

**Senate Standing Committee on Environment and Communications**  
**Legislation Committee**  
Answers to questions on notice  
**Environment portfolio**

**Question No:** 36  
**Hearing:** Additional Estimates  
**Outcome:** Outcome 1  
**Programme:** Wildlife Heritage and Marine Division (WHM)  
**Topic:** Shark reservations  
**Hansard Page:** N/A  
**Question Date:** 16 February 2016  
**Question Type:** Written

**Senator Siewert asked:**

1. On 6 January 2015, the Australian Government entered reservations against three thresher shark species (big-eye, pelagic and common) and two hammerhead species (scalloped and great) under the Convention on the Conservation of Migratory Species of Wild Animals. Will Australia lift these reservations under the Convention and accept that recreational fishers should not take these internationally threatened species?
  - a) How often did the Department meet with recreational fishers on this matter?
  - b) Which peak organisations did the Department meet with representing recreational fishers on this matter?
2. How many Commonwealth listed threatened albatrosses and petrels of species have been caught and released, or killed by Australian fishing vessels in Australian waters since 2010?
  - a) What are reasons for the ongoing take of these listed threatened species?
  - b) Does the Government have any planned measures to improve the measurement of the number of seabirds caught in trawling operations?
  - c) Does the Government have any details of the number of listed albatross and petrel species that have been caught and released, or killed by recreational fishing efforts in Australia on an annual basis?
  - d) Does the Government have plans to gather data on the impact that recreational fishing is having on seabirds in Australian waters through bycatch and interactions?

**Answer:**

1. The five shark species for which Australia entered a reservation were included on Appendix II of the Convention on the Conservation of Migratory Species of Wild Animals (CMS) in November 2014. Appendix II of the CMS is specifically for species with an unfavourable conservation status and obliges Parties to consider whether an agreement would benefit the species, and if so, endeavour to conclude such agreements.

However, once listed on the Appendices to the CMS, the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) requires that a species is included on the migratory species list under the EPBC Act. The EPBC Act does not distinguish between species listed on Appendix I and Appendix II of the CMS. Once included on the list of migratory species it becomes an offence to catch, kill, injure, take, or move the species in Commonwealth waters – effectively making it an offence for recreational fishers to catch the species (even if they are not targeting the species) and for commercial fishers to target the species. This goes well beyond the CMS obligations for an Appendix II listed species.

To manage the consequences of the EPBC Act in relation to Appendix II listed species, Australia entered a reservation to the inclusion of the five shark species on 15 January 2015. Without the reservation, recreational fishers who accidentally caught any of these five sharks, even when fishing in accordance with their permits, could be fined up to \$170,000 and face two years in jail.

Entering a reservation does not negate Australia's support for international action related to these species. Australia is continuing to fulfil the requirements of an Appendix II listing for these species through our participation in, and strong support for, the CMS Memorandum of Understanding on the Conservation of Migratory Sharks (Sharks MoU). Signatories to this MoU recently met in Costa Rica and decided to include these species on its Annex to facilitate cooperation and information sharing. Australia supported their inclusion on the MoU Annex.

Reservations are legitimate instruments that are a feature of all international conventions. The Australian Government will not remove the reservation until the unintended consequences of the EPBC Act are addressed.

- 1a) As outlined in the National Interest Analysis (NIA) on this matter that was tabled in Parliament on 10 February 2015, the Department of the Environment conducted extensive national consultation on the proposed CMS species listings with all key stakeholders in the lead-up to the CMS meeting in November 2014. Consultation commenced in June 2014 and included relevant Commonwealth departments, all state and territory environment and primary industries agencies, non-government conservation organisations and commercial and recreational fishing key stakeholders.

Prior to the CMS meeting in November 2014, consultation with State and Territory agencies, non-government conservation organisations and commercial and recreational fishing key stakeholders consisted of email and teleconference communication. Both non-government conservation organisations and fishing stakeholders were offered a number of opportunities to discuss the proposed CMS listings, with one teleconference occurring with each stakeholder group prior to the November meeting. Although further direct discussions were offered, neither group of stakeholders accepted the invitation.

It is important to note that these consultations focussed on the proposals to include a number of species in the Appendices to the CMS, not Australia's reservation. When considering options available to the Government following the CMS November meeting, consultation occurred with relevant portfolios within the Australian Government.

- 1b) As outlined in the NIA tabled on 10 February 2015, the Department of the Environment consulted with the following non-government organisations in the lead-up to the CMS meeting in November 2014:

***Conservation Non-government Organisations***

The following conservation non-government organisations were consulted on the proposed CMS species listings:

- Migratory Wildlife Network
- Humane Society International
- Australian Marine Conservation Society
- Whales Alive

- World Wide Fund for Nature
- International Fund for Animal Welfare
- Wilderness Society
- Birds Australia
- Wetlands International
- Australasian Wader Studies Group
- Whale and Dolphin Conservation Society
- TRAFFIC

### ***Commercial and Recreational Fishing Organisations***

The following commercial and recreational fishing organisations were consulted on the proposed CMS species listings:

- Commonwealth Fisheries Association
- Game Fishing Association of Australia
- Recfish Australia
- Australian National Sportfishing Association
- Australian Recreational Fishing Foundation
- Victorian Recreational Fishing Peak Body (VRFish)
- Tasmanian Association for Recreational Fishing (TARFish)
- National Seafood Industry Alliance
- Seafood Industry Victoria
- Cairns Marine

2. The Australian Fisheries Management Authority (AFMA) is primarily responsible for collecting information on interactions in Commonwealth-managed fisheries between commercial fisheries and protected species. All Commonwealth-managed fisheries have accreditation for interactions with protected species. Without this accreditation, fishing operators may be liable for prosecution for the capture of protected species.

As long as operators are fishing in accordance with the accredited fishery management arrangements it is not an offence to interact with a protected species. However, it is an offence for fishing operators not to report these interactions in their AFMA logbook.

To streamline the reporting process and reduce administrative burden on fishers, AFMA reports quarterly. Those reports can be accessed at: <http://www.afma.gov.au/sustainability-environment/protected-species-management/protected-species-interaction-reports/>.

- 2a) Listed threatened albatross and petrel species are opportunistic predators in the marine environment. Although information is lacking about the foraging patterns for all listed threatened albatross and petrel species, commonly these species forage across high southern latitudes including in Australian jurisdiction. Depending on the species, oceanic prey may be taken by surface seizing or plunge diving. Some species are mostly diurnal feeders, while others mostly feed at night. Many species are known to

follow fishing vessels to access fisheries discards and/or to attempt to scavenge baited hooks. Larger species, such as albatrosses, also conduct secondary attacks on baited hooks and discards brought back to the surface by diving species.

The foraging behaviours of listed threatened albatross and petrel species put these species at risk of incidental catch (or bycatch) in capture fisheries. This arises in line fisheries due to being caught or entangled by the fishing gear, and in net fisheries from collisions with and/or entanglement in the fishing gear.

Incidental catch (or bycatch) during oceanic longline fishing is mitigated principally through line weighting, night setting and using bird scaring lines — which deter seabirds from accessing the baited hooks during setting, and through bird exclusion devices — which deter seabirds from accessing baited hooks during hauling. Incidental catch (or bycatch) is mitigated during trawl fishing principally by using bird scaring lines, bird exclusion devices, and net binding — which help minimise the risk of collisions and entanglement with the fishing gear. As well, management of fisheries discards is required in various capture fisheries. In some fisheries discarding is prohibited during fishing operations, or is only permitted when the fishing gear is onboard the fishing vessel, or is only permitted in batches and away from the fishing gear.

- 2b) The Department of Agriculture and Water Resources is developing a National Plan of Action for reducing the incidental catch of seabirds in Australian fisheries. This national plan of action is expected to be finalised by early 2017. The national plan of action will include, among actions to reduce seabird mortality in Australia's fisheries, approaches for developing and maintaining a comprehensive understanding of the type and extent of interactions between seabirds and all fisheries throughout Australia, including concerning trawl fishing operations.
- 2c) No. Recreational fishing activities are managed by individual State and Territory governments. The Department of the Environment is not aware of this type of data being collected. However, the National Plan of Action being developed by the Department of Agriculture and Water Resources is proposing to investigate this issue further (see answer 2d)).
- 2d) The proposed National Plan of Action (see answer 2b)) will include approaches for developing and maintaining a comprehensive understanding of the type and extent of interactions between seabirds and all fisheries throughout Australia, including concerning recreational fishing.