



# **National Farmers' Federation**

## **Public Submission to the Senate Inquiry into the operation of the *Environment Protection and Biodiversity Conservation Act 1999***

22 September 2008



Member Organisations



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# National Farmers' Federation

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The National Farmers' Federation (NFF) was established in 1979 and is the peak national body representing farmers, and more broadly agriculture across Australia.

The NFF's membership comprises of all Australia's major agricultural commodities. Operating under a federated structure, individual farmers join their respective state farm organisation and/or national commodity council. These organisations collectively form the NFF.

Each of these state farm organisations and commodity council's deal with state-based 'grass roots' issues or commodity specific issues, respectively, while the NFF represents the agreed imperatives of all at the national and international level.

## Introduction

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The NFF welcomes the opportunity to provide a submission to the Senate Standing Committee on Environment, Communications & the Arts Inquiry into the operation of the EPBC Act (the "Inquiry").

There have been numerous reviews of natural resource management and the Environmental Protection & Biodiversity Conservation Act 1999 (the "EPBC Act") since it came into force in 2000. Such reviews include parliamentary reviews, independent reviews (such as the Keogh review) and two Australian National Audit Office reviews (31 and 38). In addition, the EPBC Act was amended in 2006 to cut red tape to enable quicker and more strategic action<sup>1</sup>.

NFF notes the strong linkage with this Inquiry and that of the NRM and Conservation Inquiry currently before the Rural and Regional Affairs and Transport Committee. Both inquiries are seeking to look at the effectiveness of the legislation and the funding programs that are the responsibility of the Federal Government.

The NFF has worked closely with the Department of Environment, Water, Heritage and the Arts (DEWHA) to ensure that farmers are aware of their responsibilities and obligations under the EPBC Act. The issue of communications of new listings under the EPBC Act, and farmers understanding their obligations remains an issue – with contraventions of the EPBC Act an indicator of this communications "failure". Further endeavours are required.

The priorities for NFF are:

- To ensure that an incentives rather than regulatory based approach is forefront of environmental management on private land (e.g. environmental stewardship program);

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<sup>1</sup> 2007 The Auditor-General Audit Report No.31 2006-07, Performance Audit, The Conservation and Protection of National Threatened Species and Ecological Communities, Department of the Environment and Water Resources

- That the Caring for our Country (C4C) funding is more closely aligned to the Federal Government's responsibilities under the EPBC Act for non-private land; and
- An adequately funded communications strategy to farmers is urgently implemented.

## NFF and NRM

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NFF has a long history of supporting investment in natural resource management. Starting in 1989, the NFF:

- With Australian Conservation Foundation (ACF), strongly supported the Decade of Landcare;
- Formed an alliance with ACF, Australian Local Government Association and Greening Australia in 1996 for delivery of National Vegetation Initiative (the Six Point Plan); and
- More recently, the Environmental Stewardship Program (ESP) is an NFF initiative now included in the Caring for our Country (C4C) program. The ESP is currently being trialled as a pilot program in the Murrumbidgee and Lachlan Valleys of NSW for Box Gum Grassy Woodlands (BGGW) on private land. A tender has also been released for delivery of the ESP for BGGW in northern NSW and southern Queensland.

The NFF called for and strongly supported the establishment of Natural Heritage Trust (NHT) and its successor programs. The Six Point Plan referred to above, was also relevant to NHT and it is worthwhile reiterating those high-level principles here:

1. Long term planning and commitment;
2. Regional delivery;
3. Innovative approaches to funding and incentives;
4. Monitoring and information systems;
5. Training and technical assistance; and
6. Clear definition of responsibilities.

Farmers occupy and manage 61% of Australia's landmass; they are at the frontline in delivering environmental outcomes on behalf of the broader community<sup>2</sup>. This underpins the long history and NFF philosophy for delivering good environmental outcomes on the land owned and managed privately by Australia's farmers, and that better outcomes will be achieved using incentives rather than regulation.

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<sup>2</sup> Australian Government Bureau of Rural Sciences, *Land Use of Australia 2001-02*

More recently, Government programs recognise the importance that the Australian community places on higher level care of privately owned lands using market based instruments (MBIs) such as the ESP under the C4C program. These mechanisms seek to pay farmers to actively manage high conservation value lands (including selective grazing, fencing, weeds & pest control, and habitat enhancement) on behalf of the wider community.

#### Out posted DEWHA Resources Liaison Officer

In 2002, the NFF seconded an Australian Government DEWHA Resources Liaison Officer to provide effective communication and information 'on-the-ground' to farmers and rural stakeholders in relation to the EPBC Act. In 2007, this role expanded to provide a liaison role for NFF stakeholders to the entire Department. With regard to the EPBC Act, the Liaison Officer provides:

- Free advice and clear explanation regarding the EPBC Act;
- Practical assistance with aspects of referral, assessment and approval processes and other features of the EPBC Act;
- Information - such as guides, information sheets and direction to relevant websites to make it easier for farmers to work with the legislation;
- Information and training about DEWHA and the EPBC Act to NFF staff, organisations and rural landowners;
- Assistance with consultative processes, such as comments on nominations for threatened species, ecological communities, key threatening processes and recovery plans under the EPBC Act; and
- Feedback to the NFF and DEWHA about the operation of the EPBC Act.

NFF is grateful to DEWHA for the provision of this service for Australian farmers. With the recent cut back in funding for on-ground regional based NRM facilitators (Landcare in particular), the role of the out posted Officer will be increasingly important to ensure that farmers are aware of their responsibilities under the EPBC Act. As will be discussed later in this submission, additional resources to address communications are needed.

## Federal Government Responsibilities

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Primary responsibility for natural resource management rests with the State and Territory Governments. The Federal Government's responsibility is to administer the EPBC Act. The EPBC Act seeks to protect threatened and endangered species and ecological communities via recovery plans and to manage key threatening processes via threat abatement plans where necessary.

According to the 2006 State of Environment Report<sup>3</sup>, the Australian Government environmental expenditure has increased at least four-fold over the reporting period. Other governments and the philanthropic and business sectors have also contributed significantly to environmental management. In 2002-03, the spread of environmental investment across jurisdictions is 37% local government, 47% state and territory governments and the Federal Government is 16% of total expenditure.

Despite the environmental investment via the C4C (and its predecessor programs), it remains questionable whether the outcomes sought and funded by the Federal Government have been achieved effectively and efficiently. This perspective is assisted by the lack of a clearly defined and transparent linkage between the funding mechanism (i.e. C4C program) and the objectives of the EPBC Act. The C4C and its predecessor programs had multiple objectives – partly to enhance the objectives of the EPBC Act, but also to provide funding assistance to a wide range of environmental assets that may not have been included under the EPBC Act listings.

The ability to measure NRM outcomes is problematic and will need to be addressed in the C4C program. The 2006 State of the Environment Report Committee identified that it was difficult to collate and track data underpinning the achievements of Government investment<sup>4</sup>. Likewise, the Australia Farm Institute (AFI) recently released a report<sup>5</sup> that attempted to apply an economic value of environmental services provided by the agricultural sector. However, the difficulty identified in the AFI report was that farmer investment in NRM was reported in terms of participation rates instead of actual outcomes, e.g. hectare of riparian zones fenced. Hence, it was difficult to assign a dollar value to NRM investment by farmers and reporting against deliverables. The C4C evaluation, monitoring and reporting framework will need to effectively deal with this past legacy.

## ANAO reviews

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The ANAO has undertaken two reviews of the EPBC Act – No 38 in 2002-03<sup>6</sup> and No 31 in 2006-07<sup>7</sup>.

The objective of Audit 38 *“was to examine and report on the quality and timeliness of environmental assessments and approvals under the Act, as well as Environment Australia’s activities to ensure compliance with the Act”*<sup>8</sup>.

The overall conclusions were that *“the referral, assessment and approval processes...are generally thorough and well documented.”* ANAO noted that referrals for significant impact actions were small for agriculture and other agencies, leading the ANAO to suggest *“more specific guidance and promotion of the Act in relation to what constitutes a ‘significant impact’”*. ANAO

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<sup>3</sup> 2006 Australian State of the Environment Committee, December 2006, available online:

<http://www.environment.gov.au/soe/2006/publications/summary/achievements.html>

<sup>4</sup> Ibid, available online: <http://www.environment.gov.au/soe/2006/publications/summary/suggestions.html>

<sup>5</sup> 2008 Australian Farm Institute, Estimating the value of environmental services provided by Australian farmers

<sup>6</sup> 2003 The Auditor-General, Audit Report No.38 2002-03, Performance Audit, Referrals, Assessments and Approvals under the Environment Protection and Biodiversity Conservation Act 1999

<sup>7</sup> 2007 The Auditor-General Audit Report No.31 2006-07, Performance Audit, The Conservation and Protection of National Threatened Species and Ecological Communities, Department of the Environment and Water Resources

<sup>8</sup> Ibid, p. 12

noted that decisions were generally timely but there were opportunities for improvement particularly to aid the cost effective generation of statistics<sup>9</sup>.

ANAO further noted that implementation of the EPBC Act was still in an early stage, and warned that inadequate monitoring was an issue with implementation of the previous legislation (i.e. Environment Protection (Impacts of Proposals) Act 1974). To assist in enhancing compliance and enforcement, ANAO recommended:

- finalising compliance and enforcement guidelines;
- strengthening compliance networks; and
- more timely and effective approach to potential breaches.<sup>10</sup>

Environment Australia agreed with the recommendations.

The objective of Audit 31 *“was to assess and report on the administration of the Environment Protection and Biodiversity Conservation Act 1999 by the department in terms of protecting and conserving threatened species and threatened ecological communities in Australia”*<sup>11</sup>. In particular, the Audit focussed on Chapters 4 and 5 of the EPBC Act with regard to:

- *“the listing of threatened species and ecological communities;*
- *the development of recovery plans for these species and ecological communities as well as the processes to mitigate threats to them;*
- *implementation of recovery actions and conservation through programs such as the Natural Heritage Trust and the Biodiversity Hotspots Programs;*
- *assessments and approvals of actions that are likely to impact on these threatened species or ecological communities; and*
- *the design and implementation of compliance and enforcement actions to maintain the integrity of the Act”*<sup>12</sup>.

ANAO noted that during the later part of its review, Federal Parliament passed amendments to the EPBC Act designed to *“cut red tape and enable quicker and more strategic action to be taken on emerging environmental issues....provide greater certainty for industry while at the same time, strengthening compliance with, and enforcement of, the Act”*<sup>13</sup>. ANAO noted that amendments were made to the listing process and development of recovery plans.

The overall audit conclusions were:

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<sup>9</sup> Ibid, p.12-13

<sup>10</sup> Ibid, p. 14

<sup>11</sup> 2007 The Auditor-General Audit Report No.31 2006-07, Performance Audit, The Conservation and Protection of National Threatened Species and Ecological Communities, Department of the Environment and Water Resources, p. 42.

<sup>12</sup> Ibid, p. 42

<sup>13</sup> Environment and Heritage Legislation Amendment bill (No 1) 2006; Second Reading Speech, p. 6 quoted in 2007 The Auditor-General Audit Report No.31 2006-07, Performance Audit, The Conservation and Protection of National Threatened Species and Ecological Communities, Department of the Environment and Water Resources, p. 13.

- protection and conservation remained a challenge, particularly constrained by the scale of tasks, technical requirements and limited resources;
- Pre 2006 legislative amendment non-compliance issues were no longer legal requirements;
- There were a number of administrative shortcomings, e.g. slow progress on some listings, inadequate monitoring, compliance and enforcement of actions, data and documentation gaps;
- The department had made several unsuccessful requests for additional funding; and
- Commonwealth funding programs had assisted in actions to enhance some species & ecological communities;

ANAO made a number of recommendations for future directions:

- Improving the accuracy and completeness of the lists species & ecological communities, including listing and de-listing were appropriate;
- Establishing a priority order and expedition for all recovery plans;
- Improving the promotion and requirements of the EPBC Act in priority regions;
- Strengthening implementation of the compliance and enforcement strategy; and
- In the longer term:
  - Regular updating of the lists of species & ecological communities and better alignment with changes to state lists;
  - Building strong compliance partnerships in priority regions for planning processes;
  - Scope assistance to local governments in priority regions; and
  - Give sufficient priority to monitoring and reporting to Parliament.

The department agreed with the report recommendations, especially the guidance on pursuing highest priority actions to meet the objectives of the EPBC Act.

In summarising the issues and recommendations in the ANAO reviews above, NFF does not purport acceptance and endorsement of these recommendations.

NFF notes that the main issue identified by the ANAO reviews was mainly one of resourcing and a streamlining of assessment process, including a reduction in red tape. The 2006 amendments to the EPBC Act were aimed at reducing the red tape and this will assist with the resourcing issues.

NFF finds it perplexing why the Senate Inquiry terms of reference would focus on the earlier 2003 ANAO report (no 38) and not the more recent 2007 report (no 31). NFF assumes this a typographic error. In considering the NFF's responses to the specific terms of reference, NFF will refer to the later 2007 ANAO report (No 31).

## Previous NRM Inquiries

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Over the past few years, there have been a number of inquiries directly and indirectly into NRM, such as:

- Ministerial Reference Group for Future Program Delivery (the Keogh Review);
- Agriculture & Food Policy Reference Group (the Corish review);
- Stewardship working group;
- Senate Report on Living with Salinity; and
- Productivity Commission Report on the Impacts of Native Vegetation and Biodiversity Regulations.

It is worthwhile repeating here, the issues raised by NFF in three recent inquiries.

*Proposed Amendments to EPBC Act – Senate Environment, Communications, Information Technology & Arts Committee Inquiry 2006*

### **Cutting regulatory red tape**

The amendments will reduce duplication and complexity in administering assessments and approvals enabling the Australian Government to make decisions on different approval stages simultaneously, particularly in relation to more straight forward proposals. This will facilitate faster turnaround times by reducing mandatory steps taken by applicants and therefore processing time. This approach potentially achieves greater cost savings and efficiencies for the farming industry and the community.

The amendments should result in improved cooperation on environment assessment and approval processes between the Australian Government and the state and territory governments through bilateral agreements that remove duplication between jurisdictions in administering environmental legislation. The current duplication is a significant issue for Australian farmers and if the proposed amendments begin to address this it is a significant step forward.

### **Strategic and flexible approaches**

The amendments will provide greater incentives for farmers to engage more strategically in EPBC processes. NFF acknowledges that the current EPBC Act provides for such strategic approaches but these have not been greatly utilised. The proposed amendments will make it

easier for development activities to be considered earlier in the planning process and in the context of regional plans, strategic assessments and conservation agreements.

The amendments will also provide for a more strategic approach for listing threatened species, ecological communities and heritage places, through an annual programme based on the importance of nominations and listing proposals rather than the current ad hoc approach. We support what has the potential to become a more objective, less politicised listing process.

### **Increasing flexibility in setting conditions on developments**

The amendments will broaden the types of conditions to be attached to development approvals. Voluntarily compensatory actions and financial contributions will help offset the impacts of development activities in situations where impacts are unavoidable. This injects more flexibility into development options available to the agriculture sector.

### **Compliance and enforcement**

The amendments will establish a range of enforcement options as an alternative to lengthy and expensive court proceedings and reduced penalties for minor breaches of the EPBC Act. This amendment potentially delivers better environmental outcomes on the ground, particularly in situations where the benefits of remediation of impacts will clearly outweigh the costs (both time and money) of lengthy court processes.

#### *Environmental regulations – Productivity Commission Red Tape Review 2007*

Australian farmers have expressed concerns over the approval process involved when looking to change existing land use and function on-farm. This may include land clearing practices, dam development or the formation of subdivisions.

In such circumstances, the EPBC Act requires farmers to gain Commonwealth approval on matters of national environmental significance including operations on heritage-listed sites, Ramsar wetlands, nationally threatened animal and plant species and ecological communities. Applications through a detailed referral process must be completed to ascertain whether the actions meet the national environmental significance test and to determine what actions are required. The outcome of this process, which can take up to six months if approvals are required for controlled actions, may include non-controlled action, non-controlled action in a prescribed manner or controlled action. This process, however, does provide legal certainty as to what activities the landholder can proceed with so that sustainable and desired conservation and environmental outcomes can be achieved.

In addition to the Commonwealth approval process, Australian farmers must also gain environmental approval through their State accreditation processes for the same on-farm actions. Each State has a completely separate set of guidelines, rules and requirements to that outlined within the EPBC Act, adding another tier of complexity to the farmer's requirements. In many instances, the State approval process has no set timeframe under which it is required to provide certainty back to the farmer on whether they can proceed.

As a result, many farmers are reluctant to go through the process of changing their existing land practices, as the regulatory steps that they must undertake are too onerous and time consuming. Regrettably, this has placed pressure on some farmers to take land use decisions into their own hands, with instances of poor judgement leading to convictions or bad environmental outcomes.

Recommended solutions:

- There is a genuine need in this area for simplifying and adding flexibility to the process of environmental approval;
- Need to provide quicker assessment for straight forward applications; and
- Need to streamline State and Commonwealth application processes.

### NRM Senate Inquiry 2008

The NFF submission to this inquiry should be available on the Senate website. In essence, the key points are:

- long term funding commitments are needed as landscapes are slow to respond to investment and to prevent a high turnover of NRM staff servicing and supporting the farm sector;
- Streamlined approvals for local, State and Federal Government legislative, regulatory and policy requirements, with simplification long overdue to reduce the confusion incurred by farmers and possible negative compliance results such as substantial fines;
- Much of the NRM investment on ground has been about trees, when biodiversity is much more than trees; and
- Public lands should be adequately funded and managed, particularly in respect of weeds and pests.

## NFF issues

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The NFF has identified a number of issues that require further consideration under the EPBC Act. These are outlined below.

### Ambiguity remains over continuous use provisions:

The EPBC Act provisions relating to continuous use provisions remain a significant concern and leads to confusion for farmers. As NFF understand it, the continuing use provisions state that when a farmer continues to use his land as it has been historically managed then there is no requirement for an assessment process. However, this provision does not cover intensification or expansion of the historic farming practice, e.g. increasing the number of livestock being grazed or expansion of the area traditionally cropped.

The following is an explanation of the provisions on the DEWHA website:

***Do the prior authorisation and continuing use exemptions apply to you?***

*Under the prior authorisation exemption, assessment and approval under the EPBC Act are not required if:*

- *the action was specifically authorised under a law of the Australian Government, a State or a self-governing Territory before 16 July 2000; and*
- *as at 15 July 2000, no further **environmental authorisation** was necessary to allow the action to be taken lawfully; and*
- *the action has remained within the scope of the authorisation.*

***Environmental authorisation*** means an authorisation under a law of the Australian Government, a State or a self-governing Territory that is intended to protect the environment or promote the conservation and ecologically sustainable use of natural resources.

*An example of an activity that could be exempted under the prior authorisation provision is cattle grazing in accordance with a crown land licence issued under the Victorian Land Act 1958.*

*Under the continuing use exemption, assessment and approval under the EPBC Act are not required if:*

- *the action commenced before 16 July 2000; and*
- *the land-use is lawful; and*
- *the action has continued in the same location without enlargement, expansion or intensification.*

*Any enlargement, expansion, or intensification of an existing use is not a **continuation** of a use. If you propose to enlarge, expand or intensify your action it is not covered by this exemption and, if the enlargement, expansion or intensification is likely to have a significant impact on a matter of national environmental significance, you should refer the action for assessment and approval.*

*Examples of activities that could be exempted under the continuing use provision are:*

- *routine grazing activities, including cyclical activities such as periodic grazing;*
- *continuing cropping and crop rotation;*
- *slashing to maintain existing firebreaks;*
- *maintenance of existing dams, roads, fences etc; and*
- *continuing an existing weed control program.*

This definitional confusion also extends to confusion between the state and Federal legislation on clearing, e.g. the Queensland Act covers woody but not grassy vegetation – and some EPBC Act listings for ecological communities cover grasslands. Another example is if did private was undertaken forty years ago does this mean that forestry now is acceptable (given the need to allow trees to grow and mature).

The continuous use provision must be amended to avoid unintended or perverse consequences for farmers. As an example, many farmers undertake production of a number of commodities on farm. The intent is to spread the risk of low returns across years and commodities, leading to more profitable farm businesses generally. To undertake a decrease of production in one commodity will result in an increase in production of another

commodity. In such instances, farmers may decrease production of wheat, and increase the intensity of sheep. This is essentially a contravention of the continuous use provisions.

### Peri-urban issues

Peri urban sprawl is a national (& international) threat to agriculture and the environment.

Once associated with coastal areas, a national study has shown peri urban sprawl now extends up to 130 kilometres out from all of our major cities, rural regional centres and coastal areas, affecting 35 NRM regions. Peri urban regions are characterised as having high levels of land use and environmental conflict. In Australia, the peri urban regions contain 60% of all threatened species and accommodate 25 % of national agricultural production<sup>14</sup>.

Peri urban sprawl is essentially the urbanisation of regional land in close proximity to large cities. It is characterised by several overlapping processes including changes to land use, management, and social/urban structures. The key economic driver is a demand for low density and low cost residential housing that increases land prices to the extent that farming is a poor economic option. Amenity and aesthetics also form part of the decision drivers for peri-urban development.

These peri urban environments score lowly against sustainability measures such as efficient public transport, water use and social connectivity.

Both the agricultural and environmental managers have recognised these peri-urban issues and suggest planning amendments to consider family friendly housing developments that have minimal impact on the environment and agricultural lands.

### NRM/Landcare facilitators

NFF identified the importance of long-term relationships between NRM facilitators and farmers in its submission to the Senate NRM inquiry. Funding to the facilitator networks has historically based on three-year election cycles reducing the employment security of the facilitator. In addition, funding has recently been cut and the ability for smaller organisations to attract open grants funding is limited. NFF supports a longer-term funding stream to retain the integrity and trust developed in the facilitator network.

### Alignment of Local, State and Federal Government NRM

With numerous levels of Government, there is real risk of confusion in what approvals are required from an NRM perspective. There is one set of plans at a local government level, different requirements from a State Government and again for the EPBC Act. In some cases, achievement of state Government NRM requirements will be sufficient to meet the EPBC Act obligations – in other jurisdictions, it will not. Furthermore, the regulatory focus of state NRM legislation is resulting in sub-optimal perverse outcomes.

The NRM regional groups have a role to play in being a one-stop shop for any landholder wishing to undertake development activities on farm or to change historic land-use. Many

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<sup>14</sup> 2008 Buxton Low Choy, Change and Continuity in Peri-urban Australia

farmers understand that they need approvals from local and state government but many do not know Federal Government approvals. Likewise, many also know that the regional NRM organisations are a source of funding for NRM works. NFF suggests that the NRM groups should provide a concurrent assessment of each of the different legislative requirements, and funding grants where needed, to ensure that the landholder obtains the right advice and is issued the relevant approvals for all levels of Government.

The other main area for reform should be the alignment of the various assessment processes under each jurisdiction. This will invariably include alignment of the NRM policy outcomes, as well as alignment of the assessment process as one process rather than numerous (i.e. reduce the red tape). An out posted DEWHA Liaison Officer located in each State Farming Organisations will also assist in aligning these various processes, e.g. by working closely with the various regional NRM groups, local governments and state government departments. These suggestions will result in resourcing and efficiency improvements and should reduce approval processing times from a farm perspective.

### Communications of EPBC Act

NFF has previously noted the importance of communicating the EPBC Act requirements to farmers. A measure of the success of this communications strategy must be the number of contraventions of the EPBC Act incurred by the farm sector. Where a contravention occurs, this must be considered as a communications failure.

NFF suggests that failure has occurred primarily when farmers do not know about the EPBC Act in the first place or what actions may trigger assessment and when Government has not adequately advised farmers in affected regions of new listings of species and ecological communities (or for that matter de-listed). As the number of listings increase, there will be an increasing exposure of farmers to non-compliance. This should and must be avoided by adequate mechanisms to inform farmers about the EPBC Act and their obligations under the EPBC Act.

NRM facilitators also have an important role to advise farmers of the EPBC Act requirements; however, historically this has not formed part of their job description. NFF suggests that regional NRM organisations, including their NRM facilitators, be required to communicate the EPBC Act requirements to farmers as part of their role.

NFF has had discussions with DEWHA regarding appropriate communications mechanisms. These discussions have included improvements to the DEWHA website, electronic notifications of new listings, postcards sent to farmers in new listing regions, flyers, media and so on. Currently, the out posted Liaison Officer works closely with NFF members to draw attention to the EPBC Act, including through attendance at various annual conferences and field days to raise awareness.

The difficulty is in getting the farmer to identify and recognise the issue. As farmers use different methods of obtaining information, the approach must be multi-faceted. The most likely successful outcomes will be those that grab the farmer's attention. In the first instance, this may require a one-off letter to every farmer from the Minister for the Environment.

## Specific Terms of Reference

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The remainder of the NFF submission deals with the specific terms of reference.

- a) The findings of the National Audit Office Audit 38 Referrals, Assessments and Approvals under the Environment Protection and Biodiversity Conservation Act 1999

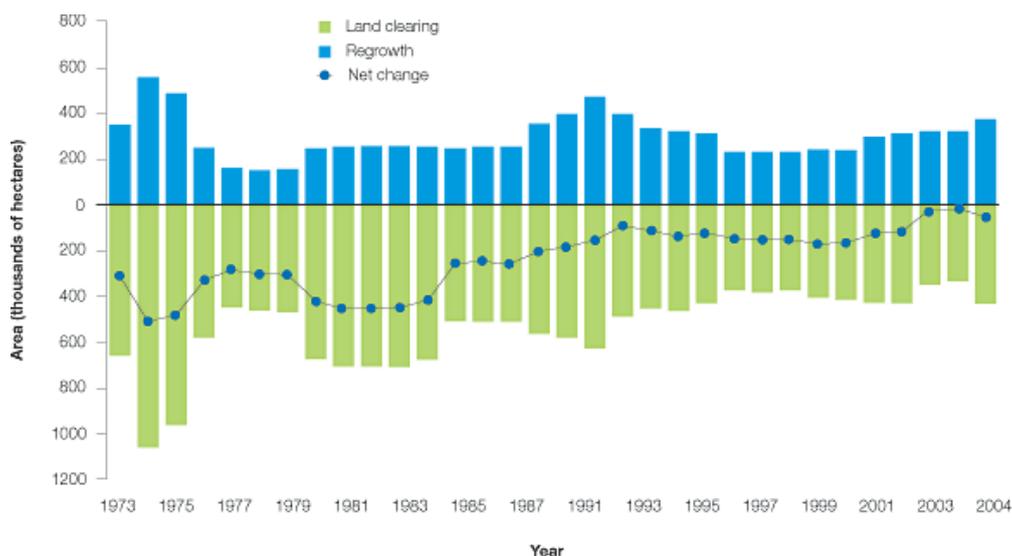
The NFF assumes that the terms of reference are incorrect and that the Inquiry specifically is referring to Audit 31. The Department accepted the recommendations from this report and NFF assumes that appropriate actions have been taken to enact the recommendations.

- b) lessons learnt from the first 10 years of operation of the EPBC Act in relation to the protection of critical habitats of threatened species and ecological communities, and potential for measures to improve their recovery;  
c) the cumulative impacts of EPBC Act approvals on threatened species and ecological communities;

NFF does not operate at a practical implementation level in the priority regions. Therefore, NFF is not in a position to provide advice on the lessons and cumulative impacts of the operation of the EPBC Act in relation to critical habitats essential to improve recovery of threatened species and ecological communities.

However, if land clearing<sup>15</sup> is used as a de-facto measure of environmental health, then “positive steps have been taken across jurisdictions to reduce land clearing and in the areas where this has occurred, biodiversity decline has slowed. This reduction in land clearing has also had a positive impact on net greenhouse emissions”<sup>16</sup>. The following figure shows this statement in more detail.

**Figure 1. Net forest change in Australia (using forest re-growth and deforestation data) 1973-2004<sup>17</sup>**



<sup>15</sup> 2006 State of Environment Report

<sup>16</sup> Ibid, available online: <http://www.environment.gov.au/soe/2006/publications/summary/achievements.html>

<sup>17</sup> Ibid

d) the effectiveness of responses to key threats identified within the EPBC Act, including land-clearing, climate change and invasive species, and potential for future measures to build environmental resilience and facilitate adaptation within a changing climate;

As a general statement, farmers around Australia are concerned about the lack of funding applied to the management of public lands. There is an increasing focus on purchasing private land and water for public ownership to redress the balance between public and private ownership, particularly for high conservation value properties. Such investment is not insignificant.

However, there must be recognition of the responsibilities of Governments to manage these assets. The most common criticism is the lack of Government investment in weeds and vermin control and fencing where these assets adjoin private lands and the impacts of inaction on native flora and fauna and third parties such as neighbours.

Weeds and pests form part of the six national icons specifically under biodiversity and natural icons, but are also relevant to the management of public lands held under the national reserve system.

NFF suggests that the Federal Government considers:

- Property management plans for each land asset purchased using Federal Government funds, which includes targets and management actions to control weeds, pests and feral animals (including wild dogs); and
- Providing an enduring annuity fund to implementation of these property management plans, and in particular control of weeds and pests.

e) the effectiveness of Regional Forest Agreements, in protecting forest species and forest habitats where the EPBC Act does not directly apply;

NFF understands that Regional Forest Agreements are 20-year plans for the conservation and sustainable management of Australia's native forests, i.e. public lands. NFF supports management of private land environmental assets using a partnership approach between Governments and landholders, e.g. the Environmental Stewardship Program. NFF supports the use of sustainable and rotational native forestry activities on private land.

f) the impacts of other environmental programmes in dealing with the decline and extinction of certain flora and fauna; and

Numerous funding programs have been rolled into one funding program – C4C. As noted previously in this submission, the linkage between the EPBC Act and the C4C is less than optimal. The EPBC Act deals with protecting and remediating threatened species and ecological communities, whereas the C4C program funds more common species and ecological communities, i.e. preventative rather than reactionary investment. Both types of investment are important – a need to protect and enhance endangered species and communities while ensuring a robust environment more generally.

NFF suggests a stronger linkage between the funding programs and the EPBC Act, e.g. development of a metric prioritising funding under national reserves, biodiversity and natural icons and aquatic habitats national priority areas towards EPBC Act obligations for listed species and ecological communities.

g) *the impact of programme changes and cuts in funding on the decline or extinction of flora and fauna.*

It is perhaps too early to draw a direct linkage between funding changes or cuts and a negative effect on native flora and fauna. The bigger issue is perhaps a weak linkage between the funding programmes and the EPBC Act, particularly focussing funding of proposals to the EPBC Act listings. There also remains a significant challenge to ensure that farmers understand their obligations under the EPBC Act – and this issue has been raised previously in this submission.

## Australia State of the Environment 2006 – Suggestions for Future Directions<sup>18</sup>

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The NFF notes the suggestions of the 2006 Australian State of the Environment Committee for future directions, which may be worthwhile of consideration by the Inquiry. Many of the suggestions by the Committee are similar to the issues raised by the NFF in this submission.

The following section is a replication of the summary provided on the Environment website.

### *Improving measurement of environmental progress*

Preparing a State of the Environment report, or any other environmental report, requires data and information collected over time and from different places that are consistent and reliable. There is still not enough good quality accessible data and information on the condition of Australia's environment to prepare unambiguous environmental reports.

### *Adaptation is crucial to survival*

Whether environmental change is caused by people, by the variable climate or by actions in restoring environmental assets, is important. However, the primary concern is that Australia should build its capability to live with its environment and respond appropriately to changes in that environment. An adaptive approach to environmental issues where we learn by doing, and modifying approaches as needed, should be the underlying basis of actions and policies. Cooperation across all levels of governance is critical for this to be effective.

### *Regulation and incentives*

Governments should continue to encourage environmental stewardship through appropriate investment, governance and regulation at the right scale of intervention. New approaches to stewardship, including accreditation, certification and, where appropriate, markets for environmental services, should continue to be explored urgently.

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<sup>18</sup> 2006 Australian State of the Environment Committee, December 2006

### Managing our land at the right scale

Much of the present regulation is not targeted at the appropriate scale, and some incentives encourage environmentally perverse results. Management at a whole-of-landscape level, integrated with the local actions of all agencies, landholders and people, is necessary to achieve landscape-scale objectives.

### Maintaining and building a capability to manage

Environmental progress will depend on having more technologies, knowledge, skills and investment strategies to turn scientific knowledge into practical products. For example, Australia will need improved water use, reuse and recycling systems very quickly.

### Sharing responsibility

The environment is not something for which only rural and regional people have responsibility. Building understanding, knowledge and skills in environmental management for urban people, Indigenous people in their country, and rural and regionally located people would allow all sectors and people to play their part.

Australia's environment is valuable for practical reasons, such as producing food, as well as being important for its natural and cultural values. One of the implications of this is that as environmental services are needed and valued by all, they must be paid for by all. There is also a need to manage for the benefit of future generations.

### Improving Australia's environment

We can expect future pressures on the environment from population growth and from economic growth. These pressures will continue to increase unless there is some decoupling of growth from the non-sustainable consumption of resources, particularly energy, land, water and products dependent on limited natural resources (such as forestry and fisheries). This is a major adaptive challenge.

## Conclusion

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The NFF has noted the numerous reviews of NRM and EPBC Act over the past few years – with the ANAO reviews highlighting issues around resourcing.

The NFF strongly supports incentives based approaches rather than regulation and this will ensure a culture of active management of private land environmental assets and result in more optimal outcomes for the landholder and their obligations under the EPBC Act. To this end, the NFF championed the Environmental Stewardship Program and were pleased that the appropriated funding was continued under the C4C program.

In going forward, NFF has made a number of suggestions, including streamlining multi-jurisdictional NRM assessment processes, a more transparent linkage between the C4C program and the EPBC Act and adequate resourcing of a communications strategy aimed at ensuring that farmers are aware of the EPBC Act and their obligations under this Act.

NRM is a long-term management and funding issue. There will continue to be effects in some areas as a legacy of past actions. Landscapes are slow to react and show signs of recovery. Hence, the future will require long-term management funding to ensure there is a resilient environment and profitable, viable rural sectors. Farmers, as Australia's front line environmental stewards, require incentives rather than regulation and to work together with and partner with Governments to protect and enhance the 70% of Australia that is privately owned.

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