



Senator the Hon Joe Ludwig  
Minister for Agriculture, Fisheries and Forestry  
Parliament House  
CANBERRA ACT 2600

Dear Minister

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

In January 2012, the Australian Fisheries Management Authority provided a submission to the Department of Sustainability, Environment, Water, Population and Communities seeking further export approval for the fishery.

I am pleased to advise that the assessment is now complete. The assessment report will be available on the department's website at:

<http://www.environment.gov.au/coasts/fisheries/commonwealth/heard-mcdonald/index.html>.

The *Heard Island and McDonald Islands Fishery Management Plan 2002* was most recently accredited under Part 13 of the EPBC Act, for interactions with protected species, in February 2010. I am satisfied that it is unlikely that fishing operations conducted in accordance with the management plan in force under the *Fisheries Management Act 1991* will adversely affect the conservation status of protected species or affect the survival or recovery in nature of listed threatened species or adversely affect the conservation status of listed migratory species, cetaceans or listed marine 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 species listed under Part 13 of the EPBC Act.

I have therefore reaccredited the *Heard Island and McDonald Islands Fishery Management Plan 2002*, in force under the *Fisheries Management Act 1991*, 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.

I consider that the Heard Island and McDonald Islands 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 for the fishery including limited entry, fishing gear restrictions, limited fishing access to certain areas, bycatch trip limits and mandatory logbooks, I have decided to amend the list of exempt native specimens to allow export of product from the Heard Island and McDonald Islands Fishery for a period of five years, until 9 May 2017.

While there are some environmental risks associated with the Heard Island and McDonald Islands Fishery, I believe that the Australian Fisheries Management Authority has in place measures to address these issues. Officers from the Australian Fisheries Management Authority and this department have discussed areas requiring ongoing attention and agreed to recommendations focussing on understanding and managing the Patagonian toothfish stock on the Kerguelen Plateau and ensuring the continuation of good management practices. These recommendations can be found at **Attachment A**.

Please note that my decisions under the EPBC Act relate to the arrangements in force at the time of the assessment decisions. 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 plan 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 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.

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I would like to thank you for the cooperation of your officials in this assessment.

I have written to the Hon Michael Egan FAICD, Chairman of the Australian Fisheries Management Authority Commission, in similar terms.

Yours sincerely

A handwritten signature in black ink, appearing to read 'N. Routh', with a long horizontal flourish extending to the right.

Nigel Routh

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

7 May 2012



**Recommendations to the Australian Fisheries Management Authority on the ecologically sustainable management of the Commonwealth Heard Island and McDonald Islands Fishery.**

1. Operation of the Heard Island and McDonald Islands Fishery will be carried out in accordance with the *Heard Island and McDonald Islands Fishery Management Plan 2002* and supporting instruments developed under the *Fisheries Management Act 1991*.
  2. The Australian Fisheries Management Authority to inform the Department of Sustainability, Environment, Water, Population and Communities of any intended amendments to the Heard Island and McDonald Islands Fishery management arrangements that may affect the assessment of the fishery against the criteria on which *Environment Protection and Biodiversity Conservation Act 1999* decisions are based.
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3. The Australian Fisheries Management Authority 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 – 2<sup>nd</sup> Edition*.
  4. The Australian Fisheries Management Authority, in conjunction with other relevant agencies, to continue to investigate Patagonian toothfish as well as other aspects of the fisheries and ecosystem in the Kerguelen area with a view towards improved future stock assessment of the Patagonian toothfish.

The Australian Fisheries Management Authority and the Australian Antarctic Division should ensure that results of the cooperative work between Australia and France are taken into account in undertaking assessments and adopting management actions for the Heard Island and McDonald Islands toothfish fishery.

