

## **EXPLANATORY STATEMENT**

**Issued by the authority of the Australian Fisheries Management Authority**

*Fisheries Management Act 1991*

*Heard Island and McDonald Islands Fishery Management Plan 2002*

### **Heard Island and McDonald Islands Fishery (Trawl Fishing Capacity) Determination 2020**

Section 17 of the *Fisheries Management Act 1991* (the Act) provides for the Australian Fisheries Management Authority (the Authority) to determine plans of management for a fishery.

Paragraph (aa) of subsection 17(6) of the Act provides that a plan of management may determine, or provide for the Authority to determine, the fishing capacity, for a fishery measured by that method or those methods, permitted for the fishery or a part of the fishery in respect of a particular period or periods.

Section 11A of the *Heard Island and McDonald Islands Fishery Management Plan 2002* (the Plan) provides that the Authority must determine the minimum quota for trawl methods, expressed as a percentage of statutory fishing rights for a fishing year.

The instrument determines the trawl fishing capacity in the Heard Island and McDonald Islands Fishery for the fishing years commencing on 1 December 2020 and ending on 30 November of the following year until the year 2025.

#### **Background**

The Heard Island and McDonald Islands Fishery (the Fishery) includes external territories of Australia located in the Southern Indian Ocean about 4,000 kilometres south-west of Perth. The islands lie within the Antarctic Convergence. The waters surrounding the islands out to 200 nautical miles are part of the Australian Fishing Zone which is managed by the Authority.

The Plan provides that access to the HIMI Fishery is limited to those operators holding statutory fishing rights (SFRs) granted under the Plan.

SFRs granted under the Plan allow a quantity of Patagonian toothfish or Mackerel icefish to be taken in the Fishery. This instrument determines the trawl fishing capacity by specifying the percentage of statutory fishing rights that must be held to operate a trawler in the fishery.

#### **Consultation**

The Authority considered the views of the Sub-Antarctic Fisheries Management Advisory Committee (SouthMAC) and the Sub-Antarctic Resource Assessment Group (SARAG) in making the decision. The AFMA Commission supported the recommendation made by SouthMAC.

## **Regulation Impact Statement**

The Office of Best Practice Regulation (OBPR) advised that a Regulation Impact Statement was not required for this Determination consistent with the agreement in place to cover all regulatory changes deemed to be of a minor or machinery nature (OBPR reference 14421).

## **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. The Authority's Statement of Compatibility is attached as a supporting document.

Details of the Determination are set out below:

- Clause 1** Provides for the Instrument to be cited as the *Heard Island and McDonald Islands Fishery (Trawl Fishing Capacity) Determination 2020*.
- Clause 2** Provides that the Instrument commences on 1 December 2020.
- Clause 3** Provides for the Instrument to cease on 1 December 2025.
- Clause 4** Provides that the Instrument is made pursuant to section 17(6)(aa) of the *Fisheries Management Act 1991* and under Section 11 of the *Heard Island and McDonald Islands Fishery Management Plan 2002*.
- Clause 5** Defines the particular terms used in the Determination
- Clause 6** Specifies the minimum quota holding for trawl methods to be 25.5% of the statutory fishing rights held in the fishery for each trawler for each fishing year from 2020 to 2025.

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### **Heard Island and McDonald Islands Fishery (Trawl Fishing Capacity) Determination 2020**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Bill/Legislative Instrument**

This legislative instrument specifies the minimum quota holding for trawl methods to be 25.5% of the statutory fishing rights held in the Heard Island and McDonald Islands Fishery for each trawler for each fishing season commencing on 1 December 2020 and finishing on 30 November of the following year for fishing years until 2025.

#### **Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

#### **Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues. The AFMA Commission is satisfied that the instrument is consistent with AFMA's obligation to pursue its statutory objectives. The instrument is machinery in nature and sets the trawl fishing capacity in the fishery for the 2020/21 to 2024/25 fishing years.