

Explanatory Statement

Fisheries Management Act 1991

Southern and Eastern Scalefish and Shark Fishery Management Plan Amendment No. 1 2009

Subsection 17(1) of the *Fisheries Management Act 1991* (the Act) provides that the Australian Fisheries Management Authority (AFMA) is to determine plans of management for all fisheries. Subsection 20(1) provides that AFMA may amend a plan of management.

AFMA has determined the *Southern and Eastern Shark Fishery Management Plan Amendment 2009* (the Plan Amendment) to amend the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003* (the Plan).

The Southern and Eastern Scalefish and Shark Fishery

The Southern and Eastern Scalefish and Shark Fishery (SESSF) is managed under the Plan. It is a multi-method multi-species fishery that lands fresh scalefish and shark for the Australian market and for export. The area of the Fishery stretches south from Fraser Island in southern Queensland, around Tasmania to Cape Leeuwin in southern Western Australia. It comprises a number of historically separate fisheries which had substantial overlap in their areas of operation and species targeted. These fisheries were:

- the South East Trawl Fishery;
- the Gillnet, Hook and Trap Fishery (formerly the South East Non-trawl Fishery and the Southern Shark Fishery); and
- the Great Australian Bight (GAB) Trawl Fishery.

The SESSF also encompasses the Commonwealth Victorian Inshore Trawl Fishery and the East Coast Deepwater Zone which adjoined the area of the South East Trawl Fishery. Together, all of these fisheries produce annual commercial catches with an estimated value of \$90 million.

The SESSF is managed by a combination of output controls (that limit the amount of fish that can be taken from the fishery) in the form of quota statutory fishing rights (SFRs) and input controls (that limit the number of vessels and type of gear that can be used in the fishery). Operators are required to have a boat SFR to fish in the fishery and quota SFRs to cover their catch of all quota species. Most of the commercially important species in the fishery are managed by total allowable catches through quota SFRs. Quota SFRs are fully tradable and can either be permanently transferred or leased.

Content of Plan Amendment

In general terms, the Plan Amendment rectifies an error in the description in the Plan of the boundary of the Great Australian Bight Trawl Sector. It makes permanent the temporary correction of the error by the *Fisheries Management (Southern and Eastern Scalefish and Shark) Temporary Order 2009*, and the preceding Order in the same terms.

Consultation

Section 20 of the Act provides that section 17 of the Act applies in relation to amendments to a plan of management in the same way as it applies to the preparation of a new plan of management. Section 17 requires that AFMA must consult with such persons engaged in fishing as appear to be appropriate, and must give due consideration to any representations made to AFMA in connection with the draft plan. It also requires that interested persons be invited to make representations in connection with the draft plan.

In accordance with section 17 of the Act, AFMA invited interested persons to comment on a draft of the plan amendment by notice in the Commonwealth of Australia Gazette (No. S93 of 29/5/2009) and *The Australian* newspaper (under Public Notices on 3/6/2009), and it notified, by letter, all persons on AFMA's register of interested parties for the SESSF of the terms of the public notices. The register includes all permit holders in the SESSF. The period for public comment opened on 29 May 2009 and closed on 29 June 2009.

No submissions were received in response to these invitations to comment.

Throughout the development of the Plan Amendment, AFMA also consulted with the three SESSF Management Advisory Committees established under section 56 of the Act, namely: the GAB Management Advisory Committee, the South East Trawl Management Advisory Committee and the Gillnet Hook and Trap Management Advisory Committee.

After making the Plan Amendment, AFMA informed the Minister of the consultations that were conducted, and of the fact that no representations were received in response to the invitations to comment. Being satisfied that AFMA gave due consideration to any representations received, conducted adequate consultations and that the Plan Amendment is consistent with AFMA's corporate plan and current annual operational plan, the Minister has accepted the Plan Amendment.

The Plan Amendment does not lead to any new fees and charges being imposed.

The Plan Amendment is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Regulation Impact Statement

The Office of Regulation Review (ORR) has advised AFMA that no regulatory impact analysis, in the form of a Business Cost Calculator report, or a Regulation Impact Statement (RIS) is required for the Plan Amendment (Reference ID 10009).

The Amendments

Details of the Plan Amendment, which commenced the day after it was registered as a legislative instrument, are set out below:

Section 1 - Provides that the Plan Amendment may be cited as the *Southern and Eastern Scalefish and Shark Fishery Management Plan Amendment 2009 (No. 1)*.

Section 2 - Provides that the Plan Amendment commences on the day after it is registered on the Federal Register of Legislative Instruments.

Section 3 - Provides that the Plan is amended as follows:

In clause 3 of Part 2 of Schedule 1 of the Plan, 'Area of the Commonwealth GAB Trawl Sector', the descriptions of Items 14 and 15 are omitted, and replaced with the following descriptions:

Item 14 - North-westerly along the geodesic to 33° 56' 00" S, 132° 30' 00" E

Item 15 - Westerly along the geodesic to 33° 32' 00" S, 132° 00' 00" E.