



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

Mr Wez Norris  
Chief Executive Officer  
Australian Fisheries Management Authority  
Box 7051  
Canberra BC  
Canberra ACT 2610

Dear Mr Norris

I am writing to you as Delegate of the Minister for the Environment in relation to the wildlife trade assessments of the Commonwealth Southern and Eastern Scalefish and Shark Fishery (the fishery) under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

In July 2021, the Australian Fisheries Management Authority (AFMA) 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 12 February 2025. This approval is contingent on eight conditions being met by AFMA 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 four conditions being met by AFMA (**Attachment B**).

Key amongst the conditions in the two approvals is a need to develop alternative methods that will provide an index of abundance (relative or absolute) to determine the status of Conservation Dependent stocks. The conditions also require AFMA to develop and implement a statistically robust, independent, quantitative and validated monitoring and data collection regime in the fishery. This may involve the use of electronic monitoring, onboard observers or other means to inform the sustainable management of target, byproduct and bycatch species, including protected species.

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 AFMA'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

11 February 2022

**Part 13A Conditions on the approved Wildlife Trade Operation declaration for the Commonwealth Southern and Eastern Scalefish and Shark Fishery – February 2022**

**Condition 1**

Operation of the Commonwealth Southern and Eastern Scalefish and Shark Fishery must be carried out in accordance with the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003* in force under the *Fisheries Management Act 1991* (Cth) and the Fisheries Management Regulations 2019 (Cth).

**Condition 2**

The Australian Fisheries Management Authority must inform the Department of Agriculture, Water and the Environment of any intended material changes to the Commonwealth Southern and Eastern Scalefish and Shark Fishery management arrangements that may affect the assessment against which *Environment Protection and Biodiversity Conservation Act 1999* decisions are made.

**Condition 3**

The Australian Fisheries Management Authority 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 Australian Fisheries Management Authority must produce and present reports on the Commonwealth Southern and Eastern Scalefish and Shark 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**

The Australian Fisheries Management Authority must:

- a) ensure that management measures are in place to meet the objectives of rebuilding strategies and management strategies, for species listed as conservation dependent under the *Environment Protection and Biodiversity Conservation Act 1999*
- b) by 12 August 2024, investigate and develop alternative methods that will provide an index of abundance (relative or absolute), to determine the status of conservation dependent stocks
- c) develop a research plan under the Orange Roughy Rebuilding Strategy which identifies options for monitoring stock status for all orange roughy stocks within the area of the Commonwealth Southern and Eastern Scalefish and Shark Fishery
- d) continue to evaluate and report to the Department of Agriculture, Water and the Environment on the effectiveness of rebuilding strategies and management strategies for conservation dependent listed species.

**Condition 6**

The Australian Fisheries Management Authority must:

- a) continue regular reviews of ecological risk assessments in the fishery, ensuring that the cumulative impact of all Commonwealth commercial fisheries in the area is taken into account
- b) continue to implement management actions to address and mitigate risks and impacts for species that are identified as high risk, including data collection for species that are assessed as high risk because of missing information.

**Condition 7**

The Australian Fisheries Management Authority must:

- a) by 12 August 2024, develop and implement a statistically robust, independent, quantitative and validated monitoring and data collection regime in the Commonwealth Southern and Eastern Scalefish and Shark Fishery. This may involve the use of electronic monitoring, onboard observers, or other means.
- b) ensure the information collected must be sufficient to reliably demonstrate the accuracy of all reported catch, effort and protected species interaction data collected via logbooks. This regime needs to gather suitable data on the level of catch, discards and interactions in the fishery to inform the sustainable management of target, byproduct and bycatch species (including protected species).

**Condition 8**

The Australian Fisheries Management Authority must:

- a) continue to monitor catch and effort data and implement programs to improve the accuracy of identification and recording of all non-target shark species
- b) continue to refine risk assessment processes for target, byproduct and bycatch shark stocks, seeking to include all available data and to include consideration of cumulative impacts
- c) by 12 August 2024, finalise Ecological Risk Assessments for all major Commonwealth Southern and Eastern Scalefish and Shark Fishery sectors to identify high risk shark species and develop appropriate mitigation responses. These are to be reviewed annually, including fishery indicator data as a means of monitoring ongoing risk to shark species.

**Part 13 Conditions on the Accreditation of Management Regime**

**Condition A**

The Australian Fisheries Management Authority must:

- a) continue to maintain management measures clearly directed toward limiting the impact of fishing activity on Australian Sea Lions to levels which will help enable the recovery of the species, including all sub-populations
- b) continue to monitor and review the Australian Sea Lion Management Strategy, including the adequacy of the management measures, consistent with the review framework in the Strategy, in consultation with marine mammal experts.

**Condition B**

The Australian Fisheries Management Authority must:

- a) collect and report data on dolphin interactions, where possible to species level, and continue to refine management measures to minimise the bycatch of dolphins in gillnets
- b) continue to monitor and review the Gillnet Dolphin Mitigation Strategy, including the adequacy of the management measures, consistent with the review framework in the Strategy, in consultation with marine mammal experts.

**Condition C**

The Australian Fisheries Management Authority must:

- a) continue to work with industry and relevant experts to develop and implement management measures to minimise mortality of seals in the Commonwealth Trawl Sector of the fishery
- b) by 12 August 2024, develop a seal mitigation strategy in an effort to minimise seal interactions. The strategy should be developed in consultation with marine mammal experts.

**Condition D**

The Australian Fisheries Management Authority must:

- a) continue to ensure efficient and effective seabird management plans remain in place for the Commonwealth Trawl Sector and Gillnet Hook and Trap sector automatic longline vessels
- b) ensure adequate monitoring is in place to ensure compliance with seabird management plans
- c) continue to work with industry and relevant experts to develop and implement management measures to minimise mortality of seabirds in the Commonwealth Trawl Sector and for Gillnet Hook and Trap sector automatic longline vessels.

## 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:

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.

---

<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 \$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](mailto: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](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 <https://www.awe.gov.au/about/reporting/freedom-of-information>. Please contact the Freedom of Information Contact Officer at [foi@awe.gov.au](mailto:foi@awe.gov.au) for more information.