

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 revoke the conditions to which the inclusion of the following item in the list of exempt native specimens on 1 December 2004 is subject:

- specimens that are or are derived from fish or invertebrates, other than specimens that belong to species listed under Part 13 of the Act, taken in the Western Deepwater Trawl Fishery and North West Slope Trawl Fishery,

and impose the following conditions to which the inclusion of the specimens in the list is subject:

- the specimen, or the fish or invertebrate from which it is derived, was taken lawfully
- the specimens are included in the list until 12 October 2012
- the Australian Fisheries Management Authority to inform the Department of Sustainability, Environment, Water, Population and Communities of any intended amendments to the management arrangements that may affect the assessment of the fishery against the criteria on which EPBC Act decisions are based, and
- the Australian Fisheries Management Authority to ensure that management arrangements in the Western Deepwater Trawl Fishery are complementary to the Australian Fisheries Management Authority's School Shark Stock Rebuilding Strategy 2008.

Revoking the conditions and imposing the above conditions to which the inclusion of the specimens in the list of exempt native specimens is subject will allow continued export of these specimens until 12 October 2012.

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

Subsection 303DC(3) of the EPBC Act provides that before amending the list, the Minister for Sustainability, Environment, Water, Population and Communities 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 Minister for Sustainability, Environment, Water, Population and Communities consulted with the Australian Fisheries Management Authority as the Australian Fisheries Management Authority has management responsibilities 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. All comments received were taken into account in the decision to include specimens derived from the fishery in the list of exempt native specimens.

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*.

The instrument commenced on 26 April 2012.

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