



Australian Government

Department of the Environment and Energy

Ref: 002068366

Senator the Hon Anne Ruston
Assistant Minister for Agriculture and Water Resources
Parliament House
CANBERRA ACT 2600

Dear Senator

I am writing to you as Delegate of the Minister for the Environment and Energy in relation to the reassessment of seven Commonwealth-managed fisheries under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

In early 2017, the Australian Fisheries Management Authority (AFMA) applied for export approvals for the Commonwealth Coral Sea, Commonwealth North West Slope and Western Deepwater Trawl, Torres Strait Bêche-de-mer, Torres Strait Finfish, Torres Strait Prawn, Torres Strait Trochus, and Torres Strait Tropical Rock Lobster fisheries under the EPBC Act.

These applications have now been assessed and I have agreed to declare five fisheries (Commonwealth Coral Sea, Commonwealth North West Slope and Western Deepwater Trawl, Torres Strait Bêche-de-mer, Torres Strait Finfish and Torres Strait Tropical Rock Lobster fisheries) as approved wildlife trade operations under section 303FN (Part 13A) of the EPBC Act for three years, until 18 December 2020. These approvals are subject to conditions agreed by officials from both departments as areas requiring ongoing attention (Attachment 1).

Based on current management arrangements, I have also agreed to exempt the Torres Strait Prawn and Torres Strait Trochus Fisheries from requiring EPBC Act export permits for nine years, until 9 October 2026. Should fishing effort reach any of the trigger limits in the Torres Strait Prawn Fishery Harvest Strategy 2011, or recommence in the Torres Strait Trochus Fishery, the Department will consider reassessing these fisheries.

The list of exempt native specimens has been amended to allow export of product from these seven fisheries for the duration that the respective approvals are in place. 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.

The Department of the Environment and Energy requires AFMA to report annually on each of the seven fisheries, as per Appendix B of the *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition*.

I wish to acknowledge the strong engagement and collaboration of AFMA officials in completing these assessments.

Yours sincerely

A handwritten signature in blue ink, consisting of a stylized 'IK' followed by a long horizontal line extending to the right.

Dr Ilse Kiessling
Delegate of the Minister for the Environment and Energy
20 December 2017

Conditions on the approved wildlife trade operation declaration for the Commonwealth Coral Sea, North West Slope and Western Deepwater Trawl fisheries, and the Torres Strait Bêche-de-mer, Finfish, and Tropical Rock Lobster fisheries – December 2017

Commonwealth Coral Sea Fishery

1. Operation of the Coral Sea Fishery will be carried out in accordance with management arrangements in force under the Commonwealth *Fisheries Management Act 1991*, Fisheries Management Regulations 1992 and relevant Commonwealth fisheries policies.
2. The Australian Fisheries Management Authority to 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 Authority 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. AFMA to 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 of any mixture of species belonging to the family Acroporidae per year (1 July – 30 June).
 - b. 50 individual humphead Maori wrasse (*Cheilinus undulates*) per year (1 July – 30 June).
5. AFMA to:
 - a. review the species composition and spatial extent of all coral harvest when 20 tonnes of coral has been harvested.
 - b. ensure that a disproportionate amount of coral species are not taken from a single reef.
6. AFMA to evaluate, document and seek to mitigate any risks posed by the Coral Sea Fishery to CITES-listed species. For coral species this will be undertaken at the reef-level, while for humphead Maori wrasse this will be undertaken at the sub-reef level.
7. AFMA to report the following to the CITES Scientific Authority of Australia, as part of the annual reporting referred to in Condition 3:
 - a. the harvested weight and locations of harvest for each coral species
 - b. the number of individual humphead Maori wrasse, 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. AFMA to complete the following for all sectors of the Coral Sea Fishery:
 - a. review and revise the ecological risk assessments
 - b. develop and implement ecological risk management strategies
 - c. review and revise the Bycatch and Discarding Workplan.

Commonwealth North West Slope Trawl and Western Deepwater Trawl Fisheries

1. Operation of the Western Deepwater Trawl and North West Slope Trawl fisheries will be carried out in accordance with management arrangements in force under the Commonwealth *Fisheries Management Act 1991*, Fisheries Management Regulations 1992 and relevant Commonwealth fisheries policies.
2. The Australian Fisheries Management Authority to inform the Department of the Environment and Energy of any intended material changes to the Western Deepwater Trawl and North West Slope Trawl fisheries management arrangements that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* decisions are made.
3. The Australian Fisheries Management Authority 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. AFMA to ensure ecological risk assessments and associated management strategies are reviewed, updated and implemented.
5. AFMA to ensure:
 - a. that the harvest strategy for the North West Slope and Western Deepwater Trawl fisheries contains triggers and/or limits which are specific, measurable, time bound, and capable of managing the ecological effects of fishing.
 - b. that the fisheries' performance under harvest strategy triggers and limits is monitored; and triggered management actions are undertaken within specified timeframes.

Harvest strategy performance should be reported as part of the requirements specified in Condition 3 above.

Torres Strait Bêche-de-mer Fishery

1. Operation of the Torres Strait Bêche-de-mer Fishery will be carried out in accordance with the management regime in force under the *Torres Strait Fisheries Act 1984*.
2. The Torres Strait Protected Zone Joint Authority to inform the Department of the Environment and Energy of any intended material changes to the Torres Strait Bêche-de-mer Fishery management arrangements that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* decisions are made.
3. The Torres Strait Protected Zone Joint Authority 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 Torres Strait Protected Zone Joint Authority to implement a strategy to manage the risks of overfishing and localised depletion for all species harvested in the fishery. This may include data collection and analysis protocols to manage risks, triggers and/or limits for managing harvest, and should also account for all sources of stock mortality, including commercial, recreational, Traditional and illegal harvest.
5. Torres Strait Protected Zone Joint Authority to complete an ecological risk assessment and implement an ecological risk mitigation strategy to ensure all environmental and ecological risks are appropriately managed.
6. Torres Strait Protected Zone Joint Authority to continue to pursue the changes necessary to facilitate reporting of interactions with species listed in Part 13 of the *Environment Protection and Biodiversity Act 1999*.

Torres Strait Finfish Fishery

1. Operation of the Torres Strait Finfish Fishery will be carried out in accordance with management arrangements in force under the *Torres Strait Fisheries Act 1984*.
2. The Torres Strait Protected Zone Joint Authority to inform the Department of the Environment and Energy of any intended material changes to the Torres Strait Finfish Fishery management arrangements that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* decisions are made.
3. The Torres Strait Protected Zone Joint Authority 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 Torres Strait Protected Zone Joint Authority to implement strategies to improve data collection, and monitoring and management of catch in all sectors of the Torres Strait Finfish Fishery by 2019.
5. The Torres Strait Protected Zone Joint Authority to complete an ecological risk assessment for the Torres Strait Finfish Fishery.
6. The Torres Strait Protected Zone Joint Authority to improve estimates of stock abundance and harvest potential for all target species in the Torres Strait Finfish Fishery.
7. The Torres Strait Protected Zone Joint Authority to develop and implement reference points and relevant management triggers, including timeframes for management responses, for the Torres Strait Finfish Fishery.

Torres Strait Tropical Rock Lobster Fishery

1. Operation of the Torres Strait Tropical Rock Lobster Fishery will be carried out in accordance with management arrangements in force under the *Torres Strait Fisheries Act 1984*.
2. The Torres Strait Protected Zone Joint Authority to inform the Department of the Environment and Energy of any intended material changes to the Torres Strait Tropical Rock Lobster Fishery management arrangements that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* decisions are made.
3. The Torres Strait Protected Zone Joint Authority 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 Torres Strait Protected Zone Joint Authority to implement a strategy to manage the risks of overfishing and localised depletion in the fishery.

This may include data collection and analysis protocols to manage risks, triggers and/or limits for managing harvest, and should also account for all sources of stock mortality, including commercial, recreational, Traditional and illegal harvest.



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

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 \$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.