

EXPLANATORY STATEMENT

Environment Protection and Biodiversity Conservation Act 1999

Environment Protection and Biodiversity Conservation (Recovery Plan for the Greater Bilby *Macrotis lagotis*) Instrument 2023

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

The *Environment Protection and Biodiversity Conservation Act 1999* (**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 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(3) of the Act provides that, for the purposes of the protection, conservation and management of a listed threatened species or listed threatened ecological community, the Minister may make a recovery plan 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 Recovery Plan for the Greater Bilby (**Recovery Plan**) with Western Australia, Queensland, the Northern Territory, New South Wales and South Australia for the following listed threatened species: *Macrotis lagotis* (Greater bilby).

The species is listed in the Vulnerable category in the List of threatened species under section 178 of the Act. The Recovery Plan provides 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 its chances of long-term survival in nature. The species occurs in NSW, Queensland, Western Australia, South Australia and the Northern Territory, and the Recovery Plan covers the full range of the species.

The major threats to the species are predation by foxes, feral cats and wild dogs, the loss, degradation and fragmentation of habitat, rabbits and domestic herbivores, unmanaged fire and inappropriate fire regimes, and the loss of Traditional Owner knowledge and land management.

The jointly made Recovery Plan, which was developed by the Greater Bilby National Recovery Team, provides for the research and management actions necessary to stop the

decline of, and support the recovery of, the greater bilby in order to maximise its chances of long-term survival in nature.

The proposed Recovery Plan for the Greater Bilby would be the second plan for the species. The existing recovery plan came into effect under the EPBC Act on 9 May 2007. The existing plan was made by the Northern Territory Government and adopted by the Commonwealth.

Consultation

In accordance with Section 275 of the Act, public comment was invited on the draft Recovery Plan for minimum of three months. 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 Climate Change, Energy, the Environment and Water. 22 submissions were received on the draft Recovery Plan and, as required by Section 276 of the Act, these comments were considered by the Minister in making the plan.

The Recovery Plan has been endorsed by Western Australia, Queensland, the Northern Territory, New South Wales and South Australia, the States in which the greater bilby occurs. Potentially affected Australian Government agencies have also been consulted.

In accordance with section 274 of the Act, the advice of the Threatened Species Scientific Committee was also obtained on the content of the recovery plan, and considered by the Minister before making the plan.

Section 270 of the 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 Act and the Regulations.

The Recovery Plan is available from the Australian Government Department of Climate Change, Energy, Environment and Water web site:

<https://www.dcceew.gov.au/environment/biodiversity/threatened/recovery-plans/made-or-adopted> and from the Community Information Unit, Department of Climate Change, Energy, Environment and Water, GPO Box 3090, Canberra ACT 2601, Australia or by phoning 1800 920 528.

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 make a State or Territory plan as a recovery plan, unless the plan meets the requirements of section 270.

The Department of Climate Change, Energy, the Environment and Water, and the Threatened Species Scientific Committee assessed the plan and both concluded that it complies 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 subspecies concerned so that their long-term chances of survival in nature are maximised. The jointly made plan was assessed as compliant in this respect. The jointly made plan 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 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 jointly made plan states the:

- (a) objectives to be achieved;
- (b) criteria against which achievement of the objectives are to be measured
- (c) actions needed to achieve the objectives; and
- (ca) the threats to the species.

The jointly made plan was assessed as compliant in respect of paragraphs (a), (b) and (c) and (ca) 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:

- (d) identifying habitats critical to survival of the species;
- (e) identifying populations under particular pressure of survival and the actions needed to protect those habitats;
- (f) stating the estimated duration and cost of the recovery process;
- (g) identifying interests that will be affected by the plan's implementation, and organisations or persons who will be involved in evaluating the performance of the recovery plan; and
- (h) specifying major benefits to other native species or ecological communities that will be affected by implementation of the plan.

These items are addressed in the plan to the extent practicable and where information is readily available. Where information is not available, additional actions have been incorporated into the plan for it to be obtained.

Commencement

This Instrument, comprising of the Recovery Plan, commences on the day after it is registered on the Federal Register of Legislation and 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: Section 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 for the Greater Bilby *Macrotis lagotis*) Instrument 2023

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 Recovery Plan for the Greater Bilby (**Recovery Plan**) with Western Australia, Queensland, the Northern Territory, New South Wales and South Australia. The jointly made plan provides for the research and management actions necessary to stop the decline of, and support the recovery of the greater bilby (*Macrotis lagotis*) listed as Vulnerable under the *Environment Protection and Biodiversity Conservation Act 1999*, in order to maximise its chances of long-term survival in nature.

The proposed Recovery Plan for the Greater Bilby would be the second plan for the species. The existing recovery plan came into effect under the EPBC Act on 9 May 2007. The existing plan was made by the Northern Territory Government and adopted by the Commonwealth.

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