



10 June 2020

Mr Grant Hehir
Auditor General
Australian National Audit Office
GPO Box 707
Canberra ACT 2600

Dear Mr Hehir

Thank you for your correspondence of 14 May 2020 and the opportunity to respond to the Australian National Audit Office's (ANAO's) proposed report on *Referrals, assessments and approvals of controlled actions under the Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The EPBC Act is currently undergoing an independent statutory review led by Professor Graeme Samuel AC. The review will consider how the EPBC Act has been operating, and any changes needed for Australia to support ecologically sustainable development into the future. At a time when governments look to navigate a path out of the COVID-19 crisis, improvements to national environmental law will be more important than ever in rebuilding the economy and protecting the environment.

The EPBC Act is complex and difficult to administer, and many of the decisions made are contested. It is anticipated that the review recommendations will result in significant changes to the EPBC Act. As noted in the ANAO's report, the findings of the audit will help inform the review of the EPBC Act and I welcome the ANAO's recommendations. It is clear that improvements are needed in the areas of governance and risk management for the administration of referrals, assessments and approvals under the EPBC Act. The Department agrees to implement the ANAO's recommendations, building on our current policies and practices, to improve our efficiency and effectiveness in administering the EPBC Act.

Thank you for working with my Department regarding the concerns we have raised in relation to the proposed audit report. We are grateful that you have listened to those issues we have raised and worked with us to ensure that the report reasonably reflects our current performance and areas to be improved. A summary of these issues and proposed amendments to the audit report, as discussed with your staff, are enclosed.

In December 2019 the Government committed \$25 million for the 2019-21 financial years to reduce unnecessary delays in environmental assessments and approvals under

the EPBC Act. I note the Department has recently embarked on a series of improvement projects as part of its congestion busting measures that will support implementation of the audit recommendations.

This funding recognises the important role the Department plays in assessing the environmental impacts of projects that bring significant investment into the national economy while maintaining environmental protections. These additional resources have seen a rapid improvement in meeting statutory timeframes and reaffirms the Department as an effective regulator.

The congestion busting measures have seen a remarkable lift in our performance. For example, in the first quarter of 2020 the Department was able meet statutory timeframes for key decisions in 87 per cent of cases (up from 19 per cent in Q4 2019) and the backlog of overdue project assessments has reduced by 43 per cent since December 2019.

The Department has also entered into a partnership with the Western Australian Government on a national digital transformation program to streamline environmental assessment processes at both tiers of government and to provide access to a single database of biodiversity information. This will help underpin our future efficiency and effectiveness.

Enclosed is the Department's detailed response to the recommendations of the ANAO report. They are provided within the context of both the review of the EPBC Act and the congestion busting investment. The Department will commence work in the short term to address the audit recommendations and ensure improvements are delivered in a timely and flexible manner to accommodate potential changes to the EPBC Act. In some instances, this work will be completed after the Government has responded to the review findings.

I would like to thank the ANAO audit team for the cooperative and professional manner they have adopted in working with the Department on this matter.

Yours sincerely

Andrew Metcalfe AO

Enc 1 – Proposed amendments

Enc 2 – Department response to s.19 Proposed Report