



Australian Government
**Department of Agriculture,
Water and the Environment**

Ref: 002068366

Mr Wez Norris
Chief Executive Officer
Australian Fisheries Management Authority
GPO Box 7051
CANBERRA ACT 2610

Dear Mr Norris

I am writing to you as Delegate of the Minister for the Environment in relation to the reassessment of the Coral Sea Fishery (the fishery) under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

On 4 November the Australian Fisheries Management Authority 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 (WTO) under Part 13A of the EPBC Act until 6 January 2024. I have also included the fishery on the List of Exempt Native Specimens (LENS) which allows product, excluding CITES II listed species to be exported from the fishery without a permit while a WTO is in place.

The WTO conditions allows for the export of CITES listed species, including, Humphead Maori Wrasse (*Cheilinus undulatus*), corals in the Family Acroporidae and Black Teatfish (*H. whitmaei*) and the requirements relating to these exports.

The Part 13A declaration includes conditions that were agreed by officials from both agencies as areas requiring ongoing attention. These are set out at [Attachment 1](#).

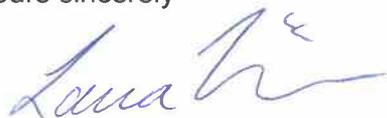
I have also accredited the management arrangements for the fishery as designed to minimise interactions with species listed under Part 13 of the EPBC Act.

As you are aware, the department has not had sufficient time and information to fully consider the export of CITES II listed White Teatfish (*Holothuria fuscogilva*) from the Coral Sea Fishery to be non detrimental to the survival of the species in the wild. Consequently, the department has agreed with AFMA that these species will not be included in the export approvals at this point but will be considered for inclusion once further information is provided and the department's consideration of those species is complete.

Lastly, I'd like to also bring to your attention that the Department will be undertaking a detailed review and assessment of fisheries documentation and scientific literature in relation to coral harvest from Australia against CITES expectations with the aim to develop a National Coral Non-detriment Finding that will help importing parties in their assessment of trade from Australia. Through this process we will engage with AFMA further in relation to the management of coral harvest from this fishery.

Please note that any person whose interests are affected by this decision may make an application to the department for the reasons for the decisions and may apply to the Administrative Appeals Tribunal to have these decisions reviewed. I have enclosed further information on these processes at Attachment 2.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Laura Timmins". The signature is fluid and cursive, with a prominent loop at the end.

Laura Timmins
Delegate of the Minister for the Environment

7 January 2021

Part 13A conditions on the approved wildlife trade operation declaration for the Coral Sea Fishery – January 2021

1. The Australian Fisheries Management Authority must ensure that operation of the Coral Sea Fishery is carried out in accordance with management arrangements defined in the Fisheries Management Act 1991 (CTH) and Fisheries Management Regulations 2019 (CTH).
2. The Australian Fisheries Management Agency must inform the Department of the Environment and Energy of any intended material changes to the Coral Sea Fishery management arrangements that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* decisions are made.
3. The Australian Fisheries Management Agency must inform the Department of Agriculture, Water and the Environment of any intended changes to fisheries legislation that may affect the legislative instruments relevant to this approval.
4. The Australian Fisheries Management Agency must provide reports to the Department of Agriculture, Water and the Environment annually as per Appendix B of the *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition*.
5. Australian Fisheries Management Authority must limit the take of species listed under the Convention on the International Trade of Endangered Species (CITES), from the area of the Coral Sea Fishery to no more than:
 - a) 40 tonnes per year (1 July – 30 June) of any mixture of species belonging to the family Acroporidae.
 - b) 50 individual humphead Maori wrasse (*Cheilinus undulatus*) per year (1 July – 30 June). Consistent with the trigger limits in the relevant Harvest Strategy, no more than 10 individuals can be caught without assessment of the catch. This must be done in consultation with the CITES Scientific Authority.
 - c) 1 tonne per year of Black Teatfish (*H. whitmaei*)
6. By 1 December 2021, the Australian Fisheries Management Authority must review the science underpinning the catch limit for Humphead Maori Wrasse (*Cheilinus undulatus*). This review must include independent, expert scientific advice.
7. As part of the annual reporting requirement referred to in Condition 4, the Australian Fisheries Management Authority must report the following to the Department of Agriculture, Water and the Environment, as the CITES Scientific Authority of Australia:
 - a) the harvested weight and locations of harvest for each coral species. This reporting must be undertaken at a species-level.
 - b) the number of individual Humphead Maori Wrasse (*Cheilinus undulatus*), their sex, lengths and locations of harvest.
 - c) any assessments, management changes or findings relevant to the management of CITES-listed species in the Coral Sea Fishery
8. The Australian Fisheries Management Authority must update the science underpinning the Coral Sea Fishery – Sea Cucumber Sector Harvest Strategy by December 2021, including undertaking a fishery independent survey in the area of the fishery, to ensure that the harvest strategy is supported by up to date scientific information and supports a longer-term export approval for the fishery.

9. By 1 December 2022, the Australian Fisheries Management Authority must complete a review of the Coral Sea Fishery Harvest Strategy – Sea Cucumber Sector and develop, at a minimum:
 - a) species-specific trigger limits and reference points (or proxies) for species listed under CITES; and
 - b) ongoing data collection and monitoring plans required to support ongoing fishing of these species.

Notification of Reviewable Decisions and Rights of Review¹

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 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 at <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 to 10 weeks of the application

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

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 \$952 (as of 1 July 2020) (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 at <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 \$920, you get back \$820 and if you pay \$952, you get back \$852. 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 Agriculture, Water and the Environment
GPO Box 858
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.