

Fisheries Legislation (Coral Trout and Spanner Crabs) Quota Amendment Declaration 2018

Explanatory Notes for SL 2018 No. 37

made under the

Fisheries Act 1994

General Outline

Short title

Fisheries Legislation (Coral Trout and Spanner Crabs) Quota Amendment Declaration 2018

Authorising law

Section 44 of the *Fisheries Act 1994*

Policy objectives and the reasons for them

A number of Queensland's commercial fisheries are managed using quota-based management systems that set out the total allowable commercial catch or 'quota' for a species or group of species. Under this system, individual commercial fishers hold quota authorities which entitle the holder to take a portion of the declared quota in a defined season. The quota for each fishery is established through a declaration made by the Chief Executive under section 44 of the *Fisheries Act 1994* (the Act). From season to season, the quota may be increased or decreased depending upon the status of the fish stocks concerned.

The policy objective behind the changes in quota declared under the *Fisheries (Spanner Crab) Quota Declaration 2015* and *Fisheries (Coral Reef Fin Fish) Quota Declaration 2015* is to ensure these fisheries remain sustainable. The following quota changes have been made for the 2018-19 season and beyond:

- an increase in the annual coral trout quota by 200 tonnes to 1163 tonnes with no change for the redthroat emperor and other species quotas
- a decrease in the annual spanner crab quota to 847 tonnes.

Spanner Crab

The Spanner Crab Fishery is managed under a quota system that operates from 1 June to 31 May the following year.

The current "decision rules" for the fishery were developed in consultation with the then Spanner Crab Stock Assessment Group and industry in 2007 and were designed to adjust the quota up and down depending on the status of the stock.

Recent assessment of fishery data has identified declining catch rates and low levels of harvest against the current quota – both indications that crab abundance is low. These are indicators that current harvest levels may be unsustainable. In consultation with industry, it has become clear that the quota of 1631 tonnes is not effectively constraining the harvest and the current decision rules are not adjusting the quota appropriately in response to fishery performance. Most industry members agree that action is needed to improve spawning stock biomass and rebuild the stock.

One of the spanner crab decision rules states that if there is new information available indicating that the assessment and quota-setting arrangements are not consistent with the sustainable management of the fishery the chief executive must review the scientific method and decision rules and, if appropriate, adjust the reference. This decision rule is being applied this year as there is evidence that the stock is declining.

To ensure spanner crab stocks are sustainably managed in accordance with the Act and the *Queensland Sustainable Fisheries Strategy 2017-2027* various options were considered. Applying the current decision rules would be high risk, as maintaining the existing quota may lead to a full fishery closure in 18 months based on current fishery trends. Capping the harvest based on the amount caught during the 2017-2018 season would safeguard against increasing fishing pressure, but would not afford the stock an opportunity to rebuild.

A more meaningful reduction in the harvest is required to prevent the stock declining further and avoid the need for more drastic action in the coming years. In order for stock to rebuild, the quota needs to be below current harvest levels, but this is likely to have an economic impact on the 50 active participants in the fishery. Reducing the quota to 90% of the amount caught during the 2017 calendar year provides protection to spanner crab stocks, and reduces the risk of a full fishery collapse. A 30% reduction of the quota from 2017 calendar year would provide further ecological certainty but a reduction of this scale would have a more severe economic impact. The resulting impacts may include industry losing access to key markets and a structural adjustment of the fishery forcing a number of fishers to exit the industry.

On the balance of ecological and economic factors, limiting the reduction to 10% (or 90% of the 2017 calendar year harvest) was considered the most appropriate approach. Therefore, the spanner crab quota has been decreased to 847 tonnes for 2018-19.

Coral Reef Fin Fish

The Coral Reef Fin Fish Fishery (CRFFF) targets coral trout, redthroat emperor and other regulated coral reef fin fish and is managed through a quota system that operates from 1 July to 30 June the following year.

The current “decision rules” for the fishery were reviewed in 2017 as a result of concern amongst the commercial fishing sector about their efficacy. In October 2017, the Coral Reef Fin Fish Fishery Working Group (the CRFFF Working Group) discussed the relevant fishery information, data sources and how the decision rules responded to different timeframes and severe weather/environmental events. The CRFF Working Group recommended retaining the current decision rules and prioritising the development of a harvest strategy for the CRFFF in line with the *Sustainable Fisheries Strategy 2017-2027* to improve management and address a range of concerns from all sectors.

There are two ‘decision rules’ for determining the annual quota of coral trout:

- ‘Rule 1’ uses catch and effort data to propose the quota that should be declared. It considers the ratio of the difference between average catch rate and the limit catch rate and the difference between the target catch rate and the limit catch rate. This ratio is then applied to the target catch to calculate the proposed quota declaration.

- 'Rule 2' prevents small or excessive changes to the quota in any one year that could unfairly impact business planning of individual fishers. The rule limits changes in quota to a minimum of 50 tonnes and a maximum of 200 tonnes, unless exceptional circumstances apply.

The application of Decision Rule 1 on its own would result in a 370 tonne increase to the quota of coral trout for the 2018-2019 season. However, Decision Rule 2 limits the change in quota in any one year to a maximum of 200 tonne. Therefore, the quota for 2018-19 has been increased by 200 tonnes to 1163 tonnes. This provides a precautionary approach, particularly in light of bleaching events in recent years on the northern Great Barrier Reef.

No changes to the annual quota for redthroat emperor and other species have been made as there are no decision rules in place for adjusting quota for these species. The annual take of these species is relatively low in relation to the respective declared quotas.

Achievement of policy objectives

The subordinate legislation will achieve its objectives by decreasing the annual quota for taking spanner crabs from 1631 tonnes to 847 tonnes from 1 June 2018 and increasing the quota for coral trout from 963 tonnes to 1163 tonnes from 1 July 2018.

Consistency with policy objectives of authorising law

The subordinate legislation is consistent with the main policy objectives of the Act which is to provide for the use, conservation and enhancement of the community's fisheries resources and fish habitats in a way that seeks to promote ecologically sustainable development.

Inconsistency with policy objectives of other legislation

The subordinate legislation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The Queensland Government will not incur any additional costs in the implementation of this subordinate legislation.

Consistency with fundamental legislative principles

The reduction of the spanner crab quota will affect existing quota authority holders, which is a potential breach of the *Legislative Standards Act 1992*, section 4(2)(a) which requires that legislation has sufficient regard to the rights and liberties of individuals. However, only the seasonal entitlement under the quota authority is affected and holders are aware that this will fluctuate when they obtain a quota authority. The ongoing authority is not diminished by a change in the seasonal entitlement under it. Further, the reduction is necessary to ensure that more drastic reductions in the seasonal entitlement of authority holders are not needed over the next two years, which would impact them more significantly. Crucially, the reduction in the spanner crab quota is necessary to ensure the ongoing sustainability of the stock in line with the objectives of the Act.

Consultation

In accordance with statutory obligation before making quota declarations under section 44 of the Act, the chief executive engaged in consultation before declaring the quotas.

Spanner Crab

There are around 280 individual entities authorised to engage in the spanner crab fishery, of which around 50 are quota holders. Given the relatively small size and commercial focus of this fishery, the Department is able to engage and consult with most industry representatives through regular open forums and port meetings in Mooloolaba or the Gold Coast.

Two spanner crab industry meetings were held to review fishery data and seek fisher's perspective on current issues in the spanner crab fishery. Industry members present accounted for over 85% of the permanent quota holdings in the fishery. At meetings on 19 December 2017 and 5 February 2018, industry was provided information on the 2018-2019 quota setting process and other management arrangements. Many industry members agreed that the status of the fishery was concerning and noted the need to decrease the quota to below current catch levels. Given the significance of this decision, the Department encouraged all industry members to provide feedback by the end of February 2018 as part of the 2018-19 quota setting process. The Department also provided individual consultation meetings, after the 5 March 2018 meeting, on the Sunshine Coast and Gold Coast. The feedback received included 12 written submissions, meetings with 10 industry members across 4 meetings and a number of verbal responses via telephone.

From the 2018-19 quota setting process, it is clear that the current decision rules for the Spanner Crab Fishery need to be reviewed, including the scientific method, and, if appropriate, the reference points adjusted. An email has been sent to all industry members seeking participation in a harvest strategy development workshop mid-2018. The output of this work will be a harvest strategy for the fishery that will be used to inform the quota for the 2019-20 year. This work will also bring the spanner crab fishery in line with the Strategy. An independent expert with experience in the Spanner Crab Fishery has been engaged to work with the Department and industry to help facilitate the development of a harvest strategy.

The Department has also sought advice from the Queensland Productivity Commission (the Commission). Previously, a quota declaration has been considered machinery in nature and therefore excluded from further analysis under the Queensland Government's Guide to Better Regulation (the Guidelines). However, given the significance of the proposed reduction to the spanner crab quota, the Department requested the Commission consider the need for further assessment under the Guidelines. The Commission determined that the proposed quota declaration does not warrant the development of a Regulatory Impact Statement on the basis that the Department's proposal to reduce the spanner crab quota would not benefit from further analysis under the Guidelines. The Commission noted:

- the impact on the industry of an immediate reduction in the quota as proposed in Option 3 (a reduction of the quota to 90% of the amount caught in 2017) would be outweighed by the very high cost to the industry if the fishery were closed within two years because action had been delayed
- the comprehensive consultation across quota and licence holders that has been undertaken, with all affected quota holders and licensed fishers invited to participate and a majority having done so
- the Department's assessment that there is a broad consensus for a quota reduction to ensure the long-term sustainability of the fishery, with majority support for Option 3
- a review of the decision rules for the spanner crab declaration is underway, and a harvest strategy is being developed for the spanner crab fishery in consultation with all stakeholders ahead of the 2019-20 season.

Coral Reef Fin Fish

The CRFFF Working Group was established to review the commercial quota and provide external advice on current issues in the line fisheries to the Department. At a meeting on 7 March 2018, the CRFFF Working Group provided advice on the 2018–2019 quota setting process for the CRFFF, the function of the existing decision rules and other management arrangements.

The working group discussed relevant fishery information, commercial catch rates and current quota usage along with the current state of the Great Barrier Reef. Representatives of the recreational and commercial fishing sectors supported the application of the decision rules, noting concerns about the decline in the condition of the Great Barrier Reef, including impacts from severe weather events and the unprecedented 2016 and 2017 bleaching events and resulting coral mortality. The Great Barrier Reef Marine Park Authority (GBRMPA) representative recommended that the increase in quota be only 100 tonnes, and the conservation representative did not support any increase to the coral trout quota. The Department also considered additional correspondence it received from the recreational fishing sector about their concerns that an increase in coral trout quota would have on the fish stock and broader ecosystem.

The Department self-assessed the quota change for this fishery under the *Queensland Guide to Better Regulation*. The assessment concluded that the proposed changes were machinery in nature and thus were consistent with exclusion category (g) and did not require further Regulatory Impact Assessment.