EXPLANATORY STATEMENT

LEGISLATIVE INSTRUMENT

Issued by the Authority of the
Australian Fisheries Management Authority

Fisheries Management Act 1991

NPF Direction No. 147
Protected Area Closures

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 s41A(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 consult with Northern Prawn Fishery Industry Pty Ltd (NPFI) on all operational matters for the fishery, including Directions. This is outlined in the co-management policy and memorandum of understanding between AFMA and NPFI and has been endorsed by NORMAC.

Section 22(5) of the Management Act provides that AFMA may specify a condition to which a fishing right is subject.

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 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.

The Direction

NPF Direction No. 147 establishes permanent closures in specified areas of the fishery. The Direction prevents fishing in eleven specific areas within the fishery that provide essential habitats for the juvenile growth phase of penaeid prawns, a major species in the fishery. Fishing in these areas would not only cause destruction to vital seagrass habitat but would also result in the capture of underdeveloped and undersize prawns.

The Direction also establishes two areas that are closed to fishing, as they are the sites of research surveys investigating the impact of trawling on the benthos. To avoid confounding the results of this
research it is important that these areas remain closed to commercial fishing for the duration of this project.

The Direction replaces Direction No. NPFD 134.

**Regulation Impact Statement**

The Office of Best Practice Regulation (OBPR) has advised that a Regulation Impact Statement or quantification of compliance costs are not required on the basis that the Direction is of a minor or machinery nature and does not substantially alter existing arrangements. The OBPR considers that the impacts of amendments will be low (ID 12423).

**Consultation**

AFMA consulted with Northern Prawn Fishing Industry Pty Ltd (NPFI) prior to making the Direction; NPFI supports the making of the Direction.

Details of the Direction are set out below:

*Clause 1* Clause 1 provides for the determination to be cited as NPF Direction No. 147.

*Clause 2* Clause 2 provides for the commencement of the Direction\(^1\).

*Clause 3* Clause 3 states to whom the Direction applies.

*Clause 4* Clause 4 provides for the interpretation of the Direction. In particular, the section defines the measurement of time for the purposes of the Direction and also adopts defined terms used in the Plan. The note indicates that terms defined in the Management Act have the same meaning in the Direction.

*Clause 5* Clause 5 prohibits commercial fishing in the areas described in Schedule 1.

*Clause 6* Clause 6 states to whom the prohibition of fishing does not apply.

*Clause 7* Clause 7 provides that it is a condition of all fishing concessions to which this Direction applies that the holder, or a person acting on behalf of the holder, complies with this Direction.

*Clause 8* Clause 8 revokes NPF Direction No. 134.

*Schedule 1* describes the prohibited areas.

*Schedule 2* describes the exempt transit corridors where boats may navigate.

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\(^1\) Directions have a maximum application of ten years with a review period at five years. As such this Direction will be reviewed in 2016 and will remain in force until such time as it is revoked or the ten year period expires.