EXPLANATORY STATEMENT

Fisheries Management Act 1991

Bass Strait Central Zone Scallop Fishery Management Plan 2002

Bass Strait Central Zone Scallop Fishery (Closures) Direction No. 2 2010

The Bass Strait Central Zone Scallop Fishery (Closures) Direction No. 2 2010 (the Direction) is a legislative instrument for the purposes of the Legislative Instruments Act 2003.

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

Subsection 23(1) of the Bass Strait Central Zone Scallop Fishery Management Plan 2002 (the Plan) provides that AFMA may direct that fishing is not to be engaged in the Bass Strait Central Zone Scallop Fishery (the Fishery), or a part of the Fishery, during a stated period.

Subsection 23(2) of the Plan provides that in giving directions, AFMA must ensure that the requirements (if any) set out in the Fisheries Management (Bass Strait Central Zone Scallop Fishery) Regulations 2002 (the Regulations) for the purposes of this subsection are met. There are currently no requirements prescribed in the Regulations relevant to this subsection of the Plan.

The Direction prescribes the area of the Fishery that can be fished during the remainder of the 2010 fishing season, through to 31 December 2010, with the rest of the Fishery closed to fishing. Under the Harvest Strategy for the Fishery, the entire Fishery area remains closed with an area opened that is commensurate with the quantity of scallops permitted to be taken under the total allowable catch (TAC). Both the TAC and area of the Fishery to be open to fishing are consistent with the Harvest Strategy for the Fishery, which provides that the Fishery is to remain closed under a zero TAC unless surveys indicate that adequate biomass is available for harvest. Surveys conducted in 2009 indicated that scallop stocks were sufficient to allow commercial fishing in 2010. The results of the survey were then applied to the Harvest Strategy for the Fishery and additional stakeholder consultation was undertaken.

Following reports of poor scallop quality, AFMA and the Tasmanian Aquaculture and Fisheries Institute conducted a survey of the known scallop beds. Due to the poor biological condition of scallops in the current area open to commercial fishing and the improved scallop quality in an area to the north of the current fishing area, through this Direction, AFMA will open an additional fishing ground north of the current fishing area.

The Direction revokes Bass Strait Central Zone Scallop Fishery (Closures) Direction No. 1 2010 (the previous Direction) and prescribes the area of the Fishery that can be fished during the remainder of the 2010 fishing season with the rest of the Fishery closed to fishing.

Consultation

AFMA's management philosophy (as foreshadowed in its governing legislation) involves a partnership approach to the management of marine resources under its jurisdiction. Cooperation with relevant stakeholders, such as the fishing industry, government agencies, the community and others with an interest in the sustainable management of the Commonwealth's fisheries resources, is a vital part of this approach.
This approach provides opportunities for stakeholders to have input into the management process through, in the case of the Fishery, the Bass Strait Central Zone Scallop Fishery Resource Assessment Group (ScallopRAG) and the Bass Strait Central Zone Scallop Fishery Management Advisory Committee (ScallopMAC).

Subsection 23(3) of the Plan provides that, before giving a direction, AFMA must consult ScallopMAC and consider their views. AFMA may also consider the views of other interested persons.

Following discussion with stakeholders and poor scallop quality during the start of the 2010 fishing season, AFMA consulted with ScallopRAG and ScallopMAC, regarding opening a new fishing area, at meetings on 7 July 2010 and 8 July 2010, respectively. The proposed additional areas to be opened to fishing for the remainder of the 2010 fishing season was unanimously supported and the Direction reflects the recommendations from these meetings.

AFMA is satisfied that the Direction is consistent with the objectives of the Plan; as well as with its obligation to pursue the objectives set out in section 3 of the Act, in particular the objective concerned with the sustainability of fisheries resources (paragraph 3(1)(b)).

**Regulation Impact Statement**

The Office of Best Practice Regulation (OBPR) advised that a Regulation Impact Statement was not required for Direction (OBPR ID 11177).

Details of the Direction are set out below:

**Clause 1** Provides for the Direction to be cited as BSCZSF (Closures) Direction No. 2 2010.

**Clause 2** Provides for the commencement of the Direction.

**Clause 3** Revokes BSCZSF (Closures) Direction No. 1 2010.

**Clause 4** Specifies to whom the Direction applies.

**Clause 5** Specifies the period of application of the Direction, being the period from 20 July 2010 to 31 December 2010.

**Clause 6** Provides for the definition of terms used in the Direction.

**Clause 7** Prohibits fishing in the area of the Fishery for the period of the Direction except for a defined area.