

Australian Capital Territory

Nature Conservation (Special Protection Status) Declaration 2012 (No 1)

Disallowable instrument DI2012–38

made under the

Nature Conservation Act 1980, s 33 (special protection status)

EXPLANATORY STATEMENT

The *Nature Conservation Act 1980* (the Act) specifies the legislative framework for the protection of native plants and animals in the ACT and provides a process for identifying species that are threatened with extinction.

The Act contains provisions for a number of types of protection for plants and animals including the special protection status (SPS). This protection status provides the highest level of statutory protection that can be given and provides for increased penalties for unauthorized activities and more stringent licensing constraints.

Special protection status is enacted through a written declaration by the Conservator of Flora and Fauna (the Conservator) under section 33 of the Act. This section grants SPS for the following conditions:

- if a Commonwealth Act or international agreement entered into by the Commonwealth aims to protect members of species of migratory animals;
- if the Conservator believes on reasonable grounds that a species is threatened with extinction; or
- the Minister makes a declaration that a species is vulnerable or endangered.

Schedule 1 of the declaration refers to species which the Commonwealth has agreed to protect under international agreements.

Schedule 2 refers to species that are vulnerable, endangered, critically endangered and extinct under the provisions of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)* and lists species that the Conservator believes on reasonable grounds to be threatened with extinction.

To ensure that the SPS Instrument is consistent with the Commonwealth species list, the Schedules in this instrument refer to the Commonwealth listings and Commonwealth website as they keep an up-to date list of threatened species and are regularly updated by the Commonwealth. In accordance with section 47 of the *Legislation Act 2001*, this instrument displaces section 47 (3) of the *Legislation Act 2001* and is intended to operate by applying instruments made under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) as in force from time to time.

This applies to Schedule 1 and Schedule 2. It is intended that if and when the Commonwealth amends its species list that the instrument should continue to operate and accommodate the Commonwealth's amendments.

Furthermore Schedule 3 lists species which have been declared by the Minister under the Act as endangered species.

On 30 January 2012, subsequent to a recommendation by the Flora and Fauna Committee, and in accordance with section 38 of the Act, the Minister, under Disallowable Instrument DI2012-11 declared one additional species, a shrub (*Bossiaea grayi*), to be endangered. This instrument adds *Bossiaea grayi* to Schedule 3.