Government Review of the Woomera Prohibited Area

Interim Report
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Executive Summary

On 17 May 2010, the Minister for Defence announced a Review of the Woomera Prohibited Area (WPA) and its role in serving Australia’s national security and economic interests. It came in response to increasing demand for access to the WPA by the resources sector and the challenge this posed to Defence activity.

2. The majority of the WPA is South Australian Crown land; it is large and accommodates a variety of users. The Department of Defence (Defence) controls access to the WPA through the Defence Force Regulations and uses the area to conduct weapons testing and evaluation. Defence agrees Deeds of Access with resources companies and advises the Foreign Investment Review Board (FIRB) on issues related to foreign ownership of companies operating in the WPA. Most Defence activity occurs in the south-east corner of the WPA, which is close to the Woomera village and where the range instrumentation is located.

3. The WPA is important to Defence because it is the only Australian range capable of measuring and monitoring the Australian Defence Force’s (ADF) testing and evaluation activity. This capability plays an important role in increasing the ADF’s effectiveness by supporting the development of weapons systems. Defence extends use of the WPA to international partners, which contributes to the development of Defence’s technical expertise and enhances its value as a coalition partner. Defence also occasionally uses the WPA for field training.

4. The WPA is important to the South Australian resources industry and Government; with three operational mines; several approved mining leases and development projects; and over 140 mineral, petroleum and geothermal tenements in the area. The surrounding area also has high potential for the discovery and production of valuable deposits of mineral and energy resources. The eastern WPA has particularly high potential for copper-gold-uranium deposits similar to Olympic Dam, a world-class mining operation. Much of Australia’s known deposits of uranium and copper are in this area, with more expected to be discovered as the region is opened up to further exploration. Greater resources exploration in the WPA will offer a better understanding of South Australia’s resources reserves and facilitate projects of significance to the South Australian economy.

5. Sites of cultural and spiritual significance to Indigenous groups are located across the WPA, and pastoralists have been cohabitating with Defence for more than
50 years. The Woomera village was established to support Defence activities in the WPA and continues to rely on Defence funding and visitors to sustain its level of service delivery.

6. As different WPA users’ needs are sometimes inconsistent, not all can be met. Defence can meet its testing and evaluation requirements in the WPA, but all would benefit if the system of agreeing and enforcing non-Defence access conditions were improved and made more transparent. Defence could also increase its capacity to manage greater complexity on the WPA if the range managers had more capacity and range management systems were upgraded.

7. Resources companies do not have the commercial certainty they require to operate in the WPA effectively. The process resources companies need to follow to obtain access to the WPA is unclear. Resources companies also have little knowledge of the restrictions Defence may impose on their activities in the WPA until they commence negotiations for access. Negotiations with Defence to agree Deeds of Access are protracted. Resources companies access to foreign capital can be restricted by Defence’s security concerns and companies lack a clear understanding of what levels of foreign investment are acceptable. Understanding the safety and security requirements of Defence that affect their operations is also limited.

8. The South Australian Government’s policy of encouraging resources development within the State is compromised by uncertainty over access to the WPA, which has a flow-on effect on revenues and infrastructure planning. Indigenous groups lack confidence that artefacts and sites of spiritual and cultural significance are being respected and preserved. Limiting development in the WPA also reduces Indigenous groups’ prospects of benefiting from resources operations. There is no process for pastoralists to access compensation and some have received inconsistent messages from Defence about how it will manage their presence on the WPA into the longer-term. Environmental groups want to be confident that the environment in the WPA has been adequately respected and preserved.

9. Defence and the South Australian Government are key stakeholders in the WPA, but Defence is the primary user of the area. Defence must exercise its access control privileges responsibly in a way that does not unreasonably compromise the interests of the South Australian Government and the resources sector. The WPA
range managers strive to achieve this, but their efforts are compromised by their level of resourcing and the absence of a comprehensive range management framework.

10. Legislative changes are needed to facilitate introduction of an improved access control process for the WPA. There is also a need for a publicly available policy on access conditions, clear governance arrangements to administer access, an upgraded range management system, and a statement of principles to guide coexistence. If these five needs are met, there would be a clearer understanding of the resource value of the WPA, opportunities for increased economic development, and the Commonwealth’s need for a technologically sophisticated Defence Force would be protected.

11. There is also scope to open part of the core area identified in the Minister’s statement of 17 May 2010 to non-Defence users on a time share basis. The exception is the portion of the current south-east core area – identified as the reduced core area – within which the Review considers no new commercial activity should be permitted.

12. The Review believes that the WPA should remain a Defence-controlled area, probably retaining its current boundaries, although there may be merit in making small adjustments to the south-eastern boundary to allow resources companies to explore an area of high resource potential. The Review considers that Defence should retain a reduced core area in the south east corner of the WPA, but exercise its authority to regulate access to the remainder of the area in a way that minimises disruption to other users. The Review recognises the requirement for Australia to have a clear understanding of its national resource base meaning Defence should permit resources and energy exploration outside the reduced core area.

13. Establishing a comprehensive management framework would improve coexistence on the WPA by clearly defining the access control process. The framework should give Defence the power to recover the costs of administering the access control process and provide a flexible enforcement mechanism to ensure compliance and allow Defence to preserve its core requirements.

14. The Review considers the introduction of a permit system to be a sound method of improving the WPA’s access control system by facilitating transparency, increasing Defence’s enforcement options and more evenly distributing the costs of coexistence. Such a system would break the WPA into three zones according to Defence use and identify different types of non-Defence activity. No new permits would be issued for commercial activities in the reduced core area, which is the zone
of highest Defence use. Permits would be issued for the zone of moderate Defence use, which would cover the remainder of the core area of operations identified in the Minister’s statement. The amount of time a permit-holder would be granted in the zone would be fixed for the life of the permit and determined according to Defence’s need to use the area. Permits would be issued for the zone of least Defence use, with Defence retaining a right to exclude access for a limited period each year following a fixed period of notice. As the permit system may take some time to establish, there is a requirement to develop interim measures to improve the regulation of access in the short-to-medium term.

15. All details regarding the zones and types of permit should be made public, as should standard conditions of access. Defence should retain a right to include specific conditions in each permit as it is issued. The permit system should be administered by Defence but overseen by a Governance Board that could make recommendations to review or amend the system as required. Defence should be provided with additional resources to upgrade the range management system to enable the range managers to accommodate greater complexity on the WPA. Establishing a Statement of Principles would provide a point of reference that broadly defined the rights and responsibilities of each of the WPA users.

16. These measures should be introduced as a package as they are only effective if implemented in unison. Their introduction would substantially increase the capacity for coexistence, preserve the WPA as an effective Defence capability, introduce legal protection and certainty for all users and meet the South Australian Government’s resources development goals.

17. The Review’s intention in publishing this Interim Report is to give WPA users an indication of its understanding of their needs and present a broad outline of the coexistence model that may be proposed in the final report. Comment on the Interim Report and proposed way ahead would be most welcome. The observations contained within this Report are not necessarily final and could be subject to change based on our continued consultation.
Chapter 1: Introduction

Overview

1.1 On 17 May 2010, the Minister for Defence made a public statement on mining interests in the Woomera Prohibited Area (WPA) to provide greater certainty for resources companies operating in the area (see Annex A to this Interim Report). The Minister also used the statement to announce the Commonwealth Government Review (the Review) into coexistence in the WPA. The Minister tasked the Review to make recommendations to support the best use of the WPA to advance Australia’s national security and economic interests.

1.2 The Review was established because of growing interest in the WPA among sometimes incompatible users. Defence is likely to increase its use of the WPA in the near and long-term to meet its growing testing and evaluation requirements. Similarly, interest in the WPA from resources companies is likely to grow as resources extraction technology improves and demand for minerals and energy continues to increase. Other users and stakeholders in the WPA include the South Australian Government, pastoralists, Indigenous and environmental groups, the residents of Woomera village and Coober Pedy, and transport companies operating in the WPA’s road and rail corridors.

1.3 Given this wide cross-section of users and stakeholders, the Review invited submissions from the public to give interested parties the opportunity to inform the Review’s analysis of future coexistence options. Twenty-five submissions were received from a range of contributors (listed in Annex B), in addition to input from Commonwealth Government stakeholders. Key themes emerging from the submissions are the importance of the WPA to a variety of users, the amount invested by industry groups and Defence, the differing approaches to managing non-Defence users’ access, and the challenges involved in communicating requirements and expectations between user groups.

The Woomera Prohibited Area

1.4 The WPA is predominantly South Australian Crown land used by the Department of Defence (Defence) and its international partners for testing, evaluation and training. The WPA is a unique test facility because of its size, remoteness, low population density, relatively low level of use, and its quiet electromagnetic
environment. Defence controls access to the WPA, and a number of non-Defence entities already operate in the area. Pastoralists have coexisted with Defence for about 50 years and there are currently three operational mines in the WPA. All non-Defence users are granted access to the WPA on the basis that their activity will not unduly compromise Defence’s ability to test war materiel.

The Need for a Review

1.5 The past year has seen several foreign investment proposals affecting resources companies that have an interest in exploiting minerals in the WPA. There has also been an increase in the interest shown by resources companies seeking to conduct exploration activities in the WPA. Together, these occurrences have highlighted the difficulties of coexistence between Defence’s testing of sensitive and dangerous war materiel and large-scale mining operations. The challenge of mines and Defence coexisting on the WPA is currently mitigated by the size of the area. Until now, the relatively small number of mining operations and their remoteness from most Defence testing activity has meant few incompatibilities have emerged. As the potential for more mining operations grows, the current approach will become less practicable. On 17 May 2010 the Minister for Defence issued a statement that outlined a ‘core area of operations’ in which it was unlikely that Defence would permit resources exploration or development activities. In conjunction with this announcement, the Review was established to recommend a long-term solution for coexistence in the WPA.

Terms of Reference

1.6 The Review’s Terms of Reference set the objective of analysing Australia’s short- and long-term national security and economic interests in the WPA (see Annex C). Within this objective, the Review is specifically tasked with analysing:

- the WPA’s legal status;
- current use of the WPA;
- the WPA’s contribution to Australia’s current and future Defence capability;
- anticipated future Defence need for the WPA;
- the value and location of mineral deposits in the WPA and the cost of further identifying the mineral potential of the WPA;
- the likely future economic value of the mineral deposits in the WPA;
- the future potential exploitation of minerals in the WPA; and
- property interests in the WPA.
1.7 Having undertaken this analysis, the Review is to make recommendations on the best use of the WPA and mechanisms for achieving this use, including:
- practical measures for coexistence;
- the viability of extinguishing existing tenements in Defence’s core area of operations;
- the practical and financial feasibility of a moratorium on the issue of licences in the core area of operations;
- the feasibility of shifting or realigning Defence’s activities within or outside of the WPA; and
- a process for the ongoing monitoring of the balance of Australia’s national interests in the WPA.

1.8 The Review is being led by Dr Allan Hawke AC and overseen by a steering committee jointly chaired by Defence and the Department of the Prime Minister and Cabinet. Dr Hawke is supported by an interdepartmental secretariat with members drawn from the Departments of the Prime Minister and Cabinet; Defence; and Resources, Energy and Tourism.

Consultation and Engagement

1.9 The Review has consulted extensively to obtain the views of individuals and groups that may have an interest in the future use of the WPA, including representatives from the South Australian Government and its agencies, the Commonwealth Government and its agencies, the resources industry, pastoralists, indigenous groups, the Woomera community, and Defence and its international partners (particularly the United States and the United Kingdom). The secretariat advertised nationally to invite interested parties to make a submission to the review and maintains a public website.

Public Submissions

1.10 Public submissions have provided valuable insights into the differing perspectives on the best way forward for the WPA. The public submissions that are not marked ‘in-confidence’ are posted to the Review’s webpage and may be accessed at: [www.defence.gov.au/woomerareview/submissions](http://www.defence.gov.au/woomerareview/submissions)
Review Interim Report

1.11 This Interim Report will outline the key themes and preliminary findings from the public submissions and consultations. The focus of this Report is to identify the needs and expectations of differing interest groups and challenges to coexistence. It will not make any recommendations, but will suggest a way forward for coexistence in the WPA. There will be an opportunity for public comment on the Review’s preliminary observations and an opportunity for further consultation to ensure the views of all contributors have been correctly understood. Public comment on the Interim Report will close on 30 November 2010.

1.12 The Review greatly values the public submissions it has received and is grateful for the time and effort each contributor has made to informing consideration of the best future use of the WPA. The Review will analyse each of the public submissions to ensure it has a comprehensive understanding of the differing interests of the users of the WPA. Having reviewed all final comments, the Review will formulate the recommendations for inclusion in the final report, which will be presented to the Minister for Defence by the end of 2010.
Chapter 2: The Woomera Prohibited Area – An Overview

A Prohibited Area

2.1 Located in the South Australian desert, the WPA was declared a prohibited area in 1947. The WPA was established as a long-range weapons testing facility by the United Kingdom and Australia under the Anglo-Australian Joint Project. The Commonwealth has the authority to control access to the WPA under Defence Force Regulations 34 and 35 to test war materiel and to place conditions on access to protect persons, property and official secrets. It is this legal framework that makes the WPA unique in terms of the portfolio of properties under the Commonwealth’s management.

Defence Use of the WPA

2.2 As the Anglo-Australian Joint Project wound down, Defence use of the WPA declined during the 1980s and 1990s. Changes in defence capabilities and the strategic environment since the late 1990s, however, have seen the WPA re-emerge as a key element of Defence’s test and evaluation program. Its size (127,000 km²); remote location; clear, warm weather; and quiet electromagnetic environment (limited interference from radios, mobile phones and radars) make it an ideal test and evaluation site. Defence uses the WPA to test a wide variety of classified weapons and systems including missiles, rockets, explosives, manned and unmanned aircraft, and electronic warfare systems. The WPA is also home to important weapons-development activities critical to Defence, and the test and evaluation capability resident in the area was identified for upgrade in the 2009 Defence White Paper.

2.3 Defence manages use of the WPA test and evaluation facilities through Defence Instruction (General) (DI(G)) ADMIN 38-1, which sets out the policy and procedures for use of the Woomera Test Range. It applies to Defence and non-Defence users, but only to those activities involving the test and evaluation infrastructure. The Woomera range managers then deconflict and schedule the use of the range through the Trials and Assessment Approval Process.

2.4 Defence SA, the South Australian Government lead agency for all State Defence matters, advised that the Woomera Test Range is estimated to support, directly and
indirectly, 218 jobs and contributes $16 million (2007-08 dollars) per annum to the State economy.

Non-Defence Use of the WPA

2.5 In addition to Defence, a number of groups have a stake in the WPA, each with different and sometimes competing interests. Although the Commonwealth controls access, the majority of the WPA is South Australian Crown land, covered by pastoral leases (approximately 20) and mineral, petroleum and geothermal tenements (approximately 140) granted by the South Australia Government. Pastoralists live in the WPA and graze sheep and cattle. There are three active mines, numerous approved mining leases, and exploration and development projects focused on a wide array of mineral and energy prospects. Indigenous groups carry out traditional activities in the WPA, which is subject to several Native Title claims. Key infrastructure – the Stuart Highway and the Adelaide-to-Darwin railway – bisect the WPA.

2.6 These groups and infrastructure increase the amount of ‘traffic’ in the area and are often inter-dependent, highlighting the complexity of the different interests in the WPA. Mining activities provide jobs and other economic benefits to Indigenous groups, pastoralists and the broader community. Coober Pedy relies on the opal industry and part of the Coober Pedy Precious Stones Fields lies within the WPA. Coober Pedy also provides support services and a workforce for other mining and exploration activity in the region. The railway (six northbound and six southbound freight services a week) provides an economical means for the mines to transport their commodities to key ports and for Defence to transport heavy equipment, while mining activities present an opportunity for increased rail services. The Stuart Highway, like the railway, provides a vital transport corridor linking central Australia to key infrastructure in Darwin and Adelaide. It is regularly used for freight and tourism and by the local Defence and non-Defence communities; approximately 400 vehicles travel on the highway through the WPA each day.

Resources Interests in the WPA

2.7 Since the discovery of the Olympic Dam deposit in the WPA (before this area was excised from the WPA) there has been an increasing interest in the resources resident in the WPA. The geological province that hosts the Olympic Dam mine (the world’s largest uranium deposit) extends into the eastern area of the WPA. Increasing
global demand for resources and the advent of more effective exploration techniques have led to greater exploration of the WPA and an increased collective understanding of its associated resources potential.

2.8 The WPA has two long-term operational mines, the medium-sized Prominent Hill and smaller Challenger, which contribute around $1.5 billion to gross domestic product (GDP)/gross state product (GSP) and employ around 720 people according to data from the Australian Bureau of Agricultural and Resource Economics (ABARE). Cairn Hill, a five year operation expected to employ around 150 people, was recently commissioned, and a mine at Peculiar Knob is expected to commence operations in the second half of 2011. It is estimated these two operations will have a combined contribution of around half a billion dollars to GDP/GSP, depending on final production and economic linkages.

2.9 The value of known deposits in the WPA is considerable; but there is also significant potential for discovery of further valuable deposits. According to Geoscience Australia, the WPA and its immediate surrounds (up to 50 km) has high potential for a variety of different resources, and in particular is considered to be more geologically favourable to host uranium-bearing copper-gold deposits of a substantial size (similar to the Olympic Dam deposit) than any other region in Australia. Sixty-two per cent of Australia’s known copper resources are estimated to be located in the area, as well as 78 per cent of Australia’s known uranium resources, proportions which are likely to increase should the region be explored further. Although much of the WPA’s mineral wealth is very deep underground and under a significant amount of overburden, the pace of technological development in mineral exploration is rapid. Consequently, after decades of being under-explored due to the high level of overburden, the WPA is likely to be subject to greater levels of future exploration.

2.10 The development of multiple deposits could transform the WPA into one of Australia’s most significant resources provinces. ABARE has provided scenario-based economic modelling to indicate the likely economic effects should certain types of resource projects be undertaken. Development of commercially viable deposits within the WPA would significantly benefit South Australia’s GSP and have a meaningful impact upon GDP, employment and exports.
2.11 A single significant medium-sized copper-gold-silver mine in the WPA (similar to Prominent Hill) could contribute in the order of $1.5 billion dollars (2009-10 dollars) to GSP/GDP during each year of production. A larger, world-class copper-gold-uranium mine (similar to Olympic Dam) could contribute around $4.5 billion each year (or 2.75 per cent of GSP) once full production was achieved. Development of a significant coal project could contribute $2.5 billion to GSP/GDP. South Australian employment could increase by upwards of 0.25 – 0.5 per cent through the development of individual projects.

2.12 While it is not easy to estimate and quantify the developments that could take place in the WPA, the South Australian Government estimates that some $35 billion worth of developments, including Prominent Hill-style deposits, iron ore projects, gold projects and uranium projects are likely to take place. This assessment is consistent with the strength of the mineral resource potential analysis undertaken by Geoscience Australia. This does not serve as an economic case for development of the WPA, but it provides further evidence that the economic benefits of developing the WPA are likely to be high.

Administration of Resources Interests

2.13 The Government of South Australia, through its agency Primary Industries and Resources SA (PIRSA), grants mineral tenements (other than for opal exploration and mining) under the South Australian Mining Act 1971. Although such authority allows a party to explore or mine in the WPA, physical access to the WPA requires a Deed of Access from Defence. To obtain a Deed of Access, interested parties must provide Defence with specific information on their proposed activities. To determine whether to grant access, Defence undertakes an assessment against its operational, safety and security requirements. This process was outlined in the statement issued by the Minister for Defence on 17 May 2010. Since 2007, mineral explorers have been aware of the requirement to obtain a Deed before exploration activity can commence, but petroleum and geothermal companies have only recently been informed of this requirement.

2.14 Once a Deed of Access is issued, the mining companies must seek an entry permit for each on-ground activity or work program. Defence grants entry permits on a case-by-case basis to ensure no mining activity conflicts with its testing and
evaluation schedule and that all Defence activity is conducted in a safe and secure manner.

2.15 Defence and PIRSA acknowledge their differing authorities over the land in the WPA. To facilitate productive coexistence in the WPA, the South Australian Government established the WPA Working Group in February 2009. The Working Group is chaired by Defence SA and has middle- to senior- level representation from Defence, PIRSA and the Commonwealth Department of Resources, Energy and Tourism. The Working Group enables ongoing exchange of information to facilitate the management of Defence and mining activities within the WPA and to develop a coexistence strategy. The Working Group is supported by an operational committee, which meets monthly to discuss routine matters related to the issuing of tenements, Deeds of Access and entry permits for the WPA.

Other Interests in the WPA

2.16 The Woomera village has been an integral part of the WPA test facility since its inception. Today, the village is run by a contracted service provider, BAE Systems Australia, on behalf of Defence. With a population of around 200, the village manages permanent and temporary accommodation and recreational facilities for people working in the WPA. The village has a school, a small business community and limited medical services. It also provides services for tourists including accommodation and a visitors’ centre. The Woomera village relies predominantly on Defence funding to provide essential support to Defence test and evaluation activities in the WPA.

2.17 The WPA is of cultural and spiritual significance to several Indigenous groups with some areas containing evidence of ongoing Indigenous occupation for thousands of years. Indigenous people regularly access the range. Defence has an Indigenous Liaison Officer (ILO) to conduct environmental and Indigenous heritage assessments of Defence and non-Defence activities in the WPA and foster positive relationships with Native Title Parties, Land Councils and Traditional Owners.

2.18 Indigenous groups could and do receive many benefits from resources development in the WPA, including opportunities for training and employment and to improve their collective living standards and economic wealth. Indigenous groups have many agreements with resources companies holding tenements in the WPA and some 10 per cent of the workforce at one mine is Indigenous.
2.19 Pastoralists also had an established presence on the WPA before it was declared a prohibited area. Pastoralists are issued leases by the South Australian Government, some of which encompass areas of the WPA critical to Defence’s activities. Pastoralists do not have formal Deeds of Access, but are obliged to maintain the details of all people residing or working on their stations. This information is shared with Defence, as well as details of the shearing, crutching, lambing, mustering and other pastoralist activity that impacts on Defence’s use of the range. Defence factors these considerations into its test and evaluation schedule. Defence has, on occasion, excluded pastoralists from areas of their leasehold for specified periods so that it can carry out test and evaluation activities safely and securely.

2.20 The WPA contains areas of significant environmental and heritage value, with some plants and animals listed as threatened under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). In addition, several locations in the WPA are identified on the Commonwealth Heritage List, administered under the EPBC Act. The heritage values are diverse and include historic, scientific, social and Indigenous values. Defence has an Environmental Management System for the WPA, which provides a systematic framework for the management of activities that have the potential to impact on the environment. Defence facilitates the environmental management of the WPA and all users require an Environmental Clearance Certificate before they can conduct activities. An environmental group also holds a pastoral lease in the WPA, operating a conservation reserve to restore and protect the ecosystems and populations of animals and plants, while balancing its obligations under the terms of the pastoral lease.

2.21 The WPA also overlies the western edge of the Great Artesian Basin (GAB) and much of this area contains recharge beds for the GAB. The GAB provides a water supply to many remote communities for both stock and domestic uses and there are significant groupings of mound springs reliant on sufficient artesian water pressures to bring ground water to the surface. These springs often support unique ecosystems and are highly sensitive to decreases in the water pressures in the GAB. Consequently, any future proposals to develop the WPA may have an impact on both the quality and quantity of the ground water in the GAB.

2.22 Civil space-related activities have also occurred at the WPA. Some of these have involved the Japanese Aerospace Exploration Agency, the University of Queensland
and the South Australian Space School. The Department of Innovation, Industry, Science and Research is the lead Commonwealth Government agency on civil space issues and has advised it is not aware of any specific civil or commercial space activities, national or international, with definite plans that involve the WPA.

2.23 The Bureau of Meteorology operates a Meteorological Information Office (MIO) adjacent to the Woomera Airfield, which provides weather forecast and observation information to a wide range of Defence and non-Defence users of the WPA. The MIO is also a strategic observation point, as weather developments over Woomera can directly affect downstream cities such as Adelaide, Canberra, Melbourne and Sydney. The Bureau of Meteorology plans to implement a new forecasting system at the MIO which will provide high resolution spatial forecasts for all of Australia.
Chapter 3: User Requirements

Overview

3.1 Public submissions received, and consultations conducted, by the Review revealed a number of WPA stakeholders or potential stakeholders, each having a particular set of requirements with respect to the area. This Chapter arranges these stakeholders in broad categories and consolidates their requirements. The Review has identified the following stakeholder categories:

- Defence;
- the resources sector;
- the petroleum sector;
- the South Australian Government;
- non-Defence Commonwealth agencies;
- Indigenous groups;
- pastoralists;
- residents and businesses in the Woomera village;
- environmental groups;
- transport companies;
- local opal miners; and
- residents and businesses in Coober Pedy.

3.2 What is captured in this Chapter reflects the requirements that stakeholders consider important rather than representing the Review’s thinking.

Defence

3.3 Defence identified five basic requirements with respect to its use of the WPA and three additional requirements to support coexistence. Defence’s basic needs are use of the range instrumentation at the WPA, access to a core area from which mining and other commercial activities are excluded, access to a large area to accommodate safety and security exclusion zones, the preservation of the WPA’s electromagnetic quietness, and access to services and support facilities. The emerging development of longer range weapons reinforces the requirement for an extensive testing range, while the testing of electronic warfare equipment requires a remote location to avoid disrupting neighbouring activity. To enable greater coexistence without compromising these basic requirements, Defence needs to retain its ability to control
access to the WPA, must have the ability to set and enforce access conditions, and must be sufficiently resourced to implement a comprehensive range management system.

3.4 Defence’s international partners also use the WPA; this cooperative activity enhances the Australian Defence Force’s ability to maintain its high-end capabilities. The requirements of Defence’s international partners match those of Defence because they use the WPA for similar purposes. Key international users of the WPA have expressed confidence in Defence’s capacity to develop appropriate safety and security mitigation measures to support coexistence, meaning if Defence’s needs at the WPA are met then so too are theirs.

Range Instrumentation

3.5 The first of the five basic requirements from the WPA identified by Defence was use of range instrumentation. Defence needs the WPA to test and evaluate weapons and systems to maintain the operational effectiveness and high-end technological capability of the ADF. Defence cannot conduct this testing and evaluation elsewhere in Australia because the WPA is the only Australian range fitted with the specialist instrumentation required to measure and monitor the platforms, weapons and system being tested. The capability provided by the WPA gives Defence the flexibility to conduct testing in Australia, which is more timely and cost-effective than testing platforms, weapons and systems overseas.

A Core Area

3.6 Defence needs a portion of the WPA to be identified as a core area where it can carry out the majority of its testing and evaluation activity and from which any new non-Defence activity should be excluded. The core area would be in the south-east corner of the WPA because of the proximity to: range instrumentation; the Woomera airfield; the Woomera village; and Adelaide – to access South Australian systems engineering, industrial, Defence and Defence Science support. Defence accommodates the presence of pastoralists in the core area and tries to minimise disruption to their activities, but considers that introducing any new users into the area would affect the scheduling of testing activity and compromise its use of the WPA.
**Large Testing and Evaluation Range**

3.7 The WPA’s vast size as well as its remoteness and emptiness addresses Defence’s need for a large, safe and secure location to conduct high-end testing and evaluation. The safety exclusion zones established for many Defence activities are sizeable and require an extensive testing range. Defence control of access to the WPA and the associated airspace addresses this need and allows Defence to be confident that its testing is not posing an unacceptable risk of injuring an individual or damaging property. The size of the WPA also contributes to the mitigation of the risk that sensitive information may be compromised during testing and evaluation activity.

**Electromagnetic Quietness**

3.8 The remoteness of the WPA and the relatively small amount of human activity carried out there mean there are very few radio emissions emanating from the area. This electromagnetic quietness is another important characteristic of the WPA that Defence needs to preserve to support its testing and evaluation program, particularly where Australia and its international partners test more sensitive advanced technologies in the future.

**Local Services and Infrastructure**

3.9 To sustain its use of the WPA, Defence needs infrastructure and support services; these are currently provided by the Woomera village. The accommodation, services and utilities provided by the village support the transient Defence and international workforce undertaking activity in the WPA. These facilities are near the area where most Defence activity occurs, which contributes to the effectiveness of Defence’s use of the WPA.

**Access Control**

3.10 Preserving the WPA’s status as a safe and secure testing site is contingent upon Defence retaining authority to control access to the range. Non-Defence users with a large physical footprint, such as miners, are currently spread across the range in such a way that Defence can usually carry out its testing activity without unduly disrupting their operations. This is likely to change if the number of resources operations in the WPA grows significantly.

3.11 Non-Defence users with a smaller physical footprint, such as energy companies, mineral explorers and pastoralists, are accommodated on the range on an ad hoc basis
with their access granted around the timings and locations of Defence activity. As Defence does not use all parts of the range evenly, the periods of non-Defence exclusion vary for each user depending on the part of the WPA they wish to access.

3.12 Defence’s requirement for exclusive access is most acute in the south-east corner of the WPA, where most of its testing infrastructure is located and where pastoralists are sometimes required to evacuate parts of their property. The Defence need for exclusive access is less frequent in the centre-line corridor, which extends from the south-east to the north-west corner of the WPA.

3.13 Defence requires a consistent and comprehensive risk mitigation system to assist in making appropriate access decisions. The system needs to take into account the full range of security, safety and operational risks posed by all non-Defence use of the WPA, and provide advice on practical risk mitigation measures.

Access Conditions and an Enforcement Mechanism

3.14 As well as retaining a right to control access, Defence needs to be able to set access conditions to preserve the security of its activity in the WPA. A follow-on requirement is a practical system of monitoring non-Defence users’ compliance with access conditions and robust enforcement provisions to ensure the conditions are met. Both are necessary to provide Defence with the confidence that non-Defence activity on the range has not compromised its ability to carry out testing and evaluation on the WPA safely and securely.

Range Management Tools

3.15 Defence needs a number of range management tools, including weapons testing instrumentation, in order to safely and securely conduct its testing on the WPA. These tools also enable Defence to ensure efficient use of the range and minimise disruption to non-Defence users on the WPA by assisting the identification of the best location for testing activity. Defence is currently planning to upgrade its range instrumentation to accommodate better its growing reliance on the WPA as a test and evaluation range. It has also indicated, however, it will need additional resources, including more sophisticated range management tools, if it is to safely and securely accommodate more non-Defence users on the WPA.
3.16 The South Australian Government considers growth in the defence and resources sectors to be key aspects of the state’s continued economic development. The South Australian Government needs the continued exploitation of the WPA as a Defence asset to further its goal of increasing the defence sector’s contribution to the South Australian economy. The South Australian Government also needs to maximise the resources exploration and development activity in the state to achieve its goals of achieving long-term strategic mineral production and processing value. Development of resources provides direct benefits to government, in the form of royalties and taxes, and indirect benefits such as improved social and transport infrastructure. South Australia therefore needs, to the maximum extent possible, the WPA to be open for exploration and subject to a regulatory regime that facilitates private investment in exploration and production activities.

Maximising Access

3.17 Resources development in the WPA is particularly important to South Australia as the WPA covers around 31 per cent of the Gawler Craton, the geological province in which much of South Australia’s mineral wealth is found. Ensuring as much of the WPA as possible is open for exploration activities allows private expenditure on resources exploration, which improves understanding of the prospectivity of the WPA and enables more targeted and effective exploration and development.

Maximising Certainty

3.18 South Australia seeks to enhance certainty for the resources sector, to both encourage investment and facilitate South Australia’s long-term economic planning.

Encouraging Investment

3.19 Investment certainty is enhanced by ensuring the development of clear and effective management processes. The South Australian Government needs alignment between the State and Commonwealth Government regulatory regimes and a robust, formalised relationship between Defence and its Primary Industries and Resources Department.

3.20 South Australia needs to maximise the certainty and transparency of government approvals processes, which can influence perceptions of increased sovereign risk. In this context, the risk is that government decisions or processes will affect the value of
investment decisions in unpredictable ways, and can be an impediment to investment in the resources sector. South Australia needs the development of objective and transparent criteria for access to the WPA by resources companies into the future (for example, a company gaining mining access to a deposit it has spent significant money exploring).

Facilitating Long-term Planning

3.21 South Australia requires certainty of access requirements to facilitate its resources development planning. Long-term industry planning enables South Australia to make a better assessment of the likely royalty income resulting from future resources development. Forecasting of likely resource developments also enables long-term infrastructure planning, for both the transport infrastructure needed to export resources and the social and community infrastructure needed to sustain the regional communities that would house much of the workforce associated with resource development.

The Resources Sector

3.22 The resources sector needs confidence in the arrangements governing resources related access to, and use of, the WPA to enable informed business decision-making. The industry believes this would be assisted by Defence making a framework publicly available that details the rights and obligations of exploration and development companies seeking to operate in the WPA.

Access – Exploration and Development

3.23 Most importantly, the resources industry needs clarity on access to the WPA. The resources sector also seeks maximum access to the areas with the most resources potential, facilitated by Defence realigning its activities to those areas with less potential and moving some of the boundary lines.

3.24 To support such an arrangement, the resources sector needs greater knowledge of the resources potential of the WPA and this requires all of the WPA to be accessible for exploration. A better understanding of the areas of high and low potential would assist in informing business decisions regarding exploration and development. Resources companies want to determine the risk of holding on to a tenement to which Defence may or may not grant access for development, rather than Defence keeping parts of the WPA closed to exploration because it cannot foresee
that development would be permissible. To facilitate further exploration in the WPA, Defence needs to appreciate the differences between exploration and development. Exploration is a more flexible, short-term and low-intensity activity than mining.

3.25 In relation to the development of resources, companies require certainty of access, or understanding of the conditions that will determine access, if a commercially viable discovery is made and South Australia grants a lease to develop that discovery. There also needs to be a reasonable degree of confidence that access arrangements and obligations are practical, transparent and applied consistently.

Foreign Investment

3.26 The resources sector often relies on foreign investment for exploration and development. It is likely that some resources-related activities in the WPA will continue to require foreign investment. The resources sector believes there needs to be a more practical and responsive approach to foreign investment in the WPA. In particular, the resources sector needs Defence to focus on the operational control of the activities in the WPA rather than the investment itself. There is a need for publicly available foreign investment guidelines that appropriately reflect the nature and the needs of the resources industry and its intended activities in the WPA.

Compensation

3.27 Resources companies indicate they would seek compensation for any tenement rights currently held that could be lost with any change to the boundaries of the core and non-core operating areas of the WPA.

Management

3.28 The resources sector needs Defence to develop a management framework that encompasses: policy, processes, operational matters, consultation and communications, and redress. The framework also needs to be sufficiently flexible to handle individual issues on a case-by-case basis. To assist the resources sector, the management framework would also need to encourage Defence to be responsive and transparent and to articulate clearly its requirement for specific areas of the range for certain periods. The management plan will also need to foster greater two-way communication to facilitate better mutual understanding.
3.29 In granting access to the WPA for petroleum activities, the resources sector needs Defence to be aware that petroleum production and development facilities are different from those involved in minerals development. In particular, the footprint for petroleum activities is much smaller than that of mining operations, with a smaller and often non-permanent on-site workforce.

3.30 There is also a need to understand and accommodate the petroleum sector’s specific right to develop discoveries under the South Australian Petroleum and Geothermal Energy Act 2000. Under this, the South Australian Government is obliged to grant a production tenement should a case for commercial extraction be established. The petroleum sector needs consistency between State and Commonwealth laws to align rights of development with rights of access to the WPA.

**Other Commonwealth Government interests**

**Resources and Energy**

3.31 From a resources and energy development perspective, the Commonwealth Government has similar needs to the South Australian Government. The Commonwealth Government needs to minimise restrictions on exploration to the extent such activity is compatible with other national interest considerations. It needs to maximise certainty to encourage resources exploration and development, facilitate long term revenue forecasting and infrastructure planning, and ensure future decisions on WPA land use are based on evidence of the WPA’s known resources value rather than its potential value.

3.32 Development of the resources potential of the WPA may lead to the identification and development of deposits of strategic energy resources such as uranium and petroleum, furthering the national interest of energy security.

**Meteorology**

3.33 The Commonwealth Government has a need to maintain its meteorological functions in the WPA. The Bureau of Meteorology regards this facility as being of the highest priority as Adelaide, Canberra, Melbourne and Sydney are often directly affected by weather developments over the WPA and due to sparse population there are few other weather observation points in the region.
Civil and Commercial Space Activity

3.34 The WPA attracts civil and commercial space activity because of its large size and remote location. The Commonwealth Government acknowledges, however, that the economic benefits of this usage is limited and need only remain a priority to the extent it is compatible with other uses of the WPA.

Indigenous Groups

3.35 The key requirements of Indigenous groups are the continuation of access to carry out traditional activities, preservation of culturally and spiritually significant sites, and the protection of Aboriginal artefacts uncovered within the WPA. Indigenous groups also need to be confident that Defence has a clear appreciation of the sites and material that are significant to Indigenous groups and that it will take steps to ensure their protection and preservation. Indigenous groups view improving communication with Defence as a key means of achieving this and consider that any other form of development within the WPA should be subject to a requirement to preserve sites and material of cultural, spiritual and heritage significance.

3.36 Within this framework, Indigenous groups need development in the WPA to assist in improving the living standard in remote communities. Indigenous groups consider the material improvements that can be brought to these communities by mining outweigh the improvement that comes with Defence use of the WPA. This is drawn from the economic benefit that mining affords through access agreements and employment opportunities.

Pastoralists

3.37 The key requirements of pastoralists are the maintenance of access to the WPA to continue their farming activity and clear communication with Defence. The location and intensity of Defence activity affects pastoral operations differently and impacts upon the development and use of pastoral assets. The pastoralists need to be informed in broad terms of the parts of their leaseholds Defence requires them to evacuate and when and how Defence intends to give effect to this requirement. This needs to be done with sufficient notice and certainty to enable planning for stock movement, pastoral activities and the development of infrastructure. Similarly, pastoralists believe that ensuring open communication with Defence that is supported
by a clear process would facilitate their access to timely and adequate compensation for damage and inconvenience caused by Defence activity.

3.38 Pastoralists have an interest in mineral development within the WPA. Mining activity provides pastoral leaseholders opportunities to secure financially attractive access agreements with resource companies and commercial opportunities to support increased visitors to the region.

Residents and Businesses in the Woomera Village

3.39 The Woomera village requires Defence funding for essential services and maintenance, and Defence use of the WPA to ensure there are sufficient visitors to sustain local businesses. The bulk of the village’s overnight visitors support activity on the WPA, meaning any reduction in use of the area is likely to affect business. Conversely, increases in Defence use of the WPA are likely to encourage business growth, but will require additional Defence funding to ensure service delivery remains adequate. Another requirement is the preservation of Woomera’s history and heritage given the significance of the WPA and Woomera to Australia’s post-World War II military technological development.

Environmental Groups

3.40 Environmental groups require Defence and other users of the WPA to recognise the area’s unique environmental profile. The traditional focus of environmental preservation in outback areas has been on salt lake ecosystems, meaning the protection for freshwater ecosystems and bushland has been overlooked. Three vulnerable bushland ecosystems are also assessed as being likely to be present on the WPA, which should be adequately recognised and preserved.

Transport Companies

3.41 Transport companies would like unencumbered access to the road and rail corridors through the WPA to ensure continued operations. The development of mineral deposits within the WPA would also support the growth of transport companies. Airline operators servicing locations within and adjacent to the WPA also require access to airspace within the WPA.
Opal Miners

3.42 Opal miners need to maintain their access to the Coober Pedy Precious Stones Field, which is the only proclaimed field that falls within the WPA. Provided their current level of access is not disrupted, miners are content with their engagement processes with Defence.

Residents and Businesses in Coober Pedy

3.43 Residents and businesses in Coober Pedy would welcome resources development in the WPA. The establishment and operation of large-scale mines close to Coober Pedy would increase commercial opportunities and grow the local economy.
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Chapter 4: Unmet Requirements

Overview

4.1 The WPA users requirements are occasionally incompatible, and some users will not have all their needs met. This Chapter identifies the needs of each of the WPA users that are currently unmet and suggests the reasons why. In broad terms, the current coexistence framework operates so that Defence’s needs are generally met and non-Defence users are met to the point they are consistent with Defence’s activities. This is because Defence generally only exercises its discretion to exclude non-Defence users’ access to the WPA when it has assessed that their activity is incompatible with its own. Defence seeks to exclude access as a last resort and works with non-Defence users to accommodate their requirements to the maximum extent possible. The growing number of non-Defence users in the WPA has made this task increasingly complex and highlighted the need for the range management capacity to be resourced better. The absence of an efficient and effective range management system impinges on Defence’s ability to harmonise better the activities of different users on the WPA.

4.2 Among non-Defence users, mining operations are most heavily affected by the exercise of Defence’s authority to control access because of the prima facie incompatibility between permanent mining sites and the testing of war materiel. While other non-Defence users each have a unique set of needs, their unmet requirements are generally echoed in the unmet requirements of the mining companies. The Review considers that focusing on resolving coexistence challenges between Defence and mining operations will improve coexistence generally. Better aligning the requirements of the two groups with the most divergent needs will assist coexistence for all non-Defence users. In taking this view, the Review also recognises that some stakeholders’ interests resonate more closely with Defence’s and others more closely with miners.

4.3 The ability of resources companies to operate in the WPA is constrained by the safety exclusion zones established for Defence testing and evaluation activity, foreign ownership restrictions, operational security caveats and the requirement to negotiate conditions of access. These constrain mineral and energy development in the WPA, which affects the South Australian Government’s ability to increase revenues and meet its resources policy goals. Pastoralists, Indigenous groups, environmental
groups, and local residents and businesses lack the certainty necessary to make long-term business decisions or to be confident that their interests in the WPA are being protected.

Defence

4.4 Defence is uniquely placed to ensure that its needs from the WPA are met because of its status as the long-term and priority user with the authority to control access to the area. Defence uses access control measures to enable it to conduct testing and evaluation activity safely and securely. It does this informally with pastoralists and Indigenous groups, and formally with resources companies through Deeds of Access. Defence also contributes to the Foreign Investment Review Board (FIRB) process as a means of managing any security risks posed by the foreign ownership of companies operating in the WPA.

4.5 There is not a consistent and comprehensive process for mitigating security risks on the WPA. The need for a standard approach to security risk-management in the WPA has grown with increasing investor interest in the area among non-Defence users. The absence of an effective risk-mitigation system is in part caused by the lack of a single, appropriately resourced, entity within Defence that is responsible for managing risk and access to the WPA. Defence is currently developing a set of risk mitigation arrangements to apply to all non-Defence users of the WPA, which will need to rebalance the security-risk mitigation process to ensure an appropriate appraisal of risk across all non-Defence stakeholders.

4.6 Defence recognises the growing need to accommodate non-Defence users on the WPA and participates in the Working Group established by the South Australian Government to coordinate resources-related non-Defence access. Defence also works with pastoralists and miners to harmonise its use of the WPA around their activities. Defence’s current systems and level of resourcing are strained and at capacity to manage the needs of non-Defence users within the area. Defence would face significant challenges if it were required to accommodate additional non-Defence users of the WPA – especially if they were resources companies.

4.7 Two areas requiring improvement to allow Defence to meet better its needs are the system of agreeing access and the enforcement of access conditions. A third area for improvement identified by the Review involves upgrading the WPA’s range management systems.
4.8 Exercising its discretion under Defence Force Regulations to allow people into the WPA, Defence agrees Deeds of Access with resources sector users while ensuring that the conditions necessary to protect official secrets, persons and property are maintained. The Deeds of Access system was established when non-Defence interest in the WPA was low and now Defence finds the system ill-suited to handling and managing complex coexistence. The requirement to agree each Deed individually means Defence is stretched by the increasing number of applicants seeking entry into the WPA. The contractual nature of the Deeds also raises difficulties in enforcing compliance. By agreeing the Deeds, there is a possibility that resource companies may argue that Defence is liable in contract if it exercises its powers under the Defence Force Regulations to remove the resources sector user if required.

4.9 A further complication is the inflexibility of enforcement options. Local range managers are reluctant to use Defence’s enforcement powers because they recognise the significant consequences to non-Defence users of revoking their access or removing them from the area. This reluctance means that Defence acquiesces to the permanent presence of non-Defence users of the WPA by not exercising its statutory power to exclude them. This complicates the planning of Defence’s testing and evaluation activity and contributes to Defence’s diminished confidence in resources companies as negotiating partners when setting conditions of access.

4.10 Some significant examples of non-compliance with access conditions have raised concern in Defence that permitting additional non-Defence users within the WPA would elevate the possibility that future testing and evaluation activity will be disrupted. Defence cites an incident of unauthorised construction as an example of the difficulty it has in enforcing access conditions. Repeated warnings to the contractor carrying out the work were ignored. When the contractor’s actions were brought to the company’s attention, it responded in good faith and remedied the work. Despite the successful resolution, Defence’s confidence in miners acting in accordance with their Deeds of Access was eroded. From Defence’s perspective, the time- and resource-intensive nature of the process also highlighted the difficulties posed by non-compliance with access conditions and further strained range management resources.

4.11 Defence cites an example of a mining company agreeing to a Deed of Access but then claiming to be unable to comply with the requirement to evacuate, once it
was operational. Defence has indicated that continuation of this sort of behaviour would cause the suspension of testing activity because too many people on the WPA would raise the risk of a test causing injury or death to an unacceptable level. Defence believes this demonstrates the potential for the WPA to become unsuitable for some testing activities, or for the activities to be suspended or delayed unacceptably while disputes over access conditions are resolved.

4.12 Defence’s existing range management tools and internal processes reduce its ability to accommodate the increasing number of non-Defence users effectively on the WPA. The range managers identify where testing and evaluation will be carried out on the WPA based on judgments that balance the requirements of pastoralists, the location of mines and the safety and security requirements of the activity. Additionally, Defence’s long-term planning process for use of the WPA is unclear, meaning range managers are required to reserve significant amounts of space to draw on as a contingency for short-notice testing. Range managers also have limited strategic guidance on what bids for use of the WPA they should accept and reject, meaning they generally accept all bids even if they do not involve testing and evaluation activities. This absence of policy guidance on use, tolerance of short-notice planning and testing, and the low level of resourcing for range management has made effective range management increasingly difficult as Defence and partner usage and non-Defence interest in the WPA has grown.

Non-Defence users

4.13 All non-Defence users recognise Defence’s status as the primary user of the WPA, but most view themselves as not having enough information on access conditions and Defence’s usage requirements to exploit fully the access they have to the WPA. This absence of clear information from Defence affects all non-Defence users and means some of their needs go unmet.

4.14 Resources companies seeking to explore or develop discoveries in the WPA face uncertainty over whether they can access their tenements and how much of their debt and equity, assets and commodities they can sell to foreign buyers. Primary Industry and Resources SA (PIRSA) has difficulty planning resources exploration and responding to licence applications because there is long-term uncertainty about which parts of the WPA will be open to resources exploration. Pastoralists’ ability to plan into the long-term is compromised by inconsistent messages from Defence on its
approach to managing their leaseholds. Pastoralists’ access to compensation for damage caused by Defence activity is also diminished by the lack of clarity over the application process.

4.15 Indigenous groups face a degree of uncertainty about potential economic and social benefits from further resources development in the WPA without greater clarity from Defence. Indigenous groups are also not confident that sites of spiritual and cultural significance have been identified or are being respected, and that artefacts discovered in the area are being handled appropriately. Similarly, environmental groups are not confident the unique flora and fauna of the WPA are acknowledged and protected.

**Resources Sector**

4.16 There are currently three operational mines in the WPA, with two being well established and having good working relationships with Defence. The third has recently commenced operations and is building its relationship with Defence. One of the mines raised no issues with the Review regarding its operations and interactions with Defence. Managers at another mine noted they have built a good relationship with Defence and, as a result, both parties have improved their understanding of the other’s needs and Defence’s requirements have been accommodated with minimal disruption. This operation also noted that fostering closer cooperation into the future would allow greater flexibility if any unexpected situations arose. The third mining operation raised issues similar to those in other submissions from the resources sector, including uncertainty over access to the WPA and communication problems with Defence. This mine also expressed concern about the onerous nature of the security risk mitigation measures that Defence requires.

4.17 The primary need going unmet for resources companies is certainty that they will be able to access their licences and leases once they have been granted by PIRSA. Under current arrangements, resources companies apply for a tenement from PIRSA, seek access approval from Defence and then enter into negotiations for a Deed of Access. Although mining companies (and more recently petroleum and geothermal companies) are aware of the need to negotiate with Defence for access to the WPA, there is inadequate information available regarding the type of activities permitted on the WPA, where and for how long. One company was granted access to only 30 per cent of its tenement and was not initially informed why it was prevented from
accessing the remaining 70 per cent. A recurring observation among resources companies is that they need more public information from Defence that outlines the processes and requirements for accessing the WPA.

4.18 Another concern raised by the resources sector was the lack of a time limit on negotiating and executing a Deed of Access for the WPA. Defence will make a decision on granting access within 90 days (120 days in exceptional circumstances), but there is no specified timeframe for the subsequent negotiation and execution of the Deed to set conditions of access. This draws out the process, meaning the commencement of operations is delayed until conditions are set and results in financial and opportunity costs for the companies involved. Exploration Licences have been known to expire before negotiations were finalised and companies have been unable to meet the spending requirements agreed as part of the terms and conditions of their exploration licence. Aside from the commercial loss, this has a flow-on effect on PIRSA’s ability to meet its strategic targets for mineral exploration in South Australia, and impacts on the broader State and national economies.

4.19 The resources sector also needs Defence to focus on its core business, and does not understand why Defence needs to stipulate corporate structures or mandate what resources-related activity may or may not occur in the WPA. The sector appreciates Defence’s need for security and to protect its interests in the WPA, but Defence’s current approach of setting corporate structures and intervening in commercial arrangements unnecessarily constrains business opportunities. This constraint is most keenly felt when resources companies seek to raise capital from foreign investors, which is critical to enabling many of their operations.

4.20 Defence’s focus on setting access conditions that permit specific resource activities, rather than on more general security- and safety-related restrictions, results in a high level of regulation that compromises commercial decision-making and is not necessarily effective. Defence does not communicate what security or safety outcomes it is seeking to achieve, making it difficult for the resources sector to propose effective alternative methods of meeting Defence’s requirements. Defence has also provided limited guidance on how foreign owners and buyers affect its ability to maintain security in the WPA and has not provided the resources sector enough opportunity to respond to Defence’s concerns.
The South Australian Government

4.21 The South Australian Government has a dual interest in the WPA given its policy goals of supporting the State’s Defence industry and maximising the State’s resources development potential. Defence’s use of the WPA contributes to the former goal, but the benefit it brings to the State is heavily outweighed by the relative resources potential of the WPA to the South Australian economy. Resources exploration and development generate high levels of indirect employment and have a significant impact on economic activity within the State.

4.22 Defence’s control of access and the uncertainty generated by its influence over foreign ownership of companies with interests in the WPA has impeded commercial resources operations over a significant portion of South Australia. As this is unique to South Australia, it affects the level of foreign investment the State can attract and increases the regulation of commercial activity. The consequences of this extend beyond the WPA, with uncertainty in the WPA affecting the South Australian Government’s ability to develop its resources industry to its fullest potential. This reduction in mineral development influences state infrastructure development – such as deep water ports and additional rail infrastructure – as well as the State’s future economic prosperity and government revenue.

4.23 PIRSA is the state agency responsible for advancing South Australia’s resources interests, but its efforts to promote resources development in the WPA are affected by a lack of clarity from Defence on its policy on non-Defence use of the WPA. The WPA Working Group established by the South Australian Government has improved dialogue on the day-to-day operation of Commonwealth and State regulatory regimes, although it operates in the absence of strategic guidance that articulates Defence’s processes and requirements. The Minister for Defence’s statement of 17 May 2010 identified the parts of the WPA that Defence considers critical to its operations; however, PIRSA needs further detail on Defence’s longer-term need for exclusive access over various parts of the WPA. Greater clarity on Defence’s long-term requirements would enable PIRSA to align its strategic goals and planning to ensure they reflect practical restraints on resources exploration and exploitation. This would assist PIRSA in handling applications for mineral and energy tenements in the WPA.
Other Commonwealth Agencies

4.24 In addition to supporting Defence activity, the Commonwealth uses the WPA to support meteorological observations and commercial space activity. From the submissions received, these needs appear to be compatible with Defence requirements and can be readily accommodated.

4.25 The Review notes commercial space activity is outside the purposes for which the WPA was established. The WPA offers a unique set of facilities that can support commercial space activity, but any civil use of the WPA cannot leverage Defence’s authority to control access to the area. Defence’s right to control access to the WPA is for the purpose of testing of war materiel.

4.26 From a resources and energy perspective, the Commonwealth Government’s requirement for maximum certainty for resource companies and minimal restrictions on exploration are impeded by Defence’s influence over activity in the WPA – especially given likely future advances in resources exploration and development technology. This reflects a broader Commonwealth interest in reducing barriers to foreign investment and limiting business regulation. The Commonwealth also has an interest in promoting commercial resources exploration to improve its understanding of Australia’s resources reserves and obtain a clearer appreciation of national wealth.

Indigenous Groups

4.27 Indigenous groups have generally maintained their access to the WPA, but are not confident that sites of cultural and spiritual significance have been identified and protected. Communication with the groups by Defence is ad hoc. Any steps taken by Defence to preserve sites of Indigenous significance and to educate visitors about their responsibilities towards Aboriginal heritage items are not being adequately conveyed to Indigenous groups. The uncertainty surrounding resources-related activities in the WPA also generates uncertainty over potential economic benefits and development for Indigenous communities.

Pastoralists

4.28 Pastoralists are generally satisfied with their relationship with Defence, although those located closest to areas of high Defence use have some reservations. Pastoralists have good access to their leaseholds in the WPA and have established a good working relationship with Defence to resolve the day-to-day issues arising from Defence’s
occasional requirement to exclude them from parts of their leaseholds. But pastoralists also require greater long-term certainty about Defence’s policies and activities. Inconsistent Defence representations over the extent and handling of future access requirements (including compensation) adversely impacts pastoralists’ ability to make long-term plans for their businesses. Additionally, pastoralists currently do not have access to a clear and effective process to compensate them for inconvenience and damage caused by Defence activity.

4.29 Pastoralists would also appreciate greater certainty over the likelihood of additional non-Defence users being permitted into the WPA. This would provide them the opportunity to capitalise on the potential commercial benefit of supporting large-scale mining operations in their leaseholds or near vicinity.

Residents and Businesses in the Woomera Village

4.30 The needs of the Woomera township are generally met, but uncertainty over future Defence activity in the WPA influences business confidence in the village. The Woomera township was established to support Defence activities and is funded predominantly by Defence. To support Defence, the township needs to attract and retain a critical year-round population mass, which is tied to Defence activity and funding. The importance of keeping the people who support Defence and live in the town cannot be underestimated, necessitating that Defence provide funding and upkeep in support of current and anticipated increased activities on the WPA.

Environmental Groups

4.31 Environmental interest groups have generally been successful in achieving their goals in the WPA, but are not confident that environmental considerations have a sufficiently high profile in the discussion about future use of the WPA.

Transport Companies

4.32 Transport companies operate in the WPA with little restriction on their activities and would like this to remain unchanged. They would welcome additional mining within the WPA because it would present opportunities for increased services. This would require greater certainty over the arrangements governing resources development in the WPA.
Opal Miners

4.33 Opal miners are satisfied with current access arrangements, but would welcome excision of the remainder of the Coober Pedy Precious Stone Fields from the WPA.

Residents and Businesses in Coober Pedy

4.34 Residents and businesses in Coober Pedy raised no concerns with the Review over current access arrangements to the WPA. The relative proximity of the Prominent Hill mine has brought economic benefit to the town, and opal miners’ access to the WPA has ensured that local industry has not been artificially constrained.
Chapter 5: Preliminary Findings

Overview

5.1 Mindful of the shortcomings identified in the previous Chapter, the Review is satisfied that a reasonable amount of coexistence has occurred within the limitations of current arrangements. The Review is also satisfied that many of these limitations can be overcome through implementation of better management systems.

5.2 Some of the competing needs in the WPA are contradictory and can only be addressed according to user priority, but there are other, reconcilable, incompatibilities that compromise optimal use of the WPA in Australia’s national interest. This Chapter identifies the underlying reasons why the unnecessary incompatibilities exist, and what they are broadly symptomatic of. At this point, the Review would like to note that the incompatibilities it has identified are not a result of any one user lacking the desire to enhance coexistence on the WPA. Defence, mining and energy companies, pastoralists, and Indigenous and environmental groups are all genuinely committed to improving coexistence and keen to cooperate to accommodate each others’ needs. The Review considers there is scope to capitalise on this mutual goodwill and improve confidence among WPA users by capturing it in a Statement of Principles to support coexistence.

5.3 The Review also considers there to be scope to reduce the size of the core area of operations identified in the Minister for Defence’s statement of 17 May 2010 and introduce a time sharing model to encourage coexistence. The Review believes this would support Australia’s national security and economic interests better by enabling more resource exploration within the WPA, which may have high resources potential in some areas.

Need for a Comprehensive Management Framework

5.4 The absence of a comprehensive management framework that coordinates the interests of Defence, PIRSA and other Commonwealth agencies is felt by all WPA users. Current procedures and arrangements mean the goodwill and efforts towards effective coexistence by both Defence and non-Defence users result in a limited return. And despite this goodwill, there remains considerable uncertainty regarding the parts of the WPA non-Defence users may access, the conditions that might be imposed on that access, the factors Defence considers when setting conditions on
access, and how the lack of a management framework is exacerbated by the growing number of non-Defence users. These include the absence of internal policy guidance on use of the WPA, ageing range management systems, and inadequate long-term test and evaluation planning.

5.5 In addition to generating uncertainty, the lack of a clear management framework has contributed to Defence’s reluctance to ensure compliance with conditions of access because of the absence of suitable enforcement mechanisms. It has also increased the length of time it takes for non-Defence users to secure access to the WPA by requiring lengthy negotiations, and reduced confidence in Defence’s Indigenous and environmental management processes.

5.6 The Review has identified five discrete management features that are currently lacking. These are:

- an appropriate statutory basis supporting effective use of the WPA;
- a policy and procedural framework that is transparent, consistent, logical and practical;
- a consultative body for managing coexistence issues that is appropriately structured, empowered and resourced;
- an effective range management system; and
- a set of guiding coexistence operating principles.

5.7 A comprehensive range management system would need to address each of these areas to offer all WPA users clarity and certainty over their rights and responsibilities with respect to the area.

Legal Framework

5.8 Defence’s power to control access to the WPA is contained in Regulation 35 of the Defence Force Regulations, which it currently uses to support the agreement of Deeds of Access. The growth in non-Defence use of the WPA and increased demand for coexistence in the area has strained the exercise of Regulation 35 to the point where it is no longer adequate to meet Defence’s needs. Defence requires a revised legal framework to introduce a comprehensive access control mechanism that is transparent and flexible, and that also enables it to impose a range of conditions to protect its essential interests in the WPA. Under current arrangements, Defence does
not have access to enforcement provisions that give it adequate discretion to respond to breaches of access conditions, and cannot fully offset the cost of administering additional users operating in the area. Defence also requires legal authority to implement a cost recovery system as the costs associated with managing security and compliance arrangements may be significant. Defence is entitled to cost recovery given the costs will be incurred solely for the benefit of non-Defence WPA users.

5.9 The existing legislative framework should be revised to support introduction of these measures. Defence’s power under the Defence Force Regulations is limited to withdrawing permission to access the WPA, and penalties for accessing the WPA without permission can only be imposed by a court following prosecution by civil authorities. Within these confines, conditions of access are contractually based, as is Defence’s right to recover costs. A new access control framework that sets administrative penalties, as well as the establishment of standard access conditions and cost recovery mechanisms would require amendment to the Regulation power. Similarly, broader Defence Force Regulations to enable the introduction of such a system would benefit from expansions to the regulation-making powers in the Defence Act (1903).

Policy and Procedural Framework

5.10 The Minister for Defence’s statement of 17 May 2010 is the only public guidance offered by Defence on coexistence in the WPA. The FIRB advises foreign investors seeking to acquire interests in companies operating in the WPA to consult with Defence before making an application. PIRSA alerts applicants for resources licences and leases in the WPA of the need to secure access rights from Defence.

5.11 The Minister’s statement was well received by the resources sector, but only in so far as it represented a first step towards offering clear guidelines on coexistence. Although the statement identified a ‘core area of operations’ for Defence activity, there remains a requirement for a policy framework that sets time share arrangements, consultative mechanisms, compensation, and comprehensive information on safety and security requirements. The framework must also identify how Defence will exercise its discretion to evacuate existing users of the WPA and acknowledge the special circumstances of non-Defence users on the WPA. Non-Defence users are exposed to a heightened risk of damage to their property caused by Defence activity. This increased risk means the Commonwealth’s existing discretionary compensation
mechanisms are not appropriate for non-Defence users of the WPA and creates a need for a more expeditious and tailored means of accessing compensation where applicable.

5.12 Indigenous groups, environmentalists and pastoralists received limited benefit from the statement, except to the extent it offers resources companies more certainty and may encourage their operations. The absence of a consultative body and communication mechanism inhibits each group’s ability to be confident its interests in the WPA are being protected, or to receive enough certainty over Defence activity to support long-term planning.

5.13 Implementation of a comprehensive management framework would also address the safety and security risks associated with admitting additional non-Defence users into the WPA. This framework would address the risks presented by all non-Defence users rather than focusing exclusively on the risks posed by the presence of resources operations on the WPA.

Consultation Mechanism
5.14 There is no consultative body to enable interested user groups to contribute to access decisions on the WPA. This is significant for Indigenous and environmental groups, whose interests may diverge but are equally separate from Defence’s when it is formulating its decisions on access to the WPA. This is also significant to the resources sector, which does not have any capacity to inform Defence of its requirements on a sector-wide basis. The absence of a sector-wide voice reduces Defence’s ability to accommodate resources company interests when setting conditions on access, as they are determined on a case-by-case basis with companies with an urgent commercial requirement to access the WPA.

Range Management System
5.15 Increased demand for access to the WPA necessitates strengthening Defence’s internal processes to guide its use of the area to ensure it can meet its needs and accommodate other users. This should include more support to range managers by way of policy guidance, lead times for planning and range management tools.

Coexistence principles
5.16 The Review considers the guidelines underpinning coexistence need to be set out in a Statement of Principles. Defence strives to accommodate existing users on the WPA when it is programming its testing and evaluation activity. PIRSA and the
resources sector acknowledge Defence’s status as the primary user of the WPA. There is currently no broad statement capturing these sentiments, or emphasising Defence’s commitment to preserve Indigenous heritage, the environment and pastoral activity. The absence of such a statement contributes to a lack of confidence by users of the WPA in each other. This lack of confidence complicates negotiations when accommodating WPA user interests and reduces goodwill between user groups.

Two Stakeholders, One Primary User

5.17 The Review considers Defence and the South Australian Government to be key stakeholders in the WPA. Defence’s status is based on its right to control access to the WPA and its historical use of the area. South Australia’s status is drawn from its position as owner of the vast majority of the WPA, its size and mineral potential, and importance to the State’s and Australia’s future development.

5.18 Defence’s right to control access does not make it the principal stakeholder in the WPA, only the principal user. In the Review’s judgment, Defence must exercise its right to control access reasonably and in accordance with its needs. Defence should have a presumption of admitting access to non-Defence users except where it would prevent Defence from fulfilling its needs from the WPA. Implementing a comprehensive management framework would ensure that Defence adopted this practice.

A Smaller Core Area of Operations

5.19 Defence’s use of the WPA varies, with the highest frequency of testing and evaluation activity occurring within a portion of the south-east corner of the area. This area of highest use should be permanently reserved for Defence as a reduced core area, with the remaining portions of the WPA being open to non-Defence users. The portion of the south-east corner identified by the Review as the reduced core area is smaller than the area identified in the Minister for Defence’s statement identifying Defence’s Core Area of Operations. Users with existing access rights should retain their access to the reduced core area, as should PIRSA officials conducting survey work with the agreement of Defence. The Review believes that Defence will still need periods of exclusive access to the remainder of the Core Area of Operations, but is of the view that Defence does not require permanent exclusive access to the entire south-eastern area of the WPA.
Time Sharing

5.20 All user objectives for the WPA will be better served by the introduction of a time-sharing arrangement. The Review considers that Defence can achieve its objectives of the WPA with a reduced core area, where no new non-Defence activity is permitted other than PIRSA survey work, and a larger zone around this reduced core area where it has exclusive access for specified time periods. The Review envisages that the reduced core area would fall within the south-east corner of the WPA as identified in the Minister for Defence’s statement, and would time share the remainder of the core area. Defence would retain a right to suspend non-Defence users from access to parts of the WPA outside the core area of operations for fixed times after a specified notice period.

5.21 The reduction in area of the parts of the WPA where resources operations are currently restricted will enable a more comprehensive understanding of the resources potential of the WPA and increase the potential for mineral development in South Australia. Pockets of the WPA have particularly high resource and energy potential, and it is in the interests of the Commonwealth and the South Australia Government to understand the real mineral value of the WPA, rather than the potential value. This knowledge can only be gained through exploration.

Conclusion

5.22 Many of the differences between user groups on the WPA only exist because of the absence of a comprehensive management framework. Introducing a framework that includes a set of principles and is supported by legislation, policy guidance and an effective range management system should materially improve the level of coexistence in the WPA. Coexistence will be further improved by a reduction in Defence’s core area of operations and the introduction of time share arrangements across parts of the WPA. The Review considers that implementing these measures will result in increased trust and confidence between WPA user groups. This will give the Commonwealth and State Governments a better understanding of the resource potential of the WPA, enable greater economic development, and protect the Commonwealth’s need for a technologically sophisticated Defence Force.
Chapter 6: Enhancing Coexistence

Overview

6.1 Coexistence already occurs in the WPA. This is demonstrated by the existence of three operating mines, several approved mining leases and mineral development projects, over 20 pastoral leaseholds, and national transport corridors existing across the Defence test and evaluation range. There is a widespread belief and expectation among users that more coexistence can be achieved. It is apparent also to the Review that there is scope for greater and more effective coexistence.

6.2 As noted in previous chapters, there are many different interests and needs in the WPA; some are interdependent and some divergent. The Review found the interests of Defence and the resources sector were the most divergent and that the interests of other non-Defence users (pastoralists, Indigenous and environmental groups, transport service providers, the Woomera village) were interdependent with Defence and or resources sector needs. Consequently, it became apparent to the Review that a new coexistence model is needed to address the challenging coexistence issues affecting Defence and the resources sector, recognising that addressing better the needs between these two groups will also serve the needs of other non-Defence users better.

6.3 This Chapter identifies the core interests that the comprehensive management framework should advance and how its legal, policy and procedural, consultative, and range management elements should be developed. This Chapter also outlines a Statement of Principles that should govern future use of the WPA.

Core Interests

WPA to Remain a Defence-controlled Area

6.4 The Review believes that it is not necessary for Defence to relocate its test and evaluation capability to elsewhere in Australia at this stage. Greater practical coexistence than that which currently occurs is entirely feasible, and the obstacles to coexistence in the WPA would likely be similar to those in other parts of Australia.

6.5 The Review also considers that greater coexistence is feasible within the current WPA boundaries, but there may be benefit in small amendments to portions of the south-eastern boundary to accommodate increasing levels of resources activity.
Existence and Location of a Reduced Core Area in the WPA

6.6 The Review is satisfied that Defence has a legitimate need for an area of the WPA to be designated a reduced core area where non-Defence activity will be kept to an absolute minimum. Such activity would probably be restricted to pastoral, Indigenous and some government survey activities. Defence’s reduced core area should remain in the south-eastern corner of the WPA because of the location of the WPA’s range instrumentation and proximity to the Woomera airfield and village.

Recognising Defence Priority and Responsibility

6.7 All WPA users acknowledged that Defence’s needs of the WPA should remain paramount. This recognition reflects Defence’s authority to control access to the WPA under Defence Force Regulations to test war materiel and its historical association with the WPA. The Review agrees that Defence should be recognised as the primary user of the WPA and retain its authority to control access, but considers that Defence should allow non-Defence access to the WPA unless it is incompatible with clearly defined and articulated Defence needs.

6.8 Informing this judgment is Defence’s status as occupier, but not owner, of most of the WPA. The owner of the overwhelming majority of the WPA, the South Australian Government, wants Defence to retain access control authority over the area while allowing the greatest possible resources development. In the Review’s view, Defence has a responsibility to facilitate coexistence to the fullest extent possible while still protecting people, property and official secrets.

Quantifying the Nation’s Resources Base

6.9 Australia is well endowed with resources, but the continual process of exhausting known deposits drives the need for ongoing exploration to identify new deposits. Australian governments have an obligation to promote economic security. This requires a comprehensive understanding of the nation’s natural resources potential, which can only be achieved through continual exploration. This, in turn, requires governments to create an environment that encourages commercial exploration, as governments themselves do not undertake exploration.

6.10 Given the high level of resources potential in the WPA – which has only relatively recently attracted greater interest from the resources sector – the Commonwealth and South Australian Governments need to be able to open access to
the WPA to the greatest extent possible. Identifying deposits and refining knowledge of the WPA’s resources potential will contribute to a better understanding of the balance of interests in the WPA, which will assist in shaping management plans into the future. In making this judgment, the Review recognises the distinction between the Commonwealth and State Governments’ responsibility to understand the true nature of South Australia’s resource base, and a company’s commercial imperative to explore and discover deposits capable of being developed.

Recognising the Needs of non-Defence Users of the WPA

6.11 The Review considers there to be considerable scope in the WPA for Defence to meet all its needs in a way that better accommodates the interests of other users. In developing a coexistence model, the security and safety risks associated with Defence’s testing and evaluation activity must be regularly considered and addressed. Developing a time share system that implements a risk-managed approach to coexistence would accommodate the needs of all WPA users and facilitate an appropriate balance between Australia’s national security and economic interests. The Review considers this could be achieved through a comprehensive range management framework that would afford all WPA users certainty over access to the area.

A Comprehensive Range Management Framework

6.12 The five discrete features identified in Chapter 5 as essential for a comprehensive range management framework are legal certainty, clarity over policy and procedures, a clear consultative body, effective range management systems and a set of guiding principles.

6.13 In broad terms, the Review considers that the introduction of such a system would require Defence to be more specific about its time and space requirements in the WPA. This should be achieved by confining required Defence activity to the parts of the WPA Defence needs to meet its objectives, and publishing a schedule identifying when those areas will be in use. Once these requirements are communicated, all non-Defence users will have greater awareness and assurance of the access available to them in terms of location and duration.

Legal Framework

6.14 The Review considers the management framework should be based on a legal foundation that addresses the increasing challenges of managing coexistence on the
WPA. Defence needs the legal power to control access, set access conditions that protect its safety and security interests, ensure access conditions are being met, and impose a graduated series of penalties for breaches of conditions. The new legal structure would not affect the rights of existing non-Defence users, but would provide Defence with the power to recover the costs associated with administering non-Defence access to the WPA.

6.15 Under this system, Defence should be obliged to develop an access control mechanism that is transparent, timely and fair. Developing standard conditions for all non-Defence users subject to the access control mechanism, publicising them and setting time conditions for consideration are critical to promoting certainty among non-Defence users. Other processes Defence should make public include the consultation process, the process for accessing compensation for damage caused by Defence activities, and the mechanism for appealing Defence decisions.

6.16 The Review considers these requirements can be achieved most effectively by amending legislation to introduce a permit system to control access to the WPA. Existing non-Defence WPA users interests would not be prejudiced by introducing a new system, which would offer clarity and certainty for Defence and new users of the WPA. As amending legislation can be a lengthy process, there is also a requirement to develop interim measures to enhance coexistence in the short-to-medium term. The Review’s recommendations will include such interim measures to enable implementation of the proposed management model to the maximum extent possible, within existing legal boundaries.

6.17 Amending legislation to enable development of an access control mechanism that admits non-Defence users according to type and zone of use is the key to establishing an effective management framework. Such a framework would feature a series of permits authorising specific types of activity - resources, pastoral, environmental, tourist or research. Each permit would contain standard conditions applying to that type of activity. Resources permits might grant Defence extensive rights to inspect sites or remove equipment that threatened safety or security, while research permits would specify restrictions on use of the Woomera range control.

6.18 Eligibility for these permits would depend upon the area within the WPA that a user wished to access. Under the scheme, the Review is inclined to divide the WPA into three zones termed the red, amber and green zones. The red zone would be
restricted to Defence and no non-Defence use would be permitted, with the exception of current pastoral and Indigenous activity, and limited PIRSA-sponsored activity. The amber zone would be an area where specific types of non-Defence activity would be excluded for set periods during a year. The green zone would incorporate the areas where all types of activity would be permitted all year round, subject to a Defence right to deny access for specified times after providing a specified amount of notice.

6.19 The Review believes that this system would provide certainty, clarity and long-term continuity for non-Defence users, while preserving Defence’s ability to protect its essential requirements and maintain effective use of the WPA.

Policy and Procedural Framework

6.20 The key objective of the policy and procedural framework is to provide a mechanism to implement the time share arrangements. To be effective, the framework must promote administrative clarity and transparency, and offer certainty to non-Defence users as to potential restrictions on access. This requires the framework to be publicly available and include wide ranging guidelines on:

- how to apply for access to the WPA;
- information required from applicants;
- those areas of the WPA available for non-Defence access and any time constraints;
- common restraints on proposed non-Defence activities;
- opportunities and processes for seeking redress;
- timeframes for assessing applications; and
- obligations and compliance mechanisms.

6.21 The guidelines should be accessible from the Department of Defence webpage, with South Australian Government and Industry Group websites noting the need to contact Defence. One area in Defence would respond to all requests relating to non-Defence access. There would be a central coordinating body within Defence to assess all requests for access. This coordinating body would make an assessment on the potential impact of the proposed non-Defence activity on Defence’s time and space requirements for the WPA. PIRSA would be consulted to provide context from a State perspective. Defence would also seek advice from other Commonwealth Government agencies to allow it to appreciate the broader national interest. The timeframes to assess applications would need to strike a balance between commercial
requirements and the ability for Defence to make an informed assessment. Consideration will also be given to the most practical execution of the enforcement of access conditions. The Review acknowledges that with increasing non-Defence interest in the WPA, additional resources will be required to implement the administrative framework.

6.22 Companies should continue to consult with Defence on access arrangements before submitting an application to the FIRB. Although not a precondition of FIRB consideration, prior agreement with Defence on access arrangements (not foreign ownership) provides companies with greater clarity as to how they will have to conduct operations in the WPA before finalising investment requirements.

6.23 There is potential to introduce a formal appeal mechanism to oversee administration of the policy and procedural framework. Whether the Review recommends establishment of a formal appeals body will be subject to further advice but, in the interim, establishment of the Governance Board will provide an informal mechanism to review access decisions and enforcement actions.

6.24 This framework is only for those non-Defence activities that do not involve use of the WPA’s test and evaluation facilities. Non-Defence parties seeking to use the WPA’s test and evaluation facilities would continue to be managed in accordance with Defence Instruction General DI(G) ADMIN 38-1. Management of the test and evaluation facility is a core responsibility of the Woomera Test Range Managers. DI(G) ADMIN 38-1 will need to be updated to reference the administrative framework.

**Identifying Defence Requirements**

6.25 Defence should have unfettered access to the parts of the WPA it needs for the length of time it requires to:

- conduct test and evaluation activities that require range instrumentation and directly contribute to ADF capabilities;
- ensure the safety of that activity; and
- ensure the security of that activity.

6.26 The Review supports Defence’s view that it requires a core area for exclusive use, or with minimal low-impact non-Defence use such as current pastoral and Indigenous activity, where it can conduct the majority of its testing and evaluation.
The Review is inclined to agree with Defence that the Range Centre Line Corridor should be maintained. The Review also accepts that Defence should have access to the remainder of the WPA if it has a specific testing and evaluation requirement.

6.27 Within this framework, the Review is not convinced that Defence requirements justify an exclusive area in the south-east corner commensurate with the size of the core area of operations currently depicted in the Minister for Defence’s 17 May 2010 statement (see Annex D to this report). Other nations with comparable or larger military capabilities and testing schedules conduct test and evaluation activities in significantly smaller ranges.

6.28 The Review does recognise that the USA, the United Kingdom and others undertake test and evaluation activities at the WPA to draw on its large size, and remote and quiet environment. The Review found that the USA conducted less than one per cent of its sensitive activity in the WPA and that senior officials consulted were unaware of any plans to increase its use of the area. The Review also found during its consultations with the USA and the United Kingdom that while the WPA’s unique attributes were a significant factor, the opportunity to partner with Australia was also an important driver for them to test materiel there.

6.29 In summary, the Review favours Defence being able to access all areas of the WPA to carry out its test activities, but considers that Defence’s access to some areas could be reduced without undue impact on its test objectives, its ability to operate safely and securely, or its ability to engage with international partners and allies.

**Implementing Time Share Arrangements**

6.30 The Review will identify the areas of the WPA subject to greatest Defence use and establish red, amber and green zones to manage non-Defence access as follows:

a. The red zone would be the reduced core area within the south-east corner. The intensity of Defence use of the area and complexity associated with managing existing non-Defence users means it is not possible to introduce new users to this area.

b. The amber zone will cover the remainder of the ‘Core Area of Operations’ identified in the Defence Minister’s 17 May statement. The Review will recommend regular time periods of exclusive Defence access to the amber zone based on Defence’s testing and evaluation requirements. As these periods will
be fixed, there will be guaranteed rights of entry for non-Defence users for the remaining time periods.

c. The green zone will cover the remainder of the WPA and there will be a presumption of access to all non-Defence users in this area. This access will be subject to a Defence right to restrict access for specified times within a year after providing a prescribed amount of notice.

6.31 Defence will have access to the entire WPA all year, but will have defined periods of exclusive access in the amber and green zones. Defence will therefore need to accommodate other users in these zones on a time-share basis.

6.32 The Review will formulate recommendations as to the time afforded Defence and non-Defence users in the amber zone, and periods where Defence may exclude use in the green zone, after further discussions with stakeholders. The Review anticipates that it will include recommendations regarding periods of access in the final report.

Understanding the resource profile of the reduced core area

6.33 Access to the reduced core area should not be totally excluded from the South Australian Government, which has a legitimate obligation to improve its understanding of the resources potential of the State. The Review considers that Defence and PIRSA should agree to a long-term government geological survey program to enable PIRSA to collect geological survey data within the Defence area. In addition to collecting data on artesian water supplies, seismic activity and potential locations for carbon sequestration, such a program would allow PIRSA to improve its understanding of the mineral and energy profile of the land within the WPA. Access for the survey should be limited to a number of weeks per year, and only be granted around Defence’s use of the area. Such a program would operate within the comprehensive management framework recommended by the Review and be similarly subject to conditions agreed by Defence and PIRSA. The discovery of a commercially viable deposit during the conduct of this geological survey program would not automatically result in the commercial development of such a deposit. The implications of the discovery of such a deposit would need to be considered by Defence and PIRSA before any decision to develop could be taken. The Review believes such a program would contribute to ongoing monitoring and management of the balance of the resources and national security interests in the WPA.
6.34 Defence’s ability to prescribe limitations on non-Defence use of the range should be confined to those directly affecting its own activity. If Defence does not require exclusive access to a particular part of the WPA for a specified period, it should be immaterial what activity occurs there provided it does not interfere with Defence’s activity elsewhere in the WPA or affect Defence when it resumes its use of that area. Limiting Defence’s discretion by only permitting it to impose a set of standard conditions to preserve the safety and security of its activity, and time and area exclusion zones, would allow resources companies and other users to determine for themselves the feasibility of operating under those conditions. These standard conditions should include an ability for non-Defence users to shut down their operations in the WPA and evacuate all personnel, which they should be required to demonstrate before they receive a permit as part of an accreditation process. Non-Defence users would also have to be able to demonstrate continuously this ability as part of an ongoing compliance program.

6.35 Such an approach would also allow Defence to focus its efforts on managing on-site test and evaluation control measures rather than foreign investment considerations. Providing Defence with a framework that gives it extensive powers of inspection and a right to disallow or remove people and equipment that pose a security threat should mitigate the need to impose conditions on foreign ownership. By regularly inspecting sites on the WPA, Defence would ensure the security of its activities was protected. A significant benefit of this approach would be the removal of constraints on access to foreign capital and markets for resources companies seeking to operate in the WPA.

**Governance Arrangements**

6.36 The circumstances surrounding and needs of the WPA present a unique set of management challenges for the Commonwealth and South Australian Governments that require an innovative approach to be dealt with effectively. The mix of interests in the WPA means there is a requirement for a publicly accessible body to oversee consultation and decision making concerning access arrangements. The Review considers the needs of all users will be best achieved by establishing a strategic level governance board and an operational level working group. With minor modifications, the current WPA Working Group could be used in the latter role.
6.37 The Governance Board should be co-chaired by Defence and PIRSA – reflecting their respective needs and responsibilities in the WPA – with representatives from the Commonwealth Department of Resources, Energy and Tourism and Defence SA. The Board would be open to input from the resources sector, pastoralists and Indigenous and environmental groups.

6.38 The Review envisages that the Board’s primary focus would be on monitoring the balance of interests of all users, with a particular focus on overseeing implementation of the comprehensive range management framework outlined above. The Board would report annually and conduct a review every five years on the management of the WPA in the national interest.

6.39 The Board would provide a means of communication between Defence and non-Defence stakeholders, and an opportunity to examine access decisions, policy and procedures. Non-Defence stakeholders could identify areas of Defence policy and process with which they are satisfied and dissatisfied, along with suggestions for improvement. The Board would present a forum for non-Defence users to advise Defence of any changes in their requirements. It would also provide a means for Defence to update users on its procedures and requirements for the WPA. The Board’s actions would be informed by terms of reference, and members would be of sufficient authority to implement the necessary changes within their respective organisations to achieve coexistence policy outcomes.

Range Management Systems

6.40 The Review considers that streamlining Defence’s internal process to increase support to the WPA range managers would improve coexistence. Minimising the potential for urgent testing by improving long-term planning for use of the WPA would alleviate some of the pressure on WPA range managers. A key benefit to coexistence would be the reduction in the need for range managers to reserve large tracts of the WPA to use as a contingency to meet short-notice requests for use.

6.41 Limiting use of the WPA to testing and evaluation would reduce the pressure on the WPA and ensure it was only used for essential activities. Upgrading the range management system would enable the range managers to accommodate greater complexity within the WPA and reduce the need for Defence to deny access to non-Defence users. Finally, providing additional resources to enable range managers to
undertake regular and comprehensive inspections of permanent sites on the WPA would increase Defence’s capacity to mitigate security risks satisfactorily.

6.42 Overall improvements to the range management system would enable more efficient Defence use of the area, which is likely to increase Defence’s ability to open more of the WPA up to more non-Defence users more often. As the main purpose of upgrading range management would be to facilitate non-Defence use of a Defence area, it would fall outside Defence’s core business and provide grounds for additional resourcing for Defence from Government. Defence should receive additional resources to cover the gap between the introduction of the new range management system and the standing-up of a self-sustaining cost-recovery process.

Guiding Principles

6.43 The Review recognises there will be a need for compliance, appeal and review systems to ensure that all users of the WPA operate appropriately, but believes that all stakeholders need a set of principles to aspire to and guide their actions. These principles will be important to ensure that people from all sectors understand each other’s position, that all understand Defence’s position as the primary stakeholder on the WPA, and that expectations are managed.

6.44 From the Review’s observations, the Woomera Test Range managers have already adopted a principles-based approach to their engagements with the various stakeholders. The Review is proposing the recognition and wider adoption of the principles-based approach that already exists and translating that approach to WPA-related dealings elsewhere. The current principles are:

- Defence and PIRSA are the primary stakeholders in the WPA but Defence is the primary user of the WPA:
  - the needs of others need to be accommodated without unduly compromising Defence activities.

- Trust:
  - transparency builds trust: everyone needs to be open about their requirements, intentions and processes; and
  - consistency between words and actions: everyone needs to act in accordance with their words.

- Fairness: no two situations are identical but guidelines and procedures are to be applied fairly.
Communications and consultation:
- All stakeholders need to actively and regularly engage with each other, both formally and informally; and
- All stakeholders should strive to understand each other’s needs and how and when they may change over time.

Partnering and practical shared solutions: every stakeholder has a unique set of skills and experience. These should be drawn upon to develop practical and innovative shared solutions.

Delivering on outcomes: Stakeholders will do what they say they are going to do; and a timely 80 per cent solution is better than a 100 per cent solution delivered late.

Introduction of measures as a package

6.45 The measures proposed by the Review should be treated as a complete package. There would be limited benefit in implementing some measures and not others. Establishment of a Governance Board would be of limited benefit if the Defence representative does not control a comprehensive administrative framework. Likewise, introduction of a permit system would be of limited value if Defence was not equipped with a WPA range management system capable of supporting its efficient use of the area.

Conclusion

6.46 There is scope for greater and more effective coexistence in the WPA based on a time share arrangement, driven by Defence clearly articulating its time and space requirements, and supported by legislative and administrative frameworks. Such an approach would allow non-Defence users to understand Defence’s access conditions better and assess for themselves the practicalities of operating under those conditions.

6.47 The review considers that introduction of these measures would substantially increase the capacity for coexistence on the WPA, preserve the WPA as an effective Defence capability, introduce legal protection and certainty for all WPA users and meet the South Australian Government’s resources development goals.
Chapter 7: Way Forward for the Review

7.1 To ensure the Review has adequately understood the wide ranging interests in the WPA, public comment is sought on our preliminary observations and proposed way forward for improved coexistence, as outlined in this Interim Report. Public comment on the Interim Report closes on 30 November 2010. Comments can be sent via:

   e-mail:  Woomera.ReviewTeam@defence.gov.au
   post:  Government Review of the Woomera Prohibited Area Secretariat
          R7-1-045
          Russell Offices
          Department of Defence
          CANBERRA ACT  2600

Questions about this Report or the Review in general can be directed to the Review Secretariat on 02 6127 5609.

7.2 During this further period of public comment, Dr Hawke and the Review Secretariat will continue to engage and consult with key interest groups and users of the WPA. All public comments received by close of business 30 November 2010 will be considered. The information received will assist in further developing and refining the coexistence model outlined in this Report.

7.3 The final report will present a detailed model for more effective coexistence and make specific recommendations under the terms of reference. Dr Hawke will present the final report to the Minister for Defence by the end of 2010.
Terms and Definitions
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Terms and Definitions

In the context of this report, the following terms have the defined meanings:

Centre-line: The WPA centre-line is a notional line along which range instrumentation is centred and long range trials are conducted. The centre-line represents the longest straight line achievable from the Range Control Centre to the north-western boundary of the WPA.

Centre-line Corridor: a 20 nautical mile-wide corridor of land running from the Range control centre to the north-western boundary of the WPA, as identified in the May 2010 public statement.

Coexistence: is the situation in which two or more parties with competing land use interests in the WPA are able to meet their respective land use outcomes without adversely affecting the other parties’ interests. Where Defence is one of those users, these interests include operational, safety and security.

Core Area of Operations (CAO): that part of the WPA identified in the Ministerial Statement of 17 May 2010, comprising the south-east corner of the WPA south of the 30th parallel and east of the Stuart Highway and the centreline which is a 20 nautical mile wide corridor of land running from the range head to the north-west boundary of the WPA.

Cover (or Overburden): any material, consolidated or unconsolidated, that lies between a deposit and the surface.

Deed of Access: a contractual agreement between Defence and a resources sector user of the WPA, permitting that user to access the WPA for specific purposes, subject to conditions contained in the Deed of Access.

Defence Force Regulations: the Act under which the WPA was declared a prohibited area and which enables Defence to limit access to the WPA. The Defence Force Regulations 1952 (Cth) are made in accordance with section 124 (nb) of the Defence Act 1903 (Cth).

Defence Instruction (General) (DI(G)) ADMIN 38-1: the Defence document that provides guidance to users of the WPA on the policy and procedural framework for the management of the WPA. The instruction applies to all Defence personnel, and all other users of the WPA are required to comply with the terms of the Instruction in any applicable agreement with Defence.

Deposit (or resource): a concentration of naturally occurring solid, liquid or gaseous materials in or on the Earth’s crust in such form and amount that its economic development is currently or potentially feasible.

Development: the production of a resource that has been sufficiently proven through exploration, and includes:

- mineral development – the process by which a mineral deposit is brought into production through development of a mine.
• petroleum development – the process by which a proven oil or gas field is brought into production by drilling production wells.

**Energy Resources:** occurrences in the Earth’s crust of organic or inorganic solid, liquid or gaseous material that can be used for energy production, including coal, geothermal and hydrocarbon resources.

**Exploration:** the process by which a company or organisation searches for energy or mineral resources. This is often carried out by detailed geological and geophysical surveys, followed up, where appropriate, by drilling and other means of evaluation of the most prospective sites. Exploration is typically a dynamic, iterative process and involves minimal infrastructure and human presence.

**Exploration Licence:** an authorisation under the *Mining Act 1971 (SA)* for the licensee to carry out exploratory operations within a defined area of land.

**Evacuation:** in order to maintain Defence safety requirements, this means the evacuation of all non-Defence personnel from a specified site for a specific Defence activity.

**Foreign Investment:** comprises direct investment and/or portfolio investment taken in an Australian company by an entity (and any associate entities) with substantial foreign ownership. Substantial foreign ownership exists if a person or entity normally resident in a country other than Australia, alone or together with any associate(s), is in a position to control not less than 15 per cent of the voting power, or holds interests in not less than 15 per cent of the issued shares.

**Foreign Investment Review Board:** is a non-statutory body that examines proposals by foreign interests to undertake direct investment in Australia and makes recommendations to the Government on whether those proposals are suitable for approval under the Government's policy.

**Gawler Craton:** a mineral province, comprising an extensive region of Archaean to Mesoproterozoic crystalline basement underlying approximately 440 000km² of central South Australia.

**Geological Province:** a standardised set of regional-scale crustal elements which reflect significant stages in its spatial and temporal evolution. Provinces are four-dimensional, having an area, thickness and a definable period of geological time.

**Minerals or Mineral Resources:** are deposits of minerals in the Earth’s crust and includes coal.

**Pastoralists:** persons resident on Crown land in the WPA, under a pastoral lease issued by the Government of South Australia.

**Range:** in the Defence context includes all aerospace, land and/or sea areas used for Defence live fire weapons practices, tests or operations.
**Range Control Centre:** the facility from which some trials in the WPA are conducted, located on Commonwealth land at Koolymilka, approximately 40km north-west of Woomera village.

**Range Instrumentation:** the instrumentation used to measure test and evaluation activity along the centre-line of the WPA, including radar, camera and communications equipment.

**Reduced Core Area:** a portion of the south eastern part of the WPA identified as ‘Defence’s Core Area of Operations’ in the Defence Minister’s statement of 17 May 2010 within which no new non-Defence activity will be permitted.

**Resources Sector:** entities that have a direct commercial interest in the exploration and development of energy and mineral resources in Australia.

**Tenement:** includes a prospecting claim, exploration licence or mining lease under the *Mining Act 1971 (SA)*.

**Test and Evaluation:** in the Defence context is a process to obtain information to support the objective assessment of a capability system with known confidence, and to confirm whether or not a risk is contained within acceptable boundaries across all aspects of a system’s life cycle.

- A test is an activity in which a scientific method is used to obtain quantitative or qualitative data relating to safety, performance, functionality, contractual compliance, and supportability of a system.

- Evaluation is analysis of test results to determine (verify) or prove (validate) something.

**War Materiel:** defined by the Defence Force Regulations to mean goods for use for Defence purposes, and includes goods being developed for use for defence purposes or being tested for use, or the use of similar goods, for defence purposes.

**Woomera Prohibited Area (WPA):** a specified area of predominantly South Australian Crown land and indigenous freehold land in the north-west of South Australia, which has been declared a prohibited area ‘for the testing of war material’ under Part VII of the Defence Force Regulations. The WPA is around 127,000 square kilometres, or roughly the size of England.
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Annex A: Ministerial Statement on Mining Interests in the Woomera Prohibited Area (17 May 2010)
MINING INTERESTS IN THE WOOMERA PROHIBITED AREA

GOVERNMENT STATEMENT

The Woomera Prohibited Area (WPA) is a globally unique testing range and is vital to Australia's defence capability. The range's remoteness, 127,000 km² size, and relative lack of human activity allow Defence to test long-range weapons systems and conduct classified test activities, sometimes with our allies, in safety and within prescribed security protocols.

The use of the WPA has increased greatly in recent years and is expected to continue to increase due to emerging defence technologies. The Australian Government, through Defence, ensures the safety and security of its weapons testing activities by controlling access to the WPA.

Mining already occurs in the WPA and there are further mineral deposits of potential economic significance located within the WPA's current boundaries. The region generally has proved to have high prospectivity for Australia's resources industry.

The Australian and South Australian Governments are committed to working with all stakeholders to facilitate both industry and defence activities within the WPA to the maximum extent possible. Government practice favours multiple land use, including mining, where this can be accommodated without compromising Defence's activities. For this reason, the Australian Government intends to undertake a review into the future use of the WPA in the context of both its national security and economic significance. The review will include wide consultation with all stakeholders, and is anticipated to be completed by the end of this year. In the interim, this statement provides guidelines on the granting of access to the WPA.

Defence's most dangerous and continuous testing activity is carried out in a Core Area of Operation within the WPA. It is unlikely that concerns relating to compatibility with Defence's activities, national security, and human safety, could be sufficiently mitigated to allow exploration or mining in this area. In the non-core area – which forms the greater part of the WPA – it is more likely that exploration and mining activity could coexist with Defence activities, although such activity would still be subject to restrictions.

The Australian Government considers all exploration and mining applications within the WPA on a case-by-case basis, examining a range of operational compatibility, safety, and national security issues relevant to compatibility (some of which are classified) in determining whether a particular mining activity could co-exist with Defence activities. In making its assessment, the Government consults with the company concerned and the South Australian Government.

Although the Australian Government encourages foreign investment, recognising the role it plays in supporting economic growth and employment, the sensitivity of activities conducted in the WPA means that the prospect of foreign involvement in a resource company would be likely to raise national security issues in relation to proposed activities within the WPA. Accordingly, where companies are foreign
owned, controlled or subject to influence from foreign persons (see guidance notes annexed to this statement) and seek to operate within the WPA, the Government would review all applications to determine whether foreign involvement is appropriate.

Where foreign involvement is a factor, and requires Foreign Investment Review Board (FIRB) approval, resources companies with current or prospective interests in the WPA should first seek assessment from Defence before making any application to the FIRB. Defence would consult with other relevant agencies prior to making its recommendation to the FIRB. In the first instance, companies should contact the Assistant Secretary Property Services - telephone: 02 6266 8650 or email: WOOM.ProhibitedArea@defence.gov.au - to obtain further information. Only when Defence’s assessment has been received would the FIRB commence formal consideration of the application under Australia’s foreign investment policy.

Resource companies are advised to contact the Australian Government or the South Australian State Government to discuss their proposal prior to formal submission, whether this relates to a new interest or an alteration (for example, changes to organisational structure, ownership, etc.) to an existing interest in the WPA. All such inquiries will be referred to Defence in the first instance.

As an annex to this statement, to provide greater certainty for potential investors, the Government has issued guidance notes for obtaining a Deed of Access for exploration and mining purposes within the WPA. The issues outlined in this statement are applicable to all companies seeking access to explore or mine in the WPA.

On receipt of correspondence relating to exploration and mining activity in the WPA, Defence will conduct the appropriate risk assessment (in accordance with the Risk Management Standard AS/NZS 4360) and consultation processes relevant to safety, operations and national security, and advise the companies concerned of the outcome within a maximum of 120 days.

In making its access decisions, the Australian Government will have regard to the issues relevant to compatibility attached to this statement. In some cases it will be possible to resolve any concerns which may be highlighted by the assessment process to the mutual satisfaction of the Australian Government and the companies involved. However, companies should not assume that access to the WPA will be granted.
ANNEX: Guidance for Potential WPA Investors

Although issues are considered on a case-by-case basis, the following map and guidance are intended to assist potential investors considering applying for a deed of access within the WPA.

WPA Indicative Representation of Areas of National Security and Safety Concern

Core Area of Operation
- It is unlikely that the need for compatibility with Defence’s activities, national security and human safety concerns could be sufficiently mitigated to allow access for exploration or mining in this area.

Non Core Area of Operation
- Although safety risks are reduced in the non core area, assessment of safety, compatibility with Defence’s activities and national security concerns will apply. The latter will be especially relevant if the prospective entity has a degree of foreign ownership, and/or is controlled or influenced by foreign entities.
- National security concerns may determine the nature of acceptable company ownership, structure or access.
- All applications for access, for both the core and non core areas, will be assessed on a case by case basis.

Issues relevant to Defence compatibility assessment
For reasons of national security it may not always be possible to disclose the full
detail of a decision relating to access to the WPA. Each proposal will be considered
against issues such as (but not limited to):

- safety of all personnel (Defence and non-Defence) during defence operations,
  including an assessment of the risk posed by contamination;
- safety of personal and commercial property;
- compatibility of the proposed commercial activity with Defence’s current activities;
- ability for Defence to accommodate disruptions to its activities;
- ability for the commercial entity to accommodate disruptions, including for
  extended periods, to its activities;
- potential opportunities to obtain protected information;
- measures necessary to limit access to and knowledge of sensitive information of
  a national security nature;
- ability to implement adequate physical access control measures when required
- compatibility with long-term Defence use of the WPA;
- potential impacts on Defence’s logistics and supply systems and overall physical
  presence; and
- level of indemnity by the proponent.

**Information requirements from potential investors**
The Government is concerned to understand any factors that indicate a capacity on
the part of foreign persons or foreign corporations to influence the operations or
management of activity in the WPA. Information of use in conducting a risk
assessment of foreign involvement in activities in the WPA may include:

- an outline of proposed permanent and non-permanent infrastructure, including
  but not limited to housing, roads, rail, communications, utilities and supply chain
  activities;
- the area and scale of the proposed commercial activity;
- proposed project time-line with resource and activity intensity, including logistical
  and physical impact of proposed activity;
- major shareholders and business associates;
- whether the company is a foreign person under the *Foreign Acquisitions and
  Takeovers Act 1975* or the subject of a foreign investment proposal under the Act
  or Australia’s Foreign Investment Policy;
- mechanisms to uphold terms and conditions of a potential deed of access;
- measures to segregate running core-activities from communication and influence
  with non-approved persons or organisations (physical control and access
  arrangements);
- measures to demonstrate the ability to withdraw human presence safely on short
  notice or for extended periods;
- measures to demonstrate that only approved persons may have access to, and
  communicate from, the proposed physical site;
- number and nationality of personnel involved in the proposed commercial activity;
- requirements of additional infrastructure (permanent and non-permanent, size
  and location);
- ownership by a single foreign person or foreign corporation (either alone or
  together with Associates) of 15 per cent or more holding in a corporation,
  business or trust;
ownership by two or more foreign persons or foreign corporations (and any Associates) with a total holding of 40 per cent or more in a corporation, business or trust;
foreign person(s) serving as members of the organisation's board of directors (or similar governing body), officers, executive personnel, general partners, trustees or senior management officials;
foreign person(s) or foreign corporation having the power, direct or indirect, to control the election, appointment, or tenure of members of the organisation's board of directors (or similar governing body) or other management positions of the organisation, or have the power to control or cause the direction of other decisions or activities of the organisation;
any contracts, agreements, understandings, or arrangements with a foreign person(s) or foreign corporation;
any indebtedness, liabilities, or obligations to a foreign person(s) or foreign corporation by the organisation, whether as a borrower, surety, guarantor or otherwise;
any derivation of its total revenues or net income from any single foreign person(s) or foreign corporation or in aggregate, 40 per cent or more of its revenues or net income from foreign persons or foreign corporation;
any shares held through a nominee or subsidiary including what percentage the nominee or subsidiary owns in any foreign person(s) or foreign corporation;
any members of the organisation's board of directors (or similar governing body), officers, executive personnel, general partners, trustees, or senior management officials holding any positions with, or serve as consultants for, any foreign person(s) or foreign corporation.

**Process for obtaining a Deed of Access for exploration and mining activity in the WPA**

The Australian and South Australian Governments have put in place a coordination mechanism to facilitate access by resource companies to the WPA where this is compatible with Defence activities. Companies wishing to conduct mining related activities within the WPA must recognise and make appropriate provision for the commercial risks inherent in conducting their business on a weapons testing range. For comprehensive advice on applying for access to explore or mine in the WPA, companies should contact the Assistant Secretary Property Services - telephone: 02 6266 8650 or email: WCOM.ProhibitedArea@defence.gov.au

The following is a general outline of the access process:

- A resource company requires an exploration or mining licence from the South Australian Government (Primary Industries and Resources – South Australia) prior to seeking access to tenements in the WPA.
- The company lodges an application for a Deed of Access with Defence consistent with the issues relevant to compatibility specified herein.
- Defence conducts a risk assessment, which may include consultation with relevant Commonwealth and State government agencies.
- The authority to grant access to the WPA for exploration or mining resides with the Minister for Defence, who makes access decisions based on advice from the Department of Defence which is developed in consultation with other agencies. The Minister may authorise less-sensitive access decisions to the Secretary of
Defence. The Defence Minister will normally make a decision on access within 90 days of receipt of the application. In exceptional circumstances, an additional 30 days may be required (ie a total of 120 days). Where this is the case, the resources company would be notified.

- The company is notified of the Minister’s access decision. If the decision is favourable, Defence will enter into negotiations with the company to finalise the Deed of Access.

- Where foreign investment triggers consideration by the Foreign Investment Review Board (FIRB), the company should apply to the FIRB after the Defence assessment is complete. (Companies are not precluded from applying directly to the FIRB where a tenement within the WPA is being purchased, but access to the WPA is not being sought, as the tenement will not be exploited. However, the FIRB will consult with Defence in relation to any application relating to an interest in the WPA whether or not access is required).
Annex B: Contributors to the Review


Submissions to the Review *

Ahava Energy Pty Ltd
Association of Mining and Exploration Companies
Antakarinja Matu-Yankunytjatjara Aboriginal Corporation
Australian Rail Track Corporation
AustralAsia Railway
Billa Kalina Pastoral Company
Bruce Menzel B.Sc
Bush Heritage Australia
Flinders Exploration Ltd
FreightLink
IMX Resources Ltd
Kokatha Uwankara Native Title Claim Group
Kush Corporation Pty Ltd (CONFIDENTIAL)
Linc Energy Ltd (CONFIDENTIAL)
Opal Alliance of South Australia
OZ Minerals Ltd (CONFIDENTIAL)
Parakylia Station
South Australian Chamber of Mines & Energy
South Australian Coal Ltd
Government of South Australia (CONFIDENTIAL)
Straits Resources Ltd
Tasman Resources Ltd
Teck Australia Pty Ltd
The Woomera Board
Western Plains Resources Ltd (CONFIDENTIAL)

Input from Commonwealth Departments/Agencies (CONFIDENTIAL)
- Attorney General’s Department
- Bureau of Meteorology
- Commonwealth Scientific and Industrial Research Organisation (CSIRO)
- Department of Agriculture, Fisheries and Forestry
- Department of Defence
- Department of Finance and Deregulation
- Department of Innovation, Industry, Science and Research
- Department of Resources, Energy and Tourism

* Confidential submissions will not be published.
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Annex C: Terms of Reference for the Review
Review into Security and Economic Interests in the Woomera Prohibited Area

Terms of Reference

Objectives

- Undertake research and analysis into the short and long term (20-30 years) national security and economic interests in the Woomera Prohibited Area (WPA) ‘the review’.
- Based on the findings of the research and analysis, make recommendations to the Government on approaches to managing the WPA to optimise Australia’s national interests as they pertain to the WPA.

Key Tasks

- Undertake research and analysis in order to make qualitative and quantitative assessments of:
  - the balance of national interests, including the magnitude of costs and benefits of economic and national security interests in the WPA, over the short and long-term (20-30 years), including but not limited to:
    - a review of the status of the WPA, potentially including a legal assessment of the powers of the Commonwealth Government over the WPA;
    - a review of the current use of the WPA, including the functions and importance of the different zones therein;
    - an analysis of the WPA’s contribution to current and future Defence capability, including the financial and other benefits deriving from Australia’s ability to share knowledge and technology with its allies, particularly in light of new and emerging technologies, and the subsequent value of the WPA to alliance and broader international relationships;
    - anticipated future Defence need of the WPA, in particular any potential changes in frequency and scope of activities;
    - an analysis of the value and location of mineral deposits in the WPA, based on present government and industry information, and indicative timeframes and costs to assess further the known potential mineral wealth in the WPA;
    - an assessment of the current and future potential economic value of mineral deposits in the WPA, including potential impacts on employment and government revenues;
    - an analysis of the future potential exploitation of minerals in the WPA, noting emerging technologies and techniques in the mining sector;
    - an analysis of the extent to which mining and economic activity is compatible with Defence use of the WPA and any inherent limits to co-existence, including the issues posed by foreign ownership or control of mining entities; and
    - an analysis of property interests, including but not limited to: native title and indigenous land rights, pastoral leaseholders and the Commonwealth and South Australia.
- Provide recommendations on the current and future best use of the WPA taking into account the competing Defence and mining interests, with proposed mechanisms for achieving an optimal outcome in the broad national interest, including but not limited to:
  - practical measures for maximising co-existence, in the light of the Government's public statement on Woomera of May 2010;
  - the viability of extinguishing existing tenements in current or prospective areas of core Defence activities and potential implications for resources revenue and trade relations;
  - the practicalities of, and the short and long-term implications of, a state government moratorium on granting new tenement licences in areas of core Defence activities, including any financial implications for any current explorers and miners that are affected by the moratorium;
  - the feasibility of shifting or realigning Defence activities within or outside the WPA, including associated costs and timeframes to maximise the potential exploitation of mineral deposits; and
  - a process for on-going monitoring of the balance of the national security and economic interests in the WPA to facilitate the long-term best use of the WPA in the broader national interest.

**Project Planning and Administration**

The review will be led by Dr Allan Hawke and he will be supported by a small inter-departmental secretariat from relevant agencies on terms to be decided. The review secretariat will be based at Defence. The review secretariat will develop a project plan, for approval by the Steering Group.

The Steering Group will meet regularly to review the progress of, and provide guidance to the review secretariat.

The cost of the review will be met by Defence.

Signed by the co-chairs of the steering committee:

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Dr Gordon de Brouwer  
Deputy Secretary  
Economic  
Department of the Prime Minister and Cabinet  

\[\text{\textcopyright May 2010}\]

Mr Stephen Merchant  
Deputy Secretary  
Intelligence and Security  
Department of Defence  

\[\text{\textcopyright May 2010}\]
Annex D: Map of the Woomera Prohibited Area from Ministerial Statement (17 May 2010)
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