



Australian Government
**Department of Agriculture,
Water and the Environment**

Professor Gavin Begg
Executive Director, Fisheries and Aquaculture
Department of Primary Industries and Regions, South Australia
GPO Box 1625
Adelaide SA 5001

Dear Professor Begg

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

On 22 June 2021, the Department of Primary Industries and Regions, South Australia applied for the South Australian Beach-cast Marine Algae Fishery to be assessed under the export provisions of the EPBC Act.

I am pleased to advise that the assessment is now complete. The finalised assessment report will be available on the Department of Agriculture, Water and the Environment's website at <http://www.environment.gov.au/marine/fisheries/sa/seagrass>.

Taking into account the management arrangements in place in the fishery, I am satisfied that the operation of the fishery is consistent with the objects of the wildlife trade provisions of Part 13A of the EPBC Act. Accordingly, I have declared the South Australian Beach-cast Marine Algae Fishery an approved wildlife trade operation until 17 September 2024. The Part 13A declaration includes conditions agreed by officials from both of our departments as areas requiring ongoing attention. The declaration will apply to the classes of specimens specified in the instrument of declaration and subject to the conditions also outline in the instrument. A copy of these conditions is outlined in **Attachment 1**.

Officers from PIRSA and the department have discussed key areas requiring ongoing attention for the fishery. While there are some environmental risks associated with the fishery's operation, I believe that PIRSA is committed to addressing these issues and have suitable measures in place to respond to these risks.

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**.

Finally, 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 'L. Timmins'.

Laura Timmins
Delegate of the Minister for the Environment
17 September 2021

Part 13A conditions to the Department of Primary Industries and Regions, South Australia on the approved wildlife trade operation declaration for the South Australia Beach-cast Marine Algae Fishery – September 2021

Condition 1

Operation of the South Australian Beach-cast Marine Algae Fishery must be carried out in accordance with the management arrangements specified under the following legislation:

- *Fisheries Management Act 2007* (SA)
- Fisheries Management (Miscellaneous Developmental Fishery) Regulations 2013 (SA)
- Fisheries Management (Miscellaneous Fishery) Regulations 2015 (SA)
- Fisheries Management (General) Regulations 2017 (SA)

Condition 2

The Department of Primary Industries and Regions, South Australia must inform the Department of Agriculture, Water and the Environment of any intended material changes to the South Australian Beach-cast Marine Algae Fishery management arrangements (including permit conditions) that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* decisions are made.

Condition 3

The Department of Primary Industries and Regions, South Australia must inform the Department of Agriculture, Water and the Environment of any intended changes to fisheries legislation that may affect the legislative instruments relevant to this approval.

Condition 4

The Department of Primary Industries and Regions, South Australia must produce and present reports to the Department of Agriculture, Water and the Environment annually, as per Appendix B of the *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition*.

Condition 5

By 1 September 2022, the Department of Primary Industries and Regions, South Australia must complete and publish an ecologically sustainable development risk assessment that considers the impacts of the Beach-Cast Marine Algae Fishery on associated species, habitats, and ecological processes. This should consider all relevant credible and documented information (including new and emerging research).

In undertaking the review of the risk assessment, PIRSA should adopt the method and terminology set out by Fletcher et al. (2002). Under this framework, components of the fishing activity rated at a risk level of Moderate or higher require management action.

Condition 6

By 1 April 2023, the Department of Primary Industries and Regions, South Australia, must publish a Management Policy and begin, or continue to implement, measures to address any risks categorised as Moderate or higher in the ecological risk assessment.

The department's progress in implementing the Management Policy and any associated risk mitigation activities should be included in annual reports provided to the Department of Agriculture Water and the Environment (as specified at Condition 4 of the wildlife trade operation approval).

Condition 7

By 1 July 2022, the Department of Primary Industries and Regions, South Australia must implement measures to ensure permit holders in the fishery have the necessary resources and tools to identify and report on any interactions with shorebirds (including Hooded Plovers) sighted within the area of the harvest.

The outcomes of this process must be included in annual reports provided to the Department of Agriculture Water and the Environment (as specified at Condition 4 of the wildlife trade operation approval).

Notification of Reviewable Decisions and Rights of Review¹

There is a right of review to the Administrative Appeals Tribunal (AAT) in relation to certain decisions/declarations made by the Minister, the Minister's delegate or the Secretary under Part 13A of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Section 303GJ(1) of the EPBC Act provides that applications may be made to the AAT for the review of the following decisions:

- (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:

1. 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 as per section 28 of the *Administrative Appeals Tribunal Act 1975*. The Minister, or Minister's delegate may refuse to give you a statement of reasons if your application is made more than 28 days after the day on which you received this notice.
2. apply to the AAT for independent merits review of the decision. The AAT undertakes *de novo* merits review. This means they take a fresh look at the facts, law and policy relating to the decision and arrive at their own decision. They decide if the decision should stay the same or be changed. They are independent of the Department.

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 1800 228 333 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 at <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 to 10 weeks of the application being lodged. The time frame for review of certain decisions can be expedited in some circumstances.

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

The cost of lodging an application for review is \$920 (as of 1 July 2018) (GST inclusive). You may be eligible to pay a reduced fee of \$100.00 if:

1. you are receiving legal aid for your application;
2. 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;
3. you are in prison or lawfully detained in a public institution;
4. you are under 18 years of age; or
5. 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. Additionally, you can access information about legal assistance at <https://www.ag.gov.au/LegalSystem/Legalaidprogrammes/Commonwealthlegalfinancialassistance/Documents/LegalFinancialAssistanceInformationSheet.pdf>.

If you pay a standard application fee, most of it will be refunded if the case is resolved in your favour. The refund amount is the difference between the fee you paid and \$100. So, if you paid \$884, you get back \$784 and if you pay \$920, you get back \$820. There is no refund if you paid the lower application fee for certain taxation decisions or the reduced fee of \$100.

Contact Details

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

The Director
Wildlife Trade Assessments Section
Department of Agriculture, Water and the Environment
GPO Box 787
Canberra ACT 2601
Telephone: +61 (0) 2 5156 3278
Email: sustainablefisheries@awe.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@awe.gov.au for more information.