



**Australian Government**

---

**Department of the Environment and Energy**

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

**MARCH 2018**

© Copyright Commonwealth of Australia, 2018.



*Assessment of the New South Wales Lobster Fishery March 2018* is licensed by the Commonwealth of Australia for use under a Creative Commons By Attribution 3.0 Australia licence with the exception of the Coat of Arms of the Commonwealth of Australia, the logo of the agency responsible for publishing the report, content supplied by third parties, and any images depicting people. For licence conditions see: <http://creativecommons.org/licenses/by/3.0/au/>.

This report should be attributed as '*Assessment of the New South Wales Lobster 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.

While reasonable efforts have been made to ensure that the contents of this report are factually correct, the Australian Government does not accept responsibility for the accuracy or completeness of the contents, and shall not be liable for any loss or damage that may be occasioned directly or indirectly through the use of, or reliance on, the contents of this report. You should not rely solely on the information presented in the report when making a commercial or other decision.

## CONTENTS

Executive summary of the assessment of the New South Wales (NSW) Lobster Fishery .....	1
Section 1: Assessment summary of the NSW Lobster Fishery against the <i>Guidelines for the Ecologically Sustainable Management of Fisheries (2nd Edition)</i> , consistent with the EPBC Act .....	2
Section 2: Detailed analysis of the NSW Lobster Fishery against the <i>Guidelines for the Ecologically Sustainable Management of Fisheries (2nd Edition)</i> .....	5
Section 3: Assessment of the NSW Lobster Fishery against the requirements of the EPBC Act.....	12
References .....	16

## **EXECUTIVE SUMMARY OF THE ASSESSMENT OF THE NEW SOUTH WALES LOBSTER FISHERY**

In October 2017, the New South Wales (NSW) Department of Primary Industries (DPI) submitted an application for the NSW Lobster 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.

### **The fishery**

The NSW Lobster Fishery operates in state waters using beehive/square traps and large rectangular traps to target eastern rock lobster (*Sagmaraisus verreauxi*). Southern rock lobster (*Jasus edwardsii*) and tropical rock lobster (*Panulirus longipes* and *P. ornatus*) may also be caught. The fishery is managed using input and output controls including annual Total Allowable Commercial Catch (TACC), gear restrictions, limited entry, area closures, individual transferable quotas, size limits, byproduct limits and recreational limits. An ecological risk assessment was completed for the fishery in 2004 and remains valid.

### **Target stocks**

Eastern rock lobster has been established as a single stock. The spatial distribution of fishing effort (based on log book data) on this stock, is considered in annual assessments of stock status. Fishery dependent and independent data is considered and includes commercial catch data, spawning stock abundance data and spatial and temporal trends.

Annual management workshops consider shared stocks with neighbouring jurisdictions, catch information, research outcomes, management arrangements and stock assessment status. There is less robust information available for recreational, Indigenous and illegal fishing. General estimates of removals from these sectors are used to inform TACC setting.

There are no concerns for species taken in the fishery, and ecosystem impacts are considered to be low due to the harvesting methods employed.

### **Protected species and ecosystems**

There have been no interactions with protected species reported in recent years. The fishery is conducted in a way that is likely to be effective in avoiding impacts to protected species, through management measures requiring the use of selective fishing gear, prohibition on retaining protected species and mandatory reporting of protected species interactions. Entanglements with migrating humpback whales have been considered as a potential risk in the fishery, however the overall risk to humpback whales from the commercial lobster fishery is likely to be low.

The 2004 Environmental Impact Statement (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-low. 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 Lobster 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) LOBSTER FISHERY AGAINST THE *GUIDELINES FOR THE ECOLOGICALLY SUSTAINABLE MANAGEMENT OF FISHERIES - 2ND EDITION*, CONSISTENT WITH THE EPBC ACT**

<b>Guidelines assessment</b>	<b>Meets</b>	<b>Partially meets</b>	<b>Does not meet</b>	<b>Details</b>
Management regime	9 of 9			The fishery is well managed with appropriate arrangements in place.
Principle 1 (target stocks)	8 of 11	1 of 11 (1.1.4)	2 of 11 n/a	Robust and active management of target stocks, with annual stock assessments and TACC limits. 1.1.4 – less robust information is available for non-commercial harvest (primarily recreational and illegal take).
Principle 2 (bycatch and TEPS)	7 of 12	1 of 12 (2.1.1)	4 of 12 n/a	Bycatch robustly assessed as low concern, some measures in place to mitigate potential impacts on protected species (migrating humpback whales). 2.1.1 – information on bycatch would be improved if fishers were required to report discards.
Principle 2 (ecosystem impacts)	4 of 5		1 of 5 n/a	Ecosystem impacts assessed as low due to the selective fishing methods used.
<b>EPBC requirements</b>	<b>Meets</b>	<b>Partially meets</b>	<b>Does not meet</b>	<b>Details</b>
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 the 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 three conditions and eight recommendations.

2<sup>nd</sup> assessment finalised 2012 – LENS with three recommendations.

Full assessments of the fishery were completed in 2005 and 2012.

Information on previous assessments for the NSW Lobster Fishery is available on the Department's website at

<http://www.environment.gov.au/marine/fisheries/nsw/lobster>.

### **Fishery reporting:**

Annual report - The most recent full public report on this fishery is in the *Status of Fisheries Resources in NSW 2013-14 Full Report* – [https://www.researchgate.net/publication/305682912\\_Status\\_of\\_Fisheries\\_Resources\\_in\\_NSW\\_2013-14](https://www.researchgate.net/publication/305682912_Status_of_Fisheries_Resources_in_NSW_2013-14). 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/lobster-fishery>

*Fishery Management Strategy for the NSW Lobster Fishery* (2007) (FMS) –

[https://www.dpi.nsw.gov.au/\\_data/assets/pdf\\_file/0017/632411/Lobster-FMS.pdf](https://www.dpi.nsw.gov.au/_data/assets/pdf_file/0017/632411/Lobster-FMS.pdf)

Assessment of the NSW Lobster Fishery (2017) – <http://www.environment.gov.au/system/files/consultations/9be7fdd1-8a96-4c09-81dc-60fc08e5b56d/files/nsw-lobster-assessment-2017.pdf>

### **Enforcing legislation:**

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

<https://www.legislation.nsw.gov.au/#/view/regulation/2000/48>

NSW *Fisheries Management 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/#/view/regulation/2006/733>

**Ecological Risk Assessment:**

*Lobster Fishery Environmental Impact Statement – Public consultation document (2004) -*

<https://www.dpi.nsw.gov.au/fishing/commercial/ea/lf-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 2017-2018 ROCK LOBSTER FISHERY -*

[https://www.dpi.nsw.gov.au/\\_data/assets/pdf\\_file/0008/725354/Lobster-Report-and-Determination-2017-18.pdf](https://www.dpi.nsw.gov.au/_data/assets/pdf_file/0008/725354/Lobster-Report-and-Determination-2017-18.pdf)

*Status of Australian Fish Stocks – Stock status report – Eastern Rock Lobster 2016 (Fisheries Research and Development Corporation) -*

<http://fish.gov.au/report/25-Eastern-Rock-Lobster-2016>

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

[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:**

*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 LOBSTER 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> All relevant management documents including legislation, regulation, management strategy, environmental impact statements, and fishery resources reports are publicly available on the agency's website (see links above).
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 the consultative process described in the submission and NSW DPI's governance and 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 Lobster Industry Working Group meets regularly and involves commercial operators, recreational and conservation representatives.  The TACC setting process involves fishery managers, fisheries scientists, fishing industry groups and the fishing community, with opportunities for input from the public. TACC setting includes annual open forum meeting, with final outcomes made available publicly (see links 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 annual TACC, gear restrictions, limited entry, area closures, individual transferable quotas, size limits, byproduct limits and recreational limits.
Contain the means of enforcing critical aspects of the management arrangements.	<b>Meets</b> NSW Fisheries officers enforce aspects of the management arrangements through patrols and inspections. See link above on compliance enforcement policy and procedures.  A tagging program for product validates commercial catch and maintains integrity of the quota system.



Provide for the periodic review of the performance of the fishery management arrangements and the management strategies, objectives and criteria.	<p><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.</p> <p>Performance against identified performance and management triggers is monitored and action is taken if required.</p>
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> Impacts of the fishery on the marine ecosystem were assessed through the EIS process in 2004 (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> 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>	
<b>1.1.1</b> 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>Meets</b> Fishers are required to complete mandatory catch/effort logbooks. Quota usage is monitored through mandatory electronic daily trip reporting.</p> <p>Biennial fishery independent monitoring is undertaken by NSW DPI. Ongoing puerulus monitoring provides annual estimates of stock size distribution.</p>
<b>Assessment</b>	
<b>1.1.2</b> 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> Annual stock assessments consider the fishery dependent and independent data, including commercial catch data, spawning stock abundance data and spatial and temporal trends. Annual management workshops consider shared stocks with neighbouring jurisdictions, catch information, research outcomes, management arrangements and stock assessment status.</p>
<b>1.1.3</b> The distribution and spatial structure of the stock(s) has been established and factored into management responses.	<p><b>Meets</b> Eastern rock lobster has been established as a single stock. The spatial distribution of fishing effort (based on log book data) on this stock is considered in annual assessments of stock status.</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>Partially meets</b> Reliable estimates for commercial take are provided through log books. These data are considered in annual considerations of stock status and TACC setting.</p> <p>There is less robust information available for recreational, Indigenous and illegal fishing. General estimates of removals from these sectors are used to inform TACC setting.</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>Meets</b> Yes, current population dynamics model produces estimates of relative biomass and potential productivity.</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. <i>Factors to consider (Are these reference points adequate?)</i></p>	<p><b>Meets</b> The FMS includes reference points and triggers. When performance indicators show these triggers have been breached, a review determines whether additional management responses are required (such as implementing a biological bottom line). Management responses are usually implemented through the TACC setting process.</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> The key management strategy for controlling the level of take is an annual TACC. Additional input and output controls include size limits and limited entry requirements.</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> The fishery's management arrangements appear likely to maintain stocks within ecologically viable levels.</p>
<p>(Guidelines 1.1.1 to 1.1.7 should be applied to byproduct species to an appropriate level)</p>	
<p><b>1.1.9</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> The fishery's management arrangements appear likely to maintain stocks within ecologically viable levels.</p>

<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>	
<b>1.2.1</b> 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>N/a</b> In June 2017, the eastern rock lobster stock was considered to be robust to current levels of harvest and spawning biomass was above the limit reference point (TACC setting advice, see link above).
<b>1.2.2</b> 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> If a species is determined overfished, a recovery program will be developed for that species 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>	
<b>2.1.1</b> 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>Partially meets</b> Fishers are not required to record bycatch (discards). However, most non-target species are retained as byproduct, which fishers are required to record.  Estimates of bycatch are available from biennial fishery independent surveys, providing levels of information appropriate to the scale of the fishery. Bycatch is generally considered low, given the targeted nature of the gear.
<b>Assessment</b>	
<b>2.1.2</b> There is a risk analysis of the bycatch with respect to its vulnerability to fishing. <i>Factors to consider (how valid was the analysis? Is it current?)</i>	<b>Meets</b> The fishery's EIS and the FRDC <i>Stock status reports 2016</i> note that bycatch from the commercial sector of the fishery is likely to be minimal (see links above).  The 2017 TARA process (link above) assessed the fishery's impact on harvest and bycatch species as minimal.

<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.	<p><b>Meets</b> Catch of bycatch species is generally considered to be low. Management responses to reduce bycatch include regulation of mesh sizes, trap sizes and measures to avoid ghost fishing.</p> <p>Further protection to bycatch species is afforded by the prohibition of commercial fishing in sanctuary zones of marine parks and aquatic reserves that are present within the area of the fishery.</p>
<b>2.1.4</b> An indicator group of bycatch species is monitored.	<p><b>N/a</b> Given the minimal risk identified for bycatch species, monitoring of indicator species is not required.</p>
<b>2.1.5</b> There are decision rules that trigger additional management measures when there are significant perturbations in the indicator species numbers.	<p><b>N/a</b> No triggers apply, given that there are no indicator species monitored and the minimal risk identified for bycatch species.</p>
<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.	<p><b>Meets</b> Yes, the fishery is conducted in a way that minimises threats to bycatch species.</p>
<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.	<p><b>Meets</b> Since 2005 it has been a requirement for fishers to report all interactions with protected species through catch and effort log books.</p>
<b>Assessments</b>	
<b>2.2.2</b> There is an assessment of the impact of the fishery on endangered, threatened or protected species.	<p><b>Meets</b> The EIS for the fishery (see link above) discusses risks to protected species on pages 118 – 21, noting that the risk was considered low. There have been no interactions reported between 2012 and 2016.</p> <p>The 2017 TARA process assessed the fishery's impact on protected species as minimal-low. (see link above, Appendix C page 13).</p> <p>The broader health of ecosystem in which the fishery operates, including assessment of risks to protected species, is currently under review through the MEMA process (see link above).</p>
<b>2.2.3</b> There is an assessment of the impact of the fishery on threatened ecological communities.	<p><b>N/a</b> There are no EPBC listed threatened ecological communities in the area of the fishery.</p>

<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.	<p><b>Meets</b> Management measures include mandatory reporting and prohibition on retention of protected species. There have been no reported interactions with protected species in recent years, risk is considered minimal due to the selective fishing gear.</p> <p>Entanglements with migrating humpback whales have been considered as a potential risk. Measures are in place to reduce amount of line in the water and operators may lawfully sink their floats which further reduces time that lines are present in the water column.</p>
<b>2.2.5</b> There are measures in place to avoid impact on threatened ecological communities.	<p><b>N/a</b> This fishery is not known to impact on any threatened ecological communities.</p>
<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.	<p><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.</p>
<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.	<p><b>Meets</b> The EIS, MEMA and TARA reports (see links above) considered information relating to 2.3.2. Available information is collated.</p>

<b>Assessment</b>	
<p><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.</p> <ol style="list-style-type: none"> <li>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> </li> <li>2. Impacts on food chains <ul style="list-style-type: none"> <li>• Structure</li> <li>• Productivity/flows</li> </ul> </li> <li>3. Impacts on the physical environment <ul style="list-style-type: none"> <li>• Physical habitat</li> <li>• Water quality</li> </ul> </li> </ol> <p><i>Factors to consider (Do they need an ERA? Do they have an ERA?)</i></p>	<p><b>Meets</b></p> <p>Impacts of the fishery on the marine ecosystem were assessed through the EIS process in 2004 (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.</p>
<b>Management responses</b>	
<p><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.</p> <p><i>Factors to consider (Is there an ERM based on high risk species? Adequate management of gear?)</i></p>	<p><b>Meets</b></p> <p>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>
<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></p> <p>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></p> <p>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 LOBSTER 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 12, 13, Part 13A and Part 16.

### Part 12

Section 176 Bioregional Plans	Comment
(5) Minister must have regard to relevant bioregional plans	<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. Given the low impact fishing methods used in the fishery and the mitigation measures in place, impact to key ecological features is considered low.

### 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.245 (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. The regime was last accredited under Part 13 in 2012 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. Specific management measures are in place to minimise the fishery's impact on listed threatened species, including through minimising line in the water column to reduce the risk of entanglement with listed threatened species, such as humpback whales and marine turtles.
(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 the gear type used this 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. Specific management measures are in place to minimise the fishery's impact on listed migratory species, including through minimising line in the water column to reduce the risk of entanglement with listed migratory species, such as humpback whales and marine turtles.
(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 the gear type used this 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. Specific management measures are in place to minimise the fishery's impact on cetaceans such as migrating humpback whales, including through minimising line in the water column to reduce the risk of entanglement.
(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 were no interactions reported in recent years. The potential for interactions with cetacean species in the gear type used this 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. Specific management measures are in place to minimise the fishery's impact on listed marine species, including through minimising line in the water column to reduce the risk of entanglement with listed marine species, such as marine turtles. The prescribed harvest method reduces the risk of interaction to extremely low level.
(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, given the gear type used in this 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 Lobster Fishery remains accredited</b> under sections 208A, 222A, 245 and 265. Interactions with protected species are negligible under existing arrangements.



<p>(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:</p> <ul style="list-style-type: none"> <li>(a) during a particular period; or</li> <li>(b) while certain circumstances exist; or</li> <li>(c) while a certain condition is complied with.</li> </ul> <p>In such a case, the instrument of accreditation is to specify the period, circumstances or condition.</p>	<p><b>No conditions required.</b></p>
<p>(7) The Minister must, in writing, revoke an accreditation if he or she is satisfied that a condition of the accreditation has been contravened.</p>	<p>Not applicable.</p>

## 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 Lobster 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>

(1A)	In deciding to amend the LENS, the Minister must rely primarily on outcomes of Part 10, Div 1 or 2 assessment	<b>Not applicable</b> – The fishery is not managed by the Commonwealth.
(1C)	The above does not limit matters that may be considered when deciding to amend LENS.	<b>Meets</b> 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.
(3)	Before amending the LENS, the Minister must consult:	<b>Meets</b>
(a)	other Minister or Ministers as appropriate; and	The submission from the NSW DPI (see link in Section 1) was made available on DoEE website from 23 October 2017 – 24 November 2017. One comment was received from the NSW Professional Fishermen's Association, in support of continued export approval for the fishery.
(b)	other Minister or Ministers of each State and self-governing Territory as appropriate; and	
(c)	other persons and organisations as appropriate.	

## Part 16

Section 391 Minister must consider precautionary principle in making decisions		Comment
(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.	<b>Meets</b> Given annual monitoring of stocks against prescribed performance measures and the use of selective low impact fishing gear, precautionary measures are considered to be in place, to prevent serious or irreversible environmental damage being caused by this fishery.
(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.	

## REFERENCES

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