

EXPLANATORY STATEMENT

LEGISLATIVE INSTRUMENT

Issued by the Authority of the Australian Fisheries Management Authority

Fisheries Management Act 1991

Northern Prawn Fishery (Closures) Direction No. 160

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

Subsection 41A(2) of the *Fisheries Management Act 1991* (the Management Act) provides, inter alia, that Australian Fisheries Management Authority (AFMA) may, after such consultation as set out in subsection 41A(2), direct that fishing is not to be engaged in the fishery, or a particular part of the fishery, during a particular period or periods.

Subsection 41A(2) also provides that, before AFMA issues a Direction, it must consult with the management advisory committee for the fishery, the Northern Prawn Fishery Management Advisory Committee (NORMAC), about the content of the Direction unless the Direction is issued in circumstances of an emergency. Under the current trial of co-management arrangements AFMA must also consult with the industry representative body, the Northern Prawn Fishery Industry Pty Ltd (NPF) on all operational matters for the fishery, including Directions. This is outlined in the co-management policy and memorandum of understanding between AFMA and NPF which has been endorsed by NORMAC. All gear statutory fishing right holders in the Northern Prawn Fishery (the Fishery) are eligible to join the NPF. The NPF currently represents approximately 95 percent of these concession holders.

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 four major ecologically related species (namely squid, scampi, bugs and scallops). There are two 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 *Northern Prawn Fishery Management Plan 1995* (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 the biological and economic objectives of 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.

The Direction

The Northern Prawn Fishery (Closures) Direction No. 160 (the Direction) 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 broader mid and end of season closures to protect stock prior to and during spawning periods.

The Direction also prevents trawling during daylight hours in key tiger prawn areas because it is believed that mature female tiger prawns are more susceptible to daylight trawling. It is important to protect these prawns as they form the breeding stock. Research to confirm that mature females are more susceptible has been carried out however the results were inconclusive. Accordingly AFMA has taken a precautionary approach and prohibited daylight trawling.

The Direction makes provision for operators to carry out trials of their fishing equipment (gear trials) in particular areas that are set aside for the purpose. Fish are not targeted during gear trials and under this Direction the trial can be carried out prior to the commencement of the second fishing season. The areas in which the gear trials are permitted to be carried out were selected so as to have minimal impact on prawn stocks in the fishery while still being practical for operators.

Regulation Impact Statement

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

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.

Consultation

Subsection 41A(2) of the Management Act provides that, before giving a direction, AFMA must consult NORMAC and consider their views. AFMA may also consider the views of other interested persons.

AFMA consulted with both NORMAC and the NPFI prior to making the Direction. NORMAC and NPFI support the making of the Direction.

Details of the Direction are set out below:

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| Clause 1 | Provides for the Direction to be cited as the <i>Northern Prawn Fishery (Closures) Direction No. 160</i> . |
| Clause 2 | Provides that the Direction commences on the day after registration on the Federal Register of Legislative Instruments. |
| Clause 3 | Provides that the Direction ceases to have effect as if repealed at 2200 hours UTC on 31 July 2013. |
| Clause 4 | Provides that a term used in the Direction and in the Plan has the same meaning in the Direction as in the Plan. |
| Clause 5 | States to whom the Direction applies. |
| Clause 6 | Provides for prohibitions of fishing in areas of the fishery detailed in Schedules 1 to 12, during certain periods. |
| Clause 7.1 | Provides an exemption to the closures detailed at clauses 6.1 and 6.2 for a person that is conducting a gear trial in the prescribed areas. |
| Clause 7.2 | Provides an exemption by way of a corridor for boats to transit through the closure prescribed in clause 6.3. The exemption only applies when a boat carries its gear in the manner prescribed in the clause. |
| Clause 8 | Provides for the revocation of <i>Northern Prawn Fishery (Closures) Direction No. 159</i> from the commencement date of the Direction. |
| Schedules 1 to 12 | Define the areas that are closed to fishing referred to in clause 6.1 to 6.12. |
| Schedules 13 to 15 | Define the areas where the gear trial referred to in clause 7.1 may be undertaken. |
| Schedule 16 | Defines the area of the transit corridor referred to in clause 7.2 |