



The Hon Tony Burke MP

Minister for Sustainability, Environment, Water, Population and Communities

B12/1384

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

30 AUG 2012

Dear Minister

I am writing to you in relation to the reassessment of the Western Australian Temperate Demersal Gillnet and Demersal Longline Fisheries, comprising the Joint Authority Southern Demersal Gillnet and Demersal Longline Managed Fishery and the West Coast Demersal Gillnet and Demersal Longline [Interim] Managed Fishery, under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The Western Australian Temperate Demersal Gillnet and Demersal Longline Fisheries were most recently assessed under the international wildlife trade provisions of Part 13A of the EPBC Act in April 2009. The then Minister for the Environment, Heritage and the Arts subsequently declared the Western Australian Temperate Demersal Gillnet and Demersal Longline Fisheries approved wildlife trade operations under Part 13A of the EPBC Act for a period of three years, until 26 March 2012. This allowed export of product from the fishery to continue during the period of the declaration.

In January 2012, the Western Australian Department of Fisheries provided an application to the Department of Sustainability, Environment, Water, Population and Communities (the department) seeking continued export approval for the Western Australian Temperate Demersal Gillnet and Demersal Longline Fisheries.

In March 2012, my delegate agreed to product derived from the Western Australian Temperate Demersal Gillnet and Demersal Longline Fisheries being included in the list of exempt native specimens under Part 13A of the EPBC Act until 31 August 2012. This was to allow additional time for the Department of Sustainability, Environment, Water, Population and Communities to work with the Western Australian Department of Fisheries to resolve issues in these fisheries regarding the potential for interactions with Australian sea lions.

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 provided in response to the conditions and recommendations made in the 2009 export 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 of Sustainability, Environment, Water, Population and Communities' website at: <http://www.environment.gov.au/coasts/fisheries/wa/temperate-shark/index.html>.

I consider that the management arrangements for the Western Australian Temperate Demersal Gillnet and Demersal Longline Fisheries meet most of the Australian Government 'Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition'. Taking into account the management arrangements currently in place in the fishery, which include restrictions on effort and gear, seasonal closures to protect pupping whiskery sharks and a vessel monitoring 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 Western Australian Temperate Demersal Gillnet and Demersal Longline Fisheries approved wildlife trade operations until 28 August 2015. The declarations will be subject to the conditions at **Attachment A**.

Officers from the Western Australian Department of Fisheries and the Department of Sustainability, Environment, Water, Population and Communities have discussed key areas requiring ongoing attention and have agreed to additional recommendations (**Attachment B**) to be implemented before the next Australian Government assessment of the fishery. 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 management regimes for the Western Australian Temperate Demersal Gillnet and Demersal Longline Fisheries were most recently accredited under Part 13 of the EPBC Act, for interactions with protected species, in February 2006. I am satisfied that it continues to be 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, although observed fatal interactions with Australian sea lions have been very low to date, this has been identified as a potential risk and further monitoring of fishing effort around Australian sea lions is required.

I have therefore recredited the management regime for the Western Australian Temperate Demersal Gillnet and Demersal Longline Fisheries under Part 13 of the EPBC Act, subject to the condition at **Attachment C**. 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 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 these 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 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.

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

Yours sincerely

A handwritten signature in blue ink, appearing to read "Tony Burke". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

Tony Burke

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**Conditions on the approved wildlife trade operation declaration for the
Western Australian Temperate Demersal Gillnet and Demersal Longline Fisheries
August 2012**

1. Operation of the Western Australian Temperate Demersal Gillnet and Demersal Longline Fisheries will be carried out in accordance with the management arrangements in force under the Western Australian *Fish Resources Management Act 1994*.
2. The Western Australian Department of Fisheries to inform the Department of Sustainability, Environment, Water, Population and Communities of any material change to the Western Australian Temperate Demersal Gillnet and Demersal Longline Fisheries management arrangements that may affect the assessment of the fishery against the criteria on which *Environment Protection and Biodiversity Conservation Act 1999* decisions are based, within three months of that decision being made..
3. The Western Australian Department of Fisheries 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'
4. The Western Australian Department of Fisheries to continue to:
 - a) review the outcomes of actions taken to rebuild sandbar shark stocks and publicly report these outcomes; and
 - b) continue to develop strategies to ensure the recovery of dusky and sandbar shark stocks to acceptable levels within biologically appropriate timeframes.

Recommendations to the Department of Fisheries Western Australia on the ecologically sustainable management of the Western Australian Temperate Demersal Gillnet and Demersal Longline Fisheries - August 2012

1. The Western Australian Department of Fisheries to continue to improve the accuracy and recording of species-specific catch data for all sharks and rays, including target and byproduct species.
2. By July 2014, the Western Australian Department of Fisheries to review and update the Ecologically Sustainable Development report for the Western Australian Temperate Demersal Gillnet and Demersal Longline Fisheries. This should include a review of risk levels and updating or developing new objectives, performance measures, management responses and information requirements as appropriate.
3. The Western Australian Department of Fisheries to pursue and support ongoing research for target species, byproduct, bycatch (including Australian sea lions and other protected species) and impacts on the ecosystem to continue to improve the ecologically sustainable management of the fisheries.
4. The Western Australian Department of Fisheries to continue to monitor estimates of harvest from the recreational sector and factor this information into stock assessments to ensure harvest levels are ecologically sustainable
5. The Western Australian Department of Fisheries to consider implementation of a quantitative monitoring program for Australian sea lion colonies identified at greatest risk (those producing less than 4-5 pups per cycle or as having potential significant encounterability with fishing gear) to collect data suitable for assessment of the population status of Australian sea lions in Western Australia

Conditions on the Part 13 accreditation for the Western Australian Temperate Demersal Gillnet and Demersal Longline Fisheries August 2012

The Western Australian Department of Fisheries to:

- a) continue monitoring fishing effort around Australian sea lion colonies (on an annual or per breeding cycle basis) and investigate and implement (in consultation with the Department of Sustainability, Environment, Water, Population and Communities) management measures to minimise fishery interactions with the species;
- b) independently monitor and validate interaction rates with Australian sea lions when/where fishing effort overlaps with foraging areas, such as through an appropriate study; and
- c) until such time as the population status of Australian sea lions is reliably demonstrated, consider areas that may require closures, or other measures, to safeguard small colonies (producing less than 4-5 pups per cycle) as well as those identified as having potential significant encounterability with fishing gear.