

**Senate Environment and Communications  
References Committee**  
Answers to questions on notice  
**Environment and Energy portfolio**

**Inquiry name:** Inquiry into Australia's faunal extinction crisis

**Hearing date:**

**Question No:** 1

**Hansard Page:** na

**Question Date:** 28 October 2019

**Question Type:** Written

**Senator Waters asked:**

**Question Text:**

Following the commencement of the investigation into unlawful clearing of the grasslands in December 2016, please provide a list of all dates on which the Department had contact with Jam Land regarding the compliance action.

**Answer**

The Department has been in regular contact with Jam Land, or their representatives over the course of the compliance investigation. As the investigation is on-going it would be inappropriate to provide details.

**Senate Environment and Communications  
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**Environment and Energy portfolio**

**Inquiry name:** Inquiry into Australia's faunal extinction crisis

**Hearing date:**

**Question No:** 2

**Hansard Page:** na

**Question Date:** 28 October 2019

**Question Type:** Written

**Senator Waters asked:**

**Question Text:**

Please provide copies of any talking points, briefing notes, additional notes or other correspondence in response to the request made to the Department on 15 February 2017 by Minister Frydenberg's office for an "urgent update".

If copies are not provided, please confirm whether, in its response(s), the Department provided information regarding the status of the compliance action, the nature of the investigation, and who was under investigation.

**Answer**

The Department provided advice to the Minister's Office in response to this request on 28 February 2017. This document was release in FOI 190723.

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**Environment and Energy portfolio**

**Inquiry name:** Inquiry into Australia's faunal extinction crisis

**Hearing date:**

**Question No:** 3

**Hansard Page:** na

**Question Date:** 28 October 2019

**Question Type:** Written

**Senator Waters asked:**

**Question Text:**

At or around 15 February 2017, or at any subsequent time, did Minister Frydenberg's office provide any directions or suggestions as to how the compliance action should be handled (including directing or suggesting that the investigation be suspended or concluded in a particular way)?

**Answer**

No

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**Inquiry name:** Inquiry into Australia's faunal extinction crisis

**Hearing date:**

**Question No:** 4

**Hansard Page:** na

**Question Date:** 28 October 2019

**Question Type:** Written

**Senator Waters asked:**

**Question Text:**

Have any current or previous Ministers or their offices provided any directions or suggestions as to how the Jam Land compliance action should be handled?

**Answer**

No

**Senate Environment and Communications  
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Answers to questions on notice  
**Environment and Energy portfolio**

**Inquiry name:** Inquiry into Australia's faunal extinction crisis

**Hearing date:**

**Question No:** 5

**Hansard Page:** na

**Question Date:** 28 October 2019

**Question Type:** Written

**Senator Waters asked:**

**Question Text:**

During Senate Estimates on 21 October 2019, Mr Knudsen commented that requests by Ministers for talking points on the status of individual compliance actions were routinely made. How many times in the past 3 years has the Minister or the Minister's office requested talking points or other advice on compliance actions? How many of those times relate to the Jam Land investigation?

**Answer**

- A) Mr Knudson said "*. . . that it is a practice of that area that deals with approvals but also compliance to have fairly regular meetings with advisers to update on a range of projects*".

In relation to the request for talking points across the past 3 years, the Department does not retain this statistic and it would be an unreasonable use of departmental resources to undertake the research required to answer the question.

- B) Briefings in relation to Jam Land

Information relating to Jam Land has only been requested by the office of Minister Frydenberg (2017-2018). Dates that briefing, or other information have been requested are:

15 February 2017

28 February 2017

28 July 2017

31 July 2017

In addition to the above, a weekly report on assessment and compliance matters is prepared by the Department and provided to the Office of the Environment Minister. The compliance matter relating to the land owned by Jam Land Pty Ltd has been on this report since 2 December 2016.

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**Inquiry name:** Inquiry into Australia's faunal extinction crisis

**Hearing date:**

**Question No:** 6 & 7

**Hansard Page:** na

**Question Date:** 28 October 2019

**Question Type:** Written

**Senator Waters asked:**

**Question Text:**

6. On what dates were site visits conducted by department staff to the Jam Land property?
7. Who attended each of these site visits, including Jam Land representatives, senior and junior departmental staff, experts, and any members of the Taylor family?

**Answer to Q 6 and 7**

The Department has been in regular contact with Jam Land, or their representatives over the course of the compliance investigation. As the investigation is on-going it would be inappropriate to provide details.

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**Inquiry name:** Inquiry into Australia's faunal extinction crisis

**Hearing date:**

**Question No:** 8

**Hansard Page:** na

**Question Date:** 28 October 2019

**Question Type:** Written

**Senator Waters asked:**

**Question Text:**

During Senate estimates on 21 October 2019, the Department indicated that the compliance investigation for Jam Land will be completed shortly. Please advise:

- a. What are the reasons that the investigation has taken nearly three years to complete?
- b. Will the outcome of the investigation be publicly released? Who will make the decision as to whether the details will be publicly released?

**Answers**

- A) The Department gave evidence to the Committee on 23 August that there are a number of factors that influence the duration of an investigation. The Department has considered, and continues to consider, all relevant information which will inform the final compliance outcome. It is a priority for the Department to conclude the investigation as soon as possible.
- B) The Department publishes some compliance outcomes on its website. The decision whether or not to issue a media release at the conclusion of the case will be made in accordance with the Department's Compliance Policy by the relevant delegate.

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**Inquiry name:** Inquiry into Australia's faunal extinction crisis

**Hearing date:**

**Question No:** 9

**Hansard Page:** na

**Question Date:** 28 October 2019

**Question Type:** Written

**Senator Waters asked:**

**Question Text:**

During estimates, Ms Collins stated that she was "waiting on another final report before we finish off the case".

- a. What is the nature of the final report?
- b. Who is preparing the report?
- c. Will the report make any recommendations regarding the compliance outcomes for the case?
- d. If so, will the Department be bound by those recommendations?

**Answer**

The Department uses a range of tools to bring compliance matters to a conclusion. As the investigation is ongoing, it would be inappropriate to provide details.



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**Inquiry name:** Inquiry into Australia's faunal extinction crisis

**Hearing date:**

**Question No:** 10

**Hansard Page:** na

**Question Date:** 28 October 2019

**Question Type:** Written

**Senator Waters asked:**

**Question Text:**

Has the Department sought legal advice in relation to any aspect of the Jam Land compliance investigation?

**Answers**

The Department uses a range of tools to bring compliance matters to a conclusion. As the matter is ongoing, it would be inappropriate to provide details.

**Senate Environment and Communications  
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**Inquiry name:** Inquiry into Australia's faunal extinction crisis

**Hearing date:**

**Question No:** 11

**Hansard Page:** na

**Question Date:** 28 October 2019

**Question Type:** Written

**Senator Waters asked:**

**Question Text:**

Based on the Department's experience, was the Jam Land compliance investigation treated differently to any other investigation undertaken by the Department? If yes, in what ways did the investigation differ?

**Answers**

No.

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**Inquiry name:** Inquiry into Australia's faunal extinction crisis

**Hearing date:**

**Question No:** 12

**Hansard Page:** na

**Question Date:** 28 October 2019

**Question Type:** Written

**Senator Waters asked:**

**Question Text:**

Is the Department aware of any documents being falsified, amended, or edited to include incorrect information by any parties during the Jam Lands investigation?

**Answers**

No

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References Committee**  
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**Environment and Energy portfolio**

**Inquiry name:** Inquiry into Australia's faunal extinction crisis

**Hearing date:**

**Question No:** 13 and 14

**Hansard Page:** na

**Question Date:** 28 October 2019

**Question Type:** Written

**Senator Waters asked:**

**Question Text:**

**13.** Of the compliance investigations commenced by the Department in 2016-2017 relating to alleged offences under the EPBC Act, how many related to threatened species or threatened ecological communities?

**14.** What is the current status of those investigations? If concluded, what was the outcome and what, if any, penalties were applied?

**Answers**

Q13. Between 1 July 2016 and 30 June 2017, 41 cases relating to threatened species or threatened ecological communities were opened.

Q14. 37 cases have been concluded with one matter before the Federal Court, one is in the final stages and will result in a compliance outcome, one will be closed with no further action and one still under investigation.

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**Inquiry name:** Inquiry into Australia's faunal extinction crisis

**Hearing date:**

**Question No:** 15

**Hansard Page:** na

**Question Date:** 28 October 2019

**Question Type:** Written

**Senator Waters asked:**

**Question Text:**

How many compliance investigations into alleged breaches of the EPBC Act in relation to threatened species or threatened ecological communities are currently on foot?

**Answers**

There are currently 16 investigations into alleged contraventions of the EPBC Act in relation to threatened species or threatened ecological communities.

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**Inquiry name:** Inquiry into Australia's faunal extinction crisis

**Hearing date:**

**Question No:** 16

**Hansard Page:** na

**Question Date:** 28 October 2019

**Question Type:** Written

**Senator Waters asked:**

**Question Text:**

During Senate Estimates, Ms Monica Collins said: *"[O]ne of the things we're trying to target is making sure that we only take on the number of compliance cases that we can actively manage through to a conclusion in a faster amount of time. So I suppose there is always going to be a balance between—if you have a lot more cases on your books, it might take longer to finish them or if you've got fewer cases."*

In response to Senator Waters asking whether the Department was "not investigating breaches because you haven't been given the resources to do your job properly?", Ms Collins said:

*"With the resources we've got we've always got to prioritise, and we do a risk based approach to which compliance activities we take on."*

Please provide the following information regarding the Department's approach to compliance investigation:

- a. Is the risk-based approach documented? If so, please provide copies of relevant documents.
  
- b. Does the threatened status of the species or ecological community affected by the alleged unlawful activity affect the risk assessment (that is, will impacts on a species with a higher threat status be given higher priority?

**Answers**

The Departments Compliance policy outlines the risk-based, intelligence led process undertaken by the Department. It is available on-line at:

<https://www.environment.gov.au/system/files/resources/7bc85eb4-6cf6-4b9a-ab9f-6a23718d5f2c/files/compliance-policy.pdf>

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**Inquiry name:** Inquiry into Australia's faunal extinction crisis

**Hearing date:**

**Question No:** 17\_18 and 19

**Hansard Page:** na

**Question Date:** 28 October 2019

**Question Type:** Written

**Senator Waters asked:**

**Question Text:**

**17.** In the past 3 years, how many complaints / compliance requests have been received by the Department?

**18.** How many of these complaints relate to threatened species or threatened ecological communities?

**19.** How many of these complaints have not progressed to a "compliance case" following a risk-based assessment?

**Answers**

17. Between 28 October 2016 and 28 October 2019, the Department has received 979 complaints / compliance requests relating to the *Environment Protection and Biodiversity Conservation Act* 1999. This also includes pre-referral matters, complaints / compliance requests more appropriately dealt with by state regulators and environmental history checks.

18. Due to the number of allegations and the resources required to manually filter these allegations, the Department is not able to provide this level of detail.

19. As stated in response to question 17, not all of the complaints or compliance requests related to allegations of non-compliance. Some were pre-referral requests, or complaints that related to State based approvals. Between 28 October 2016 and 28 October 2019, 118 cases relating to alleged contraventions of the EPBC Act were opened.

**Senate Environment and Communications  
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**Inquiry name:** Inquiry into Australia's faunal extinction crisis

**Hearing date:**

**Question No:** 20

**Hansard Page:** na

**Question Date:** 28 October 2019

**Question Type:** Written

**Senator Waters asked:**

**Question Text:**

Does the Department, and the compliance section particularly, currently receive sufficient funding to undertake its functions effectively and efficiently?

**Answers**

The Compliance Section works within its budget allocation in conducting investigations into contraventions of the *Environment Protection and Biodiversity Conservation Act 1999*, and other legislation administered by the Department.



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**Inquiry name:** Inquiry into Australia's faunal extinction crisis

**Hearing date:**

**Question No:** 21

**Hansard Page:** na

**Question Date:** 28 October 2019

**Question Type:** Written

**Senator Waters asked:**

**Question Text:**

Have any Landcare or other environmental grants been awarded to Jam Land Pty Ltd for the property that is currently under investigation in relation to unlawful clearing? If yes, please provide details of any grant, including:

- a.** when it was provided
- b.** how much has been granted
- c.** the purpose of the grant
- d.** the program under which the grant was provided

**Answers**

No