



Australian Government

Department of Sustainability, Environment, Water, Population and Communities

Our reference: 2011/16116

The Hon Peter Walsh MP
Minister for Agriculture and Food Security
Level 20
1 Spring Street
MELBOURNE VIC 3000

Dear Minister

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

The Victorian Scallop Fishery was most recently assessed under the protected species provisions of Part 13 and the wildlife trade provisions of Part 13A of the EPBC Act in January 2009. As a result of the 2009 assessment, as Delegate of the then Minister for the Environment, Heritage and the Arts, I declared the Victorian Scallop Fishery an approved wildlife trade operation under Part 13A of the EPBC Act until 30 January 2012.

In November 2011, the Victorian Department of Primary Industries submitted the *Application to the Department of Sustainability, Environment, Water, Population and Communities for the re-assessment of the Victorian Scallop Fishery* seeking further export approval for the Victorian Scallop Fishery.

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, taking into account measures that have been developed by the Victorian Department of Primary Industries in response to conditions and recommendations made in the 2009 assessment of the fishery.

I am pleased to advise that assessment of the Victorian Scallop Fishery is now complete. The new assessment report will be available on the Department of Sustainability, Environment, Water, Population and Communities' website at:
<http://www.environment.gov.au/coasts/fisheries/vic/scallop/index.html>

The management regime for the Victorian Scallop Fishery was first accredited under Part 13 of the EPBC Act in February 2006. I note that the Victorian *Fisheries Regulations 1998* were recently replaced with the *Fisheries Regulations 2009*. 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 listed marine species, listed migratory species or cetaceans, or adversely affect the survival or recovery in nature of listed threatened species.



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I also consider that under the current management regime 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 Victorian Scallop Fishery under Part 13 of the EPBC Act. Accreditation of a management regime under Part 13 of the EPBC Act 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 consider that the management arrangements for the Victorian Scallop Fishery meet most of the Australian Government *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition*. Given the management arrangements currently in place, which include annually reviewed total allowable commercial catch limits, limited entry, spatial monitoring using the vessel monitoring system, minimum legal landing size restrictions and voluntary closures of juvenile scallop beds, I am satisfied that the operation of the fishery remains consistent with the objects of the wildlife trade provisions of Part 13A of the EPBC Act. I am also satisfied that the operation of 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 in the next three years.

Accordingly, I have decided to declare the Victorian Scallop Fishery an approved wildlife trade operation until 29 January 2015. The declaration will be subject to the conditions at **Attachment A**.

Officers from the Victorian Department of Primary Industries and the Department of Sustainability, Environment, Water, Population and Communities have discussed areas of the management regime that require ongoing attention. While there are some environmental risks associated with this fishery, I believe that the Victorian Department of Primary Industries is committed to addressing these issues and has already taken proactive measures. The Victorian Department of Primary Industries and the department's officers have agreed to five recommendations (**Attachment B**) to be implemented before the next Australian Government assessment of the fishery. The recommendations focus on the implementation of an appropriately precautionary harvest strategy, collaborative management with other jurisdictions and improved information collection so that necessary management responses may be implemented in the fishery.

Please note that my decisions under the EPBC Act relate to the management arrangements for the Victorian Scallop Fishery in force at the time of the assessment decision. 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 arrangements 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 decisions. 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.

I would like to thank you for the constructive way in which your officials have approached this assessment.

Yours sincerely

A handwritten signature in dark 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

23 January 2012

**Conditions on the approved wildlife trade operation declaration for the
Victorian Scallop Fishery**

1. Operation of the fishery will be carried out in accordance with the Victorian Scallop Fishery management arrangements made under the Victorian *Fisheries Act 1995* and *Fisheries Regulations 2009*.
2. The Victorian Department of Primary Industries will advise the Department of Sustainability, Environment, Water, Population and Communities of any intended change to the Victorian Scallop Fishery's management arrangements that could affect the assessment against the criteria on which *Environment Protection and Biodiversity Conservation Act 1999* decisions are based.
3. The Victorian Department of Primary Industries 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 - 2nd Edition*.

Recommendations to the Victorian Department of Primary Industries on the ecologically sustainable management of the Victorian Scallop Fishery

1. The Victorian Department of Primary Industries to prioritise the implementation of an appropriately precautionary harvest strategy for the Victorian Scallop Fishery upon completion of the Victorian Government review of fisheries management arrangements in its waters.
2. The Victorian Department of Primary Industries to continue to work with relevant jurisdictions to actively pursue consistent and/or complementary management arrangements for the commercial scallop stock off southeast Australia.
3. Upon completion of the Victorian Government review of fisheries management arrangements in its waters, the Victorian Department of Primary Industries to develop and implement fishery specific objectives linked to performance indicators and performance measures for target, byproduct, and impacts on the ecosystem.
4. The Victorian Department of Primary Industries to monitor the status of the fishery in relation to performance measures and within three months of becoming aware of a performance measure not being met, implement an appropriate management response. Additionally, the Victorian Department of Primary Industries is to report on the effectiveness of voluntary closures in areas to protect juvenile scallop beds, and if necessary, consider the implementation of mandatory closures.
5. Once the results of the Fisheries Research and Development Corporation's funded project (FRDC 2008/022) become available, the Victorian Department of Primary Industries reviews existing information available, and identifies future monitoring priorities for target, byproduct and bycatch species.