



## PI MAC Submission to the Biodiversity legislation review

5 September 2014

Coordinating Officer  
Biodiversity Legislation Review  
PO Box A290  
SYDNEY SOUTH NSW 1232

Dear Sir / Madam

Thank you for the opportunity to make comments on the Biodiversity legislation review (the review). The Primary Industries Ministerial Advisory Council (PI MAC) constitutes and represents a broad group of agricultural stakeholders from industries and communities across NSW.

We understand that the NSW State Plan priorities and other public strategic planning instruments set the stage for the Government's role in policy setting and we note and welcome the strong emphasis on economic development in that plan. Within this framework, we believe that the Government should not focus unequally on any one component of the triple bottom line, for example, over emphasis on the environment or alternatively, unreasonable industry demands. There is a need to ensure that all policies drive economic growth, population amenity and ecosystem services. Policy should be based on robust science and manifest itself in workable best management practices that can accommodate a balanced approach to biodiversity in a working landscape.

PI MAC considers that the focus on "conservation", arising in all six themes in the issues paper, limits the broader consideration of ecosystem services in a productive landscape, which more closely reflects the government's stated goals expressed as state plan priorities.

Ecosystem services include functioning air, water and soil resources; we stress that production landscapes can and should be an important contributor to good ecosystems. Careful management of invasive species, native vegetation communities and biodiversity also play important roles in achieving good landscape function. It is essential that we acknowledge the work of the NSW primary production sector in achieving good outcomes for the biodiversity of our state.

So often, we see areas where both invasive native and exotic species occur. Conflict over clearing these areas arises and often as a result no invasive species management occurs, achieving a loss of economic benefits and also negative effects to the biodiversity of these areas. Sound policies would engender the confidence for industry to invest in and implement good management practices.

The ecosystem service approach requires integrated management of the multiple assets and values provided by the environment (for example water, soils) not just management of native biodiversity. It should be noted that many ecosystem services are provided by organisms (for example soil biota) not normally considered during biodiversity conservation planning. In relation to primary industries, appropriate location and management of commercially used introduced species (commercial biodiversity) as well as native biodiversity are important in maintaining these ecosystem services.

A lot more research, development and education (R, D & E) are required to understand the benefits of ecosystems services, particularly in relation to landscape productivity. Agricultural industries including cotton, grains and rice have undertaken work in this area. An example is the Environmental Champions program of the Rice Growers Association which proactively promotes biodiversity and sustainability and is designed to connect environmental performance with better farm business performance. However; there is still much more to learn and investment in R, D & E will deliver sound policy which is needed for primary industries to invest and innovate. The best policies are those which are based in science, transparent, flexible and adaptable to the needs and knowledge both now and into the future.

Government should also provide a strong incentive framework to encourage landholder participation and innovation. Incentive schemes should be designed to provide opportunities to the agricultural sector, enhance agricultural productivity and should provide agricultural industries with the same opportunities provided to other sectors, for example mining.

It is the view of the PI MAC that the NSW Government needs to develop a clear overarching objective in what it is trying to achieve through the management of biodiversity. We support the management of biodiversity to provide ecosystem services, so that (as noted in the issues paper) 'productive landscapes ... are sustained so the resulting benefits, essential for all people, are delivered'.

Primary industries operate across more than 70 per cent of NSW land area. Striking a balance between maximising production outcomes for primary industries and also conserving native biodiversity is a major challenge for NSW.

When setting policies, it is important to take into account the work which is being undertaken in other sectors of government, for example the recent review of weed management in NSW and the recommendations arising from this; or the new framework for biosecurity and the policies which will emerge from this process. PI MAC has previously provided comment to the public consultation processes around these initiatives, which are publicly available. It is also important to acknowledge that clear responsibilities, cooperation between agencies, industry and the community will deliver the best outcomes for NSW.

A key role for government is to assist industry to minimise adverse economic and environmental impacts while integrating biodiversity management into primary industry production systems. This includes minimising red-tape and providing appropriate incentives for biodiversity conservation on private land.

The PI MAC would like to make a range of comments on the Biodiversity legislation review, which we believe will reduce the amount of complexity and red tape in the current system; and which will enhance the potential for good outcomes for working landscapes across NSW. These comments are provided at Attachment A.

Again thank you for the opportunity to respond to the Biodiversity legislation review. We welcome any opportunity to clarify matters we have raised, and to provide further detail about our concerns that the legislation properly accounts for the fact that we have working landscapes where industry, communities and the environment must function together.

Yours faithfully

*Lucinda Conry*

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## ***Attachment A: Comments of the PI MAC on the Biodiversity legislation review***

### **Legislation**

Legislation around biodiversity in NSW should be nil tenure, build on the fundamentals of existing legislation, be based on robust science and workable practices, and provide incentives and landholder engagement to encourage behavioural change.

Biodiversity legislation must be consistent with:

- Federal legislation and the legislation of other States so that NSW is not unfairly regulated or disadvantaged by comparison. Uniformity is important across state boundaries but we should ensure we use a best stewardship approach that is an appropriate balance for a working landscape.
- Other NSW legislation, for example Biosecurity legislation (including weeds and pest management).

Biodiversity legislation should also:

- Be tested against difficult scenarios before enactment to ensure it meets its objectives and is responsive to a range of situations across our diverse state. Adaptive management is also a very effective way to encourage innovation to deal with biodiversity issues. It allows goals to be set and then work commenced allowing for adaptation as results are monitored rather than being locked in by legislation which is inflexible (for example regulations around woody weeds).
- Be practical and not driven by ideology which has been a problem in parts of the native vegetation regulations often leading to conflict between land managers and community groups and imposing naïve restrictions on what landholders can and cannot do.
- Provide simple and easy to understand requirements, with clear lines of responsibility.
- Be the minimum amount of legislation required to achieve the objective with a clear goal to be free of cumbersome administrative procedures and red-tape.
- Impose requirements on government agencies for timely decision making so that costs to communities and industry are avoided.
- Report the achievements of the legislation against its objectives, and have a clear and open auditing component to ensure progressive adaptations can be made as needed.
- Achieve its objectives within an appropriate cost-benefit ratio.
- Be clearly linked with effective research and development processes. It must be based on sound and agreed science with capacity to adapt to new knowledge, technology and innovation.
- Be underpinned by comprehensive community and industry engagement including education and awareness activities, and drafted in a way to promote and encourage complementary industry-led initiatives.
- Provide for dispute resolution procedures.
- Provide protections for Biophysical Strategic Agricultural Land (BSAL) areas.

### **Strategy**

Modernised biodiversity law will be strategic, and should:

- Take regional and local priorities into account, and provide a vehicle for consultation with industry and the community.
- Provide for multiple use so that productive landscapes are sustained while ecosystem services are maintained.
- Place conservation appropriately in the landscape. Our rural landscapes are working landscapes and we must avoid draconian biodiversity legislation which makes them less productive and which may unreasonably hinder future development.
- Support and acknowledge conservation on private land.
- Enhance opportunities for economic development through agriculture. We live in a society where most people live in coastal urban communities and have modified their

environments far more than the bulk of agriculture. It is important that biodiversity law accounts for the challenges of how our food and fibre is produced and should not malign our agriculture sector.

- Prevent irreversible harm.
- Be underpinned by science and the development of best management practice regimes that incorporate the results of research and sound practical knowledge.
- Provide incentives which are applicable state-wide, easy to engage with, and which reward the agricultural sector for the ecosystem services which they provide on behalf of the state.

### **Application of legislation**

The Legislation providing for biodiversity in NSW should, in practice:

- Be well funded so that science, education, application processing and enforcement are undertaken quickly and efficiently within a risk management framework.
- Provide good information about the requirements which are located in one place, clearly understandable and easy to use.
- Provide quick access to information and assistance. Provision of client managers to help people dealing with biodiversity matters would be very useful especially to landholders.
- There should be a clear dispute resolution process which is timely, low cost and transparent.
- Be low cost with minimal administrative burden.
- Clearly inform applicants about how their applications will be treated and what factors will be taken into account during the decision making process.

When consequences for non-compliance with biodiversity legislation are applied, they should:

- Reward those who comply by highlighting good practices with the possibility of some certification which indicates good stewardship.
- Deal with non-compliers quickly so that a remediation / changed management regime can be introduced including farm plans and the like, which could possibly attract some fees.
- Be applied in a parsimonious manner. This should also include landholders / managers being able to supply sound reasons why they are not complying if there is a flaw in the legislation. Again this could be in the dispute resolution components of the legislation. Where this fails to bring about compliance and the land owner is being unreasonable then suitable penalties should be looked at.
- Be applied (in principle) consistently across the State, however take into account the regional variables.
- Be auditable.