



Australian Government

Department of Sustainability, Environment, Water, Population and Communities

**Assessment of the harvest of
native oysters (*Ostrea angasi*)
from the Tasmanian Shellfish Fishery**

April 2012

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Disclaimer

This document is an assessment carried out by the Department of Sustainability, Environment, Water, Population and Communities 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 Sustainability, Environment, Water, Population and Communities on the fishery in relation to decisions under Part 13A of the *Environment Protection and Biodiversity Conservation Act 1999*. The views expressed do not necessarily reflect those of the Minister for Sustainability, Environment, Water, Population and Communities or the Australian Government.

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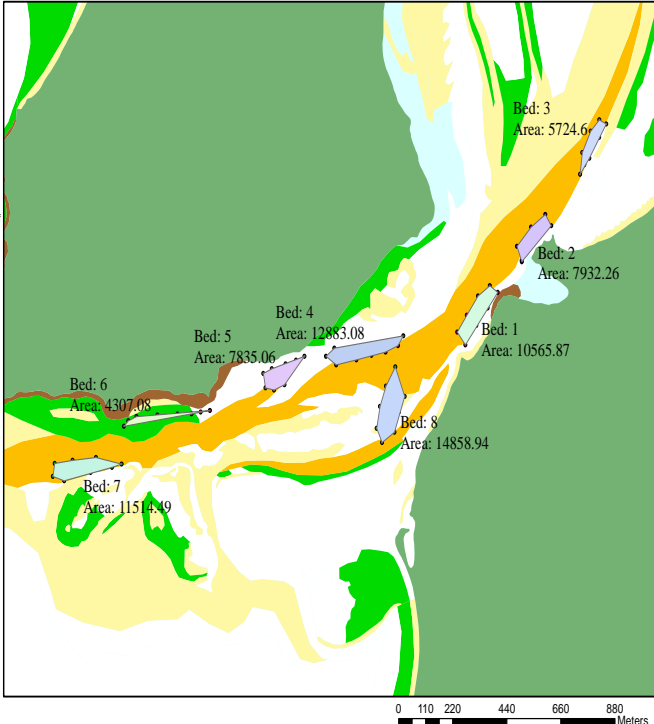
Table 4 contains a description of the issues identified by the department with the current management regime for the harvest of native oysters from the Tasmanian Shellfish Fishery and outlines the proposed recommendations that would form part of the delegate's decision to include native oysters from the Tasmanian Shellfish Fishery in the list of exempt native species for a five year period.

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Table 1: Summary of the harvest of native oysters from the Tasmanian Shellfish Fishery

Background	<p>In 2006, the Tasmanian Department of Primary Industries and Water incorporated several existing developmental fisheries, including the Native Oyster Fishery, into one fishery termed the Shellfish Fishery. Licences to operate in the Shellfish Fishery authorise the commercial take of shellfish of a particular type from a defined area. Issue of licences was limited to the number of fishers that previously operated under the relevant permits. Accordingly, two of the licence type “fishing licence (native oyster – Georges Bay)” were issued.</p> <p>The <i>Fisheries (Shellfish) Rules 2007</i> and the Shellfish Fishery Policy Document 2007 cover management arrangements for the harvest of shellfish, including native oysters. A total allowable commercial catch (TACC) for native oysters is set at ten per cent of biomass estimated from field surveys. In recent years, due to lack of market opportunities less than five per cent of the allocated TACC has been harvested.</p>
Relevant publicly available information	<ul style="list-style-type: none"> • Tasmanian <i>Living Marine Resources Management Act 1995</i> • Tasmanian <i>Fisheries (Shellfish) Rules 2007</i> • Tasmanian Department of Primary Industries, Parks, Water and Environment: Shellfish Fishery Policy Document 2007 • May 2012 Report on the Tasmanian Native Oyster Fishery (<i>Ostrea Angasi</i>) for the Department of Sustainability, Environment, Water, Population and Communities (SEWPaC) • Department of the Environment and Water Resources – Assessment of the Harvest of Native Oysters (<i>Ostrea angasi</i>) from the Tasmanian Shellfish Fishery, May 2007 • Report to Department of the Environment and Heritage - Developmental Fishing for Native Oysters in Tasmanian State Waters April 2006 • Department of the Environment and Heritage - Assessment Report of the Tasmanian Native Oyster Fishery April 2004
Target Species	<p>The target species is the native ‘flat’ oyster (<i>Ostrea angasi</i>), also known as the native oyster.</p> <p>Native oysters are found in sub-tidal habitats (between depths of two to 20 metres) along the southern Australian coast from southern New South Wales to Western Australia, including Tasmania. Native oysters occur naturally throughout Tasmanian state waterways. The native oyster is a slow growing, sub-tidal species which attaches itself to hard substrates before later breaking free to settle on sand or soft mud. It is closely related to the European ‘Belon’ oyster (<i>Ostrea edulis</i>).</p>
Fishery status	Based on stock surveys (see Management arrangements), DPIPWE indicates that it considers native oyster stocks remain strong and healthy.
Byproduct Species	None permitted.
Bycatch and interaction with Protected Species¹	Bycatch is negligible due to selective harvest methods (hand harvest only). For the same reasons the risk of interactions with protected species is considered negligible.

¹ ‘Protected species’ means all species listed under Part 13 of the EPBC Act, including whales and other cetaceans and threatened, marine and migratory species.

Area	A commercial ‘fishing licence (native oyster – Georges Bay)’ authorises the holder to take and possess native oysters only from Georges Bay, north east Tasmania, within Tasmanian state waters. Commercial harvest of native oysters is only permitted in specified areas in Georges Bay (Figure 1).																			
	<div><div><div><div>Legend</div><div><div>High profile reef</div><div>Medium profile reef</div><div>Low profile reef</div><div>Patchy reef</div><div>Seagrass</div><div>Patchy seagrass</div><div>Sparse seagrass</div><div>Caulerpa</div><div>Hard sand</div><div>Sand</div><div>Silty sand</div><div>Silt</div></div></div><div></div></div><p>Figure 1: Location of native oyster beds in Georges Bay, Tasmania. (Source: Tasmanian Department of Primary Industries, Parks, Water and Environment)</p></div>																			
Gear	Hand collection only.																			
Season	Unrestricted.																			
Commercial harvest	<table><tr><th>Licensing year</th><th>Stock (number of oysters based on most recent previous survey)</th><th>TACC (dozens)</th><th>Quantity harvested (dozens)</th></tr><tr><td>2008/2009</td><td>4.96 million</td><td>41,000</td><td>1,395</td></tr><tr><td>2009/2010</td><td>4.96 million</td><td>41,000</td><td>1,677</td></tr><tr><td>2010/2011</td><td>4.68 million</td><td>39,000</td><td>1,507</td></tr></table>				Licensing year	Stock (number of oysters based on most recent previous survey)	TACC (dozens)	Quantity harvested (dozens)	2008/2009	4.96 million	41,000	1,395	2009/2010	4.96 million	41,000	1,677	2010/2011	4.68 million	39,000	1,507
Licensing year	Stock (number of oysters based on most recent previous survey)	TACC (dozens)	Quantity harvested (dozens)																	
2008/2009	4.96 million	41,000	1,395																	
2009/2010	4.96 million	41,000	1,677																	
2010/2011	4.68 million	39,000	1,507																	
Value of commercial harvest 2010/2011	\$9,795.																			
Take by other sectors	Recreational take is considered by the Tasmanian Department of Primary Industries, Parks, Water and Environment to be negligible. A daily bag limit of 50 native oysters applies to recreational fishers.																			
Commercial licences issued	The <i>Fisheries (Shellfish) Rules 2007</i> provide that only two 'fishing licences (native oyster – Georges Bay)' may be in force at any one time.																			

Management arrangements	<p>The harvest of native oysters from the Tasmanian Shellfish Fishery is managed by the Tasmanian Department of Primary Industries, Parks, Water and Environment (DPIPWE) under the Tasmanian <i>Living Marine Resources Management Act 1995</i>, the Tasmanian <i>Fisheries (Shellfish) Rules 2007</i> and DPIPWE's Shellfish Fishery Policy Document 2007.</p> <p>Management measures for commercial harvest of native oysters include:</p> <ul style="list-style-type: none"> • limited entry (two licenses only) • area restrictions (specified oyster beds in Georges Bay only) • gear restrictions (hand harvest only) • restrictions on the number of assistant fishers (two only) • a requirement to complete logbooks and report catch straight after harvest, and • an annual total allowable commercial catch (TACC) limit. <p>The native oyster stocks are assessed every two to three years by means of field studies overseen by the Institute of Marine and Antarctic Studies, University of Tasmania (IMAS) which determine an estimate of the biomass of oysters. Based on advice from IMAS, DPIPWE allocates a TACC set at 10 per cent of estimated biomass. IMAS advises that setting the TACC at 10 per cent of estimated biomass is an internationally accepted precautionary harvest level, which provides a significant safety buffer for the fishery.</p> <p>DPIPWE's Shellfish Fishery Policy Document 2007 includes reference points for native oysters and states that a management review will be initiated if one or more of the reference points for native oysters are reached.</p>
Ecosystem Impacts	<p>Negligible ecosystem impact is expected due to selective harvest methods (hand harvest only) and the allocation of total allowable commercial limits based on estimates of the harvestable proportion of stock biomass.</p>

Table 2: Progress in implementation of recommendations made in the 2007 assessment of the harvest of native oysters from the Tasmanian Shellfish Fishery

Recommendation	Progress	Recommended Action
<p>1. DPIW to advise DEW of any material change to the TSF management arrangements that could affect the criteria on which EPBC Act decisions are based, within three months of that change being made.</p>	<p>The department is satisfied that there have been no changes to the management arrangements for the harvest of native oysters from the Tasmanian Shellfish Fishery since the 2007 Australian Government assessment of the harvest of native oysters.</p>	<p>The Department of Sustainability, Environment, Water, Population and Communities considers that this recommendation has been met and is ongoing (see Recommendation 2, Table 4).</p>
<p>2. Reports to be produced and presented to DEW annually, and to include:</p> <ul style="list-style-type: none"> i. Information sufficient to allow assessment of the progress of DPIW in implementing the recommendations made in the Assessment of the Harvest of Native Oysters from the Tasmanian Shellfish Fishery 2007; and ii. A description of the fishery, management arrangements in place, recent catch data for the native oyster section of the fishery, status of target stock, interactions with protected species, impacts of the fishery on the ecosystem in which it operates and research and monitoring outcomes. <p>Information should only be provided on those aspects which are relevant to the fishery and that articulate ‘changes’</p>	<p>The Tasmanian Department of Primary Industries, Parks, Water and Environment (DPIPWE) has informed the department that there has been an oversight in the reporting process recommended in the previous two assessments. DPIPWE has assured the department that from 2013 reports will be provided annually.</p>	<p>The department considers that this recommendation is ongoing (see Recommendation 3, Table 4).</p>

Recommendation	Progress	Recommended Action
since the last annual report.		
<p>3. DPIW to monitor the status of native oysters in relation to reference points. Within 3 months of becoming aware of a reference point being triggered, DPIW to develop a clear timetable for the implementation of appropriate management responses.</p>	<p>DPIPWE's <i>Shellfish Fishery Policy Document 2007</i> contains reference points for native oysters and indicates that a management review will be initiated if one or more of these are reached.</p> <p>DPIPWE has advised that the harvest of native oysters is monitored against these reference points and that since the 2007 assessment, on average only three to four per cent of the annual total allowable commercial catch (TACC) has been harvested. As a result, the reference points have not been reached and thus management responses have not been required. (DPIPWE attributes the low annual harvest to a lack of markets for native oysters.)</p> <p>However, the policy does not include timeframes for implementation of management reviews or actions if a reference point is triggered. The department notes that at the current low levels of harvest, reference points (for example, catch targets not met) could be triggered, but that a management response may not be necessary in the majority of cases.</p> <p>However, the department recommends that when the reference points are next revised, timelines for development of a clear timetable for determining the reasons for triggering and, if necessary, review, are included. The department recommends that DPIPWE report the results of the fishery's annual review in annual reports, including the reasons for any nil management response.</p>	<p>The department considers this recommendation to be partially met and ongoing (see Recommendation 4, Table 4).</p>

Recommendation	Progress	Recommended Action
<p>4. By December 2011, DPIW to conduct a survey on the stock structure and density of native oysters on the Main Bed, Eastern Bed and the Akaroa Bed to inform management arrangements, particularly with regards to setting the annual TAC.</p>	<p>DPIPWE has advised the department that surveys of the stock were completed in both 2008 and 2010 and that the 2010 survey indicated that the stock is strong and healthy. As mentioned above, these surveys are carried out every two to three years and are used to determine an estimate of native oyster biomass. Ten per cent of the biomass is then allocated as the TACC for the next fishing season.</p>	<p>The department considers that this recommendation has been met.</p>
<p>5. DPIW to develop a research strategy for native oysters and implement once resources allow. Research should focus on growth and recruitment of native oysters.</p>	<p>DPIPWE has advised the department that it considers that, of the Tasmanian shellfish stocks, cockles have the highest priority for research, followed by clams and native oysters.</p>	<p>While acknowledging DPIPWE's current prioritisation of research needs within the shellfish fisheries, the department recommends that DPIPWE review the research needs for sustainable management of the harvest of native oysters and identify research priorities as part of a clearly documented research strategy (see Recommendation 4, Table 4).</p>

Table 3: The Department of Sustainability, Environment, Water, Population and Communities’ assessment of the harvest of native oysters from the Tasmanian Shellfish Fishery against the requirements of the EPBC Act related to decisions made under Part 13A.

Please Note – the table below is not a complete or exact representation of the EPBC Act. It is intended as a summary of relevant sections and components of the EPBC Act to provide advice on the fishery in relation to decisions under Part 13 and Part 13A. A complete version of the EPBC Act can be found at <http://www.comlaw.gov.au/>.

Part 13A

Section 303BA Objects of Part 13A

(1) The objects of this Part are as follows:

- (a) to ensure that Australia complies with its obligations under CITES² and the Biodiversity Convention;
- (b) to protect wildlife that may be adversely affected by trade;
- (c) to promote the conservation of biodiversity in Australia and other countries;
- (d) to ensure that any commercial utilisation of Australian native wildlife for the purposes of export is managed in an ecologically sustainable way;
- (e) to promote the humane treatment of wildlife;
- (f) to ensure ethical conduct during any research associated with the utilisation of wildlife; and
- (h) to ensure the precautionary principle is taken into account in making decisions relating to the utilisation of wildlife.

² Convention on International Trade in Endangered Species of Wild Fauna and Flora

Part 13A (cont.)

Section 303DC Minister may amend list	The department's assessment of the harvest of native oysters from the Tasmanian Shellfish Fishery
<p>(1) Minister may, by instrument published in the Gazette, amend the list referred to in section 303DB (list of exempt native specimens) by:</p> <ul style="list-style-type: none">(a) including items in the list;(b) deleting items from the list; or(c) imposing a condition or restriction to which the inclusion of a specimen in the list is subject; or(d) varying or revoking a condition or restriction to which the inclusion of a specimen in the list is subject; or(e) correcting an inaccuracy or updating the name of a species.	
<p>(1A) In deciding whether to amend the list referred to in section 303DB (list of exempt native specimens) to include a specimen derived from a commercial fishery, the Minister must rely primarily on the outcomes of any assessment in relation to the fishery carried out for the purposes of Division 1 or 2 of Part 10.</p>	<p>No assessment of the harvest of native oysters from the Tasmanian Shellfish Fishery has been carried out under Part 10 of the EPBC Act.</p>

Section 303DC Minister may amend list	The department's assessment of the harvest of native oysters from the Tasmanian Shellfish Fishery
<p>(1C) The above does not limit the matters that may be taken into account in deciding whether to amend the list referred to in section 303DB (list of exempt native specimens) to include a specimen derived from a commercial fishery.</p>	<p>It is not possible to list exhaustively the factors that you may take into account in amending the list of exempt native specimens. The objects of Part 13A, which are set out above this table, provide general guidance in determining factors that might be taken into account. A matter that is relevant to determining whether an amendment to the list is consistent with those objects is likely to be a relevant factor.</p> <p>The department considers that the amendment of the list of exempt native specimens to include:</p> <ul style="list-style-type: none"> ▪ native oysters taken from the Tasmanian Shellfish Fishery in accordance with the Tasmanian <i>Fisheries (Shellfish) Rules 2007</i>, until 5 May 2017, would be consistent with the provisions of Part 13A as: ▪ the fishery will not harvest any CITES listed species ▪ there are management arrangements in place to ensure that the resource is being managed in an ecologically sustainable way (see Table 1) ▪ the harvest of native oysters from the Tasmanian Shellfish Fishery during the period of the recommended inclusion in the list of exempt native specimens is unlikely to be unsustainable or threaten biodiversity, and ▪ the <i>Environment Protection and Biodiversity Conservation Regulations 2000</i> do not specify oysters as a class of animal in relation to the welfare of live specimens.

Section 303DC Minister may amend list	The department's assessment of the harvest of native oysters from the Tasmanian Shellfish Fishery
<p>(3) Before amending the list referred to in section 303DB (list of exempt native specimens), the Minister:</p> <ul style="list-style-type: none"> (a) must consult such other Minister or Ministers as the Minister considers appropriate; and (b) must consult such other Minister or Ministers of each State and self-governing Territory as the Minister considers appropriate; and (c) may consult such other persons and organisations as the Minister considers appropriate. 	<p>The department considers that the consultation requirements for amending the list of exempt native specimens have been met. The Tasmanian Department of Primary Industries, Parks, Water and Environment, as the management agency responsible for the fishery, was consulted as part of the assessment process.</p> <p>The application from the Tasmanian Department of Primary Industries, Parks, Water and Environment was released for public comment from 27 February 2012 to 29 March 2012. One comment was received and was considered in the preparation of the department's advice regarding amendment of the list of exempt native specimens to include native oysters harvested from the Tasmanian Shellfish Fishery until 5 May 2017.</p>
<p>(5) A copy of an instrument made under section 303DC is to be made available for inspection on the Internet.</p>	<p>The instrument amending the list of exempt native specimens made under section 303DC will be gazetted and made available on the department's website.</p>

Part 16

Section 391 Minister must consider precautionary principle in making decisions	The department's assessment of the harvest of native oysters from the Tasmanian Shellfish Fishery
<p>(1) The Minister must take account of the precautionary principle in making a decision under section 303DC and/or section 303FN, to the extent he or she can do so consistently with the other provisions of this Act.</p>	<p>The department has taken into account the precautionary principle in preparing its advice in relation to amendment of the list of exempt native specimens under section 303DC.</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>	

**The Department of Sustainability, Environment, Water, Population
and Communities' final recommendations to the Tasmanian Department of
Primary Industries, Parks, Water and Environment for the harvest of
native oysters from the Tasmanian Shellfish Fishery**

The material submitted by the Tasmanian Department of Primary Industries, Parks, Water and Environment indicates that the harvest of native oysters from the Tasmanian Shellfish Fishery operates in accordance with the Australian Government *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition*.

Stock Status

The department considers that the range of management measures are sufficient to ensure that the fishery is conducted in a manner that does not lead to over fishing.

Under the Tasmanian *Fisheries (Shellfish) Rules 2007*, harvest of native oysters (*Ostrea angasi*) is limited to Georges Bay in the north east of the state. There are only two licences allowing commercial harvest of wild grown native oysters and harvest is separated into a number of beds throughout the bay.

The *Fisheries (Shellfish) Rules 2007* requires the setting of an annual total allowable commercial catch (TACC) for native oysters. The TACC is allocated as ten per cent of the biomass of native oysters as estimated from periodic stock surveys.

Ecosystem impacts

Taking into account the management measures described above and that hand harvesting only is permitted, thereby minimising damage to the structure of the oyster reef, the department considers that fishing operations are managed to minimise their impact on the structure, productivity, function and biological diversity of the ecosystem.

Conclusion

The department considers that native oysters, taken in accordance with the *Fisheries (Shellfish) Rules 2007*, should be exempt from the export controls of Part 13A of the *Environment Protection and Biodiversity Conservation Act 1999*, with that exemption to be reviewed in five years. To contain and minimise the risks in the longer term the recommendations listed in Table 4 have been made.

Table 4: Summary of issues and recommendations - harvest of native oysters from the Tasmanian Shellfish Fishery – April 2012

Issue	Recommendation
<p><u>General Management</u></p> <p>Export decisions relate to the arrangements in force at the time of the decision. To ensure that these decisions remain valid and export approval continues uninterrupted, the Department of Sustainability, Environment, Water, Population and Communities needs to be advised of any changes that are made to the management regime and make an assessment that the new arrangements are equivalent or better, in terms of ecological sustainability, than those in place at the time of the original decision. This includes operational and legislated amendments that may affect sustainability of the target species or negatively impact on byproduct, bycatch, protected species or the ecosystem.</p>	<p>Recommendation 1:</p> <p>The harvest of native oysters from the Tasmanian Shellfish Fishery will be carried out in accordance with the Tasmanian <i>Fisheries (Shellfish) Rules 2007</i> in force under the Tasmanian <i>Living Marine Resources Management Act 1995</i>.</p> <p>Recommendation 2:</p> <p>The Tasmanian Department of Primary Industries, Parks, Water and Environment to inform the Department of Sustainability, Environment, Water, Population and Communities of any intended amendments to the management arrangements that may affect the assessment of the harvest of native oysters against the criteria on which <i>Environment Protection and Biodiversity Conservation Act 1999</i> decisions are based.</p>
<p><u>Annual Reporting</u></p> <p>It is important that reports be produced and presented to the department annually in order for the performance of the fishery and progress in implementing the recommendations in this report and other managerial commitments to be monitored and assessed throughout the life of the declaration. Annual reports should follow Appendix B to the <i>Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition</i> and include a description of the fishery, management arrangements in place, research and monitoring outcomes, recent catch data for all sectors of the, status of target stock, interactions with protected species, impacts of the harvest on the ecosystem in which it operates and progress in implementing the department's recommendations. Electronic copies of the guidelines are available from the department's website at http://www.environment.gov.au/coasts/fisheries/publications/guidelines.html</p>	<p>Recommendation 3:</p> <p>The Tasmanian Department of Primary Industries, Parks, Water and Environment to produce and present reports to the department annually as per Appendix B to the <i>Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition</i>.</p>

3	<p><u>Sustainability of native oyster stock</u></p> <p>The Tasmanian Department of Primary Industries, Parks, Water and Environment's <i>Shellfish Fishery Policy Document 2007</i> states that a management review will be initiated if one or more of the reference points for native oysters are reached. The Department of Primary Industries, Parks, Water and Environment (DPIPWE) has advised that review against the reference points is not relevant at the current low levels of harvest (currently less than one per cent of the estimated total biomass of native oysters, due to a lack of markets) but that DPIPWE is committed to review against the reference points should the harvest levels reach 25 per cent of the total allowable commercial catch (TACC) (the TACC is set at ten per cent of the estimated total biomass).</p> <p>While the department notes the prescribed management responses involve consultation with industry and implementing appropriate actions to address the issue, there is currently no time frame in place for implementation of this action if a reference point is triggered. At the time of the 2007 Australian Government assessment under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> of the harvest of native oysters from the Tasmanian Shellfish Fishery, a recommendation was made for Tasmanian DPIPWE to consider that a timeframe should be applied to the management responses. The department recommends that DPIPWE include the results of monitoring of the reference points in the annual reports to be provided to the department, including the reasons for any nil management response to triggered reference points. The department recommends that when the reference points are next reviewed, timelines for development of a clear timetable for implementation of management responses are included.</p> <p>The 2007 assessment recommended that DPIPWE develop and implement a research strategy for native oysters. DPIPWE has advised the department that it considers that, of the Tasmanian shellfish stocks, cockles have the highest priority for research, followed by clams and native oysters. While acknowledging DPIPWE's current prioritisation of research needs within the shellfish fisheries, the department recommends that DPIPWE review the research needs for sustainable management of the harvest of native oysters and identify research priorities as part of a clearly documented research strategy.</p>	<p>Recommendation 4:</p> <p>The Tasmanian Department of Primary Industries, Parks, Water and Environment to:</p> <ul style="list-style-type: none"> • monitor the status of native oysters in relation to reference points and report the results in the annual status reports provided to the Department of Sustainability, Environment, Water, Population and Communities. • ensure that the management responses, should reference points be triggered, have clear timeframes for implementation. • review research needs and priorities for sustainable management of the harvest of native oysters.
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Acronyms

CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
DEW	Department of the Environment and Water Resources
DPIPWE	Department of Primary Industries, Parks, Water and Environment
DPIW	Department of Primary Industries and Water
IMAS	Institute for Marine and Antarctic Studies
mm	millimetres
SEWPaC	(Department of) Sustainability, Environment, Water, Population and Communities
TAC	total allowable commercial
TACC	total allowable commercial catch
TSF	Tasmanian Shellfish Fishery