

Director General
Department of the Premier and Cabinet
Dumas House
2 Havelock Street
WEST PERTH WA 6005

Our Ref 14-522310

**NOTICE UNDER SECTION 39A(3)
*Environmental Protection Act 1986***

PROPOSAL: Shark Drum Line Deployment, Management and Associated Services
LOCATION: Within defined marine monitoring areas in the Metropolitan and South West regions
PROPONENT: Director General of the Department of the Premier and Cabinet on behalf of the State of Western Australia
DECISION: Not Assessed – Public Advice Given

The Environmental Protection Authority (EPA) understands that you are undertaking the above proposal which has been referred to the Authority for consideration of its potential environmental impact.

This proposal raises a number of environmental issues. However, the EPA has decided not to subject this proposal to the environmental impact assessment process and the subsequent setting of formal conditions by the Minister for Environment under Part IV of the *Environmental Protection Act 1986* (EP Act). Nevertheless, the EPA provides the attached advice to you as the proponent, and other relevant authorities on the environmental aspects of the proposal.

The EPA's decision to not assess the proposal is open to appeal. There is a 14-day period, closing 26 March 2014. Information on the appeals process is available through the Office of the Appeals Convenor's website, www.appealsconvenor.wa.gov.au, or by telephoning 6467 5190.



Dr Paul Vogel
CHAIRMAN

For the Environmental Protection Authority
Under Notice of Delegation No. 30 dated 24 January 2013

12 March 2014

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PUBLIC ADVICE UNDER SECTION 39A(7) ENVIRONMENTAL PROTECTION ACT 1986

Background

As part of a broader program of shark hazard mitigation (see details below), the Government of Western Australia is implementing a shark hazard mitigation strategy which involves the deployment of baited drum lines to capture target species of large sharks (the proposal).

The proposal involves the deployment of up to 72 baited drum lines and rapid response within marine monitoring areas (MMA) in the metropolitan and the South West regions until 30 April 2014. The proposal commenced on 25 January 2014 in the South West and 31 January 2014 in the metropolitan region.

The target species include white sharks (*Carcharodon carcharias*), tiger sharks (*Galeocerdo cuvier*) and bull sharks (*Carcharhinus leucas*) over three metres in length. The non-target species caught, including all sharks less than three metres are to be released alive if possible.

The proposal was referred to the Environmental Protection Authority (EPA) under section 38 of the *Environmental Protection Act 1986* on 14 January 2014.

The EPA received a considerable number of public comments during the seven day public comment period about the proposal. The comments and issues raised have been considered by the EPA in its decision and the advice and recommendation detailed below.

The EPA has considered the proposal in accordance with the requirements of the *Environmental Protection Act 1986* (EP Act) and the *Environmental Impact Assessment Administrative Procedures 2012*. In making its decision on whether to assess the proposal, the EPA considered the 10 principles of the significance test as detailed in clause 7 of the *Environmental Impact Assessment Administrative Procedures 2012*, including:

- values, sensitivity and quality of the environment which is likely to be impacted;
- extent (intensity, duration, magnitude and geographic footprint) of the likely impacts;
- consequence of the likely impacts (or change);
- resilience of the environment to cope with the impacts or change;
- cumulative impacts with other projects;
- level of confidence in the prediction of impacts and the success of proposed mitigation;
- objects of the Act, policies, guidelines, procedures and standards against which a proposal can be assessed;
- presence of strategic planning policy framework;

- presence of other statutory decision-making processes which regulate the mitigation of the potential effects on the environment to meet the EPA's objectives and principles for EIA; and
- public concern about the likely effects of the proposal, if implemented, on the environment.

1. Environmental Factor

The EPA identified **Marine Fauna** to be the preliminary environmental factor relevant to this proposal. The EPA's objective for this environmental factor is to maintain the diversity, geographic distribution and viability of fauna at the species and population levels.

No other preliminary environmental factors were identified as relevant to the EPA's decision as to whether or not to assess this proposal.

The EPA considers that, based on information:

- provided with the referral of the proposal under section 38A of the EP Act;
- derived from its own inquiries; and,
- derived from comments received from the public,

and having regard to the objects and principles set out in Part 4A of the EP Act, the proposal does not warrant formal environmental impact assessment under the EP Act.

2. Advice and Recommendations regarding Environmental Issues

The EPA received a considerable number of public comments during the seven day public comment about the proposal. In total the EPA received in the order of 10,000 comments through the EPA's consultation hub, 450 emails (half of which were pro forma) and approximately 12,000 comments forwarded from the Conservation Council of Western Australia.

The majority of the comments received were opposed to the proposal and requested the EPA undertake a formal assessment. Specifically, comments were of the view that the EPA should set the level of assessment at Assessment on Proponent Information (API), Category B (environmentally unacceptable) or at Public Environmental Review (PER) to provide for the opportunity for public submissions to be submitted on the proposal.

The majority of public comments focused on the following issues:

- the use of science based evidence to support the use and effectiveness of the program to reduce shark attacks;
- the need to evaluate non-lethal alternatives such as early detection, alarm systems and community education;

- the need for public engagement in the development and implementation of a broader program; and
- the potential ecological impacts associated with the program such as loss of apex predators on ecosystem processes, impacts to the white shark population and impacts to other marine fauna through by-catch (environmental issues detailed further below).

The majority of the public comments received were about the activity of deploying drum lines for catching and destroying sharks regardless of the duration and timing of deployment (as defined in this proposal).

In considering the potential impacts of the proposal on marine fauna, the EPA has had particular regard to:

- the findings and conclusions set out in the Department of Fisheries (DoF)'s *Research Advice on the Proposed Shark Mitigation Strategy using drum lines for January to April 2014*, which was published on the EPA's website along with the referral information on 12 February 2014. The advice concluded that the proposal posed a negligible risk to the target species of sharks, most of the non-target species of marine fauna and the broader ecosystem. The Dusky whaler was the only species identified as potentially requiring additional management interventions resulting from the strategy but this was considered to be unlikely;
- the mitigation strategies to reduce impacts to non-target species including the use of significantly large hooks, the use of no more than 36 drum lines in each marine monitoring area, and the daily monitoring and maintenance of drum lines from 6:00am to 6:00pm, seven days a week,
- the most up to date catch data which shows that it is mostly tiger sharks caught and the most recent advice received from the DoF which reiterated its advice that the proposal is still unlikely to have a measurable impact on the total tiger shark population in WA and therefore still represents a negligible risk; and
- the fact that there have been no by-catch of marine mammals and turtles, which increases the confidence in the DoF's predictions in its Research Advice.

As such, the EPA has concluded that the EPA's objectives for Marine fauna can be met with a high level of confidence because of the limited extent of the proposal in terms of the duration and geographic footprint. The EPA also considers that impacts to target and non-target species can be regulated under the *Fish Resources Management Act 1994* and the *Wildlife Conservation Act 1950*. Accordingly the EPA considers that the proposal is unlikely to have a significant effect on the environment and does not warrant formal environmental impact assessment under the EP Act.

3. Other advice

Broader shark hazard mitigation program

The EPA notes that the current proposal for shark drum line deployment, management and associated services is a proposal within a broader shark hazard mitigation program.

The Government's shark hazard mitigation program includes:

- aerial and beach shark patrols;
- research into shark hazard mitigation strategies including the use of non-lethal alternatives;
- improved monitoring of tagged sharks for short term response and longer term research;
- improved coordination with respect to shark sightings and warning systems; and
- community awareness and engagement.

The EPA supports the continuation and further development of a broader program to monitor and research shark behaviour and investigate non-lethal alternatives in order to further minimise the potential environmental impacts to marine fauna.

Should there be intentions to implement a new proposal to deploy baited drum lines on an ongoing basis after 30 April 2014, then the EPA recommends that this new proposal be referred to the Authority in the context of the Government's broader shark hazard mitigation program. The referral should be accompanied by information and results from this current proposal and its environmental impacts, including the type, size, sex and number of species caught.