

## EXPLANATORY STATEMENT

### *Environment Protection and Biodiversity Conservation Act 1999*

#### Instrument under section 184(1)

(Issued under the Authority of the Minister for the Environment and Water Resources)

The *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) places certain obligations on the Commonwealth to protect and conserve threatened species, ecological communities and recognise, and where possible, abate key threatening processes listed on the list of threatened species, ecological communities and key threatening processes under the EPBC Act.

Item 58 of Schedule 2 to the *Environment and Heritage Legislation Amendment Act (No. 1) 2006* (the Amending Act) enables the Governor-General to make regulations dealing with matters of a transitional, saving or application nature relating to amendments made by the Amending Act.

The *Environment and Heritage Legislation Amendment Act Regulation 2007* (the Regulations) sets out a process for the inclusion of an item on the list of threatened ecological communities in circumstances where that item was included on the list but was repealed as a result of the operation of section 32 of the *Legislative Instruments Act 2003*. In this instance, the process for the inclusion of an item on the list of threatened ecological communities that applied prior to the commencement of the amendments to the EPBC Act (as contained in the Amending Act) will continue to apply with respect to those communities.

The purpose of this instrument is to amend the list of ecological communities established under the EPBC Act in accordance with s184(1)(a) and (b) of the EPBC Act by:

including in the list in the **critically endangered** category:

- Mabi Forest (Complex Notophyll Vine Forest 5b);
- Swamps of the Fleurieu Peninsula;

including in the list in the **endangered** category:

- Bluegrass (*Dichanthium* spp.) Dominant Grasslands of the Brigalow Belt Bioregions (North and South);
- Brigalow (*Acacia harpophylla* Dominant and Co-dominant);
- Semi-evergreen Vine Thickets of the Brigalow Belt (North and South) and Nandewar Bioregions;
- Shale/Sandstone Transition Forest;
- The Community of Native Species Dependent on Natural Discharge of Groundwater from the Great Artesian Basin;

including in the list in the **vulnerable** category:

- *Eucalyptus ovata* – *Callitris oblonga* Forest; and

deleting from the list in the **endangered** category:

- Semi-evergreen Vine Thickets of the Brigalow Belt South Bioregion in New South Wales.

These amendments are in accordance with the recommendations and advice received from the Threatened Species Scientific Committee (the Committee), having regard to the definition of critically endangered, endangered and vulnerable ecological communities in section 182 of the EPBC Act.

The Committee's recommendations regarding these ecological communities are set out in Attachment A.

In deciding to include these ecological communities in the list, I did not consider any matter that does not relate to the survival of these ecological communities.

Consultation on the nominations to amend the list of threatened ecological communities was undertaken when these communities were initially listed. Further consultation on this instrument was not undertaken as the purpose of this instrument is to restore the list of threatened ecological communities as it existed prior to the deletion of these communities from the list due to the operation of section 32 of the *Legislative Instruments Act 2003*. Therefore, it is considered that this instrument does not substantially alter the arrangements that were in place prior to that repeal.

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

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

*Recommendations of the Threatened Species Scientific Committee*

**1. Mabi Forest (Complex Notophyll Vine Forest 5b)**

Based on evidence presented in the nomination and submitted by other experts in the field of ecological communities, the Committee determined that this community is eligible for listing as critically endangered under the Act. The community meets four criteria in the Act and Regulations.

Criterion 1: Decline in geographic distribution is very severe;

Criterion 2: The geographic distribution is very restricted and the nature of its distribution makes it likely that the action of a threatening process could cause it to be lost in the immediate future;

Criterion 3: For a population of a native species that is likely to play a major role in the community, there is a very severe decline to the extent that restoration of the community is not likely to be possible in the immediate future; and

Criterion 4: The reduction in its integrity across most of its geographic distribution is very severe as indicated by degradation of the community or its habitat, or disruption of important community processes, that is very severe.

On this basis, the Committee recommends that the ecological community Mabi Forest (Complex Notophyll Vine Forest 5b), be listed as critically endangered under the *Environment Protection and Biodiversity Conservation Act 1999*.

On the basis of the advice of the Committee, I am satisfied that the ecological community is eligible to be included in the critically endangered category.

**2. Swamps of the Fleurieu Peninsula**

Based on evidence presented in the nomination and submitted by other experts in the field of ecological communities, the Committee determined that this community is eligible for listing as critically endangered under the Act. The community meets two criteria in the Act and Regulations.

Criterion 1: Decline in geographic distribution is substantial.

Criterion 2: The geographic distribution is very restricted and the nature of its distribution makes it likely that the action of a threatening process could cause it to be lost in the immediate future.

On this basis, the Committee recommends that the ecological community Swamps of the Fleurieu Peninsula, be listed as critically endangered under the *Environment Protection and Biodiversity Conservation Act 1999*.

On the basis of the advice of the Committee, I am satisfied that the ecological community is eligible to be included in the critically endangered category.

**3. Bluegrass (*Dichanthium* spp.) Dominant Grasslands of the Brigalow Belt Bioregions (North and South)**

Based on evidence presented in the nomination and submitted by other experts in the field of ecological communities, the Committee determined that this community is eligible for listing as endangered under the EPBC Act. The community meets two criteria in the EPBC Act and Regulations.

Criterion 1: Decline in geographic distribution

Criterion 2: Small geographic distribution coupled with demonstrable threat

On this basis, the Committee recommends that the ecological community, Bluegrass (*Dichanthium* spp.) Dominant Grasslands of the Brigalow Belt Bioregions (North and South), be listed as endangered under the *Environment Protection and Biodiversity Conservation Act 1999*.

On the basis of the advice of the Committee, I am satisfied that the ecological community is eligible to be included in the endangered category.

#### **4. Brigalow (*Acacia harpophylla* Dominant and Co-dominant)**

Based on evidence presented in the nomination and submitted by other experts in the field of ecological communities, the Committee determined that this community is eligible for listing as endangered under the EPBC Act. The community meets three criteria in the EPBC Act and Regulations.

Criterion 1: Decline in geographic distribution

Criterion 2: Small geographic distribution coupled with demonstrable threat

Criterion 5: Rate of continuing detrimental change

On this basis, the Committee recommends that the ecological community, Brigalow (*Acacia harpophylla* Dominant and Co-dominant), be listed as endangered under the *Environment Protection and Biodiversity Conservation Act 1999*.

On the basis of the advice of the Committee, I am satisfied that the ecological community is eligible to be included in the endangered category.

#### **5. Semi-evergreen Vine Thickets of the Brigalow Belt (North and South) and Nandewar Bioregions**

Based on evidence presented in the nomination and submitted by other experts in the field of ecological communities, the Committee determined that this community is eligible for listing as endangered under the EPBC Act. The community meets two criteria in the EPBC Act and Regulations.

Criterion 1: Decline in geographic distribution

Criterion 2: Small geographic distribution coupled with demonstrable threat

On this basis, the Committee recommends that the ecological community, Semi-evergreen Vine Thickets of the Brigalow Belt (North and South) and Nandewar Bioregions, be listed as endangered under the *Environment Protection and Biodiversity Conservation Act 1999*.

This recommendation subsumes the ecological community, Semi-evergreen Vine Thickets of the Brigalow Belt South Bioregion in the New South Wales, that was listed as endangered under the EPBC Act.

On the basis of the advice of the Committee, I am satisfied that the ecological community is eligible to be included in the endangered category.

#### **6. Shale/Sandstone Transition Forest**

Based on evidence presented in the nomination and submitted by other experts in the field of ecological communities, the Committee determined that this community is eligible for listing as endangered under the EPBC Act. The community meets two criteria in the EPBC Act and Regulations.

Criterion 1: Decline in geographic distribution

Criterion 2: Small geographic distribution coupled with demonstrable threat

On this basis, the Committee recommends that the ecological community, Shale/Sandstone Transition Forest be listed as endangered under the *Environment Protection and Biodiversity Conservation Act 1999*.

On the basis of the advice of the Committee, I am satisfied that the ecological community is eligible to be included in the endangered category.

## **7. The Community of Native Species Dependent on Natural Discharge of Groundwater from the Great Artesian Basin**

Based on evidence presented in the nomination and submitted by other experts in the field of ecological communities, the Committee determined that this community is eligible for listing as endangered under the EPBC Act. The community meets three criteria in the EPBC Act and Regulations.

Criterion 1: Decline in geographic distribution

Criterion 2: Small geographic distribution coupled with demonstrable threat

Criterion 4: Reduction in community integrity

On this basis, the Committee recommends that The Community of Native Species Dependent on Natural Discharge of Groundwater from the Great Artesian Basin be listed as endangered under the *Environment Protection and Biodiversity Conservation Act 1999*.

On the basis of the advice of the Committee, I am satisfied that the ecological community is eligible to be included in the endangered category.

## **8. *Eucalyptus ovata* – *Callitris oblonga* Forest**

Based on evidence presented in the nomination and submitted by experts in the field, the Committee determined that this community is eligible for listing as Vulnerable under the Act. The ecological community meets three criteria in the Act and EPBC Regulations.

Criterion 2: The geographic distribution is very restricted and is subject to demonstrable and ongoing demonstrable threats.

Criterion 3: It faces the loss or significant decline of a key species in the ecological community.

Criterion 4: Its integrity is being substantially reduced across most of its geographic range.

On this basis, the Committee recommends that the ecological community *Eucalyptus ovata* – *Callitris oblonga* Forest, be listed as vulnerable under the *Environment Protection and Biodiversity Conservation Act 1999*.

On the basis of the advice of the Committee, I am satisfied that the ecological community is eligible to be included in the vulnerable category.