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The Hon Tony Burke MP

Minister for Sustainability, Environment, Water, Population and Communities

B13/116

25 FEB 2013

Senator the Hon Joe Ludwig
Minister for Agriculture, Fisheries and Forestry
Parliament House
CANBERRA ACT 2600

Dear Minister 

I am writing to you in relation to the reassessment of the Commonwealth Southern and Eastern Scalefish and Shark Fishery under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The Southern and Eastern Scalefish and Shark Fishery was most recently assessed under the international wildlife trade provisions of Part 13A of the EPBC Act in February 2010. The then Minister for the Environment, Heritage and the Arts subsequently declared the fishery an approved wildlife trade operation under Part 13A of the EPBC Act for a period of 3 years, until 30 July 2012. This allowed export of product from the fishery to continue during the period of the declaration.

In December 2011, the Australian Fisheries Management Authority provided an application to the Department of Sustainability, Environment, Water, Population and Communities (the department) seeking continued export approval for the Southern and Eastern Scalefish and Shark Fishery. In June 2012, I agreed to product derived from the Southern and Eastern Scalefish and Shark Fishery being included in the list of exempt native specimens under Part 13A of the EPBC Act until 28 February 2013. This was to allow additional time for the department to work with the Australian Fisheries Management Authority and the Threatened Species Scientific Committee to resolve issues in this fishery regarding appropriate management arrangements for Harrison's dogfish and southern dogfish.

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 Australian Fisheries Management Authority in response to the conditions and recommendations made in the 2010 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/commonwealth/scale-fish/index.html>

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I consider that the management arrangements for the Southern and Eastern Scalefish and Shark Fishery 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 total allowable catch limits for key species, limited entry, gear restrictions, spatial closures and ecological risk assessment and management reviews, 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 fishery an approved wildlife trade operation until 25 February 2016. The declaration will be subject to the conditions at **Attachment 1**.

Officers from the Australian Fisheries Management Authority and the department have discussed key areas requiring ongoing attention and have agreed to additional recommendations (**Attachment 2**) 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 Australian Fisheries Management Authority is committed to addressing these issues and has already taken proactive measures.

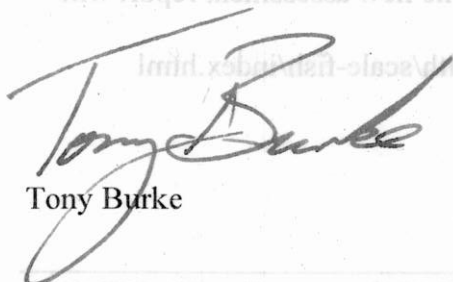
The management plan for the Southern and Eastern Scalefish and Shark Fishery was most recently accredited under Part 13 of the EPBC Act, for interactions with protected species, in February 2010. I am satisfied that it is unlikely that fishing operations conducted in accordance with the management plan 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 plan, operators are required to take all reasonable steps to avoid the killing or injuring of species listed under Part 13 of the EPBC Act (excluding conservation dependent species).

I have therefore reaccredited the management plan for the fishery under Part 13 of the EPBC Act, subject to the conditions at **Attachment 3**. Accreditation will ensure that individual fishers operating in accordance with the current management plan are not required to seek permits if they are at risk of killing or injuring EPBC Act 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 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 have written to the Chairman of the Australian Fisheries Management Authority Commission, the Hon Michael Egan in similar terms.

Yours sincerely



Tony Burke

Conditions on the approved wildlife trade operation declaration for the Southern and Eastern Scalefish and Shark Fishery – February 2013

1. Operation of the Southern and Eastern Scalefish and Shark Fishery will be carried out in accordance with the management arrangements in force under the *Fisheries Management Act 1991*.
2. The Australian Fisheries Management Authority to inform the Department of Sustainability, Environment, Water, Population and Communities (the department) of any proposed substantive changes to the Southern and Eastern Scalefish and Shark Fishery management arrangements that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* decisions are made.
3. The Australian Fisheries Management Authority to produce and present reports to the department annually, as per Appendix B to the Guidelines for the Ecologically Sustainable Management of Fisheries – 2nd Edition.
4. The Australian Fisheries Management Authority to ensure that there is sufficient ongoing fishery independent monitoring effort to reliably understand and evaluate the nature and level of impacts of fishing on threatened and protected species. Monitoring effort must be representative of each sector of the fishery across all gear and vessel types, with particular focus on locations where fishing effort is increasing or new gear types are being used.
5. The Australian Fisheries Management Authority to:
 - a) implement long-term management measures, including fisheries closures and other actions, that are clearly directed towards stopping the decline and supporting the recovery of Harrison's dogfish and southern dogfish, and
 - b) continue, in consultation with relevant experts, to monitor and review the adequacy of management measures designed to stop the decline and support the recovery of Harrison's dogfish and southern dogfish.
6. The Australian Fisheries Management Authority to:
 - a) ensure that management measures are in place to meet the objectives of the rebuilding strategies for species listed as conservation dependent under the *Environment Protection and Biodiversity Conservation Act 1999*, and
 - b) continue to evaluate and report to the department on the effectiveness of rebuilding strategies for conservation dependent listed species.

**Recommendations to the Australian Fisheries Management Authority on the
ecologically sustainable management of the Southern and Eastern Scalefish and Shark
Fishery – February 2013**

1. The Australian Fisheries Management Authority to determine the extent of the impact of fishing on non target shark species, including seeking to identify the species impacted, and develop appropriate management measures to mitigate the impact for shark species that are identified through the Ecological Risk Assessment process and protected species listing processes.
2. The Australian Fisheries Management Authority to continue to undertake Ecological Risk Assessments and implement appropriate management responses to address and mitigate risks and impacts for species that are identified as high risk. Following reviews of the Ecological Risk Assessments and Ecological Risk Management frameworks for all sectors in the fishery in 2012, the Australian Fisheries Management Authority to provide updated ERA and ERM reports to the department.
3. At the expiry of the Bycatch and Discard Work plan in place for each sector of the fishery, The Australian Fisheries Management Authority to:
 - a) implement new work plans to reduce bycatch and discards in each sector, and
 - b) provide an evaluation of the performance of each plan to the department within six months of expiry.
4. The Australian Fisheries Management Authority to continue to pursue and report on collaborative and complementary management of shared Southern and Eastern Scalefish and Shark Fishery stocks with relevant fisheries management agencies.

Conditions on the Part 13 accreditation for the Southern and Eastern Scalefish and Shark Fishery – February 2013

- A. The Australian Fisheries Management Authority to:
- a) maintain management measures clearly directed toward limiting the impact of fishing activity on Australian sea lions to levels which will assist in enabling the recovery of the species, including all subpopulations.
 - b) In consultation with marine mammal experts, continue to monitor and review on an annual basis the adequacy of its Australian sea lion management measures.
- B. The Australian Fisheries Management Authority to determine the extent of the impact of fishing on dolphins, including identifying the species impacted, and develop appropriate management measures to minimise the impact. This should include ongoing monitoring and appropriate review of these measures, in consultation with marine mammal experts.
- C. The Australian Fisheries Management Authority to continue to develop and implement management measures to minimise mortality of seals in the Commonwealth Trawl Sector of the fishery.
- D. The Australian Fisheries Management Authority to:
- a) ensure efficient and effective Seabird Management Plans remain in place for vessels in the fishery using otter trawl gear
 - b) consider the introduction of Seabird Management Plans for other methods of fishing to reduce the risk of seabird interactions
 - c) continue to investigate methods for improving data collection on seabird interactions, particularly interactions with trawl gear and longlines, and
 - d) implement management measures to ensure seabird mortality in all sectors of the fishery is minimised. Where appropriate, this should include implementing offal management measures that have been demonstrated to be highly effective in reducing seabird mortality.