

## **EXPLANATORY STATEMENT**

### **LEGISLATIVE INSTRUMENT**

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

*Fisheries Management Act 1991*

*Fisheries Management (Northern Prawn Fishery Seasonal Closures) Amendment Direction No. 2  
2021*

#### **Legislative Authority**

Subsection 41A(2) of the *Fisheries Management Act 1991* (the Act) provides that the Australian Fisheries Management Authority (AFMA) may, after consultation with the Management Advisory Committee for the fishery, direct that fishing is not to be engaged in the fishery, or a particular part of the fishery, during a particular period or periods. Prior to making such a direction, AFMA must ensure that each holder of a fishing concession and scientific permit in the relevant fishery is provided with a copy of the direction seven (7) days before that direction takes effect. *Fisheries Management (Northern Prawn Fishery Seasonal Closures) Direction 2021* (the Seasonal Closures Direction) is a direction made on 15 March 2021 under subsection 41A(2) after consultation with the Northern Prawn Fishery Management Advisory Committee (NORMAC) and notification to concession holders of the Northern Prawn Fishery (the fishery).

Subsection 41A(3) of the Management Act provides that AFMA may, at any time, vary or revoke a direction made under subsection 41A(2). Subsection 41A(4) of the Act stipulates that AFMA must ensure a copy of the varied direction is sent to each concession holder in the relevant fishery as soon as possible.

The *Fisheries Management (Northern Prawn Fishery Seasonal Closures) Amendment Direction No. 2 2021* (the Amendment Direction) varies the Seasonal Closures Direction to:

- provide for additional area closures for specified periods within the fishery.

The Amendment Direction is a legislative instrument for the purposes of the *Legislation Act 2003* (the Legislation Act).

#### **Objectives**

The Amendment Direction varies the Seasonal Closures Direction by providing for additional area closures for specified times within the fishery. Naturally high variability and environmental dependency of tiger prawn recruitment results in significant variations in stock availability from year to year. To deal with the annual variation, the fishery Harvest Strategy 2014 includes a maximum economic yield (MEY)-based tiger prawn catch trigger used to calculate the length of the tiger prawn fishing season. This trigger is 350 kgs/boat/day and is based on economic and catch-rate data provided by the peak industry body for the fishery, the Northern Prawn Fishery Industry Pty Ltd (NPMI). If catch rates across the fleet fall below this trigger, further fishing is uneconomical and begins to erode net economic return from the fishery.

On 3 November 2021, the NPMI informed AFMA that the catch levels across the fleet fell below the above trigger. Accordingly, AFMA varies the Seasonal Closures Direction to close the fishery area to all fishing for the rest of the season.

#### **Background on the Fishery**

The fishery is an area of waters that extends from the coastline to the edge of the Australian Fishing Zone (200 nautical miles offshore) north of Western Australia, the Northern Territory and Queensland in the Gulf of Carpentaria. Fishing in 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, the banana prawn season (1 April – 15 June) and tiger prawn season (1 August – 30 November). The area of the fishery overlaps the areas of a number of fisheries for other species that are managed by Queensland, Western Australia and the Northern Territory.

The fishery is managed by limiting the amount of fishing effort under the *Northern Prawn Fishery Management Plan 1995* (the Plan). These limitations are known commonly 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 within the fishing seasons), the amounts and types of fishing equipment and the number of boats in the fishery.

### **Consultation**

As indicated above, variations made under subsection 41A(3) of the Act do not require AFMA to consult. However, consistent with section 17 of the *Legislation Act 2003*, AFMA consulted with NPMI prior to making the Amendment Direction. NPMI is the peak industry body and represents approximately 95 per cent of the concession holders in the Fishery. NPMI keeps all concession holders in the Fishery informed on matters relating to the management of the Fishery. NPMI supports the making of the Amendment Direction.

### **Regulation Impact Statement**

The Office of Best Practice Regulation has advised that a Regulation Impact Statement is not required for this instrument consistent with the carve-out agreement with AFMA (OBPR reference 14421) for instruments of a minor or machinery nature.

### **Statement of compatibility prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011***

This legislative instrument is compatible with the human rights and freedoms under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in the [Attachment](#).

### **Amendment Direction**

The details of the Amendment Direction are set out below:

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| <b>Section 1</b>  | Provides that the Amendment Direction is the <i>Fisheries Management (Northern Prawn Fishery Seasonal Closures) Amendment Direction No. 2 2021</i> . |
| <b>Section 2</b>  | Provides that the Amendment Direction commences on 19 November 2021.   |
| <b>Section 3</b>  | Provides that the Amendment Direction is made under subsection 41A(3) of the <i>Fisheries Management Act 1991</i> .                                  |
| <b>Section 4</b>  | Gives effect to Schedule 1.  |
| <b>Schedule 1</b> | Schedule 1 outlines the amendment to the <i>Fisheries Management (Northern Prawn Fishery Seasonal Closures) Direction 2021</i> .                     |
| <b>Clause 1</b>   | Inserts subsection 11(3) to provide that fishing is not to be engaged in in the fishery during the prescribed times.                                 |

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

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

### **Fisheries Management (Northern Prawn Fishery Seasonal Closures) Amendment Direction No. 2 2021**

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 Legislative Instrument**

Subsection 41A(2) of the *Fisheries Management Act 1991* (the Act) provides that the Australian Fisheries Management Authority (AFMA) may, after consultation with the Management Advisory Committee for the Fishery, 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(3) of the Act provides that AFMA may, at any time, vary or revoke a direction made under subsection 41A(2).

The *Fisheries Management (Northern Prawn Fishery Seasonal Closures) Amendment Direction No. 2 2021* (Amendment Direction) varies the *Fisheries Management (Northern Prawn Fishery Seasonal Closures) Direction 2021* to provide for additional closure for specified times within the fishery.

In particular, the Amendment Direction varies the closures by providing for additional closure for the remainder of the 2021 tiger prawn season to maximise net economic returns to the Australian community. The Amendment Direction closes the fishery area on 20 November 2021.

#### **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.