



**The Hon Tony Burke MP**

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**Minister for Sustainability, Environment, Water, Population and Communities**

**Minister for the Arts**

B13/746

**28 MAY 2013**

The Hon Troy Buswell MLA  
Minister for Fisheries  
13<sup>th</sup> Floor, Dumas House  
2 Havelock Street  
WEST PERTH WA 6005

Dear Minister

I am writing to you in relation to the reassessment of the Western Australian West Coast Rock Lobster Managed Fishery under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The West Coast Rock Lobster Managed Fishery was most recently assessed under the international wildlife trade provisions of Part 13A of the EPBC Act in August 2007. As a result of the 2007 assessment, the delegate of the then Minister for the Environment and Heritage agreed to include product derived from the fishery in the list of exempt native specimens until 4 September 2012, allowing product from the fishery to continue being exported.

In June 2012, the Western Australian Department of Fisheries wrote to the Department of Sustainability, Environment, Water, Population and Communities (the department) requesting an extension to the export approval for the West Coast Rock Lobster Managed Fishery, due to pending changes to the management plan for the fishery. In July 2012, my delegate agreed to include product derived from the fishery in the list of exempt native specimens until 28 February 2013, allowing product from the fishery to continue being exported.

In November 2012, the Western Australian Department of Fisheries provided an application to the department seeking continued export approval for the West Coast Rock Lobster Managed Fishery. My delegate agreed to extend export approval for the fishery until 31 May 2013, to allow time for the department to work with the Western Australian Department of Fisheries to resolve issues in this fishery regarding the entanglement of whales in lobster pot ropes.

The application has been assessed for the purposes of the wildlife trade provisions of Part 13A of the EPBC Act. The assessment took into account measures that have been developed by the Western Australian Department of Fisheries in response to the recommendations made in the 2007 assessment under the EPBC Act.

I am pleased to advise that the assessment is now complete. The new assessment report will be available on the department's website at:  
<http://www.environment.gov.au/coasts/fisheries/wa/rocklob/index.html>.

I consider that the management arrangements for the West Coast Rock Lobster Managed Fishery meet most of the Australian Government 'Guidelines for the Ecologically Sustainable Management of Fisheries - 2<sup>nd</sup> Edition'. Taking into account the management arrangements currently in place in the fishery, which include:

- a total allowable commercial catch limit for the target species
- gear restrictions
- a closure to protect spawning rock lobsters
- an ecological risk assessment, and
- an Environmental Management System,

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.

Accordingly, I have decided to declare the West Coast Rock Lobster Managed Fishery an approved wildlife trade operation until 28 May 2015. The declaration will apply only to those classes of specimens specified in the instrument of declaration, available from the department's website, and will be subject to the conditions (Attachment 1) specified in the instrument of declaration.

Officers from the Western Australian Department of Fisheries and the department have discussed key areas requiring ongoing attention. While there are some environmental risks associated with this fishery, I believe that the Western Australian Department of Fisheries is committed to addressing these issues and has already taken proactive measures. The Western Australian Department of Fisheries and the department's officers have agreed to additional recommendations (Attachment 2) to be implemented before the next Australian Government assessment of the fishery.

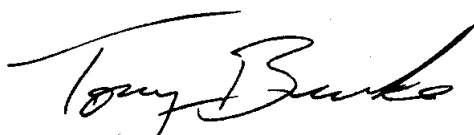
The management regime for the West Coast Rock Lobster Managed Fishery was most recently accredited under Part 13 of the EPBC Act, for interactions with protected species, in April 2013. I am satisfied that it is unlikely that fishing operations conducted in accordance with the management regime will 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. However, a potential risk to whales has been identified following an increase in reported entanglements of whales in lobster pot ropes since 2011. While there have been no reported fatalities of whales from entanglements with lobster pot ropes, further management measures during peak whale migration times are required.

I have therefore reaccredited the management regime for the West Coast Rock Lobster Managed Fishery under Part 13 of the EPBC Act, subject to the condition at Attachment 3. 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, injuring or interacting with EPBC Act protected 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 these decisions remain valid, the department 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 black ink, appearing to read 'Tony Burke', with a stylized, flowing script.

Tony Burke

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**Conditions on the approved wildlife trade operation declaration for the Western  
Australian West Coast Rock Lobster Managed Fishery, May 2013**

1. Operation of the fishery will be carried out in accordance with the West Coast Rock Lobster Managed Fishery management regime made under the Western Australian *Fish Resources Management Act 1994*.
2. The Western Australian Department of Fisheries to advise the department of any intended material change to the West Coast Rock Lobster Managed Fishery legislated management plan and arrangements that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* decisions are made
3. The Western Australian Department of Fisheries, in its Annual State of the Fisheries Report, to report on the performance of the fishery against performance measures that relate to the sustainability of the fishery

**Recommendations to the Western Australian Department of Fisheries on the  
ecologically sustainable management of the Western Australian West Coast Rock  
Lobster Managed Fishery, May 2013**

1. The Western Australian Department of Fisheries to:
  - a) continue considering the outcomes of the most recent Ecological Risk Assessment review and other relevant fishery research projects in light of the new quota management arrangements, and
  - b) adjust management arrangements as appropriate, including through updating the Environmental Management Strategy for the fishery.
2. The Western Australian Department of Fisheries to improve understanding of whale migration patterns and sites of whale entanglements as these relate to fishing effort in the fishery.

**Condition on the Part 13 accreditation for the Western Australian West Coast Rock Lobster Managed Fishery, May 2013**

The Western Australian Department of Fisheries to:

- a) implement interim measures to reduce the risk of the fishery interacting with migrating whales in 2013, including through supporting the update of the West Coast Rock Lobster Managed Fishery Code of Practice For Reducing Whale Entanglements (the Code)
- b) monitor and evaluate the uptake and effectiveness of interim measures, including robust validation and an analysis of the circumstances when entanglements do occur
- c) by 31 March 2014, complete a robust evaluation of longer term operational management measures to reduce the risk of whale entanglements, which could include the removal of some restrictions on western rock lobsters (such as removal of some size limits and removal of the restriction on keeping some pre-breeding females), spatial and seasonal closures and potential gear modifications
- d) taking account of the evaluation of the interim measures and the evaluation of longer term management arrangements, and in consultation with the department and the Western Australian Department of Environment and Conservation, determine a suite of management measures to minimise the entanglements of whales before the 2015 migration season, and
- e) in consultation with marine mammal experts, continue to monitor and review the adequacy of management measures to avoid mortality of, or injuries to whales