**EXPLANATORY STATEMENT**

**(Issued under the Authority of the Minister for the Environment and Water)**

# Environment Protection and Biodiversity Conservation Act 1999

List of Threatened Species Amendment (379) Instrument 2023

**Background**

The *Environment Protection and Biodiversity Conservation Act 1999* (**Act**) provides for the protection of the environment and conservation of biodiversity, including the protection and conservation of threatened species.

Subsection 178(1) of the Act provides that the Minister must, by legislative instrument, establish a list of threatened species (**List**) separated into the following categories: Extinct, Extinct in the wild, Critically Endangered, Endangered, Vulnerable and Conservation Dependent. This list referred to in subsection 178(1) of the Act is contained in the *Declaration under s178, s181, and s183 of the Environment Protection and Biodiversity Conservation Act 1999*.

Paragraph 184(d) of the Act relevantly provides that the Minister may, by legislative instrument, amend the List to correct an inaccuracy or update the name of a listed threatened species.

Section 515 of the Act provides that the Minister may delegate all or any of the Minister’s powers or functions under the Act to an officer in the Department.

**Purpose of Instrument**

The purpose of this Instrument is to amend the List by correcting and updating the scientific name of five threatened species as follows:

* *Acanthiza pusilla archibaldi* to *Acanthiza pusilla magnirostris*
* *Centrophorus zeehaani* to *Centrophorus uyato.*
* *Cyphanthera odgersii* subsp. *occidentalis* to *Grammosolen odgersii* subsp. *occidentalis.*
* *Calamanthus cautus halmaturinus* to *Hylacola cauta halmaturina.*
* *Melichrus* sp*. Gibberagee* (Benwell 97239)to *Melichrus gibberagee.*
* *Perameles bougainville bougainville to Perameles bougainville*
* *Sminthopsis griseoventer aitkeni* to *Sminthopsis fuliginosa aitkeni.*

The name changes result from:

* taxonomic revisions that have not altered the concept or description of the species
* formal publication of species descriptions
* correction of species names.

**Consultation**

Subsection 189(1) of the Act requires the rule-maker, when deciding whether to amend the List under paragraph 184(d) of the Act, to obtain and consider advice from the Threatened Species Scientific Committee on the proposed amendment. That advice was sought and considered prior to the making of the Instrument. The Committee agreed to recommend the name change identified above.

As this Instrument only corrects inaccuracies and updates names in the List and does not make any substantial change to the List, extensive consultation was not undertaken. However, consultation was undertaken with the Australian Biological Resources Study (ABRS). Due to the technical and scientific nature of this amendment, the rule maker was satisfied that sufficient consultation had been undertaken.

**Details/ Operation**

Details of the Instrument are set out in Attachment A.

This Instrument is a legislative instrument for the purposes of the Legislation Act 2003 and commences the day after registration.

The Instrument is compatible with the human rights and freedoms recognised or declared under section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011. A statement of compatibility is set out in Attachment B.

Authority: Paragraph 184(d) of the *Environment Protection and Biodiversity Conservation Act 1999*.

**ATTACHMENT A**

**Details of the *List of Threatened Species Amendment (379) Instrument 2023***

Section 1 – Name

This section provides that the name of this instrument is the *List of Threatened Species Amendment (379) Instrument 2023*.

Section 2 – Commencement

This section provides that this instrument commences on the day after it is registered.

Section 3 – Authority

This section provides that this instrument is made under paragraph 184(d) of the *Environment Protection and Biodiversity Conservation Act 1999*.

Section 4 – Schedules

This section specifies that the *Declaration under s178, s181, and s183 of the Environment Protection and Biodiversity Conservation Act 1999* is amended as outlined in Schedule 1 of the instrument.

**Schedule 1- Amendments**

*Declaration under s178, s181, and s183 of the Environment Protection and Biodiversity Conservation Act 1999*

**Item 1 – SPECIES THAT ARE ENDANGERED**

Item 1 amends the name of a species under the heading “SPECIES THAT ARE ENDANGERED” to change the scientific name of the following species:

* *Acanthiza pusilla archibaldi* to *Acanthiza pusilla magnirostris.*
* *Cyphanthera odgersii* subsp. *occidentalis* to *Grammosolen odgersii* subsp. *occidentalis.*
* *Melichrus* sp*. Gibberagee* (Benwell 97239)to *Melichrus gibberagee.*
* *Perameles bougainville bougainville to Perameles bougainville.*
* *Sminthopsis griseoventer aitkeni* to *Sminthopsis fuliginosa aitkeni.*

**Item 2 – SPECIES THAT ARE VULNERABLE**

Item 2 amends the name of a species under the heading “SPECIES THAT ARE VULNERABLE” to change the scientific name of the following species:

* *Calamanthus cautus halmaturinus* to *Hylacola cauta halmaturina.*

**Item 3 – SPECIES THAT ARE CONSERVATION DEPENDENT**

Item 3 amends the name of a species under the heading “SPECIES THAT ARE CONSERVATION DEPENDENT” to change the scientific name of the following species:

* *Centrophorus zeehaani* to *Centrophorus uyato.*

**ATTACHMENT B**

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| **Statement of Compatibility with Human Rights**  *Prepared in accordance with Part 3 of the  Human Rights (Parliamentary Scrutiny) Act 2011*  List of Threatened Species Amendment (379) Instrument 2023  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 list of threatened species under the *Environment Protection and Biodiversity Conservation Act 1999* by updating the name of five flora/ fauna species pursuant to paragraph 184(d) of the Act:   * From *Acanthiza pusilla archibaldi* to *Acanthiza pusilla magnirostris.* * From *Cyphanthera odgersii* subsp. *occidentalis* to *Grammosolen odgersii* subsp. *occidentalis.* * From *Melichrus* sp*. Gibberagee* (Benwell 97239)to *Melichrus gibberagee.* * From *Perameles bougainville bougainville to Perameles bougainville.* * From *Sminthopsis griseoventer aitkeni* to *Sminthopsis fuliginosa aitkeni.* * From *Calamanthus cautus halmaturinus* to *Hylacola cauta halmaturina.* * From *Centrophorus zeehaani* to *Centrophorus uyato.*   The name changes results from:   * taxonomic revisions that have not altered the concept or description of the species * formal publication of species descriptions * correction of species names.   **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.  **Cassandra Kennedy**  **Delegate of the Minister for the Environment and Water** |