

Application of the EPPRD for near border detections

Revision history

Version	Date issued	Amendment Details	
		Section(s)	Details
1.0	25 Nov 2021	All	New document endorsed by Parties November 2021.

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1. Purpose

The purpose of this guideline is to document the agreed policy for application of the Emergency Plant Pest Response Deed (EPPRD) for 'near border' detections¹. This document is to be used by Parties in determining whether the detection of an Emergency Plant Pest (EPP) has been made "post border" and therefore whether the provisions of the EPPRD can be applied. Information is included on the geographic locations agreed as post border and the circumstances under which near border detections trigger application of the EPPRD. Example scenarios are also included to provide guidance on application of the agreed policy.

Note the following in respect of terms used in this document:

1. Capitalised words and terms (excluding names) are a reference to the defined words/terms within clause 1.1 of the EPPRD.
2. Where the term 'goods' is used it refers to the originally imported items, its packaging and transport mechanism (e.g. shipping container).

¹ The policy for application of the EPPRD for near border detections was agreed by the EPPRD Parties at their meeting in November 2020.

2. Introduction

The EPPRD only applies post border and not for detections made pre-border or at the border. Due to the nature of certain EPPs and potential entry pathways into Australia, detections may occur near to the border. To ensure consistent application of the EPPRD and minimise uncertainty following a detection, the Parties have established a shared agreement of the geographic locations and detection circumstances that are post border and therefore when/where the EPPRD applies.

For the purposes of this guideline, a near border detection relates to an EPP that is found:

- a. geographically at the border for which there is a risk of spread post border; or
- b. associated with imported goods that are geographically situated post border.

3. Summary of the agreed policy

A near border detection constitutes an Incident under the EPPRD where there is a reasonable suspicion or risk than an EPP may be present or has moved post border (if found geographically at the border). At this stage the Incident relates to a suspected EPP detection post border.

Where a State or Territory Chief Plant Health Manager (CPHM) has reason to believe an Incident has occurred within their jurisdiction, they are required to report this under the EPPRD (clause 4.1) as outlined in section 5.1. Whilst an Incident has been reported, the Cost Sharing arrangements of the EPPRD do not apply unless the Incident is confirmed as relating to a post border detection.

An Incident is confirmed as relating to a post border detection where the EPP is found:

- a. at a post border location **and**
- b. is confirmed to be present **either**:
 - i. beyond (not in direct contact with) the originally imported goods, **or**
 - ii. remains in direct contact with the originally imported goods but there is such a risk that the EPP has moved beyond the goods that the National Management Group (NMG) has agreed (on advice of the CCEPP) that the EPPRD should be applied.

4. Geographic locations that are border and post border

This section details the locations that the Parties have agreed are border and post border in respect of application of the EPPRD.

4.1 Border locations

Locations/premises that are under regulatory control of the *Biosecurity Act 2015* (Commonwealth) are border - the Cost Sharing arrangements of the EPPRD do not apply for EPP detections contained to these locations. The specific locations/premises as described in the *Act* that are border are as follows.

- Approved arrangements²
- Post entry quarantine facilities

² Under the *Biosecurity Act 2015* (Commonwealth), approved arrangements are voluntary arrangements entered into with the Department of Agriculture, Water and the Environment (awe.gov.au/import/arrival/arrangements)

- First points of entry (including biosecurity entry points)³ – those present on mainland Australia and external territories.

The following points should be considered in relation to detections at approved arrangements:

- a. EPP detections contained to approved arrangements are only considered border when they relate to goods directly imported into Australia (and therefore remain under regulatory control of the *Act*). EPP detections in imported goods that have passed through the border (released from regulatory control under the *Act*) before entering the approved arrangements (i.e. if moved domestically) are post border for the purposes of the EPPRD.
- b. Where there is initial uncertainty regarding whether a detection contained to an approved arrangement site is linked to imported goods, the detection will be treated as border until evidence is provided that indicates the detection is not linked to imported goods. This is based on the assumption that EPP detections at approved arrangements are most likely to have arisen from imported goods.
- c. It is possible for a section of a premises (rather than the entire premises) to be designated as an approved arrangement site (e.g. a specific area within a warehouse). In this case, regardless of the specific location on the premises that the EPP is found, the detection will be treated as border providing it can be linked to goods directly imported into Australia (as described at a and b directly above) and is contained to the premises.
- d. If an EPP is detected at a recently decommissioned approved arrangement or first point of entry (e.g. temporary first point of entry) and is determined to be linked to goods imported prior to decommissioning (i.e. at the time the location was under regulatory control of the *Act*), the NMG may consider and agree (on CCEPP advice) whether the detection is treated as post border for the purposes of the EPPRD.

Information on first points of entry locations is available on the Department of Agriculture, Water and the Environment website. First Point of Entry Airports – awe.gov.au/import/before/sending/airports/airport-locations. First Point of Entry Ports – awe.gov.au/biosecurity/avm/vessels/first-point-entry-and-non-first-point-entry.

4.2 Post border locations

The following Commonwealth land types (refer Appendix 1 for descriptions) are post border – the Cost Sharing arrangements of the EPPRD may be applied for EPP detections at these locations:

- Defence land (excluding designated first points of entry)
- Commonwealth territories (excluding designated first points of entry)
 - Jervis Bay territory
 - External territories
- Heritage listed properties and places
- Indigenous protected areas
- National parks and gardens

³ Under the *Biosecurity Act 2015* (Commonwealth), a first point of entry is a port or airport which has been designated as the entry point for vessels, aircraft, and goods that are subject to biosecurity control.

Some Commonwealth territories and defence land contain first points of entry. For clarity, all first points of entry will be treated as border (refer section 4.1), including those situated on defence and Commonwealth land.

5. Approach to managing near border detections

The following describes the approach for managing near border detections. The approach (as a decision flow chart) is presented in Appendix 2 (on page 13).

5.1 Formal notification of a near border detection and initial actions

An Incident means the occurrence of a confirmed or reasonably held suspicion of an EPP or of an unclassified Plant Pest which is reasonably believed to be an EPP (refer clause 1.1 of the EPPRD). As signatories to the EPPRD, government Parties have committed to reporting Incidents.

A near border detection constitutes an Incident under the EPPRD where there is a reasonable suspicion or risk the EPP may be present or has moved post border. This may occur when:

1. an EPP is found geographically at the border and there is a reasonable suspicion/risk the EPP has moved post border, or
2. an EPP is found associated with imported goods that are situated post border and there is a reasonable suspicion/risk the EPP is not contained to the goods.

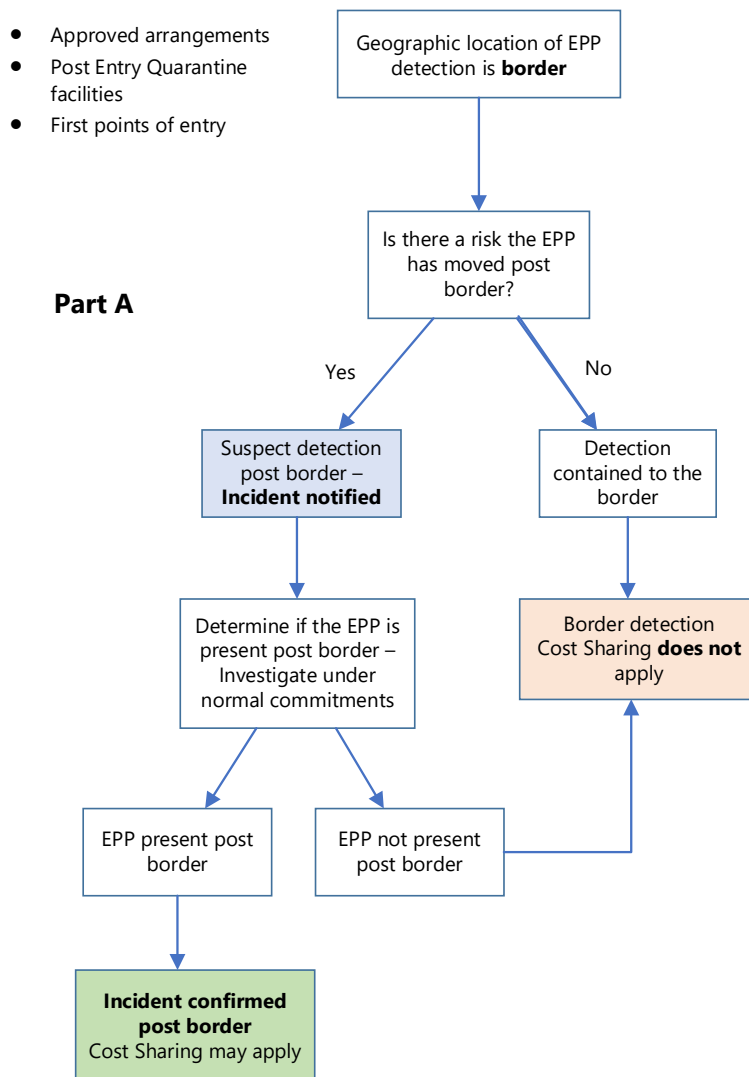
The occurrence of an Incident triggers reporting obligations under the EPPRD (clause 4.1). Formal notification of an Incident under the EPPRD (to the Australian Chief Plant Protection Officer) should be provided by the CPHM (or equivalent) of the potentially impacted State or Territory.

- The Commonwealth will notify the CPHM of the near border detection.
- The CPHM will determine whether formal notification under the EPPRD is appropriate based on a reasonable suspicion/risk that the EPP may be present post border. A risk assessment conducted by the Commonwealth will inform this determination if required. The considerations in Appendix 3 can be used to assist.
- Initial actions following the notification of an Incident are as follows. Advice is provided to the Consultative Committee on Emergency Plant Pests (CCEPP) for information – through this notification the potential Affected Parties are informed of the Incident (suspected detection post border) and of the activities being undertaken to determine if the EPP is present post border.
- As the detection has been made near border (either geographically at the border or associated with imported goods), the expectation is that the Commonwealth will investigate under their normal commitments to confirm/inform whether the EPP is present post border.

Important note: Whilst an Incident has been reported, the Cost Sharing arrangements of the EPPRD do not apply unless the Incident is confirmed as relating to a post border detection.

5.2 Confirming if an Incident relates to a post border detection

Detections made geographically at the border for which there is a risk of spread post border



An Incident may be notified when an EPP is detected at a border location and there is a risk the EPP has moved/spread post border (refer Part A of Appendix 2 extracted above). At this stage the Incident relates to a suspected EPP detection post border. Initial actions will then occur as described in section 4.1 and the outcome will inform whether the Incident is confirmed as relating to a post border detection as follows.

- Cost Sharing under the EPPRD may only be applied where the EPP is confirmed to be physically present post border, beyond the boundary of the border location. In this case the Incident is confirmed as relating to a post border detection and would then be subject to usual considerations under the EPPRD (technical and economic feasibility) to determine the course of action.
- Cost Sharing under the EPPRD does not apply where the EPP is confirmed to be contained within the boundary of the border location (i.e. is not physically present post border). This relates to a border detection and the Incident is stood down.

The following example scenarios demonstrate the approach to managing near border detections that occur geographically at the border (Part A of Appendix 2).

Scenario 1

An EPP is detected in imported plant material located in a Post Entry Quarantine (PEQ) facility.

The geographic location of the detection is **border**.

The Commonwealth undertakes an assessment, and it is determined that the EPP is contained to the PEQ facility.

Outcome:

The EPPRD does not apply – Detection determined to be at the border and not related to an Incident under the EPPRD. No requirement to provide formal notification under the EPPRD.

Scenario 2

A swarm of European honey bees carrying a honey bee EPP is identified on the outside of a shipping container located at a seaport.

A seaport is a first point of entry, therefore the geographic location of the detection is **border**.

The Commonwealth assesses whether there is a risk the EPP has moved post border (beyond the boundary of the first point of entry) and notifies the CPHM of the potentially impacted jurisdiction. The CPHM determines there is a risk the EPP has moved post border as bees were observed to have absconded from the swarm.

Initial actions:

- **Formal notification under the EPPRD** is provided by the CPHM as this constitutes an **Incident** (suspect detection post border) - as there is a reasonable suspicion/risk the EPP may be present post border.
- Initial advice provided to the CCEPP for information – through this notification potential Affected Parties are informed of the Incident and of the activities being undertaken to determine if the EPP is present post border.
- Appropriate activities (tracing, surveillance etc) are undertaken, through normal commitments, by the Commonwealth to establish whether the EPP is present post border.
- The EPP is not found geographically post border.

Outcome:

Stand down of the Incident under the EPPRD – considered a border detection and Cost Sharing under the EPPRD does not apply.

Actions undertaken:

- Advice provided to the CCEPP of the outcome of the investigation.

Scenario 3

Several live insects (suspect EPP) found within a warehouse on the walls and floors, thought to have originated from a carton of imported good opened several days prior.

The warehouse is an approved arrangements site and therefore geographically the detection is **border**.

The Commonwealth assesses the risk the EPP has moved post border and notifies the CPHM of the affected jurisdiction. The CPHM determines there is a risk the EPP has moved post border beyond the boundary of the approved arrangements site.

Initial actions:

- **Formal notification under the EPPRD** is provided by the CPHM as this constitutes an **Incident** (suspect detection post border) - based on a reasonable suspicion/risk the EPP may be present post border.

- Initial advice to the CCEPP for information – through this notification potential Affected Parties are informed of the Incident and of the activities being undertaken to determine if the EPP is present post border.
- The Commonwealth conducts an investigation under normal commitments to establish whether the EPP is present post border.
- The EPP is detected post border outside the boundary of the approved arrangements site.

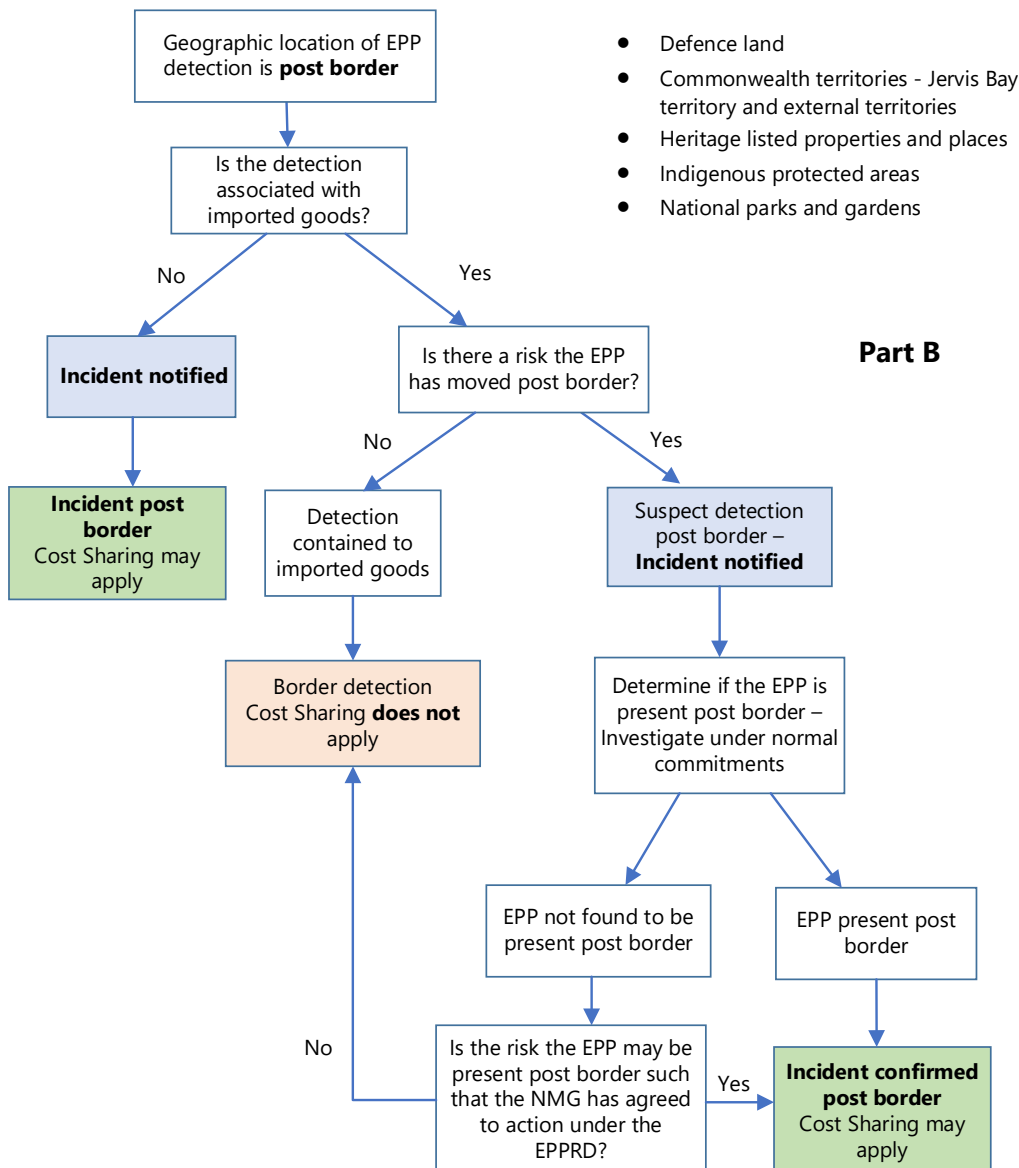
Outcome:

- **Incident confirmed as relating to a post border detection.** Cost Sharing under the EPPRD may be applied - the Incident is subject to usual considerations under the EPPRD.

Actions undertaken:

- The state/territory in which the EPP is detected is identified as the Lead Agency for the purposes of the EPPRD. There may continue to be activity for the Commonwealth related to the imported goods/approved arrangements site.
- The CCEPP is informed that the EPP is confirmed to be present post border and usual considerations under the EPPRD follow (e.g. EPP status, feasibility of eradication).

Detections associated with imported goods that are geographically situated post border



An Incident may be notified when an EPP detection is made in association with imported goods that are geographically situated post border, and there is a potential risk the EPP is not contained to the imported goods (refer Part B of Appendix 2 extracted above). At this stage the **Incident relates to a suspected EPP detection post border.**

Initial actions will then occur as described in section 4.1 and will inform whether the Incident is actioned as a post border detection as follows.

- Cost Sharing under the EPPRD may apply where the EPP has been detected beyond (no longer in direct contact with) the imported goods. The **Incident is confirmed as relating to a post border** detection and would then be subject to usual considerations under the EPPRD (technical and economic feasibility) to determine the course of action.
- Cost Sharing under the EPPRD will not apply where the EPP is known to be contained within the originally imported goods. For clarity the EPP is considered “contained” where the Commonwealth has investigated and confirmed the EPP remains within/in contact with the goods and there is no/negligible risk it may have moved/escaped from the goods. The detection relates to a **border** detection and the Incident is stood down.
- Where the EPP is found in direct contact with the original imported goods post border, and there is a risk the EPP is no longer contained to the goods the NMG will determine whether there is such a risk that the EPP has moved beyond the goods that it be actioned as a post border detection. If an NMG decision is required the following process will be applied to inform the determination:
 - Step 1 - A risk assessment is undertaken by the Commonwealth to inform the risk that the EPP has moved beyond the imported goods post border.
 - Step 2- The CCEPP considers the risk assessment and provides technical advice to the NMG on the risk the EPP is present post border.
 - Step 3 – The NMG considers the CCEPP advice and determines whether the detection is to be considered and actioned as a post border detection.

The following example scenarios demonstrate the approach to managing near border detections that are associated with imported goods situated geographically post border (Part B of Appendix 2).

Scenario 4

Small holes, debris and insects observed by a household resident upon unwrapping of a recently imported timber chair. Commonwealth officers attend the location and confirm the presence of a suspect EPP associated with the imported chair.

The detection is geographically **post border** (i.e. a residential household) however at this stage it is unknown whether the EPP is contained to the imported goods.

Initial actions:

- The Commonwealth assesses the risk the EPP has moved post border and notifies the CPHM of the affected jurisdiction. The CPHM determines there is a risk the EPP has moved post border.
- **Formal notification under the EPPRD** is provided by the CPHM as this constitutes an **Incident** (suspect detection post border) - as there is a reasonable suspicion/risk the EPP may be present post border.
- Initial advice to the CCEPP for information – through this notification potential Affected Parties are informed of the Incident and of the activities being undertaken to determine if the EPP is present post border.

- The Commonwealth conducts an investigation under normal commitments to establish whether the EPP is post border.
- The EPP is determined to be contained within the imported furniture.

Outcome:

- **Stand down of the Incident under the EPPRD** – Considered a border detection and Cost Sharing under the EPPRD does not apply

Actions undertaken:

- Advice provided to the CCEPP of the outcome of the investigation.

Scenario 5

A warehouse (not an approved arrangement site) has received imported goods contained within a cardboard box. Following unpacking of the goods from the box, insects (suspected EPP) are found at the bottom of the box. Commonwealth officers attend the location and confirm the presence of a suspected EPP associated with imported goods. It is determined that some goods from the package have moved from the site of unloading to another premises. There is therefore a risk the EPP may have moved beyond the goods post border.

Initial actions undertaken consistent with Scenario 4 above.

Outcome:

- Surveillance at the trace forward location identifies the EPP is present, though all EPPs were dead. The presence of the EPP post border is therefore confirmed.
- **Incident confirmed as relating to a post border detection.** Cost Sharing under the EPPRD may be applied - the Incident is subject to usual considerations under the EPPRD.

Actions undertaken:

- The state/territory in which the EPP is detected is identified as the Lead Agency for the purposes of the EPPRD. There may continue to be activity for the Commonwealth related to the imported goods.
- The CCEPP is informed that the EPP is confirmed to be present post border and usual considerations under the EPPRD follow (e.g. EPP status, feasibility of eradication).

Scenario 6

Suspected EPP is detected at a manufacturers warehouse associated with imported goods in a shipping container. The warehouse is not an approved arrangements site. There is a potential risk the EPP may have moved outside of the shipping container post border.

Initial actions undertaken consistent with Scenario 4 above.

Outcome:

- The EPP is found to be present outside of the imported items (which remain situated within the container) however the EPP is demonstrated to be contained within the shipping container. The risk the EPP has moved beyond the shipping container is assessed to be negligible.
- **Stand down of the Incident under the EPPRD** - Considered a border detection and Cost Sharing under the EPPRD does not apply.

Actions undertaken:

- Advice to the CCEPP of the outcome of the investigation. Ongoing activities may still be required by the Commonwealth as part of the border detection.

Scenario 7

An EPP is detected at a private business in rural NSW, associated with a pallet of tiles that had been removed from a shipping container. The tiles were recently imported by the business. Insects were observed within the packaging. There is a potential risk the EPP may have moved outside of the pallet of tiles.

Initial actions undertaken consistent with Scenario 4 above.

Subsequent actions:

- Following an investigation, the EPP is only found in direct contact with the tiles and the packaging which had been removed and placed in a bin on site. A risk assessment confirms there is negligible risk of spread beyond the goods post border.
- The EPP is determined to be contained within the goods.

Outcome:

- **Stand down of the Incident under the EPPRD** – Considered a border detection and Cost Sharing under the EPPRD does not apply.

Actions undertaken:

- Advice provided to the CCEPP of the outcome of the investigation.

Scenario 8

A warehouse manager opens a carton of imported goods and observes live insects within. The carton (which is located within the warehouse) is immediately closed by the manager. Commonwealth officers attend the location and observe live insects crawling on the outside surface of the carton.

The detection occurred geographically post border (not an approved arrangement site). Though the detection is associated with imported goods, there is a risk the EPP has moved post border.

Initial actions undertaken consistent with Scenario 4 above.

Subsequent actions:

- Following an investigation, the EPP is only found in direct contact with the goods however there is uncertainty regarding whether the EPP remains contained to the goods. A risk assessment conducted by the Commonwealth indicates there is a risk of spread beyond the goods post border. The CCEPP supports this assessment.
- The NMG agrees with the advice of the CCEPP that there is such a risk the EPP is present post border that the Incident be actioned as a post border detection.

Outcome:

- **Incident confirmed as relating to a post border detection.** Cost Sharing under the EPPRD may be applied- the Incident is subject to usual considerations under the EPPRD.

Actions undertaken:

- The state/territory in which the EPP is detected is identified as the Lead Agency for the purposes of the EPPRD. There may continue to be activity for the Commonwealth related to the imported goods.
- Usual considerations under the EPPRD follow through the CCEPP and NMG (e.g. EPP status, feasibility of eradication).

Appendix 1 Description of Commonwealth land types

The following table outlines the six types of Commonwealth land types and their governance (as provided by the Department of Agriculture Water and the Environment, October 2021).

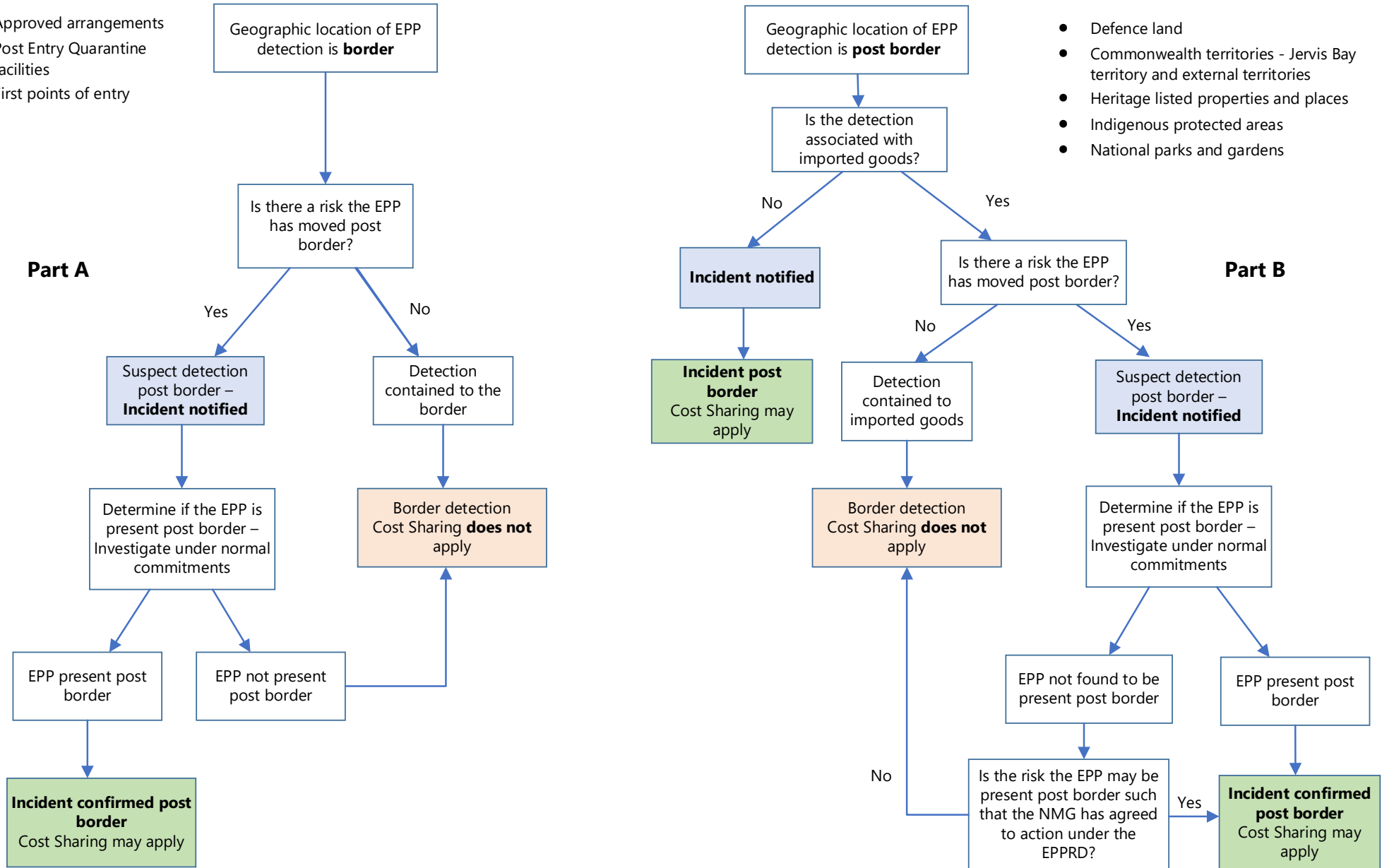
Commonwealth land type	Description	Governance
First Points of Entry (FPOE)	Specified ports and landing places in Australian territory that are first points of entry for aircraft, vessels and goods that are subject to biosecurity control; and including any areas within the first points of entry designated as a biosecurity entry point	Department of Agriculture, Water and the Environment
Biosecurity Entry Points	Designated areas within a First Point of Entry where specific classes of aircraft, vessels or goods must be landed to allow appropriate management of the biosecurity risks. These goods require additional infrastructure and procedures to manage the risks associated with their arrival	Department of Agriculture, Water and the Environment
Defence land	Land owned or managed by the Department of Defence, including waters around a naval base.	Department of Defence
Commonwealth territories	Commonwealth territories, including: <ul style="list-style-type: none"> • Ashmore and Cartier Islands • Australian Antarctic Territory • Christmas Island • Cocos (Keeling) Islands • Coral Sea Islands • Heard and McDonald Islands • Jervis Bay Territory • Norfolk Island and waters adjacent to these areas up to 12 nautical miles offshore.	Department of Infrastructure, Regional Development and Cities: All Commonwealth territories (except for Australian Antarctic Territory and Heard and McDonald Islands) Department of Agriculture, Water and the Environment: Australian Antarctic Territory and Heard and McDonald Islands
Heritage listed properties and places	Includes the following: <ul style="list-style-type: none"> • World Heritage listed properties, that have been included in the World Heritage List or are declared by the Minister for the Environment to be a World Heritage property • National Heritage places listed in the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act), which are natural, historic and Indigenous places of outstanding heritage value • Commonwealth Heritage listed places, which are Indigenous, historic and natural heritage places owned or controlled by the Australian Government. 	Department of Agriculture, Water and the Environment
Indigenous Protected Areas	Land and sea owned or managed by Indigenous groups, which are voluntarily managed as a protected area for biodiversity conservation through an agreement with the Australian Government.	Prime Minister and Cabinet for the Department of Agriculture, Water and the Environment

Commonwealth land type	Description	Governance
National Parks and Gardens	The Australian National Botanic Gardens and Commonwealth National Parks: <ul style="list-style-type: none"> • Booderee National Park • Christmas Island National Park • Kakadu National Park • Norfolk Island National Park • Pulu Keeling National Park • Uluru-Kata Tjuta National Park 	Parks Australia, within the Department of Agriculture, Water and the Environment
Marine Parks	Australian Marine Parks (60 individual parks).	Parks Australia - Department of Agriculture, Water and the Environment

Appendix 2 Decision flow chart for managing near border detections

- Approved arrangements
- Post Entry Quarantine facilities
- First points of entry

- Defence land
- Commonwealth territories - Jervis Bay territory and external territories
- Heritage listed properties and places
- Indigenous protected areas
- National parks and gardens



Appendix 3 Factors to consider when determining if an Incident has occurred

The following points may be used to inform whether there is a reasonable suspicion/risk that an EPP has moved/spread post border and therefore whether a near border detection relates to an Incident (a suspected post border detection). The points are not all encompassing and are not intended to constitute a comprehensive risk assessment. Some points relate to EPPs that are detected in association with imported goods – to inform the risk of spread from those goods post border; whilst others are more specific to EPPs detected at a border location – to inform the risk of spread of the EPP beyond the boundary of a border location to post border.

- Whether the EPP(s) are alive or dead. If found dead, for what length of time?
- Whether one or more EPPs have been found or suspected to have been present
- Whether the biology of the EPP lends itself to movement/spread – e.g. capable of flight, difficult to see, hitchhiker
- Environment in which the EPP has been detected is conducive to establishment (e.g. vegetation/hosts present at border location)
- Physical size of the border location relative to the potential for the EPP to spread
- Degree of EPP containment by the package, container, conveyance (e.g. aircraft, vessel), premises in which the EPP/associated goods was detected:
 - Integrity of the package/wrapping etc
 - Physical structure e.g. there are holes/exit points through which the EPP could escape
 - Whether the package/container/conveyance/premises have been opened providing opportunity for the EPP to escape
- Trace forward movement(s) from the imported goods/conveyance and/or detection site (e.g. of goods within original import, people, machinery, container/conveyance that held infested goods)
- Length of time since import of the goods and the detection notification