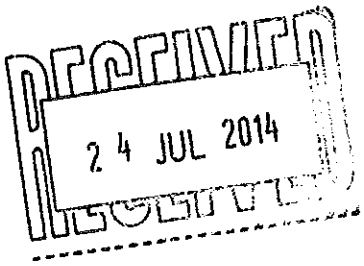
Auditor-General for Australia



Australian National
Audit Office

21 July 2014

Ms Felicity Millner
Director of Litigation
Environmental Justice Australia
PO Box 12123
A'BECKETT ST VIC 8006

Dear Ms Millner

Auditing Australia's Compliance with the Convention on Biological Diversity

In my letter of 4 July 2014 responding to yours of 4 June 2014, I mentioned that our audit program is heavily committed at this time but that we would seek some documentation from the Department of the Environment (Environment) to inform our response to you on the matters you have raised in relation to Australia's compliance with Convention on Biological Diversity.

It is important to emphasise that we have not undertaken an audit given other priorities and demands on our resources. Nevertheless, Environment has provided my office with advice related to a number of the matters that you have raised. Overall, the department considers that the Commonwealth is compliant with its obligations under the Convention on Biological Diversity, while acknowledging that progress against some targets remains challenging. The department advised that the actions taken by the Commonwealth to meet its obligations are outlined in its national report that is required to be prepared in accordance with Article 26 of the Convention. Environment advised that the report was subject to public consultation prior to finalisation and review by its international peers once submitted. The public consultation period commenced on 31 March 2014 and concluded on 18 April 2014. Environment has reported that it received a total of five submissions during the public consultation period, which were considered in the finalisation of the report. The department did not consider that the public consultation process raised serious concerns regarding the content of the report.

Environment has also informed the ANAO that Australia's Biodiversity Conservation Strategy 2010–2030 (ABCS), which is a key element in the strategic framework established by the Commonwealth to support the Aichi Biodiversity Targets of the Strategic Plan for Biodiversity 2011–2020, is to be reviewed in 2015. This review is to consider whether elements of the strategy should be amended. It is also intended to assess the Commonwealth's progress in implementing the strategy, including against national targets. The department is currently developing a plan for the review, with mechanisms for state and territory engagement and broader consultation to be considered.

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In your letter you have also outlined concerns relating to the Commonwealth's proposal to devolve the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) powers and responsibilities to the states and territories, in particular that this action is likely to damage Australia's iconic wildlife and environments. It is important to initially note that the decision to devolve EPBC Act powers to the states and territories is a policy decision of government. Nevertheless, Environment has advised that, notwithstanding the devolution of powers and responsibilities to the states and territories, the Commonwealth remains accountable for meeting its international obligations. The assurance framework established by the Commonwealth to cover delegated EPBC Act powers and responsibilities is designed to underpin relevant compliance obligations. In particular, the department advised that state processes will only be accredited under the EPBC Act where they meet established standards, which are designed to reflect legislative requirements and international obligations.

In relation to your comments on the Regional Forests Agreements regime, the department emphasised to the ANAO that these agreements were established prior to the enactment of the EPBC Act. It was the department's view that, since these agreements were established, there have been a number of developments that have influenced the design of proposed regimes involving the devolution of powers and responsibilities. The department informed the ANAO that important lessons from the Regional Forests Agreements regime, including those identified by the Hawke Review, have been incorporated into the arrangements governing the devolution of powers and responsibilities under the EPBC Act. In particular, the department advised that enhancements have been made to: the articulation of relevant environmental standards; monitoring review and continuous improvement arrangements; dispute resolution processes; and data sharing strategies.

For your information, we are currently undertaking several important audits focusing on environmental matters, including an audit of the administration of the Biodiversity Fund and an audit of the Great Barrier Reef Marine Park Authority's regulation of permits and approvals. These audits are in addition to recently completed environmental audits that have included the management of compliance under the EPBC Act and the management of environmental water holdings. Our 2014 Audit Work Program also includes additional potential audit topics related to the environment, including the Reef Rescue Initiative and the implementation of new government policy initiatives, such as the Green Army.

We will continue to monitor developments in relation to the delivery of environmental programs and initiatives to inform our future program of audit coverage, which is necessarily constrained by available resources.

Yours sincerely

Ian McPhee
Auditor-General