



Australian Government

**Department of Agriculture,
Water and the Environment**

**Assessment of the
Queensland Jardini Pty Ltd Lungfish Wildlife Trade
Operation**

April 2020

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This report should be attributed as '*Assessment of the Jardini Pty Ltd Lungfish Wildlife Trade Operation, April 2020, Commonwealth of Australia 2020*'.

Disclaimer

This document is an assessment carried out by the Department of Agriculture, Water and the Environment of a commercial wildlife trade operation. It forms part of the advice provided to the Minister for the Environment on the operation in relation to decisions under Parts 13 and 13A of the *Environment Protection and Biodiversity Conservation Act 1999*. The views expressed do not necessarily reflect those of the Minister for the Environment or the Australian Government.

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EXECUTIVE SUMMARY

On 8 January 2020 Mr Jason Coe, on behalf of Jardini Pty Ltd (Jardini) submitted an application to the Department of Environment and Energy (now the Department of Agriculture, Water and the Environment, hereafter referred to as the Department) to be assessed under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) to renew an approved wildlife trade operation (WTO) and approved aquaculture program (AQP) for Australian lungfish (*Neoceratodus forsteri*). Lungfish are kept and bred in a closed, controlled environment in two locations under Queensland Department of Agriculture and Fisheries Aquaculture Development Approvals.

The Jardini operation involves the breeding in an aquaculture facility of adult Australian lungfish originally harvested from the wild in 2016 and 2017 with juveniles bred from these adult broodstock. Jardini is concurrently applying for approval as an AQP and for approval as a WTO as Australian lungfish are listed as vulnerable under the EPBC Act and on Appendix II of the Convention on International Trade in Endangered Species (CITES). Approval as an aquaculture program will satisfy the requirement for export of an EPBC Act listed threatened species and approval as a WTO will satisfy the requirement for export of a CITES II listed species.

In 2017 the Jardini operation was approved as both an existing stock WTO and a small scale WTO. The existing stock WTO was in place to cover 11 lungfish legally collected under a Queensland general fisheries permit from the Brisbane River prior to the approval of Jardini as a WTO in February 2017. The small scale WTO was in place to cover collection of lungfish from the wild under Queensland permit from the Brisbane River and the Pine River during the course of the 2017 approved WTO. No further wild harvest is proposed under the 2020 WTO application. Approval as an existing stocks WTO is sought for the current operation as it will only be handling stock that is already part of its internal operation and not any new stock from the wild.

All live specimens of Australian lungfish exported from the applicant's premises will be produced from broodstock kept on the premises and will be required under the conditions to be tagged with an internal Passive Integrated Transponder (PIT) tag that helps to authenticate the legal source of fish i.e. it is from an authorised sustainable aquaculture facility and not illegally taken from the wild. The tag will also provide improved transparency in relation to business practices through annual reporting to the Department of lungfish exports including their PIT tag numbers.

A public comment period on the proposed operation was open from 22 January 2020 to 21 February 2020. Two submissions were received, both relating to the importance of authenticating a fish's origins in terms of them coming from a legal operation compared to the black market. Both requested passive integrated transponder (PIT) tags remain a requirement for exported lungfish as a way to verify legal source. A PIT tag is a small radio transponder that contains a specific code which allows individual fish to be assigned a unique identification number. A submission from the proponent, Jardini, received after the public comment closing date was accepted by the Department and provides contested commentary claiming the Queensland Broodstock and Culture Stock Collection Policy (2018) requiring PIT tags on progeny prior to sale does not apply to the Jardini lungfish operation and is not applicable to live fish export. In its recommendation to continue with tagging the Department considered the requirements of Queensland's tagging policy, consistency with other approvals for lungfish

programs under the EPBC Act, and that the tagging of lungfish will provide evidence of a legal source and a mechanism to minimise illegal trade.

The Department considers that a declaration of the proposal as an approved existing stocks wildlife trade operation for three years, until 23 April 2023, is appropriate.

Section 1: Part 13A Assessment

Operation history

1st assessment (Small Scale and existing stocks Wildlife Trade Operations) finalised February 2017.

Assessment Summary

EPBC requirements	Meets	Partially meets	Does not meet	Details
Part 13A	Meets			<p>The operation is consistent with the Objects of Part 13A.</p> <p>Declaration of the wildlife trade operation is recommended for three years, until March 2023, subject to conditions detailed in Section 2 of this report.</p>

Assessment

Section 303BA Objects of Part 13A	
<p>(1) The objects of this Part are as follows:</p> <p>(a) to ensure that Australia complies with its obligations under CITES and the Biodiversity Convention;</p> <p>(b) to protect wildlife that may be adversely affected by trade;</p> <p>(c) to promote the conservation of biodiversity in Australia and other countries;</p> <p>(d) to ensure that any commercial utilisation of Australian native wildlife for the purposes of export is managed in an ecologically sustainable way;</p>	<p>Meets – the fishery meets the objects of the Part 13A of the EPBC Act</p> <p>Australian lungfish are a CITES II listed species. An approval of the fish breeding operation as a WTO satisfies CITES requirements for export of a CITES II listed species. The breeding of lungfish in an aquaculture facility is consistent with Australia's obligations under the Convention on Biological Diversity.</p> <p>Australian lungfish are an EPBC Act listed threatened species and an approved aquaculture program is required for overseas trade in the species. The aquaculture program requires an operator to be licenced and have the necessary approvals for operation. The proponent has a Development Approval (DA) and a General Fisheries permit from the Queensland Department of Agriculture and Fisheries for the aquaculture facility and to collect the original batch of broodstock. The aquaculture program was approved by William Quinn, Director of Wild Trade Assessments Section on 23 April 2020.</p> <p>The above measures are there to protect wildlife that may be adversely affected by unregulated collection and trade.</p> <p>The operation's long term goal is to work towards breeding Australian lungfish to second generation progeny. The application states that a legal commercial export trade in Australian lungfish based on aquaculture will reduce the impact of trade on wild populations by helping to reduce the number of lungfish that are illegally traded. Such goals are consistent with this object.</p> <p>The operation initially collected a small number of broodstock (28) from the wild under a Queensland fisheries permit. The aquaculture facility currently produces first generation juvenile stock (currently has about 500) and is a self-sustaining operation that does not rely on additional wild sourced stock. The operation will have no ongoing impact on the sustainability of the species in the wild, and populations will remain unaffected by ongoing trade. The operation is likely to be ecologically sustainable.</p>

<p>(e) to promote the humane treatment of wildlife;</p> <p>(f) to ensure ethical conduct during any research associated with the utilisation of wildlife; and</p> <p>(h) to ensure the precautionary principle is taken into account in making decisions relating to the utilisation of wildlife.</p>	<p>Objects 303BA (1)(e) and (f) are not applicable to the operation. The <i>Environment Protection and Biodiversity Conservation Regulations 2000</i> Section 9A.05(2) (EPBC Regulations 2000) do not specify fish as a class of animal in relation to the welfare of live specimens.</p> <p>Australian lungfish are an EPBC Act vulnerable species. Under the proposed operation there is no sourcing of additional stock from the wild, progeny will be raised from broodstock in a closed system (the aquaculture facility) and no stock are returned to the wild. Precautionary principles are in place for this operation in relation to utilisation of wildlife.</p>
Section 303FN - Approved wildlife trade operation	
	Comments
<p>(2) The Minister may, by instrument published in the <i>Gazette</i>, declare that a specified wildlife trade operation is an <i>approved wildlife trade operation</i> for the purposes of this section.</p>	<p>The instrument to declare the operation as an approved wildlife trade operation under section 303FN will be registered on the Federal Register of Legislation (FRL) and a link to the instrument made available through the Department's website. Under subsection 56(1) of the <i>Legislation Act 2003</i> (CTH), registration on the FRL meets the requirements for gazettal.</p>

<p>(3) The Minister must not declare an operation as an approved wildlife trade operation unless the Minister is satisfied that:</p> <p>(a) the operation is consistent with the objects of Part 13A of the Act; and</p> <p>(b) the operation will not be detrimental to:</p> <p>(i) the survival of a taxon to which the operation relates; or</p> <p>(ii) the conservation status of a taxon to which the operation relates; and</p> <p>(ba) the operation will not be likely to threaten any relevant ecosystem including (but not limited to) any habitat or biodiversity; and</p>	<p>Meets – The proposed wildlife trade operation is consistent with the Objects of 13A – as addressed above at 303BA(1)(a-h). The operation will not be detrimental to the survival or conservation status of a taxon to which it relates, nor will it threaten any relevant ecosystem, within the next three years.</p> <p>The operation is unlikely to be detrimental to the survival or conservation status of lungfish or threaten any relevant ecosystem. The operation is not collecting lungfish from the wild, is using existing broodstock to raise future progeny, is a land-based aquaculture facility using constructed water ponds, and will not be releasing stock to the wild.</p>
<p>(c) if the operation relates to the taking of live specimens that belong to a taxon specified in the regulations – the conditions that, under the regulations, are applicable to the welfare of the specimens are likely to be complied with; and</p>	<p>Not applicable</p> <p>The EPBC Regulations 2000 Section 9A.05(2) do not specify fish as a class of animal in relation to the welfare of live specimens.</p>
<p>(d) such other conditions (if any) as are specified in the regulations have been, or are likely to be, satisfied.</p>	<p>Not applicable</p> <p>No other conditions are specified in relation to the proposed operation in the EPBC Regulations 2000.</p>

<p>(4) In deciding whether to declare an operation as an approved wildlife trade operation the Minister must have regard to:</p> <p>(a) the significance of the impact of the operation on an ecosystem (for example, an impact on habitat or biodiversity); and</p>	<p>Meets - the operation will not have a significant impact on an ecosystem within the next three years.</p> <p>The proposed operation will not impact on relevant ecosystems given the operational arrangements in place. It is not collecting lungfish from the wild, is using existing broodstock in a closed/contained aquaculture facility to raise future progeny and will not be releasing stock to the wild.</p>
<p>(b) the effectiveness of the management arrangements for the operation (including monitoring procedures).</p>	<p>Meets – the operation’s management arrangements are likely to be effective because of the conditions.</p> <p>Subject to the conditions proposed in Section 2 of this report, the management arrangements including under Jardini’s Queensland Government Aquaculture Development Approval, General Fisheries Permit and the <i>Queensland Broodstock and Culture Stock Collection Policy</i> (2018) as well as those arrangements outlined in the application, are likely to be effective.</p> <p>Note, the Department recommends PIT tags remain a condition on exported lungfish with a revision that an alternative marking technology system can be used if approved by the Department. PIT tags help authenticate the legal source of fish, that they are from an authorised sustainable aquaculture facility and not illegally taken from the wild. Jardini’s 2020 application requests the condition be removed as it states it could reduce black market sales of juvenile lungfish by enabling smaller stock to be sold from Jardini’s operation (current tagging requires fish to be 8cm or larger, while the black market sells them smaller than this), tagging is not a CITES II requirement (but it does apply to CITES I species) and commercial reasons.</p>

<p>(5) In deciding whether to declare an operation as an approved wildlife trade operation the Minister must have regard to:</p> <ul style="list-style-type: none"> (a) whether legislation relating to the protection, conservation or management of the specimens to which the operation relates is in force in the State or Territory concerned; and (b) whether the legislation applies throughout the State or Territory concerned; and (c) whether, in the opinion of the Minister, the legislation is effective. 	<p>Meets – Qld’s legislation is effectively in force throughout the state.</p> <p>Australian lungfish are protected under the <i>Fisheries Act 1994</i> (Qld). The Act prohibits fishing for Australian lungfish and collection requires a General Fisheries Permit for broodstock.</p>
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<p>(10) For the purposes of section 303FN, an operation is a wildlife trade operation if, and only if, the operation is an operation for the taking of specimens and:</p> <ul style="list-style-type: none"> (a) the operation is an operation that, under the regulations, is taken to be a market testing operation; or (b) the operation is an operation that, under the regulations, is taken to be a small scale operation; or (c) the operation is an operation that, under the regulations, is taken to be a developmental operation; or (d) the operation is a commercial fishery; or (e) the operation is an operation that, under the regulations, is taken to be a provisional operation; or (f) the operation is an operation of a kind specified in the regulations. 	<p>Meets – the operation is declared a wildlife trade operation because it is an existing stocks operation.</p> <p>Jardini was originally approved in 2017 as both an existing stocks WTO under EPBC Regulation 9A.20(5) and a small scale WTO under EPBC Regulation 9A.20(2). The existing stocks WTO was for 11 lungfish legally collected under a Queensland General Fisheries Permit prior to the approval of Jardini as a WTO in February 2017. The small scale WTO was for the legal collection of 17 lungfish from the wild under a Queensland permit during the course of the 2017 approved WTO.</p> <p>No further wild harvest is proposed under the 2020 WTO application and so a small scale WTO is not required. Jardini will rely on continued breeding from broodstock collected prior to the 2017 WTO approval and during the 2017 WTO approval. Approval as an existing stocks WTO is required for the current operation as it will deal only with existing stock: that is the broodstock and their progeny; and not any new stock from the wild (EPBC Act 303FN(10)(f) and Regs 9A.20(4,5)).</p>
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Section 303FR - Public consultation	
	Comment
<p>(1) Before making a declaration under section 303FN, the Minister must cause to be published on the Internet a notice:</p> <p>(a) setting out the proposal to make the declaration; and</p> <p>(b) setting out sufficient information to enable persons and organisations to consider adequately the merits of the proposal; and</p> <p>(c) inviting persons and organisations to give the Minister, within the period specified in the notice, written comments about the proposal.</p> <p>(2) A period specified in the notice must not be shorter than 20 business days after the date on which the notice was published on the Internet.</p> <p>(3) In making a decision about whether to make a declaration under section 303FN, the Minister must consider any comments about the proposal to make the declaration that were given in response to the invitation in the notice.</p>	<p>Meets – public consultation requirements were met</p> <p>A public notice, which set out the proposal to declare the operation an approved wildlife trade operation and included the application from Jardini Pty Ltd, was released for public comment between 22 January 2020 to 21 February 2020, a total period exceeding 20 business days.</p> <p>Two public submissions were received. Both supported the retention of PIT tags on all progeny prior to export to authenticate the details of a fish's legal and sustainable origin. A submission from the proponent, Jardini, received after the public comment closing date was accepted by the Department and provides commentary saying the Queensland Broodstock collection policy on PIT tags doesn't apply to his sale of progeny (as its primary focus is broodstock collection) and is not applicable to live fish export. Further advice provided to the Department by the Queensland government states that the policy applies to progeny and not just broodstock. The Department has considered all submissions including views on PIT tags in its assessment of the Jardini application.</p>

Section 303FT - Additional provisions relating to declarations	
	Comment
(1) This section applies to a declaration made under section 303FN, 303FO or 303FP.	Meets – a declaration as an approved existing stocks wildlife trade operation for the Jardini operation will be made under section 303FN.
<p>(4) The Minister may make a declaration about a plan or operation even though he or she considers that the plan or operation should be the subject of the declaration only:</p> <p>(a) during a particular period; or</p> <p>(b) while certain circumstances exist; or</p> <p>(c) while a certain condition is complied with.</p> <p>In such a case, the instrument of declaration is to specify the period, circumstances or condition.</p>	<p>Meets – the declaration specifies a period of time of three years for the wildlife trade operation.</p> <p>The declaration is valid for three years from the date of registration of the declaration. The wildlife trade operation instrument for the operation specifies the aforementioned period and conditions as specified in section 2 of this report.</p>
(8) A condition may relate to reporting or monitoring.	<p>Meets – condition 6 relates to reporting.</p> <p>Conditions proposed in Section 2 of this assessment report relate to reporting.</p>
(9) The Minister must, by instrument published in the <i>Gazette</i> , revoke a declaration if he or she is satisfied that a condition of the declaration has been contravened.	Not applicable
(11) A copy of an instrument under section 303FN, or this section is to be made available for inspection on the internet.	<p>Meets – the wildlife trade operation instrument will be made available on the Department of Agriculture, Water and the Environment's website.</p> <p>The instrument for the operation made under sections 303FN and the conditions under section 303FT will be registered as a notifiable instrument and made available through the Department of Agriculture, Water and Environment's website.</p>

Section 2: Recommended conditions

Issue	Condition
<p>General Management</p> <p>Export decisions relate to the arrangements in force at the time of the decision. To ensure that these decisions remain valid and export approval continues uninterrupted, the Department of Agriculture, Water and the Environment needs to be advised of any changes that are made to the management regime 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 decision. This includes operational and legislated amendments that may affect sustainability of the target species or negatively impact on EPBC Act protected species or the ecosystem.</p>	<p>Condition 1:</p> <p>Jardini Pty Ltd must undertake the wildlife trade operation in accordance with the management regime as described in the application submitted to the Department of Agriculture, Water and the Environment on 8 January 2020.</p> <p>Condition 2:</p> <p>Jardini Pty Ltd must inform the Department of Agriculture, Water and the Environment of any intended material changes to the management arrangements that may affect the assessment against which <i>Environment Protection and Biodiversity Conservation Act 1999</i> decisions are made.</p> <p>Condition 3:</p> <p>The broodstock and all their progeny must be kept in a closed controlled environment in accordance with the Queensland Department of Agriculture and Fisheries Aquaculture Development Approvals DA2005BC0398 Tarome facility, and DA1902-99125 and DA2019BC0009 Wynnum facility.</p>

	<p>Condition 4:</p> <p>All specimens of Australian lungfish exported under this wildlife trade operation must be fish that are at least first generation, produced from the broodstock collected under Queensland Department of Agriculture and Fisheries General Fisheries permit (Number 188473) or subsequent progeny of those broodstock.</p> <p>Condition 5:</p> <p>All specimens of Australian lungfish exported under this wildlife trade operation must be fitted with an internal passive integrated transponder tag - PIT tag (or an alternative marking technology system approved by the Department of Agriculture, Water and the Environment). The passive integrated transponder tag (or approved alternative) numbers must be provided to the Department of Agriculture, Water and the Environment in the annual report (refer to condition 6 of this declaration).</p>
<p>Annual Reporting</p> <p>It is important that reports be produced and presented to the Department annually in order for the performance of the operation to be monitored and assessed throughout the life of the declaration.</p>	<p>Condition 6:</p> <p>Jardini Pty Ltd must provide an annual report to the Department of Agriculture, Water and the Environment by 31 March each year. The annual report must include details of all Australian lungfish exports, including the PIT tag (or alternative marking system approved by the Department of Agriculture, Water and the Environment) numbers for each Australian lungfish and the size (length and weight) of each Australian lungfish. The report must also provide the details of the number of Australian lungfish held at Jardini Pty Ltd's aquaculture facilities at Tarome and Wynnum.</p>