



Australian Government

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

Assessment of the Torres Strait Tropical Rock Lobster 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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CONTENTS

Assessment summary	1
Section 1: Assessment Summary	2
Section 2: Summary of Issues Requiring Conditions	4
Section 3: Detailed Analysis Against the Guidelines	9
Section 4: Assessment Against the EPBC Act.....	26
Part 10 – Strategic assessments	26
Part 12 – Identifying and monitoring biodiversity and making bioregional plans	27
Part 13 – Species and communities	27
Part 13A – International movement of wildlife specimens	30
Part 16 – Precautionary principle and other considerations in making decisions	36
References.....	37

ASSESSMENT SUMMARY

In October 2020, the Australian Fisheries Management Authority (AFMA) on behalf of the Protected Zone Joint Authority submitted an application for The Torres Strait Tropical Rock Lobster Fishery (the fishery) to the Department of Agriculture, Water and the Environment for assessment under the EPBC Act as an approved wildlife trade operation (WTO), against the Australian Government 'Guidelines for the Ecologically Sustainable Management of Fisheries – 2nd Edition'. A public comment period was open from 20 October 2020 to 18 November 2020. No comments were received.

Description of the Fishery

The enacting legislation for the treaty in the area under Australian jurisdiction is the *Torres Strait Fisheries Act 1984*, which establishes the Protected Zone Joint Authority (PZJA). Membership of the PZJA comprises the Commonwealth Assistant Minister for Agriculture and Water Resources, the Queensland Minister for Minister for Agricultural Industry Development and Fisheries and the Chair of the Torres Strait Regional Authority.

The fishery extends from Cape York to the northern border of the Torres Strait Protected Zone. Most catch comes from the western and south-eastern areas of the fishery. The fishing season starts 1 December each year.



The Torres Strait Treaty (the Treaty) defines the border between Australia and Papua New Guinea and provides a management framework of the common border area. This area is defined by the Treaty and is known as the Torres Strait Protected Zone (TSPZ).

Australia and Papua New Guinea established the TSPZ with the principal purpose to acknowledge and protect the traditional way of life and livelihood of the traditional inhabitants of both Parties including their traditional fishing and free movement.

Under the treaty, Australia and Papua New Guinea agree to share the allowable catch, where each year both countries agree on the global TAC and how it is to be apportioned between Australian and Papua New Guinea waters. For 2020, 85 per cent of the global TAC is to be taken in Australian waters and 15 per cent of the global TAC is to be taken in Papua New Guinea waters.

The Treaty also specifies catch sharing arrangements between Australian and Papua New Guinea boats that operate in the Australian area of jurisdiction.

Access to the fishery is via licence to the following fishing sectors:

- Traditional Inhabitant Boat (TIB) (no limited entry)
- Transferrable Vessel Holder (TVH)
- Papua New Guinea (under cross endorsement arrangements)

There are currently 446 licences in the TIB sector, 12 primary/tender licences in the TVH sector and an unknown number of Papua New Guinea dinghies and canoes fishing from coastal Papua New Guinea villages.

The *Torres Strait Fisheries Act 1984* stipulates that the Minister cannot impose on traditional inhabitants a requirement to report their catch. While acknowledging this limitation to enforcing reporting across all sectors of the fishery, the collection and validation of data is important to ensuring sustainable management of the fishery. For this reason, the Department is recommending that AFMA work with all sectors to implement ways to collect data on target species.

Target stocks

The fishery targets a single species, the Tropical Rock Lobster (*Panulirus ornatus*) using hand-collection methods in the Torres Strait Protected Zone. The target stock is not considered overfished. Other species of rock lobster (*P. versicolour*, *P. pencillatus*, *P. femoristriga* and *P. polyphagus*) have been recorded in the Torres Strait, however, catches of these species are negligible.

The most recent stock assessment for the fishery undertaken in 2019 found that the stock had recovered following a period of low recruitment in the fishery.

Protected species and threatened ecological communities

Under the proposed management arrangements, 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 negligible. The fishery continues to have a low impact on threatened ecological communities and bycatch species.

Ecosystem impacts

Taking into account existing and proposed management measures, the management regime for the fishery provides for fishing operations to be managed to minimise its impact on the structure, productivity, function and biological diversity of the ecosystem.

Harvest controls

The Torres Strait Tropical Rock Lobster Fishery Harvest Strategy (2019) (harvest strategy) replaced the interim Harvest Strategy (2008). The harvest strategy describes the performance indicators used for monitoring the condition of the stock, the fishery-independent survey and stock assessment procedures and the decision rules applied to determine the recommended biological catch (RBC) and the total allowable catch (TAC) each fishing season with the use of an empirical harvest control rule (eHCR) to calculate a Recommended Biological Catch (RBC).

The 2019 harvest strategy applies to the whole fishery and takes into account catch sharing arrangements between Australia and Papua New Guinea.

Conclusion

While the fishery is well managed, the Department has identified a number of risks and uncertainties that must be managed through conditions and recommendations as listed at Section 2.

The Department recommends that the Torres Strait Tropical Rock Lobster Fishery be declared an approved Wildlife Trade Operation for a period of three years until 4 December 2023. 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

Guidelines assessment	Meets	Partially meets	Does not meet	Details
Management regime 1 N/A	6	1		The management regime is effective. The Torres Strait Tropical Rock Lobster Fishery (the fishery) is managed by the Australian Fisheries Management Authority (AFMA) on behalf of the Protected Zone Joint Authority (PZJA). The fishery operates under the Torres Strait Fisheries (Quotas for Tropical Rock Lobster (Kaiar)) Management Plan 2018 (Kaiar Management Plan) made under the Torres Strait Fisheries Act 1984 (Cth).
Principle 1 (target stocks) 2 of 11 N/A	5 of 11	4 of 11		Target stocks are well managed although do not meet all the requirements under the Guidelines. There are adequate measures to manage target stocks outlined in the harvest strategy. However similar data collection requirements from all sectors in the fishery would improve information on target stocks. AFMA anticipate that future legislation amendments may assist in improving data collection from all fishing sectors.
Principle 2 (bycatch and TEPS) 7 of 12 N/A	5 of 12			Interactions with bycatch and TEPS low due to fishing methods The nature of the fishery means there is no risk of bycatch and likely relatively low risk to protected species. Logbooks do not require reporting of TEP interactions. Collection methods used in this fishery are considered to be low risk.
Principle 2 (ecosystem impacts) 2 of 5 N/A	3 of 5			Impacts on ecosystem low due to fishing methods An ecological risk assessment of the fishery found no species, habitats or communities at high risk. Collection methods used in this fishery are considered to be low risk.

EPBC requirements	Meets	Partially meets	Does not meet	Details
Part 12	Meets/NA			No marine bioregional plans apply to the area of the Torres Strait.
Part 13	Meets			The management arrangements in force under the <i>Torres Strait Fisheries Act 1984</i> and Torres Strait Fisheries Regulations 1985 were accredited under Part 13 of the EPBC Act on 7 January 2019. Impacts on EPBC listed species are low due to the hand collection technique. No interactions have been reported to date. AFMA encourages interactions to be reported by all fishing sectors.
Part 13A	Meets			This assessment report recommends declaring the fishery a Wildlife Trade Operation for three years until 4 December 2023.
Part 16	Meets			The management regime and collection methods are sufficiently precautionary to prevent serious or irreversible environmental damage to the fishery.

SECTION 2: SUMMARY OF ISSUES REQUIRING CONDITIONS

Issue	Conditions
<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 <i>Environment Protection and Biodiversity Conservation Act 1999</i> (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 Tropical Rock Lobster Fishery is carried out in accordance with management arrangements defined in the <i>Torres Strait Fisheries Act 1984</i>, Torres Strait Fisheries Regulations 1985, the Torres Strait Fishery (Quotas for Tropical Rock Lobster (Kaiar)) Management Plan, licence conditions and the Torres Strait Tropical Rock Lobster Fishery Harvest Strategy (2019).</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 Tropical Rock Lobster 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>
<p><u>Annual Reporting</u></p> <p>It is important that the Australian Fisheries Management Authority produce and present 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</p>	<p>Condition 4:</p> <p>The Torres Strait Protected Zone Joint Authority must provide annual 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>

Issue	Conditions
<p>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><u>Data collection to better inform target species composition</u></p> <p>Access to reliable data is crucial for assessing, monitoring and managing the impacts of fishing on target and non-target species as well as the health of the ecosystems.</p> <p>Annual pre-season independent stock surveys provide key insight into stock assessments. Logbooks are also used in the fishery to collect information on the extent of fishing effort undertaken and where catches are being taken from, however, the logbook data requirements vary in the fishing sectors.</p> <p>Although Australian Fisheries Management Authority has introduced a mandatory reporting system (the Fish Receiver System), which requires all sectors in the fishery to report total catch, there is still some effort and spatial information that can only be submitted voluntarily by one sector.</p> <p>Protected species reporting is also usually undertaken through logbooks, which are otherwise not required to be used by all sectors in the fishery.</p> <p>The Department acknowledges and supports current work that is being done to amend the <i>Torres Strait Fisheries Act 1984</i> to allow for the same data reporting requirements apply to all fishing sectors in the fishery,</p>	<p>Recommendation 1:</p> <p>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 <i>Torres Strait Fisheries Act 1984</i> to allow data reporting requirements to apply to all fishing sectors in the fishery.</p> <p>Data collection requirements for target species are to include:</p> <ul style="list-style-type: none"> the total quantity of each species removed from the fishery, including any catch discarded prior to landing to an authorised fish receiver; and catch and effort data, including location of all commercial fishing activity. <p>Progress and outcomes of this recommendation must be included in annual reports required under condition 4.</p>

Issue	Conditions
while understanding that the process is timely. Updates on the process steps is recommended to be shared during the annual report requirements for the fishery if possible.	

Assessment history:

Information on previous assessments for the Torres Strait Tropical Rock Lobster Fishery is available on the Department's website at <http://environment.gov.au/marine/fisheries/commonwealth/torres-strait-rock-lobster>.

1st assessment finalised November 2004 – WTO with 3 conditions; 10 recommendations

2nd assessment finalised November 2007 – WTO with 3 conditions; 5 recommendations

3rd assessment finalised November 2010 – WTO with 3 conditions; 5 recommendations

4th assessment finalised May 2014 – WTO with 3 conditions; 3 recommendations

5th assessment finalised December 2017 - WTO with 4 conditions

Fishery reporting:

- *Annual report – report provided in 2019*
- [AFMA Protected Species Interaction Reports](#)
- [Combined Torres Strait Protected Zone Joint Authority annual report 2011-2012, 2012-2013, 2013-2014](#)

Key links:

Protected Zone Joint Authority – <https://www.pzja.gov.au/>.

Torres Strait Tropical Rock Lobster Fishery information available – <https://www.pzja.gov.au/the-fisheries/torres-strait-tropical-rock-lobster-fishery>.

Torres Strait Treaty – <https://dfat.gov.au/geo/torres-strait/Pages/the-torres-strait-treaty.aspx>. The Department of Foreign Affairs and Trade has overall responsibility for the Torres Strait Treaty.

Arrangement between the Commonwealth and the State of Queensland under section 31 of the *Torres Strait Fisheries Act 1984* – <https://www.legislation.gov.au/Series/F2008B00750>.

Gazette – Notification of public comment on the Draft strategic assessment report for the Torres Strait Tropical Rock Lobster Fishery – <https://www.legislation.gov.au/Details/C2016G01068>.

Torres Strait Tropical Rock Lobster Fishery five year business plan – <https://www.pzja.gov.au/resources/publications/torres-strait-tropical-rock-lobster-fishery-five-year-business-plan>.

Torres Strait Tropical Rock Lobster Fishery: Traditional and commercial fishing in the Torres Strait protected zone, Fact sheet – <https://www.pzja.gov.au/sites/g/files/net4491/f/content/uploads/2011/06/torres-rock-lobster.pdf>.

Tropical Rock Lobster Resource Assessment Group – <https://www.pzja.gov.au/pzja-and-committees/what-pzja-committees-exist-and-who-are-the-members>.

Torres Strait Scientific Advisory Committee – <https://www.pzja.gov.au/pzja-and-committees/what-pzja-committees-exist-and-who-are-the-members>.

Management arrangements

Torres Strait Fisheries (Tropical Rock Lobster) Management Instrument 2018 – <https://www.legislation.gov.au/Series/F2018L01044>.

Fisheries Management Paper No. 1: Torres Strait fisheries management advisory committee and associated committees and working groups – <https://www.pzja.gov.au/resources/publications>.

Fisheries Management Notice No. 50: Torres Strait Crab Fishery – Prohibition on taking crab (gear, size, area and boating length restrictions) – <https://www.legislation.gov.au/Series/F2008B00529>.

Torres Strait Fisheries Logbook Instrument No. 1 –

<https://www.pzja.gov.au/sites/g/files/net4491/f/content/uploads/2011/09/Logbook-Instrument-No-1.pdf>.

Community Fishing Notice No. 1: Community fishing in the Torres Strait – Prohibition on taking fish without a licence – <https://www.legislation.gov.au/Series/F2008B00622>.

Torres Strait Tropical Rock Lobster Fishery vessel monitoring systems guidelines –

<https://www.pzja.gov.au/resources/publications>.

Bycatch action plans and implementation reports – <https://www.pzja.gov.au/resources/publications>.

Fisheries logbook instrument No. 1 (Torres Strait Prawn, Tropical Rock Lobster and Finfish fisheries)

– <https://www.pzja.gov.au/sites/g/files/net4491/f/content/uploads/2011/09/Logbook-Instrument-No-1.pdf>.

Fisheries management and logbook notices –

<https://www.pzja.gov.au/resources/publications/fisheries-management-and-logbook-notices>.

A guide to management arrangements – <https://www.pzja.gov.au/resources/publications>.

Enforcing legislation

Torres Strait Fisheries Act 1984 (Cth) – <https://www.legislation.gov.au/Series/C2004A02887>.

Torres Strait Fisheries Regulations 1985 (Cth) – <https://www.legislation.gov.au/Series/F1997B01836>.

Torres Strait Treaty (Miscellaneous Amendments) Act 1984 (Cth) –

<https://www.legislation.gov.au/Series/C2004A02886>.

Harvest strategy

[Torres Strait Tropical Rock Lobster Fishery Harvest Strategy 2019](#).

Plaganyi et al. 2016 ‘Developing a harvest strategy for the Torres Strait Tropical Rock Lobster

Fishery’ – https://www.pzja.gov.au/sites/g/files/net4491/f/content/uploads/2018/03/CSIRO-TRL-Harvest-Strategy-March-2016_final.pdf.

Ecological Risk Assessment

- Ecological risk assessments via the Protected Zone Joint Authority website – <https://www.pzja.gov.au/resources/publications>.
- Furlani et al. 2007 ‘Assessment for the effects of fishing: Report for the Torres Strait Rock Lobster Fishery’ – <https://www.pzja.gov.au/sites/g/files/net4491/f/content/uploads/2011/06/4.pdf>.

Stock assessments

Plaganyi et al. 2016b ‘Torres Strait Tropical Rock Lobster Fishery survey and stock assessment’ –

<https://www.pzja.gov.au/sites/g/files/net4491/f/content/uploads/2018/03/5-TRL-Survey-and-Stock-Assessment-Research-Final-Report-20162.pdf>.

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>Meets – The management arrangements are documented and publicly available.</p> <p>The fishery is managed by the Australian Fisheries Management Authority (AFMA) on behalf of the Protected Zone Joint Authority (PZJA). The fishery is managed under the <i>Torres Strait Fishery (Quotas for Tropical Rock Lobster (Kaiar) Management Plan 2018</i> (the Kaiar Management Plan) in accordance with the <i>Torres Strait Fisheries Act 1984</i> (Cth) and the <i>Torres Strait Fisheries Regulations 1985</i> (Cth). The fishery is also managed via the <i>Torres Strait Fisheries (Tropical Rock Lobster) Management Instrument 2018</i>, the <i>Torres Strait Tropical Rock Lobster Fishery Management Arrangements Booklet 2020-21</i>.</p> <p>PZJA website in relation to managing Torres Strait fisheries has improved availability, accuracy and consistency of information.</p>
Be developed through a consultative process providing opportunity to all interested and affected parties, including the general public.	<p>Meets – Fully open and transparent public process.</p> <p>The management regime is developed through a consultative process.</p> <p>The PZJA established advisory bodies in 2003 and records of various meetings are published on the PZJA website.</p> <p>Traditional Inhabitant representatives are chosen by their communities, and together with industry and government representatives (Commonwealth and state), participate in the development of management arrangements.</p> <p>The PZJA are also guided by the Torres Strait Protected Zone Joint Authority Standing Committee, management advisory committees, the Torres Strait Scientific Advisory Committee, working groups, and resource assessment groups. The PZJA consults Australian traditional inhabitant fishers (commercial and traditional fishing), non-traditional inhabitant commercial fishers, Australian and Queensland government officials, and other technical experts, and conducts Native Title notification in accordance with the <i>Native Title Act 1993</i>.</p>

<p>Ensure that a range of expertise and community interests are involved in individual fishery management committees and during the stock assessment process.</p>	<p>Meets – A range of expertise and public interests are involved in the management of the fishery.</p> <p>Range of expertise and public interests are involved in managing the fishery. PZJA consult with fisheries managers and scientists at AFMA, Queensland Government, traditional owners and the Torres Strait Regional Authority (TSRA). Under the Torres Strait Treaty, PZJA is also required to consult with fisheries managers in Papua New Guinea. The Australian Government minister responsible for fisheries is the chair of the PZJA. Other members include the PZJA Standing Committee, the Torres Strait Scientific Advisory Group (TSSAC), the Tropical Rock Lobster Resource Assessment Group (TRLRAG), and the Tropical Rock Lobster Working Group (TRLWG) also provide advice to the PZJA.</p>
<p>Be strategic, containing objectives and performance criteria by which the effectiveness of the management arrangements are measured.</p>	<p>Meets</p> <p>The Torres Strait Tropical Rock Lobster Fishery Harvest Strategy (HS) describes the performance indicators used for monitoring the condition of the stock, the fishery-independent survey and stock assessment procedures and the rules applied to determine the recommended biological catch (RBC) and the total allowable catch (TAC) each fishing season.</p>

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

Meets – Effective input and output controls are in place to manage the fishery.

- Entry limits – There are 12 licenced primary vessels. The number of Torres Strait Fishing Boat Licence (TVH) or non-traditional commercial licences is limited. In line with an objective of the Torres Strait Fisheries Act, to improve the livelihoods for traditional inhabitants, there are no limits to the number of Traditional Inhabitant Boat (TIB) licences, although licence conditions do apply for all fishers;
- Catch limits – Pre-season surveys and advice from the TRLRAG inform the annual catch limits for the Torres Strait, which includes fishers from Papua New Guinea. The Torres Strait Treaty provides guidance regarding catch sharing arrangements between Australian and Papua New Guinea fishers;
- Quota allocation – The introduction of quota management in 2019 has allowed individual transferable quota allocation. Fishers currently operate under the Torres Strait Tropical Rock Lobster Fishery Harvest Strategy (2019);
- Processing – Licenced fish processors record all commercial catch data in the Torres Strait Seafood Buyers and Processors Docket Book. Docket book records include the number of divers, days fished, and fishing method. The TIB sector are required to identify the region fished (i.e. Torres Strait, Queensland coast or Papua New Guinea). This information must be reported to AFMA within three days;
- Size and bag limits – Minimum 115 mm tail length or 90 mm carapace length. Maximum three lobsters per person or six lobsters per boat;
- Methods – Target species are taken by hand with the use of hookah or spear. SCUBA is prohibited;
- Gear – Boat length restrictions. The TVH sector use larger vessels accompanied by a number of smaller tender boats, while the TIB sector only use tenders; and
- Closures – A series of closures are in place at different times. Some areas are permanently closed, a seasonal closure is in place from 1 October to 30 November, and the Moontide hookah closures starts on 9 February 2021 for 7 days. AFMA has discretionary powers to implement additional closures through legislative notices.

<p>Contain the means of enforcing critical aspects of the management arrangements.</p>	<p>Partially meets – There is enforceable capability for some sectors in the fishery.</p> <p>Effective enforcement capability is in place. Compliance is enforced through Commonwealth and Queensland legislation. As of 1 July 2018, AFMA officially took on the role of delivering the commercial domestic compliance program within the Torres Strait Protected Zone (TSPZ) and adjacent, outside but near, area from the Queensland Boat and Fishing Patrol.</p> <p>AFMA, in consultation with the Papua New Guinea National Fisheries Authority and Australian Border Force, is responsible for foreign compliance in the Torres Strait, and enforcing compliance of Australian fishers operating in the Torres Strait.</p> <p>Mandatory Vessel Monitoring Systems (VMS) is used as a tool to monitor compliance with hookah closures in the fishery.</p>
<p>Provide for the periodic review of the performance of the fishery management arrangements and the management strategies, objectives and criteria.</p>	<p>Meets – Regular performance reviews are built into the management of the fishery.</p> <p>All management arrangements are subject to periodic review. The TRLRAG review the objectives and performance criteria annually.</p> <p>Target stocks are assessed annually by the Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES) (see Williams et al. 2017; 2018; 2019), and bi-annually by the Fisheries Research and Development Corporation (FRDC) (see Maloney et al. 2016).</p>

<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>Meets – The management arrangements effectively manage the impacts on the wider marine ecosystem.</p> <p>An ecological risk assessment (ERA) has not been conducted for this fishery for over 10 years (Furlani et al. 2007). However, the fishery uses low risk hand collection methods and TACC. Given the management arrangements in place, the fishery is considered unlikely to have an impact on wider marine environment in the short term.</p> <p>CSIRO undertake a pre fishing season survey in November every year. In conjunction with recording lobster abundance and size/age structure, seabed habitat information is also collected during Tropical Rock Lobster dive surveys where percent cover is recorded at each site for the various substrate types. Generally, the overall distribution of most seabed habitats has remained reasonably consistent since 2005, particularly for hard substrates and sand cover. (AFMA Project 2016/0822) 'Torres Strait rock lobster (TRL) Final Report 2019 on fishery surveys, CPUE, stock assessment and harvest control rule development'</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</p> <p>There are no relevant plans or strategies relating to threat abatement, recovery or bycatch with which the fishery is required to be compliant.</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.

Partially Meets - There is a reliable information collection system in place for some sectors in the fishery.

Catch reporting requirements in the fishery vary across the fishing sectors. The TVH sector is required to complete a Daily Fishing Logbook (the Tropical Rock Lobster logbook – TRL04) which captures catch and effort data. This includes the total processed weight in kilograms of lobster caught, how many hours spent underwater, the fishing method (i.e. hookah, free dive, or lamp fishing) for each tender boat per day, and the latitude and longitude location of the primary boat.

The TIB sector logbook TDB02 only requires aggregate catch data at the end of a single fishing trip (total weight of the species landed (in kilograms) and its processed form) and is required to be signed by both the licenced fisher, and the licenced fish receiver. The fish receiver is then required to accurately weigh and record data about the landed product in a Catch Disposal Record (CDR) and submit that information to AFMA.

The completion of daily fishing logbooks by the TIB sector, including information on fishing effort, is not mandatory due to provisions in the *Torres Strait Fisheries Act 1984*. The Department has made a recommendation in section 2 for more effective data collection for the fishery from all sectors.

Fishery-independent monitoring of the Torres Strait Tropical Rock Lobster population has been carried out since 1989 (Plagányi et al. 2018). This program currently involves a pre-season dive survey to provide information on the relative abundance of recruiting lobsters and the likely stock biomass available to be fished each season.

Mandatory Vessel Monitoring Systems (VMS) were introduced across Torres Strait Fisheries in July 2017 for all primary and carrier boats in the fishery. VMS data is used by AFMA to monitor the location, speed and course of a commercial fishing boat.

Assessment	
<p>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.</p>	<p>Meets – Annual stock assessment or annual surveys are conducted.</p> <p>CSIRO conducted fishery-independent monitoring of the Torres Strait Tropical Rock Lobster population from 1989 to 2015. Since 2015, the pre-season total allowable catch (TAC) has been based on pre-season surveys undertaken by CSIRO.</p> <p>The fishery's integrated stock assessment used an age-structured model (Plagányi et al. 2020) of Tropical Rock Lobster population dynamics that integrated all historical information (catch records since 1973, annual fishery independent survey data from 1989, catch-at-age information, size composition information) to produce a Recommended Biological Catch (RBC).</p> <p>Under the harvest strategy for the fishery the integrated stock assessment model is to be updated every three years (unless triggered by a HS decision rule). Stock assessments will also be used to assess the resource status and evaluate the performance of the empirical harvest control rule (eHCR).</p> <p>The most recent stock assessment of the fishery undertaken in 2019 found that the stock had recovered following a period of low recruitment in the fishery. The Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES) <i>Fishery status reports</i> for 2016–17 and 2017–18 found target stocks are not overfished (biomass estimate) and not subject to overfishing (fishing mortality) (see Williams et al. 2017; 2018). The status of key Australian fish stocks reports 2018 classified <i>Panulirus ornatus</i> stocks as sustainable across northern Australian. However, there is some uncertainty regarding stock structure since recent bleaching of coral habitats and the impact this may have on future stocks (Plagányi et al. 2018).</p> <p>The upcoming research project for the fishery – “Fishery independent surveys, stock assessment, Harvest Strategy and Recommended Biological Catch calculation for the Torres Strait Tropical Rock Lobster Fishery 2020’ (AFMA project R2019/0825), will explore the Tropical Rock Lobster’s biological diversity and reproductive capacity, as well as environmental impacts, such as climate change, that may effect the Tropical Rock Lobster’s survival and recruitment variability.</p>

1.1.3 The distribution and spatial structure of the stock(s) has been established and factored into management responses.

Partially meets – Spatial information is collected but yet to be used to inform management responses.

Spatial and temporal data for the fishery is formally analysed by CSIRO each year and used in the stock assessment and eHCR.

The Tropical Rock Lobster is a migratory species which moves through the fishery to Papua New Guinea waters to spawn and do not return (Plagányi et al. 2018a). Tropical Rock Lobster populations within the Torres Strait, Coral Sea and Queensland waters are considered to be a single biological stock with limited age classes ([Pitcher et al. 2018](#)).

The AFMA project R2019/0825 will determine the biological structure for the Tropical Rock Lobster.

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

The completion of daily fishing logbooks is mandatory for the TVH sector. The TIB sector is not required to complete all sections in the daily fishing logbooks due to provisions in the *Torres Strait Fisheries Act 1984*.

However as of 1 December 2017, all commercial licenced fishers in the TIB sector are required to unload their catch to a licenced fish receiver, who then must report this information to AFMA within three days.

Information other than landed catch volumes is reported on an almost entirely voluntary basis (more than 96 per cent of licenses). AFMA is pursuing legislative changes to enable it to mandate reporting of fishery data by all fishers (including commercial Traditional Inhabitant fishers). The Department has also made a recommendation at section 2 aimed at improving catch reporting requirements

Tropical Rock Lobsters are also caught as bycatch in the Torres Strait Prawn Fishery but, based on observer records from 2007–2018, the majority are discarded alive.

The extent of any traditional (non-commercial) or other catch in the area of the fishery is unknown. Under the current management plan, the TIB sector is required to record any catches from Papua New Guinea region. AFMA consult regularly with the Papua New Guinea National Fishery Authority, in relation to compliance and catch data. CSIRO pre-season stock surveys focus on areas in the Torres Strait which are considered to be representative of the fishery as a whole.

There is currently no enforceable mechanism to verify traditional or recreational catches, however the total harvest from these sectors is low.

1.1.5 There is a sound estimate of the potential productivity of the fished stock/s and the proportion that could be harvested.

Partially meets

Preseason stock surveys are undertaken each year by CSIRO but do not attempt to identify any change in biological diversity or reproductive capacity.

The 2019 stock assessment used catch and effort data as well as annual fishery-independent survey data and found the target species was not overfished. The fishery is characterised by highly variable annual recruitment and a small number of age classes. Estimates of maximum sustainable yield can be uncertain and annual yields tend to fluctuate.

The AFMA project R2019/0825 is targeted at delivering annual Tropical Rock Lobster surveys and stock assessment to support the determination of an annual Total Allowable Catch (TAC) under the quota management system and catch sharing arrangements with Papua New Guinea.

AFMA project R2019/0825 Milestone Report 2020 indicated the ability to estimate the potential productivity is reduced by the naturally high variability numbers and location in annual recruitment.

Management responses	
<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>Meets</p> <p>The Torres Strait Tropical Rock Lobster Fishery Harvest Strategy 2019 (HS) includes reference points based on unfished biomass and decision rules.</p> <p>Decision rules include:</p> <ul style="list-style-type: none"> • Maximum catch limit; • Pre-season survey trigger; • Biomass limit reference point triggers; and • Fishery closure rules. <p>The unfished biomass is based on the spawning stock biomass in 1973 (start of the Fishery). The target biomass of 65 per cent is equal to recent levels (2005-2015) and takes account of the fact that the resource is shared and important for the traditional way of life and livelihood of traditional inhabitants and is biologically and economically acceptable. If the limit reference point (half the target biomass) is triggered in two successive years then the fishery is closed.</p> <p>Under the Torres Strait Treaty the global TAC is calculated and how it is to be apportioned between Australian and Papua New Guinea waters. The quota management system under the Management Plan only applies to the Australian share of the Global TAC in areas of Australian jurisdiction (85 per cent of the global TAC).</p> <p>Fishing can however, be controlled at any time via a Ministerial direction under section 16 of the <i>Torres Strait Fisheries Act 1984</i>.</p>
<p>1.1.7 There are management strategies in place capable of controlling the level of take.</p>	<p>Meets</p> <p>Management strategies, including the fishery's input and output controls, are capable of controlling the level of take.</p> <p>Restrictions apply to the number of licences, harvesting method and gear, fishing seasons, and locations.</p> <p>The harvest strategy includes reference points and decision rules to ensure the fishery operates in a sustainable manner.</p>

1.1.8 Fishing is conducted in a manner that does not threaten stocks of byproduct species.	Meets Effort is low, and limits apply to the take of key byproduct species, particularly Spanish Mackerel and reef finfish species. Management strategies mention above are capable of controlling the level of take of bycatch.
1.1.9 The management response, considering uncertainties in the assessment and precautionary management actions, has a high chance of achieving the objective.	Meets Due to the hand collection method used in the fishery, and the harvest controls in place, it is likely catch levels will ensure that the fishery maintains ecologically viable stock levels.
If overfished, go to Objective 2: If not overfished, go to PRINCIPLE 2:	
Objective 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.	
Management responses	
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.	Not applicable No target or byproduct species stock is considered overfished or subject to overfishing (Patterson et al. 2017; 2018; 2019).
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.	Not applicable No target or byproduct species stock is considered overfished or subject to overfishing (Patterson et al. 2017; 2018; 2019).

PRINCIPLE 2 - Fishing operations should be managed to minimise their impact on the structure, productivity, function and biological diversity of the ecosystem.	
Objective 1 - The fishery is conducted in a manner that does not threaten bycatch species.	
Information requirements	
2.1.1 Reliable information, appropriate to the scale of the fishery, is collected on the composition and abundance of bycatch.	Not applicable Hand collection methods (hand-held snares, spears and scoop nets) are highly selective, minimising potential for interactions with bycatch. The fishery's ERA concluded the effect of fishing on bycatch species is negligible.
Assessment	
2.1.2 There is a risk analysis of the bycatch with respect to its vulnerability to fishing.	Not applicable Hand collection methods (hand-held snares, spears and scoop nets) are highly selective, minimising potential for interactions with bycatch. The fishery's ERA concluded the effect of fishing on bycatch species is negligible.
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.	Not applicable Hand collection methods (hand-held snares, spears and scoop nets) are highly selective, minimising potential for interactions with bycatch. The fishery's ERA concluded the effect of fishing on bycatch species is negligible.
2.1.4 An indicator group of bycatch species is monitored.	Not applicable The fishery's ERA does not identify any indicator groups of bycatch species and concludes the effect of fishing on bycatch species is negligible.
2.1.5 There are decision rules that trigger additional management measures when there are significant perturbations in the indicator species numbers.	Not applicable The management arrangements do not include any decision rules that trigger additional management measures as the fishery's ERA concluded the effect of fishing on bycatch species is negligible.

<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>Meets</p> <p>There is no or very minimal bycatch, therefore the management regime is likely to achieve the objective to conduct the fishery in a manner that does not threaten bycatch species.</p> <p>AFMA does not require interactions with Threatened, Endangered or Protected (TEP) species to be recorded in Daily Fishing Logbook, however all fishing sectors are encouraged to report any TEP interactions to AFMA as per the fishery's legislation.</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>Meets</p> <p>There have been no reported interactions with Threatened, Endangered or Protected species (TEPS) or threatened ecological communities (TECs), and existing management measures that restrict harvesting and gear is likely to mitigate any interactions. This is supported by the ERA, which indicates the fishery is unlikely to have a detrimental impact on any non-target species or the wider marine environment. While there is no requirement to report interactions with TEPS or TECs in logbooks, operators are encouraged to report TEP interactions to AFMA.</p>
<p>Assessments</p>	
<p>2.2.2 There is an assessment of the impact of the fishery on endangered, threatened or protected species.</p>	<p>Meets</p> <p>The ERA identified a large number of protected species that occur within the fishery area, including 27 marine reptiles, six seabirds, six marine mammals, and 51 teleost (bony fish) species. Given the low impact harvesting methods, gear and closures, the effect of fishing on all protected species is considered negligible or minor risk.</p>
<p>2.2.3 There is an assessment of the impact of the fishery on threatened ecological communities.</p>	<p>Not applicable</p> <p>There are no threatened ecological communities in the area in which the fishery operates.</p>
<p>Management responses</p>	
<p>2.2.4 There are measures in place to avoid capture and/or mortality of endangered, threatened or protected species.</p>	<p>Meets</p> <p>Management arrangements, harvesting methods and gear type used in the fishery minimise any protected species interactions. See 2.2.2 above.</p>

<p>2.2.5 There are measures in place to avoid impact on threatened ecological communities.</p>	<p>Not applicable There are no threatened ecological communities in the area in which the fishery operates.</p>
<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>Meets– ERA considers that the management regime adequately addresses any risks that have been identified Hand collection methods used in this fishery are highly selective and minimise the potential for interactions with non-target species. For this reason, reporting of interactions in log books is not required, however it is encouraged.</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>Meets There is no mechanism to collect information on ecosystem components in the fishery. However, impacts on the habitat from gear have been researched and assessed as having negligible risk.</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> <ol style="list-style-type: none"> Impacts on ecological communities <ul style="list-style-type: none"> Benthic communities Ecologically related, associated or dependent species Water column communities Impacts on food chains <ul style="list-style-type: none"> Structure Productivity/flows Impacts on the physical environment <ul style="list-style-type: none"> Physical habitat Water quality 	<p>Meets</p> <p>The ERA for this fishery (Furlani et al 2007) considered the impact that the fishery has on the wider marine environment arising from fishing, with impacts assessed against five ecological components:</p> <ul style="list-style-type: none"> target species; by-product; by-catch species; threatened, endangered and protected (TEP) species; and habitats and (ecological) communities. <p>Due to the selective nature of hand collection, the ERA concluded that the risks to the ecosystem was low and that there are appropriate management measures in place to address any risks.</p> <p>AFMA have indicated in the application that the fishery's ERA is scheduled to be reviewed in 2022.</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>Not applicable</p> <p>Management actions that limit the gear and fishing methods that are used and limit the number of operators and vessels in the fishery and impose seasonal closures are likely to minimise damage to the marine ecosystem (Furlani et al 2007).</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>Not applicable</p> <p>The management regime for the fishery does not include decision rules that trigger management responses. The ERA (Furlani et al 2007) does not identify any risks to the broader ecosystem that require additional management responses. This is largely due to the low impact of the hand collection fishing technique.</p>

2.3.5 The management response, considering uncertainties in the assessment and precautionary management actions, has a high chance of achieving the objective.

Meets

Considering the low impact of the fishery on the broader ecosystem, the current management response will ensure the fishery operates in a manner that minimises the impact of fishing operations on the ecosystem generally.

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 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 or she endorses plan or policy	The Department's assessment of the Commonwealth Torres Strait Tropical Rock Lobster Fishery
<p>(1) This section applies if:</p> <ul style="list-style-type: none"> (a) the Minister makes an agreement under section 146 as required by this Division and endorses under the agreement: <ul style="list-style-type: none"> (i) a plan of management under the Fisheries Management Act 1991 (CTH) for a fishery; or (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 (iii) a plan of management under the <i>Torres Strait Fisheries Act 1984</i> (CTH) for a fishery; or (iii) policies for managing fishing under the Torres Strait Fisheries Act; and (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>(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 Tropical Rock Lobster Fishery Statement of Management Arrangements 2005 underwent a strategic assessment under Part 10 of the EPBC Act. On 10 May 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 Fishery (Quotas for Tropical Rock Lobster (Kaiar)) Management Plan (Kaiar Management Plan (2018)) and the adoption of The Torres Strait Tropical Rock Lobster Fishery Harvest Strategy in 2019.</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 is no marine bioregional plan in place for the Torres Strait.

Part 13 – Species and communities

Accreditable plan, regime or policy (Division 1, Division 2, Division 3, Division 4)	Comment
s. 208A (1) (a-e) , s.222A (1) (a-e), s.245 (1) (a-e), s.265 (1) (a-e) Does the fishery have an accreditable plan of management, regime or policy?	Meets Yes, there is an accreditable management regime. The fishery will be managed under the Kaiar Management Plan made under the <i>Torres Strait Fisheries Act 1984</i> .
Division 1 Listed threatened species, Section 208A Minister may accredit plans or regimes	Comment
(f) Will the plan, regime or policy require fishers to take all reasonable steps to ensure that members of listed threatened species (other than conservation dependent species) are not killed or injured as a result of the fishing?	Meets Yes, the most recent ERA identified risks to protected species likely to be very low. There have been no reported interactions with listed threatened species in this fishery. Given the management arrangements in place in the fishery, including hand harvesting, limited entry and gear restrictions, the Department considers that all reasonable steps are being taken to prevent the killing or injuring of members of listed threatened species.
(g) And, is the fishery likely to adversely affect the survival or recovery in nature of the species?	Meets No, there were no interactions reported in the 2017-18, 2018-19 and 2019-20 fishing seasons. Fishing operations are not likely to adversely affect the survival or recovery in nature of the species.
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?	Meets Yes, the most recent ERA identified that risks to protected species are likely to be very low. There have been no reported interactions with listed migratory species in this fishery. Given the management arrangements in

	place, including hand harvesting, limited entry and gear restrictions, the Department considers that all reasonable steps are being taken to prevent the killing or injuring of members of listed migratory species or a population of that species.
(g) And, is the fishery likely to adversely affect the conservation status of a listed migratory species or a population of that species?	Meets No, there were no interactions reported in the 2017-18, 2018-19 and 2019-20 fishing seasons. Fishing operations are not likely to adversely affect the conservation status of a listed migratory species or a population of that species.
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?	Meets Yes, although the most recent ERA identified that risks to protected species are likely to be very low. There have been no reported interactions with cetacean species to date.
(g) And, is the fishery likely to adversely affect the conservation status of a species of cetacean or a population of that species?	Meets No, there were no interactions reported in the 2017-18, 2018-19 and 2019-20 fishing seasons. Fishing operations are not likely to adversely affect the conservation status of a species of cetacean or a population of that species.
Division 4 Listed marine species, Section 265 Minister may accredit plans or regimes	Comment
(f) Will the plan, regime or policy require fishers to take all reasonable steps to ensure that members of listed marine species are not killed or injured as a result of the fishing?	Meets Although the most recent ERA identified risks to protected species as being very low, some possible risks may be associated with boat strikes and disturbance by moving or anchoring boats. There have been no reported interactions with listed marine species to date. When accrediting the management plan for the fishery on 18 June 2018, the Department determined that the management regime (in particular

	the selective harvest methods) requires all reasonable steps to be taken to prevent the killing or injuring of listed marine species.
(g) And, is the fishery likely to adversely affect the conservation status of a listed marine species or a population of that species?	Meets No, there were no interactions reported in the 2017-18, 2018-19 and 2019-20 fishing seasons. Fishing operations are not likely to adversely affect the conservation status of a listed marine species or a population of that species.

Section 303AA Conditions relating to accreditation of plans, regimes and policies	Comment
(1) This section applies to an accreditation of a plan, regime or policy under section 208A, 222A, 245 or 265.	The Kaiar Management Plan was accredited under sections 208A, 222A, 245 and 265 of the EPBC Act in 2018.
<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>	The Department considers that no conditions are required under Part 13 of the EPBC Act.

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 (h) to ensure the precautionary principle is taken into account in making decisions relating to the utilisation of wildlife. 	<p>Meets</p> <p>The management arrangements for the fishery have been assessed as consistent with the general guidance provided in the Objects 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 Section 2); • the operation of the fishery is unlikely to be unsustainable and threaten biodiversity within the life of the declaration as a wildlife trade operation; and

	<ul style="list-style-type: none"> the EPBC Regulations do not specify fish as a class of animal in relation to the welfare of live specimens.
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>(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);</p>	<p>Not applicable</p> <p>The fishery does not harvest species listed under CITES.</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>Not applicable</p> <p>In December 2017, the Department completed an assessment for this fishery under the wildlife trade provisions (Part 13A) of the EPBC Act. At that time, the fishery was declared an approved wildlife trade operation until 18 December 2020.</p> <p>The list of exempt native specimens (LENS) was amended to allow export of product from the fishery while the specimens are covered by the wildlife trade operation declaration. We consider this decision remain valid, and no changes to the current LENS is required at this time.</p>
<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>	<p>Not applicable</p> <p>See comments at subsection 303DC(1) above.</p>

(1C) The above does not limit matters that may be considered when deciding to amend LENS.	Not applicable See comments at subsection 303DC(1) above.
(3) Before amending the LENS, the Minister must consult: (a) other Minister or Ministers as appropriate; and (b) other Minister or Ministers of each State and self-governing Territory as appropriate; and (c) other persons and organisations as appropriate.	Not applicable See comments at subsection 303DC(1) above.
Section 303FN Approved wildlife trade operation	Comment
(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.	Not applicable See comments at subsection 303DC(1) above.
(3) The Minister must not declare an operation as an approved wildlife trade operation unless the Minister is satisfied that: (a) the operation is consistent with the objects of Part 13A of the Act; and (b) the operation will not be detrimental to: (i) the survival of a taxon to which the operation relates; or (ii) the conservation status of a taxon to which the operation relates; and (ba) the operation will not be likely to threaten any relevant ecosystem including (but not limited to) any habitat or biodiversity; and	Meets The operation of the fishery is consistent with Objects of Part 13A of the EPBC Act. 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.
(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	Not applicable The EPBC Regulations do not specify crustacea or fish as a class of animal in relation to the welfare of live specimens.

(d) such other conditions (if any) as are specified in the regulations have been, or are likely to be, satisfied.	Not applicable No other conditions are specified in relation to commercial fisheries in the EPBC Regulations.
(4) In deciding whether to declare an operation as an approved wildlife trade operation the Minister must have regard to: (a) the significance of the impact of the operation on an ecosystem (for example, an impact on habitat or biodiversity); and	Meets The Torres Strait Tropical Rock Lobster Fishery will not have a significant impact on any relevant ecosystem within the next three years, given the management measures currently in place and the conditions recommended in Section 2 of this assessment.
(b) the effectiveness of the management arrangements for the operation (including monitoring procedures).	Meets Due to the low level of risk associated with the method of fishing, the management arrangements that will be employed for the Torres Strait Tropical Rock Lobster Fishery as outlined in this assessment are likely to be effective.
(5) In deciding whether to declare an operation as an approved wildlife trade operation the Minister must have regard to: (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.	Meets The fishery will be managed under the Kaiar Management Plan 2018 and the <i>Torres Strait Fisheries Act 1984</i> and the Torres Strait Fisheries Regulations 1985. The <i>Torres Strait Fisheries Act 1984</i> applies throughout the Torres Strait Protected Zone and the Department considers that the legislation is likely to be effective.
(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: (a) the operation is a commercial fishery.	Meets The Torres Strait Tropical Rock Lobster Fishery is a commercial fishery.

<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 fishery was assessed under Part 10 of the EPBC Act in May 2005 and the management regime most recently accredited pursuant to section 33 of the EPBC Act in December 2018. 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>
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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> <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 about the proposal. <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 consultation requirements have been met.</p> <p>The application for approval of the fishery under the export provisions of the EPBC Act was made available for public comment from 20 October 2020 to 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 Tropical Rock Lobster 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> <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 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 • annual reporting in accordance with the requirements of the Australian Government Guidelines for the Ecologically Sustainable Management of Fisheries – 2nd Edition.

	The wildlife trade operation instrument for the Torres Strait Tropical Rock Lobster Fishery specifies the standard and any additional conditions applied.
(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.	

Part 16 – Precautionary principle and other considerations in making decisions

Section 391 Minister must consider precautionary principle in making decisions		Comment
(1) Minister must take account of the precautionary principle in making a decision, to the extent that the decision is consistent with other provisions under this Act.	(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.	Meets 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.

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