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1 MEETING OF SENATE

The Senate met at 9.30 am. The President (Senator the Honourable Paul Calvert) took the chair and read prayers.

2 PETITION

The following petition, lodged with the Clerk by Senator Stott Despoja, was received:

From 10 469 petitioners, requesting that the Senate take action to ensure the Government provides adequate and ongoing funding for interpreting services for deaf and deafblind Australians.

3 NOTICE

Senator Stott Despoja: To move on the next day of sitting—That the Senate—

(a) notes that:

- (i) the impact on children who witness domestic violence is consistent with symptoms of Traumatic Stress Disorder,
- (ii) the effects of domestic violence on mothers and their children are regarded as so debilitating that some form of separation from the perpetrator must occur, and
- (iii) both the Family Law Council (2002) report titled, *Family Law and Child Protection*, and the Family Court's Magellan Project have recognised that children who are subject to serious abuse are not protected in the current Family Court system from continuing abuse; and

(b) urges the Government to:

- (i) give urgent consideration to amending the *Family Law Act 1975* to ensure that child safety is prioritised, including by giving consideration to requiring judges to prioritise child safety when determining the child's best interests as the first condition of meeting those interests,
- (ii) establish a Federal Child Protection Service for the family law system, as recommended by the Family Law Council's 2002 report, in order to perform the function of investigating child abuse concerns and provide information arising from such investigations to courts exercising jurisdiction under the Act,
- (iii) increase funding to develop cooperation between state and territory child protection authorities in order to provide the level of investigation and reporting required to improve current child protection services, and
- (iv) improve the current lack of coordination between state and territory authorities and courts exercising jurisdiction under the Act. (*general business notice of motion no. 534*)

4 ORDER OF BUSINESS—REARRANGEMENT

The Minister for the Arts and Sport (Senator Kemp) moved—That the following government business orders of the day be considered from 12.45 pm till not later than 2 pm today:

No. 8 Civil Aviation Legislation Amendment Bill 2003.

No. 9 Export Control Amendment Bill 2003.

Question put and passed.

Senator Kemp moved—That the order of general business for consideration today be as follows:

- (a) general business notice of motion no. 524 standing in the name of Senator O'Brien, relating to the Prime Minister's dealings with the chair of the Manildra Group, Mr Dick Honan; and
- (b) consideration of government documents.

Question put and passed.

5 POSTPONEMENTS

Items of business were postponed as follows:

General business notice of motion no. 530 standing in the name of Senator Cherry for today, relating to compensation for Indigenous workers in Queensland, postponed till 18 August 2003.

6 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE— EXTENSION OF TIME TO REPORT

Senator Ferris, at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 523—That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the provisions of the Aviation Transport Security Bill 2003 and a related bill be extended to 9 September 2003.

Question put and passed.

7 INDIGENOUS AUSTRALIANS—CATHY FREEMAN

Senator Ridgeway, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 526—That the Senate—

- (a) notes the retirement of champion athlete Cathy Freeman from athletics on 16 July 2003;
- (b) notes the tremendous contribution Cathy has made to Australian and international athletics including:
 - (i) being the first Aboriginal track and field athlete to represent Australia at an Olympic Games at Barcelona in 1992,
 - (ii) winning 200m and 400m gold medals at the 1994 Commonwealth Games in Victoria, Canada,
 - (iii) being the first woman to claim consecutive 400m world championship titles with victories in 1997 and 1999 – the first time an Australian had won successive world titles in any sporting field,
 - (iv) holding 13 national athletics titles, and
 - (v) winning the 400m gold medal at the Sydney 2000 Olympic Games; and
- (c) recognises the role she has also played in national reconciliation by being a great role model for young Indigenous people and by overcoming stereotypes of Indigenous Australians to become an Australian national icon.

Question put and passed.

8 ENVIRONMENT—JABILUKA URANIUM MINE SITE

Senator Nettle amended her notice of motion by leave and, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 533—That the Senate—

- (a) notes the announcement by the company ERA to backfill the uranium ore stockpile at Jabiluka mine site under a long-term care and maintenance plan;
- (b) congratulates the traditional owners of the land, the Mirrar people, for their strong and ongoing opposition to uranium mining on their land;
- (c) congratulates the community voices in Australia and overseas who have constantly campaigned to stop the Jabiluka uranium mine so as to protect the World Heritage values of Kakadu National Park; and
- (d) calls on the Federal Government:
 - (i) to immediately implement the recommendations of the UNESCO World Heritage Committee's report on Kakadu National Park, and
 - (ii) to implement outstanding recommendations from the Environment, Communications, Information Technology and the Arts References Committee report, *Jabiluka: The undermining of process—Inquiry into the Jabiluka uranium mine project*, including the recommendation that the Jabiluka uranium mine should not proceed because it is irreconcilable with the outstanding natural and cultural values of Kakadu National Park.

Question put and passed.

9 HEALTH—FOOD IRRADIATION

Senator Cherry amended his notice of motion by leave and, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 529—That the Senate—

- (a) notes that:
 - (i) the European Union in December 2002 imposed a moratorium on the further approvals of food irradiation due to research about the possible health effects, particularly in relation to cyclobutanones,
 - (ii) Food Standards Australia in the same month expanded the list of foods that can be irradiated in Australia to include a range of tropical fruits, and
 - (iii) a number of community campaigners have chosen to fast in protest against the approval of food irradiation in Australia, arguing that fasting is safer for their health than eating irradiated food; and
- (b) calls on the Federal Government to urgently commission research on the health effects of food irradiation and to follow the lead of the European Union in not approving any further foods for irradiation until such research is completed.

Question put and passed.

10 INDIGENOUS AUSTRALIANS—NAIDOC WEEK

Senator Ridgeway, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 527—That the Senate—

- (a) notes:
- (i) that it was National Aboriginal and Islander Day Observance Committee (NAIDOC) Week from 6 July to 13 July 2003 and that this year's theme was, 'Our Children, Our Future', and
 - (ii) the high proportion of youth who make up the Indigenous Australian population, with the 2001 Census showing that 58 per cent of the Indigenous population is aged under 25 years, compared with the rest of the Australian population with only one-third (35 per cent) aged under 25 years;
- (b) recognises the significance of NAIDOC Week in celebrating Indigenous culture and the individual achievements of Indigenous people throughout the country; and
- (c) congratulates the 2003 National NAIDOC Award winners including:
- Person of the Year: Ms Deborah Mailman
 - Apprentice of the Year: Ms Laurell Dodd
 - Scholar of the Year: Mr Frederick Penny
 - Female Elder of the Year: Mrs Violet French
 - Male Elder of the Year: Mr William Kennedy
 - Youth of the Year: Ms Stacey Kelly-Greenup
 - Sportsperson of the Year: Mr David Peachey
 - Artist of the Year: Ms Belynda Waugh.

Question put and passed.

11 FOREIGN AFFAIRS—HUMAN RIGHTS—MR DAVID HICKS AND MR MAMDOUH HABIB

Senator Nettle amended her notice of motion by leave and, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 531—That the Senate—

- (a) notes:
- (i) that Australian citizens Mamdouh Habib and David Hicks are currently incarcerated at Guantanamo Bay, Cuba, with Mr Habib still facing the possibility of a death sentence at the hands of the United States military, and
 - (ii) the comments by the Prime Minister (Mr Howard) regarding the sentencing of Bali bomber Amrozi where he said, 'If it's the view of the Indonesian court that it be carried out then it should be carried out'; and
- (b) calls on the Government:
- (i) to reaffirm its opposition to capital punishment as a matter of principle,
 - (ii) to reaffirm its commitment to the fundamental tenets of common law, namely, habeas corpus and judicial review of executive action, and
 - (iii) to take immediate action to secure the release and return of Mr Hicks and Mr Habib to Australia to face the allegations against them according to Australian standards of justice.

Question put and passed.

12 FOREIGN AFFAIRS—INDONESIAN SPECIAL FORCES

Senator Nettle, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 532—That the Senate—

(a) notes:

- (i) the serious allegations of kidnap, beating and arson in relation to the tactics of Indonesian Special Forces ‘Kopassus’ in their deployment in Aceh,
- (ii) the unresolved allegation that Kopassus was involved in the murder of United States citizens near Freeport, West Papua, in 2002,
- (iii) that Kopassus members have been found to be responsible for the murder of West Papuan independence leader Theys Eluay in November 2001,
- (iv) that Kopassus troops trained East Timorese militias responsible for massacring civilians and attacking Australian forces in East Timor, and
- (v) that Kopassus members have been found to have links with terrorist organisations including the now disbanded Laskar Jihad; and

(b) calls on the Government:

- (i) to cancel any planned re-establishment of cooperation with Kopassus,
- (ii) to acknowledge that it is not in the best interests of Australia or the region to extend tacit support for an organisation which engages in terrorising civilian populations, and
- (iii) to heed the advice of Professor Damien Kingsbury of Australia’s Deakin University that Indonesia’s military is ‘part of the problem, not part of the answer’ and that restoring military cooperation should be off the agenda until the Indonesian military ‘is thoroughly reformed, including closing its business and criminal networks, and it is brought under full civilian authority’.

Question put.

The Senate divided—

AYES, 9

Senators—

Allison (Teller)	Cherry	Murray	Ridgeway
Bartlett	Greig	Nettle	Stott Despoja
Brown			

NOES, 40

Senators—

Barnett	Crossin	Hutchins	McGauran
Bishop	Denman	Johnston	McLucas
Brandis	Eggleston	Kemp	O’Brien
Buckland	Ferguson	Kirk	Payne
Calvert	Ferris (Teller)	Ludwig	Ray
Campbell, George	Forshaw	Lundy	Scullion
Carr	Heffernan	Macdonald, Sandy	Stephens
Chapman	Hill	Mackay	Tchen
Colbeck	Hogg	Marshall	Webber
Collins	Humphries	Mason	Wong

Question negatived.

13 ENVIRONMENT AND HERITAGE LEGISLATION AMENDMENT BILL (NO. 1) 2002
AUSTRALIAN HERITAGE COUNCIL BILL 2002
AUSTRALIAN HERITAGE COUNCIL (CONSEQUENTIAL AND TRANSITIONAL
PROVISIONS) BILL 2002

Order of the day read for the further consideration of the bills in committee of the whole.

—————
In the committee

ENVIRONMENT AND HERITAGE LEGISLATION AMENDMENT BILL (NO. 1) 2002—

Consideration resumed of the bill.

Senator Allison moved the following amendment:

Schedule 1, page 17 (after line 18), after item 16, insert:

16A After section 74

Insert:

74A Minister may request referral of a larger action

- (1) If the Minister receives a referral in relation to a proposal to take an action by a person, and the Minister is satisfied the action that is the subject of the referral is a component of a larger action the person proposes to take, the Minister may decide to not accept the referral.
- (2) If the Minister decides to not accept a referral under subsection (1), the Minister:
 - (a) must give written notice of the decision to the person who referred the proposal to the Minister; and
 - (b) must give written notice of the decision to the person who is proposing to take the action that was the subject of the referral; and
 - (c) may, under section 70, request of the person proposing to take the action that was the subject of the referral, that they refer the proposal, to take the larger action, to the Minister.
- (3) To avoid doubt, sections 73 and 74 do not apply to a referral that has not been accepted in accordance with subsection (1).
- (4) If the Minister decides to accept a referral under subsection (1), the Minister must, at the time of making a decision under section 75:
 - (a) give written notice of the decision to the person who referred the proposal to the Minister; and
 - (b) publish in accordance with the regulations (if any), a copy or summary of the decision.

16B After subsection 75(1)

Insert:

- (1AA) To avoid doubt, the Minister is not permitted to make a decision under subsection (1) in relation to an action that was the subject of a referral that was not accepted under subsection 74A(1).

16C Subsection 77(3)

Repeal the subsection.

16D Subsection 77(5)

Repeal the subsection.

16E After section 77

Insert:

77A Action to be taken in a particular manner

- (1) If, in deciding whether the action is a controlled action or not, the Minister has made a decision (the *component decision*) that a particular provision of Part 3 is not a controlling provision for the action because the Minister believes it will be taken in a particular manner (whether or not in accordance with an accredited management plan for the purposes of a declaration under section 33 or a bilaterally accredited management plan for the purposes of a bilateral agreement), the notice to be provided under section 77 must set out the component decision, identifying the provision and the manner.

Note: The Minister may decide that a provision of Part 3 is not a controlling provision for an action because he or she believes that the action will be taken in a manner that will ensure the action will not have (and is not likely to have) an adverse impact on the matter protected by the provision.

- (2) A person must not take an action that is the subject of a notice that includes a particular manner under subsection (1), in a way that is inconsistent with the manner specified in the notice.

Civil penalty:

- (a) for an individual—1,000 penalty units, or such lower amount as is prescribed by the regulations;
- (b) for a body corporate—10,000 penalty units, or such lower amount as is prescribed by the regulations.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 10

Senators—

Allison (Teller)	Cherry	Murray	Ridgeway
Bartlett	Greig	Nettle	Stott Despoja
Brown	Harradine		

NOES, 39

Senators—

Barnett	Eggleston	Johnston	McGauran
Brandis	Ferguson	Kemp	McLucas
Buckland	Ferris (Teller)	Kirk	Payne
Campbell, George	Forshaw	Knowles	Ray
Carr	Harris	Lees	Scullion
Chapman	Heffernan	Lightfoot	Stephens
Colbeck	Hill	Ludwig	Tchen
Collins	Hogg	Lundy	Webber
Crossin	Humphries	Mackay	Wong
Denman	Hutchins	Marshall	

Question negatived.

Senator Allison moved the following amendments together by leave:

Schedule 1, item 31, page 27 (lines 1 and 2), omit “However, the Minister may extend the period in paragraph (a) or (b).”.

Schedule 1, item 31, page 27 (after line 2), after subsection 324G(2), insert:

- (2A) If the Australian Heritage Council does not complete the assessment of a place against the National Heritage criteria within the period specified in paragraph (2)(a) or (b), the Minister may, by notice in writing, extend the period by up to 24 months if all reasonable efforts were made to complete the assessment within the relevant period.
- (2B) If the Australian Heritage Council does not complete the assessment of a place against the National Heritage criteria by the time specified in the notice provided under subsection (2A), the Minister may, by notice in writing, provide an extension of up to 24 months if all reasonable efforts were made to complete the assessment within the period specified in the notice.
- (2C) If the Minister extends the period for the completion of an assessment of a place against the National Heritage criteria under subsection (2A) or (2B), the Minister must within 10 business days:
 - (a) publish a notice including the reasons for the extension on the Internet; and
 - (b) if the place was nominated by a person, or a person notified the Minister under subsection 324F(1A)—provide copies of the notice and the reasons for the decision to the person.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 10

Senators—

Allison (Teller)	Cherry	Murray	Ridgeway
Bartlett	Greig	Nettle	Stott Despoja
Brown	Harradine		

NOES, 38

Senators—

Barnett	Denman	Kirk	Payne
Brandis	Eggleston (Teller)	Knowles	Ray
Buckland	Ferguson	Lees	Scullion
Calvert	Forshaw	Ludwig	Stephens
Campbell, George	Harris	Mackay	Tchen
Carr	Heffernan	Marshall	Troeth
Chapman	Hill	Mason	Webber
Colbeck	Humphries	McGauran	Wong
Collins	Hutchins	McLucas	
Crossin	Johnston	O'Brien	

Question negatived.

Senator Allison moved the following amendment:

Schedule 1, item 32, page 63 (lines 1 to 8), omit section 341ZC, substitute:

341ZC Minimising any impact on heritage values

A Commonwealth agency must not take an action that has, will have or is likely to have any impact on the heritage values of a National Heritage place or a Commonwealth Heritage place, unless:

- (a) there is no feasible and prudent alternative to taking the action; and
- (b) all measures that can reasonably be taken to mitigate the impact of the action on the heritage values of a National Heritage place or a Commonwealth Heritage place have been and will be taken.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

Senator Allison moved the following amendments together by leave:

Schedule 1, item 31, page 26 (line 11), omit “, within a reasonable time”.

Schedule 1, item 31, page 29 (lines 21 and 22), omit “, within a reasonable time”.

Schedule 1, item 31, page 30 (line 35), omit “, within a reasonable time”.

Schedule 1, item 32, page 47 (line 2), omit “, within a reasonable time”.

Schedule 1, item 32, page 47 (lines 28 and 29), omit “However, the Minister may extend the period in paragraph (a) or (b).”.

Question—That the amendments be agreed to—put and negatived.

Senator Allison moved the following amendments together by leave:

Schedule 1, item 31, page 33 (lines 7 and 8), omit the heading to section 324M, substitute:

324M Minister must consider advice of the Australian Heritage Council and public comments

Schedule 1, item 32, page 54 (lines 18 and 19), omit the heading to section 341M, substitute:

341M Minister must consider advice of the Australian Heritage Council and public comments

Question—That the amendments be agreed to—put.

The committee proceeded to divide—

The call for the division was withdrawn, by leave.

Question put again, by leave, and passed.

Senator Allison moved the following amendments together by leave:

Schedule 1, page 17 (after line 20), after item 17, insert:

17A Section 137

Repeal the section, substitute:

137 Requirements for decisions about World Heritage

In deciding whether or not to approve for the purposes of section 12 or 15A the taking of an action, and what conditions to attach to such an approval, the Minister must not act inconsistently with:

- (a) Australia’s obligations under the World Heritage Convention; or

- (b) the Australian World Heritage management principles; or
- (c) a plan that has been prepared for the management of a declared World Heritage property under either section 316 or 321.

Schedule 1, item 18, page 17 (lines 23 to 30), omit section 137A, substitute:

137A Requirements for decisions about National Heritage places

In deciding whether or not to approve for the purposes of section 15B or 15C the taking of an action, and what conditions to attach to such an approval, the Minister must not act inconsistently with:

- (a) the National Heritage management principles; or
- (b) an agreement made under Part 5 or Part 14 in relation to the protection and conservation of a National Heritage place; or
- (c) a plan that has been prepared for the management of a National Heritage place under either section 324S or 324X.

Debate ensued.

Question—That the amendments be agreed to—put and negatived.

Senator Allison moved the following amendment:

Schedule 1, page 17 (after line 30), after item 18, insert:

18A After section 170A

Insert:

170B Publication of information on the Internet

Without limiting the operation of section 170A, the Secretary must publish on the Internet each week, in relation to the immediately preceding week, all matters which are permitted or required by this Act to be made available to the public.

Question—That the amendment be agreed to—put and negatived.

Senator Allison moved the following amendment:

Schedule 1, page 22 (after line 8), after item 29, insert:

29A Section 318

Repeal the section, substitute:

318 Commonwealth compliance with plans

- (1) The Commonwealth or a Commonwealth agency must not contravene a plan made by the Minister under section 316, or authorise any other person to contravene such a plan.
- (2) Where a plan has not been made under section 316, the Commonwealth or a Commonwealth agency must take all reasonable steps to not act inconsistently with the Australian World Heritage management principles.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

Senator Allison moved the following amendment:

Schedule 1, item 31, page 25 (after line 25), after subsection 324F(1), insert:

- (1A) If a person believes:
 - (a) a place may have one or more National Heritage values; and
 - (b) any of those heritage values are under threat;

the person may notify the Minister and ask the Minister to consider including the place and its National Heritage values in the National Heritage List.

Question—That the amendment be agreed to—put and negatived.

Senator Allison moved the following amendments together by leave:

Schedule 1, item 31, page 24 (after line 31), after subsection 324E(3), insert:

- (3A) After giving the Chair of the Australian Heritage Council a written request under subsection (2), the Minister must within 10 business days publish a brief description of the nomination on the Internet. In publishing the description, the Minister may have regard to section 324Q.

Note: The description published on the Internet may not contain certain information kept confidential under section 324Q.

Schedule 1, item 31, page 26 (lines 12 and 13), omit paragraph 324F(5)(a), substitute:

- (a) within 10 business days publish a copy or summary of the instrument published in the *Gazette* on the Internet and in any other place required under the regulations (if any); and

Schedule 1, item 31, page 26 (lines 19 and 20), omit paragraph 324F(5)(c), substitute:

- (c) if the place was nominated by a person, or a person notified the Minister under subsection (1A)—advise the person within 10 business days that the place has been included in the National Heritage List.

Schedule 1, item 31, page 26 (after line 20), at the end of section 324F, add:

- (6) If the Minister decides not to include a place in the National Heritage List under this section, the Minister must:
- (a) within 10 business days publish on the Internet the reasons for the decision; and
 - (b) if the place was nominated by a person, or a person notified the Minister under subsection (1A)—within 10 business days advise the person of the decision and give written reasons for the decision; and
 - (c) give written reasons for the decision to anyone who asks for them.

Debate ensued.

Question—That the amendments be agreed to—put and negatived.

On the motion of Senator Allison the following amendments, taken together by leave, were debated and agreed to:

Schedule 1, item 31, page 29 (line 18), at the end of subsection 324J(3), add:
; and (c) publish a copy of the instrument published in the *Gazette* and the reasons for the decision on the Internet.

Schedule 1, item 31, page 29 (line 27), at the end of subsection 324J(4), add:
; and (c) within 10 business days publish the decision and the reasons for the decision on the Internet.

Schedule 1, item 31, page 29 (line 25), after “person” (second occurring), insert “within 10 business days”.

Senator Allison moved the following amendment:

Schedule 1, item 31, page 33 (lines 5 and 6), omit subsection 324L(6), substitute:

- (6) The Minister must publish within 10 business days a copy of the instrument being published in the *Gazette* on the Internet and in any other place required under the regulations (if any).

Question—That the amendment be agreed to—put and negatived.

Senator Allison moved the following amendments together by leave:

Schedule 1, item 31, page 33 (lines 9 to 14), omit subsection 324M(1), substitute:

- (1) Before the Minister removes from the National Heritage List under section 324L all or part of a place or one or more of a place’s National Heritage values in a removal for loss of value, the Minister must:
 - (a) give the Chair of the Australian Heritage Council a written request for the Council to give the Minister advice on the proposed removal; and
 - (b) publish a notice on the Internet and in a daily newspaper circulating in each State and self-governing Territory in accordance with the regulations (if any):
 - (i) describing the proposed removal; and
 - (ii) inviting anyone to give the Minister comments within 20 business days on the proposed removal.

Schedule 1, item 31, page 33 (lines 15 and 16), omit subsection 324M(2).

Schedule 1, item 31, page 33 (lines 17 and 18), omit subsection 324M(3), substitute:

- (3) In making a decision under section 324L to remove all or part of a place or one or more of a place’s National Heritage values, the Minister must consider:
 - (a) any advice received from the Australian Heritage Council; and
 - (b) any comments received in response to an invitation published by the Minister.

However, the Minister is not required to consider any advice or comments received after the period specified by the Minister under subsection (1).

Question—That the amendments be agreed to—put and negatived.

Senator Allison moved the following amendment:

Schedule 1, item 31, page 38 (line 2), after “consider,” insert “comments from the Australian Heritage Council, and”.

Question—That the amendment be agreed to—put and negatived.

Bill, as amended, further debated.

Senator Allison moved the following amendment:

Schedule 1, item 31, page 38 (lines 15 to 19), omit section 324U, substitute:

324U Compliance with plans by the Commonwealth and Commonwealth agencies

- (1) The Commonwealth or a Commonwealth agency must not contravene a plan made by the Minister under section 324S, or authorise any other person to contravene such a plan.
- (2) Where a plan has not been made under section 324S, the Commonwealth or a Commonwealth agency must take all reasonable steps to not act inconsistently with the National Heritage management principles.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

Senator Allison moved the following amendment:

Schedule 1, item 31, page 38 (lines 27 to 32), omit section 324W, substitute:

324W Review of plans at least every 5 years

- (1) At least once in every 5 year period after a plan for managing a National Heritage place is made under section 324S, the Minister must cause a review of the plan to be carried out.
- (2) The review must:
 - (a) assess whether the plan is consistent with the National Heritage management principles in force at the time; and
 - (b) assess whether the plan is effective in protecting and conserving the National Heritage values of the place; and
 - (c) make recommendations for the improved protection of the National Heritage values of the place.
- (3) Before carrying out a review under subsection (1), the Minister must cause a notice to be published on the Internet and in a daily newspaper circulating in each State and self-governing Territory, inviting anyone to give the Minister comments within 20 business days on the effectiveness of the plan in protecting and conserving the National Heritage values of the place and whether the plan is consistent with the National Heritage management principles.

Question—That the amendment be agreed to—put and negatived.

Senator Allison moved the following amendment:

Schedule 1, item 31, page 40 (line 26), omit “and assessment”, substitute “, assessment and monitoring”.

Question—That the amendment be agreed to—put and negatived.

Senator Allison moved the following amendment:

Schedule 1, item 31, page 41 (line 3), after subsection 324ZA(1), insert:

- (1A) Before a Commonwealth agency executes a contract under this section, the agency must give the Minister prior notification of the intended sale or lease 40 business days before the execution of the contract.

Question—That the amendment be agreed to—put and negatived.

Senator Allison moved the following amendment:

Schedule 1, item 31, page 43 (line 3), omit paragraph 324ZC(2)(e), substitute:

- (e) all nominations, assessments and approvals under this Division during the period of review; and

- (f) compliance with this Act in relation to National Heritage places; and
- (g) any other matters that the Minister considers relevant.

Question—That the amendment be agreed to—put and negatived.

Senator Allison moved the following amendment:

Schedule 1, page 43 (after line 3), after item 31, insert:

31A Section 330

Repeal the section, substitute:

330 Commonwealth compliance with plans

- (1) The Commonwealth or a Commonwealth agency must not contravene a plan made by the Minister under section 328, or authorise any other person to contravene such a plan.
- (2) Where there is no plan under section 328, the Commonwealth or a Commonwealth agency must take all reasonable steps to not act inconsistently with the Australian Ramsar management principles.

Question—That the amendment be agreed to—put and negatived.

On the motion of Senator Allison the following amendment was debated and agreed to:

Schedule 1, item 32, page 45 (after line 21), after subsection 341E(3), insert:

- (3A) After giving the Chair of the Australian Heritage Council a written request under subsection (2), the Minister must within 10 business days publish a brief description of the nomination on the Internet. In publishing the description, the Minister may have regard to section 341Q.

Note: The description published on the Internet may not contain certain information kept confidential under section 341Q.

Senator Allison moved the following amendments together by leave:

Schedule 1, item 32, page 46 (after line 18), after subsection 341F(1), insert:

- (1A) If a person believes:
 - (a) a place may have one or more Commonwealth Heritage values; and
 - (d) any of those heritage values are under threat;
 the person may notify the Minister and ask the Minister to consider including the place and its Commonwealth Heritage values in the Commonwealth Heritage List.

Schedule 1, item 32, page 47 (lines 3 and 4), omit paragraph 341F(5)(a), substitute:

- (a) within 10 business days publish a copy or summary of the instrument published in the *Gazette* on the Internet and in any other place required under the regulations (if any); and

Schedule 1, item 32, page 47 (lines 10 to 12), omit paragraph 341F(5)(c), substitute:

- (c) if the place was nominated by a person, or a person notified the Minister under subsection (1A)—advise the person within 10 business days that the place has been included in the Commonwealth Heritage List.

Schedule 1, item 32, page 47 (after line 12), at the end of section 341F, add:

- (6) If the Minister decides not to include a place in the Commonwealth Heritage List under this section, the Minister must:
 - (a) within 10 business days publish on the Internet the reasons for the decision; and
 - (b) if the place was nominated by a person, or a person notified the Minister under subsection (1A)—within 10 business days advise the person of the decision and give written reasons for the decision; and
 - (c) give written reasons for the decision to anyone who asks for them.

Question—That the amendments be agreed to—put and negatived.

Senator Allison moved the following amendment:

Schedule 1, item 32, page 47 (after line 29), after subsection 341G(2), insert:

- (2A) If the Australian Heritage Council does not complete the assessment of a place against the Commonwealth Heritage criteria within the period specified in paragraph (2)(a) or (b), the Minister may, by notice in writing, extend the period by up to 24 months if all reasonable efforts were made to complete the assessment within the relevant period.
- (2B) If the Australian Heritage Council does not complete the assessment of a place against the Commonwealth Heritage criteria by the time specified in the notice provided under subsection (2A), the Minister may, by notice in writing, provide an extension of up to 24 months if all reasonable efforts were made to complete the assessment within the period specified in the notice.
- (2C) If the Minister extends the period for the completion of an assessment of a place against the Commonwealth Heritage criteria under subsection (2A) or (2B), the Minister must within 10 business days:
 - (a) publish a notice including the reasons for the extension on the Internet; and
 - (b) if the place was nominated by a person or a person notified the Minister under subsection 341F(1A)—provide copies of the notice to the person.

Question—That the amendment be agreed to—put and negatived.

On the motion of Senator Allison the following amendments, taken together by leave, were agreed to:

Schedule 1, item 32, page 50 (lines 18 and 19), omit “, within a reasonable time”.

Schedule 1, item 32, page 51 (line 33), omit “, within a reasonable time”.

Senator Allison moved the following amendments together by leave:

Schedule 1, item 32, page 50 (line 15), at the end of subsection 341J(3), add:

- ; and (c) publish a copy of the instrument published in the *Gazette* and the reasons for the decision on the Internet.

Schedule 1, item 32, page 50 (line 22), after “person” (second occurring), insert “within 10 business days”.

Schedule 1, item 32, page 50 (line 24), at the end of subsection 341J(4), add:
 ; and (c) within 10 business days publish the decision and the reasons for the decision on the Internet.

Schedule 1, item 32, page 51 (line 34) to page 52 (line 4), omit paragraphs 341J(7)(a) and (b), substitute:

- (a) within 10 business days publish a copy of the instrument published in the *Gazette* and the reasons for the decision on the Internet; and
- (b) within 10 business days give written reasons for the removal or alteration to each person identified by the Minister as an owner or occupier of all or part of the place; and
- (c) give written reasons for the removal or alteration to anyone else who asks the Minister for them; and
- (d) if the place was included on the List following a nomination made under section 341E, or a person notified the Minister under subsection 341F(1A)—advise the person who made the nomination, or who notified the Minister, within 10 business days, of the decision and give the person written reasons for the decision.

Question—That the amendments be agreed to—put and negatived.

Senator Allison moved the following amendment:

Schedule 1, item 32, page 54 (lines 16 and 17), omit subsection 341L(7), substitute:

- (7) The Minister must publish within 10 business days a copy of the instrument published in the *Gazette* on the Internet and in any other place required under the regulations (if any).

Question—That the amendment be agreed to—put and negatived.

Senator Allison moved the following amendments together by leave:

Schedule 1, item 32, page 54 (lines 20 to 25), omit subsection 341M(1), substitute:

- (1) Before the Minister removes from the Commonwealth Heritage List under section 341L all or part of a place or one or more of a place's Commonwealth Heritage values, the Minister must:
 - (a) give the Chair of the Australian Heritage Council a written request for the Council to give the Minister advice on the proposed removal; and
 - (b) publish a notice on the Internet and in a daily newspaper circulating in each State and self-governing Territory in accordance with the regulations (if any):
 - (i) describing the proposed removal; and
 - (ii) inviting anyone to give the Minister comments within 20 business days on the proposed removal.

Schedule 1, item 32, page 54 (lines 26 and 27), omit subsection 341M(2).

Schedule 1, item 32, page 54 (lines 28 and 29), omit subsection 341M(3), substitute:

- (3) In making a decision under section 341L to remove all or part of a place or one or more of a place's Commonwealth Heritage values, the Minister must consider:

- (a) any advice received from the Australian Heritage Council; and
- (b) any comments received in response to an invitation published by the Minister.

However, the Minister is not required to consider any advice or comments received after the period specified by the Minister under subsection (1).

Question—That the amendments be agreed to—put and negatived.

Senator Allison moved the following amendments together by leave:

Schedule 1, item 32, page 59 (line 16), after “consider,” insert “comments from the Australian Heritage Council, and”.

Schedule 1, item 32, page 59 (after line 27), after subsection 341T(1), insert:

- (1A) The Minister must decide within 60 business days of receipt of a plan under subsection (1) whether or not to endorse the plan.
- (1B) Within 10 business days of making a decision under subsection (1A), the Minister must inform the agency in writing of the decision and publish on the Internet a notice of the decision.

Debate ensued.

Question—That the amendments be agreed to—put and negatived.

Senator Allison moved the following amendments together by leave:

Schedule 1, item 32, page 60 (lines 13 to 17), omit section 341V, substitute:

341V Compliance with plans by the Commonwealth and Commonwealth agencies

- (1) The Commonwealth or a Commonwealth agency must not contravene a plan made under section 341S, or authorise any other person to contravene such a plan.
- (2) Where there is no plan under section 341S, the Commonwealth or a Commonwealth agency must take all reasonable steps to not act inconsistently with the Commonwealth Heritage management principles.

Schedule 1, item 32, page 60 (lines 25 to 32), omit section 341X, substitute:

341X Review of plans at least every 5 years

- (1) At least once in every 5 year period after a plan for managing a Commonwealth Heritage place is made under section 341S, the Commonwealth agency must cause a review of the plan to be carried out.
- (2) The review must:
 - (a) assess whether the plan is consistent with the Commonwealth Heritage management principles in force at the time; and
 - (b) assess whether the plan is effective in protecting and conserving the Commonwealth Heritage values of the place.
- (3) Before carrying out a review under subsection (1), the Commonwealth agency concerned must cause a notice to be published on the Internet and in a daily newspaper circulating in each State and self-governing Territory inviting anyone to give the Commonwealth agency comments within 20 business days on the effectiveness of the plan in protecting and conserving the Commonwealth Heritage values of the place and whether the plan is consistent with the Commonwealth Heritage management principles.

Question—That the amendments be agreed to—put and negatived.

Senator Allison moved the following amendment:

Schedule 1, item 32, page 61 (line 17), omit “and assessment”, substitute “, assessment and monitoring”.

Question—That the amendment be agreed to—put and negatived.

Senator Allison moved the following amendments together by leave:

Schedule 1, item 32, page 61 (lines 20 to 26), omit subsection 341ZA(1), substitute:

- (1) If a Commonwealth agency owns or controls a place, it must prepare a written heritage strategy and give a copy of the strategy to the Minister as soon as practicable and, in any case, within 2 years after the later of:
 - (a) the time the agency first owns or controls a place; and
 - (b) the commencement of this section.

Note: The heritage strategy will apply to every place the agency owns or controls.

- (1A) The principal objective of a heritage strategy is to outline a strategic approach for the Commonwealth agency to effectively manage places which it owns or controls for the long-term protection and conservation of their Commonwealth Heritage values.
- (1B) Before making a heritage strategy, the Commonwealth agency must consult with the Australian Heritage Council and take into account any advice which it receives from the Council.

Schedule 1, item 32, page 61 (line 28), at the end of subsection 341ZA(2), add:

A copy of the amended or new heritage strategy must be provided to the Minister within 20 business days of the date on which the strategy is amended or replaced.

Schedule 1, item 32, page 62 (after line 8), after subsection 341ZA(4), insert:

- (4A) The Minister will advise the Commonwealth agency if the agency’s heritage strategy (including a replacement of an earlier strategy) or an amendment of the agency’s heritage strategy is consistent with the Commonwealth Heritage management principles. A heritage strategy or an amendment of a strategy must not be inconsistent with the Commonwealth Heritage management principles.

Schedule 1, item 32, page 62 (after line 31), after subsection 341ZB(3), insert:

- (3A) A Commonwealth agency must include, in its annual report, details of the implementation of its heritage strategy.

Question—That the amendments be agreed to—put and negatived.

Senator Allison moved the following amendment:

Schedule 1, item 32, page 62 (after line 32), at the end of section 341ZB, add:

- (5) Where the Minister receives a copy of a report under paragraph (1)(c) that indicates that a place owned or leased by a Commonwealth agency may have one or more Commonwealth Heritage values, the Minister may, in consultation with relevant Commonwealth Ministers, use the report as a basis for nominations to the Commonwealth Heritage List.

Question—That the amendment be agreed to—put and negatived.

Senator Allison moved the following amendment:

Schedule 1, item 32, page 63 (after line 34), after subsection 341ZE(1), insert:

- (1A) If a Commonwealth agency proposes to sell or lease a Commonwealth area in the Australian jurisdiction that is or includes all or part of a Commonwealth Heritage place, the Commonwealth agency must notify the Minister of the intended transaction at least 40 business days before the contract for the sale or lease of the area is executed.

Question—That the amendment be agreed to—put and negatived.

Senator Allison moved the following amendment:

Schedule 1, item 32, page 66 (line 22), omit paragraph 341ZH(2)(e), substitute:

- (e) all nominations, assessments and approvals under this Division during the period of the review; and
 (f) compliance with this Act in relation to Commonwealth Heritage places; and
 (g) any other matters that the Council considers relevant.

Question—That the amendment be agreed to—put and negatived.

Senator Allison moved the following amendment:

Schedule 1, item 33, page 66 (lines 25 to 31), omit paragraph (j), substitute:

- ; and (j) if the reserve includes a National Heritage place:
 (i) be consistent with the National Heritage management principles; and
 (ii) address the matters prescribed under regulations made for the purposes of paragraph 324S(4)(a); and
 (k) if the reserve includes a Commonwealth Heritage place:
 (i) be consistent with the Commonwealth Heritage management principles; and
 (ii) address the matters prescribed under regulations made for the purposes of paragraph 341S(4)(a).

Question—That the amendment be agreed to—put and negatived.

Senator Allison moved the following amendment:

Schedule 1, item 46, page 68 (line 27), after paragraph (e), add:

Note: Without limiting the generality of the definition, the heritage values of places outlined in the definition of *environment* includes places listed in the Register of the National Estate.

Question—That the amendment be agreed to—put and negatived.

Senator Allison moved the following amendment:

Schedule 1, item 31, page 30 (line 36) to page 31 (line 5), omit paragraphs 324J(7)(a) and (b), substitute:

- (a) within 10 business days publish a copy of the instrument published in the *Gazette* and the reasons for the decision on the Internet; and
 (b) within 10 business days give written reasons for the removal or alteration to each person identified by the Minister as an owner or occupier of all or part of the place; and
 (c) give written reasons for the removal or alteration to anyone else who asks the Minister for them; and

- (d) if the place was included in the List following a nomination of it—advise the person who made the nomination within 10 business days of the removal or alteration and give the person written reasons for it.

Question—That the amendment be agreed to—put and negatived.

Senator Allison moved the following amendment:

Schedule 1, item 48, page 69 (lines 8 to 10), omit the definition of *indigenous heritage value*, substitute:

indigenous heritage value of the place means the heritage value that is of significance to indigenous persons generally or a particular group of indigenous persons in accordance with their practices (including laws and cultural practices), observances, customs, traditions, beliefs or history.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 9

Senators—

Allison (Teller)	Cherry	Murray	Ridgeway
Bartlett	Greig	Nettle	Stott Despoja
Brown			

NOES, 41

Senators—

Abetz	Collins	Kirk	Payne
Barnett	Denman	Knowles	Ray
Bishop	Evans	Lees	Stephens
Boswell	Faulkner	Ludwig	Tchen
Brandis	Ferguson	Lundy	Tierney
Buckland	Ferris	Mackay	Troeth
Calvert	Forshaw	Marshall (Teller)	Webber
Campbell, George	Hill	Mason	Wong
Carr	Humphries	McLucas	
Chapman	Hutchins	O'Brien	
Colbeck	Johnston	Patterson	

Question negatived.

Senator Allison moved the following amendments together by leave:

Schedule 1, item 31, page 36 (after line 33), after section 324R, insert:

324RA Transfer of World Heritage properties

- (1) Upon commencement of this Subdivision, the Minister must:
- (a) include all places in Australia that are declared World Heritage properties on the date of commencement in the National Heritage List; and
 - (b) include the World Heritage values of those places in the National Heritage List as the National Heritage values of those places.

- (2) Notwithstanding anything else in this Act, within 24 months of commencement of this Subdivision, the Minister must determine whether Australia's declared World Heritage properties at the time of commencement of this Act have additional National Heritage values to those included in the National Heritage List under subsection (1).

Schedule 1, item 32, page 58 (after line 14), after section 341R, insert:

341RA Transfer of World Heritage properties

- (1) Upon commencement of this Subdivision, the Minister must:
- (a) include all places in Australia that are declared World Heritage properties on the date of commencement in the Commonwealth Heritage List; and
 - (b) include the World Heritage values of those places in the Commonwealth Heritage List as the Commonwealth Heritage values of those places.
- (2) Notwithstanding anything else in this Act, within 24 months of commencement of this Subdivision, the Minister must determine whether Australia's declared World Heritage properties at the time of commencement of this Act have additional Commonwealth Heritage values to those included in the Commonwealth Heritage List under subsection (1).

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 10

Senators—

Allison (Teller)	Cherry	Murray	Stott Despoja
Bartlett	Greig	Nettle	
Brown	Harradine	Ridgeway	

NOES, 38

Senators—

Abetz	Collins	Kirk	Ray
Barnett	Denman	Knowles	Santoro
Bishop	Eggleston	Lees	Scullion
Bolkus	Evans	Ludwig	Stephens
Buckland	Faulkner	Lundy	Tchen
Calvert	Ferris (Teller)	Marshall	Troeth
Campbell, George	Forshaw	Mason	Webber
Carr	Hill	McGauran	Wong
Chapman	Humphries	McLucas	
Colbeck	Hutchins	Payne	

Question negatived.

Senator Allison moved the following amendments together by leave:

Schedule 1, item 31, page 22 (line 26), after “and”, insert “may”.

Schedule 1, item 31, page 27 (after line 6), after subsection 324G(3), insert:

Requirements relating to assessments generally

- (3A) Before giving the Minister an assessment under this section whether a place meets any of the National Heritage criteria, the Australian Heritage Council:
- (a) must publish, in accordance with the regulations (if any), a notice:
 - (i) stating that the Council is assessing whether the place meets any of the National Heritage criteria; and
 - (ii) inviting comments in writing, within a specified period of no less than 20 business days, on whether the place meets any of the National Heritage criteria and whether the place should be included in the National Heritage List; and
 - (b) must consider, subject to subsection (5), the comments (if any) the Council receives within the period.

The Council must give the Minister a copy of the comments with the assessment.

Schedule 1, item 31, page 27 (line 30), omit the heading to section 324H, substitute:

324H Inviting public comments after assessment

Schedule 1, item 31, page 27 (line 31) to page 28 (line 6), omit subsection 324H(1) (including the note), substitute:

- (1) Within 20 business days of the day on which the Minister receives an assessment from the Australian Heritage Council under section 324G, the Minister may publish a notice inviting comments on whether the place that is the subject of the assessment should be included, or should remain, in the National Heritage List and what heritage values should be included, or should remain, in the National Heritage List for the place.

Schedule 1, item 31, page 28 (lines 7 to 10), omit subsection 324H(2), substitute:

- (2) If the Minister receives an assessment from the Australian Heritage Council under section 324G that a place meets one or more of the National Heritage criteria and the Minister proposes:
 - (a) not to include the place in the National Heritage List; or
 - (b) to remove the place from the National Heritage List; or
 - (c) not to include all of the heritage values of the place that the Council is satisfied cause the place to meet the National Heritage criteria in the National Heritage List; or
 - (d) to remove one or more of the National Heritage values of the place that the Council considers the place has from the National Heritage List;

the Minister must publish a notice under subsection (1).

Schedule 1, item 31, page 28 (lines 11 to 17), omit subsection 324H(3), substitute:

- (3) The notice must:
 - (a) include a statement setting out the details of the decision the Minister proposes to make under section 324J and the reasons for the proposed decision; and

- (b) state that comments are to be given to the Minister within:
 - (i) 40 business days after the notice is published; or
 - (ii) if the place is included in the National Heritage List under section 324F (emergency listing)—20 business days after the notice is published.

Schedule 1, item 31, page 28 (lines 22 to 26), omit subsection 324H(5), substitute:

- (5) On the first day on which the Minister publishes the notice under subsection (1), the Minister must publish, in accordance with the regulations (if any):
 - (a) the assessment given to the Minister under section 324G for the place; and
 - (b) a summary of the documents (if any) given to the Minister by the Australian Heritage Council under subsection 324G(3A) or (4) with the assessment.

Schedule 1, item 31, page 28 (after line 26), at the end of section 324H, add:

- (6) To avoid doubt, if the Minister receives an assessment from the Australian Heritage Council under section 324G that a place meets one or more of the National Heritage criteria, the Minister must not make a decision under section 324J to do any of the things outlined in paragraphs (2)(a) to (d) unless the Minister has complied with the requirements in this section.

Schedule 1, item 31, page 28 (line 29) to page 29 (line 9), omit subsections 324J(1) and (2), substitute:

- (1) After receiving from the Australian Heritage Council an assessment under section 324G whether a place, except one that is or includes a place included in the National Heritage List under section 324F (whether before, on or after receipt of the assessment), meets any of the National Heritage criteria, the Minister must:
 - (a) by instrument published in the *Gazette*, include in the National Heritage List the place and its National Heritage values specified in the instrument; or
 - (b) decide not to include the place in the National Heritage List.

Note 1: Section 324F is about emergency listing.

Note 2: The Minister may include a place in the National Heritage List only if the Minister is satisfied that the place has one or more National Heritage values (see subsection 324C(2)).

Note 3: Section 324N deals with how additional National Heritage values may be included in the National Heritage List for a National Heritage place.

- (2) The Minister must comply with subsection (1):
 - (a) within 20 business days after the day on which the Minister receives the assessment; or
 - (b) if the Minister publishes a notice under section 324H in relation to the place—within 60 business days after the end of the period mentioned in paragraph 324H(3)(b) for the place.

Schedule 1, item 31, page 29 (lines 29 to 31), omit “Within 15 business days after the end of the period mentioned in subsection 324H(3) for a place included in the National Heritage List under section 324F (emergency listing)”, substitute “After receiving from the Australian Heritage Council an assessment under section 324G concerning a place (the *listed place*) included in the National Heritage List under section 324F”.

Schedule 1, item 31, page 29 (line 34), omit “place”, substitute “listed place”.

Schedule 1, item 31, page 30 (line 1), omit “place”, substitute “listed place”.

Schedule 1, item 31, page 30 (line 5), omit “place”, substitute “listed place”.

Schedule 1, item 31, page 30 (line 7), omit “place”, substitute “listed place”.

Schedule 1, item 31, page 30 (lines 18 to 20), omit the note.

Schedule 1, item 31, page 30 (after line 20), after subsection 324J (5), insert:

- (5A) The Minister must comply with subsection (5):
- (a) within 20 business days after the day on which the Minister receives the assessment; or
 - (b) if the Minister publishes a notice under section 324H in relation to the place—within 15 business days after the end of the period mentioned in paragraph 324H(3)(b) for the place.

Schedule 1, item 31, page 31 (line 12), omit “subsection 324G(4)”, substitute “section 324G”.

Schedule 1, item 31, page 31 (line 14), after “notice”, insert “(if any)”.

Schedule 1, item 31, page 35 (after line 32), before subparagraph 324R(2)(a)(i), insert:

- (ia) publication of the assessment under section 324H; or

Schedule 1, item 31, page 36 (line 4), omit “324J(1) or (5)”, substitute “324J(2) or (5A)”.

Schedule 1, item 32, page 43 (line 16), after “and”, insert “may”.

Schedule 1, item 32, page 47 (after line 33), after subsection 341G(3), insert:

Requirements relating to assessments generally

- (3A) Before giving the Minister an assessment under this section whether a place meets any of the Commonwealth Heritage criteria, the Australian Heritage Council:
- (a) must publish, in accordance with the regulations (if any), a notice:
 - (i) stating that the Council is assessing whether the place meets any of the Commonwealth Heritage criteria; and
 - (ii) inviting comments in writing, within a specified period of no less than 20 business days, on whether the place meets any of the Commonwealth Heritage criteria and whether the place should be included in the Commonwealth Heritage List; and
 - (b) must consider, subject to subsection (5), the comments (if any) the Council receives within the period.

The Council must give the Minister a copy of the comments with the assessment.

Schedule 1, item 32, page 48 (line 21), omit the heading to section 341H, substitute:

341H Inviting public comments after assessment

Schedule 1, item 32, page 48 (lines 22 to 31), omit subsection 341H(1) (including the note), substitute:

- (1) Within 20 business days of the day on which the Minister receives an assessment from the Australian Heritage Council under section 341G,

the Minister may publish a notice inviting comments on whether the place that is the subject of the assessment should be included, or should remain, in the Commonwealth Heritage List and what heritage values should be included, or should remain, in the Commonwealth Heritage List for the place.

Schedule 1, item 32, page 48 (lines 32 to 35), omit subsection 341H(2), substitute:

- (2) If the Minister receives an assessment from the Australian Heritage Council under section 341G that a place meets one or more of the Commonwealth Heritage criteria and the Minister proposes:
- (a) not to include the place in the Commonwealth Heritage List; or
 - (b) to remove the place from the Commonwealth Heritage List; or
 - (c) not to include all of the heritage values of the place that the Council is satisfied cause the place to meet the Commonwealth Heritage criteria in the Commonwealth Heritage List; or
 - (d) to remove one or more of the Commonwealth Heritage values of the place that the Council considers the place has from the Commonwealth Heritage List;

the Minister must publish a notice under subsection (1).

Schedule 1, item 32, page 49 (lines 1 to 7), omit subsection 341H(3), substitute:

- (3) The notice must:
- (a) include a statement setting out the details of the decision the Minister proposes to make under section 341J and the reasons for the proposed decision; and
 - (b) state that comments are to be given to the Minister within:
 - (i) 40 business days after the notice is published; or
 - (ii) if the place is included in the Commonwealth Heritage List under section 341F (emergency listing)—20 business days after the notice is published.

Schedule 1, item 32, page 49 (lines 12 to 17), omit subsection 341H(5), substitute:

- (5) On the first day on which the Minister publishes the notice under subsection (1), the Minister must publish, in accordance with the regulations (if any):
- (a) the assessment given to the Minister under section 341G for the place; and
 - (b) a summary of the documents (if any) given to the Minister by the Australian Heritage Council under subsection 341G(3A) or (4) with the assessment.

Schedule 1, item 32, page 49 (after line 17), at the end of section 341H, add:

- (6) To avoid doubt, if the Minister receives an assessment from the Australian Heritage Council under section 341G that a place meets one or more of the Commonwealth Heritage criteria, the Minister must not make a decision under section 324J to do any of the things outlined in paragraphs (2)(a) to (d) unless the Minister has complied with the requirements in this section.

Schedule 1, item 32, page 49 (line 20) to page 50 (line 5), omit subsections 341J(1) and (2), substitute:

- (1) After receiving from the Australian Heritage Council an assessment under section 341G whether a place, except one that is or includes a

place included in the Commonwealth Heritage List under section 341F (whether before, on or after receipt of the assessment), meets any of the Commonwealth Heritage criteria, the Minister must:

- (a) by instrument published in the *Gazette*, include in the Commonwealth Heritage List the place and its Commonwealth Heritage values specified in the instrument; or
- (b) decide not to include the place in the Commonwealth Heritage List.

Note 1: Section 341F is about emergency listing.

Note 2: The Minister may include a place in the Commonwealth Heritage List only if the Minister is satisfied that the place has one or more Commonwealth Heritage values and the place is either entirely within a Commonwealth area or is outside the Australian jurisdiction and is owned or leased by the Commonwealth or a Commonwealth agency (see subsection 341C(2)).

Note 3: Section 341N deals with how additional Commonwealth Heritage values may be included in the Commonwealth Heritage List for a Commonwealth Heritage place.

- (2) The Minister must comply with subsection (1):
 - (a) within 20 business days after the day on which the Minister receives the assessment; or
 - (b) if the Minister publishes a notice under section 341H in relation to the place—within 60 business days after the end of the period mentioned in paragraph 341H(3)(b) for the place.

Schedule 1, item 32, page 50 (lines 26 to 28), omit “Within 15 business days after the end of the period mentioned in subsection 341H(3) for a place included in the Commonwealth Heritage List under section 341F (emergency listing)”, substitute “After receiving from the Australian Heritage Council an assessment under section 341G concerning a place (the *listed place*) included in the Commonwealth Heritage List under section 341F”.

Schedule 1, item 32, page 50 (line 31), omit “place”, substitute “listed place”.

Schedule 1, item 32, page 50 (line 33), omit “place”, substitute “listed place”.

Schedule 1, item 32, page 51 (line 1), omit “place”, substitute “listed place”.

Schedule 1, item 32, page 51 (line 3), omit “place”, substitute “listed place”.

Schedule 1, item 32, page 51 (lines 16 to 18), omit the note.

Schedule 1, item 32, page 51 (after line 18), after subsection 341J(5), insert:

- (5A) The Minister must comply with subsection (5):
 - (a) within 20 business days after the day on which the Minister receives the assessment; or
 - (b) if the Minister publishes a notice under section 341H in relation to the place—within 15 business days after the end of the period mentioned in paragraph 341H(3)(b) for the place.

Schedule 1, item 32, page 52 (line 11), omit “subsection 341G(4)”, substitute “section 341G”.

Schedule 1, item 32, page 52 (line 13), after “notice”, insert “(if any)”.

Schedule 1, item 32, page 57 (after line 15), before subparagraph 341R(2)(a)(i), insert:

(ia) publication of the assessment under section 341H; or

Schedule 1, item 32, page 57 (line 21), omit “341J(1) or (5)”, substitute “341J(2) or (5A)”.

At 12.45 pm: The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Kirk) reported progress.

14 CIVIL AVIATION LEGISLATION AMENDMENT BILL 2003

Order of the day read for the adjourned debate on the motion of the Special Minister of State (Senator Abetz)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

The Senate resolved itself into committee for the consideration of the bill.

In the committee

Bill taken as a whole by leave.

Explanatory memoranda: The Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth) tabled a supplementary explanatory memorandum and a revised supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

On the motion of Senator Troeth the following amendments, taken together by leave, were debated and agreed to:

Clause 2, page 2 (table item 10, column 1), omit “Schedule 3”, substitute “Schedules 3 and 4”.

Page 10 (after line 6), at the end of the bill, add:

Schedule 4—Amendment of the Air Services Act 1995

1 Paragraphs 8(1)(a), (aa) and (b)

Repeal the paragraphs, substitute:

(a) providing services and facilities:

- (i) for the purpose of Australia or another country giving effect to the Chicago Convention; or
- (ii) for the purpose of Australia or another country giving effect to another international agreement relating to the safety, regularity or efficiency of air navigation; or
- (iii) otherwise for purposes relating to the safety, regularity or efficiency of air navigation, whether in or outside Australia;

- (b) promoting and fostering civil aviation, whether in or outside Australia;

2 Paragraphs 8(1)(d) and (e)

Repeal the paragraphs, substitute:

- (d) carrying out activities to protect the environment from the effects of, and the effects associated with, the operation of:
 - (i) Commonwealth jurisdiction aircraft, whether in or outside Australia; or
 - (ii) other aircraft outside Australia;
- (e) any functions prescribed by regulations in relation to the effects of, and effects associated with, the operation of:
 - (i) Commonwealth jurisdiction aircraft, whether in or outside Australia; or
 - (ii) other aircraft outside Australia;

3 At the end of subsection 8(1)

Add:

- ; (j) providing services and facilities, whether or not related to aviation, for a purpose other than one that is mentioned or implied in any of paragraphs (a) to (i), if doing so:
 - (i) is within the executive or legislative powers of the Commonwealth; and
 - (ii) utilises AA's spare capacity; and
 - (iii) maintains or improves the technical skills of AA's employees; and
 - (iv) does not impede AA's capacity to perform its other functions.

4 After subsection 8(1)

Insert:

- (1A) In paragraphs (1)(a) and (j):

facilities includes equipment.

provide, in relation to facilities, includes build, maintain, operate, license, buy, sell or lease the facilities.

services includes:

- (a) air traffic services;
- (b) an aeronautical information service;
- (c) an aeronautical radio navigation service;
- (d) an aeronautical telecommunications service;
- (e) rescue and fire fighting services.

5 Subsection 8(3)

After "Subject to", insert "subsection (5),".

6 At the end of section 8

Add:

- (5) Subject to section 16, in performing its function under paragraph (1)(a), AA must give priority to providing services and facilities in relation to air navigation within Australian-administered airspace.

Bill, as amended, agreed to.
Bill to be reported with amendments.

The Acting Deputy President (Senator Kirk) resumed the chair and the Chair of Committees (Senator Hogg) reported accordingly.

On the motion of Senator Troeth the report from the committee was adopted and the bill read a third time.

15 EXPORT CONTROL AMENDMENT BILL 2003

Order of the day read for the adjourned debate on the motion of the Special Minister of State (Senator Abetz)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth) the bill was read a third time.

Suspension of sitting: On the motion of Senator Troeth the sitting of the Senate was suspended till 2 pm.

At 2 pm—

16 QUESTIONS

Questions without notice were answered.

Documents: The Minister for Justice and Customs (Senator Ellison) tabled the following documents:

Foreign affairs—Solomon Islands—

Australian Federal Police Act—Determination No. 7 of 2003.

Class Ruling CR 2003/61.

17 QUESTIONS ON NOTICE—ANSWERS

Senator Carr, pursuant to standing order 74, asked the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs (Senator Ellison) and the Minister representing the Minister for Education, Science and Training (Senator Alston) for explanations of answers not being provided to questions on notice nos 1584 and 1585 (notice given 26 June 2003).

The ministers were not present and explanations were not provided.

18 MINISTERS—ANSWERS TO QUESTIONS

Senator Lundy moved—That the Senate take note of answers given by ministers to questions without notice asked by opposition senators today.

Debate ensued.

Question put and passed.

19 TREATIES—JOINT STANDING COMMITTEE—GOVERNMENT RESPONSE—49TH REPORT

The Minister for Defence (Senator Hill) tabled the following document:

Treaties—Joint Standing Committee—49th report: The Timor Sea Treaty—Government response.

Senator Stott Despoja, by leave, moved—That the Senate take note of the document.

Question put and passed.

20 DEPARTMENT OF THE SENATE—SENATORS' TRAVELLING ALLOWANCE—DOCUMENT

The Deputy President (Senator Hogg) tabled the following document:

Department of the Senate—Travelling allowance—Payments to senators and members, 1 January 2003 to 30 June 2003, dated August 2003.

21 DEPARTMENT OF THE SENATE—TRAVEL EXPENDITURE—DOCUMENT

The Deputy President (Senator Hogg) tabled the following document:

Department of the Senate—Travel expenditure, 1 July 2002 to 30 June 2003, dated August 2003.

22 DOCUMENTS

The following documents were tabled by the Clerk:

Higher Education Funding Act—Determination under section 15—Determination No. T15-2003.

Lands Acquisition Act—Statements describing property acquired by agreement under sections 40 and 125 of the Act for specified public purposes [2].

Motor Vehicle Standards Act—Motor Vehicle Standards (Road Vehicles) Determination 2003.

Remuneration Tribunal Act—

Determination 2003/12: Remuneration and Allowances for various Holders of Public Office.

Determination 2003/13: Members of Parliament – Travelling Allowance.

Determination 2003/14: Members of Parliament – Entitlements.

Determination 2003/15: Remuneration and Allowances for various Holders of Public Office.

Determination 2003/16: Remuneration and Allowances for various Holders of Public Office.

23 FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE—CHANGE IN MEMBERSHIP

The Deputy President (Senator Hogg) informed the Senate that the President had received a letter requesting a change in the membership of a committee.

The Minister for Health and Ageing (Senator Patterson), by leave, moved—That Senator Hutchins be appointed as a participating member of the Foreign Affairs, Defence and Trade References Committee.

Question put and passed.

24 WORKPLACE RELATIONS AMENDMENT (COMPLIANCE WITH COURT AND TRIBUNAL ORDERS) BILL 2003

NATIONAL TRANSPORT COMMISSION BILL 2003

NATIONAL TRANSPORT COMMISSION (CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISIONS) BILL 2003

Messages from the House of Representatives were reported transmitting for the concurrence of the Senate the following bills:

Message no. 363, dated 14 August 2003—A Bill for an Act to amend the *Workplace Relations Act 1996*, and for related purposes.

Message no. 365, dated 14 August 2003—A Bill for an Act to establish the National Transport Commission, and for related purposes.

Message no. 366, dated 14 August 2003—A Bill for an Act to repeal the *National Road Transport Commission Act 1991*, to deal with consequential and transitional matters arising from the repeal of that Act and the enactment of the *National Transport Commission Act 2003*, and for related purposes.

The Minister for Health and Ageing (Senator Patterson) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

Senator Patterson moved—That these bills be now read a second time.

On the motion of Senator Mackay the debate was adjourned till the next day of sitting.

Consideration of legislation: Senator Patterson moved that the Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003 be listed on the *Notice Paper* as a separate order of the day.

Question put and passed.

25 WORKPLACE RELATIONS AMENDMENT (FAIR TERMINATION) BILL 2002

A message from the House of Representatives was reported disagreeing to the amendments made by the Senate to the following bill:

Message no. 362, dated 13 August 2003—Workplace Relations Amendment (Fair Termination) Bill 2002.

On the motion of the Minister for Health and Ageing (Senator Patterson) consideration of the message in committee of the whole was made an order of the day for the next day of sitting.

26 PARLIAMENTARY DEPARTMENTS—PROPOSED AMALGAMATION

A message from the House of Representatives was reported acquainting the Senate with a resolution of that House:

Message no. 364, dated 14 August 2003, relating to the proposed amalgamation of the joint parliamentary departments.

General business was called on.

27 TRANSPORT—ETHANOL—MANILDRA GROUP

Senator O'Brien, pursuant to notice, moved general business notice of motion no. 524—That the Senate condemns the Prime Minister (Mr Howard) for his ongoing pattern of deceit in relation to his dealings with the chair of the Manildra Group, Mr Dick Honan, prior to a Cabinet decision that delivers direct financial benefits to that company.

Debate ensued.

At 6 pm: Debate was interrupted while the Minister for Fisheries, Forestry and Conservation (Senator Ian Macdonald) was speaking.

28 GOVERNMENT DOCUMENTS—CONSIDERATION

The following orders of the day relating to government documents were considered:

Housing Assistance Act 1996—Report for 2000-01 on the operation of the 1999 Commonwealth-State Housing Agreement. Motion of the Leader of the Australian Democrats (Senator Bartlett) to take note of document debated. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

Independent Soccer Review Committee—Report into the structure, governance and management of soccer in Australia, April 2003. Motion of Senator Bartlett to take note of document agreed to.

Higher education—Report for the 2003-05 triennium. Motion of Senator Bartlett to take note of document debated. Debate adjourned till Thursday at general business, Senator Crossin in continuation.

List of multilateral treaty action under negotiation or consideration by the Australian Government, or expected to be within the next twelve months, June 2003. Motion to take note of document moved by Senator Bartlett and agreed to.

General business orders of the day nos 4 and 5 relating to government documents were called on but no motion was moved.

General business concluded.

29 COMMITTEE REPORTS AND GOVERNMENT RESPONSES—ORDERS OF THE DAY—CONSIDERATION

The following orders of the day relating to committee reports and government responses were considered:

Corporations and Financial Services—Joint Statutory Committee—Report—Inquiry into the disclosure of commissions on risk products. Motion of the chair of the committee (Senator Chapman) to take note of report agreed to.

Foreign Affairs, Defence and Trade References Committee—Report—A Pacific engaged: Australia's relations with Papua New Guinea and the island states of the south-west Pacific. Motion of the chair of the committee (Senator Cook) to take note of report, debated and agreed to.

Finance and Public Administration References Committee—Report—A funding matter under the Dairy Regional Assistance Program. Motion of the chair of the committee (Senator Forshaw) to take note of report called on. On the motion of Senator Stephens debate was adjourned till the next day of sitting.

Foreign Affairs, Defence and Trade References Committee—Report—Materiel acquisition and management in Defence. Motion of the chair of the committee (Senator Cook) to take note of report agreed to.

Rural and Regional Affairs and Transport Legislation Committee—Interim report: Proposed importation of fresh apple fruit from New Zealand—Government response. Motion of Senator O'Brien to take note of document called on. On the motion of Senator Stephens debate was adjourned till the next day of sitting.

Treaties—Joint Standing Committee—Report 51—Treaties tabled on 12 November and 3 December 2002. Motion of Senator Buckland to take note of report agreed to.

30 AUDITOR-GENERAL'S REPORTS—ORDERS OF THE DAY—CONSIDERATION

The following orders of the day relating to reports of the Auditor-General were considered:

Auditor-General—Audit report no. 38 of 2002-03—Performance audit—Referrals, assessments and approvals under the *Environment Protection and Biodiversity Conservation Act 1999*. Motion of the Leader of the Australian Democrats (Senator Bartlett) to take note of document debated. Debate adjourned till the next day of sitting, Senator Bartlett in continuation.

Auditor-General—Audit report no. 41 of 2002-03—Performance audit—Annual reporting on ecologically sustainable development. Motion of Senator Bartlett to take note of document called on. Debate adjourned till the next day of sitting, Senator Bartlett in continuation.

Auditor-General—Audit report no. 62 of 2002-03—Performance audit—Management of selected aspects of the Family Migration Program: Department of Immigration and Multicultural and Indigenous Affairs. Motion to take note of document moved by Senator Bartlett. Debate adjourned till the next day of sitting, Senator Bartlett in continuation.

Auditor-General—Audit report no. 1 of 2003-04—Performance audit—Administration of three key components of the Agriculture—Advancing Australia (AAA) package: Department of Agriculture, Fisheries and Forestry—Australia; Centrelink; Australian Taxation Office. Motion to take note of document moved by Senator Stephens. Debate adjourned till the next day of sitting, Senator Stephens in continuation.

Orders of the day nos 3 to 13, 15 and 17 relating to reports of the Auditor-General were called on but no motion was moved.

31 ADJOURNMENT

The Acting Deputy President (Senator Ferguson) proposed the question—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 7.04 pm till Monday, 18 August 2003 at 12.30 pm.

32 ATTENDANCE

Present, all senators except Senators Ian Campbell, Conroy, Cook, Moore, Sherry, Vanstone and Watson.

HARRY EVANS
Clerk of the Senate