



Australian Government

Department of the Environment, Water, Heritage and the Arts

Our reference: 2009/26410

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 Environment Protection, Heritage and the Arts in relation to the reassessment of the Western Australian (WA) Northern Demersal Scalefish Fishery (NDSF) under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

An initial assessment of the NDSF was completed in December 2004, resulting in the Delegate of the then Minister for the Environment and Heritage declaring the NDSF exempt from export controls under Part 13A of the EPBC Act and including product from the fishery in the List of Exempt Native Specimens (LENS) until 30 November 2009.

In August 2009, the Department of Fisheries, Western Australia (DFWA) submitted the following documents for assessment, seeking continued exemption for this fishery:

- *Application to the Department of the Environment, Water, Heritage and the Arts on the Northern Demersal Scalefish Managed Fishery Against the Guidelines for the Ecologically Sustainable Management of Fisheries; and*
- *Independent review of the WA Department of Fisheries Stock Assessment and a review commissioned by the Kimberley Professional Fisherman's Association.*

The submission has been assessed for the purposes of 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 DFWA in response to recommendations made in the 2004 assessment of the fishery.

I am pleased to advise that the assessment of the fishery is now complete. The new assessment report will be available on the Department of the Environment, Water, Heritage and the Arts (DEWHA) web site at <http://www.environment.gov.au/coasts/fisheries/wa/northern-demersal/index.html>.

The management regime for the NDSF was first accredited under the EPBC Act in December 2004. 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 arrangements operators are required to take all reasonable steps to avoid the killing or injuring of protected species.

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. I have therefore recredited 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.

I am satisfied that for the purposes of the wildlife trade provisions of Part 13A of the EPBC Act, the current management arrangements provide the basis for the fishery to be managed in an ecologically sustainable way. The management arrangements for the NDSF meet the *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition*.

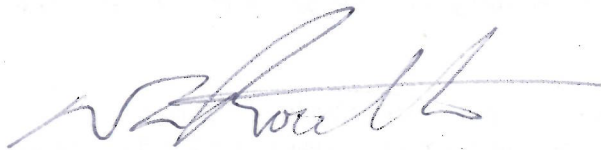
The NDSF is a relatively low impact fishery that is suitably precautionary. The combination of management arrangements, the nature of the fishery and progress in implementing recommendations from the initial assessment allows confidence that the fishery managers will manage the fishery to maintain the absence of bycatch, minimise interactions with protected species and manage impacts on the wider ecosystem.

Therefore, I have decided to amend the LENS to include specimens that are, or are derived from, fish or invertebrates taken in the NDSF, excluding specimens listed under Part 13 of the EPBC Act, until 15 June 2015. Such a listing will serve to exempt the fishery from the export controls of the EPBC Act, providing the fishery continues to operate in accordance with the *WA Fish Resources Management Act 1994* and the *Fish Resources Management Regulations 1995* and does not harvest and export specimens listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

While there are some environmental risks associated with this fishery, I believe that DFWA is committed to addressing these issues and has already taken proactive measures. Officers from DFWA and DEWHA have discussed areas requiring ongoing attention and agreed to recommendations focussing on ensuring the continuation of good management practices. These recommendations (**Attachment A**) have been an important factor in my decision to continue to exempt the NDSF and I look forward to receiving your confirmation that they will be implemented.

Please note that export decisions relate to the management arrangements in force at the time of the assessment decision. To ensure that the decision remains valid, DEWHA needs to be advised of any intended changes to the management regime 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.

Yours sincerely

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

Nigel Routh
Delegate of the Minister for Environment Protection, Heritage and the Arts

9 June 2010

Recommendations to DFWA on the ecologically sustainable management of the Northern Demersal Scalefish Fishery.

The Northern Demersal Scalefish Fishery (NDSF) is a well managed fishery with a range of management measures to promote the ecologically sustainable harvesting of species from the fishery. These measures include transferable annual effort quota; limited entry; gear controls; defined fishery area, including inshore closures; mandatory fitting of Vessel Monitoring System; legal minimum lengths for 3 species; maximum size limit for all cods and groupers; no landing of Scombridae, Isiophoridae, Xiphiidae, Coryphaenidae or invertebrates such as molluscs, crustaceans and echinoderms; strict trip limits on shark landings and no shark finning; and bag and size limits for recreational catch.

The following ongoing recommendations have been made to further strengthen the effectiveness of the management arrangements for the fishery and minimise environmental risks in the medium to longer term.

1. Operation of the fishery will be carried out in accordance with the management arrangements for the *Northern Demersal Scalefish Fishery Management Plan 2000*, made under the *Western Australian Fish Resources Management Act 1994*.
2. DFWA to inform the DEWHA of any intended amendments to the WA Northern Demersal Scalefish Managed Fishery's management arrangements that may affect the assessment of the fishery against the criteria on which EPBC Act decisions are based.
3. DFWA to produce and present reports to DEWHA annually as per Appendix B to the *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition*.
4. DFWA to ensure that all relevant groups are included in consultative processes as appropriate.
5. DFWA, by June 2011, to conduct a comprehensive review of risk levels for target species, bycatch (including protected species) and impacts on the environment for the NDSF, including consideration of:
 - a) post-capture mortality of bycatch, particularly undersized target species and starry triggerfish;
 - b) impacts of fishing on coral reef habitat; and
 - c) potential impacts of fishing mortality from other sectors and jurisdictions that share NDSF target stocks.DFWA to develop and implement appropriate management responses where high risks are identified.
6. In developing policy guidelines across all WA fisheries, for the operational context of the NDSF, DFWA to include fishery specific objectives, performance indicators and measures for all retained species.

Attachment A

7. DFWA, in consultation with NDSF licence holders, to consider the outcomes and recommendations of the Prescott and Bentley Review.
8. DFWA to continue to refine yield estimates of retained species and implement appropriate measures to reconcile catches of species exceeding performance indicators for catch levels.
9. DFWA to include any future improved methodology to ascertain levels of recreational catch and effort in all zones in future NDSF stock assessments and management arrangements.

