

EXPLANATORY STATEMENT

Environment Protection and Biodiversity Conservation Act 1999

Instrument under section 184(1)(a)

(Issued under the Authority of the Minister for Sustainability, Environment, Water, Population and Communities)

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(1)(a) of the Act by including in the list in the endangered category:

- Giant Kelp Marine Forests of South East Australia
- as recommended by the Threatened Species Scientific Committee (the Committee), having regard to the definition of endangered ecological communities under subsection 182(2) of the Act.

The Committee concluded that the Giant Kelp Marine Forests of South East Australia ecological community met the criteria specified in Division 7.1 of the *Environment Protection and Biodiversity Conservation Regulations 2000*, as follows:

- Criterion 1 as **vulnerable** because the decline in geographic distribution of the ecological community since European settlement has been substantial;
- Criterion 2 as **vulnerable** because it has a very restricted distribution and the nature of its distribution makes it likely that the action of a threatening process could cause it to be lost in the medium-term future; and
- Criterion 3 as **endangered** because the decline in functionally important species is severe and that restoration of the ecological community is not likely to be possible in the near future
- Criterion 4 as **endangered** because the reduction in integrity across most its range is severe as indicated by severe degradation of the community and regeneration is unlikely within the near future, even with positive human intervention.

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 **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 on the nomination to amend the list of threatened ecological communities under the Act to include this 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. The nomination 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 *Legislative Instruments Act 2003*.

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

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