

## 5 ADDITIONAL CONSIDERATIONS

This section describes applicable federal and CNMI plans, policies, and controls; irreversible or irretrievable commitments of resources; and the relationship between short-term use of the environment and long-term productivity.

### 5.1 Consistency with Other Laws

Analysis of environmental consequences shall include a discussion of conflicts between the Proposed Action and the objectives of federal, regional, state, tribal, and local land use plans, policies, and controls. The Proposed Action would be implemented in accordance with all applicable plans, policies, and regulations.

#### 5.1.1 Coastal Zone Management Act Compliance

The Coastal Zone Management Act of 1972 (16 U.S.C. section 1451, et seq.) encourages coastal states to be proactive in managing coastal zone uses and resources. Under the act, federal actions that have an effect on a coastal use or resource are required to be consistent, to the maximum extent practicable, with the enforceable policies of federally approved Coastal Management Plans.

The USMC submitted a consistency determination to the CNMI Division of Coastal Resources Management addressing proposed military training activities that may have a direct or an indirect effect on the CNMI's coastal uses or resources (Appendix N).

#### 5.1.2 Commonwealth of the Northern Mariana Islands Requirements

Land use planning guidance for the CNMI is documented in The Covenant to establish a United States Commonwealth of the Northern Mariana Islands in a Political Union with the United States of America (1976), lease agreements, and the 2019 and 2021 CNMI Public Land Use Plan. While new agreements or updates to existing leases may be required, the Proposed Action is consistent and compatible with the CNMI Public Land Use Plan, which recognizes the Military Lease Area as used by the military and not publicly available for use, and military training events at the Port of Tinian and TNI. The sections below evaluate consistency and compatibility with local land use plans and leases.

- **1976 Covenant and Technical Agreement.** The Technical Agreement made property available to the U.S. by lease to enable it to carry out its defense responsibilities. As part of the agreements, all shoreline areas in and around the northern two-thirds of Tinian would remain open to anglers at all possible times except for those limited areas that must be closed to comply with safety, security, and hazardous risk requirements from either military activities or commercial activities. In addition, the Covenant assured CNMI residents the same access to beach areas that military personnel and dependents would have, limited only by access restrictions for public safety during times of active military training. During some training events, the public use of certain beaches or areas of the beach would be restricted. The Proposed Action is both consistent and compatible with The Covenant and Technical Agreement.
- **1983 Lease.** The lease agreement is for use of property to carry out DoD defense responsibilities on Tinian. The term of the lease agreement is 50 years, with an option to renew at the sole discretion of the U.S. for an additional 50 years. Under the lease provisions, the

federal government shall have the right to construct, place, erect, or install such buildings, structures, equipment, and facilities as may be necessary. The Proposed Action would construct new structures and would be consistent and compatible with the 1983 Lease.

- **1988 Leaseback Agreement.** The U.S. leased approximately 709 acres for TNI and expansion land north of the airport back to the Commonwealth Ports Authority for use as a public airport. The 1988 leaseback agreement allowed for future military use, future joint use, and modification or termination of the leaseback agreement as necessary to support defense operations. The 1988 Leaseback Agreement was terminated by the 1999 Lease Amendment.
- **1994 Lease Amendment.** The U.S. declared approximately 1,245 acres of lease property south of TNI, including the area surrounding the Port of Tinian, as surplus and moved to dispose of the property. Within the 1994 disposal area, the federal government reserved rights related to the use of San Jose Harbor, the temporary use of surplus land for military training exercises, and the operation of fuel and utility lines between San Jose Harbor and the remaining leased areas. The 1994 lease amendment also expanded the Exclusive Military Use Area by approximately 3,312 acres through the redesignation of Lease Back Area lands north of Dankulo Beach Road. Under the 1994 Lease Amendment (Article 1, Section G), “permanent improvements may be permitted on the Premises with the prior written consent of the U.S.” The Proposed Action would continue to use the property for military purposes and is consistent and compatible with the 1994 Lease Amendment.
- **1999 Lease Agreement.** The U.S. terminated the 1988 lease agreement with the Commonwealth Ports Authority and conveyed 709 acres comprising the TNI property and expansion land north of the airport to the CNMI. The 1999 lease agreement also conveyed approximately 645 acres north of TNI, known as the West Tinian Airport Expansion Land, to the CNMI. In addition, the 1999 lease agreement released leasehold interest in 10 acres at Masalok Beach and lands along public rights-of-way within the 1994 Lease Back Area and disposal area. The Proposed Action does not change the conveyance or use of these lands and is consistent and compatible with the 1999 Lease Agreement.
- **1999 Conservation Agreement.** Concurrent with the 1999 lease agreement, the U.S. and the CNMI agreed to preserve approximately 970 acres of Lease Back Area lands for wildlife conservation for the Tinian monarch. In accordance with the Conservation Agreement, and as stated in the U.S. Fish and Wildlife Service Biological Opinion 1-2-98-F-07, the military retains the right to use the Natural Resource Conservation Area for low impact, non-habitat-destructive military training. The Proposed Action includes an access road to the Explosives Training Range, two Landing Zones, and associated access roads within the Conservation Agreement land. The USMC will coordinate with the U.S. Fish and Wildlife Service on this use. The Biological Opinion will ensure the Proposed Action is consistent and compatible with the 1999 Conservation Agreement or will require a new agreement.
- **2019 Lease Agreement.** The U.S. and the Commonwealth Ports Authority entered into an agreement for the lease of real property at and adjacent to TNI and at the Port of Tinian. This agreement supports implementation of the Pacific Air Forces Divert project. Although this lease includes areas covered by previous lease agreements, this lease does not change, amend, or otherwise alter the 1983 Lease or its amendments. It includes non-exclusive use of taxiways

at TNI and easement areas for construction and utilities. This lease was amended in 2023 to correct mutual mistakes in delineation of utility and access easements. The Proposed Action would continue to use TNI for military purposes and is consistent and compatible with the 2019 Lease Agreement.

- **2019 and 2021 CNMI Public Land Use Plan.** The Plan provides guidance for the efficient and effective services in the management, use, disposition, and development of lands outside the Military Lease Area for the economic and social betterment of the CNMI. The Plan is organized in a format that describes the existing conditions of the CNMI, provides a socioeconomic forecast with recommendations for the future and updated Geographic Information Systems map. Because the Proposed Action would occur only on military leased lands that are outside the scope of the CNMI Public Land Use Plan, and would provide an economic benefit for Tinian, the Proposed Action is consistent and compatible with the 2019 and 2021 CNMI Public Land Use Plan.
- **2023 Lease Amendment.** The U.S. and the CNMI signed an administrative amendment to the 1983 agreement. The administrative amendment clarified that the U.S. retains, “the right to the reasonable use of roadways as well as the right to improve, construct, maintain and repair roads and utilities owned by the Commonwealth including all supporting facilities and structures.” Under the amendment, the CNMI government, “reserves the right to construct improvements including additional roads and utility lines and pipelines and to grant additional non-exclusive easements and rights-of-way on, in, under, across, through and over the easement areas as it shall determine to be in the public interest, provided that the Commonwealth shall consult with the U.S. prior to granting any such easements and obtain written concurrence of the U.S. that any such additional grants are not inconsistent with the use of the affected easement area by the U.S.” The Proposed Action would provide a benefit to Tinian through improvement of roads and expansion of utilities. Improvements or easements and rights-of-way in areas designated for military use would be coordinated with the USMC. With this provision, the Proposed Action is consistent and compatible with the 2023 Lease Amendment.

CNMI regulations for protection of human health and the environment are listed in Appendix E and include provisions for threatened and endangered species, historic preservation, air quality, drinking water, solid waste, and wastewater. The Proposed Action would comply with all applicable Commonwealth requirements and is consistent with continued military use in the Military Lease Area.

## 5.2 Irreversible or Irretrievable Commitments of Resources

NEPA requires that environmental analysis include identification of “any irreversible and irretrievable commitments of federal resources which would be involved in the Proposed Action should it be implemented” (42 U.S.C. section 4332). A commitment of resources is irreversible when the effects of proposed activities result in limiting the future options for resource development or effects of proposed activities involve a loss, generally of a non-renewable resource. Irretrievable is a term that applies to the loss of production, harvest, or use of natural resources. For example, if farmland is used for a non-agricultural event, some or all of the agricultural production from an area of farmland is lost irretrievably while the area is temporarily used for another purpose. The production lost is irretrievable, but the action is not irreversible.

Under the No Action Alternative, current military training events would continue. Under Alternative 1, training would continue and would increase over the No Action Alternative by approximately 15 percent. Under Alternative 2, training would continue and would increase over the No Action Alternative by approximately 5 percent, which is approximately 10 percent less than Alternative 1. Implementation of Alternative 1 or Alternative 2 would involve construction activity that would involve clearing and grading impacting natural resources and the expenditure of labor and the consumption of fuel, oil, and lubricants. Consumption of fossil fuels, for construction and training, along with funds used for construction and training are irreversible and irretrievable. The clearing and maintenance of vegetation, use of training areas, and construction of new roads and buildings are neither irreversible nor irretrievable.

### **5.3 Relationship Between Short-Term Use of the Environment and Long-Term Productivity**

NEPA requires an analysis of the relationship between a project's short-term impacts on the environment and the effects these impacts may have on long-term productivity of the affected environment. Impacts that narrow the range of beneficial uses of the environment are of particular concern. This refers to the possibility that choosing one alternative reduces future flexibility in pursuing other options, or that designating a parcel of land or other resource for a certain use eliminates the possibility of other uses being performed at the site.

Short-term uses of the environment associated with the Proposed Action include changes to the physical environment and energy and utility use during construction associated with Alternative 1 or Alternative 2. Construction activities would involve short-term increases in fugitive emissions and construction generated noise and would increase the use of fossil fuels to provide power to equipment. Construction would result in temporary disturbance to terrestrial wildlife, including federally listed species. Construction would also result in temporary disturbance of cultural resources, including the North Field National Historic Landmark. The short-term use of resources would not be expected to affect long-term productivity. Public access would also be controlled to some areas while training events are taking place. However, the Proposed Action includes eight subdivided training areas to minimize restrictions and avoids agricultural grazing uses.

Long-term changes would include alteration to topography and soils from construction. Permanent effects may include removal of terrestrial habitat and construction of new structures within or adjacent to cultural resource sites. Long-term changes would also include continued maintenance of vegetation for training events at North Field, live-fire ranges, radar towers, Landing Zones, and the Base Camp. However, these long-term impacts are not expected to affect long-term biological productivity or the listing or eligibility of historic resources.