

EXPLANATORY STATEMENT

Environment Protection and Biodiversity Conservation Act 1999

Instrument under section 184(a)

(Issued under the Authority of the Minister for the Environment)

The *Environment Protection and Biodiversity Conservation Act 1999* (the Act) places certain obligations on the Commonwealth to protect and conserve threatened ecological communities.

The purpose of this instrument is to amend the list of threatened ecological communities under section 181 of the Act in accordance with paragraph 184(a) of the Act by including in the list in the critically endangered category:

- **Illawarra–Shoalhaven Subtropical Rainforest of the Sydney Basin Bioregion**

and:

- **Robertson Rainforest in the Sydney Basin Bioregion**

as recommended by the Threatened Species Scientific Committee (the Committee), having regard to their eligibility for the critically endangered category under subsection 182(1) of the Act.

The Committee concluded that the **Illawarra–Shoalhaven Subtropical Rainforest of the Sydney Basin Bioregion** met the criteria specified in Division 7.1 of the *Environment Protection and Biodiversity Conservation Regulations 2000*, as follows:

- Criterion 1 as **endangered** because it has undergone a severe decline in geographic distribution;
- Criterion 2 as **critically endangered** because its 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; and
- Criterion 4 as **critically endangered** because the reduction in integrity across most of its range is very severe as indicated by degradation of the community and disruption of important community processes, and restoration is unlikely within the immediate future.

The Committee concluded that the **Robertson Rainforest in the Sydney Basin Bioregion** met the criteria specified in Division 7.1 of the *Environment Protection and Biodiversity Conservation Regulations 2000*, as follows:

- Criterion 1 as **endangered** because it has undergone at least a severe decline in geographic distribution;
- Criterion 2 as **critically endangered** because its 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; and
- Criterion 4 as **critically endangered** because the reduction in integrity across most of its range is very severe as indicated by degradation of the community and disruption of important community processes, and restoration is unlikely within the immediate future.

On the basis of the assessment and advice of the Committee, I am satisfied that these ecological communities are eligible to be included in the **critically endangered** category. In deciding to include these in the list, I only considered matters that relate to whether the ecological communities are eligible to be included in that category, and the effect that including the ecological communities in that category could have on the survival of the ecological communities.

Consultation to amend the list of threatened ecological communities under the Act to include these ecological communities was undertaken before the legislative instrument was made in accordance with the process outlined in Part 13, Division 1, Subdivision AA of the Act. Draft assessments were placed on public exhibition, and public comments were sought as required by the Act. Parties with relevant expertise were directly consulted regarding their views. All public submissions received were forwarded to the Committee and to me for consideration.

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

The instrument will commence on the day after it is registered on the Federal Register of Legislation.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Amendment to the list of threatened ecological communities under section 181 of the *Environment Protection and Biodiversity Conservation Act 1999* (EC148 and EC61)

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*.

Overview of the Legislative Instrument

The purpose of this Instrument is to amend the *Environment Protection and Biodiversity Conservation Act 1999* list of threatened ecological communities by including the ‘Illawarra–Shoalhaven Subtropical Rainforest of the Sydney Basin Bioregion’ and ‘Robertson Rainforest in the Sydney Basin Bioregion’ in the critically endangered category of the list.

The ‘Illawarra–Shoalhaven Subtropical Rainforest of the Sydney Basin Bioregion’ has been included in the critically endangered category of the list because it met the criteria whereby: its 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; and the reduction in integrity across most of its range is very severe as indicated by degradation of the community and disruption of important community processes, such that restoration is unlikely within the immediate future. In addition, it has undergone a severe decline in geographic extent.

The ‘Robertson Rainforest in the Sydney Basin Bioregion’ has been included in the critically endangered category of the list because it met the criteria whereby: its 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; and the reduction in integrity across most of its range is very severe as indicated by degradation of the community and disruption of important community processes, such that restoration is unlikely within the immediate future. In addition, it has undergone at least a severe decline in geographic extent.

Human rights implications

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

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Minister for the Environment