EXPLANATORY STATEMENT

Environment Protection and Biodiversity Conservation Act 1999

Amendment of the List of Exempt Native Specimens in accordance with Section 303DC

Section 303DB of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) provides for the establishment of a list of exempt native specimens. Specimens included in the list are exempt from the trade control provisions that apply to regulated native specimens.

The effect of this instrument is to include the following specimens in the list of exempt native specimens:

- specimens that are or are derived from fish or invertebrates, other than specimens that belong to species listed under Part 13 of the EPBC Act, taken in the Torres Strait Finfish Fishery, as defined in the Torres Strait Finfish Fishery Management Plan 2013 in force under the Torres Strait Fisheries Act 1984

with a notation that inclusion of the specimens in the list is subject to the following restrictions or conditions:

- the specimen, or the fish or invertebrate from which it is derived, was taken lawfully, and
- the specimens are covered by the declaration of an approved wildlife trade operation under section 303FN of the EPBC Act in relation to the fishery.

Listing of the specimens described above in the list of exempt native specimens will allow continued export of these specimens without requiring export permits, as long as an approved wildlife trade operation declaration is in force.

In determining to include the specimens in the list of exempt native specimens regard was had to the Australian Government ‘Guidelines for the Ecologically Sustainable Management of Fisheries – 2nd Edition’. Those Guidelines establish the criteria for assessment of the ecological sustainability of the relevant fisheries management arrangements.

Subsection 303DC(3) of the EPBC Act provides that before amending the list, the Environment Minister must consult such other Commonwealth minister or ministers and such other minister or ministers of each state and self-governing territory, as the minister considers appropriate. The minister may also consult with such other persons and organisations as the minister considers appropriate. In this instance, the Delegate of the former Minister for Sustainability, Environment, Water, Population and Communities consulted with the Protected Zone Joint Authority and the Australian Fisheries Management Authority, whom have management responsibility for the fishery concerned. In addition, the proposal to amend the list of exempt native specimens was advertised on the Department of Sustainability, Environment, Water, Population and Communities website and comment was invited from interested people for a period of 21 business days. No comments were received.

This instrument is a legislative instrument for the purposes of the Legislative Instruments Act 2003.

This legislative instrument does not engage any of the applicable rights or freedoms. 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.

This instrument commenced upon the commencement of the Torres Strait Finfish Fishery Management Plan 2013.
Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Amendment of List of Exempt Native Specimens

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

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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.

Geoff Richardson, Assistant Secretary, Marine Biodiversity and Biosecurity Branch
(Delegate of the Minister for Environment, Heritage and Water)