

EXPLANATORY STATEMENT

Environment Protection and Biodiversity Conservation Act 1999

Smoky Cape Lighthouse Heritage Management Plan 2022

Authority

Section 341S of the *Environment Protection and Biodiversity Conservation Act 1999* (**EPBC Act**) requires that the Commonwealth Agency that owns or controls a Commonwealth Heritage place must make a written management plan to provide for the protection and management of the values of the Commonwealth Heritage place.

The Smoky Cape Lighthouse and adjacent land is currently owned by the State of New South Wales. However, the Australian Maritime Safety Authority (**AMSA**) controls the site within the meaning of “control” at section 528 of the EPBC Act on the basis that AMSA holds a lease for the site from the Minister administering the *National Parks and Wildlife Act 1974* (NSW). AMSA operates the lighthouse in exercise of statutory powers conferred on the Authority at Chapter 6, Part 5 of the *Navigation Act 2012* (Cth).

This management plan, the Smoky Cape Lighthouse Heritage Management Plan (the **Plan**), provides for the protection and management of the values of the Smoky Cape Lighthouse.

Purpose and overview

Built in 1891, Smoky Cape Lighthouse is a historic site recognised by both the Commonwealth and the New South Wales State Government as having heritage significance. The lighthouse is renowned for its strong association with the growth of coastal trade at the end of the 19th Century, its involvement with World War II military activities, and its contribution to the development of New South Wales marine aids to navigation.

The Lighthouse was included on the Commonwealth Heritage List in 2004 for its cultural significance. This listing recognises the cultural values of the place.

The Plan provides for the future management of the Smoky Cape Lighthouse by the AMSA, with the objective of identifying, protecting, conserving, presenting and transmitting its Commonwealth heritage values. The Plan contains a detailed description of the history and cultural significance of the Lighthouse, as well as its physical elements and condition. Importantly, the Plan sets out the operational requirements for the management of the Lighthouse, heritage management policies that guide the management and protection of the Commonwealth heritage values of the Lighthouse and plans for AMSA to implement such operation requirements and policies.

The Plan addresses all matters prescribed by Schedule 7A of the *Environment Protection and Biodiversity Conservation Regulations 2000* and is consistent with the Commonwealth Heritage Management Principles set out in Schedule 7B of those regulations.

Consultation

On 27 November 2019 notices of the draft Plan were published in The Australian newspaper and on AMSA’s public website. A copy of the draft Plan was published on AMSA’s website. The public consultation period closed on 17 December 2019. No submissions were received. AMSA also consulted with the NSW National Parks and Wildlife Service (NSW NPWS). The feedback received (consisting of information on the management of the larger lightstation, the fauna and flora in the vicinity of the lighthouse, and processes relating to site-use) was adopted into the plan.

AMSA also initiated contact with Kempsey Local Aboriginal Land Council under direction from the NSW NPWS. At the time of lodgement, no response has been received.

In accordance with paragraph 341S(6)(a) of the EPBC Act, the Minister for the Environment was asked for advice on the Plan as proposed. On 14 April 2022, the Minister's delegate confirmed that the Plan complied with the requirements of the EPBC Act and the Commonwealth Heritage Management Principles.

The Office of Best Practice Regulation (**OBPR**) considers that the changes made by the Smoky Cape Lighthouse Heritage Management Plan 2022 have regulatory impacts of a minor or machinery nature and no regulation impact statement is required. The OBPR reference number is 42955.

Documents incorporated by reference

There are two publications mentioned in the Plan, being *Burra Charter* and also *Working Together: Managing Commonwealth Heritage Places*. These documents suggest methodologies, process and strategies for conservation management of sites, including fixtures and items of historical significance. As important reference tools, these documents provide context for AMSA's decision making process for the management of Smoky Cape Lighthouse as a Commonwealth heritage place.

In accordance with subsection 14(2) of the *Legislation Act 2003*, the mention of each document is to the edition that was existing at the time of making of the Plan. See the Plan's Reference List for edition information.

The *Burra Charter* is a publication that defines the basic principles and procedures that may be followed in the conservation of a cultural heritage place.

Working Together: Managing Commonwealth Heritage Places is another guide that is published for Commonwealth agencies like AMSA to better understand the management requirements for Commonwealth Heritage places subject to the Environment Protection and Biodiversity Act regime.

Both the *Burra Charter* and *Working Together: Managing Commonwealth Heritage Places* are accessible and free of charge.

The *Burra Charter* is available at <https://australia.icomos.org>.

Working Together: Managing Commonwealth Heritage Places is available at <https://www.awe.gov.au/parks-heritage/heritage/publications>.

Review

The Plan was made by AMSA on 22 July 2022.

In accordance with section 341X of the *Environment Protection and Biodiversity Conservation Act 1999* a review must be carried out within five years of the management plan being made.

Statement of Compatibility with Human Rights

This statement is prepared in accordance with section 9 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the instrument

Section 341S of the *Environment Protection and Biodiversity Conservation Act 1999* requires that the Commonwealth Agency that owns or controls a Commonwealth Heritage place must make a written management plan to provide for the protection and management of the values of the Commonwealth Heritage place. This management plan, the Smoky Cape Lighthouse Heritage Management Plan (the Plan), provides such a framework for the Smoky Cape Lighthouse.

The Plan provides for the future management of the Smoky Cape Lighthouse by the Australian Maritime Safety Authority, with the objective of identifying, protecting, conserving, presenting and transmitting its Commonwealth heritage values.

Human rights implications

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

Conclusion

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*.

Making the instrument

The Plan has been made by the Chief Executive Officer of the AMSA in accordance with subsection 49(4) of the *Australian Maritime Safety Authority Act 1990*.