

- after the notice has been published as required by paragraph (a); and
- (e) must specify, or refer to, the information requirements, and the manner and form requirements, that, under regulations referred to in paragraphs (3)(b) and (c), apply to making nominations; and
 - (f) may also include any other information that the Minister considers appropriate.
- (3) The regulations must provide for the following:
- (a) how a notice under subsection (1) is to be published;
 - (b) the manner and form for making nominations;
 - (c) what information is to be included in a nomination.

341J Minister to give nominations to Australian Heritage Council

Nominations in relation to first assessment period

- (1) Within 30 business days after the cut-off date specified in the notice under subsection 341H(1) for the first assessment period, the Minister must give the Australian Heritage Council the nominations that the Minister:
- (a) had received before the end of that cut-off date; and
 - (b) had not already requested the Australian Heritage Council, under section 341E (as in force before the commencement of this section), to assess; and
 - (c) had not already rejected under section 341E (as in force before the commencement of this section); and
 - (d) does not reject under subsection (4).
- (2) Subsection (1) does not apply to a nomination of a place if the Minister had, before the commencement of this section, included the place in the Commonwealth Heritage List under section 341F (as in force before the commencement of this section).

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Nominations in relation to later assessment periods

- (3) Within 30 business days after the cut-off date (the **current cut-off date**) specified in the notice under subsection 341H(1) for an assessment period (other than the first), the Minister must give the Australian Heritage Council the nominations that were received by the Minister in the period:
- (a) starting immediately after the end of the cut-off date specified in the notice under subsection 341H(1) for the immediately preceding assessment period; and
 - (b) ending at the end of the current cut-off date;
- other than any such nominations that the Minister has rejected under subsection (4).

Minister may reject nominations

- (4) The Minister may, in writing, reject a nomination if the Minister considers that:
- (a) the nomination is vexatious, frivolous or not made in good faith; or
 - (b) the Minister considers that regulations referred to in paragraph 341H(3)(b) or (c) have not been complied with in relation to the nomination.
- (5) If a nomination is rejected under paragraph (4)(b), the Minister must, if practicable, notify the person who made the nomination of the rejection of the nomination and the reason for the rejection.

Definition

- (6) In this section:
- nomination** means a nomination of a place for inclusion in the Commonwealth Heritage List.

341JA Australian Heritage Council to prepare proposed priority assessment list

- (1) Within 40 business days after the Australian Heritage Council receives the nominations as required by subsection 341J(1) in relation to an assessment period, the Council must prepare and give to the Minister a list (the *proposed priority assessment list*) for the assessment period.
- (2) The proposed priority assessment list is to consist of such of the places that are eligible for assessment consideration in relation to the assessment period as the Australian Heritage Council considers it appropriate to include in the list, having regard to:
 - (a) the Council's own views about what should be given priority in relation to the assessment period; and
 - (b) the Council's capacity to make assessments under this Division while still performing its other functions; and
 - (c) any other matters that the Council considers appropriate.
- (3) A place is *eligible for assessment consideration* in relation to the assessment period if:
 - (a) the place has been nominated by a nomination referred to in subsection (1); or
 - (b) the Council itself wishes to nominate the place for inclusion in the Commonwealth Heritage List; or
 - (c) the place was eligible for assessment consideration, otherwise than because of this paragraph, in relation to the immediately preceding assessment period (if any) but was not included in the finalised priority assessment list for that assessment period; or
 - (d) each part of the place is either a place to which paragraph (a) applies, a place to which paragraph (b) applies or a place to which paragraph (c) applies.
- (4) Without limiting the generality of the Australian Heritage Council's discretion under subsection (2), the Council does not have to include in the proposed priority assessment list a place that has been nominated if the Council considers that it is unlikely that

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the place has any Commonwealth Heritage values. For this purpose, the Council is not required to have regard to any information beyond the information that was included in the nomination.

- (5) The proposed priority assessment list is not a legislative instrument.

341JB Matters to be included in proposed priority assessment list

- (1) The proposed priority assessment list for an assessment period is to include, for each place in the list:
- (a) a description of the place; and
 - (b) an assessment completion time; and
 - (c) any other information required by the regulations.
- (2) The assessment completion time for a place must be either:
- (a) a time that is at or before the end of the assessment period to which the list relates; or
 - (b) if the Australian Heritage Council considers it likely that making an assessment in relation to the place will take a period that is longer than 12 months—the end of that longer period (calculated from the start of the assessment period).

341JC Statement to be given to Minister with proposed priority assessment list

- (1) When the Australian Heritage Council gives the Minister the priority assessment list for an assessment period, the Council must also give the Minister a statement setting out such information as the Council considers appropriate relating to:
- (a) for each place that is included in the list—why the Council included the place in the list; and
 - (b) for each place that is not included in the list but that was eligible for assessment consideration because of paragraph 341JA(3)(a) or (c)—why the Council did not include the place in the list.

- (2) The statement must also identify, as places nominated by the Australian Heritage Council:
 - (a) any places that are included in the list because the Council itself wishes to nominate them (see paragraph 341JA(3)(b)); and
 - (b) any places that are included in the list because of paragraph 341JA(3)(d) that consist of one or more places to which paragraph 341JA(3)(b) applies.

341JD The finalised priority assessment list

- (1) Within 20 business days after the Minister, under section 341JA, receives the proposed priority assessment list for an assessment period, the Minister may, in writing, make changes to the list as mentioned in subsection (2).
- (2) The changes the Minister may make are as follows:
 - (a) including a place in the list (and also including the matters referred to in subsection 341JA(1));
 - (b) omitting a place from the list (and also omitting the matters referred to in subsection 341JA(1));
 - (c) changing the assessment completion time for a place in the list;
 - (d) any other changes of a kind permitted by the regulations.
- (3) In exercising the power to make changes, the Minister may have regard to any matters that the Minister considers appropriate.
- (4) At the end of the period of 20 business days referred to in subsection (1), the list, as changed (if at all) by the Minister, becomes the ***finalised priority assessment list*** for the assessment period.
- (5) The Minister must notify the Australian Heritage Council of all changes that the Minister makes to the list.
- (6) The finalised priority assessment list is not a legislative instrument.

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341JE Publication of finalised priority assessment list

- (1) The Australian Heritage Council must publish the finalised priority assessment list for an assessment period on the internet.
- (2) The Australian Heritage Council must also publish the finalised priority assessment list in accordance with any requirements of the regulations.

341JF Australian Heritage Council to invite comments on places in finalised priority assessment list

- (1) In relation to each place included in the finalised priority assessment list for an assessment period, the Australian Heritage Council must publish a notice inviting people to make comments on the place.
- (2) The Australian Heritage Council may, under subsection (1), publish a single notice relating to all of the places on the finalised priority assessment list, or may publish a number of separate notices, each of which relates to one or more of the places.
- (3) A notice under subsection (1), in relation to a place or places:
 - (a) must be published in accordance with the regulations referred to in paragraph (4)(a); and
 - (b) must identify the place or places to which the notice relates; and
 - (c) must invite people to make comments, to the Australian Heritage Council, about:
 - (i) whether the place or places meet any of the Commonwealth Heritage criteria; and
 - (ii) whether the place or places should be included in the Commonwealth Heritage List; and
 - (d) must specify the date (the *cut-off date*) by which comments must be received, which must be at least 30 business days after the notice has been published as required by paragraph (a); and

- (e) must specify, or refer to, the manner and form requirements that, under regulations referred to in paragraph (4)(b), apply to making comments; and
 - (f) may also invite people to comment on other matters that the Australian Heritage Council considers appropriate; and
 - (g) may also include any other information that the Australian Heritage Council considers appropriate.
- (4) The regulations must provide for the following:
- (a) how a notice under subsection (1) is to be published;
 - (b) the manner and form for making comments.

341JG Australian Heritage Council to assess places on finalised priority assessment list and give assessments to Minister

- (1) In relation to each place included in the finalised priority assessment list for an assessment period, the Australian Heritage Council must (by the time required by section 341JH):
- (a) make a written assessment whether the place meets any of the Commonwealth Heritage criteria; and
 - (b) give to the Minister:
 - (i) the written assessment (or a copy of it); and
 - (ii) a copy of the comments referred to in paragraphs (2)(a) and (b) (whether or not they have all been taken into account under subsection (2)).
- (2) In making an assessment in relation to a place, the Australian Heritage Council, subject to subsections (3) and (4):
- (a) must take into account the comments the Council receives in response to the notice under subsection 341JF(1) in relation to the place; and
 - (b) may take into account the comments the Council receives in response to the opportunity referred to in paragraph (5)(c); and
 - (c) may seek, and have regard to, information or advice from any source.

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- (3) The Australian Heritage Council is not required to take a comment referred to in paragraph (2)(a) into account if:
 - (a) the Council does not receive the comment until after the cut-off date specified in the notice under subsection 341JF(1) in relation to the place; or
 - (b) the Council considers that regulations referred to in paragraph 341JF(4)(b) have not been complied with in relation to the comment.
- (4) In making an assessment, the Australian Heritage Council must not consider any matter that does not relate to the question whether the place meets any of the Commonwealth Heritage criteria.
- (5) If, in making an assessment, the Australian Heritage Council considers that a place within the Australian jurisdiction might have one or more Commonwealth Heritage values, the Council must:
 - (a) take all practicable steps:
 - (i) to identify each person who is an owner or occupier of all or part of the place; and
 - (ii) if the Council considers the place might have an indigenous heritage value—to identify each Indigenous person who has rights or interests in all or part of the place; and
 - (b) take all practicable steps to advise each person identified that the Council is assessing whether the place meets any of the Commonwealth Heritage criteria; and
 - (c) give persons advised at least 20 business days to comment in writing whether the place should be included in the Commonwealth Heritage List.
- (6) If the Australian Heritage Council is satisfied that there are likely to be at least 50 persons referred to in subparagraph (5)(a)(i), the Council may satisfy the requirements of subsection (5) in relation to those persons by including the information referred to in paragraphs (5)(b) and (c) in one or more of the following:
 - (a) advertisements in a newspaper, or newspapers, circulating in the area in which the place is located;

- (b) letters addressed to “The owner or occupier” and left at all the premises that are wholly or partly within the place;
 - (c) displays in public buildings at or near the place.
- (7) If:
- (a) the Australian Heritage Council considers that the place might have an indigenous heritage value; and
 - (b) there are Indigenous persons who:
 - (i) have rights or interests in all or part of the place; and
 - (ii) are neither owners nor occupiers of all or part of the place; and
 - (c) the Australian Heritage Council is satisfied that there is a body, or there are bodies, that can appropriately represent those Indigenous persons in relation to those rights and interests;
- the Australian Heritage Council may satisfy the requirements of subsection (5) in relation to those Indigenous persons by giving the information referred to in paragraphs (5)(b) and (c) to that body or those bodies.

341JH Time by which assessments to be provided to Minister

- (1) Subsection 341JG(1) must be complied with, in relation to a place included in the finalised priority assessment list for an assessment period, by the assessment completion time specified in the list for the place, or by that time as extended under this section.
- (2) The Australian Heritage Council may request the Minister to extend the assessment completion time (or that time as previously extended) if the Council considers that it needs more time to make the assessment.
- (3) The Minister may, in response to a request under subsection (2), extend the assessment completion time (or that time as previously extended) by such period (if any) as the Minister considers appropriate. However, the total length of all extensions of the assessment completion time must not be more than 5 years.

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- (4) An extension under subsection (3) must be made in writing.
- (5) If the Minister grants an extension under this section, the Minister must publish particulars of the extension in a way that the Minister considers appropriate.

341JI Decision about inclusion of a place in the Commonwealth Heritage List

Minister to decide whether or not to include place

- (1) After receiving from the Australian Heritage Council an assessment under section 341JG whether a place (the ***assessed place***) meets any of the Commonwealth Heritage criteria, the Minister must:
 - (a) by instrument published in the *Gazette*, include in the Commonwealth Heritage List:
 - (i) the assessed place or a part of the assessed place; and
 - (ii) the Commonwealth Heritage values of the assessed place, or that part of the assessed place, that are specified in the instrument; or
 - (b) in writing, decide not to include the assessed place in the Commonwealth Heritage List.
- Note: 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 (see subsection 341C(2)).
- (2) Subject to subsection (3), the Minister must comply with subsection (1) within 90 business days after the day on which the Minister receives the assessment.
 - (3) The Minister may, in writing, extend or further extend the period for complying with subsection (1).
 - (4) Particulars of an extension or further extension under subsection (3) must be published on the internet and in any other way required by regulations.

- (5) For the purpose of deciding what action to take under subsection (1) in relation to the assessed place:
- (a) the Minister must have regard to:
 - (i) the Australian Heritage Council's assessment whether the assessed place meets any of the Commonwealth Heritage criteria; and
 - (ii) the comments (if any), a copy of which were given to the Minister under subsection 341JG(1) with the assessment; and
 - (b) the Minister may seek, and have regard to, information or advice from any source.

Additional requirements if Minister decides to include place

- (6) If the Minister includes the assessed place, or a part of the assessed place (the ***listed part of the assessed place***), in the Commonwealth Heritage List, he or she must, within a reasonable time:
- (a) take all practicable steps to:
 - (i) identify each person who is an owner or occupier of all or part of the assessed place; and
 - (ii) advise each person identified that the assessed place, or the listed part of the assessed place, has been included in the Commonwealth Heritage List; and
 - (b) if the assessed place:
 - (i) was nominated; or
 - (ii) was included in a place that was nominated; or
 - (iii) includes a place that was nominated;by a person in response to a notice under subsection 341H(1)—advise the person that the assessed place, or the listed part of the assessed place, has been included in the Commonwealth Heritage List; and
 - (c) publish a copy of the instrument referred to in paragraph (1)(a) on the internet; and
 - (d) publish a copy or summary of that instrument in accordance with any other requirements specified in the regulations.

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- (7) Paragraph (6)(a) does not apply unless the assessed place is within the Australian jurisdiction.
- (8) If the Minister is satisfied that there are likely to be at least 50 persons referred to in subparagraph (6)(a)(i), the Minister may satisfy the requirements of that paragraph in relation to those persons by including the advice referred to in that paragraph in one or more of the following:
 - (a) advertisements in a newspaper, or newspapers, circulating in the area in which the assessed place is located;
 - (b) letters addressed to “The owner or occupier” and left at all the premises that are wholly or partly within the assessed place;
 - (c) displays in public buildings at or near the assessed place.

Additional requirements if Minister decides not to include place

- (9) If the Minister decides not to include the assessed place in the Commonwealth Heritage List, the Minister must, within 10 business days after making the decision:
 - (a) publish the decision on the internet; and
 - (b) if the assessed place:
 - (i) was nominated; or
 - (ii) was included in a place that was nominated; or
 - (iii) includes a place that was nominated;by a person in response to a notice under subsection 341H(1)—advise the person of the decision, and of the reasons for the decision.

Note: Subsection (9) applies in a case where the Minister decides that none of the assessed place is to be included in the Commonwealth Heritage List.

Subdivision BB—Inclusion of places in the Commonwealth Heritage List: emergency process

341JJ Simplified outline

The following is a simplified outline of this Subdivision:

This Subdivision sets out the emergency process for the inclusion of places in the Commonwealth Heritage List.

The emergency process involves the following steps:

- (a) the Minister may include a place in the Commonwealth Heritage List if it is under threat (see section 341JK);
- (b) the Minister asks the Australian Heritage Council to assess the place (see section 341JL);
- (c) the Australian Heritage Council publishes notice of the listing and invites comments (see section 341JM);
- (d) the Australian Heritage Council assesses the place, and gives the assessment to the Minister (see sections 341JN and 341JO);
- (e) the Minister has 12 months from the listing of the place to decide whether it should continue to be listed, and the listing will lapse if the Minister does not make a decision within that period (see section 341JP).

341JK Minister may include place in Commonwealth Heritage List if under threat

- (1) If the Minister believes:

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- (a) a place has or may have one or more Commonwealth Heritage values; and
 - (b) any of those values is under threat of a significant adverse impact; and
 - (c) that threat is both likely and imminent;
- the Minister may, by instrument published in the *Gazette*, include in the Commonwealth Heritage List the place and the Commonwealth Heritage values the Minister believes the place has or may have.

Note: For which places can be included in the Commonwealth Heritage List, see subsection 341C(2).

(2) If:

- (a) the place is included in the Commonwealth Heritage List under subsection (1); and
- (b) before that inclusion of the place, the place was being considered for inclusion in the List under the process set out in Subdivision BA;

that process ceases to apply to the place when it is included in the List under subsection (1).

Note: Subsection (2) does not prevent the process in Subdivision BA again starting to apply to the place if (for example) the place ceases to be listed because of subsection 341JP(1) or (4) and a person subsequently nominates the place under that Subdivision.

(3) If the place is included in the Commonwealth Heritage List under subsection (1), the Minister must:

- (a) in any case—within 10 business days after the inclusion of the place, publish a copy of the instrument under subsection (1):
 - (i) on the internet; and
 - (ii) in accordance with any other requirements specified in the regulations; and
- (b) if the place is within the Australian jurisdiction—take all practicable steps to:
 - (i) identify each person who is an owner or occupier of all or part of the place; and

- (ii) advise each person identified that the place has been included in the Commonwealth Heritage List.
- (4) If the Minister is satisfied that there are likely to be at least 50 persons referred to in subparagraph (3)(b)(i), the Minister may satisfy the requirements of paragraph (3)(b) in relation to those persons by including the advice referred to in that paragraph in one or more of the following:
 - (a) advertisements in a newspaper, or newspapers, circulating in the area in which the place is located;
 - (b) letters addressed to “The owner or occupier” and left at all the premises that are wholly or partly within the place;
 - (c) displays in public buildings at or near the place.

341JL Minister to ask Australian Heritage Council for assessment

- (1) If the Minister includes a place in the Commonwealth Heritage List under section 341JK, the Minister must, in writing, request the Australian Heritage Council to give the Minister an assessment of whether the place meets any of the Commonwealth Heritage criteria.
- (2) The request must specify the assessment completion time for the assessment.

Note: When specifying an assessment completion time, the 12-month period referred to in subsection 341JP(1) should be considered.

341JM Publication of listing of place and inviting comments

- (1) If the Australian Heritage Council receives a request under subsection 341JL(1) in relation to a place that has been included in the Commonwealth Heritage List, the Council must publish a notice inviting people to comment on the listing of the place.
- (2) A notice under subsection (1) in relation to a place:
 - (a) must be published in accordance with the regulations referred to in paragraph (3)(a); and
 - (b) must contain the following:

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- (i) a description of the place;
 - (ii) a statement that the place has been included in the Commonwealth Heritage List, and that specifies the Commonwealth Heritage values that have been included in the List in relation to the place;
 - (iii) the date on which the place was so included; and
 - (c) must invite people to make comments, to the Australian Heritage Council, about:
 - (i) whether the place meets any of the Commonwealth Heritage criteria; and
 - (ii) whether the place should continue to be included in the Commonwealth Heritage List; and
 - (d) must specify the date (the *cut-off date*) by which comments must be received, which must be at least 30 business days after the notice has been published as required by paragraph (a); and
 - (e) must specify, or refer to, the manner and form requirements that, under regulations referred to in paragraph (3)(b), apply to making comments.
- (3) The regulations may provide for either or both of the following:
- (a) how a notice under subsection (1) is to be published;
 - (b) the manner and form for making comments.

341JN Australian Heritage Council to assess place and give assessment to Minister

- (1) Section 341JG applies in relation to a request under subsection 341JL(1) as if:
- (a) a reference in section 341JG to a place included in the finalised priority assessment list for an assessment period were a reference to the place to which the request relates; and
 - (b) a reference in section 341JG to the notice under subsection 341JF(1) in relation to the place were a reference to the notice under subsection 341JM(1) in relation to the place; and

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- (c) a reference in section 341JG to regulations referred to in paragraph 341JF(4)(b) were a reference to regulations referred to in paragraph 341JM(3)(b); and
 - (d) a reference in section 341JG to whether the place should be included in the Commonwealth Heritage List were a reference to whether the place should continue to be included in the Commonwealth Heritage List.
- (2) A reference in another provision of this Act to section 341JG, or to a provision of that section, includes a reference to that section or provision as it applies because of this section.

341JO Time by which assessments to be provided to Minister

- (1) Section 341JH applies in relation to a request under subsection 341JL(1) as if:
 - (a) a reference in section 341JH to a place included in the finalised priority assessment list for an assessment period were a reference to the place to which the request relates; and
 - (b) a reference in section 341JH to the assessment completion time specified in the list for the place were a reference to the assessment completion time specified in the request.
- (2) A reference in another provision of this Act to section 341JH, or to a provision of that section, includes a reference to that section or provision as it applies because of this section.

341JP Decision about place remaining in the Commonwealth Heritage List

Minister to decide whether place should remain listed

- (1) Within 12 months after the inclusion of a place in the Commonwealth Heritage List under section 341JK, the Minister must, by instrument published in the *Gazette*, subject to subsections (2) and (3):
 - (a) do one of the following:

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- (i) state that the place remains in the Commonwealth Heritage List with its boundary unaltered;
 - (ii) alter the boundary of the place described in the Commonwealth Heritage List (whether or not the alteration results in an overall increase or decrease in the extent of the place included in the List);
 - (iii) remove from the Commonwealth Heritage List the place and its Commonwealth Heritage values; and
 - (b) if the place is not removed from the Commonwealth Heritage List under subparagraph (a)(iii)—do all or any of the following:
 - (i) state that specified Commonwealth Heritage values included in the List under section 341JK for the place remain in the List for the place;
 - (ii) include in the List for the place specified Commonwealth Heritage values of the place that were not included in the List under section 341JK for the place;
 - (iii) remove from the List for the place specified Commonwealth Heritage values that were included in the List under section 341JK for the place.
- (2) The Minister must not take action under subsection (1) unless the Minister has received an assessment from the Australian Heritage Council under section 341JG in relation to the place.
- (3) The Minister must not take action under subsection (1) that results in the place remaining in the Commonwealth Heritage List (whether or not with the same or a different boundary) unless the Minister is satisfied that the place has one or more Commonwealth Heritage values.

Listing lapses automatically if action not taken within 12 months of listing

- (4) If the Minister does not take action under subsection (1) within the period referred to in that subsection, the place, and its listed Commonwealth Heritage values, are automatically removed from

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the Commonwealth Heritage List, by force of this subsection, at the end of that period.

Note: This subsection applies even if the Minister is prevented from taking action under subsection (1) because of subsection (2).

Matters to be considered

- (5) For the purpose of deciding what action to take under subsection (1) in relation to the place:
- (a) the Minister must have regard to:
 - (i) the Australian Heritage Council's assessment whether the place meets any of the Commonwealth Heritage criteria; and
 - (ii) the comments (if any), a copy of which were given to the Minister under subsection 341JG(1) with the assessment; and
 - (b) the Minister may seek, and have regard to, information or advice from any source.

Disapplying section 341L

- (6) Section 341L does not apply to:
- (a) an alteration of the boundary of the place, under subparagraph (1)(a)(ii) of this section, that has the effect of removing part of the place from the Commonwealth Heritage List; or
 - (b) the removal of the place and its Commonwealth Heritage values under subparagraph (1)(a)(iii) of this section; or
 - (c) the removal of a Commonwealth Heritage value of the place under subparagraph (1)(b)(iii) of this section.

Minister to publish copy or summary of subsection (1) notice

- (7) The Minister must publish a copy or summary of the instrument referred to in subsection (1). The regulations may specify how the publication is to be made. Subject to any such regulations, the publication must be made in a way that the Minister considers appropriate.

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Additional requirements if place etc. is removed under subsection (1)

- (8) If, under subsection (1), the Minister removes from the Commonwealth Heritage List the place or a Commonwealth Heritage value of the place, or alters the boundary of the place described in the List, the Minister must, within 10 business days after the removal or alteration:
- (a) in any case—publish a copy of the instrument referred to in subsection (1) on the internet; and
 - (b) if the place is within the Australian jurisdiction—advise each person identified by the Minister as an owner or occupier of all or part of the place of the removal or alteration.

Note: For the obligation to identify owners or occupiers, see subsection 341JK(3).

Requirements if place is removed under subsection (4)

- (9) If, under subsection (4), the place, and its listed Commonwealth Heritage values, are removed from the Commonwealth Heritage List, the Minister must, within 10 business days after the removal:
- (a) in any case—publish notice of the removal on the internet; and
 - (b) if the place is within the Australian jurisdiction—advise each person identified by the Minister as an owner or occupier of all or part of the place of the removal.

Note: For the obligation to identify owners or occupiers, see subsection 341JK(3).

Alternative methods of notifying owners and occupiers

- (10) If the Minister is satisfied that there are likely to be at least 50 persons referred to in paragraph (8)(b) or (9)(b), the Council may satisfy the requirements of that paragraph in relation to those persons by including the advice referred to in that paragraph in one or more of the following:
- (a) advertisements in a newspaper, or newspapers, circulating in the area in which the place is located;

- (b) letters addressed to “The owner or occupier” and left at all the premises that are wholly or partly within the place;
- (c) displays in public buildings at or near the place.

Subdivision BC—Other provisions relating to the Commonwealth Heritage List

341JQ Co-ordination with Scientific Committee—Council undertaking assessment

- (1) This section applies if:
 - (a) the Australian Heritage Council undertakes an assessment of a place under Subdivision BA or Subdivision BB; and
 - (b) before giving the assessment to the Minister, the Council becomes aware that:
 - (i) the Scientific Committee is undertaking, or has undertaken, an assessment under Division 1 of Part 13; and
 - (ii) there is a matter that is relevant to both the assessment referred to in paragraph (a) and the assessment referred to in subparagraph (i).
- (2) A member of the Australian Heritage Council may discuss the matter with a member of the Scientific Committee.
- (3) Before the Australian Heritage Council gives an assessment of the place to the Minister under Subdivision BA or Subdivision BB, the Council must comply with subsection (4) or (6).
- (4) If the Scientific Committee has not yet given the Minister an assessment that deals with that matter, the Australian Heritage Council must:
 - (a) give the Scientific Committee a copy of the assessment of the place that the Council proposes to give to the Minister; and
 - (b) invite the Scientific Committee to give the Council its comments in relation to that matter; and

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- (c) take into account, in finalising the assessment of the place that the Council gives the Minister, any comments that the Scientific Committee makes in relation to that matter in response to that invitation within 14 days, or such longer period as is specified in the invitation, after being given the invitation.
- (5) If the Australian Heritage Council gives the Scientific Committee a copy of a proposed assessment of a place under paragraph (4)(a), the Council must also give the Scientific Committee a copy of the assessment of that place that the Council gives the Minister.
- (6) If:
 - (a) the Scientific Committee has already given the Minister an assessment that deals with that matter; and
 - (b) the Australian Heritage Council has been given a copy of that assessment;the Australian Heritage Council must take that assessment into account in finalising the assessment of the place that the Council gives the Minister.
- (7) If, under section 194S or 194T, the Scientific Committee gives the Australian Heritage Council a proposed assessment, or an assessment, that deals with a particular matter because the Council is undertaking an assessment that deals with that matter, a member of the Council may discuss that matter with a member of the Scientific Committee.
- (8) Subsection (2), paragraph (4)(a) and subsections (5) and (7) have effect despite section 341R.

341JR Co-ordination with Scientific Committee—Council given assessment to Minister

- (1) This section applies if:
 - (a) the Australian Heritage Council has given to the Minister an assessment of a place under Subdivision BA or Subdivision BB; and

- (b) the Council is aware that:
 - (i) the Scientific Committee is undertaking an assessment under Division 1 of Part 13; and
 - (ii) there is a matter that is relevant to both the assessment referred to in paragraph (a) and the assessment referred to in subparagraph (i).
- (2) The Australian Heritage Council must, within 7 days after becoming aware as referred to in paragraph (1)(b):
 - (a) ensure the Scientific Committee is aware of the existence of the paragraph (1)(a) assessment dealing with the matter; and
 - (b) give the Scientific Committee a copy of the assessment.
- (3) A member of the Australian Heritage Council may discuss the matter with a member of the Scientific Committee.
- (4) Subsections (2) and (3) have effect despite section 341R.

341K Listing process not affected by changing boundaries of a place

- (1) This section is about compliance with a provision of Subdivision BA or BB that requires or permits an act to be done in relation to the place identified by express or implied reference to an earlier provision of that Subdivision.
- (2) It is sufficient compliance with the provision if the act is done in relation to a place whose boundary overlaps the boundary of the place identified by reference to the earlier provision.
- (3) This section does not affect the validity of the act so far as that depends on something other than the act being done in relation to the place.

341L Removal of places or Commonwealth Heritage values from the Commonwealth Heritage List

- (1) The Minister must remove all or part of a place from the Commonwealth Heritage List as soon as practicable after the Minister becomes aware that:

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- (a) the place or part is no longer in a Commonwealth area; or
 - (b) the place or part is no longer owned or leased by the Commonwealth or a Commonwealth agency, if the place or part is outside the Australian jurisdiction.
- (2) The Minister may remove all or part of a place from the Commonwealth Heritage List only if the Minister is satisfied that:
 - (a) ignoring subsection 341D(2), the place no longer has any Commonwealth Heritage values or the part no longer contributes to any of the Commonwealth Heritage values of the place; or
 - (b) it is necessary in the interests of Australia's defence or security to do so.
- Note: A place or part of a place may also be removed from the Commonwealth Heritage List under subsection 341JP(1).
- (3) The Minister may remove one or more Commonwealth Heritage values included in the Commonwealth Heritage List for a Commonwealth Heritage place only if the Minister is satisfied that:
 - (a) ignoring subsection 341D(2), the place no longer has the Commonwealth Heritage value or values; or
 - (b) it is necessary in the interests of Australia's defence or security to do so.
- (4) The Minister may remove all or part of a place, or a Commonwealth Heritage value of a place, only by an instrument including a statement of the reasons for the removal.

Note 1: The Minister must first obtain and consider the advice of the Australian Heritage Council (see section 341M).

Note 2: For requirements relating to the instrument under the *Legislation Act 2003*, see subsections (6) and (7) of this section.

- (5) The instrument must deal with only one of the following kinds of removal:
 - (a) removal (***removal for loss of value***) of a place, part or Commonwealth Heritage value because of paragraph (2)(a) or (3)(a);

- (b) removal of a place, part or Commonwealth Heritage value because of subsection (1) or paragraph (2)(b) or (3)(b).

If the instrument purports to deal with both kinds, it has no effect so far as it deals with a removal for loss of value.

- (6) If the instrument deals only with removal for loss of value:
 - (a) it is a legislative instrument; and
 - (b) it takes effect on the first day it is no longer liable to be disallowed, or to be taken to have been disallowed, under section 42 of the *Legislation Act 2003*.
- (7) If subsection (6) does not apply to the instrument, it is a notifiable instrument.

Note: Notifiable instruments must be registered under the *Legislation Act 2003*, but they are not subject to parliamentary scrutiny or sunseting under that Act.

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

- (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 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, on the internet, in a daily newspaper circulating in each State and self-governing Territory and in each other way required by the regulations (if any), a notice:
 - (i) describing the proposed removal; and
 - (ii) inviting anyone to give the Minister comments, within 20 business days, on the proposed removal.

The Minister must publish the notice within 20 business days of giving the request.

- (2) The Australian Heritage Council must give the advice to the Minister within the period specified by the Minister.

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- (3) The Minister must consider the advice, if he or she receives it by the end of that period, and the comments (if any) received in accordance with the notice.
- (4) In preparing the advice, the Australian Heritage Council must not consider any matter that does not relate to the Commonwealth Heritage values of the place concerned.
- (5) The Minister must:
 - (a) decide whether to remove from the Commonwealth Heritage List the place or part concerned, or the Commonwealth Heritage value or values of the place concerned; and
 - (b) if the Minister decides to remove the place or part, or the Commonwealth Heritage value or values of the place—ensure that an instrument removing the place, part or Commonwealth Heritage value or values is made under subsection 341L(4);within 60 business days after the earlier of the advice being received by the Minister and the specified period for giving advice to the Minister ending.
- (6) However, the time limit in subsection (5) does not apply if the place is wholly or partly outside the Australian jurisdiction.

341N Specifying one or more additional Commonwealth Heritage values for a Commonwealth Heritage place

- (1) The regulations may make provision for, or in relation to, the specification in the Commonwealth Heritage List of additional Commonwealth Heritage values in relation to Commonwealth Heritage places.
- (2) Without limiting the generality of subsection (1), regulations may make provision as mentioned in that subsection by specifying modifications of provisions of this Act. However, regulations must not:
 - (a) increase, or have the effect of increasing, the maximum penalty for any offence; or

- (b) widen, or have the effect of widening, the scope of any offence.

341P Commonwealth Heritage List must be publicly available

The Minister must ensure that:

- (a) up-to-date copies of the Commonwealth Heritage List are available for free to the public on request; and
- (b) an up-to-date copy of the Commonwealth Heritage List is available on the internet.

Note: The copies of the Commonwealth Heritage List made publicly available may not contain certain information kept confidential under section 341Q.

341Q Certain information may be kept confidential

- (1) This section applies if the Minister considers that the heritage values of a place could be significantly damaged by the disclosure of some or all of the following information, or by the presence or actions of persons if some or all of the following information were disclosed publicly:
 - (a) the place's precise location;
 - (b) the place's heritage values;
 - (c) any other information about the place.
- (2) It is sufficient compliance with this Act if only a general description of the place, its location or its Commonwealth Heritage values is included in:
 - (a) the Commonwealth Heritage List as made publicly available; or
 - (b) an instrument or other document created for the purposes of this Act.

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341R Disclosure of Australian Heritage Council's assessments and advice

- (1) A member of the Australian Heritage Council has a duty not to disclose the following to a person other than the Minister, an employee in the Department whose duties relate to the Council or another member of the Council:
 - (a) an assessment under section 341JG whether a place meets any of the Commonwealth Heritage criteria, any information relating to the assessment or any information about the nomination (if any) that led to the making of the assessment;
 - (b) advice under section 341M concerning a place or any information relating to the advice.
- (2) However:
 - (a) the duty not to disclose a thing described in paragraph (1)(a) in relation to a place does not exist after:
 - (i) publication in the *Gazette* of an instrument under paragraph 341JI(1)(a) or subsection 341JP(1) in relation to the place; or
 - (ii) the Minister decides under paragraph 341JI(1)(b) not to include the place in the Commonwealth Heritage List; and
 - (b) the duty not to disclose a thing described in paragraph (1)(b) in relation to a place does not exist after:
 - (i) registration under the *Legislation Act 2003* of an instrument under section 341L relating to the place; or
 - (ii) the Minister decides under section 341M not to remove the place or a part of the place, or one or more of the place's Commonwealth Heritage values, from the Commonwealth Heritage List.
- (2A) This section does not prevent the Australian Heritage Council from informing a person, or having discussions with a person, about the consequences that result or may result from:
 - (a) a place being, or not being, included in the Commonwealth Heritage List; or

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- (b) Commonwealth Heritage values of a place being, or not being, included in the List; or
 - (c) a place or part of a place, or one or more Commonwealth Heritage values of a place, being removed from the List.
- (2B) Subsection (1) does not apply to a disclosure of particular information if:
 - (a) the Chair of the Australian Heritage Council requests the Minister to give permission to disclose that information to a particular person (or persons within a particular group of persons); and
 - (b) the Minister gives that permission; and
 - (c) the disclosure is made to that person (or a person within that group).
- (3) After a member of the Australian Heritage Council has ceased under subsection (2) to have a duty not to disclose:
 - (a) an assessment under section 341JG whether a place meets the Commonwealth Heritage criteria; or
 - (b) advice under section 341M concerning a place;the member must give a copy of the assessment or advice to anyone who asks for it.
- (4) If:
 - (a) a member of the Australian Heritage Council proposes to give a person under subsection (3) a copy of an assessment or advice relating to a place; and
 - (b) the member is aware that, under section 341Q, it would be sufficient compliance with this Act if the copy included only a general description of the place, its location or its Commonwealth Heritage values;the member must take reasonable steps to ensure that the copy given to the person does not include a more detailed description than is necessary for sufficient compliance with this Act under that section.

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Subdivision C—Management plans for Commonwealth Heritage places

341S Management plans for Commonwealth Heritage places

- (1) A Commonwealth agency must make a written plan to protect and manage the Commonwealth Heritage values of a Commonwealth Heritage place it owns or controls. The agency must do so within the period mentioned either:
 - (a) at the time the agency starts owning or controlling the place, in the agency's heritage strategy under section 341ZA; or
 - (b) after that time, in the agency's first such strategy.

Note: However, a Commonwealth agency must not make plans for managing certain places (see section 341U).
- (2) The Commonwealth agency may, in writing, amend the plan or revoke and replace the plan.
- (3) A Commonwealth agency must give notice, in accordance with the regulations, if the agency:
 - (a) makes a plan for a Commonwealth Heritage place; or
 - (b) amends such a plan; or
 - (c) revokes and replaces such a plan.

Note: Subdivision E imposes other obligations on Commonwealth agencies.
- (4) A plan must:
 - (a) address the matters prescribed by the regulations; and
 - (b) not be inconsistent with the Commonwealth Heritage management principles (see Subdivision D).
- (5) If the Commonwealth Heritage management principles change so that a plan (the *earlier plan*) is inconsistent with them, the agency concerned must as soon as practicable make a written instrument:
 - (a) amending the earlier plan to make it consistent with the principles; or
 - (b) revoking and replacing the earlier plan.

- (6) Before making, amending or revoking and replacing a plan, the agency concerned must:
 - (a) ask the Minister for advice on the proposed plan or amendment and must take account of any such advice received from the Minister; and
 - (b) seek in accordance with the regulations, and consider, comments from anyone about the matters to be addressed by the proposed plan or amendment.
- (7) The Minister must consult with the Australian Heritage Council in preparing an advice for the purposes of this section.
- (8) A plan, an amendment of a plan, or a revocation and replacement of a plan, is a legislative instrument.

341T Endorsing management plans for Commonwealth Heritage places

- (1) A Commonwealth agency that makes a plan for managing a Commonwealth Heritage place may ask the Minister to endorse the plan. If the Commonwealth agency does so, it must give the Minister a copy of the plan.
- (1A) The Minister must decide within 60 business days of being given the copy of the plan whether or not to endorse the plan.
- (1B) Within 10 business days of making the decision, the Minister must inform the Commonwealth agency in writing of the decision and publish on the internet a notice of the decision.
- (2) The Minister:
 - (a) may only endorse a plan that the Minister is satisfied provides for the conservation of the Commonwealth Heritage values of the place concerned; and
 - (b) must not endorse a plan that the Minister considers is inconsistent with the Commonwealth Heritage management principles (see Subdivision D).

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- (3) The Minister may, at any time, revoke an endorsement of a plan if the Minister considers it appropriate to do so.

341U Restriction on ability to make plans

Despite section 341S, a Commonwealth agency must not make a plan for managing so much of a Commonwealth Heritage place as is in a Commonwealth reserve and covered by another plan under this Act.

341V Compliance with plans by the Commonwealth and Commonwealth agencies

- (1) The Commonwealth or a Commonwealth agency must not:
- (a) contravene a plan made under section 341S; or
 - (b) authorise another person to do, or omit to do, anything that, if it were done or omitted to be done by the Commonwealth or the Commonwealth agency (as appropriate), would contravene such a plan.
- (2) If there is no plan in force under section 341S for a particular Commonwealth Heritage place, the Commonwealth and each Commonwealth agency must take all reasonable steps to ensure that its acts (if any) relating to the place are not inconsistent with the Commonwealth Heritage management principles.

341W Multiple plans in the same document

To avoid doubt, a plan for managing a Commonwealth Heritage place may be in the same document as:

- (a) one or more other plans for managing Commonwealth Heritage places; or
- (b) one or more other plans that this Act or another law of the Commonwealth requires or permits to be prepared.

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 concerned 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; and
 - (c) make recommendations for the improved protection of the Commonwealth Heritage values of the place.
- (3) The person carrying out the review must publish, on the internet and in a daily newspaper circulating in each State and self-governing Territory, a notice inviting anyone to give the person comments within 20 business days on:
 - (a) whether the plan is consistent with the Commonwealth Heritage management principles; and
 - (b) the effectiveness of the plan in protecting and conserving the Commonwealth Heritage values of the place.
- (4) In carrying out the review, the person must consider the comments (if any) received in accordance with the notice.

Subdivision D—The Commonwealth Heritage management principles

341Y Commonwealth Heritage management principles

- (1) The regulations must prescribe principles for managing Commonwealth Heritage places. The principles prescribed are the *Commonwealth Heritage management principles*.

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- (2) The regulations may prescribe obligations to implement or give effect to the Commonwealth Heritage management principles.
- (3) A person must comply with the regulations to the extent that they impose obligations on the person.

Subdivision E—Obligations of Commonwealth agencies

341Z Obligation to assist the Minister and the Australian Heritage Council

A Commonwealth agency that owns or controls a place that has, or might have, one or more Commonwealth Heritage values must take all reasonable steps to assist the Minister and the Australian Heritage Council in the identification, assessment and monitoring of the place's Commonwealth Heritage values.

341ZA Heritage strategies

- (1) If a Commonwealth agency owns or controls one or more places, the agency must:
 - (a) prepare a written heritage strategy for managing the places to protect and conserve their Commonwealth Heritage values; and
 - (b) give a copy of the strategy to the Minister;as soon as practicable and in any event within 2 years after the later of:
 - (c) the time the agency first owns or controls a place; and
 - (d) the commencement of this section.

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

- (1A) Before making a heritage strategy, the Commonwealth agency must consult the Australian Heritage Council and take into account any advice the agency receives from the Council.
- (2) The Commonwealth agency may, in writing, amend the heritage strategy or revoke and replace the heritage strategy. The

Commonwealth agency must give the Minister a copy of the amended or replacement strategy within 20 business days of the amendment or replacement.

- (3) A heritage strategy must:
 - (a) mention the period within which the Commonwealth agency must make a plan under section 341S; and
 - (b) mention the period within which the Commonwealth agency must do the things mentioned in subsection 341ZB(1); and
 - (c) address the matters prescribed by the regulations (if any); and
 - (d) not be inconsistent with the Commonwealth Heritage management principles.
- (4) The Minister must advise the Commonwealth agency whether or not the agency's heritage strategy (whether original, amended or replacement) is inconsistent with the Commonwealth Heritage management principles.
- (5) At least once in every 3 year period after a heritage strategy is made, the Commonwealth agency concerned must cause a review of the strategy to be carried out.
- (6) The agency must give the Minister a written report of the review. The report must address the matters prescribed by the regulations (if any).

341ZB Heritage assessments and registers

- (1) A Commonwealth agency must do all of the following within the period mentioned in its heritage strategy:
 - (a) conduct a program to identify Commonwealth Heritage values for each place it owns or controls;
 - (b) produce a register that sets out, for each place it owns or controls, the Commonwealth Heritage values (if any) of that place;
 - (c) give the Minister a written report that includes:
 - (i) details of the program; and
 - (ii) a copy of the register.

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- (2) The regulations may prescribe all or any of the following:
 - (a) how Commonwealth heritage values may be identified for a place;
 - (b) matters a register must address;
 - (c) matters a report to the Minister must address.
- (3) A Commonwealth agency must keep its register up to date.
- (4) A register may be kept electronically.
- (5) If a report under paragraph (1)(c) indicates that a place owned or controlled by a Commonwealth agency may have one or more Commonwealth Heritage values, information from the report may be used or referred to in a nomination of the place for inclusion in the Commonwealth Heritage List.

341ZC Minimising adverse impact on heritage values

A Commonwealth agency must not take an action that has, will have or is likely to have an adverse impact on the National Heritage values of a National Heritage place or the Commonwealth Heritage values of 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 those values are taken.

341ZE Protecting Commonwealth Heritage values of places sold or leased

- (1) This section applies if a Commonwealth agency executes a contract for the sale or lease to someone else of a Commonwealth area in the Australian jurisdiction that is or includes all or part of a Commonwealth Heritage place. It does not matter whether the agency executes the contract for the Commonwealth or on its own behalf.

- (1A) The Commonwealth agency must give the Minister at least 40 business days' notice before executing the contract.
- (2) The Commonwealth agency must ensure that the contract includes a covenant the effect of which is to protect the Commonwealth Heritage values of the place, unless the agency is satisfied that:
- (a) having regard to other means of protecting those values, including such a covenant in the contract is unnecessary to protect them or is unreasonable; or
 - (b) including such a covenant in the contract is impracticable.
- (3) The Commonwealth agency must inform the Minister before executing the contract if:
- (a) such a covenant:
 - (i) would not, or could not be made to, bind the successors in title of the buyer or lessee; or
 - (ii) could be insufficient to ensure the ongoing protection of the Commonwealth Heritage values of the place; or
 - (b) the agency is satisfied as described in subsection (2).
- The information must include written reasons why paragraph (a) applies or why the agency is satisfied as described in subsection (2).
- (4) If the Minister is informed of a matter in paragraph (3)(a) or that the Commonwealth agency is satisfied that it is unreasonable or impracticable to include such a covenant in the contract, the Minister must:
- (a) take all reasonable measures to enter into a conservation agreement with the prospective buyer or lessee for the protection and conservation of the Commonwealth Heritage values of the place; or
 - (b) advise the agency about measures to ensure the ongoing protection of the Commonwealth Heritage values of the place.
- (5) If the Minister is informed that the Commonwealth agency is satisfied that it is unnecessary to include such a covenant in the contract, the Minister may advise the agency about measures to

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ensure the ongoing protection of the Commonwealth Heritage values of the place.

- (6) If the Minister advises the Commonwealth agency under this section about measures to ensure the ongoing protection of the Commonwealth Heritage values of the place, the agency must take all reasonable steps to ensure that the measures are taken.

Subdivision G—Assistance for protecting Commonwealth Heritage places

341ZG Commonwealth assistance for protecting Commonwealth Heritage places

- (1) The Commonwealth may give financial or other assistance for the identification, promotion, protection or conservation of a Commonwealth Heritage place to any person.
- (2) The Commonwealth may give the assistance subject to conditions.

Subdivision H—Reviewing and reporting on the Commonwealth Heritage List

341ZH Reviewing and reporting on the Commonwealth Heritage List

- (1) At least once in every 5 year period after the Commonwealth Heritage List is established, the Minister must ensure that:
- (a) a review of the Commonwealth Heritage List is carried out; and
 - (b) a report of that review is tabled in each House of the Parliament.
- (2) The report must include details of:
- (a) the number of places included in the Commonwealth Heritage List; and
 - (b) any significant damage or threat to the Commonwealth Heritage values of those places; and

- (c) how many plans under Subdivision C for managing Commonwealth Heritage places have been made, or are being prepared, and how effectively the plans that have been made are operating; and
- (d) the operation of any conservation agreements under Part 14 that affect Commonwealth Heritage places; and
- (e) all nominations, assessments and changes to the Commonwealth Heritage List under this Division during the period of review; and
- (f) compliance with this Act in relation to Commonwealth Heritage places; and
- (g) any other matters that the Minister considers relevant.

Division 4—Commonwealth reserves

Subdivision A—Simplified outline of this Division

342 Simplified outline of this Division

The following is a simplified outline of this Division:

Commonwealth reserves can be declared over areas of land or sea:

- (a) that the Commonwealth owns or leases; or
- (b) that are in a Commonwealth marine area; or
- (c) outside Australia that the Commonwealth has international obligations to protect.

A Proclamation must assign the reserve to a particular category, that affects how the reserve is managed and used.

Some activities can be undertaken in a reserve only if a management plan provides for them. Commonwealth agencies must comply with a management plan. Regulations can be made to control a wide range of activities in reserves.

The Minister may approve a management plan prepared by the Director and any Board for a reserve.

In agreement with indigenous people, the Minister can set up a Board for a reserve including land leased from indigenous people.

Subdivision B—Declaring and revoking Commonwealth reserves**343 Simplified outline of this Subdivision**

The following is a simplified outline of this Subdivision:

The Governor-General can proclaim Commonwealth reserves over areas of land or sea:

- (a) that the Commonwealth owns; or
- (b) that the Commonwealth or the Director leases; or
- (c) that are in a Commonwealth marine area; or
- (d) outside Australia that the Commonwealth has international obligations to protect.

A Proclamation must assign the reserve to a particular category that affects how the reserve is managed and used.

Proclamations can be made to alter and revoke reserves.

The Director must consult publicly before some Proclamations are made.

344 Declaring Commonwealth reserves*Declaring a Commonwealth reserve*

- (1) The Governor-General may, by Proclamation, declare as a Commonwealth reserve:
 - (a) an area of land:
 - (i) that is owned by the Commonwealth in a Territory; or
 - (ii) that is owned by the Commonwealth outside a Territory;
 - or

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- (iii) that is held under lease by the Commonwealth or the Director in a Territory; or
 - (iv) that is held under lease by the Commonwealth or the Director outside a Territory; or
 - (v) outside Australia and in respect of which Australia has obligations relating to biodiversity or heritage under an agreement with one or more other countries that may appropriately be met by declaring the area a Commonwealth reserve; or
- (b) an area of sea:
- (i) in a Commonwealth marine area; or
 - (ii) outside Australia and in respect of which Australia has obligations relating to biodiversity or heritage under an agreement with one or more other countries that may appropriately be met by declaring the area a Commonwealth reserve; or
- (c) an area of land described in paragraph (a) and sea described in paragraph (b).

Note 1: Section 351 sets out some prerequisites for making Proclamations.

Note 2: A reference to Australia generally includes its coastal sea. See section 15B of the *Acts Interpretation Act 1901*.

Limits on acquiring land for reservation

- (2) If land:
- (a) is in:
 - (i) a State or self-governing Territory (except the Northern Territory); or
 - (ii) the Northern Territory outside both Uluru-Kata Tjuta National Park and the Alligator Rivers Region (as defined by the *Environment Protection (Alligator Rivers Region) Act 1978*); and
 - (b) is dedicated or reserved under a law of the State or Territory for purposes related to nature conservation or the protection of areas of historical, archaeological or geological

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importance or of areas having special significance in relation to indigenous persons;

the Commonwealth must not acquire the land for the purposes of declaring it a Commonwealth reserve, without the consent of the State or Territory.

Uluru-Kata Tjuta National Park

- (3) ***Uluru-Kata Tjuta National Park*** is the Commonwealth reserve (as it exists from time to time) to which the name Uluru-Kata Tjuta National Park was given by Proclamation continued in force by the *Environmental Reform (Consequential Provisions) Act 1999*.

345 Extent of Commonwealth reserve

- (1) A Commonwealth reserve includes:
- (a) land or seabed to the depth stated in the Proclamation declaring the Commonwealth reserve; and
 - (b) the waters and seabed under any sea in the area declared as a Commonwealth reserve.

- (2) In this Act:

land includes subsoil of land and any body of water (whether flowing or not) except the sea.

seabed includes:

- (a) the surface of a coral formation; and
- (b) subsoil of seabed (including coral beneath the surface of a coral formation).

345A Commonwealth usage rights vest in Director

- (1) When a Commonwealth reserve is declared, a usage right that relates to land or seabed in the reserve and is held by the Commonwealth vests in the Director, by force of this subsection.
- (2A) However, subsection (2) does not apply to:

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- (a) a usage right acquired by the Commonwealth in relation to the Jabiru town land (within the meaning of the *Aboriginal Land Rights (Northern Territory) Act 1976*); or
 - (b) a usage right acquired by the Commonwealth that is prescribed by the regulations for the purposes of this paragraph.
- (2) If the Commonwealth acquires a usage right relating to land or seabed in a Commonwealth reserve, the usage right vests in the Director.
- (3) This section does not vest in the Director a usage right in respect of minerals, despite subsections (1) and (2).

346 Content of Proclamation declaring Commonwealth reserve

Content of Proclamation

- (1) The Proclamation declaring an area to be a Commonwealth reserve must:
 - (a) give a name to the reserve; and
 - (b) state the purposes for which the reserve is declared; and
 - (c) state the depth of any land included in the reserve; and
 - (d) state the depth of the seabed that is under any sea included in the reserve; and
 - (e) assign the reserve to a category (an *IUCN category*) prescribed in regulations made for the purposes of this subsection.

Assigning different zones of a reserve to different IUCN categories

- (2) A Proclamation may also divide a reserve into zones and assign each zone to an IUCN category.

Assigning leasehold land to IUCN categories

- (3) Before the Governor-General makes a Proclamation assigning a Commonwealth reserve or zone including land or seabed held by

the Commonwealth or the Director under lease to a particular IUCN category, the Minister must be satisfied that the category to which it is proposed to assign the reserve or zone is consistent with the terms of the lease.

347 Assigning Commonwealth reserves and zones to IUCN categories

Before the Governor-General makes a Proclamation assigning a Commonwealth reserve, or a zone within a Commonwealth reserve, to a particular IUCN category, the Minister must be satisfied:

- (a) that the reserve or zone:
 - (i) has the characteristics (if any) prescribed by the regulations for the category; and
 - (ii) meets the criteria (if any) prescribed by the regulations for the category; and
- (b) that the reserve or zone should be managed in accordance with the Australian IUCN reserve management principles for the category.

348 Australian IUCN reserve management principles

- (1) The regulations must prescribe principles for each IUCN category. The principles prescribed for an IUCN category are the ***Australian IUCN reserve management principles*** for the category.
- (2) The principles prescribed for an IUCN category must identify the purpose or purposes for which a Commonwealth reserve, or zone of a Commonwealth reserve, assigned to the category is primarily to be managed.

350 Revocation and alteration of Commonwealth reserves

- (1) The Governor-General may revoke or amend a Proclamation under this Subdivision by another Proclamation.

Note: Section 351 sets out some prerequisites for making Proclamations.

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- (2) Before the Governor-General makes a Proclamation that results in land, sea or seabed ceasing to be included in a Commonwealth reserve, the Minister must be satisfied:
 - (a) that the Proclamation, if made, would be in accordance with a resolution passed by each House of Parliament on a motion; and
 - (b) that notice of the motion was given at least 15 sitting days of that House before the motion was moved.
- (3) Subsection (2) does not apply to a Proclamation that results in land, sea or seabed ceasing to be included in one Commonwealth reserve or zone and being included in another Commonwealth reserve or zone.
- (4) If the Director ceases to hold land or seabed in a Commonwealth reserve under lease:
 - (a) the land or seabed ceases to be part of the reserve by force of this paragraph; and
 - (b) the Governor-General must make a Proclamation revoking or amending the Proclamation that included the land or seabed in a Commonwealth reserve, to reflect the fact that the land or seabed is no longer part of the reserve.
- (5) Subsection (4) does not apply if the Director ceases to hold the land or seabed under a lease because:
 - (a) the Commonwealth becomes the owner of the land or seabed; or
 - (b) the Director surrenders the lease in consideration of the grant to the Director of another lease of that land or seabed.
- (6) Except as described in subsection (4), land, sea or seabed in a Commonwealth reserve does not cease to be within the reserve merely because a usage right relating to the land, sea or seabed is transferred, assigned, surrendered, extinguished or changed in any way.
- (7) A **usage right** is an estate or a legal or equitable charge, power, privilege, authority, licence or permit.

Note: Section 2B of the *Acts Interpretation Act 1901* defines *estate*.

351 Report before making Proclamation

Minister must consider report before Proclamation made

- (1) Before the Governor-General makes a Proclamation under this Subdivision, the Minister must consider a report prepared by the Director on the matter to be dealt with by the Proclamation.

Procedure for preparing report

- (2) In preparing a report, the Director must:
 - (a) publish in the *Gazette* and in accordance with the regulations (if any) a notice:
 - (i) stating the matter to be dealt with by the Proclamation; and
 - (ii) inviting the public to comment on the matter to be dealt with by the Proclamation; and
 - (iii) specifying the address to which comments may be sent; and
 - (iv) specifying the day by which any comments must be sent; and
 - (b) consider any comments made in response to the invitation; and
 - (c) include in the report the comments and the Director's views on the comments.

Content of notice inviting comments

- (3) A notice stating the matter to be dealt with by a Proclamation to declare a Commonwealth reserve must include a statement of:
 - (a) the proposed name of the reserve; and
 - (b) the proposed boundaries of the reserve and of any zones into which the reserve is to be divided; and
 - (c) the purpose for which the reserve is to be declared; and

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- (d) which IUCN category the reserve (and, if applicable, each zone of the reserve) is to be assigned to; and
- (e) the purposes for which it is intended to manage and use the reserve.

Content of notice relating to revocation of Commonwealth reserve

- (4) A notice stating the matter to be dealt with by a Proclamation to cause any land, sea or seabed to cease to be part of a Commonwealth reserve must state the boundaries of that land, sea or seabed.

Time for comment

- (5) The day specified in the notice as the day by which any comments must be sent must be at least 60 days after the last day on which the notice is published in the *Gazette* or in accordance with any regulations.

When this section does not apply

- (6) Subsection (1) does not apply in relation to a Proclamation that:
 - (a) declares an area in the Kakadu region to be a Commonwealth reserve; or
 - (b) has the effect of changing the name of a Commonwealth reserve in the Kakadu region; or
 - (c) results in land, sea or seabed ceasing to be included in one Commonwealth reserve and being included in another Commonwealth reserve without changing the IUCN category to which the land, sea or seabed is assigned.

352 What happens to Director's usage rights when Commonwealth reserve is revoked

- (1) This section applies in relation to land or seabed that ceases to be included in a Commonwealth reserve because of a Proclamation made under section 350, except a Proclamation that causes the land or seabed:

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- (a) to cease to be included in one Commonwealth reserve; and
 - (b) to be included in another Commonwealth reserve.
- (2) A usage right relating to the land or seabed that the Director held vests in the Commonwealth, by force of this subsection.
- (3) However, if the usage right is a lease of indigenous people's land, the usage right ceases to exist, by force of this subsection.
- (4) If the land is in a State or Territory:
 - (a) the Director may give the officer of the State or Territory responsible for registering land titles a copy of the Proclamation, certified by the Director; and
 - (b) the officer may make an entry in his or her registers and do anything else needed to reflect the effect of this section.

Subdivision C—Activities in Commonwealth reserves**353 Simplified outline of this Subdivision**

The following is a simplified outline of this Subdivision:

Many works cannot be carried out in a Commonwealth reserve unless permitted by a management plan.

If there is not a management plan in force for a reserve, it must be managed in a way appropriate for the category it has been assigned to by a Proclamation or an earlier management plan.

Regulations can be made to control activities in reserves.

People who have rights relating to an area that is later included in a reserve can continue to exercise those rights in the reserve.

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354 Activities that may be carried on only under management plan

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

Civil penalty:

- (a) for an individual—500 penalty units;
- (b) for a body corporate—5,000 penalty units.

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

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

- (2) However, if a management plan is not in operation for a Commonwealth reserve, the Director may do an act described in subsection (1) for:
- (a) preserving or protecting the reserve; or
 - (b) protecting or conserving biodiversity or heritage in the reserve; or
 - (c) controlling authorised scientific research; or
 - (d) protecting persons or property in the reserve; or
 - (e) managing the effects of actions taken under a usage right described in section 359.
- (3) Subsection (2) does not apply in relation to so much of a Commonwealth reserve as is in the Kakadu region, the Uluru region or the Jervis Bay Territory.

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

- (3A) Subsection (1) does not apply to an action that is covered by an approval in force under subsection 359B(1). For this purpose, an action is covered by such an approval if:
- (a) a management plan is not in operation for the Commonwealth reserve; and
 - (b) the action is, or is in the class of actions, specified in the approval; and
 - (c) the action is taken in accordance with the approval by the person, or a person in the class of persons, specified in the approval in the area specified in the approval.
- (4) This section has effect despite any other law of the Commonwealth, a State or a Territory, but:
- (a) subsections (1) and (2) are subject to:
 - (i) section 359 (about interests and rights existing before a Commonwealth reserve); and
 - (ii) section 359A (about traditional use of an area in a reserve); and
 - (iii) the *Antarctic Treaty (Environment Protection) Act 1980*; and
 - (b) subsection (1) is also subject to section 385 (about activities in Commonwealth reserves in the Kakadu region, Uluru region or Jervis Bay Territory without management plans).

354A Offences relating to activities that may only be carried on under management plan

Causing death etc to native species or damage to heritage

- (1) A person commits an offence if:
- (a) the person takes an action; and
 - (b) the action is taken in a Commonwealth reserve; and
 - (c) the action:

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- (i) results in the death, injury, taking, trade, keeping or moving of a member of a native species in the reserve; or
- (ii) results in damage to heritage in the reserve.

Penalty: Imprisonment for 2 years or 1,000 penalty units, or both.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: Subsection 4B(3) of the *Crimes Act 1914* lets a court fine a body corporate up to 5 times the maximum amount the court could fine a person under this subsection.

(2) Strict liability applies:

- (a) to paragraph (1)(b); and
- (b) to the physical element of circumstance in paragraph (1)(c), that the member of the native species or the heritage is in the reserve.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

Erection of buildings etc.

(3) A person commits an offence if:

- (a) the person takes any of the following actions:
 - (i) erecting a building or structure;
 - (ii) carrying on an excavation;
 - (iii) carrying out works; and
- (b) the action is taken in a Commonwealth reserve.

Penalty: Imprisonment for 2 years or 1,000 penalty units, or both.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: Subsection 4B(3) of the *Crimes Act 1914* lets a court fine a body corporate up to 5 times the maximum amount the court could fine a person under this subsection.

(4) Strict liability applies to paragraph (3)(b).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

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Actions taken for commercial purposes

- (5) A person commits an offence if:
- (a) the person takes an action; and
 - (b) the person takes the action for a commercial purpose; and
 - (c) the action is taken in a Commonwealth reserve.

Penalty: Imprisonment for 2 years or 1,000 penalty units, or both.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: Subsection 4B(3) of the *Crimes Act 1914* lets a court fine a body corporate up to 5 times the maximum amount the court could fine a person under this subsection.

- (6) Paragraph (5)(b) states the fault element for paragraph (5)(a).
- (7) Strict liability applies to paragraph (5)(c).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

Exception for actions in accordance with a management plan

- (8) Subsections (1), (3) and (5) do not apply to an action if the action is in accordance with a management plan in operation for the Commonwealth reserve in which the action is taken.

Note 1: The defendant bears an evidential burden in relation to the matters in this subsection. See subsection 13.3(3) of the *Criminal Code*.

Note 2: This exception might not apply in relation to actions taken in the Antarctic (see subsection (16)).

Exception for mining operations

- (9) Subsections (1), (3) and (5) do not apply to an action if the action is taken in the course of carrying on mining operations.

Note 1: Mining operations are covered by sections 355, 355A and 387.

Note 2: The defendant bears an evidential burden in relation to the matters in this subsection. See subsection 13.3(3) of the *Criminal Code*.

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Exception for certain actions taken by the Director—actions in places other than Kakadu, Uluru or Jervis Bay

- (10) Subsections (1), (3) and (5) do not apply to an action taken by the Director if:
- (a) a management plan is not in operation for the Commonwealth reserve in which the action is taken; and
 - (b) the action is not taken in the Kakadu region, the Uluru region or the Jervis Bay Territory; and
 - (c) the Director takes the action for the purpose of:
 - (i) preserving or protecting the reserve; or
 - (ii) protecting or conserving biodiversity or heritage in the reserve; or
 - (iii) controlling authorised scientific research; or
 - (iv) protecting persons or property in the reserve; or
 - (v) managing the effects of actions taken under a usage right described in section 359.

Note 1: The defendant bears an evidential burden in relation to the matters in this subsection. See subsection 13.3(3) of the *Criminal Code*.

Note 2: This exception might not apply in relation to actions taken in the Antarctic (see subsection (16)).

Exception for certain actions taken by the Director—conduct in Kakadu, Uluru or Jervis Bay

- (11) Subsections (1), (3) and (5) do not apply to an action taken by the Director in accordance with section 385.

Note: The defendant bears an evidential burden in relation to the matters in this subsection. See subsection 13.3(3) of the *Criminal Code*.

Exception for prior usage rights

- (12) Subsections (1), (3) and (5) do not apply to an action that is covered by a usage right, or a right arising out of a usage right, to which section 359 applies.

Note 1: The defendant bears an evidential burden in relation to the matters in this subsection. See subsection 13.3(3) of the *Criminal Code*.

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Note 2: This exception might not apply in relation to actions taken in the Antarctic (see subsection (16)).

Exception for prior traditional use

- (13) Subsections (1), (3) and (5) do not apply to an action that is covered by section 359A.

Note: The defendant bears an evidential burden in relation to the matters in this subsection. See subsection 13.3(3) of the *Criminal Code*.

Exception for actions approved under section 359B

- (14) Subsections (1), (3) and (5) do not apply to an action that is covered by an approval in force under subsection 359B(1). For this purpose, an action is covered by such an approval if:
- (a) a management plan is not in operation for the Commonwealth reserve; and
 - (b) the action is, or is in the class of actions, specified in the approval; and
 - (c) the action is taken in accordance with the approval by the person, or a person in the class of persons, specified in the approval in the area specified in the approval.

Note: The defendant bears an evidential burden in relation to the matters in this subsection. See subsection 13.3(3) of the *Criminal Code*.

Actions in the Antarctic

- (15) Subsections (1), (3) and (5) do not apply to an action taken in the Antarctic if:
- (a) taking the action is an element of an offence under the *Antarctic Treaty (Environment Protection) Act 1980*; and
 - (b) the person has a defence under that Act in relation to the offence.

Note: The defendant bears an evidential burden in relation to the matters in this subsection. See subsection 13.3(3) of the *Criminal Code*.

- (16) The exceptions in subsections (8), (10) and (12) of this section do not apply in relation to an action taken in the Antarctic if taking the

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action is an element of an offence under the *Antarctic Treaty (Environment Protection) Act 1980*.

Note: Although the exception in subsection (9) can still apply, mining operations in the Antarctic are prohibited in any case under the *Antarctic Treaty (Environment Protection) Act 1980*. The exceptions in subsections (11) and (13) cannot apply to actions taken in the Antarctic.

Sentencing restriction for offences in the exclusive economic zone

- (17) A court must not impose a sentence of imprisonment on a person for an offence under subsection (1) or (5) if:
- (a) fishing (as defined in the *Fisheries Management Act 1991*) constituted a physical element of the offence; and
 - (b) the fishing was done:
 - (i) in the exclusive economic zone; and
 - (ii) otherwise than from an Australian vessel (or a vessel declared to be an Australian boat under subsection 4(2) of the *Fisheries Management Act 1991*); and
 - (c) at the time of the fishing, the person was not an Australian citizen or a person who held a permanent visa under the *Migration Act 1958* and was domiciled in Australia or an external territory.

Section has effect despite other laws

- (18) Except as provided in this section, this section has effect despite any other law of the Commonwealth or of a State or Territory.

355 Limits on mining operations in Commonwealth reserves

- (1) A person must not carry on mining operations in a Commonwealth reserve except in accordance with a management plan in operation for the reserve.

Civil penalty:

- (a) for an individual—500 penalty units;
- (b) for a body corporate—5,000 penalty units.

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- (1A) Subsection (1) does not apply in relation to the Kakadu National Park or the Antarctic.

Note: Section 387 generally prohibits mining operations in the Kakadu National Park. Sections 19A and 19B of the *Antarctic Treaty (Environment Protection) Act 1980* prohibit mining activities in the Antarctic.

- (2) The following are **mining operations**:

- (a) operations or activities connected with, or incidental to, the mining or recovery of minerals or the production of material from minerals, including:
 - (i) prospecting and exploration for minerals; and
 - (ii) milling, refining, treatment and processing of minerals; and
 - (iii) storage and disposal of minerals and materials produced from minerals;
- (b) the construction and use of towns, camps, dams, pipelines power lines or other structures for the purposes of operations or activities described in paragraph (a);
- (c) the performance of any other work for the purposes of operations or activities described in paragraph (a).

- (3) A **mineral** is a naturally occurring substance or mixture of substances.

- (3A) Subsection (1) does not apply to mining operations that are covered by an approval in force under subsection 359B(2). For this purpose, mining operations are covered by such an approval if:

- (a) a management plan is not in operation for the Commonwealth reserve; and
- (b) the mining operations are, or are in the class of mining operations, specified in the approval; and
- (c) the mining operations are carried on in accordance with the approval by the person, or a person in the class of persons, specified in the approval in the area specified in the approval.

- (4) Subsection (1) does not prevent the doing of anything for the purposes of building or construction, or the supply of water, in a

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Commonwealth reserve unless the purposes are connected with, or incidental to, mining operations.

- (5) This section is subject to:
- (a) section 359 (about interests and rights existing before a Commonwealth reserve); and
 - (b) section 359A (about traditional use of an area in a reserve);
- but has effect despite any other law of the Commonwealth, a State or a Territory.

355A Offence relating to mining operations

Offence of carrying on mining operations

- (1) A person commits an offence if:
- (a) the person carries on mining operations; and
 - (b) the mining operations are carried on in a Commonwealth reserve.

Penalty: Imprisonment for 2 years or 1,000 penalty units, or both.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: Subsection 4B(3) of the *Crimes Act 1914* lets a court fine a body corporate up to 5 times the maximum amount the court could fine a person under this subsection.

- (2) Strict liability applies to paragraph (1)(b).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) To avoid doubt, subsection (1) does not prevent the doing of anything for the purposes of building or construction, or the supply of water, in a Commonwealth reserve unless the purposes are connected with, or incidental to, mining operations.

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Exception for mining operations carried on in accordance with a management plan

- (4) Subsection (1) does not apply to the carrying on of mining operations in accordance with a management plan in operation for the Commonwealth reserve in which the operations are carried on.

Note: The defendant bears an evidential burden in relation to the matters in this subsection. See subsection 13.3(3) of the *Criminal Code*.

Exception in relation to Kakadu National Park and the Antarctic

- (5) Subsection (1) does not apply to the carrying on of mining operations in the Kakadu National Park or in the Antarctic.

Note 1: Section 387 generally prohibits mining operations in the Kakadu National Park. Sections 19A and 19B of the *Antarctic Treaty (Environment Protection) Act 1980* prohibit mining activities in the Antarctic.

Note 2: The defendant bears an evidential burden in relation to the matters in this subsection. See subsection 13.3(3) of the *Criminal Code*.

Exception for prior usage rights

- (6) Subsection (1) does not apply to mining operations that are covered by a usage right, or a right arising out of a usage right, to which section 359 applies.

Note: The defendant bears an evidential burden in relation to the matters in this subsection. See subsection 13.3(3) of the *Criminal Code*.

Exception for prior traditional use

- (7) Subsection (1) does not apply to an action that is covered by section 359A.

Note: The defendant bears an evidential burden in relation to the matters in this subsection. See subsection 13.3(3) of the *Criminal Code*.

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Exception for mining operations approved under section 359B

- (8) Subsection (1) does not apply to mining operations that are covered by an approval in force under subsection 359B(2). For this purpose, mining operations are covered by such an approval if:
- (a) a management plan is not in operation for the Commonwealth reserve; and
 - (b) the mining operations are, or are in the class of mining operations, specified in the approval; and
 - (c) the mining operations are carried on in accordance with the approval by the person, or a person in the class of persons, specified in the approval in the area specified in the approval.

Note: The defendant bears an evidential burden in relation to the matters in this subsection. See subsection 13.3(3) of the *Criminal Code*.

Section has effect despite other laws

- (9) Except as provided in this section, this section has effect despite any other law of the Commonwealth or of a State or Territory.

356 Regulations controlling activities relating to Commonwealth reserves

- (1) The regulations may:
- (a) regulate or prohibit the pollution of soil, air or water in a manner that is, or is likely to be, harmful to:
 - (i) people, biodiversity or heritage in Commonwealth reserves; or
 - (ii) the natural features of Commonwealth reserves; and
 - (b) regulate or prohibit tourism in Commonwealth reserves; and
 - (c) provide for the protection and preservation of Commonwealth reserves and property and things in Commonwealth reserves; and
 - (d) provide for the protection and conservation of biodiversity in Commonwealth reserves; and
 - (e) regulate or prohibit access to all or part of a Commonwealth reserve by persons or classes of persons; and