

Terms of Reference for the Expert Panel on a Declared Commercial Fishing Activity

Background

On 19 November 2012, the Minister for Sustainability, Environment, Water, Population and Communities made the Final (Small Pelagic Fishery) Declaration 2012 (the Final Declaration), which came into force on 20 November 2012.

The Final Declaration provides that a commercial fishing activity which:

- a. is in the area of the Small Pelagic Fishery;
- b. uses the mid-water trawl method; and
- c. uses a vessel which is greater than 130 metres in length, has an on-board fish processing facility and has storage capacity for fish or fish products in excess of 2000 tonnes

is a Declared Commercial Fishing Activity for the purposes of Part 15B of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)* (the EPBC Act).

The Declared Commercial Fishing Activity is prohibited for up to two years while an expert panel conducts an assessment and reports to the Minister on the activity.

The Expert Panel is established under section 390SH of the EPBC Act, as are the terms of reference for its assessment.

Terms of Reference

The Expert Panel will assess the Declared Commercial Fishing Activity, particularly the potential for the activity to result in adverse environmental impacts.

The Expert Panel will assess and advise on:

1. the likely nature and extent of direct interactions of the Declared Commercial Fishing Activity with species protected under the EPBC Act, particularly seals and dolphins;
2. the potential for any localised depletion of target species (arising from the Declared Commercial Fishing Activity) to result in adverse impacts to the Commonwealth marine environment, including the target species' predators protected under the EPBC Act;
3. actions that could be taken by operators of the Declared Commercial Fishing Activity or relevant regulatory authorities to avoid, reduce and mitigate adverse environmental impacts of the activity;
4. monitoring or scientific research that would reduce any uncertainties about the potential for adverse environmental impacts resulting from the Declared Commercial Fishing Activity;
5. any other matters about the environmental impacts of the Declared Commercial Fishing Activity that the Expert Panel considers relevant to its assessment; and
6. other related matters that may be referred to it by the Minister.

Date for report

The Expert Panel must report to the Minister by 22 October 2014.

Manner of carrying out assessment

In carrying out its assessment, the Expert Panel will:

- a. examine existing scientific literature, other relevant information and any ongoing research or monitoring projects relevant to the impacts of the Declared Commercial Fishing Activity;
- b. consult with and seek submissions from experts in relevant scientific disciplines where the Expert Panel believes this is necessary to clarify areas of uncertainty about the environmental impacts of the Declared Commercial Fishing Activity;
- c. consider the fisheries management arrangements under which the Declared Commercial Fishing Activity is proposed to operate and the extent to which those management arrangements address the relevant environmental impacts and uncertainties;
- d. take account of the requirements of the EPBC Act as they relate to the operation and accreditation of Commonwealth fisheries;
- e. commission, through the Department of Sustainability, Environment, Water, Population and Communities, new reviews, research projects, modelling or analyses which the Expert Panel believes are necessary to fill critical knowledge gaps and where the results of those projects and analyses will allow the Expert Panel to fulfil its terms of reference;
- f. consult with relevant experts, including in the operations of the Declared Commercial Fishing Activity, on the nature and effectiveness of measures available to reduce direct interactions with EPBC Act protected species and the potential ecological effects of any localised depletion resulting from the Declared Commercial Fishing Activity; and
- g. identify further necessary and practicable monitoring or research projects that would reduce critical uncertainties for decision making relevant to any future operations of the Declared Commercial Fishing Activity.