



Australian Government
Department of the Environment

Ref: 000103926

The Hon Bill Byrne MP
Minister for Agriculture and Fisheries
GPO Box 46
BRISBANE QLD 4001

Dear Minister

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

The Queensland Coral Fishery was most recently assessed under the international wildlife trade provisions of Part 13A of the EPBC Act in June 2012. As a result of the 2012 assessment, the Delegate of the then Minister for Sustainability, Environment, Water, Population and Communities subsequently declared the Queensland Coral Fishery an approved wildlife trade operation under Part 13A of the EPBC Act for a period of three years, until 26 June 2015. This allowed export of product from the fishery to continue during the period of the declaration.

In April 2015, the Queensland Department of Agriculture and Fisheries provided an application to the Department of the Environment seeking continued export approval for the Queensland Coral Fishery.

The application has been assessed for the purposes of the wildlife trade provisions of Part 13A of the EPBC Act. The assessment took into account measures that have been developed by the Queensland Department of Agriculture and Fisheries in response to the conditions and recommendations made in the 2012 export assessment under 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/qld/coral>

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

- the management arrangements currently in place in the fishery, which include total allowable commercial catch limits, gear restrictions, regular ecological risk assessments and a performance measurement system, and
- the *Non-Detriment Finding for the Export of CITES-Listed Coral Species Harvested from the Queensland Coral Fishery - June 2015* made by Australia's Scientific Authority for Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES),

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.



Australian Government

Department of the Environment

I am also satisfied that the operation of the fishery over the period of the declaration as an approved wildlife trade operation is unlikely to be detrimental to the survival or conservation status of any taxon to which the fishery operation relates, including any CITES listed taxon, or threaten any relevant ecosystem.

Accordingly, I have decided to declare the Queensland Coral Fishery an approved wildlife trade operation until 22 June 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.

The assessment considered the possible impacts on coral taxa which are harvested in the Queensland Coral Fishery and which are listed in the Appendices to CITES. As a party to CITES, Australia must apply all CITES provisions of the EPBC Act to CITES imports and exports as appropriate. Specimens of species listed in Appendix II or Appendix III of CITES may be exported commercially under a CITES export permit, if sourced from an approved wildlife trade operation and a non-detriment finding has been made by the exporting country's CITES Scientific Authority. Inclusion of CITES specimens in the list of exempt native specimens is not possible due to international obligations to monitor trade. Under the EPBC Act, individual exporters are required to apply for CITES export permits and export of CITES specimens may only occur where a permit has been issued by Australia's CITES Management Authority (Department of the Environment).

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 this fishery, I believe that your department 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 an additional recommendation (**Attachment 1**) to be implemented before the next Australian Government assessment of the fishery.

The management regime for the Queensland Coral Fishery was most recently accredited under Part 13 of the EPBC Act, for interactions with protected species, in June 2012. I am satisfied that it remains unlikely that fishing operations conducted in accordance with the management regime 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 regime, operators are required to take all reasonable steps to avoid killing or injuring species listed under Part 13 of the EPBC Act.

I have therefore decided to continue accreditation of the management regime for the Queensland Coral Fishery under Part 13 of the EPBC Act. Accreditation will ensure that individual fishers operating in accordance with the current management regime are not required to seek permits if they are at risk of killing or injuring listed species in Commonwealth waters.



Australian Government

Department of the Environment

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 Queensland Coral 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

A handwritten signature in black ink, appearing to read 'Nathan Hanna'.

Nathan Hanna

Delegate of the Minister for the Environment
25 June 2015

**Conditions on the approved wildlife trade operation declaration for the
Queensland Coral Fishery, June 2015**

1. Operation of the fishery will be carried out in accordance with the management regime under the *Queensland Fisheries Act 1994* and the *Queensland Fisheries Regulation 2008*.
2. The Queensland Department of Agriculture and Fisheries to inform the Department of the Environment of any intended material changes to the Queensland Coral Fishery management arrangements that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* decisions are made.
3. The Queensland Department of Agriculture and Fisheries 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. The Queensland Department of Agriculture and Fisheries, in consultation with the Department of the Environment, to finalise the review and update of the performance measurement system for the Queensland Coral Fishery.
5. The Queensland Department of Agriculture and Fisheries to continue annual reviews of the harvest of CITES listed taxa in the Queensland Coral Fishery and to report the results of the review to the Department of the Environment during the following fishing season. The report should include:
 - analysis of harvest and harvest trends by species/species group
 - spatial analysis of harvest by species/species group
 - updated risk assessments for species/ groups as they become available, and
 - any changes to management arrangements for CITES listed species.
6. The Queensland Department of Agriculture and Fisheries to strengthen management measures in the Mackay region through:
 - a) separating catch data from the Mackay region for reporting purposes
 - b) evaluating the eligibility of the Mackay region as a distinct Coral Collection Area, and
 - c) providing updates to the Department of the Environment on (a) and (b) in the annual review described under **Condition 5**.

**Recommendations to the Queensland Department of Agriculture and Fisheries on the
ecologically sustainable management of the Queensland Coral Fishery, June 2015**

1. The Queensland Department of Agriculture and Fisheries to commence a review of the vulnerability assessment for coral taxa and a review of the ecological risk assessment for the fishery when significant new data becomes available.



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



Australian Government

Department of the Environment

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.