

June 22, 2018

Submission to the Craik Review on the EPBC Act and Agricultural activities

Precautionary environmental regulation is not "Red Tape"

Dear Ms Craik:

Thanks for the opportunity to make these comments to your review.

This inquiry is a sham as the Ministerial media releases show Ministers Frydenberg and Littleproud intend to remove government regulation of corporate farming activities, regardless of the environmental consequences or whether the EPBC Act actually hinders destructive agricultural practices and activities.

The independence of the review is open to question as Ms Craik worked for the NFF. The NFF opened its submission to the Productivity Commission inquiry into regulatory burdens on farm businesses (one of the documents for review) by saying:

“The NFF is dedicated to removing the unnecessary burden and costs of over-regulation on farmers. Government and industry must work in unison to eliminated (sic) duplicate and excessive bureaucratic red tape to maximise the efficiency of the Australian farm sector.”

The EPBC Act imposes no regulatory burden or ‘Red Tape’ on industrial agriculture, as this review assumes. The Act is deficient as it is essentially just a set of procedural requirements (all red tape) requiring assessments which cannot fulfil the worthy objectives of the Act, to protect features of the environment which are of national and international significance. The Act has done little to slow or reverse the continuing decline of every environmental indicator in Australia so a thorough overhaul is required.

To have a real impact, environmental laws must acknowledge and address the reality that broad-acre industrial agricultural practices, including the use of synthetic chemicals (fertilisers, pesticides and fungicides, etc.), the deployment of Genetically Manipulated Organisms (GMOs), land clearing, native animal habitat loss, and ecosystem disruption are among the primary causes of environmental destruction and decline in Australia.

Yet the EPBC Act and its explanatory document¹ make just one mention of agriculture, aquaculture and related activities, and that is only to exclude them from the scope of the Act, in favour of token guidelines:

“Industry-specific guidelines that have been, or are being, developed include guidelines for offshore seismic operations, offshore aquaculture, wind farms, agricultural land clearance, urban development, and actions undertaken by local government.”

It is the collective impacts of these activities on natural and managed environments that arguably have the biggest, most ubiquitous and persistent environmental impacts of all human activities on the Australian continent.

¹ Commonwealth Dept of Environment (2013) Matters of National Environmental Significance Significant impact guidelines 1.1 Environment Protection and Biodiversity Conservation Act 1999.
https://www.environment.gov.au/system/files/resources/42f84df4-720b-4dcf-b262-48679a3aba58/files/nes-guidelines_1.pdf

The EPBC Act should be rewritten entirely as it is now mere window-dressing which facilitates and justifies the continued destruction of Australia's natural and managed environmental resources – landscapes – including animals, plants and microorganisms - aquatic ecosystems, soils, water and air.

Industrial agribusiness practices impact all environments, including arable and rangelands, progressively degraded through inappropriate management practices over the past two centuries. Producing bulk commodities for export without value adding is similar to mining, but on a much larger scale. Future generations will be more food, fibre and materials insecure than they are now and we cannot rely on trade to feed, house and clothe future generations.

The vast majority of agricultural activities do not trigger the EPBC Act as the actions of individual farmers rarely meet the threshold test of having a 'significant impact' on a matter of national environmental significance as defined in the Act. However, these activities collectively wreak havoc on all aspects of our continent's ecology – soil, water, vegetation, and landscapes - terrestrial and aquatic ecosystems.

Unfettered land clearing and industrial land use make us a global hot spot, as bad as deforesting the Amazon or Indonesia. Current modes of agriculture contribute to species extinction, loss of habitat, water mismanagement and climate change that environmental legislation now ignores.

We support the Australian Panel of Experts on Environmental Law (APEEL)² report which argues for needed law reforms, including:

- 1. Create truly national environment laws that genuinely protect Australia's natural and cultural heritage.** The Federal Government must retain responsibility for current matters of national environmental significance and protect them effectively. National oversight must be expanded to land clearing, biodiversity and ecosystems, water resources, climate change, air pollution and protected areas.
- 2. Establish an independent National Sustainability Commission to set national environmental standards** and undertake strategic regional planning and report on national environmental performance. The commission would also develop enforceable national, regional, threat abatement and species level conservation plans.
- 3. Establish an independent National Environmental Protection Authority that operates at arm's-length from Government** to conduct transparent environmental assessments and inquiries as well as undertake monitoring, compliance and enforcement actions.
- 4. Guarantee community rights and participation in environmental decision making**, including open standing provisions, open access to information about decision making and environmental trends, review of decisions based on their merits, third-party enforcement provisions and protections for costs in the public interest.

Gene Ethics also calls for the following:

1. Support regenerative and eco-agricultural systems of food, fibre and fuel production to meet the needs of this and future generations.³ These systems are more adaptable to climate change and dwindling inputs than industrial farming.

Reasons: Industrial agriculture is in terminal decline globally as it destroys its resource base. Key inputs (oil, phosphates, water, land) are running out and climate change is resulting in more extreme weather events. Ecological collapse is imminent in many places e.g. the EU,⁴ Argentina,⁵ Australia.⁶

² Australian Panel of Experts on Environmental Law (APEEL), Blueprint for the next generation of environmental law, 2018. <https://static1.squarespace.com/static/56401dfde4b090fd5510d622/t/59bb6fe3f43b55b154728d29/1505456149104/APEEL+Blueprint+for+environmental+laws.pdf>

³ Regeneration Int., cool the planet, feed the world. <http://www.regenerationinternational.org/why-regenerative-agriculture/>

⁴ Barkham, P. (2018) EU in 'state of denial' over destructive impact of farming on wildlife, *the Guardian*, 23/3/18, <https://www.theguardian.com/environment/2018/mar/23/eu-in-state-of-denial-over-destructive-impact-of-farming-on-wildlife>

⁵ International Development Research Center, The Pampas are vanishing under water, 05/10/17.

<https://www.idrc.ca/en/stories/pampas-are-vanishing-under-water>

⁶ Chandler, J. Betting the Farm: Farmers confront climate change, Background Briefing, ABC RN, 30 Sep 2016.

Models of action⁷ for the transition urgently require resourcing and implementation. Additional Research and Development (R&D) funding is needed to ensure Regenerative Systems are fully developed to meet the many present and future challenges to food security and sovereignty.⁸

Land degradation now compromises the wellbeing of 3.2 billion people⁹, and Australia is not exempt. The UN-backed study also shows that land degradation is causing significant losses in biodiversity and ecosystem services - water purification, food security and energy provision.

2. Facilitate full public participation in R&D priority setting processes

Reasons: Our nation needs transparent R&D strategies¹⁰ to create systems and processes, as well as technologies, that meet the community's present and future needs and goals, within environmental and resource constraints. Levy-payers and taxpayers have a right to influence decisions on how research levies and public funds are spent.¹¹ For instance, dominant research paradigms and industry imperatives stall the development of Regenerative and Eco-agricultural systems.¹² This misallocation of scarce R&D funds has opportunity costs and is unfair to those who pay the bills, both levy-payers and taxpayers.

3. Base regulatory assessments on independent scientific evidence, not industry-generated data that is usually unpublished and not peer-reviewed. Regulatory review processes should be open, transparent and precautionary, and contested decisions should be open to merits review.

Reasons: Industry-conducted or commissioned research is insufficiently tested and challenged as regulators now use regulatory science, not the scientific method, for their assessments. Regulatory science fills data gaps with best guesses and regulators decline to require additional research. The burden of proof for the safety and efficacy of GM processes and products must rest on applicants, not regulators or the public. The Precautionary Principle must be rigorously applied.

4. Require all federal regulators - OGTR; FSANZ; APVMA; TGA; etc. - to mandate the notification, assessment, regulation, approval and licensing of all new genetic manipulation (GM) techniques (e.g. CRISPR, RNAi etc.) and their products.

Reasons: These new techniques can create unexpected mutations so precaution is necessary. There has been very little basic risk and hazard research about these techniques and they have no history of safe use. Any living organism – human, plant, animal or microorganism - can be manipulated.

5. Reinstate the Chemical Assessment and Re-Registration Scheme revoked in 2014.

Reasons: Thousands of agrochemicals, approved decades ago, without modern data or testing methods, require review to protect human health and the environment. Key trading partners require periodic re-registration e.g. the USA requires chemical review every 15 years¹³ and Europe a maximum of 10 years.¹⁴ Scientific evidence of adverse chemical impacts on human and animal health and the environment is accumulating.^{15 16}

<http://www.abc.net.au/news/2016-09-30/farmers-confront-extreme-reality-of-climate-change/7887720>

⁷ International Assessment of Agricultural Knowledge, Science and Technology for Development (IAASTD) Global Report, 2009. http://www.fao.org/fileadmin/templates/est/Investment/Agriculture_at_a_Crossroads_Global_Report_IAASTD.pdf

⁸ Lawrence, G, Richards, C, & Lyons, K (2013) Food security in Australia in an era of neoliberalism, productivism and climate change. *Journal of Rural Studies*, 29, pp. 30-39. <https://eprints.qut.edu.au/68201/2/68201.pdf>

⁹ <http://www.eco-business.com/news/land-degradation-compromises-wellbeing-of-32-billion-people-study-says/>

¹⁰ Keogh, M. Transparency matters in agriculture, Australian Farm institute, Wednesday, July 01, 2015.

<http://www.farminstitute.org.au/ag-forum/transparency-matters-in-agriculture>

¹¹ Industry structures and systems governing the imposition and disbursement of marketing and research and development (R&D) levies in the agriculture sector, Senate Standing Committee on Rural and Regional Affairs and Transport, Report, 30 June 2015.

https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Agriculture_Levies/Report

¹² The Greens, Boosting Agriculture Investing in innovative agriculture Fresh. Healthy. Sustainable.

<https://greens.org.au/sites/greens.org.au/files/20160518%20Ag%20RD%20FINAL.pdf>

¹³ US EPA. <https://www.epa.gov/pesticide-reevaluation/registration-review-schedules>

¹⁴ European Commission, Renewal of Approval.

https://ec.europa.eu/food/plant/pesticides/approval_active_substances/approval_renewal_en

¹⁵ IARC Monograph on Glyphosate. https://www.iarc.fr/en/media-centre/iarcnews/2016/glyphosate_IARC2016.php

¹⁶ Nicolopoulou-Stamati, P. Chemical Pesticides and Human Health: The Urgent Need for a New Concept in Agriculture, *Frontiers in Public Health*. 2016; 4: 148. July 18, 2016. doi: 10.3389/fpubh.2016.00148

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4947579/>

6. Place a moratorium on the environmental release of gene drives

Reasons: Gene drive organisms pose serious risks as they are intended to make species extinct when used as biocontrol agents. A global moratorium on the environmental release of gene drives has widespread backing.¹⁷ However, the OGTR's present review of Gene Technology Regulations¹⁸ appears to anticipate future review and approval of general gene drive release. US military funding for the majority of gene drive research^{19 20} globally suggests the technology's uses are not all benign.

7. Join and ratify the Cartagena Protocol on Biosafety to the Convention on Biological Diversity.²¹

Reasons: Biosecurity is a huge and growing problem in Australia and globally requiring co-operation at all levels. Trade deals with jurisdictions such as Europe may become contingent on Australia ratifying the Protocol to ensure precautionary regulation, as already required for life-cycle sustainability assessments²² of agricultural products.²³ Research and programs for both GM and conventional biocontrol agents and biosecurity systems must be shared internationally.

Conclusions and recommendations:

We conclude and recommend that the:

- EPBC Act imposes no onerous regulatory burden or 'Red Tape' on individual farmers or agricultural activities generally;
- industrial agricultural practices are among the primary causes of environmental decline;
- environmental laws must acknowledge and address primary causes, not symptoms;
- EPBC Act should be rewritten and enacted entirely as it is now mere window-dressing;
- Act facilitates destruction of Australia's natural and managed environmental resources;
- industrial agribusiness practices adversely impact all environments and are unsustainable;
- Australian Panel of Experts on Environmental Law (APEEL)²⁴ report has our support;
- regenerative and eco-agricultural systems of food, fibre and fuel production are essential;
- public's full participation in R&D priority setting may create more democratic, sustainable futures;
- regulatory assessments must reflect independent scientific evidence, not industry data;
- Chemical Assessment and Re-Registration Scheme should be reinstated;
- environmental release of gene drives pose hazards that justify a moratorium;
- release of new Genetically Manipulated Organisms (GMOs) should trigger EPBC Act reviews;
- Australian government should join the Cartagena Biosafety Protocol, to improve the management of all Living Modified Organisms and bolster the effectiveness of biosecurity measures.

¹⁷ Latham, J. Gene Drives: A Scientific Case for a Complete and Perpetual Ban, February 13, 2017.

<https://www.independentsciencenews.org/environment/gene-drives-a-scientific-case-for-a-complete-and-perpetual-ban/>

¹⁸ OGTR, Technical Review of the Gene Technology Regulations 2001.

<http://www.ogtr.gov.au/internet/ogtr/publishing.nsf/Content/reviewregulations-1>

¹⁹ Nelsen, A. US military agency invests \$100m in genetic extinction technologies, The Guardian, December 4, 2017.

<https://www.theguardian.com/science/2017/dec/04/us-military-agency-invests-100m-in-genetic-extinction-technologies>

²⁰ Wilson, K. Could WA be the genetic testing ground for 'synthetic mice' to end mice? Sydney Morning Herald, 24 February 2018. <https://www.smh.com.au/environment/conservation/could-wa-be-the-genetic-testing-ground-for-synthetic-mice-to-end-mice-20180221-h0wev9.html>

²¹ The Cartagena Protocol on Biosafety <https://bch.cbd.int/protocol>

²² CSIRO, Life Cycle Assessments. <https://www.csiro.au/en/Research/AF/Areas/Sustainable-farming/Life-cycle-assessments>

²³ GRDC, Understanding the European biofuel market for Australian canola, March 2018.

http://www.australianoilseeds.com/___data/assets/pdf_file/0010/11431/EU_Canola_Certification_-_GRDC_Fact_Sheet.pdf

²⁴ Australian Panel of Experts on Environmental Law (APEEL), Blueprint for the next generation of environmental law, 2018.

<https://static1.squarespace.com/static/56401dfde4b090fd5510d622/t/59bb6fe3f43b55b154728d29/1505456149104/APEEL+Blueprint+for+environmental+laws.pdf>

Some key people to consult during this review:

Soils for Life - Regenerative Landscape Management <http://www.soilsforlife.org.au/index.html>
Major General Philip Michael Jeffery - Advocate for Soil Health
https://en.wikipedia.org/wiki/Michael_Jeffery
"Dr Kerry Cochrane - Australian Institute of Ecological Agriculture Cooperative Ltd 02 6365 7579 / 0402 008 100" <kcochrane@ecoag.org.au>
"Michael Croft - Mountain Creek Farm 0413 387 686" <iamthat1958@gmail.com>
"Owen McCarron - IPM Masterclass 0419 006 100" <owen@ipmmasterclass.com>
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"Maarten Stapper - Soil Consultant - Weston Creek 02 6288 2981/0447 533 967"
<maarten@biologicagfood.com.au>
Charles Massy - Call of the Reed Warbler - <https://www.penguin.com.au/books/call-of-the-reed-warbler-a-new-agriculture-a-new-earth-9780702253416>
Peter Andrews - Natural sequence Farming - <http://www.nsfarming.com/principles.html>
Tony Cooté - Mulloon Creek - Environment and Management Practices
<http://mullooncreeknaturalfarms.com.au/environment>
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