

EXPLANATORY STATEMENT

Issued by the Authority of the Australian Fisheries Management Authority

Fisheries Management Act 1991

Northern Prawn Fishery (Closures) Direction No. 162

Prohibition on Fishing (Prior to Seasons)

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 the 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.

The Fishery

The Northern Prawn 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. Fishing in 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 *Northern Prawn Fishery Management Plan 1995* (the Plan) to fish in the Fishery. These limitations are known generically as input controls and are used in the Fishery to address both the biological and economic objectives of 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

The *Northern Prawn Fishery (Closures) Direction No. 162* (the Direction) imposes prohibitions on pre-season fishing in the area of the Fishery. The definition of “fishing” in the Management Act includes searching for and attempting to search for fish. Prohibitions on fishing (searching) are implemented for several reasons. Firstly, intensive boat activity and acoustic searching for banana prawn schools may disperse schools of prawns prior to the start of the season. Secondly, prohibitions on fishing are a necessary compliance mechanism because there is some risk of illegal fishing when schools are located. Thirdly, it is likely that pre-season searching would increase the overall costs associated with harvesting banana prawns. Fourthly, preventing pre-season searching also provides a fairness and equity measure because; depending upon the home port of boats, differing periods of pre-season access for searching could confer differential advantage when the season opens.

The Direction provides for what is known as the “VMS Start” of the first fishing season. Using the Vessel Monitoring System (VMS), boats will be allowed to enter the Gulf of Carpentaria early but will be excluded from navigating within approximately 30 nautical miles (nm) from the coast. During the eight hours prior to the start of the season boats can either remain outside the 30 nm line or be in a designated assembly area as specified in Schedule 3 of the Direction. Designated steaming tracks to access the assembly areas are specified in Schedule 5 of the Direction. This way of managing the start of the season using VMS is cost

effective and provides a mechanism to allow the fleet to disperse on the eastern side of the Gulf of Carpentaria, rather than having them congregate in two areas for the season start as was the arrangement in previous years before the “VMS Start” was introduced.

Schedule 4 of the Direction provides for an exemption for the areas described in Schedule 1 and/or Schedule 2 and exemptions will always be approved where navigation is required because of boat breakdown, distress, medical emergency, cyclone or weather warning, or to access an anchorage where no transit corridor has been provided.

Regulation Impact Statement

The Office of Best Practice Regulation advised that a Regulation Impact Statement was not required for this instrument consistent with the agreement in place to cover all regulatory changes deemed to be of a minor or machinery nature.

Statement of compatibility prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

AFMA assesses under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* that this legislative instrument is compatible with human rights. AFMA’s Statement of Compatibility is attached as a supporting document.

Consultation

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

Details of the Direction are set out below:

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| Clause 1 | Provides for the Direction to be cited as <i>Northern Prawn Fishery (Closures) Direction No. 162</i> . |
| Clause 2 | Provides that the Direction commences on the day after registration on the Federal Register of Legislative Instruments. |
| Clause 3 | Provides that the Direction ceases on 31 March 2014 unless earlier revoked. |
| Clause 4 | Provides that a term used in the Direction and in the Plan has the same meaning in the Direction as in the Plan. |
| Clause 5 | States to whom the Direction applies. |
| Clause 6 | Prohibits fishing in the areas described in Schedule 1 and 2 and fishing and navigating in the areas described in Schedule 3. |
| Clause 7 | Provides for an exemption to Clause 6 for 30 minutes leading up to the start of the first season and sets out the conditions for this exemption. |
| Clause 8 | Provides conditions for the carriage of fishing equipment while in the assembly areas described in Schedule 3 or in the transit corridors described in Schedule 5. |
| Schedule 1 and 2 | Describes the prohibited area prior to the seasons. |
| Schedule 3 | Describes the prohibited area for the Vessel Monitoring System controlled start. |
| Schedule 4 | Describes the exempt assembly areas where boats may navigate with fishing gear stowed. |
| Schedule 5 | Provides for exemptions from the prohibitions on navigation contained in clause 6 to be made under certain circumstances and specifies that, in circumstances where an exemption is granted, navigation through a closed area must be in accordance with the navigation rules specified in Part 9A of the <i>Fisheries Management Regulations 1992</i> , or in accordance with any instructions given by AFMA. |

<i>Schedule 6</i>	Describes the designated steaming tracks referred to in clauses 6, 7, and 8.
<i>Schedule 7</i>	States how an operator may obtain an exemption to the closures in this Direction.
<i>Schedule 8</i>	Provides for areas where gear trials may be undertaken.