



Australian Government

Department of the Environment and Energy

Ref: 001990490

Ms Gail Owen
Chair
Victorian Fisheries Authority
1 Spring Street,
MELBOURNE VIC 3000

Dear Ms Owen

I am writing to you as Delegate of the Minister for the Environment and Energy in relation to the assessment of the Victorian Scallop (Ocean) Fishery (the Fishery) under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

In October 2015, the Victorian Department of Economic Development, Jobs, Transport and Resources applied for export approval for the fishery under the EPBC Act. I understand that since July 2017, the Fishery has been managed by the Victorian Fisheries Authority.

The application has been assessed and I have declared the fishery an approved wildlife trade operation until 27 November 2020. The Part 13A declaration includes conditions 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 for interactions with protected species remains in place based on the 2012 assessment of the fishery's management regime under the EPBC Act.

Please be aware 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 black ink that reads 'Blazely'.

Veronica Blazely

Delegate of the Minister for the Environment and Energy
28 November 2017

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Part 13A: Conditions on the approved wildlife trade operation declaration for the Victorian Scallop (Ocean) Fishery – November 2017

1. Operation of the Victorian Scallop (Ocean) Fishery will be carried out in accordance with the *Fisheries Act 1995 (Vic)* and *Victorian Fisheries Regulations 2009 (Vic)*.
2. The Victorian Fisheries Authority to provide the Department with information on the fishery's management arrangements including any intended material changes to management arrangements that may affect the assessment against which EPBC Act decisions are made.
3. The Victorian Fisheries Authority 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'.
4. In consultation with the Department of the Environment and Energy, the Victorian Fisheries Authority to develop and seek to implement a harvest strategy for the Victorian Scallop (Ocean) Fishery within the duration of this declaration as a wildlife trade operation. Evidence towards implementing this condition must be provided as part of the annual report to the Department, in accordance with Condition 3 of this approval.
5. Increases to the baseline 135 t total allowable commercial catch (TACC) for the Victorian Scallop (Ocean) Fishery will be underpinned by the harvest strategy described in Condition 4. The Victorian Fisheries Authority to update the Department on any changes to the TACC and its rationale for doing so.
6. The Victorian Fisheries Authority to continue to work with relevant jurisdictions to actively pursue consistent and/or complementary management arrangements for the commercial scallop stock off southeast Australia, and to provide the Department with a summary of the activities.



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/>.

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

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

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
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 (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.