

## EXPLANATORY STATEMENT

### ***Macquarie Island Toothfish Fishery Management Plan Amendment 2012***

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

Subsection 20(1) of the Act provides that AFMA may at any time amend a plan of management.

AFMA has determined the *Macquarie Island Toothfish Fishery Management Plan Amendment 2012* (the Plan amendment) to amend the *Macquarie Island Toothfish Fishery Management Plan 2006* (the Plan).

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

#### **The Macquarie Island Toothfish Fishery**

The Macquarie Island Toothfish Fishery (the Fishery) is managed under the Plan.

Macquarie Island falls under Tasmanian jurisdiction and is located outside the Antarctic convergence approximately 1500 kilometres south east of Hobart.

The waters surrounding Macquarie Island out to three nautical miles are Tasmanian State waters and were closed to fishing and classified as a Nature Reserve under Tasmanian law in July 2000. Waters from the three nautical mile boundary out to the 200 nautical mile outer boundary of the Australian fishing zone are under Commonwealth jurisdiction and fishing in these waters is managed by AFMA under the Act.

Patagonian Toothfish is the target species. The Fishery 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, for example, limit the number of boats and type of gear that can be used in the Fishery).

AFMA determines total allowable catches (TACs), which are set to protect the target and non-target fish stocks. Strict operating conditions are imposed to minimise negative effects on the environment, including effects on non-target species.

#### **Need for amendments**

Currently the dates of the 'fishing year' are specified in the Plan. The Plan amendment removes the specific dates from the Plan and inserts the statement 'Fishing year means the period determined by AFMA'. This approach has been used in a number of other Commonwealth managed fisheries and will be in line with AFMA's general legislative reform process where some management arrangements are being moved to determinations instead of being embedded within Management Plans.

The Plan amendment will allow for a Determination which is a more efficient and cost effective mechanism for dealing with components of management arrangements which are subject to change, whilst still providing for Parliamentary scrutiny.

The Plan amendment further provides for minor changes to definitions and removes specific reference to the Bycatch Action Plan. The obligation to manage bycatch remains as part of the Plan, however specific reference to the Bycatch Action Plan is removed as it is covered under the broader AFMA ecological risk management approach. Similar changes were made to the *Heard Island and McDonald Islands Fishery Management Plan 2002* in February 2012 so the Plan amendment will ensure consistency between management plans which are in place for sub-Antarctic fisheries.

### **Regulation Impact Statement**

The Office of Best Practice Regulation (OBPR) advised that a Regulatory Impact Statement was not required for the Plan amendment (OBPR reference: 14519).

### **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 the Plan amendment is compatible with human rights.

### **Consultation**

The Plan amendment was considered and recommended by the Sub-Antarctic Fisheries Management Advisory Committee (SouthMAC).

Following approval by the AFMA Commission, the draft amendment was released for public comment for a period of 32 days. To inform the community, AFMA placed notices in *The Australian* newspaper, in the *Commonwealth of Australia Gazette* and in AFMA's fortnightly newsletter, *AFMA Update*. AFMA also wrote to all those on a register of persons interested in the development of Management Plans.

No submissions were received.

### **Contents of the Plan amendment**

Details of the Plan amendment are set out below:

**Part 1** – provides that the instrument may be cited as the *Macquarie Island Toothfish Fishery Management Plan Amendment 2012*.

**Part 2** – provides that the Plan amendment will commence on the day after it is registered on the Federal Register of Legislative Instruments.

**Part 3** – provides that Schedule 1 amends the Plan.

**Schedule 1 Item 1** – substitutes the definition of 'fishing year'.

**Schedule 1 Item 2** – inserts the definition of 'MAC'.

**Schedule 1 Item 3** – inserts the definition of 'RAG'.

**Schedule 1 Item 4** – omits the definition of 'SARAG'.

**Schedule 1 Item 5** – omits the definition of 'SouthMAC'.

**Schedule 1 Item 6** – omits the words ‘SARAG and SouthMAC’ and substitutes the words ‘the RAG and the MAC’.

**Schedule 1 Item 7** – omits from Section 6, paragraph (j).

**Schedule 1 Item 8** – omits from Section 7, paragraph 1(j).

**Schedule 1 Item 9** – omits the word ‘SouthMAC’ and substitutes the words ‘the MAC’.

**Schedule 1 Item 10** – omits the word ‘SouthMAC’ and substitutes the words ‘the MAC’.

**Schedule 1 Item 11** – omits the words ‘implement a bycatch action plan to’.

**Schedule 1 Item 12** – omits the words ‘The bycatch action plan’ and substitutes the word ‘AFMA’.

**Schedule 1 Item 13** – omits from Section 8, subsection (3).

**Schedule 1 Item 14** – omits the words ‘SouthMAC, SARAG’ and substitutes the words ‘the MAC, the RAG’.

**Schedule 1 Item 15** – omits from Section 11, paragraph (3)(b) and substitutes the words ‘(b) must consult, and consider the views of, the MAC and the RAG’.