



Australian Government

Department of the Environment and Energy

Ref: 002144112

Mr Sean Sloan
Executive Director,
Fisheries and Aquaculture Division
Department of Primary Industries and Development
GPO Box 1671,
ADELAIDE SA 5001

Dear Mr Sloan

I am writing to you as Delegate of the Minister for the Environment and Energy in relation to the reassessment of the South Australian Beach-cast Marine Algae Fishery (the fishery) under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

In late April 2018, the Department of Primary Industries and Regions, South Australia applied for export approval for the fishery under the EPBC Act. Under the Act, I must allow a 20 day public comment period and take into account any comments received. However, the public comment period does not conclude until 17 May 2018 with export approval expiring on 18 May 2018.

Based on a preliminary assessment of the application, I will declare the fishery an approved wildlife trade operation until 21 September 2018. Within this short term approval period, I will take the opportunity to consider any public comments before considering a longer term wildlife trade operation.

This Part 13A declaration includes five conditions that were agreed by officials from both departments as areas requiring ongoing attention. These are set out at Attachment 1.

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

Paul Murphy
Delegate of the Minister for the Environment and Energy

14 May 2018



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Department of the Environment and Energy

Conditions on the approved wildlife trade operation declaration for the South Australian Beach-cast Marine Algae Fishery – May 2018

1. Operation of the South Australian Beach-cast Marine Algae Fishery will be carried out in accordance with the Fisheries Management (Miscellaneous Developmental Fishery) Regulations 2013 (SA), the Fisheries Management (Miscellaneous Fishery) Regulations 2015 (SA) and the Fisheries Management (General) Regulations 2017 (SA) in force under the Fisheries Management Act 2007 (SA).
2. The Department of Primary Industries and Regions South Australia (PIRSA) to inform the Department of the Environment and Energy of any intended material changes to the SA Beach-cast Marine Algae Fishery management arrangements that may affect the assessment against which EPBC Act decisions are made.
3. PIRSA 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. PIRSA to take all reasonable steps to mitigate adverse impacts on migratory shorebirds by the SA Beach-cast Marine Algae Fishery operations (harvesting and/or transporting of beach-cast wrack), including the continuation of a management strategy that:
 - (a) ensures at least 50 per cent of the licence area is excluded from the fishery operations at all times, including closing the area from the Beachport Conservation Park to approximately one kilometre (km) north of Blowhole Road;
 - (b) avoids the removal of all non-target species from the harvest area;
 - (c) imposes additional requirements in the period from 1 September to 15 May (inclusive) each year, on sandy beaches along Wrights Bay, Nora Creina, Stinky Beach and the Rivoli Bay area from approximately one km north of Blowhole Road to the southern end of the Fishery, including only permitting harvesting to occur:
 - i. by way of hand harvesting (assisted by mechanical winch if required),
 - ii. on a maximum of 8 calendar days (or any part thereof) per calendar month, and a maximum of 4 calendar days (or any part thereof) between 1 May and 15 May, with each harvesting day to be advised to PIRSA prior to the commencement of harvesting, and
 - iii. through the use of up to two vehicles (4 wheel drive utility, or similar, with a trailer with a gross vehicle mass of 3.5 tonne), with up to three people per vehicle, on any one day, and
 - (d) prohibiting harvest operations within 100 metres either side of any nesting areas where Hooded Plover (*Thinornis rubricollis*) are currently nesting and/or caring for dependent young, in all areas at all times.
5. PIRSA, in collaboration with the SA Department of Environment and Water, industry and where possible, the community to:
 - (a) implement a monitoring program to annually assess the impact of the SA Beach-Cast Marine Algae Fishery on migratory shorebirds; and
 - (b) continue to support research with the aim of understanding and effectively managing the ecological risk posed by the fishery to shorebirds and all relevant terrestrial and coastal ecosystems.

Any data obtained from the monitoring program (excluding commercial in confidence data) must be included in the annual report sent to the Department of the Environment and Energy and should be available to the SA Department of Environment and Water.



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 \$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.