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 sections 184(1)(b) and (c)

The Environment Protection and Biodiversity Conservation Act 1999 (the Act) provides for the protection of the environment and conservation of biodiversity, including the protection and conservation of 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, delete an item from the List or, transfer an item from one category in the List to another category.

The process for making amendments to the List so as to include new species in the List or to transfer species into a different category of the List, is set out in Part 13, Division 1, Subdivision AA of the Act.

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

- transferring from the vulnerable to the critically endangered category of the list: *Thymichthys politus*
- transferring from the endangered to the critically endangered category of the list: *Brachionichthys hirsutus*
- deleting from the vulnerable category of the list: *Sympterichthys* sp. [CSIRO #T1996.01].

Background

A review was undertaken on the taxonomy and conservation status of four handfish species currently listed as threatened under the Act. It was proposed that two species (*Thymichthys politus* and *Brachionichthys hirsutus*) be transferred to a higher category of endangerment, and one species (*Sympterichthys* sp. [CSIRO #T1996.01]) be deleted from the List due to taxonomic changes.

Consultation

Consultation was undertaken before the Instrument was made, in accordance with the processes outlined in section 189 of the Act (which requires the Minister to obtain and consider the advice of the Threatened Species Scientific Committee in relation to a proposed deletion of a species from the List) and Part 13, Division 1, Subdivision AA of the Act (in relation to the transfer of species between categories in the List).
In relation to the transfer of *Thymichthys politus* and *Brachionichthys hirsutus* to the critically endangered category, the Threatened Species Scientific Committee (the Committee) sought public comment on whether the species were eligible for inclusion in the critically endangered category of the List. The period for public comment was 30 business days between October and November 2010. No comments were received.

In both cases, the Committee also consulted parties with relevant expertise regarding their views including: the Tasmanian Department of Primary Industries, Parks, Water and Environment; the Commonwealth Scientific and Industrial Research Organisation; relevant local councils and organisations; the Tasmanian North and South Natural Resource Management Committees; and experts with relevant expertise from the University of Tasmania and other universities.

The Committee prepared written advices that recommended that *Thymichthys politus* and *Brachionichthys hirsutus* were eligible for inclusion in the critically endangered category of the List and that *Sympterichthys sp.* [CSIRO #T1996.01] be deleted from the List. The written advices were 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 commences on the day after it is registered on the Federal Register of Legislative Instruments.

**Statement of Compatibility with Human Rights**

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

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