EXPLANATORY STATEMENT

LEGISLATIVE INSTRUMENT

Issued by the Authority of the Australian Fisheries Management Authority

*Fisheries Management Act 1991*

*Macquarie Island Toothfish Fishery Management Plan 2006*

**Macquarie Island Toothfish Fishery Direction No.1 of 2006**

The Direction is a legislative instrument for the purposes of the *Legislative Instruments Act*.

Subsection 17(5B) of the *Fisheries Management Act 1991* (the FMA) provides that a plan of management made under the FMA may provide for the Australian Fisheries Management Authority (AFMA) to direct that fishing is not to be engaged in in any way or ways, including by reference to a particular area, species or type of fish, a specific fishing method, use of specific equipment or any combination of the above.

Subsection 30(1) of the *Macquarie Island Toothfish Fishery Management Plan 2006* (the Plan) provides that AFMA may direct that fishing is not to be engaged in in the fishery, or in a part of the fishery, during a stated period.

Section 5 of the Plan provides objectives of the Plan, including ensuring the fishery is managed in such way that, among other things; is cost effective and efficient, is sustainable, that maximises economic efficiency, ensures that AFMA is accountable to industry and the living resources of the AFZ are not over-exploited.

Section 92 of the Fisheries Administration Act 1991 provides for AFMA to delegate its powers and functions to, amongst others, the Managing Director of AFMA. Subsection 17(11) of the Act permits AFMA to delegate its powers to make Directions to the Managing Director. AFMA has delegated its powers to make Directions to the Managing Director.

The Fishery

Macquarie Island falls under Tasmanian jurisdiction and is located outside the Antarctic convergence approximately 1500 kilometres south east of Hobart.

The waters surrounding Macquarie Island out to 3 nautical miles are Tasmanian State waters and the Tasmanian Department of Primary Industries, Water and Environment controls fishing in these waters. State waters were closed to fishing and classified as a Nature Reserve under Tasmanian law in July 2000. Waters from the 3 nautical mile boundary out to the 200 nautical mile outer boundary of the Australian fishing zone (AFZ) are under Commonwealth jurisdiction and fishing in these waters is managed by AFMA under the Fisheries Management Act 1991.

Patagonian toothfish (Dissostichus eleginoides) is the only target species in the Macquarie Island Toothfish Fishery. Patagonian toothfish is also known as mero, Chilean sea bass and black hake and is found in sub-Antarctic waters on shelves around islands and submarine banks. They are primarily bottom living, in depths of 300 to 2000 metres, although move off the bottom on occasion to feed.

Trawling is the only fishing method currently allowed in the Fishery, and has to date been controlled by conditions on fishing permits. Longline fishing is currently not permitted due to the potential impacts of fishing on seabirds. Other fishing methods may be approved using a Scientific Permit in accordance with section 15 of the Management Plan.
Regulation Impact Statement

The Office of Regulation Review (ORR) advised AFMA that a Regulation Impact Statement was not required for the proposed Direction (RIS ID 8529).

Consultation

Subsection 30(3) provides that before giving a direction AFMA must consult with, and consider the views of the Sub-Antarctic Fisheries Management Advisory Committee (SouthMAC) and the Sub-Antarctic Resource Assessment Group (SARAG) about the content of the Direction. SouthMAC and SARAG have been consulted about the Direction.

The Macquarie Island Toothfish Fishery Direction No.1 commences on the day after registration in the Federal Register of Legislative Instruments.

Details of the Direction are set out below:

Clause 1 Provides that the Direction is the Macquarie Island Toothfish Fishery Direction No. 1 of 2006.
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 the Direction.
Clause 5 Provides for the interpretation of terms used in the Direction.
Clause 6 Prohibits fishing in the fishery by any method other than trawling.
Clause 7 Provides that a person who fishes under a scientific permit is exempt from the prohibition in Clause 6.