

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 98
Gear Trials

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 98 makes provision for operators to carry out trials of their fishing equipment (gear trials) in particular areas that are set aside for the trials. Fish are not targeted during gear

trials and, under the Direction, the trial can be carried out prior to the commencement of the first fishing season. The Direction contributes to the economic efficiency and cost effective administration of the fishery because it allows operators the flexibility to test their fishing gear to ensure that it is in efficient working order prior to the beginning of the fishing period without the need to seek special exemptions to the closure arrangements.

The areas in which the gear trials are permitted to be carried out were selected so as to have minimal impact on prawn stocks in the fishery while still being practical for operators.

Direction No. NPFD 98 replaces Direction No. NPFD 91 and has the effect of changing the dates in which gear trials can take place to align them with the revised dates for the fishing season.

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 8480).

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 98.
- 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 section defines the items 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 and the Act. The note indicates that terms defined in the Management Act and the Plan have the same meaning in the Direction.
- Clause 6** Clause 6 prohibits a person from fishing unless they are carrying out gear trials during the periods specified in the section and in the particular areas described in the Schedule.
- Clause 7** Clause 7 prohibits a person from carrying out gear trials referred to in section 6 unless they have sought and received confirmation of authority to carry out those trials in the manner described in section 7. The section provides contact details.
- Clause 8** Clause 8 provides for an exemption to sections 6 and 7 for operators who fish in accordance with another plan of management in force under the Management Act, State of Territory law applying in the area of the fishery.
- Clause 9** Clause 9 revokes Direction No. NPFD 91.

The Schedule describes the areas in the fishery where gear trials may be carried out.