

EXPLANATORY STATEMENT

Issued by the authority of the Australian Fisheries Management Authority

Fisheries Management Act 1991

Southern Bluefin Tuna Fishery Management Plan 1995

Fisheries Management (Southern Bluefin Tuna Fishery Fishing Season) Determination 2023

Subsection 17(5) of the *Fisheries Management Act 1991* (the Act) provides that a plan of management made under section 17 of the Act may provide for the Australian Fisheries Management Authority (AFMA) to give particular determinations for the purposes of attaining the objectives of the plan of management.

Subsection 17(6)(aa) of the Act provides that a plan of management may determine or provide for AFMA to determine the fishing capacity 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.

Subclause 3.1 of the *Southern Bluefin Tuna Fishery Management Plan 1995* (the Plan) provides that the definition of the term ‘season’ means the period determined as the fishing season by AFMA.

The *Fisheries Management (Southern Bluefin Tuna Fishery Fishing Season) Determination 2023* (the Determination) is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Determination determines the fishing season in the Southern Bluefin Tuna Fishery as the period starting on 1 December 2023 and ending on 30 November 2024.

The Fishery

Southern Bluefin Tuna (SBT) is a highly migratory species and is widely distributed throughout waters of the southern oceans, including the Australian Fishing Zone (AFZ). Internationally the fishery is managed by the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) of which Australia is a member. The Australian Southern Bluefin Tuna Fishery encompasses SBT fishing operations inside the AFZ (i.e., adjacent from 3 to 200 nautical miles around Australia) and on the high seas. Aside from New South Wales, under an Offshore Constitutional Settlement agreement between the Commonwealth and the States/Territories, management of the SBT Fishery to the area of low water mark is the responsibility of the Commonwealth through AFMA. The Plan was amended in 2020 to implement the government’s commitment to set aside five per cent of Australia’s CCSBT allocation for recreational fishing mortality. The set aside means that up to 95 per cent of Australia’s CCSBT allocation will be available to the commercial sector.

The commercial SBT Fishery is managed using Statutory Fishing Rights (SFRs) that allow holders to fish for SBT within the AFZ and the high seas. The majority of SBT are caught live and transferred from a tow cage into a farm where the fish are kept for an approximate six months grow-out period. Fishing occurs in offshore waters adjacent to Kangaroo Island, South Australia. The remainder are caught using

longline methods, predominantly off south eastern Australia during the winter months. The recreational sector continues to be managed by the relevant states using bag and size limits.

Consultation

The period for the fishing season has been developed in consultation with the Australian Southern Bluefin Tuna Industry Association.

The Commission's Decision

The AFMA Commission determined the fishing season date at its meeting on 8-9 November 2023. The Commission was satisfied that the Determination is consistent with AFMA's obligation to pursue its statutory objectives, specified in section 3 of the Act and section 6 of the *Fisheries Administration Act 1991*.

Regulation Impact Statement

The Office of Impact Analysis (formerly the Office of Best Practice Regulation) has previously identified that decisions by AFMA including on setting total allowable catches, 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.

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 outlined below.

Details of the Determination are set out below:

- Clause 1** provides for the Determination to be cited as the *Fisheries Management (Southern Bluefin Tuna Fishery Fishing Season) Determination 2023*.
- Clause 2** provides that the Determination commences on 1 December 2023.
- Clause 3** provides that the Determination ceases on 30 November 2024.
- Clause 4** provides that the Determination is made pursuant to paragraph 17(6)(aa) of the Act under subclause 3.1 of the Plan.
- Clause 5** provides that a term used in the Determination that is defined in the Act or the Plan has the same meaning as in the Act or the Plan.
- Clause 6** Determines that the next fishing season in the SBT Fishery as the period:
- (a) commencing on 1 December 2023 and ending on 30 November 2024.

Statement of Compatibility with Human Rights

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

Fisheries Management (Southern Bluefin Tuna Fishery Fishing Season) Determination 2023

The Determination 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 Determination determines the next season in the SBT Fishery as the period starting on 1 December 2023 and ending on 30 November 2024.

Assessment of human rights implications

As the Determination is of a mechanical nature, it does not engage any of the applicable rights or freedoms.

Conclusion

This Determination is compatible with human rights as it does not raise any human rights issues. The AFMA Commission is satisfied that the instrument is consistent with AFMA's obligation to pursue its statutory objectives.