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**From:** s22  
**Sent:** Friday, 24 March 2017 5:00:16 PM  
**To:** Richardson, Geoff  
**Cc:** Oxley, Stephen; Knudson, Dean; s22  
**Subject:** RE: Update on the Monaro grassland EC [SEC=UNCLASSIFIED]

Thanks Geoff

I would like to schedule an update with Angus Taylor mid next week. Let's chat Monday as to exact timing.

Thanks for your help this week!

s22

**From:** Richardson, Geoff  
**Sent:** Friday, 24 March 2017 4:50 PM  
**To:** s22 @environment.gov.au  
**Cc:** Oxley, Stephen <Stephen.Oxley@environment.gov.au>; Knudson, Dean <Dean.Knudson@environment.gov.au>; s22 @environment.gov.au  
**Subject:** Update on the Monaro grassland EC [SEC=UNCLASSIFIED]

Hi s22

Following our meeting with Angus Taylor on Monday, we are exploring options to deal with the concerns raised related to the Natural Temperate Grasslands of the South Eastern Highlands Ecological Community.

Since the meeting, we have had some initial discussions with the regional Local Land Services office. There appears to be little confusion about interpreting the refined definition, so we are focussing our thinking on clarifying when a particular action may have a significant impact on the listed community, and thus potentially trigger the EPBC Act. As we mentioned on Monday, the presence of the listed EC, as with the presence of any MNES on a particular 'development site', does not preclude the development progressing; it triggers a need for the proponent to consider any significant impacts of their actions, and consider how to best address any significant impacts.

We will have further discussion with agronomists to better understand any uncertainty with interpreting and applying the minimum condition thresholds that are part of the updated listing

(e.g. how areas with non-native species such as clover are assessed). We will of course be cautious about speaking to any agronomist involved in the particular EPBC Act compliance case. We are also looking further into the NSW native vegetation regulations and changes that are due to come into effect 1 July, to clarify how non-native annual species are treated in assessments and if there is any substantial difference with the national approach to minimum condition thresholds. I would also note that all the details of these changes and their consequences for individual landowners have not yet been made clear.

We plan to explore the issue further with NFF, and in particular through the Agriculture and Environment Consultative Committee. This may result in better education about the grassland and the EPBC Act, including a significant impact guidance document for this particular grassland. This would be a similar approach as is being pursued in western Victoria to address interactions between farming and black cockatoos.

We aim to provide further advice, in conjunction with ESD, on how best to clarify the significant impact test for landowners in the Monaro as soon as possible. Significant impact guidelines are not quick or easy to develop for species or ECs, and require considered input from ESD and legal colleagues.

I will keep you informed of progress.

Regards Geoff

**Geoff Richardson**

Assistant Secretary | Protected Species and Communities Branch

Department of the Environment and Energy

Ph: +61 2 6274 s22 | Mob: s22

The Department acknowledges the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present.

**From:** s22  
**To:** s22  
**Subject:** FW: Monaro grasslands [SEC=UNCLASSIFIED]  
**Date:** Monday, 6 March 2017 8:50:09 AM  
**Attachments:** [RE Urgent request for talking points - NTGSEH listing SECUNCLASSIFIED.msg](#)

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FYI – response sent last week to compliance re questions about the Monaro grasslands uplisting.  
s22

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**From:** Richardson, Geoff  
**Sent:** Thursday, 2 March 2017 4:22 PM  
**To:** s22@environment.gov.au>  
**Cc:** s22@environment.gov.au>; s22@environment.gov.au>; s22@environment.gov.au>; s22@environment.gov.au>  
Oxley, Stephen <Stephen.Oxley@environment.gov.au>  
**Subject:** RE: Monaro grasslands [SEC=UNCLASSIFIED]

Hi s22

Please find below dot points prepared by s22 and cleared by me relating to the questions from the Minister's office on the SEH grassland uplisting. I note we previously provided some points about our consultation process – see attached email. I've drawn on these for some points below, but you might find other info in the email useful.

*Who made the decision to uplist the EC – Hunt, Frydenberg or Delegate?*

- The uplisting decision was made by Greg Hunt, as Minister for Environment at the time.

*We have received comments that implementation of the revised listing has been problematic. In particular, it can lead to a mosaic of protected and non-protected areas inside existing paddocks and regarding the exclusion of clover from the 50% threshold. Can you provide any comments around practicality of implementation?*

- Listed ecological communities occur wherever a patch of native vegetation in the landscape meets the diagnostic features, plus the condition thresholds for that community. This is similar to identifying habitat requirements for particular listed threatened species except that it applies to a described assemblage of species, usually a certain vegetation type.
- A mosaic distribution is typical for many ecological communities because of: 1) variability in landscape features – for instance grasslands often form in frost hollows and sites of cold air drainage; and 2) variability in past management history – for instance the degree of grazing, ploughing and fertiliser addition affects the composition and diversity of grassland species among and within sites.
- Both the original and revised listings constituted a 'mosaic' as the community was always naturally restricted in where it can occur. However, the revised listing introduced a 'minimum condition threshold', that clarifies which areas of grassland should be protected by the EPBC Act. Low quality grasslands that do not meet this threshold are not protected, whereas some of these areas would have been included in the original listing.
- Large areas that have more than 50% vegetation cover of clover (*Trifolium* spp.), which is not a native plant, are not part of the grassland ecological community.

- To be considered part of the listed ecological community, grassland patches must be at least 0.1 Hectare in size, must have a greater percentage cover of native plants (including annual and perennial species) than the percentage cover of perennial exotic species (i.e. >50% native cover), and must meet additional condition thresholds (e.g. relating to the diversity of non-grass native species, or the presence of particular 'indicator species').
- Detailed information about how to recognise a patch of the grassland and what condition it might be in are given in the approved [conservation advice](#) and the [information guide](#) for the uplisted community. The information guide provides a flowchart to help landholders determine the condition of the grassland.

*Can you please provide overview of consultation and feedback from farmer groups regarding the uplisting?*

- The original listing, recovery plan and revised listing all went through statutory consultation processes.
- Notification emails about the uplisting were sent to a wide range of stakeholders, including all councils, Local Land Services, and state agencies where the ecological community occurs, and the National Farmers' Federation and NSW Farmers' Association. These Farmers' groups also were contacted by the Department's Environment Liaison Officer, out posted to the NFF, and the Department met with the NFF to discuss the listing on more than one occasion. A farmer specific consultation guide was made available as part of the consultation package, explaining the listing review process and what this meant for farming activities.
- The NSW Farmers Association did not provide any comment on the proposed uplisting. The NFF provided a submission noting concerns that further information would be required to complete the assessment and that landholders may have difficulty identifying the grassland. The Department replied to the NFF about their issues.
- A public information guide aimed at helping farmers and other landholders understand the uplisted grassland was prepared and released after the listing. This guide was developed with the assistance of the NFF.

Let me know if you need anything further

Regards Geoff

**Geoff Richardson**

Assistant Secretary | Protected Species and Communities Branch

Department of the Environment and Energy

Ph: +61 2 6274 s22 | Mob: s22

The Department acknowledges the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present.

---

**From:** s22

**Sent:** Thursday, 2 March 2017 10:26 AM

**To:** s22 <[redacted]@environment.gov.au>

**Cc:** s22 <[redacted]@environment.gov.au>; s22

s22 <[redacted]@environment.gov.au>

**Subject:** FW: Monaro grasslands [SEC=UNCLASSIFIED]

s22

As discussed , the Ministers office is seeking some quick turnaround on the questions below regarding the *Natural Temperate Grassland of the South Eastern Highlands* ecological community.

Questions are:

*Who made the decision to uplist the EC – Hunt, Frydenberg or Delegate?*

*We have received comments that implementation of the revised listing has been problematic. In particular, it can lead to a mosaic of protected and non-protected areas inside existing paddocks and regarding the exclusion of clover from the 50% threshold. Can you provide any comments around practicality of implementation?*

*Can you please provide overview of consultation and feedback from farmer groups regarding the uplisting?*

Please send to me as soon as you are able.

All the best

s22 | A/g Director |

**Compliance**

**Environment Standards Division |**

Department of Environment and Energy

GPO Box 787 Canberra ACT 2601

T: 02 6274 s22 |M: s22

[1](#)

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**From:** s22

**Sent:** Thursday, 2 March 2017 9:54 AM

**To:** Collins, Monica <[Monica.Collins@environment.gov.au](mailto:Monica.Collins@environment.gov.au)>; s22

s22 <[s22@environment.gov.au](mailto:s22@environment.gov.au)>

**Cc:** de Brouwer, Gordon <[Gordon.deBrouwer@environment.gov.au](mailto:Gordon.deBrouwer@environment.gov.au)>; Knudson, Dean

<[Dean.Knudson@environment.gov.au](mailto:Dean.Knudson@environment.gov.au)>; s22

s22 <[s22@environment.gov.au](mailto:s22@environment.gov.au)>; s22

s22 <[s22@environment.gov.au](mailto:s22@environment.gov.au)>; s22 <[s22@environment.gov.au](mailto:s22@environment.gov.au)>;

s22 <[s22@environment.gov.au](mailto:s22@environment.gov.au)>

**Subject:** RE: Monaro grasslands [SEC=UNCLASSIFIED]

Hi Monica

Can you please clarify the following:

Who made the decision to uplist the EC – Hunt, Frydenberg or Delegate?

We have received comments that implementation of the revised listing has been problematic. In particular, it can lead to a mosaic of protected and non-protected areas inside existing paddocks and regarding the exclusion of clover from the 50% threshold. Can you provide any comments around practicality of implementation?

Can you please provide overview of consultation and feedback from farmer groups regarding the uplisting?

Can you please let me know by end of Monday.

Thanks

s22

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**From:** Collins, Monica

**Sent:** Tuesday, 28 February 2017 5:14 PM

**To:** s22 <[redacted]@environment.gov.au>; s22 <[redacted]@environment.gov.au>

s22 <[redacted]@environment.gov.au>

**Cc:** de Brouwer, Gordon <Gordon.deBrouwer@environment.gov.au>; Knudson, Dean <Dean.Knudson@environment.gov.au>; s22 <[redacted]@environment.gov.au>; s22 <[redacted]@environment.gov.au>; s22 <[redacted]@environment.gov.au>; s22 <[redacted]@environment.gov.au>

<Dean.Knudson@environment.gov.au>; s22 <[redacted]@environment.gov.au>; s22 <[redacted]@environment.gov.au>; s22 <[redacted]@environment.gov.au>; s22 <[redacted]@environment.gov.au>

s22 <[redacted]@environment.gov.au>; s22 <[redacted]@environment.gov.au>; s22 <[redacted]@environment.gov.au>

s22 <[redacted]@environment.gov.au>; s22 <[redacted]@environment.gov.au>; s22 <[redacted]@environment.gov.au>

s22 <[redacted]@environment.gov.au>

**Subject:** Monaro grasslands [SEC=UNCLASSIFIED]

Hi s22

Please see information below as requested.

Monica

### General Information on Grasslands

- In the Monaro region of NSW, matters of national environmental significance protected by the *Environment Protection and Biodiversity Conservation Act 1999* include the critically endangered *Natural Temperate Grassland of the South Eastern Highlands* ecological community.
- This grassland ecological community has been protected in the Monaro region as endangered under the Act since the Act was introduced in 2000, and was up listed to critically endangered in 2016.
- The revision of the listing of the endangered *Natural Temperate Grassland of the Southern Tablelands of NSW and the Australian Capital Territory* to the critically endangered *Natural Temperate Grassland of the South Eastern Highlands* resulted in protection of grasslands in a broader geographic area, but limits the protection to areas of the highest quality grasslands.

- Within the extent of the previous listing (Southern Tablelands of NSW and the ACT), the area protected by the listing (and subsequently the number of landholders affected) is considered to be reduced. However, the geographic extent of the new listing is larger than it was for the previous listing (for example, it now includes parts of Victoria).
- The minimum condition thresholds (see below) contained in the Conservation Advice for the revised listing allow greater certainty for landholders in determining whether the Act applies to their proposed actions.
- To be considered the listed ecological community, grassland patches must be at least 0.1 Hectare in size, must have a greater percentage cover of native vascular plants (including annual and perennial species) than the percentage cover of perennial exotic species (i.e. >50% native cover), and must meet additional condition thresholds (eg relating to the diversity of non-grass native species, the presence of particular 'indicator species' or the floristic value score).  
*Note - this is a simplified overview of the minimum condition thresholds.*
- Natural Temperate Grassland of the South Eastern Highlands is listed as critically endangered under the EPBC Act. The threshold of significance for proposed activities is dependent on the quality and context of the impacted ecological community, but is likely to be in the region of 1-10 ha.

s37(1)(a)

s37(1)(a)

Monica Collins

**Assistant Secretary Compliance and Enforcement**

Department of the Environment and Energy

P: 02 6274 s22

M: s22



**From:** s22  
**To:** s22  
**Subject:** FW: Update on South Eastern Highlands Grassland Ecological Community [DLM=For-Official-Use-Only]  
**Date:** Wednesday, 26 April 2017 11:26:40 AM

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Here's the final that was sent to MO.

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**From:** Oxley, Stephen  
**Sent:** Saturday, 22 April 2017 5:46 PM  
**To:** s22 @environment.gov.au; s22  
s22 @environment.gov.au  
**Cc:** Knudson, Dean <Dean.Knudson@environment.gov.au>; de Brouwer, Gordon  
<Gordon.deBrouwer@environment.gov.au>; s22  
s22 @environment.gov.au; s22 s22  
s22 @environment.gov.au; Richardson, Geoff <Geoff.Richardson@environment.gov.au>  
**Subject:** Update on South Eastern Highlands Grassland Ecological Community [DLM=For-Official-Use-Only]

Giddy s22

I understand that you had several specific questions about the South Eastern Highlands Grassland ecological community that is listed as critically endangered under the EPBC Act. Answers to each of these are summarised below, together with some further background.

- Could the Minister vary the listing without Threatened Species Scientific Committee (TSSC) advice?

No. Under the EPBC Act, a Minister's decision regarding the listing status of a species or ecological community, including a variation of listing status, must only consider eligibility for listing and the effect that may have on the ecological community's survival (Section 187). In making that decision, the Minister must have regard to advice from the TSSC and from public comment (in relation to listing eligibility and effect on survival of the ecological community) (Section 194Q).

Ecological communities must be assessed against six listing criteria set out in the EPBC Regulations. The TSSC provides listing recommendations against each criteria after a comprehensive review that includes a thorough examination of available scientific literature, data, management plans and expert opinion. There must also be a minimum 30 day public consultation period.

Since the start of the EPBC Act, the Department is unaware of any instance where a Minister's listing decision for a threatened ecological community (or species) has been different to what was recommended by the TSSC.

As mentioned in previous advice, the Department would not expect the TSSC to come to a different conclusion to what it did recently when the ecological community was "uplisted" by Minister Hunt from endangered (its listing status under the EPBC Act since 2000) to

critically endangered in 2016. The TSSC would likely also be concerned about being asked to prioritise a review of the ecological community given it only recently completed a review between 2013-2016. The Department is not aware of any new or different data available that would substantiate claims that it is no longer critically endangered.

- Could the Minister vary the condition thresholds without Threatened Species Scientific Committee (TSSC) advice?

No. The condition thresholds are published as part of the approved conservation advice. If the Minister proposes to change an approved conservation advice, the Minister must consult the TSSC about the change. The Department believes the Committee would be reluctant to recommend changes to the condition thresholds as they were only recently developed in close consultation with scientists and other experts, including from the NSW Office of Environment Heritage.

The aim of condition thresholds is to clearly (and legally) exclude areas that are no longer naturally functioning, or are very degraded, from national protection. They help define the ecological community that is protected nationally. They have been used in almost all ecological community listings over the past decade and were introduced because of earlier concerns from the farming sector that all areas of native pasture may trigger the EPBC Act referral requirements.

As mentioned previously, including to Angus Taylor MP, they are not the same as significant impact thresholds. Therefore, having the ecological community on a property that meets condition thresholds does not automatically trigger the EPBC Act assessment process (or compliance concerns). An action must be planned or undertaken that is likely to have a significant impact on the defined ecological community for those EPBC Act provisions to be triggered.

Since the ecological community was listed in 2000, the Department understands that this has happened only once for agriculture activities, and that is in relation to the current compliance investigation. The reasons for the low regulatory impact on farmers is included in the email below of 13 April 2017.

There have been a number of EPBC Act approvals for infrastructure projects impacting on the grasslands over the past 17 years, particularly for urban infrastructure in Canberra and windfarms in the surrounding region. As a general rule, these sectors welcome national condition thresholds as they provide more regulatory certainty. Removal of the thresholds, for example, would revert to the original listing where impacts on lower quality areas may also need to be considered for referral.

- If the Minister went against TSSC advice, would the reasons for that have to be published?

Any listing decision must be published, but the reasons must only be provided to the nominator (in this case the nominator could be the TSSC) (Section 194Q). Although there is no legal requirement to publish the reasons, since the start of the EPBC Act the TSSC has chosen to publish all of its analysis against listing criteria and the listing recommendations on the Department's website. These are currently contained within approved conservation advices. The reasons for any change to the 2016 listing decision, and currently published conservation advice would be heavily scrutinised and subject to normal FOI requirements.

- Would it be open to legal challenge?

Yes, any decisions relating to listing (whether to list, delist or transfer) can be subject to legal challenge. Any advice from the TSSC that has undergone a rigorous scientific assessment and been subject to public consultation would form crucial evidence for any challenge. There have not been any legal challenges to TSSC listing advice or approved conservation advices to date. Written TSSC advice on condition thresholds has been used successfully to support compliance case outcomes, including in court.

Also note that listing decision instruments are disallowable by the Parliament.

- Could the Commonwealth align the grassland listing with changes to NSW vegetation laws?

The approved conservation advice, including condition thresholds, was developed in close consultation with experts from NSW agencies to ensure alignment where possible. As noted in previous briefing, this includes the groundcover assessment methodologies that Angus Taylor MP has mistakenly been advised are not aligned. Both NSW and Commonwealth are pursuing the current compliance case in question because the alleged destruction of high quality native grasslands has triggered both state and national law.

Also in previous briefing we noted that discussion with NSW agencies indicates that they have not yet decided on final process and methodologies for the change in regulations on 1 July 2017. It is important to note that EPBC Act requirements are not intended to fully align with NSW native vegetation regulations. This is because State vegetation laws cover all native vegetation, while national ecological community listings complement state vegetation laws by providing specific protection to select Australian species and ecosystem functions that are at most risk of extinction.

### **Further Background**

The purpose of listing ecological communities is to identify, protect and restore the most threatened ecosystems in Australia. EPBC listed ecological communities are taken into account during major new developments; and encourage and target conservation efforts, including through Australian government programs directed to farmer and other

community groups such as the National Landcare Programme. Protecting and funding management of listed ecological communities on private land complements other landscape or ecosystem-level measures, because their species and ecosystem functions are often under-represented in the national reserve system. The nationally listed ecological communities often fill important gaps and provide connectivity for wildlife between conservation reserves. There are now 77 protected under the EPBC Act, including 11 listed in the past 2 years, and with many occurring across agricultural regions of Australia.

The Natural Temperate Grassland of the South Eastern Highlands represents one of the most threatened ecosystems in Australia. Its extent has declined by around 90% and it has become heavily fragmented and degraded. This has resulted in large reductions in the number and size of regional populations of many plants and animals, including local extinctions. The loss of native grassland has also led to broader soil and erosion problems and significant spread of weeds that affect other biodiversity and agriculture in the region. However, some large or high quality remnants persist, particularly in the Monaro region of NSW, and they provide vital habitat for at least 19 threatened species. The native grassland is also important for the long-term sustainability of agriculture on the Monaro, particularly the main source of ongoing income from grazing in the region, because they provide year round forage and are relatively drought tolerant, including recovering quickly from extended drought. This makes them useful for low input production systems, and for fine wool production. Routine ongoing grazing and established land management practices do not typically require consideration under the EPBC Act. However large new pasture and cropping projects designed to take advantage of temporary market conditions may need to be EPBC approved to allow them to proceed whilst avoiding lasting significant impacts on the grassland.

Over the past approximately 20 years since the listing of the grassland, they have been taken into account in about 50 EPBC Act project approvals including strategic assessments for urban development in the ACT. No projects have been rejected, and many have been approved without change, but some have been approved subject to conditions to minimise impact on the grassland. In addition, there have been a large number of Commonwealth government investments to help landholders and community groups to manage and recover the grassland, particularly in relation to weeds that threaten both biodiversity and agriculture.

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**From:** Richardson, Geoff

**Sent:** Thursday, 13 April 2017 1:08 PM

**To:** s22 [redacted] <[redacted]@environment.gov.au>

**Cc:** s22 [redacted] <[redacted]@environment.gov.au>; s22 [redacted]

s22 [redacted] <[redacted]@environment.gov.au>; Oxley, Stephen <Stephen.Oxley@environment.gov.au>;

Knudson, Dean <Dean.Knudson@environment.gov.au>; de Brouwer, Gordon

<Gordon.deBrouwer@environment.gov.au>; s22 [redacted]

s22 [redacted] <[redacted]@environment.gov.au>

**Subject:** Update on South Eastern Highlands Grassland Ecological Community [DLM=For-Official-

Use-Only]

Hi **s22**

As requested to support your discussions with Angus Taylor MP, Member for Hume, below is an update on our progress following up on concerns raised about the natural temperate grassland EC listing on the Monaro, and options to address these. The options being considered include increasing communication regarding the ecological community, reviewing condition/size thresholds that help define the ecological community (i.e. the first step of determining whether the EC is present), as well as introducing significant impact guidance and/or thresholds (i.e. the next step to help define when the EPBC Act regulations may apply to particular actions).

The Department is continuing to investigate the broader implications of the revised listing. One year on since the revision, people with experience working at the interface between farming and NSW and EPBC legislation welcome the clarity in the revised listing definition. The Department has spoken to regional NSW Office of Environment and Heritage officers and regional Local Land Services (LLS) officers. These officers collectively have expertise in providing advice to farmers about native vegetation regulations and management, as well as agronomy advice, and regularly receive feedback from farmers. Discussions have covered the operation of the EPBC listing, NSW legislation, and details including groundcover assessment methodology. They have confirmed that the annual exotic measure (>50% native groundcover) to help define the EPBC Act-listed ecological community is consistent with current state rules. The NSW methodology states that groundcover assessments should be carried out when the proportion of native species to exotic species cover is at its highest, which effectively excludes the times when exotic annuals may dominate.

So there does not appear to be a widespread misunderstanding of the clarified definition and condition thresholds for the natural temperate grassland. The concern is that for the small proportion of landholders with large patches on their properties who want to significantly change land use, some may consider that the new condition thresholds are significant impact thresholds, when they are not. That is, some landholders might mistakenly believe that if the defined ecological community has been identified on their property, they are prevented from taking any action that might impact on the grassland without EPBC Act consideration.

Most landholders in the region are graziers who are exempt from the need to refer under the EPBC Act because they either (i) do not have native grassland on their property, particularly of the size and quality required to meet the EPBC definition; (ii) ongoing grazing is a continuing use that is exempt from EPBC Act consideration, or (iii) because typical changes in grazing practices would not have a significant impact.

Notwithstanding this, some landholders are likely to still find aspects of the definition challenging and understanding how to evaluate significant impact could be a problem for the few landholders with large/high-quality patches who have the resources to take advantage of favourable market conditions to convert higher quality natural temperate grasslands to exotic pastures and/or crops. The potential concerns around the EPBC Act and protection of the grasslands are exacerbated given upcoming changes to NSW legislation from 1 July.

The Department has also started a conversation with NFF about how to address these issues.

We think at this stage that more education around the EC listing and the operation of the EPBC Act regulatory provisions is the best option, but that further guidance around Significant Impact thresholds could also be explored. To implement this we need to consult further with Environment Standards Division (ESD) and the NFF Agriculture and Environment Consultative Committee about how this fits in with the broader approach of engagement with the agriculture sector. Any steps taken will consider best practice regulation, conservation and recovery implications for the critically endangered grassland, implications for farmers and implications for other proponents (e.g. urban, energy and communications infrastructure, roads and other developers that are the sectors which have referred actions under the EPBC Act for this grassland since 2000).

The expected deadline for policy improvements is 1 July 2017, in line with new NSW native vegetation laws becoming effective. However, some options may be able to be implemented earlier. Discussions will continue with the NSW Government in the lead up to this, as the new NSW native vegetation methodologies are not yet finalised.

Note that a more detailed preliminary analysis of the options is attached but is not ready for broader circulation at this stage.

Regards Geoff

**Geoff Richardson**

Assistant Secretary | Protected Species and Communities Branch

Department of the Environment and Energy

Ph: +61 2 6274 s22 | Mob: s22

The Department acknowledges the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present.

**From:** [Monica Collins](#)  
**To:** s22 [Finn Pratt](#)  
**Cc:** [Dean Knudson](#); [James Tregurtha](#); [Kylie Jonasson](#); [Bruce Edwards](#) s22  
**Subject:** RE: MB17-000520 - Meeting Brief for tomorrow afternoon [SEC=UNCLASSIFIED]  
**Date:** Wednesday, 25 October 2017 11:38:36 AM  
**Attachments:** [MB17-000520 251017.docx](#)  
[Corrowong talking points 251017.docx](#)

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Hello s22

Please see updated meeting brief and updated notes on the compliance investigation attached.

Regards  
Monica

Monica Collins  
**Chief Compliance Officer**  
**Office of Compliance**  
Department of the Environment and Energy  
P: 02 6274 s22  
M: s22

---

**From:** s22  
**Sent:** Tuesday, 24 October 2017 6:13 PM  
**To:** s22 @environment.gov.au; s22  
s22 @environment.gov.au  
**Cc:** Knudson, Dean <Dean.Knudson@environment.gov.au>; Tregurtha, James <James.Tregurtha@environment.gov.au>; Jonasson, Kylie <Kylie.Jonasson@environment.gov.au>; Edwards, Bruce <Bruce.Edwards@environment.gov.au>; Collins, Monica <Monica.Collins@environment.gov.au>; s22  
s22 @environment.gov.au  
**Subject:** RE: MB17-000520 - Meeting Brief for tomorrow afternoon [SEC=UNCLASSIFIED]

Is it only Attachment C that was updated?

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**From:** s22  
**Sent:** Tuesday, 24 October 2017 6:12 PM  
**To:** s22 @environment.gov.au; s22  
s22 @environment.gov.au  
**Cc:** Knudson, Dean <Dean.Knudson@environment.gov.au>; Tregurtha, James <James.Tregurtha@environment.gov.au>; Jonasson, Kylie <Kylie.Jonasson@environment.gov.au>; Edwards, Bruce <Bruce.Edwards@environment.gov.au>; Collins, Monica <Monica.Collins@environment.gov.au>; s22  
s22 @environment.gov.au  
**Subject:** RE: MB17-000520 - Meeting Brief for tomorrow afternoon [SEC=UNCLASSIFIED]

Apologies, but please use this version with final tweaks from Dean.



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**From:** s22

**Sent:** Tuesday, 24 October 2017 5:42 PM

**To:** s22 <[REDACTED]@environment.gov.au>; s22

s22 <[REDACTED]@environment.gov.au>

**Cc:** Knudson, Dean <Dean.Knudson@environment.gov.au>; Tregurtha, James

<James.Tregurtha@environment.gov.au>; Jonasson, Kylie

<Kylie.Jonasson@environment.gov.au>; Edwards, Bruce <Bruce.Edwards@environment.gov.au>;

Collins, Monica <Monica.Collins@environment.gov.au>; s22

s22 <[REDACTED]@environment.gov.au>

**Subject:** MB17-000520 - Meeting Brief for tomorrow afternoon [SEC=UNCLASSIFIED]

s22

Here is the brief for tomorrow afternoon's meeting with National Party MPs. It's coming in PDMS too.

Cheers

s22

## Copy to

**To:** Minister for the Environment and Energy (For Information)Secretary  
Mr Knudson  
Ms Jonasson**MEETING WITH THE DPM AND OTHER NATIONALS MPS REGARDING NATIVE VEGETATION / EPBC**Chief of Staff  
§22**Timing:** For meeting at 5.45pm on Wednesday 25 October 2017**Recommendation:**

1. That you note the contents in preparation for your meeting.

**Noted / Please discuss****Minister:**

Date:

<b>Clearing Officer:</b> Sent: 24/10/17	Dean Knudson	Deputy Secretary, Environment Protection Group	Ph: 6274 §22 Mob: §22
Contact Officer:	§22	Director, Ecological Communities Section	Ph: 6274 §22 Mob: §22

**Meeting with:** Deputy Prime Minister Joyce and other Nationals members**Proposed note taker:** Dean Knudson**What we want:** Provide information on opportunities for short-term regulatory reform and discuss the current interaction between EPBC Act and farm sector.**What they want:** To discuss concerns around the perceived impacts on agriculture from the *Environment Protection and Biodiversity Conservation Act* (EPBC Act).**Issues and Sensitivities:**

1. Investigations into land clearing in Queensland, a recent compliance investigation of clearing of a native grassland in the Monaro region of NSW, and broader changes to state native vegetation laws have heightened farm sector concerns about the EPBC Act.
2. Despite some perceptions, farmers are not highly regulated by the EPBC Act. However, there is a need to make it easier for farmers to understand and comply with the Act.
3. The upcoming review of the EPBC Act is unlikely to deliver short-term reform. Therefore, the Department is working on immediate actions to make it easier for farmers.
4. The specifics of the Monaro grassland compliance investigation cannot be discussed. However, some incorrect statements have been made to the rural media by the landowner, including that the listing is new and imposed an extra burden. In fact, the grassland has been listed on the Monaro under the Act since 2000, and an updated definition in 2016 reduced the potential regulatory burden for farmers.

**Consultation:** YES Office of Compliance and Environmental Standards Division .**Attachments**

- A:** Talking points  
**B:** Background on engagement with NSW co-regulators  
**C:** Key Points from Senator Williams and Background on the Grassland listing  
**D:** Update on 2015 land clearing investigations in Queensland

## Talking Points

### *Opportunities for EPBC Act reform*

- Making environmental law easier for farmers to deal with is a priority.
- The next independent review of the EPBC Act must commence by October 2019. This will be a highly contested process, so I am not confident it can deliver meaningful improvements for farmers in the short-term.
- A more direct pathway may to bring forward measures this year that can help farmers, without relying on the large-scale Act review.
- My Department is working with your portfolio to develop a package of measures that can be considered by Government this year. These include:
  - A 1-800 number for farmers to contact Departmental staff to help farmers navigate the Act,
  - Developing plain English information products with the National Farmers' Federation (NFF)
  - Meeting with the NFF to understand the issues that farmers are having with the Act, and how to address them.
  - Going out into communities, with NSW and QLD, to hear the concerns of farmers directly.
- These measures will help us to engage more meaningfully with farmers, and will help us define the Terms of Reference for the Act Review. This will help the Act Review to deliver wholesale change.

### *Under current EPBC Act, farmers are not heavily regulated*

- States are the primary regulator of farming, including land clearing.
- Approval under the EPBC Act is only required for actions that will have a significant impact on 'matters of national environmental significance', such as threatened species and the Great Barrier Reef.
- A farmer does not need to seek approval under the Act:
  - for routine land management activities, or
  - for ongoing activities that commenced or received the required approvals prior to July 2000.
- Since the Act began in 2000, there have been 5981 referrals assessed by the Department. Of these, 65 relate to agricultural activity.
  - This is 1 per cent of all referrals.
  - Of these referrals, only 21 were determined to be controlled actions, and none were refused approval.

- There has only been 16 enforcement actions involving farmers in 17 years.
- For farmers, listing a matter of national environmental significance typically leads to increased funding opportunities rather than increased regulation.
- The Australian Government has just announced the second phase of the National Landcare Program, which will continue to assist farmers to address key threats to both productivity and listed matters of national environmental significance.

## Background on engagement with NSW co-regulators

- The Department is engaging with NSW co-regulators to support farmers in making decisions about if and/or how the Act might apply to their land.

### Key Points:

- Our approach to supporting farmers compliance with the Act is focused on helping landholders understand their obligations.
- The Department is implementing a range of support mechanisms to ensure that changing legislation in New South Wales does not create uncertainty for landowners in understanding their obligations under national environmental law:
  - 1800 number for landholders to contact skilled and experienced departmental staff.
  - Tailored training for Local Land Services staff.
  - Plain English information products.
  - Regular meetings with New South Wales co-regulators.
  - Regular meetings with National Farmers' Federation to facilitate engagement with the agricultural sector and enhance the practical implementation of national environmental laws.
- We are working with the states and agricultural peak bodies to help farmers consider national and state environmental law in parallel when planning agricultural development.
- We are utilising the existing land management and planning interfaces used by landholders in NSW.
- NSW Local Land Services is the key point of contact for land owners when understanding regulatory obligations. We are working proactively with NSW Department of Primary Industries (Local Land Services) to ensure that Local Land Services staff are well versed in national environmental law.
  - The outcome sought is that Local Land Services staff are confident in their advice to landholders on when referral of an agricultural development is required under national environmental law.
- We recently conducted a successful tour across northern NSW where Department staff trained Local Land Services staff in the operation of national environmental law.
  - Training was conducted between 9 and 13 October across four Local Land Services Regions: North West, Northern Tablelands, Hunter and North Coast.
  - Training was delivered by Department staff from Protected Species and Communities Branch, NSW Assessments Branch and Office of Compliance.
  - Training provided regionally specific guidance for threatened species and ecological communities including identifying matters of regional importance and how to determine significant impact in a regional context. Training provided opportunity to understand and observe the practical application of this guidance.
  - Local Land Services staff provided very positive reviews: "the training was invaluable" and "building really good professional relationships".

- The training highlighted that:
  - For threatened ecological communities, judgements about significant impact were relatively straight forward and Local Land Services staff had the necessary skills and experience.
  - For threatened species, judgements about significant impact were more complex and the Department needs to develop more tools to assist Local Land Services staff.
  - Guidance on the treatment of invasive native species under national environmental law is required.
- Since the training, Department staff have been engaging with Local Land Services staff and providing support in making judgements around significant impacts to protected matters from planned agricultural development and clarity around the referral process.

**Next Steps:**

- The Department is now planning to engage similarly with NSW Local Land Services in southern NSW, including in the Monaro region.
- The Department is continuing to develop tools to assist the NSW Local Land Services inform NSW landholders of their obligations under national environmental law.
- Agricultural development is likely to generate dozens of referrals (rather than hundreds) under national environment law. The Department is testing a streamlined referral process for agricultural developments.

## Key Points from Senator Williams and Background on the Listing of the Grassland of the South Eastern Highlands

***The listing will have greater impact than NSW vegetation laws because the key threshold is that native perennials outweigh exotic perennials (all annuals are excluded). Given that in most cases the majority of exotics are annuals a large proportion of Monaro agricultural land would be caught under the Federal legislation.***

- The native grasslands on the Monaro have been nationally protected since 2000.
- This ecological community was listed as the 'Natural Temperate Grassland of the Southern Tablelands of NSW and the ACT', with core areas around Canberra and Cooma, when the *Environment Protection and Biodiversity Conservation Act 1999* started in 2000. Following a 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.
- In regards to protection by NSW law, the definition is not inconsistent with the EPBC definition. It recommends measuring at the time of the year when native groundcover is at its maximum. This is when annual exotics are not abundant.

*If asked about Noxious Weeds*

- The EPBC Act does not protect grasslands which are dominated by invasive weed species, such as African Lovegrass or Serrated Tussock. Paddocks dominated by these invasive species do not constitute high quality protected grasslands and could be cleared without need for approval under the EPBC Act. The clearing that recently occurred in the Monaro did not satisfy this exemption.

***The threshold under the Federal Act extends down to .1 of a hectare, therefore if a paddock as a whole does not breach the threshold, if any .1 of a hectare fulfils the criteria, the landholder would be in breach.***

- The revised listing focusses protection on the best examples of the grassland, by introducing condition thresholds to exclude areas of low quality and areas less than 0.1 ha (1000 m<sup>2</sup>) from the protected ecological community.
- This reduced the regulatory burden on farmers as previously approval was required for significant impacts to any size or quality patch of the grasslands.
- Furthermore, the need to refer or a breach of the EPBC Act only occurs if a farmer has a significant impact on the grassland.
- Since listing in 2000, there have been nil EPBC Act referrals for agriculture. There have been about 50 referrals for urban development and other large infrastructure projects like wind or solar farms for this ecological community.

***DEE says the endangered ecosystem is occurring in highly fragmented patches, with most less than 10 hectares in size, but yet the listing covers a huge area of farmland.***

- This ecological community is known as one of the most threatened ecosystems in Australia. While the overall distribution of the grassland is wide, its extent has declined by around 90 percent and remaining patches are typically smaller, more fragmented and degraded by invasive species.

- This has resulted in large reductions in the regional populations of many plants and animals, including local extinctions. However, areas in the Monaro region of NSW are important as these remnants provide vital habitat for at least 19 threatened species.

***Pasture improvement on most of the Monaro will now require a very detailed and onerous assessment at landholder expense.***

- Most 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;
  - ongoing grazing is a continuing use that is exempt from EPBC Act consideration (on the Monaro most farming activities involve long term grazing), or
  - because typical changes in grazing practices would not have a significant impact.
- Therefore, only a new activity that may have a significant impact on the best quality patches of grassland is likely to require approval.
- The Department is available to assist with determining if a referral is necessary.

***This change has not been well publicised. Farmers do not know of it nor did south-east LLS. If the objective of the listing is to preserve these native grasslands, why has the department made no genuine attempt to disseminate the information to landholders. There was certainly no consultation with Monaro landholders in determining the definitions of the listing, nor any attempt to limit the impacts on agriculture.***

- Local Land Services (LLS), the National Farmers Federation (NFF) and NSW Farmers were consulted during the process of revising the listing in 2014-2016. The targeted request for comment sent to these groups asked them to consider forwarding it on through their member networks.
- South-East LLS were very familiar with the original listing and have received many Australian Government grants to manage the grassland. They attended a listing review workshop and provided technical input.
- The NFF provided a submission. The Department responded via a detailed letter explaining 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 also raised concerns about farmers understanding the new condition thresholds and EPBC Act obligations. Post-listing, the Department collaborated with NFF to develop an information guide that included a flowchart about how to recognise a patch of the grassland and what condition it might be in, plus other useful information and key contacts regarding the EPBC Act and funding initiatives.
- The Department recently conducted a successful tour across northern NSW where staff trained Local Land Services staff in the operation of national environmental law. The Department is now planning to engage similarly with NSW Local Land Services in southern NSW, including in the Monaro region.



## ***Other Background***

### *Reasons for listing*

- To be listed under a particular category, an ecological community has to meet at least one of six regulated criteria. The grassland met the criteria for Critically Endangered under three criteria because:
  - At least 90% of the original grassland has been lost.
  - The remaining grasslands are highly fragmented, with most remaining patches small and subject to ongoing threats, particularly weed invasion and small-scale clearing.
  - There has been a very severe change in the integrity of the grasslands across their range, with less than 3% of the original extent remaining in 'High' condition.
- Most concerns raised by NFF in their submission were not related to the ecological community's eligibility for listing, and so could not be considered by the Threatened Species Scientific Committee or Minister.
- When deciding on whether to list or change the status of the ecological community, Minister Hunt could only consider whether it met one or more listing criteria and the effect listing could have on its survival. The submission from NFF did question its eligibility on the basis of the current rates of loss, which is one of six possible criteria for listing. However, the status of the ecological community was not based on this criterion, so this did not change the outcome.
- This 'up-listing' does not impose any further regulatory burden on farmers that hasn't existed since 2000 – that is to consider state and Commonwealth environmental requirements.

### *Benefits of listing*

- The revised listing in 2016 has helped raise awareness of the grasslands as an important natural asset. 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 state agencies and developers, because it provides more certainty about when nationally-listed ecological community is present.
- 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.

*Possibility of reviewing the listing*

- It could be nominated for delisting in the next annual public call for nominations. 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.
- 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. It continues to be cleared for development around Canberra for instance, and as noted recently by farmers, the invasive species problem is worsening.

## UPDATE ON 2015 LAND CLEARING INVESTIGATIONS IN QUEENSLAND

The Australian Government supports sustainable agriculture and is committed to the development of Northern Australia.

The Department of Environment and Energy has a legislative responsibility under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) to protect matters of national environmental significance such as endangered species and the Great Barrier Reef.

In general, the State governments regulate land clearing. The Australian Government only regulates development that is likely to result in a significant impact to matters of national environmental significance. Such development needs to be approved under the EPBC Act before they can commence.

- In 2014 and 2015 the Queensland government granted 59 permits to 54 permit holders to clear about 112,000 hectares for agricultural development.
- This is over 15,000 MCGs (playing area).
- Of the 59 permits:
  - 49 permits (45 permit holders) have been advised the Act does not apply.
  - 7 permits (7 permit holders) have been advised that the Act may apply to future clearing activities. Two of these permit holders have referred actions to the Department for assessment.
  - 1 permit has been deemed by the Minister to be referred (Kingvale) and a decision is yet to be made.
  - 2 permits (one permit holder) have ongoing active investigations.

**NATURAL TEMPERATE GRASSLANDS OF THE SOUTH EASTERN HIGHLANDS: COMPLIANCE  
MATTER**

**Issue**

s37(1)(a)

**Talking points**

- I am aware of allegations of potentially unlawful clearing of native temperate grasslands in the Monaro region of NSW.
- As the matter is currently under investigation, I will not comment further.

**Background**

This brief concerns our proposed compliance and enforcement approach for potential breaches of the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)* in connection with land clearing in agricultural areas. Inappropriate disclosure may prejudice our compliance and enforcement processes for these and other matters.

s37(1)(a)

Contact Officer: s22  
Telephone: (02) 6274 s22

Cleared by (SES level): Monica Collins  
Telephone: (02) 6274 s22  
Last updated:

**From:** s22  
**To:** [Geoff Richardson](#); [Monica Collins](#)  
**Cc:** [Matt Cahill](#); s22; [Deb Callister](#)  
**Subject:** RE: Meeting with Angus Taylor [SEC=UNCLASSIFIED]  
**Date:** Wednesday, 15 March 2017 1:56:37 PM

---

Thanks.

No, but let's meet at M1:17 and we can go from there.

s22

---

**From:** Richardson, Geoff  
**Sent:** Wednesday, 15 March 2017 1:43 PM  
**To:** s22 @environment.gov.au; Collins, Monica <Monica.Collins@environment.gov.au>  
**Cc:** Cahill, Matt <Matt.Cahill@environment.gov.au>; s22  
s22 @environment.gov.au; Callister, Deb <Deb.Callister@environment.gov.au>  
**Subject:** RE: Meeting with Angus Taylor [SEC=UNCLASSIFIED]

Hi s22

I am available at that time, and to best cover the issues you list below, I will be accompanied by s22 Director, Ecological Communities Section.

Is the meeting in Minister Frydenberg's offices at APH?

Regards Geoff

[Geoff Richardson](#)  
AS - Protected Species and Communities Branch  
Department of the Environment and Energy  
T: 02 6274 s22  
M: s22

---

**From:** s22  
**Sent:** Wednesday, 15 March 2017 10:41 AM  
**To:** Richardson, Geoff <[Geoff.Richardson@environment.gov.au](mailto:Geoff.Richardson@environment.gov.au)>; Collins, Monica <[Monica.Collins@environment.gov.au](mailto:Monica.Collins@environment.gov.au)>  
**Cc:** Cahill, Matt <[Matt.Cahill@environment.gov.au](mailto:Matt.Cahill@environment.gov.au)>  
**Subject:** Meeting with Angus Taylor [SEC=UNCLASSIFIED]

Geoff and Monica

I am meeting with Angus Taylor at 11am on Monday at APH to discuss the listing of the Monaro grasslands. Geoff, I need you there to discuss history, consultation, thresholds, practicalities, etc. Monica, it would be good to have you there also if you can make it.

Does this time work?

s22

---

s22

**Office of the Hon Josh Frydenberg MP**

Minister for the Environment and Energy | Federal Member for Kooyong

4 Treasury Place, East Melbourne VIC 3002 | p: 03 9660 s22

Parliament House, Canberra ACT 2600 | p: 02 6277 s22

e: s22@environment.gov.au | w: [www.joshfrydenberg.com.au](http://www.joshfrydenberg.com.au)

**From:** s22  
**To:** s22  
**Cc:** s22; Geoff Richardson; Matt Cahill; s22; Dean Knudson; de Brouwer, Gordon; s22  
**Subject:** RE: Monaro grasslands [SEC=UNCLASSIFIED]  
**Date:** Wednesday, 8 March 2017 10:40:36 AM

---

Thank you – Very helpful.

Could you please send me a copy of the Dept’s response to the NFF, as well as the public information guide?

---

**From:** s22  
**Sent:** Tuesday, 7 March 2017 10:02 AM  
**To:** s22@environment.gov.au  
**Cc:** s22@environment.gov.au; s22  
s22@environment.gov.au; Richardson, Geoff  
<Geoff.Richardson@environment.gov.au>; Cahill, Matt <Matt.Cahill@environment.gov.au>;  
s22@environment.gov.au; Knudson, Dean  
<Dean.Knudson@environment.gov.au>; de Brouwer, Gordon  
<Gordon.deBrouwer@environment.gov.au>; s22  
s22@environment.gov.au; Collins, Monica  
<Monica.Collins@environment.gov.au>; s22@environment.gov.au  
**Subject:** RE: Monaro grasslands [SEC=UNCLASSIFIED]

Hi s22

Please find below response to your further queries in relation to the Monaro grasslands, on behalf of Monica Collins. Monica is out of the office today. If you have further queries in relation to the listing process itself, the Wildlife Heritage and Marine Division would be best placed to respond (Geoff Richardson provided the relevant content below).

Regards,  
s22

s22  
Director | Governance and Strategic Implementation  
Compliance and Enforcement Branch  
Environment Standards Division  
Department of the Environment and Energy  
6274 s22 | s22@environment.gov.au

*Who made the decision to uplist the EC – Hunt, Frydenberg or Delegate?*

- The uplisting decision was made by Greg Hunt, as Minister for the Environment at the time.

*We have received comments that implementation of the revised listing has been problematic. In particular, it can lead to a mosaic of protected and non-protected areas inside existing paddocks and regarding the exclusion of clover from the 50% threshold. Can you provide any comments*

#### *around practicality of implementation?*

- Listed ecological communities occur wherever a patch of native vegetation in the landscape meets the diagnostic features, plus the condition thresholds for that community. This is similar to identifying habitat requirements for particular listed threatened species except that it applies to a described assemblage of species, usually a certain vegetation type.
- A mosaic distribution is typical for many ecological communities because of: 1) variability in landscape features – for instance grasslands often form in frost hollows and sites of cold air drainage; and 2) variability in past management history – for instance the degree of grazing, ploughing and fertiliser addition affects the composition and diversity of grassland species among and within sites.
- Both the original and revised listings constituted a ‘mosaic’ as the community was always naturally restricted in where it can occur. However, the revised listing introduced a ‘minimum condition threshold’, that clarifies which areas of grassland should be protected by the *Environment Protection and Biodiversity Conservation Act 1999*. Low quality grasslands that do not meet this threshold are not protected, whereas some of these areas would have been included in the original listing.
- Large areas that have more than 50% vegetation cover of clover (*Trifolium* spp.), which is not a native plant, are not part of the grassland ecological community.
- To be considered part of the listed ecological community, grassland patches must be at least 0.1 Hectare in size, must have a greater percentage cover of native plants (including annual and perennial species) than the percentage cover of perennial exotic species (i.e. >50% native cover), and must meet additional condition thresholds (e.g. relating to the diversity of non-grass native species, or the presence of particular ‘indicator species’).
- Detailed information about how to recognise a patch of the grassland and what condition it might be in are given in the approved [conservation advice](#) and the [information guide](#) for the uplisted community. The information guide provides a flowchart to help landholders determine the condition of the grassland.

#### *Can you please provide overview of consultation and feedback from farmer groups regarding the uplisting?*

- The original listing, recovery plan and revised listing all went through statutory consultation processes.
- Notification emails about the uplisting were sent to a wide range of stakeholders, including all councils, Local Land Services, and state agencies where the ecological community occurs, and the National Farmers’ Federation and NSW Farmers’ Association. These Farmers’ groups also were contacted by the Department’s Environment Liaison Officer, out posted to the NFF, and the Department met with the NFF to discuss the listing on more than one occasion. A farmer specific consultation guide was made available as part of the consultation package, explaining the listing review process and what this meant for farming activities.
- The NSW Farmers Association did not provide any comment on the proposed uplisting. The NFF provided a submission noting concerns that further information would be required to complete the assessment and that landholders may have difficulty identifying the grassland. The Department replied to the NFF about their issues.
- A public information guide aimed at helping farmers and other landholders understand the uplisted grassland was prepared and released after the listing. This guide was developed with the assistance of the NFF.



*What are the available avenues/ process to review a listing decision?*

- A listed ecological community is subject to disallowance for 15 sitting days of Parliament after the instrument has been registered. This period has passed for the grassland ecological community. Once an ecological community has been listed, it can only be removed from the list if the Minister is satisfied that it is no longer eligible to be included on the list or its inclusion will not contribute to its survival. In deciding whether to delist the community, the Minister cannot consider any other matters. This particular listing decision followed a comprehensive review against listing criteria by the independent Threatened Species Scientific Committee.

Monica Collins

**Assistant Secretary Compliance and Enforcement**

Department of the Environment and Energy

P: 02 6274 s22

M: s22

---

**From:** s22

**Sent:** Thursday, 2 March 2017 9:54 AM

**To:** Collins, Monica <[Monica.Collins@environment.gov.au](mailto:Monica.Collins@environment.gov.au)>; s22

s22 <[s22@environment.gov.au](mailto:s22@environment.gov.au)>

**Cc:** de Brouwer, Gordon <[Gordon.deBrouwer@environment.gov.au](mailto:Gordon.deBrouwer@environment.gov.au)>; Knudson, Dean

<[Dean.Knudson@environment.gov.au](mailto:Dean.Knudson@environment.gov.au)>; s22

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s22 <[s22@environment.gov.au](mailto:s22@environment.gov.au)>; s22 <[s22@environment.gov.au](mailto:s22@environment.gov.au)>;

s22 <[s22@environment.gov.au](mailto:s22@environment.gov.au)>

**Subject:** RE: Monaro grasslands [SEC=UNCLASSIFIED]

Hi Monica

Can you please clarify the following:

Who made the decision to uplist the EC – Hunt, Frydenberg or Delegate?

We have received comments that implementation of the revised listing has been problematic. In particular, it can lead to a mosaic of protected and non-protected areas inside existing paddocks and regarding the exclusion of clover from the 50% threshold. Can you provide any comments around practicality of implementation?

Can you please provide overview of consultation and feedback from farmer groups regarding the uplisting?

Can you please let me know by end of Monday.

Thanks

s22

---

**From:** Collins, Monica

**Sent:** Tuesday, 28 February 2017 5:14 PM

**To:** s22 [redacted] <[redacted]@environment.gov.au>; s22 [redacted]

s22 [redacted] <[redacted]@environment.gov.au>

**Cc:** de Brouwer, Gordon <Gordon.deBrouwer@environment.gov.au>; Knudson, Dean

<Dean.Knudson@environment.gov.au>; s22 [redacted]

s22 [redacted] <[redacted]@environment.gov.au>; s22 [redacted]

s22 [redacted] <[redacted]@environment.gov.au>; s22 [redacted] <[redacted]@environment.gov.au>;

s22 [redacted] <[redacted]@environment.gov.au>

**Subject:** Monaro grasslands [SEC=UNCLASSIFIED]

Hi s22 [redacted]

Please see information below as requested.

Monica

### General Information on Grasslands

- In the Monaro region of NSW, matters of national environmental significance protected by the *Environment Protection and Biodiversity Conservation Act 1999* include the critically endangered *Natural Temperate Grassland of the South Eastern Highlands* ecological community.
- This grassland ecological community has been protected in the Monaro region as endangered under the Act since the Act was introduced in 2000, and was up listed to critically endangered in 2016.
- The revision of the listing of the endangered *Natural Temperate Grassland of the Southern Tablelands of NSW and the Australian Capital Territory* to the critically endangered *Natural Temperate Grassland of the South Eastern Highlands* resulted in protection of grasslands in a broader geographic area, but limits the protection to areas of the highest quality grasslands.
  - Within the extent of the previous listing (Southern Tablelands of NSW and the ACT), the area protected by the listing (and subsequently the number of landholders affected) is considered to be reduced. However, the geographic extent of the new listing is larger than it was for the previous listing (for example, it now includes parts of Victoria).
- The minimum condition thresholds (see below) contained in the Conservation Advice for the revised listing allow greater certainty for landholders in determining whether the Act applies to their proposed actions.
- To be considered the listed ecological community, grassland patches must be at least 0.1 Hectare in size, must have a greater percentage cover of native vascular plants (including annual and perennial species) than the percentage cover of perennial exotic species (i.e. >50% native cover), and must meet additional condition thresholds (eg relating to the diversity of non-grass native species, the presence of particular 'indicator species' or the floristic value score).  
*Note - this is a simplified overview of the minimum condition thresholds.*

- Natural Temperate Grassland of the South Eastern Highlands is listed as critically endangered under the EPBC Act. The threshold of significance for proposed activities is dependent on the quality and context of the impacted ecological community, but is likely to be in the region of 1-10 ha.

s37(1)(a)

Monica Collins

**Assistant Secretary Compliance and Enforcement**

Department of the Environment and Energy

P: 02 6274 s22

M: s22

**From:** s22  
**To:** s22  
**Cc:** [Dean Knudson](#); [Geoff Richardson](#)  
**Subject:** RE: Monday meeting deferred - New date tbd. [SEC=UNCLASSIFIED]  
**Date:** Friday, 20 October 2017 4:55:19 PM  
**Attachments:** [MB17-000520 Meeting Brief Native Veg and Grassland.docx](#)

---

Hi s22,

Here is the meeting brief as it stands. The final will come up to you on Monday via the Parliamentary system.

Cheers

s22

---

**From:** s22  
**Sent:** Friday, 20 October 2017 3:04 PM  
**To:** Knudson, Dean <[Dean.Knudson@environment.gov.au](mailto:Dean.Knudson@environment.gov.au)>  
**Cc:** s22 <[redacted]@environment.gov.au>  
**Subject:** RE: Monday meeting deferred - New date tbd. [SEC=UNCLASSIFIED]

Now scheduled for Wednesday 6pm.

---

**From:** s22  
**Sent:** Friday, 20 October 2017 12:46 PM  
**To:** Knudson, Dean <[Dean.Knudson@environment.gov.au](mailto:Dean.Knudson@environment.gov.au)>  
**Cc:** s22 <[redacted]@environment.gov.au>  
**Subject:** RE: Monday meeting deferred - New date tbd. [SEC=UNCLASSIFIED]

Will do. Tks.

The meeting will still happen. Tuesday is being discussed.

---

**From:** Knudson, Dean  
**Sent:** Friday, 20 October 2017 12:41 PM  
**To:** s22 <[redacted]@environment.gov.au>  
**Cc:** s22 <[redacted]@environment.gov.au>  
**Subject:** Re: Monday meeting deferred - New date tbd. [SEC=UNCLASSIFIED]

I head. Think you should still have a look at the revised meeting brief to make sure we've covered all issues. s22 can send you that later today.

Sent from my iPhone

On 20 Oct 2017, at 11:04 am, s22 <[redacted]@environment.gov.au> wrote:

Thanks

---

s22

**Office of the Hon Josh Frydenberg MP**

Minister for the Environment and Energy | Federal Member for Kooyong

4 Treasury Place, East Melbourne VIC 3002 | p: 03 9660 s22

Parliament House, Canberra ACT 2600 | p: 02 6277 s22

e: s22@environment.gov.au | w: [www.joshfrydenberg.com.au](http://www.joshfrydenberg.com.au)

Copy to

To: Minister for the Environment and Energy (For Information)

Secretary  
Mr Cahill  
Ms Evans  
Mr Knudson  
Mr Heferen  
Ms Goodwin  
Kylie Jonasson

**MEETING WITH THE DPM AND OTHER NATIONALS MPS REGARDING NATIVE VEGETATION / EPBC**

**Timing:** For meeting at 6pm on Wednesday 25 October 2017

Chief of Staff  
s22

**Recommendation:**

1. That you note the contents in preparation for your meeting.

**Noted / Please discuss**

**Minister:**

**Date:**

<b>Clearing Officer:</b> Sent:.././..	Dean Knudson	Deputy Secretary, Environment Protection Group	Ph: 6274 s22 Mob: s22
Contact Officer:	s22	Director, Ecological Communities Section	Ph: 6274 s22 Mob: s22

**Meeting with:** Deputy Prime Minister Joyce and other Nationals members

**Proposed note taker:** Dean Knudson

**What we want:** Provide advice on interaction between EPBC Act and farm sector.

**What they want:** It is not certain, but they may wish to discuss concerns raised by the National Farmers' Federation and the NSW Farmers' Association around the revised listing of the 'Natural Temperate Grassland of the South Eastern Highlands' and broader perceived impacts from the *Environment Protection and Biodiversity Conservation Act* (EPBC Act).

**Issues and Sensitivities:**

1. The Department is investigating allegations of potentially unlawful clearing of native grassland in the Monaro region of NSW. The specifics of the investigation cannot be discussed.
2. The grassland on the Monaro has been incorrectly referred to as a new listing. It has been listed under the EPBC Act since 2000 and an updated definition in 2016 reduced the potential regulatory burden for farmers on the Monaro by introducing thresholds.
3. This ecological community is one of the most threatened ecosystems in Australia. To date, the Department has not taken compliance action for any actions that have resulted in a significant impact
4. The National Farmers Federation and NSW Farmers were consulted about the proposed changes to the listing, and NFF assisted the Department in developing an information guide for farmers after the listing was revised in 2016.

**Consultation: YES** The Office of Compliance has been consulted.

**Attachments**

- A:** Talking points
- B:** Background on the Natural Temperate Grassland listing
- C:** Background on engagement with NSW co-regulators

## Talking Points

- National environmental law only applies to matters of national environmental significance, including threatened ecological communities. For farmers, listing a matter of national environmental significance typically leads to increased funding opportunities rather than increased regulation.
- Since the commencement of the EPBC Act in 2000, there have been a total of about 65 referrals for “agriculture” projects. This is 1 per cent of all referrals. Of these referrals only 21 were determined to be controlled actions, and none of these projects have been refused approval.
- Approval under national environmental law is only required for actions that will have a significant impact on a matter of national environmental significance.
- A farmer does not need to seek approval under national environmental law if the farmer’s development is a routine land management activity, or if it is an ongoing activity that commenced or received the required approvals prior to July 2000.
- Our approach to supporting land owners’ compliance with national environmental law is focused on helping land owners understand their obligations.
- We have clearly communicated to farmers the need to consider national and state environment law in parallel when planning agricultural development.
- We are working with the states and agricultural peak bodies to help farmers consider national and state environmental law in parallel when planning agricultural development.

### *Support for farmers in NSW following recent changes in state vegetation laws*

- The Department is implementing a range of support mechanisms to ensure that changing legislation in New South Wales does not create uncertainty for landowners in understanding their obligations under national environmental law:
  - 1800 number for landholders to contact skilled and experienced departmental staff.
  - Tailored training for Local Land Services staff.
  - Plain English information products.
  - Regular meetings with New South Wales co-regulators.
  - Regular meetings with National Farmers’ Federation to facilitate engagement with the agricultural sector and enhance the practical implementation of national environmental laws.
- We recognise that NSW Local Land Services officers are the key point of contact for landholders when understanding regulatory obligations. We are working with the NSW Department of Primary Industries on tailored training for Local Land Services staff. Between 9 and 13 October we conducted training across four Local Land Services Regions: North West, Northern Tablelands, Hunter and North Coast. Department staff trained NSW Local Land Services staff in the operation of national environment law. The Department is now planning to engage similarly with NSW Local Land Services in southern NSW, including in the Monaro region.



## Background on the Natural Temperate Grassland of the South Eastern Highlands

- This ecological community is known as one of the most threatened ecosystems in Australia. While the overall distribution of the grassland is wide, its extent has declined by around 90 percent and remaining patches are typically smaller, more fragmented and degraded by invasive species.
- This has resulted in large reductions in the regional populations of many plants and animals, including local extinctions. However, areas in the Monaro region of NSW are important as these remnants provide vital habitat for at least 19 threatened species.

### *Protection under the EPBC Act*

- The native grasslands on the Monaro have been protected since 2000.
- This ecological community was listed as the 'Natural Temperate Grassland of the Southern Tablelands of NSW and the ACT', with core areas around Canberra and Cooma, when the *Environment Protection and Biodiversity Conservation Act 1999* started in 2000. Following a 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.
- Since listing in 2000 there have been about 50 referrals for urban development and other large infrastructure projects like wind or solar farms, but nil for agriculture. To date, there have been no EPBC Act compliance actions related to the grassland.
- To be listed under a particular category, an ecological community has to meet at least one of six regulated criteria. The grassland met the criteria for Critically Endangered under three criteria because:
  - At least 90% of the original grassland has been lost.
  - The remaining grasslands are highly fragmented, with most remaining patches small and subject to ongoing threats, particularly weed invasion and small-scale clearing.
  - There has been a very severe change in the integrity of the grasslands across their range, with less than 3% of the original extent remaining in 'High' condition.
- This 'up-listing' does not impose any further regulatory burden on farmers that hasn't existed since 2000 – that is to consider state and Commonwealth environmental requirements.
- The revised listing also focusses protection on the best examples of the grassland, by introducing condition thresholds to exclude areas of low quality from the protected ecological community. This reduces the regulatory burden on farmers as previously approval was required for significant impacts to any patch of the grasslands, not just for high quality areas.

### *Consultation with farmer groups during the listing review*

- The National Farmers Federation (NFF) and NSW Farmers were consulted during the process of revising the listing in 2014-2016. The targeted request for comment sent to these groups asked them to consider forwarding it on through their member networks. The NFF provided a submission.

- Most concerns raised by NFF in their submission were not related to the ecological community's eligibility for listing, and so could not be considered by the Threatened Species Scientific Committee or Minister.
- When deciding on whether to list or change the status of the ecological community, Minister Hunt could only consider whether it met one or more listing criteria and the effect listing could have on its survival. The submission from NFF did question its eligibility on the basis of the current rates of loss, which is one of six possible criteria for listing. However, the status of the ecological community was not based on this criterion, so this did not change the outcome.
- The Department responded to the NFF submission via a detailed letter explaining this and addressing each concern raised. The NFF did not reply in writing again, but 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 also raised concerns about farmers understanding the new condition thresholds and EPBC Act obligations. To address this, the Department collaborated with NFF to develop an information guide that included a flowchart about how to recognise a patch of the grassland and what condition it might be in, plus other useful information and key contacts regarding the EPBC Act and funding initiatives.

#### *Benefits of listing*

- The revised listing in 2016 has helped raise awareness of the grasslands as an important natural asset. 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 state agencies and developers, because it provides more certainty about when nationally-listed ecological community is present.
- 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.

### *Possibility of reviewing the listing*

- It could be nominated for delisting in the next annual public call for nominations. 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.
- 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. It continues to be cleared for development around Canberra for instance, and as noted recently by farmers, the invasive species problem is worsening.

## Background on engagement with NSW co-regulators

### Issue:

The Department is engaging with NSW co-regulators to support landholders in making decisions about if and/or how national environment laws might apply to their land.

### Key Points:

- Our approach to support landholder compliance with national environmental law is focused on helping landholders know about their obligations.
- We are utilising the existing land management and planning interfaces used by landholders in NSW.
- NSW Local Land Services is the key point of contact for land owners when understanding regulatory obligations. We are working proactively with NSW Department of Primary Industries (Local Land Services) to ensure that Local Land Services staff are well versed in national environmental law.
  - The outcome sought is that Local Land Services staff are confident in their advice to landholders on when referral of an agricultural development is required under national environmental law.
- We recently conducted a successful tour across northern NSW where Department staff trained Local Land Services staff in the operation of national environmental law.
  - Training was conducted between 9 and 13 October across four Local Land Services Regions: North West, Northern Tablelands, Hunter and North Coast.
  - Training was delivered by Department staff from Protected Species and Communities Branch, NSW Assessments Branch and Office of Compliance.
  - Training provided regionally specific guidance for threatened species and ecological communities including identifying matters of regional importance and how to determine significant impact in a regional context. Training provided opportunity to understand and observe the practical application of this guidance.
  - Local Land Services staff provided very positive reviews: "the training was invaluable" and "building really good professional relationships".
- The training highlighted that:
  - For threatened ecological communities, judgements about significant impact were relatively straight forward and Local Land Services staff had the necessary skills and experience.
  - For threatened species, judgements about significant impact were more complex and the Department needs to develop more tools to assist Local Land Services staff.
  - Guidance on the treatment of invasive native species under national environmental law is required.
- Since the training, Department staff have been engaging with Local Land Services staff and providing support in making judgements around significant impacts to protected matters from planned agricultural development and clarity around the referral process.

**Next Steps:**

- The Department is now planning to engage similarly with NSW Local Land Services in southern NSW, including in the Monaro region.
- The Department is continuing to develop tools to assist the NSW Local Land Services inform NSW landholders of their obligations under national environmental law.
- Agricultural development is likely to generate dozens of referrals (rather than hundreds) under national environment law. The Department is testing a streamlined referral process for agricultural developments.

**From:** s22  
**To:** [Geoff Richardson](#)  
**Cc:** s22; s22; [Stephen Oxley](#); s22  
**Subject:** RE: National Farmers' Federation submission to Listing review for Natural Temperate Grasslands of the Southern Tablelands of NSW and the ACT [SEC=UNCLASSIFIED]  
**Date:** Friday, 3 March 2017 1:01:01 PM

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Many thanks Geoff, much appreciated.

Regards

s22

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**From:** Richardson, Geoff  
**Sent:** Friday, 3 March 2017 12:09 PM  
**To:** s22 @environment.gov.au>  
**Cc:** s22 @environment.gov.au>; s22 @environment.gov.au>; Oxley, Stephen <Stephen.Oxley@environment.gov.au>; s22 @environment.gov.au>  
**Subject:** FW: National Farmers' Federation submission to Listing review for Natural Temperate Grasslands of the Southern Tablelands of NSW and the ACT [SEC=UNCLASSIFIED]

Hi s22

Yes, the department did respond directly to the NFF submission. I have attached that response. I can also advise that the response was also attached to the listing brief that was provided to Minister Hunt.

I note the NFF letter does not oppose the listing it asks for further clarification on some issues with the listing assessment and raises some concerns about complexity for farmers. The response to the NFF aimed to address their concerns and some broader issues around EPBC Act that were being discussed with them at the time. The NFF did not respond in writing again, but it was part of a series of 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 was made on 6 April 2016. This culminated in the publishing of a post-listing [information guide](#) that the NFF helped the Department draft to address their concerns about farmers understanding the listing (no such guide was available for the original listing).

I would also note that the previous ecological community had been listed from the start of the EPBC Act and the 2016 revised listing included condition thresholds which means that many areas previously included on farms etc (and hence requiring referral for significant impact) no longer require referral.

Please let me know if you need anything further on this matter.

Regards Geoff  
[Geoff Richardson](#)  
AS - Protected Species and Communities Branch  
Department of the Environment and Energy  
T: 02 6274 s22  
M: s22

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**From:** s22

**Sent:** Friday, 3 March 2017 10:21 AM

**To:** Richardson, Geoff <[Geoff.Richardson@environment.gov.au](mailto:Geoff.Richardson@environment.gov.au)>

**Cc:** s22 <[redacted]@environment.gov.au>

**Subject:** FW: National Farmers' Federation submission to Listing review for Natural Temperate Grasslands of the Southern Tablelands of NSW and the ACT [SEC=UNCLASSIFIED]

Hi Geoff

Do you know whether a response was sent to NFF in relation to their submission (attached)?

Thanks

s22

s22

Departmental Liaison Officer

Office of the Hon Josh Frydenberg MP | Minister for the Environment and Energy

Ph: 02 6277 s22 s22

s22 <[redacted]@environment.gov.au> | Parliament House, Canberra, ACT 2600

---

**From:** Frydenberg, Josh (MP) [<mailto:Josh.Frydenberg.MP@aph.gov.au>]

**Sent:** Friday, 3 March 2017 9:35 AM

**To:** s22 <[redacted]@environment.gov.au>

**Cc:** s22 <[redacted]@environment.gov.au>

**Subject:** FW: National Farmers' Federation submission to Listing review for Natural Temperate Grasslands of the Southern Tablelands of NSW and the ACT

Hi s22 here is the email that you requested me to forward again

s47F

Office of the Hon Josh Frydenberg MP

Federal Member for Kooyong | Minister for the Environment and Energy

Electorate Office | 695 Burke Road, Camberwell VIC 3124 | t: 03 9882 s47F

Parliament House Office | M1:17, Parliament House, Canberra ACT 2600 | t: 02 6277 s47F

e s47F <[redacted]@aph.gov.au> | w: [www.joshfrydenberg.com.au](http://www.joshfrydenberg.com.au)

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**From:** Taylor, Angus (MP)

**Sent:** Wednesday, 22 February 2017 3:22 PM

**To:** Frydenberg, Josh (MP)

**Cc:** Hunt, Greg (MP)

**Subject:** National Farmers' Federation submission to Listing review for Natural Temperate Grasslands of the Southern Tablelands of NSW and the ACT

Josh

I'm following up on our discussion re the listing of the Grasslands of the Southern Tablelands

under the EPBC Act

Obviously the NFF objected to the listing. I am chasing the response from the Department. It is clear that Department proceeded with the listing, despite the objections.

A growing number of farmers are becoming very concerned about the impact of the listing.

Cheers

Angus





s47F

National Farmers' Federation  
PO Box E10  
Kingston ACT 2604

Dear s47F

Thank you for your submission, dated 25 June 2014, regarding the listing review for Natural Temperate Grasslands of the Southern Tablelands of NSW and the Australian Capital Territory. I would like to address the issues raised and further to our meeting of 17 September 2014, also discuss continued engagement with the National Farmers' Federation regarding threatened ecological community listings under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

EPBC Act referral data from the regions where the proposed revised grassland ecological community occurs, and from across Australia, shows that there are usually negligible regulatory impacts to farmers from national ecological community listings. Exemptions under the EPBC Act for routine or ongoing farming activities exist, and actual regulatory impacts/burden due to national listing would be, and is intended to be, minor for the farming sector. The intent of listing is that some of the most threatened ecological communities (and species habitats) are taken into account during major new developments and receive priority support for conservation effort, including that support is directed to the farming community as appropriate in recognition of ongoing conservation efforts.

Overall, between 2000 and 2014, latest data analysis suggests that eighteen referrals have been attributed to agriculture that involve threatened ecological communities. This has averaged one referral per year since 2005, while the number of ecological communities listed over this time has increased from 27 to 67.

Similarly, substantive compliance actions for farmers are rare. However, the Department is in regular contact with members of the farming community in relation to reports made regarding particular activities. Reports of contraventions of national environmental law are investigated in accordance with the Department's EPBC Compliance and Enforcement Policy. I understand that you have received separate correspondence from the Department's Compliance and Enforcement Branch about such matters. Our two Branches have also had recent discussions regarding your concerns and are seeking a joint meeting with you shortly, including to discuss ongoing communications regarding EPBC Act matters now that the specific NFF liaison officer position has been discontinued.

In relation to the particular grasslands, most of the area for the revised ecological community has been protected under the EPBC Act as an ecological community since 2000. Over that time there have been no EPBC referrals from the farm sector, nor any compliance actions undertaken. In all the additional regions where the revised ecological community occurs there are other nationally protected matters, including other ecological communities and individual threatened species. For example, the New England Peppermint Woodlands have been listed on the New England Plateau since 2011 with no referrals by the farming sector. The referrals that have been made in all of these regions are generally triggered by clearing for major new projects such as residential and industrial development and for energy infrastructure (e.g. windfarms on the southern tablelands). The exemptions under the EPBC Act for routine or ongoing activities and application of state clearance regulations remove the need for most farming and other maintenance activities to be referred.

Furthermore, the proposed revised listing adds minimum condition thresholds for the ecological community (the existing listing does not). This means that areas such as native grasslands without a diversity of species (e.g. native pasture) are part of the existing listing and thus potentially require referral for new activities that may have significant impacts. Under the proposed revisions, these areas would be excluded from the national listing and would no longer have to consider potential referral obligations.

The Department acknowledges that despite the past history of little to no direct impact on the farming sector, there is uncertainty among farmers as to whether or not referral is required, and whether or not actions they take could result in compliance actions. The Department's consultation guide for the grasslands review attempted to address some of these issues and should the revised ecological community be listed, the Department will provide a more detailed information guide to land managers to assist with any management decisions regarding the ecological community. We would appreciate the assistance of the NFF in improving this document (draft version to be provided) and distributing it through appropriate networks if and when it is published.

Landholders that have the ecological community on their properties do so because they are already managing it well. The ecological community provides a range of ecosystem services including combating salinity and erosion and providing a relatively drought-tolerant food source in areas where it is sustainably grazed. Funding and support to continue to help manage the community sustainably may be available through programs such as the National Landcare Programme, the Green Army, or other programs offered through state NRM agencies. For example, as you are aware past national funding has committed \$150 million through a stewardship program to support farmers to maintain and restore over 55 000 ha of six ecological communities.

In relation to the listing eligibility of the grasslands, the Threatened Species Scientific Committee determined it had sufficient quantitative data and considerable other information to complete a robust assessment against the listing criteria and guidelines. This included meeting thresholds for critically endangered, based on levels of historical clearing (Criterion 1) and ongoing integrity impacts such as weeds. You noted that further detailed data on the ecological community was noted as a priority research action, and gave the example of data gaps on rates of clearing. Rate of change is assessed against Criterion 5 and, as full data were not available, the Committee's assessment did not trigger against this criterion.

The Committee's listing advice and submissions received, including yours, are now with the Minister, who will make a decision on the proposed revision of the ecological community listing by 5 December 2014. We will keep you updated about this and aim to notify you early on about other listing assessments and recovery plans that are focussed in farming regions.

Yours sincerely

**s22**

Director  
Ecological Communities Section / Protected Species and Communities Branch  
21 October 2014

Phone: (02) 6274 **s22**  
email: **s22** @environment.gov.au



**From:** s22  
**To:** [Geoff Richardson](#)  
**Cc:** s22  
**Subject:** FW: National Farmers' Federation submission to Listing review for Natural Temperate Grasslands of the Southern Tablelands of NSW and the ACT [SEC=UNCLASSIFIED]  
**Date:** Friday, 3 March 2017 10:21:23 AM  
**Attachments:** [2014\\_07\\_25\\_NFF\\_sub\\_to\\_EPBC\\_temperate\\_grasslands.pdf](#)

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Hi Geoff

Do you know whether a response was sent to NFF in relation to their submission (attached)?

Thanks

s22

s22

Departmental Liaison Officer  
Office of the Hon Josh Frydenberg MP | Minister for the Environment and Energy  
Ph: 02 6277 s22 | s22  
s22 [@environment.gov.au](mailto:s22@environment.gov.au) | Parliament House, Canberra, ACT 2600

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**From:** Frydenberg, Josh (MP) [mailto:Josh.Frydenberg.MP@aph.gov.au]  
**Sent:** Friday, 3 March 2017 9:35 AM  
**To:** s22 [@environment.gov.au](mailto:s22@environment.gov.au)>  
**Cc:** s22 [@environment.gov.au](mailto:s22@environment.gov.au)>  
**Subject:** FW: National Farmers' Federation submission to Listing review for Natural Temperate Grasslands of the Southern Tablelands of NSW and the ACT

Hi s22 here is the email that you requested me to forward again

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Office of the Hon Josh Frydenberg MP  
Federal Member for Kooyong | Minister for the Environment and Energy

Electorate Office | 695 Burke Road, Camberwell VIC 3124 | t: 03 9882 s47F  
Parliament House Office | M1:17, Parliament House, Canberra ACT 2600 | t: 02 6277 s47F

e: s47F [@aph.gov.au](mailto:s47F@aph.gov.au) | w: [www.joshfrydenberg.com.au](http://www.joshfrydenberg.com.au)

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**From:** Taylor, Angus (MP)  
**Sent:** Wednesday, 22 February 2017 3:22 PM  
**To:** Frydenberg, Josh (MP)  
**Cc:** Hunt, Greg (MP)  
**Subject:** National Farmers' Federation submission to Listing review for Natural Temperate Grasslands of the Southern Tablelands of NSW and the ACT

Josh

I'm following up on our discussion re the listing of the Grasslands of the Southern Tablelands under the EPBC Act

Obviously the NFF objected to the listing. I am chasing the response from the Department. It is clear that Department proceeded with the listing, despite the objections.

A growing number of farmers are becoming very concerned about the impact of the listing.

Cheers

Angus

25 June 2014

Ecological Communities Section  
Department of the Environment  
GPO Box 787  
Canberra ACT 2601  
Via email [epbc.nominations@environment.gov.au](mailto:epbc.nominations@environment.gov.au)

Dear Ecological Communities Section,

**Re: Listing review for Natural Temperate Grasslands of the Southern Tablelands of NSW and the ACT**

The National Farmers' Federation (NFF) takes this opportunity to provide a brief submission on the proposed modification of the listing of the Natural Temperate Grasslands of the Southern Tablelands Ecological Community (herein the EC).

The information available for public consultation does not provide any quantified assessment of the extent, distribution and quality of the EC. Indeed, it highlights that additional survey work and mapping is required to better understand the full range, size and distribution – particularly in the areas where the listing is proposed to be extended.

Appendix E does not adequately analyse the ongoing risks to the EC, from stated threats such as land clearing. Rather than present evidence of continued clearing (or indeed an analysis of whether any future clearing would be regulated by State native vegetation management laws), the consultation material concludes that it is “apparent” that clearing is continuing, based on personal communications and unpublished references. Further, the consultation materials note that there is no specific information on which to assess the rate of continuing detrimental change. In NFF's view, this is not sufficiently robust.

NFF appreciates that the role of the scientific committee is to consider the proposal on scientific merits and make recommendations to the Minister. However, the proposed adjustment to the EC listing typifies the frustration of the farm sector in relation to listings under the *Environment Protection and Biodiversity Conservation Act, 1999* (EPBC Act). Based on the information provided, in NFF's view, it is highly unlikely that an individual farmer would be able to assess their responsibilities under the EPBC. A very broad ranging definition, lack of clarity in spatial distribution and complex diagnostic characteristics makes it difficult to determine if you have the EC. Methods to determine condition thresholds are complex, and guidance materials as to whether proposed new actions are likely to have a significant impact are weak.

Assuming awareness of the possibility of the EPBC Act applying, to fully understand their responsibilities, a farmer would have to commission expensive expert advice and refer a proposed activity. This process is expensive and cumbersome.

Listing under the EPBC Act triggers regulation of activities. Consistent with the Commonwealth Government's commitment to better regulation, comprehensive consideration of options – including non-regulatory options- and an assessment of impacts should be conducted prior to formal listing.

NFF notes that the consultation materials includes the contact details of the NFF EPBC Liaison Officer. This position no longer exists, and as such we request that the Department update all materials to remove reference to this position.

Please do not hesitate to contact me if you have any questions in relation to this submission. I can be contacted on 02 6269 s47F or by email s47F @nff.com.au.

Yours sincerely

A large grey rectangular box containing the text 's47F' in a bold, black, sans-serif font, representing a redacted signature.



s22

**From:** s22  
**Sent:** Monday, 31 July 2017 3:50 PM  
**To:** Monica Collins <[Monica.Collins@environment.gov.au](mailto:Monica.Collins@environment.gov.au)>  
**Cc:** s22 <[REDACTED]@environment.gov.au>; s22 <[REDACTED]@environment.gov.au>; de Brouwer, Gordon <[Gordon.deBrouwer@environment.gov.au](mailto:Gordon.deBrouwer@environment.gov.au)>; Office of Compliance s22 <[REDACTED]@environment.gov.au>; s22 <[REDACTED]@environment.gov.au>; s22 <[REDACTED]@environment.gov.au>; s22 <[REDACTED]@environment.gov.au>; s22 <[REDACTED]@environment.gov.au>  
**Subject:** RE: NSW Monaro/Corrowong media [SEC=UNCLASSIFIED]

Thanks. Can we please add some further information as set out below.

In terms of the TPs provided, can we elaborate on the awareness point to include consultation with NFF, etc during the listing process.

Is it worth adding TPs for the following:

- “In the situation as it stood two days ago, for 80 per cent of the Monaro, we could not spray out a paddock - which is a very routine farming practice - without government authorisation. We’d have to get a government officer to come in here and certify if we could do that and that’s on 80pc of our country - not 20pc or 30pc.” - Can we say that EPBC listing is only expected to impact x% of the Monaro grasslands?
- “Top of the list of the farmer’s six demands was to see “strict criteria” in terms of what would activate the mapping and how accuracy was defined” – Although the demands may be in relation to state regulation, can we refer to Cth actions where we have provided greater specificity/certainty to farmers.
- “other concerns were; having a short, simple explanatory document for farmers on the process and impacts of regulating land given the complexity;” – Although the concerns may have been in relation to state regulation, can we refer to Cth explanatory document.
- Mr Taylor said he couldn’t find anyone within the NSW Local Land Services division who knew of the federal listing of the region under the EPBC Act and the federal government had made “zero effort” to get information out to farmers. – Have we briefed LLS?
- He said the listing’s definition of native versus non-native grasslands also excluded annuals. “That was a major point for us in the state legislation but they’ve also done it with the EPBC Act,” he said. – Can we refer to Cth seeking to make Cth and state regulation consistent as requested by farmers?
- Mr Taylor said he found out about the listing under the Act when he sprayed some of his property at Delegate but a letter was sent by the federal government saying they believed the EPBC Act had been breached. – The potential breach being investigated relates to the previous law and not the law as amended. Can we also refer to awareness actions as the law previously applied?
- s47F said lack of communication in the negotiating process around the developing legislation in recent times had also been frustrating, with NSW Farmers required to sign a deed of confidentiality

to be at the table and therefore unable to disseminate information to members effectively. – Is this correct? Can we refer to opportunities for consultation without confidentiality restrictions?

- s47F said his understanding of the EPBC Act was that the only time federal laws were supposed to come into play was in the absence of a state's native vegetation plan. – Not correct. The two systems work in parallel, with actions taken to align, etc wherever possible. Can we point to Cth action to explain how EPBC Act works?

s22

---

**From:** Collins, Monica

**Sent:** Friday, 28 July 2017 5:09 PM

**To:** s22 <[redacted]@environment.gov.au>

**Cc:** s22 <[redacted]@environment.gov.au>; s22 <[redacted]@environment.gov.au>; de

Brouwer, Gordon <Gordon.deBrouwer@environment.gov.au>; Office of Compliance

s22 <[redacted]@environment.gov.au>; s22 <[redacted]@environment.gov.au>; s22

s22 <[redacted]@environment.gov.au>; s22 <[redacted]@environment.gov.au>; s22

s22 <[redacted]@environment.gov.au>; s22 <[redacted]@environment.gov.au>

**Subject:** RE: NSW Monaro/Corrowong media [SEC=UNCLASSIFIED]

Hi s22

Please see talking points, including table as requested.

Regards

Monica

Monica Collins

**Chief Compliance Officer**

**Office of Compliance**

**Department of the Environment and Energy**

P: 02 6274 s22

M: s22

---

**From:** s22

**Sent:** Friday, 28 July 2017 1:57 PM

**To:** Collins, Monica <Monica.Collins@environment.gov.au>

**Cc:** s22 <[redacted]@environment.gov.au>; s22 <[redacted]@environment.gov.au>; de

Brouwer, Gordon <Gordon.deBrouwer@environment.gov.au>; Office of Compliance

<s22 <[redacted]@environment.gov.au>; s22 <[redacted]@environment.gov.au>; s22

s22 <[redacted]@environment.gov.au>; s22 <[redacted]@environment.gov.au>; s22

s22 <[redacted]@environment.gov.au>

**Subject:** Re: NSW Monaro/Corrowong media [SEC=UNCLASSIFIED]

Could you please provide a table of the different accusations and our response to each.

I note they mention strict criteria which I understand is consistent with a lot of our recent work.

Thanks

Sent from my iPhone

On 28 Jul 2017, at 13:08, Collins, Monica <Monica.Collins@environment.gov.au> wrote:

Hi s22 and s22

Please see media at link below. I will update the talking points this afternoon.

Monica

<http://www.farmonline.com.au/story/4815592/farmers-fear-regulatory-double-strike-on-native-vegetation/>

Monica Collins

**Chief Compliance Officer**

**Office of Compliance**

Department of the Environment and Energy

P: 02 6274 s22

M: s22

## CLEARING OF GRASSLANDS IN THE MONARO REGION, NEW SOUTH WALES

### Issues

Agricultural land holders have raised concern about protection of native grasslands in the Monaro Region of NSW.

### Talking points

- The Department is investigating clearing of the *Natural Temperate Grassland of the South Eastern Highlands* ecological community in the Corrowong region of Southern NSW.
- The Department is working with the land holder to resolve the matter.

### Background

*State governments have the primary role for regulating land clearing for agriculture*

- State Governments have primary carriage of planning and development decisions within their jurisdiction, including for land clearing.
- The Commonwealth only regulates actions which are likely to result in a significant impact to matters protected under the *Environment Protection and Biodiversity Conservation Act 1999*. These actions need to be approved under the Act before they can be undertaken.
- The Act applies nationally, and can apply to activities already approved by state governments under state laws.

*New native vegetation laws are due to commence in NSW on 25 August*

- The Department is working with NSW Farmers, National Farmers Federation and NSW co-regulators on opportunities to support landholders to know about their obligations under national environmental law.

*The Department is working with the land holder to resolve the matter*

s37(1)(a)

- The land holder was quoted in media on 27 July 2017 expressing concern about both the administration of the *Environment Protection and Biodiversity Conservation Act 1999* and the changes to NSW vegetation laws. Media is available online at <http://www.farmonline.com.au/story/4815592/farmers-fear-regulatory-double-strike-on-native-vegetation/>

Contact Officer: s22  
Telephone: 6274 s22

Cleared by (SES level): Monica Collins  
Telephone: s22

### *Listing of Natural Temperate Grassland of the South Eastern Highlands*

- Natural Temperate Grasslands in the ACT and Southern Tablelands, with core areas around Canberra and Cooma, have been protected under the *Environment Protection and Biodiversity Conservation Act 1999* since the Act was introduced in 2000.
- The *Natural Temperate Grassland of the South Eastern Highlands* ecological community was listed in the Critically Endangered category on 6 April 2016.
- Between 16 July 2000 and 5 April 2016, the extent of this ecological community was included with the listed endangered *Natural Temperate Grassland of the Southern Tablelands of NSW and the Australian Capital Territory* ecological community.
- The Natural Temperate Grassland of the South Eastern Highlands ecological community came about as a result of a review of the Natural temperate grassland of the Southern Tablelands of NSW and the Australian Capital Territory (listed as endangered in 2000). This review was conducted to take account of new information, and to recognise a broader distribution than was acknowledged in the original listing.

Talking points as they relate to Commonwealth matters raised in the FarmOnline media are included in the table below:

Issue raised in FarmOnline	Talking Points
Article claims duplication between state and federal laws.	<ul style="list-style-type: none"> <li>• State Governments have primary carriage of planning and development decisions within their jurisdiction, including for land clearing.</li> <li>• The Commonwealth only regulates actions which are likely to result in a significant impact to matters protected under the <i>Environment Protection and Biodiversity Conservation Act 1999</i>. These actions need to be approved under the Act before they can be undertaken.</li> <li>• The Act applies nationally, and can apply to activities already approved by state governments under state laws.</li> </ul>
Mr Taylor says that farmers in the region had zero awareness about the listing of the grassland community under the EPBC Act.	<ul style="list-style-type: none"> <li>• Following the revised listing on 6 April 2016, notification emails were sent to a wide range of stakeholders, including all councils, Local Land Services, and state agencies where the ecological community occurs, amongst others. The Department also met with the National Farmers Federation to discuss the listing.</li> <li>• The Department is working with NSW government co-regulators to support land owners to know about their obligations under national environmental law.</li> </ul>
The federal government requires consideration of impacts down to 0.1 hectares. This scale is unworkable.	<ul style="list-style-type: none"> <li>• The Department has published guidelines to assist land holders to determine whether approval is required for a proposed action, and can provide advice on a case-by-case basis.</li> <li>• Under Australia’s national environmental law, approval is required to take an action that is likely to significantly impact on a matter protected by the EPBC Act.</li> <li>• While 0.1 hectare is the threshold size to be considered the <i>Natural Temperate Grassland of the South Eastern Highlands</i> ecological community, it does not follow that this is also the threshold to be considered a significant impact, requiring approval.</li> </ul>

s22

**From:** Media <Media@environment.gov.au>  
**Sent:** Tuesday, 20 March 2018 3:19 PM  
**To:** s22  
**Cc:** s22; s22  
**Subject:** FW: FOR INFO: Update on the EPBC Ag review [DLM=For-Official-Use-Only]  
**Attachments:** 180319 Talking Points\_key points for MO.docx; Agriculture review MR\_20 March.docx; 13 March\_ Terms of Reference Agriculture Review.docx

Hi s22

Attached for your information are the TPs and a draft media release provided to the office yesterday evening in PDMS. Apologies that the media materials were included in the brief from the policy area rather than coming via media team to you.

Please note that we have amended the line about the phone line in the attached draft release but otherwise it is the same as that provided in the brief.

We understand that the Minister is likely to make the announcement about the review on Thursday.

Regards,

s22 **Media**  
Media and Strategic Communications  
Communications, Innovation and Partnership Branch  
Department of the Environment and Energy  
**P:** 02 6274 s22 **M:** s22  
**E:** s22@environment.gov.au

**Note to media: Unless otherwise agreed, the information contained in this email is for background and is not for attribution.**



The Department of the Environment acknowledges the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present.



**THE HON JOSH FRYDENBERG MP**  
Minister for the Environment and Energy

## **MEDIA RELEASE**

[XX] March 2018

### **FINDING WAYS TO SUPPORT FARMERS UNDER NATIONAL ENVIRONMENTAL LAW**

I am pleased to announce that I have asked Dr Wendy Craik to undertake a short-term review to find practical ways to improve our farmers' interactions with the *Environment Protection and Biodiversity Conservation Act 1999*.

The Australian Government is committed to supporting our productive and internationally competitive agriculture and food production sector. It is vital to Australia's growing economy and our thriving regional communities.

Australia's world class environmental standards are built on effective environmental regulation. But understanding how local, state and national environmental laws intersect can be confusing, and navigating the requirements of national environmental law can be complex.

The short-term review will unpack the issues faced by farmers and find practical ways to make things easier, while maintaining high environmental standards. Farmers are often small family businesses, working hard to look after the land. They need regulatory arrangements with clear and sensible rules that are easy to navigate. It will also help to identify ways that may be beneficial to other sectors of the regulated community.

Dr Craik will bring extensive experience in both the public and private sector including in her current role as the Chair of the Australian Rural Leadership Foundation. Previously, Dr Craik was the Executive Director of the National Farmers' Federation, President of the National Competition Council, board member for Dairy Australia and Chair of the National Rural Advisory Council. She was appointed a Member of the Order of Australia in 2007 for her service to the natural resource sector and for her contributions to policies affecting rural and regional Australia.

I have asked Dr Craik to provide me with a final report by mid 2018.

**In the meantime, farmers can contact expert departmental officers on 1800 803 772 if they need help,** and my Department is working with farming groups to develop advice for farmers that is in plain English and is relevant to everyday farming.

I know there are strong views held by other industries, as well as by environment groups and the community on how best to improve the operation of the EPBC Act. There will be opportunities for all Australians to share their ideas as part of the next statutory independent review of the EPBC Act, which must commence by October 2019. The statutory review will include extensive consultation and will consider the extent to which the objects of the Act have been achieved.

In the interim, the Government will continue to look for ways to improve environmental law. Further information, including the Terms of Reference for the Review, is available at: [\[link TBA\]](#).

Media Contact: s22 – Office of the Hon Josh Frydenberg MP – 02 6277 s22



**Ends**

s22

**From:** s22  
**Sent:** Tuesday, 20 March 2018 1:14 PM  
**To:** s22  
**Cc:** Edwards, Bruce  
**Subject:** RE: Contact details [SEC=UNCLASSIFIED]

Hi s22

Here are the contact details:

NFF President  
Ms Fiona Simson

s47F

NFF Chief Executive  
Mr Tony Mahar

s47F

Wendy Craik

s47F

Thanks

s22

---

**From:** Edwards, Bruce  
**Sent:** Tuesday, 20 March 2018 11:17 AM  
**To:** s22 @environment.gov.au>; s22  
s22 @environment.gov.au>  
**Subject:** Re: Contact details [SEC=UNCLASSIFIED]

Will get back with the NFF details. I think the Minister already has Wendy's number as he phoned her in his mobile the other week after Cabinet. We will try to get it though.

B

Sent from my iPhone

On 20 Mar 2018, at 10:05 am, s22 @environment.gov.au> wrote:

In case the Minister wishes to contact tomorrow, can you please provide me with mobile numbers for:

Wendy Craik  
Fiona Simson  
Tony Mahar

Please provide by 3pm.

Thanks

---

s22

**Office of the Hon Josh Frydenberg MP**

Minister for the Environment and Energy | Federal Member for Kooyong

4 Treasury Place, East Melbourne VIC 3002 | p: 03 9660 6750

Parliament House, Canberra ACT 2600 | p: 02 6277 7920

e s22 @environment.gov.au | w: [www.joshfrydenberg.com.au](http://www.joshfrydenberg.com.au)

s22 (Protected)

---

**From:** s22 s22 @environment.gov.au>  
**Sent:** Friday, 27 April 2018 11:47 AM  
**To:** s22 (Protected)  
**Subject:** FW: Ag review updated talking points and word version of Terms of Reference [DLM=For-Official-Use-Only]  
**Attachments:** Terms of Reference Agriculture Review.docx; Terms of Reference Agriculture Review.pdf

s22  
Policy Officer - Environment Protection Regulatory Policy Section  
ph 02 6274 s22

---

**From:** s22  
**Sent:** Friday, 27 April 2018 11:35 AM  
**To:** s22 @environment.gov.au>  
**Subject:** FW: Ag review updated talking points and word version of Terms of Reference [DLM=For-Official-Use-Only]

---

**From:** s22  
**Sent:** Wednesday, 28 March 2018 8:41 AM  
**To:** s22 @environment.gov.au>  
**Cc:** Edwards, Bruce <Bruce.Edwards@environment.gov.au>; s22  
s22 @environment.gov.au>; s22 @environment.gov.au>; s22  
s22 @environment.gov.au>  
**Subject:** FW: Ag review updated talking points and word version of Terms of Reference [DLM=For-Official-Use-Only]

s22

Here is the most recent version of the ToR as requested. Please note this version states that the final report will be provided mid-year (rather than 30 June).

Regards,

s22

Assistant Director  
Regulatory Policy Section | Environment Standards Division | Department of the Environment and Energy  
Ph: (02) 6275 s22 @environment.gov.au

---

**From:** s22  
**Sent:** Wednesday, 28 March 2018 8:30 AM

To: s22 [redacted] <[redacted]@environment.gov.au>

Subject: FW: Ag review updated talking points and word version of Terms of Reference [DLM=For-Official-Use-Only]

Hi s22 [redacted]

Please send most up to date TOR.

Thanks

s22 [redacted]

---

From: s22 [redacted]

Sent: Monday, 19 March 2018 1:11 PM

To: s22 [redacted] <[redacted]@environment.gov.au>

Cc: Edwards, Bruce <Bruce.Edwards@environment.gov.au>; s22 [redacted]

s22 [redacted] <[redacted]@environment.gov.au>; Tregurtha, James <James.Tregurtha@environment.gov.au>; s22 [redacted]

s22 [redacted] <[redacted]@environment.gov.au>

Subject: Ag review updated talking points and word version of Terms of Reference [DLM=For-Official-Use-Only]

Hi s22 [redacted]

Further to your discussion with Bruce earlier today, attached are updated talking points. Also attached is the word version of the Terms of Reference. As s22 [redacted] mentioned in her previous email, we are in the process of updating the format so it is suitable for public release and will send you an updated version as soon as this is ready.

As always, please get back to us with any thoughts on these.

Thanks,

s22 [redacted]

s22 [redacted]

Director

Environment Protection - Regulatory Policy

Policy Reform Branch | Environment Standards Division

Department of the Environment and Energy

GPO Box 787 Canberra ACT 2601

T: +61 2 6274 s22 [redacted]

E: s22 [redacted] <[redacted]@environment.gov.au>

Please consider our environment before printing this e-mail



## Review of the interaction between the *Environment Protection and Biodiversity Conservation Act 1999* and agriculture and food production

### Terms of reference

The Australian Government recognises that the sustainable development of a productive and internationally competitive agriculture and food production sector is vital to our economy and regional communities, and is committed to reducing barriers to its growth.

The *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) promotes the ecologically sustainable use of natural resources, and provides a regulatory framework to manage and protect matters of national environmental significance.

The Review is to examine the interaction between the EPBC Act and the agriculture and food production sector, in order to identify regulatory and non-regulatory improvements to assist this sector while maintaining environmental standards.

The Review will be carried out by an independent person with relevant experience in the agricultural industry, law and public administration. The Review will:

1. Undertake targeted consultation to identify concerns and areas of potential efficiencies.
2. Provide an overview of the appropriateness of current regulatory settings of the EPBC Act in regard to their impact on the agriculture and food production sector with consideration to the objects of the EPBC Act.
3. Outline options to improve how the agriculture and food production sector is regulated under the EPBC Act and reduce the regulatory burden faced by farmers and applicants, including but not limited to:
  - a. making recommendations in relation to environmental referrals, assessment and approval requirements, and listing and delisting processes for species and ecological communities under the EPBC Act;
  - b. identifying opportunities for harmonisation between the EPBC Act and each state and territories' native vegetation management regimes; and
  - c. identifying opportunities to enhance the EPBC Act to support agriculture and food production to take advantage of domestic and international demand for sustainable agriculture, such as certification schemes and 'clean and green' foods.
4. In making recommendations and advising on new initiatives, take into account the objects of the EPBC Act.
5. As far as possible, consider the costs and benefits of the recommendations as required by the Australian Government. See guidance at [pmc.gov.au/resource-centre/regulation/independent-reviews-and-ris-process-guidance-note](http://pmc.gov.au/resource-centre/regulation/independent-reviews-and-ris-process-guidance-note).
6. Consider relevant material including the Productivity Commission Inquiry Report on the Regulation of Australian Agriculture, the *Agriculture Competitiveness White Paper* and *Our North, Our Future: White Paper on Developing Northern Australia*.
7. Provide a report to Government by mid 2018.

## Talking Points – Review of the Agriculture and Food Production Sector

### Key Messages

- The Australian Government recognises that farmers are important stewards of Australia’s unique environment, who contribute to our economic growth and social fabric.
- Farmers are often small family businesses, working hard to look after the land. They are having trouble understanding when the EPBC Act applies to them, and find it complex and difficult to deal with.
- This short-term targeted review will unpack the issues faced by land holders to find practical ways to make their interaction with national environmental law easier, while maintaining the high environmental standards Australia is renowned for.

### *Why are you doing a review focused only on the agriculture sector?*

- The agriculture sector has a large number of small businesses that are trying to understand the EPBC Act. Farmers are telling us they are confused about when the EPBC Act applies, and find it complex and difficult to interact with.
- This targeted review will help unpack the issues farmers are facing and help us find practical ways to assist them more easily understand how to interact with national environmental law.

### *Will outcomes from this review lower environmental standards?*

- The review aims to deliver meaningful, practical solutions to these operational problems in a way that does not lower environmental standards.

### *What will the review deliver?*

- The Government has commissioned this review to find practical ways to improve farmers’ interactions with the EPBC Act and find real solutions to their problems.
- The review aims to deliver meaningful, practical solutions to these operational problems in the short-term, in a way that does not lower environmental standards.

### *How can I become involved?*

- Ways for farmers and key agricultural stakeholders to provide input into the review will be made available on the Department’s website.
- The Department will consult more broadly on a range of EPBC Act issues during the next statutory review of the Act, due to commence by late 2019.

### *Why are other sectors not included in this review?*

- I know there are strong views held by other industries, as well as by environment groups and the community, on how best to improve the operation of the EPBC Act.
- There will be opportunities for all Australians to share their ideas as part of the next statutory independent review of the EPBC Act, which must commence by October 2019.

- In the interim, the Government will continue to work in partnership with stakeholders to improve the regulatory system and look for ways to improve environmental law.

*How does this review link to the upcoming statutory review of the EPBC Act?*

- This is a targeted, smaller scale review to unpack issues our farmers are facing now when interacting with the EPBC Act.
- Recommendations related to broad scale reforms will be considered as part of the next statutory review of the EPBC Act, due to commence by late 2019.



**From:** s22  
**To:** [Edwards, Bruce](#)  
**Cc:** [Knudson, Dean](#); [Tregurtha, James](#); s22; s22; s22; s22  
**Subject:** RE: Ag review prep update [DLM=For-Official-Use-Only]  
**Date:** Monday, 26 March 2018 10:00:21 AM

---

Announcement now scheduled for Thursday!

Will get back to you with draft MR, etc when settled.

Thanks

s22

---

**From:** Edwards, Bruce  
**Sent:** Monday, 26 March 2018 9:58 AM  
**To:** s22 @environment.gov.au>  
**Cc:** Knudson, Dean <Dean.Knudson@environment.gov.au>; Tregurtha, James <James.Tregurtha@environment.gov.au>; s22 @environment.gov.au>; s22 @environment.gov.au>; s22 @environment.gov.au>; s22 @environment.gov.au>; s22 @environment.gov.au>

**Subject:** Ag review prep update [DLM=For-Official-Use-Only]

Good morning s22

This is a quick update on the arrangements we are putting in place in preparation for the EPBC Ag review announcement on Wednesday. We have the following material in development or already drafted:

- *Media Release* – with the MO: Feedback on latest draft sent last week.
- *Ministerial Talking points* – with the MO
- *Terms of Reference* –Finalised, comms to convert into Departmental pdf
- *Departmental Website (including FAQs)* –material about the review including the ToR and Media Release ready to publish as soon as the announcement has been made.
- Brief MS18-000358 – *Ministerial Letter thanking Reviewer for undertaking review and setting expectations*- expected to be with MO this afternoon.
- *QTB* - Wednesday 28/3 is the last sitting day until April, so we are mindful a QTB may need to be prepared.

I sent some suggested edits to you on the Media Release last Tuesday evening. One of the changes was to adjust '30 June 2018' as the end date to 'mid 2018'. **Can you let me know the final date** that will be included as we need to finalise a PDF version of the ToR to be published that will also include the date. As flagged last week, if it needs to be 30 June still we'll of course put that in, but the delay in commencement means that date may now be aspirational so we may need to manage expectations on the back end of the process.

**Can you also send through** the final of the Media Release so we have the latest.

Behind the scenes we are also working to progress arrangements to contract Wendy/Aither. Hope to have them on deck by next week following the announcement. We continue to update PM&C and the Ag Department who are watching closely. We'll also do some prep on points to support departmental outreach to some of the green NGOs once an announcement has been made – this is to get on the front foot and explain what the review is (and what it's not) to reduce the risk of criticism.

Grateful for feedback on the points bolded above and let me know if there is any further material you need during the week.

Bruce

**Bruce Edwards**

Assistant Secretary

Policy and Reform Branch

Department of the Environment and Energy

T 02 6274 s22 M s22

[bruce.edwards@environment.gov.au](mailto:bruce.edwards@environment.gov.au)

The Department acknowledges the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present.

Copy to:

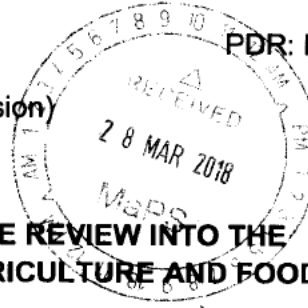
To: Minister for the Environment and Energy (For Decision)

Secretary  
Mr Cahill  
Mr Knudson  
Mr Tregurtha

CC: Assistant Minister for the Environment

Chief of Staff  
s22  
PRICE  
s22

**APPOINTMENT OF DR WENDY CRAIK TO LEAD THE REVIEW INTO THE INTERACTION BETWEEN THE EPBC ACT AND AGRICULTURE AND FOOD PRODUCTION SECTOR**



Timing: 2 April 2018

**Recommendation:**

1. That you sign the letter to Dr Craik at **Attachment A**, thanking her for agreeing to lead the Independent Review into the Interaction between the Environment Protection and Biodiversity Conservation Act 1999 and the Agriculture and Food Production sector.

Signatory:

Comments:

Signed  Not signed

Date:

28/3/18

<b>Clearing Officer:</b> Sent: 26/03/18	Bruce Edwards	Assistant Secretary, Policy and Reform, Environment Standards	Ph: 6274 s22 Mob: s22
<b>Contact Officer:</b>	s22	Director, Environment Protection Regulatory Policy	Ph: 6274 s22 Mob: s22

**Key Points:**

1. The Government recently agreed to commence an independent review into the interaction between the *Environment Protection and Biodiversity Conservation Act 1999* and the agriculture and food production sector
2. You asked Dr Wendy Craik to undertake the review. A letter thanking Dr Craik for agreeing to undertake the review is attached for your signature at **Attachment A**. The letter also provides the reviewer with the terms of reference for the review.
3. The Department is progressing arrangements to contract Dr Craik who will be supported by consulting company Aither, with whom she is affiliated. As part of the on-boarding process we will work with your office to arrange an inception meeting between the reviewer and yourself. This will be a further opportunity to outline your expectations to the reviewer.

**Risks and handling**

4. There are two clear risks at this early stage of the review process; these are discussed below with recommended handling:



- a. Timeframe to complete the review: The review was agreed as a short-term targeted process reporting to government by 30 June 2018. The delayed announcement of the review will make delivery within this timeframe challenging. The Department will ask Dr Craik and Aither to make best efforts to deliver as close as possible to the original timeframe. We will also explore with Aither the potential to brief you at least on initial findings by 30 June 2018, in advance of a final report.
  - b. Scope of engagement: The short timeframe for the review will mean the reviewer needs to carefully target consultation. This may lead to criticism where individuals or groups are not able to directly engage with the reviewer. To manage this the reviewer will design engagement with a mix of farming groups and actual farmers. This may include drawing on farming groups to channel and collect the views of members where possible. Aither have also proposed publishing a briefing note about the review so farmers can submit views in writing should they choose to do so.
5. The Department will brief you further on progress once the review is underway, including on delivery milestones agreed with the reviewer and emerging themes and risks.

#### **Attachments**

- A:** Letter to Dr Craik (including terms of reference)



# REVIEW OF THE INTERACTION BETWEEN THE ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999 AND AGRICULTURE AND FOOD PRODUCTION

## TERMS OF REFERENCE

The Australian Government recognises that the sustainable development of a productive and internationally competitive agriculture and food production sector is vital to our economy and regional communities, and is committed to reducing barriers to its growth.

The *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) promotes the ecologically sustainable use of natural resources, and provides a regulatory framework to manage and protect matters of national environmental significance.

The Review is to examine the interaction between the EPBC Act and the agriculture and food production sector, in order to identify regulatory and non-regulatory improvements to assist this sector while maintaining environmental standards.

The Review will be carried out by an independent person with relevant experience in the agricultural industry, law and public administration. The Review will:

- 1) Undertake targeted consultation to identify concerns and areas of potential efficiencies.
- 2) Provide an overview of the appropriateness of current regulatory settings of the EPBC Act in regard to their impact on the agriculture and food production sector with consideration to the objects of the EPBC Act.
- 3) Outline options to improve how the agriculture and food production sector is regulated under the EPBC Act and reduce the regulatory burden faced by farmers and applicants, including but not limited to:
  - a. Making recommendations in relation to environmental referrals, assessment and approval requirements, and listing and delisting processes for species and ecological communities under the EPBC Act;
  - b. Identifying opportunities for harmonisation between the EPBC Act and each state and territories' native vegetation management regimes; and
  - c. Identifying opportunities to enhance the EPBC Act to support agriculture and food production to take advantage of domestic and international demand for sustainable agriculture, such as certification schemes and 'clean and green' foods.
- 4) In making recommendations and advising on new initiatives, take into account the objects of the EPBC Act.
- 5) As far as possible, consider the costs and benefits of the recommendations as required by the Australian Government. See guidance at [www.pmc.gov.au/resource-centre/regulation/independent-reviews-and-ris-process-guidance-note](http://www.pmc.gov.au/resource-centre/regulation/independent-reviews-and-ris-process-guidance-note).
- 6) Consider relevant material including the Productivity Commission Inquiry Report on the Regulation of Australian Agriculture, the *Agriculture Competitiveness White Paper and Our North, Our Future: White Paper on Developing Northern Australia*.
- 7) Provide a report to Government by 30 June 2018.








**THE HON JOSH FRYDENBERG MP**  
**MINISTER FOR THE ENVIRONMENT AND ENERGY**

MS18-000358

Dr Wendy Craik  
C/- Aither  
Level 1  
2/120 Giles Street  
KINGSTON ACT 2604  
Email: s47F

28 MAR 2018

Dear Dr  Craik

I write to thank you for agreeing to undertake the *Review into the Interaction between the Environment Protection and Biodiversity Conservation Act 1999 and the Agriculture and Food Production sector*.

The agriculture and food production sector is vital to Australia's economy and regional communities. This short-term targeted review provides an opportunity to better support the sector by minimising barriers to agricultural development, while ensuring that Australia maintains the highest environmental standards.

As indicated in the terms of reference for the review attached to this letter, the Government wants to understand the type and range of issues farmers are facing in their interactions with the EPBC Act, and to find practical ways to help them.

To conduct the review, I understand you will be supported by the consultancy Aither. I anticipate that an early priority will be to conduct targeted consultation with the farming sector, and the networks that represent them, to better understand their issues and concerns about the EPBC Act.

I recognise that you will be undertaking a targeted review in a short period of time, but it will be important within these constraints to develop an approach that supports a reasonable level of engagement with farmers and provides opportunities for them to input into the process.

Building on insights from this engagement, I welcome your views on how we can help the sector engage with national environmental law more easily and efficiently and reduce their regulatory burden. I would particularly value any recommendations that can be actioned in a short timeframe.

Other, more long-term findings and recommendations could potentially be used to inform the next statutory review of the EPBC Act, which must commence by late 2019.

I am eager to find improvements for the sector and start the process of reform as soon as possible and would appreciate your best efforts to deliver findings from the review with clear recommendations by the middle of the year.

If you need any assistance from my Department please contact Mr Bruce Edwards, Assistant Secretary, Policy and Reform Branch. Mr Edwards is available on 02 6274 s22 or [bruce.edwards@environment.gov.au](mailto:bruce.edwards@environment.gov.au).

I thank you for agreeing to take on this role and look forward to considering the review's findings.

Yours sincerely

A handwritten signature in black ink, consisting of a stylized, cursive 'J' followed by a horizontal line that extends to the right.

JOSH FRYDENBERG

CC: Minister Price

Enc

**From:** [Edwards, Bruce \(Protected\)](#)  
**To:** s22 (Protected)  
**Cc:** [Tregurtha, James \(Protected\)](#); s22 (Protected) s22 (Protected); s22 (Protected); [Knudson, Dean \(Protected\)](#)  
**Subject:** Updated PM letter [SEC=PROTECTED, DLM=Sensitive:Cabinet]  
**Date:** Friday, 24 November 2017 5:32:20 PM  
**Attachments:** [DRAFT PM Letter s22 Comments CLEAN 24 November.docx](#)

---

Hi s22

As discussed, see attached a revised version of the letter, with an adjusted second para to be clear that work is underway already.

I've filled James T in on the fact that you'll try and connect with the Minister next week and then reach out if we are right to put the letter up.

Regards

Bruce

**From:** [Edwards, Bruce \(Protected\)](#)  
**To:** s22 (Protected); s22 (Protected)  
**Cc:** [Tregurtha, James \(Protected\)](#); s22 (Protected); s22 (Protected)  
**Subject:** EPBC Act Reform: Ministers PM mtg one-pager [SEC=PROTECTED, DLM=Sensitive:Cabinet]  
**Date:** Tuesday, 30 January 2018 3:08:43 PM  
**Attachments:** [Minister PM briefing on EPBC Reform 2 Feb 2018 FAS CLEARED.docx](#)

---

s22

s34(3)

[Redacted]

s22, we thought this might also be useful for you in the context of any contact with the Ag Minister or other offices over the next few days, in terms of having the 'story' or 'narrative' at hand.

Bruce

AS, Policy and Reform

6274 s22

**From:** s22 (Protected)  
**To:** s22 (Protected)  
**Cc:** [Edwards, Bruce \(Protected\)](#); [Tregurtha, James \(Protected\)](#); [Knudson, Dean \(Protected\)](#); s22 (Protected); s22 (Protected)  
**Subject:** s34(3) [SEC=PROTECTED, DLM=Sensitive:Cabinet]  
**Date:** Friday, 15 December 2017 11:32:13 AM  
**Attachments:** [171215 Cab Sub.docx](#)

---

Hi s22 ,

As discussed yesterday with James, Bruce and I, attached is a s34(3) This is being provided to you to assist discussions with the Minister on the proposed approach - best summarised through the recommendations on page 2. Note this has not been cleared through Dean and the Secretary and is likely to require further refinement.

Regards,

s22

Director, Environment Protection - Regulatory Policy  
Policy Reform Branch | Environment Standards Division  
Department of the Environment and Energy  
GPO Box 787 Canberra ACT 2601  
T: +61 2 6274 s22  
E s22 @environment.gov.au

Please consider our environment before printing this email

**From:** [Edwards, Bruce \(Protected\)](#)  
**To:** s22 (Protected)  
**Cc:** s22 (Protected); [Knudson, Dean \(Protected\)](#); [Tregurtha, James \(Protected\)](#); s22 (Protected); s22 (Protected)  
**Subject:** Agriculture examples [SEC=PROTECTED, DLM=Sensitive:Cabinet]  
**Date:** Thursday, 15 February 2018 6:54:05 PM  
**Attachments:** [Talking Points - Agriculture examples - 14 Feb.docx](#)

---

Hi s22

See attached a revised document listing examples of reported problems farmers are having with the EPBC Act. The examples we've included are those where we can point to something that highlights the problem (letters, submission, etc). Where available we've included specific details.

s34(3)  
[Redacted]

s34(3)  
[Redacted]

Bruce

**From:** [Edwards, Bruce \(Protected\)](#)  
**To:** s22 (Protected)  
**Cc:** [Knudson, Dean \(Protected\)](#); [Tregurtha, James \(Protected\)](#); s22 (Protected); s22 (Protected)  
**Subject:** FW: Updated Media Release with leg amendment reference [SEC=PROTECTED, DLM=Sensitive:Cabinet]  
**Date:** Friday, 16 February 2018 5:35:06 PM  
**Attachments:** [Agriculture review - media release - 16 Feb.docx](#)

---

s22 draft media release attached. Still needs work and hasn't been cleared up the line. Something to go off though.

B



**THE HON JOSH FRYDENBERG MP**  
**Minister for the Environment and Energy**

**MEDIA RELEASE**

[XX] February 2018

**FINDING WAYS TO SUPPORT FARMERS UNDER  
NATIONAL ENVIRONMENTAL LAW**

I am pleased to announce a short-term review to find practical ways to improve our farmers' interactions with the *Environment Protection and Biodiversity Conservation Act 1999*.

The Australian Government is committed to supporting our productive and internationally competitive agriculture and food production sector. It is vital to Australia's growing economy and our thriving regional communities.

Australia's world class environmental standards are built on effective environmental regulation. But understanding how local, state and national environmental laws intersect can be confusing, and navigating the requirements of national environmental law can be complex.

The short-term review will unpack the issues faced by farmers and find practical ways to make things easier, while maintaining high environmental standards. Farmers are often small family businesses, working hard to look after the land. They need regulatory arrangements with clear and sensible rules that are easy to navigate.

The review will be carried out by an independent person, to be announced shortly, with experience in the agricultural industry, law and public administration. I will ask the reviewer to undertake targeted consultation to identify concerns and possible operational improvements and provide me with a final report by 30 June 2018.

In the meantime, I have established a dedicated 1800 803 772 number for farmers to speak directly to expert Departmental staff if they need help, and my Department is working with farming groups to develop advice for farmers that is in plain English and is relevant to everyday farming.

I know there are strong views held by other industries, as well as by environment groups and the community on how best to improve the operation of the EPBC Act.

There will be opportunities for all Australians to share their ideas as part of the next statutory independent review of the EPBC Act, which must commence by October 2019. The statutory review will include extensive consultation and will consider the extent to which the objects of the Act have been achieved.

In the interim, the Government will continue to look ways to improve environmental law in the short-term.

Further information, including the Terms of Reference for the Review, is available at: [\[insert link\]](#).

**Ends**



MC18-004720

s22

**From:** s22  
**Sent:** Wednesday, 28 March 2018 10:01 AM  
**To:** MinisterialCorrespondence  
**Subject:** FW: (EPBC listing: Natural Temperate Grasslands of the South Eastern Highlands) [SEC=UNOFFICIAL]  
**Attachments:** 180327\_LTR\_MinFrydenberg\_EPBC.pdf  
**Categories:** Min Reply A/A

Response via  
 MC17-018964  
 BCD

LINK

For min reply.  
 Please redraft with MC17-018964, merging the response and referencing the Agriculture review announcement (to occur this afternoon)

Any questions, please let me know.

Cheers,  
 s22

s22  
 t: (02) 6277 s22 | m: s22 | e: s22 @environment.gov.au

**From:** s22  
**Sent:** Wednesday, 28 March 2018 9:40 AM  
**To:** s22 @environment.gov.au  
**Cc:** s22 @environment.gov.au  
**Subject:** FW: EPBC listing: Natural Temperate Grasslands of the South Eastern Highlands [SEC=UNOFFICIAL]

Portfolio Corro...

**From:** s47F @nff.org.au  
**Sent:** Wednesday, 28 March 2018 9:18 AM  
**To:** s22 @environment.gov.au  
**Subject:** RE: EPBC listing: Natural Temperate Grasslands of the South Eastern Highlands [SEC=UNOFFICIAL]

Hi s22

My apologies, please see attached.

Kind Regards

s47F | Executive Assistant | National Farmers' Federation  
 T s47F | s47F @nff.org.au | www.nff.org.au | @NationalFarmers

**From:** s22 @environment.gov.au  
**Sent:** Wednesday, 28 March 2018 8:35 AM  
**To:** s47F @nff.org.au  
**Subject:** RE: EPBC listing: Natural Temperate Grasslands of the South Eastern Highlands [SEC=UNOFFICIAL]

Hi s47F

Not sure there was an attachment with this email.

Kind regards

s22

s22 - Dairy Manager / Office Manager  
Office of the Hon Josh Frydenberg MP  
Minister for the Environment and Energy | Federal Member for Kooyong  
Parliament House, Canberra ACT 2600 | p +61 2 6277 s22  
695 Burke Road, Camberwell VIC 3124 | p +61 3 9882 s22  
e s22 @environment.gov.au

From: s47F @nff.org.au]  
Sent: Tuesday, 27 March 2018 4:44 PM  
To: s22 @environment.gov.au>  
Cc: Knudson, Dean <Dean.Knudson@environment.gov.au>  
Subject: RE: EPBC listing: Natural Temperate Grasslands of the South Eastern Highlands

Dear Minister

Please see attached correspondence from Fiona Simson, President, National Farmers' Federation.

Kind Regards

s47F | Executive Assistant | National Farmers' Federation  
T 02 6269 s47F | s47F @nff.org.au | www.nff.org.au | @NationalFarmers



[www.talking2030.com](http://www.talking2030.com)

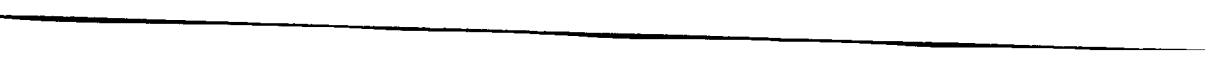
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**National Farmers'**  
FEDERATION

27 March 2018

Minister Frydenberg  
Minister for Environment and Energy  
Parliament House

Canberra ACT 2600

Email: [Josh.Frydenberg.MP@aph.gov.au](mailto:Josh.Frydenberg.MP@aph.gov.au)

Dear Minister

**Re: EPBC listing: Natural Temperate Grasslands of the South Eastern Highlands**

As you are aware the National Farmers' Federation (NFF) continues to hold a close interest in the development, implementation and application of the Environment Protection and Biodiversity Conservation (EPBC) Act in respect of its impact on the agricultural sector

Concerns have been raised by the NFF that listings under the EPBC Act are not easily applied nor understood by landholders for a number of reasons including:

- the listing risks capturing a substantial part of the south eastern highlands landscape which appears contrary to the intent and scope of the listing *'it has a highly fragmented and restricted distribution' (Northern Temperate Grassland of the South Eastern Highlands: a nationally protected ecological Community – Department of Environment and Energy 2016 p3);*
- the conservation advice may be being applied too robustly or contrary to the scientific intent of the listing, for example, the complexity and scale (0.1 ha) of the assessment process introduces substantial cost and red tape for agriculture in the region. It is likely this could be greatly reduced with a more targeted conservation advice;
- the dissemination of the information pertaining to the listing does not easily meet its target, which is predominately the landholder either directly or through their advisor due to the disconnection between the regulator and the land manager;
- lack of clear (plain English) or user friendly extension or other information material

- lack of effective coordination between the Commonwealth and state regulatory authorities thus not providing a central point of contact, advice and/or approval for the land manager (the one stop shop proposal would substantially resolve this); and
- consequent limited transparency of obligations that land managers must meet to be compliant with the law.

The NFF recently participated in a field day on the property S47F, Cooma, with officers from the Department, from the South East Local Land Services and the property trustees. NFF thanks the Department officers for their engagement on the day, it was constructive and useful to all concerned. At that field day participants were comprehensively engaged in the various representative samples of Monaro Native Grassland communities at the landscape level. With the benefit of insight from a number agronomy and biological professionals it became clear that it is very likely that the history of use and the varying composition of landscape representations of these communities are unlikely to meet the assessment criteria for a critically endangered community, or, if they do, then the community is extensively represented and may not be critically endangered. The representations of the communities viewed on S47F are robust, self-regenerating and substantial in the landscape.

The NFF are also aware of a property within the region that is under review for allegedly breaching the EPBC Act. This example underlines the concerns expressed above by the NFF that the application of the conservation advice to this assessment may have a much broader landscape impact than the listing anticipates. Were this the case then the land manager impact will cause considerable concern in the community.

There is therefore a risk that the scope of targeted protection of the critically endangered communities reaches beyond the specific landscape definition. The NFF considers this may provide perverse outcomes due to broader application of the law at implementation and enforcement stages than is the intent. The NFF respectfully recommends that the Department undertake a review of the implementation and enforcement actions for the Natural Temperate Grasslands of the South Eastern Highlands ecological community. Should the review not resolve the concerns then the NFF will need to consider its options regarding the listing itself and the appropriateness of the escalation of the status of the community to critically endangered.

NFF and NSW Farmers' Association wrote to you about this listing on October 3<sup>rd</sup>, 2017, outlining further detail about our organisations' concerns, a copy of this letter is attached.

The NFF would be pleased to provide further background or information on this matter, please contact s47F @nff.org.au , or the undersigned, at your convenience.

Yours sincerely

s47F

**FIONA SIMSON**  
President



Cc Mr Dean Knudson, Deputy Secretary, Department of Environment and Energy

Attachment: Letter from National Farmers' Federation and NSW Farmers' Association 3rd October 2017





**From:** s22  
**To:** [Finn Pratt](#); [Dean Knudson](#); s22; [Bruce Edwards](#)  
**Subject:** Department Briefing re EPBC / Native Vegetation [SEC=UNCLASSIFIED]

---

Good morning,

Please accept this invitation to brief the Minister on EPBC / Native Vegetation issues, prior to the meeting with the Deputy Prime Minister and other Nationals MPs at 5.45pm.

The MO will call the Secretary's Office on 6274 s22 to commence the call.

Kind regards,  
s22

s22  
Departmental Liaison Officer | Office of the Hon Josh Frydenberg MP  
Minister for the Environment and Energy  
a: Parliament House, Canberra, ACT 2600  
t: (02) 6277 s22 m: s22 e: s22 @environment.gov.au <mailto:s22 @environment.gov.au>

# s22

**From:** s22  
**Sent:** Tuesday, 24 October 2017 4:05 PM  
**To:** Knudson, Dean <[Dean.Knudson@environment.gov.au](mailto:Dean.Knudson@environment.gov.au)>  
**Subject:** FW: For tomorrow [SEC=UNCLASSIFIED]

**From:** Kachel, Greg (Sen J. Williams) [<mailto:Greg.Kachel@aph.gov.au>]  
**Sent:** Tuesday, 24 October 2017 4:03 PM  
**To:** s22 <[s22@environment.gov.au](mailto:s22@environment.gov.au)>  
**Subject:** For tomorrow

## POINTS TO BE MADE

1. The April 16 listing affects NSW Central and Southern tablelands and Monaro areas and into Victoria.

2. The listing will have greater impact than NSW vegetation laws because the key threshold is that native perennials outweigh exotic perennials (all annuals are excluded). Given that in most cases the majority of exotics are annuals a large proportion of Monaro agricultural land would be caught under the Federal legislation.
3. DEE says the endangered ecosystem is occurring in highly fragmented patches, with most less than 10 hectares in size, but yet the listing covers a huge area of farmland.
4. The threshold under the Federal Act extends down to .1 of a hectare, therefore if a paddock as a whole does not breach the threshold, if any .1 of a hectare fulfils the criteria, the landholder would be in breach.
5. Pasture improvement on most of the Monaro will now require a very detailed and onerous assessment at landholder expense.
6. This change has not been well publicised. Farmers do not know of it nor did south-east LLS. If the objective of the listing is to preserve these native grasslands, why has the department made no genuine attempt to disseminate the information to landholders. There was certainly no consultation with Monaro landholders in determining the definitions of the listing, nor any attempt to limit the impacts on agriculture.

## Greg Kachel

Chief of Staff | Media Officer  
Office of Senator John Williams

**THE NATIONALS** *for Regional Australia*

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