



Australian Government

Department of the Environment and Energy

Ref: 002068366

Dr Geoff Allen
Deputy Director General
Department of Primary Industries, Fisheries NSW
Locked Bag 21
ORANGE NSW 2800

Geoff

Dear Dr Allen

I am writing to you as Delegate of the Minister for the Environment and Energy, to confirm ongoing environmental approval under the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) for the New South Wales Ocean Trap and Line Fishery and the Ocean Trawl Fishery.

In 2017 your department applied for export approval for both fisheries under the EPBC Act. After assessment against the Australian Government *Guidelines for the Ecologically Sustainable Management of Fisheries – 2nd Edition*, I have declared both fisheries as approved wildlife trade operations under Part 13A of the EPBC Act until 2 July 2021. The list of exempt native specimens has been amended to allow export of product from these fisheries for the duration of the approved wildlife trade operations.

The wildlife trade operations include conditions for the fisheries that were agreed by officials from both departments as areas requiring ongoing attention. These are set out at Attachment 1. The existing Part 13 accreditation will remain in place for both of these fisheries based on the previous assessment of the management arrangements designed to minimise interactions with species listed under the EPBC Act.

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.

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 'Paul Murphy'.

Paul Murphy

Delegate of the Minister for the Environment and Energy
29 June 2018

**Conditions on the approved wildlife trade operation declaration for the
New South Wales Ocean Trap and Line Fishery – June 2018**

1. Operation of the NSW Ocean Trap and Line Fishery will be carried out in accordance with the management regime in force under the *Fisheries Management Act 1994* (NSW).
2. NSW Department of Primary Industries, to inform the Department of the Environment and Energy of any intended material changes to the NSW Ocean Trap and Line Fishery management arrangements that may affect the assessment against which EPBC Act decisions are made.
3. NSW Department of Primary Industries 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. For each year in which shark fishing permits are issued, NSW Department of Primary Industries to:
 - a. implement an annual total allowable catch of no greater than 110 tonnes for 'Schedule 1' shark species, unless otherwise agreed in advance with the Department of Environment and Energy.
 - b. continue to implement a scientifically robust observer program for the shark fishing permit component of the NSW Ocean Trap and Line Fishery.
 - c. review the effectiveness of management arrangements for shark fishing in the NSW Ocean Trap and Line Fishery, taking into account information collected in the scientific observer program and daily logbooks and any new biological data. The findings of each review must be provided to the Department.
5. NSW Department of Primary Industries to continue to:
 - a. implement clear and accurate reporting at the species level, for sharks that are CITES listed, and those which are protected under the EPBC Act.
 - b. educate fishers on protocols on handling and release of no take shark species, to reduce the likelihood of injury or mortality.
 - c. progress the long term management arrangements for shark species, by continuing co-operation with relevant jurisdictions and to pursue increased knowledge, and complementary management of shark species identified through:
 - i. catch reporting and/or targeted research programs
 - ii. implement mitigation measures for shark species of conservation concern which are identified through the scientific observer program, research programs and other reviews, and protected species listing processes.
6. NSW Department of Primary Industries to:
 - a. continue measures to protect Grey Nurse Sharks.
 - b. continue to monitor and review the adequacy of mitigation measures and implement actions, if appropriate, designed to mitigate the impact of fishing on Grey Nurse Sharks.
 - c. pending the development of a reporting Memorandum of Understanding between the NSW Department of Primary Industries and the Department of Environment and Energy, provide quarterly reports to this Department, on interactions with Grey Nurse Sharks recorded in logbooks. The reports will include the nature of any interactions, the location and gear method.

[This is also recommended as a condition of the Part 13 accreditation of the NSW OTLF management arrangements.]

7. NSW Department of Primary Industries 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.
 - b. continue to evaluate and report to this Department, on the effectiveness of rebuilding strategies and management strategies for conservation dependent listed species, as part of the annual reporting referred to in Condition 3.
8. This condition remains ongoing. NSW Department of Primary Industries to:
 - a. develop and implement a recovery program for Grey (Rubberlip) Morwong.
 - b. continue to develop and implement recovery programs for species taken in the NSW OTLF, classified as recruitment overfished, overfished and where appropriate, growth overfished.
9. NSW Department of Primary Industries to consider management arrangements to reduce the harvest of Pearl Perch, to avoid further decline in abundance and catch rates of this species.

**Conditions on the approved wildlife trade operation declaration for the
New South Wales Ocean Trawl Fishery – June 2018**

1. Operation of the NSW Ocean Trawl Fishery will be carried out in accordance with the management regime in force under the *Fisheries Management Act 1994* (NSW).
2. NSW Department of Primary Industries to inform the Department of the Environment and Energy of any intended material changes to the NSW Ocean Trawl Fishery management arrangements that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* decisions are made.
3. NSW Department of Primary Industries 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. NSW DPI to continue to develop and implement recovery programs for species taken in the NSW Ocean Trawl Fishery classified as recruitment overfished, overfished, and where appropriate, growth overfished.



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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:

(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.

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

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). 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
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.