



## Australian Government

### Department of the Environment, Water, Heritage and the Arts

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The Hon Jon Ford MLC  
Minister for Fisheries  
9<sup>th</sup> Floor Dumas House  
2 Havelock St  
WEST PERTH WA 6005

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 Western Australia (WA) Shark Bay Scallop Managed Fishery (SBSMF) under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). An initial assessment of the SBSMF was completed in 2003, resulting in the then Minister for the Environment and Heritage declaring the SBSMF 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 1 January 2008. He also accredited the *Shark Bay Scallop Management Plan 1994* in force under the *WA Fish Resources Management Act 1994* under the relevant protected species provisions of Part 13 of the EPBC Act.

In September 2007, the WA Department Fisheries (DFWA) submitted an *Application to the Department of the Environment and Water Resources on the Shark Bay Scallop Managed Fishery* for consideration of further export approval of product from the SBSMF. The DFWA submission has been assessed for the purposes of the wildlife trade provisions of Part 13A and the protected species provisions of Part 13 of the EPBC Act. The assessment also took account of measures that have been developed by DFWA in response to recommendations made in the initial assessment of the SBSMF to improve the management of the fishery.

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

As there have been no changes to the management arrangements since the initial assessment of the SBSMF that may negatively impact on protected species and noting that there are management measures in place to minimise the risk of interactions, I consider that the existing Part 13 accreditation for this fishery in relation to protected species provisions under the EPBC Act still applies.

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 SBSMF 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 SBSMF excluding specimens that are listed under Part 13 of the EPBC Act, for a period of five years and 1 month. Such a listing will serve to exempt the fishery from the export controls of the EPBC Act, providing the fishery operates in accordance with the *Shark Bay Scallop Management Plan 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 SBSMF meet the Australian Government *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition*. The SBSMF is a relatively low impact fishery that is appropriately precautionary. The combination of management arrangements, research and progress in implementing recommendations from the initial SBSMF 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 DFWA is committed to addressing these issues and is already taking proactive steps in some areas. Officers from our two Departments have discussed key areas requiring ongoing and increased attention. I understand that they have agreed to a number of recommended actions, focusing on addressing key issues, to be implemented before the next Australian Government review of the SBSMF. These recommendations (**Attachment A**) have been an important factor in my decision to exempt the SBSMF 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 these decisions remain valid, the Department of the Environment, Water, Heritage and the Arts needs to be advised of any 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

[signed 19 December 2007]

Robyn Bromley  
Delegate of the Minister for the Environment, Heritage and the Arts  
December 2007

**Recommendations to the Western Australia Department of Fisheries on the ecologically sustainable management of the Shark Bay Scallop Managed Fishery**

The WA Shark Bay Scallop Managed Fishery (SBSMF) 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: real time monitoring, spatial and temporal closures based on spawning stock, data collection systems and defined acceptable catch ranges.

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, DFWA should action these recommendations before the next review of the fishery in 2013.

**Recommendations**

1. Operation of the fishery will be carried out in accordance with the *Shark Bay Scallop Management Plan 1994* made under the *Western Australian Fish Resources Management Act 1994*.
2. DFWA to advise the Department of Environment, Heritage, and the Arts (DEWHA) of any intended material change to the SBSMF legislated management regime and management arrangements that could affect the criteria on which *Environment Protection and Biodiversity Conservation Act (EPBC Act)* decisions are based.
3. DFWA to produce and present reports to DEWHA annually as per Appendix B of the *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition*.
4. By mid 2008, DFWA to advise the WA Minister for Fisheries on the outcomes of the Shark Bay Prawn and Scallop Fisheries Review process, and to commence implementing subsequent Ministerial decisions arising from the Review findings.
5. DFWA to review, and adjust if necessary, the spawning stock indicator and performance measure for scallops to ensure the ongoing ecological sustainability of the SBSMF.
6. DFWA to continue to investigate the causes contributing to the ongoing low recruitment of scallops, and develop and implement strategies where appropriate to ensure the ongoing ecological sustainable management of the SBSMF.
7. DFWA to continue to investigate the impact of gear interaction in those areas of the Shark Bay Prawn and Scallop Fisheries where the distribution of the target

species overlap, and implement where appropriate management responses to address and mitigate the impacts identified.

8. DFWA to finalise, adopt and implement the Bycatch Action Plan for the SBSMF, including ongoing review and progress reporting on it's implementation.