

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 Total Allowable Commercial Catch Determination 2021

Paragraph 17(6)(aa) of the *Fisheries Management Act 1991* (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 determine a Total Allowable Commercial Catch (TACC) for each quota species for the fishing season before the fishing season commences. A determination of a TACC must specify the TACC expressed in whole weight or a specified other weight.

Subsection 11(2) of the Plan provides that, before the Authority determines a TACC for a quota species for a fishing season, it must consider information given by the advisory committee, other interested Australian and international bodies and other interested persons; the total estimated catch by the commercial, recreational, indigenous and any other users of the fishery; information about the sustainability of marine species in the area of the fishery; the reference points set for the stocks of quota species; the precautionary principle; any decision made by the Minister or an intergovernmental Ministerial Council about resource sharing in the fishery; any decision rule used for setting the TACC; and the likely effect, for the fishing season, of any overcatch permitted.

The instrument determines the total allowable commercial catch for quota species in the Western Tuna and Billfish Fishery (the Fishery) for the 2021/22, fishing season.

The *Western Tuna and Billfish Fishery Total Allowable Commercial Catch Determination 2021* (the Determination) is a legislative instrument for the purposes of the *Legislation Act 2003*.

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 Fishery has been through output controls in the form of individually transferable quotas since the Plan was determined in 2005.

Consultation

Extensive consultation was undertaken to establish the TACCs. Advice from the Tropical Tuna Resource Assessment Group (TTRAG) was considered by the Tropical Tuna Management

Advisory Committee (TTMAC). TTMAC discussed the TACC recommendations. When considering the TACC recommendations, TTMAC took into account broader considerations in order to recommend a TACC. These include the Commonwealth Harvest Strategy Policy, stock levels assessed by Indian Ocean Tuna Commission, any whole of government position on catches, total catches from other commercial, recreational and indigenous sectors and any decisions or considerations on resource sharing.

The Commission of the Australian Fisheries Management Authority determined the TACCs for all quota species at a meeting on 12 November 2020 after considering advice from TTMAC and TTRAG.

Regulation Impact Statement

The Office of Best Practice Regulation has previously advised that a Regulation Impact Statement is not required for a Determination of this nature, consistent with the agreement in place to cover all regulatory changes deemed to be of a minor or machinery nature (OBPR reference 14421).

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 *Western Tuna and Billfish Fishery Total Allowable Commercial Catch Determination 2021*.
- Clause 2** Provides for the commencement of the Determination.
- Clause 3** Provides that the Determination ceases on 1 February 2022.
- Clause 4** Defines terms used in the Determination.
- Clause 5** Provides that the instrument ceases on 1 February 2022.
- Clause 6** Determines the total allowable commercial catch for quota species in the Western Tuna and Billfish Fishery for the 2021 fishing season commencing on 1 February 2021 and ending on 31 January 2022.

Statement of Compatibility with Human Rights

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

Western Tuna and Billfish Fishery Total Allowable Commercial Catch Determination 2021

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 sets the total allowable commercial catch for quota species in the Western Tuna and Billfish Fishery for the 2021/22 fishing season commencing on 1 February 2021 and ending on 31 January 2022.

Assessment of human rights implications

As this legislative instrument is of a mechanical nature, it 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.