EXPLANATORY STATEMENT

*Environment Protection and Biodiversity Conservation Act 1999*

**Amendment of List of Exempt Native Specimens – Tasmanian Marine Plant Fishery December 2017**

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 the Tasmanian King Island Cast Bull Kelp Fishery specified in **Schedule 1**. The instrument also **includes** specimens from the Tasmanian Marine Plant Fishery 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**.

State legislation referred to in Schedule 2 to the instrument is incorporated as in force at the time this instrument commences. State legislation incorporated by reference in the instrument can be freely accessed at <https://www.legislation.tas.gov.au/> (as of December 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 simplify the description of the specimens in the list of exempt native specimens, to reflect changes in the management regime including amending the name under which the fishery operates, and to extend the export approval for the Tasmanian Marine Plant Fishery until the date specified in **Schedule 2**.

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 minister may also consult with such other persons and organisations as the minister considers appropriate. The Tasmanian Department of Primary Industries, Parks, Water and Environment has been consulted and supports amending the list of exempt native specimens to include product derived from the Tasmanian Marine Plant 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 22 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 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 the Tasmanian King Island Cast Bull Kelp Fishery specified in **Schedule 1**. The instrument also **includes** specimens from the Tasmanian Marine Plant Fishery 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 simplify the description of the specimens in the list of exempt native specimens, to reflect changes in the management regime including amending the name under which the fishery operates, and to extend the export approval for the Tasmanian Marine Plant Fishery until the date 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.

**Ilse Kiessling, Acting Assistant Secretary, Wildlife Trade and Biosecurity Branch (Delegate of the Minister for the Environment and Energy)**