



Australian Government

Department of the Environment and Energy

ref: 001424398

Ms Bernadette Ditchfield
Acting Deputy Director-General Fisheries and Forestry
Queensland Department of Agriculture and Fisheries
GPO Box 46
BRISBANE QLD 4001

Dear Ms Ditchfield

I am writing to you as Delegate of the Minister for the Environment in relation to the reassessment of the Queensland Gulf of Carpentaria Inshore Fin Fish Fishery under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). In April 2017, the Queensland Department of Agriculture and Fisheries applied for export approval for the fishery under the EPBC Act.

An assessment of the application has been undertaken and I have declared the fishery an approved wildlife trade operation under Part 13A of the EPBC Act for three months until 29 March 2019. The short term nature of this approval is to allow time for the Department of the Environment and Energy to undertake a more comprehensive assessment of the fishery, taking into consideration the significant reforms occurring as part of the Queensland Sustainable Fisheries Strategy: 2017–2027. The Part 13A declaration includes conditions (**Attachment 1**) that were agreed by officials from both departments and which have been informed by the Department's assessment so far.

The list of exempt native specimens allows the export of product from the fishery while these specimens are covered by an approved wildlife trade operation declaration, however exporters of CITES-listed species, such as Scalloped and Great Hammerhead Sharks will require CITES permits.

The existing Part 13 accreditation will remain in place for the short term, taking into account the requirements under the management arrangements for fishers to take all reasonable steps to avoid interactions with species listed under the EPBC Act and the likely impact of the fishery on these species during the approval period.

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 2**.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Paul Murphy'.

Paul Murphy
Delegate of the Minister for the Environment
6 December 2018

ATTACHMENT 1

Conditions on the approved wildlife trade operation declaration for the Queensland Gulf of Carpentaria Inshore Fin Fish Fishery – December 2018

Relating to the harvesting of fish specimens that are, or are derived from, fish or invertebrates, other than specimens of species listed under Part 13 and Part 13A of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), taken in the Queensland Gulf of Carpentaria Inshore Fin Fish Fishery:

Condition 1:

Unless otherwise amended or revoked, this declaration is valid until 29 March 2019, to allow for the Department's assessment of the fishery, for a longer term wildlife trade operation approval period, to be finalised.

Condition 2:

Operation of the Queensland Gulf of Carpentaria Inshore Fin Fish Fishery will be carried out in accordance with the *Queensland Fisheries Act 1994* and the Queensland Fisheries Regulation 2008.

Condition 3:

The Queensland Department of Agriculture and Fisheries to inform the Department of any intended material changes to the Queensland Gulf of Carpentaria Inshore Fin Fish Fishery management arrangements that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* decisions are made.

Condition 4:

The Queensland Department of Agriculture and Fisheries to produce and present reports to the Department annually as per Appendix B of the *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition*.

Condition 5:

Consistent with foundational reforms identified in the Queensland Government's Sustainable Fisheries Strategy 2017–2027, the Queensland Department of Agriculture and Fisheries to continue to develop an improved data collection and validation approach that facilitates monitoring and management of all target, byproduct and bycatch (including protected species) impacted by the Gulf of Carpentaria Inshore Fin Fish Fishery.

Condition 6:

The Queensland Department of Agriculture and Fisheries to:

- a. Continue to support fishers to improve identification and accurate recording of shark catch to the species level.
- b. Commence development of methods to measure improvements in reporting performance.
- c. Continue to progress Sustainable Fisheries Strategy actions that will improve reporting of catch composition to species level and data validation for commercial shark catch, including for species of conservation concern.
- d. In consultation with fishery working groups and other stakeholders, consider measures to achieve species level shark identification such as a prohibition on removal of fins, fillets or other morphological features that assist in identifying species prior to landing.

Condition 7:

The Queensland Department of Agriculture and Fisheries to:

- a. Continue to progress Sustainable Fisheries Strategy actions such as improved monitoring and a program of stock assessments that will improve understanding of stock status of for all commercially and recreationally important species, including species currently classified as 'undefined' in the area of the Gulf of Carpentaria Inshore Fin Fish Fishery.
- b. Continue to progress Sustainable Fisheries Strategy actions that will improve monitoring, reporting of catch composition and data validation measures to reduce risks of overfishing in all stocks impacted by the fishery.

Condition 8:

The Queensland Department of Agriculture and Fisheries to progress development of a level 1 ecological risk assessment for the Queensland Gulf of Carpentaria Inshore Fin Fish Fishery, in accordance with the Queensland Government ecological risk assessment guidelines.

Notification of Reviewable Decisions and Rights of Review¹

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 Administrative Appeals Tribunal (**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 <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.

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

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 here <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

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.