



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 Sustainability, Environment, Water, Population and Communities in relation to the reassessment of the Western Australian (WA) Pilbara Fish Trawl Interim Managed Fishery (PFTIMF) under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

An initial assessment of the PFTIMF under the EPBC Act was completed in December 2004. The delegate of the then Minister for the Environment and Heritage subsequently declared the Pilbara Fish Trawl Interim Managed Fishery an approved Wildlife Trade Operation (WTO) under Part 13A of the EPBC Act until 1 June 2005 and accredited the Pilbara Fish Trawl Interim Managed Fishery management plan under Part 13 of the EPBC Act in relation to protected species interactions. The short-term nature of the WTO was to ensure that conditions on the fishery relating to mitigating interactions with protected species (particularly dolphins and turtles) were met. The fishery has subsequently been subject to a number of conditions relating to mitigating interactions with protected species, imposed through short-term approved WTO declarations.

In April 2010, prior to the fishery's approved WTO declaration expiring in June 2010, DFWA provided DEWHA with a submission seeking further export approval for the PFTIMF. As agreed between the then Department of the Environment, Water, Heritage and the Arts (DEWHA) and DFWA, the WTO was allowed to lapse until a new assessment could be completed. DFWA's 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 conditions and recommendations made in the 2007 reassessment of the PFTIMF (and amended conditions in 2008 and 2009) to improve the management 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 (SEWPaC) website at:
<http://www.environment.gov.au/coasts/fisheries/wa/pilbara-trawl/index.html>.

The management arrangements for the PFTIMF meet most of the Australian Government *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition*. However, there remain a number of issues that need to be addressed to contain environmental risks in the longer term. These include:

- minimising interactions with protected species;
- implementation of an ongoing program to validate protected species bycatch;
- meeting EPBC Act reporting requirements;
- ensuring effort allocation is sustainable; and
- monitoring recreational sector overlap with the PFTIMF.

Given the management measures currently in place, which includes limited entry, spatial closures, individual transferable effort allocations and gear restrictions, 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, for the period of the new WTO accreditation, 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.

Accordingly, I have decided to declare the PFTIMF an approved WTO until 30 June 2013. The WTO declaration will be subject to the five conditions at **Attachment A**.

Officers from DFWA and SEWPac have discussed key areas requiring ongoing attention. While there are some environmental risks associated with the PFTIMF, I believe that DFWA is committed to addressing these issues.

DFWA and SEWPac officers have also agreed to five additional recommendations (**Attachment B**) to be implemented before the next Australian Government assessment of the fishery, focusing on stock assessments and effort level setting, updating ecological risk assessments for the fishery, updating the Bycatch Action Plan and improved methodology to estimate recreational catch in the region. The conditions and recommendations have been an important factor in my decision to declare the PFTIMF an approved WTO. I look forward to receiving your confirmation that the recommendations will be implemented.

The *Pilbara Fish Trawl (Interim) Managed Fishery Management Plan 1997* was first accredited under Part 13 of the EPBC Act in November 2004. Since that time, excluder grids to reduce dolphin mortality in the fishery have been implemented as an operation requirement in the fishery. I consider that it continues to be unlikely that fishing operations conducted in accordance with the management plan 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 plan, operators are required to take all reasonable steps to avoid the killing or injuring of protected species.

I have therefore recredited the *Pilbara Fish Trawl (Interim) Managed Fishery Management Plan 1997* 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.

Please note that export decisions under the EPBC Act relate to the arrangements in force at the time of the assessment decision. To ensure that the WTO decision remains valid, SEWPaC 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 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 March 2011

Conditions on the Wildlife Trade Operation Declaration for the Western Australian Pilbara Fish Trawl Interim Managed Fishery

1. Operation of the fishery will be carried out in accordance with the *Pilbara Fish Trawl Fishery (Interim) Management Plan 1997* made under the Western Australian *Fish Resources Management Act 1994*.
2. DFWA to advise the Department of Sustainability, Environment, Water, Population and Communities (SEWPaC) of any intended material change to the Pilbara Fish Trawl Interim Managed Fishery (PFTIMF) legislated management regime and management arrangements that could affect the criteria on which *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) decisions are based.
3. DFWA to produce and present reports to SEWPaC annually as per Appendix B of the *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition*.
4. DFWA, in consultation with SEWPaC, to continue to implement measures to minimise the PFTIMF's interactions with protected species, particularly with dolphins and marine turtles. Specifically DFWA:
 - (a) in consultation with SEWPaC, to assess the effectiveness of the proposed excluder grid and escape hatch design in reducing dolphin mortality following the six month industry trial;
 - (b) to ensure that, if the proposed excluder grid and escape hatch design shows an identifiable reduction in dolphin mortality, the design will be implemented across the fishery;
 - (c) at the conclusion of the six month trial, to develop and implement, within six months, an ongoing program to validate protected species bycatch;
 - (d) if the proposed excluder grid and escape hatch design does not show an identifiable reduction in dolphin mortality, DFWA to continue to explore/develop mitigation methods to further minimise dolphin mortality.
5. DFWA to continue to provide annual reports, summarised by quarter, of all protected species interactions reported in the PFTIMF to SEWPaC.

Attachment B

Recommendations to the Department of Fisheries, Western Australia (DFWA) on the ecologically sustainable management of the Pilbara Fish Trawl Interim Managed Fishery (PFTIMF)

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, each recommendation must be addressed within the life of the declaration.

1. DFWA to continue to:
 - a) conduct stock assessments for key indicator species; and
 - b) review effort levels for each management area to ensure fishing mortality does not exceed sustainable levels.
2. DFWA, prior to evaluation of the management arrangements for 'managed' status, to undertake a comprehensive review of risk levels for target, byproduct, bycatch (including protected species and non-marketable target species) and impacts on the environment.
3. DFWA to continue to maintain and update the Bycatch Action Plan for the PFTIMF, including periodic or triggered (in response to significant changes) opportunities for public comment.
4. DFWA to include any future improved methodology to ascertain levels of recreational catch and effort in future PFTIMF stock assessments and management arrangements.
5. DFWA to continue to ensure, where appropriate, that any relevant Indigenous, conservation and recreational interests in the fishery are considered through consultative mechanisms, in particular, the full review of the Interim Management Plan.

