

First Nations National Statement Team
Department of Agriculture, Fisheries and Forestry
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To whom it may concern

Re: National Statement on First Nations in Agriculture, Fisheries and Forestry

On behalf of Primary Producers SA (PPSA), I am writing in response the discussion paper released for public consultation, to help shape a National Statement on First Nations in Agriculture, Fisheries and Forestry to support economic inclusion in the sector (FN Statement).

PPSA is the peak industry body representing the interests of South Australian primary producers and serves as the state's member of the National Farmers' Federation (NFF). Our membership comprises South Australia's leading commodity organisations — Grain Producers SA, Livestock SA, the SA Dairyfarmers' Association, the SA Forest Products Association, the Horticulture Coalition of SA, and the Wine Grape Council of SA.

At the heart of PPSA's mandate is the protection and advancement of South Australia's primary industries, along with the people, communities, livestock, plants, and natural resources that sustain them. We believe it is essential for industry and government to work in partnership to design policies and investments that both strengthen primary industries and ensure the responsible management of our state's resources and landscapes.

PPSA supports the Commonwealth's objective of promoting greater economic inclusion for First Nations Australians across the agriculture, fisheries, and forestry sectors. However, to be effective, the FN Statement must balance recognition with workability, inclusion with certainty, and cultural respect with economic viability, consistent with Australia's market-based economy and legal system.

We contend the following principles are relevant to finalising the FN Statement:

- That the statement remains consistent with legal rights that Australian law recognises and protects, and not support or codify any relationship asymmetries, where any party has a default or at law right that erodes those of other parties.

OUR INDUSTRY MEMBERS



- That regard is given to the practical lessons of the repealed Aboriginal cultural heritage law reforms in Western Australia, largely due to the unintended impact on the farm sector and conflict with existing legal property rights.
- Access to agricultural and pastoral land for cultural purposes ensure standards of biosecurity and animal welfare continue to be upheld consistent with state-based legislation.
- That property rights concerning land and water continue to be recognised.

PPSA is committed to constructive engagement in the development of the FN Statement.

We believe the FN Statement must deliver practical, balanced outcomes that recognise cultural heritage and support Indigenous economic inclusion while maintaining the certainty and productivity essential to Australia's agricultural sector.

Thank you for considering the matters raised in this response. PPSA remains committed to constructive engagement with DAFF and the South Australian Department of Primary Industries and Regions SA (PIRSA) in progressing the FN Statement and would be pleased to provide further detail or clarification in any matters raised in this submission.

Yours sincerely



Prof Simon Maddocks

Independent Chair, Primary Producers SA

CC. Hon Clare Scriven MLC, Minister for Primary Industries and Regional Development (SA)

Prof Mehdi Doroudi, Chief Executive, Department of Primary Industries and Regions SA (PIRSA)

PRIMARY PRODUCERS SA (PPSA)

Submission to the Department of Agriculture, Fisheries and Forestry (DAFF) in response to:

Discussion Paper for the National Statement on First Nations in Agriculture, Fisheries and Forestry 2025

Date of submission: 12 December 2025

Introduction

Primary Producers SA (PPSA) welcomes the opportunity to contribute to the development of the National Statement on First Nations in Agriculture, Fisheries and Forestry (FN Statement).

PPSA acknowledges and respects the enduring connection of Aboriginal people to the land, waters, and natural systems across South Australia and the nation. We uphold the principle of coexistence, where cultural values and productive land use are managed side by side in a framework of mutual respect, practical cooperation, and lawful certainty.

PPSA approaches this process from the perspective of growing the total value of Australian agriculture and supporting the National Farmers' Federation's goal of a \$100 billion sector by 2030. Greater Indigenous participation in agriculture is welcomed as an opportunity to strengthen national prosperity, enhance regional capacity, and expand the economic and environmental contribution of the sector.

To achieve these shared outcomes, the FN Statement must rest on empirical evidence, legal coherence, and shared national interest. Social inclusion and economic growth are not mutually exclusive; when grounded in sound policy and practical implementation, they are mutually reinforcing. Caution should be exercised in framing greater Indigenous participation in agriculture as a competing social policy objective which could result in division across the industry.

It is essential that the First Nations Statement be delivered in genuine partnership with the farm sector, recognising farmers as land stewards, drivers of regional employment, and a cornerstone of Australia's food security and export strength.

The strength of Australian agriculture has always rested on the collaborative exchange of knowledge and ideas, supported by continued investment in extension networks, research collaboration, and farming systems groups. **Productivity gains and innovation are achieved through cooperation, not restriction:** farmers, scientists, and industry leaders working together to refine practices, enhance sustainability, and pioneer the technologies that keep Australian agriculture among the most productive and competitive in the world.

Accordingly, PPSA believes inclusion is best promoted through **capacity-building, strategic partnerships, and targeted investment**, rather than through structural legal change or restrictive regulatory measures that risk undermining innovation and enterprise. PPSA stands ready to work with government and First Nations organisations to co-design policy that is respectful, legally sound, and practically achievable.

UN International declaration

PPSA recognises the important role that the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) plays in shaping policy conversations and strengthening the rights and aspirations of First Nations peoples. At the same time, it is important to

acknowledge the practical reality that **UNDRIP is a non-binding international declaration and does not, on its own, create enforceable rights or obligations under Australian law.**

Any changes to land rights, cultural heritage protection, resource management, Indigenous governance, or Indigenous Cultural and Intellectual Property (ICIP) must occur through explicit legislation passed by the Australian Parliament. **Meaningful reform therefore requires clear proposals, transparent consultation, and a full assessment of how new laws would operate in practice — particularly for agriculture, which is directly affected by regulatory changes to land and water use, resource management, and operational compliance.**

While the Government has indicated that the FN Statement aims to support economic development, introducing uncertainty or complexity around future regulatory settings may risk unintended consequences. **Sustainable economic development — for Indigenous communities and for sectors such as agriculture — depends on clarity, stability, and certainty.** Ambiguity around rights, responsibilities, or regulatory frameworks can make it harder to plan investment, manage land, and build long-term partnerships.

Because implementing elements of UNDRIP would require substantial changes to existing regulatory, property, and operational frameworks, these reforms must be carefully designed, staged, and informed by genuine engagement with all affected stakeholders.

PPSA's focus is on ensuring that any future reforms are clearly defined, practical to implement, and developed through good-faith consultation — in a way that strengthens outcomes for First Nations peoples while supporting sustainable economic development and the long-term viability of agriculture

PPSA Guiding Policy Principles

The following principles guide PPSA's response to the Discussion Paper and are intended to shape the National Statement on First Nations in Agriculture, Fisheries and Forestry (FN Statement) to strengthen inclusion and cultural respect while safeguarding the legal certainty, productivity, and competitiveness of Australian agriculture.

1. Enduring Relationships and Partnership Models

PPSA supports genuine, long-term partnerships between Traditional Owners and landholders. Established mechanisms such as Indigenous Land Use Agreements (ILUAs) demonstrate how collaboration can deliver practical, respectful outcomes. New arrangements must not replace or complicate—these proven frameworks.

2. Balanced Land Management Rights

Both Indigenous and non-Indigenous Australians have a legitimate expectation that control over their land includes the right to determine its use and management, subject to fair and balanced regulation. Heritage protection must uphold this shared principle of stewardship, fairness, and respect for lawful property rights.

Access to agricultural and pastoral land for cultural purposes must ensure standards of biosecurity and animal welfare continue to be upheld, consistent with state-based legislation.

3. Clarity, Certainty and Practical Compliance

Landholders require clear, consistent, and practical processes to understand and meet their obligations. Ambiguity in interpretation or procedure creates unnecessary legal and financial risk. Heritage and inclusion measures must be workable in the real-world context of farming and pastoral operations, protecting cultural values without undermining business viability.

4. Managing Regulatory and Legal Risk

Expanded compliance and consultation frameworks introduce significant risks for primary producers, including exposure to litigation, project delays, and escalating compliance costs. Regulation must be proportionate, predictable, and designed to maintain operational continuity, investment confidence, and farm productivity.

5. Science-Led and Evidence-Based Policy

Indigenous ecological knowledge provides valuable insight into landscape stewardship, but it must **complement—not substitute—scientific knowledge and empirical research**. Agricultural and environmental policy must remain grounded in science, data, and replicable evidence to ensure credibility, innovation, and international competitiveness.

Policy should ensure that Indigenous ecological insights are incorporated through co-design, validation, and applied research, maintaining scientific integrity and consistency in regulatory standards.

6. Integrity of Intellectual Property Frameworks

While Indigenous knowledge is invaluable and should inform sustainable practice, embedding Indigenous Cultural and Intellectual Property (ICIP) as a proprietary right within Australian agriculture could undermine legal certainty, distort IP principles, and constrain innovation.

These guiding principles outline PPSA's policy tests for assessing proposals arising from the FN Statement. They **reflect the sector's longstanding commitment to respect, evidence-based policy, and the protection of lawful property and business rights**. Together, they provide a framework for collaboration that values Indigenous participation, safeguards scientific integrity, and **upholds the legal and economic foundations on which Australian agriculture depends**.

This submission builds on PPSA's earlier correspondence to PIRSA (October 2024) regarding South Australia's approach to the FN Statement and reflects ongoing collaboration with the

National Farmers' Federation (NFF) Indigenous Engagement Working Group. It also draws on lessons from recent state-level reforms — such as Western Australia's 2023–24 cultural heritage legislation — which showed how poorly designed frameworks can unintentionally harm relationships, impede production, and create legal uncertainty for all landholders.

In summary, PPSA believes the FN Statement should embody a genuine partnership model — one that honours cultural heritage, enables meaningful participation, and supports the open, science-based systems that drive agricultural innovation and productivity.

By focusing on practical collaboration and shared economic opportunities, the sector can deliver meaningful benefits for Indigenous communities and ensure the long-term sustainability and competitiveness of Australian agriculture.

1.0 Greater First Nations representation in the sector

PPSA strongly supports deeper engagement with First Nations people in agricultural policy and recognises the importance of leadership and representative structures that deliver tangible outcomes within existing governance frameworks.

As an active member of the National Farmers' Federation (NFF), PPSA endorses the NFF's initiatives to build meaningful partnerships with First Nations Australians across agriculture, fisheries, and forestry. These initiatives include empowering Indigenous agribusinesses, developing Indigenous agricultural product credentials, expanding employment pathways, and strengthening First Nations leadership within the sector — all through active participation in established structures rather than creating parallel statutory bodies.

The NFF's program of stakeholder consultations to define and authenticate Indigenous products, together with its landmark report highlighting opportunities for economic and cultural empowerment, provides a strong, practical foundation for collaborative and sustainable engagement.

PPSA supports targeted initiatives to build the skills and capacity of Indigenous leaders in the agricultural sector, including participation in established programs such as the Australian Rural Leadership Foundation's Milparanga Established and Emerging Leadership initiatives referenced in the Discussion Paper. We also recognise that enhancing cultural awareness and understanding across farm organisations is a critical next step in enabling the sector to excel, while strengthening the participation and inclusion of Indigenous leaders in established industry forums.

Effective leadership in Australian agriculture requires a high level of technical expertise, industry knowledge, and regulatory understanding. Any First Nations advisory or representative roles should therefore meet the same professional standards expected of all agricultural leaders to ensure credibility, practicality, and meaningful influence.

Cultural understanding is most effective when it flows both ways. By its nature, social policy involves the discourse of contested beliefs, and like other public policy debates, it must be conducted openly and transparently — including enabling the direct participation of representative bodies, such as the NFF, particularly when decisions have a direct impact on the farm sector and industry profitability.

PPSA also notes that responsibility for supporting First Nations workforce development cannot rest solely on individual farm businesses, particularly small and medium enterprises operating on tight margins. Existing institutions — including land councils, community organisations, and government-supported training programs — are better placed to lead structured employment pathways in partnership with willing agricultural employers, rather than imposing additional obligations on private businesses.

Agricultural businesses operate within strict regulatory frameworks relating to workplace safety, animal welfare, biosecurity, and environmental compliance, and employers remain legally responsible for ensuring these standards are met. Poorly designed governance or employment frameworks risk entrenching division rather than fostering collaboration. PPSA therefore urges that any initiatives arising from the Statement be practical, evidence-based, and focused on strengthening respectful partnerships that benefit both Indigenous and non-Indigenous communities.

Some industry stakeholders report difficulty identifying appropriate First Nations representatives or navigating engagement processes. PPSA agrees that these challenges can limit opportunities, but notes they are best addressed through clear, professional engagement frameworks and by raising technical, governance and financial capability across all participants, not by creating additional statutory bodies or imposing new layers of process in agricultural policy or government decision making.

Summary

PPSA supports expanding First Nations participation in agriculture through practical capacity-building, skills development, capital access, and partnership models with existing peak representative bodies, including the National Farmers Federation (NFF).

PPSA endorses initiatives developed by NFF to:

- **Authenticate Indigenous agricultural products through a national credentialing system.**
- **Strengthen economic self-determination via Indigenous agribusiness ownership, employment, and export opportunities.**
- **Elevate First Nations knowledge and leadership across the sector.**
- **Build inclusive, collaborative partnerships between Indigenous communities, industry, government, and business.**

Leadership roles should meet the same professional standards expected across Australian agriculture and be supported by improved cultural understanding within farm organisations.

Workforce development should be delivered through existing institutions and structured programs led and co-designed by First Nations organisations, not by placing additional obligations on individual farm businesses.

All initiatives should be practical, evidence-based, and focused on fostering trust, collaboration, and long-term benefits for both Indigenous and non-Indigenous communities.

2.0 The Indigenous Estate and Land Tenure Reform

The Discussion Paper suggests that Australia’s agricultural productivity could be increased by “unlocking” the Indigenous Estate through reforms or reinterpretation of existing land tenure systems — particularly the *Native Title Act 1993 (Cth)*. PPSA notes that native title is a recognition right, designed to acknowledge pre-existing rights and interests in land held under traditional laws and customs. It does not confer commercial title, transferable ownership, or automatic economic use rights. Maintaining this distinction is central to Australia’s property system, which balances recognition of Indigenous interests with the security of pastoral and freehold tenure that underpins national food production and rural investment.

Efforts to reposition native title as a platform for economic utilisation or to suggest that barriers to Indigenous participation in agriculture can be resolved through tenure changes could unintentionally create uncertainty in the land tenure framework on which Australian agriculture depends. Converting recognition rights into commercial title may trigger constitutional compensation obligations, reopen settled determinations, and invite legal challenges, with implications across every state and territory jurisdiction.

PPSA’s position is that the FN Statement should support Indigenous participation in agriculture through practical, collaborative mechanisms that work within existing land and governance systems, ensuring both Indigenous opportunity and the stability of Australia’s agricultural sector.

2.1 The Purpose and Structure of the Native Title Act

The *Native Title Act 1993 (Cth)* was established to recognise and protect Indigenous Australians’ traditional rights and interests in land, following the *Mabo v Queensland (No 2)* (1992) decision. It does not — and was never intended to — create economic assets or confer proprietary title equivalent to freehold. Its primary functions are:

- To provide legal recognition of traditional connection to land and waters;
- To set out a framework for coexistence between native title and other interests (pastoral, mining, freehold);
- To define mechanisms for future acts (such as mining or infrastructure) to proceed lawfully while considering Indigenous rights through negotiation and compensation.

Transforming this recognition framework into an economic activation mechanism would invert its purpose and erode the balance struck between Indigenous recognition and broader public interest in secure, productive land use.

2.2 Coexistence as the Foundation of Stability

The success of Australia’s land management framework rests on the **coexistence principle**: that native title can exist alongside pastoral leases and other tenure, without displacing

existing lawful rights. This principle — codified in *Wik Peoples v Queensland* (1996) and refined through subsequent statutory amendments — ensures that:

- Native title holders are recognised and considered;
- Pastoralists, leaseholders, and freeholders maintain operational certainty;
- Investment and resource use remain predictable and secure.

Any proposal that reopens or redefines this equilibrium by “modernising” tenure interactions risks re-litigating decades of legal and commercial certainty, creating deep instability across rural Australia.

2.3 The concept of “Unlocking the Indigenous Estate”

Barriers to Indigenous participation in agriculture are driven primarily by access to capital, infrastructure, skills, market readiness, and governance capacity — not by the form of land tenure. While tenure is important, land alone does not generate productivity; investment, expertise, and effective management are essential for successful agricultural outcomes.

Proposals to alter native title as a means of “unlocking” Indigenous land risk conflicting with the cultural and legal significance of land held under traditional laws and customs. Changes that shift the purpose or interpretation of native title could unintentionally undermine the intent of the Native Title Act to recognise and protect Indigenous rights and interests.

PPSA strongly supports pathways that enable Indigenous participation in agriculture through practical partnerships, targeted investment, and capacity-building within existing land and governance frameworks. These approaches deliver sustainable economic outcomes while respecting cultural values and ensuring the stability of Australia’s agricultural sector.

The claim that the Indigenous Estate “covers about 70% of Australia’s landmass” is technically accurate but economically misleading. Much of this land:

- Lies in arid or semi-arid regions unsuitable for intensive agriculture;
- Lacks infrastructure, market access, and water resources;
- Is subject to non-exclusive native title or environmental restrictions that constrain productive use.

Therefore, “unlocking” this land through tenure reform would not automatically yield significant agricultural opportunity — and would need to be carefully explored to ensure that they did not erode environmental stewardship and cultural integrity in the process.

2.4 Legal and Economic Risks of Tenure “Untangling”

Australia’s agricultural economy depends on certainty of tenure — the assurance that landholders can rely on their rights being stable and enforceable.

Altering the equilibrium between Native Title, pastoral leases, and freehold holdings would:

- Erode investor confidence in rural and regional land markets;
- Invite litigation as competing claims arise from tenure reinterpretations; and/or
- Devalue existing leases and mortgages, jeopardising credit access for pastoralists.

Such reform would undermine one of the most important features of Australian property law: *that titles, once determined and registered, are final and secure.*

It should be acknowledged that any such radical reform attempting to unwind or repurpose native title for economic use must contend with:

- Section 51(xxxi) of the Constitution (just terms compensation for acquisition of property);
- *The Racial Discrimination Act 1975 (Cth)* (which prohibits discriminatory treatment based on race or heritage);
- The delicate statutory architecture of the Native Title Act, which reflects judicial interpretation and political compromise.

Sustainable policy should prioritise capacity-building rather than tenure redesign under existing law. PPSA believes that supporting Indigenous agricultural participation does not require dismantling existing property systems, and will continue to advocate on behalf of the farm sector to:

- Preserve the existing balance under the Native Title Act — ensuring recognition of rights without creating economic distortions.
- Maintain the security of pastoral and freehold tenure to ensure Australia’s food and fibre systems remain stable, competitive, and attractive for investment.

Summary

Proposals to “unlock” the Indigenous Estate by revisiting land tenure and *Native Title Act 1993 (Cth)* provisions are legally risky and economically counterproductive.

The *Native Title Act* provides recognition and coexistence, not economic title. Altering this balance to prioritise commercial use could:

- **Destabilise property rights across pastoral and freehold lands;**
- **Expose governments to constitutional compensation claims (s 51(xxxi));**
- **Reignite litigation and uncertainty across settled jurisdictions; and**
- **Jeopardise investment confidence in agriculture and natural resource management.**

Efforts to expand Indigenous participation in agriculture should be pursued through practical capacity-building, capital access, and partnership models — not through legal restructuring of native title or pastoral tenure.

The *Native Title Act 1993 (Cth)* is a framework of recognition, not a lever for economic development. To reinterpret it as such would:

- Undermine legal certainty across Australia’s property system;
- Destabilise pastoral and freehold rights essential to food production; and
- Erode the cultural integrity of native title as a recognition of traditional law, not a commercial instrument.

The path forward lies not in “untangling” tenure, but in strengthening opportunity within the framework that already balances justice, stability, and productivity.

Opportunities to address barriers to Indigenous agricultural participation stem from capital access, infrastructure, and skills, not tenure complexity. The solution lies in partnership and investment, not legislative reengineering.

3.0 Indigenous Cultural and Intellectual Property (ICIP) in Agriculture

PPSA understands that Indigenous Cultural and Intellectual Property (ICIP) refers to the rights of Indigenous peoples to protect and control their cultural heritage, traditional knowledge, and traditional cultural expressions — including art, stories, songs, designs, and languages. ICIP frameworks seek to ensure that Indigenous communities retain ownership, control, consent, and benefit-sharing over the use of this material.

We recognise that proposals to extend ICIP concepts into agricultural practices are motivated by a desire to promote recognition, respect, and equitable benefit-sharing. These objectives are important, and PPSA is committed to supporting culturally respectful engagement across the sector.

At the same time, applying ICIP protections to agricultural processes and innovations presents significant legal, economic, and practical challenges within Australia's existing intellectual property and commercial systems. We consider that the current IP framework, supported by established collaboration and consent-based practices across agriculture, already provides workable mechanisms to support transparency, fairness, and benefit-sharing in the use of Indigenous knowledge.

For these reasons, PPSA does not support the introduction of additional ICIP-specific proprietary rights in the agricultural sector. We are concerned that creating a separate ICIP regime in this context could duplicate existing protections, introduce uncertainty for producers and investors, and hinder innovation in a sector critical to national food security and export competitiveness.

We also note that restricting access to germplasm or ecological knowledge through new ICIP-based claims could unintentionally limit the sector's ability to adapt to environmental change — a challenge that affects both Indigenous and non-Indigenous communities.

PPSA supports the ethical, respectful, and collaborative use of Indigenous knowledge. However, we consider that new ICIP-specific legal rights governing agricultural production or innovation would be difficult to implement, inconsistent with Australia's established intellectual property and trade frameworks, and unlikely to deliver the intended outcomes.

Indigenous peoples, like all Australians, already possess full legal agency under the *Patents Act 1990 (Cth)*, *Plant Breeder's Rights Act 1994 (Cth)*, *Trade Marks Act 1995 (Cth)*, and *Copyright Act 1968 (Cth)* to protect, license, and commercialise original innovations and creative works. These laws apply equally and universally, ensuring that individuals or communities who develop new knowledge or products have enforceable rights.

Beyond formal IP protection, agency is also achieved through contractual and collaborative frameworks — including *Indigenous Land Use Agreements (ILUAs)*, benefit-sharing agreements under the *Environment Protection and Biodiversity Conservation Regulations*, and co-designed research partnerships. These mechanisms already provide practical,

transparent, and culturally appropriate means of managing access to knowledge, while maintaining the legal consistency necessary for innovation and investment.

Introducing new ICIP-based proprietary rights that extend beyond established IP categories in agriculture may risk confusion, restricting legitimate research and development, and potentially discourage collaboration with Indigenous organisations by introducing uncertainty over ownership, consent, and liability.

Such measures would not enhance agency, but rather fragment it — replacing voluntary, partnership-based arrangements with complex, overlapping regulatory controls that stifle cooperation and slow progress, **Australian agriculture is grounded in the principle of shared learning.**

1.1 Recognising existing IP Protections

We note that Australia’s IP system already offers comprehensive protection for knowledge and innovation that meet the threshold tests of novelty, distinctiveness, and inventiveness. For example:

- **Genetic resources and plant varieties** are protected under the *Plant Breeder’s Rights Act 1994*, which enables breeders to claim exclusive commercial rights to new plant varieties developed through innovation, regardless of cultural origin.
- **Innovations derived from traditional knowledge** can already be acknowledged and protected through **patent law**, provided they meet the statutory requirements of novelty and inventive step.
- **Trademarks and certification marks** (under the *Trade Marks Act 1995*) can already be used to identify and authenticate Indigenous products and enterprises, ensuring cultural origin and authenticity are preserved in market representation.

Australia’s existing legal framework already protects Indigenous knowledge and ensures equitable benefit-sharing. Indigenous individuals or entities who create new varieties, brands, or inventions can already secure IP protection under these laws, that already allow for recognition, control, and economic participation within Australian law.

3.2 The Role of International Agreements

PPSA notes that Indigenous interests in traditional knowledge and biological resources are already safeguarded under:

- The Convention on Biological Diversity (CBD, 1992) and its Article 8(j) recognition of Indigenous knowledge;
- The Nagoya Protocol (2010), which provides fair benefit-sharing and consent requirements for genetic resource access;

- The International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA, 2001), which enshrines multilateral access to germplasm for breeding and research; and
- The WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge (2024), ensuring acknowledgement of origin in patent applications.

These instruments collectively balance respect with open access. Introducing a separate ICIP regime risks duplication and would contradict Australia's existing international commitments.

Furthermore, global agricultural trade operates under World Trade Organisation (WTO) Trade-Related Aspects of Intellectual Property Rights (TRIPS) obligations, which require IP protection to remain non-discriminatory, transparent, and consistent across member states.

3.3 Access to Knowledge and Genetic Resources: Foundation of Climate Resilience

The development of climate-resilient crops and sustainable farming systems depends on open access to genetic resources (germplasm) and scientific and traditional knowledge. Plant breeding, soil science, and biodiversity conservation all rely on the exchange of germplasm between countries, institutions, and communities.

The ITPGRFA and Nagoya Protocol already guarantee equitable benefit-sharing while preserving open access to essential genetic material, without the need to restrict or license access to germplasm or environmental knowledge under ICIP claims.

Introducing an ICIP regime that extends beyond the scope of existing IP law may inadvertently destabilise established commercial frameworks and introduce ambiguity around ownership and use rights. Agriculture depends on clear title, open access to research, and the free exchange of knowledge for productivity and sustainability.

Embedding ICIP protection into agricultural innovation frameworks risks fragmenting the market and impeding Australia's international competitiveness. The proposed ICIP mechanisms—such as mandatory benefit-sharing, permissions, and certification systems—introduce transaction costs and administrative burdens that undermine efficiency, particularly in sectors like:

- Plant breeding and seed development;
- Environmental management programs using traditional techniques;
- Food processing and value-adding where cultural attribution is ambiguous.

Australian IP law rests on principles of individual authorship, innovation through creation, and time-limited exclusivity. By contrast, ICIP is generally collective, perpetual, and non-commercial in origin. Recognising ICIP as enforceable proprietary rights within agriculture would likely lead to unresolvable conflicts in jurisprudence and enforcement.

If ICIP is defined expansively to include traditional ecological knowledge, seasonal observations, or soil and fire management techniques—knowledge which by its nature is communal, longstanding, and intergenerationally transmitted—then the line between public domain knowledge and protected IP becomes blurred. This creates:

- Uncertainty for researchers and producers unsure whether common practices are now subject to licensing or permissions;
- Barriers to collaboration, as fear of inadvertent infringement discourages partnerships and innovation;
- Risk for farm businesses that lack the resources to navigate complex cultural-legal compliance regimes.

PPSA is concerned the popularisation of Bruce Pascoe’s *Dark Emu* thesis — asserting that pre-colonial Aboriginal societies practised settled agriculture — appears to have informed policy thinking underpinning the drafting of the FN Statement, implying that contemporary farming, food systems, and land management owe a direct intellectual lineage to Indigenous agriculture, and therefore that economic benefits or intellectual property rights should flow accordingly.

PPSA notes that Pascoe’s work has been comprehensively challenged by leading anthropologists, archaeologists, and historians — most notably Peter Sutton and Keryn Walshe in *Farmers or Hunter-Gatherers? The Dark Emu Debate* (2021). Their research establishes that:

- The sources cited by Pascoe were selectively quoted and often taken out of context, omitting evidence that Indigenous groups were mobile and opportunistic foragers.
- Practices described as “farming” were forms of landscape stewardship and seasonal harvesting, not systematic crop domestication or agrarian settlement.
- There is no archaeological record of sustained cereal cultivation, irrigation infrastructure, or plant genetic domestication comparable to recognised agricultural systems elsewhere in the world.

The over-reliance on the *Dark Emu* narrative risks a policy culture that sits directly at odds with the international agreements that already govern genetic resources (as outlined above) — namely the Convention on Biological Diversity, Nagoya Protocol, and International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) — all of which balance recognition of traditional knowledge with the necessity of open access for breeding, research, and innovation.

Summary

PPSA supports the respectful and evidence-based integration of Indigenous ecological knowledge into modern agricultural practice. Such integration should enhance collaboration and understanding, while ensuring that intellectual property arrangements remain clear, consistent, and compatible with existing legal frameworks and international obligations.

The strength of Australian agriculture lies in the collaborative exchange of knowledge, germplasm, and technology within a transparent, rules-based system. Policies derived from *Dark Emu*-style reinterpretations risk compromising this framework — destabilising research, deterring investment, and diverting attention from the genuine opportunities for Indigenous participation through partnership, capacity-building, and shared innovation.

While Indigenous knowledge is undeniably valuable and should be embedded in sustainable agricultural practice, embedding ICIP as a proprietary right within Australian agriculture would undermine legal certainty, distort IP principles, and constrain innovation.

Respect for Indigenous culture and participation in agriculture should be advanced through policy instruments, partnerships, and ethical practice; noting that existing legal frameworks provide mechanisms for recognition, attribution, and economic participation, while maintaining the necessary balance between protection and public good.

In drafting the final FN statement to strengthen Indigenous participation across these sectors, PPSA advocates that this document should:

- Operate within Australia's existing intellectual property legal framework;
 - Avoid creating new categories of proprietary rights that conflict with established Australian or international law; and
 - Focus on practical mechanisms — such as investment, education, and collaboration — that enable genuine economic inclusion without compromising agricultural viability or property rights.
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4.0 Tailored financial and business support

The Discussion Paper correctly recognises that expanding First Nations participation in agriculture requires practical support that strengthens capability, improves market access, and enables viable long-term business operations. PPSA agrees that access to capital and appropriate financial instruments is central to this ambition. However, the FN Statement must be grounded in an understanding of the real and escalating credit pressures facing all primary producers, particularly as South Australia confronts the most severe drought in its history and the substantial risk of a third consecutive failed growing season.

Through PPSA's recent finance roundtable with industry, the banking sector and government, stakeholders identified a shared concern: existing rural lending practices, responsible lending requirements, and rigid credit assessment processes are preventing many otherwise viable farm enterprises — Indigenous and non-Indigenous — from accessing the working capital required to remain operational during periods of acute climatic stress. These systemic challenges highlight the need for targeted, pragmatic financial policy, rather than structural changes to land tenure or governance models.

Access to capital is a universal barrier to agricultural development, and First Nations agribusinesses are not exempt from the risks created by drought, high input costs, rising interest rates, and tightening credit markets. Industry stakeholders have noted that First Nations enterprises often face additional hurdles, including complex land tenure arrangements, limited access to collateral, and lower baseline financial literacy — issues also experienced by many small and emerging non-Indigenous farming businesses. The most effective way to improve outcomes is to lift technical capability, financial skills and business proficiency across the entire sector.

The Regional Investment Corporation (RIC) concessional loan facility would complement existing federal measures and provide equitable access to low-interest finance for adaptation, restocking, infrastructure repair, and cashflow management — support that would be available to First Nations enterprises pursuing growth and economic self-determination.

Partnership, joint venture and cooperative models — highlighted in the Discussion Paper and supported by the NFF's 2030 Roadmap — can only succeed when participants have access to capital, commercial capability, and the technical expertise required to manage risk in a high-cost, high-compliance sector. Without appropriate financial tools, both Indigenous and non-Indigenous producers struggle to maintain viability, let alone pursue new partnership opportunities.

The FN Statement should therefore prioritise practical enablers of success: improving financial literacy, expanding technical skills, strengthening business governance, and ensuring equitable access to concessional finance and investment pathways. These measures will do far more to support the growth of Indigenous agribusinesses, lift productivity across the

sector, and strengthen regional economies, than efforts focused on legal restructuring or additional regulatory burdens.

PPSA and our commodity group members remain committed to working with government to ensure that finance pathways — at both federal and state levels — are equitable, strategic, and responsive to the realities of agricultural risk. Ensuring that First Nations participants have access to these same enablers is critical to achieving meaningful, lasting economic outcomes and building a resilient agricultural sector for all Australians.

PPSA acknowledges that many First Nations agribusinesses have formed successful partnerships with non-Indigenous operators, unlocking investment, capability and culturally grounded business models that deliver mutual benefit. When structured well, these arrangements strengthen supply chains, improve sustainability outcomes, and support regional economic growth. However, agriculture is an inherently high-risk, capital-intensive and technologically demanding industry.

Effective participation — whether by First Nations or non-Indigenous producers — depends on strong technical capability, regulatory understanding, risk management skills, and financial literacy. Across the sector, these competencies remain the primary drivers of productivity, business resilience and long-term viability.

Partnership, joint venture and cooperative models can play a constructive role when they reflect commercial realities, define responsibilities clearly, and are supported by competent management on all sides. This aligns with the NFF's 2030 Roadmap, which recognises that practical, well-governed partnerships with First Nations landholders — operating within a stable and sustainable native title framework — can contribute to improved productivity and landscape health.

Summary

PPSA emphasises that the most effective path to genuine economic empowerment and sectoral growth lies in strengthening technical capability, business proficiency and regulatory literacy across the entire industry, ensuring that First Nations participants succeed because the conditions for success are robust, practical and shared.

Expanding First Nations participation in agriculture requires practical capability-building, improved market access, and viable long-term business support — not structural changes to land tenure or governance.

Access to capital remains a major barrier for all producers. Current rural lending practices and responsible lending requirements are preventing many viable First Nations and non-Indigenous enterprises from securing essential working capital.

First Nations agribusinesses often face additional hurdles, including complex land tenure, limited collateral, and lower baseline financial literacy — challenges also experienced by emerging non-Indigenous producers.

Improving outcomes depends on lifting technical capability, financial literacy, business skills, and governance competence across the entire sector.

Continued access to concessional finance, including through the Regional Investment Corporation, is essential for drought adaptation, restocking, infrastructure repair and cashflow stability.

Successful partnership, joint venture and cooperative models require capital access, commercial capability, and technical expertise on all sides, especially in a high-risk, high-compliance industry like agriculture.

The FN Statement should prioritise practical enablers — financial literacy, technical training, business governance, and equitable access to concessional finance — ahead of legal restructuring or additional regulatory burdens.

Well-governed partnerships with First Nations landholders, consistent with the NFF 2030 Roadmap, can strengthen supply chains, landscape health and regional economies when built on clear responsibilities and commercial foundations.

PPSA remains committed to working with government to ensure financing pathways are equitable, strategic, and responsive to agricultural risk, supporting resilient and sustainable economic outcomes for all producers.

5.0 Strengthening access and collaboration in Indigenous and academic research

Australian agriculture has long thrived on the open exchange of experience, research, and innovation — particularly in land management, water use, and animal husbandry — to enhance productivity and sustainability across all regions and enterprises.

This collaborative tradition has been underpinned by consistent investment in extension services, farming systems groups, and applied research partnerships that translate innovation into on-farm practice. In this context, agricultural progress depends on shared learning, open collaboration, and the cumulative development of knowledge across generations of producers, researchers, and land managers.

Climate change now poses one of the most significant challenges to global food systems. Building climate-resilient crops, adapting grazing systems, and restoring ecosystems will demand the integration of all available knowledge — both traditional and scientific — within an environment of trust and openness.

Traditional Indigenous ecological insights are invaluable to modern land stewardship, yet their inclusion in agricultural innovation must occur through partnership, attribution, and benefit-sharing — not through exclusionary models that restrict access to knowledge or constrain adaptive research.

Agricultural extension is vital for translating knowledge into practice, building skills, and supporting productivity across Australia. While individuals can contribute to First Nations-led extension, Indigenous ecological knowledge is most effectively applied for broader economic, environmental, and social benefit when delivered as a publicly funded service. Public extension ensures wide access, maintains trust with communities, and integrates traditional knowledge into mainstream agricultural systems without commercial bias. By treating this knowledge as a public good, we can strengthen resilience, sustainability, and productivity across the sector while respecting and amplifying Indigenous expertise.

Overly restrictive ICIP protections applied to “applied knowledge” or “land management practices” risk undermining the very principles that have driven Australia’s agricultural success — transforming shared stewardship into contested ownership. In the context of environmental management and agricultural practice, knowledge should be recognised as a shared national and global resource, not a form of proprietary control.

5.1 Integrating Knowledge Systems with Science

PPSA recognises the value of Indigenous ecological knowledge as a rich source of cultural, environmental, and historical insight into Australia’s landscapes. Traditional knowledge contributes meaningfully to understanding biodiversity, fire regimes, and long-term land stewardship practices. It is a vital part of Australia’s cultural heritage and can play a constructive role in shaping sustainable agricultural practices.

However, it is essential to distinguish between complementary knowledge systems and equivalent scientific methodologies. Indigenous ecological knowledge provides valuable context, observation, and cultural understanding, while scientific knowledge in Western culture, is derived from empirical testing, replicable experimentation, and quantifiable evidence. Science forms the foundation of Australia's innovation, regulatory, and production systems — from plant breeding and genetics to climate modelling and biosecurity management

Furthermore, scientific knowledge underpins global agricultural research, food safety, and environmental regulation. The challenge will be to balance Indigenous cultural perspectives in Australian agriculture without displacing science-based decision-making as the cornerstone of innovation and public policy in a global trading environment for agricultural commodities.

Summary

Australia's global competitiveness in agriculture depends on scientific integrity, open inquiry, and evidence-based regulation recognised in international markets.

A balanced approach in drafting the FN should recognise that:

- **Indigenous knowledge can inform and enrich scientific understanding, particularly in resource management, ecology, and sustainability;**

Science has provided the methodological rigour required for technological advancement, environmental monitoring, and international credibility in agricultural trade and market access.

PPSA supports models of collaboration where Indigenous ecological insights are integrated into agricultural and environmental programs through co-design, validation, and applied research, ensuring both cultural respect and scientific robustness.

6.0 Improved coordination, accountability and transparency of government action

PPSA remains committed to working with First Nations stakeholders to strengthen relationships, build trust, and ensure fair and culturally respectful engagement across the sector. We support the following initiatives that could be advanced consistent with the tenets of the FN Statement:

Investment and Infrastructure

- Targeted Commonwealth and state co-investment in irrigation, logistics, and digital connectivity on existing Indigenous held lands.
- Expansion of Indigenous Land and Sea Corporation programs for joint venture partnerships that preserve cultural title while generating income.

Capacity building and governance training

- Support for agribusiness governance training and financial literacy within Indigenous corporations and land councils.
- Development of co-management frameworks where Indigenous landholders' partner with established producers under equitable terms.

Legal Integrity

- Funding to progress the Indigenous Agricultural Product Framework Project, to support development of Indigenous agricultural product credentials.

ENDS.