



Australian Government

Department of the Environment and Water Resources

Assessment of the
**Torres Strait Tropical Rock Lobster
Fishery**

NOVEMBER 2007

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

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Table 1: Summary of the Torres Strait Tropical Rock Lobster Fishery

Publicly available information relevant to the fishery	<ul style="list-style-type: none"> • <i>Torres Strait Fisheries Act 1984</i> • Australian Fisheries Management Authority (AFMA) – Annual Status Report Torres Strait Tropical Rock Lobster Fishery, September 2007 • Bureau of Rural Sciences (BRS) – Fishery Status Reports 2006 • Department of the Environment and Heritage – Assessment of the Torres Strait Tropical Rock Lobster Fishery – September 2004
Area	<p>The Torres Strait Tropical Rock Lobster Fishery (TSTRLF) operates from the tip of Cape York to the northern border of the Protected Zone. Most of the catch comes from the western and south-eastern part of the fishery, where the densities of lobsters are highest. Tropical rock lobsters from Torres Strait stock are also fished in the Papua New Guinea (PNG) area of jurisdiction in Torres Strait and to the north-east around Yule Island. The southern extension of the stock is fished commercially off the northeast Queensland coast as far south as 14 degrees south.</p> <p>Torres Strait Islanders fish on both local and more distant reefs, while a small fleet of predominantly non-Islander freezer boats travel to the fishing grounds on trips lasting from a few days to several weeks. The Torres Strait Treaty specifies catch sharing arrangements between Australia and PNG boats to operate in the Australian area of jurisdiction. The current catch sharing arrangement allows for seven PNG licensed fishing boats, each with up to seven tenders to access the Torres Strait Protected Zone (TSPZ) to take Tropical Rock Lobster. Australia has forgone access to its share of the catch in the PNG area of jurisdiction. This was taken into account when calculating the effort to be allocated to PNG to fish in the Australian area of jurisdiction.</p>
Fishery status	<p>At the time of the 2004 Department of the Environment and Water Resources (DEW) assessment, the BRS Fishery Status Reports stated that the TSTRLF was considered overfished.</p> <p>The 2006 BRS Fishery Status Reports consider the TSTRLF as not overfished and the overfishing status is uncertain. The report states that the 2006 season was poor, but still within the normal range. The 2006 stock assessment estimated that the high catches recorded in 2004 and 2005 resulted from spawning stocks in both years that were above the level estimated to produce maximum sustainable yield (MSY). The likelihood that overfishing is occurring in the fishery is uncertain given the levels of uncertainty in the stock assessment models, the poorer than expected season and the two previous seasons of intensive fishing.</p> <p>The 2006 BRS Fishery Status Reports state that a new assessment was introduced in 2005 and revised in 2006, which uses new models, fishery-independent survey data collected since 1989, and catch data, up to mid-2005. However, the 2006 BRS Fishery Status Reports state that</p>

	while the new models are significantly better, the relatively poor model fit over the last 3 years deserves further investigation.
Target Species	The TSTRLF is based on a single species, the Ornate or Tropical Rock Lobster, <i>Panulirus ornatus</i> .
Byproduct Species	As the fishery is a highly selective single species fishery, no byproduct is taken. However, fishers with other endorsements are able to harvest under those authorities while targeting Tropical Rock Lobster.
Gear	Tropical Rock Lobsters are largely taken by divers working from four to six metre tenders, using a short hand spear or snare either with the use of surface supplied air (hookah) or free diving. Only one diver works from each tender. Divers work to about 20 metres in depth and dive mainly during daylight hours. Some traditional inhabitants fish at night with a light.
Season	<p>Commercial fishing occurs from December to September with a peak during March-August. There is a fishery closure during October and November. The use of hookah equipment is banned during December and January.</p> <p>Most fishing occurs during neap tides when currents are weaker and the water is less turbid. An interim measure of a week long spring tide hookah closure each month has been in place since 2003 and is negotiated each year.</p>
Commercial harvest	<p>The 2006 BRS Fishery Status Reports report that the estimated MSY for the fishery is approximately 250 tonnes (t) tail weight (640 t live weight).</p> <p>The 2004 total catch was 722 t live weight; in 2005 the total catch was 893 t live weight; and in 2006 the total catch was 326 t live weight.</p>
Value of commercial harvest	The value of the TSTRLF in the 2005-06 financial year was \$A12.3 million.
Take by other sectors	<p>The Torres Strait Treaty specifies catch sharing arrangements between Australia and PNG boats to operate in the Australian area of jurisdiction. The current catch sharing arrangements allows for three PNG licensed fishing boats, each with nine attendant tenders to access the Protected Zone to take rock lobster in the Australian area of jurisdiction. Australia has forgone access to its share of the catch in the PNG area of jurisdiction.</p> <p>AFMA report in the submission that there is a small, but insignificant recreational fishery for lobsters in the Torres Strait, regulated by the Queensland Department of Primary Industries and Fisheries (QDPI&F).</p>

	<p>The 2004 Compliance Risk Assessment of the TSTRLF identified Illegal, Unreported and Unregulated (IUU) fishing as a medium to high risk in the TSTRLF.</p>
Commercial licences issued	<p>In 2006, there were 24 licensed primary vessels, with a total of 63 attached dinghies (tenders or service vessels).</p> <p>There is no limit on the number of Traditional Inhabitant Boat (TIB) licences, with 400 TIB licences with lobster endorsements currently issued, many of which are unused.</p> <p>The 2006 BRS Fishery Status Reports state that there are upwards of 400 dinghies and about 20 small freezer boats used in the Australian fishery. There are a maximum of seven freezer boats allowed to operate in PNG, however, there are hundreds of dinghies and canoes that fish from the coastal villages and district centre of Daru.</p>
Management arrangements	<p>The Torres Strait Treaty between Australia and PNG was ratified in 1985. It requires that the two countries conserve and achieve optimal utilisation of the Torres Strait fisheries and maximise the opportunities for the traditional inhabitants of both countries to participate in them.</p> <p>The enacting legislation for the Treaty in the area under Australian jurisdiction is the <i>Torres Strait Fisheries Act 1984</i>, which establishes the Protected Zone Joint Authority (PZJA). Membership of the PZJA comprises the Australian Government Minister for Fisheries, Forestry and Conservation, the Queensland Minister for Primary Industries and Fisheries, and the chair of the Torres Strait Regional Authority (TSRA).</p> <p>The PZJA is advised by the Torres Strait Fisheries Management Advisory Committee (TSFMAC) and the Torres Strait Prawn Management Advisory Committee (TSPMAC). The TSFMAC consists of representatives of traditional inhabitants and commercial fishers, fisheries managers from the PZJA Agencies and the Chairman of the Torres Strait Scientific Advisory Committee (TSSAC). The TSSAC, which has recently been reinstated and comprises representatives from research organisations, fisheries managers, traditional inhabitants and industry, advises the TSFMAC on scientific issues associated with TSPZ fisheries. Recreational fishing is still managed under Queensland law.</p> <p>PZJA agencies include AFMA, QDPI&F, TSRA and the Australian Government Department of Agriculture, Fisheries and Forestry (DAFF).</p> <p>Management arrangements in the TSTRLF include input controls, set out in the <i>Torres Strait Fisheries Act 1984</i>. Expansion in the TSTRLF is limited to traditional inhabitants in order to maximise their opportunities. The PZJA has imposed licensing provisions to prevent the growth of the non-traditional inhabitant sector, both in terms of fishing capacity (boat replacement policy) and license numbers. There is also a ban on trawlers taking lobster to prevent pressure on the lobster</p>

resource from the prawn trawling fleet.

Regulations currently employed in the TSTRLF include:

- limiting the method of taking of lobster to either hand or with the use of a hand held implement, such as a spear or scoop net, with an October-November (inclusive) ban on commercial fishing;
- a further ban on the use of hookah gear during December and January (inclusive);
- a minimum tail size of 115 mm or minimum carapace length of 90 mm for all commercially caught lobsters;
- a bag limit of 3 lobsters per person or 6 lobsters per dinghy applies to traditional fishing (Islander or visiting PNG traditional inhabitants) (the same limit applies to recreational fishing under Queensland State law); and
- the prohibition of the processing or carrying of Tropical Rock Lobster meat that has been removed from any part of a Tropical Rock Lobster on any boat.

The following policy is in place which limits the length of primary boats (i.e., those boats from which tenders operate):

- boats up to six metres may be replaced by another up to six metres;
- boats greater than six metres and less than or equal to ten metres may be replaced by a boat up to and including ten metres;
- boats greater than ten metres and less than or equal to 14 metres may be replaced by a boat up to and including 14 metres; and
- boats greater than 14 metres may be replaced by another of equal length. The maximum size for fishing boats is 20 metres.

Many of the primary boats have been in the fishery for many years. Unlike many fisheries where the size, horsepower and other characteristics of the primary boats may play a significant role in the fishing powers of the operation, this is not so much the case in the TSTRLF, because the fishing is done entirely from the tender. Divers operating from the tenders are not required to hold a Torres Strait Master Fisherman's Licence, but the boat from which the tender is working must be operated by someone who holds such a licence.

Many, but not all, boats licensed for the TSTRLF have endorsements for other fisheries. In practice, the other endorsements are used to a very limited extent. Additionally, it is not feasible for the primary boat to undertake other fishing activities while its tenders are used for lobster fishing and while divers are in the water.

A 30% tender reduction from the 2002 level in the non-Islander sector has been in place in the fishery since 2003 to try to prevent effort growing substantially in response to higher lobster abundance and until the new quota management system is implemented.

Officials from Australia and PNG meet annually to discuss fisheries matters of mutual importance. The PZJA made a decision at its 18th meeting in July 2005 to reallocate access to the TSTRLF between the Community and non-Community commercial fishing sectors. The PZJA also decided at the same meeting that it would offer payments for non-Community commercial licences through a voluntary tender process to acquire access needed to meet Australia's obligations under the catch sharing provisions of the Torres Strait Treaty.

The objectives of the voluntary tender process were, within a capped budget, to:

- (i) remove capacity from the non-traditional inhabitant commercial sector of the TSTRLF to assist with meeting Australia's obligations under the Torres Strait Treaty in respect of the sharing of allowable catch with PNG; and
- (ii) re-allocate fishing capacity in the TSTRLF from the non-traditional inhabitant commercial sector to the traditional inhabitant commercial sector.

The voluntary tender process is part of a program of reforms which will see the introduction of a quota system under a formal plan of management for the TSTRLF from 2008.

Since accreditation of the TSTRLF in 2004, the following amendments have been made to management arrangements:

In 2004 the PZJA imposed:

- licensing provisions to prevent the growth of the non-traditional inhabitant sector, both in terms of fishing capacity (boat replacement policy) and licence numbers;
- a ban on trawlers taking lobster to prevent pressure on the lobster resource from the prawn trawling fleet was also introduced; and
- a 30% tender reduction and moon/tide hookah closures to manage effort in the fishery until the new quota management system is implemented for the fishery. A stock assessment demonstrated that the fishery was made more resilient to high fishing pressure by increasing the minimum size of the lobsters and the closure in October and November and banning hookah in December and January. However, the same study showed that overfishing occurs at fishing mortality rates above 0.5. Therefore, fishing should be controlled to keep fishing mortality less than this figure.

In 2005, the PZJA noted that the implementation of long term management arrangements based on an outputs control system could take some time and agreed to extend the interim arrangements for the 2006 season including:

- carry over of the 30% reduction in the Transferable Vessel Holder (TVH) sector as it was implemented in 2005;
- maintaining a cap on TIB licences greater than six metres with a

	<p>cray/lobster (CR) endorsement, that is, to not grant new licences for TIB licensed lobster boats of greater than six metres in length; and</p> <ul style="list-style-type: none"> prohibiting the use of hookah to take rock lobster for a period of approximately seven days each month corresponding with the strongest spring tides from February to September, inclusive. <p>At its October 2006 meeting, the PZJA noted that:</p> <ul style="list-style-type: none"> in the absence of a TSTRLF management plan in 2007, which would give effect to a new output management system, interim arrangements needed to be put into place to manage effort in the fishery in 2007; past interim management arrangements had not been entirely successful in controlling fishing effort but had played an important role; and while past interim arrangements had restricted effort in all sectors, there had been some problems of equity within the non-community sector that were yet to be fully resolved.
Export	<p>Frozen lobster tails are sold on the domestic and overseas markets (mainly the United States). The live trade in lobsters, which began in the mid 1990s supplies both export markets (mostly China) and a small domestic market.</p>
Bycatch	<p>As the fishery is a highly selective, single species fishery, no bycatch is taken. However, fishers with other endorsements are able to harvest under those authorities while targeting Tropical Rock Lobster.</p>
Interaction with Protected Species	<p>The TSTRLF has little known interaction with protected species. Legislation prevents the taking of turtles or dugong in the course of any fishing other than traditional fishing. Therefore while these species are frequently seen in the area of the fishery, they are protected from non-traditional hunting.</p>
Ecosystem Impacts	<p>Lobsters in the TSTRLF are harvested by hand. Although divers may have some contact with benthos and some fishers walk on reefs while collecting lobsters, the potential impacts of these actions are thought to be low and no information has been collected regarding these actions.</p> <p>DEW has expressed concerns at the lack of information collection and research covering the fisheries impact on the ecosystem and environment generally. However, DEW understands that this lack of information is the case across a range of Australian and international fisheries and until appropriate research techniques and programs are developed and implemented, this will continue to be the case. DEW has indicated that they strongly support research in this area.</p> <p>An Ecological Risk Assessment (ERA) for the TSTRLF has been developed jointly by Commonwealth Scientific and Industrial Research Organisation (CSIRO) Marine and Atmospheric Research and AFMA,</p>

	<p>however is yet to be considered by the Torres Strait Tropical Rock Lobster Resource Assessment Group (TRL RAG). The ERA provides a hierarchical framework for a comprehensive assessment of the ecological risks arising from fishing, with impacts assessed against five ecological components – Target species; Byproduct and Bycatch species; Threatened, Endangered and Protected (TEP) species; Habitats; and (ecological) Communities.</p> <p>Two ecological components were eliminated at Level 1. The Bycatch-Byproduct component was eliminated – there is no bycatch in the TSTRLF. The Communities component was also eliminated – no community hazards were assessed as greater than minor risk (risk score 2).</p> <p>There was at least one risk score of 3 – moderate – for each of the Target, TEP and Habitat components. Most hazards (fishing activities) were eliminated at Level 1 (risk scores 1 or 2). One internal fishing activity hazard remained:</p> <ul style="list-style-type: none"> • fishing capture (impact on Target component) <p>Significant external hazards included:</p> <ul style="list-style-type: none"> • other fisheries in the region (impact on TEP and Habitat components), and • other anthropogenic activities (impact on TEP and Habitat components). <p>No risks were rated as major or above (risk scores 4 or 5). For the TSTRLF, impacts from fishing on all species and habitat components were not assessed in more detail at Level 2.</p> <p>A conservative and precautionary approach is taken to management of the TSTRLF to ensure conservation of the stock for traditional inhabitants. The fishing method (spearing by divers) has little or no impact on the inshore demersal communities, particularly due to the selective nature of fishing and the absence of bycatch or byproduct. One internal fishery issue emerged from the Level 1 analysis of the TSTRLF</p> <ul style="list-style-type: none"> • capture fishing was identified as a hazard related to the single target species. <p>Capture fishing is addressed through current input controls and managers are moving to output controls in 2007. The impacts of the adjacent PNG and Queensland lobster fisheries are currently difficult to quantify, particularly due to uncertainty about PNG lobster catch, but both fisheries plan to adopt quota management in the near future. Two external issues emerged as hazards to the TEP and Habitat components;</p> <ul style="list-style-type: none"> • other fisheries; and • other anthropogenic activities.
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	<p>It is difficult to assess the absolute risk to the population of the TSTRLF target species as a result of external fisheries impacts without an integrated stock assessment to determine status of the whole lobster stock. Comprehensive commercial catch monitoring is required before such an assessment is possible. This may be achieved once all fisheries move to quota management in the near future (planned enforcement in 2007).</p>
<p>Impacts on World Heritage property</p>	<p>The assessment also considered the possible impacts on the World Heritage values of the Great Barrier Reef Marine Park World Heritage Area (GBRWhA), which is in close proximity to the TSTRLF. Under the EPBC Act, a person may not take an action that has, will have or is likely to have a significant impact on the world heritage values of a declared World Heritage property.</p> <p>DEW considers that the current impact from fishing in the TSTRLF will not impact significantly on the listed values of the GBRWhA. Any significant change to existing practices, which is likely to significantly impact on the World Heritage values of the Great Barrier Reef, may require approval by the Australian Government Minister for the Environment and Water Resources.</p> <p>On this basis DEW considers that an action taken by an individual fisher, acting in accordance with the <i>Torres Strait Fisheries Act 1984</i>, would not be expected to have a significant impact on a matter protected by the EPBC Act.</p>

Table 2: Progress in implementation of recommendations and conditions made in initial assessment of the Torres Strait Tropical Rock Lobster Fishery

Recommendation	Progress	Recommended Action
Conditions		
1. Operation of the fishery will be carried out in accordance with the Torres Strait Tropical Rock Lobster management plan.	Met The fishery has been managed in accordance with the <i>Torres Strait Fisheries Act 1984</i> .	This condition has been met, however will continue to apply to the TSTRLF.
2. The Australian Fisheries Management Authority will inform the Department of the Environment and Heritage (DEH) of any changes to the Torres Strait Tropical Rock Lobster management plan or other significant policy documents.	Met DEW advised of proposed amendments to the management regime.	AFMA have informed DEW of any changes to the management arrangements for the TSTRLF, and the condition will continue to apply to the TSTRLF. Changes to the TSTRLF since the last DEW assessment in 2004 are reported in Table 1.
3. Reports to be produced and presented to DEH annually, and to include: a) a statement of the extent to which the performance criteria of the Torres Strait Tropical Rock Lobster management plan were met in the year; and b) information sufficient to allow assessment of the progress of Australian Fisheries Management Authority in implementing the recommendations made in the <i>Assessment of the Torres</i>	Met Status of the TSTRLF reported in 2004/05 and 2005/06 Annual Reports.	AFMA has produced and presented annual reports on the TSTRLF to DEW, and this condition will continue to apply to the TSTRLF.

<i>Strait Tropical Rock Lobster Fishery 2004.</i>		
Recommendations		
1: Operation of the fishery will be carried out in accordance with the <i>Torres Strait Fisheries Act 1984</i> and the <i>Torres Strait Rock Lobster Statement of Management Arrangements</i> . AFMA will inform DEH of any changes to the Act or the Statement.	Met The fishery continued to operate as per statement of management arrangements.	This recommendation has been met, however will continue to apply to the TSTRLF. (Condition 1, Table 4).
2: AFMA to continue to ensure that consultative processes are conducted in a manner that ensures the timely implementation of management responses essential for the sustainability of the fishery.	Met and Ongoing Consultative (Working Group) meetings were held in February and May 2007. The third TRL RAG meeting, including PNG and Queensland, was convened during May 2007. The next scheduled meeting of the Working Group is September 2007 and the 4 th RAG in October 2007.	DEW has recommended that the PZJA continue to pursue complementary management arrangements with other jurisdictions responsible for managing shared Tropical Rock Lobster stocks to ensure that all removals and other relevant impacts on stock are properly accounted for in stock assessments. In conjunction with the QDPI&F, the Papua New Guinea National Fisheries Agency and other jurisdictions, the PZJA to continue to work towards developing a stock-wide resource assessment for the Tropical Rock Lobster. (Recommendation 2, Table 4).
3: AFMA to develop clear objectives and performance measures for the fishery relating to target species and ecosystem impacts within 1 year. The performance of the fishery to be reviewed annually against these measures and the outcomes published. A biological reference	New management objectives for the fishery were agreed by the PZJA in April 2006. The RAG revised Objective 1 as follows: <u>Objective 1</u> : To maintain the spawning stock at levels that meet or exceed the level required to produce MSY. The target reference point was	This recommendation has not been met. DEW has put as a recommendation that the PZJA develop and finalise an initial Harvest Strategy, incorporating target and limit reference points for the TSTRLF by 31 December 2008. In the interim, the PZJA to closely monitor effort and catch levels in the TSTRLF until the TAC and Harvest Strategy are formally established.

point to be developed and implemented for rock lobster stocks.	<p>reviewed by the RAG in May and recommended that it be S_{MSY} rather than $1.5S_{MSY}$. F_{MSY} is the other target reference point recommended. A new limit reference point recommended was $.2B_0$. These changes bring the TSTRLF into line (or close to it) with the Commonwealth's Harvest Strategy.</p> <p>The PZJA will consider these recommendations when it meets in August 2007.</p> <p>Recommended TAC (next provisional TAC recommendation due out in October 2007) for the fishery will reflect the strategy adopted by the PZJA.</p>	<p>The PZJA to initiate a management response if total catch is likely to be higher than the estimated catch at MSY. (Recommendation 1, Table 4).</p>
4: AFMA to develop a clear process and timeframe for determining the reason for a performance criteria breach and implementing appropriate management measures within specified timeframes.	<p>The response is implicit in the RAG's proposed harvest strategy. The TAC will be set by the PZJA on an annual basis. If it is exceeded it is a compliance issue. If the TAC turns out to be set too high or too low that experience will continue to help refine the TAC setting process, however the annual assessment and TACs will prevent any persistent breaches.</p>	<p>This recommendation has not been met. DEW has put as a recommendation that the PZJA develop and finalise an initial Harvest Strategy, incorporating target and limit reference points for the TSTRLF by 31 December 2008.</p> <p>In the interim, the PZJA to closely monitor effort and catch levels in the TSTRLF until the TAC and Harvest Strategy are formally established.</p> <p>The PZJA to initiate a management response if total catch is likely to be higher than the estimated catch at MSY. (Recommendation 1, Table 4).</p>
5: AFMA to conduct a formal	No change: AFMA with QDPI&F	DEW has recommended that the PZJA undertake a Compliance

compliance risk assessment of the TSRLF within 1 year and develop a strategy to implement any resultant recommendations.	(Boating Patrol) completed a risk assessment for the fishery in July 2004. This assessment has been put into operation and guides compliance activities in the fishery. QDPI&F will update the risk assessment when the new management plan is drafted.	Risk Assessment of the TSTRLF, once the new TSTRLF Management Plan is in place. In the interim, the PZJA to continue to manage the risk of IUU fishing. (Recommendation 4, Table 4).
6: Annual catch and effort statistics to be published and publicly available by the end of 2004.	Annual catch statistics including 2006 were released in April/May 2007. There are still some systemic problems with the data collection that are not going to be resolved until mid 2008 because of the delay in implementing the <i>Torres Strait Fisheries Act 1984</i> legislative amendments (fish receivers licences) for 12 months.	A recommendation on reporting will continue to apply to the TSTRLF. (Condition 3, Table 4).
7: AFMA to ensure that mechanisms are in place to ensure that adequate and reliable data on catch and effort, appropriate to the scale of the fishery, are collected from all sectors to ensure sustainable management of the TSRL resource.	The data collection program continues to use compulsory logbooks to collect catch and effort data from boats > 7m and the docket book (TDB01) to collect the data from the community fishing sector. This system will be strengthened in the future with the docket book being made compulsory in mid 2008.	DEW has recommended that with the introduction of a quota management system, the PZJA to investigate methods to improve the current logbook and docket book system. The PZJA to implement comprehensive data collection and validation mechanisms to ensure adequate and reliable data on catch, effort, stock structure and abundance is collected. (Recommendation 5, Table 4).
8: AFMA to continue to pursue complementary management	AFMA has continued to promote complementary management	DEW has recommended that the PZJA continue to pursue complementary management arrangements with other

arrangements with other jurisdictions responsible for managing shared rock lobster stocks to ensure that all removals and other relevant impacts on the stock are properly accounted for in stock assessments.	arrangements. The TRL RAG meetings, involving all three jurisdictions, are examples of this effort. PNG has observer status at the Working Group and TSFMAC both of which promote complementarity. Queensland announced implementation of a quota system in their East Coast Tropical Rock Lobster Fishery to complement the TSTRLF in October 2006.	jurisdictions responsible for managing shared Tropical Rock Lobster stocks to ensure that all removals and other relevant impacts on stock are properly accounted for in stock assessments. In conjunction with QDPI&F, the PNG NFA and other jurisdictions, the PZJA to continue to work towards developing a stock-wide resource assessment for the Tropical Rock Lobster. (Recommendation 2, Table 4).
9: AFMA to control fishing mortality, through effort controls or other mechanisms across all sectors, to maintain stocks at ecologically sustainable levels.	The fishery has operated with a 30% reduction of tenders in the non-community sector and continuation of 7 day moon/tide closures in the fishery during 2007.	<p>This recommendation has not been met. DEW has put as a recommendation that the PZJA develop and finalise an initial Harvest Strategy, incorporating target and limit reference points for the TSTRLF by 31 December 2008.</p> <p>In the interim, the PZJA to closely monitor effort and catch levels in the TSTRLF until the TAC and Harvest Strategy are formally established.</p> <p>The PZJA to initiate a management response if total catch is likely to be higher than the estimated catch at MSY. (Recommendation 1, Table 4).</p>
10: AFMA will provide a report annually to the DEH on the progress in implementing the recommendations.	This report achieves this reporting requirement.	This recommendation has been met, however will continue to apply to the TSTRLF. (Condition 3, Table 4).

Table 3: The Department of the Environment and Water Resources (DEW) assessment of the Torres Strait Tropical Rock Lobster Fishery against the requirements of the EPBC Act related to decisions made under Parts 13 and 13A

Please Note – the table below is not a complete or exact representation of the EPBC Act. It is intended as a summary of relevant sections and components of the Act to provide advice on the fishery in relation to decisions under Parts 13 and 13A. A complete version of the EPBC Act can be found on the DEW website.

Part 13

Division 1 Listed threatened species Section 208A Minister may accredit plans or regimes	DEW assessment of the Torres Strait Tropical Rock Lobster Fishery
<p>(1) Minister may, by instrument in writing, accredit for the purposes of this Division:</p> <p>(e) a policy formulated by the Protected Zone Joint Authority under paragraph 34(b) of the <i>Torres Strait Fisheries Act 1984</i> for managing a fishery for which a plan of management (within the meaning of section 15A of the <i>Torres Strait Fisheries Act 1984</i>) is not in force;</p> <p>if satisfied that:</p> <p>(f) the plan, regime or policy requires persons engaged in fishing under the plan, regime or policy to take all reasonable steps to ensure that members of listed threatened species (other than conservation dependent species) are not killed or injured as a result of the fishing; and</p>	<p>The Torres Strait Tropical Rock Lobster Fishery will be managed under the <i>Torres Strait Fisheries Act 1984</i> and the <i>Torres Strait Fisheries Regulations 1985</i>.</p> <p>The November 2004 assessment of the TSTRLF reports that due to an oversight during the drafting of the EPBC Act, the accreditation of fisheries managed under the <i>Torres Strait Fisheries Act 1984</i> is not provided for. DEW contended that it was not the intention of the Parliament to treat Torres Strait fisheries differently from all other fisheries. Therefore, it was recommended that the then Minister for the Environment and Heritage, Mr Ian Campbell, make a statement so that fishers may be given some level of assurance that actions provided for, and taken in accordance with the <i>Torres Strait Fisheries Act 1984</i> would not be expected to contravene the offence provisions of Part 13 of the EPBC Act.</p> <p>Given the legislation in force in the Torres Strait, DEW considers that</p>

<p>(g) the fishery to which the plan, regime or policy relates does not, or is not likely to, adversely affect the survival or recovery in nature of the species.</p>	<p>all reasonable steps are being taken to prevent the killing or injuring of threatened species and the capture of any threatened species would be incidental to and not the purpose of the operation of the TSTRLF.</p> <p>Currently, evidence suggests that the TSTRLF has not had any interactions with listed threatened species. Therefore, DEW considers the current operation of the TSTRLF is not likely to adversely affect the survival or recovery in nature of any threatened species.</p>
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<p>Division 2 Migratory species Section 222A Minister may accredit plans or regimes</p>	<p>DEW assessment of the Torres Strait Tropical Rock Lobster Fishery</p>
<p>(1) Minister may, by instrument in writing, accredit for the purposes of this Division:</p> <p>(e) a policy formulated by the Protected Zone Joint Authority under paragraph 34(b) of the <i>Torres Strait Fisheries Act 1984</i> for managing a fishery for which a plan of management (within the meaning of section 15A of the <i>Torres Strait Fisheries Act 1984</i>) is not in force;</p> <p>if satisfied that:</p> <p>(f) the plan, regime or policy requires persons engaged in fishing under the plan, regime or policy to take all reasonable steps to ensure that members of listed migratory species are not killed or injured as a result of the fishing; and</p>	<p>The Torres Strait Tropical Rock Lobster Fishery will be managed under the <i>Torres Strait Fisheries Act 1984</i> and the <i>Torres Strait Fisheries Regulations 1985</i>.</p> <p>The November 2004 assessment of the TSTRLF reports that due to an oversight during the drafting of the EPBC Act, the accreditation of fisheries managed under the <i>Torres Strait Fisheries Act 1984</i> is not provided for. DEW contended that it was not the intention of the Parliament to treat Torres Strait fisheries differently from all other fisheries. Therefore, it was recommended that the then Minister for the Environment and Heritage, Mr Ian Campbell, make a statement so that fishers may be given some level of assurance that actions provided for, and taken in accordance with the <i>Torres Strait Fisheries Act 1984</i> would not be expected to contravene the offence provisions of Part 13 of the EPBC Act.</p>

<p>(g) the fishery to which the plan, regime or policy relates does not, or is not likely to, adversely affect the conservation status of a listed migratory species or a population of that species.</p>	<p>Given the legislation in force in the Torres Strait, DEW considers that all reasonable steps are being taken to prevent the killing or injuring of threatened species and the capture of any threatened species would be incidental to and not the purpose of the operation of the TSTRLF.</p> <p>The report provided by AFMA states that there have been no interactions with any listed migratory species or a population of that species. Therefore, DEW considers the current operation of the TSTRLF is not likely to adversely affect the survival or recovery in nature of any listed migratory species.</p>
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Division 3 Whales and other cetaceans Section 245 Minister may accredit plans or regimes	DEW assessment of the Torres Strait Tropical Rock Lobster Fishery
<p>(1) Minister may, by instrument in writing, accredit for the purposes of this Division:</p> <p>(e) a policy formulated by the Protected Zone Joint Authority under paragraph 34(b) of the <i>Torres Strait Fisheries Act 1984</i> for managing a fishery for which a plan of management (within the meaning of section 15A of the <i>Torres Strait Fisheries Act 1984</i>) is not in force;</p> <p>if satisfied that:</p> <p>(f) the plan, regime or policy requires persons engaged in fishing under the plan, regime or policy to take all reasonable steps to ensure that cetaceans are not killed or injured as a result of the fishing; and</p>	<p>The Torres Strait Tropical Rock Lobster Fishery will be managed under the <i>Torres Strait Fisheries Act 1984</i> and the <i>Torres Strait Fisheries Regulations 1985</i>.</p> <p>The November 2004 assessment of the TSTRLF reports that due to an oversight during the drafting of the EPBC Act, the accreditation of fisheries managed under the <i>Torres Strait Fisheries Act 1984</i> is not provided for. DEW contended that it was not the intention of the Parliament to treat Torres Strait fisheries differently from all other fisheries. Therefore, it was recommended that the then Minister for the Environment and Heritage, Mr Ian Campbell, make a statement so that fishers may be given some level of assurance that actions provided for,</p>

<p>(g) the fishery to which the plan, regime or policy relates does not, or is not likely to, adversely affect the conservation status of a species of cetacean or a population of that species.</p>	<p>and taken in accordance with the <i>Torres Strait Fisheries Act 1984</i> would not be expected to contravene the offence provisions of Part 13 of the EPBC Act.</p> <p>Given the legislation in force in the Torres Strait, DEW considers that all reasonable steps are being taken to prevent the killing or injuring of threatened species and the capture of any threatened species would be incidental to and not the purpose of the operation of the TSTRLF.</p> <p>Given the legislation in force in the Torres Strait, DEW considers that all reasonable steps are being taken to prevent the killing or injuring of threatened species and the capture of any whales or other cetaceans would be incidental to and not the purpose of the operation of the TSTRLF.</p> <p>The report provided by AFMA states that there have been no interactions with any cetaceans or a population of that species. Therefore, DEW considers the current operation of the TSTRLF is not likely to adversely affect the conservation status of a species of cetacean or a population of that species.</p>
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Division 4 Listed marine species Section 265 Minister may accredit plans or regimes	DEW assessment of the Torres Strait Tropical Rock Lobster Fishery
<p>(1) Minister may, by instrument in writing, accredit for the purposes of this Division:</p> <p>(e) a policy formulated by the Protected Zone Joint Authority under paragraph 34(b) of the <i>Torres Strait Fisheries Act 1984</i> for managing a fishery for which a plan of management (within the meaning of section 15A of the <i>Torres Strait Fisheries Act 1984</i>) is not in force;</p>	<p>The Torres Strait Tropical Rock Lobster Fishery will be managed under the <i>Torres Strait Fisheries Act 1984</i> and the <i>Torres Strait Fisheries Regulations 1985</i>.</p>

<p>if satisfied that:</p> <p>(f) the plan, regime or policy requires persons engaged in fishing under the plan, regime or policy to take all reasonable steps to ensure that members of listed marine species are not killed or injured as a result of the fishing; and</p> <p>(g) the fishery to which the plan, regime or policy relates does not, or is not likely to, adversely affect the conservation status of a listed marine species or a population of that species.</p>	<p>The November 2004 assessment of the TSTRLF reports that due to an oversight during the drafting of the EPBC Act, the accreditation of fisheries managed under the <i>Torres Strait Fisheries Act 1984</i> is not provided for. DEW contended that it was not the intention of the Parliament to treat Torres Strait fisheries differently from all other fisheries. Therefore, it was recommended that the then Minister for the Environment and Heritage, Mr Ian Campbell, make a statement so that fishers may be given some level of assurance that actions provided for, and taken in accordance with the <i>Torres Strait Fisheries Act 1984</i> would not be expected to contravene the offence provisions of Part 13 of the EPBC Act.</p> <p>Given the legislation in force in the Torres Strait, DEW considers that all reasonable steps are being taken to prevent the killing or injuring of threatened species and the capture of any whales or other cetaceans would be incidental to and not the purpose of the operation of the TSTRLF.</p> <p>The submission provided by AFMA states that there have been no interactions with any listed marine species. Therefore, DEW considers the current operation of the TSTRLF is not likely to adversely affect the conservation status of a listed marine species or a population of that species.</p>
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Section 303AA Conditions relating to accreditation of plans, regimes and policies	DEW assessment of Torres Strait Tropical Rock Lobster Fishery
(1) This section applies to an accreditation of a plan, regime or policy under section 208A, 222A, 245 or 265.	DEW recommends that Torres Strait Tropical Rock Lobster Fishery be accredited under sections 208A, 222A, 245 and 265.
(2) The Minister may accredit a plan, regime or policy under that section even though he or she considers that the plan, regime or policy	To satisfy the requirements of section 208A we recommend that Torres Strait Tropical Rock Lobster Fishery be accredited under Part 13. No

<p>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>	<p>condition has been imposed on the Torres Strait Tropical Rock Lobster Fishery to satisfy section 303AA under Part 13.</p>
<p>(7) The Minister must, in writing, revoke an accreditation if he or she is satisfied that a condition of the accreditation has been contravened.</p>	

Part 13A

Section 303DC Minister may amend list	DEW assessment of the Torres Strait Tropical Rock Lobster Fishery
<p>(1) Minister may, by instrument in published in the Gazette, amend the list referred to in section 303DB (list of exempt native specimens) by:</p> <ul style="list-style-type: none"> (a) including items in the list; (b) deleting items from the list; or (c) imposing a condition or restriction to which the inclusion of a specimen in the list is subject; or (d) varying of revoking a condition or restriction to which the inclusion of a specimen in the list is subject; or (e) correcting an inaccuracy or updating the name of a species. 	
<p>(1A) In deciding whether to amend the list referred to in section 303DB (list of exempt native specimens) to include a specimen derived from a commercial fishery, the Minister must rely primarily on the outcomes of any assessment in relation to the fishery carried out for the purposes of Division 1 or 2 of Part 10.</p>	<p>The Torres Strait Tropical Rock Lobster Fishery was assessed under Part 10 of the EPBC Act in November 2004. In conducting this assessment, DEW considered that actions taken in the fishery would not have an unacceptable or unsustainable impact on the environment in a Commonwealth marine area over a period of 3 years while AFMA implemented recommendations to improve the management of the fishery. Consequently, the management regime, under the <i>Torres Strait Fisheries Act 1984</i> was accredited under section 33 of the EPBC Act.</p>

	<p>Since accreditation of the TSTRLF in 2004, the following amendments have been made to management arrangements:</p> <p>In 2004 the PZJA imposed:</p> <ul style="list-style-type: none"> • Licensing provisions to prevent the growth of the non-traditional inhabitant sector, both in terms of fishing capacity (boat replacement policy) and licence numbers. A ban on trawlers taking lobster to prevent pressure on the lobster resource from the prawn trawling fleet was also introduced; and • A 30% tender reduction and moon/tide hookah closures to manage effort in the fishery until the new quota management system is implemented for the fishery. <p>In 2005 the PZJA noted that the implementation of long term management arrangements based on an outputs control system could take some time and agreed to extend the interim arrangements for the 2006 season including:</p> <ul style="list-style-type: none"> • Carry over of the 30% reduction in the TVH sector as it was implemented in 2005; • Maintaining a cap on TIB licences greater than six metres with a CR endorsement, that is, to not grant new licences for TIB licensed lobster boats of greater than six metres in length; and • Prohibiting the use of hookah to take rock lobster for a period of approximately seven days each month corresponding with the strongest spring tides from February to September, inclusive. <p>AFMA is working towards new output management arrangements and the development of a Management Plan for the TSTRLF. The introduction of the new Management Plan will require a Strategic Assessment.</p>
(1C) The above does not limit the matters that may be taken into account in deciding whether to amend the list referred to in section	It is not possible to list exhaustively the factors that you may take into account in amending the List of Exempt Native Specimens (LENS).

<p>303DB (list of exempt native specimens) to include a specimen derived from a commercial fishery.</p>	<p>The objects of Part 13A, which are set out below this table, provide general guidance in determining factors that might be taken into account. A matter that is relevant to determining whether an amendment to the list is consistent with those objects is likely to be a relevant factor.</p> <p>DEW considers that the amendment of the list of exempt native specimens to include product taken in the Torres Strait Tropical Rock Lobster Fishery Wildlife Trade Operation (WTO) would be consistent with the provisions of Part 13A as:</p> <ul style="list-style-type: none"> • the fishery will not harvest any Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) listed species; • there are management arrangements in place to ensure that the resource is being managed in an ecologically sustainable way (see Table 1); • the operation of the TSTRLF is unlikely to be unsustainable and threaten biodiversity within the next 3 years; and • the EPBC Regulations 2000 do not specify fish as a class of animal in relation to the welfare of live specimens.
<p>(3) Before amending the list referred to in section 303DB (list of exempt native specimens), the Minister:</p> <ul style="list-style-type: none"> (a) must consult such other Minister or Ministers as the Minister considers appropriate; and (b) must consult such other Minister or Ministers of each State and self-governing Territory as the Minister considers appropriate; and (c) may consult such other persons and organisations as the Minister considers appropriate. 	<p>DEW considers that the consultation requirements have been met. On 10 August 2004, the Minister wrote to Fisheries Ministers seeking their views on inclusion of WTOs on the Exempt List (see sub 04/1543). Responses in support of the proposal were received from all State, Territory and Commonwealth Fisheries Ministers. The public comment period on the AFMA submission sought comment on the Annual Status Report for the Torres Strait Tropical Rock Lobster Fishery and provided sufficient opportunity for consultation with other persons and organisations.</p> <p>A letter to Senator Eric Abetz, Minister for Fisheries, Forestry and</p>

	Conservation, and the Hon Tony Rundle, AFMA Chairman advises them of the intention to declare the fishery an approved WTO under the EPBC Act.
(5) A copy of an instrument made under section 303DC is to be made available for inspection on the Internet.	The instrument for the Torres Strait Tropical Rock Lobster Fishery made under sections 303DC will be gazetted and made available on the DEW website.
Section 303FN Approved wildlife trade operation	DEW assessment of the Torres Strait Tropical Rock Lobster Fishery
(2) The Minister may, by instrument published in the <i>Gazette</i> , declare that a specified wildlife trade operation is an <i>approved wildlife trade operation</i> for the purposes of this section.	
<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>The Torres Strait Tropical Rock Lobster Fishery is consistent with objects of Part 13A (listed after this table) as:</p> <ul style="list-style-type: none"> • the fishery will not harvest any CITES listed species; • there are management arrangements in place to ensure that the resource is being managed in an ecologically sustainable way (see Table 1); • the operation of the TSTRLF is unlikely to be unsustainable and threaten biodiversity within the next 3 years; and • the EPBC Regulations 2000 do not specify fish as a class of animal in relation to the welfare of live specimens. <p>DEW considers that the Torres Strait Tropical Rock Lobster Fishery will not be detrimental to the survival or conservation status of a taxon to which it relates within the next 3 years, given the management measures currently in place, which include input controls such as: a</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>(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>(d) such other conditions (if any) as are specified in the regulations have been, or are likely to be, satisfied.</p>	<p>limit on the number of non-indigenous licences, gear restrictions and seasonal closures.</p> <p>New output management arrangements are currently being drafted, with the development of a Management Plan for the Torres Strait Tropical Rock Lobster Fishery, which is expected to be completed by the end of 2008.</p> <p>DEW considers that the Torres Strait Tropical Rock Lobster Fishery will not threaten any relevant ecosystem within the next 3 years, given the management measures currently in place, which include: a limit on the number of non-indigenous licences, gear restrictions and seasonal closures.</p> <p>New output management arrangements are currently being drafted, with the development of a Management Plan for the Torres Strait Tropical Rock Lobster Fishery, which is expected to be completed by the end of 2008.</p> <p>The EPBC Regulations 2000 do not specify fish as a class of animal in relation to the welfare of live specimens.</p> <p>No other conditions are specified in relation to commercial fisheries in the EPBC Regulations 2000.</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>DEW considers that the Torres Strait Tropical Rock Lobster Fishery will not have a significant impact on any relevant ecosystem within the next 3 years, given the management measures currently in place, which include a limited number of dinghies in the predominantly non-Indigenous freezer boat sector; species size limits; hookah gear ban</p>

<p>(b) the effectiveness of the management arrangements for the operation (including monitoring procedures).</p>	<p>from December to January; commercial fishing ban in October and November inclusive; and a week long spring tide hookah closure each month. The TSTRLF is moving towards new output management arrangements in the form of a TAC (currently being trialled), which are expected to be implemented by the end of 2008.</p> <p>The management arrangements that will be employed for the Torres Strait Tropical Rock Lobster Fishery are likely to be effective. These management arrangements include: a limited number of dinghies in the predominantly non-Indigenous freezer boat sector; species size limits; hookah gear ban from December to January; commercial fishing ban in October and November inclusive; and a week long spring tide hookah closure each month. The TSTRLF is moving towards new output management arrangements in the form of a TAC, which are expected to be implemented by the end of 2008.</p>
<p>(5) In deciding whether to declare an operation as an approved wildlife trade operation the Minister must have regard to:</p> <p>(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</p> <p>(b) whether the legislation applies throughout the State or Territory concerned; and</p> <p>(c) whether, in the opinion of the Minister, the legislation is effective.</p>	<p>The Torres Strait Tropical Rock Lobster Fishery will be managed under the <i>Torres Strait Fisheries Act 1984</i> and the <i>Torres Strait Fisheries Regulations 1985</i>.</p> <p>The <i>Torres Strait Fisheries Act 1984</i> applies to the Australian area of the Torres Strait Protected Zone.</p> <p>The management arrangements that will be employed for the Torres Strait Tropical Rock Lobster Fishery are likely to be effective. These management arrangements include: a limited number of dinghies in the predominantly non-Indigenous freezer boat sector; species size limits; hookah gear ban from December to January; commercial fishing ban in October and November inclusive; and a week long spring tide hookah closure each month. The TSTRLF is moving towards new output management arrangements in the form of a TAC, which are expected</p>

	to be implemented by the end of 2008.
<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> <p>(d) the operation is a commercial fishery.</p>	<p>The Torres Strait Tropical Rock Lobster 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>The Torres Strait Tropical Rock Lobster Fishery was assessed under Part 10 of the EPBC Act in November 2004. In conducting this assessment, DEW considered that actions taken in the fishery would not have an unacceptable or unsustainable impact on the environment in a Commonwealth marine area over a period of three years while AFMA implemented recommendations to improve the management of the fishery. Consequently, the TSTRLF's management regime, in force under the <i>Torres Strait Fisheries Act 1984</i> and the <i>Torres Strait Fisheries Regulations 1985</i>, was accredited under section 33 of the EPBC Act.</p> <p>Since accreditation of the TSTRLF in 2004, the following amendments have been made to management arrangements:</p> <p>In 2004 the PZJA imposed:</p> <ul style="list-style-type: none"> • Licensing provisions to prevent the growth of the non-traditional inhabitant sector, both in terms of fishing capacity (boat replacement policy) and licence numbers. A ban on trawlers taking lobster to prevent pressure on the lobster resource from the prawn trawling fleet was also introduced; and • A 30% tender reduction and moon/tide hookah closures to manage effort in the fishery until the new quota management system is implemented for the fishery. <p>In 2005, the PZJA noted that the implementation of long term</p>

	<p>management arrangements based on an outputs control system could take some time and agreed to extend the interim arrangements for the 2006 season including:</p> <ul style="list-style-type: none"> • Carry over of the 30% reduction in the TVH sector as it was implemented in 2005; • Maintaining a cap on TIB licences greater than six metres with a CR endorsement, that is, to not grant new licences for TIB licensed lobster boats of greater than six metres in length; and • Prohibiting the use of hookah to take rock lobster for a period of approximately seven days each month corresponding with the strongest spring tides from February to September, inclusive. <p>AFMA is working towards new output management arrangements and the development of a Management Plan for the TSTRLF. The introduction of the new Management Plan will require a Strategic Assessment.</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.	

Section 303FR Public consultation	DEW assessment of the Torres Strait Tropical Rock Lobster Fishery
<p>(1) Before making a declaration under section 303FN, the Minister must cause to be published on the Internet a notice:</p> <ul style="list-style-type: none"> (a) setting out the proposal to make the declaration; and (b) setting out sufficient information to enable persons and organisations to consider adequately the merits of the proposal; and (c) inviting persons and organisations to give the Minister, within the period specified in the notice, written comments 	<p>DEW considers that consultation requirements of the EPBC Act for declaring a WTO have been met. A public notice, which set out the proposal to declare the Torres Strait Tropical Rock Lobster Fishery a WTO and included the <i>Annual Status Report – Torres Strait Tropical Rock Lobster Fishery, September 2007</i>, was released for public comment which closed on 2 November 2007 with no submissions received.</p>

about the proposal.	
(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.	A public notice, which set out the proposal to declare the Torres Strait Tropical Rock Lobster Fishery a WTO and included the <i>Annual Status Report – Torres Strait Tropical Rock Lobster Fishery, September 2007</i> was released for public comment on 4 October and closed on 2 November, a total of 22 business days.
(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.	No public comments about the proposal were received.

Section 303FT Additional provisions relating to declarations	DEW assessment of the Torres Strait Tropical Rock Lobster Fishery
(1) This section applies to a declaration made under section 303FN, 303FO or 303FP.	A declaration for the Torres Strait Tropical Rock Lobster Fishery will be made under section 303FN.
<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> <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 declaration is to specify the period, circumstances or condition.</p>	<p>The standard conditions applied to commercial fishery WTOs include:</p> <ul style="list-style-type: none"> • operation in accordance with the management regime; • notifying DEW of changes to the management regime; and • 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 WTO instrument for the Torres Strait Tropical Rock Lobster 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 Torres Strait Tropical Rock Lobster Fishery made under sections 303FN and the conditions under section 303FT will be gazetted and made available on the DEW website.

Part 16

Section 391 Minister must consider precautionary principle in making decisions	DEW assessment of the Torres Strait Tropical Rock Lobster Fishery
(1) The Minister must take account of the precautionary principle in making a decision under section 303DC and/or section 303FN, to the extent he or she can do so consistently with the other provisions of this Act.	The precautionary principle must be considered when making a decision to include specimens on the LENS.
(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.	

Objects of Part 13A

- (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
- (h) to ensure the precautionary principle is taken into account in making decisions relating to the utilisation of wildlife.

Final recommendations to the PZJA for the TSTRLF

The material submitted by AFMA for assessment of the TSTRLF suggests the fishery generally operates in accordance with the Australian Government's *Guidelines for the Ecologically Sustainable Management of Fisheries – 2nd Edition*.

The TSTRLF is the most important commercial fishery to Indigenous and non-Indigenous fishers living in the Torres Strait. The TSTRLF consists of two major sectors – a freezer vessel sector, which mostly consists of non-indigenous, commercial fishers, and an island-based Traditional Inhabitant Boat sector. The former relies on larger, primary vessels and predominantly uses hookah diving to collect lobsters. In contrast, the TIB sector uses smaller vessels and free diving is the more commonly used fishing method. It is believed that the TVH sector contributed up to 80% of the total catch before 2001.

Due to the introduction of new output management arrangements in the TSTRLF, the *Torres Strait Tropical Rock Lobster Statement of Management Arrangements* are no longer relevant. The TSTRLF is currently being managed through the use of input controls expressed as licence conditions, regulations and fisheries management notices under the *Torres Strait Fisheries Act 1984*. There are an estimated 400 TIB licences with lobster endorsements currently issued. Many of these are unused. In 2006, there were 24 licensed primary vessels, with a total of 63 attached dinghies (tenders or service vehicles). Tropical Rock Lobsters are taken by divers working from four to six metre tenders, using a short hand spear or snare either with the use of a surface supplied air (hookah) or free diving.

Expansion in the TSTRLF is limited to traditional inhabitants in order to maximise their opportunities. The PZJA has imposed licensing provisions to prevent the growth of the non-traditional inhabitant sector, both in terms of fishing capacity (boat replacement policy) and license numbers. There is also a ban on trawlers taking lobster to prevent pressure on the lobster resource from the prawn trawling fleet. Other input management arrangements in the TSTRLF include: size limits; hookah gear ban from December to January; commercial fishing ban in October and November inclusive; and a week long spring tide hookah closure each month. The TSTRLF is moving towards new output management arrangements in the form of a TAC (currently being trialled), which are expected to be implemented by the end of 2008. AFMA is currently drafting a formal management plan for the TSTRLF, which is expected to be implemented by late 2008. AFMA is aware that the introduction of a new management plan for the TSTRLF will require a new assessment under Part 10 of the EPBC Act.

The AFMA submission notes that past interim management arrangements have not been entirely successful in controlling fishing effort and that there have been some problems of equity within the non-community sector as a result of the 30 percent reductions which some stakeholders claim has affected only one sector and was therefore unjust.

The objectives of the voluntary tender process were, within a capped budget, to:

- (i) remove capacity from the non-traditional inhabitant commercial sector of the TSTRLF to assist with meeting Australia's obligations under the Torres Strait Treaty in respect of the sharing of allowable catch with Papua New Guinea; and
- (ii) re-allocate fishing capacity in the TSTRLF from the non-traditional inhabitant commercial sector to the traditional inhabitant commercial sector.

The voluntary tender process is part of a program of reforms which will see the introduction of a quota management system under a formal plan of management for the TSTRLF from 2008.

DEW has identified a number of risks and uncertainties that must be managed in the TSTRLF to ensure that impacts are minimised:

- The lack of a formalised quota management system and a management plan for the TSTRLF;
- Risks identified in the Ecological Risk Assessment are to be addressed;
- Shared stocks – The TSTRLF shares the same stock as the TS PNG lobster fishery (managed by the Papua New Guinea National Fisheries Authority) and the Queensland East Coast Tropical Lobster Fishery (managed by QDPI&F). Most of the non-Indigenous commercial fishers hold dual-endorsed licences for the Torres Strait and Queensland lobster fisheries.
- Need for a new Compliance Risk Assessment, once the TSTRLF Management Plan is finalised.
- Logbook data entry: The level of effort within sectors in the TSTRLF has been difficult to quantify, particularly the traditional sector. As such, data collection has focused on estimating output from the fishery. Logbook data collected from commercial operators provides a reliable estimate of commercial removals from the fishery.

DEW is satisfied that the TSTRLF will not be detrimental to the survival or conservation status of the taxa to which they relate in the short term. Similarly, it is not likely to threaten any relevant ecosystem in the short term. DEW considers that due to the risks outlined above a three-year WTO declaration, subject to the conditions and recommendations listed below, is appropriate for the TSTRLF.

DEW considers that the operation of the fishery does not, or is not likely to, adversely affect the survival in nature of a listed threatened species or population of that species, or the conservation status of a listed migratory species, cetacean or listed marine species or a population of any of those species. DEW also considers that under the management plan operators are required to take all reasonable steps to avoid the killing or injuring of protected species, and the level of interaction under current fishing operations is low.

Due to an oversight during the drafting of the EPBC Act, the accreditation of fisheries managed under the *Torres Strait Fisheries Act 1984* was not provided for in the November 2004 assessment of the TSTRLF. DEW contended that it was not the intention of the Parliament to treat Torres Strait fisheries differently from all other fisheries. Therefore, it was recommended that the then Minister for the Environment and Heritage, Mr Ian Campbell, make a statement so that fishers may be given some level of assurance that actions provided for by and taken in accordance with the *Torres Strait Fisheries Act 1984* would not be expected to contravene the offence provisions of Part 13 of the EPBC Act.

The EPBC Act now allows for the accreditation under Part 13 of fisheries managed under the *Torres Strait Fisheries Act 1984*. Given the legislation in force in the Torres Strait, DEW considers that all reasonable steps are being taken to prevent the killing or injuring of any listed or threatened species. The submission provided by AFMA states that there have been no interactions with any listed or protected species in the TSTRLF. DEW therefore believes it appropriate to accredit the management regime for the fishery under Part 13 of the EPBC Act.

Unless a specific time frame is provided in the recommendation each recommendation must be addressed within the life of the declaration (three years). Note that a standard condition of a WTO is an annual reporting requirement, the details of which are provided at the end of the recommendations.

Table 4: Torres Strait Tropical Rock Lobster Fishery Assessment – Summary of Issues, Conditions and Recommendations November, 2007

	Issues	Conditions
1	<p><u>General Management</u></p> <p>Export decisions relate to the arrangements in force at the time of the decision. In order to ensure that these decisions remain valid, the Department of the Environment and Water Resources (DEW) needs to be advised of any changes that are made to the management regime and make an assessment that the new arrangements are equivalent or better, in terms of ecological sustainability, than those in place at the time of the original decision. This includes amendments that may affect sustainability of the target species or negatively impact on by-product, bycatch, protected species or the ecosystem.</p>	<p>Condition 1 - Operation of the fishery will be carried out in accordance with the TSTRLF management regime made under the <i>Torres Strait Fisheries Act 1984</i> and the <i>Torres Strait Fisheries Regulations 1985</i>.</p> <p>Condition 2 - The Protected Zone Joint Authority (PZJA) to inform the Department of the Environment and Water Resources (DEW) of any intended amendments to the management arrangements that may affect the criteria on which EPBC Act decisions are based.</p>
2	<p><u>Annual Reporting</u></p> <p>It is important that reports be produced and presented to DEW annually in order for the performance of the fishery and progress in implementing the recommendations in this report and other managerial commitments to be monitored and assessed throughout the life of the declaration. Annual reports should follow Appendix B to the <i>Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition</i> (the Guidelines) 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 protected species, impacts of the fishery on the ecosystem in which it operates and progress in implementing DEW recommendations. Electronic copies of the Guidelines are available from the DEW website at http://www.environment.gov.au/coasts/fisheries/publications/guidelines.html</p>	<p>Condition 3 - The PZJA to produce and present reports to DEW annually as per Appendix B to the Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition.</p>
	Issues	Recommendations
3	<p><u>Finalise Harvest Strategy</u></p> <p>Recommendation 3. from the 2004 DEW assessment of the TSTRLF, required “AFMA to</p>	<p>Recommendation 1 - The PZJA to develop and finalise an initial Harvest Strategy, incorporating</p>

<p>develop clear objectives and performance measures for the fishery relating to target species and ecosystem impacts within 1 year. The performance of the fishery to be reviewed annually against these measures and the outcomes published. A biological reference point to be delivered and implemented for rock lobster stocks”.</p> <p>AFMA report that new management objectives for the TSTRLF were agreed by the PZJA in April 2006. Objective 1 is to maintain the spawning stock at levels that meet or exceed the level required to produce the maximum sustainable yield.</p> <p>The target reference point was reviewed by the RAG in May 2006 and recommended that S_{MSY} rather than $1.5 S_{MSY}$ be used.</p> <p>With the new output system to include moving to a 50:50 or 70:30 share of Australian commercial entitlements between Torres Strait Islanders and non-Islanders, there was an urgent need to develop a method to set a sustainable total allowable catch (TAC) in 2006 and to prioritise research needed to obtain the necessary lobster stock and fishery data to estimate the TAC.</p> <p>The main research priority identified, to support the new TAC, was the pre-season population survey of recruiting (1+) lobster abundance. The first pre-season survey was conducted in November 2005 to provide managers with information on the abundance and biomass of fishery recruits and the likely stock biomass available to be fished in the 2006 season. This information was subsequently used by the TRL RAG, in March and August 2006, to help formulate a method to set a sustainable TAC for the 2006 fishing season.</p> <p>A regulation has been in place to control the fishing effort of the TVH sector since 2003. There are currently 400 TIB licences. While there is no limit on the issue of TIB licences, there is now a cap on the number of TIB licences with boats greater than 6 metres. These regulatory measures were intended to reduce the catch share of the TVH sector, and conversely increase the TIB sector's take.</p> <p>At the time of the 2004 DEW assessment, the BRS Fishery Status Reports stated that the</p>	<p>target and limit reference points for the TSTRLF, by 31 December 2008.</p> <p>In the interim, the PZJA to closely monitor effort and catch levels in the TSTRLF until the Total Allowable Catch and Harvest Strategy are formally established. The PZJA to initiate a management response if total catch is likely to be higher than the estimated catch at Maximum Sustainable Yield.</p>
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	<p>TSTRLF was considered overfished.</p> <p>The 2006 BRS Fishery Status Reports consider the TSTRLF as not overfished and the overfishing status is uncertain. The report states that the 2006 season was poor, but still within the normal range. The 2006 stock assessment estimated that the high catches recorded in 2004 and 2005 resulted from spawning stocks in both years that were above the level estimated to produce MSY. The likelihood that overfishing is occurring in the fishery is uncertain given the levels of uncertainty in the stock assessment models, the poorer than expected season and the two previous seasons of intensive fishing.</p> <p>The 2006 BRS Fishery Status Reports state that a new assessment was introduced in 2005 and revised in 2006, which uses new models, fishery-independent survey data collected since 1989, and catch data up to mid 2005. However, the 2006 BRS Fishery Status Reports state that while the new models are significantly better, the relatively poor model fit over the last 3 years deserves further investigation.</p> <p>As directed by the PZJA, the TSTRLF is moving from the current input managed system to a Quota Management System (QMS) in 2008. Under the QMS, the fishery sectors will be allocated catches based on the biological sustainability of the stock.</p> <p>It is difficult to assess the absolute risk to the TSTRLF target species population as a result of external fisheries impacts without an integrated stock assessment to determine status of the whole lobster stock. Comprehensive commercial catch monitoring is required before such an assessment is possible. This may be achieved once all fisheries move to quota management in the near future (planned enforcement in 2007).</p>	
4	<p>Stock wide assessments and Shared stocks</p> <p>The TSTRLF shares the same stock as the TS PNG lobster fishery (managed by the PNG NFA) and the Queensland East Coast Tropical Rock Lobster Fishery (managed by QDPI&F). Most of the non-Indigenous commercial fishers hold dual-endorsed licences for the Torres Strait and Queensland lobster fisheries.</p>	<p>Recommendation 2 - The PZJA to continue to pursue complementary management arrangements with other jurisdictions responsible for managing shared rock lobster stocks to ensure that all removals and other relevant impacts on stock are properly accounted for in stock assessments.</p>

	<p>Recommendation 8 from the 2004 DEH Assessment Report required “AFMA to continue to pursue complementary management arrangements with other jurisdictions responsible for managing shared rock lobster stocks to ensure that all removals and other relevant impacts on the stock are properly accounted for in stock assessments”.</p> <p>AFMA has continued to promote complementary management arrangements. The TRL RAG meetings, involving all three jurisdictions, are examples of this effort. PNG has observer status at the Working Group and TSFMAC, both of which promote complementary management arrangements.</p> <p>Queensland announced implementation of a quota system in the Queensland East Coast Tropical Rock Lobster Fishery to complement the TSTRLF in October 2006.</p> <p>Information on the abundance of fishery recruits is essential in calculating quota for the following year’s fishery. Therefore, it is important that complimentary population surveys are conducted in PNG waters of the TS to establish a sustainable level of catch in the PNG lobster fishery.</p>	<p>In conjunction with the Queensland Department of Primary Industries and Fisheries, the Papua New Guinea National Fisheries Agency and other jurisdictions, the PZJA to continue to work towards developing a stock-wide resource assessment for the tropical rock lobster.</p>
5	<p>ERA and ERM implementation</p> <p>The first stage of the Ecological Risk Assessment for the TSTRLF has been drafted but not yet discussed with stakeholders and finalized. Results provided below are indicative only until the assessment is completed.</p> <p><u>Level 1 Results</u></p> <p>A conservative and precautionary approach is taken to management of the TSTRLF to ensure conservation of the stock for traditional inhabitants. The fishing method (spearing by divers) has little or no impact on the inshore demersal communities, particularly due to the selective nature of fishing and the absence of bycatch or byproduct.</p> <p>Two ecological components were eliminated at Level 1. The Bycatch-Byproduct component was eliminated – there is no bycatch in the Torres Strait TRL fishery. The Communities component was also eliminated – no community hazards were assessed as greater than minor</p>	<p>Recommendation 3 - In the TSTRLF Ecological Risk Management Plan, AFMA to identify and implement appropriate management responses to address and mitigate risks and impacts identified in the Ecological Risk Assessment by 31 December 2008.</p>

	<p>risk (risk score 2).</p> <p>One internal fishery specific issue was assessed as a moderate risk (score of 3) in emerged from the Level 1 analysis of the TSTRLF. This was the impact of capture fishing on the single target species.</p> <ul style="list-style-type: none"> capture fishing was identified as a hazard related to the single target species. <p>Capture fishing in the TSTRLF is addressed through current input controls and managers are moving to a quota management system in 2008. The impacts of the adjacent PNG and Queensland lobster fisheries are currently difficult to quantify, particularly due to uncertainty about PNG lobster catch, but both fisheries plan to adopt quota management in the near future.</p> <p>Additionally two issues external to the fishery were emerged as identified as risks affecting both hazards to the protected species (TEP) and Habitat components. These were:</p> <ul style="list-style-type: none"> other fisheries; and other anthropogenic activities. <p>As these issues are external to the fishery, they have been assessed to provide contextual information about the environment the fishery operates within. There is no expectation or capacity for the fishery to actively mitigate the external risks.</p> <p>Key Uncertainties / Recommendations for Research and Monitoring</p> <p>It is difficult to assess the absolute risk to the TSTRLF target species population as a result of external fisheries impacts without an integrated stock assessment to determine status of the whole lobster stock. Comprehensive commercial catch monitoring is required before such an assessment is possible. This may be achieved once all fisheries move to quota management in the near future.</p>	
6	<p>Compliance risk issues in the TSTRLF</p> <p>Recommendation 5 from the 2004 DEW assessment required AFMA to conduct a formal compliance risk assessment of the TSTRLF within 1 year and develop a strategy to implement any resultant recommendations.</p>	<p>Recommendation 4 - The PZJA to undertake a Compliance Risk Assessment of the TSTRLF, once the new TSTRLF Management Plan is in place. In the interim, the PZJA to continue to manage the risk of illegal, unregulated and unreported fishing.</p>

	<p>AFMA report in their submission that in cooperation with QDPI&F, AFMA completed a risk assessment for the TSTRLF in July 2004. This assessment has been put into operation and guides compliance activities in the fishery. QDPI&F state that they will update the risk assessment when the new management plan is drafted.</p>	
7	<p>Validation of Logbook data</p> <p>Fishing effort data for the whole TSTRLF has not been available, despite comprehensive catch and effort data being available for the non-Indigenous sector since 1997, when the logbook system became compulsory.</p> <p>Past stock assessments of the TSTRLF have relied solely on catch statistics and relative abundance indices estimated from the mid-year fishery independent surveys since 1989.</p> <p>The abundance and biomass of the TSTRLF was first estimated using a fishery-independent diver survey in 1989. Annual population surveys have been conducted in all years since 1989.</p> <p>The docket book system introduced in late 2003/ early 2004 is a voluntary system that depends on the cooperation of the buyer and seller to record the catches sold and ancillary information about the fishing operation. While this system has allowed the collection of more detailed catch data from the TIB sector and has provided an approximate estimate of the share of the lobster catch between the two sectors, it should be recognised that the data might be unreliable. AFMA explains in the submission that the main reason for this is that the docket books are used to record the purchases of catch from two groups of people, those who use a logbook to report their catches and those who do not. Therefore, double counting might occur where catch recorded in a logbook has not been identified as such on the docket book.</p> <p>The TSTRLF has little known interaction with protected species. Legislation prevents the taking of turtles or dugong in the course of any fishing other than traditional fishing. Therefore while these species are frequently seen in the area of the fishery, they are protected from non-traditional hunting.</p>	<p>Recommendation 5 - With the introduction of a quota management system, the PZJA to investigate methods to improve the current logbook and docket book system. The PZJA to implement comprehensive data collection and validation mechanisms to ensure adequate and reliable data on catch, effort, stock structure and abundance is collected.</p>

Acronyms

AFMA	Australian Fisheries Management Authority
BRS	Bureau of Rural Sciences
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CSIRO	Commonwealth Scientific and Industrial Research Organisation
DAFF	Department of Agriculture, Fisheries and Forestry
DEH	Department of the Environment and Heritage (now DEW)
DEW	Department of the Environment and Water Resources
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
ERA	Ecological Risk Assessment
GBRWHA	Great Barrier Reef World Heritage Area
IUU	Illegal, Unreported and Unregulated
LENS	List of Exempt Native Specimens
MSY	Maximum Sustainable Yield
PNG	Papua New Guinea
PNG NFA	Papua New Guinea National Fisheries Agency
PZJA	Protected Zone Joint Authority
QDPI&F	Queensland Department of Primary Industries and Fisheries
QMS	Quota Management System
RAG	Research Advisory Group
TAC	Total Allowable Catch
TEP	Threatened, endangered and protected
TIB	Traditional Inhabitant Boat
TRL RAG	Tropical Rock Lobster Resource Assessment Group
TSF Act	<i>Torres Strait Fisheries Act 1984</i>
TSFMAC	Torres Strait Fisheries Management Advisory Committee
TSPMAC	Torres Strait Prawn Management Advisory Committee
TSPZ	Torres Strait Protected Zone
TSRA	Torres Strait Regional Authority
TSSAC	Torres Strait Scientific Advisory Committee
TSTRLF	Torres Strait Tropical Rock Lobster Fishery
TVH	Transferable Vessel Holder
WTO	Wildlife Trade Operation