



**Statement of Reasons for a Decision that an Action is a Controlled Action under the
*Environment Protection and Biodiversity Conservation Act 1999***

I, Josh Frydenberg MP, Minister for the Environment and Energy, provide the following statement of reasons for my decision of 8 June 2017, under section 75 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), that the proposed action by Walker Group Holdings Pty Ltd to redevelop the existing facilities, including construction of a marina, new ferry terminals and residential development at Toondah Harbour, south of Brisbane, Queensland (EPBC 2017/7939)¹, is a controlled action under Part 7 of Division 2 of the EPBC Act and the controlling provisions for the action are sections 16 and 17B (wetlands of international importance), sections 18 and 18A (listed threatened species and communities) and sections 20 and 20A (migratory species).

Legislation

1. Relevant legislation is at Annexure A.²

Background

2. Toondah Harbour is an existing marine area that serves as the base for water taxi, passenger and ferry services between the mainland and North Stradbroke Island. Walker Group Holdings Pty Ltd (the proponent) is proposing to develop a mixed use residential, commercial, retail and tourism precinct including new ferry terminals and a marina at Toondah Harbour, 30 kilometres (km) south of Brisbane. The proposal will involve the excavation of a new marina and reclaiming land within the adjoining Moreton Bay Ramsar wetland. The Toondah Harbour project is proposed to be delivered in stages over a 15 to 20 year period.
3. The key components of the proposal are:
 - A project area of 73 hectares, of which approximately 50 hectares is within the Moreton Bay Ramsar wetland;
 - approximately 40 hectares of reclamation within Moreton Bay Ramsar wetland
 - new ferry terminals to improve access to North Stradbroke Island;
 - mixed use development including residential, retail, commercial and tourism uses;
 - a marina;
 - public open space and boardwalks providing foreshore access; and
 - dredging of the existing Toondah Harbour marine access channel to allow for safe navigation for all vessels.

¹ The proposed action is described in further detail in the referral received by the Department on 11 May 2017.

² This legislation is provided as background and context and does not form part of my reasons.



4. A referral for the project was submitted under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) on 11 May 2017.
5. In its referral, the proponent stated its belief that the proposal is a controlled action for the purposes of the EPBC Act and will likely have a significant impact on the ecological character of the Moreton Bay Ramsar wetland, listed threatened species and ecological communities, and listed migratory species. The proponent has stated in the referral that there are no alternatives to the location and footprint of the action.
6. Under section 75 of the EPBC Act, I determined that the proposed action is a controlled action, due to likely significant impacts on the ecological character of the Moreton Bay Ramsar wetland, listed threatened species and communities and migratory species, and that the controlling provisions for the action are sections 16 and 17B, sections 18 and 18A and sections 20 and 20A.

Evidence or other material on which my findings were based

7. My decision under section 75 was informed by a recommendation brief prepared by officers of the Department of the Environment and Energy, which had the following attachments:
 - A: Referral
 - B: Decision notice FOR SIGNATURE
 - C: Letter to Walker Group Holdings FOR SIGNATURE
Letter to Queensland Minister for Environment and Heritage FOR SIGNATURE
Letter to Minister for Infrastructure and Development FOR SIGNATURE
Letter to Minister for Indigenous Affairs FOR SIGNATURE
Letter to Minister for Trade, Tourism and Investment FOR SIGNATURE
 - D: Statement of Reasons FOR SIGNATURE
 - E: Maps of project area, regional context, Ramsar site boundary.
 - F: Ecological Character Description – Moreton Bay Ramsar Site (Final Report)
 - G: Information sheet on Moreton Bay Ramsar Site (June 1999)
<http://www.environment.gov.au/water/topics/wetlands/database/pubs/41-ris.pdf>
 - H: Line Area Advice:
Wetlands Section Advice
Migratory Species Section Advice
 - I: Submission from EHP
 - J: Department's Environmental Reporting Tool
 - K: Marine Bioregional Plan for the Temperate East Marine Region (2012)
 - L: Summary of public submissions



Public submissions

8. The proposal was published on the Department's website on 11 May 2017 and public comments were invited until 25 May 2017, in accordance with section 74(3) of the EPBC Act. 180 public submissions were received on the referral during the public comment period and a further 1,238 campaign submissions were received during the consultation period concluded
9. The issues raised in the public submissions including the following:
 - unacceptable impacts of 40 ha of land reclamation within a Ramsar wetland;
 - impacts to migratory shorebirds, seagrass, koalas, turtles and Dugongs;
 - Australia's need to meet its obligations as a party to international agreements to protect migratory birds and Ramsar wetlands;
 - impacts related to pollution from dredge spoil;
 - the proposed development is not critical infrastructure – the local community would like to see an upgrade to the ferry terminal but do not support the construction of a marina and housing development; and
 - the Ramsar Secretariat advised that the Moreton Bay Ramsar site will be placed under Article 3.2 notification. Under Article 3.2 of the Ramsar Convention "Each Contracting Party shall arrange to inform the Ramsar Secretariat...at the earliest possible time if the ecological character of any wetland in its territory and included in the List has changed, is changing or is likely to change as the result of technological developments, pollution or other human interference".

Ministerial comments

10. By letter dated 11 May 2017, the following Ministers were invited to comment on the referral in accordance with section 74(1) of the EPBC Act:
 - Senator, The Hon Nigel Scullion, Minister for Indigenous Affairs
 - The Hon Darren Chester MP, Minister for Infrastructure and Transport

No comments were received in response to that invitation.

11. By letter dated 11 May 2017, the delegate of the Queensland Minister for Environment and Heritage Protection, the Hon Dr Steven Miles MP, was invited to comment on the referral in accordance with section 74(2) of the EPBC Act.
12. The delegate responded stating that the proposal would not be assessed using the EIS process in Chapter 3 of Queensland's *Environmental Protection Act 1994*. The response also stated that the Queensland Department of State Development reviewed the referral documentation and advised that the Coordinator-General has not received a request for declaration of this proposal as a coordinated project under Part 4 of the *State Development and Public Works Organisation Act 1971*.



Findings on material questions of fact

13. In deciding whether the proposed action is a controlled action, and which provision of Part 3 of the EPBC Act are controlling provisions for the action (if any), I considered all adverse impacts the action has or will have or is likely to have on each matter protected by a provision of Part 3 of the EPBC Act. I did not consider any beneficial impacts that the proposed action has or will have, or is likely to have on each matter protected by a provision of Part 3 of the EPBC Act.
14. I considered that I had sufficient information to determine whether the proposed action is a controlled action and, if so, what provisions of Part 3 are controlling provisions for the action.

Ecological character of the Moreton Bay Ramsar wetland

15. The Moreton Bay Ramsar site is located in and around Moreton Bay, east of Brisbane in Queensland. The Ramsar wetland supports extensive intertidal areas of sand and mud flat habitats, seagrass, mangroves and saltmarsh that provide vital habitat for dugongs, turtles and waterbirds including significant populations of migratory shorebirds. The wetland supports more than 50,000 migratory waders. At least 43 species of wading birds use the intertidal habitats, including 30 migratory species listed on international conservation agreements.
16. In addition, Moreton Bay is one of only two Ramsar sites in Australia that supports the critically endangered eastern curlew throughout the year, with juvenile birds not migrating until they are 2-3 years old. I noted that the Eastern Curlew is a species recently identified for priority conservation in Australia's Threatened Species Strategy Action Plan 2015-16.
17. The referral stated that it is likely that the proposed action will result in significant impacts on the ecological character of a portion of the Moreton Bay Ramsar wetland. In particular, the proposed action will permanently remove an area of the Ramsar wetland through approximately 40 hectares of land reclamation which is likely to negatively impact the ecological character of the wetland.
18. The Department's Wetland Section advised that direct impacts to the ecological character of the wetland will occur as the proposed action will result in:
 - areas of the wetland within the referral area being removed or substantially modified through dredging, excavation and/or land reclamation activities;
 - impacts on habitat values through the removal of seagrass, mangroves and intertidal mudflats;
 - impacts on the lifecycle of an ecologically significant proportion of the population of the eastern curlew and bar-tailed godwit, as well as other listed migratory species, such as whimbrels and grey-tailed tattler, through the removal of, or disturbance to, foraging and roosting habitat in or near the referral area; and
 - changes in the hydrological regime of the wetland and consequent changes to water quality and aquatic habitats from sedimentation.



19. The referral lacks detail on the proposed development, such as the size of the marina, the number of apartments, the height of buildings and the extent of dredging required to upgrade the channel. The referral has not considered indirect impacts from the proposed action such as light pollution, the potential for increased weeds and domestic animals, and human traffic.
20. Although the referral states that a buffer zone will be included between the development and the mangroves and high tide roosting site at Cassim Island, it does not provide sufficient information to be confident that this will reduce the impacts on migratory shorebirds.
21. The Department advised that the proposed action is likely to have a significant impact on the ecological character of the Moreton Bay Ramsar wetland. In addition, advice from the Department's Wetland Section concludes that the impacts on the ecological character of the site will be difficult to mitigate and offset.
22. I agreed with the Department's advice in this regard.
23. Therefore, I concluded that the proposed action is likely to have a significant impact on the ecological character of the Moreton Bay Ramsar wetland.

Listed migratory species

24. The referral notes that habitat used by migratory shorebirds for foraging or roosting within Toondah Harbour and roosting habitat adjoining the project area are characterised as 'important habitat' for migratory shorebirds under the *EPBC Act Significant Impact Guidelines 1.1 – Matters of National Environmental Significance*.
25. Eleven migratory shorebirds were recorded within or immediately adjacent to the project area during the proponent's field surveys. These include:
 - Grey-tailed Tattler (*Tringa brevipes*);
 - Ruddy Turnstone (*Arenaria interpres*);
 - Great Knot (*Calidris tenuirostris*) (also listed as critically endangered);
 - Red-necked Stint (*Calidris ruficollis*);
 - Bar-tailed Godwit (*Limosa lapponica baueri*) (also listed as vulnerable);
 - Whimbrel (*Numenius phaeopus*);
 - Eastern Curlew (*Numenius madagascariensis*) (also listed as critically endangered);
 - Terek Sandpiper (*Xenus cinereus*); and
 - Curlew sandpiper (*Calidris ferruginea*) (also listed as critically endangered).



26. Migratory shorebirds use two different habitat types within or adjacent to the project area, namely intertidal mudflats that provide feeding habitat when exposed at low tide, and stands of mangrove trees, offshore sandbars and shoreline saltmarsh and claypan areas that provide high tide roost sites.
27. The referral states that the proposed action is likely to have both direct and indirect impacts on migratory shorebirds through clearing of approximately 40 hectares of foraging habitat for dredging and land reclamation, and disturbance during construction including changes to water quality during dredging and reclamation works. However, the referral also states that the project area is not considered to be a major foraging site in terms of diversity or numbers of migratory shorebirds as similar habitat is found throughout Moreton Bay, and the project site provides less than 0.001% of feeding habitat within the Ramsar wetland. The Department considered that the loss of this foraging habitat, combined with the indirect impacts of the proposal, is likely to have a significant impact on migratory shorebirds.
28. Surveys undertaken by the proponent mapped large areas of intertidal foraging habitats in the project area, comprising areas of mudflat, sandflat, seagrass and areas of surface coral rubble, and two high tide roost sites directly adjacent to the project area.
29. The Department also noted that important roosting sites, Cassim Island and Nandeebie Claypan, are in close proximity to the proposed action. It is likely that the proposed action will have indirect impacts on these roosting sites, including noise and visual disturbance as a result of increased human use of the area.
30. The survey results provided in the referral that confirmed that Cassim Island, located approximately 100 metres east of the project boundary, and the Nandeebie Claypan, to the south of the project area, are important roosting habitat for migratory shorebirds based on the relatively large total numbers of migratory shorebirds using these roost sites. Up to 920 migratory shorebirds of four species known to roost in mangrove trees were recorded at Cassim Island, while up to 1,060 migratory shorebirds were recorded roosting at the Nandeebie Claypan.
31. The *EPBC Act Policy Statement 1.1 Significant Impact Guidelines* (2013) and the *EPBC Act Policy Statement 3.21 - Industry guidelines for avoiding, assessing and mitigating impacts on EPBC Act listed migratory shorebird species* (2017) provide that a proposed action will be likely to have a significant impact on migratory species where the proposal will substantially modify, destroy or isolate an area of important habitat for migratory species.
32. The proposed action will reduce the area of occupancy for migratory shorebird species by removing approximately 40 hectares of foraging habitat; adversely affecting important roosting habitat and modifying, destroying, isolating and decreasing the availability and quality of habitat through indirect impacts such as light, noise and human interaction.



33. The Department's Migratory Species Section advised that the proposed action will seriously disrupt the lifecycle (feeding, migration and resting behaviour) of an ecologically significant population of the Eastern Curlew and Bar-tailed Godwit, as well as other listed migratory species, such as Whimbrels and Grey-tailed Tattlers, through the removal of, or disturbance to, foraging and roosting habitat in or near the referral area. Additional impacts will result from linking important offshore roosting sites with the mainland as it will interfere with the recovery of the Eastern Curlew by removing important habitat and causing an increase in ongoing disturbance.
34. I agreed with the Department's advice and concluded that the proposed action is likely to have a significant impact on listed migratory shorebird species.

Other Migratory species

35. Moreton Bay supports important foraging populations of green, hawksbill and loggerhead turtles and is close to the southern-most extent of their range. The *Marine Bioregional Plan for the Temperate East Marine Region* (2012) considered Moreton Bay a significant feeding ground for the green turtle.
36. The Department's Migratory Species Section advised that light pollution, vessel disturbance and habitat modification (though dredging and infrastructure/coastal development) are known threats to migratory marine species. The Department considered it likely that the proposed action will increase these threats to migratory marine species and reduce the area of occupancy of the species.
37. Based on this advice and other information available to the Department, such as the Species Profile and Threats database and information from the referral documentation, the Department concluded that the proposed action is likely to have significant impacts on other migratory species such as:
- Loggerhead turtle (*Caretta caretta*);
 - Green Turtle (*Chelonia mydas*);
 - Hawksbill Turtle (*Eretmochelys imbricata*);
 - Indo-pacific humpback dolphin (*Sousa chinensis*); and
 - Dugong (*Dugong dugon*).
38. I agreed with the Department's advice.
39. In light of the matters set out in paragraphs 24 – 38, I concluded that the proposed action is likely to have a significant impact on listed migratory species.



Listed threatened species and communities

40. The Department advised that the likelihood of direct and indirect impacts, the importance of habitat in, and immediately adjacent to, the project area and the lack of adequate mitigation and management measures to minimise these impacts and concluded that the proposed action is likely to have a significant impact on the critically endangered eastern curlew.
41. The critically endangered eastern curlew occurs seasonally around the Australian coastline, with up to 3500 birds estimated to visit Moreton Bay (9% of the flyway population). The eastern curlew habitat in the Moreton Bay wetland is internationally important as it supports more than 1% of the individuals in a population of the migratory eastern curlew (*EPBC Act Policy Statement 3.21 - Industry guidelines for avoiding, assessing and mitigating impacts on EPBC Act listed migratory shorebird species 2017*).
42. The Department advised that the project site contains intertidal foraging habitat for the eastern curlew with seven individuals recorded during surveys undertaken in 2015. Important roosting sites, the Nandeebie Claypan and Cassim Island, are also immediately adjacent to the project area with up to 180 eastern curlew having been recorded at the Nandeebie Claypan roosting site. Although there are a number of available roost sites for the eastern curlew within the region, the Nandeebie Claypan is considered to be an important site within Moreton Bay.
43. I considered that the referral proposes a buffer zone of 100-200m between the development and the mangroves and high tide roosting site at Cassim Island. However, the referral does not provide adequate information on whether they would be sufficient to manage the impacts to the eastern curlew. The *Conservation Advice for Numenius madagascariensis* (eastern curlew) (2015) states that the species is easily disturbed by human interaction within 250m.
44. Based on information available to the Department and the nature of the proposed action that includes removal of onshore vegetation, intertidal mudflats and seagrass beds, the Department considers that the proposed action is also likely to have significant impacts on other threatened species such as:
 - Great Knot (*Calidris tenuirostris*) – critically endangered;
 - Curlew Sandpiper (*Calidris ferruginea*) – critically endangered;
 - Bar-tailed Godwit (*Limosa lapponica baueri*) – vulnerable;
 - Koala (*Phascolarctos cinereus*) (combined populations of Qld, NSW and the ACT) – vulnerable;
 - Grey-headed Flying-fox (*Pteropus poliocephalus*) – vulnerable;
 - Loggerhead turtle (*Caretta caretta*) – endangered;
 - Green Turtle (*Chelonia mydas*) – vulnerable; and



- Hawksbill Turtle (*Eretmochelys imbricate*) – vulnerable.

45. In light of the matters set out in paragraphs 40 – 44, I agreed with the Department's that the proposed action was likely to have a significant impact on the Eastern Curlew and other listed threatened species.

World Heritage properties

46. The proposed action is unlikely to have a significant impact on world heritage values of a world heritage property, because the Department's Environmental Reporting Tool (ERT) did not identify any world heritage properties located within or adjacent to the proposed action area. Therefore, I decided that sections 12 and 15A cannot be controlling provisions for the action.

National Heritage places

47. The proposed action is unlikely to have a significant impact on national heritage values of a national heritage place, because the Department's Environmental Reporting Tool (ERT) did not identify any national heritage places located within or adjacent to the proposed action area. Therefore, I decided that sections 15B and 15C cannot be controlling provisions for the action.

Commonwealth marine environment

48. The proposed action is not being undertaken in a Commonwealth marine area.
49. The proposed action is unlikely to have a significant impact on the environment in a Commonwealth marine area, because it does not occur in the vicinity of a Commonwealth marine area.
50. For these reasons, I decided that sections 23 and 24A cannot be controlling provisions for the action.

Commonwealth action

51. The referring party is not a Commonwealth agency, therefore I decided section 28 cannot be a controlling provision for the action.

Commonwealth land

52. The proposed action is not being undertaken on Commonwealth land.
53. The proposed action is unlikely to have a significant impact on the environment on Commonwealth land because it is not being undertaken in the vicinity of Commonwealth land.
54. For these reasons, I decided that sections 26 and 27A cannot be controlling provisions for the action.



Nuclear action

55. The proposed action does not meet the definition of a nuclear action as defined in the EPBC Act. Therefore, I decided that sections 21 and 22A cannot be controlling provisions for the action.

Great Barrier Reef Marine Park

56. The proposed action is not being undertaken in the Great Barrier Reef Marine Park.
57. The proposed action is not being undertaken in the vicinity of the Great Barrier Reef Marine Park and, therefore, is unlikely to have a significant impact on the environment in the Great Barrier Reef Marine Park.
58. For these reasons, I decided that sections 24B and 24C cannot be controlling provisions for the action.

Commonwealth Heritage places overseas

59. The proposed action is not being undertaken outside the Australian jurisdiction. Therefore, I decided that sections 27B and 27C cannot be controlling provisions for this action.

A water resource, in relation to coal seam gas development and large coal mining development

60. The proposed action is not an action that involves coal seam gas or a large coal mining development. Therefore, I decided that sections 24D and 24E cannot be controlling provisions for this action.

Reasons for decision

61. I considered the information before me was adequate to make a decision under section 75 of the EPBC Act.
62. In making my decision I took account of submissions from relevant Commonwealth and State Ministers as well as the matters required to be taken into account under section 75 of the EPBC Act.
63. In making my decision, I took account of the precautionary principle (section 391 of the EPBC Act) which states that a lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment where there are threats of serious or irreversible environmental damage. I considered that a controlled action decision will require any uncertainties in the referral (e.g. around the potential effectiveness of mitigation measure and availability of offsets) to be clarified through further detailed assessment.



64. In view of my findings above, I was satisfied that the proposed action will, or is likely to have a significant impact on the ecological character of a declared Ramsar wetland (Moreton Bay), listed threatened species and listed migratory species.
65. I therefore decided that the proposed action is a controlled action and the controlling provisions are section 16 and 17B (wetlands of international importance), sections 18 and 18A (listed threatened species and communities) and sections 20 and 20A (migratory species).

Signed

A handwritten signature in blue ink, consisting of a stylized 'J' and 'F' followed by a horizontal line.

JOSH FRYDENBERG

8 June 2017



Annexure A – Relevant EPBC Act provisions

Section 68 of the EPBC Act relevantly provides:

- (1) A person proposing to take an action that the person thinks may be or is a controlled action must refer the proposal to the Minister for the Minister's decision whether or not the action is a controlled action.
- (2) A person proposing to take an action that the person thinks is not a controlled action may refer the proposal to the Minister for the Minister's decision whether or not the action is a controlled action.

Section 75 of the EPBC Act relevantly provides:

- (1) The Minister must decide:
 - (a) whether the action that is the subject of a proposal referred to the Minister is a controlled action; and
 - (b) which provisions of Part 3 (if any) are controlling provisions for the action.

Note: The Minister may revoke a decision made under subsection (1) about an action and substitute a new decision. See section 78.

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

Minister must consider public comment

- (1A) In making a decision under subsection (1) about the action, the Minister must consider the comments (if any) received:
 - (a) in response to the invitation under subsection 74(3) for anyone to give the Minister comments on whether the action is a controlled action; and
 - (b) within the period specified in the invitation.

Considerations in decision

- (2) If, when the Minister makes a decision under subsection (1), it is relevant for the Minister to consider the impacts of an action:
 - (a) the Minister must consider all adverse impacts (if any) the action:
 - (i) has or will have; or
 - (ii) is likely to have;on the matter protected by each provision of Part 3; and



(b) must not consider any beneficial impacts the action:

(i) has or will have; or

(ii) is likely to have;

on the matter protected by each provision of Part 3.

Note: **Impact** is defined in section 527E.

(2A) For the purposes of subsection (2), if the provision of Part 3 is subsection 15B(3), 15C(5), 15C(6), 23(1), 24A(1), 24D(3), 24E(3), 26(1) or 27A(1), then the impacts of the action on the matter protected by that provision are only those impacts that the part of the action that is taken in or on a Commonwealth area, a Territory, a Commonwealth marine area or Commonwealth land:

(a) has or will have; or

(b) is likely to have;

on the matter.

(2AA) For the purposes of subsection (2), if the provision of Part 3 is subsection 24B(1) or 24C(1) or (3), then the impacts of the action on the matter protected by that provision are only those impacts that the part of the action that is taken in the Great Barrier Reef Marine Park:

(a) has or will have; or

(b) is likely to have;

on the matter.

(2B) Without otherwise limiting any adverse impacts that the Minister must consider under paragraph (2)(a), the Minister must not consider any adverse impacts of:

(a) any RFA forestry operation to which, under Division 4 of Part 4, Part 3 does not apply; or

(b) any forestry operations in an RFA region that may, under Division 4 of Part 4, be undertaken without approval under Part 9.

Designating a proponent of the action

(3) If the Minister decides that the action is a controlled action, the Minister must designate a person as proponent of the action.

Consent to designation

(4) The Minister may designate a person who does not propose to take the action only if:

(a) the person agrees to being designated; and



- (b) the person proposing to take the action agrees to the designation.

Timing of decision and designation

(5) The Minister must make the decisions under subsection (1) and, if applicable, the designation under subsection (3), within 20 business days after the Minister receives the referral of the proposal to take the action.

Note: If the Minister decides, under subsection 75(1), that the action is a controlled action, the Minister must, unless the Minister has requested more information under subsection 76(3) or section 89, decide on the approach to be used for assessment of the relevant impacts of the action on the same day as the Minister makes the decision under subsection 75(1)—see subsection 88(2).

Time does not run while further information being sought

(6) If the Minister has requested more information under subsection 76(1) or (2) for the purposes of making a decision, a day is not to be counted as a business day for the purposes of subsection (5) if it is:

- (a) on or after the day the Minister requested the information; and
- (b) on or before the day on which the Minister receives the last of the information requested.

Running of time may be suspended by agreement

(7) The Minister and the person proposing to take the action may agree in writing that days within a period worked out in accordance with the agreement are not to be counted as business days for the purposes of subsection (5). If the agreement is made, those days are not to be counted for the purposes of that subsection.

Section 176 of the EPBC Act relevantly provides:

(1) The Minister may prepare a bioregional plan for a bioregion that is within a Commonwealth area. In preparing the plan, the Minister must carry out public consultation on a draft of the plan in accordance with the regulations.

(2) The Minister may, on behalf of the Commonwealth, co-operate with a State or a self-governing Territory, an agency of a State or of a self-governing Territory, or any other person in the preparation of a bioregional plan for a bioregion that is not wholly within a Commonwealth area.

(3) The co-operation may include giving financial or other assistance.

(4) A bioregional plan may include provisions about all or any of the following:

- (a) the components of biodiversity, their distribution and conservation status;
- (b) important economic and social values;



- (ba) heritage values of places;
- (c) objectives relating to biodiversity and other values;
- (d) priorities, strategies and actions to achieve the objectives;
- (e) mechanisms for community involvement in implementing the plan;
- (f) measures for monitoring and reviewing the plan.

(4A) A bioregional plan prepared under subsection (1) or (2) is not a legislative instrument.

(5) Subject to this Act, the Minister must have regard to a bioregional plan in making any decision under this Act to which the plan is relevant.

391 Minister must consider precautionary principle in making decisions

Taking account of precautionary principle

(1) The Minister must take account of the precautionary principle in making a decision listed in the table in subsection (3), to the extent he or she can do so consistently with the other provisions of this Act.

Section 391 of the EPBC Act relevantly provides:

(2) The **precautionary principle** is that lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment where there are threats of serious or irreversible environmental damage.

Decisions in which precautionary principle must be considered

(3) The decisions are:

Decisions in which precautionary principle must be considered		
Item	Section decision is made under	Nature of decision
1	75	whether an action is a controlled action
2	133	whether or not to approve the taking of an action
3	201	whether or not to grant a permit
4	216	whether or not to grant a permit
5	238	whether or not to grant a permit



Decisions in which precautionary principle must be considered

Item	Section decision is made under	Nature of decision
6	258	whether or not to grant a permit
6A	269AA	whether or not to have a recovery plan for a listed threatened species or a listed threatened ecological community
7	269A	about making a recovery plan or adopting a plan as a recovery plan
7A	270A	whether or not to have a threat abatement plan for a key threatening process
7B	270B	about making a threat abatement plan or adopting a plan as a threat abatement plan
8	280	about approving a variation of a plan adopted as a recovery plan or threat abatement plan
9	285	about making a wildlife conservation plan or adopting a plan as a wildlife conservation plan
10	295	about approving a variation of a plan adopted as a wildlife conservation plan
10A	303CG	whether or not to grant a permit
10AA	303DC	whether or not to amend the list of exempt native specimens
10B	303DG	whether or not to grant a permit
10C	303EC	about including an item in the list referred to in section 303EB
10D	303EN	whether or not to grant a permit
10E	303FN	about declaring an operation to be an approved wildlife trade operation
10F	303FO	about declaring a plan to be an approved wildlife trade management plan
10G	303FP	about declaring a plan to be an accredited wildlife trade management plan
10H	303GB	whether or not to grant an exceptional circumstances permit
11	316	about making a plan for managing a property that is included in the World Heritage List and is entirely within one or more Commonwealth areas
11A	324S	about making a plan for managing a National Heritage place



Decisions in which precautionary principle must be considered

Item	Section decision is made under	Nature of decision
12	328	about making a plan for managing a wetland that is designated for inclusion in the List of Wetlands of International Importance kept under the Ramsar Convention and is entirely within one or more Commonwealth areas
13	338	about making a plan for managing a Biosphere reserve entirely within one or more Commonwealth areas
13A	341T	about endorsing a plan for managing a Commonwealth Heritage place
14	370	about approving a management plan for a Commonwealth reserve

