

# REPLACEMENT 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:

- **Elderslie Banksia Scrub Forest 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 **Elderslie Banksia Scrub Forest 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 **critically endangered** because it has undergone a very severe decline in geographic extent;
- Criterion 2 as **critically endangered** because its geographic distribution is very restricted and subject to significant ongoing threats that could cause it to be lost in the immediate future;
- Criterion 4 as **critically endangered** because it has undergone a very severe reduction in integrity as a consequence of modification to the ecological community and its surrounding landscape, and the potential for successful restoration in the immediate future is low.

The schedule to the Legislative Instrument describes the location of the Elderslie Banksia Scrub Forest in the Sydney Basin Bioregion with reference to the Interim Biogeographical Regionalisation of Australia (IBRA) Version 7. The data layers associated with IBRA7 may be accessed free of charge from <https://www.environment.gov.au/land/nrs/science/ibra>.

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

Consultation to amend the list of threatened ecological communities under the Act to include the ecological community was undertaken before the legislative instrument was made in accordance with the process outlined in Part 13, Division 1, Subdivision AA of the Act. A draft assessment was 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* (EC145)**

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 ‘Elderslie Banksia Scrub Forest in the Sydney Basin Bioregion’ in the critically endangered category of the list.

The Elderslie Banksia Scrub Forest has been included in the critically endangered category of the list because it met the criteria whereby: it has undergone a very severe decline in geographic extent; its geographic distribution is very restricted and subject to threats that could cause it to be lost in the immediate future; and the reduction to its integrity is very severe as a consequence of modification and regeneration is unlikely in the immediate future.

#### **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**