

24 September 2025

E DevelopmentAssessment.DLPE@nt.gov.au

Ms Mandy Trueman
Department of Lands, Planning and Environment
PO Box 3675
DARWIN NT 0801

T 08 8999 4446

Our Ref: DLPE2025/0220
Your Ref:

Dear Ms Trueman

**Re: Invitation to comment on referral – Sweetwater Agricultural Development-Stage 1 –
Proponent initiated EIS referral**

The information submitted for the above referral has been assessed by the relevant divisions within the department and the following comments are provided:

Flora and Fauna Division

The Flora and Fauna Division have reviewed the Referral information and the draft Terms of Reference and have provided comments in **Attachment 1**.

Recommendation

The Flora and Fauna Division consider the potential risks to some listed threatened and migratory species from the proposal are uncertain based on available information. The Division supports the proponent's commitment to obtaining the information required to clarify these uncertainties through the completion of an environmental impact statement.

The Flora and Fauna Division recommends amendments are made to the draft Terms of Reference to provide greater clarity on the information required, particularly in relation to threatened and/or significant species.

Land Resources Division

Land Assessment Branch

The proponent refers to assessing and managing soil properties such as salinity and sodicity. The Land Assessment Branch recommends that a broader suite of soil and landscape properties be assessed to inform a farm scale soil and land suitability-based development plan. The Agricultural Land Suitability Series – Report 16a (DENR Technical Report 38/2019)¹ contains information that will underpin further investigations.

¹ Carnavas M, Burley P, Hempel J, and Burgess J (2019). *Agricultural Land Suitability Series – Report 16a. Soil and Land Capability Assessment of the Lower Weaber and Keep River Plains, Northern Territory. Section 1: Lower Weaber and Upper Keep. Technical Report*

Land Management Unit

Based on desktop assessment, the Land Management Unit (LMU) provides the following advice:

The LMU recommends that the proposal should adopt the guidance of the Northern Territory Planning Scheme Land Clearing Guidelines in relation to expectations of buffers around boundaries, watercourses, and slope. The current proposal does not meet those recommendations in several areas.

The potential for salinity issues needs to be addressed to ensure land degradation and vegetation dieback do not occur. In the event that dieback was to occur, there is an increased potential for erosion.

Increased usage of the river crossings, including by large machinery, has been included in the proposal. The LMU recommends proposed river crossings should be constructed in a manner to not increase erosion and sedimentation impacts.

Given the significant ground disturbance associated with a proposal of this nature, appropriate erosion and sediment controls would need to be implemented to ensure erosion and sedimentation does not occur. An erosion and sediment control plan may be required as a condition if an approval is issued in the future. Any Erosion and Sediment Control Plan (ESCP) should be developed in accordance with the Department of Lands, Planning and Environment (DLPE) Erosion and Sediment Control Plan Procedures. The DLPE Erosion and Sediment Control Plan Procedures factsheet is available online².

Weed Management Branch

An assessment of the Northern Territory (NT) Weeds Database for the property, surrounding parcels and roads has revealed data records of the following declared species:

Common name	Botanical name	Declared
Bellyache bush	<i>Jatropha gossypifolia</i>	Class A
Gamba grass	<i>Andropogon gayanus</i>	Class A
Hyptis	<i>Mesosphaerum suaveolens</i>	Class B
Mimosa	<i>Mimosa pigra</i>	Class A
Neem	<i>Azadirachta indica</i>	Class B
Noogoora burr	<i>Xanthium occidentale</i>	Class B
Olive hymenachne	<i>Hymenachne amplexicaulis</i>	Class B
Parkinsonia	<i>Parkinsonia aculeata</i>	Class B
Prickly acacia	<i>Vachellia farnesiana</i>	Class A

38/2019, Department of Environment and Natural Resources, Darwin, Northern Territory. Available at: <https://hdl.handle.net/10070/797537>

² <https://environment.nt.gov.au/rangelands/technical-notes-and-fact-sheets/land-management-technical-notes-and-fact-sheets>

Common name	Botanical name	Declared
Senna - sicklepod	<i>Senna obtusifolia</i>	Class B
Senna - coffee	<i>Senna occidentalis</i>	Class B
Sida - flannel weed	<i>Sida cordifolia</i>	Class B
Sida - spiny head	<i>Sida acuta</i>	Class B

Statutory Requirements

All land in the NT is subject to the *Weeds Management Act 2001* (WM Act). The WM Act describes the legal requirements and responsibilities that apply to all persons, owners and occupiers of land regarding declared and potential weeds. General duties described in Division 1 of the WM Act include the requirement for owners or occupiers of land to take all reasonable measures to prevent land being infested with a declared weed and to prevent a declared weed from spreading.

Additionally, bellyache bush, gamba grass, mimosa, neem, and prickly acacia are subject to Statutory Weed Management Plans. Management obligations outlined in these plans must be adhered to by all land holders. Statutory plans are available online³:

Guidelines for the prevention of weed spread are outlined in '*Preventing Weed Spread is Everybody's Business*' which highlights the areas of risk for all activities associated with weed spread. The document details the pathways through which weeds are spread and provides actions to reduce weed spread. Proponents seeking to develop land for any purpose should address these actions. This document is available online⁴.

Recommendation

Under the WM Act it is an offence to move or spread declared weeds off or within the site. The proponent must ensure that all vehicles and machinery are free of weeds, weed seeds, soil and vegetative material prior to entering or exiting the site. Vehicles must avoid driving through weeds already present on-site to prevent further spread. Vehicles and machinery exhibiting such material must be thoroughly washed down before entering or departing.

Any works that cause disturbance to native vegetation and soils will create conditions favourable for the growth of weed species and control should be undertaken as necessary in these areas. It is a general recommendation that weed control prior to seed set is carried out in all areas affected by the proposed project area.

The Weed Management Branch reiterate the need for weed control and weed hygiene practices during proposed land disturbing processes to ensure that:

- Vehicle and machinery will need to be clean of weeds and soils containing weeds prior to commencement and washed down after.
- Chemical treatment of weed species, prior to seeding, is recommended.

³ <https://nt.gov.au/environment/weeds/how-to-comply-with-the-law/weed-management-plans-regional-strategy>

⁴ https://denr.nt.gov.au/_data/assets/pdf_file/0011/257987/preventing-weed-spread.pdf

- Ongoing herbicide treatment of weed species will be required on site until preferred species are established and maintained.

The Weed Management Branch may conduct random inspections of the proposed site to ensure weeds have not been spread or introduced to the site.

Further information as to management requirements and the Weed Management Plans for bellyache bush, gamba grass, neem, prickly acacia and mimosa is available at <http://www.nt.gov.au/environment/weeds> or alternatively contact the Weed Management Branch for further advice on (08) 8999 4567.

Environment and Heritage Division

Heritage Branch

The Heritage Branch have reviewed the referral and provides comment in **Attachment 2**.

Environmental Regulation Division

Environmental Assessments

All persons are required to comply with the General Environmental Duty under section 12 of the *Waste Management and Pollution Control Act 1998* (WMPC Act). Activities that require authorisation are listed in Schedule 2 of the WMPC Act. Guidelines to assist proponents to avoid environmental impacts are available on the Northern Territory Environment Protection Authority (NT EPA) website⁵.

The WMPC Act, administered by the NT EPA, is separate to and not reduced or affected in any way by other legislation administered by other departments or authorities. The NT EPA may take enforcement action or issue statutory instruments should there be non-compliance with the WMPC Act.

There are statutory obligations under the WMPC Act that require all persons to take all measures that are reasonable and practicable to prevent or minimise pollution or environmental harm and reduce the amount of waste. The proponent is responsible for ensuring their activities comply with the WMPC Act.

The proponent is advised to take notice of this non-exhaustive list of environmental issues that should be considered to help satisfy General Environmental Duty:

1. **Dust:** The proposed activities have the potential to generate dust, particularly during the dry season. The proponent must ensure that nuisance dust and/or nuisance airborne particles are not discharged or emitted beyond the boundaries of the premises.
2. **Noise:** The proponent is to ensure that the noise levels from the proposed premises comply with the latest version of the NT EPA Northern Territory Noise Management Framework Guideline available online⁶.
3. **Erosion and Sediment Control (ESC):** The proponent must ensure that pollution and/or environment harm do not result from soil erosion.

⁵ <https://ntepa.nt.gov.au/publications-and-advice/environmental-management>

⁶ https://ntepa.nt.gov.au/data/assets/pdf_file/0004/566356/noise_management_framework_guideline.pdf

ESC measures should be employed prior to and throughout the construction stage of the development. Larger projects should plan, install and maintain ESC measures in accordance with the current International Erosion and Sediment Control Association (IECA) Australia guidelines and specifications.

Where sediment basins are required by the development, the NT EPA recommends the use of at least Type B basins, unless prevented by site specific topography or other physical constraints.

Basic advice for small development projects is provided by the NT EPA document: Guidelines to Prevent Pollution from Building Sites⁷ and Keeping Our Stormwater Clean⁸

4. **Storage:** If an Environment Protection Approval or Environment Protection Licence is not required, the proponent should store liquids only in secure bunded areas in accordance with VIC EPA Publication 1698: Liquid storage and handling guidelines, June 2018, as amended. Where these guidelines are not relevant, the storage should be at least 110% of the total capacity of the largest vessel in the area.

Where an Environment Protection Approval or Environment Protection Licence is required, the proponent must only accept, handle or store at the premises listed waste, including asbestos, as defined by the WMPC Act, in accordance with that authorisation.

5. **Site Contamination:** If the proposal relates to a change of land use or if the site is contaminated, including as a result from historical activities such as cyclones, a contaminated land assessment maybe required in accordance with the National Environment Protection (Assessment for Site Contamination) Measure (ASC NEPM). The proponent is encouraged to refer to the information provided on the NT EPA website⁹ and the NT Contaminated Land Guidelines¹⁰.
6. **Waste Management - Import and Export of Fill:** The proposed activities have the potential to generate fill and/or involve the importation of fill for use on-site. Untested fill material may already be present on the site. All fill imported or generated and exported as part of the activity must either be certified virgin excavated natural material (VENM) or be sampled and tested in line with the NSW EPA Guidelines¹¹

All imported fill material must be accompanied by details of its nature, origin, volume, testing and transportation details. All records must be retained and made available to authorised officers, upon request. The proponent should also consider the following NT EPA fact sheets: How to avoid the dangers of accepting illegal fill onto your land¹², and Illegal Dumping - What You Need to Know¹³.
7. **Odour or Smoke:** The proposed activities may have the potential to create odours and/or smoke. The proponent must ensure that nuisance odours or smoke are not emitted beyond the boundaries of the premises.

Water Resources Division

⁷ https://ntepa.nt.gov.au/_data/assets/pdf_file/0010/284680/guideline_prevent_pollution_building_sites.pdf

⁸ https://ntepa.nt.gov.au/_data/assets/pdf_file/0006/284676/guideline_keeping_stormwater_clean_builders_guide.pdf

⁹ <https://ntepa.nt.gov.au/your-environment/contaminated-land>

¹⁰ https://ntepa.nt.gov.au/_data/assets/pdf_file/0020/434540/guideline_contaminated_land.pdf

¹¹ <https://www.epa.nsw.gov.au/your-environment/waste/classifying-waste/virgin-excavated-natural-material>

¹² https://ntepa.nt.gov.au/_data/assets/pdf_file/0005/285728/factsheet_avoid_danger_accepting_illegal_fill_to_your_land.pdf

¹³ https://ntepa.nt.gov.au/_data/assets/pdf_file/0008/285740/factsheet_illegal_dumping_what_you_need_know.pdf

Water Monitoring

Water Monitoring currently have 4 active monitoring sites within NT Portions 3221 and 1584 for surface water. Water Monitoring would need continued access these sites at least twice a year:

- G8100106 Border Creek Weaber Range - is located on NT Portion 3221, and collects live data which can be found on the NTG Water Data Portal.
- G8100225 Keep River Legune Road - is located on NT Portion 3221, and collects live data which can be found on the NTG Water Data Portal.
- G8100210 Sandy Creek Legune Road - is located on NT Portion 3221, with a data logger installed to collect data. This data is manually collected twice a year, and is then uploaded to the NTG Water Data Portal.
- G8100125 Keep River approximately 24km upstream Knox Creek confluence - sits on NT Portion 1584, with a data logger installed to collect data.

Water Regulation and Licensing

The construction of levee banks, rivers crossings and the retention of 10 GL of stormwater may trigger the need for interference with a waterway permits under the *Water Act 1992*. An interference with a waterway is when an action causes a material change to the shape of a waterway, a material change to the volume speed or direction of the flow or likely flow of water in or into a waterway, or an alteration to the stability of the bed or banks of a waterway including by the removal of vegetation.

If the water captured is floodwater, i.e. water on land that has come from a waterway, it may also require a surface water extraction licence, however based on Figure 5 in the referral report, this is unlikely.

Should you have any further queries regarding these comments, please contact the Development Coordination Branch by email DevelopmentAssessment.DLPE@nt.gov.au or phone (08) 8999 4446.

Yours sincerely



Maria Wauchope
Executive Director Land Resources

Attachment 1 – Flora and Fauna Division – Submission on the referral
Attachment 2 – Heritage Branch – Submission on the referral

Attachment 1

Submission on the proponent-initiated EIS referral (including draft Terms of Reference)

Southern Cross Agri Pty Ltd – Sweetwater Agricultural Development-Stage 1

This submission is made under regulation 53 of the Environment Protection Regulations 2020

Government authority: Department of Lands, Planning and Environment, Parks and Water Security – Flora and Fauna Division

Section of Referral	Theme or issue	Comment												
Draft Terms of Reference (TOR) 1.2 Background		<p>The draft TOR states: “The Sweetwater Stage 1 development will establish at least 3,269.37 hectares of farms for broadacre food and fibre production.”</p> <p>For consistency with the scope of the referral, it is recommended that the wording is amended to: “The Sweetwater Stage 1 development will establish <u>up to</u> 3,269.37 hectares of farms for broadacre food and fibre production.”</p>												
Referral Report 5.3.3 Terrestrial Fauna Draft TOR 2.5 General proposal description requirements	Threatened and conservation significant species	<p>Based on a search of DLPE databases within a 20 km radius of the project area, expert knowledge of species’ habitat requirements, and information about habitats occurring within the site, the following species classified as threatened under the <i>Territory Parks and Wildlife Conservation Act 1976</i> (TPWC Act) and/or the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act) may occur within, or immediately adjacent to, the project area. Table 1 provides an assessment of the potential risk posed by the project to each species, based on current available information (including that provided by the Proponent) and indicates whether the available information is sufficient to make a full assessment, including identifying where further surveys are required to address important information gaps.</p> <p>Table 1 – Threatened species that are known to occur, or have a high potential of occurring, within and/or adjacent to the project area, their conservation status and an assessment of the risk of impact posed by the proposal. Conservation status: VU – Vulnerable; EN – Endangered; CR – Critically Endangered.</p> <table border="1"> <thead> <tr> <th>Common Name</th> <th>Scientific Name</th> <th>TPWC Act</th> <th>EPBC Act</th> <th>Risk of potential impact</th> <th>Survey Required</th> </tr> </thead> <tbody> <tr> <td colspan="6">Birds</td> </tr> </tbody> </table>	Common Name	Scientific Name	TPWC Act	EPBC Act	Risk of potential impact	Survey Required	Birds					
Common Name	Scientific Name	TPWC Act	EPBC Act	Risk of potential impact	Survey Required									
Birds														

Section of Referral	Theme or issue	Comment					
		Australian Painted Snipe	<i>Rostratula australis</i>	EN	EN	Low	No
		Curlew Sandpiper	<i>Calidris ferruginea</i>	CR	CR	Low	No
		Eastern Curlew	<i>Numenius madagascariensis</i>	CR	CR	Low	No
		Gouldian Finch	<i>Chloebia gouldiae</i>	VU	EN	Low	No
		Grey Falcon	<i>Falco hypoleucos</i>	VU	VU	Low	No
		Masked Owl (northern mainland)	<i>Tyto novaehollandiae kimberli</i>	VU	VU	Uncertain	Yes
		Red Goshawk	<i>Erythrotriorchis radiatus</i>	VU	EN	Low	No
		Sharp-tailed Sandpiper	<i>Calidris acuminata</i>		VU	Low	No
		Mammals					
		Bare-rumped Sheath-tailed Bat	<i>Saccolaimus saccolaimus</i>		VU	Uncertain	Yes
		Ghost Bat	<i>Macroderma gigas</i>		VU	Uncertain	Yes
		Northern Brushtail Possum	<i>Trichosurus vulpecula arnhemensis</i>		VU	Uncertain	Yes
		Northern Quoll	<i>Dasyurus hallucatus</i>	CR	EN	Low	No
		Pale Field-rat	<i>Rattus tunneyi</i>	VU		Low	No
		Reptiles					
		Crack-dwelling Ctenotus (Keep-Ord Rivers)	<i>Ctenotus rimacola camptris</i>	VU		Significant	Yes
		Mertens' Water Monitor	<i>Varanus mertensi</i>	VU	EN	Low	No
		Mitchell's Water Monitor	<i>Varanus mitchelli</i>	VU	CR	Low	No
		Northern Blue-tongued Skink	<i>Tiliqua scincoides intermedia</i>		CR	Low	No
		Yellow-spotted Monitor	<i>Varanus panoptes</i>	VU		Low	No
		Fish					
		Dwarf Sawfish	<i>Pristis clavata</i>	VU	VU	Low	No

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		<table border="1"> <tr> <td>Green Sawfish</td> <td><i>Pristis zijsron</i></td> <td>VU</td> <td>VU</td> <td>Low</td> <td>No</td> </tr> <tr> <td>Largetooth Sawfish</td> <td><i>Pristis pristis</i></td> <td>VU</td> <td>VU</td> <td>Uncertain</td> <td>Yes</td> </tr> <tr> <td>Northern River Shark</td> <td><i>Glyphis garricki</i></td> <td>EN</td> <td>EN</td> <td>Low</td> <td>No</td> </tr> <tr> <td>Speartooth Shark</td> <td><i>Glyphis glyphis</i></td> <td>VU</td> <td>CR</td> <td>Low</td> <td>No</td> </tr> </table>	Green Sawfish	<i>Pristis zijsron</i>	VU	VU	Low	No	Largetooth Sawfish	<i>Pristis pristis</i>	VU	VU	Uncertain	Yes	Northern River Shark	<i>Glyphis garricki</i>	EN	EN	Low	No	Speartooth Shark	<i>Glyphis glyphis</i>	VU	CR	Low	No
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		<p>The Flora and Fauna Division considers that the likelihood of significant impacts is uncertain for several threatened species (as per Table 1) due to inadequate understanding of the occurrence of these species and/or important habitat in or near the project area.</p> <p>The draft TOR should explicitly include that an assessment of likelihood of occurrence is undertaken that identifies all species of conservation significance, including restricted range species, in addition to threatened species.</p> <p>Table 6 of the draft TOR includes a requirement to “Complete appropriate targeted biodiversity surveys to determine the presence (or absence), abundance and local behaviours (breeding, feeding) associated with habitat types that will be impacted by the proposal.” The Flora and Fauna Division recommends that the TOR be amended to include that surveys are undertaken to inform significant impact assessment for threatened and/or significant species using the Australian Government’s Significant Impact Guidelines 1.1.</p> <p>Where appropriate, specific requirements for individual species are described below.</p> <p><u>Typhonium</u>: The Flora and Fauna Division notes that <i>Typhonium sp. Kununurra</i> is currently under assessment for listing as a threatened species under the EPBC Act. Given this species was detected (subject to taxonomic verification) within the project area during recent surveys, is known to occur in the region, and that the majority of the project area is considered to have a high likelihood of supporting the species, the Division considers that a significant impact to this species is likely.</p> <p>Targeted survey for <i>Typhonium sp. Kununurra</i> has been identified in the draft TOR and reported at Attachment G. For <i>Typhonium</i> species the Division recommends:</p>																								

Section of Referral	Theme or issue	Comment
		<ul style="list-style-type: none"> • Clarify the number of individual plants of <i>Typhonium</i> detected during targeted survey within the project area. Ten plants were reported from the survey; however, 18 plants comprising 10 mature individuals and 8 putatively juvenile individuals were reported on Table 1 of this report (Attachment G). • Clarify the coordinate system used to produce spatial data including species record data. • Clarify the taxonomic status of any <i>Typhonium</i> in the project area. Substantiate whether species identity has been verified. The proponent should consider appropriate sampling and molecular methods for species identification in consultation with relevant experts and consistent with the '<i>Northern Territory guidelines for targeted surveys of threatened and significant plant species - Supplement 1: Typhonium field surveys</i>' to verify <i>Typhonium</i> species identity throughout the project area. • Undertake and report on targeted survey for <i>Typhonium</i> species in potential suitable habitat throughout the project area to contextualise the significance of potential impacts and risks for <i>Typhonium</i> sp. Kununurra and other <i>Typhonium</i> taxa at the subpopulation and species level. Suitable habitat for <i>Typhonium</i> sp. Kununurra on the basis of soil mapping is reported in Attachment G throughout the majority of the project area, and records of <i>Typhonium</i> plants occur within and/or adjacent to the project area (including potential future stages of the project as identified by the proponent in Section 2.2 of the Referral Report). Surveys should be undertaken by a suitably qualified person and at the appropriate time of year to optimise detection and provide information on species presence throughout the project area. The targeted on-ground <i>Typhonium</i> survey reported at Attachment G was conducted during mid-February to mid-March 2025. The report notes that detectability of the species was not optimised based on observed senescence. Limitations in survey effort and the spread of spatial locations due to accessibility were reported. These considerations need to be accounted for in assessment of the potential impacts and risks for <i>Typhonium</i> taxa. • Undertake and report on targeted survey for <i>Typhonium</i> species incorporating habitat suitability mapping, assessment and survey in potential suitable habitat outside of the project area. This information is needed to contextualise the spatial extent and size of subpopulations and to assess the significance of potential impacts and risks to <i>Typhonium</i> sp. Kununurra and other <i>Typhonium</i> taxa at the species and subpopulation levels. These surveys should be undertaken by a suitably qualified person and at the appropriate time of year to optimise detection. • Provide information on whether the project design can be modified to avoid the loss of <i>Typhonium</i> plants and proposed mitigation actions and minimise loss of plants if the plants are likely to be impacted.

Section of Referral	Theme or issue	Comment
		<p><u>Crack-dwelling Ctenotus</u>: The Crack-dwelling Ctenotus (Keep-Ord Rivers) is currently listed as Vulnerable under the <i>Territory Parks and Wildlife Conservation Act 1976</i> and has recently been included on the Final Priority Assessment List (FPAL) for assessment under the EPBC Act. The Crack-dwelling Ctenotus (Keep-Ord Rivers) has a narrow geographic range, restricted to the floodplains of the lower Ord and Keep Rivers. Targeted survey for the species in the Keep-Ord River district has been limited to date. Therefore, the Division considers that the risk of potential impact to this species from the proposal is uncertain and targeted surveys are required, aimed at informing a significant impact assessment using the Australian Government's Significant Impact Guidelines 1.1. This will require the Proponent to:</p> <ul style="list-style-type: none"> • Undertake and report on targeted survey for <i>Ctenotus rimacola camptris</i>, incorporating habitat suitability mapping and assessment in potential suitable habitat within and outside of the project area. This information is needed to contextualise the spatial extent and size of subpopulations and to assess the significance of potential impacts and risks to the species. • Provide information on whether the project design can be modified to avoid the loss of individuals and/or populations and proposed actions to mitigate impacts and minimise loss of individuals within the project area. <p><u>Bare-rumped Sheath-tailed Bat; Ghost Bat; Masked Owl; Northern Brushtail Possum</u>: The proponent should provide an assessment of the occurrence of these species and/or important habitat within or near the project area. This may require targeted surveys to be undertaken aimed at informing a significant impact assessment using the Australian Government's Significant Impact Guidelines 1.1. Should these species be identified as occurring, or likely to occur, the proponent should also:</p> <ul style="list-style-type: none"> • Provide information on whether the project design can be modified to avoid the loss of individuals and/or populations and proposed actions to mitigate impacts and minimise loss of individuals within the project area. <p><u>Large-tooth Sawfish</u>: The Large-tooth Sawfish is found in both marine and fresh waters, occurring in estuaries and river systems (including isolated waterholes). Juveniles primarily occur in freshwater river systems and estuaries and disperse along rivers towards the sea as they age. Recent distribution modelling¹ indicates potential habitat within the Keep River. The proponent should provide an understanding of the occurrence of this species and/or important habitat, particularly within freshwater sections of the Keep River near the project area. This may require targeted surveys to be undertaken aimed at informing a significant impact assessment using the Australian Government's Significant Impact Guidelines 1.1. Should this species be identified as occurring, or likely to occur, the proponent should also:</p>

Section of Referral	Theme or issue	Comment
		<ul style="list-style-type: none"> Provide information on whether the project design can be modified to avoid the loss of individuals and/or populations and proposed actions to mitigate impacts and minimise loss of individuals. <p>¹ Udyawer, V., Thums, M., Ferreira, L.C., Tulloch, V. & Kyne, P.M. (2021). <i>Distribution and habitat suitability of Threatened and Migratory marine species in northern Australia</i>. Report to the National Environmental Science Program, Marine Biodiversity Hub.</p>
Draft TOR 2.4 Environmental factors and objectives	Aquatic ecosystems	The Aquatic ecosystems factor should be included (noting that it has been included in Section 2.5 - Table 9 of the TOR).
Referral Report 5.3.3 Terrestrial Fauna	Terrestrial ecosystems	The Referral states that the EIS will draw on results of previous surveys for projects undertaken in adjoining landscapes in Western Australia, and targeted field surveys to be completed in 2025, to determine the likelihood and significance of impacts upon listed terrestrial fauna. However, the Referral does not specifically state which species will be the subject of the proposed surveys. As a minimum, the Flora and Fauna Division recommends that the species identified as requiring surveys in Table 1 are included in the TOR.
Draft TOR 2.5 General proposal description requirements		Table 6 of the draft TOR includes a requirement to, “List environmental values including threatened flora, fauna and ecosystems.” The Flora and Fauna Division notes that <i>Typhonium</i> sp. Kununurra is currently under assessment for listing as a threatened species under the EPBC Act. The Division recommends that the TOR be amended to include species of conservation significance including, but not limited to, <i>Typhonium</i> sp. Kununurra.
Table 6. Minimum information		Table 6 of the draft TOR includes a requirement to, “Complete appropriate targeted biodiversity surveys to determine the presence (or absence), abundance and local behaviours (breeding, feeding) associated with habitat types that will be impacted by the proposal.” The Flora and Fauna Division recommends that the TOR be amended to include that surveys are undertaken to inform significant impact assessment for threatened and/or significant species using the Australian Government’s Significant Impact Guidelines 1.1.

Section of Referral	Theme or issue	Comment
<p>requirements - Terrestrial Ecosystems</p>		<p>Table 6 of the draft TOR includes a requirement to, "Specifically address the Threatened and Migratory terrestrial species listed as Matters of National Environmental Significance under the EPBC Act, in analysis, surveys and data review." The Flora and Fauna Division recommends that the TOR be amended to also include threatened species listed under the <i>Territory Parks and Wildlife Conservation Act 1976</i>.</p>
		<p>Table 6 of the draft TOR includes a requirement to, "Integrate the vegetation resource assessment requirements of the NT Planning Scheme Land Clearing Guidelines (NTPS LCG) to ensure comprehensive and satisfactory biodiversity impact assessments can be made to inform the Minister and the NT Government's decision-making." The Flora and Fauna Division recommends that the TOR be amended to include spatial information (maps) for sensitive/significant vegetation (as per the NTPS LCG) found within and/or adjacent to the project area.</p>
		<p>Table 6 of the draft TOR includes a requirement to, "Undertake targeted flora and fauna surveys to augment existing extensive historical biodiversity studies, to determine the areas that could feasibly experience impacts associated with the proposed activities." The Flora and Fauna Division recommends that the TOR be amended to specify that targeted flora and fauna surveys are undertaken as stand-alone studies using contemporary, scientifically rigorous methods, with historical biodiversity studies used to provide a rationale and place the current surveys into context.</p>
		<p>Table 6 of the draft TOR includes a requirement to, "Address direct and indirect threats to and impacts on listed terrestrial species and ecosystems, in relation to all phases of the proposal (clearing, development, farming operations)." The Flora and Fauna Division recommends that the TOR be amended to also include species of conservation significance including, but not limited to, <i>Typhonium</i> sp. Kununurra.</p>
<p>Draft TOR 2.5 General proposal description requirements Table 7. Minimum information</p>	<p>Hydrological processes</p>	<p>The Flora and Fauna Division considers that the potential impacts and risks of hydrological changes on vegetation communities, threatened species and species of conservation significance should be addressed and therefore recommends that an assessment of the impact of hydrological changes on these aspects is included.</p> <p>Table 7 of the draft TOR includes a requirement to, "Identify potential impacts and risks to (environmental factor) and quantify their significance..." The Flora and Fauna Division recommends that the TOR is amended to include vegetation communities, threatened species and species of conservation significance as a sub-point.</p>

Section of Referral	Theme or issue	Comment
requirements - Hydrological Processes		
Draft TOR 2.5 General proposal description requirements Table 9. Minimum information requirements - Aquatic Ecosystems	Aquatic ecosystems	<p>Table 9 of the draft TOR includes a requirement to, “Identify the environmental values of aquatic ecosystems, taking into account the EPBC-listed aquatic fauna present in the Keep River.” The Flora and Fauna Division recommends that the TOR be amended to also include threatened species listed under the <i>Territory Parks and Wildlife Conservation Act 1976</i>.</p> <p>The Flora and Fauna Division recommends that Table 9 of the draft TOR specify which species will be the subject of proposed surveys. As a minimum, the Flora and Fauna Division recommends that the species identified as requiring surveys in Table 1 are included in the TOR.</p> <p>Table 9 of the draft TOR includes a requirement to, “Document outcomes of aquatic fauna and ecosystem surveys undertaken in the area of influence.” The Flora and Fauna Division recommends that the TOR be amended to include that surveys are undertaken to inform significant impact assessments for threatened species and/or species of conservation significance using the Australian Government’s Significant Impact Guidelines 1.1.</p> <p>Table 9 of the draft TOR includes a requirement to, “Integrate aquatic fauna risk assessments with those completed previously for related areas (see EPBC 2010/5491 Weaber Plain; and EPBC 2014/7143 Knox Creek Plain). The Flora and Fauna Division notes that these previous risk assessments were undertaken 10 to 15 years ago. Therefore, the Division recommends that the TOR is amended to make clear that new risk assessments will be undertaken, and that previous assessments will only be used for context and not as a substitute.</p> <p>Table 9 of the draft TOR includes a requirement to, “Outline how the Proponent will monitor and report on potential impacts and risks...” The Flora and Fauna Division recommends that the TOR is amended to include threatened aquatic species and/or aquatic species of conservation significance as a sub-point.</p>

Attachment 2

Submission on the proponent initiated EIS referral (including draft terms of reference)

Southern Cross Agri Pty Ltd – Sweetwater Agricultural Development-Stage 1

This submission is made under regulation 53 of the Environment Protection Regulations 2020

Government authority: Department of Lands, Planning and Environment – Environment and Heritage Division - Heritage Branch

Section of Referral	Theme or issue	Comment
Main report – Section 2.1.2 Preliminary farm design	Defining Aboriginal cultural heritage and appropriate protections for Aboriginal archaeology.	<ul style="list-style-type: none"> Aboriginal cultural heritage is primarily protected under two pieces of legislation in the Northern Territory. These are the <i>Heritage Act 2011</i> administered by the Heritage Branch, and the <i>Northern Territory Aboriginal Sacred Sites Act 1989</i> administered by the Aboriginal Areas Protection Authority (AAPA). The referral report refers to ‘Aboriginal cultural heritage areas’ being excluded and protected from proposed clearing and development. It appears that these areas have been identified via an AAPA Authority Certificate process. The AAPA Authority Certificate protects Aboriginal sacred sites under the <i>Northern Territory Aboriginal Sacred Sites Act 1989</i>. Aboriginal archaeological sites are protected under the <i>Heritage Act 2011</i>. The Heritage Branch is not aware of any formal archaeological work that has occurred within the proposed project area. Previous archaeological survey work undertaken in the wider Keep River Plains has identified protected places and objects in all of the land systems impacted by the project footprint. AAM Investment Group requested advice from the Heritage Branch on 27 November 2024 regarding heritage places and objects. Heritage Branch advised on 10 December 2024 that there were known Aboriginal archaeological places or objects within 300m of the proposed works area, and that an archaeological survey was recommended prior to any works taking place to identify and mitigate impacts to unrecorded Aboriginal archaeological places and objects. For most jurisdictions, it is common to use the term ‘Aboriginal cultural heritage’ to encompass both tangible and intangible forms of heritage under a single banner. Due to the unique legislative environment of the Territory, this term can become ambiguous in its use. We suggest using ‘heritage places/objects’ or ‘Aboriginal archaeological places/objects’ for things under the remit of the Heritage Branch and use AAPA language and terminology as appropriate.