

---

## Objections to the proposed certification of the Australia Orange Roughy – Eastern Zone Fishery

### Notice of Intention to Adjudicate

---

1. Two Notices of Objection (“NOOs”) have been lodged with the Marine Stewardship Council (“MSC”) on 14 July 2020 to the proposed certification of the Australia Orange Roughy – Eastern Zone fishery. The objectors are WWF-Australia (“WWF”) and Australian Marine Conservation Society (“AMCS”). I am appointed as the Independent Adjudicator for these objections.
2. I decided previously that certain heads of the NOOs (“the objections”) should be accepted and the date of publication was 6 August 2020. A consultation phase followed and all parties informed me, after the prescribed period for first phase consultation, that there was no prospect of reaching an agreement on any items in the objections.
3. I then issued a notice of Written Representations Start Date on 28 August 2020 to notify all parties that the objection would proceed to written representations as set out in PD2.6. Further to this I received written representations from the CAB on 28 September 2020. The objections procedure then provided for a further consultation phase. However, there was no commonality that this was a productive step and I now issue a Notice of Intention to Adjudicate.

### Mode of hearing and hearing date

4. According to the procedures, the objection must be determined within 30 (working) days of this notification.
5. The parties are asked to respond by **5pm UTC 14 October 2020** as to whether this matter requires an oral hearing, which in light of the pandemic would be conducted remotely, or whether a determination on the papers would suffice. It is only if all parties agree or I decide otherwise that there will be a paper determination.
6. If there is to be an oral hearing, it will be held in private and between 12-18 November 2020. The parties are asked to indicate dates to avoid in this period also by **5pm UTC 14 October 2020** specifying in relation to any date who it is that cannot attend and why their attendance is essential. I will seek to decide upon a hearing date that facilitates engagement fairly as between the parties but it may be that not everyone who wishes to attend will be able to. In any event, I will have to limit numbers so that the hearing may take place remotely and I request that each party be represented by no more than three people (unless a case is made for more). Please note that given the geographical location of the parties and myself it will be necessary to hold hearings early and/or late in respective time zones and to spread the hearing out over more than one day.

### Agreed Bundle

7. The parties are to use their best endeavours to agree the contents of a bundle of documents for the determination of these objections, to include the record, the Notices of

Objection, all representations and submissions provided to the Independent Adjudicator to date, in accordance with the arrangements set out below.

8. The first draft of the index to the bundle is to be prepared by the CAB and served on the objectors and client fishery by **5pm UTC 16 October 2020**.
9. By **5pm UTC 21 October 2020** the objectors and fishery are to notify the CAB whether there are any additional documents in their possession that they wish, respectively, added to the bundle and to supply a copy of any such documents to the CAB if so requested.
10. A consolidated version of the index and bundle is to be prepared by the CAB and forwarded to the objectors and the fishery by **5pm UTC 26 October 2020**. A final version of the bundle is to be lodged with the Independent Adjudicator by the same date. The bundles should be sent electronically, with each document in the order that it is provided in the index and with an electronic name and number that corresponds to the name and number in the index.
11. Please note that it is essential that representations and submissions that reference any document in the bundle should include relevant page and paragraph numbers (and the objectors and CAB are asked to review whether an additional document is required further to the Notices of Objection and responses to date to provide for this).

### **Final submissions**

12. In accordance with the objection procedures, parties may submit additional or supplementary written representations on the matters raised in the Notices of Objection. Any such representations are to be lodged with the hearing paralegal and exchanged between the parties by **5pm UTC 2 November 2020**. These documents should be added to the Agreed Bundle and added to the Index (to be reissued by the CAB as amended by **5pm UTC 4 November 2020**).
13. Please note that parties to this objection are requested to strictly limit submissions to matters that were properly raised within the Notice of Objection.

### **Other**

14. I will send out further directions confirming the date and mode of any hearing for the conduct and timetable of the hearing in due course. This will address order of play at any oral hearing, any skeletons, powerpoints and other hearing related material to be used.
15. Please note that Paul Medley will be assisting me as a technical expert on these objections and will attend any hearing.
16. I look forward to hearing from the parties in accordance with the above. Finally, I would wish to observe that the decision to proceed to formal adjudication does not prevent an acceptable and agreed settlement at any time.

**Melanie Carter**

**Independent Adjudicator**

**7 October 2020**