

Senate Standing Committee on Environment and Communications
Legislation Committee
Answers to questions on notice
Environment portfolio

Question No: 78
Hearing: Supplementary Budget Estimates
Outcome: Outcome 1
Programme: Environment Assessment and Compliance Division
Topic: ANAO REPORT MANAGING COMPLIANCE WITH EPBC ACT 1999
Hansard Page: N/A
Question Date: 29 October 2014
Question Type: Written

Senator Waters asked:

The ANAO report highlights serious shortcomings in the Department's EPBC compliance work over the EPBC Act's 14 years of operation [eg that the Department has failed to "establish an effective compliance intelligence capability to collect, store and analyse compliance intelligence" ; and "identify an appropriate set of MNES risk factors (such as the compliance history of proponents) against which approved controlled actions can be assessed and ranked."] The ANAO found particularly in the older approvals they reviewed, that conditions were often ambiguous and difficult to enforce, is the Department doing anything to review all the old decisions, to locate all such conditions to see if they need tightening?

Answer:

In response to the ANAO's findings, the Department has implemented a strategic risk based approach to monitor compliance with the conditions of EPBC approvals. The National Environmental Significance Threat and Risk Assessment (NESTRA) tool informs the Department's EPBC Compliance Monitoring Plan 2014-15.

The Department is using this tool to prioritise its compliance monitoring activities to focus on those projects which provide the greatest risk to matters on national environmental significance. In those circumstances where the department identifies conditions which may be perceived to be ambiguous, section 143 of the *Environment Protection and Biodiversity Conservation Act 1999* allows for variation to approval conditions if certain criteria are met.

In the event that there has not been a breach of approval conditions or an impact from the action which was greater than that which was assessed, a variation to approval conditions can only occur with the consent of the approval holder.

Where the Department has identified a need to revise a condition attached to an approval, or where a proponent has requested a variation to a condition attached to the approval, the Department actively works with the proponent to incorporate any necessary revisions to other conditions attached to that approval to improve their applicability and enforceability.