

EXPLANATORY STATEMENT

Issued by the Authority of the Australian Fisheries Management Authority

Fisheries Management Act 1991
Eastern Tuna and Billfish Fishery Management Plan 2010

Eastern Tuna and Billfish Fishery (Fishing Season and Total Allowable Commercial Catch) Determination 2023

Section 17 of the *Fisheries Management Act 1991* (the FM 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 FM 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.

Subsection 3.2(1) of the *Eastern Tuna and Billfish Fishery Management Plan 2010* (the Plan) provides that AFMA must determine a total allowable commercial catch (TACC) for each quota species for the fishing season before the fishing season commences. Section 1.3 states that the fishing season means the period determined by AFMA.

A determination of a TACC must specify the TACC expressed in whole weight or a specified other weight. The quota for each statutory fishing right (SFR), for a quota species, is determined by dividing the TACC for the species by the number of SFRs in force at the start of the fishing season.

Subsection 3.2(4) of the Plan provides that, before AFMA determines a TACC for a quota species for a fishing season, it must consider information given by the advisory committee (established under section 56 of the *Fisheries Administration Act 1991* (the FA Act) to assist the Commission in the performance of its functions), other interested Australian and international bodies, and other interested persons. AFMA must also take into account all fishing mortality from all sectors including commercial, recreational, indigenous and other users of the fishery. AFMA must abide by the Commonwealth Fisheries Harvest Strategy Policy and the Eastern Tuna and Billfish Fishery Harvest Strategy and consider information about the sustainability of marine species in the area of the fishery, the precautionary principle, any decision made by the Minister or intergovernmental ministerial council about resource sharing and the likely effect of any overcatch or undercatch provisions.

This instrument determines the fishing season and the TACC for each quota species for the 2023 fishing season.

The Fishery

The Eastern Tuna and Billfish Fishery (ETBF) covers the area of waters in the Australian Exclusive Economic Zone (EEZ) included on the east coast of Australia between the South Australia/Victoria border and Cape York in the North. The ETBF also includes a restricted entry zone in the Coral Sea and a high seas zone that provides specific arrangements for fishing in the ETBF beyond the Australian EEZ.

Management in the ETBF is by output controls in the form of individually transferable quotas granted under the Plan.

Consultation

The Tropical Tuna Resource Assessment Group (TTRAG) provides scientific advice on TACs for the ETBF. TTRAG comprises scientific, industry, recreational fishing and management stakeholders who are appointed following a public application process through a defined AFMA Policy. Causal observers together with Invited Participants also attend TTRAG meetings. Tuna Australia, the Tropical Tuna Peak Industry body is an invited participant to TTRAG. Advice from TTRAG was considered by the Tropical Tuna Management Advisory Committee (also comprising the same range of stakeholder groups as for TTRAG), which provided advice on recommended TACCs for each quota species to the AFMA Commission.

TTMAC took into account broader considerations in order to recommend a TACC. These include the Commonwealth Fisheries Harvest Strategy Policy, stock levels assessed by the Western and Central Pacific Fisheries Commission (WCPFC), Conservation and Management Measures adopted by the WCPFC, any relevant whole of government position on catch allocations, total catches from other commercial, recreational and Indigenous sectors and any decisions or considerations on resource sharing.

The AFMA Commission determined the TACCs for all quota species at a meeting on 9-10 November 2022 after considering advice from TTMAC and TTRAG.

Further, the AFMA Commission determined the fishery season to commence on 1 January 2023 and end on 31 December 2023, based on advice from TTMAC and TTRAG.

Regulation Impact Statement

The Office of Best Practice Regulation advised that a Regulation Impact Statement was not required for this Determination 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.

The Commission's Decision

The AFMA Commission determined the fishing season and the TACC amounts for each quota species for the fishing season on 9 and 10 November 2022. In making its decision, the Commission took into account each of the matters specified in subsection 3.2(4) of the Plan.

The Commission is satisfied that the Instrument is consistent with AFMA's obligation to pursue its statutory objectives, specified in section 3 of the FM Act and section 6 of the FA Act. The Commission considered that significant weight should be given to the objective of ensuring that the exploitation of fisheries resources is conducted in a manner consistent with the principles of ecologically sustainable development, which includes the exercise of the precautionary principle (paragraphs 3(1)(b) of the FM Act and 6(b) of the FA Act).

Details of the Instrument are set out below:

- Clause 1** provides for the Determination to be cited as the Eastern Tuna and Billfish Fishery (Fishing Season and Total Allowable Commercial Catch) Determination 2023.
- Clause 2** provides that the instrument commences on 1 January 2023.
- Clause 3** provides that the instrument is made pursuant to paragraph 17(6)(aa) of the FM Act and sections 1.3 and 3.2 of the Plan.
- Clause 4** provides that terms used in the Instrument have the meaning given to them in the Plan.
- Clause 5** provides that the Instrument ceases on 31 December 2023.
- Clause 6** determines the fishing season as the period commencing on 1 January 2023 and ending on 31 December 2023.
- Clause 7** determines the Total Allowable Commercial Catch for each of the five quota species: Albacore Tuna, Bigeye Tuna, Broadbill Swordfish, Striped Marlin and Yellowfin Tuna for the 2023 fishing season.

Statement of Compatibility with Human Rights

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

The Eastern Tuna and Billfish Fishery (Fishing Season and Total Allowable Commercial Catch) Determination 2023

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 instrument determines the fishing season as the period season commencing on 1 January 2023 and concluding on 31 December 2023 and the total allowable commercial catch for quota species in the Eastern Tuna and Billfish Fishery for the 2023 fishing season.

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 rights issues.