

Sea Shepherd Australia Limited

Australian Operations Base
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Williamstown VIC 3016
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www.seashepherd.org.au

ABN: 3812 333 9499



Nicki Ward
Department of the Environment
South West Section
Environment Assessment and Compliance Division
nikki.ward@environment.gov.au

4 December 2014

Dear Ms Ward,

This letter serves as an official complaint from Sea Shepherd Australia regarding the actions of the Western Australian Department of Premier and Cabinet and the Western Australian Department of Fisheries for breaching the Federal Environmental Protection and Biodiversity Conservation (EPBC) Act 1999 when deploying drum lines to catch and kill two Great White sharks on 2 October, before officially receiving Federal written permission to do so.

Under ordinary circumstances, a body corporate which deployed drum lines with the intent of killing an IUCN red listed protected species of national and global significance without receiving written permission from the Federal Government would be charged and would face heavy fines. Despite the fact that the Western Australian Government received their exemption after they deployed drum lines, they have breached the EPBC Act.

As revealed last week in question time, in the Western Australian Parliament, the State deployed drum lines at Wylie Beach in Esperance around 90 minutes before receiving written permission to do so. However, it has further been revealed that they deployed the lines before even formally writing to the Commonwealth for an exemption. At the time that the drum lines were deployed, the Commonwealth was still considering the drum line program that it had determined was subject to Federal assessment approval under the EPBC Act. Under section 74AA of that legislation, taking action in furtherance of the proposal while it is undergoing Federal review is an offence.

The State's actions were not protected by the exemption given to it by the Federal Government in January 2014 under section 158 of the EPBC Act, because that exemption was limited to the trial drum line program that ran from 26 January to 30 April 2014. Under the EPBC Act, a body corporate which takes an action that is likely to have a significant impact on a matter of national environmental significance without first obtaining approval, can be liable for a civil penalty of up to \$5.5 million or for a criminal penalty of seven years imprisonment and/or a penalty of \$46,200.

Sea Shepherd finds it appalling that the Western Australian Departments of Premier and Cabinet and the Department of Fisheries broke environmental protection laws after the state Environmental Protection Authority had already cast doubts on the impact of the proposed drum line program.

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Many Western Australians are fed up with the State Government acting as though they are above the law and Sea Shepherd would like the Commonwealth to ensure that environmental protection laws are upheld in this case.

Sea Shepherd remains concerned that the Western Australian Government was more focused on revenge killing than Federal environmental laws and these actions further highlights Premier Barnett's misguided belief that rogue sharks exist, even when the WA Fisheries' website disproves this nonsense. The fact that the Western Australian Government ignored Federal Environmental Protection laws while the imminent threat policy is currently being reworded is also of great concern to us.

I look forward to hearing from you regarding this complaint and urge the Commonwealth to take preventative action to ensure that a similar incident in the future does not occur.

With kind regards

A handwritten signature in blue ink that reads "Jeff Hansen".

Jeff Hansen
Managing Director
Sea Shepherd Australia