



Australian Government
Department of the Environment

Sean Sloan
Director Fisheries and Aquaculture Policy
Department of Primary Industries and Regions South Australia
GPO Box 1625
ADELAIDE SA 5001

Dear Mr Sloan

Sean

I am writing to you as Delegate of the Minister for the Environment in relation to the assessment of the South Australian Beach-Cast Marine Algae Fishery under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

In December 2014, the Department of Primary Industries and Regions South Australia (PIRSA) provided an application to the Department of the Environment seeking continued export approval for the South Australian Beach-Cast Marine Algae Fishery. The application has been assessed for the purposes of the wildlife trade provisions of Part 13A of the EPBC Act.

I am pleased to advise that the assessment is now complete. The new assessment report will be available on the Department of the Environment's website at:
<http://www.environment.gov.au/marine/fisheries/sa/seagrass>.

I consider that the management arrangements for the South Australian Beach-Cast Marine Algae Fishery meet most of the Australian Government *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition*. Taking into account:

- total closure of areas important to shorebirds from 1 January to 31 March inclusive to allow for migratory birds to undertake natural activities undisturbed;
- a seasonal closure from 1 September to 31 December (inclusive) for harvest of marine algae in Rivoli Bay from the Beachport Conservation Park Closure zone to the beach access point at Blowhole Rd (including the Lake George inlet and town beach);
- prohibiting heavy machinery for harvest and/or transport purposes in all seasonal closure areas from September to December (inclusive)

I am satisfied that the operation of the fishery remains consistent with the objects of the wildlife trade provisions of Part 13A of the EPBC Act.

Accordingly, I have decided to declare the South Australian Beach-Cast Marine Algae Fishery an approved wildlife trade operation until 18 May 2018. The declaration will apply only to those classes of specimens specified in the instrument of declaration, available from the department's website, and will be subject to the conditions (**Attachment 1**) specified in the instrument of declaration.



Australian Government

Department of the Environment

Officers from PIRSA and the department have discussed key areas requiring ongoing attention. While there are some environmental risks associated with this fishery, I believe that PIRSA is committed to addressing these issues and has already taken proactive measures.

PIRSA and the department's officers have agreed to additional recommendations (**Attachment 2**) to be implemented before the next Australian Government assessment of the fishery.

I would like to thank you for the constructive way in which your officials have approached this assessment.

Please note that any person whose interests are affected by this decision may make an application to the Department of 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 blue ink, appearing to read 'Paul Murphy'.

Paul Murphy

Delegate of the Minister for the Environment

3 June 2015

**Conditions on the approved wildlife trade operation declaration for the South
Australian Beach-Cast Marine Algae Fishery – May 2015**

1. Operation of the South Australia Beach-Cast Marine Algae Fishery will be carried out in accordance with the South Australian Fisheries Management (Miscellaneous Fishery) Regulations 2000 and the South Australian Fisheries Management (General) Regulations 2007 in force under the *Fisheries Management Act 2007*.
2. The Department of Primary Industries and Regions South Australia (PIRSA) to inform the Department of the Environment of any intended material changes to the South Australia Beach-Cast Marine Algae Fishery management arrangements that may affect the assessment against which Environment Protection and Biodiversity Conservation Act 1999 decisions are made.
3. PIRSA to produce and present reports to the Department of the Environment annually as per Appendix B of the Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Ed.
4. PIRSA to take all reasonable steps to mitigate adverse impacts on migratory shorebirds by the South Australia Beach-Cast Marine Algae Fishery operations (harvesting and/or transporting of beach-cast wrack), including through:
 - a) implementing a management strategy that ensures at least 50% of the licence area is excluded from the fishery operations at all times;
 - b) avoiding the removal of all non-target species from the harvest area;
 - c) a seasonal closure from January to March (inclusive) each year, on sandy beaches along Wrights Bay, Nora Creina, Stinky Beach and Rivoli Bay area (including the 8 kilometres south east of the Lake George inlet) to the Beachport Conservation Park closure zone;
 - d) a seasonal closure from September to December (inclusive) each year, in Rivoli Bay from the Beachport Conservation Park Closure zone to the beach access point at Blowhole Rd (including the Lake George inlet and town beach);
 - e) prohibiting heavy machinery for harvest and/or transport purposes in all seasonal closure areas from September to December (inclusive) on sandy beaches along Wrights Bay, Nora Creina, Stinky Beach and Rivoli Bay area (including the 8 kilometres south east of the Lake George inlet) to the Beachport Conservation Park closure zone; and
 - f) prohibiting harvest operations within 100 metres either side of an area where *Thinornis rubricollis* (hooded plovers) are nesting or caring for dependent young from September to March (inclusive) on sandy beaches along Wrights Bay, Nora Creina, Stinky Beach and Rivoli Bay area (including the 8 kilometres south east of the Lake George inlet) to the Beachport Conservation Park closure zone (inclusive).
5. PIRSA, in collaboration with the Department of Environment, Water and Natural Resources, industry and where possible, the community to:
 - a) implement a monitoring program to annually assess the impact of the South Australia Beach-Cast Marine Algae Fishery on migratory shorebirds; and
 - b) continue to support research with the aim of understanding and effectively managing the ecological risk posed by the fishery to shorebirds and all relevant terrestrial and coastal ecosystems.

Any data obtained from the monitoring program (excluding commercial in confidence data) must be included in the annual report sent to the Department of the Environment and should be available to the Department of Environment, Water and Natural Resources.

**Recommendation on the approved wildlife trade operation declaration for the
South Australian Beach-Cast Marine Algae Fishery – May 2015**

1. PIRSA to work to develop new management arrangements to be implemented before any new exploratory and developmental licence for the harvesting of wrack is permitted. New management arrangements should address Conditions 4 and 5 and include precautionary management strategies to control the level of harvest and latent effort in the fishery and ensure appropriate compliance. The management arrangements should include a description of:
 - the fishery,
 - biology of key species,
 - ecosystem,
 - objectives and goals for management,
 - management arrangements
 - research
 - compliance and monitoring.



Australian Government

Department of the Environment

Notification of Reviewable Decisions and Rights of Review¹

If you are dissatisfied with the attached decision to make, refuse, vary or revoke a declaration under 303FN of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), under section 303GJ(1) of the EPBC Act you may apply to the Administrative Appeals Tribunal (AAT) for review of the decision. An 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/> for further information.

You are also entitled to request a statement from the decision maker in writing setting out the findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision. The decision maker must prepare and give a statement of reasons to the applicant within **28 days** of receiving the request.

Role of the AAT

The role of the AAT is to provide independent merits review of administrative decisions by affirming, varying or setting aside the decisions of Commonwealth agencies. The AAT aims to provide a review mechanism that is fair, just, economical, informal and quick.

Applications and 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 cost of lodging an application with the AAT is \$861.00 (current as at 15 August 2014).

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 pensioner concession card, a Commonwealth seniors health card or any other card issued by the Department of Social Services and Indigenous Affairs or the Department of Veterans' Affairs that certifies entitlement to Commonwealth health concessions;
- you are in prison or lawfully detained in a public institution;
- you are under 18 years of age; or

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



Australian Government
Department of the Environment

- 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 you demonstrate financial hardship. Further information can be found on the AAT's website.

Freedom of Information Request

You may make an application under the *Freedom of Information Act 1982 (FOI Act)* to access documents relevant to this permit decision. 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.

Contact Details

Please direct any enquiries regarding this decision to:

The Director
Sustainable Fisheries Section
Department of the Environment
GPO Box 787
Canberra ACT 2601
Telephone: +61 (0) 2 6274 1917
Email: sustainablefisheries@environment.gov.au

Any enquiries regarding the review process (from within Australia) should be directed to the Deputy Registrar, Administrative Appeals Tribunal in your Capital City. Alternatively you may contact the AAT at their Principal Registry:

Administrative Appeals Tribunal
GPO Box 9955
Sydney NSW 2001
Telephone: +61 (0) 2 9391 2400 or 1300 366 700 (for country areas within Australia)
Fax: +61 (0) 2 9267 5538
Email: Principal.Registry@aat.gov.au
Website: <http://www.aat.gov.au/default.htm>

Legal Advice

You may be able to obtain legal or financial advice and assistance in relation to this permit decision from, CARE Financial Counselling, Legal Aid Commission, or the Law Society in your Capital City.