



Australian Government

Department of the Environment and Energy

Ref: 002068366

Heather Brayford
Deputy Director General, Sustainability and Biosecurity
Department of Primary Industries and Regional Development
Locked Bag 4
Bentley Delivery Centre WA 6983

Heather

Dear Ms ~~Brayford~~

I am writing to you as Delegate of the Minister for the Environment and Energy in relation to the reassessment of the Western Australian Temperate Demersal Gillnet and Demersal Longline Fisheries (the fisheries) under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). In July 2018, the Western Australian Department of Primary Industries and Regional Development applied for export approval for the fisheries under the EPBC Act.

The application has been assessed and I have declared the fisheries an approved wildlife trade operation under Part 13A of the EPBC Act until 20 August 2021. The list of exempt native specimens allows the export of product from the fisheries while the specimens are covered by the declaration as an approved wildlife trade operation, however exporters of scalloped and smooth hammerhead sharks require CITES permits. I have also (re)accredited the management arrangements for the fishery designed to minimise interactions with species listed under Part 13 of the EPBC Act. The Part 13A declaration and Part 13 accreditation include conditions that were agreed by officials from both departments as areas requiring ongoing attention. These are set out at [Attachment 1](#) and [Attachment 2](#).

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 3](#).

I understand the Aquatic Resources Management Act (ARMA) is scheduled to commence on 1 January 2019. EPBC Act instruments that approve fisheries for export directly reference enabling legislation. Commencement of the ARMA will mean current EPBC Act instruments for all Western Australian fisheries will need to be varied to reflect the change in legislation. I appreciate your Department's continued communication on this matter as this will assist us to make the required changes to coincide with the commencement of the ARMA.

Yours sincerely

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

Paul Murphy

Delegate of the Minister for the Environment and Energy

22 August 2018

Conditions on the approved wildlife trade operation declaration for the Western Australian Temperate Demersal Gillnet and Demersal Longline Fisheries – August 2018

1. Operation of the Western Australian Temperate Demersal Gillnet and Demersal Longline Fisheries will be carried out in accordance with the Western Australian *Fish Resources Management Act 1994* and the Western Australian Fish Resources Management Regulations 1995.
2. The Western Australian Department of Primary Industries and Regional Development, to inform the Department of the Environment and Energy, of any intended material changes to the Western Australian Temperate Demersal Gillnet and Demersal Longline Fisheries management arrangements that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* decisions are made.
3. The Western Australian Department of Primary Industries and Regional Development, 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. The Western Australian Department of Primary Industries and Regional Development to:
 - a. continue to assess the recovery status of breeding stocks working towards moving from 'transitional-recovering' to 'acceptable' stock status level.
 - b. develop a formal Harvest Strategy with the view to implementation by early 2020.
5. The Western Australian Department of Primary Industries and Regional Development to review and update the ESD report, for the Western Australian Temperate Demersal Gillnet and Demersal Longline Fisheries. The updated report should apply to:
 - target species
 - byproduct species
 - bycatch species (including protected species)
 - impacts on the marine environment
6. The WA Department of Primary Industries and Regional Development to:
 - a. continue work towards the development of electronic logbooks for future implementation in the fisheries.
 - b. deliver further education to fishers as appropriate, if reporting from logbooks indicates this as necessary.

Condition on the accreditation of the Western Australian Temperate Demersal Gillnet and Demersal Longline Fisheries under Part 13 of the EPBC Act – August 2018

Condition A:

Following the recent implementation of the Australian Sea Lion gillnet exclusion zones, the Western Australian Department of Primary Industries and Regional Development to:

- a. monitor and review the gillnet exclusion zones (and associated spatial effort changes) by 2021.
- b. conduct further research on Australian Sea Lion populations, to obtain more reliable population estimates.



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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.

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.

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 \$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.