

EXPLANATORY STATEMENT

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

Environment Protection and Biodiversity Conservation Act 1999

Environment Protection and Biodiversity Conservation (Threat Abatement Plan for Predation by Feral Cats 2024) Instrument 2024

The *Environment Protection and Biodiversity Conservation Act 1999* (the **Act**) provides for the protection of the environment and conservation of biodiversity, including the protection and conservation of native species and ecological communities affected by key threatening processes.

Legislative Authority

Part 13, Division 5, Subdivision A of the Act provides for the making, or adoption, of threat abatement plans for key threatening processes, which bind the Commonwealth and Commonwealth agencies.

Subsection 270B(3) of the Act provides that the Minister may make a written threat abatement plan for the purposes of reducing the effect of a key threatening process, jointly with the States and self-governing Territories in which the process occurs, or with agencies of those States and Territories.

Purpose and operation

The purpose of this Instrument is to make the Threat abatement plan for predation by feral cats 2024 (the **Threat Abatement Plan**) jointly with the Northern Territory, South Australia, Tasmania, New South Wales, the Australian Capital Territory, Western Australia and Victoria.

‘Predation by feral cats’ is listed as a key threatening process under section 183 of the Act. The Threat Abatement Plan provides for the research, management and other actions necessary to reduce the key threatening process to an acceptable level to maximise the chances of the long-term survival in nature of native species and ecological communities (including listed threatened species and ecological communities) affected by the process. The key threatening process occurs in all States and Territories, and the Threat Abatement Plan covers the full distribution of the process.

The jointly made Threat Abatement Plan was developed by the Department of Climate Change, Energy, the Environment and Water, with substantial contributions from expert authors Professor Sarah Legge and Professor John Woinarski, and in consultation with First Nations communities, feral cat experts, other relevant stakeholders and State and Territory governments.

This is the fourth threat abatement plan under the Act for the ‘Predation by feral cats’ key threatening process, which displaces the previous plan made under the Act in 2015, entitled Threat abatement plan for predation by feral cats.

Consultation

In the development of the Threat Abatement Plan, a wide range of stakeholders were consulted including feral cat experts, First Nations communities, and members of the national Feral Cat Taskforce, which includes relevant Australian Government agencies, State and Territory government agencies, Natural Resource Management bodies, conservation organisations, not-for-profit and community-based organisations.

In accordance with section 275 of the Act, public comment was invited on the draft Threat Abatement Plan for minimum of three months. A notice inviting comments on the draft Threat Abatement 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. 1628 submissions were received on the Threat Abatement Plan and, as required by section 276 of the Act, all these comments were considered by the Minister in jointly making the Threat Abatement Plan.

The Minister consulted with the environment Minister of each State and self-governing Territory in which the process occurs, and/or with the heads of relevant agencies of those States and Territories (where applicable), as required by paragraph 270B(5)(a) of the Act. The Northern Territory, South Australia, Tasmania, New South Wales, Australian Capital Territory, Western Australia and Victoria environment Ministers agreed to jointly make the Threat Abatement Plan. The Queensland environment Minister declined the invitation to jointly make the Threat Abatement Plan.

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

Meeting the requirements of section 271 of the Act

Section 271 of the Act and regulation 7.12 of the *Environment Protection and Biodiversity Conservation Regulations 2000* (the **Regulations**) require that threat abatement plans include certain content, such as stating the objectives of the plan and specifying the actions needed to achieve the objectives. The Threat Abatement Plan contains the content prescribed under the Act and the Regulations.

The Department of Climate Change, Energy, the Environment and Water, and the Threatened Species Scientific Committee assessed the Threat Abatement Plan and both concluded that it complies with the requirements of section 271 of the Act and regulation 7.12 of the Regulations.

Subsection 271(1) of the Act provides that a threat abatement plan must provide for the research, management and other actions necessary to reduce the key threatening process to an acceptable level to maximise the chances of the long-term survival in nature of native species and ecological communities affected by the process. The Threat Abatement Plan was assessed as compliant in this respect.

Subsection 271(2) of the Act provides that a threat abatement plan must particularly include the material specified in that subsection. The Threat Abatement Plan:

- (a) states the objectives to be achieved;
- (b) states the criteria against which achievement of the objectives are to be measured;
- (c) specifies the actions needed to achieve the objectives; and
- (g) meets prescribed criteria (if any) and contains provisions of a prescribed kind (if any).

The Threat Abatement Plan was assessed as compliant in respect of paragraphs (a), (b) and (c) and (g) of subsection 271(2) of the Act.

Details

Details of the Instrument are set out in Attachment A.

Commencement

The Instrument commences on the day after it is registered on the Federal Register of Legislation.

Sunsetting and disallowance requirements

The Instrument is made under subsection 270B(3) of the Act and it is a legislative instrument for the purposes of the *Legislation Act 2003* (the **Legislation Act**).

The Instrument is subject to the disallowance process under section 42 of the Legislation Act.

The 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 with Human Rights is set out in Attachment B.

The Instrument is exempt from sunseting in accordance with item 24 of the table under section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*.

Details of the *Environment Protection and Biodiversity Conservation (Threat Abatement Plan for Predation by Feral Cats 2024) Instrument 2024*

Section 1 – Name

This section provides that the title of the Instrument is the *Environment Protection and Biodiversity Conservation (Threat Abatement Plan for Predation by Feral Cats 2024) Instrument 2024* (the Instrument).

Section 2 – Commencement

This section provides that the Instrument commences on the day after it is registered.

Section 3 – Authority

This section provides that the Instrument is made under subsection 270B(3) of the *Environment Protection and Biodiversity Conservation Act 1999*.

Section 4 – Jointly made threat abatement plan

This section provides that the Threat abatement plan for predation by feral cats 2024 in the Instrument is jointly made with the Northern Territory, the State of South Australia, the State of Tasmania, the State of New South Wales, the Australian Capital Territory, the State of Western Australia and the State of Victoria.

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 (Threat Abatement Plan for Predation by Feral Cats 2024) Instrument 2024

This Disallowable 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 Disallowable Legislative Instrument

The purpose of this Disallowable Legislative Instrument is to jointly make the *Threat abatement plan for predation by feral cats 2024* (the **Threat Abatement Plan**) in this instrument with the Northern Territory, South Australia, Tasmania, New South Wales, the Australian Capital Territory, Western Australia and Victoria, pursuant to subsection 270B(3) of the *Environment Protection and Biodiversity Conservation Act 1999*. The Threat Abatement Plan provides for the research, management and other actions necessary to reduce the key threatening process of ‘Predation by feral cats’ to an acceptable level to maximise the chances of the long-term survival in nature of native species and ecological communities (including listed threatened species and ecological communities) affected by the process.

Human rights implications

This Disallowable Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Disallowable 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