EXPLANATORY STATEMENT

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

SOUTHERN AND EASTERN SCALEFISH AND SHARK FISHERY
(Closures) DIRECTION No. 2 2010

Subsection 17 (5A) *Fisheries Management Act 1991* (the Act) provides that the Australian Fisheries Management Authority (AFMA) may direct that fishing is not to be engaged in a fishery or a particular part of a fishery during a particular period or periods. The subsection also requires that the directions be made after consultations (if any) that are set out in the plan of management.

Subsection 17 (5B) of the Act states that a Direction made under subsection 17 (5A) in relation to a part of a fishery may identify the part concerned in any way or ways including by reference to a particular area, a particular species, or type of fish, a particular kind or quantity of fishing equipment, a particular method of fishing, or any combination of the above.

Subsection 56(1) of the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003* (the 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 Plan provides objectives of the Plan, including the implementation of efficient and cost effective management of the fishery.

Subsection 56(2) of the Plan provides that, before AFMA issues a direction, it must consult and consider the views of each relevant Management Advisory Committee over the content of the direction unless the direction is issued in circumstances of an emergency.

Background

The *Southern and Eastern Scalefish and Shark Fishery (SESSF) Closure Direction No. 2 2010* (the Direction) will replace the SESSF Closures Direction No. 1 2009 (the Previous Direction). For the most part the Direction is the same as the Previous Direction, with the addition of two new closure areas and the amendment of a further two closure areas.

The following changes have been made to the Previous Direction:

- **Clause 3** has been amended to make clear that the Direction applies to all concession holders in the SESSF, being the holders of statutory fishing rights (SFRs) and fishing permits, not just the holders of SFRs.

- **Clause 6**
  - The title of Clause 6 has been changed from *Prohibition on fishing* to *Direction not to engage in fishing*. While the legal effect is the same, this wording is consistent with the wording in the Act. The descriptions of each closure within this clause have also been changed to reflect the new wording.
Sub-clauses 6 (k) and 6 (l) have been amended to expand (in the case of 6(k)) and clarify (in the case of 6(l)) the methods to which the closures apply. In the areas to which they apply (Schedule 13 and 14), fishing is prohibited using:

(i) gillnet methods; and
(ii) hook methods, if the person would be fishing under the authority of a Shark Hook boat statutory fishing right. This means that the closure will not apply to persons fishing under the authority of a scalefish hook boat statutory fishing right.

To whom do the prohibitions in clause 6 not apply? Clause 7 in the Previous Direction has been removed because it is unnecessary. The persons to whom the closure applies are defined in Clause 3.

Schedule 13 Shark Hook Boat Statutory Fishing Right and Gillnet 183m Depth Closure (Map 1)

The closure area has been amended to incorporate two small areas in eastern Bass Strait that were previously excluded in conjunction with sub-clause 6(k). This means that no gillnet fishing, and no fishing for the SESSF shark quota species using hook methods, is permitted deeper than 183m anywhere in the SESSF.

Schedule 14 West Coast Tasmania Shark Hook Boat SFR and Gillnet Depth Closure - The title of this Schedule has been changed from West Coast Tasmania Shark Hook and Shark Gillnet Sector Depth Closure to West Coast Tasmania Shark Hook Boat Statutory Fishery Right and Gillnet Depth Closure. The area to which this closure applies is unchanged.

Schedule 24 GAB Deepwater Closure - Central East Zone

- An error in the co-ordinates describing the northern part of the closure has been corrected.
- The title of this closure has been corrected in that it has been changed from GAB Deepwater Closure - Central West Zone to GAB Deepwater Closure - Central East Zone. Reference to the ‘west’ in the title was inaccurate.

Schedule 36 GAB Deepwater - Far West Gulper Shark Closure – This is a new closure in the Great Australian Bight Trawl Sector, that applies to all trawl methods. (Map 2)

Schedule 37 Barcoo and Taupo Seamounts Closure – This is a new closure implemented around the Barcoo and Taupo Seamounts off the NSW coast. This closure applies to all methods, to help protect several species of Upper-Slope Dogfish (Map 3).

Purpose

The Direction prescribes the areas of the SESSF in which fishing is not to occur, using any fishing methods, or using specified fishing methods in particular areas, for the period from the commencement of the Direction until 30 April 2013. The closures are additional management measures to enable overfished species to recover, to prevent further
species from becoming overfished and to protect Threatened Endangered Protected
(TEP) species and benthic habitats.

The amendment to Schedule 13 and addition of new closures (Schedule 36 and 37)
have been implemented primarily to protect upper-slope dogfish.

Consultation
The implementation of the amended and new closures is consistent with the Upper-
Slope Dogfish Management Strategy (the Strategy). The Strategy has been recently
developed by AFMA in consultation with industry, scientific experts and other
government departments to protect upper-slope dogfish. All sectors of the SESSF have
been consulted in relation to the content of the Strategy through a number of processes.
These processes include: South East Trawl and Gillnet, Hook and Trap Management
Advisory Committees (SETMAC and GHATMAC), and subsequent South East
Management Advisory Committee (SEMAC), the Great Australian Bight Trawl Resource
Assessment Group (GABRAG) and Management Advisory Committee (GABMAC),
Bycatch Working Groups and through the development of the Bycatch Work Plans, a
series of spatial management workshops, two Upper-slope Dogfish Management
Workshops (2009) and relevant industry associations (GABT Fishing Industry
Association (GABIA), the South East Trawl Fishing Industry Association (SETFIA), and
various other meetings with individual industry members.

The other closures implemented by the Direction continue closures in the Previous
Direction, which was to have been in force until 1 January 2014 (but is now replaced by
this Direction). These closures were the subject of extensive consultation with industry,
scientific experts, resource assessment groups, management advisory committees,
other government departments, and other stakeholders, prior to their implementation.
Furthermore, in consulting on the amended and new closures, stakeholders were aware
that the Direction would continue the closures in place under the Previous Direction.

Regulation Impact Statement
The Office of Best Practice Regulation has advised that the amendments do not require
further analysis in the form of a Business Cost Calculator Report or Regulation Impact
Statement (Reference ID 11480).

Details of the Direction are set out below:

Clause 1 provides for the Direction to be cited as SESSF (Closures) Direction No.2
2010
Clause 2 provides that the Direction commences on 30 June 2010.
Clause 3 states to whom the Direction applies.
Clause 4 states the period for which the Direction applies (being to 30 April 2013).
Clause 5 defines certain terms used in the Direction and provides that terms used in the
Direction that are defined in the Plan have the same meanings as they have in the Plan.
Clause 6 directs a person not to engage in fishing using any or a particular fishing
method or methods in areas of the fishery as detailed in Schedules 1 to 37.
Clause 7 revokes the Previous Direction.
With the exception of the areas described in Schedules 13, 14, 24, 26, 36 and 37 (referred to above), each of the Schedules continues an area of closure in force under the Previous Direction.

**Schedule 1** - describes the area of the Murat Bay Closure.

**Schedule 2** - describes the area of the Cascade Plateau Closure.

**Schedule 3** - describes the area of the Kent Group National Park Closure.

**Schedule 4** – describes the area of the Bass Strait - Trawl Closure.

**Schedule 5** – describes the area of the St Helens Hill Closure.

**Schedule 6** - describes the area of the Seal Bay Closure.

**Schedule 7** - describes the area of the Pages Island Closure.

**Schedule 8** - describes the area of the Head of the Great Australian Bight Closure.

**Schedule 9** - describes the area of the East Coast Deepwater Trawl Sector Exclusion Zone Closure.

**Schedule 10** - describes the area of the South Australian Gillnet Closure - Backstairs Passage.

**Schedule 11** - describes the area of the South Australian Shark Hook and Shark Gillnet Closure - Kangaroo Island.

**Schedule 12** - describes the area of the South Australian Shark Hook and Shark Gillnet Closure - Victor Harbor to the Victorian Border.

**Schedule 13** - describes the area of the Shark Hook Boat Statutory Fishing Right and Gillnet 183m Depth Closure. This closure continues the closure in the Previous Direction, with amendments.

**Schedule 14** - describes the area of the West Coast Tasmania Shark Hook Boat Statutory Fishing Right and Gillnet Depth Closure. This closure continues the closure in the Previous Direction, with amendment to the Schedule title.

**Schedule 15** - describes the area of the Automatic Longline 183m Depth Closure.

**Schedule 16** - describes the area of the Commonwealth Scalefish Hook Sector Gulper Shark Closure - Southern Dogfish.

**Schedule 17** - describes the area of the Great Australian Bight Trawl Sector Gulper Shark Closure - Southern Dogfish.

**Schedule 18** - describes the area of the Gulper Shark Closure - Endeavour Dogfish.

**Schedule 19** - describes the area of the Gulper Shark Closure - Harrison’s Dogfish.

**Schedule 20** - describes the area of the Commonwealth South East Trawl Sector 700m Depth Closure.

**Schedule 21** - describes the area of the Tasmanian Seamounts Marine Reserve Closure. This closure continues on from *SESSF Closures Direction No.1 2009*.

**Schedule 22** – describes the area of the Eastern South Australia Trawl Closure.

**Schedule 23** – describes the area of the Portland area Trawl Closure.

**Schedule 24** – describes the area of the GAB Deepwater Closure - Central East Zone. This closure continues the closure in the Previous Direction, with amendments.
Schedule 25 – describes the area of the GAB Deepwater Closure - Salisbury Canyon.
Schedule 26 – describes the area of the GAB Deepwater Closure - Far West Zone.
Schedule 27 – describes the area of the GAB Orange Roughy Zone - Albany Closure.
Schedule 28 – describes the area of the GAB Orange Roughy Zone - Bremmer Closure.
Schedule 29 – describes the area of the GAB Orange Roughy Zone - Humdinger West Closure.
Schedule 30 – describes the area of the GAB Orange Roughy Zone - Humdinger/Magic Closure.
Schedule 31 – describes the area of the GAB Orange Roughy Zone - Lomvar Gully Closure.
Schedule 32 – describes the area of the GAB Orange Roughy Zone - United Nations Closure.
Schedule 33 – describes the area of the GAB Orange Roughy Zone - The Knob Closure.
Schedule 34 – describes the area of the GAB Orange Roughy Zone - Racetrack/Hamburger Closure.
Schedule 35 – describes the area of the GAB Orange Roughy Zone - Kangaroo Island Hill Closure.
Schedule 36 – describes the area of the GAB Deepwater - Far West Gulper Shark Closure. This is a new closure.
Schedule 37 – describes the area of the Barcoo and Taupo Seamounts Closure. This is a new closure.