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Parliament House
Canberra, ACT 2006
21 October 2010

SUBMISSION

Environmental management of Defence: a regulatory failure

Introduction

Modern warfare is catastrophic for the humans involved and the natural environment. The environmental footprint of military activities in times and places of peace is less obvious but also huge. So destructive and resource-consuming has today's military become that it seems risible to suggest that it is, in its present form, a sector that can be adequately regulated from either a human rights perspective or environmentally. However, Australia's Department of Defence (DOD) claims to be a leader in stewardship of the natural environment.

More to the point, the Australian Government is obliged, under international and national law, to implement effective environmental regulation of military activities. Its moral responsibility to do so is acute, especially at a time when Australia is at far greater risk of ecological degradation than of military attack. To meet its responsibility, the government must ensure that assessment of the environmental impacts of the DOD and the defence industries it supports are transparent, independent, publicly accessible, of high international standard — and environmental assessment must inform defence decision making.

Current assessment of the DOD's environmental risks and impacts is neither transparent nor independent. This is a failure of good governance, not least because it undermines a fundamental democratic principle — civilian control of the military. The lack of transparent and independent assessment is particularly unacceptable now because Australia's military expansion implies a corresponding increase in adverse environmental impacts.

In defending its environmental performance, the DOD makes many claims: adherence to its own environmental policy and plans; development of an environmental management system that meets the Standard on Environmental Management of the International Standards Organisation; compliance to state and federal legislation, in particular the *Environmental Protection Biodiversity Act 1999* (mediated by the EPBC Act Policy Statement 1.2 Significant Impact Guidelines May 2006); regular production of Environmental Clearance Certificates and Public Environment Reports (PERs); submission of required data to agencies such as the National Pollutant Inventory and the Australian National Audit Office; and cooperation with the CSIRO and other civilian research bodies. However, the policy and procedure documents that the DOD makes publicly available reveal nothing to lift the veil obscuring its actual environmental performance. The inscrutability of the DOD makes its regulation a form of unpoliced self-regulation.

1. Indications of ineffective environmental regulation of Defence

1.1 Perusal of the policy, planning and management documents that the DOD makes publicly available reveals that no clear distinction is made between military sustainability and environmental sustainability. The "cost/benefit" algorithm that seems to underpin DOD documentation means the DOD privileges its own immediate aims over and above its environmental responsibilities — in its documents, the DOD strongly suggests that the cost of protecting the natural environment will be met only to the extent that the outcome will benefit its own capabilities. For example, see:

- 1 the vision statement of the document, Defence Environment Policy (http://www.defence.gov.au/environment/envstate_apr06.pdf);
- 2 DOD's Strategic Environmental Plan 2006-2009 (current), where the first item in the list of key environmental risks is stated to be "loss or limitation on usage of major training areas" (p12 <http://www.defence.gov.au/environment/strat_plan.pdf>);
- 3 the Australian–US Joint Statement of Environmental and Heritage Principles for Combined Activities 2005.

Using its environmental policy to pursue a narrow military self-interest is a perverse distortion of the principle of environmental sustainability.

1.2 All environmental assessments, audits and reports that the DOD makes public and/or submits to external bodies appear to be based on its own internal documentation. The DOD does not submit itself to external, independent oversight—a failure to meet a priority initiative of the DOD's own Strategic Environmental Plan 2006-2009, that is, to “establish and implement processes for independent verification of the DOD's environmental performance” (p27).

1.3 The PERs that the DOD produces to environmentally justify major military activities and procurements are not only "desktop" productions based on internal documentation but are produced after plans for activities are in place and after procurements have been delivered. PERs have no influence on major decision making. Environmental risks are not assessed at the proposal stages of activities nor before new equipment and weaponry are purchased. Further, the department responds to public submissions to the PER process selectively and often superficially. If PERs oblige the DOD to do anything at all, it is no more than to undertake mitigation measures that in no way infringe what it has decided are the "strategic" values of the subject operation or procurement.

1.4 The DOD is not required to estimate the whole-of-life resource consumption and adverse effects, such as greenhouse gas emissions, of its programs and procurements. It was reported in 2007 (Paul Malone, *The Canberra Times*, 9 June) that DOD energy consumption was nearly three-quarters of the total energy consumption of the Federal Government. According to its environmental management website, the DOD undertook to reduce its energy use by 10% in 2007-08. The lack of credibility of this undertaking is breathtaking: estimates of its energy consumption for 2007-08 or successive years are not publicly available but it is obvious that Australia's expansion of its arsenal during the first decade of this century, and continuing into the next, not only negates any chance of a reduction but has and will increase DOD energy consumption many-fold.

1.5 With no mention of environmental risks and the need for environmental assessment, the Defence White Paper 2009 (DWP) announced new military procurements of immense cost, potency and aggressive potential: 12 submarines; 3 air-warfare destroyers; a new class of frigate; maritime-based land-attack cruise missiles; naval combat helicopters; 100 F-35 joint strike fighters; Wedgetail early warning and control aircraft; maritime surveillance and response aircraft; and about 1100 armoured combat vehicles. Throughout the DWP, not as much as a footnote is given to the depletion of finite resources, and contamination of soil, water and air inevitably to be caused by the R&D, production, use, maintenance and eventual decommissioning of these vehicles and their weaponry, nor to their impacts on humans and the natural environment should they be used in war.

1.6 April to June 2010, government ministers, when announcing the start of production of the first of the nation's air-warfare destroyers and confirming the nation's partnership in the Joint Strike Fighter (JSF) Program, maintained the silence about environmental consequences. Nor has the government shown any concern about the opportunity cost of these weapons programs — the loss of opportunity to meet the resource needs of essential non-military projects and to create civilian, environmentally sustainable jobs. Hailing the JSF Program as a means not only to Australia's strategic goals but its economic goals as well, the government urges Australian defence companies and R&D agencies to take up the industry support offered by government and enter "the global supply chain" of the big armaments corporations, such as Lockheed Martin and Raytheon. Nothing has been said about the immense environmental burdens of this program — the world's largest defence project, expected to produce 3000 lethal, polluting fighters, and, assuredly, one of the world's biggest consumer's of fossil fuels. (See media releases, April, May and June 2010, issued by of the Hon Greg Combet, then Minister of Defence Materiel and Science.)

1.7 A high DOD priority is to increase the already well-established interoperability of the Australian Defence Force with the US Armed Forces (USAF). Exactly how Australia, in going down this path, ensures US compliance with environmental law remains a mystery. The environmental management of Australia's US-controlled military bases and joint exercises are of particular concern. The authors of the PER for Talisman Sabre 2009 were confused about what environmental law the US Navy would operate under during the exercise, and ambivalent about how compliance to any law was to be policed. The USAF has a long international record of disregard for the natural environment, most recently added to by the US Environmental Protection Agency's condemnation of the expansion of US military bases on Guam. In its quest for interoperability with the USAF, Australia is the subservient partner and its complicity with the USAF's environmental standards seems inevitable.

2. Reforming environmental regulation of Defence

2.1 DOD policymakers must acknowledge that (1) the true yardstick of a cost/benefit analysis of military environmental regulation is the nation's overall security, not its military capability; (2) the key environmental risk of military activities, as for any human activity that is resource depleting, polluting and physically destructive, is to the ecological processes on which life depends; and (3) the primary aim of environmental protection is to sustain the ecological health of the natural environment, an aim, they also must accept, that is in frequent and serious conflict with the aim to sustain the military amenity of the natural environment. The DOD's input into its own environmental policy is necessary but grossly insufficient. The DOD must work with an external arbiter to find a balance between meeting its environmental responsibilities and its responsibilities for the defence of the nation.

2.2. Evaluation of the significant environmental risks posed by military bases, exercises, other activities and procurements must be made the responsibility of expert, independent bodies and undertaken at a time when results can be acted on, that is, before decisions are made. Environmental impact statements need to be made public and follow-up assessments undertaken. The DOD's legal and public accountability must be ensured.

2.3 Planning for the 2011 Talisman Sabre Australian–US military exercise must be delayed until opinion of at least two independent experts on the adequacy of past Talisman Sabre public environmental reports and post environmental reports are sought and made public. The Talisman Sabre series of joint combined exercises, which in 2009 involved 27,500 troops, takes place in exceptionally fragile and precious environments, including the Great Barrier Reef National Park, yet no environmental report is required to be referred to the minister for the environment under the *Environment Protection Biodiversity Conservation Act 1999*.

2.4 As a matter of urgency, the DOD must commission a high-quality independent reputable environmental audit of the Defence White Paper 2009.