

EXPLANATORY STATEMENT

LEGISLATIVE INSTRUMENT

Issued by the Authority of the Australian Fisheries Management Authority

Fisheries Management Act 1991

Fisheries Management (Northern Prawn Fishery Seasonal Closures) Direction 2021

Legislative authority

Subsection 41A(2) of the *Fisheries Management Act 1991* (the Act) provides that the Australian Fisheries Management Authority (AFMA) may, after meeting consultation requirements as set out in subsection 41A(2), direct that fishing is not to be engaged in in the fishery, or a particular part of the fishery, during a particular period or periods. A copy of a direction made by AFMA under subsection 41A(2) must be sent to each holder of a fishing concession, scientific permit or foreign master fishing licence to which the direction relates (see subsection 41A(2A) of the Act).

Subsection 41A(2AA) of the Act provides that a direction under subsection 41A(2) in relation to a particular part of the fishery may identify the part concerned in any way or ways.

Subsection 41A(5) provides the Direction is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Fishery

The Northern Prawn Fishery is an area of waters that extends from the coastline to the edge of the Australian Fishing Zone (200 nm offshore) north of Western Australia, the Northern Territory and Queensland in the Gulf of Carpentaria. 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. The area of the Fishery overlaps the areas of a number of fisheries for other species that are managed by Queensland, Western Australia and the Northern Territory.

The Fishery is managed by limiting the amount of fishing effort under the *Northern Prawn Fishery Management Plan 1995* (the Plan). These limitations are known commonly 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 within the fishing seasons), the amounts and types of fishing equipment and the number of boats in the Fishery.

The Direction

The Direction establishes closures in specified areas of the Fishery.

The Direction sets out closure boundaries and prevents fishing in specific areas within the Fishery to protect spawning and small prawns during the first and second fishing seasons and broader mid- and end-of-season closures to protect stock prior to and during spawning periods.

The Direction also 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.

The Direction makes provision for operators to carry out trials of their fishing equipment (gear trials) in particular areas that are set aside for the purpose. Fish are not targeted during gear trials and under this Direction the trial can be carried out prior to the commencement of the fishing season. 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.

Consultation

Consistent with subsection 41A(2) and section 17 of the *Legislation Act 2003*, AFMA consulted with both Northern Prawn Fishery Management Advisory Committee (NORMAC) and NPF Industry Pty Ltd (NPF) regarding the proposed area closures prior to remaking the Direction. NPF informed AFMA that it supports the area closures. In February 2021, NORMAC was informed of the proposed changes. Seven out of nine NORMAC members provided comments, all in support of the proposed changes. In February 2021, NORMAC and NPF were sent a draft copy of the Direction.

NPF is the peak industry body and represents approximately 95% of the concession holders in the Fishery. NPF keep all concession holders in the Fishery informed on matters relating to the management of the Fishery. NPF and NORMAC support the area closures and support the making of the Direction.

Regulation Impact Statement

The Office of Best Practice Regulation has advised that a Regulation Impact Statement is not required for this instrument consistent with the carve-out agreement with AFMA (OBPR reference 14421) for instruments of a minor or machinery nature.

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

This legislative instrument is compatible with the human rights and freedoms under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in **Attachment A**.

Details of the Direction are set out below:

Section 1	Provides for the Direction to be cited as the <i>Fisheries Management (Northern Prawn Fishery Seasonal Closures) Direction 2021</i> .
Section 2	Provides that the Direction commences on the 14th day after it is registered.
Section 3	Provides that the Direction is made under subsection 41A of the <i>Fisheries Management Act 1991</i> .
Section 4	Defines certain terms for the purpose of the Direction and provides that a term used in the Direction and in the Act has the meaning given in the Act, and a term used in the Direction and in the Plan has the meaning given in the Plan.
Section 5	Provides Schedules 1 to 21 to the Direction have effect according to their terms.
Section 6	States that the Direction applies to a holder of a fishing concession in the Northern Prawn Fishery and to a person acting on behalf of the holder.
Sections 7-11	Prohibits fishing in the areas of the Fishery described in Schedule 1 through Schedule 20 between specified days and during specified hours.
Section 12	Provides for an exemption to Sections 7(1) through to 10(2) and Sections 11(1) and 11(2) for a person who is conducting a gear trial in an area of the Fishery. This exemption is limited to the area defined in Schedule 21.
Schedules 1-20	Describes the areas where fishing is prohibited under Sections 7-11.
Schedule 21	Describes the areas where the gear trial referred to in Section 12 may be undertaken

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Fisheries Management (Northern Prawn Fishery Seasonal Closures) Direction 2021

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The Direction establishes closures in specified areas of the Northern Prawn Fishery (the Fishery).

The Direction sets out closure boundaries and prevents fishing in specific areas within the Fishery to protect spawning and small prawns during the first and second fishing seasons and broader mid- and end-of-season closures to protect stock prior to and during spawning periods.

The Direction also 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.

The Direction makes provision for operators to carry out trials of their fishing equipment (gear trials) in particular areas that are set aside for the purpose. Fish are not targeted during gear trials and under this Direction the trial can be carried out prior to the commencement of the fishing season. 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.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human