



Australian Government

Department of the Environment and Energy

Assessment of the
Victorian Rock Lobster Fishery

August 2016

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This report should be attributed as '*Assessment of the Victorian Rock Lobster Fishery August 2016*, Commonwealth of Australia 2016'.

Disclaimer

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

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SECTION 1: SUMMARY OF THE ASSESSMENT FOR THE VICTORIAN ROCK LOBSTER FISHERY AGAINST THE GUIDELINES FOR THE ECOLOGICALLY SUSTAINABLE MANAGEMENT OF FISHERIES (2ND EDITION)

Purpose: To enable transparent articulation of which commercial fisheries assessed under the EPBC Act clearly meet all legislative requirements and all Guidelines, and those which may require further investigation or assessment to demonstrate requirements are met.

Overview of Victorian Rock Lobster Fishery against the relevant requirements of the Guidelines and the EPBC Act.

Guidelines	Meets	Partially meets	Does not meet	Details
Management regime	9 of 9			<p>The management regime is effective.</p> <p>The Draft Rock Lobster Fishery Management Plan 2015 (Draft Fishery Management Plan) was developed in consultation with stakeholders, and in accordance with the <i>Fisheries Act 1995</i> (Vic) and Fisheries Regulations 2009 (Vic). Only minor amendments are expected to the Draft Fishery Management Plan before it is declared. Management regime includes strategic objectives linked to actions and performance criteria. Harvest is managed through input and output controls, and compliance reporting to enforce the management arrangements.</p>
Principle 1 (target stocks)	7 of 11 2 N/a	2 of 11		<p>Target stocks are generally well managed.</p> <p>The target stock is considered sustainable and is not recruitment overfished. Stock rebuilding is a primary management focus. Stock assessment reports are publicly available while some fishery related reports such as ecological risk assessments (ERA) are not publicly available. Annual total allowable commercial catch (TACC) setting involves consultation with key stakeholders and supported by fishery dependent and fishery independent data. Recreational and indigenous catch estimates are unknown. New harvest strategy is precautionary and uses key performance indicators as determinants for setting annual TACC. Catches for eastern rock lobster (ERL) is included in annual TACC for eastern zone but there has been no reported catch for at least ten years.</p>
Principle 2 (bycatch and TEPS)	8 of 12 4 N/a			<p>Risks to bycatch and protected species are low.</p> <p>Bycatch is low and consists of mostly berried females and undersized rock lobster. Byproduct includes octopus, leatherjacket, wrasse (unspecified), and crabs along with smaller quantities of other finfish and other species retained for bait purposes. Reported interactions with protected species are very low.</p>
Principle 2 (ecosystem impacts)	5 of 5			<p>Ecological risk is considered low due to the fishing method used.</p>

				The Draft Fishery Management Plan contains strategic actions and objectives designed to minimise the known risks of damage to the ecosystem. Fishery considered low risk to broader marine ecosystem due to the relatively benign trap fishing method.
EPBC requirements	Meets	Partially meets	Does not meet	Details
Part 12				Not applicable. No marine bioregional plan exists for the South-east Marine Region.
Part 13	10 of 12 2 N/a			Meets. In September 2009, the Rock Lobster Management Plan 2009 was accredited under Part 13 of the EPBC Act and continues to require fishers to take all reasonable steps to avoid harmful interactions with EPBC listed protected species. The new Draft Fishery Management Plan will require accreditation under Part 13 of the EPBC Act once it is finalised under Victorian legislation.
Part 13A	1 of 3 1 N/a	1 of 3		Partially meets. Limited consultation if LENS is amended, although sufficient for strict requirements, as per advice to Minister in MS14-002367.
Part 16	1 of 1			Meets. Management of the fishery considered suitably precautionary.
<p>Conclusion:</p> <p>The fishery is managed by the Department of Economic Development, Jobs, Transport and Resources (DEDJTR). The fishery operates in Victorian and Commonwealth waters, and is divided into two separate management zones (Western and Eastern). Target catch consists almost exclusively of Southern rock lobster (<i>Jasus edwardsii</i>), which inhabits coastal reefs to a depth of approximately 150 metres from Western Australia to New South Wales. Eastern rock lobster (<i>Jasus (Sagmariasus) verreauxi</i>), if taken, is included in annual TACC but there has been no reported catch of this species in the past ten years. Commercial catch is restricted to the use of baited commercial rock lobster pots. Recreational catch is limited to diving (snorkel, SCUBA or hookah) and collection by hand or hoop net.</p> <p>Harvest of target stock is considered sustainable and there are no concerns for bycatch, byproduct or protected species, or ecosystem impacts. To reduce the potential risk of interactions with migrating whales, the fishery has developed and adopted a <i>Code of Practice for Reducing Whale Entanglements</i>, in collaboration with relevant stakeholders. Therefore the fishery meets all the environmental requirements of the EPBC Act and most of the Guidelines.</p> <p>Outstanding issue: A new management plan is in development for the fishery. Once this plan is declared under Victorian legislation, it will require accreditation under Part 13 of the EPBC Act for interactions with protected species and ecological communities.</p>				
<p>Final recommendation for 2016 assessment of Victorian Rock Lobster Fishery:</p> <p>Low risk, eligible for 10 year export approval (2016–2026).</p>				

Notes:**Assessment history:**

- 1st assessment finalised March 2004 – product from the fishery was included in the list of exempt native specimens (LENS) until 01 April 2009 (GN14, 07 April 2003). Export approval was subject to 11 recommendations. Rock Lobster Fishery Management Plan 2003 accredited under Part 13 in March 2004.
- 2nd assessment finalised March 2009 – product from the fishery was included in the LENS until 01 April 2014 (F2009L01218). Export approval was subject to 7 recommendations.
- 3rd assessment not finalised – LENS extension until 30 September 2014 (GN 38, 30 September 2009). LENS extension until 25 September 2015 (C2014G01627). LENS extension until 24 June 2016 (C2015G01574). LENS extension until 02 September 2016 (F2016L01052).

Fishery reporting:

- Annual reports are not publicly available.
- Protected species interaction reports are not publicly available.

Key links:

- Department of Economic Development, Jobs, Transport and Resources available at <https://economicdevelopment.vic.gov.au/about-us/news/new-fisheries-authority-announced>.
- Note the fishery is now managed by the Victorian Fisheries Authority. Information for the fishery is available at <https://vfa.vic.gov.au/>.
- Southern Rock Lobster Limited n.d. 'Clean Green Program', Available at <http://southernrocklobster.com/>.

Management plan

- Victorian Rock Lobster Fishery Management Plan 2009. Rock Lobster Fishery Management Plan 2009 accredited under Part 13 in September 2014.
- Draft Rock Lobster Fishery Management Plan, December 2015. Management plan under review. Proposed completion date December 2017.

Enforcing legislation

- Victorian *Fisheries Act 1995*.
- Victorian Fisheries Regulations 2009.

Harvest strategy or document that articulates control rules

- Draft Rock Lobster Fishery Harvest Strategy 2015: an information paper. Request for public comment ended 4 March 2016.

Ecological Risk Assessment

- An internal ERA has been conducted but is not publicly available.

Publicly available stock assessment

- Annual stock assessment reports for the Rock Lobster Fishery are publicly available on DEDJTR's webpage. Stock information is available in Fisheries Research and Development Corporation's (FRDC) Status of Key Australian Fish Stocks (SAFS) Reports 2014.

SECTION 2: DETAILED ANALYSIS OF THE VICTORIAN ROCK LOBSTER FISHERY AGAINST THE GUIDELINES FOR THE ECOLOGICALLY SUSTAINABLE MANAGEMENT OF FISHERIES (2ND EDITION)

Guidelines for the Ecologically Sustainable Management of Fisheries (2nd edition)	Meets	Partially meets	Does not meet	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.</p> <p>Management arrangements are documented, transparent, and publicly available. The Victorian Rock Lobster Fishery (the fishery) is managed by the Department of Economic Development, Jobs, Transport and Resources (DEDJTR) under the Draft Rock Lobster Fishery Management Plan 2015 (Draft Fishery Management Plan), and in accordance with the <i>Fisheries Act 1995</i> (VIC) and Fisheries Regulations 2009 (VIC).</p> <p>Finalisation of the management plan is expected in December 2017 once the harvest strategy is complete. The harvest strategy requires committee resolution on the most suitable data source to be used to determine a pre-recruit index.</p>			
Be developed through a consultative process providing opportunity to all interested and affected parties, including the general public	<p>Meets.</p> <p>Management arrangements developed in accordance with Part 3 of the Fisheries Act. The Draft RLF Management Plan was prepared in consultation with a stakeholder-based steering committee. A 60-day public consultation period closed in March 2016.</p>			
Ensure that a range of expertise and community interests are involved in individual fishery management committees and during the stock assessment process	<p>Meets.</p> <p>An annual stock assessment workshop provides licence holders and interested stakeholder groups with updates to catch and effort data, and reports against performance measures and reference points identified in the management plan. Outcomes from workshops contribute to the total allowable catch forum, which provides recommendations for management decisions on the total allowable commercial catch (TACC) and other control measures identified in the Draft Fishery Management Plan. Commercial, recreational, environmental non-government organisations, and Indigenous sectors are invited to participate in consultation processes. Interested parties are also able to contribute through the Rock Lobster and Giant Crab Resource Assessment Group, Seafood Industry Victoria, VRFish, and the Fisheries Cost Recovery Standing Committee.</p>			
Be strategic, containing objectives and performance criteria by which the effectiveness of the management arrangements are measured	<p>Meets.</p> <p>The Draft Fishery Management Plan specifies policies, management objectives, and strategies for managing the fishery. It includes a harvest strategy as the primary tool for determining the annual TACC. Key objectives are to rebuild stock biomass, maintain ecological integrity, and maintain legislative compliance. The draft harvest strategy is developed and based on a length-structured model.</p> <p>Six performance indicators are used to measure and track stock against operational objectives in harvest strategy. Three biological performance indicators - egg production, standardised catch-per-unit-effort (CPUE) and pre-recruit index (PRI)</p>			

	<p>assist with setting TACC. Another three performance indicators provide information on the fishery status and trends over time: Puerulus settlement index (PSI), Exploitable biomass and Available biomass.</p> <p>The following reference points help define acceptable levels of biological impact and are used to benchmark biological performance indicators. Limit reference points (egg production and standardised CPUE), trigger reference points (based on PRI), and target reference point (maximum economic yield).</p> <p>The fishery uses a precautionary approach with consideration for the ecologically sustainable development framework. Enforcement measures are similar for both the Giant Crab and Rock Lobster fisheries.</p>
Be capable of controlling the level of harvest in the fishery using input and/or output controls	<p>Meets.</p> <p>The fishery consists of two fishing zones with output and input controls employed to manage the harvest in each zone. Primary output controls are TACC and individual transferable quotas. Management arrangements differ between zones in the number of quota units available. Key input controls are licence conditions, gear restrictions, and closed seasons. Differences between zones include the number of pots per zone and per boat, and quota units per licence.</p> <p>The recreational sector is limited to hand capture and hoop nets, daily bag and possession limits, and a valid Recreational Fishing Licence unless exempt.</p>
Contain the means of enforcing critical aspects of the management arrangements	<p>Meets.</p> <p>Management arrangements are enforceable under provisions within the Victorian Fisheries Act and Regulations. Fishing operations must also be consistent with other State and Commonwealth legislation. The Offshore Constitutional Settlement Arrangements sets out management arrangements in Commonwealth waters.</p> <p>A compliance strategy is reviewed annually, which incorporates potential risks linked to performance indicators. The compliance strategy is presented to stakeholders at annual TACC forums.</p> <p>Fisheries officers undertake inspections of catches, boats, and documentation on a regular basis, and include random inspections of recreational catches.</p> <p>Cross-jurisdictional management arrangements allow for the landing of catch from Victorian waters at designated ports in South Australia (SA) or New South Wales (NSW) under permit but not in Tasmania.</p>
Provide for the periodic review of the performance of the fishery management arrangements and the management strategies, objectives and criteria	<p>Meets.</p> <p>Management plans are reviewed every five years, in accordance with state legislation. This process uses consultation with fishery stakeholders, community interests and latest research in reviewing and developing objectives, strategies, and performance criteria for the life of the plan.</p> <p>Periodic reviews over shorter periods include annual stock assessment forums. Any amendment to management arrangements must follow legislative provisions. Data from the observer program and any reported interactions inform future TACC adjustments and risk assessments. Reviews help inform the development of management plans.</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>Meets.</p> <p>The management arrangements contain actions and objectives to mitigate potential impacts on the wider marine ecosystem. The fishery takes a precautionary approach based on the national ecological sustainability development framework.</p> <p>Monitoring occurs via logbooks, annual TACC forums, workshops, stock and other reports relative to the fishery, fishery dependent and independent surveys, and operator observations.</p> <p>In an effort to improve the sustainability of the fishery, the peak industry body, Southern Rock Lobster Limited developed an Environmental Management Strategy under its Clean Green Program for Victoria, SA, and Tasmania Rock Lobster fisheries.</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>Meets.</p> <p>The fishery is compliant with all relevant plans.</p>
<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.</p>	
<p>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.</p>	
<p>Information requirements</p>	
<p>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.</p>	<p>Meets.</p> <p>Fishery dependent information derived from commercial catch and effort data, and wildlife interaction data. Operators record data in logbooks and report monthly to DEDJTR. Logbooks contain fishing location; minimum and maximum depths of pot set; number of pot lifts; catch numbers and weight; undersize rock lobsters; berried females; dead lobsters, and bycatch and byproduct weight. Logbook information contributes to stock assessment modelling and analysis.</p> <p>The Draft Fishery Management Plan identifies five sources of independent data.</p> <ul style="list-style-type: none"> In-port-sampling data collection at fish processors includes length, weight, sex, colour and moult condition of legally sized rock lobsters. The program has been running since 1994. On-board sampling involves at-sea data collection of length, sex, colour, shell hardness, reproductive condition, undersize and bycatch species since 2004. Fixed-site surveys conducted annually at 12 sites in the Western Zone since 2002, and 2 sites in the Eastern Zone since 1996. Surveys attempt to maximise the capture of undersize rock lobsters as an indicator of potential stock availability over the following one to three year period. Fine mesh pot sampling has been in place since 1996 at two sites in the Eastern Zone. Targets 'pre-recruits', rock lobsters at the 80 mm carapace length size class, as an indicator of the health and future stock size. Puerulus collection program began in 1994 at two sites. Divers record monthly data on the number and length of puerulus for all 18 collectors. <p>DEDJTR is currently developing a process to estimate recreational rock lobster harvest.</p>
<p>Assessment</p>	
<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</p>	<p>Meets.</p> <p>Biomass is reviewed annually at a TACC Forum involving all stakeholders. Stock Assessment Reports are available online. Seasonal data collection includes monthly catch rate data. Fisheries Integrated Licensing and Quota Monitoring Interactive Voice Response (IVR) systems provide the data for collection. Regular fishery dependent and independent research includes developing more suitable data collection methods. Standardised CPUE is the primary determinant of annual TACC and underpins the stock assessment.</p>

<p>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>1.1.3 The distribution and spatial structure of the stock(s) has been established and factored into management responses.</p>	<p>Meets. Southern Rock Lobster (SRL, <i>Jasus edwardsii</i>) is the target species and its distribution and spatial structure is well known. SRL population considered a single stock occurring in a continuous band adjacent to the southern Australian coast. Eastern Zone Rock Lobster fishers may take Eastern Rock Lobster (ERL, <i>J. verreauxi</i>) but record catches separately in daily catch logs. Annual catch of ERL above one tonne triggers a management review. Control measures introduced if necessary in collaboration with NSW Fisheries. There has been no ERL harvest reported for at least the past ten years.</p>
<p>1.1.4 There are reliable estimates of all removals, including commercial (landings and discards), recreational and indigenous, from the fished stock. These estimates have been factored into stock assessments and target species catch levels.</p>	<p>Partially meets. There are reliable estimates of commercial catch through annual assessment reports, industry feedback, and fishery dependent and independent research. DEDJTR is currently developing a process to estimate recreational Rock Lobster harvest.</p>
<p>1.1.5 There is a sound estimate of the potential productivity of the fished stock/s and the proportion that could be harvested.</p>	<p>Partially meets. The available data provides a sound estimate of harvest within the fishery. Annual stock assessments provided to key stakeholders. Historical data collection provides information on trends and fishery performance. The recreational sector is allocated a percentage (Eastern Zone 10% and Western Zone 5%) of the TACC (see Draft Fishery Management Plan). This was considered as a trigger point but no reliable estimate is available for recreational catch to assess whether this trigger (reference) point has been exceeded. DEDJTR is currently developing a process to estimate recreational Rock Lobster harvest.</p>
<p>Management responses</p>	
<p>1.1.6 There are reference points (target and/or limit), that trigger management actions including a biological bottom line and/or a catch or effort upper limit beyond which the stock should not be taken.</p>	<p>Meets. The Draft Fishery Management Plan contains performance reference points linked to performance indicators. Three types (limit, trigger and target) reference points are commonly used. Limit reference points (LRP) act like a safety measure as they establish the point at which there is significant risk to the sustainability of the stock. This harvest strategy uses two LRPs - Egg production LRP = 20% of E_{1951} with 90% probability (where E = egg production), and Standardised CPUE: Upper LRP = 0.40kg/pot lift; Lower LRP = 0.25kg/pot lift. A trigger reference point is in place for the pre-recruit index (PRI). To be eligible for an increase in the TACC in an upcoming season, the PRI for the stock assessment period must be above the threshold level for the management zone.</p>

	Target reference point (maximum economic yield) defines the level or value of an indicator considered ideal or desirable for management purposes. A long-term maximum economic yield (MEY) target reference point is an objective for the fishery but is not formalised.
1.1.7 There are management strategies in place capable of controlling the level of take.	<p>Meets.</p> <p>Management strategies include TACC, limited entry, quota management system, legal minimum length. The Draft Fishery Management Plan outlines the direction for the fishery. The management objectives build on previous plans to maintain the aim of rebuilding rock lobster stocks. The Draft Fishery Management Plan includes a revised harvest strategy based on commercial catch rates and is designed to be more transparent and less reliant on model outputs. It uses a precautionary approach with a primary focus on rebuilding Rock Lobster stocks over time. It uses egg production, standardised catch rate and the numbers of juvenile lobsters in the population as determinants for setting annual TACC.</p> <p>To reduce incentives for illegal commercial sale, recreational catch must be marked by clipping tails within five minutes of landing. Tail clipping is enforced by Fishery Officers but full coverage of the Victorian coastline is not possible.</p> <p>Non-commercial fishers must have a Victorian Recreational Fishing Licence or proof of exemption to take rock lobsters. Daily bag and minimum size limits apply. There is a notional total allowable recreational catch of five and ten percent of the TACC for the Western Zone and Eastern Zone, respectively.</p>
1.1.8 Fishing is conducted in a manner that does not threaten stocks of byproduct species.	<p>Meets.</p> <p>Byproduct in this fishery is considered low. The Draft Management Plan outlines the management for byproduct species. The intention is to continue with data collection through fishery dependent and independent surveys and to manage the harvest of key byproduct species at acceptable levels. Fishers must record the weight of byproduct species in logbooks. Byproduct includes octopus, leatherjacket, wrasse (unspecified), and crabs along with smaller quantities of other finfish and other species retained for bait purposes. The main species harvested as byproduct in this fishery are octopus (average 17.7 tonnes per annum over ten years); leather jacket (4.4 tonnes); snapper (1.9 tonnes); and wrasse (1.4 tonnes). Octopus are abundant in Victorian waters but there are no dedicated octopus fisheries. Octopus catch by commercial fishers has been, on average, less than 20 tonnes per annum since 2006–07. DEDJTR does not undertake stock assessments for octopus but Jenkins (2005) found that the risks to octopus populations through bycatch discard or retention were low.</p> <p>There has been no eastern rock lobster harvest reported for at least ten years. Eastern rock lobster stock is taken primarily in New South Wales and the fishery has been assessed as sustainable through the SAFS 2014 review.</p>
(Guidelines 1.1.1 to 1.1.7 should be applied to byproduct species to an appropriate level)	
1.1.9 The management response, considering uncertainties in the assessment and precautionary management actions, has a high chance of achieving the objective.	<p>Meets.</p> <p>The management regime takes a suitably precautionary approach and is likely to achieve the objective.</p>
<p>If overfished, go to Objective 2:</p> <p>If not overfished, go to PRINCIPLE 2:</p>	

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. The fishery is not overfished. The management regime takes a precautionary approach in response to historically low stock levels. The Draft Fishery Management Plan identifies trigger reference points to help ensure the fishery does not require a recovery strategy in the near future. Management strategies focus on stock rebuilding and the fishery shows signs of recovery.
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. The fishery is not overfished. The fishery is not considered recruitment overfished, and the stock is considered sustainable and above defined reference points. The management responses to past declines in stock levels include reduced TACC and reduced effort.
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.	Meets. Operators are required to record bycatch in logbooks. An independent observer program has been in place since 2004 and involves an average of 30 days at sea per year. Observers record all fishing activity, including catch, effort, bycatch and byproduct.
Assessments	
2.1.2 There is a risk analysis of the bycatch with respect to its vulnerability to fishing.	Meets. Bycatch is low and consists of mostly berried female lobster and undersized lobster, which are released alive. Risks to other bycatch species are also considered low. Key stakeholders were involved in identifying and analysing the threats to and by the fishery, no bycatch species were identified as being of concern.

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.	Meets. Measures are in place to manage bycatch, including through ongoing bycatch monitoring and requirements to release berried females and undersized lobsters. Industry has also responded to potential concerns of seal interactions by using bait that is less attractive to seals and/or developed benign seal exclusion devices.
2.1.4 An indicator group of bycatch species is monitored.	Not applicable. Bycatch is considered very low, and therefore an indicator group of bycatch species is not monitored for this fishery. Fishery dependent surveys collect weight of bycatch species and information on those species used for bait. An on-board sampling program collects fishery independent data on bycatch species. This information improves the overall understanding of bycatch characteristics.
2.1.5 There are decision rules that trigger additional management measures when there are significant perturbations in the indicator species numbers.	Not applicable. No decision rules in place as no indicator group of bycatch species is monitored for this fishery.
2.1.6 The management response, considering uncertainties in the assessment and precautionary management actions, has a high chance of achieving the objective.	Meets. Given the low bycatch and management arrangements, the management regime is likely to achieve the objective to conduct the fishery in a manner that does not threaten bycatch species. The Draft Fishery Management Plan includes a strategy to collect information on bycatch species, which will contribute to future decisions relating to the sustainable management of bycatch.
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.	
Information requirements	
2.2.1 Reliable information is collected on the interaction with endangered, threatened or protected species and	Meets. DEDJTR collect information from logbooks, Rock Lobster Daily Catch Record Book, Protected Species Interactions form, fishery dependent and independent surveys, risk assessments, and ongoing monitoring by industry. Summarised information is provided to the Department of the Environment and Energy in applications for export approval. Operators are required to

threatened ecological communities.	<p>report any interactions with protected marine or migratory animals under the <i>Wildlife Act 1975 (VIC)</i>, <i>Flora and Fauna Guarantee Act 1988 (VIC)</i> and <i>Fisheries Act 1995 (VIC)</i>.</p> <p>The fishery does not interact with any EPBC-listed threatened ecological community including the Giant Kelp Forest threatened ecological community. Pots are placed on the flat bottom (sand) at the edge of rocky reefs. All risks relating to interactions with reef habitat through fishing activities, including anchoring were identified by Jenkins (2005) as being low or negligible.</p>
Assessments	
<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>Jenkins et al (2005) conducted an ecological risk assessment (ERA) with key stakeholders involved in data analysis. The report identified four moderate or higher risk threats for reef habitats including the introduction of marine pests (moderate). The potential translocation of marine pests is not discussed in management arrangements.</p> <p>The fishery may interact with cetaceans (i.e. whales and dolphins), seabirds, marine turtles, seals, syngnathids, great white shark, grey nurse shark, and whale shark. Interactions include several whale entanglements associated with the fishery. The fishery reports interactions with TEPS and CITES listed species during the observer program from 2004–05 to 2006–07:</p> <ul style="list-style-type: none"> • One cormorant caught dead in a pot in the Eastern Zone • Five seahorses (<i>Hippocampus</i> sp.) caught in pots in the Western Zone at six to 37 metres – all were released alive. <p>A risk assessment was undertaken to inform the development of the rock lobster management plan and the high risks are described in the Draft Fishery Management Plan.</p> <p>Legislative provisions require operators to report interactions with TEPS. Reported interactions considered low and over the past year included a seal, which was found dead, and a juvenile humpback whale, which was released alive.</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>While the area of the fishery overlaps with the range of the Giant Kelp Marine TEC, fishing does not occur within kelp beds. The Draft Management Plan does not identify risks to threatened ecological communities resulting from fishing practices.</p>
Management responses	
<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>The Draft Fishery Management Plan contains objectives to help manage interactions with TEPS. Reporting of incidental interactions is a requirement under state legislation including the <i>Wildlife Act 1975 (VIC)</i>, <i>Flora and Fauna Guarantee Act 1988 (VIC)</i> and <i>Fisheries Act 1995 (VIC)</i>. Revised commercial logbooks include a section to report any interactions with protected species listed under the EPBC Act and state legislation. Seafood Industry Victoria, the commercial fishing peak body, has implemented a <i>Code of Practice for Reducing Whale Entanglements</i> in the fishery in collaboration with government agencies (DPI, DSE) and SeaNet. DPI introduced a Protected Species Action Plan in November 2007, which requires fishers to report any interactions with protected species on daily catch logs.</p> <p>The 2009 application for EPBC Act assessment notes DPI had agreed to provide summaries to the Department, but there are no records to this effect.</p> <p>Legislative provisions require operators to report interactions with TEPS. Reported interactions considered low and over the past year included a seal, which was found dead, and a juvenile humpback whale, which was released alive.</p>

<p>2.2.5 There are measures in place to avoid impact on threatened ecological communities.</p>	<p>Not applicable. While the area of the fishery overlaps with the range of the Giant Kelp TEC, fishing does not occur within kelp beds.</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. Management arrangements and fishing method used have a high chance of achieving the objective.</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 fisheries impact on the ecosystem and environment generally.</p>	<p>Meets Commercial operators use logbooks to collect fishery dependent data and incidental interactions with protected species. Information is available on biomass. Bycatch monitoring data is available from surveys in previous years. The management plan addresses risks to the wider ecosystem. Sufficient information is collected to assess the impacts on the ecosystem components listed in item 2.3.2.</p>
<p>Assessment</p>	
<p>2.3.2 Information is collected and a risk analysis, appropriate to the scale of the fishery and its potential impacts, is conducted into the susceptibility of each of the following ecosystem components to the fishery.</p> <p>1. Impacts on ecological communities</p> <ul style="list-style-type: none"> • Benthic communities • Ecologically related, associated or dependent species • Water column communities <p>2. Impacts on food chains</p> <ul style="list-style-type: none"> • Structure 	<p>Meets. According to the 2009 agency application on ecological sustainability, Jenkins et al (2005) conducted an ERA for the fishery. Key stakeholders collaborated on developing and analysing the threats identified in the risk assessment. In general, any risk assessed as moderate or higher requires a management response. Four threats were considered to be of moderate or higher risk to reef habitat:</p> <ul style="list-style-type: none"> • the change to lobster habitat through climate change (extreme risk) • disposal of offshore dredging material (moderate risk) • increased turbidity/sedimentation from coastal development (moderate risk) • introduction of marine pests (moderate risk) <p>Four threats were considered to be of moderate or higher risk to the reef ecosystem:</p> <ul style="list-style-type: none"> • a decline in lobster abundance and associated reduction of predation leading to ecosystem change (moderate risk) • oil spills (moderate risk) • translocation of marine pests by the fishery (moderate risk), and • effects of practices in other fisheries (moderate risk).

<ul style="list-style-type: none"> • Productivity/flows <p>3. Impacts on the physical environment</p> <ul style="list-style-type: none"> • Physical habitat • Water quality 	
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>Meets. The Draft Fishery Management Plan contains strategic actions and objectives designed to minimise the known risks of damage to the ecosystem. The fishery is considered low risk to broader marine ecosystem due to the relatively benign trap fishing method.</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>Meets. Performance indicators are provided for actions that DEDJTR has responsibility for implementing. These indicators provide a means of tracking progress on an ongoing basis. Performance indicators are not provided for actions that other agencies are responsible for implementing. As part of the ongoing implementation of the new management plan, performance indicators may be further refined using data from monitoring programs and surveys.</p>
<p>2.3.5 The management response, considering uncertainties in the assessment and precautionary management actions, has a high chance of achieving the objective.</p>	<p>Meets. Management arrangements and fishing method used have a high chance of achieving the objective.</p>

SECTION 3: ASSESSMENT OF THE VICTORIAN ROCK LOBSTER FISHERY AGAINST THE REQUIREMENTS OF THE EPBC ACT

Please Note – the table below is not a complete or exact representation of the EPBC Act. It is intended as a checklist of relevant sections and components of the EPBC Act to provide advice on the fishery in relation to decisions under Part 13 and Part 13A.

Part 12

	Meets	Partially meets	Does not meet	Comment
Section 176 Bioregional Plans				
(5) Minister must have regard to relevant bioregional plans				Not applicable. There is no relevant marine bioregional plan for the South-east Marine Region.

Part 13

	Meets	Partially meets	Does not meet	Comment
Accreditable plan, regime or policy (Division 1, Division 2, Division 3, Division 4)				
s. 208A (1) (a-e) , s.222A (1) (a-e), s.245A (1) (a-e), s.265 (1) (a-e) Does the fishery have an accreditable plan of management, regime or policy?	Meets. Yes. The Draft Management Plan is accreditable as it is developed under the provisions of the Victorian <i>Fisheries Act 1995</i> and Victorian Fisheries Regulation 1998. Part 13 accreditation for the previous Fishery Management Plan 2009 remains valid until the new management plan is formalised.			
Division 1 Listed threatened species, Section 208A Minister may accredit plans or regimes				
(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 management regime contains strategic objectives with specific action items to help ensure fishers take all reasonable steps to minimise any adverse impacts to listed threatened species.			
(g) And, is the fishery likely to adversely affect the survival or recovery in nature of the species.	Meets. No, the fishery is highly unlikely to adversely affect the survival or recovery in nature of listed threatened species.			
Division 2 Migratory species, Section 222A Minister may accredit plans or regimes				
(f) Will the plan, regime or policy require fishers to take all	Meets.			

reasonable steps to ensure that members of listed migratory species are not killed or injured as a result of the fishing?	Yes, the management regime contains strategic objectives with specific action items to help ensure fishers take all reasonable steps to minimise any adverse impacts to listed migratory 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, the fishery is highly unlikely to adversely affect the conservation status of listed migratory species or a population of that species.
Division 3 Whales and other cetaceans, Section 245 Minister may accredit plans or regimes	
(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, the management regime contains strategic objectives with specific action items to help ensure fishers take all reasonable steps to minimise any adverse impacts to cetaceans.
(g) And is the fishery likely to adversely affect the conservation status of a species of cetacean or a population of that species?	Meets. The fishery is highly unlikely to adversely affect the conservation status of cetacean or a population of that species.
Division 4 Listed marine species, Section 265 Minister may accredit plans or regimes	
(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. The management regime contains strategic objectives with specific action items to help ensure fishers take all reasonable steps to minimise any adverse impacts to 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. The fishery is highly unlikely to adversely affect the conservation status of a listed marine species or populations of that species.
Section 303AA Conditions relating to accreditation of plans, regimes and policies	
(1) This section applies to an accreditation of a plan, regime or policy under section 208A, 222A, 245 or 265.	Meets. Recommend accreditation.
(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:	Meets. No conditions required and /or conditions in place.

<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 accreditation is to specify the period, circumstances or condition.</p>	
<p>(7) The Minister must, in writing, revoke an accreditation if he or she is satisfied that a condition of the accreditation has been contravened.</p>	Not applicable.

Part 13A

Section 303BA Objects of Part 13A				
<p>(1) The objects of this Part are as follows:</p> <p>(a) to ensure that Australia complies with its obligations under CITES and the Biodiversity Convention;</p> <p>(b) to protect wildlife that may be adversely affected by trade;</p> <p>(c) to promote the conservation of biodiversity in Australia and other countries;</p> <p>(d) to ensure that any commercial utilisation of Australian native wildlife for the purposes of export is managed in an ecologically sustainable way;</p> <p>(e) to promote the humane treatment of wildlife;</p> <p>(f) to ensure ethical conduct during any research associated with the utilisation of wildlife; and</p> <p>(h) to ensure the precautionary principle is taken into account in making decisions relating to the utilisation of wildlife.</p>				
	Meets	Partially meets	Does not meet	Comment
Section 303DC Minister may amend list (non CITES species)				
<p>(1) The Minister may amend the LENS 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>The Department recommends that specimens that are or are derived from fish or invertebrates, taken in the Victorian Rock Lobster Fishery as defined in the management regime in force under the <i>Fisheries Act 1995</i> (VIC) and the Fisheries Regulations 2009 (VIC), but not including</p> <ul style="list-style-type: none"> • specimens that belong to eligible listed threatened species, as defined under section 303BC of the EPBC Act, or • specimens that belong to taxa listed under section 303CA of the EPBC Act (Australia's CITES list) <p>be included in the list of exempt native specimens until 28 August 2026.</p>			

<p>(iv) varying or revoking a condition or restriction to which the inclusion of a specimen in the list is subject.</p>	
<p>(1A) In deciding to amend LENS, Minister must rely primarily on outcomes of Part 10, Div. 1 or 2 assessment</p>	<p>Not applicable. The fishery is managed under Victorian legislation and operates within state waters. Therefore, no assessment has been carried out under Part 10 of the EPBC Act.</p>
<p>(1C) The above does not limit matters that may be considered when deciding to amend LENS.</p>	<p>Meets. The fishery is consistent with the Objects of Part 13A.</p>
<p>(3) Before amending LENS, Minister must consult:</p> <ul style="list-style-type: none"> (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. 	<p>Partially meets. General consultation with the Victorian Minister for Fisheries in October 2014 (MS14-002367).</p>

Part 16

	Meets	Partially meets	Does not meet	Comment
<p>Section 391 Minister must consider precautionary principle in making decisions</p>				
<p>(1) Minister must take account of precautionary principle (2) The precautionary principle is that lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment where there are threats of serious or irreversible environmental damage.</p>	<p>Precautionary management measures in place Yes, precautionary management measures in currently place.</p>			