

EXPLANATORY STATEMENT

LEGISLATIVE INSTRUMENT

Issued by the Authority of the Australian Fisheries Management Authority

Fisheries Management Act 1991
Northern Prawn Fishery Management Plan 1995

Direction No. NPFD 122
Protected Area Closures

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, inter alia, that a plan of management made under the Management Act may provide for the Australian Fisheries Management Authority (AFMA), after such consultation as set out in the plan of management, to 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 17(5B) of the Management Act provides that a direction under Subsection 17(5A) in relation to a particular part of the fishery may identify the part concerned in any way or ways, including by reference to a particular area, a particular species or type of fish, a particular kind or quantity of fishing equipment, a particular method of fishing, or any combination of the above.

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.

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 122 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.

Direction No. NPFD 122 replaces Direction No. NPFD 102 and has the effect of adjusting the period of application of the daylight exemption area, in response to new season dates in the fishery.

Regulation Impact Statement

The Office of Best Practice Regulation has advised that a Business Cost Calculator (BCC) or Regulation Impact Statement (RIS) is not required on the basis that the Direction is of a minor or machinery nature and does not substantially alter existing arrangements (ID 10109).

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 122.
- 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 for this Direction.
- Clause 5** Clause 5 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 6** Clause 6 prohibits commercial fishing in the areas described in Schedule 1.
- Clause 7** Clause 7 states to whom the prohibition of fishing does not apply.
- Clause 8** Clause 8 revokes Direction number NPFD 102.
- Schedule 1** describes the prohibited areas.
- Schedule 2** describes the exempt transit corridors where vessels may navigate.
- Schedule 3** describes the procedure for making applications for exemptions from the prohibitions on fishing contained in clause 6, specifies certain circumstances in which exemptions will be approved, and provides for the review of any decision to refuse to grant an exemption by a senior AFMA officer who did not participate in the making of the original decision.

NPFD 122.