

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.

In accordance with s. 269A of the Act, the purpose of this Recovery Plan is for the protection, conservation and management of the Whale Shark (*Rhincodon typus*), which is a listed threatened species (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 objective to be achieved during the life of the Plan;
2. criteria to measure performance of the Plan against the objective;
3. actions to achieve the objective;
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
8. the interests affected by the Plans implementation and organisations/persons involved in evaluating the performance of the Recovery Plan; and
9. major benefits to native species or ecological communities (other than those to which the plan relates) that will be affected by the Plan's implementation.

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:

- A Draft of the Plan was made available on <http://www.deh.gov.au/biodiversity/threatened/recovery/index.html> for comment for the period 11 August 2004 to 12 November 2004;
- Notices inviting comment on the draft Plan were placed in the Gazette and in the *Weekend Australian*;
- The Minister for the Environment and Heritage sought comments from the State and Territory Governments.

All comments received were considered in revising the draft Plan. 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 Whale Shark 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.