



Australian Government

Department of the Environment and Energy

Ref: 1445389

The Hon Bill Byrne MP
Minister for Agriculture and Fisheries
GPO Box 15195
CITY EAST QLD 4002

Dear Minister

I am writing to you as Delegate of the Minister for the Environment and Energy in relation to the reassessment of the Queensland Gulf of Carpentaria Line Fishery under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The Queensland Gulf of Carpentaria Line Fishery was most recently assessed under the international wildlife trade provisions of Part 13A of the EPBC Act in November 2013. The Delegate of the then Minister for the Environment subsequently declared the Queensland Gulf of Carpentaria Line Fishery an approved wildlife trade operation under Part 13A of the EPBC Act until 24 November 2016. This allowed export of product from the fishery to continue during the period of the declaration.

In July 2016, the Queensland Department of Agriculture and Fisheries provided an application to the Department of the Environment and Energy seeking continued export approval for the Queensland Gulf of Carpentaria Line Fishery.

The application has been assessed for the purposes of the wildlife trade provisions of Part 13A of the EPBC Act. The assessment took into account measures that have been developed by the Queensland Department of Agriculture and Fisheries in response to the conditions and recommendations made in the 2013 export assessment under the EPBC Act.

I am pleased to advise that the assessment is now complete. The new assessment report will be available on the Department of the Environment and Energy's website at: <http://www.environment.gov.au/marine/fisheries/qld/line>.

I consider that the management arrangements for the Queensland Gulf of Carpentaria Line Fishery 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 fishery which include limited entry, gear restrictions (number of lines and hooks), size and possession limits (species specific), closed area restrictions and prohibition on retaining various species, and

- the *Non-Detriment Finding for the export of shark species listed in the Convention on International Trade in Endangered Species of Fauna and Flora (CITES) and harvested from Australian waters: Sphyrna lewini – scalloped hammerhead shark, Sphyrna mokarran – great hammerhead shark, Sphyrna zygaena – smooth hammerhead shark, Lamna nasus – porbeagle shark, Carcharhinus longimanus – oceanic whitetip shark*, by Australia's CITES Scientific Authority for Marine Species for the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES),

I am satisfied that the operation of the fishery remains consistent with the objects of the wildlife trade provisions of Part 13A of the EPBC Act.

I am also satisfied that the operation of the fishery over the next three years is unlikely to be detrimental to the survival or conservation status of any taxon to which the fishery operation relates, including any CITES listed taxon, or threaten any relevant ecosystem.

Accordingly, I have decided to declare the Queensland Gulf of Carpentaria Line Fishery an approved wildlife trade operation until 22 November 2019. The declaration will apply only to those classes of specimens specified in the instrument of declaration, available from the Department's website, and will be subject to the conditions (**Attachment 1**) specified in the instrument of declaration.

The assessment considered the possible impacts on taxa which are harvested in the fishery and which are listed in the Appendices to CITES, including hammerhead sharks. As a party to CITES, Australia must apply all CITES provisions of the EPBC Act to CITES imports and exports as appropriate. Specimens of species listed in Appendix II or Appendix III of CITES may be exported commercially under a CITES export permit, if sourced from an approved wildlife trade operation and a non-detriment finding has been made by the exporting country's CITES Scientific Authority.

Inclusion of CITES specimens in the list of exempt native specimens is not possible due to international obligations to monitor trade. Under the EPBC Act, individual exporters are required to apply for CITES export permits and export of CITES specimens may only occur where a permit has been issued by Australia's CITES Management Authority (Department of the Environment and Energy).

While there are some environmental risks associated with this fishery, I believe that the Queensland Department of Agriculture and Fisheries is committed to addressing these issues and has already taken proactive measures.

Officers from the Queensland Department of Agriculture and Fisheries and the Department have discussed key areas requiring ongoing attention, including the need to provide identification tools and education to fishers for accurate recording of sharks at the species level. Also discussed was the need to collaborate with other jurisdictions to pursue consistent and complementary research needs and management arrangements for target species.

Officers from the Queensland Department of Agriculture and Fisheries and the Department have subsequently agreed to four conditions and one recommendation focussing on ensuring the continuation of good management practices. These can be found at **Attachment 1**.

The management regime for the Queensland Gulf of Carpentaria Line Fishery was most recently accredited under Part 13 of the EPBC Act for interactions with protected species, in November 2013.

I remain satisfied that it remains unlikely that fishing operations conducted in accordance with the management regime will adversely affect the conservation status of protected species or affect the survival or recovery in nature of listed threatened species or adversely affect the conservation status of listed migratory species, cetaceans or listed marine species.

I also consider that under the current management regime, operators continue to be required to take all reasonable steps to avoid the killing or injuring of species listed under Part 13 of the EPBC Act when operating in Commonwealth waters. I therefore consider the current accreditation remains valid.

I would like to thank you for the constructive way in which your officials have approached this assessment.

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

22 November 2016



Conditions on the approved wildlife trade operation declaration for the Queensland Gulf of Carpentaria Line Fishery

1. Operation of the fishery will be carried out in accordance with the management regime under the Queensland *Fisheries Act 1994* and the Fisheries Regulation 2008.
2. The Queensland Department of Agriculture and Fisheries to inform the Department of any intended material changes to the Queensland Gulf of Carpentaria Line Fishery management arrangements that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* decisions are made.
3. The 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*.
4. The Queensland Department of Agriculture and Fisheries to provide appropriate identification tools and education to assist fishers in providing accurate identification and recording of sharks at the species level.

Recommendation to the Queensland Department of Agriculture and Fisheries on the ecologically sustainable management of the Queensland Gulf of Carpentaria Line Fishery

1. The Queensland Department of Agriculture and Fisheries to continue to collaborate with other jurisdictions to pursue consistent and complementary research needs and management arrangements for target species.

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:

- (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; 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.

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;

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

- 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
Sustainable Fisheries 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 +61 (0) 2 9276 5000
F: +61 (0) 2 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.