



**The Hon Tony Burke MP**

**Minister for Sustainability, Environment, Water, Population and Communities**

B10/2389

The Hon Steve Whan MP  
Minister for Primary Industries  
Governor Macquarie Tower  
Level 33, 1 Farrer Place  
SYDNEY NSW 2000

Dear Minister

In March 2009, Industry and Investment New South Wales (NSW) provided the *Submission to the Department of the Environment, Heritage, Water and the Arts on behalf the NSW fishing industry seeking ongoing export approval for the NSW Ocean Trap and Line Fishery – March 2009* for assessment under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

This submission and other information provided during the course of the assessment process has been assessed under 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 Industry and Investment NSW in response to conditions and recommendations made in the previous assessment of the fishery.

I am pleased to advise that reassessment of the NSW Ocean Trap and Line Fishery is now complete. The assessment report will be available on the Department of Sustainability, Environment, Water, Population and Communities' website at:  
<http://www.environment.gov.au/coasts/fisheries/nsw/ocean-trap/index.html>.

I am satisfied that the operation of the NSW Ocean Trap and Line Fishery is consistent with the objects of the wildlife trade provisions in Part 13A of the EPBC Act. I am also satisfied that the fishery 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 for the duration of my declaration.

Given the management measures in place, including the more precautionary level of take for large shark species, in-possession limits for high risk species including eastern gemfish and four dogfish species, and two scientific observer programs, I have decided to declare the NSW Ocean Trap and Line Fishery an approved Wildlife Trade Operation for three years, until 11 November 2013. I will make the declaration subject to the eleven conditions at Attachment A.

There are a number of issues that need to be addressed to contain environmental risks in the longer term. To ensure that these issues are addressed and risks are minimised, I have made nine recommendations to improve the environmental performance of the fishery. These are set out in Attachment B.

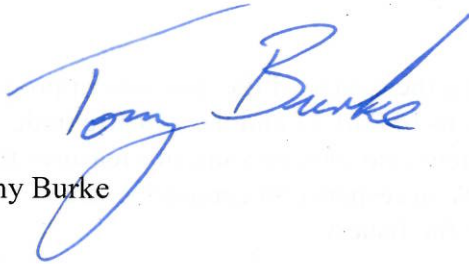
The management regime for the NSW Ocean Trap and Line Fishery was most recently accredited under Part 13 of the EPBC Act in February 2010. I am satisfied that it continues to be unlikely that fishing operations conducted in accordance with the current management arrangements will adversely affect the conservation status of protected species, or affect the survival and recovery of listed threatened species. I also consider that under the management regime for the fishery, operators are required to take all reasonable steps to avoid the killing or injuring of protected species.

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

As you are aware, there will be continued public interest in the operation of this fishery. It is important that Industry and Investment NSW continues to deliver on its commitments and obligations with respect to the management of this fishery.

I would like to thank you for the cooperation of your officials in this assessment and I look forward to receiving your assurance that the recommendations will be implemented.

Yours sincerely



Tony Burke

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**Conditions on the approved Wildlife Trade Operation declaration for the  
New South Wales Ocean Trap and Line Fishery**

**Condition 1:**

Operation of the Ocean Trap and Line Fishery will be carried out in accordance with the management arrangements in force under the New South Wales *Fisheries Management Act 1994*.

**Condition 2:**

Industry & Investment New South Wales to advise the Department of Sustainability, Environment, Water, Population and Communities of any proposed substantive changes to the Ocean Trap and Line Fishery management arrangements that may affect the assessment of the fishery against the criteria on which *Environment Protection and Biodiversity Act 1999* decisions are based.

**Condition 3:**

Industry and Investment New South Wales to produce and present reports to the Department of Sustainability, Environment, Water, Population and Communities annually as per Appendix B to the *Guidelines for the Ecologically Sustainable Management of Fisheries - 2<sup>nd</sup> Edition*.

**Condition 4:**

Industry and Investment New South Wales to take into account the findings of the two observer programs undertaken in the Ocean Trap and Line Fishery during 2007, 2008 and 2009, and:

- a) by 31 December 2010 review the effectiveness of the current mitigation measures for minimising interactions with grey nurse sharks;
- b) based on findings of the review referred to in a), by 30 June 2011 implement further actions, if appropriate, designed to mitigate the impact of fishing on grey nurse sharks;
- c) following 30 June 2011, continue to monitor and review the adequacy of mitigation measures and implement actions, if appropriate, designed to mitigate the impact of fishing on grey nurse sharks; and
- d) pending the development of a Reporting Memorandum of Understanding between Industry and Investment New South Wales and the Department of Sustainability, Environment, Water, Population and Communities, commence the provision of quarterly reports to the department on interactions with grey nurse sharks recorded in logbooks. The reports will include the nature of any interactions, the location and gear method.

**Condition 5:**

Industry and Investment New South Wales to:

- a) continue to implement a scientifically robust observer program for the shark fishing permit component of the Ocean Trap and Line Fishery, to collect biological data for sharks, and to assess the nature and levels of interactions with protected species, including grey nurse sharks and short and long fin makos, ensuring that scientific observer coverage is representative of fishing activities;
- b) provide a report from the observer program referred to in part a) on interactions with protected species and the level of scientific observer coverage by gear-specific effort, within six months of completion of the annual program; and
- c) annually compare observer reports with logbook records for protected species and implement measures to address any discrepancies.



**Condition 6:**

Industry and Investment New South Wales to implement a total allowable catch of 110 tonnes for 'Schedule 1' shark species for the period 1 February 2011 to 31 January 2012.

**Condition 7:**

Industry and Investment New South Wales to review the effectiveness of management arrangements for shark fishing in the Ocean Trap and Line Fishery annually, including stock status and the total catch level. The review is to take account of information collected in the scientific observer program and daily logbooks and any new biological data. The findings of each review must be provided to the Department of Sustainability, Environment, Water, Population and Communities and any changes to the total catch level must be agreed to by the department prior to implementation. The first of the annual reviews (to be completed by 31 December 2011) is to be independently peer reviewed.

Within six months of finalisation of the reviews, Industry and Investment New South Wales to implement appropriate management measures recommended from the reviews, including a revised level of take for sharks if necessary.

**Condition 8:**

Industry and Investment New South Wales to investigate the suitability of maximum size limits for sharks caught under the shark fishing permits to reduce the likelihood of capture of reproductively mature adults and pregnant females.

**Condition 9:**

Industry and Investment New South Wales to work with other relevant jurisdictions to develop a stock assessment model for sandbar, dusky, black-tip and spinner sharks.

**Condition 10:**

Taking into consideration any recommendations made by the Threatened Species Scientific Committee or listing decisions made by the Minister for Sustainability, Environment, Water, Population and Communities under Part 13 of the *Environment Protection and Biodiversity Act 1999*, Industry and Investment New South Wales to:

- a) continue to consult with the Australian Fisheries Management Authority and implement further complementary measures to limit the take of deepwater dogfish and other deep water shark species of concern to support rebuilding of the relevant shark species;
- b) in consultation with, and agreement to by the Department of Sustainability, Environment, Water, Population and Communities, by 1 June 2011, taking into account available information, implement long-term mitigation measures, directed towards stopping the decline of, and supporting the recovery of Harrison's Dogfish, Southern Dogfish, Endeavour Dogfish, and Greeneye Spurdog. These measures must include and are not limited to:
  - i. ongoing review of catch limits;
  - ii. improved handling practices; and
  - iii. fisheries spatial closures, which prohibit all relevant Ocean Trap and Line Fishery activities, assessed by Industry and Investment New South Wales as being high risk (and provide the results of this assessment to the department), having regard to the early project outcomes provided in 2010 of the Commonwealth Scientific and Industrial Research Organisation projects on the spatial distribution and movement of deepwater dogfish; and
- c) continue to monitor and review the adequacy of management measures towards the objective of stopping the decline of, and supporting the recovery of Harrison's Dogfish, Southern Dogfish, Endeavour Dogfish, and Greeneye Spurdog.

**Condition 11:**

Industry and Investment New South Wales to:

- a) by 30 June 2011, review its current management arrangements for eastern gemfish and school shark; and
- b) by 30 June 2012, where appropriate, in collaboration with the Australian Fisheries Management Authority and other jurisdictions, develop and implement timely and complementary management arrangements that assist in stopping the decline of, and support the recovery of eastern gemfish and school shark stocks.





**Recommendations to Industry and Investment New South Wales on the ecologically sustainable management of the  
New South Wales Ocean Trap and Line Fishery**

**Recommendation 1:**

Industry and Investment New South Wales, in collaboration with relevant jurisdictions, to develop and implement recovery programs for shared species classified as recruitment overfished, overfished and, where appropriate, growth overfished.

**Recommendation 2:**

Industry and Investment New South Wales to ensure appropriate stakeholder consultation on matters relating to the Ocean Trap and Line Fishery.

**Recommendation 3:**

Industry and Investment New South Wales to continue to pursue collaborative management of shared Ocean Trap and Line Fishery stocks with relevant fisheries management agencies.

**Recommendation 4:**

Industry and Investment New South Wales to:

- a) continue to improve estimates of harvest of the primary and key secondary species taken in the Ocean Trap and Line Fishery by the recreational sector;
- b) factor this information into resource assessments to ensure harvest levels are ecologically sustainable; and
- c) when setting harvest levels, take into account all sources of mortality.

**Recommendation 5:**

Consider the findings of the Commonwealth Scientific and Industrial Research Organisation review, and implement management responses to the following recommendations found within this report: recommendations 4, 10 and 16.

**Recommendation 6:**

Industry and Investment New South Wales to continue to implement an appropriate framework to ensure effective compliance with management measures, including fishery closures and interactions with protected species.

**Recommendation 7:**

Based on the findings of the scientific observer program in the line fishing sector, Industry and Investment New South Wales to consider introducing the reporting of discards as part of daily logbook reporting requirements in all sectors of the Ocean Trap and Line Fishery.

**Recommendation 8:**

Industry and Investment New South Wales to:

- a) investigate post-release mortality rates for sharks in the Ocean Trap and Line Fishery; and
- b) continue education programs across all sectors of the Ocean Trap and Line Fishery on safe handling and release procedures.

**Recommendation 9:**

Industry and Investment New South Wales to continue to develop and implement a strategy, including effort targets, milestones and associated trigger points, for reducing the level of fishing effort for each sector of the Ocean Trap and Line Fishery until effort reaches environmentally sustainable levels.

