EXPLANATORY STATEMENT

*Environment Protection and Biodiversity Conservation Act 1999*

**Amendment of the List of Exempt Native Specimens – South Australian Lakes and Coorong Fishery, February 2018**

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 (other than a species listed in the conservation dependent category), and specimens that belong to taxa listed under section 303CA of the EPBC Act (Australia’s CITES list), taken in the South Australian Lakes and Coorong Fishery, as defined in the Fisheries Management (Lakes and Coorong Fishery) Regulations 2009 (SA) and the Fisheries Management (General) Regulations 2017 (SA) in force under the *Fisheries Management Act 2007* (SA),

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.

All state legislation referred to in the instrument is incorporated as in force at the time this instrument commences.

All South Australian legislation incorporated by reference in this instrument can be freely accessed on the state legislation website at [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au) (as of February 2018).

Commonwealth Acts and disallowable instruments (or instruments which were disallowable under Commonwealth legislation at any time before 1 January 2005) referred to in this instrument are incorporated as in force from time to time (section 14 of the *Legislation Act 2003*). However, references to Commonwealth instruments which are exempt from disallowance are incorporated as in force at the time this instrument commences (section 14 of the *Legislation Act 2003*).

All Commonwealth legislation and instruments can be freely accessed from the Federal Register of Legislation website at <https://www.legislation.gov.au/> (as of February 2018).

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

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 Department of Primary Industries and Regions South Australia has been consulted and supports amending the list of exempt native specimens to include product derived from the fishery. In addition, the proposal to amend the list of exempt native specimens was advertised on the Department of the Environment and Energy’s website and comment was invited from interested people for a period of 25 business days. No comments were received.

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 the List of Exempt Native Specimens – South Australian Lakes and Coorong Fishery, February 2018**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the Legislative Instrument**

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 (other than a species listed in the conservation dependent category), and specimens that belong to taxa listed under section 303CA of the EPBC Act (Australia’s CITES list), taken in the South Australian Lakes and Coorong Fishery, as defined in the Fisheries Management (Lakes and Coorong Fishery) Regulations 2009 (SA), and the Fisheries Management (General) Regulations 2017 (SA) in force under the *Fisheries Management Act 2007* (SA),

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 export of these specimens, without requiring export permits, while an approved wildlife trade operation declaration for the fishery is in force.

**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)**