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 ten fisheries specified in **Schedule 1**. The instrument also **includes** specimens from the same ten fisheries 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 are as follows:

* Torres Strait Beche-de-mer Fishery
* Torres Strait Tropical Rock Lobster Fishery
* South Australian Lakes and Coorong Fishery
* New South Wales Abalone Fishery
* New South Wales Estuary General Fishery
* New South Wales Estuary Prawn Trawl Fishery
* New South Wales Lobster Fishery
* New South Wales Ocean Hauling Fishery
* New South Wales Ocean Trawl Fishery
* Northern Territory Demersal Trawl Fishery

All state and territory legislation referred to in Schedule 2 to the instrument is incorporated as in force at the time this instrument commences. All state and territory legislation incorporated by reference in this instrument can be freely accessed on the following state and territory legislation websites:

* South Australia – <https://www.legislation.sa.gov.au/index.aspx> (as of October 2017)
* New South Wales – [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au) (as of October 2017)
* Northern Territory – [www.legislation.nt.gov.au](http://www.legislation.nt.gov.au) (as of October 2017)

Section 10 of the *Acts Interpretation Act 1901* (and, for legislative instruments, as applied by section 13(1)(a) of the *Legislation Act 2003*) has the effect that references to Commonwealth legislation can be taken to be references to versions of that legislation as in force from time to time. All Commonwealth legislation can be freely accessed at the Federal Register of Legislation – <https://www.legislation.gov.au/>.

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 South Australian Department of Primary Industries and Regions, the New South Wales Department of Primary Industries, and the Northern Territory Department of Primary Industry and Resources have been consulted and support amending the list of exempt native specimens to include product derived from these ten fisheries.

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

The instrument commences the day after it is registered.

# **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 ten fisheries specified in **Schedule 1**. The instrument also **includes** specimens from the same ten fisheries 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)**