



**Australian Government**

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**Department of the Environment and Energy**

Assessment of the  
**NEW SOUTH WALES  
ABALONE FISHERY**

**MARCH 2018**

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This report should be attributed as '*New South Wales Abalone Fishery, March 2018*', Commonwealth of Australia 2018'.

## Disclaimer

This document is an assessment carried out by the Department of the Environment and Energy of a commercial fishery against the Australian Government *Guidelines for the Ecologically Sustainable Management of Fisheries – 2nd Edition*. It forms part of the advice provided to the Minister for the Environment and Energy on the fishery in relation to decisions under Parts 13 and 13A of the *Environment Protection and Biodiversity Conservation Act 1999*. The views expressed do not necessarily reflect those of the Minister for the Environment and Energy or the Australian Government.

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## **EXECUTIVE SUMMARY OF THE ASSESSMENT OF THE NEW SOUTH WALES (NSW) ABALONE FISHERY**

In October 2017, the NSW Department of Primary Industries (DPI) submitted an application for the NSW Abalone Fishery to the Department of the Environment and Energy for assessment under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), against the Australian Government *Guidelines for the Ecologically Sustainable Management of Fisheries – 2nd Edition*. A public comment period was open from 23 October to 24 November 2017. One submission was received from the NSW Professional Fishermen's Association, in support of continued export approval for this fishery.

### **The fishery**

The NSW Abalone Fishery operates in state waters, using hand collection methods to target blacklip abalone (*Haliotis rubra*). The fishery operates on a share management system and harvests within annually determined quota limits. The fishery is managed using input and output controls including limited access, spatial closures, number of fishers, commercial catch limits and size limits. An Environmental Impact Statement (EIS) was completed in 2005.

### **Target stocks**

Abalone stocks were historically overfished in NSW but have been steadily recovering since the early 2000s, following management intervention by NSW DPI. The current harvest is considered sustainable.

There are minimal concerns for species taken in the fishery. While spatial management measures within the fishery could be stronger and the development of a harvest strategy is recommended, overall, the target stocks appear well managed. The environmental impacts of the fishery are low (due to the hand collection methods used) and managed appropriately.

### **Protected species and ecosystems**

There have been no reported interactions with protected species in recent years. Given the fishing method (hand collection) interactions with protected species are highly unlikely.

The 2005 EIS indicated that the risk for interactions with protected species was low. In 2016 and 2017, the NSW government conducted an independent assessment of Threat and Risk Abatement (TARA) for its marine estate; the 2017 TARA report also describes the fishery's impact on protected species as minimal.

The broader health of the ecosystem in which the fishery operates is currently under review through the NSW government's Marine Estate Management Strategy (MEMA) process. There are no CITES species caught in this fishery.

### **Conclusion**

On this basis, the Department considers that product taken in the NSW Abalone Fishery should be included in the list of exempt native specimens under Part 13A of the EPBC Act until 31 March 2028, and the fishery's existing accreditation under Part 13 should remain in place.

**SECTION 1: ASSESSMENT SUMMARY OF THE NEW SOUTH WALES (NSW) ABALONE FISHERY AGAINST THE *GUIDELINES FOR THE ECOLOGICALLY SUSTAINABLE MANAGEMENT OF FISHERIES - 2ND EDITION*, CONSISTENT WITH THE EPBC ACT**

Guidelines assessment	Meets	Partially meets	Does not meet	Details
Management regime	9 of 9			The fishery is well managed with appropriate arrangements in place.
Principle 1 (target stocks)	6 of 11	4 of 11 (1.1.1, 1.1.3, 1.1.5 and 1.1.6)	1 of 11 n/a	<p>Robust management of target stocks along recovery trajectory, currently assessed as 'sustainable' following historic overfishing.</p> <p>1.1.1 – collection of fishery independent data would improve confidence in TACC setting.</p> <p>1.1.3 – implementation of more fine scale spatial management would improve fishery performance.</p> <p>1.1.5 and 1.1.6 – development of a harvest strategy would assist estimates of potential productivity against more clearly defined biological reference points.</p>
Principle 2 (bycatch and TEPS)	6 of 12		6 of 12 n/a	Low risks to bycatch and protected species.
Principle 2 (ecosystem impacts)	1 of 5		1 of 5 n/a	Impacts are considered to be low, given the hand collection method used.

EPBC requirements	Meets	Partially meets	Does not meet	Details
Part 12	Met			Marine Bioregional Plan for Temperate East marine region considered, values not compromised.
Part 13	All met			Risks to protected species are minimal and appropriately managed.
Part 13A	All met			Based on outcomes of Guidelines assessment, the Objects of Part 13A are considered met, with EPBC consultation requirements also met.
Part 16	Met			The fishery's management arrangements are considered precautionary.

## **Notes:**

### **Assessment history:**

1<sup>st</sup> assessment finalised 2005 – WTO with seven conditions.

2<sup>nd</sup> assessment finalised 2008 – WTO with four conditions and six recommendations.

3<sup>rd</sup> assessment finalised 2011 – WTO with four conditions.

### **Fishery reporting:**

Annual report – The most recent full public report on this fishery is in the *Status of Fisheries Resources in NSW 2013-14* –

[http://www.dpi.nsw.gov.au/\\_data/assets/pdf\\_file/0003/566652/status-fisheries-resources-NSW-2013-14-Final.pdf](http://www.dpi.nsw.gov.au/_data/assets/pdf_file/0003/566652/status-fisheries-resources-NSW-2013-14-Final.pdf).

Subsequent reviews of the fishery's status are at the links below.

Protected species interactions – Fishers are required to record protected species interactions, however these are not reported publicly.

### **Key links:**

Fishery information page on agency website – <http://www.dpi.nsw.gov.au/fishing/commercial/fisheries/abalone>

*Abalone Fishery – Fishery Management Strategy, April 2007* – [http://www.dpi.nsw.gov.au/data/assets/pdf\\_file/0020/632405/Abalone-FMS-Apr07.pdf](http://www.dpi.nsw.gov.au/data/assets/pdf_file/0020/632405/Abalone-FMS-Apr07.pdf)

Submission for reassessment for the NSW Abalone Fishery under the EPBC Act (2017) –

<http://www.environment.gov.au/system/files/consultations/9be7fdd1-8a96-4c09-81dc-60fc08e5b56d/files/nsw-abalone-assessment-2017.pdf>

### **Enforcing legislation:**

*NSW Fisheries Management (Abalone Share Management Plan) Regulation 2000* –

<https://www.legislation.nsw.gov.au/#/view/regulation/2000/47>

*NSW Fisheries Act 1994* – <https://www.legislation.nsw.gov.au/#/view/act/1994/38>

*NSW Fisheries Management (General) Regulation 2010* – <https://www.legislation.nsw.gov.au/#/view/regulation/2010/475>

*NSW Fisheries Management (Supporting Plan) Regulation 2006* – <https://www.legislation.nsw.gov.au/regulations/2006-733.pdf>

**Ecological Risk Assessment:**

Abalone Fishery Environmental Impact Statement – An Overview (2005) – <https://www.dpi.nsw.gov.au/fishing/commercial/ea/af-eis>

*New South Wales Marine Estate Threat and Risk Assessment Report – November 2016 (TARA report) –*  
[http://www.marine.nsw.gov.au/\\_data/assets/pdf\\_file/0007/674566/Statewide-TARA-Draft-Report.pdf](http://www.marine.nsw.gov.au/_data/assets/pdf_file/0007/674566/Statewide-TARA-Draft-Report.pdf)

*DRAFT Marine Estate Management Strategy 2018 – 2028 (MEMA)*  
[https://www.marine.nsw.gov.au/\\_data/assets/pdf\\_file/0019/740170/Draft MEM\\_strategy.pdf](https://www.marine.nsw.gov.au/_data/assets/pdf_file/0019/740170/Draft_MEM_strategy.pdf)

**Stock assessments:**

*NSW Total Allowable Catch Setting and Review Committee – Report and Determination 2017 - ABALONE FISHERY -*  
[https://www.dpi.nsw.gov.au/data/assets/pdf\\_file/0003/710895/NSW-Abalone-TACC-Determination-2017-Final-Signed-161206.pdf](https://www.dpi.nsw.gov.au/data/assets/pdf_file/0003/710895/NSW-Abalone-TACC-Determination-2017-Final-Signed-161206.pdf)

*Status of Australian Fish Stocks - Stock status report – Blacklip Abalone 2016 (Fisheries Research and Development Corporation) -*  
<http://www.fish.gov.au/report/10-Blacklip-Abalone-2016>

*Status of fisheries resources in NSW 2014-2015, Summary –* [https://www.dpi.nsw.gov.au/\\_data/assets/pdf\\_file/0006/692646/INT16-161027-DRAFT-Status-fisheries-resources-NSW-2014-152-Summary.pdf](https://www.dpi.nsw.gov.au/_data/assets/pdf_file/0006/692646/INT16-161027-DRAFT-Status-fisheries-resources-NSW-2014-152-Summary.pdf)

**Other relevant documents:**

*Fisheries Compliance Enforcement Policy and Procedure –* [https://www.dpi.nsw.gov.au/\\_data/assets/pdf\\_file/0010/639874/Fisheries-compliance-prosecution-policy-and-procedure.pdf](https://www.dpi.nsw.gov.au/_data/assets/pdf_file/0010/639874/Fisheries-compliance-prosecution-policy-and-procedure.pdf)

NSW commercial fisheries governance and consultation structure – <https://www.dpi.nsw.gov.au/fishing/commercial/consultation>

NSW Fisheries Statistics Report 2014-15 – [http://www.dpi.nsw.gov.au/\\_data/assets/pdf\\_file/0003/599421/Fisheries-statistics-report-2014-15.pdf](http://www.dpi.nsw.gov.au/_data/assets/pdf_file/0003/599421/Fisheries-statistics-report-2014-15.pdf)



## SECTION 2: DETAILED ANALYSIS OF THE NSW ABALONE FISHERY AGAINST THE GUIDELINES FOR THE ECOLOGICALLY SUSTAINABLE MANAGEMENT OF FISHERIES (2ND EDITION)

Guidelines criteria	Comment
<b>THE MANAGEMENT REGIME</b>	
The management regime does not have to be a formal statutory fishery management plan as such, and may include non-statutory management arrangements or management policies and programs. The regime should:	
Be documented, publicly available and transparent.	<b>Meets</b> Relevant management documents including legislation, regulation, management strategy, environmental impact statements, and fishery resources reports are publicly available on the agency's website.
Be developed through a consultative process providing opportunity to all interested and affected parties, including the general public.	<b>Meets</b> The fishery management strategies are prepared through stakeholder and public consultation, adhering to state legislation.  Development of new management arrangements are undertaken in accordance with consultative processes described in the submission and NSW DPI's consultation structure (see links above).
Ensure that a range of expertise and community interests are involved in individual fishery management committees and during the stock assessment process.	<b>Meets</b> The annual TACC setting process is convened by an independent committee and involves fishery managers, fisheries scientists, fishing industry groups and the fishing community. Opportunities for input from the public are available. The final outcomes are made available publicly (see link above).
Be strategic, containing objectives and performance criteria by which the effectiveness of the management arrangements are measured.	<b>Meets</b> Objectives and performance measures are included in the FMS (see link above). The fishery's performance against FMS trigger points are publicly reported against in annual Fisheries Statistics reports (see link above).
Be capable of controlling the level of harvest in the fishery using input and/or output controls.	<b>Meets</b> Harvest levels are managed through input and output controls including limited access, spatial closures, number of fishers, commercial catch limits and size limits.
Contain the means of enforcing critical aspects of the management arrangements.	<b>Meets</b> NSW Fisheries officers enforce compliance of the management arrangements, with assistance from the NSW Police in high risk cases (see link above to compliance enforcement policy and procedures).
Provide for the periodic review of the performance of the fishery management arrangements and the management strategies, objectives and criteria.	<b>Meets</b> Performance indicators are assessed annually. TACC reviews contain a summary and evaluation of stock status information, management measures and rates of compliance. The TACC reviews also make recommendations for continual improvement in management of the fishery.

Be capable of assessing, monitoring and avoiding, remedying or mitigating any adverse impacts on the wider marine ecosystem in which the target species lives and the fishery operates.	<p><b>Meets</b></p> <p>Impacts of the fishery on the marine ecosystem were assessed through the EIS process in 2005 (link above) and the TARA process in 2017 (see link above, Appendix C page 13). The broader health of the ecosystem in which the fishery operates, is currently under review through the MEMA process (link above). Ongoing monitoring is conducted through performance indicator reviews.</p> <p>Management responses and mitigation measures appropriate to the scale of the fishery, are outlined in the FMS (see link above).</p>
Requires compliance with relevant threat abatement plans, recovery plans, the National Policy on Fisheries Bycatch, and bycatch action strategies developed under the policy.	<p><b>Meets</b></p> <p>The FMS addresses relevant plans (see link above).</p>
<b>PRINCIPLE 1</b> - A fishery must be conducted in a manner that does not lead to over-fishing, or for those stocks that are over-fished, the fishery must be conducted such that there is a high degree of probability the stock(s) will recover.	
<b>Objective 1</b> - The fishery shall be conducted at catch levels that maintain ecologically viable stock levels at an agreed point or range, with acceptable levels of probability.	
<b>Information requirements</b>	
1.1.1 There is a reliable information collection system in place appropriate to the scale of the fishery. The level of data collection should be based upon an appropriate mix of fishery independent and dependent research and monitoring.	<p><b>Partially meets</b></p> <p>Catch rates are monitored through catch, effort and disposal reports. Fishers are required to complete mandatory catch/effort logbooks, quota usage is monitored through mandatory electronic daily trip reporting.</p> <p>There is no fishery independent data collected on the target species. While noting recent improvements in stock status and electronic reporting of catch, the TACC setting committee recommended further improvements to information collection in the fishery in 2017 (see link above).</p>
<b>Assessment</b>	
1.1.2 There is a robust assessment of the dynamics and status of the species/fishery and periodic review of the process and the data collected. Assessment should include a process to identify any reduction in biological diversity and /or reproductive capacity. Review should take place at regular intervals but at least every three years.	<p><b>Meets</b></p> <p>A review and analysis of available exploitation status data is conducted annually through the TACC setting process. The 2017 TACC determination (see link above) noted substantial improvement in the state of blacklip abalone since 2009, and offers specific recommendations to further improve the reproductive capacity of the stock.</p> <p>The stock status for abalone is publicly reviewed every two years through the FRDC's cross-jurisdictional Status of Australian Fish Stocks reports (see link above). Blacklip abalone in NSW was assessed as sustainable in 2016.</p>

<p><b>1.1.3</b> The distribution and spatial structure of the stock(s) has been established and factored into management responses.</p>	<p><b>Partially meets</b></p> <p>Blacklip abalone is managed as a single stock in NSW. While daily catch and effort records allow spatial assessments of take from different areas, abalone quota can currently be taken from anywhere in the fishery, leading to concerns about potential localised depletion in some areas and under-harvesting in others.</p> <p>The 2017 TACC determination (see link above) notes that voluntary measures to regulate spatial distribution of effort have been ineffective, and four recommendations were made to improve spatial management. These include the introduction of area specific size limits, TACC distribution and a spatially explicit assessment model.</p> <p>Impacts of the fishery on the marine ecosystem were assessed through the TARA process in 2017 (see link above, Appendix C page 13). The TARA assessment notes that the risk (from harvest) to fished stocks in the abalone fishery was low in the north and central regions, and moderate in the southern region of the NSW marine estate.</p>
<p><b>1.1.4</b> There are reliable estimates of all removals, including commercial (landings and discards), recreational and indigenous, from the fished stock. These estimates have been factored into stock assessments and target species catch levels.</p>	<p><b>Meets</b></p> <p>Mandatory logbooks provide reliable estimates of commercial take. Recent adoption of electronic quota reporting has further improved monitoring of real time harvest.</p> <p>There is less robust information available for recreational, Indigenous and illegal fishing. Estimates are used to inform TACC setting. The 2017 TACC determination report notes that available advice suggests these estimates continue to be appropriate.</p>
<p><b>1.1.5</b> There is a sound estimate of the potential productivity of the fished stock/s and the proportion that could be harvested.</p>	<p><b>Partially meets</b></p> <p>Annual TACCs are determined on the proportion of stock that can be sustainably harvested. However, while the 2017 TACC determination (see link above) notes that the fishery is on an improving trajectory, a number of uncertainties are identified as barriers to the efficient determination of ecologically and economically appropriate TACCs. These could be addressed by the development of a harvest strategy.</p>
<p><b>Management responses</b></p>	
<p><b>1.1.6</b> There are reference points (target and/or limit), that trigger management actions including a biological bottom line and/or a catch or effort upper limit beyond which the stock should not be taken.</p>	<p><b>Partially meets</b></p> <p>The fishery's FMS includes performance indicators that, if breached, trigger a review to determine whether active management intervention is required. Management responses are typically implemented through the TACC setting process if there are concerns.</p> <p>The fishery currently does not have target or limit reference points. The 2017 TACC determination (see link above) recommends the development of a harvest strategy with reference points, to improve the transparency and efficiency in decision making for the fishery.</p>
<p><b>1.1.7</b> There are management strategies in place capable of controlling the level of take.</p>	<p><b>Meets</b></p> <p>Level of take is primarily controlled through TACC limits. Other measures include size limits, limited access, spatial closures, limits on the number of fishers and limited number of shareholders.</p>
<p><b>1.1.8</b> Fishing is conducted in a manner that does not threaten stocks of byproduct species.</p>	<p><b>Meets</b></p> <p>Hand collection methods are used in the fishery and only blacklip abalone are permitted to be retained. There is no other byproduct in fishery.</p>

(Guidelines 1.1.1 to 1.1.7 should be applied to byproduct species to an appropriate level)	
1.1.9 The management response, considering uncertainties in the assessment and precautionary management actions, has a high chance of achieving the objective.	<b>Meets</b> The fishery's management arrangements appear likely to maintain stocks within ecologically viable levels.
<b>If overfished, go to Objective 2:</b> <b>If not overfished, go to PRINCIPLE 2:</b>	
<b>Objective 2</b> - Where the fished stock(s) are below a defined reference point, the fishery will be managed to promote recovery to ecologically viable stock levels within nominated timeframes.	
<b>Management responses</b>	
1.2.1 A precautionary recovery strategy is in place specifying management actions, or staged management responses, which are linked to reference points. The recovery strategy should apply until the stock recovers, and should aim for recovery within a specific time period appropriate to the biology of the stock.	<b>Meets</b> Changes in catch rate over time, indicate abalone stocks in NSW were overfished from the mid-1980s to the mid-2000s. Stocks in northern NSW were further depleted by outbreaks of parasitic infections ( <i>Perkinsus</i> spp.) in the 1990s and early 2000s. Reductions in TACC implemented in the early 2000s, further reductions in 2010 and increased size limits, have lead to a steady recovery in catch rates and mean weights of abalone harvested.  Stocks are now considered as being in a recovery phase and were assessed as 'sustainable' in the 2016 FRDC <i>Status of Australian Fish Stocks</i> report (see link above).  Precautionary recovery responses, primarily through continuation of conservative TACCs and size limits, are still in place while stock is still stabilising.
1.2.2 If the stock is estimated as being at or below the biological and / or effort bottom line, management responses such as a zero targeted catch, temporary fishery closure or a 'whole of fishery' effort or quota reduction are implemented.	<b>N/A</b> The 2017 submission states that the stock status is 'sustainable'. Should a species be determined overfished, a recovery program will be developed and recovery measures will be implemented as required.
<b>PRINCIPLE 2</b> - Fishing operations should be managed to minimise their impact on the structure, productivity, function and biological diversity of the ecosystem.	
<b>Objective 1</b> - The fishery is conducted in a manner that does not threaten bycatch species.	
<b>Information requirements</b>	
2.1.1 Reliable information, appropriate to the scale of the fishery, is collected on the composition and abundance of bycatch.  <i>Factors to consider (Are commonly caught bycatch species listed separately in logbooks, do they use species specific reporting?)</i>	<b>Meets</b> Fishers are not required to record bycatch, which in this highly selective, hand-collection fishery would consist only of discards (undersized abalone) and small organisms attached or associated with the shell of the abalone. However, while bycatch can reasonably be assumed to be low, recording of discards would be an improvement.

<b>Assessment</b>	
<b>2.1.2</b> There is a risk analysis of the bycatch with respect to its vulnerability to fishing.	<b>Meets</b> Risk to bycatch was assessed as low in both the 2005 EIS for the fishery and the 2017 TARA report (see links above).
<b>Management responses</b>	
<b>2.1.3</b> Measures are in place to avoid capture and mortality of bycatch species unless it is determined that the level of catch is sustainable (except in relation to endangered, threatened or protected species). Steps must be taken to develop suitable technology if none is available.	<b>N/a</b> Due to the low risk to bycatch given the highly selective methods used in the fishery (hand collection), no specific management measures are required.
<b>2.1.4</b> An indicator group of bycatch species is monitored.	<b>N/a</b> Given the low risk identified for bycatch species, monitoring of indicator species is not required.
<b>2.1.5</b> There are decision rules that trigger additional management measures when there are significant perturbations in the indicator species numbers.	<b>N/a</b> No triggers apply, given that there are no indicator species monitored and the risk identified for bycatch species is low.
<b>2.1.6</b> The management response, considering uncertainties in the assessment and precautionary management actions, has a high chance of achieving the objective.	<b>Meets</b> Yes, it is likely that the fishery is conducted in a way that does not threaten bycatch species.
<b>Objective 2 - The fishery is conducted in a manner that avoids mortality of, or injuries to, endangered, threatened or protected species and avoids or minimises impacts on threatened ecological communities.</b>	
<b>Information requirements</b>	
<b>2.2.1</b> Reliable information is collected on the interaction with endangered, threatened or protected species and threatened ecological communities.	<b>Meets</b> It is mandatory for fishers to report all interactions with protected species, through catch and effort log books.
<b>Assessments</b>	
<b>2.2.2</b> There is an assessment of the impact of the fishery on endangered, threatened or protected species.	<b>Meets</b> The EIS for the fishery (see link above) discusses risks to protected species on pages 9-11, noting that the risk was considered low. There have been no interactions reported.  The 2017 TARA process assessed the fishery's impact on protected species as minimal (see link above, Appendix C page 13).
<b>2.2.3</b> There is an assessment of the impact of the fishery on threatened ecological communities.	<b>N/a</b> There are no EPBC listed threatened ecological communities in the area of the fishery.

<b>Management responses</b>	
<b>2.2.4</b> There are measures in place to avoid capture and/or mortality of endangered, threatened or protected species.	<b>N/a</b> There have been no recorded interactions with protected species. The harvest method (hand-collection) is already as low impact as possible.
<b>2.2.5</b> There are measures in place to avoid impact on threatened ecological communities.	<b>N/a</b> There are no EPBC listed threatened ecological communities in the area of the fishery.
<b>2.2.6</b> The management response, considering uncertainties in the assessment and precautionary management actions, has a high chance of achieving the objective.	<b>Meets</b> Yes, the fishery is conducted in a way that is likely to be effective in avoiding impacts to protected species and ecological communities.
<b>Objective 3 - The fishery is conducted, in a manner that minimises the impact of fishing operations on the ecosystem generally.</b>	
<b>Information requirements</b>	
<b>2.3.1</b> Information appropriate for the analysis in 2.3.2 is collated and/or collected covering the fisheries impact on the ecosystem and environment generally.	<b>Meets</b> The EIS, MEMA and TARA reports (see links above) considered information relating to 2.3.2. Available information is collated.
<b>Assessment</b>	
<b>2.3.2</b> Information is collected and a risk analysis, appropriate to the scale of the fishery and its potential impacts, is conducted into the susceptibility of each of the following ecosystem components to the fishery. 1. Impacts on ecological communities <ul style="list-style-type: none"> <li>• Benthic communities</li> <li>• Ecologically related, associated or dependent species</li> <li>• Water column communities</li> </ul> 2. Impacts on food chains <ul style="list-style-type: none"> <li>• Structure</li> <li>• Productivity/flows</li> </ul> 3. Impacts on the physical environment <ul style="list-style-type: none"> <li>• Physical habitat</li> <li>• Water quality</li> </ul>	<b>Meets</b> Impacts of the fishery on the marine ecosystem were assessed through the EIS process in 2005 (link above) and the TARA process in 2017 (link above). The TARA report notes (in Appendix C page 13) that the fishery poses a minimal risk to associated biota and relevant marine habitats in which it operates.
<b>Management responses</b>	
<b>2.3.3</b> Management actions are in place to ensure significant damage to ecosystems does not arise from the impacts described in 2.3.1.	<b>Meets</b> Management measures used in the fishery are not specific to managing ecosystem impacts, however the risks to the ecosystem from harvesting this species using the methods prescribed in the management arrangements, are very low.

<p><b>2.3.4</b> There are decision rules that trigger further management responses when monitoring detects impacts on selected ecosystem indicators beyond a predetermined level, or where action is indicated by application of the precautionary approach.</p>	<p><b>N/a</b> Impacts on the ecosystem are considered to be low in the fishery.</p>
<p><b>2.3.5</b> The management response, considering uncertainties in the assessment and precautionary management actions, has a high chance of achieving the objective.</p>	<p><b>Meets</b> There are limited management responses directed explicitly at managing ecosystem impacts, however under the general management arrangements, the impact of this fishery on the ecosystem is likely to be minimal.</p>

## SECTION 3: ASSESSMENT OF THE NSW ABALONE FISHERY AGAINST THE REQUIREMENTS OF THE EPBC ACT

The table below is not a complete or exact representation of the EPBC Act. It is intended to show that the relevant sections and components of the EPBC Act have been taken into account in the formulation of advice on the fishery in relation to decisions under Part 13 and Part 13A.

### Part 12

Section 176 Bioregional Plans	Comment
(5) Minister must have regard to relevant bioregional plans	<p><b>Yes.</b> The <i>Marine Bioregional Plan for the Temperate East Marine Region</i> identifies a number of key ecological features and conservation values of regional priority present in the area of this fishery. However, there is no evidence to suggest that the fishery has caused any systematic change to species diversity or richness, indicating fishing effort is not having a material impact on the food chain or trophic structure.</p> <p>Given the low impact fishing methods used in the fishery and the mitigation measures in place, impact to key ecological features is considered low.</p>

### Part 13

Accreditable plan, regime or policy (Division 1, Division 2, Division 3, Division 4)	Comment
s. 208A (1) (a-e) , s.222A (1) (a-e), s.245A (1) (a-e), s.265 (1) (a-e) Does the fishery have an accreditable plan of management, regime or policy?	<b>Yes</b> , there is an accreditable management regime. This regime was last accredited under Part 13 in 2011 and this accreditation remains valid and in place.
Division 1 Listed threatened species, Section 208A Minister may accredit plans or regimes	Comment
(f) Will the plan, regime or policy require fishers to take all reasonable steps to ensure that members of listed threatened species (other than conservation dependent species) are not killed or injured as a result of the fishing?	<b>Yes</b> , under the fishery's management strategy (link in Section 1), fishers are not permitted to take protected species, including listed threatened species, and all interactions with protected species must be reported.
(g) And, is the fishery likely to adversely affect the survival or recovery in nature of the species?	<b>No</b> . There have been no interactions reported in recent years. The potential for interactions with listed threatened species in a hand-collection fishery is considered low.
Division 2 Migratory species, Section 222A Minister may accredit plans or regimes	Comment
(f) Will the plan, regime or policy require fishers to take all reasonable steps to ensure that members of listed migratory species are not killed or injured as a result of the fishing?	<b>Yes</b> , under the fishery's management strategy (link in Section 1), fishers are not permitted to take protected species, including listed migratory species, and all interactions with protected species must be reported.
a. (g) And, is the fishery likely to adversely affect the conservation status of a listed migratory species or a population of that species?	<b>No</b> . There have been no interactions reported in recent years. The potential for interactions with listed migratory species in a hand-collection fishery is considered low.



Division 3 Whales and other cetaceans, Section 245 Minister may accredit plans or regimes	Comment
(f) Will the plan, regime or policy require fishers to take all reasonable steps to ensure that cetaceans are not killed or injured as a result of the fishing?	<b>Yes</b> , under the fishery's management strategy (link in Section 1), fishers are not permitted to take protected species and all interactions with protected species must be reported.
(g) And, is the fishery likely to adversely affect the conservation status of a species of cetacean or a population of that species?	<b>No</b> . There have been no interactions reported in recent years. The potential for interactions with cetaceans in a hand-collection fishery is considered low.
Division 4 Listed marine species, Section 265 Minister may accredit plans or regimes	Comment
(f) Will the plan, regime or policy require fishers to take all reasonable steps to ensure that members of listed marine species are not killed or injured as a result of the fishing?	<b>Yes</b> , under the fishery's management strategy (link in Section 1), fishers are not permitted to take protected species, including listed marine species, and all interactions with protected species must be reported.
(g) And, is the fishery likely to adversely affect the conservation status of a listed marine species or a population of that species?	<b>No</b> . There have been no interactions reported in recent years. The potential for interactions with listed marine species in a hand-collection fishery is considered low.
Section 303AA Conditions relating to accreditation of plans, regimes and policies	Comment
(1) This section applies to an accreditation of a plan, regime or policy under section 208A, 222A, 245 or 265.	The Department recommends that the management regime for the <b>NSW Abalone Fishery remains accredited</b> under sections 208A, 222A, 245 and 265. Interactions with protected species are negligible under existing arrangements.
(2) The Minister may accredit a plan, regime or policy under that section even though he or she considers that the plan, regime or policy should be accredited only:  (a) during a particular period; or (b) while certain circumstances exist; or (c) while a certain condition is complied with.  In such a case, the instrument of accreditation is to specify the period, circumstances or condition.	<b>No conditions required.</b>
(7) The Minister must, in writing, revoke an accreditation if he or she is satisfied that a condition of the accreditation has been contravened.	Not applicable.

## Part 13A

Section 303BA Objects of Part 13A	
<p>(1) The objects of this Part are as follows:</p> <ul style="list-style-type: none"> <li>(a) to ensure that Australia complies with its obligations under CITES and the Biodiversity Convention;</li> <li>(b) to protect wildlife that may be adversely affected by trade;</li> <li>(c) to promote the conservation of biodiversity in Australia and other countries;</li> <li>(d) to ensure that any commercial utilisation of Australian native wildlife for the purposes of export is managed in an ecologically sustainable way;</li> <li>(e) to promote the humane treatment of wildlife;</li> <li>(f) to ensure ethical conduct during any research associated with the utilisation of wildlife; and</li> <li>(h) to ensure the precautionary principle is taken into account in making decisions relating to the utilisation of wildlife.</li> </ul>	
Section 303DC Minister may amend list (non CITES species)	Comment
<p>(1) The Minister may, by legislative instrument, amend the list referred to in section 303DB [list of exempt native specimens] by:</p> <ul style="list-style-type: none"> <li>(a) doing any of the following: <ul style="list-style-type: none"> <li>(i) including items in the list;</li> <li>(ii) deleting items from the list;</li> <li>(iii) imposing a condition or restriction to which the inclusion of a specimen in the list is subject;</li> <li>(iv) varying or revoking a condition or restriction to which the inclusion of a specimen in the list is subject; or</li> </ul> </li> <li>(b) correcting an inaccuracy or updating the name of a species.</li> </ul>	<p>The Department <b>recommends</b> that specimens derived from species harvested in the <b>NSW Abalone Fishery</b>, other than specimens that belong to species listed under Part 13 of the EPBC Act (other than a conservation dependent species), and specimens that belong to taxa listed under section 303CA (Australia's CITES list), be included in the list of exempt native specimens until 31 March 2028.</p>
<p>(1A) In deciding to amend the LENS, the Minister must rely primarily on outcomes of Part 10, Div 1 or 2 assessment</p>	<p><b>Not applicable.</b> The fishery is not managed by the Commonwealth.</p>
<p>(1C) The above does not limit matters that may be considered when deciding to amend LENS.</p>	<p><b>Meets</b></p> <p>Through the above assessment at Section 2 against the Guidelines, the Department has taken into account all matters relevant to making an informed decision to amend the list of exempt native specimens to include product taken in this fishery.</p>
<p>(3) Before amending the LENS, the Minister must consult:</p> <ul style="list-style-type: none"> <li>(a) other Minister or Ministers as appropriate; and</li> <li>(b) other Minister or Ministers of each State and self-governing Territory as appropriate; and</li> <li>(c) other persons and organisations as appropriate.</li> </ul>	<p><b>Meets</b></p> <p>The submission from NSW DPI (see link in Section 1) was made available on DoEE website from 23 October 2017 to 24 November 2017. One comment was received from the NSW Professional Fishermen's Association, in support of continued export approval for the fishery.</p>

## Part 16

Section 391 Minister must consider precautionary principle in making decisions	Comment
<p>(1) Minister must take account of the precautionary principle in making a decision, to the extent that the decision is consistent with other provisions under this Act.</p> <p>(2) The precautionary principle is that lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment where there are threats of serious or irreversible environmental damage.</p>	<p><b>Meets</b></p> <p>Given annual monitoring of stocks against prescribed performance indicators and the use of a highly selective low impact fishing method, precautionary measures are considered to be in place to prevent serious, or irreversible environmental damage being caused by this fishery.</p>

## REFERENCES

Department of the Environment (2012) *Marine Bioregional Plan for the Temperate East Marine Region*.