



7 March 2022

Mrs Lucy Wicks MP
Chair
Joint Committee of Public Accounts and Audit

Dear Mrs Wicks

On behalf of the Department of Agriculture, Water and the Environment, I am pleased submit to the Joint Committee of Public Accounts and Audit the requested progress update on the implementation of recommendations from the 'Auditor-General Report No. 47 of 2019–20 Referrals, Assessments and Approvals of Controlled Actions under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

In responding to the 2020 report, the department agreed to all eight audit recommendations, recognising the need to strengthen its regulatory functions to support effective and efficient administration of approvals under the EPBC Act.

The department is tracking well against this commitment. The implementation of five out of the eight audit recommendations have been formally closed with the remaining, more complex, recommendations to be closed this calendar year. Our actions are transparent and accountable, with regular progress updates being published on our website since mid-2021 at [Response to the 2020 ANAO audit](#).

We are committed to going beyond completing responses to the specific recommendations. Consistent with our Future Department Blueprint, Regulatory Practice Statement and the government's response to the Independent Review of the EPBC Act, we are aiming to deliver an efficient, trusted environmental approvals system that achieves environmental outcomes which will benefit all Australians. Accordingly, the submission also reports on this broader journey to mature our regulatory capability.

We thank the Committee for its continued interest in this important topic.

Sincerely



Dr Chris Locke
Deputy Secretary, Environment and Heritage

Attachment

Department of Agriculture, Water and the Environment – Agency response to the JCPAA report: Report 486: Regulatory Activities - Inquiry into Auditor-General's Reports 33, 47, 48 (2019-20) and 5 and 8 (2020-21)



Being Future Ready: Continuous Improvement of our Regulation of Environmental Approvals under the *Environment Protection and Biodiversity Conservation Act 1999*

March 2022

Version 1

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About us

Over two years ago the Department of Agriculture, Water and the Environment was formed. Through the merging of agriculture, environment, heritage and water, our policies, programs and regulation integrate the outcomes of sustainability, innovation, resilience, competitiveness and growth, for current and future generations. It is our integrated, capability-driven approach that is seeing us successfully steward the management of Australia's landscapes and heritage.

Our [Future Department Blueprint](#) is a key part of our journey toward being future ready as a department. It provides a roadmap of actions required to help us all work smarter and in new, more coordinated ways. It is our plan for reform to uplift our capability across key streams, including regulation.

Our department understands the importance of developing a cohesive approach to working with Indigenous Australians. Building on our Stretch Reconciliation Action Plan, we have now developed an Indigenous Platform for Shared Benefits Realisation that is designed to establish the foundations and accountability to deliver on our shared purpose, generate value and sustained benefits. It's vital that we embrace and embed Indigenous knowledge, perspectives, and unrealised potential into everything we do.

The Indigenous Platform and our Future Department Blueprint initiatives will enable us to become even more capable as an organisation to deliver on our role as the Commonwealth's first integrated natural living resources management and heritage department and portfolio – to support the government, and through it the communities, industries, and environment that we serve.

One of the responsibilities of the Department of Agriculture, Water and the Environment is the administration of environment approvals under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The EPBC Act is the Australian Government's central piece of environmental legislation. It provides a legal framework to protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places — defined in the EPBC Act as matters of national environmental significance.

Our purpose is to promote ecologically sustainable development to protect and enhance the environment, including aspects that are matters of national environmental significance, for the benefit of the Australian community.

We achieve this in alignment with the departments 4 values and key principles:

1. Working together
2. Excellence
3. Diversity
4. Courage
5. Integrity
6. Safety

Introduction

During the period 2019–2021 the department was involved in two reviews of our legislation and how it is administered. These were:

- Australian National Audit Office Auditor-General Report No. 47 of 2019–20 Referrals, Assessments and Approvals of Controlled Actions under the *Environment Protection and Biodiversity Conservation Act 1999*
- The independent review of the *Environment Protection and Biodiversity Conservation Act 1999*.

The department agreed to all eight recommendations of the 2019-20 ANAO audit and the Australian government has released [A pathway for reforming national environmental law](#) (reform Pathway) and a [Proposed Timeline for EPBC Act reforms](#) (reform Timeline) that will together guide reform of the EPBC Act.

Significant reform work has been undertaken to lift our regulatory capability as part of the Future Department Blueprint, which outlines our purpose, objectives and priorities. It sets the foundation for our strategic direction and informs the course of the reform work underway from the reviews. Regular progress updates have been published on the departments website since mid-2021 at [Response to the 2020 ANAO audit](#).

Our goal is to continuously improve how we regulate. This includes ensuring our people have the right capabilities and skills to perform their roles, maintaining a culture focused on outcomes and excellence, measuring and reporting on our efficiency and effectiveness, managing our priorities based on risk and engaging with our stakeholders to understand how we can improve. All these aspects combine to enable good decision making and build trust in us as regulator.

Our intention is to maintain and update this document over time, which may include adding further activities as we progress on our journey to improve our effectiveness and efficiency as a trusted regulator.

Reviews

1 Australian National Audit Office Performance Audit of Referrals Assessments and Approvals of Controlled Actions under the *Environment Protection and Biodiversity Conservation Act 1999*

This report is a comprehensive progress update on the department's implementation of the recommendations from the 2019-20 ANAO audit to lift our regulatory capability.

The audit findings highlighted a need for improvements to areas of the department's performance including governance and oversight, business systems, quality assurance and performance reporting. There was emphasis on the need to strengthen processes for collection

and use of regulatory information including compliance intelligence and the establishment of risk-based compliance processes.

Within 18 months of the audit, the department has made substantial progress on implementing improvements in all areas identified through the audit, with 5 of 8 recommendations completed in 2021. Significant progress has been made on the remaining 3 recommendations and all are on track to be completed in 2022. See **Annexure 1** for a summary on progress. Further details on how we have addressed the audit recommendations are provided throughout the body of this report.

This work has required considerable effort and resources, including investments in enhanced capability and the implementation of change processes to ensure improvements are meaningful and enduring. The enhancements include significant digital transformation and stakeholder partnerships, improved compliance policies and risk assessment processes, and new frameworks for quality assurance and performance reporting. We are on track to deliver the full objectives and implementation of the audit within 2.5 years, as part of a larger capability uplift.

In addition to improvements to capability, processes and systems, we significantly improved our efficiency. Since 2019, the department has significantly improved its statutory timeframe performance utilising funding to bust congestion for environmental approvals under the EPBC Act. The department is now meeting statutory timeframes for key decisions under the EPBC Act (96 per cent in October to December 2021 quarter, compared to 19 per cent for the same time in 2019).

2 *Environment Protection and Biodiversity Conservation Act 1999 Review*

The ten-yearly independent review of the EPBC Act was undertaken by Professor Graeme Samuel AC and released in January 2021. The Government has committed to a staged program of reforms aligned with the review, starting with implementing single touch approval processes, National Environmental Standards and rigorous assurance monitoring. In June 2021 the Government released [*A pathway for reforming national environmental law*](#) (reform Pathway) and a [*Proposed Timeline for EPBC Act reforms*](#) (reform Timeline) that will together guide reform of the EPBC Act.

The department's implementation of operational improvements aligns closely with and complements the Government's broader reform agenda in relation to the EPBC Act.

3 The reviews highlight where reform is needed

The implementation of improvements to address the findings of the ANAO audit report will ensure confidence in the effective operation of the current environmental regulatory system and support the broader reforms that are underway.

Our reform agenda

The department's key activities to address the outcomes of the 2019-20 ANAO audit sit under three tiers.

Tier 1 is our overarching purpose – to promote ecologically sustainable development to protect and enhance the environment, including aspects that are matters of national environmental significance, for the benefit of the Australian community.

We identified three aspects (Focus Areas) of our regulation to guide us and concentrate our efforts as our regulatory environment matures. Tier 2 is made up of three Focus Areas. These are:

1. building confidence in our regulatory system through continuous improvement
2. strengthening our capability to be an effective and trusted regulator
3. streamlining our regulatory approach to improve efficiency.

Tier 3 is a set of actions aligned to each Focus area.

Figure 1 provides an overview of these activities.

Environmental Approvals under the *Environment Protection and Biodiversity Conservation Act*

Figure 1: Overview of key activities

Tier 1:

Promote ecologically sustainable development to protect and enhance the environment, including aspects that are matters of national environmental significance, for the benefit of the Australian community

Tier 2:

Building confidence and trust in our regulatory system through continuous improvement

Strengthening our capability to be an effective and trusted regulator

Streamlining our regulatory approach to improve efficiency

Tier 3:

Developing our people

Improving transparency and assurance in our decision-making

Ensuring good governance arrangements

Collaborating with stakeholders and building partnerships

Ensuring environmental outcomes are at the centre of decision making

Achieving good regulatory outcomes

Streamlining our regulatory processes

Transforming our digital capability

Ensuring the right capabilities of staff at all levels including regulatory and specialised skills

Establishing greater assurance in our decision making practices

Ensuring robust and on-going management and oversight arrangements are in place.

Working with our regulated community and stakeholders to improve compliance

Setting National Environmental Standards to underpin decision making under the EPBC Act.

Improving quality controls of conditions of approval under the EPBC Act.

Delivering single touch environmental approvals

Improving how we collect, share and use regulatory information

Ensuring effective training for all staff and delegates involved in environmental impact assessment

Monitoring and reporting on our performance and outcomes

Managing Conflict of Interest and fraud risk.

Improving engagement with Aboriginal and Torres Strait Islander people

Implementing a risk based approach to our compliance activities

Ensuring pre-commencement conditions of approval are implemented and assessed consistently

Developing a Common Assessment Method for the assessment and listing of nationally threatened species

Working with states, territories and industry to implement digital solutions to improve our systems

Tracking mandatory training requirements

ANAO Recommendation 4
Recommendation 6

ANAO Recommendation 3

Improving guidance for the regulated community

ANAO Recommendation 2

Ensuring evidence based decisions using the latest science

Using strategic approaches to deliver better environmental outcomes

ANAO Recommendation 8

Improving our procedural guidance for assessing actions in the post-approval phase

ANAO Recommendation 8

Delivering a publicly accessible national environmental offsets database



4 Tier 2: Focus Area 1 – Building confidence and trust in our regulatory system through continuous improvement

The department is embedding a culture of continuous improvement and regulatory stewardship with our people and throughout our systems and processes, so our regulated entities and the community have confidence in our decisions. Underpinning this is a strong emphasis on change processes to ensure effective implementation and to successfully embed the cultural shift and supporting systems and processes.

4.1 Developing our people

Our people are our biggest asset to delivering better practice regulation. We are focused on integrity and maturing our regulatory capability and culture. Ensuring our workforce has the skillset and resources available to deliver best practice environmental regulation is essential.

The department has outlined in the Future Ready Department Blueprint its commitment to strengthening support structures to ensure our people are able to consistently make lawful decisions leading to good regulatory outcomes, empowering our people with new skills and capabilities along the way.

4.1.1 Ensuring the right capabilities of staff at all levels including regulatory and specialised skills

The Environmental Approvals Division Regulatory Capability Framework (EAD framework) has been implemented to articulate a high-level set of staff regulatory capabilities at all levels. This enables the division to identify the capabilities required of assessment officers, supervisors and delegates under the EPBC Act to be able to perform their roles as regulators effectively. The EAD framework has been developed to align with the whole of department approach, including the Professional Regulator Capability Framework. This framework will better enable the division to design and target its training program and its guidance to meet its needs, now and into the future.

A Regulatory Professional Capability Framework was developed and approved in 2020 to support staff working in environmental compliance and enforcement functions. The framework will continue to be regularly reviewed and training for compliance officers will continue to be updated and modernised through the Environment Compliance Reform Program with interactive training modules being developed.

4.1.2 Ensuring effective training for all staff and delegates involved in environmental impact assessment

We are developing a range of targeted and specialised training to support officers in specialised areas. This approach will enable access to tailored learning experiences at different stages in the assessment process. This training also forms part of the new conditions writing process being implemented in response to **recommendation 7** of the ANAO audit – to improve the quality of conditions under the EPBC Act.

In 2021, the department implemented a mandatory training program covering referrals, assessments and approvals under the EPBC Act. Since the ANAO audit report was published, we

have ensured all staff undertaking environmental assessments under parts 7–9 of the EPBC Act complete the mandatory EPBC Act assessments and approvals training program.

A refresher training program has been developed for all decision makers, EAD directors and experienced assessment officers supporting and embedding a culture of continuous improvement and facilitating improved regulatory maturity at all levels.

Additionally, all staff with delegations under parts 7–9 of the EPBC Act are required to complete the delegations training.

Training material and guidance are regularly reviewed and updated to maintain currency with the EPBC Act and Regulations, policy development, evolving environmental conditions and the needs of all stakeholders.

Our environmental compliance branch is strengthening and supporting environmental compliance systems and processes so that its compliance functions are achieving objects of the full suite of legislation. This includes strengthening the capability of compliance officers by implementing targeted training and development programs.

In addition, we are utilising partnerships with state and territory co-regulators to ensure best practice and consistent training and upskilling of compliance officers. We are sharing training packages and undertaking joint site inspections under multiple legislation to upskill compliance officers in both commonwealth and state and territory environmental legislation.

4.1.3 Tracking mandatory training requirements

A training register has been established to ensure appropriate governance and oversight of mandatory participation and monitoring of completion. The register ensures managers can monitor the status of training and development, and staff can ensure they keep their mandatory training and skills current. This directly addresses a finding in the ANAO audit report, which noted staff training was not supported by arrangements to ensure completion of mandatory requirements.

4.2 Improving transparency and assurance of decision making

The department released its Regulatory Practice Statement in 2021 to articulate our regulatory approach. This statement guides the way we undertake our roles as regulators and deliver regulatory services. It makes a commitment to ensuring transparency of our decisions by improving our communication with stakeholders and regulated entities, to help them understand the reasons behind our decisions. Increased transparency is an important step in improving our regulatory functions, leading to greater assurance of our decisions with our stakeholders and increasing visibility, for the department, of its priorities.

4.2.1 Establishing greater assurance in our decision-making practices

Recommendation 5 of the ANAO audit required the department to establish and implement a quality assurance framework to assure its procedural guidance is implemented consistently and the quality of decision-making is appropriate.

The department has adopted a new Quality Assurance Framework (QA Framework) for environmental approvals and implementation of the first quality assurance cycle has commenced.

The QA Framework was designed with quality assurance experts and will provide ongoing confidence in the quality and integrity of decisions made under the EPBC Act. The framework outlines how the department will sample, test and continuously improve our quality controls, processes, and systems over time. The QA Framework will include greater assurance in the quality of decisions made around offsets.

4.2.2 Monitoring and reporting on our performance and outcomes

Recommendations 4 and 6 of the ANAO audit require the department to establish internal and external performance measures on the effectiveness and efficiency of its regulation of referrals, assessments and approvals.

In response, we prepared a new Performance Framework for the regulation of environmental approvals under the EPBC Act, in line with best practice approaches to performance reporting. This framework aligns with the Commonwealth Regulator Performance Guide and requirements of the *Public Governance and Accountability Act 2013*.

The Performance Framework, prepared in consultation with external performance reporting experts, is improving how we measure, monitor and report on our regulatory efficiency and effectiveness over time, including environmental outcomes.

Reporting on the new performance measures commences in 2022–23 and will convey a richer and far more complete performance story of the outcomes we deliver to our internal and external stakeholders, including:

- environmental outcomes
- economic, social and cultural outcomes
- our performance as a trusted regulator.

This is improving transparency, understanding and trust in the department's role as an environmental regulator. It will also support the department to make informed, evidence-based decisions to improve regulatory maturity and respond to emerging issues.

The Performance Framework includes a new efficiency indicator to ensure we maintain an adequate workforce and meet our performance objectives.

The department has improved its processes and systems for the collection and storage of public comments to enhance transparency for our stakeholders and inform better decisions. A publicly accessible platform, 'Have your say', has been implemented to capture public comments and ensure the public can engage on important topics. A new digital system under development will continue the automated capture of public comments.

4.3 Ensuring good governance arrangements

Good governance is essential for the department to achieve its objectives, manage risk, drive improvements, and use resources responsibly. Good governance is also essential for building trust in us as a regulator. We are improving oversight and governance arrangements of environmental approvals to ensure we meet our future objectives.

4.3.1 Ensuring robust and on-going management and oversight arrangements are in place

Recommendation 3 of the ANAO audit required the department to strengthen its governance and oversight arrangements of referrals, assessments, and approvals.

In October 2020 an Environmental Approvals Division (EAD) Board was established to directly address the governance concerns raised in the audit. In addition to the EAD Board, the department established the Governance and Reform Branch with responsibility for policy, governance, and business improvement in the administration of referrals, assessments and approvals under the EPBC Act. A high-level committee is supporting and overseeing the implementation of all audit recommendations.

The Environment Compliance Executive Board was established in 2021 with oversight of the suite of reform work underway for our compliance and enforcement function, including the implementation of the Compliance and Regulatory Information Strategy, Case Categorisation and Prioritisation Model and the new Compliance Investigation and Intelligence Case Management System (COMtrac).

4.3.2 Managing conflict of interest and fraud risk

Recommendation 3 of the ANAO audit also required the department ensure conflicts of interest are identified and treated.

Public confidence in the APS is essential for the proper functioning of Government. A whole of department approach has been rolled out to strengthen processes for the identification and management of conflicts-of-interest, build trust in our system and ensure the utmost transparency with decisions.

The department is focused on building a capable and professional workforce and has established its core 4 values and key principles, highlighting integrity as an important component in the Future Ready Department Blueprint.

An annual mandatory conflict of interest process is in place for all staff involved in environmental approvals, including a process for managing declared conflicts of interest. Management plans are implemented in each circumstance and arrangements are in place for oversight by governance bodies.

5 Tier 2: Focus Area 2 – Strengthening our capability to be an effective and trusted regulator

The department is lifting its capability as an effective regulator through collaboration, partnerships, science and improved guidance to establish trust that our decisions are protecting the environment and achieving good regulatory outcomes for our stakeholders, now and into the future. This will be achieved through change processes, including a strong focus on cultural change, as part of the broader reform and cultural change agenda being undertaken within the department to improve regulatory performance.

5.1 Collaborating with stakeholders and building partnerships

The department is pursuing ways to better connect with our stakeholders, partners, portfolio agencies and communities, including indigenous communities. We are focused on improving our regulatory performance through growing our partnerships with stakeholders and by delivering effective and efficient regulatory services.

5.1.1 Working with our regulated community and stakeholders to improve compliance

The department is working with the regulated community and stakeholders to improve our compliance processes through updated policies and guidance material. We are building partnerships and working with international partners, Commonwealth agencies, state regulators and environmental agencies to ensure best practice regulation, sharing of training packages, to upskill compliance officers in both commonwealth and state and territory environmental legislation. When feasible, joint site inspections are undertaken to ensure a collaborative effort is maintained to achieve the best outcome.

Our improved compliance policy will support regulated entities by outlining our approach to compliance, minimising the impact, where appropriate, by recognising consistent compliance with regulatory requirements.

The referral process for environmental assessments has been simplified through automated processes to improve efficiency and streamline processes for stakeholders, making it easier to submit a referral under the EPBC Act. As we build and deliver new technology solutions, proponents will be able to access and lodge applications efficiently online as well as keep track of progress.

The department is working with the research community, environmental consultants and state governments to improve the use and understanding of environmental offsets. This includes incorporating best practice management processes for environmental offsets and improving guidance material to ensure greater alignment between commonwealth and state governments where possible.

To ensure reporting on environmental offsets meets the needs of our wide range of stakeholders, an Offset Data Strategy has been developed. The strategy identifies what data is needed, what systems the data is collected and stored in, and importantly the supporting governance framework to ensure quality data is presented accurately and in a timely manner.

The department is establishing two-way engagement with stakeholders and consulting with industry groups and representatives on upcoming process, policy and project initiatives. For example, we meet bi-annually with environmental consultant representatives to discuss issues related to the EPBC Act referral and assessment process and the regulated community.

The knowledge and perspectives of stakeholders from across the sectors we regulate are valued, including, consumer and community representatives, experts and the wider community who are affected by the decisions we make. We are designing guidance and tools to provide stakeholders and the community with a range of ways to contribute to our work and assist them with their EPBC Act obligations.

We are enhancing tools to improve accessibility to shared data relating to environmental assessments and referrals, and improving the user experience, including consulting with stakeholders to identify enhancements required for the Protected Matters Search Tool. The Protected Matters Search tool is used in the referral and assessment process to identify nationally protected matters. Since upgrades made in 2021, we launched the tool via a series of webinars and communication products, such as website updates, digital and social media and videos to internal and external users. We continue to monitor the user experience and adapt the tool to assist the user experience.

5.1.2 Improving engagement with Aboriginal and Torres Strait Islander people

The department needs to foster and strengthen partnerships and relationships with Aboriginal and Torres Strait Islander peoples and honour, celebrate and include their knowledge and experiences to develop fit-for-purpose policies and programs, as well as respectfully consider their views in decision-making.

The department is committed to delivering outcomes for Aboriginal and Torres Strait Islander peoples through Government priorities and implementation of the department's Reconciliation Action Plan.

We are improving our engagement process for environmental assessments and approvals through:

- Updating and enhancing the Engage Early guidelines
- Providing proponents with clearer Terms of Reference (ToR) for Environmental Impact Statements (EIS) regarding what information relating to indigenous consultation and indigenous values should be included in their assessment.
- Working closely with the National Indigenous Australians Agency (NIAA) to more clearly identify matters (native title, Traditional Owner customary rights) to be considered in the assessment process.

Furthermore, the Government has prioritised the delivery of a National Environmental Standard for Indigenous Engagement and Participation in Decision-Making as part of its commitment to EPBC Act reform. The department will work in partnership with Indigenous people to develop the standard. This standard will set clear requirements for decision-making processes under the EPBC Act to engage with Indigenous peoples and respectfully consider their views and knowledge (see the section on setting *national environmental standards to underpin decision making under the EPBC Act*, below, for more information on standards).

5.1.3 Improving guidance for the regulated community

Improved guidance for regulated entities and stakeholders can assist in improving the timeliness and quality of referrals and general understanding of the steps to be undertaken to navigate the assessment process under the EPBC Act. Understanding roles and responsibilities can lead to improved compliance generally, and to strong environmental outcomes.

We are updating and creating a range of new guidance materials relating to the use of environmental offsets. This includes updating available information on our website, developing a suite of educational material and improving technical guidance documentation. The updated and new materials are being specifically targeted to a range of technical levels (beginner to advanced) and also for different stakeholder groups (industry, offset brokers, landholders).

The department is collaborating with the Australian National University on consistency in decision making for environmental offsets to inform updated guidance materials. This work identifies where there is inconsistency so we can target those specific topics.

The department is also updating information on our website relating to the environmental referral, assessment and approval process. The updated information includes improved guidance on undertaking a self-assessment, navigating the assessment process, where to access information on complex topics such as environmental offsets.

We are also improving compliance guidance by engaging with industry forums regarding compliance expectations and strengthening relationships with industry and community sectors on potential compliance issues. This ensures we are proactively seeking to identify areas of non-compliance and inform our priorities through environmental intelligence.

5.2 Ensuring environmental outcomes are at the centre of decision making

The department is delivering better practice regulation and achieving regulatory outcomes benefitting the Australian community, regulated entities and industry through the protection of the land, water, biological and heritage aspects of our natural environment, in a way that supports sustainability and productivity.

5.2.1 Setting National Environmental Standards to underpin decision making under the EPBC Act

The Government has committed to making new national environmental standards. . National environmental standards will underpin single touch approval bilateral agreements with states and territories and will ensure strong environmental protection is provided regardless of whether the Australian Government or a state or territory makes an approval decision.

A final draft national environmental standard for matters of national environmental significance ([draft MNES Standard](#)) has been published. The draft MNES Standard reflects the current requirements of the EPBC Act to support the progression of single touch approvals with states and territories.

The Government has committed to making further standards informed by engagement with stakeholders and partners.

5.2.2 Implementing a risk-based approach to our compliance activities

The ANAO audit highlighted inadequacies in the department's record keeping practices, in particular our compliance systems, collection and storage of information. The department has focused its system enhancements on end-to-end portals and databases, which will store data and information as well as ensuring this information is made accessible through the assessment process. This will better inform compliance decisions and actions, addressing

Recommendations 1 & 2 of the audit.

Following the audit, in December 2020, the department commissioned Ms Carolyn McNally and Dr Brian Richards to conduct a review (the McNally Review) of the department's environment compliance risks and functions in response to recommendation 2 of the audit. The McNally Review identified areas that require improvement, including governance, resources, information management and systems, risk and prioritisation, partnerships and engagement and regulatory tools.

The department is implementing a comprehensive environment compliance reform program, which incorporates all 28 recommendations from this review. We have established the Environment Compliance Executive Board (ECEB) to maintain a coherent focus on national environmental protection, providing oversight of the reform program. Comprising of executive from environment compliance and program areas, the ECEB is embedding compliance as an integral part of the program management cycle.

In addition, the audit identified the need for the department to manage risk assessments across its regulatory regimes. Our compliance policy outlines our future approach to regulating our compliance activities. We developed a Case Categorisation and Prioritisation Model (CCP) which is a key foundational step of our overall compliance reform program. It will be used to guide decision making relating to the allocation of divisional resources to manage serious non-compliance risk across all domains. The CCP Model also provides a consistent methodology to assess all non-compliance referrals we receive. Resources will be targeted to areas of high risk and environmental consequence thus ensuring the most important areas of environmental compliance are addressed.

For environmental assessments, the development and implementation of a Knowledge Management System (KMS) will be an additional system capability enabling assessment officers (and delegates) to capture and share corporate knowledge to improve understanding, collaborate, and enable decisions to be more consistent, evidence-based, legally robust and enforceable.

Additionally, the KMS will contribute to the Government's Deregulation Agenda by generating benefits for stakeholders external to the department, including proponents. It will provide external stakeholders access to (select) information so they can be better informed of the information required for an assessment under the EPBC Act.

We are improving our risk-based approaches to the allocation of resources to ensure we maximise outcomes for the Government and the regulated community. In July 2021 the department established a triage framework for EPBC Act assessments. The framework enables the department's effort and resources to be flexibly and adaptably deployed to efficiently and

effectively undertake EPBC Act assessments. It is focused on managing the complexity of projects and optimally achieving environmental, social and economic outcomes. The triage framework will assist with ensuring environmental assessments under the EPBC Act are undertaken in a timely manner, while also ensuring environmental outcomes are met.

5.2.3 Ensuring evidence-based decisions using the latest science

Delivering better environmental outcomes for our stakeholders and the community is enabled by using authoritative data to inform decisions.

Sound environmental planning and decision making often requires the assembly of large amounts of biodiversity data. This can be time-consuming and costly to stakeholders involved in the environment assessments process.

The Digital Environmental Assessments Program (DEAP) (discussed further at 6.2.2) is piloting a Biodiversity Data Repository (BDR) to solve this, by assembling the largest set of Australian biodiversity data and making it available. The repository will bring together high-quality authoritative data to help proponents, researchers, the community and Government to support better environmental outcomes. Sensitive biodiversity data will be managed with care.

The pilot BDR will be available online by mid-2022.

5.2.4 Using strategic approaches to deliver better environmental outcomes

Strategic approaches offer the potential to achieve better environmental outcomes and address cumulative impacts at the landscape level whilst avoiding potential duplicative assessments.

Strategic assessments under Part 10 of the EPBC Act, are landscape-scale assessments designed to achieve sustainable development and environment protection. In place for over a decade, they offer an effective alternative to project-by-project assessments, particularly for cases involving large-scale development or activities intersecting with nationally protected matters. Once finalised, development actions under a strategic assessment do not require further approvals under national environmental law.

The Government is also exploring new regional planning approaches in line with the recommendations of the EPBC Act Review. This will commence with a commitment of \$2.7 million to develop a pilot regional plan in partnership with a willing state or territory. Early work to support the pilot regional plan has commenced with an initial focus on developing a regional planning framework in consultation with stakeholders.

Both these strategic approaches will help to identify and protect important environmental assets, leading to better environmental outcomes. These approaches give business and the community greater long-term certainty and clarity of their environmental approval requirements and help to identify the most appropriate areas for development.

5.3 Achieving good regulatory outcomes

The department is implementing a range of tools, systems and support structures in environmental approvals to ensure we achieve our purpose and have strong systems in place to achieve good regulatory outcomes and mature our regulatory practices. This is strongly supported by change processes to ensure effective implementation and uptake.

5.3.1 Improving quality controls of conditions of approval under the EPBC Act.

The department is committed to improving its quality controls to ensure conditions of approval are enforceable, appropriate for monitoring, compliant with internal procedures and aligned with risk to the environment.

In responding to **Recommendation 7** of the ANAO audit, the department is taking a whole system approach by looking at the lifecycle of the EPBC Act assessment process, from the pre-referral/referral stage through to post approvals and compliance.

Significant changes are being made to the way we write conditions of approval, which includes the development of:

- A new condition writing process
- A new training program for writing conditions of approval
- A 'Better Practice Conditions Library'
- An internal and external guidance to clearly explain our regulatory approach.

The 'Better Practice Conditions Library' will give assessment officers access to better practice conditions and useful variants. The library will also include instructions for condition use, links to examples of previous use and good practice tips. Where available, it will also include feedback loops emerging from monitoring and compliance. The department is focusing on outcomes-based conditions and looking at how we can implement these in a more effective manner, reducing the regulatory burden for approval holders and risks to the environment.

The department is taking a risk-based approach to conditioning which will inform how resources are allocated to optimise regulatory outcomes. A process for recording desired environmental outcomes and how the conditions of an approval meet them will be implemented to ensure the conditions are aligned to the risk to the environment.

The effectiveness of our new condition writing process and quality controls will be assessed and reviewed regularly by the QA Framework.

Success of the new quality control process will rely on a cultural shift, with change management processes supporting this transition. This is a strong focus for the department and forms part of the broader reform and cultural change agenda being undertaken within the department to improve regulatory performance.

Recommendation 7 is on track to be completed by mid-2022.

5.3.2 Ensuring pre-commencement conditions of approval are implemented and assessed consistently

The audit highlighted inadequacies in arrangements to monitor the implementation of pre-commencement conditions of approval.

In response to **recommendation 8** of the audit, the department is developing and implementing a range of new systems and processes.

Under the DEAP, new online portals will allow approval holders to:

Improving regulation of environmental approvals under the EPBC Act

- Register pre-commencement activities such as baseline monitoring data
- Upload shapefiles and offset information
- Provide management plans
- Notify of commencement of action
- Submit annual compliance reports.

Refer to section 6.2.2 for further information on the DEAP including recent funding announced to expand the DEAP to other states and territories to reduce unnecessary duplication and delay.

An efficiency review of the National Environmental Significance and Threat Risk Assessment (NESTRA) and the Compliance Assurance Framework (CAF) will provide a means for determining a relative risk rating of EPBC approvals. Approvals are ranked based on their risk score and each approval will undergo a different level of compliance assurance based on its risk score.

Results from a review undertaken in 2022 will inform improvements to NESTRA and the CAF, including the conversion to a digital system to complement the DEAP.

We are also exploring opportunities with Planet Explorer for real time satellite monitoring that can assist with monitoring approval footprints, including when an action commences. High resolution imagery will provide the ability to ground truth allegations of non-compliance more efficiently.

Additionally, the department is engaging with Geoscience Australia on change detection capability to enable an efficient change detection method and provide for earlier intervention.

5.3.3 Improving our procedural guidance for assessing actions in the post approval phase

To address **recommendation 8** of the audit, the department is also updating existing guidance materials, improving quality controls and implementing new systems and processes where required to ensure pre-commencement conditions of approval are implemented and assessed consistently.

The development of a Post Approval Manual Chapter will capture assessment actions undertaken in the post approval phase ensuring continuity of knowledge and information. The chapter provides information for officers managing approvals granted under Part 9 of the EPBC Act.

It ensures assessment actions associated with post approvals functions are undertaken consistently and in a manner aligning with the objectives of the EPBC Act. The purpose and style of the chapter aligns with other EPBC Assessment Manuals therefore completing a range of EPBC Act guidance material (for statutory decisions) from referral through to post approval stages of the assessment process.

6 Tier 2: Focus Area 3 – Streamlining our regulatory approach to improve efficiency

The department is delivering improvements to our regulation so we can focus on the outcomes that matter most and ensure we protect Australia's natural and heritage assets whilst reducing barriers to growth and compliance.

6.1 Streamlining our regulatory processes

Our Regulatory Practice Statement outlines a set of principles designed at supporting the department to streamline its regulatory functions. It will assist in delivering a more efficient experience and improve our decision-making processes whilst we maintain strong regulatory outcomes. Enhancements to our processes, practices and systems will form part of the transition to a more streamlined regulatory system for environmental approvals.

6.1.1 Delivering single touch environmental approvals

The Government has worked with the states and territories to deliver single touch environmental approvals. Single touch approvals will streamline approval processes by accrediting states and territories to make environmental assessment and approval decisions in relation to Commonwealth matters. This will remove the need for some projects to be referred to the department for environmental approval.

Single touch approvals will be underpinned by national environmental standards and supported by rigorous assurance monitoring. This will ensure strong environmental protection is provided regardless of whether the Australian Government or one of the state or territory governments approves a development.

The Government has established dedicated teams to work with states and territories to deliver single touch approvals. The Government is also committed to developing national environmental standards and establishing an Environment Assurance Commissioner, which will independently monitor and audit the operation of single touch approval bilateral agreements.

6.1.2 Developing a common assessment method for the assessment and listing of nationally threatened species

The EPBC Act review stated efforts to harmonise and streamline administration of the EPBC Act with states and territories has not gone far enough in addressing duplication of state and territory processes.

To contribute to more efficient processes, the department is collaborating with all states and territories to establish a common assessment method for the assessment and listing of threatened species. This will ensure a consistent approach to the listing of nationally threatened species across the Australian jurisdiction and remove the confusion with multiple listings and categories for threatened species across different Australian state and territory governments.

The common assessment method will maintain a high level of scientific rigour in the assessment and listing of threatened species across Australia while promoting a consistent efficient and harmonised process.

6.2 Transforming our digital capability

The department is enhancing and transforming our digital capability to effectively regulate and manage the increasingly complex environmental challenges we face into the future. Reducing regulatory burden is more than just amending laws and regulations. It is also about interacting with the regulatory system as quickly and effectively as possible. Modernised systems are required to increase the accessibility of environmental information for environmental assessments and approvals.

6.2.1 Improving how we collect, share and use regulatory information

To address **Recommendation 1** of the audit, the department is developing a plan to collect and use regulatory information and address limitations in information management. We developed a range of new systems to streamline our work, ensure more effective environment approval assessments, enhance the capability of our staff and create better access and visibility of information for our stakeholders. Effective management of our records is a key component of this transformation, and the department has developed and implemented a range of improved IT systems for better data collection, ability to share information and to better measure outcomes.

The Environment Compliance Branch is developing a strategy to better inform our information management decisions and address gaps and limitations in Information Management to better enable the collection, use and sharing of compliance information. An external provider was engaged in September 2021 to develop a Compliance and Regulatory Information Strategy. Consultation included all sections of the branch as well as other key stakeholders to inform the pathway forward for a strengthened and achievable Information Strategy for the Environment Compliance Branch. The information strategy will guide improvements to the department's ability to use information from internal and external sources to better inform regulatory decision making and compliance risk assessments.

On 31 September 2021, we successfully implemented COMtrac, a modern investigation management IT system for our compliance branch. It will enable us to effectively manage our intelligence, compliance, audit, and investigation cases in one system, recording and sharing information in real-time, whether in the office or field environments. The Compliance and Enforcement Division are engaged with the system's implementation and remaining branches will follow. Division-wide implementation will be completed by June 2022, which includes training and configuring the system to meet each of the branch's business requirements.

We have developed a new Australian Biodiversity Information Standard for the collection and exchange of biodiversity data, enabling national data harmonisation and improved environmental outcomes.

These improvements, along with the DEAP (see above, and below) are enhancing the department's use and transfer of information and knowledge.

6.2.2 Working with states, territories and industry to implement digital solutions to improve our systems

The DEAP is focused on improving processes, systems and data for environmental assessments. We are partnering with the Western Australia government to co-design and pilot systems and tools to use nationally and engaging with all states and territories towards achieving a better user experience for stakeholders participating, or interested in, the environment assessment process. This includes improving the way the department processes environment assessments under the EPBC Act. A new referral form and online portals simplifying the referral, assessment and public comments process will be available in early 2022.

The system includes the ability for proponents to lodge and view progress of applications, receive notifications, lodge payments and provide additional information to the department. This will streamline assessments, reduce duplication, and create efficiencies.

The public will be able to track progress of projects and provide comment through the portal.

Integration of the portal with other Government data sources will ensure accessibility of information across the life cycle of a project resulting in consistent, robust environmental decisions.

Recently, in February 2022, the government announced \$47 million to expand the DEAP to other states and territories to reduce unnecessary duplication and delay. DEAP will engage with jurisdictions and specialists to deliver better environment data as an evidence base for environmental assessments, policy and conservation management.

A range of cross-cutting benefits are being implemented as part of our digital transformation journey. We are enhancing information sharing compatibilities across different areas of the department, including compliance, and streamlining systems to monitor, evaluate, report on and improve risk-based prioritisation processes. This will create greater visibility across the lifecycle of an assessment and referral process.

6.2.3 Delivering a publicly accessible national environmental offsets database

Digital transformation is a key component of our overall business transformation strategy, and while not the only factor, it is critical to the success of our transformation effort in managing environmental offsets. Significant progress on improving systems and processes for environmental offsets occurred throughout 2021, to provide better assurance of good environmental outcomes.

We are developing a National Environmental Offsets System (NEOS) to capture and record details of all offsets required under EPBC Act approval conditions. This dataset will bring together key information about approved offsets including how they are managed, where they are located, and what matters of national environmental significance are protected.

The NEOS will be a publicly available searchable register that will provide greater transparency. This will establish confidence and trust in the department as an effective environmental regulator. The system will enable our regulated community as well as departmental officers to accurately identify where offsets are located and assist in making informed decisions about offsets. NEOS is planned for full release in December 2022.

7 Conclusion

The department administers the EPBC Act consistent with principles as outlined in the Regulatory Practice Statement and the Compliance Policy as well as corporate documents and business plans.

The department has made significant progress responding to the ANAO audit findings and this report provides a comprehensive update on all our progress to ensure we remain transparent and accountable.

In 2022, we will make further significant improvements to our processes and systems, following the closure of all recommendations in relation to the audit. While much of our reform work was initiated by the audit findings, there will be an on-going program of improvements to our systems and processes. The continuous improvements along with other reforms outlined in the government's reform Pathway and Timeline, will ensure we deliver lasting change and are a future ready regulator that supports strong environmental outcomes.

Annexure 1

Table 1: Summary of progress implementing the recommendations of the ANAO audit

ANAO Audit Recommendation	Status	Outcomes
Recommendation 1	Nearing completion – closure expected early 2022	Development of the Compliance and Regulatory Information Strategy to inform how we collect and use regulatory information.
Recommendation 2	Completed	Development of a Case Categorisation and Prioritisation Framework to assess and prioritise compliance activities.
Recommendation 3	Completed	Strengthened governance and oversight arrangements and conflict of interest management processes.
Recommendation 4	Completed	Establishment of a new Performance Framework to improve how we measure, monitor and report on our outcomes as a regulator.
Recommendation 5	Completed	Establishment of a Quality Assurance Framework to improve confidence in our decision making.
Recommendation 6	Completed	Establishment of an efficiency indicator as part of a new Performance Framework.
Recommendation 7	Well progressed – closure expected 2022	Improvements to quality controls of conditions by implementing a best practice regulatory condition setting process to ensure conditions are error free, enforceable and aligned with risk to the environment
Recommendation 8	Well progressed – closure expected 2022	Improvements to monitoring of pre-commencement conditions and procedural guidance for assessing actions in the post-approval phase.