

EXPLANATORY STATEMENT

Environment Protection and Biodiversity Conservation Act 1999

Environment Protection and Biodiversity Conservation (National Recovery Plan for albatrosses and petrels) Instrument 2022

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

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.

Subsection 283(1) of the EPBC Act provides that a recovery plan made or adopted under this Subdivision may deal with one or more listed threatened species and/or one or more listed ecological communities.

Purpose of the Instrument

The purpose of this instrument is to jointly make the National Recovery Plan for albatrosses and petrels (**Recovery Plan**) with the States of Victoria, Queensland, Western Australia and Tasmania.

The twenty EPBC Act listed threatened species of albatrosses and petrels included in the Recovery Plan are listed in either the Endangered or Vulnerable categories in the List of Threatened Species established under section 178 of the EPBC Act. Furthermore, the species occur in one or more of the States which have agreed to the joint making of the Recovery Plan.

The listed species face a range of threats to their long-term survival on land, particularly habitat degradation and predation by feral species, and at sea, particularly being incidental catch during fishing operations. The species included in the Recovery Plan and their listing category under the list of threatened species are as follows:

- *Diomedea amsterdamensis*, Endangered
- *Diomedea antipodensis*, Vulnerable
- *Diomedea antipodensis gibsoni*, Vulnerable

- *Diomedea dabbenena*, Endangered
- *Diomedea epomophora*, Vulnerable
- *Diomedea exulans*, Vulnerable
- *Diomedea sanfordi*, Endangered
- *Macronectes giganteus*, Endangered
- *Macronectes halli*, Vulnerable
- *Phoebastria fusca*, Vulnerable
- *Thalassarche bulleri*, Vulnerable
- *Thalassarche bulleri platei*, Vulnerable
- *Thalassarche carteri*, Vulnerable
- *Thalassarche cauta*, Endangered
- *Thalassarche chrysostoma*, Endangered
- *Thalassarche eremita*, Endangered
- *Thalassarche impavida*, Vulnerable
- *Thalassarche melanophris*, Vulnerable
- *Thalassarche salvini*, Vulnerable
- *Thalassarche steadi*, Vulnerable

The Recovery Plan provides for the research and management actions necessary to stop the decline and support the recovery of the above listed species so that their chances of long-term survival in nature are maximised.

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 May 2021 until 27 August 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 species occur, as required by paragraph 269A(5)(a) of the EPBC Act. The Victorian, Queensland, Western Australian and Tasmanian Ministers have agreed to jointly make the Recovery Plan. The South Australian and New South Wales Ministers were 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 albatrosses and petrels 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 (National Recovery Plan for albatrosses and petrels) 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 albatrosses and petrels (**Recovery Plan**). The Recovery Plan establishes a national framework to guide and coordinate the recovery of twenty listed threatened species of albatrosses and petrels under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) throughout their range in Australia. The Recovery Plan identifies research and management priorities necessary to assist the long-term recovery of these species. The species are listed in either the Endangered or Vulnerable categories under the EPBC Act. As such, it is an offence to kill, take, trade, keep, move or injure members of these 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 Tanya Plibersek MP
Minister for the Environment and Water