

EXPLANATORY STATEMENT

Fisheries Management Act 1991

Temporary Order

Southern Squid Jig Fishery Management Plan 2005

Fisheries Management (Southern Squid Jig Fishery Management Plan 2005)
Temporary Order 2010

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

The Southern Squid Jig Fishery

The Southern Squid Jig Fishery (SSJF) encompasses Commonwealth waters from Sandy Cape on Fraser Island (24°30'S) to the South Australian/Western Australian border (129°E) and includes all Commonwealth waters around Tasmania.

Most squid caught by the jigging method are taken from fishing grounds off Portland, Queenscliff and Lakes Entrance in Victoria, with a small number of operators fishing in South Australian waters. The main species targeted is arrow squid (*Nototodarus gouldi*).

The Southern Squid Jig Fishery Management Plan 2005

The SSJF Management Plan 2005 (the Plan) was determined by AFMA on 8 March 2005 under s17 of the Management Act and was accepted by the Minister for Fisheries, Forestry and Conservation on 20 April 2005. The Plan was registered as a legislative instrument on 28 April 2005 and the transitional provisions of the Plan became operational on the same day. The grant of statutory fishing rights under the Plan was completed in the latter part of 2005, and the Plan became fully operational on 1 January 2006.

Background to the temporary order

AFMA has a number of Management Advisory Committees (MACs) established under s56 of the Administration Act, to assist in the performance of its fisheries management functions. For the last two years, AFMA has been rationalising its MACs, with a view to reducing the number of MACs from 12 to 6 by 2012. The objective of this process is to reduce costs and to improve the efficiency of the MAC advisory system.

As part of the decision to rationalise MACs, a number of MACs based on fisheries in waters off south eastern Australia, including SquidMAC, are to be merged to form the South East Management Advisory Committee (SEMAC) from 1 July 2010. As well as saving costs, the decision to form SEMAC is also intended to facilitate a more holistic approach to fisheries management in waters off south eastern Australia.

The Plan provides for a particular MAC, 'SquidMAC', to perform certain functions. However, because of ss56(4) of the Administration Act, SquidMAC cannot be replaced with SEMAC while the Plan provides for functions to be performed by SquidMAC. Subsection 56(4)

provides that AFMA must not abolish a MAC while a plan of management makes provision for that MAC to perform functions, or exercise powers.

The *Fisheries Legislation Amendment Bill 2010 (No. 2)* has been introduced into Parliament, and if passed, will repeal subsection 56(4) of the Administration Act. When the decision was made for SquidMAC to be incorporated into a new SEMAC, it was anticipated that the Bill may (if passed) be in force prior to 1 July 2010. It is now clear that this will not occur.

Section 43 of the Management Act provides for AFMA to make a temporary order to respond to circumstances where urgent action is required to deal with emergencies, or other circumstances where urgent action is required for purposes related to management of a fishery. If an order is inconsistent with a provision of a plan of management, the order overrides the provision, and to that extent, the provision has no effect.

This temporary order replaces 'SquidMAC' with 'SEMAC' for the purposes of the Plan. The temporary order is authorised by s43 of the Management Act for the following reasons:

First, with SquidMAC to be merged with SEMAC on 1 July 2010, the temporary order is necessary to ensure that the rationalisation of the MACs can occur as planned without placing AFMA in breach of ss56(4) of the Administration Act.

Second, the temporary order is consistent with:

- AFMA's ecologically sustainable development objective: the temporary order will enable SEMAC to be in a position to advise on a number of key fisheries management functions in the SSJF thereby ensuring that the exploitation of fisheries resources are conducted in a manner consistent with the principles of ecologically sustainable development;
- AFMA's cost effective fisheries management objectives: the proposed new SEMAC is a cost saving to both industry and AFMA compared to the MAC arrangements that are being replaced.

Third, as the merger of SquidMAC into SEMAC is scheduled to take effect prior to 1 July 2010, no other action is appropriate.

Consultation

The decision to reduce AFMA's MACs from 12 to 6 has its origins in a Cost Reduction Working Group (CRWG) process that was conducted throughout 2007/08. Key industry stakeholders were represented on this Group and the CRWG invited input to their report from all AFMA stakeholders in March 2008.

In addition, two stakeholder workshops held in October and December 2008, considered the proposal to reduce AFMA's MACs from 12 to 6. Both workshops were attended by approximately 40 people, with representatives from MAC Chairs, MAC Executive Officers, Industry, Environment/Conservation Groups, researchers, recreational fishers and State and Commonwealth Government agencies. The workshops expressed good support for the 6 MAC structure.

Further, on 18 February 2009, the AFMA Chief Executive Officer wrote to all stakeholders seeking their views on the proposed restructure of AFMA's MACs and the dual advisory model. The submissions from stakeholders indicate good support from stakeholders for the rationalisation of AFMA's MACs. AFMA has provided ongoing updates to relevant MACs/RAGs on the revised structure of SEMAC.

Regulatory Impact statement

The Office of Best Practice Regulation (OBPR) has advised it considers the impacts of the amendments will be 'low', that no further analysis is required and that the preparation of a RIS or quantification of compliance costs is not required (OBPR Reference No ID11460).

Details of Temporary order

Clause 1 - Provides that the Order is the *Fisheries Management (Southern Squid Jig Fishery Management Plan 2005) Temporary Order 2010*.

Clause 2 - Provides that the Order commences on 1 July 2010.

Clause 3 - Provides that for the purposes of the Plan, SquidMAC is replaced by the South East Management Advisory Committee established under section 54 of the Administration Act.