

10 February 2021

Ms M Carter (c/o Ms Y Talas)  
MSC Independent Adjudicator

**Australian Marine Conservation Society (AMCS) response to CAB notification under PD2.7.10.**

Thank you for the opportunity to respond to MRAG Americas' notification under PD. 2.7.10. AMCS fully supports and has participated in the detailed submission that will be made by WWF, and wishes to make the following additional general points.

There have been no errors of fact in the Independent Adjudicator's findings in relation to the MRAG Americas' assessment of scope issues.

Orange roughy is a listed ETP species in Australia, under section 178 of the *Environment Protection and Biodiversity Conservation Act (1999)*.

That it is also subject to stock level management under fisheries legislation and regulation in no way means it is not a listed ETP species in Australia.

For orange roughy not to be an ETP species in Australia, it would have to undergo the delisting process and meet the necessary requirements under our environmental laws. This would be a logical first step *before* seeking assessment under a certification that has special considerations for ETP species and their scope for assessment.

In our view MRAG Americas and their client group is welcome to treat orange roughy as a non-ETP species at a point after the species is delisted under the appropriate national environmental legislation.

In general, it is extraordinary, in our organisation's position, to hear that MRAG Americas claim they have been subject to procedural unfairness, given they:

- Had been alerted to the potential for scope issues by the MSC at the at the planning stages prior to the fishery entering full assessment;
- Invited our engagement and then rejected it under a technicality;
- Produced multiple versions of their assessment, with later versions even arguing against their own earlier positions in key areas. This included substantially revising their assessment between the time of our lodging our Notice of Objection and receiving a hearing on the issues raised;
- Altered their representations to the objection hearings to incorporate arguments and evidence that were not made in their Final Report and Determination(s);
- Received a significant time extension (which we did not oppose) to allow them to prepare an argument under PD. 2.9.2.

We regard it as an extraordinary intervention and manipulation of process from the CAB that is based on insubstantial arguments where no errors of fact have been made out, only disagreement with the IA's interpretations and conclusions; to which we all must be subject if this process is to have any resolution.

The issues raised by MRAG Americas are clearly able to be, and should be, fully addressed under PD. 2.9.2. On that basis, we urge you to dismiss their intervention under PD. 2.7.10.

Regards,  
Adrian Meder  
Sustainable Seafood Program Manager