

**STATEMENT OF REASONS FOR DECISION UNDER SECTION 158 OF THE
ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999**

I, IAN CAMPBELL, Minister for the Environment and Heritage, provide this statement of reasons under subsection 158(7) of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) for my decision under subsection 158(3) to exempt the Department of Defence from the application of the provisions of Part 3 of the EPBC Act in relation to the following action: the consolidation, during 2004, of science and technology activities, supporting the Australian Defence Force.

Legislation

1. Section 158 of the EPBC Act provides:

158 Exemptions from Part 3 and this Chapter

- (1) A person proposing to take a controlled action, or the designated proponent of an action, may apply in writing to the Minister for an exemption from a specified provision of Part 3 or of this Chapter.
- (2) The Minister must decide within 20 business days of receiving the application whether or not to grant the exemption.
- (3) The Minister may, by written notice, exempt a specified person from the application of a specified provision of Part 3 or of this Chapter in relation to a specified action.
- (4) The Minister may do so only if he or she is satisfied that it is in the national interest that the provision not apply in relation to the person or the action.
- (5) In determining the national interest, the Minister may consider Australia's defence or security or a national emergency. This does not limit the matters the Minister may consider.
- (6) A provision specified in the notice does not apply in relation to the specified person or action on or after the day specified in the notice. The Minister must not specify a day earlier than the day the notice is made.
- (7) Within 10 business days after making the notice, the Minister must:
 - (a) publish a copy of the notice and his or her reasons for granting the exemption in accordance with the regulations; and
 - (b) give a copy of the notice to the person specified in the notice.

Considerations

2. On 14 July 2004, Senator the Hon. Robert Hill, Minister for Defence, applied for an exemptions under section 158 of the EPBC Act in relation to a specific proposal to consolidate, during 2004, some science and technology activities supporting the Australian Defence Force.
3. I decided on the evidence before me, in accordance with section 158 of the EPBC Act, to exempt the Department of Defence from the application of all of the provisions of Part 3 of the EPBC Act in relation to the action involved in that proposal.

Findings on material questions of fact

4. The action which the Department of Defence propose to undertake relates to Australia's defence and security.
5. Adequate safeguards to protect the matters covered by Part 3 of the EPBC Act have been put in place.

Reasons for decision

6. I decided to grant an exemption under subsection 158(3) because I was satisfied that it is in Australia's national interest that details of the proposed action should remain confidential and, therefore, should not be subject to environmental assessment and approval under the EPBC Act.



MINISTER FOR THE ENVIRONMENT AND HERITAGE

10 / 8 / 2004