



Endangered Species Protection Act 1992

No. 194 of 1992

An Act providing for the conservation and management of species

[Assented to 21 December 1992]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

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

Commencement

2.(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.

Objects of Act

3.(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).

Definitions

4.(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
 - (ii) the Administrator of the Northern Territory or the Administrator of Norfolk Island; 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
- (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” has the same meaning as in the *Public Service Act 1922*;

“Director” means the Director of National Parks and Wildlife;

“ecological community” means an integrated assemblage of native species that:

- (a) inhabits a particular area in nature; and
- (b) meets the additional criteria specified in the regulations 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” has the same meaning as in the *Public Service Act 1922*;

“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.

Commonwealth areas

5.(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

6.(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 abundance, survival or evolutionary development cease to operate; or

(b) it might already be extinct.

Vulnerable species

7.(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.

Species that are presumed extinct

8. 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.

Interests in Commonwealth areas

9. 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.

Disallowance of certain instruments

10. 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*.

Certain Territories regarded as States

11. 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.

Act to bind Crown

12.(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.

External Territories

13. This Act extends to each external Territory.

PART 2—LISTING

Outline of this Part

14.(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.

Lists of native species

15.(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.

Lists of ecological communities

16. Schedule 2 contains a list of ecological communities that are endangered.

List of key threatening processes

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

Division 2—The listing process

Minister may amend lists

18.(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.

Reasons for amendments of lists

19.(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.

Native species etc. that are endangered

20.(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.

Native species that are vulnerable

21.(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.

Native species that are presumed extinct

22.(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.

Key threatening processes

23.(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.

Minister must consider advice from Scientific Subcommittee

24.(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 30 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 30 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.

Public may nominate native species etc.

25.(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.

Rediscovery of native species that were presumed extinct

26.(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.

Minister only to consider nature conservation matters

27.(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.

Species posing a serious threat to human health

28.(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 lists

Director to make lists available to the public

29. 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

Outline of this Part

30.(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

Recovery plans

31.(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.

Content of recovery plans

32.(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.

Threat abatement plans

33.(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.

Content of threat abatement plans

34.(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.

Eradication of non-native species

35. 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

Deadlines for preparing plans

36. 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 table:

TABLE

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

Advisory Committee to advise on scheduling of plans

37.(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.

Preparation of draft plans

38.(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*.

Consultation on draft plans

39.(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*.

Consideration of comments

40. 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.

Approval by the Minister

41.(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.

Director to make plans available to the public

42.(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.

Variation of plans

43.(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.

Commonwealth assistance for the preparation of draft plans

44.(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.

Advisory Committee to advise on assistance

45.(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.

Adoption of draft plans

46.(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.

Director to publicise adoption of draft plans

47.(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

Commonwealth assistance for implementation of plans

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

Reports on preparation and implementation of plans

49. The Director must prepare, for inclusion in each annual report prepared under section 52 of the *National Parks and Wildlife Conservation Act 1975*, 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

Outline of this Part

50. 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.

Director may enter into conservation agreements

51. 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.

Content of conservation agreements

52.(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.

Conservation agreements to be legally binding

53. 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.

Publication of conservation agreements

54.(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.

List of conservation agreements

55. 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

Outline of this Part

56.(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

Minister may make interim conservation orders

57. 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.

Limitations on the power to make interim conservation orders

58.(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.

Grounds for making interim conservation orders

59.(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.

Consideration of the social and economic impact of interim conservation orders

60. 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.

Procedure for making interim conservation orders

61.(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.

Duration of interim conservation orders

62.(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.

Publication of interim conservation orders

63.(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.

Application for reconsideration of interim conservation orders

64.(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.

Reconsideration of interim conservation orders

65.(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.

Director to attempt to enter into conservation agreements

66.(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.

Assistance for complying with interim conservation orders

67.(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

Minister may make permanent conservation orders

68. 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.

Grounds for making permanent conservation orders

69.(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.

Economic and social considerations

70. 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.

Procedure for making permanent conservation orders

71. 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.

Duration of permanent conservation orders

72.(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.

Reviews of permanent conservation orders

73.(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.

Publication of permanent conservation orders

74.(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.

Application for reconsideration of permanent conservation orders or decisions on review

75.(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.

Reconsideration of permanent conservation orders and decisions on review

76.(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:

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- (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.

Assistance in complying with permanent conservation orders

77.(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

Application of this Division

78. 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.

Minister may make impact assessment conservation orders

79.(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.

Grounds for making impact assessment conservation orders

80.(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.

Endangered Species Protection

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

81. 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.

Procedure for making impact assessment conservation orders

82.(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.

Duration of impact assessment conservation orders

83.(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*.

Publication of impact assessment conservation orders

84.(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.

Outline of this Part

85.(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

Compliance with conservation orders

86.(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.

Taking etc. listed native species

87.(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

Application for permits

88.(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.

Director may issue permits

89.(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.

Public consultation

90.(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.

Deadline for making a decision

91.(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.

Cancellation of permits

92.(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.

Notification of rights to reconsideration

93.(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.

Application for reconsideration

94.(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.

Reconsideration of decisions

95.(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.

Review by the Administrative Appeals Tribunal

96. 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).

Surrender of permits

97.(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.

Publication of permit details etc.

98. 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

Compliance with recovery plans and threat abatement plans

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

Compliance with impact assessment conservation orders

100. 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).

Effect of Minister's advice on proposed actions etc.

101. 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.

Commonwealth agencies to have regard to certain State laws

102. 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.

Commonwealth agencies to seek advice on proposed actions etc.

103.(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).

Minister to consider proposed actions etc.

104.(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.

Contents of notices of advice

105.(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.

Review by the Administrative Appeals Tribunal

106.(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.

Repair of damage

107.(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.

Liability for expenses incurred by the Commonwealth

108.(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.

Ancillary offences

109. 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.

Court may order convicted persons to pay amounts

110. 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.

Enforcement of orders for payment

111.(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.

Further orders relating to the same act or omission

112. 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

Outline of this Part

113.(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

General administration of Act

114. The Director has the general administration of this Act.

Additional functions of Director

115. 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.

Delegation

116. 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.

Consultation with the Great Barrier Reef Marine Park Authority

117. 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

Interpretation

118. 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.

Extent of powers

119.(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.

Arrest without warrant

120.(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.

Confiscation and forfeiture

121.(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.

Searches of vehicles, aircraft and vessels

122.(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.

Searches of land and premises

123.(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.

Warrants for searches of land or premises

124.(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.

Warrants may be granted by telephone etc.

125.(1) If, because of circumstances of urgency, an officer thinks it necessary to do so, the officer may apply for a warrant under subsection 124(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.

Retention of things seized

126.(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.

Officers may require certain information

127.(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.

Power to pursue persons and vessels

128.(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.

Obstruction of officers etc.

129. 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

Injunctions granted on the application of the Director

130.(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.

Injunctions granted on the application of interested persons

131.(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.

Interim injunctions

132.(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.

Discharge etc. of injunctions

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

Certain limits on granting injunctions not to apply

134.(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.

Other powers of the court unaffected

135. 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**

Outline of this Part

136.(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***

Establishment

137. The Endangered Species Advisory Committee is established.

Functions

138. 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
- (e)** under section 164, to review and report on the operation of 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

Constitution

139.(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).

Appointment of members

140.(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.

Chairperson

141.(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.

Terms of office

142. 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.

Terms and conditions of appointment

143. 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.

Remuneration and allowances

144.(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*.

Leave of absence

145.(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.

Resignation

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

Outside employment

147. 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.

Termination of appointment

148.(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

Convening meetings

149.(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.

Presiding at meetings

150.(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.

Quorum

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

Voting at meetings

152.(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.

Conduct of meetings

153. The Advisory Committee may, subject to this Division, determine the procedure at meetings.

Resolutions without meetings

154.(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.

Records relating to meetings

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

Disclosure of interests

156.(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.

Persons may be invited to attend meetings

157. 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

Establishment

158. The Endangered Species Scientific Subcommittee is established.

Functions

159.(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.

Constitution

160.(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.

Chairperson of Scientific Subcommittee

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

Terms of office

162. 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.

Meetings of the Scientific Subcommittee

163. 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

Assistance for the Committees

164.(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

Inventories of listed native species etc.

165.(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.

Surveys of marine species etc.

166.(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.

Obligations under this Act unaffected by lack of inventories or surveys

167. 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.

Review of operation of Act

168.(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.

Waiver of obligations imposed by this Act

169.(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.

Effect of failure to meet time limits

170.(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.

This Act to be subject to international obligations

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

Compensation

172.(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.

Raising funds

173. 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.

International assistance

174.(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.

Giving effect to international agreements

175.(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.

Regulations

176. 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

Section 15

LISTED SPECIES

PART 1—SPECIES THAT ARE ENDANGERED

Genus, species (subspecies, population)	Common Name
Animals	
Fish	
<i>Galaxias fontanus</i>	Swan Galaxias
<i>Galaxias fuscus</i>	Brown Galaxias
<i>Galaxias johnstoni</i>	Clarence Galaxias
<i>Galaxias pedderensis</i>	Pedder Galaxias
<i>Maccullochella ikei</i>	Eastern Freshwater Cod
<i>Maccullochella macquariensis</i>	Trout Cod
<i>Melanotaenia eachamensis</i>	Lake Eacham Rainbow Fish
Amphibians	
<i>Geocrinia vitellina</i>	Yellow-bellied Frog
<i>Litoria spenceri</i>	Spotted Tree Frog
<i>Rheobatrachus silus</i>	Gastric-brooding Frog
<i>Rheobatrachus vitellinus</i>	Eungella Gastric-brooding Frog
<i>Taudactylus acutirostris</i>	Sharp-snouted Day Frog
<i>Taudactylus diurnus</i>	Southern Day Frog
<i>Taudactylus eungellensis</i>	Eungella Day Frog
Reptiles	
<i>Aprasia aurita</i>	Legless Lizard
<i>Aprasia parapulchella</i>	Pink-tailed Legless Lizard
<i>Caretta caretta</i>	Loggerhead Turtle
<i>Hoplocephalus bungaroides</i>	Broad-headed Snake
<i>Pseudemydura umbrina</i>	Western Swamp Tortoise
<i>Tiliqua adelaidensis</i>	Adelaide Blue-tongued Lizard
Birds	
<i>Cacatua pastinator pastinator</i>	Western Long-billed Corella
<i>Calyptorhynchus banksii graptogyne</i>	South-eastern Red-tailed Black Cockatoo
<i>Coracina tenuirostris melvillensis</i>	Melville Cicadabird

SCHEDULE 1—continued

<i>Cyanoramphus novaezelandiae cookii</i>	Norfolk Island Parrot
<i>Erythrura gouldiae</i>	Gouldian Finch
<i>Falcunculus frontatus whitei</i>	Kimberley Crested Shriketit
<i>Geopsittacus occidentalis</i>	Night Parrot
<i>Leipoa ocellata</i>	Malleefowl
<i>Lichenostomus melanops cassidix</i>	Helmeted Honeyeater
<i>Manorina melanotis</i>	Black-eared Miner
<i>Neophema chrysogaster</i>	Orange-bellied Parrot
<i>Ninox novaeseelandiae undulata</i>	Norfolk Island Boobook Owl
<i>Pardalotus quadragintus</i>	Forty-spotted Pardalote
<i>Petrophassa smithii blaaui</i>	Western Partridge Pigeon
<i>Pezoporus wallicus flaviventris</i>	Western Ground Parrot
<i>Poecilodryas superciliosa cerviniventris</i>	Derby White-browed Robin
<i>Psephotus chrysopterygius</i>	Golden-shouldered Parrot
<i>Psittaculirostris diophthalma coxeni</i>	Coxen's Fig-parrot
<i>Pterodroma leucoptera leucoptera</i>	Gould's Petrel
<i>Sterna albifrons</i>	Little Tern
<i>Stipiturus malachurus intermedius</i>	Mount Lofty Southern Emu-wren
<i>Sula abbotti</i>	Abbott's Booby
<i>Turdus poliocephalus poliocephalus</i>	Norfolk Island Thrush
<i>Xanthomyza phrygia</i>	Regent Honeyeater
<i>Zosterops albogularis</i>	Norfolk Island Silvereye
Mammals	
<i>Balaenoptera musculus</i>	Blue Whale
<i>Bettongia lesueur</i>	Burrowing Bettong
<i>Bettongia penicillata</i>	Brush-tailed Bettong
<i>Bettongia tropica</i>	Northern Bettong
<i>Crocidura tenuata var. trichura</i>	Christmas Island Shrew
<i>Dasyuroides byrnei</i>	Kowari
<i>Dasyurus geoffroii</i>	Western Quoll
<i>Eubalaena australis</i>	Southern Right Whale
<i>Gymnobelideus leadbeateri</i>	Leadbeater's Possum
<i>Isodon auratus</i>	Golden Bandicoot
<i>Lagorchestes hirsutus</i>	Rufous Hare-wallaby
<i>Lagostrophus fasciatus</i>	Banded Hare-wallaby
<i>Lasiiorhinus krefftii</i>	Northern Hairy-nosed Wombat

SCHEDULE 1—continued

<i>Leporillus conditor</i>	Greater Stick-nest Rat
<i>Megaptera novaeangliae</i>	Humpback Whale
<i>Myrmecobius fasciatus</i>	Numbat
<i>Notomys fuscus</i>	Dusky Hopping-mouse
<i>Onychogalea fraenata</i>	Bridled Nailtail Wallaby
<i>Parantechinus apicalis</i>	Dibbler
<i>Perameles bougainville</i>	Western Barred Bandicoot
<i>Perameles eremiana</i>	Desert Bandicoot
<i>Phascogale calura</i>	Red-tailed Phascogale
<i>Potorous longipes</i>	Long-footed Potoroo
<i>Pseudocheirus peregrinus</i> <i>occidentalis</i>	Western Ringtail Possum
<i>Pseudomys praeconis</i>	Shark Bay Mouse
<i>Pseudomys shortridgei</i>	Heath Rat
<i>Sminthopsis douglasi</i>	Julia Creek Dunnart
<i>Zyzomys pedunculatus</i>	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

SCHEDULE 1—continued

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

SCHEDULE 1—continued

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

SCHEDULE 1—continued

Eriocaulon carsonii
Eucalyptus graniticola Brooker &
Hopper ms.
Eucalyptus impensa Brooker &
Hopper ms.
Eucalyptus absita
Eucalyptus conglomerata
Eucalyptus crenulata
Eucalyptus crucis praecripua
Brooker & Hopper ms.
Eucalyptus cuprea Brooker & Hop-
per 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

SCHEDULE 1—continued

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 monoplacoides

Leucochrysum albicans

Lomatia tasmanica

Macadamia sp. (B. Hyland 3472;
Woopan 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

SCHEDULE 1—continued

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
Rutidosis leptorhynchoides
Sclerolaena napiformis
Senecio behrianus
Sowerbaea multicaulis
Stemmacantha australis
Stylidium coroniforme
Stylidium scabridum
Swainsona recta
Tectaria devexa
Tetratheca gunnii

SCHEDULE 1—continued

Tetratheca paynterae Alfard ms.
Thelymitra dedmaniae
Thelymitra epipacroides
Thysanotus wangariensis
Triunia robusta
Tylophora rupicola
Tylophora woollsii
Uromyrtus australis
Verticordia fimbriilepis
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.

SCHEDULE 1—continued

PART 2—SPECIES THAT ARE VULNERABLE

Genus, species (subspecies, population)	Common Name
Animals	
Fish	
<i>Galaxias parvus</i>	Swamp Galaxias
<i>Galaxias tanycephalus</i>	Saddled Galaxias
<i>Nannoperca obscura</i>	Yarra Pygmy Perch
<i>Nannoperca variegata</i>	Ewens Pygmy Perch
<i>Prototroctes maraena</i>	Australian Grayling
<i>Pseudomugil mellis</i>	Honey Blue-eye
Amphibians	
<i>Geocrinia alba</i>	Creek Frog/White-bellied Frog
<i>Philoria frosti</i>	Mount Baw Baw Frog
Reptiles	
<i>Chelonia mydas</i>	Green Turtle
<i>Ctenophorus yinnietharra</i>	Yinnietharra Rock-dragon
<i>Ctenotus angusticeps</i>	Airlie Island Ctenotus
<i>Ctenotus lanceolini</i>	Lancelin Island Striped Skink
<i>Delma impar</i>	Striped Legless Lizard
<i>Delma mitella</i>	Legless Lizard
<i>Delma torquata</i>	Legless Lizard
<i>Dermochelys coriacea</i>	Leathery Turtle
<i>Egernia stokesii aethiops</i>	Baudin Island Spiny-tailed Skink
<i>Eretmochelys imbricata</i>	Hawksbill Turtle
<i>Lepidochelys olivacea</i>	Pacific Ridley
<i>Morelia carinata</i>	Rough-scaled Python
<i>Ophidiocephalus taeniatus</i>	Bronzebacked Legless Lizard
<i>Pseudemoia palfreymani</i>	Pedra Branka Skink
<i>Rhodytes leukops</i>	Fitzroy River Tortoise
Birds	
<i>Amytornis dorotheae</i>	Carpentarian Grasswren
<i>Amytornis textilis textilis</i>	Western grasswren
<i>Anous tenuirostris melanops</i>	Lesser Noddy
<i>Atrichornis clamosus</i>	Noisy Scrub-bird
<i>Casuaris casuaris</i>	Southern Cassowary
<i>Cereopsis novaehollandiae grisea</i>	Recherche Cape Barren Goose
<i>Charadrius rubricollis</i>	Hooded Plover
<i>Dasyornis brachypterus</i>	Eastern Bristlebird
<i>Dasyornis longirostris</i>	Western Bristlebird
<i>Eclectus roratus</i>	Eclectus Parrot
<i>Erythrorhynchus radiatus</i>	Red Goshawk

SCHEDULE 1—continued

<i>Falcunculus frontatus leucogaster</i>	South-west Crested Shriketit
<i>Fregata andrewsi</i>	Christmas Island Frigatebird
<i>Lathamus discolor</i>	Swift Parrot
<i>Malurus leucopterus edouardi</i>	Barrow Island Black-and-white Fairy-wren
<i>Malurus leucopterus leucopterus</i>	Dirk Hartog Black-and-white Fairy-wren
<i>Ninox squamipila natalis</i>	Christmas Island Hawk-owl
<i>Pachycephala rufogularis</i>	Red-lored Whistler
<i>Pedionomus torquatus</i>	Plains-wanderer
<i>Polytelis alexandrae</i>	Alexandra's Parrot
<i>Stipiturus malachurus parimeda</i>	Eyre Peninsula Southern Emu-wren
<i>Strepera graculina crissalis</i>	Lord Howe Island Currawong
<i>Tricholimnas sylvestris</i>	Lord Howe Island Woodhen
<i>Turnix melanogaster</i>	Black-breasted Button-quail
<i>Turnix varia scintillans</i>	Albrolhos Painted Button-quail

Mammals

<i>Burramys parvus</i>	Mountain Pygmy-possum
<i>Dasycercus cristicauda</i>	Mulgara
<i>Dasyurus viverrinus</i>	Eastern Quoll
<i>Macroderma gigas</i>	Ghost Bat
<i>Macropus robustus isabellinus</i>	Barrow Island Euro
<i>Macrotis lagotis</i>	Greater Bilby
<i>Mesembriomys macrurus</i>	Golden-backed Tree-rat
<i>Notomys aquilo</i>	Northern Hopping-Mouse
<i>Perameles gunnii</i>	Eastern Barred Bandicoot
<i>Petrogale lateralis</i>	Black-footed Rock-wallaby
<i>Petrogale penicillata</i>	Brush-tailed Rock-wallaby
<i>Petrogale persephone</i>	Proserpine Rock-wallaby
<i>Pseudomys australis</i>	Plains Rat
<i>Pseudomys chapmani</i>	Pebble-mound Mouse
<i>Pseudomys occidentalis</i>	Western Mouse
<i>Pseudomys pillagaensis</i>	Pilliga Mouse
<i>Sminthopsis psammophila</i>	Sandhill Dunnart
<i>Xeromys myoides</i>	False Water-rat

Plants

<i>Acacia lanuginophylla</i>
<i>Acacia angustifolia</i>
<i>Acacia anomala</i>
<i>Acacia aphylla</i>
<i>Acacia araneosa</i>
<i>Acacia argutifolia</i>
<i>Acacia attenuata</i>
<i>Acacia axillaris</i>

SCHEDULE 1—continued

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 guyeri
Acacia handonis
Acacia imbricata
Acacia latzii
Acacia lauta
Acacia menzelii
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 semicircinalis
Acacia simulans
Acacia pygmaea Maslin ms.
Acacia lobulata
Acacia tenuinervis
Acacia undoolyana
Acacia vassalii

SCHEDULE 1—continued

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 phebaliioides
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

SCHEDULE 1—continued

Banksia sphaerocarpa dolichostyla
Banksia tricuspis
Banksia verticillata
Basedowia tenerrima
Bertya ingramii T. James ms.
Bertya opponens
Bertya pinifolia
Bertya sharpeana
Beyeria subtectata
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.

SCHEDULE 1—continued

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 gurulmundensis
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.
Cheiranthra volubilis
Choricarpia subargentea
Clematis fawcettii
Codonocarpus pyramidalis
Comesperma oblongatum
Commersonia sp. (G.P. Guymer
 1642; Cardarga)
Conospermum toddii
Conostylis drummondii

SCHEDULE 1—continued

Conostylis lepidospermoides
Conostylis micrantha
Conostylis misera
Conostylis rogeri
Conostylis seorsiflora trichophylla
Conostylis wonganensis
Cooperhookia 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

SCHEDULE 1—continued

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

SCHEDULE 1—continued

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

SCHEDULE 1—continued

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

SCHEDULE 1—continued

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

SCHEDULE 1—continued

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 lemnoidea
Idiospermum australiense
Indigofera efoliata
Ipomoea (A83192)
Isopogon fletcheri
Ixodia achillaeoides arenicola
Jagera javanica
Jedda multicaulis
Kelleria laxa
Kennedia becxiana
Kennedia glabrata
Kennedia macrophylla
Kennedia retrorsa
Kunzea cabbagei
Lasiopetalum longistamineum
Lasiopetalum micranthum
Lastreopsis walleri
Lawrencia buechananensis
Laxmannia jamesii
Lechenaultia chlorantha
Lechenaultia laricina
Lechenaultia pulvinaris
Lechenaultia superba
Lepidium pseudo-papillosum
Leptorhynchus gatesii
Leptospermum deanei
Leptospermum thompsonii
Leucopogon blakei
Leucopogon cuspidatus
Leucopogon exolasius
Leucopogon obtectus
Limosella granitica
Lindsaea pulchella

SCHEDULE 1—continued

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
Oreoporanthera petalifera
Owenia cepiodora
Ozothamnus eriocephalus
Ozothamnus tessellatus
Parasarcophilus hirticalcar

SCHEDULE 1—continued

Paspalidium grandispiculatum
Persicaria elatior
Persoonia acerosa
Persoonia amaliae
Persoonia glaucescens
Persoonia marginata
Phaius australis
Phaius tancarvilleae
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

SCHEDULE 1—continued

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

SCHEDULE 1—continued

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

SCHEDULE 1—continued

Tetratheca aphylla
Tetratheca glandulosa
Tetratheca harperi
Tetratheca juncea
Thelymitra matthewsii
Thelymitra psammophila
Thelymitra stellata
Thesium australe
Thomasia montana
Thomasia sp. (A.S. George 8075;
York)
Thryptomene wittweri
Tinospora tinosporoides
Toeckia 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.

SCHEDULE 1—continued

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	
<i>Aplonis fusca</i>	Norfolk Island Starling
<i>Columba vitiensis godmanae</i>	Lord Howe Pigeon
<i>Cyanoramphus novaezelandiae</i> <i>erythrotis</i>	Macquarie Island Parakeet
<i>Cyanoramphus novaezelandiae</i> <i>subflavescens</i>	Lord Howe Parakeet
<i>Dasyornis broadbenti littoralis</i>	South-western Rufous Bristlebird
<i>Dromaius baudinianus</i>	Kangaroo Island Emu
<i>Dromaius minor</i>	Dwarf Emu/King Island Emu
<i>Drymodes superciliaris colcloughi</i>	Roper River Scrub-robin
<i>Gerygone insularis</i>	Lord Howe Warbler
<i>Hemiphaga novaeseelandiae</i> <i>spadicea</i>	New Zealand Pigeon (Norfolk Island Race)
<i>Lalage leucopyga leucopyga</i>	Norfolk Island Long-tailed Triller
<i>Nestor productus</i>	Norfolk Island Kaka
<i>Ninox novaeseelandiae albaria</i>	Lord Howe Boobook Owl
<i>Notornis alba</i>	White Gallinule
<i>Psephotus pulcherrimus</i>	Paradise Parrot
<i>Rallus pectoralis clelandi</i>	Lewin's Water Rail (western race)
<i>Rallus philippensis maquariensis</i>	Macquarie Island Rail
<i>Rhipidura cervina</i>	Lord Howe Fantail

SCHEDULE 1—continued

<i>Turdus xanthopus vinitinctus</i>	Lord Howe Island Vinous-tinted Thrush
<i>Zosterops strenua</i>	Robust White-eye

Mammals

<i>Caloprymnus campestris</i>	Desert Rat-kangaroo
<i>Chaeropus ecaudatus</i>	Pig-footed Bandicoot
<i>Conilurus albipes</i>	White-footed Rabbit-rat
<i>Lagorchestes asomatus</i>	Central Hare-wallaby
<i>Lagorchestes leporides</i>	Eastern Hare-wallaby
<i>Leporillus apicalis</i>	Lesser Stick-nest Rat
<i>Macropus greyi</i>	Toolache Wallaby
<i>Macrotis leucura</i>	Lesser Bilby
<i>Notomys amplus</i>	Short-tailed Hopping-mouse
<i>Notomys longicaudatus</i>	Long-tailed Hopping-mouse
<i>Notomys macrotis</i>	Big-eared Hopping-mouse
<i>Notomys mordax</i>	Darling Downs Hopping-mouse
<i>Onychogalea lunata</i>	Crescent Nailtail Wallaby
<i>Potorous platyops</i>	Broad-faced Potoroo
<i>Potorous tridactylus gilberti</i>	Gilbert's Potoroo
<i>Pseudomys fieldi</i>	Alice Springs Mouse
<i>Pseudomys gouldii</i>	Gould's Mouse
<i>Pteropus brunneus</i>	Percy Island Flying Fox
<i>Rattus macleari</i>	Christmas Island Rat
<i>Rattus nativitatus</i>	Christmas Island Rat
<i>Thylacinus cynocephalus</i>	Thylacine

Plants

<i>Acacia murrumboensis</i>
<i>Acacia prismifolia</i>
<i>Acacia volubilis</i>
<i>Acanthocladium dockeri</i>
<i>Acianthus ledwardii</i>
<i>Agrostis limitanea</i>
<i>Amphibromus whitei</i>
<i>Argentipallium spiceri</i>
<i>Beyeria lepidopetala</i>
<i>Caladenia atkinsonii</i>
<i>Caladenia pumila</i>
<i>Calothamnus accedens</i>
<i>Cassytha pedicellosa</i>
<i>Centrolepis caespitosa</i>
<i>Choristemon humilis</i>
<i>Coleanthera virgata</i>
<i>Deyeuxia drummondii</i>
<i>Deyeuxia lawrencei</i>
<i>Dicrastylis morrisonii</i>

SCHEDULE 1—continued

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 acolytantha
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

SCHEDULE 1—continued

Scaevola macrophylla
Schoenus natans
Senecio georgianus
Stylidium merrallii
Stylidium neglectum
Tetraria australiensis
Tetratheca elliptica
Tetratheca fasciculata
Thomasia gardneri
Tmesipteris lanceolata
Trachymene scapigera
Trianthema cypseloides

SCHEDULE 2

Section 16

LISTED ECOLOGICAL COMMUNITIES

(Currently no entries)

SCHEDULE 3

Section 17

KEY THREATENING PROCESSES

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

SCHEDULE 4

Sections 174 and 175

AGREEMENTS BETWEEN AUSTRALIA AND OTHER COUNTRIES

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

SCHEDULE 4—continued

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.

*[Minister's second reading speech made in—
House of Representatives on 4 November 1992
Senate on 26 November 1992]*