



Australian Government

Department of Sustainability, Environment, Water, Population and Communities

Assessment of the
Victorian Scallop Fishery

January 2012

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Assistant Secretary
Marine Biodiversity Policy Branch
Department of Sustainability, Environment, Water, Population and Communities
GPO Box 787
Canberra ACT 2601

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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Table 1: Summary of the Victorian Scallop Fishery

<p>Publicly available information relevant to the fishery</p>	<ul style="list-style-type: none"> • Victorian <i>Fisheries Act 1995</i> • Victorian <i>Fisheries Regulations 2009</i> • Statement of Management Arrangements for the Victorian Commercial Scallop Fishery. Victorian Department of Primary Industries, unpublished. • Victorian Department of Primary Industries submission – Application to the Department of Sustainability, Environment, Water, Population and Communities for the re-assessment of the Victorian Scallop Fishery, 2011. • Department of the Environment and Heritage – Assessment of the Victorian Scallop Fishery, January 2006. • Department of the Environment, Water, Heritage and the Arts – Assessment of the Victorian Scallop Fishery, January 2009.
<p>Area</p>	<p>The current Victorian Scallop Fishery boundaries were set in 1986 during the development of Offshore Constitutional Settlement agreements between the Australian Government and state/territory governments (including Victoria).</p> <p>The Victorian Scallop Fishery area extends twenty nautical miles out from the Victorian coastline (this includes both Commonwealth and Victorian waters). Large portions of these waters are unsuitable for commercial scallop fishing, and the majority of commercial fishing is conducted on scallop aggregations (referred to as ‘beds’) in eastern Victoria. These are accessed from the ports of Lakes Entrance and Port Welshpool.</p> <p>Commercial scallop fishing is not permitted in Victorian bays or inlets.</p>
<p>Fishery status</p>	<p>The status of the fishery is described by the Victorian Department of Primary Industries as ‘fully exploited’.</p>
<p>Target Species</p>	<p>Commercial scallop (<i>Pecten fumatus</i>). Commercial scallops occur along the coast of southeast Australia, from New South Wales, through Victoria, to South Australia including the coastline around Tasmania. They are typically found on soft sediments (mud and sand) and frequently aggregate, forming ‘beds’. They usually occur in water of 10–20 metres in depth, but can be found in water deeper than 40 metres in the Bass Strait.</p> <p>Scallops typically mature at 12–18 months of age. Fecundity increases with age. Further details on the biology of commercial scallops, including the dynamics of scallop beds, can be found in the 2006 Department of the Environment and Heritage assessment of the fishery, found at: http://www.environment.gov.au/coasts/fisheries/vic/scallop/index.html</p>

Byproduct and Bycatch Species	<p>44 bycatch and byproduct species were recorded in a 2002 survey of the Victorian Scallop Fishery. The species consisted of rays, doughboy scallops, hermit crabs, spider crabs, starfish and sponges. Catch is sorted on board commercial fishing vessels and bycatch is returned to the water as soon as practicable.</p> <p>Fishers must report retained byproduct in daily catch logs. Doughboy Scallops (<i>Chlamys (Mimachlamys) asperrima</i>) are permitted to be retained as byproduct, but only very minor amounts are recorded annually, less than 30 kilograms. Most incidental catch is returned to the water alive as bycatch. Finfish are often retained as byproduct for sale or personal consumption. Catch of finfish byproduct is limited to 10 kilograms per trip.</p>
Gear	<p>Commercial fishing for scallops is undertaken by dredging, whereby a bar deflects scallops from the seafloor into the dredge basket.</p> <p>The dredge basket contents are retrieved and tipped onto a sorting table on board the vessel, where undersize scallops and bycatch are separated and returned to the water.</p>
Season	<p>The fishery is not opened unless the abundance of scallops in specific locations meets the agreed criteria for the average number of scallop meats per kilogram. A total allowable commercial catch (TACC) is set annually for the period 1 April to 31 March (following year).</p>
Commercial harvest (recent seasons)	<p>In the past two seasons, 2010/11 and 2011/12 there has been a zero TACC for the Victorian Scallop Fishery, following a 2009 survey which indicated that there were no commercially viable scallop beds available on the Victorian scallop fishing grounds. From 2000/01 to 2009/10, commercial catch (shell weight) has been in the range of 266 tonnes (2004/05) to 1182 tonnes (2007/08).</p>
Value of commercial harvest (recent seasons)	<p>The most recent estimate available of gross value of production was \$908,000 for the 2006/07 season when 603 tonnes (shell weight) were caught.</p>

<p>Take by other sectors</p>	<p>In addition to the Victorian Scallop Fishery, the commercial scallop is harvested in the Commonwealth Bass Strait Central Zone Scallop Fishery (BSCZSF) and the Tasmanian Scallop Fishery (TSF). The catch and total allowable catch (TAC) limits (in tonnes of shell weight) over the past two years for these fisheries are given below:</p> <table border="1" data-bbox="491 353 1342 577"> <thead> <tr> <th></th> <th>2008</th> <th>2009</th> <th>2010</th> </tr> </thead> <tbody> <tr> <td>BSCZSF Catch</td> <td>82</td> <td>2426</td> <td>2278</td> </tr> <tr> <td>BSCZSF TAC¹</td> <td>150</td> <td>2650</td> <td>3150</td> </tr> <tr> <td>TSF Catch</td> <td>378</td> <td>0</td> <td>0</td> </tr> <tr> <td>TSF TAC</td> <td>4253</td> <td>0</td> <td>0</td> </tr> </tbody> </table> <p>The ocean scallop fishery is unsuitable for recreational fishing but there is a small amount of recreational take in Port Phillip Bay. Recreational fishers use dive gear (i.e. hookah systems and scuba diving equipment) to collect scallops in water that is generally ten to fifteen metres deep. A licence is required to recreationally fish for scallops and there is a daily bag limit of 100 scallops.</p> <p>The 2006 assessment of the fishery noted that there was no evidence of Indigenous harvest of scallops.</p>		2008	2009	2010	BSCZSF Catch	82	2426	2278	BSCZSF TAC ¹	150	2650	3150	TSF Catch	378	0	0	TSF TAC	4253	0	0
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<p>Commercial licences issued</p>	<p>A Scallop (Ocean) Fishery Access Licence authorises participation in the Victorian scallop fishery. The number of commercial access licences is capped at 91.</p> <p>Although there are 91 commercial licences in the fishery, the number of active vessels is generally between twelve and twenty vessels in any given active year. In the last two fishing seasons there has been zero effort in the fishery, due to the zero TACC.</p>																				
<p>Management arrangements</p>	<p>The fishery is managed by the Victorian Department of Primary Industries under the arrangements specified in the “Statement of Management Arrangements for the Victorian Commercial Scallop Fishery”.</p> <p><u>Output controls</u></p> <ul style="list-style-type: none"> • Annual TACC is agreed upon using a statutory consultation process that involves fishers, fishery scientists and fishery managers. • Each licence holder is given an equal share of the TACC. • Quota is transferable and this process is facilitated by the Victorian Department of Primary Industries. • A minimum size limit of 80 millimetres (shell width) applies to ensure that scallops live through at least two spawning events before being harvested. • To protect juvenile scallops, fishing areas may be closed if more than 20 per cent of scallops are smaller than the minimum shell width. • To ensure quality of product and to enhance commercial returns, the fishery may be closed if the average number of scallop meats per kilogram is above 100 meats. In such situations, the fishery is closed until the quality of product improves. 																				

¹ Bass Strait Central Zone Scallop Fishery total allowable catch (TAC) includes 150 tonnes for surveys. Note that a zero commercial harvest TAC was set in 2008, but 150 tonnes were allocated for surveys.

	<p><u>Input controls</u></p> <ul style="list-style-type: none"> • Entry limited to 91 commercial access licences. <p><u>Other management arrangements</u></p> <ul style="list-style-type: none"> • All commercial scallop vessels are fitted with a vessel monitoring system (VMS) to allow for spatial monitoring and to assist compliance.
Export	High quality product is primarily exported to France.
Interaction with Protected Species²	<p>Given the slow movement of the dredge fishing gear and the short duration of dredge tows, which provides an opportunity for protected species to avoid capture or escape, impacts on protected species are likely to be low.</p> <p>An investigation was undertaken in 2002 to monitor bycatch and interactions with threatened, endangered and protected species in the fishery (Coleman 2004). No interactions with protected species were detected and none have been reported since in the Victorian Scallop Fishery.</p> <p>The Victorian Department of Primary Industries has developed a <i>Protected Species Action Plan (November 2007)</i> for monitoring and reporting interactions with protected species. Under the action plan, fishers are required to report any interactions with protected species in daily catch logs. Licence holders have been provided with a copy of the action plan and a Protected Species Identification Guide.</p>
Ecosystem Impacts	<p>Commercial scallop fishing is conducted using dredge equipment on coarse sandy bottoms. Scallop dredging is a non-selective fishing method, which can impact on the substrate and associated biota in fishing areas.</p> <p>Whilst dredging can potentially occur over a large region, ecological impacts are reduced because dredging is generally limited to commercially productive areas, which are usually small regions where there are known to be high abundances of scallops. Catch is also sorted on board commercial fishing vessels and bycatch is returned to the water as soon as practicable.</p>

² 'Protected species' means all species listed under Part 13 of the EPBC Act, including whales and other cetaceans and threatened, marine and migratory species.

Table 2: Progress in implementation of conditions and recommendations made in the 2009 reassessment of the Victorian Scallop Fishery

Condition	Progress	Recommended Action
<p>1. Operation of the fishery will be carried out in accordance with the Victorian Scallop Fishery (VSF) management arrangements made under the Victorian <i>Fisheries Act 1995</i> and <i>Fisheries Regulations 1998</i>.</p>	<p>The fishery has operated in accordance with the legislated management regime over the course of the current export approval. However, the <i>Fisheries Regulations 1998</i> were replaced with the <i>Fisheries Regulations 2009</i>.</p>	<p>The Department of Sustainability, Environment, Water, Population and Communities considers that this condition has been met. The department recommends that a new approved wildlife trade operation declaration for the Victorian Scallop Fishery specify a similar condition (Condition 1, Table 4).</p>
<p>2. Department of Primary Industries (DPI) will advise the Department of the Environment, Water, Heritage and the Arts (DEWHA) of any intended change to the fishery’s management arrangements that could affect the assessment against the criteria on which <i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act) decisions are based.</p>	<p>The department has not received any advice from the Victorian Department of Primary Industries to suggest that changes have occurred to the management regime since the last assessment of the fishery.</p>	<p>The Department of Sustainability, Environment, Water, Population and Communities considers that this condition is ongoing. The department recommends that a new approved wildlife trade operation declaration for the Victorian Scallop Fishery specify a similar condition (Condition 2, Table 4).</p>
<p>3. DPI 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> (the Guidelines).</p>	<p>The Victorian Department of Primary Industries has provided the department with annual reports.</p>	<p>The Department of Sustainability, Environment, Water, Population and Communities considers that this condition has been met. The department recommends that a new approved wildlife trade operation declaration for the Victorian Scallop Fishery specify a similar condition (Condition 3, Table 4).</p>

Recommendation	Progress	Recommended Action
<p>1. Prior to the commencement of the 2010 fishing season, DPI to finalise and implement an appropriately precautionary harvest strategy for scallops.</p>	<p>While the Victorian Department of Primary Industries did not finalise a harvest strategy before the commencement of the 2010 fishing season, they did implement a zero total allowable commercial catch (TACC) for the 2010/11 and 2011/12 fishing seasons in response to a 2009 survey that indicated there were no commercially viable scallop beds available at that time.</p> <p>The Victorian Department of Primary Industries, as part of implementing the Victorian Future Fisheries Strategy, has committed to developing a harvest strategy for the Victorian Scallop Fishery. The Victorian Department of Primary Industries advises that the harvest strategy will take into account the harvest strategies used in the Commonwealth and Tasmanian scallop fisheries in the Bass Strait, which also harvest the same commercial scallop stock.</p>	<p>The department considers that this recommendation is ongoing.</p> <p>While the department recognises that an appropriately precautionary management response was implemented in the form of a zero TACC for the past two fishing seasons, the implementation of an appropriately precautionary harvest strategy will be important in demonstrating the capacity for sustainable management of the fishery on an ongoing basis.</p> <p>While the department recommended that a harvest strategy be developed before the commencement of the 2010 (2010/11) fishing season, there was zero fishing in that season and the 2011/12 fishing season. Therefore, the department now recommends the Victorian Department of Primary Industries prioritise the development of an appropriately precautionary harvest strategy upon completion of the Victorian Government review of fisheries management arrangements in its waters (see Recommendation 1, Table 4).</p>
<p>2. DPI to continue to work with relevant jurisdictions to actively pursue consistent and/or complementary management arrangements for the commercial scallop stock off southeast Australia.</p>	<p>The Victorian Department of Primary Industries submission indicates that it continues to pursue complementary management arrangements with other jurisdictions through regular communication with Commonwealth and Tasmanian fishery managers.</p>	<p>The department considers that this recommendation is ongoing, given the shared nature of the shared commercial scallop stock (see Recommendation 2, Table 4).</p>

Recommendation	Progress	Recommended Action
<p>3. Prior to the commencement of the 2010 fishing season, DPI to develop and implement fishery specific objectives linked to performance indicators and performance measures for target, byproduct, and impacts on the ecosystem.</p>	<p>The Victorian Government is currently reviewing fisheries management arrangements for all Victorian managed fisheries. The Victorian Department of Primary Industries has committed to considering fishery specific objectives linked to performance indicators and performance measures as part of a review of management arrangements for the Victorian Scallop Fishery.</p> <p>The department acknowledges that there is very little byproduct taken in the Victorian Scallop Fishery. However, to ensure that the management arrangements for the Victorian Scallop Fishery are ecologically sustainable, the department considers that fishery specific objectives should not be limited to the target species, but should also address byproduct species and ecosystem impacts.</p>	<p>The department considers that this recommendation is ongoing.</p> <p>The department accepts the reasoning of the Victorian Department of Primary Industries to delay the development and implementation of fishery specific objectives because there has been no commercial fishing activity in the past two fishing seasons.</p> <p>However, the department considers the development and implementation of fishery specific objectives linked to performance indicators and performance measures important in ensuring that the harvest of scallops in the fishery is ecologically sustainable.</p> <p>The department recommends that this occurs upon completion of the Victorian Government review of fisheries management arrangements in its waters (see Recommendation 3, Table 4).</p>
<p>4. DPI to monitor the status of the fishery in relation to performance measures and within 3 months of becoming aware of a performance measure not being met, DPI to implement an appropriate management response.</p>	<p>As no fishery specific objectives linked to performance indicators and performance measures have been developed for the Victorian Scallop Fishery (see progress for Recommendation 3 above), this recommendation has not yet been implemented.</p> <p>However, in the absence of fishery specific objectives linked to performance indicators and performance measures, the Victorian Department of Primary Industries has adopted a conservative approach to setting the annually reviewed TACC based on the results of stock surveys conducted prior to the commencement of fishing activity.</p>	<p>The department considers that this recommendation is ongoing and that the development of fishery specific objectives linked to performance indicators and performance measures will enable the development of appropriate management responses (see Recommendation 4, Table 4).</p>

<p>5. DPI to identify ongoing research and monitoring priorities for target, byproduct and bycatch species in the VSF.</p>	<p>While there has not been a targeted research strategy developed for the Victorian Scallop Fishery, the Victorian Department of Primary Industries participated in the early stages of the Fisheries Research and Development Corporation (FRDC) funded project “Establishing fine-scale, industry-based spatial management and harvest strategies for the commercial scallop fishery in South East Australia” (FRDC 2008/022). This project is still ongoing, but the results may prove useful in refining management approaches for the Victorian Scallop Fishery.</p> <p>Once results are released from the FRDC funded project, information gaps may become clear for further research in the Victorian Scallop Fishery.</p>	<p>The department considers that this recommendation is ongoing, as while there has been little progress on research and monitoring of target, byproduct and bycatch species, there has been a zero TACC in place for the past two fishing seasons.</p> <p>The department considers that targeted research to increase knowledge about the target, byproduct and bycatch species in the fishery is important to ensuring the fishery is ecologically sustainable. Results from the FRDC project (FRDC 2008/022) could provide useful information for developing management approaches. These results may identify where key information gaps remain, and these should be the focus of research and monitoring priorities in the future.</p> <p>The department recommends that the Victorian Department of Primary Industries review existing information available and identifies future monitoring priorities for target, byproduct and bycatch species (see Recommendation 5, Table 4).</p>
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Table 3: The Department of Sustainability, Environment, Water, Population and Communities’ assessment of the Victorian Scallop 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 Part 13 and Part 13A. A complete version of the EPBC Act can be found at <http://www.comlaw.gov.au/>.

Part 13

<p>Division 1 Listed threatened species Section 208A Minister may accredit plans or regimes</p>	<p>The department’s assessment of the Victorian Scallop 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> <ul 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 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 Victorian Scallop Fishery will be managed under the management regime for the fishery, in force under the Victorian <i>Fisheries Act 1995</i> and the Victorian <i>Fisheries Regulations 2009</i>.</p> <p>The management regime for the Victorian Scallop Fishery, in force under the Victorian <i>Fisheries Regulations 1998</i> and the Victorian <i>Fisheries Act 1995</i>, was accredited under section 208A of the EPBC Act in February 2006. The Victorian Government recently replaced the Victorian <i>Fisheries Regulations 1998</i> with the Victorian <i>Fisheries Regulations 2009</i>. The department considers that the management regime for the Victorian Scallop 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>No interactions with listed threatened species have been reported from the fishery. Given the nature of the harvesting operations (slow moving scallop dredge with short duration dredge tows), the risk of interactions with listed threatened species is likely to be low. Therefore, the department considers that the current operation of the Victorian Scallop Fishery is not likely to adversely affect the survival or recovery in nature of any listed threatened species.</p>

Part 13 (cont.)

Division 2 Migratory species Section 222A Minister may accredit plans or regimes	The department's assessment of the Victorian Scallop 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> <ul style="list-style-type: none">i. made by a State or self-governing Territory; andii. 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 Victorian Scallop Fishery will be managed under the management regime for the fishery, in force under the Victorian <i>Fisheries Act 1995</i> and the Victorian <i>Fisheries Regulations 2009</i>.</p> <p>The management regime for the Victorian Scallop Fishery, in force under the Victorian <i>Fisheries Regulations 1998</i> and the Victorian <i>Fisheries Act 1995</i>, was accredited under section 222A of the EPBC Act in February 2006. The Victorian Government recently replaced the Victorian <i>Fisheries Regulations 1998</i> with the Victorian <i>Fisheries Regulations 2009</i>. The department considers that the management regime for the Victorian Scallop 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>No interactions with listed migratory species have been reported from the fishery. Given the nature of the harvesting operations (slow moving scallop dredge with short duration dredge tows), the risk of interactions with listed migratory species is likely to be low. Therefore, the department considers that the current operation of the Victorian Scallop Fishery is not likely to adversely affect the conservation status of any listed migratory species or a population of that 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 Victorian Scallop 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> <ul style="list-style-type: none">i. made by a State or self-governing Territory; andii. 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 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 Victorian Scallop Fishery will be managed under the management regime for the fishery, in force under the Victorian <i>Fisheries Act 1995</i> and the Victorian <i>Fisheries Regulations 2009</i>.</p> <p>The management regime for the Victorian Scallop Fishery, in force under the Victorian <i>Fisheries Regulations 1998</i> and the Victorian <i>Fisheries Act 1995</i>, was accredited under section 245 of the EPBC Act in February 2006. The Victorian Government recently replaced the Victorian <i>Fisheries Regulations 1998</i> with the Victorian <i>Fisheries Regulations 2009</i>. The department considers that the management regime for the Victorian Scallop 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>No interactions with whales and cetaceans have been reported from the fishery. Given the nature of the harvesting operations (slow moving scallop dredge with short duration dredge tows), the risk of interactions with whales or cetaceans is likely to be low. Therefore, the department considers that the current operation of the Victorian Scallop Fishery is not likely to adversely affect the conservation status of any whale or cetacean species or a population of that species.</p>

Part 13 (cont.)

Division 4 Listed marine species Section 265 Minister may accredit plans or regimes	The department's assessment of the Victorian Scallop 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> <ul style="list-style-type: none">i. made by a State or self-governing Territory; andii. 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 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 Victorian Scallop Fishery will be managed under the management regime for the fishery, in force under the Victorian <i>Fisheries Act 1995</i> and the Victorian <i>Fisheries Regulations 2009</i>.</p> <p>The management regime for the Victorian Scallop Fishery, in force under the Victorian <i>Fisheries Regulations 1998</i> and the Victorian <i>Fisheries Act 1995</i>, was accredited under section 265 of the EPBC Act in February 2006. The Victorian Government recently replaced the Victorian <i>Fisheries Regulations 1998</i> with the Victorian <i>Fisheries Regulations 2009</i>. The department considers that the management regime for the Victorian Scallop 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>No interactions with listed marine species have been reported from the fishery. Given the nature of the harvesting operations (slow moving scallop dredge with short duration dredge tows), the risk of interactions with listed marine species is likely to be low. Therefore, the department considers that the current operation of the Victorian Scallop Fishery is not likely to adversely affect the conservation status of any listed marine species or a population of that species.</p>

Part 13 (cont.)

Section 303AA Conditions relating to accreditation of plans, regimes and policies	The department's assessment of the Victorian Scallop 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 Victorian Scallop 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.	The department considers that no conditions are required for the accreditation of the management regime for the Victorian Scallop Fishery under Part 13.
(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 CITES³ 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.

³ Convention on International Trade in Endangered Species of Wild Fauna and Flora

Section 303FN Approved wildlife trade operation	The department's assessment of the Victorian Scallop 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>The department considers that the operation of the Victorian Scallop Fishery is consistent with the objects of Part 13A (listed above this table) as:</p> <ul style="list-style-type: none"> ▪ the fishery will not harvest any CITES listed species; ▪ there are management arrangements in place to ensure that the resource is being managed in an ecologically sustainable way (see Table 1); ▪ the operation of the Victorian Scallop Fishery, during the period of the recommended declaration as an approved wildlife trade operation, is unlikely to be unsustainable and threaten biodiversity; and ▪ the <i>Environment Protection and Biodiversity Conservation Regulations 2000</i> (EPBC Regulations) do not specify fish or molluscs (such as scallops) as a class of animal in relation to the welfare of live specimens. <p>The department considers that the operation of the Victorian Scallop Fishery, during the period of the recommended declaration as an approved wildlife trade operation, will not be detrimental to the survival or conservation status of a taxon to which it relates, given the management measures currently in place, which include:</p> <ul style="list-style-type: none"> ▪ annually reviewed total allowable commercial catch limits; ▪ limited entry; ▪ spatial monitoring using the vessel monitoring system (VMS); ▪ minimum shell size limits; and ▪ voluntary closures.

<p>(ba) the operation will not be likely to threaten any relevant ecosystem including (but not limited to) any habitat or biodiversity; and</p> <p>(c) if the operation relates to the taking of live specimens that belong to a taxon specified in the regulations – the conditions that, under the regulations, are applicable to the welfare of the specimens are likely to be complied with; and</p> <p>(d) such other conditions (if any) as are specified in the regulations have been, or are likely to be, satisfied.</p>	<p>The department considers that the operation of the Victorian Scallop Fishery, during the period of the recommended declaration as an approved wildlife trade operation, will not threaten any relevant ecosystem, given the management measures currently in place, which include:</p> <ul style="list-style-type: none"> ▪ limited entry; ▪ spatial monitoring using the vessel monitoring system (VMS); and ▪ voluntary closures. <p>The EPBC Regulations do not specify fish or molluscs (such as scallops) as a class of animal in relation to the welfare of live specimens.</p> <p>No other conditions are specified in relation to commercial fisheries in the EPBC Regulations.</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 operation of the Victorian Scallop Fishery, during the period of the recommended declaration as an approved wildlife trade operation, will not have a significant impact on any relevant ecosystem, given the management measures currently in place, which include:</p> <ul style="list-style-type: none"> ▪ annually reviewed total allowable commercial catch limits; ▪ limited entry; ▪ spatial monitoring using the vessel monitoring system (VMS); and ▪ voluntary closures. <p>The department considers that the monitoring procedures that will be employed for the Victorian Scallop Fishery are likely to be effective, given the implementation of a vessel monitoring system (VMS) by the Victorian Department of Primary Industries.</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 Victorian Scallop Fishery will be managed under the Victorian <i>Fisheries Act 1995</i> and Victorian <i>Fisheries Regulations 2009</i>.</p> <p>The Victorian <i>Fisheries Act 1995</i> and Victorian <i>Fisheries Regulations 2009</i> apply throughout Victorian waters.</p> <p>The department considers 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 Victorian Scallop 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 Victorian Scallop 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 Victorian Scallop Fishery
<p>(1) Before making a declaration under section 303FN, the Minister must cause to be published on the Internet a notice:</p> <ul style="list-style-type: none"> (a) setting out the proposal to make the declaration; and (b) setting out sufficient information to enable persons and organisations to consider adequately the merits of the proposal; and (c) inviting persons and organisations to give the Minister, within the period specified in the notice, written comments about the proposal. 	<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 Victorian Scallop Fishery an approved wildlife trade operation and included the submission from the Victorian Department of Primary Industries, was released for public comment which closed on 19 December 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 Victorian Scallop Fishery an approved wildlife trade operation and included the submission, was released for public comment on 18 November 2011 and closed on 19 December 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 Victorian Scallop Fishery
(1) This section applies to a declaration made under section 303FN, 303FO or 303FP.	A declaration for the Victorian Scallop 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 instrument of declaration for the Victorian Scallop 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 Victorian Scallop Fishery made under section 303FN, and the conditions under section 303FT, will be gazetted and made available on the department's website.

Part 16

<p>Section 391 Minister must consider precautionary principle in making decisions</p>	<p>The department’s assessment of the Victorian Scallop Fishery</p>
<p>(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.</p>	<p>The precautionary principle has been considered in the preparation of advice in relation to a decision under section 303FN.</p>
<p>(2) The precautionary principle is that lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment where there are threats of serious or irreversible environmental damage.</p>	

The Department of Sustainability, Environment, Water, Population and Communities' final conditions and recommendations to the Victorian Department of Primary Industries for the Victorian Scallop Fishery

The material submitted by the Victorian Department of Primary Industries demonstrates that the management arrangements for the Victorian Scallop Fishery meet most of the requirements of the Australian Government *Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition*.

Stock Status and Recovery

The department considers that overall the management regime for the Victorian Scallop Fishery aims to ensure that fishing is conducted in a manner that does not lead to overfishing. Management measures include:

- an annually reviewed total allowable commercial catch (TACC) limit;
- limited entry;
- spatial monitoring using the vessel monitoring system;
- size restrictions; and
- voluntary closures.

In 2009, following a survey of Victorian commercial scallop fishing grounds, which indicated that there were no commercially viable scallop beds available in the Victorian Scallop Fishery at that time, a TACC of zero was set for the 2010/11 and 2011/12 fishing seasons to allow the stock to rebuild. The Victorian Department of Primary Industries has advised that it intends to conduct another scallop survey during early 2012 to set the TACC for future fishing seasons (2012/13 and beyond). The department is satisfied that the conservative TACC setting process employed in the fishery is likely to allow the Victorian Scallop Fishery commercial scallop stock to recover.

Ecosystem impacts

Taking into account management measures for the fishery and the identification of juvenile scallop beds to establish spatial zones that are not fished, the department considers that the management regime for the Victorian Scallop 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 Victorian Scallop Fishery is relatively well managed, the department has identified a number of risks that must be managed to ensure that impacts are minimised, including a need:

- to finalise and implement an appropriately precautionary harvest strategy;
- to continue to work with relevant jurisdictions to pursue consistent and/or complementary management arrangements for the commercial scallop stock off southeast Australia;
- for the development and implementation of fishery specific management objectives, performance indicators and performance measures;
- for the development and implementation of appropriate management responses when a performance measure is not met; and
- to review existing information on the species, and the identification of future monitoring priorities.

The key challenge for this fishery will be the implementation of an appropriately precautionary harvest strategy to ensure that the commercial harvest of scallops is ecologically sustainable.

The department considers that, until it can be demonstrated that these issues are adequately addressed, declaration of the harvest operations of the Victorian Scallop Fishery as an approved wildlife trade operation for three years, until 29 January 2015, is appropriate. The department considers that the declaration should be subject to the conditions listed in Table 4 below. To address the issues identified above, the recommendations outlined in Table 4 have been made.

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

Table 4: The Victorian Scallop Fishery Assessment – Summary of Issues, Conditions and Recommendations, January 2012

	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>Condition 1: Operation of the fishery will be carried out in accordance with the Victorian Scallop Fishery management arrangements made under the Victorian <i>Fisheries Act 1995</i> and <i>Fisheries Regulations 2009</i>.</p> <p>Condition 2: The Victorian Department of Primary Industries will advise the Department of Sustainability, Environment, Water, Population and Communities of any intended change to the Victorian Scallop Fishery’s management arrangements that could affect the assessment against 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 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 assessment 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 Victorian Department of Primary Industries to produce and present reports to the Department of Sustainability, Environment, Water, Population and Communities annually as per Appendix B to the <i>Guidelines for the Ecologically Sustainable Management of Fisheries - 2nd Edition</i>.</p>

	Issue	Recommendations
1	<p><u>Harvest Strategy</u></p> <p>In the 2009 reassessment of the Victorian Scallop Fishery under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act), the Victorian Department of Primary Industries committed to finalising and implementing an appropriately precautionary harvest strategy for scallops before the start of the 2010 fishing season, given the difficulties in obtaining accurate biomass estimates for commercial scallop.</p> <p>The department considers that the Victorian Department of Primary Industries' decision to delay the finalisation and development of the harvest strategy was appropriate, given there was no fishing activity in the 2010/11 and the 2011/12 fishing seasons. The department recognises that setting conservative total allowable commercial catch (TACC) limits are appropriate in the absence of a formalised harvest strategy.</p> <p>However, the department considers that the Victorian Department of Primary Industries' commitment to finalising and implementing a harvest strategy for the fishery will provide transparent evidence that the harvest of commercial scallops in the fishery is ecologically sustainable. The harvest strategy needs to be appropriately precautionary given the difficulties in obtaining accurate biomass estimates. The department recommends that the Victorian Department of Primary Industries prioritise the implementation of an appropriately precautionary harvest strategy for the fishery upon completion of the Victorian Government review of fisheries management arrangements in its waters.</p>	<p>Recommendation 1: The Victorian Department of Primary Industries to prioritise the implementation of an appropriately precautionary harvest strategy for the Victorian Scallop Fishery upon completion of the Victorian Government review of fisheries management arrangements in its waters.</p>

2	<p><u>Complementary Management</u></p> <p>In the 2009 reassessment of the Victorian Scallop Fishery under the EPBC Act, the department (then the Department of the Environment, Water, Heritage and the Arts) recognised the efforts of the Victorian Department of Primary Industries in pursuing regular communication with officers working for the Commonwealth and Tasmanian fisheries agencies. It was recommended at that time, that the Victorian Department of Primary Industries continue to work with relevant jurisdictions to actively pursue consistent and/or complementary management arrangements for the commercial scallop stock off southeast Australia.</p> <p>The department considers that the Victorian Department of Primary Industries remains committed to pursuing regular communication with officers working for the Commonwealth and Tasmanian fisheries agencies. The department considers that this regular communication is important for the ongoing management of the commercial scallop stock off south east Australia, and recommends continuing negotiations for consistent and complementary management arrangements.</p>	<p>Recommendation 2: The Victorian Department of Primary Industries to continue to work with relevant jurisdictions to actively pursue consistent and/or complementary management arrangements for the commercial scallop stock off southeast Australia.</p>
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3 Fishery Species Objectives, Performance Indicators and Performance Measures

In the 2009 reassessment of the Victorian Scallop Fishery under the EPBC Act, the Victorian Department of Primary Industries committed to developing and implementing fishery specific objectives linked to performance indicators and performance measures before the start of the 2010 fishing season. The Victorian Department of Primary Industries additionally agreed to monitor the status of the fishery in relation to the performance measures so that adequate management responses could be enacted within three months of a performance measure not being met.

The department notes that the development of fishery specific objectives was delayed due to a TACC of zero in the past two fishing seasons (2010/11 and 2011/12). In the absence of fishery specific objectives linked to performance indicators and performance measures, the department notes that the Victorian Department of Primary Industries has adopted a conservative approach to setting the annually reviewed TACC.

The department considers that the development and implementation of fishery specific objectives as outlined by the Victorian Department of Primary Industries is important in demonstrating that the harvest of scallops in the fishery is ecologically sustainable. Once performance indicators and performance measures are finalised it will enable the development and implementation of appropriate management responses if performance indicators are not being met. The department further recommends that within three months of becoming aware that a performance measure is not being met, the Victorian Department of Primary Industries implement an appropriate management response.

The department also considers that these fishery specific objectives should not be limited to the target species, but should also address byproduct species and ecosystem impacts. The department recommends that upon completion of the Victorian Government review of fisheries management arrangements in its waters that the Victorian Department of Primary Industries develop and implement fishery specific objectives linked to performance indicators and performance measures for target, byproduct, and impacts on the ecosystem to ensure that the fishery remains ecologically sustainable.

The department also considers the identification of juvenile scallop beds, and subsequent notification of licence holders of their location, is an effective management tool to ensure that the harvest of commercial scallops in the fishery remains ecologically sustainable. The department recommends that the Victorian Department of Primary Industries investigate the effectiveness and compliance rates with these voluntary closures, and if compliance rates are low, consider the implementation of mandatory closures.

Recommendation 3: Upon completion of the Victorian Government review of fisheries management arrangements in its waters, the Victorian Department of Primary Industries to develop and implement fishery specific objectives linked to performance indicators and performance measures for target, byproduct, and impacts on the ecosystem.

Recommendation 4: The Victorian Department of Primary Industries to monitor the status of the fishery in relation to performance measures and within three months of becoming aware of a performance measure not being met, implement an appropriate management response. Additionally, the Victorian Department of Primary Industries is to report on the effectiveness of voluntary closures in areas to protect juvenile scallop beds, and if necessary, consider the implementation of mandatory closures.

4	<p><u>Research and Monitoring</u></p> <p>In the 2009 reassessment of the Victorian Scallop Fishery under the EPBC Act, the department identified that there was no targeted research strategy for the fishery. At the time, the Victorian Department of Primary Industries was committed to participating in the early stages of the FRDC funded project “Establishing fine-scale, industry-based spatial management and harvest strategies for the commercial scallop fishery in South East Australia” (FRDC 2008/022). This project is still ongoing, but the results may prove very useful in refining management approaches for the Victorian Scallop Fishery.</p> <p>The department notes, while there has been zero TACC in the past two fishing seasons (2010/11 and 2011/12), there has been little targeted research and monitoring on target, byproduct and bycatch species in the fishery. Once results are released from the FRDC funded project, information gaps may become clear for further research in the Victorian Scallop Fishery. Hence, the department continues to recommend that the Victorian Department of Primary Industries review available research and identify research and monitoring priorities for target, byproduct and bycatch species.</p>	<p>Recommendation 5: Once the results of the Fisheries Research and Development Corporation’s funded project (FRDC 2008/022) become available, the Victorian Department of Primary Industries reviews existing information available, and identifies future monitoring priorities for target, byproduct and bycatch species.</p>
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References

Coleman N (2002). *Bycatch monitoring for the Victorian Ocean Zone scallop fishery in 2002*. Fisheries Victoria Research Report Series No.11. Department of Primary Industries, Victoria, Australia.

Acronyms

BSCZSF	Bass Strait Central Zone Scallop Fishery
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
DEWHA	Department of the Environment, Water, Heritage and the Arts
DPI	Department of Primary Industries
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPBC Regulations	<i>Environment Protection and Biodiversity Conservation Regulations 2000</i>
FRDC	Fisheries Research and Development Corporation
TACC	Total allowable commercial catch
TSF	Tasmanian Scallop Fishery
VMS	Vessel monitoring system
VSF	Victorian Scallop Fishery