

EXPLANATORY STATEMENT

Small Pelagic Fishery Management Plan Amendment 2013

Issued by the authority of the Australian Fisheries Management Authority

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.

The *Small Pelagic Fishery Management Plan Amendment 2013* (the Plan Amendment) amends the *Small Pelagic Fishery Management Plan 2009* (the Plan).

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

Need for Amendments

AFMA registered 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* (FM Regulations) incorporated the introduction of standardised rules to apply to all fishing concessions. These standard rules included the obligation to dispose of all fish taken and retained in a declared fishery to the holder of a fish receiver permit.

Subsection 50(3) of the Plan provides for the holder to dispose of quota species of fish to one or more persons who are not the holder of a fish receiver permit. The provision is therefore inconsistent with the provisions of the FM Regulations and requires omission from the Plan.

Consultation

As the Plan Amendment changes a matter in the Plan to make it consistent with the FM Regulations, pursuant to subsection 20(6)(c) of the FM 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)*.

Regulation Impact Statement

Given the proposed change to the Plan is required to make the Plan consistent with the FM Regulations; a regulation impact statement is not required.

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 *Small Pelagic Fishery Management Plan Amendment 2013*.

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

Part 3 provides that the *Small Pelagic Fishery Management Plan 2009* is to be amended in accordance with Schedule 1.

Schedule 1 Item 1 removes inconsistent provisions from the *Small Pelagic Fishery Management Plan 2009* relating to disposing of quota species of fish to a person who is not the holder of a fish receiver permit.