EXPLANATORY STATEMENT

Issued by the Authority of the Managing Director
of the Australian Fisheries Management Authority

Fisheries Management Act 1991
Southern and Eastern Scalefish and Shark Fishery Management Plan 2003

SESSF Direction No. 04

Subsection 17(5A) of the *Fisheries Management Act 1991* (the Management Act) provides that a plan of management made under the Management Act may provide for the Australian Fisheries Management Authority (AFMA) to give particular directions for the purposes of attaining the objectives of the plan of management. The subsection also requires that the directions be made after the consultations (if any) that are set out in the plan of management.

Subsection 56(1) of the *Southern and Eastern Scalefish and Shark Management Plan 2003* (SESSF Plan) provides that AFMA may direct that fishing is not to be engaged in the fishery, or a part of the fishery, during a particular period or periods. Section 5 of the SESSF Plan provides objectives of the SESSF Plan, including the implementation of efficient and cost effective management of the fishery.

Subsection 56(2) of the SESSF Plan provides that, before AFMA issues a direction, it must consult and consider the views of, each relevant management advisory committee about the content of the direction unless the direction is issued in circumstances of an emergency.

Section 92 of the *Fisheries Administration Act 1991* provides for AFMA to delegate its powers and functions to, among others, the Managing Director of AFMA. Subsection 17 (11) of the Management Act permits AFMA to delegate its powers to make directions (among other things) only to the Managing Director. AFMA has delegated its power to make directions to the Managing Director.

**Background**

A closure in the western zone was recommended by the joint GHATMAC/SETMAC (Sept. 2004) meeting to “develop an area in the western orange roughy zone to protect spawning”.

Analysis of the CPUE data from the western zone suggests that a 450 t TAC is inconsistent with the current status of the stocks and is incompatible with the current catches of around 250t. Industry believes there is a resident stock which is susceptible to fishing throughout the year and a transient stock that enters the regions when conditions are suitable.
Purpose

It has been agreed by SETMAC that a temporal spawning closure would provide a level of protection to the orange roughy stock in the western zone. This would also prevent the discarding of fish that may result from a significant cut in the TAC to a point where individual operators did not have sufficient quota to cover incidental bycatch taken while fishing for other deepwater species.

SETMAC recommended that the closure should be implemented as soon as possible and continue until 7th August 2005 – approximately two weeks after the full moon. They recommended that the value of a closure would be reviewed by the Deepwater Assessment Group (DAG) in light of further information collected during 2004/05 before management recommendations were made for 2006. It was agreed that any closure should endeavour to minimise disruption to the upper slope market fishing for spiky dory, king dory, ribaldo and ling at depths usually less than 400 fathom. The closure has been designed to achieve this goal.

Consultation

In September 2004 the joint GHATMAC/SETMAC meeting consisting of research scientists and industry members recommended a temporary closure be implemented in the western zone to protect spawning orange roughy. This was supported by the AFMA Board in October 2004 and the recommendation was passed on to the DAG to provide advice on the closure.

SETMAC considered the advice from DAG in June 2005 and discussed the options of a cut in the western roughy TAC or the implementation of a spawning closure. SETMAC recommended that the closure should be implemented as soon as possible and agreed that the final coordinates of the closure would be decided by industry.

On the 6th of July 2005 AFMA wrote to the Office of Regulatory Review (ORR) seeking advice on whether a Regulation Impact Statement (RIS) was required for this direction. A RIS exception was advised (ID 7433) due to the proposal being of a minor or machinery nature and does not substantially alter existing arrangements.

Details of the Direction are set out below:

Clause 1 provides for the Direction to be cited as SESSF Direction No. 04.

Clause 2 provides for the commencement of the Direction.

Clause 3 states to whom the Direction applies.

Clause 4 sets out the period of application of this Direction.

Clause 5 defines certain terms used in the Direction and provides that terms used in the Direction that are defined for the purposes of the Plan have the same meanings as they have in the Plan. The note indicates that terms defined in the Management Act have the same meaning in the Direction.

Clause 6 prohibits commercial fishing in areas of the fishery detailed in Schedule 1.
*Clause 7* provides for an exemption for persons who otherwise fish in accordance with another plan of management in force under the Management Act, or State or Territory law applying in the area of the fishery.

*Schedule 1* describes the areas that are closed to fishing referred to in clause 6.

**SESSF No. 04**