EXPLANATORY STATEMENT

Fisheries Management Act 1991

Bass Strait Central Zone Scallop Fishery Management Plan 2002

Bass Strait Central Zone Scallop Fishery Management Plan Temporary Order 2010
(No. 2)

Section 43 of the Fisheries Management Act 1991 (the Management Act) provides for the Australian Fisheries Management Authority (AFMA) to make a temporary order to enable quick action to be taken to deal with circumstances where urgent action is required for purposes related to the management of a fishery. Pursuant to subsection 92(1) of the Fisheries Administration Act 1991 (the Administration Act), AFMA has delegated its powers and functions under section 43 of the Management Act to the Chief Executive Officer of AFMA.

The purpose of the Bass Strait Central Zone Scallop Fishery Management Plan Temporary Order 2010 No. 2 (the Order) is to alter the application of the Bass Strait Central Zone Scallop Fishery (Closures) Direction No.2 2010 (the Direction) and associated conditions on Statutory Fishing Rights (SFRs) in force under the Bass Strait Central Zone Scallop Fishery Management Plan 2002.

The availability of harvestable scallops in the planned fishing areas of the Bass Strait Central Zone Scallop Fishery (BSCZSF) for the 2010 season, which opened on 1 April 2010, has been below expected levels. The season started late due to higher than average water temperatures and scallops in poor biological condition. This poor biological condition has not significantly improved during the season and therefore the scallops in the areas open to fishing are not of a harvestable quality. There is also a high quantity of newly dead shell in the majority of fished and surveyed regions this season.

AFMA and the Tasmanian Aquaculture and Fisheries Institute conducted a survey of the known scallop beds and identified scallops of a harvestable quality outside the current fishing area. The Order allows an additional fishing ground to access these harvestable scallops.

This season’s total allowable catch (TAC) is not likely to be reached by operators due to the poor quality of scallops currently being caught. It is therefore necessary to take urgent action by way of Temporary Order to open this area to allow fisher's access to harvestable scallops thereby allowing them to catch the full TAC. The notice period required to amend the Direction restricts AFMA taking urgent action in this situation. It is therefore necessary to make a Temporary Order.

Harvest Strategies were developed for all Commonwealth fisheries in response to a Ministerial Direction made in December 2005 by the then Minister for Fisheries, Forestry and Conservation under section 91 of the Administration Act. The BSCZSF Harvest Strategy prescribes a comprehensive management regime for controlling fishing intensity to ensure the fishery’s long term biological and economic sustainability. This regime involves a spatial criteria rule identifying viable areas in terms of scallop size and discard rates. Accordingly, 40% of these viable areas must remain closed throughout a season. Based on surveys conducted in 2009 scallop stocks were sufficient and the opening of the fishing grounds under this Order will continue to meet all control rules in the Harvest Strategy and does not infringe on the 40% spatial closure requirement.
For the reasons described, the Order is consistent with AFMA’s objectives of maximising the net economic returns while also ensuring that the exploitation of fisheries resources is done in accordance with the principles of ecologically sustainable development. No other action is appropriate.

Consultation

The Scallop Management Advisory Committee (ScallopMAC) is a key advisory body for AFMA on matters relating to the management of the Fishery. This body consists of industry, State, Commonwealth and environmental representatives. ScallopMAC was consulted on 17 September 2010 with the available options for the fishery. From this meeting a survey of the region was designed and completed through cooperation between the Tasmanian Aquaculture and Fisheries Institute, industry and AFMA. The survey results were discussed and decision to open the area is supported by the AFMA Commission. Scientists on ScallopRAG, a scientific advisory body for AFMA on matters relating to the fishery have also been consulted.

Regulation Impact Statement

The Office of Best Practice Regulation (OBPR) determined that a Regulation Impact Statement was not required for the Order (OBPR ID 11864).

Details of the Order, which commenced on the day of registration on the Federal Register of Legislative Instruments, are set out below.

| Clause 1 | Provides that the Order is the Bass Strait Central Zone Scallop Fishery Management Plan Temporary Order 2010 (No. 2). |
| Clause 2 | Provides for the commencement and period of application of the Order. |
| Clause 3 | Provides that the Order applies to the Bass Strait Central Zone Scallop Fishery (Closures) Direction No. 2 2010 and associated conditions on statutory fishing rights. |
| Clause 4 | Amends Schedule 1 of the Direction. |
| Clause 5 | Amends condition 3 on statutory fishing rights. |