



COMMONWEALTH OF AUSTRALIA

Environment Protection and Biodiversity Conservation Act 1999

Amendment of List of Exempt Native Specimens

I, NIGEL ROUTH, Assistant Secretary, Marine Biodiversity Policy Branch, as Delegate of the Minister for Sustainability, Environment, Water, Population and Communities, pursuant to subsection 303DC(1) of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), hereby amend the list of exempt native specimens established under section 303DB of the EPBC Act by including in the list the following:

- 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, taken in the Tasmanian Abalone Fishery, as defined in the *Fisheries (Abalone) Rules 2009* in force under the *Tasmanian Living Marine Resources Management Act 1995*.

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 included in the list until 3 February 2017.

Dated this 31st day of January 2012



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Delegate of the Minister for Sustainability, Environment, Water, Population and
Communities



COMMONWEALTH OF AUSTRALIA

Environment Protection and Biodiversity Conservation Act 1999

**Revocation of Accreditation of a Plan, Regime or Policy for the purposes of Part 13
Accreditation of a Plan, Regime or Policy for the purposes of Part 13**

I, NIGEL ROUTH, Assistant Secretary, Marine Biodiversity Policy Branch, as Delegate of the Minister for Sustainability, Environment, Water, Population and Communities:

- (a) revoke, under section 33(3) of the *Acts Interpretation Act 1901*, the accreditation of the management regime for the Tasmanian Abalone Fishery dated 31 January 2007; and
- (b) being satisfied that:
 - (i) the management regime for the Tasmanian Abalone Fishery under the Tasmanian *Living Marine Resources Management Act 1995* and the Tasmanian *Fisheries (Abalone) Rules 2009*, to the extent that the management regime is a plan of management for the Tasmanian Abalone Fishery, requires persons engaged in fishing under the management regime to take all reasonable steps to ensure that members of listed threatened species, listed migratory species, cetaceans and listed marine species are not killed or injured as a result of the fishing; and
 - (ii) the fishery to which the management regime relates does not, or is not likely to, adversely affect:
 - (a) the survival or recovery in nature of any listed threatened species; or
 - (b) the conservation status of a listed migratory species, cetacean, or listed marine species or a population of that species;

accredit the management regime for the Tasmanian Abalone Fishery in force under the Tasmanian *Living Marine Resources Management Act 1995* and the Tasmanian *Fisheries (Abalone) Rules 2009*, to the extent that the management regime is a plan of management for the Tasmanian Abalone Fishery under sections 208A, 222A, 245 and 265 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) for the purposes of Divisions 1, 2, 3 and 4 respectively of Part 13 of the EPBC Act.

Dated this 31st day of January 2012

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Delegate of the Minister for Sustainability, Environment, Water, Population and Communities



Australian Government

Department of Sustainability, Environment, Water, Population and Communities

Our reference: 2002/04009

The Hon Bryan Green MP
Minister for Primary Industries and Water
80B Wilson Street
Burnie Tasmania 7320

Dear Minister

I am writing to you as Delegate of the Minister for Sustainability, Environment, Water, Population and Communities, in relation to the reassessment of the Tasmanian Abalone Fishery under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

In August 2011, the Department of Primary Industries, Parks, Water and Environment provided an application to the Department of Sustainability, Environment, Water, Population and Communities seeking continued export approval for the Tasmanian Abalone Fishery.

The application has been assessed for the purposes of the protected species provisions of Part 13 and the wildlife trade provisions of Part 13A of the EPBC Act. The assessment also took account of measures that have been developed by the Department of Primary Industries, Parks, Water and Environment in response to recommendations made in the 2007 assessment of the fishery.

I am pleased to advise that the assessment of the fishery is now complete. The new assessment report will be available on the Department of Sustainability, Environment, Water, Population and Communities' website at:
<http://www.environment.gov.au/coasts/fisheries/tas/abalone/index.html>.

I consider that the Tasmanian Abalone Fishery operates in line with the Australian Government *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition*.

Given the management arrangements and precautionary measures currently in place for the fishery which include: limited entry; a total allowable catch allocated across zones; six management zones (five blacklip zones and one greenlip zone); minimum size limits for each management zone; mandatory possession of a measuring tool to measure abalone sizes; mandated GPS and depth loggers; area closures; and reporting requirements, I am satisfied that the management arrangements for the Tasmanian Abalone Fishery are consistent with the objects of the wildlife trade provisions of Part 13A of the EPBC Act.

I am also satisfied that the operation of the fishery over the period of the declaration as an approved wildlife trade operation is unlikely to be detrimental to the survival or conservation status of any taxon to which the fishery operation relates, or threaten any relevant ecosystem.

Accordingly, I have amended the list of exempt native specimens, to include specimens that are, or are derived from, product taken in the Tasmanian Abalone Fishery, excluding specimens that are listed under Part 13 of the EPBC Act, for a period of five years. Such a listing will serve to exempt the fishery from the export controls of the EPBC Act.

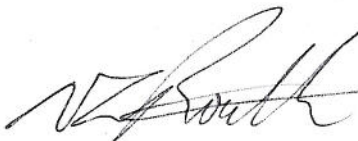
While there are some environmental risks associated with this fishery, I believe that the Department of Primary Industries, Parks, Water and Environment is committed to addressing these issues and has already taken proactive steps in some areas. Officers from the two departments have discussed key areas requiring ongoing attention and have agreed to a number of recommended actions (**Attachment A**) focusing on ensuring the continuation of good management practices, to be implemented before the next Australian Government review of the fishery. I look forward to receiving your confirmation that they will be implemented.

I have therefore recredited the management regime for the Tasmanian Abalone Fishery under Part 13 of the EPBC Act. Accreditation will ensure that individual fishers operating in accordance with the current management regime are not required to seek permits if they are at risk of killing or injuring listed species in Commonwealth waters.

Please note that my decisions under the EPBC Act relate to the management arrangements in force at the time of the assessment decision. To ensure that the decisions remain valid, the Department of Sustainability, Environment, Water, Population and Communities needs to be advised of any intended changes to the management arrangements and make an assessment that the new arrangements are equivalent or better, in terms of ecological sustainability, than those in place at the time of the original decisions. This includes legislative amendments and operational changes that may affect the impact of the fishery in relation to target species, byproduct, bycatch, protected species or the ecosystem.

I would like to thank you for the constructive way in which your officials have approached this assessment.

Yours sincerely



Nigel Routh
Delegate of the Minister for Sustainability, Environment, Water, Population and Communities

3/ January 2012

Recommendations to the Department of Primary Industries, Parks, Water and Environment on the ecologically sustainable management of the Tasmanian Abalone Fishery

1: Operation of the fishery will be carried out under the Tasmanian *Living Marine Resources Management Act 1995* and the Tasmanian *Fisheries (Abalone) Rules 2009*, to the extent that the management plan is a plan of management for the Tasmanian Abalone Fishery.

2: The Department of Primary Industries, Parks, Water and Environment to advise the Department of Sustainability, Environment, Water, Population and Communities of any intended material change to the fishery management arrangements that could affect the criteria on which the *Environment Protection and Biodiversity Conservation Act 1999* decisions are based, within three months of that change being made.

3: The Department of Primary Industries, Parks, Water and Environment to produce and present reports to the Department of Sustainability, Environment, Water, Population and Communities annually as per Appendix B of the '*Guidelines for the Ecologically Sustainable Management of Fisheries – 2nd Edition*'.

These reports should include outcomes and updates relating to the current Fisheries Research and Development Corporation projects and related research into sea urchin barrens.

4: By the end of 2012, Department of Primary Industries, Parks, Water and Environment to provide a report to the Department of Sustainability, Environment, Water, Population and Communities, outlining the outcomes of the Fisheries Research and Development Corporation project (FRDC 2007/020) being finalised in 2012, with the view to improving performance indicators and responses in the fishery.

Within the term of the exemption (5 years), the Department of Primary Industries, Parks, Water and Environment to provide an annual status report to the Department of Sustainability, Environment, Water, Population and Communities outlining the progress of the Fisheries Research and Development Corporation project with the view to improving performance indicators in the fishery.

The Department of Primary Industries, Parks, Water and Environment to develop/implement improved performance indicators and responses, along with a clear timetable of management responses, by the end of 2013.