



**Australian Government**

**Department of the Environment and Energy**

Ms Mandy Lisson  
Regulatory Affairs and Sustainability Officer  
Southern Cross Botanicals Pty Ltd  
226 Hinterland Way  
Knockrow NSW 2479 Australia

Dear Ms Lisson

I am writing to you as Delegate of the Minister for the Environment in relation to the assessment of the NSW Southern Cross Botanicals Beach-cast Sea Kelp Fishery (Southern Cross Botanicals Sea Kelp Fishery) under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

In July 2019, Southern Cross Botanicals provided an application to the Department of Agriculture, Water and the Environment seeking approval for the export of Sea Kelp (*Ecklonia radiata*) from the Southern Cross Botanicals Beach-cast Sea Kelp Fishery.

The application has been assessed for the purposes of the wildlife trade provisions of Part 13A of the EPBC Act. The assessment takes into account Southern Cross Botanicals' application, the regulatory and policy regime applying to the Southern Cross Botanicals Beach-cast Sea Kelp Fishery under the NSW Department of Primary Industries' fisheries legislation. The assessment report will be available on the Department of Agriculture, Water and the Environment's website at:

<https://www.environment.gov.au/marine/fisheries/nsw/southern-cross-botanicals-sea-kelp>

I have decided to declare the NSW Southern Cross Botanicals Beach-cast Sea Kelp Fishery an approved wildlife trade operation for three years until the 9<sup>th</sup> April 2023 subject to the conditions specified in the approval ([Attachment 1](#)). The instrument of declaration of an approved wildlife trade operation will be available on the Department's website (see above).

If, in the future you wish to add or remove suppliers of Sea Kelp to your wildlife trade operation, within existing approved harvest quantities, you will need to contact the Department for approval and provide contact information, relevant harvest details and the state permit authorising collection to [wta@environment.gov.au](mailto:wta@environment.gov.au).

Please note that any person whose interests are affected by this decision may make an application to the Department of Agriculture, Water and the Environment for the reasons for the decision, and may apply to the Administrative Appeals Tribunal to have this decision reviewed. I have enclosed further information on these processes.

Yours sincerely

A handwritten signature in black ink that reads "Louise Vickery".

Louise Vickery  
Assistant Secretary  
Environment Approvals and Wildlife Trade Branch

9 April 2020

**Conditions on the approved wildlife trade operation declaration for the  
New South Wales Southern Cross Botanicals Beach-cast Sea Kelp Fishery**

**Condition 1:**

Southern Cross Botanicals must ensure that the operation of the NSW Southern Cross Botanicals Beach-cast Sea Kelp Fishery is carried out in accordance with the management regime for the NSW Southern Cross Botanicals Beach-cast Sea Kelp Fishery in force under:

- a) the *Fisheries Management Act 1994* (NSW);
- b) permits issued by the NSW Department of Primary Industries to suppliers of Sea Kelp to Southern Cross Botanicals for the harvest of Sea Kelp, and
- c) the NSW Southern Cross Botanicals Beach-cast Sea Kelp Fishery wildlife trade operation application (2019).

**Condition 2:**

Southern Cross Botanicals must inform the Department of Agriculture, Water and the Environment of any intended material changes to the NSW Southern Cross Botanicals Beach-cast Sea Kelp Fishery management arrangements that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* decisions are made.

**Condition 3:**

Southern Cross Botanicals must provide a report annually, by 1 May each year, to the Department of Agriculture, Water and the Environment on the NSW Southern Cross Botanicals Beach-cast Sea Kelp Fishery. The report must include:

- a) dates, species, locations, method of harvest and quantities of Sea Kelp received by Southern Cross Botanicals;
- b) a copy of the current permit issued by the NSW Department of Primary Industries to the supplier(s) providing Sea Kelp to Southern Cross Botanicals, and
- c) any interactions with, and steps taken to mitigate impacts on the EPBC Act listed shorebird – Hooded Plover (eastern) (*Thinornis rubricollis rubricollis*).



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### Department of the Environment and Energy

#### NOTIFICATION OF REVIEWABLE DECISIONS AND RIGHTS OF REVIEW<sup>1</sup>

There is a right of review to the Administrative Appeals Tribunal (AAT) in relation to certain decisions/declarations made by the Minister, the Minister's delegate or the Secretary under Part 13A of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Section 303GJ(1) of the EPBC Act provides that applications may be made to the AAT for the review of the following decisions:

- (a) to issue or refuse a permit; or
- (b) to specify, vary or revoke a condition of a permit; or
- (c) to impose a further condition of a permit; or
- (d) to transfer or refuse to transfer a permit; or
- (e) to suspend or cancel a permit; or
- (f) to issue or refuse a certificate under subsection 303CC(5); or
- (g) of the Secretary under a determination in force under section 303EU; or
- (h) to make or refuse a declaration under section 303FN, 303FO or 303FP; or
- (i) to vary or revoke a declaration under section 303FN, 303FO or 303FP.

If you are dissatisfied with a decision of a type listed above you may:

- a) by notice, provided in writing, request that the Minister or the Minister's delegate give you a statement in writing setting out the reasons for the decision as per section 28 of the *Administrative Appeals Tribunal Act 1975*. The Minister, or Minister's delegate may refuse to give you a statement of reasons if your application is made more than 28 days after the day on which you received this notice.

apply to the AAT for independent merits review of the decision. The AAT undertakes *de novo* merits review. This means they take a fresh look at the facts, law and policy relating to the decision and arrive at their own decision. They decide if the decision should stay the same or be changed. They are independent of the Department.

Application for review of a decision must be made to the AAT within **28 days** after the day on which you have received the reviewable decision. However an extension of time for lodging an application may be granted by the AAT under certain circumstances. Please visit the AAT's website at <http://www.aat.gov.au/> or telephone 1800 228 333 for further information. The role of the AAT is to provide a review mechanism that is fair, just, economical, informal and quick.

#### Applications & Costs

Applications to the AAT are made by lodging an Application Form (Form 1). This can be found on the AAT's website at <http://www.aat.gov.au/>.

There are no strict timelines in which the AAT must review the decision, however the first conference between the parties will usually be held within 6 to 10 weeks of the application being lodged. The time frame for review of certain decisions can be expedited in some circumstances.

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<sup>1</sup> In accordance with the *Administrative Appeals Tribunal Act 1975* Code of Practice for Notification of Reviewable Decisions and Rights of Review

The cost of lodging an application for review is \$920 (as of 1 July 2018) (GST inclusive). You may be eligible to pay a reduced fee of \$100.00 if

you are receiving legal aid for your application;

you hold a health care card, a Commonwealth seniors health card or any other card issued by the Department of Social Services or the Department of Veteran's Affairs that entitles the holder to Commonwealth health concessions;

you are in prison or lawfully detained in a public institution;

you are under 18 years of age; or

you are receiving youth allowance, Austudy or ABSTUDY.

You may also be eligible for a reduced fee if you can demonstrate to the AAT that paying the full fee would cause you financial hardship. Further information can be found on the AAT's website.

Additionally, you can access information about legal assistance at <https://www.ag.gov.au/LegalSystem/Legalaidprogrammes/Commonwealthlegalfinancialassistance/Documents/LegalFinancialAssistanceInformationSheet.pdf>.

If you pay a standard application fee, most of it will be refunded if the case is resolved in your favour. The refund amount is the difference between the fee you paid and \$100. So, if you paid \$884, you get back \$784 and if you pay \$920, you get back \$820. There is no refund if you paid the lower application fee for certain taxation decisions or the reduced fee of \$100.

### Contact Details

Further information or enquiries relating to the decision should be directed to:

The Director

Wildlife Trade Assessments Section

Department of the Environment

GPO Box 787

Canberra ACT 2601

**Telephone:** +61 (0) 2 6274 1917

**Email:** [sustainablefisheries@environment.gov.au](mailto:sustainablefisheries@environment.gov.au)

Alternatively you may contact the AAT at their Principal Registry or the Deputy Registrar, Administrative Appeals Tribunal in your Capital City or Territory.

Administrative Appeals Tribunal

Street address: Level 6, 83 Clarence Street, Sydney

Mailing address: GPO Box 9955, Sydney, NSW 2001

T: 1800 228 333 and (02) 9276 5000

F: (02) 9276 5599

E: [generalreviews@aat.gov.au](mailto:generalreviews@aat.gov.au)

W: <http://www.aat.gov.au>

### Freedom of Information Request

You may make an application under the *Freedom of Information Act 1982* (FOI Act) to access documents. Further information can be found at <http://www.environment.gov.au/foi/index.html>.

Please contact the Freedom of Information Contact Officer at [foi@environment.gov.au](mailto:foi@environment.gov.au) for more information.