

## **EXPLANATORY STATEMENT**

**Issued by the Authority of the Australian Fisheries Management Authority**

*Fisheries Management Act 1991*

*Southern Bluefin Tuna Fishery Management Plan 1995*

### ***Southern Bluefin Tuna Fishery (Actual Live Weight Value of a Statutory Fishing Right) Determination 2024***

Subsection 17(5) 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 (**AFMA**) to give particular determinations for the purposes of attaining the objectives of the plan of management.

Paragraph 17(6)(aa) of the Act provides that a plan of management may determine or provide for AFMA to determine the fishing capacity, 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.

Subclause 18.3 of the *Southern Bluefin Tuna Fishery Management Plan 1995* (**the Plan**) provides that before the commencement of the season, if AFMA has determined AusCatch (Australia's national catch allocation) for the season, AFMA must determine the actual live weight value of a Statutory Fishing Right (**SFR**) for the season.

The *Southern Bluefin Tuna Fishery (Actual Live Weight Value of a Statutory Fishing Right) Determination 2024* (**the Determination**) is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Determination determines the actual live weight value of a SFR for the Southern Bluefin Tuna Fishery (**SBT Fishery**) fishing season starting on 1 December 2024 and finishing on 30 November 2025. The values have been determined in accordance with the formulas for calculation provided in subsection 18.2 of the Plan.

#### **The Fishery**

Southern Bluefin Tuna (**SBT**) is a highly migratory species and is widely distributed throughout waters of the southern oceans, including the Australian Fishing Zone (**AFZ**). Internationally, fishing for SBT is managed by the Commission for the Conservation of Southern Bluefin Tuna (**CCSBT**) of which Australia is a member. The SBT Fishery encompasses SBT fishing operations inside the AFZ (i.e., adjacent from 3 to 200 nautical miles around Australia) and on the high seas. Aside from New South Wales, under an Offshore Constitutional Settlement arrangement between the Commonwealth and the States/Territories, management of the SBT Fishery to the area of low water mark is the responsibility of the Commonwealth through AFMA. The Plan was amended in 2020 to implement the government's commitment to set aside five per cent of Australia's CCSBT allocation for recreational fishing mortality. The set aside means that up to 95 per cent of Australia's annual CCSBT allocation will be available to the commercial sector.

The commercial SBT Fishery is managed using SFRs that allow holders to fish for SBT within the AFZ and the high seas. The majority of SBT are caught live and transferred from a tow cage into a farm where the fish are kept for an approximate six months grow-out period. Fishing occurs in offshore waters adjacent to Kangaroo Island, South Australia. The remainder are caught using longline methods, predominantly off south-eastern Australia during the winter months. The recreational sector continues to be managed by the relevant States using bag and size limits.

### **Consultation**

At its September 2024 meeting, the Southern Bluefin Tuna Management Advisory Committee (SBTMAC) noted the advice from CCSBT's Scientific Committee was to maintain the global total allowable catch limit at 20,647 tonnes. The SBTMAC includes members representing the commercial fishing industry, recreational and environmental sectors, scientific representatives and invited observers from industry associations and the Commonwealth Scientific and Industrial Research Organisation. Representatives of the Australian Southern Bluefin Tuna Industry Association (ASBTIA), the Department of Agriculture, Fisheries and Forestry and AFMA attended the 31<sup>st</sup> Annual meeting of CCSBT as part of the Australian delegation. The meeting discussed and agreed national catch allocations for Australia and other member countries. ASBTIA is the peak body representing the SBT Industry, inclusive of purse seine and long line fishing, and ranching operations for SBT. ASBTIA represents more than 80% of Australia's SBT quota holdings and 100% of the tuna ranching companies.

### **The Commission's Decision**

The AFMA Commission determined the actual live weight of a SFR for the season commencing 1 December 2024 at its meeting of 12-13 November 2024. The Commission was satisfied that the Determination is consistent with AFMA's obligation to pursue its statutory objectives, specified in section 3 of the Act and section 6 of the *Fisheries Administration Act 1991*.

### **Impact Analysis**

The Office of Impact Analysis (OIA) has previously advised that decisions by AFMA, including the setting of a total allowable catch and setting opening and closing dates for a fishing season, do not require a detailed Impact Analysis, consistent with the carve-out agreement in place to cover all regulatory changes of a minor or machinery nature (OIA reference no. OIA23-06107).

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

Details of the Determination are set out at **Attachment A**.

AFMA assesses under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* that this legislative instrument is compatible with human rights. AFMA's Statement of Compatibility is attached at **Attachment B**.

## ATTACHMENT A

### Details of the *Southern Bluefin Tuna Fishery (Actual Live Weight Value of a Statutory Fishing Right) Determination 2024*

**Section 1** Provides that the name of the Determination is the *Southern Bluefin Tuna Fishery (Actual Live Weight Value of a Statutory Fishing Right) Determination 2024*.

**Section 2** Provides that the Determination commences on 1 December 2024.

**Section 3** Provides that the Determination ceases on 30 November 2025.

**Section 4** Provides that the Determination is made pursuant to paragraph 17(6)(aa) of the Act and under subclause 18.3 of the Plan.

**Section 5** Provides that a number of expressions used in this instrument are defined in clause 3 of the Management Plan, including the following:

***SBT Fishery*** means any of the following activities:

(a) fishing for Southern Bluefin Tuna in the Australian fishing zone using an Australian or foreign boat;

(b) fishing for Southern Bluefin Tuna in the high seas fishing zone using an Australian boat;

but does not include the fishing referred to in clause 7 of the Plan.

***season*** means the period determined as the fishing season by AFMA

**Section 6** Determines the actual live weight value of a SFR for the season in the SBT Fishery that commences on 1 December 2024 and ends on 30 November 2025 is 1.30159668 kilograms.

## **ATTACHMENT B**

### **Statement of Compatibility with Human Rights**

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

#### ***Southern Bluefin Tuna Fishery (Actual Live Weight Value of a Statutory Fishing Right) Determination 2024***

This Determination 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**

The Determination determines the actual live weight value of a SFR for the fishing season commencing on 1 December 2024 and ending on 30 November 2025. The value has been determined in accordance with the formulas for calculation provided in subclause 18.2 of the *Southern Bluefin Tuna Fishery Management Plan 1995*.

#### **Assessment of human rights implications**

As this Determination is of a mechanical nature, it does not engage any of the applicable rights or freedoms.

#### **Conclusion**

This Determination is compatible with human rights as it does not raise any human rights issues. The AFMA Commission is satisfied that the instrument is consistent with AFMA's obligation to pursue its statutory objectives.