

SOCIAL IMPACT OF THE JOINT FORCE POSTURE INITIATIVE ON THE NORTHERN TERRITORY

An issues paper for public consultation

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EXECUTIVE SUMMARY

1. This Issues Paper has gathered, assessed and reported on publicly available stakeholder perceptions of an enduring rotational United States Marine Corps (USMC) presence in the Northern Territory (NT), and outlined the relevant issues that are intended as a starting-point for discussions with stakeholders.
2. The conclusion that can be drawn from the discussions of the issues and perceptions presented in this Issues Paper is that they arise mostly from the incomplete communication of facts and perceptions expressed prior to Defence engagement with stakeholders. The most common thoughts are based on speculation or misunderstandings based on perceptions.
3. Identified perceptions have been characterised as follows:
 - whether Darwin has the capacity to support a rotational USMC presence
 - whether the legal arrangements supporting the rotational USMC presence are appropriate
 - what opportunities these initiatives will present for Australian industry
 - whether USMC personnel and activities will be subject to Australian legislative, policy and procedural requirements
 - whether the Australia-United States Alliance remains appropriate for Australia's current circumstances
 - what impact these initiatives will have on Australia's regional relationships, and broader regional perceptions
 - whether the US will establish a permanent military base in Australia, and broader concerns about Australia's sovereignty being diminished.
4. These perceptions represent a wide scope of attitudes, and not all are based on a misunderstanding of available information. However, they do all underscore areas of concern for stakeholders and therefore highlight issues that require further engagement from the Department of Defence.
5. The issues outlined in this paper encompass questions relating to Australian strategic and defence policy, environment concerns, the provision of social services, and law and order. Each issue requires some degree of consideration.
6. It is outside the scope of this Issues Paper to provide recommendations. Findings will be presented in the final Social Impact Assessment delivered to the Department of Defence in June 2012 following an extensive stakeholder engagement process.

INTRODUCTION

7. The Australian Department of Defence has commissioned an economic assessment and a social assessment into the perceived and likely impacts of the enduring rotational presence of United States Marine Corps (USMC) in the Northern Territory (NT). This Issues Paper is the introductory component of the social impacts assessment and seeks to identify issues of importance to a broad group of interested stakeholders as identified through open source research.
8. The decision regarding the presence of USMC in Australia was announced in November 2011. This bilateral agreement between Australia and the United States includes the initial deployment of a small liaison element and a company of approximately 200 USMC personnel to Darwin and northern Australia. They will be based in Australia on a rotational basis, for six months at a time. In coming years, there is a mutual intent to establish a rotational presence of a Marine Air Ground Task Force (MAGTF). The MAGTF would consist of up to 2,500 personnel.

Aim of the Issues Paper

9. The purpose of this Issues Paper is to set out issues relating to the presence of approximately 250 USMC personnel in the NT for six months in 2012 and again in 2013. The list of issues outlined here is neither exhaustive nor conclusive, and a more complete understanding of these issues is likely to evolve during the stakeholder engagement process. It is understood that there may be additional issues, concerns, or perceptions, and that the nuance of each as described below may change.
10. The stakeholder perceptions established in this Issues Paper are intended as a starting point for discussion with key stakeholders.

Aim of the Social Impacts Assessment

11. The aim of the social impacts assessment is twofold: first, it will gather, assess and report on stakeholder perceptions of an enduring rotational USMC presence in the NT. Second, it will inform and engage with stakeholders on the facts and possible implications of the planned USMC presence in the NT.
12. For the purposes of the social impact assessment, key stakeholders are defined as any individual or group likely to be affected, either positively or negatively, directly or indirectly, by the presence of USMC in the NT. Key stakeholders also include those individuals who may not be affected but are nonetheless interested in the outcomes. The effects from USMC presence could include social wellbeing, environmental integrity, financial prosperity, organisational capacity, or politics. Examples of key stakeholders include, but are not limited to, Australian Defence Force (ADF) personnel stationed in the NT, government departments responsible for the provision of social services, local businesses, local councils, interest groups and members of the public.
13. The stakeholder engagement process will be conducted in late May 2012 and will refine and build on the issues and perceptions outlined in this Issues Paper. The focus of the consultations will be to clarify the specific concerns of individual stakeholders and ascertain the likely social impacts on them. For the stakeholders who will likely not be affected directly, but who are interested in the outcomes of the joint US-Australian force posture review, the purpose of the consultation will be to inform and clarify. The findings will be analysed through a social impact framework and presented in an assessment that also presents an evaluation of the overall stakeholder attitudes toward the enduring rotational presence of 250

USMC in the Northern Territory. The final social impacts assessment will also provide findings for the Department of Defence with respect to stakeholder perceptions.

Structural Overview

14. This Issues Paper is presented in two parts. The first part provides the background on the political decision on the joint force posture, an outline of the current arrangements, and clarification of future intent.
15. The second part of the Issues Paper outlines the perceptions and issues relating to Australian strategic and defence policy, environmental concerns, the provision of social services, and law and order.
16. The Issues Paper concludes with a summary of its findings. An evaluation of these findings will be made at the conclusion of the stakeholder engagement period, and presented in the final social impact assessment.

Methodology

17. This Issues Paper is the product of extensive desktop research and literature review. This involved the analysis of publicly available documentation on the decision to rotate USMC through the NT, including official statements, public statements by commentators, and transcripts of press conferences. The process also involved an aspect of media monitoring. All sources referenced in this Issues Paper are listed in the References section below.
18. The perceptions and issues presented herein were relatively straightforward to discern as those stakeholders with concerns about the USMC enduring rotational presence are more likely to make public comment about it. Those who do not object, or perceive a benefit in it, have little incentive to vocalise their support. For this reason, this Issues Paper is unlikely to be representative of the overall balance of opinion toward the USMC. Rather, it reflects and highlights the body of concerns that need to be brought to the attention of the Department of Defence for consideration and further engagement. A more complete picture of overall opinions will be presented in the final social impacts assessment following a period of stakeholder consultation.
19. Although the scope of the social impacts assessment is limited to potential effects of the current agreement between Australia and the US, this Issues Paper also reflects concerns of stakeholders regarding any potential future enhancement of USMC presence in Australia. The reason for the inclusion of these concerns here, even though they fall outside the scope of the social impacts assessment, is that they affect the attitude of some stakeholders toward the current arrangements. That is to say, some stakeholders appear to oppose the current rotational presence of 250 USMC not because of its intrinsic effects but rather because it is perceived as a harbinger of future undesirable consequences. Therefore, it is valid to discuss here how issues of speculation about possible future expansion of USMC presence in Australia relate to the current rotational force.
20. The approach to presenting and discussing the perceptions and concerns found during the course of the research period is ideologically neutral. In fulfilling its responsibilities to undertake a social impact assessment, Noetic remains independent and impartial on all issues. Noetic seeks to accurately present facts and issues of importance regardless of whether they are supportive or unsupportive of the enduring rotational presence of USMC in the NT.

Scope

21. The scope of this Issues Paper is limited to:
 - a. the agreed level of commitment between the Australian and United States Governments, and
 - b. the time frames and data sources available to the review.
22. This assessment will focus on the social impacts of those rotational deployments of 200-250 USMC personnel in 2012 and 2013, rather than the possibility of larger deployments in future years. However, research for the discussion paper has been informed by the potential for expansion of the initiative and where relevant the assessment will note issues raised during the stakeholder engagement.
23. Our time frame for the review is defined by our agreement with the Implementation Team.
24. This report therefore presents the issues Noetic believe are relevant in developing a targeted impact assessment of the initial rotations.

BACKGROUND

25. In November 2011 the Prime Minister of Australia and the President of the United States of America announced enhanced Australia-United States (US) defence cooperation. One element of this enhanced defence cooperation will see a small rotational US Marine Corps presence in Northern Australia, particularly the Northern Territory (NT). In April 2012 the first company of around 200 US Marine Corps personnel arrived in Darwin.
26. Prime Minister Julia Gillard and US President Barack Obama also announced closer cooperation between the Royal Australian Air Force and the US Air Force that will result in increased rotations of US aircraft through northern Australia. This will enhance bilateral collaboration and offer greater opportunities for combined training and exercises. A range of different US aircraft already visit Australia for exercising and training and the increased aircraft cooperation will build on these activities. The enhanced cooperation between the RAAF and USAF is outside the scope of the social and economic impact assessments.
27. The Australian Department of Defence (Defence) has constituted an Implementation Team to progress action on the initiative.
28. Noetic Solutions Pty Ltd (Noetic) have been commissioned by the Defence Implementation Team to undertake an independent, impartial assessment of the potential social and economic impacts of the agreed force posture initiatives. Out of scope of these social and economic impacts assessment is the intent to establish a rotational presence of up to a 2,500 person Marine Air Ground Task Force (MAGTF).¹

Understanding the Initiative

29. For the years 2012 and 2013 the size of the US Marines rotational deployments to northern Australia will be around 250 and they will rotate through the Robertson Barracks in the Litchfield Shire of the NT. The Marines will live entirely at Robertson Barracks during the rotation, in existing accommodation facilities. The Marines will not be accompanied.

¹ Prime Minister of Australia, President of the USA 2011, "Australia-United States Force Posture Initiatives", Joint Press Release issued 16 November 2011.

30. The first company-sized rotation of approximately 200 US Marines Corps personnel arrived in Darwin on 3 April 2012. This initial rotation is currently expected to depart Australia to return to Hawaii in mid-late September 2012. It is expected that the next company sized rotation, of approximately 200-250 personnel, would arrive in Australia around March-April 2013. This 2013 rotation would be similar in nature to the 2012 rotation.
31. Over a six month period, these Marines are expected to undertake bilateral training in Australia with the Australian Defence Force, unilateral training in Australia and engage with countries in the region.
32. US personnel in Australia are in Australian territory pursuant to the terms of the Agreement between the Government of the Commonwealth of Australia and the Government of the United States of America concerning the Status of United States Forces in Australia, and Protocol, which entered into force on 9 May 1963 (Status of Forces Agreement, or SOFA). The SOFA is applied in Australian domestic law by the *Defence (Visiting Forces) Act 1963* (DVFA).
33. The SOFA grants Australia and the US concurrent jurisdiction over US military personnel, subject to some conditions. The SOFA has adequately provided the legal arrangements for the deployment of US visiting forces since that time, and applies to US Marine Corps personnel in northern Australia.
34. The Government will monitor these arrangements to ensure they remain adequate.

Understanding the Future Intent

35. The intent in the coming years is to establish a rotational presence of up to a 2,500 personnel Marine Air Ground Task Force (MAGTF), rotating into Northern Australia in the northern dry season. Rotations of a full MAGTF will not occur before 2016-17.
36. Major equipment to support the elements of the MAGTF includes wheeled vehicles, artillery pieces, light armoured vehicles and aircraft, in addition to personnel.
37. In the event the intent of the two Government's is met, it is useful to understand that a MAGTF has a specific structure, which includes four components:
 - a. A Command Element;
 - b. A Ground Combat Element (like a Rifle Company);
 - c. An Aviation Combat Element; and
 - d. A Logistics Combat Element (comprised of engineers, maintenance, medical and specialised personnel).
38. No further details are relevant in relation to the potential MAGTF rotational posture until the precise nature of cooperation is announced by Government. Major equipment to support the elements of the MAGTF includes wheeled vehicles, artillery pieces, light armoured vehicles and aircraft, in addition to personnel.
39. In effect the characteristics of the initiative are a short term addition of a small number of persons to an existing Barracks who will perform a particular task operating under a system of rules and procedures.

POTENTIAL IMPACTS

40. A review of the publicly available information and sentiment on this issue reveals several clear trends. First and foremost it is apparent that not enough factual information exists in public domain. Or rather, the

facts of matter are available but not disseminated as widely and thoroughly as to sufficiently counter the speculation and sensationalism that characterises some of the commentary on the topic. For example, there is confusion and misunderstanding as to the overall figure of USMC who will be based in the NT.

41. Second, there are several threads of public concern which are justified in fact, but which may not have yet been adequately addressed or engaged with. Illustrative of this is a perception that USMC presence in the NT may antagonise Australia's regional partners. This cannot be definitely proved or disproved, but indicates that a broader desire for public debate is sought by some.
42. There are arguably seven commonly recurring themes in the public sentiment. These are not all negative, and not all are based on a misunderstanding of available information. However, they do all underscore areas of interest for stakeholders and therefore highlight issues that require further engagement from the Department of Defence. These perceptions relate to:
 - whether Darwin has the capacity to support a rotational USMC presence
 - whether the legal arrangements supporting the rotational USMC presence are appropriate
 - what opportunities these initiatives will present for Australian industry
 - whether USMC personnel and activities will be subject to Australian legislative, policy and procedural requirements
 - whether the Australia-United States Alliance remains appropriate for Australia's current circumstances
 - what impact these initiatives will have on Australia's regional relationships, and broader regional perceptions
 - whether the US will establish a permanent military base in Australia, and broader concerns about Australia's sovereignty being diminished.
43. In addition to the major public concerns and perceptions outlined above, there are a number of other issues that need to be taken into account when managing expectations and planning future arrangements of a USMC presence in Australia. Not all of the issues are necessarily negative or insurmountable, but they all do require some degree of consideration.
44. The issues fall across the spectrum of detail, from the broadest, big picture issues, to the most tactical and specific. At the strategic level, there are differing views regarding Australia's geopolitical partnerships and potential consequences of certain force postures. Subject to speculation are also issues of potential future broadening of the USMC presence in Australia, and of operational level details of current arrangements. A further set of issues for consideration is the legal provisions for the rights, obligations and potential prosecution of United States Forces in Australia. Likewise, the issue of nuclear materials being potentially brought into Australian territorial waters requires attention. Lastly, all of the above issues must be considered in the context of the Northern Territory as a vibrant, burgeoning region, with a largely rotational population and a high level of familiarity with a military presence.

Australian Strategic and Defence Policy

Australia's Relationship with the US

45. Australia's long-standing relationship with the United States is at times not well understood. Moreover, its strategic basis is being questioned by some commentators in the context of America's shifting power on

the world stage. Neither this issues paper nor the final assessment seeks to make findings in relation to this. However, the sentiments expressed during the stakeholder engagement process will be reported.

46. Although it is long-standing and close, the relationship between the US and Australia continues to be one of speculation and concern for some² while others consider it a significant strategic strength.
47. As it relates to the USMC presence in the NT, any negative perceptions appear to be based on the assumption that the bilateral agreement somehow locks Australia into a relationship that is either somehow undesirable or one that precludes the possibility of strategic military alliances with other partners.

Geopolitics of Asia-Pacific

48. Similarly, it has been suggested the changing geopolitics of the Asia-Pacific region are bringing into question the logic of rotating US forces, no matter in how small a number, through Australia, and the regional consequences of this need to be considered. There are some commentators that have suggested that increased engagement with the US may be detrimental to Australia's relationships with Asia-Pacific nations and, particularly, China.³
49. There is a broad, ongoing debate about what Australia's geopolitical role in the Asia-Pacific region should be. Some of the stakeholders with an interest in this question hold the view that the USMC presence in Australia may antagonise other regional players. The country that is most often cited as one likely to be provoked by the American military presence is China⁴.
50. This perception is a speculative one relating to the strategic (rather than operational or tactical) aspects of the decision to allow the USMC into the NT.

Pacifism

51. Every publicised military decision or operation brings into question the more philosophical underpinnings of national security and defence. Pacifism is a recognised and legitimate ideological view, and the addition of foreign military personnel on Australian soil, even for training purposes, taps into a stream of anti-military sentiment.

Political Decisions

52. There is speculation about the political decisions that have not yet been made in regards to any future expansion of the USMC presence in Australia. Such speculation can lead to fear and misinformation. To some degree, the speculation about political decisions stems from a lack of concrete information in the public domain about what is being discussed politically. But this lack of concrete information may also be due to the fact that no formal bilateral agreements and arrangements have yet been made about the future scope of USMC presence in Australia.

² Dr. David Palmer in Thompson, M., (ed.), 2011, Is a US Marine base in Darwin really a good idea?, The Conversation blog, 11 November 2011, <http://theconversation.edu.au/is-a-us-marine-base-in-darwin-really-a-good-idea-4260>, retrieved 11 May 2012

³ Thompson, M., (ed.), 2011, Is a US Marine base in Darwin really a good idea?, The Conversation blog, 11 November 2011, <http://theconversation.edu.au/is-a-us-marine-base-in-darwin-really-a-good-idea-4260>, retrieved 11 May 2012

⁴ Dr. Anthony Ashbolt, in Thompson, M., (ed.), 2011, Is a US Marine base in Darwin really a good idea?, The Conversation blog, 11 November 2011, <http://theconversation.edu.au/is-a-us-marine-base-in-darwin-really-a-good-idea-4260>, retrieved 11 May 2012

53. There is an expressed intention to rotate a MAGTF of approximately 2,500 personnel through the NT, however this has not been officially decided. The decision is subject to further discussions between Governments, but the rotations will not commence before 2016-2017.
54. Because the Australian and US Governments have not yet agreed to phases of activity beyond company-sized Marine Corps rotational deployments, The Department of Defence is unable to provide details about the timeframes and operational planning associated with the MAGTF or enhanced cooperation between the RAAF and USAF. However, the inability to comment at this time may fuel misunderstanding regarding future intentions. Further there is the possibility it creates the impression that detail about future intentions is deliberately being withheld from the public.

Scope and Purpose of USMC Presence in the NT

55. By far the most commonly held perception is that that the number of Marines who are to be present in the NT will be so great as to strain or overwhelm the social services and infrastructure of the Territory, and Darwin in particular⁵. It arises out of the issue above and a lack of information about political and ideological stand points relating to this matter.
56. This perception indicates that information about the scope of the bilateral agreement between Australia and the United States is not reaching important stakeholders. Specifically, that there is a lack of clarity as to what the Marines will be doing in the NT and that they will be based in Darwin itself rather than at existing Australian Defence Force barracks in the NT. The Marines will likely only be seen in Darwin when they are off duty.
57. Implicit in this perception is the assumption that the USMC is somehow culturally undesirable in the fabric of NT society, and/or that its presence will alter the social dynamics in an objectionable way. It is a perception that may be based on lack of or incorrect information and a conflation of what has been agreed upon with what might possibly be in the future. This perception requires further reflection and contextualisation within the transient and booming nature of the NT and Darwin, and in light of there currently being some 5,500 Australian troops based there⁶.
58. There is also a perception that the USMC is establishing a permanent base in the NT⁷. Partly this is a misunderstanding of fact – the Marines will actually be using existing barracks and infrastructure of the Australia Defence Forces. However, in a way this point is moot because irrespective of any permanent infrastructure that may or may not be created for the USMC, the Marines will be regularly visible in the NT for the foreseeable future. This creates the perception of permanence for some.

Benefit to ADF

59. The issue of the benefit that the ADF will derive from joint exercises is important but underplayed. Joint exercises will further develop Australia's interoperability with US forces. However, this is not well understood or appreciated by the general public.

⁵ Assistant Professor Robin Tennant-Wood in Thompson, M., (ed.), 2011, Is a US Marine base in Darwin really a good idea?, The Conversation blog, 11 November 2011, <http://theconversation.edu.au/is-a-us-marine-base-in-darwin-really-a-good-idea-4260>, retrieved 11 May 2012

⁶ Australian Department of Defence, 2012, *Defence Annual Report 2010-2011, Volume 1*, Canberra

⁷ For example, this was an underlying assumption of the Basewatch community forum held in Darwin on 28 April 2012

Media Representations

60. Media representation of the issue has significant potential to either diffuse or fuel and magnify speculation. On the whole media representations reviewed have been factual in the details, but reflect headlines that may add to further speculation. More often than not, commentaries are dominated by those with strong adverse positions rather than by those who have positive and supportive things to say. This serves to perpetuate unsupportive and speculative perceptions.
61. Critical to this is how the media is engaged to properly inform the public regarding the facts and perceptions of this initiative.

Environmental Concerns

Nuclear Materials

62. Contrary to some perceptions, The USMC does not possess any nuclear weapons nor will the MAGTF train with them⁸. The joint US-Australia force posture initiative is consistent with Australia's policy and existing practice regarding cluster munitions, depleted uranium, and nuclear weapons. This does not allow foreign forces to use cluster munitions, depleted uranium, and nuclear weapons on Australian territory.
63. Again, the issue here is not so much the facts of the arrangements but broader perceptions relating to the US use of such weapons. Discomfort with nuclear materials remains a well reported concern among the Australian population, and this discomfort needs to be considered in relation to the attitudes regarding the USMC presence in the NT. This is a perception that taps into a more general fear about nuclear power and the questioning of what Australia's position should be on its use.
64. A secondary perception is that the Department of Defence or the USMC itself has not adequately addressed this issue. There is a concern that the likelihood of nuclear materials being brought into Australia has not been categorically denied⁹.
65. Another fear related to this perception is that the presence of any such nuclear material may be seen as provocative by some of Australia's neighbours.

Aircraft Noise

66. There is a possibility of increased aeroplane noise in the NT due to the USMC presence. It is too early to speculate on these issues, but it will need to be considered when communicating with the public regarding any future decisions regarding the expansion of the USMC presence in the NT. A range of different US aircraft already visit Australia for exercising and training and the increased aircraft cooperation will build on these activities.
67. The Department of Defence takes its environmental responsibilities seriously and makes every effort to minimise community exposure to aircraft noise, whilst maintaining operational requirements. The Department of Defence is working collaboratively with the Northern Territory government to ensure the implications of aircraft noise for planning and development are fully understood.

⁸ Interview with Australia Department of Defence, US Force Posture Review Implementation Team, 10 May 2012

⁹ Australian Associated Press, 2012, 'Caution over US troops', AAP, 3 April 2012

Degradation of ADF Ranges

68. There is some concern, particularly from Defence stakeholders, that the additional usage of ADF training ranges by the USMC will contribute to the environmental degradation of those ranges. However, the USMC will be subject to the same rules and restrictions regarding environmental impacts as the ADF.

The Provision of Social Services

Housing Arrangements

69. Because the initial USMC rotations will be accommodated at the ADF's Robertson Barracks facility, and USMC personnel will not be accompanied by family members, there will not be any impact on the availability or affordability of housing in the NT as a result of these initial rotations.

Funding Arrangements

70. The deployment of US forces to Australia will be funded by the US and other costs will be paid for under existing legal, financial and logistical arrangements.

Equipment

71. The USMC will bring any required training equipment, including ammunition. It will not be a burden on ADF equipment stocks. USMC in this initial rotation will carry equipment associated with a small unit, such as an infantry company. This initial rotation will not include heavy vehicles, equipment or aircraft.

Social Cohesion

72. It is understood that the visibility of the 250 Marines currently in the NT will be minimal, and limited mostly to weekends. This may change should that number increase in the future.
73. There is a persistent perception that the Marines will act in sexually inappropriate ways with the local population¹⁰. This perception would seem to be based mostly on stereotypes generated from stories emanating in the media relating to US military bases in other countries, and a broader impression of military males generally being aggressive.
74. To some extent this perception may assume that the USMC enduring rotational presence will look something like shore leave for a large military vessel. In this sense it is a perception that to some degree does not relate to the agreed-upon scope USMC presence in the NT, nor the nature of the presence. Such a scenario will need to be explored in the context of the size of the deployment, 250 Marines for six months of the year, the nature of the training and deployments undertaken within those six months, in the context of the already high military population in the NT, and the demographics of a broader non-military transient male population¹¹.
75. Related issues include violent behaviour arising out of alcohol consumption. However, Darwin's vibrant and social atmosphere can also be seen as a means of welcoming the Marines in to the NT.¹²

¹⁰ Welch, D., 2012, 'Senator sparks furore with US marine claims', Sydney Morning Herald, 16 February 2012

¹¹ Australian Bureau of Statistics, 2012, State and Territory Statistical Indicators, 2012, <http://www.abs.gov.au/ausstats/> retrieved 7 May 2012

¹² Australian Department of Defence, 2012, Press conference – US Marines arrive in Darwin, 4 April 2012, <http://www.minister.defence.gov.au/2012/04/04/press-conference-us-marines-arrive-in-darwin/>, retrieved 11 May 2012

Effect on Local Businesses

76. Another common perception is positive, but may not be entirely accurate. It is the perception that the USMC presence will greatly benefit local businesses¹³. The agreed USMC contingent is relatively small, based in the NT for only half the year, and mostly limited to places outside Darwin. It is still unclear exactly how much economic benefit there will be locally due directly to the USMC presence. The economic impacts assessment will ascertain this. In the meantime, it is important to manage this expectation so that disappointment does not lead to diminished acceptance of the USMC.
77. The Government is committed to ensuring Australian industry remains robust and competitive. Industry impacts and potential opportunities will continue to be assessed during this initial rotation and as planning develops.

Use of Indigenous Land

78. The use of Indigenous land by USMC is regulated by current ADF arrangements, and therefore there is unlikely to be any additional effects or changes arising directly out of the USMC enduring rotational presence in the NT. Nonetheless, this may be an issue of concern to certain stakeholders and therefore needs to be handled with due respect and diligence.

Disaster Relief and Emergency Response

79. There is a possibility of the USMC being available for disaster relief and emergency response in Australia and the region¹⁴. Being able to utilise the USMC in this way will enhance Australian and regional humanitarian assistance and disaster relief capability.

Law and Order

Provisions Under the Status of Forces Agreement

80. The Status of Forces Agreement (SOFA) between Australia and the US has been in place for nearly half a century, yet there is a general lack of public awareness that it exists, and what it consists of.
81. The SOFA is a comprehensive legal document establishing the terms under which US forces, their dependants, and civilian support personnel are allowed to reside and work in Australia. The SOFA details the applicable taxation, residency status, permissible scope for heavy equipment and personal effects that are brought into Australia, and the terms of reparations that either party may be liable for. It also sets out the applicable jurisdictions in cases of criminal or civic offences committed within Australia by US military staff, their dependants, and civilian support personnel¹⁵.
82. The issue of legal provisions for the USMC enduring rotational presence in the NT is established in the comprehensive and long-established SOFA. However, of note is the perception arising out of this issue that Australia in some way does not retain jurisdiction over American citizens who break Australian law.

¹³ Bryant, G., 2012, 'Darwin business hoping for a boost', Financial Review, 8 March 2012

¹⁴ Australian Department of Defence, 2012, Press conference – US Marines arrive in Darwin, 4 April 2012, <http://www.minister.defence.gov.au/2012/04/04/press-conference-us-marines-arrive-in-darwin/>, retrieved 11 May 2012

¹⁵ Commonwealth of Australia, 1963, *Agreement between the Government of the Commonwealth of Australia and the Government of the United States of America concerning the Status of United States Force in Australia, and Protocol*, Canberra, Australian Government Publishing Services, 9 May 1963

Overlapping jurisdictions

83. There is a lack of public clarity about the applicable jurisdictions for USMC forces while in Australia. In particular, there is a concern that Marines who allegedly commit a crime in Australia will not be able prosecuted under Australian laws. This is not the case. The SOFA is unequivocal about the application of jurisdiction.
84. While in Australia, the US military personnel will be subject to Australian law, including Australian criminal law. US military personnel also remain subject to the US Uniform Code of Military Justice, the code of military law applicable to US personnel at all times.
85. The SOFA grants Australia exclusive jurisdiction for alleged offences against Australian laws but not US law; and exclusive jurisdiction to US military authorities for alleged offences against US law but not Australian law. Where the alleged offence is a crime against both Australian and US law then there is concurrent jurisdiction.
86. Where an offence is punishable by the laws of both Australia and the US, the SOFA provides for determining which country has a primary right to exercise jurisdiction.
87. Where US military personnel allegedly commit an offence that is an offence under both Australian and US law, Australia will have primacy of jurisdiction unless the offence is committed solely against US military personnel or property, or the security of the US, or is committed in the course of official duties. The Commonwealth Attorney-General determines whether US military personnel were acting in the course of official duties at the time of an alleged offence.

CONCLUSION

88. All issues relating to the USMC enduring rotational presence in the NT need to be contextualised. The addition of 250, or even potentially 2,500, Marines is not happening in isolation, but rather in the context of an already vibrant, growing, and largely transient population. This will to a certain extent temper the social impacts of the USMC presence.
89. The Northern Territory already has a high number of military personnel, and Australian bases are long-established there¹⁶. The additional Marines will be doing exactly the same sort of things as the Australian troops in the NT. Moreover, the NT is accustomed to a rotational population, partly due to the nature of industries in the NT that attract temporary labour, and partly because the NT is also a major – and growing – tourism destination¹⁷. Not only is there an annual influx of tourists during the dry season (the same period as the USMC rotations), but tourism infrastructure is also growing.
90. This issues paper identifies a number of issues raised publicly in relation to the USMC presence in Darwin. These issues have been drawn from publically available documents and reporting. Each requires further exploration through direct stakeholder engagement during the course of this social impacts assessment. Noetic welcomes the opportunity to undertake this stakeholder engagement to enable the various perceptions and views to be properly aired and considered.

¹⁶ Australian Department of Defence, 2012, *Defence Annual Report 2010-2011, Volume 1*, Canberra

¹⁷ Tourism NT, 2011, *Select Statistics*, Strategic Research Division, Tourism NT, June 2011

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