

The Senate

---

Foreign Affairs, Defence and Trade  
Legislation Committee

---

Defence Legislation Amendment (Woomera  
Prohibited Area) Bill 2013

March 2014

© Commonwealth of Australia 2014

ISBN 978-1-74229-949-5

This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Australia License.



The details of this licence are available on the Creative Commons website:  
<http://creativecommons.org/licenses/by-nc-nd/3.0/au/>.

Printed by the Senate Printing Unit, Parliament House, Canberra

# Members of the committee

## Core members

Senator Alan Eggleston, LP, WA (Chair)  
Senator the Hon Ursula Stephens, ALP, NSW (Deputy Chair)  
Senator Sean Edwards, LP, SA  
Senator the Hon John Faulkner, ALP, NSW  
Senator David Fawcett, LP, SA  
Senator Peter Whish-Wilson, AG, TAS

## Participating members who contributed to the inquiry

Senator the Hon Don Farrell, ALP, SA

## Secretariat

Mr David Sullivan, Committee Secretary  
Mr Owen Griffiths, Principal Research Officer  
Miss Jediah Reardon, Senior Research Officer  
Ms Penny Bear, Research Officer  
Miss Ophelia Tynan, Administrative Officer

Senate Foreign Affairs, Defence and Trade Committee  
Department of the Senate  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

Phone: + 61 2 6277 3535  
Fax: + 61 2 6277 5818  
Email: [fadt.sen@aph.gov.au](mailto:fadt.sen@aph.gov.au)  
Internet: [www.aph.gov.au/senate\\_fadt](http://www.aph.gov.au/senate_fadt)



# Table of Contents

<b>Members of the committee .....</b>	<b>iii</b>
<b>Defence Legislation Amendment (Woomera Prohibited Area) Bill 2013 .....</b>	<b>1</b>
Referral and consideration of the bill .....	1
Conduct of the inquiry .....	1
The bill .....	1
Issues raised in submissions .....	2
Committee view .....	3
<b>Dissenting report by Labor Senators .....</b>	<b>5</b>
<b>Appendix 1 .....</b>	<b>7</b>
Public submissions .....	7



# Defence Legislation Amendment (Woomera Prohibited Area) Bill 2013

## Referral and consideration of the bill

1.1 On 12 December 2013, the Senate referred the Defence Legislation Amendment (Woomera Prohibited Area) Bill 2013 to the Senate Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report by 11 February 2014.<sup>1</sup> On 11 February 2014, the Senate granted an extension of time for reporting until 4 March 2014.<sup>2</sup>

1.2 The bill was introduced as a private senators' bill by Senator the Hon Don Farrell. At the time the bill was introduced, Senator the Hon Mitch Fifield indicated that the government was in the process of preparing an amended version of the bill for the autumn 2014 sittings.<sup>3</sup> On 13 February 2014, the bill was debated in the Senate.<sup>4</sup>

1.3 During the 43<sup>rd</sup> Parliament, the committee conducted an inquiry into a substantially similar bill. Following the prorogation of the 43<sup>rd</sup> Parliament, the committee decided not to continue its inquiry into this bill. More information regarding that inquiry, including the submissions received and the committee's report, is available on the committee's website: [www.aph.gov.au/senate\\_fadt](http://www.aph.gov.au/senate_fadt).

## Conduct of the inquiry

1.4 The committee advertised its inquiry on its website, and in *The Australian* newspaper, calling for submissions to be lodged by 31 January 2014. The committee also wrote directly to a range of people and organisations likely to have an interest in the bill, drawing their attention to the inquiry and inviting them to make written submissions.

1.5 The committee received 12 submissions to the inquiry. These submissions are listed at [Appendix 1](#) and are available via the committee's website.

## The bill

1.6 Similar to the previous bill considered by the committee, the bill implements the recommendations of the *Review of the Woomera Prohibited Area* led by Dr Allan Hawke in 2011.<sup>5</sup> The bill amends the *Defence Act 1903* and is intended to

---

1 *Journals of the Senate*, 12 December 2013, p. 361.

2 *Journals of the Senate*, 11 February 2014, p. 412.

3 *Journals of the Senate*, 12 December 2013, p. 368.

4 *Journals of the Senate*, 13 February 2014, p. 468.

5 'Review of the Woomera Prohibited Area', Final Report, 4 February 2011, available at <http://www.defence.gov.au/woomera/review/papers/WoomeraFinalReport.pdf> (accessed 24 February 2014).

establish a framework for administrating access to the Woomera Prohibited Area (WPA). The bill:

- enables the minister to make the rules prescribing certain matters, including defining the WPA and the zones to be demarcated within that area;
- creates a permit system for access and use by non-defence users;
- introduces offences and penalties for entering the WPA without permission and for failing to comply with a condition of a permit; provides for compensation for any acquisition of property from a person otherwise than on just terms; and
- provides for a cap on compensation payable to a person for loss or damage incurred in the WPA.

### **Issues raised in submissions**

1.7 A number of issues and concerns raised in the committee's previous inquiry were repeated in submissions to the current inquiry. Submissions focused on:

- the need for a co-existence model of access to the WPA which balances national security and economic interests (particularly in relation to resources exploration and extraction);<sup>6</sup>
- the importance of reliable railway and road access through the WPA;<sup>7</sup>
- the interests of Indigenous and native title claimants in WPA;<sup>8</sup> and
- environmental issues regarding exploitation of the WPA.<sup>9</sup>

1.8 The Department of Defence and the Department of Industry's joint submission provided the committee with an update on key activities which have occurred since July 2013. It noted that applications to access the WPA continue to be processed and that Defence continues to consult with WPA stakeholders including Indigenous groups, railway owners and operators, the Northern Territory government and the South Australian government, as well as through the WPA Advisory Board.<sup>10</sup> The submission also stated:

As advised in the Senate by Senator the Hon Mitch Fifield on 12 December 2013, the Government has indicated that it is in the process of

---

6 Geoscience Australia, *Submission 1*, p. 1; Association of Mining and Exploration Companies, *Submission 3*, pp 1-3; South Australian Chamber of Mines and Energy, *Submission 10*, p. 1; Department of Defence and Department of Industry, *Submission 11*, p. [9].

7 AustralAsia Railway Corporation, *Submission 2*, pp 1-2; Australian Rail Track Corporation, *Submission 7*, pp 1-2; Genesee and Wyoming Australia, *Submission 6*, pp 1-4, Northern Territory Government, *Submission 12*, pp 1-3.

8 Kokatha Uwankara Native Title Claim Group, *Submission 5*, pp 1-4; Maralinga Tjarutja and Anangu Pitjantjatjara Yankunytjatjara, *Submission 6*, pp 4-8.

9 Conservation Council of South Australia, *Submission 9*, pp 2-3.

10 *Submission 11*, pp 2-3.



---

preparing an amended version of the legislation for the autumn 2014 sitting, including preparation of a Regulation Impact Statement. Senator Fifield stated that the amended version will include a number of points of particular concern to the South Australian and Northern Territory Governments, including a clarification of existing users, including pastoralists, railways and local Indigenous groups.<sup>11</sup>

### **Committee view**

1.9 The committee's inquiry has allowed interested stakeholders to raise issues and reiterate their concerns regarding the proposed legislative changes to the regulation of access to the WPA. The committee expects these contributions will be taken into account by the Department of Defence and the Department of Industry as the government's amended bill is prepared.

1.10 The committee is sympathetic to many of the matters Senator Farrell raised when introducing the bill. In particular, the committee recognises the need to clarify future access arrangements to the WPA in order to promote economic growth in South Australia. However, the submissions received by the committee indicate that there remain a significant number of unresolved and outstanding issues in relation to the proposed new WPA access regime. Potential problems with the drafting of the bill were also highlighted during the Senate debate, as well as the importance of further consultation a range of stakeholders interested in clarifying their rights to access to the WPA.<sup>12</sup>

1.11 During the Senate debate on the bill, the Minister for Defence, Senator the Hon David Johnston advised that the 'amended legislation is very close to completion and a number of points of particular concern to the South Australian and Northern Territory government are being resolved'.<sup>13</sup> Further, he noted that 'Defence is continuing to work closely with...existing users and respond to their concerns, which mainly consist of clarifying longstanding and existing working relationships and access arrangements and permission with Defence'.<sup>14</sup>

1.12 In the view of the committee, the concerns and issues raised in submissions are best resolved initially through the amended version of the bill currently being prepared by the government, informed by Defence's ongoing consultations with WPA stakeholders. Should the Senate refer the government's amended bill for inquiry, the committee notes that it will be well-placed to consider the issues connected with the amended bill.

1.13 The committee thanks all those who assisted with the inquiry, particularly those who have made written submissions.

---

11 *Submission 11*, p. 3.

12 *Senate Hansard*, 13 February 2014, pp 5-6.

13 *Senate Hansard*, 13 February 2014, p. 3.

14 *Senate Hansard*, 13 February 2014, p. 6.

**Recommendation 1**

**1.14 The committee recommends that the Senate not pass the bill.**

**Senator Alan Eggleston**  
Chair

## **Dissenting report by Labor Senators**

1.1 The Bill emerged from consultations regarding the Hawke Report released in February 2011. It is important that following significant job losses in the North of Adelaide that there is a bipartisan approach to ensuring job opportunities and a future for those families that may be facing an uncertain future. Senator Farrell introduced the Bill.

1.2 We are disappointed the committee assigned to consider this bill recommends that the Senate does not pass the Defence Legislation Amendment (Woomera Prohibited Area) Bill 2013.

1.3 The Minister responsible approached Senator Farrell promising that this bill would be a priority of the new Government and that legislation would be in front of the Senate before Christmas 2013.

1.4 The Bill has already passed the House of Representatives and the Government has had ample time to approach Senator Farrell with any amendments to the Bill.

1.5 While the committee report states that the Government is very close to releasing its own legislation on the Woomera Prohibited Area (WPA), there is no detail forthcoming about this legislation. Labor believes that this bill could easily be amended to accommodate the limited changes which the Government has suggested. The Government should be working with this bill to make it satisfactory to everyone.

1.6 Creating job opportunities in South Australia after the announcements by Holden that they are no longer going to manufacture cars in Australia will be vital to the South Australian economy.

1.7 The announcement by Ford and Toyota that they will no longer be manufacturing cars in Australia will mean a further flow on effect of job losses in the South Australian in the car component industry.

1.8 The job losses of those not directly employed by the car makers but associated with the shutdown of the car manufacturing business in South Australia will impact many families.

1.9 Opening the WPA for resources exploration and mining will create skilled jobs opportunities and a transition for those effected people.

1.10 The committee states that proper consultation has not occurred with traditional owners and pastoralists. It is our understanding that there has been ongoing consultation between all parties involved.

1.11 The committee states that it is concerned about the impact on trade and guarantee of supply for the Northern Territory if the Stuart Highway was to be impacted. The WPA is twice the size of Tasmania, a large area.

1.12 The remote chance that the Highway will be impacted for short periods of time should not prevent this legislation from going ahead because it is in the nation's best interest to proceed with the exploration of the area. The Highway and the

Woomera Defence Base have co-existed for many years with no significant impact on trade with the Northern Territory.

1.13 The Hawke Report recommending these changes has been released some time ago and the bill has already passed the House of Representatives.

### **Recommendation**

**1.14 That the committee recommends the bill be supported.**

**Senator the Hon Ursula Stephens  
Deputy Chair**

**Senator the Hon John Faulkner**

**Senator the Hon Don Farrell**

# Appendix 1

## Public submissions

- 1 Geoscience Australia
- 2 AustralAsia Railway Corporation
- 3 Association of Mining and Exploration Companies
- 4 Mark A Zanker
- 5 Kokatha Uwankara Native Title Claim Group
- 6 Maralinga Tjarutja and Anangu Pitjantjatjara Yankunytjatjara
- 7 Australian Rail Track Corporation Ltd
- 8 Genesee & Wyoming Australia Pty Ltd
- 9 Conservation Council of South Australia
- 10 South Australian Chamber of Mines and Energy
- 11 Department of Defence and the Department of Industry
- 12 Northern Territory Government

