

NOTICE AND STATEMENT OF REASONS FOR DECISION UNDER SECTION 303A OF THE ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999

I, Ian Gordon CAMPBELL, Minister for the Environment and Heritage, hereby provide notice and this statement of reasons under subsection 303A (7) of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) for my decision under subsection 303A (3) to exempt the Australian National Maritime Museum from the application of the provisions of Part 13 of the EPBC Act in relation to the following action:

Import from the United States of America an historic scrimshaw panbone, inscribed with 'Barque *Terror* commencing after sperm whale. Property of B. Boyd Esq' and signed by the artist, E Mickleburgh, for the purposes of exhibition.

Legislation

Section 303A of the EPBC Act provides:

Exemptions from this Part

- (1) A person proposing to take an action that would contravene a provision of this Part apart from this section may apply in writing to the Minister for an exemption from the provision.
- (2) The Minister must decide within 20 business days of receiving the application whether or not to grant the exemption.
- (3) The Minister may, by written notice, exempt a specified person from the application of a specified provision of this Part in relation to a specified action.
- (4) The Minister may do so only if he or she is satisfied that it is in the national interest that the provision not apply in relation to the person or the action.
- (5) In determining the national interest, the Minister may consider Australia's defence or security or a national emergency. This does not limit the matters the Minister may consider.
- (6) A provision specified in the notice does not apply in relation to the specified person or action on or after the day specified in the notice. The Minister must not specify a day earlier than the day the notice is made.
- (7) Within 10 business days after making the notice, the Minister must:
 - (a) publish a copy of the notice and his or her reasons for granting the exemption in accordance with the regulations; and
 - (b) give a copy of the notice to the person specified in the notice.

Background

2. On 12 July 2004 I received a letter from the Australian National Maritime Museum applying for an exemption under section 303A of the EPBC Act for the requirement for a permit to import an item containing part of a cetacean for exhibition purposes.

3. I decided in accordance with section 303A of the EPBC Act to exempt the Australian National Maritime Museum from the application of the provisions of Part 13 in relation to the action involved in that proposal.

Evidence or other material on which the decision-maker's finding were based

4. The evidence and other material on which my findings were based is listed below:
 - A brief from the Department of the Environment and Heritage (Sub 04/1598) which included the following attachments:
 - i. Letters dated 24 June and 7 July 2004 from the Australian National Maritime Museum giving the history of the item and seeking the exemption
 - ii. A copy of section 303A of the EPBC Act

Findings on material questions of fact

5. I found that the EPBC Act under Part 13, which allows me to issue permits for import and export, does not specifically provide for the import and export of cetacean parts for exhibition purposes.
6. I found that the import would be for educational purposes and not for any purpose of trade.

Reasons for decision

7. I found that it would be in the national interest to allow the import of the item for the purposes of exhibition.



MINISTER FOR THE ENVIRONMENT AND HERITAGE

27/8/2004