



Australian Government

Department of the Prime Minister and Cabinet Office of Best Practice Regulation

Reference: 44349

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Rachel O'Connell
A/Deputy Secretary
Department of Agriculture, Water and the Environment

Dear Ms O'Connell

Regulation Impact Statement – Second Pass Final Assessment – Pathway to a National Voluntary Biodiversity Stewardship Market

Thank you for your letter received on 3 February 2022 submitting a Regulation Impact Statement (RIS) on Pathway to a National Voluntary Biodiversity Stewardship Market for formal Second Pass Final Assessment. I note the RIS has been formally certified at the Deputy Secretary level consistent with the *Australian Government Guide to Regulatory Impact Analysis*.

I appreciate the Department's engagement on the RIS, and would welcome opportunities for earlier engagement with the Office of Best Practice Regulation (OBPR) on substantive issues in the future.

The OBPR's assessment is that the quality of the regulatory impact analysis in the RIS is adequate and therefore sufficient to inform a decision.

While the RIS is clear about the policy problem that needs to be solved, the impact analysis faced challenges in the characterisation and quantification of impacts. To achieve a Good Practice assessment as per the *Australian Government Guide to Regulatory Impact Analysis*, the RIS would have benefited from:

- Articulating more fully the implications for stakeholders of the regulator undertaking its compliance and enforcement functions;
- Better articulating the implications of encumbrances on properties arising from biodiversity obligations where the property might be submitted for sale and transfer of ownership and the need for markets to have information about potential obligations prior to a market transaction under Option 2;
- A deeper explanation of the likely costs in Option 2 – and more clearly distinguishing between project costs and regulatory burden costs;
- A more comprehensive exploration of unintended consequences to assess scenarios where participants might exploit the scheme or withdraw their participation.
- More detail on how the changes in biodiversity will be measured, and the benefits to the environment and Australian community from those changes.

In addition, the policy development process would have benefited substantially from broader consultation on policy options, impacts, identification and mitigation of unintended consequences and framework design, as consultation was largely limited to implementation and design issues.

The RIS may now be provided to the decision-maker to inform their decision.

We would appreciate you advising us when a final decision has been announced and forwarding a copy of the RIS in a form meeting the Government's accessibility requirements. The OBPR will publish the RIS, along with your certification and this assessment, on the OBPR's website <https://obpr.pmc.gov.au/>.

If you have any further queries, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jason Lange', with a stylized flourish at the end.

Jason Lange
Executive Director
4 February 2022