**EXPLANATORY STATEMENT**

*Environment Protection and Biodiversity Conservation Act 1999*

**Environment Protection and Biodiversity Conservation (Recovery Plan—*Phascolarctos cinereus* (combined populations of Queensland, New South Wales and the Australian Capital Territory)) Instrument 2022**

**(Issued under the Authority of the Minister for the Environment)**

**Background**

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

**Legislative Authority**

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

Subsection 269A(3) of the EPBC 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 or listed threatened ecological community jointly with one or more of the States and self-governing Territories in which the species or community occurs.

**Purpose of the Instrument**

The purpose of this instrument is to jointly make the National Recovery Plan for the Koala *Phascolarctos cinereus* (combined populations of Queensland, New South Wales and the Australian Capital Territory) with the State of New South Wales.

*Phascolarctos cinereus* (combined populations of Queensland, New South Wales and the Australian Capital Territory) is listed in the Endangered category in the List of Threatened Species established under section 178 of the EPBC Act. The Koala is threatened due to ongoing habitat loss, the 2019-20 bushfires, climate-induced drought and temperature stress.

The Recovery Plan provides for the research and management actions necessary to stop the decline of, and support the recovery of, the listed Koala in order to maximise its chances of long-term survival in nature.

**Consultation**

In accordance with paragraph 277(1)(a) of the EPBC Act, the Minister was satisfied that an appropriate level of consultation was undertaken. The Recovery Plan was prepared in accordance with the processes outlined in Part 13, Division 1, Subdivision A of the EPBC Act.

Section 274 of the EPBC Act provides that the Minister must obtain and consider advice from the Threatened Species Scientific Committee (**Committee**) on the content of the Recovery Plan. The Committee recommended that the Recovery Plan be made under the EPBC Act.

In accordance with section 275 of the Act, public comment was invited on the draft Recovery Plan from 21 April 2021 until 30 July 2021. A notice inviting comments on the Recovery Plan was advertised in the *Gazette*, *The Australian* newspaper and on the website of the Australian Government Department of Agriculture, Water and the Environment. As required by section 276 of the Act, all comments were considered before making the Recovery Plan. The Minister consulted with the Minister of each State and self-governing Territory in which the listed Koala occurs, as required by paragraph 269A(5)(a) of the EPBC Act. The New South Wales Minister has agreed to jointly make the plan. The Australian Capital Territory Minister has committed to supporting the plan. The Queensland Minister was also consulted on jointly-making the recovery plan.

Section 270 of the EPBC Act and regulation 7.11 of the *Environment Protection and Biodiversity Conservation Regulations 2000* (**Regulations**)requires that recovery plans include certain content, such as stating the objectives of the plan and specifying the actions needed to achieve the objectives. The Recovery Plan contains the content prescribed under the EPBC Act and the Regulations.

**Commencement**

The National Recovery Plan for the Koala *Phascolarctos cinereus* (combined populations of Queensland, New South Wales and the Australian Capital Territory) commences on the day after this recovery plan is registered on the Federal Register of Legislation.

This recovery plan is a legislative instrument for the purposes of the *Legislation Act 2003*.

This Instrument is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out below.

Authority: subsection 269A(3) of the *Environment Protection and Biodiversity Conservation Act 1999*.

**Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

**Environment Protection and Biodiversity Conservation (Recovery Plan—*Phascolarctos cinereus* (combined populations of Queensland, New South Wales and the Australian Capital Territory)) Instrument 2022**

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*.

**Overview of the Legislative Instrument**

The purpose of this Instrument is to jointly make the National Recovery Plan for the *Phascolarctos cinereus* (combined populations of Queensland, New South Wales and the Australian Capital Territory) (Koala) (**Recovery Plan**). The Recovery Plan establishes a national framework to guide and coordinate the recovery of the Koala throughout its range in Australia. The Recovery Plan identifies research and management priorities necessary to assist the long-term recovery of this species. *Phascolarctos cinereus* (combined populations of Queensland, New South Wales and the Australian Capital Territory) is listed in the Endangered category under the *Environment Protection and Biodiversity Conservation Act 1999*  and as such it is an offence to kill, take, trade, keep, move or injure members of this species in or on a Commonwealth area.

The conventions listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* were considered in the preparation of the Recovery Plan.

**Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

**Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**The Hon Sussan Ley MP**

**Minister for the Environment**