

DEFENCE SUBMISSION:**Inquiry into the operation of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act)****Introduction**

The Department of Defence is one of the largest public sector land owners in Australia, directly responsible for managing over 2.8 million hectares of land. Defence sites are located in all types of environments across the Australian landscape, and generally have high to very high ecological values. Defence land contributes significantly to the conservation of Australian ecosystems, particularly as refuges for plants and animals. These places include sites listed for environmental, cultural or heritage reasons including World Heritage areas and Ramsar listed wetlands. Some 865 protected species and/or communities are listed as known or likely to be present on Defence land¹.

Defence is also responsible for security and border protection over one of the largest maritime estates in the world and uses large areas of ocean and airspace to conduct essential training. Operating ships and aircraft in areas of high sensitivity poses its own special challenges.

With such a broad range of activities occurring over such large areas of Australia, Defence is possibly the key public sector stakeholder involved in ensuring the delivery of the Government's environmental and heritage protection agenda. Defence's environmental management programs have been designed to ensure Defence can simultaneously meet its obligations to comply with all relevant environmental legislation whilst still ensuring it sustains a world class Defence force capable of defending Australia and its national interests.

Since the EPBC Act came into force in 2000, Defence has implemented a risk-based environmental management system that is modeled on the international ISO 14001 quality assurance standard for Environmental Management Systems (EMS). Defence applies its EMS to all of the estate and all operations and activities wherever they occur. The EMS aims to address the need to balance priorities for environmental protection and ecologically sustainability with other Government priorities for security and the Defence mission.

Defence's environmental management program annually invests around \$30m (06/07) in a range of environmental protection measures, including nearly \$7m on environmental impact assessments and studies and \$2m on heritage management. In addition, day to day estate management (costing around \$300m in 06/07) includes a range of activities within which an environmental management component is embedded.

Defence has worked extensively with the EPBC Act since it commenced in 2000 to understand and implement approaches to managing environmental issues. Working with the operational aspects of the implementation of the EPBC Act has given Defence a strong understanding of the effect the Act can have on timelines, budgets and the delivery of outcomes that may have been directed by other processes for Government decision making. The Government has set aside areas of land, sea and airspace for Defence to use. Balancing its use for military training with the need to protect the environment remains a challenge for Defence because sometimes priorities need to be deconflicted. This is because the EPBC Act currently focuses on the identification and response to threats to individual MNES rather than ecosystems. This approach does not recognise the benefits to the environment that broader

¹ Defence database on Listed Species and Ecological Communities on the Defence Estate 2008

scale landscape management practices deliver such as protection of large areas of habitat in Defence's buffer zones around target areas.

Defence's overall view of the operation of the EPBC Act since 2000 is that the legislation has made an important contribution to improving environmental protection and understanding sustainable development objectives in Australia. In particular, it has improved public accountability and access to information about proposed development activities. The legislation has helped Defence understand its environmental responsibilities and develop and implement sound policies. Nevertheless, we believe there are some aspects of the efficiency and effectiveness of current processes within the legislation that deal with Commonwealth agencies, particularly those with mature environmental management practices, that should be amended.

In Defence's experience, the structure of the legislation is complicated for managers and environmental practitioners to understand – particularly the complex interrelationships and cross-referencing between the more than 500 sections of the Act. Feedback from professional environmental consultants employed by Defence also reflects this view.

Defence is particularly concerned about the inconsistent approach to seeking advice and regulating the activities of Commonwealth agencies that exist in the EPBC Act. For example the EPBC Act provides a separate process under s160 for addressing the Department of Transport's actions relating to management of airport land, however similar Defence actions involving its airbases may still be subject to the full assessment and approval process.

In its current operation, the EPBC Act does not adequately reflect the need for Defence to use its land for training, or the fact that the particular environmental values usually only exist on Defence land precisely because it has been used for sustainable military training over a long period of time. Defence considers the EPBC Act will work better if environmental policy makers ensure decisions regarding protection of environmental and heritage values on Defence land are practical and balance Defence needs.

As a Commonwealth Agency, Defence must apply the principles of sustainable environmental management as set out in the Commonwealth's EPBC Act. Defence has in place a sophisticated environmental management program and strategic environmental plan. The EPBC Act would be more effective in guiding and assisting Defence to continue delivery of sustainable environmental policies if the legislation encouraged greater partnership between DEWHA and Defence outside of a regulator/proponent framework. This model would improve administrative efficiencies and timely implementation of some Government decisions regarding Australia's national security.

TOR 1 – the Senate notes the continuing decline and extinction of a significant proportion of Australia's unique plants and animals, and the likelihood that accelerating climate change will exacerbate challenges faced by Australian species.

Defence agrees that the prospect of climate change is a key issue facing Australia. The very limited public access to Defence's extensive training areas, combined with sound environmental management of threats such as fire, feral animals and weeds, help ensure that animals and plants under stress from changing climate will have their best chance of adapting without being exposed to additional sources of environmental stress. Many Defence training

areas, such as Holsworthy south of Sydney, are already the last remaining haven for species and communities under threat from the effects of urban encroachment and other human activities. Parts of Defence training ranges are often in a pristine natural condition because the landscape values, including native habitat, are also valued for military training.

Accuracy of information on listings of threatened species, communities and heritage values

From a Defence perspective, one of the key issues regarding the operation of the EPBC Act affecting the protection of threatened species is the accuracy of information available to guide their management.

In 2006-07 the ANAO conducted audit report 31 of the "Conservation and Protection of National Threatened Species and Ecological Communities", which considered the proposed amendments to the EPBC Act in that year. There are some significant findings in the report which address the effectiveness of the operation of the EPBC Act.

The ANAO highlighted that the EPBC Act inherited the threatened and endangered species lists directly from the *Endangered Species Act 1992* and the Commonwealth Heritage List (CHL) from the Register of the National Estate with limited review or amendment to align with the new Act.

In its Audit Report 31, the ANAO found that the list of threatened species is not sufficiently up to date, with considerable risk that incorrect decisions will be made in relation to other parts of the Act because only partial or incorrect information is available.

Defence has had first hand experience of the delays that reliance on inaccurate information in data used to inform EPBC Act decisions can cause. In 2004, a Defence proposal to construct a parachute drop zone near Townsville was delayed after advice was received that the proposal might impact on a listed species called the squatter pigeon. Defence's own surveys submitted with the referral documentation flagged that the only species found in the region was a hybrid of the listed species and itself not considered to be endangered or threatened. Nevertheless the proposal was deemed to be a controlled action and subjected to further assessment in part on the basis of this wrong information.

Defence would support greater efforts to capture new information, particularly that submitted with project referrals and other environmental impact assessment documentation, on the databases used to track the distribution of listed species. An improved database would increase knowledge through access to information and improve the accuracy and timeliness of assessment decisions and advice. This is very important where the new information provides new insights and can assist in setting benchmarks or thresholds for decisions that may adversely impact on a species or vice versa.

TOR 2a – findings of the National Audit Office Audit 38 Referrals, Assessments and Approvals under the EPBC Act.

The Australian National Audit Office (ANAO) audit report 38 "Referrals, Assessments and Approvals Process under the EPBC Act" was undertaken some five years ago, only a few years into the EPBC Act's operation. Although the report is now dated in some parts, some of the key findings remain relevant to Defence's experience.

The effect of EPBC regulation on the responsibilities of Commonwealth Agencies

As currently enacted, the EPBC Act gives the Environment Minister effectively a unilateral power to overturn a decision already made by other government processes (such as a Cabinet decision). The Environment Minister may also impose controls on the way an action or activity is to be undertaken that might compromise the effective delivery of the particular outcome the Government may have been seeking. This power to direct other Government Ministers creates a tension that can potentially delay Defence's ability to implement a direction of the Government. While the environmental issues can often be resolved and effectively managed there remains some degree of uncertainty about potential exposure to legal challenge – particularly by third parties – where the full EPBC process has not run its course – even where impacts are likely to be insignificant. This raises concerns about the ability of agencies to meet critical timeframes. In Defence's case the risk is that the response to a threat may be delayed which might have security implications.

There are provisions in the EPBC Act that are intended specifically to regulate the activities of the Commonwealth. Some appear to operate in ways that are inconsistent with other provisions and thresholds for environment and heritage protection. Defence supports the need for a mechanism in the Act to demonstrate and audit the commitment of Commonwealth agencies to implement responsible and sustainable environmental management practices. But the ambiguity of different responsibilities and thresholds to be applied for environmental protection is confusing. There may be circumstances where the EPBC Act might restrict or stall certain benign Defence activities irrespective of the environmental risks, for example aspects of hydrographic surveys in Commonwealth Marine Reserves.

Subsection 362(2) of the Act states that, '*The Commonwealth or a Commonwealth Agency must not perform its functions or exercise its powers in relation to a Commonwealth reserve inconsistently with a management plan that is in operation for the reserve*'. In this case, a management plan could be prepared that restricts certain activities in a reserve without considering the impact of those restrictions on Defence or security requirements. It is possible that the restriction does not deliver any real improvements in environmental protection outcomes. Such plans might constrain low risk hydrographic surveys or even border protection operations undertaken at Ashmore Reef (which is a protected 'Commonwealth Reserve' under the EPBC Act). Defence has routinely made its position clear to environmental planners at both the Commonwealth and State level, asking that Management Plans for Commonwealth and other categories of marine reserves explicitly recognise that Defence and national security are legitimate uses of all zones, just like law enforcement. There has been a tendency for such plans to focus on the sector undertaking the activity and not the environmental risks of the activity itself. Most Defence survey, training and testing activities are very low risk. Management Plans that prohibit entry by Defence vessels or personnel (directly or indirectly – such as by banning weapons) have the potential to compromise critical border protection tasks that can have disastrous environmental outcomes, for example where quarantine restrictions are breached.

Defence is tasked by Government to deliver a large number of major acquisition and infrastructure projects each year. The EPBC Act requires that the Environment Minister revisit decisions already made by other Ministers in accordance with their portfolio responsibilities or indeed by Cabinet if that decision has, will have or is likely to have a significant impact. Subjecting such decisions to what is effectively retrospective environmental impact assessment and approval under the EPBC Act is costly, creates delays and adds little to the delivery of improved environmental management outcomes – particularly in Defence's case where robust environmental management systems already exist.

An example is the conduct of major joint military exercises such as the Talisman Saber series which is held every two years with the United States (US). These exercises are part of a program approved by the Australian and US Governments and are a critical part of the cooperative military alliance that Australia has with the US. In order to effectively benchmark the environmental management systems that apply to these exercises, Talisman Saber 05 was formally referred to the Environment Minister for consideration under the EPBC Act in 2004.

In June 2005 when the environmental assessment processes had run their course, the exercise was approved, but only hours before it was due to commence and at a point where it would have been impossible to 'turn off' given other Government commitments and expectations. In this case, the Government had already committed to the action. The EPBC procedural requirements meant there was still uncertainty over the timing of the approval and late notice about additional environmental mitigation required. This situation questions whether the formalities of the EPBC Act assessment process are the most effective way for the Government to assure the community that the environmental impacts of this Defence activity are being effectively managed.

Defence considers a better approach might be to shift the centre of gravity in the legislation pertaining to Commonwealth agencies away from a traditional regulation/enforcement model to one that delivers more proactive guidance and advice, including benchmarking and auditing environmental practice. Defence considers sharing this information within other government agencies managing similar issues would enhance environmental performance. This approach could help drive continuous improvement, minimise impacts and reduce the resources needed to address the strict regulation and compliance enforcement processes that currently exist in the Act.

Defence believes one approach might already exist through the use of the existing mechanisms within s160 of the EPBC Act. A regulation could be provided for in s160(2)(d) whereby Defence would seek advice from the Environment Minister and avoid the need to formally refer proposals for approval. This would encourage more balanced and closer engagement between agencies to develop whole-of-government solutions to address environmental issues.

Issues with Referrals, Assessment and Approvals

In its audit the ANAO recommended that DEWHA (then Environment Australia) encourage proponents to seek advice from the Department before lodging referrals and investigate measures by which this could be achieved. Defence agrees, and believes it is better to understand and mitigate environmental risks at the early stages of a project's development by working through issues on a whole-of-government basis rather than the current regulate/enforce model that applies to government proponents. The objective should be to agree on mitigation strategies that reduce impacts to well below those that might trigger the need for a referral under the Act.

The ANAO also highlighted lack of progress in regards to the application of the strategic assessment and approvals approach provided for in the Act. In Defence's view the strategic assessment process could be refined to make it more efficient, less expensive and provide more certainty of outcomes.

Defence undertakes a diverse range of activities and construction projects that often go beyond the spectrum of activities that might be undertaken in a civil, industrial or development context. Many activities are unique, with no civil parallels, and activities such as major joint military exercises, are undertaken in repetitive cycles at the same locations. Therefore the

activities, use of equipment and ordnance, range of impacts and the success of mitigation measures are well known and highly predictable.

Major joint military exercises have been undertaken in and around the Shoalwater Bay and the Coral Sea for many years without any lasting impacts on the environment. In fact, the ecological condition of Shoalwater Bay has actually improved during Defence's tenure of stewardship. Exercise environmental management is taken seriously and incorporates environmental outcomes into exercise planning and impact assessment with site level impact management undertaken at training areas. The conditions developed for the approval of Talisman Saber 05 were also implemented in the next exercise of the series (Talisman Saber 07). They are the benchmark against which impacts are considered. Yet, while TS07 was almost an identical series of activities in the same locations and therefore not likely to have any significant impacts, Defence was potentially exposed to the risk of an injunction under s475, as the project was not formally referred under the EPBC Act.

The way the EPBC Act operates leads to the imposition of conditions on project approvals that tend to be prescriptive rather than performance based. Prescriptive conditions are easy to monitor and audit, but require no consideration of whether or not the overall objective of minimising environmental impacts has been achieved. Prescriptive conditions sometimes need to be renegotiated when circumstances change or the condition is found to be ineffective or impractical. The process for formal renegotiation of mitigation measures that deal with minor issues leads to inefficiencies and delay. Performance based conditions that are linked clearly to the matter protected should be encouraged.

There is little information available on the efficacy of EPBC Act approval conditions that have been attached to a project, or how these correlate with the environmental risk being managed. There is scope for conditions to be more performance based to avoid conflicting opinions between proponents (like Defence) and regulators about the best approach to manage an environmental risk.

In Defence's experience where projects have required formal approval under the EPBC Act, the tendency for most approval conditions to be prescriptive have absorbed considerable resources and time in addressing minor issues at the departmental level. For example, the conditions of approval for a Parachute Drop Zone at Townsville Field Training Area specified revegetation with a specific species of grass, with the intention that this would help protect the Great Barrier Reef from sediment carried in runoff from the site some 30km inland. Defence sought to renegotiate the condition as the specified grass species was not suitable for the local conditions, and alternative strategies to effect erosion control were considered more appropriate. An approach that focused on the outcome of preventing sedimentation in watercourses would have been more effective and less time consuming without increasing the degree of environmental risk.

Defence considers that the operation of the EPBC Act as it applies to government agencies should evolve to focus on providing advice and assistance about avoidance or mitigation of impacts to reduce the potential to trigger the requirement for a referral. If the Act provided a mechanism for a proponent to seek advice on Part 3, before applying a Part 7 referral, then this mechanism would likely result in more avoidance and mitigation of impacts rather than regulation of conduct – which may or may not reduce impacts.

Defence also considers that there would be value in publishing advice on the efficacy of certain leading practice mitigation measures that have historically been successfully employed on referred proposals. This 'leading practice' list could help to promote continual

improvement and better environmental practice. There should also be a better feedback loop whereby proponents can openly evaluate the usefulness of the imposed conditions in meeting the outcomes of the Act.

TOR 2b – Lessons learnt from the first 10 years of operation of the EPBC Act in relation to protection from critical habitats of threatened species and ecological communities, and potential for measures to improve their recovery.

Different Thresholds and Application

The different thresholds within the Act are collectively inconsistent with one another and make it difficult for land managers to determine and balance the priorities for environmental management actions. For example, for actions:

- requiring an approval - the threshold is a significant impact on a MNES, or the environment for a Commonwealth Agency;
- requiring a permit – the threshold is any impact on a listed MNES; and,
- Impacting on heritage values – the threshold is any adverse impact on the environment (for natural heritage and indigenous) or the heritage value.

In addition to these thresholds, Commonwealth agencies must not contravene a recovery plan or a listed threatened species under s268, or contravene a management plan for a Commonwealth Reserve.

The ambiguity is not just in the thresholds, but how these parts of the Act are administered. The current approach to protection of environmental risks on a species by species basis is reactive and drives management of individual species rather than ecosystems – potentially impacting on biodiversity. For example, if Defence were to fence off an area of habitat for threatened species at a training area for its protection, that action might require a Permit due to the potential to injure or harm the species in the process of constructing the fence.

Defence ought to be required to balance all of its specific obligations under the Act in a strategic approach, rather than implement strategies to protect individual MNES. For example, to achieve long-term habitat protection and management of risks to life and property arising from bushfire, landholders are required to implement hazard reduction strategies such as burn-offs, slashing, mowing or grazing which might contravene the requirements of a recovery plan for a particular species. This situation highlights the requirement for integrated approaches to the management of threatened species and ecological communities in a sustainable manner that achieves multiple benefits.

Defence manages 125 sites on the Commonwealth Heritage List (CHL), which constitutes approximately one third of all sites on the CHL. Defence's experience with the Act has highlighted the need for more holistic guidance and advice on heritage protection, which considers ongoing management and use in an operational environment.

For example, the listing of a site becomes the threshold whereby any changes to the site are considered adverse. Much of Defence's heritage involves military pride, an attachment to the history of a site but not necessarily the physical aspects of a site. In instances where a RAAF Base has an entire heritage precinct listed, there needs to be some flexibility in how Defence

manages the heritage values of the site whilst meeting operational and other legislative requirements. For example, an operational Defence RAAF Base at Point Cook in Victoria is listed on the National Heritage List. Defence has had to undertake extensive assessments and consultation with DEWHA regarding the existence of historic Bellman Hangars at the Base that pose a safety hazard to personnel. Defence has approximately 100 Bellman hangars across the country, yet DEWHA's approach to managing heritage does not recognize that the values of a Bellman Hangar might be better represented elsewhere in Defence.

The EPBC Act heritage provisions should be reviewed to allow practical considerations and approaches to allow owners to manage heritage values without adversely impacting on other obligations, such as safety and national security.

Part 13 of the Act, regarding Permits was essentially intended to regulate activities like wildlife harvesting and seed collecting on Commonwealth land. However, the implications for Defence are unclear and potentially onerous. A strict reading of Part 13, together with s528 (definition of member) would say that permits are required for every conceivable Defence activity on parts of the estate where threatened species or endangered ecological communities are found.

More than this, Defence's experience is that the process for obtaining a permit is lengthy and difficult even when actions to promote conservation are proposed. For example, Defence and Greening Australia sought a Part 13 permit to collect seeds from native temperate grassland at Majura Training Area, ACT, in line with the national Recovery Plan for this endangered ecological community. The permit process was so drawn out that the opportunity to collect seed was missed and another year passed before it could be done.

The inconsistencies in the Act need to be resolved so that it can be administered more holistically with the focus on overall outcomes for the environment as opposed to applying individual parts that aren't linked. Defence considers the parts of the Act particularly applying to the Commonwealth should be revised to remove the ambiguity and uncertainty for Commonwealth land managers.

EPBC Act Regulation Impact Assessment

Defence considers the overall effectiveness of the EPBC Act could be improved by providing a mechanism to consider the impacts of listing something for protection, in accordance with the objects of the Act for s(3)(b) "ecologically sustainable development". Further, assessing the impacts of decisions or listing of threatened species might avoid situations where the listing then precludes continuation of an activity that has otherwise occurred in harmony with the value(s). Although the EPBC Act includes provisions for continuing use, it does not address the increasing and unresourced obligations that apply to management of newly listed species, ecological communities or heritage. Under the EPBC Act each listing creates an obligation to manage threats to an individual MNES, which may conflict with the broader benefits to biodiversity arising from ecosystem scale landscape management practices.

The Shoalwater Bay Training Area in Queensland was a highly degraded cattle station when first purchased by Defence in the 1960s. Under Defence management, the training area has seen a significant increase in biodiversity, species resilience and heritage protection all the while with military training activities taking place on a regular basis. The Minister for the Environment recently acknowledged the environmental values of the Shoalwater Bay Training Area, stating that "the internationally recognised Shoalwater and Corio Bay Ramsar wetlands and the high wilderness value of Shoalwater which is acknowledged in its Commonwealth

Heritage listing” was the basis of his decision to reject the Waratah Coal Port proposal. Despite the continuing use provisions of the Act and proven responsible environmental management, Defence is still vulnerable to third party accusations (or injunctions) that individual species or values are at risk each time military training takes place at Shoalwater Bay.

The listing of critical habitat on a Defence facility raises an example of how further consideration of ecologically sustainable development needs to be included in the operation of the EPBC Act. Land at Defence’s Belconnen Naval Transmission Station in the ACT was listed as critical habitat for a plant, the Ginninderra Peppercreese. It was known at the time of its proposed listing that decommissioning of the site and associated remediation of the land to reduce environmental and human health impacts was likely to disturb the land subject to the listing. The effect was that otherwise straightforward land management and remediation actions at the site to address environmental contamination and human health risks were delayed and burdened with expensive referral processes under the EPBC Act just to implement the management strategies that had already been agreed were necessary.

The listing process for threatened species, ecological communities, critical habitat or heritage values should be accompanied by the equivalent of a regulatory impact assessment so that Government can consider the benefits and costs for the management of the listings in keeping with the principles of ecologically sustainable development; an object of the EPBC Act. This would also assist Government agencies in framing requests to Government for funding to support their management of species and communities on land they manage.

TOR 2c) the cumulative impacts of EPBC Act approvals on threatened species and ecological communities, for example on Cumberland Plain Woodland, Cassowary habitat, Grassy White Box Woodlands and the Paradise Dam.

Considering cumulative impacts

Defence has been extensively involved in the management of Cumberland Plain Woodland (CPW) on Commonwealth land in the Sydney basin. Defence land has retained the natural landscape values of most of its sites because of their usefulness for military training or as natural buffers, such as in explosives safety zones. An inevitable consequence of Sydney’s expansion is that the remaining areas of natural habitats become increasingly encroached and restricted in distribution, which is outside of Defence’s control. CPW now exists mainly on current and former Defence sites in western Sydney and nowhere else. Holsworthy Military Area is the best and largest example.

Although the listing of CPW as a threatened ecological community afforded protection of some areas through regulation, there is potential for better bilateral agreements and accredited assessment processes between DEWHA and NSW State Agencies. For the most part, proposals impacting on a few trees were scrutinized for the sake of saving a few trees rather than applying a strategic approach whereby key areas and corridors were identified and protected through State Environmental Planning Policies or Federal Conservation Agreements.

As it is, Defence will continue to protect and manage its CPW as developments outside Defence boundaries continue to clear land that has not been designated or protected. This further fragments what habitat remains and increases the importance that Defence continue to manage the environmental values of the CPW that remains.

TOR 2d) the effectiveness of responses to key threats identified within the EPBC Act, including land-clearing, climate change and invasive species, and potential for future measures to build environmental resilience and facilitate adaptation within a changing climate.

Climate Change

The EPBC Act does not currently provide for direct responses to climate change, particularly where there is a need to balance competing priorities. For example, the increasing need to implement more energy efficient design and upgrades to facilities in response to the climate change agenda may have the potential to conflict with the priorities to conserve heritage or environmental values.

The management of invasive species, through the listing of Weeds of National Significance (WONS) does not fully incorporate the priorities of other land management programs. While a species may be considered a significant risk to agriculture, it may not get listed as a WONS if it does not pose a risk to a listed threatened species or biodiversity. These priorities should be aligned in the spirit and intent of s(3) of the Act to consider ESD. The solutions to this issue may be found through improved consultation between relevant agencies and landholders, and allocation of funding to manage the issue regardless of the particular land tenure affected.

A more strategic and whole-of government approach to revegetation in response to climate change needs to be explored that looks at landscapes rather than landholder boundaries, for example agencies such as DEWHA and Department of Climate Change should be able to influence revegetation projects for carbon offsetting, to promote biodiversity rather than monoculture.

TOR 2e),2f), 2g)

Defence does not have any specific comments on these issues.

Conclusion

Defence considers there is scope for evolution of the EPBC Act to address contemporary challenges. In particular Defence considers the way the Act applies to the decisions and powers of other Commonwealth agencies needs to be reconsidered. The current approach creates resource inefficiencies and limits the operational effectiveness of the legislation in delivering the best environmental outcomes, particularly when considering the broader scale of large properties managed by Defence.

In summary, the main issues that Defence has raised, regarding the effectiveness of the operation of the EPBC Act, include:

- Defence should not have to seek additional approval for implementation of decisions by the Government or for the ongoing use of existing training areas for routine military activities, since that land has been set aside by the Government precisely for that purpose. Defence's proven record as a sound environmental manager should allow for

a more audit based approach to compliance monitoring of impacts; assessing the degree to which it delivers environmental outcomes on land it manages.

- S160 should be considered for consistent application to the activities of Defence and other Commonwealth agencies in a way that encourages more collaborative whole-of-government approaches to the delivery of environmental management of the actions of the Commonwealth.
- There should be improvements in the provision of advice and guidance on environmental mitigation and management, including reviewing efficacy of approval conditions, and regularly update species listing information.
- There should be provisions in the EPBC Act allowing for early advice on protecting environmental or heritage values to assist proponents to mitigate impacts and avoid triggering the referral process thresholds in the first place.
- The inconsistent thresholds in the EPBC Act applying to environment and heritage protection, actions affecting MNES, permits, threat abatement plans, and application to the actions of Commonwealth agencies should be reviewed with a view to improving consistency of application and streamlining of processes.

In the past nine years, Defence has worked closely with environmental policy makers in DEWHA to ensure Defence meets its obligations under the EPBC Act. Defence will continue to contribute to refinement of the EPBC Act and improvement of its operation. Defence welcomes the opportunity to discuss further the matters raised in this submission.