

EXPLANATORY STATEMENT

Environment Protection and Biodiversity Conservation Act 1999

Listing of CITES Species

Declaration of stricter domestic measure in accordance with section 303CB

Section 303CB of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) allows the Minister, by instrument published in the Gazette, to declare that the list referred to in section 303CA of the EPBC Act (the list of CITES species) has effect as if it were modified as set out in a declaration.

The purpose of this instrument is to make a declaration to introduce a stricter domestic measure to treat all species of the order *Cetacea* (all whales, porpoises and dolphins) included in Appendix II of the list of CITES species as if they are included in Appendix I of the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES).

Under section 303CB of the EPBC Act, the Minister may declare a stricter domestic measure, and thereby modifying the list of CITES species, provided the declaration has the effect of treating a specified specimen that is included in Appendix II to the list of CITES species as if the specimen were included in Appendix I to the list of CITES species (paragraph 303CB(2)(a) of the EPBC Act).

The introduction of this stricter domestic measure to list all cetaceans as Appendix I under the list of CITES species is required as a result of amendments to Part 13 of the EPBC Act. This stricter domestic measure will remove the need for duplication of permits, increases certainty for decision-makers and stakeholders, and continues the high level of protection of cetaceans that prohibits the import of personally owned or commercially-harvested specimens taken from the animal following the date of the listing of that species under the list of CITES species. In addition, the introduction of a stricter domestic measure to have all cetaceans listed as Appendix I under the list of CITES species will continue to ensure appropriate protection for cetaceans from the threat of international trade.

All species within the order *Cetacea* are listed as at least Appendix II under the list of CITES species, with some species listed as Appendix I. Under paragraph 303CD(6)(b) and section 303CC(4) of the Act, Appendix I listed non-live specimens may only be imported or exported if a certificate/permit has been issued to the effect that the specimen was acquired before the provisions of CITES applied to the specimen. International movement of non-live specimens may also occur for scientific, educational or exhibition purposes (see paragraphs 303CC(3) and 303CD(5) and subparagraph 303CG(3)(e)(i) of the EPBC Act). Appendix I live specimens may only be moved internationally for scientific, research and exhibition purposes.

No specific consultation on this modification to the list of CITES species has been undertaken as the modification is considered to be machinery in nature. The modification aligns with Australian Government policy for the protection and

conservation of *Cetacea*, particularly the maintenance of the ban on commercial trade in recently harvested cetacean products.

This instrument is a legislative instrument for the purposes of the Legislative Instruments Act 2003.

This instrument will commence on the commencement of Items 423, 434, 439, and 441 of the *Environment and Heritage Legislation Amendment Act (No. 1) 2006*.