



Australian Government

**Department of Agriculture,
Water and the Environment**

Assessment of the Torres Strait Finfish Fishery

December 2020

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Disclaimer

This document is an assessment carried out by the Department of Agriculture, Water and the Environment 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 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 or the Australian Government.

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ASSESSMENT SUMMARY

On 7 October 2020, the Australian Fisheries Management Authority (AFMA) applied for export and protected species approvals for the Torres Strait Finfish Fishery (the fishery). The Department of Agriculture, Water and the Environment (the Department) has assessed the application under the EPBC Act and the Australian Government *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition*. Public comments were also sought on the application from period was open from 20 October 2020 until 18 November 2020. No public submissions were received.

Description of the fishery

The fishery is comprised of the Torres Strait Spanish Mackerel Fishery (TSSMF) and the Torres Strait Reef Line Fishery (TSRLF). The TSRLF targets high value species including the coral trout group (*Plectropomus* spp and *Variola* spp). Coral trout in Torres Strait comprise four species: common coral trout (*Plectropomus leopardus*), barcheek coral trout (*P. maculatus*), passionfruit coral trout (*P. areolatus*) and bluespot coral trout (*P. laevis*). Other finfish species such as Red Emperor, trevallies and Barramundi Cod are also targeted although less frequently. The TSSMF primarily targets Spanish Mackerel (*Scomberomorus commerson*) with a minor take of other mackerel species.

The fishery comprises tidal waters within the Torres Strait Protected Zone (TSPZ) and the area declared under the Torres Strait Fisheries Act to be 'outside but near' the TSPZ for commercial fishing for finfish. For the fishery, the outside but near area extends to waters just south of Prince of Wales Island to the west and to due east of Cape York Peninsula.

The fishery comprises two commercial fishing sectors, the Traditional Inhabitant sector (TIB) and the Sunset Licence Holder sector (Sunset). In accordance with Articles 22 and 23 of the Treaty, catch sharing arrangements exist between Australia and Papua New Guinea that entitles 40 per cent of the total catch of Spanish Mackerel from the Australian jurisdiction to be provided to PNG licensed vessels. To date, Papua New Guinea has not taken up this entitlement.

There is a closure to the TSRLF west of Longitude 142° 31'49" E and restrictions on fishing within 10 nautical miles of Mer (Murray) Island, Ugar (Stephen) Island, Masig (Yorke) Island, and Erub (Darnley) Island for those fishers operating under a sunset licence. These restrictions are implemented through conditions on the licenses.

Spanish Mackerel is targeted using troll lines with baited hooks. Coral trout is targeted using hand lines dropped with a single baited hook.

Protected species and threatened ecological communities

There has been no formal ecological risk assessment for this fishery. Incidental catch of listed no-take species may occur in the fishery as its operation overlaps with known foraging habitat for species like turtles and sharks. However, the fishing methods employed are highly selective. Due to the non-destructive nature of fishing methods employed in the fishery, interactions with other protected species are less likely. AFMA requires interactions with Threatened, Endangered or Protected (TEP) species to be recorded in the TSF01 Daily Fishing Logbook which is mandatory for sunset licence holders. There have been no interactions with TEP species reported in this fishery to date from sunset licence holders. Daily fishing logbooks are not mandatory for the Traditional Inhabitant sector.

Conclusion

Although the Department's assessment identified a number of risks, the fishery is unlikely to have an unsustainable ecological impact during the period of the proposed three-year approval.

The Department has proposed conditions in Section 2 of this report, to ensure risks continue to be managed. These proposed conditions include the development of a harvest strategy for the fishery; undertaking an Ecological Risk Assessment and developing a risk management strategy to address risk identified through the process, undertake a review the appropriateness of the current size limits applied to Spanish Mackerel; review the current measures applied to the management of the take of sharks in this fishery to ensure that they are in line with Commonwealth best practice; ensure that there is a sufficient level of compliance measures in place to ensure the sustainable management of the fishery in accordance with the management arrangements in place for the fishery, including the reporting of interaction with protected species; and the Department is also recommending that AFMA continue to work towards implementing changes to the Torres Strait Fisheries Act to allow for mandatory reporting to apply to both sectors in the fishery.

The Department considers that, subject to the conditions specified in Section 2 of this report, the fishery should be declared an approved Wildlife Trade Operation for a period of three years, and that product derived from the fishery be included on the List of Exempt Native Specimens while a declaration for an approved wildlife trade operation is in place.

Unless a specific time frame is provided, each condition must be addressed within the period of the approved wildlife trade operation declaration for the fishery.

SECTION 1: ASSESSMENT SUMMARY

	Meets	Partly meets	Does not meet	Details
Guidelines assessment				
Management regime (*1 additional criterion is not applicable)	2 of 8*	4 of 8*	2 of 8*	The Torres Strait Finfish Fishery (the fishery) is managed by the Torres Strait Protected Zone Joint Authority (PZJA) with day to day management responsibilities delegated to the Australian Fisheries Management Authority (AFMA). The fishery operates under the Torres Strait Fisheries Act 1984 , Torres Strait Fisheries Regulations 1985 , Torres Strait Finfish Fishery Management Plan 2013 , Torres Strait Fisheries Management Instrument No. 14 , Torres Strait Fisheries (Finfish) Management Instrument 2020 , Torres Strait Fisheries (Furnishing of Logbooks) Instrument 2020 and permit conditions, including individual fishery permit conditions applied to the Sunset sector.
Principle 1 (target stocks)	0 of 9	6 of 9	3 of 9	Stocks are managed through input and output controls however there are no trigger limits and there is limited information on stocks levels.
Principle 2 (bycatch and TEPS) (*2 additional criteria are not applicable)	0 of 10*	4 of 10*	6 of 10*	Limited information is available on the impacts to non-target species. The fishery operations overlap with known foraging habitat for protected species; however, the method of fishing is highly targeted.
Principle 2 (ecosystem impacts)	0 of 5	3 of 5	2 of 5	Limited information is available on the impacts to non-target species with no reporting of interactions received for the fishery. However, the targeted method of fishing means that impacts to the broader ecosystem are minimised.
EPBC requirements				
Part 10	Meets			The Torres Strait Finfish Fishery Management Plan 2013 was accredited under section 33 of the EPBC Act in July 2013.
Part 12	Meets			There are no marine bioregional plans relevant to the fishery.
Part 13	Partially Meets			The Department has assessed the current management regime and determined that the regime requires all reasonable steps to be

				taken to prevent the killing or injuring of members of listed threatened species.
Part 13A	Partially Meets			The fishery is consistent with the Objects of Part 13A. Declaration of the fishery as a Wildlife Trade Operation for three years, until 1 November 2023 is recommended, subject to conditions detailed in Section 2 of this report.
Part 16	Partially Meets			The management of the fishery with the proposed conditions is precautionary and unlikely to cause serious or irreversible environmental damage.

SECTION 2: SUMMARY OF ISSUES AND CONDITIONS

Issue	Condition
<p><u>General Management</u></p> <p>Export decisions relate to the management arrangements in force at the time of any decision(s) made under the EPBC Act. To ensure that the decision(s) remain valid and export approval continues uninterrupted, the Department of Agriculture, Water and the Environment (the Department) 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(s). This includes operational and legislated amendments that may affect the sustainability of the target species or negatively impact on byproduct, bycatch, EPBC Act protected species or the ecosystem.</p>	<p>Condition 1:</p> <p>The Torres Strait Protected Zone Joint Authority must ensure that operation of the Torres Strait Finfish Fishery is carried out in accordance with management arrangements defined in the Torres Strait Fisheries Act 1984, Torres Strait Fisheries Regulations 1985, Torres Strait Finfish Fishery Management Plan 2013, Torres Strait Fisheries Management Instrument No. 14, Torres Strait Fisheries (Finfish) Management Instrument 2020, Torres Strait Fisheries (Furnishing of Logbooks) Instrument 2020 and in fishery permit conditions.</p> <p>Condition 2:</p> <p>The Torres Strait Protected Zone Joint Authority must inform the Department of Agriculture, Water and the Environment of any intended material changes to the Torres Strait Finfish Fishery management arrangements that may affect the assessment against which <i>Environment Protection and Biodiversity Conservation Act 1999</i> decisions are made.</p> <p>Condition 3:</p> <p>The Torres Strait Protected Zone Joint Authority must inform the Department of Agriculture, Water and the Environment of any intended changes to fisheries legislation that may affect the legislative instruments relevant to this approval.</p>

Issue	Condition
<p><u>Annual Reporting</u></p> <p>It is important that the Australian Fisheries Management Authority provide reports to the Department annually in order for the performance of the fishery and progress in implementing the conditions described in this report and other managerial commitments to be monitored and assessed throughout the life of the export approval. Annual reports should follow Appendix B to the <i>Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition</i> and include a description of the fishery, management arrangements in place, research and monitoring outcomes, recent catch data for all sectors of the fishery, status of target stock, interactions with EPBC Act protected species, impacts of the fishery on the ecosystem in which it operates and progress in implementing the Department's conditions described in the previous assessment for the fishery. Electronic copies of the guidelines are available from the Department's website at http://www.environment.gov.au/resource/guidelines-ecologically-sustainable-management-fisheries.</p>	<p>Condition 4:</p> <p>The Torres Strait Protected Zone Joint Authority must provide reports to the Department of Agriculture, Water and the Environment annually as per Appendix B of the <i>Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition</i>.</p>
<p><u>Ecological risk assessment and risk mitigation</u></p> <p>An ecological risk assessment has not been undertaken for the Torres Strait Finfish Fishery but is expected to be completed in 2023. Once completed, the Department of Agriculture, Water and the Environment considers this ecological risk assessment should be used to inform data collection, monitoring and management of ecological risk.</p> <p>AFMA has advised that an ecological risk assessment has not been conducted due to the highly selective fishing methods used in the fishery and the low level of exploitation resulting in very low levels of interaction with bycatch species, habitats or the environment. Bycatch rates are however significant, with bycatch contributing 55-58 per cent by number of animals and 38-58 per cent by number of species (Williams et al. 2007).</p> <p>AFMA advise that scientific observer data indicates that all bycatch species are returned to the sea alive. However, the extent of post release mortality is unclear and the effects of barotrauma, depredation, and high grading for more marketable sizes or healthier, less</p>	<p>Condition 5:</p> <p>By 30 June 2023 the Torres Strait Protected Zone Joint Authority must complete an ecological risk assessment of the Torres Strait Finfish Fishery and develop an associated risk management strategy to address any risks identified in this assessment.</p> <p>Condition 6:</p> <p>The Torres Strait Protected Zone Joint Authority must review the current measures applied to the management of the take of sharks in the Torres Strait Finish Fishery to ensure that they are in line with Commonwealth best practice.</p>

<p>damaged fish may be significant. AFMA has also received industry reports of periods of significantly higher occurrence of hooked finfish being taken by sharks, or shark depredation.</p> <p>Bycatch in similar fisheries targeting coral trout and other reef associated species is significant and often also associated with depredation, barotrauma and other injuries that result in mortality of target and non-target species. Boat strikes to protected species may also occur, particularly when trolling for mackerel species.</p> <p>Management instruments for the fishery prevent the removal of shark fins at sea and disposal of the body, but do not protect sharks from being targeted for their organs. There is also no conversion limit or catch limit applied for reporting shark catches. As such, the liver or other organs could be removed, and the remainder of the animal discarded. This is likely to make determining the species and quantifying the catch extremely difficult. Shark finning prohibitions also do not apply to traditional inhabitants engaged in traditional fishing.</p> <p>AFMA has advised that an ecological risk assessment for the fishery is a medium priority and pending available funding, and efficiencies gained through automated improvements to the ecological risk assessment process, anticipated to be completed in 2023. The department notes however that AFMA undertook to complete this assessment in 2018-2019 when the fishery was last assessed in 2017.</p>	
<p><u>Ensure management arrangements remain appropriate and sustainable</u></p> <p><i>Spanish Mackerel</i></p> <p>Spanish Mackerel stock abundance in the Torres Strait Finfish Fishery has continued to decline to near historic lows despite repeated reductions to the notional total allowable commercial catch limits.</p> <p>An updated stock assessment for Spanish Mackerel was completed in 2019 which sought to capture the potential effects of increasing fishing effort in the fishery. All modelling indicated a continued decline in stock abundance since 2009, with estimated spawning biomass in 2018–2019 estimated to be between 14 and 37 per cent of unfished biomass (Williams et al. 2020). The median spawning biomass level was 23 per cent, which is close to the proxy 20 per cent biomass level used in many fishing to cease targeted fishing for the species.</p>	<p>Condition 7:</p> <p>The Torres Strait Protected Zone Joint Authority must review the appropriateness of the current minimum size limits for Spanish Mackerel in the Torres Strait Finfish Fishery.</p> <p>Condition 8:</p> <p>By 30 June 2023 the Torres Strait Protected Zone Joint Authority must develop a harvest strategy for the Torres Strait Finfish Fishery.</p>

The modelling predicted that recruitment had been below average in recent years and that the percentage of years that projected stock levels fell below 20 per cent of unfished biomass over a 12-year period was either seven or 11 per cent, depending on the harvest levels that were modelled.

Based on these results, the Finfish Resource Assessment Group (FFRAG) recommended further decreasing the notional TACC to 56 tonnes for the 2020–2021 season. This catch limit is designed to return the stock to 48 per cent of its unfished biomass ([Williams et al. 2020](#)).

The Department of Agriculture, Water and the Environment is concerned that despite ongoing reductions in the notional TACC, from approximately 188 tonnes in 2016-2017, to 56 tonnes in 2020-2021, stock levels continue to decline and the potential for hyperstability in the catch rates remains a risk to the ongoing sustainability of the stock. Hyperstability occurs when catch rates are maintained while the underlying abundance declines. It is frequently observed in fisheries that target schooling species, such as the Spanish Mackerel fishery, where most fishing activity is concentrated on large spawning aggregations around Bramble Cay. A 2006 stock assessment ([Begg et al. 2006](#)) recommended the collection of finer-scale spatial and temporal data from fishers to improve the standardisation of catch rates and provide a more robust index of abundance, however, reporting of more precise catch-and-effort data has not occurred ([Williams et al. 2020](#)).

Further, a proportion of the catch is harvested by fishers under the sunset licence scheme. These fishers have no secure tenure to the fishery and operate under a cost-per-kilo leasing arrangement. Together these two factors can create a disincentive to report. Moreover, the lack of long term tenure in this fishery can result in different fishers of varying abilities entering the fishery in different seasons, this coupled with the potential issues with the catch reporting in this fishery can have a considerable impact on the usefulness of CPUE data for this fishery.

Although the stock has been classified as not overfished or subject to overfishing ([Williams et al. 2020](#)), the declining catch rates across the various standardised series and potential for hyperstability in catch rates is cause for concern and needs to be monitored closely to ensure that the stock is able to recover and does not continue to decline ([Williams et al. 2020](#)).

Also of concern is the fact that the minimum legal size limit for Spanish Mackerel (750 mm total length) is considerably less than the age at which 50 per cent of the population reaches

sexual maturity (between 891 and 944mm total length, [Langstreth et al. 2018](#); [www.fishbase.se](#); [Mackie et al. 2003](#)).

Coral Trout

Notional total allowable commercial catch limits for coral trout have been set based on a Management Strategy Evaluation undertaken in 2006 ([Williams et al. 2011](#)).

The FFRAG considered a preliminary stock assessment for coral trout in 2019 but noting its stage of development and the range of uncertainties within the assessment, the FFRAG recommended further peer review and development of the stock assessment. The FFRAG noted the results of the preliminary stock assessment suggest the coral trout stock is presently healthy with around 80 per cent of virgin biomass available. The FFRAG noted that all model estimates of current spawning biomass were above 65 per cent estimated unfished biomass.

However, within the coral trout management unit, there are multiple species, each with distinctly different biological characteristics. The Department considers it important that these differences be considered in assessing the stock and that any assumptions about catch composition and relative abundance be reviewed and validated periodically to ensure that all species are managed sustainably.

Management Strategy

Management arrangements for the Torres Strait Finfish Fishery are documented in the [Torres Strait Fisheries Act 1984](#), [Torres Strait Fisheries Regulations 1985](#), [Torres Strait Finfish Fishery Management Plan 2013](#), [Torres Strait Fisheries Management Instrument No. 14](#), [Torres Strait Fisheries \(Finfish\) Management Instrument 2020](#), [Torres Strait Fisheries \(Furnishing of Logbooks\) Instrument 2020](#) and in fishery permit conditions.

While these arrangements provide for some setting of harvest controls, data collection and stock assessment, there is currently no strategic framework for the management of target or non-target species.

Harvest strategies developed in accordance with the Commonwealth Harvest Strategy Policy provide a transparent, evidence-based framework to avoid overfishing, recover overfished stocks and ensure fisheries remain sustainable. In doing so, harvest strategies provide the Australian community with confidence that commercial fisheries are being managed for long-

term biological sustainability and economic profitability and provide the fishing industry with a more certain operating environment.

Ideally, management strategies for target and non-target species should account for all sources of mortality, including discards and IUU and consider fishing by all fishers in all sectors; commercial, recreational and traditional. This includes management of fishing related risks to target, byproduct and bycatch species, threatened, endangered and protected species, and habitats, identified through ecological risk assessments (ERAs). Risk management actions may include fishing catch or effort quotas, spatial closures or gear restrictions. The Australian Fisheries Management Authority has commenced work that will support development of a harvest strategy for the Torres Strait Finfish Fishery, but it remains unclear when a harvest strategy will be completed and implemented in the fishery.

The Department of Agriculture, Water and the Environment has identified the development and implementation of a Harvest Strategy for the Torres Strait Finfish Fishery as a priority. The Harvest Strategy should include decision rules and reference points that trigger management actions to mitigate risks to target and non-target species, including protected species and ecological components that have been identified as high risk in the ERA process. Where possible, reference points, triggers and timeframes for recovery should be specified and triggers for management controls should consider all sources of mortality on a species or stock.

Enforceable management arrangements

Management arrangements differ for traditional inhabitant and non-traditional inhabitant (sunset) licenced fishers in the Torres Strait Finfish Fishery, and among recreational, traditional and commercial fishing. However, management arrangements for the fishery do not readily allow for distinction of commercial fishing from recreational and or traditional fishing. Examples include species possession limits, logbook and prior to landing reporting requirements. Further, there is limited inspection of vessels and a general lack of independent observer or electronic monitoring requirements.

Condition 9: The Torres Strait Protected Zone Joint Authority must ensure that there is a sufficient level of compliance measures in place to ensure the sustainable management of the Torres Strait Finfish Fishery, in accordance with the management arrangements in place for the fishery, including the reporting of interaction with protected species.

Recommendation 1:

The Australian Fisheries Management Authority to continue to work with the Department of Agriculture, Water and the Environment and the Protected Zone Joint Authority to implement changes to the *Torres Strait Fisheries Act 1984* to allow data reporting requirements to apply to all fishing sectors in the fishery.

Data collection requirements are to include:

- The total quantity of each target and non-target species removed from the fishery, including any catch discarded prior to landing to an authorised fish receiver;
- Catch and effort data, including location of all commercial fishing activity; and
- Interactions with protected species.

Progress and outcome of this recommendation to be included in annual reports required under condition 4.

Assessment history:

1st assessment finalised 2005 – 3 conditions and 10 recommendations.

2nd assessment finalised 2008 – 3 conditions.

3rd assessment finalised 2013 – 3 conditions and 2 recommendations.

4th assessment finalised 2017 – 7 conditions.

Fishery information

Information on the Spanish Mackerel and Reef Line sectors of the fishery can be found on the Protected Zone Joint Authority (PZJA) website at: <http://pzja.gov.au/the-fisheries/torres-strait-spanish-mackerel-fishery/> and <http://pzja.gov.au/the-fisheries/torres-strait-finish-reef-line-fishery/>.

Fishery Status Report Australian Bureau of Agricultural and Resource Economics and Sciences - Torres Strait Finish Fishery – 2020: <https://www.agriculture.gov.au/abares/research-topics/fisheries/fishery-status/torres-strait-finish-fishery#162-biological-status>

Legislation

- [Torres Strait Fisheries Act 1984](#)
- [Torres Strait Fisheries Regulations 1985](#)
- [Torres Strait Treaty \(Miscellaneous Amendments\) Act 1984](#)
- [Torres Strait Fisheries Act 1984 - Proclamation \(17/03/1999\)](#)
- [Torres Strait Finish Fishery Management Plan 2013](#)
- [Torres Strait Fisheries Management Instrument No. 14](#)
- [Torres Strait Fisheries \(Finish\) Management Instrument 2020](#)
- [Torres Strait Fisheries \(Furnishing of Logbooks\) Instrument 2020](#)

SECTION 3: DETAILED ANALYSIS AGAINST THE GUIDELINES

Guidelines criteria	Comment
THE MANAGEMENT REGIME	
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.	<p>Partly meets – management arrangements are documented, publicly available but not accurately represented in published materials.</p> <p>Management arrangements are documented in the Torres Strait Fisheries Act 1984, Torres Strait Fisheries Regulations 1985, Torres Strait Finfish Fishery Management Plan 2013, Torres Strait Fisheries Management Instrument No. 14, Torres Strait Fisheries (Finfish) Management Instrument 2020, Torres Strait Fisheries (Furnishing of Logbooks) Instrument 2020 and in fishery permit conditions. The permit conditions differ for traditional inhabitant and non-traditional inhabitant (sunset) licenced fishers. Neither set of conditions are publicly available.</p> <p>AFMA’s application for assessment details management arrangements in the Torres Strait Fisheries Management Instrument No. 8 which at the time of assessment (December 2020) appear to be still in force. However, the Torres Strait Fisheries (Finfish) Management Instrument 2020 has replaced Instrument No. 8. The PZJA website also refers to Instrument No.8 and makes no mention of the new Torres Strait Fisheries (Finfish) Management Instrument 2020.</p> <p>Nominal total allowable catch limits are specified on the PZJA web page for the Spanish Mackerel sector but not for the other (fin fish) sector of the fishery. The nominal total allowable catch limits are also specified in PZJA meeting records but it is unclear if the catch limits are specified in any legal instrument. Permit conditions specify individual possession limits for the Sunset sector, but do not specify a total catch limit and the number of licences is also not limited.</p>

Be developed through a consultative process providing opportunity to all interested and affected parties, including the general public.

Meets – management arrangements are developed through consultative processes.

The Torres Strait Protected Zone Joint Authority (PZJA) manages commercial fishing in areas of Australian jurisdiction of the Torres Strait Protected Zone (TSPZ), as well as designated adjacent waters. The PZJA consists of the Minister administering the *Torres Strait Fisheries Act 1984*; the Queensland Minister administering the laws of Queensland relating to marine fishing in the Protected Zone; and the Chairperson of the Torres Strait Regional Authority (TSRA), which is the Commonwealth agency that represents the interests of Torres Strait Islanders.

The PZJA has regard to the rights and obligations conferred on Australia by the *Treaty between Australia and the Independent State of Papua New Guinea concerning sovereignty and maritime boundaries in the area between the two countries, including the area known as the Torres Strait, and related matters* ([the Treaty](#)).

The PZJA is supported by four government agencies: the Australian Fisheries Management Authority (AFMA), the Commonwealth Department of Agriculture, Water and the Environment (DAWE), the Queensland Department of Agriculture and Fisheries (QDAF) and the Torres Strait Regional Authority (TSRA).

AFMA is responsible for providing day to day fisheries management services for the PZJA including compliance and licencing. Decision records of the PZJA are available on the [PZJA website](#).

Agreements between PNG and Australia on catch sharing arrangements and related matters usually take place at annual fishery bilateral meetings and meetings of the Torres Strait Joint Advisory Council but may also occur intersessionally as required by the two Parties.

The Finfish Fishery Working Group (FFWG) is an expertise-based advisory committee that provides information and advice to the PZJA on scientific, economic and technical matters related to the Torres Strait Finfish Fishery (the fishery). The FFWG is comprised of five traditional inhabitant members, a non-traditional inhabitant industry member, two scientific members and QDAF, TSRA and AFMA members.

The Finfish Fishery Resource Assessment Group (FFRAG) provides advice to the PZJA on the status of fish stocks and on the impact of fishing on the marine environment. The FFRAG is comprised of an independent chair, five traditional inhabitant members, a non-traditional inhabitant industry member

	<p>(providing advice on behalf of sunset licence holders), three scientific members and QDAF, AFMA and TSRA members.</p> <p>Government officials from the Papua New Guinea National Fisheries Authority, and a representative of the Malu Lamar Registered Native Title Body Corporate (RNTBC) are invited participants for all meetings of the FFWG and FFRAG. Industry observers also attend meetings from time to time as approved by the respective Chairs.</p> <p>Meeting papers, and records from FFWG and FFRAG meetings are available on the PZJA website.</p> <p>The Torres Strait Scientific Advisory Committee (TSSAC) also advises the PZJA on the strategic direction, priorities and funding distribution for research undertaken across all Protected Zone commercial fisheries. Meeting papers, and records from TSSAC meetings are available on the PZJA website.</p>
Ensure that a range of expertise and community interests are involved in individual fishery management committees and during the stock assessment process.	<p>Meets – A range of expertise and public interests are involved in the management of the fishery.</p> <p>The FFWG and FFRAG is an expertise-based advisory committee that provides information and advice to the PZJA on scientific, economic and technical matters related to the fishery. The FFWG is comprised of traditional and non-traditional inhabitant members, scientific members and QDAF, TSRA and AFMA members. Government officials from the Papua New Guinea National Fisheries Authority, and a representative of the RNTBC are invited participants for all meetings of the FFWG. Casual industry observers also occasionally attend meetings, as approved by the Chair.</p> <p>The TSSAC also advises the PZJA on the strategic direction, priorities and funding distribution for research undertaken across all Protected Zone commercial fisheries.</p>
Be strategic, containing objectives and performance criteria by which the effectiveness of the management arrangements are measured.	<p>Does not meet – Does not have strategic objectives and performance measures to measure effectiveness.</p> <p>AFMA has undertaken work to guide development of a harvest strategy for the fishery. However, the strategy has not yet been drafted and it is unclear when it will be implemented.</p>

Be capable of controlling the level of harvest in the fishery using input and/or output controls.

Partially meets – input and output controls are used to control harvest levels, but the controls need strengthening.

The fishery uses a variety of controls, including minimum and maximum size limits for certain species, restrictions on fishing gear and boat length, and seasonal and spatial closures.

The management plan for the fishery, which was finalised in 2013, provides for the setting of notional total allowable commercial catch limits (TACCs), but quota units have not yet been created or allocated.

Possession limits are specified for Spanish Mackerel, Coral Trout and 'other finfish species' in permit conditions, however there is no limit on the number of permits available.

Limits specified in permit conditions are specified as kilograms of processed or unprocessed catch, and conversion factors are also included for filleted, gilled and gutted, and trunked (mackerel only) forms. There is no conversion factor for other processed forms, which is significant if species are targeted for their organs. For example, Black Jewfish targeted for their swim bladders (although it is unclear how much this species is fished in the area of the fishery).

In 2008, the Australian Government funded a 100% buyback of non-Traditional Inhabitant Boat (TIB) fishing licences, such that the TSRA now holds all the non-TIB (Sunset) licences. Sunset licence holders operate by leasing catch allowances under a temporary annual licence.

Licence conditions are used to limit catch for the Sunset sector, and while all efforts are made by the TSRA and its Finfish Quota Management Committee to ensure that only notional quota that is surplus to the TIB sector is leased to the Sunset sector, catch reporting for the TIB sector is voluntary.

An updated stock assessment for Spanish Mackerel was completed in 2019 which sought to capture the potential effects of increasing fishing effort in the fishery. All modelling indicated a continued decline in stock abundance since 2009, with spawning biomass in 2018–2019 estimated to be between 14 and 37 per cent of unfished biomass (median 23 per cent, [Williams et al. 2020](#)).

The modelling also predicted that recruitment had been below average in recent years and that the percentage of years that projected stock levels fell below 20 per cent of unfished biomass (the proxy limit reference point used in many fisheries where targeted fishing must cease) over a 12-year period was either seven or 11 per cent, depending on the harvest levels that were modelled. Based on these results, the Finfish Resource Assessment Group (FFRAG) recommended further decreasing the

notional TACC to 56 tonnes for the 2020–2021 season. This catch limits is designed to return the stock to 48 per cent of its unfished biomass ([Williams et al. 2020](#)).

Despite ongoing reductions in notional TACC, from 187.7 tonnes in 2016-2017, to 56 tonnes in 2020-2021, the potential for hyperstability in the catch rates of Spanish Mackerel in the Torres Strait remains a concern. Hyperstability occurs when catch rates are maintained while the underlying abundance declines. It is frequently observed in fisheries that target schooling species, such as the TSSMF, where most fishing activity is concentrated on large spawning aggregations around Bramble Cay. A 2006 stock assessment ([Begg et al. 2006](#)) recommended the collection of finer-scale spatial and temporal data from fishers to improve the standardisation of catch rates and provide a more robust index of abundance, however, reporting of more precise catch-and-effort data has not occurred ([Williams et al. 2020](#)).

Although the stock has been classified as not overfished or subject to overfishing, the declining catch rates across the various standardised series and potential for hyperstability in catch rates is cause for concern and needs to be monitored closely to ensure that the stock is able to recover and does not continue to decline ([Williams et al. 2020](#)).

Also of concern is the fact that the minimum legal size limit for Spanish Mackerel (750 mm total length) is considerably less than the age at which 50 per cent of the population reaches sexual maturity (between 891 and 944mm total length, [Langstreth et al. 2018](#); www.fishbase.se; [Mackie et al. 2003](#)).

Further, the management instruments prevent the removal of shark fins at sea and disposal of the body, but do not protect sharks from being targeted for their organs. There is also no conversion limit or catch limit applied for sharks. As such, the liver or other organs could be removed, and the remainder of the animal discarded. This is likely to make determining the species and quantifying the catch extremely difficult.

Contain the means of enforcing critical aspects of the management arrangements.

Partly meets –enforcement capabilities could be improved by ensuring consistency in the information available to fishers and changes to management regulations.

All commercial fishers are required to land their product to a licenced fish receiver. The fish receiver is then required to accurately weigh and record data about the landed product. These 'catch disposal records' are signed by both the licenced fisher and the licenced fish receiver and then submitted to AFMA.

AFMA and the TSRA also meet with stakeholders to increase education and awareness of compliance related issues and foster voluntary compliance with fisheries regulations.

AFMA fisheries officers, with the support of the Australian Border Force, Royal Australian Navy, Queensland Water Police and the Torres Strait Regional Authority Rangers deliver a [domestic compliance program](#) within the Torres Strait Protected Zone (TSPZ) and adjacent 'outside but near' area.

To ensure AFMA's compliance efforts are targeted in the right areas an intelligence driven risk based approach will be applied under its [National Compliance and Enforcement Program](#).

AFMA participates in annual meetings at the bilateral and regional level, working with partner agencies in Papua New Guinea, Timor Leste and Indonesia to foster a united approach to combatting illegal fishing in the region.

Australia's Maritime Border Command also works closely with AFMA's Foreign Compliance Operations and fishery stakeholders to detect, intercept and disrupt illegal maritime activity in the TSPZ. The Maritime Border Command also conducts regional surveillance in the wider region and has information sharing arrangements in force to allow identification of Flag States where foreign fishing boats are in areas in which they are not legally entitled to be. International incidents can be referred to Regional Fisheries Management Organisations and Flag State for action.

Provide for the periodic review of the performance of the fishery management arrangements and the management strategies, objectives and criteria.

Partly meets – Regular performance reviews built into management, but some stocks appear to be declining.

In lieu of a harvest strategy with agreed management strategies, objectives and criteria, the FFRA considers stock assessment outputs, comparing present estimates of biomass relative to a modelled estimate of unfished biomass.

The stock assessment of Spanish Mackerel in 2006 ([Begg et al. 2006](#)) was updated in 2016 using catch and effort data to 2014. The 2014 spawning biomass was estimated to be between approximately 40 and 60 per cent of unfished (1940) levels ([Langstreth et al. 2018](#)). A more recent stock assessment completed in 2019 using data up to 2018-2019 estimated the spawning biomass in 2018–2019 was between 14 and 37 per cent of unfished biomass (median 23 per cent) and the median estimated harvest rate in 2017–2018 was 27 per cent, which is below the estimated harvest rate at maximum sustainable yield (32 per cent) ([Williams et al. 2020](#)).

Despite the Spanish Mackerel models providing estimates of future stock performance under various catch scenarios, stock abundance has continued to decline to near historic lows, despite notional TACCs repeatedly being reduced to allow stock rebuilding.

Total allowable catch limits for Coral Trout have been set based on an older Management Strategy Evaluation undertaken in 2006 ([Williams et al. 2011](#)).

The FFRA recommends an annual Recommended Biological Catch (RBC) for the stocks of Spanish Mackerel and Coral Trout and recommends deductions from the RBC to account for non-commercial catches (e.g. recreational, charter, islander subsistence fishing). The PZJA considers the advice from the FFRA and Finfish Working Group to decide on a notional TACC for the upcoming season.

The status of Spanish Mackerel and Coral Trout in the fishery is assessed annually by the Australian Bureau of Agricultural and Resource Economics and Sciences ([Williams et al. 2020](#)).

<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>	<p>Does not meet – there is no assessment, monitoring or direct management of ecological risks in the fishery.</p> <p>An ecological risk assessment has not been undertaken for the fishery but is expected to be completed in 2023. Once completed, the Department considers this ecological risk assessment should be used to inform data collection, monitoring and management of ecological risk.</p> <p>AFMA has advised that an ecological risk assessment has not been conducted due to the highly selective fishing methods used in the fishery and the low level of exploitation resulting in very low levels of interaction with bycatch species, habitats or the environment. Bycatch rates are however significant, with bycatch contributing 55-58 per cent by number of animals and 38-58 per cent by number of species (Williams et al. 2007).</p> <p>AFMA advise that historic scientific observer data indicates that all bycatch species are returned to the water alive. However, the extent of post release mortality is unclear and the effects of barotrauma, depredation, and high grading for more marketable sizes or healthier, less damaged fish may be significant. AFMA has also received industry reports of periods of significantly higher occurrence of hooked finfish being taken by sharks.</p> <p>Bycatch in similar fisheries targeting coral trout and other reef associated species is significant and often also associated with depredation, barotrauma and other injuries that result in mortality of target and non-target species. Boat strikes to protected species may also occur, particularly when trolling for mackerel species.</p> <p>AFMA has advised that an ecological risk assessment for the fishery is a medium priority and pending available funding, and efficiencies gained through automated improvements to the ecological risk assessment process, anticipated to be completed in 2023. The Department notes however that AFMA undertook to complete this assessment in 2018-2019 when the fishery was last assessed in 2017.</p>
<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>	<p>Not applicable – Due to the fishing methods in this fishery, there are no relevant threat abatement plans, recovery plans or bycatch policies or action strategies applicable to this fishery.</p>

PRINCIPLE 1 - 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.

Objective 1 - 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.

Information requirements

1.1.1 There is a reliable information collection system in place appropriate to the scale of the fishery. The level of data collection should be based upon an appropriate mix of fishery independent and dependent research and monitoring.

Partly meets – There is some fishery dependent and fishery independent data collection, but very limited capacity to monitor fishing effort or fishing location.

Fishery dependent reporting

The fishery comprises two commercial fishing sectors, the Traditional Inhabitant Boat (TIB) sector and the Sunset Licence Holder sector.

Catch sharing arrangements also exist between Australia and Papua New Guinea that entitles 40 per cent of the total catch of Spanish Mackerel from the Australian jurisdiction to be provided to Papua New Guinean licensed vessels. To date, Papua New Guinea has not taken up this entitlement. It is unclear how information on Papua New Guinean catches would be collected if this were to occur.

Access to the TIB sector is reserved exclusively for traditional inhabitants who own 100 per cent of the Australian share of the fishery. Non-traditional inhabitant operators may lease licenses temporarily (sunset licenses).

Sunset licence holders are required to complete a daily fishing logbook ([TSF01](#)) which captures catch and effort data. However, the use of daily fishing logbooks by the TIB sector is not mandatory. AFMA is working towards legislative amendments that will ensure daily catch and effort reporting by the TIB sector is mandatory but anticipates this process will take several years.

All licenced commercial fishers are required to land their product to a licenced fish receiver. The fish receiver is then required to accurately weigh and record data about the landed product in a Catch Disposal Record book ([TDB02](#)) and submit that information to AFMA. Unlike the TSF01 logbook, which requires catch and effort data to be recorded for fishing operations at the tender boat level, the TDB02 only requires aggregate catch data at the end of a single fishing trip. The TDB02 captures the total weight of the species landed, the processed form of this catch and is required to be signed by both the licenced fisher, and the licenced fish receiver. The TDB02 is unable to capture any information on product that is harvested, but not landed for sale (e.g. spoiled or unmarketable product).

The TDB02 has a voluntary section which seeks information on fishing effort including the area the product was caught, the number of days the fishing trip was, the number of fishers who went fishing and the fishing method that was used. Voluntary reporting has in the past been incomplete and unreliable.

	<p><i>Fishery independent data collection</i></p> <p>There is no independent scientific observer or similar independent data collection and validation program in place for the fishery.</p> <p><i>Biological sampling of commercial catches</i></p> <p>A biological sampling program to collect Spanish Mackerel length frequency, sex and ageing data from commercial fishing vessels to support the stock assessment was re-introduced into the fishery in the 2019 season. This program has been funded for 2020 and has been expanded to also conduct biological sampling of coral trout.</p> <p><i>Vessel monitoring</i></p> <p>It is mandatory for all primary and carrier boats in the fishery to have a working Vessel Monitoring System unit fitted to the boat. Vessels operating for freight shipping are exempt from installing a VMS and exemptions may also be provided for carrier vessels that are six metres or less in length. VMS data is used by AFMA to monitor the location, speed and course of a commercial fishing boat. It can be used as a tool to monitor compliance with closures and permit conditions in the fishery.</p>
Assessment	

1.1.2 There is a robust assessment of the dynamics and status of the species/fishery and periodic review of the process and the data collected. Assessment should include a process to identify any reduction in biological diversity and /or reproductive capacity. Review should take place at regular intervals but at least every three years.

Partially meets – Stock assessments are irregular, or pending, precautionary management.

Stock assessments have been performed for Spanish Mackerel and Coral Trout. These assessments are presented to the Finfish Fishery Working Group (FFWG) and the Finfish Fishery Resource Assessment Group (FFRAG). The FFRAG and FFWG which consider the available information, analyses and form recommendations to the Protected Zone Joint Authority (PZJA) on sustainable catch limits based on these assessments. Meeting records of these consultative groups and their consideration of stock assessments are available on the [PZJA website](#).

Spanish Mackerel

Annual stock assessments have been conducted for the TSSMF since 2016. The most recent Spanish Mackerel stock assessment (2019, using data up to June 2018) indicates that biomass has been declining since 2009-2010 to reach a near historic low level in 2018-2019. The estimated median 2018–2019 biomass was 23 per cent (ranging between 14 per cent to 37 per cent of unfished biomass). This value is close to the default *Commonwealth Harvest Strategy Policy* limit reference point of 20 per cent of unfished biomass, where targeted fishing is required to cease.

Recent fishing pressure (2018) is not exceeding a harvest rate designed to achieve Maximum Sustainable Yield from the stock. This suggests overfishing is unlikely to be occurring. However, it is unclear whether the setting on minimum legal-size limits below the age at which 50 per cent of the population reaches sexual maturity is accounted for in these assessments.

The FFRAG has assumed that the biomass decline is likely associated with factors other than fishing pressure, such as broader environmental factors driving below average recruitment.

Recent declines in catch rates and the potential for hyperstability in catch rates have been raised as concerns by the FFRAG and FFWG. The PZJA has responded by setting lower, more precautionary notional total allowable commercial catch limits (TACCs) in recent seasons; reducing the 2016-2017 notional TACC of 187.7 tonnes to 132 tonnes in the 2017-2018 season, 110 tonnes in the 2018-2019 season, 82 tonnes in the 2019-2020 season and 59 tonnes for the present 2020-2021 season.

Coral trout

The FFRAG considered a preliminary stock assessment for coral trout in 2019 and noting the stage of development and the range of uncertainties within the assessment, recommended further peer review and development. The FFRAG also strongly recommended that ongoing work be undertaken to ensure

	<p>the assessment can be developed and made available for future management decisions. The FFRAG noted the results of the preliminary stock assessment suggest the coral trout stock is presently healthy with around 80 per cent of virgin biomass available. The FFRAG noted that all model estimates of current spawning biomass were above 65 per cent estimated unfished biomass.</p> <p><i>Stock status</i></p> <p>Stock status is reviewed annually by the Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES). ABARES has classified the fishery as not overfished and not subject to overfishing (ABARES, 2020).</p>
<p>1.1.3 The distribution and spatial structure of the stock(s) has been established and factored into management responses.</p>	<p>Does not meet – Spatial information is unclear.</p> <p>Some information is available on the distribution and spatial structure of stocks in the fishery. However, information on where catches are taken is very limited.</p> <p>Spanish Mackerel in the Torres Strait are thought to comprise a separate biological stock from Spanish Mackerel on the Queensland east coast and further west across northern Australia (Begg et al. 2006; Buckworth et al. 2007).</p> <p>Coral trout are managed as a group of species in the fishery. Species include Common Coral Trout (<i>Plectropomus leopardus</i>), Barcheek Coral Trout (<i>P. maculatus</i>), Passionfruit Coral Trout (<i>P. areolatus</i>) and Bluespot Coral Trout (<i>P. laevis</i>). Each of these species is thought to comprise a single genetic stock in the Torres Strait (Evans et al. 2010) and each species has distinct spatial distribution and biological characteristics, such as age and length of sexual maturity. These differences suggest that individual coral trout species may respond differently to fishing pressure and therefore, may require separate management arrangements (Williams et al. 2007).</p> <p>Despite these differences, the species are not distinguished in catch records. It is unclear how stock assessments and other management arrangements account for this variability. It is also unclear what information is available to determine the proportion of each species in the catch and how regularly this information is reviewed to detect changes in stocks and to manage accordingly.</p>

1.1.4 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.

Partially meets – estimates of commercial and non-commercial catch are factored into stock assessments, but limited reporting means these estimates cannot be verified.

Information on harvest from the fishery has improved significantly since the PZJA mandated all landed commercial catch be landed to and reported by licenced fish receivers. However, information on discarded catch, including discarded target species, is not collected.

There is also limited data available to quantify the harvest from traditional and recreational sectors. The QDAF undertakes recreational surveys and collects logbook information from charter operators, but there is very limited collection of this information from the Torres Strait.

AFMA reports that FFRAG and FFWG advise that catch from non-commercial sectors is low and consistent through time, however it is unclear what this advice is based on. A 2008 study of Traditional Inhabitant subsistence catch found that subsistence fishing harvested similar quantities of fish to the combined commercial sectors ([Busilacchi 2008](#)). However, species composition of subsistence catches differed markedly from commercial catch. Although species taken in the traditional subsistence sector include those taken in the commercial fishery, AFMA considers subsistence fishing unlikely to have a large impact on the fish stocks targeted by the commercial fishery.

A 10-tonne allowance is factored into the Recommended Biological Catch limit for Spanish Mackerel each year to cover subsistence fishing for the species. This is based on advice from Traditional Inhabitant industry members that Spanish Mackerel is a key food fish in eastern communities. A two-tonne allowance is also factored into the Recommended Biological Catch limit for recreational and charter catch. Without any catch reporting from either the traditional or recreational sectors it is difficult to determine how accurate either of these estimates are.

Similar allowances are not made for coral trout, though it is likely these species are also taken by traditional and recreational sectors. The FFRAG and FFWG justify the lack of non-commercial allowance based on estimated high biomass levels from the preliminary coral trout stock assessment. If the commercial total allowable catch limit is based on estimates of maximum sustainable yield, then allowance for all sources of mortality on stocks must be made.

A project titled “Measuring non-commercial fishing (indigenous subsistence fishing and recreational fishing) in the Torres Strait in order to improve fisheries management and promote sustainable livelihoods” examining the design and piloting of a non-commercial take monitoring program focussed on Spanish Mackerel, coral trout as well as Tropical Rock Lobster, is underway.

<p>1.1.5 There is a sound estimate of the potential productivity of the fished stock/s and the proportion that could be harvested.</p>	<p>Partially meets – a stock assessment has been completed for Spanish Mackerel, but stocks continue to decline. Stock assessments have not been completed for other species taken in the fishery.</p> <p>Estimates of potential productivity have been used in a recent (2019) stock assessment for Spanish Mackerel. However, a similar assessment has not yet been completed for Coral Trout and no assessment has been completed for any other species in the fishery.</p> <p>A management strategy evaluation was undertaken for coral trout using catch data up to 2004, but no formal stock assessment has been completed to date. A preliminary assessment of coral trout was undertaken for coral trout in 2019, but the FFRAAG noted the assessment was in an early stage of development and included a range of uncertainties. The FFRAAG strongly recommended further review and development of the assessment to ensure the assessment can be developed and made available for management decisions.</p> <p>It is unclear whether the stock assessment for Coral Trout considers the different species within that species group. Williams et al (2007) reported that the species composition of harvested coral trout differed between traditional inhabitant and non-traditional inhabitant sectors. Approximately 80 per cent of coral trout catch by numbers was comprised of <i>P. leopardus</i> for both sectors, but the proportion of other coral trout species differed between the traditional inhabitant and non-traditional inhabitant sectors. The non-traditional inhabitant sector harvest proportionally more <i>P. maculatus</i> and <i>P. areolatus</i> than traditional inhabitant fishers. However, traditional inhabitant fishers harvested proportionally more <i>P. laevis</i> than non-traditional inhabitant fishers, and were the only sector to record catches of <i>Variola</i> spp. (Williams et al., 2007).</p>
<p>Management responses</p>	
<p>1.1.6 There are reference points (target and/or limit), that trigger management actions including a biological bottom line and/or a catch or effort upper limit beyond which the stock should not be taken.</p>	<p>Does not meet – a harvest strategy with reference points, management triggers and biological bottom lines does not yet exist.</p> <p>AFMA funded a project titled “Harvest Strategies for the Torres Strait Finfish Fishery” which has now closed. The project recommended a range of components for a harvest strategy based on stakeholder input and project team expertise and analysis. However, a harvest strategy with reference points, management triggers and biological bottom lines does not yet exist.</p>

1.1.7 There are management strategies in place capable of controlling the level of take.

Partially meets – input and output controls are used to control harvest levels, but the controls need strengthening.

The fishery uses a variety of controls, including minimum and maximum size limits for certain species, restrictions on fishing gear and boat length, and seasonal and spatial closures.

The management plan for the fishery, which was finalised in 2013, provides for the setting of notional total allowable commercial catch limits (TACCs), but quota units have not yet been created or allocated.

Possession limits are specified for Spanish Mackerel, Coral Trout and 'other finfish species' in permit conditions, however there is no limit on the number of permits available.

Limits specified in permit conditions are specified as kilograms of processed or unprocessed catch, and conversion factors are also included for filleted, gilled and gutted, and trunked (mackerel only) forms. There is no conversion factor for other processed forms, which is significant if species are targeted for their organs. For example, Black Jewfish targeted for their swim bladders.

In 2008, the Australian Government funded a 100% buyback of non-Traditional Inhabitant Boat (TIB) fishing licences, such that the TSRA now holds all the non-TIB (Sunset) licences. Sunset licence holders operate by leasing catch allowances under a temporary annual licence.

Licence conditions are used to limit catch for the Sunset sector, and while all efforts are made by the TSRA and its Finfish Quota Management Committee to ensure that only notional quota that is surplus to the TIB sector is leased to the Sunset section, catch reporting for the TIB sector is voluntary.

Some management arrangements are also likely to make enforcement difficult. For example, under the *Torres Strait Fisheries Act 1984*, persons are prohibited from taking, processing or carrying fish unless they hold a licence; do so in the course of traditional fishing; or do so for private purposes with the use of an Australian boat. Commercial-licensed fishing boats can be used for traditional fishing, including during commercial fishing operations. While traditional fishing is subject to bag limits, the size limits used in the commercial fishery do not apply. Recreational fishing is also allowed, subject to recreational rules and regulations. As a result, it is likely to be difficult to determine what catch is commercial and what is traditional, recreational or for private purposes.

The management instruments prevent the removal of shark fins at sea and disposal of the body, but do not protect sharks from being targeted for their organs. There is also no conversion limit or catch limit applied for sharks. As such, the liver or other organs could be removed, and the remainder of the animal

discarded. This is likely to make determining the species and quantifying the catch extremely difficult. Shark finning prohibitions also do not apply to traditional inhabitants engaged in traditional fishing.

An updated stock assessment for Spanish Mackerel was completed in 2019 which sought to capture the potential effects of increasing fishing effort in the fishery. All modelled series indicated a continued decline in stock abundance since 2009, with estimated spawning biomass in 2018–2019 ranging from 14 to 37 per cent of unfished biomass (median 23 per cent, [Williams et al. 2020](#)).

The modelling also predicted that recruitment had been below average in recent years and that the percentage of years that projected stock levels fell below 20 per cent of unfished biomass (the proxy limit reference point used in many fisheries where targeted fishing must cease) over a 12-year period was either seven or 11 per cent, depending on the harvest levels that were modelled. Based on these results, the FFRAAG recommended further decreasing the notional TACC to 56 tonnes for the 2020–2021 season. This catch limit is designed to return the stock to 48 per cent of its unfished biomass ([Williams et al. 2020](#)).

Despite ongoing reductions in notional TACC, from 187.7 tonnes in 2016-2017, to 56 tonnes in 2020-2021, the potential for hyperstability in the catch rates of Spanish Mackerel in the Torres Strait remains a concern. Hyperstability occurs when catch rates are maintained while the underlying abundance declines. It is frequently observed in fisheries that target schooling species, such as the Spanish Mackerel fishery, where most fishing activity is concentrated on large spawning aggregations around Bramble Cay. A 2006 stock assessment ([Begg et al. 2006](#)) recommended the collection of finer-scale spatial and temporal data from fishers to improve the standardisation of catch rates and provide a more robust index of abundance, however, reporting of more precise catch-and-effort data has not occurred ([Williams et al. 2020](#)).

Although the stock has been classified as not overfished or subject to overfishing, the declining catch rates across the various standardised series and potential for hyperstability in catch rates is cause for concern and needs to be monitored closely to ensure that the stock is able to recover and does not continue to decline ([Williams et al. 2020](#)).

Also of concern is the fact that the minimum legal size limit for Spanish Mackerel (750 mm total length) is considerably less than the age at which 50 per cent of the population reaches sexual maturity (between 891 and 944mm total length, [Langstreth et al. 2018](#); www.fishbase.se; [Mackie et al. 2003](#)).

<p>1.1.8 Fishing is conducted in a manner that does not threaten stocks of byproduct species.</p>	<p>Does not meet – there are no limits on the amount of bycatch that can be retained by fishers in this fishery. A collective byproduct possession limit is applied via permit conditions to the Sunset sector but there is no total catch limit and it is unclear whether management has tested the basis for setting the possession limits or reviewed the total take or catch composition for this basket of species.</p> <p>Byproduct species are often sold as undifferentiated ‘reef fish’. Possession limits are specified for ‘other finfish species’ in permit conditions applied to the Sunset sector as a means to generate leasing revenue, however there is no limit on the number of permits available and it is unclear whether management has reviewed the assumptions that underpin the setting of these ‘other finfish species’ limits or the catch levels and composition of this basket.</p>
<p>1.1.9 The management response, considering uncertainties in the assessment and precautionary management actions, has a high chance of achieving the objective.</p>	<p>Partially meets – Precautionary catch limits mean the fishery is likely to be conducted at catch levels that maintain ecologically viable stock levels. However, management arrangements for Spanish Mackerel should be reviewed and stock levels monitored closely to avoid the stock becoming overfished (i.e. falling below 20 per cent of its unfished biomass).</p>
<p>Objectiv 2 - 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.</p>	
<p>Management responses</p>	
<p>1.2.1 A precautionary recovery strategy is in place specifying management actions, or staged management responses, which are linked to reference points. The recovery strategy should apply until the stock recovers and should aim for recovery within a specific time period appropriate to the biology of the stock.</p>	<p>Not applicable – no species has been identified as overfished.</p> <p>The Department notes however that Spanish Mackerel stocks have declined significantly over recent years and are now close to the level which would be considered overfished. Management arrangements for Spanish Mackerel should be reviewed and stock levels monitored closely to avoid the stock becoming overfished.</p>

<p>1.2.2 If the stock is estimated as being at or below the biological and / or effort bottom line, management responses such as a zero targeted catch, temporary fishery closure or a 'whole of fishery' effort or quota reduction are implemented.</p>	<p>Not applicable – no species has been identified as overfished.</p>
<p>PRINCIPLE 2 - Fishing operations should be managed to minimise their impact on the structure, productivity, function and biological diversity of the ecosystem.</p>	
<p>Objective 1 - The fishery is conducted in a manner that does not threaten bycatch species.</p>	
<p>Information requirements</p>	
<p>2.1.1 Reliable information, appropriate to the scale of the fishery, is collected on the composition and abundance of bycatch.</p>	<p>Partly meets – Information is not collected but some limited historic information is available.</p> <p>Information on discarded catch is not collected, but for the eastern parts of the fishery at least has been shown to be significant with bycatch contributing 55-58 per cent by number of animals and 38-58 per cent by number of species (Williams et al. 2007).</p> <p>AFMA advise that historic scientific observer data indicates that all bycatch species are returned to the water alive. However, the extent of post release mortality is unclear and the effects of barotrauma, depredation, and high grading for more marketable sizes or healthier, less damaged fish may be significant. AFMA has also received industry reports of periods of significantly higher occurrence of hooked finfish being taken by sharks.</p>

Assessment

2.1.2 There is a risk analysis of the bycatch with respect to its vulnerability to fishing.

Does not meet – No ecological risk assessment has been completed.

AFMA has advised that an ecological risk assessment has not been conducted due to the highly selective fishing methods used and the low level of exploitation resulting in very low levels of interaction with bycatch species. However, effort in the fishery is increasing and research has found that bycatch is significant in the fishery ([Williams et al. 2007](#)).

AFMA has advised that completing an ecological risk assessment for the fishery is a medium priority, pending available funding, and efficiencies gained through automated improvements to the ecological risk assessment process. AFMA anticipates that an ecological risk assessment for the fishery will be undertaken in 2023. The Department notes however that AFMA undertook to complete this assessment in 2018-2019 when the fishery was last assessed in 2017.

Management responses

2.1.3 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.

Partly meets – There is no risk assessments for bycatch and no specific bycatch mitigation measures. The fishery area overlaps with known habitat for protected species such as turtles and sharks. However, due to the scale of the fishery and fishing methods used, the rate of interaction is likely to be relatively small (noting that the fishery lacks a current data validation program).

AFMA has advised that because the fishery is restricted to fishing with hand lines rigged with a single hook and the small scale of the fishery, all bycatch is returned to the water alive. However, this restriction is not in the management arrangements for the fishery. Fishers targeting mackerel are authorised to use trolling, handlining or drop-lining gear, with no restriction on the number of hooks or lines (Torres Strait Fisheries Management Instrument No. 14), and fishers targeting other fin fish can use any line fishing method with up to six hooks per line ([Torres Strait Fisheries \(Finfish\) Management Instrument 2020](#)).

AFMA has advised that an ecological risk assessment has not been conducted due to the highly selective fishing methods used in the fishery and the low level of exploitation resulting in very low levels of interaction with bycatch species, habitats or the environment. Bycatch rates are however significant, with bycatch contributing 55-58 per cent by number of animals and 38-58 per cent by number of species ([Williams et al. 2007](#)).

AFMA also advise that historic scientific observer data indicates that all bycatch species are returned to the water alive. However, the extent of post release mortality is unclear and the effects of barotrauma, depredation, and high grading for more marketable sizes or healthier, less damaged fish may be significant. AFMA has also received industry reports of periods of significantly higher occurrence of hooked finfish being taken by sharks.

2.1.4 An indicator group of bycatch species is monitored.

Does not meet – No indicator bycatch species are monitored.

The development of an ecological risk assessment and harvest strategy may help identify and establish monitoring arrangements for indicator species.

<p>2.1.5 There are decision rules that trigger additional management measures when there are significant perturbations in the indicator species numbers.</p>	<p>Does not meet – No indicator bycatch species are monitored and there is no framework for the identification or monitoring of indicator species.</p> <p>The development of an ecological risk assessment and harvest strategy may help identify and establish monitoring arrangements for indicator species.</p>
<p>2.1.6 The management response, considering uncertainties in the assessment and precautionary management actions, has a high chance of achieving the objective.</p>	<p>Partly meets – Bycatch rates are likely to be high and there are no risk assessments for bycatch and no specific bycatch mitigation measures. However, impacts, due to the scale of the fishery and fishing methods used, are likely to be relatively small.</p>
<p>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.</p>	
<p>Information requirements</p>	
<p>2.2.1 Reliable information is collected on the interaction with endangered, threatened or protected species and threatened ecological communities.</p>	<p>Does not meet – reporting requirements are not mandatory to all sectors in the fishery and no reports have been received by the Department from any operators in the fishery.</p> <p>Only licence holders operating under a sunset licence are required to report provide logbook returns int his fishery. Sunset licence holders do this using the TSF01 Daily Fishing Logbook but there have been no interactions reported with protected species in the fishery to date.</p> <p>Although the risks posed by the fishery are likely to be relatively low, it is likely that compliance efforts in the area of the fishery need to increase.</p>

Assessments	
2.2.2 There is an assessment of the impact of the fishery on endangered, threatened or protected species.	<p>Does not meet – No ecological risk assessment has been conducted for the fishery.</p> <p>The gear typically used in the fishery means the likelihood of interactions between protected species and the fishing gear is low.</p> <p>Dugong, turtles and other protected species do inhabit the area of the fishery and may be subject to boat strikes and other impacts. There have however been no reported interactions with protected species in the fishery to date.</p> <p>Assessment and risk mitigation are recommended as part of any precautionary management regime. AFMA has advised that completing an ecological risk assessment for the fishery is a medium priority, pending available funding, and efficiencies gained through automated improvements to the ecological risk assessment process. AFMA anticipates that an ecological risk assessment for the fishery will be undertaken in 2023. The Department notes however that AFMA undertook to complete this assessment in 2018-2019 when the fishery was last assessed in 2017.</p>
2.2.3 There is an assessment of the impact of the fishery on threatened ecological communities.	Not applicable – No threatened ecological communities have been identified in the area of the fishery.
Management responses	
2.2.4 There are measures in place to avoid capture and/or mortality of endangered, threatened or protected species.	<p>Does not meet – No ecological risk assessment or risk mitigation measures are in place for the fishery.</p> <p>Assessment and risk mitigation are recommended as part of any precautionary management regime.</p>
2.2.5 There are measures in place to avoid impact on threatened ecological communities.	Not applicable – No threatened ecological communities have been identified in the area of the fishery.

<p>2.2.6 The management response, considering uncertainties in the assessment and precautionary management actions, has a high chance of achieving the objective.</p>	<p>Partially meets – the fishery is likely to operating in a way that avoids mortality of, or injuries to, endangered, threatened or protected species and avoids or minimises impacts on threatened ecological communities.</p> <p>While the risks may be relatively low, undertaking an ecological risk assessment would provide greater confidence and allow any potential issues to be monitored and responded to as necessary.</p> <p>AFMA anticipates that an ecological risk assessment for the fishery will be undertaken in 2023. The Department notes however that AFMA undertook to complete this assessment in 2018-2019 when the fishery was last assessed in 2017.</p>
<p>Objective 3 - The fishery is conducted, in a manner that minimises the impact of fishing operations on the ecosystem generally.</p>	
<p>Information requirements</p>	
<p>2.3.1 Information appropriate for the analysis in 2.3.2 is collated and/or collected covering the fishery's impact on the ecosystem and environment generally.</p>	<p>Does not meet – Ecological data is not collected or used for management.</p>

Assessment	
<p>2.3.2 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> <p>1. Impacts on ecological communities</p> <ul style="list-style-type: none"> • Benthic communities • Ecologically related, associated or dependent species • Water column communities <p>2. Impacts on food chains</p> <ul style="list-style-type: none"> • Structure • Productivity/flows <p>3. Impacts on the physical environment</p> <ul style="list-style-type: none"> • Physical habitat • Water quality 	<p>Partially meets – Ecological data is not collected and there is no ecological risk assessment for the fishery. However, the method of fishing is selective and minimises impacts to the broader ecosystem.</p> <p>Information on the fishery's potential ecological impacts is not collected and there has been no ecological risk assessment conducted for the fishery.</p> <p>Impacts of the fishery on the ecosystem may include over-exploitation of target and byproduct species; impacts on bycatch species, translocation of species via hull and anchor fouling; and impacts of associated with anchoring, mooring, boat strikes and other disturbance.</p> <p>Undertaking a risk assessment would provide greater confidence in the risks associated with the fishery and allow any identified issues to be monitored and responded to as necessary.</p> <p>AFMA anticipates that an ecological risk assessment for the fishery will be undertaken in 2023. The department notes however that AFMA undertook to complete this assessment in 2018-2019 when the fishery was last assessed in 2017.</p>
Management responses	
<p>2.3.3 Management actions are in place to ensure significant damage to ecosystems does not arise from the impacts described in 2.3.1.</p>	<p>Partially meets – While the targeted method of fishing means that the risks to the ecosystem are minimised, there is no ecological risk assessment or targeted risk mitigation is occurring.</p>

<p>2.3.4 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>Does not meet – There are no decision rules or triggers in the management regime for the fishery. Data on ecological indicators is not collected in the fishery.</p>
<p>2.3.5 The management response, considering uncertainties in the assessment and precautionary management actions, has a high chance of achieving the objective.</p>	<p>Partially meets – the impacts of fishing operations on the ecosystem are likely to be sustainable but undertaking an ecological risk assessment would provide greater confidence and allow any potential issues to be monitored and responded to as necessary.</p> <p>AFMA anticipates that an ecological risk assessment for the fishery will be undertaken in 2023. The Department notes however that AFMA undertook to complete this assessment in 2018-2019 when the fishery was last assessed in 2017.</p>

SECTION 4: ASSESSMENT AGAINST 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 Torres Strait Finfish Fishery in relation to decisions under Part 13 and Part 13A.

Part 10 – Strategic assessments

Division 2 Assessment of Commonwealth-managed fisheries Section 153 Minister must make declaration if he/ she endorses plan or policy	The Department's assessment of the Torres Strait Finfish Fishery
<p>(1) This section applies if:</p> <p>(a) the Minister makes an agreement under section 146 as required by this Division and endorses under the agreement:</p> <p>(i) a plan of management under the Fisheries Management Act 1991 (CTH) for a fishery; or</p> <p>(ii) policies of the Australian Fisheries Management Authority for managing a fishery for which there is not a plan of management under the Fisheries Management Act; or</p> <p>(iii) a plan of management under the <i>Torres Strait Fisheries Act 1984</i> (CTH) for a fishery; or</p> <p>(iii) policies for managing fishing under the Torres Strait Fisheries Act; and</p> <p>(b) the Minister accredits, under subsection 33(3) of this Act, as an accredited arrangement a management plan or regime consisting of the endorsed plan or policies.</p> <p>(2) The Minister must make a declaration under section 33 that actions approved in accordance with the accredited arrangement do not require an approval under Part 9 for the purposes of subsection 23(1), (2) or (3) or subsection 24A(1), (2), (3), (4), (5) or (6).</p>	<p>The Torres Strait Finfish Fishery Statement of Management Arrangements 2005) underwent a strategic assessment under Part 10 of the EPBC Act. On 29 November 2005 the management arrangements were accredited under section 33 of the Act declaring that approval under Part 9 was not required.</p> <p>The management regime has been strengthened since this time, most recently through the assessment of the Torres Strait Finfish Fishery Management Plan 2013 in July 2013, as well as a suite of other arrangements.</p> <p>Current management arrangements are documented in the: Torres Strait Fisheries Act 1984, Torres Strait Fisheries Regulations 1985, Torres Strait Fisheries Management Instrument No. 14, Torres Strait Fisheries (Finfish) Management Instrument 2020, Torres Strait Fisheries (Furnishing of Logbooks) Instrument 2020, Torres Strait Finfish Fishery Management Plan 2013 and in fishery permit conditions.</p>

Part 12 – Identifying and monitoring biodiversity and making bioregional plans

Section 176 Bioregional Plans	Comment
(5) Minister must have regard to relevant bioregional plans	Not applicable - There are no marine bioregional plans relevant to the Torres Strait Finfish Fishery.

Part 13 – Species and communities

Accreditable plan, regime or policy (Division 1, Division 2, Division 3, Division 4)	Comment
<p>s. 208A (1) (a-e) , s.222A (1) (a-e), s.245 (1) (a-e), s.265 (1) (a-e)</p> <p>Does the fishery have an accreditable plan of management, regime or policy?</p>	<p>Yes.</p> <p>Current management arrangements are documented in the: Torres Strait Fisheries Act 1984, Torres Strait Fisheries Regulations 1985, Torres Strait Finfish Fishery Management Plan 2013, Torres Strait Fisheries Management Instrument No. 14, Torres Strait Fisheries (Finfish) Management Instrument 2020, Torres Strait Fisheries (Furnishing of Logbooks) Instrument 2020 and in fishery permit conditions.</p> <p>The management regime for the Torres Strait Finfish Fishery (the fishery) is described in this assessment report and forms the basis for ongoing accreditation.</p>
Division 1 Listed threatened species, Section 208A Minister may accredit plans or regimes	Comment
<p>(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?</p>	<p>Yes.</p> <p>Although there is no ecological risk assessment to quantify the risks to protected species, the risks are likely to be relatively low.</p> <p>Only a very small number of commercial fishers are required to report interactions with protected species in the fishery, and as there have been no reported interactions to date, this lack of reporting across the fishery is likely to impede AFMA's ability to assess fisheries risk, monitor and respond to fishery impacts.</p> <p>The Torres Strait Finfish Fishery Management Plan 2013 was accredited under section 33 of the EPBC Act in July 2013, but has since been augmented by other arrangements.</p>

	<p>Current management arrangements are documented in the: Torres Strait Fisheries Act 1984, Torres Strait Fisheries Regulations 1985, Torres Strait Fisheries Management Instrument No. 14, Torres Strait Fisheries (Finfish) Management Instrument 2020, Torres Strait Fisheries (Furnishing of Logbooks) Instrument 2020, Torres Strait Finfish Fishery Management Plan 2013 and in fishery permit conditions.</p> <p>The Department has assessed the current management regime and determined that the regime requires all reasonable steps to be taken to prevent the killing or injuring of members of listed threatened species.</p>
(g) And, is the fishery likely to adversely affect the survival or recovery in nature of the species?	<p>No.</p> <p>The Department has assessed the current management regime and determined that the regime is unlikely to affect the survival or recovery in nature of any protected species.</p> <p>There were no interactions reported in the period 1 January 2012 to 30 September 2020.</p>
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?	<p>Yes.</p> <p>Although there is no ecological risk assessment to quantify the risks to listed migratory species, the risks are likely to be relatively low. Only a very small number of commercial fishers are required to report interactions with protected species in the fishery, and while there have been no reported interactions to date, this lack of reporting across the fishery is likely to impede AFMA's ability to assess fisheries risk, monitor and respond to fishery impacts.</p> <p>The Torres Strait Finfish Fishery Management Plan 2013 was accredited under section 33 of the EPBC Act in July 2013, but has since been augmented by other arrangements.</p> <p>Current management arrangements are documented in the: Torres Strait Fisheries Act 1984, Torres Strait Fisheries Regulations 1985, Torres Strait Fisheries Management Instrument No. 14, Torres Strait Fisheries (Finfish) Management Instrument 2020, Torres Strait Fisheries</p>

	<p>(Furnishing of Logbooks) Instrument 2020, Torres Strait Finfish Fishery Management Plan 2013 and in fishery permit conditions.</p> <p>The Department has assessed the current management regime and determined that the regime requires all reasonable steps to be taken to prevent the killing or injuring of members of listed migratory species.</p>
(g) And, is the fishery likely to adversely affect the conservation status of a listed migratory species or a population of that species?	<p>No.</p> <p>The Department has assessed the current management regime and determined that the regime is unlikely to affect the survival or recovery in nature of any listed migratory species.</p> <p>There were no interactions reported in the period 1 January 2012 to 30 September 2020.</p>
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?	<p>Yes.</p> <p>Although there is no ecological risk assessment to quantify the risks to listed migratory species, the risks are likely to be relatively low. Only a very small number of commercial fishers are required to report interactions with protected species in the fishery, and while there have been no reported interactions to date, this lack of reporting across the fishery is likely to impede AFMA's ability to assess fisheries risk, monitor and respond to fishery impacts.</p> <p>The Torres Strait Finfish Fishery Management Plan 2013 was accredited under section 33 of the EPBC Act in July 2013, but has since been augmented by other arrangements.</p> <p>Current management arrangements are documented in the: Torres Strait Fisheries Act 1984, Torres Strait Fisheries Regulations 1985, Torres Strait Fisheries Management Instrument No. 14, Torres Strait Fisheries (Finfish) Management Instrument 2020, Torres Strait Fisheries (Furnishing of Logbooks) Instrument 2020, Torres Strait Finfish Fishery Management Plan 2013 and in fishery permit conditions.</p> <p>The Department has assessed the current management regime and determined that the regime requires all reasonable steps to be taken to prevent the killing or injuring of members of cetacean species.</p>

<p>(g) And, is the fishery likely to adversely affect the conservation status of a species of cetacean or a population of that species?</p>	<p>No. The Department has assessed the current management regime and determined that the regime is unlikely to affect the survival or recovery in nature of any cetacean species. There were no interactions reported in the period 1 January 2012 to 30 September 2020.</p>
<p>Division 4 Listed marine species, Section 265 Minister may accredit plans or regimes</p>	<p>Comment</p>
<p>(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?</p>	<p>Yes. Although there is no ecological risk assessment to quantify the risks to listed migratory species, the risks are likely to be relatively low. Only a very small number of commercial fishers are required to report interactions with protected species in the fishery, and while there have been no reported interactions to date, this lack of reporting across the fishery is likely to impede AFMA's ability to assess fisheries risk, monitor and respond to fishery impacts. The Torres Strait Finfish Fishery Management Plan 2013 was accredited under section 33 of the EPBC Act in July 2013, but has since been augmented by other arrangements. Current management arrangements are documented in the: Torres Strait Fisheries Act 1984, Torres Strait Fisheries Regulations 1985, Torres Strait Fisheries Management Instrument No. 14, Torres Strait Fisheries (Finfish) Management Instrument 2020, Torres Strait Fisheries (Furnishing of Logbooks) Instrument 2020, Torres Strait Finfish Fishery Management Plan 2013 and in fishery permit conditions. The Department has assessed the current management regime and determined that the regime requires all reasonable steps to be taken to prevent the killing or injuring of members of listed marine species.</p>
<p>(g) And, is the fishery likely to adversely affect the conservation status of a listed marine species or a population of that species?</p>	<p>No. The Department has assessed the current management regime and determined that the regime is unlikely to affect the survival or recovery in nature of any listed marine species.</p>

	There were no interactions reported in the period 1 January 2012 to 30 September 2020.
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.	<p>Accreditation under sections 208A, 222A, 245 and 265 is recommended.</p> <p>Interactions with protected species are likely to be acceptably low under existing arrangements.</p> <p>Conditions are not considered necessary to satisfy the requirements of sections 208A, 222A, 245, and 265 of the EPBC Act.</p>
<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"> (a) during a particular period; or (b) while certain circumstances exist; or (c) while a certain condition is complied with. <p>In such a case, the instrument of accreditation is to specify the period, circumstances or condition.</p>	

Part 13A – International movement of wildlife specimens

Section 303BA Objects of Part 13A	
<p>(1) The objects of this Part are as follows:</p> <ul style="list-style-type: none"> (a) to ensure that Australia complies with its obligations under CITES 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 	<p>The management arrangements for the Torres Strait Finfish Fishery (the fishery) have been assessed and found to be consistent with the general guidance provided in the objects of Part 13A.</p> <p>The fishery does not preclude the harvest of species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), but these species are not targeted for export. Reporting of all catch to species level would assist in monitoring catches however.</p> <p>The current management arrangements are considered sustainable and unlikely to have a detrimental impact on the survival of any CITES-listed species in the wild for the duration of the declaration.</p>

<p>(h) to ensure the precautionary principle is taken into account in making decisions relating to the utilisation of wildlife.</p>	<p>There are management arrangements in place to ensure that the resource is being managed in an ecologically sustainable way.</p> <p>The operation of the fishery is unlikely to be unsustainable and threaten biodiversity within the period of the proposed approval.</p> <p>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>
Section 303 CG Minister may issue permits (CITES species)	Comment
<p>(3) The Minister must not issue a permit unless the Minister is satisfied that:</p> <p>(a) the action or actions specified in the permit will not be detrimental to, or contribute to trade which is detrimental to:</p> <p>(i) the survival of any taxon to which the specimen belongs; or</p> <p>(ii) the recovery in nature of any taxon to which the specimen belongs; or</p> <p>(iii) any relevant ecosystem (for example, detriment to habitat or biodiversity); and</p>	<p>Meets</p> <p>The fishery does not preclude the harvest of species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), but these species are not targeted for export.</p> <p>Reporting of all catch to species level would assist in monitoring catches however.</p> <p>The current management arrangements are considered conducive to sustainable management outcomes and unlikely to have a detrimental impact on the survival of any CITES-listed species in the wild for the duration of the declaration.</p>
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> <p>(a) doing any of the following:</p> <p>(i) including items in the list;</p> <p>(ii) deleting items from the list;</p> <p>(iii) imposing a condition or restriction to which the inclusion of a specimen in the list is subject;</p> <p>(iv) varying or revoking a condition or restriction to which the inclusion of a specimen in the list is subject; or</p> <p>(b) correcting an inaccuracy or updating the name of a species.</p>	<p>The Department recommends that specimens that are, or are derived from, fish harvested in the fishery, as defined in the management regime in force under the Torres Strait Fisheries Act 1984, Torres Strait Fisheries Regulations 1985, Torres Strait Fisheries Management Instrument No. 14, Torres Strait Fisheries (Finfish) Management Instrument 2020, Torres Strait Fisheries (Furnishing of Logbooks) Instrument 2020, Torres Strait Finfish Fishery Management Plan 2013 and in fishery permit conditions, but not including:</p> <ul style="list-style-type: none"> specimens that belong to taxa listed under section 209 of the EPBC Act (Australia's list of migratory species), or specimens that belong to taxa listed under section 248 of the EPBC Act (Australia's list of marine species), or

	<ul style="list-style-type: none"> specimens that belong to eligible listed threatened species, as defined under section 303BC of the EPBC Act, or specimens that belong to taxa listed under section 303CA of the EPBC Act (Australia's CITES List) <p>be included in the list of exempt native specimens while the fishery is subject to a declaration as an approved wildlife trade operation.</p> <p>CITES-listed species that are approved to be exported are done so under the associated wildlife trade operation approval.</p>
(1A) In deciding to amend the LENS, the Minister must rely primarily on outcomes an assessment under Part 10, Divisions 1 or 2	<p>Meets</p> <p>The fishery was assessed under Part 10 of the EPBC Act in July 2012. In conducting this assessment, the Department considered that actions taken in the fishery would not have an unacceptable or unsustainable impact on the environment in a Commonwealth marine area.</p> <p>Consequently, the Torres Strait Finfish Fishery Management Plan 2013 was accredited under section 33 of the EPBC Act in July 2013.</p> <p>The Torres Strait Finfish Fishery Management Plan 2013 was accredited under section 33 of the EPBC Act in July 2013, but has since been augmented by other arrangements. Current management arrangements are documented in the: Torres Strait Fisheries Act 1984, Torres Strait Fisheries Regulations 1985, Torres Strait Fisheries Management Instrument No. 14, Torres Strait Fisheries (Finfish) Management Instrument 2020, Torres Strait Fisheries (Furnishing of Logbooks) Instrument 2020, Torres Strait Finfish Fishery Management Plan 2013 and in fishery permit conditions.</p>
(1C) The above does not limit matters that may be considered when deciding to amend LENS.	<p>Meets</p> <p>The Department has considered all matters relevant to making an informed decision to amend the list of exempt native specimens to include product taken in this fishery.</p>
<p>(3) Before amending the LENS, the Minister must consult:</p> <p>(a) other Minister or Ministers as appropriate; and</p>	<p>Meets</p> <p>The submission for assessment was available on the Department's website from 20 October 2020 until 18 November 2020.</p> <p>No comments were received.</p>

<p>(b) other Minister or Ministers of each State and self-governing Territory as appropriate; and</p> <p>(c) other persons and organisations as appropriate.</p>	
Section 303FN Approved wildlife trade operation	Comment
<p>(3) The Minister must not declare an operation as an approved wildlife trade operation unless the Minister is satisfied that:</p> <p>(a) the operation is consistent with the objects of Part 13A of the Act; and</p> <p>(b) the operation will not be detrimental to:</p> <p>(i) the survival of a taxon to which the operation relates; or</p> <p>(ii) the conservation status of a taxon to which the operation relates; and</p> <p>(ba) the operation will not be likely to threaten any relevant ecosystem including (but not limited to) any habitat or biodiversity; and</p>	<p>Meets</p> <p>The fishery is consistent with Objects of Part 13A of the Act – see above assessment against the Guidelines.</p> <p>Based on the outcomes of the Department’s assessment, as outlined in this report, and the conditions recommended in Section 2, the fishery will not be detrimental to the survival or conservation status of a taxa or relevant ecosystem to which it relates within the next three years.</p>
<p>(c) if the operation relates to the taking of live specimens that belong to a taxon specified in the regulations – the conditions that, under the regulations, are applicable to the welfare of the specimens are likely to be complied with; and</p>	<p>Not applicable</p> <p>The Environment Protection and Biodiversity Conservation Regulations 2000 (EPBC Regulations) do not specify fish as a class of animal in relation to the welfare of live specimens.</p>
<p>(d) such other conditions (if any) as are specified in the regulations have been, or are likely to be, satisfied.</p>	<p>Not applicable</p> <p>No other conditions are specified in relation to commercial fisheries in the EPBC Regulations.</p>
<p>(4) In deciding whether to declare an operation as an approved wildlife trade operation the Minister must have regard to:</p> <p>(a) the significance of the impact of the operation on an ecosystem (for example, an impact on habitat or biodiversity); and</p>	<p>Meets</p> <p>The fishery will not have a significant impact on any relevant ecosystem within the period of the proposed approval, given the management measures currently in place and the conditions recommended in Section 2 of this assessment.</p>
<p>(b) the effectiveness of the management arrangements for the operation (including monitoring procedures).</p>	<p>Meets</p> <p>The management arrangements that will be employed for the fishery as outlined in the assessment against the Guidelines (above), are likely to be effective.</p>

<p>(5) In deciding whether to declare an operation as an approved wildlife trade operation the Minister must have regard to:</p> <ul style="list-style-type: none"> (a) whether legislation relating to the protection, conservation or management of the specimens to which the operation relates is in force in the State or Territory concerned; and (b) whether the legislation applies throughout the State or Territory concerned; and (c) whether, in the opinion of the Minister, the legislation is effective. 	<p>Meets</p> <p>The fishery will be managed under the arrangements documented in the: Torres Strait Fisheries Act 1984, Torres Strait Fisheries Regulations 1985, Torres Strait Fisheries Management Instrument No. 14, Torres Strait Fisheries (Finfish) Management Instrument 2020, Torres Strait Fisheries (Furnishing of Logbooks) Instrument 2020, Torres Strait Finfish Fishery Management Plan 2013 and in fishery permit conditions.</p> <p>The Torres Strait Fisheries Act 1984 applies throughout the area of the Torres Strait Protected Zone.</p> <p>The Department considers that the legislation and other supporting management arrangements are likely to be effective, subject to the conditions specified in Section 2 of this report.</p>
<p>(10) For the purposes of section 303FN, an operation is a wildlife trade operation if, and only if, the operation is an operation for the taking of specimens and:</p> <ul style="list-style-type: none"> (a) the operation is a commercial fishery. 	<p>Meets</p> <p>The Torres Strait Finfish Fishery is a commercial fishery.</p>
<p>(10A) In deciding whether to declare that a commercial fishery is an approved wildlife trade operation for the purposes of this section, 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>(10B) Subsection (10A) does not limit the matters that may be taken into account in deciding whether to declare that a fishery is an approved wildlife trade operation for the purposes of this section.</p>	<p>Meets</p> <p>The Torres Strait Finfish Fishery was assessed under Part 10 of the EPBC Act in July 2012. In conducting this assessment, the Department considered that actions taken in the fishery would not have an unacceptable or unsustainable impact on the environment in a Commonwealth marine area. Consequently, the Torres Strait Finfish Fishery Management Plan 2013 was accredited under section 33 of the EPBC Act in July 2013.</p> <p>The Torres Strait Finfish Fishery Management Plan 2013 was accredited under section 33 of the EPBC Act in July 2013, but has since been augmented by other arrangements. Current management arrangements are documented in the: Torres Strait Fisheries Act 1984, Torres Strait Fisheries Regulations 1985, Torres Strait Fisheries Management Instrument No. 14, Torres Strait Fisheries (Finfish) Management Instrument 2020, Torres Strait Fisheries (Furnishing of Logbooks)</p>

	<p><i>Instrument 2020, Torres Strait Finfish Fishery Management Plan 2013</i> and in fishery permit conditions.</p> <p>In conducting this assessment, the Department considered that actions taken in the fishery would not have an unacceptable or unsustainable impact on the environment in a Commonwealth marine area.</p>
Section 303FR Public consultation	Comment
<p>(1) Before making a declaration under section 303FN, the Minister must cause to be published on the Internet a notice:</p> <p>(a) setting out the proposal to make the declaration; and</p> <p>(b) setting out sufficient information to enable persons and organisations to consider adequately the merits of the proposal; and</p> <p>(c) inviting persons and organisations to give the Minister, within the period specified in the notice, written comments about the proposal.</p> <p>(2) A period specified in the notice must not be shorter than 20 business days after the date on which the notice was published on the Internet.</p> <p>(3) In making a decision about whether to make a declaration under section 303FN, the Minister must consider any comments about the proposal to make the declaration that were given in response to the invitation in the notice.</p>	<p>Meets</p> <p>The submission for assessment was available on the Department's website from 20 October 2020 until 18 November 2020.</p> <p>No comments were received.</p>
Section 303FT Additional provisions relating to declarations	Comments
<p>(1) This section applies to a declaration made under section 303FN, 303FO or 303FP.</p>	<p>A declaration for the Torres Strait Finfish Fishery (the fishery) will be made under section 303FN.</p>
<p>(4) The Minister may make a declaration about a plan or operation even though he or she considers that the plan or operation should be the subject of the declaration only:</p> <p>(a) during a particular period; or</p> <p>(b) while certain circumstances exist; or</p>	<p>The standard conditions applied to commercial fishery wildlife trade operations include:</p> <ul style="list-style-type: none"> operation in accordance with the management regime notifying the Department of changes to the management regime, and

<p>(c) while a certain condition is complied with.</p> <p>In such a case, the instrument of declaration is to specify the period, circumstances or condition.</p>	<ul style="list-style-type: none"> annual reporting in accordance with the requirements of the Australian Government <i>Guidelines for the Ecologically Sustainable Management of Fisheries – 2nd Edition</i>. <p>The wildlife trade operation instrument for the fishery specifies the standard and any additional conditions applied.</p>
(8) A condition may relate to reporting or monitoring.	One of the standard conditions relates to reporting.
(9) The Minister must, by instrument published in the <i>Gazette</i> , revoke a declaration if he or she is satisfied that a condition of the declaration has been contravened.	
(11) A copy of an instrument under section 303FN, or this section is to be made available for inspection on the internet.	The instrument for the fishery made under sections 303FN and the conditions under section 303FT will be registered as a notifiable instrument and made available through the Department's website.

Part 16 – Precautionary principle and other considerations in making decisions

Section 391 Minister must consider precautionary principle in making decisions	Comment
<p>(1) Minister must take account of the precautionary principle in making a decision, to the extent that the decision is consistent with other provisions under this Act.</p> <p>(2) The precautionary principle is that lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment where there are threats of serious or irreversible environmental damage.</p>	<p>Meets</p> <p>The conditions proposed for inclusion on the proposed Part 13A approval are designed to address these issues and represent a precautionary approach to the management of environmental uncertainty and risk. The management regime, when supported by these conditions is likely to prevent serious or irreversible environmental damage being caused by this fishery.</p>

REFERENCES

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