

EXPLANATORY STATEMENT

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

Environment Protection and Biodiversity Conservation Act 1999

Instrument Adopting Recovery Plans

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.

Subsection 269A(7) of the Act enables the Minister, by instrument in writing, to adopt as a recovery plan for a listed threatened species or ecological community, a plan made by a State, a self-governing Territory or an agency of a State or self-governing Territory.

The purpose of this instrument is to adopt various recovery plans (the adopted plans) prepared respectively by New South Wales, Queensland, South Australia, Tasmania, and Western Australia, as the recovery plans for the following listed threatened species and ecological communities:

<i>Acanthiza pusilla archibaldi</i> (King Island Brown Thornbill) <i>Acanthornis magna greeniana</i> (King Island Scrubtit) <i>Bettongia penicillata ogilbyi</i> (woylie) <i>Caladenia procera</i> (Carbunup king spider orchid) <i>Erythrorchis radiatus</i> (red goshawk) Iron-grass natural temperate grassland of South Australia <i>Prasophyllum affine</i> (Jervis Bay leek orchid, Culburra leek-orchid, Kinghorn Point leek-orchid)	Sedgelands in Holocene dune swales of the southern Swan Coastal Plain <i>Syzygium paniculatum</i> (magenta lilly pilly, magenta cherry, pocket-less brush cherry, scrub cherry, creek lilly pilly, brush cherry) <i>Tiliqua adelaidensis</i> (pygmy blue-tongue lizard, Adelaide blue-tongue lizard)
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The adopted plans provide for the research and management actions necessary to stop the decline of, and support the recovery of, the listed threatened species set out in the table, in order to maximise their chances of long-term survival in nature.

The recovery plan prepared by Tasmania for King Island biodiversity has been adopted in respect of *Acanthiza pusilla archibaldi* (King Island Brown Thornbill) and *Acanthornis magna greeniana* (King Island Scrubtit) only, as the other species covered by this plan either:

- are not currently listed as threatened species under the Act or otherwise do not require recovery plans;
- are not endemic to the area covered by this plan; or
- already have existing recovery plans in place that are still considered suitable.

Subsection 277(1) of the Act provides that the Minister must not adopt a recovery plan under subsection 269A(7) unless:

- the Minister is satisfied that an appropriate level of consultation has been undertaken in making the plan; and
- the plan meets the requirements of section 270 of the Act.

In addition subsection 277(2) of the Act requires the Minister to obtain and consider advice from the Scientific Committee on the content of the plan.

The adopted plans have been assessed and comply with section 270 of the Act and regulation 7.11 of the *Environment Protection and Biodiversity Conservation Regulations 2000*. Details of how the adopted plans comply with section 270 of the Act are set out in Attachment A.

The adopted plans have been endorsed by the States and/or Territories in which the relevant species occur/s. Potentially affected Australian Government agencies have also been consulted.

All of the adopted plans were placed on public exhibition at various times for periods of 2-3 months each and comments were invited from the public. All plans were advertised in the *Commonwealth of Australia Government Notices Gazette*, *The Australian* newspaper and on the website of the Australian Government Department of Sustainability, Environment, Water, Population and Communities. All comments were considered in finalising the plans.

In accordance with subsection 277(2) of the Act, the advice of the Threatened Species Scientific Committee was also obtained on the content of the recovery plans. The Committee advised that it recommends the plans for adoption by the Minister.

The adopted plans are available from the Australian Government Department of Sustainability, Environment, Water, Population and Communities website: <http://www.environment.gov.au/biodiversity/threatened/recovery-list-scientific.html> or from the Community Information Unit, Department of Sustainability, Environment, Water, Population and Communities, GPO Box 787, Canberra ACT 2601 or by phoning on 1800 803 772.

The Instrument adopting the recovery plans is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The adopted plans commenced on the day after the Instrument was registered on the Federal Register of Legislative Instruments.

Authority: Section 269A(7) of the *Environment Protection and Biodiversity Conservation Act 1999*.

Statement of Compatibility with Human Rights

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth). This Legislative Instrument does not engage any of the applicable rights or freedoms.

Meeting the requirements of section 270 of the EPBC Act

Section 270 of the *Environment Protection and Biodiversity Conservation Act 1999* (the Act) specifies the content requirements for recovery plans. The Minister cannot adopt a State or Territory plan as a recovery plan, unless the plan meets the requirements of section 270.

The Department of Sustainability, Environment, Water, Population and Communities and the Threatened Species Scientific Committee assessed the adopted plans and both concluded that they comply with the requirements of section 270 of the EPBC Act.

Section 270 (1) of the Act provides that a recovery plan must provide for the research and management actions necessary to stop the decline of, and support the recovery of, the listed threatened species concerned so that their long-term chances of survival in the wild are maximised. The adopted plans were assessed as compliant in this respect. Each of the adopted plans provides an appropriate balance between identified research actions necessary to better understand the ecological requirements of the species, and management actions necessary to deal with all of the known threats and improve the species' prospects of survival.

Section 270(2) of the Act provides that a recovery plan must particularly include the material specified in that subsection. The adopted plans each state:

- the objectives to be achieved;
- the criteria against which achievement of the objectives is to be measured; and
- the actions needed to achieve the objectives.

Therefore, they were assessed as compliant in respect of paragraphs (a), (b) and (c) of section 270(2) of the Act.

Section 270(2A) of the Act provides that a recovery plan is only required to address certain matters identified in section 270(2) to the extent it is practicable to do so. This includes:

- identifying habitats critical to survival of the species;
- identifying populations under particular pressure of survival; and
- specifying major benefits to other native species or ecological communities that will be affected by implementation of the plan/s.

Where this information is readily available, it was identified in the relevant plan. For example, the King Island Biodiversity Plan includes actions to mitigate threats and recover threatened species. Many of the species-related actions will provide positive outcomes for other species and biodiversity more generally, and mitigation of threats will reduce the pressure on a range of flora and fauna species to improve the overall health of King Island's biodiversity. The presence of a Biodiversity Management Plan and its successful implementation will reduce knowledge gaps and may assist the community in improving the management of the island's biodiversity.

Where information is not available, additional actions have usually been incorporated into the plan for it to be obtained. For example, delineating important populations for the

red goshawk has been complicated by the ecology of the species, with breeding pairs occupying extensive home ranges, and the persistence of some degree of genetic interchange between red goshawks over much of the species range. Nevertheless, it is considered important from a management perspective to differentiate the population at a regional scale, so the recovery plan includes an action to identify important populations of red goshawk using a set of criteria developed by species experts.

The recovery plan for iron-grass natural temperate grassland of South Australia includes actions aimed at addressing critical gaps in knowledge about the extent, condition and current management of iron-grass natural temperate grassland remnants; ecological functions and requirements of component species; 'best practice' adaptive management strategies for different land uses; and the most effective strategies to restore degraded remnants.

Section 270(3) of the Act provides that in making a recovery plan, regard must be had to the objects of the Act, the most efficient and effective use of resources, minimising adverse social and economic impacts, meeting Australia's international obligations, and the role and interests of indigenous people. All of the adopted plans are compliant with these requirements. For example, the King Island Biodiversity Plan integrates actions across multiple threatened species and includes links to existing management programs, legislation/regulation, monitoring, research and education activities.

Implementation of the King Island plan will involve consideration of knowledge sharing with the Tasmanian Aboriginal people, participation in education and training relevant to biodiversity management, and engagement in recovery actions where relevant to Aboriginal land management and communities.