



Australian Government

Department of Sustainability, Environment, Water, Population and Communities

Our reference: 2011/04464

The Hon Bryan Green
Minister for Primary Industries and Water
80B Wilson Street
Burnie Tasmania 7320

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 Tasmanian Scallop Fishery under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

In November 2011, the Tasmanian Department of Primary Industries, Parks, Water and Environment provided an application to the Department of Sustainability, Environment, Water, Population and Communities seeking continued export approval for the Tasmanian Scallop Fishery.

The application 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 the Department of Primary Industries, Parks, Water and Environment in response to recommendations made in the 2005 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 Sustainability, Environment, Water, Population and Communities' website at:
<http://www.environment.gov.au/coasts/fisheries/tas/scallop/index.html>.

I consider that the Tasmanian Scallop 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 currently in place for the fishery which include: total allowable commercial catch; limited entry (fishers must also hold a scallop entitlement) and a minimum unit holding to operate; minimum size limits; spatial management regime, where most of the fishery area is closed and only certain defined areas opened if criteria met; seasonal closure – fishing only allowed when scallops have reached optimum condition and to maximise opportunity for successful recruitment; limits on number, dimensions and structure of dredges; and possession limits, I am satisfied that the management arrangements for the Tasmanian Scallop Fishery are 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 over the period of the proposed export approval 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.



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Accordingly, I have amended the list of exempt native specimens, to include specimens that are, or are derived from, product taken in the Tasmanian Scallop Fishery, excluding specimens that are listed under Part 13 of the EPBC Act, for a period of five years. Such a listing will serve to exempt the fishery from the export controls of the EPBC Act.

While there are some environmental risks associated with this fishery, I believe that the Department of Primary Industries, Parks, Water and Environment is committed to addressing these issues and has already taken proactive steps in some areas. Officers from the two departments have discussed key areas requiring ongoing attention and have agreed to a number of recommended actions (Attachment A) focusing on ensuring the continuation of good management practices, to be implemented before the next Australian Government review of the fishery. I look forward to receiving your confirmation that they will be implemented.

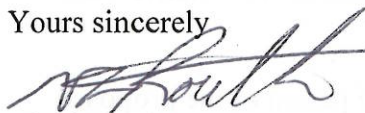
The management regime for the Tasmanian Scallop Fishery was first accredited under Part 13 of the EPBC Act in November 2005. I note that the Tasmanian *Fisheries Regulations 2000* were recently replaced with the *Fisheries Regulations 2010*. I am satisfied that it continues to be unlikely that fishing 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.

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 reaccredited the management regime for the Tasmanian 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.

Please note that my decisions under the EPBC Act relate to the management arrangements 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 legislative amendments and operational changes that may affect the impact of the fishery in relation to target species, 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



Nigel Routh

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

27 January 2012

Recommendations to the Department of Primary Industries, Parks, Water and Environment on the ecologically sustainable management of the Tasmanian Scallop Fishery

- 1: Operation of the fishery will be carried out under the *Fisheries (Scallop) Rules 2010*, the *Tasmanian Fisheries (General) Regulations 2000* and the *Tasmanian Living Marine Resources Management Act*, to the extent that the management regime is a plan of management for the Tasmanian Scallop Fishery.
- 2: The Department of Primary Industries, Parks, Water and Environment to advise Department of Sustainability, Environment, Water, Population and Communities of any material change to the Tasmanian Scallop Fishery management arrangements that could affect the criteria on which the *Environment Protection and Biodiversity Conservation Act 1999* decisions are based, within three months of that change being made.
- 3: The Department of Primary Industries, Parks, Water and Environment 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 – 2nd Edition*'.
- 4: The Department of Primary Industries, Parks, Water and Environment to place priority on conducting a review of scallop minimum criteria relating to size and age at harvest and explore further possible causes of the die-off which occurred in White Rock.

Consideration should be given to all available research, including any research that may result if the FRDC funding application '*Determining when and where to fish: Linking scallop spawning, settlement, size and condition to collaborative spatial harvest and industry in-season management strategies*' is approved.

The Department of Sustainability, Environment, Water, Population and Communities encourages the Department of Primary Industries, Parks, Water and Environment to complete the review prior to the end of 2013, so as to ensure the fishery is able to implement any future management measures seen necessary to assist in possible prevention/response to die-off reoccurring.



