



Australian Government

Department of the Environment, Water, Heritage and the Arts

The Hon Joe Helper MP
Minister for Agriculture
Level 22, 1 Spring St
Melbourne, VIC 3000

Dear Minister

I am writing to you as the Delegate of the Minister for the Environment, Heritage and the Arts in relation to the reassessment of the Victorian Rock Lobster Fishery (RLF) under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

An initial assessment of the RLF was completed in March 2004, resulting in the then Minister for the Environment and Heritage declaring the RLF 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 April 2009. He also accredited the management regime in force under the *Victorian Fisheries Act 1995* and the *Fisheries Regulations 1998* under the relevant protected species provisions of Part 13 of the EPBC Act.

In January 2009, the Victorian Department of Primary Industries (DPI) submitted the *Fishery Status Report Rock Lobster Fishery* for assessment under the EPBC Act for consideration of further export approval of the product of the RLF. The DPI submission has been assessed for the purposes of the wildlife trade provisions of Part 13A of the EPBC Act. The assessment also took account of measures that have been developed by DPI in response to recommendations made in the initial assessment of the RLF 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 the Environment, Water, Heritage and the Arts website at:

<http://www.environment.gov.au/coasts/fisheries/index.html>.

As there have been no significant changes to the management arrangements for the RLF 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 RLF 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 RLF excluding specimens that are listed under Part 13 of the EPBC Act, for a period of five years. Such a listing will serve to exempt the fishery from the export controls of the EPBC Act, providing the fishery continues to operate in accordance with the *Victorian Fisheries Act 1995* and *Fisheries Regulations 1998* 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 RLF perform satisfactorily against the Australian Government *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition*. The RLF is a relatively low impact fishery that is appropriately precautionary. The combination of management arrangements, research and progress in implementing recommendations from the initial RLF assessment allows confidence that the fishery managers will manage the fishery in an ecologically sustainable way.

While there are some environmental risks associated with this fishery, I believe that DPI is committed to addressing these issues and is already taking proactive action. Officers from DEWHA and DPI have discussed key areas requiring ongoing and increased attention, and have agreed to a number of recommended actions, focusing on addressing key issues, to be implemented before the next assessment of the RLF under the EPBC Act in 2014. These recommendations (**Attachment A**) have been an important factor in my decision to exempt the RLF 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 the decision remains valid, my Department needs to be advised of any intended 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 the sustainability of the target species or negatively impact on by-product, bycatch, protected species or the ecosystem.

I also note that DPI are drafting a new management plan for this fishery, and that the public comment period is now closed. I look forward to receiving notification of when the new management arrangements are finalised later this year, and my Department will review the new arrangements at that time.

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

Yours sincerely

[Signed]

Nigel Routh

Delegate of the Minister for the Environment, Heritage and the Arts
March 2009

Recommendations to the Victorian Department of Primary Industries (DPI) on the ecologically sustainable management of the Rock Lobster Fishery (RLF)

1. Operation of the fishery will be carried out in accordance with the Victorian Rock Lobster Fishery Management Plan 2003 and Fisheries Regulations 1998 in force under the Victorian Fisheries Act 1995.
2. Department of Primary Industries (DPI) will advise the Department of the Environment, Water, Heritage and the Arts (DEWHA) of any intended change to the fishery's management arrangements that could affect the assessment against the criteria on which *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) decisions are based.
3. DPI 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. By December 2010 DPI to implement the management arrangements under the new management plan for the RLF. DPI should ensure that the intent of the new plan remains appropriately precautionary.
5. DPI to:
 - a. develop improved estimates of harvest from the recreational sector; and
 - b. in consultation with stakeholders, factor this information into stock assessments to determine appropriately precautionary ecologically sustainable harvest levels.
6. DPI to identify areas at risk of localised depletion and implement appropriate management measures to address the identified risk.
7. DPI to develop measures to assess ecosystem impacts of the fishery, including consideration of the results of the report on Rock Lobster Habitats (once finalised).
8. DPI to:
 - a. require the adoption of appropriate measures to mitigate interactions with protected species; and
 - b. continue to monitor the nature and frequency of interactions with protected species through the observer program.