



# Australian Government

## Department of the Environment and Energy

Mr Ian Curnow  
Executive Director  
Northern Territory Department of Primary Industry and Resources  
GPO BOX 3000  
DARWIN NT 0801

Dear Mr Curnow

I am writing to you as Delegate of the Minister for the Environment in relation to the reassessment of the Northern Territory Aquarium Fishery (the fishery) under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

In August 2019, the Northern Territory Department of Primary Industry and Resources applied for export approval for the fishery under the EPBC Act. The application has been assessed, and I have declared the fishery an approved wildlife trade operation under Part 13A of the EPBC Act until 5 December 2022.

The Part 13A declaration includes conditions that were agreed by officials from both departments as areas requiring ongoing attention. These are set out at Attachment 1.

I am also satisfied the management arrangements for the fishery meet the requirements under Part 13 of the Act and I propose to accredit the management arrangements accordingly.

Please note that any person whose interests are affected by this decision may make an application to the Department 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 at Attachment 2.

Yours sincerely

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

Louise Vickery  
Assistant Secretary  
Environment Approvals and Wildlife Trade Branch  
4 December 2019



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## Department of the Environment and Energy

Attachment 1

### **Part 13A conditions to the Northern Territory Department of Primary Industry and Resources on the approved wildlife trade operation declaration for the Northern Territory Aquarium Fishery – December 2019**

1. The Northern Territory Department of Primary Industry and Resources must ensure that the operation of the Northern Territory Aquarium Fishery is carried out in accordance with the management regime for the Northern Territory Aquarium Fishery in force under the *Fisheries Act 1988 (Northern Territory)*, and the *Fisheries Regulation 1992 (Northern Territory)*.
2. The Northern Territory Department of Primary Industry and Resources must inform the Department of the Environment and Energy of any intended material changes to the Northern Territory Aquarium Fishery management arrangements that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* decisions are made.
3. The Northern Territory Department of Primary Industry and Resources must provide reports to the Department of the Environment and Energy annually as outlined in Appendix B of the *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition (2007)*.
4. The Northern Territory Department of Primary Industry and Resources must:
  - a) limit the harvest of CITES listed species, according to current non-detriment findings, for each species or species group;
  - b) consult with the Department of the Environment and Energy, prior to a change to the management arrangements for a CITES or EPBC Act listed species being implemented; and
  - c) ensure that specimens of CITES listed species not listed on Schedule 2 of the current wildlife trade operation are not exported.
5. The Northern Territory Department of Primary Industry and Resources to:
  - a) publish the recent ecological risk assessment conducted for the Northern Territory Aquarium Fishery by February 2020.
  - b) undertake research into CITES species informed by the outcomes of the ecological risk assessment, including species distribution and abundance in areas of high fishing effort.
  - c) collaborate with relevant stakeholders, to undertake research and provide outcomes of research to the Department of the Environment and Energy. Outcomes must also be made publicly available.
6. The Northern Territory Department of Primary Industry and Resources must:
  - a) Provide to the Department of the Environment and Energy, by 31 December 2021, a Draft Harvest Strategy.

The draft strategy must include performance indicators, acceptable levels of risk and decision rules.

- b) Provide to the Department of the Environment and Energy, by 31 December 2021, a Draft Research and Monitoring Plan for the NT Aquarium Fishery.

The draft plan must include a strategy to collect data, monitor and manage impacts on target species (including protected species).

- c) Provide to the Department of the Environment and Energy, by 30 June 2022, a Draft Management Framework.
- d) Implement a Harvest Strategy for the Northern Territory Aquarium Fishery by 31 December 2022. The Harvest Strategy must include decision rules and reference points that trigger management actions to ensure the fishery remains ecologically sustainable.

## 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:

- 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.

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

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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

- 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.





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