

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 2022

Subsection 41A(2) of the *Fisheries Management Act 1991* (the Management 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 41(2B) also provides that in an emergency a direction may be given under subsection (2) without any consultation, provided a copy of the direction is sent to each holder of a fishing concession. However, AFMA has consulted with the Northern Prawn Fishing Industry Pty Ltd (NPF) prior to making the Amendment Direction. NPF is the peak industry body and represents approximately 95 per cent of the concession holders in the Fishery. AFMA has met the requirements of Subsection 41A(4) of the Management Act, which 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 2022* (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.

While the 2022 tiger prawn stock assessment assessed the spawning stock size as above the biomass limit, it assessed it as below maximum economic and sustainable yield. Additionally, the results of the February 2022 recruitment surveys showed relatively poor abundances. These low levels of recruitment continued the low, or declining levels, of the previous couple of years. The early closure of the NPF fishing grounds is the most effective way of removing access to the tiger prawn fishery to protect tiger prawn stocks and maximise profits in the fishery.

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 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*. 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.

Consultation

Variations made under subsection 41A(3) of the Management Act do not require AFMA to consult. However, consistent with section 17 of the Legislation Act, AFMA consulted with NPFI prior to making the Amendment Direction. NPFI 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 A**.

Direction

Details of the Amendment Direction are set out below:

- Section 1** Provides that the name of the instrument is the *Fisheries Management (Northern Prawn Fishery Seasonal Closures) Amendment Direction No. 2 2022*.
- Section 2** Provides that the instrument commences on the day after registration on the Federal Register of Legislation.
- Section 3** Provides that the instrument is made under subsection 41A(3) of the *Fisheries Management Act 1991*.
- Section 4** Gives effect to Schedule 1.
- Schedule 1** Schedule 1 outlines the amendments to the *Fisheries Management (Northern Prawn Fishery Seasonal Closures) Direction 2021*.
- Item 1 of Schedule 1** Omits subsection 11(3) which is no longer applicable and replaces with an updated provision that provides that fishing is not to be engaged in the area defined in Schedule 1 of the fishery during the period commencing at 2200 hours UTC on 31 October 2022 and ending at 2200 hours UTC on 30 November 2022.
- Item 2 of Schedule 1** Inserts subsection 11(4) which provides that fishing is not to be engaged in the area defined in Schedule 2 of the fishery during the period commencing at 2230 hours UTC on 31 October 2022 and ending at 2200 hours UTC on 30 November 2022.

ATTACHMENT A

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 2022

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 2022* (Amendment Direction) varies the *Fisheries Management (Northern Prawn Fishery Seasonal Closures) Direction 2021* to provide for additional area closures for specified periods within the Fishery.

In particular, the Amendment Direction varies the closures by providing for additional closure for the remainder of the 2022 tiger prawn season to protect tiger prawn stocks and to maximise net economic returns to the Australian community. The Amendment Direction closes the fishery area on 1 November 2022.

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.