



Australian Government

Department of the Environment and Energy

ref: 15/003032

Mr Scott Spencer
Deputy Director-General Fisheries and Forestry
Queensland Department of Agriculture and Fisheries
GPO Box 46
BRISBANE QLD 4001

Dear Mr ~~Spencer~~ *Scott*

I am writing to you as Delegate of the Minister for the Environment in relation to the reassessment of the Queensland East Coast Inshore Fin Fish Fishery (the fishery) under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). In July 2018, the Queensland Department of Agriculture and Fisheries (QDAF) provided an application to the Department of the Environment and Energy (the Department) seeking continued export approval for the fishery under the EPBC Act.

An assessment of the application has been undertaken and I have declared the fishery an approved wildlife trade operation under Part 13A of the EPBC Act for three months until 14 December 2018. The short term nature of this approval is to allow time for the Department to undertake a comprehensive assessment of the fishery taking into consideration the detailed public submissions and QDAF's responses to the submissions.

The Part 13A declaration includes conditions (**Attachment 1**) that were agreed by officials from both departments. These conditions include QDAF to continue to implement reforms for the fishery, identified in the previous assessment, during this short term approval. Departmental officers will discuss with QDAF, prior to the 14 December 2018 expiry, key areas of the fishery requiring further attention with a view to granting a longer term wildlife trade operation. 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.

The existing Part 13 accreditation will remain in place for the short term, taking into account the requirements under the management arrangements for fishers to take all reasonable steps to avoid interactions with species listed under the EPBC Act and the likely impact of the fishery on these species during the approval period.

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**.

As the East Coast Inshore Fin Fish Fishery operates within the Great Barrier Reef Marine Park, I have copied this letter to Dr Russell Reichelt, Chairman and Chief Executive of the Great Barrier Reef Marine Park Authority, for his information.

Yours sincerely

Paul Murphy
Delegate of the Minister for the Environment

26 September 2018

cc: Dr Reichelt, Chairman GBRMPA

Conditions on the approved wildlife trade operation declaration for the Queensland East Coast Inshore Fin Fish Fishery – September 2018

Relating to the harvesting of fish specimens that are, or are derived from, fish or invertebrates, other than specimens of species listed under Part 13 and Part 13A of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), taken in the Queensland East Coast Inshore Fin Fish Fishery:

1. Unless otherwise amended or revoked, this declaration is valid until 14 December 2018, to allow for the Department's assessment of the fishery, for a longer term wildlife trade operation approval period, to be finalised.
2. Operation of the Queensland East Coast Inshore Fin Fish Fishery will be carried out in accordance with the Queensland Department of Agriculture and Fisheries Fishery Management Plan 1997, in force under the Western Australian Fish Resources Management Act 1994, and the Western Australian Fish Resources Management Regulations 1995.
3. Queensland Department of Agriculture and Fisheries, to inform the Department of the Environment and Energy, of any intended material changes to the Queensland East Coast Inshore Fin Fish Fishery management arrangements that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* decisions are made.
4. Queensland Department of Agriculture and Fisheries, 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.
5. The Queensland Department of Agriculture and Fisheries to continue to develop a strategy for the harvest of key fish and shark species taken in the Queensland East Coast Inshore Fin Fish Fishery in consultation with relevant experts and stakeholders. The strategy should include decision rules and reference points that trigger management actions to ensure catch limits remain ecologically sustainable. Performance against this strategy to be included in annual reports specified at Condition 3.
6. The Queensland Department of Agriculture and Fisheries to continue to develop an improved data collection and validation approach that supports the strategy outlined in Condition 4, and facilitates monitoring and management of all target, bycatch and protected species impacted by the fishery.
7. The Queensland Department of Agriculture and Fisheries to:
 - a. Continue to provide the necessary support for fishers to accurately identify and record sharks at the species level. This may involve further consultation with stakeholders and should include some assessment and monitoring of reporting performance to identify and target improvements where necessary.
 - b. Continue to develop options to ensure shark catch can be readily and reliably be identified. This may include introducing a prohibition on the removal of fins and filleting sharks prior to landing.

8. The Queensland Department of Agriculture and Fisheries to:
 - a. Continue to provide the necessary support for fishers to accurately identify and record sharks at the species level. This may involve further consultation with stakeholders and should include some assessment and monitoring of reporting performance to identify and target improvements where necessary.
 - b. Continue to develop options to ensure shark catch can be readily and reliably be identified. This may include introducing a prohibition on the removal of fins and filleting sharks prior to landing.

9. The Queensland Department of Agriculture and Fisheries to continue work to complete and publish an ecological risk assessment for the Queensland East Coast Inshore Fin Fish Fishery.



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.