



Australian Government
Department of the Environment

Ref: 001059543

The Hon Leanne Donaldson MP
Minister for Agriculture and Fisheries
GPO Box 46
Brisbane QLD 4001

Dear Minister

I am writing to you as Delegate of the Minister for the Environment in relation to the assessment of the Schulz Fisheries Pty Ltd operation under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

In August 2015, Schulz Fisheries Pty Ltd submitted an application to the Department of the Environment seeking export approval for giant scarlet prawns (*Aristaeopsis edwardsiana*), royal red prawns (*Haliporoides sibogae*), giant red prawns (*Aristaeomorpha foliacea*) and scampi (*Metanephrops* spp. and *Nephropsis* spp.) harvested in the Queensland East Coast Otter Trawl Fishery. The application has been assessed for the purposes of the wildlife trade provisions of Part 13A of the EPBC Act.

I am pleased to advise that the assessment of the Schulz Fisheries Pty Ltd operation is now complete. Subject to consultation with Schulz Fisheries Pty Ltd, the assessment report will be available on the Department of the Environment's website at:
<http://www.environment.gov.au/marine/fisheries/qld/schulz>

I consider that the management arrangements for the Schulz Fisheries Pty Ltd operation meet most of the Australian Government *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition*. Taking into account the management arrangements currently in place in the operation, set out in the permit issued under the Queensland Fisheries (East Coast Trawl) Management Plan 2010, including total combined annual catch limits, gear restrictions (net and boat), total annual effort restriction, mandatory bycatch reduction devices and turtle excluder devices, and spatial and temporal closures, I am satisfied that the operation is consistent with the objects of the wildlife trade provisions of Part 13A of the EPBC Act.

I am also satisfied that fishing activity over the period of the declaration as an approved wildlife trade operation is unlikely to be detrimental to the survival or conservation status of any taxon to which the fishery operation relates, or threaten any relevant ecosystem. Accordingly, I have decided to declare the harvest of giant scarlet prawns (*Aristaeopsis edwardsiana*), royal red prawns (*Haliporoides sibogae*), giant red prawns (*Aristaeomorpha foliacea*) and scampi (*Metanephrops* spp. and *Nephropsis* spp.) by Schulz Fisheries Pty Ltd as an approved wildlife trade operation for three years, until 26 April 2019. The declaration will apply only to those classes of specimens specified in the instrument of declaration, available on the Department's website and will be subject to the conditions specified in the instrument of declaration (**Attachment 1**).

While there are some environmental risks associated with the harvest of giant scarlet prawns (*Aristaeopsis edwardsiana*), royal red prawns (*Haliporoides sibogae*), giant red prawns (*Aristaeomorpha foliacea*) and scampi (*Metanephrops* spp. and *Nephropsis* spp.) in the Queensland East Coast Otter Trawl Fishery, I consider that there are appropriate measures in place to address these issues.

Please note that any person whose interests are affected by this decision may make an application to the Department of the Environment 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.

Yours sincerely



Paul Murphy
Delegate of the Minister for the Environment

10 May 2016



COMMONWEALTH OF AUSTRALIA

Environment Protection and Biodiversity Conservation Act 1999

DECLARATION OF AN APPROVED WILDLIFE TRADE OPERATION

I, PAUL MURPHY, Assistant Secretary, Wildlife Trade and Biosecurity Branch, as Delegate of the Minister for the Environment, have considered in accordance with section 303FN of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) the application from Schulz Fisheries Pty Ltd, public comments on the proposal as required under section 303FR and advice on the ecological sustainability of the operation. I am satisfied on those matters specified in section 303FN of the EPBC Act. I hereby declare the operations for the harvesting of giant scarlet prawns (*Aristaeopsis edwardsiana*), royal red prawns (*Haliporoides sibogae*) giant red prawn (*Aristaeomorpha foliacea*) and scampi (*Metanephrops* spp. and *Nephropsis* spp.) by Schulz Fisheries Pty Ltd, taken in the Queensland East Coast Otter Trawl Fishery as defined in the Queensland Fisheries (East Coast Trawl) Management Plan 2010 made under the Queensland *Fisheries Act 1994* and the Queensland Fisheries Regulation 2008 to be an approved wildlife trade operation, in accordance with subsection 303FN(2) and paragraph 303FN(10)(b), for the purposes of the EPBC Act.

Unless amended or revoked, this declaration:

- a) is valid until 26 April 2019 and;
- b) is subject to the conditions applied under section 303FT specified in the Schedule.

Dated this 10th day of May 2016

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Delegate of the Minister for the Environment

A person whose interests are affected by this declaration may, within 28 days, make an application in writing to the Department of the Environment for the reasons for the decision.

An application for independent review of the decision (under section 303GJ(1) of the *Environment Protection and Biodiversity Conservation Act 1999*) may be made to the Administrative Appeals Tribunal (AAT), on payment of the relevant fee (currently \$861 or reduced fee where applicable due to financial hardship) by the applicant, either within 28 days of receipt of the reasons for the decision, or within 28 days of this declaration if reasons for the decision are not sought. Applications should be made to the Deputy Registrar, AAT in your Capital City. Please visit the AAT's website at <http://www.aat.gov.au/> for further information.

You may make an application under the *Freedom of Information Act 1982* (Cth) to access documents relevant to this decision. For further information, please visit <http://www.environment.gov.au/foi/index.html>.

Further enquiries should be directed to the Director, Sustainable Fisheries Section, Department of the Environment, Telephone: (02) 6274 1917 Email: sustainablefisheries@environment.gov.au.

SCHEDULE

Declaration of the Harvest Operations of the Schulz Fisheries Pty Ltd Operation for giant scarlet prawns (*Aristaeopsis edwardsiana*), royal red prawns (*Haliporoides sibogae*), giant red prawns (*Aristaeomorpha foliacea*) and scampi (*Metanephrops* spp. and *Nephropsis* spp.) as an approved wildlife trade operation, May 2016

ADDITIONAL PROVISIONS (section 303FT)

Relating to the harvesting of giant scarlet prawns (*Aristaeopsis edwardsiana*), royal red prawns (*Haliporoides sibogae*), giant red prawn (*Aristaeomorpha foliacea*) and scampi (*Metanephrops* spp. and *Nephropsis* spp.) that are, or are derived from, fish or invertebrates, taken by Schulz Fisheries Pty Ltd:

1. The Schulz Fisheries Pty Ltd operation will be carried out in accordance with the Queensland Fisheries (East Coast Trawl Fishery) Management Plan 2010 in force under the Queensland *Fisheries Act 1994*.
2. Schulz Fisheries Pty Ltd to inform the Department of the Environment of any intended material changes to the management arrangements for the Schulz Fisheries Pty Ltd operation that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* decisions are made.
3. Schulz Fisheries Pty Ltd to produce and present reports to the Department of the Environment annually as per Appendix B of the 'Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition'.
4. Schulz Fisheries Pty Ltd, in collaboration with the Queensland Department of Agriculture and Fisheries, to:
 - ensure that robust monitoring of target, byproduct and bycatch species, through the use of onboard cameras, is undertaken whilst fishing
 - ensure that onboard cameras are installed by an independent, suitably qualified technician so that bycatch can be monitored effectively
 - ensure that an independent, suitably qualified individual or individuals examine the onboard camera footage
 - after the gear trial has been completed provide a report to the Department of the Environment which details the impacts of the fishing operation on bycatch and benthic biota, and
 - develop and implement a biological sampling regime to collect information on sharks and rays encountered during fishing operations.
5. Schulz Fisheries Pty Ltd to develop and adopt protocols to avoid potential damage to sensitive benthic environments adjacent to the Great Barrier Reef Marine Park.

Declaration of the Harvest Operations of the Schulz Fisheries Pty Ltd Operation for giant scarlet prawns (*Aristaeopsis edwardsiana*), royal red prawns (*Haliporoides sibogae*), giant red prawns (*Aristaeomorpha foliacea*) and scampi (*Metanephrops* spp. and *Nephropsis* spp.) as an approved wildlife trade operation, May 2016

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5. Schulz Fisheries Pty Ltd to develop and adopt protocols to avoid potential damage to sensitive benthic environments adjacent to the Great Barrier Reef Marine Park.



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Department of the Environment

Notification of Reviewable Decisions and Rights of Review¹

If you are dissatisfied with the attached decision to make, refuse, vary or revoke a declaration under 303FN of the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*, under section 303GJ(1) of the EPBC Act you may apply to the Administrative Appeals Tribunal (**AAT**) for review of the decision. An 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/> for further information.

You are also entitled to request a statement from the decision maker in writing setting out the findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision. The decision maker must prepare and give a statement of reasons to the applicant within **28 days** of receiving the request.

Role of the AAT

The role of the AAT is to provide independent merits review of administrative decisions by affirming, varying or setting aside the decisions of Commonwealth agencies. The AAT aims to provide a review mechanism that is fair, just, economical, informal and quick.

Applications and 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 cost of lodging an application with the AAT is \$861.00 (current as at 15 August 2014).

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 pensioner concession card, a Commonwealth seniors health card or any other card issued by the Department of Social Services and Indigenous Affairs or the Department of Veterans' Affairs that certifies entitlement 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.

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

You may also be eligible for a reduced fee if you can demonstrate to the AAT that you demonstrate financial hardship. Further information can be found on the AAT's website.

Freedom of Information Request

You may make an application under the *Freedom of Information Act 1982 (FOI Act)* to access documents relevant to this permit decision. 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.

Contact Details

Please direct any enquiries regarding this decision to:

The Director
Sustainable Fisheries Section
Department of the Environment
GPO Box 787
Canberra ACT 2601
Telephone: +61 (0) 2 6274 1917
Email: sustainablefisheries@environment.gov.au

Any enquiries regarding the review process (from within Australia) should be directed to the Deputy Registrar, Administrative Appeals Tribunal in your Capital City. Alternatively you may contact the AAT at their Principal Registry:

Administrative Appeals Tribunal
GPO Box 9955
Sydney NSW 2001
Telephone: +61 (0) 2 9391 2400 or 1300 366 700 (for country areas within Australia)
Fax: +61 (0) 2 9267 5538
Email: Principal.Registry@aat.gov.au
Website: <http://www.aat.gov.au/default.htm>

Legal Advice

You may be able to obtain legal or financial advice and assistance in relation to this permit decision from, CARE Financial Counselling, Legal Aid Commission, or the Law Society in your Capital City.



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