

EXPLANATORY STATEMENT

Australian Fisheries Management Authority

Fisheries Management Act 1991

Western Tuna and Billfish Fishery Management Plan 2005

WESTERN TUNA AND BILLFISH FISHERY OVERCATCH AND UNDERCATCH DETERMINATION 2011

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 11(1) of the *Western Tuna and Billfish Fishery Management Plan 2005* (the Plan) provides that AFMA must determine a total allowable commercial catch (TACC) for each quota species for the fishing year before the fishing season commences.

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.

Section 11(1)(a) of the Plan provides that AFMA must also determine a percentage (the 'determined percentage') and weight (the 'determined weight'), during the course of the season, for the purpose of applying the overcatch provisions to individual SFR holders who exceed their quota for the season. Section 11(1)(b) of the Plan provides that AFMA must determine a percentage (the 'determined percentage'), during the course of the season, 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 1 February 2011 to 31 January 2012. 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 Fishery

The Western Tuna and Billfish Fishery (WTBF) 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 WA, 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 WTBF has been through output controls in the form of individually transferable quotas since the Plan was determined in 2005.

Consultation

AFMA consulted with the Tropical Tuna Resource Assessment Group (TTRAG) on the determined percentage and the determined weight and this was then considered by the Tropical Tuna Management Advisory Committee (TTMAC).

The recommended determined percentage and the determined weight for all species in the WTBF were then sent to the AFMA Commission for determination along with all advice from TTMAC and TTRAG.

Statement of Compatibility

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*.

Regulation Impact Statement

The Office of Best Practice Regulation (OBPR) 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.

Details of the Determination are set out below:

Clause 1 Provides for the Determination to be cited as the Western Tuna and Billfish Fishery Overcatch and Undercatch Determination 2011.

Clause 2 Provides for the commencement of the Determination.

Clause 3 Provides that the Determination ceases on 30 June 2012.

Clause 4 Defines terms used in the Determination.

Clause 5 Sets out the period of application of the Determination and the determined percentage and determined weight for the Western Tuna and Billfish Fishery.