

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. 1 2024

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, under subsection 41A(2A) of the Management Act, 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. The *Fisheries Management (Northern Prawn Fishery Seasonal Closures) Direction 2021* (the Seasonal Closures Direction) is a direction that commenced on 1 April 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). Where a direction is varied under subsection 41A(3) of the Management Act, the consultation requirements in subsection 41A(2) and the notification requirements in 41(2A) of the Management Act do not apply. However, AFMA consulted with the Northern Prawn Fishing Industry Pty Ltd (NPFPI) prior to making the Amendment Direction. The NPFPI is the peak industry body and represents approximately 95 per cent of the concession holders in the Fishery. Under subsection 41A(4) of the Management Act, 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. 1 2024* (the Amendment Direction) varies the Seasonal Closures Direction under subsection 41A(3) of the Management Act 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.

A reduction in fishing effort for the 2024 tiger prawn season was agreed to by the AFMA Commission through a shortened fishing season triggered by a predetermined Total Allowable Effort (TAE) set at 4013 nominal fishing days. Reaching the TAE has triggered the early closure on 30 October 2024 (UTC) rather than the usual 30 November (UTC). NPRAG and NORMAC advised the AFMA Commission that this course of action is the most effective way of protecting tiger prawn stocks and maximising profits in the fishery, and the AFMA Commission agreed with that advice.

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 the NPFI prior to making the Amendment Direction. The NPFI supports the making of the Amendment Direction.

Regulation Impact Statement

The Office of Impact Analysis (OIA) has advised that a Regulation Impact Statement is not required for this instrument, consistent with the listed in Table 1 of the OIA's Approved Carve-outs as at 12 March 2024 for AFMA (OIA23-06107) for instruments of a 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**.

Details of the Amendment 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. 1 2024*.
- 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** Provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.
- 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 substitutes it with an updated provision that states 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 30 October 2024 and ending at 2200 hours UTC on 30 November 2024.

Item 2 of

Schedule 1

Omits subsection 11(4) which is no longer applicable and substitutes it with an updated provision that states that fishing is not to be engaged in the area defined in Schedule 2 of the fishery during the period commencing at 2200 hours UTC on 30 October 2024 and ending at 2200 hours UTC on 30 November 2024.

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. 1 2024

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 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. Subsection 41A(3) of the Management 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. 1 2024* (**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 2024 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 31 October 2024.

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.