

## **Department of Agriculture, Water and the Environment response to Proposed Report under s.19 of the Auditor-General Act 1997**

### **Summary**

The Department of Agriculture, Water and the Environment (the Department) agrees to implement all recommendations in the report and is committed to the continuous improvement of its processes and procedures. It will establish (where required) and strengthen (where already in place) sound governance arrangements to ensure successful implementation of improvements. This will support the efficient and effective administration of referrals, assessments and approvals of controlled actions under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

In fully implementing all recommendations, the Department will prioritise its resources to ensure that its response is flexible to any changes to the regulatory system as a result of the EPBC Act Review. Where improvements can be made in the short to medium term, the Department is committed to doing so in a timely manner. Where there is the potential for future systemic changes, the Department will design frameworks that are flexible to adapt to a new regulatory environment over the longer term.

***Recommendation 1: The Department of Agriculture, Water and the Environment develop and implement a plan to collect and use regulatory information, and address gaps and limitations in compliance intelligence capabilities, to better enable information to be used to inform regulatory strategy and decision-making.***

### **Agree**

The Department recognises the importance of collecting and managing regulatory information to inform regulatory decision making. The Department acknowledges that the existing processes require improvement.

Building on the Department's existing Compliance Framework, the Department will develop and implement a plan to strengthen the processes for collection and use of regulatory information, including compliance intelligence. The Department will implement other necessary actions to support information sharing, including system improvements, in the context of the EPBC Act Review. This will enhance governance and result in improved efficiencies of our current approach and practices.

***Recommendation 2: The Department of Agriculture, Water and the Environment conduct an up-to-date risk assessment of non-compliance across its environmental regulatory regimes and develop and implement arrangements to prioritise its strategic compliance assessments.***

### **Agree**

The Department acknowledges that it is important to use current risk assessments of non-compliance to appropriately target its regulatory activities. The Department will build on its Compliance Framework, including work already underway, to conduct an up-to-date risk assessment of non-compliance across the range of environmental legislation administered by Department. In completing this work, the Department will prioritise the strategic compliance assessments.

**Recommendation 3: *The Department of Agriculture, Water and the Environment ensure that its oversight of referrals, assessments and approvals is conducted in accordance with procedures, and conflict-of-interest risks are identified and treated.***

**Agree**

The Department agrees that it is important to ensure that procedures for the oversight of administration of referrals, assessments and approvals are consistently implemented. Implementation of the Government's congestion busting agenda has supported business improvements and policy reforms to lift performance against statutory timeframes, including more focused oversight arrangements. The Department will refine and update existing arrangements for ongoing management committee oversight for referrals, assessments and approvals under the EPBC Act to ensure they are conducted in accordance with procedures.

The Department is committed to the effective management of conflicts of interest in its administration of regulatory functions. A revised Conflict of Interest policy and system to support declarations will be rolled out department wide in 2020. The Department also is currently consolidating the Fraud and Corruption Control Plans and associated risk assessments of the legacy departments, to reflect the current risk landscape and ensure effective strategies are in place to control fraud and corruption risks.

**Recommendation 4: *The Department of Agriculture, Water and the Environment establish internal and external performance measures on the effectiveness and efficiency of its regulation of referrals, assessments and approvals.***

**Agree**

The Department recognises the importance of establishing clear and appropriate performance measures so that the regulated community and the broader community can understand how the agency is achieving efficient and effective regulation. Implementation of the Government's congestion busting agenda has seen the Department increase focus on improving measurement of performance against statutory timeframes and will look to build on this work.

The Department will build on existing internal and external performance measures with consideration to be given to the outcomes of the statutory review of the EPBC Act, and in line with departmental corporate planning and reporting processes and the Commonwealth Regulator Performance Framework.

**Recommendation 5: *The Department of Agriculture, Water and the Environment establish and implement a quality assurance framework to assure itself that its procedural guidance is implemented consistently and that the quality of decision-making is appropriate.***

**Agree**

Adequate systems and processes are required to support efficient and effective regulation. The Department acknowledges that improvements to its quality controls for regulation are required and agrees that assurance processes are important to support consistent decision making in accordance with requirements of the EPBC Act. The

Government's congestion busting agenda has supported work to improve quality controls and processes, including the development of additional guidance materials.

Building on the existing processes and procedures for development of approval conditions, including internal review by compliance, the Department will prepare and implement a Quality Assurance Framework that can adapt to changes in legislation that may result from the EPBC Act Review. Work will commence in the short term to design the architecture of the framework, with any further work considered in the context of the EPBC Act Review.

To further embed consistency across decision making under the EPBC Act, the Department will also build on substantial work already underway to establish a Regulatory Professional Framework.

***Recommendation 6: The Department of Agriculture, Water and the Environment establish efficiency indicators to assist in meeting legislative timeframes for referrals, assessments and approvals.***

#### **Agree**

The Department agrees that it is important to measure its efficiency in order to drive improvements in the administration of referrals, assessments and approvals under the EPBC Act. It is acknowledged that data capture and management is critical to measuring and implementing efficiency and this will be a focus of digital transformation work currently underway supported by the Government's congestion busting agenda.

Building on existing annual reporting procedures, the Department will establish indicators to measure efficiency of referral, assessment and approval decisions under the EPBC Act and consider any additional data requirements.

***Recommendation 7: The Department of Agriculture, Water and the Environment improve its quality controls to ensure conditions of approval are enforceable, appropriate for monitoring, compliant with internal procedures and aligned with risk to the environment.***

#### **Agree**

Ensuring conditions of approval are enforceable, appropriate for monitoring, consistent with internal procedures and aligned with risk to the environment is critical to regulation under the EPBC Act.

The Department will build on current quality control procedures in place for the development of approval conditions under the EPBC Act to target improvements and strengthen quality controls to ensure approvals are robust and prepared in accordance with procedures.

The Department will also build on existing processes and procedures, and establish new ones where necessary, to better align conditions of approval with risk to the environment. Work will commence in the short-term and be finalised in the context of the government response to the EPBC Act Review.

***Recommendation 8: The Department of Agriculture, Water and the Environment develop guidance and quality controls to assure itself that pre-commencement conditions of approval are implemented and assessed consistently to protect matters of national environmental significance.***

**Agree**

The Department agrees that appropriate procedures and processes are required to support assessment and monitoring of pre-commencement requirements of approvals under the EPBC Act.

The Department will update existing guidance materials, including for the post approval phase of the EPBC Assessment Manual, improve quality controls and implement new systems and processes where required to ensure that pre-commencement conditions of approval are implemented and assessed consistently.