

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Agriculture, Fisheries and Forestry

*Fisheries Management Act 1991*

*Fisheries Legislation (Management Plans) Amendment 2011 (No. 1)*

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) of the Act provides that AFMA may amend a plan of management to correct an error in the plan, or to change or remove matters in a plan to make the plan consistent with the Act or regulations.

AFMA has determined the *Fisheries Legislation (Management Plans) Amendment 2011 (No. 1)* (the Plan Amendment) to amend: the *Northern Prawn Fishery Management Plan 1995*; the *Southern Bluefin Tuna Management Plan 1995*; the *Bass Strait Central Zone Scallop Fishery Management Plan 2002*; the *Heard Island and McDonald Islands Fishery Management Plan 2002*; the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003*; the *Southern Squid Jig Fishery Management Plan 2005*; the *Western Tuna and Billfish Fishery Management Plan 2005*; the *Macquarie Island Toothfish Fishery Management Plan 2006*; the *Small Pelagic Fishery Management Plan 2009*; and the *Eastern Tuna and Billfish Fishery Management Plan 2010*.

### **Need for Amendments**

AFMA made the *Fisheries Legislation (Repeal and Amendment) Regulations 2011 (No.1)* which came into force on 3 August 2011. The amendment to the *Fisheries Management Regulations 1992* incorporated the introduction of eight standardised rules to apply to all fishing concessions. These standard rules relate to: boat nomination; carriage of observers; processing at sea; catch limits; disposal of fish; Vessel Monitoring Systems; information to be included in registers; and interactions with the marine environment. Amendments also came into effect whereby the transferring and leasing of fishing concessions are dealt with exclusively under the Act.

As a result of the amendments, the provisions relating to these particulars contained in the fisheries management plans are now redundant and require removal.

In addition, the contact details for AFMA contained in the management plans need to be updated to reflect a change in office address.

### **Regulation Impact Statement**

Given the proposed changes to fisheries management plans are to consolidate and standardise existing rules and conditions, the Office of Best Practice Regulation has advised that a regulation impact statement is not required (ID 12453).

## Consultation

As the amendments to the management plans correct minor factual errors remove conditions from management plans now prescribed by the Regulations that are therefore redundant, under subsection 20(6) of the Act, prior public consultation was not required. However, AFMA did consult extensively with industry, including through the management advisory committees and the Commonwealth Fisheries Association, on the content before the making of the *Fisheries Legislation (Repeal and Amendment) Regulations 2011 (No.1)*.

Details of the amendments are set out below:

**Part 1** provides for the Plan to be known as the *Fisheries Legislation (Management Plans) Amendment 2011 (No. 1)*.

**Part 2** provides that the Plan commences on the day after it is registered.

**Part 3** provides that the *Northern Prawn Fishery Management Plan 1995* is to be amended in accordance with Schedule 1.

**Part 4** provides that the *Southern Bluefin Tuna Management Plan 1995* is to be amended in accordance with Schedule 2.

**Part 5** provides that the *Bass Strait Central Zone Scallop Fishery Management Plan 2002* is to be amended in accordance with Schedule 3.

**Part 6** provides that the *Heard Island and McDonald Islands Fishery Management Plan 2002* is to be amended in accordance with Schedule 4.

**Part 7** provides that the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003* is to be amended in accordance with Schedule 5.

**Part 8** provides that the *Southern Squid Jig Fishery Management Plan 2005* is to be amended in accordance with Schedule 6.

**Part 9** provides that the *Western Tuna and Billfish Fishery Management Plan 2005* is to be amended in accordance with Schedule 7.

**Part 10** provides that the *Macquarie Island Toothfish Fishery Management Plan 2006* is to be amended in accordance with Schedule 8.

**Part 11** provides that the *Small Pelagic Fishery Management Plan 2009* is to be amended in accordance with Schedule 9.

**Part 12** provides that the *Eastern Tuna and Billfish Fishery Management Plan 2010* is to be amended in accordance with Schedule 10.

**Schedule 1 Item 1** removes redundant definitions from the *Northern Prawn Fishery Management Plan 1995* (NPF plan).

**Schedule 1 Item 2** removes redundant provision from the NPF plan relating to complying with directions. It is redundant as a result of Item 13.

**Schedule 1 Item 3** removes redundant provision from the NPF plan relating to complying with directions. It is redundant as a result of Item 13.

**Schedule 1 Item 4** corrects a typographical error in the NPF plan.

**Schedule 1 Item 5** removes redundant provision from the NPF plan relating to boat nominations. It is redundant as a result of Item 7

**Schedule 1 Item 6** removes redundant provision from the NPF plan relating to boat nominations. It is redundant as a result of Item 7.

**Schedule 1 Item 7** removes redundant provision from the NPF plan relating to boat nominations.

**Schedule 1 Item 8** removes redundant provision requiring NPF SFR holders to comply with a direction under the NPF plan

**Schedule 1 Item 9** removes the word “and” from 22(1)(h) of the NPF plan. It is redundant as a result of the amendment at Item 10.

**Schedule 1 Item 10** removes redundant provision relating to VMS and complying with directions from the NPF plan.

**Schedule 1 Item 11** removes the word ‘and’ from 23A(1)(b) of the NPF plan. It is redundant as a result of the amendment at Item 12.

**Schedule 1 Item 12** removes redundant provisions from the NPF plan relating to VMS and complying with directions

**Schedule 1 Item 13** removes redundant provisions from the NPF plan relating to directions, transfer of statutory fishing rights, the expiration of statutory fishing rights, the return of certificates and the leasing of statutory fishing rights.

**Schedule 1 Item 14** removes redundant provision relating to complying with directions. It is redundant as a result of the amendment at Item 13.

**Schedule 1 Item 15** removes redundant provision relating to transferring statutory fishing rights. It is redundant as a result of the amendment at Item 13.

**Schedule 1 Item 16** removes redundant provision relating to leasing SFRs.

**Schedule 1 Item 17** removes the words ‘Managing Director of the Australian Fisheries Management Authority’ from 33(2) of the NPF plan and inserts ‘Manager, Licensing and Quota Management, Australian Fisheries Management Authority’.

**Schedule 1 Item 18** substitutes the address in 33(2)(a) of the NPF plan due to a change of office address.

**Schedule 1 Item 19** removes the words ‘the Managing Director’ from 34(2)(c) of the NPF plan.

**Schedule 1 Item 20** removes the phone number ‘(02) 6272 4614’ and replaces it with ‘(02) 6225 5426’ due to the change of office address.

**Schedule 2 Item 1** removes redundant definitions of ‘owner’ and ‘holder’ from subclause 3.1 of the *Southern Bluefin Tuna Fishery Management Plan 1995* (SBT plan).

**Schedule 2 Item 2** removes redundant reference to transfer of statutory fishing rights clause from subclause 3.1 of the SBT plan. It is redundant as a result of amendment at Item 19.

**Schedule 2 Item 3** removes redundant reference to clauses relating to the carriage of observers from subclause 4A.2(e)(ii) of the SBT plan. It is redundant as a result of amendments at Item 8, 11 and 17.

**Schedule 2 Item 4** removes redundant reference to clauses relating to interacting with the marine environment from subclause 6.5 of the SBT plan. It is redundant as a result of amendment at Item 19.

**Schedule 2 Item 5** removes redundant provision from the SBT plan relating to boat nominations.

**Schedule 2 Item 6** removes redundant provision from the SBT plan relating to boat nominations under clause 12A. It is redundant as a result of the amendment at Item 7.

**Schedule 2 Item 7** removes redundant provisions from the SBT plan relating to boat nominations.

**Schedule 2 Item 8** removes redundant provision from the SBT plan relating to the carriage of observers.

**Schedule 2 Item 9** removes redundant provisions from the SBT plan relating to VMS and disposal of fish.

**Schedule 2 Item 10** removes redundant provisions from the SBT plan relating to complying with directions.

**Schedule 2 Item 11** removes redundant provision from the SBT plan relating to the carriage of observers.

**Schedule 2 Item 12** removes redundant provision from the SBT plan relating to the disposal of fish.

**Schedule 2 Item 13** removes the word ‘and’ from subparagraph 25.4(c)(iii) of the SBT plan. The removal is necessary as a result of the amendment at Item 14.

**Schedule 2 Item 14** removes redundant provision from the SBT plan relating to VMS.

**Schedule 2 Item 15** removes the word ‘and’ from subclause 25.5(d) of the SBT plan. The removal is necessary as a result of the amendment at Item 16.

**Schedule 2 Item 16** removes redundant provision from the SBT plan relating to complying with directions. It is redundant as a result of the amendment at Item 19.

**Schedule 2 Item 17** removes redundant provision from the SBT plan relating to the carriage of observers.

**Schedule 2 Item 18** removes redundant provision from the SBT plan relating to complying with directions.

**Schedule 2 Item 19** removes redundant provisions from the SBT plan relating to interactions with the environment, VMS, complying with directions obligations, transferring statutory fishing rights and certificates.

**Schedule 2 Item 20** removes redundant provision from the SBT plan relating to complying with directions.

**Schedule 2 Item 21** removes redundant provision from the SBT plan relating to complying with directions.

**Schedule 2 Item 22** removes the word ‘and’ from clause 32(b) of the SBT plan. The removal is necessary as a result of the amendment at Item 18.

**Schedule 2 Item 23** removes redundant provision from the SBT plan relating to certificates. The removal is necessary as a result of the amendment at Item 14.

**Schedule 2 Item 24** removes redundant provision from the SBT plan relating to leasing.

**Schedule 3 Item 1** removes redundant definitions from the *Bass Strait Central Zone Scallop Fishery Management Plan 2002* (BSCZS plan) relating to holder, lease, owner and trip.

**Schedule 3 Item 2** removes redundant provision from the BSCZS plan relating to boat nominations.

**Schedule 3 Item 3** removes redundant provisions from the BSCZS plan relating to boat nominations.

**Schedule 3 Item 4** removes redundant provision from the BSCZS plan relating to complying with directions, disposal of fish and the carriage of observers.

**Schedule 3 Item 5** substitutes wording relating to the obligation to carry an extract on board the nominated boat.

**Schedule 3 Item 6** removes redundant provision from the BSCZS plan relating to carrying an extract on board the nominated boat. This is redundant as a result of the amendment at Item 5.

**Schedule 3 Item 7** removes redundant provision from the BSCZS plan relating to boat nominations.

**Schedule 3 Item 8** removes redundant provision from the BSCZS plan relating to the expiry of boat statutory fishing rights.

**Schedule 3 Item 9** removes redundant provisions from the BSCZS plan relating to complying with directions and the transferring/leasing of statutory fishing rights.

**Schedule 3 Item 10** removes redundant provision from the BSCZS plan relating to certificates.

**Schedule 3 Item 11** removes redundant provision from the BSCZS plan relating to complying with directions.

**Schedule 3 Item 12** removes redundant provision from the BSCZS plan relating to the delegation of powers.

**Schedule 4 Item 1** removes redundant definitions from the *Heard Island and McDonald Islands Fishery Management Plan 2002* (HIMI plan) relating to eligible boat, holder, ICVMS, lease and owner.

**Schedule 4 Item 2** removes redundant provision from the HIMI plan relating to complying with directions.

**Schedule 4 Item 3** removes redundant provision from the HIMI plan relating to by-catch.

**Schedule 4 Item 4** removes redundant provision from the HIMI plan relating to boat nominations.

**Schedule 4 Item 5** removes redundant provisions from the HIMI plan relating to transferring and leasing statutory fishing rights.

**Schedule 4 Item 6** removes redundant provision from the HIMI plan relating to interactions with the marine environment.

**Schedule 4 Item 7** removes the number '1' from subsection 30 of the HIMI plan. The removal is needed as a result of the amendment at Item 11.

**Schedule 4 Item 8** removes redundant provisions from the HIMI plan relating to complying with directions and the carriage of observers.

**Schedule 4 Item 9** removes the word 'and' from section 30(1)(h) of the HIMI plan. The removal is necessary as a result of the amendment at Item 10.

**Schedule 4 Item 10** removes redundant provision from the HIMI plan relating to VMS.

**Schedule 4 Item 11** removes redundant provisions from the HIMI plan relating to the carriage of observers.

**Schedule 4 Item 12** removes redundant provisions from the HIMI plan relating to complying with directions.

**Schedule 4 Item 13** removes redundant provisions from the HIMI plan relating to complying with directions.

**Schedule 4 Item 14** removes redundant provisions from the HIMI plan relating to complying with directions.

**Schedule 4 Item 15** removes the words ‘Manager, Antarctic Fisheries’ from subsection 35 (3) of the HIMI plan and inserts ‘Manager, Licensing and Quota Management.

**Schedule 4 Item 16** substitutes the address in subsection 35 (3)(a) of the HIMI plan due to a change of office address.

**Schedule 4 Item 17** removes the fax number ‘(02) 6272 5167’ and replaces it with ‘(02) 6225 5426’ due to the change of office address.

**Schedule 4 Item 18** removes the fax number ‘612 6272 5167’ and replaces it with ‘(02) 6225 5426’ due to the change of office address and contact person amended at Item 16.

**Schedule 4 Item 19** removes the email address ‘himie@afma.gov.au’ and replaces it with ‘licensing@afma.gov.au’ due to the change of contact person amended at Item 16.

**Schedule 4 Item 20** removes redundant provisions from the HIMI plan relating to complying with directions.

**Schedule 5 Item 1** removes redundant definitions from the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003* (SESSF plan) relating to fishing concession, holder, owner, lease and trip.

**Schedule 5 Item 2** removes redundant provision from the SESSF plan relating to interactions with the marine environment and complying with directions.

**Schedule 5 Item 3** removes redundant provision from the SESSF plan relating to boat nominations.

**Schedule 5 Item 4** removes redundant provisions from the SESSF plan relating to boat nominations.

**Schedule 5 Item 5** removes redundant provisions from the SESSF plan relating to boat nominations and the transfer and lease of statutory fishing rights.

**Schedule 5 Item 6** removes redundant provisions from the SESSF plan relating to complying with directions and the carriage of observers.

**Schedule 5 Item 7** removes redundant provision from the SESSF plan relating to extracts and logbooks.

**Schedule 5 Item 8** removes redundant provision from the SESSF plan relating to complying with directions.

**Schedule 5 Item 9** removes redundant provision from the SESSF plan relating to interactions with the environment.

**Schedule 5 Item 10** removes redundant provision from the SESSF plan relating to the disposal of fish.

**Schedule 5 Item 11** removes the words ‘Also, the’ from section 53(2) of the SESSF plan and inserts ‘The’. The removal is necessary due the amendment at Item 10.

**Schedule 5 Item 12** inserts the words ‘or the disposal is permitted by Division 10 of part 3A of the *Fisheries Management Regulations 1992*’ into section 53(2) of the SESSF plan.

**Schedule 5 Item 13** removes the words ‘(1) or’ from section 53(4) of the SESSF plan. The removal is necessary due to the amendment at Item 10.

**Schedule 5 Item 14** removes redundant provision from the SESSF plan relating to complying with directions.

**Schedule 5 Item 15** removes redundant provision from the SESSF plan relating to certificates.

**Schedule 5 Item 16** removes redundant provision from the SESSF plan relating to complying with directions.

**Schedule 5 Item 17** removes redundant provision from the SESSF plan relating to complying with directions.

**Schedule 6 Item 1** removes redundant definitions from the *Southern Squid Jig Fishery Management Plan 2005* (Squid plan) relating to holder, lease, owner, and SquidFAG..

**Schedule 6 Item 2** inserts the definition of SquidRAG in the Squid plan.

**Schedule 6 Item 3** removes redundant definitions from the Squid plan relating to a trip.

**Schedule 6 Item 4** removes redundant provision from the Squid plan relating to complying with directions.

**Schedule 6 Item 5** removes the word ‘SquidFAG’ from section 11(2) of the Squid plan and inserts ‘SquidRAG’. The removal is necessary due to the amendments at Item 1 and 2.

**Schedule 6 Item 6** removes redundant provisions from the Squid plan relating to boat nominations.



**Schedule 6 Item 7** removes redundant provisions from the Squid plan relating to complying with directions.

**Schedule 6 Item 8** removes redundant provisions from the Squid plan relating to boat nominations and the transfer and lease of statutory fishing rights.

**Schedule 6 Item 9** removes redundant provisions from the Squid plan relating to complying with directions.

**Schedule 6 Item 10** removes redundant provisions from the Squid plan relating to extracts.

**Schedule 6 Item 11** removes redundant provisions from the Squid plan relating to the carriage of observers, interactions with the marine environment and certificates.

**Schedule 6 Item 12** removes redundant provisions from the Squid plan relating to complying with directions.

**Schedule 6 Item 13** removes redundant provisions from the Squid plan relating to complying with directions.

**Schedule 6 Item 14** substitutes the address in subsection 36 (3)(a) of the Squid plan due to a change of office address.

**Schedule 6 Item 15** removes the fax number '(02) 6272 5426' and replaces it with '(02) 6225 5426' due to the change of office address.

**Schedule 6 Item 16** removes the fax number '612 6272 5426' and replaces it with '612 6225 5426' due to the change of office address.

**Schedule 7 Item 1** substitutes the definition of fishing season.

**Schedule 7 Item 2** removes redundant definitions from the *Western Tuna and Billfish Fishery Management Plan 2005* (WTBF plan) relating to holder, lease, owner and *WTBF Regulations*.

**Schedule 7 Item 3** removes redundant provision from the WTBF plan relating to interacting with the marine environment.

**Schedule 7 Item 4** removes redundant provision from the WTBF plan relating to complying with directions.

**Schedule 7 Item 5** substitutes wording and removes redundant provisions from the WTBF plan relating to boat nominations.

**Schedule 7 Item 6** removes redundant provision from WTBF plan relating to boat nominations.

**Schedule 7 Item 7** removes redundant provisions from the WTBF plan relating to boat nominations and leasing and transferring statutory fishing rights.

**Schedule 7 Item 8** removes the number '1' from subsection 38 of the WTBF plan. The removal is needed as a result of the amendment at Item 10.

**Schedule 7 Item 9** removes redundant provision from the WTBF plan relating to complying with directions.

**Schedule 7 Item 10** removes redundant provision from the WTBF plan relating to the carriage of observers.

**Schedule 7 Item 11** removes redundant provisions from the WTBF plan relating to VMS and the disposal of fish.

**Schedule 7 Item 12** removes the words 'the WTBF Regulations' from subsection 38(5) note 2 of the WTBF plan.

**Schedule 7 Item 13** removes redundant provision from the WTBF plan relating to interactions with the marine environment.

**Schedule 7 Item 14** removes redundant provision from section 40(2) of the WTBF plan relating to the disposal of fish and inserts the words 'an obligation to the disposal of fish'.

**Schedule 7 Item 15** removes redundant provision from the WTBF plan relating to certificates.

**Schedule 7 Item 16** removes redundant provision from the WTBF plan relating to complying with directions.

**Schedule 7 Item 17** removes redundant provision from the WTBF plan relating complying with directions.

**Schedule 7 Item 18** removes the words 'Manager, Business and Licensing' from section 44 (4) of the WTBF plan and inserts 'Manager, Licensing and Quota Management'.

**Schedule 7 Item 19** substitutes the address in subsection section 44 (4)(a) of the WTBF plan due to a change of office address.

**Schedule 7 Item 20** removes the fax number '(02) 6272 4614' and replaces it with '(02) 6225 5426' due to the change of office address.

**Schedule 7 Item 21** removes the fax number '612 6272 4614' and replaces it with '612 6225 5426' due to the change of office address.

**Schedule 7 Item 22** removes redundant provision from the WTBF plan relating complying with directions.

**Schedule 8 Item 1** removes redundant definitions from the *Macquarie Island Toothfish Management Plan 2006* (MIT plan) relating to holder, ICVMS and owner.

**Schedule 8 Item 2** removes a note which is now redundant due to the section being removed from the management plan.

**Schedule 8 Item 3** removes redundant provisions from the MIT plan relating to boat nominations and the leasing and transferring of statutory fishing rights.

**Schedule 8 Item 4** removes redundant provisions from the MIT plan relating to interactions with the marine environment, VMS and the carriage of observers.

**Schedule 8 Item 5** removes redundant provision from the MIT plan relating to complying with directions.

**Schedule 8 Item 6** removes redundant provision from the MIT plan relating to certificates.

**Schedule 8 Item 7** removes a redundant reference to a section of the management plan which has been omitted.

**Schedule 8 Item 8** removes a redundant reference to a section of the management plan which has been omitted.

**Schedule 8 Item 9** removes the words ‘Manager, Antarctic Fisheries’ from subsection 34 (3) of the HIMI plan and inserts ‘Manager, Licensing and Quota Management.’

**Schedule 8 Item 10** substitutes the address in subsection 34 (3)(a) of the MIT plan due to a change of office address.

**Schedule 8 Item 11** removes the fax number ‘(02) 6272 5167’ and replaces it with ‘(02) 6225 5426’ due to the change of office address.

**Schedule 8 Item 12** removes the fax number ‘612 6272 4614’ and replaces it with ‘(02) 6225 5426’ due to the change of office address.

**Schedule 8 Item 13** removes the email address ‘himie@afma.gov.au’ and replaces it with ‘licensing@afma.gov.au’ due to the change of contact person amended at Item 6.

**Schedule 9 Item 1** removes redundant definitions from the *Small Pelagic Fishery Management Plan 2009* (SPF plan) relating to holder, lease, listed marine species, listed migratory species, listed threatened ecological communities, listed threatened species, owner, protected species, SPF Regulations and transfer.

**Schedule 9 Item 2** removes redundant provision from the SPF plan relating to complying with Directions and interactions with certain species and communities.

**Schedule 9 Item 3** removes redundant provision from the SPF plan relating to boat nominations.

**Schedule 9 Item 4** removes redundant provision from the SPF plan relating to complying with Directions.

**Schedule 9 Item 5** removes redundant provision from the SPF plan relating to boat nominations.

**Schedule 9 Item 6** removes redundant provisions from the SPF plan relating to leasing and transferring statutory fishing rights.

**Schedule 9 Item 7** removes redundant provision from the SPF plan relating to complying with directions, disposal of fish, carriage of observers, VMS and carrying extracts on board the nominated boat.

**Schedule 9 Item 8** removes redundant provisions from the SPF plan relating to interactions with the marine environment.

**Schedule 9 Item 9** removes redundant provision from the SPF plan relating to complying with directions.

**Schedule 9 Item 10** removes redundant provision from the SPF plan relating to directions.

**Schedule 10 Item 1** removes redundant definitions from the *Eastern Tuna and Billfish Fishery Management Plan 2010* (ETBF plan) relating to holder and owner.

**Schedule 10 Item 2** removes redundant provision from the ETBF plan relating to complying with directions.

**Schedule 10 Item 3** removes redundant provision from the ETBF plan relating to using a boat in the fishery.

**Schedule 10 Item 4** removes redundant provision from the ETBF plan relating to using a boat in the fishery.

**Schedule 10 Item 5** removes redundant provision from the ETBF plan relating to using a boat in the fishery.

**Schedule 10 Item 6** removes redundant provision from the ETBF plan relating to using a boat in the fishery for scientific purposes.

**Schedule 10 Item 7** removes redundant provisions from the ETBF plan relating to the carriage of observers, VMS and the disposal of fish.

**Schedule 10 Item 8** removes redundant provision from the ETBF plan relating to certificates.

**Schedule 10 Item 9** removes the fax number '(02) 6225 5500' and replaces it with '(02) 6225 5426' due to a change in contact person.

**Schedule 10 Item 10** removes the fax number '612 6225 5500' and replaces it with '612 6225 5426' due to a change in contact person.