

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 125.
Prohibition on Fishing

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 125 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 125 replaces Direction No. NPFD 115 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 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 10112).

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 125.
- 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 and Area B described in Schedule 1 from 2200 hrs UTC 6 April 2009 to 2200 hours UTC on 31 December 2009. 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 2009 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 2009.
- Clause 7** Clause 7 provides an exemption to clause 6 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 8** Clause 8 revokes Direction No. NPFD 115.
- 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.

NPFD 125.