

Chapter 2

Background

2.1 This chapter provides a brief background in relation to environmental biosecurity, including the legal and administrative framework relating to invasive species that are likely to harm Australia's natural environment. First, however, the chapter examines the definition of invasive species and their impacts on Australia's environment.

2.2 As noted in Chapter 1, the focus of this report reflects the terms of reference for this inquiry, which focus on *environmental* biosecurity—that is, the protection of the environment from negative effects associated with invasive species, as distinct from impacts on the economy, agriculture or human health.

What are invasive species and what are their impacts on the environment?

2.3 An 'invasive species' is a species occurring, as a result of human activities, beyond its accepted normal distribution and which threatens environmental, agricultural or other social resources by the damage it causes. Invasive species include diseases, fungi and parasites; feral animals; insects and other invertebrates; introduced marine pests; and weeds.¹

2.4 Invasive species are identified as one of the two key threats to Australia's biodiversity (the other being habitat destruction).² The 2011 *State of the Environment Report* highlighted that invasive species:

...represent one of the most potent, persistent and widespread threats to Australian biodiversity. They have both a direct negative impact on species and communities through losses and extinctions, and an indirect impact on ecosystems and biodiversity through ecological changes brought by those losses and extinctions.³

2.5 There are many well-established invasive species in Australia. However, the terms of reference for this inquiry focus on *recent accidental and illegal incursions* and *potential new incursions*, rather than on established pests, weeds and diseases.

Legal and administrative framework

2.6 This section examines the legal and administrative framework relating to the prevention and eradication of invasive species in Australia, including:

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- 1 See further Department of the Environment, *Invasive species*, <http://www.environment.gov.au/biodiversity/invasive-species> (accessed 11 September 2014).
 - 2 Department of Agriculture and Department of the Environment, *Submission 59*, p. 5; see also State of the Environment 2011 Committee, *Australia State of the Environment Report 2011 (Australia State of the Environment Report 2011)*, 2011, p. 617, <http://www.environment.gov.au/system/files/pages/683c24f9-2d89-4d81-a402-81e5a6c0b9c7/files/soe2011-report-biodiversity.pdf> (accessed 16 September 2014).
 - 3 *Australia state of the environment report 2011*, p. 637.

- relevant international agreements;
- Commonwealth arrangements for managing biosecurity risk and working with states and territories;
- the Commonwealth legislative framework, including the proposed new biosecurity legislation and the *Environment Protection and Biodiversity Conservation Act 1999* (Cth); and
- relevant policies and strategies.

International agreements

2.7 Australia's response to biosecurity issues is based on the requirements of the World Trade Organisation *Agreement on the Application of Sanitary and Phytosanitary Measures* (SPS Agreement). The SPS Agreement defines the concept of an 'appropriate level of sanitary and phytosanitary protection' (ALOP), that is:

...the level of protection deemed appropriate by a WTO member establishing a sanitary or phytosanitary measure to protect human, animal or plant life or health within its territory.⁴

2.8 Australia's ALOP, agreed in 2002 with state and territory governments, is expressed as 'providing a high level of sanitary and phytosanitary protection aimed at reducing risk to a very low level, but not zero'.⁵

2.9 There are also other international agreements relevant to the management of invasive species. For example, article 8(h) of the *Convention on Biological Diversity* (Biodiversity Convention) requires that the parties shall 'as far as possible and as appropriate, prevent the introduction of, control or eradicate those alien species which threaten ecosystems, habitats or species'.⁶ In 2010, the conference of the parties to the Biodiversity Convention adopted a *Strategic Plan for Biodiversity 2011–2020*, which contains 20 targets known as the 'Aichi Biodiversity Targets'. Target 9 is particularly relevant:

By 2020, invasive alien species and pathways are identified and prioritized, priority species are controlled or eradicated, and measures are in place to manage pathways to prevent their introduction and establishment.⁷

4 Department of Agriculture and Department of the Environment, *Submission 59*, p. 9.

5 Department of Agriculture and Department of the Environment, *Submission 59*, p. 9.

6 Convention on Biological Diversity, *What Needs to be Done?*, <http://www.cbd.int/invasive/done.shtml> (accessed 16 September 2014).

7 Convention on Biological Diversity, COP 10 Decision X/2 Strategic Plan for Biodiversity 2011–2020 at <http://www.cbd.int/decision/cop/default.shtml?id=12268> (accessed 17 October 2014); see also 'Aichi' targets at: <http://www.cbd.int/sp/targets> (accessed 17 October 2014); see also Dr Judy Fisher, Theme Leader, Ecosystems and Invasive Species, IUCN Commission on Ecosystem Management, *Committee Hansard*, 8 October 2014, p. 5.

Commonwealth arrangements for managing biosecurity risk

2.10 At the Commonwealth level, the Department of Agriculture has primary responsibility for managing Australia's biosecurity system under the *Quarantine Act 1908* (Quarantine Act).⁸ The Department of Agriculture and the Department of the Environment explained in their submission that:

The Department of Agriculture is the lead agency for biosecurity, working offshore and at the border to manage risks to Australia's environment and animal, plant and human health.⁹

2.11 They further advised that:

The Department of the Environment works closely with the Department of Agriculture on environmental biosecurity issues such as invasive species policy and operational matters including risk assessment and management of established invasive species.¹⁰

2.12 The departments described the government's approach to managing biosecurity as involving measures and activities to minimise the threat of pests and diseases along a 'biosecurity continuum' – that is, offshore, at the border and onshore (within Australia).¹¹

2.13 The Department of Agriculture has primary responsibility for offshore and border biosecurity activities. Offshore activities are focused on minimising the likelihood of exotic pests and diseases reaching Australia's border, and include:

...conducting risk assessments to consider the level of biosecurity risk that may be associated with imports and identifying risk management measures; conducting offshore verifications, inspections and audits; collaborating with international partners on animal and plant health issues and standards; regional capacity building through collaborative activities; and intelligence and surveillance to determine and assess potential biosecurity risks.¹²

2.14 Border biosecurity activities are focused on:

...screening and inspection of international vessels, passengers, cargo, mail, animals, plants, and plant products arriving in Australia; managing the high biosecurity risks of live plants and animals through containment, observation and/or treatment at quarantine facilities; identifying and evaluating the specific biosecurity risks facing northern Australia through the Northern Australia Quarantine Strategy; and raising awareness of

8 As discussed below, the Minister for Agriculture introduced the Biosecurity Bill 2014 and associated bills on 27 November 2014. If passed, these bills would replace the current Quarantine Act.

9 Department of Agriculture and Department of the Environment, *Submission 59*, p. 1.

10 Department of Agriculture and Department of the Environment, *Submission 59*, p. 3.

11 Department of Agriculture and Department of the Environment, *Submission 59*, p. 13.

12 Department of Agriculture and Department of the Environment, *Submission 59*, p. 13.

travellers, importers and industry operators of Australia's biosecurity requirements.¹³

2.15 Activities within Australia are aimed at 'limiting the impact of a pest or disease' once it is detected in Australia. These activities are 'delivered in partnership' with state and territory governments, industry and other stakeholders and include:

...developing policies and programmes to deliver biosecurity outcomes in the national interest; coordinating national surveillance and diagnostic capability to assess and monitor Australia's pest and disease status; preparing for, and responding to exotic pest and disease incursions; contributing to national biosecurity research; assisting landholders to manage established pests and diseases; and working with biosecurity partners to build a shared understanding of biosecurity.¹⁴

Working with states and territories

2.16 As noted above, the Commonwealth Government partners with state and territory governments 'that have primary responsibility for managing pests and diseases within Australia'.¹⁵

2.17 Under both the Constitution and the Quarantine Act, the Commonwealth Government 'is responsible for matters relating to the border, including development and enforcement of quarantine', whereas states and territories 'have responsibility for biosecurity and environmental matters within their respective borders, which is underpinned by legislation to support delivery of these services'.¹⁶

2.18 The *Intergovernmental Agreement on Biosecurity* (IGAB) is an agreement between the Commonwealth, state and territory governments (except Tasmania) that came into effect in January 2012. The purpose of the agreement is to 'enhance Australia's biosecurity system' and strengthen the collaborative approach between the Commonwealth and state and territory governments.¹⁷

2.19 The committee discussed Tasmania's refusal to become a party to the IGAB with officials from the Tasmanian Department of Primary Industries, Parks, Water and Environment. Dr Robert Klumpp, General Manager, Biosecurity Tasmania, stated that, although Tasmania agrees in large part with the provisions of the IGAB and participates in the operation of its schedules, it did not sign because it wished to maintain control over biosecurity regulations governing imports from other parts of Australia. Dr Klumpp explained:

13 Department of Agriculture and Department of the Environment, *Submission 59*, p. 13.

14 Department of Agriculture and Department of the Environment, *Submission 59*, p. 14.

15 Department of Agriculture and Department of the Environment, *Submission 59*, p. 1.

16 Department of Agriculture and Department of the Environment, *Submission 59*, p. 10; p. 12.

17 Department of Agriculture, *Intergovernmental Agreement on Biosecurity*, <http://www.daff.gov.au/animal-plant-health/pihc/intergovernmental-agreement-on-biosecurity> (accessed 11 September 2014); see also Department of Agriculture and Department of the Environment, *Submission 59*, p. 14.

We have our own import requirements into the state. Those import requirements are developed to manage the biosecurity status of Tasmania. They sometimes result in conflicts with the other jurisdictions—the other states—around what import requirements are placed upon produce coming into Tasmania from other states. The IGAB attempted to resolve that issue by giving the Commonwealth the power to resolve those disputes. The Tasmanian government preferred to retain the ability to determine its own actions around biosecurity for Tasmania. That is the only reason we did not sign up for the IGAB.¹⁸

2.20 The Tasmanian Salmonid Growers Association also expressed support for the protection of regions within Australia that are comparatively free of pests and diseases. They stated that this is important not only for environmental reasons, but also for the industries that rely on operating in such regions:

A region such as Tasmania, separated from the Australian mainland and relatively free of pests and diseases, is characterised by both marine and terrestrial environmental values that are more vulnerable to the consequences of incursions than other regions of Australia. However, it is certain that there are many regions in Australia that similarly demonstrate areas of pest and disease freedom. The protection of these regions must be commensurate with the environmental values at risk.¹⁹

National Biosecurity Committee

2.21 The National Biosecurity Committee was established in July 2008 and comprises representatives from the Commonwealth, state and territory governments (including the Commonwealth Department of the Environment). It is responsible for managing a 'national strategic approach to emerging and ongoing biosecurity policy issues'. This includes all biosecurity issues, including environmental, animal and plant biosecurity issues. The National Biosecurity Committee is also responsible for the implementation of the IGAB.²⁰

2.22 A number of committees report to the National Biosecurity Committee, including the Animal Health Committee, the Invasive Pests Committee, the Marine Pest Sectoral Committee and the Plant Health Committee. The departments of agriculture and the environment advised that an 'environmental perspective [is] provided by representation from the Department of the Environment on most committees' as well as a requirement 'for each jurisdiction to bring a whole of government position to the table inclusive of environmental biosecurity interests'.²¹

18 Dr Robert Klumpp, General Manager, Biosecurity Tasmania, *Committee Hansard*, 10 November 2014, p. 44.

19 Tasmanian Salmonid Growers Association, *Submission 21*, p. 2.

20 Department of Agriculture and Department of the Environment, *Submission 59*, p. 15; see also Department of Agriculture, *National Biosecurity Committee*, <http://www.daff.gov.au/animal-plant-health/pihc> (accessed 17 September 2014).

21 Department of Agriculture and Department of the Environment, *Submission 59*, pp 15–16.

2.23 The New South Wales Office of Environment and Heritage raised doubt as to how effectively environmental perspectives are represented on the committee, stating that New South Wales is 'one of the few jurisdictions to regularly send an environmental representative to the National Biosecurity Committee'.²²

National Environmental Biosecurity Response Agreement

2.24 In January 2012, the Commonwealth, state and territory governments signed the *National Environmental Biosecurity Response Agreement* (NEBRA). The purpose of this agreement is to establish national emergency response arrangements, including for cost-sharing, for responding to biosecurity incidents such as pests and diseases that primarily impact on the environment and/or social amenity and where the response is for the public good.²³ The Commonwealth departments of agriculture and the environment explained that the NEBRA was developed to:

...address the gaps which existed in relation to responses to pests and diseases with primarily environmental and social amenity impact, for example, weeds and marine pests. The recent incursion of red imported fire ant in Yarwun, Queensland is the first eradication response to be managed under the agreement.²⁴

Proposed biosecurity legislation

2.25 The Commonwealth's quarantine laws are currently contained in the Quarantine Act and associated subordinate legislation. However, the current Minister for Agriculture plans to replace the Quarantine Act with new biosecurity legislation. In accordance with this aim, he introduced the Biosecurity Bill 2014 and associated bills in the House of Representatives on 27 November 2014.²⁵ The Minister stated:

The Minister for Agriculture is responsible for plant and animal quarantine and the Minister for Health is responsible for human quarantine. Accordingly, the legislation is a collaboration between both portfolios, and is jointly administered by them. This legislation will enable the departments to continue to manage biosecurity risks in a modern and responsive manner.²⁶

22 NSW Office of Environment and Heritage, *Submission 82*, p. 1.

23 Department of Agriculture and Department of the Environment, *Submission 59*, p. 33; see also Council of Australian Governments, *National Environmental Biosecurity Response Agreement* (NEBRA), <http://www.coag.gov.au/node/74> (accessed 17 September 2014).

24 Department of Agriculture and Department of the Environment, *Submission 59*, p. 34.

25 The Hon Barnaby Joyce MP, Minister for Agriculture, 'Historic Biosecurity Bill 2014 to safeguard Australia', *Media release*, 7 July 2014, <http://www.maff.gov.au/Pages/Media%20Releases/biosecurity-bill-2014.aspx> (accessed 10 September 2014).

26 The Hon Barnaby Joyce MP, Minister for Agriculture, *House of Representatives Hansard*, 27 November 2014, p. 13426.

2.26 The Biosecurity Bill 2012 was introduced into the Parliament in 2012 as part of the response to the Nairn and Beale reviews, which are discussed further below. The Biosecurity Bill 2012 was referred to the Senate Rural and Regional Affairs and Transport Legislation Committee. However, that committee did not report before the prorogation of the parliament in 2013, at which time the legislation lapsed.²⁷ The provisions of the Biosecurity Bill 2014 and associated bills were referred to the Senate Rural and Regional Affairs and Transport Legislation Committee, which tabled its report on 17 March 2015.²⁸

2.27 The impact of the measures proposed in the Biosecurity Bill 2014 on marine biosecurity is discussed further in chapter 6.

Interim Inspector-General of Biosecurity

2.28 The Commonwealth government agreed in 2008, as part of its response to the Beale review, to establish a statutory office of the Inspector-General of Biosecurity.²⁹ To establish this position the Inspector-General of Biosecurity Bill 2012 was introduced alongside the Biosecurity Bill 2012. Both bills lapsed at the conclusion of the 43rd Parliament, as discussed above.

2.29 However, on 1 July 2009, prior to the introduction of the enabling biosecurity legislation, the government appointed an Interim Inspector-General for Biosecurity (IIGB). The IIGB is appointed by, and reports directly, to the Minister for Agriculture and is accountable to the Secretary of the Department of Agriculture regarding matters of administration.³⁰

2.30 The IIGB is responsible for reporting to the Minister for Agriculture on the 'performance of the biosecurity programs and risk management measures across the biosecurity continuum for which the [Department of Agriculture] is responsible'.³¹ Although the role is focused on the biosecurity divisions within the Department of Agriculture and on the *Quarantine Act 1908*, it also extends to the 'biosecurity measures related to human health and environmental responsibilities that are

27 Senate Standing Committee on Rural and Regional Affairs and Transport, *Biosecurity Bill 2012 and the Inspector-General of Biosecurity Bill 2012*, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Biosecurity2012 (accessed 18 September 2014); see also Parliament of Australia, *Biosecurity Bill 2012 [2013]*, http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=s897 (accessed 10 September 2014).

28 *Journals of the Senate*, No. 84, 17 March 2015, p. 2307.

29 Beale, Roger et al, *One Biosecurity: a working partnership*, September 2008, p. xxxiv.

30 Australian Government, 'Role of the Interim Inspector-General of Biosecurity', <http://www.igb.gov.au/Pages/role-of-the-iigb.aspx> (accessed 20 February 2015).

31 Australian Government, 'Role of the Interim Inspector-General of Biosecurity', <http://www.igb.gov.au/Pages/role-of-the-iigb.aspx> (accessed 20 February 2015).

undertaken by the department on behalf of the Department of Health and the Department of the Environment'.³²

2.31 In order to carry out its audit and reporting functions, the IIGB is authorised to:

...consult stakeholders, including relevant Australian Government Departments (Agriculture; Health; and the Environment), competent authorities, companies and individuals involved across the biosecurity continuum. Departments are required to provide reasonable access to documents, staff and facilities to allow the IIGB to undertake the functions specified in this Charter.³³

2.32 The Biosecurity Bill 2014 was not accompanied by separate legislation to establish the Inspector-General of Biosecurity as an independent statutory authority, as had been the case in 2012. Nevertheless, the government has stated that it supports the role of the Inspector-General of Biosecurity and intends that the position will continue. Furthermore, the Biosecurity Bill 2014 includes provisions that would establish information gathering powers intended for the use of the Inspector-General.³⁴

2.33 Clauses 567 and 568 of the Biosecurity Bill 2014 provide review and information gathering powers to the Minister for Agriculture, and clause 643 provides for the minister to delegate these powers to an appropriate person. Although the position of Inspector-General of Biosecurity is not directly created by the bill, it is envisaged that the Minister for Agriculture will appoint an appropriate person to such a position and delegate to them the powers mentioned above. The explanatory memorandum states:

The Interim Inspector-General of Biosecurity undertakes reviews of the biosecurity system. In bringing legislation forward, the government decided to continue the current administrative arrangements in line with the government's policy not to create an unnecessary statutory position. The role of the Interim Inspector-General of Biosecurity will remain and continue to provide constructive recommendations to improve Australia's biosecurity system.³⁵

32 Australian Government, 'Role of the Interim Inspector-General of Biosecurity', <http://www.igb.gov.au/Pages/role-of-the-iigb.aspx> (accessed 20 February 2015).

33 Australian Government, 'Role of the Interim Inspector-General of Biosecurity', <http://www.igb.gov.au/Pages/role-of-the-iigb.aspx> (accessed 20 February 2015).

34 The Hon Barnaby Joyce MP, Minister for Agriculture, 'Shorten wrong on Inspector General of Biosecurity', *Media Release*, 19 February 2015, <http://www.maff.gov.au/Pages/Media%20Releases/Inspector-General.aspx> (accessed 20 February 2015); Biosecurity Bill 2014 Explanatory Memorandum, p. 13.

35 Biosecurity Bill 2014 Explanatory Memorandum, p. 371.

2.34 A notable feature of the powers of review provided under clause 567 of the bill is that they are only intended to be exercised in general—that is, they are not intended to be used to examine any specific decision made by a particular official. The explanatory memorandum explains this feature of the bill:

To ensure that the scope of the review is focussed on the effectiveness of the biosecurity system in general, the clause provides that a review cannot be conducted into the single performance of a function, or a single exercise of a power by a single biosecurity official. It is intended that reviews will be general in nature and of the whole or specific parts of the biosecurity system. The limitation that a review cannot be conducted into the single performance of a function, or a single exercise of a power by a single biosecurity official does not prevent the Minister requiring a person to give information or documents under clause 568 about a single performance of a function or single exercise of a power, as long as the review for which the information or document was sought was of a more general nature.³⁶

2.35 The status of the Inspector-General of Biosecurity under the Biosecurity Bill 2014 was the subject of considerable criticism during the Senate Rural and Regional Affairs and Transport Legislation Committee inquiry. Submitters to that inquiry suggested that the review framework contained under clauses 567 and 643 of the Biosecurity Bill 2014 did not guarantee an independent and transparent review process and advocated that the Inspector-General be established as an independent statutory position, as had been proposed under the 2012 bill.³⁷

2.36 The Rural and Regional Affairs and Transport Legislation Committee did not agree with the view that the bill would lead to a diminished role for the Inspector-General of Biosecurity. It did, however, recommend that the findings of reviews conducted under clause 567 of the bill be publicly released and tabled in Parliament.³⁸

2.37 Both the Labor Senators' dissenting report and the Australian Greens' additional comments appended to the Rural and Regional Affairs and Transport Legislation Committee's report include recommendations that the bill be amended, or further legislation be introduced, to establish the Inspector-General of Biosecurity as an independent statutory position.³⁹

Amendments to the Biosecurity Bill 2014

2.38 The Biosecurity Bill 2014 and associated bills passed the House of Representatives on 9 February 2015. At the time of preparing this report, the Biosecurity Bill 2014 and associated bills were before the Senate.

36 Biosecurity Bill 2014 Explanatory Memorandum, pp 335–336.

37 Senate Rural and Regional Affairs and Transport Legislation Committee, *Biosecurity Bill 2014 [Provisions]*, March 2015, pp 17–19.

38 Senate Rural and Regional Affairs and Transport Legislation Committee, *Biosecurity Bill 2014 [Provisions]*, March 2015, p. 19.

39 Senate Rural and Regional Affairs and Transport Legislation Committee, *Biosecurity Bill 2014 [Provisions]*, March 2015, p. 46 and p. 50.

2.39 Both the Government and the Opposition had circulated proposed amendments to the Biosecurity Bill 2014 that would establish the Inspector-General of Biosecurity as a statutory office. During the committee stage, the Government's amendments were agreed to and the Opposition's amendments were not proceeded with.

2.40 In foreshadowing that the Government would move amendments to establish the Inspector-General of Biosecurity as a statutory office, the Parliamentary Secretary to the Minister for Agriculture, Senator the Hon Richard Colbeck, stated:

We made changes where we had recommendations that made sense and it was reasonable to do so. This will be demonstrated by the introduction of an amendment to establish a statutory Inspector-General of Biosecurity, which we know is a concern for the opposition and for some of our stakeholders.⁴⁰

2.41 Senator Colbeck added that the regulations would address other matters related to the Inspector-General's functions, including that the Inspector-General is to set an annual review program in writing in consultation with the Director of Biosecurity and the Minister.⁴¹

EPBC Act—Key threatening processes and threat abatement plans

2.42 The *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) also contains provisions relevant to invasive species. For example, it provides for the identification and listing of 'key threatening processes'. A threatening process is defined as a process that threatens or may threaten the survival, abundance or evolutionary development of a native species or ecological community.⁴²

2.43 Once a threatening process is listed under the EPBC Act, a threat abatement plan can be put in place if it is shown to be 'a feasible, effective and efficient way' to abate the threatening process. Threat abatement plans provide for research, management, and other actions to reduce the impacts of a listed key threatening process on native species and ecological communities.⁴³

2.44 As of September 2014, there were 21 listed key threatening processes and 14 approved threat abatement plans in place under the EPBC Act. The majority of these listed key threatening processes and threat abatement plans involve invasive species. For example, feral rabbits, foxes, cats, pigs, goats, rodents on islands, red

40 Senator the Hon Richard Colbeck, *Proof Senate Hansard*, 11 May 2015, pp 61–62.

41 Senator the Hon Richard Colbeck, *Proof Senate Hansard*, 11 May 2015, p. 62.

42 EPBC Act, s. 183 and s. 188(3).

43 EPBC Act, Part 13, Division 5, Subdivision A, ss 267–284.

imported fire ants, cane toads, *Phytophthora cinnamomi*, and chytrid fungus are all listed as key threatening processes.⁴⁴

2.45 In February 2013, 'novel biota' was listed under the EPBC Act as an overarching key threatening process to capture all potentially invasive species. A threat abatement plan has not been developed for this listing as, 'it is considered that a threat abatement plan would not be the most feasible, effective or efficient mechanism to manage such a broad threatening process.' Rather, threat abatement guidelines have been developed for the novel biota listing.⁴⁵

EPBC Act—international trade in 'wildlife'

2.46 The EPBC Act also regulates international trade in wildlife and wildlife products, where 'wildlife' is defined as an animal or plant or a specimen derived from a plant or animal.⁴⁶ For example, to be eligible to be imported under the EPBC Act, live plant and animal specimens must be listed in a 'List of Specimens taken to be Suitable for Live Import' (live import list).⁴⁷ The live import list consists of two parts:

- Part 1 contains specimens that can be brought into Australia without a permit from the Department of the Environment, and is taken to include any live plant, which is introduced into Australia in accordance with the Quarantine Act, provided the plant is not included in the list of Convention on Trade in Endangered Species (CITES)⁴⁸ specimens under the EPBC Act;⁴⁹ and
- Part 2 contains species that require a permit from the Department of the Environment before being imported into Australia.

2.47 As such, under the EPBC Act, the Department of the Environment is responsible for assessment of environmental risk (potential to become invasive) associated with the import of live specimens. This is in addition to the Department of

44 Department of the Environment, *Listed Key Threatening Processes*, <http://www.environment.gov.au/cgi-bin/sprat/public/publicgetkeythreats.pl> (accessed 10 September 2014); see also Department of the Environment, *Threat Abatement Plans*, <http://www.environment.gov.au/biodiversity/threatened/threat-abatement-plans/approved> (accessed 10 September 2014).

45 Department of the Environment, *Novel biota and their impact on the Environment*, <http://www.environment.gov.au/node/14591> (accessed 10 September 2014).

46 EPBC Act, Part 13A and s. 528; see further Department of the Environment, *Wildlife trade*, <http://www.environment.gov.au/biodiversity/wildlife-trade> (accessed 11 September 2014).

47 The full list is available at: <http://www.comlaw.gov.au/Details/F2014C00744> (accessed 23 September 2014).

48 *Convention on Trade in Endangered Species*; see further Department of the Environment, *CITES species*, <http://www.environment.gov.au/biodiversity/wildlife-trade/cites/cites-species> (accessed 23 September 2014).

49 Department of Agriculture and Department of the Environment, *Submission 59*, p. 23; see also Department of the Environment, *Live import list*, <http://www.environment.gov.au/biodiversity/wildlife-trade/live/import-list> (accessed 23 September 2014).

Agriculture's responsibility under the Quarantine Act to assess the biosecurity risk (potential to introduce pests and diseases) of imports. As such, the import of live specimens such as live animals and plants, seeds and biological control agents requires the agreement of both the Department of Agriculture under the Quarantine Act and the Department of the Environment under the EPBC Act.⁵⁰

2.48 However, the departments advised that, while both the Quarantine Act and the EPBC Act require live specimens to be assessed for their potential impacts, they 'have worked closely together to develop an integrated process for the assessment of specimens'. They submitted that 'this reduces duplication and streamlines the assessment processes, both for the Australian Government and for the applicant (or potential importer)'.⁵¹

Relevant entities: Plant Health Australia, Animal Health Australia and Wildlife Health Australia

2.49 Plant Health Australia (PHA) and Animal Health Australia (AHA) are not-for-profit public companies jointly established by government and industry. PHA is the national coordinator of the government-industry partnership for plant biosecurity in Australia. Its goal is to work with Commonwealth and state governments and industry representatives to promote strong biosecurity practices that minimise plant pest impacts on Australia, enhance market access and contribute to industry and community sustainability.⁵²

2.50 The goal of AHA is to facilitate improvements in Australia's animal health policy and practice in partnership with the livestock industries, governments and other stakeholders. AHA aims to build capacity to enhance emergency animal disease preparedness; to ensure that Australia's livestock health systems support productivity, competitive advantages and preferred market access; and to contribute to the protection of human health, the environment and recreational activities.⁵³

2.51 Wildlife Health Australia (WHA) is a not-for-profit incorporated association and a registered charity. WHA continues the work of the Australian Wildlife Health Network which was founded in 1999 in response to the emergence of several wildlife diseases with the potential to harm humans—bat lyssavirus, Hendra virus and foot and mouth disease.⁵⁴ This organisation currently has a five-year funding agreement with

50 Department of Agriculture and Department of the Environment, *Submission 59*, p. 23.

51 Department of Agriculture and Department of the Environment, *Submission 59*, p. 11.

52 See further Plant Health Australia, <http://www.planthealthaustralia.com.au/> (accessed 17 September 2014).

53 See further Animal Health Australia, <http://www.animalhealthaustralia.com.au/> (accessed 17 September 2014).

54 See Wildlife Health Australia, <https://www.wildlifehealthaustralia.com.au/AboutUs.aspx> (accessed 24 November 2014); Dr Rupert Woods, Chief Executive Officer, Wildlife Health Australia, *Committee Hansard*, 10 November 2014, p. 30.

the Commonwealth Government to 'support the Commonwealth, the states and the territories in providing a general wildlife surveillance system for the country'.⁵⁵

2.52 WHA itself has only five staff, but it provides surveillance capacity by working with 'a network of more than 600 wildlife health professionals, members of the public and those with an interest in wildlife health including representatives from federal, state and territory conservation, agriculture and human health agencies and industries, universities, zoos, private practitioners, wildlife carer groups, hunters and fishers, and diagnostic pathology services'.⁵⁶

Relevant Commonwealth strategies and programs

2.53 *Australia's Biodiversity Conservation Strategy*, which was endorsed by the then Natural Resource Management Ministerial Council in October 2010, also recognises the threat of invasive species to Australia's biodiversity. The strategy sets a target to 'reduce by at least 10% the impacts of invasive species on threatened species and ecological communities' by 2015.⁵⁷

2.54 Actions to control invasive species that have already entered the country are also dealt with under the *Australian Weeds Strategy* and the *Australian Pest Animal Strategy*.⁵⁸ The Weeds of National Significance (WONS) program falls under the overarching Australian Weeds Strategy. Under the WONS program, 32 of Australia's worst weeds in the agricultural, forestry and environment contexts have been identified, and national strategies for the control of each weed have been developed.⁵⁹

2.55 Both the Australian Pest Animal Strategy and the Australian Weeds Strategy were the subject of an independent review in 2013. The Invasive Plants and Animals Committee is revising and updating these strategies and intends to release new versions in 2015.⁶⁰

55 Dr Rupert Woods, Chief Executive Officer, Wildlife Health Australia, *Committee Hansard*, 10 November 2014, p. 30; see also Department of Agriculture and Department of the Environment, *Submission 59*, p. 18.

56 See Wildlife Health Australia, <https://www.wildlifehealthaustralia.com.au/AboutUs.aspx> (accessed 24 November 2014).

57 Natural Resource Management Ministerial Council 2010, *Australia's Biodiversity Conservation Strategy 2010–2030*, p. 10, <http://www.environment.gov.au/biodiversity/conservation/strategy> (accessed 17 September 2014).

58 Department of Agriculture and Department of the Environment, *Submission 59*, p. 16.

59 Australian Government, *Weeds in Australia: grants and government*, <http://www.environment.gov.au/biodiversity/invasive/weeds/government/policies.html#wide> (accessed 16 April 2015).

60 Australia Government, *Pest animal and weed management*, <http://www.nrm.gov.au/national/pest-animal-weed-management> (accessed 16 April 2015).

2.56 The *Northern Australia Quarantine Strategy* was established in 1989 to provide an early warning system for exotic pest, weed and disease detections across northern Australia and to help address unique biosecurity risks facing the region.⁶¹

2.57 The National Landcare Programme is also relevant to biosecurity incursion management in that it has allocated funds to contribute to national emergency response arrangements for pests and diseases under the NEBRA, as well as the Emergency Plant Pest Response Deed and the Emergency Animal Disease Response Agreement.⁶² The program also contributed to the development of the pest animal and weed strategies mentioned above.⁶³

Relevant reviews and reports

2.58 The departments of agriculture and the environment submitted that recent reviews have found that 'Australia's biosecurity system operated well, but could be improved'. The Department of Agriculture advised that it is 'continuing to strengthen Australia's biosecurity arrangements' 'in collaboration with its biosecurity partners'.⁶⁴ A brief summary of some relevant recent reviews at the Commonwealth level in relation to biosecurity and invasive species is set out below.⁶⁵

Senate Environment, Communications, Information Technology and the Arts References Committee: Turning back the tide, 2004

2.59 In 2004, this committee's predecessor, the Senate Environment, Communications, Information Technology and the Arts References Committee considered the invasive species threat in detail in its report *Turning back the tide—the invasive species challenge*. That report made 27 recommendations for actions and strategies to assist Australia in its efforts to combat invasive species.⁶⁶ The

61 Department of Agriculture, *Northern Australia Quarantine Strategy*, <http://www.daff.gov.au/biosecurity/quarantine/naqs> (accessed 17 September 2014).

62 Australian Government, *Biosecurity Incursion Management*, <http://www.nrm.gov.au/national/biodiversity-incursion-management> (accessed 16 April 2015).

63 Australia Government, *Pest animal and weed management*, <http://www.nrm.gov.au/national/pest-animal-weed-management> (accessed 16 April 2015).

64 Department of Agriculture and Department of the Environment, *Submission 59*, p. 4.

65 Note also the 1996 Nairn Review: M.E. Nairn, Allen, P.G., Inglis, A.R. and Tanner, C., *Australian Quarantine: a shared responsibility*, 1996, http://www.daff.gov.au/data/assets/pdf_file/0009/111969/nairn_report.pdf (accessed 18 September 2014); and the Joint Committee of Public Accounts and Audit, *Review of Australia's Quarantine Function*, 5 March 2003, http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Completed_Inquiries/jcpaa/aqis/contents (accessed 18 September 2014).

66 Senate Environment, Communications, Information Technology and Arts References Committee, *Turning back the tide—the invasive species challenge*, December 2004, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Completed%20inquiries/2004-07/invasivespecies/index (accessed 16 September 2014).

government response to that report in 2007 agreed with many, but not all, of the report's recommendations.⁶⁷

Beale review, 2008

2.60 In 2008, Roger Beale AO, chaired an independent review of Australia's quarantine and biosecurity arrangements: *One biosecurity: a working partnership* (the Beale review), which was released on 19 December 2008.⁶⁸ The Beale review found that while Australia's 'biosecurity system has worked well in the past, and is often the envy of other countries...the system is far from perfect'. The Beale review identified a number of systemic deficiencies and made 84 recommendations 'to rectify these problems while enhancing the good aspects of the system'.⁶⁹ The Beale review recommended, among other matters, the replacement of the Quarantine Act with new biosecurity legislation; the establishment of a 'National Biosecurity Authority' as an independent statutory authority; the negotiation of an intergovernmental agreement on biosecurity; an emphasis on shared responsibility with business and the community; and additional resourcing for biosecurity activities.⁷⁰

2.61 As a result of the Beale review, a number of major reforms have been, or are proposed to be, implemented with the intention of strengthening Australia's biosecurity system. These include the IGAB and proposed new biosecurity legislation (as mentioned earlier). According to the Department of Agriculture, the reform program has also included implementing a risk-based approach to biosecurity management underpinned by sound evidence and policy; an emphasis on managing biosecurity risk across the continuum (offshore, at the border and onshore); and strengthening partnerships with stakeholders.⁷¹

67 Australian Government, *Response to Senate Environment, Communications, Information Technology and Arts References Committee Report, Turning back the tide—the invasive species challenge*, September 2007, http://www.aph.gov.au/~media/wopapub/senate/committee/ecita_ctte/completed_inquiries/2004-07/invasive_species/govt_response/invasive_species_govt_response.ashx (accessed 16 September 2014).

68 Beale, Roger et al, *One Biosecurity: a working partnership*, September 2008, http://www.daff.gov.au/_data/assets/pdf_file/0004/2134795/bio-reform-final.pdf (accessed 10 September 2014).

69 Beale, Roger et al, *One Biosecurity: a working partnership*, September 2008, p. ix.

70 Beale, Roger et al, *One Biosecurity: a working partnership*, September 2008, pp xiii–xlvi.

71 Department of Agriculture, Fisheries and Forestry, *Reform of Australia's biosecurity system — An update since the publication of One Biosecurity: a working partnership*, March 2012, p. 2.

Hawke review of the EPBC Act, 2009

2.62 The independent review of the EPBC Act conducted by Dr Allan Hawke in 2009 also considered the issue of invasive species and biosecurity.⁷² In relation to invasive species and other emerging threats, the report recommended that:

(1) the Council of Australian Governments (COAG) develop criteria and management protocols for the movement of potentially damaging exotic species between State and Territories, working towards a list of 'controlled' species for which cost-effective risk-mitigation measures may be implemented;

(2) the [EPBC] Act be amended to require periodic preparation of mandatory 'outlook' reports that identify emerging threats to the environment and provide policy options to address emerging environmental issues; and

(3) the Australian Government establish a Unit or Taskforce devoted to foresighting to identify and guide management responses to emerging threats.⁷³

2.63 The government responded to the Hawke review in 2011 and agreed in part to this recommendation. The response noted, for example, that section 301A of the EPBC Act (which has not been used to date), provides for regulations to be made in relation to non-native species that threaten or potentially threaten Australia's biodiversity by importation into Australia or between states and territories. The response also noted work on the then draft IGAB to address key aspects of the national biosecurity system, including arrangements relating to interstate trade.⁷⁴ In terms of outlook reports, the government noted there are already existing reporting processes to identify emerging threats to the environment, particularly 'state of the environment' reporting and the Great Barrier Reef Outlook Report.⁷⁵

Senate Environment and Communications References Committee threatened species report 2013

2.64 This committee conducted an inquiry in 2013 into the effectiveness of protection of threatened species, which considered invasive species as one of the key threats to threatened species. The committee noted evidence that environmental biosecurity needs to be given greater priority across the Australian mainland and the

72 Department of the Environment, Water, Heritage and the Arts, *The Australian Environment Act: report of the Independent review of the Environment Protection and Biodiversity Conservation Act 1999*, October 2009, (Hawke review), pp 183–187 and Appendix 6, <http://www.environment.gov.au/resource/australian-environment-act-report-independent-review-environment-protection-and> (accessed 11 September 2014).

73 Hawke review, recommendation 23, p. 149.

74 Australian Government, *Australian Government Response to the Report of the Independent Review of the Environment Protection and Biodiversity Conservation Act 1999*, pp 45–46, <http://www.environment.gov.au/resource/australian-government-response-report-independent-review-environment-protection-and> (accessed 11 September 2014).

75 Australian Government, *Australian Government Response to the Report of the Independent Review of the Environment Protection and Biodiversity Conservation Act 1999*, pp 45–46.

need to prioritise biosecurity measures on islands. The committee made a number of recommendations relating to invasive species, including that the Department of the Environment (or the Commonwealth government):

- develop clear biosecurity strategies to protect island sanctuaries (recommendation 15);
- develop regulations under section 301A of the EPBC Act for the regulation of controlled invasive plant species within Australia (recommendation 16);
- develop research strategies (in conjunction with relevant research institutions such as CSIRO and the Invasive Animals CRC) to develop biological controls for feral cats and other high impact invasive species (recommendation 17);
- target more environmental research funding and programs towards effective control methods for invasive species (recommendation 18); and
- consider listing 'wildlife disease' as an overarching key threatening process under the EPBC Act (recommendation 19).⁷⁶

2.65 The government recently responded to this report, and agreed with some, but not all, of these recommendations.⁷⁷

Senate Rural and Regional Affairs and Transport committees inquiries

2.66 The Senate Rural and Regional Affairs and Transport References Committee has undertaken numerous inquiries examining biosecurity and quarantine arrangements, including the importation (or proposed importation) of specific plant or animal products, or the management of incursions of particular pests and diseases. While many have had a primary focus on the impacts on the agricultural industry, some may be particularly relevant to this inquiry including, for example, reports into:

- science underpinning the inability to eradicate the Asian honeybee (2011)
- *Australia's biosecurity and quarantine arrangements* (April 2012); and
- the future of beekeeping and pollination service industries in Australia (July 2014).

2.67 The Biosecurity Bill 2012 was also referred to the Senate Rural and Regional Affairs and Transport Legislation Committee. The committee received submissions

76 Senate Environment and Communications References Committee, *Effectiveness of threatened species and ecological communities' protection in Australia*, August 2013, pp 84–92, 112–114, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Completed_inquiries/2010-13/threatenedspecies/report/index

77 The government response is available at: http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Completed_inquiries/2010-13/threatenedspecies/index

and held public hearings, but did not report before the prorogation of Parliament in 2013.⁷⁸

2.68 As noted above, the Biosecurity Bill 2014 was introduced in the House of Representatives on 27 November and referred to the Senate Rural and Regional Affairs and Transport Legislation Committee for inquiry and report on 17 March 2015.⁷⁹

78 Senate Standing Committee on Rural and Regional Affairs and Transport, *Biosecurity Bill 2012 and the Inspector-General of Biosecurity Bill 2012*, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Biosecurity2012

79 http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Biosecurity_2014/Report