

Act No. 194 of 1992 as amended

This compilation was prepared on 25 February 2000
taking into account amendments up to Act No. 146 of 1999
The text of any of those amendments not in force
on that date is appended in the Notes section
[Note: This Act is to be repealed by No. 92 of 1999]
Prepared by the Office of Legislative Drafting,
Attorney-General's Department, Canberra

Long Title

ENDANGERED SPECIES PROTECTION ACT 1992

An Act providing for the conservation and management of species

Part 1; Preliminary

- SECT 1

Short title [see Note 1]

This Act may be cited as the Endangered Species Protection
Act 1992.

- SECT 2

Commencement [see Note 1]

(1)

This Act commences on a day to be fixed by Proclamation.

(2)

If this Act does not commence under subsection (1) within
the period of 9 months commencing on the day on which this
Act receives the Royal Assent, it commences on the first
day after the end of that period.

- SECT 3
Objects of Act

- (1) The objects of this Act are to:
 - (a) promote the recovery of species and ecological communities that are endangered or vulnerable; and
 - (b) prevent other species and ecological communities from becoming endangered; and
 - (c) reduce conflict in land management through readily understood mechanisms relating to the conservation of species and ecological communities that are endangered or vulnerable; and
 - (d) provide for public involvement in, and promote public understanding of, the conservation of such species and ecological communities; and
 - (e) encourage co-operative management for the conservation of such species and ecological communities.

- (2) In order to achieve these objects, this Act:
 - (a) provides for listing of native species, ecological communities and threatening processes (see Part 2); and
 - (b) provides for certain protective measures to be adopted, in particular:
 - (i) preparing and implementing recovery plans and threat abatement plans (see Part 3); and
 - (ii) entering into conservation agreements (see Part 4); and
 - (iii) making interim conservation orders, permanent conservation orders and impact assessment conservation orders (see Part 5); and

 - (c)

imposes obligations on persons (particularly Commonwealth agencies) arising from species, ecological communities or threatening processes being listed, or protective measures being adopted (see Part 6); and

- (d) confers powers for the administration and enforcement of this Act (see Part 7); and
- (e) establishes the Endangered Species Advisory Committee and the Endangered Species Scientific Subcommittee (see Part 8).

- SECT 4
Definitions

- (1) In this Act, unless the contrary intention appears:

Advisory Committee means the Endangered Species Advisory Committee established under section 137.

ANPWS means the Australian National Parks and Wildlife Service established by section 33 of the National Parks and Wildlife Conservation Act 1975.

Australia includes the external Territories.

Australian fishing zone has the same meaning as in the Fisheries Management Act 1991.

business day means a day that is not:

- (a) a Saturday or a Sunday; or
- (b) a public holiday or bank holiday in the place concerned.

Chairperson, except in section 161, means the Chairperson of the Advisory Committee.

coastal sea has the meaning given in subsection 15B(4) of the Acts Interpretation Act 1901.

Commonwealth agency means:

- (a) a Minister; or
- (b) a Department; or
- (c) a body (whether incorporated or unincorporated) established for a public purpose by a law of the Commonwealth; or

- (d) a body established or appointed by the Governor-General or by a Minister otherwise than by or under a law of the Commonwealth; or
- (e) a company in which the whole of the shares or stock, or shares or stock carrying more than one-half of the voting power, is or are owned by or on behalf of the Commonwealth; or
- (f) a body corporate that is a subsidiary of:
 - (i) a body referred to in paragraph (c), (d) or (e); or
 - (ii) a body corporate that, because of a previous application or previous applications of this paragraph, is taken to be a Commonwealth agency for the purposes of this definition; or
- (g) a person holding, or performing the duties of, an office established by or under, or an appointment made under, a law of the Commonwealth, other than:
 - (i) a person who, by virtue of holding that office, is the Secretary of a Department; or
- (h) a person holding, or performing the duties of, an appointment made by the Governor-General, or by a Minister, otherwise than under a law of the Commonwealth;

but does not include:

- (i) a court or a tribunal; or
- (j) the Australian Capital Territory, the Northern Territory or the Administration of Norfolk Island; or
- (ja) a person holding an office established by or under any of the following Acts, or holding an appointment made under any of them:
 - (i) the Northern Territory (Self-Government) Act 1978;

- (ii) the Norfolk Island Act 1979;
 - (iii) the Australian Capital Territory (Self-Government) Act 1988; or
- (k) any of the following:
- (i) an Aboriginal Land Trust, or an Aboriginal Land Council, established under the Aboriginal Land Rights (Northern Territory) Act 1976;
 - (ii) an Aboriginal corporation within the meaning of the Aboriginal Councils and Associations Act 1976;
 - (iii) the Wreck Bay Aboriginal Community Council established under the Aboriginal Land Grant (Jervis Bay Territory) Act 1986.

Commonwealth area has the meaning given in section 5.

conservation agreement means an agreement entered into under section 51.

continental shelf of Australia has the same meaning as in the Seas and Submerged Lands Act 1973.

daily newspaper means a newspaper that is ordinarily published on each day that is a business day in the place where the newspaper is published, whether or not the newspaper is ordinarily published on other days.

Department means an Agency (within the meaning of the Public Service Act 1999).

Director means the Director of National Parks and Wildlife.

ecological community means an assemblage of native species that:

- (a) inhabits a particular area in nature; and
- (b) meets the additional criteria specified in the regulations (if any) made for the purposes of this definition.

endangered has the meaning given in section 6.

governmental approval means an approval, permission, authorisation, licence, recommendation or other similar decision that is or may be given or made by a Commonwealth agency.

Federal Court means the Federal Court of Australia.

habitat means an area:

- (a) in which an organism, or a group of organisms, lives;
or
- (b) in which an organism, or a group of organisms, has lived and into which the organism or group has the potential to be reintroduced.

impact assessment conservation order means an impact assessment conservation order made under section 79.

interest, in relation to a Commonwealth area, has the meaning given in section 9.

interim conservation order means an interim conservation order made under section 57.

key threatening process means a threatening process specified in Schedule 3.

list means a list set out in Schedule 1, 2 or 3 and includes such a list containing no items.

listed ecological community means an ecological community specified in Schedule 2.

listed native species means a species specified in Schedule 1.

native species means a species:

- (a) that is indigenous to Australia; or
- (b) that is indigenous to the Australian coastal sea or to the seabed or subsoil beneath that sea; or
- (c) that is indigenous to the continental shelf of Australia; or
- (d) that is indigenous to the Australian fishing zone; or
- (e) members of which periodically or occasionally visit:
 - (i) Australia; or
 - (ii) the Australian coastal sea; or
 - (iii) the Australian fishing zone; or
- (f) that was present in Australia before 1400.

non-native species means a species that is not a native species.

permanent conservation order means a permanent conservation order made under section 68.

permit means a permit issued under section 89.

person includes:

- (a) a body politic or corporate as well as an individual; and
- (b) a Commonwealth agency, whether or not the Commonwealth agency has the capacity to sue and be sued in its own name.

plan means a recovery plan or a threat abatement plan.

presumed extinct has the meaning given in section 8.

principles of ecologically sustainable development

means, if the regulations specify principles for the purpose of this definition, the principles so specified.

recovery plan means a plan of a kind referred to in section 31 that has been:

- (a) prepared under Division 2 of Part 3; or
- (b) adopted by the Minister under section 46.

Scientific Subcommittee means the Endangered Species Scientific Subcommittee established by section 158.

Secretary means an Agency Head (within the meaning of the Public Service Act 1999).

species means a group of biological entities that:

- (a) interbreed to produce fertile offspring; or
- (b) possess common characteristics derived from a common gene pool;

and includes:

- (c) a sub-species; and
- (d) a distinct population of such biological entities, being a distinct population that the Minister determines in writing to be a species for the purposes of this definition.

Note: Determinations under paragraph (d) are disallowable instruments (see section 10).

staff member, in relation to the ANPWS, means a person who is one of the persons who constitute the ANPWS within the meaning of section 34 of the National Parks and Wildlife Conservation Act 1975.

State agency means:

- (a) a Minister of a State; or
- (b) a Department of a State; or
- (c) a body (whether incorporated or unincorporated) established for a public purpose by a law of a State; or
- (d) a body established or appointed by the Governor of a State, or by a Minister of a State, otherwise than by or under a law of the State; or
- (e) a company in which the whole of the shares or stock, or shares or stock carrying more than one-half of the voting power, is or are owned by or on behalf of a State; or
- (f) a body corporate that is a subsidiary of:
 - (i) a body referred to in paragraph (c), (d) or (e); or
 - (ii) a body corporate that, because of a previous application or previous applications of this paragraph, is taken to be a State agency for the purposes of this definition; or
- (g) a person holding, or performing the duties of, an office established by or under, or an appointment made under, a law of a State, other than a person who, by virtue of holding that office, is the Secretary (by whatever name called) of a Department of a State; or
- (h) a person holding, or performing the duties of, an appointment made by the Governor of a State, or by a Minister of a State, otherwise than under a law of the State;

but does not include a court or a tribunal.

subsidiary has the meaning given in subsection (2).

sub-species means a geographically separate population of a species, being a population that is characterised by morphological or biological differences from other populations of that species.

this Act includes the regulations.

threat abatement plan means a plan of a kind referred to in section 33 that has been:

- (a) prepared under Division 2 of Part 3; or
- (b) adopted by the Minister under section 46.

threatening process means a process that threatens, or may threaten, the survival, abundance or evolutionary development of a native species or ecological community. vulnerable has the meaning given in section 7.

Note: Section 118 contains further definitions of words and expressions used in Division 2 of Part 7.

- (2) The question whether a body corporate is a subsidiary of an authority or body is to be determined in the same way as the question whether a body corporate is a subsidiary of another body corporate is determined for the purposes of the Corporations Law.
- (3) A reference in this Act to an offence against, or a contravention of, this Act includes a reference to an offence against, or a contravention of, section 6, 7 or 7A, or subsection 86(1), of the Crimes Act 1914 that relates to this Act.
- (4) A reference in this Act to a conviction of a person of an offence includes a reference to making an order under section 19B of the Crimes Act 1914 in relation to the person in respect of the offence.

- SECT 5

Commonwealth areas

- (1) For the purposes of this Act, any of the following areas, and any parts of the following areas, are Commonwealth areas:
 - (a) subject to subsection (2), an area of land owned, or

held under lease, (including land owned or held under lease in Norfolk Island) by the Commonwealth or a Commonwealth agency;

- (b) an area of land in:
 - (i) an external Territory (other than Norfolk Island); or
 - (ii) the Jervis Bay Territory;
 - (c) subject to subsection (3), the coastal sea;
 - (d) the seabed of, and the waters above, the continental shelf of Australia;
 - (e) the Australian fishing zone;
 - (f) any other area of land or sea that is declared to be a park or a reserve under section 7 of the National Parks and Wildlife Conservation Act 1975.
- (2) Despite paragraph (1)(a), an area of land that is Territory Land within the meaning of the Australian Capital Territory (Planning and Land Management) Act 1988 is not taken to be a Commonwealth area merely because of the application of that paragraph, unless it is held under lease by the Commonwealth or a Commonwealth agency.
- (3) Despite paragraph (1)(c), the following areas, and any parts of the following areas, are not Commonwealth areas by virtue of that paragraph:
- (a) any area of the seabed, and any of the space (including space occupied by water) above that seabed, vested in a State under section 4 of the Coastal Waters (State Title) Act 1980;
 - (b) any area of the seabed, and any of the space (including space occupied by water) above that seabed, vested in the Northern Territory under section 4 of the Coastal Waters (Northern Territory Title) Act 1980.

Endangered species and ecological communities

- (1) For the purposes of this Act, a species is endangered if:
 - (a) it is likely to become extinct unless the circumstances and factors threatening its abundance, survival or evolutionary development cease to operate; or
 - (b) its numbers have been reduced to such a critical level, or its habitats have been so drastically reduced, that it is in immediate danger of extinction; or
 - (c) it might already be extinct, but is not presumed extinct.

- (2) In addition to subsection (1), a species may be regarded as endangered for the purposes of this Act if the Minister is satisfied that:
 - (a) it so closely resembles in appearance, at any stage of its biological development, a species of a kind referred to in subsection (1) that it is difficult to differentiate between the 2 species; and
 - (b) this difficulty poses an additional threat to the last-mentioned species; and
 - (c) it would substantially promote the objects of this Act if the first-mentioned species were regarded as endangered.

- (3) For the purposes of this Act, an ecological community is endangered if:
 - (a) it is likely to become extinct in nature unless the circumstances and factors threatening its extent, survival or evolutionary development cease to operate; or
 - (b) it might already be extinct.

- SECT 7

Vulnerable species

- (1) For the purposes of this Act, a species is vulnerable at a particular time if, within the next 25 years, the species is likely to become endangered unless the circumstances and factors threatening its abundance, survival or evolutionary development cease to operate.
- (2) In addition to subsection (1), a species may be regarded as vulnerable for the purposes of this Act if the Minister is satisfied that:
 - (a) it so closely resembles in appearance, at any stage of its biological development, a species of a kind referred to in subsection (1) that it is difficult to differentiate between the 2 species; and
 - (b) this difficulty poses an additional threat to the last-mentioned species; and
 - (c) it would substantially promote the objects of this Act if the first-mentioned species were regarded as vulnerable.

- SECT 8

Species that are presumed extinct

A species is presumed extinct at a particular time if:

- (a) it has not been definitely located in nature during the preceding 50 years; or
- (b) it has not been definitely located in nature during the preceding 10 years despite thorough searching during that period.

- SECT 9

Interests in Commonwealth areas

Unless the contrary intention appears, a person is taken, for the purposes of this Act, to have an interest in a Commonwealth area if the person, whether alone or with others:

- (a) owns; or
- (b) occupies or is in possession of; or
- (c) has the management or control of; or
- (d) has, as a result of holding a licence, permit or authorisation (by whatever name called), a right to carry on a commercial activity in;

the Commonwealth area.

- SECT 10
Disallowance of certain instruments

A determination made by the Minister for the purposes of paragraph (d) of the definition of species in subsection 4(1) is a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901.

- SECT 11
Certain Territories regarded as States

For the purposes of this Act (except section 13), the Australian Capital Territory, the Northern Territory and Norfolk Island are to be regarded as States and are not to be regarded as Territories.

- SECT 12
Act to bind Crown

- (1) This Act binds the Crown in all its capacities.
- (2) This Act does not render the Crown liable to be prosecuted for an offence.

- SECT 13
External Territories

This Act extends to each external Territory.

Part 2; Listing

- SECT 14

Outline of this Part

- (1) This Part provides for listing the native species, ecological communities and threatening processes with which this Act is concerned.
- (2) Division 1 provides for Schedules 1 to 3 to set out lists of native species, ecological communities and key threatening processes.
- (3) Division 2 describes the procedure by which the Minister may amend the lists.
- (4) Division 3 describes how the lists are to be made public.

Division 1; Lists of species etc.

- SECT 15

Lists of native species

- (1) Part 1 of Schedule 1 contains a list of native species that are endangered.
- (2) Part 2 of Schedule 1 contains a list of native species that are vulnerable.
- (3) Part 3 of Schedule 1 contains a list of native species that are presumed extinct.

Note: Section 87 imposes obligations relating to listed native species.

- SECT 16

Lists of ecological communities

Schedule 2 contains a list of ecological communities that are

endangered.

- SECT 17

List of key threatening processes

Schedule 3 contains a list of threatening processes that are key threatening processes.

Division 2;The listing process

- SECT 18

Minister may amend lists

- (1) Subject to this Division, the Minister may, by instrument in writing published in the Gazette, and in a daily newspaper circulating in each State, amend any of the lists by:
 - (a) including items in the list; or
 - (b) deleting items from the list.
- (2) Such instruments are disallowable instruments for the purposes of section 46A of the Acts Interpretation Act 1901.
- (3) Despite section 48 of the Acts Interpretation Act 1901 as it applies in relation to such instruments because of section 46A of that Act, amendments of a list that delete items from the list take effect on the first day on which they are no longer liable to be disallowed, or to be taken to have been disallowed, under section 48 of that Act as it so applies.

- SECT 19

Reasons for amendments of lists

- (1) An instrument must state that application may be made, in writing, to the Director for a statement of the reasons why one or more items specified in the application were

included in, or deleted from, one or more lists by the instrument.

- (2) The Director must provide, at reasonable cost, such a statement of reasons to the person who makes such an application, or the person on whose behalf the application is made.

- SECT 20

Native species etc. that are endangered

- (1) The Minister must not add:
 - (a) a native species to Part 1 of Schedule 1; or
 - (b) an ecological community to Part 1 of Schedule 2;

unless the Minister is satisfied that the species or community is endangered.

- (2) The Minister must not delete:
 - (a) a native species from Part 1 of Schedule 1; or
 - (b) an ecological community from Part 1 of Schedule 2;

unless the Minister is satisfied that the species or community is no longer endangered.

Note: Endangered is defined in section 6.

- SECT 21

Native species that are vulnerable

- (1) The Minister must not add a native species to Part 2 of Schedule 1 unless the Minister is satisfied that the species is vulnerable.
- (2) The Minister must not delete a native species from Part 2 of Schedule 1 unless the Minister is satisfied that the species is no longer vulnerable.

Note: Vulnerable is defined in section 7.

- SECT 22

Native species that are presumed extinct

- (1) The Minister must not add a native species to Part 3 of Schedule 1 unless the Minister is satisfied that the species is presumed extinct.
- (2) The Minister must not delete a native species from Part 3 of Schedule 1 unless the Minister is satisfied that the species is no longer presumed extinct.

Note: Presumed extinct is defined in section 8.

- SECT 23

Key threatening processes

- (1) The Minister must not add a threatening process to Schedule 3 unless the Minister is satisfied that it is eligible to be treated as a key threatening process.
- (2) The Minister must not delete a threatening process from Schedule 3 unless the Minister is satisfied that it is no longer eligible to be treated as a key threatening process.
- (3) For the purposes of this section, a threatening process is eligible to be treated as a key threatening process if:
 - (a) it:
 - (i) adversely affects 2 or more listed native species or 2 or more listed ecological communities; or
 - (ii) could cause native species or ecological communities that are not endangered to become endangered; and
 - (b) the preparation and implementation of a nationally co-ordinated threat abatement plan is a feasible,

effective and efficient way to abate the process.

- (4) Before deciding whether a threatening process is eligible to be treated as a key threatening process, the Minister must take reasonable steps to consult, with Commonwealth agencies that would be affected by or interested in abatement of the process, on the feasibility, effectiveness or efficiency of preparing and implementing a nationally co-ordinated threat abatement plan to abate the process.

- SECT 24

Minister must consider advice from Scientific Subcommittee

- (1) Subject to section 26, the Minister must not add an item to, or delete an item from, a list without having considered advice from the Scientific Subcommittee on the addition or deletion of the item.
- (2) The Minister must:
 - (a) decide whether to add an item to, or delete an item from, a list; and
 - (b) if the Minister decides to add or delete the item; cause the necessary instrument to be published in the Gazette;

within 90 days after receiving the Scientific Subcommittee's advice on the addition or deletion of the item.

- (3) A member of the Scientific Subcommittee has a duty not to disclose to any other person the advice, or any information relating to the advice, before the end of that period of 90 days unless the disclosure:
 - (a) is for the official purposes of the Scientific Subcommittee; or
 - (b) if an instrument is published in the Gazette relating to an addition or deletion to which the advice relates; occurred after the publication.

- SECT 25

Public may nominate native species etc.

- (1) Any person may nominate an item to be listed in Schedules 1 to 3.
- (2) A nomination must be made to the Director and must include any information prescribed by regulation.
- (3) The Director must forward all nominations to the Scientific Subcommittee.

- SECT 26

Rediscovery of native species that were presumed extinct

- (1) If the Director advises the Minister that a native species that is specified in Part 3 of Schedule 1 has been definitely located in nature since it was last listed as presumed extinct, the Minister may, under section 18:
 - (a) amend Part 3 of Schedule 1 by deleting the species from that Part; and
 - (b) if the Minister is satisfied that the species:
 - (i) is endangered; or
 - (ii) is vulnerable;

amend the appropriate list by adding the species to it;

without considering advice from the Scientific Subcommittee.

- (2) Subsection (1) does not prevent the Minister from making such amendments after having considered advice from the Scientific Subcommittee.

- SECT 27

Minister only to consider nature conservation matters

- (1)

In deciding whether to add an item to, or delete an item from, a list in Schedule 1, the Minister must not consider any matters that do not relate to the survival of the native species concerned.

- (2) In deciding whether to add an item to, or delete an item from, Schedule 2, the Minister must not consider any matters that do not relate to the survival of the ecological community concerned.

- SECT 28

Species posing a serious threat to human health

- (1) If the Minister is satisfied that a native species poses a serious threat to human health, the Minister may, by instrument published in the Gazette, determine that the species is not appropriate for listing under this Part.
- (2) While the determination is in force, the species is not to be added to any list.
- (3) A determination is a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901.

Division 3; Publication of

- SECT 29

Director to make lists available to the public

The Director must take all reasonable steps to ensure that up-to-date consolidated versions of each of the lists are available for purchase, for a reasonable price, at:

- (a) each of the offices of the ANPWS; and
- (b) one or more other places in each State.

Part 3; Recovery plans and threat abatement plans

- SECT 30

Outline of this Part

- (1) This Part is about preparing and implementing:
 - (a) recovery plans for listed native species and listed ecological communities; and
 - (b) threat abatement plans for key threatening processes.
- (2) Division 1 defines the Commonwealth's obligations to prepare plans for species, ecological communities and threatening processes occurring in Commonwealth areas.
- (3) Division 2 describes how these plans are prepared, published and varied.
- (4) Division 3 enables the Commonwealth to:
 - (a) assist States and State agencies to prepare plans for species, ecological communities and threatening processes that do not occur in Commonwealth areas; and
 - (b) adopt and publicise plans prepared by States or State agencies for such species, ecological communities and threatening processes.
- (5) Division 4 contains a general assistance provision and a reporting requirement.

Division 1; Obligations to prepare etc. plans

- SECT 31 Recovery plans

- (1) The Commonwealth must prepare and implement a recovery plan for:
 - (a) each listed native species (other than a species that is presumed extinct); or
 - (b) each listed ecological community;

that occurs in Commonwealth areas.

- (2) If the listed native species or listed ecological community also occurs outside Commonwealth areas, the Commonwealth must seek the co-operation of the States in which the species or community occurs outside Commonwealth areas with a view to the joint preparation and implementation of a recovery plan for the species or community throughout Commonwealth areas and those States.

Note 1: Commonwealth area is defined in section 5.

Note 2: Section 99 imposes on Commonwealth agencies obligations relating to recovery plans.

- SECT 32

Content of recovery plans

- (1) The recovery plan must provide for the research and management actions necessary to stop the decline of, and support the recovery of, the species or community so that its chances of long-term survival in nature are maximised.
- (2) In particular, the recovery plan must:
 - (a) state an objective to be achieved (for example, removing the species or community from a list, or indefinite protection of existing populations of the species or community); and
 - (b) state criteria against which achievement of the objective is to be measured (for example, a specified number and distribution of viable populations of the species or community, or the abatement of threats to the species or community); and
 - (c) specify the actions needed to satisfy the criteria; and
 - (d) identify and specify the actions needed to protect the habitats that are critical to the survival of the species or community; and
 - (e) state the estimated duration and cost of the recovery process; and
 - (f)

identify:

- (i) interests that will be affected by the plan's implementation; and
 - (ii) organisations or persons who will be involved in evaluating the performance of the recovery plan; and
- (g) specify any major benefits to non-target species or non-target ecological communities that will be affected by the plan's implementation.
- (3) In preparing a recovery plan, regard must be had to:
- (a) the objects of the Act; and
 - (b) the most efficient and effective use of the resources that are allocated for conservation of species and ecological communities; and
 - (c) consistent with the principles of ecologically sustainable development, minimising any significant adverse social and economic impacts.

- SECT 33

Threat abatement plans

- (1) The Commonwealth must prepare and implement a threat abatement plan for each key threatening process that occurs in Commonwealth areas.
- (2) If the key threatening process also occurs outside Commonwealth areas, the Commonwealth must seek the co-operation of the States in which the threatening process occurs outside Commonwealth areas with a view to the joint preparation and implementation of a threat abatement plan for the threatening process throughout Commonwealth areas and those States.

Note 1: Commonwealth area is defined in section 5.

Note 2: Section 99 imposes on Commonwealth agencies obligations relating to threat abatement plans.

- SECT 34

Content of threat abatement plans

- (1) The threat abatement plan must provide for the research and management actions necessary to reduce the key threatening process to an acceptable level in order to maximise the chances of the long-term survival in nature of native species and ecological communities affected by the process.
- (2) In particular, the threat abatement plan must:
 - (a) state an objective to be achieved; and
 - (b) state criteria against which achievement of the objective is to be measured; and
 - (c) specify the actions needed to satisfy the criteria; and
 - (d) state the estimated duration and cost of the threat abatement process; and
 - (e) identify organisations or persons who will be involved in evaluating the performance of the threat abatement plan; and
 - (f) specify any major non-target ecological matters that will be affected by the plan's implementation.
- (3) In preparing a threat abatement plan, regard must be had to:
 - (a) the objects of the Act; and
 - (b) the most efficient and effective use of the resources that are allocated for conservation of species and ecological communities; and
 - (c) consistent with the principles of ecologically sustainable development, minimising any significant adverse social and economic impacts.

- SECT 35
Eradication of non-native species

If:

- (a) the actions specified under paragraph 32(2)(c) in a recovery plan, or under paragraph 34(2)(c) in a threat abatement plan, include the eradication of a non-native species; and
- (b) the species is endangered or vulnerable in a country in which its native habitat occurs;

the recovery plan, or threat abatement plan, must require the Commonwealth to offer to provide stock of the species to that country before the eradication proceeds.

Division 2;Preparation and variation of plans by the Commonwealth

- SECT 36
Deadlines for preparing plans

A plan must be prepared within the period that:

- (a) begins on the day (listing day) on which the species, ecological community or key threatening process in question became included in a list; and
- (b) ends on the elapsing of the number of years, from the listing day, specified in the following Tabel:

Tabel

Type of plan

Number of years

If the listing day is the day this Act commenced

If the listing day is a later day

1. Recovery plan for a species or ecological community that is endangered

5 years

3 years

2. Recovery plan for a species that is vulnerable

10 years

5 years

3. Threat abatement plan for a key threatening process

6 years

3 years

- SECT 37

Advisory Committee to advise on scheduling of plans

(1)

The Advisory Committee is to advise the Minister on the times within which, and the order in which, draft plans should be prepared.

(2)

In giving advice on preparation of a draft recovery plan, the Advisory Committee must take into account the following matters:

(a)

the degree of threat to the survival in nature of the species or ecological community in question;

(b)

the potential for the species or community to recover;

(c)

the genetic distinctiveness of the species or

- community;
 - (d) the importance of the species or community to the ecosystem;
 - (e) the value to humanity of the species or community;
 - (f) the efficient and effective use of the resources allocated to the conservation of species and ecological communities.
- (3) In giving advice on preparation of a draft threat abatement plan, the Advisory Committee must take into account the following matters:
- (a) the degree of threat that the key threatening process in question poses to the survival in nature of species and ecological communities;
 - (b) the potential of species and ecological communities so threatened to recover;
 - (c) the efficient and effective use of the resources allocated to the conservation of species and ecological communities.

- SECT 38

Preparation of draft plans

- (1) After considering the Advisory Committee's advice, the Minister may, in writing, direct the Director to prepare:
- (a) a draft recovery plan for a listed native species or a listed ecological community; or
 - (b) a draft threat abatement plan for a key threatening process.
- (2) The direction must specify the period within which the draft plan is to be prepared.
- (3) The Director must comply with the direction.
- (4) The Director must cause a copy of the direction to be

published in the Gazette.

- SECT 39

Consultation on draft plans

- (1) After preparing a draft plan, the Director must:
 - (a) take reasonable steps to ensure that copies of the draft plan are available for purchase, for a reasonable price, at each of the offices of the ANPWS and at one or more other places in each State; and
 - (b) give a copy of it, together with a notice of a kind referred to in subsection (2), to the Advisory Committee; and
 - (c) cause the notice to be published:
 - (i) in the Gazette; and
 - (ii) in a daily newspaper circulating in each State in which occurs the listed native species, listed ecological community or key threatening process to which the draft plan relates; and
 - (iii) in any other way required by the regulations.
- (2) The notice must:
 - (a) state that the draft plan has been prepared; and
 - (b) specify the places where copies of the draft plan may be purchased; and
 - (c) invite persons to make written comments to the Director about the draft plan; and
 - (d) specify:
 - (i) an address for lodgment of comments; and
 - (ii) a day by which comments must be made.

- (3) The day specified must not be a day occurring within 3 months after the notice is published in the Gazette.

- SECT 40
Consideration of comments

The Director:

- (a) must consider all written comments made to the Director on or before the day, and at the address for lodgment, specified in the notice; and
- (b) may revise the draft plan to take into account any of those comments; and
- (c) must prepare a report on the comments and their consideration.

- SECT 41
Approval by the Minister

- (1) The Director must then give the draft plan to the Minister for approval.
- (2) The draft plan must be accompanied by the Director's report on the written comments.
- (3) If the Minister thinks that the draft plan submitted under subsection (1) or (4) for his or her approval should be revised in some respect, the Minister may give to the Director a written notice:
 - (a) requesting the Director to make such a revision; and
 - (b) setting out the reasons for the request.
- (4) On receiving such a request, the Director must:
 - (a) consider the request and the statement of reasons; and
 - (b)

make such revision of the draft plan as he or she considers appropriate; and

- (c) give the draft plan, as so revised, to the Minister for approval.
- (5) The plan comes into force:
- (a) on the day specified by the Minister for that purpose in approving the plan; or
 - (b) if no such day is specified; on the day on which the Minister approves the plan.

- SECT 42

Director to make plans available to the public

- (1) As soon as practicable after the Minister approves a plan, the Director must:
- (a) take reasonable steps to ensure that copies of the plan are available for purchase, for a reasonable price, at each of the offices of the ANPWS and at one or more other places in each State; and
 - (b) give notice of the plan's approval to each person whose comments on the draft plan the Director considered under paragraph 40(a); and
 - (c) cause the notice to be published:
 - (i) in the Gazette; and
 - (ii) in a daily newspaper circulating in each State in which occurs the listed native species, listed ecological community or key threatening process to which the plan relates; and
 - (iii) in any other way required by the regulations.
- (2) The notice must:
- (a)

- state that the Minister has approved the plan; and
- (b) specify the places where copies of the draft plan may be purchased.

- SECT 43

Variation of plans

- (1) The Director may, at any time, review a plan and consider whether a variation of it is necessary.
- (2) Each plan must be reviewed by the Director at intervals of not longer than 5 years.
- (3) If the Minister gives the Director a notice requesting that the Director vary a plan and setting out the reasons for the request, the Director must consider, having regard to the reasons, whether the requested variation is appropriate.
- (4) If the Director considers that:
 - (a) a variation of a plan is necessary; or
 - (b) a variation of a plan, requested by the Minister, is appropriate;

the Director may, subject to subsection (5), vary the plan.

- (5) Sections 39 to 42 apply to the variation of the plan in the same way that those sections apply to the preparation and approval of a draft plan.

Division 3;Preparation and variation of plans by States etc.

- SECT 44

Commonwealth assistance for the preparation of draft plans

- (1) The Minister may, on the Commonwealth's behalf, give to a State or a State agency financial assistance, and any other assistance, for the preparation of:

- (a) a draft recovery plan for:
 - (i) a listed native species (other than a species that is presumed extinct); or
 - (ii) a listed ecological community;
 - that does not occur in a Commonwealth area; or
 - (b) a draft threat abatement plan for a key threatening process that does not occur in a Commonwealth area.
- (2) The giving of assistance may be made subject to such conditions as the Minister thinks fit.
- (3) The Minister is to have regard to the advice of the Advisory Committee under section 45 before deciding whether to give assistance, or the extent of any assistance to be given.

- SECT 45
Advisory Committee to advise on assistance

- (1) The Advisory Committee is to advise the Minister on:
- (a) the times within which, and the order in which, assistance should be granted to States and State agencies under section 44 for the preparation of plans; and
 - (b) the conditions (if any) to which the giving of such assistance should be subject.
- (2) In giving advice on preparation of a draft recovery plan, the Advisory Committee must take into account the following matters:
- (a) the degree of threat to the survival in nature of the species or ecological community in question;
 - (b) the potential for the species or community to recover;

- (c) the genetic distinctiveness of the species or community;
 - (d) the importance of the species or community to the ecosystem;
 - (e) the value to humanity of the species or community;
 - (f) the efficient and effective use of the resources allocated to the conservation of species and ecological communities.
- (3) In giving advice on preparation of a draft threat abatement plan, the Advisory Committee must take into account the following matters:
- (a) the degree of threat that the key threatening process in question poses to the survival in nature of species and ecological communities;
 - (b) the potential of species and ecological communities so threatened to recover;
 - (c) the efficient and effective use of the resources allocated to the conservation of species and ecological communities.

- SECT 46

Adoption of draft plans

- (1) The Minister may, by instrument in writing, declare that a specified draft plan prepared by a State or State agency is adopted as a recovery plan, or threat abatement plan, as the case requires.
- (2) If a State or State agency varies a draft plan in respect of which the Minister has previously made a declaration under subsection (1) or this subsection, the Minister may, by instrument in writing, declare that the recovery plan, or threat abatement plan, as the case requires, is taken to be varied accordingly.
- (3) The Minister must not make a declaration under this section unless he or she is satisfied that the draft plan, or the draft plan as varied, complies with the

requirements of section 32 or 34 (whichever is applicable).

- (4) Before making a declaration under this section, the Minister must consider any advice on the draft plan given to the Minister by the Advisory Committee.

- SECT 47

Director to publicise adoption of draft plans

- (1) As soon as practicable after the Minister has made a declaration under section 46, the Director must:
 - (a) take reasonable steps to ensure that copies of the plan in question, or that plan as varied, are available for purchase, for a reasonable price, at each of the offices of the ANPWS and at one or more other places in each State; and
 - (b) cause a notice of the declaration to be published:
 - (i) in the Gazette; and
 - (ii) in a daily newspaper circulating in each State in which occurs the listed native species, listed ecological community or key threatening process to which the plan relates; and
 - (iii) in any other way required by the regulations.
- (2) The notice must:
 - (a) set out a copy of the declaration; and
 - (b) specify the places where copies of the plan, or the plan as varied, may be purchased.

Division 4;General

- SECT 48

Commonwealth assistance for implementation of plans

The Commonwealth may give to any person financial assistance, and any other assistance, for implementation of a plan.

- SECT 49

Reports on preparation and implementation of plans

The Director must prepare, for inclusion in each annual report the Director prepares under section 9 of the Commonwealth Authorities and Companies Act 1997, a report on:

- (a) implementation of plans during the financial year to which the annual report relates; and
- (b) preparation of draft plans by the Director during that year.

Part 4; Conservation agreements

- SECT 50

Outline of this Part

This Part is about:

- (a) conservation agreements between the Commonwealth and persons having interests in Commonwealth areas;
- (b) the effect of conservation agreements;
- (c) the publication of conservation agreements.

- SECT 51

Director may enter into conservation agreements

The Director may, on the Commonwealth's behalf, enter into an agreement, with a person who has an interest in a Commonwealth area, for the conservation and management of:

- (a) any listed native species or listed ecological communities that occur in the Commonwealth area; or

- (b) any areas within the Commonwealth area that are habitats for such species or communities.

Note: Interest in a Commonwealth area is defined in section 9.

- SECT 52
Content of conservation agreements

- (1) A conservation agreement may, for example, provide for all or any of the following:
 - (a) controlling or prohibiting, in any areas to which the agreement applies, activities that may disturb species, ecological communities, habitats or potential habitats that the agreement is intended to conserve;
 - (b) requiring any person bound by the agreement:
 - (i) not to obstruct access by the Director, or any other person authorised by the Director under the agreement, to areas to which the agreement applies for the purpose of monitoring compliance with the agreement; and
 - (ii) to give to the Director, or any person so authorised, any information requested by the Director or person that is under the first-mentioned person's control and is relevant to compliance with the agreement;
 - (c) the Commonwealth giving financial or other assistance to a person bound by the agreement for the purpose of assisting the person to fulfil the person's obligations under the agreement.
- (2) A conservation agreement that obliges the Commonwealth to give financial assistance to a person is subject to appropriation of money by the Parliament for the purpose.

- SECT 53

Conservation agreements to be legally binding

A conservation agreement is binding on:

- (a) the Commonwealth; and
- (b) the person with whom the Director entered into the agreement on the Commonwealth's behalf; and
- (c) any other person who is a successor to the whole or any part of the interest that the person referred to in paragraph (b) had, at the time the agreement was entered into, in the Commonwealth areas to which the agreement applies.

- SECT 54

Publication of conservation agreements

- (1) As soon as practicable after a conservation agreement has been entered into, the Director must:
 - (a) take reasonable steps to ensure that copies of the conservation agreement in question are available for purchase, for a reasonable price, at each of the offices of the ANPWS and at one or more other places in each State; and
 - (b) cause a notice of the agreement to be published:
 - (i) in the Gazette; and
 - (ii) in any other way required by the regulations.
- (2) The notice must:
 - (a) state that the conservation agreement has been entered into; and
 - (b) specify the places where copies of the agreement may be purchased.

- SECT 55

List of conservation agreements

The Director must:

- (a) maintain an up-to-date list of conservation agreements that are in operation; and
- (b) take reasonable steps to ensure that copies of the list are available for purchase, for a reasonable price, at each of the offices of the ANPWS and at one or more other places in each State.

Part 5; Conservation orders

- SECT 56

Outline of this Part

- (1) This Part enables the Minister to make conservation orders.
- (2) Division 1 is about making interim conservation orders that relate to Commonwealth areas.
- (3) Division 2 is about making permanent conservation orders that relate to Commonwealth areas.
- (4) Division 3 is about making impact assessment conservation orders that impose requirements that apply while certain procedures are undertaken under the Environment Protection (Impact of Proposals) Act 1974.

Division 1; Interim conservation orders

- SECT 57

Minister may make interim conservation orders

Subject to section 58, the Minister may, by instrument in writing, make an interim conservation order:

- (a) prohibiting or restricting specified activities on or in:

- (i) all Commonwealth areas; or
 - (ii) specified Commonwealth areas; or
- (b) requiring specified persons to take specified action on or in:
- (i) all Commonwealth areas; or
 - (ii) specified Commonwealth areas.

Note: Section 86 prohibits contraventions of interim conservation orders.

- SECT 58

Limitations on the power to make interim conservation orders

- (1) The Minister must not make an interim conservation order in relation to a matter at a particular time if, at that time, the Minister has the power under Division 3 to make an impact assessment conservation order in relation to the matter that comes into force immediately after it is made.
- (2) The Minister may make an interim conservation order that prohibits, restricts or imposes requirements on an activity that is carried out, or proposed to be carried out, primarily for a commercial purpose only if:
- (a) the Minister has given notice of:
 - (i) his or her intention to make the order; and
 - (ii) the prohibitions, restrictions or requirements in question;
- to each other Minister whose areas of responsibility include a matter that would be affected by such an order; and
- (b) subsection (3) does not apply.
- (3) This subsection applies if:

- (a) a Minister so notified, or another Commonwealth agency, has the power to prohibit, restrict or impose requirements on the activity or proposed activity:
 - (i) within 24 hours of that Minister being so notified; and
 - (ii) to the extent specified under subparagraph (2)(a)(ii); and
- (b) within the 24 hours:
 - (i) that Minister or the other Commonwealth agency exercises the power (whether to the same extent, or to a greater or lesser extent, than the extent specified under subparagraph (2)(a)(ii)), or reaches a decision not to exercise the power; and
 - (ii) that Minister notifies the Minister administering this Act that the power has been exercised or the decision has been reached.
- (4) For the purposes of subsection (2), the commercial purposes referred to in that subsection need not be the commercial purposes of the person carrying out, or proposing to carry out, the activity in question.

- SECT 59

Grounds for making interim conservation orders

- (1) The Minister may only make an interim conservation order if he or she reasonably believes that it is necessary to make the order, on one or more of the following grounds:
 - (a) preventing a listed native species or a listed ecological community from becoming further threatened with extinction as a result of the carrying out of particular activities; or
 - (b) preventing the recovery of a listed native species or

a listed ecological community from being impeded by the carrying out of particular activities; or

- (c) ensuring that particular activities do not have a serious adverse effect on the successful implementation of a recovery plan or a threat abatement plan; or
- (d) ensuring that particular activities do not adversely affect a listed native species or listed ecological community, or habitat significant to the survival of a listed native species or listed ecological community, before an assessment can be made as to whether any other action should be taken under this Act to protect the species, community or habitat.

- (2) For the purposes of paragraph (1)(d), activities affecting the habitat of a listed native species or a listed ecological community are relevant only to the extent that they adversely affect features of the habitat that are significant to the survival of the species or community.

- SECT 60

Consideration of the social and economic impact of interim conservation orders

In considering whether to make an interim conservation order, the Minister must, so far as is practicable, ensure that the prohibitions, restrictions and requirements in the order will, consistent with the principles of ecologically sustainable development, minimise any significant adverse social and economic impacts, while ensuring that they:

- (a) are consistent with furthering the objects of this Act; and
- (b) adequately address themselves to the grounds on which the order is made.

- SECT 61

Procedure for making interim conservation orders

- (1) Before making an interim conservation order, the Minister:
 - (a)

must seek the Director's advice on whether it should be made; and

- (b) may have regard to any advice of the Advisory Committee on whether it should be made.
- (2) The Minister is not required, before making the order, to give notice of his or her intention to make the order to any person who will be affected by the order.
- (3) Subsection (2) does not prevent the Minister from giving such notice if he or she thinks fit.

- SECT 62

Duration of interim conservation orders

- (1) An interim conservation order comes into force:
 - (a) if a commencement day is specified in the order; on that day; or
 - (b) otherwise; immediately after it is made.
- (2) The order remains in force:
 - (a) until:
 - (i) if it prohibits, restricts or imposes requirements on an activity that is carried out, or proposed to be carried out, primarily for a commercial purpose; subject to subsection (3), the end of the period of 28 days after it is made; or
 - (ii) otherwise; the end of the period of 6 months after it is made; or
 - (b) until it is revoked by the Minister under section 65 or subsection 66(2);

whichever happens first.

- (3) The Minister may renew an interim conservation order of the kind referred to in subparagraph (2)(a)(i) for a further period of 28 days if he or she reasonably believes that it is necessary to renew the order on one or more of the grounds referred to in section 59.
- (4) For the purposes of subparagraph (2)(a)(i), the commercial purposes referred to in that subsection need not be the commercial purposes of the person carrying out, or proposing to carry out, the activity in question.

- SECT 63

Publication of interim conservation orders

- (1) As soon as practicable after making an interim conservation order, the Minister must inform the Director that it has been made.
- (2) The Director must, as soon as practicable after being so informed:
 - (a) cause to be published in the Gazette, in a daily newspaper circulating in each State in which are located Commonwealth areas to which the order relates, and in any other way required by the regulations, a notice containing:
 - (i) a copy of the order; and
 - (ii) a statement to the effect that contravention of the order is an offence against this Act; and
 - (iii) a statement to the effect that a person (other than a Commonwealth agency) who is affected by the order may apply to the Minister, within 28 days of the publication (or within such further period as the Minister allows), for a reconsideration of the order by the Minister; and
 - (b) take reasonable steps to ensure that each person who the Director knows would be affected by the order is given a notice containing:

- (i) a copy of the order; and
 - (ii) unless the person is a Commonwealth agency or a State agency; a statement to the effect that contravention of the order is an offence against this Act; and
 - (iii) unless the person is a Commonwealth agency; a statement to the effect that the person may apply to the Minister, within 28 days of being given the notice (or within such further period as the Minister allows), for a reconsideration of the order by the Minister.
- (3) Failure to comply with this section does not affect the validity of the order.

- SECT 64

Application for reconsideration of interim conservation orders

- (1) A person (other than a Commonwealth agency) who is affected by an interim conservation order may apply to the Minister to reconsider the order.
- (2) The application must be in writing.
- (3) Subject to subsection (4), the application must be made within 28 days, or within such further period as the Minister allows, after the publication of a copy of the order under paragraph 63(2)(a).
- (4) If the person is given a copy of the order after that publication, the period of 28 days within which that person must make the application is taken to begin on the day on which the person received the notice.

- SECT 65

Reconsideration of interim conservation orders

- (1) Within one month after receiving such an application, the Minister must:
 - (a)

- seek the Director's advice on the application; and
 - (b) reconsider the order; and
 - (c) by instrument in writing, confirm, revoke or vary the order; and
 - (d) inform the Director accordingly.
- (2) As soon as practicable after being so informed, the Director must:
- (a) notify the applicant in writing of the result of the reconsideration; and
 - (b) if the order is revoked or varied; cause to be published in the Gazette, and in any other way required by the regulations, a notice:
 - (i) stating that the order has been revoked or varied, as the case requires; and
 - (ii) if the order is varied; setting out a copy of the order as so varied.
- (3) The Minister may at any time revoke the order even if an application for its reconsideration has not been made.
- (4) The Minister must not revoke the order under this section unless he or she is satisfied that none of the grounds set out in section 59 apply in relation to the order.
- (5) The Minister must not vary the order unless he or she is satisfied that the order as varied adequately addresses the grounds set out in section 59 that apply in relation to the order at the time of the variation.
- (6) Immediately after a variation of the order, the order continues in force as so varied.

- SECT 66

Director to attempt to enter into conservation agreements

- (1) If the Director is satisfied that the environmental

protections that an interim conservation order gives could be given by one or more appropriate conservation agreements, the Director must take reasonable steps to negotiate and enter into such conservation agreements.

(2)

If:

(a)

the Director has entered into such conservation agreements; and

(b)

the Minister is satisfied that the agreements give the same environmental protections that the order gives;

the Minister must:

(c)

by instrument in writing, revoke the order; and

(d)

inform the Director accordingly.

(3)

As soon as practicable after being so informed, the Director must cause to be published:

(a)

in the Gazette; and

(b)

in any other way required by the regulations;

a notice stating that the order has been revoked.

(4)

In this section:

environmental protection means a protective measure that the order contains relating to any of the following:

(a)

a native species;

(b)

an ecological community;

(c)

habitat of such a species or community;

(d)

a recovery plan;

(e)

a threat abatement plan.

- SECT 67

Assistance for complying with interim conservation orders

- (1) The Director may assist a person (other than a Commonwealth agency) to comply with prohibitions, restrictions or requirements imposed on a person by an interim conservation order.
- (2) The assistance may take any one or more of the following forms:
 - (a) payment of money;
 - (b) provision of goods;
 - (c) provision of labour;
 - (d) provision of other services.
- (3) The value of the assistance must not exceed that which the Director thinks are the reasonable and direct costs of complying with the prohibitions, restrictions or requirements in question.
- (4) Assistance given under this section must be taken into account in determining compensation payable under section 172.

Division 2; Permanent conservation orders

- SECT 68

Minister may make permanent conservation orders

The Minister may, by instrument in writing, make a permanent conservation order:

- (a) prohibiting or restricting specified activities on or in:
 - (i) all Commonwealth areas; or
 - (ii) specified Commonwealth areas; or

- (b) requiring specified persons to take specified action on or in:
 - (i) all Commonwealth areas; or
 - (ii) specified Commonwealth areas.

Note: Section 86 prohibits contraventions of permanent conservation orders.

- SECT 69

Grounds for making permanent conservation orders

- (1) The Minister may only make a permanent conservation order if he or she reasonably believes that it is necessary to make the order on one or more of the following grounds:
 - (a) preventing a listed native species or a listed ecological community from becoming further threatened with extinction as a result of the carrying out of particular activities; or
 - (b) preventing the recovery of a listed native species or a listed ecological community from being impeded by the carrying out of particular activities; or
 - (c) ensuring that particular activities do not have a serious adverse effect on the successful implementation of a recovery plan or a threat abatement plan; or
 - (d) ensuring that particular activities do not adversely affect a listed native species or listed ecological community, or habitat significant to the survival of a listed native species or listed ecological community, before an assessment can be made as to whether any other action should be taken under this Act to protect the species, community or habitat.
- (2) For the purposes of paragraph (1)(d), activities affecting the habitat of a listed native species or a listed ecological community are relevant only to the extent that they adversely affect features of the habitat that are significant to the survival of the species or community.

- SECT 70

Economic and social considerations

In considering whether to make a permanent conservation order, the Minister must be satisfied that such action for the conservation of the listed native species or listed ecological community in question is justified, having regard to economic and social considerations that are consistent with the principles of ecologically sustainable development.

- SECT 71

Procedure for making permanent conservation orders

Before making a permanent conservation order, the Minister:

- (a) must seek the Director's advice on whether it should be made; and
- (b) may have regard to any advice of the Advisory Committee on whether it should be made.

- SECT 72

Duration of permanent conservation orders

- (1) Subject to subsection (2), a permanent conservation order comes into force:
 - (a) if a commencement day is specified in the order; on that day; or
 - (b) otherwise; immediately after it is made.
- (2) If the order overlaps an interim conservation order that is in force, the order:
 - (a) does not come into force if the interim conservation order is revoked under section 65 or subsection 66(2); and

- (b) in any other case; comes into force immediately after the end of the period of 6 months after the interim conservation order was made.
- (3) For the purposes of subsection (2), the order overlaps an interim conservation order if they are the same in relation to:
 - (a) the activities (if any) that they prohibit or restrict; and
 - (b) the persons (if any) on whom they impose requirements; and
 - (c) the Commonwealth areas to which they apply.
- (4) The order remains in force until it is revoked by the Minister.

- SECT 73

Reviews of permanent conservation orders

- (1) The Minister must:
 - (a) at intervals of not more than 5 years, review the permanent conservation order; and
 - (b) after each review, confirm, vary or revoke the order by instrument in writing.
- (2) Before reviewing the order, the Minister must seek the Director's advice on the review.
- (3) The Minister must not revoke the order unless he or she is satisfied that none of the grounds set out in section 69 apply in relation to the order.
- (4) The Minister must not vary the order unless he or she is satisfied that the order as varied adequately addresses the grounds set out in section 69 that apply in relation to the order at the time of the variation.
- (5)

Immediately after a variation of the order, the order continues in force as so varied.

- SECT 74

Publication of permanent conservation orders

- (1) As soon as practicable after making or reviewing a permanent conservation order, the Minister must cause the Director to be informed of the making of the order, or the decision on the review, as the case requires.
- (2) The Director must, as soon as practicable after being so informed:
 - (a) cause to be published in the Gazette, in a daily newspaper circulating in each State in which are located Commonwealth areas to which the order relates, and in any other way required by the regulations, a notice containing:
 - (i) a copy of the order; and
 - (ii) a statement to the effect that contravention of the order is an offence against this Act; and
 - (iii) if applicable, a statement of the decision on the review; and
 - (iv) a statement to the effect that a person (other than a Commonwealth agency) who is affected by the order may apply to the Minister, within 28 days of the publication (or within such further period as the Minister allows), for a reconsideration of the order by the Minister; and
 - (b) take all reasonable steps to ensure that each person who the Director knows would be affected by the order is given a notice containing:
 - (i) a copy of the order; and
 - (ii) if applicable, a statement of the decision on the review; and

(iii) unless the person is a Commonwealth agency or a State agency; a statement to the effect that contravention of the order is an offence against this Act; and

(iv) unless the person is a Commonwealth agency; a statement to the effect that the person may apply to the Minister, within 28 days of being given the notice (or within such further period as the Minister allows), for a reconsideration of the order by the Minister.

(3) Failure to comply with this section does not affect the validity of the order.

- SECT 75

Application for reconsideration of permanent conservation orders or decisions on review

- (1) A person (other than a Commonwealth agency) who is affected by a permanent conservation order, or by the decision on a review of a permanent conservation order, may apply to the Minister to reconsider the order or the decision, as the case requires.
- (2) The application must be in writing.
- (3) Subject to subsection (4), the application must be made within 28 days, or within such further period as the Minister allows, after the publication under paragraph 74(2)(a) of the notice relating to the making of the order or conduct of the review.
- (4) If the person is given a copy of the order after that publication, the period of 28 days within which that person must make the application is taken to commence on the day on which the person received the notice.

- SECT 76

Reconsideration of permanent conservation orders and decisions on review

- (1) Upon receiving the application, the Minister must:
- (a)

- seek the Director's advice on the application; and
 - (b) reconsider the permanent conservation order or the decision on review, as the case requires; and
 - (c) by instrument in writing:
 - (i) confirm, vary or revoke the order; or
 - (ii) confirm or vary the decision on review; and
 - (d) cause the Director to be informed accordingly.
- (2) As soon as practicable after being so informed, the Director must:
- (a) notify the applicant in writing of the result of the reconsideration; and
 - (b) if the order is revoked or varied or the decision on review is varied; cause to be published in the Gazette, and in any other way required by the regulations, a notice:
 - (i) stating that fact; and
 - (ii) in the case of a variation; setting out a copy of the order or decision as so varied.
- (3) Immediately after a variation of the order, the order continues in effect as so varied.

- SECT 77

Assistance in complying with permanent conservation orders

- (1) The Director may assist a person (other than a Commonwealth agency) to comply with prohibitions, restrictions or requirements imposed on a person by a permanent conservation order.
- (2) The assistance may take any one or more of the following forms:

- (a) payment of money;
 - (b) provision of goods;
 - (c) provision of labour;
 - (d) provision of other services.
- (3) The value of the assistance must not exceed that which the Director thinks are the reasonable and direct costs of complying with the prohibitions, restrictions or requirements in question.
- (4) Assistance given under this section must be taken into account in determining compensation payable under section 172.

Division 3; Impact assessment conservation orders

- SECT 78

Application of this Division

This Division applies to:

- (a) a Commonwealth agency that is taking, or proposes to take, action that, under section 5A of the Environment Protection (Impact of Proposals) Act 1974, is taken to be a matter affecting the environment to a significant extent within the meaning of section 5 of that Act; and
- (b) if that action or proposed action involves the Commonwealth agency giving a governmental approval that is required before a particular proposed activity is permitted under the law of the Commonwealth or a Territory; the person proposing to carry out the activity.

- SECT 79

Minister may make impact assessment conservation orders

- (1) The Minister may, by instrument in writing, make an impact

assessment conservation order:

- (a) prohibiting or restricting specified activities by the Commonwealth agency; or
 - (b) requiring the Commonwealth agency to take specified action; or
 - (c) subject to subsection (2), prohibiting or restricting specified activities by a person, being activities that constitute the whole or part of, or are connected with, an activity of the kind referred to in paragraph 78(b) that the person proposes to carry out.
- (2) An order under paragraph (1)(c) must only relate to activities that the Minister is satisfied:
- (a) are proposed to be carried out before the end of the period referred to in paragraph 83(3)(a); and
 - (b) would, if carried out before the end of that period, frustrate the operation of the Environment Protection (Impact of Proposals) Act 1974.

Note: Sections 86 and 100 prohibit contraventions of impact assessment conservation orders.

- SECT 80

Grounds for making impact assessment conservation orders

- (1) The Minister may only make an impact assessment conservation order if he or she reasonably believes that it is necessary to make the order on one or more of the following grounds:
- (a) preventing a listed native species or a listed ecological community from becoming further threatened with extinction as a result of the carrying out of particular activities; or
 - (b) preventing the recovery of a listed native species or a listed ecological community from being impeded by the carrying out of particular activities; or

- (c) ensuring that particular activities do not have a serious adverse effect on the successful implementation of a recovery plan or a threat abatement plan; or
 - (d) ensuring that particular activities do not adversely affect a listed native species or listed ecological community, or habitat significant to the survival of a native listed species or listed ecological community, before an assessment can be made as to whether any other action should be taken under this Act to protect the species, community or habitat.
- (2) For the purposes of paragraph (1)(d), activities affecting the habitat of a listed native species or a listed ecological community are relevant only to the extent that they adversely affect features of the habitat that are significant to the survival of the species or community.

- SECT 81

Consideration of the social and economic impact of impact assessment conservation orders

In considering whether to make an impact assessment conservation order, the Minister must, so far as is practicable, ensure that the prohibitions, restrictions and requirements in the order will, consistent with the principles of ecologically sustainable development, minimise any significant adverse social and economic impacts, while ensuring that they:

- (a) are consistent with furthering the objects of this Act; and
- (b) adequately address themselves to the grounds on which the order is made.

- SECT 82

Procedure for making impact assessment conservation orders

- (1) Before making an impact assessment conservation order, the Minister:

- (a)

must seek the Director's advice on whether it should be made; and

- (b) may have regard to any advice of the Advisory Committee on whether it should be made.
- (2) The Minister is not required, before making the order, to give notice of his or her intention to make the order to any person who will be affected by the order.
- (3) Subsection (2) does not prevent the Minister from giving such notice if he or she thinks fit.

- SECT 83

Duration of impact assessment conservation orders

- (1) Subject to subsection (2), an impact assessment conservation order comes into force:
 - (a) if a commencement day is specified in the order; on that day; or
 - (b) otherwise; immediately after it is made.
- (2) If the day on which the order would come into force under subsection (1) is earlier than the day on which the Department administered by the Minister is notified, under the EPIP administrative procedures, of the proposed action referred to in section 78, the order comes into force on the day the Department is so notified.
- (3) The order remains in force:
 - (a) until the EPIP administrative procedures have been complied with in relation to the proposed action referred to in section 78, except so far as the procedures relate to review of environmental aspects of the proposed action; or
 - (b) the order is revoked by the Minister;

whichever happens first.

- (4)

In this section:

EPIP administrative procedures means the administrative procedures that are in force under section 6 of the Environment Protection (Impact of Proposals) Act 1974.

- SECT 84

Publication of impact assessment conservation orders

- (1) As soon as practicable after making an impact assessment conservation order, the Minister must inform the Director of the making of the order.
- (2) The Director must, as soon as practicable after being so informed:
 - (a) cause to be published in the Gazette, in a daily newspaper circulating in each State in which are located Commonwealth areas to which the order relates, and in any other way required by the regulations, a notice containing a copy of the order; and
 - (b) take reasonable steps to ensure that each Commonwealth agency that the Director knows would be affected by the order is given a copy of the order.
- (3) Failure to comply with this section does not affect the validity of the order.

Part 6; Obligations to protect species etc.

- SECT 85

Outline of this Part

- (1) This Part imposes obligations on persons (particularly Commonwealth agencies) in order to:
 - (a) protect listed native species and listed ecological communities; and
 - (b)

ensure the effectiveness of protective measures adopted under Parts 3 and 5.

- (2) Division 1 imposes obligations on all persons relating to:
 - (a) contravention of conservation orders; and
 - (b) protection of members of listed native species.
- (3) Division 2 provides for the Director, in limited circumstances, to issue permits allowing acts such as the taking of listed native species.
- (4) Division 3 imposes additional obligations on Commonwealth agencies relating to contravention of recovery plans, threat abatement plans and impact assessment conservation orders.
- (5) Division 4 concerns the Minister's role in advising whether proposed actions breach obligations imposed by this Part.
- (6) Division 5 concerns repair of damage caused by breaching of this Act or its protective measures, and liability for the costs of repair.

Division 1; Obligations on persons generally

- SECT 86

Compliance with conservation orders

- (1) A person must not knowingly or recklessly contravene:
 - (a) an interim conservation order; or
 - (b) a permanent conservation order; or
 - (c) an impact assessment order made under paragraph 79(1)(c).

Penalty: \$50,000.

- (2) If a person believes that taking action that he or she

proposes to take may contravene a particular interim conservation order or permanent conservation order, the person may seek the Minister's advice under subsection 104(4) on whether the order would be contravened by taking that action.

- (3) The person does not contravene the order if he or she acts in accordance with advice given to him or her under subsection 104(4) to the effect that the order would not be contravened.

- SECT 87

Taking etc. listed native species

- (1) Subject to subsection (4), a person must not knowingly or recklessly take, trade, keep, or move any member of a listed native species that is in or on a Commonwealth area.

Penalty: \$50,000.

- (2) Subject to subsection (4), a person must not knowingly or recklessly trade, keep or move any member of a listed native species that has been taken in or on a Commonwealth area.

Penalty: \$50,000.

- (3) If a person carries out an activity that results, directly or indirectly, in the taking (otherwise than knowingly or recklessly) of one or more members of a listed native species in or on a Commonwealth area, the person must, as soon as practicable after becoming aware of the taking, give the Director a written notice that:

- (a) informs the Director that the activity resulted in the taking; and
- (b) contains such other particulars relating to the taking (for example, the time and place of the taking) as are specified in the regulations.

Penalty: \$10,000.

- (4)

This section does not apply to an act:

- (a) that is done in accordance with a permit issued by the Director under section 89; or
- (b) that is provided for in a recovery plan or threat abatement plan for the purposes of its implementation; or
- (c) that is done in accordance with a governmental approval given or made under:
 - (i) the Great Barrier Reef Marine Park Act 1975; or
 - (ii) the National Parks and Wildlife Conservation Act 1975; or
 - (iii) the Wildlife Protection (Regulation of Exports and Imports) Act 1982; or
 - (iv) the Whale Protection Act 1980; or
- (d) that is done by a Commonwealth agency or State agency and is reasonably necessary for the purposes of law enforcement.

- (5) In this section:

keep, in relation to a member of a listed native species, means:

- (a) in the case of a species of fauna; have charge or possession of the member of the species either in captivity or in a domesticated state; or
- (b) in the case of a species of flora; have possession of the member of the species.

member of a listed native species includes, in the case of a species of fauna, the whole or part of the dead body of a member of the species.

take includes kill, destroy, damage or collect.

trade includes:

- (a)

buy, agree to receive under an agreement to buy, agree to accept under such an agreement or acquire by barter; or

- (b) sell, offer for sale, agree to sell, have in one's possession for the purpose of sale, deliver for the purpose of sale, receive for the purpose of sale or dispose of by barter for the purpose of gain or advancement; or
- (c) export from Australia or import into Australia; or
- (d) cause or allow any of the acts referred to in paragraph (a), (b) or (c) to be done.

Division 2;Permits for taking etc. listed native species

- SECT 88

Application for permits

- (1) A person may apply in writing to the Director for a permit to be issued under section 89.
- (2) The application may be made:
 - (a) on the applicant's own behalf; or
 - (b) on behalf of one or more other specified persons; or
 - (c) on behalf of the members, from time to time, of a specified group of persons.
- (3) The application:
 - (a) must be in the form prescribed by the regulations; and
 - (b) must be accompanied by the fee prescribed by the regulations.
- (4) The fee prescribed by the regulations must not be such as to amount to taxation.

- SECT 89

Director may issue permits

- (1) Subject to this Division, the Director may, in writing, issue a permit to a person under which:
 - (a) the person or persons on whose behalf the application for the permit was made; or
 - (b) if the application was made on behalf of the members, from time to time, of a specified group of persons; any person who is, at the relevant time, a member of the group of persons specified in the permit;

the person or persons may do the acts specified in the permit without breaching section 87.

- (2) The Director may include in the permit any conditions to which the permit is subject, including (for example) conditions stating the period within which the acts specified in the permit may be done.
- (3) The Director must not issue the permit unless satisfied that the acts specified in the permit:
 - (a) will significantly contribute to the conservation of the listed native species concerned or another listed native species; or
 - (b) are merely incidental to other acts and will not:
 - (i) appreciably reduce the survival or recovery in nature of the listed native species concerned; or
 - (ii) be inconsistent with a recovery plan for the species that is in force; or
 - (c) are of particular significance to Aboriginal or Torres Strait Islander tradition and will not appreciably reduce the survival or recovery in nature of the listed native species concerned; or
 - (d)

are necessary in order to control pathogens and are conducted in a way that will, so far as is practicable, keep to a minimum any impact on the listed native species concerned.

(4)

In this section:

Aboriginal means a member of the Aboriginal race of Australia.

Aboriginal or Torres Strait Islander tradition means the body of traditions, observances, customs and beliefs of Aboriginals and Torres Strait Islanders generally or of a particular group of Aboriginals or Torres Strait Islanders.

Torres Strait Islander means a descendant of an indigenous inhabitant of the Torres Strait Islands.

- SECT 90

Public consultation

(1)

The Director must, at intervals of not more than 12 months, cause to be published in the Gazette and in a national daily newspaper a notice inviting applications from persons or bodies wishing to be registered for receipt of advice on applications for permits.

(2)

The Director must register any person or body that applies in writing for registration.

(3)

Registration has effect for the period specified in the notice.

(4)

As soon as practicable after receiving an application under section 88, the Director must cause a notice of the application to be given to each person registered under this section.

(5)

The notice must:

(a)

state that an application for a permit has been made; and

(b)

set out details of the application; and

(c)

invite persons to make written submissions to the Director about whether a permit should be issued; and

(d)

specify:

- (i) an address for lodgment of submissions; and
 - (ii) a day by which submissions must be lodged.
- (6) The day specified must not be a day occurring within 5 days after the last day on which the notice was given.
- (7) In making a decision on the application, the Director must consider all written submissions made by persons or bodies registered under this section to the Director on or before the day, and at the address for lodgment, specified in the notice.

- SECT 91
Deadline for making a decision

- (1) The Director must:
- (a) decide whether to issue, or refuse to issue, a permit; and
 - (b) inform the applicant, by notice in writing, of the decision;

within 90 days after receiving the application.

- (2) The Director is taken to have made a decision to refuse the application if he or she has not informed the applicant of the decision on the application before the end of the period of 90 days.

- SECT 92
Cancellation of permits

- (1) The Director may cancel a permit if:
- (a) the person to whom the permit was issued is convicted of:

- (i) an offence against section 87; or
 - (ii) an offence against the Wildlife Protection (Regulation of Exports and Imports) Act 1982; or
 - (iii) an offence against section 6, 7 or 7A, or subsection 86(1), of the Crimes Act 1914 that relates to section 87 of this Act or to the Wildlife Protection (Regulation of Exports and Imports) Act 1982; or
- (b) the Director is satisfied that:
- (i) the grounds set out in subsection 89(3) on which the permit was issued no longer apply; and
 - (ii) none of the other grounds set out in subsection 89(3) apply.
- (2) The Director must give written notice of the cancellation to the person to whom the permit was issued.

- SECT 93

Notification of rights to reconsideration

- (1) The notice informing a person of a decision to issue, or refusing to issue, a permit, or a decision cancelling a permit, must contain:
- (a) a statement to the effect that the applicant may apply to the Minister, within 28 days after receiving the notice, for a reconsideration of the decision; and
 - (b) a statement to the effect that, if the applicant has applied for a reconsideration and is dissatisfied with the Minister's decision on that reconsideration, application may, subject to the Administrative Appeals Tribunal Act 1975, be made to the Administrative Appeals Tribunal for review of the decision; and

- (c) a statement to the effect that the applicant may request a statement under section 28 of that Act in relation to the decision on that reconsideration.
- (2) Failure to comply with this section does not affect the validity of the decision.

- SECT 94

Application for reconsideration

- (1) The person given the notice may apply to the Minister to reconsider the Director's decision.
- (2) The application must be in writing.
- (3) The application must be made within 28 days, or such further period as the Minister allows, after the applicant received notice of the decision.

- SECT 95

Reconsideration of decisions

- (1) Upon receiving the application for reconsideration, the Minister must:
 - (a) reconsider the decision; and
 - (b) by instrument in writing:
 - (i) if the decision is to refuse to issue a permit; confirm the decision, or vary the decision and direct the Director to issue a permit in the terms specified by the Minister; or
 - (ii) if the decision is to issue a permit; confirm the decision, or vary the decision and direct the Director to issue a fresh permit in the terms specified by the Minister; or
 - (iii)

if the decision is to cancel a permit; confirm or revoke the decision.

- (2) In reconsidering the decision, the Minister is to have regard to the grounds set out in subsection 89(3) for issuing a permit.
- (3) The Minister must not, under subparagraph (1)(a)(ii), vary a decision in a way that makes it less favourable to the applicant, unless the Minister is satisfied that changes in the circumstances under which the permit was issued have made such a variation necessary.
- (4) As soon as practicable after being so informed, the Director must:
 - (a) notify the applicant in writing of the result of the reconsideration; and
 - (b) if a decision to issue, or refusing to issue, a permit is varied; issue a permit, or fresh permit, as directed.
- (5) The notice under paragraph (4)(a) must include:
 - (a) a statement to the effect that, if the applicant is dissatisfied with the decision on that reconsideration, application may, subject to the Administrative Appeals Tribunal Act 1975, be made to the Administrative Appeals Tribunal for review of the decision; and
 - (b) a statement to the effect that the applicant may request a statement under section 28 of that Act in relation to the decision on that reconsideration.
- (6) Failure to comply with subsection (5) does not affect the validity of the decision on the reconsideration.
- (7) If the applicant is not notified of the result of the reconsideration within the period of 28 days after the Minister received the application, the Minister is taken, at the end of that period, to have confirmed the decision on the application.

- SECT 96

Review by the Administrative Appeals Tribunal

Applications may be made to the Administrative Appeals Tribunal to review:

- (a) a decision to issue, or refusing to issue, a permit;
or
- (b) a decision cancelling a permit;

if the Minister has confirmed or varied the decision under subsection 95(1).

- SECT 97

Surrender of permits

- (1) A person to whom a permit was issued may, at any time, surrender the permit by:
 - (a) returning the permit to the Director; and
 - (b) giving the Director written notice that the permit is surrendered.
- (2) The surrender of the permit takes effect (unless the permit is sooner cancelled):
 - (a) if a day of effect is stated in the notice; at the end of that day; or
 - (b) otherwise; at the end of the day on which the notice is given.

- SECT 98

Publication of permit details etc.

The Director must give to any person who so requests written details of:

- (a)

- permits that have been issued; and
- (b) applications for permits that have been refused.

Division 3; Additional obligations of Commonwealth agencies

- SECT 99

Compliance with recovery plans and threat abatement plans

Subject to section 101, a Commonwealth agency must not take any action that contravenes a recovery plan or threat abatement plan.

- SECT 100

Compliance with impact assessment conservation orders

Subject to section 101, a Commonwealth agency must not take any action that contravenes an impact assessment conservation order made under paragraph 79(1)(a) or (b).

- SECT 101

Effect of Minister's advice on proposed actions etc.

A Commonwealth agency does not contravene section 99 or 100 if it acts in accordance with advice given to it by the Minister under subsection 104(4) to the effect that the section would not be contravened.

- SECT 102

Commonwealth agencies to have regard to certain State laws

If a law of a State relating to protection of native species or ecological communities, or the habitats of such species or communities, does not apply to a Commonwealth agency solely because it is a Commonwealth agency, the Commonwealth agency must, in taking any action or making any decision, have regard to the desirability of complying with the requirements of that law.

Division 4; Consideration by the Minister of proposed actions etc.

- SECT 103

Commonwealth agencies to seek advice on proposed actions etc.

- (1) If a Commonwealth agency (other than the Minister) believes that action that it proposes to take may be action to which section 99 or 100 applies, the Commonwealth agency must notify the Minister in writing of the proposed action and the grounds for its belief.
- (2) The Commonwealth agency must not take the action before it receives the Minister's advice under subsection 104(4).

- SECT 104

Minister to consider proposed actions etc.

- (1) This section applies to a proposed action if:
 - (a) the Minister is notified of it under section 103; or
 - (b) without being so notified, the Minister forms the opinion that section 99 or 100 applies to the proposed action; or
 - (c) it is referred to the Minister under section 86 for the Minister's advice on whether it would contravene an interim conservation order, permanent conservation order or impact assessment conservation order.
- (2) If this section applies to a proposed action because of the operation of paragraph (1)(b), the Minister must, in writing, notify the Commonwealth agency that proposes to take the action of the Minister's intention to refer the matter to the Director under paragraph (4)(a).
- (3) A person who proposes to take the action may make written submissions to the Minister about the proposed action.
- (4) The Minister must:
 - (a) refer the proposed action, together with any submissions received by the Minister about the proposed action, to the Director; and

- (b) after considering the Director's advice on the matter, give to:
 - (i) the Commonwealth agency concerned, and any person who made submissions; or
 - (ii) the person who sought the Minister's advice under section 86;

as the case requires, a written notice of the Minister's advice on the proposed action.

- SECT 105
Contents of notices of advice

- (1) The notice of advice must state whether the Minister thinks that:
 - (a) section 99 or 100 applies to the proposed action; or
 - (b) the proposed action would contravene an interim conservation order or a permanent conservation order;

whichever is applicable.

- (2) If the notice of advice is given to a person who is not a Commonwealth agency, it must include:
 - (a) a statement to the effect that, if the person is dissatisfied with the Minister's decision to give that advice, application may, subject to the Administrative Appeals Tribunal Act 1975, be made to the Administrative Appeals Tribunal for review of the decision; and
 - (b) a statement to the effect that the person may request a statement under section 28 of that Act in relation to the decision.

- SECT 106
Review by the Administrative Appeals Tribunal

- (1) Applications may be made to the Administrative Appeals Tribunal for review of the Minister's decision to give the advice.
- (2) Despite section 27 of the Administrative Appeals Tribunal Act 1975, applications are not to be made by or on behalf of Commonwealth agencies.

Division 5; Repair of damage to species etc.

- SECT 107

Repair of damage

- (1) If the Director suspects that an act or omission constitutes an offence against this Act, or a breach of a recovery plan, threat abatement plan or conservation agreement, the Director may cause to be taken such steps as the Director thinks proper:
 - (a) to repair or remove any condition arising from that act or omission; or
 - (b) to mitigate any damage arising from that act or omission; or
 - (c) to prevent any damage likely to arise from that act or omission.
- (2) This section does not authorise anything to be done outside a Commonwealth area unless it affects the Commonwealth area.
- (3) Nothing in this section affects the exercise by the Commonwealth or the Director of powers under another provision of this Act or under any other law.

- SECT 108

Liability for expenses incurred by the Commonwealth

- (1) Subject to this section, if:

- (a) a person has been convicted of an offence against this Act; and
- (b) the Commonwealth or the Director has incurred expenses or other liabilities in relation to rectifying the act or omission constituting the offence;

the person convicted is liable to pay to the Commonwealth or to the Director, as the case requires, an amount equal to the total amount of those expenses or liabilities.

- (2) If 2 or more persons would be liable to pay an amount under subsection (1) in respect of the same expenses or liabilities, those persons are jointly and severally liable to pay the total amount.
- (3) If the total amount of expenses or liabilities incurred by the Commonwealth or the Director exceeds an amount that was reasonable in the circumstances, a person is not liable under this section to pay the amount of the excess.
- (4) A reference in this section to rectifying an act or omission is a reference to the taking of steps (whether in the exercise of powers conferred by section 107, by any provision of this Act or by another law):
 - (a) to repair or remove any condition arising from that act or omission; or
 - (b) to mitigate any damage arising from that act or omission; or
 - (c) to prevent any damage likely to arise from that act or omission.

- SECT 109
Ancillary offences

If a person is convicted of an offence against this Act because of the application of section 5, 6, 7 or 7A, or subsection 86(1), of the Crimes Act 1914 in relation to a contravention or possible contravention of this Act, section 108 of this Act has effect as if the reference in paragraph 108(1)(b) to an offence were a reference to the contravention or possible contravention to which the

offence relates.

- SECT 110

Court may order convicted persons to pay amounts

If a person is convicted before a court of an offence against this Act, the court may (whether or not it has imposed a penalty on the person) order the person to pay an amount that the person is liable to pay under section 108.

- SECT 111

Enforcement of orders for payment

(1)

If the court that made the order has civil jurisdiction to the extent of the amount, the order is enforceable in all respects as a final judgment of the court in favour of the Commonwealth or the Director, as the case requires.

(2)

If the court that made the order:

(a)

does not have civil jurisdiction; or

(b)

has civil jurisdiction, but not to the extent of the amount;

a proper officer of the court must issue to the Minister or the Director, as the case requires, a certificate in the prescribed form containing the prescribed particulars.

(3)

The certificate may, in a prescribed manner and subject to the prescribed conditions (if any), be registered in a court having civil jurisdiction to the extent of the amount ordered to be paid to the Commonwealth or the Director, as the case requires.

(4)

Upon registration under subsection (3), the certificate is enforceable in all respects as a final judgment of the court in favour of the Commonwealth or the Director, as the case requires.

(5)

Subject to the prescribed conditions (if any), the cost of registration of the certificate and other proceedings under this section are taken to be payable under the certificate.

- SECT 112

Further orders relating to the same act or omission

Making an order under section 110 in respect of an expense or liability incurred in relation to rectifying an act or omission does not prevent the making of an order under section 110 in respect of another expense or liability incurred in relation to rectifying that act or omission.

Part 7; Administration and enforcement

- SECT 113

Outline of this Part

- (1) This Part is about the administration of this Act, and confers certain powers of enforcement to ensure compliance with this Act.
- (2) Division 1 is about the administrative responsibilities of the Director of the ANPWS.
- (3) Division 2 enables officers to investigate offences under this Act.
- (4) Division 3 enables the Federal Court, on the application of the Director or interested persons, to grant injunctions about contraventions of this Act.

Division 1; Administration

- SECT 114

General administration of Act

The Director has the general administration of this Act.

- SECT 115

Additional functions of Director

In addition to the functions of the Director under section 16 of

the National Parks and Wildlife Services Act 1975, the Director has such additional functions as are conferred on the Director under this Act.

- SECT 116
Delegation

Subject to any directions of the Minister, the Director may, by written instrument, delegate to a staff member of the ANPWS all or any of the Director's powers under this Act.

- SECT 117
Consultation with the Great Barrier Reef Marine Park Authority

The Director must not perform any functions or exercise any powers under this Act in a part of the Great Barrier Reef Marine Park without first consulting the Great Barrier Reef Marine Park Authority.

Division 2; Powers of officers

- SECT 118
Interpretation

In this Division, unless the contrary intention appears:

aircraft means a machine or apparatus that can derive support in the atmosphere from the reactions of the air or from buoyancy, but does not include a hovercraft.

animal means any member, alive or dead, of the animal kingdom (other than a human being), and includes:

- (a) eggs or parts of eggs; and
- (b) the skin, feathers, horns, flesh or any other part of such an animal.

article includes a substance or a mixture of substances.

Australian aircraft means an aircraft that is in Australian control or is registered under the Air Navigation Regulations as an Australian aircraft.

Australian national means:

- (a)

- an Australian citizen; or
- (b) a body corporate established by or under a law of the Commonwealth or of a State or Territory.

Australian vessel means a vessel that is registered under the Shipping Registration Act 1981.

foreign vessel means a vessel other than an Australian vessel.

hovercraft means a vehicle designed to be supported on a cushion of air.

identity card in relation to an officer who is not a member of a police force, means an identity card issued to the officer under:

- (a) section 39 of the National Parks and Wildlife Conservation Act 1975; or
- (b) section 45 of the Great Barrier Reef Marine Park Act 1975.

in Australian control means in the control or possession of one or more of any of the following:

- (a) the Commonwealth (including an arm of the Defence Force) or a State or Territory;
- (b) a corporation established for a public purpose by or under a law of the Commonwealth or of a State or Territory;
- (c) a company or other body corporate incorporated under a law of a State or Territory, being a company or other body corporate in which the Commonwealth has a controlling interest.

officer means a person who is:

- (a) a warden for the purposes of the National Parks and Wildlife Conservation Act 1975; or
- (b) an inspector for the purposes of the Great Barrier Reef Marine Park Act 1975, other than a person who may only exercise powers under Part VIIA of that Act.

plant means any member, alive or dead, of the plant kingdom or of the fungus kingdom, and includes seeds and parts of a plant.

seize includes secure against interference.
vehicle includes a hovercraft.
vessel means a ship, boat, raft or pontoon or any other thing capable of carrying persons or goods through or on water, but does not include a hovercraft.

- SECT 119
Extent of powers

- (1) The powers conferred by this Division may be exercised anywhere within or outside Australia in relation to:
 - (a) Australian nationals; or
 - (b) Australian aircraft and Australian vessels; or
 - (c) the members of the crew (including persons in charge) of Australian aircraft and Australian vessels.

- (2) Subject to this section, the powers conferred by this Division may be exercised (other than in relation to a person, aircraft or vessel of a kind mentioned in subsection (1)) anywhere:
 - (a) in Australia; or
 - (b) on or in the Australian coastal sea; or
 - (c) on, or in the waters above, the continental shelf of Australia; or
 - (d) on or in the Australian fishing zone.

- (3) On, or in the waters above, the continental shelf of Australia, the powers conferred by this Division may only be exercised, as provided for in subsection (2), in relation to an offence against this Act committed:
 - (a) on, or in the waters above, the continental shelf of Australia; or
 - (b) in a park, reserve or conservation zone declared under section 7 or 8A of the National Parks and

Wildlife Conservation Act 1975.

- (4) On or in the Australian fishing zone, the powers conferred by this Division may only be exercised, as provided for in subsection (2), in relation to an offence against this Act committed on or in the Australian fishing zone.
- (5) Nothing in subsection (2), (3) or (4) affects the operation of section 128.

- SECT 120

Arrest without warrant

- (1) An officer may, without warrant, arrest a person if the officer has reasonable grounds to believe:
 - (a) that the person has committed an offence against this Act; and
 - (b) that proceedings against the person by summons would not be effective.
- (2) An officer (other than a member of a police force who is in uniform) who arrests a person under subsection (1) must:
 - (a) in the case of a member of a police force; produce, for inspection by the person, written evidence of the fact that the officer is a member of a police force; or
 - (b) in any other case; produce the officer's identity card for inspection by the person.
- (3) Nothing in this section prevents the arrest of a person under any other law.

- SECT 121

Confiscation and forfeiture

- (1)

If a court convicts a person of an offence against this Act, the court may order the forfeiture to the Commonwealth of any vehicle, aircraft, vessel or article used or otherwise involved in the commission of the offence.

- (2) In considering whether it is appropriate to make such an order in respect of a vehicle, aircraft, vessel or article, the court may have regard to:
 - (a) any hardship that may reasonably be expected to be caused to any person by the operation of such an order; and
 - (b) the use that is ordinarily made, or was intended to be made, of the vehicle, aircraft, vessel or article; and
 - (c) the gravity of the offence concerned.
- (3) An officer may:
 - (a) seize any vehicle, aircraft, vessel or article that the officer reasonably believes to have been used or otherwise involved in the commission of an offence against this Act; and
 - (b) retain it until:
 - (i) the end of the period of 60 days after the seizure; or
 - (ii) if proceedings for an offence against this Act in the commission of which it may have been used or otherwise involved are instituted within that period; the proceedings (including any appeal to a court in relation to those proceedings) are completed.
- (4) The Director may authorise a vehicle, aircraft, vessel or article seized under subsection (3) to be released to its owner, or to the person from whose possession it was seized, either:
 - (a) unconditionally; or

- (b) on such conditions as the Director thinks fit, including conditions as to giving security for payment of its value if it is forfeited.
- (5) A vehicle, aircraft, vessel or article forfeited under this section may be sold or otherwise disposed of as the Director thinks fit.
- (6) An officer may seize:
 - (a) any animal or plant that the officer reasonably believes to have been killed or taken in contravention of this Act; or
 - (b) any animal or plant that the officer reasonably believes to have been used or otherwise involved in the commission of an offence against this Act.
- (7) If an animal or plant has been seized under subsection (6), the Director may cause it to be:
 - (a) retained; or
 - (b) sold or otherwise disposed of.
- (8) If an animal or plant seized under subsection (6) was not killed or taken in contravention of this Act or used or otherwise involved in the commission of an offence against this Act, any person who has suffered loss or damage because of the seizure is entitled to reasonable compensation.

- SECT 122

Searches of vehicles, aircraft and vessels

- (1) This section applies in relation to a vehicle, aircraft or vessel if:
 - (a) an officer believes on reasonable grounds that there is in or on the vehicle, aircraft or vessel:

- (i) anything in respect of which an offence against this Act has been committed; or
 - (ii) anything that may afford evidence about the commission of an offence against this Act; or
 - (b) the vehicle, aircraft or vessel is in a Commonwealth area in which an interim conservation order or a permanent conservation order is in force, and a search of the vehicle, aircraft or vessel is reasonably necessary for the purpose of ascertaining whether there is in that vehicle, aircraft or vessel:
 - (i) anything in respect of which an offence against this Act has been committed; or
 - (ii) anything that may afford evidence about the commission of an offence against this Act.
- (2) The officer may:
- (a) stop and detain the vehicle or vessel, or detain the aircraft, as the case requires; and
 - (b) search the vehicle, aircraft or vessel; and
 - (c) break open and search any compartment, container or other receptacle, in or on the vehicle, vessel or aircraft, in which the officer suspects on reasonable grounds there to be anything of a kind referred to in subsection (1); and
 - (d) examine and seize:
 - (i) anything in respect of which the officer suspects on reasonable grounds an offence against this Act has been committed; or
 - (ii) anything that the officer suspects on reasonable grounds may afford evidence about the commission of an offence against this Act.
- (3) An officer (other than a member of a police force who is in uniform) who stops or proposes to search or detain a

vehicle, aircraft or vessel must:

- (a) in the case of a member of a police force; produce, for inspection by the person in charge of the vehicle, aircraft or vessel, written evidence of the fact that the officer is a member of a police force; or
- (b) in any other case; produce the officer's identity card for inspection by the person;

and, if the officer fails to do so, he or she is not authorised to search or detain the vehicle, aircraft or vessel.

- SECT 123

Searches of land and premises

- (1) This section applies in relation to land or premises if:
 - (a) an officer suspects on reasonable grounds that there is on the land or premises:
 - (i) anything in respect of which an offence against this Act has been committed; or
 - (ii) anything that may afford evidence about the commission of an offence against this Act; or
 - (b) the land or premises are in a Commonwealth area in which an interim conservation order or a permanent conservation order is in force, and a search of the land or premises is reasonably necessary for the purpose of ascertaining whether there is on the land or premises:
 - (i) anything in respect of which an offence against this Act has been committed; or
 - (ii) anything that may afford evidence about the commission of an offence against this Act.
- (2) The officer may, with the consent of the owner or occupier

of the land or premises or under a warrant issued under section 124:

- (a) enter the land or premises; and
 - (b) search the land or premises; and
 - (c) break open and search a cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, in which the officer suspects on reasonable grounds there to be anything of a kind referred to in subsection (1); and
 - (d) examine and seize:
 - (i) anything in respect of which the officer suspects on reasonable grounds an offence against this Act has been committed; or
 - (ii) anything that the officer suspects on reasonable grounds may afford evidence about the commission of an offence against this Act.
- (3) An officer (other than a member of a police force who is in uniform) who proposes to enter land or premises under subsection (2) must:
- (a) in the case of a member of a police force; produce, for inspection by the owner or occupier of the land or premises, written evidence of the fact that the officer is a member of a police force; or
 - (b) in any other case; produce the officer's identity card for inspection by the owner or occupier;

and, if the officer fails to do so, he or she is not authorised to enter the land or premises.

- (4) If the entry is under a warrant issued under section 124, the officer is taken not to have complied with subsection (3), unless he or she also produces the warrant for inspection by the owner or occupier.

- SECT 124

Warrants for searches of land or premises

(1)

If:

(a)

an information on oath is laid before a magistrate alleging that an officer suspects on reasonable grounds that there may be, in or on land or premises:

(i)

anything in respect of which an offence against this Act has been committed; or

(ii)

anything that may afford evidence about the commission of an offence against this Act; and

(b)

the information sets out those grounds;

the magistrate may issue a search warrant authorising an officer named in the warrant, with such assistance, and by such force, as is necessary and reasonable, to enter the premises and exercise the powers referred to in paragraphs 123(2)(b), (c) and (d) in respect of the thing.

(2)

The magistrate must not issue the warrant unless:

(a)

the informant or some other person has given to the magistrate, either orally or by affidavit, such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought; and

(b)

the magistrate is satisfied that there are reasonable grounds for issuing the warrant.

(3)

There must be stated in the warrant:

(a)

the purpose for which the warrant is issued, and the nature of the offence in relation to which the entry and search are authorised; and

(b)

whether entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and

- (c) a description of the kind of things to be seized; and
 - (d) a day, not later than 7 days after the day of issue of the warrant, upon which the warrant ceases to have effect.
- (4) If, in the course of searching, under the warrant, for a particular thing in relation to a particular offence, an officer finds a thing that the officer believes on reasonable grounds to be:
- (a) a thing that will afford evidence about the commission of the offence, although not the thing specified in the warrant; or
 - (b) a thing that will afford evidence about the commission of another offence under this Act;

and the officer believes, on reasonable grounds, that it is necessary to seize that thing in order to prevent its concealment, loss or destruction, or its use in committing, continuing or repeating the offence or the other offence, the warrant is taken to authorise the officer to seize that thing.

- SECT 125

Warrants may be granted by telephone etc.

- (1) If, because of circumstances of urgency, an officer thinks it necessary to do so, the officer may apply for a warrant under subsection 123(1) by telephone, telex, fax or other electronic means under this section.
- (2) Before applying, the officer must prepare an information of a kind referred to in subsection 124(1) that sets out the grounds on which the issue of the warrant is being sought, but may, if it is necessary to do so, make the application before the information has been sworn.
- (3) If the magistrate to whom an application under subsection (1) is made is satisfied:
 - (a) after having considered the terms of the information prepared under subsection (2); and
 - (b)

after having received such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought;

that there are reasonable grounds for issuing the warrant, the magistrate must complete and sign such a search warrant as the magistrate would issue under section 124 if the application had been made under that section.

- (4) If the magistrate signs a warrant under subsection (3):
 - (a) the magistrate must:
 - (i) inform the officer of the terms of the warrant;
and
 - (ii) inform the officer of the day on which and the time at which the warrant was signed; and
 - (iii) inform the officer of the day (not more than 7 days after the magistrate completes and signs the warrant) on which the warrant ceases to have effect; and
 - (iv) record on the warrant the reasons for issuing the warrant; and
 - (b) the officer must:
 - (i) complete a form of warrant in the same terms as the warrant completed and signed by the magistrate; and
 - (ii) write on it the magistrate's name and the day on which and the time at which the warrant was signed.
- (5) The officer must, not later than the day after the date of expiry or execution of the warrant, whichever is the earlier, send to the magistrate:
 - (a) the form of warrant completed by the officer; and
 - (b)

the information duly sworn in connection with the warrant.

(6) Upon receiving the documents referred to in subsection (5), the magistrate must:

- (a) attach to them the warrant signed by the magistrate; and
- (b) deal with the documents in the way in which the magistrate would have dealt with the information if the application for the warrant had been made under section 124.

(7) A form of warrant duly completed by an inspector under subsection (4) is, if it is in accordance with the terms of the warrant signed by the magistrate, authority for any entry, search, seizure or other exercise of a power that the warrant so signed authorises.

(8) If:

- (a) it is material, in any proceedings, for a court to be satisfied that an entry, search, seizure or other exercise of power was authorised in accordance with this section; and
- (b) the warrant signed by a magistrate under this section authorising the entry, search, seizure or other exercise of power is not produced in evidence;

the court is to assume, unless the contrary is proved, that the entry, search, seizure or other exercise of power was not authorised by such a warrant.

- SECT 126
Retention of things seized

(1) If an officer seizes a thing under paragraph 122(2)(d) or 123(2)(d), the officer may retain it until:

- (a) the end of the period of 60 days after the seizure; or

- (b) if proceedings for an offence against this Act in the commission of which it may have been used or otherwise involved, or in respect of which it may afford evidence, are instituted within that period; until the proceedings (including any appeal to a court in relation to those proceedings) are completed.
- (2) The Director may authorise a thing seized under paragraph 122(2)(d) or 123(2)(d) to be released to the owner, or to the person from whose possession it was seized, either:
 - (a) unconditionally; or
 - (b) on such conditions as the Director thinks fit, including conditions as to giving security for payment of its value if it is forfeited.

- SECT 127

Officers may require certain information

- (1) An officer who:
 - (a) detains or searches a vehicle, aircraft or vessel under section 122; or
 - (b) enters or searches land or premises under section 123;may require a person found in or on the vehicle, aircraft or vessel, or on the land or premises, to state the person's full name and address.
- (2) An officer who detains or searches a vessel under section 122 may require the person in charge of the vessel to give the officer such information concerning:
 - (a) the vessel and its crew; and
 - (b) any person on board the vessel;

as the officer requests.

(3) If an officer (other than a member of a police force who is in uniform) makes a requirement of a person under this section, the officer must:

- (a) in the case of a member of the police force; produce, for inspection by that person, written evidence of the fact that the officer is a member of a police force; or
- (b) in any other case; produce the officer's identity card for inspection by that person;

and, if the officer fails to do so, that person is not obliged to comply with the requirement.

- SECT 128

Power to pursue persons and vessels

- (1) An officer may exercise, in relation to foreign vessels and foreign nationals in any place, but not within the territorial sea of another country, a power conferred on the officer under section 122 if:
 - (a) one or more officers (whether or not including the officer exercising the power) have pursued the person or vessel from a place within one of the areas referred to in subsection 119(2) to such a place; and
 - (b) the pursuit was not terminated or interrupted at any time before the officer concerned arrived at such a place with a view to exercising that power.
- (2) For the purposes of paragraph (1)(b), a pursuit of a person or vessel is not taken to be terminated or interrupted only because the officer or officers concerned lose sight of the person or vessel.
- (3) A reference in subsection (2) to losing sight of a person or vessel includes a reference to losing output from a radar or other sensing device.

- SECT 129
Obstruction of officers etc.

A person must not:

- (a) without reasonable excuse, refuse or fail to comply with a requirement made by an officer in the exercise of powers under section 127; or
- (b) state a false name and address, or give false information, to an officer when lawfully required by the officer, in the exercise of powers under section 127, to state the person's full name and address, or to give information, to the officer.

Penalty: Imprisonment for 6 months.

Division 3;Injunctions

- SECT 130
Injunctions granted on the application of the Director

- (1) If a person (other than a Commonwealth agency) has engaged, is engaging or is proposing to engage in any conduct in contravention of this Act, the Federal Court may, on the application of the Director grant an injunction:
 - (a) restraining the person from engaging in the conduct; and
 - (b) if in the court's opinion it is desirable to do so;requiring the person to do something.
- (2) If:
 - (a) a person (other than a Commonwealth agency) has refused or failed, or is refusing or failing, or is proposing to refuse or fail, to do something; and
 - (b) the refusal or failure was, is or would be a contravention of this Act;

the Federal Court may, on the application of the Director, grant an

injunction requiring the person to do it.

- SECT 131

Injunctions granted on the application of interested persons

(1)

If the Minister or the Director has engaged, is engaging or is proposing to engage in any conduct in contravention of this Act (other than Part 2 or Division 2 of Part 5), the Federal Court may, on the application of an interested person:

(a)

grant an injunction restraining the Minister or the Director from engaging in the conduct; and

(b)

if in the court's opinion it is desirable to do so; require the Commonwealth agency to do something.

(2)

If:

(a)

the Minister or the Director has refused or failed, or is refusing or failing, or is proposing to refuse or fail, to do something; and

(b)

the refusal or failure was, is or would be a contravention of this Act (other than Part 2);

the Federal Court may, on the application of an interested person, grant an injunction requiring the Minister or the Director to do it.

(3)

In this section:

interested person means:

(a)

a person who has engaged in a series of activities relating to the protection or conservation of, or research into, listed native species or listed ecological communities; or

(b)

subject to subsection (4), an organisation or association (whether incorporated or not) whose objects or purposes include, and whose activities relate to, the protection or conservation of, or

research into, listed native species or listed ecological communities.

- (4) Paragraph (3)(b) does not apply to an application if it relates to something done:
- (a) before the organisation or association was formed; or
 - (b) before the objects or purposes of the organisation or association included the matter concerned; or
 - (c) before the organisation or association engaged in activities relating to the matter concerned.

- SECT 132
Interim injunctions

- (1) If an application is made to the court for an injunction under section 130 or 131, the court may, before considering the application, grant an interim injunction restraining a person or a Commonwealth agency from engaging in the conduct of a kind referred to in those sections.
- (2) The court is not to require an applicant for an injunction under section 130, as a condition of granting an interim injunction, to give any undertakings as to damages.

- SECT 133
Discharge etc. of injunctions

The court may discharge or vary an injunction granted under this Division.

- SECT 134
Certain limits on granting injunctions not to apply

- (1) The power of the court under this Division to grant an injunction restraining a person or Commonwealth agency from engaging in conduct of a particular kind may be exercised:

- (a) if the court is satisfied that the person or Commonwealth agency has engaged in conduct of that kind; whether or not it appears to the court that the person or Commonwealth agency intends to engage again, or to continue to engage, in conduct of that kind; or
 - (b) if it appears to the court that, if an injunction is not granted, it is likely that the person or Commonwealth agency will engage in conduct of that kind; whether the person or Commonwealth agency has previously engaged in conduct of that kind and whether or not there is an imminent danger of substantial damage to any person if the person or Commonwealth agency engages in conduct of that kind.
- (2) The power of the court to grant an injunction requiring a person or Commonwealth agency to do a something may be exercised:
- (a) if the court is satisfied that the person or Commonwealth agency has refused or failed to do it; whether or not it appears to the court that the person or Commonwealth agency intends to refuse or fail again, or to continue to refuse or fail, to do it; or
 - (b) if it appears to the court that, if an injunction is not granted, it is likely that the person or Commonwealth agency will refuse or fail to do it; whether or not the person or Commonwealth agency has previously refused or failed to do it and whether or not there is an imminent danger of substantial damage to any person if the person or Commonwealth agency refuses or fails to do it.

- SECT 135
Other powers of the court unaffected

The powers conferred on the court under this Division are in addition to, and not in derogation of, any other powers of the court, whether conferred by this Act or otherwise.

Part 8; The Endangered Species Advisory Committee and the Endangered Species Scientific Subcommittee

- SECT 136

Outline of this Part

- (1) This Part establishes, and describes the functions, membership and operation of, the Endangered Species Advisory Committee and the Endangered Species Scientific Subcommittee.
- (2) Division 1 establishes the Endangered Species Advisory Committee and sets out its functions.
- (3) Division 2 is about the membership of the Advisory Committee.
- (4) Division 3 is about meetings of the Advisory Committee.
- (5) Division 4 establishes the Endangered Species Scientific Subcommittee and sets out its functions, membership and operation.
- (6) Division 5 is about review of the Act's operation, and assistance to the Committees.

Division 1; Establishment and functions of the Endangered Species Advisory Committee

- SECT 137

Establishment

The Endangered Species Advisory Committee is established.

- SECT 138

Functions

The functions of the Advisory Committee are:

- (a) to advise the Minister on any measures that the Commonwealth should take in order to comply with its obligations under this Act; and
- (b) to advise the Minister under section 37 on the times

within which, and the order within which, draft recovery plans and draft threat abatement plans should be prepared; and

- (c) to comment on draft recovery plans and draft threat abatement plans given to the Advisory Committee under paragraph 39(1)(b); and
- (d) to give the Minister such other advice as is provided for by this Act; and
- (f) to perform such other functions as are conferred on the Advisory Committee by this Act or any other Act.

Division 2; Membership of the Advisory Committee

- SECT 139 Constitution

- (1) The Advisory Committee consists of such number of members, not being fewer than 10, as the Minister from time to time determines.
- (2) Subject to section 151, the performance of a function of the Advisory Committee is not affected by a vacancy or vacancies in the Advisory Committee's membership.
- (3) The performance of a function of the Advisory Committee is not affected by the fact that the Advisory Committee's membership does not include any members who are appointed to represent a particular body, group of bodies or community referred to in subsection 140(2).

- SECT 140 Appointment of members

- (1) Members are to be appointed by the Minister.
- (2) The Minister must ensure that the membership includes members who are appointed to represent the following:
 - (a) the body known as the Australian and New Zealand Environment and Conservation Council;
 - (b)

- conservation organisations that are not authorities of the Commonwealth or of any State or Territory;
 - (c) the scientific community (including both that part of the scientific community concerned with marine species and that part of the scientific community concerned with terrestrial species);
 - (d) the rural community;
 - (e) the business community;
 - (f) the Commonwealth.
- (3) The Minister must ensure that, as far as practicable, each one of at least 5 members:
- (a) possesses scientific qualifications that the Minister thinks relevant to the performance of the Advisory Committee's functions; and
 - (b) is appointed to represent the scientific community and is not appointed to represent any of the other bodies, groups of bodies or communities referred to in subsection (2).
- (4) The Minister must ensure that a majority of the members are not persons employed by the Commonwealth or Commonwealth agencies.

- SECT 141
Chairperson

- (1) Subject to subsection (2), the Minister must appoint as the Chairperson of the Advisory Committee one of the members who possesses scientific qualifications that the Minister thinks relevant to the performance of the Advisory Committee's functions.
- (2) The Minister must not appoint as the Chairperson a member who is employed by the Commonwealth or a Commonwealth agency.
- (3) Subject to subsection (4), the member appointed as the Chairperson holds the office of Chairperson until the end

of his or her term of office as a member that is current at the time of his or her appointment.

- (4) The member so appointed ceases to be the Chairperson if he or she:
 - (a) ceases to be a member; or
 - (b) resigns the office of Chairperson by written notice delivered to the Minister.
- (5) A person is eligible to be re-appointed as the Chairperson.

- SECT 142
Terms of office

A member:

- (a) is to be appointed on a part-time basis; and
- (b) holds office for such period (not exceeding 3 years) as is specified in the instrument of appointment, but is eligible for re-appointment.

- SECT 143
Terms and conditions of appointment

A member holds office on such terms and conditions (if any) in relation to matters not provided for by this Act as are determined by the Minister in writing.

- SECT 144
Remuneration and allowances

- (1) Members are to be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, are to be paid such remuneration as is prescribed.
- (2) A member is to be paid such allowances as are prescribed.

- (3)
This section has effect subject to the Remuneration Tribunal Act 1973.

- SECT 145
Leave of absence

- (1)
The Minister may grant leave of absence to the Chairperson on such terms and conditions as to remuneration or otherwise as the Minister considers appropriate.
- (2)
The Chairperson may grant leave of absence to another member on such terms and conditions as to remuneration or otherwise as the Chairperson considers appropriate.

- SECT 146
Resignation

A member may resign by written notice delivered to the Minister.

- SECT 147
Outside employment

A member must not engage in any paid employment that, in the Minister's opinion, conflicts with the proper performance of the member's functions.

- SECT 148
Termination of appointment

- (1)
The Minister may terminate a member's appointment for misbehaviour or physical or mental incapacity.
- (2)
The Minister may terminate a member's appointment if the member:
- (a)
becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or

- (b) fails, without reasonable excuse, to comply with an obligation imposed by subsection 154(3) or section 156; or
- (c) is absent, except on leave of absence granted under section 145 from 3 consecutive meetings of the Advisory Committee; or
- (d) if the member is also a member of the Scientific Subcommittee:
 - (i) fails, without reasonable excuse, to comply with subsection 154(3) or section 156, (as those provisions apply because of the application of section 163); or
 - (ii) is absent, except on leave of absence granted under section 145 (as that section applies because of the application of section 163), from 3 consecutive meetings of the Scientific Subcommittee; or
- (e) engages in any paid employment that, in the Minister's opinion, conflicts with the proper performance of the member's functions; or
- (f) if the member was appointed to represent one or more of the bodies, groups of bodies or communities referred to in subsection 140(2); ceases, because of a change in employment, residence or other circumstances, to be, in the Minister's opinion, an appropriate representative of such a body, groups of bodies or community that he or she was appointed to represent.

Division 3; Meetings of the Advisory Committee

- SECT 149

Convening meetings

- (1) Subject to subsection (2), the Advisory Committee must hold such meetings as are necessary for the efficient performance of its functions.
- (2) The Advisory Committee must hold at least one meeting

- every 12 months.
- (3) The Chairperson:
- (a) may convene a meeting at any time; and
 - (b) must convene a meeting on receipt of a written request from at least 5 other members.
- (4) The Minister may convene a meeting at any time.

- SECT 150
Presiding at meetings

- (1) The Chairperson is to preside at all meetings at which he or she is present.
- (2) If the Chairperson is not present, the members present must elect one of their number to preside.

- SECT 151
Quorum

At a meeting, a majority of members, or 6 members, whichever is the greater, form a quorum.

- SECT 152
Voting at meetings

- (1) Questions arising at a meeting are to be decided by a majority of votes of the members present and voting.
- (2) The member presiding has a deliberative vote, and, if necessary, also has a casting vote.

- SECT 153
Conduct of meetings

The Advisory Committee may, subject to this Division, determine

the procedure at meetings.

- SECT 154

Resolutions without meetings

- (1) If a majority of the members sign a document containing a statement that they are in favour of a resolution in terms set out in the document, a resolution in those terms is taken to have been passed at a duly constituted meeting held:
 - (a) on the day the document was signed; or
 - (b) if the members sign the document on different days; on the last of those days.
- (2) For the purposes of subsection (1), 2 or more separate documents containing statements in identical terms each of which is signed by one or more members are together taken to be one document containing a statement in those terms signed by those members on the respective days on which they signed the separate documents.
- (3) If the resolution is about a matter in which a member would, for the purposes of section 156, be taken to have an interest, the member:
 - (a) must not sign a document containing a statement in favour of the resolution; and
 - (b) must disclose the nature of the interest to the Chairperson.
- (4) Any member to whom subsection (3) applies in connection with the resolution is taken not to be a member for the purposes of calculating the number of members that would constitute a majority under subsection (1) in connection with the resolution.

- SECT 155

Records relating to meetings

The Advisory Committee must keep minutes of its meetings and records of resolutions passed in accordance with section 154.

- SECT 156

Disclosure of interests

- (1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting.
- (2) The disclosure is to be recorded in the minutes of the meeting and the member must not, unless the Advisory Committee or the Minister otherwise determines:
 - (a) be present during any deliberation of the Advisory Committee with respect to the matter; or
 - (b) take part in any decision of the Advisory Committee with respect to the matter.
- (3) For the purposes of the Advisory Committee making such a determination, any member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates must not:
 - (a) be present during any deliberation of the Advisory Committee for the purposes of making the determination; or
 - (b) take part in the making of the determination.

- SECT 157

Persons may be invited to attend meetings

The Advisory Committee may invite a person to attend a meeting:

- (a) as an observer; or
- (b) to advise or inform the Advisory Committee on any

matter.

Division 4;The Endangered Species Scientific Subcommittee

- SECT 158 Establishment

The Endangered Species Scientific Subcommittee is established.

- SECT 159 Functions

- (1) The functions of the Scientific Subcommittee are:
 - (a) to advise the Minister, within 12 months after the commencement of this Act and thereafter at intervals of not longer than 12 months, of amendments (if any) that should be made to the lists; and
 - (b) to advise the Minister of criteria that should be used in deciding whether a list should be amended; and
 - (c) to advise the Minister of additional criteria that should be specified in the definition of ecological community in subsection 4(1).
- (2) In advising the Minister under paragraph (1)(a), the Scientific Subcommittee must consider any changes to lists of species adopted by the body known as the Australian and New Zealand Environment and Conservation Council.
- (3) In advising the Minister under paragraph (1)(b), the Scientific Subcommittee must consider any listing criteria used by the body known as the Australian and New Zealand Environment and Conservation Council.

- SECT 160 Constitution

- (1) The Scientific Subcommittee consists of such members of

the Advisory Committee as are members referred to in subsection 140(3).

(2)

The performance of a function of the Scientific Subcommittee is not affected by the number of its members being fewer than 5.

- SECT 161

Chairperson of Scientific Subcommittee

The Chairperson of the Scientific Subcommittee is the person for the time being holding office as the Chairperson of the Advisory Committee.

- SECT 162

Terms of office

A member of the Scientific Subcommittee:

(a)

holds office for so long as he or she is a member of the Advisory Committee; and

(b)

subject to section 163, holds such office on the same terms and conditions as the terms and conditions on which he or she holds office as a member of the Advisory Committee.

- SECT 163

Meetings of the Scientific Subcommittee

Division 3 applies in relation to meetings of the Scientific Subcommittee as if:

(a)

references in that Division to the Advisory Committee were references to the Scientific Subcommittee; and

(b)

references in that Division to members of the Advisory Committee were references to members of the Scientific Subcommittee; and

(c)

the reference in paragraph 149(3)(b) to 5 members of the Advisory Committee were a reference to 3 members of the Scientific Subcommittee; and

- (d) the reference in section 151 to 6 members of the Advisory Committee were a reference to 3 members of the Scientific Subcommittee.

Division 5;Miscellaneous

- SECT 164
Assistance for the Committees

- (1) Administrative assistance required for the purposes of the Advisory Committee or the Scientific Subcommittee is to be provided by staff members of the ANPWS.
- (2) The ANPWS is to provide such money as is necessary for the performance of the functions of the Advisory Committee or the Scientific Subcommittee.

Part 9; Miscellaneous

- SECT 165
Inventories of listed native species etc.

- (1) This section applies to Commonwealth areas that are areas of land.
- (2) The Director must:
- (a) prepare; or
- (b) cause to be prepared in accordance with procedures approved by the Director;

inventories that identify, and state the abundance of, the listed native species and listed ecological communities present in Commonwealth areas.

- (3) Each inventory is to cover such Commonwealth areas as the Director determines.
- (4) A Commonwealth area must be covered by an inventory:

- (a) within 10 years after the commencement of this Act;
or
- (b) within 10 years after the area became a Commonwealth area;

whichever is the later.

- (5) The Director may, at any time:
 - (a) vary an inventory; or
 - (b) cause an inventory to be varied in accordance with procedures approved by the Director.
- (6) The Director must cause a copy of an inventory, or a variation of an inventory, to be given to any Commonwealth agency that owns, occupies or has any other interest in a Commonwealth area covered by the inventory.
- (7) A Commonwealth agency that owns, occupies or has any other interest in a Commonwealth area is to provide all reasonable assistance in connection with the preparation under this section of an inventory that is to cover the area.

- SECT 166
Surveys of marine species etc.

- (1) This section applies to Commonwealth areas that are not areas of land.
- (2) The Director must:
 - (a) prepare; or
 - (b) cause to be prepared in accordance with procedures approved by the Director;

surveys that identify, and state the extent of the range of:

- (c) the marine species that are listed native species;

- and
- (d) the marine ecological communities that are listed ecological communities;

present in Commonwealth areas.

- (3) Each survey is to cover such Commonwealth areas as the Director determines.
- (4) A Commonwealth area must be covered by a survey:
 - (a) within 10 years after the commencement of this Act;
 - or
 - (b) within 10 years after the area became a Commonwealth area;

whichever is the later.

- (5) The Director may, at any time:
 - (a) vary a survey; or
 - (b) cause a survey to be varied in accordance with procedures approved by the Director.
- (6) The Director must cause a copy of a survey, or a variation of a survey, to be given to any Commonwealth agency that owns, occupies or has any other interest in a Commonwealth area covered by the survey.
- (7) A Commonwealth agency that owns, occupies or has any other interest in a Commonwealth area is to provide all reasonable assistance in connection with the preparation under this section of a survey that is to cover the area.

- SECT 167

Obligations under this Act unaffected by lack of inventories or surveys

Obligations imposed by this Act are not affected, in their application in relation to Commonwealth areas, by any lack of inventories or surveys for those areas.

- SECT 168

Review of Operation of Act

(1) The Minister must cause an independent review of:

- (a) the operation of this Act; and
- (b) the extent to which the objects set out in section 3 have been achieved;

to be undertaken within 5 years after the commencement of this Act and thereafter at intervals of not longer than 5 years.

(2) A person who undertakes such a review must give the Minister a written report of the review.

(3) The Minister must cause a copy of each report to be Tabled in each House of the Parliament within 15 sitting days of that House after its receipt by the Minister.

(4) In this section:

independent review means a review undertaken by persons who:

- (a) in the Minister's opinion possess appropriate qualifications to undertake the review; and
- (b) include one or more persons who are not the Director, a member of the Advisory Committee or a staff member of the ANPWS.

- SECT 169

Waiver of obligations imposed by this Act

(1) If the Governor-General declares, by instrument in writing, that it is in the national interest that an obligation imposed by this Act be waived, the obligation ceases to have effect in the circumstances, and to the extent, specified in the instrument.

(2) An instrument is a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act

1901.

- (3) Despite section 48 of the Acts Interpretation Act 1901 as it applies in relation to such instruments because of section 46A of that Act, the instrument takes effect on the first day on which it is no longer liable to be disallowed, or to be taken to have been disallowed, under section 48 of that Act as is so applies.

- SECT 170

Effect of failure to meet time limits

- (1) Anything done by the Commonwealth, the Minister or the Director under this Act is not invalid merely because it was not done within the period required by this Act.
- (2) In every case where anything required to be done under this Act was not done within the period required by this Act, the Minister must:
- (a) cause to be prepared a statement setting out the reasons why the thing was not done within the period required by this Act, within 15 days of the end of the period within which the thing should have been done; and
- (b) cause a copy of the statement to be laid before each House of Parliament within 15 sitting days of that House after its receipt by the Minister.
- (3) Subsection (1) does not reduce or remove an obligation under this Act to do a thing within a particular period.

- SECT 171

This Act to be subject to international obligations

This Act has effect subject to Australia's obligations under international law, including obligations under any agreement between Australia and another country or countries.

- SECT 172

Compensation

(1)

In this section:

acquisition of property, and just terms, have the same meanings as in paragraph 51(xxxi) of the Constitution.

(2)

If, apart from this section, the operation of this Act would result in the acquisition of property from a person otherwise than on just terms, the Commonwealth is liable to pay reasonable compensation to the person.

(3)

If the Commonwealth and the person do not agree on the amount of the compensation, the person may apply to the Federal Court to determine a reasonable amount of compensation.

(4)

The Lands Acquisition Act 1989 does not apply to an acquisition of property that results from the operation of this Act.

- SECT 173

Raising funds

Without limiting paragraph 17(1)(e) of the National Parks and Wildlife Conservation Act 1975, the Director's powers under that paragraph extend to the establishment and maintenance of an organisation and a fund for the purposes of promoting and encouraging financial support from the public for the recovery and conservation of listed native species and listed ecological communities.

- SECT 174

International assistance

(1)

Subject to subsection (2), the Director may provide financial assistance to the governments of, and organisations in, foreign countries for the purpose of assisting the recovery and conservation, in those countries, of non-native species included in lists established under agreements specified in Schedule 4.

(2)

The assistance must be provided in accordance with directions given by the Minister.

- (3) Before giving a direction, the Minister must:
- (a) have regard to any advice that the Advisory Committee has given to the Minister on the matter; and
 - (b) consult the Minister responsible for overseas development assistance.

- SECT 175
Giving effect to international agreements

- (1) The Governor-General may make regulations in relation to giving effect to an agreement specified in Schedule 4 so far as the agreement relates to the recovery or conservation of listed native species or listed ecological communities.
- (2) Regulations made in relation to an agreement that has not entered into force for Australia are not to come into operation on a day earlier than the day on which the agreement enters into force for Australia.

- SECT 176
Regulations

The Governor-General may make regulations prescribing all matters:

- (a) required or permitted by this Act to be prescribed;
or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Schedule 1; Listed species

Part 1;Species that are Endangered

Genus, species (subspecies, population)

Common Name

Animals

Fish

Galaxias fontanus

Swan Galaxias

Galaxias fuscus

Brown Galaxias

Galaxias johnstoni

Clarence Galaxias

Galaxias pedderensis

Pedder Galaxias

Maccullochella ikei

Eastern Freshwater Cod

Maccullochella macquariensis

Trout Cod

Melanotaenia eachamensis

Lake Eacham Rainbow Fish

Amphibians

Geocrinia vitellina

Yellow-bellied Frog

Litoria spenceri

Spotted Tree Frog

Rheobatrachus silus

Gastric-brooding Frog

Rheobatrachus vitellinus

Eungella Gastric-brooding Frog

Taudactylus acutirostris

Sharp-snouted Day Frog

Taudactylus diurnus

Southern Day Frog

Taudactylus eungellensis

Eungella Day Frog

Reptiles

Aprasia aurita

Legless Lizard

Aprasia parapulchella

Pink-tailed Legless Lizard

Caretta caretta

Loggerhead Turtle

Hoplocephalus bungaroides

Broad-headed Snake

Pseudemydura umbrina

Western Swamp Tortoise

Tiliqua adelaidensis

Adelaide Blue-tongued Lizard

Birds

Cacatua pastinator pastinator

Western Long-billed Corella

Calyptorhynchus banksii graptogyne

South-eastern Red-tailed Black Cockatoo

Coracina tenuirostris melvillensis

Melville Cicadabird

Cyanoramphus novaezelandiae cookii

Norfolk Island Parrot

Erythrura gouldiae

Gouldian Finch

Falcunculus frontatus whitei

Kimberley Crested Shriketit

Geopsittacus occidentalis

Night Parrot

Leipoa ocellata

Malleefowl

Lichenostomus melanops cassidix

Helmeted Honeyeater

Manorina melanotis

Black-eared Miner

Neophema chrysogaster

Orange-bellied Parrot

Ninox novaeseelandiae undulata

Norfolk Island Boobook Owl

Pardalotus quadragintus

Forty-spotted Pardalote

Petrophassa smithii blaaui

Western Partridge Pigeon

Pezoporus wallicus flaviventris

Western Ground Parrot

Poecilodryas superciliosa cerviniventris

Derby White-browed Robin

Psephotus chrysopterygius

Golden-shouldered Parrot

Psittaculirostris diophthalma coxeni

Coxen's Fig-parrot

Pterodroma leucoptera leucoptera

Gould's Petrel

Sterna albifrons

Little Tern

Stipiturus malachurus intermedius

Mount Lofty Southern Emu-wren

Sula abbotti

Abbott's Booby

Turdus poliocephalus poliocephalus

Norfolk Island Thrush

Xanthomyza phrygia

Regent Honeyeater

Zosterops albogularis

Norfolk Island Silvereye

Mammals

Balaenoptera musculus

Blue Whale

Bettongia lesueur

Burrowing Bettong

Bettongia penicillata

Brush-tailed Bettong

Bettongia tropica

Northern Bettong

Crocidura tenuata var. *trichura*

Christmas Island Shrew

Dasyuroides byrnei

Kowari

Dasyurus geoffroii

Western Quoll

Eubalaena australis

Southern Right Whale

Gymnobelideus leadbeateri

Leadbeater's Possum

Isoodon auratus

Golden Bandicoot

Lagorchestes hirsutus

Rufous Hare-wallaby

Lagostrophus fasciatus

Banded Hare-wallaby

Lasiorhinus krefftii

Northern Hairy-nosed Wombat

Leporillus conditor

Greater Stick-nest Rat

Megaptera novaeangliae

Humpback Whale

Myrmecobius fasciatus

Numbat

Notomys fuscus

Dusky Hopping-mouse

Onychogalea fraenata

Bridled Nailtail Wallaby

Parantechinus apicalis

Dibbler

Perameles bougainville

Western Barred Bandicoot

Perameles eremiana

Desert Bandicoot

Phascogale calura

Red-tailed Phascogale

Potorous longipes

Long-footed Potoroo

Pseudocheirus peregrinus occidentalis

Western Ringtail Possum

Pseudomys praeconis

Shark Bay Mouse

Pseudomys shortridgei

Heath Rat

Sminthopsis douglasi

Julia Creek Dunnart

Zyzomys pedunculatus

Central Rock-rat

Plants

Acacia leptalea Maslin ms.

Acacia cretacea

Acacia enterocarpa

Acacia pinguifolia

Acacia porcata

Acronychia littoralis

Adenanthos pungens

Adenanthos velutinus

Agrostis adamsonii

Alectryon ramiflorus

Allocasuarina defungans

Allocasuarina emuina

Allocasuarina portuensis

Allocasuarina thalassoscopica

Ammobium craspedioides

Andersonia sp. Two People's Bay

Anthocercis gracilis

Apatophyllum constablei

Aristida granitica

Arthraxon hispidus

Astrotricha roddii

Atalaya collina

Atriplex kochiana

Austromyrtus fragrantissima

Austromyrtus gonoclada

Ballantinia antipoda

Banksia brownii

Barbarea australis

Bentleya spinescens

Billardiera alpina

Boronia granitica

Boronia repanda

Brachyscome muelleri

Cajanus mareebensis

Caladenia audasii

Caladenia busselliana Hopper & Brown ms.

Caladenia cristata

Caladenia formosa

Caladenia fulva

Caladenia hastata

Caladenia lowanensis

Caladenia robinsonii

Caladenia rosella

Caladenia elegans Hopper & Brown ms.

Caladenia viridescens Hopper & Brown ms.

Caladenia tensa

Caladenia thysanochila

Calochilus pseudnus

Calochilus richae

Calytrix breviseta breviseta

Centrolepis pedderensis

Colobanthus curtisiae

Conostylis setigera dasys

Corchorus cunninghamii

Cyathea exilis

Cynanchum elegans

Cyperus ohwii

Danthonia popinensis

Darwinia apiculata

Darwinia carnea

Darwinia ferricola Marchant & Keighery ms. Scott River

Davidsonia sp. (A.G. Floyd 1595; Mullumbimby-Currumbin Ck)

Daviesia bursarioides Crisp ms.

Daviesia microcarpa Crisp ms.

Daviesia oxylobium Crisp ms.

Daviesia purpurascens

Dendrobium mirbelianum

Dendrobium nindii

Dendrobium antennatum

Deyeuxia appressa

Digitaria porrecta

Diospyros mabacea

Diploglottis campbellii

Dipodium pictum

Diuris fragrantissima

Diuris micrantha

Diuris pallens

Dodonaea subglandulifera

Dodonaea tepperi

Drakonarchis drakeoidea Hopper & Brown ms.

Dryandra mimica

Dryandra sp. (F. Lullfitz 3379; Stirling Range)

Dryandra sp. (M. Pieroni s.n. 20/9/88; Kamballup)

Elaeocarpus williamsianus

Endiandra sp.1

Epacris hamiltonii

Epacris stuartii

Epiblema grandiflorum var. *cychea* Dixon ms.

Eremophila caerulea var. *merrallii* Chinnock ms.

Eremophila nivea

Eremophila veneta Chinnock m.s.

Eremophila verticillata

Eriocaulon carsonii

Eucalyptus graniticola Brooker & Hopper ms.

Eucalyptus impensa Brooker & Hopper ms.

Eucalyptus absita

Eucalyptus conglomerata

Eucalyptus crenulata

Eucalyptus crucis praecipua Brooker & Hopper ms.

Eucalyptus cuprea Brooker & Hopper ms.

Eucalyptus morrisbyi

Eucalyptus phylacis

Eucalyptus recurva

Eucalyptus rhodantha

Euphrasia collina subsp. *muelleri*

Euphrasia collina subsp. *osbornii*

Euphrasia sp. (W.M. Curtis, 5/12/88; Southport)

Fimbristylis adjuncta

Fontainea oraria

Frankenia plicata

Gardenia actinocarpa

Gastrolobium callistachys

Gastrolobium glaucum

Gastrolobium graniticum

Gastrolobium hamulosum

Genoplesium rhyoliticum

Genoplesium tectum

Gentiana wingecarribiensis

Gonocarpus intricatus

Graptophyllum reticulatum

Graptophyllum thorogoodii

Grevillea batrachioides

Grevillea beadleana

Grevillea calliantha

Grevillea flexuosa

Grevillea iaspicula

Grevillea scapigera

Grevillea wilkinsonii Makinson ms.

Habenaria macraithii

Hakea aculeata

Haloragis eyreana

Haloragodendron lucasii

Homopholis belsonii

Huperzia carinata

Huperzia dalhousieana

Huperzia filiformis

Huperzia squarrosa

Hypocalymma longifolium

Isoglossa eranthemoides

Isopogon uncinatus

Kunzea rupestris

Lambertia echinata

Lambertia fairallii

Lambertia orbifolia

Lepidium aschersonii

Lepidium catapycnon

Lepidium hyssopifolium

Lepidium monoplocoides

Leucochrysum albicans

Lomatia tasmanica

Macadamia sp. (B. Hyland 3472; Woopen Creek)

Macrozamia lomandroides

Malaxis lawleri

Marsdenia coronata

Marsdenia longiloba

Meziella trifida

Muellerargia timorensis

Myoporum turbinatum

Neoroepera buxifolia

Olearia flocktoniae

Olearia hygrophila

Olearia microdisca

Persoonia nutans

Phaius bernaysii

Phalaenopsis rosenstromii

Phebalium daviesii

Phebalium obtusifolium

Pimelea rara

Pimelea spicata

Pityrodia scabra

Planchonella eerwah

Pomaderris cotoneaster

Prasophyllum chasmogamum

Prasophyllum diversiflorum

Prasophyllum petilum

Prasophyllum uroglossum

Prostanthera eurybioides

Psoralea parva

Pterostylis arenicola

Pterostylis despectans

Pterostylis gibbosa

Pterostylis sp. (D.L. Jones 5333 ex P. Branwhite s.n.)

Pterostylis sp. (S.D. Hopper 3349; Northampton)

Ptilotus beckerianus

Ptychosema pusillum

Ptychosperma bleeseri

Pultenaea pauciflora

Pultenaea trichophylla

Quassia sp. (J. King s.n., 1949; Mooney Creek)

Randia moorei

Ranunculus prasinus

Restio abortivus

Romnalda strobilacea

Rutidosia leptorhynchoides

Sclerolaena napiformis

Senecio behrianus

Sowerbaea multicaulis

Stemmacantha australis

Stylidium coroniforme

Stylidium scabridum

Swainsona recta

Tectaria devexa

Tetratheca gunnii

Tetratheca paynterae Alfard ms.

Thelymitra dedmaniae

Thelymitra epipacroides

Thysanotus wangariensis

Triunia robusta

Tylophora rupicola

Tylophora woollsii

Uromyrtus australis

Verticordia fimbriolepis

Verticordia harveyi

Verticordia hughanii

Verticordia plumosa ananeotes

Vrydagzynea paludosa

Westringia crassifolia

Xanthostemon formosus

Xerothamnella herbacea

Zieria adenophora

Zieria obcordata

Zieria baeuerlenii Armstrong ms.

Zieria buxijugum Briggs & Armstrong ms.

Zieria formosa Briggs & Armstrong ms.

Zieria parrisiae Briggs & Armstrong ms.

Zieria prostrata Armstrong ms

Part 2;Species that are vulnerable

Genus, species
(subspecies, population)

Common Name

Animals

Fish

Galaxias parvus

Swamp Galaxias

Galaxias tanycephalus

Saddled Galaxias

Nannoperca obscura

Yarra Pygmy Perch

Nannoperca variegata

Ewens Pygmy Perch

Prototroctes maraena

Australian Grayling

Pseudomugil mellis

Honey Blue-eye

Amphibians

Geocrinia alba

Creek Frog/White-bellied Frog

Philoria frosti

Mount Baw Baw Frog

Reptiles

Chelonia mydas

Green Turtle

Ctenophorus yinnietharra

Yinnietharra Rock-dragon

Ctenotus angusticeps

Airlie Island Ctenotus

Ctenotus lanceolini

Lancelin Island Striped Skink

Delma impar

Striped Legless Lizard

Delma mitella

Legless Lizard

Delma torquata

Legless Lizard

Dermochelys coriacea

Leathery Turtle

Egernia stokesii aethiops

Baudin Island Spiny-tailed Skink

Eretmochelys imbricata

Hawksbill Turtle

Lepidochelys olivacea

Pacific Ridley

Morelia carinata

Rough-scaled Python

Ophidiocephalus taeniatus

Bronzebacked Legless Lizard

Pseudemoia palfreymani

Pedra Branka Skink

Rheodytes leukops

Fitzroy River Tortoise

Birds

Amytornis dorotheae

Carpentarian Grasswren

Amytornis textilis textilis

Western grasswren

Anous tenuirostris melanops

Lesser Noddy

Atrichornis clamosus

Noisy Scrub-bird

Casuarius casuarius

Southern Cassowary

Cereopsis novaehollandiae grisea

Recherche Cape Barren Goose

Charadrius rubricollis

Hooded Plover

Dasyornis brachypterus

Eastern Bristlebird

Dasyornis longirostris

Western Bristlebird

Eclectus roratus

Eclectus Parrot

Erythrotriorchis radiatus

Red Goshawk

Falcunculus frontatus leucogaster

South-west Crested Shriketit

Fregata andrewsi

Christmas Island Frigatebird

Lathamus discolor

Swift Parrot

Malurus leucopterus edouardi

Barrow Island Black-and-white Fairy-wren

Malurus leucopterus leucopterus

Dirk Hartog Black-and-white Fairy-wren

Ninox squamipila natalis

Christmas Island Hawk-owl

Pachycephala rufogularis

Red-lored Whistler

Pedionomus torquatus

Plains-wanderer

Polytelis alexandrae

Alexandra's Parrot

Stipiturus malachurus parimeda

Eyre Peninsula Southern Emu-wren

Strepera graculina crissalis

Lord Howe Island Currawong

Tricholimnas sylvestris

Lord Howe Island Woodhen

Turnix melanogaster

Black-breasted Button-quail

Turnix varia scintillans

Albrolhos Painted Button-quail

Mammals

Burramys parvus

Mountain Pygmy-possum

Dasyercus cristicauda

Mulgara

Dasyurus viverrinus

Eastern Quoll

Macroderma gigas

Ghost Bat

Macropus robustus isabellinus

Barrow Island Euro

Macrotis lagotis

Greater Bilby

Mesembriomys macrurus

Golden-backed Tree-rat

Notomys aquilo

Northern Hopping-Mouse

Perameles gunnii

Eastern Barred Bandicoot

Petrogale lateralis

Black-footed Rock-wallaby

Petrogale penicillata

Brush-tailed Rock-wallaby

Petrogale persephone

Proserpine Rock-wallaby

Pseudomys australis

Plains Rat

Pseudomys chapmani

Pebble-mound Mouse

Pseudomys occidentalis

Western Mouse

Pseudomys pillagaensis

Pilliga Mouse

Sminthopsis psammophila

Sandhill Dunnart

Xeromys myoides

False Water-rat

Plants

Acacia lanuginophylla

Acacia angustifolia

Acacia anomala

Acacia aphylla

Acacia araneosa

Acacia argutifolia

Acacia attenuata

Acacia axillaris

Acacia barattensis

Acacia bynoeana

Acacia calantha

Acacia chinchillensis

Acacia clunies-rossiae

Acacia constablei

Acacia courtii

Acacia crombiei

Acacia curranii

Acacia sp. (S. van Leeuwen 269; Dandaragan)

Acacia denticulosa

Acacia depressa

Acacia deuteroneura

Acacia eremophiloides

Acacia fleckeri

Acacia flocktoniae

Acacia forrestiana

Acacia georgensis

Acacia glandulicarpa

Acacia grandifolia

Acacia guymeri

Acacia handonis

Acacia imbricata

Acacia latzii

Acacia lauta

Acacia menzeli

Acacia merrickae

Acacia perangusta

Acacia peuce

Acacia pharangites

Acacia phasmoides

Acacia pickardii

Acacia pubescens

Acacia pubifolia

Acacia purpureapetala

Acacia ramiflora

Acacia rhetinocarpa

Acacia ruppii

Acacia semicircularis

Acacia simulans

Acacia pygmaea Maslin ms.

Acacia lobulata

Acacia tenuinervis

Acacia undoolyana

Acacia vassalii

Acacia wardellii

Acronychia crassipetala

Acrophyllum australe

Actinotus schwarzii

Adenanthos cunninghamii

Adenanthos dobagii

Adenanthos ellipticus

Adenanthos eyrei

Adenanthos ileticos

Allocasuarina fibrosa

Allocasuarina glareicola

Allocasuarina tortiramula

Alloxylon flammeum

Ammobium craspedioides

Amorphospermum whitei

Amphibromus fluitans

Angophora robur

Anigozanthos bicolor minor

Anigozanthos humilis chrysanthus

Anigozanthos viridis terraspectans

Apatophyllum olsenii

Aphanes pentamera

Apium prostratum "phillipii"

Aponogeton hexatepalus

Archidendron lovelliae

Aristida annua

Arytera dictyoneura

Asperula asthenes

Asplenium hookerianum

Asplenium pellucidum

Asplenium wildii

Astelia australiana

Asterolasia drummondii

Asterolasia grandiflora

Asterolasia nivea

Asterolasia phebalioides

Atriplex infrequens

Baeckea arbuscula

Baeckea crenatifolia

Baeckea sp. Pyramids

Baeckea sp. (L.J. Brass 19348; Mt Tozer)

Baloghia marmorata

Banksia cuneata

Banksia goodii

Banksia oligantha

Banksia sphaerocarpa dolichostyla

Banksia tricuspis

Banksia verticillata

Basedowia tenerrima

Bertya ingramii T. James ms.

Bertya opponens

Bertya pinifolia

Bertya sharpeana

Beyeria subtecta

Billardiera mollis

Boronia adamsiana

Boronia deanei

Boronia keysii

Boronia revoluta

Borya mirabilis

Bosistoa monostylis

Bosistoa selwynii

Bosistoa transversa

Bossiaea oligosperma

Bothriochloa biloba

Bothriochloa bunyensis

Brachychiton vitifolius

Brachyscome ascendens

Brachyscome muelleroides

Brachyscome papillosa

Budawongia gnidioides

Bulbophyllum boonjee

Bulbophyllum globuliforme

Bulbophyllum gracillimum

Bulbophyllum longiflorum

Cadellia pentastylis

Caladenia bryceana

Caladenia caudata

Caladenia dilatata villosissima

Caladenia dorrienii

Caladenia gladiolata

Caladenia huegelii

Caladenia insularis

Caladenia integra

Caladenia longii

Caladenia ovata

Caladenia rigida

Caladenia sp. (S.D. Hopper 3990; jarrah forest)

Caladenia caesarea maritima Hopper & Brown ms.

Caladenia voigtii Hopper & Brown ms.

Caladenia sp. (S.D. Hopper 3521; christineae Hopper & Brown ms.)

Caladenia harringtoniae Hopper & Brown ms.

Caladenia hoffmanii Hopper & Brown ms.

Caladenia excelsa Hopper & Brown ms.

Caladenia tessellata

Caladenia versicolor

Caladenia wanosa

Calamus warburgii

Calectasia arnoldii Dixon ms.

Callistemon chisholmii

Callistemon formosus

Callitriche cyclocarpa

Callitris oblonga

Callitris (A.M. Gray 473-44; Tasmania)

Calophyllum bicolor

Calotis glandulosa

Calotis moorei

Calytrix gurulumundensis

Canarium acutifolium

Canthium costatum

Capparis thozetiana

Carronia pedicellata

Cassinia rugata

Centotheca philippensis

Centrolepis paludicola

Chamaelaucium "griffinii"

Chamaelaucium roycei Marchant & Keighery ms.

Chamaelaucium erythrochlora Marchant & Keighery ms.

Cheiranthera volubilis

Choricarpia subargentea

Clematis fawcettii

Codonocarpus pyramidalis

Comesperma oblongatum

Commersonia sp. (G.P. Guymer 1642; Cardarga)

Conospermum toddii

Conostylis drummondii

Conostylis lepidospermoides

Conostylis micrantha

Conostylis misera

Conostylis rogeri

Conostylis seorsiflora trichophylla

Conostylis wonganensis

Cooperhooikia georgei

Corokia whiteana

Correa baeuerlenii

Correa calycina

Corybas limpidus

Cossinia australiana

Croton magneticus

Cryptocarya foetida

Cryptostylis hunteriana

Ctenopteris blechnoides

Ctenopteris walleri

Cupaniopsis shirleyana

Cupaniopsis tomentella

Cyperus semifertilis

Darwinia acerosa

Darwinia biflora

Darwinia collina

Darwinia macrostegia

Darwinia masonii

Darwinia meeboldii

Darwinia oxylepis

Darwinia sp. (G.J. Keighery 5732; Stirling Range)

Darwinia squarrosa

Darwinia wittwerorum

Daviesia debilior

Daviesia discolor

Daviesia euphorbioides

Daviesia megacalyx Crisp ms.

Daviesia pseudaphylla Crisp ms.

Daviesia speciosa Crisp ms.

Daviesia spiralis

Dendrobium bigibbum

Dendrobium carronii

Dendrobium johannis

Dendrobium tozerensis

Denhamia parvifolia

Desmodium acanthocladum

Dichanthium queenslandicum

Dichanthium setosum

Dillwynia tenuifolia

Dioclea reflexa

Diplazium cordifolium

Diuris aequalis

Diuris drummondii

Diuris purdiei

Diuris recurva

Diuris sheaffiana

Diuris praecox Jones ms.

Diuris venosa

Dodonaea rupicola

Drakaea elastica

Drakaea sp. *confluens* *confluens* Hopper & Brown ms.

Drakaea micrantha Hopper & Brown ms.

Drakaea sp. *concolor* Hopper & Brown ms.

Drakonorchis barbarella Hopper & Brown ms.

Drosera fimbriata

Drosera schizandra

Drummondita ericoides

Drummondita hassellii longifolia

Dryandra serratuloides

Ectrosia blakei

Ehretia microphylla

Eleocharis blakeana

Eleocharis obicis

Eleocharis retroflexa

Endiandra cooperiana

Endiandra floydii

Endiandra hayesii

Epacris aff. virgata

Epacris barbata

Epacris glabella

Epacris grandis

Epacris limbata

Epilobium brunnescens

Epilobium perpusillum

Eremophila subteretifolia

Eremophila barbata

Eremophila denticulata

Eremophila inflata

Eremophila microtheca

Eremophila racemosa

Eremophila resinosa

Eremophila ternifolia

Eremophila tetraptera

Eremophila virens

Eremophila viscida

Eremophila prostrata Chinnock ms.

Eriocaulon australasicum

Eriocaulon pusillum

Eriostemon ericifolius

Eriostemon sp. (L.J. Brass 19483; Mt Tozer)

Eriostemon wonganensis

Erythranthera pumila

Eucalyptus articulata Brooker & Hopper ms.

Eucalyptus leprophloia Brooker & Hopper ms.

Eucalyptus aquatica

Eucalyptus argophloia

Eucalyptus argutifolia

Eucalyptus balanites

Eucalyptus beardiana

Eucalyptus bennettiae

Eucalyptus benthamii

Eucalyptus blaxellii

Eucalyptus brevipes

Eucalyptus burdettiana

Eucalyptus cadens

Eucalyptus camfieldii

Eucalyptus ceracea

Eucalyptus cerasiformis

Eucalyptus coronata

Eucalyptus crispata

Eucalyptus crucis

Eucalyptus erectifolia

Eucalyptus glaucina

Eucalyptus goniantha goniantha

Eucalyptus hallii

Eucalyptus imlayensis

Eucalyptus infera

Eucalyptus insularis

Eucalyptus johnsoniana

Eucalyptus kabiana Johnson & Hill ms.

Eucalyptus kartzoffiana

Eucalyptus langleyi

Eucalyptus lansdowneana

Eucalyptus latens

Eucalyptus lateritica

Eucalyptus leptoloma

Eucalyptus macrorrhyncha cannonii

Eucalyptus mckieana

Eucalyptus merrickiae

Eucalyptus mooreana

Eucalyptus nicholii

Eucalyptus olivacea Brooker & Hopper m.s.

Eucalyptus paedoglauca

Eucalyptus parramattensis decadens

Eucalyptus parvifolia

Eucalyptus pruiniramis

Eucalyptus pulverulenta

Eucalyptus pumila

Eucalyptus rameliana

Eucalyptus raveretiana

Eucalyptus rhodops

Eucalyptus robertsonii hamaespherica

Eucalyptus rubida barbigororum

Eucalyptus rubida canobolensis

Eucalyptus scoparia

Eucalyptus sp. (S.D. Hopper 2736; Norseman)

Eucalyptus steedmanii

Eucalyptus sturgissiana

Eucalyptus suberea

Eucalyptus synandra

Eucalyptus tetrapleura

Eucalyptus virens

Eucalyptus xanthope

Eucryphia sp. (M. Goodwin C1158; Mt Bartle Frere)

Euphrasia amphisysepala

Euphrasia bella

Euphrasia eichleri

Euphrasia phragmostoma

Euphrasia semipicta

Floydia praealta

Fontainea australis

Fontainea rostrata

Fontainea venosa

Gastrolobium appressum

Gastrolobium tomentosum

Gentiana bredboensis

Germainia capitata

Glycine latrobeana

Gnaphalium nitidulum

Goodenia megasepala

Goodenia quadrifida

Grammitis reinwardtii

Graptophyllum excelsum

Graptophyllum ilicifolium

Grevillea caleyi

Grevillea cirsiifolia

Grevillea dryandroides

Grevillea evansiana

Grevillea glossadenia

Grevillea inconspicua

Grevillea infecunda

Grevillea infundibularis

Grevillea involucrata

Grevillea kennedyana

Grevillea prostrata

Grevillea rivularis

Grevillea saccata

Grevillea scortechinii

Grevillea shiressii

Grevillea treueriana

Grevillea venusta

Gymnema brevifolium

Habenaria propinquior

Habenaria xanthantha

Hakea megalosperma

Hakea pulvinifera

Hakea sp. (C. Sandercoe 507; Mariala Scientific Reserve)

Hakea sp. (M. Doherty 17-24; Kowmung River)

Haloragis exalata

Halosarcia bulbosa

Halosarcia flabelliformis

Helicteres sp. (N. Byrnes 1280; Glenluckie Creek)

Hemiandra gardneri

Hemiandra rutilans

Hemigenia viscida

Hensmania chapmanii

Hexaspora pubescens

Hibbertia bracteosa

Hibbertia crispula

Hicksbeachia pinnatifolia

Hodgkinsonia frutescens

Homoranthus darwinioides

Homoranthus decumbens

Homoranthus montanus

Homoranthus porteri

Huperzia lockyeri

Huperzia marsupiiiformis

Huperzia phlegmarioides

Huperzia prolifera

Hydrocharis dubia

Hydrocotyle lemnoides

Idiospermum australiense

Indigofera efoliata

Ipomoea (A83192)

Isopogon fletcheri

Ixodia achillaeoides arenicola

Jagera javanica

Jedda multicaulis

Kelleria laxa

Kennedia beckxiana

Kennedia glabrata

Kennedia macrophylla

Kennedia retrorsa

Kunzea cambagei

Lasiopetalum longistamineum

Lasiopetalum micranthum

Lastreopsis walleri

Lawrencia buchananensis

Laxmannia jamesii

Lechenaultia chlorantha

Lechenaultia laricina

Lechenaultia pulvinaris

Lechenaultia superba

Lepidium pseudo-papillosum

Leptorhynchos gatesii

Leptospermum deanei

Leptospermum thompsonii

Leucopogon blakei

Leucopogon cuspidatus

Leucopogon exolasius

Leucopogon obtectus

Limosella granitica

Lindsaea pulchella

Livistona drudei

Livistona mariae

Logania diffusa

Logania insularis

Macadamia integrifolia

Macadamia ternifolia

Macadamia tetraphylla

Macadamia sp. (B. Hyland 3102; Iron Range)

Macropteranthes montana

Macrozamia macdonnellii

Maireana cheelii

Maireana melanocarpa

Malacocera gracilis

Medicosma elliptica

Medicosma obovata

Melaleuca groveana

Melaleuca kunzeoides

Melaleuca sciotostyla

Mesua sp. (A.K. Irvine 1218; Boonjee)

Microcorys eremophiloides

Microlepidium alatum

Micromyrtus blakelyi

Micromyrtus minutiflora

Microstrobos fitzgeraldii

Microtis globula

Minuria tridens

Myoporum cordifolium

Myoporum latisepalum

Myriophyllum coronatum

Myriophyllum implicatum

Myriophyllum porcatum

Neisosperma kilneri

Newcastelia velutina

Nicotiana burbridgeae

Notelaea lloydii

Olearia astroloba

Olearia macdonnellensis

Olearia pannosa pannosa

Oreodendron biflorum

Oreoproranthera petalifera

Owenia cepiodora

Ozothamnus eriocephalus

Ozothamnus tessellatus

Parasarcophilus hirticalcar

Paspalidium grandispiculatum

Persicaria elatior

Persoonia acerosa

Persoonia amaliaeae

Persoonia glaucescens

Persoonia marginata

Phaius australis

Phaius tancarvilliae

Phebalium equestre

Phebalium lowanense

Phebalium ralstonii

Phebalium rhytidophyllum

Phebalium sympetalum

Phebalium whitei

Phyllota humifusa

Picris evae

Pimelea leptospermoides

Pimelea spinescens spinescens

Pimelea venosa

Pityrodia augustensis

Plectranthus gratus

Pleuropappus phyllocalymmeus

Plinthanthesis rodwayi

Poa sallacustris

Polyscias bellendenkerensis

Pomaderris brunnea

Pomaderris clivicola

Pomaderris halmaturina halmaturina

Pomaderris pallida

Pomaderris parrisiae

Pomaderris sericea

Pomaderris subplicata

Pomatocalpa marsupiale

Prasophyllum frenchii

Prasophyllum morganii

Prasophyllum pallidum

Prasophyllum truncatum

Prasophyllum validum

Prasophyllum wallum

Pratia irrigua

Prostanthera calycina

Prostanthera carrickiana

Prostanthera cineolifera

Prostanthera cryptandroides

Prostanthera densa

Prostanthera discolor

Prostanthera magnifica

Prostanthera sp. (C. Sandercoe C1256; Mt Tinbeerwah)

Prostanthera sp. (D.M. Gordon 84; Dunmore)

Prostanthera stricta

Prostanthera teretifolia

Pterostylis bicornis

Pterostylis cucullata

Pterostylis pulchella

Pterostylis cobarensis

Pterostylis tenuissima

Ptilotus maconochiei

Pultenaea aristata

Pultenaea baeuerlenii

Pultenaea campbellii

Pultenaea glabra

Pultenaea parrisiae Briggs & Crisp ms.

Pultenaea parviflora

Pultenaea selaginoides

Pultenaea setulosa

Pultenaea sp.1 (W. of Wadbilliga trig)

Pultenaea stuartiana

Pultenaea villifera glabrescens

Pultenaea williamsoniana

Quassia bidwillii

Ranunculus anemoneus

Restio longipes

Rhagodia acicularis

Rhamphicarpa australiensis

Rhaphidospora bonneyana

Rhizanthella gardneri

Ricinocarpos gloria-medii

Ricinocarpos trichophorus

Ristantia gouldii

Ristantia pachysperma

Roycea pycnophylloides

Rulingia procumbens

Rulingia prostrata

Rutidosis heterogama

Rutidosia leioplepis

Sagina sp. (A.M. Buchanan 5115; Mt Anne)

Sarcochilus fitzgeraldii

Sarcochilus hartmannii

Sarcochilus weinthalii

Sauropus macranthus

Sclerolaena blakei

Sclerolaena walkeri

Senecio garlandii

Senecio laticostatus

Senecio macrocarpus

Senecio megaglossus

Solanum carduiforme

Solanum dunalianum

Sophora fraseri

Spathoglottis plicata

Sowerbaea subtilis

Spathoglottis plicata

Spirogardnera rubescens

Spyridium coactilifolium

Spyridium eriocephalum glabrisepalum

Spyridium leucopogon

Spyridium microphyllum

Spyridium obcordatum

Stackhousia annua

Stackhousia tryonii

Stawellia dimorphantha

Stemona angusta

Stipa metatoris

Stylidium galioides

Stylidium plantagineum

Swainsona laxa

Swainsona minutiflora

Swainsona murrayana

Swainsona plagiotropis

Swainsona pyrophila

Symplocos baeuerlenii

Symplocos sp. (W.J. MacDonald 3823; Imbil; Beenleigh)

Syzygium hodgkinsoniae

Syzygium moorei

Syzygium paniculatum

Syzygium velarum

Taraxacum cygnorum

Tasmannia glaucifolia

Tasmannia purpurascens

Tephrosia leveillei

Tetradlea aphylla

Tetradlea glandulosa

Tetradlea harperi

Tetradlea juncea

Thelymitra matthewsii

Thelymitra psammophila

Thelymitra stellata

Thesium australe

Thomasia montana

Thomasia sp. (A.S. George 8075; York)

Thryptomene wittweri

Tinospora tinosporoides

Toechima pterocarpum

Tribonanthes purpurea

Trichanthodium baracchianum

Trichoglottis australiensis

Trigonostemon inopinatus

Trymalium minutiflorum

Tylophora williamsii

Vanda hindsii

Verreauxia verreauxii

Verticordia creba

Verticordia helichrysantha

Verticordia staminosa

Villarsia calthifolia

Vittadinia sericea

Wahlenbergia glabra

Westringia davidii

Westringia parvifolia

Wrixonia schultzei

Wurmbea tubulosa

Wurmbea sp. (S.D. Hopper 5871; Cape Natwaliste)

Xanthostemon oppositifolius

Xanthostemon youngii

Xerothamnella parvifolia

Xyris sp. (G.J. Keighery 7951; Stirling Range)

ZGenus nov.1 sp. (B. Hyland 2519; Boonjee)

Zieria citriodora Armstrong ms.

Zieria collina

Zieria covenyi Armstrong ms.

Zieria granulata

Zieria ingramii Armstrong ms.

Zieria involucrata

Zieria murphyi

Zieria rimulosa

Zieria tuberculata Armstrong ms.

Zieria obovata (C.T. White) Armstrong ms.

Zieria verrucosa Armstrong ms.

Part 3; Species that are presumed extinct

Genus, species (subspecies, population)

Common Name

Animals

Fish

nil

Amphibians

nil

Reptiles

nil

Birds

Aplonis fusca

Norfolk Island Starling

Columba vitiensis godmanae

Lord Howe Pigeon

Cyanoramphus novaezelandiae erythrotis

Macquarie Island Parakeet

Cyanoramphus novaezelandiae subflavescens

Lord Howe Parakeet

Dasyornis broadbenti littoralis

South-western Rufous Bristlebird

Dromaius baudinianus

Kangaroo Island Emu

Dromaius minor

Dwarf Emu/King Island Emu

Drymodes superciliaris colcloughi

Roper River Scrub-robin

Gerygone insularis

Lord Howe Warbler

Hemiphaga novaeseelandiae spadicea

New Zealand Pigeon (Norfolk Island Race)

Lalage leucopyga leucopyga

Norfolk Island Long-tailed Triller

Nestor productus

Norfolk Island Kaka

Ninox novaeseelandiae albaria

Lord Howe Boobook Owl

Notornis alba

White Gallinule

Psephotus pulcherrimus

Paradise Parrot

Rallus pectoralis clelandi

Lewin's Water Rail (western race)

Rallus philippensis maquariensis

Macquarie Island Rail

Rhipidura cervina

Lord Howe Fantail

Turdus xanthopus vinitinctus

Lord Howe Island Vinous-tinted Thrush

Zosterops strenua

Robust White-eye

Mammals

Caloprymnus campestris

Desert Rat-kangaroo

Chaeropus ecaudatus

Pig-footed Bandicoot

Conilurus albipes

White-footed Rabbit-rat

Lagorchestes asomatus

Central Hare-wallaby

Lagorchestes leporides

Eastern Hare-wallaby

Leporillus apicalis

Lesser Stick-nest Rat

Macropus greyi

Toolache Wallaby

Macrotis leucura

Lesser Bilby

Notomys amplus

Short-tailed Hopping-mouse

Notomys longicaudatus

Long-tailed Hopping-mouse

Notomys macrotis

Big-eared Hopping-mouse

Notomys mordax

Darling Downs Hopping-mouse

Onychogalea lunata

Crescent Nailtail Wallaby

Potorous platyops

Broad-faced Potoroo

Potorous tridactylus gilberti

Gilbert's Potoroo

Pseudomys fieldi

Alice Springs Mouse

Pseudomys gouldii

Gould's Mouse

Pteropus brunneus

Percy Island Flying Fox

Rattus macleari

Christmas Island Rat

Rattus nativitatus

Christmas Island Rat

Thylacinus cynocephalus

Thylacine

Plants

Acacia murrumboensis

Acacia prismifolia

Acacia volubilis

Acanthocladium dockeri

Acianthus ledwardii

Agrostis limitanea

Amphibromus whitei

Argentipallium spiceri

Beyeria lepidopetala

Caladenia atkinsonii

Caladenia pumila

Calothamnus accedens

Cassytha pedicellosa

Centrolepis caespitosa

Choristemon humilis

Coleanthera virgata

Deyeuxia drummondii

Deyeuxia lawrencei

Dicrastylis morrisonii

Eriostemon falcatus

Euphorbia carissoides

Euphrasia arguta

Euphrasia sp. (Rupp sn. ;/9/1904; Tamworth)

Frankenia conferta

Frankenia decurrens

Frankenia parvula

Gentiana baeuerlenii

Glyceria drummondii

Grevillea divaricata

Gyrostemon reticulatus

Haloragis platycarpa

Hemigenia exilis

Hemigenia obtusa

Hutchinsia tasmanica

Hydatella leptogyne

Hymenophyllum whitei

Hypsela sessiliflora

Lasiopetalum rotundifolium

Lepidium drummondii

Lepidium peregrinum

Leptomeria dielsiana

Leptomeria laxa

Leucopogon cryptanthus

Leucopogon marginatus

Menkea draboides

Nemcia lehmannii

Oberonia attenuata

Olearia oliganthema

Opercularia acolyantha

Ozothamnus selaginoides

Persoonia prostrata

Phebalium lachnaeoides

Phlegmatospermum drummondii

Pimelea spinescens pubiflora

Platysace dissecta

Plectrachne bromoides

Prasophyllum subbisectum

Pseudanthus nematophorus

Ptilotus fasciculatus

Ptilotus pyramidatus

Rapanea sp. (J.H. Maiden & J.L. Boorman NSW 26751; North Coast)

Scaevola attenuata

Scaevola macrophylla

Schoenus natans

Senecio georgianus

Stylidium merrallii

Stylidium neglectum

Tetragia australiensis

Tetragia elliptica

Tetragia fasciculata

Thomasia gardneri

Tmesipteris lanceolata

Trachymene scapigera

Trianthema cypseloides

Schedule 2; Listed ecological communities

Section 16

(Currently no entries)

Schedule 3; Key threatening processes

Section 17

Predation by the European red fox (*Vulpes vulpes*)
Dieback caused by the root-rot fungus (*Phytophthora cinnamomi*)
Predation by feral cats
Competition and land degradation by feral rabbits
Competition and land degradation by feral goats

Schedule 4; Agreements between Australia and other countries

Sections 174 and 175

Agreement between the Government of Australia and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction and their Environment signed at Tokyo on 6 February 1974.
Convention on Wetlands of International Importance especially as Waterfowl Habitat adopted on 2 February 1971 by the International Conference on the Conservation of Wetlands and Waterfowl held at Ramsar, Iran.
Convention on the Conservation of Migratory Species of Wild Animals signed at Bonn on 23 June 1979.
Convention on Conservation of Nature in the South Pacific, signed at Apia, Western Samoa on 12 June 1976.
Agreement between the Government of Australia and the Government of the People's Republic of China for the Protection of Migratory Birds and their Environment (CAMBA) signed at Canberra on 20 October 1986.
Convention for the Protection of the Natural Resources and Environment of the South Pacific (the SPREP Convention) signed at Noumea on 24 November 1986.

Notes to the Act

Note 1

The as shown in this compilation comprises Act No. 194, 1992 amended as indicated in the Tables below.

The was amended by

Declarations made under subsection 18(1) of the Act. [see Note 2]

For all relevant information pertaining to application, saving or transitional provisions see Table A.

Table of Acts

Act

Number
and year

Date
of Assent

Date of commencement

Application, saving or transitional provisions

194, 1992

21 Dec 1992

30 Apr 1993 (see Gazette 1993, No. S46)

Environment, Sport and Territories Legislation Amendment Act 1994

113, 1994

16 Sept 1994

16 Sept 1994

;

Environment, Sport and Territories Legislation Amendment Act 1997

118, 1997

7 July 1997

Schedule 1 (items 23-26): Royal Assent (a)

Sch. 1 (item 26)

Audit (Transitional and Miscellaneous) Amendment Act 1997

152, 1997

24 Oct 1997

Schedule 2 (item 734): 1 Jan 1998 (see Gazette 1997, No. GN49) (b)

;

Environmental Reform (Consequential Provisions) Act 1999

92, 1999

16 July 1999

Schedule 1 (item 11) and Schedule 2 (items 1-10): [see (c) and Note 3]

Sch. 1 (item 11) and Sch. 2 (items 2-10) [see Note 3]

Public Employment (Consequential and Transitional) Amendment Act 1999

146, 1999

11 Nov 1999

Schedule 1 (items 416, 417): 5 Dec 1999 (see Gazette 1999, No. S584)
(d)

;

(a) The was amended by
Schedule 1 (items 23-26) only of the Environment, Sport and
Territories Legislation Amendment Act 1997, subsection 2(1) of which
provides as follows:

(1) Subject to subsections (2), (3) and (4), this Act commences on the
day on which it receives the Royal Assent.

(b) The was amended by
Schedule 2 (item 734) only of the Audit (Transitional and
Miscellaneous) Amendment Act 1997, subsection 2(2) of which provides
as follows:

(2) Schedules 1, 2 and 4 commence on the same day as the Financial
Management and Accountability Act 1997.

(c) The was amended by
Schedule 2 (item 1) only of the Environmental Reform (Consequential
Provisions) Act 1999, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act commences when the Environment
Protection and Biodiversity Conservation Act 1999 commences. [see
Note 3]

(d) The was amended by
Schedule 1 (items 416 and 417) only of the Public Employment
(Consequential and Transitional) Amendment Act 1999, subsections 2(1)
and (2) of which provide as follows:

(1) In this Act, commencing time means the time when the Public
Service Act 1999 commences.

(2) Subject to this section, this Act commences at the commencing
time.

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed
and substituted

Provision affected

How affected

S. 4

am. No. 113, 1994; No. 118, 1997; No. 146, 1999

S. 6

am. No. 118, 1997

S. 24

am. No. 118, 1997

S. 49

am. No. 152, 1997

S. 138

am. No. 113, 1994

Note 2

The was amended by
Declarations made under subsection 18 (1) of the Act. The following is
a listing of the Declarations notified in the Government Notices
Gazette:

GN 18 11 May 1994

GN 21 1 June 1994

GN 22 8 June 1994

GN 25 28 June 1995

GN 31 9 August 1995 pp. 3099-3100

GN 18 8 May 1996 pp. 1329-1331

GN 33 20 August 1997 pp. 2344-2347

GN 39 1 October 1997 p. 2712

GN 5 4 February 1998 pp. 388-399

GN 9 4 March 1998 p. 642

GN 30 29 July 1998 pp. 2591, 2592

GN 38 23 September 1998 p. 3165
GN 44 4 November 1998 p.3533
GN 8 24 February 1999 p. 503
GN 29 21 July 1999 p. 2161
GN 44 3 November 1999 pp. 3866-3872
GN 51 22 December 1999 p. 4247
GN 2 19 January 2000 pp. 82-86

Note 3

Environmental Reform (Consequential Provisions) Act 1999 (No. 92, 1999)

The following amendments and provisions commence when the Environment Protection and Biodiversity Conservation Act 1999 (No. 91 of 1999) comes into operation (16 July 2000 if not proclaimed earlier):

Schedule 1

11 Parts 3 and 13 of the new Act do not apply to acts allowed by permit under Endangered Species Protection Act

If a permit in force under the immediately before the commencement of the new Act allowed a person to do an act, Parts 3 and 13 of the new Act do not apply to the doing of the act by the person during the period for which the permit continues in force because of Part 2 of Schedule 2 to this Act.

Schedule 2 Part 1; Repeal 1 The whole of the Act

Repeal the Act.

Part 2; Saving and transitional provisions 2 Definitions

In this Part:

new Act means the Environment Protection and Biodiversity Conservation Act 1999.

Species Act means the Endangered Species Protection Act 1992.

3 Listing of species, ecological communities and key threatening processes

Application

(1) Subitems (2) and (3) apply if, immediately before the commencement of the new Act:

(a)

an item had been nominated by a person under section 25 of the Species Act for inclusion in a list in Schedule 1, 2 or 3 to that Act; and

(b) the Minister administering that Act had not:

(i) added the item to the list; or

(ii) decided not to add the item to the list.

Nominated item to be dealt with under new Act

(2) The person is taken to have nominated the item under subsection 191(1) of the new Act, as shown in the following table.

Purposes for which person is taken to have nominated item

Item

Description of item nominated under Species Act

Purposes for which person is taken to have nominated item

1

Species nominated for inclusion in the list in Part 1 of Schedule 1 to the Species Act

For inclusion in the category of the list mentioned in paragraph 178(1)(d) of the new Act

2

Species nominated for inclusion in the list in Part 2 of Schedule 1 to the Species Act

For inclusion in the category of the list mentioned in paragraph 178(1)(e) of the new Act

3

Species nominated for inclusion in the list in Part 3 of Schedule 1 to the Species Act

For inclusion in the category of the list mentioned in paragraph 178(1)(a) of the new Act

4

Ecological community

For inclusion in the category of the list mentioned in paragraph 181(1)(b) of the new Act

5

Threatening process

For inclusion in the list mentioned in section 183 of the new Act

Time limit for Scientific Committee to deal with nomination

(3) Subsection 189(4) of the new Act applies in relation to a nominated species or ecological community as if the Threatened Species Scientific Committee had received the nomination under section 191 of that Act from the Minister administering that Act on the later of the following days (or either of them if the days are the same):

- (a) the day the nomination was made under the Species Act;
- (b) the day 6 months before the commencement of the new Act.

Scientific Committee taken to have given advice under new Act

(4) If:

- (a) in performing its function under paragraph 159(1)(a)

of the Species Act, the Endangered Species Scientific Subcommittee advised the Minister administering the Species Act to add an item to, or delete an item from, a list in a Schedule to that Act; and

- (b) that Minister had not made a decision on the addition or deletion of the item before the commencement of the new Act;

the Threatened Species Scientific Committee is taken to give corresponding advice under section 189 of the new Act to the Minister administering the new Act on the day on which the relevant list mentioned in the third column of the table in subitem (5) is established.

What is corresponding advice?

(5) The table shows what is corresponding advice taken to have been given by the Threatened Species Scientific Committee.

Corresponding advice

Item

Advice given by Endangered Species Scientific Subcommittee

Corresponding advice taken to be given by Threatened Species Scientific Committee

1

To add a species to the list in Part 1 of Schedule 1 to the Species Act

To include the species in the category of the list mentioned in paragraph 178(1)(d) of the new Act

2

To delete a species from the list in Part 1 of Schedule 1 to the

Species Act

To delete the species from the category of the list mentioned in paragraph 178(1)(d) of the new Act

3

To add a species to the list in Part 2 of Schedule 1 to the Species Act

To include the species in the category of the list mentioned in paragraph 178(1)(e) of the new Act

4

To delete a species from the list in Part 2 of Schedule 1 to the Species Act

To delete the species from the category of the list mentioned in paragraph 178(1)(e) of the new Act

5

To add a species to the list in Part 3 of Schedule 1 to the Species Act

To include the species in the category of the list mentioned in paragraph 178(1)(a) of the new Act

6

To delete a species from the list in Part 3 of Schedule 1 to the Species Act

To delete the species from the category of the list mentioned in paragraph 178(1)(a) of the new Act

7

To add an ecological community to the list in Schedule 2 to the Species Act

To include the ecological community in the category of the list mentioned in paragraph 181(1)(b) of the new Act

8

To delete an ecological community from the list in Schedule 2 to the Species Act

To delete the ecological community from the category of the list mentioned in paragraph 181(1)(b) of the new Act

9

To add a threatening process to the list in Schedule 3 to the Species Act

To include the threatening process in the list mentioned in section 183 of the new Act

10

To delete a threatening process from the list in Schedule 3 to the Species Act

To delete the threatening process from the list mentioned in section 183 of the new Act

Minister may ask Scientific Committee to review advice

(6) The Minister administering Division 1 of Part 13 of the new Act may request the Threatened Species Scientific Committee to review the Endangered Species Scientific Subcommittee's advice described in subitem (4), and report to that Minister on the review, within 3 months. If that Minister does so:

- (a) the Committee is not taken to have given corresponding advice as described in that subitem; and
- (b) subsections 189(2) and (3) of the new Act apply in relation to the Committee as if that Minister had sought the Committee's advice under subsection 189(1) of that Act in relation to the matter that was the subject of the Subcommittee's advice; and
- (c) subsections 189(5) and (6) of the new Act apply as if the Committee's report were advice to that Minister.

Time limit for Minister to request review

(7) The Minister must not make a request for review of advice to add an item to, or delete an item from, a list more than 90 days after the day on which the relevant list mentioned in the third column of the table in subitem (5) is established.

Relationship between subitems

(8) Subitem (6) has effect despite subitems (3) and (4).

4 Continuation of recovery plans and threat abatement plans

Continuation of recovery plans

(1) A recovery plan or threat abatement plan that was approved or adopted under the Species Act and was in force under that Act immediately before the commencement of the new Act has effect for the purposes of the new Act as if the plan had been made or adopted under the new Act.

Review of continued plans

(2) Subsection 279(2) of the new Act applies in relation to the plan as if the intervals were measured from the day the plan was adopted or approved under the Species Act.

Continued plan need not deal with certain matters before review

(3) This item has effect in relation to a plan before the first review of the plan under section 279 of the new Act, even if the plan does not comply with subsection 270(2) or 271(2) (as appropriate) of the new Act.

5 Continued preparation of recovery plans and threat abatement plans

(1) If, before the commencement of the new Act, the Director had complied with section 39 of the Species Act in relation to a draft plan and the Minister administering that Act had not approved the plan under that Act, the Minister administering the new Act need not comply with section 275 of the new Act before making a plan under Subdivision A of Division 5 of Part 13 of the new Act that is based on the draft plan.

(2) The Minister administering the new Act may make the plan even if he or she has not received advice described in paragraph 274(1)(b) of the new Act.

6 Conservation agreements

For the purposes of the new Act, a conservation agreement made under the Species Act has effect as if:

- (a) it had been made under the new Act; and
- (b) any reference in it to the Director (as defined in the Species Act) were a reference to the Minister administering the new Act.

7 Conservation orders

Continuation of permanent and interim conservation orders

(1) For the purposes of the new Act, a permanent conservation order or interim conservation order in force under the Species Act immediately before the commencement of the new Act has effect as if it were a conservation order made under Division 13 of Part 17 of the new Act.

Expiry of interim conservation orders

(2) However, an interim conservation order does not have effect after the last day on which it could have had effect under the Species Act if the Species Act had not been repealed.

Reconsideration of permanent and interim conservation orders

(3) If, before the commencement of the new Act:

- (a)

the Minister administering the Species Act made a permanent conservation order or an interim conservation order under the Species Act; and

- (b) a person applied to that Minister under the Species Act for reconsideration of the order or for reconsideration of a decision on review of the order; and
- (c) that Minister had not confirmed, varied or revoked the order or decision;

that Minister must not confirm, vary or revoke the order or decision, despite section 8 of the Acts Interpretation Act 1901.

Minister's advice about conservation orders

(4) For the purposes of the new Act, advice given under Division 4 of Part 6 of the Species Act by the Minister administering the Species Act in relation to a permanent conservation order or an interim conservation order has effect as if it had been given under Division 13 of Part 17 of the new Act.

Continuation of impact assessment conservation orders

(5) Despite the repeal of the Species Act, an impact assessment conservation order that was in force under the Species Act immediately before its repeal continues to have effect in relation to an action to which Part 3 of the new Act does not apply because of item 4, 5 or 8 of Schedule 1 to this Act as if the following provisions had not been repealed:

- (a) Division 3 of Part 5 of the Species Act;
- (b) the other provisions of the Species Act, so far as they relate to impact assessment conservation orders.

Modification of provisions of Species Act

(6) The provisions mentioned in paragraphs (5)(a) and (b) apply for the purposes of subitem (5) as if:

- (a) a reference in those provisions to the Director were a reference to the Secretary to the Department administering Division 13 of Part 17 of the new Act; and
- (b) a reference in those provisions to the Minister were a reference to the Minister administering that

Division; and

- (c) a reference in those provisions to the Environment Protection (Impact of Proposals) Act 1974 were a reference to that Act as it continues to apply because of Part 2 of Schedule 3 to this Act; and
- (d) a reference in those provisions to the EPIP administrative procedures were a reference to the Administrative Procedures that apply because of Part 2 of Schedule 3 to this Act.

8 Permits

(1) Despite the repeal of the Species Act:

- (a) a permit that was issued under that Act and was in force immediately before the repeal of that Act continues in force for the period for which it would have been in force if that Act had not been repealed; and
- (b) that Act (as in force immediately before its repeal) continues to operate in relation to the permit and the action covered by the permit as if:
 - (i) references in that Act to the Director were references to the Secretary to the Department administering Division 1 of Part 13 of the new Act; and
 - (ii) references in the Species Act to the Minister were a reference to the Minister administering that Division.

(2) If, before the commencement of the new Act:

- (a) a person applied under the Species Act to the Minister administering that Act for reconsideration of a decision by the Director relating to a permit under the Species Act; and
- (b) that Minister had not confirmed, varied or revoked the decision;

that Minister must not confirm, vary or revoke the order or decision, despite subitem (1) and section 8 of the Acts Interpretation Act 1901.

9 AAT review of advice relating to conservation orders

(1) This item extends subsection 43(1) of the Administrative Appeals Tribunal Act 1975 for the purposes of an application made at any time to the Administrative Appeals Tribunal (in accordance with that Act) for review of a decision by the Minister administering the Species Act to give advice under Division 4 of Part 6 of the Species Act.

Note: Subsection 25(7) of the Administrative Appeals Tribunal Act 1975 allows the President of the Administrative Appeals Tribunal to specify a person to take the place of the Minister administering the Species Act in proceedings after the repeal of the Species Act.

(2) Without limiting subsection 43(1) of the Administrative Appeals Tribunal Act 1975, the Tribunal may:

- (a) exercise the powers and discretions of the Minister administering the new Act for the purpose of varying the decision of the Minister administering the Species Act or substituting another decision for the decision of the Minister administering the Species Act; or
- (b) remit the matter to the Minister administering the new Act for consideration in accordance with any directions or recommendations of the Tribunal.

10 Inventories and surveys

Inventories of species and communities on land

(1) An inventory prepared under section 165 of the Species Act for an area has effect for the purposes of the new Act as if it had been prepared under section 172 of the new Act.

Surveys of species in marine areas

(2) A survey prepared under section 166 of the Species Act for an area has effect for the purposes of the new Act as if it had been prepared under section 173 of the new Act.

Certain obligations not affected

(3) This item does not affect the obligations under the new Act of the Minister administering that Act to prepare an inventory or survey of the following in an area:

- (a) listed threatened ecological communities (except

communities included in the endangered category of the list mentioned in section 181 of the new Act);

- (b) listed migratory species;
- (c) listed marine species.

As at 20 January 2000 the amendments are not incorporated in this consolidation.

Table A

Application, saving or transitional provisions

Environment, Sport and Territories Legislation Amendment Act 1997
(No. 118, 1997)

26 Application of amendment made by item 25

The amendment made by item 25 does not apply to a decision under subsection 24(2) if the Scientific Subcommittee's advice was received before the commencement of that item. In that case, the former 30 day limit continues to apply.