

EXPLANATORY STATEMENT

Issued by the Australian Fisheries Management Authority

Fisheries Management Act 1991
Small Pelagic Fishery Management Plan 2009

Small Pelagic Fishery Fishing Method Determination 2017

Section 17 of the *Fisheries Management Act 1991* (the Act) provides for the Australian Fisheries Management Authority (the Authority) to determine plans of management for a fishery.

Paragraph (e) of subsection 17(6) of the Act provides that a plan of management may specify the kind and quantity of equipment that may be used in the fishery.

Section 27 of the *Small Pelagic Fishery Management Plan 2009* (the Plan) provides that the Authority may determine a fishing method other than the purse seine or mid-water trawl fishing methods for use by persons fishing in the fishery.

This instrument determines the fishing method known as pair trawling for the purposes of section 27 of the Plan.

The *Small Pelagic Fishery Fishing Method Determination 2017* (the Determination) is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Fishery

The Small Pelagic Fishery (the Fishery) extends from the Queensland/New South Wales border, typically outside 3 nautical miles, around southern Australia to a line at latitude 31° south (near Lancelin, north of Perth). The fishery is currently divided into two sub areas East and West of latitude 146°30'00".

Management in the Fishery is through output controls in the form of individually transferable quotas with a Total Allowable Catch (TAC) determined for each quota species for each fishing year. The main target species in the Fishery are Jack Mackerel, Blue Mackerel, Redbait and Australian Sardines. The target species are caught primarily for the domestic market and are used for fishmeal, bait and human consumption.

Consultation

The Small Pelagic Fishery Scientific Panel (the Panel) and South East Management Advisory Committee (SEMAC) supported the introduction of pair trawling as an authorised Fishing Method in the Fishery, acknowledging that this method posed no sustainability risks as the TAC are considered sustainable and are based on the best available science. However, both committees noted that this method may result in marine mammal interactions and therefore recommended Electronic Monitoring be installed on both vessels, with an onboard observer present for the first 10 trips (alternating between vessels each trip if hauling is switched between vessels) after which the level and mix of coverage should be reviewed.

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, **(OBPR ID 22131)**

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.

Details of the Determination are set out below:

Clause 1 Provides for the Determination to be cited as the *Small Pelagic Fishery Fishing Method Determination 2017*.

Clause 2 Provides for the Determination to commence on the day after it is registered on the Federal Register of Legislative Instruments.

Clause 3 Provides that the Determination ceases as if it were revoked on 31 October 2018.

Clause 4 Defines terms used in the Determination.

Clause 5 Specifies to whom the Determination applies.

Clause 6 Provides that for the period beginning on the day after this Determination is registered and ending on 31 October 2018, the fishing method known as pair trawling may be used by persons fishing in the Small Pelagic Fishery.

Statement of Compatibility with Human Rights

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

Small Pelagic Fishery Fishing Method Determination 2017

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

Section 27 of the *Small Pelagic Fishery Management Plan 2009* provides that the Authority may determine a fishing method other than the purse seine or mid-water trawl fishing methods for use by persons fishing in the fishery.

This instrument determines the fishing method known as pair trawling for the purposes of section 27 of the *Small Pelagic Fishery Management Plan 2009*.

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.