

## EXPLANATORY STATEMENT

(Issued under the Authority of the Minister for the Environment)

*Environment Protection and Biodiversity Conservation Act 1999 (Cth)*

### Instrument under section 184(1) (a)

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:

- including *Calidris ferruginea* in the list of threatened species in the Critical Endangered category.
- including *Numenius madagascariensis* in the list of threatened species in the Critical Endangered category.

### Consultation

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

The Threatened Species Scientific Committee (the Committee):

- recommended the species for inclusion on the Finalised Priority Assessment List for the assessment period commencing 1 October 2014, to which the Minister agreed;
- sought public comment on the species

The period for public comment was 30 business days between 1 October 2014 and 14 November 2014. Three comments were received.

The Committee also consulted experts with relevant expertise regarding their views including:

Relevant state and territory governments  
Relevant researchers from Australian Universities  
NGO's including BirdLife Australia

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

Instrument no. 177

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.

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* (177)**

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 including *Calidris ferruginea* and *Numenius madagascariensis* in the critically endangered category of the list.

These species is being included in the critically endangered category as it met the criteria for listing in this category under the EPBC Act.

#### **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**