



Australian Government

Department of the Environment and Energy

Ref: 000103926

The Hon Dave Kelly MLC
Minister for Fisheries
8th Floor, Dumas House
2 Havelock Street
WEST PERTH 6005

Dear Minister

I am writing to you as Delegate of the Minister for the Environment and Energy, the Hon Josh Frydenberg MP, in relation to the reassessments of four Western Australian (WA) commercial fisheries under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

In late 2016 and early 2017, the (then) WA Department of Fisheries provided applications to the Department of the Environment and Energy seeking continued export approvals for the Octopus, Sea Cucumber, South Coast Crustacean and South Coast Trawl Fisheries.

These applications have been assessed for the purposes of the wildlife trade provisions of Part 13A and the protected species provisions of Part 13 the EPBC Act. The assessments took into account all of the management arrangements implemented by the Western Australian Government in these fisheries.

I am pleased to advise that the assessments are now complete and that the assessment reports will be available on the Department of the Environment and Energy's website at: <http://www.environment.gov.au/marine/fisheries/wa-managed-fisheries>.

Based on assessment against the *Guidelines for the Ecologically Sustainable Management of Fisheries – 2nd edition* (2007), I have granted the Octopus, Sea Cucumber and South Coast Trawl Fisheries Part 13A export approval under the EPBC Act for eight years to 30 May 2025.

The remaining fishery, the South Coast Crustacean Fishery, is not recommended for extended export approval at this time as it has an identified risk of interacting with Australian sea lion pups. I have therefore declared the fishery as an approved wildlife trade operation under Part 13A of the EPBC Act for a shorter period, until 31 July 2020.

The declaration will apply only to those classes of specimens specified in the instrument of declaration, available from the Department of the Environment and Energy's website, and will be subject to the conditions (**Attachment 1**) specified in the instrument of declaration.

Please note that any person whose interests are affected by this decision may make an application to the Department of the Environment and Energy 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.



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Accreditation under Part 13 of the EPBC Act ensures that individual fishers operating in accordance with the current management regimes for the respective fisheries, are not required to seek permits if they are at risk of killing or injuring listed species in Commonwealth waters.

The management regime for the Sea Cucumber Fishery does not require accreditation under Part 13 of the EPBC Act, as this fishery only operates within WA state waters.

After considering the management arrangements in place in the Octopus Fisheries and the South Coast Trawl Fishery that mitigate the risk of interactions with protected species in Commonwealth waters, I have decided to accredit and reaccredit, respectively, the management regimes for these fisheries under Part 13 of the EPBC Act.

The management regime for the South Coast Crustacean Fishery was most recently accredited under Part 13 of the EPBC Act in November 2011, subject to a condition to increase protection for Australian sea lions. The WA Department of Primary Industries and Regional Development has worked cooperatively and collaboratively with the Department and other stakeholders to develop management measures to mitigate the risk of Australian sea lions interacting with this fishery. The next important step will be to finalise and implement these measures. To ensure this, officers from the Western Australian Government and the Department have agreed to a condition that will be applied to the reaccreditation of the fishery under Part 13 of the EPBC Act (**Attachment 1**).

I would like to thank you for the constructive way in which your officials have approached this assessment.

Yours sincerely

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

Paul Murphy

Delegate of the Minister for the Environment and Energy

1 August 2017

**Conditions on the approved wildlife trade operation declaration for the
WA South Coast Crustacean Fishery – August 2017**

1. Operation of this fishery will be carried out in accordance with the management regime under the *WA Fish Resources Management Act 1994* and the *WA Fish Resources Management Regulations 1995*.
2. The WA Department of Primary Industries and Regional Development (DPIRD) to inform the Department of the Environment and Energy of any intended material changes to this fishery's management arrangements that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* decisions are made.
3. DPIRD, in its annual *Status reports of the fisheries and aquatic resources of Western Australia*, to report on this fishery against performance measures that relate to its sustainability.

**Condition on the reaccreditation of the
WA South Coast Crustacean Fishery
under Part 13 of the EPBC Act – August 2017**

- A. DPIRD to finalise and implement the mandatory ASL Mitigation Strategy by mid 2018 to ensure that appropriate measures are in place throughout the fishery to minimise interactions with Australian sea lions.



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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:

- (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; 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/>.

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 \$884 (GST inclusive) (current as of 1 July 2016).

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



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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.

Contact Details

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

The Director
Sustainable Fisheries 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 +61 (0) 2 9276 5000
F: +61 (0) 2 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.

