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# Environment Protection and Biodiversity Conservation Regulations 2000

Statutory Rules 2000 No.   

181

I, WILLIAM PATRICK DEANE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Environment Protection and Biodiversity Conservation Act 1999*.

Dated 5 JUL 2000 2000

WILLIAM DEANE

Governor-General

By His Excellency's Command

ROBERT HILL  
 Minister for the Environment and Heritage



# Environment Protection and Biodiversity Conservation Regulations 2000

Statutory Rules 2000 No. /<sup>1</sup>

181

made under the

*Environment Protection and Biodiversity Conservation  
Act 1999*

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## Contents

	Page
<b>Part 1 Preliminary</b>	
1.01 Name of Regulations	11
1.02 Commencement	11
1.03 Definitions — the dictionary	11
<b>Part 2 Matters of national environmental significance</b>	
2.01 Nuclear action (Act s 22 (1))	12
2000, /	1
<i>Environment Protection and Biodiversity Conservation Regulations 2000</i>	181

	Page
2.02 Nuclear activity level (Act s 22 (1))	12
2.03 Large-scale disposal facility (Act s 22 (2))	13
<b>Part 3 Bilateral agreements to which s 47 (1) of the Act apply</b>	
<b>Division 3.1 Preliminary</b>	
3.01 Application of Part 3	14
<b>Division 3.2 General requirements</b>	
3.02 Classification of assessment approaches	14
3.03 Public access to assessment documentation	14
3.04 Public comment — particular needs groups	15
<b>Division 3.3 Classes of actions not needing assessment</b>	
3.05 Application of Division 3.3	15
<b>Part 4 Referral of proposals to take action</b>	
4.01 Purpose of Part 4	16
4.02 The way referrals must be made	16
4.03 Information that must be included in referrals	16
<b>Part 5 Assessing impact of controlled actions</b>	
<b>Division 5.1 Preliminary information for assessment</b>	
5.01 Purpose of Division 5.1	17
5.02 How preliminary information must be given	17
5.03 What preliminary information must be given	17
<b>Division 5.2 Matters to be addressed by draft public environment report and environmental impact statement</b>	
5.04 Matters that must be addressed in draft public environment report and environmental impact statement	18
<b>Part 6 Minister's advice on authorising actions</b>	
6.01 Actions for which Minister's advice must be obtained	19
6.02 Content of referral of proposal to the Minister	19

	Page
<b>Part 7 Species and communities</b>	
<b>Division 7.1 Listing</b>	
7.01 Criteria for listing threatened species	21
7.02 Criteria for listing threatened ecological communities	22
<b>Division 7.2 Nominations for listing</b>	
7.03 Purpose of Division 7.2	24
7.04 Form of nomination — general	24
7.05 Nomination for native species	24
7.06 Nomination for ecological communities	25
7.07 Nomination for key threatening processes	26
<b>Division 7.3 Notification of action</b>	
7.08 Particulars to be notified	27
<b>Division 7.4 Register of critical habitat</b>	
7.09 Identification of critical habitat	28
7.10 Requirements for register of critical habitat	29
<b>Division 7.5 Recovery plans and threat abatement plans</b>	
7.11 Content of recovery plans	30
7.12 Content of threat abatement plans	31
<b>Division 7.6 Conservation agreements</b>	
7.13 Variation and termination of conservation agreements	31
<b>Part 8 Interacting with cetaceans and whale watching</b>	
<b>Division 8.1 Interacting with cetaceans</b>	
8.01 Purpose of Division 8.1	32
8.02 Application of Division 8.1	32
8.03 Restricted craft	32
8.04 Other craft	32
8.05 Aircraft	35
8.06 Feeding	36
8.07 Touching and sudden movements	36
8.08 Noise	36
8.09 Swimming	36
2000, <i>Environment Protection and Biodiversity Conservation Regulations 2000</i>	3

	Page
<b>Division 8.2</b>	<b>Whale watching</b>
8.10	Purpose of Division 8.2 37
8.11	Application of Division 8.2 37
8.12	How whale watching is to be carried out 37
<b>Part 9</b>	<b>Conservation of biodiversity in Commonwealth areas</b>
9.01	Purpose of Part 9 38
9.02	Application of Part 9 38
9.03	Offences in relation to protected species 38
9.04	Approved management plan 39
<b>Part 10</b>	<b>Protected areas (other than Commonwealth reserves)</b>
10.01	Australian World Heritage management principles 40
10.02	Managing wetlands of international importance 40
10.03	Australian Biosphere reserve management principles 40
10.04	Australian IUCN reserve management principles 40
<b>Part 11</b>	<b>Commonwealth reserves</b>
<b>Division 11.1</b>	<b>Application</b>
11.01	Application of Part 11 41
<b>Division 11.2</b>	<b>Boards for Commonwealth reserves on indigenous people's land</b>
11.02	Disclosure of interests 41
11.03	Deputy members 41
11.04	Presiding members 42
11.05	Meetings 42
<b>Division 11.3</b>	<b>Special rules for some Commonwealth reserves in the Northern Territory and Jervis Bay Territory</b>
<b>Subdivision 11.3.1</b>	<b>Prescribed routes and activities for mining operations</b>
11.06	Transportation routes in Kakadu National Park 44
11.07	Pipeline and power line routes in Kakadu National Park 44
11.08	Activities in Kakadu National Park 44
4	<i>Environment Protection and Biodiversity Conservation Regulations 2000</i>

	Page
<b>Subdivision 11.3.2 Town plans</b>	
11.09 Purpose of Subdivision 11.3.2	44
11.10 Approval of town plan by Director	44
11.11 Director may prepare plan	45
11.12 Amending approved plan	46
11.13 Revocation of town plan	46
<b>Part 12 Activities in Commonwealth reserves</b>	
<b>Division 12.1 Preliminary</b>	
12.01 Purpose of Part 12	47
12.02 Application of Part 12	47
12.03 Determinations by the Director	47
12.04 Specifying time by reference to events	47
12.05 Publication requirement	48
<b>Division 12.2 Regulatory provisions</b>	
<b>Subdivision 12.2.1 Preliminary</b>	
12.06 Activities that are not offences under Division 12.2	48
12.07 Regulations not applying in Jabiru township	50
12.08 Authorising activities by indigenous people	50
12.09 Activities in Commonwealth reserves where management plans in force	51
<b>Subdivision 12.2.2 General offences</b>	
12.10 Scientific research	52
12.11 Excavating, building and works	52
12.12 Damaging, defacing features etc	52
12.13 Damaging etc heritage	52
12.14 Dumping of waste, littering etc	53
12.15 Use of poisonous substances	53
12.16 Fossicking, removal of earth materials etc	54
12.17 Activities relating to caves and karst	54
12.18 Use etc of firearms, nets and other devices	54
12.19 Taking animals into Commonwealth reserve	56
12.20 Taking plants into Commonwealth reserve	57
12.21 Cultivating plants	58
12.22 Failing to comply with directions to remove plants	58
12.23 Entering prohibited or restricted area	59
12.24 Capturing images or recording sound	59
12.25 Failing to comply with safety directions	60
2000, <i>Environment Protection and Biodiversity Conservation Regulations 2000</i>	5

	Page
12.26 Adventurous activities	60
12.27 Public nuisance	61
12.28 Camping	62
12.29 Failing to comply with directions about camping	63
12.30 Lighting fires	63
12.31 Public gatherings	64
12.32 Burials	65
12.33 Erection of commemorative markers	65
12.34 Commercial fishing	65
12.35 Fishing other than commercial fishing	66
12.36 Commercial activities	68
12.37 Sale of liquor	69
12.38 Deriving commercial gain from images captured	69
12.39 Collections	69
12.40 Erecting signs	69
<b>Subdivision 12.2.3 Traffic</b>	
12.41 Vehicle use of tracks or roads	70
12.42 Director's control of vehicle use of tracks or roads	70
12.43 Speed limits and one-way traffic	71
12.44 Parking and stopping	72
12.45 Parking permits	73
12.46 Voucher machines and parking vouchers	73
12.47 Parking fees	74
12.48 Parking permits and parking vouchers	74
12.49 Daily parking offence	75
12.50 Interference with parking permits or parking vouchers	75
12.51 Abuse of voucher machines	76
12.52 Unauthorised installation of voucher machines	76
12.53 Signs for controlling traffic etc	77
12.54 Vehicles to stop as required	78
12.55 Walking on roads or marked tracks	78
12.56 Use of vessels	79
12.57 Signs relating to use of vessels	80
12.58 Use of aircraft	81
<b>Subdivision 12.2.4 Administration</b>	
12.59 Obligation to produce permit	82
12.60 Removal of trespassers and offenders	82
12.61 Payment of fees and charges etc	82
12.62 Liability of owner of vehicle etc for offences	83

	Page
12.63 Copy of statutory declaration to be served with summons	87
12.64 Impounding or removal of vehicles etc	87
12.65 Impounding animals	89
12.66 Control of non-native species	90
<b>Part 13 Conservation zones</b>	
13.01 Purpose of Part 13	91
13.02 Application of Regulations for conservation zones	91
<b>Part 14 Enforcement</b>	
<b>Division 14.1 Wardens, rangers and inspectors</b>	
14.01 Ranger may ask for person's name and address	93
<b>Division 14.2 Infringement notices</b>	
14.02 Purpose of Division 14.2	94
14.03 Infringement notices	94
14.04 Service of infringement notices	96
14.05 Extension of time to pay	97
14.06 Payment by instalments	97
14.07 If infringement notice disputed	98
14.08 Payment of penalty if infringement notice not withdrawn	99
14.09 Effect of payment of infringement notice penalty	99
14.10 Admissions under paragraph 14.03 (2) (h)	100
14.11 Matter not to be taken into account in determining sentence	100
14.12 Evidence for hearing	100
14.13 Payment of penalty by cheque	101
14.14 Infringement notice not compulsory, etc	101
<b>Division 14.3 Review of administrative decisions</b>	
14.15 Definition for Division 14.3	102
14.16 Consideration and review of decisions of Director	102
14.17 Objects or purposes of organisation or association	103



	Page
<b>Part 15 Committees</b>	
<b>Division 15.1 Disclosure of Interests</b>	
15.01 Pecuniary interests	104
<b>Division 15.2 Committee procedure</b>	
15.02 Purpose of Division 15.2	105
15.03 Convening meetings	105
15.04 Presiding at meetings	105
15.05 Quorum	105
15.06 Voting at meetings	105
<b>Part 16 Publication</b>	
<b>Division 16.1 General publication requirements</b>	
16.01 Application of Division 16.1	107
16.02 Publication requirements	107
<b>Division 16.2 Publication requirements for specified matters</b>	
16.03 Place of publication	108
16.04 Additional publication requirements for designated proponent	109
16.05 Publication of information about assessments	110
<b>Division 16.3 Prescribed places for purchase of published material</b>	
16.06 Prescribed places for purchase of lists	111
16.07 Prescribed places for purchase of plans	111
16.08 Prescribed places for purchase of conservation agreements and lists	112
<b>Part 17 Permits</b>	
17.01 Application of Part 17	113
17.02 Application for a permit	113
17.03 Issue of permit	115
17.04 Content of permits	116
17.05 Circumstances that must apply	116
17.06 Statement by applicant	119
17.07 Relevant offences	119
17.08 Contravention of condition of permit	120

	Page
17.09 Varying or revoking conditions	120
17.10 Authorities under permits	121
17.11 Transfer of a permit	122
17.12 Suspension or cancellation of a permit	123
<b>Part 18 Permit fees</b>	
18.01 Components of a fee for a permit	125
18.02 Fee amount	125
18.03 Reduction of fees	126
18.04 Exemption from fees	126
<b>Part 19 Miscellaneous</b>	
19.01 Allowances for witnesses	128
<b>Part 20 Transitional</b>	
20.01 Permits	129
20.02 Determinations, prohibitions, restrictions and authorities	129
20.03 Established pound	130
20.04 Time-limited declarations and specifications	130
20.05 Declarations that may remain in force for 2 years	130
20.06 Other continuing matters	131
<b>Schedule 1 Classes of actions not needing assessment</b>	132
<b>Schedule 2 Referral information</b>	136
<b>Schedule 3 Preliminary information</b>	139
Part 1 General requirements	139
Part 2 Requirements for actions to which section 160 of the Act applies	142

---

	Page	
<b>Schedule 4</b>	<b>Matters to be addressed by draft public environment report and environmental impact statement</b>	144
<b>Schedule 5</b>	<b>Australian World Heritage management principles</b>	148
<b>Schedule 6</b>	<b>Managing wetlands of international importance</b>	151
<b>Schedule 7</b>	<b>Australian Biosphere reserve management principles</b>	154
<b>Schedule 8</b>	<b>Australian IUCN reserve management principles</b>	156
Part 1	General administrative principles	156
Part 2	Principles for each IUCN category	157
<b>Schedule 9</b>	<b>Routes in Kakadu National Park</b>	163
Part 1	Transportation routes	163
Part 2	Pipeline and power line routes	165
<b>Schedule 10</b>	<b>Infringement notice offences</b>	166
<b>Schedule 11</b>	<b>Permit fees</b>	167
<b>Schedule 12</b>	<b>Protected species</b>	171
<b>Dictionary</b>		173

## Part 1 Preliminary

### 1.01 Name of Regulations

These Regulations are the *Environment Protection and Biodiversity Conservation Regulations 2000*.

### 1.02 Commencement

These Regulations commence on 16 July 2000.

### 1.03 Definitions — the dictionary

- (1) The dictionary at the end of these Regulations defines certain words and expressions, and includes references to certain words and expressions that are defined in the Act or elsewhere in these Regulations (*signpost definitions*).

*Example*

The signpost definition '*aircraft* — see Act, section 528' means that the expression *aircraft* is defined in section 528 of the Act.

- (2) The dictionary is part of these Regulations.
- (3) A definition in these Regulations applies to each use of the word or expression in these Regulations, unless the contrary intention appears.

**Regulation 2.01**

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## **Part 2                      Matters of national    environmental significance**

### **2.01      Nuclear action (Act s 22 (1))**

For paragraph (g) of the definition of *nuclear action* in subsection 22 (1) of the Act, a nuclear action includes establishing, significantly modifying, decommissioning or rehabilitating a facility where radioactive materials at or above the activity level mentioned in regulation 2.02 are, were, or are proposed to be used or stored.

### **2.02      Nuclear activity level (Act s 22 (1))**

- (1) For paragraphs (c) and (d) of the definition of *nuclear installation* in subsection 22 (1) of the Act, the activity level is:
- (a) if the installation contains only 1 type of nuclide and all sources of that nuclide are sealed sources —  $10^9$  times the activity mentioned for the nuclide in column 4 of Part 2 of Schedule 2 to the ARPNS Regulations; or
  - (b) if the installation contains only 1 type of nuclide and all sources of that nuclide are unsealed sources —  $10^6$  times the activity mentioned in column 4 of Part 2 of Schedule 2 to the ARPNS Regulations for the nuclide at or above the activity concentration mentioned in column 3 of Part 2 of that Schedule for the nuclide; or
  - (c) in any other case — a level for which a mixture of sealed and unsealed sources of nuclides is excessive.
- (2) A mixture is excessive if:
- (a) the sealed source activity value is greater than  $10^9$ ; or
  - (b) the unsealed source activity value is greater than  $10^6$  and the unsealed source activity concentration value is greater than 1; or
  - (c) both:
    - (i) the sum of the sealed source activity value divided by  $10^9$  and the unsealed source activity value divided by  $10^6$  is greater than 1; and

**Regulation 2.03**

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- (ii) the unsealed source activity concentration value is greater than 1.

(3) In this regulation:

*sealed source activity value* means the sum of the fractions calculated for each nuclide by dividing the activity of the nuclide in the mixture in sealed sources by the activity mentioned in column 4 of Part 2 of Schedule 2 to the ARPNS Regulations for the nuclide.

*unsealed source activity concentration value* means the sum of the fractions calculated for each nuclide by dividing the activity concentration for each nuclide in the mixture by the activity concentration mentioned in column 3 of Part 2 of Schedule 2 to the ARPNS Regulations for the nuclide.

*unsealed source activity value* means the sum of the fractions calculated for each nuclide by dividing the activity of each nuclide in the mixture in unsealed sources by the activity mentioned in column 4 of Part 2 of Schedule 2 to the ARPNS Regulations for the nuclide.

**2.03 Large-scale disposal facility (Act s 22 (2))**

For the definition of *large-scale disposal facility* in subsection 22 (2) of the Act, a facility used for the disposal of radioactive materials at or above the activity level mentioned in regulation 2.02 is prescribed.

## **Part 3 Bilateral agreements to which s 47 (1) of the Act apply**

### **Division 3.1 Preliminary**

#### **3.01 Application of Part 3**

For paragraph 50 (b) of the Act, this Part sets out the requirements that the Minister must be satisfied are met by a bilateral agreement that includes a declaration under subsection 47 (1) of the Act before the Minister enters into the agreement.

### **Division 3.2 General requirements**

#### **3.02 Classification of assessment approaches**

The bilateral agreement must:

- (a) identify each assessment approach used in the manner of assessment specified in the agreement; and
- (b) for each assessment approach, state that it is taken to correspond to assessment:
  - (i) on preliminary documentation under Division 4 of Part 8 of the Act; or
  - (ii) by public environment report under Division 5 of Part 8 of the Act; or
  - (iii) by environmental impact statement under Division 6 of Part 8 of the Act; or
  - (iv) by inquiry under Division 7 of Part 8 of the Act.

#### **3.03 Public access to assessment documentation**

- (1) The bilateral agreement must provide that documentation about each assessment made under the manner of assessment specified in the agreement must be made available to the public.

- (2) However, the bilateral agreement may provide that access to relevant documents may be restricted if it would not be available if the action to which the bilateral agreement applies had been assessed under Part 8 of the Act by the Commonwealth.

*Note* Information is not available on the grounds of national security, if it is advice to the Minister or if it is commercial-in-confidence. See, for example, the Act, section 95.

### **3.04 Public comment — particular needs groups**

The bilateral agreement must provide that special arrangements should be made, if appropriate, to ensure that affected groups with particular communication needs have adequate opportunity to comment on actions to be assessed under the manner of assessment specified in the agreement.

## **Division 3.3 Classes of actions not needing assessment**

### **3.05 Application of Division 3.3**

- (1) This Division applies to each manner of assessment specified in an agreement described in subsection 47 (1) of the Act.
- (2) The bilateral agreement may make a declaration in accordance with subsection 47 (1) of the Act only if the specified manner of assessment meets the criteria mentioned in Schedule 1.



**Regulation 4.01**

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## **Part 4                      Referral of proposals to take action**

### **4.01            Purpose of Part 4**

For section 72 of the Act, this Part sets out:

- (a) how to refer a proposal to take an action; and
- (b) what information such a referral must include.

### **4.02            The way referrals must be made**

A referral must:

- (a) be given to the Department; and
- (b) be made in writing or electronically; and
- (c) be of a length, size and form that can readily be:
  - (i) understood by the public; and
  - (ii) published on the internet.

### **4.03            Information that must be included in referrals**

- (1) A referral must include the information mentioned in Schedule 2.
- (2) However, information does not have to be included if it would, in all the circumstances, be unreasonable to expect the information to be included.

*Example of information that does not have to be included*

Information of a kind that could only reasonably be obtained by preparing an environmental impact statement.

*Note 1* If the Minister believes on reasonable grounds that not enough information has been given for the Minister to decide whether the action is a controlled action, the Minister may ask for more information to be given — see Act, section 76.

*Note 2* It is an offence to be reckless or negligent as to whether information provided under this regulation is false or misleading in a material particular — see Act, section 489.

## **Part 5                      Assessing impact of    controlled actions**

### **Division 5.1              Preliminary information for    assessment**

#### **5.01              Purpose of Division 5.1**

For section 86 of the Act, this Division sets out:

- (a) what information the designated proponent of an action, or a person proposing to take an action, must give to the Minister; and
- (b) how the information is to be given.

#### **5.02              How preliminary information must be given**

The information must:

- (a) be given to the Department; and
- (b) be given in writing or electronically; and
- (c) be of a length, size and form that can readily be:
  - (i) understood by the public; and
  - (ii) published on the internet.

#### **5.03              What preliminary information must be given**

- (1) The information that must be given to the Minister is the information mentioned in:
  - (a) for information that must be given because of the operation of section 162 of the Act — Part 2 of Schedule 3; and
  - (b) in any other case — Part 1 of Schedule 3.
- (2) Information may be given by reference to information given:
  - (a) under regulation 4.03 in the referral of the proposal to take an action; or

**Regulation 5.04**

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- (b) under regulation 17.02 in an application for a permit in relation to whales, dolphins or porpoises.
- (3) However, information, including information mentioned in item 8 of Part 1 of Schedule 3, does not have to be included if, in all the circumstances, it would be unreasonable to expect the information to be included.
- Example of information that does not have to be included*  
Information of a kind that could only reasonably be obtained by preparing an environmental impact statement.
- Note 1* If the Minister believes on reasonable grounds that not enough information has been given for the Minister to decide whether the action is a controlled action, the Minister may ask for more information to be given — see Act, section 86.
- Note 2* It is an offence to be reckless or negligent as to whether information provided under this regulation is false or misleading in a material particular — see Act, section 489.
- (4) Information given under this Division must state:
- (a) the source of the information; and
  - (b) how recent the information is; and
  - (c) how the reliability of the information was tested; and
  - (d) what uncertainties (if any) are in the information.

**Division 5.2 Matters to be addressed by draft public environment report and environmental impact statement**

**5.04 Matters that must be addressed in draft public environment report and environmental impact statement**

For paragraphs 97 (2) (b) and 102 (2) (b) of the Act, the Minister must seek to ensure a draft public environment report or environmental impact statement addresses the matters mentioned in Schedule 4.

## Part 6 Minister's advice on authorising actions

### 6.01 Actions for which Minister's advice must be obtained

For paragraph 160 (2) (d) of the Act, each of the following actions, if it has, will have or is likely to have a significant impact on the environment, is prescribed:

- (a) an action authorised by a permit under the *Environment Protection (Sea Dumping) Act 1981*;
- (b) an action authorised by a Basel permit, or by a variation of a Basel permit, under the *Hazardous Waste (Regulation of Exports and Imports) Act 1989*;
- (c) an action authorised by a grant, renewal or variation of a permit or the grant of an exemption certificate under the *Sea Installations Act 1987*;
- (d) an action authorised by a permit or authority under the *Wildlife Protection (Regulation of Exports and Imports) Act 1982*;
- (e) an action authorised by a permit or authority (however described) under the *Great Barrier Reef Marine Park Act 1975* or the *Great Barrier Reef Marine Park Regulations 1983*.

### 6.02 Content of referral of proposal to the Minister

For subsection 161 (4) of the Act, a referral must include the following information:

- (a) the name, address and telephone number of:
  - (i) the Commonwealth agency or employee of the Commonwealth making the referral; and
  - (ii) the person proposing to take the action; and
  - (iii) the person nominated by the Commonwealth agency or employee of the Commonwealth as the designated proponent;
- (b) the kind of authorisation of the action that the Commonwealth agency or employee proposes to give;

**Regulation 6.02**

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- (c) a general description of the location of the action;
- (d) the timeframe in which the action is proposed to be taken.

## Part 7 Species and communities

### Division 7.1 Listing

#### 7.01 Criteria for listing threatened species

For section 179 of the Act, a native species is in the critically endangered, endangered or vulnerable category if it meets any of the criteria for the category mentioned in the following table:

Item	Criterion	Category		
		Critically endangered	Endangered	Vulnerable
1	It has undergone, is suspected to have undergone or is likely to undergo in the immediate future:	a very severe reduction in numbers	a severe reduction in numbers	a substantial reduction in numbers
2	Its geographic distribution is precarious for the survival of the species and is:	very restricted	restricted	limited
3	The estimated total number of mature individuals is: and:	very low	low	limited
	(a) evidence suggests that the number will continue to decline at:	a very high rate	a high rate	a substantial rate
	or			
	(b) the number is likely to continue to decline and its geographic distribution is:	precarious for its survival	precarious for its survival	precarious for its survival

**Regulation 7.02**

Item	Criterion	Category		
		Critically endangered	Endangered	Vulnerable
4	The estimated total number of mature individuals is:	extremely low	very low	low
5	The probability of its extinction in the wild is at least:	50% in the immediate future	20% in the near future	10% in the medium-term future

*Note* The Scientific Committee is to advise the Minister on the amendment and updating of the list of critically endangered, endangered or vulnerable species — see Act, paragraph 503 (b).

**7.02 Criteria for listing threatened ecological communities**

For section 182 of the Act, an ecological community is in the critically endangered, endangered or vulnerable category if it meets any of the criteria for the category mentioned in the following table:

Item	Criterion	Category		
		Critically endangered	Endangered	Vulnerable
1	Its decline in geographic distribution is:	very severe	severe	substantial
2	Its geographic distribution is: and the nature of its distribution makes it likely that the action of a threatening process could cause it to be lost in:	very restricted the immediate future	restricted the near future	limited the medium-term future
3	For a population of a native species that is likely to play a major role in the community, there is a:	very severe decline	severe decline	substantial decline

Item	Criterion	Category		
		Critically endangered	Endangered	Vulnerable
	to the extent that restoration of the community is not likely to be possible in:	the immediate future	the near future	the medium-term future
4	The reduction in its integrity across most of its geographic distribution is:	very severe	severe	substantial
	as indicated by degradation of the community or its habitat, or disruption of important community processes, that is:	very severe	severe	substantial
5	Its rate of continuing detrimental change is:	very severe	severe	substantial
	as indicated by:			
	(a) a rate of continuing decline in its geographic distribution, or a population of a native species that is believed to play a major role in the community, that is:	very severe	severe	serious
	or			
	(b) intensification, across most of its geographic distribution, in degradation, or disruption of important community processes, that is:	very severe	severe	serious



**Regulation 7.03**

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Item	Criterion	Category		
		Critically endangered	Endangered	Vulnerable
6	A quantitative analysis shows that its probability of extinction, or extreme degradation over all of its geographic distribution, is:	at least 50% in the immediate future	at least 20% in the near future	at least 10% in the medium-term future

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*Note* The Scientific Committee is to advise the Minister on the amendment and updating of the list of critically endangered, endangered or vulnerable ecological communities — see Act, paragraph 503 (b).

## **Division 7.2 Nominations for listing**

### **7.03 Purpose of Division 7.2**

For subsection 191 (1) of the Act, this Division sets out how a nomination to the Minister must be made.

*Note* A person may nominate a native species, an ecological community or a threatening process to be included in a list or a particular category of a list — see Act, section 191.

### **7.04 Form of nomination — general**

A nomination must:

- (a) be in writing or electronic form; and
- (b) include the full name, signature, address, telephone number and e-mail address (if any) of each person making the nomination.

### **7.05 Nomination for native species**

- (1) This regulation applies to a nomination for a native species to be included in a particular category of the list referred to in section 178 of the Act.
- (2) The nomination must include the following information:
  - (a) the scientific name (if any) of the species;

- (b) any common name, or names by which the species is known to a person making the nomination;
  - (c) if the species is not conventionally accepted:
    - (i) a taxonomic description of the species in a form suitable for publication in conventional scientific literature; or
    - (ii) if a description for subparagraph (i) is not available, evidence that a scientific institution has a specimen of the species and a written statement, signed by a person who is a taxonomist and has relevant expertise, that the person thinks the species is a new species;
  - (d) the category for which the species is nominated;
  - (e) why a person making the nomination thinks that the species comes within the definition of the category for which it is nominated;
  - (f) if a species is nominated for a category mentioned in subsection 179 (3), (4) or (5) of the Act, why a person making the nomination thinks that the species meets the criteria mentioned in regulation 7.01 for the category.
- (3) For subparagraph (2) (c) (ii), a person has *relevant expertise* if the person has worked, or is a published author, on the class of species nominated.

## **7.06 Nomination for ecological communities**

- (1) This regulation applies to a nomination for an ecological community to be included in a particular category of the list referred to in section 181 of the Act.
- (2) The nomination must include the following information:
  - (a) the generally accepted name (if any) of the ecological community;
  - (b) a description of the ecological community that distinguishes it from any other ecological community by reference to:
    - (i) its biological and non-biological components; and
    - (ii) the processes by which those components interact (if known); and

**Regulation 7.07**

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- (iii) its known natural distribution, including the bioregions where it occurs;
- (c) why a person making the nomination thinks that the ecological community meets the criteria mentioned in regulation 7.02 for the category for which it is nominated.

**7.07 Nomination for key threatening processes**

- (1) This regulation applies to a nomination for a threatening process to be included in the list mentioned in section 183 of the Act.
- (2) The nomination must include the following information:
  - (a) a description of the threatening process that distinguishes it from any other threatening process by reference to:
    - (i) its biological and non-biological components; and
    - (ii) the processes by which those components interact (if known);
  - (b) a name for the threatening process;
  - (c) any species listed in a category of the list referred to in section 178 of the Act, or ecological community listed in a category of the list mentioned in section 181 of the Act, that is considered by a person making the nomination to be adversely affected by the threatening process;
  - (d) any species or ecological community, other than those listed in a category of the lists mentioned in section 178 or 181 of the Act, that could become eligible for listing in 1 of those categories because of the threatening process;
  - (e) why a person making the nomination thinks that the process is eligible to be treated as a key threatening process under subsection 188 (4) of the Act.

## **Division 7.3      Notification of action**

### **7.08      Particulars to be notified**

- (1) This regulation sets out the particulars of an action of which a person must notify the Secretary under the following provisions of the Act:
  - (a) paragraph 199 (2) (b);
  - (b) paragraph 214 (2) (b);
  - (c) paragraph 232 (2) (b);
  - (d) paragraph 256 (2) (b).
- (2) The particulars are:
  - (a) the time and place of the action; and
  - (b) the circumstances that led to the action; and
  - (c) the number of members of each species affected by the action; and
  - (d) the consequences of the action.

## **Division 7.4 Register of critical habitat**

### **7.09 Identification of critical habitat**

- (1) For subsection 207A (1) of the Act, the Minister may, in identifying habitat, take into account the following matters:
  - (a) whether the habitat is used during periods of stress;  
*Examples of period of stress*  
Flood, drought or fire.
  - (b) whether the habitat is used to meet essential life cycle requirements;  
*Examples*  
Foraging, breeding, nesting, roosting, social behaviour patterns or seed dispersal processes.
  - (c) the extent to which the habitat is used by important populations;
  - (d) whether the habitat is necessary to maintain genetic diversity and long-term evolutionary development;
  - (e) whether the habitat is necessary for use as corridors to allow the species to move freely between sites used to meet essential life cycle requirements;
  - (f) whether the habitat is necessary to ensure the long-term future of the species or ecological community through reintroduction or re-colonisation;
  - (g) any other way in which habitat may be critical to the survival of a listed threatened species or a listed threatened ecological community.
- (2) The Minister must, when making or adopting a recovery plan, consider whether to list habitat that is identified in the recovery plan as being critical to the survival of the species or ecological community for which the recovery plan is made or adopted.
- (3) Before listing habitat in the register, the Minister must:
  - (a) consider any advice from the Scientific Committee about whether the habitat is critical to the survival of a listed threatened species or listed threatened community; and

**Regulation 7.10**

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- (b) if the habitat is not in a Commonwealth area, be satisfied that reasonable steps have been taken to consult with the owner of the property where the habitat is located.

**7.10 Requirements for register of critical habitat**

- (1) For subsection 207A (1) of the Act, a description of habitat listed in the register must include:
  - (a) enough information to identify the habitat, including its location and extent; and
  - (b) the reasons the habitat was identified as critical habitat.
- (2) A copy of the register must be available for public inspection at an office of the Department and an appropriate location on the internet.
- (3) However, information on the register is not to be made available for public inspection if the Minister believes that it is necessary to keep the information confidential to protect:
  - (a) the species or ecological community or the habitat; or
  - (b) the interests of relevant landholders.

## **Division 7.5 Recovery plans and threat abatement plans**

### **7.11 Content of recovery plans**

- (1) For paragraph 270 (2) (j) of the Act, a recovery plan must describe to the extent practicable, with spatial information:
  - (a) the location of species or ecological communities for which it is made; and
  - (b) areas of habitat that are critical to the survival of the species or ecological communities; and
  - (c) important populations of the species or ecological communities that are necessary for their long-term survival and recovery; and
  - (d) any areas that are affected by a threatening process.
- (2) A recovery plan should state:
  - (a) what must be done to stop the decline of, and support the recovery and survival of, the species or ecological community, including action:
    - (i) to protect important populations; and
    - (ii) to protect and restore habitat; and
    - (iii) to manage and reduce threatening processes; and
  - (b) to the extent possible, what management practices are necessary to avoid a significant adverse impact on the species or ecological community.
- (3) For paragraph 270 (2) (d) of the Act, the criteria mentioned in regulation 7.09 must be considered in identifying habitat that is critical to the survival of the species or community concerned.

**7.12 Content of threat abatement plans**

For paragraph 271 (2) (g) of the Act, a threat abatement plan must state:

- (a) any of the following that may be adversely affected by the key threatening process concerned:
  - (i) listed threatened species or listed threatened ecological communities;
  - (ii) areas of habitat listed in the register of critical habitat kept under section 207A of the Act;
  - (iii) any other native species or ecological community that is likely to become threatened if the process continues; and
- (b) in what areas the actions specified in the plan most need to be taken for threat abatement.

**Division 7.6 Conservation agreements****7.13 Variation and termination of conservation agreements**

For subsection 308 (6) of the Act, the Minister must cause a copy of an order terminating or varying a conservation agreement to be laid before each House of the Parliament within 20 sitting days after publication of the order.



## **Part 8 Interacting with cetaceans and whale watching**

### **Division 8.1 Interacting with cetaceans**

#### **8.01 Purpose of Division 8.1**

For paragraph 247 (d) of the Act, this Division provides for the protection and conservation of cetaceans.

#### **8.02 Application of Division 8.1**

- (1) This Division applies in the Australian Whale Sanctuary, other than the coastal waters of a State or the Northern Territory for which a declaration under section 228 of the Act is in force.
- (2) A person does not contravene this Division only because:
  - (a) a cetacean approaches the person; or
  - (b) the person takes an action to which section 231 of the Act applies.

#### **8.03 Restricted craft**

- (1) This regulation applies to a person who is operating a restricted craft in the Australian Whale Sanctuary.
- (2) If the person observes that the craft is approaching a cetacean or that a cetacean is approaching the craft, he or she must slow down and keep the craft at least 300 metres away from the cetacean.

Penalty: 50 penalty units.

#### **8.04 Other craft**

- (1) This regulation applies to a person who is operating, in the Australian Whale Sanctuary, a vessel that is not a restricted craft.

- (2) Within the caution zone of a cetacean, the person must:
- (a) operate the vessel at a constant slow speed so that its wake is negligible; and
  - (b) make sure the vessel does not drift or approach closer to the cetacean than:
    - (i) for a large whale — 100 metres; or
    - (ii) for a dolphin or porpoise — 50 metres; and
  - (c) if the cetacean shows signs of being disturbed, immediately withdraw the vessel from the caution zone at a constant slow speed so that its wake is negligible; and
  - (d) if there is more than 1 person on the vessel, post a lookout; and
  - (e) only approach a cetacean:
    - (i) from the rear, no closer than 30 degrees to its observed direction of travel; or
    - (ii) by positioning the vessel ahead of the cetacean at more than 30 degrees from its observed direction of travel; and
  - (f) for a motorised vessel approaching a whale under power, keep the vessel downwind of the whale; and
  - (g) avoid sudden or repeated changes in direction or speed; and
  - (h) avoid abrupt reductions in the noise level of the vessel; and
  - (i) avoid excessive engine use, gear changes, manoeuvring or backing up of the vessel; and
  - (j) avoid using bow or stern lateral thrusters to maintain position; and
  - (k) not restrict the path of the cetacean; and
  - (l) not pursue the cetacean or allow the vessel to move into or through a group of cetaceans.

Penalty: 50 penalty units.

*Note* If a cetacean approaches a vessel or comes within the limits mentioned in paragraph (2) (b), subregulations 8.04 (7) and (8) apply.

**Regulation 8.04**

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- (3) The person must not allow the vessel to enter the caution zone of a calf or a pod containing a calf.

Penalty: 50 penalty units.

- (4) If the vessel accidentally enters the caution zone of a calf or a pod containing a calf, the person:
- (a) must immediately stop the vessel; and
  - (b) must:
    - (i) turn off the vessel's engines or place them in neutral; or
    - (ii) withdraw the vessel from the caution zone at a constant slow speed so that its wake is negligible.

Penalty: 50 penalty units.

- (5) The person must not enter the caution zone of a cetacean if there are already 2 vessels in the caution zone.

Penalty: 50 penalty units.

- (6) When leaving the caution zone of a cetacean, the person must withdraw the vessel:
- (a) at a constant slow speed so that its wake is negligible; and
  - (b) to the outer limit of the closest cetacean's caution zone before gradually increasing speed.

Penalty: 50 penalty units.

- (7) If a cetacean, other than a dolphin, approaches a vessel or comes within the limits mentioned in paragraph (2) (b), the person must:
- (a) place the engines in neutral, let the cetacean approach and avoid engaging propellers; or
  - (b) slow down and continue on a course that will avoid a potential collision; or
  - (c) steer a straight course away from the cetacean at a speed not more than 4 knots.

Penalty: 50 penalty units.

**Regulation 8.05**

- (8) If a dolphin approaches the vessel or comes within the limits mentioned in paragraph (2) (b), the person must not change the course or speed of the vessel suddenly.

Penalty: 50 penalty units.

- (9) If a large whale surfaces near the vessel when it is being operated for a purpose other than for watching cetaceans, the person must take all care necessary to avoid a collision, including:
- (a) stopping; or
  - (b) slowing down; or
  - (c) steering away from the cetacean.

Penalty: 50 penalty units.

**8.05 Aircraft**

- (1) This regulation applies to a person who is operating an aircraft in the Australian Whale Sanctuary.
- (2) The person:
- (a) must not operate the aircraft at a height lower than 1 000 feet within a horizontal radius of 300 metres of a cetacean; and
  - (b) must not allow the aircraft to approach a cetacean from head on; and
  - (c) if the aircraft can land on water, must not land the aircraft on water to observe a cetacean; and
  - (d) if a cetacean being observed shows signs of being disturbed, must immediately withdraw the aircraft; and

*Examples of signs of disturbance*

- 1 Immediate or repeated dives.
- 2 Increased swimming speed.

- (e) if the aircraft is a helicopter:
- (i) must stay at least 1 000 metres away from a cetacean; and
  - (ii) must not hover over a cetacean.

Penalty: 50 penalty units.

**Regulation 8.06**

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**8.06 Feeding**

- (1) A person must not intentionally feed or attempt to feed a cetacean that is in a natural environment.

Penalty: 50 penalty units.

- (2) Subregulation (1) does not apply to the routine discarding of bycatch by a commercial fisher if he or she makes reasonable efforts to avoid discarding bycatch near a cetacean.

- (3) For subregulation (1):

*feeding* includes:

- (a) throwing food or rubbish in the water near a cetacean; or  
(b) feeding from a vessel.

**8.07 Touching and sudden movements**

A person must avoid:

- (a) touching a cetacean; or  
(b) making sudden movements when within 2 metres of a cetacean.

Penalty: 50 penalty units.

**8.08 Noise**

- (1) A person who is within 300 metres of a cetacean must avoid making loud or sudden noises.

Penalty: 50 penalty units.

- (2) A person must not play recorded or amplified sound underwater within 300 metres of a cetacean.

Penalty: 50 penalty units.

**8.09 Swimming**

- (1) This regulation applies to a person who is in the water.

- (2) The person must not approach closer than 30 metres to a cetacean.

Penalty: 50 penalty units.

- (3) If a cetacean approaches the person, he or she:
- (a) must move slowly to avoid startling it; and
  - (b) must not try to touch it or swim toward it.

Penalty: 50 penalty units.

## **Division 8.2      Whale watching**

### **8.10      Purpose of Division 8.2**

For paragraph 238 (3) (c) of the Act, this Division sets out how whale watching must be carried out.

*Note* The Minister must not issue a permit under section 238 of the Act unless satisfied that the specified action is whale watching and is carried out in accordance with these Regulations — see Act, section 238.

### **8.11      Application of Division 8.2**

This Division applies in the Australian Whale Sanctuary, other than the coastal waters of a State or the Northern Territory for which a declaration under section 228 of the Act is in force.

### **8.12      How whale watching is to be carried out**

- (1) A restricted craft must not be used for whale watching.
- (2) A person who operates a vessel for whale watching must operate it in accordance with regulation 8.04.
- (3) A person who operates an aircraft for whale watching must operate it in accordance with regulation 8.05.
- (4) A person who takes part in whale watching must comply with regulations 8.06, 8.07, 8.08 and 8.09.

**Regulation 9.01**

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## **Part 9                      Conservation of biodiversity in Commonwealth areas**

### **9.01      Purpose of Part 9**

- (1) For subsection 303 (1) of the Act, this Part provides for the conservation of biodiversity in Commonwealth areas.
- (2) In particular, this Part provides for prohibiting and regulating actions affecting members of native species in Commonwealth areas.

### **9.02      Application of Part 9**

- (1) This Part applies to:
  - (a) the Coral Sea Islands Territory; and
  - (b) the Territory of Christmas Island; and
  - (c) the Territory of Cocos (Keeling) Islands.
- (2) However, this Part does not apply to a Commonwealth reserve.

*Note* For Commonwealth reserves — see Part 11.

### **9.03      Offences in relation to protected species**

- (1) A person must not kill, injure or take a member of a protected species.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is a strict liability offence.
- (3) A person must not damage or destroy a nest or dwelling place of a member of a protected species.

Penalty: 50 penalty units.

- (4) However, this regulation does not apply to an action that:
  - (a) is authorised by a permit in force under Part 17; or

**Regulation 9.04**

- (b) is provided for by, and taken in accordance with, a declaration by the Director to which regulation 20.03 applies; or
- (c) is provided for by, and taken in accordance with, a management plan that is approved by the Minister in accordance with the criterion mentioned in regulation 9.04; or
- (d) is approved under Part 9 of the Act for subsection 23 (1) or (2), 24A (1), (2), (3) or (4), 26 (1) or (2) or 27A (1), (2), (3) or (4) of the Act; or
- (e) is:
  - (i) in a class of actions declared by the Minister under section 33 of the Act not to require approval under Part 9 of the Act for subsection 23 (1) or (2), 24A (1), (2), (3) or (4), 26 (1) or (2) or 27A (1), (2), (3) or (4) of the Act; and
  - (ii) is taken in accordance with a management plan that is an accredited management plan for the purposes of the declaration; or
- (f) is taken in a humane manner and is reasonably necessary to relieve or prevent suffering; or
- (g) is reasonably necessary to prevent a risk to human health; or
- (h) is taken by a Commonwealth agency, or an agency of a State or of a self-governing Territory and is reasonably necessary for law enforcement; or
- (i) is reasonably necessary to deal with an emergency involving a serious threat to human life or property; or
- (j) occurs because of an unavoidable accident, other than an accident caused by negligent or reckless behaviour.

**9.04 Approved management plan**

For paragraph 9.03 (4) (c), a management plan must not, or not be likely to, adversely affect the conservation status of a protected species or a population of a protected species.



**Regulation 10.01**

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**Part 10 Protected areas (other than Commonwealth reserves)****10.01 Australian World Heritage management principles**

For subsection 323 (1) of the Act, the Australian World Heritage management principles for the management of natural heritage and cultural heritage are set out in Schedule 5.

**10.02 Managing wetlands of international importance**

For subsection 335 (1) of the Act, the Australian Ramsar management principles for the management of wetlands included in the List of Wetlands of International Importance kept under the Ramsar Convention are set out in Schedule 6.

**10.03 Australian Biosphere reserve management principles**

For subsection 340 (1) of the Act, the Australian Biosphere reserve management principles for the management of Biosphere reserves are set out in Schedule 7.

**10.04 Australian IUCN reserve management principles**

For subsection 348 (1) of the Act, the IUCN reserve management principles for each IUCN category are:

- (a) the general administrative principles set out in Part 1 of Schedule 8; and
- (b) the principles set out for the category in Part 2 of Schedule 8.

## **Part 11 Commonwealth reserves**

### **Division 11.1 Application**

#### **11.01 Application of Part 11**

This Part applies to Commonwealth reserves.

### **Division 11.2 Boards for Commonwealth reserves on indigenous people's land**

#### **11.02 Disclosure of interests**

- (1) A member of a Board who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Board must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of that interest at a meeting of the Board.
- (2) A disclosure under subregulation (1) must be recorded in the minutes of the meeting of the Board.

#### **11.03 Deputy members**

- (1) If, under subsection 377 (4) of the Act, a majority of the members of a Board must be nominated by the traditional owners of indigenous people's land situated in the reserve, the traditional owners may nominate another indigenous person, as the deputy of each member so nominated.
- (2) A member of a Board who was not nominated by the traditional owners of indigenous people's land in the reserve may, with the Minister's approval, nominate, as the deputy of the member, a person who is qualified to be a member.
- (3) A person who is nominated to be the deputy of a member of a Board may, if the member is absent from a meeting of the

Board, attend the meeting and, when attending, is taken to be a member of the Board.

- (4) However, a person who is nominated to be the deputy of a member of a Board must not preside at a meeting of the Board.
- (5) If the traditional owners of indigenous people's land in the reserve for which a Board is established nominate a person under subregulation (1) to be the deputy of a member of the Board, the traditional owners may revoke the nomination.
- (6) A member of a Board who was not nominated by the traditional owners of indigenous people's land situated in the reserve for which the Board is established may, with the Minister's approval, revoke a nomination made by the member under subregulation (2).
- (7) A deficiency or irregularity in the selection or nomination of a person as the deputy of a member of a Board does not invalidate the actions of the person as the deputy of a member of the Board.

#### **11.04 Presiding members**

- (1) A Board may, by resolution, appoint a member of the Board to be the presiding member of the Board.
- (2) A member appointed to be presiding member of a Board holds office for the period determined by the Board at the time of the member's appointment to the office.
- (3) However, a member of a Board ceases to hold office as presiding member of the Board if:
  - (a) the member resigns the office; or
  - (b) the Board revokes the member's appointment to the office; or
  - (c) the member ceases to be a member of the Board.

#### **11.05 Meetings**

- (1) Meetings of a Board must be held at the times and places determined by the Board from time to time.

- (2) The presiding member of a Board may at any time, and, if directed by the Minister, must, convene a meeting of the Board.
- (3) A Board must determine its procedures and determine which persons are to be permitted to attend or participate in meetings of the Board.
- (4) At a meeting of a Board, a number of members greater than half the number of persons who constitute the Board constitute a quorum.
- (5) However, a meeting of the Board must neither be held nor continue unless:
  - (a) at least 1 of the members of the Board present at the meeting is a member nominated by someone other than the traditional owners of indigenous people's land in the reserve for which the Board is established; and
  - (b) the majority of the members of the Board present at the meeting are members nominated by the traditional owners of the indigenous people's land.
- (6) The presiding member of a Board must preside at all meetings of the Board.
- (7) However, if the presiding member of a Board is absent from a meeting of the Board, the members of the Board who are present must elect 1 of their number to preside at the meeting.
- (8) Decisions of a Board must be determined by a majority of the members of the Board present and voting.
- (9) The member of a Board who is presiding at a meeting of the Board has a deliberative vote and, if votes are tied, also has a casting vote.

**Regulation 11.06**

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**Division 11.3 Special rules for some Commonwealth reserves in the Northern Territory and Jervis Bay Territory**

**Subdivision 11.3.1 Prescribed routes and activities for mining operations**

**11.06 Transportation routes in Kakadu National Park**

For paragraph 387 (2) (b) of the Act, the routes mentioned in Part 1 of Schedule 9 are prescribed.

**11.07 Pipeline and power line routes in Kakadu National Park**

For paragraph 387 (2) (c) of the Act, the routes mentioned in Part 2 of Schedule 9 are prescribed.

**11.08 Activities in Kakadu National Park**

For paragraph 387 (2) (e) of the Act, the non-destructive monitoring of the environment is a prescribed activity.

**Subdivision 11.3.2 Town plans**

**11.09 Purpose of Subdivision 11.3.2**

For subparagraph 388 (1) (b) (iii) and subsection 389 (5) of the Act, this Subdivision sets out the requirements for preparing, approving, revoking and amending a town plan.

**11.10 Approval of town plan by Director**

- (1) If a management plan for a Commonwealth reserve provides for the establishment or development of a township, a person proposing to establish or develop the township must give a town plan to the Director.

**Regulation 11.11**

- (2) The Director must, within 1 month after the plan is given to him or her, make a decision:
  - (a) approving or rejecting the plan; or
  - (b) requiring the plan to be amended.
- (3) Before making a decision under subregulation (2), the Director must tell the Minister what action he or she proposes to take.
- (4) The Director must tell the person in writing of the decision and, if the plan is required to be amended, give details of the amendments required.
- (5) If the Director requires a plan to be amended:
  - (a) the person may give the amended plan to the Director; and
  - (b) the Director must, within 1 month after receiving the amended plan, make a decision:
    - (i) approving or rejecting the amended plan; or
    - (ii) requiring the plan to be further amended; and
  - (c) the Director must tell the person in writing of the decision and, if the plan is required to be further amended, give details of the amendments required.
- (6) Before making a decision under paragraph (5) (b), the Director must tell the Minister what action he or she proposes to take.
- (7) The Director may require an amended plan to be further amended as often as the Director considers necessary.

**11.11 Director may prepare plan**

- (1) The Director may cause a town plan to be prepared if:
  - (a) both:
    - (i) a management plan for a Commonwealth reserve provides for a township to be established or developed on land held under lease from the Director; and
    - (ii) no notice of intention to give a town plan to the Director is received by the Director within 6 months after the day when the management plan comes into operation; or

**Regulation 11.12**

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- (b) a management plan for a Commonwealth reserve provides for a township to be established or developed by the Director.
- (2) The Director must give a plan prepared under subregulation (1) to the Minister for the Minister's approval.

**11.12 Amending approved plan**

- (1) If a person amends a town plan that has been approved under regulation 11.10, the person must give the approved plan as amended to the Director.
- (2) Regulation 11.10 applies to amendments of an approved town plan as if references in that regulation to a town plan were references to an approved town plan as amended.

**11.13 Revocation of town plan**

- (1) The Director may revoke a town plan that has been approved under regulation 11.10 (an *approved town plan*) if:
  - (a) the management plan for the Commonwealth reserve no longer provides for an approved town plan; or
  - (b) because of changed circumstances, an approved town plan is no longer necessary.
- (2) Before revoking an approved town plan, the Director must:
  - (a) by notice published in a newspaper circulating in the area affected by the approved town plan, invite interested persons to make representations about the proposed revocation by the date specified in the notice; and
  - (b) give due consideration to any representations made; and
  - (c) tell the Minister about the proposed revocation and give the Minister any representations made.

## **Part 12                    Activities in Commonwealth reserves**

### **Division 12.1            Preliminary**

#### **12.01    Purpose of Part 12**

For section 356 of the Act, this Part provides for controlling activities relating to Commonwealth reserves.

#### **12.02    Application of Part 12**

This Part applies to Commonwealth reserves.

#### **12.03    Determinations by the Director**

In making a determination under this Part to control an activity in a Commonwealth reserve, the Director may take into account whether the activity might:

- (a) endanger public safety; or
- (b) interfere with the protection or conservation of biodiversity or heritage; or
- (c) interfere with the protection of features or facilities in the reserve; or
- (d) interfere with the privacy of a cultural event to be held in the reserve by the traditional owners of indigenous people's land; or
- (e) interfere with the continuing cultural use of the reserve, including residence, by the traditional owners of indigenous people's land; or
- (f) interfere with the privacy of other persons.

#### **12.04    Specifying time by reference to events**

For this Part, time may be measured by reference to events, including the following:

- (a) the rising or setting of the sun;



**Regulation 12.05**

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- (b) forecast or actual meteorological conditions including temperature, wind, rainfall or fire danger;
- (c) the ebb or flow of tides;
- (d) fire, flood, earthquake, storm or other natural disasters;
- (e) seasons;
- (f) the arrival or departure of migratory species;
- (g) the occurrence or duration of a cultural event.

**12.05 Publication requirement**

For this Part, if an instrument must be published and the way of publication is not stated, it must be published in the *Gazette*.

**Division 12.2 Regulatory provisions**

**Subdivision 12.2.1 Preliminary**

**12.06 Activities that are not offences under Division 12.2**

- (1) An offence provision in this Division does not apply to an activity that:
  - (a) is provided for by, and carried out in accordance with, a management plan in force for the reserve; or
  - (b) is carried out by the Director, a ranger, warden or inspector; or
  - (c) is authorised by a permit in force under subregulation (2); or
  - (d) is carried out by an indigenous person in accordance with conditions mentioned in regulation 12.08; or
  - (e) is carried out on indigenous people's land in a jointly managed reserve:
    - (i) by a traditional owner of the land and is a traditional use of the land; or
    - (ii) by an indigenous person who is entitled by Aboriginal tradition to use or occupy the land, whether or not the entitlement is qualified as to place, time, circumstance, purpose or permission, and is a traditional use of the land; or

**Regulation 12.06**

- (f) is approved under Part 9 of the Act for subsection 23 (1) or (2), 24A (1), (2), (3) or (4), 26 (1) or (2) or 27A (1), (2), (3) or (4) of the Act; or
- (g) is:
- (i) in a class of actions declared by the Minister not to require approval under Part 9 of the Act for subsection 23 (1) or (2), 24A (1), (2), (3) or (4), 26 (1) or (2) or 27A (1), (2), (3) or (4) of the Act; and
  - (ii) is taken in accordance with a management plan that is an accredited management plan for the purposes of the declaration; or
- (h) is provided for by, and carried out in accordance with, a wildlife conservation plan, a recovery plan or a threat abatement plan in force under Division 5 of Part 13 of the Act; or
- (i) is carried out by a Commonwealth agency, or an agency of a State or of a self-governing Territory and is reasonably necessary for law enforcement; or
- (j) is reasonably necessary to deal with an emergency involving a serious threat to human life or property; or
- (k) occurs because of an unavoidable accident, other than an accident caused by negligent or reckless behaviour; or
- (l) is carried out in accordance with a lease or licence granted by the Director; or
- (m) is carried out by a person who is complying with a direction given to the person by:
- (i) the Director; or
  - (ii) a ranger or warden; or
  - (iii) a police officer or an emergency services officer in the performance of his or her duties.

*Note 1* By operation of other provisions of law, certain activities may also be carried out without breaching the offence provisions under this Part. See, for example, section 359A of the Act, section 211 of the *Native Title Act 1993*, the *Aboriginal Land Rights (Northern Territory) Act 1976* and the *Aboriginal Land Grant (Jervis Bay Territory) Act 1986*.

*Note 2* For acts that a person must not do in a Commonwealth reserve except in accordance with a management plan in operation for the reserve — see Act, subsection 354 (1).

**Regulation 12.07**

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- (2) The Director may issue a permit, in accordance with Part 17, authorising a person to carry out an activity that is prohibited under this Division.

**12.07 Regulations not applying in Jabiru township**

The following regulations do not apply in the Jabiru township:

- (a) 12.12 (Damaging, defacing features etc);
- (b) 12.14 (Dumping of waste, littering etc);
- (c) 12.18 (Use etc of firearms, nets and other devices)
- (d) 12.23 (Entering prohibited or restricted area);
- (e) 12.24 (Capturing images or recording sound);
- (f) 12.27 (Public nuisance);
- (g) 12.28 (Camping);
- (h) 12.30 (Lighting fires);
- (i) 12.31 (Public gatherings);
- (j) 12.35 (Fishing other than commercial fishing);
- (k) 12.36 (Commercial activities);
- (l) 12.38 (Deriving commercial gain from images captured);
- (m) 12.39 (Collections);
- (n) 12.40 (Erecting signs);
- (o) 12.41 (Vehicle use of tracks or roads);
- (p) 12.43 (Speed limits and one-way traffic);
- (q) 12.44 (Parking and stopping).

**12.08 Authorising activities by indigenous people**

- (1) For paragraph 12.06 (1) (d), the Director and a land council may agree to conditions under which an indigenous person may carry out the following activities in Commonwealth reserves:
- (a) enter an area to which access is restricted or prohibited;
  - (b) take or keep an organism that is a member of a native species;
  - (c) use a vehicle, vessel or aircraft in an area in which the use of the vehicle, vessel or aircraft is prohibited;
  - (d) take a dog into a Commonwealth reserve;

- (e) take firewood from a Commonwealth reserve;
  - (f) carry out a cultural activity in a Commonwealth reserve.
- (2) Without limiting subregulation (1), the conditions may include a requirement that the activity may only take place during the period, in the area or in the manner specified in the condition.

*Note* By operation of other provisions of law, certain activities may be carried out by indigenous persons without authorisation from the Director under this Division. See, for example, section 359A of the Act, section 211 of the *Native Title Act 1993*, the *Aboriginal Land Rights (Northern Territory) Act 1976* and the *Aboriginal Land Grant (Jervis Bay Territory) Act 1986*.

### **12.09 Activities in Commonwealth reserves where management plans in force**

- (1) If the management plan for a Commonwealth reserve provides that an activity mentioned in subsection 354 (1) of the Act may be done in accordance with a permit issued by the Director under this Division, the Director may issue a permit in accordance with Part 17 for the activity.
- (2) If the management plan for a Commonwealth reserve provides that commercial fishing may be carried out in the reserve in accordance with a determination by the Director under this Division, a person who carries out commercial fishing in the reserve must comply with a determination by the Director under regulation 12.34.
- (3) If the management plan for a Commonwealth reserve provides that fishing (other than commercial fishing) may be carried out in the reserve in accordance with a determination by the Director under this Division, a person who carries out fishing (other than commercial fishing) in the reserve must comply with a determination by the Director under regulation 12.35.

## **Subdivision 12.2.2 General offences**

### **12.10 Scientific research**

- (1) A person must not carry out scientific research in a Commonwealth reserve.

Penalty: 20 penalty units.

- (2) However, subregulation (1) does not apply to anthropological research carried out by a land council under the *Aboriginal Land Rights (Northern Territory) Act 1976* or the *Aboriginal Land Grant (Jervis Bay Territory) Act 1986*.

- (3) In this regulation:

*scientific*, for research, includes archaeological and anthropological.

### **12.11 Excavating, building and works**

A person must not carry on an excavation, erect a building or other structure or carry out works in a Commonwealth reserve.

Penalty: 50 penalty units.

### **12.12 Damaging, defacing features etc**

A person must not, in a Commonwealth reserve, damage, deface, obstruct, remove or interfere with:

- (a) a natural feature; or
- (b) an object, sign or structure.

Penalty: 25 penalty units.

### **12.13 Damaging etc heritage**

A person must not, in a Commonwealth reserve, damage, deface, move, possess or interfere with heritage.

Penalty: 50 penalty units.

**12.14 Dumping of waste, littering etc**

- (1) Subregulation (2) applies to the following substances:
  - (a) minerals, mineral waste and any other solid waste;
  - (b) any noxious, offensive or polluting substance.
- (2) A person must not discharge or leave a substance mentioned in subregulation (1) in a Commonwealth reserve other than in an area approved or provided for the purpose by the Director.

Penalty: 50 penalty units.

- (3) A person must not release liquid or gaseous material in a Commonwealth reserve if the release is likely:
  - (a) to pollute the air, soil, water or a watercourse; or
  - (b) to be harmful to native species; or
  - (c) to be harmful or offensive to another person.

Penalty: 50 penalty units.

- (4) A person must not leave any litter, dung or other refuse in a Commonwealth reserve except in an area or receptacle approved or provided for that purpose by the Director.

Penalty: 10 penalty units.

- (5) However, subregulation (4) does not apply to matter to which subregulation (2) or (3) applies.
- (6) An offence against this regulation is a strict liability offence.

**12.15 Use of poisonous substances**

- (1) A person must not use or introduce a pesticide, herbicide or other poisonous substance in a Commonwealth reserve.

Penalty: 30 penalty units.

- (2) However, subregulation (1) does not apply to the reasonable use of a pesticide, herbicide or other poisonous substance by a person for a domestic purpose.

**Regulation 12.16**

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**12.16 Fossicking, removal of earth materials etc**

A person must not, in a Commonwealth reserve:

- (a) introduce, disturb, or remove minerals, clay, sand, stone or other earth materials; or
- (b) fossick.

Penalty: 50 penalty units.

**12.17 Activities relating to caves and karst**

A person must not, in a Commonwealth reserve:

- (a) enter a cave; or
- (b) interfere with anything within a cave; or
- (c) release a substance into waters that flow through a cave or karst area.

Penalty: 25 penalty units.

**12.18 Use etc of firearms, nets and other devices**

(1) A person must not use or possess, in a Commonwealth reserve:

- (a) a firearm; or
- (b) a flail or spear; or
- (c) a snare or trap; or
- (d) a hunting-bow, spear gun or any other device designed to discharge a projectile; or
- (e) a device for detecting minerals or metal; or
- (f) explosives or fireworks; or
- (g) a chainsaw; or
- (h) any device that can be used, or is designed, for taking an animal, other than a hook and line for catching fish or a hand-held net designed to land a fish caught on a hook and line.

Penalty: 30 penalty units.

- (2) However, subregulation (1) does not apply to:
- (a) use or possession of the item by a person to carry out commercial fishing operations that are authorised by a law of the Commonwealth, a State or self-governing Territory or by a permit issued by the Director; or
  - (b) possession of the item by a person on a vessel in passage through a marine area.
- (3) Also, paragraph (1) (a) does not apply to a police officer who is acting in that capacity.
- (4) Also, paragraph (1) (a) does not apply to a firearm that is registered under a law of the Northern Territory for the registration of firearms and is in the possession of:
- (a) a person who is a resident of the Jabiru township and uses or possesses the firearm in a place in Kakadu National Park that is occupied under a lease or licence, from the Director, for recreational shooting; or
  - (b) a person who is a resident of the Jabiru township and is transporting the firearm:
    - (i) to or from a place mentioned in paragraph (a); or
    - (ii) on the Arnhem or Kakadu Highway, the road between the Arnhem Highway and Oenpelli or the road between the Kakadu Highway and Cooida.
- (5) Also, paragraph (1) (g) does not apply to:
- (a) a person who carries or has control of a chainsaw in a vehicle, vessel or aircraft in passage through a reserve if the chainsaw is not removed from the vehicle, vessel or aircraft; or
  - (b) a person who is clearing fallen timber from a road or track that the person is permitted to use; or
  - (c) possession or use of a chainsaw in a township.
- (6) Also, paragraph (1) (h) does not apply to the possession of a prawning net by a person who is in Booderee National Park and is going directly to a place in the City of Shoalhaven in New South Wales where the net may be used lawfully to take prawns.



**Regulation 12.19**

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**12.19 Taking animals into Commonwealth reserve**

- (1) A person must not cause or allow an animal owned by, or in the charge of, the person, to enter or remain in a Commonwealth reserve.

Penalty: 20 penalty units.

- (2) A person is taken to have contravened subregulation (1) if the person places a beehive in a Commonwealth reserve.

- (3) However, subregulation (1) does not apply to:

- (a) the use of a dog or animal that:
- (i) is a guide dog used by a blind person, a hearing dog used by a deaf person or an assistance animal used by a person with a disability; and
  - (ii) is at all times restrained on a lead not more than 3 metres in length; or
- (b) taking the carcass of an animal into a Commonwealth reserve as food for the person or a dog or animal mentioned in paragraph (a); or
- (c) a person, if the animal is confined to a vessel and the person is on a vessel in passage through a marine area.

- (4) A person who, in accordance with a permit or other authority under these Regulations, takes an animal into, or has in his or her possession an animal in, a Commonwealth reserve must not:

- (a) allow the animal to be at large; or
- (b) fail to remove the animal from the reserve:
- (i) if the person lives in the reserve — when the person ceases to live there; or
  - (ii) in any other case — when the person leaves the reserve.

Penalty: 20 penalty units.

- (5) A person who takes the carcass of an animal into a Commonwealth reserve as food must not, within 50 metres of an area of water in the reserve, dismember, disembowel or skin the carcass.

Penalty: 20 penalty units.

- (6) It is a defence to a prosecution for an offence under paragraph (4) (b) that the person has transferred the ownership of the animal to another person in the reserve in accordance with the permit or authority.

### **12.20 Taking plants into Commonwealth reserve**

- (1) A person must not cause or allow a plant to be taken into, or possess a plant in, a Commonwealth reserve.

Penalty: 20 penalty units.

- (2) Subregulation (1) does not apply to:

- (a) taking into the Jabiru township a plant of a kind included by the Director on a list of plants given by the Director to the Authority and to residents of the Jabiru township; or
- (b) taking a plant into a Commonwealth reserve to cultivate or propagate the plant on land held under a lease or licence granted by the Director, if the plant may be cultivated or propagated under the lease or licence; or
- (c) taking a plant into a Commonwealth reserve as food.

- (3) Also, subregulation (1) does not apply to a person who takes a plant into, or possesses a plant, in a reserve if the plant is:

- (a) confined in a vehicle on a road; or
- (b) confined in a vessel on a watercourse.

- (4) However, subregulations (2) and (3) have no effect if the plant is a member of a species that is:

- (a) included in a list mentioned in section 301A of the Act; or
- (b) stated, in a management plan for the reserve, to be a pest species.

**Regulation 12.21**

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- (5) For subregulation (4), a plant is confined in a vehicle or vessel only if no part of the plant is capable of being spread beyond the vehicle or vessel.

**12.21 Cultivating plants**

- (1) A person must not cultivate or propagate a plant in a Commonwealth reserve.

Penalty: 30 penalty units.

- (2) Subregulation (1) does not apply to cultivating or propagating a plant:

- (a) in the township, if the plant is:

- (i) a member of a native species; and  
(ii) of a kind included by the Director in a list of plants given by the Director to the Authority and to residents of the township; or

- (b) on land that is not in the township, if:

- (i) the land is held under a lease or licence granted by the Director; and  
(ii) the plant may be cultivated or propagated under the lease or licence.

- (3) However, subregulation (2) has no effect if the plant is a member of a species that is:

- (a) included in a list mentioned in section 301A of the Act; or  
(b) in a management plan for the reserve, stated to be a pest species.

**12.22 Failing to comply with directions to remove plants**

- (1) This regulation applies if the Director directs a person in writing to remove a plant that:

- (a) is cultivated or propagated in contravention of subregulation 12.21 (1); and  
(b) is growing on land occupied by the person.

- (2) The person must comply with the direction.

Penalty: 30 penalty units.

- (3) A ranger or warden may destroy or remove a plant:
- (a) that is cultivated or propagated in contravention of subregulation 12.21 (1); and
  - (b) for which a direction mentioned in subregulation (1) has been given but has not been complied with.

*Note* Regulation 12.66 deals with control of non-native species generally.

### **12.23 Entering prohibited or restricted area**

- (1) A person must not enter a Commonwealth reserve or a part of a reserve in contravention of a prohibition or restriction imposed by the Director under subregulation (3).

Penalty: 50 penalty units.

- (2) If the reserve is a jointly managed reserve, subregulation (1) does not apply to a member or officer of a land council for indigenous people's land, in the part of the reserve entered, who is performing his or her duties as a member or officer.
- (3) For subregulation (1), the Director may prohibit or restrict entry:
- (a) by persons generally or by a class of persons; and
  - (b) at all times, at specified times or for a specified period; and
  - (c) to all or part of the reserve.
- (4) Notice of a prohibition or restriction must be published, unless the prohibition or restriction deals with an emergency or meteorological conditions that:
- (a) may endanger public safety; and
  - (b) were not known in sufficient time for publication.

### **12.24 Capturing images or recording sound**

- (1) A person must not capture an image in or of a Commonwealth reserve in contravention of a prohibition or restriction imposed by the Director under subregulation (3).

Penalty: 50 penalty units.

**Regulation 12.25**

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- (2) If the reserve is a jointly managed reserve, subregulation (1) does not apply to a member or officer of a land council for indigenous people's land, in the part of the reserve where the image is captured, who is performing his or her duties as a member or officer.
- (3) For subregulation (1), the Director may prohibit or restrict the capturing of images:
  - (a) generally or to a class of persons; and
  - (b) at all times, at specified times or for a specified period; and
  - (c) in all or part of the reserve.
- (4) Notice of a prohibition or restriction must be published.
- (5) The Director, a ranger or a warden may, at any time, require a person who has captured an image in contravention of subregulation (1) to surrender the following:
  - (a) all copies and forms of the image;
  - (b) any device or means used to capture the image.

**12.25 Failing to comply with safety directions**

- (1) If the Director, a ranger or a warden believes that the safety of a person in a Commonwealth reserve is, or is likely to be, endangered, the Director, ranger or warden may give to the person or another person directions necessary to ensure the safety of the person.
- (2) A person must comply with a reasonable direction given under subregulation (1) to the person.

Penalty: 30 penalty units.

**12.26 Adventurous activities**

- (1) A person must not carry out any of the following activities in a Commonwealth reserve other than in an area provided for the activity under a determination made by the Director under subregulation (2):
  - (a) climbing, abseiling on, or jumping from, rock faces;

- (b) bungee jumping or BASE-jumping;
- (c) hang gliding or paragliding.

Penalty: 30 penalty units.

- (2) For subregulation (1), the Director may determine that:
  - (a) an area is provided for an adventurous activity; and
  - (b) the activity in that area may be carried out:
    - (i) in a specified manner; and
    - (ii) by specified persons or a specified class of persons; and
    - (iii) at all times, at specified times or during a specified period.
- (3) Notice of a determination under subregulation (2) must be published.

### **12.27 Public nuisance**

- (1) A person must not, in a Commonwealth reserve:
  - (a) cause a remotely controlled device to be flown or operated; or
  - (b) use a public address system, loud speaker or other device or equipment that produces loud noise; or
  - (c) use a portable generator or alternator except in an area determined by the Director under subregulation 12.28 (4) to be an area where portable generators may be used.

Penalty: 10 penalty units.

- (2) A person must not, in a Commonwealth reserve:
  - (a) behave in a disorderly, offensive or indecent manner; or
  - (b) obstruct, disturb, or annoy a person engaged in the proper use of the reserve; or
  - (c) intentionally throw or roll a stone or similar object.

Penalty: 10 penalty units.

**Regulation 12.28**

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**12.28 Camping**

- (1) A person may camp, in a Commonwealth reserve, only in a camping area or a camping site described in a determination made by the Director under subregulation (3).

Penalty: 10 penalty units.

- (2) A person who camps in a camping area or camping site must comply with any determination for the area or site made by the Director under subregulation (4).

Penalty: 10 penalty units.

- (3) For subregulation (1), the Director may determine in writing:

- (a) that a part of a Commonwealth reserve is a camping area; and
- (b) that a part of a camping area is a camping site, defined by reference to natural features or other objects, structures or survey points.

- (4) For subregulation (2), the Director may, for a camping area or for a part of a camping area, determine in writing:

- (a) the maximum number of persons who may camp in the area at the same time; and
- (b) the maximum number of camping sites in the area that may be occupied at the same time; and
- (c) the maximum number of tents that may be used on a camping site at the same time; and
- (d) the maximum number of persons who may camp in a camping site at the same time; and
- (e) the maximum length of time a person may camp in the area, during a specified time of the year or at all times; and
- (f) the quantity and nature of equipment that may be used on a camping site and where it must be placed; and
- (g) that the area is set aside for a specified kind of camping or for camping by specified persons; and
- (h) that the area is not to be used for camping for a specified period; and
- (i) when portable generators may be operated in the area; and

- (j) that camping in the area is subject to specified restrictions on:
  - (i) digging trenches; or
  - (ii) the use of trees or structures.
- (5) Notice of a determination under subregulation (3) or (4) must be published, unless the determination is made to deal with an emergency that may endanger public safety.
- (6) An offence against this regulation is a strict liability offence.

### **12.29 Failing to comply with directions about camping**

- (1) To give effect to regulation 12.28, a ranger or warden may direct a person to camp only in a specified camping area or site.
- (2) A person given a direction by a ranger or warden under subregulation (1) may camp only in the specified camping area or site.  
  
Penalty: 10 penalty units.
- (3) An offence against this regulation is a strict liability offence.

### **12.30 Lighting fires**

- (1) A person must not light, maintain or use a fire in a Commonwealth reserve, or in a part of the reserve:
    - (a) while a total fire ban declared under subregulation (4) by the Director is in force for the reserve, or that part of the reserve; or
    - (b) at any other time — except in:
      - (i) a portable barbecue or stove; or
      - (ii) a fireplace provided by the Director; or
      - (iii) a fireplace of a kind approved by the Director; or
      - (iv) a place approved by the Director.
- Penalty: 50 penalty units.



**Regulation 12.31**

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- (2) A person who lights, maintains or uses a fire must not leave the fire unattended.

Penalty: 50 penalty units.

- (3) A person who lights or uses a fire for cooking or heating in part of a reserve must not use any fuel that is prohibited under the management plan to be used in that part of the reserve.

Penalty: 15 penalty units.

- (4) For paragraph (1) (a), the Director may declare that a period mentioned in the declaration is a period of total fire ban.

- (5) Notice of a declaration made under subregulation (4) must:

- (a) state that during the period of total fire ban, the lighting, maintenance or use of a fire is prohibited in the reserve or the part of the reserve to which the fire ban applies; and
- (b) be published in a newspaper circulating in the area to which the declaration applies; and
- (c) be prominently displayed on a sign at each entrance station of the reserve.

- (6) However, the Director need not comply with paragraph (5) (b) or (c) if:

- (a) no newspaper circulates in that area; or
- (b) the circumstances that make the total fire ban necessary were not known in sufficient time for publication in a newspaper; or
- (c) it is not practicable to display a notice at each entrance station.

- (7) If the Director relies on subregulation (6), the Director must give notice of the declaration having regard to the forms of communication available for giving notice to persons likely to be in that area.

**12.31 Public gatherings**

- (1) A person must not organise or attend a public gathering of more than 15 persons in a Commonwealth reserve.

Penalty: 10 penalty units.

- (2) Subregulation (1) does not apply to a gathering that is:
- (a) to take place, or is taking place, in accordance with a lease or licence granted by the Director; or
  - (b) organised by the Director.

### **12.32 Burials**

- (1) A person may bury human remains in a Commonwealth reserve only:
- (a) in a burial area determined by the Director under subregulation (3); and
  - (b) in accordance with a permit issued by the Director.

Penalty: 20 penalty units.

- (2) However, subregulation (1) does not apply to a burial that the Director has authorised to take place as an emergency to prevent endangering public safety or health.
- (3) For subregulation (1), the Director may determine in writing that an area in a Commonwealth reserve is a burial area.
- (4) Notice of a determination under subregulation (3) must be published.

### **12.33 Erection of commemorative markers**

A person must not, in a Commonwealth reserve:

- (a) erect or display a commemorative marker, whether temporarily or permanently; or
- (b) engage in commemorative activities associated with a commemorative marker.

Penalty: 20 penalty units.

### **12.34 Commercial fishing**

- (1) A person may carry out commercial fishing in a Commonwealth reserve only if the person is authorised by:
- (a) a law of the Commonwealth, a State or self-governing Territory; or

**Regulation 12.35**

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(b) a permit issued by the Director.

Penalty: 50 penalty units.

(2) A person who is authorised by a law of the Commonwealth, a State or self-governing Territory or a permit issued by the Director to carry out commercial fishing in a Commonwealth reserve, or in a part of a reserve, must comply with any determination for the reserve, or the part, made by the Director under subregulation (3).

Penalty: 50 penalty units.

(3) For subregulation (2), the Director may determine, for a Commonwealth reserve or a part of a reserve, that:

- (a) specified kinds of fishing gear cannot be carried or used; and
- (b) specified kinds of fishing gear are required to be carried or used by a person who is fishing or intending to fish; and
- (c) specified practices in commercial fishing are prohibited; and
- (d) specified practices in commercial fishing are to be followed.

(4) The Director may determine that a prohibition or requirement mentioned in subregulation (3) is to apply at all times, at specified times or during a specified period.

(5) Notice of a determination under subregulation (4) must be published.

**12.35 Fishing other than commercial fishing**

(1) This regulation applies to fishing other than commercial fishing.

(2) A person must not fish in a Commonwealth reserve in contravention of a determination made by the Director under subregulation (3).

Penalty: 30 penalty units.

**Regulation 12.35**

- (3) For subregulation (2), the Director may determine in writing:
- (a) that an area of water is an area where fishing is prohibited at all times, at specified times or during a specified period; and
  - (b) for an area of water where fishing is allowed:
    - (i) that specified kinds of fishing gear cannot be carried or used; and
    - (ii) that specified kinds of fishing gear are required to be carried or used by a person who is fishing or intending to fish; and
    - (iii) the kind of fish that a person may take or must not take; and
    - (iv) the maximum number of fish, or maximum number of a species of fish, that a person may take in a day; and
    - (v) the minimum or maximum size of fish that a person may take; and
    - (vi) the maximum size of fillets of fish that a person may have in the reserve; and
    - (vii) that if a person stores any fish in a freezer, the fish must be stored in bags clearly marked with the name of the person who owns the fish; and
    - (viii) that tethering of fish (whether or not alongside a boat) is prohibited.
- (4) A person who is fishing in an area of water must not:
- (a) use equipment that allows the person to breathe under the surface of the water; or
  - (b) attract or take fish using, or install, equipment other than:
    - (i) a rod and line to which a single hook or fishing lure is attached; or
    - (ii) a hand-held line to which a single hook or fishing lure is attached; or
    - (iii) a hand-held net designed to land a fish caught on a hook or fishing lure to which a line is attached; or

**Regulation 12.36**

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- (c) use a hand-held net to take a fish that has not been caught on a hook or fishing lure attached to a line.

Penalty: 30 penalty units.

- (5) A person must not, in a Commonwealth reserve:
  - (a) use a live animal as bait for fishing; or
  - (b) use a member of a native species, other than a species of fish, as bait for fishing; or
  - (c) fish by leaving a fishing line unattended; or
  - (d) clean fish taken under this regulation, within 50 metres of a freshwater stream, watercourse or lake, except at a facility provided by the Director for that purpose; or
  - (e) clean or fillet fish within a marine area.

Penalty: 15 penalty units.

- (6) Notice of a determination under subregulation (3) must be published, unless the determination is made to deal with an emergency that may endanger public safety.

**12.36 Commercial activities**

- (1) A person must not carry out a commercial activity in a Commonwealth reserve.

Penalty: 30 penalty units.

- (2) For subregulation (1), an activity is taken to be carried out in a Commonwealth reserve if:
  - (a) the activity is carried out in airspace between the reserve and 3 000 metres above mean sea level; or
  - (b) it results in a commercial activity being carried out in the reserve, whether or not the activity took place in the reserve.
- (3) However, subregulation (1) does not apply to a person who is:
  - (a) carrying out licensed commercial fishing operations in accordance with regulation 12.34; or

(b) travelling:

- (i) on a merchant vessel in passage through a marine area; or
- (ii) on an aircraft using an approved flight path for an approach to landing at, or for departure from, an airport.

**12.37 Sale of liquor**

A person must not sell liquor in Kakadu National Park.

Penalty: 20 penalty units.

**12.38 Deriving commercial gain from images captured**

- (1) A person must not use a captured image of a Commonwealth reserve to derive commercial gain.

Penalty: 30 penalty units.

- (2) For subregulation (1):

*captured image* includes an image that was not captured for a commercial purpose or in contravention of the Act or these Regulations.

**12.39 Collections**

A person must not, in a Commonwealth reserve, collect money or goods as gifts from members of the public.

Penalty: 10 penalty units.

**12.40 Erecting signs**

- (1) A person must not display or erect in a Commonwealth reserve:

- (a) a sign that is likely to be mistaken for a sign erected under these Regulations; or
- (b) a flag, banner, promotional device or image.

Penalty: 5 penalty units.

**Regulation 12.41**

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- (2) However, subregulation (1) does not apply to displaying or erecting a sign, flag, banner, promotional device or image (other than a sign to which paragraph (1) (a) applies), on land held under a licence or lease granted by the Director, in accordance with the licence or lease.
- (3) A sign or other device displayed or erected in the reserve that purports to be a sign erected under these Regulations is, unless the contrary is established, taken to have been displayed or erected by the Director.

**Subdivision 12.2.3 Traffic**

**12.41 Vehicle use of tracks or roads**

- (1) A person may drive, ride or tow a vehicle only:
  - (a) on a road that is not a restricted access road; or
  - (b) on a public access track; or
  - (c) in a camping area or parking area.

Penalty: 15 penalty units.

- (2) A person must not drive, ride or tow a vehicle on a track or road in contravention of any prohibition or restriction imposed by the Director under subregulation 12.42 (4).

Penalty: 15 penalty units.

- (3) However, subregulations (1) and (2) do not apply, in a jointly managed reserve, to a member or officer of a land council for indigenous people's land, in the part of the reserve where the vehicle is, who is performing his or her duties as a member or officer.

**12.42 Director's control of vehicle use of tracks or roads**

- (1) For paragraph 12.41 (1) (a) or (b), the Director may determine that:
  - (a) a road or track is a restricted access road; or
  - (b) a track is a public access track.

- (2) The Director must give notice of a determination for subregulation (1) by:
  - (a) displaying a suitable sign, in accordance with subregulation 12.53 (1), near any area affected by the determination; or
  - (b) stating the effect of the determination in a management plan for the reserve.
- (3) For subregulation 12.41 (2), the Director may prohibit or restrict the use of vehicles, or a class of vehicles, on a track or road in a Commonwealth reserve.
- (4) The Director must display notice of a prohibition or restriction under subregulation (3) on a suitable sign beside the track or road at a point near which the public may gain access to the track or road.
- (5) Notice of a determination under subregulation (3) must be published, unless the determination:
  - (a) is stated to expire within not more than 6 months; or
  - (b) is made to deal with an emergency or meteorological conditions that:
    - (i) may endanger public safety; and
    - (ii) were not known in sufficient time for publication.

### **12.43 Speed limits and one-way traffic**

- (1) A person must not:
  - (a) drive a vehicle on a part of a road or public access track at more than the maximum speed for that part of the road or track; or
  - (b) drive a vehicle in a parking area or camping area at more than 20 kilometres per hour; or
  - (c) drive or ride a vehicle on a road or public access track along a one-way traffic carriageway except in the direction indicated by an arrow on a traffic sign mentioned in subregulation 12.53 (4) for the road or track.

Penalty: 5 penalty units.



**Regulation 12.44**

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- (2) For paragraph (1) (a), the maximum speed for a part of a road or public access track between a speed limit sign and another speed limit sign or a de-restricting sign facing the direction from which the vehicle approaches is the number of kilometres per hour that is shown in numbers on the first speed limit sign.
- (3) For paragraph (1) (c), the Director may designate a road or public access track as a one-way traffic carriageway.
- (4) The Director must give notice of a designation under subregulation (3) by displaying a suitable sign, in accordance with subregulation 12.53 (4), near any area affected by the designation.
- (5) An offence against this regulation is a strict liability offence.

**12.44 Parking and stopping**

- (1) A person must not park or stop a vehicle in a Commonwealth reserve:
  - (a) in a place other than:
    - (i) a parking area; or
    - (ii) a road or public access track; or
    - (iii) if the person is camping in a camping area in the reserve, the camping area; or
  - (b) in contravention of a sign erected by the Director; or
  - (c) in a way that would unreasonably obstruct the passage of other vehicles; or
  - (d) in a way that would obstruct access to a boat ramp in a launching area.

Penalty: 3 penalty units.
- (2) For subparagraph (1) (a) (i) or paragraph (1) (b), the Director may:
  - (a) regulate, prohibit or restrict the parking or stopping of vehicles, or define how vehicles may be parked or stopped, in the reserve; or
  - (b) prohibit the parking or stopping of vehicles, or a class of vehicles, in part of the reserve generally or during a specified period; or

**Regulation 12.46**

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- (c) permit the parking or stopping of vehicles, or a class of vehicles, in part of the reserve generally or during a specified period.
- (3) The Director must give notice of an action mentioned in subregulation (2) by displaying a suitable sign, in accordance with subregulations 12.53 (2) and (3), near any area affected by the action.
- (4) An offence against this regulation is a strict liability offence.

**12.45 Parking permits**

- (1) The Director may issue a parking permit to a person.
- (2) A parking permit:
  - (a) authorises the parking of the vehicle for which it was issued in the parking area to which the permit relates; and
  - (b) remains in force until the end of the period specified in the permit.
- (3) A parking permit does not have effect until it is fixed to the vehicle in accordance with subregulation 12.48 (3).
- (4) A person to whom a parking permit is issued may surrender the permit by removing it from the vehicle.

**12.46 Voucher machines and parking vouchers**

- (1) The Director may authorise in writing the installation of a voucher machine in a parking area.
- (2) On payment of the determined fee, a parking voucher issued from a voucher machine authorises the parking of a vehicle in the parking area in which the voucher machine is installed.
- (3) Unless the contrary is established, a voucher machine that purports to be a voucher machine installed in a parking area with the authority of the Director is taken to have been installed in accordance with this regulation.

**Regulation 12.47**

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**12.47 Parking fees**

The Director must adjust a voucher machine so that, after payment of the determined fee by a method described on the machine, a parking voucher is issued from the machine.

**12.48 Parking permits and parking vouchers**

- (1) A person may park a vehicle in a parking area in which a voucher machine is installed only if the parking of the vehicle is authorised by:
  - (a) a parking permit that is attached to the vehicle; or
  - (b) a parking voucher that is:
    - (i) issued from that machine; and
    - (ii) displayed on the vehicle.

Penalty: 3 penalty units.

- (2) A person must not park a vehicle in a parking area in which a voucher machine is installed after the end of the period in which the parking of the vehicle is authorised by:
  - (a) a parking permit that is attached to the vehicle; or
  - (b) a parking voucher that is:
    - (i) issued from that machine; and
    - (ii) displayed on the vehicle.

Penalty: 3 penalty units.

- (3) For this regulation, a parking permit or parking voucher is taken to be attached to, or displayed on, a vehicle only if all words, figures and symbols appearing on the side of the permit or voucher showing the date and time of issue and expiry of the permit or voucher can be read clearly by a person standing beside the vehicle, and:
  - (a) for a vehicle that is not a motor cycle or trailer — the permit or voucher is fixed to, or displayed on, the interior of the windscreen or a window of the vehicle; and
  - (b) for a motor cycle or trailer — the permit or voucher is fixed to, or displayed on, the motor cycle or trailer.

- (4) A person is not taken to have contravened this regulation if the person:
- (a) fixed or displayed a parking permit or parking voucher in accordance with subregulation (3); and
  - (b) took reasonable steps to ensure that the permit or voucher remained fixed or displayed in accordance with subregulation (3).
- (5) It is a defence to proceedings for an offence against subregulation (1) or (2) if:
- (a) the defendant proves that he or she stopped the vehicle:
    - (i) to set down a passenger or a passenger's luggage, or other goods; or
    - (ii) to allow a person to enter the vehicle or load on the vehicle a person's luggage, or other goods; and
  - (b) the period for which the vehicle stopped was no longer than was reasonable.
- (6) An offence against this regulation is a strict liability offence.

#### **12.49 Daily parking offence**

A person who contravenes regulation 12.44 or 12.48 is guilty of the offence for each day, or part of a day, when the contravention occurs.

#### **12.50 Interference with parking permits or parking vouchers**

- (1) A person may interfere with, or remove, a parking permit or a parking voucher on a vehicle that is parked in a parking area only if:
- (a) the person is the owner of the vehicle; or
  - (b) the person is the person:
    - (i) to whom the permit was issued; or
    - (ii) who obtained the voucher; or
  - (c) the permit was issued, or the voucher was obtained, on behalf of the person; or

**Regulation 12.51**

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- (d) the person is acting with the authority of;
  - (i) the owner of the vehicle; or
  - (ii) the person to whom the permit was issued; or
  - (iii) the person who obtained the voucher.

Penalty: 3 penalty units.

- (2) An offence against this regulation is a strict liability offence.

**12.51 Abuse of voucher machines**

- (1) A person must not:
  - (a) operate a voucher machine except in accordance with any instructions that are shown on the machine; or
  - (b) insert in a voucher machine anything that is not a coin, or coins, of the denomination, or denominations, stated on the voucher machine; or
  - (c) insert a bent or damaged coin in a voucher machine.

Penalty: 3 penalty units.

- (2) A person must not do an act that is likely to interfere with the operation of a voucher machine.

Penalty: 3 penalty units.

- (3) An offence against this regulation is a strict liability offence.

**12.52 Unauthorised installation of voucher machines**

- (1) A person must not, except with the authority of the Director:
  - (a) install in or near a parking area a device that is likely to be mistaken for a voucher machine; or
  - (b) attach or affix anything to or place anything on, or stand anything against, a voucher machine.

Penalty: 3 penalty units.

- (2) An offence against this regulation is a strict liability offence.

**12.53 Signs for controlling traffic etc**

- (1) A sign displayed under subregulation 12.42 (2) to designate a road or track as a restricted access road must include the words 'SERVICE ROAD - WALKERS ONLY' or 'AUTHORISED PERSONS ONLY'.
- (2) A sign displayed under subregulation 12.44 (3) to prohibit the stopping or parking of vehicles must:
  - (a) indicate the area within which a vehicle must not stop or park; and
  - (b) if parking or stopping is prohibited during specified hours, specify the hours within which vehicles may be parked or stopped; and
  - (c) be in a form approved for a sign of that kind by a law of the State or Territory where the reserve is located.
- (3) A sign displayed under subregulation 12.44 (3) to designate a part of the reserve within which vehicles may be parked must, in addition to including words designating that part:
  - (a) be in a form approved for a sign of that kind by a law of the State or Territory where the reserve is located; and
  - (b) if parking is permitted only during a specified period, specify the hours within which vehicles may be parked; and
  - (c) if parking is restricted to, or prohibited for, a class of vehicles, specify the class of vehicles to which the restriction or prohibition applies.
- (4) A sign displayed under subregulation 12.43 (3) to designate a road or public access track as a one-way traffic carriageway must include the words 'ONE WAY' and an arrow indicating the direction in which a vehicle using the road or track must proceed.

**Regulation 12.54**

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**12.54 Vehicles to stop as required**

- (1) A person must not drive or ride a vehicle in a Commonwealth reserve beyond a location at which a ranger, warden or person authorised to operate an entrance station requires the person to stop until the ranger, warden or authorised person indicates that the driver or rider may proceed.

Penalty: 10 penalty units.

- (2) A person must not drive or ride a vehicle in a Commonwealth reserve beyond a sign, erected near an entrance station, that requires the person to stop, whether at all times or at specified times, until a person authorised to operate the station indicates that the driver or rider may proceed.

Penalty: 10 penalty units.

- (3) An offence against this regulation is a strict liability offence.

**12.55 Walking on roads or marked tracks**

- (1) A person may walk or ride on a part of a Commonwealth reserve only on:

- (a) a road or track that is available for public use; or  
(b) a track for walking or riding provided by the Director.

Penalty: 5 penalty units.

- (2) For paragraph (1) (b), a track is a track for walking or riding provided by the Director if:

- (a) a sign or other marker indicating that the track is for walking or riding is displayed near the track; or  
(b) the track is indicated as a track for walking or riding under the management plan.

- (3) Subregulation (1) does not apply, in a jointly managed reserve, to a member or officer of a land council for indigenous people's land, in the part of the reserve where the person walks or rides, who is performing his or her duties as a member or officer.

- (4) An offence against this regulation is a strict liability offence.

**12.56 Use of vessels**

- (1) A person must not use a vessel in an area of water in a Commonwealth reserve in contravention of a determination by the Director under subregulation (2).

Penalty: 15 penalty units

- (2) The Director may determine:
- (a) that an area of water is an area where the use of vessels or a class of vessels is prohibited at all times, at specified times or during a specified period; and
  - (b) for an area of water where the use of vessels or a class of vessels is allowed, any of the following conditions:
    - (i) that a vessel is not to be used during a specified period;
    - (ii) the maximum number of vessels that may be used in a specified area at any time;
    - (iii) the maximum speed at which a vessel may proceed;
    - (iv) that a vessel may be launched only from a launching area;
    - (v) that a vessel may be anchored only in an anchoring area;
    - (vi) that a vessel may be moored only in a mooring area;
    - (vii) that a vessel may be anchored or moored only in a specified manner.
- (3) If the Director makes a determination to include a condition mentioned in subparagraph (2)(b)(iv), (v) or (vi), the determination must specify the launching area, anchoring area or mooring area by reference to natural features, other objects, structures, survey points or latitude and longitude.
- (4) Notice of a determination must be published, unless the determination is made to deal with an emergency that may endanger public safety.



**Regulation 12.57**

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**12.57 Signs relating to use of vessels**

- (1) If the Director makes a determination under subregulation 12.56 (2), the Director must display, as close to the area of water as is reasonably practicable, a sign that includes a description of the area of water and:
  - (a) if the determination is made under paragraph 12.56 (2) (a):
    - (i) a statement to the effect that use of vessels in the area is prohibited; or
    - (ii) if the determination does not apply to all vessels, a statement to the effect that use of a vessel described in the statement is prohibited in the area; or
  - (b) if the determination is to include a condition mentioned in subparagraph 12.56 (2) (b) (i), when a vessel is not to be used; or
  - (c) if the determination is to include a condition mentioned in subparagraph 12.56 (2) (b) (ii), a statement to the effect that:
    - (i) a permit is required; or
    - (ii) the number of permits that may be issued is limited by the maximum number of vessels specified in the determination; or
    - (iii) if the determination does not apply to all vessels — the number of permits that may be issued is limited by the maximum number, and the kind, of vessels specified in the determination; or
  - (d) if the determination is to include a condition mentioned in subparagraph 12.56 (2) (b) (iii) — a statement of the speed so determined, expressed in knots.
- (2) If the Director makes a determination to include a condition mentioned subparagraph 12.56 (2) (b) (iv), (v) or (vi), the Director must erect at the designated area a sign:
  - (a) designating the launching area, anchoring area or mooring area; and
  - (b) stating that boats must be launched, anchored or moored only at designated launching, anchoring or mooring areas.

**Regulation 12.58**

- (3) If the Director makes a determination to include a condition mentioned in subparagraph 12.56 (2) (b) (vii), the Director must erect at the designated area a sign stating the conditions under which anchoring or mooring may be carried out.
- (4) However, if it is not practicable to display a sign mentioned in subregulation (1), (2) or (3) at the location required by the subregulation, the Director:
  - (a) need not comply with that subregulation; but
  - (b) must give notice of the determination having regard to the forms of communication available for giving notice to persons likely to be in that area.

**12.58 Use of aircraft**

- (1) A person must not, in a Commonwealth reserve:
  - (a) taxi an aircraft, except in a landing area; or
  - (b) land or take-off an aircraft.

Penalty: 30 penalty units.
- (2) A person must not jump, parachute or otherwise disembark from an aircraft in a Commonwealth reserve:
  - (a) when the aircraft is in airspace above a Commonwealth reserve; or
  - (b) if the person is likely to land in a Commonwealth reserve.

Penalty: 30 penalty units.
- (3) A person must not use an aircraft to drop or lower an object into a Commonwealth reserve.

Penalty: 30 penalty units.
- (4) For subregulation (1) (a), the Director may determine:
  - (a) that an area is a landing area; and
  - (b) that a landing area may be used:
    - (i) in a specified manner; and
    - (ii) by an aircraft or a class of aircraft; and
    - (iii) at all times, at specified times or during a specified period.

**Regulation 12.59**

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- (5) The Director must tell the Commonwealth authority responsible for aviation safety of a determination made under subregulation (4).

**Subdivision 12.2.4 Administration**

**12.59 Obligation to produce permit**

A person authorised by a permit to carry on an activity in a Commonwealth reserve must, when requested by a warden or ranger, produce the permit for inspection by the warden or ranger.

Penalty: 10 penalty units.

**12.60 Removal of trespassers and offenders**

- (1) A warden or ranger may require a person in a Commonwealth reserve whom the warden or ranger finds committing, or suspects on reasonable grounds to be committing or to have committed, an offence against the Act or these Regulations to leave the reserve for a specified time.
- (2) A person required to leave the reserve must comply with the requirement.

Penalty: 20 penalty units.

- (3) However, a person must comply with the requirement only if the warden or ranger:
- (a) is a member of a police force who is in uniform; or
  - (b) produces, for inspection by the person:
    - (i) written evidence of the fact that the warden or ranger is a member of a police force; or
    - (ii) the warden's or ranger's identity card.

**12.61 Payment of fees and charges etc**

- (1) A person who engages, or has engaged, in an activity for which a charge is payable must, if asked by a warden or ranger:
- (a) produce evidence of payment of the charge; or

**Regulation 12.62**

- (b) pay the charge to the person making the request; or
- (c) if, at the time of request, the person cannot produce evidence of payment or pay the charge:
  - (i) state his or her full name and usual place of residence to the person making the request; and
  - (ii) produce evidence of his or her identity and address; and
  - (iii) produce the evidence of payment or pay the charge to a warden or ranger, or to the Director, within 4 days after the day when the request is made.

Penalty: 20 penalty units.

- (2) However, the person must comply with the request only if the warden or ranger:
  - (a) is a member of a police force who is in uniform; or
  - (b) produces, for inspection by the person:
    - (i) written evidence of the fact that the warden or ranger is a member of a police force; or
    - (ii) the warden's or ranger's identity card.
- (3) If the charge is paid by the person under subregulation (1) to a warden or ranger, or a person authorised to collect the charges, the Director, warden, ranger or the person authorised to collect the charges must give a receipt for the amount to the person who paid it.
- (4) Subregulation (1) does not apply in a jointly managed reserve to a member or officer of a land council for indigenous people's land, in the part of the reserve where the activity occurs, who is performing his or her duties as a member or officer.

**12.62 Liability of owner of vehicle etc for offences**

- (1) The owner of a motor vehicle at the time when an offence relating to the motor vehicle under these Regulations is committed is taken to have committed the offence.

**Regulation 12.62**

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- (2) However, the owner of the motor vehicle is not taken to have committed the offence if:
- (a) the motor vehicle was, at the time of the offence, stolen or illegally taken or used; or
  - (b) for an owner who is not a body corporate — within 14 days after the date of a notice served under the relevant provision, or within 14 days after service of a summons for the alleged offence, the owner gives to the Director a statutory declaration made by him or her stating:
    - (i) that it is made for this regulation; and
    - (ii) that he or she was not in charge of the motor vehicle at the time of the alleged offence; and
    - (iii) the name and address of the person who was in charge of the motor vehicle at that time; or
  - (c) for an owner who is a body corporate — within 14 days after the date of a notice served under the relevant provision or within 14 days after service of a summons for the alleged offence, a director, manager or secretary of the body corporate gives to the Director a statutory declaration made by him or her stating:
    - (i) that it is made for this regulation; and
    - (ii) that the motor vehicle was not being used for the body corporate at the time of the alleged offence; and
    - (iii) the name and address of the person who was in charge of the motor vehicle at that time.
- (3) If an infringement notice has been served under regulation 14.03, or a summons has been served, on the owner of a motor vehicle for an alleged offence under these Regulations, the owner may:
- (a) for an owner who is not a body corporate — within 14 days after the date of the notice or service of the summons give to the Director a statutory declaration made by him or her or by a person having knowledge of the facts stating:
    - (i) that it is made for this regulation; and
    - (ii) that the owner was not in charge of the motor vehicle at the time of the alleged offence; and

**Regulation 12.62**

- (iii) that he or she has not been able to find out who was in charge of the motor vehicle at that time; and
  - (iv) the nature of the inquiries made to find out the name and address of the person who was in charge of the motor vehicle at that time; or
- (b) for an owner who is a body corporate — a director, manager or secretary of the body corporate may, within 14 days after the date of the notice or service of the summons, give to the Director a statutory declaration made by him or her or by a person having knowledge of the facts stating:
- (i) that it is made for this regulation; and
  - (ii) that, to his or her knowledge, from the facts as set out in the declaration, the motor vehicle was not being used for the body corporate at the time of the alleged offence; and
  - (iii) that he or she has not been able to find out who was in charge of the motor vehicle at that time; and
  - (iv) the nature of the inquiries made to find out the name and address of the person who was in charge of the motor vehicle at that time.
- (4) At the hearing of a prosecution for an offence under regulation 12.44, 12.48 or 12.54 against the owner of a motor vehicle:
- (a) if the owner has given a statutory declaration under paragraph (3) (a) — the court must dismiss the charge if it is satisfied (whether on the statements contained in the statutory declaration or otherwise) that:
    - (i) the owner was not in charge of the motor vehicle at the time of the alleged offence; and
    - (ii) the inquiries made to find out the name and address of the person who was in charge of the motor vehicle at that time were reasonable in the circumstances of the case and were carried out with due diligence; or
  - (b) if a director, manager or secretary of the owner has given a statutory declaration under paragraph (3) (b) — the court must dismiss the charge if it is satisfied (whether on the

**Regulation 12.62**

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statements contained in the statutory declaration or otherwise) that:

- (i) the motor vehicle was not being used for the body corporate at the time of the alleged offence; and
  - (ii) the inquiries made to find out the name and address of the person who was in charge of the motor vehicle at that time were reasonable in the circumstances of the case and were carried out with due diligence.
- (5) At the hearing of a prosecution for an offence against regulation 12.44, 12.48 or 12.54, a certificate signed by the Director stating that a person named in the certificate has not, in relation to that offence, given the Director a statutory declaration for a provision of this regulation is evidence of the matter so stated.
- (6) For subregulation (5), a document that purports to have been signed by the Director is to be taken to have been so signed unless the contrary is proved.
- (7) This regulation does not affect the liability of an actual offender other than the owner of the motor vehicle, but:
- (a) the owner and the actual offender must not both be liable for the same offence; and
  - (b) if a penalty has been imposed on a person for an offence under regulation 12.44, 12.48 or 12.54, a further penalty must not be imposed on or recovered from another person for the same offence.
- (8) In this regulation:
- owner**, for a motor vehicle, means:
- (a) if the motor vehicle is registered under a law of a State or Territory for the registration of motor vehicles — the registered owner; or
  - (b) for any other motor vehicle — the person who is legally entitled to possession of the motor vehicle.

**12.63 Copy of statutory declaration to be served with summons**

If a person is named in a statutory declaration given under paragraph 12.62 (2) (b) or (c) as being the person who was in charge of the motor vehicle at the time of an alleged offence against regulation 12.43, 12.44, 12.48 or 12.54:

- (a) the person may be found guilty of the offence only if a copy of the statutory declaration was attached to the summons for the offence when it was served on him or her; and
- (b) the statutory declaration is admissible in evidence in a prosecution for the offence against the person and is evidence that the person was in charge of the vehicle at that time.

**12.64 Impounding or removal of vehicles etc**

- (1) A warden or ranger may impound a vehicle, vessel, aircraft or other property (other than goods that have been seized or forfeited under Division 10 of Part 17 of the Act), but only if the warden or ranger suspects on reasonable grounds that the vehicle, vessel, aircraft or other property has been abandoned in a Commonwealth reserve.
- (2) For subregulation (1), the Director may:
  - (a) establish and maintain a pound; or
  - (b) enter into an arrangement with a body for use of a pound established by the body.
- (3) If a warden or ranger impounds a vehicle, vessel, aircraft or other property, he or she must:
  - (a) remove it to a pound; and
  - (b) take reasonable steps to identify its owner and inform the owner of the impounding.



**Regulation 12.64**

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- (4) For paragraph (3) (b), if the owner of the vehicle, vessel, aircraft or other property cannot be identified, the steps include publishing, in a newspaper circulating in the area where the reserve is located, an advertisement that includes:
- (a) a description of the vehicle, vessel, aircraft or other property; and
  - (b) the date when, and area of the reserve where, the vehicle, vessel, aircraft or other property was impounded.
- (5) A warden or ranger must release an impounded vehicle, vessel, aircraft or property to its owner on payment to the Director of the cost of impounding.
- (6) The cost of impounding a vehicle, vessel, aircraft or other property includes:
- (a) the cost of removing it to a pound; and
  - (b) the cost of identifying its owner; and
  - (c) if the pound is maintained by the Director, the cost, that is reasonably attributable to the management of the impounded property, of:
    - (i) providing staff at the pound; and
    - (ii) reasonably maintaining the pound.
  - (d) if the pound is not maintained by the Director, the amount that the Director is charged for the use of the pound for the impounded property; and
  - (e) any other expenses of the Director for the impounded property.
- (7) A warden or ranger may dispose of the vehicle, vessel, aircraft or other property after 1 month after:
- (a) the owner is informed of the impounding and has not paid the cost of impounding; or
  - (b) the later of:
    - (i) if the owner cannot be contacted — the vehicle, vessel, aircraft or other property was impounded; or
    - (ii) if the owner cannot be identified — an advertisement mentioned in subregulation (4) was published.

- (8) The Director, or a warden or ranger who impounds a vehicle, vessel, aircraft or other property under this regulation, is not liable for any damage to the vehicle, vessel or other property caused by its impounding.

### **12.65 Impounding animals**

- (1) A warden or ranger may impound an animal that:
- is not a member of a native species; and
  - is found straying in a Commonwealth reserve.
- (2) For subregulation (1), the Director may:
- establish and maintain a pound; or
  - enter into an agreement with a person or body for the use of a pound established by the person or body.
- (3) If a warden or ranger impounds an animal, the warden or ranger must:
- remove the animal to a pound; and
  - take reasonable steps to identify the owner of the animal and to tell the owner of the impounding.
- (4) For paragraph (3) (b), if the animal is not identified in a way that allows its owner to be determined, the steps include publishing, in a newspaper circulating in the area where the reserve is located, an advertisement that includes:
- a description of the animal; and
  - the date when, and the part of the reserve where, the animal was impounded.
- (5) A warden or ranger must release an impounded animal to the owner of the animal on payment of the cost of impounding the animal to the Director.
- (6) The cost of impounding an animal includes:
- the cost of removing the animal to a pound; and
  - the cost of identifying the owner of the animal; and

**Regulation 12.66**

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- (c) if the pound is maintained by the Director:
    - (i) the cost, that is reasonably attributable to the management of the animal, of providing staff at the pound; and
    - (ii) the cost of feeding and watering the animal; and
  - (d) if the pound is not maintained by the Director, the amount that the Director is charged for the use of the pound for the animal; and
  - (e) any other expenses of the Director for the animal.
- (7) A warden or ranger may dispose of or destroy an impounded animal after 7 days after any of the following events:
- (a) the owner was informed of the impounding and has not paid the cost of impounding;
  - (b) the later of:
    - (i) if the owner cannot be contacted — the animal was impounded;
    - (ii) if the owner cannot be determined — an advertisement mentioned in subregulation (4) was published.
- (8) A warden or ranger who impounds an animal under this regulation is not liable for any damage to the animal caused by its impounding.

**12.66 Control of non-native species**

If a ranger or a warden considers it necessary for the protection of public safety or for the protection and conservation of biodiversity and heritage in a Commonwealth reserve or a part of the reserve, the ranger or warden may take any suitable measure to control or remove an organism that is:

- (a) not a member of a native species; or
- (b) not indigenous to the reserve or that part of the reserve.

## **Part 13 Conservation zones**

### **13.01 Purpose of Part 13**

For section 390E of the Act, this Part sets out the provisions for regulating activities for conservation zones.

### **13.02 Application of Regulations for conservation zones**

- (1) The provisions mentioned in subregulation (2) apply to conservation zones as if each reference in the provisions to a Commonwealth reserve were a reference to a conservation zone.
- (2) The provisions are:
  - (a) Part 9 (Conservation of biodiversity in Commonwealth areas);
  - (b) regulation 12.10 (Scientific research);
  - (c) regulation 12.11 (Excavating, building and works);
  - (d) regulation 12.12 (Damaging, defacing features etc);
  - (e) regulation 12.13 (Damaging etc heritage);
  - (f) regulation 12.14 (Dumping of waste, littering etc);
  - (g) regulation 12.15 (Use of poisonous substances);
  - (h) regulation 12.16 (Fossicking, removal of earth materials etc);
  - (i) regulation 12.17 (Activities relating to caves and karst);
  - (j) regulation 12.18 (Use etc of firearms, nets and other devices);
  - (k) regulation 12.19 (Taking animals into Commonwealth reserve);
  - (l) regulation 12.20 (Taking plants into Commonwealth reserve);
  - (m) regulation 12.30 (Lighting fires);
  - (n) regulation 12.34 (Commercial fishing);
  - (o) regulation 12.35 (Fishing other than commercial fishing);
  - (p) regulation 12.36 (Commercial activities);

**Regulation 13.02**

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- (q) regulation 12.38 (Deriving commercial gain from images captured);
- (r) regulation 12.66 (Control of non-native species);
- (s) Part 17 (Permits).

## **Part 14                      Enforcement**

### **Division 14.1              Wardens, rangers and inspectors**

#### **14.01      Ranger may ask for person's name and address**

- (1) For section 400 of the Act, a ranger or an authorised officer may ask a person to tell the ranger or authorised officer the person's name and address if the ranger or authorised officer finds the person committing, or there are reasonable grounds for suspecting that the person has committed, an offence against the Act or these Regulations.
- (2) For section 400 of the Act, a ranger or an authorised officer may:
  - (a) ask a person to show the ranger or authorised officer any authority, licence or permit issued to the person under the Act or these Regulations; or
  - (b) ask a person to show the ranger or authorised officer any permit, licence or authority needed for an activity the ranger or authorised officer suspects on reasonable grounds the person has carried on.
- (3) A person must comply with a request under subregulation (1) or (2).

Penalty: 10 penalty units.

- (4) However, a person must comply with the request only if the ranger or authorised officer who makes the request produces his or her identity card for inspection by that person.
- (5) A person must not knowingly give or produce false or misleading information or documents to a ranger or an authorised officer, who makes a request under subregulation (1) or (2).

Penalty: 10 penalty units.

## **Division 14.2            Infringement notices**

### **14.02            Purpose of Division 14.2**

For subsection 497 (1) of the Act, this Division provides a procedure under which a person who is alleged to have committed an offence against a regulation mentioned in Schedule 10 may, as an alternative to having the matter dealt with by a court, dispose of the matter by payment of a monetary penalty (an *infringement notice penalty*) specified in a notice (an *infringement notice*) served on the person.

### **14.03            Infringement notices**

- (1) If there are reasonable grounds for believing that a person has committed an offence against a regulation mentioned in Schedule 10, a ranger or an authorised officer may serve an infringement notice, or cause an infringement notice to be served, on the person in accordance with regulation 14.04.
- (2) The notice must set out the following information:
  - (a) the name and address of the person served (unless the notice is served in accordance with subparagraph 14.04 (1) (c) (ii));
  - (b) the provision of these Regulations that it is alleged has been contravened;
  - (c) details of the alleged offence, including:
    - (i) the day, and (if appropriate) the time, on which it is alleged to have been committed; and
    - (ii) the place at which it is alleged to have been committed;
  - (d) the maximum penalty that may be imposed by a court for the offence;
  - (e) the amount payable as the infringement notice penalty;

**Regulation 14.03**

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- (f) a statement that, if the person prefers that the matter not be dealt with by a court, he or she may signify that preference by paying the infringement notice penalty:
  - (i) before the end of 28 days after the day the notice is served; or
  - (ii) if a further period is allowed by a warden, ranger or inspector under regulation 14.05 — before the end of that further period; or
  - (iii) if payment by instalments is permitted under regulation 14.06 — in accordance with the permission;
- (g) how, and where, the infringement notice penalty may be paid;
- (h) a statement that if, before the end of 28 days after service of the notice, the person notifies the Director, in the manner set out in the infringement notice, of any facts or matters that the person believes ought to be taken into account in relation to the alleged offence:
  - (i) time for payment of the penalty will be extended to the extent necessary to enable a decision to be made about those facts or matters; and
  - (ii) the Director must consider the matters mentioned in subregulation 14.07 (5);
- (i) a statement that, if the infringement notice penalty is paid in time:
  - (i) the person's liability for the offence is discharged; and
  - (ii) further proceedings cannot be taken against the person for the offence; and
  - (iii) the person is not taken to have been convicted of the offence;
- (j) a statement to the effect that, if none of the things mentioned in paragraph (f) or (h) is done within the time specified, the person may be prosecuted for the alleged offence;
- (k) the name of the ranger or authorised officer by whom the notice is served.



**Regulation 14.04**

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- (3) An infringement notice may contain any other information that the ranger or authorised officer considers necessary.
- (4) The notice must be served on the person not more than 12 months after the alleged commission of the offence.

*Note* The infringement notice penalty in respect of an offence is set at one-fifth of the maximum fine that a court could impose for the offence — see Act, subsection 497 (2).

**14.04 Service of infringement notices**

- (1) An infringement notice may be served:
  - (a) personally or by post; or
  - (b) by leaving the notice:
    - (i) at the last-known place of residence or business of the person who appears to have committed the offence; and
    - (ii) with a person, apparently over the age of 16 years, who appears to live or work at the place; or
  - (c) for an offence under regulation 12.44 or 12.48:
    - (i) personally on a person who appears to be in charge of the vehicle; or
    - (ii) by securely placing the notice on the vehicle in a conspicuous position; or
    - (iii) if the Director receives a statutory declaration under subregulation 12.62 (2) — by serving the notice on the person named in the statutory declaration as being in charge of the vehicle at the time of the alleged offence in accordance with paragraph (a) or (b).
- (2) If an infringement notice for an offence under regulation 12.44 or 12.48 is to be served by post on the owner of the vehicle, it may be addressed to the owner:
  - (a) at the owner's last-known place of residence or business; or
  - (b) for the owner of a vehicle registered under a law of a State or Territory — at the latest address of the owner in the record of registration of the vehicle; or

- (c) for a person named in a statutory declaration under subregulation 12.62 (2) — at the address given in the statutory declaration.

#### **14.05 Extension of time to pay**

- (1) On written application by a person on whom an infringement notice has been served, the Director may grant, if satisfied that in all the circumstances it is reasonable to do so, a further period for payment of the infringement notice penalty, whether or not the period of 28 days after the date of service of the notice has ended.
- (2) If application is made after the end of the 28 day period, the application must include an explanation why the alleged offender could not deal with the notice within that period.
- (3) The Director must:
  - (a) grant or refuse a further period; and
  - (b) give the applicant written notice of the decision; and
  - (c) if the decision is a refusal — mention in the notice the reasons for refusal.
- (4) The person must pay the penalty:
  - (a) if a further period is granted — before the end of that period; or
  - (b) if the decision is a refusal — before the end of the later of:
    - (i) 7 days after receiving notice of the refusal; or
    - (ii) the 28 day period.

#### **14.06 Payment by instalments**

- (1) If the Director is satisfied that in all the circumstances it is proper to do so, he or she may make an arrangement with a person on whom an infringement notice has been served (whether or not the period of 28 days after the date of service of the notice has ended) for the payment of the amount of the infringement notice penalty by instalments.
- (2) The Director must:
  - (a) grant or refuse to make an arrangement; and

**Regulation 14.07**

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- (b) give the applicant written notice of the decision; and
  - (c) if the decision is a refusal — mention in the notice the reasons for refusal.
- (3) The person must pay the penalty:
- (a) if an arrangement is made — in accordance with the arrangement; or
  - (b) if the decision is a refusal — before the end of the later of:
    - (i) the 28 day period; and
    - (ii) 7 days after receiving notice of the refusal.

**14.07 If infringement notice disputed**

- (1) Whether or not a notice is received under subregulation (2), the Director, if satisfied that in all the circumstances it is proper to do so, may withdraw an infringement notice.
- (2) If, before the end of 28 days after receiving an infringement notice, a person gives the Director notice under paragraph 14.03 (2) (h), the Director must decide whether to withdraw the infringement notice.
- (3) The Director must:
- (a) withdraw, or refuse to withdraw, the notice; and
  - (b) give the applicant written notice of the decision; and
  - (c) if the decision is a refusal — mention in the notice the reasons for refusal.
- (4) If the Director decides to refuse to withdraw an infringement notice, notice of that decision must state:
- (a) that if the amount of the infringement notice penalty is paid within 28 days after notice of the decision is given to the person, the person will not be prosecuted for the alleged offence; and
  - (b) that if that amount is not so paid, the person may be prosecuted for the alleged offence.
- (5) In making a decision, the Director must consider:
- (a) the facts or matters set out in the notice (if any) given under paragraph 14.03 (2) (h); and

**Regulation 14.09**

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- (b) the circumstances in which the offence mentioned in the notice is alleged to have been committed; and
- (c) whether the person has been convicted previously of an offence against these Regulations; and
- (d) whether an infringement notice has previously been given to the person for an offence of the same kind as the offence mentioned in the notice; and
- (e) any other matter the Director considers relevant to the decision.

*Note* Part VIIC of the *Crimes Act 1914* includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them.

**14.08 Payment of penalty if infringement notice not withdrawn**

If the Director refuses to withdraw an infringement notice, the applicant for withdrawal must pay the infringement notice penalty before the end of 28 days after receiving notice of the refusal.

**14.09 Effect of payment of infringement notice penalty**

- (1) If a person served with an infringement notice pays the infringement notice penalty in accordance with this Division:
  - (a) the person's liability in respect of the offence is discharged; and
  - (b) further proceedings cannot be taken against the person for the offence; and
  - (c) the person is not convicted of the offence.
- (2) Subregulation (1) applies to a person who makes an arrangement to pay the infringement notice penalty by instalments, only if the person makes payments in accordance with the arrangement.

**Regulation 14.10**

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**14.10 Admissions under paragraph 14.03 (2) (h)**

Evidence of an admission made by a person in a notice under paragraph 14.03 (2) (h) is inadmissible in proceedings against the person for the alleged offence.

**14.11 Matter not to be taken into account in determining sentence**

- (1) This regulation applies if a person served with an infringement notice:
  - (a) elects not to pay the infringement notice penalty; and
  - (b) is prosecuted for, and convicted of, the alleged offence mentioned in the infringement notice.
- (2) In determining the penalty to be imposed, the court must not take into account the fact that the person chose not to pay the infringement notice penalty.

**14.12 Evidence for hearing**

- (1) At the hearing of a prosecution for an offence mentioned in an infringement notice, the following certificates are evidence of the facts stated in the certificate:
  - (a) a certificate signed by a ranger or an authorised officer and stating that:
    - (i) the infringement notice was served on the alleged offender; and
    - (ii) the infringement notice penalty has not been paid in accordance with this Division;
  - (b) a certificate signed by a ranger or an authorised officer and stating that the notice was withdrawn on a day specified in the certificate;
  - (c) a certificate signed by the Director and stating that:
    - (i) a further period was refused, under regulation 14.05, for payment of the infringement notice penalty; and
    - (ii) the infringement notice penalty has not been paid in accordance with this Division;
  - (d) a certificate signed by the Director and stating that a notice, a copy of which is attached to the certificate, was

- served on the date mentioned in the certificate by securely placing it in a conspicuous position on the vehicle;
- (e) a certificate signed by the Director and stating that:
    - (i) for regulation 14.05, the further time mentioned in the certificate for payment of the infringement notice penalty was granted; and
    - (ii) the infringement notice penalty was not paid in accordance with the notice or within the further time.
- (2) A certificate that purports to have been signed by the Director, a ranger or an authorised officer is taken to have been signed by that officer unless the contrary is proved.

#### **14.13 Payment of penalty by cheque**

If a cheque is given to the Commonwealth in payment of all or part of the amount of an infringement notice penalty, the payment is taken not to have been made unless the cheque is honoured on presentation.

#### **14.14 Infringement notice not compulsory, etc**

Nothing in this Division is to be taken to:

- (a) require that a person suspected of having contravened a provision of these Regulations be served an infringement notice; or
- (b) affect the liability of a person to be prosecuted for an alleged offence, if:
  - (i) an infringement notice is not served on the person for the offence; or
  - (ii) an infringement notice is served, and withdrawn; or
- (c) limit the penalty that may be imposed by a court on a person convicted of an offence.

## **Division 14.3 Review of administrative decisions**

### **14.15 Definition for Division 14.3**

In this Division:

*decision* has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

### **14.16 Consideration and review of decisions of Director**

- (1) This regulation applies to a decision of the Director under Part 17 about a permit, other than a decision:
  - (a) under subregulation 17.12 (5) or 17.09 (2); or
  - (b) that is taken to be a decision under these Regulations by subsection 43 (6) of the *Administrative Appeals Tribunal Act 1975*.
- (2) The Director must give to any person whose interests are affected by the decision written notice of the decision, including:
  - (a) a statement that the person may apply to the Director to reconsider the decision; and
  - (b) the person's rights to seek review of a reconsidered decision under subregulation (4).
- (3) A failure to comply with subregulation (2) does not affect the validity of the decision.
- (4) A person whose interests are affected by the decision and who is dissatisfied with the decision may, by written notice to the Director within 21 days after the decision first comes to the notice of the person, ask the Director to reconsider the decision.
- (5) A request under subregulation (4) must set out the reasons for making the request.
- (6) The Director must:
  - (a) reconsider the decision within 1 month after he or she receives the request; and

**Regulation 14.17**

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- (b) give to the person who requested the reconsideration written notice of the result of the reconsideration and of the grounds for the result.
- (7) The notice must include a statement that, subject to the *Administrative Appeals Tribunal Act 1975*, the person may apply to the Administrative Appeals Tribunal for review of the reconsideration.
- (8) The person may apply to the Administrative Appeals Tribunal for the review of a decision by the Director made under subregulation (6).

**14.17 Objects or purposes of organisation or association**

- (1) An organisation or association of persons, whether incorporated or not, is to be taken to have interests that are affected by a decision if the decision relates to a matter included in the objects or purposes of the organisation or association.
- (2) Subregulation (1) does not apply to a decision given before the organisation or association was formed or before the objects or purposes of the organisation or association included the matter.



## **Part 15 Committees**

### **Division 15.1 Disclosure of interests**

#### **15.01 Pecuniary interests**

- (1) For paragraph 509 (5) (a) of the Act, a member of a Committee who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Committee must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Committee.
- (2) The member must not, unless the Committee or the Minister otherwise determines:
  - (a) be present during any deliberation of the Committee about the matter; or
  - (b) take part in any decision of the Committee about the matter.
- (3) For a determination under subregulation (2), a member who has a direct or indirect pecuniary interest in the matter to which the disclosure relates must not:
  - (a) be present during any deliberation of the Committee about making the determination; or
  - (b) take part in making the determination.

## **Division 15.2 Committee procedure**

### **15.02 Purpose of Division 15.2**

For section 510 of the Act, this Division provides for matters relating to the operation of a Committee.

### **15.03 Convening meetings**

- (1) A Committee must hold such meetings as are necessary for the efficient performance of its functions.
- (2) A Committee must hold at least 1 meeting every 12 months.
- (3) The Chairperson of a Committee:
  - (a) may convene a meeting of the Committee at any time; and
  - (b) must convene a meeting of the Committee on receipt of a written request from at least 5 other members.
- (4) The Secretary of the Department may convene a meeting of a Committee at any time.

### **15.04 Presiding at meetings**

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

### **15.05 Quorum**

A quorum at a meeting of a Committee is the greater of 4 members or a majority of members.

### **15.06 Voting at meetings**

- (1) Questions arising at a meeting of a Committee are to be decided by a majority of votes of the members present and voting.

**Regulation 15.06**

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- (2) The member presiding has a deliberative vote, and, if necessary, also has a casting vote.

## **Part 16 Publication**

### **Division 16.1 General publication requirements**

#### **16.01 Application of Division 16.1**

- (1) This Division applies to publication requirements for material under the following provisions of the Act:
  - (a) subsections 33 (3) and 36 (2);
  - (b) subsections 45 (3) and (4) and 46 (3);
  - (c) paragraph 49A (a);
  - (d) subsections 57 (3) and 59 (6);
  - (e) paragraphs 60 (2) (b) and 62 (2) (b);
  - (f) subsections 63 (5) and 65 (3);
  - (g) paragraphs 77 (1) (b) and 79 (3) (d);
  - (h) subsections 84 (5) and (6);
  - (i) paragraphs 91 (1) (b), 130 (4) (b), 143 (5) (b), 144 (5) (b) and 145 (5) (b);
  - (j) subsection 145A (8);
  - (k) paragraphs 155 (4) (b) and 158 (7) (a);
  - (l) paragraph 303A (7) (a);
  - (m) subsection 351 (2).
- (2) This Division also applies to the requirement to give notice of material under sections 317 and 329 of the Act.

#### **16.02 Publication requirements**

- (1) The material must be published:
  - (a) in the *Gazette*; and
  - (b) if the material is not required to be published on the internet under section 170A of the Act — at an appropriate location on the internet; and
  - (c) if the material is relevant to the Territory of Cocos (Keeling) Islands, Christmas Island or Norfolk Island — in the Government Gazette of the Territory.

**Regulation 16.03**

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- (2) Material to which paragraph 16.01 (1) (a), (h) or (l) applies must be published in a daily newspaper that circulates throughout Australia.
- (3) Material to which paragraph 16.01 (1) (b), (c), (d), (e) or (f) applies must be published in a daily newspaper that circulates in the State or Territory to which the bilateral agreement relates.
- (4) However, if the material is more than 200 words, a notice may be published instead.
- (5) A notice under subregulation (4) must state:
  - (a) that the material is publicly available; and
  - (b) where the material may be viewed or obtained.

**Division 16.2 Publication requirements for specified matters**

**16.03 Place of publication**

- (1) This regulation applies to publication requirements under the following provisions of the Act:
  - (a) paragraph 93 (1) (a);
  - (b) paragraph 98 (1) (c);
  - (c) subsection 99 (4);
  - (d) paragraph 103 (1) (c);
  - (e) subsection 104 (4);
  - (f) paragraph 108 (1) (a);
  - (g) paragraph 108 (1) (b);
  - (h) section 122.
- (2) The material must be published:
  - (a) for material to which paragraph (1) (f), (g) or (h) applies — at an appropriate location on the internet; and
  - (b) for material to which paragraph (1) (a) applies — in a national or State daily newspaper that circulates in the State or Territory in which the action occurs; and

- (c) for material to which paragraph (1) (a) does not apply — in a national newspaper and a State daily newspaper that circulates in the State or Territory in which the action occurs; and
  - (d) if practical, in regional newspapers that circulate in any regions of Australia where the action is likely to have a significant impact on a matter protected by a provision of Part 3 of the Act.
- (3) However, if material to which subregulation (1) applies is more than 200 words, a notice may be published instead.
- (4) The material or notice must state:
- (a) the requirement under the Act that the material be published; and
  - (b) the name of the action; and
  - (c) a brief description of the action; and
  - (d) the location of the action; and
  - (e) the name of the person intending to take the action; and
  - (f) the name of the designated proponent (if not the person mentioned in paragraph (e)); and
  - (g) each matter protected by a provision of Part 3 of the Act; and
  - (h) where the material may be viewed or obtained.

**16.04 Additional publication requirements for designated proponent**

- (1) This regulation applies to material required to be published by a designated proponent under the following provisions of the Act:
- (a) paragraph 93 (1) (a);
  - (b) paragraph 98 (1) (c);
  - (c) subsection 99 (4);
  - (d) paragraph 103 (1) (c);
  - (e) subsection 104 (4).

**Regulation 16.05**

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- (2) The designated proponent must:
  - (a) give 2 copies of the material to:
    - (i) at least 1 local authority, or at least 1 local or regional library, for the area where the action is likely to have a significant impact on a matter protected by a provision of Part 3 of the Act; and
    - (ii) a State government authority responsible for environmental protection, or a State library, in the State where the action is likely to have a significant impact on a matter protected by a provision of Part 3 of the Act; and
    - (iii) the Department; and
  - (b) ask the authority or library to display the material publicly.
- (3) If the material cannot be displayed in an area in accordance with subregulation (2), the proponent must take reasonable steps to ensure that the material is publicly displayed at an appropriate location.
- (4) A notice published for paragraph 93 (1) (a), 98 (1) (c) or 103 (1) (c) of the Act must:
  - (a) invite public comment on the material; and
  - (b) state the final date for providing comment under subparagraph 93 (1) (a) (iv), paragraph 98 (1) (c) or subparagraph 103 (1) (c) (ii) of the Act.

**16.05 Publication of information about assessments**

For paragraph 170A (j) of the Act, the Secretary must publish on the internet every week, notice of any decision that the Minister has made in the preceding week to approve, or not to approve, an action under Division 1 of Part 9 of the Act.

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## **Division 16.3 Prescribed places for purchase of published material**

### **16.06 Prescribed places for purchase of lists**

For sections 194 and 252 of the Act, the Minister must make copies of up-to-date lists available for purchase at:

- (a) for Norfolk Island — the office of the Administrator of the Territory; and
- (b) for each State or other self-governing Territory — an office of the Department or the Australian Government Info Shop in the capital city of the State or Territory.

### **16.07 Prescribed places for purchase of plans**

- (1) This regulation sets out the places where copies of plans must be made available for purchase under the following provisions of the Act:
  - (a) paragraph 275 (1) (a);
  - (b) paragraph 278 (1) (a);
  - (c) paragraph 290 (1) (a);
  - (d) paragraph 293 (1) (a).
- (2) The places are:
  - (a) for Norfolk Island — the office of the Administrator of the Territory; and
  - (b) for each State or other self-governing Territory — an office of the Department or the Australian Government Info Shop in the capital city of the State or Territory; and
  - (c) for paragraphs (1) (a) and (d), if the plan affects Christmas Island or Cocos (Keeling) Islands — the office of the Administrator of the affected Territory.



**Regulation 16.08**

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**16.08 Prescribed places for purchase of conservation agreements and lists**

- (1) This regulation sets out the places where the Minister must make copies of material available for purchase under subsection 309 (1) or section 310 of the Act:
- (2) The places are:
  - (a) for Norfolk Island — the office of the Administrator of the Territory; and
  - (b) for each State or other self-governing Territory — an office of the Department or the Australian Government Info Shop in the capital city of the State or Territory; and
  - (c) for a conservation agreement or variation that affects Christmas Island or Cocos (Keeling) Islands — the office of the Administrator of the affected Territory.

## Part 17 Permits

### 17.01 Application of Part 17

This Part applies to permits issued:

- (a) by the Minister under the following provisions of the Act:
  - (i) section 201;
  - (ii) section 216;
  - (iii) section 238;
  - (iv) section 258; and
- (b) by the Minister under Part 9, authorising a person to take an action stated in the permit for a protected species; and
- (c) by the Director authorising a person to carry out an activity that is prohibited under Division 12.2; and
- (d) by the Director authorising a person to carry out an activity to which subregulation 12.09 (1) applies.

### 17.02 Application for a permit

- (1) A person may apply for a permit to which this Part applies.
- (2) The application for the permit must be in writing or electronic form and must include the following information:
  - (a) for a permit to which paragraph 17.01 (a) applies — the section of the Act under which the application is made;
  - (b) the full name of each person to whom the permit is to be issued;
  - (c) if the application is not made by any of those persons — the name of the applicant;
  - (d) the name, business address and postal address of any group to which the permit is to be issued;
  - (e) contact details for a person mentioned in paragraph (a) or (b);
  - (f) for a permit to which paragraph 17.01 (a) or (b) applies — any common name and any scientific name of the native species for which the application is made and, if it is a

**Regulation 17.02**

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listed species, the Part in the list mentioned in subsection 178 (1) of the Act in which it is listed;

- (g) details of the action for which the permit is sought, including:
- (i) for a permit to which paragraph 17.01 (a) applies — whether the action will result in the death or injury of a member of a listed species or involve taking, trading, keeping or moving a member of a listed species or treating or interfering with a cetacean;
  - (ii) for a permit to which paragraph 17.01 (b), (c) or (d) applies — whether the action will result in the death or injury of a member of a native species, involve taking, trading, keeping or moving a member of a native species or result in damage to or destruction of the nest or dwelling place of a member of a native species;
  - (iii) how many members of each listed species or native species will be affected;
  - (iv) when and where the action is proposed to be taken;
  - (v) a description of the action, including the methods to be used to comply with these Regulations and to minimise impact on any listed species or native species;
  - (vi) the relevant qualifications or experience of each person proposing to take the action;
  - (vii) the objectives or purpose of the action;
- (h) a statement of the matters mentioned in regulation 17.06;
- (i) a declaration stating whether the applicant has been convicted of, or is subject to proceedings for, an offence mentioned in subregulation 17.07 (1);
- (j) a declaration that the information in the application is correct to the best of the applicant's knowledge.

*Note* Part VIIC of the *Crimes Act 1914* includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them.

- (3) The application must be accompanied by a fee in accordance with Part 18.

**Regulation 17.03**

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- (4) For paragraph (2) (i), the applicant is taken to have been convicted of an offence if the applicant:
- (a) has been charged with, and found guilty of, the offence but discharged without conviction; or
  - (b) has not been found guilty of the offence, but a court has taken the offence into account in passing sentence on the applicant for another offence.

**17.03 Issue of permit**

- (1) This regulation applies to a permit to which paragraph 17.01 (b), (c) or (d) applies.
- (2) The Minister or Director may issue a permit only if:
  - (a) for a permit to which paragraph 17.01 (b) applies — there are reasonable grounds for believing that the action will not, or is not likely to, adversely affect the conservation status of a protected species or a population of a protected species; and
  - (b) for a permit to which paragraph 17.01 (c) or (d) applies — the circumstances mentioned in subregulation 17.05 (1) apply; and
  - (c) the applicant has not been convicted of, nor is subject to proceedings for, an offence under a law mentioned in subregulation 17.07 (1); and
  - (d) for a permit that applies in a jointly managed reserve:
    - (i) consultation with the Board for the reserve is required under any agreement between the Director and the Board and has been carried out in accordance with the agreement; or
    - (ii) there is no such agreement but the activity is consistent with the Director's obligations under the lease for the reserve.

*Note* Part VIIC of the *Crimes Act 1914* includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them.

**Regulation 17.04**

- (3) The Minister or Director must:
- (a) give each permit a reference number by which it can be identified; and
  - (b) tell the applicant the reference number; and
  - (c) give the applicant written notice if the Minister or Director refuses to issue a permit.

**17.04 Content of permits**

A permit must:

- (a) be in writing; and
- (b) state:
  - (i) the provision of these Regulations for which it is issued; and
  - (ii) the activity that is permitted; and
  - (iii) the Commonwealth area where the activity may be carried out; and
  - (iv) when the permit expires; and
  - (v) the conditions subject to which it is issued.

**17.05 Circumstances that must apply**

- (1) For paragraph 17.03 (2) (b), the circumstances for an activity mentioned in an item of the following table are those mentioned in the item:

<b>Item</b>	<b>Activity</b>	<b>Circumstances</b>
1	Any activity	It must be consistent with: <ol style="list-style-type: none"> <li>(a) if there is a management plan in force for the reserve — the plan; and</li> <li>(b) if there is no management plan in force for the reserve — the purposes for which the reserve is declared; and</li> <li>(c) if the activity is in a jointly managed reserve — any lease of indigenous people's land in the reserve.</li> </ol>
2	Any activity	It must not be likely to: <ol style="list-style-type: none"> <li>(a) endanger public safety; or</li> <li>(b) unduly damage the reserve; or</li> </ol>

**Regulation 17.05**

<b>Item</b>	<b>Activity</b>	<b>Circumstances</b>
		<ul style="list-style-type: none"> <li>(c) unduly interfere with the preservation or conservation of biodiversity or heritage in the reserve; or</li> <li>(d) unduly interfere with the protection of other features or facilities in the reserve; or</li> <li>(e) interfere with the privacy of a cultural event held in the reserve by the traditional owners of indigenous people's land in the reserve; or</li> <li>(f) interfere with the continuing cultural use of the reserve (including residence in the reserve) by the traditional owners of indigenous people's land in the reserve; or</li> <li>(g) interfere with the privacy of other persons in the reserve.</li> </ul>
3	An activity prohibited under regulation 12.19 (except subregulation (5))	The animal must be kept under any restraint necessary to prevent it from straying in the reserve.
4	An activity prohibited under regulation 12.20 or 12.21	The plant must not be a member of a species that is: <ul style="list-style-type: none"> <li>(a) included in a list mentioned in section 301A of the Act; or</li> <li>(b) determined by the Director in a management plan for the reserve to be a pest species.</li> </ul>
5	An activity prohibited under regulation 12.31	<ol style="list-style-type: none"> <li>1. The capacity of a parking area, a fireplace or toilet facilities provided must be able to meet the demand created by the public gathering.</li> <li>2. No permit may have already been issued for the place and time covered by the proposed permit.</li> </ol>
6	An activity prohibited under regulation 12.32	The person to be buried must have had a traditional association with the land or waters in the reserve.

**Regulation 17.05**

<b>Item</b>	<b>Activity</b>	<b>Circumstances</b>
7	An activity prohibited under regulation 12.34	Carrying out commercial fishing must not contravene a law of the Commonwealth or a relevant State or Territory about commercial fishing.
8	An activity prohibited under regulation 12.36	<ol style="list-style-type: none"> <li>1. The activity must benefit the public or persons using the reserve.</li> <li>2. If the activity is to sell liquor in a reserve in the Northern Territory, the requirements mentioned in subregulation (2) must be met.</li> </ol>
9	An activity prohibited under regulation 12.37	The requirements mentioned in subregulation (2) must be met.
10	An activity prohibited under regulation 12.39	No permit may have already been issued for the time and place to be covered by the proposed permit.
11	An activity prohibited under regulation 12.41	The use of the vehicle must not be likely: <ol style="list-style-type: none"> <li>(a) to cause the condition of the track or road to which the permit relates to deteriorate significantly; or</li> <li>(b) to cause the condition of another part of the reserve to be significantly degraded.</li> </ol>
12	An activity prohibited under regulation 12.56	The issue of the permit must not result in the maximum number of vessels authorised for the area exceeding the number of vessels authorised in the determination.
13	An activity mentioned in subsection 354 (1) of the Act	The issue of the permit must be consistent with the management plan.

(2) For paragraph 2 of item 8 and item 9 of the table to subregulation (1), the requirements are:

- (a) the proposed permit holder must be the holder of a licence under the *Liquor Act* of the Northern Territory; and
- (b) the Northern Land Council, established under the *Aboriginal Land Rights (Northern Territory) Act 1976*,

**Regulation 17.07**

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must be given an opportunity to comment on the merits of the application; and

- (c) the Director must have considered any views expressed by the Northern Land Council.

**17.06 Statement by applicant**

- (1) For paragraph 17.02 (2) (h), this regulation sets out the matters that must be included in a statement by the applicant.
- (2) For a permit to which paragraph 17.01 (a) applies, the applicant must state why the applicant believes the proposed action meets 1 of the criteria identified in subsection 201 (3), 216 (3), 238 (3) or 258 (3) of the Act that relates to the action.
- (3) For a permit to which paragraph 17.01 (b) applies, the applicant must state:
  - (a) whether the action will, or is likely to, adversely affect the conservation status of a protected species or a population of a protected species; and
  - (b) the steps to be taken to minimise the impact of the action on the native species.

**17.07 Relevant offences**

- (1) For paragraphs 17.02 (2) (i) and 17.11 (3) (c) and (5) (f), the offences are offences under any of the following laws, provisions of laws or legislative instruments made under the laws or provisions:
  - (a) a law of the Commonwealth or a State or Territory about the protection, conservation or management of native species or ecological communities;
  - (b) for an offence under a law mentioned in paragraph (a):
    - (i) section 6, 7, or 7A, or subsection 86 (1), of the *Crimes Act 1914* or section 11.1, 11.4 or 11.5 of the *Criminal Code*; and
    - (ii) a provision of a law of the State or Territory that is equivalent to a provision mentioned in paragraph (b).



**Regulation 17.08**

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- (2) For subregulation (1), the applicant is taken to have been convicted of an offence if, within 5 years before the application is made, the applicant:
- (a) has been charged with, and found guilty of, the offence but discharged without conviction; or
  - (b) has not been found guilty of the offence, but a court has taken the offence into account in passing sentence on the applicant for another offence.

**17.08 Contravention of condition of permit**

A holder of a permit to which paragraph 17.01 (b) or (c) applies is guilty of an offence if the holder:

- (a) takes an action or omits to take an action; and
- (b) the action or omission contravenes a condition of the permit.

Penalty: 50 penalty units.

*Note* For contravention of conditions of a permit to which paragraph 17.01 (a) applies — see the Act, sections 203, 218, 240 and 260.

**17.09 Varying or revoking conditions**

- (1) The Minister may, by written notice to a holder of a permit issued by the Minister, vary or revoke a condition of the permit, or impose a further condition on the permit, in accordance with subregulation (3).
- (2) The Director may, by written notice to a holder of a permit issued by the Director, vary or revoke a condition of the permit, or impose a further condition on the permit, in accordance with subregulation (3).
- (3) However, the Minister or Director may take action under subregulation (1) or (2) only if the permit, as changed by the action, could have been issued in accordance with:
  - (a) a provision of the Act mentioned in paragraph 17.01 (a); or
  - (b) subregulation 17.03 (2).

**Regulation 17.10**

- (4) A holder of a permit may apply in writing for the variation or revocation of a condition of the permit.
- (5) An application under subregulation (4) must be accompanied by:
  - (a) a fee in accordance with Part 18; and
  - (b) for a permit to which paragraph 17.01 (b) or (c) applies:
    - (i) the reference number given to the permit; and
    - (ii) a statement of the reasons the holder thinks the condition of the permit should be varied or revoked.
- (6) A person who makes a decision under subregulation (1) or (2) must give each holder of the permit written notice of the decision.
- (7) If a condition of a permit must be varied, revoked or imposed to make sure that matters or circumstances, about which the Minister or Director must be satisfied when issuing the permit, continue to apply, the Minister or Director must:
  - (a) vary or revoke the condition (whether or not an application has been made under this regulation); or
  - (b) impose the further condition.
- (8) The Minister or Director must give a holder of the permit written notice of a decision under subregulation (1), (2) or (7).

**17.10 Authorities under permits**

- (1) A holder of a permit to which paragraph 17.01 (b) or (c) applies may authorise a person to take an action under the permit.
- (2) An authority may be given only if:
  - (a) it is in writing; and
  - (b) the permit has a condition that allows a holder of the permit to give an authority; and
  - (c) it is given in accordance with the condition; and
  - (d) for a permit to which paragraph 17.01 (c) applies — paragraphs 17.03 (2) (b), (c) and (d) will continue to be satisfied if the authority is given.

**Regulation 17.11**

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- (3) A permit is taken to allow an action that is taken by an authorised person in accordance with an authority.
- (4) A holder of a permit may also take an action for which the holder has authorised another person.
- (5) A person who gives an authority under this regulation must, within 14 days after giving the authority, give written notice of it to:
  - (a) for a permit issued by the Minister — the Minister; or
  - (b) for a permit issued by the Director — the Director.

Penalty: 20 penalty units.

**17.11 Transfer of a permit**

- (1) The Minister may transfer a permit issued by the Minister.
- (2) The Director may transfer a permit issued by the Director.
- (3) A permit may be transferred only if:
  - (a) a holder of the permit applies in writing; and
  - (b) there are reasonable grounds for believing that the proposed transferee will meet the conditions of the permit; and
  - (c) the proposed transferee has not been convicted of, nor is subject to proceedings for, an offence under a law mentioned in subregulation 17.07 (1); and
  - (d) for a jointly managed reserve:
    - (i) if consultation with the Board for the reserve is required under any agreement between the Director and the Board — the consultation has been carried out in accordance with the agreement; or
    - (ii) if there is no such agreement — the approval is consistent with the Director's obligations under the lease of indigenous people's land in the reserve.

*Note* Part VIIC of the *Crimes Act 1914* includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them.

**Regulation 17.12**

- (4) An application for transfer of a permit must be accompanied by a fee in accordance with Part 18.
- (5) The application must include the following:
  - (a) the full name of the holder of the permit;
  - (b) a copy of the permit;
  - (c) the reasons for the proposed transfer;
  - (d) full name and contact details for the proposed transferee;
  - (e) the relevant qualifications or experience of the proposed transferee;
  - (f) a declaration by the proposed transferee stating whether he or she has been convicted of, or is subject to proceedings for, an offence mentioned in subregulation 17.07 (1);
  - (g) a declaration that the information in the application is correct to the best of the knowledge of the holder of the permit and the proposed transferee.
- (6) For paragraphs (3) (c) and (5) (f), the applicant is taken to have been convicted of an offence if the applicant:
  - (a) has been charged with, and found guilty of, the offence but discharged without conviction; or
  - (b) has not been found guilty of the offence, but a court has taken the offence into account in passing sentence on the applicant for another offence.
- (7) The Minister or Director must give the applicant and the proposed transferee written notice of a decision whether or not to transfer a permit under subregulation (1) or (2).

**17.12 Suspension or cancellation of a permit**

- (1) Subregulations (2), (3) and (4) apply if:
  - (a) a holder of a permit contravenes a condition of the permit; or
  - (b) there are reasonable grounds for believing that:
    - (i) a holder of a permit is likely to contravene a condition of the permit; or

**Regulation 17.12**

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- (ii) if an application for a permit that has been issued were being considered again, the permit would not be issued.
- (2) The Minister may, by written notice to a holder of a permit issued by the Minister, cancel the permit.
- (3) The Director may, by written notice to a holder of a permit issued by the Director, cancel the permit.
- (4) The Minister or Director may, by written notice given to a holder of the permit, suspend the permit for the period stated in the notice.
- (5) A permit must not be suspended for more than 28 consecutive days.
- (6) A permit has no effect while it is suspended.
- (7) Suspension of a permit does not affect the period for which the permit was issued.
- (8) If a permit expires before the end of a period for which the permit is suspended, the holder of the permit is not eligible for another permit until the period of suspension is over.

## Part 18 Permit fees

### 18.01 Components of a fee for a permit

- (1) This regulation applies to an application for a permit to which regulation 17.01 applies.
- (2) The fee is made up of:
  - (a) an amount (the *administration component*) for the cost of processing the application; and
  - (b) an amount (the *assessment component*) for the cost of assessing whether a permit may be issued and whether a permit application needs to be redirected as a referral or as a different type of permit; and
  - (c) an amount (the *management component*) for the costs of providing supervision or monitoring compliance with permit conditions.
- (3) The management component of a fee is not payable if the application is refused.

### 18.02 Fee amount

- (1) An application to which a provision of these Regulations, mentioned in a Part of Schedule 11 for an activity mentioned in an item of the Schedule, applies must be accompanied by the administration component and the assessment component mentioned in the item.

*Note* The application fee for a permit does not include charges that may apply for a Commonwealth reserve, including entry, using a camping site, bushwalking and using facilities and services.
- (2) An application for transfer of a permit, variation or revocation of a condition of a permit to which regulation 17.01 applies must be accompanied by the administration component and the assessment component mentioned for the application in Part 5 of Schedule 11.
- (3) The management component of a fee for a permit must be paid before the permit is issued.

**Regulation 18.03**

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**18.03 Reduction of fees**

For an activity mentioned in Part 3 or 4 of Schedule 11 for which no fee was payable immediately before the commencement of the Act, no fee is payable for a permit for the activity that is issued less than 1 year after the commencement of the Act.

**18.04 Exemption from fees**

No fee is payable in any of the following circumstances:

- (a) if:
- (i) the applicant is an Australian charitable organisation; and
  - (ii) the permit is issued for an activity mentioned in regulation 12.31 (Public gatherings) or 12.39 (Collections); and
  - (iii) the Director is satisfied that the activity contributes to the positive portrayal of the Commonwealth reserve and its values;
- (b) if:
- (i) the permit is issued for an activity mentioned in regulation 12.24 (Capturing images or recording sound) or 12.38 (Deriving commercial gain from images captured); and
  - (ii) the Director is satisfied that the activity contributes to the positive portrayal of the Commonwealth reserve and its values;
- (c) if the applicant is a traditional owner of indigenous people's land where the activity is to be carried out, unless the activity is to be carried out by a business entity not under the direct control of the applicant;
- (d) for an application for variation of a condition or imposition of a condition for a permit, if the Minister or Director is satisfied that the variation or imposition helps to achieve the objects of the Act;

**Regulation 18.04**

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- (e) if:
- (i) immediately before the commencement of the Act, the applicant carried on the activity for which the application for a permit is made; and
  - (ii) the Minister or Director is satisfied that the applicant has paid a fee to an appropriate authority for the same activity.



**Regulation 19.01**

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**Part 19                      Miscellaneous****19.01    Allowances for witnesses**

- (1) This regulation sets out the allowances for travelling and other expenses that a person summoned by a commissioner to appear as a witness at an inquiry is entitled to be paid by the Commonwealth.
- (2) For subsection 111 (4) of the Act, a person is entitled to be paid:
  - (a) reasonable expenses for travelling to and from the place where the person is required to attend; and
  - (b) if the person is required to be absent overnight from his or her usual place of residence — reasonable expenses for meals and accommodation; and
  - (c) if expenses are payable to a person for being a witness — expenses in accordance with the Second Schedule of the *High Court Rules 1952*.

## Part 20 Transitional

### 20.01 Permits

- (1) A continuing permit is taken to be a permit issued under Part 17 and to remain in force, unless suspended or cancelled, for the remainder of the period for which it was granted.
- (2) In this regulation:  
*continuing permit* means a permit, licence, authority or exemption granted and in force, immediately before the commencement of these Regulations, under the following provisions of the National Parks and Wildlife Regulations:
  - (a) subregulation 23 (1), (2), (3) or (4);
  - (b) subregulation 27 (1);
  - (c) paragraph 31 (4) (a);
  - (d) subregulation 50 (1);
  - (e) subregulation 54 (1);
  - (f) subregulation 65A (1);
  - (g) subregulation 70 (1);
  - (h) subregulation 73 (1);
  - (i) subregulation 76 (1).

### 20.02 Determinations, prohibitions, restrictions and authorities

- (1) This regulation applies to a determination or decision made, prohibition or restriction notified or authority given by the Director and in force, immediately before the commencement of these Regulations, under the following provisions of the National Parks and Wildlife Regulations:
  - (a) subregulation 14 (1) or (3);
  - (b) subregulation 29 (1);
  - (c) subregulation 31 (1) or (2);
  - (d) subregulation 34 (1);
  - (e) subregulation 36 (1) or (2);

**Regulation 20.03**

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- (f) subregulation 38 (1);
  - (g) subregulation 40 (4);
  - (h) subregulation 41 (1);
  - (i) subregulation 65B (1).
- (2) A determination, decision, prohibition, restriction or authority mentioned in subregulation (1) is taken to be a determination made by the Director under Part 12 and to remain in force until it is revoked.

**20.03 Established pound**

A pound established by the Director under subregulation 22 (1) of the National Parks and Wildlife Regulations is taken to have been established under regulation 12.64 or 12.65.

**20.04 Time-limited declarations and specifications**

- (1) This regulation applies to a declaration or specification by the Director and in force, immediately before the commencement of these Regulations, under subregulation 15 (2) or 33 (1) of the National Parks and Wildlife Regulations.
- (2) A declaration or specification mentioned in subregulation (1) is taken to be a determination made by the Director under Part 12 and to remain in force, unless revoked, for the period mentioned in the declaration or specification.

**20.05 Declarations that may remain in force for 2 years**

A declaration by the Director and in force, immediately before the commencement of these Regulations, under subregulation 58 (1) of the National Parks and Wildlife Regulations is taken to be a determination made by the Director and to remain in force, unless revoked, until 2 years after the commencement of these Regulations.

**Regulation 20.06**

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**20.06 Other continuing matters**

- (1) A licence suspended, immediately before the commencement of these Regulations, under subregulation 52 (1) of the National Parks and Wildlife Regulations is taken to be suspended under regulation 17.12 for the remaining period of the suspension.
- (2) Subregulation (3) applies to an infringement notice:
  - (a) served under subregulation 66 (3) of the National Parks and Wildlife Regulations; and
  - (b) for which the prescribed penalty was not paid at the commencement of these Regulations.
- (3) The infringement notice is taken to have been served under these Regulations and may be enforced as if the offence mentioned in the infringement notice were an offence against these Regulations.
- (4) A reconsideration by the Director under regulation 75 of the National Parks and Wildlife Regulations that has not been finalised before the commencement of these Regulations is to be carried on as if it were a reconsideration under Division 14.3.

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## Schedule 1      **Classes of actions not needing assessment**

(regulation 3.05)

### **1      Definition for Schedule 1**

1.01      In this Schedule:

*decision-maker*, for a manner of assessment specified in the bilateral agreement, means the relevant State or Territory agency, authority or person who makes a decision under the specified State process.

### **2      Assessment of relevant impacts**

2.01      The specified manner of assessment includes an assessment of the relevant impacts of the action.

### **3      Deciding on the assessment approach**

3.01      This item applies if the specified manner of assessment provides for a choice between assessment approaches.

3.02      The decision-maker, in selecting an assessment approach for an action, considers criteria equivalent to the criteria that are:

- (a) mentioned in any guidelines published under subsection 87 (6) of the Act; and
- (b) are relevant to the decision.

3.03      An action is assessed using an approach corresponding to assessment on preliminary documentation under Division 4 of Part 8 of the Act only if:

- (a) the Minister has been given an opportunity to ask that another assessment approach be used and the Minister has not done so; or
- (b) the Minister has agreed in writing that the assessment approach be used.

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#### **4 Guidelines for assessment**

- 4.01 For an assessment approach corresponding to assessment by public environment report under Division 5 of Part 8 of the Act or environmental impact statement under Division 6 of Part 8 of the Act:
- (a) the decision-maker prepares written guidelines for the assessment; or
  - (b) the guidelines for the assessment are those prepared in writing by a State or Territory agency or authority for assessment of all actions in the class of action for which the assessment is required.
- 4.02 The decision-maker seeks public comment, if appropriate, on the guidelines before they are made.
- 4.03 The guidelines are designed to ensure that the assessment:
- (a) assesses all the relevant impacts of the action; and
  - (b) provides enough information about the action and its relevant impacts to allow the Minister to make an informed decision whether to approve the action; and
  - (c) addresses the matters mentioned in Division 5.2 for an environmental impact statement or a public environment report.
- 4.04 For an assessment approach corresponding to assessment by inquiry under Division 7 of Part 8 of the Act:
- (a) persons are appointed to carry out the inquiry; and
  - (b) the persons are given terms of reference to ensure that the inquiry:
    - (i) assesses all relevant impacts of the action; and
    - (ii) provides enough information about the action and its relevant impacts for the Minister to make an informed decision whether to approve the action.

#### **5 Public comment on draft documentation**

- 5.01 For an assessment approach other than one corresponding to assessment by inquiry under Division 7 of the Act, draft

assessment documentation is released for public comment for at least:

- (a) for an assessment approach corresponding to assessment on preliminary documentation under Division 4 of Part 8 of the Act — 14 days; or
- (b) for any other assessment approach — 28 days.

5.02 Assessment documentation prepared after public comments on draft assessment documentation have been considered summarise, or take into account, the issues raised by the public.

5.03 For an assessment approach corresponding to assessment by inquiry under Division 7 of the Act, hearings are held in public unless the persons appointed to hold the inquiry direct otherwise in the public interest or for reasons of commercial confidentiality.

## **6 Assessment and inquiry reports**

6.01 Either:

- (a) an assessment report is prepared for each action that is assessed; or
- (b) if an inquiry is held, the persons holding the inquiry prepares an inquiry report.

6.02 The assessment report or inquiry report takes into account:

- (a) the information in the assessment documentation; and
- (b) any other relevant information available to the decision-maker or inquiry.

6.03 An assessment report or an inquiry report includes:

- (a) a description of:
  - (i) the action; and
  - (ii) the places affected by the action; and
  - (iii) any matters of national environmental significance that are likely to be affected by the action; and
- (b) a summary of the relevant impacts of the action; and
- (c) a description of feasible mitigation measures, changes to the action or procedures to prevent or minimise environmental impacts on relevant matters of national

environmental significance proposed by the proponent or suggested in public submissions; and

- (d) to the extent practicable, a description of any feasible alternatives to the action that have been identified through the assessment process, and their likely impact on matters of national environmental significance; and
- (e) a statement of conditions for approval of the action that may be imposed to address identified impacts on matters of national environmental significance; and
- (f) a statement of State or Territory approval requirements and conditions that apply, or are proposed to apply, to the action when the report is prepared, including a description of the monitoring, enforcement and review procedures that apply, or are proposed to apply, to the action.

## **7 Advertising and consultation**

- 7.01 This item applies to an invitation to the public to comment on draft assessment documents or guidelines.
- 7.02 The invitation is published in newspapers circulating generally in each State and self-governing Territory.
- 7.03 However, for an assessment approach corresponding to assessment on preliminary documentation under Division 4 of Part 8 of the Act, the invitation may be published instead on a website that is:
  - (a) approved by the decision-maker; and
  - (b) linked to the Environment Australia website.
- 7.04 The invitation includes:
  - (a) a brief description of the action; and
  - (b) the location of the action; and
  - (c) what matters are protected by a provision of Part 3 of the Act; and
  - (d) how the relevant documents may be obtained; and
  - (e) the deadline for public comments.



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## **Schedule 2      Referral information**

(regulation 4.03)

### **1      Contact**

- 1.01 Name, postal address and telephone number of:
- (a) the person making the referral; and
  - (b) the person proposing to take the action (if not the person mentioned in paragraph (a)).

### **2      Designated proponent**

- 2.01 The name of the person who should be designated as the proponent if the Minister decides the action is a controlled action.
- 2.02 If the person making the referral states that a person other than the person proposing to take the action should be designated as proponent:
- (a) the proposed proponent's name, postal address and telephone number; and
  - (b) a signed agreement to the proposed designation by the proposed proponent and the person proposing to take the action.

### **3      Whether the action is a controlled action**

- 3.01 If the referral is made by the person proposing to take the action:
- (a) whether the person thinks the action is a controlled action; and
  - (b) the provisions of the Act that the person believes are controlling provisions for the action; and
  - (c) why the person thinks the action is or is not a controlled action.

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#### **4 Description of the proposal**

- 4.01 A description of the proposed action, including:
- (a) details of the location of the project area;
  - (b) the latitude and longitude of the action;
  - (c) the timeframe in which the action is proposed to be taken;
  - (d) activities proposed to be carried out in the action;
  - (e) an explanation of the context, including any relevant planning framework, in which the action is proposed;
  - (f) whether the action is related to other actions or proposals in the region.

#### **5 Nature and extent of the likely impacts of the action**

- 5.01 A description of the affected area that refers, as appropriate, to relevant maps.
- 5.02 The nature and extent of likely impacts on any of:
- (a) the World Heritage values of a World Heritage property;
  - (b) the ecological character of a Ramsar wetland;
  - (c) the members of a listed threatened species (except a conservation dependent species) or any threatened ecological community, or their habitat;
  - (d) the members of a listed migratory species or their habitat;
  - (e) part of the Commonwealth marine area;
  - (f) Commonwealth land.
- 5.03 The nature and extent of the likely impact on the environment, and whether the action is:
- (a) a nuclear action; or
  - (b) an action by the Commonwealth or a Commonwealth agency; or
  - (c) to be taken in a Commonwealth marine area; or
  - (d) to be taken on Commonwealth land.
- 5.04 A map of the affected area on which the following features (if relevant) are marked:
- (a) the location of the action;

- (b) the approximate boundary of the areas and habitat mentioned in item 5.02;
- (c) to the extent practicable and relevant, the information mentioned in item 5.06.

5.05 A description of important features of the project area and the affected area, including (if relevant to the project area or affected area) information about:

- (a) soil and vegetation characteristics;
- (b) water flows, including rivers, creeks and impoundments;
- (c) the presence of outstanding natural features, including caves;
- (d) gradient;
- (e) any buildings or other infrastructure;
- (f) any marine areas;
- (g) kinds of fauna in the area; and
- (h) the current state of the environment in the area, including information about the extent of erosion, whether the area is infested with weeds or feral animals and whether the area is covered by native vegetation or crops.

5.06 Whether the project area is held under freehold, leasehold or any other tenure.

5.07 Current or proposed land uses for the project area.

## **6 Information sources**

6.01 For information given under item 5:

- (a) the source of the information; and
- (b) how recent the information is; and
- (c) how the reliability of the information was tested; and
- (d) what uncertainties (if any) are in the information.

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## **Schedule 3      Preliminary information**

(regulation 5.03)

### **Part 1      General requirements**

#### **1      Contact**

1.01 Name, postal address and telephone number of:

- (a) the person taking the action; and
- (b) the designated proponent (if not the person mentioned in paragraph (a)); and
- (c) the agent of the designated proponent (if applicable).

#### **2      Information in the referral**

2.01 If the preliminary information is given after the Minister has decided whether the action requires approval or after an application is made for a permit in relation to whales, dolphins or porpoises:

- (a) the referral reference number recorded on the notice of the decision or a copy of the notice; and
- (b) whether any of the information given under regulation 4.03 or 17.01 needs to be revised or updated and, if so, details of the changes; and
- (c) whether the person giving the preliminary information wants to give any further information to the information given in the referral or permit application and, if so, the further information.

#### **3      Assessments under State or Territory legislation**

3.01 Details of any environmental assessment of relevant impacts of the action that has been, is being or will be carried out under State or Territory legislation, including:

- (a) copies of assessment documentation, including documents, prepared by the person proposing to take the

- action or a government agency, that describe the impacts of the action or how the impacts are to be managed; and
- (b) a description of any public consultation occurring, or to occur, during the State assessment process; and
  - (c) copies of documents recording the outcomes of the consultations.

**4 Other sources of information on the relevant impacts and their management**

- 4.01 Details of any environmental assessment of relevant impacts of the action (other than an assessment mentioned in item 3) that has been, is being or will be carried out, including:
- (a) copies of assessment documentation; and
  - (b) a description of any public consultation occurring, or to occur, during the assessment process; and
  - (c) copies of documents recording the outcomes of the consultations.
- 4.02 Details of any plan, program or strategy that provides for the action and the management and mitigation of any relevant impacts of the action.

**5 Need for an environmental impact statement or public environment report**

- 5.01 Whether the person giving the preliminary information thinks that the relevant impacts of the action should be assessed by an environmental impact statement or a public environment report.

**6 Alternatives to the proposed action**

- 6.01 A description of:
- (a) any options for how the proposed action may be taken; and
  - (b) any feasible alternatives to the proposed action, including not taking the action; and

(c) the relative effect of the options and alternatives on the relevant impacts of the action.

6.02 This item does not apply if the person giving the preliminary information states that the relevant impacts of the action should be assessed by an environmental impact statement or a public environment report.

## **7 Mitigation techniques to eliminate or reduce relevant impacts**

7.01 Details of measures that will be implemented to avoid or manage any relevant impacts of the action including, if appropriate, evidence in the form of reports or technical advice on the feasibility and effectiveness of the proposed measures.

7.02 This item does not apply if the person giving the preliminary information states that the relevant impacts of the action should be assessed by an environmental impact statement or a public environment report.

## **8 Environmental record of person proposing to take the action**

8.01 Details of any proceedings under a Commonwealth, State or Territory law for the protection of the environment or the conservation and sustainable use of natural resources against:

- (a) the person proposing to take the action; and
- (b) for an action for which a person has applied for a permit, the person making the application.

8.02 If the person proposing to take the action is a corporation — details of the corporation's environmental policy and planning framework.

8.03 This item does not apply if the person giving the preliminary information states that the relevant impacts of the action should be assessed by an environmental impact statement or a public environment report.

## **Part 2      Requirements for actions to which section 160 of the Act applies**

### **1      Description of the proposal**

- 1.01    A description of the proposed action, including:
- (a) details of the location of the project area;
  - (b) the timeframe in which the action is proposed to be taken;
  - (c) activities proposed to be carried out in the action;
  - (d) an explanation of the context, including any relevant planning framework, in which the action is proposed;
  - (e) whether the action is related to other actions or proposals in the region.

### **2      Area likely to be affected by the action**

- 2.01    A description of the affected area that refers, as appropriate, to relevant maps.
- 2.02    A description of important features of the project area and the affected area, including (if relevant to the project area or affected area) information about:
- (a) soil and vegetation characteristics;
  - (b) water flows, including rivers, creeks and impoundments;
  - (c) the presence of outstanding natural features, including caves;
  - (d) gradient;
  - (e) any buildings or other infrastructure;
  - (f) any marine areas;
  - (g) kinds of fauna in the area;
  - (h) the current state of the environment in the area, including information about the extent of erosion, whether the area is infested with weeds or feral animals and whether the area is covered by native vegetation or crops.
- 2.03    Whether the project area is held under freehold, leasehold or any other tenure.
- 2.04    Current or proposed land uses for the project area.

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**3 Known likely impacts of action on the environment**

- 3.01 Whether the action is likely to have an impact on the environment and, if so, the nature and extent of the likely impact.
- 3.02 The evidence and reasoning being relied on to support the conclusions about the impact mentioned in subitem 3.01.

**4 Part 1 information**

- 4.01 The information mentioned in items 3 to 8 of Part 1.
- 4.02 For this Part, a reference in Part 1 to *relevant impact* is taken to be a reference to an impact on the environment.



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## **Schedule 4      Matters to be addressed by draft public environment report and environmental impact statement**

(regulation 5.04)

### **1      General information**

- 1.01    The background of the action including:
- (a)    the title of the action;
  - (b)    the full name and postal address of the designated proponent;
  - (c)    a clear outline of the objective of the action;
  - (d)    the location of the action;
  - (e)    the background to the development of the action;
  - (f)    how the action relates to any other actions (of which the proponent should reasonably be aware) that have been, or are being, taken or that have been approved in the region affected by the action;
  - (g)    the current status of the action;
  - (h)    the consequences of not proceeding with the action.

### **2      Description**

- 2.01    A description of the action, including:
- (a)    all the components of the action;
  - (b)    the precise location of any works to be undertaken, structures to be built or elements of the action that may have relevant impacts;
  - (c)    how the works are to be undertaken and design parameters for those aspects of the structures or elements of the action that may have relevant impacts;
  - (d)    relevant impacts of the action;
  - (e)    proposed safeguards and mitigation measures to deal with relevant impacts of the action;

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- (f) any other requirements for approval or conditions that apply, or that the proponent reasonably believes are likely to apply, to the proposed action;
  - (g) to the extent reasonably practicable, any feasible alternatives to the action, including:
    - (i) if relevant, the alternative of taking no action;
    - (ii) a comparative description of the impacts of each alternative on the matters protected by the controlling provisions for the action;
    - (iii) sufficient detail to make clear why any alternative is preferred to another;
  - (h) any consultation about the action, including:
    - (i) any consultation that has already taken place;
    - (ii) proposed consultation about relevant impacts of the action;
    - (iii) if there has been consultation about the proposed action — any documented response to, or result of, the consultation;
  - (i) identification of affected parties, including a statement mentioning any communities that may be affected and describing their views.

### **3 Relevant impacts**

- 3.01 Information given under paragraph 2.01 (d) must include:
- (a) a description of the relevant impacts of the action;
  - (b) a detailed assessment of the nature and extent of the likely short term and long term relevant impacts;
  - (c) a statement whether any relevant impacts are likely to be unknown, unpredictable or irreversible;
  - (d) analysis of the significance of the relevant impacts;
  - (e) any technical data and other information used or needed to make a detailed assessment of the relevant impacts.

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#### **4 Proposed safeguards and mitigation measures**

- 4.01 Information given under paragraph 2.01 (e) must include:
- (a) a description, and an assessment of the expected or predicted effectiveness of, the mitigation measures;
  - (b) any statutory or policy basis for the mitigation measures;
  - (c) the cost of the mitigation measures;
  - (d) an outline of an environmental management plan that sets out the framework for continuing management, mitigation and monitoring programs for the relevant impacts of the action, including any provisions for independent environmental auditing;
  - (e) the name of the agency responsible for endorsing or approving each mitigation measure or monitoring program;
  - (f) a consolidated list of mitigation measures proposed to be undertaken to prevent, minimise or compensate for the relevant impacts of the action, including mitigation measures proposed to be taken by State governments, local governments or the proponent.

#### **5 Other approvals and conditions**

- 5.01 Information given under paragraph 2.01 (f) must include:
- (a) details of any local or State government planning scheme, or plan or policy under any local or State government planning system that deals with the proposed action, including:
    - (i) what environmental assessment of the proposed action has been, or is being, carried out under the scheme, plan or policy;
    - (ii) how the scheme provides for the prevention, minimisation and management of any relevant impacts;
  - (b) a description of any approval that has been obtained from a State, Territory or Commonwealth agency or authority (other than an approval under the Act), including any conditions that apply to the action;

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- (c) a statement identifying any additional approval that is required;
  - (d) a description of the monitoring, enforcement and review procedures that apply, or are proposed to apply, to the action.

**6 Environmental record of person proposing to take the action**

- 6.01 Details of any proceedings under a Commonwealth, State or Territory law for the protection of the environment or the conservation and sustainable use of natural resources against:
  - (a) the person proposing to take the action; and
  - (b) for an action for which a person has applied for a permit, the person making the application.
- 6.02 If the person proposing to take the action is a corporation — details of the corporation's environmental policy and planning framework.

**7 Information sources**

- 7.01 For information given in a draft public environment report or environmental impact statement, the draft must state:
  - (a) the source of the information; and
  - (b) how recent the information is; and
  - (c) how the reliability of the information was tested; and
  - (d) what uncertainties (if any) are in the information.

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## **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.

## 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



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- (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 elements of the plan; and
  - (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).

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- 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.

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## 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

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- (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.

## **Schedule 8      Australian IUCN reserve management principles**

(regulation 10.04)

### **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.

#### **2      Effective and adaptive management**

Management arrangements should be effective and appropriate to the biodiversity objectives and the socio-economic context of the reserve or zone. They should be adaptive in character to ensure a capacity to respond to uncertainty and change.

#### **3      Precautionary principle**

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      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.

## 5 Ecologically sustainable use

If resource use is consistent with the management principles that apply to a reserve or zone, it should (if it is carried out) be based on the principle (the principle of *ecologically sustainable use*) that:

- (a) natural resources should only be used within their capacity to sustain natural processes while maintaining the life-support systems of nature; and
- (b) the benefit of the use to the present generation should not diminish the potential of the reserve or zone to meet the needs and aspirations of future generations.

## 6 Transparency of decision-making

The framework and processes for decision-making for management of the reserve or zone should be transparent. The reasons for making decisions should be publicly available, except to the extent that information, including information that is culturally sensitive or commercial-in-confidence, needs to be treated as confidential.

## 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.

# Part 2 Principles for each IUCN category

## 1 Strict nature reserve

*Note* This category corresponds to the International Union for the Conservation of Nature (*IUCN*) protected area management category Ia.

- 1.01 The reserve or zone should be managed primarily for scientific research or environmental monitoring based on the following principles.

- 1.02 Habitats, ecosystems and native species should be preserved in as undisturbed a state as possible.
- 1.03 Genetic resources should be maintained in a dynamic and evolutionary state.
- 1.04 Established ecological processes should be maintained.
- 1.05 Structural landscape features or rock exposures should be safeguarded.
- 1.06 Examples of the natural environment should be secured for scientific studies, environmental monitoring and education, including baseline areas from which all avoidable access is excluded.
- 1.07 Disturbance should be minimised by careful planning and execution of research and other approved activities.
- 1.08 Public access should be limited to the extent it is consistent with these principles.

## **2 Wilderness area**

*Note* This category corresponds to the IUCN protected area management category Ib.

- 2.01 The reserve or zone should be protected and managed to preserve its unmodified condition based on the following principles.
- 2.02 Future generations should have the opportunity to experience, understand and enjoy reserves or zones that have been largely undisturbed by human action over a long period of time.
- 2.03 The essential attributes and qualities of the environment should be maintained over the long term.
- 2.04 Public access should be provided at levels and of a type that will best serve the physical and spiritual well-being of visitors and maintain the wilderness qualities of the reserve or zone for present and future generations.

- 2.05 Indigenous human communities living at low density and in balance with the available resources should be able to maintain their lifestyle.

### **3 National park**

*Note* This category corresponds to the IUCN protected area management category II.

- 3.01 The reserve or zone should be protected and managed to preserve its natural condition according to the following principles.
- 3.02 Natural and scenic areas of national and international significance should be protected for spiritual, scientific, educational, recreational or tourist purposes.
- 3.03 Representative examples of physiographic regions, biotic communities, genetic resources, and native species should be perpetuated in as natural a state as possible to provide ecological stability and diversity.
- 3.04 Visitor use should be managed for inspirational, educational, cultural and recreational purposes at a level that will maintain the reserve or zone in a natural or near natural state.
- 3.05 Management should seek to ensure that exploitation or occupation inconsistent with these principles does not occur.
- 3.06 Respect should be maintained for the ecological, geomorphologic, sacred and aesthetic attributes for which the reserve or zone was assigned to this category.
- 3.07 The needs of indigenous people should be taken into account, including subsistence resource use, to the extent that they do not conflict with these principles.
- 3.08 The aspirations of traditional owners of land within the reserve or zone, their continuing land management practices, the protection and maintenance of cultural heritage and the benefit the traditional owners derive from enterprises, established in the reserve or zone, consistent with these principles should be recognised and taken into account.



#### **4 Natural monument**

*Note* This category corresponds to the IUCN protected area management category III.

- 4.01 The reserve or zone should be protected and managed to preserve its natural or cultural features based on the following principles.
- 4.02 Specific outstanding natural features should be protected or preserved in perpetuity because of their natural significance, unique or representational quality or spiritual connotations.
- 4.03 Opportunities for research, education, interpretation and public appreciation should be provided to an extent consistent with these principles.
- 4.04 Management should seek to ensure that exploitation or occupation inconsistent with these principles does not occur.
- 4.05 People with rights or interests in the reserve or zone should be entitled to benefits derived from activities in the reserve or zone that are consistent with these principles.

#### **5 Habitat/species management area**

*Note* This category corresponds to the IUCN protected area management category IV.

- 5.01 The reserve or zone should be managed primarily, including (if necessary) through active intervention, to ensure the maintenance of habitats or to meet the requirements of collections or specific species based on the following principles.
- 5.02 Habitat conditions necessary to protect significant species, groups or collections of species, biotic communities or physical features of the environment should be secured and maintained, if necessary through specific human manipulation.
- 5.03 Scientific research and environmental monitoring that contribute to reserve management should be facilitated as primary activities associated with sustainable resource management.

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- 5.04 The reserve or zone may be developed for public education and appreciation of the characteristics of habitats, species or collections and of the work of wildlife management.
- 5.05 Management should seek to ensure that exploitation or occupation inconsistent with these principles does not occur.
- 5.06 People with rights or interests in the reserve or zone should be entitled to benefits derived from activities in the reserve or zone that are consistent with these principles.
- 5.07 If the reserve or zone is declared for the purpose of a botanic garden, it should also be managed for the increase of knowledge, appreciation and enjoyment of Australia's plant heritage by establishing, as an integrated resource, a collection of living and herbarium specimens of Australian and related plants for study, interpretation, conservation and display.

## **6 Protected landscape/seascape**

*Note* This category corresponds to the IUCN protected area management category V.

- 6.01 The reserve or zone should be managed to safeguard the integrity of the traditional interactions between people and nature based on the following principles.
- 6.02 The harmonious interaction of nature and culture should be maintained through the protection of landscape or seascape and the continuation of traditional uses, building practices and social and cultural manifestations.
- 6.03 Lifestyles and economic activities that are in harmony with nature, and the preservation of the social and cultural fabric of the communities in the reserve or zone concerned should be supported.
- 6.04 The diversity of landscape, seascape and habitat, and of associated species and ecosystems, should be maintained.
- 6.05 Land and sea uses and activities that are inappropriate in scale or character should not occur.

- 6.06 Opportunities for public enjoyment should be provided through recreation and tourism appropriate in type and scale to the essential qualities of the reserve or zone.
- 6.07 Scientific and educational activities, that will contribute to the long-term well-being of resident populations and to the development of public support for the environmental protection of similar areas, should be encouraged.
- 6.08 Benefits to the local community, and contributions to its well-being, through the provision of natural products and services should be sought and promoted if they are consistent with these principles.

## **7 Managed resource protected area**

*Note* This category corresponds to the IUCN protected area management category VI.

- 7.01 The reserve or zone should be managed mainly for the sustainable use of natural ecosystems based on the following principles.
- 7.02 The biological diversity and other natural values of the reserve or zone should be protected and maintained in the long term.
- 7.03 Management practices should be applied to ensure ecologically sustainable use of the reserve or zone.
- 7.04 Management of the reserve or zone should contribute to regional and national development to the extent that this is consistent with these principles.

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## Schedule 9      Routes in Kakadu National Park

(regulation 11.06)

### Part 1      Transportation routes

- 1    The route followed by the Arnhem Highway from the western boundary of Kakadu National Park to the boundary of the land described in Schedule 2 to the *Aboriginal Land Rights (Northern Territory) Act 1976*
- 2    The route followed by the Kakadu Highway from the line joining the intersection of latitude 13° 14' 49" south with longitude 132° 19' 43" east and the intersection of latitude 13° 17' 34" south with longitude 132° 22' 44" east to the Arnhem Highway in Kakadu National Park
- 3    The route followed by the Oenpelli Road from the line joining the intersection of latitude 12° 30' 10" south with longitude 132° 51' 40" east and the intersection of latitude 12° 36' south with longitude 132° 55' east to the Arnhem Highway
- 4    The route followed by the Oenpelli Road from the line joining the intersection of latitude 12° 29' south with longitude 132° 52' 22" east and the intersection of latitude 12° 29' south with longitude 132° 55' east to the north-eastern boundary of Kakadu National Park at Cahill's Crossing
- 5    The route followed by the Old Darwin Road from the western boundary of Kakadu National Park to the Kakadu Highway
- 6    The route followed by the road that intersects the Kakadu Highway near Nourlangie Creek from that intersection to the boundary of the land described in paragraph (b) of Part I of the Schedule to the Proclamation under subsection 7 (2) of the *National Parks and Wildlife Conservation Act 1975* published in the *Gazette* on 5 April 1979
- 7    The air route, within Kakadu National Park, normally followed by an aircraft travelling between Jabiru Airstrip in the area

described in Schedule 2 to the *Aboriginal Land Rights (Northern Territory) Act 1976* and any of the following locations:

- (a) Baroalba Airstrip;
  - (b) Batchelor;
  - (c) Darwin;
  - (d) Katherine;
  - (e) Nabarlek;
  - (f) Oenpelli;
  - (g) Pine Creek
- 8 The air route, within Kakadu National Park, normally followed by an aircraft travelling between Baroalba Airstrip in Kakadu National Park and any of the following locations:
- (a) Batchelor;
  - (b) Darwin;
  - (c) Katherine;
  - (d) Nabarlek;
  - (e) Oenpelli;
  - (f) Pine Creek
- 9 The route followed by the Kakadu Highway from the western boundary of Kakadu National Park at the Mary River to the line joining the intersection of latitude 13° 31' 33" south with longitude 132° 13' 43" east and the intersection of latitude 13° 33' 46" south with longitude 132° 17' 34" east
- 10 The route followed by the Gimbat Road from the line joining the intersection of latitude 13° 29' 30" south with longitude 132° 24' 49" east and the intersection of latitude 13° 32' 32" south with longitude 132° 30' 03" east to the line joining the intersection of latitude 13° 30' 49" south with longitude 132° 19' 49" east and the intersection of latitude 13° 31' 39" south with longitude 132° 22' 01" east
- 11 The route followed by a road from its intersection with the Oenpelli Road near the intersection of latitude 12° 35' 38" south with longitude 132° 51' 45" east to Mudginberri

- 12 The water route followed by a vessel travelling between Mudginberri and that part of the boundary of the Jabiluka Project Area that follows the line joining the intersection of latitude 12° 30' 10" south with longitude 132° 51' 40" east and the intersection of latitude 12° 36' south with longitude 132° 55' east
- 13 The air route followed by an aircraft travelling between Fisher Landing Ground and any of the following locations:
  - (a) Darwin;
  - (b) Jabiru;
  - (c) Katherine;
  - (d) Pine Creek

## **Part 2 Pipeline and power line routes**

- 1 The route followed on 21 May 1987 by the pipeline between the borefield at Nanambu Creek and Jabiru
- 2 The route followed on 21 May 1987 by the power line between the borefield at Nanambu Creek and Jabiru
- 3 The route followed on 21 May 1987 by the power line between the land described in Schedule 2 to the *Aboriginal Land Rights (Northern Territory) Act 1976* and Jabiru

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**Schedule 10      Infringement notice offences**

(regulation 14.02)

<b>Item</b>	<b>Regulation</b>
1	12.14 (Dumping of waste, littering etc)
2	12.28 (Camping)
3	12.29 (Failing to comply with directions about camping)
4	12.43 (Speed limits and one-way traffic)
5	12.44 (Parking and stopping)
6	12.48 (Parking permits and parking vouchers)
7	12.50 (Interference with parking permits or parking vouchers)
8	12.51 (Abuse of voucher machines)
9	12.52 (Unauthorised installation of voucher machines)
10	12.54 (Vehicles to stop as required)
11	12.55 (Walking on roads or marked tracks)

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## Schedule 11 Permit fees

(regulation 18.02)

Item	Activity	Fee		
		Administration component	Assessment component	Management component
<b>Part 1 Paragraph 17.01 (a)</b>				
1.01	Action to which paragraph 201 (3) (a), (c) or (d) of the Act applies	\$100	nil	nil
1.02	Action to which paragraph 201 (3) (b) of the Act applies	\$100	nil	nil
1.03	Action to which subsection 216 (3) of the Act applies	nil	nil	nil
1.04	Action to which subsection 258 (3) of the Act applies	nil	nil	nil
<b>Cetaceans:</b>				
1.05	Action to contribute significantly to conservation of cetaceans, eg scientific research (not involving kill, injure, take, trade, keep or move species)	\$25	nil	nil
1.06	Action that will interfere with cetaceans, but interference is incidental to, and not the purpose of, taking the action, eg commercial filming, defence, offshore exploration	nil	nil	nil
1.07	Whale watching	nil	nil	nil



Item	Activity	Fee		
		Administration component	Assessment component	Management component
<b>Part 2 Paragraph 17.01 (b)</b>				
2.01	Kill, injure	nil	nil	nil
2.02	Damage, destroy	nil	nil	nil
2.03	Take	nil	nil	nil
<b>Part 3 Paragraph 17.01 (c)</b>				
3.01	An activity to which regulation 12.10 applies	nil	nil	nil
3.02	An activity to which regulation 12.12, 12.13, 12.15, 12.16 or 12.17 applies	nil	nil	nil
3.03	An activity to which regulation 12.18, 12.19, 12.20, 12.27, 12.31, 12.32, 12.33 or 12.39 applies	nil	nil	nil
3.04	An activity to which regulation 12.23, 12.26, 12.41, 12.56 or 12.58 applies	nil	nil	nil
3.05	An activity to which regulation 12.24 applies, involving:			
	(a) still photography, painting or audio in:			
	(i) Kakadu National Park, Christmas Island National Park or Cocos (Keeling) National Park	\$30	nil	nil
	(ii) Uluru Kata Tjuta National Park	\$20 each day	nil	nil
	(iii) Booderee National Park	\$10	nil	nil
168	<i>Environment Protection and Biodiversity Conservation Regulations 2000</i>			2000,

Item	Activity	Fee		
		Administration component	Assessment component	Management component
	(b) commercial filming in any of those National Parks	\$250 each day	nil	nil
3.06	An activity to which regulation 12.36 applies involving:			
	(a) in Kakadu National Park:			
	(i) up to 4 trips each year, not covered by another subparagraph	\$100 each year	nil	nil
	(ii) more than 4 trips each year, not covered by another subparagraph	\$500 each year	nil	nil
	(iii) sports fishing for up to 50 days	\$200 each year	nil	nil
	(iv) sports fishing for more than 50 days and up to 75 days	\$300 each year	nil	nil
	(v) sports fishing for more than 75 days and up to 100 days	\$400 each year	nil	nil
	(vi) sports fishing for more than 100 days and up to 125 days	\$500 each year	nil	nil
	(vii) operating a safari camp	\$500 each year	nil	nil
	(viii) touring Koolpin Gorge on a scheduled or chartered tour	\$500 each year	nil	nil
	(ix) using canoes at Twin Falls	\$500 each year	nil	nil

Item	Activity	Fee		
		Administration component	Assessment component	Management component
	(x) bushwalking tour, up to 4 trips each year	\$100 each year	nil	nil
	(xi) bushwalking tour, more than 4 trips each year	\$500 each year	nil	nil
	(b) in Uluru Kata Tjuta National Park:			
	(i) up to 4 trips each year	\$100 each year	nil	nil
	(ii) more than 4 trips each year	\$500 each year	nil	nil
	(c) in Booderec National Park:			
	(i) commercial fishing	\$50 each year	nil	nil
	(ii) any other circumstances	\$50 each year	nil	nil
	(d) any circumstances in Christmas Island National Park or Cocos (Keeling) National Park	\$50 each year	nil	nil
3.07	An activity to which regulation 12.38 applies	nil	nil	nil
3.08	An activity to which regulation 12.40 applies	nil	nil	nil
<b>Part 4 Regulations 17.09 and 17.11</b>				
4.01	Transfer of permit, variation or revocation of a condition	nil	nil	nil
4.02	Imposition of further condition, sought by holder of permit	nil	nil	nil

## Schedule 12 Protected species

(Dictionary, definition of *protected species*, paragraph (b))

- 1 A species for which a member of the species is:
  - (a) in the Christmas Islands Territory in an area of
    - (i) primary rainforest; or
    - (ii) marginal rainforest; or
    - (iii) open forest, scrubby forest, and vine forest; or
    - (iv) coastal fringe; or
    - (v) shore cliffs and spray zone;as defined in Du Puy, DJ, 1993 Christmas Island, in *Flora of Australia*, Volume 50, Oceanic Islands 2, Australian Government Publishing Service, Canberra; or
  - (b) in the Cocos (Keeling) Territory on the land above the high water mark on Horsburgh Island (Pulu Luar) or South Island (Pulu Atas), other than a fruit or leaf of the species *Cocos nucifera* (coconut); or
  - (c) in the Territory of Cocos (Keeling) Islands in the area known as *the Rip* as defined in a declaration, dated 16 October 1992, made under subregulation 48 (1) of the National Parks and Wildlife Regulations, gazetted on 22 October 1992.
- 2 A species in the following classes:
  - (a) Mammalia (mammals);
  - (b) Aves (birds);
  - (c) Reptilia (reptiles);
  - (d) Amphibia (amphibians).
- 3 A species in the following families:
  - (a) Coenobitidae (terrestrial hermit crabs) other than a member of the species *Birgus latro* (robber crab) in the Territory of Christmas Island that:
    - (i) is taken by a person whose principal place of residence is the Territory and who has lived in the

- Territory for 3 months immediately before taking the member; and
- (ii) is taken for personal consumption by the person who took the member or a member of that person's household; and
  - (iii) is not offered, in whole or part, for barter, sale or export; and
  - (iv) is not taken from the Territory Golf Course, as defined in National Parks and Wildlife (Unprotected Animals and Plants — Christmas Island) Declaration No. 1 of 1995, gazetted on 20 December 1995.
- (b) Gecarcinidae (land crabs);
  - (c) Grapsidae (shore crabs);
  - (d) Ocypodidae (ghost crabs);
  - (e) Palaemoninae (freshwater shrimps).
- 4 A species, in the Territory of Christmas Island, whose members are obligate cave-dwellers.

## Dictionary

(regulation 1.03)

**affected area** means the area that is likely to be affected by the action.

**aircraft** — see Act, section 528.

**archaeological site** includes an area of land on which there are:

- (a) Aboriginal remains; or
- (b) Aboriginal artefacts; or
- (c) Aboriginal paintings, carvings, engravings or imprints.

**ARPNS Regulations** means the *Australian Radiation Protection and Nuclear Safety Regulations 1999*.

**assistance animal** means an animal trained to help a person to lessen the effects of a disability.

**Australian Whale Sanctuary** has the meaning given by section 225 of the Act.

**Authority** means the Jabiru Town Development Authority established by the *Jabiru Town Development Act 1979* of the Northern Territory.

**biodiversity** — see Act, section 528.

**biological resources** — see Act, section 528.

**Biosphere reserve** — see Act, section 528.

**blind person** means a person who is totally or partially blind.

**Board** — see Act, section 528.

**Booderee National Park** has the meaning given by subsection 2 (1) of the *Aboriginal Land Grant (Jervis Bay Territory) Act 1986*.

**bow-ride**, for a cetacean, means ride on the pressure wave at the bow of a vessel moving through the water.

**burial** includes scattering or other disposal of ashes that are or include human remains.

**calf** means:

- (a) for a dolphin or porpoise — a dolphin or porpoise not more than half the length of an adult of the species; or

- (b) for a large whale — a whale that was born in the current calving season.

**camp** includes an overnight stay in or on a vehicle, vessel or aircraft.

**camping area** means a camping area determined under subregulation 12.28 (4).

**camping site** means a camping site determined under subregulation 12.28 (4).

**capture**, for an image, means record the image by artistic representation, or on film, videotape or electronic medium.

**caution zone**, for a cetacean, means an area around the cetacean with a radius of:

- (a) for a large whale — 300 metres; or  
(b) for a dolphin or porpoise — 150 metres.

**cetacean** — see Act, section 528.

**coastal sea** — see Act, section 528.

**coastal waters** — see Act, section 528.

**commemorative marker** includes a monument, cairn, statue or sculpture, sign, plaque or tablet, wreath or floral arrangement.

**Committee** means a Committee to which Division 3 of Part 19 of the Act applies.

**Commonwealth agency** — see Act, section 528.

**Commonwealth area** — see Act, section 528.

**Commonwealth land** — see Act, section 528.

**Commonwealth marine area** — see Act, section 528.

**Commonwealth reserve** — see Act, section 528.

**conservation agreement** — see Act, section 528.

**contact details**, for a person, means:

- (a) the person's business or residential address; and  
(b) the person's postal address; and  
(c) the telephone number (if any) at which the person may be contacted personally; and  
(d) the telephone number (if any) to which a facsimile message for the person may be transmitted; and  
(e) the person's email address (if any).

**daily newspaper** — see Act, section 528.

**deaf person** means a person who is totally or partially deaf.

**declared Ramsar wetland** — see Act, section 528.

**declared World Heritage property** — see Act, section 528.

**de-restricting sign** means a traffic sign with a black circle with a straight black line bisecting the circle from the lower left quadrant to the upper right quadrant.

**determined fee** means the fee determined under Part 18 for the parking of a vehicle in a parking area.

**Director** — see Act, section 528.

**dog** means an animal of the species *Canis familiaris*.

**dolphin** means a member of the family Delphinidae other than the genus *Globicephala*, *Pseudorca* or *Orcinus*.

**draft assessment documentation** means:

- (a) for an assessment approach equivalent to assessment by public environment report under Division 5 of Part 8 of the Act or environmental impact statement under Division 6 of Part 8 of the Act — a draft report prepared in accordance with the guidelines mentioned in item 4 of Schedule 1; or
- (b) for an assessment approach equivalent to assessment by preliminary documentation under Division 4 of Part 8 of the Act — a document that describes:
  - (i) the proposed action; and
  - (ii) its likely relevant impacts; and
  - (iii) to the extent practicable, any feasible alternatives to the proposed action; and
  - (iv) possible mitigation measures.

**earth materials** includes gravel, shell grit, coral, evaporites, fossils or speleothems.

**ecological community** — see Act, section 528.

**entrance station** means a building in a Commonwealth reserve that is:

- (a) beside a road or track where people enter the reserve; and
- (b) identified by a sign with the words 'ENTRANCE STATION'.



**evaporite** means salts deposited from solution because of evaporation of water.

**event day**, for the duration of an event, means each day that the event occurs.

**explosive**:

- (a) includes fireworks; but
- (b) does not include:
  - (i) fuel gas or liquid fuels to be used for domestic purposes, lighting, heating or cooking; or
  - (ii) a flare carried on a vessel or used in dealing with an emergency.

**film**, used as a verb, includes, but is not confined to, taking still photographs, videotape images or digital images.

**fire** includes a flame produced from any source.

**firearm** includes a firearm that is temporarily disabled.

**fish** includes aquatic invertebrate animals.

**fishing gear** means equipment that:

- (a) is designed to search for or take fish or aquatic animals; or
- (b) if it is used, can reasonably be expected to find or take fish or aquatic animals.

**fossick** includes the following:

- (a) use a device or technique (including remote sensing) for detecting minerals or metal;
- (b) use a panning dish, a powered fan or a sieve to separate mineral materials of different sizes;
- (c) use a pump to remove mineral materials from the bed of a watercourse or body of water;
- (d) use a riffle or sluice box in the way it was designed to be used;
- (e) drill or take core samples, excavate, dig, rake or shovel clay, sand, stone or other earth materials to find other mineral materials.

**fossil** includes prehistoric remains of a plant or an animal or the by-products of a plant or an animal.

***fuel gas*** means a gas or mixture of gases that may be burned with air to produce light, heat or power.

*Note* This includes natural gas or liquefied petroleum gas that is a mixture of hydrocarbons, substantially made up of propane or butane, in a liquid or gaseous state.

***genetic resources*** — see Act, section 528.

***habitat*** — see Act, section 528.

***heritage***, for a Commonwealth reserve, includes places, features, structures and objects that have aesthetic, archaeological, historic, scientific or social significance or other special value for the present community and for future generations.

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

***indigenous person*** — see Act, section 528.

***inspector*** — see Act, section 528.

***infringement notice*** has the meaning given by regulation 14.02.

***infringement notice penalty*** has the meaning given by regulation 14.02.

***Jabiru township*** means the township established by the Authority.

***jointly managed reserve*** — see Act, section 528.

***Kakadu National Park*** — see Act, section 528.

***karst*** includes surface and subterranean landscape features formed in water-soluble carbonate rocks.

*Example* Limestone or dolomite.

***keep***, for an organism, means to have charge or possession of the organism, either in captivity or in a domesticated state.

***kill or injure*** includes an action that results in death or injury.

***land*** — see Act, section 528.

***land council*** — see Act, section 528.

**landing area** means a part of a Commonwealth reserve authorised for use as an aerodrome by:

- (a) a licence under the *Civil Aviation Regulations 1988*; or
- (b) the Civil Aviation Safety Authority.

**large whale** means:

- (a) a member of the suborder Mysticeti; or
- (b) a member of the suborder Odontoceti from:
  - (i) the family Physteridae, Ziphiidae or Kogiidae; or
  - (ii) the delphinid genus *Globicephala*, *Pseudorca* or *Orcinus*.

**launching area** means an area stated to be a launching area under subregulation 12.57 (2).

**liquid fuel** includes the solid form of a liquid that is used for heating or cooking.

**liquor** means a beverage that contains more than 1.15% by volume of ethyl alcohol.

**listed marine species** — see Act, section 528.

**listed migratory species** — see Act, section 528.

**listed species** means a native species that is a listed threatened species, a member of a listed threatened ecological community, a listed migratory species, a listed marine species or a cetacean.

**listed threatened species** — see Act, section 528.

**member**, for a native species, includes all or part of the member's reproductive material or dead body.

**mineral** — see Act, section 528.

**moor** means to attach a vessel to a permanently installed mooring.

**mooring area** means an area stated to be a mooring area under subregulation 12.56 (3).

**motor vehicle** means a vehicle for which the motive power is not provided by a human or animal.

**native species** — see Act, section 528.

**natural features** means features or elements of the landscape that have not been placed or erected by a person.

**natural properties**, for an ecosystem, means:

- (a) the physical, chemical and biological components of the ecosystem, including soil, water, plants, animals and nutrients; and
- (b) the interactions between those components.

**parking area** means:

- (a) a part of a Commonwealth reserve designated by signs as a place where vehicles can be parked; or
- (b) the access to and from, and the passageways in, that part.

**parking permit** means a permit issued under regulation 12.45.

**parking voucher** means a voucher:

- (a) that is issued from a voucher machine; and
- (b) on which the date and time of issue and expiry of the parking voucher is printed by the voucher machine.

**person visit** means a visit to a Commonwealth reserve by 1 person on 1 day.

**plant** — see Act, section 528.

**plant reproductive material** — see Act, section 528.

**porpoise** means a member of the odontocete family Phocoenidae.

**prescribed waters** — see Act, section 528.

**project area**, for an action, means the area where the action is proposed to take place.

**protected species** means a native species that is:

- (a) not a listed species; and
- (b) mentioned in Schedule 12; and
- (c) in, or taken in, a Commonwealth area to which Part 9 applies.

**public access track** means a track designated by a sign erected for the purpose mentioned in subregulation 12.53 (1).

**public gathering** includes an assembly of persons for a demonstration or a cultural or competitive event.

**Ramsar Convention** — see Act, section 528.

**ranger** — see Act, section 528.

**recovery plan** — see Act, section 528.

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**Register of critical habitat** means the register kept for subsection 207A (1) of the Act.

**relevant impacts** — see Act, section 528.

**restricted craft** means:

- (a) a personal motorised watercraft; or

*Example* A jet ski.

- (b) a parasail; or
- (c) a hovercraft; or
- (d) a wing-in-ground-effect craft; or
- (e) a motorised diving aid.

*Example* A motorised underwater scooter.

**seabed** — see Act, section 528.

**sealed source**, for radioactive material, means permanent containment in a capsule, or being closely bound in a solid form, that is strong enough to be leak-tight for:

- (a) the intended use of the radioactive material; and
- (b) any foreseeable abnormal events likely to affect the radioactive material.

**Secretary** — see Act, section 528.

**self-governing Territory** — see Act, section 528.

**sell** includes attempt or offer to sell, barter, cause or permit to be sold or offered for sale, have in possession for sale or send or receive for sale, and **sale** has a corresponding meaning.

**service** includes accommodation or transportation.

**service road** means a road or track designated by a sign erected for the purpose mentioned in subregulation 12.53 (2).

**species** — see Act, section 528.

**speed limit sign** means a traffic sign inscribed with figures within a red circle.

**speleothem** means a deposit of calcium carbonate by diffusion of carbon dioxide from water in a cave.

**sub-species** — see Act, section 528.

**sustainable utilisation**, for a wetland, means the human use of the wetland so that it can yield the greatest continuous benefit to present generations while maintaining its potential to meet the needs and aspirations of future generations.

**territorial sea** — see Act, section 528.

**threat abatement plan** — see Act, section 528.

**trade**, for an organism that is a member of a native species or of an ecological community, includes:

- (a) buy the organism, agree to receive it under an agreement to buy or acquire it by barter; or
- (b) sell the organism, offer it for sale, agree to sell it, have it in possession for sale, deliver it for sale, receive it for sale or dispose of it by barter for gain; or
- (c) export the organism from Australia or an external Territory or import it into Australia or an external Territory; or
- (d) cause or allow any of the acts mentioned in paragraph (a), (b) or (c) to be done.

**traditional owners** — see Act, section 528.

**traffic sign** means a sign mentioned in regulation 12.53.

**unsealed source**, for radioactive material, means containment that does not satisfy the definition of **sealed source**.

**usage right** — see Act, section 528.

**voucher machine** means a machine installed under regulation 12.46.

**warden** — see Act, section 528.

**weapon** includes a disabled weapon.

**wetland** — see Act, section 528.

**whale** means a member of the Order Cetacea.

**whale watching** — see Act, section 528.

**wildlife conservation plan**, for a listed species, means a plan made or adopted under section 285 of the Act.

**works**, for an action, includes earth works, removal or replacement of groundcover, diversion of water flows, tunnelling, drilling or any other sub-surface activity.

**World Heritage Convention** — see Act, section 528.

**World Heritage List** — see Act, section 528.

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**Note**

1. Made by the Governor-General on the *Commonwealth of Australia Gazette* on *2000*, and notified in *2000*. *5 July*  
*12 July*