



# Australian Government

## Department of the Environment and Energy

Ref: 002068366

Mr Sean Sloan  
Executive Director  
Fisheries and Aquaculture  
Primary Industries and Regions South Australia  
GPO Box 1671  
ADELAIDE SA 5001

Dear Mr Sloan

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

In March 2019, the Department of Primary Industries and Regions South Australia 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 9 September 2022. The list of exempt native specimens has also been amended, to allow export of product from the fishery while the specimens are covered by the declaration as an approved wildlife trade operation.

The Part 13A declaration includes conditions that were agreed, by officials from both departments, to address areas requiring ongoing attention. These conditions are set out at Attachment 1 and are to be implemented before the next Australian Government assessment of the fishery.

I have also reaccredited the management plan for the fishery under Part 13 of the EPBC Act. Accreditation is subject to one condition (Attachment 2). The condition requires there to be ongoing monitoring, research and reviewing of the adequacy of Australian Sea Lion interaction mitigation measures, and appropriate reporting, aimed at continuing and improving protective measures for Australian Sea Lions.

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 3.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Gibbs'.

John Gibbs  
Delegate of the Minister for the Environment

10 September 2019

**Part 13A conditions to the Department of Primary Industries and Regions South Australia on the approved wildlife trade operation declaration for the South Australian Marine Scalefish Fishery - September 2019**

1. Operation of the fishery will be carried out in accordance with the management regime under the: *Fisheries Management Act 2007* (South Australia); Fisheries Management (Marine Scalefish Fisheries) Regulations 2017; Fisheries Management (General) Regulations 2017; and the Fisheries Management (Fish Processor) Regulations 2017.
2. Primary Industries and Regions South Australia (PIRSA) to inform the Department of the Environment and Energy of any intended material changes to the South Australian Marine Scalefish 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 and Energy annually, as per Appendix B of the 'Guidelines for the Ecologically Sustainable Management of Fisheries – 2nd Edition'.
4. Within the term of the new wildlife trade operation declaration, PIRSA to:
  - a) continue to work with industry to maintain a statistically robust monitoring and reporting regime that will collect sufficient data, allowing evaluation of the effectiveness of the fishery's management measures.
  - b) provide a summary of monitoring activities (such as trials, research, studies) to the Department of the Environment and Energy, as part of annual reporting as required by Condition 3 above.
5. PIRSA to continue to advise the Department of the Environment and Energy of:
  - a) any proposed changes to management arrangements for Smooth Hammerhead sharks (*Sphyrna zygaena*)
  - b) any changes to harvest levels of *Sphyrna zygaena*, particularly since the non-detriment finding review in 2017
  - c) any additional CITES or EPBC Act listed species being, likely to be, or able to be, harvested in the fishery.

PIRSA to 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.

**Conditions for the purposes of Part 13 of the EPBC Act for interactions with protected species in the South Australian Marine Scalefish Fishery**

PIRSA to continue:

- a) maintaining management measures, directed toward reducing and managing the impact of fishing activity on Australian Sea Lions
- b) monitoring and reviewing, the adequacy of its Australian Sea Lion interaction mitigation management measures, in consultation with relevant stakeholders
- c) to include effort reports within the annual reports, outlining effort using large mesh nets, particularly in 'high risk blocks' of the fishery, where those records are not confidential under the *Fisheries Management Act 2007*.



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## Department of the Environment and Energy

### Attachment 3

#### 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

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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

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

- 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.