

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 (Overcatch and Undercatch) 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(2) of the *Eastern Tuna and Billfish Fishery Management Plan 2010* (**the Management Plan**) provides that when determining the Total Allowable Commercial Catch (**TACC**), AFMA must also determine the determined weight or the determined percentage (or both) for section 4.5 of the Management Plan, and the determined percentage for section 4.6 of the Management Plan.

Section 4.5 of the Management Plan provides that AFMA must determine a percentage (**the ‘determined percentage’**) and weight (**the ‘determined weight’**) for the purpose of applying the overcatch provisions to individual SFR holders who exceed their quota for the season. Section 4.6 of the Management Plan provides that AFMA must determine a percentage (**the ‘determined percentage’**) for the purpose of applying the undercatch provisions to individual SFR holders whose catch is less than their quota for the season.

This instrument determines the amounts and percentages for each quota species in relation to undercatch and overcatch for the fishing season commencing on 1 January 2025 and concluding on 31 December 2025, for the fishing season commencing on 1 January 2026 and concluding on 31 December 2026, and for the fishing season commencing on 1 January 2027 and concluding on 31 December 2027. Undercatch and overcatch provides for ‘carry over’ or ‘carry under’ of a small amount of end of season quota between fishing seasons thereby allowing fishers the flexibility to catch a certain amount of fish over or under their quota, and debit or credit this to or from the following season’s quota.

The *Eastern Tuna and Billfish Fishery (Overcatch and Undercatch) 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.

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 overcatch and undercatch percentages 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 overcatch and undercatch percentages and weights for all quota species at its meeting on 12-13 November 2024.

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 overcatch and undercatch percentages and weights for all quota species for the 2025, 2026 and 2027 fishing seasons.

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. 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 *Fisheries Administration Act 1991*.

Details of the Instrument are set out below:

Clause 1 provides that the name of the Determination is the *Eastern Tuna and Billfish Fishery (Overcatch and Undercatch) 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 *Fisheries Management Act 1991* under sections 3.2, 4.5 and 4.6 of the *Eastern Tuna and Billfish Fishery Management Plan 2010*.

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 percentage of overcatch for sections 4.5 of the Management Plan, determines the percentage of undercatch for section 4.6 of the Management Plan and determines the weight for section 4.5 of the Management Plan for each quota species in the fishery for the 2025 fishing season beginning on 1 January 2025 and concluding on 31 December 2025, for the 2026 fishing season beginning on 1 January 2026 and concluding on 31 December 2026, and for the 2027 fishing season beginning on 1 January 2027 and concluding on 31 December 2027.

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 (Overcatch and Undercatch) 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

This instrument determines the percentage of overcatch for sections 4.5 of the Management Plan, determines the percentage of undercatch for section 4.6 of the Management Plan and determines the weight for section 4.5 of the Management Plan for each quota species in the fishery for the 2025 fishing season beginning on 1 January 2025 and concluding on 31 December 2025, for the 2026 fishing season beginning on 1 January 2026 and concluding on 31 December 2026, and for the 2027 fishing season beginning on 1 January 2027 and concluding on 31 December 2027.

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.