

EXPLANATORY STATEMENT

(Issued by the authority of the Minister for the Environment and Water)

Environment Protection and Biodiversity Conservation Act 1999

List of Threatened Species Amendment (383) Instrument 2024

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 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 - List of threatened species, List of threatened ecological communities and List of threatening processes* (**List**).

Paragraph 184(b) of the Act relevantly provides that the Minister may, by legislative instrument, amend the List referred to in section 178 by deleting items from the list.

Purpose of Instrument

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

- Deleting *Thunnus maccoyii* from the list of threatened species in the Conservation Dependent category.

This species is no longer eligible for inclusion on the List because its population is recovering due to strong management interventions.

Consultation

Section 189 of the Act requires the Minister to obtain and consider advice from the Threatened Species Scientific Committee (the Committee) on a proposed amendment to the List, including a deletion of an item.

The Committee undertook public consultation for 30 business days between 28 March 2024 and 3 May 2024.

The Committee also consulted experts on the species regarding the proposed deletion including with relevant State and Territory governments.

The Committee prepared a written assessment of whether the species was eligible for inclusion in the List. The written assessment was provided to the Minister and the Minister considered the assessment in preparing the Instrument.

Details / Operation

Details of the Instrument are set out in Attachment A.

Other

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 full statement of compatibility is set out in Attachment B.

This Instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Instrument commences the day after registration.

Authority: section 184 of the *Environment Protection and Biodiversity Conservation Act 1999*.

Details of the *List of Threatened Species Amendment (383) Instrument 2024*

Section 1 – Name

This section provides that the name of this instrument is the *List of Threatened Species Amendment (383) 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 section 184 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 set out in the applicable items in Schedule 1, and any other item in Schedule 1 to this instrument has effect according to its terms.

Schedule 1- Amendments

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

Item 1 – SPECIES THAT ARE CONSERVATION DEPENDENT

Item 1 amends the list under the heading “SPECIES THAT ARE CONSERVATION DEPENDENT” to omit in the appropriate position each of the following species:

- (a) *Thunnus maccoyii*

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 (383) Instrument 2024

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 deleting *Thunnus maccoyii* from the conservation dependent category of the list.

This species is deleted from the conservation dependent category as its population is increasing, and therefore, does not meet any criteria to be included in the list.

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.

**The Hon Tanya Plibersek MP
Minister for the Environment and Water**