



Australian Government

Department of Sustainability, Environment, Water, Population and Communities

Assessment of the
Western Australian South Coast Crustacean Fishery

NOVEMBER 2011

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Disclaimer

This document is an assessment carried out by the Department of Sustainability, Environment, Water, Population and Communities of a commercial fishery against the Australian Government *Guidelines for the Ecologically Sustainable Management of Fisheries – 2nd Edition*. It forms part of the advice provided to the Minister for Sustainability, Environment, Water, Population and Communities on the fishery in relation to decisions under Parts 13 and 13A of the *Environment Protection and Biodiversity Conservation Act 1999*. The views expressed do not necessarily reflect those of the Minister for Sustainability, Environment, Water, Population and Communities or the Australian Government.

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This section contains the department's assessment of the Western Australian South Coast Crustacean Fishery's performance against the Australian Government's *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition* and outlines the reasons the department recommends that the fishery be declared an approved Wildlife Trade Operation.

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Table 4 contains a description of the issues identified by the department with the current management regime for the Western Australian South Coast Crustacean Fishery and outlines the proposed conditions and recommendations that would form part of the decision to declare the fishery an approved Wildlife Trade Operation.

Table 1: Summary of the Western Australian (WA) South Coast Crustacean Fishery

Publicly available information relevant to the fishery	<ul style="list-style-type: none"> • Western Australian (WA) <i>Fish Resources Management Act 1994</i>; • WA <i>Fisheries Resources Management Regulations 1995</i> (as they relate to the Albany and Great Australian Bight zones of the rock lobster pot fishery); • <i>Windy Harbour-Augusta Rock Lobster Fishery Management Plan 1987</i>; • <i>Esperance Rock Lobster Fishery Management Plan 1987</i>; • <i>Fish Traps Prohibition Notice 1994 and associated Fishing Boat Licence condition 105</i> (as they relate to the deep sea crab component of the fishery); • WA Department of Fisheries <i>State of the Fisheries Reports</i>; • WA Department of Fisheries <i>Application to the Department of Sustainability, Environment, Water, Population and Communities on the South Coast Crustacean Fisheries Against the Guidelines for the Ecologically Sustainable Management of Fisheries August 2011</i>; • WA Department of Fisheries <i>The South Coast Crustacean Fishery – A Discussion Paper – Fisheries Management Paper No. 232</i> • Department of the Environment and Water Resources <i>Assessment of the Western Australia South Coast Crustacean Fishery November 2007</i>; and • Department of the Environment and Heritage <i>Assessment of the Western Australian South Coast Crustacean Fishery, September 2004</i>.
Area	The WA South Coast Crustacean Fishery includes state and Commonwealth waters from Augusta to the WA/South Australian border.
Fishery status	The WA Department of Fisheries considers the current levels of fishing are acceptable, however catch rates for deep-sea crabs dramatically declined in 2008/09 compared to the previous two seasons (0.5 kg per pot lift compared to 1.69 and 1.5 kg per pot lift respectively). In the WA Department of Fisheries' discussion paper on the future management of the fishery, a 50 per cent reduction in the effort available to the deep-sea crab sector is recommended.
Target Species	<p>The WA South Coast Crustacean Fishery targets southern rock lobster (<i>Jasus edwardsii</i>), western rock lobster (<i>Panulirus cygnus</i>), champagne crab (<i>Hypothalassia acerba</i>), crystal crab (<i>Chaceon bicolour</i>) and giant crab (<i>Pseudocarcinus gigas</i>).</p> <p>Information on the biology of these species can be found in the WA Department of Fisheries' 2004 submission and the Department of the Environment and Heritage 2004 assessment of the fishery at: http://www.environment.gov.au/coasts/fisheries/wa/south-coast-crustacean/index.html.</p>
Byproduct Species	Octopus and some demersal finfish are retained as byproduct.

Gear	Rock lobster pots are used to target both rock lobsters and deep-sea crabs. Some pot features are specified in the current regulations, however the WA Department of Fisheries has proposed to further define pot dimensions and features under new management arrangements for the fishery.
Season	Rock lobster fishing is permitted each year from 15 November to 30 June, consistent with the West Coast Rock Lobster Fishery season. Fishing for deep-sea crabs occurs year-round.
Commercial harvest	2007/08: 37 tonnes (t) southern rock lobster and 25 t deep-sea crabs 2008/09: 39 t southern rock lobster and 24 t deep-sea crabs Harvest of western rock lobster is not reported due to confidentiality provisions relating to the small number of licences.
Take by other sectors	The recreational catch of southern rock lobster on the south coast is estimated to be 5 t per year. Species taken in the WA South Coast Crustacean Fishery are also harvested in the WA West Coast Deep Sea Crab Interim Managed Fishery, WA Western Rock Lobster Fishery and South Australian Southern Rock Lobster Fishery.
Commercial licences issued (08/09)	Rock lobster: 2 licences were issued for the Windy Harbour/Augusta Rock Lobster Managed Fishery, 8 in the Esperance Rock Lobster Managed Fishery and 28 in the Albany and Great Australian Bight zones. Deep-sea crabs: 24 licences were issued for targeting deep-sea crabs.
Management arrangements	Management arrangements in the WA South Coast Crustacean Fishery include a combination of input and output controls which include: <ul style="list-style-type: none"> • limited entry licensing; • limited pot numbers for the rock lobster fishery (during rock lobster season, deep-sea crab fishers can only use the number of pots endorsed on rock lobster licences); • gear restrictions; • closed season for rock lobsters; • spatial restrictions; • prohibition on take of berried and tarspot females; and • minimum size limits: <ul style="list-style-type: none"> • southern rock lobster - 98.5 mm carapace length (CL); • western rock lobster - 77 mm CL from 15 November to 31 January and 76 mm CL from 1 February to 30 June; • champagne crab - 92 mm CL; • giant crab - 140 mm CL; and • crystal crab - 120 mm CL.
Export	Product from the WA South Coast Crustacean Fishery is primarily exported live to Asian markets.

Bycatch	Bycatch in the WA South Coast Crustacean Fishery is considered negligible given the fishing gear and species-targeting practices which limit the take of bycatch species. Small numbers of finfish, hermit crabs, seastars, octopus and other invertebrates have been reported as occasional bycatch.
Interaction with Protected Species	<p>The WA Department of Fisheries considers that interactions with protected species in the fishery are negligible. There have been no interactions with protected species reported in the fishery. There is potential for interactions with seals and sea lions through predation on lobsters caught in pots. There is also potential for cetaceans to become entangled in gear.</p> <p>The proposed new management arrangements for the fishery do not require fishers to install sea lion exclusion devices on pots (seal spikes). The department considers that this proposal should be reviewed in light of recent research on fishery interactions with Australian sea lions.</p>
Ecosystem Impacts	Pot fishing is relatively benign in nature and therefore unlikely to cause significant impacts to the physical ecosystem. A risk assessment completed for the fishery assessed the risk of ecosystem impacts such as the impact of pots on benthic biota as negligible.

Table 2: Progress in implementation of conditions and recommendations made in the previous assessment of the Western Australian (WA) South Coast Crustacean Fishery

Condition	Progress	Recommended Action
1. Operation of the fishery will be carried out in accordance with the SCCF management regime in force under the <i>Fish Resources Management Act 1994</i> .	The fishery has operated in accordance with the legislated management regime over the course of the current export approval.	The Department of Sustainability, Environment, Water, Population and Communities (DSEWPaC) considers that this condition has been met. The department recommends that a new approved wildlife trade operation declaration for the WA South Coast Crustacean Fishery specify a similar condition (Condition 1 , Table 4).
2. DFWA to advise DEWHA of any intended change to the SCCF management arrangements that may affect the assessment of the fishery against the criteria on which <i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act) decisions are based.	DSEWPaC has not received any advice from the WA Department of Fisheries to suggest that changes have occurred to the management regime since the last assessment of the fishery.	DSEWPaC considers that this condition has been met. The department recommends that a new approved wildlife trade operation declaration for the WA South Coast Crustacean Fishery specify a similar condition (Condition 2 , Table 4).
3. DFWA to produce and present reports to DEWHA annually as per Appendix B to the <i>Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition</i> .	Annual status for the SCCF is reported in the WA State of the Fisheries Reports which are publicly available from the WA Department of Fisheries website.	DSEWPaC considers that this condition has been met. The department recommends that a new approved wildlife trade operation declaration for the WA South Coast Crustacean Fishery specify a similar condition (Condition 3 , Table 4).

Condition	Progress	Recommended Action
<p>4. By September 2010, DFWA to implement new proposed management arrangements in the SCCF that will improve the ecological sustainability of the fishery and seek to address the sustainability issues outlined in <i>“The South Coast Crustacean Fishery - A Discussion Paper”</i>.</p>	<p>In 2010, before this condition was due to expire, the Delegate of the Minister for Sustainability, Environment, Water, Population and Communities extended the timeframe for this condition to September 2011, to allow more time for the implementation of the management arrangements.</p> <p>The WA Department of Fisheries has reported that the consultation phase of implementing the proposed management arrangements has been completed. The WA Department of Fisheries is further progressing the implementation of the proposed management arrangements, with the implementation date pending resolution of allocation issues with industry.</p> <p>The proposed management arrangements would represent considerable improvements to the management of the fishery and consolidate a number of smaller fisheries’ management arrangements. Key management changes include:</p> <ul style="list-style-type: none"> • separate licenses for crab and lobster sectors; • implementation of a daily logbook; • defined pot specifications; • species specific (target and byproduct) trigger limits; • a 50 per cent reduction of effort (pots) in the Albany and Bight zones; • targeted crab fishing will be restricted to 1000 pots over the whole sector; and • a research fee, in addition to the license fee, will be charged for fishery specific research. 	<p>Although not fully implemented, the WA Department of Fisheries has significantly progressed implementing the new proposed management arrangements for the fishery. The final stage of implementing these management arrangements will occur upon the resolution of allocation issues with industry members.</p> <p>Although DSEWPac is largely supportive of the new management arrangements, one of the proposals is to not require the use of sea lion exclusion devices. Given that there has been significant new research published on Australian sea lion interactions with fishing gear since this proposal was formed, the department considers that this proposal should be revised to remain consistent with the EPBC Act requirements for mitigating interactions with protected species (Part 13 Condition, Table 4).</p>

Recommendation	Progress	Recommended Action
1. DFWA to develop and implement a robust system to validate commercial logbook reporting of catch and effort for all target and byproduct species.	The proposed new management arrangements for the fishery will include the implementation of a daily logbook. Daily logbooks will enable compliance checks to be used to validate fishery dependent data. Currently, fishers submit a monthly catch and effort return.	DSEWPaC considers that this recommendation will be met when the new management arrangements are implemented in the fishery.
<p>2. By September 2010, DFWA to:</p> <p>(a) review risk levels for target species, byproduct, bycatch (including protected species) and impacts on the marine environment for the SCCF incorporating the proposed management arrangements into the review; and</p> <p>(b) where appropriate, update or develop new objectives, performance measures, management responses and information requirements for target species, byproduct, bycatch (including protected species) and the marine environment.</p>	The WA Department of Fisheries has not reviewed the risk levels in the fishery, as this was intended to occur on implementation of the new management arrangements to reflect the improvements made to the management of the fishery.	DSEWPaC considers that this recommendation has not been met, however the WA Department of Fisheries has committed to reviewing the risk levels when the new management arrangements are implemented. DSEWPaC considers this recommendation should continue in a modified form (Recommendation 1 , Table 4).

Recommendation	Progress	Recommended Action
3. By September 2010, DFWA to develop a research strategy for the SCCF, in order to identify and prioritise key research needs to meet the management, stock assessment and performance measurement needs of the fishery.	This recommendation was made to coincide with the new management arrangements for the fishery. The new management arrangements provide both greater certainty around the future management of the fishery and a mechanism to collect funding for research.	DSEWPaC considers that this recommendation has not been met, however the implementation of the new management arrangements, including the collection of fishery-specific research funding, will provide a framework for future research in the fishery. The department considers that this recommendation should continue in a modified form (Recommendation 2 , Table 4).

Table 3: The Department of Sustainability, Environment, Water, Population and Communities’ assessment of the Western Australian (WA) South Coast Crustacean Fishery against the requirements of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) related to decisions made under Parts 13 and 13A.

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

Part 13

Division 1 Listed threatened species Section 208A Minister may accredit plans or regimes	The department’s assessment of the Western Australian (WA) South Coast Crustacean Fishery
<p>(1) Minister may, by instrument in writing, accredit for the purposes of this Division:</p> <p>(c) a plan of management, or a policy, regime or any other arrangement, for a fishery that is:</p> <p>i. made by a State or self-governing Territory; and</p> <p>ii. in force under a law of the State or self-governing Territory;</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>(g) the fishery to which the plan, regime or policy relates does not, or is not likely to, adversely affect the survival or recovery in nature of the species.</p>	<p>The management regime for the WA South Coast Crustacean Fishery, as managed under the <i>Windy Harbour Augusta Rock Lobster Fishery Management Plan 1987</i>, the <i>Esperance Rock Lobster Fishery Management Plan 1987</i>, the <i>WA Fish Resources Management Regulations 1995</i> (as they relate to the Albany and Great Australian Bight zones of the rock lobster pot fishery) and the <i>Fish Traps Prohibition Notice 1994</i> and associated <i>Fishing Boat Licence condition 105</i> (as they relate to the deep sea crab component of the fishery), and the <i>WA Fish Resources Management Act 1994</i>, was accredited in September 2004. The department considers that the management regime for the WA South Coast Crustacean Fishery continues to require operators to take all reasonable steps to ensure that listed threatened species are not killed or injured as a result of the fishing.</p> <p>Although there have not been any reported interactions with listed threatened species in the fishery, there is overlap of effort with the foraging range of Australian sea lion pups. To ensure that appropriate mitigation strategies are in place, the WA Department of Fisheries should review, in consultation with relevant experts, the proposed arrangements for mitigation of Australian sea lion interactions in the fishery and implement strategies to mitigate interactions as appropriate (see Part 13 Condition, Table 4).</p>

	<p>Due to the selective nature of the fishing method, the likelihood of interactions with listed threatened species is low. The department considers the current operation of the WA South Coast Crustacean Fishery is not likely to adversely affect the survival or recovery in nature of any listed threatened species.</p>
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Part 13 (*cont.*)

<p>Division 2 Migratory species Section 222A Minister may accredit plans or regimes</p>	<p>The department's assessment of the WA South Coast Crustacean Fishery</p>
<p>(1) Minister may, by instrument in writing, accredit for the purposes of this Division:</p> <p>(c) a plan of management, or a policy, regime or any other arrangement, for a fishery that is:</p> <ol style="list-style-type: none"> i. made by a State or self-governing Territory; and ii. in force under a law of the State or self-governing Territory; <p>if satisfied that:</p> <p>(f) the plan, regime or policy requires persons engaged in fishing under the plan, regime or policy to take all reasonable steps to ensure that members of listed migratory species are not killed or injured as a result of the fishing; and</p> <p>(g) the fishery to which the plan, regime or policy relates does not, or is not likely to, adversely affect the conservation status of a listed migratory species or a population of that species.</p>	<p>The management regime for the WA South Coast Crustacean Fishery, as managed under the <i>Windy Harbour Augusta Rock Lobster Fishery Management Plan 1987</i>, the <i>Esperance Rock Lobster Fishery Management Plan 1987</i>, the <i>WA Fish Resources Management Regulations 1995</i> (as they relate to the Albany and Great Australian Bight zones of the rock lobster pot fishery) and the <i>Fish Traps Prohibition Notice 1994</i> and associated <i>Fishing Boat Licence condition 105</i> (as they relate to the deep sea crab component of the fishery), and the <i>WA Fish Resources Management Act 1994</i>, was accredited in September 2004. The department considers that the management regime for the WA South Coast Crustacean Fishery continues to require operators to take all reasonable steps to ensure that listed migratory species are not killed or injured as a result of the fishing.</p> <p>Due to the selective nature of the fishing method, the likelihood of interactions with listed migratory species is very low. Therefore, the department considers the current operation of the WA South Coast Crustacean Fishery is not likely to adversely affect the conservation status of any listed migratory species.</p>

Part 13 (cont.)

Division 3 Whales and other cetaceans Section 245 Minister may accredit plans or regimes	The department's assessment of the WA South Coast Crustacean Fishery
<p>(1) Minister may, by instrument in writing, accredit for the purposes of this Division:</p> <p>(c) a plan of management, or a policy, regime or any other arrangement, for a fishery that is:</p> <p>i. made by a State or self-governing Territory; and</p> <p>ii. in force under a law of the State or self-governing Territory;</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>(g) the fishery to which the plan, regime or policy relates does not, or is not likely to, adversely affect the conservation status of a species of cetacean or a population of that species.</p>	<p>The management regime for the WA South Coast Crustacean Fishery, as managed under the <i>Windy Harbour Augusta Rock Lobster Fishery Management Plan 1987</i>, the <i>Esperance Rock Lobster Fishery Management Plan 1987</i>, the <i>WA Fish Resources Management Regulations 1995</i> (as they relate to the Albany and Great Australian Bight zones of the rock lobster pot fishery) and the <i>Fish Traps Prohibition Notice 1994</i> and associated <i>Fishing Boat Licence condition 105</i> (as they relate to the deep sea crab component of the fishery), and the <i>WA Fish Resources Management Act 1994</i>, was accredited in September 2004. The department considers that the management regime for the WA South Coast Crustacean Fishery continues to require operators to take all reasonable steps to ensure that whales and cetaceans are not killed or injured as a result of the fishing.</p> <p>Due to the selective nature of the fishing method, the likelihood of interactions with whales and cetaceans is very low. Therefore, the department considers the current operation of the WA South Coast Crustacean Fishery is not likely to adversely affect the conservation status of any whale or cetacean.</p>

Part 13 (cont.)

Division 4 Listed marine species Section 265 Minister may accredit plans or regimes	The department's assessment of the WA South Coast Crustacean Fishery
<p>(1) Minister may, by instrument in writing, accredit for the purposes of this Division:</p> <p>(c) a plan of management, or a policy, regime or any other arrangement, for a fishery that is:</p> <p>i. made by a State or self-governing Territory; and</p> <p>ii. in force under a law of the State or self-governing Territory;</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 management regime for the WA South Coast Crustacean Fishery, as managed under the <i>Windy Harbour Augusta Rock Lobster Fishery Management Plan 1987</i>, the <i>Esperance Rock Lobster Fishery Management Plan 1987</i>, the <i>WA Fish Resources Management Regulations 1995</i> (as they relate to the Albany and Great Australian Bight zones of the rock lobster pot fishery) and the <i>Fish Traps Prohibition Notice 1994</i> and associated <i>Fishing Boat Licence condition 105</i> (as they relate to the deep sea crab component of the fishery), and the <i>WA Fish Resources Management Act 1994</i>, was accredited in September 2004. The department considers that the management regime for the WA South Coast Crustacean Fishery continues to require operators to take all reasonable steps to ensure that listed marine species are not killed or injured as a result of the fishing.</p> <p>Due to the selective nature of the fishing method, the likelihood of interactions with listed marine species is very low. Therefore, the department considers the current operation of the WA South Coast Crustacean Fishery is not likely to adversely affect the conservation status of any listed marine species.</p>

Part 13 (*cont.*)

Section 303AA Conditions relating to accreditation of plans, regimes and policies	The department's assessment of the WA South Coast Crustacean Fishery
(1) This section applies to an accreditation of a plan, regime or policy under section 208A, 222A, 245 or 265.	The department recommends that the management regime for the WA South Coast Crustacean Fishery be accredited under sections 208A, 222A, 245 and 265.
(2) The Minister may accredit a plan, regime or policy under that section even though he or she considers that the plan, regime or policy should be accredited only: (a) during a particular period; or (b) while certain circumstances exist; or (c) while a certain condition is complied with. In such a case, the instrument of accreditation is to specify the period, circumstances or condition.	To satisfy the requirements of section 208A we recommend that the WA South Coast Crustacean Fishery be accredited under Part 13 subject to a condition that requires the WA Department of Fisheries to review, in consultation with relevant experts, the proposed arrangements for mitigation of Australian sea lion interactions in the fishery and implement strategies to mitigate interactions as appropriate. The Part 13 instrument for WA South Coast Crustacean Fishery specifies this condition.
(7) The Minister must, in writing, revoke an accreditation if he or she is satisfied that a condition of the accreditation has been contravened.	

Part 13A

Section 303BA Objects of Part 13A

(1) The objects of this Part are as follows:

- (a) to ensure that Australia complies with its obligations under CITES¹ 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.

¹ Convention on International Trade in Endangered Species of Wild Fauna and Flora

Section 303DC Minister may amend list	The department's assessment of the WA South Coast Crustacean Fishery
<p>(1) Minister may, by instrument published in the Gazette, amend the list referred to in section 303DB (list of exempt native specimens) by:</p> <ul style="list-style-type: none"> (a) including items in the list; (b) deleting items from the list; or (c) imposing a condition or restriction to which the inclusion of a specimen in the list is subject; or (d) varying or revoking a condition or restriction to which the inclusion of a specimen in the list is subject; or (e) correcting an inaccuracy or updating the name of a species. 	
<p>(1A) In deciding whether to amend the list referred to in section 303DB (list of exempt native specimens) to include a specimen derived from a commercial fishery, the Minister must rely primarily on the outcomes of any assessment in relation to the fishery carried out for the purposes of Division 1 or 2 of Part 10.</p>	<p>The WA South Coast Crustacean Fishery has not been assessed under Part 10 of the EPBC Act.</p>
<p>(1C) The above does not limit the matters that may be taken into account in deciding whether to amend the list referred to in section 303DB (list of exempt native specimens) to include a specimen derived from a commercial fishery.</p>	<p>It is not possible to list exhaustively the factors that you may take into account in amending the list of exempt native specimens. The objects of Part 13A, which are set out above this table, provide general guidance in determining factors that might be taken into account. A matter that is relevant to determining whether an amendment to the list is consistent with those objects is likely to be a relevant factor.</p> <p>The department considers that the amendment of the list of exempt native specimens to include product taken in the WA South Coast Crustacean Fishery Wildlife Trade Operation 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);

	<ul style="list-style-type: none"> the operation of the WA South Coast Crustacean Fishery is unlikely to be unsustainable and threaten biodiversity within the next three years; and the <i>Environment Protection and Biodiversity Conservation Regulation 2000</i> (EPBC Regulations) do not specify fish or crustaceans 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> <p>(a) must consult such other Minister or Ministers as the Minister considers appropriate; and</p> <p>(b) must consult such other Minister or Ministers of each State and self-governing Territory as the Minister considers appropriate; and</p> <p>(c) may consult such other persons and organisations as the Minister considers appropriate.</p>	<p>The department considers that the consultation requirements have been met. On 10 August 2004, the then Minister for the Environment and Heritage wrote to all fisheries ministers seeking their views on inclusion of product derived from commercial fisheries in the list of exempt native specimens, while subject to declaration as approved wildlife trade operations. Responses in support of the proposal were received from all state and territory fisheries ministers and the Commonwealth minister.</p> <p>Although a decision to amend the list of exempt native specimens does not require public consultation under the EPBC Act, the submission for ongoing export approval for the fishery was published on the department's website for 22 business days. The public comment period on the WA Department of Fisheries' submission sought comment on the submission for the WA South Coast Crustacean Fishery and provided sufficient opportunity for consultation with other persons and organisations.</p>
<p>(5) A copy of an instrument made under section 303DC is to be made available for inspection on the Internet.</p>	<p>The instrument for the WA South Coast Crustacean Fishery made under section 303DC will be gazetted and made available on the department's website.</p>

Section 303FN Approved wildlife trade operation	The department's assessment of the WA South Coast Crustacean Fishery
<p>(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>	

<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> <ol style="list-style-type: none"> 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 <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>The WA South Coast Crustacean Fishery is consistent with the objects of Part 13A (listed after this table) 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 WA South Coast Crustacean Fishery is unlikely to be unsustainable and threaten biodiversity within the next three years; and ▪ the EPBC Regulations do not specify fish or crustaceans as a class of animal in relation to the welfare of live specimens. <p>The department considers that the WA South Coast Crustacean Fishery will not be detrimental to the survival or conservation status of a taxon to which it relates within the next three years, given the management measures currently in place, which include: limited entry, seasonal closures, gear restrictions, spatial restrictions, protection of berried and tarspot females and species specific minimum size limits.</p> <p>The department considers that the WA South Coast Crustacean Fishery will not threaten any relevant ecosystem within the next three years, given the management measures currently in place, which include limited entry, gear restrictions, seasonal closures and spatial restrictions.</p> <p>The EPBC Regulations do not specify fish or crustaceans as a class of animal in relation to the welfare of live specimens.</p>
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<p>(d) such other conditions (if any) as are specified in the regulations have been, or are likely to be, satisfied.</p>	<p>No other conditions are specified in relation to commercial fisheries in the EPBC Regulations.</p>
<p>(4) In deciding whether to declare an operation as an approved wildlife trade operation the Minister must have regard to:</p> <p>(a) the significance of the impact of the operation on an ecosystem (for example, an impact on habitat or biodiversity); and</p> <p>(b) the effectiveness of the management arrangements for the operation (including monitoring procedures).</p>	<p>The department considers that the WA South Coast Crustacean Fishery will not have a significant impact on any relevant ecosystem within the next three years, given the management measures currently in place, which include limited entry, gear restrictions, seasonal closures and spatial restrictions.</p> <p>The department considers that the management arrangements that will be employed for the WA South Coast Crustacean Fishery are likely to be effective.</p>
<p>(5) In deciding whether to declare an operation as an approved wildlife trade operation the Minister must have regard to:</p> <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 WA South Coast Crustacean Fishery will be managed under the <i>Windy Harbour Augusta Rock Lobster Fishery Management Plan 1987</i>, the <i>Esperance Rock Lobster Fishery Management Plan 1987</i>, the <i>WA Fish Resources Management Regulations 1995</i> (as they relate to the Albany and Great Australian Bight zones of the rock lobster pot fishery) and the <i>Fish Traps Prohibition Notice 1994</i> and associated <i>Fishing Boat Licence condition 105</i> (as they relate to the deep sea crab component of the fishery), and the <i>WA Fish Resources Management Act 1994</i>.</p> <p>The <i>WA Fish Resources Management Act 1994</i> applies throughout WA waters.</p> <p>The legislation is likely to be effective.</p>

<p>(10) For the purposes of section 303FN, an operation is a wildlife trade operation if, and only if, the operation is an operation for the taking of specimens and:</p> <p>(d) the operation is a commercial fishery.</p>	<p>The WA South Coast Crustacean 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 WA South Coast Crustacean Fishery has not been assessed under Part 10 of the EPBC Act.</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>	

Section 303FR Public consultation	The department's assessment of the WA South Coast Crustacean Fishery
<p>(1) Before making a declaration under section 303FN, the Minister must cause to be published on the Internet a notice:</p> <p>(a) setting out the proposal to make the declaration; and</p> <p>(b) setting out sufficient information to enable persons and organisations to consider adequately the merits of the proposal; and</p> <p>(c) inviting persons and organisations to give the Minister, within the period specified in the notice, written comments about the proposal.</p>	<p>The department considers that the consultation requirements of the EPBC Act for declaring an approved wildlife trade operation have been met. A public notice, which set out the proposal to declare the WA South Coast Crustacean Fishery an approved wildlife trade operation and included the submission, was released for public comment which closed on 15 September 2011. No public comments were received.</p>
<p>(2) A period specified in the notice must not be shorter than 20 business days after the date on which the notice was published on the Internet.</p>	<p>A public notice, which set out the proposal to declare the WA South Coast Crustacean an approved wildlife trade operation and included the submission, was released for public comment on 16 August 2011 and closed on 15 September 2011, a total of 22 business days.</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>No public comments about the proposal were received.</p>

Section 303FT Additional provisions relating to declarations	The department's assessment of the WA South Coast Crustacean Fishery
(1) This section applies to a declaration made under section 303FN, 303FO or 303FP.	A declaration for the WA South Coast Crustacean 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> <p>(a) during a particular period; or</p> <p>(b) while certain circumstances exist; or</p> <p>(c) while a certain condition is complied with.</p> <p>In such a case, the instrument of declaration is to specify the period, circumstances or condition.</p>	<p>The standard conditions applied to commercial fishery approved wildlife trade operation declarations 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 <i>Guidelines for the Ecologically Sustainable Management of Fisheries – 2nd Edition</i>. <p>The wildlife trade operation declaration instrument for the WA South Coast Crustacean 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 WA South Coast Crustacean Fishery made under sections 303FN and the conditions under section 303FT will be gazetted and made available on the department's website.

Part 16

Section 391 Minister must consider precautionary principle in making decisions	The department's assessment of the WA South Coast Crustacean 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 has been considered in the preparation of advice in relation to decisions under section 303DC and section 303FN.
(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.	

The Department of Sustainability, Environment, Water, Population and Communities' final conditions and recommendations to the Western Australian (WA) Department of Fisheries for the WA South Coast Crustacean Fishery

The material submitted by the WA Department of Fisheries demonstrates that the management arrangements for the WA South Coast Crustacean Fishery meet most of the requirements of the Australian Government *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition*.

The department considers that overall the management regime for the WA South Coast Crustacean Fishery aims to ensure that fishing is conducted in a manner that does not lead to over-fishing and that stocks are not currently overfished. Management arrangements in the fishery include:

- limited entry;
- seasonal closures;
- spatial restrictions;
- protection of berried or tarspot females; and
- species specific minimum size limits;

Taking into account the low bycatch in the fishery due to species-specific targeting and gear used (lobster pots) and the management arrangements, the department considers that the management regime for the WA South Coast Crustacean Fishery provides for fishing operations to be managed to minimise their impact on the structure, productivity, function and biological diversity of the ecosystem.

While the fishery is relatively well managed, the department has identified a number of risks and uncertainties that must be addressed to ensure that impacts are minimised. The proposed new management arrangements, when implemented, will represent significant improvements to the management of the fishery, including:

- separate licenses for crab and lobster sectors;
- implementation of a daily logbook;
- defined pot specifications;
- species specific (target and byproduct) trigger limits;
- a 50 per cent reduction of effort (pots) in the Albany and Bight zones;
- targeted crab fishing will be restricted to 1000 pots over the whole sector; and
- a research fee, in addition to the license fee, will be charged for fishery specific research.

In addition, the department recommends that the WA Department of Fisheries conduct an ecological risk assessment of the impacts of the fishery on target, byproduct, bycatch (including protected species) and the marine environment. The department also recommends that a research strategy be developed for the fishery to identify and prioritise key research requirements.

The department considers that the declaration should be subject to the conditions listed in Table 4. To contain and minimise the risks in the longer term the recommendations outlined in Table 4 have been made. The department considers that, until it can be demonstrated that these issues have been adequately addressed, declaration of the harvest operations of the WA South Coast Crustacean Fishery as an approved wildlife trade operation for three years, until 11 November 2014, is appropriate.

Unless a specific timeframe is provided, each condition and recommendation must be addressed within the term of the declaration.

Table 4: Western Australian (WA) South Coast Crustacean Fishery Assessment – Summary of Issues, Conditions and Recommendations November 2011

	Issue	Condition
1	<p><u>General Management</u></p> <p>Export decisions relate to the arrangements in force at the time of the decision. To ensure that these decisions remain valid and export approval continues uninterrupted, the Department of Sustainability, Environment, Water, Population and Communities needs to be advised of any changes that are made to the management regime and make an assessment that the new arrangements are equivalent or better, in terms of ecological sustainability, than those in place at the time of the original decision. This includes operational and legislated amendments that may affect sustainability of the target species or negatively impact on byproduct, bycatch, protected species or the ecosystem.</p> <p>The department notes that the WA Department of Fisheries is currently in the process of implementing a new management plan for the South Coast Crustacean Fishery, which will consolidate the management arrangements of the Windy Harbour/Augusta Rock Lobster Managed Fishery, the Esperence Rock Lobster Managed Fishery and fishers operating under Fishing Boat Licenses in the Great Australian Bight, Albany region and the deep-sea crab fishery. When the new management plan is implemented, the WA Department of Fisheries will be required to provide the new management arrangements to the Department of Sustainability, Environment, Water, Population and Communities to enable an assessment of the changes to the management arrangements and the instruments to be remade to allow export to continue.</p>	<p>Condition 1: Operation of the fishery will be carried out in accordance with the legislated management regime and management arrangements made under the Western Australian <i>Fish Resources Management Act 1994</i>.</p> <p>Condition 2: The Western Australian Department of Fisheries to advise the Department of Sustainability, Environment, Water, Population and Communities of any intended material change to the South Coast Crustacean Fishery's legislated management regime and management arrangements that could affect the criteria on which <i>Environment Protection and Biodiversity Conservation Act 1999</i> decisions are based.</p>

2	<p><u>Annual reporting</u></p> <p>It is important that reports be produced and presented to the Department of Sustainability, Environment, Water, Population and Communities annually in order for the performance of the fishery and progress in implementing the conditions and recommendations in this report and other managerial commitments to be monitored and assessed throughout the life of the declaration.</p> <p>Annual reports should include: a description of the fishery, management arrangements in place, research and monitoring outcomes, recent catch data for all sectors of the fishery, status of target stock, interactions with protected species, impacts of the fishery on the ecosystem in which it operates and information outlining progress in implementing conditions and recommendations resulting from the previous accreditation of the fishery (for a complete description of annual reporting requirements, see Appendix B of the <i>Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition</i> available from the department's website at http://www.environment.gov.au/coasts/fisheries/publications/guidelines.html).</p>	<p>Condition 3: The Western Australian Department of Fisheries to produce and present reports to the Department of Sustainability, Environment, Water, Population and Communities annually as per Appendix B of the <i>Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition</i>.</p>
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3	<p><u>Arrangements to protect Australian sea lions</u></p> <p>As part of the process of consolidating the various pot fisheries on the south coast of WA, the Western Australian Department of Fisheries produced a discussion paper for public consultation: <i>The South Coast Crustacean Fishery – A Discussion Paper – Fisheries Management Paper No. 232</i>. The discussion paper outlined a number of proposals for the future management of the fishery.</p> <p>One of the proposals in the discussion paper for the consolidated management arrangements for the fishery is to not require fishers to use sea lion exclusion devices in the fishery. The WA Department of Fisheries’ reasoning for this proposal is that no mortalities were observed in water depths greater than 20 metres in a study of sea lion interactions in the Western Rock Lobster Fishery (Campbell <i>et al.</i>, 2008). The WA South Coast Crustacean has historically had negligible effort in waters less than 20 metres. However, more recent published and unpublished data from South Australia has demonstrated that Australian sea lion pups (which are the age class susceptible to lobster pot mortality) travel up to 20 kilometres from haul out sites and regularly dive to 50 metres (Fowler <i>et al.</i>, 2006, Fowler <i>et al.</i>, 2007 and Hamer, pers. comms.).</p> <p>Given the conservation status of Australian sea lions (listed as ‘vulnerable’ under the EPBC Act and ‘specially protected’ under the WA <i>Wildlife Conservation Act 1950</i>) and the potential for interactions based on published and unpublished data on the foraging range and depth of sea lion pups, the department considers that the WA Department of Fisheries, in consultation with relevant experts, should review the potential risk of the fishery to Australian sea lions and implement measures to mitigate interactions as part of the new management arrangements for the fishery as appropriate.</p>	<p>Part 13 Condition: The Western Australian Department of Fisheries to, in consultation with relevant experts:</p> <ul style="list-style-type: none"> a. review the proposed management arrangements for protecting Australian sea lions in the fishery; and b. as appropriate, ensure that appropriate mitigation strategies are in place under the new management arrangements for the fishery to minimise interactions with Australian sea lions and other protected species.
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	Issue	Recommendations
1	<p><u>Ecological Risk Assessment</u></p> <p>In the previous assessment of the fishery, the WA Department of Fisheries committed to implementing a consolidated management plan for the fishery. As part of the process of developing the new management arrangements for the fishery, the WA Department of Fisheries also committed to undertaking a review of the risk levels for target, byproduct, bycatch and the marine environment.</p> <p>Due to delays in the development process for the new management plan, the WA Department of Fisheries has not yet conducted the risk assessment for the fishery. The Department of Sustainability, Environment, Water, Population and Communities recommends that the risk assessment should incorporate the proposed management arrangements for the fishery and be finalised prior to the implementation of the new management plan. This will allow any required mitigation measures to be incorporated into the new arrangements and objectives, performance measures and information requirements to be updated prior to/as part of the implementation of the new management plan.</p>	<p>Recommendation 1: Prior to the implementation of the proposed new management arrangements for the fishery, the Western Australian Department of Fisheries to:</p> <ul style="list-style-type: none"> (a) review risk levels for target species, byproduct, bycatch (including protected species) and impacts on the marine environment for the South Coast Crustacean Fishery, incorporating the proposed management arrangements into the review; and (b) where appropriate, update or develop new objectives, performance measures, management responses and information requirements for target species, byproduct, bycatch (including protected species) and the marine environment.
2	<p><u>Research and Stock Monitoring</u></p> <p>In the previous assessment of the South Coast Crustacean Fishery, the department recommended that a research strategy be developed to identify and prioritise key research needs for the fishery. The recommendation was intended to coincide with the implementation of the new management arrangements, which provide a mechanism to collect research funding to aid the management of the fishery. The department considers that the development of a research strategy to inform management of the fishery is required to ensure that the fishery continues to meet the <i>Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition</i> in the future.</p>	<p>Recommendation 2: Within twelve months of implementation of the proposed new management arrangements for the fishery, the Western Australian Department of Fisheries to develop a research strategy for the South Coast Crustacean Fishery, in order to identify and prioritise key research needs to meet the management, stock assessment and performance measurement needs of the fishery.</p>

