

15 September 2021

Department of Water and Environmental Regulation

By email: bilateralregulations@dwer.wa.gov.au

To whom it may concern,

Re: Environmental Protection (Bilateral Agreements) Regulations 2021 Consultation Draft

I am writing on behalf of the Kimberley Pilbara Cattlemen's Association (KPCA), to provide feedback in relation to the Environmental Protection (Bilateral Agreements) Regulations 2021 Consultation Draft ('the Consultation Draft').

The KPCA's point of difference is that it is a uniquely placed, locally based industry development and advocacy body that represents a diverse range of cattle producers with, on a cumulative basis, significant pastoral land holdings across the Kimberley and Pilbara and the Gascoyne regions of WA (i.e. Northern WA). The membership base is also inclusive of Aboriginal producers and a significant number of related businesses servicing the industry.

In relation to the Consultation Draft and associated Explanatory Note, the KPCA makes the following comments:

- The KPCA notes that the Consultation Draft creates an enabling framework for the proper and effective functioning of the Bilateral Agreement in place between the State and the Commonwealth for environmental assessments/approvals and Commonwealth and State legislation with the ultimate objective being to ensure harmonisation and efficiencies, a minimisation of duplication of processes/requirements which the KPCA supports.
- The KPCA notes however, as per the Explanatory Note, the Consultation Draft does not deal with the review and rectification of key issues with the operability of the current Bilateral Agreement nor is there any clarity as to when/how this will be rectified. It is this aspect that is of significant importance to the KPCA and its members.
- The KPCA and its members are unique in their interests including in relation to irrigated fodder developments which has resulted in significant collaboration with the Department of Primary Industries and Regional Development in relation to bolstering the research and development information available for producers, stakeholders and State and Commonwealth regulators in relation to irrigated fodder developments.
- To this end - there are a number of peculiarities that have arisen in relation to securing approvals for irrigated fodder developments on pastoral leases, in the West Kimberley in particular and/or other areas where there are potential impacts to the seven matters of environmental significance which may trigger an assessment under the *Environmental Protection and Biodiversity Conservation Act 1999* (Cwth) ('EPBC Act'). Specifically, this is in relation to interfaces/harmonisation challenges between the State and Commonwealth

approvals processes where an overarching Part IV *Environment Protection Act 1986* (WA) ('EP Act) assessment may be required in addition to processes for securing water licences and vegetation clearing permits under the *Rights in Water and Irrigation Act 1914* (WA) and Environmental Protection Act and where assessment has been required under the EPBC Act. This can result in a very open ended, multi-year approvals process with no circuit breaker and the Commonwealth seeking to second guess the robust approvals processes in place at the State level and/or misalignment between State and Commonwealth officers between what the issues and risks are that require assessment/consideration.

The KPCA thanks DWER for the opportunity to provide comments on the Consultation Draft. Given the issues raised in this submission, the KPCA would appreciate further information/clarification from DWER in relation to the forward plan/process to review and rectify issues with the current Bilateral Agreement to ensure that the Commonwealth amendments to the EPBC Act resulting from the Independent Review by Graeme Samuel and the response to this review by the Commonwealth Government can be fully operationalised and implemented to ensure its effective and efficient operation.

Please do not hesitate to contact KPCA CEO Mick Sheehy via email on ceo@kpca.net.au or mobile phone number 0499 331 643 should you wish to discuss the matters raised in this submission further.

Yours sincerely,



David Stoate

Chair