



Australian Government

Department of the Environment and Energy

Ref: 001345578

The Hon Niall Blair MLC
Minister for Primary Industries
52 Martin Place
SYDNEY NSW 2000

Dear Minister

I am writing to you as the Delegate of the Minister for the Environment and Energy, in relation to ongoing environmental approvals under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) for the New South Wales Abalone, Lobster, Estuary General and Ocean Hauling fisheries.

In October 2014, the Australian Government Minister for the Environment the Hon Greg Hunt MP, wrote to your predecessor, the Hon Katrina Hodgkinson MP, seeking her views on a reform proposal to extend the EPBC Act approvals timeframe to ten years for commercial fisheries with low environmental risks. This was based on assessments of the fisheries' impacts on species protected under Part 13 and evaluation for export approval under Part 13A, of the EPBC Act. In November 2014 Minister Hodgkinson agreed to this proposal consistent with the majority view of all parties consulted.

I am pleased to advise that export approval for the four NSW fisheries listed above will be extended to ten years. The Department of the Environment and Energy and the NSW Department of Primary Industries have worked collaboratively on the assessments and agreed that these fisheries meet all relevant requirements of the EPBC Act that relate to export approval and interactions with protected species in Commonwealth waters.

I consider that all four fisheries operate in line with the Australian Government *Guidelines for the Ecologically Sustainable Management of Fisheries – 2nd Edition*. Given the management arrangements and precautionary measures in place, I have agreed to amend the list of exempt native specimens allowing export until 31 March 2028.

The list of exempt native specimens has been amended to allow export of product from these fisheries while the respective approvals are in place. 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. Further information on these processes is at Attachment 1.

These are the first NSW fisheries to achieve ten year approvals under the EPBC Act, a significant milestone. I would like to thank you for the constructive way in which your officials have approached this reform process and these assessments.

Yours sincerely

Paul Murphy
Delegate of the Minister for the Environment and Energy
March 2018

Notification of Reviewable Decisions and Rights of Review¹

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

Section 303GJ of the EPBC Act provides that applications may be made to the Administrative Appeals Tribunal for the review of the following decisions of the Minister:

(1) Subject to subsection (2), an application may be made to the Administrative Appeals Tribunal for review of a decision:

- (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.

(2) Subsection (1) does not apply to a decision made personally by the Minister (but the subsection does apply to a decision made by a delegate of the Minister).

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

1. 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; and
2. apply to the Administrative Appeals Tribunal (AAT) for independent merits review of the decision. 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 1300 366 700 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 <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 6-10 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 \$884 (GST inclusive) (current as of 1 July 2016).

You may be eligible to pay a reduced fee of \$100.00 if:

3. you are receiving legal aid for your application;

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

4. 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;
5. you are in prison or lawfully detained in a public institution;
6. you are under 18 years of age; or
7. 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.

Contact Details

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

The Director
Wildlife Trade Assessments Section
Department of the Environment and Energy
GPO Box 787
Canberra ACT 2601
Telephone: +61 (0) 2 6274 1917
Email: 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
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 for more information.

