Low or Low with Mitigation likelihood rating.

Attachment E

NATIONAL ENVIRONMENTAL LAW AND REGULATION OF AGRICULTURAL DEVELOPMENT - OVERVIEW

- The agricultural sector is subject to a significant number of allegations of illegal land clearing, noting that only a small percentage of those allegations are escalated to formal case management by the Department.
- Approximately 46% of identified contraventions of Part 3 of the EPBC Act which have resulted in a formal compliance actions being taken, are associated with the agricultural sector. Exclusively, these matters relate to landholders who have taken an action without first obtaining required approvals from local, state or federal jurisdictions.
- State and territory governments are primarily responsible for land management activities, including land clearing. The EPBC Act does not apply to ongoing farming activities, and is only enlivened when an enlargement, intensification or expansion of a farming venture significantly impacts on a protected matter.
- Recent reforms to NSW and Queensland native vegetation legislation have instituted a more permissive approach to the clearance of native vegetation, exposing a larger number of landholders to the EPBC Act and an increase in allegations of illegal agricultural clearing being made to the Department.
- The Department has never taken enforcement action against a farmer who, acting in good faith and in accordance with state or local government regulations, inadvertently contravenes national environmental law.
- There may be a range of possible outcomes from an investigation under the EPBC Act:
    - no further action, and issue of a letter of warning
    - administrative response to repair or mitigate damage (generally the Department's preferred approach as it results in an on-ground beneficial outcome without the financial and resource implications of a court case)
    - remediation order through the Federal Court requiring a person to repair damage
    - a pecuniary penalty for contravening a civil penalty provision
    - criminal proceedings for contravening civil or criminal provisions of the legislation.
    - While the EPBC Act provides criminal provisions for breaches, the Department has never taken criminal action for agricultural land clearing.
- Enforcement action is generally taken when one or more of the following factors are present, or at the discretion of the Minister:
    - Serious and/or irreversible harm to matters of national environmental significance.
    - A history of non-compliance of the person for the same or similar offences.
    - To ensure the Act is applied fairly and equitably.

- Disregard to law: eg: the person was aware of the need for approval under national environmental law, and went ahead with the action without the required approval.
- Failed attempt to resolve through voluntary compliance measures.

Attachment F

AGRICULTURE AND THE EPBC ACT– HORIZON SCAN

Agriculture Review –
THREATENED ECOLOGICAL COMMUNITIES AND EPBC REFERRALS

What is the problem?

- A lack of awareness in the rural sector about the EPBC Act and the implications of having a listed ecological community on a farm. This has led to misinformation about regulatory impacts, driven in part by recent high-profile compliance actions that have raised concerns within the sector, and low awareness that many on-farm NRM projects are nationally funded because of ecological communities.

Case study/Example

- Currently, 78 of the most threatened ecosystems in Australia are represented on the national list of ecological communities. Many of these occur in agricultural regions.
- However, the number of referrals from the agriculture sector has remained consistently low. Most ecological communities in agriculture regions trigger no referrals and Australia-wide there is on average 1 or 2 referrals per year for actions in the agriculture sector that are at least in part due to ecological community potential impacts. No actions have been rejected due to ecological communities, although a couple have been changed to minimise impacts.
- There have been a couple of high-profile cases that have raised concerns, but the incidence of compliance cases involving farmers due to ecological communities also has been low.
- At the same time, hundreds of farms, landowners and rural community groups have benefitted from Government funding targeted at listed ecological communities. Grants primarily support projects that address threats to both farming and the environment, such as erosion, weeds and feral animals.

What is the Department / Government currently doing to solve the issues?

- The EPBC Act focuses on significant impacts, which are typically due to large major projects e.g. mining and infrastructure. It imposes a low regulatory burden to most farmers because:
  - Exemptions exist under the EPBC Act for continuing use and prior authorisation that covers most activities by individual farmers.
  - Most new activities by individual farmers are unlikely to be a significant impact on ecological communities and do not need to be EPBC approved. The few referrals for agriculture-related activities are typically for industrial-scale developments such as large feedlots, or large irrigation projects. Compliance investigations target cases of extensive clearing and damage to high quality remnants of threatened communities.
  - Minimum condition thresholds are applied to ecological community listings to ensure that EPBC Act protection focuses on remnants and habitats in the highest condition. This means referral and approval is not required for actions impacting on small or degraded ecological community areas, which are the only areas on most farms e.g. paddock trees, narrow shelter breaks, weedy or non-native paddocks are typically excluded.
- For ecological communities in farming regions the Department distributes information guides, including farmer factsheets developed in consultation with agriculture stakeholders. These explain the implications of listing and help promote available NRM opportunities.
- The Department also engages with key interest groups regarding the national listing process and regulation of ecological communities, including regular meetings with the NFF and recent on-farm training of NSW Local Land Services officers.

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Relevant links / references

- Agricultural development and national environmental law. http://www.environment.gov.au/epbc/publications/factsheet-agricultural-development-national-environmental-law
- Farmers and the national environmental law (EPBC Act) http://www.environment.gov.au/epbc/information-for/farmers
- EPBC List of Threatened Ecological Communities containing links to conservation advices, recovery plans and information guides for farmers and other landowners http://www.environment.gov.au/cgi-bin/sprat/public/publiclookupcommunities.pl

Listing of nationally threatened species

What is the concern?

The agriculture sector may express concern about:

- constraints on agricultural practices imposed by regulation under the EPBC Act
- unforeseen changes in regulatory obligations stemming from regular additions to the list of threatened species (and other matters of national environmental significance)
- opportunities to participate in, and influence, the listing process for threatened species
- supporting information required under the EPBC Regulations to nominate a species for listing, transfer of category or delisting.

What is the Department / Government currently doing to address the concerns?

- The EPBC Act and Regulations prescribe the process for nominating, prioritising, assessing and listing threatened species. This process is undertaken in collaboration with relevant states and territories to increase consistency and clarity for the regulated community (see separate fact sheet on the Common Assessment Method).
- The Act provides for the public to participate in the threatened species assessment process by nominating species in the annual public invitation and by responding to draft assessments released for public consultation.
- The Department communicates calls for nominations, assessments open for comment and listing changes via news banners on multiple pages of its website.
- Information about how to make a nomination and the process that governs nominations, prioritisation, assessment and listing is also available on the website.
- Profiles for each listed species, including information about the entity and links to the documents justifying its listing, are updated and publicly available on the website.
- Proximity search tools are updated and publicly available to assist stakeholders to discover matters of national environmental significance in an area of interest.
- Internally, relevant areas of the department are informed of changes to the list to ensure that decision-makers are informed prior to making decisions about EPBC referrals and approvals.

Relevant links / references

The information about what constitutes a listed entity under the EPBC Act and the processes that occur around listing, recovery plans etc. can be found here: www.environment.gov.au/biodiversity/threatened

The department's spatial Protected Matters Search Tool can be found here: http://www.environment.gov.au/epbc/protected-matters-search-tool

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