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**From:** Sandra Harris  
**Sent:** Sunday, 11 July 2021 10:20 PM  
**To:** Portfolio Committee 7  
**Cc:** Merrin Thompson; Shu-Fang Wei  
**Subject:** RE: Portfolio Committee No 7 - Inquiry into health and wellbeing of kangaroos and other macropods in New South Wales - timing of approval of next Kangaroo Management Plan  
**Attachments:** Attachment 1 - Relevant extracts - Environment Protection and Biodiversity Conservation Act.PDF; Attachment 2 - Process flow and indicative timing - NSW Kangaroo Harvest Management Plan 2022-2026.DOCX

Dear Peta

Thank you for your email below about the approval timing for the next kangaroo management plan.

The *New South Wales Commercial Kangaroo Harvest Management Plan 2017–2021* is an approved wildlife trade management plan under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). This plan expires on 31 December 2021 and cannot be extended. A new approved plan is required from 1 January 2022.

The Commonwealth Minister for the Environment can only approve a plan if satisfied it meets the objects of Part 13A and the criteria specified in Section 303FO of the EPBC Act. An extract with relevant sections highlighted is attached.

Also attached is the process flow and indicative timing for the assessment and approval of the NSW Kangaroo Harvest Management Plan 2022-2026. This was provided by the Commonwealth Department of Agriculture, Water and Environment (DAWE) to the Department of Planning, Industry and Environment in October 2020, around six months before the announcement of the Inquiry.

The consideration of approval or otherwise by DAWE and the Commonwealth Minister for the Environment does not occur until between mid-October and November 2021. The consultation, approval process and timelines are a Commonwealth Government process set by DAWE.

I hope this response adequately answers the Committees question.

Kind regards

Sandra

**Sandra Harris**  
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**Office of the Coordinator-General**

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## **Part 13A—International movement of wildlife specimens**

### **Division 1—Introduction**

#### **303BA Objects of Part**

(1) The objects of this Part are as follows:

- (a) to ensure that Australia complies with its obligations under CITES and the Biodiversity Convention;
- (b) to protect wildlife that may be adversely affected by trade;
- (c) to promote the conservation of biodiversity in Australia and other countries;
- (d) to ensure that any commercial utilisation of Australian native wildlife for the purposes of export is managed in an ecologically sustainable way;
- (e) to promote the humane treatment of wildlife;
- (f) to ensure ethical conduct during any research associated with the utilisation of wildlife;
- (h) to ensure that the precautionary principle is taken into account in making decisions relating to the utilisation of wildlife.

**Note:** CITES means the Convention on International Trade in Endangered Species—see section 528.

(2) In order to achieve its objects, this Part includes special provisions to conserve the biodiversity of Australian native wildlife.

#### **303BAA Certain indigenous rights not affected**

To avoid doubt, nothing in this Part prevents an indigenous person from continuing in accordance with law the traditional use of an area for:

- (a) hunting (except for the purposes of sale); or
- (b) food gathering (except for the purposes of sale); or

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**303FO Approved wildlife trade management plan**

- (1) The export of a specimen is an export in accordance with an approved wildlife trade management plan if the specimen is, or is derived from, a specimen that was taken in accordance with a plan declared by a declaration in force under subsection (2) to be an approved wildlife trade management plan.
- (2) The Minister may, by instrument published in the *Gazette*, declare that a specified plan is an **approved wildlife trade management plan** for the purposes of this section.
- (3) The Minister must not declare a plan under subsection (2) unless the Minister is satisfied that:
  - (a) the plan is consistent with the objects of this Part; and
  - (b) there has been an assessment of the environmental impact of the activities covered by the plan, including (but not limited to) an assessment of:
    - (i) the status of the species to which the plan relates in the wild; and
    - (ii) the extent of the habitat of the species to which the plan relates; and
    - (iii) the threats to the species to which the plan relates; and
    - (iv) the impacts of the activities covered by the plan on the habitat or relevant ecosystems; and
  - (c) the plan includes management controls directed towards ensuring that the impacts of the activities covered by the plan on:
    - (i) a taxon to which the plan relates; and
    - (ii) any taxa that may be affected by activities covered by the plan; and
    - (iii) any relevant ecosystem (for example, impacts on habitat or biodiversity);are ecologically sustainable; and
  - (d) the activities covered by the plan will not be detrimental to:
    - (i) the survival of a taxon to which the plan relates; or

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- (ii) the conservation status of a taxon to which the plan relates; or
    - (iii) any relevant ecosystem (for example, detriment to habitat or biodiversity); and
  - (e) the plan includes measures:
    - (i) to mitigate and/or minimise the environmental impact of the activities covered by the plan; and
    - (ii) to monitor the environmental impact of the activities covered by the plan; and
    - (iii) to respond to changes in the environmental impact of the activities covered by the plan; and
  - (f) if the plan relates to the taking of live specimens that belong to a taxon specified in the regulations—the conditions that, under the regulations, are applicable to the welfare of the specimens are likely to be complied with; and
  - (g) such other conditions (if any) as are specified in the regulations have been, or are likely to be, satisfied.
- (4) In deciding whether to declare a plan under subsection (2), the Minister must have regard to:
- (a) whether legislation relating to the protection, conservation or management of the specimens to which the plan relates is in force in the State or Territory concerned; and
  - (b) whether the legislation applies throughout the State or Territory concerned; and
  - (c) whether, in the opinion of the Minister, the legislation is effective.
- (5) A declaration under subsection (2) ceases to be in force at the beginning of the fifth anniversary of the day on which the declaration took effect. However, this rule does not apply if a period of less than 5 years is specified in the declaration in accordance with subsection 303FT(4).
- (6) If a declaration ceases to be in force, this Act does not prevent the Minister from making a fresh declaration under subsection (2).
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- (7) A fresh declaration may be made during the 90-day period before the time when the current declaration ceases to be in force.
- (8) A fresh declaration that is made during that 90-day period takes effect immediately after the end of that period.

**303FP Accredited wildlife trade management plan**

- (1) The export of a specimen is an export in accordance with an accredited wildlife trade management plan if the specimen is, or is derived from, a specimen that was taken in accordance with a plan declared by a declaration in force under subsection (2) to be an accredited wildlife trade management plan.
- (2) The Minister may, by instrument published in the *Gazette*, declare that a specified plan is an **accredited wildlife trade management plan** for the purposes of this section.
- (3) The Minister must not declare a plan under subsection (2) unless the Minister is satisfied that:
  - (a) the plan is in force under a law of the Commonwealth or of a State or Territory; and
  - (b) the conditions set out in subsection 303FO(3) have been met in relation to the plan; and
  - (c) the plan imposes limits in relation to the taking of specimens; and
  - (d) the compliance and enforcement measures relating to the plan are likely to be effective in preventing specimens taken in breach of the plan from being traded or exported; and
  - (e) the plan provides for the monitoring of:
    - (i) the taking of specimens under the plan; and
    - (ii) the export of specimens taken under the plan; and
    - (iii) the status of the species to which the plan relates in the wild; and
    - (iv) the impacts of the activities under the plan on the habitat of the species to which the plan relates; and

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**303FR Public consultation**

- (1) Before making a declaration under section 303FN, 303FO or 303FP, the Minister must cause to be published on the internet a notice:
  - (a) setting out the proposal to make the declaration; and
  - (b) setting out sufficient information to enable persons and organisations to consider adequately the merits of the proposal; and
  - (c) inviting persons and organisations to give the Minister, within the period specified in the notice, written comments about the proposal.
- (2) A period specified in a notice under subsection (1) must not be shorter than 20 business days after the date on which the notice was published on the internet.
- (3) In making a decision about whether to make a declaration under section 303FN, 303FO or 303FP, the Minister must consider any comments about the proposal to make the declaration that were given in response to an invitation under subsection (1).

**303FRA Assessments**

- (1) The regulations may prescribe an assessment process that is to be used for the purposes of sections 303FN, 303FO and 303FP to assess the potential impacts on the environment of:
  - (a) a wildlife trade operation; or
  - (b) the activities covered by a plan;where the operation is, or the activities are, likely to have a significant impact on the environment.
- (2) If regulations made for the purposes of subsection (1) apply to a wildlife trade operation or to a plan, the Minister must not declare:
  - (a) the operation under subsection 303FN(2); or
  - (b) the plan under subsection 303FO(2) or 303FP(2);

# Assessment Process and Timing for Approval of Wildlife Trade Management Plans under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) – **EXPIRY 31 DECEMBER 2021**

Process	Indicative Timing	Test proposed timing below	Comments
The Department receives a draft Wildlife Trade Management Plan	4 June 2021	4 June 2021	
The Department reviews the draft plan against the EPBC Act. If required, comments are provided to the proponent, amendments made and a revised draft provided to the Department.	2 weeks	19 June 2021	
The Minister (or his/her delegate) consults with a relevant agency of each state and territory that may be affected by the plan (303FQ)	-		
The Minister (or his/her delegate) undertakes public consultation on the plan via the internet for a minimum of 20 business days* (s303FR)	4 weeks*	21 Jun–16 Jul 2021	legislated - cannot change
The Department provides all comments received from public consultation to the proponent.	1–2 weeks	19–23/30 Jul 2021	
The proponent makes amendments to the plan as required as a result of comments received, and documents the process.	6 weeks	2 Aug–10 Sep 2021	
The revised plan and documentation of how consultation was considered is provided back to the Department.	-	10 Sep 2021	
The Department undertakes a formal assessment of the plan against relevant sections of the EPBC Act and its regulations <sup>†</sup> . Liaison with proponent is undertaken as required.	2–4 weeks	13–17/24 Sep 2021	
The Department provides approval brief for the delegate's consideration.	2 weeks	27 Sep–9 Oct 2021	
The Delegate considers and approves /or does not approve the plan.	4–6 weeks	11 Oct–6/19 Nov 2021	
The Department advises the proponent of the decision.	-		
If approved, the Delegate publishes the instrument of declaration, including the conditions under which it may operate, on the internet (303FT)	3 days	25 Nov 2021	Instrument must be lodged by 10 Dec 2021
The approved plan is provided on the Department's internet. (This forms part of the declaration – conditions in the declaration refer to detail in the approved plan)	1 week	1 Dec 2021	
The approved plan comes into force on the date stipulated in the declaration.		1 Jan 2022	

Department = Australian Government Department of Agriculture, Water and the Environment.

Minister = Australian Government Minister for the Environment, or his/her delegate.

Each time period estimated above is considered to be indicative only, except for statutory timeframes

\* = statutory timeframe

<sup>†</sup> Information on relevant sections of the EPBC Act and Regulations are available on request

This is a simplified version. Timing may be significantly less if the document well drafted and/or few public comments are received. Where steps are significantly shortened, the process is likely to require longer time periods for subsequent steps. This flow chart does not account for significant revisions or redrafts.

Detailed information on the process and required steps is available on request.