



Compliance Audits completed during 2008

Summary of Findings

This document is a summary of findings for compliance audits completed during 2008 by the EPBC Act compliance auditing programme.

The projects audited were

- Lyons Residential Sub-Division Development
- Mt Buller Summit Nature Walk
- Coral Sea Pearls – Great Sandy Straits Oyster Aquaculture Facility
- Donnybrook Sand Extraction Operation
- Oyster Cove Residential Development
- Collection of Vertebrate Fossil Bearing Limestone in Riversleigh World Heritage Area
- Tungamah Pipeline Project
- Tasmania Natural Gas Pipeline (Stage 2)
- Cooloola Cove Development – Stage 4
- Mawson's Huts 2006 Conservation Works Program
- Cloudbreak Iron Ore Mine
- Defence Headquarters Joint Operations Command (HQJOC) Project

EPBC 2005/2108 Lyons Residential Sub-Division Development

In April 2005, Canberra Investment Corporation (CIC) and Defence Housing Authority (DHA) submitted a referral to develop land for residential purposes on Lot 9793 (formerly known as Lots 9774 and 9779), Lee Point, Lyons, Northern Territory. The referral was submitted as a Controlled Action and was assessed and approved with conditions on 13 March 2006. There were eight Conditions of Approval, including the implementation of a Construction Environmental Management Plan and the development of measures to ensure the long-term environmental management of the Sandy Creek Conservation Park and neighbourhood parklands to the north.

A compliance audit was undertaken on 20 and 21 February 2008. The audit generally found a high level of compliance with the Conditions of Approval and the associated Construction Environmental Management Plan. However, some non compliances and non conformances of an administrative nature were observed.

Of the eight Conditions of Approval, two conditions relating to the submission of an annual compliance certificate and evidence of long-term environmental management of the Sandy Creek Conservation Park were found to be non-compliant. The proponent has since provided the department with the outstanding certificate and evidence of long-term environmental management. Additionally, a non-conformance was found for an element of the Construction Environmental Management Plan, whereby the auditee made a commitment to submit Contractor Environmental Management Plans to the department, but only submitted two out



of four. Both outstanding reports have since been submitted to the department and no further compliance action is necessary.

EPBC 2003/1254 - Mt Buller Summit Nature Walk

An audit of the Mt Buller Summit Nature Walk Extension was conducted by the department on 5 – 6 March 2008. On 2 December 2003, the department determined that the referred action was not a Controlled Action, provided it was undertaken in the manner specified in the decision notification. There were five components to the Particular Manner decision.

The Mt Buller Alpine Resort Management Board (RMB) generally demonstrated compliance with the Particular Manner components described in the decision notification, together with the referral and supporting documentation.

The RMB displayed full compliance with components relating to the design and installation of the boardwalk bisecting Mountain Pygmy-possum (*Burramys parvus*) habitat, monitoring of the walking track and immediate environs for litter, weeds and erosion, and conducting an annual spring clean-up.

The RMB was non compliant in the implementation of the requirement which provided for the monitoring of *Burramys parvus* numbers and habitat usage in the vicinity of the track. In view of the annual monitoring program which is funded by the RMB, and occurs in the broader region of Mt Buller, the impact of the non-compliance was considered not likely to be significant and no further action is required.

EPBC 2003/1106 Coral Sea Pearls – Great Sandy Straits Oyster Aquaculture Facility

In June 2003, Coral Sea Pearls Pty Limited submitted a referral to develop and operate an aquaculture facility, culturing pearl oyster species, at four sites approximately 2 nm east of Big Woody Island and 1 nm north of Little Woody Island, Great Sandy Strait, Hervey Bay, Queensland. The referral was approved with conditions on 3 May 2005. There were fourteen Conditions of Approval, including the development and implementation of an Entanglement Protocol and a Pest and Disease Outbreak Plan.

A compliance audit was undertaken on 6 May 2008. The audit generally found a good level of compliance with the Conditions of Approval; however, some non-compliances were observed.

Of the fourteen Conditions of Approval, two conditions relating to an outstanding annual compliance certificate for 2006 – 2007, and the commitment to inspect longlines, anchor ropes, and mooring lines on a daily basis were found to be non-compliant. The outstanding compliance certificate has since been submitted and the commitment for daily inspections is being addressed by the proponent to the satisfaction of the department.



EPBC 2001/329 - Donnybrook Sand Extraction Operation

A compliance audit of the Donnybrook Sand Extraction Operation was conducted by the department on 7 – 8 May 2008. The project involves the extraction, processing, stockpiling and cartage of construction sand, gravel and loam from lot 3/RP851893, Donnybrook, Queensland. The project was approved with 16 conditions on 28 February 2005.

Overall, the auditors found that CEMEX Australia Pty Ltd demonstrated a high level of compliance with the Conditions of Approval.

The audit found one non-compliance for a condition which required the approval of the Environmental Management Plan by the department before works could commence. This matter had been previously investigated by the department's Compliance area and CEMEX Australia Pty Ltd has addressed the non-compliance to the satisfaction of the department.

EPBC 2004/1863 - Oyster Cove Residential Development

In October 2004 a referral was submitted for the construction of a residential complex, navigation access to extend access into and out of Lake Serenity with accompanying tidal lock structure, weir and floodway, and the creation of an environmental reserve. On 14 December 2004, the department determined that the referred action was not a Controlled Action, provided it was undertaken in the manner specified in the decision notification. There are two components to the Particular Manner notification: the establishment of a 26.9 hectare conservation reserve on site and the maintenance of a buffer zone between the project site and the adjoining wetland.

A compliance audit of the Oyster Cove Residential Development was conducted on 17 June 2008. The auditors found that compliance could not yet be determined for the project because of the timing required for the implementation of the components. Determination of compliance would only be possible in the longer term.

The auditors noted that Oyster Cove International Pty Ltd have established mechanisms to achieve future implementation of the Particular Manner components.

EPBC 2007/3408 - Collection of Vertebrate Fossil Bearing Limestone in Riversleigh World Heritage Area

A compliance audit of the collection of fossil bearing limestone in the Riversleigh World Heritage Area, Queensland, was conducted by the department on 29 April 2008. The action was determined to be not a Controlled Action, provided it was taken in accordance with the nine Particular Manner requirements described in the decision notification on 15 May 2007. Collection of fossil bearing limestone was carried out by Professor Michael Archer, Dean of the Faculty of Science at the University of New South Wales from 22-29 July 2007.



Of the nine Particular Manner requirements, three were deemed to be non-compliant, one was undetermined at the time of audit, and two were not applicable.

The three non-compliances related to the submission of information specific to the collection of fossil bearing limestone, and reporting on the implementation of all requirements. The non-compliances were due to unforeseen, severe wet weather, and are being resolved to the satisfaction of the department.

EPBC 2005/2114 - Tungamah Pipeline Project

A compliance audit of the Tungamah Pipeline project was conducted by the Department on 1 July 2008. On 4 May 2005 Goulburn-Murray Water submitted a referral to provide pipelining to the Tungamah Water District in Northern Victoria for the supply of domestic and stock water to rural customers. The referral was assessed as a Controlled Action on 1 June 2005. Goulburn-Murray Water then formally requested a reconsideration of the decision on 6 October 2005 by virtue of submitting additional information. The Department reconsidered the decision and deemed the project to be a Not Controlled Action – Particular Manner on 18 November 2005.

The Particular Manner Schedule addressed monitoring, response actions and follow-up actions in the event of dissolved oxygen levels being measured at or below 4mgL^{-1} , at two key monitoring points. Additionally, the Schedule required monitoring, response actions and follow-up actions to be undertaken as per the *Tungamah Water District Upper Broken Creek Water Quality Response Plan* (G-MW, 6 October 2005).

The audit revealed four non-compliances, which were determined to be of technical nature. In order to achieve compliance, the Department has recommended that Goulburn-Murray Water formally requests a reconsideration of the Particular Manner Schedule, under Section 78 (1) (b) under the *Environment Protection and Biodiversity Conservation Act 1999*.

EPBC 2001/211 - Tasmania Natural Gas Pipeline (Stage 2)

A compliance audit of the Tasmania Natural Gas Pipeline (Stage 2) was conducted by the department on 10 – 11 July 2008. On 1 November 2001, an approval comprising ten conditions for the construction and operation of an onshore natural gas pipeline in north-west Tasmania was granted to Duke Energy International (Tasmania Holdings) Pty Ltd. Subsequent to the initial approval, two variations were made on 13 and 20 November 2002.

BBI TGP Pty Ltd is now the operator of the pipeline and is responsible for complying with the approval conditions associated with the Tasmania Natural Gas Pipeline (Stage 2).

Overall, the auditors found that BBI TGP Pty Ltd demonstrated a high level of compliance with the conditions of approval.



EPBC 2004/1709 – Cooloola Cove Development – Stage 4

A compliance audit of Stage 4 of a residential development at Cooloola Cove, Queensland, was conducted by the department on 23 and 24 July 2008.

There are seven conditions attached to the approval and Pradella Developments Pty Ltd demonstrated compliance with three of the conditions relating to the implementation of commitments made in a Conservation Area Management Plan and a Threatened Species Management Plan and the production of an education kit. Two conditions relating to an independent audit and substantial commencement of construction were not applicable at the time of audit.

Two non-compliances were found relating to the implementation of commitments made in a Stormwater Management Plan and the provision of written advice by 30 June each year that the action has complied with the conditions of approval. The non-compliances have been addressed to the satisfaction of the department.

EPBC 2006/3024 - Mawson's Huts 2006 Conservation Works Program

A compliance audit of the Mawson's Huts 2006 Conservation Works Program was conducted by the Department on 17 October 2008.

There are six requirements attached to the Schedule and the Australian Antarctic Division demonstrated compliance with four of the requirements relating to the overcladding works and precautionary measures, ice removal procedures and reporting.

One non-compliance was found. This related to the requirement for an assessment to be undertaken and contact to be made with the Heritage Architect in relation to the risk of snow/melt-water restricting the opening and closing of the doors in the workshop entrance, prior to carrying out any tasks. The Department is satisfied that no further action is required in relation to this non-compliance as no work was undertaken and in this instance there was no risk to the matters protected.

One requirement relating to the excavation of ice below 600mm was found to be not applicable at the time of the audit as no ice was removed from the area.

EPBC 2005/2205 – Cloudbreak Iron Ore Mine, Pilbara Region, WA

A compliance audit of the Cloudbreak Iron Ore Mine (Fortescue Metals Group Limited) in the Pilbara Region of Western Australia was conducted by the Department on 16 – 18 December 2008.

There are ten conditions attached to the approval decision. Fortescue Metals Group Limited demonstrated full compliance with six of the conditions relating to the preparation and



implementation of a Night Parrot Management Plan, Night Parrot Survey Plan, Bilby Management Plan, Fortescue Marshes Management Plan and a Fauna Management Plan.

All other conditions were rated as “not applicable” at the time of the audit.

EPBC 2002/599 – Defence Headquarters Joint Operations Command (HQJOC) Project

A compliance audit of the Department of Defence Headquarters Joint Operations Command (HQJOC) Project was conducted by the department from 30 October to 12 December 2008.

There are 8 conditions attached to the approval and the Department of Defence:

- demonstrated compliance with condition 5 relating to the submission of the revised Construction Environmental Management Plan (CEMP).
- was found to be non-compliant in relation to condition 7, relating to the lodgement of annual compliance certificates; and
- was found to be non-conformant with elements of Sub Plan A and B of the CEMP required under condition 1, relating to the commitment to landscape using endemic species sourced from local seed provenance, and the avoidance of impact to the Woolshed and Cottage Complex.

Conditions 2, 3 and 4 relating to the Operational Environmental Management Plan (OEMP) and the Kings Highway Traffic Management Strategy were not applicable at the time of audit as the project had not progressed to a point where compliance could be measured. Conditions 6 and 8 relating to requests for revisions to plans or strategies made by the Minister, and substantial commencement of construction were also not applicable at the time of audit as no revisions have been requested and construction of the facility has been substantially completed.

The non-compliant findings will be addressed in accordance with the Department’s Compliance and Enforcement policy, and in a follow-up audit of the OEMP and the Kings Highway Management Strategy.