

EXPLANATORY STATEMENT

Issued by the authority of the Australian Fisheries Management Authority

Fisheries Management Act 1991
Small Pelagic Fishery Management Plan 2009

Small Pelagic Fishery (Fishing Period) Determination 2021

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 (aa) of subsection 17(6) of the Act provides that a plan of management may determine, or provide for the Authority 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 10 of the *Small Pelagic Fishery Management Plan 2009* (the Plan) provides that the Authority may determine the fishing period.

This instrument determines the fishing period for the purposes of section 10 of the Plan.

The *Small Pelagic Fishery (Fishing Period) Determination 2021* (the Instrument) is a legislative instrument for the purposes of the *Legislation 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 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 South East Management Advisory Committee (SEMAC) provides advice to the Authority on the management of the Small Pelagic Fishery, including fishing periods. SEMAC was consulted on the Small Pelagic Fishery fishing period at a videoconference meeting held on 25 March 2021, and supported maintaining the current fishing period with a commencement date of 1 May in a year and a closing date of 30 April the following year.

The recommended fishing period was then sent to the Authority's Commission for determination.

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.

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 Instrument are set out below:

- Section 1** Provides that the name of the Instrument is the *Small Pelagic Fishery (Fishing Period) Determination 2021*.
- Section 2** Provides for the commencement of the Instrument.
- Section 3** Provides that the instrument is made under subsection 17(6)(aa) of the Act and under subsection 10(1) of the Plan.
- Section 4** Defines terms used in the Instrument.
- Section 5** Provides that each instrument that is specified in a schedule to the instrument is amended or repealed as set out in the Schedule.
- Section 6** Determines the Fishing Period for the purposes of subsection 10(1) of the Plan. This is determined as the period starting on 1 May in a year and ending on 30 April in the following year.

Statement of Compatibility with Human Rights

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

Small Pelagic Fishery (Fishing Period) 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 Bill/Legislative Instrument

The instrument determines the fishing period (season) for the purposes of section 10 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.