



# Environment Protection and Biodiversity Conservation Amendment Regulations 2005 (No. 2)<sup>1</sup>

## Select Legislative Instrument 2005 No. 251

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I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Environment Protection and Biodiversity Conservation Act 1999*.

Dated 10 November 2005

P. M. JEFFERY  
Governor-General

By His Excellency's Command

IAN CAMPBELL  
Minister for the Environment and Heritage

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**1 Name of Regulations**

These Regulations are the *Environment Protection and Biodiversity Conservation Amendment Regulations 2005 (No. 2)*.

**2 Commencement**

These Regulations commence on 1 December 2005.

**3 Amendment of *Environment Protection and Biodiversity Conservation Regulations 2000***

Schedule 1 amends the *Environment Protection and Biodiversity Conservation Regulations 2000*.

## Schedule 1      Amendments

(regulation 3)

### [1]      After Part 8

*insert*

## Part 8A              Access to biological resources in Commonwealth areas

### Division 8A.1      Preliminary

#### 8A.01      Purpose of Part 8A

For section 301 of the Act, the purpose of this Part is to provide for the control of access to biological resources in Commonwealth areas to which this Part applies by:

- (a) promoting the conservation of biological resources in those Commonwealth areas, including the ecologically sustainable use of those biological resources; and
- (b) ensuring the equitable sharing of the benefits arising from the use of biological resources in those Commonwealth areas; and
- (c) recognising the special knowledge held by indigenous persons about biological resources; and
- (d) establishing an access regime designed to provide certainty, and minimise administrative cost, for people seeking access to biological resources; and
- (e) seeking to ensure that the social, economic and environmental benefits arising from the use of biological resources in those Commonwealth areas accrue to Australia; and

- (f) contributing to a nationally consistent approach to access to Australia's biological resources.

*Note* For the meaning of *Commonwealth area*, see the Act, section 525.

### **8A.02 Application of Part 8A to Commonwealth areas**

This Part applies to Commonwealth areas but does not apply to land leased by the Commonwealth or a Commonwealth agency unless the Commonwealth or the Commonwealth agency that holds the lease also holds a usage right in relation to the land that entitles the lessee to control access to the biological resources in and on the land.

*Note 1* For the meaning of *Commonwealth area*, see the Act, section 525.

*Note 2* Access to biological resources in Commonwealth reserves must be in accord with provisions of the Act and these Regulations dealing with Commonwealth reserves.

### **8A.03 Meaning of access to biological resources**

- (1) In this Part:

*access to biological resources* means the taking of biological resources of native species for research and development on any genetic resources, or biochemical compounds, comprising or contained in the biological resources (other than an activity mentioned in subregulation (3)).

*Examples*

Examples of *access to biological resources* include collecting living material or analysing and sampling stored material, for various purposes including taxonomic research, other research and potential commercial product development.

*Note* For the meaning of *biological resources*, *genetic resources* and *native species*, see the Act, section 528.

- (2) A person is taken to have access to biological resources if there is a reasonable prospect that biological resources taken by the person will be subject to research and development on any genetic resources, or biochemical compounds, comprising or contained in the biological resources.

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- (3) The definition, *access to biological resources*, in subregulation (1) does not include the following activities:
- (a) the taking of biological resources by indigenous persons:
    - (i) for a purpose other than a purpose mentioned in subregulation (1); or
    - (ii) in the exercise of their native title rights and interests;
  - (b) access to human remains;
  - (c) the taking of biological resources that have been cultivated or tended for a purpose other than a purpose mentioned in subregulation (1);
  - (d) the taking of public resources for a purpose other than a purpose mentioned in subregulation (1);
  - (e) the taking of a biological resource that is:
    - (i) a genetically modified organism for the purposes of section 10 of the *Gene Technology Act 2000*; or
    - (ii) a plant variety for which a Plant Breeder's Right has been granted under section 44 of the *Plant Breeder's Rights Act 1994*;
  - (f) access to biological resources specified in a declaration under regulation 8A.05.
- (4) For paragraph (3) (d), *taking of public resources* includes the following activities:
- (a) fishing for commerce or recreation, game or charter fishing or collecting broodstock for aquaculture;
  - (b) harvesting wildflowers;
  - (c) taking wild animals or plants for food;
  - (d) collecting peat or firewood;
  - (e) taking essential oils from wild plants;
  - (f) collecting plant reproductive material for propagation;
  - (g) commercial forestry.

**8A.04 Meaning of *access provider***

(1) In this Part:

*access provider*, for biological resources in a Commonwealth area to which this Part applies, means the following:

- (a) if the area is land owned by the Commonwealth — the Commonwealth;
- (b) if the area is land owned by a Commonwealth agency — the Commonwealth agency;
- (c) if the area is land held under lease by the Commonwealth or a Commonwealth agency and is indigenous people's land — the owner of the land;
- (d) if the area is land held under lease by the Commonwealth and is not indigenous people's land — the Commonwealth;
- (e) if the area is land held under lease by a Commonwealth agency and is not indigenous people's land — the Commonwealth agency;
- (f) if the area is land in an external Territory (except Norfolk Island) or in the Jervis Bay Territory, and is not land to which paragraph (a), (b), (c), (d) or (e) applies — the Commonwealth;
- (g) if the area is a Commonwealth marine area — the Commonwealth;
- (h) if the area is any other area of land, sea or seabed that is included in a Commonwealth reserve — the Commonwealth;
- (i) if native title exists in relation to the area — the native title holders for the area.

*Note* There may be more than one access provider for biological resources. For example, if native title exists in relation to a Commonwealth area, the Commonwealth (or Commonwealth agency) and the native title holders are both access providers.

(2) A reference to land in subregulation (1) includes a reference to airspace over the land.

*Note* A Commonwealth marine area includes areas of airspace and seabed relating to the area — see the definition of *Commonwealth marine area* in section 24 of the Act.

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**8A.05 Exemption for specified biological resources or collections**

- (1) The Minister may declare that this Part does not apply to specified biological resources or a specified collection of biological resources (including future additions to the collection) if:
- (a) the resources are held as specimens away from their natural environment (whether in a collection or otherwise) by a Commonwealth Department or Commonwealth agency and there are reasonable grounds to believe that access to the biological resources is administered by the Department or agency in a manner that is consistent with the purpose of this Part; or
  - (b) there are reasonable grounds to believe that:
    - (i) access to the resources is controlled by another Commonwealth, self-governing Territory or State law; and
    - (ii) if the declaration is made — access to the resources would be in a manner that is consistent with the purpose of this Part; or
  - (c) use of the resources is required to be controlled under any international agreement to which Australia is a party.

*Example* The International Treaty on Plant Genetic Resources for Food and Agriculture, to which Australia is a signatory, obliges signatories to control access to the genetic resources of some foods in some circumstances.

- (2) A holder of biological resources to which paragraph (1) (a) applies may request the Minister, in writing, to make a declaration under subregulation (1).
- (3) A declaration under paragraph (1) (b) or (c) may provide that this Part does not apply to the biological resources in specified circumstances.
- (4) A declaration under subregulation (1) must be published in the *Gazette*.

**8A.06 Access to biological resources requires permit**

- (1) A person may have access to biological resources in a Commonwealth area to which this Part applies only in accordance with a permit in force under Part 17.

Penalty: 50 penalty units.

*Note* The Minister may issue a permit only if the applicant has given the Minister a copy of each benefit-sharing agreement required in relation to the application — see paragraph 17.03A (6) (a).

- (2) Subregulation (1) does not apply to a person in relation to biological resources that are in a Commonwealth area for which the person is an access provider.

**Division 8A.2 Access to biological resources for commercial purposes or potential commercial purposes**

**8A.07 Benefit-sharing agreement required**

- (1) An applicant for a permit for access to biological resources for commercial purposes or potential commercial purposes in a Commonwealth area to which this Part applies must enter into a benefit-sharing agreement with each access provider for the resources.

*Note 1* There may be more than one access provider for biological resources — see subregulation 8A.04 (1).

*Note 2* Since benefit-sharing agreements under this Division may purport to affect native title rights and interests in relation to land or water, applicants need to be aware of the provisions of the *Native Title Act 1993* and the availability of indigenous land use agreements under Division 3 of Part 2 of that Act as a means to validate actions that may otherwise be construed to be invalid future acts by that Act.

- (2) If an access provider is the Commonwealth, the Secretary of the Commonwealth Department with administrative responsibility for the Commonwealth area may, on behalf of the Commonwealth, enter into the benefit-sharing agreement.



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- (3) An agreement may be both a benefit-sharing agreement, if it complies with this Division, and an indigenous land use agreement within the meaning of the *Native Title Act 1993*.
  - (4) The Minister may publish in the *Gazette* a model benefit-sharing agreement as a guide for applicants.

#### **8A.08 Benefit-sharing agreements**

A benefit-sharing agreement must provide for reasonable benefit-sharing arrangements, including protection for, recognition of and valuing of any indigenous people's knowledge to be used, and must include the following:

- (a) full details of the parties to the agreement;
- (b) details regarding the time and frequency of entry to the area that has been agreed to be granted;
- (c) the resources (including the name of the species, or lowest level of taxon, to which the resources belong, if known) to which access has been agreed to be granted and the quantity of the resources that has been agreed can be collected;
- (d) the quantity of the resources that has been agreed can be removed from the area;
- (e) the purpose of the access, as disclosed to the access provider;
- (f) a statement setting out the proposed means of labelling samples;
- (g) the agreed disposition of ownership in the samples, including details of any proposed transmission of samples to third parties;
- (h) a statement regarding any use of indigenous people's knowledge, including details of the source of the knowledge, such as, for example, whether the knowledge was obtained from scientific or other public documents, from the access provider or from another group of indigenous persons;
- (i) a statement regarding benefits to be provided or any agreed commitments given in return for the use of the indigenous people's knowledge;

- (j) if any indigenous people's knowledge of the access provider, or other group of indigenous persons, is to be used, a copy of the agreement regarding use of the knowledge (if there is a written document), or the terms of any oral agreement, regarding the use of the knowledge;
- (k) the details of any proposals of the applicant to benefit biodiversity conservation in the area if access is granted;
- (l) details of the benefits that the access provider will receive for having granted access.

#### **8A.09 Consultation with owners of leased land**

If the land, or part of the land, that is the subject of an application for access to biological resources is land held under lease by the Commonwealth or a Commonwealth agency (including land leased in Norfolk Island by the Commonwealth or a Commonwealth agency), each access provider must consult with the owner of that land before entering into a benefit-sharing agreement.

#### **8A.10 Informed consent**

- (1) If the biological resources to which access is sought are in an area that is indigenous people's land and an access provider for the resources is the owner of the land or a native title holder for the land, the owner or native title holder must give informed consent to a benefit-sharing agreement concerning access to the biological resources.
- (2) In considering whether an access provider has given informed consent to a benefit-sharing agreement, the Minister must consider the following matters:
  - (a) whether the access provider had adequate knowledge of these Regulations and was able to engage in reasonable negotiations with the applicant for the permit about the benefit-sharing agreement;
  - (b) whether the access provider was given adequate time:
    - (i) to consider the application for the permit, including time to consult with relevant people; and

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- (ii) if the biological resources are in an area that is indigenous people's land and an access provider for the resources is the owner of the land, to consult with the traditional owners of the land; and
  - (iii) to negotiate the benefit-sharing agreement;
  - (c) if the biological resources are in an area that is indigenous people's land and an access provider for the resources is an owner of the land and is represented by a land council — whether the views of the land council about the matters mentioned in paragraphs (a) and (b) have been sought;
  - (d) if access is sought to the biological resources of an area in relation to which native title exists — the views of any representative Aboriginal/Torres Strait Islander body or any body performing the functions of a representative body, within the meaning of the *Native Title Act 1993*, for the area about the matters mentioned in paragraphs (a) and (b);
  - (e) whether the access provider has received independent legal advice about the application and the requirements of these Regulations.
- (3) The Minister may be satisfied that informed consent has been given by any native title holders who may be affected by the issue of a permit if the benefit-sharing agreement:
- (a) is a registered indigenous land use agreement, under the *Native Title Act 1993*, for the area; and
  - (b) authorises the action proposed to be taken under the permit; and
  - (c) sets out the native title holders' consent to the issue of the permit.

*Note* The requirements relating to indigenous land use agreements are set out in Part 2, Division 3 of the *Native Title Act 1993*.

### **8A.11 Requirement for permit**

A benefit-sharing agreement takes effect only if a permit for the proposed access is issued under Part 17.

## **Division 8A.3 Access to biological resources for non-commercial purposes**

### **8A.12 Written permission of access provider required**

- (1) An applicant for a permit for access to biological resources for non-commercial purposes in a Commonwealth area to which this Part applies must obtain the written permission of each access provider for the resources to:
  - (a) enter the Commonwealth area; and
  - (b) take samples from the biological resources of the area; and
  - (c) remove samples from the area.

*Note 1* There may be more than one access provider for biological resources — see subregulation 8A.04 (1).

*Note 2* Since a written permission of the kind mentioned in this regulation may purport to affect native title rights and interests in relation to land or water, applicants need to be aware of the provisions of the *Native Title Act 1993* and the availability of indigenous land use agreements under Division 3 of Part 2 of that Act as a means to validate actions that may otherwise be construed to be invalid future acts by that Act.

- (2) If an access provider is the Commonwealth, the Secretary of the Commonwealth Department with administrative responsibility for the Commonwealth area may, on behalf of the Commonwealth, give the written permission required under subregulation (1).
- (3) A written permission may be both a permission under subregulation (1), if it complies with this Division, and an indigenous land use agreement within the meaning of the *Native Title Act 1993*.

### **8A.13 Statutory declaration**

An applicant for a permit for access to biological resources for non-commercial purposes in a Commonwealth area to which this Part applies must provide a copy of a statutory declaration given to each access provider declaring that the applicant:

- (a) does not intend to use the biological resources, to which the application relates, for commercial purposes; and

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- (b) undertakes to give a written report on the results of any research on the biological resources to each access provider; and
  - (c) undertakes to offer, on behalf of each access provider, a taxonomic duplicate of each sample taken to an Australian public institution that is a repository of taxonomic specimens of the same order or genus as those collected for permanent loan; and
  - (d) undertakes not to give a sample to any person, other than an institution referred to in paragraph (c), without permission of each access provider; and
  - (e) undertakes not to carry out, or allow others to carry out, research or development for commercial purposes on any genetic resources or biochemical compounds comprising or contained in the biological resources unless a benefit-sharing agreement has been entered into, in accordance with Division 8A.2, with each access provider.

#### **8A.14 Requirement for permit**

A written permission given under subregulation 8A.12 (1) takes effect only if a permit for the proposed access is issued under Part 17.

### **Division 8A.4 Assessment of applications**

#### **8A.15 Assessment by Minister**

- (1) In assessing an application for a permit, the Minister may consult any Commonwealth Department, any Commonwealth agency or any other person that may have information relevant to the application.
- (2) If the application is for access to biological resources for commercial purposes, the Minister:
  - (a) must take into account the extent to which the requirements of regulation 8A.08 have been met by the benefit-sharing agreement; and
  - (b) must consider whether all the other requirements of Division 8A.2 have been met.

- (3) If the application is for access to biological resources for non-commercial purposes, the Minister must consider whether the requirements of Division 8A.3 have been met.

#### **8A.16 Assessment of environmental impact**

- (1) This regulation applies to an application for a permit to which paragraph 17.01 (ab) applies if the proposed access is not a controlled action.

*Note* For the meaning of *controlled action*, see the Act, section 67.

- (2) The application must be assessed by public notice if the Minister believes, on reasonable grounds, that the proposed access to biological resources is likely to have more than negligible environmental impact.
- (3) After all the documents required to consider an application have been received by the Minister and the application is required to be assessed by public notice:
  - (a) the Minister must tell the applicant, within 20 business days after receiving all the required documents, that the application is required to be assessed by public notice; and
  - (b) the applicant must give the Minister a summary of the likely environmental impacts of the proposed access; and
  - (c) within 10 business days after receiving the summary, the Minister must:
    - (i) publish on the Internet a notice inviting any person to comment on the likely environmental impacts of the proposed access within a specified time (which must be at least 10 business days); and
    - (ii) invite each person registered under regulation 8A.17 to give comments to the Minister within a specified time (which must be at least 10 business days); and
    - (iii) publish on the Internet any documents relevant to public consideration of the proposed access and its environmental impact; and
  - (d) within 5 business days after the end of the period allowed by the invitation for comments, the Minister must give the applicant a copy of any comments received by the Minister.

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- (4) The applicant must give the Minister a copy of any response the applicant wishes to make to any comments received.

**8A.17 Register for consultation when assessment by public notice is required**

- (1) At intervals of not more than 12 months, the Minister must publish a notice inviting applications from persons who want to be registered, for a specified period of at least 12 months, to be told of applications to which subregulation 8A.16 (2) applies.
- (2) The notice must be published:
  - (a) in the *Gazette*; and
  - (b) on the Department's website, [www.deh.gov.au](http://www.deh.gov.au); and
  - (c) in a daily newspaper that circulates throughout Australia.
- (3) The Minister must register any person who applies in writing for registration.
- (4) Registration has effect for the period specified in the notice.

**Division 8A.5 Register of permits**

**8A.18 Register of permits**

- (1) The Minister must keep a register of information about permits issued for this Part.

*Note* The Register may be viewed on the Department's website, [www.deh.gov.au](http://www.deh.gov.au).

- (2) Information is not to be included in the register if the Minister believes that the information:
  - (a) is culturally sensitive; or
  - (b) if disclosed, could:
    - (i) damage a person's commercial interests; or
    - (ii) result in a risk to the environment; or
    - (iii) harm the national interest.

## **Division 8A.6      Records and samples**

### **8A.19    Permit holder to keep records**

- (1) A person issued a permit for access to biological resources under Part 17 must keep the following records for each sample taken:
  - (a) for each record about a sample, a unique identifier for the sample that is also on a label attached to the sample or its container;
  - (b) the date the sample was taken;
  - (c) the place from which the sample was taken;
  - (d) an appropriate indication of the quantity or size of the sample (for example, weight or physical dimension of the sample);
  - (e) the scientific name of, or given to, the sample;
  - (f) the location of the sample when first entered in the record;
  - (g) the details about any subsequent disposition of the sample, including the names and addresses of others having possession of the sample or a part of the sample.
- (2) A copy of the records mentioned in subregulation (1) must be sent to each access provider and the Department within a reasonable period after the sample is taken.
- (3) A record mentioned in subregulation (1) for a sample must be retained by the permit holder while the sample is in the holder's possession.

### **8A.20    Disposal of samples**

- (1) If a permit holder does not propose to keep a sample for which he or she has a record of the type mentioned in subregulation 8A.19 (1), the permit holder must offer the sample and record to each access provider.
- (2) If no access provider agrees to take the sample and record in the circumstances mentioned in subregulation (1), the permit holder may dispose of the sample and, at that time, must send the record and details of the disposal of the sample to the Department.



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**[2] After paragraph 17.01 (aa)***insert*

- (ab) by the Minister under Part 8A, authorising a person to access biological resources in Commonwealth areas to which that Part applies; and

**[3] After paragraph 17.02 (2) (g)***insert*

- (ga) for a permit to which paragraph 17.01 (ab) applies:
- (i) whether the relevant purpose is commercial or non-commercial; and
  - (ii) the name of each access provider or, if an access provider for the biological resources is the Commonwealth or a Commonwealth agency, the name of the Commonwealth Department or Commonwealth agency that administers the Commonwealth area in which the access is proposed; and
  - (iii) the biological resources to which the applicant seeks access; and
  - (iv) the amount of biological resources that is proposed to be taken; and
  - (v) the use that is proposed to be made of indigenous people's knowledge in determining the biological resources to be accessed or the particular areas to be searched, and details of any agreements made with indigenous persons in relation to use of specialised information or information otherwise confidential to the indigenous people of the area; and
  - (vi) the use the applicant proposes to make of the biological resources and how access will benefit biodiversity conservation within the area; and
  - (vii) details of any other person for whose benefit access is sought or who proposes to use the samples obtained; and
  - (viii) how the access is to be undertaken, including details of vehicles and equipment to be used; and

- (ix) whether the applicant thinks that further access to the biological resources will be sought; and
- (x) details of any other application by the applicant for a permit under this Part;

**[4] Subregulation 17.03 (1)**

*omit*

17.01 (b),

*insert*

17.01 (ab), (b),

**[5] Before paragraph 17.03 (2) (a)**

*insert*

- (aa) for a permit to which paragraph 17.01 (ab) applies — the requirements mentioned in subregulation 17.03A (6) are met; and

**[6] After regulation 17.03**

*insert*

**17.03A Permits for access to biological resources**

- (1) This regulation applies to a permit to which paragraph 17.01 (ab) applies.
- (2) If the proposed access is a controlled action, the Minister must decide whether to issue a permit within 10 business days after deciding, under subsection 133 (1) of the Act, whether or not to approve the taking of the action.
- (3) If the proposed access is not a controlled action and assessment by public notice is required, the Minister must decide whether to issue a permit after receiving the comments received under paragraph 8A.16 (3) (c) and the responses mentioned in subregulation 8A.16 (4).

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- (4) In deciding whether to issue a permit under subregulation (2) or (3):
- (a) the Minister must take into account:
    - (i) the reports and information mentioned in the relevant subregulation; and
    - (ii) the views of any owner of land consulted under regulation 8A.09; and
    - (iii) the views of any Commonwealth Department, Commonwealth agency or person consulted by the Minister under paragraph 8A.15 (1); and
    - (iv) the assessment mentioned in regulation 8A.15; and
  - (b) the Minister may take into account any other matter that the Minister considers relevant.
- (5) However, if the Minister considers that he or she does not have sufficient information to decide whether to issue a permit under subregulation (3), the Minister may ask for more information from any person who may have information relevant to the application.
- (6) For paragraph 17.03 (2) (aa), the requirements are:
- (a) for an application for access to biological resources for commercial purposes:
    - (i) the applicant has entered into a benefit-sharing agreement for the biological resources with each access provider; and
    - (ii) the applicant has given to the Minister a copy of each benefit-sharing agreement; and
    - (iii) if the resources are in an area that is indigenous people's land and an access provider for the resources is the owner of that land — the Minister is satisfied that the owner has given informed consent to the benefit-sharing agreement; and
  - (b) for an application for access to biological resources for non-commercial purposes:
    - (i) the applicant has permission from each access provider for the area in accordance with subregulation 8A.12 (1); and

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- (ii) the applicant has given to the Minister a copy of the statutory declaration required under regulation 8A.13; and
  - (c) the Minister believes, on reasonable grounds, that some of the benefits of access to the biological resources will, if practicable, be used for biodiversity conservation in the area from where the resources were taken; and
  - (d) for proposed access in a Commonwealth reserve, access would be consistent with any management plan in operation for the reserve; and
  - (e) for proposed access in Kakadu National Park, Uluru-Kata Tjuta National Park or Booderee National Park, access would be consistent with any lease of indigenous people's land in the park; and
  - (f) the proposed access will, taking into account the precautionary principle, be ecologically sustainable and consistent with the conservation of Australia's biological diversity.

*Note* For the meaning of *precautionary principle*, see the Act, section 391.

- (7) In considering whether the requirement in paragraph (6) (f) is met, the Minister must consider whether the proposed access may adversely affect:
  - (a) the conservation status of any species or population; or
  - (b) any ecosystem or ecological community.

*Note* For the meaning of *ecological community*, *ecosystem* and *species*, see the Act, section 528.

### **17.03B Access to biological resources — effect of native title**

- (1) This regulation applies to an application for access to biological resources in an area that is not Aboriginal/Torres Strait Islander land or waters in relation to:
  - (a) the issue of a permit to which paragraph 17.01 (ab) applies; or
  - (b) variation to, or the revoking of, conditions attaching to a permit to which paragraph 17.01 (ab) applies; or
  - (c) the addition of conditions, or further conditions, attaching to a permit to which paragraph 17.01 (ab) applies.

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- (2) The Minister may issue the permit, vary the conditions attaching to the permit or add conditions to the permit only if the Minister is satisfied that the action would not be an invalid future act under the *Native Title Act 1993*.

*Note* The procedural rights arising from the doing of a future act are set out in Part 2, Division 3 of the *Native Title Act 1993*.

- (3) For subregulation (2), the Minister may be satisfied that issuing the permit, varying the conditions attaching to the permit or adding conditions to the permit would not be an invalid future act under the *Native Title Act 1993* if:
- (a) an indigenous land use agreement has been registered for the area under the *Native Title Act 1993*; and
  - (b) the indigenous land use agreement authorises the action proposed to be taken under the permit; and
  - (c) sets out the native title holders' consent to the issue of, or the variation or the addition of conditions to, the permit.
- (4) In this regulation:

***Aboriginal/Torres Strait Islander land or waters*** has the meaning given by section 253 of the *Native Title Act 1993*.

***indigenous land use agreement*** has the meaning given by section 253 of the *Native Title Act 1993*.

***registered*** means registered on the Register of Indigenous Land Use Agreements under the *Native Title Act 1993*.

**[7] Regulation 17.08**

*omit*

17.01 (b)

*insert*

17.01 (ab), (b)

**[8] Paragraph 17.09 (5) (b)**

*omit*

17.01 (b)

*insert*

17.01 (ab), (b)

**[9] Subregulation 17.10 (1)**

*omit*

17.01 (b)

*insert*

17.01 (ab), (b)

**[10] Subregulation 18.02 (2)**

*omit*

Part 5

*insert*

Part 4

**[11] Subregulation 18.02 (4)**

*omit*

Part 1B

*insert*

Part 1A

**[12] Regulation 18.03**

*omit*

**[13] Schedule 11, after Part 1A***insert***Part 1B Paragraph 17.01 (ab)**

1B.01	Access to biological resources — commercial purposes	\$50	nil	nil
1B.02	Access to biological resources — non-commercial purposes	nil	nil	nil

**[14] Dictionary, after definition of *artificially propagated****insert*

*assessment by public notice* means assessment in accordance with regulation 8A.18.

**[15] Dictionary, before definition of *biodiversity****insert*

*benefit-sharing agreement* means an agreement that complies with Division 8A.2.

**[16] Dictionary, after definition of *burial****insert*

*business day* — see Act, section 528.

**[17] Dictionary, after definition of *Commonwealth area****insert*

*Commonwealth Department* means a Department of State of the Commonwealth.

**[18] Dictionary, after definition of *contact details***

*insert*

*controlled action* — see Act, section 528.

**[19] Dictionary, after definition of *ecological community***

*insert*

*ecosystem* — see Act, section 528.

**[20] Dictionary, before definition of *indigenous person***

*insert*

*indigenous people's land* — see Act, section 528.

**[21] Dictionary, after definition of *native species***

*insert*

*native title* has the meaning given by section 223 of the *Native Title Act 1993*.

*native title holder* has the meaning given by section 224 of the *Native Title Act 1993*.

*native title rights and interests* has the meaning given by section 223 of the *Native Title Act 1993*.

**[22] Dictionary, after definition of *porpoise***

*insert*

*precautionary principle* — see Act, section 528.

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**Note**

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See [www.frli.gov.au](http://www.frli.gov.au).