



Australian Government

Department of Sustainability, Environment, Water, Population and Communities

Assessment of the
Northern Territory Spanish Mackerel Fishery

January 2013

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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 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 Sustainability, Environment, Water, Population and Communities or the Australian Government.

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This section contains the department's assessment of the Northern Territory Spanish Mackerel Fishery's performance against the Australian Government's *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition* and outlines the reasons the department recommends that product derived from the fishery be included in the list of exempt native specimens.

Table 4: Northern Territory Spanish Mackerel Fishery Assessment – Summary of Issues and Recommendations January 201329

Table 4 contains a description of the issues identified by the department with the current management regime for the Northern Territory Spanish Mackerel Fishery and outlines the proposed recommendations that would form part of the delegate's decision to include product from the fishery in the list of exempt native specimens.

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Table 1: Summary of the Northern Territory Spanish Mackerel Fishery

Publicly available information relevant to the fishery	<ul style="list-style-type: none"> • Agency submission on ecological sustainability - November 2012 • Spanish Mackerel Fishery Status Report - 2011 • NT Spanish Mackerel Management Plan (as in force at 1 January 2010) • Department of the Environment, Water, Heritage and the Arts assessment report - February 2008 • Agency submission on ecological sustainability - October 2007 • Department of the Environment and Heritage assessment report - January 2003 • Agency submission on ecological sustainability
Area	<p>Northern Territory (NT) waters off the coast and river mouths and extending outwards to the Australian Fishing Zone outer limit.</p> <p>In general, fishing occurs around reefs, headlands and shoals. However, the main fishing area incorporates waters near Bathurst Island, New Island, the northern and western Groote Eylandt, the Gove Peninsula, the Wessel Islands, the Sir Edward Pellew Group and where suitable, fishing grounds on the western/eastern mainland coasts.</p>
Target Species	<p>The narrow-barred Spanish mackerel (<i>Scomberomorus commerson</i>).</p> <p>Spanish mackerels are also landed as an incidental catch in the Offshore Net and Line Fishery and the Finfish Trawl Fishery.</p>
Fishery status	<p>The Fishery Status Report for 2011 states that the fishery is below full exploitation, as determined in the 2011 Ecological Risk Assessment (ERA) workshop.</p> <p>The 2011 report also states that none of the management objective trigger reference points were exceeded during 2011.</p>
Byproduct Species	<p>Small amounts of other <i>Scomberomorus</i> species are also taken in the Fishery.</p>
Gear	<p>Trolled lures, baited lines, floating hand lines and rods.</p> <p>Up to two dories may be used from mother ships. When using more than one licence, some operators use up to four dories with one mother ship.</p>
Season	<p>Most fishing takes place during the second half of the year during September to November.</p>
Commercial harvest	<p>The commercial Spanish mackerel catch was 274 tonnes in 2011, increasing from 254 tonnes in 2010 and 233 tonnes caught in 2009.</p>
Value of commercial harvest	<p>\$2.11 million in 2011.</p>

Take by other sectors	<p><u>Recreational Sector:</u></p> <p>In 2000-2001 a National Indigenous and Recreational Fishing Survey was conducted, indicating an annual mackerel catch in the NT of 25,233 fish, with 49 per cent indicated as being Spanish mackerel.</p> <p>A comprehensive 12 month survey of recreational fishing in the NT commenced in 2009 and will provide up-to-date recreational catch estimates. The NT Department of Primary Industry and Fisheries has advised that results will be made available by the end of February 2013.</p> <p><u>Indigenous:</u></p> <p>The Indigenous catch is considered minimal, as fishing by the Indigenous sector generally occurs inshore.</p> <p>The 2000-2001 National Indigenous and Recreational Fishing Survey indicated that approximately 1400 mackerels were caught by Indigenous fishers in the NT. Species identification was not recorded.</p> <p><u>Fishing Tour Operators:</u></p> <p>In 2011, 2567 Spanish mackerel were caught in the fishing tour operator sector, and 45% were released. This is a decline from the catch of 3378 fish in 2010, and 4054 in 2009.</p>
Commercial licences issued	There are 16 licences in the NT Spanish Mackerel Fishery.
Management arrangements	<p>The fishery is managed under the NT <i>Spanish Mackerel Fishery Management Plan 2005</i>, in force under the NT Fisheries Regulations 1993 and the NT <i>Fisheries Act 1988</i>.</p> <p>Input and output management controls include:</p> <ul style="list-style-type: none"> • limited entry (16 licences issued in 2010) • gear restrictions • catch sharing arrangement with other user groups (total of 450 tonnes total allowable catch) <ul style="list-style-type: none"> - Spanish mackerel licensees – 76% (342 tonnes) - Recreational fishers – 16% (72 tonnes) - Offshore Net and Line licensees – 3% (13.5 tonnes) - Fishing Tour Operator licensees – 3% (13.5 tonnes) - Finfish Trawl licensees – 1% (4.5 tonnes) - Indigenous fishers – 1% (4.5 tonnes) • formalised objectives, performance indicators, trigger points and management responses (incorporated into the management plan) • a recreational personal possession limit of five Spanish mackerel per day.

Export	Limited export.
Bycatch	<p>Bycatch is reported to be minimal in the fishery, due to the highly selective nature of the fishery. Low value species are reported as being released alive in most cases.</p> <p>Observer trips indicate that bycatch accounts for less than 1% of the total catch.</p>
Interaction with Protected Species¹	<p>The 2011 Ecological Risk Assessment (ERA) states that no Threatened, Endangered and Protected species interactions have been reported or observed in the fishery over the last 10 years.</p> <p>The Department of Primary Industry and Fisheries considers that the low risk is due to the highly selective nature of fishing methods used in the fishery.</p>
Ecosystem Impacts	Due to the selective nature of the fishery operations and the gear used, it is reported in the 2011 Status Report that the fishery is considered to have minimal impact on the ecosystem.
Impacts on World Heritage property/RAMSAR site	The Kakadu National Park is listed as a World Heritage Area, however, commercial fishing activity is not permitted in the waterways of Kakadu National Park and gear restrictions and spatial closures exist for recreational fishers. We consider that actions taken in accordance with the management for the NT Spanish Mackerel Fishery would not have a significant impact on the Kakadu National Park or the world heritage values of the Kakadu World Heritage Area.

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.

Table 2: Progress in implementation of recommendations made in the previous assessment of the Northern Territory Spanish Mackerel Fishery

Recommendation	Progress	Recommended Action
<p>Recommendation 1:</p> <p>Operation of the NT Spanish Mackerel Fishery will be carried out in accordance with the <i>Spanish Mackerel Fishery Management Plan 2005</i> in force under the NT Fisheries Regulations 1993 and the NT <i>Fisheries Act 1988</i>.</p>	<p>The Northern Territory Department of Primary Industry and Fisheries (formerly the Department of Primary Industry, Fisheries and Mines) has advised that all 2012 fishing operations were conducted in accordance with the <i>Spanish Mackerel Fishery Management Plan 2005</i> in force under the NT Fisheries Regulations 1993 and the NT <i>Fisheries Act 1988</i>.</p>	<p>The department considers this recommendation has been met and remains ongoing.</p> <p>(See Recommendation 1, Table 4).</p>
<p>Recommendation 2:</p> <p>DPIFM to advise DEWHA of any intended change to the NT Spanish Mackerel Fishery management arrangements that could affect the criteria on which EPBC Act decisions are based.</p>	<p>The Northern Territory Department of Primary Industry and Fisheries has confirmed that no changes to management arrangements were made in the fishery in 2012.</p> <p>The NT Department of Primary Industry and Fisheries has advised that it is possible new management arrangements may be implemented in the fishery in the near future, as a result of the review of the commercial harvest conducted, so as to ensure catch remains within the commercial sector allocation outcome.</p> <p>The NT Department of Primary Industry and Fisheries will advise the department of any changes implemented.</p>	<p>The department considers this recommendation has been met and remains ongoing.</p> <p>(See Recommendation 2, Table 4).</p>

Recommendation	Progress	Recommended Action
<p>Recommendation 3:</p> <p>DPIFM to produce and present reports to DEWHA annually as per Appendix B to the <i>Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition</i>.</p>	<p>The NT Department of Primary Industry and Fisheries has provided reports to the department annually.</p>	<p>The department considers that this recommendation has been met and will remain ongoing.</p> <p>(See Recommendation 3, Table 4).</p>

Recommendation	Progress	Recommended Action
<p>Recommendation 4:</p> <p>Within two years, DPIFM to review relevant management arrangements and, where appropriate, develop and implement alternative management options to ensure the catch of all sectors of the Spanish Mackerel Fishery remains below the Total Allowable Catch.</p>	<p>The department acknowledges that 90 per cent of the 2005 and 2006 aggregate catch (TAC) of Spanish mackerel was exceeded for all sectors, triggering a performance measure and prompting a review of the management arrangements.</p> <p>NT Department of Primary Industry and Fisheries has advised that since 2006, the catch of Spanish mackerel by the commercial sector has not exceeded the allocated catch share. However, the NT Department of Primary Industry and Fisheries has advised that the management arrangements were reviewed by the Spanish Mackerel Fishery Management Advisory Committee (SMFMAC) in May 2008, followed by the distribution of a discussion paper, <i>Future Management Options for the Commercial Take in the Spanish Mackerel Fishery</i> to licence holders.</p> <p>The introduction of Individual Transferable Quotas (ITQs) was raised as an option for the fishery, following the review and the discussion paper.</p> <p>Initially positive support was received for the introduction of ITQs and included support from the Spanish Mackerel Licensee Committee and the NT Seafood Council however, discussion still continues in regard to the allocation of quota and how it should occur.</p> <p>Since 2011, when a paper describing ITQs and their relevance to the Spanish Mackerel Fishery was released for comments, the NT Department of Primary Industry and Fisheries has advised that a large number of industry members had changed their opinions on the allocation of ITQs.</p>	<p>The department considers this recommendation has been partially met and will be continued through a revised recommendation.</p> <p>See Recommendation 4, Table 4.</p>

Recommendation	Progress	Recommended Action
(Recommendation 4 cont.)	<p>The NT Department of Primary Industry and Fisheries has confirmed that the review of management arrangements is continuing and is being conducted by SMFMAC. This will now also involve consideration of the alternative management arrangements outlined in responses to the discussion paper released in 2011, and whether or not it is appropriate to implement alternative management arrangements (such as ITQs) in this fishery.</p> <p>Given that investigations are still continuing into alternative and appropriate management arrangements for the NT Spanish Mackerel Fishery, the department considers a recommendation should continue in regard to the review of management arrangements.</p> <p>To assist in ensuring future risk of exceeding quota is reduced, the department encourages the NT Department of Primary Industry and Fisheries to finalise the review of management arrangements and implement any changes to arrangements necessary to ensure continued sustainability of the fishery.</p> <p>In addition, the department understands that once management arrangements are finalised, another Ecological Risk Assessment (ERA) will be conducted to ensure the ecological sustainable management of the fishery.</p>	

Recommendation	Progress	Recommended Action
<p>Recommendation 5:</p> <p>Within three years, DPIFM to develop and implement harvest rate and/or abundance estimates for Spanish mackerel and review current management arrangements to ensure the ecologically sustainable management of the fishery.</p>	<p>To ensure the sustainability of a fishery, the <i>Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition</i> requires that there is a reliable information collection system in place, appropriate to the scale of the fishery and that there is a robust assessment of the status of the species, including a review of the process and data collected.</p> <p>The NT Department of Primary Industry and Fisheries advised that an assessment was carried out (based on a stock reduction analysis model) in 2011, with results indicating that Spanish mackerel were almost fully recovered, since the levels during the 1970's and 1980's, when they were subjected to Taiwanese drift netting.</p> <p>The NT Department of Primary Industry and Fisheries advised that the results of the assessment indicate the following:</p> <ul style="list-style-type: none"> • egg production = 85 per cent • harvest rate = 25 per cent of required maximum sustainable yield. <p>The NT Department of Primary Industry and Fisheries advised that the above assessment will be repeated every 2-3 years and management arrangements will be implemented where necessary to ensure relative catch shares are not exceeded.</p>	<p>The department considers this met.</p>

Recommendation	Progress	Recommended Action
<p>Recommendation 6:</p> <p>Within 3 months of becoming aware of a triggered reference point for target, byproduct, bycatch or protected species, DPIFM to review and consider appropriate management responses, including a clear timetable for implementation of management action.</p>	<p>The NT Department of Primary Industry and Fisheries confirmed that they will review/consider appropriate management responses within three months of becoming aware of a reference point being triggered. This will include including a clear timetable for implementation of management action.</p> <p>It has also been advised that should a reference point be triggered, the matter will be considered by the Spanish Mackerel Fishery Management Advisory Committee (SMFMAC). The Director of Fisheries will then be advised of the outcomes.</p>	<p>The department considers this met.</p>

<p>Recommendation 7:</p> <p>Within three years, DPIFM to conduct an ecological risk assessment for all sectors of the fishery (including the restricted bait net component and other NT fisheries that harvest Spanish mackerel) to determine the cumulative impact on the Spanish mackerel stock.</p> <p>The assessment should also consider the NT Spanish Mackerel Fishery's impact on byproduct, bycatch, protected species and the ecosystem. DPIFM to implement appropriate measures to ensure that identified risks are minimised.</p>	<p>An Ecological Risk Assessment (ERA) workshop for the NT Spanish Mackerel Fishery was conducted in June 2011 and a final report provided to the department.</p> <p>The ERA did not identify any issues of high risk to the ecologically sustainable management of the fishery.</p> <p>No specific management actions were considered necessary; however the NT Department of Primary Industry and Fisheries continues to work towards minimising any potential risks.</p> <p>It is expected that once new management arrangements are finalised and implemented another ERA will be conducted to ensure the ecological sustainable management of the fishery.</p> <p>The department expects to see another ERA conducted once management arrangements are finalised.</p>	<p>The department considers this met.</p>
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<p>Recommendation 8:</p> <p>Within three years, DPIFM to develop and implement appropriate management responses for risks ranked as 'moderate' in the NT Spanish Mackerel Compliance Risk Assessment.</p> <p>DPIFM to continue to engage with other State and Commonwealth agencies to minimise the risk posed by illegal fishing and once available, incorporate estimates of the level of take from illegal fishing parties into stock assessments and management arrangements for the fishery.</p>	<p>The department is aware that a compliance risk assessment was carried out in 2008 with outcomes incorporated into the operational planning for the Water Police Service (WPS).</p> <p>However, the department understands that there is minimal information available in regard to the actual impacts of illegal, unreported and unregulated (IUU) fishing on the NT Spanish mackerel stocks.</p> <p>The 2011 Status Report acknowledges that in the past, IUU fishing was possibly at such a level that it impacted the NT Spanish mackerel stocks and for this reason, the NT Department of Primary Industry and Fisheries has advised that continued consultation with relevant State/Australian Government agencies will continue.</p> <p>Given the uncertainty that continues to surround the impact of IUU fishing activities on the NT Spanish mackerel stock and that the most recent review findings in the final report are still be considered, the department encourages the NT Department of Primary Industry and Fisheries to continue to work towards improved data availability in regard to IUU fishing impacts on the NT Spanish mackerel stock.</p>	<p>The department considers this recommendation is partially met and will be continued in a revised recommendation.</p> <p>See Recommendation 6, Table 4.</p>
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<p>Recommendation 9:</p> <p>By December 2009, DPIFM to develop and implement an appropriate process to estimate the recreational and indigenous take of Spanish mackerel from NT waters and, once available, factor these estimates into future stock assessments and management arrangements, to ensure overall catch levels are sustainable.</p>	<p>The NT Department of Primary Industry and Fisheries conducted a comprehensive 12 month recreational fishing survey concluding in the NT at the end of 2010. The survey obtained data on recreational participation rates, catches, fishing effort, expenditure and attitudes. The NT Department of Primary Industry and Fisheries confirmed that the draft report indicates that in 2009/10, approximately 4,400 Spanish mackerel were retained by residents and visitors fishing in the NT.</p> <p>The NT Department of Primary Industry and Fisheries has advised that the survey report is currently in press and should be available by the end of February 2013. This report will provide input to revised recommendations and management arrangements applying to recreational fishing in the NT.</p> <p>It has been confirmed by the NT Department of Primary Industry and Fisheries that consultation with representatives from the Marine Ranger Program and the Aboriginal Consultative Committees has indicated that the harvest of Spanish mackerel by the Indigenous sector is minimal.</p> <p>The department has also been advised that accurate data relating to Indigenous take of Spanish mackerel in the fishery has not been available to date and as such, the NT Department of Primary Industry and Fisheries will continue to investigate appropriate methods in regard to obtaining this data.</p> <p>The department recommends that once the above report is finalised, the NT Department of Primary Industry and Fisheries should factor these estimates into future stock assessments and management arrangements, to ensure the future sustainability of catch levels within the fishery.</p>	<p>The department considers this to be partially met and will be continued in a revised recommendation.</p> <p>See Recommendation 5, Table 4.</p>
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<p>Recommendation 10:</p> <p>To ensure the sustainability of Spanish mackerel stocks, NT Fisheries to develop a performance indicator, trigger point(s) and management responses for changes in size composition of the commercial catch of Spanish mackerel. Should the performance indicator be triggered, NT Fisheries to implement appropriate management actions in a timely manner.</p>	<p>The NT Department of Primary Industry and Fisheries has advised that the NT Spanish mackerel stocks have been assessed as being fished well within sustainability limits.</p> <p>Therefore, no performance indicators have been developed for size composition, however, the size composition of the commercial Spanish mackerel catch will continue to be monitored by the NT Department of Primary Industry and Fisheries on an opportunistic basis.</p> <p>The NT Department of Primary Industry and Fisheries advised that the implementation of size based performance indicators will be taken into consideration, where found necessary in future assessments.</p>	<p>The department considers this met.</p>
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<p>Recommendation 11:</p> <p>In relation to recording interactions with protected species in the fishery, NT Fisheries to continue to ensure:</p> <p>(a) fishers are aware of the EPBC Act requirement to report protected species interactions within seven days;</p> <p>(b) fishers (including bait net component) record all interactions with protected species in logbooks, including the status of the species when released; and</p> <p>(c) industry has the capacity to make these interaction reports at an appropriate level of accuracy.</p>	<p>The NT Department of Primary Industry and Fisheries states that due to the fishery targeting only the one species and the selective nature of the gear used in the fishery, there is only minimal risk of interactions with protected species. This is also indicated through the observer program.</p> <p>Various training material for operators is also in place, including:</p> <ul style="list-style-type: none"> • The reporting requirements of interactions with Threatened, Endangered and Protected species (TEP) species under the <i>EPBC Act</i> are included on the front cover of all commercial fisher log books. • A reporting procedure developed for all TEP species interactions occurring within Territory waters • a fact-sheet has been provided to all licence holders explaining the reporting of these interactions • Ongoing education of commercial fishers on the importance of complete and accurate reporting of TEP species • Species identification guides for <i>Glyphis</i> and sawfish have been developed and are distributed to improve reporting and information exchange • The development of an Environmental Management System for the fishery which includes identification guides for protected species. Provision of the guide assists with the correct identification and reporting of turtles, sawfish, sharks and other protected species in order to ensure accurate reporting. 	<p>The department considers this met.</p>
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Table 3: The Department of Sustainability, Environment, Water, Population and Communities' assessment of the Northern Territory Spanish Mackerel Fishery against the requirements of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) related to decisions made under Parts 13 and 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 Parts 13 and 13A. A complete version of the EPBC Act can be found on the department's website.

Part 13

Division 1 Listed threatened species Section 208A Minister may accredit plans or regimes	The department's assessment of the Northern Territory's (NT) Spanish Mackerel Fishery
<p>(1) Minister may, by instrument in writing, accredit for the purposes of this Division:</p> <p>(c) a plan of management, or a policy, regime or any other arrangement, for a fishery that is:</p> <ul style="list-style-type: none"> i. made by a State or self-governing Territory; and ii. in force under a law of the State or self-governing Territory; <p>if satisfied that:</p> <p>(f) the plan, regime or policy requires persons engaged in fishing under the plan, regime or policy to take all reasonable steps to ensure that members of listed threatened species are not killed or injured as a result of the fishing; and</p> <p>(g) the fishery to which the plan, regime or policy relates does not, or is not likely to, adversely affect the survival or recovery in nature of the species.</p>	<p>The NT Spanish Mackerel Fishery is managed under the Northern Territory <i>Fisheries Act 1988</i>, the Northern Territory Fisheries Regulations, and the <i>Spanish Mackerel Fishery Management Plan 2005</i>.</p> <p>The <i>NT Spanish Mackerel Fishery Management Plan 2005</i> was accredited in February 2008. The department considers that the management regime for the NT Spanish Mackerel Fishery requires operators to take all reasonable steps to ensure members of listed threatened species are not killed or injured as a result of the fishing.</p> <p>Currently, given the selective nature of the fishing gear used, evidence suggests that the NT Spanish Mackerel Fishery has minimal, if any, interactions with listed threatened species. Therefore, the department considers the current operation of the NT Spanish Mackerel Fishery is not likely to adversely affect the survival or recovery in nature of any listed threatened species.</p>

Part 13 (cont.)

Division 2 Migratory species Section 222A Minister may accredit plans or regimes	The department's assessment of the NT Spanish Mackerel Fishery
<p>(1) Minister may, by instrument in writing, accredit for the purposes of this Division:</p> <p>(c) a plan of management, or a policy, regime or any other arrangement, for a fishery that is:</p> <ul style="list-style-type: none">i. made by a State or self-governing Territory; andii. in force under a law of the State or self-governing Territory; <p>if satisfied that:</p> <p>(f) the plan, regime or policy requires persons engaged in fishing under the plan, regime or policy to take all reasonable steps to ensure that members of listed migratory species are not killed or injured as a result of the fishing; and</p> <p>(g) the fishery to which the plan, regime or policy relates does not, or is not likely to, adversely affect the conservation status of a listed migratory species or a population of that species.</p>	<p>The NT Spanish Mackerel Fishery is managed under the Northern Territory <i>Fisheries Act 1988</i>, the Northern Territory Fisheries Regulations, and the <i>NT Spanish Mackerel Fishery Management Plan 2005</i>.</p> <p>The <i>NT Spanish Mackerel Fishery Management Plan 2005</i> was accredited in February 2008. The department considers that the management regime for the NT Spanish Mackerel Fishery requires operators to take all reasonable steps to ensure members of listed migratory species are not killed or injured as a result of the fishing.</p> <p>Currently, given the selective nature of the fishing gear used, evidence suggests that the NT Spanish Mackerel Fishery only has minimal interactions, if any, with listed migratory species or a population of that species. Therefore, the department considers the current operation of the NT Spanish Mackerel Fishery is not likely to adversely affect the conservation status of a listed migratory species or a population of that species.</p>

Part 13 (cont.)

Division 3 Whales and other cetaceans Section 245 Minister may accredit plans or regimes	The department's assessment of the NT Spanish Mackerel Fishery
<p>(1) Minister may, by instrument in writing, accredit for the purposes of this Division:</p> <p class="list-item-l1">(c) For State Fisheries: a plan of management, or a policy, regime or any other arrangement, for a fishery that is:</p> <p class="list-item-l2">i. made by a State or self-governing Territory; and</p> <p class="list-item-l2">ii. in force under a law of the State or self-governing Territory;</p> <p>if satisfied that:</p> <p class="list-item-l1">(f) the plan, regime or policy requires persons engaged in fishing under the plan, regime or policy to take all reasonable steps to ensure that cetaceans are not killed or injured as a result of the fishing; and</p> <p class="list-item-l1">(g) the fishery to which the plan, regime or policy relates does not, or is not likely to, adversely affect the conservation status of a species of cetacean or a population of that species.</p>	<p>The NT Spanish Mackerel Fishery is managed under the Northern Territory <i>Fisheries Act 1988</i>, the Northern Territory Fisheries Regulations, and the <i>NT Spanish Mackerel Fishery Management Plan 2005</i>.</p> <p>The <i>NT Spanish Mackerel Fishery Management Plan 2005</i> was accredited in February 2008. The department considers that the management regime for the NT Spanish Mackerel Fishery requires operators to take all reasonable steps to ensure whales and other cetaceans are not killed or injured as a result of the fishing.</p> <p>Currently, given the selective nature of the fishing gear used, evidence suggests that the NT Spanish Mackerel Fishery only has minimal interactions, if any, with whales and other cetaceans. Therefore, the department considers the current operation of the NT Spanish Mackerel Fishery is not likely to adversely affect the conservation status of a species of cetacean or a population of that species.</p>

Part 13 (cont.)

Division 4 Listed marine species Section 265 Minister may accredit plans or regimes	The department's assessment of the NT Spanish Mackerel Fishery
<p>(1) Minister may, by instrument in writing, accredit for the purposes of this Division:</p> <p class="list-item-l1">(c) For State Fisheries: a plan of management, or a policy, regime or any other arrangement, for a fishery that is:</p> <p class="list-item-l2">i. made by a State or self-governing Territory; and</p> <p class="list-item-l2">ii. in force under a law of the State or self-governing Territory;</p> <p>if satisfied that:</p> <p class="list-item-l1">(f) the plan, regime or policy requires persons engaged in fishing under the plan, regime or policy to take all reasonable steps to ensure that members of listed marine species are not killed or injured as a result of the fishing; and</p> <p class="list-item-l1">(g) the fishery to which the plan, regime or policy relates does not, or is not likely to, adversely affect the conservation status of a listed marine species or a population of that species.</p>	<p>The NT Spanish Mackerel Fishery is managed under the Northern Territory <i>Fisheries Act 1988</i>, the Northern Territory Fisheries Regulations, and the <i>NT Spanish Mackerel Fishery Management Plan 2005</i>.</p> <p>The NT <i>Spanish Mackerel Fishery Management Plan 2005</i> was accredited in February 2008. The department considers that the management regime for the NT Spanish Mackerel Fishery requires operators to take all reasonable steps to ensure members of listed marine species are not killed or injured as a result of the fishing.</p> <p>Currently, given the selective nature of the fishing gear used, evidence suggests that the NT Spanish Mackerel Fishery only has minimal interactions, if any, with listed marine species. Therefore, the department considers the current operation of the NT Spanish Mackerel Fishery is not likely to adversely affect the conservation status of a listed marine species or a population of that species.</p>

Part 13 (cont.)

Section 303AA Conditions relating to accreditation of plans, regimes and policies	The department's assessment of the NT Spanish Mackerel Fishery
(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 NT Spanish Mackerel Fishery be accredited under sections 208A, 222A, 245 and 265.
(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.	The department considers that no conditions are required for the accreditation of the management regime for the NT Spanish Mackerel Fishery under Part 13.
(7) The Minister must, in writing, revoke an accreditation if he or she is satisfied that a condition of the accreditation has been contravened.	

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

Section 303DC Minister may amend list	The department's assessment of the NT Spanish Mackerel 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 NT Spanish Mackerel Fishery has been carried out under Part 10 of the EPBC Act.</p>
<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 product taken in the NT Spanish Mackerel Fishery until 9 February 2018 would be consistent with the provisions of Part 13A as:</p> <ul style="list-style-type: none"> ▪ the fishery will not harvest any Convention on International Trade in Endangered Species of Wild Fauna and Flora (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 operation of the NT Spanish Mackerel Fishery is unlikely to be unsustainable and threaten biodiversity within the next 5 years, and the Environment Protection and Biodiversity Conservation Regulations 2000 do not specify fish as a class of animal in relation to the welfare of live specimens.

<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 have been met. The application from the NT Department of Primary Industry and Fisheries was released for public comment from 5 November 2012 to 5 December 2012. The public comment period sought comment on:</p> <ul style="list-style-type: none"> ▪ the proposal to amend the list of exempt native specimens to include product derived from the NT Spanish Mackerel Fishery, and ▪ the NT Department of Primary Industry and Fisheries application for the NT Spanish Mackerel Fishery. <p>No comments were received.</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 for the NT Spanish Mackerel Fishery 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 NT Spanish Mackerel Fishery
(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.	Having regard to the precautionary management measures in place in these fisheries, summarised in Table 1, the department considers that the precautionary principle has been accounted for in the preparation of advice in relation to a decision under section 303DC.
(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.	

Part 12

Section 176 Bioregional Plans	The department's assessment of the NT Spanish Mackerel Fishery
(5) Subject to this Act, the Minister must have regard to a bioregional plan in making any decision under this Act to which the plan is relevant.	The <i>Marine Bioregional Plan for the North Marine Region</i> has been considered in the preparation of advice in relation to decisions under sections 208A, 222A, 245, 265, 303DC and 303FN. Due to the minimal impacts of the fishery on the benthic environment and low bycatch, it is considered unlikely that the conservation values of the North Marine Region would be impacted by the fishery.

The Department of Sustainability, Environment, Water, Population and Communities' final recommendations to the Northern Territory (NT) Department of Primary Industry and Fisheries for NT Spanish Mackerel Fishery

The material submitted by the Northern Territory Department of Primary Industry and Fisheries indicates that the NT Spanish Mackerel Fishery operates in accordance with the Australian Government *Guidelines for the Ecologically Sustainable Management of Fisheries – 2nd Edition*.

Since the previous Australian Government assessment of the NT Spanish Mackerel Fishery, the NT Department of Primary Industry and Fisheries has:

- conducted an Ecological Risk Assessment for the fishery, which did not identify any issues of high risk to the ecologically sustainable management of the fishery
- conducted a compliance risk assessment for the fishery, which identified unauthorised use of gear and failure to keep accurate log book records as the highest priorities, and developed strategies to address the risks
- carried out a survey of recreational and Indigenous take and will use the results to inform decisions made regarding recreational fisheries management.

Management controls include:

- limited entry (16 licences issued in 2010)
- gear restrictions
- catch sharing arrangement with other user groups (total of 450 tonnes total allowable catch)
 - Spanish mackerel licensees – 76 per cent (342 tonnes)
 - Recreational fishers – 16 per cent (72 tonnes)
 - Offshore Net and Line licensees – 3 per cent (13.5 tonnes)
 - Fishing Tour Operator licensees – 3 per cent (13.5 tonnes)
 - Finfish Trawl licensees – 1 per cent (4.5 tonnes)
 - Indigenous fishers – 1 per cent (4.5 tonnes)
- formalised objectives, performance indicators, trigger points and management responses (incorporated into management plan)
- a recreational personal possession limit of five Spanish mackerel per day.

The department considers that the management measures employed in the NT Spanish Mackerel Fishery are sufficient to ensure that the fishery is conducted in a manner that does not lead to over-fishing, and that stocks are not currently over-fished.

Taking into account the management measures for the NT Spanish Mackerel Fishery, and the minimal byproduct and bycatch, the department considers that fishing operations in the NT Spanish Mackerel Fishery are managed to minimise their impact on the structure, productivity, function and biological diversity of the ecosystem.

The department considers that product taken in the NT Spanish Mackerel Fishery should be included in the list of exempt native specimens under Part 13A of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) until 9 February 2018. To ensure that the decisions for the NT Spanish Mackerel Fishery under the EPBC Act continue to be valid, the recommendations listed in Table 4 have been made.

Table 4: Northern Territory (NT) Spanish Mackerel Fishery Assessment – Summary of Issues and Recommendations January 2013

	Issue	Condition/Recommendation
1	<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>Operation of the Northern Territory Spanish Mackerel Fishery will be carried out in accordance with the management arrangements in force under the Northern Territory <i>Fisheries Act 1988</i> and the Northern Territory Fisheries Regulations 1993.</p> <p>Recommendation 2:</p> <p>The Northern Territory Department of Primary Industry and Fisheries to inform the Department of Sustainability, Environment, Water, Population and Communities of any intended amendments to the NT Spanish Mackerel Fishery's management arrangements that may affect the criteria on which <i>Environment Protection and Biodiversity Conservation Act 1999</i> decisions are based.</p>
2	<p><u>Annual reporting:</u></p> <p>It is important that reports be produced and presented to the Department of Sustainability, Environment, Water, Population and Communities 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 export status period.</p>	<p>Recommendation 3:</p> <p>The Northern Territory Department of Primary Industry and Fisheries to produce and present reports to the Department of Sustainability, Environment, Water, Population and Communities annually as per Appendix B to the <i>Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition</i>.</p>

	<p>Annual reports should include: a description of the fishery management arrangements in place, research and monitoring outcomes, recent catch data for all sectors of the fishery, status of target stock, interactions with protected species, impacts of the fishery on the ecosystem in which it operates and information outlining progress in implementing recommendations resulting from the previous assessment of the fishery (for a complete description of annual reporting requirements, see Appendix B of the 'Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition' available from the department's website at http://www.environment.gov.au/coasts/fisheries/publications/guidelines.html).</p>	
3.	<p><u>Finalise management arrangements based on 2008 review:</u></p> <p>The department acknowledges that 90 per cent of the 2005 and 2006 total aggregate catch/total allowable catch of Spanish mackerel was exceeded for all sectors, triggering a performance measure and prompting a review of the management arrangements.</p> <p>The NT Department of Primary Industry and Fisheries has advised that since 2006, the catch of Spanish mackerel by the commercial sector has not exceeded the allocated catch share. However, the NT Department of Primary Industry and Fisheries has advised that the management arrangements were reviewed by the Spanish Mackerel Fishery Management Advisory Committee (SMFMAC) in May 2008. This was followed by the distribution of a discussion paper, "Future Management Options for the Commercial Take in the Spanish Mackerel Fishery" to licence holders.</p> <p>The introduction of Individual Transferable Quotas (ITQs) was raised as an option for the fishery, following the review and the discussion paper. The NT Department of Primary Industry and Fisheries advises that initially positive support was received for the introduction of ITQs and included support from the Spanish Mackerel Licensee Committee and the NT Seafood Council.</p>	<p>Recommendation 4:</p> <p>By the end of February 2016, the Northern Territory Department of Primary Industry and Fisheries to finalise the current review of management arrangements and implement any changes necessary to ensure continued sustainable management of the fishery.</p>

<p>Since 2011, when a paper describing ITQs and their relevance to the Spanish Mackerel Fishery was released for comment, the NT Department of Primary Industry and Fisheries has advised that a large number of industry members had changed their opinions on the allocation of ITQs. The NT Department of Primary Industry and Fisheries advises that discussion still continues in regard to the allocation of quota and how it should occur.</p> <p>The NT Department of Primary Industry and Fisheries has confirmed that the review of management arrangements is continuing and is being conducted by SMFMAC. This will now also involve consideration of the alternative management arrangements outlined in responses to the discussion paper released in 2011, and whether or not it is appropriate to implement alternative management arrangements (such as ITQs) in this fishery.</p> <p>Given that investigations are still continuing into alternative and appropriate management arrangements for the NT Spanish Mackerel Fishery, the department considers a recommendation should continue in regard to the review of management arrangements.</p> <p>To assist in ensuring future risk of exceeding quota is reduced, the department encourages the NT Department of Primary Industry and Fisheries to finalise the review of management arrangements and implement any changes to arrangements necessary to ensure continued sustainability of the fishery.</p> <p>In addition, the department understands that once management arrangements are finalised, another Ecological Risk Assessment will be conducted to ensure the ecological sustainable management of the fishery.</p>	
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<p><u>Estimates of Recreational and Indigenous take:</u></p> <p>To ensure the sustainability of a fishery, the <i>Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition</i>, requires that there is a reliable information collection system in place, appropriate to the scale of the fishery and that there is a robust assessment of the status of the species, including a review of the process and data collected.</p> <p>A comprehensive 12 month recreational fishing survey concluded in the NT at the end of 2010. The survey obtained data on recreational participation rates, catches, fishing effort, expenditure and attitudes.</p> <p>The NT Department of Primary Industry and Fisheries has advised that the survey report is currently in press and should be available by the end of February 2013. This report will provide input to revised recommendations and management arrangements applying to recreational fishing in the NT. The current recreational catch allocation of Spanish mackerel is 72 tonnes and the total recreational catch indicated from the survey is approximately 30 tonnes.</p> <p>The above survey estimates, however, do not include all visitors fishing activity within the NT, such as the Kakadu, Arnhem land and Vitoria River areas. This is said to be due to the nature of the survey design. The NT Department of Primary Industry and Fisheries has advised that the survey data will be applied to provide an estimate of visitor catch in those areas not surveyed. The results will then be incorporated into future stock assessments for the NT Spanish Mackerel Fishery.</p> <p>An Indigenous harvest of 1400 individual mackerel (some of which were Spanish mackerel) was reported in the National Indigenous and Recreational Fishing Survey conducted in 2000-2001 in the NT.</p>	<p>Recommendation 5:</p> <p>After considering the final report of the 2010 recreational fishing survey and its outcomes, the Northern Territory Department of Primary Industry and Fisheries to incorporate the results into future stock assessments for the fishery and the current review of management arrangements for the fishery.</p>
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	<p>The NT Department of Primary Industry and Fisheries advised that traditional fishing is focussed on shore based methods which generally target freshwater and inshore species. Pelagic offshore species such as Spanish mackerel are not commonly caught for this reason.</p> <p>It has been confirmed by the NT Department of Primary Industry and Fisheries that consultation with representatives from the Marine Ranger Program and the Aboriginal Consultative Committees has indicated that the harvest of Spanish mackerel by the Indigenous sector is minimal.</p> <p>The department has also been advised that accurate data relating to Indigenous take of Spanish mackerel in the fishery has not been available to date and as such, the NT Department of Primary Industry and Fisheries will continue to investigate appropriate methods in regard to obtaining this data.</p> <p>The department recommends that once the above report is finalised, the NT Department of Primary Industry and Fisheries should factor these estimates into future stock assessments and management arrangements, to ensure the future sustainability of catch levels within the fishery.</p>	
	<p><u>Management responses to compliance risk and illegal, unreported and unregulated (IUU) fishing activities:</u></p> <p>The department is aware that compliance risk assessments were carried out in 2006 and 2008 with outcomes incorporated into the Water Police Service (WPS) operational planning.</p> <p>The NT Department of Primary Industry and Fisheries has confirmed that a further review has been conducted in conjunction with the WPS, and the final report will be available in the near future. It is expected that the outcomes will be incorporated into the future management arrangements for the NT Spanish Mackerel Fishery.</p>	<p>Recommendation 6:</p> <p>The NT Department of Primary Industry and Fisheries to continue to undertake regular compliance risk assessments, ensuring the outcomes are considered and appropriate management responses/arrangements are implemented.</p>

	<p>The 2011 Status Report indicates that there were no 'significant compliance issues' for the fishery. However, the department also understands (as advised by NT Department of Primary Industry and Fisheries) that there is minimal information available in regard to the actual impacts of illegal, unreported and unregulated (IUU) fishing on the NT Spanish mackerel stocks, which was ranked as an extreme risk in the 2006 risk assessment.</p> <p>The department also acknowledges that although currently low, IUU fishing was thought to be at such a level that it may have impacted on the NT Spanish mackerel stocks in the past and for this reason, the NT Department of Primary Industry and Fisheries has advised that continued consultation with relevant State/Australian Government agencies will occur.</p> <p>Given the uncertainty that continues to surround the impact of IUU fishing activities on the NT Spanish mackerel stock and that the most recent review findings are still to be considered, the department encourages the NT Department of Primary Industry and Fisheries to continue to work towards improved data availability in regard to IUU fishing impacts to the NT Spanish mackerel stock.</p>	
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Acronyms

CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
DSEWPAC	Department of Sustainability, Environment, Water, Population and Communities
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
ERA	Ecological Risk Assessment
IUU	Illegal, unreported and unregulated
NT	Northern Territory
TEP	Threatened, Endangered and Protected
SMFMAC	Spanish Mackerel Fishery Management Advisory Committee