

**Submission to the Department of the Environment, Water, Heritage and the Arts on
behalf the NSW fishing industry seeking export approval for the
NSW Abalone Fishery - July 2008**

1. Introduction

This submission has been prepared by the NSW Department of Primary Industries (NSW DPI) on behalf of shareholders in the NSW Abalone Share Management Fishery with a view to assisting industry to obtain export approval by leveraging off the comprehensive, legislative and policy framework for fisheries management under NSW legislation.

The following provides a report of the NSW Abalone Share Management Fishery (the Abalone Fishery) since the initial assessment under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) in 2005. Information provided is based on the headings contained within Appendix B of the *Guidelines for the Ecologically Sustainable Development of Fisheries – 2nd Edition*. The purpose of the submission is to seek extended export approval for the NSW Abalone Fishery.

Consistent with the requirements of the Commonwealth guidelines, this submission references sections of related documents including the Environmental Impact Statement (EIS)¹, and the approved Fishery Management Strategy¹. Where applicable, fishery and catch information has been updated with the most recent available data and included in this submission.

The EIS for the Abalone Fishery¹, published in September 2005, also provides an overview of the existing operation of the fishery at that time, including an assessment of the risks associated with the operation of the fishery, and the measures proposed to address the risks. Table 1 presents a summary of the NSW Abalone Fishery as at September 2008.

The Abalone Fishery was declared an approved Wildlife Trade Operation (WTO) under the EBPC Act in 30 November 2005 for a 12 month period until 28 November 2006, at which time the WTO was extended to 28 November 2008.

Table 1: Summary of the NSW Abalone Fishery

Area	NSW waters (refer to Figure 1)
Management Controls	Predominantly managed by output controls (quota and size limits) 2008/09: TACC 90 tonnes
Fishing Units	45 shareholders (as at August 2008) with 38 shareholders eligible for an endorsement
Target Species	Blacklip abalone (<i>Haliotis rubra</i>)
Catch	2007/08 fishing period – approx 109 tonnes
Value	GVP for 2007/08 - approx \$3.7 million
Export	Predominantly an export fishery supplying markets in Asia

¹ Available at www.fisheries.nsw.gov.au/commercial/management-strategies

2. Description of the fishery

The Abalone Fishery is a quota managed fishery which targets a single species, the blacklip abalone, *Haliotis rubra*.

The following is a detailed description of the Abalone Fishery.

Species

Target Species:

Under Schedule 1 of the *Fisheries Management Act 1994* the Abalone Fishery consists of abalone (*Haliotis rubra*). Abalone are individually gathered by hand, therefore it is a highly targeted fishery.

Management arrangements

The Abalone Fishery is entirely managed under the *Fisheries Management Act 1994* (the FM Act) and regulations made under this Act (refer to Governing legislation below). NSW DPI is the State Government agency responsible for the administration of the FM Act. The Abalone Fishery is a category 1 share management fishery. The FM Act requires that a share management plan be developed and implemented for all share management fisheries. The Abalone Share Management Plan, containing the *Fisheries Management (Abalone Share Management Plan) Regulation 2000*, commenced in February 2000. The Abalone Share Management Plan regulates many aspects of the operation of the Abalone Fishery. While the Abalone Fishery is managed predominantly by output controls, some input controls are also used, as follows:

Output controls

- Quota Management – The commercial harvest of abalone, *Haliotis rubra*, is subject to a Total Allowable Commercial Catch (TACC). The TACC is set by the statutory and independent Total Allowable Catch Setting and Review Committee (TAC Committee). The TACC is allocated among all shareholders in the Abalone Fishery and individual quotas are allocated (by weight) in proportion to shareholding, on an annual basis. Refer to Section 2.2.7.3 (Total Catch Setting and Review Committee) (page 18) of the Abalone Fishery FMS.
- Species Size Limit – Abalone are subject to a minimum size limit restriction. The legal minimum size limit for abalone is 117mm and applies to all harvest sectors. The minimum size limit was increased from 115mm from 1 July 2008.

Input Controls

- Limited Access - Access to the Abalone Fishery is limited to shareholders in this fishery and/or their nominated divers who hold shares above any minimum shareholding level established in the *Fisheries Management (Abalone Share Management Plan) Regulation 2000*.
- Controls on fishing gear - Refer to Fishing methods / gear types below.
- Time and area closures - Refer to Appendix 1 of this submission 'Closures authorised under Section 8 and Section 11 of the FM Act relevant to the Abalone Fishery'.

Other licensing arrangements

Refer to Chapter B1.3 (Existing Management Arrangements) (pp B-45 to B-64) of the Abalone Fishery EIS, and Sections 2.2.2 (Controls under the Abalone Share Management Plan) (page 12), 2.2.4 (Fees Charges, Cost Recovery and Community Contributions

Payments) (pp14 – 15) and Section 3 (Goals, Objectives and Management Responses) (pp20 – 44) of the Abalone Fishery FMS.

Recent changes made to the management arrangements are outlined in Section 3 of this submission including implementation of a range of management actions required under the Abalone Fishery FMS.

Fishing methods / gear types

Typically, abalone are commercially harvested by divers using surface-supplied air or scuba. Refer to Chapter B1.1.2 (Methods of Harvest) (ppB-28 to B-30) of the Abalone EIS.

Fishing area

Refer to Chapter B1.1.3 (Area of Operation) (pp B-30 to B-36) of the Abalone EIS. Figure 1 shows the NSW coast, abalone assessment regions, and marine parks and aquatic reserves (*) where harvesting of abalone is restricted or not permitted.

Closures

Appendix 1 of this submission lists closures authorised under section 8 and section 11 of the FM Act that are specific to the Abalone Fishery. Further details of fishing closures relevant to the Abalone Fishery can be found on the NSW DPI website at www.dpi.nsw.gov.au/fisheries/closures

Marine Parks

New marine parks have been declared in NSW waters (mean high water mark to three nautical miles) since the Abalone Fishery was assessed in 2005. There are currently six marine parks within NSW state waters. Table 2 summarises each marine park and its location in relation to the Abalone Fishery. There has been some reduction to the area in which the Abalone Fishery operates with the introduction of the marine parks in NSW, particularly the Batemans Marine Park. Further details regarding zoning plans and commercial fishing restrictions in these marine parks can be found on the Marine Parks Authority website www.mpa.nsw.gov.au

Table 2: Marine Parks implemented in NSW.

Marine Park	Implemented	Fishery Region Location
Solitary Island	August 2002	Region 1
Jervis Bay	October 2003	Region 1 (Zones L1 - L4)
Lord Howe Island	December 2004	-
Cape Byron	May 2006	Region 1 (Zone A)
Port Stephens – Great Lakes	March 2007	Region 1 (Zones D2, E1 - E4, F1, F2)
Batemans	June 2007	Region 2 & 3 (Zones N2, N3, P1 - P4, Q1 - Q5, R1, R2, S1 - S3, T1, T2)

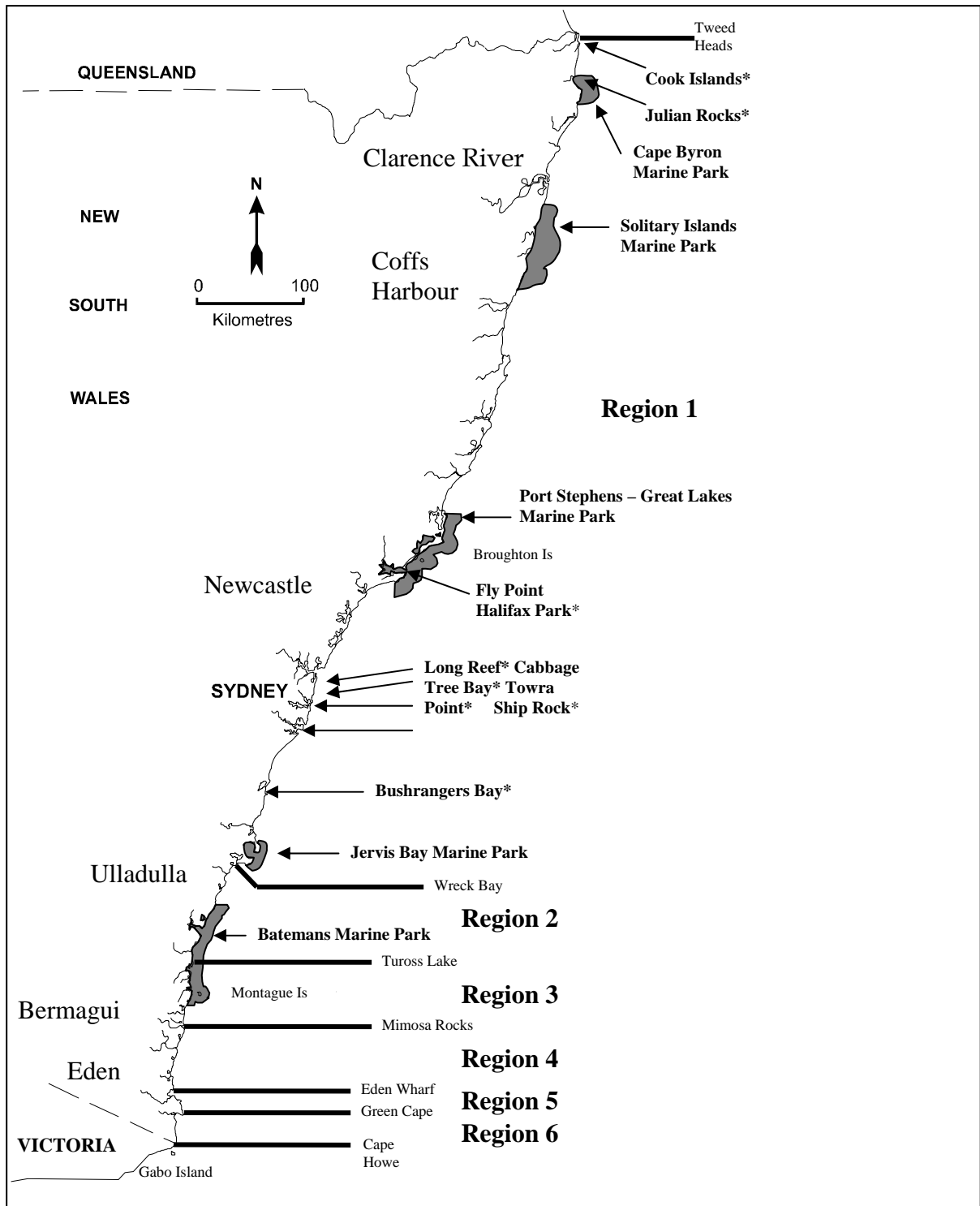


Figure 1: NSW showing abalone assessment regions, marine parks and aquatic reserves²

² Source: Fishery Management Strategy for the NSW Abalone Fishery (April 2007). Prepared by the Ecology Lab Pty Ltd – Marine and Freshwater Studies.

Number of fishers

As at September 2008 there were 45 shareholders in the Abalone Fishery, with 38 shareholders satisfying the minimum shareholding requirement and therefore eligible to operate in the fishery. This figure has reduced from 48 shareholders in February 2005 with 42 shareholders then satisfying the minimum shareholding requirement, as reported in the Abalone FMS.

Allocation between sectors

- See Chapter B1.2 (Interaction with other Fisheries) (pp B-36 to B-44) of the Abalone EIS.
- Cultural fishing is conducted either in accordance with recreational fishing laws or under the authority of specific permits issued for traditional cultural practices. One such permit was issued in 2007.
- Recreational abalone fishers must comply with the minimum legal size limit of 117mm and are restricted to a daily bag limit and current possession limit of two (2) abalone. Recreational fishers are currently prohibited from taking abalone between Port Stephens and Wreck Bay (Jervis Bay).
- Refer to Harvest by each sector later in this submission for figures relating to the estimated harvested by the recreational sector.

Governing legislation

The FM Act seeks to achieve ecologically sustainable development for the fisheries of NSW through the achievement of its stated objectives, which are:

- (1) *To conserve, develop and share the fishery resources of the State for the benefit of present and future generations.*
- (2) *In particular the objects of the Act include:*
 - a. to conserve fish stocks and key fish habitats, and*
 - b. to conserve threatened species, populations and ecological communities of fish and marine vegetation, and*
 - c. to promote ecological sustainable development, including the conservation of biological diversity,*

and, consistently with those objects

 - d. to promote viable commercial fishing and aquaculture industries,*
 - e. to promote quality recreational fishing opportunities, and*
 - f. to appropriately share fisheries resources between the users of those resources, and*
 - g. to provide social and economic benefits for the wider community of New South Wales.*

Other relevant legal instruments include:

- *Fisheries Management (General) Regulation 2002*
- *Fisheries Management (Supporting Plan) Regulation 2006*
- *Fisheries Management (Abalone Share Management Plan) 2000.*

Status of export approval under the EPBC Act

The NSW Abalone Fishery was first declared an approved Wildlife Trade Operation (WTO) under the EPBC Act in November 2005 and is valid until 28 November 2008.

3. Management

Changes to management arrangements

Total Allowable Commercial Catch 2008/09

In their Abalone Determination and Report for 2008/09³, the TAC Committee identified, among other things, the need to protect abalone stocks from further depletion and rebuild stocks. Consistent with this, the TACC for the Abalone Fishery for the fishing period 2008/09 was set at 90 tonnes, a reduction of 20 tonnes from the TACC for the 2007/08 fishing period.

Changes to the minimum size limit

An increase to the minimum size limit for abalone from 115mm to 117mm was implemented from 1 July 2008 to provide greater protection for spawning abalone.

Access arrangements for Regions 1 and 2 of the Abalone Fishery

A fishing closure under section 8 of the FM Act was gazetted in August 2007 prohibiting the commercial harvest of abalone from all of Regions 1 and 2 (Figure 1). The TAC Committee, in their Abalone Determination and Report for 2008/09, provided for 5 tonnes of abalone (in addition to the TACC for the fishery) to be taken from each of Region 1 (North), Region 1 (South) and Region 2 as part of a structured fishing program to monitor and regulate commercial fishing at a finer scale to improve stock assessments, catch rates and length frequency information, and management of the fishery.

To facilitate structured commercial fishing for abalone from the waters of Region 1 and 2, NSW DPI removed the fishing closure in Region 2 and, for Region 1, authorised commercial harvest of abalone by permits issued under section 37 of the FM Act. Due to the continued active presence of the *Perkinsus* abalone parasite in waters covering a major part of Region 1, Standard Operating Procedures have been developed which outline considered best practice bio-security measures to help protect abalone stocks. Each permit authorising structured commercial fishing for abalone from Region 1 is subject to strict adherence to the Standard Operating Procedures.

Special Abalone Recovery Group

As previously reported to DEWHA in March 2008, the NSW Minister for Primary Industries, the Hon Ian Macdonald, MLC, established the Special Abalone Recovery Group (SARG) in mid 2007 with the following Terms of Reference:

1. (a) *The Special Abalone Group is to recommend any necessary improvements with regard to retaining the 1994 biomass target or adopting a specified alternative.*

(b) *The Special Abalone Group is to endorse the current methodology for undertaking the stock assessment for the fishery, or whether or not to proceed further in the development of finer scale management of the fishery, including any alternative monitoring and assessment methodologies and Industry involvement.*
2. *The Special Abalone Group is to endorse the current minimum legal size limit for abalone or adopting a specified alternative limit(s).*
3. *The Special Abalone Group is to specify any other priority actions to rebuild and maintain the sustainability of the abalone fishery into the future, having regard to the objectives of the Fisheries Management Act 1994 and the matters identified in the TAC Committee's*

³ Available at: http://www.dpi.nsw.gov.au/_data/assets/pdf_file/0009/227907/Abalone-report-and-determination.pdf

report, the approved Fishery Management Strategy and the export approval issued by the Commonwealth Government.

The SARG has delivered, to the NSW Minister for Primary Industries, its final report containing a number of recommendations in response to each of the three Terms of Reference. The NSW Government is considering its response to this report and has already approved the following actions for the abalone fishery:

- the introduction of a structured fishing program within Regions 1 and 2 of the Abalone Fishery, and
- an increase to the minimum size limit for abalone to 117 mm across the State from 1 July 2008.

Legislative reform in NSW commercial fisheries

Five of the State's previously restricted fisheries became share management fisheries. This involved the implementation of Share Management Plans, a Supporting Plan encompassing rules that apply to multiple commercial fisheries, and a range of changes to the FM Act and *Fisheries Management (General) Regulation 2002* to complement the introduction of share management. The Fishery Share Management Plans and associated regulatory amendments took effect on 5 February 2007 and were explained in a document, previously referred to DEWHA, titled '*Information Paper: New commercial fishery licensing and management arrangements commencing on 5 February 2007*'⁴.

New arrangements, relevant to the Abalone Fishery, provide for more flexible fisher nomination rules and the introduction of a new class of commercial fishing licence for persons previously registered as crew in the Abalone Fishery. As a result of the licensing reforms, some consequential amendments were made to the *Fisheries Management (Abalone Share Management Plan) Regulation 2000*.

In addition, NSW DPI is currently reviewing the current objectives, performance indicators and trigger points listed in the *Fisheries Management (Abalone Share Management Plan) Regulation 2000*, to ensure they are consistent with the Abalone Fishery Management Strategy and recommendations made by the Special Abalone Recovery Group.

Implementation of management actions in the Fishery Management Strategy (FMS)

Refer to Appendix 2 of this submission for a progress statement on the implementation of management actions in the Abalone FMS.

Performance of the fishery against objectives, performance indicators and trigger points

Refer to Appendix 3 of this submission for a statement of the performance of the Abalone Fishery against its performance indicators and trigger points contained in the Abalone FMS based on data for the period 2007/08.

Compliance Risks

- See Section 2.2.3 (Enforcement and Compliance) (page 14) of the Abalone FMS.
- See Chapter B1.2.5 (Illegal Fishing) (pp B-40 to B-44) and Chapter B1.7 (Compliance) (pp B-78 to B-83) of the Abalone EIS.

⁴ Available at www.fisheries.nsw.gov.au/_data/assets/pdf_file/0015/106512/information-paper.pdf

- Illegal harvesting and black marketing in NSW was assessed in 'Report on Illegal Fishing for Commercial Gain or Profit in NSW'⁵. Refer to Chapter B1.2.5.2 (Recommendations from the Black Market Review) (pp B-42 to B-44) of the Abalone EIS for a summary of the report's findings in relation to the Abalone Fishery. The NSW Government is progressively developing and implementing actions in response to this report.
- The Government has significantly increased penalties for illegally taking fish for sale and intends to further strengthen the provisions of the FM Act, to assist compliance officers and provide a nationally consistent approach to deterring serious fisheries crime.
- NSW DPI has implemented a number of initiatives to deter illegal fishing, including intelligence-driven compliance operations, strategic patrols, surveillance and quality field based recreational and commercial inspections. These initiatives have been supported by enhancements to intelligence management and analysis, case management and strategic planning systems.
- Compliance services relating to the Abalone Fishery are provided to achieve a high level of compliance in the fishery. As part of the process of developing and implementing compliance operational plans relating to the Abalone Fishery, Annual District Compliance Plans were developed by identifying compliance issues in a fisheries district level (drawing from the FMS) and set out how the resources allocated and used in a strategic manner, based on localised and state-wide fisheries compliance risks. High levels of compliance are pursued strategically by maximising voluntary compliance in the fishery and creating effective deterrence against illegal activity.
- As part of monitoring compliance operational plans relating to fisheries in NSW, Annual District Compliance Planning models (including the overarching State-wide Compliance Plan) are currently under review and redevelopment. The aim of the review is to align the plans with the Australian National Fisheries Compliance Strategy (AFNCS) which seeks to provide guidance to all Australian fisheries jurisdictions in achieving the objectives of the National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.
- As part of this process of continuous improvement, NSW DPI (Fisheries Compliance Unit) is currently developing refined compliance risk identification and assessment processes based on standardised risk assessment methodologies to better plan objective compliance services. The model is adaptive, allowing changes at any time, such as acting quickly to combat emerging or opportunistic compliance issues in the short term as well as allowing for longer term strategic responses to issues such as organised criminal involvement in fisheries.
- Rate of commercial compliance in the Abalone Fishery since the fishery was first assessed are as follows:

2004	93%
2005/06	92%
2006/07	88%
2007/08*	93%
(*July 2007 to March 2008)	

The rate of commercial compliance is calculated using information from quality inspections reflected on the program activity reports (PARs) that are completed by NSW DPI Fisheries Officers when undertaking inspections of the commercial catching and marketing sectors.

⁵ Palmer, M. (2004) Report on Illegal Fishing for Commercial Gain or Profit in NSW. Available at www.fisheries.nsw.gov.au/__data/assets/pdf_file/0004/4819/Black-Market-Report.pdf

Consultation processes

- Section 284 of the FM Act identifies the type of items for which NSW DPI is required to consult with the public and the public consultation procedure.
- See Chapter B 1.8 (Consultation (pp B-83 to B-86) of the Abalone EIS.

Cross jurisdictional management arrangements

- NSW DPI is involved in the Abalone Fine-Scale Management Project, a multi-jurisdictional project being funded by the Fisheries Research and Development Corporation.
- NSW DPI's Aquatic Biosecurity Unit represent NSW in national policy and technical groups that deal with aquatic animal health, including those related to abalone.
- NSW DPI is a member on the National Fisheries Compliance Committee (NFCC). As part of the work plan for the NFCC, the Committee has developed many operational responses to serious and cross border crime in fisheries.
- Fisheries managers from NSW DPI regularly liaise with other management jurisdictions in relation to abalone fisheries in other States.
- NSW DPI compliance staff undertake joint compliance operations with interstate fishery agencies.

Compliance with TAPs, recovery plans, etc and also relevant domestic and international arrangements

None of direct influence in the Abalone Fishery.

4. Research and monitoring

Results of any research completed relevant to the fishery

- See Chapter B1.6 (Research) (pp B-74 to B-78) of the Abalone EIS.
- A resource assessment for blacklip abalone (*Haliotis rubra*) is completed annually by combining, into a modelling framework, catch and effort information from the commercial fishery (fishery-dependent data), estimates of recreational and illegal catches, and information from fishery independent surveys of abalone abundance at fixed sites along the NSW coast. The main results are available in the Total Allowable Catch Committee – Abalone Determination and Report for 2008/09.
- The project titled *Investigating and managing the Perkinsus-related mortality of blacklip abalone in NSW – Phase I* (FSC2003/127) is complete. A draft report was recently submitted for review to the Fisheries Research and Development Corporation.
- Scientific outputs and a list of current projects (and their summaries) undertaken by the NSW DPI Systems Research, Wild Fisheries Unit, can be found on the NSW DPI website www.dpi.nsw.gov.au/research/areas/systems-research/wild-fisheries

Monitoring programs

See Chapter B1.6 (Research) (pp B-74 to B-78) of the Abalone EIS.

Collection of catch and effort data

Abalone fishers are required to complete an abalone log sheet each day they fish for abalone as well as a monthly reconciliation form that summarises the catch for each month. Log

sheets provide essential catch and effort information that is used for resource assessment purposes, as well as uphold the integrity of the quota management system.

A major project is being progressed to develop a new catch information management system and related processes which would, among other things:

- introduce and cater for finer scale spatial and temporal reporting;
- improve NSW DPI's ability to interrogate, analyse and report on high quality data; and
- improve the NSW DPI's ability to plan research, compliance and management activities (including enhancing cross-jurisdictional cooperation).

As part of this project, an extensive review and analysis was done to identify national standards and best practice for commercial fishing catch and effort information and Departmental and other stakeholder requirements.

The public consultation document '*Catch Records Reform Project: Business Requirements Specification Revised Reporting Arrangements*', previously referred to DEWHA (in May 2008) provides the background and proposed new catch reporting arrangements for NSW.

The final project specifications and timing are dependent partly on broader reforms relating to industry structure and funding priorities.

5. Catch data

Total catch and value of the Abalone Fishery

Refer to Chapter B1.5 (Catch, Effort and Value Information) (pp B-67 to B-72) of the Abalone EIS.

Table 3: Reported commercial catch (kg) of abalone in NSW

Year	Region 1	2	3	4	5	6	Total
2003/04	6,776	41,012	35,086	44,485	44,034	80,594	251,987
2004/05	6,662	30,688	27,934	32,229	29,818	61,378	188,669
2005/06	2,728	18,663	19,141	27,358	20,397	40,665	128,952
2006/07	2,051	13,547	20,102	27,729	23,095	35,328	121,850
2007/08	620.6*	2401.1*	14146.6	24133.6	23308	44781.1	109,391

*Catch taken as part of a structured fishing program.

Table 4: Estimated gross value of production of NSW abalone catch

Year	Value
2003/04	\$8 million
2004/05	\$7.7 million
2005/06	\$5.5 million
2006/07	\$5 million
2007/08	\$3.7 million

Harvest by each sector (commercial, recreational, Indigenous and illegal)

- The National Recreational and Indigenous Fishing Survey⁶ estimated the recreational catch of abalone to be 35,233 (\pm 15,851) individuals, or approximately 12 (\pm 7) tonnes.

⁶ Henry, G.W. and Lyle, J.M. (2003). The national recreational and indigenous fishing survey. Final report to the Fisheries Research and Development Corporation, Project 99/158. NSW Fisheries Final Report Series No. 40, 188pp.

- An estimated recreational catch of 10 tonnes is used by the TAC Committee in the TACC setting process. Refer to the Total Allowable Catch Committee – Abalone Determination and Report for 2008/09.
- NSW DPI uses an estimated recreational catch of 50 tonnes as part of the annual resource assessment for the abalone fishery.
- There are no quantitative estimates available for the illegal catch of abalone in NSW. The TAC Committee use 40% of the legal commercial catch as an estimate of the illegal catch in the TACC setting process. Refer to the Total Allowable Catch Committee – Abalone Determination and Report for 2008/09.

Fishing effort data

- Refer to Chapter B1.5 (Catch, Effort and Value Information) (pp B-67 to B-72) of the Abalone EIS.
- An updated summary of fishing effort data is available in the Total Allowable Catch Committee – Abalone Determination and Report for 2008/09.

6. Status of target stock

Refer to Chapter B1.6.1 (Stock Assessment) (pp B-75 to B-77) and Chapter B2.3.2 (Status of Exploitation) (pp B-101 to B-104) of the Abalone EIS.

Refer to the Total Allowable Catch Committee – Abalone Determination and Report for 2008/09.

7. Interaction with threatened or protected species

Frequency and nature of interactions

Refer to Chapter B2.5 (Risk from the current operation of the Abalone Fishery on threatened and protected species) (pp B-116 to B-128) of the Abalone EIS.

The Abalone EIS found that due to the very selective method of harvest, collecting by hand, there is likely to be little adverse interaction between the fishery and threatened or protected species, or threatened ecological communities.

Management actions taken to reduce interactions and results of such action

Due to the typically minimal and benign nature of interactions with threatened or protected species associated with the Abalone Fishery, no measures are currently needed to mitigate or reduce interactions specific to this fishery.

Mandatory reporting of threatened species interactions is being considered for the Abalone Fishery as part of the *Catch Records Reform Project* (refer to Section 4 of this submission).

8. Impacts of the fishery on the ecosystem in which it operates

Results of any Ecological Risk Assessments

Refer to the Abalone EIS:

- Chapter B2.2 (Risk analysis for the current operation of the Abalone Fishery – Broad Ecosystem) (pp B-93 to B-99)
- Chapter B2.3 (Risk analysis for the current operation of the Abalone Fishery on the target species) (pp B-99 to B-115)

- Chapter B2.4 (Risk analysis for the current operation of the Abalone Fishery on byproduct and bycatch species) (pp B-115 to B-116)
- Chapter B2.5 (Risk from the current operation of the Abalone Fishery on threatened and protected species) (pp B-116 to B-128), and
- Chapter B2.6 (Risk analysis for the current operation of the Abalone Fishery on other species, assemblages and habitat) (pp B-128 to B-132)

Nature of the impacts on the ecosystem including impacts on any key conservation values

The Abalone EIS found that apart from the potential effects of harvesting, most activities associated with the Abalone Fishery were considered to pose no or negligible risk to the ecological sustainability of components of the biophysical environment. The risk from the operation of the fishery to different components of the target species ranged from low to high risk (refer to Tables B2.2 (pg B-95) and B2.3 (pg B-114) of the Abalone EIS.

Management actions taken to reduce the impacts

- Refer to section 3 (Management) of this submission for changes to management arrangements, namely a reduction to the TACC for the 2008/09 fishing period, an increase to the minimum size limit for abalone, and the introduction of a structured fishing program for Regions 1 and 2 of the Abalone Fishery.
- Implementation status of management actions detailed in the Abalone FMS is included in Appendix 4 of this submission.

9. Consolidated detailed information outlining progress in implementing recommendation and conditions

Refer to Appendix 5 of this submission.

Appendix 1: Closures authorised under Section 8 or Section 11 of the *Fisheries Management Act 1994* relevant to the Abalone Fishery

The table below outlines closures that affect the Abalone Fishery. Further details can be found on the NSW DPI website

www.dpi.nsw.gov.au/fisheries/closures

Closure Title	General Description
Prohibition on the taking of fish using abalone viscera as bait	Prohibits the taking of all species of fish using abalone viscera as bait or berley, by all persons and in all waters. The primary purpose of this fishing closure is to reduce the risk of transmission of abalone viral ganglioneuritis into New South Wales waters. The closure applies to all recreational and commercial fishers.
Taking of Abalone Region 1	Prohibits the taking of abalone by commercial and recreational fishers from waters described in the closure (Region 1). Note that despite the closure, a limited number of permits have been issued to allow structured fishing in parts of Region 1.

Appendix 2: Report on the Implementation of Short Term Management Actions within the Abalone FMS

ACTION	STATUS
<p>1.1(b) Develop and implement a NSW Abalone Fishery Code of Practice to minimise the impact of harvesting abalone on bycatch species, associated habitat and ecosystems.</p>	<p>The Abalone Council of NSW, with funding from the NSW Fishing Industry Training Committee, completed an Industry Code of Practice, including formal training and qualifications for 40 divers</p>
<p>2.1(b) Refine the existing harvest strategy for the fishery and implement a definitive recovery strategy for the abalone resource</p>	<p>The management of the NSW Abalone Fishery is based on the <i>Fisheries Management (Abalone Share Management Plan) Regulation 2000</i>, the Abalone Fishery Management Strategy and the annual review and setting of the total allowable commercial catch by the independent Total Allowable Catch Setting and Review Committee. Within this context, NSW DPI has recently implemented a number of significant changes to management arrangements to assist in the recovery of abalone stocks including:</p> <ul style="list-style-type: none"> - a reduction to the total allowable commercial catch (TAC) from 110 tonnes in 2007/08 to 90 tonnes for the 2008/09 fishing period, - a reduction in bag limit from 10 to 2 for recreational fishers, - an increase in size limit from 115mm to 117mm commencing 1 July 2008 for all abalone taken in NSW, - the introduction of tougher new penalties for illegal fishing activity, - authorising the use of a structured fishing program in Regions 1 and 2, and - the use of data loggers to record catches on a finer spatial scale.

ACTION	STATUS
2.2(a) Develop a plan to investigate the feasibility of implementing different size limits on a variety of spatial and temporal scales, with provision to implement longer term actions	An increase to the minimum size limit of abalone, from 115mm to 117mm, commenced 1 July 2008 for all abalone taken in NSW. Industry has developed a proposal for variable size limits along the NSW coastline. NSW DPI is closely monitoring the commercial catch and considering variable size limit options in NSW.
2.2(c) Develop and implement a framework for closing and re-opening areas to commercial abalone harvesting	Formal framework yet to be finalised. NSW DPI closely monitors (both spatial and size) commercial catches in NSW and regularly disseminates catch information against recommended regional catch limits set by the TAC Committee. If appropriate, areas can be closed once a recommended regional catch limit is reached.
2.3(a) Develop strategies and practices to minimise the effects of <i>Perkinsus</i> and other marine pests and diseases with potential to affect abalone, and implement in consultation with Abalone MAC any measure required in accordance with marine pest or disease management plans	NSW DPI has developed, in consultation with industry, 'Standard Operating Procedures: Decontamination for Commercial Abalone Divers'. The SOP contains the best practice guidelines for minimising the risk of translocation of abalone disease, including <i>Perkinsus</i> .
3.1(b) Continue to refine the delivery of specific management services and standards through service delivery agreements or outsourcing regarding research, administration and compliance.	No service delivery agreements or outsourcing was undertaken during the 2007/08 fishing period.
3.1(f) Communicate NSW DPI's operational plans and policies for the management of the fishery to all fishery participants	NSW DPI consults with all fishery participants regarding operational plans and policies for the management of the fishery as necessary.

ACTION	STATUS
4.1(d) Revise the minimum level for trading abalone shares, so that shareholders with 10 or more shares can trade any number of shares	Being progressed as part of a series of amendments to the <i>Fisheries Management (Abalone Share Management Plan) Regulation 2000</i> .
4.1(e) Remove the shareholding aggregation limit	Being progressed as part of a series of amendments to the <i>Fisheries Management (Abalone Share Management Plan) Regulation 2000</i> .
7.1(b) Develop a cost-effective system for divers to report the planned location of their fishing activity	Development is still being considered in consultation with industry.
7.1(d) Extend the fit and proper persons requirement applicable to operators in the commercial fishery	NSW DPI completes a convictions check on persons purchasing shares in the Abalone Fishery, the result of which is one of the factors that determines approval of each share transaction.

Appendix 3: Report on performance indicators in the Abalone Fishery Management Strategy (for the period 2007/08)

Performance Indicator	Trigger Point	Status	Comment
Goal 1: Manage the commercial harvesting of abalone to promote the conservation of biological diversity in the coastal environment			
Adherence with relevant parts of the Abalone Fishery Code of Practice	The Director-General of NSW DPI determines that an unacceptable level of breaches of the Abalone Fishery Code of Practice have occurred with respect to minimising the impact of the fishery on biological diversity in the coastal environment	-	The Code of Practice for the Abalone Industry in NSW was prepared and distributed by the Abalone Council of NSW (in conjunction with the NSW Fishing Industry Training Council) via a training program in February 2008. An appropriate level of breaches is yet to be determined.
Goal 2: Maintain or rebuild the biomass of abalone to ensure stock sustainability			
Biomass of mature and exploitable abalone	The biomass of mature or legal sized abalone: (a) falls below the 1994 benchmark by more than 15%, or (b) there is a > 50% chance of (a) occurring in the next 5 years if the TACC is unchanged	(a) ✘ / ✓ (b) ✓	(a) The biomass was above the trigger point in all regions of the fishery except Region 2. For the 2007/08 fishing period commercial harvest of abalone was prohibited for all of Regions 1 and 2. This fishing period, 2008/09, the TAC Committee recommended a limit of 5 tonne be harvested from Region 2 as part of a structured fishing program to monitor and regulate commercial fishing at a finer scale to improve stock assessments, catch rates and length frequency information, and management of the fishery. (b) This trigger point is not activated given the 90 tonne TACC determined for the 2008/09 fishing period.

Performance Indicator	Trigger Point	Status	Comment
(Continued) Goal 2: Maintain or rebuild the biomass of abalone to ensure stock sustainability			
Information flow between NSW DPI and industry	(a) Industry provides $\geq 90\%$ of catch and effort data to NSW DPI within the time frames required by the share management plan (b) NSW DPI provides $\geq 90\%$ of available summary data to industry by the 15 th day of each month	(a) ✓ (b) ✓	Information flow has been adequate with catch and effort data coming from industry and timely summary data being provided to industry.
Catch at regional and smaller spatial scales	Catches exceed the levels recommended by the TAC Committee or other finer scale limits set by industry	✓	A fishing closure under section 8 of the <i>Fisheries Management Act 1994</i> was implemented prohibiting the commercial harvest of abalone from all of Regions 1 and 2 for the 2007/08 fishing period.

Performance Indicator	Trigger Point	Status	Comment
(Continued) Goal 2: Maintain or rebuild the biomass of abalone to ensure stock sustainability			
Response of the fishery to marine pest and disease incursions	Guidelines specified in any marine pest and disease management program are not adhered to in the Abalone Fishery	✓	All relevant guidelines adhered to in the fishery. NSW DPI has developed, in consultation with industry, 'Standard Operating Procedures: Decontamination for Commercial Abalone Divers' that contains the best practice guidelines for minimising the risk of translocation of abalone disease, including <i>Perkinsus</i> . These protocols are currently mandatory when fishing in Region 1, a known area of active <i>Perkinsus</i> . NSW DPI has also developed, in response to AVG disease detection in Victoria, 'Standard Operating Procedures: Diver cleaning protocols', and implemented a closure on the use of abalone viscera as bait.
Goal 3: Facilitate effective management arrangements and provision of an efficient fisheries management service			
Performance of service delivery agreements as established by independent performance reviews	An independent performance review finds the performance of service delivery agreements is unsatisfactory and recommends changes to the FMS	-	No independent performance reviews were undertaken during the 2007/08 fishing period.

Performance Indicator	Trigger Point	Status	Comment
Goal 4: To promote the economic viability of the fishery			
Raw catch rate of commercial divers	Raw catch rate of commercial divers falls below 19.12 kg/hr	x	Raw catch rate of commercial divers for the 2007/08 fishing period was 18.3kg/hr.
Beach price of abalone	Beach price falls below \$35.70 per kg (CPI adjusted each year)	x	The average weighted beach price of abalone for the 2007/08 fishing period was \$33.52
Total commercial catch of abalone	Total commercial catch falls below 85% of the TACC in the fishing period	✓	The TACC for the 2007/08 fishing period was set at 110 tonnes. The total commercial catch for the same period was 109.032 tonnes, approximately 99% of the TACC.
Management fees	Management fees increase by more than CPI between any two consecutive years	✓	The management charge payable by shareholders has declined and the community contribution calculated at zero through the 2006/07 and 2007/08 fishing periods
Number of divers harvesting abalone	The number of divers harvesting abalone falls outside a range determined by the Director-General of NSW DPI following consultation with shareholders	-	Appropriate range yet to be determined. Note that the number of commercial divers eligible to harvest abalone decreased from 42 in February 2005 to 38 as at September 2008.

Performance Indicator	Trigger Point	Status	Comment
Goal 5: To appropriately share the resource and harvest abalone in a manner that minimises negative social and economic impacts			
Adherence with the Abalone Fishery Code of Practice	The Director-General of NSW DPI determines that an unacceptable level of breaches of the Abalone Fishery Code of Practice have occurred with respect to interaction with other harvest sectors and items of cultural heritage		The Code of Practice for the Abalone Industry in NSW was prepared and distributed by the Abalone Council of NSW (in conjunction with the NSW Fishing Industry Training Council) via a training program in February 2008. An appropriate level of breaches is yet to be determined.
Change in the distribution of landings between the commercial and non-commercial (combining recreational and Aboriginal) sectors	Maximum absolute difference in the distribution of landings between the commercial and non-commercial sectors is greater than 25 percentage points when compared every five years	-	First five year period yet to expire
Goal 6: To implement appropriate research and monitoring of the Abalone Fishery			
Sufficient scientific data available for assessment of abalone stocks	TAC Committee determines insufficient scientific data is available for the purpose of setting the total allowable catch for abalone within acceptable levels of confidence	✓	The TAC Committee determined the TACC for the 2008/09 fishing period based on fishery dependent and fishery independent data and a detailed stock assessment model.

Performance Indicator	Trigger Point	Status	Comment
(Continued) Goal 6: To implement appropriate research and monitoring of the Abalone Fishery			
Research Strategic Plan for the Abalone Fishery reviewed and updated prior to expiry	The Research Strategic Plan expires without being reviewed and updated	x	<p>A strategic research plan beyond 2006/07 to be finalised. NSW DPI (Science and Research Division) is actively participating in research planning with the Special Abalone Recovery Group and forums regarding finer scale management for abalone fisheries across Australia, after which a strategic plan for future abalone research in NSW can be prepared.</p> <p>Current research projects related to abalone include:</p> <ul style="list-style-type: none"> • Fishery independent surveys of abalone abundance • Survey of historical sites (Port Stephens to Jervis Bay) • Stock assessment of abalone • Investigating and managing the <i>Perkinsus</i> related mortality of blacklip abalone

Performance Indicator	Trigger Point	Status	Comment
Goal 7: To achieve a high level of compliance within the Abalone Fishery			
The percentage of total inspections of commercial divers which result in the detection of minor and serious offences	<p>Percentage of inspections resulting in the detection of offences exceeds either of the following:</p> <p>(i) 20% for minor offences;</p> <p>(ii) 10% for serious offences</p>	✓	In 2007/08 the rates of non-compliance in the commercial fishery were 7% for minor offences and 0% for major offences.
The percentage of total inspections of processors and wholesalers which result in the detection of minor and serious offences	<p>Percentage of inspections resulting in the detection of offences exceeds either of the following:</p> <p>(i) 20% for minor offences;</p> <p>(ii) 10% for serious offences</p>	✓	No offences detected for processors and wholesalers for the 2007/08 fishing period.
Compliance Plans relevant to the Abalone Fishery reviewed and updated prior to expiry	Compliance plans relevant to the Abalone Fishery expire without being	✓	

Performance Indicator	Trigger Point	Status	Comment
Goal 8: Ensure adequate stakeholder involvement and community consultation			
Adhere with the Abalone Fishery Code of Practice	The Director-General of NSW DPI determines that an unacceptable level of breaches of the Abalone Fishery Code of Practice have occurred relating to communication with stake holders		The Code of Practice for the Abalone Industry in NSW was prepared and distributed by the Abalone Council of NSW (in conjunction with the NSW Fishing Industry Training Council) via a training program in February 2008. An appropriate level of breaches is yet to be determined.
Number of ABMAC meetings held each year	Number of ABMAC meetings is less than 2 in any financial year, unless otherwise agreed to by the ABMAC	✓	Three ABMAC meetings were held in the 2007/08 financial year.
Occurrence of port meetings conducted with divers and NSW DPI	No port meetings held in any financial year, unless otherwise agreed by the ABMAC	✓	An open industry forum was held with all abalone shareholders/divers in Pambula on 26 September 2007

Appendix 5: NSW DPI progress report against Abalone Fishery WTO conditions and recommendations: September 2008

Condition/Recommendation	Progress
<p>Condition 1. Operation of the fishery will be carried out in accordance with the NSW Abalone Share Management Plan 2000 in force under the NSW <i>Fisheries Management Act 1994</i>.</p>	<p>Operation of the fishery has been carried out in accordance with the Abalone Share Management Plan 2000.</p>
<p>Condition 2. NSW DPI to advise the Department of the Environment and Water Resources of any material change to the Abalone Fishery management arrangements that could negatively affect the assessment of the fishery against the EPBC Act criteria, within three months of that change being made.</p>	<p>No significant changes have been made to the management arrangements since the WTO was issued that could negatively affect the assessment. The annual TACC setting process was undertaken as scheduled, resulting in a TACC for the 2008/09 fishing period of 90 tonnes (a reduction of 20 tonnes compared to the previous fishing period).</p>
<p>Condition 3. A report to be produced and presented to DEH annually, and to include:</p> <ul style="list-style-type: none"> a) information sufficient to allow assessment of the progress of NSW DPI in implementing the conditions and recommendations made; and b) the status of the Abalone Fishery performance indicators compared to the trigger points. 	<p>(a) This report seeks to satisfy this sub-condition for the 2007/08 period.</p> <p>(b) Refer to Appendix 3 of this submission.</p> <p>A report was forwarded to DEW IN October 2007 providing NSW DPI'S progress in both implementing the conditions and recommendations of the WTO and the status of the Abalone Fishery performance indicators compared to trigger points for the 2006/07 period.</p>
<p>Condition 4. The FMS for the NSW Abalone Fishery to be finalised and approved by end of April 2007.</p>	<p>The Abalone Fishery Management Strategy was approved by the NSW Minister for Primary Industries on 27 April 2007.</p>

Condition/Recommendation	Progress
<p>Condition 5: NSW DPI, in conjunction with NSW Abalone Fishery to:</p> <p>(a) develop and implement by 28 July 2008 an agreed recovery strategy for abalone stocks across the fishery that defines the following:</p> <ul style="list-style-type: none"> • precautionary recovery targets and associated timeframes; • specific measures to promote the rebuilding of stocks to target levels; and • stock and catch monitoring and compliance measures required to evaluate and enforce the recovery of depleted stocks. <p>(b) report to the Department of the Environment and Water Resources by 31 March 2008 on progress in the development of the recovery strategy including recommendations made by the Special Abalone Recovery Group.</p>	<p>(a) As reported to DEWHA on 28 July 2008, the recovery strategy for the NSW Abalone Fishery is based on the <i>Fisheries Management (Abalone Share Management Plan) Regulation 2000</i>, the Abalone Fishery Management Strategy and the annual review and setting of the total allowable commercial catch by the independent Total Allowable Catch Setting and Review Committee. Within this context, NSW DPI has recently implemented a number of significant changes to management arrangements to assist in the recovery of abalone stocks including:</p> <ul style="list-style-type: none"> - a closure prohibiting the commercial and recreational harvest of abalone from Region 1 south (between Port Stephens and Wreck Bay, Jervis Bay) to help the recovery of abalone stocks affected by the <i>Perkinsus</i> parasite; - a reduction to the total allowable commercial catch (TAC) from 110 tonnes in 2007/08 to 90 tonnes for the 2008/09 fishing period, - a reduction in bag limit from 10 to 2 for recreational fishers, - an increase in size limit from 115mm to 117mm commencing 1 July 2008 for all abalone taken in NSW, - the introduction of tougher new penalties for illegal fishing activity, - authorising the use of a structured fishing program, which allows NSW DPI to monitor and regulate commercial fishing at a finer scale to improve stock assessments, catch rates and length frequency information, and management of the fishery, and - the use of data loggers to record catches on a finer spatial scale. <p>(b) Complete. Report sent to DEWHA on 31 March 2008.</p>