

EXPLANATORY STATEMENT

(Issued under the Authority of the Minister for Sustainability, Environment, Water,
Population and Communities)

Environment Protection and Biodiversity Conservation Act 1999

National recovery plan for threatened albatrosses and giant petrels 2011-2016

The *Environment Protection and Biodiversity Conservation Act 1999* (the Act) provides for the protection of the environment and conservation of biodiversity, including the protection and conservation of threatened species and ecological communities.

Part 13, Division 5, Subdivision A of the Act provides for the making, or adoption of, recovery plans for listed threatened species or ecological communities, which bind the Commonwealth and Commonwealth agencies.

Section 269A (2) of the Act provides that the Minister may make a written recovery plan for the purposes of the protection, conservation and management of a listed threatened species.

The Minister has made the *National Recovery Plan for Threatened Albatrosses and Giant Petrels 2011-2016* (the Plan) as the recovery plan for the following listed threatened species:

- Tristan albatross *Diomedea dabbenena*
- Northern royal albatross *Diomedea sanfordi*
- Amsterdam albatross *Diomedea amsterdamensis*
- Chatham albatross *Thalassarche eremite*
- Wandering albatross *Diomedea exulans*
- Antipodean albatross *Diomedea antipodensis*
- Gibson's albatross *Diomedea gibsoni*
- Southern royal albatross *Diomedea epomophora*
- Campbell albatross *Thalassarche impavida*
- Buller's albatross *Thalassarche bulleri*
- Pacific albatross *Thalassarche sp.*
- Shy albatross *Thalassarche cauta*
- White-capped albatross *Thalassarche steadi*
- Salvin's albatross *Thalassarche salvini*
- Indian yellow-nosed albatross *Thalassarche carteri*
- Grey-headed albatross *Thalassarche chrysostoma*
- Sooty albatross *Phoebastria fusca*
- Black-browed albatross *Thalassarche melanophris*
- Northern giant petrel *Macronectes halli*
- Southern giant petrel *Macronectes giganteus*

The purpose of the Plan is to provide for the research and management actions necessary to stop the decline of, and support the recovery of, the listed threatened species set out above, in order to maximise their chances of long-term survival in nature.

Section 269A (4) and (6) of the Act provide that the Minister must not make a recovery plan under section 269A (2) unless:

- the plan meets the requirements of section 270 of the Act; and
- if the threatened species occur wholly or partly outside a Commonwealth area, the Minister is satisfied that it is not reasonably practicable, within 3 years of the Minister deciding to have a recovery plan for threatened species, for the Minister to make a plan jointly with the relevant State or Territories in which the species occur and in which actions that the plan would provide for would occur.

The Plan has been assessed and complies with section 270 of the Act and regulation 7.11 of the *Environment Protection and Biodiversity Conservation Regulations 2000*.

The threatened species covered by the Plan occur wholly or partly outside a Commonwealth area (as that term is defined in the Act), including the coastal waters of each State. For the purposes of section 269A (6) of the Act, the Minister was satisfied that it was not practicable to make a joint recovery plan with the relevant States within the timeframe referred to in section 273 (1) of the Act because these species predominantly occur in the Commonwealth area; not all species covered by the Plan occur in all States; as similar threats and actions apply to all species, there is consonance in having a single plan, as occurred with the 2001 national recovery plan; while the same conservation actions are appropriate for the species covered by the Plan, those actions are principally a matter for the Commonwealth; and successive Commonwealth governments have taken a strong lead on national and international conservation policy for these species.

Section 269A (5) of the Act provides that before making a recovery plan, the Minister must:

- consider the advice of the Threatened Species Scientific Committee (the Committee) under section 274 of the Act; and
- consult about the plan and consider comments in accordance with sections 275 and 276 of the Act.

An initial draft of the Plan was provided to experts and agencies of all States. The Plan was revised to take account of comments received. The Plan was then placed on public exhibition in accordance with section 275 of the Act. A notice was placed in the *Commonwealth of Australia Gazette* and *The Australian* inviting people to make written comments about the Plan and advising where copies of the Plan could be obtained. The period of public comments was from 13 May 2009 to 31 August 2009, a period of at least 3 months as required by section 275(3) of the Act.

Five comments, all positive and relatively minor, were received and all comments were taken into account in finalising the Plan. The Plan was also provided to all State governments for their endorsement; all States either endorsed or supported the plan.

The Committee recommended the making of the Plan as required under section 274 of the Act.

The Office of Best Practice Regulation has indicated that a Regulatory Impact Assessment is not required for the Plan (OBPR ID: 12599).

The Plan is available from the Department of Sustainability, Environment, Water, Population and Communities www.environment.gov.au/biodiversity/threatened/recovery/index.html; and from the Australian Antarctic Division www.aad.gov.au or from the Community Information Unit, Department of Sustainability, Environment, Water, Population and Communities, GPO Box 787, Canberra ACT 2601 or by phoning 02 6274 1111.

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

In accordance with section 273 (1A) of the Act, the Plan came into force on the day after it was registered on the Federal Register of Legislative Instruments.

Authority: section 269A (2) (a) of the *Environment Protection and Biodiversity Conservation Act 1999*.