



# Australian Government

## Department of the Environment and Energy

Ref: 002068367

Mr Ian Curnow  
Executive Director  
Northern Territory Department of Primary Industry and Resources  
GPO BOX 3000  
DARWIN NT 0801

Dear Mr Curnow

I am writing to you as Delegate of the Minister for the Environment in relation to the assessment of the Northern Territory Offshore Net and Line Fishery under Part 13 and Part 13A of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). In January 2019 the Northern Territory Department of Primary Industry and Resources applied for export approval for the fishery under the EPBC Act.

The application has been assessed and I have declared the fishery an approved wildlife trade operation under Part 13A of the EPBC Act until 27 March 2022. The list of exempt native specimens has also been amended to allow export of product from the fishery while the specimens are covered by the declaration as an approved wildlife trade operation. The Part 13A declaration includes conditions (**Attachment 1**) and recommendations (**Attachment 2**) that were agreed by officials from both departments as areas requiring ongoing attention.

I am also satisfied the management arrangements for the fishery meet the requirements under Part 13 of the Act and I propose to accredit the management arrangements accordingly.

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**.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Gibbs'.

John Gibbs  
Delegate of the Minister for the Environment

18 April 2019

## Conditions on the approved wildlife trade operation declaration for the Northern Territory Offshore Net and Line Fishery, March 2019

1. Operation of the Northern Territory Offshore Net and Line Fishery will be carried out in accordance with the Northern Territory Department of Primary Industry and Resources fisheries management regime in force under the *Northern Territory of Australia Fisheries Act 1988* and Northern Territory of Australia Fisheries Regulations 1993.
2. The Northern Territory Department of Primary Industry and Resources to inform the Department of any intended material changes to the Northern Territory Offshore Net and Line Fishery management arrangements that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) decisions are made.
3. The Northern Territory Department of Primary Industry and Resources to produce and present reports to the Department annually as per Appendix B of the *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition*.
4. The Northern Territory Department of Primary Industry and Resources to:
  - a) Provide the Department of the Environment and Energy a review of the current e-monitoring auditing protocols
  - b) Ensure that these protocols are appropriate for managing the level of take by individual operators who trigger e-monitoring requirements
  - c) Provide this review within 12 months after introduction of the e-monitoring auditing protocols.

This is to ensure that individual operators' catch is being sufficiently monitored and audited, and is appropriate for managing the level of take in the fishery under the new management regime. Performance against this condition must be included in annual reports specified at Condition 3.

5. The Northern Territory Department of Primary Industry and Resources to continue to improve the species based management of Hammerhead sharks in the Offshore Net and Line Fishery through:
  - a) Continue to support fishers to accurately identify and record sharks at the species level to improve catch composition reporting (in particular of the hammerhead shark complex), and to ensure that catch levels of individual shark species are ecologically sustainable, and
  - b) Reviewing and providing provide catch data for Scalloped Hammerhead (*Sphyrna lewini*), Great Hammerhead (*Sphyrna mokarran*) and Winghead Sharks (*Eusphyra blochii*) to the Department of Environment and Energy for the Threatened Species Scientific Committee's consideration. The data should be in a form that facilitates a comparison of catch levels between the three species, and provide advice on the level of confidence in the various data collected by the Northern Territory Department of Primary Industry and Resources.

Provide annual reports to the Department (as per Condition 3) on the performance of management arrangements, including actions undertaken as part of this condition, and which comprise the 'plan of management' for the purposes of subparagraph 179(6)(b)(ii) of the EPBC Act for Scalloped Hammerhead Sharks.

**Recommendation to the Northern Territory Department of Primary Industries and Resources on the ecologically sustainable management of Northern Territory Offshore Net and Line Fishery, March 2019**

1. The Northern Territory Department of Primary Industry and Resources to in conjunction with other relevant jurisdictions, continue to improve the species based management of sharks in the Offshore Net and Line Fishery through:
  - a) continuing to support fishers to accurately identify and record sharks at the species level
  - b) improving catch composition knowledge, and
  - c) improving knowledge of species biology and ecology.

Reporting of sharks, in particular of the Blacktip and Hammerhead shark complexes, should be sufficient to ensure that catch levels of individual shark species remain ecologically sustainable.

2. The Northern Territory Department of Primary Industry and Resources to:
    - a) initiate a program to review and update the ecological risk assessment for the Offshore Net and Line Fishery on a regular basis, and
    - b) publish the results of future ecological risk assessments.
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### **Notification of Reviewable Decisions and Rights of Review<sup>1</sup>**

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:

- 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.
- apply to the Administrative Appeals Tribunal (**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 <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.

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<sup>1</sup> 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

- 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. Additionally, you can access information about legal assistance here <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 the Environment  
GPO Box 787  
Canberra ACT 2601  
**Telephone:** +61 (0) 2 6274 1917  
**Email:** [sustainablefisheries@environment.gov.au](mailto: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](mailto: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](mailto:foi@environment.gov.au) for more information.