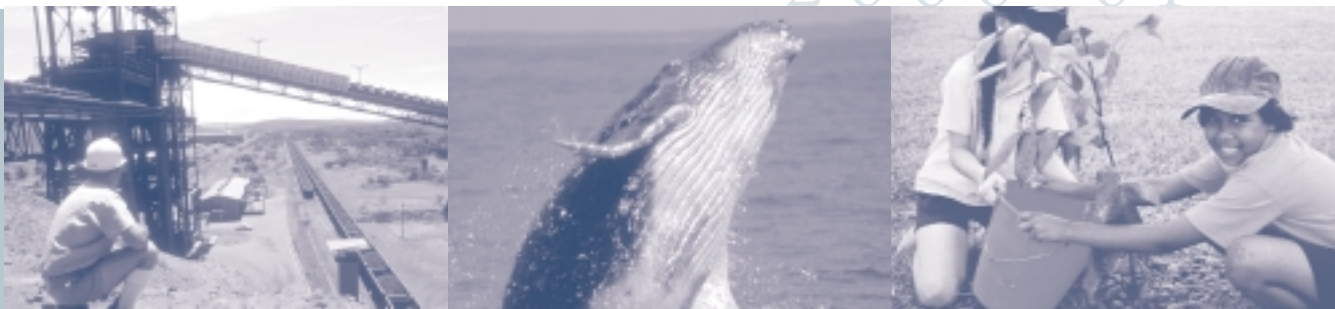




Department of the Environment and Heritage

REPORT ON THE OPERATION OF
THE ENVIRONMENT PROTECTION AND
BIODIVERSITY CONSERVATION ACT 1999

2000-01



[Covering the period 16 July 2000 to 30 June 2001]

December 2001

REPORT ON THE OPERATION OF
THE ENVIRONMENT PROTECTION AND
BIODIVERSITY CONSERVATION ACT 1999

2000-01



[Covering the period 16 July 2000 to 30 June 2001]

December 2001

© Commonwealth of Australia 2001

This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Commonwealth, available from Environment Australia. Requests and inquiries concerning reproduction and rights should be addressed to:

Assistant Secretary
Policy and Compliance Branch
Environment Australia
GPO Box 787
Canberra ACT 2601

ISBN 0 642 54770 X

Cover photographs:
Ore train, Department of Foreign Affairs and Trade
Humpback whale, Environment Australia
Children planting, Treat Group

Printed on recycled paper by CanPrint.
Designed by Fusebox Design.



Office of the Secretary

The Hon Dr David Kemp MP
Minister for the Environment and Heritage
Parliament House
CANBERRA ACT 2600

Dear Minister

In accordance with Section 516 of the *Environment Protection and Biodiversity Conservation Act 1999*, I present the first Annual Report on the operation of the Act. This report covers the period from introduction of the Act on 16 July 2000 up to 30 June 2001. In accordance with Section 516, the report does not include matters dealt with by the Annual Report of the Director of National Parks, namely Divisions 4 and 5 of Part 15 and Division 5 of Part 19 of the Act.

The past year has been one of significant achievement – the transition from the previous range of environmental legislation to the Act has been relatively smooth, processes in the Department to administer the Act are operating efficiently and effectively, and stakeholders have viewed positively the early implementation of the Act. I would like to acknowledge the significant commitment and hard work of staff in this Department in helping to achieve this outcome.

The first year of implementation has established a sound basis for meeting the objects of the Act over the coming years.

This report also includes a statement made under Section 518(2)(a) of the Act on non-compliance with time limits.

Yours sincerely

Roger Beale
Secretary

96 December 2001

CONTENTS

Letter of transmittal	iii
Overview	vi
Introduction	1
1. Protecting the environment	3
1.1 Focusing on matters of national environmental significance	3
1.2 Protecting the environment where proposals involve the Commonwealth	6
1.3 Increasing intergovernmental cooperation and reducing duplication	7
1.4 Providing a more efficient, timely and effective assessment and approval process with greater certainty	8
1.5 Increasing transparency and public awareness	13
2. Conserving biodiversity	17
2.1 Protecting species and communities	17
2.2 Protecting significant areas	19
3. Monitoring and compliance	23
4. Ongoing and future developments	24
Appendices	
1. Statistics on the operation of the Act 16 July 2000 to 30 June 2001	27
2. Publications	34
3. Functions and membership of advisory committees established under the Act	35
4. Compliance with timeframes in the Act	38
Figures	
1. Number of matters of national environmental significance triggered per controlled action	3
2. Matters of national environmental significance triggered by controlled actions	4
3. Referral for approval process stream	8
4. Assessment approach decisions	11
Tables	
1. Referrals received and Ministerial decisions made on whether an action needs approval	27
2. Referrals received and Ministerial decisions made by jurisdiction	27
3. Referrals received and Ministerial decisions made by activity category	28
4. Number of times each controlling provision was triggered	29
5. Number of controlling provisions triggered in each controlled action	29
6. Decisions made on assessment approach	30
7. Status of controlled actions as of 30 June 2001	30
8. Advice provided under Section 160	31
9. Processing of nominations and changes to lists – threatened species and communities and key threatening processes	32
10. Cetacean permits	32
11. Referrals received and Ministerial decisions made on whether an action needs approval for each World Heritage property	33
12. Membership of the Threatened Species Scientific Committee	35
13. Membership of the Biological Diversity Advisory Committee	36
14. Membership of the Indigenous Advisory Committee	37
15. Things not done within the period required by the act or regulations	38

OVERVIEW

The *Environment Protection and Biodiversity Conservation Act 1999* commenced on 16 July 2000 and, since that date, has been delivering important benefits for the Australian community. The Act delivers a much more effective national framework for environmental protection and conservation of biodiversity than the previous regime which was triggered in an ad hoc fashion by factors not necessarily directly related to the environment.

Benefits of the Act were demonstrated during the year in a variety of ways. The Act provided greater certainty in relation to Commonwealth involvement in environmental matters, an enhanced capacity for cooperation with the States and Territories through accredited processes and the introduction of strict timeframes within which government decisions must be made. The Act also provided increased protection for Australia's rich and unique biodiversity and our important conservation areas.

Through the Act's focus on protecting matters of national environmental significance the Commonwealth is now responsible for decision-making in relation to development proposals of truly national significance. Under the previous arrangements the Commonwealth was often not involved in decision-making for development proposals of national environmental significance or, conversely, found itself involved in the assessment of projects which raised environmental issues of only State or local importance.

During 2000–01, 294 proposed actions were referred under the Act. Of these, 73 were determined to be 'controlled actions', that is, actions that required assessment and approval under the Act. The vast majority of the proposed actions examined in 2000–01 would have proceeded without Commonwealth scrutiny under the previous Commonwealth regime.

Since coming into force, the Act has provided a more integrated framework for the conservation of Australia's biodiversity. It has enabled the Department to build on the gains made under previous legislation in conserving species and communities, identifying and managing Australia's protected areas, and protecting whales and cetaceans. In addition, the Act provides greater protection for species and communities in Commonwealth areas and facilitates world best practice management of Commonwealth reserves.

The Department committed considerable resources to implementing the new legislation including through the development of administrative systems and training and information programs. Work continues on improving the processes under the Act. Negotiations are well advanced with the States and Territories to finalise agreements for the assessment of proposals under the Act.

As part of the further development of the Act, in June 2001 Parliament passed amendments dealing with the control of wildlife trade. Other measures to protect heritage and manage access to biological resources in Commonwealth areas were also being considered at the end of this reporting period.

INTRODUCTION

This is the first report on the operation of the *Environment Protection and Biodiversity Conservation Act 1999* describing its operation from when it came into force on 16 July 2000 to 30 June 2001.

The Act represents the most fundamental reform of Commonwealth environment laws since the first environment statutes were enacted in the early 1970s. The Act focuses Commonwealth interests on matters of national environmental significance. It also enables the Commonwealth to join with the States and Territories in providing a truly national scheme of environmental protection and biodiversity conservation. The Act does this by providing for Commonwealth leadership on the environment, while recognising and respecting the responsibility of the States and Territories for delivering on-ground resource management.

The objectives of the Act are:

- (a) to provide for the protection of the environment, especially those aspects of the environment that are matters of national environmental significance; and
- (b) to promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources; and
- (c) to promote the conservation of biodiversity; and
- (d) to promote a cooperative approach to the protection and management of the environment involving governments, the community, land-holders and indigenous peoples; and
- (e) to assist in the cooperative implementation of Australia's international environmental responsibilities; and
- (f) to recognise the role of indigenous people in the conservation and ecologically sustainable use of Australia's biodiversity; and
- (g) to promote the use of indigenous peoples' knowledge of biodiversity with the involvement of, and in cooperation with, the owners of the knowledge.

This report examines the operation of the Act against key priorities in implementing the Act in its first year. The key priorities are:

- ensuring a clear role for the Commonwealth in protecting matters of national environmental significance (addressed in Part 1.1 of this report);
- providing more effective protection of the environment in proposals involving the Commonwealth (addressed in Part 1.2);
- increasing intergovernmental cooperation and reducing duplication (addressed in Part 1.3);
- providing a more efficient, timely and effective assessment and approval process with greater certainty (addressed in Part 1.4);
- increasing transparency and public involvement (addressed in Part 1.5);
- taking an integrated approach to conserving biodiversity (addressed in Part 2); and
- developing an improved monitoring and compliance regime (addressed in Part 3).

Statistics on the operation of the Act are in Appendix 1.

The report also notes progress that has been made in addressing indigenous issues through the Act. The involvement of indigenous peoples in the management of Commonwealth reserves is dealt with separately in the report of the Director of National Parks and in the Departmental annual report. Actions that have been taken include:

- The Indigenous Advisory Committee was established and met three times.
- Regulations, taking into account issues important to indigenous communities, were drafted to control access and utilisation of biological resources in Commonwealth areas.
- The particular communication needs of indigenous people affected by a proposal are taken into account in the assessment and approvals process and are recognised in a bilateral agreement signed with Tasmania.
- Work commenced on a model conservation agreement that could be used to provide support to indigenous landowners willing to make a long-term commitment to biodiversity conservation.
- As part of the Environment Australia Reconciliation Action Plan, staff involved in assessment and approval of actions under Chapter 4 of the Act were trained in cross-cultural awareness.

1. PROTECTING THE ENVIRONMENT

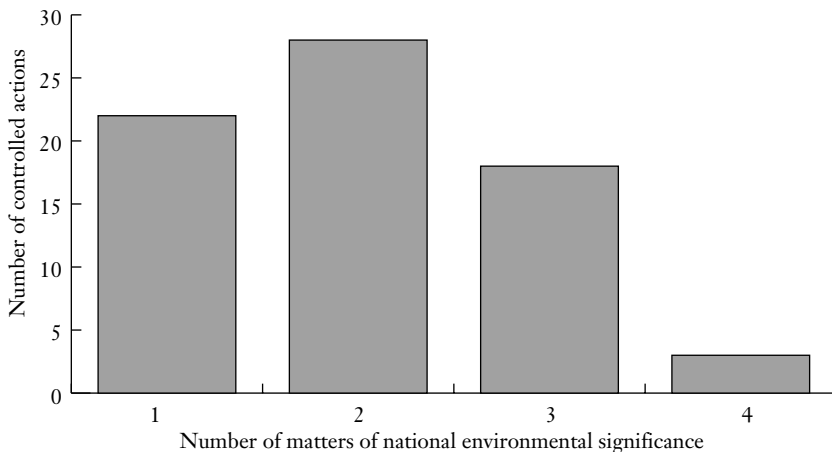
1.1 Focusing on matters of national environmental significance

During its first year of operation, the Act has enabled the Commonwealth for the first time to provide comprehensive protection for matters of national environmental significance. A total of 294 actions¹ were referred to the Commonwealth between 16 July 2000 and 30 June 2001 for decision on whether the action would have, or was likely to have, a significant impact on a matter protected under the Act. The Minister decided that 71² of these actions were controlled actions, because of their potential impact on a matter of national environmental significance and therefore requiring environmental assessment and approval under the Act.

Sixty-nine per cent of controlled actions triggered more than one matter of national environmental significance, while thirty per cent triggered more than two (see Figure 1). Under the previous legislation, most of these proposals would have proceeded without Commonwealth environmental assessment or approval.

As of 30 June 2001, the Department estimates that approximately two-thirds of all referrals for approval that the Minister has decided are controlled actions under the Act would not have been assessed by the Commonwealth under previous legislation. This shows that the Act has significantly increased the ability of the Commonwealth to protect matters of national environmental significance. Significant actions that have been determined to be controlled actions include the Naturelink Gold Coast Cableway in Queensland (Naturelink Limited),

Figure 1: Number of matters of national environmental significance triggered per controlled action



¹ The meaning of action under Section 523 of the Act includes a project, a development, an undertaking, an activity or series of activities or an alteration to any of these. Decisions and governmental authorisations are not considered to be actions requiring referral (refer to Section 524 of the Act).

² Two additional actions required approval solely under Division 2 of Part 3 of the Act (see 1.2 of this report). Consequently, 73 actions in total required approval under the Act.

irrigated cotton development expansion at Pillicawarrina, Macquarie Marshes, in New South Wales (Waterman Agriculture Pty Ltd) and the Mauds Landing Marina in Western Australia (Coral Coast Marine Developments Pty Ltd). It is unlikely that any of these proposals would have been referred to the Department under previous legislation.

The operation of the Act has also resulted in the Commonwealth no longer being involved in the environmental assessment of projects of only local or State/Territory environmental importance. Commonwealth assessments are no longer triggered simply because of a related Commonwealth approval or funding decision, as was the case with the former environment assessment legislation. This allows the Commonwealth to more appropriately focus its resources on matters of national environmental significance.

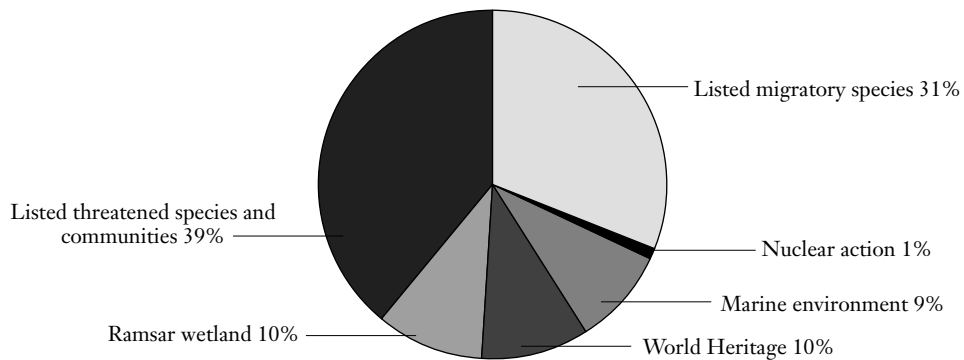
The matters of national environmental significance identified in the Act as possible controlling provisions are: the world heritage values of declared World Heritage properties, the ecological character of declared Ramsar³ wetlands; listed threatened species and ecological communities; listed migratory species; the Commonwealth marine environment; and nuclear actions that have, will have or are likely to have a significant impact on the environment. As shown in Figure 2, 'listed threatened species and communities' is the matter of national environmental significance triggered most often in controlled actions (54 times) followed by 'listed migratory species' (45 times).

The following summarises the significant issues that have arisen with referral of actions in relation to each of the matters of national environmental significance.

World Heritage

Following initial screening, 55 actions were further scrutinised by the Department to determine whether they were likely to have a significant impact on the world heritage values of a World Heritage property. Almost half these referrals came from the tourism, recreation and conservation management and the mining activity categories. The largest proportion of referrals received related to the Great Barrier Reef World Heritage Area (55 per cent). Two referrals were considered jointly in relation to the Great Barrier Reef and the adjacent Wet Tropics of Queensland World Heritage Area.

Figure 2: Matters of national environmental significance triggered by controlled actions



³ A Ramsar wetland is a wetland, or part of a wetland, designated by the Commonwealth under Article 2 of the Convention on Wetlands (Ramsar, Iran 1971) for inclusion in the List of Wetlands of International Importance.

It was decided that 15 actions were controlled actions. Of these, ten related to the Great Barrier Reef World Heritage Area, while two affected the Wet Tropics of Queensland World Heritage Area. The Central Eastern Rainforest Reserves, Uluru–Kata Tjuta National Park, and Willandra Lakes all triggered one controlled action each. Further details are provided in Appendix 1. One controlled action, Dalrymple Bay Coal Terminal Expansion (Ports Corporation of Queensland) in Queensland, has been approved.

Wetlands of international importance

Following initial screening, 66 actions were further scrutinised by the Department to determine whether they were likely to have a significant impact on the ecological character of a Ramsar wetland. It was decided that 15 actions were controlled actions. Two of these controlled actions have been approved. Key issues considered were:

- physical and/or noise disturbance to native species dependent on the wetland;
- physico-chemical impacts, mainly relating to nutrients, sediments, salinity, turbidity and toxins; and
- hydrological impacts, mainly relating to volumes, timing and duration of flows.

Listed threatened species and communities

Following initial screening, 287 actions were further scrutinised by the Department to determine whether they were likely to have a significant impact on a listed threatened species and/or community. It was decided that 54 actions were controlled actions. Four controlled actions have been approved.

The most commonly affected terrestrial species were the false water rat, orange bellied parrot, mountain pigmy possum and the western whipbird. Cumberland Plains Woodland was the ecological community most commonly affected. The types of proposals that most often triggered the Act were housing developments in the Sydney region, infrastructure in rural areas, tourism developments on the coast and in the alps, aquaculture projects and mining. Usually the impacts were associated with clearing, fragmenting or otherwise disturbing habitat.

Listed migratory species

Following initial screening, 284 actions were further scrutinised by the Department to determine whether they were likely to have a significant impact on listed migratory species. It was decided that 45 actions were controlled actions. Five of these controlled actions have been approved. Key issues considered were:

- impacts of noise/physical disturbance, e.g. from urban, industrial and aquaculture developments;
- impacts of coastal developments, e.g. effects of lighting on turtles, interference with nesting habitats, discharge from acid sulfate soils;
- impacts on lifecycle, e.g. bioaccumulation of contaminants such as nutrients and chemicals from coastal developments;
- modification of habitat such as seagrass meadows, e.g. through changes to water quality and habitat loss through reclamation;

1. Protecting the environment

- impacts of airports and windfarms on important habitat and flight paths of listed migratory waterbirds; and
- impacts of oil and gas exploration and mining on migratory cetaceans (whales and dolphins).

Protection of the environment from nuclear actions

Following initial screening, three actions were further scrutinised by the Department to determine whether they were nuclear actions that were likely to have a significant impact on the environment. It was decided that two were controlled actions: Steritech Gamma Sterilisation and Decontamination Plant (Steritech Pty Ltd) in Queensland, and the National Low Level Radioactive Waste Repository (Commonwealth Department of Industry, Science and Resources), South Australia. Both are currently being assessed, the first through preliminary documentation and the second through an environmental impact statement.

Marine environment

Following initial screening, 60 actions were further scrutinised by the Department to determine whether they were likely to affect the marine environment. It was decided that 13 were controlled actions. Over half these actions relate to oil and gas mining and exploration. Three actions have been approved. These were a 2-D seismic survey at Scott Reef (BHP Petroleum Pty Ltd), the Vincent Appraisal Well (Woodside Energy Ltd), and the Echo-Yodel Production Wells (Woodside Energy Ltd).

Key issues considered were:

- impact of petroleum developments on marine biodiversity, e.g. through the laying of pipelines and installation of infrastructure;
- modification of Commonwealth marine habitat, e.g. alteration to habitat through petroleum exploration and development, dumping of dredge material;
- impacts of oil and gas developments on migratory cetaceans (whales and dolphins);
- impact on cetaceans from oil and gas seismic surveying and drilling; and
- potential impacts of oil and gas developments on water quality.

Further statistics concerning matters of national environmental significance are in Appendix 1.

1.2 Protecting the environment where proposals involve the Commonwealth

Actions on Commonwealth land and Commonwealth actions

The Act increases protection of the environment from environmentally significant actions on, or affecting, Commonwealth land, and environmentally significant Commonwealth actions. Here again, the Act focuses on actions such as development proposals rather than approval and funding decisions, as was the case with the former environment assessment legislation.

Following initial screening, 16 actions were further scrutinised by the Department to determine whether they were likely to trigger the controlling provision in the Act relating to Commonwealth land. It was decided that seven were controlled actions. One of these, Rutile and

Zircon mining on Stockton Rifle Range (Mineral Deposits (Operations) Pty Ltd) in New South Wales, has been approved. This action and one other (275kV and 132 kV transmission line from Ross Substation to Townsville South Substation (Powerlink Queensland) in Queensland) did not trigger the provisions in the Act relating to matters of national environmental significance, whereas the other five controlled actions also triggered at least one matter, and are consequently included in the count of 71 controlled actions referred to in Part 1.1 of this report. This means that 73 controlled actions in total were decided in the reporting period.

Twenty-one actions by the Commonwealth or a Commonwealth agency were referred to the Department. Only one action triggered the Act. This action is the proposal by the Department of Industry, Science and Resources for a National Low Level Radioactive Waste Repository in central-north South Australia, which was undergoing assessment through an environmental impact statement as of 30 June 2001.

Advice on authorising actions

Section 160 of the Act requires Commonwealth agencies or employees of the Commonwealth, before authorising certain actions, to obtain and consider advice from the Minister, where those actions are likely to have a significant impact on the environment. These actions include foreign aid projects, managing aircraft operations in airspace, adopting or implementing airport development plans and other actions prescribed in the Regulations. During 2000–01, three projects were referred to the Minister under Section 160. Environmental assessments were completed for two of those actions and advice was provided to the relevant Commonwealth agency.

A summary of the status of actions referred to the Minister for advice under section 160 is in Appendix 1. The projects included the Melbourne Airport Terminal Expansion Major Development Plan (Australia Pacific Airports (Melbourne) Pty Ltd), the extension of the Common User Terminal at Coolangatta Airport (Gold Coast Airport Limited), and a South Pacific overseas aid project (AusAID).

1.3 Increasing intergovernmental cooperation and reducing duplication

A key thrust of the early implementation of the Act was the development of bilateral agreements with State and Territory Governments. Bilateral agreements delegate to the States and Territories the responsibility for conducting environmental assessments and, in limited circumstances, the responsibility for deciding whether to grant approval. The focus to date has been on assessment bilateral agreements, which will accredit State and Territory environmental assessment processes and promote best practice assessment.

The first bilateral agreement to be signed under the Act was between the Commonwealth and Tasmanian Governments. The agreement accredits two of Tasmania's environmental impact assessment processes – assessment under the *State Policies and Projects Act 1993* and under the *Environmental Management and Pollution Control Act 1994*. Two proposals by Duke Energy International (Tasmania Holdings) Pty Ltd for the Tasmania Natural Gas Project, Stages 2 and 3 were being assessed under this bilateral agreement as of 30 June 2001.

Bilateral assessment agreements are also being developed with all other States and Territories, except South Australia which has indicated that it does not wish to enter into a bilateral agreement at this stage. Substantial progress was made during 2000–01 in negotiating the

agreements, most of which are expected to be finalised before the end of 2001. In the meantime, the Commonwealth is able to minimise duplication of processes through case-by-case accreditation of State and Territory assessment processes where they meet the requirements of the Commonwealth. Seven controlled actions, including a wind farm in south-west Victoria (Pacific Hydro Ltd), the Mt Gibson Iron Ore Pellet Project in Western Australia (Asia Iron Pty Ltd), and the Twelve Mile Mineral Sand Mine in New South Wales (Murray Basin Titanium Pty Ltd), were being assessed in this way as of 30 June 2001.

Duplication with State/Territory processes was further reduced, where proposals had already been through an environmental impact assessment process in that State or Territory, by using the outputs from that assessment as preliminary documentation under Division 4 of Part 8 of the Act, provided they were sufficient to allow the Minister to make an informed decision on whether to approve the taking of an action. This approach expedited the Commonwealth approval process while still ensuring that the matters protected under the Act were adequately assessed.

1.4 Providing a more efficient, timely and effective assessment and approval process with greater certainty

The Department has put in place administrative arrangements to ensure timely and efficient processing of referrals, assessments and approvals. These are being refined as experience is gained with the operation of the Act. Many decisions are being made well within the maximum times provided for in the Act.

Figure 3: Referral for approval process stream

Process	Timing	Number of actions as of 30 June 2001
Referral screening	10 or 20 days	29 in process
Decision on assessment approach	20 days from when preliminary information provided by proponent	31 in process Preliminary information not yet received for 25 proposals
Assessment	Timing determined by proponent	25 in process In addition, 2 being assessed under bilateral agreement
Approval	30 or 40 days	5 in process 8 approved

A total of 294 actions were referred to the Commonwealth in 2000–01 for decision on whether approval was required under the Act. The Minister decided that 73 of these were controlled actions. Eight actions were approved during the year.

The status as of 30 June 2001 of all actions referred for approval is shown in Figure 3.

Further statistics on referral screening, assessment and approval are in Appendix 1.

Transitional arrangements

At the time the Act came into effect, there were 83 projects which had been designated under the *Environment Protection (Impact of Proposals) Act 1974* (EP(IP)) but which had yet to complete assessment. The *Environmental Reform (Consequential Provisions) Act 1999* made provision, under certain circumstances, for the EP(IP) assessment regime to continue for active projects.

Of the 83 active projects, 17 had reached the stage before the Act came into effect where either an environmental impact statement, a public environment report or an inquiry had been directed. Two Regional Forest Agreements were also being assessed under the EP(IP) Act.

The remaining 64 projects had not reached the stage where the assessment approach had been determined. These projects were eligible to continue with the EP(IP) assessment process only by agreement with the Minister. The Minister offered transitional agreements to all project proponents. While most proponents accepted the offer, several chose to transfer to the new regime. Others have not responded to the Minister's offer. Proponents who chose to remain in the EP(IP) process have until 16 July 2002 to complete assessment of their projects.

Screening of referred actions

Referrals have come from all jurisdictions in Australia with most coming from Queensland, New South Wales and Victoria. They have also come from a wide range of industry sectors, in particular the urban and commercial development, exploration (mineral, oil, gas), land transport, tourism, recreation and conservation management and energy generation and supply activity categories. Several aquaculture proposals were received towards the end of the financial year (ten received in total). There was a similar recent increase in the number of mining related referrals (36 received in total).

Eighty-two per cent of decisions on whether an action requires approval were made within the statutory timeframes of 20 business days from the referral being received, or 10 business days where the person proposing to take the action stated in the referral that they thought the action was a controlled action. Where the statutory timeframe was not met, this was due to the need to seek legal advice on issues related to the decision, and/or the need to seek further advice on complex or difficult proposals, and/or delays caused by travel or absence of decision makers. Late decisions were, on average, less than three business days late. This quick response contributed to streamlined business decision making.

The 20-day period includes a 10-day opportunity for public comment. This has been facilitated by publishing referrals for comment on the internet. Comments were received on 50 referrals.

Sub-section 77(4) of the Act allows a person taking an action that the Minister has decided is a controlled action to request reasons for the decision. Eleven such requests were handled during 2000–01. The timeframe for meeting these requests was often not met, due, in some cases, to the need to seek legal advice, and the need to meet other statutory timeframes associated with referrals. Systems are being reviewed within the Department to improve performance in this regard.

The Minister decided for 27 actions that no approval was necessary because the person responsible indicated that the action would be undertaken in a particular manner that would ensure there was no adverse impact on a matter protected by the Act. This decision was in accordance with Sub-section 77(3) of the Act. An example is where the timing of actions such as seismic exploration for oil and gas takes into account whale migration and calving considerations. Projects not requiring approval because they would be undertaken in a particular manner included the Thylacine A Petroleum Exploration Well in Commonwealth waters (Woodside Energy Ltd); Aquaculture Facility, Queensland (Bluefin Seafoods Pty Ltd); Echo Point Walking Track Upgrade, Three Sisters, Katoomba, New South Wales (National Parks and Wildlife Service); and Bruthen – Nowa, Nowa Road Realignment, Victoria (VicRoads).

The Minister also exempted two actions from Part 3 and Chapter 4 of the Act under Section 158. The statutory timeframe for deciding on one of these exemptions was exceeded by five business days as the Minister was not available.

The Department has provided referral forms and decision support tools via the internet to assist proponents in deciding whether their action may need to be referred. These tools include an online interview, administrative guidelines on significance and an interactive map with information on matters protected by the Act. The tools also assist people wishing to comment on referrals. The online interview and interactive map had an average public access rate of over 4600 per month while the online referral form had an average public access rate of over 150 per month. Further development of these tools, supporting data and information will improve the delivery of online referral facilities in future.

Assessment of controlled actions

The Act provides a range of assessment approaches to ensure that environmental assessment reflects the nature of the activity, the adequacy of information already available, the degree of public interest and the nature and scale of the likely impacts.

Assessment on preliminary documentation is likely to be appropriate when:

- the number and complexity of relative impacts is low and locally confined; or
- the relevant impacts of the controlled action can be predicted with a high degree of confidence; or
- the relevant impacts have been or are being adequately assessed under Commonwealth or State legislation.

Assessment by public environment report is likely to be appropriate when:

- an assessment of the relevant impacts is expected to focus on a relatively small number of key issues; and
- an adequate assessment of these issues will require the collection of new information and/or further analysis of existing information.

Assessment by environmental impact statement is likely to be appropriate when:

- an assessment of the relevant impacts is expected to raise complex issues, or a large number of issues; and
- an adequate assessment of these issues will require the collection of new information and/or further analysis of existing information.

Assessment by public inquiry is likely to be appropriate when:

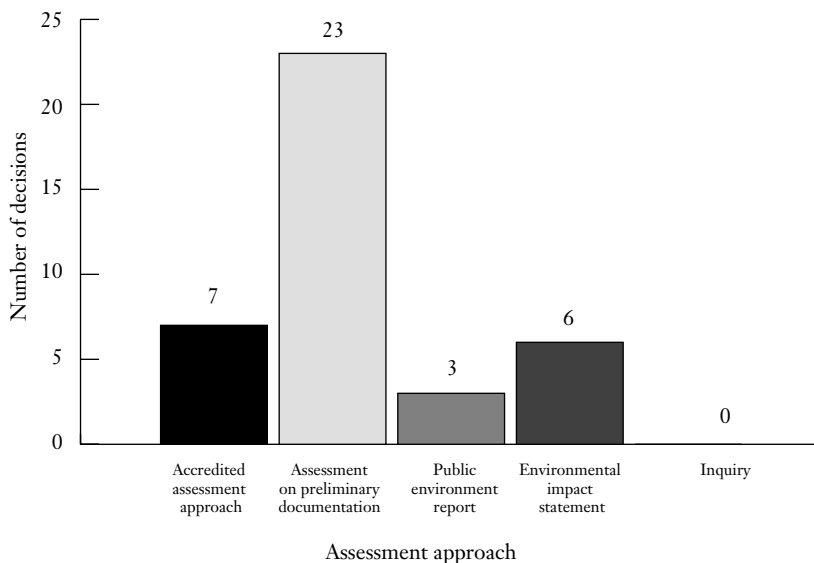
- the relevant impacts are likely to be relatively high; or
- the relevant impacts, or the management of those impacts, are outside the control of a single proponent; or
- a public inquiry is necessary or desirable to ensure effective and efficient public involvement in the assessment process.

Assessment by accredited process is where a State or Territory will manage the assessment, or the Commonwealth will do so under other legislation. This assessment approach allows case-by-case accreditation of State, Territory or Commonwealth assessment processes where bilateral agreements and declarations do not apply. The Commonwealth Environment Minister must be satisfied that certain standards will be met, that the process will ensure the relevant impacts of the action will be fully addressed and that he or she will receive an adequate report on those impacts.

Two of the 73 controlled actions are being assessed under a bilateral agreement. Of the remaining 71 controlled actions, by 30 June 2001 a decision on the assessment approach to be taken under Part 8 of the Act had been made for 39 actions (see Figure 4).

Assessment by accredited process was decided upon for seven projects including the Pacific Hydro Windfarm, Victoria, and the Aldoga Aluminium Smelter, Gladstone, Queensland. Projects assessed on preliminary documentation include the Steritech Gamma Sterilisation and Decontamination Plant, Narangba, Queensland, and the Stockton Rifle Range sand mining project, New South Wales. Three projects were being assessed by public environmental report while six were being assessed at the level of environmental impact statement. A full list of projects undergoing assessment through a public environment report or environmental impact statement is in Appendix 1.

Figure 4: Assessment approach decisions



While most actions were assessed on preliminary documentation, many had already been assessed at the level of an environmental impact statement or public environmental report through State or Territory processes. These documents were able to be used as preliminary documentation, allowing the Minister to make an informed decision without further Commonwealth process. Had these documents not been available, a higher level of Commonwealth assessment might have applied.

Eighty-two per cent of the 39 decisions on assessment approach were made within the statutory timeframes of 20 or 30 business days of deciding that the action is a controlled action, or after the proponent has provided preliminary information, whichever is the later. This rapid response by the Minister allows proponents to quickly commence the required assessment approach. Where the statutory timeframe was not met, this was due to the need to seek legal advice on issues related to the decision, and/or the need to seek further advice on complex or difficult proposals, and/or delays caused by travel movements or absence of decision makers.

Nine actions being assessed require the proponent to prepare a public environmental report or environmental impact statement. These major assessments represent a significant workload for the Department and the proponent. The Department estimates on past experience that preparation of these documents by the proponent may take six to nine months.

The Act requires the Minister to prepare written guidelines for the content of a public environmental report or environmental impact statement within a 20-day statutory timeframe. Six guidelines were prepared during 2000–01 and only one was outside the timeframe. In this case, two extensions of time were agreed between the proponent and the Department – the first, over the New Year period, at the Department's request; the second, at the proponent's request, to allow the proponent more time to consider the draft guidelines.

The Department completed 13 assessment reports following preparation of relevant documentation by the proponent. All but one of these reports was completed within the 20-day statutory timeframe. One report was one day late due to delays in receiving expert advice. This again demonstrates that proponents have been able to rely on a predictable and timely assessment and approval process under the Act.

Approval of controlled actions

Eight controlled actions were approved, and a further five were awaiting a decision on approval as of 30 June 2001. The low number of approvals is because of the short time for which the Act has been in operation. Approval has not been refused for any action. Actions approved included the Dalrymple Bay Coal Terminal Expansion Stages 6 and 7 (Ports Corporation of Queensland) in Queensland, Rutilite and Zircon Mining on Stockton Rifle Range (Mineral Deposits (Operations) Pty Ltd) in New South Wales, the Echo-Yodel Production Wells (Woodside Energy Limited) in Commonwealth marine waters, the Sorell Causeway Bridge (Department of Infrastructure, Energy and Resources) in Tasmania, and the Constructed Wetland in Macleod Morass (East Gippsland Region Water Authority) in Victoria.

Six approval decisions were made within the 30-day statutory timeframe. Prolonged consultation with proponents, undertaken to ensure conditions were achievable, resulted in two approval decisions being made outside the 30-day timeframe. These delays did not hinder either proponent in the implementation of their proposed action.

Seven of the eight approvals granted were conditional. The conditions attached to approvals were designed to safeguard the matters protected by Part 3 of the Act. Some examples of conditions are requirements to: use turtle exclusion devices during dredging; avoid activities at certain ecologically critical times; take specific measures to control turbidity; relocate populations of key species; and prepare detailed plans for the Minister's approval to reduce impacts of operations on various aspects of the environment.

The Minister must seek and take into account the views of other Commonwealth Ministers who have administrative responsibilities relevant to an action. This applied to five of the eight actions approved. Comments were received on each of the proposed decisions.

Section 130 of the Act provides that, in certain circumstances, the Minister may not decide whether to approve an action until a notice from the relevant State or Territory has been received. The notice must state that environmental impacts on matters not protected by the Act for the purposes of the action have been assessed to the greatest extent practicable, and how the impacts have been assessed. Such notices were required for four of the actions approved to 30 June 2001, and for four of the actions that were pending approval at that date.

Strategic assessment

On 17 November 2000 the Minister approved generic terms of reference for strategic assessment under the Act of Commonwealth managed fisheries.

On 31 May 2001 the Minister signed two agreements with the Australian Fisheries Management Authority to conduct strategic assessments under the Act for the Heard Island and McDonald Islands Fishery, and the Bass Strait Central Zone Scallops Fishery. The strategic assessments for the fisheries commenced with the release for public comment of the draft fishery-specific terms of reference.

No agreements under Section 146 of the Act were made for the strategic assessment of policies, plans or programs. In principle agreement was reached between the Minister for the Environment and Heritage and the Minister for Industry, Science and Resources to conduct a strategic assessment under Section 146 of the Act on oil and gas exploration activities in Commonwealth marine waters. The details of a formal agreement and terms of reference for the strategic assessment were being finalised as of 30 June 2001.

1.5 Increasing transparency and public awareness

Increasing stakeholder and public awareness

The Department has placed a high priority on increasing stakeholder and public awareness of the Act and has developed a world-class internet site – the 'EPBC Web Site' (<http://www.ea.gov.au/epbc/>). Internet use in Australia is increasing rapidly and this form of direct, transparent and timely communication and dissemination of information, as required for many operations under the Act, is being well received by stakeholders, non-government organisations and proponents.

The site provides a range of information products to meet the different needs of stakeholders. It also provides proponents with application forms.

The site also provides an interactive map and interview, to assist in determining whether actions should be referred under the Act. These online decision support tools received a Gold Award in the Fourteenth Government Technology Productivity Awards in March 2001 and an information technology industry award from MIS Magazine in the Innovative Technology category.

The notifications pages and online decision support tools were included in a compendium of good practice to promote innovative approaches in the use of electronic tools prepared by the Regional Environment Centre for Central and Eastern Europe.

Average monthly use of the EPBC Web Site was as follows: homepage accessed 5800 times; whole site accessed 39 000 times; 'EPBC Public Notifications' page accessed 1400 times.

An information kit on the Act is available via the EPBC Web Site and in hard copy from the Department's Community Information Unit. All publications on the Act are listed in Appendix 2.

The Department has focused on ensuring that key industries and organisations that may need to refer under the Act (or can affect the decisions of others to refer) are fully aware of their obligations. Priority was also given to ensuring State and Territory agencies understand the requirements of the Act. Forty-five presentations on the Act were given during 2000–01 to a combined audience of over 2100 people. Audiences included local government, State Government agencies, peak industry groups, professional associations, Commonwealth Government authorities, environmental lawyers, international visitors, and members of the public. More detailed workshops were held for environmental consultants and Commonwealth departments to explain the relevant parts of the Act.

The Department provided funding of \$60 000 to the World Wide Fund for Nature to enable it to provide information on the Act; promote the involvement of conservation organisations in the implementation of the Act; and produce printed material for conservation groups and others interested in the Act.

Enhancing community participation

The Act provides for community participation in:

- screening referrals to decide whether an action needs approval;
- the environmental impact assessment process;
- the development and operation of bilateral agreements; and
- the management of wildlife and protected areas.

The public notifications page on the EPBC Web Site is used for public comment, stakeholder involvement, and public awareness of key referral, assessment and approval decisions.

The Department also met notification and publication requirements under the Act and Regulations by publishing weekly notices in the Commonwealth Government Gazette. Statutory timeframes for publishing notices were met in nearly all cases – the small number of exceptions were due to technical problems, since rectified.

Draft bilateral agreements were advertised for public comment in newspapers and on the EPBC Web Site on 19 July 2000. Twenty-six public comments were received. In accordance with Section 45(4) of the Act, notice of the Minister's decision to enter into a bilateral agreement with Tasmania was published on 28 March 2001. A copy of the bilateral agreement, together with a statement of reasons and report on comments, were made available on the EPBC Web Site.

The screenshot shows the 'EPBC Public Notifications' page. At the top, there is a search bar with the text 'Use the publication title and search for to define what you want to see. (Max 255 characters)'. Below this is a table with the following columns: Reference No., Title of referral, Environment from EPBC Act, Date of notice, and Documents. The table contains several rows of data, including entries for 'New Table Top Coastal Survey, Tarnant Beach, Sydney', 'EPBC Referral for the Sydney Harbour Bridge and Sydney Harbour Tunnel', and 'Sydney Harbour Bridge and Sydney Harbour Tunnel'. Each row includes a reference number, a brief description of the referral, the relevant environment from the EPBC Act, the date of the notice, and links to documents.

Reference No.	Title of referral	Environment from EPBC Act	Date of notice	Documents
2000-09	New Table Top Coastal Survey, Tarnant Beach, Sydney	Environment from EPBC Act	04 Oct 2000	[Documents]
2000-07	EPBC Referral for the Sydney Harbour Bridge and Sydney Harbour Tunnel	Environment from EPBC Act	03 Oct 2000	[Documents]
2000-06	EPBC Referral for the Sydney Harbour Bridge and Sydney Harbour Tunnel	Environment from EPBC Act	02 Oct 2000	[Documents]
2000-04	EPBC Referral for the Sydney Harbour Bridge and Sydney Harbour Tunnel	Environment from EPBC Act	28 Sep 2000	[Documents]
2000-03	EPBC Referral for the Sydney Harbour Bridge and Sydney Harbour Tunnel	Environment from EPBC Act	01 Oct 2000	[Documents]
2000-02	EPBC Referral for the Sydney Harbour Bridge and Sydney Harbour Tunnel	Environment from EPBC Act	27 Sep 2000	[Documents]
2000-01	EPBC Referral for the Sydney Harbour Bridge and Sydney Harbour Tunnel	Environment from EPBC Act	02 Oct 2000	[Documents]
2000-02	EPBC Referral for the Sydney Harbour Bridge and Sydney Harbour Tunnel	Environment from EPBC Act	28 Sep 2000	[Documents]
2000-01	EPBC Referral for the Sydney Harbour Bridge and Sydney Harbour Tunnel	Environment from EPBC Act	04 Sep 2000	[Documents]
2000-01	EPBC Referral for the Sydney Harbour Bridge and Sydney Harbour Tunnel	Environment from EPBC Act	27 Sep 2000	[Documents]

The public notifications page on the EPBC Web Site

Consultation registers

Under Section 266A of the Act, a register was established to allow interested people or organisations to be consulted on permit applications relating to listed threatened species and communities, migratory species, whales and other cetaceans, and listed marine species. Sixty-seven people or organisations were registered at 30 June 2001.

The Threatened Species Scientific Committee has also established a register of interested parties. This is not a statutory requirement but an administrative mechanism developed to assist the committee. Interested parties are invited to provide comment on new nominations that require further expert opinion. The register was originally established under the *Endangered Species Protection Act 1992*. It was re-advertised following transition to the Act.

Advisory committees

The Act establishes three advisory committees – the Threatened Species Scientific Committee, Biological Diversity Advisory Committee and Indigenous Advisory Committee – to advise the Minister on matters regarding implementation of the Act. The functions and membership of these committees are outlined in Appendix 3. Section 511 of the Act makes provision for establishment of further advisory committees if necessary.

Threatened Species Scientific Committee

The committee advises the Minister on the amendment and updating of national lists for threatened species, threatened ecological communities, and key threatening processes, and on the making or adoption of recovery plans and threat abatement plans.

Transitional arrangements and the framework for operation of the Threatened Species Scientific Committee were established in February 2000. The committee was formally appointed on 16 July 2000, when the Act commenced, with committee members appointed for a term of three years.

The committee met five times during the year – on 22 August, 24 October, and 12–13 December 2000, 22 February and 19–20 April 2001. The work of the committee is detailed in Part 2.1 of this report.

Biological Diversity Advisory Committee

The committee advises the Minister on matters relating to the conservation and ecologically sustainable use of biological diversity. The Minister provided the terms of reference for the committee on 7 July 2000 and determined the membership on 1 September 2000.

The committee met on 11–12 October 2000, 22 February and 26 April 2001. Workshops were held on 30 October 2000 and 26–27 April 2001 to develop advice to the Minister. The committee advised the Minister on objectives and targets for biodiversity conservation, particularly as these could be applied to the second phase of the Natural Heritage Trust and to natural resource management initiatives under the National Action Plan for Salinity and Water Quality. The committee's advice made a significant contribution to the National Objectives and Targets for Biodiversity Conservation 2001–2005 which was adopted by the Commonwealth and the majority of the State and Territory Ministers in the Australian and New Zealand Environment and Conservation Council on 29 June 2001.

The committee finalised Biodiversity Conservation Research: Australia's Priorities, a report to the Australian and New Zealand Environment and Conservation Council. The council agreed on 15 December 2000 to the public release of the report, which was published in June 2001. The committee is considering ways to promote biodiversity conservation to local government and within the fishing and agriculture industries.

Indigenous Advisory Committee

The committee advises the Minister on the operation of the Act, taking into account the significance of Indigenous peoples' knowledge of the management of land and the conservation and sustainable use of biodiversity. The Indigenous Advisory Committee addresses only issues related to the Act.

The committee was established in July 2000 and first met in Canberra on 12–13 October 2000. The committee has since met on 1–2 March, in Perth, and on 14–15 June 2001, at Kakadu National Park.

Issues on the committee's agenda include:

- proposed regulations relating to access to biological resources in Commonwealth areas;
- amendments to the Act dealing with heritage sites;
- directions in ethnobiological research;
- bilateral agreements between the Commonwealth and State and Territory Governments concerning environmental impact assessment; and
- Indigenous involvement in the management of World Heritage properties.

2. CONSERVING BIODIVERSITY

The Act provides a substantially improved and integrated framework for the conservation of Australia's biodiversity. In addition to environment protection measures for matters of national environmental significance, the Act increases protection for species and communities in Commonwealth areas and for significant protected areas.

As provided for in Section 516 of the Act, the Director of National Parks will provide a separate annual report on Commonwealth reserve matters.

Information on referrals and approvals under Chapter 4 of the Act relating to threatened species and communities, migratory species, World Heritage properties and wetlands of international importance is in Part 1.1

2.1 Protecting species and communities

Threatened species and communities

In this area, the major focus of work since commencement of the Act has been the nomination and listing of threatened species and ecological communities and the making of recovery plans. This major task has proceeded smoothly and statutory timeframes specified in the Act have almost always been met.

Under the Act there were 66 nominations for threatened species, 16 nominations for threatened ecological communities and nine nominations for threatening processes during 2000–01. In addition, 21 nominations for threatened species, 40 nominations for threatened ecological communities and nine nominations for threatening processes were submitted under the former legislation and these required re-working before consideration under the Act.

The Threatened Species Scientific Committee advised the Minister on 23 species nominations, 26 ecological communities nominations and seven threatening process nominations. This resulted in 17 amendments to the list of threatened species (including two delistings), five amendments to the list of threatened ecological communities (including one delisting), and four amendments to the list of key threatening processes.

The committee provided its advice to the Minister within the timeframe specified in the Act. The Minister also met timeframe requirements in considering that advice and making decisions on amendments to lists, except on one occasion where he required further consultation with stakeholders. A table of nominations, advice and amendments is in Appendix 1.

Recovery plans and threat abatement plans are referred by the Department to the Threatened Species Scientific Committee for their consideration and advice to the Minister. During 2000–01, the committee considered 98 draft recovery plans for 158 species and one draft threat abatement plan. It advised the Minister on the adoption of 95 recovery plans and the advisability of developing threat abatement plans for five key threatening processes. Fifty-six recovery plans were adopted and it was decided to develop a threat abatement plan for one key threatening process.

The 55 adopted recovery plans for terrestrial species cover a range of animal and plant species including the Tasmanian burrowing crayfish, the eastern barred bandicoot, the flame spider flower, orange bellied parrot and the Frankston spider orchid.

For endangered or threatened species in the marine environment, one recovery plan is in place for the spotted handfish and draft recovery plans have been prepared for marine turtles (six species), grey nurse shark, white shark, southern right whales and blue whales.

The requirement under Section 273 of the Act to have a recovery plan in force for listed threatened species and listed threatened ecological communities that occur only in Commonwealth areas was not met in all cases due to resource constraints, the need to redraft recovery plans to be fully compliant with the Act, and the need to seek further information for some recovery plans. All other timeframes relating to listed threatened species and ecological communities were met.

Four applications for permits were received under Section 200 of the Act for taking of a listed threatened species or ecological community in a Commonwealth area. Two permits were granted, one for the translocation of colonies of endangered black-eared miners as part of the recovery plan, and the other for mowing a firebreak at the former Australian Defence Industries site at St Marys in Sydney. The remaining two permits were being considered as at 30 June 2001. No permits were suspended or cancelled under section 206 of the Act.

Financial assistance of approximately \$3.568 million was provided under Section 281 of the Act. This included assistance for developing and implementing recovery plans, comprising \$0.11 million to Commonwealth bodies, \$2.883 million to State/Territory Governments, \$0.155 million to local government and \$0.420 million to community groups.

A total of \$1.889 million was provided for developing threat abatement plans. This comprised \$0.579 million to Commonwealth agencies, \$0.886 million to State/Territory Governments and \$0.424 million to community groups.

The following priorities are anticipated over the coming year:

- Further work will be needed on the identification and management of threatened species, ecological communities and key threatening processes. For example, lists of threatened ecological communities from New South Wales, the Australian Capital Territory, Western Australia and Tasmania were gazetted on 1 November 2000. These will be reviewed under Section 185(2) of the Act for potential national listing. This will include seeking advice from the Threatened Species Scientific Committee.
- Regulations will be developed under the *Environment Protection and Biodiversity Conservation Amendment (Wildlife Protection) Act 2001* and stakeholders will be informed about the new Act.

Migratory species

The Act provides significantly improved protection and conservation for listed migratory species. A list of migratory species was established under Section 209 of the Act when it came into force on 16 July 2000. No amendments have since been made to the list. No permits relating to migratory species were issued under Section 216.

During 2001–02, work under the Act on migratory species will concentrate on:

- improving knowledge and understanding of migratory species' ecology and distribution through inventory and research;
- developing wildlife conservation plans for key migratory species; and
- support for cooperative regional action to facilitate the protection and conservation of species in the East Asian–Australasian Flyway.

Whales and other cetaceans

The Act establishes the Australian Whale Sanctuary covering Australia's exclusive economic zone. The sanctuary provides strict protection for all whales, dolphins and porpoises.

One permit was issued during 2000–01 under Sub-section 238(3)(a) of the Act (specified actions which will contribute significantly to the conservation of cetaceans) and three permits were issued under Sub-section 238(3)(b) (interference incidental to, and not the purpose of, the taking of the action). No permits have been issued under Sub-section 238(3)(c) (whale watching).

In all cases to date, assessment was made on preliminary documentation.

Listed marine species

A list of marine species under Section 248 was gazetted on 15 August 2000. There have been no amendments to the list.

Two permits were issued under Section 258(3)(a), both for sea snakes of various species. No permits have been issued under Section 258(3)(b).

During 2001–02, priority will be given to:

- reviewing marine species in accordance with Section 250 of the Act to determine whether additional species of conservation significance should be proposed for inclusion in the list; and
- ensuring that major Commonwealth and State fisheries have in place plans of management that can be accredited under Section 265 of the Act on the basis that they ensure that listed marine species are not killed or injured and that the species' conservation status is not adversely affected.

2.2 Protecting significant areas

World Heritage properties

The Act has enhanced the protection and management of Australia's World Heritage properties. Australia currently has 14 properties inscribed on the World Heritage List. All of these are automatically a matter of national environmental significance so receive the full protection of the Act.

The Greater Blue Mountains Area became Australia's 14th World Heritage property on 29 November 2000 when it was inscribed on the World Heritage List at the 24th Ordinary Session of the World Heritage Committee in Cairns, Australia. The nomination for listing was supported by the New South Wales Government. Notice of this addition was published in the Commonwealth Government Gazette as required under Section 315(e) of the Act.

Principles for the management of Australia's World Heritage properties were prescribed in the Environment Protection and Biodiversity Conservation Regulations, (Regulation 10.01, Schedule 5), as required by Section 323 of the Act. The Australian World Heritage management principles ensure the primary purpose of management of the natural and cultural heritage of a declared World Heritage property is in accordance with Australia's obligations under the World Heritage Convention. Under the management principles, at least one management plan should be prepared for each property, and the likely impacts of actions on the World Heritage values of a property should be assessed under a statutory environmental impact assessment and approval process.

The Act sets out a number of requirements relating to the preparation of management plans for World Heritage properties (Section 316). Analyses of existing management plans in relation to the World Heritage management principles have been completed for all properties. It is proposed that the management plans will be amended where necessary to achieve consistency with the World Heritage management principles and the World Heritage Convention. This work will be undertaken in cooperation with the relevant States.

Financial assistance is provided annually by the Commonwealth for the management of Australia's declared World Heritage properties located in the States. This assistance is provided to ensure Australia's obligations under the World Heritage Convention are met, and is consistent with Section 324 of the Act. Assistance provided to the States during 2000–01 included funding of \$7.6 million under the Natural Heritage Trust for all World Heritage properties, and a separate funding appropriation of \$5.2 million for the Tasmanian Wilderness World Heritage Area.

Separate funding appropriations administered by the Director of National Parks, the Great Barrier Reef Marine Park Authority, and the Australian Antarctic Division assist in meeting Australia's World Heritage obligations. These funding appropriations are also consistent with Section 324 of the Act.

Priorities for 2001–02 in implementing the World Heritage provisions in the Act include:

- development and implementation of management plans for declared World Heritage properties;
- development and provision of educational materials and training for World Heritage stakeholders, including property managers and State and local government officials; and
- strengthening Commonwealth–State collaborative arrangements to provide coordinated implementation of Commonwealth and State processes.

Wetlands of international importance

The Act is of great significance for wetlands, Australia being the first country in the world to enshrine its responsibilities under the Convention on Wetlands (Ramsar, Iran 1971) in legislation. The Act provides for the protection and management of Australia's wetlands of international importance.

On 5 January 2001 the Minister designated three new Ramsar wetlands in Western Australia (Muir Byenup, Lake Gore and Becher Point Wetlands) for inclusion in the Ramsar list and extended the boundaries of four existing Ramsar sites (Ord River Floodplain, Peel-Yalgorup, Lake Toolibin, and Vasse-Wonnerup) in Western Australia. Notice was provided in the Commonwealth Government Gazette on 7 February 2001. There are now a total of 56 Ramsar sites in Australia.

Management plans have been completed for 36 Ramsar sites (64 per cent), including all Commonwealth sites. Seventeen of these plans are being reviewed to address the Section 333 requirements in the Act relating to consistency with Australian Ramsar Management Principles. Seven Ramsar sites (13 per cent) have draft plans that are significantly progressed (past the public comment phase) and are scheduled for completion in 2001 to meet the new content and process standards of the principles. Thirteen Ramsar sites (23 per cent) do not have a management plan and are a particular focus in Commonwealth negotiations with States and Territories.

No direct assistance was provided under Section 336 of the Act for the protection and conservation of Ramsar wetlands on the basis that several projects were funded through the National Wetlands Program of the Natural Heritage Trust in 2000–01. The Commonwealth also provided in-kind policy advice and assistance to various Ramsar management planning processes through representation on steering committees established for Towra Point, Macquarie Marshes, the Gwydir wetlands and Victoria's Ramsar wetlands.

Priorities for implementing the provisions in the Act relating to wetlands of international importance in 2001–02 include:

- designation of additional Ramsar sites in Australia, particularly under-represented wetland types on the List of Wetlands of International Importance kept under the Ramsar Convention;
- completion and implementation of management plans for all Ramsar sites, which are consistent with the process and content standards established by the Australian Ramsar Management Principles;
- reviewing existing management plans for Ramsar sites, particularly plans prepared prior to 1996, to ensure consistency with the process and content standards established by the Australian Ramsar Management Principles; and
- improving descriptions of 'ecological character' of listed Ramsar sites, and ensuring appropriate monitoring regimes are in place to report on any change in ecological character.

Biosphere reserves

Sections 337 to 341 of the Act relate to biosphere reserves and provide for planning for management, Commonwealth activities, management principles and the basis for Commonwealth assistance for biosphere reserves.

Australia established 12 biosphere reserves between 1977 and 1982 in all States except Queensland. No further reserves have been declared since then. Eleven of Australia's twelve biosphere reserves are almost entirely protected areas, managed by government conservation agencies (ten by State authorities and one by the Commonwealth Government). The twelfth, Bookmark Biosphere Reserve, is a combination of tenures including Commonwealth, State and local government interests and private landholders. Two major property leases (Calperum and Taylorville Stations) are held by the Director of National Parks, and form part of the Bookmark Biosphere Reserve. Therefore most of Australia's biosphere reserves focus almost entirely on government conservation plans and priorities and are wholly dependent on direct government support.

During 2000–01, the Department consulted with other organisations about potential future biosphere reserve development and/or nominations on Mornington Peninsula in Victoria, the Shoalhaven Shire region in New South Wales and Kangaroo Island in South Australia.

Conservation agreements

Conservation agreements under the Act have potential application for conservation on private and Indigenous lands, especially where State or Territory regimes may not be appropriate. During 2000–01, work commenced on the preparation of a 'model' conservation agreement that will establish the basis for the Commonwealth to provide ongoing support for landholders willing to make long-term commitments to biodiversity conservation.

Identifying and monitoring biodiversity and making bioregional plans

Divisions 1 and 2 of Part 5 of the Act provide for the identification and monitoring of biodiversity on Commonwealth land and for making bioregional plans. Interim inventories were compiled for Commonwealth national parks and protected areas.

In 2001–02, inventories of listed threatened species, listed threatened ecological communities, listed migratory species and listed marine species on Commonwealth land are to be compiled for areas outside Commonwealth national parks and protected areas.

No direct assistance has been provided under Section 171 of the Act for identifying and monitoring components of biodiversity. Some assistance has, however, been provided by several projects funded through the National Wetlands Program of the Natural Heritage Trust in 2000–01.

3. MONITORING AND COMPLIANCE

During the Act's first year of operation, a mix of approaches designed to build a strong underlying compliance system has been used. In terms of protecting matters of national environmental significance, the Department initially focused on assisting people to meet the requirements of the Act through working cooperatively with people who may be considering undertaking actions.

An awareness and education campaign was undertaken during 2000–01 to inform community and industry of the operation of the Act and their potential obligations. These activities are detailed in Part 1.5 of this report.

Over 100 reports were received about activities that have the potential to contravene the Act. Approximately half of these reports required further examination. The reports were concerned overwhelmingly with listed threatened species, wetlands of national importance and listed migratory species. From a State perspective, the highest number of reports concerned activities in Queensland.

The approach taken to follow up reports has been successful in achieving referrals in many instances. Generally the follow-up action commences with a letter and information pack being provided to people who may be considering undertaking an action with the potential to impact on matters protected under the Act. A stronger response is made where the risks associated with the activity are high. In one case, a combination of correspondence and a site visit led to the referral of a major development.

Where there is resistance to refer activities that may have a significant impact on matters protected by the Act, the compliance response escalates. The Act includes considerably stronger provisions for dealing with breaches of the legislation than existed in previous Commonwealth environment legislation. These include civil penalties of up to \$550 000 for individuals and \$5.5 million for bodies corporate. Criminal penalties can include custodial sentences of up to seven years.

The regulatory framework of the Act fosters the participation of a broad range of individuals and organisations concerned with conservation issues. This participation is achieved through transparency in decision making and access to information about reasons for decisions. More specifically, Section 475 of the Act effectively confers standing on these individuals and organisations in proceedings for injunctions to restrain conduct that would contravene a provision of the Act. Similarly, Section 487 of the Act confers standing on a broad range of persons in proceedings for administrative review of decisions made under the Act.

Two applications for interim injunctions were made during the year by persons with standing provided under the Act. The cases were *Booth v Bosworth* [2000] FCA 1878 (13 December 2001) which related to the electrocution of spectacled flying foxes in Queensland; and *Schneiders v State of Queensland* [2001] FCA 553 (4 May 2001) which related to the culling of dingoes on Fraser Island. In both cases the Federal Court decided not to grant an interim injunction. Hearing of the *Booth v Bosworth* matter for the grant of an injunction had not occurred as of 30 June 2001⁴.

Monitoring and compliance under the Act is a greatly expanded area of responsibility for the Department. A challenge for the coming year is the building of resource capacity with appropriate expertise and skills sets to develop and implement a strategic compliance strategy to deal with current and emerging priorities.

⁴ The matter was heard in the Federal Court of Australia on 18–20 July 2001 and the decision handed down on 17 October 2001. An injunction was subsequently granted.

4. ONGOING AND FUTURE DEVELOPMENTS

Work has continued on further strengthening and developing the Act, including new wildlife protection and heritage regimes, enhancing the efficiency of the assessment and approvals process and correcting technical problems. Work has been undertaken to strengthen the Regulations and the possible introduction of a greenhouse trigger is being investigated. Developments are summarised below.

Environment Protection and Biodiversity Conservation Amendment (Wildlife Protection) Act 2001

On 29 June 2001, the Environment Protection and Biodiversity Conservation Amendment (Wildlife Protection) Bill 2001 was passed by Parliament. The Act will come into force in January 2002. This Act will enhance the capacity of the Commonwealth to control the international trade of wildlife. The wildlife provisions contained in the Act are at the forefront of modern ecologically sustainable wildlife management approaches.

The Act repeals the *Wildlife Protection (Regulation of Exports and Imports) Act 1982* and incorporates its amending provisions into the Environment Protection and Biodiversity Conservation Act. As well as maintaining the ban on commercial exports of live native mammals, birds, amphibians and reptiles, the benefits will be:

- streamlined administration with a more efficient application and approval process;
- improved focus so that permits will no longer be required for activities of no conservation significance;
- greater transparency of the decision-making process through provisions requiring publication of applications and decisions on the internet;
- greater certainty for the industry and the community;
- a greater focus on animal welfare issues;
- ground-breaking provisions requiring the strategic environmental assessment of proposals to import new species of live animals and plants;
- requiring that before making decisions regarding the sustainable use of wildlife, consideration is given to the potential impacts on the ecosystem, including direct impacts on a species and broader impacts on biodiversity and habitat;
- effective integration with existing environmental assessment and approvals processes under the Environment Protection and Biodiversity Conservation Act; and
- requiring the precautionary principle to be considered in making decisions regarding wildlife use.

The Act also contained a number of amendments to the Environment Protection and Biodiversity Conservation Act to enhance the efficiency of the environmental assessment process for matters of national environmental significance and to correct a number of technical problems. These amendments come into force on 11 July 2001. Those amendments dealing with technical

problems were initially included in the Environmental Legislation Amendment Bill (No.1) 2000 for which debate had been deferred in Committee in the Senate.

Environment and Heritage Legislation Amendment Bill (No.2) 2000

In December 2000, the Government introduced three Bills into Parliament to implement the Commonwealth's new heritage regime. Consistent with the 1997 Council of Australian Governments Agreement on Commonwealth/ State Roles and Responsibilities for the Environment, the Bills will amend the Environment Protection and Biodiversity Conservation Act to establish nationally significant heritage as a matter of national environmental significance. This will provide, for the first time, for the identification and conservation of Australia's most outstanding heritage assets.

The regime will define Commonwealth roles and responsibilities for heritage within constitutional powers, rationalise existing arrangements for the identification and protection of heritage places and provide for cooperative programs with those States who wish to participate.

The Bills will:

- establish a Commonwealth heritage regime that will focus on matters of national significance and Commonwealth responsibility;
- list places of national heritage significance in a national heritage list using a process of community consultation, expert advice and ministerial responsibility;
- protect and manage places in the national heritage list;
- list places in Commonwealth areas with heritage significance in a Commonwealth heritage list using a process of community consultation, expert advice and ministerial responsibility;
- advise Commonwealth agencies on actions in relation to places in the Commonwealth heritage list;
- provide for the management of places in the Commonwealth heritage list;
- establish the Australian Heritage Council; and
- repeal the *Australian Heritage Commission Act 1975*.

The Senate Environment, Communications, Information Technology and the Arts References Committee reported on the Bills in May 2001. As at 30 June 2001, the Bills were awaiting debate in the Senate.

Environment Protection and Biodiversity Conservation Regulations 2000

Greenhouse trigger

In line with the Prime Minister's May 1999 commitment, the Government has consulted widely on applying a Commonwealth greenhouse trigger under the Environment Protection and Biodiversity Conservation Act in relation to new projects that would be major emitters of greenhouse gases. Under the draft Regulations released in November 2000, the trigger would apply to actions likely to result in greenhouse emissions over 0.5 million tonnes of carbon dioxide equivalent in any 12-month period. The Minister for the Environment and Heritage is considering the views of State and Territory Ministers and key stakeholders on the proposed trigger.

Access to biological resources

The Government intends to establish a legislative framework to control access and use of the biological resources in Commonwealth areas. The framework will be put in place by including new provisions in the Environment Protection and Biodiversity Conservation Regulations as provided for in Section 301 of the Environment Protection and Biodiversity Conservation Act. Mr John Voumard, assisted by an expert reference group, conducted a public inquiry to advise on the form of a possible scheme to control access to biological resources. The inquiry involved extensive consultation with community interests. The recommendations in the inquiry report, which was released in September 2000, formed the basis for the development of draft Regulations under Section 301 of the Act. The Government intends to undertake further public consultation on the draft Regulations.

Criteria for bilateral agreements

In accordance with a commitment given by the Minister for the Environment and Heritage in the Senate in November 2000, amendments to the Environment Protection and Biodiversity Conservation Regulations were prepared dealing with the criteria for accrediting State and Territory assessment processes under a bilateral agreement. The amendments adjust the criteria to ensure that accredited assessment processes will be best practice⁵.

Conservation of biodiversity in Commonwealth areas

Also in accordance with the Minister's commitment, work has been commissioned to consider how the Environment Protection and Biodiversity Conservation Regulations might deal with the conservation of biodiversity in Commonwealth areas. The purpose of this work is to ensure that the regulatory scheme for Commonwealth areas reflects contemporary best practice.

⁵ The amending Regulations were made by the Governor-General in July 2001.

APPENDIX 1. STATISTICS ON THE OPERATION OF THE ACT 16 JULY 2000 TO 30 JUNE 2001

Referral Screening under Part 7 of the Act

TABLE 1. REFERRALS RECEIVED AND MINISTERIAL DECISIONS MADE ON WHETHER AN ACTION NEEDS APPROVAL

Decision:	
– Controlled action	73
– Not controlled action	190 (Includes 27 PM)
Withdrawn prior to decision	2
In referral screening process – Decision not made by 30/6/01	29
Total referrals received	294

Note: Totals include six decisions reconsidered under Section 78 of the Act resulting in revocation of four controlled action decisions. PM (Particular Manner) refers to decisions made by the Minister under Section 77(3) that an action is not a controlled action because of the particular manner in which it will be taken.

TABLE 2. REFERRALS RECEIVED AND MINISTERIAL DECISIONS MADE BY JURISDICTION

Jurisdiction	Decision		In referral screening process Decision not made by 30/6/01	Withdrawn prior to decision	Total referrals received
	Controlled action	Not controlled action			
NSW	12	44 (4 PM)	9	0	65
VIC	11(a)	37 (8 PM)	4	1	53
QLD	23	29 (4 PM)	9	0	61
WA	10(a)	13 (2 PM)	1	0	24
SA	2	8	1	0	11
TAS	4	5	0	0	9
ACT	0	19 (1 PM)	2	0	21
NT	3	4	3	1	11
Jervis Bay Territory	0	1	0	0	1
External territories	1	1	0	0	2
Commonwealth marine area	7	29 (8 PM)	0	0	36
Foreign country/territory	0	0	0	0	0
Total	73	190 (27 PM)	29	2	294

(a) Figure includes one action withdrawn after the controlled action decision was made.

PM (Particular Manner) refers to decisions made by the Minister under Section 77(3) that an action is not a controlled action because of the particular manner in which it will be taken.

TABLE 3. REFERRALS RECEIVED AND MINISTERIAL DECISIONS MADE BY ACTIVITY CATEGORY

Activity category	Decision		In referral screening process Decision not made by 30/6/01	Withdrawn prior to decision	Total referrals received
	Controlled action	Not controlled action			
Agriculture and forestry	4	0	0	0	4
Aquaculture	3	3 (1 PM)	4	0	10
Fishing	0	0	0	0	0
Exploration (mineral, oil, gas)	5	28 (8 PM)	1	0	34
Mining	13(a)	19	4	0	36
Air/space transport	2	3 (1 PM)	0	0	5
Land transport	3	21 (5 PM)	5	0	29
Water transport	7	11 (1 PM)	1	0	19
Urban and commercial new development	6	40 (4 PM)	7	0	53
Urban and commercial re-development	0	10 (1 PM)	1	0	11
Tourism, recreation and conservation management	6	15 (2 PM)	1	0	22
Manufacturing	9	6	0	0	15
Communication	0	5	0	1	6
Energy generation and supply	8	10 (2 PM)	0	1	19
Waste management	2	8	2	0	12
Water management and use	5	7 (1 PM)	2	0	14
Science, research and investigations	0	0	0	0	0
Defence	0	1 (1 PM)	0	0	1
Foreign aid	0	0	0	0	0
Sale or lease of Commonwealth property	0	3	1	0	4
Total	73	190 (27 PM)	29	2	294

(a) Figure includes actions withdrawn after the controlled action decision was made.

PM (Particular Manner) refers to decisions made by the Minister under Section 77(3) that an action is not a controlled action because of the particular manner in which it will be taken.

TABLE 4. NUMBER OF TIMES EACH CONTROLLING PROVISION TRIGGERED

Controlling provision	Number of times triggered
Division 1 – Protecting matters of national environmental significance	
Section 12 – activities with a significant impact on World Heritage values of a declared World Heritage property	15
Section 16 – activities with a significant impact on the ecological character of a declared Ramsar wetland	15
Section 18 – activities with a significant impact on a listed threatened species or ecological community	54
Section 20 – activities with a significant impact on a listed migratory species	45
Section 21 – nuclear actions with a significant impact on the environment	2
Section 23 – activities involving the Commonwealth marine environment	13
Division 2 – Protecting the environment from proposals involving the Commonwealth	
Section 26 – activities involving Commonwealth land	7
Section 28 – activities undertaken by the Commonwealth or a Commonwealth agency with a significant impact on the environment	1
Total	152

TABLE 5. NUMBER OF CONTROLLING PROVISIONS TRIGGERED IN EACH CONTROLLED ACTION

Number of controlled actions that triggered:	
– one controlling provision	24
– two controlling provisions	25
– three controlling provisions	18
– four controlling provisions	6
Total	73

Note: 152 controlling provisions triggered in total in 73 controlled actions.

Assessment of controlled actions

TABLE 6. DECISIONS MADE ON ASSESSMENT APPROACH	
Assessment approach	Number of decisions
Accredited assessment	7(a)
Assessment on preliminary documentation	23
Public environment report	3
Environmental impact statement	6
Inquiry	0
Total	39

(a) One of these proposals was subsequently withdrawn by the proponent.

TABLE 7. STATUS OF CONTROLLED ACTIONS AS OF 30 JUNE 2001	
Status	Number of controlled actions
Approved	8
At approval stage	5
Undergoing assessment	25
Awaiting decision on assessment approach	6
Awaiting preliminary information	25
Assessment under bilateral agreement – Tasmania	2
Withdrawn	2
Total	73

Major Commonwealth assessments active as of 30 June 2001

Environmental impact statement

- Naturelink Limited – Naturelink Gold Coast Cableway, Queensland
- Methanol Australia Pty Ltd – Tassie Shoal Gas Reforming and Methanol Production Plants
- Department of Industry, Science and Resources – National Low Level Radioactive Waste Repository, central-north South Australia
- Epic Energy – Darwin to Moomba Gas Pipeline
- Woodside Energy Ltd – Petroleum Mining, Full Field Development, Western Australia
- Powerlink Queensland – High Voltage Electricity Transmission Line, Queensland

Public environment report

- Phosphate Resources Limited – Exploration for mineable phosphate, Christmas Island
- Waterman Agriculture Pty Ltd – Irrigated cotton development expansion, Pillicawarrina, New South Wales
- Coral Coast Marine Development Pty Ltd – Mauds Landing Marina, Western Australia

Minister’s advice under Section 160

TABLE 8. ADVICE PROVIDED UNDER SECTION 160			
	Referrals received	Assessment completed	Advice provided
Foreign aid (Section 160(2)(a))	1	0	0
Aviation airspace management plan (Section 160(2)(b))	0		0
Airport development plan (Section 160(2)(c))	2	2	2
Total	3	2	2

All referrals under Section 160 of the Act were assessed on preliminary documentation.

Conserving biodiversity

The following tables list statistics relevant to biodiversity conservation from 16 July 2000 to 30 June 2001.

Threatened species and communities

TABLE 9. PROCESSING OF NOMINATIONS AND CHANGES TO LISTS – THREATENED SPECIES AND COMMUNITIES AND KEY THREATENING PROCESSES			
Listing process	Species	Ecological communities	Key threatening processes
Nominations received under previous legislation (to be considered under EPBC Act)	21	40	9
Nominations received under EPBC Act	66	16	9
Nominations for which Threatened Species Scientific Committee has provided listing advice	23	26	7
Ministerial decisions made on scientific committee advice	17	26	6
Listings as of 16/7/00	1568	23	6
Changes to lists: new listings	15	5	4
de-listings	2	1	0
Listings as of 30/6/01	1581	27	10

Whales and other cetaceans

TABLE 10. CETACEAN PERMITS			
Sub-section	Decision made on assessment approach	Permits granted	Total applications received
Sub-section 238(3)(a) – specified actions which will contribute significantly to the conservation of cetaceans	4	1	6
Sub-section 238(3)(b) – interference incidental to, and not the purpose of, the taking of the action	4	3	4
Sub-section 238(3)(c) – whale watching	1	0	1
Total	9	4	11

World Heritage areas

TABLE 11. REFERRALS RECEIVED AND MINISTERIAL DECISIONS MADE ON WHETHER AN ACTION NEEDS APPROVAL FOR EACH WORLD HERITAGE PROPERTY

World Heritage property	Minister's decision			Total referrals considered following initial screening
	Controlled action	Not controlled action	Decision not made as of 30 June 2001	
Great Barrier Reef	10	13 (2 PM)	5	28
Wet Tropics of Queensland	1	0	2	3
Great Barrier Reef/ Wet Tropics of Queensland (affecting both)	1	0	1	2
Greater Blue Mountains Area	0	3 (2 PM)	2	5
Tasmanian Wilderness	0	3	1	4
Central Eastern Rainforest Reserves	1	2	0	3
Kakadu National Park	0	1	1	2
Uluru–Kata Tjuta National Park	1	0	2	3
Fraser Island	0	1	0	1
Shark Bay	0	1	0	1
Willandra Lakes	1	0	2	3
Total referrals	15	24 (4 PM)	16	55

PM (Particular Manner) refers to decisions made by the Minister under Section 77(3) that an action is not a controlled action because of the particular manner in which it will be taken.

APPENDIX 2. PUBLICATIONS

- Actions Covered by the EPBC Act
- Administrative Guidelines on Significance (July 2000)
- Advisory Committees to Help Protect the Environment
- An Overview of the Environment Protection and Biodiversity Conservation Act
- Approvals under the EPBC Act – Form, Content, and Compliance
- Draft Regulations and Discussion Paper on the Possible Application of a Greenhouse Trigger (November 2000)
- Environmental Assessment Processes under the EPBC Act
- How to Make a Referral of a Proposed Action under the EPBC Act
- New Laws to Protect Australia’s World Heritage Properties
- New Rules for Tour Operators in National Parks
- Preliminary Information Guide (September 2000)
- Protecting Australia’s Migratory Species
- Protecting Australia’s Ramsar Wetlands
- Referrals Guide (June 2000)
- The Indigenous Advisory Committee (April 2001)
- Transitional Arrangements for Projects Already Being Assessed or Underway

APPENDIX 3. FUNCTIONS AND MEMBERSHIP OF ADVISORY COMMITTEES ESTABLISHED UNDER THE ACT

Threatened Species Scientific Committee

The functions of the Threatened Species Scientific Committee are:

- (a) to advise the Minister in accordance with Division 5 of Part 13 in relation to the making of recovery plans and threat abatement plans; and
- (b) to advise the Minister (on the Minister’s request or on the Committee’s initiative) on the amendment and updating of the lists established under Part 13; and
- (c) to advise the Minister, at his or her request, on matters relating to the administration of this Act; and
- (d) to give the Minister such other advice as is provided for in this Act; and
- (e) to perform such other functions as are conferred on the Committee by this Act.

TABLE 12. MEMBERSHIP OF THE THREATENED SPECIES SCIENTIFIC COMMITTEE

Name	Area of expertise
Associate Professor Bob Beeton (Chair)	Environmental problem solving
Dr Sue Briggs	Ecological communities
Dr Alan Butler	Marine ecology
Dr Dean Graetz	Extinction processes
Professor Gordon Grigg	Animals
Dr Jill Landsberg	Landscape ecology
Dr Libby Matiske	Plants
Dr Pamela Parker	Landscape recovery
Mr Michael Sutherland	Rural science

Biological Diversity Advisory Committee

Under Section 505 of the Act the functions of the Biological Diversity Advisory Committee are:

- to advise the Minister, at his or her request, on matters relating to the conservation and ecologically sustainable use of biological diversity; and
- to perform such other functions as are conferred on the Committee by the Act or the regulations.

The terms of reference for the Committee as provided by the Minister on 7 July 2000 are to advise:

- the Minister for the Environment and Heritage on the performance of Commonwealth programs in promoting biodiversity conservation and the means to promote biodiversity conservation through improved business practices; and
- the Australian and New Zealand Environment and Conservation Council on priorities for action under the National Strategy for the Conservation of Australia's Biological Diversity.

TABLE 13. MEMBERSHIP OF THE BIOLOGICAL DIVERSITY ADVISORY COMMITTEE

Name	Group represented
Professor Hugh Possingham (Chair)	Scientific community
Dr Nancy Bray	Scientific community
Dr Wendy Craik	Scientific community
Ms Anne Jensen	Scientific community
Ms Imogen Zethoven	Scientific community
Mr Les Ahoy	Indigenous peoples
Cr Jenny Bonfield	Local government
Mr John Cobb	Rural community
Mr Alistair Graham	Conservation organisations
Mr Keiran McNamara	Australian and New Zealand Environment and Conservation Council
Ms Christine Schweizer	Commonwealth
Mr Nigel Scullion	Fishing industry
Mr Ross Turnbull	Business community

Indigenous Advisory Committee

The function of the Indigenous Advisory Committee is to advise the Minister on the operation of the Act, taking into account the significance of Indigenous people's knowledge of the management of land and the conservation and sustainable use of biodiversity.

**TABLE 14. MEMBERSHIP OF THE INDIGENOUS
ADVISORY COMMITTEE**

Member	State
Mr Gatjil Djerrkura (Chair)	
Mr Leon Atkinson	Victoria
Mr Robert Carroll	New South Wales
Mr John Chester	South Australia
Mr Glen Kelly	Western Australia
Ms Francine McCarthy	Northern Territory
Ms Darcel Moyle	Queensland
Mr Rocky Sainty	Tasmania
Mr Mark Sutton	New South Wales
Ms Rita Tingey	Northern Territory
Mr Kevin Walley	Western Australia

APPENDIX 4. COMPLIANCE WITH TIMEFRAMES IN THE ACT

The Act contains specific timeframes within which decisions must be made. Sub-section 518(2) of the Act states:

- (2) If, during a financial year, one or more things required to be done under this Act or the regulations was not done within the period required by this Act or the regulations, the Minister must:
- (a) cause to be prepared a statement setting out the reasons why each of those things was not done within the period required by this Act or the regulations; and
 - (b) cause a copy of the statement to be laid before each House of the Parliament as soon as practicable after the end of the financial year.

Things that were not done within the period required by the Act or Regulations are identified below. The reasons are provided in the body of this report.

TABLE 15. THINGS NOT DONE WITHIN THE PERIOD REQUIRED BY THE ACT OR REGULATIONS

Section of Act	Page reference in report
Sub-section 75(5) – Decision by Minister on whether proposed action needs approval	9
Sub-section 77(4) – Minister providing reasons for the decision	9
Section 88 – Decision by Minister on assessment approach	12
Sub-section 95(1) – Preparation of assessment report by Secretary	12
Sub-section 97(1) – Preparation of guidelines for draft Public Environment Report by Minister	12
Sub-section 130(1) – Decision by Minister on approval	12
Sub-section 158(2) – Decision by Minister on whether to grant exemption	10
Section 170A – Publication by Secretary of information relating to assessments	14
Sub-section 189(5) - Decision by Minister on whether to amend list of threatened species and ecological communities and key threatening processes	17
Section 273(1) – Ensuring recovery plan is in force for a listed threatened species or listed threatened ecological community occurring only in Commonwealth areas	18
Sub-section 370(3) – Approval of management plan for Commonwealth reserve by Minister	Not included in this report. Four plans were approved; one (Ningaloo Marine Park) not within the statutory timeframe as the Minister required further information.