

EXPLANATORY STATEMENT

Environment Protection and Biodiversity Conservation Act 1999

Instrument under section 269A

(Issued under the Authority of the Minister for the Environment and Heritage)

The *Environment Protection and Biodiversity Conservation Act 1999* (the Act) places certain obligations on the Commonwealth to protect and conserve threatened species and ecological communities, and recognises the requirement to ensure recovery plans are in force under the Act.

The purpose of this instrument is to ensure a recovery plan is in force in accordance with s. 269A of the Act for the humpback whale (*Megaptera novaeangliae*) – listed as vulnerable.

In accordance with s. 270 of the Act and r. 7.11 of the *Environment Protection and Biodiversity Conservation Regulations 2000*, the plan includes:

1. the objectives to be achieved during the life of the plan;
2. criteria against which achievement of the objectives is to be measured;
3. the actions needed to achieve the objectives;
4. threats to the species;
5. habitat critical to the survival of the species and the actions needed to protect those habitats;
6. any populations of the species that are under particular pressure of survival and the actions needed to protect those populations;
7. the estimated duration and cost of the recovery process and identify interests affected by the plans implementation and organisations/persons involved in evaluating the performance of the recovery plan;
8. location of the species;
9. areas of habitat that are critical to the survival of the species;
10. important populations of the species that are necessary for long term survival and recovery;
11. what must be done to stop the decline of and support the recovery and survival of the species by protecting important populations, protecting and restoring habitat; and
12. where possible, management practices necessary to avoid a significant adverse impact on the species.

The information presented in the recovery plan and supported by experts in the field enabled the Threatened Species Scientific Committee (the Committee) to recommend the making of these Plans as required under s. 274 of the Act.

The following consultation on the Recovery Plans was undertaken:

- Draft plans were available on:
<http://www.deh.gov.au/biodiversity/threatened/recovery/public-comments/index.html> for comment for the period 15 December 2004 to 15 March 2005;
- Public comments sought through ads in national Australian newspaper and the Gazette;
- Minister sent letters to State and Territory Government seeking comments; and
- Meetings held with stakeholders.

On the basis of the advice of the Committee, and on assessment of comments received from the public and State and Territory Governments, I am satisfied that the Humpback Whale Recovery Plan should be made.

The recovery plan is available electronically from the Australian Government Department of the Environment and Heritage at:

- <http://www.deh.gov.au/biodiversity/threatened/recovery/list-common.html>; or
- from the Community Information Unit, Department of the Environment and Heritage, GPO Box 787, Canberra ACT 2601

This instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

In accordance with s. 273(1A) of the *Environment Protection and Biodiversity Conservation Act 1999*, the instrument commenced on the day on which it was made.

For the purposes of subsection 12(2) of the *Legislative Instruments Act 2003*, the rights and liabilities of a person other than the Commonwealth has not been adversely affected by the retrospective commencement of the Plan.