



Australian Government

Department of the Environment, Water, Heritage and the Arts

The Hon Ian Macdonald MLC
Minister for Primary Industries
Parliament House
Macquarie St
SYDNEY NSW 2000

Dear Minister

I am writing to you as Delegate of the Minister for the Environment, Heritage and the Arts in relation to the assessment of the New South Wales (NSW) Ocean Hauling Fishery (OHF) under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). An initial assessment of the OHF was completed in 2003, resulting in the then Minister for the Environment and Heritage declaring the OHF exempt from the export controls under Part 13A of the EPBC Act and including product from the fishery on the List of Exempt Native Specimens (LENS) until 25 April 2008.

In February 2008, the NSW Department Primary Industries (DPI) provided the '*Submission to the Department of the Environment, Heritage, Water and the Arts on behalf of the NSW fishing industry seeking ongoing export approval for the NSW Ocean Hauling Fishery – February 2008*', for consideration of further export approval of product from the OHF. The NSW DPI submission has been assessed for the purposes of the wildlife trade provisions of Part 13A of the EPBC Act. The assessment also took account of measures that have been developed by NSW DPI in response to recommendations made in the initial assessment of the OHF to improve the management of the fishery.

Assessment of the OHF against Part 13A of the EPBC Act was completed before the 25 April 2008 export expiry date. However, a decision to renew the fisheries five year export approval was not able to be made at that time due to agreement being unable to be reached between NSW DPI and the Department of Environment, Water, Heritage and the Arts (DEWHA) on the proposed recommendations.

In order to allow a period to reach resolution with NSW DPI without unduly impacting on the fishers, I, as Delegate of the Minister for the Environment, Heritage and the Arts, made a decision to include the product harvested from the OHF on the LENS until 25 July 2008.

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

I am satisfied that for the purposes of the wildlife trade provisions in Part 13A of the EPBC Act, the management arrangements provide the basis for the OHF to be managed in an ecologically sustainable way. I therefore propose to amend the LENS, to include specimens that are, or are derived from, fish or invertebrates taken in the OHF 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, providing the fishery continues to operate in accordance with the *Fisheries Management Act 1994* and does not harvest and export specimens listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

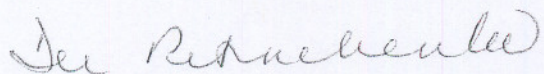
The management arrangements for the OHF perform satisfactorily against the Australian Government *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition*. The OHF is a relatively low impact fishery that is appropriately precautionary. The combination of management arrangements, research and progress in implementing recommendations from the initial OHF assessment allows confidence that the fishery managers will manage the fishery in an ecologically sustainable way, including maintaining low bycatch levels, minimising interactions with protected species and managing impacts on the wider ecosystem.

While there are some environmental risks associated with this fishery, I believe that NSW DPI is committed to addressing these issues and is already taking proactive steps in some areas. Officers from our Departments have discussed key areas requiring ongoing and increased attention, and have now agreed to a number of recommended actions, focusing on addressing key issues, to be implemented before the next Australian Government review of the OHF. These recommendations (**Attachment A**) have been an important factor in my decision to exempt the OHF and I look forward to receiving your confirmation that they will be implemented.

Please note that export decisions relate to the arrangements in force at the time of the assessment decision. In order to ensure that the decision remains valid, DEWHA needs to be advised of any intended changes that are made 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 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 "Donna Petrachenko". The script is cursive and fluid, with the first name "Donna" written in a larger, more prominent style than the last name.

Donna Petrachenko

Delegate of the Minister for the Environment, Heritage and the Arts

22 July 2008

Attachment A

Recommendations to the New South Wales (NSW) Department of Primary Industries (DPI) on the ecologically sustainable management of the Ocean Hauling Fishery (OHF).

The NSW OHF 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: the conversion to a share management regime, the development and implementation of a suite of codes of practice for the OHF and the delivery and development of a number of research projects that aim to improve the sustainability of the OHF.

The following 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. Unless a specific time frame is provided in the recommendation, NSW DPI should action these recommendations before the next review of the fishery in 2013.

Recommendations

1. Operation of the OHF will be carried out in accordance with the management regime in force under the *NSW Fisheries Management Act 1994*.
2. NSW DPI to advise DEWHA of imminent and substantive changes to the OHF management arrangements that may affect the assessment of the fishery against the criteria upon which the EPBC Act decisions are based.
3. NSW DPI to produce and present annual reports to DEWHA as per Appendix B of the *Guidelines for the Ecologically Sustainable Management of Fisheries 2nd Edition*.
4. NSW DPI to develop and implement recovery strategies for species determined as overfished or recruitment overfished, within 6 months of the species being so classified. For species categorised as growth overfished, the status of the stocks will be reviewed and specific measures implemented, as required, within 12 months to prevent the stocks from becoming recruitment overfished.

5. By April 2009, NSW DPI to implement additional measures identified in the Eastern Sea Garfish Recovery Program, or effective alternatives, to halt the stocks decline and further promote the rebuilding of stocks to ecologically sustainable levels.
6. NSW DPI in collaboration with industry to identify ongoing research and monitoring priorities in the OHF and incorporate these within the work plan for the cross-fishery Scientific Observer Program or other research and monitoring mechanisms. Results of any relevant research or information should inform the management of the fishery and changes made to management arrangements where required.
7. NSW DPI to continue to develop and implement a new catch information management system for the major NSW commercial fisheries (including OHF) to introduce finer scale catch and effort reporting and improve data analysis. A robust system to validate catch and effort logbook data should be included as part of the implementation of the catch information system.
8. NSW DPI to continue to collaborate, where appropriate, with other jurisdictions to actively pursue consistent and/or complementary research needs and management arrangements for target species.
9. NSW DPI to continue to monitor and assess bycatch in the major NSW commercial fisheries (including OHF) under NSW DPI's Resource Assessment Framework and scientific observer program, to ensure that changes in quantity and/or composition can be monitored and verified over time.
10. NSW DPI to ensure that fishery assessment processes and management arrangements, for primary and secondary OHF species, take account of all removals, including best estimates of recreational, Indigenous and illegal catch.