



Guidelines for fishing for sharks posing an imminent threat to public safety

Background

Following five fatal shark attacks in Western Australia over the twelve months to September 2012, the Government announced additional policies to mitigate the risk of further attack.

One of the policies created the potential for a protected shark species to be taken before a fatal attack where it is deemed to be posing an imminent threat to public safety.

This policy only applies in State waters, (typically within three nautical miles of shore) where the relevant Minister has issued an appropriate exemption for this purpose. The policy does not apply in Commonwealth waters where a similar exemption would be required from the Federal Environment Minister.

An exemption had previously been issued by the Minister for Fisheries allowing authorised Department of Fisheries, (Department) officers to take certain sharks considered to be posing an imminent threat to public safety in State waters. Imminent threat had been interpreted under that exemption as applying to situations where:

- a fatal shark attack had already occurred;
- the relevant shark appeared to be remaining in surrounding waters; and
- there was a reasonable likelihood of people also being in those waters.

The following guidelines have been developed to assist decision makers¹, in applying the new exemption and Government policy. The guidelines are not definitive as it is recognized that every situation where they are applied is likely to be different. Decision makers will, therefore, need to exercise judgment based on the available information which may be limited.

Confirmed sightings

Experience has shown that the identification of sharks can be difficult, with various reported sightings subsequently being attributed to sea mammals and fish. Accordingly, sightings should be verified before consideration is given to the threat of imminent attack.

Verification of a sighting should have regard to:

- the experience of the person making the sighting. (For example, sightings from experienced commercial fishers, Surf Life Saving WA representatives and officers from the Department and other relevant government agencies have tended to be more reliable than reports from the general public);

¹ In most instances it is expected that the decision maker will be the Director General of the Department of Fisheries

- the amount of detail the informant is able to provide on the shark and its' behaviour; and
- whether the sighting is supported by photographic evidence or corroborated by other reported sightings.

Determining imminent threat

Where a shark attack has been confirmed, consideration should be given to whether the shark continues to pose an imminent threat of further attack. Factors to be considered in this assessment should include:

- the veracity of the report;
- whether a shark has been sighted in the vicinity of the attack. (These sightings should typically be reported within hours of the attack to be relevant, though further sightings may be considered relevant in certain circumstances, particularly where the sightings are consistent with known facts about the shark that conducted the attack);
- the likelihood that the subsequent sighting is the same shark involved in the original attack; and
- the likelihood of people entering or remaining in the water without knowing the imminent threat posed by the shark.

In any event, an order to set capture gear may be warranted following a fatal attack in an effort to recover coronial evidence.

In the absence of an attack having taken place, a confirmed shark sighting may still be considered to pose an imminent threat in circumstances where there is considered to be a High Hazard and a High Risk.

High hazard

Circumstances may be considered a high hazard when the confirmed sighting relates to a shark that is likely to be a species with a history of attacking people.

High risk

Circumstances may be considered a high risk where the confirmed sighting occurs:

- within proximity of popular beaches. (Guidance may be taken in this regard to the Surf Life Saving WA beach closure protocol which relates to sightings within one kilometre);
 - during daylight hours;
 - in conditions that are likely to be conducive to people using the water; and
 - measures to clear people from the water and keep them out for a reasonable period are unlikely to be effective in removing the imminent threat. (Guidance may be taken in this regard to the Surf Life Saving WA beach closure protocol which provides for beaches to be closed for 24hours following the last sighting after a fatal attack and one hour where a beach is closed in the absence of an attack).
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Any assessment of the circumstances should consider whether there is a plausible explanation(s) for the shark sighting that is likely to be temporary. In some circumstances there may be prevailing conditions, such as the presence of a whale carcass, or seasonal fish aggregations which explain the presence of a shark. These circumstances may be consistent with high hazard and high risk but conducive to management without an order to set capture gear being required, (bearing in mind that an order to set capture gear should be predicated on public safety grounds, rather than public amenity).

Assessment of the circumstances should also recognise that an order to set capture gear may heighten the risk of attack. For example:

- the setting of capture gear may attract additional sharks to the proximity of popular beaches; and
- capturing a tagged shark may eliminate a key indicator of a temporary high hazard in the proximity of a popular beach.

Any consideration of the circumstances should be predicated on the expectation that people will exercise a reasonable level of responsibility for their own actions, including abiding by instructions from authorities to remain out of the water.

Negating an imminent threat

Where a shark is found to be posing an imminent threat of attack, consideration should initially be given to options for negating the threat.

Reasonable efforts should be made to inform people, (including relevant authorities) about the imminent threat. Standard shark hazard response procedures should also be implemented, such as:

- closing adjacent beaches to the public;
- ordering people from the water;
- re-tasking the shark surveillance helicopter(s) operated by Surf Life Saving WA;
- post sighting or incident details on social media services; and
- using additional media to warn people of the threat.

Feasibility and capability

Where a shark is considered to be posing an imminent threat of attack and reasonable efforts to negate the imminent threat have failed, the feasibility and capability of taking the shark should be assessed. This assessment should have regard to whether:

- a commercial fisher, who has been contracted and authorised for the purpose, can respond to the location within one hour of the sighting;
 - a suitable rigid hulled vessel with appropriately trained personnel, capture equipment and bait can respond to the location within one hour of the last confirmed sighting if a contracted commercial fisher is not available;
 - the master of the vessel has deemed current and forecast marine conditions as safe working conditions for the deployment and retrieval of the capture gear, (with or without a hooked shark);
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- the relevant authorities (such as local Government, land manager or surf lifesaving clubs) have agreed to administer beach closures in waters within proximity of areas where capture gear is set;
- the setting of capture gear could attract additional sharks to the area or pose an unreasonable risk of capture/entanglement of other wildlife;
- the setting of capture gear and potential taking of a shark will pose an unreasonable risk to the health and safety of relevant staff, contractors and the community; and
- the long-term benefit to public safety of tagging the shark (which will add to the knowledge of shark behaviours), might outweigh the arguments for destroying a captured shark.

Consultation

Where the decision maker believes it may be appropriate to issue an order for a shark(s) be taken due to an imminent threat to public safety, it is desirable that he/she first consult with the Director General of the Department of Environment and Conservation (DEC) and the Director General of the Department of the Premier and Cabinet, (DPC) unless he/she considers the threat so imminent that action must be taken immediately.

Where possible, the Directors General of DEC and DPC should be provided with a copy of the proposed decision sheet, (**Attachment A**) to assist their consideration. In the event that either, or both, of the Directors General are unavailable, the decision maker is authorised to proceed.

Managing the carcass

If a shark is subsequently captured and destroyed, consideration also needs to be given to whether the shark carcass should be retained or disposed of at sea.

Where the shark is suspected of having been involved in a fatal attack the carcass should be retained if possible and surrendered as potential coronial evidence.

In other instances, efforts should be made to maximize the research value from the carcass as such work could potentially provide insights into alternative methods to deter sharks away from humans. The carcass should be retained for research by the Department or other research providers where practical. However, it is recognized that circumstances may not be conducive to retaining the carcass. For example, many locations around the State do not have suitable coastal facilities for unloading a one or two tonne shark carcass and then transporting it to appropriate research centres.

Where retention of the shark carcass is not practical, efforts should still be made to maximize the research value through options such as the securing of tissue samples before the carcass is disposed of at sea.

Advice should also be provided to the relevant State and Federal government authorities where the order to set capture gear results in a protected species being destroyed.

Rescinding an order

The order to take a shark is only expected to remain in place while there continues to be an imminent threat of attack, (refer above). A decision to rescind the order should have regard to whether:

- there have been any further sightings of a shark in the vicinity;
- reasonable period has elapsed to significantly diminish the likelihood of a shark being captured that poses an imminent threat. (Guidance may be taken in this regard to the Surf Life Saving WA beach closure protocol mentioned above);
- continued bait in the water may unnecessarily attract other sharks to the area; and
- reasonable and adequate steps have been undertaken to inform people of the reported hazard.

A decision maker specified in the exemption, (typically the Director General of the Department) may rescind an order to set gear and take a shark if he/she is satisfied that the imminent threat has passed. Information regarding the decision should then be conveyed to the public.

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