

## EXPLANATORY STATEMENT

**Issued by the Authority of the Australian Fisheries Management Authority**

*Fisheries Management Act 1991*  
*Western Tuna and Billfish Fishery Management Plan 2005*

### **Western Tuna and Billfish Fishery (Fishing Season) Determination 2022**

Section 17 of the *Fisheries Management Act 1991* (the Act) provides for the Australian Fisheries Management Authority (AFMA) to determine plans of management for a fishery.

Paragraph (aa) of subsection 17(6) of the Act provides that a plan of management may determine, or provide for AFMA to determine, the fishing capacity, for a fishery measured by that method or those methods, permitted for the fishery or a part of the fishery in respect of a particular period or periods.

Section 3 of the *Western Tuna and Billfish Fishery Management Plan 2005* (the Plan) provides that the fishing season means the period determined by AFMA.

This instrument determines the fishing season for the purposes of section 3 of the Plan.

The *Western Tuna and Billfish Fishery (Fishing Season) Determination 2022* is a legislative instrument for the purposes of the *Legislation Act 2003*.

### **The Fishery**

The Western Tuna and Billfish Fishery (the Fishery) covers the area of waters in the Australian Exclusive Economic Zone (EEZ) included on the west coast of Australia, westward from Cape York Peninsula (142°30'E) off Queensland to 34°S off the west coast of Western Australia. It also extends eastward from 34°S off the west coast of Western Australia, across the Great Australian Bight to 141°E at the South Australian/Victorian border. The Fishery also includes Australian waters outside of 12 nm off Christmas Island and Cocos Keeling Islands. The Plan also applies to Australian boats fishing on the high seas within the Indian Ocean Tuna Commission's (IOTC) Area of Competence. Management in the Fishery has been through output controls in the form of individually transferable quotas since the Plan was determined in 2005.

### **Consultation**

Consultation was undertaken with the Tropical Tuna Management Advisory Committee (TTMAC) out of session in February 2022. AFMA's Management Advisory Committees are statutory bodies that provide AFMA with management advice, including on fishing seasons. TTMAC membership is made up of representatives from the fishing industry, scientists, conservation groups, the recreational fishing sector and AFMA. MAC advice is used to inform AFMA's management decisions and continues to be the main source of advice on the management of Commonwealth fisheries.

TTMAC members supported maintaining the fishing season that has been in place since 2012, starting on 1 February in a year and ending on 31 January in the following year.

The recommended fishing season was then sent to the Authority's Commission for determination along with the TTMAC advice on the matter.

## **Regulation Impact Statement**

The Office of Best Practice Regulation has previously identified that decisions by AFMA including on setting total allowable catch (TAC), setting opening and closing dates for a fishing season, and setting undercatch and overcatch provisions in a fishery do not require a Regulation Impact Statement. Such decisions are considered to be machinery in nature and are included in an approved carve-out (OBPR reference no. 14421) reflecting where AFMA is required to make decisions under current regulatory settings and follow certain procedures when making those decisions.

## **The Commission's Decision**

The Authority's Commission determined the fishing season at its meeting on 15-16 March 2022. The Commission was satisfied that the fishing season determined is consistent with the Authority's obligation to pursue its statutory objectives, specified in section 3 of the Act and section 6 of the *Fisheries Administration Act 1991*.

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

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

Details of the Determination are set out below:

**Clause 1** Provides for the Instrument to be cited as the *Western Tuna and Billfish Fishery (Fishing Season) Determination 2022*.

**Clause 2** Provides that the Instrument commences on the day after registration on the Federal Register of Legislation.

**Clause 3** Provides that the Instrument ceases on 15 March 2032

**Clause 4** Provides that the Instrument is made pursuant to section 17(6)(aa) of the *Fisheries Management Act 1991* under section 3 of the Plan.

**Clause 5** Provides that a term used in the Instrument and in the Plan or Act has the same meaning in the Instrument as in the Plan or Act

**Clause 6** Determines the fishing season in the Western Tuna and Billfish Fishery to be the period starting on 1 February in a year and ending on 31 January in the following year.

**Schedule 1** Repeals the *Western Tuna and Billfish Fishery Fishing Season Determination 2012*.

## **Statement of Compatibility with Human Rights**

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

### **Western Tuna and Billfish Fishery (Fishing Season) Determination 2022**

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**

This instrument determines the fishing season in the Western Tuna and Billfish Fishery for the purposes of Section 3 of the *Western Tuna and Billfish Fishery Management Plan 2005*.

#### **Assessment of human rights implications**

As this legislative instrument is of a mechanical nature, it 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 rights issues.