EXPLANATORY STATEMENT

LEGISLATIVE INSTRUMENT

Issued by the Authority of the

Australian Fisheries Management Authority

Fisheries Management Act 1991

Bass Strait Central Zone Scallop Fishery

Bass Strait Central Zone Scallop Fishery (Closures) Direction No. 1 2011

The Direction is a legislative instrument for the purposes of the Legislative Instruments Act 2003.

Subsection 41A(2) of the Fisheries Management Act 1991 (the Management Act) provides, inter alia, that Australian Fisheries Management Authority (AFMA) may, after such consultation as set out in subsection 41A(2), direct that fishing is not to be engaged in the fishery, or a particular part of the fishery, during a particular period or periods.

Under section 27 of the Bass Strait Central Zone Scallop Fishery Management Plan 2002 (the Plan) AFMA must determine the Total Allowable Catch (TAC) before the beginning of the fishing season. The fishing season begins on 1 April in a year unless a direction closing the fishery is in place. The Direction closes the Bass Strait Central Zone Scallop Fishery (the Fishery) to fishing for the whole of the remainder of the fishing year.

The beginning of the 2011 fishing season in the Fishery must be delayed due to insufficient data being collected during the annual eastern region survey in November 2010. Under the Harvest Strategy for the Fishery, the Fishery is to remain closed unless surveys indicate that adequate biomass is available for harvest.

If AFMA decides that it can determine a TAC, this Direction can be revoked.

Section 22(5) of the Management Act provides that AFMA may specify a condition to which a fishing right is subject.

Consultation

Subsection 41A(2) of the Management Act provides that, before giving a direction, AFMA must consult the Scallop Management Advisory Committee (ScallopMAC) and consider their views. AFMA may also consider the views of other interested persons.

AFMA consulted with the Scallop Resource Assessment Group (ScallopRAG) regarding opening a new fishing area at meetings on 19-20 January 2011. ScallopRAG recommended not setting a TAC until further data had been collected in the Fishery. This data has now been
collected in the Fishery and analysed by ScallopRAG and their recommendations will be presented to ScallopMAC through the TAC setting process during March 2011.

ScallopMAC have been consulted about the implementation of this direction at their meeting on 17 February 2011 and no objections to the direction were recorded.

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 Management 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 12424).

Details of the Direction are set out below:

**Clause 1** Provides for the Direction to be cited as Bass Strait Central Zone Scallop Fishery (Closures) Direction No. 1 2011.

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

**Clause 3** Specifies the period of application of the Direction.

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

**Clause 5** Provides for the definition of terms used in the Direction.

**Clause 6** Directs that fishing is not to be engaged in.

**Clause 7** Provides that it is a condition of all fishing concessions to which this Direction applies that the holder, or a person acting on behalf of the holder, complies with this Direction.