EXPLANATORY STATEMENT

**Issued by the Authority of the Australian Fisheries Management Authority**

*Fisheries Management Act 1991*

**Heard Island and McDonald Islands Fishery (Closures) Direction No. 2 2014**

The *Heard Island and McDonald Islands Fishery (Closures) Direction No. 2 2014* (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 the Australian Fisheries Management Authority (AFMA) may, after such consultation as set out in s41A(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.

Subsection 41A(2) also provides that, before AFMA issues a Direction, it must consult with the management advisory committee for the fishery, the Sub-Antarctic Fisheries Management Advisory Committee (SouthMAC) about the content of the Direction unless the Direction is issued in circumstances of an emergency.

**The Fishery**

The Heard Island and McDonald Islands Fishery (the Fishery) includes external territories of Australia located in the Southern Indian Ocean about 4,000 km south-west of Perth. The islands lie within the Antarctic Convergence. The waters surrounding the islands out to 200 nautical miles are part of the Australian Fishing Zone which is managed by AFMA.

**The Direction**

The Direction prohibits fishing in waters between 12 and 13 nautical miles of the Heard Island and McDonald Islands. Heard Island and McDonald Islands are included on the World Heritage List. In addition, the Islands themselves and the surrounding territorial waters, which extend for a distance of 12 nautical miles from the Islands, form part of the Heard Island Wilderness Reserve. An additional buffer zone of 1 nautical mile has been implemented by AFMA to complement the 12-mile prohibition, so fishing is prohibited within 13 nautical miles of Heard Island and McDonald Islands. The Wilderness Reserve is managed by the Australian Antarctic Division (AAD) under the *Heard Island Wilderness Reserve Management Plan* established under the *Heard Island and McDonald Islands Environment Protection and Management Ordinance 1987*.

The Direction revokes the *Direction No. HIMIFD 11* (the Previous Direction). The Direction continues the prohibition to fishing in the same area contained within the Previous Direction.

**Regulation Impact Statement**

The Office of Best Practice Regulation advised that a Regulation Impact Statement was not required for this Direction (OBPR ID: 16891)

**Statement of compatibility prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011***

AFMA assesses under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* that this legislative instrument is compatible with human rights. AFMA’s Statement of Compatibility is attached as a supporting document.

**Consultation**

In accordance with Section 41A of the Management Act, AFMA consulted with the Sub-Antarctic Fisheries Management Advisory Committee (SouthMAC) on the Direction. SouthMAC was supportive of the Direction and its contents.

Details of the Direction are set out below:

***Clause 1*** Provides for the Direction to be cited as the *Heard Island and McDonald Islands Fishery (Closures) Direction No. 2 2014*.

***Clause 2*** Provides that the Direction commences on the day after registration on the Federal Register of Legislative Instruments.

***Clause 3*** Provides that the Direction ceases on 22 April 2019 unless earlier revoked.

***Clause 4*** Defines terms used within the Direction and provides that a term used in the Direction and in the Plan has the same meaning in the Direction as in the Plan*.*

***Clause 5*** States to whom the Direction applies.

***Clause 6*** Prohibits fishing in waters between 12 and 13 nautical miles of the Heard Island and McDonald Islands.

***Clause 7*** Revokes the *Direction No. HIMIFD 11* from the date of commencement of the Direction.