



AMENDMENT TO AN ARRANGEMENT BETWEEN THE COMMONWEALTH OF AUSTRALIA AND THE STATE OF WESTERN AUSTRALIA IN RELATION TO THE FISHERY FOR FISH AND OTHER AQUATIC BIOLOGICAL RESOURCES IN WATERS RELEVANT TO WESTERN AUSTRALIA

This ARRANGEMENT is made between the Commonwealth of Australia (“the Commonwealth”) and the State of Western Australia (“the State”).

WHEREAS:

- (a) The Commonwealth and the State have entered into the “Arrangement between the Commonwealth and the State of Western Australia in relation to the fishery for fish and other aquatic biological resources in waters relevant to Western Australia” as was published in the Commonwealth of Australia Gazette GN No. 4 on 1st February 1995 at pages 353 to 365 (“the Arrangement”).
- (b) The Arrangement provided that, in accordance with section 72 of the *Fisheries Management Act 1991* (Cth) (“the Commonwealth Act”) and the then section 8H of the *Fisheries Act 1905* (WA) (“the Repealed State Act”), the fishery described in clause 2 of the Arrangement, being coastal waters and all waters of the Australian fishing zone that lie within the area described in Schedule 2 to the *Petroleum (Submerged Lands) Act 1967* (“the Repealed Petroleum Act”) under the heading “Area that includes the Adjacent Area in respect of Western Australia”, is to be managed in accordance with the law of Western Australia subject to exceptions described therein.
- (c) Despite the repeal of the Repealed Petroleum Act, the reference in clause 2 of the Arrangement to the “Area that includes the Adjacent Area in respect of Western Australia” in Schedule 2 to the Repealed Act is now read to be a reference to the “Scheduled area for Western Australia” in Schedule 1, item 5 of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*, by the application of paragraph 10(c) of the *Acts Interpretation Act 1901* (“the Interpretation Act”).
- (d) Subclauses 2(b) and 2(e) of the Arrangement provide, *inter alia*, that the Great Australian Bight Trawl Fishery and the Joint Authority Southern Demersal Gillnet and Longline Fishery are excluded from being managed by Western Australia in accordance with the law of Western Australia.
- (e) Item 7 of Schedule 3 to the *Fish Resources Management Act 1994* (WA) (“the State Act”) provides that an arrangement made under section 8H of the State Repealed Act and in force immediately

before the commencement of the State Act continues in force, on commencement of the State Act, as if the arrangement had been made under section 22 of the State Act.

- (f) Pursuant to subsection 33(3) of the Interpretation Act and section 22 of the State Act, the Arrangement was amended by a further arrangement between the Commonwealth and the State as was published in the Commonwealth of Australia Gazette GN No. 38 on 23rd September 1998 at pages 3,200 to 3,205 (“the First Amending Arrangement”).
- (g) Clause 1 of the First Amending Arrangement provided that, *inter alia*, the description of the Great Australian Bight Trawl Fishery for the purposes of subclause 2(b) of the Arrangement was to be amended as provided in subclause 1(c) of the First Amending Arrangement.
- (h) Subsection 74A(1) of the Commonwealth Act provides that an instrument made under, *inter alia*, section 72 of the Commonwealth Act may be amended by instrument approved by the Commonwealth Minister responsible for administering the Commonwealth Act and the State Minister responsible for administering the State Act.
- (i) The parties now wish to further amend the area of the Great Australian Bight Trawl Fishery having regard to more accurate available data, pursuant to subsection 74A(1) of the Commonwealth Act, wish to amend the Arrangement to accommodate the termination of Western Australian Fisheries Joint Authority’s management of the Joint Authority Southern Demersal Gillnet and Longline Fishery and to provide for the management of that fishery in accordance with the law of Western Australia, pursuant to subsection 74A(1) of the Commonwealth Act (“the Second Amending Arrangement”) and to amend references to the Schedules to correct drafting errors, pursuant to subsection 74A(1) of the Commonwealth Act.

NOW IT IS MUTUALLY ARRANGED that the Arrangement will be varied as follows:

1. The description of the area of the Great Australian Bight Trawl Fishery in Schedule 1 of the Arrangement as referred to in subclause 2(b) of the Arrangement is deleted and replaced by the description provided in the Schedule to this variation arrangement.
 2. Subclause 2(d) is deleted and replaced with the following:
 - (d) all of the fish of the Class Osteichthyes and Class Chondrichthyes in the waters of the fishery described in Schedule 4 when any methods of pelagic gillnetting, demersal gillnetting and demersal longlining are used;
- Schedule 4 (Joint Authority Northern Shark Fishery)

3. Subclause 2(e) and Schedule 3 of the Arrangement are deleted.

4. The paragraph immediately after subclause 2(g) is deleted and replaced with the following:

but including fish to which paragraphs (a), (d) and (f) would otherwise apply when taken in the exercise of a right conferred by a licence or other authority granted by the State for the species to which this Arrangement applies.

5. Clause 4 of the Arrangement is deleted and replaced with the following:

The Commonwealth Minister responsible for administering the Commonwealth Act and the State Minister responsible for the State Act may in writing agree about:

(a) the maximum quantity of fish, the subject of paragraph 2(g) and the paragraph immediately thereafter, that may be taken from time to time under a licence or authority issued by the State;

(b) any other matter of mutual interest in relation to the fishery.

6. The heading for Schedule 4 is deleted and replaced with the following:

AREA OF THE JOINT AUTHORITY NORTHERN SHARK FISHERY

7. Any agreements already in place under clause 4 of the Arrangement continue to be in force.

8. This variation to the Arrangement will take effect for the purpose of subsection 74A(2) of the Commonwealth Act on 1 December 2018.

9. The Arrangement may be terminated in accordance with section 75 of the Commonwealth Act as is specified in subsection 22(2) of the State Act.

SCHEDULE

a) commencing at the intersection of the 200 metre isobath south of Australia with the meridian of longitude 115° 08' 06" E;

b) running south along that meridian to its intersection with the outer limit of the Australian fishing zone;

c) generally easterly along that outer limit to its intersection with the meridian of longitude 129° E;

d) north along that meridian to its intersection with the outer limits of coastal waters off southern Australia;

e) generally westerly along the outer limit of the coastal waters of Western Australia to its intersection with the meridian of longitude 125° 00' 05" E;

- f) south along that meridian to its intersection with the 200 metre isobath;
- g) generally westerly along that isobath to the point where the line began.

The Hon. Anne Ruston

Assistant Minister for Agriculture and Water Resources

on behalf of the Commonwealth under

the *Fisheries Management Act 1991*

in the presence of

_____ Date: 30 July 2018

The Hon. David Kelly

Minister for Water; Fisheries; Forestry; Innovation and ICT;

Science on behalf of the State

under the *Fish Resource Management Act 1994*

in the presence of

_____ Date: 14 July 2018