



Australian Government

Department of Sustainability, Environment, Water, Population and Communities

Ref: 2012/05343

The Hon Norman Moore MLC
Minister for Mines and Petroleum, Fisheries and Electoral Affairs
4th Floor, London House
216 St Georges Terrace
PERTH WA 6000

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 Western Australian Marine Aquarium Fish Managed Fishery under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

In August 2011, the Western Australian Department of Fisheries submitted the *Application to the Department of Sustainability, Environment, Water, Population and Communities on the Marine Aquarium Fish Managed Fishery Against the Guidelines for the Ecologically Sustainable Management of Fisheries 2011* for consideration of further export approval for the Western Australian Marine Aquarium Fish Managed Fishery.

The submission has been assessed for the purposes of Parts 13 and 13A of the EPBC Act, taking into account measures developed by the Western Australian Department of Fisheries in response to recommendations made in the last assessment of the fishery in 2008.

I am pleased to advise that assessment of the Western Australian Marine Aquarium Fish Managed Fishery is now complete. Subject to consultation with the Western Australian Department of Fisheries, 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/wa/marine-aquarium/index.html>

As you may be aware, the export approval for this fishery lapsed on 24 October 2011. The Department of Sustainability, Environment, Water, Population and Communities has been working with the Western Australian Department of Fisheries to ensure that the requirements of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) are met in relation to the export of CITES listed species taken in the fishery. Agreement was reached on appropriate management arrangements with the Western Australian Department of Fisheries in December 2012, allowing the assessment to be finalised.

The assessment considered the possible impacts on species harvested in the Western Australian Marine Aquarium Fish Managed Fishery, including those which are listed under CITES. As a party to the Convention, Australia must apply all CITES provisions of the EPBC Act to imports and exports of CITES listed species as appropriate.

I am advised by the Australian CITES Scientific Authority for Marine Species that, based on available information, it is possible to make short term non-detriment findings for CITES listed species in the fishery.

This is on the provision that catch limits and spatial management measures be implemented by the Western Australian Department of Fisheries and that over the next 12 months research will be conducted into distribution, abundance and population trends for CITES listed species in the fishery.

Taking into account the current management arrangements in place in the fishery, I am satisfied that the operation of the fishery remains 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 decided to declare the Western Australian Marine Aquarium Fish Managed Fishery, an approved wildlife trade operation for one year, until 31 December 2013. The declaration will be subject to the conditions at Attachment A. These conditions were developed after discussion by officers from the Western Australian Department of Fisheries and the Department of Sustainability, Environment, Water, Population and Communities on the key aspects of the management of the fishery requiring ongoing attention.

The management regime for the Western Australian Marine Aquarium Fish Managed Fishery was most recently accredited under Part 13 of the EPBC Act in 2008. I am satisfied that it continues to be unlikely that fishing operations conducted in accordance with the current management regime will adversely affect the conservation status of protected species or affect the survival and recovery of listed threatened species.

I also consider that under the current management regime operators are required to take all reasonable steps to avoid the killing or injuring of protected species in Commonwealth waters. Accordingly, it is my view that actions provided for and taken in accordance with the management regime would not be expected to contravene the protected species provisions of the EPBC Act.

To ensure the management arrangements continue to require fishers to take all reasonable steps to avoid the killing or injuring of these species, I have accredited the management arrangements under Part 13 of the EPBC Act. Accreditation will ensure that individual fishers operating in accordance with the current management arrangements 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 relate to the management arrangements in force at the time of the assessment decisions. To ensure that the decisions remain valid, the department 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 legislated amendments and operational changes that may affect the sustainability of the target species or negatively impact on 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



Geoff Richardson

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

21 December 2012

**Conditions on the approved wildlife trade operation declaration for the
Western Australian Marine Aquarium Fish Managed Fishery**

1. Operation of the fishery will be carried out in accordance with the management regime under the *Western Australian Fish Resources Management Act 1994* and the *Western Australian Fish Resources Management Regulations 1995*.
2. The Western Australian Department of Fisheries to advise the Department of Sustainability, Environment, Water, Population and Communities of any intended material change to the fishery's legislated management regime and management arrangements that could affect the criteria on which *Environment Protection and Biodiversity Conservation Act 1999* decisions are based.
3. The Western Australian Department of Fisheries 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*.
4. In consultation with Australia's Convention on International Trade In Endangered Species of Wild Fauna and Flora (CITES) Scientific Authority for Marine Species (Department of Sustainability, Environment, Water, Population and Communities), the Western Australian Department of Fisheries to review the management arrangements for all species listed on Appendix II of CITES, which are permitted to be retained in the Western Australian Marine Aquarium Fish Managed Fishery. The review should include, but not be limited to, the need for spatial effort indicators and a review of the process for setting performance measures and trigger reference points for each species with reference to CITES requirements.
5. The Western Australian Department of Fisheries to consult with the Department of Sustainability, Environment, Water, Population and Communities prior to a change to the management arrangements for a CITES or *Environment Protection and Biodiversity Conservation Act 1999* listed species being implemented.
6. The Western Australian Department of Fisheries to:
 - a) immediately inform the Department of Sustainability, Environment, Water, Population and Communities of any breaches of the voluntary agreement with licensees of the Western Australian Marine Aquarium Fish Managed Fishery and consider the need to prohibit further harvest of affected species, and
 - b) to provide the department with quarterly updates on the progress on managing CITES limits and the development of the new consolidated legislative framework.

**Condition on the accreditation of the Western Australian Marine Aquarium
Fish Managed Fishery under Part 13 of the *Environment Protection and Biodiversity
Conservation Act 1999* – December 2012**

1. Persons fishing in accordance with the management regime for the Western Australian Marine Aquarium Fish Managed Fishery in force under the Western Australian *Fish Resources Management Act 1994* and the Western Australian Fish Resources Management Regulations 1995 do not retain any species listed under Part 13 of the EPBC Act taken, killed or injured in Commonwealth waters as a result of fishing.

