

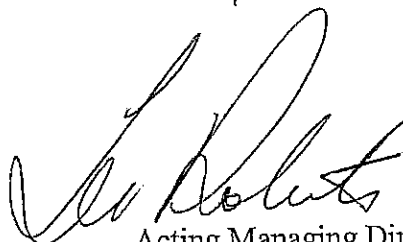
FISHERIES MANAGEMENT ACT 1991
HEARD ISLAND AND McDONALD ISLANDS FISHERY
MANAGEMENT PLAN 2002

DIRECTION No. HIMIFD 7

**CLOSURE OF SHELL BANK TO MACKEREL ICEFISH
FISHING**

I, Leslie John Roberts, Acting Managing Director of the Australian Fisheries Management Authority, as delegate make the following Direction under subsection 17(5A) of the *Fisheries Management Act 1991* and subsection 31(1) of the *Heard Island and McDonald Islands Fishery Management Plan 2002*.

Dated ¹⁷ April 2004



Acting Managing Director,
Australian Fisheries Management Authority

Citation

1. This Direction may be cited as Direction No. HIMIFD 7.

Commencement

2. This Direction commences on Gazettal.

Application

3. This Direction applies to a holder of statutory fishing rights in the fishery and to a person acting on behalf of the holder.

Period of Application

4. This Direction applies for a period of five years from the date of commencement.

Interpretation

5.1 In this Direction:

“**fishery**” means the Heard Island and McDonald Islands Fishery;

“**incidental take**” means the taking of species unintentionally while engaged in commercial fishing;

“**mackerel icefish**” means fish of the species *Champsocephalus gunnari*;

“**Plan**” means the *Heard Island and McDonald Islands Fishery Management Plan 2002*; and

“**target**” in relation to fishing means the commercial fishing activities engaged in with the intention of taking a particular species.

5.2 A term used in this Direction by way of priority, or if there is any inconsistency:

(a) takes the meaning given to it in the interpretation section of this Direction; then;

(b) if no meaning is given to the word in the interpretation section of this Direction, takes the meaning given to it in the Plan; and then;

(c) if no meaning is given to the word in this Direction nor in the Plan, takes the meaning given to that word under the *Fisheries Management Act 1991*.

5.3 The origin of geographical coordinates used in this Direction is the World Geodetic Datum System 1972 (WGS72).

Prohibition on fishing

6.1 No fishing is to be engaged in that targets mackerel icefish in the area of the fishery on Shell Bank as defined in Schedule 1.

6.2 The incidental take of mackerel icefish in the area of the fishery referred to in clause 6.1 will be decremented from a person’s quota holdings for that species in the same manner as it would be if mackerel icefish were a target species in that area.

Exemption to the Prohibition on fishing in clause 6.1

7. An exemption to the prohibition on fishing in clause 6.1 above applies to a person who fishes under a scientific permit in accordance with section 15 of the Plan.

Revocation of Direction No. HIMIFD 3

8. Direction No. HIMIFD 3 is revoked.

SCHEDULE 1

Area of Shell Bank

Shell Bank is defined as all waters of a depth of 350m or less within the area bounded by a line:

- i) commencing at the intersection of the parallel of Latitude 51 degrees 10 minutes South and the meridian of Longitude 75 degrees 20minutes East;
- ii) then east along that parallel to its intersection with the meridian of Longitude 77 degrees 10 minutes East;
- iii) then south along that meridian to its intersection with the parallel of Latitude 52 degrees South;
- iv) then west along the parallel to its intersection with the meridian of Longitude 76 degrees 10 minutes East;
- v) the north-westerly along the geodesic to intersection of the parallel of Latitude 51 degrees 35 minutes South and the meridian of Longitude 75 degrees 20 minutes East; and
- vi) then north along the meridian to the point of commencement.

EXPLANATORY STATEMENT

Issued by the Authority of the Acting Managing Director
of the Australian Fisheries Management Authority

Fisheries Management Act 1991
Heard Island and McDonald Islands Fishery Management Plan 2002

Direction No. HIMIFD 7

CLOSURE OF SHELL BANK TO MACKEREL ICEFISH FISHING

The *Heard Island and McDonald Islands Fishery Management Plan 2002* (the Management Plan) is a plan of management for the Heard Island and McDonald Islands Fishery (the Fishery) determined under section 17 of the *Fisheries Management Act 1991* (the Act) on 8 May 2002.

Subsection 17(5A) of the Act authorises the inclusion in a plan of management of provision for the giving of directions by the Australian Fisheries Management Authority (AFMA), after such consultations as are set out in the Management Plan, that fishing is not to be engaged in in the Fishery, or a particular part of the Fishery, during a particular period or periods. Holders of fishing concessions in the Fishery are obliged through the operation of sections 22 and 95 of the Act to comply with such a direction as a condition of the grant of a fishing right.

Subsection 31(1) of the Management Plan provides for AFMA to give a direction as referred to in subsection 17(5A) of the Act. Subsection 31(2) provides that before giving a direction AFMA must consult with, and consider the views of the Sub-Antarctic Fisheries Management Advisory Committee (SouthMAC) and the Sub-Antarctic Fisheries Assessment Group (SAFAG). Consultation on the new Direction with SouthMAC and SAFAG has taken place in accordance with subsection 31(2) of the Plan.

A direction given by AFMA under subsection 17(5A) is under subsection 17(6B) a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Direction No. HIMIFD 7 revokes a previous direction, Direction No. HIMIFD 3 made on 30 November 2002, which was in substantially the same form and to the same effect. The new Direction, however, corrects a possible technical deficiency in the earlier direction by restricting its operation to a finite period (5 years from commencement) as required by the Act.

The new Direction in the same manner as the previous Direction has the effect of prohibiting fishing for mackerel icefish (*Champscephalus gunnari*) in the area of Shell Bank as specified in the Schedule to the Direction. This closure was recommended because stocks of mackerel icefish on Shell Bank and on the Southern Plateau are separate stocks, with the Shell Bank area having a stock unlikely to be able to support a sustainable commercial harvest.

Direction No. HIMIFD 7 commences on Gazettal.