

EXPLANATORY STATEMENT

Issued by the Authority of the 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 2013

Subsection 17(5) of the *Fisheries Management Act 1991* (the Act) provides that a plan of management made under the Act is to set out, amongst other things, the objectives of the plan of management and measures by which the objectives are to be attained.

Paragraph 17(6)(aa) of the Act provides that a plan of management made under the Act may provide for the Australian Fisheries Management Authority (the Authority) to determine the fishing capacity permitted for the fishery or a part of the fishery in respect of a particular period or periods.

Subsection 11(1) of the *Western Tuna and Billfish Fishery Management Plan 2005* (the Plan) provides that the Authority must, during the course of the season, determine a percentage (the 'determined percentage') and or weight (the 'determined weight') for the purpose of applying the overcatch provisions to individual Statutory Fishing Right (SFR) holders who exceed their quota for the season. Subsection 11(1) of the Plan further provides that the Authority must, during the course of the season, 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 February 2013 and concluding on 31 January 2014. 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 Western Australia, 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

There has been extensive consultation to establish the overcatch/undercatch percentages and weights. The WTBF harvest strategy could not be implemented, due to lack of input data, to produce the Recommended Biological Commercial Catch (RBCC) for each quota species. Therefore, the results of the species stock assessments conducted on the Indian Ocean Tuna Commission stock, were considered by the Authority's Commission. The stock assessments provide the best scientific advice on what the total mortality should be for each species or stock, taking into account fishing and natural mortality and any ecological implications of harvesting the species.

Advice from the Tropical Tuna Resource Assessment Group (TTRAG) was considered by the Tropical Tuna Management Advisory Committee (TTMAC). TTMAC discussed the overcatch/undercatch percentages and weights.

The recommended overcatch/undercatch percentages and weights for all species in the WTBF were then sent to the Authority's Commission for determination along with all 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*

The Authority assesses under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* that this legislative instrument is compatible with human rights. The Authority's Statement of Compatibility is attached as a supporting document.

The Commission's Decision

The Authority's Commission determined the undercatch and overcatch percentages and determined weight at its meeting on 26 February 2013.

The Commission was satisfied that the percentages and amount it determined were consistent with the Authority's obligation to pursue its statutory objectives, specified in section 3 of the Act and section 6 of the *Fisheries Administration Act 1991*.

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 2013*.
- Clause 2** Provides that the Determination commences on the day after registration on the Federal Register of Legislative Instruments.
- Clause 3** Provides that the Determination ceases as if it were revoked on 1 February 2014 unless earlier revoked.
- Clause 4** Provides that a term used in the Determination and in the Plan or Act has the same meaning in the Determination as in the Plan or Act.
- Clause 5** Determines the percentage of overcatch for section 18 of the Plan, determines the percentage of undercatch for section 19 of the Plan and determines the weight for section 18 of the Plan for each quota species in the fishery for the 2013 fishing season beginning on 1 February 2013 and concluding on 31 January 2014.