



Australian Government

Department of the Environment, Water, Heritage and the Arts

The Hon Paul Caica MP
Minister for Agriculture, Food and Fisheries
GPO Box 668
ADELAIDE SA 5001

Dear Minister

I am writing to you as Delegate of the Minister for the Environment, Heritage and the Arts in relation to the reassessment of the South Australian Sardine Fishery (SASF) under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

An initial assessment of the SA Sardine Fishery was completed in October 2004, resulting in the then Delegate of the Minister for the Environment and Heritage declaring the fishery exempt from the export provisions of the EPBC Act until 15 October 2009.

In July 2009, the Department of Primary Industries and Resources South Australia (PIRSA) submitted the document *Ecological Assessment of the South Australian Sardine (Sardinops sagax) Fishery Reassessment Report* seeking further export approval for the fishery. The 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.

I am pleased to advise that the assessment of the fishery is now complete. The assessment report will be available on the Department of Environment, Water, Heritage and the Arts (DEWHA) website at:
<http://www.environment.gov.au/coasts/fisheries/sa/pilchard/index.html>

I am satisfied that for the purposes of the wildlife trade provisions of Part 13A of the EPBC Act, the management arrangements provide the basis for the fishery to be managed in an ecologically sustainable way. I therefore propose to amend the List of Exempt Native Specimens, to include specimens that are or are derived from fish taken in the SASF, excluding specimens that are listed under Part 13 of the EPBC Act, for a period of five years. Such listing will serve to exempt the fishery from the export control provisions of the EPBC Act, providing the fishery operates in accordance with the *Management Plan for South Australian Pilchard Fishery 2005*, in force under the *South Australian Fisheries Management Act 2007*, the *Fisheries Management (General) Regulations 2007*, and the *Fisheries Management (Marine Scalefish Fisheries) Regulations 2006* and continues not to involve the export of specimens listed on the Convention on the International Trade in Endangered Species.

I note that following the implementation of a fisheries independent observer program in the SASF in 2005, a high level of dolphin interactions was revealed. I also note that as a result, the fishery was closed for a period of four weeks pending the implementation of an industry Code of Practice. Since then, great progress has been made by the SASF Industry Association in reducing the number of interactions and I



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GPO Box 787 Canberra ACT 2601 Telephone 02 6274 1111 Facsimile 02 6274 1666

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commend the SASF Industry Association in the implementation of the *Code of Practice for Mitigation of Interactions of the SASF with Threatened Endangered and Protected Species*.

I consider that the SA Sardine Fishery continues to comply with the protected species provisions of the EPBC Act. The Code of Practice is not a legislated document, with which compliance or adherence are mandatory for participants in the fishery. I believe that, at present, operators are adhering to the mitigation strategies outlines therein. However, to ensure that protected species interactions continue to be mitigated in the longer term, I have decided to reaccredit the fishery's management arrangements under Part 13 with a condition to this effect (**Attachment A**).

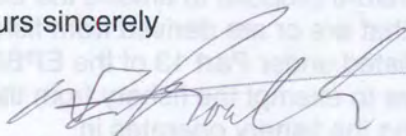
The management arrangements for the SASF meet the Australian Government's *Guidelines for the Ecologically Sustainable Management of Fisheries – 2nd Edition*. The SASF is a relatively low impact fishery that is appropriately precautionary. The combination of management arrangements, data gathering and proposed strategies allows confidence that the fishery managers will maintain low bycatch levels, minimise interactions with protected species and manage impacts on the wider ecosystem.

While there are some environmental risks associated with this fishery, I believe that PIRSA is committed to addressing these issues. Officers from our two departments have discussed key areas requiring ongoing attention. I understand they have agreed to a number of recommended actions, focusing on ensuring the continuation of good management practices, to be implemented before the next Australian Government review of the fishery. The recommendations at **Attachment B** have been an important factor in my decision to exempt the fishery and I look forward to receiving your confirmation that they will be implemented.

I would also like to reiterate that EPBC Act approvals are given to the management regime in place at the time of the decision and as such DEWHA must be advised of any management changes to ensure that accreditations remain valid.

I ask that you ensure your officers are aware of this requirement and keep my Department appropriately informed.

Yours sincerely



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

24 November 2009

Condition for the Purposes of Part 13 of the EPBC Act for the SASF.

1. Primary Industries and Resources South Australia to:
 - a. ensure that SASF participants adopt appropriate measures to mitigate interactions with common dolphins (*Delphinus delphis*);
 - b. continue to investigate, develop and implement measures that seek to reduce the level of interactions between SASF and common dolphins; and
 - c. continue to monitor the level of interactions with all protected species in the SASF.

Recommendations to PIRSA on the ecologically sustainable management of the SASF.

Unless a specific time frame is provided in the recommendation each recommendation must be addressed before the next assessment of the SASF in November 2014.

1. Operation of the fishery will be carried out in accordance with the *Management Plan for South Australian Pilchard Fishery 2005* in force under the *South Australian Fisheries Management Act (2007)*, the *Fisheries Management (General) Regulations 2007*, and the *Fisheries Management (Marine Scalefish Fisheries) Regulations 2006*.
2. The Department of Primary Industries and Resources, South Australia (PIRSA) to advise DEWHA of any material change to the SASF's management arrangements, including to the Code of Practice for Mitigation of Interactions of the South Australian Sardine Fishery with Threatened, Endangered and Protected Species, that may affect the assessment of the fishery against the criteria on which EPBC decisions are based, within 3 months of that change being made.
3. PIRSA to produce and present reports to DEWHA annually as per Appendix B to the Guidelines for the Ecologically Sustainable Management of Fisheries 2nd Edition.
4. PIRSA to
 - a) review common dolphin interactions quarterly and provide annual reports to DEWHA.
 - b) Should new information determine that the fishery is having an increasing amount of interactions with protected species, PIRSA to develop appropriate measures to mitigate those interactions. Measures should be implemented within 12 months of the information becoming available
5. PIRSA to revise the current format of Wildlife Interaction Identification and Logbook to include species specific identification of the dolphin and whale species that occur within the SASF.
6. PIRSA to conduct an assessment of the risks to target species, byproduct bycatch (including protected species) and the marine environment resulting from activities in the SASF. PIRSA to then implement measures to ensure that risks identified through this process are addressed and minimised as appropriate.

7. PIRSA to

- a) determine a reference point beyond which a recovery strategy would need to be developed to ensure long term sustainability of the SASF; and
 - b) within 3 months of becoming aware of a breach of a limit reference point, PIRSA to finalise a clear timeframe for the implementation of an appropriate management response.
8. PIRSA to continue to cooperate with relevant jurisdictions to pursue complementary research and ensure that the management arrangements for the fishery continue to take into account the results of research conducted.