

EPBC Biodiversity Threat
Assessment: River Murray
Downstream of the Darling
River, and Associated Aquatic
and Floodplain Systems

October 2024



The National Farmers' Federation (NFF) is the voice of Australian farmers.

The NFF was established in 1979 as the national peak body representing farmers and more broadly, agriculture across Australia. The NFF's membership comprises all of Australia's major agricultural commodities across the breadth and the length of the supply chain.

Operating under a federated structure, individual farmers join their respective state farm organisation and/or national commodity council. These organisations form the NFF.

The NFF represents Australian agriculture on national and foreign policy issues including workplace relations, trade, and natural resource management. Our members complement this work through the delivery of direct 'grass roots' member services as well as state-based policy and commodity-specific interests.

NFF Member Organisations



22 October 2024

Director
Ecological Communities Section
Protected Species and Communities Branch
Department of Climate Change, Energy, the Environment and Water
PO Box 3090
Canberra ACT 2601

Via email: EPBCNOM@dcceew.gov.au

RE: EPBC Biodiversity Threat Assessment: River Murray Downstream of the Darling River, and Associated Aquatic and Floodplain Systems

Dear Sir / Madam,

Overview

The National Farmers' Federation (NFF) welcomes the opportunity to provide a submission to the Department of Climate Change, Energy, the Environment and Water. The 2023 nomination and subsequent Biodiversity Threat Assessment of the *River Murray Downstream of the Darling River, and Associated Aquatic and Floodplain Systems* ecological community for inclusion to the *Environment Protection and Biodiversity Conservation (EPBC) Act 1999* list of threatened ecological communities is a complex process that requires careful time and consideration. It is our understanding that this ecological community has not been prioritised for assessment since 2013 (when it was then delisted).

The NFF rejects the need for this nomination. The river and its environs are highly developed landscapes that are tightly governed under state and federal law related to the *Water Act 2007* and its subordinate *Murray Darling Basin Plan*, the implementation of which has seen significant and ongoing investment in the acquisition and utilisation of significant quantities of environmental water. This mechanism, as well as an ongoing unmet need to specifically and directly address European Carp, is the most logical pathway forward.

A significant volume of documentation accompanies this consultation. This includes several hundred pages relating to the draft Conservation Advice, Consultation Guide, and Indicative Distribution Map. Given the complexity of this matter, this submission has responded to the specific consultation questions at a high-level only. Further dialogue with the Department and Threatened Species Scientific Committee (TSSC) seems prudent to discuss our remarks or seek specific views directly.

Appropriateness of Descriptive Title

NFF do not support language describing this ecological community as "*River Murray-Darling to Sea*". We recommend that all references of this term across all consultation documents be renamed to a more appropriate title to mitigate the risk of potential political connotations (i.e., "*to the sea*" statement) from being drawn. A more appropriate and descriptive title would involve that on the DCCEEW website itself: "*River Murray Downstream of the Darling River, and Associated Aquatic and Floodplain Systems*".

Eligibility and Proposed Conservation Status

The *River Murray Downstream of the Darling River, and Associated Aquatic and Floodplain Systems* ecological community is described as the collection of native plants, animals, and other organisms that are associated with and dependent on the Murray-River lowland floodplain river system below the river's confluence with the Darling River. It includes the following:

- *The river channel itself.*
- *Associated estuaries, lakes, streams, floodplain wetlands and woodlands/forests/shrublands.*
- *Groundwater.*

Provided that there was a previous listing of this ecological community in 2013, this Biodiversity Threat Assessment is likely to hold some degree of merit and thus be eligible for assessment for inclusion under National Environmental Law.

The proposal to consider the nomination is unnecessary to pursue. NFF are advised that work was undertaken to nominate parts of the lower Murray-Darling Basin and Macquarie wetlands (i.e., aspects of this ecological community) on behalf of an Environmental Non-Governmental Organisation (ENGO) with support from a prominent university. We question the rationale of the Department's decision to undertake this assessment and entertain the idea of an EPBC listing as a consequence of activist views. There is an absence of any demonstrated broad public and community support for such action. The area in question is also of significant importance to the agriculture sector. It is also noted that this process appears to lack the context of the existing water and environmental management regimes that underpin the *Water Act 2007* and the accompanying *Murray Darling Basin Plan*.

This submission articulates several points as to why this ecological community should not be listed (these are addressed below).

It is also important to realise that a significant volume of new information and science has emerged since 2013. The TSSC should consider the broader paradigm in which this nomination exists and not recommend listing unless it is satisfied the mechanism of managed environment water and specific declaration of European Carp as a key threatening process are not more appropriate pathways to management.

Impacts to Agriculture

It is imperative that a potential listing of this ecological community under National Environmental Law does not impact existing agricultural practices in the Indicative Distribution Area. As outlined in the Consultation Guide, an EPBC listing will not impact most agricultural operations due to relevant continuing-use Section 43A and 43B provisions, however, this may not be applicable if the agricultural activity in question is not ongoing or occurs within the Indicative Distribution Map area. **This is a significant concern to NFF that the proposed listing will not alter existing requirements/directions as it relates to Murray-Darling Basin Plan et al including current and future agricultural adjustment and consequent impact on food and fibre production.** For example, water recovery and adjustment projects are proposed new actions that require major changes to existing land- and water-use. This will mean that such actions (i.e., infrastructure projects to contribute

to the 450GL) will be required to undergo assessment irrespective of the Indicative Distribution Map, adding unnecessary cost, delay, and complexity for landholders to what is largely a bureaucratic process. This contravenes key EPBC Act objectives to “*adopt an efficient and timely Commonwealth environmental assessment and approval process*”.

Separately, many landholders in the agriculture sector have been and continue to engage in voluntary activity to ensure that this ecological community is adequately protected and maintained to support environmental outcomes in concordance with the principle of ecologically sustainable development. This needs to be recognised.

Key Threats

The Consultation Guide identifies several threats (historic and current) to this ecological community including land clearing, water extraction and diversion, invasive species, and climate change. Additional threats that are described include weeds, pest animals, erosion, and salinity. It is important to recognise that **the ongoing threat of invasive species, specifically European Carp as outlined in the draft Conservation Advice constitutes an “extreme, ongoing, whole, and increasing threat” to this ecological community.**

Addressing this threat directly through improved management practices, eradication control, or investment to support biological control solutions (i.e., the National Carp Control Plan) will provide significant commensurate benefits to ALL attributes of this ecological community to an extent whereby a threatened listing may not be required. This is self-evident as the “*long-term trend of decline for this ecological community*” including on multiple native species with a key functional role to ecological health (i.e., *Murray Cod*, *Murray Crayfish*, etc.) can be drawn singlehandedly to invasive carp. **Provided the severe, wholly encompassing, and increasing nature of this threat, genuine consideration must be undertaken to designate this invasive species as a separate Key Threatening Process (KTP) under National Environmental Law.** This will ensure abatement processes and resources are apportioned to address the threat in a feasible, effective, and efficient manner. Outcomes will include reduced pressure on key ecological functions and improved environmental benefit to the point where no EPBC listing and subsequent duplication of existing regulatory frameworks is necessary.

Duplication of Existing Regulatory Processes

The proposed conservation status for this ecological community is listed as “*critically endangered*”. **The NFF questions the rationale for this Biodiversity Threat Assessment given that existing water regulatory processes are already established to deal with these types of issues. We also question the appropriateness of the proposed conservation status.** It remains unclear where the evidence base for such a significant listing resides or even exists provided the TSSC have yet to undertake a scientific assessment determination on such a matter. Again, this appears to be a process conducted at the behest of activist ENGO groups which is a significant concern to NFF.

The *Murray-Darling Basin Plan* is heavily focussed on environmental outcomes and exists to ensure that ecosystems, including threatened ecological communities, continue to support native species and natural processes. The Basin Plan provides a fundamental framework for sustainable land and catchment management, it is not limited in focus to water alone. There are also several other legal frameworks including *The Water Act 2007*,

and indicators to address river health and species protection. As such, a listing under National Environmental Law will only serve to create further regulatory duplication and confusion as to what environmental plan will take precedence. Again, this contravenes the intent of the EPBC Act which is to “*adopt an efficient and timely Commonwealth environmental assessment and approval process*” and minimise duplication.

If the purpose of this Biodiversity Threat Assessment is to address species decline in this ecological community, the Department should either consider listing European Carp as a separate, designated, KTP under National Environmental Law or allow the existing regulatory framework and state-based regulations to address this matter. Consideration of environmental planning and management for this ecological community is a subject primarily for states to address, it is concerning and inappropriate that the Commonwealth is seeking to exert management control over an ecological community that is not a designated Matter of National Environmental Significance. This does not align with Section 3(2)(a) of the EPBC Act.

Section 3(2)(a)

(2) In order to achieve its objects, the Act:

(a) recognises an appropriate role for the Commonwealth in relation to the environment by focussing Commonwealth involvement on matters of national environmental significance and on Commonwealth actions and Commonwealth areas; and

Conclusion

Please do not hesitate to contact Warwick Ragg, General Manager, Natural Resource Management, via e-mail: WRagg@nff.org.au at the first instance to progress this discussion.

Yours sincerely,



TONY MAHAR
Chief Executive Officer



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