

APPENDIX A

Submissions and comments

We have consulted with DELWP and we considered its views when reaching our audit conclusions. As required by the *Audit Act 1994*, we gave a draft copy of this report, or relevant extracts, to this agency and asked for its submissions and comments.

Responsibility for the accuracy, fairness and balance of those comments rests solely with the agency head.

Responses were received as follows:

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Department of Environment,
Land, Water and Planning

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Mr Andrew Greaves
Auditor-General
Victorian Auditor-General's Office
Level 31, 35 Collins Street
MELBOURNE VIC 3000

Ref: SBR012985



Dear Mr Greaves

REGULATING VICTORIA'S NATIVE FORESTS - PROPOSED REPORT

Thank you for your letter of 30 August 2022 providing the Department of Environment, Land, Water and Planning (DELWP) with an opportunity to comment on the proposed performance audit report – Regulating Victoria's Native Forests, and for the revised audit report provided to DELWP on 26 September 2022.

Please find attached DELWP's response to the recommendations in the report and the actions the department proposes to take, including expected completion dates to address these.

As you are aware, I commissioned the *Independent Review of Timber Harvesting Regulation* in 2018 to enable DELWP to more effectively regulate timber harvesting. In 2019, DELWP established the Conservation Regulator to oversee public land, wildlife and timber harvesting regulation and implement the recommendations of the Independent Review.

Since that time, the Conservation Regulator has made significant progress in strengthening timber harvesting regulation. Important improvements made by the Conservation Regulator include:

- proactively assessing industry compliance through the new proactive Coupe Inspection Program
- strengthened ability to draw on all available intelligence to identify non-compliance risks and trends within the industry, to set priorities for compliance evaluation by the Regulator
- greater data, information and performance metrics for the community and industry through:
 - the *Regulating timber harvesting in State forests under the Allocation Order* Statement of Regulatory Intent
 - annual reporting in the Conservation Regulator's *Year in Review* publication
 - improved information on the Conservation Regulator's website (www.conservationregulator.vic.gov.au)
 - the Forest Information Portal which provides a powerful new online interactive tool to present data including Forest Protection Survey Program findings, outcomes of threatened species reports and Forest Report investigation outcomes.
- improved internal policies, standard operating procedures, guidance and templates for regulatory operations
- improved access and use of technology including for intelligence gathering, case management and in-field assessments
- strong investment in building the capacity and capability of regulatory staff (including authorised officers)
- greater engagement with community stakeholders and with the timber harvesting industry to raise awareness of the laws that apply and how to report suspected non-compliances to the Conservation Regulator

Any personal information about you or a third party in your correspondence will be protected under the provisions of the *Privacy and Data Protection Act 2014*. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorized by law. Enquiries about access to information about you held by the Department should be directed to foi.unit@delwp.vic.gov.au or FOI Unit, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002.



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It is pleasing to see VAGO has recognised the progress that has been made since the *Independent Review of Timber Harvesting Regulation* in this audit. I note and appreciate VAGO's recognition of the need to continue to build on these new foundations.

In conducting this audit, VAGO has focused particularly on the way the Conservation Regulator assesses allegations of non-compliance by the timber harvesting industry made by the members of the community. These "Forest Reports" are an incredibly valuable source of intelligence for the Conservation Regulator, and each report is diligently assessed. The Conservation Regulator has also made significant improvements in the information available to support community members to understand what the law requires of the timber harvesting industry, and to assist community members to contribute to the effective oversight of the industry by submitting a Forest Report allegation.

While diligently assessing Forests Reports is an essential part of the Conservation Regulator's work to assess the industry's compliance with the law, it is just one limb of the Conservation Regulator's integrated work program to evaluate compliance with the law. DELWP also implements the proactive Coupe Inspection Program and the Forest Audit Program that take a risk-based approach to evaluating industry compliance. These programs offer different approaches to compliance assessment that are important complements to the assessment of Forest Reports received from the community. The Conservation Regulator has a robust understanding of non-compliance history through combining the intelligence from these programs of work, allowing it to continuously improve the focus of its regulatory effort on the areas of highest risk.

The Conservation Regulator is focused on continuous improvement and is delivering that improvement through a well-planned and prioritised work program that invests in improving regulatory practice and robust business systems, policies and procedures. The work program to achieve these improvements includes:

- investing in a new regulatory Case Management System. The tender for the new Case Management System is now finalised and the work to deliver a new system that will support further improvements in regulatory case management is commencing.
- a focus on actively implementing and progressively enhancing the new Regulatory Intelligence technology system ("Gumnut"), delivering a modern technology solution that supports the Conservation Regulator's intelligence-led regulatory approach.
- ensuring that the new Intelligence and Case Management systems are effectively integrated, and that they further enhance the Regulator's work to track compliance history and the outcomes achieved by previous regulatory actions.
- implementing an internal assurance program that assesses compliance with regulatory policies and procedures.
- continuing to build our regulatory capability program to further enhance the specialist regulatory skills of Conservation Regulator's staff.

DELWP is well placed to respond to the recommendations. DELWP has either accepted or accepted in principle each of the recommendations made in the report. Detailed responses are set out in the attached "DELWP Management Action Plan". Moreover, the recommendations in the report, and the associated actions set out in this letter are consistent with the Conservation Regulator's existing work program and its continued implementation of its published policies and regulatory best practice.

If you would like more information about this matter, please contact Ms Kate Gavens, Chief Conservation Regulator, DELWP on email kate.gavens@delwp.vic.gov.au.

Thank you again for your audit report.

Yours sincerely

A black rectangular box redacting the signature of John Bradley.

John Bradley
Secretary

28/09/2022

Encl.

Regulating Victoria's Native Forests performance audit

DELWP's Management Action Plan

Recommendations	Agreed Action	Completion Date
Recommendation 1 Finalise its tender for a permanent case management system and plan for implementing it, with a view to integrating it with the intelligence database (see Section 2.1)	Accepted The Conservation Regulator is finalising its tender for a new case management system, which will be delivered in 2023/24. This system will appropriately link to the Conservation Regulator's intelligence database (Gumnut).	30 / 10 / 2022
Recommendation 2 Develop a case for procuring current, higher-resolution satellite imagery that includes a cost-benefit analysis of purchasing this intelligence (see Section 2.1).	Accepted The Conservation Regulator will procure high resolution satellite imagery.	30 / 06 / 2023
Recommendation 3 Develop guidance for assessing forest reports where there are allegations of widespread or systemic non-compliances so that its assessments are intelligence led and proportionate to the alleged non-compliance (see Section 3.1)	Accepted The Conservation Regulator will augment existing internal guidance to assist officers in assessing forest reports alleging widespread and/or systemic non-compliance so that the regulatory response is appropriately risk-based.	31 / 12 / 2022
Recommendation 4 Review its forest report assessment and investigations procedure to include a consistent process for: <ul style="list-style-type: none"> requesting information to further a complaint assessment or investigation, including how, when and why to request additional information and time frames to guide responses how to calculate the statute of limitations period communicating the rationale for outcomes, including policies used, in correspondence to complainants (see Section 3.1). 	Accepted The Conservation Regulator will augment existing internal guidance to: <ul style="list-style-type: none"> i) formalise processes for requesting additional information from complainants. ii) affirm the process to calculate statute of limitations when assessing complaints. iii) improve the communication of case outcomes by consistently conveying the rationale for regulatory decisions. 	31 / 12 / 2022



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Regulating Victoria's Native Forests performance audit

Recommendations	Agreed Action	Completion Date
Recommendation 5 Revise its Review of Outcome policy and address the identified weaknesses: <ul style="list-style-type: none"> • update complainants at the acknowledgement and review stage • stipulate time frames for acknowledging a complaint or for completing a review • provide a rationale for endorsing each case decision • document the rationale for a review's outcome, for transparency and to show the judgement or evidence behind a decision (see Section 3.1) 	Accepted The Conservation Regulator will revise its Review of Outcome policy to incorporate guidance around: <ul style="list-style-type: none"> i) updating complainants at key review stages. ii) setting time frames for acknowledging receipt of a complaint and completing a review. iii) ensuring that, as part of case decision reviews, the rationale for the review decision is documented. 	31 / 10 / 2022
Recommendation 6 Develop guidance for stakeholders and the public that includes general information about the statute of limitations and how this affects OCR's ability to consider complaints and commence investigations and prosecutions (see Section 3.1).	Accepted The Conservation Regulator will publish on its website an explanation of the statute of limitations as it operates in timber harvesting regulation.	30 / 03 / 2023
Recommendation 7 Review timber harvesting non-compliances and assess these for development of guidelines for how its stakeholders should interpret the Code of Practice for Timber Production 2014 (as amended 2022) and the Code of Practice for Timber Production 2014 (as amended 2022) Schedule 1: Management Standards and Procedures for timber harvesting operations in Victoria's State forests (see Section 3.2).	Accepted The Conservation Regulator will continue its practice of reviewing and assessing case outcomes for opportunities to improve regulatory guidance. This will be implemented annually. The Conservation Regulator will enhance its approach by: <ul style="list-style-type: none"> i) conducting an annual process to seek feedback on guidance needs, and ii) publishing guidance that has been developed to the Conservation Regulator's website. 	30 / 06 / 2023
Recommendation 8 Develop a procedure for using injunctions and finalise the proposed policy for issuing enforceable undertakings (see Section 3.2)	Accepted in Principle The Conservation Regulator will clarify its approach to the use of enforceable undertakings and injunctions.	30 / 04 / 2023

Regulating Victoria's Native Forests performance audit

Recommendations	Agreed Action	Completion Date
Recommendation 9 Finalise and implement its monitoring, evaluation and reporting framework, including: <ul style="list-style-type: none"> developing and implementing a timber harvesting compliance monitoring, evaluation and reporting plan introducing timber harvesting compliance outcomes and indicators to measure the effectiveness of its activities (see Section 4.1) 	Accepted in principle The Conservation Regulator's Monitoring, Evaluation and Reporting (MER) framework is currently being developed. As part of this work, reporting metrics for timber harvesting regulation will be developed. This work will then inform improved performance indicators in the Statement of Regulatory Intent for timber harvesting in State forests. In the design of new metrics, consideration will be given to the cost-effectiveness of reporting options so that reporting strikes a balance between data collection costs and the intent to produce meaningful measures.	31 / 03 / 2024
Recommendation 10 Review and revise its performance indicators in its Regulating timber harvesting in State forests under the Allocation Order – Statement of Regulatory Intent to include: <ul style="list-style-type: none"> cost, quality and efficiency measures to allow for a more comprehensive and transparent view of the Timber Harvesting Compliance Unit's performance in addressing non-compliance (see Section 4.1) 	Accepted in principle The Conservation Regulator's Monitoring, Evaluation and Reporting (MER) framework is currently being developed. As part of this work, reporting metrics for timber harvesting regulation will be developed. This work will then inform improved performance indicators in the Statement of Regulatory Intent for timber harvesting in State forests. In the design of new metrics, consideration will be given to the cost-effectiveness of reporting options so that reporting strikes a balance between data collection costs and the intent to produce meaningful measures.	31 / 03 / 2024