

EXPLANATORY STATEMENT

LEGISLATIVE INSTRUMENT

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

Fisheries Management Act 1991
Northern Prawn Fishery Management Plan 1995

Direction No. NPDF 112
Second Season Extension and Closures

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

Subsection 17(5A) of the *Fisheries Management Act 1991* (the Management Act) provides, inter alia, that a plan of management made under the Management Act may provide for the Australian Fisheries Management Authority (AFMA), after such consultation as set out in the plan of management, to direct that fishing is not to be engaged in in the fishery, or a particular part of the fishery, during a particular period or periods.

Section 14(4) of the *Northern Prawn Fishery Management Plan 1995* (the Plan) allows particular holders of Statutory Fishing Rights (SFRs) granted under the Plan to take prawns, squid, scampi, bugs and scallops (target species) from the Northern Prawn Fishery (the fishery). Subsection 14(5) of the Plan allows those holders to also take other fish (bycatch) while conducting commercial fishing activities for the target species. This ability to take target species and bycatch is subject to directions made under section 25 of the Plan.

Subsection 25(1) of the Plan provides that AFMA may direct that fishing is not to be engaged in the fishery, or a part of the fishery, during a particular period or periods. Section 4 of the Plan provides objectives of the Plan, including the implementation of efficient and cost effective management of the fishery.

Subsection 25(3) of the Plan provides that, before AFMA issues a direction, it must consult with the Northern Prawn Fishery Management Advisory Committee (NORMAC) about the content of the direction unless the direction is issued in circumstances of an emergency.

Section 92 of the *Fisheries Administration Act 1991* provides for AFMA to delegate its powers and functions to, among others, the Managing Director of AFMA. Subsection 17 (11) of the Management Act permits AFMA to delegate its powers to make directions (among other things) only to the Managing Director. AFMA has delegated its power to make directions to the Managing Director.

The Fishery

The fishery extends from the northern coast of Western Australia, the coast of the Northern Territory and the coast of Queensland in the Gulf of Carpentaria, to the outer limit of the Australian fishing zone. The fishery is for prawns and 4 major ecologically related species (namely squid, scampi, bugs and scallops). There are 2 fishing seasons in the fishery, bounded by closures. The area of the fishery overlaps the areas of a number of fisheries for other species that are managed by the States and the Territory.

The fishery is managed by limiting the amount of fishing effort that is employed by the persons permitted by the Plan to fish in the fishery (operators). These limitations are known generically as input controls and are used in the fishery to address both biological and economic objectives for the fishery. The specific types of inputs that are controlled in the fishery are the amount of fishing time (limited by closures of all or parts of the fishery), the amounts and types of fishing equipment, the number of boats in the fishery and the specifications of those boats.

Direction No. NPDF 112 replaces Direction No. NPDF 109. This new Direction is to extend the tiger or second season for a period of two weeks. It establishes closures in specified areas of the

fishery. The Direction sets out closure boundaries and prevents fishing in six specific areas within the fishery to protect spawning and small prawns during the second fishing season and a broader mid-season closure to protect stock prior to and during spawning periods.

Regulation Impact Statement

The Office of Best Practice Regulation has advised that a Regulation Impact Statement is not mandatory on the basis that the Direction is of a minor or machinery nature and does not substantially alter existing arrangements (ID 9362).

Consultation

AFMA consulted with the Northern Prawn Fisheries Management Advisory Committee (NORMAC) prior to making the Direction and NORMAC supports the making of the Direction.

The Act does not specify any condition as needing to be met before the power to make the Direction may be exercised.

Direction NPF 112 commences the day after registration on the Federal Register of Legislative Instruments.

Details of the Direction are set out below:

- Clause 1** Clause 1 provides for the Direction to be cited as Direction No. NPF 112.
- Clause 2** Clause 2 provides for the commencement of the Direction.
- Clause 3** Clause 3 states to whom the Direction applies.
- Clause 4** Clause 4 sets out the period of application of this Direction.
- Clause 5** Clause 5 defines certain terms used in the Direction and provides that terms used in the Direction that are defined for the purposes of the Plan have the same meanings as they have in the Plan. The note indicates that terms defined in the Management Act have the same meaning in the Direction.
- Clause 6** Clause 6 prohibits commercial fishing in areas of the fishery detailed in Schedules 1 to 8, during certain periods as set out in the table.
- Clause 7** Clause 7 provides for an exemption to clause 6 half an hour before the commencement of the first season for persons who carry the fishing equipment in a particular manner; for persons who navigate in an exempt transit corridor or specified closure and carry the fishing equipment in a particular manner; for persons who apply for and receive an exemption from AFMA in accordance with Schedule 10; for persons carrying out gear trials in accordance with Direction No. NPF 110; for persons entitled to take fish in the area of the fishery if they are fishing for gravid prawns under an authority provided by AFMA, or who otherwise fish in accordance with another plan of management in force under the Management Act, or State or Territory law applying in the area of the fishery.
- Clause 8** Clause 8 revokes Direction No. NPF 109.
- Schedules 1 to 8** describe the areas that are closed to fishing referred to in clause 6.
- Schedule 9** describes the exempt transit corridor areas referred to in clause 7.3
- Schedule 10** describes the protocols for applications for exemptions referred to in clause 7.2.

NPF 112.