

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

I, David Alastair Kemp, Minister for the Environment and Heritage, provide 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 National Museum of Australia from the application of the provisions of Part 13 of the EPBC Act in relation to the following action:

Import from New Zealand and subsequent re-export of a traditional maori tomahawk with whalebone handle 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 7 November 2003 I received a letter from the National Museum of Australia applying for an exemption under section 303A of the EPBC Act for the requirement

for a permit to import, and later re-export an item containing part of a cetacean, for exhibition purposes.

3. I decided on 21 November 2003 in accordance with section 303A of the EPBC Act to exempt the National Museum of Australia 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 dated 14 November 2003, which included the following attachments:
    - i. The letter from the National Museum of Australia 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 proposed import and subsequent re-export would meet Regulations 8.13 and 8.14 of the EPBC Act if the item was being considered as a personal item.
7. I found that the import and subsequent re-export would be for educational purposes and not for any purpose of trade.

#### **Reasons for decision**

8. I found that it would be in the national interest to allow the import and subsequent re-export of the item for the purposes of exhibition.

..........

MINISTER FOR THE ENVIRONMENT AND HERITAGE

21/11/2003