

EXPLANATORY STATEMENT

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

Environment Protection and Biodiversity Conservation Act 1999 (Cth)

Instrument under section 184(1)(a)

The *Environment Protection and Biodiversity Conservation Act 1999 (Cth)* (the **Act**) provides for the protection of the environment, especially matters of national environmental significance and the conservation of biodiversity, including the protection and conservation of listed threatened species.

Section 178 of the Act provides for a list of threatened species (the **List**) separated into particular categories being, extinct, extinct in the wild, critically endangered, endangered, vulnerable and conservation dependent.

Section 184 of the Act provides that the Minister may, by legislative instrument, amend the List to include an item in the List.

The process for making amendments to the List is set out in Subdivision AA of Division 1 of Part 13, of the Act.

The purpose of this Instrument is to amend the List by:

including in the **critically endangered** category:

- *Pseudophryne pengilleyi*
- *Pseudophryne corroboree*

Consultation was undertaken before the Instrument was made, in accordance with the process outlined in Subdivision AA of Division 1 of Part 13 of the Act.

The Threatened Species Scientific Committee (the **Committee**) sought public comment on whether the species was eligible for inclusion in the particular categories of the List.

The period for public comment was at least 30 business days between 7 December 2011 and 20 January 2012. No comments were received. The Committee also consulted parties with relevant expertise, regarding their views. Three responses were received.

The Committee prepared a written assessment of whether the nominated species was eligible for inclusion in particular categories of the List. The written assessment was provided to the Minister and considered in relation to the making of the Instrument.

This Instrument is a Legislative Instrument for the purposes of the *Legislative Instruments Act 2003 (Cth)*.

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

Authority: sections 184(1)(a) of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*.

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 species under section 178 of the *Environment Protection and Biodiversity Conservation Act 1999 (140)*

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 species by transferring from the vulnerable category to the critically endangered category of the list *Pseudophryne pengilleyi* and transferring from the endangered category to the critically endangered category of the list *Pseudophryne corroboree*.

Pseudophryne pengilleyi has been uplisted as it has a very restricted geographic distribution and the number of mature individuals of the species is low, which is precarious for the survival of the species as it is severely fragmented and the species continues to be subject to the effect of chytridiomycosis. *Pseudophryne corroboree* has been uplisted as it has undergone a very severe reduction in numbers; the number of mature individuals of the species is extremely low at 45 individuals; the species has a very restricted geographic distribution which is precarious to its survival due to it occurring at a limited number of locations and as it is subject to the ongoing threat of the chytrid fungus.

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 Sustainability, Environment, Water, Population and Communities