



Australian Government

Australian Fisheries Management Authority

Explanatory Statement

Fisheries Management Act 1991

Bass Strait Central Zone Scallop Fishery Management Plan Amendment 2004 (No. 1)

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) provides that AFMA may amend a plan of management. Under these provisions AFMA has determined the *Bass Strait Central Zone Scallop Fishery Management Plan 2002* (the Plan). AFMA now provides the following background and explanation for amendments to the Plan made under subsection 20(1) of the Act.

The Bass Strait Central Zone Scallop Fishery

The principal target species in the Bass Strait Central Zone Scallop Fishery (BSCZSF) is known as the commercial scallop (*Pecten fumatus*). The principal harvest method is by a scallop harvester (or dredge). The main markets for scallops have traditionally been France, Hong Kong, USA and the domestic market.

Scientific surveys have been undertaken since 2000 in the area of known scallop beds in the fishery following closure of these beds in 1999. These surveys have provided evidence of stock rebuilding, although stock has not yet fully recovered.

Partly because of these closures in the fishery, there have been some marketing challenges faced by scallop operators. These relate mainly to continuity of supply of fresh product to both domestic and export markets and have been exacerbated by competition with cheaper imported product.

Background to the fishery

The *Bass Strait Central Zone Scallop Fishery Management Plan 2002* was determined by AFMA's Managing Director on 3 September 2002. The associated *Fisheries Management (Bass Strait Central Zone Scallop Fishery) Regulations 2002* (the Regulations) were made by His Excellency, the Governor General, on 27 November 2002. However, the fishery is being managed under interim arrangements, as described in Section 33 of the Plan; the associated Regulations do not take effect until statutory fishing rights (SFRs) have been granted. In March 2004, eligible fishers were provisionally allocated 3,500 quota SFRs and a boat SFR for each fishing permit held on the snapshot date[†] (1 March 2001). The final grant of SFRs is expected to take place in late 2004, with SFRs taking effect from 1 January 2005.

[†] AFMA froze the register of fishing permits on the predetermined date. This "snapshot" was used to determine who could be registered as eligible to apply for the grant of statutory fishing rights in the fishery.

Until SFRs take effect the BSCZSF is being managed under a system of annual fishing permits. The conditions that applied to all fishing permits and the management Decision Rules[‡] that have applied in the fishery since 2002 are generally consistent with the arrangements described in the Plan. Conditions on fishing permits specify a minimum size limit of 80mm for scallops that can be landed (which was thought to allow scallops to achieve at least two major spawnings but has since been questioned), and provide for a seasonal closure (that allows juvenile scallops to become established on the seabed without disturbance). AFMA also uses conditions on fishing permits to implement closures to ensure a minimum spawning stock is protected each year and closures to protect beds with a high proportion of juveniles.

Why amendments are required

The purpose of the *Bass Strait Central Zone Fishery Management Plan 2002* is to pursue AFMA's legislative objectives whilst providing a comprehensive framework for the regulation of scallop fishing in the BSCZSF. Whilst the revised arrangements may increase uncertainty for SFR holders in the short term (by having non-prescribed season dates and TAC), in the long term the arrangements will provide operators with more flexibility to make business decisions, will better meet the objectives of the Plan and will promote sustainability of the stock, securing a future for the fishery. Improving sustainability of the fishery benefits not just operators in the fishery but also the general community; the long-term benefits of a sustainable fishery far outweigh the short-term costs to operators of implementing the proposed changes.

The amendments

In general terms, the amendments:

- allow AFMA to set the fishing season dates annually;
- correct a minor administrative error in the area of waters for the fishery; and
- increase the minimum size limit of scallops from 80mm to 90mm shell length.

Details of the Management Plan Amendments, which commence on gazettal, are set out below:

Item 1

Provides for the Management Plan Amendment to be cited as the *Bass Strait Central Zone Scallop Fishery Management Plan Amendment 2004 (No. 1)*.

Item 2

Provides that the Management Plan Amendment commences on the date of its notification in the *Gazette*.

Item 3

Provides that Schedule 1 amends the *Bass Strait Central Zone Scallop Fishery Management Plan 2002*.

[‡] Decision Rules are a pre-agreed set of rules that allow a transparent and predictable decision-making process in developing management responses to be implemented in the fishery. These are applied as policies of the AFMA Board under management plans and regulations.

Schedule 1 Item 1

This amendment to Section 3, definition of fishing season, allows AFMA to set the fishing season dates annually, meaning that AFMA can set dates other than 1 May and 20 December (e.g. a series of openings and closures over a 12-month period that matches the reproductive cycle of the scallops). The season dates will be determined each year via a set of Decision Rules (to be developed by AFMA in consultation with the Bass Strait Central Zone Scallop Fishery Assessment Group, ScallopFAG, and Management Advisory Committee, ScallopMAC).

In recommending any specific changes to the opening and closing dates for a particular year, ScallopMAC and ScallopFAG must provide evidence-based advice to the AFMA Board consistent with the Decision Rules. Until the Decision Rules are developed, the current fishing season dates (1 May to 20 December in any year) will continue.

Schedule 1 Item 2

This amendment to Schedule 1 corrects a typographical error in the description of the area of waters for the fishery.

Schedule 1 Item 3

This amendment to Schedule 2 increases the minimum size limit of scallops from 80mm to 90mm shell length. This aims to ensure that scallops achieve two major spawnings by the time they are taken in the fishery and that fishing pressure does not significantly affect juvenile populations. This amendment will increase the likelihood of achieving long term sustainability of the stock.

Regulation Impact Statement

The Office of Regulation Review (ORR) advised AFMA that a Regulation Impact Statement (RIS) was required for two out of three amendments. The completed RIS (ORR ID 6368) provides an assessment of costs and benefits of each option, and considers ESD implications of the changes as well as financial implications for the fishery.

Consultation

AFMA's management philosophy (as foreshadowed in its governing legislation) involves a partnership approach to the management of marine resources under its jurisdiction. Cooperation with relevant stakeholders, such as the fishing industry, government agencies, the community and others with an interest in the sustainable management of the Commonwealth's fisheries resources, is a vital part of this approach. This approach provides opportunities for stakeholders to have input into the management process through, in the case of the BSCZSF, ScallopMAC.

ScallopMAC made the original recommendation to change the BSCZSF Plan and Regulations and the amendments have been discussed and considered by ScallopMAC and ScallopFAG. At ScallopMAC 9 in April 2004 all members agreed with the proposed amendments and these were subsequently endorsed by the AFMA Board at its May 2004 meeting.

The proposed amendments to the Plan were circulated for public comment in July 2004; a copy of the amendments was sent to all people with an interest in the fishery. A letter and copy of the amendments was also sent to all known Native Title claimants in the area of the fishery. A public notice inviting comments on the draft amendments was placed in the Commonwealth Government Gazette and *The Australian* newspaper.

The closing date for comments was 3 September 2004. Two representations were received from one operator. A copy and summary of comments was provided to ScallopMAC members out-of-session in September 2004. ScallopMAC considered the representations, agreed with AFMA's responses to the comments and supported proceeding with the outlined amendments (without change) as soon as possible. The AFMA Board agreed with ScallopMAC's advice and endorsed the determination of the amended Plan and Regulations by AFMA's Managing Director at its October 2004 meeting.