



**Australian Government**

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**Department of Sustainability, Environment, Water, Population and Communities**

Assessment of the  
**Victorian Abalone Fishery**

**June 2013**

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#### **Disclaimer**

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

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# Contents

<b>Table 1:</b>	<b>Summary of the Victorian Abalone Fishery .....</b>	<b>3</b>
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Table 1 contains a brief overview of the operation of the fishery, including: the gear used, species targeted, byproduct species, bycatch species, annual catch, management regime and ecosystem impacts.

<b>Table 2:</b>	<b>Progress in implementation of recommendations made in the 2009 assessment of the Victorian Abalone Fishery.....</b>	<b>5</b>
-----------------	--	----------

Table 2 contains an update on the progress that has been made by the Victorian Department of Environment and Primary Industries in implementing the recommendations made in the 2009 assessment.

<b>Table 3:</b>	<b>The Department of Sustainability, Environment, Water, Population and Communities' assessment of the Victorian Abalone Fishery against the requirements of the <i>Environment Protection and Biodiversity Conservation Act 1999</i> related to decisions made under Part 13 and Part 13A.....</b>	<b>9</b>
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Table 3 contains the department's assessment of the fishery's management arrangements against all the relevant parts of the *Environment Protection and Biodiversity Conservation Act 1999* that the delegate must consider before making a decision.

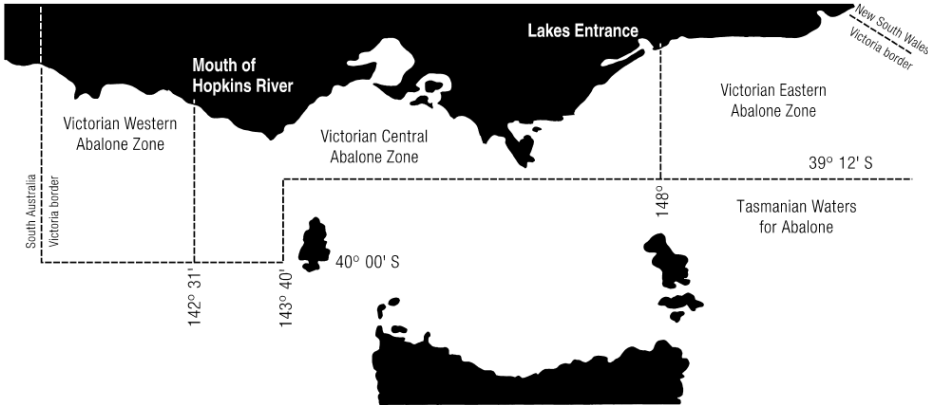
<b>The Department of Sustainability, Environment, Water, Population and Communities' final recommendations to the Victorian Department of Environment and Primary Industries for the Victorian Abalone Fishery.....</b>	<b>18</b>
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This section contains the department's assessment of the fishery's performance against the Australian Government's *Guidelines for the Ecologically Sustainable Management of Fisheries – 2<sup>nd</sup> Edition* and outlines the reasons the department recommends that product derived from the fishery be included in the list of exempt native specimens.

<b>Table 4:</b>	<b>The Victorian Abalone Fishery Assessment – Summary of Issues and Recommendations, June 2013 .....</b>	<b>19</b>
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Table 4 contains a description of the issues identified by the department with the current management regime for the fishery and outlines the proposed recommendations that would form part of the delegate's decision to include product derived from the fishery in the list of exempt native specimens.

**Table 1: Summary of the Victorian Abalone Fishery**

<p><b>Key documents relevant to the fishery</b></p>	<ul style="list-style-type: none"> <li>• Victorian <i>Fisheries Act 1995</i></li> <li>• Victorian Fisheries Regulation 2009</li> <li>• Victorian Abalone Fishery Management Plan 2002</li> <li>• <i>A Review of Rebuilding Options for Victorian Abalone Fishery – February 2012</i></li> <li>• <i>Victorian Abalone Fishery Status Report 2008</i></li> <li>• <i>Application to the Department of Sustainability, Environment, Water, Populations and Communities for the re-assessment of the Victorian Abalone Fishery 2013 (the Submission)</i></li> </ul>
<p><b>Area</b></p>	<p>The Victorian Abalone Fishery encompasses the waters off Victoria from the New South Wales (NSW) border to the South Australian border. Fishing effort is concentrated in coastal waters up to depths of 30 metres (m) extending into Commonwealth waters.</p> <p>The commercial fishery is divided into three zones (Figure 1). The Western Zone includes all Victorian waters west of longitude 142°31' East (Hopkins River mouth). The Central Zone includes all Victorian waters between 142°31' East and 148° East. The Eastern Zone includes all Victorian waters east of longitude 148° East (Lakes Entrance). Each area is subject to a different set of management arrangements.</p>  <p><b>Figure 1: The Victorian Abalone Fishery area.</b></p> <p>Under an Offshore Constitutional Agreement with the Commonwealth government, the Victorian government has jurisdiction over the Victorian Abalone Fishery.</p> <p>Although there is no Marine Bioregional Plan for the South-east Marine Region, the area of the fishery overlaps with a number of reserves in the South-east Commonwealth Marine Reserves Network. The <i>South-east Commonwealth Marine Reserves Network Management Plan 2013-23</i> will come into effect on 1 July 2013.</p>
<p><b>Target Species</b></p>	<p>Blacklip abalone (<i>Haliotis rubra</i>) is the primary target species in the fishery, comprising 99 per cent of commercial landings. Greenlip abalone (<i>H. laevigata</i>) comprises the remainder, with both species under quota management arrangements in each zone.</p>

	<p>Blacklip and greenlip abalone are univalve gastropods which can live for up to 20 years and grow to a shell length of over 200 millimetres (mm). Abalone feed on algae and are preyed upon by crabs, rock lobster, octopi, fish and rays.</p> <p><b>Blacklip abalone</b></p> <p>Blacklip abalone are found throughout southern Australia from Coffs Harbour in NSW, south and west around the coast to Rottnest Island in Western Australia (WA). Blacklip abalone occur in relatively shallow depths (5–20 m) and can be found hidden in caves and crevices and on sheltered reefs.</p> <p>Blacklip abalone are broadcast spawners (eggs and sperm are released into the water column where fertilisation takes place) that have two seasonal spawning periods, one in spring (October to December) and one in autumn (February to April). On average, blacklip abalone reach sexual maturity at five years and shell length at sexual maturity can vary between 60 and 200 mm, depending on environmental conditions.</p> <p><b>Greenlip abalone</b></p> <p>Greenlip abalone are found around the southern parts of Australia from Corner Inlet in Victoria, west to Cape Naturaliste in WA, with the majority of the population occurring in South Australia. Greenlip abalone occur in two types of habitat; low reef areas (often part sand/part rock) at depths ranging from five to 40 m, and in rough water at the base of steep granite cliffs.</p> <p>Greenlip abalone broadcast spawn once a year and sexual maturity is reached when animals are at least three years old, with shells approximately 100–105 mm in length. Greenlip abalone typically spawn between 100,000 to 1,000,000 eggs, with the number of eggs likely to be dependent on the size of the adult abalone. Greenlip abalone are known to grow faster and live longer than blacklip abalone.</p>
<p><b>Fishery status</b></p>	<p>Annual stock assessments are completed for each of the three zones and these are used as the basis for setting the Total Allowable Commercial Catch (TACC). The last Status Report on the Victorian Abalone Fishery was released in 2010.</p> <p>Blacklip abalone stocks within the contemporary fishing grounds are considered to be fully fished.</p> <p>Greenlip abalone stocks have limited abundance in the Western and Central Zones, where the species is at the eastern limit of its natural range.</p> <p>In recent years, increasing numbers of sea urchins have had increasing impact on the Victorian Abalone Fishery in eastern Victoria and Port Phillip Bay. Two species of sea urchin, the black sea urchin (<i>Centrostephanus rodgersii</i>) and the purple sea urchin (<i>Heliocidaris erythrogramma</i>), have experienced recent range expansions into these</p>

	<p>areas, most likely caused by strengthening of the East Australian Current into southern waters. These sea urchins have denuded benthic algal cover in some areas, creating 'urchin barrens' which are unsuitable for abalone habitation. The lack of suitable abalone habitat combined with harvesting can result in localised depletion. The Victorian Department of Environment and Primary Industries is currently investigating methods to control sea urchins, with trials underway on selected reefs to examine cost effective techniques to cull sea urchins.</p>
<b>Byproduct Species</b>	There is no byproduct due to the hand collection method used in the fishery.
<b>Gear</b>	<p>Commercial divers are permitted to use commercial diving equipment for hand collection of abalone. The main equipment used by commercial operators is surface air supply (hookah system) supported by small, high speed fishing boats.</p> <p>Recreational catch is permitted using diving equipment similar to commercial divers, including hookah, scuba gear and snorkelling equipment, from the shore and using recreational fishing vessels.</p>
<b>Season</b>	<p>The commercial fishery is open to fishing year round.</p> <p>Recreational fishing in central Victorian waters is subject to a permanent closure, except for 60 nominated open days per year.</p>
<b>Commercial harvest</b>	<p>The combined commercial harvest in all three zones over the past five years has been:</p> <p style="padding-left: 40px;">2010/2011 - 741.7 tonne (t) 2011/2012 - 809.6 t 2012/2013 - 778.75 t 2013/2014 - 763.9 t</p> <p>There has also been additional catch (under permit) in the Western Zone of the fishery, outside of the fishery's TACC, as part of a Structured Fishing Program. As the Western Zone of the Abalone Fishery was badly affected by an outbreak of abalone viral ganglioneuritis, a Structured Fishing Program was developed to allow fishing that would help collect information about the status of the stock. The total amount caught in this program has been:</p> <p style="padding-left: 40px;">2010/2011 - 27.3 t 2011/2012 - 10.5 t 2012/2013 - 16.86 t 2013/2014 - 0 t</p>
<b>Value of commercial harvest</b>	The value of the commercial catch of abalone in 2012 was approximately \$20 million.

<b>Take by other sectors</b>	<p>The most recent estimate of recreational catch was undertaken in 2000/01, which indicated that approximately 3.1 t of abalone was being taken by recreational fishers. There are no other reliable or more recent estimates of recreational catch available. This level of harvest is considered to be low in comparison to the commercial sector, especially due to the extensive fishing restrictions (recreational harvest is only permitted within a set 60 day period).</p> <p>There is currently no reliable estimate for the take of abalone by indigenous or illegal fishers.</p>
<b>Commercial licences issued</b>	There are 71 fishery access licences in the Victorian Abalone Fishery divided between the three fishery zones.
<b>Management arrangements</b>	<p>The fishery is managed under the Victorian Abalone Fishery Management Plan 2002, the Victorian <i>Fisheries Act 1995</i> and the Victorian Fisheries Regulation 2009. A combination of input and output controls are used.</p> <p>Input controls</p> <ul style="list-style-type: none"> <li>• no take areas, including the inter-tidal zone (waters less than two m deep) between Thompson Creek at Breamlea and Arch Rock at Venus Bay (including Port Phillip and Western Port) Marine National Parks and Marine Sanctuaries.</li> <li>• limited entry</li> <li>• gear restrictions (no sharp instruments)</li> <li>• area zonation</li> </ul> <p>Output controls</p> <ul style="list-style-type: none"> <li>• transferable Abalone Fishery Access Licences</li> <li>• legal minimum size limits for each zone</li> <li>• annual TACC limits</li> <li>• recreational possession limits</li> </ul>
<b>Export</b>	The majority of product is exported to Asia (primarily Japan, Hong Kong, Singapore, China and Taiwan) with a small amount of abalone sold on the domestic market.
<b>Bycatch</b>	Due to the benign harvesting method used in the fishery (hand harvesting), there is no bycatch in the fishery.
<b>Interaction with Protected Species<sup>1</sup></b>	There have been no interactions with protected species recorded in the fishery.
<b>Ecosystem Impacts</b>	Due to the benign harvesting method used in the fishery (hand harvesting), impacts to the physical ecosystem are considered to be negligible.

<sup>1</sup> '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 recommendations made in the 2009 assessment of the Victorian Abalone Fishery**

Recommendation	Progress	Recommended Action
<p>1. Operation of the fishery will be carried out in accordance with the management regime for the VAF in force under the Victorian <i>Fisheries Act 1995</i>.</p>	<p>The Victorian Department of Environment and Primary Industries has advised that the Victorian Abalone Fishery continues to operate in accordance with the <i>Victorian Fisheries Act 1995</i>.</p>	<p>The Department of Sustainability, Environment, Water, Population and Communities (the department) considers that this recommendation has been met.</p> <p>The department recommends that this action be continued (see <b>Recommendation 1, Table 4</b>).</p>
<p>2. DPI to inform the DEWHA of any intended amendments to the management arrangements that may affect the assessment of the VAF against the criteria on which EPBC Act decisions are based.</p>	<p>The Victorian Department of Environment and Primary Industries has advised the department that there have been no material changes to the fishery's management regime since the previous (2009) assessment.</p>	<p>The department considers that this recommendation has been met.</p> <p>The department recommends that this action be continued (see <b>Recommendation 2, Table 4</b>).</p>
<p>3. DPI to produce and present reports to DEWHA annually as per Appendix B to the Guidelines for the Ecologically Sustainable Management of Fisheries 2nd Edition.</p>	<p>A Victorian Fisheries Status Report is produced bi-annually by The Victorian Department of Environment and Primary Industries. The department has been provided with copies of the bi-annual status reports.</p>	<p>The department considers that this recommendation has been met.</p> <p>The department recommends that this action be continued (see <b>Recommendation 3, Table 4</b>).</p>



Recommendation	Progress	Recommended Action
<p>4. DPI to finalise and implement the new management plan for the VAF.</p>	<p>The department has been advised that the new management plan has not been finalised. The Victorian Department of Environment and Primary industries is currently working on releasing the draft management plan for public consultation in 2013.</p> <p>The department will be provided with a copy of the new management plan once it has been completed.</p>	<p>The department considers that this recommendation has not been met, although notes that action is under way.</p> <p>The department recommends that this action be continued (see <b>Recommendation 5, Table 4</b>).</p>
<p>5. DPI to continue to ensure reliable growth data is obtained across all regions of the fishery to ensure the effectiveness of existing management controls and continued sustainability of abalone stocks.</p>	<p>The Victorian Department of Environment and Primary Industries conducts annual surveys of abalone stocks in all three management zones, with growth and length-frequency data also collected. This data, along with catch and catch per unit effort information, are used to set the Total Allowable Commercial Catch (TACC) limits for each zone.</p> <p>In order to set appropriate size lengths within zones, commercial catch length-frequency data is collected and compiled by industry. This data is used to ensure the protection of fast growing populations by allowing appropriate size limits, at finer spatial scales, to be implemented.</p>	<p>The Department of Sustainability, Environment, Water, Population and Communities considers that this recommendation has been met.</p>
<p>6. DPI to continue to consult with other fisheries agencies on:</p> <ul style="list-style-type: none"> <li>• the development and implementation of appropriate biological parameters and reference points for abalone</li> </ul>	<p>The Victorian Department of Environment and Primary Industries has continued to investigate measures to improve data collection in the fishery and a number of options for the rebuilding of abalone stocks have been reviewed.</p>	<p>The Department of Sustainability, Environment, Water, Population and Communities considers that this recommendation has been met.</p>

Recommendation	Progress	Recommended Action
<p>harvesting; and</p> <ul style="list-style-type: none"> <li>• pursue a national process for developing, adopting and reviewing these indicators, along with periodic review of respective abalone stock assessment processes.</li> </ul>	<p>In June 2011, a workshop was held to discuss stock rebuilding options for the fishery, which included other fisheries agencies, a range of scientific experts and fishing industry members. A report '<i>A Review of Rebuilding Options for the Victorian Abalone Fishery</i>' detailing the outcomes and recommendations of the workshop was released in February 2012. This report considered a range of factors when making its recommendations, including repercussions of the abalone viral ganglioneuritis outbreak in 2006, denuding of abalone habitat caused by recent proliferation of sea urchins, appropriate biological parameters and reference points, previous overharvesting and the issue of climate change. The future management plan may make reference to the report to outline future recovery strategies in the fishery.</p> <p>In addition, the Victorian Department of Environment and Primary Industries continues to work with the South Australian Research and Development Institute on rebuilding abalone populations in the western zone of the Victorian Abalone Fishery.</p> <p>The Victorian Department of Environment and Primary Industries has also advised that when the new management plan is declared, an independent review of the TACC and size limit setting will be completed.</p>	

Recommendation	Progress	Recommended Action
<p>7. DPI to continue to improve illegal catch estimates, monitor catch trends and implement additional measures to minimise illegal catch in the VAF.</p>	<p>The Victorian Department of Environment and Primary Industries continues to collect information on illegal catch of abalone, with the Victorian Abalone Fishery receiving the highest level of compliance attention in Victoria. It is estimated that 40% of compliance work undertaken by fisheries officers is in relation to compliance in the abalone fishery.</p> <p>In 2011, the Victorian Department of Environment and Primary Industries introduced a penalty of the automatic forfeiture of assets if the abalone being trafficked is five or more times the defined commercial quantity. Reports of abalone crime have decreased along with the number of prosecutions.</p>	<p>The department considers that this recommendation has been met.</p>
<p>8. DPI to ensure that the new management plan has the capacity to incorporate appropriate decision rules, which provide the basis for monitoring and responding to ecosystem changes, as they are developed.</p>	<p>The new management plan for the fishery is yet to be completed. The draft plan will be released for consultation in mid 2013.</p> <p>The Victorian Department of Environment and Primary Industries has advised that the new management plan for the fishery will specify triggers and decision rules that will underpin the quota setting process. In addition the new management plan will allow for adjustments to catch references points and closure of reef codes.</p>	<p>As the new management plan has not yet been completed, the department considers the issues covered by this recommendation to be ongoing (see <b>Recommendation 4, Table 4</b>).</p>

**Table 3: The Department of Sustainability, Environment, Water, Population and Communities' assessment of the Victorian Abalone Fishery against the requirements of the *Environment Protection and Biodiversity Conservation Act 1999* related to decisions made under Parts 13 and 13A.**

**Please Note** – the table below is not a complete or exact representation of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). It is intended as a summary of relevant sections and components of the EPBC Act to provide advice on the fishery in relation to decisions under Parts 13 and Part 13A. A complete version of the EPBC Act can be found on the department's website.

**Part 13**

<p><b>Division 1 Listed threatened species</b>  <b>Section 208A Minister may accredit plans or regimes</b></p>	<p><b>The department's assessment of the Victorian Abalone Fishery</b></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> <p>i. made by a State or self-governing Territory; and</p> <p>ii. in force under a law of the State or self-governing Territory;</p> <p>if <b>satisfied</b> 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 Abalone Fishery will be managed under the Victorian <i>Fisheries Act 1995</i>, Victorian Fisheries Regulation 1998 and the Victorian Abalone Fishery Management Plan 2002.</p> <p>The Victorian Abalone Fishery management regime was first accredited under Part 13 of the EPBC Act in July 2003 and reaccredited in June 2009. The management arrangements for the Victorian Abalone Fishery have not significantly changed since this accreditation was granted. The department considers that the Victorian Abalone Fishery Management Plan 2002 requires persons engaged in fishing under the plan to take all reasonable steps to ensure that members of listed threatened species are not killed or injured as a result of the fishing.</p> <p>Due to the selective nature of the fishing method (hand collection), the likelihood of interactions with listed threatened species is very low. Therefore, the department considers the current operation of the Victorian Abalone Fishery is not likely to adversely affect the survival</p>

	or recovery in nature of any listed threatened species.
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**Part 13 (cont.)**

<b>Division 2 Migratory species</b> <b>Section 222A Minister may accredit plans or regimes</b>	<b>The department's assessment of the Victorian Abalone Fishery</b>
<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"> <li>i. made by a State or self-governing Territory; and</li> <li>ii. in force under a law of the State or self-governing Territory;</li> </ul> <p>if <b>satisfied</b> 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 Abalone Fishery will be managed under the Victorian <i>Fisheries Act 1995</i>, Victorian Fisheries Regulation 1998 and the Victorian Abalone Fishery Management Plan 2002.</p> <p>The Victorian Abalone Fishery management regime was first accredited under Part 13 of the EPBC Act in July 2003 and reaccredited in June 2009. The management arrangements for the Victorian Abalone Fishery have not significantly changed since this accreditation was granted. The department considers that the Victorian Abalone Fishery Management Plan 2002 requires persons engaged in fishing under the plan to take all reasonable steps to ensure that members of listed migratory species are not killed or injured as a result of the fishing.</p> <p>Due to the selective nature of the fishing method (hand collection), the likelihood of interactions with listed migratory species is very low. Therefore, the department considers the current operation of the Victorian Abalone Fishery is not likely to adversely affect the conservation status of a listed migratory species or a population of that species.</p>

**Part 13 (cont.)**

<b>Division 3 Whales and other cetaceans</b> <b>Section 245 Minister may accredit plans or regimes</b>	<b>The department's assessment of the Victorian Abalone Fishery</b>
<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"><li>i. made by a State or self-governing Territory; and</li><li>ii. in force under a law of the State or self-governing Territory;</li></ul> <p>if <b>satisfied</b> 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 Abalone Fishery will be managed under the Victorian <i>Fisheries Act 1995</i>, Victorian Fisheries Regulation 1998 and the Victorian Abalone Fishery Management Plan 2002.</p> <p>The Victorian Abalone Fishery management regime was first accredited under Part 13 of the EPBC Act in July 2003 and reaccredited in June 2009. The management arrangements for the Victorian Abalone Fishery have not significantly changed since this accreditation was granted. The department considers that the Victorian Abalone Fishery Management Plan 2002 requires persons engaged in fishing under the plan to take all reasonable steps to ensure that cetaceans are not killed or injured as a result of the fishing.</p> <p>Due to the selective nature of the fishing method (hand collection), the likelihood of interactions with cetaceans is very low. Therefore, the department considers the current operation of the Victorian Abalone Fishery is not likely to adversely affect the conservation status of a species of cetacean or a population of that species.</p>

**Part 13 (cont.)**

<b>Division 4 Listed marine species Section 265 Minister may accredit plans or regimes</b>	<b>The department's assessment of the Victorian Abalone Fishery</b>
<p>(1) Minister may, by instrument in writing, accredit for the purposes of this Division:</p> <ul style="list-style-type: none"><li>(c) a plan of management, or a policy, regime or any other arrangement, for a fishery that is:<ul style="list-style-type: none"><li>i. made by a State or self-governing Territory; and</li><li>ii. in force under a law of the State or self-governing Territory;</li></ul></li></ul> <p>if <b>satisfied</b> that:</p> <ul style="list-style-type: none"><li>(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</li><li>(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.</li></ul>	<p>The Victorian Abalone Fishery will be managed under the Victorian <i>Fisheries Act 1995</i>, Victorian Fisheries Regulation 1998 and the Victorian Abalone Fishery Management Plan 2002.</p> <p>The Victorian Abalone Fishery management regime was first accredited under Part 13 of the EPBC Act in July 2003 and reaccredited in June 2009. The management arrangements for the Victorian Abalone Fishery have not significantly changed since this accreditation was granted. The department considers that the Victorian Abalone Fishery Management Plan 2002 requires persons engaged in fishing under the plan to take all reasonable steps to ensure that members of listed marine species are not killed or injured as a result of the fishing.</p> <p>Due to the selective nature of the fishing method (hand collection), the likelihood of interactions with cetaceans is very low. Therefore, the department considers the current operation of the Victorian Abalone Fishery is not likely to adversely affect the conservation status of a listed marine species or a population of that species.</p>

**Part 13 (cont.)**

<b>Section 303AA Conditions relating to accreditation of plans, regimes and policies</b>	<b>The department's assessment of the Victorian Abalone Fishery</b>
(1) This section applies to an accreditation of a plan, regime or policy under section 208A, 222A, 245 or 265.	The department recommends that Victorian Abalone 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 Abalone 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 CITES<sup>2</sup> 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.

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<sup>2</sup> Convention on International Trade in Endangered Species of Wild Fauna and Flora

## Part 13A

Section 303DC Minister may amend list	The department's assessment of the Victorian Abalone Fishery
<p>(1) Minister may, by instrument published in the Gazette, amend the list referred to in section 303DB (list of exempt native specimens) by:</p> <ul style="list-style-type: none"> <li>(a) including items in the list;</li> <li>(b) deleting items from the list; or</li> <li>(c) imposing a condition or restriction to which the inclusion of a specimen in the list is subject; or</li> <li>(d) varying or revoking a condition or restriction to which the inclusion of a specimen in the list is subject; or</li> <li>(e) correcting an inaccuracy or updating the name of a species.</li> </ul>	<p>The department recommends that product derived from the Victorian Abalone Fishery be included in the list of exempt native specimens until 15 June 2018.</p>
<p>(1A) In deciding whether to amend the list referred to in section 303DB (list of exempt native specimens) to include a specimen derived from a commercial fishery, the Minister must rely primarily on the outcomes of any assessment in relation to the fishery carried out for the purposes of Division 1 or 2 of Part 10.</p>	<p>No assessment of the Victorian Abalone Fishery has been carried out under Part 10 of the EPBC Act.</p>
<p>(1C) The above does not limit the matters that may be taken into account in deciding whether to amend the list referred to in section 303DB (list of exempt native specimens) to include a specimen derived from a commercial fishery.</p>	<p>It is not possible to list exhaustively the factors that you may take into account in amending the list of exempt native specimens. The objects of Part 13A, which are set out above this table, provide general guidance in determining factors that might be taken into account. A matter that is relevant to determining whether an amendment to the list is consistent with those objects is likely to be a relevant factor.</p> <p>The department considers that the amendment of the list of exempt native specimens to include product taken in the Victorian Abalone Fishery until 15 June 2018 would be consistent with the provisions of Part 13A (listed above) as:</p> <ul style="list-style-type: none"> <li>▪ the fishery will not harvest any Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) listed species</li> </ul>

	<ul style="list-style-type: none"> <li>▪ there are management arrangements in place to ensure that the resource is being managed in an ecologically sustainable way (see Table 1)</li> <li>▪ the operation of the Victorian Abalone Fishery is unlikely to be unsustainable and threaten biodiversity within the next 5 years, and</li> <li>▪ the Environment Protection and Biodiversity Conservation Regulations 2000 (EPBC Regulations) do not specify molluscs as a class of animal in relation to the welfare of live specimens.</li> </ul>
<p>(3) Before amending the list referred to in section 303DB (list of exempt native specimens), the Minister:</p> <p>(a) must consult such other Minister or Ministers as the Minister considers appropriate; and</p> <p>(b) must consult such other Minister or Ministers of each State and self-governing Territory as the Minister considers appropriate; and</p> <p>(c) may consult such other persons and organisations as the Minister considers appropriate.</p>	<p>The department considers that the consultation requirements have been met. The application from the Victorian Department of Environment and Primary Industries was released for public comment from 8 May 2013 to 6 June 2013. The public comment period sought comment on:</p> <ul style="list-style-type: none"> <li>▪ the proposal to amend the list of exempt native specimens to include product derived from the Victorian Abalone Fishery, and</li> <li>▪ the Victorian Department of Environment and Primary Industries' application for the Victorian Abalone Fishery.</li> </ul> <p>No comments were received.</p>
<p>(5) A copy of an instrument made under section 303DC is to be made available for inspection on the Internet.</p>	<p>The instrument for the Victorian Abalone Fishery made under section 303DC will be gazetted and made available on the department's website.</p>

**Part 16**

<b>Section 391 Minister must consider precautionary principle in making decisions</b>	<b>The department's assessment of the Victorian Abalone Fishery</b>
(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.	Having regard to the precautionary management measures in place in this fishery, summarised in Table 1, the department considers that the precautionary principle has been accounted for in the preparation of advice in relation to a decision under section 303DC.
(2) The precautionary principle is that lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment where there are threats of serious or irreversible environmental damage.	

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

The material submitted by the Victorian Department of Environment and Primary Industries indicates that the Victorian Abalone Fishery operates in accordance with the Australian Government *Guidelines for the Ecologically Sustainable Management of Fisheries – 2<sup>nd</sup> Edition*.

### **Stock Status**

The Department of Sustainability, Environment, Water, Population and Communities (the department) considers that overall, the management regime for the Victorian Abalone Fishery aims to ensure that fishing is conducted in a manner that does not lead to overfishing. Management of the fishery has a history of reacting appropriately to threats to the sustainability of target stocks and the department is confident that the Victorian Department of Environment and Primary Industries will continue to provide this high quality management.

Management measures in place in the fishery include:

- limited entry
- gear restrictions
- legal minimum sizes
- spatial closures, and
- limits on recreational take.

The department considers that the range of management measures is sufficient to ensure that the fishery is conducted in a manner that does not lead to over-fishing and that stocks are not currently overfished.

### **Ecosystem Impacts**

Taking into account the management measures for target stocks in the fishery, the limited bycatch and low impact fishing methods used, the department considers that fishing operations under the Victorian Abalone Fishery Management Plan 2002 will be managed to minimise their impact on the structure, productivity, function and biological diversity of the ecosystem.

The department considers that product taken in the fishery should be included in the list of exempt native specimens under Part 13A of the *Environment Protection and Biodiversity Conservation Act 1999* for a period of five years. To contain and minimise the risks in the longer term the recommendations listed in Table 4 have been made. Unless a specific time frame is provided, each recommendation should be addressed during the five year period.

**Table 4: Victorian Abalone Assessment – Summary of Issues and Recommendations, June 2013**

Issue	Recommendation
<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><b>Recommendation 1:</b></p> <p>Operation of the fishery will be carried out in accordance with the management regime for the Victorian Abalone Fishery in force under the Victorian <i>Fisheries Act 1995</i>.</p> <p><b>Recommendation 2:</b></p> <p>The Victorian Department of Environment and Primary Industries to advise the Department of Sustainability, Environment, Water, Population and Communities of any intended material change to Victorian Abalone Fishery’s management arrangements that may affect the assessment against which <i>Environment Protection and Biodiversity Conservation Act 1999</i> decisions are based.</p>
<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 accreditation of the fishery (for a complete description of annual reporting requirements, see Appendix B of the <i>Guidelines for the Ecologically Sustainable Management of Fisheries - 2<sup>nd</sup> Edition</i> available from the department’s website at</p>	<p><b>Recommendation 3:</b></p> <p>The Victorian Department of Environment and Primary Industries to produce and present reports to the department annually as per Appendix B of the <i>Guidelines for the Ecologically Sustainable Management of Fisheries – 2<sup>nd</sup> Edition</i>.</p>

Issue	Recommendation
<p><a href="http://www.environment.gov.au/coasts/fisheries/publications/guidelines.html">http://www.environment.gov.au/coasts/fisheries/publications/guidelines.html</a>).</p>	
<p><u>Development of new management plan</u></p> <p>In the 2009 assessment of the fishery, the department recommended that the new management plan have the capacity to incorporate appropriate decision rules which would allow for the fishery to monitor and respond to ecosystem changes as they develop. As of June 2013 the new management plan has yet to be completed.</p> <p>In its submission to the department, the Victorian Department of Environment and Primary Industries advised that the new management plan for the fishery would specify triggers and decision rules that would underpin the quota setting process. In addition the new management plan would allow for adjustments to catch references points and the closure of reef codes if required.</p> <p>The department supports improvements to harvest rules that will improve the fishery's capacity to be managed adaptively in response to ecosystem changes. Therefore, the department considers that until such time as the management plan is released and/or the department has assessed the new management arrangements, the Victorian Department of Environment and Primary Industries should continue to ensure that the development of the new management plan incorporates appropriate decision rules that can respond to ecosystem changes as they occur.</p>	<p><b>Recommendation 4:</b></p> <p>The Victorian Department of Environment and Primary Industries to ensure that the new management plan incorporates appropriate decision rules for monitoring and responding to ecosystem changes as they develop.</p>
<p><u>Implementation of new management plan</u></p> <p>Since 2007, the Victorian Department of Environment and Primary Industries has been working towards developing a new management plan for the Victorian Abalone Fishery. In the 2009 assessment of the fishery the department recommended that the Victorian Department of Primary Industries (now the Victorian Department of Environment and Primary Industries) finalise and implement the new management plan. In June 2013 the management plan had not yet been completed. The Victorian Department of Environment and Primary Industries has advised the department that the draft management plan is expected to be released for public comment in 2013. A copy will be provided to the department for comment as part of the public consultation period. Comments received during the consultation period will be considered before the plan is declared by the Victorian Minister for Agriculture and Food Security.</p>	<p><b>Recommendation 5:</b></p> <p>Prior to its implementation, the Victorian Department of Environment and Primary industries to provide the new management plan to the Department of Sustainability, Environment, Water, Population and Communities' with sufficient time for review to determine if reassessment under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> is required.</p>

Issue	Recommendation
<p>As a decision to allow export of product from a fishery under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act) relates to the management arrangements in force at the time of the assessment decision, it is essential that the department be kept informed of the progress of the new management plan. In addition, the department should be given sufficient time prior to implementation of the new management plan to review the new arrangements to determine if a reassessment under the EPBC Act may be necessary.</p>	



