

Submission by the Department of the Environment, Water, Heritage and the Arts to the Quarantine and Biosecurity Review

Summary

While the Department of Agriculture, Fisheries and Forestry (DAFF) portfolio has pre-eminent biosecurity responsibilities within the Australian Government, the Department of the Environment, Water, Heritage and the Arts (DEWHA) has a growing biosecurity role as Australian governments expand their commitments to addressing the increasing threat of invasive species to biodiversity. The impacts of invasive species are now considered to pose a threat to Australian biodiversity of the same order as habitat loss and climate change.

DEWHA will increasingly focus on cost-effective interventions early in the quarantine continuum, particularly the eradication of nationally significant incursions.

DEWHA emphasises that pre-border risk assessments which support decisions on controls for live import into Australia is highly cost-effective relative to the overall financial and environmental costs of established invasive species and their control. DEWHA recognises the importance of co-operation with Biosecurity Australia (BA) in this area.

Border quarantine policies and controls are vital not only for protecting Australia's primary production sector and favourable trading status but also for their important contribution to protecting the Australian environment from new pests and diseases. DEWHA therefore strongly supports the maintenance of well-resourced and effective border control work.

The Australian Quarantine Inspection Service (AQIS) has constraints in resourcing border controls and DEWHA and DAFF both have priorities for border work by AQIS. There may be opportunities for fostering closer working arrangements to achieve mutual benefits and avoid duplication of effort.

Overview of the Department's biosecurity roles and responsibilities

A major foundation of biosecurity work by the DEWHA is fulfilment of its functions under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The EPBC Act contains a range of relevant regulatory and planning provisions, including those that give effect to Australia's obligations under the Convention on Biological Diversity (CBD) and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The provisions for determining species suitable for live import into Australia and regulating international wildlife trade relate closely to the roles of BA and AQIS.

DEWHA's main linkages with BA and AQIS are through work under the *Environment Protection and Biodiversity Conservation Act 1999* to regulate the import of plants and animals (wildlife), wildlife specimens and products made or derived from wildlife.

DEWHA's other major biosecurity work has been the control of nationally significant established invasive species. DEWHA is involved increasingly in preparedness measures to reduce the risk of new species becoming established and early post-border measures to eradicate new incursions. Pre-border work by BA and border work by AQIS will however continue to be essential to protecting Australia's natural environment, as well as its primary industries, from new biosecurity threats. Flexible and responsive live import assessment arrangements with other government agencies, including BA and AQIS, will support DEWHA's statutory role under the EPBC Act.

The statutory roles are complemented by policy, program and operational work undertaken within a range of national frameworks under the Natural Resource Management Ministerial Council. These are increasingly being integrated within the framework of AusBIOSEC (the Australian Biosecurity System for Primary Production and the Environment).

Policy

In October 2005, the Natural Resource Management and Primary Industries Ministerial Councils established a steering group of senior officials to enhance current national biosecurity arrangements in order to ensure a comprehensive and integrated AusBIOSEC. On 18 April 2008, Ministerial Councils endorsed a draft intergovernmental agreement (IGA) to form the basis for ongoing national improvement of the system. A central element of the draft IGA is the arrangement for national cost-sharing for responses to incursions of nationally significant invasive species that are not already covered by the plant and animal health deeds or by arrangements under the IGA for the National System for Prevention and Management of Marine Pest Incursions.

The development of AusBIOSEC arrangements provides the basis for more cost-effective interventions earlier in the biosecurity continuum, focussing on preventative and preparedness activities, including surveillance and eradication responses to new incursions.

A National Biosecurity Committee has been established to oversee all primary industry and environmental biosecurity sectoral committees as an early outcome of the AusBIOSEC work. Within the AusBIOSEC framework, DEWHA contributes to national leadership in the development and implementation of national strategies and operational abatement tools in the following sectors: marine, weeds, vertebrate pests, invertebrates and pathogens.

- DEWHA participates in policy, program and operational implementation of the National System for the Prevention and Management of Marine Pest Incursions through the National Introduced Marine Pests Coordination Group (NIMPCG). DEWHA participates in the development of Commonwealth ballast water policy through the NIMPCG, and co-ordinates the ongoing management and control of existing marine pests, which includes the development of control plans for nationally significant established marine pests.
- DEWHA led the Australian Weeds Committee's revision of the Australian Weeds Strategy, agreed by Ministers in 2007, and is now working to implement the Strategy. DEWHA has worked with DAFF to administer the Defeating the Weeds Menace program, which ends in mid 2008, and committed \$44 million over four years to provide a nationally coordinated and collaborative approach to weed

management. This program is succeeded by a new commitment of \$15 million over four years for a new National Weeds Research and Productivity program to reduce the impact of weeds on farm and forestry productivity and biodiversity. The Australian Government has also committed \$300,000 for a Fireweed Research Project.

- DEWHA worked closely with the Vertebrate Pests Committee to develop the Australian Pest Animal Strategy, which was agreed by the Natural Resource Management and Primary Industries Ministerial Councils in April 2007. The Strategy highlights the need to maintain approaches for assessing the pest risk of all new animal imports and to harmonise relevant legislation and policies operating in different jurisdictions. It sets out a comprehensive national approach for co-operation by all governments and non-government stakeholders on preventing and mitigating the impacts of vertebrate pests. DEWHA funds activities for the abatement of significant vertebrate pest impacts by developing control measures and funding significant operational activities, such as supporting the Tasmanian Government's eradication of foxes. The Australian Government has committed to developing a National Cane Toad Plan under the EPBC Act to curb the spread of cane toads. The National Cane Toad Plan will be backed up by a \$2 million innovation fund to develop management and eradication solutions for the cane toad menace.
- There have until recently been major gaps in national arrangements for dealing with invasive invertebrates and pathogens that impact primarily on the natural environment. The Environmental Biosecurity Committee has now been established under the National Biosecurity Committee to provide policy advice on invasive species likely to impact on the environment and to maintain an overview of environmental biosecurity across all taxonomic groups. DEWHA chairs and provides secretarial support to this committee. DEWHA is active in supporting research and development into nationally significant diseases of native plants and animals, including *Phytophthora cinnamomi*, Tasmanian Facial Tumour Disease, amphibian chytrid disease and beak and feather disease (which affects the parrot family). The Australian Government has also funded half of the costs of national campaigns to eradicate red imported fire ants and electric ants.

DEWHA also supports taxonomic work on invasive species through the Australian Biological Resources Study (ABRS). The rapid and accurate identification of invasive species, native host species and pathogens causing disease is important to the operation of Australia's biosecurity systems. In addition to ABRS's National Taxonomic Research Grant Program, DEWHA's Commonwealth Environmental Research Facilities program is funding some taxonomic research through the National Taxonomy Research hub. The total funding allocated to this research is \$6 million, with some research projects targeting ant taxonomy and ecology, and weed taxonomy and genetics. The hub's objectives include reinvigorating taxonomy and improving the efficiency of the taxonomic process through modern information management systems. However, funding of taxonomic capacity is in decline and as a consequence our ability to provide rapid and appropriate diagnostic advice is at risk.

Statutory

The EPBC Act has a range of provisions relevant to biosecurity. The listing of animals and plants suitable for live import to Australia are directly relevant to the roles of BA and the AQIS. While these two agencies focus on protecting Australia's

favourable quarantine status from undesirable impacts of commodity imports, in doing so they complement DEWHA's processes for live import which also seeks to protect the Australian environment. The following briefly describes the statutory role of DEWHA under the EPBC Act as relevant to the roles of BA and AQIS.

Listing of animal and plant species suitable for live import into Australia

The EPBC Act provides for the listing of species suitable for live import into Australia and a mechanism to amend the list. Decisions are made by the Minister for the Environment, Heritage and the Arts.

These provisions give effect to Australia's obligations under the CBD and the CITES. They also ensure that protection of the Australian environment is adequately considered in decisions involving the importation of live specimens into Australia. These statutory responsibilities complement the Australian Government's roles with respect to commodity trade and related quarantine which is a focus of DAFF and its agencies such as BA and AQIS.

Under current practice, species assessed as having a low establishment risk may be added to Part 1 of the live import list and imported subject to applicable quarantine controls developed by BA and AQIS.

Higher risk species may either be: rejected for inclusion on the live import list; or if the potential risks to the Australian environment can be effectively mitigated to a low risk level, the species may be added to Part 2 of the list. Import conditions may be specified in the listing of species on Part 2. These may include conditions such as maintaining specimens in highly secure facilities and, for example, restricting their use to research or public display for education. Such conditions may be necessary for CITES listed species but may also be relevant to other species.

Species listed on Part 2 require an EPBC Act permit before they can be imported. Further conditions or restrictions (e.g. on movement or destruction of specimens and their progeny) may also be placed on an import permit. The Act also provides for strict seizure and other compliance and enforcement provisions to regulate live specimens and control illegal importation. In relation to species listed on part 2, quarantine controls may have been developed by BA and AQIS and these are applied separately to EPBC Act controls.

The inclusion of a species on the live import list allows species to be imported as either a whole organism or as reproductive material. Before a decision is made by the Minister for the Environment, Heritage and the Arts, an applicant is required to submit an assessment of the potential impacts on the Australian environment of the proposed amendment. The practice is consistent with assessment requirements under Chapter 4 of the EPBC Act which relate to development proposals.

The practice of the applicant undertaking an assessment is in contrast with Import Risk Analyses (IRA) conducted by BA, unless the Minister for the Environment, Heritage and the Arts initiates the proposal to amend the list in which case the assessment is undertaken by DEWHA.

The decision of the Minister for the Environment, Heritage and the Arts on a proposed amendment takes into account the final assessment report, comment received during the consultation period, research and recommendations of DEWHA, and the precautionary principle as required by s391 of the EPBC Act. The use of the precautionary principle is not a legislated requirement of the BA IRA and subsequent decision making for quarantine controls.

If the proposed amendment is not approved, the importation of the proposed species remains prohibited. If approved by the Minister, a disallowable instrument is tabled in both Houses of the Parliament of Australia for 15 sitting days and on completion, the instrument becomes effective. This is in contrast with decision making for quarantine controls which is undertaken by the Director of Quarantine.

The regulation of live imports of animals and plants under the EPBC Act operates in conjunction with BA's screening of commodity imports, and the potential pests and diseases associated with them, to protect Australia's quarantine status. Some streamlining of the two processes has been considered and promoted through EPBC Act amendments. For example, the EPBC Act provides for acceptance in certain circumstances of an assessment report undertaken by BA (currently only relevant to assessments on the import or release of bio-control agents), and through the mechanism for the listing of plants on Part 1 and Part 2 (i.e. acceptance of weed risk assessment and decisions under the Quarantine Act 1908).

Consultation occurs between DEWHA and BA under formal arrangements of a Memorandum of Understanding (MoU) and this could be strengthened. In practice, the level of interaction and co-operation is determined by the respective priorities, focus and roles of each agency. IRAs are prioritised and addressed accordingly, while applications to amend the live import list are processed on a case by case basis. Formal consultation between BA and DEWHA occurs as required by legislation or published processes, but this could be further strengthened.

An important statutory requirement within the EPBC Act live import listing process is undertaking public, state/territory and Australian Government consultation on the draft environmental risk assessment undertaken by an applicant seeking an amendment to the live import list. DEWHA ensures the views of BA are sought and taken into account in the assessment and brought to the attention of the Minister for the Environment, Heritage and the Arts for consideration in a decision.

Currently, IRAs are generally prioritised by BA based on trade in commodity products. Therefore, it is worth noting that many potential EPBC Act live import applicants do not progress applications to amend the species suitable for live import because of quarantine restrictions, or the time it might take to complete an IRA. If there are changes to BA/AQIS arrangements which streamline IRA processes and enable lower priority IRA proposals to be completed, these would have flow-on implications for both BA/AQIS and DEWHA. That is, there is likely to be additional work for all agencies in processing IRAs and live import list applications as well as managing the associated risks.

DEWHA considers there is an opportunity for further co-operation on specific issues with DAFF and its agencies to address the common outcome of protecting the

Australian environment; minimising any unnecessary duplication of risk assessment; and ensuring early agency engagement and broad external consultation where particular issues are known to require decisions on quarantine policy or on suitability of a species for live import under the Quarantine Act and the EPBC Act respectively. (see also ‘DEWHA relations with BA/AQIS’ section below).

Regulation of imports of live animal and plant specimens through permits and compliance and enforcement measures

DEWHA is not resourced to give effect to the EPBC Act at the border and works cooperatively with other border control agencies such as the Australian Customs Service and AQIS to apply EPBC Act requirements. Currently, Australian Customs Service officers are authorised under Part 13A of the EPBC Act to undertake compliance and enforcement relating to the regulation of live specimens and international wildlife trade provisions of the EPBC Act. AQIS officers also support this but are not authorised at present to enforce EPBC Act provisions. This would be a useful extension of the Australian Government’s capacity to enforce relevant border controls and contribute to more efficient use of Australian Government resources. However, the resource implications for all agencies would need to be taken into consideration. Training is likely to be required to ensure that all relevant border control officers are authorised and capable of dealing with EPBC Act provisions.

DEWHA considers that ongoing partnering with AQIS and the Australian Customs Service is essential for comprehensive border control. This will help maximise the Australian Government’s compliance opportunities at the border, and in some cases through joint operations post-border, in relation to EPBC Act regulated live specimens.

Protecting the natural environment and in particular matters of national environmental significance

The live import assessment process under the EPBC Act considers the impacts on the Australian environment. A complementary assessment process focussing on commodity imports is undertaken through BA’s IRA processes, which are consistent with international approaches for risk assessment under the World Trade Organisation Agreement on the Application of Sanitary and Phytosanitary Measures. The Australian Government, however, also has commitments under other international agreements and has responsibilities under the EPBC Act for protecting matters of national environmental significance. The same level of protection provided to these important aspects of the Australian environment needs to be applied in relation to commodity imports.

Threat abatement and recovery planning

The EPBC Act provides for the listing of key threatening processes to Australian biodiversity and for the development of threat abatement plans to prevent and mitigate the impacts of those processes. Currently, twelve of the key threatening processes and nine of the threat abatement plans relate to invasive species. The plans set out the management, research and other actions to reduce the impacts of the key threatening processes.

The EPBC Act also provides for the development of recovery plans and conservation advices for listed threatened species and ecological communities, and many of these identify invasive species control measures among their recommended actions.

Advice on Gene Technology

The Minister for the Environment, Heritage and the Arts provides statutory advice to the Office of the Gene Technology Regulator regarding the potential environmental impacts arising from applications to introduce genetically modified organisms into Australia.

Operational activities

DEWHA undertakes on-ground control of invasive species in Parks Australia reserves. These activities are identified in the Management Plans for each reserve and include the management of weeds, vertebrate pests and invasive ants. Where reserves occur on islands, technical assistance is provided to quarantine officers to reduce the risk of introducing further invasive species to those islands.

The Australian Government will also address invasive species management through the new Caring for our Country environmental and natural resource management initiative. Caring for our Country will focus on achieving strategic results and will invest in six national priority areas: the National Reserve System; Biodiversity and Natural Icons; Coastal Environments and Critical Aquatic Habitats; Sustainable Farm Practices; Natural Resource Management in remote and northern Australia; and Community skills, knowledge and engagement. Invasive species management is specifically identified as a component of the Biodiversity and Natural Icons priority and the Sustainable Farming priority, and may also be addressed under other priorities.

Future directions for DEWHA's biosecurity role

The major likely area for expansion of DEWHA's biosecurity role will be to fill the current gaps in addressing environmentally impacting invasive species along the biosecurity continuum. These are particularly in the post-border areas of preparedness and eradication responses to nationally significant incursions. This will give effect to provisions in the AusBIOSEC IGA, currently in draft form. The main areas of expansion will be to prevent new incursions establishing, which is far more cost-effective than the ongoing control of established invasive species.

DEWHA's role would be national co-ordination of such measures as identification of the major potential environmental invasive species threats, development of national preparedness plans, surveillance, reporting and nationally cost-shared eradication responses to incursions of nationally significant invasive species.

DEWHA is currently examining improvements and efficiencies for live import consultation and assessment processes under the EPBC Act and will consult with states and territory agencies and other Australian Government agencies before the end of 2008 on potential improvement and streamlining options. Interim measures to improve officer-level engagement with relevant agencies will be also trialled in 2008.

DEWHA is also currently reviewing public communication regarding processes for listing species suitable for live import into Australia, including web-based and other

education products. This is a key part of improving awareness of DEWHA's role in protecting biodiversity under the EPBC Act.

DEWHA relations with BA/AQIS

The respective legislative roles of AQIS, BA and DEWHA with regard to pre-import risk assessment, while similar in intention, vary in their focus and operate differently in practice. For this reason, DEWHA recognises the value of ensuring that EPBC Act live import assessment and consultation processes, and the development of policies to protect Australia's biodiversity, are supported with ongoing involvement and liaison with DAFF and its agencies such as BA and AQIS.

One mechanism to promote this is the 2002 MoU between DEWHA and BA. The MoU aims to ensure timely environmental inputs from DEWHA into the IRA undertaken by BA. DEWHA has recently indicated its interest in updating the MoU to reflect changes since 2002 and to ensure that regular liaison meetings continue. It is important that DEWHA retain the current involvement and engagement points with BA as indicated in the 2007 IRA handbook. Higher level formal arrangements between DAFF and DEWHA may be more appropriate in future, given the broader policy role shared between the two departments since the 2002 MoU was established.

The IRA handbook sets out that BA will consult with DEWHA about environmental issues and may use or refer to DEWHA assessments. As stated earlier, opportunities also exist to use the different risk assessment processes (environmental assessment managed by DEWHA and IRA processes managed by BA) to meet the respective requirements of the EPBC Act or the Quarantine Act.

Current arrangements, while effective when the MoU was negotiated, now need to be updated and revitalised. To support whole of Government approaches, it would be useful to increase co-operation between DEWHA and BA to help ensure that EPBC Act assessment and listing processes and BA IRA and quarantine policies take into account relevant environmental issues and that the respective agencies are consulted early and at key stages.

DEWHA identifies the following priorities for future action on working relations between DEWHA and DAFF (particularly BA and AQIS):

- Building co-operation on management of threats to the natural environment and protecting biodiversity under the EPBC Act, such that an acceptable level of environment protection is achieved when assessing and developing quarantine policies for commodity imports.
- Sharing of resources, expertise and perspectives to build capacity and to ensure the Australian Government agencies have access to the skills and knowledge to assess, and respond accordingly to, any risks to the Australian environment. This is in contrast to operating in a manner where each agency focussed solely on meeting its own objectives. Building capacity across agencies may require additional resources specifically targeted to achieving this outcome. DEWHA's resources are limited but some arrangements are in place to support resource sharing.
- The relationship between biosecurity related legislation, in particular whether the application of the Quarantine Act is consistent with the EPBC Act. Recent amendments to the EPBC Act aimed to promote efficiencies and avoid

duplication. Any future amendments to either act, or the administrative arrangements that give effect to them, should do the same.

- The feasibility of using all available border resources to check passengers and cargo consignments to apply EPBC Act permit, auditing and compliance measures at the border. This priority links to the consideration of the capacity of AQIS border resources to apply EPBC Act provisions and the consequential training needs.
- For example, in the Torres Strait and some other regional locations, there are opportunities to explore where further co-operation would be mutually beneficial in administering quarantine controls and the EPBC Act regulations relating to the import of live specimens and CITES specimens.
- The potential for DEWHA and BA and AQIS and other relevant agencies, such as the Bureau of Rural Sciences (BRS), to expand partnerships in research on common interest topics to make best use of available resources. From the live import risk assessment perspective, there has been ongoing investment in risk assessment models and tools since 2003 (e.g. climate and invasive species modelling tools developed with BRS).
- The work to enhance AusBIOSEC arrangements is likely to lead to further engagement between DEWHA, BA and AQIS and should include discussions as to whether the development of comprehensive environmental biosecurity arrangements requires changes to current arrangements for pre-border and border work.