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Details of Filing

Document Lodged:	Defence - Form 33 - Rule 16.32
File Number:	NSD1155/2017
File Title:	BRADLEY JAMES HUDSON & ORS v COMMONWEALTH OF AUSTRALIA
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink, reading "Warwick Soden".

Dated: 20/10/2017 4:05:23 PM AEDT

Registrar

Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

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Form 33
Rule 16.32

Defence

NSD 1155 of 2017

Federal Court of Australia

District Registry: New South Wales

Division: General

Bradley Thomas Hudson and others

Applicant

The Commonwealth of Australia

Respondent

- 1 As to paragraph 1, the Respondent:
 - (a) admits that the proceeding was commenced as a representative proceeding under Part IVA of the *Federal Court of Australia Act 1976* (Cth) ("**FCA Act**") by the Applicants on their own behalf; and
 - (b) otherwise does not know and therefore cannot admit the allegations in the paragraph.
- 2 As to paragraph 2, the Respondent:
 - (a) admits the allegations; and
 - (b) says that the First and Second Applicants owned the Applicants' Land as joint tenants.
- 3 As to paragraph 3, the Respondent admits the allegations.
- 4 As to paragraph 4, the Respondent does not know and therefore cannot admit the allegation in the paragraph.

Filed on behalf of Emma Costello, the Respondent

Prepared by Emma Costello

Law firm **KING & WOOD MALLESONS**

Tel 07 3244 8115

Fax +61 3244 8999

Email emma.costello@au.kwm.com

Address for service

Level 33, Waterfront Place, 1 Eagle Street, Brisbane QLD 4000
Australia

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5 As to paragraph 5, the Respondent admits the allegations.

6 As to paragraph 6, the Respondent:

- (a) admits the allegations as at the date of this Defence but does not admit that the nature of the ownership and occupation was static for the alleged period;
- (b) says that in this Defence the Respondent will refer to the Oakey Base as the Army Aviation Centre Oakey ("**AACO**");
- (c) says that AACO is 841.59 hectares and now comprises the lots specified in Schedule A;
- (d) says that AACO does not include the Oakey satellite stations known as Brymaroo, Wyoming and Turkey Hill; and
- (e) says that from time to time the Respondent granted licences (formal and informal), leases, and easements to third parties over parts of AACO including those specified in Schedule A.

Particulars

The reference to informal licences means permission to enter on AACO without formal agreement or notification in writing. Informal licences, may have been granted to third parties to use the AACO in a particular way, such as the landing of civilian aircraft, the visiting of the museum, or the visiting of personnel living at AACO by family and friends.

7 As to paragraph 7, the Respondent:

- (a) says that from time to time the Respondent leased parts of the AACO to third parties for mixed grazing and farming purposes;
- (b) repeats its pleading at paragraph 6(e) above;
- (c) says that some of the leases, licences, and easements referred to in 6(e) above have been for irrigation, mixed grazing and farming purposes; and
- (d) otherwise does not know and therefore cannot admit the allegations in the paragraph.

8 As to paragraph 8, the Respondent:

- (a) says that neighbouring land use in the region surrounding AACO was within:
 - (i) from 4 April 1950, the Shire of Jondaryan;
 - (ii) from 15 March 2008, the Toowoomba Regional Local Government Area;

- (b) says that the land to the west, north, and east of the AACO is predominantly zoned "rural" and is currently used for a range of pastoral and agricultural purposes, grain cropping, livestock production, and may include allotments used for racehorse training and rural residential pursuits;
- (c) says that the land south of AACO is the township of Oakey;
- (d) admits that land to the south and south-east of AACO includes land zoned "low-medium density residential", "residential", "community facilities", "open space", "medium impact industry", and "sport & recreation", and "major centre"; and
- (e) otherwise does not know and therefore cannot admit the allegations in the paragraph.

Particulars

By-laws for the Shire of Jondaryan published in the Queensland Government Gazette, No. 107, dated 4 April 1950.

Local Government Act 1993 (Qld) (by the Local Government and Other Legislation Amendment Act 2007 (Qld))

Toowoomba Regional Planning Scheme, Schedule 2, SC2.2 Zoning Maps.

- 9 As to paragraph 9, the Respondent admits the allegations but will rely on more detailed evidence at any trial.
- 10 As to paragraph 10, the Respondent:
 - (a) repeats paragraph 9 above;
 - (b) admits the allegations insofar as some surface water on and around the AACO will move in the manner alleged but says that the matters referred to in paragraph 8 do not support the Applicants' pleading;
 - (c) further says, the Respondent will rely on more detailed evidence at any trial; and
 - (d) otherwise does not know and therefore cannot admit the allegations in the paragraph.
- 11 As to paragraph 11, the Respondent
 - (a) says that some of the soil on the AACO and in the Relevant Area has the characteristics alleged;
 - (b) denies that all of the soil at AACO has the qualities alleged;

- (c) says that the qualities of the soil changes over time and at different depths, which are not matters pleaded sufficiently to allow the Respondent to respond more precisely at this time;
 - (d) denies that all groundwater under AACO has the qualities alleged and says that there are different aquifers (as pleaded by the Applicants at paragraphs 13 and 14 and as pleaded by the Respondent at paragraphs 13 and 14 below):
 - (i) with different depths;
 - (ii) with varying interconnectedness to other aquifers;
 - (iii) with different transmissivity,
 the details of which are not pleaded sufficiently to allow the Respondent to respond more precisely at this time;
 - (e) says the Respondent will rely on more detailed evidence at any trial; and
 - (f) otherwise does not know and therefore cannot admit the allegations in the paragraph.
- 12 As to paragraph 12, the Respondent admits the allegations insofar as they generally describe Oakey Creek and Doctors Creek but will rely on more detailed evidence on the nature of these creeks and their characteristics at any trial.
- 13 As to paragraph 13, the Respondent:
- (a) admits that the Relevant Area and AACO are above the Great Artesian Basin;
 - (b) admits that the Relevant Area and AACO are underlain (from more shallow to deeper) by:
 - (i) parts of the aquifer or group of aquifers sometimes described as the Oakey Creek Alluvial Aquifer;
 - (ii) the Main Range Volcanics Aquifer;
 - (iii) the Walloon Coal Measures Aquifer; and
 - (c) otherwise does not know and therefore cannot admit the allegations in the paragraph.
- 14 As to paragraph 14, the Respondent:
- (a) says that within the Relevant Area, parts of the Oakey Creek Alluvial Aquifer are relatively close to the surface of the land;
 - (b) says that groundwater within the Oakey Creek Alluvial Aquifer flows westward or south-westward;

- (c) says that the Oakey Creek Alluvial Aquifer has limited hydraulic interconnectedness with the Main Range Volcanics Aquifer and the Walloon Coal Measures Aquifer;
- (d) says that parts of the Oakey Creek Alluvial Aquifer have been measured, as at 2010, as:
 - (i) being unconfined to semi-confined;
 - (ii) having transmissivity ranges between 140 and 3000m²/day with an average of 650m²/day;
 - (iii) having groundwater velocity in the range of 58 m/year and 1,275 m/year with an average of 264 m/year; and
 - (iv) having a highly negative (downward) vertical gradient during periods of groundwater extraction;
- (e) says that the Oakey Creek Alluvial Aquifer is recharged due to losses from Oakey Creek and its tributaries and infiltration through the soils;
- (f) says that the hydrogeology of the area underlying AACO and the Relevant Area is complex and its characteristics are presently uncertain and the Respondent will rely on more detailed evidence at any trial; and
- (g) otherwise does not know and therefore cannot admit the allegations in the paragraph.

Particulars

Final report – State 1 and 2 Environmental Investigation at Army Aviation Centre, Oakey, Queensland, URS (2010). Further particulars will be provided with expert evidence.

15 As to paragraph 15, the Respondent admits the allegations.

16 As to paragraph 16, the Respondent:

- (a) admits the allegations;
- (b) says further that up until 1998, water from the bores was used for domestic, recreational and irrigation-related purposes by the Respondent at AACO;
- (c) says further that since in or about 1998, AACO has been connected to the municipal water network maintained and provided by the council for domestic use purposes ("**Municipal Network**");

- (d) says further that between 1990 and 1999 bore water at AACO was supplemented with some rain water; and
- (e) says further that since January 2013, all water supply requirements for AACO have been met by the Municipal Network.

17 As to paragraph 17, the Respondent:

- (a) repeats paragraphs 9 to 16 above, and in particular its response to paragraph 10;
- (b) does not know and therefore cannot admit if liquids and soluble material (other than water) discharged on AACO would have moved as alleged in paragraphs (b) and (c) of paragraph 17 because the nature of those liquids and soluble materials has not been pleaded sufficiently to allow the Respondent to respond;
- (c) says that, at all material times, water, if discharged onto the land at AACO:
 - (i) may permeate the soil and that this was reasonably foreseeable to the Respondent at all material times;
 - (ii) may mingle with surface water, and this was reasonably foreseeable to the Respondent at all material times;
 - (iii) may flow overland and into surrounding water catchment areas (including via the Drainage System), and this was reasonably foreseeable to the Respondent at all material times;
 - (iv) may permeate or percolate into the soil over which the surface water overland flows occurred at all material times, and this was reasonably foreseeable to the Respondent at all material times;
 - (v) may be transmitted to the groundwater beneath the soil over which the surface water overland flows occurred, and this was reasonably foreseeable to the Respondent at all material times; and
 - (vi) may mingle and flow overland and be transmitted to the groundwater beneath AACO (including the Oakey Creek Alluvial Aquifer) but this was not reasonably foreseeable at all material times;
- (d) denies that, at all material times, it was reasonably foreseeable to the Respondent that AFFF would be carried by the water in the manner pleaded in paragraphs 17(a) to 17(c);
- (e) the Respondent repeats its pleadings about its knowledge and the times at which it obtained such knowledge about PFOS, PFOA or perfluorohexane

sulfonate (**PFHxS**) (together, the "**Relevant PFCs**") at paragraph 71 of this Defence; and

- (f) otherwise does not know and therefore cannot admit the allegations in the paragraph.

18 As to paragraph 18, the Respondent:

- (a) says that Oakey Creek has been accessed and used for riparian purposes including stock and domestic uses and also for general recreational use, including fishing and swimming;
- (b) says that Oakey Creek is seasonal and does not always run or uniformly contain water; and
- (c) otherwise does not know and therefore cannot admit the allegations in the paragraph.

19 As to paragraph 19, the Respondent:

- (a) says that part of the township of Oakey is located within a flood plain; and
- (b) otherwise does not know and therefore cannot admit the allegations in the paragraph.

20 As to paragraph 20, the Respondent:

- (a) says that some persons owning and/or occupying land in the Relevant Area had access to alternative sources of water (at all times being unaffected by the Relevant PFCs) including rainwater stored in rainwater tanks and, from 1997, town water;
- (b) says it is not aware of the identity of all persons owning and/or occupying land in the Relevant Area and as such does not know and therefore cannot admit the allegation that they had at all material times a reliance or dependency on surface water flow (including overland flow) for the pleaded uses in paragraphs (a) and (b) of paragraph 20; and
- (c) otherwise, does not know and therefore cannot admit the allegations in the paragraph.

21 As to paragraph 21, the Respondent:

- (a) says that the Oakey Creek Alluvial Aquifer has been developed as a source of irrigation, industrial and urban water supply;
- (b) says that at least from 1997 onwards, use of the Oakey Creek Alluvial Aquifer for urban water supply was significantly reduced; and

- (c) otherwise does not know and therefore cannot admit the allegations in the paragraph.
- 22 As to paragraph 22, the Respondent admits the allegations but says that the reference to the Oakey Aquifer should be a reference to the Oakey Creek Alluvial Aquifer.
- 23 As to paragraph 23, the Respondent:
- (a) says that from 1997 the majority of residential areas of the township of Oakey were connected to the Municipal Network;
 - (b) says the Municipal Network:
 - (i) from its inception in 1997 to 15 December 2008 did not draw water from the Oakey Creek Alluvial Aquifer; and
 - (ii) from 15 December 2008 to 30 November 2012, did draw some water (approximately 20% of the Municipal Network supply) from the Oakey Creek Alluvial Aquifer;
 - (c) says that water drawn from the Oakey Creek Alluvial Aquifers from 15 December 2008 to 30 November 2012 was treated at the Oakey Water Treatment Plant ("WTP") using reverse osmosis;
 - (d) says that on 30 November 2012 the WTP ceased operation and no water has been drawn from the Oakey Creek Alluvial Aquifer since; and
 - (e) otherwise does not know and cannot admit the allegations.
- 24 As to paragraph 24, the Respondent:
- (a) admits that many persons resident in the township of Oakey and surrounding areas, including in the Relevant Area, had private bores on their land; and
 - (b) otherwise does not know and therefore cannot admit the allegations.
- 25 As to paragraph 25, the Respondent:
- (a) repeats paragraph 20(a), 23 and 24 above;
 - (b) does not know and therefore cannot admit whether each of the Group Members had the dependency and/or reliance asserted;
 - (c) says that from time to time some of the Group Members may have used groundwater for Drinking Usage, Irrigation Usage, Animal Watering Usage, General Residential Usages and for the purposes set out in paragraph 25(f);
 - (d) says that the taking and use of water for Business Usages may have required a water entitlement to meet applicable statutory requirements at relevant times and

the Respondent does not know whether the Third Applicant or other Group Members held such entitlements; and

- (e) otherwise does not know and therefore cannot admit the allegations in the paragraph.

26 As to paragraph 26, the Respondent:

- (a) repeats paragraphs 10 and 17 to 25 above; and
- (b) for the reasons set out in paragraph 26 (a) above does not know and therefore cannot admit the allegations in the paragraph.

27 As to paragraph 27, the Respondent:

- (a) repeats paragraphs 10 and 16 to 26 above; and
- (b) for the reasons set out in paragraph 27 (a) above does not know and therefore cannot admit the allegations in the paragraph.

28 As to paragraph 28, the Respondent:

- (a) repeats paragraph 6 above;
- (b) says that it has been responsible for conducting all of the authorised Department of Defence activities conducted at AACO;
- (c) denies that it is or has been responsible for conducting all activities conducted at the AACO;
- (d) says further that some activities conducted at AACO were the activities of third parties and as pleaded at paragraph 6(b) above, the Respondent provided licences, leases, and easements to allow third parties to occupy parts of AACO; and
- (e) otherwise does not know and therefore cannot admit the allegations in the paragraph.

29 As to paragraph 29, the Respondent:

- (a) says that, since in or about 1977, it has, at times, conducted activities in the nature of the Training and Operation Activities;
- (b) says that its Training and Operation Activities were to accord with International and National Fire Protection Association standards; and

Particulars

- (i) *Defence Instruction (Air Force) Operational 6-9: Airfield Emergency Services, issued pursuant to s 11(1) of the Defence Act 1903 (Cth).*

- (ii) *Annex 14 "Aerodromes" to the Convention on International Civil Aviation (2009).*
 - (iii) *ICAO Airport Services manual – Part 1 – Rescue and Firefighting (3rd ed) (1999).*
 - (iv) *Australian Standards (AS 1851-2012) – Routine service of fire protection systems and equipment.*
 - (v) *National Fire Protection Association (NFPA) 409 – Standard on Aircraft Hangars.*
 - (vi) *National Fire Protection Association (NFPA) 414 – Standard for Aircraft Rescue and Fire-Fighting Vehicles.*
 - (vii) *National Fire Protection Association (NFPA) 11 – Standard for Low-, Medium-, and High-Expansion Foam.*
- (c) otherwise does not know and therefore cannot admit the allegations in the paragraph.

30 As to paragraph 30, the Respondent:

- (a) repeats paragraph 29 above;
- (b) says that it will refer to AFFF in its various forms as AFFF;
- (c) admits the alleged use of AFFF took place from time to time in the period pleaded;
- (d) says the use of AFFF, at all material times:
 - (i) was a highly effective fire suppression product for fuel based fires;
 - (ii) protected and protects life and operational equipment at AACO from fires and potential fires; and
- (e) otherwise does not know and therefore cannot admit the allegations in the paragraph.

31 As to paragraph 31, the Respondent:

- (a) repeats paragraph 29 above;
- (b) says that from 1977 to 1997, the Training and Operation Activities, at times, involved igniting quantities of petroleum hydrocarbon fuels and other combustible materials and extinguishing them with AFFF in an area known as the "former fire training ground" ("FFTG");

- (c) says that from 1977 to 1997, part of the Training and Operations Activities also involved the extinguishing of the resultant fire with water;
- (d) admits that the former FFTG had the characteristics alleged in paragraphs 31 (a)(i) to (iii);
- (e) says that in or about 1994, an underground storage tank was connected to the fire pit at the FFTG, which received and stored Fire Run Off wastewater;
- (f) says, from 1994, four underground storage tanks existed across AACO which received and stored Fire Run Off ;
- (g) says that from the time of construction of the new fire station and fire training ground in or around 2003 to 2005, weekly training was conducted around the new fire station and fire training ground and any AFFF used was directed to storage tanks;
- (h) says that the Weekly Training resulted in some AFFF discharge to bare ground up until in or about 1994 but does not know and cannot admit if such discharge was “very substantial”; and
- (i) otherwise does not know and therefore cannot admit the allegations in the paragraph.

32 As to paragraph 32, the Respondent:

- (a) repeats paragraphs 29(b) and 31 above;
- (b) admits that from time to time from in or about 1977 to 2002 there was daily testing of one or more vehicles which:
 - (i) involved routine testing to monitor performance of vehicles; and
 - (ii) in some instances involved discharging AFFF;
- (c) admits the allegation in paragraph 32 (e) save that it does not know and therefore cannot admit whether such discharge was “very substantial”; and
- (d) otherwise does not know and therefore cannot admit the allegations in the paragraph.

33 As to paragraph 33, the Respondent:

- (a) says that from time to time from in or about 1977 to 2002 there was daily training;
- (b) says that daily training was undertaken at the rear of the former fire station;

- (c) says that on those occasions that AFFF was used in daily training, some of the AFFF was allowed to drain directly to concrete, bare ground or towards the Drainage System;
- (d) does not know and therefore cannot admit if the discharge described in paragraph (c) above was "very substantial"; and
- (e) otherwise does not know and therefore cannot admit the allegations in the paragraph.

34 As to paragraph 34, the Respondent:

- (a) admits that AFFF was used for the activities as described in paragraph (a);
- (b) admits that AFFF was used for the activities as described in paragraph (b) and says further that the drains also collected Fire Run Off;
- (c) does not know and therefore cannot admit the allegations in paragraph (c); and
- (d) admits that quantities of AFFF discharged at AACO as a result of the activities in paragraphs 34 (a) to 34 (c) are unknown.

35 As to paragraph 35, the Respondent:

- (a) repeats paragraphs 29 to 34 above;
- (b) admits the allegations in paragraph 35 (a) save that it does not admit, because it does not know and therefore cannot admit, that such discharges were of a "very substantial quantity"; and
- (c) admits the allegations in paragraph 35 (b), save that it does not know, and therefore cannot admit, that such co-mingling was of a "very substantial quantity".

36 As to paragraph 36, the Respondent:

- (a) says that from a time in or around 2003 to 2005, training activities have largely been confined to areas in which AFFF has not been directed to bare ground and the Drainage System;
- (b) repeats paragraphs 31 to 35 above; and
- (c) otherwise does not know and therefore cannot admit the allegations in the paragraph.

37 As to paragraph 37, the Respondent:

- (a) repeats paragraphs 31(e) to (g) above;
- (b) says that, while the FFTG was in use:

- (i) the AFFF referred to in paragraphs (a) and (b) was directed by the Respondent to underground storage tanks; and
- (ii) in 1997, the liquid in the underground storage tank in the former fire training pit was pumped out and transported to Brisbane;
- (c) says that in relation to the new fire training area:
 - (i) the AFFF referred to in paragraphs (a) and (b) was also directed by the Respondent to an underground storage tank (Asset C59);
 - (ii) in relation to Asset C59, a tank inspection was undertaken in 1999 that found a potential leak occurring from a small inlet pipe that had a damaged seal and was repaired;
 - (iii) in 2009, an investigation was undertaken of underground storage tanks in the Building C2 area including Asset C59; and

Particulars

Report for the Australian Defence Force: Oakey Base – Buildings C2 oil separator and storage – Report on probable leak and ground contamination, Intelara Engineering (March 2009).

- (iv) a tank inspection was undertaken in 2012 which confirmed that Asset C59 was not leaking; and
- (d) otherwise denies the allegations in the paragraph.

38 As to paragraph 38, the Respondent;

- (a) says that:
 - (i) the chemical composition of AFFF products differed from time to time;
 - (ii) the Respondent does not know the exact chemical composition of AFFF at any particular time;
 - (iii) the constituent chemicals of AFFF have different properties; and
 - (iv) some of the constituent chemicals of AFFF may have formed an emulsion and hence would not have been soluble in water; and
- (b) otherwise does not know and therefore cannot admit the allegations in the paragraph.

39 As to paragraph 39, for the reasons pleaded in paragraph 38 above, the Respondent, does not know and therefore cannot admit the allegations in the paragraph.

40 As to paragraph 40, the Respondent:

- (a) repeats paragraphs 9 to 27, 38, 39 above and 67, 74 and 89 (d) to (e) below;
and
- (b) otherwise denies the allegations in the paragraph.

41 As to paragraph 41, the Respondent admits the allegation.

42 As to paragraph 42, the Respondent:

- (a) admits that the AFFF used by the Respondent contained PFCs but the Respondent does not know the constituent elements of each formulation of AFFF products used at various points of time;
- (b) says that during the period where 3M Lightwater was used at AACO:
 - (i) the product contained PFOS; and
 - (ii) the Respondent does not know if the product contained PFOA;
- (c) says that it does not know if Ansulite used at AACO contained PFOS, PFOA, PFHxS or other PFCs;
- (d) says that since 2005, the Department of Defence has transitioned away from AFFF known to contain PFOS, PFOA, or PFHxS;
- (e) says that in June 2007, the Department of Defence introduced guidelines to restrict the use of AFFF to fire fighting and equipment and system testing purposes, and not for training;
- (f) says that in August 2008, the Department of Defence implemented a policy to restrict use of AFFF containing PFOS and PFOA; and
- (g) otherwise does not know and therefore cannot admit the allegations in the paragraph.

Particulars

As to paragraph (e), Environmental Guidelines for Management of Fire Fighting Aqueous Film Forming Foam (AFFF) Products, June 2007.

As to paragraph (f), Aqueous Film Foaming Foam (AFFF) Procurement and usage Interim Policy v 1.0, August 2008.

43 As to paragraph 43, the Respondent:

- (a) in relation to PFOS and PFOA:
 - (i) admits the allegations in paragraphs 43 (a) to (c), (e) and (f); and

- (ii) does not know and therefore cannot admit the allegation in paragraph 43 (d);
 - (b) in relation to paragraph 43(g) says that the pleading does not identify the nature of the alleged toxicity or toxic effect of PFOS or PFOA and accordingly the Respondent does not know and therefore cannot admit the allegation in paragraph 43 (g);
 - (c) in relation to PFCs other than PFOS and PFOA, does not know and therefore cannot admit whether such PFCs have the properties as alleged because their characteristics have not been pleaded sufficiently to allow the Respondent to respond; and
 - (d) otherwise does not know and cannot admit the allegations in the paragraph.
- 44 As to paragraph 44, the Respondent:
- (a) repeats paragraphs 41, 42 and 43 above;
 - (b) admits that AFFF Concentrate had the characteristics pleaded in paragraphs (a) and (b); and
 - (c) does not know and therefore cannot admit whether the AFFF Concentrate had such characteristics by reason of the matters pleaded in paragraphs 41, 42, and/or 43.
- 45 As to paragraph 45, the Respondent:
- (a) repeats paragraphs 41 to 44 above; and
 - (b) otherwise does not know and therefore cannot admit the allegations in the paragraph.
- 46 As to paragraph 46, the Respondent denies the allegations.
- 47 As to paragraph 47, the Respondent:
- (a) admits the allegations, save that it:
 - (i) does not know and therefore cannot admit whether the plume is 'toxic' as alleged; and
 - (ii) says that 118 hectare estimate, is an estimate only based on modelling and the Respondent will rely on detailed evidence at any trial
 - (b) says further that:
 - (i) the highest concentration of PFOA and PFOS in the PFC plume appears under AACO; and

- (ii) the concentration gradually decreases (although not uniformly) as the PFC plume moves away from the point where the concentration of PFOA and PFOS is highest; and
- (c) says that the PFC plume is not static; and

Particulars

The current details of the PFC plume (both PFOS and PFOA which have different extents) are available online at

<http://www.defence.gov.au/Environment/PFAS/Docs/Oakey/Reports/0207AACOakeyEI2-2016Stage2C-ESAFullReport.pdf> (figure 31 for PFOS and figure F32 for POA)

and

http://www.defence.gov.au/Environment/PFAS/Docs/Oakey/FactSheets/DefenceOakeyHHRAfactsheet_Mar17_WEB.pdf.

- (d) otherwise does not admit and therefore does not know and therefore cannot admit that the PFC Plume underlies all of the Relevant Area.

48 As to paragraph 48, the Respondent:

- (a) repeats paragraph 17 above;
- (b) says that some of the PFOA and PFOS discharged at AACO (and present in AFFF either directly or in a precursor form) has:
 - (i) entered the soil at AACO;
 - (ii) entered the soil of some of the land in the Relevant Area outside AACO; and
 - (iii) entered the groundwater within the Oakey Creek Alluvial Aquifer;
- (c) relies on its pleading at paragraph 47 above; and
- (d) otherwise does not know and therefore cannot admit the allegations in the paragraph.

49 As to paragraph 49, the Respondent:

- (a) repeats paragraphs 47 and 48 above; and
- (b) otherwise does not know and therefore cannot admit the allegations in the paragraph.

50 As to paragraph 50, the Respondent:

- (a) repeats paragraph 49 above; and
- (b) denies the allegations in the paragraph.

51 As to paragraph 51, the Respondent:

- (a) repeats paragraph 47(b) above;
- (b) says that between 2000 and 2015 the Respondent undertook remediation initiatives including:
 - (i) cleaning residential rainwater tanks and swimming pools (including replacing filters); and
 - (ii) providing clean water for domestic purposes to residents of Oakey where there was no other available source;
- (c) says that from 2016 the Respondent undertook remediation initiatives including those set out at paragraph 51(b) above as well as:
 - (i) the conduct of trials for soil solidification, which involves mixing a binding agent with affected soil to bind the compounds in a solid block, trapping it in place and soil stabilisation which involves mixing particular materials into affected soil to cause a chemical reaction which will ensure PFCs is bound and unable to spread;
 - (ii) the conduct of oxidation trials which involves applying heat and chemicals to break down PFAS into more environmentally friendly forms;
 - (iii) the conduct of foam fractionation/separation trials which involves generating foam from affected groundwater. The foam containing PFCs can then be collected from the surface and removed to a treatment facility; and
- (d) says that from 2017, the Respondent is undertaking remediation initiatives including those set out at paragraphs 51(b) and (c) above as well as:
 - (i) the provision of alternative water supply by way of town water connections for residents of Oakey;
 - (ii) drain upgrades, maintenance and management at AACO including the excavation, and stockpiling for subsequent treatment, of 200mm of sediment from almost two kilometres of drains;
 - (iii) the implementation of a modular groundwater treatment plant at AACO for at least a trial period of twelve months which extracts groundwater

through resin in the plant, and pumps the treated water back into the Oakey Creek Alluvial Aquifer; and

- (e) otherwise does not know and therefore cannot admit the allegations in the paragraph.

52 As to paragraph 52, the Respondent:

- (a) admits the allegation in paragraph 51 above; and
- (b) otherwise denies the allegation in paragraph 52 (b).

53 As to paragraph 53, the Respondent:

- (a) repeats paragraphs 47 and 51 above;
- (b) denies that all land in the Relevant Area has become contaminated because not all land in the Relevant Area is affected by the PFC Plume;
- (c) says that some land in the Relevant Area has been found to have PFOS and PFOA present in the soil and/or groundwater; and
- (d) otherwise does not know and therefore cannot admit whether PFOS or PFOA is in the soil on the land owned by each Group Member or upon which a Group Member's business was operated.

54 As to paragraph 54, the Respondent:

- (a) repeats paragraph 51 above; and
- (b) otherwise does not know and therefore cannot admit the allegations in the paragraph.

55 As to paragraph 55, the Respondent:

- (a) repeats paragraph 51 above;
- (b) does not admit within the Relevant Area:
 - (i) whether other aspects of the biotic and abiotic matrices have become or will continue to have the Relevant PFCs present within them;
 - (ii) whether other aspects of the biotic and abiotic matrices will remain; or
 - (iii) whether the Relevant PFCs will be recirculated indefinitely,
 because it does not know which biotic and abiotic matrices may be affected for each of the Group Members and/or each of the Applicants; and
- (c) otherwise does not know and therefore cannot admit the allegations in the paragraph.

56 As to paragraph 56, the Respondent:

- (a) repeats paragraph 51 above;
- (b) says that exposure pathways may be readily avoided for some or all of the Broader Biota Contamination; and
- (c) does not know and therefore cannot admit the allegations in the paragraph because remediation and mitigation options may vary in the different circumstances of different areas of land and therefore will differ between Group Members and the Applicants.

57 As to paragraph 57, the Respondent:

- (a) admits the allegations; and
- (b) says further that the "Contamination Announcement" also stated:
 - (i) "Site investigations and assessment are continuing to identify how far these impacts have travelled";
 - (ii) "However, these substances are also present at trace levels throughout the environment because, in addition to their inclusion in fire-fighting foams, PFOS and PFOA have been used for many years in a wide variety of common household and industrial products such as cleaning products, textiles and paper and packaging products";
 - (iii) that it recommended landholders within the investigation area not drink any water sourced from underground water bores as "a precaution"; and
 - (iv) "Further assessment of potential health impacts associated with other uses of the underground water will be undertaken as part of Defence's ongoing investigations".

58 As to paragraph 58, the Respondent:

- (a) as to paragraph 58 (a), admits that the Respondent made statements that:
 - (i) the Department of Defence had hosted firefighting training activities at AACO from the 1970s; and
 - (ii) AFFF products are used in firefighting training;
- (b) as to paragraph 58 (b):
 - (i) admits that the Respondent made a statement that PFCs are a group of chemicals used to make coatings and products that resist heat, oil, stains, grease, and water;

- (ii) says that the Respondent stated that AFFF no longer contained PFOS and PFOA since the 2000s; and
- (iii) otherwise denies the allegations in the paragraph;
- (c) admits the allegations in paragraphs 58 (c) to (h);
- (d) as to paragraph 58(d)(iii), says that the Respondent stated that there are now dedicated training foams used, which have a lesser impact on the environment, and repeats paragraph 43(b) above and its particulars;
- (e) as to paragraph 58(e), says that the Investigation Area also included sites outside of AACO;
- (f) as to paragraph 58(e)(ii), says that the Respondent conducted targeted off base sampling in late 2013 and then expanded it in early 2014 to off base sampling;
- (g) as to paragraph 58(g), says that the recommendation was "a precaution"; and
- (h) says that the Respondent also said at the July 2014 Public Meeting, "At this time, none of the data collected and analysed by Defence indicates that landholders should stop using bore water for irrigating crops or watering livestock"; and
- (i) otherwise does not know and cannot admit the allegations in the paragraph.

59 As to paragraph 59, the Respondent:

- (a) says that some soil in the Relevant Area currently has PFOS and PFOA present at levels above what is considered background levels;
- (b) says that some of the groundwater in the Relevant Area currently has PFOS and PFOA present at levels above what is considered background levels;
- (c) says that some biota in the Relevant Area currently has PFOS and PFOA present at levels above what is considered background levels; and
- (d) otherwise does not know and therefore cannot admit the allegations in the paragraph.

60 As to paragraph 60, the Respondent:

- (a) says that some biota may have an ongoing exposure to PFOS and PFOA;
- (b) does not know and therefore cannot admit whether produce or livestock on land in the Relevant Area will have ongoing exposure to PFOS and PFOAS because such exposure has not been assessed; and
- (c) otherwise denies the allegations in the paragraph.

61 As to paragraph 61, the Respondent:

- (a) says that there is some risk that land in the Relevant Area may be recorded on the EMR or CLR;
- (b) does not know and therefore cannot admit the extent of any risk in respect of particular land areas within the Relevant Area;
- (c) says that, if land is registered on the EMR or CLR, owners will be obliged to disclose such registration to prospective purchasers;
- (d) says that, if land is registered on the EMR or CLR, and if a contract of sale is rescinded because the vendor failed to notify the purchaser that the land under sale was so registered, then such rescission is the result of the vendor's failure and not any failure of the Respondent; and
- (e) otherwise does not know and therefore cannot admit the allegations in the paragraph.

62 As to paragraph 62, the Respondent:

- (a) says that as a result of the presence of PFOS and PFOA in the land and groundwater in the Relevant Area there may be some risk that some businesses may not be able to function with the same degree of profitability had PFOS and PFOA not been present at current levels;
- (b) says that the nature and extent of any risk, and the consequences if the risks were to eventuate, depends on an assessment of the particular property involved and the business or other activity conducted upon it; and
- (c) otherwise does not know and therefore cannot admit the allegations in the paragraph.

63 As to paragraph 63, the Respondent does not know and therefore cannot admit the allegations in the paragraph.

64 As to paragraph 64, the Respondent does not know and therefore cannot admit the allegations in the paragraph.

65 As to paragraph 65, the Respondent:

- (a) repeats paragraphs 47 to 63 above; and
- (b) for the reasons set out in paragraph 65(a) does not know and therefore cannot admit the allegations in the paragraph.

66 As to paragraph 66, the Respondent:

- (a) repeats paragraphs 63 to 65 above;
- (b) does not know and therefore cannot admit the allegations in the paragraph; and
- (c) says that whether and to what extent businesses operating in the Relevant Area have become, or may remain, affected in profitability or value depends on an assessment of the particular property involved and the business or other activity conducted upon it.

67 As to paragraph 67, the Respondent:

- (a) denies that it was reasonably foreseeable at all material times that the use of AFFF at AACO would result in each of the matters in (a) to (e) of the paragraph;
- (b) says that it was reasonably foreseeable from October 2010 onwards that the use of AFFF on the AACO carried with it a risk of contamination of the groundwater, soil and biota of the Relevant Area; and
- (c) otherwise denies the allegations in the paragraph.

68 As to paragraph 68, the Respondent:

- (a) repeats paragraphs 6 to 12 above in response to paragraph 68 (a);
- (b) repeats paragraphs 13 and 14(a) to (b) above in response to paragraph 68 (b);
- (c) repeats paragraphs 15 to 16 above in response to paragraph 68 (c);
- (d) repeats paragraphs 9 to 27, 38, 39, 67 above and 74 and 89(d) to (e) below in response to paragraph 68 (d); and
- (e) otherwise does not know and therefore does not admit the allegations in the paragraph.

69 As to paragraph 69, the Respondent:

- (a) repeats paragraphs 18 to 20 and 21 to 27 above; and
- (b) otherwise does not know and therefore cannot admit the allegations in the paragraph.

70 As to paragraph 70, the Respondent:

- (a) repeats paragraphs 29 to 40 above; and
- (b) otherwise does not know and therefore cannot admit the allegations in the paragraph.

71 As to paragraph 71, the Respondent:

- (a) says that, in relation to the AFFF product used at AACO:
 - (i) by 1983, information was available to the Respondent to indicate that AFFF and Fire Run-Off was potentially damaging to the environment; and
 - (ii) by 30 May 2000, information was available to the Respondent to indicate AFFF and Fire Run-Off was potentially causative of adverse health effects in humans; and
- (b) otherwise does not know and therefore cannot admit the allegations in the paragraph.

72 As to paragraph 72, the Respondent:

- (a) repeats paragraphs 29 to 35 and 71 above;
- (b) says that at all material times from February 1991 the Respondent knew or ought to have known that the activities carried out at AACO, referred to in paragraph 29 above and using AFFF were as alleged in paragraph 72(a); and
- (c) says that at all material times from 30 May 2000 the Respondent knew or ought to have known that the activities carried out at AACO, referred to in paragraph 29 above and using AFFF, were as alleged in paragraph 72(b); and
- (d) otherwise denies the allegations in the paragraph.

73 As to paragraph 73, the Respondent:

- (a) repeats paragraphs 30 to 35 above;
- (b) repeats paragraph 71 above; and
- (c) otherwise does not know and therefore can not admit the allegations in the paragraphs.

74 As to paragraph 74, the Respondent:

- (a) denies that it was aware as at May 1998, 13 February 2002, December 2002, May 2003, or May 2005 that AFFF and Spent AFFF had contaminated the groundwater under AACO;

Particulars

- (i) *Report - Waste Audit for Army Aviation Centre, Oakey, Dames & Moore (1998);*

- (ii) *Initial Environmental Review for Army Aviation Centre, Queensland, IT Australia* (13 February 2002);
 - (i) *Groundwater Risk Review: Army Aviation Centre, Oakey, Environmental Resources Management Australia* (March 2005); and
 - (ii) *Stage 1 Environmental Investigation, Sinclair Knight Merz Report* (26 May 2005).
- (b) says further that it was not possible to undertake accredited testing for the Relevant PFCs in groundwater until on or around June 2009;
 - (c) says that from October 2010 it knew that PFOS and PFOA were present in the groundwater under AACO; and
 - (d) otherwise does not know and therefore cannot admit the allegations in the paragraph.

75 As to paragraph 75, the Respondent:

- (a) admits that, at all material times, its use of AFFF as a fire suppressant in Training and Operation Activities was deliberate;
- (b) repeats paragraphs 28 to 36 above; and
- (c) otherwise denies the allegations in the paragraph.

76 As to paragraph 76, the Respondent:

- (a) repeats paragraphs 28 to 37, 47 to 48 and 51 to 54 above;
- (b) denies that its use of AFFF was careless, to the extent that it did the acts alleged in paragraph 76 (a) or made the omissions alleged in paragraph 76 (b), because:
 - (i) AFFF was the most appropriate substance to fight Class B fires;
 - (ii) AFFF was used to ensure Australian and international standards were met; and
 - (iii) no reasonable alternative to AFFF was available from manufacturers at that time;
- (c) further and in the alternative, denies that, after a time during 2003 to 2005, its use of AFFF was careless (in doing the alleged acts in paragraph 76 (a) or making the alleged omissions in paragraph 76 (b)) because its use of AFFF had been adapted to address the emerging potential for environmental and human health risks; and

- (d) otherwise does not know and therefore cannot admit the allegations in the paragraph.

77 As to paragraph 77, the Respondent:

- (a) repeats paragraphs 29(b), 57 to 58 and 74(e) above;
- (b) says that on or about 13 December 2012 it held a community information session to discuss the identification of PFOS and PFOA in groundwater at AACO;
- (c) says that on or about 10 December 2013 it held a community information session at which the potential risks of AFFF were discussed; and
- (d) otherwise denies the allegations in the paragraph.

78 As to paragraph 78, the Respondent:

- (a) says that Group Members:
 - (i) were advised by the Respondent on 29 July 2014 that they should not as a precaution not use water from Bores in the Relevant Area for drinking; and
 - (ii) if they are located in "Zone 2", since 6 September 2016 should not as a precaution use water from Bores in the Relevant Area for showering (including playing in sprinklers), bathing, or pools (including wading pools);
- (b) denies that all Group Members cannot safely use water from Bores in the Relevant Area for all purposes as it is not certain that all groundwater within the Relevant Area is affected by the Relevant PFCs in circumstances where the identity of all Group Members is not known to the Respondent;
- (c) denies that all the Group Members have suffered an interference with the use and enjoyment of land in the Relevant Area resulting from the allegations in paragraph 78 (b) because:
 - (i) inhalation of dust from soil and sediment presents only a low and acceptable risk to humans of exposure to the Relevant PFCs; and
 - (ii) typical use of the land for growing plants or consuming meat from sheep or cattle grown on the land in the Relevant Area presents only a low and acceptable risk to humans of exposure to Relevant PFCs;

- (d) denies that all the Group Members have suffered an interference with the use and enjoyment of the land in the Relevant Area resulting from the allegations in paragraph 78(c);
- (e) denies that all the Group Members have suffered an interference with the use and enjoyment of the land in the Relevant Area resulting from the allegation in paragraph 78 (d) because typical use of the land will, for most Group Members, present a low and acceptable risk of ongoing exposure;

Particulars

Stage 2C Environmental Investigation – Human Health Risk Assessment, Army Aviation Centre Oakey, AECOM (2016); Addendum to Stage 2C Environmental Investigation – Human Health Risk Assessment – Sensitivity Assessment, AECOM (2017).

- (f) repeats paragraphs 51 to 54 above;
- (g) says that whether a Group Member has in any particular case suffered an interference with the use and enjoyment of the land they own will depend on the location and nature of their property, the degree to which their soil and the groundwater beneath their property is affected and whether any consequential effects on their use and enjoyment of the property are sufficient to constitute interference of the requisite nature and extent to constitute a nuisance; and
- (h) otherwise does not know and therefore cannot admit the allegations in the paragraph.

79 As to paragraph 79, the Respondent:

- (a) repeats paragraphs 17, 26, 27, 29 to 37, 40, 46, 67 to 74, and 77 to 78 above; and
- (b) otherwise does not know and therefore cannot admit the allegations in the paragraph.

80 As to paragraph 80, the Respondent:

- (a) repeats paragraph 78 and 79 above;
- (b) otherwise does not know and therefore cannot admit the allegations; and
- (c) says further that the question whether actionable nuisance has occurred depends on an assessment of the particular property involved and the business or other activity conducted upon it.

81 As to paragraph 81, the Respondent:

- (a) repeats paragraphs 50 to 55, 64 to 69 and 71 to 80 above; and
- (b) otherwise does not know and therefore cannot admit the allegations in the paragraph.

82 As to paragraph 82, the Respondent:

- (a) denies the allegations in the paragraph; and
- (b) denies that the Applicants or Group Members are entitled to aggravated damages.

83 As to paragraph 83, the Respondent:

- (a) denies the allegations in the paragraph; and
- (b) denies that the Applicants or Group Members are entitled to exemplary damages.

84 As to paragraph 84, the Respondent admits the allegations in the paragraph.

85 As to paragraph 85, the Respondent:

- (a) admits that the land in the Relevant Area was physically proximate to AACO; and
- (b) otherwise does not know and therefore cannot admit the allegations in the paragraph.

86 As to paragraph 86, the Respondent:

- (a) repeats paragraphs 84 to 85 above;
- (b) says that:
 - (i) no details of the Group Members affected or alleged vulnerability have been provided by the Applicants despite being requested by the Respondent;
 - (ii) any alleged vulnerability will depend on the particular Applicant or Group Member;
 - (iii) it cannot assess or know whether persons other than the Applicants and Group Members had the alleged vulnerability; and
- (c) otherwise does not know and therefore cannot admit the allegations.

87 As to paragraph 87, the Respondent:

- (a) repeats paragraphs 17, 26, 27, 29 to 37, 40, 46, 67 to 74, 77 and 84 to 86 above; and
- (b) otherwise denies the allegations in the paragraph.

88 As to paragraph 88, the Respondent:

- (a) repeats paragraphs 17, 26, 27, 29 to 37, 40, 46, 67 to 74, 77 and 84 to 87 above; and
- (b) otherwise denies the allegation in the paragraph.

89 As to paragraph 89, the Respondent:

- (a) repeats paragraphs 17, 26, 27, 29 to 37, 40, 46, 67 to 74 and 84 to 86 above;
- (b) says that, before on or about October 2010, it did not know that contamination of groundwater on AACO was likely to migrate beyond AACO until it was uncovered as part of an investigation into hydrocarbon contamination;
- (c) says that it did not know the Relevant PFCs had migrated beyond AACO until around 2013 when the first testing off-site from AACO was conducted; and
- (d) otherwise denies the allegations in the paragraph.

90 As to paragraph 90, the Respondent admits the allegation but relies on the terms of the *Clean Waters Act 1971* (Qld) (**CWAQ**) rather than the pleaded summary.

91 As to paragraph 91 the Respondent admits the allegation but relies on the terms of the *Environmental Protection Act 1994* (Qld) (**EPAQ**) rather than the pleaded summary.

92 As to paragraph 92, the Respondent:

- (a) admits that, during its period of enactment, s 36 (now s 319) of the EPAQ bound the Respondent;
- (b) denies that, during its period of enactment, s 126 (now ss 443 and 443A) of the EPAQ bound the Respondent;
- (c) denies that, during its period of enactment, s 31 of the CWAQ bound the Respondent; and
- (d) denies that the obligations under the CWAQ or EPAQ inform the scope of any common law obligation in respect of the matters pleaded in paragraph 92.

93 As to paragraph 93, the Respondent:

- (a) repeats paragraphs 29 to 37 above;

- (b) admits that it had capacity to exercise control of the Training and Operations Activities;
- (c) says that such capacity included taking precautions against the Risk of Harm as set out in paragraphs 93 (a) and 93 (b), to the extent that any such Risk of Harm was identified and known to the Respondent; and
- (d) otherwise does not know and therefore cannot admit the allegations in the paragraph.

94 As to paragraph 94, the Respondent:

- (a) admits that, at all material times, it had the capacity to warn the general public of those matters set out in paragraphs 94 (a) to 94 (c), at all times and to the extent that it had knowledge of those matters;
- (b) admits paragraph 94(a);
- (c) repeats paragraph 17 above;
- (d) denies that it had the knowledge necessary to give a warning of the matters alleged in paragraph 94 (b) before October 2010;
- (e) denies that it had the knowledge necessary to give a warning of the matters alleged paragraph 94 (c) before:
 - (i) in relation to 94 (c)(i), 1983; and
 - (ii) in relation to 94 (c)(ii), 30 May 2000; and
- (f) otherwise does not know and therefore cannot admit the allegations in the paragraph.

95 As to paragraph 95, the Respondent:

- (a) repeats paragraphs 29 to 37, 76 and 93 above; and
- (b) otherwise denies the allegations.

96 As to paragraph 96, the Respondent:

- (a) repeats paragraphs 29 to 37, 77 and 94 above; and
- (b) otherwise denies the allegations.

97 As to paragraph 97, the Respondent denies the allegations in the paragraph.

98 As to paragraph 98, the Respondent denies the allegations in the paragraph.

99 As to paragraph 99, the Respondent:

- (a) denies the allegations in the paragraph; and

- (b) denies the Applicants or the Group Members are entitled to aggravated damages.

100 As to paragraph 100, the Respondent:

- (a) denies the allegations in the paragraph; and
- (b) denies the Applicants or the Group Members are entitled to exemplary damages.

101 As to paragraph 101, the Respondent admits the allegations in the paragraph.

102 As to paragraph 102, the Respondent:

- (a) admits that, subject to various exceptions, it is a requirement that the Respondent not take inside or outside the Australian jurisdiction an action that has, will have or is likely to have a significant impact on the environment inside or outside the Australian jurisdiction; and

Particulars

EPBC Act, s 28(1) and (2).

- (b) otherwise repeats the actual wording of the Environment Protection and Biodiversity Conservation Act 1999 (Cth) (**EPBC Act**) rather than a summary of what the EPBC Act says.

103 As to paragraph 103, the Respondent:

- (a) repeats paragraphs 29 to 37, 75 to 76 and 102 above;
- (b) says that the EPBC Act relevantly commenced on 16 July 2000 and can create no liability for action taken prior to that date;
- (c) in so far as it relates to conduct by the Respondent in relation to the use of AFFF after 2003 to 2005, denies the allegation; and
- (d) otherwise does not know and therefore cannot admit the allegations in the paragraph.

104 As to paragraph 104, the Respondent:

- (a) in so far as it relates to conduct by the Respondent after 2005, denies the allegation; and
- (b) otherwise does not know and therefore cannot admit the allegations in the paragraph.

105 As to paragraph 105, the Respondent:

- (a) in so far as it relates to conduct by the Respondent after 2005, denies the allegation; and
- (b) otherwise does not know and therefore cannot admit the allegations in the paragraph.

106 As to section H.2, the Respondent says that any action founded on negligence is time barred pursuant to the *Limitation of Actions Act 1974* (Qld) ("**LAAQ**") s 10(1) in whole or in part.

107 As to H.3, the Respondent says that any cause of action founded on a breach of the EPBC Act is time barred pursuant to LAAQ s 10(1)(d), either in whole or in substantial part.

Date: 20 October 2017



.....
Emma Costello
Lawyer for the Respondent
by her partner Peta Stevenson
King & Wood Mallesons

This pleading was settled by Richard Lancaster SC and Rachel Mansted of Counsel.

Schedule A

Lots currently comprising the AACO

Title reference	Lot on plan details	Area of lot	Ownership registration ¹
14091008	Lot 1 on RP113524	1.73ha	02/06/1995
12869197	Lot 2 on RP113524	198.36ha	18/11/1954 [date created]
50710532	Lot 1 on SP208379	81.38ha	14/03/2008
14393112	Lot 1 on RP123544	5.75ha	11/10/1996
16261082	Lot 177 on CPA3456	48.79ha	31/03/1983 [date created]
16261082	Lot 4 on RP25491	62.80ha	31/03/1983 [date created]
18803207	Lot 1 on CP851106	149.96ha	14/10/1994 [date created]
50092536	Lot 2 on RP889662	0.01ha	28/09/1995
50088954	Lot 2 on RP124828	164.43ha	02/06/1995
14523119	Lot 1 on RP124828	4.05ha	30/11/1970 [date created]
18416175	Lot 2 on RP88218	2.56ha	12/11/1992 [date created]
16261082	Lot 8 on RP88219	32.19ha	31/03/1983 [date created]
13515059	Lot 4 on RP88219	32.66ha	13/09/1962 [date created]
14091007	Lot 1 on RP113523	0.94ha	02/06/1995
15490034	Lot 139 on CPAG3441	7.31ha	18/03/1976 [date created]
16261082	Lot 3 on RP25491		31/03/1983 [date created]
16261082	Lot 1 on RP60308		31/03/1983 [date created]
17438220	Lot 10 on RP225668		18/12/1989 [date created]

¹ [date created] indicates that this is the earliest date available for the listed lot and plan; prior to this a land was subject to a different reconfiguration.

Registered easements and leases on lots currently comprising the AACO

Title reference	Lot on plan details	Easement or lease number	Date of registration	Purpose
12869197	Lot 2 on RP113524	Easement 601231502	11/07/1945	Telecommunications and drainage
		Easement 601957359	25/11/1957	Drainage
		Easement 602394280	09/11/1977	Drainage
14393112	Lot 1 on RP123544	Easement 601231502	11/07/1945	Telecommunications and drainage
16261082	Lot 177 on CPA3456	Easement 601251940	20/04/1954	Right of way and electricity transmission
		Easement 601227151	28/09/1926	Well/bore access for domestic/livestock purposes
		Lease 702355409	25/11/1997	Mixed grazing and farming
16261082	Lot 4 on RP25491	Easement 601227151	28/09/1926	Well/bore access for domestic/livestock purposes
		Lease 702355409	25/11/1997	Mixed grazing and farming
18803207	Lot 1 on CP851106	Easement 601227151	28/09/1926	Well/bore access for domestic/livestock purposes
		Easement 601231502	11/07/1945	Telecommunications and drainage
		Easement 700389913	08/12/1994	Right of way
		Lease 702355409	25/11/1997	Mixed grazing and farming
		Easement 700881799	29/09/1995	Right of way
50092536	Lot 2 on RP889662	Easement 601957359	25/11/1957	Drainage
18416175	Lot 2 on RP88218	Lease 601957360	17/06/1992	Storage of navigational aids
16261082	Lot 8 on RP88219	Easement 601227151	28/09/1926	Well/bore access for domestic/livestock purposes
		Lease 702355409	25/11/1997	Mixed grazing and farming
15490034	Lot 139 on CPAG3441	Lease 702355409	25/11/1997	Mixed grazing and farming
16261082	Lot 3 on RP25491	Easement 601227151	28/09/1926	Well/bore access for domestic/livestock purposes
		Lease 702355409	25/11/1997	Mixed grazing and farming
16261082	Lot 1 on RP60308	Easement 601227151	28/09/1926	Well/bore access for domestic/livestock purposes
		Lease 702355409	25/11/1997	Mixed grazing and farming
		Easement 601227151	28/09/1926	Well/bore access for domestic/livestock purposes
		Lease 702355409	25/11/1997	Mixed grazing and farming

Title reference	Lot on plan details	Easement or lease number	Date of registration	Purpose
17438220	Lot 10 on RP225668	Easement 602195208	19/09/1989	Right of way
18277110	Lot 1 on RP88218	Easement 601251940	20/04/1957	Right of way and electricity transmission
		Easement 601251941	25/11/1957	Water pipe

Licence details

Type	Lessee/licensee	Date of licence	Commencement	Expiry	Initial term	Description of access rights
Licence	BAE Systems Australia Limited	18 December 2009	22 January 2010	21 January 2015	5 years	Provision of facilities in support of the combined air traffic control operational maintenance support contract. The licence area relates to part of Building B207/B004
Licence	Australian Aerospace Limited (ID 95355)	17 September 2014	1 October 2013	17 December 2019	6 years, 2 months, 17 days	
Licence	Australian Aerospace Limited (ID 73017)	21 November 2005	1 December 2004	30 November 2019	15 years	The provision of logistics support and training
Licence	Australian Military Bank (National)	Undated	1 January 2016	31 December 2020	5 years	Operate a financial institution and

Type	Lessee/licensee	Date of licence	Commencement	Expiry	Initial term	Description of access rights
	Licence)					provide ATM facilities
Licence	Defence Bank Limited (National Licence)	28 June 2017	1 January 2016	31 December 2020	5 years	Operate a financial institution and provide ATM facilities on Lot 2 on RP113524
Licence	Toowoomba Regional Council	19 March 2010	22 July 2009	21 July 2019	10 years	Purpose of installation of radio equipment on Lot 2 on RP 113524
Licence	D & J Gordon	21 November 2016	1 October 2016	30 September 2019	3 years	Dry block farming and agricultural purposes on lots 3 & 4 on RP25491, lot 1 on RP60308, lot 139 on AG3441, lot 1 on CP851106, part of lot 177 on

Type	Lessee/licensee	Date of licence	Commencement	Expiry	Initial term	Description of access rights
						A3456 and part of lot 8 on RP88219
Memorandum of understanding	Bureau of Meteorology (ID 94938)	23 July 2014	1 July 2014	30 June 2024	10 years	Meteorological services
Licence	Mr & Mrs B Campbell	2 February 2015	1 February 2015	30 January 2019	4 years	Grazing of livestock and farming purposes on lot 6 RP63280
Licence	Boeing Australia Ltd	10 October 2008	1 March 2007 or 10 October 2008	9 October 2013	5 years	Storage and maintenance of Boeing's aircraft
Licence	Meggitt Training Systems Australia Pty Ltd	Unclear	Unclear	30 June 2016 with option expiring 30 June 2023	Unclear	
Licence	Unisys Australia Pty Limited (NL)	1 August 2011	1 August 2011	As per services agreement	As per services agreement	Information and communication

Type	Lessee/licensee	Date of licence	Commencement	Expiry	Initial term	Description of access rights
						technology support
Licence	Airservices Australia (ID 92364 and 93364)	Licence 92364 dated 28 February 2011 and Licence ID 93364 dated 6 August 2013	1 October 2010	30 September 2020	10 years	Various aeronautical and related purposes including construction, commissioning, operation, maintenance and repair of facilities on Lot 4 on RP 88219
Licence	Linfox Australia Pty Ltd	19 December 2013	Award Date (undated)	Date of the last Site Migration Completion Notice	Unclear	Warehousing and distribution services
Licence	CAE Australian Pty Ltd	27 July 2015	1 October 2013	30 September 2038	25 years	
Licence	Dr Eric Donaldson	19 April 2016	31 March 2016	30 March 2019	3 years	Transversing Lot 1 on RP123544 to

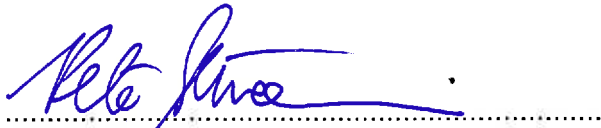
Type	Lessee/licensee	Date of licence	Commencement	Expiry	Initial term	Description of access rights
						transport non-portable water
Lease	Civil Aviation Authority	22 April 1992	1 January 1992	31 December 2090	99 years	Lot 2 on RP 88218

Certificate of lawyer

I Emma Costello certify to the Court that, in relation to the defence filed on behalf of the Respondent, the factual and legal material available to me at present provides a proper basis for:

- (a) each allegation in the pleading; and
- (b) each denial in the pleading; and
- (c) each non admission in the pleading.

Date: 20 October 2017



Emma Costello
Lawyer for the Respondent
by her partner Peta Stevenson