



Australian Government

Department of the Environment and Energy

Senate Environment and Communications References Committee

Inquiry into shark mitigation and deterrent measures

Answers to questions taken on notice by the Department of Environment and Energy
at the Committee's hearing held in Canberra on 14 November 2017.

November 2017

Question 1. Will the Department be involved in the release of the report or will it be coming from CSIRO or the scientists themselves?

Proof Committee Hansard, page 2

Findings from the National Environmental Science Program's Marine Biodiversity Hub project A3 – *A national assessment of population status of white sharks*, led by the CSIRO, will be released by the Hub and made publicly available at <https://www.nespmarine.edu.au/>.

Question 2. Will there be a briefing process that the Minister is going to have on this report, will it come directly from NESP and will they give the Department the exact date?

Proof Committee Hansard, page 3

The Department understands that the east coast white shark population estimates are currently in the final stages of peer review, but no exact release date has been provided. The Minister will be briefed on the findings prior to the public release of the report by the Marine Biodiversity Hub. The Hub is contractually obligated to give the Department at least 5 days' notice of any publication, and has consistently met or exceeded this requirement.

Question 3. Has a section 158 exemption ever been used twice for the same activity?

Proof Committee Hansard, page 3

The Department notes that two actions subject to individual exemption decisions are not considered to be the "same activity". If a referral is received, the Minister may request referral of a larger action in accordance with section 74A, otherwise each new proposal is treated as a separate action under the EPBC Act.

In 2000 an exemption was granted to the Australian Maritime Safety Authority for actions undertaken in accordance with the *National Plan to Combat Pollution of the Sea by Oil and Other Noxious and Hazardous Substances*. In 2014, when the national plan was replaced by the *National Plan for Maritime Environmental Emergencies*, the first exemption was revoked and an exemption was granted for actions undertaken in accordance with the new plan.

Question 4. Did the Department seek any additional information from the NSW Government in relation to considering the application?

Proof Committee Hansard, page 4

The Department did not require additional information from the NSW Government in relation to the exemption application. There was sufficient information available for the Department to make a recommendation to the Minister.

Question 5. Can the Department provide the application for the second exemption and all correspondence between the NSW and Australian governments relating to that application?

Proof Committee Hansard, page 4

The NSW Government's application letter is publicly available on the Department's website at <http://epbcnotices.environment.gov.au/exemptionnotices/>. Following receipt of the

application, the Minister wrote to the NSW Government on 26 October 2017 to give a copy of the notice. The Department emailed NSW DPI an electronic copy of the Minister's letter and notice on 27 October 2017. Copies of these are attached.

Question 6. How many people within the Department looked at the NSW request for the second exemption?

Proof Committee Hansard, page 4

The answer given at the hearing is correct: 10-15 people, including senior executives.

Question 7. Are there any other examples where surveys of community sentiment have influenced a section 158 exemption from the EPBC Act?

Proof Committee Hansard, page 7

In 2016, Minister Hunt granted an exemption for the dispersal of the Grey-headed Flying-fox camp at Batemans Bay. The Minister stated that the evidence on which his findings were based included attendance at a public meeting convened by the Eurobodalla Shire Council at which he heard about the impacts of the camp on the local community.

Question 8. When was the NSW Government informed that the minister had granted the exemption for the second trial and on what date did they receive a copy of the notice?

Proof Committee Hansard, page 10

The notification letter was dispatched from the Department on 27 October 2017. The Department also emailed an electronic copy to the NSW Department of Primary Industries on 27 October 2017.

Question 9. When did the signed notice of decision reach the Department?

Proof Committee Hansard, page 10

The electronic copy was received 26 October 2017, 3:53pm.

Question 10. How many business days elapsed between when you received the notice of decision and when that was published?

Proof Committee Hansard, page 10

Ten business days.

Question 11. Has the Department investigated any shark control activities for potential contraventions of the EPBC Act?

Proof Committee Hansard, page 11

The Department has made enquiries regarding two shark control activities, the Western Australian drumlines in 2014 and the Queensland permit renewal for the use of drumlines in 2015. No compliance action was taken in relation to those two matters.

Question 12. Were there any tagged sharks caught in the mesh nets?

Proof Committee Hansard, page 12

In the first trial the NSW Government reported data on the number of target sharks caught by the nets, and the number alive and dead. It did not report whether those sharks had been tagged or not.

Question 13. Can the Department provide more detail about the point in the process when social and economic considerations might occur?

Proof Committee Hansard, page 13

Following a controlled action decision, the Department will consider economic and social matters during the assessment stage, and provide relevant information on economic and social matters to the Minister or delegate in its recommendation about whether to approve the action. Under section 136 of the EPBC Act, the Minister or delegate must consider economic and social matters, along with matters relevant to the controlling provisions, in deciding whether or not to approve the taking of the action and what conditions to attach to an approval.



THE HON JOSH FRYDENBERG MP
MINISTER FOR THE ENVIRONMENT AND ENERGY

MS17-001442

The Hon Niall Blair MLC
Minister for Primary Industries
Minister for Regional Water
Minister for Trade and Industry
GPO Box 5341
SYDNEY NSW 2001

26 OCT 2017

Dear Minister

I refer to your letter of 4 October 2017 concerning a request for an exemption under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) to conduct further north coast shark mesh net trials during the period of 1 November 2017 to 31 October 2019 inclusive.

On the basis of the information you provided, including the potential for research outcomes of the proposed trial to assist in the design of future shark mitigation strategies at various locations across Australia, I am satisfied that the trial is in the national interest, and that sections 18, 18A, 20, 20A, 23 and 24A of Part 3, and Part 7 through to Part 9 of Chapter 4 of the EPBC Act should not apply in relation to this action. This exemption is provided without prejudice and should not be seen as indicating any future decisions under the EPBC Act in relation to shark mitigation activities.

Please find enclosed with this letter a copy of the notice granting this exemption. This exemption only relates to the specific actions outlined in the notice, and applies for the period of the trial. A copy of the notice and a statement of my reasons for granting it will be published on the Department of the Environment and Energy's website within 10 business days.

The Department has been involved in a working group with the NSW Department of Primary Industries to discuss matters of common interest relating to the first north coast meshing trial. The working group has been useful for providing updates on the trial's implementation and its impacts on matters of national environmental significance. I propose the working group continues to meet over the course of the further trials.

Yours sincerely

JOSH FRYDENBERG



Commonwealth of Australia

Exemption under section 158 of the Environment Protection and Biodiversity Conservation Act 1999 (Cth)

I, Josh Frydenberg, Minister for the Environment and Energy, acting under section 158 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) and being satisfied that it is in the national interest to do so, exempt the State of New South Wales, and those acting on behalf of the State of New South Wales, from sections 18, 18A, 20, 20A, 23 and 24A of Part 3, and Part 7 through to Part 9 of Chapter 4 of the EPBC Act, in relation to the following action:

Further north coast shark mesh net trials during the period of 1 November 2017 to 31 October 2019 inclusive, in accordance with the *Operational requirements for any further NSW north coast shark mesh net trials* (September 2017) attached to the New South Wales Minister's exemption request letter dated 4 October 2017.

This exemption takes effect on 1 November 2017.

Minister for the Environment and Energy

Dated the 26 day of October 2017

From: Roberts, Dane
Sent: Monday, 27 November 2017 10:26 AM
To:
Subject: FW: Signed letter and exemption - MS17-001442 [SEC=UNCLASSIFIED]
Attachments: MS17-001442-Signed letter - Blair.pdf

From: Roberts, Dane
Sent: Friday, 27 October 2017 11:15 AM
To:
Subject: FW: Signed letter and exemption - MS17-001442 [SEC=UNCLASSIFIED]

Hi

Attached is the signed letter and notice. We have up to 10 business days here from yesterday to publish the notice and a statement of reasons on our website

Cheers
Dane

Sent with Good (www.good.com)

From:
Sent: Friday, 27 October 2017 10:31:20 AM
To: Roberts, Dane
Subject: Signed letter and exemption - MS17-001442 [SEC=UNCLASSIFIED]

Good morning Dane,

Please find attached the signed letter and exemption.

Kindest,

Northern NSW Assessments | Environment Standards Division
Department of the Environment and Energy
GPO Box 787 Canberra ACT 2601