

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 (No.2) 2024

Paragraph 17(6)(aa) of the *Fisheries Management Act 1991* (**the FM Act**) provides that a plan of management for a fishery may determine, or provide for AFMA to determine, the fishing capacity, measured by that method or those methods, permitted for the fishery or 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 Management Plan**) provides that before the start of each fishing season, AFMA must determine a total allowable commercial catch (**TACC**) for each quota species for one or more seasons. Section 1.3 of the Management Plan states that the fishing season means the period determined by AFMA.

Subsection 3.2(5) of the Management Plan provides that a determination of a TACC must specify the TACC, expressed as a whole weight; or another weight, as specified in the determination. 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 Management Plan provides that before determining a TACC AFMA 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 also applies the Eastern Tuna and Billfish Fishery Harvest Strategy¹ and considers 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 for the 2025, 2026, and 2027 fishing seasons and determines the TACC for the 2025, 2026 and 2027 fishing seasons for the following quota species: Albacore Tuna, Yellowfin Tuna and Bigeye Tuna.

This instrument also determines the TACC for the 2025 fishing season for the following quota species: Striped Marlin and Broadbill Swordfish.

The *Eastern Tuna and Billfish Fishery (Fishing Season and Total Allowable Commercial Catch) Determination (No.2) 2024* (**the Determination**) is a legislative instrument for the purposes of the *Legislation Act 2003*.

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.

¹ Paragraph 15J(2)(c) of the Legislation Act 2003 this instrument incorporates the document titled “Eastern Tuna and Billfish Fishery Harvest Strategy” as it applies on the date this legislative instrument commences. This document could in 2024 be viewed free of charge on the Australian Fisheries Management Authority’s website at <https://www.afma.gov.au/who-we-are/legislation-and-regulation>.

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

Consultation

The Tropical Tuna Resource Assessment Group (**TTRAG**) provides scientific advice on TACCs, and other scientific fisheries matters, for the ETBF. TTRAG comprises scientific, industry, recreational fishing and management stakeholders who are appointed following a public application process. Casual observers, together with invited participants, also attend TTRAG meetings. Tuna Australia, the peak industry body, is an invited participant to TTRAG. Advice from TTRAG is considered by the Tropical Tuna Management Advisory Committee (**TTMAC**) (comprising the same stakeholder groups as TTRAG), which subsequently recommends TACCs for each quota species to the AFMA Commission.

The AFMA Commission considered advice from TTMAC and TTRAG and determined the TACCs for all quota species at its meeting on 12-13 November 2024.

The AFMA Commission determined the TACCs for Albacore Tuna, Yellowfin Tuna and Bigeye Tuna for a period of three years and determined the TACCs for Broadbill Swordfish and Striped Marlin for a period of one year.

Further, the AFMA Commission determined the fishery season to commence on 1 January in a given year and end on 31 December in the same year, based on advice from TTMAC and TTRAG.

Impact Analysis

The Office of Impact Analysis advised that a detailed Impact Analysis is not required for this determination, consistent with the carve-out agreement in place to cover all regulatory changes of a minor or machinery nature (OIA reference no. OIA23-06107).

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

At its meeting on 12 and 13 November 2024, the AFMA Commission determined the fishing season, the TACC amounts for three quota species for the next three fishing seasons, and the TACC amounts for the remaining two quota species for the next fishing season. In making its decision, the Commission took into account each of the matters specified in subsection 3.2(4) of the Management Plan.

The Commission is satisfied that the determination 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 that the name of the Determination is the *Eastern Tuna and Billfish Fishery (Fishing Season and Total Allowable Commercial Catch) Determination (No.2) 2024*.

Clause 2 provides that the Determination commences on 1 January 2025.

Clause 3 provides that the Determination is made pursuant to paragraph 17(6)(aa) of the FM Act and under sections 1.3 and 3.2 of the Management Plan.

Clause 4 provides that a number of the expressions used in this instrument are defined in section 1.3 of the Management Plan, including the following:

fishing season means the period determined by AFMA

Eastern Tuna and Billfish Fishery means fishing for fish of a primary species, a secondary species or both, in the area of the fishery.

TACC, or total allowable commercial catch, for a quota species and a fishing season, means the total weight of fish of that species that, under this Management Plan, may be taken during that season.

quota species means the following species:

- (a) albacore tuna (*Thunnus alalunga*)
- (b) bigeye tuna (*Thunnus obesus*)
- (c) broadbill swordfish (*Xiphias gladius*)
- (d) striped marlin (*Tetrapturus audax*)
- (e) yellowfin tuna (*Thunnus albacares*).

Clause 5 provides that the Determination ceases on 31 December 2027 unless revoked earlier.

Clause 6 determines the fishing season for the purpose of section 1.3 of the Management Plan as the period commencing on 1 January in a given year and ending on 31 December in the same year.

Clause 7 determines the Total Allowable Commercial Catch for three of the five quota species Albacore Tuna, Bigeye Tuna, and Yellowfin Tuna for the 2025, 2026 and 2027 fishing seasons. The Determination also determines the Total Allowable Commercial Catch for the remaining two quota species Broadbill Swordfish and Striped Marlin for the 2025 fishing season.

Statement of Compatibility with Human Rights

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

Eastern Tuna and Billfish Fishery (Fishing Season and Total Allowable Commercial Catch) Determination (No.2) 2024

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 in a given year and concluding on 31 December in the same year. The Instrument determines the Total Allowable Commercial Catch for three of the five quota species: Albacore Tuna, Bigeye Tuna, and Yellowfin Tuna in the Eastern Tuna and Billfish Fishery for the 2025, 2026 and 2027 fishing seasons. The Determination also determines the Total Allowable Commercial Catch for the remaining two quota species: Broadbill Swordfish and Striped Marlin Eastern Tuna and Billfish Fishery for the 2025 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.