**EXPLANATORY STATEMENT**

# Environment Protection and Biodiversity Conservation Act 1999 (Cth)

**Determination under section 517**

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

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

Section 517 of the Act provides that the Minister may determine that a distinct population of biological entities is a species for the purposes of the Act.

**Background**

Based on advice from the Threatened Species Scientific Committee (the **Committee**) the Minister for Sustainability, Environment, Water, Population and Communities determined that, due to substantial difference in conservation status from the remainder of the species range, ‘*Phascolarctos cinereus* (**koala**) (combined populations of Queensland, New South Wales and the Australian Capital Territory)’ should be declared to be a species for the purposes of the Act.

The purpose of this instrument is to determine that ‘*Phascolarctos cinereus* (combined populations of Queensland, New South Wales and the Australian Capital Territory)’ is a species for the purposes of the Act.

**Consultation**

The Committee consulted widely on the issue of whether the koala should be included on the list of threatened species at the national scale.

The Committee:

* provided an initial advice to the Minister for Sustainability, Environment, Water, Population and Communities on 30 September 2010, recommending that the koala was not eligible for listing at the national scale (the **September 2010 advice**); and
* revised the September 2010 advice in November 2011 in response to new information and a Senate inquiry into Australia’s koala population, the final report of which was published in September 2011 as ‘The koala – saving our national icon’ (the **revised advice**).

Consultation on the preparation of the September 2010 advice was conducted in accordance with the process outlined in Part 13, Division 1, Subdivision AA of the Act. Public consultation was undertaken in May 2009 and 223 responses were received. Those responses were considered by the Committee in the preparation of the September 2010 advice. In addition, the Committee consulted specific parties with relevant expertise regarding their views on distinct populations and referred to the scientific literature regarding koala genetics.

In preparing the revised advice the Committee had due regard to information provided through the Senate inquiry including from university and institutional koala researchers and relevant state and territory government departments.

This instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (Cth).

This instrument commenced on the day after it was registered on the Federal Register of Legislative Instruments.

**Statement of Compatibility with Human Rights**

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

Authority: section 517 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).