

## **EXPLANATORY STATEMENT**

### **LEGISLATIVE INSTRUMENT**

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

*Fisheries Management Act 1991*  
*Northern Prawn Fishery Management Plan 1995*

Direction No. NPFD 92.  
Prohibition on Trawling

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

Subsection 17(5A) of the *Fisheries Management Act 1991* (the Management Act) provides that a plan of management made under the Management Act may provide for the Australian Fisheries Management Authority (AFMA) to give particular directions for the purposes of attaining the objectives of the plan of management. The subsection also requires that the directions be made after the consultations (if any) that are set out in the plan of management.

Section 14 of the Northern Prawn Fishery Management Plan 1995 (the Plan) allows particular holders of Statutory Fishing Rights (SFRs) granted under the Plan to take prawns, squid, scampi, bugs and scallops (target species) from the Northern Prawn Fishery (the fishery). Subsection 14(5) of the Plan allows those holders to also take other fish (bycatch) while conducting commercial fishing activities for the target species. This ability to take target species and bycatch is subject to directions made under section 25 of the Plan.

Subsection 25(1) of the Plan provides that AFMA may direct that fishing is not to be engaged in the fishery, or a part of the fishery, during a particular period or periods. Section 4 of the Plan provides objectives of the Plan, including the implementation of efficient and cost effective management of the fishery.

Subsection 25(3) of the Plan provides that, before AFMA issues a direction, it must consult with the Northern Prawn Fishery Management Advisory Committee (NORMAC) about the content of the direction unless the direction is issued in circumstances of an emergency.

Section 92 of the *Fisheries Administration Act 1991* provides for AFMA to delegate its powers and functions to, among others, the Managing Director of AFMA. Subsection 17 (11) of the Management Act permits AFMA to delegate its powers to make directions (among other things) only to the Managing Director. AFMA has delegated its power to make directions to the Managing Director.

#### **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 4 major ecologically related species (namely squid, scampi, bugs and scallops). There are 2 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.

Direction No. NPFD 92 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 banned daylight trawling. This Direction also prohibits trawling 24 hrs a day for the banana season in part of the Gulf of Carpentaria and around the Goulburn Islands to reduce the catch of pre-spawning tiger prawns in the first season.

Direction No. NPFD 92 replaces Direction No. NPFD 86 and has the effect of adjusting the prohibitions to make them consistent with the new season dates that are being implemented in the fishery.

### **Regulation Impact Statement**

The Office of Regulation Review has advised that a Regulation Impact Statement is not mandatory on the basis that the Direction is of a minor or machinery nature and does not substantially alter existing arrangements (ID 7952).

### **Consultation**

AFMA consulted with the Northern Prawn Fisheries Management Advisory Committee (NORMAC) prior to making the Direction and NORMAC supports the making of the Direction.

The Act does not specify any condition as needing to be met before the power to make the Direction may be exercised.

Details of the Direction are set out below:

- Clause 1** Clause 1 provides for the determination to be cited as Direction No. NPFD 92.
- Clause 2** Clause 2 provides for the commencement of the Direction.
- Clause 3** Clause 3 states to whom the Direction applies.
- Clause 4** Clause 4 sets out the period of application of this Direction.
- Clause 5** Clause 5 provides for the interpretation of the Direction. In particular, the clause defines the matters to which the prohibitions apply and 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 6** Clause 6 prohibits fishing in Area A described in Schedule 1 from 2200 hrs UTC 14 April to 2200 hours UTC on 31 December. Prohibits daylight fishing between the hours of 2230 and 0830 (Universal Time Constant) in areas west of 138° E defined in Schedule 2 for the period from 1 August until 31 December and prohibits daylight fishing between the hours of 2200 and 0800 (Universal Time Constant) in areas east of 138° E defined in Schedule 2 for the period from 1 August until 31 December.

- Clause 7** Clause 7 prohibits fishing in the Area B defined in Schedule 1 for the period from 2200 hrs UTC 14 April to 2200 hours UTC on 31 December.
- Clause 8** Clause 8 prohibits possession of trawling equipment within the areas and times relevant to the daylight trawling prohibition, unless that trawling equipment is carried in a specified manner.
- Clause 9** Clause 9 provides an exemption to clauses 6, 7, 8 and 9 for persons fishing in accordance with another plan of management in force under the Management Act or State or Territory law applying in the area of the fishery.
- Clause 10** Clause 10 revokes Direction No. NPFD 86.
- Schedule 1** describes two areas to which the trawling prohibition applies. Area A being the Gulf of Carpentaria area and Area B being the Goulburn Islands area during the first season.
- Schedule 2** describes an area within which the daylight trawling prohibition applies Area C being the Gulf of Carpentaria area and Area D being the Goulburn Islands area during the second season.