



# Environmental Defenders Office

20 November 2023

Hon Tanya Plibersek MP  
Minister for the Environment and Water  
House of Representatives  
Parliament House  
Canberra ACT 2600

**By email:** [Minister.Plibersek@dcceew.gov.au](mailto:Minister.Plibersek@dcceew.gov.au)

Dear Minister Plibersek,

**Further information regarding requests for reconsideration of decision on referral numbered EPBC 2012/6406 and investigation into compliance with the *Environment Protection and Biodiversity Conservation Act 1999* (Cth)**

Environmental Defenders Office Ltd writes on behalf of our clients, the Australian Marine Conservation Society and Humane Society International Australia, to seek your urgent action to respond to the impacts of finfish farming on the endangered Maugean Skate (*Zearaja maugean*) and the Tasmanian Wilderness World Heritage Area.

We refer to our letters dated 23 August 2023 and 20 September 2023 (**enclosed**) in which we requested the following:

1. Reconsider and revoke the Controlled Action Decision relating to the Marine Farming Expansion in Macquarie Harbour (EPBC referral no. 2012/6406) on the basis of substantial new information about the impacts the action has or will have, or is likely to have on a matter protected by a provision in Part 3 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**) (section 78(1)(a)), and/or a substantial change of circumstances that were not foreseen at the time of the first decision, and which relates to the impacts the action has or will have, or is likely to have on a matter protected by a provision in Part 3 of the EPBC Act (section 78(1)(aa));
2. Direct the Department to investigate compliance with the Particular Manner Notice requirements attached to the Controlled Action Decision for EPBC referral no. 2012/6406; and
3. Direct the Department to investigate whether the finfish farming currently being undertaken in Macquarie Harbour is the same as the Action that was the subject of EPBC referral no. 2012/6406.

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Since the writing of the above-mentioned letters, we have obtained further scientific advice relevant to the basis for reconsideration under s78(1)(aa) of the EPBC Act regarding substantial change of circumstances not foreseen at the time of the first decision. We provide further details below.

### **Further science information**

The oceanic region around Tasmania is a global hotspot, with surface seawaters characterised by anomalously high warming. This is also reflected in coastal waters that are influenced seasonally on both the east and west coasts by warm-water currents. Just offshore Macquarie Harbour on the west coast, the fastest rate of warming is observed (0.5°C per decade) for Tasmanian coastal waters.<sup>1</sup> This peak rate may arise from outflow from Macquarie Harbour. Unfortunately, the authors were unable to obtain a reliable estimate of the trend within the harbour due to some significant data gaps after 2012. However, unequivocally inshore bays and protected waters of Tasmania, including Macquarie Harbour, show heightened seasonal changes (warmer in summer and cooler in winter). With the onset of both El Nino and a positive Indian Ocean dipole confirmed, a warmer than usual summer is predicted around the continent including Tasmania.<sup>2</sup> The National Oceanic and Atmospheric Administration's monthly diagnostic report indicates that there is a strong possibility that this El Nino could become a historically strong event (>2.0°C).<sup>3</sup> The outlook for water temperatures in Macquarie Harbour is, therefore, dire this summer. It follows that the drawdown of dissolved oxygen in subsurface waters of the harbour will be greatly exacerbated—by both the warmer waters decreasing the solubility of oxygen and the warmth also enhancing the rate of microbial decomposition processes exhausting dissolved oxygen. The warming of ocean temperatures, particularly during summer heat events, is a substantial change in circumstance not foreseen at the time of the first decision.

We have provided this further information to Mr Jacobi, Secretary for the Tasmanian Department of Natural Resources and Environment, and Mr Brooksbank, CEO of Hydro Tasmania to inform their decision-making regarding Macquarie Harbour and the Maugean Skate. We have **enclosed** those letters for your ready reference.

### **Request for correspondences**

We understand, in reference to an article in The Mercury,<sup>4</sup> that correspondence has occurred between yourself and Premier Rockliff regarding a letter sent from Premier Rockliff to Prime Minister Albanese in September regarding finfish farming in Macquarie Harbour and impacts on the Maugean Skate. We request copies of correspondence between yourself, Prime Minister Albanese and Premier Rockliff regarding finfish farming and the Maugean Skate.

Our client has a right to request access to this information under section 11 of the Freedom of Information Act 1982 (**FOI Act**). We make this request informally in the understanding that you may choose to provide access to this information outside of the formal request process while meeting the principles and objectives of the FOI Act.

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<sup>1</sup> Ridgway, K.R. and Ling, S.D., 2023. Three decades of variability and warming of nearshore waters around Tasmania. *Progress in Oceanography*, 215, 103046.

<sup>2</sup> <http://www.bom.gov.au/climate/outlooks/#/temperature/summary>. Accessed 1 Nov 2023.

<sup>3</sup> <https://www.abc.net.au/news/2023-11-16/holder-nsw-el-nino-set-to-peak-as-one-of-the-strongest/103104264>. Accessed 17 November 2023.

<sup>4</sup> Inglis, 7 November 2023, Pause on Salmon Farming Possible, The Mercury.

Should you have any questions concerning matters raised in this letter, please contact Claire Bookless on (03) 6223 2074 or by email at [claire.bookless@edo.org.au](mailto:claire.bookless@edo.org.au)

Yours sincerely,

**Environmental Defenders Office**

**Claire Bookless**

Managing Lawyer – lutruwita/Tasmania

Reference numbers: S5617 and S5619

**Copied to:**

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Senator the Hon Murray Watt, Minister for Agriculture, Fisheries & Forestry  
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