PROTECTED AREAS LAW MATRIX

AUSTRALIA (FEDERAL)

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| JURISDICTION national or sub-national | Australia (National) |
| Available online | Full texts at www.ECOLEX.org ([LEX-FACOD17072](http://www.ECOLEX.org)) |
| Valid as of | 1 July 2010 |

* This matrix has been developed in order to provide a standardised framework for the analysis of the main legal instruments on protected areas of any country, and thus provide a basis for comparison.
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<tr>
<th>TOPIC</th>
<th>QUESTION</th>
<th>APPLICATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Identification</td>
<td>1. Full title</td>
<td>An Act relating to the protection of the environment and the conservation of biodiversity, and for related purposes.</td>
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<td></td>
<td>2. Enactment date; if not enacted state date of bill (i.e. draft)</td>
<td>Assented on 16 July 1999 and in force on 16 July 2000.</td>
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<td>4. Minister or policy-level body granted regulatory/other powers to implement the instrument?</td>
<td>“Minister” in the Act refers to the Commonwealth Government Minister for the Environment, Heritage and the Arts.</td>
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<td>5. Specialized PA agency/dept. responsible for daily implementation</td>
<td>Department of the Environment, Water, Heritage and the Arts; and relevant State or Territorial agencies pursuant to bilateral agreements between the Commonwealth and the States and Territories; Parks Australia is the sub-section for the Department responsible for the operation for the 6 Commonwealth National Parks.</td>
</tr>
<tr>
<td>2. Scope</td>
<td>6. Is the instrument only for terrestrial areas?</td>
<td>No.</td>
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<tr>
<td>Geographical</td>
<td>7. Does it cover terrestrial and marine areas?</td>
<td>Yes. All matters of national environmental significance are covered. See in particular ss 9 to 25</td>
</tr>
</tbody>
</table>
|                |                                                                           |   - World Heritage properties  
   - National heritage properties  
   - Wetlands of international importance  
   - Listed threatened species and species communities  
   - Listed migratory species  
   - Protection of the environment from nuclear actions  
   - Commonwealth marine areas  
   - Great Barrier Reef Marine Park (note the interaction with the Great Barrier Reef Marine Park act 1975)  
Matters of National Environmental Significance can also include any actions that are carried out by a Commonwealth agency or that have a significant environmental impact on Commonwealth land; see ss 25 and 25A. |
| Conservation   | 9. Does it focus on biodiversity conservation?                           | Yes; but it also includes substantial provisions on environmental protection more generally                                                                                                                |
|                |                                                                           | See s 3 for wide-ranging objects (see answer to Q. 17) including specifically:                                                                                                                            |
**Governance**

10. **Does it focus on specific types of ecosystems?**
    Yes; for example, ecosystems specifically mentioned include wetlands of international importance: ss 16-17B), the marine environment, ss 23-24A), and the Great Barrier Reef Marine Park ss 24B-24C).

11. **Does it cover conservation of cultural values?**
    Yes; see (s 3(1) (ca)), “to provide for the protection and conservation of heritage.” It covers all declared World Heritage properties (ss 3(2)(f)and 12-15A), National Heritage places (ss 3(2)(fa); and 15B and 15C, and Commonwealth heritage places (ss 27B, 27C and 34F); also, it specifically refers to Australia’s Indigenous peoples throughout the Act; for example s 3(1)(f, g); s 201(4) regarding indigenous tradition; s 359A regarding traditional use of Commonwealth reserves by indigenous persons; ss 374 -383, Boards for Commonwealth reserves on indigenous people’s land.

12. **Does it relate only to Government/publicly owned PAs?**
    No. It relates to any matters of national environmental significance. These can be government owned, private, or under Indigenous native title ownership or control; see Q 7.

13. **Does it cover public/private ownership?**
    Yes. The Minister may enter into a conservation agreement with a landholder; see ch 5 Part 14 Conservation Agreements see ss 304 -313; s 304 sets out the object concerning conservation agreements:

    **304 Object of this Part**

    (1) The object of this Part is to provide for:

    (a) conservation agreements between the Commonwealth and persons related to the protection and conservation of the following:

        (i) biodiversity;
        (ii) the world heritage values of declared World Heritage properties;
        (iii) the National Heritage values of National Heritage places;
        (iv) the Commonwealth Heritage values of Commonwealth Heritage places;
        (v) the ecological character of a declared Ramsar wetland;
        (vi) the environment, in respect of the impact of a nuclear action;
        (vii) the environment in a Commonwealth marine area;
        (viii) the environment on Commonwealth land; and

    (b) the effect of conservation agreements; and

    (c) the publication of conservation agreements.
Conservation agreements are agreements whose primary object is to enhance the conservation of matters referred to in paragraph (1)(a). They may relate to private or public land, or to marine areas.

Note: Conservation agreements cannot cover all or part of a Commonwealth reserve (see subsection 305(4)).

s 305(2) defines conservation agreements: “Conservation agreements are agreements whose primary object is to enhance the conservation of matters referred to in paragraph (1)(a). They may relate to private or public land, or to marine areas.”

The Minister may also make conservation orders, which can define the way private property is to be used; see generally chapters 6.17.13 of the EPBC Act.

<table>
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<tr>
<th>Question</th>
<th>Answer</th>
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<tr>
<td>14. Does it cover Private Protected Areas (PPAs)?</td>
<td>Yes, both public or private protected areas are covered; see generally ch. 2.3 of the EPBC Act (see Q 7 for a list of matters of national environmental significance).</td>
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<td>15. Does it provide for co-management?</td>
<td>Yes; while there are no explicit rules for co-management, the Minister generally has the authority over all matters related to management of PAs. Only he/she is responsible for making management plans and for implementing them. The Act contains a range of provisions the effect of which is to involve Indigenous people in a range of ways in management planning and the actual management of Commonwealth reserves involving Indigenous peoples’ lands (ss 374-383; for sites situated in the Northern Territory and in the Territory of Jervis Bay see ss 390, 390A EPBC Act and Division 11.3 EPBC Regulations).</td>
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</table>

s 374 provides a simplified outline concerning Boards for Commonwealth reserves on indigenous people’s land:

The Minister must establish a Board for a Commonwealth reserve that is wholly or partly on indigenous people’s land, if the land council for that land (or traditional owners) and the Minister agree that there should be a Board for the reserve.

The Board’s role is to make decisions and plans for management of the reserve, in conjunction with the Director.

A majority of Board members must be indigenous people nominated by traditional owners if the reserve is wholly or mostly on indigenous people’s land.

See also Part1.1 Australian IUCN reserve management principle in the EPBC Regulations 2000:

7 Joint management
If the reserve or zone is wholly or partly owned, by Aboriginal people, continuing traditional use of the reserve or zone by resident indigenous people, including the protection and maintenance of cultural heritage, should be recognised.

Further, under Division 8A.2 EPBC Regulations 2000, anyone applying for permits for access to biological resources for commercial purposes or potential commercial purposes in a Commonwealth area must enter into a benefit-sharing agreement with each access provider for the resources. He/she must also provide for reasonable benefit-sharing arrangements, including protection for, recognition of and valuing of any Indigenous people’s knowledge to be used and must take into account provisions on Indigenous land use agreements made under Part 2 Division 3 of the Native Title Act 1993.

16. Does it cover Community Conserved Areas (CCAs)?

While CCAs are not specifically mentioned in the EPBC Act, provisions concerning the involvement of Indigenous peoples in management plans and boards of management for lands traditionally owned by Indigenous peoples can have a similar effect (see Q. 15; ss 374-383 EPBC Act; for sites situated in the Northern Territory and in the Territory of Jervis Bay see ss 390, 390A EPBC Act and Division 11.3 EPBC Regulations). For example, Commonwealth national parks such as Uluru-Kata Tjuta and Kakadu are owned by the traditional Indigenous communities, but are leased to the Commonwealth of Australia. These parks have a majority of Indigenous people on their management boards and employed in management and service positions in these parks.

also: s 359A Traditional use of Commonwealth reserves by indigenous persons.

3. Policy context

17. Summarise stated purpose or objective of the instrument

s 3(1) The objects of this Act are:

(a) to provide for the protection of the environment, especially those aspects of the environment that are matters of national environmental significance; and

(b) to promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources; and

(c) to promote the conservation of biodiversity; and

(ca) to provide for the protection and conservation of heritage; and

(d) to promote a co-operative approach to the protection and management of the environment involving governments, the community, land-holders and indigenous peoples; and

(e) to assist in the co-operative implementation of Australia’s international
environmental responsibilities; and

(f) to recognise the role of indigenous people in the conservation and ecologically sustainable use of Australia’s biodiversity; and

(g) to promote the use of indigenous peoples’ knowledge of biodiversity with the involvement of, and in co-operation with, the owners of the knowledge.

(2) In order to achieve its objects, the Act:

(a) recognises an appropriate role for the Commonwealth in relation to the environment by focussing Commonwealth involvement on matters of national environmental significance and on Commonwealth actions and Commonwealth areas; and

(b) strengthens intergovernmental co-operation, and minimizes duplication, through bilateral agreements; and

(c) provides for the intergovernmental accreditation of environmental assessment and approval processes; and

(d) adopts an efficient and timely Commonwealth environmental assessment and approval process that will ensure activities that are likely to have significant impacts on the environment are properly assessed; and

(e) enhances Australia’s capacity to ensure the conservation of its biodiversity by including provisions to:

(i) protect native species (and in particular prevent the extinction, and promote the recovery, of threatened species) and ensure the conservation of migratory species; and

(ii) establish an Australian Whale Sanctuary to ensure the conservation of whales and other cetaceans; and

(iii) protect ecosystems by means that include the establishment and management of reserves, the recognition and protection of ecological communities and the promotion of off-reserve conservation measures; and

(iv) identify processes that threaten all levels of biodiversity and implement plans to address these processes; and

(f) includes provisions to enhance the protection, conservation and presentation of world heritage properties and the conservation and wise use of Ramsar
wetlands of international importance; and

(fa) includes provisions to identify places for inclusion in the National Heritage List and Commonwealth Heritage List and to enhance the protection, conservation and presentation of those places; and

(g) promotes a partnership approach to environmental protection and biodiversity conservation through:

(i) bilateral agreements with States and Territories; and

(ii) conservation agreements with land-holders; and

(iii) recognising and promoting indigenous peoples’ role in, and knowledge of, the conservation and ecologically sustainable use of biodiversity; and

(iv) the involvement of the community in management planning.

In terms of understanding the policy context it is important to note that the Act derives in part from a history of interaction and conflict between the federal, state and territory governments over environmental matters,, which resulted in a number of agreements: the 1992 Intergovernmental Agreement on the Environment; the 1997 Committee of Australian Governments Heads of Agreement on the Environment. Those agreements became the basis for drafting the Act. . Recently, the Australian World Heritage Intergovernmental Agreement of 2010 was also negotiated. That agreement sets out arrangements between the Commonwealth and the states for the management of Australia’s World Heritage properties, and agreed approaches to management, funding, nomination, listing, monitoring and promotion of those properties.

18. Specify any references to global or regional conventions

The Republic of Korea-Australia Migratory Bird Agreement (ROKAMBA) is not mentioned in the EPBC Act.

19. Specify reference to any significant environmental law principle such as the precautionary principle, public participation., access to information

S 3(1)(b) states as one of the objects of the EPBC Act the promotion of “ecologically sustainable development”.

S 3(1)(d) refers to the principle of public participation by promoting “a co-operative approach to the protection and management of the environment involving governments, the community, land-holders and indigenous peoples”.

S 391 mentions the precautionary principle: “The Minister must take account of the precautionary principle in making a decision listed in the table in subsection (3), to the extent he or she can do so consistently with the other provisions of this Act.” These include, inter alia, decisions regarding permits related to activities in protected areas, wildlife trade, and making management plans for specific kinds of
protected areas, including world heritage areas, National Heritage places, Ramsar wetlands, Biosphere reserves, Commonwealth Heritage places, and Commonwealth reserves.

The precautionary principle is further referred to in clause 3 of the Australian IUCN reserve management principles (schedule 8 of the EPBC Regulations 2000):

A lack of full scientific certainty should not be used as a reason for postponing measures to prevent degradation of the natural and cultural heritage of a reserve or zone where there is a threat of serious or irreversible damage.

4. Objectives and policies

20. Summarize any general or specific policy for PAs stated in the instrument

The objectives of the Act provide a flavour of protected areas policy behind the Act; see Q 17.

21. Specify any objectives expressed for PAs stated in the instrument

See Q 17.

5. Definitions

22. Is the term PA defined in the instrument? If so, how?

No. However, specific types of PAs are mentioned (see Q 12 and Q 23).

23. Are specific categories/types of PAs provided? If so, specify any that are based on:

(i) conservation/management objectives
(ii) ecosystem types (e.g. MPAs)
(iii) tenure/governance considerations (PPAs/community-owned)
(iv) jurisdictional considerations, and whether there are transboundary issues involved

Indicate if these categories/types are included in definitions section or in body of instrument

There are several specific types of PAs mentioned:
- Commonwealth reserves
- World Heritage properties (these also encompass cultural and mixed properties)
- National heritage places (these also encompass cultural places)
- Commonwealth heritage places (these also encompass cultural places)
- Wetlands of international importance
- Commonwealth marine areas-
  - Great Barrier Reef Marine Park

Furthermore, all environmental impacts involving Commonwealth land and activities by the Commonwealth and Commonwealth agencies are covered.

The Act also established the Australian Whale Sanctuary to ensure the conservation of whales and other cetaceans (s 3(2)(e)(ii)).

The conservation/management objectives are listed in s 3; see Q 17.

The EPBC Act considers jurisdictional considerations regarding agreements between the Commonwealth, States and self-governing Territories in s 3(2).
Yes; ecosystem types are covered by a wide range of sections of the Act; see Q 23.

S 3(2) provides: in order to achieve its objects, the Act:

(a) recognises an appropriate role for the Commonwealth in relation to the environment by focussing Commonwealth involvement on matters of national environmental significance and on Commonwealth actions and Commonwealth areas; and

(b) strengthens intergovernmental co-operation, and minimises duplication, through bilateral agreements; and

(c) provides for the intergovernmental accreditation of environmental assessment and approval processes;...

See also the 1992 Intergovernmental Agreement on the Environment, which sets out the roles of the Commonwealth, State and Territory governments with respect to a range of environmental and natural resource decision making matters and responsibilities.

The categories/types of PAs are generally referred to in s 528, with specific definitions found in the body of the Act.

Yes; Commonwealth reserves must be assigned to an IUCN category (see s 346 et seq.). See also clause 10.03H EPBC Regulations 2000 and the Australian IUCN reserve management principles (schedule 8 of the EPBC Regulations 2000).

The IUCN categories are not reproduced in the EPBC Act itself; they are spelled out in the EPBC Regulations 2000 at cl. 10.03H “IUCN categories for Commonwealth reserves”. They are modified only in the sense that Category 1a and 1b are separately numbered:

<table>
<thead>
<tr>
<th>Item</th>
<th>IUCN category number</th>
<th>IUCN category</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Ia</td>
<td>Strict nature reserve</td>
</tr>
<tr>
<td>2</td>
<td>Ib</td>
<td>Wilderness area</td>
</tr>
<tr>
<td>3</td>
<td>II</td>
<td>National park</td>
</tr>
<tr>
<td>4</td>
<td>III</td>
<td>Natural monument</td>
</tr>
<tr>
<td>5</td>
<td>IV</td>
<td>Habitat/species management area</td>
</tr>
<tr>
<td>6</td>
<td>V</td>
<td>Protected landscape/seascape</td>
</tr>
<tr>
<td>7</td>
<td>VI</td>
<td>Managed resource protected area</td>
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<tr>
<td></td>
<td>26. If the IUCN categories are not mentioned or incorporated, are any categories actually used in the instrument similar to the IUCN categories? Be specific.</td>
<td>See Q 24, 25.</td>
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<td>6. Institutional Arrangements: <strong>At the PA System level</strong></td>
<td>Yes. The Australian Government Minister for the Environment, Heritage and the Arts is responsible for all decisions relevant to the EPBC Act. Some functions are performed by the Director of National Parks in accordance with any directions given by the Minister (s 514D):</td>
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<td>27. Are there provisions for: - an overall PA System institutional structure (Minister, cabinet)? - overall administration of the PA System programme and implementation (department, agency, intergovernmental commission)? If so, describe.</td>
<td>s 514B: (1) The functions of the Director are: (a) to administer, manage and control Commonwealth reserves and conservation zones; and (b) to protect, conserve and manage biodiversity and heritage in Commonwealth reserves and conservation zones; and (ba) to contribute to the protection, conservation and management of biodiversity and heritage in areas outside Commonwealth reserves and conservation zones; and (c) to co-operate with any country in matters relating to the establishment and management of national parks and nature reserves in that country; and (d) to provide, and assist in the provision of, training in the knowledge and skills relevant to the establishment and management of national parks and nature reserves; and (e) to carry out alone or in co-operation with other institutions and persons, and to arrange for any other institution or person to carry out, research and investigations relevant to the establishment and management of Commonwealth reserves; and (f) to make recommendations to the Minister in relation to the establishment and management of Commonwealth reserves; and (g) to administer the Australian National Parks Fund; and (h) any other functions conferred on the Director under this or any other Act; and (i) to do anything incidental or conducive to the performance of any of the functions mentioned in paragraphs (a) to (h) (inclusive). (2) The Director may perform any of the Director’s functions in co-operation with a State, a self-governing Territory, an agency of a State or self-governing Territory or a...</td>
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</table>
Commonwealth agency.

514C Powers

(1) The Director has power to do all things necessary or convenient to be done for or in connection with the performance of the Director’s functions.

(2) The Director’s powers include, but are not limited to, the following powers:
   (a) to enter into contracts; and
   (b) to erect buildings and structures and carry on works; and
   (c) to occupy, use and control any land or building owned or held under lease by the Commonwealth and made available for the purposes of the Director; and
   (d) to acquire, hold and dispose of real or personal property; and
   (e) despite section 514D, obtain goods or services on credit from any person by the use of a credit card; and
   (f) to accept gifts, devises and bequests made to the Director whether on trust or otherwise, and to act as trustee of moneys or other property vested in the Director upon trust.

The Australian Heritage Council also has functions concerning National Heritage listings: see s 324 JA et seq., and Commonwealth Heritage listings; see s 341J et seq.

28. Does the instrument provide for future designation of management entities at individual PA level? If so, specify.

   Yes.

   See functions of the Director of National Park in s 514B (see Q 27).

   See further consultation requirements in s 514D.

514D Requirements relating to functions and powers

Ministerial directions

(1) The Director must perform the Director’s functions and exercise the Director’s powers in accordance with any directions given by the Minister, unless this Act provides otherwise.

Consultation

(2) The Director must consult and have regard to the views of the
following persons in relation to the performance of the Director’s functions and the exercise of the Director’s powers in relation to a Commonwealth reserve or conservation zone:

(a) if the reserve or zone is wholly or partly in a State or self-governing Territory—the agency (if any) of the State or Territory responsible for managing national parks established under the law of the State or Territory;

(b) if the reserve or zone is wholly or partly in an area for which an Aboriginal Land Council has been established under the Aboriginal Land Rights (Northern Territory) Act 1976—the Chairperson of the Council;

(c) if the reserve is Booderee National Park—the Chairperson of the Wreck Bay Aboriginal Community Council.

Australian National Botanic Gardens in Jervis Bay Territory

(3) The Director must consult and have regard to the views of the Chairperson of the Wreck Bay Aboriginal Community Council in relation to the performance of the Director’s functions and the exercise of the Director’s powers in relation to the part of the Commonwealth reserve known as the Australian National Botanic Gardens that is in the Jervis Bay Territory.

Trust property

(4) The Director must deal with any money or property vested in the Director on trust in accordance with the powers and duties of the Director as trustee, despite the other provisions of this Act.

Limits on contracts and leases

(5) The Director must not:

(a) enter into a contract involving the payment or receipt of an amount more than:

   (i) $250,000; or

   (ii) if the regulations prescribe a greater amount—that greater amount; or

(b) take land (except indigenous people’s land) on lease for more than 10 years; without the Minister’s approval.

No borrowing
29. Is there a requirement for inter-agency cooperation? If so, specify.

Yes. Besides the possibility of providing financial or other assistance, the Commonwealth is obliged to cooperate with the States and self-governing Territories regarding the implementation of management plans for properties on the World Heritage List (s s 321, 324), National Heritage places (ss 324Z, 324ZB), wetlands listed under the Ramsar Convention (ss 333, 336), Biosphere reserves (338, 341), and Commonwealth Heritage places (ss 341Z, 341ZA, 341ZG) and recovery plans or threat abatement plans (s 281) and wildlife conservation plans (s 296) covering areas outside Commonwealth land.

Of great importance are also bilateral agreements between of the Commonwealth and States and Territories (ss 3(2)(g)(i), 45 ff; for bilateral agreements on specific kinds of PAs, see ss 51-56; see further parts 2B, 3 EPBC Regulations 2000).

The 1992 Intergovernmental Agreement on the Environment between the Commonwealth and the States and Territories, and the 1997 Heads of Agreement on Commonwealth and State roles and responsibilities for the Environment are a manifestation of this cooperative approach.

See also the Australian World Heritage Intergovernmental Agreement of 2010.

The objects of the Act also refer to a partnership approach:

3 Objects of Act

(2)(g) promotes a partnership approach to environmental protection and biodiversity conservation through:

(i) bilateral agreements with States and Territories; and

45 Minister may make agreement

Making bilateral agreement

(1) On behalf of the Commonwealth, the Minister may enter into a bilateral agreement.

Note 1: A bilateral agreement can detail the level of Commonwealth accreditation of State practices, procedures, processes, systems, management plans and other approaches to environmental protection.

Note 2: Subdivision B sets out some prerequisites for entering into bilateral agreements.
At the individual PA level

**30. Is a specific body or bodies provided with authority to manage individual PAs? If so, describe (see also questions 25 and 26).**

Commonwealth PAs and off-shore PAs which do not belong to the States are managed by the Director of National Parks (ch 6.19.5; ss 514A to 513X).

Protected areas within each the States and self-governing Territories are managed by the relevant authorities of those jurisdictions.

Also note the responsibility of the Commonwealth (3.4 Australian World Heritage Intergovernmental Agreement 2010) and the States (4.4 Australian World Heritage Intergovernmental Agreement from 2010) for managing World Heritage sites under their control.

The Great Barrier Reef Marine Park Authority (s 7 Great Barrier Reef Marine Park Act 1975) and the Wet Tropics Management Authority are responsible for the overall management of these properties, while the Queensland Parks and Wildlife

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**What is a bilateral agreement?**

(2) A **bilateral agreement** is a written agreement between the Commonwealth and a State or a self-governing Territory that:

(a) provides for one or more of the following:
   
   (i) protecting the environment;
   
   (ii) promoting the conservation and ecologically sustainable use of natural resources;
   
   (iii) ensuring an efficient, timely and effective process for environmental assessment and approval of actions;
   
   (iv) minimising duplication in the environmental assessment and approval process through Commonwealth accreditation of the processes of the State or Territory (or vice versa); and

(b) is expressed to be a bilateral agreement.

See also regulations on referrals of decisions on proposals to the Minister by a State, self-governing Territory or agency of a State or self-governing Territory (ch 4.7.1 EPBC Act; part 4 EPBC Regulations 2000); in particular:

**69 State or Territory may refer proposal to Minister**

(1) A State, self-governing Territory or agency of a State or self-governing Territory that is aware of a proposal by a person to take an action may refer the proposal to the Minister for a decision whether or not the action is a controlled action, if the State, Territory or agency has administrative responsibilities relating to the action.
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<th>Question</th>
<th>Response</th>
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| 31. Is there a statutory basis for public participation in such bodies or other consultation/involvement of the public in the governance/management of individual PAs? If so, specify. | There are a number of opportunities for public involvement. They include:  
- Nominating items to lists relevant to the EPBC Act, such as Listed threatened species and ecological communities (s 194E), the National Heritage List (s 324J), and the Commonwealth Heritage List (s 341H)  
- Publication of and commenting on nominations of sites for inclusion in the National Heritage List (ss 324JG, 324JN), Commonwealth Heritage List (ss 341JF, 341JMM), Commonwealth reserves (s 351)  
- Publication of and commenting on removals and alterations of sites on the National Heritage List (ss 324M), Commonwealth Heritage List (ss 341M), Commonwealth reserves (s 351)  
- Publication of and commenting on management plans for World Heritage sites (s 2.02(b) Australian World Heritage management principles), National Heritage places (s 324S), Commonwealth Heritage places (s 341S (6) (b)), and Commonwealth reserves (s 368)  
- Consultation on decisions and actions that may have a significant impact on World Heritage sites (Reg. 1.02 Australian World Heritage management principles),  
- Involvement in the management of National Heritage places (s 5 National Heritage management principles; especially s 6 National Heritage management principles for Indigenous people) and Commonwealth Heritage places (s 5 Commonwealth Heritage management principles; especially s 6 Commonwealth Heritage management principles for Indigenous people)  
- Public exhibition of and commenting on public environmental reports (s 98), environmental impact statements (s 103), decisions and conditions of actions as outlined in ch. 4.9 (s 131), recovery or threat abatement plans (s 275), wildlife trade operations or management plans (s 303FR).  
- Heritage strategies must include an outline of a process for consultation and liaison with the community on heritage matters, including, in particular, a process for consultation and liaison with indigenous stakeholders on indigenous heritage matters (s 1(e) Schedule 7C of the EPBC Regulations 2000)  
- See also EPBC Regulations 2000, Reg. 10.01 and Schedule 8, 1.1 of the Australian IUCN reserve management principles:  
  Community participation |
Management arrangements should, to the extent practicable, provide for broad and meaningful participation by the community, public organisations and private interests in designing and carrying out the functions of the reserve or zone.

A Board for Commonwealth reserves on Indigenous people’s land has also been established: (ch 5.15.4.F; ss 374 to 383)

Furthermore, the Minister or government agencies can seek the cooperation of other institutions and persons to research, identify, or monitor any components of the biodiversity or similar issues relevant to protected areas and endangered species.

### 7. Advisory Bodies

| 32. | Does the instrument provide for advisory bodies  
- at PA System level?  
- at individual PA level? | The EPBC Act established three advisory committees:
- The Threatened Species Scientific Committee (ss 502, 503)
- The Biological Diversity Advisory Committee (ss 504, 505)
- The Indigenous Advisory Committee (ss 505A, 505B)

The Minister may establish further advisory committees (s. 511):
- The Minister may by written instrument establish an advisory committee to advise the Minister on specified matters relating to the administration of this Act.
- However, the Minister must not specify that an advisory committee is to advise the Minister on the management of a jointly managed reserve.
- The Minister is to determine in writing the composition of an advisory committee, including qualifications of its members.

The Australian Heritage Council is involved in the nomination and assessment process of National Heritage places (ch 5.15.1A), Commonwealth Heritage places (ch 5.15.3A) and Overseas Places of Historic Significance to Australia (ch 5A).

| 33. | If advisory bodies are provided for, indicate the relevant provisions that create those bodies, or enables their creation and describe the purpose, membership, powers and functions of those advisory bodies. | The Threatened Species Scientific Committee

s 502: Establishment

- The Threatened Species Scientific Committee is established.
- The Minister is to determine in writing the composition of the Committee, including the qualifications of its members.
- The Minister is to appoint the members of the Committee on a part-time basis, and must appoint one of the members to chair the
Committee.

s 503: Functions of the Committee
The functions of the Committee are:
(a) to advise the Minister in accordance with Division 5 of Part 13 in relation to recovery plans, threat abatement plans and approved conservation advice; and
(b) to advise the Minister (on the Minister’s request or on the Committee’s initiative) on the amendment and updating of the lists established under Part 13; and
(c) to advise the Minister, at his or her request, on matters relating to the administration of this Act; and
(d) to give the Minister such other advice as is provided for in this Act; and
(e) to perform such other functions as are conferred on the Committee by this Act.

The Biological Diversity Advisory Committee

s 504: Establishment
(1) The Biological Diversity Advisory Committee is established.
(2) The Minister is to determine in writing the composition of the Committee, including the qualifications of its members.
(3) The Minister is to appoint the members of the Committee on a part-time basis, and must appoint one of the members to chair the Committee.
(4) The Minister must ensure that the membership includes members who are appointed to represent the following:
(a) the body known as the Australian and New Zealand Environment and Conservation Council;
(b) conservation organisations that are not authorities of the Commonwealth or of any State or Territory;
(c) the scientific community (including both that part of the scientific community concerned with marine species and that part of the scientific community concerned with terrestrial species);
(d) the rural community;
(e) the business community;
(ea) indigenous peoples;
(f) the Commonwealth.
(5) The Minister must ensure that, as far as practicable, each one of at least 5 members:
(a) possess scientific qualifications that the Minister thinks relevant
to the performance of the Committee’s functions; and
(b) is appointed to represent the scientific community and is not appointed to represent any of the other bodies, groups of bodies or communities referred to in subsection (4).

(6) The Minister must ensure that a majority of the members are not persons employed by the Commonwealth or Commonwealth agencies.

s 505: Functions of the Committee
The functions of the Committee are:
(a) to advise the Minister, at his or her request, on matters relating to the conservation and ecologically sustainable use of biological diversity; and
(b) to perform such other functions as are conferred on the Committee by this Act or the regulations.

The Indigenous Advisory Committee

s 505A: Establishment
(1) The Indigenous Advisory Committee is established.
(2) The Minister is to determine in writing the composition of the Committee, including the qualifications of its members.
(3) The Minister is to appoint the members of the Committee on a part-time basis, and must appoint one of the members to chair the Committee.

s 505B: Functions of the Committee
(1) The function of the Committee is to advise the Minister on the operation of the Act, taking into account the significance of indigenous peoples’ knowledge of the management of land and the conservation and sustainable use of biodiversity.
(2) The Minister may give the Committee written guidelines about its function.

34. If statutory bodies are not provided for, is there a statutory basis for scientific input or consultations; if so, specify.

N/A; see Q 32, 33.

35. Are there provisions to assess and report on effectiveness of the PA System? If so, specify.

Yes.

For example, bilateral agreements may include provisions for auditing, monitoring and reporting on the operation and effectiveness of all or part of the agreement (s 48)

When the Minister decides whether to have a threat abatement plan for a threatening process, he must take reasonable steps to request any Commonwealth
agency, any State, any self-governing Territory, and any agency of a State or self-governing Territory, that would be affected by or interested in abatement of the process to give advice within a specified period on the feasibility, effectiveness or efficiency of having and implementing a threat abatement plan to abate the process (s. 270A)

Any management plan for a World Heritage sites (s 319), National Heritage places (s 324W), Ramsar wetlands (s 331), and Commonwealth Heritage places (s 341X) must be reviewed at least once every 5 years.

See also responsibilities for undertaking regular reviews of the management system or plans for the outstanding universal value of each World Heritage property managed by States (4.6.c) Australian World Heritage Intergovernmental Agreement from 2010). See corresponding responsibilities by the Commonwealth at 3.7 Australian World Heritage Intergovernmental Agreement from 2010.

There are further requirements for annual assessments and reports:

s 516A: Annual reports to deal with environmental matters

Agency annual reports

(1) The Head of an Agency (as defined in the Public Service Act 1999) must ensure that an annual report under that Act on the Agency’s activities complies with subsection (6).

Annual reports of Commonwealth authorities

(3) The directors of a Commonwealth authority (as defined in the Commonwealth Authorities and Companies Act 1997) must ensure that an annual report relating to the authority prepared under that Act complies with subsection (6).

Annual reports of Commonwealth companies

(4) A Commonwealth company (as defined in the Commonwealth Authorities and Companies Act 1997) that is a Commonwealth agency must ensure that the documents given to the responsible Minister (as defined in that Act) under section 36 of that Act include a report complying with subsection (6).

Annual reports of other Commonwealth agencies

(5) A Commonwealth agency that is:
   (a) established by or under a law of the Commonwealth; and
   (b) required by law to give the Minister responsible for it an annual report; and
   (c) not described in subsection (3) or (4);
   must ensure that the annual report complies with subsection (6).

Content of report

(6) A report described in subsection (1), (3), (4) or (5) relating to a body or person (the reporter) for a period must:
(a) include a report on how the activities of, and the administration (if any) of legislation by, the reporter during the period accorded with the principles of ecologically sustainable development; and
(b) identify how the outcomes (if any) specified for the reporter in an Appropriations Act relating to the period contribute to ecologically sustainable development; and
(c) document the effect of the reporter’s activities on the environment; and
(d) identify any measures the reporter is taking to minimise the impact of activities by the reporter on the environment; and
(e) identify the mechanisms (if any) for reviewing and increasing the effectiveness of those measures.

Note: The Auditor-General Act 1997 lets the Auditor-General audit a reporter’s compliance with these requirements.

(7) In subsection (6):

*activities* includes:

(a) developing and implementing policies, plans, programs and legislation; and
(b) the operations of a department, authority, company or agency referred to in this section.

### 8. PA System Planning and Management

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
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<tbody>
<tr>
<td>36. Does the instrument provide for a system of Protected Areas (PA System)?</td>
<td>Yes. See ch 5.15 for an overview on protected areas covered by the EPBC Act. Further, see the 2009–2030 Strategy for Australia’s National Reserve System <a href="http://www.environment.gov.au/parks/publications/nrs/nrsstrat.html">which aims to include samples of all ecosystems at an appropriate regional scale</a></td>
</tr>
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### 9. Establishment, amendment, abolition

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
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<tbody>
<tr>
<td>37. Does the instrument require the preparation of a plan for development and management of a PA System? If so describe purpose, responsible entity and key elements</td>
<td>While there are no provisions requiring the planning of a PA system as a whole, there are a variety of requirements for management planning for particular types of PA; See ch 5.15 in general.</td>
</tr>
<tr>
<td>38. Are there provisions for the establishment of PAs? Describe the authority entitled to do so and the process (incl. poss. for public partic.)</td>
<td>Yes; they are different for each PA category. World Heritage Sites: Properties are submitted to the World Heritage Committee by the Commonwealth for inclusion in the World Heritage List (s 314). See the Australian World Heritage Intergovernmental Agreement from 2010 for further details. National Heritage places: The Minister may determine heritage themes for an assessment period (s 324H) and invite nominations (s 324J). Anyone can nominate sites. Nominations are then given to the Australian Heritage Council for assessment if the sites meet the</td>
</tr>
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</table>
national heritage criteria (ss 324JA ff). The Australian Heritage Council prepares a proposed priority assessment list (s 324JB) for the Minister who may make changes. The Australian Heritage Council invites the public for comments on places on the finalised priority list (s 324JG) and then advises the Minister (s 324JH) who makes the final decision on the listing (s 324JJ).

There are also provisions for an emergency listing (ss 324JK - 324JQ).

Ramsar wetlands:

The Commonwealth may designate an area for inclusion in the List of Wetlands of International Importance (s 326).

Biosphere reserves:

S 337: A Biosphere reserve is an area designated for inclusion in the World Network of Biosphere Reserves by the International Co-ordinating Council of the Man and the Biosphere program of the United Nations Educational, Scientific and Cultural Organization.

Commonwealth Heritage places:

The Minister invites nominations for an assessment period (s 341H) and gives them to the Australian Heritage Council for assessment if the sites suggested meet the Commonwealth Heritage criteria (ss 341J ff). The Australian Heritage Council prepares a proposed priority assessment list (s 341JA) for the Minister who may make changes. The Australian Heritage Council invites the public for comments on places on the finalised priority list (s 341JF) and then advises the Minister (s 341JH) who makes the final decision on the listing (s 341JJ).

There are also provisions for an emergency listing (ss 341JJ - 341JP).

Commonwealth Reserves:

Declared by the Governor-General (s 344) after inviting the public for comments (s 351).

Conservation zones:

Declared by Governor-General (s 390D)

List of Overseas Places of Historic Significance to Australia:

Inclusion by Minister (s 390L) after inviting other Ministers for comments, especially the Minister for Foreign Affairs (s 390N). The Minister may also ask the Australian
### 39. Are there provisions for altering the boundaries of PAs? Describe the authority entitled to do so and the process (including possibilities for public participation.)

<table>
<thead>
<tr>
<th>Yes; they are different for each PA category.</th>
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<tbody>
<tr>
<td><strong>World Heritage Sites:</strong></td>
</tr>
<tr>
<td>Once inscribed by the World Heritage Committee, as with all World Heritage properties, it can only be removed from the World Heritage List by the Committee itself.</td>
</tr>
<tr>
<td><strong>National Heritage places:</strong></td>
</tr>
<tr>
<td>Removal of all or part of a National Heritage place by the Minister (s 324L) after seeking comments from the Australian Heritage Council and the public (s 324M).</td>
</tr>
<tr>
<td><strong>Ramsar wetlands:</strong></td>
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<tr>
<td>A Ramsar wetland can be removed from the international list by the Minister at any time without any conditions relating to the deletion except for giving notice in the Government Gazette and notifying the Ramsar Secretariat (s 327(1)(d)).</td>
</tr>
<tr>
<td><strong>Commonwealth Heritage places:</strong></td>
</tr>
<tr>
<td>Removal of all or part of a Commonwealth Heritage place by the Minister (s 341L) after seeking comments from the Australian Heritage Council and the public (s 341M).</td>
</tr>
<tr>
<td><strong>Commonwealth Reserves:</strong></td>
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<tr>
<td>Before the Governor-General may alter or revoke a Commonwealth reserve (s 350), the Minister must consider a report prepared by the Director (s 351(1)). When preparing the report, the Director must invite the public to comment (s 351(2)).</td>
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<tr>
<td><strong>Conservation zones:</strong></td>
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<tr>
<td>Conservation zones may be revoked or amended by the Governor-General if the government is satisfied that the area should not be designated as or included in a Commonwealth reserve (s 390J).</td>
</tr>
<tr>
<td><strong>List of Overseas Places of Historic Significance to Australia:</strong></td>
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<tr>
<td>The Minister may remove the place, and the statement of its historic significance to Australia, from the List or vary the statement of the place’s historic significance to Australia (s 390M) after inviting other Ministers for comments, especially the</td>
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<td>Question</td>
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- procedure for preparation (who is involved?)
- who approves
- legal status of approved plan (binding nature, enforceability)
- authority(ies) responsible for implementation of the plan and powers.

At least one management plan must be prepared for each world heritage site (s 316) which must be reviewed every five years (s 319). For properties situated in States or self-governing Territories, see ss 320 – 322. Management plans must follow the Australian World Heritage management principles (schedule 5 EPBC Regulations 2000).

For the Great Barrier Reef Marine Park and the Wet Tropics, see Q 30, and Great Barrier Reef matrix

**Schedule 5: Australian World Heritage management principles (regulation 10.01)**

1. **General principles**

1.01 The primary purpose of management of natural heritage and cultural heritage of a declared World Heritage property must be, in accordance with Australia’s obligations under the World Heritage Convention, to identify, protect, conserve, present, transmit to future generations and, if appropriate, rehabilitate the World Heritage values of the property.

1.02 The management should provide for public consultation on decisions and actions that may have a significant impact on the property.

1.03 The management should make special provision, if appropriate, for the involvement in managing the property of people who:
   (a) have a particular interest in the property; and
   (b) may be affected by the management of the property.

1.04 The management should provide for continuing community and technical input in managing the property.

2. **Management planning**

2.01 At least 1 management plan should be prepared for each declared World Heritage property.

2.02 A management plan for a declared World Heritage property should:
   (a) state the World Heritage values of the property for which it is prepared; and
   (b) include adequate processes for public consultation on proposed elements of the plan; and
   (c) state what must be done to ensure that the World Heritage values of the property are identified, conserved, protected, presented,
transmitted to future generations and, if appropriate, rehabilitated; and
(d) state mechanisms to deal with the impacts of actions that individually or cumulatively degrade, or threaten to degrade, the World Heritage values of the property; and
(e) provide that management actions for values, that are not World Heritage values, are consistent with the management of the World Heritage values of the property; and
(f) promote the integration of Commonwealth, State or Territory and local government responsibilities for the property; and
(g) provide for continuing monitoring and reporting on the state of the World Heritage values of the property; and
(h) be reviewed at intervals of not more than 7 years.

3 Environmental impact assessment and approval

3.01 This principle applies to the assessment of an action that is likely to have a significant impact on the World Heritage values of a property (whether the action is to occur inside the property or not).

3.02 Before the action is taken, the likely impact of the action on the World Heritage values of the property should be assessed under a statutory environmental impact assessment and approval process.

3.03 The assessment process should:
(a) identify the World Heritage values of the property that are likely to be affected by the action; and
(b) examine how the World Heritage values of the property might be affected; and
(c) provide for adequate opportunity for public consultation.

3.04 An action should not be approved if it would be inconsistent with the protection, conservation, presentation or transmission to future generations of the World Heritage values of the property.

3.05 Approval of the action should be subject to conditions that are necessary to ensure protection, conservation, presentation or transmission to future generations of the World Heritage values of the property.

3.06 The action should be monitored by the authority responsible for giving the approval (or another appropriate authority) and, if necessary, enforcement action should be taken to ensure compliance with the
conditions of the approval.

**National Heritage places:**

The Minister must make a written management plan when a place is included in the National Heritage List (s 324S ff.) which must be revised every five years (s 324W). The plans must follow the national heritage management principles (schedule 5B EPBC Regulations 2000) and must ensure the protection of the site’s heritage values (see further Management plans for National Heritage places, schedule 5A EPBC Regulations 2000). Australia’s World Heritage properties are also in the National Heritage List, but only a world heritage management plan is required for these properties.

**Schedule 5A Management plans for National Heritage places**
(regulation 10.01C)

A management plan must:

(a) establish objectives for the identification, protection, conservation, presentation and transmission of the National Heritage values of the place; and

(b) provide a management framework that includes reference to any statutory requirements and agency mechanisms for the protection of the National Heritage values of the place; and

(c) provide a comprehensive description of the place, including information about its location, physical features, condition, historical context and current uses; and

(d) provide a description of the National Heritage values and any other heritage values of the place; and

(e) describe the condition of the National Heritage values of the place; and

(f) describe the method used to assess the National Heritage values of the place; and

(g) describe the current management requirements and goals, including proposals for change and any potential pressures on the National Heritage values of the place; and

(h) have policies to manage the National Heritage values of a place, and include, in those policies, guidance in relation to the following:
   (i) the management and conservation processes to be used;
   (ii) the access and security arrangements, including access to the area for indigenous people to maintain cultural traditions;
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<tr>
<td>(iii)</td>
<td>the stakeholder and community consultation and liaison arrangements;</td>
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<td>(iv)</td>
<td>the policies and protocols to ensure that indigenous people participate in the management process;</td>
</tr>
<tr>
<td>(v)</td>
<td>the protocols for the management of sensitive information;</td>
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<td>(vi)</td>
<td>the planning and management of works, development, adaptive reuse and property divestment proposals;</td>
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<td>(vii)</td>
<td>how unforeseen discoveries or disturbance of heritage are to be managed;</td>
</tr>
<tr>
<td>(viii)</td>
<td>how, and under what circumstances, heritage advice is to be obtained;</td>
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<td>(ix)</td>
<td>how the condition of National Heritage values is to be monitored and reported;</td>
</tr>
<tr>
<td>(x)</td>
<td>how records of intervention and maintenance of a heritage places register are kept;</td>
</tr>
<tr>
<td>(xi)</td>
<td>the research, training and resources needed to improve management;</td>
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<tr>
<td>(xii)</td>
<td>how heritage values are to be interpreted and promoted;</td>
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<tr>
<td>(i)</td>
<td>include an implementation plan; and</td>
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<tr>
<td>(j)</td>
<td>show how the implementation of policies will be monitored; and</td>
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<td>(k)</td>
<td>show how the management plan will be reviewed.</td>
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</tbody>
</table>

**Schedule 5B National Heritage management principles**

(regulation 10.01E)

1 The objective in managing National Heritage places is to identify, protect, conserve, present and transmit, to all generations, their National Heritage values.

2 The management of National Heritage places should use the best available knowledge, skills and standards for those places, and include ongoing technical and community input to decisions and actions that may have a significant impact on their National Heritage values.

3 The management of National Heritage places should respect all heritage values of the place and seek to integrate, where appropriate, any Commonwealth, State, Territory and local government responsibilities for those places.

4 The management of National Heritage places should ensure that their
use and presentation is consistent with the conservation of their National Heritage values.

5 The management of National Heritage places should make timely and appropriate provision for community involvement, especially by people who:
   (a) have a particular interest in, or association with, the place; and
   (b) may be affected by the management of the place.

6 Indigenous people are the primary source of information on the value of their heritage and the active participation of indigenous people in identification, assessment and management is integral to the effective protection of indigenous heritage values.

7 The management of National Heritage places should provide for regular monitoring, review and reporting on the conservation of National Heritage values.

Ramsar wetlands:

When a wetland is listed as a Ramsar site, the Minister must make a written management plan for the site (s 328) unless it is included in a Commonwealth reserve and covered by another plan. Such plans must be revised every five years (s 331). The plans must follow the Australian Ramsar management principles (schedule 6 EPBC Regulations 2000)

Schedule 6 Managing wetlands of international importance (regulation 10.02)

1 General principles

1.01 The primary purpose of management of a declared Ramsar wetland must be, in accordance with the Ramsar Convention:
   (a) to describe and maintain the ecological character of the wetland; and
   (b) to formulate and implement planning that promotes:
      (i) conservation of the wetland; and
      (ii) wise and sustainable use of the wetland for the benefit of humanity in a way that is compatible with maintenance of the natural properties of the ecosystem.

1.02 Wetland management should provide for public consultation on decisions and actions that may have a significant impact on the wetland.
1.03 Wetland management should make special provision, if appropriate, for the involvement of people who:
(a) have a particular interest in the wetland; and
(b) may be affected by the management of the wetland.

1.04 Wetland management should provide for continuing community and technical input.

2 Management planning

2.01 At least 1 management plan should be prepared for each declared Ramsar wetland.

2.02 A management plan for a declared Ramsar wetland should:
(a) describe its ecological character; and
(b) state the characteristics that make it a wetland of international importance under the Ramsar Convention; and
(c) state what must be done to maintain its ecological character; and
(d) promote its conservation and sustainable use for the benefit of humanity in a way that is compatible with maintenance of the natural properties of the ecosystem; and
(e) state mechanisms to deal with the impacts of actions that individually or cumulatively endanger its ecological character, including risks arising from:
   (i) physical loss, modification or encroachment on the wetland; or
   (ii) loss of biodiversity; or
   (iii) pollution and nutrient input; or
   (iv) changes to water regimes; or
   (v) utilisation of resources; or
   (vi) introduction of invasive species; and
(f) state whether the wetland needs restoration or rehabilitation; and
(g) if restoration or rehabilitation is needed — explain how the plan provides for restoration or rehabilitation; and
(h) provide for continuing monitoring and reporting on the state of its ecological character; and
(i) be based on an integrated catchment management approach; and
(j) include adequate processes for public consultation on the
(k) be reviewed at intervals of not more than 7 years.

3 Environmental impact assessment and approval

3.01 This principle applies to the assessment of an action that is likely to have a significant impact on the ecological character of a Ramsar wetland (whether the action is to occur inside the wetland or not).

3.02 Before the action is taken, the likely environmental impact of the action on the wetland’s ecological character should be assessed under a statutory environmental impact assessment and approval process.

3.03 The assessment process should:
(a) identify any part of the ecological character of the wetland that is likely to be affected by the action; and
(b) examine how the ecological character of the wetland might be affected; and
(c) provide adequate opportunity for public consultation.

3.04 An action should not be approved if it would be inconsistent with:
(a) maintaining the ecological character of the wetland; or
(b) providing for the conservation and sustainable use of the wetland.

3.05 Approval of the action should be subject to conditions, if necessary, to ensure that the ecological character of the wetland is maintained.

3.06 The action should be monitored by the authority responsible for giving the approval (or another appropriate authority) and, if necessary, enforcement action should be taken to ensure compliance with the conditions.

Biosphere reserves:

The Minister may make a written plan for managing a biosphere reserve or part of a biosphere reserve. If such a plan is made, it must conform to the Australian biosphere reserve management principles (s 338; schedule 7 EPBC Regulations 2000).

Schedule 7 Australian Biosphere reserve management principles (regulation 10.03)
1 Management principles

1.01 A management plan should be prepared for each Biosphere reserve.

1.02 A management plan for a Biosphere reserve should state:

(a) the values for which the reserve is established; and

(b) the extent of the reserve; and

(c) any zoning that provides for the following functions:
   (i) conserving genetic resources, species, ecosystems and landscapes;
   (ii) fostering sustainable economic and human development;
   (iii) supporting demonstration projects, environmental education and training, and research and monitoring related to local, national and global issues of conservation and sustainable development; and

(d) the role of the reserve in contributing to a national coverage of ecological systems representative of major bioregions;

(e) the strategies for biodiversity conservation in the reserve, including those that:
   (i) protect it from disturbance and threatening processes; and
   (ii) minimise potential adverse effects on its natural, cultural and social environment and surrounding communities; and

(f) how the plan will provide for:
   (i) exploring and demonstrating approaches to sustainable development on a regional scale; and
   (ii) ensuring that the health, diversity and productivity of the environment in the biosphere reserve are maintained or enhanced for the benefit of future generations; and
   (iii) ensuring that decision-making is consistent with the precautionary principle; and
   (iv) setting out an appropriate policy and management framework; and
   (v) programs for research, monitoring, education and training.

1.03 A management plan for a Biosphere reserve should provide for public consultation about planning for, and proposed actions in, the Biosphere reserve.

Commonwealth Heritage places:
The Minister must make a written management plan when a place is included in the Commonwealth Heritage List (s 341S) unless it is included in a Commonwealth reserve and covered by another plan (s 341U). Such plans must be revised every five years (s 341X). The plans must follow the Commonwealth heritage management principles (s 341Y; schedule 7B EPBC Regulations 2000) and their contents must also cover a specific range of matters (Management plans for Commonwealth Heritage places, schedule 7A EPBC Regulations 2000). The EPBC Act and the Commonwealth heritage management principles contemplate that some areas on the Commonwealth Heritage List can also be protected under other provisions of the Act, with similar management requirements or principles. A Commonwealth Heritage place can conceivably also be listed on the National Heritage List or the World Heritage List. In such cases, plans can be combined to meet all relevant provisions and additional management requirements or principles may be provided.

Schedule 7A Management plans for Commonwealth Heritage places
(regulation 10.03B)

A management plan must:

(a) establish objectives for the identification, protection, conservation, presentation and transmission of the Commonwealth Heritage values of the place; and

(b) provide a management framework that includes reference to any statutory requirements and agency mechanisms for the protection of the Commonwealth Heritage values of the place; and

(c) provide a comprehensive description of the place, including information about its location, physical features, condition, historical context and current uses; and

(d) provide a description of the Commonwealth Heritage values and any other heritage values of the place; and

(e) describe the condition of the Commonwealth Heritage values of the place; and

(f) describe the method used to assess the Commonwealth Heritage values of the place; and

(g) describe the current management requirements and goals, including proposals for change and any potential pressures on the Commonwealth Heritage values of the place; and

(h) have policies to manage the Commonwealth Heritage values of a place, and include in those policies, guidance in relation to the following:
(i) the management and conservation processes to be used;
(ii) the access and security arrangements, including access to the area for indigenous people to maintain cultural traditions;
(iii) the stakeholder and community consultation and liaison arrangements;
(iv) the policies and protocols to ensure that indigenous people participate in the management process;
(v) the protocols for the management of sensitive information;
(vi) the planning and management of works, development, adaptive reuse and property divestment proposals;
(vii) how unforeseen discoveries or disturbance of heritage are to be managed;
(viii) how, and under what circumstances, heritage advice is to be obtained;
(ix) how the condition of Commonwealth Heritage values is to be monitored and reported;
(x) how records of intervention and maintenance of a heritage places register are kept;
(xi) the research, training and resources needed to improve management;
(xii) how heritage values are to be interpreted and promoted; and

(i) include an implementation plan; and
(j) show how the implementation of policies will be monitored; and
(k) show how the management plan will be reviewed.

**Schedule 7B  Commonwealth Heritage management principles**
(regulation 10.03D)

1. The objective in managing Commonwealth Heritage places is to identify, protect, conserve, present and transmit, to all generations, their Commonwealth Heritage values.

2. The management of Commonwealth Heritage places should use the best available knowledge, skills and standards for those places, and include ongoing technical and community input to decisions and actions that may have a significant impact on their Commonwealth Heritage values.
3 The management of Commonwealth Heritage places should respect all heritage values of the place and seek to integrate, where appropriate, any Commonwealth, State, Territory and local government responsibilities for those places.

4 The management of Commonwealth Heritage places should ensure that their use and presentation is consistent with the conservation of their Commonwealth Heritage values.

5 The management of Commonwealth Heritage places should make timely and appropriate provision for community involvement, especially by people who:
(a) have a particular interest in, or associations with, the place; and
(b) may be affected by the management of the place;

6 Indigenous people are the primary source of information on the value of their heritage and that the active participation of indigenous people in identification, assessment and management is integral to the effective protection of indigenous heritage values.

7 The management of Commonwealth Heritage places should provide for regular monitoring, review and reporting on the conservation of Commonwealth Heritage values.

Commonwealth Reserves:

The EPBC Act explicitly uses the IUCN protected area categories with respect to Commonwealth reserves, each of which must be assigned an IUCN category (ss 346 ff).

In particular, Obligation to prepare management plans for Commonwealth reserves (s 366(1))

The Director must prepare management plans for each Commonwealth reserve for which there is not a Board to try to ensure that a management plan for the reserve is in operation:
(a) as soon as practicable after the reserve is declared; and
(b) at all times after the first plan for managing the reserve takes effect.

The Australian IUCN reserve management principles incorporated in the EPBC Regulations 2000 (schedule 8) include comprehensive management principles for
| 47. | Are there provisions for monitoring the implementation of Management Plans? If so specify. | See Q 35. |
| 48. | Is a reporting system created to review the effectiveness of the management plan? If so, specify. | See Q 35. |
| **11. Buffer** | | |
| 49. | Are there provisions for the creation of buffer zones around PAs? If so describe, in particular: | No, not in the EPBC Act. |
| | - how they are established |
| | - what their legal status is |
| | - the restricted activities therein |
| | - if there are provisions for their integration into land use plans |
| 50. | Are there provisions for the creation of corridors connecting individual PAs? If so describe, in particular: | No. However, connectivity conservation is mentioned several times in the 2009 Review of the EPBC Act, where it is recommended that the Act be amended to include —ecosystems of national significance as a new matter of national environmental significance. It states that the —matter protected should be the ecological character of a listed ecosystem, and that the criteria used to identify ecosystems should include that the ecosystem is of significant national value for one or more reasons, including that it contains high-value areas that create connectivity between other ecosystems; see [http://www.environment.gov.au/epbc/review/publications/pubs/final-report.pdf](http://www.environment.gov.au/epbc/review/publications/pubs/final-report.pdf) |
| | - how they are established, |
| | - what their legal status is |
| | - the restricted activities therein |
at 4.22. See also Independent report to the Interstate Agency Working Group (Alps to Atherton Connectivity Conservation Working Group) convened under the Environment Heritage and Protection Council/Natural Resource Management Ministerial Council 2010. The National Reserve System Plans of Management Guidelines also indicate that requirements for corridors for protected areas are to be provided for in the future.

12. Connectivity

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<tbody>
<tr>
<td>51.</td>
<td>If no legal status is provided for creation of corridors, can these be recognized by the instrument in other ways (in the PA System, or in land use plans)?</td>
<td>Yes, for example through plans of management.</td>
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13. Individual PAs: Development proposals and Activities

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<tr>
<td>52.</td>
<td>Are specific activities prohibited or allowed within PAs, or specific types of PAs; if so describe (as the case may be by types). Give special attention to e.g.: - recreational uses</td>
<td>Yes; for Commonwealth reserves, see ss 354 ff. In general, activities cannot be conducted in a Commonwealth reserve unless permitted by a management plan. The management is strongly affected by the IUCN category to which the particular Commonwealth reserve is assigned (s 346).</td>
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354 Activities that may be carried on only under management plan

1. A person must not do one of the following acts in a Commonwealth reserve except in accordance with a management plan in operation for the reserve:
   - kill, injure, take, trade, keep or move a member of a native species; or
   - damage heritage; or
   - carry on an excavation; or
   - erect a building or other structure; or
   - carry out works; or
   - take an action for commercial purposes.

   Civil penalty:
   - for an individual—500 penalty units;
   - for a body corporate—5,000 penalty units.

   (1A) Subsection (1) does not apply to an action taken in the course of carrying on mining operations.

   Note: Mining operations are covered by sections 355, 355A and 387.

   (2) However, if a management plan is not in operation for a Commonwealth reserve, the Director may do an act described in subsection (1) for:
      - preserving or protecting the reserve; or
(b) protecting or conserving biodiversity or heritage in the reserve; or
(c) controlling authorised scientific research; or
(d) protecting persons or property in the reserve; or
(e) managing the effects of actions taken under a usage right described in section 359.

(3) Subsection (2) does not apply in relation to so much of a Commonwealth reserve as is in the Kakadu region, the Uluru region or the Jervis Bay Territory.

Note: Section 385 sets out what the Director may do in a Commonwealth reserve in the Kakadu region, Uluru region or Jervis Bay Territory when there is not a management plan in operation for the reserve.

(3A) Subsection (1) does not apply to an action that is covered by an approval in force under subsection 359B(1). For this purpose, an action is covered by such an approval if:
(a) a management plan is not in operation for the Commonwealth reserve; and
(b) the action is, or is in the class of actions, specified in the approval; and
(c) the action is taken in accordance with the approval by the person, or a person in the class of persons, specified in the approval in the area specified in the approval.

(4) This section has effect despite any other law of the Commonwealth, a State or a Territory, but:
(a) subsections (1) and (2) are subject to:
(i) section 359 (about interests and rights existing before a Commonwealth reserve); and
(ii) section 359A (about traditional use of an area in a reserve); and
(iii) the Antarctic Treaty (Environment Protection) Act 1980; and
(b) subsection (1) is also subject to section 385 (about activities in Commonwealth reserves in the Kakadu region, Uluru region or Jervis Bay Territory without management plans).

Further, see regulations regarding activities in conservation zones (ch 5.15.5).
390D Proclamation of conservation zones

(1) The Governor-General may, by Proclamation, declare a Commonwealth area outside a Commonwealth reserve to be a conservation zone.

(2) Before the Governor-General makes a Proclamation declaring a Commonwealth area to be a conservation zone, the Minister must be satisfied that the area should be assessed to determine whether the biodiversity, other natural features and heritage in the area should be protected by including the area in a Commonwealth reserve.

390E Regulating activities generally

(1) The regulations may:

(a) regulate or prohibit the pollution of soil, air or water in a manner that is, or is likely to be, harmful to:
   (i) people, biodiversity or heritage in conservation zones; or
   (ii) the natural features of conservation zones; and
(b) regulate tourism in conservation zones; and
(c) provide for the protection and preservation of conservation zones and property and things in conservation zones; and
(d) provide for the protection and conservation of biodiversity in conservation zones; and
(e) regulate or prohibit access to all or part of a conservation zone by persons or classes of persons; and
(f) provide for the removal of trespassers from conservation zones; and
(g) regulate camping in conservation zones; and
(h) provide for the safety of persons in conservation zones; and
(i) regulate the use of fire in conservation zones; and
(j) regulate the conduct of persons in conservation zones; and
(k) regulate the carrying on of any trade or commerce in a conservation zone; and
(l) regulate the use of vehicles in conservation zones and provide for signs and road markings for those purposes; and
(m) provide for:
   (i) the removal of vehicles, aircraft or vessels from places in conservation zones where they have been left in contravention of the regulations or have been abandoned; and
(ii) the impounding of such vehicles, aircraft or vessels; and

(n) provide that the person taken for the purposes of the regulations to be the owner of a motor vehicle involved in a contravention of a provision of the regulations relating to the parking or stopping of vehicles in a conservation zone is, except as provided otherwise, taken to commit an offence against the provision; and

(o) provide for a person to be taken to be the owner of a motor vehicle for the purposes of regulations made under paragraph (n) (including a person in whose name the motor vehicle is registered under the law of a State or Territory); and

(p) regulate the use of vessels in, and the passage of vessels through, conservation zones; and

(q) regulate the landing and use of aircraft in, and the flying of aircraft over, conservation zones; and

(r) regulate or prohibit the taking of animals or plants into or out of conservation zones; and

(s) provide for the impounding, removal, destruction or disposal of animals found straying in conservation zones; and

(t) regulate or prohibit the taking into conservation zones, and the use in conservation zones, of weapons, traps, nets, snares, fishing apparatus and other devices; and

(u) regulate or prohibit the laying of baits and the use of explosives and poisons in conservation zones; and

(v) provide for the collection of specimens and the pursuit of research in conservation zones for scientific purposes; and

(w) provide for the issue of licences, permits and authorities relating to activities in conservation zones, the conditions subject to which they are issued and the charging of fees by the Commonwealth in respect of such licences, permits and authorities; and

(x) provide for any matter incidental to or connected with a matter described in another paragraph.

(2) Regulations relating to conservation zones may also:

(a) regulate the carrying on of mining operations, fishing, pastoral or agricultural activities for commercial purposes; and

(b) regulate the construction or alteration of buildings and structures; and

(c) regulate the construction or establishment of bridges, railways, roads, tracks, port facilities and air-strips and the carrying out of
any other works; and
(d) regulate the felling or taking of timber; and
(e) provide for and in relation to the powers to be exercised, and
the functions and duties to be performed, in and in relation to
conservation zones by wardens, by rangers and by other
persons included in specified classes of persons; and
(f) provide for and in relation to the giving of securities for
compliance with regulations made for the purposes of this
section by persons doing, or proposing to do, anything to which
those regulations relate.

(3) Regulations made for the purposes of this section have no effect to
the extent that they are inconsistent with the terms and conditions of
a right (however described) to explore for minerals, or to mine for or
recover minerals, granted under section 124 of the *Lands Acquisition
Act 1989*.

| 53. | Is there a statutory basis for public participation or consultation on proposed development or activities? If so, specify. | See Q 31.  
See especially public exhibition of and commenting on decisions and conditions of actions as outlined in ch 4.9 ‘Approval of actions’ (s 131)  
Consultation on decisions and actions that may have a significant impact on World Heritage sites (EPBC Act Regulations 2000, Schedule 5 clause 1.02 Australian World Heritage management principles). |

| 54. | In the case of allowed activities, who has the authority to grant use/access to the PA resources (e.g. forest products, genetic resources) | If no management plan is in force for a Commonwealth reserve, the Director of National Parks may, in writing, approve the taking of a specified action or a specified class of actions, by a specified person or a specified class of persons, in a specified area that is or is part of a Commonwealth reserve under the conditions set in s 359B.  
The Director of Parks has specified powers to prohibit or control specific activities, and to issue permits for activities that are otherwise prohibited (part 12 EPBC Regulations 2000). |

| 55. | Indicate provisions authorizing more detailed regulation of activities based on an approved management plan (e.g. zoning) | There are a number of provisions concerning authorization of activities. For example, mining cannot be carried out in Commonwealth reserves except in accordance with a management plan in operation for the reserve (ss 355 ff.; see s 359B for exemptions when no management plan is in operation). Mining is completely prohibited in Kakadu National Park (s 387) and in the Antarctic (See Antarctic Treaty (Environment Protection) Act, ss 19A and 19B). |
For further detailed regulations regarding the authorization of activities in Commonwealth reserves, see (part 12 EPBC Regulations 2000).

Further, see provisions on activities by Indigenous communities at Q 56.

In addition, regulations under the Act can control a wide range of activities:

356 Regulations controlling activities relating to Commonwealth reserves

(1) The regulations may:
   (a) regulate or prohibit the pollution of soil, air or water in a manner that is, or is likely to be, harmful to:
      (i) people, biodiversity or heritage in Commonwealth reserves; or
      (ii) the natural features of Commonwealth reserves; and
   (b) regulate or prohibit tourism in Commonwealth reserves; and
   (c) provide for the protection and preservation of Commonwealth reserves and property and things in Commonwealth reserves; and
   (d) provide for the protection and conservation of biodiversity in Commonwealth reserves; and
   (e) regulate or prohibit access to all or part of a Commonwealth reserve by persons or classes of persons; and
   (f) provide for the removal of trespassers from Commonwealth reserves; and
   (g) regulate or prohibit camping in Commonwealth reserves; and
   (h) provide for the safety of persons in Commonwealth reserves; and
   (i) regulate or prohibit the use of fire in Commonwealth reserves; and
   (j) regulate the conduct, or prohibit certain kinds of conduct, of persons in Commonwealth reserves; and
   (k) regulate or prohibit the carrying on of any trade or commerce in a Commonwealth reserve; and
   (l) regulate or prohibit the use of vehicles in Commonwealth reserves and provide for signs and road markings for those purposes; and
   (m) provide for:
      (i) the removal of vehicles, aircraft or vessels from places in
Commonwealth reserves where they have been left in
contravention of the regulations or have been abandoned;
and
(ii) the impounding of such vehicles, aircraft or vessels; and

(n) provide that the person taken for the purposes of the
regulations to be the owner of a motor vehicle involved in a
contravention of a provision of the regulations relating to the
parking or stopping of vehicles in a Commonwealth reserve is,
except as provided otherwise, taken to commit an offence
against the provision; and

(o) provide for a person to be taken to be the owner of a motor
vehicle for the purposes of regulations made under
paragraph (n) (including a person in whose name the motor
vehicle is registered under the law of a State or Territory); and

(p) regulate or prohibit the use of vessels in, and the passage of
vessels through, Commonwealth reserves; and

(q) regulate or prohibit the landing and use of aircraft in, and the
flying of aircraft over, Commonwealth reserves; and

(r) provide for the giving of effect to management plans for
Commonwealth reserves; and

(s) regulate or prohibit the taking of animals or plants into or out of
Commonwealth reserves; and

(t) provide for the impounding, removal, destruction or disposal of
animals found straying in Commonwealth reserves; and

(u) regulate or prohibit the taking into Commonwealth reserves,
and the use in Commonwealth reserves, of weapons, traps,
nets, snares, fishing apparatus and other devices; and

(v) regulate or prohibit the laying of baits and the use of explosives
and poisons in Commonwealth reserves; and

(w) provide for the collection of specimens and the pursuit of
research in Commonwealth reserves for scientific purposes; and

(x) provide for the issue of licences, permits and authorities
relating to activities in Commonwealth reserves, the conditions
subject to which they are issued and the charging of fees by the
Commonwealth in respect of such licences, permits and
authorities; and

(y) provide for any matter incidental to or connected with a matter
described in another paragraph.

(2) A provision of the regulations regulating or prohibiting the flying of
aircraft over a Commonwealth reserve does not have any effect so far
as it is inconsistent with a law of the Commonwealth. For this purpose, a provision is not inconsistent with such a law if it can be complied with without contravention of the law.

(3) A law of a Territory has effect so far as it is not inconsistent with a provision of the regulations having effect in that Territory. For this purpose, such a law is not inconsistent with the provision so far as it can operate concurrently with the provision.

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<tr>
<th>56.</th>
<th>Are local communities/indigenous concerns addressed? If so describe.</th>
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<tbody>
<tr>
<td>Yes; local communities/Indigenous concerns are addressed differently for each PA category:</td>
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<tr>
<td><strong>World Heritage sites:</strong></td>
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<tr>
<td><strong>Australian World Heritage management principles (schedule 5 EPBC Regulations 2000)</strong></td>
<td></td>
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<tr>
<td><strong>1 General principles</strong></td>
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<tr>
<td>1.02 The management should provide for public consultation on decisions and actions that may have a significant impact on the property.</td>
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<td>1.03 The management should make special provision, if appropriate, for the involvement in managing the property of people who:</td>
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<td>(a) have a particular interest in the property; and</td>
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<td>(b) may be affected by the management of the property.</td>
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<td>1.04 The management should provide for continuing community and technical input in managing the property.</td>
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<td><strong>National Heritage places:</strong></td>
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<tr>
<td><strong>Management plans for National Heritage places (schedule 5A EPBC Regulations 2000)</strong></td>
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<tr>
<td>A management plan must:</td>
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<tr>
<td>(h) have policies to manage the National Heritage values of a place, and include, in those policies, guidance in relation to the following:</td>
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<td>(i) the management and conservation processes to be used;</td>
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<tr>
<td>(ii) the access and security arrangements, including access to the area for indigenous people to maintain cultural traditions;</td>
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</table>
(iii) the stakeholder and community consultation and liaison arrangements;
(iv) the policies and protocols to ensure that indigenous people participate in the management process;

National Heritage management principles (schedule 5B EPBC Regulations 2000)

2 The management of National Heritage places should use the best available knowledge, skills and standards for those places, and include ongoing technical and community input to decisions and actions that may have a significant impact on their National Heritage values.

5 The management of National Heritage places should make timely and appropriate provision for community involvement, especially by people who:
   (a) have a particular interest in, or association with, the place; and
   (b) may be affected by the management of the place.

6 Indigenous people are the primary source of information on the value of their heritage and the active participation of indigenous people in identification, assessment and management is integral to the effective protection of indigenous heritage values.

Ramsar Wetlands:

Managing wetlands of international importance (schedule 6 EPBC Regulations 2000)

1.03 Wetland management should make special provision, if appropriate, for the involvement of people who:
   (a) have a particular interest in the wetland; and
   (b) may be affected by the management of the wetland.

1.04 Wetland management should provide for continuing community and technical input.

Commonwealth Heritage places:

Management plans for Commonwealth Heritage places (schedule 7A EPBC Regulations 2000)

A management plan must:
(h) have policies to manage the Commonwealth Heritage values of a place, and
include in those policies, guidance in relation to the following:

(i) the management and conservation processes to be used;
(ii) the access and security arrangements, including access to
the area for indigenous people to maintain cultural
traditions;
(iii) the stakeholder and community consultation and liaison
arrangements;
(iv) the policies and protocols to ensure that indigenous people
participate in the management process;

Commonwealth Heritage management principles (schedule 7B EPBC Regulations 2000)

2 The management of Commonwealth Heritage places should use the
best available knowledge, skills and standards for those places, and
include ongoing technical and community input to decisions and actions
that may have a significant impact on their Commonwealth Heritage
values.

5 The management of Commonwealth Heritage places should make
timely and appropriate provision for community involvement, especially
by people who:
(a) have a particular interest in, or associations with, the place; and
(b) may be affected by the management of the place;

6 Indigenous people are the primary source of information on the value of
their heritage and that the active participation of indigenous people in
identification, assessment and management is integral to the effective
protection of indigenous heritage values.

Commonwealth reserves:

Australian IUCN reserve management principles (schedule 8 EPBC Regulations 2000)

Part 1 General administrative principles

1 Community participation

Management arrangements should, to the extent practicable, provide
for broad and meaningful participation by the community, public
organisations and private interests in designing and carrying out the
functions of the reserve or zone.

7 Joint management

If the reserve or zone is wholly or partly owned, by Aboriginal people,
continuing traditional use of the reserve or zone by resident indigenous
people, including the protection and maintenance of cultural heritage,
should be recognised.

Prior usage rights relating to Commonwealth reserves continue to have effect (s. 359), which is essential for addressing local communities’ concerns.

359 Prior usage rights relating to Commonwealth reserves continue to have effect

(1) None of the following provisions affect a usage right that was held by
a person (other than the Commonwealth or the Director) in relation to
land or seabed immediately before the land or seabed was included in
a Commonwealth reserve:

(a) provisions of this Division that relate to the reserve (whether or
not they also relate to another Commonwealth reserve);

(b) provisions of the regulations made for the purposes of this
Division that relate to the reserve (whether or not they also
relate to another Commonwealth reserve);

(c) provisions of a management plan for the reserve.

(2) None of the provisions described in subsection (1) affect the
application of a law of a State or Territory in relation to the usage
right.

(3) The usage right may be renewed or have its term extended only:

(a) with the Minister’s written consent; and

(b) subject to any conditions determined by the Minister.

This subsection has effect despite subsections (1) and (2) and any
other law of the Commonwealth, a State or a Territory.

(4) Subsections (1) and (2) apply in relation to a usage right relating to
minerals on, in or under land or seabed included in a Commonwealth
reserve as if the usage right were a usage right relating to the land or
seabed.

(5) This section applies to a right arising out of a usage right in the same
way as it applies to the usage right.
This section does not apply in relation to:
(a) a usage right relating to minerals in Kakadu National Park; or
(b) a usage right so far as it relates to mining operations for those minerals.

359A Traditional use of Commonwealth reserves by indigenous persons

(1) This Division and regulations made for the purposes of this Division do not prevent an indigenous person from continuing in accordance with law the traditional use of an area in a Commonwealth reserve for:
(a) hunting or food-gathering (except for purposes of sale); or
(b) ceremonial and religious purposes.

(2) However, regulations made for the purposes of this Division do affect an indigenous person’s traditional use of an area in a Commonwealth reserve if they:
(a) are made for the purpose of conserving biodiversity in the area; and
(b) expressly affect the traditional use of the area by indigenous persons.

Of further importance are the regulations regarding the establishment of a Board for a Commonwealth reserve on Indigenous people’s land (ch 5.15.4.F):

374 Simplified outline of this Subdivision

The Minister must establish a Board for a Commonwealth reserve that is wholly or partly on indigenous people’s land, if the land council for that land (or traditional owners) and the Minister agree that there should be a Board for the reserve.

The Board’s role is to make decisions and plans for management of the reserve, in conjunction with the Director.

A majority of Board members must be indigenous people nominated by traditional owners if the reserve is wholly or mostly on indigenous people’s land.

Further, see relevant parts of the heritage strategies (schedule 7C EPBC Regulations 2000)
1A strategy must include general matters, including the following:

(e) an outline of a process for consultation and liaison with the community on heritage matters, including, in particular, a process for consultation and liaison with indigenous stakeholders on indigenous heritage matters;

57. Are other cultural, social or spiritual considerations addressed? If so, describe.

See Q 56

14. Process and activities affecting PAs

58. Are there provisions in the instrument for EIA with respect to activities within PAs? If so, specify.

Yes; the EPBC Act contains comprehensive regulations on EIA for actions that require approval (ch 4).

EIA is also included in the regulations regarding the management of World Heritage sites and Ramsar wetlands (3 Australian World Heritage management principles, schedule 5 EPBC Regulations 2000 3. Environmental impact assessment and approval; Managing wetlands of international importance, schedule 6 EPBC Regulations 2000 3. Environmental impact assessment and approval)

EIA is also listed as one of the Australian IUCN reserve management principles (schedule 8 EPBC Regulations 2000 4 Minimum impact):

4 Minimum impact

The integrity of a reserve or zone is best conserved by protecting it from disturbance and threatening processes. Potential adverse impacts on the natural, cultural and social environment and surrounding communities should be minimised as far as practicable.

See also schedule 3 of the Intergovernmental Agreement on the Environment 1992:

ENVIRONMENTAL IMPACT ASSESSMENT

1. The parties agree that it is desirable to establish certainty about the application, procedures and function of the environmental impact assessment process, to improve the consistency of the approach applied by all levels of Government, to avoid duplication of process where more than one Government or level of Government is involved and interested in the subject matter of an assessment and to avoid delays in the process.

2. The parties agree that impact assessment in relation to a project, program or policy should include, where appropriate, assessment of environmental, cultural, economic, social and health factors.

3. The parties agree that all levels of Government will ensure that their
environmental impact assessment processes are based on the following:

i. the environmental impact assessment process will be applied to proposals from both the public and private sectors;

ii. assessing authorities will provide information to give clear guidance on the types of proposals likely to attract environmental impact assessment and on the level of assessment required;

iii. assessing authorities will provide all participants in the process with guidance on the criteria for environmental acceptability of potential impacts including the concept of ecologically sustainable development, maintenance of human health, relevant local and national standards and guidelines, protocols, codes of practice and regulations;

iv. assessing authorities will provide proposal specific guidelines or a procedure for their generation focussed on key issues and incorporating public concern together with a clear outline of the process;

v. following the establishment of specific assessment guidelines, any amendments to those guidelines will be based only on significant issues that have arisen following the adoption of those guidelines;

vi. time schedules for all stages of the assessment process will be set early on a proposal specific basis, in consultations between the assessing authorities and the proponent;

vii. levels of assessment will be appropriate to the degree of environmental significance and potential public interest;

viii. proponents will take responsibility for preparing the case required for assessment of a proposal and for elaborating environmental issues which must be taken into account in decisions, and for protection of the environment;

ix. there will be full public disclosure of all information related to a proposal and its environmental impacts, except where there are legitimate reasons for confidentiality including national security interests;

x. opportunities will be provided for appropriate and adequate public consultation on environmental aspects of proposals before the assessment process is complete;

xi. mechanisms will be developed to seek to resolve conflicts and disputes over issues which arise for consideration during the course of the assessment process;

xii. the environmental impact assessment process will provide a basis for setting environmental conditions, and establishing environmental monitoring and management programs (including arrangements for review) and developing industry guidelines for application in specific cases.

4. A general framework agreement between the Commonwealth and the States on the administration of the environmental impact assessment process will be
negotiated to avoid duplication and to ensure that proposals affecting more than one of them are assessed in accordance with agreed arrangements.

5. The Commonwealth and the States may approve or accredit their respective environmental impact assessment processes either generally or for specific purposes. Where such approval or accreditation has been given, the Commonwealth and the States agree that they will give full faith and credit to the results of such processes when exercising their responsibilities.

| 59. | Are there provisions in the instrument for EIA with respect to activities outside PAs which may affect the PA concerned, e.g. - in the buffer zone - elsewhere | There is no specific differentiation in the EPBC Act; see Q 58. |
| 60. | Are officers responsible for enforcement designated? If so, who appoints them and what necessary qualifications must they have (if any)? | Wardens, rangers, and inspectors are appointed by the Minister to enforce the provisions of the EPBC Act (ss 392 ff.). This can be any officer or employee of relevant departments, police officers, or other officers qualified for those duties. Members of the Australian Federal Police and each officer of Customs are wardens, rangers, and inspectors ex officio. |
| 61. | If so, what monitoring or other powers are they granted? Relate back to review of effectiveness of and feedback to the management plan. | Officers have a wide range of powers; for example, they may board vessels, aircraft, or vehicles (s 403), access and search premises (ss 405 and 406), and monitor compliance e.g. with electronic equipment at premises (ss 407 ff). |
| 62. | Does the instrument specify provisions to whom these officers report? If so, specify. | Not specifically, but in general, they all report in the final analysis to the Director of Parks. |
| 63. | Does the relevant agency have sole authority to enforce? If so, specify. | No. Members of the Australian Federal Police and each officer of Customs are wardens, rangers, and inspectors ex officio (see Q 60). |
| 64. | If the agency does not have sole authority to enforce, what other bodies are authorised to enforce? | See Q 60. |
| 65. | What is the relationship of agency enforcement officers to the police and other enforcement authorities? | See Q 60. |
| 66. | Do provisions specify enforcement powers and functions (arrest, stop and search, etc.). If so, specify. | Yes, powers of arrest and conducting a search of arrested persons and their premises (ss 430 ff.).
Powers to search goods, bags etc (s 443)
Power to ask questions about specimens (s 443A)
Powers to ask for names and addresses (s 444) |
| 67. | Are there provisions for criminal enforcement? If so, specify. | See Qs 61-66, and ss 468A-468D. |
| 68. | Are there provisions for civil enforcement (as distinct from criminal enforcement)? If so, specify. | Yes; see ss 481–486D. |

Civil enforcement provisions for each category commence at the following sections of the EPBC Act: s 12 (World Heritage); s 15B (National Heritage); s 16 (Ramsar wetland); s 20 (listed migratory species); s 23 (marine environment); and s 24B (Great Barrier Reef Marine Park).

The EPBC Act also includes provisions concerning enforcement of the legislation by an "interested person"; that is, outside the government; An "interested person" may include an individual or an organization whose interests are affected. Either may apply to the Federal Court for a prohibitory or mandatory injunction to stop any activity that may be an offence or which constitutes a contravention of the legislation (s 475 (6) and (7)).

For injunctions for contravention of the Act or Conservation Agreements see ss 475–480; these proceedings are taken in the Federal Court of Australia.

| 69. | Do provisions of the instrument provide for offences and related penalties? If so, specify. | Yes; s 7: Chapter 2 of the *Criminal Code* Act 1995 generally applies to all offences under the EPBC Act. |

There are specified penalties for offences related to World Heritage sites (s 15A), National Heritage places (s 15C), Ramsar wetland (s 17B), threatened species (s 18A), listed migratory species (s 20A), marine areas (s 24A), the Great Barrier Reef Marine Park (s 24C), and Commonwealth land (s 27A).

| 70. | Are the specified penalties an adequate deterrent for the seriousness of the offences? | Yes; the maximum penalties are significant; for example: “A person who takes an action that is likely to have a significant impact on a matter of national environmental significance, without first obtaining approval, can be liable for a civil penalty civil penalties are up to $550,000 for an individual and $5.5 million for a body corporate; criminal penalties are up to of seven years imprisonment and/or a penalty of $46,200.” See [http://www.environment.gov.au/epbc/compliance/compliance-mechanisms.html#penalties](http://www.environment.gov.au/epbc/compliance/compliance-mechanisms.html#penalties) See also Q 69. |
| 71. | Does the instrument include provisions for forfeiture, recovery of costs (e.g. pollution clean-up or restoration of ecosystems)? | Yes; see ss 499 – 501 on remedying environmental damage. Further, the Federal Court has the power to make remediation orders (ss 480A – 480C) and the Minister has the power to make remediation determinations (ss.480D – 480N). For regulations on disposal and forfeiture of seized items, see ch 6.17.10). |
| 72. | Does the instrument provide incentives or rewards for compliance with its provisions? | No. |
| 17. Finance | 73. Does the instrument include specific provisions on how PAs are funded? If so, specify. | The EPBC Act established the Australian National Parks Fund (ss 514R ff.). Responsibility for funding depends on the where the PA is situated. For example, the Commonwealth is responsible for the costs of Commonwealth-owned or controlled World Heritage properties (3.6 Australian World Heritage Intergovernmental Agreement 2010), while the States are responsible for the normal operating costs of State-owned or controlled World Heritage properties unless varied by partnership agreement (4.5 Australian World Heritage Intergovernmental Agreement 2010). Also take note of the Australian World Heritage funding principles (7. Australian World Heritage Intergovernmental Agreement 2010). |
| 74. | Does the instrument include provisions authorizing special financial tools for the PA System or for specific protected areas? If so, describe. | No specific tools are specified; however, s 514T specifies how the funds are to be applied: |
|  | | 514T Application of money |
|  | | (1) The money of the Australian National Parks Fund may be applied only: |
|  | | (a) in payment or discharge of the costs, expenses and other obligations incurred by the Director in the performance of the Director’s functions; and |
|  | | (b) in payment of any remuneration, allowances and compensation payable under this Division or Division 4 of Part 15. |
| 75. | Does the instrument include provisions for the PA agency to accept donations in cash or in kind? | Yes, the Director has the power to accept gifts, devises and bequests made to the Director whether on trust or otherwise, and to act as trustee of moneys or other property vested in the Director upon trust (s 514C(2)(f)). |
| 76. | Does the PA agency have the power to collect, retain and utilize revenues (e.g. entrance fees, fees for services, concessions). | Yes, see EPBC Regulations 2000 Part 18 and Schedule 11 for details on permit fees. Entrance fees are set in the management plans of each PA. Note for example the Reef Tax for entering the Great Barrier Reef Marine Park. |
77. Does the instrument provide for revenues to be shared or given to local communities? If so, please specify.

Not in relation to fee revenues as such... However, there are benefit-sharing provisions concerning agreements with indigenous for access to biological resources; see 8A.07, 8A.08 EPBC Regulations 2000.

8A.07 Benefit-sharing agreement required

(1) An applicant for a permit for access to biological resources for commercial purposes or potential commercial purposes in a Commonwealth area to which this Part applies must enter into a benefit-sharing agreement with each access provider for the resources.

Note 1 There may be more than one access provider for biological resources — see subregulation 8A.04 (1).

Note 2 Since benefit-sharing agreements under this Division may purport to affect native title rights and interests in relation to land or water, applicants need to be aware of the provisions of the Native Title Act 1993 and the availability of indigenous land use agreements under Division 3 of Part 2 of that Act as a means to validate actions that may otherwise be construed to be invalid future acts by that Act.

(2) If an access provider is the Commonwealth, the Secretary of the Commonwealth Department with administrative responsibility for the Commonwealth area may, on behalf of the Commonwealth, enter into the benefit-sharing agreement.

(3) An agreement may be both a benefit-sharing agreement, if it complies with this Division, and an indigenous land use agreement within the meaning of the Native Title Act 1993.

(4) The Minister may publish in the Gazette a model benefit-sharing agreement as a guide for applicants.

8A.08 Benefit-sharing agreements

A benefit-sharing agreement must provide for reasonable benefit-sharing arrangements, including protection for, recognition of and valuing of any indigenous people’s knowledge to be used, and must include the following:

(a) full details of the parties to the agreement;
(b) details regarding the time and frequency of entry to the area that has been agreed to be granted;
(c) the resources (including the name of the species, or lowest level of taxon, to which the resources belong, if known) to which access
has been agreed to be granted and the quantity of the resources that has been agreed can be collected;
(d) the quantity of the resources that has been agreed can be removed from the area;
(e) the purpose of the access, as disclosed to the access provider;
(f) a statement setting out the proposed means of labelling samples;
(g) the agreed disposition of ownership in the samples, including details of any proposed transmission of samples to third parties;
(h) a statement regarding any use of indigenous people’s knowledge, including details of the source of the knowledge, such as, for example, whether the knowledge was obtained from scientific or other public documents, from the access provider or from another group of indigenous persons;
(i) a statement regarding benefits to be provided or any agreed commitments given in return for the use of the indigenous people’s knowledge;
(j) if any indigenous people’s knowledge of the access provider, or other group of indigenous persons, is to be used, a copy of the agreement regarding use of the knowledge (if there is a written document), or the terms of any oral agreement, regarding the use of the knowledge;
(k) the details of any proposals of the applicant to benefit biodiversity conservation in the area if access is granted;
(l) details of the benefits that the access provider will receive for having granted access.