



The Hon Peter Garrett AM MP

Minister for the Environment, Heritage and the Arts

The Hon Ian Macdonald MLC
Minister for Primary Industries
Parliament House
Macquarie St
SYDNEY NSW 2000

Dear Minister

I am writing to you regarding the New South Wales (NSW) Ocean Trap and Line Fishery (OTLF) Wildlife Trade Operation (WTO) declaration under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

As you are aware, on 27 June 2008 I extended the OTLF WTO to enable export from the fishery to continue until 27 July 2009, based on progress made by the New South Wales Department of Primary Industries (DPI) in meeting the conditions and recommendations since the WTO was initially granted on 27 July 2006.

In granting this extension I considered that further action was required to address the high priority issues in the OTLF, particularly regarding the completion of the scientific observer program which was established to determine the nature and frequency of interactions between the line sector of the OTLF and grey nurse sharks. Accordingly, I included the following condition:

- 3). *A report to be produced and presented to the Department of the Environment, Water, Heritage and the Arts by 27 March 2009, and to include:*
 - a) *information sufficient to allow assessment of the progress of NSW DPI in implementing the condition and recommendations;*
 - b) *the status of the OTLF performance indicators compared to the trigger points; and*
 - c) *provide a detailed report which further analyses the information collected as part of the scientific observer program in the line fishing sector and fishery-independent logbooks on grey nurse shark interactions.*

However, DPI has recently advised my Department that while significant progress has been made towards completing the scientific observer program further research trips are still required over the coming months. As such, the provision of a detailed report as envisaged by condition 3(c) is not achievable by the 27 March 2009.

As you are likely aware, under section 303FT(9) of the EPBC Act, I must revoke a WTO declaration if I am not satisfied that a condition of the declaration has been met. This is in view of the fact that conditions highlight management areas that I believe should be given priority. Accordingly it is important that the conditions are implemented to ensure that accreditations under the EPBC Act remain valid.

On this occasion, in recognition of the significant effort that NSW has invested in meeting this condition, I have agreed to vary the WTO declaration by removing condition 3(c). However, in view of the importance of this work, I am introducing a new condition that requires continuing efforts in this area. The new condition retains the original intent of Condition 3(c) but will allow sufficient time for the completion of the scientific observer program and finalisation of the report. I look forward to receiving the final report on the scientific observer program at the end of this year.

A comprehensive reassessment of the OTLF is due to commence at the end of this month. I will continue to closely examine this issue while considering the fishery for ongoing export approval after the 27 July 2009.

All other Conditions and timeframes will continue to apply, with the full set of revised conditions provided at **Attachment A**. The recommendations agreed to as part of the July 2006 WTO decision will continue to apply unchanged. The full suite of recommendations can be found at **Attachment B**.

Yours sincerely

[Signed]

Peter Garrett

SCHEDULE

March 2009

Declaration of the Harvest Operations of the New South Wales (NSW) Ocean Trap and Line Fishery (OTLF) as an approved Wildlife Trade Operation

ADDITIONAL PROVISIONS (section 303FT)

Relating to the harvesting of fish specimens that are, or are derived from, fish or invertebrates, other than specimens of species listed under Part 13 of the EPBC Act, taken in the NSW Ocean Trap and Line Fishery.

1. Operation of the fishery will be carried out in accordance with the restricted entry management regime in force under the NSW *Fisheries Management Act 1994*.
2. The NSW Department of Primary Industries (DPI) to advise the Department of the Environment, Water, Heritage and the Arts of any intended amendments to the OTLF management arrangements that may affect the assessment of the fishery against the criteria on which EPBC Act decisions are based.
3. A report to be produced and presented to the Department of the Environment, Water, Heritage and the Arts by 27 March 2009, and to include:
 - a) information sufficient to allow assessment of the progress of NSW DPI in implementing the conditions and recommendations; and
 - b) the status of the OTLF performance indicators compared to the trigger points.
4. NSW DPI, in conjunction with OTLF stakeholders, to continue to develop and implement:
 - a) further measures to cap active effort in the OTLF; and
 - b) a strategy, including effort targets, milestones and associated trigger points, for reducing the level of fishing effort for each sector of the fishery.
5. NSW DPI to continue to collect and further analyse information from the scientific observer program in the line fishing sector and fishery-dependent logbooks on grey nurse shark interactions, with a view to reporting to the Department of the Environment, Water, Heritage and the Arts by 31 December 2009.

Recommendations to the NSW DPI on the ecologically sustainable management of the NSW OTLF

1. NSW DPI to implement finer scale temporal and spatial logbook reporting in the OTLF to improve the robustness of resource assessments and allow for enhanced cross-jurisdictional cooperation.
2. NSW DPI to develop and implement a robust system to validate catch and effort logbook data.
3. NSW DPI to implement a system to improve the identification and recording of elasmobranch species taken in the OTLF.
4. NSW DPI to develop a robust and regular fishery assessment that provides a basis for management decisions, which are precautionary and recognise uncertainty and level of risk. The assessment process will examine the exploitation status of the primary and key secondary species using resource assessment tiers.
5. NSW DPI to institute programs to provide appropriate estimates of the harvest rates of OTLF primary and key secondary species by the recreational and Indigenous sectors and incorporate these data into the fishery resource assessment process.
6. NSW DPI to review the effectiveness of size limits, fish trap escape panels, fishery closures and other relevant management measures for snapper stocks and implement any changes required to further promote the rebuilding of stocks to ecologically sustainable levels.
7. NSW DPI, within 12 months of approval of the Fishery Management Strategy, to consult with the Australian Fisheries Management Authority (AFMA) and implement compatible management measures to limit the take of deepwater dogfish and other deepwater shark species of concern and support rebuilding of the relevant shark stocks.
8. NSW DPI to cooperate with other relevant jurisdictions to pursue complementary management and research of shared stocks for all relevant primary and key secondary OTLF species. In particular, DPI will consult with AFMA in relation to setting compatible harvest measures for shared target stocks such as silver trevally, eastern gemfish, blue-eye trevalla and gummy shark in the Southern and Eastern Scalefish and Shark Fishery and with the Queensland Department of Primary Industries and Fisheries in relation to spanner crab and snapper.
9. NSW DPI to develop and implement a recovery strategy for all OTLF primary and key secondary species classified as recruitment overfished, within 6 months of the species being so classified. For species categorised as growth overfished, the status of the stocks will be reviewed and specific measures implemented, as required, within 12 months to prevent the stocks from becoming recruitment overfished.
10. By the end of November 2007, DPI to develop and implement a system sufficient to identify changes in the composition and quantity of bycatch over time and establish more robust estimates of interactions with threatened and protected species in the OTLF.