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Volume 1: sections 1–266

Volume 2: sections 266B–528

Schedule

Endnotes

Each volume has its own contents

**This compilation includes commenced amendments made by Act No. 59,
2015**

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About this compilation

This compilation

This is a compilation of the *Environment Protection and Biodiversity Conservation Act 1999* that shows the text of the law as amended and in force on 1 July 2016 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Chapter 5—Conservation of biodiversity and heritage

Part 13—Species and communities

Division 5—Conservation advice, recovery plans, threat abatement plans and wildlife conservation plans

Subdivision AA—Approved conservation advice

266B Approved conservation advice for listed threatened species and listed threatened ecological communities

Minister to ensure there is approved conservation advice

- (1) The Minister must ensure that there is approved conservation advice for each listed threatened species (except one that is extinct or that is a conservation dependent species), and each listed threatened ecological community, at all times while the species or community continues to be listed.
- (2) For this purpose, *approved conservation advice* is a document, approved in writing by the Minister (and as changed from time to time in accordance with subsection (3)), that contains:
 - (a) a statement that sets out:
 - (i) the grounds on which the species or community is eligible to be included in the category in which it is listed; and
 - (ii) the main factors that are the cause of it being so eligible; and
 - (b) either:
 - (i) information about what could appropriately be done to stop the decline of, or support the recovery of, the species or community; or

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- (ii) a statement to the effect that there is nothing that could appropriately be done to stop the decline of, or support the recovery of, the species or community.

Changing approved conservation advice

- (3) The Minister may, in writing, approve changes to approved conservation advice.

Consultation with Scientific Committee

- (4) If the Minister proposes to approve a document as approved conservation advice, the Minister must consult the Scientific Committee about the document, unless its content is substantially the same as material that the Committee has previously provided to the Minister.
- (5) If the Minister proposes to approve a change to approved conservation advice, the Minister must consult the Scientific Committee about the change, unless the change is substantially the same as a change that the Scientific Committee has previously advised the Minister should be made.

Publication requirements

- (6) If the Minister approves a document as approved conservation advice, the Minister must:
 - (a) within 10 days of the approval of the document, publish the approved conservation advice on the internet; and
 - (b) comply with any other publication requirements of the regulations.
- (7) If the Minister approves a change to approved conservation advice, the Minister must:
 - (a) within 10 days of the approval of the change, publish the advice, as changed, on the internet; and
 - (b) comply with any other publication requirements of the regulations.

Instruments of approval are not legislative instruments

- (8) An instrument of approval under subsection (2) or (3) is not a legislative instrument.

Subdivision A—Recovery plans and threat abatement plans

267 Simplified outline of this Subdivision

The following is a simplified outline of this Subdivision:

Recovery plans for listed threatened species and ecological communities and threat abatement plans for key threatening processes bind the Commonwealth and Commonwealth agencies.

The Minister need ensure that a recovery plan is in force for a listed threatened species or ecological community only if the Minister decides to have a recovery plan. The Minister must decide whether to have a recovery plan for the species or community within 90 days after it becomes listed. The Minister may, at any other time, decide whether to have such a plan.

The Minister need ensure a threat abatement plan is in force for a key threatening process only if the Minister decides that a plan is a feasible, effective and efficient way of abating the process. The Minister must consult before making such a decision.

A recovery plan or threat abatement plan can be made by the Minister alone or jointly with relevant States and Territories, or the Minister can adopt a State or Territory plan. There must be public consultation and advice from the Scientific Committee about the plan, regardless of how it is made or adopted.

268 Compliance with recovery plans and threat abatement plans

A Commonwealth agency must not take any action that contravenes a recovery plan or a threat abatement plan.

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269 Implementing recovery and threat abatement plans

- (1) Subject to subsection (2), the Commonwealth must implement a recovery plan or threat abatement plan to the extent to which it applies in Commonwealth areas.
- (2) If a recovery plan or a threat abatement plan applies outside Commonwealth areas in a particular State or self-governing Territory, the Commonwealth must seek the co-operation of the State or Territory with a view to implementing the plan jointly with the State or Territory to the extent to which the plan applies in the State or Territory.

269AA Decision whether to have a recovery plan

Minister has an initial obligation and then a discretion

- (1) The Minister must decide whether to have a recovery plan for a listed threatened species (except one that is extinct or that is a conservation dependent species) or a listed threatened ecological community within 90 days after the species or community becomes listed. The Minister may, at any other time, decide whether to have a recovery plan for the species or community.
- (2) In this section:
 - (a) the decision that the Minister is required by subsection (1) to make in relation to the species or community within the 90 day period referred to in that subsection is the ***initial recovery plan decision***; and
 - (b) any subsequent decision that the Minister makes under subsection (1) in relation to the species or community is a ***subsequent recovery plan decision***.

Making the initial recovery plan decision

- (3) In making the initial recovery plan decision, the Minister must have regard to the recommendation (the ***initial recommendation***) made by the Scientific Committee as mentioned in paragraph 189(1B)(c) in relation to the species or community.

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Making a subsequent recovery plan decision (unless subsection (5) applies)

- (4) In making a subsequent recovery plan decision in relation to the species or community, other than a decision to which subsection (5) applies:
- (a) the Minister must have regard to the initial recommendation in relation to the species or community; and
 - (b) the Minister must have regard to any advice subsequently provided to the Minister by the Scientific Committee about whether there should be a recovery plan for the species or community.

Changing from a decision to have a recovery plan to a decision not to have a recovery plan—additional requirements

- (5) If, at a time when a decision to have a recovery plan for the species or community is in force (whether or not the plan has yet been made), the Minister is proposing to make a subsequent recovery plan decision that there should not be a recovery plan for the species or community:
- (a) the Minister must ask the Scientific Committee for advice relating to the proposed decision; and
 - (b) the Minister must publish a notice inviting comments on the proposed decision in accordance with subsection (7); and
 - (c) the Minister must, in deciding whether to make the proposed decision, take account of:
 - (i) any advice provided by the Scientific Committee in relation to the proposed decision; and
 - (ii) subject to subsection (6), the comments the Minister receives in response to the notice referred to in paragraph (b).
- (6) The Minister is not required to take a comment referred to in subparagraph (5)(c)(ii) into account if:
- (a) the Minister does not receive the comment until after the cut-off date specified in the notice under paragraph (5)(b); or

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- (b) the Minister considers that regulations referred to in paragraph (8)(b) have not been complied with in relation to the comment.
- (7) The notice referred to in paragraph (5)(b):
 - (a) must be published in accordance with the regulations referred to in paragraph (8)(a); and
 - (b) must set out the decision the Minister proposed to make; and
 - (c) must invite people to make comments, to the Minister, about the proposed decision; 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 (8)(b), apply to making comments; and
 - (f) may also include any other information that the Minister considers appropriate.
- (8) The regulations must provide for the following:
 - (a) how a notice referred to in paragraph (5)(b) is to be published;
 - (b) the manner and form for making comments.

General publication requirements

- (9) The Minister must publish the following:
 - (a) the Minister's initial recovery plan decision, and the reasons for it;
 - (b) each subsequent recovery plan decision (if any), and the reasons for it.

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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Note: This subsection must be complied with, even if the Minister has already published notice of the proposed decision in accordance with subsections (5) and (7).

Decisions not legislative instruments

- (10) An instrument making a decision under subsection (1) is not a legislative instrument.

269A Making or adopting a recovery plan

Application

- (1) This section applies only if the Minister's most recent decision under section 269AA in relation to a listed threatened species (except one that is extinct or that is a conservation dependent species) or a listed threatened ecological community is to have a recovery plan for the species or community.

Note: Subsection 273(1) sets a deadline of 3 years from the decision for ensuring that a recovery plan is in force for the species or community. Subsection 273(2) allows that period to be extended.

Making a plan

- (2) The Minister may make a written recovery plan for the purposes of the protection, conservation and management of:
- (a) a listed threatened species (except one that is extinct or is a conservation dependent species); or
 - (b) a listed threatened ecological community.

Making a plan jointly with a State or Territory

- (3) The Minister may make a written recovery plan for the purposes of the protection, conservation and management of a listed threatened species (except one that is extinct or is a conservation dependent species) or a listed threatened ecological community jointly with one or more of the States and self-governing Territories in which the species or community occurs, or with agencies of one or more of those States and Territories.

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Content of a plan

- (4) The Minister must not make a recovery plan under subsection (2) or (3) unless the plan meets the requirements of section 270.

Prerequisites to making a plan

- (5) Before making a recovery plan under subsection (2) or (3) for a listed threatened species or listed threatened ecological community, the Minister must:
- (a) consult the appropriate Minister of each State and self-governing Territory in which the species or community occurs, and in which actions that the plan would provide for would occur, with a view to:
 - (i) taking the views of each of those States and Territories into account in making the plan under subsection (2); or
 - (ii) making the plan jointly under subsection (3);unless the species or community occurs only in a Commonwealth area; and
 - (b) consider the advice of the Scientific Committee given under section 274; and
 - (c) consult about the plan and consider comments in accordance with sections 275 and 276.

Limits on making a plan

- (6) The Minister must not make a recovery plan under subsection (2) for a species or ecological community that occurs wholly or partly outside a Commonwealth area unless the Minister is satisfied that it is not reasonably practicable, within the period of 3 years referred to in subsection 273(1), to make the plan under subsection (3) of this section with each State or Territory:
- (a) in which the species or community occurs; and
 - (b) in which actions that the plan would provide for would occur, if the plan were made under subsection (2) of this section.

Adopting a State or Territory plan

- (7) The Minister may, by instrument in writing, adopt as a recovery plan a plan made by a State, a self-governing Territory or an agency of a State or self-governing Territory (whether or not the plan is in force in the State or Territory). The Minister may adopt the plan with such modifications as are specified in the instrument. This subsection has effect subject to section 277.

Note: Section 277 requires that:

- (a) an adopted plan have the content required for a recovery plan by section 270; and
- (b) there has been adequate consultation in making the plan adopted; and
- (c) the Minister consult the Scientific Committee about the content of the plan.

Effect of adopting a plan

- (8) A plan adopted under subsection (7) has effect as if it had been made under subsection (2) (whether it was adopted with modifications or not).

270 Content of recovery plans

- (1) A recovery plan must provide for the research and management actions necessary to stop the decline of, and support the recovery of, the listed threatened species or listed threatened ecological community concerned so that its chances of long-term survival in nature are maximised.
- (2) In particular, a recovery plan must (subject to subsection (2A)):
- (a) state the objectives to be achieved (for example, removing a species or community from a list, or indefinite protection of existing populations of a species or community); and
 - (b) state criteria against which achievement of the objectives is to be measured (for example, a specified number and distribution of viable populations of a species or community, or the abatement of threats to a species or community); and
 - (c) specify the actions needed to achieve the objectives; and

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- (ca) identify threats to the species or community; and
 - (d) identify the habitats that are critical to the survival of the species or community concerned and the actions needed to protect those habitats; and
 - (e) identify any populations of the species or community concerned that are under particular pressure of survival and the actions needed to protect those populations; and
 - (f) state the estimated duration and cost of the recovery process; and
 - (g) identify:
 - (i) interests that will be affected by the plan's implementation; and
 - (ii) organisations or persons who will be involved in evaluating the performance of the recovery plan; and
 - (h) specify any major benefits to native species or ecological communities (other than those to which the plan relates) that will be affected by the plan's implementation; and
 - (j) meet prescribed criteria (if any) and contain provisions of a prescribed kind (if any).
- (2A) A recovery plan need only address the matters mentioned in paragraphs (2)(d), (e), (f), (g) and (h) to the extent to which it is practicable to do so.
- (3) In making a recovery plan, regard must be had to:
- (a) the objects of this Act; and
 - (b) the most efficient and effective use of the resources that are allocated for the conservation of species and ecological communities; and
 - (c) minimising any significant adverse social and economic impacts, consistently with the principles of ecologically sustainable development; and
 - (d) meeting Australia's obligations under international agreements between Australia and one or more countries relevant to the species or ecological community to which the plan relates; and

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- (e) the role and interests of indigenous people in the conservation of Australia's biodiversity.

270A Decision whether to have a threat abatement plan

Decision

- (1) The Minister may at any time decide whether to have a threat abatement plan for a threatening process in the list of key threatening processes established under section 183. The Minister must do so:
- (a) within 90 days of the threatening process being included in the list; and
 - (b) within 5 years of the last decision whether to have a threat abatement plan for the process, if that decision was not to have a threat abatement plan for the process.

Basis for decision

- (2) The Minister must decide to have a threat abatement plan for the process if he or she believes that having and implementing a threat abatement plan is a feasible, effective and efficient way to abate the process. The Minister must decide not to have a threat abatement plan if he or she does not believe that.

Consultation before making a decision

- (3) Before making a decision under this section, the Minister must:
- (a) request the Scientific Committee to give advice within a specified period; and
 - (b) take reasonable steps to request any Commonwealth agency, any State, any self-governing Territory, and any agency of a State or self-governing Territory, that would be affected by or interested in abatement of the process to give advice within a specified period;
- on the feasibility, effectiveness or efficiency of having and implementing a threat abatement plan to abate the process.

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Consulting others

- (4) Subsection (3) does not prevent the Minister from requesting any other person or body to give advice within a specified period on the feasibility, effectiveness or efficiency of having and implementing a threat abatement plan to abate the process.

Request may be made before listing

- (5) A request for advice on the feasibility, effectiveness or efficiency of having and implementing a threat abatement plan to abate the process may be made before or after the process is included in the list of key threatening processes established under section 183.

Time for giving advice

- (6) The Minister must not make a decision whether to have a threat abatement plan for the process before the end of the period within which he or she has requested a person or body to give advice on the feasibility, effectiveness or efficiency of having and implementing a threat abatement plan to abate the process.

Considering views expressed in consultation

- (7) When the Minister is making a decision under this section, he or she must consider the advice that a person or body gave on request within the period specified in the request.

Publishing decision and reasons

- (8) The Minister must publish in accordance with the regulations (if any):
- (a) a decision whether or not to have a threat abatement plan for a key threatening process; and
 - (b) the Minister's reasons for the decision.

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Special rules for processes included in original list

- (9) Subsections (3), (4), (5), (6) and (7) do not apply in relation to a decision about a process included in the list under section 183 as first established.

270B Making or adopting a threat abatement plan

Application

- (1) This section applies only if the Minister's most recent decision under section 270A in relation to a key threatening process is to have a threat abatement plan for the process.

Note: Section 273 sets a deadline of 3 years from the decision for ensuring that a threat abatement plan is in force for the process.

Making a plan

- (2) The Minister may make a written threat abatement plan for the purposes of reducing the effect of the process.

Making a plan jointly with a State or Territory

- (3) The Minister may make a written threat abatement plan for the purposes of reducing the effect of the process, jointly with the States and self-governing Territories in which the process occurs or with agencies of those States and Territories.

Content of a plan

- (4) The Minister must not make a threat abatement plan under subsection (2) or (3) unless the plan meets the requirements of section 271.

Prerequisites to making a plan

- (5) Before making a threat abatement plan for the process under subsection (2) or (3), the Minister must:

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- (a) consult the appropriate Minister of each State and self-governing Territory in which the process occurs, with a view to:
 - (i) taking the views of each of those States and Territories into account in making the plan under subsection (2); or
 - (ii) making the plan jointly under subsection (3);unless the process occurs only in a Commonwealth area; and
- (b) consider the advice of the Scientific Committee given under section 274; and
- (c) consult about the plan and consider comments in accordance with sections 275 and 276.

Limits on making a plan

- (6) The Minister must not make a threat abatement plan under subsection (2) for a process that occurs wholly or partly outside a Commonwealth area unless the Minister is satisfied that it is not reasonably practicable to make the plan:
 - (a) jointly with each of the States and self-governing Territories in which the process occurs; and
 - (b) within 3 years of the decision to have the plan.

Adopting a State or Territory plan

- (7) The Minister may, by instrument in writing, adopt as a threat abatement plan for the process a plan made by a State, a self-governing Territory or an agency of a State or self-governing Territory (whether or not the plan is in force in the State or Territory). The Minister may adopt the plan with such modifications as are specified in the instrument. This subsection has effect subject to section 277.

Note: Section 277 requires that:

- (a) an adopted plan have the content required for a threat abatement plan by section 271; and
- (b) there has been adequate consultation in making the plan adopted; and
- (c) the Minister consult the Scientific Committee about the content of the plan.

Effect of adopting a plan

- (8) A plan adopted under subsection (7) has effect as if it had been made under subsection (2), whether it was adopted with modifications or not.

271 Content of threat abatement plans

- (1) A threat abatement plan must provide for the research, management and other actions necessary to reduce the key threatening process concerned to an acceptable level in order to maximise the chances of the long-term survival in nature of native species and ecological communities affected by the process.
- (2) In particular, a threat abatement plan must:
- (a) state the objectives to be achieved; and
 - (b) state criteria against which achievement of the objectives is to be measured; and
 - (c) specify the actions needed to achieve the objectives; and
 - (g) meet prescribed criteria (if any) and contain provisions of a prescribed kind (if any).
- (3) In making a threat abatement plan, regard must be had to:
- (a) the objects of this Act; and
 - (b) the most efficient and effective use of the resources that are allocated for the conservation of species and ecological communities; and
 - (c) minimising any significant adverse social and economic impacts consistently with the principles of ecologically sustainable development; and
 - (d) meeting Australia's obligations under international agreements between Australia and one or more countries relevant to the species or ecological community threatened by the key threatening process that is the subject of the plan; and
 - (e) the role and interests of indigenous people in the conservation of Australia's biodiversity.

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- (4) A threat abatement plan may:
- (a) state the estimated duration and cost of the threat abatement process; and
 - (b) identify organisations or persons who will be involved in evaluating the performance of the threat abatement plan; and
 - (c) specify any major ecological matters (other than the species or communities threatened by the key threatening process that is the subject of the plan) that will be affected by the plan's implementation.
- (5) Subsection (4) does not limit the matters that a threat abatement plan may include.

272 Eradication of non-native species

If:

- (a) the actions specified under paragraph 270(2)(c) in a recovery plan, or under paragraph 271(2)(c) in a threat abatement plan, include the eradication of a non-native species; and
- (b) the species is threatened in a country in which its native habitat occurs;

the recovery plan, or threat abatement plan, must require the Commonwealth to offer to provide stock of the species to that country before the eradication proceeds.

273 Ensuring plans are in force

When a plan comes into force

- (1A) A recovery plan or a threat abatement plan comes into force on the day on which it is made or adopted, or on a later day specified by the Minister in writing.

Deadline for recovery plan

- (1) Subject to subsection (2), a recovery plan for a listed threatened species or a listed threatened ecological community must be made

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and in force within 3 years of the decision under section 269AA to have the plan.

- (2) The Minister may, in writing, extend the period within which a recovery plan must be made. Only one extension can be granted for the making of the plan, and the period of the extension must not be more than 3 years.

Ensuring recovery plan is in force

- (3) Once the first recovery plan for a listed threatened species or a listed threatened ecological community is in force, the Minister must exercise his or her powers under this Subdivision to ensure that a recovery plan is in force for the species or community until the Minister decides under section 269AA not to have a recovery plan for the species or community.

Note: The Minister may revoke a recovery plan for a listed threatened species or a listed threatened ecological community if the Minister decides under section 269AA not to have a recovery plan for the species or community. See section 283A.

Deadline for threat abatement plan

- (4) A threat abatement plan for a key threatening process must be made and in force within 3 years of the decision under section 270A to have the plan.

Ensuring threat abatement plan is in force

- (5) Once the first threat abatement plan for a key threatening process is in force, the Minister must exercise his or her powers under this Subdivision to ensure that a threat abatement plan is in force for the process until the Minister decides under section 270A not to have a threat abatement plan for the process.

Note: The Minister may revoke a threat abatement plan for a key threatening process if the Minister decides under section 270A not to have a threat abatement plan for the process. See section 283A.

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274 Scientific Committee to advise on plans

- (1) The Minister must obtain and consider the advice of the Scientific Committee on:
 - (a) the content of recovery and threat abatement plans; and
 - (b) the times within which, and the order in which, such plans should be made.
- (2) In giving advice about a recovery plan, the Scientific Committee must take into account the following matters:
 - (a) the degree of threat to the survival in nature of the species or ecological community in question;
 - (b) the potential for the species or community to recover;
 - (c) the genetic distinctiveness of the species or community;
 - (d) the importance of the species or community to the ecosystem;
 - (e) the value to humanity of the species or community;
 - (f) the efficient and effective use of the resources allocated to the conservation of species and ecological communities.
- (3) In giving advice about a threat abatement plan, the Scientific Committee must take into account the following matters:
 - (a) the degree of threat that the key threatening process in question poses to the survival in nature of species and ecological communities;
 - (b) the potential of species and ecological communities so threatened to recover;
 - (c) the efficient and effective use of the resources allocated to the conservation of species and ecological communities.

275 Consultation on plans

- (1) Before making a recovery plan or threat abatement plan under this Subdivision, the Minister must:
 - (a) take reasonable steps to ensure that copies of the proposed plan are available for purchase, for a reasonable price, at

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- prescribed places in each State and self-governing territory;
and
- (b) give a copy of it, together with a notice of a kind referred to in subsection (2), to the Scientific Committee; and
 - (c) cause the notice to be published:
 - (i) in the *Gazette*; and
 - (ii) in a daily newspaper that circulates generally in each State, and self-governing Territory, in which the relevant listed threatened native species, listed threatened ecological community or key threatening process occurs; and
 - (iii) in any other way required by the regulations (if any).
- (2) The notice must:
- (a) specify the places where copies of the proposed plan may be purchased; and
 - (b) invite persons to make written comments about the proposed plan; and
 - (c) specify:
 - (i) an address for lodgment of comments; and
 - (ii) a day by which comments must be made.
- (3) The day specified must not be a day occurring within 3 months after the notice is published in the *Gazette*.

276 Consideration of comments

The Minister:

- (a) must, in accordance with the regulations (if any), consider all comments on a proposed recovery plan or threat abatement plan made in response to an invitation under section 275; and
- (b) may revise the plan to take account of those comments.

277 Adoption of State plans

- (1) The Minister must not adopt a plan as a recovery plan or a threat abatement plan under this Subdivision unless:

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- (a) the Minister is satisfied that an appropriate level of consultation has been undertaken in making the plan; and
 - (b) the plan meets the requirements of section 270 or 271, as the case requires.
- (2) Before adopting a plan, the Minister must obtain and consider advice from the Scientific Committee on the content of the plan.

278 Publication of plans

- (1) As soon as practicable after the Minister makes or adopts a recovery plan or a threat abatement plan under this Subdivision, the Minister must:
 - (a) make copies of the plan available for purchase, for a reasonable price, at a prescribed place in each State and self-governing Territory; and
 - (b) give notice of the making or adopting of each such plan; and
 - (c) publish the notice:
 - (i) in the *Gazette*; and
 - (ii) in a daily newspaper that circulates generally in each State, and self-governing Territory; and
 - (iii) in any other way required by the regulations (if any).
- (2) The notice must:
 - (a) state that the Minister has made or adopted the plan; and
 - (b) specify the day on which the plan comes into force; and
 - (c) specify the places where copies of the plan may be purchased.

279 Variation of plans by the Minister

- (1) The Minister may, at any time, review a recovery plan or threat abatement plan that has been made or adopted under this Subdivision and consider whether a variation of it is necessary.
- (2) Each plan must be reviewed by the Minister at intervals of not longer than 5 years.

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- (3) If the Minister considers that a variation of a plan is necessary, the Minister may, subject to subsections (4), (5), (6) and (7), vary the plan.
- (4) The Minister must not vary a plan, unless the plan, as so varied, continues to meet the requirements of section 270 or 271, as the case requires.
- (5) Before varying a plan, the Minister must obtain and consider advice from the Scientific Committee on the content of the variation.
- (6) If the Minister has made a plan jointly with, or adopted a plan that has been made by, a State or self-governing Territory, or an agency of a State or self-governing Territory, the Minister must seek the co-operation of that State or Territory, or that agency, with a view to varying the plan.
- (7) Sections 275, 276 and 278 apply to the variation of a plan in the same way that those sections apply to the making of a recovery plan or threat abatement plan.

280 Variation by a State or Territory of joint plans and plans adopted by the Minister

- (1) If a State or self-governing Territory varies a plan that:
 - (a) the Minister has made jointly with the State or self-governing Territory, or an agency of the State or Territory; or
 - (b) has been adopted by the Minister as a recovery plan or a threat abatement plan;the variation is of no effect for the purposes of this Act unless it is approved by the Minister.
- (2) Before approving a variation, the Minister must obtain and consider advice from the Scientific Committee on the content of the variation.
- (3) The Minister must not approve a variation unless satisfied that:

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- (a) an appropriate level of consultation was undertaken in varying the plan; and
 - (b) the plan, as so varied, continues to meet the requirements of section 270 or 271, as the case requires.
- (4) If the Minister approves a variation of a plan, the plan has effect as so varied on and after the date of the approval, or such later date as the Minister determines in writing.
- (5) Section 278 applies to the variation of a plan in the same way that it applies to the making of a recovery plan or threat abatement plan.

281 Commonwealth assistance

- (1) The Commonwealth may give to a State or self-governing Territory, or to an agency of a State or a self-governing Territory, financial assistance, and any other assistance, to make or implement a recovery plan or a threat abatement plan.
- (2) The Commonwealth may give to a person (other than a State or a self-governing Territory, or an agency of a State or Territory) financial assistance, and any other assistance, to implement a recovery plan or a threat abatement plan.
- (3) The giving of assistance may be made subject to such conditions as the Minister thinks fit. The Minister is to have regard to the advice of the Scientific Committee under section 282 before determining those conditions.

282 Scientific Committee to advise on assistance

- (1) The Scientific Committee is to advise the Minister on the conditions (if any) to which the giving of assistance under section 281 should be subject.
- (2) In giving advice about assistance for making or implementing a recovery plan, the Scientific Committee must take into account the following matters:

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- (a) the degree of threat to the survival in nature of the species or ecological community in question;
 - (b) the potential for the species or community to recover;
 - (c) the genetic distinctiveness of the species or community;
 - (d) the importance of the species or community to the ecosystem;
 - (e) the value to humanity of the species or community;
 - (f) the efficient and effective use of the resources allocated to the conservation of species and ecological communities.
- (3) In giving advice about assistance for making or implementing a threat abatement plan, the Scientific Committee must take into account the following matters:
 - (a) the degree of threat that the key threatening process in question poses to the survival in nature of species and ecological communities;
 - (b) the potential of species and ecological communities so threatened to recover;
 - (c) the efficient and effective use of the resources allocated to the conservation of species and ecological communities.

283 Plans may cover more than one species etc.

- (1) A recovery plan made or adopted under this Subdivision may deal with one or more listed threatened species and/or one or more listed ecological communities.
- (2) A threat abatement plan made or adopted under this Subdivision may deal with one or more key threatening processes.

283A Revoking a plan

- (1) The Minister may, by legislative instrument:
 - (a) revoke a recovery plan for a listed threatened species or a listed threatened ecological community if the Minister decides under section 269AA not to have a recovery plan for the species or community; or

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- (b) revoke a threat abatement plan for a key threatening process if the Minister decides under section 270A not to have a threat abatement plan for the process.
- (2) The Minister must publish in accordance with the regulations (if any):
 - (a) the instrument revoking the plan; and
 - (b) the Minister's reasons for revoking the plan.

284 Reports on preparation and implementation of plans

The Secretary must include in each annual report a report on the making and adoption under this Subdivision of each recovery plan and threat abatement plan during the year to which the report relates.

Subdivision B—Wildlife conservation plans

285 Wildlife conservation plans

- (1) Subject to this section, the Minister may make, by instrument in writing, and implement a wildlife conservation plan for the purposes of the protection, conservation and management of the following:
 - (a) a listed migratory species that occurs in Australia or an external Territory;
 - (b) a listed marine species that occurs in Australia or an external Territory;
 - (c) a species of cetacean that occurs in the Australian Whale Sanctuary;
 - (d) a conservation dependent species.
- (2) The Minister must not make a wildlife conservation plan for a species that is a listed threatened species (except a conservation dependent species).
- (3) Subject to section 292, the Minister may, by instrument in writing, adopt a plan that has been made by a State or a self-governing

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Territory, or by an agency of a State or self-governing Territory, as a wildlife conservation plan. The Minister may adopt a plan with such modifications as are specified in the instrument.

- (4) A plan, as modified and adopted under subsection (2), has effect as if the plan had been made by the Minister under subsection (1).
- (5) The Minister must seek the co-operation of the States and self-governing Territories in which:
 - (a) a listed migratory species occurs; or
 - (b) a listed marine species occurs; or
 - (c) a species of cetacean occurs; or
 - (d) a conservation dependent species occurs;with a view to making and implementing jointly with those States and Territories, or agencies of those States or Territories, a joint wildlife conservation plan unless the species occurs only in a Commonwealth area.
- (6) Before making a wildlife conservation plan under subsection (1) or (5), the Minister must:
 - (a) consider the advice of the Scientific Committee given under section 289; and
 - (b) consult about the plan in accordance with sections 290 and 291.
- (7) A wildlife conservation plan comes into force on the day on which it is made or adopted, or on such later day as the Minister specifies in writing.

286 Acting in accordance with wildlife conservation plans

A Commonwealth agency must take all reasonable steps to act in accordance with a wildlife conservation plan.

287 Content of wildlife conservation plans

- (1) A wildlife conservation plan must provide for the research and management actions necessary to support survival of the migratory

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species, marine species, species of cetacean or conservation dependent species concerned.

- (2) In particular, a wildlife conservation plan must:
- (a) state the objectives to be achieved; and
 - (b) state criteria against which achievement of the objectives is to be measured; and
 - (c) specify the actions needed to achieve the objectives; and
 - (d) identify the habitats of the species concerned and the actions needed to protect those habitats; and
 - (e) identify:
 - (i) interests that will be affected by the plan's implementation; and
 - (ii) organisations or persons who will be involved in evaluating the performance of the plan; and
 - (f) specify any major benefits to migratory species, marine species, species of cetacean or conservation dependent species (other than those to which the plan relates) that will be affected by the plan's implementation; and
 - (g) meet prescribed criteria (if any) and contain provisions of a prescribed kind (if any).
- (3) In making a wildlife conservation plan, regard must be had to:
- (a) the objects of this Act; and
 - (b) the most efficient and effective use of the resources that are allocated for the conservation of migratory species, marine species, species of cetacean and conservation dependent species; and
 - (c) minimising any significant adverse social and economic impacts, consistently with the principles of ecologically sustainable development; and
 - (d) meeting Australia's obligations under international agreements between Australia and one or more countries relevant to the migratory species, marine species, species of cetacean or conservation dependent species to which the plan relates; and