



Australian Government
Department of the Environment

Ref: 000103926

The Hon Bill Byrne MP
Queensland Minister for Agriculture and Fisheries
GPO Box 46
BRISBANE QLD 4000

Dear Minister

I am writing to you as Delegate of the Minister for the Environment in relation to the reassessment of the Queensland Mud Crab and Blue Swimmer Crab fisheries under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

In 2014 and 2015, the Queensland Department of Agriculture and Fisheries provided applications to the Department of the Environment seeking continued export approval for the Mud Crab and Blue Swimmer Crab fisheries, respectively.

The applications have been assessed for the purposes of the wildlife trade provisions of Part 13A of the EPBC Act. The assessments took into account measures that have been developed by the Queensland Department of Agriculture and Fisheries in response to the recommendations made in the 2007 and 2010 export assessments under the EPBC Act.

I am pleased to advise that the assessments are now complete. The new assessment reports will be available on the Department of the Environment's website at:
<http://www.environment.gov.au/marine/fisheries/qld/blue-swimmer-crab> and
<http://www.environment.gov.au/marine/fisheries/qld/mud-crab>.

I consider that the management arrangements for the Mud Crab and Blue Swimmer Crab fisheries meet most of the Australian Government *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition*. Taking into account:

- the minimum legal size limit of 150 mm carapace width, at the widest part
- a prohibition on taking female crabs
- mud crabs must not be possessed with the carapace removed
- spatial closures
- apparatus restrictions (50 pots per C1 symbol), and
- limited entry to the commercial fisheries

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

Accordingly, I have decided to declare the Mud Crab and Blue Swimmer Crab fisheries as approved wildlife trade operations until 12 October 2018. The declarations will apply only to those classes of specimens specified in the instruments of declaration, available from the Department's website, and will be subject to the conditions specified in the instruments of declaration (**Attachments 1 and 2**).

Officers from the Queensland Department of Agriculture and Fisheries and the Department have discussed key areas requiring ongoing attention. While there are some environmental risks associated with these fisheries, I believe that the Queensland Department of Agriculture and Fisheries is committed to addressing these issues and has already taken proactive measures.

The Queensland Department of Agriculture and Fisheries and the Department's officers have agreed to additional recommendations (**Attachments 3 and 4**) to be implemented before the next Australian Government assessment of the fisheries.

The management regimes for the Mud Crab and Blue Swimmer Crab fisheries were most recently accredited under Part 13 of the EPBC Act, for interactions with protected species, in 2007 and 2010, respectively.

The EPBC Act requires that interactions with EPBC Act listed threatened, endangered and protected species (TEPs), such as turtles and dugongs, be reported to the Department. To ensure these interactions are reported, officers from the Queensland Department of Agriculture and Fisheries and the Department have agreed to two conditions which require the Queensland Department of Agriculture and Fisheries to assess the risk to TEP species, implement a suite of management measures to minimise the risk and implement a robust data validation system to verify the number of interactions with TEP species in both fisheries (**Attachment 5**).

Subject to these conditions, I am satisfied that it is unlikely that fishing operations conducted in accordance with the management regimes will adversely affect the conservation status of protected species or affect the survival or recovery in nature of listed threatened species or adversely affect the conservation status of listed migratory species, cetaceans or listed marine species. I also consider that under the current management regimes, operators are required to take all reasonable steps to avoid the killing or injuring of species listed under Part 13 of the EPBC Act.

I have therefore reaccredited the management regimes for these fisheries under Part 13 of the EPBC Act. Accreditation will ensure that individual fishers operating in accordance with the current management regimes are not required to seek permits if they are at risk of killing or injuring listed species in Commonwealth waters.

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.

As the Mud Crab Fishery operates within the Great Barrier Reef Marine Park, I have copied this letter to Dr Russell Reichelt, Chairman and Chief Executive of the Great Barrier Reef Marine Park Authority, for his information.

Yours sincerely



Paul Murphy

Delegate of the Minister for the Environment

12 October 2015

**Conditions on the approved wildlife trade operation declaration for the Queensland
Mud Crab Fishery**

1. Operation of the Queensland Mud Crab Fishery (MCF) will be carried out in accordance with management regime in force under the Queensland *Fisheries Act 1994* and the Queensland Fisheries Regulation 2008.
2. The Queensland Department of Agriculture and Fisheries (QDAF) to inform the Department of the Environment of any intended material changes to the MCF management arrangements that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* decisions are made.
3. QDAF 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 Edition*.
4. QDAF, in collaboration with crab fishery stakeholders, to investigate and implement management measures to monitor and manage the distribution of C1 symbols between the respective crab fisheries (Gulf of Carpentaria and Queensland East Coast Mud Crab Fisheries, and the Blue Swimmer Crab Fishery) to ensure there is minimal risk to the target stock, bycatch, EPBC Act listed threatened, endangered and protected (TEP) species or the broader ecosystem from unsustainable fishing pressure.

**Conditions on the approved wildlife trade operation declaration for the Queensland
Blue Swimmer Crab Fishery**

1. Operation of the Queensland Blue Swimmer Crab Fishery (BSCF) will be carried out in accordance with the management regime in force under the Queensland *Fisheries Act 1994* and the Queensland Fisheries Regulation 2008.
2. The Queensland Department of Agriculture and Fisheries (QDAF) to inform the Department of the Environment of any intended material changes to the BSCF management arrangements that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* decisions are made.
3. QDAF, 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 Edition*.
4. QDAF, in collaboration with crab fishery stakeholders, to investigate and implement management measures to monitor and manage the distribution of C1 symbols between the respective crab fisheries (Gulf of Carpentaria and Queensland East Coast Mud Crab Fisheries, and the BSCF) to ensure there is minimal risk to the target stock, bycatch, EPBC Act listed threatened, endangered and protected (TEP) species or the broader ecosystem from unsustainable fishing pressure.
5. QDAF to review the BSCF management regime and operations to ensure that indicators for target stocks, bycatch and TEP species are relevant, informative and achieve precautionary management outcomes. The review must consider:
 - a) the relevance, precision and validity of the information collected from the commercial and recreational sectors;
 - b) measures to effectively monitor and respond to triggered performance indicators;
 - c) methods to improve accountability to discourage false data; and
 - d) developing limit reference points.

**Recommendations to the Queensland Department of Agriculture and Fisheries on the
ecologically sustainable management of the Queensland Mud Crab Fishery,
October 2015**

1. QDAF to work with relevant agencies and crab fishery stakeholders to improve data confidence and accountability of stock estimates for target and discard species. This should include:
 - a) robust catch-and-effort data should be recorded for the commercial sector and estimated from surveys for the recreational and Indigenous fishing sectors;
 - b) robust estimates of bycatch and discard species interaction and mortality should be determined for all sectors;
 - c) measures to effectively monitor and respond to triggered performance indicators;
 - d) appropriate triggers for the commercial sector that account for the cumulative impact of the recreational sector.
2. QDAF to work with relevant agencies and crab fishery stakeholders to further assess and actively promote the use of escape vents in the commercial and recreational crab fishing sectors.

**Recommendations to the Queensland Department of Agriculture and Fisheries on the
ecologically sustainable management of the Queensland Blue Swimmer Crab Fishery,
October 2015**

1. QDAF to work with relevant agencies and crab fishery stakeholders to further assess and actively promote the use of escape vents in the commercial and recreational crab fishing sectors.

Conditions on the Part 13 accreditation's for the Queensland Mud Crab and Blue Swimmer Crab Fisheries

1. QDAF, in consultation with crab fishery stakeholders and other government agencies to:
 - a) complete a robust evaluation of operational management measures to examine the risk of TEP species entanglements with crab pots; and
 - b) taking into account the evaluation of management arrangements, implement a suite of management measures to minimise the risk of TEP species entanglement with crab pots. Measures could include spatial and seasonal closures and/or potential gear modifications.
2. QDAF to work with crab fishery stakeholders, to:
 - a) investigate and improve monitoring and reporting of protected species interactions by fishers in the commercial sector; and
 - b) implement a system to independently validate commercial fishery interactions with TEP species.



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
- you are receiving youth allowance, Austudy or ABSTUDY.

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

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.