

# Threatened Species Conservation Act 1995 No 101

[1995-101]



New South Wales

## Status Information

### Currency of version

Historical version for 27 August 2004 to 16 September 2004 (accessed 21 July 2024 at 13:27)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
[Threatened Species Conservation Amendment Act 2002 No 78](#), Sch 1 [2] insofar as it inserts a definition of “vulnerable ecological community” in sec 4 (1), Sch 1 [3] [5] and [7], Sch 1 [10] insofar as it inserts sec 7A, Sch 1 [18], Sch 1 [37] insofar as it inserts a new sec 56 (3) and (6) and Sch 1 [53]–[55] [59] [60] and [80] (not commenced)
- **See also**  
[Threatened Species Legislation Amendment Bill 2004](#)

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 1 September 2004

# Threatened Species Conservation Act 1995 No 101



New South Wales

## Contents

<b>Long title</b> .....	10
<b>Part 1 Preliminary</b> .....	10
Introductory note .....	10
1 Name of Act .....	10
2 Commencement .....	10
3 Objects of Act .....	10
4 Definitions .....	11
5 Notes in text .....	14
5A Relationship between this Act and Part 7A of the Fisheries Management Act 1994 .....	14
<b>Part 2 Listing of threatened species, populations and ecological communities and key threatening processes</b> .....	15
Introductory note .....	15
<b>Division 1 Lists of threatened species, populations and ecological communities and key threatening processes</b> .....	16
6 Schedule 1 list of endangered species, populations and ecological communities .....	16
7 Schedule 2 list of vulnerable species .....	16
8 Schedule 3 list of key threatening processes .....	16
9 Listing of nationally threatened species and ecological communities .....	16

<b>Division 2 Eligibility for listing</b> .....	17
10 Species eligible for listing as endangered species.....	17
11 Populations eligible for listing as endangered populations .....	17
12 Ecological communities eligible for listing as endangered ecological communities .....	18
13 Species eligible for listing as species presumed extinct.....	18
14 Species eligible for listing as vulnerable species .....	18
15 Threatening processes eligible for listing as key threatening processes .....	18
<b>Division 3 Procedure for listing</b> .....	19
16 Operation of Division .....	19
17 Scientific Committee responsible for lists.....	19
18 Who may initiate action for listing.....	19
19 Making nomination for inclusion on, omission from or amendment of list.....	19
19A Referral of nomination to Fisheries Scientific Committee .....	20
20 Scientific Committee may request additional information.....	20
21 Consideration of nomination by Scientific Committee.....	20
22 Scientific Committee's preliminary determination.....	21
23 Scientific Committee's final determination.....	22
24 Publication of final determination.....	23
25 Revision of Schedule on publication of final determination .....	23
<b>Division 4 Procedure for provisional listing of endangered species on emergency basis</b> .....	24
26 Operation of Division .....	24
27 Scientific Committee responsible for provisional listing .....	24
28 Eligibility for provisional listing .....	24
29 Who may initiate action for provisional listing.....	24
30 Making nomination for provisional listing .....	24
31 Scientific Committee may request additional information.....	24
32 Consideration of nomination for provisional listing by Scientific Committee.....	25
33 Publication of determination for provisional listing.....	25
34 Effect of publication of determination for provisional listing .....	26
35 Scientific Committee to review status of provisionally listed species .....	26

36 Termination of provisional listing .....	26
<b>Division 5 Minor changes to listings .....</b>	<b>26</b>
36A Minor amendments to Schedules .....	27
36B Publication of determination .....	27
36C Revision of Schedule on publication of determination.....	28
<b>Part 3 Critical habitat of endangered species, populations and ecological communities</b>	
.....	28
Introductory note.....	28
<b>Division 1 Identification and declaration of critical habitat .....</b>	<b>29</b>
37 Habitat eligible to be declared to be critical habitat.....	29
38 Director-General responsible for identifying critical habitat .....	29
39 Director-General to consult with Scientific Committee .....	29
40 Preparation of recommendation for identification of critical habitat .....	29
41 Publication of recommendation .....	29
42 Consideration of submissions by Director-General .....	30
43 Director-General to refer recommendation to Minister .....	30
44 Consideration of recommendation by Minister .....	31
45 Consultation between Ministers.....	31
46 Minister may return recommendation to Director-General for amendment.....	31
47 Declaration of critical habitat by Minister.....	31
48 Publication of declaration of critical habitat .....	32
49 Amendment or revocation of declaration of critical habitat .....	32
50 Public authorities to have regard to critical habitat.....	33
51 Regulations may prohibit certain actions on critical habitat.....	33
52 Effect of failure to comply with procedural requirements.....	33
<b>Division 2 Maps and register of critical habitat.....</b>	<b>34</b>
53 Map of critical habitat to be prepared and published .....	34
54 Maps of critical habitat to be served .....	34
55 Director-General to keep register of critical habitat.....	34

## **Part 4 Recovery plans for threatened species, populations and ecological communities**

.....	34
Introductory note.....	34

### **Division 1 Preparation of recovery plans**..... 35

56 Director-General to prepare recovery plans.....	35
56A Joint preparation of recovery plans .....	36
57 Guidelines for recovery plans .....	36
58 Priorities for recovery plans.....	37
59 Contents of recovery plans.....	37
60 Consultation between chief executive officers .....	38
61 Publication of draft recovery plan.....	38
62 Consideration of submissions by Director-General .....	39
63 Director-General to refer draft recovery plan to Minister.....	39
64 Minister may return draft recovery plan to Director-General for amendment .....	39
65 Approval of recovery plan by Minister .....	40
66 Reasons for departure from draft recovery plan to be stated.....	40
66A Advice of Scientific Committee to be included in plan .....	40
67 Recovery plans to be published.....	40
68 Review of recovery plans.....	41

### **Division 2 Implementation of recovery plans**..... 41

69 Ministers and public authorities to implement recovery plans .....	41
70 Public authorities to report on implementation of recovery plans .....	41
71 Notification of proposed departures from recovery plan .....	42
72 Consultations with Director-General concerning proposed departures.....	42
73 Reference of proposed departures to Ministers and Premier .....	42

## **Part 5 Threat abatement plans to manage key threatening processes**....43

Introductory note.....	43
------------------------	----

### **Division 1 Preparation of threat abatement plans**..... 43

74 Director-General may prepare threat abatement plans.....	43
74A Joint preparation of threat abatement plans .....	44

75 Guidelines for threat abatement plans .....	45
76 Priorities for threat abatement plans .....	45
77 Contents of threat abatement plans .....	45
78 Consultation between chief executive officers .....	46
79 Publication of draft threat abatement plan .....	46
80 Consideration of submissions by Director-General .....	47
81 Director-General to refer draft threat abatement plan to Minister .....	47
82 Minister may return draft threat abatement plan to Director-General for amendment .....	47
83 Approval of threat abatement plan by Minister .....	47
84 Threat abatement plans to be published .....	47
85 Review of threat abatement plans .....	48
<b>Division 2 Implementation of threat abatement plans .....</b>	<b>48</b>
86 Ministers and public authorities to implement threat abatement plans .....	48
87 Public authorities to report on implementation of threat abatement plans .....	49
88 Notification of proposed departures from threat abatement plan .....	49
89 Consultations with Director-General concerning proposed departures .....	49
90 Reference of proposed departures to Ministers and Premier .....	50
<b>Part 6 Licensing .....</b>	<b>50</b>
Introductory note .....	50
<b>Division 1 Grant of licences .....</b>	<b>51</b>
91 Licence to harm or pick threatened species, populations or ecological communities or damage habitat .....	51
92 Application for licence .....	51
93 Payment of licence processing fee .....	52
94 Significant effect on threatened species, populations or ecological communities, or their habitats .....	53
95 Determination by Director-General as to significant effect .....	53
96 Publication of licence application .....	54
96A Sale of copies of species impact statement .....	54
97 Matters that Director-General must take into account .....	55
98 Director-General may request additional information .....	55
99 Determination of licence application .....	55

100 Licence may extend to protected fauna or protected native plants .....	56
101 Conditions and restrictions to licence.....	56
102 Proposed variation of licence to be publicly notified .....	56
103 Notification of licence determination.....	57
104 Director-General to keep register of licences.....	57
105 Cancellation of licence.....	57
106 Appeal by applicant or person commenting on licence application.....	57
107 Time for appeal, and deemed approval.....	58
108 Stay of operation of licence pending appeal .....	58
<b>Division 2 Species impact statements .....</b>	<b>58</b>
109 Form of species impact statements.....	58
110 Content of species impact statement.....	59
111 Director-General’s requirements .....	60
112 Regulations.....	61
113 Director-General may accredit persons to prepare species impact statements .....	61
<b>Division 3 Exceptions to licensing requirements .....</b>	<b>62</b>
113A Routine agricultural activities.....	62
113B Property management plans .....	62
<b>Division 4 Miscellaneous.....</b>	<b>63</b>
113C Transitional—effect of changes to list of vulnerable species .....	63
<b>Part 7 Other conservation measures.....</b>	<b>63</b>
Introductory note.....	63
<b>Division 1 Stop work orders.....</b>	<b>63</b>
114 Director-General may make stop work order .....	63
115 Prior notification of making of stop work order not required .....	65
116 Appeal to Minister.....	65
117 Extension of stop work order .....	65
118 Consultation about modification of proposed detrimental action .....	65
119 Recommendation for making of interim protection order.....	65
120 Stop work order prevails over other instruments .....	66

<b>Division 2 Joint management agreements</b> .....	66
121 Joint management agreements .....	66
122 Role of Scientific Committee.....	66
123 Contents of joint management agreements .....	66
124 Publication of draft joint management agreement .....	67
125 Consideration of submissions by Director-General .....	68
126 Amendment of joint management agreement .....	68
<b>Division 3 Conservation agreements</b> .....	68
126A Conservation agreements .....	68
<b>Part 8 Scientific Committee</b> .....	68
Introductory note.....	68
127 Establishment of Scientific Committee .....	68
128 Functions of Scientific Committee .....	69
129 Members of Scientific Committee.....	69
130 Provisions relating to members of Scientific Committee .....	71
131 Chairperson and Deputy Chairperson.....	72
132 Disclosure of pecuniary interests.....	72
133 Procedure of Scientific Committee .....	73
134 Transaction of business outside meeting or by telephone or other means.....	73
135 Scientific Committee not subject to Ministerial control .....	74
136 Service of documents on Scientific Committee .....	74
<b>Part 9 Biological Diversity Strategy</b> .....	74
136A References to Minister and Director-General.....	74
137 Biological Diversity Advisory Council.....	75
138 Provisions relating to Advisory Council and members of Advisory Council .....	76
139 Functions of Advisory Council .....	76
140 The Strategy .....	76
141 Procedure for making or amending Strategy .....	77
<b>Part 10 Miscellaneous</b> .....	78
Introductory note.....	78
142 Act binds Crown.....	78



143 Annual report by Director-General on operation of Act.....	78
144 Relationship of Act to National Parks and Wildlife Act 1974 .....	79
145 Native title rights and interests .....	79
146 Decision not to disclose location of critical habitat.....	79
146A Decision not to disclose other information .....	80
147 Restraint of breaches of Act .....	81
148 Form of notices .....	81
149 Service of documents .....	81
150 Regulations.....	81
151 Proceedings for offences .....	82
152-154 (Repealed) .....	82
155 Repeal of Endangered Fauna (Interim Protection) Act 1991 No 66 and amending Acts.....	82
156 Savings, transitional and other provisions.....	82
157 Review of Act.....	82

**Schedule 1 Endangered species, populations and ecological communities**

.....	82
-------	----

**Schedule 2 Vulnerable species and ecological communities.....** 114

**Schedule 3 Key threatening processes .....** 133

**Schedules 4-6 (Repealed) .....** 134

**Schedule 7 Savings, transitional and other provisions .....** 134

# Threatened Species Conservation Act 1995 No 101



New South Wales

An Act to conserve threatened species, populations and ecological communities of animals and plants; to amend the *National Parks and Wildlife Act 1974*, the *Environmental Planning and Assessment Act 1979* and certain other Acts; to repeal the *Endangered Fauna (Interim Protection) Act 1991*; and for other purposes.

## Part 1 Preliminary

### Introductory note—

This Part contains provisions that set out the objects of this Act and define terms used in this Act. The Part also contains machinery provisions.

### 1 Name of Act

This Act is the *Threatened Species Conservation Act 1995*.

### 2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided in this section.
- (2) Section 155 (2) commences on the date of assent to this Act.

### 3 Objects of Act

The objects of this Act are as follows:

- (a) to conserve biological diversity and promote ecologically sustainable development, and
- (b) to prevent the extinction and promote the recovery of threatened species, populations and ecological communities, and
- (c) to protect the critical habitat of those threatened species, populations and ecological communities that are endangered, and
- (d) to eliminate or manage certain processes that threaten the survival or evolutionary

development of threatened species, populations and ecological communities, and

- (e) to ensure that the impact of any action affecting threatened species, populations and ecological communities is properly assessed, and
- (f) to encourage the conservation of threatened species, populations and ecological communities by the adoption of measures involving co-operative management.

#### 4 Definitions

(1) In this Act:

**Advisory Council** means the Biological Diversity Advisory Council established under this Act.

**animal** means any animal-life that is indigenous to New South Wales or is known to periodically or occasionally migrate to New South Wales, whether vertebrate or invertebrate and in any stage of biological development, but does not include:

- (a) humans, or
- (b) fish within the meaning of Part 7A of the *Fisheries Management Act 1994*.

**Note—**

Some types of fish may be included in the definition of **animal**. See section 5A.

**biological diversity** means the diversity of life and is made up of the following 3 components:

- (a) genetic diversity—the variety of genes (or units of heredity) in any population,
- (b) species diversity—the variety of species,
- (c) ecosystem diversity—the variety of communities or ecosystems.

**council** has the same meaning as in the *Local Government Act 1993*.

**critical habitat** means habitat declared to be critical habitat under Part 3.

**Director-General** means the Director-General of National Parks and Wildlife appointed under the *National Parks and Wildlife Act 1974*.

**ecological community** means an assemblage of species occupying a particular area.

**ecologically sustainable development** has the same meaning as under section 6 (2) of the *Protection of the Environment Administration Act 1991*.

**endangered ecological community** means an ecological community specified in Part 3 of Schedule 1.

**endangered population** means a population specified in Part 2 of Schedule 1.

**endangered species** means a species specified in Part 1 of Schedule 1.

**endangered species, populations and ecological communities** means species, populations and ecological communities specified in Schedule 1 and **endangered species, population or ecological community** means a species, population or ecological community respectively specified in that Schedule.

**exercise** a function includes perform a duty.

**Fisheries Scientific Committee** means the Fisheries Scientific Committee constituted under Part 7A of the [Fisheries Management Act 1994](#).

**function** includes a power, authority or duty.

**habitat** means an area or areas occupied, or periodically or occasionally occupied, by a species, population or ecological community and includes any biotic or abiotic component.

**harm** has the same meaning as in the [National Parks and Wildlife Act 1974](#).

**joint management agreement** means an agreement entered into under Division 2 of Part 7.

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

**land** includes:

- (a) buildings and other structures permanently fixed to land, and
- (b) land covered with water, and
- (c) the sea or an arm of the sea, and
- (d) a bay, inlet, lagoon, lake or body of water, whether inland or not and whether tidal or not, and
- (e) a river, stream or watercourse, whether tidal or not.

**landholder** of land means a person who owns land or who, whether by reason of ownership or otherwise, is in lawful occupation or possession, or has lawful management or control, of land.

**list** means a list set out in Schedule 1, 2 or 3 and includes a list in one or more of those Schedules that does not contain any entries.

**pick** has the same meaning as in the [National Parks and Wildlife Act 1974](#).

**plant** means any plant-life that is indigenous to New South Wales, whether vascular

or non-vascular and in any stage of biological development, and includes fungi and lichens, but does not include marine vegetation within the meaning of Part 7A of the [Fisheries Management Act 1994](#).

**Note—**

Some types of marine vegetation may be included in the definition of **plant**. See Section 5A.

**population** means a group of organisms, all of the same species, occupying a particular area.

**public authority** means any public or local authority constituted by or under an Act, a government department, a statutory body representing the Crown, or a State owned corporation, and includes a person exercising any function on behalf of the authority, department, body or corporation and any person prescribed by the regulations to be a public authority.

**recovery plan** means a plan prepared and approved under Part 4.

**region** means, for the purposes of the provision in which it is used, a bioregion defined in a national system of bioregionalisation that is determined (by the Director-General under subsection (4)) to be appropriate for those purposes. If the bioregion occurs partly within and partly outside New South Wales, the region consists only of so much of the bioregion as occurs within New South Wales.

**Scientific Committee** means the Scientific Committee constituted under Part 8.

**species** of animal or plant includes any defined sub-species and taxon below a sub-species and any recognisable variant of a sub-species or taxon.

**species impact statement** means a statement referred to in Division 2 of Part 6 and includes an environmental impact statement, prepared under the [Environmental Planning and Assessment Act 1979](#), that contains a species impact statement.

**species presumed extinct** means a species specified in Part 4 of Schedule 1.

**Strategy** means the Biological Diversity Strategy referred to in section 140.

**threat abatement plan** means a plan prepared and approved under Part 5.

**threatened ecological community** means an ecological community specified in Part 3 of Schedule 1 or Part 2 of Schedule 2.

**threatened species** means a species specified in Part 1 or 4 of Schedule 1 or in Schedule 2.

**threatened species, populations and ecological communities** means species, populations and ecological communities specified in Schedules 1 and 2 and

**threatened species, population or ecological community** means a species,

population or ecological community specified in either of those Schedules.

**threatening process** means a process that threatens, or may have the capability to threaten, the survival or evolutionary development of species, populations or ecological communities.

**vulnerable species** means a species specified in Part 1 of Schedule 2.

- (2) A reference in this Act to animal-life or plant-life indigenous to New South Wales is a reference to animal-life or plant-life of a species that was established in New South Wales before European settlement.
- (3) A reference in this Act to New South Wales includes a reference to the coastal waters of the State.

**Note—**

**Coastal waters of the State** is defined in section 58 of the [Interpretation Act 1987](#).

- (4) For the purposes of the definition of **region** in subsection (1), a determination of bioregions is to be made by the Director-General by order published in the Gazette. The Director-General is to consult the Director of NSW Fisheries before making any such order and is to obtain the concurrence of that Director with respect to areas occupied by fish or marine vegetation.

## 5 Notes in text

Introductory notes to Parts and other notes do not form part of this Act.

### 5A Relationship between this Act and Part 7A of the [Fisheries Management Act 1994](#)

- (1) The Minister may, by order made with the concurrence of the Minister administering the [Fisheries Management Act 1994](#):
  - (a) declare a species of fish to be a species of animal for the purposes of this Act if it is an invertebrate and it is a species that may inhabit a terrestrial environment at some stage of its biological development, or
  - (b) declare a species of marine vegetation to be a species of plant for the purposes of this Act if it is a species that may inhabit freshwater or a terrestrial environment at some stage of its biological development.
- (2) Any species of fish or marine vegetation that is the subject of an order in force under this section is taken to be a species of an animal or plant for the purposes of this Act, in accordance with the terms of the order.
- (3) The Minister and the Minister administering the [Fisheries Management Act 1994](#) may at any time consult with each other for the purpose of determining whether an order under this section should be made and the terms of the order.

- (4) The Ministers may also consult with the Chairperson of the Scientific Committee, the Chairperson of the Fisheries Scientific Committee and any other person or body before making an order under this section.
- (5) If the Ministers are unable to resolve any dispute between them as to the making or the terms of an order under this section, the matter is to be referred to the Premier for resolution. The decision of the Premier in relation to the matter is to be given effect to by the Ministers.
- (6) An order under this section is to be published in the Gazette.
- (7) For avoidance of doubt, an order under this section does not require the species concerned to be listed under Part 2 of this Act.
- (8) In this section:

**fish** means any fish (within the meaning of the *Fisheries Management Act 1994*) that is indigenous to New South Wales.

**freshwater** has the same meaning as in the *Fisheries Management Act 1994*.

**marine vegetation** means any marine vegetation (within the meaning of the *Fisheries Management Act 1994*) that is indigenous to New South Wales.

## Part 2 Listing of threatened species, populations and ecological communities and key threatening processes

### Introductory note—

This Part provides for the identification, and classification, of the species, populations and ecological communities with which this Act is concerned. It also provides for the identification of key threatening processes that are most likely to jeopardise the survival of those species, populations and ecological communities. To this end, this Part provides for the listing:

- in Schedule 1, of endangered species, endangered populations and ecological communities and species that are presumed to be extinct, and
- in Schedule 2, of vulnerable species, and
- in Schedule 3, of key threatening processes.

The initial lists of threatened species, that is, species that are endangered, presumed extinct or vulnerable are contained in this Act on its commencement. Responsibility for inserting lists of endangered populations and endangered ecological communities and threatening processes, and for adding items to, omitting items from or amending items in the lists of threatened species, populations and ecological communities and threatening processes rests with the Scientific Committee.

Division 1 makes provision with respect to Schedules 1–3 that are to contain lists of the species, populations and ecological communities and key threatening processes with which this Act is concerned.

Division 2 deals with eligibility for listing.

Division 3 describes the process by which the items may be added to or omitted from lists and by which items in lists may be amended, and makes provision for public participation in that process.

Division 4 describes the process by which species that are endangered may be listed provisionally in Schedule 1, on an

emergency basis, before the formal listing process described in Division 3 has been undertaken or completed, and makes provision for public participation in that process.

Division 5 describes the process by which certain minor amendments may be made to Schedules 1-3.

Offences relating to the harming of threatened species, populations and ecological communities (being animals) and the picking of threatened species, populations and ecological communities (being plants) are contained in the [National Parks and Wildlife Act 1974](#).

## **Division 1 Lists of threatened species, populations and ecological communities and key threatening processes**

### **6 Schedule 1 list of endangered species, populations and ecological communities**

- (1) Part 1 of Schedule 1 contains a list of endangered species for the purposes of this Act.
- (2) Part 2 of Schedule 1 contains a list of endangered populations for the purposes of this Act.
- (3) Part 3 of Schedule 1 contains a list of endangered ecological communities for the purposes of this Act.
- (4) Part 4 of Schedule 1 contains a list of species presumed extinct for the purposes of this Act.
- (5) Any endangered species or species presumed extinct that is a listed threatened species under the [Environment Protection and Biodiversity Conservation Act 1999](#) of the Commonwealth is marked with an asterisk to show that the species is considered to be a threatened species nationally.
- (6) Any endangered ecological community that is a listed threatened ecological community under the [Environment Protection and Biodiversity Conservation Act 1999](#) of the Commonwealth is marked with an asterisk to show that it is considered to be a threatened ecological community nationally.

### **7 Schedule 2 list of vulnerable species**

- (1) Part 1 of Schedule 2 contains a list of vulnerable species for the purposes of this Act.
- (2) Any vulnerable species that is a listed threatened species under the [Environment Protection and Biodiversity Conservation Act 1999](#) of the Commonwealth is marked with an asterisk to show that it is considered to be a threatened species nationally.

### **8 Schedule 3 list of key threatening processes**

Schedule 3 contains a list of key threatening processes for the purposes of this Act.

### **9 Listing of nationally threatened species and ecological communities**

- (1) As soon as practicable after a species or ecological community that is or was indigenous to New South Wales becomes a listed threatened species or a listed



threatened ecological community under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth, the Scientific Committee is to consider whether, in accordance with Divisions 2 and 3, the species or ecological community should be listed as a threatened species or threatened ecological community in Schedule 1 or 2 to this Act.

- (2) Any species or ecological community that is inserted in a Schedule pursuant to this section is to be marked with an asterisk to show its national status.
- (3) If a threatened species or threatened ecological community ceases to be a listed threatened species or a listed threatened ecological community under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth:
  - (a) the Minister is, by order published in the Gazette, to amend Schedule 1 or 2 to this Act to omit the asterisk showing its national status, and
  - (b) the Scientific Committee is to consider, in accordance with Division 3, whether the species or ecological community should be omitted from Schedule 1 or 2 to this Act.
- (4) If a threatened species or threatened ecological community becomes a listed threatened species or a listed threatened ecological community under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth subsequent to its being listed in Schedule 1 or 2 to this Act, the Minister is, by order published in the Gazette, to amend Schedule 1 or 2 to this Act to insert an asterisk showing its national status.

## **Division 2 Eligibility for listing**

### **10 Species eligible for listing as endangered species**

A species is eligible to be listed as an endangered species if, in the opinion of the Scientific Committee:

- (a) it is likely to become extinct in nature in New South Wales unless the circumstances and factors threatening its 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.

### **11 Populations eligible for listing as endangered populations**

- (1) A population is eligible to be listed as an endangered population if, in the opinion of the Scientific Committee, it is facing a high risk of becoming extinct in nature in New South Wales and it is of conservation value at the State or regional level for one or

more of the following reasons:

- (a) it is disjunct or near the limit of its geographic range,
- (b) it is or is likely to be genetically, morphologically or ecologically distinct,
- (c) it is otherwise of significant conservation value.

**Note—**

The intention of the criteria is to exclude from listing isolated populations of limited conservation value.

- (2) A population is not eligible to be listed as an endangered population if it is a population of a species already listed in Schedule 1.

**12 Ecological communities eligible for listing as endangered ecological communities**

An ecological community is eligible to be listed as an endangered ecological community if, in the opinion of the Scientific Committee:

- (a) it is likely to become extinct in nature in New South Wales unless the circumstances and factors threatening its survival cease to operate, or
- (b) it might already be extinct.

**13 Species eligible for listing as species presumed extinct**

A species is eligible to be listed as a species that is presumed extinct at a particular time if, in the opinion of the Scientific Committee, it has not been recorded in its known or expected habitat in New South Wales, despite targeted surveys, over a time frame appropriate, in the opinion of the Scientific Committee, to its life cycle and form.

**14 Species eligible for listing as vulnerable species**

A species is eligible to be listed as a vulnerable species if, in the opinion of the Scientific Committee, the species is likely to become endangered in New South Wales unless the circumstances and factors threatening its survival or evolutionary development cease to operate.

**15 Threatening processes eligible for listing as key threatening processes**

A threatening process is eligible to be listed as a key threatening process if, in the opinion of the Scientific Committee, it:

- (a) adversely affects 2 or more threatened species, populations or ecological communities, or
- (b) could cause species, populations or ecological communities that are not threatened to become threatened.

## **Division 3 Procedure for listing**

### **16 Operation of Division**

- (1) This Division sets out the procedure to be adopted for the purposes of inserting matter in, omitting matter from or amending matter in Schedule 1, 2 or 3.
- (2) The procedure set out in this Division does not apply to the provisional listing of endangered species, populations or ecological communities, on an emergency basis, by the Scientific Committee under Division 4.

### **17 Scientific Committee responsible for lists**

- (1) The Scientific Committee is responsible for determining whether any species, population, ecological community or threatening process should be inserted in or omitted from Schedule 1, 2 or 3 or whether any matter in those Schedules should be amended.
- (2) Accordingly, the Scientific Committee must keep the lists in those Schedules under review and must, at least every 2 years, determine whether any changes to the lists are necessary.

### **18 Who may initiate action for listing**

- (1) The Scientific Committee may make a determination for the purposes of this Division on its own initiative.
- (2) The Scientific Committee may also make a determination:
  - (a) following a request by the Minister, or
  - (b) on a nomination, made in accordance with this Division, of any other person.

### **19 Making nomination for inclusion on, omission from or amendment of list**

- (1) Any person may nominate any species, population or ecological community for insertion in or omission from Schedule 1 or 2.
- (2) Any person may nominate any matter in Schedule 1 or 2 for amendment.
- (3) Any person may nominate any threatening process for insertion in or omission from Schedule 3.
- (4) Any person may nominate any matter in Schedule 3 for amendment.
- (5) A nomination must:
  - (a) be made in writing addressed to the Chairperson of the Scientific Committee, and
  - (b) include any information prescribed by the regulations, and

- (c) be made in accordance with any guidelines for the making of nominations published from time to time by the Director-General and the Scientific Committee.

### **19A Referral of nomination to Fisheries Scientific Committee**

- (1) If, in the opinion of the Chairperson of the Scientific Committee, a nomination of a key threatening process relates to a threatening process that is likely to have an impact on both terrestrial and aquatic environments, the Chairperson may consult with the Chairperson of the Fisheries Scientific Committee for the purpose of determining whether the nomination should also be considered by the Fisheries Scientific Committee under Part 7A of the *Fisheries Management Act 1994*.
- (2) If the Chairpersons agree that the nomination should also be considered by the Fisheries Scientific Committee under Part 7A of the *Fisheries Management Act 1994*, the nomination is to be referred to the Fisheries Scientific Committee for consideration.
- (3) In such a case:
- (a) the nomination is taken to also be a nomination for amendment of Schedule 6 to that Act, made to the Fisheries Scientific Committee in accordance with Part 7A of that Act on the date the Chairpersons agree that it should also be considered by the Fisheries Scientific Committee under Part 7A of the *Fisheries Management Act 1994*, and
- (b) Part 7A of that Act applies in relation to the nomination (in addition to this Division).
- (4) For the purposes of this section, a ***nomination of a key threatening process*** means:
- (a) the nomination of any matter to be inserted in or omitted from Schedule 3, or
- (b) the nomination of any matter in Schedule 3 for amendment.

#### **Note—**

There is a reciprocal process in Part 7A of the *Fisheries Management Act 1994* for the referral of nominations made under that Part to the Scientific Committee in appropriate cases.

### **20 Scientific Committee may request additional information**

The Scientific Committee may request a person who makes a nomination to provide additional information about the subject matter of the nomination within a specified period.

### **21 Consideration of nomination by Scientific Committee**

- (1) The Scientific Committee is to consider each nomination as soon as practicable after it

is made or, if additional information has been requested, after that information has been provided or the period specified for its provision has expired.

- (2) The Scientific Committee may consider different nominations about the same subject together.
- (3) The Scientific Committee may reject a nomination if:
  - (a) the subject of the nomination has already been dealt with, or
  - (b) the nomination is vexatious, or
  - (c) the nomination is not accompanied by the information prescribed by the regulations, or
  - (d) any additional information requested by the Scientific Committee is not provided within the period specified for its provision, or
  - (e) any additional information provided is inadequate and does not satisfy the Scientific Committee's request.
- (4) If the Scientific Committee rejects a nomination, it is to notify the Minister, the Director-General and the person who made the nomination and is to give reasons for the rejection.
- (5) A person must not deliberately and wilfully make a vexatious nomination of any species, population or ecological community for insertion in or omission from Schedule 1 or 2.

Maximum penalty: 20 penalty units.

## **22 Scientific Committee's preliminary determination**

- (1) The Scientific Committee, after considering a proposal raised on its own initiative or in response to a request from the Minister or a nomination by another person, must make a preliminary determination as to whether the proposal should be supported or not supported.
- (2) As soon as possible after making a preliminary determination, the Scientific Committee must:
  - (a) in a case involving a nomination, notify the person who made the nomination, the Minister and the Director-General, and
  - (b) in a case of a proposal raised on its own initiative or in response to a request from the Minister, notify the Minister and the Director-General, and
  - (c) publish notice of its preliminary determination in a newspaper circulating generally throughout the State and, if the determination is likely to affect a

particular area or areas (other than the State as a whole), in a newspaper circulating generally in that area or areas, and

(d) publish notice of the making of the preliminary determination in the Gazette.

(3) The notice must:

(a) state that the preliminary determination has been prepared, and

(b) specify the manner in which members of the public may obtain a copy of the determination and the reasons for it, and

(c) invite persons to make written submissions to the Scientific Committee about the determination, and

(d) specify the address of the place to which submissions about the determination may be forwarded and the date by which submissions must be made.

(4) The notice must specify the date by which and the address of the place to which any person may forward written submissions to the Scientific Committee about a preliminary determination.

(5) The Scientific Committee must consider all written submissions received by it on or before the date specified in the notice, being a date occurring not less than 30 days and not more than 150 days after the date on which the notice was first published under this section.

(6) Copies of a preliminary determination and the reasons for it are to be made available to members of the public (free of charge) as follows:

(a) by publication on the internet site of the National Parks and Wildlife Service,

(b) in response to a request made by contacting an office of the National Parks and Wildlife Service in a manner specified in the notice of the determination,

(c) in response to a request made in person at an office of the National Parks and Wildlife Service at an address specified in the notice of the determination.

### **23 Scientific Committee's final determination**

(1) The Scientific Committee must either accept or reject a proposal for inclusion, or amendment, of matter in or omission of matter from Schedule 1, 2 or 3, and must give reasons for the determination.

(2) In a case involving a nomination, the Scientific Committee must make a determination within 6 months after the closing date for making submissions to the Scientific Committee about its preliminary determination on the matter (as specified in the notice under section 22).

## **24 Publication of final determination**

- (1) On making a final determination, the Scientific Committee must, as soon as practicable:
  - (a) in a case involving a nomination, notify the person who made the nomination of the determination, and
  - (b) notify the Minister and the Director-General of the determination, and
  - (c) publish notice of the determination in a newspaper circulating generally throughout the State and, if the determination is likely to affect a particular area or areas (other than the State as a whole), in a newspaper circulating generally in that area or areas, and
  - (d) publish notice of the making of the determination in the Gazette.
- (2) The notice must specify the manner in which members of the public may obtain a copy of the determination and the reasons for it.
- (3) Copies of the final determination and the reasons for it are to be made available to members of the public (free of charge) as follows:
  - (a) by publication on the internet site of the National Parks and Wildlife Service,
  - (b) in response to a request made by contacting an office of the National Parks and Wildlife Service in a manner specified in the notice of the determination,
  - (c) in response to a request made in person at an office of the National Parks and Wildlife Service at an address specified in the notice of the determination.

## **25 Revision of Schedule on publication of final determination**

On the publication of a final determination in the Gazette that:

- (a) a species, population, ecological community or threatening process be inserted in Schedule 1, 2 or 3—the relevant Schedule is amended by inserting the species, population, ecological community or threatening process, or
- (b) a species, population, ecological community or threatening process be omitted from Schedule 1, 2 or 3—the relevant Schedule is amended by omitting the species, population, ecological community or threatening process, or
- (c) a species, population, ecological community or threatening process listed in Schedule 1, 2 or 3 be amended—the relevant Schedule is amended by omitting the species, population, ecological community or threatening process that is set out in the Schedule and by inserting instead a description of the species, population, ecological community or threatening process in the manner required by the determination.

## **Division 4 Procedure for provisional listing of endangered species on emergency basis**

### **26 Operation of Division**

This Division sets out the procedure to be adopted for the purposes of enabling matter to be provisionally listed in Schedule 1 on an emergency basis.

**Note—**

Only species that are likely to be endangered may be provisionally listed.

### **27 Scientific Committee responsible for provisional listing**

The Scientific Committee is responsible for determining whether any species should be provisionally listed in Schedule 1 as an endangered species on an emergency basis.

### **28 Eligibility for provisional listing**

A species is eligible to be provisionally listed in Schedule 1 as an endangered species if, in the opinion of the Scientific Committee:

- (a) the species:
  - (i) although not previously known to have existed in New South Wales, is believed on current knowledge to be indigenous to New South Wales, or
  - (ii) was presumed to be extinct in New South Wales but has been rediscovered, and
- (b) the species is not listed in Part 1 of Schedule 1.

### **29 Who may initiate action for provisional listing**

- (1) The Scientific Committee may make a determination for the purposes of this Division on its own initiative.
- (2) The Scientific Committee may also make a determination:
  - (a) following a request by the Minister, or
  - (b) on a nomination, made in accordance with this Division, of any other person.

### **30 Making nomination for provisional listing**

- (1) Any person may nominate any species for provisional listing in Schedule 1.
- (2) A nomination must be in writing addressed to the Chairperson of the Scientific Committee and must include any information prescribed by the regulations.

### **31 Scientific Committee may request additional information**

The Scientific Committee may request a person who makes a nomination for provisional



listing to provide additional information about the subject matter of the nomination within a specified period.

### **32 Consideration of nomination for provisional listing by Scientific Committee**

- (1) The Scientific Committee is to consider each nomination as soon as practicable after it is made or, if additional information has been requested, after that information has been provided or the period specified for its provision has expired.
- (2) In any event, the Scientific Committee must make a determination about a nomination within 6 months after it is made or, if additional information has been requested, after that information has been provided or the period specified for its provision has expired.
- (3) The Scientific Committee may consider different nominations about the same subject together.
- (4) The Scientific Committee may reject a nomination if:
  - (a) the subject of the nomination has already been dealt with, or
  - (b) the nomination is vexatious, or
  - (c) the nomination is not accompanied by the information prescribed by the regulations, or
  - (d) any additional information requested by the Scientific Committee is not provided within the period specified for its provision, or
  - (e) any additional information provided is inadequate and does not satisfy the Scientific Committee's request.
- (5) If the Scientific Committee rejects a nomination, it is to notify the Minister, the Director-General and the person who made the nomination and is to give reasons for the rejection.

### **33 Publication of determination for provisional listing**

- (1) On making a determination for provisional listing, the Scientific Committee must, as soon as practicable:
  - (a) in a case involving a nomination, notify the person who made the nomination of the determination, and
  - (b) notify the Minister and the Director-General of the determination, and
  - (c) publish notice of the determination in a newspaper circulating generally throughout the State and, if the determination is likely to affect a particular area or areas (other than the State as a whole), in a newspaper circulating generally in

that area or areas, and

(d) publish notice of the making of the determination in the Gazette.

(2) The notice must specify the manner in which members of the public may obtain a copy of the determination and the reasons for it.

(3) Copies of the determination and the reasons for it are to be made available to members of the public (free of charge) as follows:

(a) by publication on the internet site of the National Parks and Wildlife Service,

(b) in response to a request made by contacting an office of the National Parks and Wildlife Service in a manner specified in the notice of the determination,

(c) in response to a request made in person at an office of the National Parks and Wildlife Service at an address specified in the notice of the determination.

#### **34 Effect of publication of determination for provisional listing**

On the publication of the determination that a species be provisionally listed in Schedule 1, Schedule 1 is taken for all purposes to have been amended by the insertion of the description of the species that is the subject of the determination until such time as the provisional listing ceases to have effect in accordance with this Division.

#### **35 Scientific Committee to review status of provisionally listed species**

(1) As soon as practicable after the publication of a determination under this Division, the Scientific Committee must review the status of a provisionally listed species to determine whether or not the species should be listed as a threatened species.

(2) The requirements of sections 22–25 apply to the review of a provisional listing.

#### **36 Termination of provisional listing**

The provisional listing of a species in Schedule 1 ceases to have effect:

(a) if the Scientific Committee makes a final determination in accordance with Division 3 that the species should be listed in Schedule 1 or 2—when that determination is published in the Gazette, or

(b) if the Scientific Committee makes a final determination in accordance with Division 3 that the species should not be listed in Schedule 1 or 2—when the Scientific Committee publishes a notice to that effect in the Gazette, or

(c) within 12 months after the provisional listing,

whichever first occurs.

### **Division 5 Minor changes to listings**

### **36A Minor amendments to Schedules**

- (1) The Scientific Committee may determine to amend the description of any species, population, ecological community or threatening process in Schedule 1, 2 or 3, without following the procedure set out in Division 3 or 4, if, in the opinion of the Scientific Committee, the amendment is necessary or desirable for any of the following purposes:
  - (a) to reflect any change in the name of a species as a result of taxonomic revision,
  - (b) to correct any minor error or omission,
  - (c) to clarify a description of an ecological community (including to reflect new surveys or research information).
- (2) A determination under this Division must not alter the listing status of a particular species or ecological community by:
  - (a) moving the description of the species or ecological community from one Schedule to the Act to another Schedule, or
  - (b) moving the description of a species from Part 1 of Schedule 1 to Part 4 of Schedule 1 (or vice versa).
- (3) A determination under this Division must not alter the particular area of any ecological community.
- (4) The procedures for inserting matters in Schedule 1, 2 or 3 set out in Divisions 3 and 4 do not apply to a determination made under this Division.

### **36B Publication of determination**

- (1) On making a determination under this Division, the Scientific Committee must, as soon as practicable:
  - (a) notify the Minister and the Director-General of the determination, and
  - (b) publish notice of the determination in a newspaper circulating generally throughout the State, and
  - (c) if the original determination was considered likely to affect a particular area or areas (other than the State as a whole), publish notice of the determination under this Division in a newspaper circulating generally in that area or areas, and
  - (d) publish notice of the making of the determination in the Gazette.
- (2) The notice must specify the manner in which members of the public may obtain a copy of the determination and the reasons for it.

- (3) Copies of the determination and the reasons for it are to be made available to members of the public (free of charge) as follows:
- (a) by publication on the internet site of the National Parks and Wildlife Service,
  - (b) in response to a request made by contacting an office of the National Parks and Wildlife Service in a manner specified in the notice of the determination,
  - (c) in response to a request made in person at an office of the National Parks and Wildlife Service at an address specified in the notice of the determination.

(4) In this section:

**original determination** means the final determination of the Scientific Committee that resulted in a description of a species, population, ecological community or threatening process being inserted in Schedule 1, 2 or 3.

### **36C Revision of Schedule on publication of determination**

On the publication of a determination in the Gazette that the description of a species, population, ecological community or threatening process listed in Schedule 1, 2 or 3 be amended under this Division, the relevant Schedule is amended:

- (a) by omitting the description of the species, population, ecological community or threatening process that is set out in the Schedule, and
- (b) by inserting instead a description of the species, population, ecological community or threatening process in the manner required by the determination.

## **Part 3 Critical habitat of endangered species, populations and ecological communities**

### **Introductory note—**

This Part makes the Director-General responsible for identifying (where this is possible) habitat that is critical to the survival of endangered species, populations and ecological communities (that is, those species, populations and ecological communities listed for the time being in Schedule 1) and for recommending to the Minister that the habitat so identified be declared critical habitat. The Director-General must consult with the Scientific Committee before preparing a recommendation and must have regard to any advice given by the Scientific Committee concerning identification of critical habitat of endangered populations and ecological communities.

Division 1 describes the process by which critical habitat is identified by the Director-General and declared by the Minister and makes provision for public participation in that process.

Division 2 deals with the preparation, publication and other dissemination of maps of critical habitat, and the maintenance of a register of critical habitat by the Director-General.

An offence relating to the damaging of critical habitat is contained in the [National Parks and Wildlife Act 1974](#). That Act also makes it an offence for a person to damage the habitat of a threatened species, population or ecological community.

## **Division 1 Identification and declaration of critical habitat**

### **37 Habitat eligible to be declared to be critical habitat**

- (1) The whole or any part or parts of the area or areas of land comprising the habitat of an endangered species, population or ecological community that is critical to the survival of the species, population or ecological community is eligible to be declared under this Part to be the critical habitat of the species, population or ecological community.
- (2) The regulations may provide that a specified habitat, or habitat of a specified kind, may, or may not, be declared to be critical habitat for the purposes of this Part.

### **38 Director-General responsible for identifying critical habitat**

The Director-General is responsible for identifying (where this is possible) the area or areas of land comprising the critical habitat of each endangered species, population and ecological community.

### **39 Director-General to consult with Scientific Committee**

The Director-General must:

- (a) consult with the Scientific Committee before preparing a recommendation for the identification of an area or areas of land comprising critical habitat for the purposes of this Act, and
- (b) have regard to its advice in preparing any recommendation for that purpose.

### **40 Preparation of recommendation for identification of critical habitat**

- (1) After considering the Scientific Committee's advice, the Director-General must, if the Director-General considers that it is possible to identify the critical habitat of an endangered species, population or ecological community, prepare a recommendation for identification of the area or areas of land comprising the critical habitat of that species, population or ecological community.
- (2) In so doing, the Director-General must consider the likely social and economic consequences of the making of the recommendation in the manner proposed.

### **41 Publication of recommendation**

- (1) After preparing a recommendation for identification of the area or areas of land comprising the critical habitat of an endangered species, population or ecological community, the Director-General must:
  - (a) give a copy of it to the Scientific Committee, and
  - (b) give notice of the recommendation to all persons known by the Director-General,

following the making of reasonable searches and inquiries, to be affected by the recommendation, being:

- (i) landholders (including public authorities who are landholders), and
  - (ii) other public authorities known to the Director-General to exercise relevant functions in relation to the land, and
  - (iii) if the land is subject to a mortgage, charge or positive covenant—the mortgagee, chargee or person entitled to the benefit of the covenant, and
  - (iv) holders of leases and other interests granted by the Crown, and
- (c) publish notice of the recommendation in a newspaper circulating generally throughout the State and, if the recommendation is likely to affect a particular area or areas (other than the State as a whole), in a newspaper circulating generally in that area or areas, and
- (d) publish notice of the recommendation in the Gazette.

(2) The notice must:

- (a) state that the recommendation has been prepared, and
- (b) specify the address of the place at which copies of the recommendation may be inspected, and
- (c) invite persons to make written submissions to the Director-General about the recommendation, and
- (d) specify the address of the place to which submissions about the recommendation may be forwarded and the date by which submissions must be made.

#### **42 Consideration of submissions by Director-General**

- (1) The Director-General must consider all written submissions received by the Director-General on or before the date specified in the notice.
- (2) The Director-General may amend the recommendation to take account of any of those submissions or any advice given by the Scientific Committee.

#### **43 Director-General to refer recommendation to Minister**

After considering the submissions and making amendments (if any) to the recommendation, the Director-General:

- (a) must forward the recommendation, identifying the area or areas of land comprising the critical habitat of the endangered species, population or ecological community concerned, to the Minister, and

- (b) must also provide the Minister with a summary of any advice given by the Scientific Committee concerning the matter and of all submissions received about the recommendation, and details of any amendments made to the recommendation by the Director-General to take account of that advice or those submissions.

#### **44 Consideration of recommendation by Minister**

- (1) On receiving a recommendation from the Director-General, the Minister must consider the recommendation and have regard to the following:
  - (a) the likely social and economic consequences of a declaration of critical habitat in the manner indicated in the recommendation,
  - (b) without limiting paragraph (a), the likely consequences of a declaration of critical habitat in the manner indicated in the recommendation for landholders of, or other persons having an interest in, or on lawful uses of, the land,
  - (c) the advice of the Scientific Committee concerning the matter,
  - (d) any submissions made about the recommendation and, in particular, any submissions received from public authorities exercising relevant functions in relation to the land.
- (2) In so doing, the Minister must also consider whether, consistent with the principles of ecologically sustainable development, the recommendation might be amended to avoid or lessen any adverse consequences of the making of a declaration of critical habitat.

#### **45 Consultation between Ministers**

If a submission from a public authority indicates that a recommendation is likely to affect the exercise of functions by the public authority, the Minister is to consult with the responsible Minister for the public authority concerning the recommendation before making a decision about the recommendation.

#### **46 Minister may return recommendation to Director-General for amendment**

- (1) If the Minister thinks that a recommendation should be amended in some respect, the Minister may request the Director-General to amend the recommendation.
- (2) On receiving such a request, the Director-General must:
  - (a) amend the recommendation in the manner requested by the Minister, and
  - (b) return the recommendation, as so amended, to the Minister.

#### **47 Declaration of critical habitat by Minister**

- (1) The Minister may:

- (a) approve a recommendation, without amendment or with any amendments that the Minister considers appropriate, or
  - (b) refuse a recommendation (on the basis of one or more of the factors referred to in section 44 (1) or otherwise), or
  - (c) refer it back to the Director-General for further consideration.
- (2) Despite the other provisions of this Division, the Minister must approve or refuse a recommendation within 6 months after the date specified in the notice referred to in section 41 (2) as the date by which submissions about the recommendation must be made.
- (3) If the Minister approves of a recommendation, with or without amendments, the Minister may, by notification published in the Gazette, declare the area or areas of land identified in the recommendation (with any appropriate amendment) and described in the notification to be the critical habitat of the endangered species, population or ecological community concerned.
- (4) Section 53 (2) applies to the publication of a map of the critical habitat.

#### **48 Publication of declaration of critical habitat**

As soon as practicable after the declaration of critical habitat by the Minister, the Director-General must:

- (a) give notice of the declaration to all persons known by the Director-General, following the making of reasonable searches and inquiries, to be affected by the declaration, being:
  - (i) landholders (including public authorities who are landholders), and
  - (ii) other public authorities known by the Director-General to exercise relevant functions in relation to the land, in particular, the Valuer-General, and
  - (iii) if the land is subject to a mortgage, charge or positive covenant—the mortgagee, chargee or person entitled to the benefit of the covenant, and
- (b) publish notice of the declaration in a newspaper circulating generally throughout the State and, if the declaration is likely to affect a particular area or areas (other than the State as a whole), in a newspaper circulating generally in that area or areas, and
- (c) publish notice of the declaration in the Gazette.

#### **49 Amendment or revocation of declaration of critical habitat**

- (1) The Minister may amend or revoke a declaration of critical habitat by a further notification published in the Gazette. However, the Minister must not amend or revoke a declaration unless the Minister has obtained from, and considered, the advice of the



Director-General.

- (2) Before providing advice about a proposed amendment or revocation, the Director-General must:
  - (a) consult the Scientific Committee concerning the proposed amendment or revocation and have regard to its advice, and
  - (b) give and publish notice of the proposed amendment or revocation as if it were a recommendation referred to in section 41, and consider all written submissions concerning the proposed amendment or revocation that are received on or before the date specified in the notice.
- (3) If a declaration is amended or revoked by the Minister, the Director-General must:
  - (a) give notice of the amendment or revocation to:
    - (i) those persons who were given notice of the making of the declaration and who retain the requisite interest in the land, and
    - (ii) any other person known by the Director-General, following the making of reasonable searches and inquiries, to have become a landholder, public authority exercising relevant functions in relation to the land, mortgagee, chargee or person entitled to the benefit of a positive covenant in the land after notice of the making of the declaration was given, and
  - (b) publish notice of the amendment or revocation in the Gazette.
- (4) A notice under subsection (3) must give the reasons for the amendment or revocation of the declaration.

#### **50 Public authorities to have regard to critical habitat**

A public authority must, on and after publication of a declaration of critical habitat, have regard to the existence of critical habitat:

- (a) in relation to use of land that it owns or controls that is within or contains critical habitat, or
- (b) in exercising its functions in relation to land that is within or contains critical habitat.

#### **51 Regulations may prohibit certain actions on critical habitat**

The regulations may prohibit or regulate, for the purposes of this Act, the carrying out of specified actions, or actions of a specified class or description, on specified critical habitat.

#### **52 Effect of failure to comply with procedural requirements**

A declaration of critical habitat is not open to challenge because of a failure to comply with the procedural requirements of this Division after the declaration has been published

in the Gazette.

## **Division 2 Maps and register of critical habitat**

### **53 Map of critical habitat to be prepared and published**

- (1) Before the publication of a declaration, or an amendment of a declaration, of critical habitat, the Director-General must arrange for the preparation of a map that shows the location of the critical habitat proposed to be declared or amended.
- (2) A copy of the map is to be published in the Gazette on the publication of the declaration of the critical habitat.

### **54 Maps of critical habitat to be served**

The Director-General must serve a copy of a map of critical habitat on the following:

- (a) the Director-General of the Department of Land and Water Conservation,
- (b) the Director of Planning,
- (c) each council within whose area the whole or part of the critical habitat is located,
- (d) landholders of land on which critical habitat is located (including public authorities who are landholders),
- (e) holders of leases and other interests granted by the Crown,
- (f) other public authorities known by the Director-General to exercise relevant functions in relation to the land.

### **55 Director-General to keep register of critical habitat**

- (1) The Director-General must keep a register containing copies of declarations of critical habitat as in force from time to time, and maps of the critical habitat that are published in the Gazette, and must make that register available to public authorities.
- (2) The register is to be open for public inspection, without charge, during ordinary business hours, and copies of or extracts from the register are to be made available to the public on request, on payment of the fee fixed by the Director-General.

## **Part 4 Recovery plans for threatened species, populations and ecological communities**

### **Introductory note—**

This Part is the first of 4 Parts that address responses to threats to the survival of threatened species, populations and ecological communities, and their habitats. This Part deals with recovery plans for threatened species, populations and ecological communities and makes further provision as to the protection of their critical habitats (if any).

The Director-General must prepare recovery plans for endangered species (other than species presumed extinct), populations

and ecological communities and for vulnerable species. The object of a recovery plan is to promote the recovery of the threatened species, population or ecological community to which it relates to a position of viability in nature. If critical habitat has been declared for the species, population or ecological community, the plan must include reference to that fact.

Division 1 deals with the preparation, contents, publication and adoption of recovery plans.

Division 2 deals with the implementation of recovery plans, and includes procedures for public authorities to report on their implementation of, or on proposed departures from, measures specified to be taken in recovery plans.

In accordance with the *Environmental Planning and Assessment Act 1979*, the terms of recovery plans are to be taken into account by consent authorities and determining authorities (within the meaning of that Act) when they are considering development applications under Part 4, or the carrying out, or applications for approval for the carrying out, of activities under Part 5, of that Act.

## **Division 1 Preparation of recovery plans**

### **56 Director-General to prepare recovery plans**

- (1) The Director-General is required to prepare a recovery plan for each endangered species (other than a species presumed extinct), population and ecological community, as soon as practicable after it is listed in Schedule 1, to promote the recovery of the species, population or ecological community to a position of viability in nature.
- (2) The Director-General must also prepare recovery plans for vulnerable species.
- (3) (Repealed)
- (4) A recovery plan under this Act may contain provisions for more than one species, population or ecological community.
- (5) A recovery plan must be prepared as follows:
  - (a) in the case of a recovery plan for an endangered species, endangered population or endangered ecological community—within 3 years after the description of the species, population or ecological community is first inserted in Schedule 1,
  - (b) in the case of a recovery plan for a vulnerable species—within 5 years after the description of the species is first inserted in Schedule 2,
  - (c) in the case of a recovery plan that contains provisions relevant to more than one species, population or ecological community—within the time limit that would apply under paragraph (a) or (b) if the plan related solely to whichever species, population or ecological community to which the plan relates was most recently inserted in Schedule 1 or 2.

#### **Note—**

The time limits for the making of recovery plans under this Act correspond to the time limits for making recovery plans under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth for endangered and vulnerable categories of listed threatened species and listed threatened ecological communities that occur in and outside a Commonwealth area.

### **56A Joint preparation of recovery plans**

- (1) The Director-General may, with the prior approval of the Minister and the Minister administering the *Fisheries Management Act 1994*, make arrangements with the Director of NSW Fisheries for the joint preparation of a recovery plan under this Act and Part 7A of the *Fisheries Management Act 1994*.
- (2) In such a case, any function of the Director-General or the Minister under this Part in respect of the plan may be exercised in conjunction with any corresponding function of the Director of NSW Fisheries or the Minister administering the *Fisheries Management Act 1994* in respect of the plan under the *Fisheries Management Act 1994*.

**Note—**

For example, the Director-General and the Director of NSW Fisheries may jointly publish a notice of the preparation of the plan under section 61 of this Act and section 220ZO of the *Fisheries Management Act 1994*.

- (3) The Minister may exercise his or her functions under sections 64 and 65 of this Act in respect of any such plan only with the concurrence of the Minister administering the *Fisheries Management Act 1994*.
- (4) If the Minister administering this Act and the Minister administering the *Fisheries Management Act 1994* are unable, following consultation, to resolve any dispute as to the exercise of any function under sections 64 and 65 of this Act in respect of any such plan, the matter is to be referred to the Premier for resolution. The decision of the Premier in relation to the matter is to be given effect to by the Ministers.
- (5) Except as otherwise provided by this section, this Part applies in respect of a recovery plan jointly prepared as provided for by this section in the same way as it applies in respect of any other recovery plan.

### **57 Guidelines for recovery plans**

- (1) The Director-General must, in preparing a recovery plan and in deciding which measures to include in it, have regard to the following:
  - (a) the objects of this Act,
  - (b) the likely social and economic consequences of the making of the plan,
  - (c) the most efficient and effective use of available resources for the conservation of threatened species, populations and ecological communities,
  - (d) the minimising of any significant adverse social and economic consequences.
- (2) The Director-General is to consider, when preparing a recovery plan, any measures by which the public may co-operate in the conservation of a threatened species, population or ecological community.

- (3) The Director-General is also to consider, when preparing a recovery plan, any special knowledge or interest that indigenous people may have in the species, population or ecological community concerned and in the measures to be contained in the plan (including the likely social, cultural and economic consequences of the making of the plan).

#### **58 Priorities for recovery plans**

- (1) The Director-General must, after consulting with the Scientific Committee, determine priorities in the preparation of recovery plans.
- (2) The highest priority is to be given to the preparation of recovery plans for species and ecological communities that are identified by asterisks in Schedule 1 as being threatened nationally.
- (3) After complying with subsection (2), priorities in the preparation of recovery plans are to be determined in accordance with the following criteria and any other criteria that the Director-General, after consultation with the Scientific Committee, considers relevant:
  - (a) likelihood of extinction—whether the species, population or ecological community has a greater likelihood of extinction than other species, populations or ecological communities,
  - (b) likelihood of recovery—whether the species, population or ecological community is more likely to recover, if it is the subject of a recovery plan, than other species, populations or ecological communities,
  - (c) keystone species—whether many other species are dependant for survival on the species,
  - (d) indicator species—whether the relative abundance of the species is a measure of the overall health of its ecosystem.

#### **59 Contents of recovery plans**

A recovery plan must:

- (a) identify the threatened species, population or ecological community to which it applies, and
- (b) identify any critical habitat declared in relation to the threatened species, population or ecological community, and
- (c) identify any threatening process or processes threatening the threatened species, population or ecological community, and
- (d) identify methods by which adverse social and economic consequences of the making

of the plan can be minimised, and

- (e) state what must be done to ensure the recovery of the threatened species, population or ecological community, and
- (f) state what must be done to protect the critical habitat (if any) identified in the plan, and
- (f1) state performance indicators that are to be applied to measure whether the actions identified in the plan are being implemented and are successfully promoting the recovery of the species, population or ecological community, and
- (g) state, with reference to the objects of this Act:
  - (i) the way in which those objects are to be implemented or promoted for the benefit of the threatened species, population or ecological community, and
  - (ii) the method by which progress towards achieving those objects is to be assessed, and
- (h) identify the persons or public authorities who are responsible for the implementation of the measures included in the plan, and
- (i) state the date by which the recovery plan should be subject to review by the Director-General.

#### **60 Consultation between chief executive officers**

- (1) The Director-General must, if the Director-General considers that a public authority should be responsible for the implementation of a measure to be included in a recovery plan, consult with the chief executive officer of the public authority before completing the preparation of the draft recovery plan.
- (2) A measure must not be included in a recovery plan for implementation by a public authority unless the chief executive officer of the public authority approves of the inclusion of the measure.

#### **61 Publication of draft recovery plan**

- (1) As soon as practicable after preparing a draft recovery plan, the Director-General must:
  - (a) give a copy of the draft recovery plan to the Scientific Committee, and
  - (b) give notice of the preparation of the draft recovery plan to any public authority that the Director-General knows is likely to be affected by the recovery plan, and
  - (c) publish notice of the preparation of the draft recovery plan in a newspaper circulating generally throughout the State and, if the recovery plan is likely to

affect a particular area or areas (other than the State as a whole), in a newspaper circulating generally in that area or areas, and

(d) publish notice of the preparation of the draft recovery plan in the Gazette.

(2) The notice must:

(a) state that the draft recovery plan has been prepared, and

(b) specify the address of the place at which copies of the draft recovery plan may be inspected, and

(c) invite persons to make written submissions to the Director-General about the draft recovery plan, and

(d) specify the address of the place to which submissions about the draft recovery plan may be forwarded and the date by which submissions must be made.

## **62 Consideration of submissions by Director-General**

(1) The Director-General must consider all written submissions received by the Director-General on or before the date specified in the notice.

(2) The Director-General may amend the draft recovery plan to take account of those submissions or any advice given by the Scientific Committee.

## **63 Director-General to refer draft recovery plan to Minister**

After considering the submissions and making amendments (if any) to the draft recovery plan, the Director-General must:

(a) forward the draft recovery plan to the Minister, and

(b) provide the Minister with a summary of any advice given by the Scientific Committee and of all submissions received about the draft recovery plan, and details of any amendments made to the draft recovery plan by the Director-General to take account of that advice or those submissions.

## **64 Minister may return draft recovery plan to Director-General for amendment**

(1) If the Minister thinks that a draft recovery plan should be amended in some respect, the Minister may request the Director-General to amend the plan.

(2) On receiving such a request, the Director-General must:

(a) amend the proposal in the manner requested by the Minister, and

(b) return the plan, as so amended, to the Minister.

## **65 Approval of recovery plan by Minister**

- (1) In considering whether to approve or to refuse to approve a draft recovery plan, the Minister must have regard to the likely social and economic consequences of the approval of the plan.
- (2) The Minister may:
  - (a) approve a draft recovery plan without amendment or with any amendments that the Minister considers appropriate, or
  - (b) refuse to approve the plan (on the basis of the likely social or economic consequences of the plan or otherwise), or
  - (c) refer it back to the Director-General for further consideration.
- (3) Without limiting subsection (2), the Minister may refuse to approve a plan or refer it back to the Director-General for further consideration on the basis that the plan does not comply with the requirements of this Act.

## **66 Reasons for departure from draft recovery plan to be stated**

If a recovery plan approved by the Minister is not in the form of the draft recovery plan submitted to the Minister by the Director-General, the recovery plan approved must state the reasons for any departures from the draft plan.

## **66A Advice of Scientific Committee to be included in plan**

The recovery plan approved by the Minister must include a summary of any advice given by the Scientific Committee with respect to the plan, details of any amendments made to the plan to take account of that advice and a statement of the reasons for any departure from that advice.

## **67 Recovery plans to be published**

- (1) As soon as practicable after the Minister approves a draft recovery plan, the Director-General must:
  - (a) give a copy of the recovery plan to the Scientific Committee, and
  - (b) publish notice of the approval of the plan in a newspaper circulating generally throughout the State and, if the recovery plan is likely to affect a particular area or areas (other than the State as a whole), in a newspaper circulating generally in that area or areas, and
  - (c) notify any public authority likely to be affected by the plan, and
  - (d) publish notice of the approval of the plan in the Gazette.



- (2) The Director-General must also make a copy of the recovery plan available for public inspection, without charge, during business hours and copies of or extracts from the recovery plan are to be made available to the public on request, on payment of the fee fixed by the Director-General.

#### **68 Review of recovery plans**

- (1) The Director-General is required to keep each recovery plan under review and, if a date by which a plan is to be reviewed is stated in it, is to review the plan by that date.
- (2) The Director-General is also to consider any submissions about recovery plans received from public authorities or the public.
- (3) If the Director-General considers that any change (other than a minor change) should be made to a recovery plan, the Director-General is to prepare a new plan in accordance with this Part.

### **Division 2 Implementation of recovery plans**

#### **69 Ministers and public authorities to implement recovery plans**

- (1) Ministers and public authorities (including the Director-General) are to take any appropriate action available to them to implement those measures included in a recovery plan for which they are responsible and must not make decisions that are inconsistent with the provisions of a recovery plan.
- (2) If the implementation of a recovery plan affects a statutory discretion of a Minister or public authority, this section does not operate to exclude the discretion, but the Minister or authority must take the recovery plan into account.
- (3) This section does not operate to require or authorise any action by a Minister or public authority that is inconsistent with any statutory or other legal obligation of the Minister or public authority.

#### **70 Public authorities to report on implementation of recovery plans**

- (1) A public authority (including the Director-General but not including a council) identified in a recovery plan as responsible for the implementation of measures included in the plan must report on action taken by it to implement those measures in its annual report to Parliament.
- (2) A council identified in a recovery plan as responsible for the implementation of measures included in the plan must report on action taken by it to implement those measures in its annual report as to the state of the environment of its area.

## **71 Notification of proposed departures from recovery plan**

- (1) A public authority must not exercise a function in a manner that is inconsistent with the implementation of measures included in a recovery plan unless:
  - (a) in the case of a public authority other than the Director-General—it has given written notice of the proposed exercise of the function to the Director-General, or
  - (b) in the case of the Director-General—the Director-General has given written notice of the proposed exercise of the function to the Minister.
- (2) The Director-General must comply with any directions given by the Minister concerning a proposed departure from a recovery plan.
- (3) This section does not apply in relation to anything authorised to be done by or under the *State Emergency and Rescue Management Act 1989* that is reasonably necessary in order to avoid a threat to life or property.
- (4) This section does not apply in relation to any thing authorised to be done by or under the *Rural Fires Act 1997* in relation to any emergency fire fighting act within the meaning of that Act.

## **72 Consultations with Director-General concerning proposed departures**

- (1) The Director-General must, on receiving notice of a proposed departure from a recovery plan from a public authority, determine whether exercise of the function in the manner proposed is acceptable or whether it is likely to jeopardise the effective implementation of the plan.
- (2) If the Director-General considers that the departure is acceptable, the Director-General must notify the public authority accordingly.
- (3) If the Director-General considers that the departure is unacceptable because it is likely to jeopardise the effective implementation of the recovery plan, the Director-General must consult with the public authority in an endeavour to resolve the matter by modification of the action proposed or by other mutually acceptable means.

## **73 Reference of proposed departures to Ministers and Premier**

- (1) A matter that has not been resolved after consultation between the Director-General and the public authority concerned must be referred by the parties to their respective Ministers.
- (2) In the case of a council, the reference is to the Minister administering the *Local Government Act 1993* unless the matter relates, in whole or in part, to the exercise of functions under the *Environmental Planning and Assessment Act 1979*. In that event, the reference is to be to the Minister administering the *Environmental Planning and Assessment Act 1979*.

- (3) The Ministers, on receiving a reference, are to consult in an endeavour to resolve the matter by means that the Ministers consider to be appropriate.
- (4) If the Ministers are unable to resolve the matter after consultation, it is to be referred to the Premier for resolution.
- (5) A public authority (including the Director-General) must give effect to any decision of, or directions made or given by, the Premier on the matter and is, despite the requirements of any other Act or law, empowered to comply with any such decision or directions.

## **Part 5 Threat abatement plans to manage key threatening processes**

### **Introductory note—**

Part 2 provides for the identification of key threatening processes by the Scientific Committee. This Part deals with the preparation and implementation of threat abatement plans to manage key threatening processes with a view to their abatement, amelioration or elimination.

Division 1 deals with the preparation, contents, publication and adoption of threat abatement plans.

Division 2 deals with the implementation of threat abatement plans, and includes procedures for public authorities to report on their implementation of, or on proposed departures from, measures specified to be taken in threat abatement plans.

In accordance with the [Environmental Planning and Assessment Act 1979](#), the terms of threat abatement plans are to be taken into account by consent authorities and determining authorities (within the meaning of that Act) when they are considering development applications under Part 4, or the carrying out, or applications for approval for the carrying out, of activities under Part 5, of that Act.

## **Division 1 Preparation of threat abatement plans**

### **74 Director-General may prepare threat abatement plans**

- (1) The Director-General may prepare a threat abatement plan for each key threatening process to manage the threatening process:
  - (a) so as to abate, ameliorate or eliminate its adverse effects on threatened species, populations or ecological communities, or
  - (b) in the case of a key threatening process that could cause species, populations or ecological communities that are not threatened to become threatened, so as to prevent those species, populations or ecological communities from becoming threatened.
- (2) A threat abatement plan may contain provisions relevant to more than one key threatening process.
- (3) A threat abatement plan for any key threatening process that adversely affects a threatened species, population or ecological community must be prepared:
  - (a) within 3 years after the description of the key threatening process is first inserted in Schedule 3, or

- (b) in the case of a threat abatement plan that contains provisions relevant to more than one key threatening process—within the time limit that would apply under paragraph (a) if the plan related solely to whichever threatening process to which the plan relates was most recently inserted in Schedule 3.

**Note—**

The time limit for the preparation of a threat abatement plan corresponds with the time limit for the preparation of a threat abatement plan under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth, if the Minister under that Act has made a decision to have a threat abatement plan.

- (4) There is no time limit for the preparation of a threat abatement plan for any key threatening process that could cause species, populations or ecological communities to become threatened, but subsection (3) applies if the plan is also to contain provisions relevant to a key threatening process of a kind referred to in that subsection.

**74A Joint preparation of threat abatement plans**

- (1) The Director-General may, with the prior approval of the Minister and the Minister administering the *Fisheries Management Act 1994*, make arrangements with the Director of NSW Fisheries for the joint preparation of a threat abatement plan under this Act and Part 7A of the *Fisheries Management Act 1994*.
- (2) In such a case, any function of the Director-General or the Minister under this Part in respect of the plan may be exercised in conjunction with any corresponding function of the Director of NSW Fisheries or the Minister administering the *Fisheries Management Act 1994* in respect of the plan under the *Fisheries Management Act 1994*.

**Note—**

For example, the Director-General and the Director of NSW Fisheries may jointly publish a notice of the preparation of the plan under section 79 of this Act and section 220ZO of the *Fisheries Management Act 1994*.

- (3) The Minister may exercise his or her functions under sections 82 and 83 of this Act in respect of any such plan only with the concurrence of the Minister administering the *Fisheries Management Act 1994*.
- (4) If the Minister administering this Act and the Minister administering the *Fisheries Management Act 1994* are unable, following consultation, to resolve any dispute as to the exercise of any function under sections 82 and 83 of this Act in respect of any such plan, the matter is to be referred to the Premier for resolution. The decision of the Premier in relation to the matter is to be given effect to by the Ministers.
- (5) Except as otherwise provided by this section, this Part applies in respect of a threat abatement plan that is jointly prepared as provided for by this section in the same way as it applies in respect of any other threat abatement plan.

## **75 Guidelines for threat abatement plans**

- (1) The Director-General must, in preparing threat abatement plans and in deciding which measures to include in those plans, have regard to the following:
  - (a) the objects of this Act,
  - (b) the likely social and economic consequences of the making of the plan,
  - (c) the most efficient and effective use of available resources for the conservation of threatened species, populations and ecological communities,
  - (d) the desirability of minimising any significant adverse social and economic consequences.
- (2) The Director-General is to consider, when preparing a threat abatement plan, any measures by which the public may co-operate in the abatement, amelioration or elimination of the adverse effects of key threatening processes on the prospects of survival of threatened species, populations or ecological communities and their recovery to a position of viability in nature.
- (3) The Director-General is also to consider, when preparing a threat abatement plan, any special knowledge or interest that indigenous people may have in the species, population or ecological community concerned and in the measures to be contained in the plan (including the likely social, cultural and economic consequences of the making of the plan).

## **76 Priorities for threat abatement plans**

The Director-General must, after consulting with the Scientific Committee, determine priorities in the preparation of threat abatement plans.

## **77 Contents of threat abatement plans**

A threat abatement plan must:

- (a) state the criteria for assessing the achievement of the objective, and
- (b) identify the actions needed to abate, ameliorate or eliminate the effects of the key threatening process, and
- (c) identify the persons or public authorities who are responsible for the implementation of the measures included in the plan, and
- (d) where practicable, provide a proposed timetable for the implementation of the plan, and
- (e) state the estimated cost of the measures included in the plan, and

- (f) state the date by which the plan should be subject to review by the Director-General, and
- (g) include any other matter relating to the impact of the plan as the Director-General considers appropriate.

**78 Consultation between chief executive officers**

- (1) The Director-General must, if the Director-General considers that a public authority should be responsible for the implementation of a measure to be included in a threat abatement plan, consult with the chief executive officer of the public authority before completing the preparation of the draft threat abatement plan.
- (2) A measure must not be included in a threat abatement plan for implementation by a public authority unless the chief executive officer of the public authority approves of the inclusion of the measure.

**79 Publication of draft threat abatement plan**

- (1) As soon as practicable after preparing a draft threat abatement plan, the Director-General must:
  - (a) give a copy of the draft threat abatement plan to the Scientific Committee, and
  - (b) give notice of the preparation of the draft threat abatement plan to any public authority that the Director-General knows is likely to be affected by the threat abatement plan, and
  - (c) publish notice of the preparation of the draft threat abatement plan in a newspaper circulating generally throughout the State and, if the threat abatement plan is likely to affect a particular area or areas (other than the State as a whole), in a newspaper circulating generally in that area or areas, and
  - (d) publish notice of the preparation of the draft threat abatement plan in the Gazette.
- (2) The notice must:
  - (a) state that the draft threat abatement plan has been prepared, and
  - (b) specify the address of the place at which copies of the draft threat abatement plan may be inspected, and
  - (c) invite persons to make written submissions to the Director-General about the draft threat abatement plan, and
  - (d) specify the address of the place to which submissions about the draft threat abatement plan may be forwarded and the date by which submissions must be made.

#### **80 Consideration of submissions by Director-General**

- (1) The Director-General must consider all written submissions received by the Director-General on or before the date specified in the notice.
- (2) The Director-General may amend the draft threat abatement plan to take into account any of those submissions or any advice given by the Scientific Committee.

#### **81 Director-General to refer draft threat abatement plan to Minister**

After considering the submissions and making amendments (if any) to the draft threat abatement plan, the Director-General must:

- (a) forward the draft threat abatement plan to the Minister, and
- (b) provide the Minister with a summary of any advice given by the Scientific Committee and of all submissions received about the draft threat abatement plan, and details of any amendments made to the draft threat abatement plan by the Director-General to take account of that advice or those submissions.

#### **82 Minister may return draft threat abatement plan to Director-General for amendment**

- (1) If the Minister thinks that a draft threat abatement plan should be amended in some respect, the Minister may request the Director-General to amend the plan.
- (2) On receiving such a request, the Director-General must:
  - (a) amend the plan in the manner requested by the Minister, and
  - (b) return the plan, as so amended, to the Minister.

#### **83 Approval of threat abatement plan by Minister**

- (1) In considering whether to approve or to refuse to approve a draft threat abatement plan, the Minister must have regard to the likely social and economic consequences of the approval of the plan.
- (2) The Minister may:
  - (a) approve a threat abatement plan without amendment or with any amendments that the Minister considers appropriate, or
  - (b) refuse to approve the plan (on the basis of the likely social or economic consequences of the plan or otherwise), or
  - (c) refer it back to the Director-General for further consideration.

#### **84 Threat abatement plans to be published**

- (1) As soon as practicable after the Minister approves a threat abatement plan, the

Director-General must:

- (a) give a copy of the threat abatement plan to the Scientific Committee, and
  - (b) publish notice of the approval of the plan in a newspaper circulating generally throughout the State and, if the threat abatement plan is likely to affect a particular area or areas (other than the State as a whole), in a newspaper circulating generally in that area or areas, and
  - (c) notify any public authority that the Director-General knows is likely to be affected by the plan, and
  - (d) publish notice of the approval of the plan in the Gazette.
- (2) The Director-General must also make a copy of the threat abatement plan available for public inspection, without charge, during ordinary business hours and copies of or extracts from the threat abatement plan are to be made available to the public on request, on payment of the fee fixed by the Director-General.

#### **85 Review of threat abatement plans**

- (1) The Director-General is required to keep each threat abatement plan under review and, if a date by which a plan is to be reviewed is stated in it, is to review the plan by that date.
- (2) The Director-General is also to consider any submissions about threat abatement plans received from public authorities or the public.
- (3) If the Director-General considers that any change (other than a minor change) should be made to a threat abatement plan, the Director-General is to prepare a new plan in accordance with this Part.

### **Division 2 Implementation of threat abatement plans**

#### **86 Ministers and public authorities to implement threat abatement plans**

- (1) Ministers and public authorities (including the Director-General) are to take any appropriate action available to them to implement those measures included in a threat abatement plan for which they are responsible and must not make decisions that are inconsistent with the provisions of a threat abatement plan.
- (2) If the implementation of a threat abatement plan affects a statutory discretion of a Minister or public authority, this section does not operate to exclude the discretion, but the Minister or authority must take the plan into account.
- (3) This section does not operate to require or authorise any action by a Minister or public authority that is inconsistent with any statutory or other legal obligation of the Minister or public authority.



### **87 Public authorities to report on implementation of threat abatement plans**

- (1) A public authority (including the Director-General but not including a council) identified in a threat abatement plan as responsible for the implementation of measures included in the plan must report on action taken by it to implement those measures in its annual report to Parliament.
- (2) A council identified in a threat abatement plan as responsible for the implementation of measures included in the plan must report on action taken by it to implement those measures in its annual report as to the state of the environment of its area.

### **88 Notification of proposed departures from threat abatement plan**

- (1) A public authority must not exercise a function in a manner that is inconsistent with the implementation of measures included in a threat abatement plan unless:
  - (a) in the case of a public authority other than the Director-General—it has given written notice of the proposed exercise of the function to the Director-General, or
  - (b) in the case of the Director-General—the Director-General has given written notice of the proposed exercise of the function to the Minister.
- (2) The Director-General must comply with any directions given by the Minister concerning a proposed departure from a threat abatement plan.
- (3) This section does not apply in relation to anything authorised to be done by or under the *State Emergency and Rescue Management Act 1989* that is reasonably necessary in order to avoid a threat to life or property.
- (4) This section does not apply in relation to any thing authorised to be done by or under the *Rural Fires Act 1997* in relation to any emergency fire fighting act within the meaning of that Act.

### **89 Consultations with Director-General concerning proposed departures**

- (1) The Director-General must, on receiving notice of a proposed departure from a threat abatement plan from a public authority, determine whether exercise of the function in the manner proposed is acceptable or whether it is likely to jeopardise the effective implementation of the plan.
- (2) If the Director-General considers that the departure is acceptable, the Director-General must notify the public authority accordingly.
- (3) If the Director-General considers that the departure is unacceptable because it is likely to jeopardise the effective implementation of the threat abatement plan, the Director-General must consult with the public authority in an endeavour to resolve the matter by modification of the action proposed or by other mutually acceptable means.

## 90 Reference of proposed departures to Ministers and Premier

- (1) A matter that has not been resolved after consultation between the Director-General and the public authority concerned must be referred by the parties to their respective Ministers.
- (2) In the case of a council, the reference is to the Minister administering the *Local Government Act 1993* unless the matter relates, in whole or in part, to the exercise of functions under the *Environmental Planning and Assessment Act 1979*. In that event, the reference is to be to the Minister administering the *Environmental Planning and Assessment Act 1979*.
- (3) The Ministers, on receiving a reference, are to consult in an endeavour to resolve the matter by means that the Ministers consider to be appropriate.
- (4) If the Ministers are unable to resolve the matter after consultation, it is to be referred to the Premier for resolution.
- (5) A public authority (including the Director-General) must give effect to any decision of, or directions made or given by, the Premier on the matter and is, despite the requirements of any other Act or law, empowered to comply with any such decision or directions.

## Part 6 Licensing

### Introductory note—

This Part deals with the licensing by the Director-General of actions that are likely to result in:

- (a) the harming of an animal that is of, or part of, a threatened species, population or ecological community, or
- (b) the picking of a plant that is of, or part of, a threatened species, population or ecological community, or
- (c) damage to critical habitat, or
- (d) damage to habitat of a threatened species, population or ecological community.

The offences relating to the above actions are set out in the *National Parks and Wildlife Act 1974*.

This Part also contains provisions about species impact statements. These statements are employed to measure the significance of the effect of actions on threatened species, populations or ecological communities, or their habitats. A species impact statement must be lodged with an application for a licence under this Part if the Director-General determines that the action proposed is likely to significantly affect threatened species, populations or ecological communities, or their habitats.

Division 1 deals with the grant of licences, including the making of applications, fees, determinations as to whether actions proposed will significantly affect threatened species, populations or ecological communities, publication of applications and the making of submissions concerning them, and matters that the Director-General must take into account before granting licences and appeals.

Division 2 deals with the form and content of species impact statements and the notification of the Director-General's requirements as to their preparation.

Division 3 sets out exceptions to licensing requirements.

Division 4 sets out miscellaneous provisions.

## **Division 1 Grant of licences**

### **91 Licence to harm or pick threatened species, populations or ecological communities or damage habitat**

- (1) The Director-General may grant a licence authorising a person to take action likely to result in one or more of the following:
  - (a) harm to any animal that is of, or is part of, a threatened species, population or ecological community,
  - (b) the picking of any plant that is of, or is part of, a threatened species, population or ecological community,
  - (c) damage to critical habitat,
  - (d) damage to habitat of a threatened species, population or ecological community.
- (2) A general licence may be issued under section 120 of the [National Parks and Wildlife Act 1974](#) to authorise an action referred to in subsection (1) only:
  - (a) for the welfare of an animal, or
  - (b) if there is a threat to life or property.
- (3) Subsection (2) does not limit the purposes for which a licence may be issued under this section.

**Note—**

For example, a licence may be issued under this section to authorise an Aboriginal person or persons to harm animals or pick plants for cultural purposes.

### **92 Application for licence**

- (1) An application for a licence must be in a form approved, and be accompanied by an application fee of the amount prescribed, by the Director-General.
- (2) If the action proposed to be taken under the authority of the licence is on land that is critical habitat, the application must be accompanied by a species impact statement prepared in accordance with Division 2.
- (3) If the action proposed is not on land that is critical habitat, the application must include the following:
  - (a) details of the types, and condition, of habitats in and adjacent to the land to be affected by the action,
  - (b) particulars of any known records of a threatened species in the same or similar

known habitats in the locality,

- (c) details of any known or potential habitat for a threatened species on the land to be affected by the action,
- (d) details of the amount of such habitat to be affected by the action proposed in relation to the known distribution of the species and its habitat in the locality and region,
- (e) an assessment of the likely nature and intensity of the effect of the action on the life cycle and habitat of the species,
- (f) details of possible measures to avoid or ameliorate the effect of the action.

- (4) An applicant may lodge a species impact statement with an application even if the action proposed is not on land that is critical habitat. In that event, the application need not include the information referred to in subsection (3).

### **93 Payment of licence processing fee**

- (1) The Director-General is to levy a processing fee, being not more than the costs (including on-costs) incurred by the National Parks and Wildlife Service in the assessment and processing of a licence application (whether or not the application is successful).
- (2) The fee is recoverable by the Director-General as a debt due to the Crown in a court of competent jurisdiction.
- (3) The Director-General may, before dealing with an application, require the applicant to pay an amount not exceeding one-half of the estimated processing fee.
- (4) The Director-General may reduce the amount of a processing fee levied for any licence application having regard to the following:
  - (a) the extent of scientific examination necessary for the processing of the application,
  - (b) the adequacy of any species impact statement or environmental impact statement that includes a species impact component supplied by the applicant,
  - (c) the capacity of the applicant or persons with whom the applicant is associated to meet the fee levied,
  - (d) whether and to what extent the activity sought to be licensed may confer a commercial benefit on the applicant if the licence is granted.
- (5) Before a prospective applicant for a licence lodges an application, the Director-General must advise the applicant of the maximum fee payable in respect of the

application.

**94 Significant effect on threatened species, populations or ecological communities, or their habitats**

- (1) If the action proposed to be taken by the applicant is not on land that is critical habitat and the application is not accompanied by a species impact statement, the Director-General must determine whether the action proposed is likely to significantly affect threatened species, populations or ecological communities, or their habitats.
- (2) For that purpose, the Director-General must take into account the following:
  - (a) in the case of a threatened species, whether the life cycle of the species is likely to be disrupted such that a viable local population of the species is likely to be placed at risk of extinction,
  - (b) in the case of an endangered population, whether the life cycle of the species that constitutes the endangered population is likely to be disrupted such that the viability of the population is likely to be significantly compromised,
  - (c) in relation to the regional distribution of the habitat of a threatened species, population or ecological community, whether a significant area of known habitat is to be modified or removed,
  - (d) whether an area of known habitat is likely to become isolated from currently interconnecting or proximate areas of habitat for a threatened species, population or ecological community,
  - (e) whether critical habitat will be affected,
  - (f) whether a threatened species, population or ecological community, or their habitats, are adequately represented in conservation reserves (or other similar protected areas) in the region,
  - (g) whether the action proposed is of a class of action that is recognised as a threatening process,
  - (h) whether any threatened species or ecological community is at the limit of its known distribution.

**95 Determination by Director-General as to significant effect**

- (1) If the Director-General determines that an action proposed by an applicant for a licence is likely to significantly affect threatened species, populations or ecological communities, or their habitats, the Director-General must notify the applicant that, if the application is to proceed, a species impact statement prepared in accordance with Division 2 must be provided.

- (2) If the Director-General determines that an action proposed is not likely to significantly affect threatened species, populations or ecological communities, or their habitats, a licence under this Act is not required and the Director-General must, as soon as practicable after making the determination, issue to the applicant a certificate to that effect.

**Note—**

An action that is not required to be licensed under this Act may however be required to be licensed under the [National Parks and Wildlife Act 1974](#) if it is likely to affect protected fauna or protected native plants or may otherwise constitute an offence under that Act.

**96 Publication of licence application**

On the receipt of a licence application accompanied by a species impact statement or a species impact statement provided in response to a notification from the Director-General that a statement is required, the Director-General must cause to be placed in a newspaper circulating throughout the State a notice:

- (a) outlining the nature of the application, and
- (b) specifying the address of the place at which copies of the species impact statement may be inspected or purchased, and
- (c) inviting written submissions within a period of not less than 28 days after the date of the notice.

**96A Sale of copies of species impact statement**

- (1) The Director-General may require an applicant for a licence to provide additional copies of a species impact statement that accompanied the application or was provided in response to a notification from the Director-General that a statement is required.
- (2) The Director-General may refuse to grant an application if that direction is not complied with.
- (3) Copies of the species impact statement may be sold by the Director-General to any member of the public for not more than \$25 a copy (or such other amount as may be prescribed by the regulations).
- (4) The Director-General must:
  - (a) pay the proceeds of sale of copies of the species impact statement to the applicant, and
  - (b) return to the applicant any unsold copies of the species impact statement.

### **97 Matters that Director-General must take into account**

- (1) In considering whether to grant or to refuse to grant a licence application, the Director-General must take into account the following:
  - (a) any species impact statement,
  - (b) any written submissions received concerning the application within the period, and at the address for submissions, specified in the notice,
  - (c) the factors specified in sections 10-15,
  - (d) any relevant recovery plan or threat abatement plan,
  - (e) the principles of ecologically sustainable development,
  - (f) whether the action proposed is likely to irretrievably reduce the long-term viability of the species, population or ecological community in the region,
  - (g) whether the action proposed is likely to accelerate the extinction of the species or ecological community or place it at risk of extinction.
- (2) The Director-General must also consider the likely social and economic consequences of granting or refusing to grant a licence application.

### **98 Director-General may request additional information**

The Director-General may request the applicant to provide additional information in support of an application for a licence.

### **99 Determination of licence application**

- (1) After considering an application for a licence and accompanying material, the Director-General may:
  - (a) grant the application, unconditionally or subject to conditions or restrictions, or
  - (b) refuse the application.
- (2) The Director-General must, subject to subsection (3), make a decision about an application within 120 days after the Director-General receives a species impact statement or within such further period as may be agreed with the applicant for the licence.
- (3) The Director-General must not grant an application until the processing fee levied in respect of it has been paid.
- (4) A licence may authorise specified persons in addition to the person to whom the licence is granted to do the things authorised by the licence. In any such case, the specified persons are taken to be the holders of the licence for the purposes of this

Act.

- (5) For the avoidance of doubt, it is declared that the Director-General is not a determining authority for the purposes of Part 5 of the *Environmental Planning and Assessment Act 1979* when granting a licence.

#### **100 Licence may extend to protected fauna or protected native plants**

- (1) The Director-General may, in a licence granted under this Part, authorise a person to take action that is likely to result in either or both of the following:
- (a) harm to protected fauna,
  - (b) picking of protected native plants.
- (2) In this section, **protected fauna** and **protected native plant** have the same meanings as in the *National Parks and Wildlife Act 1974*.

#### **101 Conditions and restrictions to licence**

- (1) Without limiting section 99 (1) (a), the Director-General may grant an application for a licence subject to a condition that the applicant:
- (a) make specified modifications to the action proposed, whether in relation to the area of land proposed to be affected or otherwise, or
  - (b) make a monetary contribution towards the cost of preparation of a recovery plan for any threatened species, population or ecological community, or any of their habitats, likely to be affected by the action proposed.
- (2) The Director-General may, by notice in writing served on the holder of a licence:
- (a) attach any conditions or restrictions to the licence after its issue, or
  - (b) vary or remove any conditions or restrictions attached to any licence, or
  - (c) otherwise vary the licence.

#### **Note—**

Section 133 of the *National Parks and Wildlife Act 1974* requires that the holder of a licence under this Part must not contravene or fail to comply with any condition or restriction attached to the licence.

- (3) The Audit and Compliance Committee established under section 9 of the *National Parks and Wildlife Act 1974* is to monitor the conditions attached to licences by the Director-General, for the purpose of overseeing the compliance of the Director-General with his or her obligations under this Act.

#### **102 Proposed variation of licence to be publicly notified**

- (1) Despite section 101 (2), the Director-General must, before removing or varying any



condition or restriction attached to a licence:

- (a) cause to be placed in a newspaper circulating throughout the State a notice:
    - (i) outlining the nature of the proposed variation to the licence, and
    - (ii) specifying the address of the place at which copies of any species impact statement relating to the licence may be inspected or purchased, and
    - (iii) inviting written submissions within a period of not less than 28 days after the date of the notice, and
  - (b) take into account the matters specified in section 97.
- (2) This section does not apply if the proposed variation to the licence constitutes a minor amendment only of that licence.

### **103 Notification of licence determination**

- (1) The Director-General is to notify an applicant and any person who has made submissions of the Director-General's determination of a licence application.
- (2) The Director-General must give a copy of the reasons for his or her determination of a licence application:
  - (a) to the applicant, and
  - (b) to any person who asks for it (either free or for a reasonable charge determined by the Director-General).

### **104 Director-General to keep register of licences**

- (1) The Director-General must keep a register containing copies of licences issued under this Division as in force from time to time.
- (2) The register is to be open for public inspection, without charge, during ordinary business hours, and copies of or extracts from the register are to be made available to the public on request, on payment of the fee fixed by the Director-General.

### **105 Cancellation of licence**

- (1) A licence granted under this Part may be cancelled by the Director-General.
- (2) The Director-General is to notify the holder of a licence of its cancellation and is to include the reasons for the cancellation in that notification.

### **106 Appeal by applicant or person commenting on licence application**

- (1) An applicant for a licence or a person who has made written submissions (within the period specified in this Division) about an application for a licence, or a person to

whose licence conditions or restrictions have been attached or whose licence has been varied or cancelled may, if dissatisfied with the Director-General's decision, appeal to the Land and Environment Court.

- (2) In determining an appeal about an application for a licence, the Court must take into account the matters set out in section 97, but this requirement does not limit the operation of section 39 of the *Land and Environment Court Act 1979*.

### **107 Time for appeal, and deemed approval**

- (1) An appeal may be made by a person within 28 days after notification has been given to the person under section 101 (2), 103 or 105 (2) or, if the appellant is dissatisfied with any condition or restriction attached to a licence when it is granted, within 28 days after the licence is granted.
- (2) If the Director-General fails to grant, but does not refuse, a licence application by the expiry of the period of 120 days referred to in section 99 (2) or of any extension of that period agreed to by the Director-General and the applicant for the licence, the application is taken to have been granted.

### **108 Stay of operation of licence pending appeal**

- (1) If an appeal relates to the grant of a licence, the licence has no operation until the expiration of the period within which a person entitled to lodge an appeal may do so or, if an appeal has been lodged, until the appeal is finally determined.
- (2) If no written submissions about an application of a licence are received at the specified place and by the specified date and the applicant informs the Director-General in writing that the applicant does not wish to lodge an appeal but that the applicant wishes the licence to commence, the licence is to operate from a date stipulated by the Director-General.

## **Division 2 Species impact statements**

### **109 Form of species impact statements**

- (1) A species impact statement must be in writing.
- (2) A species impact statement must be signed by the principal author of the statement and by:
  - (a) the applicant for the licence, or
  - (b) if the species impact statement is prepared for the purposes of the *Environmental Planning and Assessment Act 1979*, the applicant for development consent or the proponent of the activity proposed to be carried out (as the case requires), or
  - (c) if the species impact statement is prepared for the purposes of the *Plantations and*

*Reafforestation Act 1999*, the applicant for authorisation under that Act.

### **110 Content of species impact statement**

- (1) A species impact statement must include a full description of the action proposed, including its nature, extent, location, timing and layout and, to the fullest extent reasonably practicable, the information referred to in this section.
- (2) A species impact statement must include the following information as to threatened species and populations:
  - (a) a general description of the threatened species or populations known or likely to be present in the area that is the subject of the action and in any area that is likely to be affected by the action,
  - (b) an assessment of which threatened species or populations known or likely to be present in the area are likely to be affected by the action,
  - (c) for each species or population likely to be affected, details of its local, regional and State-wide conservation status, the key threatening processes generally affecting it, its habitat requirements and any recovery plan or threat abatement plan applying to it,
  - (d) an estimate of the local and regional abundance of those species or populations,
  - (e) (Repealed)
  - (f) a full description of the type, location, size and condition of the habitat (including critical habitat) of those species and populations and details of the distribution and condition of similar habitats in the region,
  - (g) a full assessment of the likely effect of the action on those species and populations, including, if possible, the quantitative effect of local populations in the cumulative effect in the region,
  - (h) a description of any feasible alternatives to the action that are likely to be of lesser effect and the reasons justifying the carrying out of the action in the manner proposed, having regard to the biophysical, economic and social considerations and the principles of ecologically sustainable development,
  - (i) a full description and justification of the measures proposed to mitigate any adverse effect of the action on the species and populations, including a compilation (in a single section of the statement) of those measures,
  - (j) a list of any approvals that must be obtained under any other Act or law before the action may be lawfully carried out, including details of the conditions of any existing approvals that are relevant to the species or population.

- (3) A species impact statement must include the following information as to ecological communities:
- (a) a general description of the ecological community present in the area that is the subject of the action and in any area that is likely to be affected by the action,
  - (b) for each ecological community present, details of its local, regional and State-wide conservation status, the key threatening processes generally affecting it, its habitat requirements and any recovery plan or any threat abatement plan applying to it,
  - (c) a full description of the type, location, size and condition of the habitat of the ecological community and details of the distribution and condition of similar habitats in the region,
  - (d) a full assessment of the likely effect of the action on the ecological community, including, if possible, the quantitative effect of local populations in the cumulative effect in the region,
  - (e) a description of any feasible alternatives to the action that are likely to be of lesser effect and the reasons justifying the carrying out of the action in the manner proposed, having regard to the biophysical, economic and social considerations and the principles of ecologically sustainable development,
  - (f) a full description and justification of the measures proposed to mitigate any adverse effect of the action on the ecological community, including a compilation (in a single section of the statement) of those measures,
  - (g) a list of any approvals that must be obtained under any other Act or law before the action may be lawfully carried out, including details of the conditions of any existing approvals that are relevant to the ecological community.
- (4) A species impact statement must include details of the qualifications and experience in threatened species conservation of the person preparing the statement and of any other person who has conducted research or investigations relied on in preparing the statement.
- (5) The requirements of subsections (2) and (3) in relation to information concerning the State-wide conservation status of any species or population, or any ecological community, are taken to be satisfied by the information in that regard supplied to the principal author of the species impact statement by the National Parks and Wildlife Service, which information that Service is by this subsection authorised and required to provide.

### **111 Director-General's requirements**

- (1) The person applying for the licence (or, if the species impact statement is being

prepared for the purposes of the *Environmental Planning and Assessment Act 1979*, the applicant for development consent or the proponent of the activity or, if the species impact statement is being prepared for the purposes of the *Plantations and Reafforestation Act 1999*, the applicant for authorisation under that Act) must request from the Director-General and must, in preparing the species impact statement, comply with any requirements notified to the person by the Director-General concerning the form and content of the statement.

- (2) The Director-General must notify any requirements under this section within 28 days after having been requested to provide them.
- (3) Despite the other provisions of this Division, the Director-General may, having regard to the circumstances of a particular case, limit or modify (or limit and modify) the matters to be included in a species impact statement in such manner as may be specified by the Director-General in the particular case.
- (4) Despite anything in this Act or the *Environmental Planning and Assessment Act 1979* or the *Plantations and Reafforestation Act 1999*, the Director-General may, having regard to the circumstances of a particular case, dispense with the requirement for a species impact statement in the particular case if the Director-General is satisfied that the impact of the activity concerned will be trivial or negligible.

## **112 Regulations**

The regulations may make further provision for or with respect to the form and contents of species impact statements.

## **113 Director-General may accredit persons to prepare species impact statements**

- (1) The Director-General is to institute arrangements for the accreditation of suitably qualified and experienced persons to prepare species impact statements for the purposes of this Act.
- (2) An applicant for accreditation must furnish the Director-General with such information as the Director-General requires to effectively determine the application and must be accompanied by the fee fixed by the Director-General for the consideration of the application.
- (3) An accreditation is to be for the period specified by the Director-General in the instrument of accreditation, and the accreditation (or any renewal of it) may be given subject to the conditions and restrictions (if any) specified in the instrument of accreditation.
- (3A) Without limiting subsection (3), an accreditation is to include conditions that require a species impact statement to be prepared in accordance with survey standards approved from time to time by the Director-General by order published in the Gazette.

- (4) The Director-General may vary conditions or restrictions (if any) attaching to an accreditation and may suspend or cancel an accreditation.

### **Division 3 Exceptions to licensing requirements**

#### **113A Routine agricultural activities**

- (1) A licence under this Part is not required for the carrying out of routine agricultural activities unless the actions are actions, or are of a class of actions, that the regulations prescribe may be carried out only under the authority of a licence under this Part.
- (2) The Minister must not recommend the making of a regulation that identifies actions, or of a class of actions, that may be carried out only under the authority of a licence under this Part unless the Minister certifies that the Director-General has consulted with the Director-General of the Department of Agriculture concerning the making of the regulation.
- (3) It is a defence to a prosecution for an offence under Part 8A of the *National Parks and Wildlife Act 1974* if the accused proves that the action constituting the alleged offence was a routine agricultural activity.

#### **113B Property management plans**

- (1) The Director-General may, for the purposes of this Act, approve of a property management plan for land prepared by a landholder.
- (2) In determining whether to approve a property management plan, the Director-General must take into account such matters as may be prescribed by the regulations.
- (3) The Minister is to endeavour to ensure that regulations are made for the purposes of subsection (2) within 6 months after the commencement of that subsection.
- (4) Any action identified in, and carried out in accordance with, a property management plan so approved by the Director-General does not require a licence under this Part even if the action is an action, or of a class of actions, that may, in accordance with the regulations, be carried out only under the authority of a licence under this Part.
- (5) Without limiting subsection (4), a property management plan may include provisions that authorise persons other than the landholder to take any action on or in respect of land. For example, provisions that authorise Aboriginal persons to harm animals or pick plants on the land that is the subject of the property management plan may be included.
- (6) It is a defence to a prosecution for an offence under Part 8A of the *National Parks and Wildlife Act 1974* if the accused proves that the action constituting the alleged offence was identified in, and carried out in accordance with, a property management plan

approved by the Director-General for the purposes of this Act.

- (7) Nothing in this section prevents the Director-General from granting a licence under this Part to a landholder or to any other person to authorise the person to take any action referred to in section 91 (1).
- (8) For the avoidance of doubt, it is declared that the Director-General is not a determining authority for the purposes of Part 5 of the *Environmental Planning and Assessment Act 1979* when approving a property management plan.

## Division 4 Miscellaneous

### 113C Transitional—effect of changes to list of vulnerable species

- (1) An amendment to the list of vulnerable species does not apply in respect of an application for a licence duly made under section 92 before the amendment took effect.
- (2) This section ceases to apply in respect of an application for a licence at the end of the period of 12 months after the application is made.

## Part 7 Other conservation measures

### Introductory note—

This Part deals with certain other measures that may be taken to conserve threatened species, populations and ecological communities, and their habitats. These involve the making of stop work orders by the Director-General or the making of joint management agreements between the Director-General and other public authorities to manage or regulate actions on land that may jeopardise the survival of threatened species, populations or ecological communities, or their habitats.

Measures available under the *National Parks and Wildlife Act 1974*, involving the making of interim protection orders by the Minister or the entering into of conservation agreements by the Minister with land owners, may also be employed for the conservation of threatened species, populations or ecological communities, or their habitats.

Division 1 deals with the making of stop work orders by the Director-General, appeals, consultations about modification of detrimental action and recommendations for the making of interim protection orders under the *National Parks and Wildlife Act 1974*.

Division 2 deals with the preparation, contents and publication of joint management agreements, and provides for review of joint management agreements, and the performance of parties to them, by the Scientific Committee.

## Division 1 Stop work orders

### 114 Director-General may make stop work order

- (1) If the Director-General is of the opinion that any action is being, or is about to be, carried out that is likely to result in one or more of the following:
  - (a) harm to a threatened species, population or ecological community (so far as animals are concerned),
  - (b) picking of a threatened species, population or ecological community (so far as

plants are concerned),

(c) damage to critical habitat,

(d) damage to habitats of threatened species, populations or ecological communities,

the Director-General may order that the action is to cease and that no action, other than such action as may be specified in the order, is to be carried out in or in the vicinity of the critical habitat or the habitat of the threatened species, population or ecological community within a period of 40 days after the date of the order.

(2) An order takes effect on and from the date on which:

(a) a copy of the order is affixed in a conspicuous place in the critical habitat or other habitat the subject of the order, or

(b) the person performing or about to perform the action is notified that the order has been made,

whichever is the sooner.

(3) This section does not apply in relation to anything authorised to be done by or under:

(a) a licence granted under this Act or the *National Parks and Wildlife Act 1974*, or

(b) the *State Emergency and Rescue Management Act 1989* that is reasonably necessary in order to avoid a threat to life or property.

(3A) This section does not apply in relation to any thing authorised to be done by or under the *Rural Fires Act 1997* in relation to any emergency fire fighting act within the meaning of that Act.

(4) This section does not apply in relation to anything that is essential for the carrying out of:

(a) development in accordance with a development consent within the meaning of the *Environmental Planning and Assessment Act 1979*, or

(b) an activity, whether by a determining authority or pursuant to an approval of a determining authority within the meaning of Part 5 of that Act if the determining authority has complied with that Part.

(5) In this Division, a reference to action being, or about to be, carried out includes a reference to action that should be, but is not being, carried out and the Director-General may make an order, in accordance with this Division, that any such action is to be carried out.



### **115 Prior notification of making of stop work order not required**

The Director-General is not required, before making an order under this Division, to notify any person who may be affected by the order.

### **116 Appeal to Minister**

- (1) A person against whom an order is made under this Division may appeal to the Minister against the making of the order.
- (2) After hearing an appeal, the Minister may:
  - (a) confirm the order, or
  - (b) modify or rescind the order, but only if this is consistent with the principles of ecologically sustainable development.

### **117 Extension of stop work order**

The Director-General may extend an order under this Division for such further period or periods of 40 days as the Director-General thinks fit.

### **118 Consultation about modification of proposed detrimental action**

- (1) After making an order under this Division, the Director-General must immediately consult with the person proposing to perform the action to determine whether any modification of the action may be sufficient to protect the threatened species, populations or ecological communities, critical habitat or other habitat concerned.
- (2) The Director-General may, for the purposes of making such determination and considering whether the adoption of any other steps, such as the grant of a licence under Part 6, may be appropriate, request the person proposing to perform the action to provide the information referred to in section 92 (3).
- (3) After considering any information provided under subsection (2) in accordance with the requirements of section 94, the Director-General may, if appropriate and if the person concerned wishes to apply for a licence under Part 6, request the person to provide an application for a licence and a species impact statement for determination under that Part.

### **119 Recommendation for making of interim protection order**

- (1) The Director-General must recommend to the Minister the making of an interim protection order under Part 6A of the *National Parks and Wildlife Act 1974* if, after consulting with the person proposing to perform the action, the Director-General is of the opinion that satisfactory arrangements cannot be made to protect the threatened species, populations or ecological communities, critical habitat or other habitat that is the subject of an order under this Division.

- (2) The Director-General must not recommend the making of an interim protection order in relation to anything that is authorised to be done by or under an authority referred to in section 114 (3) or that is essential for a purpose referred to in section 114 (4).

### **120 Stop work order prevails over other instruments**

- (1) An approval, notice, order or other instrument made or issued by or under any other Act or law that requires or permits critical habitat, the subject of an order in force under this Division, to be significantly affected is inoperative to the extent of any inconsistency with the order under this Division.
- (2) This section has effect whether the approval, notice, order or other instrument concerned was made or issued before or after the making of the order under this Division.

## **Division 2 Joint management agreements**

### **121 Joint management agreements**

The Director-General may enter into a joint management agreement with one or more public authorities for the management, control, regulation or restriction of an action that is jeopardising the survival of a threatened species, population or ecological community.

**Note—**

It is a defence to certain offences under the [National Parks and Wildlife Act 1974](#) if the act constituting the offence was authorised by and done in accordance with a joint management agreement.

### **122 Role of Scientific Committee**

- (1) Before a joint management agreement is entered into, the Scientific Committee must review the draft joint management agreement and provide the Director-General with comments on the review by the date specified for the making of public submissions on the draft agreement.
- (2) The Scientific Committee must also:
  - (a) conduct an annual review of the performance of all parties to a joint management agreement, and
  - (b) advise the Director-General of any deficiencies in implementation of any joint management agreement by any party to it.
- (3) The Director-General is to incorporate the Scientific Committee's advice on the annual review of joint management agreements in the Director-General's annual report to Parliament under the [National Parks and Wildlife Act 1974](#).

### **123 Contents of joint management agreements**

- (1) A joint management agreement is to contain terms, binding on all parties, that:

- (a) identify the threatened species, population or ecological community to which the agreement applies, and
  - (b) identify the action that it manages, controls, regulates or restricts, and
  - (c) state its objective (for example, maintenance of a habitat in a state that will contribute to the long-term survival of the species, population or ecological community), and
  - (d) state the way in which the objective is to be achieved, and
  - (e) specify the measures by which progress towards achieving the objective is to be assessed, and
  - (f) identify the parties who are responsible for the implementation of those measures.
- (2) A joint management agreement entered into with a council or a consent authority (within the meaning of the *Environmental Planning and Assessment Act 1979*) is void to the extent to which it fetters any discretion of the council or consent authority in the granting or refusal of a consent or approval under the *Environmental Planning and Assessment Act 1979* or the *Local Government Act 1993*.

#### **124 Publication of draft joint management agreement**

- (1) As soon as practicable after preparing a draft joint management agreement, the Director-General must:
- (a) give a copy of the draft joint management agreement to the Scientific Committee for review, and
  - (b) publish notice of the preparation of the draft joint management agreement in a newspaper circulating generally throughout the State and in a newspaper circulating generally in the area or areas likely to be affected by the agreement, and
  - (c) publish notice of the preparation of the draft agreement in the Gazette.
- (2) The notice must:
- (a) state that the draft joint management agreement has been prepared, and
  - (b) specify the address of the place at which copies of the draft joint management agreement may be inspected, and
  - (c) invite persons to make written submissions to the Director-General about the draft joint management agreement, and
  - (d) specify the address of the place to which submissions about the draft joint management agreement may be forwarded and the date by which submissions

must be made.

### **125 Consideration of submissions by Director-General**

- (1) The Director-General must consider all written submissions received by the Director-General on or before the date specified in the notice.
- (2) The Director-General may, with the consent of the other parties to the agreement, amend the draft joint management agreement to take into account any of those submissions and any comments made by the Scientific Committee about the draft agreement.

### **126 Amendment of joint management agreement**

A joint management agreement may only be amended by a joint management agreement.

## **Division 3 Conservation agreements**

### **126A Conservation agreements**

- (1) A conservation agreement relating to land that is entered into under the *National Parks and Wildlife Act 1974* for the purpose of the conservation of critical habitat or the conservation of threatened species, populations or ecological communities, or their habitats, may make provision for assistance in connection with the following:
  - (a) maintaining and promoting sustainable farming practices and achieving the objects of this Act,
  - (b) implementing the requirements of a recovery plan that relates to the land (if appropriate),
  - (c) ensuring the continued and appropriate agricultural use of the land by the owner of the land.
- (2) This section does not limit section 69C of the *National Parks and Wildlife Act 1974*.

## **Part 8 Scientific Committee**

### **Introductory note—**

This Part establishes, and describes the functions, membership and procedure of, and the manner of service of documents on, the Scientific Committee. The Part provides that the Scientific Committee is not subject to Ministerial control or direction.

### **127 Establishment of Scientific Committee**

There is established by this Act a body corporate with the corporate name “Scientific Committee”.

### **128 Functions of Scientific Committee**

- (1) The Scientific Committee has the functions conferred or imposed on it by or under this or any other Act or law.
- (2) The principal functions of the Scientific Committee are as follows:
  - (a) to determine which species are to be listed under this Act as threatened species,
  - (b) to determine which populations are to be listed under this Act as endangered populations and to advise the Director-General on the identification of their critical habitat,
  - (c) to determine which ecological communities are to be listed under this Act as endangered ecological communities and to advise the Director-General on the identification of their critical habitat,
  - (d) to determine which threatening processes are to be listed under this Act as key threatening processes,
  - (e) to review draft joint management agreements and the performance of parties under executed joint management agreements,
  - (f) to advise the Director-General on the exercise of the Director-General's functions under this Act,
  - (g) to advise the Minister on any matter relating to the conservation of threatened species, populations or ecological communities that is referred to the Committee by the Minister or that the Committee considers appropriate.
- (3) The Scientific Committee may, in the exercise of its functions, make use of consultants or obtain assistance or advice from other persons.

### **129 Members of Scientific Committee**

- (1) The Scientific Committee is to consist of 11 members appointed by the Minister.
- (2) Of the members of the Scientific Committee:
  - (a) two are to be scientists employed by the National Parks and Wildlife Service nominated by the Director-General,
  - (b) one is to be a scientist employed by a public authority, having expertise in one or more of the areas of study referred to in subsection (3), selected by the Minister,
  - (b1) one is to be a scientist who is employed by a public authority that has land management responsibilities and who is selected by the Minister,
  - (c) one is to be a scientist nominated by the Commonwealth Scientific and Industrial

Research Organisation,

- (d) one is to be a scientist employed and nominated by the Australian Museum Trust,
  - (e) one is to be a scientist employed and nominated by the Royal Botanic Gardens and Domain Trust,
  - (f) one is to be a scientist nominated by the Ecological Society of Australia,
  - (g) one is to be a scientist nominated by the Entomological Society of Australia,
  - (h) one is to be a scientist who is employed by a tertiary educational institution and who is selected by the Minister,
  - (i) one is to be a scientist having expertise in agricultural science and natural resource management who is selected by the Minister.
- (3) A person appointed as a member of the Scientific Committee is to have expertise in one or more of the following areas of study:
- (a) vertebrate biology,
  - (b) invertebrate biology,
  - (c) plant biology,
  - (d) terrestrial ecology,
  - (e) plant community ecology,
  - (f) limnology,
  - (g) aquatic biology,
  - (h) genetics of small populations,
  - (i) population dynamics (including population viability analysis or evolutionary ecology).
- (4) If the person or body responsible for nominating a member of the Scientific Committee under this section (***the nominating body***) fails to submit a nomination to the Minister, within such time and in such manner as may be specified by the Minister by notice in writing to the nominating body, the Minister:
- (a) may seek a nomination from any other person or body that the Minister considers to be a suitable substitute for the nominating body, and
  - (b) may appoint any scientist nominated, or employed and nominated, by that other person or body as a member of the Scientific Committee, in place of a scientist nominated, or employed and nominated, by the nominating body.

### **130 Provisions relating to members of Scientific Committee**

- (1) Subject to this Act, a member of the Scientific Committee holds office for such period (not exceeding 3 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.
- (1A) A person who serves as a member of the Scientific Committee for 2 consecutive periods is not eligible to be a member of the Scientific Committee for 3 years after the end of those consecutive periods.
- (1B) In determining the term of office to be provided for by a member's instrument of appointment, the Minister is to have regard to the desirability of maintaining some continuity of membership of the Committee. That is, the Minister is to endeavour to ensure that the terms of office of all members do not expire at or about the same time.
- (2) A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.
- (3) The office of a member becomes vacant if the member:
  - (a) dies, or
  - (b) completes a term of office and is not reappointed, or
  - (c) resigns the office by instrument in writing addressed to the Minister, or
  - (d) is removed from office by the Minister under this section or by the Governor under Part 8 of the *Public Sector Management Act 1988*, or
  - (e) is absent from 4 consecutive meetings of the Scientific Committee of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Scientific Committee or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Scientific Committee for having been absent from those meetings, or
  - (f) becomes a mentally incapacitated person, or
  - (g) ceases to have the qualification required for the member's appointment.
- (4) The Minister may remove a member from office.
- (5) Part 2 of the *Public Sector Management Act 1988* does not apply to or in respect of the appointment of a member.
- (6) If by or under any Act provision is made:

(a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or

(b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

### **131 Chairperson and Deputy Chairperson**

A Chairperson and a Deputy Chairperson of the Scientific Committee are to be appointed by the Minister from among the members of the Scientific Committee.

### **132 Disclosure of pecuniary interests**

(1) If:

(a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Scientific Committee, and

(b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member 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 of the Scientific Committee.

(2) A disclosure by a member at a meeting of the Scientific Committee that the member:

(a) is a member, or is in the employment, of a specified company or other body, or

(b) is a partner, or is in the employment, of a specified person, or

(c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subsection (1).

(3) Particulars of any disclosure made under this section must be recorded by the Scientific Committee in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee (if any) determined by the Scientific Committee.

(4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Scientific Committee otherwise determines:



- (a) be present during any deliberation of the Scientific Committee with respect to the matter, or
  - (b) take part in any decision of the Scientific Committee with respect to the matter.
- (5) For the purposes of the making of a determination by the Scientific Committee under subsection (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
- (a) be present during any deliberation of the Scientific Committee for the purpose of making the determination, or
  - (b) take part in the making by the Scientific Committee of the determination.
- (6) A contravention of this section does not invalidate any decision of the Scientific Committee.

### **133 Procedure of Scientific Committee**

- (1) The procedure for the calling of meetings of the Scientific Committee and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Scientific Committee.
- (2) The quorum for a meeting of the Scientific Committee is 6 members.
- (3) The Chairperson of the Scientific Committee or, in the absence of the Chairperson, the Deputy Chairperson or, in the absence of both the Chairperson and the Deputy Chairperson, another member elected to chair the meeting, is to preside at a meeting of the Scientific Committee. The person presiding at a meeting has a deliberative vote but not a casting vote.
- (4) A decision supported by a majority of the votes cast at a meeting of the Scientific Committee at which a quorum is present is the decision of the Scientific Committee.
- (5) The Scientific Committee may invite suitably qualified persons to attend meetings to advise or inform the Scientific Committee on any matter.

### **134 Transaction of business outside meeting or by telephone or other means**

- (1) The Scientific Committee may, if it thinks fit, transact any of its business by the circulation of papers among all the members for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Scientific Committee.
- (2) The Scientific Committee may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.

(3) For the purposes of:

- (a) the approval of a resolution under subsection (1), or
- (b) a meeting held in accordance with subsection (2),

the Chairperson and each other member have the same voting rights as they have at an ordinary meeting of the Scientific Committee.

(4) A resolution approved under subsection (1) is, subject to the regulations, to be recorded in the minutes of the meeting of the Scientific Committee.

(5) Papers may be circulated among the members for the purposes of subsection (1) by facsimile or other transmission of the information in the papers concerned.

### **135 Scientific Committee not subject to Ministerial control**

The Scientific Committee is not subject to the control or direction of the Minister.

### **136 Service of documents on Scientific Committee**

For the purposes of this Act, a nomination for listing under Part 2 or any other document is made, issued or given to the Scientific Committee if it is addressed to the Scientific Committee and is:

- (a) lodged at the head office of the National Parks and Wildlife Service, or
- (b) sent by post to the head office of the National Parks and Wildlife Service, or
- (c) sent by facsimile transmission or other electronic means notified by the Scientific Committee as being an available means of communication, or
- (d) sent by any means provided for the service of documents by another Act or law.

## **Part 9 Biological Diversity Strategy**

### **136A References to Minister and Director-General**

- (1) In this Part, a reference to the Minister includes a reference to the Minister administering the *Fisheries Management Act 1994* and a reference to the Director-General includes a reference to the Director of NSW Fisheries.
- (2) If a provision of this Part (or applied by this Part) requires or authorises the Minister or the Director-General to take any action or decide any matter, the provision is taken only to require or authorise:
  - (a) the Minister administering this Act and the Minister administering the *Fisheries Management Act 1994*, or
  - (b) the Director-General and the Director of NSW Fisheries,

to take the action jointly or decide the matter jointly.

- (3) However, any such action may be taken separately, or any such decision may be made separately, in respect of any matter if those Ministers or officers so agree.

### **137 Biological Diversity Advisory Council**

- (1) There is to be a Biological Diversity Advisory Council.
- (2) The Advisory Council is to consist of the following 15 members:
- (a) one scientist appointed by the Minister, who is to be the Chairperson of the Advisory Council,
  - (b) one person with expertise in industry appointed by the Minister,
  - (c) 4 scientists, one each to be selected by the Minister from 3 nominees of the Ecological Society of Australia, 3 nominees of the Australian Museum, 3 nominees of the National Biodiversity Council and 3 nominees of the Royal Botanic Gardens and Domain Trust,
  - (d) 3 representatives of the environment movement selected by the Minister from 6 nominees of the Nature Conservation Council of New South Wales,
  - (e) one Aboriginal person selected by the Minister from 3 nominees of the New South Wales Aboriginal Land Council,
  - (f) one councillor within the meaning of the [Local Government Act 1993](#) selected by the Minister from 3 nominees of the Local Government Association of New South Wales,
  - (g) one fish biologist selected by the Minister from 3 nominees of the Australian Society of Fish Biology,
  - (h) one fish biologist with expertise in aquatic ecosystems selected by the Minister from 3 nominees of the Australian Museum Trust,
  - (i) one person with expertise in the commercial fishing industry, and one person with expertise in recreational fishing, appointed by the Minister.
- (3) If the person or body responsible for nominating members of the Advisory Council under this section (***the nominating body***) fails to submit a nominee or the required number of nominees to the Minister, within such time and in such manner as may be specified by the Minister by notice in writing to the nominating body, the Minister:
- (a) may seek a nominee or additional nominees from any other person or body that the Minister considers to be a suitable substitute for the nominating body, and
  - (b) may appoint any person nominated by that other person or body as a member of

the Advisory Council, in place of a nominee of the nominating body.

### **138 Provisions relating to Advisory Council and members of Advisory Council**

- (1) The provisions of sections 130 (Provisions relating to members of Scientific Committee), 131 (Chairperson and Deputy Chairperson), 132 (Disclosure of pecuniary interests), 133 (Procedure of Scientific Committee) and 134 (Transaction of business outside meeting or by telephone or other means) apply to and in respect of the Advisory Council and the members of the Advisory Council as if references in those sections to the Scientific Committee were references to the Advisory Council.
- (2) Despite subsection (1), the quorum for a meeting of the Advisory Council is 8 members.

### **139 Functions of Advisory Council**

The Advisory Council has the following functions:

- (a) to advise the Minister and the Director-General on the draft Strategy,
- (b) to devise and to assist in the implementation of a comprehensive consultation process for preparation of the Strategy,
- (c) to advise on the status of, and threats to, the biological diversity of the State,
- (d) to undertake a review of existing legislation for implementing biological diversity programs and of existing legislation that may directly or indirectly result in the loss of biodiversity, and to advise on the necessity for future legislative action,
- (e) to advise the Minister and the Director-General on matters relating to the conservation of biological diversity, including the monitoring of the implementation of the Strategy.

### **140 The Strategy**

- (1) The Director-General is to prepare a Biological Diversity Strategy within 9 months after the commencement of this Part setting out how the objects of this Act are to be achieved.
- (2) The Strategy is to include proposals for:
  - (a) ensuring the survival and evolutionary development in nature of all species, populations and communities, including appropriate protection under the [Wilderness Act 1987](#) or the [National Parks and Wildlife Act 1974](#) or under the [Fisheries Management Act 1994](#), and
  - (b) preparing or contributing to the preparation of strategies for ecologically sustainable development in New South Wales, including the integration of biological diversity conservation and natural resource management, and

- (c) an education program targeted at the community and public authorities, and
  - (d) a biological diversity research program, and
  - (e) encouraging greater community involvement in decision making affecting biological diversity.
- (3) The Strategy must also include:
- (a) the objectives and performance targets of the Strategy, and
  - (b) a statement of the means by which these objectives and performance targets are to be achieved, and
  - (c) a statement of the manner in which the National Parks and Wildlife Service constituted by the *National Parks and Wildlife Act 1974* and NSW Fisheries propose to assess their performance with respect to attainment of the objectives and performance targets of the Strategy.
- (4) The Director-General may amend the Strategy.
- (5) The Strategy is to be amended within 12 months after the commencement of the amendments to this section made by the *Fisheries Management Amendment Act 1997* so as to extend the Strategy to fish and marine vegetation.

#### **141 Procedure for making or amending Strategy**

- (1) The Director-General is to prepare a draft Strategy and publish notice of the draft Strategy in a newspaper circulating generally throughout the State.
- (2) A notice is to:
- (a) be in the form prescribed by the regulations, and
  - (b) state the date by which submissions may be made to the Director-General, which is to be at least 30 days after the date on which the notice is published, and
  - (c) specify the manner in which submissions may be made, and
  - (d) fix a time and place at which a copy of the draft Strategy will be available to the public for inspection.
- (3) Any person may make submissions to the Director-General about the draft Strategy.
- (4) The Director-General may, after the expiration of the period referred to in subsection (2) (b) and after examination of submissions received, amend the Strategy. The Director-General is to refer the Strategy and any submissions received to the Scientific Committee for its consideration and advice.
- (5) Before adopting the Strategy, the Director-General is to consider the comments and

suggestions of the Scientific Committee and is to seek the advice of any other relevant public authority.

- (6) The Director-General may adopt the Strategy without alteration or with such alterations as the Director-General thinks fit.
- (7) After the Strategy has been adopted, the Director-General is to publish notice of its making in the Gazette and in a newspaper circulating generally throughout the State.
- (8) The procedures applicable to the making of the Strategy apply to the making of an amendment to the Strategy that is not a minor amendment.
- (9) In this section a reference to the Scientific Committee includes a reference to the Fisheries Scientific Committee under Part 7A of the *Fisheries Management Act 1994*.

## Part 10 Miscellaneous

### Introductory note—

This Part makes provision for a number of miscellaneous matters relating to the operation of the Act. These include:

- a statement that the Act binds the Crown
- a requirement that the Director-General report on the operation of the Act in the Director-General's annual report to Parliament
- a provision enabling third parties to bring proceedings in the Land and Environment Court for orders remedying or restraining breaches of the Act
- a statement that the Act is not intended to affect native title rights and interests
- a provision providing that the Director-General may decline to disclose the location of critical habitat (or proposed critical habitat) other than to specified persons if the Director-General is of the opinion that disclosure would be likely to expose the critical habitat (or proposed critical habitat) to a significant risk and that withholding of the location is in the public interest, and if affected landholders have requested, or are agreeable to, the withholding of the location
- a provision enabling third parties to bring proceedings in the Land and Environment Court for orders remedying or restraining breaches of the Act
- provisions as to the form and service of notices and other documents under the proposed Act
- a provision concerning review of the operation of the Act as soon as possible after the period of 18 months after the date of assent to the proposed Act.

The Part also authorises the making of regulations, and contains formal provisions giving effect to the Schedules amending other Acts and inserting savings, transitional and other provisions.

### 142 Act binds Crown

This Act binds the Crown, not only in right of New South Wales but also, so far as the legislative power of Parliament permits, the Crown in all its capacities.

### 143 Annual report by Director-General on operation of Act

- (1) The Director-General is to report on the operation of this Act in the annual report of

the National Parks and Wildlife Service.

(2) The report is to include a report on the implementation of Parts 3, 4 and 5 of this Act.

#### **144 Relationship of Act to *National Parks and Wildlife Act 1974***

Except as otherwise provided by this Act, nothing in this Act affects the operation of the *National Parks and Wildlife Act 1974* in relation to animals and plants.

#### **145 Native title rights and interests**

This Act does not affect the operation of the *Native Title Act 1993* of the Commonwealth or the *Native Title (New South Wales) Act 1994* in respect of the recognition of native title rights and interests within the meaning of the Commonwealth Act or in any other respect.

#### **146 Decision not to disclose location of critical habitat**

(1) The Director-General may, by notice in writing, determine that any matter in any document in the possession of the National Parks and Wildlife Service that may identify the location of critical habitat or any area or areas of land proposed to be identified as critical habitat should not be disclosed to the public.

(1A) Despite the other provisions of this Act, the Director-General may decline:

(a) to give public notice (by publication in a newspaper or in the Gazette) of a proposal (or amended proposal) to identify an area or areas of land as critical habitat, the approval of such a proposal, a declaration of critical habitat or the amendment or revocation of such a declaration, and

(b) to serve a copy of a map of critical habitat on any one or more of the persons or bodies referred to in section 54 (Maps of critical habitat to be served), and

(c) to include a copy of a declaration of critical habitat or a map of critical habitat in the register kept under section 55 (Director-General to keep register of critical habitat).

(2) The Director-General may exercise a function under subsection (1) or (1A) only if:

(a) the Director-General is of the opinion that:

(i) not to exercise the function would be likely to expose the critical habitat (or the proposed critical habitat) and the endangered species, population or ecological community that occupies it to a significant threat, and

(ii) the public interest requires the function to be exercised, and

(b) each landholder of land concerned has requested or is agreeable to the exercise of the function.

(3) Nothing in this section prevents the Director-General from disclosing the location of

critical habitat to:

- (a) landholders or other persons having any legal or equitable estate, interest, easement, servitude, privilege or right in or over the land, or
- (b) public authorities exercising functions in relation to the land, or
- (c) any other person entitled by or under this or any other Act or law to notice of the declaration of critical habitat or the existence of interests in or proposals affecting the land.

**Note—**

A document that contains matter that is the subject of a determination referred to in subsection (1) is an exempt document for the purposes of the [Freedom of Information Act 1989](#).

**146A Decision not to disclose other information**

- (1) The Scientific Committee may make a written recommendation to the Minister that the following matter should not be disclosed to the public:
  - (a) information provided to the Scientific Committee relating to the location of threatened species, populations or ecological communities,
  - (b) information provided to the Scientific Committee that may identify any individual who made a nomination under Part 2 or made a submission in respect of a nomination.
- (2) The Minister may, by notice in writing:
  - (a) accept the recommendation of the Committee that the matter should not be disclosed to the public, or
  - (b) reject the recommendation of the Scientific Committee.
- (3) The Minister may accept a recommendation referred to in subsection (1) (a) only if the Minister is of the opinion that the public interest requires that the matter not be disclosed.
- (4) The Minister may accept a recommendation referred to in subsection (1) (b) only if the Minister is of the opinion that the matter should not be disclosed:
  - (a) in the interests of safety or welfare of the individual who might otherwise be identified, or
  - (b) to protect that individual against intimidation, harassment or other unwarranted reprisals in connection with the nomination or submission.



#### **147 Restraint of breaches of Act**

- (1) Any person may bring proceedings in the Land and Environment Court for an order to remedy or restrain a breach of this Act, whether or not any right of that person has been or may be infringed by or as a consequence of that breach.
- (2) Proceedings under this section may be brought by a person on the person's own behalf or on behalf of the person and other persons (with their consent), or a body corporate or unincorporated (with the consent of its committee or other controlling or governing body), having like or common interests in those proceedings.
- (3) Any person on whose behalf proceedings are brought is entitled to contribute to or provide for the payment of the legal costs and expenses incurred by the person bringing the proceedings.
- (4) (Repealed)

#### **148 Form of notices**

Any notice or other document issued, made or given for the purposes of this Act or the regulations must be in writing, except where this Act expressly authorises another means of giving notice.

#### **149 Service of documents**

- (1) Any notice or other document that is authorised or required under this Act or the regulations to be served on any person may be served:
  - (a) personally or by post, or
  - (b) by leaving it with a person apparently of or above the age of 16 years at, or by posting it to, the person's place of business or, in the case of a corporation, the registered office of the corporation.
- (2) This section does not apply with respect to the service of documents in accordance with section 136 (Service of documents on Scientific Committee).

#### **150 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for the carrying out or giving effect to this Act.
- (2) A regulation may create an offence punishable by a penalty not exceeding 50 penalty units.

### **151 Proceedings for offences**

Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

### **152-154 (Repealed)**

### **155 Repeal of [Endangered Fauna \(Interim Protection\) Act 1991 No 66](#) and amending Acts**

- (1) The [Endangered Fauna \(Interim Protection\) Act 1991](#) is repealed.
- (2) Section 7 of the [Endangered Fauna \(Interim Protection\) Act 1991](#) has no operation and is taken never to have had any operation. This subsection applies whether or not it commences before or after 31 December 1995.
- (3) The following Acts are also repealed:

[Endangered Fauna \(Interim Protection\) Amendment Act 1992 No 97](#)

[Endangered Fauna \(Interim Protection\) Amendment Act 1993 No 53](#)

[Endangered Fauna \(Interim Protection\) Amendment Act 1995 No 33.](#)

### **156 Savings, transitional and other provisions**

Schedule 7 has effect.

### **157 Review of Act**

- (1) A Parliamentary Committee established for that purpose is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 18 months from the date of assent to this Act.
- (3) A report of the outcome of the review is to be tabled in each House of Parliament within 6 months after the end of the period of 18 months.

## **Schedule 1 Endangered species, populations and ecological communities**

(Section 6)

### **Part 1 Endangered species**

#### **Animals**

#### **Vertebrates**

#### **Amphibians**

## Hylidae

<i>Litoria aurea</i> (Lesson, 1829)	Green and Golden Bell Frog
<i>Litoria booroolongensis</i> (Moore, 1961)	Booroolong Frog
* <i>Litoria castanea</i> (Steindachner, 1867)	Yellow-spotted Tree Frog
<i>Litoria raniformis</i> (Keferstein, 1867)	Southern Bell Frog
* <i>Litoria spenceri</i> Dubois, 1984	Spotted Frog
<i>Litoria verreuxii alpina</i> (Fry 1915)	Alpine Tree Frog

## Myobatrachidae

<i>Mixophyes balbus</i> Straughan, 1968	Stuttering Frog
<i>Mixophyes fleayi</i> Corben & Ingram, 1987	Fleay's Barred Frog
* <i>Mixophyes iteratus</i> Straughan, 1968	Giant Barred Frog
<i>Neobatrachus pictus</i> Peters, 1863	Painted Burrowing Frog
* <i>Pseudophryne corroboree</i> Moore, 1953	Southern Corroboree Frog

## Reptiles

### Agamidae

<i>Ctenophorus decresii</i> (Duméril and Bibron) 1837	Tawny Crevice-dragon
* <i>Tympanocryptis lineata pinguicollis</i> Mitchell, 1948	South-eastern Lined Earless Dragon

### Cheloniidae

* <i>Caretta caretta</i> (Linnaeus, 1758)	Loggerhead Turtle
---	-------------------

### Gekkonidae

* <i>Diplodactylus conspicillatus</i> Lucas and Frost (1897)	Fat-tailed Diplodactylus
<i>Oedura rhombifer</i> Gray, 1845	Zigzag Velvet Gecko

### Pygopodidae

<i>Delma australis</i> Kluge, 1974	Marble-faced Delma
------------------------------------	--------------------

### Scincidae

<i>Anomalopus mackayi</i> Greer & Cogger, 1985	Five-clawed Worm-skink
<i>Ctenotus pantherinus ocellifer</i> (Peters 1866)	Leopard Ctenotus
<i>Cyclodomorphus melanops elongatus</i> (Werner, 1910)	Mallee Slender Blue-tongue Lizard

<i>Cyclodomorphus venustus</i> Shea and Miller (1995)	
<i>Egernia margaretae</i> Storr, 1968	Centralian Ranges Rock-skink
* <i>Eulamprus leuraensis</i> Wells & Wellington, 1984	Water skink
Elapidae	
<i>Echiopsis curta</i> (Schlegel 1837)	Bardick
<i>Hoplocephalus bungaroides</i> (Schlegel, 1837)	Broad-headed Snake
<i>Pseudonaja modesta</i> (Günther 1872)	Ringed Brown Snake
Typhlopidae	
<i>Ramphotyphlops endoterus</i> (Waite, 1918)	Interior Blind Snake
<b>Birds</b>	
Megapodiidae	
<i>Leipoa ocellata</i> Gould, 1840	Malleefowl
Anatidae	
<i>Nettapus coromandelianus</i> (Gmelin, 1789)	Cotton Pygmy-goose
Procellariidae	
* <i>Macronectes giganteus</i> (Gmelin, 1789)	Southern Giant Petrel
* <i>Pterodroma leucoptera leucoptera</i> (Gould, 1844)	Gould's Petrel
Diomedidae	
<i>Diomedea exulans</i> Linnaeus, 1758	Wandering Albatross
Ciconiidae	
<i>Ephippiorhynchus asiaticus</i> (Latham, 1790)	Black-necked Stork
Accipitridae	
<i>Erythrotriorchis radiatus</i> (Latham, 1801)	Red Goshawk
Rallidae	
<i>Gallirallus sylvestris</i> (Sclater, 1869)	Lord Howe Woodhen
Otididae	
<i>Ardeotis australis</i> (Gray, 1829)	Australian Bustard

Turnicidae

*Turnix melanogaster* (Gould, 1837)

Black-breasted Button-quail

Pedionomidae

*Pedionomus torquatus* Gould, 1841

Plains-wanderer

Rostratulidae

\* *Rostratula benghalensis australis* (Gould, 1838)

Painted Snipe (Australian subspecies)

Burhinidae

*Burhinus grallarius* (Latham, 1801)

Bush Stone-curlew

*Esacus neglectus* Mathews, 1912

Beach Stone-curlew

Charadriidae

*Thinornis rubricollis* (Gmelin, 1789)

Hooded Plover

Laridae

*Sterna albifrons* Pallas, 1764

Little Tern

Columbidae

*Phaps histrionica* (Gould, 1841)

Flock Bronzewing

*Geophaps scripta* (Temminck, 1821)

Squatter Pigeon

Psittacidae

\* *Cyclopsitta diophthalma coxeni* (Hombron & Jacquinot, 1841)

Double-eyed Fig-parrot

\* *Lathamus discolor* (Shaw, 1790)

Swift Parrot

*Neophema chrysogaster* (Latham 1790)

Orange-bellied Parrot

*Polytelis anthopeplus monarchoides* (Schodde, 1993)

Regent Parrot (eastern subspecies)

Maluridae

*Amytornis barbatus barbatus*, Favaloro & McEvey, 1968

Grey Grasswren

*Amytornis textilis modestus* (North, 1902)

Thick-billed Grasswren (eastern subspecies)

Pardalotidae

\* *Dasyornis brachypterus* (Latham, 1801)

Eastern Bristlebird

Meliphagidae

- \* *Xanthomyza phrygia* (Shaw, 1794) Regent Honeyeater
- \* *Manorina melanotis* (Wilson, 1911) Black-eared Miner

Pachycephalidae

- Pachycephala rufogularis* Gould, 1841 Red-lored Whistler

Passeridae

- Poephila cincta cincta* (Gould, 1837) Black-throated Finch (southern subspecies)

**Mammals**

Dasyuridae

- Dasyurus viverrinus* (Shaw, 1800) Eastern Quoll
- Antechinomys laniger* (Gould, 1856) Kultarr

Peramelidae

- Isoodon obesulus obesulus* (Shaw, 1797) Southern Brown Bandicoot (eastern)

Vombatidae

- Lasiorhinus latifrons* (Owen, 1845) Southern Hairy-nosed Wombat

Burramyidae

- Burramys parvus* Broom, 1896 Mountain Pygmy-possum
- Cercartetus concinnus* (Gould, 1845) Western Pygmy Possum

Potoroidae

- \* *Potorous longipes* Seebeck & Johnston, 1980 Long-footed Potoroo

Macropodidae

- Macropus dorsalis* (Gray, 1837) Black-striped Wallaby
- \* *Petrogale penicillata* (Gray, 1825) Brush-tailed Rock-wallaby
- Petrogale xanthopus* Gray, 1855 Yellow-footed Rock-wallaby

Muridae

- \* *Notomys fuscus* (Jones, 1925) Dusky Hopping-mouse
- Pseudomys apodemoides* Finlayson, 1932 Silky Mouse

*Pseudomys bolami* Troughton, 1932

Bolam's Mouse

\* *Pseudomys fumeus* Brazenor, 1934

Smoky Mouse

\* *Pseudomys oralis* Thomas, 1921

Hastings River Mouse

## Marine mammals

Dugongidae

*Dugong dugon* (Müller, 1776)

Dugong

Balaenopteridae

\* *Balaenoptera musculus* (Linnaeus, 1758)

Blue Whale

## Invertebrates

### Annelida

### Oligochaeta

### Opisthopera

Megascolecidae

*Pericryptodrilus nanus* Jamieson 1977

## Molluscs

Bulimulidae

*Placostylus bivaricosus* (Gaskoin, 1855)

a land snail

Camaenidae

*Meridolum corneovirens* (Pfeiffer, 1851)

a land snail

*Thersites mitchellae* (Cox, 1864)

a land snail

## Arthropoda

### Insecta

### Blattodea

Blaberidae

*Panesthia lata* Walker 1868

Lord Howe Island wood-feeding  
cockroach

## Coleoptera

Carabidae

*Nurus atlas* Castelnau, 1867

*Nurus brevis* Motschulsky, 1865

**Lepidoptera**

Castniidae

*Synemon plana* Walker, 1854

The Golden Sun Moth

Hesperiidae

*Ocybadistes knightorum* (Lambkin & Donaldson, 1994)

Black Grass-dart Butterfly

Nymphalidae

*Argyreus hyperbius* (Linnaeus, 1763)

Laced Fritillary or Australian Fritillary

Lycaenidae

*Paralucia spinifera* Edwards and Common, 1978

The Bathurst Copper Butterfly

Noctuidae

\* *Phyllodes imperialis* Druce (ANIC 3333) southern subspecies

**Odonata**

Petaluridae

*Petalura gigantea* (Leach, 1815)

Giant Dragonfly

**Phasmatodea**

Phasmatidae

*Dryococelus australis* Montrouzier, 1855

Lord Howe Island Phasmid

**Fungi**

**Basidiomycota**

Hygrophoraceae

*Camarophylloopsis kearneyi* A.M. Young

*Hygrocybe austropratensis* A.M. Young

*Hygrocybe collucera* A.M. Young, R Kearney & E. Kearney



*Hygrocybe griseoramosa* A.M.Young, R. Kearney & E. Kearney

*Hygrocybe lanecovensisi* A.M. Young

## Plants

### Acanthaceae

*Calophanoides hygrophiloides* (F. Muell.) R. Barker

*Dipteracanthus australasicus* subsp. *corynothecus* (F. Muell. ex Benth.) R. Barker

\* *Isoglossa eranthemoides* (F. Muell.) R. Barker

*Xerothamnella parvifolia* C. White

### Anthericaceae

*Caesia parviflora* var. *minor* R.J.F. Hend.

### Apiaceae

\* *Gingidia montana* (Forster & Forster f.) J. Wyndham Dawson

\* *Trachymene saniculifolia* Stapf

### Apocynaceae

\* *Ochrosia moorei* (F. Muell.) F. Muell. ex Benth.

### Aponogetonaceae

*Aponogeton queenslandicus* H. Bruggen

### Araceae

*Typhonium* sp. aff. *brownii* (A.G. Floyd 11/3/1958 North Coast Regional Botanic Garden Herbarium 585)

### Araliaceae

*Astrotricha cordata* A. Bean

\* *Astrotricha roddii* Makinson

### Araucariaceae

\* *Wollemia nobilis* W. Jones, K. Hill & J. Allen

### Asclepiadaceae

\* *Cynanchum elegans* (Benth.) Domin

*Marsdenia longiloba* Benth.

\* *Tylophora linearis* P. Forster

- \* *Tylophora woollsi* Benth.

Asteraceae

*Brachyscome ascendens* G.L. Davis

- \* *Calotis moorei* P. Short

*Calotis pubescens* N.G. Walsh & K.L. McDougall ms

*Cratystylis conocephala* (F. Muell.) S. Moore

*Erodiophyllum elderi* F. Muell.

*Kippistia suaedifolia* F. Muell.

*Leptorhynchus orientalis* Paul G. Wilson

*Leptorhynchus waitzia* Sonder

- \* *Olearia flocktoniae* Maiden & E. Betche

- \* *Rutidosia leptorrhynchoides* F. Muell.

*Senecio spathulatus* A. Rich.

*Senecio squarrosus* A. Rich.

Brassicaceae

*Irenepharsus magicus* Hewson

- \* *Irenepharsus trypherus* Hewson

- \* *Lepidium hyssopifolium* Desv.

- \* *Lepidium monoplocoides* F. Muell.

*Lepidium peregrinum* Thell.

*Lepidium pseudopapillosum* Thell.

Campanulaceae

*Wahlenbergia scopulicola* Carolin ex P.J. Smith

Capparaceae

*Capparis canescens* Banks ex DC.

*Capparis loranthifolia* Lindley var. *loranthifolia*

Caryophyllaceae

*Polycarpha spirostylis* subsp. *glabra* (C. White & Francis) Pedley

Casuarinaceae

- \* *Allocasuarina defungens* L. Johnson
- \* *Allocasuarina glareicola* L. Johnson
- \* *Allocasuarina portuensis* L. Johnson
- Casuarina obesa* Miq.

Celastraceae

- \* *Apatophyllum constablei* McGillivray

Chenopodiaceae

- Atriplex sturtii* S. Jacobs
- Dysphania platycarpa* Paul G. Wilson
- Dysphania plantaginella* F. Muell.
- Osteocarpum scleropterum* (F. Muell.) Volkens
- \* *Sclerolaena napiformis* Paul G. Wilson
- Threlkeldia inchoata* (J. Black) J. Black

Convolvulaceae

- Calystegia affinis* Endl.
- Convolvulus tedmoorei* R.W. Johnson
- Ipomoea diamantinensis* J. Black
- Ipomoea polymorpha* Roemer & Schultes
- Wilsonia rotundifolia* Hook.

Cupressaceae

- Callitris baileyi* C. White

Cyperaceae

- Carex archeri* Boott
- Carex klaphakei* K.L. Wilson
- Carex raleighii* Nelmes
- Cyperus aquatilis* R. Br.
- Cyperus conicus* (R. Br.) Boeck
- Cyperus semifertilis* S.T. Blake

*Eleocharis tetraquetra* Nees

Davalliaceae

*Arthropteris palisotii* (Desv.) Alston

Davidsoniaceae

\* *Davidsonia jerseyana* (F. Muell. ex F.M. Bailey) G. Harden & J.B. Williams

\* *Davidsonia johnsonii* J.B. Williams & G. Harden

Dilleniaceae

*Hibbertia hexandra* C. White

*Hibbertia procumbens* (Labill.) DC.

*Hibbertia puberula* Toelken

*Hibbertia superans* Toelken

*Hibbertia tenuifolia* Toelken

Droseraceae

*Aldrovanda vesiculosa* L.

Dryopteridaceae

*Lastreopsis hispida* (Sw.) Tind.

*Polystichum moorei* H. Christ

Ebenaceae

\* *Diospyros mabacea* (F. Muell.) F. Muell.

*Diospyros major* var. *ebenus* (Sprengel) Bakh.

Elaeocarpaceae

\* *Elaeocarpus* sp. Rocky Creek (G. Read AQ 562114)

\* *Elaeocarpus williamsianus* Guymer

Epacridaceae

\* *Epacris hamiltonii* Maiden & E. Betche

\* *Leucopogon confertus* Benth.

*Leucopogon fletcheri* subsp. *fletcheri* Maiden & E. Betche

\* *Melichrus hirsutus* J.B. Williams ms

\* *Melichrus* sp. Gibberagee (A.S. Benwell & J.B. Williams 97239)

*Monotoca rotundifolia* J.H. Willis

Eriocaulaceae

*Eriocaulon australasicum* (F. Muell.) Korn.

\* *Eriocaulon carsonii* F. Muell.

Euphorbiaceae

*Acalypha eremorum* Muell. Arg.

\* *Bertya ingramii* T. James

*Chamaesyce psammogeton* (P.S. Green) P.I. Foster and R.J. Henderson

*Euphorbia sarcostemmoides* J.H. Willis

\* *Fontainea oraria* Jessup & Guymer

*Monotaxis macrophylla* Benth.

*Phyllanthus maderaspatanus* L.

*Phyllanthus microcladus* Muell. Arg.

*Pseudanthus ovalifolius* F. Muell.

Fabaceae

*Acacia acanthoclada* F. Muell.

*Acacia acrionastes* Pedley

*Acacia atrox* Kodela ms

*Acacia bynoeana* Benth.

*Acacia chrysotricha* Tind

\* *Acacia gordonii* (Tind.) Pedley

*Acacia jucunda* Maiden & Blakely

*Acacia macnuttiana* Maiden & Blakely

*Acacia notabilis* F. Muell.

*Acacia petraea* Pedley

*Acacia pubifolia* Pedley

*Acacia rivalis* J. Black

\* *Acacia ruppii* Maiden & E. Betche

\* *Acacia terminalis* (Salisb.) J.F. Macbr. subsp. *terminalis*

*Almaleea cambagei* (Maiden & E. Betche) Crisp & P. Weston

*Caesalpinia bonduc* (L.) Roxb.

*Carmichaelia exsul* F. Muell.

*Cassia brewsteri* var. *marksiana* Bailey

*Crotalaria cunninghamii* R. Br.

\* *Cullen parvum* (F. Muell.) J.W. Grimes

*Desmodium campylocaulon* F. Muell.

*Dillwynia glaucula* Jobson & P.H. Weston

*Indigofera baileyi* F. Muell.

\* *Indigofera efoliata* F. Muell.

*Indigofera helmsii* Peter G. Wilson

*Indigofera leucotricha* E. Pritzel

*Indigofera longibractea* J. Black

*Pultenaea* sp. Genowlan Point (NSW 417813)

*Pultenaea* sp. Olinda (R.G. Coveny 6616)

\* *Pultenaea parrisiae* subsp. *elusa* J.D. Briggs & Crisp

*Pultenaea parviflora* Sieber ex DC.

*Pultenaea pedunculata* Hook

*Senna acclinis* (F. Muell.) Randell

*Sophora tomentosa* L.

*Swainsona adenophylla* J. Black

*Swainsona colutoides* F. Muell.

*Swainsona flavicarinata* J. Black

\* *Swainsona recta* A. Lee

*Swainsona viridis* J. Black

#### Flacourtiaceae

*Xylosma parvifolium* Jessup

*Xylosma terrae-reginae* C. White & Sleumer

#### Gentianaceae

\* *Gentiana baeuerlenii* L. Adams

\* *Gentiana bredboensis* L. Adams

- \* *Gentiana wingecarribiensis* L. Adams

Goodeniaceae

*Goodenia occidentalis* Carolin

*Scaevola collaris* F. Muell.

Grammitaceae

*Grammitis stenophylla* B.S. Parris

Gyrostemonaceae

*Gyrostemon thesioides* (Hook. f.) A.S. George

Haloragaceae

- \* *Haloragodendron lucasii* (Maiden & E. Betche) Orch.

Lamiaceae

*Plectranthus allopectus* S.T. Blake

- \* *Plectranthus nitidus* P. Forst.

- \* *Prostanthera askania* B.J. Conn (formerly known as *Prostanthera* sp. Strickland State Forest (J.H. Maiden s.n., 07/1915))

- \* *Prostanthera junonis* B.J. Conn

- \* *Westringia kydrensis* Conn

Lauraceae

- \* *Endiandra floydii* B. Hyland

*Endiandra muelleri* subsp. *bracteata* B. Hyland

Lindsaeaceae

*Lindsaea brachypoda* (Baker) Salomon

*Lindsaea fraseri* Hook.

*Lindsaea incisa* Prent.

Lobeliaceae

- \* *Hypsela sessiliflora* F. Wimmer

Loganiaceae

*Geniostoma huttoni* B.J. Conn

*Mitrasacme pygmaea* R. Br.

Loranthaceae

- \* *Amyema scandens* (Tieghem) Danser
- Muellerina myrtifolia* (Cunn. ex Benth.) Barlow

Malvaceae

*Sida rohlenae* Domin

Marattiaceae

*Angiopteris evecta* Hoffm.

Marsileaceae

*Pilularia novae-hollandiae* A. Braun

Menispermaceae

*Tinospora smilacina* Benth.

Monimiaceae

- \* *Daphnandra* sp. C Illawarra (R. Schodde 3475)

Myrsinaceae

- \* *Rapanea* sp. A Richmond River (J.H. Maiden & J.L. Boorman NSW 26751)

Myrtaceae

*Angophora exul* K.D. Hill

- \* *Austromyrtus fragrantissima* (F. Muell. ex Benth.) Burret

*Babingtonia prominens* A.R. Bean

*Babingtonia silvestris* A.R. Bean

*Baeckea kandos* A.R. Bean

*Choricarpia subargentea* (C. White) L. Johnson

*Eucalyptus approximans* Maiden

*Eucalyptus camphora* subsp. *relicta* L. Johnson & K. Hill

- \* *Eucalyptus copulans* L. Johnson & K. Hill

- \* *Eucalyptus imlayensis* Crisp & Brooker

*Eucalyptus magnificata* L. Johnson & K. Hill

*Eucalyptus microcodon* L. Johnson & K. Hill

- \* *Eucalyptus pachycalyx* subsp. *banyabba* K.D. Hill



- \* *Eucalyptus recurva* Crisp
- Eucalyptus saxatilis* Kirkpatr. & Brooker
- Eucalyptus saxicola* J.T. Hunter
- Eucalyptus scoparia* Maiden
- Eucalyptus* sp. Cattai (NSW 318983)
- \* *Eucalyptus* sp. Howes Swamp Creek (M. Doherty 19/7/85, NSW 207054)
- Homoranthus binghiensis* J.T. Hunter
- Homoranthus bornhardtensis* J.T. Hunter
- Homoranthus croftianus* J.T. Hunter
- Melaleuca tamariscina* subsp. *irbyana* (R. Baker) Barlow
- \* *Micromyrtus grandis* J.T. Hunter
- Micromyrtus minutiflora* (F. Muell.) Benth.
- \* *Triplarina imbricata* (Sm.) A.R. Bean
- \* *Triplarina nowraensis* A.R. Bean
- \* *Uromyrtus australis* A.J. Scott

Orchidaceae

- \* *Caladenia arenaria* Fitzg.
- Caladenia concolor* Fitzg.
- Caladenia tessellata* Fitzg.
- Chiloglottis anaticeps* D.L. Jones
- Dendrobium melaleucaphilum* M.A. Clem. & D.L. Jones
- Diuris aequalis* F. Muell. ex Fitzg.
- Diuris arenaria* D.L. Jones
- Diuris disposita* D.L. Jones
- Diuris flavescens* D.L. Jones
- \* *Diuris pedunculata* R. Br.
- Diuris* sp. aff. *chrysantha* (Byron Bay) (D.L. Jones ORG 2761)
- Diuris* sp. (Oaklands, D.L. Jones 5380)
- Genoplesium insignis* D.L. Jones
- \* *Genoplesium plumosum* (Rupp) D.L. Jones & M.A. Clem.

- \* *Genoplesium rhyoliticum* D.L. Jones & M.A. Clem.  
*Geodorum densiflorum* (Lam.) Schltr.
- \* *Microtis angusii* D.L. Jones  
*Oberonia complanata* (A. Cunn.) M.A. Clem. & D.L. Jones
- \* *Phaius australis* F. Muell.
- \* *Phaius tankarvilleae* (Banks ex L'Her.) Blume
- \* *Prasophyllum affine* Lindl.
- \* *Prasophyllum petilum* D.L. Jones & R.J. Bates  
*Prasophyllum* sp. Majors Creek (Jones 11084)
- \* *Prasophyllum uroglossum* Rupp
- \* *Pterostylis gibbosa* R. Br.  
*Pterostylis metcalfei* D.L. Jones
- \* *Pterostylis saxicola* D.L. Jones & M.A. Clem.
- \* *Pterostylis* sp. Botany Bay (A. Bishop J221/1-13)  
*Sarcochilus dilatatus* F. Muell.

Platydomataceae

*Platydoma microphyllum* R. Br.

Poaceae

*Alexfloydia repens* B.K. Simon

*Austrostipa nullanulla* (J. Everett & S.W.L. Jacobs) S.W.L. Jacobs & J. Everett

- \* *Austrostipa wakoolica* (Vickery, S.W.L. Jacobs & J. Everett) S.W.L. Jacobs & J. Everett

- \* *Deyeuxia appressa* Vickery

- \* *Digitaria porrecta* S.T. Blake

*Distichlis distichophylla* (Labill.) Fassett

*Elyonurus citreus* (R. Br.) Munro ex Benth.

*Plinthanthesis rodwayi* (C.E. Hubb) S.T. Blake

Podocarpaceae

- \* *Microstrobos fitzgeraldii* (F. Muell.) J. Garden & L. Johnson

Polygalaceae

*Polygala linariifolia* Willd.

Polypodiaceae

*Belvisia mucronata* (Fée) Copel.

*Drynaria rigidula* (Sw.) Beddome

Primulaceae

*Lysimachia vulgaris* var. *davurica* (Ledeb.) Knuth

Proteaceae

*Eidothea* sp. "Nightcap Range" (P.H. Weston 2469)

\* *Grevillea acanthifolia* subsp. *paludosa* Makinson & Albrecht

\* *Grevillea beadleana* McGillivray

\* *Grevillea caleyi* R. Br.

*Grevillea divaricata* R. Br.

\* *Grevillea guthrieana* P. Olde & N. Marriott

*Grevillea hilliana* F. Muell.

\* *Grevillea iaspicula* McGillivray

\* *Grevillea masonii* P. Olde & N. Marriott

\* *Grevillea mollis* P. Olde & Molyneux

\* *Grevillea obtusiflora* R. Br.

*Grevillea parviflora* subsp. *supplicans* R.O. Makinson ms

*Grevillea renwickiana* F. Muell.

\* *Grevillea rivularis* L. Johnson & McGillivray

\* *Grevillea wilkinsonii* R. Makinson

\* *Hakea dohertyi* Haegi

\* *Hakea pulvinifera* L. Johnson

*Persoonia bargoensis* P.H. Weston & L.A.S. Johnson

*Persoonia glaucescens* Sieber ex Spreng.

*Persoonia hindii* P.H. Weston & L.A.S. Johnson

\* *Persoonia hirsuta* Pers.

\* *Persoonia mollis* subsp. *maxima* Krauss & L. Johnson

\* *Persoonia nutans* R. Br.

*Persoonia pauciflora* P.H. Weston

Psilotaceae

*Psilotum complanatum* Sw.

Rhamnaceae

*Pomaderris adnata* N.G. Walsh & F. Coates

\* *Pomaderris cotoneaster* Wakef.

*Pomaderris delicata* N.G. Walsh & F. Coates

*Pomaderris elachophylla* F. Muell.

*Pomaderris queenslandica* C. White

*Pomaderris reperta* N.G. Walsh & F. Coates

*Pomaderris sericea* Wakef.

Rubiaceae

*Coprosma inopinata* I. Hutton & P.S. Green

*Dentella minutissima* C. White & Francis

*Hedyotis galioides* F. Muell.

\* *Randia moorei* F. Muell. ex Benth.

*Tarenna cameronii* (C.T. White) Ali & Robbr.

Rutaceae

\* *Acronychia littoralis* T. Hartley & J. Williams

*Asterolasia buxifolia* Benth.

\* *Asterolasia elegans* McDougall & Porteners

*Asterolasia* sp. "Dungowan Creek" (Beckers s.n. 25 Oct. 1995)

*Boronia boliviensis* ms

\* *Boronia repanda* (F. Muell. ex E. Betcher) Maiden & E. Betcher

*Boronia ruppii* Cheel *sensu stricto*

\* *Correa lawrenciana* var. *genoensis* Paul G. Wilson

*Geijera paniculata* (F. Muell.) Druce

- \* *Leionema lachnaeoides* (A. Cunn.) Paul G. Wilson
- Melicope vitiflora* (F. Muell.) T. Hartley
- Phebalium glandulosum* subsp. *eglandulosum* (Blakely) Paul G. Wilson
- Philotheca myoporoides* subsp. *obovatifolia* M.J. Bayly
- Zieria adenodonta* (F. Muell.) J.A. Armstrong ms
- \* *Zieria adenophora* Blakely
- \* *Zieria baeuerlenii* J.A. Armstrong ms
- \* *Zieria buxijugum* J. Briggs & J.A. Armstrong ms
- Zieria citriodora* J.A. Armstrong ms
- \* *Zieria coventyi* J.A. Armstrong ms
- \* *Zieria floydii* J.A. Armstrong ms
- \* *Zieria formosa* J. Briggs & J.A. Armstrong ms
- \* *Zieria granulata* (F. Muell.) C. Moore ex Benth.
- \* *Zieria ingramii* J.A. Armstrong ms
- Zieria involucrata* R. Br. ex Benth.
- \* *Zieria lasiocaulis* J.A. Armstrong ms
- \* *Zieria obcordata* Cunn.
- \* *Zieria parrisiae* J. Briggs & J.A. Armstrong ms
- \* *Zieria prostrata* J.A. Armstrong ms

Santalaceae

*Santalum murrayanum* (Mitchell) Gardner

Sapindaceae

*Cupaniopsis serrata* (F. Muell.) Radlk.

- \* *Diploglottis campbellii* Cheel

*Dodonaea microzyga* F. Muell. var. *microzyga*

*Dodonaea sinuolata* subsp. *acrodentata* J. West

*Dodonaea stenozyga* F. Muell.

Sapotaceae

*Niemeyera chartacea* (Bailey) C. White

Scrophulariaceae

*Centranthera cochinchinensis* (Lour.) Merr.

\* *Euphrasia collina* subsp. *muelleri* (Wettst.) W.R. Barker

*Euphrasia orthocheila* subsp. *peraspera* W.R. Barker

*Euphrasia scabra* R. Br.

*Lindernia alsinoides* R. Br.

Simaroubaceae

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

Sinopteridaceae

*Cheilanthes sieberi* subsp. *pseudovellea* H. Quirk & T.C. Chambers

Solanaceae

*Solanum amourense* A.R. Bean

*Solanum celatum* A.R. Bean

*Solanum limitare* A.R. Bean

Stackhousiaceae

*Stackhousia clementii* Domin

Sterculiaceae

*Lasiopetalum behrii* F. Muell.

\* *Rulingia prostrata* Maiden & Betche

Thymelaeaceae

*Pimelea elongata* Threlfall

*Pimelea serpyllifolia* R. Br. subsp. *serpyllifolia*

\* *Pimelea spicata* R. Br.

\* *Pimelea venosa* Threlfall

Tiliaceae

\* *Corchorus cunninghamii* F. Muell.

Urticaceae

*Dendrocnide moroides* (Wedd.) Chew

Violaceae

*Viola cleistogamoides* (L. Adams) Seppelt

Zamiaceae

*Macrozamia humilis* D.L. Jones

*Macrozamia johnsonii* D.L. Jones & K. Hill

Zannichelliaceae

*Zannichellia palustris* L.

**Editorial note—**

The species referred to in the Gazette notices specified below are provisionally listed in the above Part in accordance with Division 4 of Part 2 of this Act. A provisional listing of a species ceases to have effect if the Scientific Committee makes a final determination to list, or not to list, the species or on the expiration of 12 months after the provisional listing, whichever first occurs.

Gazette No 21 of 6.2.2004, p 468—shrub, *Boronia* sp. 'Shannon Creek' (P & J Edwards 3)

## Part 2 Endangered populations

### Animals

#### Vertebrates

#### Amphibians

Myobatrachidae

*Adelotus brevis* (Gunther 1863)

Tusked Frog population in the Nandewar and New England Tablelands Bioregions

#### Birds

Casuariidae

*Dromaius novaehollandiae*

Emu population in the New South Wales North Coast Bioregion and Port Stephens local government area

Cacatuidae

*Callocephalon fimbriatum* (Grant)

Gang-gang Cockatoo population in the Hornsby and Ku-ring-gai Local Government Areas

*Calyptorhynchus lathami* (Temminck, 1807)

Glossy Black-Cockatoo, Riverina population

Spheniscidae

*Eudyptula minor* (Forster, 1781)

Little Penguin in the Manly Point Area (being the area on and near the shoreline from Cannae Point generally northward to the point near the intersection of Stuart Street and Oyama Cove Avenue, and extending 100 metres offshore from that shoreline)

Climacteridae

*Climacteris affinis* Blyth, 1864

White-browed Treecreeper population in Carrathool local government area south of the Lachlan River and Griffith local government area

**Mammals**

Macropodidae

Muridae

*Mastacomys fuscus* Thomas, 1882

Broad-toothed Rat at Barrington Tops in the local government areas of Gloucester, Scone and Dungog

Peramelidae

*Perameles nasuta* Geoffroy, 1804

Long-nosed Bandicoot, North Head

Petauridae

*Petaurus nofolcensis* (Kerr 1792)

Squirrel Glider in the Wagga Wagga Local Government Area

*Petaurus norfolcensis* (Kerr, 1792)

Squirrel Glider on Barrenjoey Peninsula, north of Bushrangers Hill

Phascolarctidae

*Phascolarctos cinereus* (Goldfuss, 1817)

Koala, Hawks Nest and Tea Gardens population

*Phascolarctos cinereus* (Goldfuss, 1817)

Koala in the Pittwater Local Government Area

**Invertebrates**

**Arthropoda**

**Coleoptera**



Chrysomelidae

*Menippus fugitivus*

*Menippus fugitivus* population in the Sutherland Shire

**Plants**

Asclepiadaceae

*Marsdenia viridiflora* R. Br. subsp. *viridiflora*

*Marsdenia viridiflora* R. Br. subsp. *viridiflora* population in the Bankstown, Blacktown, Camden, Campbelltown, Fairfield, Holroyd, Liverpool and Penrith local government areas

Campanulaceae

*Wahlenbergia multicaulis* Benth.

Tadgell's Bluebell in the local government areas of Auburn, Bankstown, Baulkham Hills, Canterbury, Hornsby, Parramatta and Strathfield

Fabaceae

*Acacia prominens* Cunn. ex Don

Gosford Wattle, Hurstville and Kogarah Local Government Areas

*Chorizema parviflorum* Benth.

*Chorizema parviflorum* Benth. in the Wollongong and Shellharbour Local Government Areas

*Dillwynia tenuifolia* Sieber ex D.C.

*Dillwynia tenuifolia*, Kemps Creek

*Dillwynia tenuifolia* Sieber ex D.C.

*Dillwynia tenuifolia* Sieber ex D.C. in the Baulkham Hills local government area

*Glycine clandestina* (broad leaf form) (Pullen 13342)

*Glycine clandestina* (broad leaf form) in the Nambucca Local Government Area

*Lespedeza juncea* subsp. *sericea* (Thunb.) Steenis

*Lespedeza juncea* subsp. *sericea* in the Wollongong Local Government Area

*Pultenaea villifera* Sieber ex DC.

*Pultenaea villifera* Sieber ex DC. population in the Blue Mountains local government area

## Myrtaceae

<i>Darwinia fascicularis</i> subsp. <i>oligantha</i>	<i>Darwinia fascicularis</i> subsp. <i>oligantha</i> population in the Baulkham Hills and Hornsby Local Government Areas
<i>Eucalyptus parramattensis</i> C. Hall. subsp. <i>parramattensis</i>	<i>Eucalyptus parramattensis</i> C. Hall. subsp. <i>parramattensis</i> in Wyong and Lake Macquarie local government areas
<i>Eucalyptus seeana</i>	<i>Eucalyptus seeana</i> population in the Greater Taree local government area

## Rhamnaceae

<i>Cryptandra longistaminea</i> F. Muell.	<i>Cryptandra longistaminea</i> in the vicinity of Ellandgrove Road, South Grafton
<i>Pomaderris prunifolia</i> Fenzl	<i>P. prunifolia</i> in the Parramatta, Auburn, Strathfield and Bankstown Local Government Areas

## Rutaceae

<i>Zieria smithii</i> Jackson	Low growing form of <i>Z. smithii</i> , Diggers Head
-------------------------------	--

## Sterculiaceae

<i>Keraudrenia corrolata</i> var. <i>denticulata</i> (Steetz) Druce	<i>Keraudrenia corrolata</i> var. <i>denticulata</i> in the Hawkesbury Local Government Area
---	--

## Part 3 Endangered ecological communities

*Acacia loderi* Shrublands (as described in the final determination of the Scientific Committee to list the ecological community)

Agnes Banks Woodland in the Sydney Basin Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Artesian Springs Ecological Community (as described in the final determination of the Scientific Committee to list the ecological community)

Bega Dry Grass Forest in the South East Corner Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Ben Halls Gap National Park Sphagnum Moss Cool Temperate Rainforest (as described in the final determination of the Scientific Committee to list the ecological community)

Blue gum High Forest (as described in the final determination of the Scientific Committee to list the ecological community)

Blue Mountains Shale Cap Forest in the Sydney Basin Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Brigalow within the Brigalow Belt South, Nandewar and Darling Riverine Plains Bioregions (as described in the final determination of the Scientific Committee to list the ecological community)

Brogo Wet Vine Forest in the South East Corner Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Byron Bay Dwarf Graminoid Clay Heath Community (as described in the final determination of the Scientific Committee to list the ecological community)

*Cadellia pentastylis* (Ooline) community in the Nandewar and Brigalow Belt South bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Candelo Dry Grass Forest in the South East Corner Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Carbeen Open Forest community in the Darling Riverine Plains and Brigalow Belt South Bioregions (as described in the final determination of the Scientific Committee to list the ecological community)

Castlereagh Swamp Woodland Community (as described in the final determination of the Scientific Committee to list the ecological community)

Coastal Saltmarsh in the New South Wales North Coast, Sydney Basin and South East Corner Bioregions (as described in the final determination of the Scientific Committee to list the ecological community)

Cooks River/Castlereagh Ironbark Forest in the Sydney Basin Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Coolibah-Black Box Woodland of the northern riverine plains in the Darling Riverine Plains and Brigalow Belt South bioregions (as described in the final determination of the Scientific Committee to list the ecological community)

\* Cumberland Plain Woodland (as described in the final determination of the Scientific Committee to list the ecological community)

Dry Rainforest of the South East Forests in the South East Corner Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Duffys Forest Ecological Community in the Sydney Basin Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

\* Eastern Suburbs Banksia Scrub in the Sydney Basin Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Elderslie Banksia Scrub Forest (as described in the final determination of the Scientific Committee to list the ecological community)

Genowlan Point *Allocasuarina nana* heathland (as described in the final determination of the Scientific Committee to list the ecological community)

Howell Shrublands in the Northern Tablelands and Nandewar Bioregions (as described in the final determination of the Scientific Committee to list the ecological community)

Hunter Lowland Redgum Forest in the Sydney Basin and New South Wales North Coast Bioregions (as described in the final determination of the Scientific Committee to list the ecological community)

Hygrocybeae Community of Lane Cove Bushland Park (as described in the final determination of the Scientific Committee to list the ecological community)

Illawarra Lowlands Grassy Woodland in the Sydney Basin Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Illawarra Subtropical Rainforest in the Sydney Basin Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Kurnell Dune Forest in the Sutherland Shire and City of Rockdale (as described in the final determination of the Scientific Committee to list the ecological community)

Kurri Sand Swamp Woodland in the Sydney Basin Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

*Lagunaria* Swamp Forest on Lord Howe Island (as described in the final determination of the Scientific Committee to list the ecological community)

Littoral Rainforest in the New South Wales North Coast, Sydney Basin and South East Corner Bioregions (as described in the final determination of the Scientific Committee to list the ecological community)

Low woodland with heathland on indurated sand at Norah Head (as described in the final determination of the Scientific Committee to list the ecological community)

Lowland Rainforest on Floodplain in the New South Wales North Coast Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Maroota Sands Swamp Forest (as described in the final determination of the Scientific Committee to list the ecological community)

McKies Stringybark/Blackbutt Open Forest in the Nandewar and New England Tableland Bioregions (as described in the final determination of the Scientific Committee to list the ecological community)

*Melaleuca armillaris* Tall Shrubland in the Sydney Basin Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Milton Ulladulla Subtropical Rainforest in the Sydney Basin Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Moist Shale Woodland in the Sydney Basin Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Mt Canobolas *Xanthoparmelia* Lichen Community (as described in the final determination of the Scientific Committee to list the ecological community)

Mount Gibraltar Forest in the Sydney Basin Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Native Vegetation on Cracking Clay Soils of the Liverpool Plains (as described in the final determination of the Scientific Committee to list the ecological community)

New England Peppermint (*Eucalyptus nova-anglica*) Woodland on Basalts and Sediments in the New England Tableland Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

O'Hares Creek Shale Forest (as described in the final determination of the Scientific Committee to list the ecological community)

Pittwater Spotted Gum Forest (as described in the final determination of the Scientific Committee to list the ecological community)

Quorrobolong Scribbly Gum Woodland in the Sydney Basin Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Robertson Basalt Tall Open-forest in the Sydney Basin Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Robertson Rainforest in the Sydney Basin Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Semi-evergreen Vine Thicket in the Brigalow Belt South and Nandewar Bioregions (as described in the final determination of the Scientific Committee to list the ecological community)

Shale Gravel Transition Forest in the Sydney Basin Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Shale/Sandstone Transition Forest (as described in the final determination of the Scientific Committee to list the ecological community)

Southern Highlands Shale Woodlands in the Sydney Basin Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Sun Valley Cabbage Gum Forest in the Sydney Basin Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Sydney Coastal Estuary Swamp Forest in the Sydney Basin Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Sydney Coastal River-flat Forest (as described in the final determination of the Scientific Committee to list the ecological community)

Sydney Freshwater Wetlands in the Sydney Basin Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Sydney Turpentine-Ironbark Forest (as described in the final determination of the Scientific Committee to list the ecological community)

The Shorebird community occurring on the relict tidal delta sands at Taren Point (as described in the final determination of the Scientific Committee to list the ecological community)

Umina Coastal Sandplain Woodland in the Sydney Basin Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Upland Wetlands of the Drainage Divide of the New England Tableland Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Warkworth Sands Woodland of the Sydney Basin Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

Western Sydney Dry Rainforest in the Sydney Basin Bioregion (as described in the final determination of the Scientific Committee to list the ecological community)

White Box Yellow Box Blakely's Red Gum Woodland (as described in the final determination of the Scientific Committee to list the ecological community)

## Part 4 Species presumed extinct

### Animals

#### Vertebrates

#### Reptiles

##### Elapidae

*Oxyuranus microlepidotus* (McCoy, 1879)

Fierce Snake

#### Birds

##### Rallidae

\* *Porphyrio albus* (Shaw, 1790)

White Gallinule

##### Columbidae

\* *Columba vitiensis godmanae* Matthews, 1915

White-throated Pigeon (Lord Howe Is. subsp.)

##### Psittacidae

\* *Psephotus pulcherrimus* (Gould, 1845)

Paradise Parrot

\* *Cyanoramphus novaezelandiae subflavescens* Salvadori, 1891

Red-crowned Parakeet (Lord Howe Is. subsp.)

*Pezoporus occidentalis* Gould, 1861

Night Parrot

##### Strigidae

\* *Ninox novaeseelandiae albaria* (Gmelin, 1788)

Southern Boobook (Lord Howe Is. subsp.)

##### Pardalotidae

\* *Gerygone insularis* Ramsay, 1879

Lord Howe Gerygone

##### Dicruridae

\* *Rhipidura fuliginosa cervina* Ramsay, 1879

Grey Fantail (Lord Howe Is. subsp.)

##### Passeridae

*Neochmia ruficauda* (Gould, 1837)

Star Finch

##### Zosteropidae

\* *Zosterops strenuus* Gould, 1855

Robust White-eye

Muscicapidae

- \* *Turdus poliocephalus vinitinctus* (Gould, 1855) Island Thrush (Lord Howe Is. subsp.)

Sturnidae

- \* *Aplonis fusca hullianus* Gould, 1836 Tasman Starling (Lord Howe Is. subsp.)

**Mammals**

Dasyuridae

*Dasyercus cristicauda* (Krefft, 1867) Mulgara

*Dasyurus geoffroii* Gould, 1841 Western Quoll

*Phascogale calura* Gould, 1844 Red-tailed Phascogale

Myrmecobiidae

*Myrmecobius fasciatus* Waterhouse, 1836 Numbat

Peramelidae

- \* *Chaeropus ecaudatus* (Ogilby, 1838) Pig-footed Bandicoot

*Isoodon auratus auratus* (Ramsay, 1887) Golden Bandicoot (mainland)

- \* *Perameles bougainville fasciata* Gray, 1841 Western Barred Bandicoot (mainland)

*Macrotis lagotis* (Reid, 1837) Bilby

Vombatidae

*Lasiorhinus krefftii* (Owen, 1872) Northern Hairy-nosed Wombat

Potoroidae

*Bettongia gaimardi* (Desmarest, 1822) Tasmanian Bettong

- \* *Bettongia lesueur graii* (Gould, 1841) Boodie, Burrowing Bettong (mainland)

- \* *Bettongia penicillata penicillata* Gray, 1837 Brush-tailed Bettong (South-East Mainland)

*Bettongia tropica* Wakefield, 1967 Northern Bettong

Macropodidae

- \* *Lagorchestes leporides* (Gould, 1841) Eastern Hare-wallaby

*Onychogalea fraenata* (Gould, 1841) Bridled Nailtail Wallaby

- \* *Onychogalea lunata* (Gould, 1841) Crescent Nailtail Wallaby

Vespertilionidae

*Nyctophilus howensis* McKean, 1973

Lord Howe Island Bat

Muridae

\* *Conilurus albipes* (Lichtenstein, 1829)

White-footed Tree-rat

\* *Leporillus apicalis* (Gould, 1853)

Lesser Stick-nest Rat

*Leporillus conditor* (Sturt, 1848)

Greater Stick-nest Rat

*Notomys cervinus* (Gould, 1853)

Fawn Hopping-mouse

\* *Notomys longicaudatus* (Gould, 1844)

Long-tailed Hopping-mouse

*Notomys mitchellii* (Ogilby, 1838)

Mitchell's Hopping-mouse

*Pseudomys australis* Gray, 1832

Plains Rat

*Pseudomys desertor* Troughton, 1932

Desert Mouse

\* *Pseudomys gouldii* (Waterhouse, 1839)

Gould's Mouse

**Invertebrates**

**Arthropoda**

**Insecta**

**Coleoptera**

Curculionidae

*Hybomorphus melanosomus* (Saunders & Jekel, 1885)

Lord Howe Island ground weevil

**Plants**

Acanthaceae

*Rhaphidospora bonneyana* (F. Muell.) R. Barker

Aizoaceae

*Glinus orygioides* F. Muell.

\* *Trianthema cypseleoides* (Fenzl) Benth.

Amaranthaceae

*Ptilotus extenuatus* Benl

Asteraceae

\* *Acanthocladium dockeri* F. Muell.



*Blumea lacera* (Burman f.) DC.

\* *Olearia oliganthema* F. Muell. ex Benth.

*Senecio behrianus* Sonder & F. Muell.

\* *Senecio georgianus* DC.

*Stemmacantha australis* (Gaudich.) Dittr.

Brassicaceae

*Lepidium foliosum* Desv.

*Stenopetalum velutinum* F. Muell.

Chenopodiaceae

*Atriplex acutiloba* R. Anderson

*Maireana lanosa* (Lindley) Paul G. Wilson

*Osteocarpum pentapterum* (F. Muell. & Tate) Volkens

Dennstaedtiaceae

*Hypolepis elegans* Carruth.

Euphorbiaceae

\* *Amperea xiphioclada* var. *pedicellata* R.F.J. Hend.

Gyrostemonaceae

*Codonocarpus pyramidalis* (F. Muell.) F. Muell.

Haloragaceae

*Haloragis stricta* R. Br. ex Benth.

*Myriophyllum implicatum* Orch.

Lamiaceae

\* *Prostanthera marifolia* R. Br.

Orchidaceae

*Caladenia rosella* G.W. Carr

\* *Diuris bracteata* Fitzg.

*Thelymitra epipactoides* F. Muell.

Polygalaceae

*Comesperma scoparium* Drummond

Proteaceae

*Grevillea nematophylla* F. Muell.

\* *Persoonia laxa* L. Johnson & P. Weston

Rhamnaceae

*Pomaderris oraria* F. Muell. ex Reisseck

Rosaceae

*Aphanes pentamera* Rothm.

Rubiaceae

*Galium australe* DC.

*Knoxia sumatrensis* (Retz.) DC.

Rutaceae

*Micromelum minutum* (Forster f.) Wight & Arn.

*Philotheca angustifolia* (Paul G. Wilson) Paul G. Wilson subsp. *angustifolia*

Sapindaceae

*Dodonaea stenophylla* F. Muell.

Scrophulariaceae

\* *Euphrasia arguta* R. Br.

\* *Euphrasia ruptura* W.R. Barker

Tremandraceae

*Tetratheca pilosa* Labill. subsp. *pilosa*

## Schedule 2 Vulnerable species and ecological communities

(Sections 7 and 7A)

### Part 1 Vulnerable species

#### Animals

#### Vertebrates

#### Amphibians

## Hylidae

<i>Litoria brevipalmata</i> Tyler, Martin & Watson, 1972	Green-thighed Frog
<i>Litoria daviesae</i> Mahony, Knowles, Foster & Donnellan 2001	
<i>Litoria littlejohni</i> A.W. White, Whitford & Mahony (1994)	Littlejohn's Tree Frog
* <i>Litoria olongburensis</i> Liem & Ingram, 1977	Olongurra Frog
* <i>Litoria piperata</i> Tyler & Davies, 1985	Peppered Frog
<i>Litoria subglandulosa</i> Tyler & Anstis, 1983	Glandular Frog

## Myobatrachidae

<i>Assa darlingtoni</i> (Loveridge, 1933)	Pouched Frog
<i>Crinia tinnula</i> Straughan & Main, 1966	Wallum Froglet
* <i>Heleioporus australiacus</i> (Shaw & Nodder, 1975)	Giant Burrowing Frog
<i>Philoria kundagungan</i> (Ingram & Corben, 1975)	Mountain Frog
<i>Philoria loveridgei</i> Parker, 1940	Loveridge's Frog
<i>Philoria sphagnicola</i> (Moore, 1958)	Sphagnum Frog
<i>Pseudophryne australis</i> (Gray, 1835)	Red-crowned Toadlet
* <i>Pseudophryne pengilleyi</i> Wells and Wellington, 1985	Northern Corroboree Frog

## Reptiles

### Cheloniidae

* <i>Chelonia mydas</i> (Linnaeus, 1758)	Green Turtle
--	--------------

### Dermochelyidae

* <i>Dermochelys coriacea</i> (Vandelli, 1761)	Leathery Turtle
--	-----------------

### Chelidae

<i>Eseya belli</i> (Gray, 1844)	Bell's Turtle
<i>Emydura macquarii</i> (Gray, 1830) (Bellinger River)	Bellinger River Emydura

### Gekkonidae

* <i>Christinus guentheri</i> (Boulenger, 1885)	Lord Howe Island Southern Gecko
<i>Diplodactylus elderi</i> Stirling and Zietz 1893	Jewelled Gecko
<i>Diplodactylus stenodactylus</i> Boulenger 1896	Crowned Gecko

* <i>Underwoodisaurus sphyrurus</i> (Ogilby, 1892)	Border Thick-tailed Gecko
Pygopodidae	
<i>Aprasia inaurita</i> Kluge, 1974	Mallee Worm Lizard
* <i>Aprasia parapulchella</i> Kluge, 1974	Pink-tailed Legless Lizard
* <i>Delma impar</i> Fischer, 1882	Striped Legless Lizard
Varanidae	
<i>Varanus rosenbergi</i> Mertens, 1957	Rosenberg's Goanna
Scincidae	
* <i>Coeranoscincus reticulatus</i> (Gunther, 1873)	Three-toed Snake-tooth Skink
<i>Ctenotus brooksi</i> (Loveridge, 1933)	Wedgesnout Ctenotus
<i>Lerista xanthura</i> Storr, 1976	Yellow-tailed Plain Slider
* <i>Pseudemoia lichenigera</i> (O'Shaughnessy, 1874)	Skink
<i>Tiliqua multifasciata</i> Sternfeld, 1919	Centralian Blue-tongued Lizard
<i>Tiliqua occipitalis</i> (Peters, 1863)	Western Blue-tongued Lizard
Boidae	
<i>Aspidites ramsayi</i> (Macleay, 1882)	Woma
<i>Liasis stimsoni</i> Smith, 1985	Stimson's Python
Elapidae	
<i>Cacophis harriettae</i> Krefft, 1869	White-crowned Snake
<i>Demansia torquata</i> (Gunther, 1862)	Collared Whip Snake
<i>Hoplocephalus bitorquatus</i> (Jan, 1859)	Pale-headed Snake
<i>Hoplocephalus stephensii</i> Krefft, 1869	Stephens' Banded Snake
<i>Simoselaps fasciolatus</i> (Gunther, 1872)	Narrow-banded Snake
<i>Suta flagellum</i> (McCoy, 1878)	Little Whip Snake

## Birds

### Anseranatidae

<i>Anseranas semipalmata</i> (Latham, 1798)	Magpie Goose
---	--------------

Anatidae

*Oxyura australis* (Gould, 1836)

Blue-billed Duck

*Stictonetta naevosa* (Gould, 1841)

Freckled Duck

Procellariidae

\* *Macronectes halli* Mathews 1912

Northern Giant-petrel

*Pterodroma solandri* (Gould, 1844)

Providence Petrel

\* *Pterodroma neglecta neglecta* (Schlegel, 1863)

Kermadec Petrel (west Pacific subspecies)

*Pterodroma nigripennis* (Rothschild, 1893)

Black-winged Petrel

*Puffinus carneipes* Gould, 1844

Flesh-footed Shearwater

*Puffinus assimilis* Gould, 1838

Little Shearwater

Diomedidae

\* *Diomedea antipodensis* Robertson & Warham 1992

Antipodean Albatross

*Diomedea melanophris* Temminck, 1828

Black-browed Albatross

*Diomedea cauta* Gould, 1841

Shy Albatross

\* *Diomedea gibsoni* Robertson & Warham 1992

Gibson's Albatross

\* *Phoebastria fusca* (Hilsenberg, 1822)

Sooty Albatross

Hydrobatidae

*Fregatta grallaria* (Vieillot, 1817)

White-bellied Storm-petrel

Phaethontidae

*Phaethon rubricauda* Boddaert, 1783

Red-tailed Tropicbird

Sulidae

*Sula dactylatra* Lesson, 1831

Masked Booby

Areidae

*Ixobrychus flavicollis* (Latham, 1790)

Black Bittern

*Botaurus poiciloptilus* (Wagler, 1827)

Australasian Bittern

Accipitridae

*Pandion haliaetus* (Linnaeus, 1758)

Osprey

*Lophoictinia isura* (Gould, 1838)

Square-tailed Kite

<i>Hamirostra melanosternon</i> (Gould, 1841)	Black-breasted Buzzard
Falconidae	
<i>Falco hypoleucos</i> Gould, 1841	Grey Falcon
Gruidae	
<i>Grus rubicunda</i> (Perry, 1810)	Brolga
Rallidae	
<i>Amaurornis olivaceus</i> (Meyen, 1834)	Bush-hen
Scolopacidae	
<i>Limosa limosa</i> (Linnaeus, 1758)	Black-tailed Godwit
<i>Xenus cinereus</i> (Guldenstadt, 1775)	Terek Sandpiper
<i>Calidris alba</i> (Pallas, 1764)	Sanderling
<i>Calidris tenuirostris</i> (Horsfield, 1821)	Great Knot
<i>Limicola falcinellus</i> (Pontoppidan, 1763)	Broad-billed Sandpiper
Jacanidae	
<i>Irediparra gallinacea</i> (Temminck, 1828)	Comb-crested Jacana
Haematopodidae	
<i>Haematopus fuliginosus</i> Gould, 1845	Sooty Oystercatcher
<i>Haematopus longirostris</i> Vieillot, 1817	Pied Oystercatcher
Charadriidae	
<i>Charadrius leschenaulti</i> Lesson, 1826	Greater Sand-plover
<i>Charadrius mongolus</i> Pallas, 1776	Lesser Sand-plover
Laridae	
<i>Sterna fuscata</i> Linnaeus, 1766	Sooty Tern
<i>Procelsterna cerulea</i> (Bennett, 1840)	Grey Ternlet
<i>Gygis alba</i> (Sparrman, 1786)	White Tern Columbidae
<i>Ptilinopus magnificus</i> (Temminck, 1821)	Wompoo Fruit-dove
<i>Ptilinopus regina</i> Swainson, 1825	Rose-crowned Fruit-dove
<i>Ptilinopus superbus</i> (Temminck, 1810)	Superb Fruit-dove

Cacatuidae

<i>Calyptorhynchus banksii</i> (Latham, 1790)	Red-tailed Black-Cockatoo
<i>Calyptorhynchus lathami</i> (Temminck, 1807)	Glossy Black-Cockatoo
<i>Cacatua leadbeateri</i> (Vigors, 1831)	Major Mitchell's Cockatoo

Psittacidae

<i>Glossopsitta porphyrocephala</i> (Dietrichsen, 1837)	Purple-crowned Lorikeet
* <i>Polytelis swainsonii</i> (Desmarest, 1826)	Superb Parrot
<i>Neophema pulchella</i> (Shaw, 1792)	Turquoise Parrot
<i>Neophema splendida</i> (Gould, 1841)	Scarlet-chested Parrot
<i>Pezoporus wallicus wallicus</i> (Kerr, 1792)	Eastern Ground Parrot

Strigidae

<i>Ninox connivens</i> (Latham, 1851)	Barking Owl
<i>Ninox strenua</i> (Gould, 1838)	Powerful Owl

Tytonidae

<i>Tyto capensis</i> (Smith, 1834)	Grass Owl
<i>Tyto novaehollandiae</i> (Stephens, 1826)	Masked Owl
<i>Tyto tenebricosa</i> (Gould, 1845)	Sooty Owl

Podargidae

<i>Podargus ocellatus</i> Quoy & Gaimard, 1830	Marbled Frogmouth
--	-------------------

Halcyonidae

<i>Todiramphus chloris</i> (Boddaert, 1783)	Collared Kingfisher
---	---------------------

Menuridae

<i>Menura alberti</i> Bonaparte, 1851	Albert's Lyrebird
---------------------------------------	-------------------

Atrichornithidae

<i>Atrichornis rufescens</i> (Ramsay, 1867)	Rufous Scrub-bird
---	-------------------

Climacteridae

<i>Climacteris picumnus victoriae</i> (Mathews 1912)	Brown Treecreeper (eastern subspecies)
--	--

Maluridae

*Amytornis striatus* (Gould, 1840)

Striated Grasswren

Pardalotidae

*Hylacola cauta* Gould, 1843

Shy Heathwren

*Calamanthus fuliginosus* (Vigors & Horsfield, 1827)

Striated Fieldwren

*Pyrrholaemus brunneus* Gould, 1841

Redthroat

*Pyrrholaemus sagittata* (Latham 1802)

Speckled Warbler

Meliphagidae

*Lichenostomus fasciogularis* (Gould, 1854)

Mangrove Honeyeater

*Lichenostomus cratitius* (Gould, 1841)

Purple-gaped Honeyeater

*Grantiella picta* (Gould, 1838)

Painted Honeyeater

*Certhionyx variegatus* Lesson, 1830

Pied Honeyeater

*Melithreptus gularis gularis* (Gould 1837)

Black-chinned Honeyeater (eastern subspecies)

Petroicidae

*Petroica rodinogaster* (Drapiez, 1819)

Pink Robin

*Drymodes brunneopygia* Gould, 1840

Southern Scrub-robin

*Melanodryas cucullata cucullata* (Latham 1802)

Hooded Robin (south-eastern form)

Pomatostomidae

*Pomatostomus halli* Cowles, 1964

Hall's Babbler

*Pomatostomus temporalis temporalis* (Vigors and Horsfield 1827)

Grey-crowned Babbler (eastern subspecies)

Cinclosomatidae

*Cinclosoma castanotus* Gould, 1840

Chestnut Quail-thrush

Pachycephalidae

*Pachycephala olivacea* Vigors & Horsfield, 1827

Olive Whistler

*Pachycephala inornata* Gould, 1841

Gilbert's Whistler

*Pachycephala pectoralis contempa* (Latham, 1801)

Golden Whistler (Lord Howe Is. subsp.)



Dicruridae

*Monarcha leucotis* Gould, 1851

White-eared Monarch

Campephagidae

*Coracina lineata* (Swainson, 1825)

Barred Cuckoo-shrike

Artamidae

\* *Strepera graculina crissalis* (Sharpe, 1877)

Pied Currawong (Lord Howe Is. subsp.)

Passeridae

*Stagonopleura guttata* (Shaw 1796)

Diamond Firetail

Zosteropidae

*Zosterops lateralis tephroleura* Gould, 1855

Silvereye (Lord Howe Is. subsp.)

**Mammals**

Burramyidae

*Cercartetus nanus* (Desmarest, 1818)

Eastern Pygmy-possum

Dasyuridae

*Dasyurus maculatus* (Kerr, 1792)

Spotted-tailed Quoll

*Phascogale tapoatafa* (Meyer, 1793)

Brush-tailed Phascogale

*Planigale maculata* (Gould, 1851)

Common Planigale

*Ningau yvonneae* Kitchener, Stoddart & Henry, 1983

Southern Ningau

*Sminthopsis leucopus* (Gray, 1842)

White-footed Dunnart

*Sminthopsis macroura* (Gould, 1845)

Stripe-faced Dunnart

Phascolarctidae

*Phascolarctos cinereus* (Goldfuss, 1817)

Koala

Petauridae

*Petaurus australis* Shaw, 1791

Yellow-bellied Glider

*Petaurus norfolcensis* (Kerr, 1792)

Squirrel Glider

Potoroidae

*Aepyprymnus rufescens* (Gray, 1837)

Rufous Bettong

*Potorous tridactylus* (Kerr, 1792)

Long-nosed Potoroo

Macropodidae

*Macropus parma* Waterhouse, 1845

Parma Wallaby

*Thylogale stigmatica* (Gould, 1860)

Red-legged Pademelon

Pteropodidae

*Syconycteris australis* (Peters, 1867)

Common Blossom-bat

*Nyctimene robinsoni* Thomas, 1904

Eastern Tube-nosed Bat

*Pteropus alecto* Temminck, 1837

Black Flying-fox

*Pteropus poliocephalus* Temminck, 1825

Grey-headed Flying-fox

Emballonuridae

*Saccolaimus flaviventris* (Peters, 1867)

Yellow-bellied Sheath-tail-bat

Molossidae

*Mormopterus beccarii* Peters, 1881

Beccari's Freetail-bat

*Mormopterus norfolkensis* (Gray, 1839)

Eastern Freetail-bat

Vespertilionidae

*Kerivoula papuensis* Dobson, 1878

Golden-tipped Bat

*Miniopterus australis* (Tomes, 1858)

Little Bentwing-bat

*Miniopterus schreibersii oceanensis* Maeda, 1982

Eastern Bent-wing Bat

*Nyctophilus bifax* Thomas, 1915

Eastern Long-eared Bat

*Nyctophilus timoriensis* (Geoffroy, 1806) (South-eastern form)

Eastern Long-eared Bat

*Chalinolobus dwyeri* Ryan, 1966

Large-eared Pied Bat

*Chalinolobus nigrogriseus* (Gould, 1856)

Hoary Wattled Bat

*Chalinolobus picatus* (Gould, 1852)

Little Pied Bat

*Falsistrellus tasmaniensis* (Gould, 1858)

Eastern False Pipistrelle

*Myotis adversus* (Horsfield, 1824)

Large-footed Myotis

*Scoteanax rueppellii* (Peters, 1866)

Greater Broad-nosed Bat

*Vespadelus baverstocki* (Kitchener, Jones & Caputi, 1987)

Inland Forest Bat

*Vespadelus troughtoni* (Kitchener, Jones & Caputi, 1987)

Eastern Cave Bat

Muridae

*Leggadina forresti* (Thomas, 1906)

Forrest's Mouse

*Mastacomys fuscus* Thomas, 1882

Broad-toothed Rat

*Pseudomys gracilicaudatus* (Gould, 1845)

Eastern Chestnut Mouse

*Pseudomys hermannsburgensis* (Waite, 1896)

Sandy Inland Mouse

\* *Pseudomys pilligaensis* Fox & Briscoe, 1980

Pilliga Mouse

*Rattus villosissimus* (Waite, 1898)

Long-haired Rat

## Marine mammals

### Otariidae

*Arctocephalus forsteri* (Lesson, 1828)

New Zealand Fur-seal

*Arctocephalus pusillus doriferus* (Jones, 1925)

Australian Fur-seal

### Physeteridae

*Physeter catodon* Linnaeus, 1758

Sperm Whale

### Balaenopteridae

\* *Megaptera novaeangliae* (Borowski, 1781)

Humpback Whale

### Balaenidae

*Eubalaena australis* (Desmoulins, 1822)

Southern Right Whale

## Fungi

### Basidiomycota

#### Hygrophoraceae

*Hygrocybe anomala* var. *ianthinomarginata* A.M. Young

*Hygrocybe aurantipes* A.M. Young

*Hygrocybe reesiaae* A.M. Young

*Hygrocybe rubronivea* A.M. Young

## Plants

### Apiaceae

*Xanthosia scopulicola* J.M. Hart & Henwood

### Apocynaceae

*Parsonsia dorrigoensis* J.B. Williams ms

Araliaceae

- \* *Astrotricha crassifolia* Blakely

Asteliaceae

- \* *Neoastelia spectabilis* J.B. Williams

Asteraceae

- \* *Ammobium craspedioides* Benth.
- \* *Brachycome muelleroides* G. Davis
- \* *Brachycome papillosa* G. Davis
- \* *Calotis glandulosa* F. Muell.
- \* *Euchiton nitidulus* (Hook. f.) A. Anderb.
- \* *Olearia cordata* Lander
- \* *Ozothamnus tessellatus* (Maiden & R. Baker) Anderberg
- \* *Picris evae* Lack
- \* *Rutidosia heterogama* Philipson
- \* *Rutidosia leiolepis* F. Muell.
- \* *Senecio garlandii* F. Muell. ex Belcher

Brassicaceae

- \* *Lepidium aschersonii* Thell.

Callitrichaceae

- \* *Callitriche cyclocarpa* Hegelm.

Casuarinaceae

- \* *Allocasuarina simulans* L. Johnson

Chenopodiaceae

- \* *Atriplex infrequens* Paul G. Wilson
- \* *Maireana cheelii* (R. Anderson) Paul G. Wilson

Convolvulaceae

- Wilsonia backhousei* Hook.

Corokiaceae

- \* *Corokia whiteana* L.S. Smith

Corynocarpaceae

- \* *Corynocarpus rupestris* Guymer subsp. *rupestris*

Cunoniaceae

- \* *Acrophyllum australe* (Cunn.) Hoogl.

Cupressaceae

- \* *Callitris oblonga* A. Rich. & Rich.

Cyperaceae

*Cyperus rupicola* S.T. Blake

- \* *Eleocharis obicis* L.A.S. Johnson & O.D. Evans

*Lepidosperma evansianum* K.L. Wilson

Dilleniaceae

- \* *Hibbertia marginata* Conn

Doryanthaceae

*Doryanthes palmeri* W. Hill ex Benth.

Epacridaceae

- \* *Budawangia gnidioides* (Summerh.) Telford

*Epacris purpurascens* var. *purpurascens* R. Br.

- \* *Epacris sparsa* R. Br.

- \* *Leucopogon exolasius* (F. Muell.) F. Muell. ex Benth.

- \* *Styphelia perileuca* J. Powell

Ericaceae

*Gaultheria viridicarpa* subsp. *merinoensis* J.B. Williams ms

- \* *Gaultheria viridicarpa* J.B. Williams ms subsp. *viridicarpa*

Euphorbiaceae

- \* *Baloghia marmorata* C. White

- \* *Bertya* sp. A Cobar-Coolabah (Cunningham & Milthorpe s.n., 2/8/73)

- \* *Fontainea australis* Jessup & Guymer

Fabaceae

*Acacia bakeri* Maiden

*Acacia baueri* subsp. *aspera* (Maiden & E. Betcher) Pedley

\* *Acacia carnei* Maiden

*Acacia clunies-rossiae* Maiden

\* *Acacia constablei* Tind.

\* *Acacia courtii* Tind. & Herscovitch

\* *Acacia curranii* Maiden

\* *Acacia flocktoniae* Maiden

\* *Acacia georgensis* Tind.

\* *Acacia phasmoides* J.H. Willis

\* *Acacia pubescens* (Vent.) R. Br.

\* *Acacia pycnostachya* F. Muell.

*Archidendron hendersonii* (F. Muell.) Nielsen

\* *Bossiaea oligosperma* A. Lee

\* *Desmodium acanthocladum* F. Muell.

\* *Dillwynia tenuifolia* Sieber ex DC.

\* *Kennedia retrorsa* Hemsley

\* *Phyllota humifusa* Benth.

\* *Pultenaea aristata* Sieber ex DC.

\* *Pultenaea baeuerlenii* F. Muell.

\* *Pultenaea glabra* Benth.

\* *Pultenaea parrisiae* J.D. Briggs & Crisp subsp. *parrisiae*

\* *Pultenaea stuartiana* Williamson

*Rhynchosia acuminatissima* Miq.

\* *Sophora fraseri* Benth.

\* *Swainsona murrayana* Wawra

\* *Swainsona plagiotropis* F. Muell.

\* *Swainsona pyrophila* J. Thompson

*Swainsona sericea* (A. Lee) J. Black ex H. Eichler

Gentianaceae

- \* *Gentiana wissmannii* J. Williams

Goodeniaceae

- \* *Goodenia macbarronii* Carolin
- \* *Velleia perfoliata* R. Br.

Haloragaceae

- \* *Haloragis exalata* F. Muell. subsp. *exalata*
- \* *Haloragis exalata* subsp. *velutina* Orch.

Juncaginaceae

- Maundia triglochinooides* F. Muell.

Lamiaceae

- \* *Prostanthera cineolifera* R. Baker & H.G. Smith
- \* *Prostanthera cryptandroides* Cunn. ex Benth.
- \* *Prostanthera densa* A.A. Ham.
- \* *Prostanthera discolor* R. Baker
- \* *Prostanthera palustris* B.J. Conn
- \* *Prostanthera staurophylla* F. Muell.
- \* *Prostanthera stricta* R. Baker
- \* *Westringia davidii* Conn

Lauraceae

- \* *Cryptocarya foetida* R. Baker
- \* *Endiandra hayesii* Kosterm.

Meliaceae

- \* *Owenia cepiodora* F. Muell.

Menispermaceae

- \* *Tinospora tinosporoides* (F. Muell.) Forman

Myrtaceae

- \* *Angophora inopina* K.D. Hill

- \* *Angophora robur* L. Johnson & K. Hill
- \* *Babingtonia granitica* A.R. Bean
- Callistemon linearifolius* (Link) DC.
- \* *Darwinia biflora* (Cheel) B. Briggs
- Darwinia glaucophylla* B.G. Briggs
- Darwinia peduncularis* B. Briggs
- \* *Eucalyptus alligatrix* subsp. *miscella* Brooker, Slee & J.D. Briggs  
ms
- \* *Eucalyptus aquatica* (Blakely) L. Johnson & K. Hill
- \* *Eucalyptus benthamii* Maiden & Cabbage
- Eucalyptus boliviana* J.B. Williams & K.D. Hill
- \* *Eucalyptus caleyi* subsp. *ovendenii* L. Johnson & K. Hill
- \* *Eucalyptus camfieldii* Maiden
- \* *Eucalyptus cannonii* R. Baker
- \* *Eucalyptus canobolensis* (L.A.S. Johnson & K.D. Hill) J.T. Hunter
- Eucalyptus corticosa* L.A.S. Johnson
- Eucalyptus dissita* K.D. Hill
- Eucalyptus fracta* K.D. Hill
- \* *Eucalyptus glaucina* Blakely
- \* *Eucalyptus kartzoffiana* L. Johnson & Blaxell
- \* *Eucalyptus langleyi* L. Johnson & Blaxell
- \* *Eucalyptus mckieana* Blakely
- \* *Eucalyptus nicholii* Maiden & Blakely
- Eucalyptus oresbia* Hunter and Bruhl
- \* *Eucalyptus parramattensis* subsp. *decadens* L. Johnson & Blaxell
- \* *Eucalyptus parvula* L. Johnson & K. Hill
- \* *Eucalyptus pulverulenta* Sims
- \* *Eucalyptus pumila* Cabbage
- \* *Eucalyptus robertsonii* subsp. *hemisphaerica* L. Johnson & K. Hill
- \* *Eucalyptus rubida* subsp. *barbigerorum* L. Johnson & K. Hill
- Eucalyptus sturgissiana* L. Johnson & Blaxell



- \* *Eucalyptus tetrapleura* L. Johnson
  - \* *Homoranthus darwinioides* (Maiden & E. Betche) Cheel
  - \* *Homoranthus lunatus* Craven & S.R. Jones
  - \* *Homoranthus prolixus* Craven & S.R. Jones
  - \* *Kunzea cambagei* Maiden & E. Betche
  - \* *Kunzea rupestris* Blakely
  - \* *Leptospermum deanei* J. Thompson
  - \* *Leptospermum thompsonii* J. Thompson
  - \* *Melaleuca biconvexa* Byrnes
  - Melaleuca deanei* F. Muell.
  - Melaleuca groveana* Cheel & C. White
  - Melaleuca* sp. Megalong Valley Craven, Mallison & Douglas 10442 Megalong Valley Bottlebrush
  - \* *Micromyrtus blakelyi* J. Green
  - \* *Syzygium hodgkinsoniae* (F. Muell.) L. Johnson
  - \* *Syzygium moorei* (F. Muell.) L. Johnson
  - \* *Syzygium paniculatum* Gaertner
- Olacaceae
- \* *Olx angulata* A.S. George
- Orchidaceae
- \* *Bulbophyllum globuliforme* Nicholls
  - Chiloglottis platyptera* D.L. Jones
  - \* *Cryptostylis hunteriana* Nicholls
  - \* *Diuris praecox* D.L. Jones
  - \* *Diuris sheaffiana* Fitzg.
  - \* *Diuris venosa* Rupp
  - Genoplesium baueri* R. Br.
  - \* *Genoplesium vernale* D.L. Jones
  - Oberonia titania* Lindl.
  - Peristeranthus hillii* (F. Muell.) T.E. Hunt.
  - \* *Prasophyllum fuscum* R. Br.

- \* *Prasophyllum morganii* Nicholls
- \* *Pterostylis cobarensis* M.A. Clem.
- \* *Pterostylis cucullata* R. Br.  
*Pterostylis elegans* D.L. Jones  
*Pterostylis nigricans* L. Jones & M.A. Clem.
- \* *Pterostylis pulchella* Messmer  
*Rhizanthella slateri* (Rupp) M.A. Clem. and P.J. Cribb
- \* *Sarcochilus fitzgeraldii* F. Muell.
- \* *Sarcochilus hartmannii* F. Muell.
- \* *Sarcochilus weinthalii* (F.M. Bailey) Dockrill

Poaceae

- \* *Amphibromus fluitans* Kirk  
*Ancistrachne maidenii* (A.A. Ham.) Vickery
- \* *Arthraxon hispidus* (Thunb.) Makino
- \* *Austrostipa metatoris* (J. Everett & S.W.L. Jacobs) S.W.L. Jacobs & J. Everett
- \* *Dichanthium setosum* S.T. Blake
- \* *Rytidosperma pumilum* (Kirk) Linder

Polygonaceae

*Muehlenbeckia costata* K.L. Wilson and Makinson ms

- \* *Persicaria elatior* (R. Br.) Sojak

Proteaceae

- \* *Floydia praealta* (F. Muell.) L. Johnson & B. Briggs
- \* *Grevillea banyabba* P. Olde & N. Marriott
- \* *Grevillea evansiana* McKee  
*Grevillea juniperina* R. Br. subsp. *juniperina*
- \* *Grevillea kennedyana* F. Muell.  
*Grevillea molyneuxii* D.J. McGillivray
- \* *Grevillea parviflora* R. Br. subsp. *parviflora*
- \* *Grevillea quadricauda* P. Olde & N. Marriott

- \* *Grevillea rhizomatosa* P. Olde & N. Marriott
- \* *Grevillea scortechinii* subsp. *sarmentosa* (Blakely & McKie) McGillivray
- \* *Grevillea shiressii* Blakely
- Hakea archaeoides* W.R. Barker
- \* *Hakea fraseri* R. Br.
- \* *Hakea trineura* F. Muell.
- \* *Hicksbeachia pinnatifolia* F. Muell.
- \* *Isopogon fletcheri* F. Muell.
- \* *Macadamia tetraphylla* L. Johnson
- \* *Persoonia acerosa* Sieber ex Schultes & Schultes f.
- \* *Persoonia marginata* Cunn. ex R. Br.

Ranunculaceae

- \* *Clematis fawcettii* F. Muell.
- \* *Ranunculus anemoneus* F. Muell.

Restionaceae

- \* *Baloskion longipes* (L.A.S. Johnson & O.D. Evans) B.G. Briggs & L.A.S. Johnson

Rhamnaceae

- Discaria nitida* Tortosa
- \* *Pomaderris brunnea* Wakef.
- \* *Pomaderris gilmourii* var. *cana* N. Walsh
- Pomaderris notata* S.T. Blake
- \* *Pomaderris pallida* Wakef.
- \* *Pomaderris parrisiae* N. Walsh

Rubiaceae

- \* *Asperula asthenes* Airy Shaw & Turrill

Rutaceae

- \* *Boronia deanei* Maiden & E. Betche
- Boronia granitica* Maiden & E. Betche

- \* *Boronia umbellata* P. Weston
- \* *Bosistoa selwynii* T. Hartley
- \* *Bosistoa transversa* J. Bailey & C. White
- \* *Correa baeuerlenii* F. Muell.
- \* *Leionema ralstonii* (F. Muell.) Paul G. Wilson
- \* *Leionema sympetalum* (Paul G. Wilson) Paul G. Wilson
- \* *Nematolepis rhytidophylla* (Alb. & N.G. Walsh) Paul G. Wilson
- \* *Philotheca ericifolia* (A. Cunn. ex Benth.) Paul G. Wilson
- \* *Zieria murphyi* Blakely
- \* *Zieria tuberculata* J.A. Armstrong unpub

Santalaceae

- \* *Thesium australe* R. Br.

Sapindaceae

- \* *Dodonaea procumbens* F. Muell.

*Lepiderema pulchella* Radlk.

Sapotaceae

*Amorphospermum whitei* Aubrev.

Scrophulariaceae

*Derwentia blakelyi* B. Briggs & Ehrend

- \* *Euphrasia bella* S. T. Blake
- \* *Euphrasia bowdeniae* W.R. Barker

*Euphrasia ciliolata* W.R. Barker

Solonaceae

- \* *Solanum karsense* Symon

Sterculiaceae

*Lasiopetalum joyceae* Blakely

- \* *Lasiopetalum longistamineum* Maiden & Betche
- \* *Rulingia procumbens* Maiden & Betche

Surianaceae

\* *Cadellia pentastylis* F. Muell.

Symplocaceae

\* *Symplocos baeuerlenii* R. Baker

Thymelaeaceae

\* *Pimelea curviflora* R. Br. var. *curviflora*

Tremandraceae

\* *Tetratheca glandulosa* Smith

\* *Tetratheca juncea* Smith

Winteraceae

\* *Tasmannia glaucifolia* J. Williams

\* *Tasmannia purpurascens* (Vick.) A.C. Smith

### Schedule 3 Key threatening processes

(Section 8)

Alteration to the natural flow regimes of rivers and streams and their floodplains and wetlands (as described in the final determination of the Scientific Committee to list the threatening process)

Anthropogenic Climate Change

Bushrock removal (as described in the final determination of the Scientific Committee to list the threatening process)

Clearing of native vegetation (as defined and described in the final determination of the Scientific Committee to list the key threatening process)

Competition and grazing by the feral European Rabbit, *Oryctolagus cuniculus* (L.)

Competition from feral honey bees, *Apis mellifera* L.

Death or injury to marine species following capture in shark control programs on ocean beaches (as described in the final determination of the Scientific Committee to list the key threatening process)

Entanglement in or ingestion of anthropogenic debris in marine and estuarine environments (as described in the final determination of the Scientific Committee to list the key threatening process)

High frequency fire resulting in the disruption of life cycle processes in plants and animals and loss of vegetation structure and composition

Importation of Red Imported Fire Ants *Solenopsis invicta* Buren 1972

Infection by Psittacine Circoviral (beak and feather) Disease affecting endangered psittacine species and populations

- Infection of frogs by amphibian chytrid causing the disease chytridiomycosis
- Infection of native plants by *Phytophthora cinnamomi*
- Introduction of the Large Earth Bumblebee *Bombus terrestris* (L.)
- Invasion of native plant communities by *Chrysanthemoides monilifera*
- Invasion of native plant communities by exotic perennial grasses
- Loss or degradation (or both) of sites used for hill-topping by butterflies
- Predation by *Gambusia holbrooki* Girard, 1859 (Plague Minnow or Mosquito Fish) (as described in the final determination of the Scientific Committee to list the threatening process)
- Predation by the European Red Fox *Vulpes Vulpes* (Linnaeus, 1758)
- Predation by the Feral Cat *Felis catus* (Linnaeus, 1758)
- Predation by the Ship Rat *Rattus rattus* on Lord Howe Island
- Predation, habitat degradation, competition and disease transmission by Feral Pigs, *Sus scrofa* Linnaeus 1758
- Removal of dead wood and dead trees

## **Schedules 4-6 (Repealed)**

## **Schedule 7 Savings, transitional and other provisions**

(Section 156)

### **Part 1 Savings and transitional regulations**

#### **1 Regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of:
  - this Act
  - [Threatened Species Conservation Amendment Act 2002](#)
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or

- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done before the date of its publication.

## **Part 2 Amendments consequent on [Threatened Species Conservation Act 1995](#)**

### **2 Dissolution of Scientific Committee**

- (1) The Scientific Committee established under section 92A of the [National Parks and Wildlife Act 1974](#), as inserted by the [Endangered Fauna \(Interim Protection\) Act 1991](#), is dissolved.
- (2) A person who, immediately before the dissolution of the Scientific Committee referred to in this clause, held office as a member of that Scientific Committee:
  - (a) ceases to hold that office, and
  - (b) is eligible (if otherwise qualified) to be appointed as a member of the Scientific Committee established under this Act.
- (3) A person who so ceases to hold office as a member of the Scientific Committee is not entitled to any remuneration or compensation because of the loss of that office.

### **3 Extension of certain licences under section 120 of the [National Parks and Wildlife Act 1974](#)**

- (1) This clause applies to a licence to which section 4 of the [Endangered Fauna \(Interim Protection\) Amendment Act 1992](#) applied immediately before the repeal or expiry of that section.
- (2) A licence to which this clause applies continues in force, despite any expiry date specified in the licence, as if no such date had been so specified.
- (3) A licence to which this clause applies may be varied under section 133 of the [National Parks and Wildlife Act 1974](#).

### **4 Certain licences taken to be licences under Part 6**

- (1) A licence to which clause 3 refers is taken to be a licence under Part 6 of this Act and is as efficacious, in relation to the action that it authorises, as a licence granted under that Part.
- (2) In particular, a licence to which clause 3 refers is, in relation to the action that it authorises, taken to authorise the harming or picking of threatened species, populations or ecological communities, or the damaging of their habitats (including habitats that are critical habitats).

## 5 Savings in respect of planning matters

- (1) The amendments made by this Act to the *Environmental Planning and Assessment Act 1979* do not affect:
  - (a) any development consent granted before the commencement of this clause or any development carried out in accordance with such a consent, or
  - (b) any activity to which Part 5 of that Act applies (or any approval for the carrying out of any such activity) if the provisions of that Part were complied with for that activity before the commencement of this clause.
- (2) If an application for development consent has not been finally determined on the commencement of this clause, the amendments made by this Act to the *Environmental Planning and Assessment Act 1979* do not apply to the determination of the application or to any development carried out in accordance with a development consent granted on the determination of the application. However, the Minister for Planning may, by notice served on the consent authority, direct that all or any specified amendments apply to the determination of the application.
- (3) If, in respect of any activity to which Part 5 of that Act applies (or any approval for carrying out any such activity):
  - (a) an environmental impact statement was duly obtained before the commencement of this clause, but the provisions of that Part had not been fully complied with before that commencement, or
  - (b) the Director-General of the Department of Planning had duly notified the person preparing an environmental impact statement before the commencement of this clause of requirements with respect to the form and contents of the statement, but the statement had not been obtained before that commencement,the statement (so long as it is obtained in accordance with the provisions of that Act as in force immediately before that commencement) is taken to have been obtained in accordance with that Act, as amended by this Act.
- (4) Subclause (3) does not apply to an activity that has not been carried out before the commencement of this clause if the Minister for Planning (by notice served on the person obtaining the statement concerned) so directs.

## 6 Savings in respect of stop work orders

A stop work order made under section 92E of the *National Parks and Wildlife Act 1974* is, if it has any force or effect immediately before the repeal of that section, taken to be a stop work order under Part 6A of that Act, as inserted by this Act.

## Part 3 Provisions consequent on Fisheries Management Amendment



## **Act 1997**

### **7 Saving of definition of regions**

The amendments made to section 4 of this Act by the *Fisheries Management Amendment Act 1997* do not affect any order made under that section before the commencement of those amendments with respect to regions under this Act.

## **Part 4 Provisions consequent on Threatened Species Conservation Amendment Act 2002**

### **8 Licences under Part 6**

Section 91, as substituted by the *Threatened Species Conservation Amendment Act 2002*, does not apply in respect of a licence issued under Part 6 before that substitution.

### **9 Accreditation arrangements**

The Director-General is to ensure that the arrangements referred to in section 113 (1), as amended by the *Threatened Species Conservation Amendment Act 2002*, and the survey standards referred to in section 113 (3A), as inserted by that Act, are instituted or approved within 18 months after the date of assent to that Act.

### **10 Re-appointment of members of Scientific Committee**

Section 130 (1A), as inserted by the *Threatened Species Conservation Amendment Act 2002*, does not apply in respect of 2 consecutive periods of office served by a member of the Scientific Committee if any part of the 2 consecutive periods was served by the member before that subsection commenced.