Department of Infrastructure and Transport
Airport Infrastructure Regulation Section

Airports Building Control and On-ground Environment Compliance Framework

Contents

GLOSSARY OF ABBREVIATIONS

AAT   Administrative Appeals Tribunal

ABC   Airport Building Controller

AEO   Airport Environment Officer

AIRS   Airport Infrastructure Regulation Section

ALC   Airport-Lessee Company

CMP   Compliance Management Process

DoIT   Department of Infrastructure and Transport

MDP   Major Development Plan

GLOSSARY OF KEY TERMS

See also the Compliance Management Toolkit descriptors on page 17.

Compliance Officer	An officer authorised under legislation to monitor compliance – either an Airport Building Controller or Airport Environment Officer
Regulatory Regime	Airports Act 1996
	Airports (Building Control) Regulations 1996
	Airports (Environment Protection) Regulation 1997
Stakeholders	Department including AIRS, AEOs, ALCs, Sublessees and Sub Contractors, ABCs

VERSION CONTROL

Version	Date	Description
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Introduction

This Compliance Framework documents the way in which the Department administers compliance of the building control and on-ground environmental management regulatory regime at leased federal airports.

The Compliance Framework is supported by detailed operational guidelines that provide further direction on the application of the regulations.

What's in the Compliance Framework?

The process of managing compliance begins with understanding obligations. These are documented in the regulations, and in this Framework, the specific obligations of Airport-Lessee Companies' are detailed in Obligation Assessments (attached with this Framework document).

The Obligations Assessment provides a consequence rating for each obligation which provides those applying the Framework with clear guidance as to the thresholds for escalation and action.

Having established the obligations, the Framework then provides a series of process maps which specify the actions required to deliver on key responsibilities of Airport Building Controllers (Approval Process for Building Permits, Works Permits and Demolition Authorisations) and Airport Environment Officers on-ground environment management issues.

These specific processes are complemented by process maps that detail the process for managing non-compliance which can be applied to any matter of non-compliance.

While compliance is the central theme of the Framework, the Department recognises that managing risks before they become infringements is a more effective and efficient use of resources. A practical Risk Assessment Framework has been developed to support those applying the Framework to identify, assess and action risks, supported by a standard Risk Register.

These enabling tools and supporting Risk Assessment Framework are only effective when actioned by people who are empowered and authorised to apply them.

For this reason, the Roles and Responsibilities section of this Framework is critical in defining the people who administer the regulatory regime and in documenting their responsibilities.

Finally, the application of the Framework must occur within an authorised and accountable governance environment. The Governance Framework described here outlines the key mechanisms to enable decision making that is authorised and accountable in particular through governance forums and reporting arrangements.

Figure 1: What's in the Framework?

Background

Department of Infrastructure and Transport – Airports Branch

The Department of Infrastructure and Transport (the Department) advises the Government on the policy and regulatory framework for Australian airports and the aviation industry, manages the administration of the Government's interests in privatised airports under the *Airports Act 1996*, and provides policy advice to the Minister on the efficient management of Australian airspace and on aircraft noise and emissions.

The Airport Infrastructure Regulation Section (the Section) within the Department is responsible for the oversight of Airport-Lessee Companies' (ALC) compliance with regulation. Specifically, the *Airports (Building Control) Regulations 1996* and the *Airports (Environment Protection) Regulations 1997*. The Section manages ALC compliance through outposted compliance officers and has sought to maximise the efficiency and transparency of their compliance management through a combination of contracted staff and departmental employees.

This strategy is based on the expectation that the Department will continue to drive consistent, effective and comprehensive compliance with the regulatory regime and become a recognised leader in developing and administering appropriate regulatory frameworks that maximise the public value, safety and amenity.

Building Control

Building and construction activities at leased federal airports must be approved by the Airport Building Controller (ABC). The ABC is appointed under Commonwealth law to administer the airport building control regime. The ALC must also approve the activity.

On-Ground Environment Management

The Commonwealth has an integrated regime to protect the environment at leased federal airports. ALCs are required to implement their Airport Environment Strategy and comply with relevant legislation. While the ALC has the predominant responsibility for protecting the environment, everyone operating or working at an airport has environmental obligations. The Department oversees this through the appointment of an Airport Environment Officer (AEO) for each leased federal airport.

Risk-Based Compliance

The decision to implement a risk-based compliance framework has been driven by a desire to ensure that the regulatory framework allows technical experts to make the necessary professional judgements regarding compliance with the regulations. A risk-based approach also provides guidance on the level of risk posed to the Commonwealth, as well as tools and templates to ensure the Department remains informed of matters of high risk to the Commonwealth.

A risk-based approach focuses on identifying and assessing risk based on objective and agreed criteria which allows for the prioritisation of activity and effort to the highest risk matters.

Such an approach also reflects the nature of the existing airports infrastructure regulatory environment which shares responsibility for managing compliance between the Department, AEOs, ABCs, ALCs and other stakeholders.

Compliance management is the responsibility of the Department working in conjunction with ABCs and AEOs deployed at airport sites. Compliance officers ensure that ALCs and other operators comply with the requirements they have accepted as a condition of leasing, or operating within the airport.

The Airports On-ground Environment and Buildings Compliance Framework (Compliance Framework) reflects, to the greatest extent possible, the Department's risk framework and policies and draws upon relevant insights observed within other regulatory environments across the public and private sector.

Purpose, Objectives and Principles

The purpose of the Department's Compliance Framework is to facilitate risk-based compliance management of the ALCs and other airport operators in order to:

- support national consistency across building control and on-ground environment management;
- ensure greater compliance with regulation across all leased federal airports;
- provide tools and guidance to improve quality of information provided to the Department;
- identify roles and regulatory responsibility;
- promote evidence based judgement.

Principles

The Compliance Framework documents in one place the Department's expectations of its compliance officers and its approach to the effective, efficient and evidence based administration of the regulatory regime. The following principles are developed to inform the implementation of the Compliance Framework.

Where guidance is required in decision making in relation to compliance action these principles present a first point of reference to inform the decision making process.

The Compliance Principles are:

1. Objectives focused: Maintain focus on the Department's key objectives of improving regulatory compliance

2. Risk based: The Framework is designed and applied to allow for active prioritisation and a scaled approach to the delivery of compliance activities which allows time and resources to be directed to areas of greatest need

3. Considers cultures and behaviours: The Framework is actively supported by Departmental leadership and its design encourages behaviours consistent with compliance outcomes

4. Proportionate: Treatments proposed for non-compliance are relative to the risk associated with the compliance obligation. The time and resources applied to compliance activities should also be weighted to reflect the value and criticality of contract outcomes and value

5. Evidence based judgement: The Framework allows for the application of professional judgement supported by evidence which demonstrates why the action is appropriate.

Roles and Responsibilities

The roles and responsibilities of stakeholders are captured within various documents including legislation, regulations and operations manuals. AEO responsibilities are articulated in their employment agreements with the Department, the ABCs within their service agreements. The table below outlines the major functions of the Section as they relate to the administration of the regulatory regime.

Table One: Key Functions – Airport Infrastructure Regulation Section

Department of Infrastructure and Transport				
Airports Branch				
Airport Infrastructure Regulation Section				
Airport Building Control	Airport Environment Management	Finance	Policy	Admin/ HR
Appointment and authorisation of ABCs	Appointment and authorisation of AEOs	Procurement	Corporate Planning	Recruitment
Policy Advice	Policy Advice	Quarterly report/payment processing	Stakeholder Management	Performance Management
Stewardship of the ABC Manual	Stewardship of the AEO Manual	Monthly reconciliations	Policy development	Annual Reporting
Responses to ad hoc requests	Responses to ad hoc requests	Annual Reconciliations	Regulatory Review	Stakeholder Management
Audit function	Audit function	Budget development and reporting	Business Planning	
Stakeholder Management	Stakeholder Management			
Contract Management	AEO Network Management			

Airports Branch

The Airports Branch's primary responsibility is the regulation of 22 leased federal airports on Commonwealth land. The Branch administers the *Airports Act 1996*, its associated regulations and the airport head leases. The Branch provides ongoing assessment and oversight of major airport developments, including new regulatory areas such as sensitive developments, and developments likely to have a significant community impact and will continue to provide advice to the Minister on a broad range of regulatory oversight matters. The Branch maintains the currency and accuracy of airport, environment, building control and industry regulatory authorisations, appointments and other legal instruments and ensures automatic and effective review and update mechanisms are in place.

Airport Infrastructure Regulation Section

Within the Airports Branch, the Airport Infrastructure Regulation Section has primary responsibility for managing the airport environment and building control regulations as articulated in the *Airports*

(Environment Protection) Regulations 1997 and the *Airports (Building Control) Regulations 1996*. The Section supports the operations of the AEOs and ABCs.

The Section administers the Services Agreements with ABCs, including oversight of the reporting requirements, Service Agreement payments and ad hoc requests for advice. The Section is responsible for the review of the regulatory settings associated with on-ground environment management and building control at airport sites. The Section also provides advice to the Branch on airport planning and regulation.

Airport-Lessee Company

A Commonwealth-owned airport can only be leased to a company. The company is called an airport-lessee company. ALCs must comply with legislative requirements set out in the *Airports Act 1996*. Key legislative requirements are listed below.

- For each airport, there will be an Airport Master Plan inclusive of an environment strategy.
- Major Development Plans will be required for significant developments at airports.
- Building activities on airport sites will require approval.
- Buildings, structures and works on airport sites must be certified as complying with the regulations.
- The regulations may deal with environmental standards at airport sites.

Airport Building Controller

ABCs are appointed and authorised by the Department to implement Part 5 Division 5 of the *Airports Act 1996* and the *Airports (Building Control) Regulations 1996* across the 19 leased federal airports.

ABCs are responsible for a range of functions. Their primary responsibilities relate to:
- receiving and deciding upon applications for building, works and demolition permits;
- certifying compliance of buildings (occupancy) and works (use);
- overseeing and inspecting building activities;
- retaining a register of all applications for approvals and certification;
- levying, collecting and accounting for building application fees;
- considering and deciding upon appropriate courses of action at sites where a breach of the Act or Regulations is found or suspected;
- consulting with the Secretary and other stakeholders as necessary;
- reporting to the Department regarding workload.

ABCs are the Department's primary source of information about compliance with the building control regulatory regime. ABCs have the authority and the responsibility to make decisions regarding the compliance with regulations and standards and, where necessary, to take compliance action against parties found to be in breach of their obligations under the regulatory framework.

Airport Environment Officer

AEOs are Departmental employees appointed and authorised to oversight ALC compliance with Part 6 (Environmental management) and Section 83A of Part 5 of the *Airports Act 1996* and the *Airports (Environment Protection) Regulations 1997*.

In monitoring ALC compliance with its legislative responsibilities, the AEO may:

- consult with and assist the ALC to manage environmental issues at the airport in accordance with their Environment Strategy
- exercise appropriate monitoring powers as an authorised officer

- assess an application for an authorisation to exceed pollution limits and monitor performance of holders of an authorisation
- order remedial work to be carried out
- direct an operator of an undertaking by making an environment protection order.

AEOs are the Department's primary source of information about compliance with the environmental regulatory regime. AEOs have the authority and the responsibility to make decisions regarding compliance with regulations and standards and, where necessary, take compliance action against parties found to be in breach of their obligations under the regulatory framework.

The role of the AEO is to support the achievement of compliance with on-ground environmental standards at airports, not simply to identify and prosecute breaches. The intent is to promote awareness of environmental issues and to ensure that management systems are in place to deal with the pollution, noise and other environmental impacts that are produced by, and on, airports, with a view to reducing those environmental impacts and increasing public amenity over time. AEOs are also responsible for promoting continual improvement in on-ground environmental management.

Governance Framework

Governance is not simply a set of structures and processes – though these are important. The governance arrangements of an organisation are those fundamental features that allow it to perform effectively and ensure it conforms to relevant laws, codes and directions[1].

This section of the Compliance Framework documents the existing structures and processes that support the Department to achieve effective governance oversight on the airports regulatory regime.

The governance arrangements directly relevant to the Compliance Framework are:

- legislative environment;
- roles and responsibilities;
- compliance reporting; and
- governance forums.

Legislative Environment

The Compliance Framework is informed by a range of Commonwealth legislative requirements, particularly those governing actions on Commonwealth land.   This includes the financial management framework which underpins the appropriation, expenditure and use of money and resources within the Australian Government. The legislative environment, in turn, informs the daily work of the Section and Compliance Officers in administering the airports on-ground and environmental legislation and regulations.

Figure 2: Legislative Environment

Legislative Environment: The Constitution, Public Service Act, Auditor General Act, Crimes Act, Appropriations Acts, FOI Act

Financial Management & Accountability Act

Chief Executive Instructions

Departmental Operational Guidance

Airports (Building Control) Regulations 1996
Airports (Environment Protection) Regulations 1997

Airports Building Control and on-ground environment Compliance Framework

Roles and responsibilities

The section on roles and responsibilities (page 7), outlines the key responsibilities held by Departmental staff and others involved in administering the Compliance Framework.

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[1]NSW Auditor General, 2011, *Corporate Governance – Strategic Early Warning System*, Vol. II, page 12
http://www.audit.nsw.gov.au/ArticleDocuments/191/05_Vol_2_2011_Corp_Governance.pdf.aspx?Embed=Y

It is the application of these responsibilities in the achievement of the compliance objectives that is supported by the specific governance structures and arrangements detailed in this document.

Ultimately, it is the people who hold these responsibilities that will set direction, make decisions, maintain accountability, manage risk and monitor and influence behaviours and culture.

Compliance Reporting

In order to maintain accountability of the ALCs, the Department requires the submission of multiple reports. These reports are the prime mechanism for the Department to receive formal advice on the compliance of the ALCs and proponents, and for the ABCs, to enable payment of their contracts.

Table Two: Compliance Reporting

Reports	From	To	Frequency	Purpose
Airport Masterplan (inclusive of an Environment Strategy)	ALC	Minister	5 year cycle	Outline proposed development activity and environmental management commitments
Airport Environment Report	ALC	DoIT	Annually	Demonstrate performance against environment strategy commitments
Airport Major Development Plan	ALC	Minister	As required	To seek approval for a major development
Quarterly Reports	ABC	DoIT	Quarterly	Means for ABC to meet their Service Agreement reporting requirements and to enable payment.
Activity report	AEO	DoIT	Fortnightly	Overview of emerging risks and issues and key meetings attended
Annual Environment Report assessment	AEO	DoIT	Annually	Assess ALC's compliance with Environment Strategy
Incident reports	AEO	DoIT	As required	To report upon matters of non compliance with regulations

Governance Forums

Effective governance forums ensure that people can be held accountable for their decisions and actions.

Governance forums also support the delegation of matters to appropriate levels for decision. This allows an organisation to retain a clear strategic approach to the achievement of their objectives and assists all members of the organisation to understand their roles and level of authority. The obligations assessment is designed to make it clear when decisions can be made locally and under what circumstances escalation might be required.

Governance forums are a formal environment for the Department to support risk-based compliance decision making and delegation. These forums also provide an opportunity for compliance officers to be informed about new policy or protocols, share information, record risks and issues and discuss responses to matters of non-compliance.

Key forums are documented below.

Table Three: Governance Forums

| Forum	Attendees	Frequency	Purpose
Branch and Section Heads Forum	General Manager Branch Heads Sections Heads	Monthly	Cross Divisional information sharing and alignment.
AEO Teleconference	Section AEOs	Monthly	To provide section/branch updates, report on key issues and discuss emerging on-ground environmental issues.
ABC Teleconference	Section ABCs	Quarterly	To provide section/branch updates, report on key issues and discuss emerging on-ground building control issues.
Annual AEO/ABC Conference	Section AEOs ABCs	Annually	Professional learning, develop a shared understanding of business practices and networking opportunities.
Ad Hoc Requests/ communication	AEOs & ABCs to Section	As needed	To receive policy/legal advice from the Section and information sharing.

The inter-relationship between governance forums is shown below.
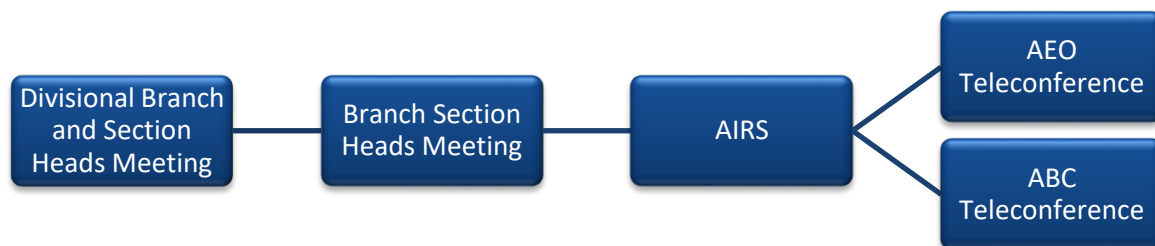
Risk Assessment Framework

This risk assessment framework draws upon the Department's risk management guidelines and policies. The process outlined below can be applied in all circumstances. The process can be applied by both compliance officers and other staff. The evidentiary standards required to justify actions are variable depending upon the severity and scale of the action (AEO and ABC operations manuals contain further information).

Figure 3: Risk Assessment Framework
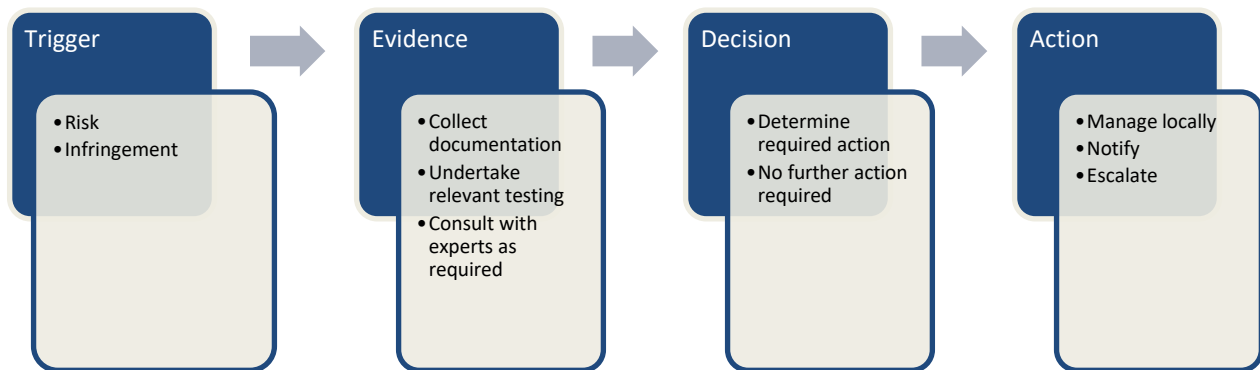
Triggers

During the monitoring of an airport site, risks and issues will arise that create uncertainty, cause concern or raise questions for a compliance officer. These are a 'trigger' for further action. Specifically the trigger may be defined as either a risk to compliance with, or an infringement of, the regulations. Once a trigger has been identified, the compliance officer should gather evidence in accordance with their regulatory powers and responsibilities.

Supporting material: *Obligations Assessment*

Evidence

The purpose of gathering evidence is to initially determine if the matter is a risk or infringement. Once that has been determined, compliance officers should establish which section of the regulations are at risk of being contravened or have been contravened. Given the technical nature of much of the regulatory regime, compliance officers may deem it appropriate, or may be required to consult with relevant experts.

Decision

Once a compliance officer has established an evidence base for further action, the matter may need to be escalated to the Department for decision. The risk management matrix will determine the minimum required next steps.

In the event that there is insufficient evidence of a risk or an infringement, compliance officers may determine that no further action is required.

Supporting material: *Non-compliance Management Process Map*

Risks and Infringement – Risk-based escalation

A risk-based escalation process supports the Department to more effectively manage compliance of ALCs and other proponents with regulation by assisting them to prioritise and direct resources to matters of greatest need.

Matters that have not materialised, but have the potential to lead to a future breach of regulations or matters related to the operation of an airport that may cause issues for the Commonwealth in the future, should be monitored by the ABCs and AEOs and escalated for advice and support as appropriate.

Compliance officers must keep a record of emerging risks and the strategies in place to manage these risks. While the responsibilities to remediate any breaches and proactively treat emerging issues rests with the ALC and other proponents, compliance officers have a responsibility to document emerging issues and their proposed strategies for dealing with risks. Compliance officers also have a responsibility to escalate matters of high risk to the Commonwealth for advice to ensure decisions involving matters of high risk are made at an appropriate level.

Supporting material: *Non-compliance Management Process Map; Risk & Issue Register*

Obligations Assessment

The Obligations Assessment provides all stakeholders with an understanding as to the consequence to the Commonwealth in the event of a risk materialising. The Obligations Assessment is critical to keeping compliance officers informed of the Department's priorities and informing their decision to escalate matters as they arise. Further information on the Obligations Assessment can be found at the back of this framework.

Compliance Management - Risk

The Department's risk management matrix provides the foundation for the management of risks to compliance with the regulatory regime.

Figure 4: Risk Management Matrix

Rating	Consequences				
Likelihood	Insignificant	Minor	Moderate	Major	Extr
Almost Certain	11. Low	16. Medium	20. High	23. Severe	25. S
Likely	7. Low	12. Low	17. Medium	21. High	24. S
Possible	4. Low	8. Low	13. Medium	18. Medium	22.
Unlikely	2. Very low	5. Low	9. Low	14. Medium	19.
Rare	1. Very low	3. Very low	6. Low	10. Low	15. M

In the event of a **risk,** compliance officers should use the obligations assessment to determine the

consequence rating and then make a professional judgement as to the likelihood of the risk materialising. The Department provides the following guidance regarding the assessment of likelihood within its Risk Management Guidelines.

Table Four: Likelihood descriptors – Department of Infrastructure and Transport

Likelihood Rating	Description
Almost Certain	Event could occur multiple times within six months
Likely	Event could occur more than once a year
Possible	Event could occur during a 1-2 year period
Unlikely	Event could occur between 2-5 years
Rare	Event will only occur in exceptional circumstances

The corresponding risk rating provides compliance officers with the minimum required next steps regarding notifying the Department.

Table Five: Risk ratings and required actions – Department of Infrastructure and Transport

Risk Rating	Required Action
Very Low	Compliance officer to monitor locally
Low	Compliance officer to continue to manage locally, document in risk register and submit as per their regular reporting requirements
Medium	Compliance officer to notify the Airports Infrastructure Section, document in risk register and discuss progress at their next governance forum
High	Compliance officer to escalate the matter to the Airports Infrastructure Section and seek approval for their proposed strategy
Severe	Compliance officer to immediately escalate the matter to the attention of the Director, Airport Infrastructure Section

Non-Compliance Management

Non-Compliance Management – Infringement

In the event of an infringement, the obligations assessment provides compliance officers with the minimum next steps required of them based upon the consequence to the Commonwealth that the infringement represents.

Table Six: Consequence rating and responses - Department of Infrastructure and Transport

Consequence Rating	Response
Insignificant	Manage locally and formally advise the Department within next deliverable
Minor	Manage locally and advise the Department in writing
Moderate	Escalate for joint-decision making
Major	Escalate immediately and receive advice before proceeding
Extreme	Seek Departmental advice immediately

Non-Compliance Management - Response Options

Due to the difference in operational environments and legislation, there are a different range of response options available to AEOs and ABCs. Response options vary to reflect the different nature and magnitude of infringements against the regulations. Guidance upon the range of responses available to compliance officers is contained within the AEO and ABC operational manuals.

Non-Compliance Management – Response Selection

Every infringement against the regulations should have a formal and documented response applied to ensure the greatest possible level of compliance on leased federal airports. Compliance officers should refer to their operational manuals to obtain an understanding as to the criteria for determining the appropriateness of a response and how to implement it. A guide as to relevant considerations and an overview of the process is contained within the Compliance Management Process (CMP) Map within the Framework.

Monitor and Review

Once a response to an infringement has been implemented, compliance officers should continue to monitor the situation to ensure that the response is effective in bringing the ALC or proponent back in to compliance. In the event that the ALC or proponent continues to remain in a state of non-compliance, the compliance officer should review the effectiveness of their response and consider an alternate response.

Note: In addition to any review of compliance, under Part 9, Division 1 of the *Airports (Environment Protection) Regulations 1997*, any person affected by a decision by an AEO may make an application to the Secretary to have a decision of the AEO reviewed.

Administrative Appeals Tribunal

The ALCs and other proponents have the option to refer matters to the Administrative Appeals Tribunal (AAT) in the event that they consider a decision by compliance officers to be inconsistent with legislation. Accordingly, it is critical that compliance officers retain the appropriate documentation relating to their decision making and keep records regarding the submission of all relevant paperwork from ALCs and proponents when administering the regulations.

Compliance officers are required to consider the likelihood of a matter progressing to the AAT and are to ensure that any decision regarding compliance is assessed as to whether the decision would withstand independent legal scrutiny.

Compliance Management Toolkit

The compliance management toolkit is there to ensure that a full suite of tools and templates are available to AEOs and ABCs to assist them to understand their roles, ensure consistency of reporting and provide a basis for risk based escalation to the Section as required.

Tool 1: Annual Cycle Schedule

A document outlining the key tasks of AEOs and ABCs as they relate to a yearly cycle of work; the annual cycle provides a high level picture as to the time at which certain events occur and where ABCs and AEOs are required to make submission.

Tool 2: Process Map –Regulatory Regime

AEO

High level assessment of the major processes that ABCs undertake throughout a planning cycle, inspection regime and makes reference to other parties (e.g. local authorities/ AEO's) where their input is required.

ABC

High level assessment of the major processes that AEO's undertake throughout a planning cycle, inspection regime and details the areas of the regulations as they relate to specific types of pollution.

Tool 3: Process Map – Non-Compliance Management

AEO & ABC

Overview of the non-compliance management process to be undertaken to determine effective compliance response actions. The process involves indentifying a trigger, undertaking further discovery by collecting supporting evidence, making a decision and actioning a response.

Tool 4: Obligations Assessment – ABC

A comprehensive breakdown of the *Airports (Building Control) Regulations 1996* that indicates the Department's assessment of the consequence to the Commonwealth in the event of a breach of that regulation.

Tool 5: Obligations Assessment – AEO

A comprehensive breakdown of the *Airports (Environment Protection) Regulations 1997* that indicates the Department's assessment of the consequence to the Commonwealth in the event of a breach of that regulation.

Tool 6: Governance Forums

Guidance and template for existing governance forums to support the decision making process in relation to compliance with the regulatory regime.

Tool 7: Risk and Infringement Register – AEO

A document for AEOs to record any risks to the Commonwealth presented by activities relating to the environment occurring upon airports. The infringement register provides the AEO with a repository to register any non-compliance with the regulations and any actions taken to address this.

Tool 8: Risk and Infringement Register – ABC

 A document for the ABCs to record any risks to the Commonwealth presented by building activities occurring upon airports – this should be attached to their quarterly reports.