

EXPLANATORY STATEMENT

Fisheries Legislation (Management Plans) Amendment 2013 (No. 1)

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

Fisheries Management Act 1991

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 at any time amend a plan of management.

AFMA has determined the *Fisheries Legislation (Management Plans) Amendment 2013 (No. 1)* (the Plan Amendment) to amend the *Bass Strait Central Zone Scallop Fishery Management Plan 2002* (the BSCZSF Plan) and the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003* (the SESSF Plan).

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

Need for Amendments

The BSCZSF Plan and the SESSF Plan provides for ‘take home’ packs for concession holders and/or their crew. Provisions allow for the retention of up to 10 kilograms of quota species per trip which is not decremented from the concession holder’s quota holdings.

Allowing for the take of quota species for private or domestic use in addition to the take which is decremented from quota holdings creates a compliance problem as it allows for an unverified amount of fish to leave ports and is often poorly documented in fishing records.

Removing these allowances from management plans will enable a higher level of traceability for all catches in Commonwealth fisheries. This will in turn increase the effectiveness of AFMA compliance by removing the ambiguities surrounding the declaration of retained quota species on-board a fishing boat.

In early 2012, AFMA publically consulted on a draft Quota Administration Policy which proposed the removal of allowances for personal or domestic use together with a number of other quota arrangements.

The Plan Amendment will give effect to the Quota Administration Policy by removing provisions from the BSCZSF Plan and SESSF Plan authorising the retention of quota species for private or domestic use.

Consultation

Section 17 of the Act requires that before determining a plan of management for a fishery (or an amendment) AFMA must prepare a draft of the plan and publish it by public notice. The notice must invite interested persons to make representations in connection to the draft plan.

The draft amendments were released for public comment in April 2013. 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.

Two submissions were received which were replied to by AFMA and forwarded to the AFMA Commission before determination of the Plan Amendment.

Regulation Impact Statement

The Office of Best Practice Regulation advised that a Regulation Impact Statement was not required for this legislative instrument (ID: 14816).

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.

Details of the Plan Amendment are set out below:

Part 1 provides for the Plan Amendment to be known as the *Fisheries Legislation (Management Plans) Amendment 2013 (No. 1)*.

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

Part 3 provides that the *Bass Strait Central Zone Scallop Fishery Management Plan 2002* is to be amended in accordance with Schedule 1.

Part 4 provides that the *Southern and Eastern Scalefish and Shark Fishery Management Plan 2003* is to be amended in accordance with Schedule 2.

Schedule 1 Item 1 substitutes subsection 12(4) in the BSCZSF Plan which relates to scallops taken under a scientific permit.

Schedule 1 Item omits subsection 12(5) from the BSCZSF Plan which provides for the retention of an amount of scallops for private or domestic use.

Schedule 2 Item 1 omits subsection 20(4) from the SESSF Plan which provides that fish of a quota species taken for a person's private or domestic use are not included as part of the amount of fish taken under subsection 20(3).

Schedule 2 Item 2 omits subsection 20(5) from the SESSF Plan which provides for the retention of an amount of quota species for the person's private or domestic use.

Schedule 2 Item 3 omits the words 'and (4),' from subsection 21(3) of the SESSF Plan as a result of Item 1.