



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

Mr Ian Curnow
Senior Executive Director
Northern Territory Department of Industry, Tourism and Trade
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 wildlife trade assessments of the Northern Territory Offshore Net and Line Fishery (the fishery) under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

In November 2021, the Northern Territory Department of Industry, Tourism and Trade (DITT) applied for export approval for the fishery under the EPBC Act. The application has now been assessed and I have declared the fishery an approved Wildlife Trade Operation (WTO) under Part 13A of the EPBC Act until 28 March 2025. This approval is contingent on 7 conditions being met by DITT during the period of the WTO (**Attachment A**). I have also accredited the fishery's management regime under Part 13 of the EPBC Act and this approval is contingent on similar conditions being met by DITT (**Attachment B**).

Please note a 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 it reviewed. I have enclosed information on these processes at **Attachment C**.

I look forward to assessing DITT's progress against the conditions in the annual reports for this fishery.

Yours sincerely

Adam Sincock
Principal Director
Wildlife Trade Office
Delegate of the Minister for the Environment

29 March 2022

Part 13A Conditions on the approved Wildlife Trade Operation declaration for the Northern Territory Offshore Net and Line Fishery – March 2022

Condition 1

Operation of the Northern Territory Offshore Net and Line Fishery must be carried out in accordance with the Offshore Net and Line Fishery Management Framework and Harvest Strategy 2018 in force under the *Fisheries Act 1988* (NT) and the Fisheries Regulations 1992 (NT).

Condition 2

The Northern Territory Department of Industry, Tourism and Trade must inform the Department of Agriculture, Water and the Environment of any intended material changes to Northern Territory Offshore Net and Line Fishery management arrangements that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* decisions are made.

Condition 3

The Northern Territory Department of Industry, Tourism and Trade 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.

Condition 4

The Northern Territory Department of Industry, Tourism and Trade must produce and present reports on the Northern Territory Offshore Net and Line Fishery, including progress against all Part 13A conditions, to the Department of Agriculture, Water and the Environment by 30 June annually, as per Appendix B of the *Guidelines for the Ecologically Sustainable Management of Fisheries – 2nd Edition*.

Condition 5

By 1 December 2022 the Northern Territory Department of Industry, Tourism and Trade must ensure that data collection and data validation systems are in place, sufficient to ensure that all necessary fishery data, including retained and discarded catch, and protected species interaction data is accurately reported and available for management of the Offshore Net and Line Fishery.

Condition 6

The Northern Territory Department of Industry, Tourism and Trade must:

- a) By 1 September 2022, develop precautionary, interim ecological risk mitigation strategies for any bycatch or protected species which have been caught or interacted with in numbers greater than those considered in the 2020 Ecological Risk Assessment (ERA) for the Offshore Net and Line Fishery. These ecological risk mitigation strategies must include, but are not limited to, plans for the Australian snubfin dolphin (*Orcaella heinsohni*), leatherback turtle (*Dermochelys coriacea*), dwarf sawfish (*Pristis clavata*), dugong (*Dugong dugon*), giant manta rays (*Mobula birostris*) and pygmy devilrays (*M. eregoodoo* and *M. kuhlii*). The ecological risk mitigation strategies must also be developed for winghead sharks, and any other taxa found to be at high risk or greater in the 2020 ERA.
- b) By 1 December 2022, implement the ecological risk mitigation strategies. These must remain in effect until it can be determined whether risks to these species from the operation of the fishery are sustainable. After that time, all reasonable steps must be taken to minimise future interactions and ensure impacts remain sustainable.

Condition 7

By 27 June 2024, the Northern Territory Department of Industry, Tourism and Trade must provide an updated Ecological Risk Assessment to the Department of Agriculture, Water and Environment that considers all species interacted with by the Offshore Net and Line Fishery.

Part 13 Conditions on the Accreditation of the Management Regime for the Northern Territory Offshore Net and Line Fishery – March 2022

Condition A

Operation of the Northern Territory Offshore Net and Line Fishery must be carried out in accordance with the Offshore Net and Line Fishery Management Framework and Harvest Strategy 2018 in force under the *Fisheries Act 1988* (NT) and the Fisheries Regulations 1992 (NT).

Condition B

The Northern Territory Department of Industry, Tourism and Trade must inform the Department of Agriculture, Water and the Environment of any intended material changes to Northern Territory Offshore Net and Line Fishery management arrangements that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* decisions are made.

Condition C

The Northern Territory Department of Industry, Tourism and Trade 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.

Condition D

The Northern Territory Department of Industry, Tourism and Trade must produce and present reports on the Northern Territory Offshore Net and Line Fishery, including progress against all Part 13 conditions, to the Department of Agriculture, Water and the Environment by 30 June annually, as per Appendix B of the *Guidelines for the Ecologically Sustainable Management of Fisheries – 2nd Edition*.

Condition E

By 1 December 2022 the Northern Territory Department of Industry, Tourism and Trade must ensure that data collection and data validation systems are in place, sufficient to ensure that all necessary fishery data, including protected species interaction data is accurately reported and available for management of the Offshore Net and Line Fishery.

Condition F

The Northern Territory Department of Industry, Tourism and Trade must:

- a) By 1 September 2022, develop precautionary, interim ecological risk mitigation strategies for any bycatch or protected species which have been caught or interacted with in numbers greater than those considered in the 2020 Ecological Risk Assessment (ERA) for the Offshore Net and Line Fishery. These ecological risk mitigation strategies must include, but are not limited to, plans for the Australian snubfin dolphin (*Orcaella heinsohni*), leatherback turtle (*Dermochelys coriacea*), dwarf sawfish (*Pristis clavata*), dugong (*Dugong dugon*), giant manta rays (*Mobula birostris*) and pygmy devilrays (*M. eregoodoo* and *M. kuhlii*). The ecological risk mitigation strategies must also be developed for winghead sharks, and any other taxa found to be at high risk or greater in the 2020 ERA.
- b) By 1 December 2022, implement the ecological risk mitigation strategies. These must remain in effect until it can be determined whether risks to these species from the operation of the fishery are sustainable. After that time, all reasonable steps must be taken to minimise future interactions and ensure impacts remain sustainable.

Condition G

By 27 June 2024, the Northern Territory Department of Industry, Tourism and Trade must provide an updated Ecological Risk Assessment to the Department of Agriculture, Water and Environment that considers all species interacted with by the Offshore Net and Line Fishery.

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:

1. 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.
2. 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 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 \$962 (as of 16 December 2021) (GST inclusive). You may be eligible to pay a reduced fee of \$100.00 if:

1. you are receiving legal aid for your application;
2. 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;
3. you are in prison or lawfully detained in a public institution;
4. you are under 18 years of age; or
5. 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 \$962, you get back \$862. 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
Sustainable Fisheries Section
Department of Agriculture, Water and the Environment
GPO Box 858
Canberra ACT 2601

Email: sustainablefisheries@awe.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 <https://www.awe.gov.au/about/reporting/freedom-of-information>. Please contact the Freedom of Information Contact Officer at foi@awe.gov.au for more information.