



Australian Government

Department of the Environment and Energy

Ref: 002068366

Ms Helen Kroger
Chair
Australian Fisheries Management Authority Commission
GPO Box 7051,
CANBERRA ACT 2610

Dear Ms Kroger

I am writing to you as Delegate of the Minister for the Environment in relation to the reassessment of the Commonwealth Southern and Eastern Scalefish and Shark Fishery under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). In October 2018, the Australian Fisheries Management Authority 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 12 February 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 agencies as areas requiring ongoing attention. These are set out at [Attachment 1](#).

I have also recredited the management arrangements for the fishery designed to minimise interactions with species listed under Part 13 of the EPBC Act. This accreditation is subject to the conditions at Attachment 2.

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 blue ink, appearing to read 'Paul Murphy'.

Paul Murphy
Delegate of the Minister for the Environment
14 February 2019

Conditions on the approved wildlife trade operation declaration for the Commonwealth Southern and Eastern Scalefish and Shark Fishery – February 2019

1. Operation of the Commonwealth Southern and Eastern Scalefish and Shark Fishery will be carried out in accordance with the Southern and Eastern Scalefish and Shark Fishery Management Plan 2003 in force under the Fisheries Management Act 1991 (Cth).
2. The Australian Fisheries Management Authority to inform the Department of the Environment and Energy of any intended material changes to the Commonwealth Southern and Eastern Scalefish and Shark Fishery management arrangements that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* decisions are made.
3. The Australian Fisheries Management Authority 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. AFMA to:
 - a. ensure that management measures are in place to meet the objectives of the rebuilding strategies and management strategies for species listed as conservation dependent under the EPBC Act, and
 - b. continue to evaluate and report to the Department on the effectiveness of rebuilding strategies and management strategies for conservation dependent listed species.
5. AFMA to:
 - a. continue regular reviews of ecological risk assessments in the fishery, ensuring that the cumulative impact of all Commonwealth commercial fisheries in the area is taken into account, and
 - b. implement management actions to address and mitigate risks and impacts for species that are identified as high risk., including data collection for species that are assessed as high risk because of missing information.

Conditions on the Part 13 accreditation for interactions with protected species for the Commonwealth Southern and Eastern Scalefish and Shark Fishery – February 2019

In relation to Australian Sea Lions, AFMA to continue to:

- c. maintain management measures clearly directed toward limiting the impact of fishing activity on Australian Sea Lions to levels which will assist in enabling the recovery of the species, including all subpopulations, and
- d. monitor and review the adequacy of its Australian Sea Lion management measures, in consultation with marine mammal experts.

In relation to dolphins, AFMA to collect and report on dolphin interactions, where possible to species level, and continue to refine management measures to minimise the bycatch of dolphins in gillnets. This should include ongoing monitoring and review of these measures, in consultation with marine mammal experts.

In relation to seals, AFMA to continue to work with industry and relevant experts to develop and implement management measures to minimise mortality of seals in the Commonwealth Trawl Sector of the fishery.

In relation to seabirds, AFMA to:

- e. ensure efficient and effective seabird management plans remain in place for the Commonwealth Trawl Sector and Gillnet Hook and Trap sector automatic longline vessels.
- f. ensure adequate monitoring is in place to ensure compliance with seabird management plans, and
- g. continue to implement measures such as bycatch devices and/or offal management to address the risk of interactions with seabirds in the Commonwealth Trawl Sector and for Gillnet Hook and Trap sector automatic longline vessels.

In relation to non-target sharks, AFMA to monitor catch and effort data and implement programs to improve the accuracy of identification and recording of all non-target shark species.



Notification of Reviewable Decisions and Rights of Review¹

There is a right of review to the Administrative Appeals Tribunal in relation to certain decisions made by the Minister or the Minister's delegate under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Section 303GJ of the EPBC Act provides that applications may be made to the Administrative Appeals Tribunal for the review of the following decisions of the Minister:

(1) Subject to subsection (2), an application may be made to the Administrative Appeals Tribunal for review of a decision:

- (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.

(2) Subsection (1) does not apply to a decision made personally by the Minister (but the subsection does apply to a decision made by a delegate of the Minister).

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; and
- apply to the Administrative Appeals Tribunal (AAT) for independent merits review of the decision. 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 1300 366 700 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/>.

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

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.

The cost of lodging an application for review is \$920 (GST inclusive) (current as of 1 July 2018).

You may be eligible to pay a reduced fee of \$100 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.

Contact Details

Further information or enquiries relating to the decision should be directed to:

The Director
Wildlife Trade Assessments Section
Department of the Environment and Energy
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.