

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 instrument **deletes** specimens from the list of exempt native specimens that are taken in seven fisheries and seven approved aquaculture programs specified in **Schedule 1**. The instrument also **includes** specimens from the same seven fisheries and seven approved aquaculture programs in the list of exempt native specimens, with notations that inclusion of the specimens in the list are subject to restrictions or conditions that the specimen, or the fish or invertebrate from which it is derived, was taken lawfully, and that the specimens are included in the list until the dates specified in **Schedule 2**.

The relevant fisheries and aquaculture programs are as follows:

- Commonwealth Coral Sea Fishery
- Commonwealth Western Trawl Fisheries (Cth)
- Tasmanian King Island Cast Bull Kelp Fishery
- Torres Strait Finfish Fishery (Cth)
- Torres Strait Prawn Fishery (Cth)
- Torres Strait Trochus Fishery
- Western Australian South Coast Crustacean Fishery
- Approved aquaculture programs in New South Wales
- Approved aquaculture programs in Northern Territory
- Approved aquaculture programs in Queensland
- Approved aquaculture programs in South Australia
- Approved aquaculture programs in Tasmania
- Approved aquaculture programs in Victoria
- Approved aquaculture programs in Western Australia

Non Commonwealth Acts and disallowable instruments that are incorporated by reference in this instrument are to be incorporated as in force from time to time. All State and Territory legislation incorporated by reference in this instrument can be freely accessed on the relevant State legislation websites:

- New South Wales legislation at www.legislation.nsw.gov.au (as of May 2017)
- Northern Territory legislation at www.legislation.nt.gov.au (as of May 2017)
- Queensland legislation at <https://www.legislation.qld.gov.au/OQPChome.htm> (as of May 2017)
- South Australian legislation at www.legislation.sa.gov.au (as of May 2017)
- Tasmanian legislation at <http://www.thelaw.tas.gov.au/index.w3p> (as of May 2017)
- Victorian legislation at <http://www.legislation.vic.gov.au/> (as of May 2017)
- Western Australian legislation at www.slp.wa.gov.au (as of May 2017)

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The effect of this instrument is to extend the export approval for the specimens until the dates specified in **Schedule 2**.

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 the Environment and Energy 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. The Australian Fisheries Management Authority, the Department of Primary Industries, Parks and Water and Environment, and relevant aquaculture management authorities have been consulted and support amending the list of exempt native specimens to include product derived from the fisheries and produced in the aquaculture programs.

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

The instrument commenced on the day after it was registered on the Federal Register of Legislative Instruments.

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**STATEMENT OF COMPATIBILITY FOR A BILL OR LEGISLATIVE
INSTRUMENT THAT DOES NOT RAISE ANY HUMAN RIGHTS ISSUES**

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

The instrument **deletes** specimens from the list of exempt native specimens that are taken in seven fisheries and seven approved aquaculture programs specified in **Schedule 1**. The instrument also **includes** specimens from the same seven fisheries and seven approved aquaculture programs in the list of exempt native specimens, with notations that inclusion of the specimens in the list are subject to restrictions or conditions that the specimen, or the fish or invertebrate from which it is derived, was taken lawfully, and that the specimens are included in the list until the dates specified in **Schedule 2**.

The effect of this instrument is to extend the export approval for the specimens until the dates specified in **Schedule 2**.

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.

Paul Murphy, Assistant Secretary, Wildlife Trade and Biosecurity Branch (Delegate of the Minister for the Environment and Energy)

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