

# Chapter 1

## Introduction and Background

### Conduct of the inquiry

1.1 On 31 October 2012, the Senate referred the following matter to the Environment and Communications References Committee (the committee) for inquiry and report by the third sitting day of 2013 (7 February 2013):

The effectiveness of threatened species and ecological communities' protection in Australia, including:

- (a) management of key threats to listed species and ecological communities;
- (b) development and implementation of recovery plans;
- (c) management of critical habitat across all land tenures;
- (d) regulatory and funding arrangements at all levels of government;
- (e) timeliness and risk management within the listings processes;
- (f) the historical record of state and territory governments on these matters; and
- (g) any other related matter.

1.2 On 22 November 2012, the Senate granted an extension of time for reporting until 28 February 2013. On 06 February 2013, the Senate granted a further extension of time for reporting until 15 May 2013. On 15 May 2013, the Senate granted an extension of time for reporting until 20 June 2013. On 20 June 2013, the Senate granted an extension of time for reporting until 4 July 2013. On 4 July, an interim report was tabled, stating that the committee intended to table a final report on 23 July 2013. On 23 July, a second interim report was tabled, stating that the committee intended to table a final report on 31 July 2013. On 31 July 2013, a third interim report was tabled, stating that the committee intended to table a final report on 7 August 2013.

1.3 In accordance with usual practice, the committee advertised the inquiry on its website and in *The Australian* newspaper. The committee also wrote to relevant organisations inviting submissions. The committee received 177 submissions. These are listed at Appendix 1.

1.4 The committee held public hearings relating to its inquiry in Canberra on 15 February 2013, Melbourne on 20 February 2013, Brisbane on 22 February 2013, and Perth on 7 March 2013. Details of these public hearings are shown at Appendix 2.

### Report structure

1.5 The remainder of this chapter provides a brief background of the legal and policy framework relating to the protection of threatened species and ecological communities in Australia, as well as a summary of relevant recent reviews and inquiries.

1.6 Chapter 2 of this report examines the listing processes for threatened species and ecological communities, while Chapter 3 outlines issues relating to recovery planning. Chapter 4 looks at the key threats to threatened species and ecological communities and their management, including threat abatement planning.

1.7 Chapter 5 examines the protection and management of critical habitat, along with a range of other issues raised during the inquiry.

1.8 Chapter 6 discusses policy and funding arrangements relating to threatened species and ecological communities.

1.9 Finally, Chapter 7 examines environmental assessment processes as they relate to threatened species and ecological communities, as well as the role and record of state and territory governments.

1.10 This report necessarily focusses on Commonwealth policies and regulation, particularly the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (the EPBC Act) and its processes. However, state and territory processes are also considered where appropriate and relevant.

## **Acknowledgements**

1.11 The committee would like to thank the organisations, individuals and government departments who contributed to the inquiry. The committee also thanks the secretariat for its work, coordination and drafting assistance.

## **Background**

1.12 This section provides a brief background of the legal and policy framework relating to the protection of threatened species and ecological communities in Australia, including:

- an overview of the protection of threatened species and ecological communities under the EPBC Act;
- relevant national policy and funding arrangements for the protection of threatened species and ecological communities; and
- a summary of recent reviews and inquiries relating to the protection of threatened species and ecological communities, including in particular, the Hawke review of the EPBC Act and government response, as well as other relevant Senate inquiries.

### ***Overview of threatened species and ecological communities under the EPBC Act***

1.13 Over 1,800 species and ecological communities are listed as threatened under the EPBC Act.<sup>1</sup> The EPBC Act is the Commonwealth's primary piece of environment legislation aimed at protecting threatened species and ecological communities. The EPBC Act replaced the *Environment Protection (Impact of Proposals) Act 1974*, the

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1 SEWPAC, *Species Profile and Threats Database* (SPRAT), <http://www.environment.gov.au/cgi-bin/sprat/public/sprat.pl> (accessed 4 December 2012); see also Natural Resource Management Ministerial Council 2010, *Australia's Biodiversity Conservation Strategy 2010-2030*, Australian Government, 2010, p. 18.

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*Endangered Species Protection Act 1992* and a number of other environment-related Acts.<sup>2</sup>

1.14 The objects of the Act include:

- to provide for the protection of the environment, especially those aspects which are a matter of national environmental significance;
- to promote the conservation of biodiversity; and
- to provide for the protection and conservation of heritage.<sup>3</sup>

1.15 In general, the EPBC Act prohibits a person from taking an 'action' without approval from the minister if the action is likely to have a significant impact on a matter of national environmental significance<sup>4</sup> unless approved by the Minister for the Environment.<sup>5</sup>

1.16 The eight matters of national environmental significance protected under the EPBC Act are:

- world heritage properties;
- national heritage places;
- wetlands of international importance (listed under the Ramsar Convention);
- listed threatened species and ecological communities;
- migratory species protected under international agreements;
- Commonwealth marine areas;
- the Great Barrier Reef Marine Park; and
- nuclear actions (including uranium mines).

1.17 On this basis, the EPBC Act gives the Commonwealth government responsibility for listed nationally threatened species and ecological communities as a matter of national environmental significance.<sup>6</sup> However, threatened species also receive protection through the protection of other matters of national environmental significance, for example, where they occur in protected areas such as world heritage

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2 Other Acts consolidated in the EPBC Act include: the *National Parks and Wildlife Conservation Act 1975*; the *Whale Protection Act 1980* and the *World Heritage (Properties Conservation) Act 1983*.

3 EPBC Act, ss. 3(1).

4 Note that actions that are likely to have a significant impact on the environment on Commonwealth land, or are undertaken by the Commonwealth and likely to have a significant impact on the environment, must also be approved by the Minister.

5 Section 523 of the EPBC Act defines an 'action' to include a project, development, undertaking, activity or series of activities, or an alteration of any of these.

6 Other matter of national environmental significance are: world heritage sites; national heritage places; wetlands of international importance ('Ramsar' wetlands); listed migratory species; Commonwealth marine areas; the Great Barrier Reef Marine Park; and nuclear actions.

properties, national heritage places, Ramsar wetlands, Commonwealth marine areas and the Great Barrier Reef Marine Park.

### ***Environmental assessment processes***

1.18 Actions that may have a significant impact on a matter of national environmental significance must be referred to the minister. The minister may decide that an action:

- is a controlled action because it is likely to have a significant impact;
- is not a controlled action if undertaken in a manner specified; or
- is not a controlled action and therefore does not require approval.<sup>7</sup>

1.19 The minister must choose one of six methods of assessment for a controlled action, ranging from a full public inquiry, to assessment based on the referral documentation. Alternatively, a controlled action may be assessed by a state or territory process designated in a bilateral agreement or by an accredited Commonwealth process.<sup>8</sup>

1.20 The proponent of the action is usually responsible for the preparation of assessment documentation. At the completion of an assessment, the minister must decide whether to approve the action, and may approve an action subject to conditions.

1.21 In addition to the assessment framework for individual projects, the EPBC Act allows for strategic assessments that consider matters of national environmental significance at a landscape or regional scale.<sup>9</sup> Under section 146 of the EPBC Act, the minister may agree to a 'strategic assessment'—that is, to assess the impacts of actions under a policy, plan or program. Entering into a strategic assessment offers the potential to deal with cumulative impacts on matter of national environmental significance.<sup>10</sup>

### ***Listing and protection processes***

1.22 The EPBC Act also protects Australia's native species and ecological communities by providing for:

- identification and listing of species and ecological communities as threatened;

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7 EPBC Act, sections 75–77A. Note there is an important exception to the environmental assessment processes in ss38–42 for forestry operations taken in accordance with a Regional Forest Agreement (RFA).

8 As at 30 June 2012, assessment bilateral agreements were in place between the Commonwealth and all States and Territories except New South Wales. The New South Wales assessment bilateral agreement expired in January 2012, and a new agreement is being negotiated between the Commonwealth and New South Wales: SEWPAC, *Annual Report 2011-12*, p. 215.

9 EPBC Act, Part 10.

10 See further SEWPAC, *Strategic Assessments*, <http://www.environment.gov.au/epbc/assessments/strategic.html> (accessed 27 November 2012).

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- development of conservation advice and recovery plans for listed species and ecological communities;
  - development of a register of critical habitat;
  - recognition of key threatening processes; and
  - where appropriate, reducing the impacts of these processes through threat abatement plans.<sup>11</sup>

1.23 In addition to the protection mechanisms under the EPBC Act, listing of species and ecological communities under the EPBC Act also makes them a priority for funding and management, such as through the Caring for our Country initiative, which is discussed later in this chapter.<sup>12</sup>

1.24 The EPBC Act requires the responsible minister to establish a list of threatened species divided into the following categories:

- (a) extinct;
- (b) extinct in the wild;
- (c) critically endangered;
- (d) endangered;
- (e) vulnerable; and
- (f) conservation dependent.<sup>13</sup>

1.25 In addition, the EPBC Act requires the establishment of a list of threatened ecological communities, which must be assigned to one of the following categories:

- (a) critically endangered;
- (b) endangered; or
- (c) vulnerable.<sup>14</sup>

1.26 Any person may nominate a native species, ecological community or threatening process for listing under any of the categories specified.

1.27 Nominations for listing may be made during each assessment period, usually an annual cycle. The process for nomination and listing normally followed during an assessment period involves a number of steps:<sup>15</sup>

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11 SEWPAC, *Listed threatened species and ecological communities*, <http://www.environment.gov.au/epbc/protect/species-communities.html> (accessed 21 November 2012).

12 SEWPAC, *Annual Report 2011-12*, p. 247.

13 EPBC Act, ss. 178(1). Note the lists may be found at: <http://www.environment.gov.au/epbc/about/lists.html#species> (accessed 12 November 2012).

14 EPBC Act, ss. 181(1). Note that 'ecological community' is defined under section 528 of the EPBC Act to mean 'an assemblage of native species that inhabits a particular area in nature...'.

15 See the simplified outline in EPBC Act, s. 194A.

- The minister may determine conservation themes (this step is optional).<sup>16</sup>
- The minister invites people to make nominations for inclusion on the lists of threatened species, threatened ecological communities or key threatening processes. These nominations are given to the Threatened Species Scientific Committee (TSSC).<sup>17</sup>
- The TSSC prepares and provides to the minister a proposed priority assessment list. The proposed priority assessment list developed by the TSSC must include an assessment completion time for each item.<sup>18</sup>
- The minister finalises the list of items that are to be assessed ('finalised priority assessment list').<sup>19</sup>
- The TSSC invites public comment on the items in the finalised list.<sup>20</sup>
- The TSSC assesses the items in the finalised list and gives the assessments to the minister. The TSSC must assess the items in the finalised priority assessment list by the time specified in that list or by that time as extended under section 194P of the Act. In total, the minister may grant extensions of time up to but not beyond five years.<sup>21</sup>
- The minister decides whether an assessed item should be included in the relevant list within 90 days of receiving the assessment. This period can be extended indefinitely.<sup>22</sup>

1.28 Once listed, threatened species and ecological communities (except ecological communities listed in the category of 'vulnerable') are recognised as a matter of national environmental significance. Consequently, any action that is likely to have a significant impact on listed threatened species and ecological communities under the EPBC Act must be referred to the minister and undergo an environmental assessment and approval process.<sup>23</sup>

1.29 Listed threatened species and ecological communities are also provided further protection in Commonwealth areas. Under the EPBC Act, activities in

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16 EPBC Act, s. 194D.

17 EPBC Act, s. 194E and s.194F. Note that nominations may be rejected under ss. 194F(3).

18 EPBC Act, ss. 194G and 194H.

19 Note that, in finalising the list, the Minister may make changes to the list in accordance with the regulations to the Act: EPBC Act, s. 194K.

20 EPBC Act, s. 194M.

21 EPBC Act, ss. 194N and 194P.

22 EPBC Act, s. 194Q. See further SEWPAC, *Nomination process flowchart*, <http://www.environment.gov.au/biodiversity/threatened/nominations-flowchart.html> (accessed 27 November 2012).

23 SEWPAC, *Listed threatened species and ecological communities*, <http://www.environment.gov.au/epbc/protect/species-communities.html> (accessed 21 November 2012).

Commonwealth areas that may result in killing, injuring, taking, trading, keeping or moving a member of a listed threatened species or ecological community are illegal without a permit.<sup>24</sup>

1.30 As of 30 July 2013, 1756 species and 62 ecological communities were listed under the EPBC Act. The numbers of species and communities listed in the various categories are set out in the tables below.<sup>25</sup>

**Table 1: Number of threatened species in each listed category under the EPBC Act**

Category	Number listed
Extinct	96 species
Extinct in the wild	1 species
Critically endangered	176 species
Endangered	671 species
Vulnerable	806 species
Conservation dependent	6 species

**Table 2: Number of threatened ecological communities in each listed category under the EPBC Act**

Category	Number listed
Critically endangered	24 ecological communities
Endangered	37 ecological communities
Vulnerable	1 ecological community

### ***Conservation advice and recovery plans***

1.31 The minister must ensure that there is approved conservation advice for each listed threatened species and ecological community (with the exception of those that are listed as extinct or conservation dependent). A conservation advice provides guidance on immediate recovery and threat abatement activities that can be

24 EPBC, subdivision B of Division 1 of Part 13.

25 Based on data compiled using the SEWPAC Species Profile and Threats Database, at: <http://www.environment.gov.au/cgi-bin/sprat/public/publicreports.pl> (accessed 30 July 2013).

undertaken to ensure the conservation of a newly listed species or ecological community.<sup>26</sup>

1.32 Recovery plans *may* also be made for listed threatened species and ecological communities. Since amendments to the EPBC Act in 2006, it is no longer compulsory for the minister to make recovery plans for each listed threatened species and ecological community.<sup>27</sup> Rather, the minister must decide whether to have a recovery plan for a species<sup>28</sup> or community within 90 days after it becomes listed. The minister may, at any other time, decide whether to have a recovery plan for the species or community.<sup>29</sup>

1.33 A recovery plan must provide for research and management actions necessary to stop the decline of, and support the recovery of, the listed threatened species or ecological community concerned so that its chances of long-term survival in nature are maximised.<sup>30</sup>

1.34 A recovery plan or threat abatement plan can be made by the minister alone or jointly with relevant states and territories, or the minister can adopt a state or territory plan. Before a plan is made or adopted, there must be public consultation and advice from the TSSC about the plan.<sup>31</sup>

1.35 A Commonwealth agency must not take any action that contravenes a recovery plan.<sup>32</sup>

1.36 The minister may make financial assistance available to state governments and individuals to implement recovery plans.<sup>33</sup>

1.37 As of 30 June 2012, 460 recovery plans were in place under the EPBC Act and 124 recovery plans were under preparation.<sup>34</sup>

### ***Critical Habitat***

1.38 The EPBC Act also provides for the maintenance of a register of critical habitat—that is, habitat that is identified by the minister as being critical to the

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26 EPBC Act, s. 266B; see also SEWPAC, *Conservation Advices*, <http://www.environment.gov.au/biodiversity/threatened/conservation-advices.html> (accessed 21 November 2012).

27 However, a new requirement was added for approved conservation advice to be in place.

28 Except those that are listed as extinct or conservation dependent.

29 EPBC Act, s. 269AA.

30 EPBC Act, s. 270. See further SEWPAC, *Recovery Plans*, <http://www.environment.gov.au/biodiversity/threatened/recovery.html> (accessed 21 November 2012); and also SEWPAC, *Submission 143*, p. 5.

31 EPBC Act, s. 269A.

32 EPBC Act, s. 268.

33 EPBC Act, s. 281.

34 SEWPAC, *Annual Report 2011-2012*, p. 240.

survival of a listed threatened species or ecological community. The register only has practical effect within Commonwealth areas.<sup>35</sup> However, Commonwealth land that includes listed critical habitat must, should it be leased or sold, have a covenant protecting the critical habitat included in the contract.<sup>36</sup>

1.39 As of July 2013, there were five areas of critical habitat listed under the register of critical habitat. The most recent listing of critical habitat was in 2005.<sup>37</sup>

### ***Key threatening processes and threat abatement plans***

1.40 The EPBC Act also provides for the identification and listing of 'key threatening processes'.<sup>38</sup> A threatening process is defined as a process that threatens or may threaten the survival, abundance or evolutionary development of a native species or ecological community.<sup>39</sup> For example, invasive species listed as key threatening processes are predation by the European red fox, feral rabbits or unmanaged goats.<sup>40</sup> The listing process is essentially the same as for the listing of species and ecological communities, as outlined above.

1.41 Once a threatening process is listed under the EPBC Act, a threat abatement plan can be put into place if it is shown to be 'a feasible, effective and efficient way' to abate the threatening process.<sup>41</sup> Threat abatement plans provide for the research, management, and any other actions necessary to reduce the impact of a listed key threatening process on native species and ecological communities.<sup>42</sup>

1.42 The minister must ensure a threat abatement plan is in force for a key threatening process only if the minister decides that a plan is a feasible, effective and efficient way of abating the process. The minister must consult with the TSSC and any relevant state or territory government, before making such a decision.<sup>43</sup>

1.43 As with recovery plans, a threat abatement plan can be made by the minister alone or jointly with relevant states and territories, or the minister can adopt a state or territory plan. Before a plan is made or adopted, there must be public consultation and advice from the TSSC about the plan.<sup>44</sup>

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35 EPBC Act, para. 207B(1)(c).

36 EPBC Act, s. 207C.

37 SEWPAC, *Register of critical habitat*, <http://www.environment.gov.au/cgi-bin/sprat/public/publicregisterofcriticalhabitat.pl> (accessed 20 November 2012).

38 EPBC Act, s. 183.

39 EPBC Act, ss. 188(3).

40 SEWPAC, *Key threatening processes under the EPBC Act*, <http://www.environment.gov.au/biodiversity/threatened/ktp.html> (accessed 21 November 2012).

41 EPBC Act, ss. 270A(2).

42 EPBC Act, s. 271.

43 EPBC Act, s. 270A.

44 EPBC Act, ss. 270B and 274.

1.44 As of July 2013, there were 20 listed key threatening processes and 14 approved threat abatement plans in place under the EPBC Act.<sup>45</sup>

### State and territory legislative regimes

1.45 Each state and territory also has its own legislative regime to protect threatened species. Not all regimes provide for the protection of ecological communities. The table below sets out the primary piece of legislation governing threatened species in each state or territory. There is also a range of other legislation relevant to threatened species protection, such as planning legislation and vegetation management legislation. The submission from the Australian Network of Environmental Defender's Offices (ANEDO) contains a comprehensive summary and review of relevant state and territory legislation.<sup>46</sup>

**Table 3: List of relevant state and territory threatening species legislation**

State/Territory	Primary legislation governing threatening species
New South Wales	<i>Threatened Species Conservation Act 1995</i> (NSW) <sup>47</sup>
Queensland	<i>Nature Conservation Act 1992</i> (Qld) <sup>48</sup>
Tasmania	<i>Threatened Species Protection Act 1995</i> (Tas) <sup>49</sup>
South Australia	<i>National Parks and Wildlife Act 1972</i> (SA) <sup>50</sup>
Victoria	<i>Flora and Fauna Guarantee Act 1988</i> (Vic) <sup>51</sup>
Western Australia	<i>Wildlife Conservation Act 1950</i> (WA) <sup>52</sup>

45 A full list and further discussion of key threatening processes is contained in Chapter 4.

46 ANEDO, *Submission 137*.

47 NSW Department of Environment and Heritage, *Threatened Species Conservation Act*, <http://www.environment.nsw.gov.au/threatenedspecies/tscact.htm> (accessed 5 December 2012).

48 Queensland Department of Environment and Heritage, *Threatened Species*, <http://www.ehp.qld.gov.au/wildlife/threatened-species/index.html> (accessed 5 December 2012).

49 Tasmanian Department of Primary Industries, Parks, Water and Environment, *Threatened Species*, <http://www.dpiw.tas.gov.au/inter.nsf/themeNodes/RLIG-53kuvp?open> (accessed 5 December 2012).

50 South Australian Department of Environment, Water and Natural Resources, *Threatened species in South Australia*, [http://www.environment.sa.gov.au/Plants\\_Animals/Threatened\\_species\\_ecological\\_communities/Threatened\\_species/Threatened\\_species\\_in\\_SA](http://www.environment.sa.gov.au/Plants_Animals/Threatened_species_ecological_communities/Threatened_species/Threatened_species_in_SA) (accessed 5 December 2012).

51 Victorian Department of Sustainability and Environment, *Flora & Fauna Guarantee Act*, <http://www.dse.vic.gov.au/plants-and-animals/native-plants-and-animals/threatened-species-and-communities/flora-and-fauna-guarantee-act> (accessed 5 December 2012).

State/Territory	Primary legislation governing threatening species
ACT	<i>Nature Conservation Act 1980 (ACT)</i> <sup>53</sup>
NT	<i>Territory Parks and Wildlife Conservation Act 2000 (NT)</i> <sup>54</sup>

## Policy and funding arrangements

1.46 Other key Commonwealth policy documents and funding arrangements relating to the protection of threatened species and ecological communities include:

- the Caring for our Country program;
- the Clean Energy Future's Biodiversity Fund;
- Australia's Biodiversity Conservation Strategy 2010-2030;
- *One Land - Many Stories: Prospectus of Investment*; and
- Australia's Native Vegetation Framework.

### *Caring for our Country*

1.47 As outlined earlier, listing of species and ecological communities under the EPBC Act makes them a priority for Commonwealth funding and management, such as through the Caring for our Country initiative, and its predecessor, the Natural Heritage Trust.

1.48 The Natural Heritage Trust was established in 1997 and invested over \$3 billion in activities to help restore and conserve Australia's environment and natural resources. This included, for example, funding for the Threatened Species Network from 1997–2008, which provided advice and supported projects relating to threatened species.<sup>55</sup>

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- 52 West Australian Department of Environment and Conservation, *Threatened Species*, <http://www.dec.wa.gov.au/management-and-protection/threatened-species.html> (accessed 5 December 2012). Note, however, that the West Australian Premier announced proposed new legislation to protect threatened species in October 2012: see further <http://www.wa.liberal.org.au/article/new-act-protect-threatened-species> (accessed 5 December 2012).
- 53 ACT Government Department of Environment and Sustainable Development, *Listing of Threatened Species, Ecological Communities and Threatening Processes*, [http://www.environment.act.gov.au/cpr/conservation\\_and\\_ecological\\_communities/threatenedspecieslisting](http://www.environment.act.gov.au/cpr/conservation_and_ecological_communities/threatenedspecieslisting) (accessed 5 December 2012).
- 54 Northern Territory Government Department of Land Resource Management, *Threatened Species*, <http://www.lrm.nt.gov.au/biodiversity-conservation/animals/home> (accessed 5 December 2012).
- 55 The former Department of the Environment and Water Resources, *Annual Report 2006-07*, pp 68 and 182, available at: <http://www.environment.gov.au/archive/about/publications/annual-report/06-07/index.html> (accessed 30 July 2013).

1.49 In 2008, the government established Caring for our Country as the Commonwealth government's 'flagship' environment protection and sustainable agriculture initiative. Caring for our Country is managed jointly by the Department of Sustainability, Environment, Water, Population and Communities (SEWPAC) and the Department of Agriculture, Fisheries and Forestry.<sup>56</sup>

1.50 In its first five years (from July 2008 to June 2013), the Commonwealth government planned to invest \$2.25 billion through Caring for our Country to secure improved strategic outcomes across six national priority areas:

- the National Reserve System;
- biodiversity and natural icons;
- coastal environments and critical aquatic habitats;
- sustainable farm practices;
- natural resource management in northern and remote Australia, and
- community skills, knowledge and engagement.

1.51 The Environmental Stewardship Program is part of the Caring for our Country initiative: the program aims to maintain and/or improve the condition and extent of targeted matters of national environmental significance under the EPBC Act.

1.52 The Environmental Stewardship Program offers funding rounds through which eligible private land managers can apply to provide a range of agreed management activities to protect, rehabilitate and improve particular ecological communities. Eligible land managers include farmers, Indigenous communities, and other managers of private freehold and leasehold land.<sup>57</sup>

1.53 Successful land managers are contracted to manage targeted matters of national environmental significance on their land and can receive funding for activities that are additional to their normal legislative responsibilities, for up to 15 years. Relevant management activities could include: reducing stocking and grazing intensity; reducing fertilizer use; expanding weed management; undertaking or expanding replanting of native species (relevant to the ecological community).<sup>58</sup>

### ***Biodiversity Fund***

1.54 More recently, in July 2011, the government announced a Biodiversity Fund to invest around \$946 million over the next six years for a range of projects to 'foster

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56 SEWPAC, *Annual Report 2011–12*, pp 23, 60-61.

57 Australian government, *Environmental Stewardship*, <http://www.nrm.gov.au/funding/stewardship/index.html> (accessed 4 December 2012).

58 Australian government, *Environmental Stewardship*, <http://www.nrm.gov.au/funding/stewardship/index.html> (accessed 4 December 2012).

and preserve biodiversity around Australia'.<sup>59</sup> The Biodiversity Fund is a program under the Commonwealth government's Land Sector Package of the Clean Energy Future plan. The Biodiversity Fund invests in three main areas:

- Biodiverse plantings—to help land managers expand native habitat on their property through planting mixed vegetation species appropriate to the region.
- Protecting and enhancing existing native vegetation—to support land managers to protect, manage and enhance existing native vegetation in high conservation areas on their land for its carbon storage and biodiversity benefits.
- Managing threats to biodiversity—to control the threat of invasive pests and weeds in a connected landscape.<sup>60</sup>

1.55 The website for the Biodiversity Fund explains that:

The Biodiversity Fund complements other government programs, such as Caring for our Country, that contribute to building landscape connectivity and resilience. It will provide incentives for activities that deliver biodiversity and environmental benefits by supporting the restoration and/or management of biodiverse landscapes.

Current funding for biodiversity conservation, provided through the Caring for our Country initiative, is focused primarily on the restoration and protection of nationally significant threatened species and ecological communities, as well as the control of Weeds of National Significance.<sup>61</sup>

### ***Australia's Biodiversity Conservation Strategy 2010-2030***

1.56 The Natural Resource Management Ministerial Council, which consists of the Commonwealth, state, territory and New Zealand government ministers responsible for primary industries, natural resources, environment and water policy produced *Australia's Biodiversity Conservation Strategy 2010-2030* (the Biodiversity Strategy). The Biodiversity Strategy identifies the main threats to Australia's biodiversity, including:

- habitat loss, degradation and fragmentation;
- invasive species;
- unsustainable use and management of natural resources;
- changes to the aquatic environment and water flows;

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59 Prime Minister Julia Gillard, *New biodiversity fund protects species from climate impacts*, media release dated 10 July 2011, <http://www.pm.gov.au/press-office/new-biodiversity-fund-protects-species-climate-impacts> (accessed 7 December 2012).

60 SEWPAC, Biodiversity Fund, <http://www.environment.gov.au/cleanenergyfuture/biodiversity-fund/index.html> (accessed 7 December 2012).

61 SEWPAC, Biodiversity Fund, Frequently Asked Questions, <http://www.environment.gov.au/cleanenergyfuture/biodiversity-fund/faqs.html> (accessed 7 December 2012).

- changing fire regimes; and
- climate change.<sup>62</sup>

1.57 The Biodiversity Strategy also identifies a range of priorities for action. It also sets out 10 national targets to be achieved through the strategy by 2015. These include, for example, to:

- achieve a national increase of 600 000km<sup>2</sup> of native habitat managed primarily for biodiversity conservation across terrestrial, aquatic and marine environments;
- reduce by at least 10% the impacts of invasive species on threatened species and ecological communities in terrestrial, aquatic and marine environments;
- all jurisdictions will review relevant legislation, policies and programs to maximise alignment with Australia's Biodiversity Conservation Strategy
- establish a national long-term biodiversity monitoring and reporting system.<sup>63</sup>

### ***One Land - Many Stories: Prospectus of Investment***

1.58 In December 2012, SEWPAC released the national biodiversity conservation 'prospectus', *One Land—Many Stories: Prospectus of Investment*, which 'presents the Australian Government's visions for conserving and managing Australia's valuable and most vulnerable environments'. The SEWPAC website reports that:

This Prospectus provides an overarching framework of the Australian Government's priorities for funding conservation and improving natural resource management in 2013–14. This Prospectus articulates the places (target areas), national priorities (investment themes) and the available grant funding to guide the development of project proposals in the 2013–14 round of biodiversity conservation and natural resource management investment across the Australian Government environment portfolio.<sup>64</sup>

### ***Australia's Native Vegetation Framework.***

1.59 In December 2012, the Council of Australian Governments (COAG) Standing Council on Environment and Water released *Australia's Native Vegetation Framework*. The framework will 'guide native vegetation management across the Australian landscape. The framework's vision is that 'native vegetation is managed in an ecologically sustainable way that promotes its enduring environmental, economic, social, cultural and spiritual values'. The framework sets five national goals:

- Goal 1: Increase the national extent and connectivity of native vegetation.
- Goal 2: Maintain and improve the condition and function of native vegetation.

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62 Natural Resource Management Ministerial Council 2010, *Australia's Biodiversity Conservation Strategy 2010-2030*, Australian Government, 2010, p. 8.

63 Natural Resource Management Ministerial Council 2010, *Australia's Biodiversity Conservation Strategy 2010-2030*, Australian Government, 2010, p. 14.

64 See further: <http://www.environment.gov.au/biodiversity/publications/prospectus/index.html> (accessed 25 January 2013).

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- Goal 3: Maximise the native vegetation benefits of ecosystem service markets.
  - Goal 4: Build capacity to understand, value and manage native vegetation.
  - Goal 5: Advance the engagement and inclusion of Indigenous peoples in management of native vegetation.<sup>65</sup>

### **Other recent relevant inquiries**

1.60 There have been several inquiries and reviews in recent years that are relevant to the terms of reference of this inquiry. These include:

- the Australian National Audit Office Audit Report 2006–07 on the Conservation and Protection of National Threatened Species and Ecological Communities;
- Senate Standing Committee on Environment, Communication and the Arts—*The operation of the Environment Protection and Conservation Act 1999, First Report* (March 2009);
- *The Australian Environment Act—Report of the Independent Review of the Environment Protection and Biodiversity Conservation Act 1999* (also known as the Hawke review);
- Senate Environment and Communications References Committee, *The Koala—saving our national icon* (September 2011); and
- Senate Environment and Communications Legislation Committee, *Environment Protection and Biodiversity Conservation Amendment (Emergency Listings) Bill 2011* (March 2012).

1.61 Relevant findings from these inquiries are discussed below.

### **ANAO Report**

1.62 In March 2007, the Australian National Audit Office (ANAO) reported on its performance audit of the then Department of the Environment and Water Resources. The audit report was titled *The Conservation and Protection of National Threatened Species and Ecological Communities*. The object of the audit was to assess and report on the administration of the EPBC Act by the department in terms of protecting and conserving threatened species and threatened ecological communities in Australia.<sup>66</sup>

1.63 The ANAO identified a range of shortcomings in the department's administration of the EPBC Act, some of which have arguably been resolved by

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65 See further: <http://www.environment.gov.au/land/vegetation/nvf/index.html> (accessed 25 January 2013).

66 ANAO, *The Conservation and Protection of National Threatened Species and Ecological Communities*, Audit Report No. 31 2006-07, p. 14, available at: [http://www.anao.gov.au/uploads/documents/2006-07\\_Audit\\_Report\\_311.pdf](http://www.anao.gov.au/uploads/documents/2006-07_Audit_Report_311.pdf) (accessed 27 November 2012).

amendments to the EPBC Act in 2006.<sup>67</sup> However, the ANAO recommended that efforts be increased to improve the accuracy and completeness of the list of threatened species and ecological communities, and to ensure to the extent practicable that the national list of threatened species and ecological communities is regularly updated and aligned with changes in state and territory lists.<sup>68</sup>

***Senate Standing Committee on Environment, Communication and the Arts inquiry into the EPBC Act***

1.64 In 2009, this committee's predecessor, the Senate Standing Committee on Environment, Communications and the Arts conducted an inquiry into the 'operation of the *Environment Protection and Biodiversity Conservation Act 1999* and other natural resource protection programmes'.<sup>69</sup>

1.65 As part of that inquiry the committee considered the protection of threatened species and ecological communities under the EPBC Act. The committee heard concerns about whether the EPBC Act was effective in affording protection to listed species and communities, as well as concerns about the listing and recovery planning process.<sup>70</sup> In particular, the committee received evidence from submitters concerned about delays in the listing process and questioning whether some nominations had been inappropriately rejected.<sup>71</sup>

1.66 The committee was concerned that the ministerial discretion and indefinite extensions of time for the assessment of threatened species and ecological communities undermine the credibility of the listing process. Accordingly the committee recommended that:

...the process for nomination and listing of threatened species or ecological communities be amended to improve transparency, rigour and timeliness. Changes that should be considered include:

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- 67 See further Senate Standing Committees on Environment, Communications and the Arts, *Environment and Heritage Legislation Amendment Bill (No. 1) 2006 [Provisions]*, November 2006.
- 68 ANAO, *The Conservation and Protection of National Threatened Species and Ecological Communities*, Audit Report No. 31 2006–07, pp 28–29.
- 69 Senate Standing Committees on Environment, Communications and the Arts, *The operation of the Environment Protection and Biodiversity Conservation Act 1999, First Report*, March 2009, p. 1. 1.52. The committee tabled a second and final report on 30 April 2009 which focused on the specific issue of the EPBC Act and its interactions with the *Regional Forest Agreement Act 2002* (Cth).
- 70 See Senate Standing Committees on Environment, Communications and the Arts, *The operation of the Environment Protection and Biodiversity Conservation Act 1999, First Report*, March 2009, pp 55–61.
- 71 Senate Standing Committees on Environment, Communications and the Arts, *The operation of the Environment Protection and Biodiversity Conservation Act 1999, First Report*, March 2009, p. 57.

- Either requiring publication of the Scientific Committee's proposed priority list or reducing ministerial discretion to revise the priority list under section 194K; and
- Reducing the maximum period allowed for an assessment under section 194P(3).<sup>72</sup>

1.67 In the government response to the committee's report, the government agreed in principle to this recommendation, stating that it supports 'increased transparency in the species listing processes' and that:

...the Australian Government has agreed to the establishment of a single list of nationally threatened species and ecological communities. The Government will be working with state and territory governments to establish a harmonised listing process.<sup>73</sup>

1.68 The government's response noted that the minister had requested that Dr Allan Hawke consider the findings and recommendations of the Senate inquiry in his 'Independent Review of the EPBC Act' (the Hawke review, which is discussed further below). The government response further stated that the recommendations of the Hawke review had 'taken into account the recommendations of the Senate Inquiry'.<sup>74</sup>

### ***EPBC Act Reforms: Hawke Review and Government Response***

1.69 On 31 October 2008, the then Minister for the Environment, Heritage and the Arts, the Hon Peter Garrett AM MP commissioned an independent review of the EPBC Act which was headed by Dr Allan Hawke (the Hawke review).

1.70 The review was undertaken in accordance with section 522A of the EPBC Act, which required an independent review of the operation of the EPBC Act within 10 years of its commencement.

1.71 The final report of the independent review was published in October 2009. *The Australian Environment Act—Report of the Independent Review of the Environment Protection and Biodiversity Conservation Act 1999* made 71

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72 Senate Standing Committees on Environment, Communications and the Arts, *The operation of the Environment Protection and Biodiversity Conservation Act 1999, First Report*, March 2009, Recommendation 8, p. 61.

73 Australian government response to the Senate Standing Committee on Environment, Communications and the Arts Committee Report: *Operations of the Environment Protection and Biodiversity Conservation Act 1999 (First, Second and Final Reports)*, September 2011, p. 6, available at: [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate\\_Committees?url=eca\\_ctte/completed\\_inquiries/2008-10/epbc\\_act/index.htm](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=eca_ctte/completed_inquiries/2008-10/epbc_act/index.htm) (accessed 30 July 2013).

74 Australian government response to the Senate Standing Committee on Environment, Communications and the Arts Committee Report: *Operations of the Environment Protection and Biodiversity Conservation Act 1999 (First, Second and Final Reports)*, September 2011, p. 2, available at: [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate\\_Committees?url=eca\\_ctte/completed\\_inquiries/2008-10/epbc\\_act/index.htm](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=eca_ctte/completed_inquiries/2008-10/epbc_act/index.htm) (accessed 30 July 2013).

recommendations over a wide range of areas, all aimed at improving the operation the EPBC Act.<sup>75</sup> On 24 August 2011 the Commonwealth government released its response to the Hawke review.<sup>76</sup> The government responded to all 71 recommendations, and agreed to most of the recommendations relating to threatened species and ecological communities.

1.72 The report made a number of recommendations aimed at better alignment of Commonwealth, state and territory processes, including moving to a single list of national list of threatened species and communities (recommendation 5), and accreditation of state and territory processes where they meet appropriate standards (recommendation 4).

1.73 A table of key recommendations relating to the threatened species and ecological communities provisions of the EPBC Act, and the government response to those recommendations, is set out below.

**Table 4: Key recommendations and government responses relating to the threatened species and ecological communities provisions of the EPBC Act**

Hawke Recommendation <sup>77</sup>	Government response
<p><i>Recommendation 4</i></p> <p>That the Commonwealth work with the states and territories as appropriate to improve the efficiency of the environmental impact assessment (EIA) regime under the EPBC Act, including through:</p> <p>(1) greater use of strategic assessments;</p> <p>(2) accreditation of state and territory processes where they meet appropriate standards;</p> <p>(3) accreditation of environmental management systems for Commonwealth agencies where the systems meet appropriate standards;</p> <p>(4) publication of criteria for systems and processes that</p>	<p>Agreed</p>

75 Department of the Environment, Heritage and the Arts, *The Australian Environment Act: Report of the Independent review of the Environment Protection and Biodiversity Conservation Act 1999*, October 2009 (Hawke review), available at: <http://www.environment.gov.au/epbc/review/publications/final-report.html> (accessed 27 November 2012).

76 Australian Government, *Australian Government Response to the Report of the Independent Review of the Environment Protection and Biodiversity Conservation Act 1999*, August 2011, [www.environment.gov.au/epbc/publications/pubs/epbc-review-govt-response.pdf](http://www.environment.gov.au/epbc/publications/pubs/epbc-review-govt-response.pdf) (accessed 27 November 2012).

77 For the full list of recommendation, see Hawke review, pp 36–58. For particular discussion and recommendations relating more specifically to threatened species and ecological communities see Chapter 5 of the Hawke review, titled 'Biodiversity' pp 154–176.

<b>Hawke Recommendation<sup>77</sup></b>	<b>Government response</b>
<p>would be appropriate for accreditation;</p> <p>(5) creation of a Commonwealth monitoring, performance audit and oversight power to ensure that any process accredited achieves the outcomes it claimed to accomplish;</p> <p>(6) streamlining and simplification of assessment methods, including combining assessment by preliminary documentation and assessment on referral information and removal of assessment by Public Environment Report;</p> <p>(7) establishing joint state or territory and Commonwealth assessment panels;</p> <p>(8) use of joint assessment panels or public inquiry for projects where the proponent is either the state or territory or Australian Government; and</p> <p>(9) greater use of public inquiries and joint assessment panels for major projects.</p>	
<p><i>Recommendation 5</i></p> <p>Australian, state and territory governments move to a single national list of threatened species, including marine species and ecological communities, through accreditation of State and Territory processes for listing endemic species</p>	Agreed
<p><i>Recommendation 6</i></p> <p>Expand the role of strategic assessments and bioregional plans so that they are used more often; and strengthen the process for creating these plans and undertaking these assessments, so that they are more substantial and robust.<sup>78</sup></p>	Agreed in substance
<p><i>Recommendation 8</i></p> <p>Include 'ecosystems of national significance' as a matter of national environmental significance</p>	Agreed in substance
<p><i>Recommendation 12</i></p> <p>Require the identification of critical habitat for listed threatened species at the time of listing; and the discontinuation of the register of critical habitat once information about critical habitat has been included in listing document</p>	Agreed

78 For further discussion relating to this recommendation, see Hawke review, pp 100–116.

<b>Hawke Recommendation<sup>77</sup></b>	<b>Government response</b>
<p><i>Recommendation 13</i></p> <p>Require the Threatened Species Scientific Committee to indicate in the listing process the areas necessary for an ecological community to persist and maintain its ecological function</p>	Agreed
<p><i>Recommendation 14</i></p> <p>Include vulnerable ecological communities as a matter of national environmental significance protected under Part 3</p>	Agreed
<p><i>Recommendation 15</i></p> <p>Require the Environment Minister, in deciding whether to list a threatened species or ecological community, to take the principles of ecologically sustainable development into account only in exceptional situations where social or economic costs associated with listing are overwhelming and the environmental benefits are known to be slight</p>	Not agreed
<p><i>Recommendation 16</i></p> <p>Give the Environment Minister the power to make emergency listings of threatened species and ecological communities under certain circumstances</p>	Agreed in principle
<p><i>Recommendation 18</i></p> <p>Allow greater flexibility in the development of recovery and threat abatement plans, particularly to allow for their development at regional scales; and create opportunities for better linkages to funding initiatives</p>	Agreed in part
<p><i>Recommendation 19</i></p> <p>Better define key threatening processes (KTPs); allow greater flexibility in the criteria for eligibility for listing a KTP; and allow strategic identification of KTPs at a range of scales</p>	Agreed
<p><i>Recommendation 20</i></p> <p>Provide for greater flexibility in the development and implementation of Threat Abatement Plans and allow transition to regional planning approaches and strategic threat management</p>	Agreed
<p><i>Recommendation 21</i></p> <p>Require the development of a 'threat abatement advice' at the time of listing a KTP</p>	Agreed

<b>Hawke Recommendation<sup>77</sup></b>	<b>Government response</b>
<p><i>Recommendation 23</i></p> <p>Develop criteria and management protocols for the movement of potentially damaging exotic species, including a list of 'controlled' species and identify emerging threats</p>	<p>Agreed in part</p>

### ***Progress to date on EPBC Act reforms***

1.74 On 24 August 2011, the Minister for Sustainability, Environment, Water, Population and Communities, the Hon Tony Burke MP announced 'the first major overhaul' of the EPBC Act as part of the government's response to the Hawke review. The reforms include:

A more proactive approach to protecting Australia's environment through more strategic assessments and regional environmental plans.

Identifying and protecting ecosystems of national significance under the EPBC Act through regional environment plans, strategic assessments or conservation agreements to protect the most significant and healthy ecosystems before they are threatened or degraded.

New national standards for accrediting environmental impact assessments and approvals to better align Commonwealth and state systems.

...Establishing a single national list of threatened species and ecological communities to reduce inconsistencies between jurisdictions.

...Development of an environmental offsets policy to better explain to proponents and the community how offsets are assessed and what would be acceptable under specific proposals. A draft policy has been released today for consultation with industry and communities.<sup>79</sup>

1.75 The submission from SEWPAC states that 'amendments to the EPBC Act are proposed to be introduced to Parliament in 2013'.<sup>80</sup> However, in the Federal Budget in May 2013, the government announced that it made a decision to delay the introduction of relevant amendments to the EPBC Act until 1 July 2014.<sup>81</sup>

1.76 The committee also notes that in April 2012, COAG announced that it would reform the administration of national environmental regulation in order to reduce duplication and double-handling while maintaining high environmental standards. To

79 The Hon. Tony Burke MP, *Reforms better for the environment, better for business*, media release dated 24 August 2011, at: <http://www.environment.gov.au/minister/burke/2011/mr20110824.html> (accessed 21 November 2012).

80 SEWPAC, *Submission 143*, p. 7.

81 Australian government, *Budget 2013-14*, at: [http://www.budget.gov.au/2013-14/content/bp2/html/bp2\\_expense-22.htm](http://www.budget.gov.au/2013-14/content/bp2/html/bp2_expense-22.htm) (accessed 30 July 2013).

do this, COAG agreed to prioritise the development of approval bilateral agreements under the EPBC Act.<sup>82</sup>

1.77 On 7 December 2012, COAG again considered issues related to reform of environmental regulation, and instead agreed that all jurisdictions will:

...direct their regulatory and referral agencies to eliminate duplication and to avoid sequential assessments and delayed approval processes and also to utilise common information requirements for both assessments and approvals.<sup>83</sup>

1.78 While it was anticipated that COAG may have announced at this meeting its intention to give the states and territories increased powers for approvals, this did not occur.<sup>84</sup> The current Minister for the Environment, Heritage and Water, the Hon Mark Butler MP, has recently stated that the Commonwealth government is now 'committed to an approvals process that leaves the final decision-making in the hands of the federal environment minister'.<sup>85</sup>

### ***Senate Inquiry - Koalas***

1.79 In September 2011, this committee reported on its inquiry into the status, health and sustainability of Australia's koala population. That report considered issues including threats to koala habitat, the status of the koala under state and federal environmental protection laws, including whether the koala should be listed as a threatened species under the EPBC Act.

1.80 While that inquiry related to just one species, the committee recommended more broadly, among other matters, that:

...the Threatened Species Scientific Committee provide clearer information to the Environment Minister in all future threatened species listing advices, including species population information, and that the Threatened Species Scientific Committee review its advice to the Minister on the listing of the koala in light of the findings of this inquiry.<sup>86</sup>

1.81 The committee also recommended that:

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82 COAG Communique, 13 April 2012, p. 2, at: <http://www.coag.gov.au/sites/default/files/2012-13-04.pdf> (accessed 30 July 2013),

83 COAG Communique, 7 December 2012, p. 4, <http://www.coag.gov.au/node/475> (accessed 30 July 2013).

84 Senate Environment and Communications Legislation Committee, *Environment Protection and Biodiversity Conservation Amendment (Retaining Federal Approval Powers) Bill 2012*, March 2013, p. 11.

85 Graham Lloyd, "Rudd to keep 'green tape' power", *The Australian*, 17 July 2013, p. 2.

86 Senate Environment and Communications References Committee, *The koala—saving our national icon*, September 2011, recommendation 5, p. 50.

...the Australian Government establish a nationally coordinated and integrated program for population monitoring of threatened species and other culturally, evolutionary and/or economically significant species.<sup>87</sup>

1.82 The committee also noted that certain mechanisms announced as part of the government response to the Hawke review 'could potentially facilitate a more proactive approach' to koala conservation.<sup>88</sup> It is noted that the koala was listed in the 'vulnerable' category under the EPBC Act in April 2012.<sup>89</sup>

### ***Senate Inquiry - EPBC (Emergency Listings) Bill***

1.83 In March 2012, the Environment and Communications Legislation Committee reported on a private Senator's bill – the *Environment Protection and Biodiversity Conservation Amendment (Emergency Listings) Bill 2011*. The bill sought to amend the EPBC Act to:

- provide for the emergency listing of threatened species and ecological communities where they are at risk from a significant and imminent threat; and
- amend section 158A of the EPBC Act to stipulate that species and ecological communities that are listed via the emergency provisions are afforded protection throughout the environmental assessment process and under development proposals already approved by the minister.<sup>90</sup>

1.84 During its inquiry, the committee heard support for an emergency listing process and concerns about the delays in the nomination and listing process.<sup>91</sup> The committee recommended that the bill not be passed, but gave in principle support to the emergency listing provisions of the bill and noted the Commonwealth government's intent to introduce similar legislation into the Parliament.<sup>92</sup> As noted above, the submission from SEWPAC stated that 'amendments to the EPBC Act are proposed to be introduced to Parliament in 2013'.<sup>93</sup> However, in the Federal Budget in

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87 Senate Environment and Communications References Committee, *The koala—saving our national icon*, September 2011, recommendation 3, p. 50.

88 Senate Environment and Communications References Committee, *The koala—saving our national icon*, September 2011, p. 126.

89 SEWPAC, *Annual Report 2011-12*, p. 246; see further [http://www.environment.gov.au/cgi-bin/sprat/public/publicspecies.pl?taxon\\_id=85104](http://www.environment.gov.au/cgi-bin/sprat/public/publicspecies.pl?taxon_id=85104) (accessed 21 November 2012).

90 Senator Larissa Waters, *Senate Hansard*, 13 October 2011, p. 7336.

91 Senate Environment and Communications Legislation Committee, *Environment Protection and Biodiversity Conservation Amendment (Emergency Listings) Bill 2011*, March 2012, pp 17-21 and 30.

92 Senate Environment and Communications Legislation Committee, *Environment Protection and Biodiversity Conservation Amendment (Emergency Listings) Bill 2011*, March 2012, see recommendations 1 and 2, pp 25 and 30.

93 SEWPAC, *Submission 143*, p. 7.

May 2013, the government announced that it made a decision to delay the introduction of relevant amendments to the EPBC Act until 1 July 2014.<sup>94</sup>

***EPBC (Approval Powers) Bill***

1.85 Most recently, in March 2013, the Senate Environment and Communications Legislation Committee considered the Environment Protection and Biodiversity Conservation Amendment (Retaining Federal Approval Powers) Bill 2012. The purpose of the bill was to prevent the Commonwealth from delegating its current powers under the EPBC Act for approving proposed actions that significantly impact on matters of national environmental significance to the states and territories. That bill was put forward as a response to announcements by COAG to reform the administration of national environment regulation to reduce duplication.<sup>95</sup>

1.86 Among other matters, that report recommended that the bill not be passed, noting that the Commonwealth intends to introduce legislative reforms to progress its response to the Hawke review under the EPBC Act to further streamline and strengthen environmental regulation.<sup>96</sup>

1.87 As noted in paragraphs 1.76–1.78, this issue has also been considered COAG and the current Minister for the Environment, Heritage and Water has since stated that the Commonwealth government is now 'committed to an approvals process that leaves the final decision-making in the hands of the federal environment minister'.<sup>97</sup>

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94 Australian government, *Budget 2013-14*, at: [http://www.budget.gov.au/2013-14/content/bp2/html/bp2\\_expense-22.htm](http://www.budget.gov.au/2013-14/content/bp2/html/bp2_expense-22.htm) (accessed 30 July 2013).

95 Senate Environment and Communications Legislation Committee, *Environment Protection and Biodiversity Conservation Amendment (Retaining Federal Approval Powers) Bill 2012*, March 2013, see discussion at pp 8–11.

96 Senate Environment and Communications Legislation Committee, *Environment Protection and Biodiversity Conservation Amendment (Retaining Federal Approval Powers) Bill 2012*, March 2013, pp 28–20.

97 Graham Lloyd, "Rudd to keep 'green tape' power", *The Australian*, 17 July 2013, p. 2.