Comments on the Productivity Commission's Annual Review of Regulatory Burdens on Business – Primary Sector Draft Research Report

The Department of Agriculture, Fisheries and Forestry

Overview

The Australian Government Department of Agriculture, Fisheries and Forestry (the Department) welcomes the opportunity to provide comments on the Productivity Commission's (PC) *Annual Review of Regulatory Burdens on Business – Primary Sector Draft Research Report.*

As indicated in its previous submission (provided 5 July 2007), the Department is aware of the concerns industry has raised about unnecessary burdens and costs associated with government regulations and has a keen interest in ensuring that these concerns are appropriately addressed. The Department's submission of 5 July 2007 commented on a number of key regulatory areas in the agriculture, fisheries and forestry portfolio, including agricultural and veterinary chemicals and fertilisers regulation, wheat marketing arrangements, the mandatory Horticulture Code of Conduct, the food regulatory framework, accessing Exceptional Circumstances (EC) support, quarantine and export controls, animal welfare standards and environmental regulations.

In addition to its earlier submission, Departmental officers have been discussing a number of issues relating to the review with the PC. The Department notes that several issues, including agricultural and veterinary chemical regulation and food regulation, are being addressed in separate reviews. The Department is providing detailed input to the PC study of Chemicals and Plastics and is involved in the Bethwaite Review of food regulation.

As discussed at the roundtable held by the PC on 27 September 2007, the Department has some minor comments to improve the factual accuracy of certain issues and the associated commentary included in the draft report. In addition, as requested by the PC, the Department has provided comments in this submission on specific issues raised in various submissions to the review, including in relation to the EC application processes.

Detailed comments have been provided in this submission on a number of regulatory issues and the concerns underlying issues addressed in the PC's draft report, including:

- Draft response 3.9 concerning the Australian Biosecurity System for Primary Production and the Environment (AusBIOSEC). The Department considers that the draft report should clarify the scope of AusBIOSEC;
- Draft response 3.16 concerning the Australian Animal Welfare Strategy (AAWS). The Department considers the draft report should clarify the role and functions of the AAWS and the consultation processes involved in developing and implementing the new standards and guidelines;
- Draft response 3.17 concerning EC application processes. Further comments are provided on the application processes and delivery issues will be addressed in more detail in a separate submission by Centrelink;
- Draft response 3.29 concerning farm surveys. Comments are provided on the scope to reduce duplication between ABARE surveys and other data collected by government agencies; and
- Draft response 5.3 concerning fisheries management. Comments are provided on the scope for rationalising requirements under the *Fisheries Management Act 1991* and the *Environment Protection and Biodiversity Conservation Act 1999*.

AGRICULTURE

ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT (EPBC ACT)

Draft response 3.2

Concern: Overlap and duplication concerning the importation of live animals under the Quarantine Act.

The Department of Environment and Water Resources should assess whether there is further scope for accrediting Biosecurity Australia's risk assessment processes in relation to the importation of live animals under the EPBC Act.

Comment:
It is important to note that although Biosecurity Australia's (BA) risk assessment could accredit the importation of live animals under the *Environment Protection and Biodiversity Conservation Act 1999*, BA's processes assess pests and disease agents and could not assess all environmental risks. In addition, importers will still need to obtain a valid import permit and comply with Australian quarantine requirements.

BIOSECURITY AND QUARANTINE

Section 3.5 Biosecurity and quarantine

The draft report notes (page 46) that pre-border measures "anticipate threats and manage risk before arrival in Australia". It is suggested that the term "anticipate" be replaced with "reduce" to better reflect AQIS's pre-border quarantine measures.

Draft response 3.9

Concern: Duplication and inconsistency in biosecurity and quarantine regulations across jurisdictions.

Reforms on the development of a national approach to coordinating biosecurity and quarantine requirements across jurisdictions, through the Australian Biosecurity System for Primary Production and the Environment, are progressing.

Comment:
The Department is concerned that this section (pages 52-54) suggests that the Australian Biosecurity System for Primary Production and the Environment (AusBIOSEC) is developing a national approach to coordinating **all** biosecurity and quarantine requirements. It is important to note that AusBIOSEC is a policy framework that is being further developed to improve national collaboration on a range of biosecurity issues in the primary production and environment sectors. The specific issues raised by the PC, concerning international quarantine (controlling introduction of weeds of regional concern) and coordination of domestic quarantine, are not currently being addressed through the AusBIOSEC process. While there may be scope to pursue such issues in due course, the AusBIOSEC process is focussing on a number of agreed key priority areas, including post-border emergency response arrangements for dealing with incursions of pests and diseases that have effects on the environment and social amenity and that are not covered by existing agreements, such as those for animal and plant health.

Additionally, the Natural Resource Management Standing Committee (NRMSC) and the Primary Industries Standing Committee (PISC) have agreed to the establishment of a National Biosecurity Committee (page 54), which will consolidate and coordinate the handling of biosecurity issues across the Natural Resource Management Ministerial Council (NRMMC) and the Primary Industries Ministerial Council (PIMC). The National Biosecurity Committee will provide strategic policy advice on key biosecurity issues, including identifying potential and emerging national biosecurity issues and threats to economic, environmental, social amenity and human health values, and recommend national policy approaches. The Committee will report to both the NRMSC and the PISC and through them to the NRMMC and the PIMC. There are already several formal and informal links between the two Ministerial Councils and the Councils work closely together on a number of issues.

It should also be noted in the report that important elements of the AusBIOSEC process are still at a developmental stage and the intergovernmental agreement is yet to be finalised, at either a whole of Australian Government level or in negotiations with the states and territories. The third paragraph of the assessment (page 54) should be redrafted to say that: "The framework *aims to put in place* principles and guidelines to enable biosecurity….".

More broadly, in considering what are a complex set of issues in this area it is important to thoroughly analyse the matters raised and the means of addressing them, which include, but are not limited to, AusBIOSEC.

The draft report quotes a submission by the Western Australian Department of Agriculture and Food that claims that the *Quarantine Act* is unable to regulate the introduction from overseas of pest plants (weeds) of regional concern. The PC should note that AQIS, on advice from Biosecurity Australia, takes regional differences into account when meeting Sanitary and Phytosanitary Agreement standards.

The Department suggests that the section of the draft report relating to draft response 3.9 (Lack of coordination across jurisdictions) should be redrafted to reflect these comments.

Comments on South Australian Government Submission: Section 3.5 Import Risk Assessment of Livestock Genetic Material Compromising Industry Development.

Issue: The SA Government strongly believes that Australia's biosecurity system should not be compromised. However, it also believes it would be possible for Biosecurity Australia to uphold biosecurity standards in a way that better accommodates beef business and industry development opportunities.

Comment:
On 5 September 2007, new arrangements to improve Australia's Import Risk Analysis (IRA) process came into effect. Announced in October 2006 by the Minister for Agriculture, Fisheries and Forestry, the Hon Peter McGauran MP, these reforms have included the release of the new *Import Risk Analysis Handbook 2007*, setting out in considerable detail the new regulated process for import market access requests. The Handbook is an important tool for stakeholders as it provides detailed information regarding the new IRA process. A copy of the Handbook is attached for information. Further information on the reforms, including electronic copies of the handbook, is available on the Department's website: www.daff.gov.au/biosecuritycoordination.

The new process has regulated timeframes for completion of IRAs of 24 months and 30 months depending on complexity. Those assessments involving a review of existing policy may be conducted outside the regulated process as administrative reviews.

Importantly, changes to the IRA process do not alter Australia's science-based and consultative approach to developing quarantine policy, and Australia's longstanding conservative approach to quarantine risk.

The Australian Government has committed an additional $12.7 million over 4 years to support the implementation of these changes, enabling Biosecurity Australia (BA) to employ additional staff to work on risk analyses.

The new process includes improved arrangements for receiving and prioritising import requests. A high level group in the Department, the Import Market Access Advisory Group (IMAAG), has been established to assign priorities to import proposals and to monitor progress of IRAs. The Terms of Reference for the IMAAG are set out in the 2007 Handbook, and include national interest considerations, such as domestic demand for a good.

The IMAAG has considered a request for improved market access for importing bovine embryos from South Africa and it has provided interim advice to Biosecurity Australia (BA). Details on BA's 2007-2008 work programme, taking into account IMAAG's advice, are expected to be released shortly.

Under current quarantine policy, bovine embryos can be imported from South Africa. As part of an ongoing review of scientific information and international developments, BA plans to review the policy for bovine embryos, including from South Africa. This is likely to be undertaken as a non-regulated analysis of the existing policy.

BA will continue to progress the IRA of ruminant semen (bovine, caprine and ovine) from South Africa. A draft IRA report for stakeholder comment is well advanced and is being independently peer reviewed by an external consultant. The IRA will be incorporated into the regulated process and further advice will be provided to stakeholders at a later date.

SECURITY SENSITIVE CHEMICALS

As the regulatory framework for security sensitive chemicals will be examined in greater detail by the PC in a commissioned study into chemicals and plastic regulation in Australia, the Department has limited comments in this section to those relating to factual errors and associated commentary.

Draft response 3.12

Concern: Regulation has limited the use of ammonium nitrate by farmers.

The recently commenced Commission study into chemicals and plastics is examining the efficiency of the arrangements for regulating ammonium nitrate.

Draft response 3.13

Concern: Range of concerns about the burdens of regulating other security sensitive chemicals.

The regulation of other security sensitive materials is now being developed by COAG and workable and effective regulation should be put in place as soon as practicable.

Comment:
The Department continues to be involved in the COAG Review of Hazardous Materials - Chemicals of Security Concern via membership of the COAG Steering Committee. The Australian Government view (on the COAG Steering Committee) is that, in undertaking the review of chemicals of security concern, it is important that any new proposed framework for the control of such chemicals address the issue of inconsistencies across jurisdictions as experienced

by industry in respect of the current regulatory arrangements for Security-Sensitive Ammonium Nitrate.

The PC should note that the availability of security sensitive chemicals has also been affected by commercial decisions made by the fertiliser industry.

WHEAT MARKETING

Draft response 3.15

Concern: Costs imposed by the single desk for exporting wheat.

The Wheat Marketing Act should be subject to a review in accordance with National Competition Policy principles as soon as practicable.

Comment:
The draft report (page 65) notes that the *Wheat Marketing Act 1989* and the costs and benefits of the single desk arrangements are yet to be subject to an independent and transparent review in accordance with National Competition Policy (NCP) principles. The Australian Government commissioned Mr Malcolm Irving to chair an independent NCP review of the Wheat Marketing Act in 2000. The Government is committed to holding another NCP review by 2010 as is required under the national competition principles agreement.

As noted in the draft report, the domestic wheat market has been deregulated for some time. In addition, the Government recently deregulated the export of wheat in bags and containers.

ANIMAL WELFARE

Draft response 3.16

Concern: Slow progress in implementing rule harmonisation.

There appears to be scope to implement the Australian Animal Welfare Strategy more quickly. The Commission seeks views on this matter.

Comment:
The following comments are provided to clarify the intent, objectives and processes involved in the implementation of the Australian Animal Welfare Strategy (AAWS).

The AAWS has no direct regulatory impact. It is intended to provide a framework for all stakeholders, including government and industry, to guide the development of new, nationally consistent policies and approaches to help enhance existing animal welfare arrangements in all states and territories.

The goals of the Strategy are to achieve:

- an enhanced national approach and commitment to ensure high standards of animal welfare based on a concise outline of current processes;
- sustainable improvements in animal welfare based on national and international benchmarks, scientific evaluation and research, taking into account changes in whole of community standards; and
- effective communication, education and training across the whole community to promote an improved understanding of animal welfare.

Specific objectives and activities have been identified under each of these three goals.

The Strategy facilitates a national consultative approach for implementing approved animal welfare standards that are based on scientific evidence and that meet the community expectations. The AAWS was endorsed by the Primary Industries Ministerial Council in 2004, as the first national blueprint for harmonised improvements in animal welfare practices. The Australian Government has provided $6 million to support the implementation of the AAWS.

The AAWS National Implementation Plan (NIP), developed in 2005 in consultation with key stakeholders, outlines the strategies to implement the AAWS over the four years to 2008-09. The NIP has prioritised the order in which activities should be completed, as they cannot be carried out at once. A number of tasks have already been completed. The Department has worked to expedite priority projects, although the extensive consultation with stakeholders, including industry and state and territory governments, has meant that the process has taken longer than originally expected.

There a number of points made in *Section 3.10 Animal Welfare* of the report which should be clarified:

- There are no regulatory bodies, regulations, procedures or rules directly associated with the AAWS; it is simply a strategy to assist government, industry and the community to achieve the three goals identified above.
- The draft report focuses on the need for the quick and efficient implementation of animal welfare standards and guidelines and uniform rules across states and territories. 'Improving consistency of legislation and administration across jurisdictions and the enforcement of agreed standards' is one of thirteen objectives of the AAWS.
- Industry is represented on the Pig Code Implementation Working Group (IWG) and agreed to the timing to implement those standards identified by jurisdictions as requiring regulation by 20 April 2009. The IWG also agreed to "give effect to the Code through current regulatory mechanisms for use in the same fashion as existing Codes by 1 March 2008".
- State and territory governments have primary responsibility for implementing animal welfare law. One outcome of the AAWS was agreement by Ministers that animal welfare standards be consistently implemented across jurisdictions. The development of a robust process to convert Model Codes of Practice to Australian Welfare Standards and Guidelines is a priority task. The Australian Government continues to support the process and encourage the major stakeholders to reach agreement.
- Animal Health Australia (AHA) is managing the conversion of the model codes to welfare standards in consultation with industry and other stakeholders including state and territory governments. The Land Transport Standards (LTS) are the first to be converted and will be a guide for future code conversions. The LTS conversion is being funded by the Department and the cost of future code conversions will be shared equally between the Australian Government, state/territory jurisdictions and industry. Development of the LTS is a substantial exercise that involves resuming seven model codes and significant consultation. While it is expected that subsequent standards will be developed more rapidly, there is a limit on how quickly the process can be completed. It is intended that the standards development should be completed by the end of 2010.

DROUGHT SUPPORT

Draft response 3.17

Concern: Duplication and unnecessary burdens in applying for drought support.

To avoid duplication and reduce unnecessary burdens in the application process:

- *Centrelink and state and territory government rural adjustment authorities should provide applications for both Exceptional Circumstances (EC) income support and EC interest rate subsidies;*
- *applicant information should be able to be used across different Centrelink administered programs; and*
- *a single application form for EC interest rate subsidies should be adopted by state and territory governments.*

The Commission seeks views on whether drought support, by all governments, should be reviewed.

Comment:
The first paragraph in *Section 3.11 Drought Support* (page 70) needs to clarify that while farmers need to be located in an Exceptional Circumstances (EC) declared area to be eligible to apply for EC assistance, small businesses do not. Small business operators need to demonstrate that they derive 70 per cent of their gross business income from supplying goods and services to farm businesses in EC declared areas. They may be located outside an EC declared area. The paragraph also needs to clarify that until 25 September 2007, professional advice and planning grants were only available to eligible producers located in areas that have been EC declared for more than three years.

The following comments on draft response 3.17 are based on circumstances prior to the 25 September 2007 announcement of additional and amended drought assistance measures. Delivery issues will be addressed in more detail in a separate submission by Centrelink.

Centrelink and the state and territory Rural Adjustment Authorities (RAAs) could potentially provide application forms for both EC income support and interest rate subsidies. However, it should be noted that the application forms currently vary and the client base for the support is generally quite different.

There have been a number of extensions to, and reintroduction of, EC declared areas, as well as extension of assistance to all producer types. This, combined with successful "do not self assess" media campaigns and outreach activities such as the Drought Buses, as well as ongoing new declarations, has resulted in unprecedented numbers of EC applications being lodged. Centrelink has significantly increased the number of processing staff who solely focus on assessing EC income support applications. New processes have also been introduced, with new telephone procedures intended to verify and seek further information rapidly.

Centrelink requires a 100 point check to verify applicants' identities. This is consistent with mainstream welfare practices. Centrelink does use lower point identification checks in some instances, depending on the service being provided and the level of assistance being sought.

Centrelink's application forms are required to undergo an extensive review process to ensure the need for minimal information and to ensure that duplicate information is not sought for different programmes. The level of information required is consistent with that sought for mainstream welfare, however the complex structures of farming businesses means additional information can be required to accurately assess a farming family's need for assistance.

The RAAs, who deliver EC interest rate subsidies on behalf of the government, also seek the minimum information required. Again, the complex nature and structures of farming businesses mean that significant detail is required to assess the viability of those businesses, their need for assistance, and the level of assistance required. Information relating to all drought assistance measures is available via telephone hotlines, referral lines and the Internet.

A single application form for EC interest rate subsidies could potentially be adopted by RAAs, however it should be noted that farmers that own properties that straddle borders are only able to lodge a single application for interest rate subsidy payments to avoid "double dipping". The assessing state or territory rural adjustment authority takes into consideration all parts of a property, regardless of their location, in the application assessment process. Whether all parts of the property are located in an EC declared area has implications for the assessment process.

The drought support measures provided by the Australian and state and territory governments are currently under review through the drought reform process underway through the Primary Industries Ministerial Council.

The Department is continually working towards reducing the administrative complexity of drought programmes where possible. However, different drought programmes have different target groups, for example, small businesses, individuals and their families. These are administered by agencies that have the required expertise and experience to do so. Often this means that more than one Government agency may have responsibility for administering drought assistance on behalf of the Australian Government.

In addition, programmes administered by Centrelink are variously provided to farm business units and individuals. In the case of the Professional Advice and Planning Grant, only one application per farm business is accepted, while a number of EC income support applications can be lodged for members of a farm business. This has implications for the use of "common" information. The use of applicant information across different Centrelink administered programs has a number of privacy issues to be considered, as under privacy legislation, information can only be used for the purpose for which it was collected.

FOOD REGULATION

Draft response 3.19

Concern: Inconsistency and lack of timeliness in food regulation.

Food regulation concerns are currently being examined by the Bethwaite Review.

Comment:
The Department agrees with the draft response and suggests further comment be added to the draft response as follows: Should the Bethwaite Review recommend systemic changes, for example, an increased role for the Australian Government in enforcement, consideration by the Council of Australian Governments would be required.

NATIONAL LIVESTOCK IDENTIFICATION SYSTEM (NLIS)

Draft response 3.21

Concern: Industry dispute over the need for NLIS in its current form.

The NLIS should be subject to ongoing government monitoring of its efficiency and effectiveness in meeting the needs of industry and the community.

Comment:
The NLIS is referred to as 'scheme' throughout when it should be 'system' – including in the section title.

In addition to the PriceWaterhouseCoopers review and the recent 'Cowcatcher' exercise, the report should note that the states and territories provide quarterly monitoring reports on all aspects of the system – such as tag readability and saleyard uploads - to the Department. The Department plans to hold regular exercises similar to Cowcatcher.

FARM SURVEYS

Draft response 3.29

Concern: Time involved in completing farm surveys.

Improved coordination between ABARE and other government agencies in collecting farm data could reduce the time spent by agricultural producers completing surveys.

Comment:
ABARE surveys are voluntary and provide valuable information for the agricultural sector. Field collectors are trained by ABARE to clearly communicate to farm survey co-operators that participation in the survey is voluntary. Farmers only participate in the survey if they are interested in doing so. Further, a sample rotation procedure means that many farms only participate in ABARE surveys for a period of several years.

ABARE does not believe that there is duplication in the survey data collected at the Australian Government level. ABARE works closely with the Australian Bureau of Statistics (ABS) to reduce the time spent collecting information from farmers by ensuring there is no duplication in the information collected at that level.

The Statistical Clearing House was established in the late 1990s and is managed by the ABS to ensure that all business surveys conducted by the Australian Government are necessary, well designed and place a minimum burden on business respondents. All surveys that are directed to 50 or more businesses and that are conducted by or on behalf of any Australian Government agency, including all ABARE farm surveys, are subject to clearance by the Statistical Clearing House. The PC should note that surveys conducted by state government agencies and/or consultants are not required to obtain Statistical Clearing House approval. This may result in overlap between survey data collected at the Australian Government level (by ABARE and the ABS) and survey data collected by various state government rural agencies.

GENETICALLY MODIFIED CROPS

Draft response 3.30

Concern: Lost commercial opportunities due to moratoria on commercial release of genetically modified crops approved by the Gene Technology Regulator (GTR).

The national framework for assessing the health, safety and environmental risks of genetically modified organisms was recently reaffirmed by all governments. Moratoria on genetically modified crops approved for release by the GTR are matters for the states and territories.

Comment:
The PC should note that carnations have been modified for colour (various shades of blue) and not for herbicide tolerance or insect resistance as indication in *Section 3.20 Genetically Modified Crops* (page 107) - these are the traits for canola and cotton.

FORESTRY, FISHING AND AQUACULTURE

FORESTRY

Draft response 5.2

Concern: Constraints on using native waste wood for power generation reduce demand for forest products.

The Government recently reviewed this matter and was concerned to avoid promoting increased harvesting of native forests to supply wood waste for electricity generation.

Comment:
The PC should note that a native forest specifically cleared for power generation cannot qualify for Mandatory Renewable Energy Target (MRET) credits. Also, wood waste from harvesting operations can be burned in the forest, but this same material cannot be used to claim MRET credits.

The Department recommends that the draft report should also indicate that the Office of the Renewable Energy Regulator has developed a series of assessment sheets to assist generators interpret the wood waste provisions in the *Renewable Energy (Electricity) Regulations 2001*. These assessment sheets can be used by generators in building appropriate record sets to use in demonstrating the eligibility of wood waste.

FISHING

Draft response 5.3

Concern: Duplication in fish stocks management.

There appears to be scope for rationalising requirements under the Fisheries Management Act and the EPBC Act. The Commission seeks views on this matter.

Comment:
Comment on this issue has been developed in consultation with the Australian Fisheries Management Authority (AFMA).

The Australian Government is currently considering a comprehensive review of the economic and ecological sustainability of Australian fisheries which would examine the regulation of the fisheries sector in depth.

The management of Commonwealth fisheries aims to meet the objectives of both the *Fisheries Management Act 1991* (FMA) and the *Environment and Protection and Biodiversity Conservation Act 1999* (EPBC). The FMA objectives include ensuring the ecologically sustainable development of fisheries and maintaining an economically viable fishery. Fisheries management has regard for the EPBC Act in several areas, particularly:

- strategic assessments of fisheries, which involve an independent assessment of all export and all Commonwealth fisheries to ensure they are managed in an ecologically sustainable manner;
- fishing impacts on protected and listed species; and
- Marine Bioregional Planning and the establishment of Marine Protected Areas.

The draft report suggests both AFMA and the Department of Environment and Water Resources (DEW) can set catch limits for fisheries (page 200). It is important to note that AFMA is responsible for making the decisions on catch limits, with input from DEW. While DEW has some direct management levers, the decisions are routinely made through discussion and agreement on how AFMA will implement the necessary measures. In the one case to date where a commercial species (orange roughy) has been listed under the EPBC Act, the Conservation Plan and associated total allowable catches were developed by AFMA, in consultation with DEW.

There may be further efficiency gains in terms of regulation of fisheries, but it is important to note that there are some initiatives already in place. The Harvest Strategy Policy (HSP), developed between the Department, DEW and AFMA, provides clear linkages between the FMA and EPBC Act regarding the status of key commercial species.

The HSP addresses the concerns raised regarding the listing of key commercial species as under the EPBC Act. The HSP and Guidelines for Implementation provide that while a stock biomass is above a limit at which the risk to the stock is regarded as unacceptable, there is no expectation that the species would be added to the list of threatened species (conservation dependent, vulnerable, endangered or critically endangered) under the EPBC Act.

If the stock biomass is at or is below this limit, then those stocks may be the subject of action under both the fisheries and environment legislation as the risk to the species may be regarded as unacceptably high. If an AFMA developed stock rebuilding strategy was in place, of which the cessation of the strategy would adversely affect the conservation status of the species, consideration would be given to listing the species in the conservation dependent category.

If the stock biomass falls more substantially below the limit, there is an increased risk of irreversible impacts on the species. As such the species will likely be considered for listing in a higher threat category (i.e. vulnerable, endangered or critically endangered). A listing under such categories may, in accordance with the EPBC Act, require development of a formal recovery plan.

Where the biomass of a listed stock is rebuilding toward target levels, consideration could be given to deleting the species from the EPBC Act list of threatened species, or amending the category it is in. The relevant sections of the EPBC Act, primarily Part 13, will apply for any listing, amending, or deletion of a species from the list of threatened species.

The best available science underpins all key decisions in the application of the HSP and relevant provisions of the EPBC Act. Stakeholders will be well informed and agencies will ensure transparency.

The Department, DEW and AFMA continue to work closely together to streamline processes and ensure that work undertaken for fisheries management (such as ecological risk assessments, bycatch action plans) is harmonised with work undertaken for the EPBC Act.

Section 5.3 Aquaculture

Section 5.3 of the draft report raises the recent National Pollutant Inventory (NPI) review, including the Environment Protection and Heritage Council (EPHC) decision to maintain the reporting exemption for aquaculture (discussed in detail in Section 3.3, pages 41-42). The report notes the EPHC decision is inconsistent with the 2005 NPI review and 2006 impact statement on the inclusion of aquaculture.

The Department does not see a valid reason why aquaculture should be included in the NPI. It is not clear what benefits reporting to the NPI would provide to the aquaculture industry or for the environmental management of the industry. State and territory governments are already

managing the industry's environmental obligations effectively. At the time of the NPI review, there was a concern that the proposed NPI variation conflicted with the Australian Government's previous commitments to streamline regulation of the aquaculture industry. There were also concerns that commercial-in-confidence issues would negate reporting for some sectors while monitoring would still be mandatory and that there was potential for misinterpretation of the data displayed on the NPI website, as it has no context. Finally, there was a lack of technical information about the proposed NPI reporting for aquaculture, as industry reporting guides are not developed until they are included in the NPI. For this reason, the aquaculture industry was unable to assess the likely impacts of NPI reporting with any confidence.

Within table 5.3 on page 204, the FMA is included in the table under "Key Australian Government involvement/regulation". This should be clarified or deleted as the FMA does not apply to aquaculture and therefore has no part in aquaculture regulation. The only intersection of the regimes is where a Commonwealth managed wild capture species is caught and then subsequently farmed (fattened) in sea cages. SBT is a good example - the Australian Government, through AFMA, regulates wild capture fishing for SBT under the FMA. However, at the point at which the SBT are transferred to farming operations, they are managed by the state government.

The term "offshore" needs to be clarified throughout the section, particularly as it relates to aquaculture. In the report offshore seems to refer to all marine areas (eg from 0 nautical miles). However, in other contexts, offshore can actually mean 3-200 nautical miles. In the case of aquaculture, this activity is currently limited to within 3 nautical miles.