

Fisheries Quota (Spanner Crab Fishery) Amendment Declaration 2024

Explanatory Notes for SL 2024 No. 78

made under the

Fisheries Act 1994

General Outline

Short title

Fisheries Quota (Spanner Crab Fishery) Amendment Declaration 2024.

Authorising law

Part 5 (Fisheries Management) of the *Fisheries Act 1994* (the Act) gives the Chief Executive, or delegate, the powers to make fisheries declarations, including a quota declaration, to set the total quota entitlement for a fishery or part of a fishery.

Policy objectives and the reasons for them

Background

A number of Queensland commercial fisheries are managed using quota-based management systems which set out a total quota entitlement for a species or group of species. Colloquially, this is referred to as the total allowable commercial catch (or TACC). Under this system, individual fishers hold individual transferable quota (ITQ) units, a type of total quota entitlement. The ITQ units entitle the holder to take a portion of the declared total quota entitlement for that species, or group of species, during the ITQ year. Generally, an ITQ year is from 1 July to 30 June each year.

The spanner crab fishery is a single species fishery dominated by the commercial sector. The fishery extends across all tidal waters off Queensland and consists of two management areas (managed area A, south of latitude 23° south, and managed area B, all other waters). Most of the catch from the fishery is taken in managed area A, where the fishery is managed using TACC and ITQ.

From season to season, the declared total quota entitlement may be increased or decreased depending upon the status of the fish stocks concerned. As a consequence, the amount of catch (in kilograms) that a unit entitles the holder to take also increases and decreases.

As part of the Queensland Sustainable Fisheries Strategy 2017-2027 (the Sustainable Fisheries Strategy), harvest strategies outline clear decision rules that increase and decrease the allowable harvest based on the health of the fishery. In most circumstances, a change to

the total quota entitlement will be consistent with the harvest strategy for the nominated fishery. In accordance with Part 2 of the Act, a harvest strategy for the commercial spanner crab fishery (managed area A) was approved on 8 April 2020.

The Spanner Crab Fishery Harvest Strategy was developed to rebuild the spanner crab stocks to levels previously considered sustainable. The performance indicators for the spanner crab fishery (commercial catch rates and a fishery independent survey) have declined over recent fishing seasons. As a result of the decline, in 2018 the spanner crab stock was listed as 'depleting' under the Status of Australian Fish Stocks (SAFS) assessment framework. The Spanner Crab Fishery Harvest Strategy was developed to rebuild the spanner crab stocks to levels previously considered sustainable and in 2020 the stock was listed as 'sustainable' under the SAFS assessment framework.

The harvest strategy informs decision-making through clear fishery objectives, performance indicators, triggers for management action and appropriate management responses based on the status of Queensland's spanner crab stock. The decision rules under the harvest strategy are designed to set commercial and recreational catch at levels appropriate for rebuilding to the 60 per cent biomass target and minimise the risk of a full fishery closure.

The spanner crab harvest strategy uses standardised commercial (standardised catch per unit effort, or sCPUE) and fishery independent survey (sFIS) catch rates from the past two years, compared against target reference points, to calculate the recommended TACC for subsequent fishing seasons.

The current TACC for spanner crab managed area A for the 2023-24 fishing year is set at 847 tonnes in the *Fisheries (Quota) Declaration 2019*.

Amendments to TACC for the fishing season commencing 1 July 2024

The 'Total allowable commercial catch review for Queensland spanner crab (*Ranina ranina*), with data to December 2023' report (the Report) details the commercial fishing data, fishery independent data, effort data, environmental data and modelling methods used to calculate the pooled index.

Following the harvest strategy decision rules, the Report's recommendation for the spanner crab fishery to remain open with a reduction to the current TACC is based on the following indicators:

- (a) The pooled index reduced from 0.584 kg per dilly lift in 2021-22 to 0.556 kg per dilly lift in 2022-23, which means no increase in TACC for the 2023-24 season,
- (b) The 2022-23 pooled index was the third year of a three-year consecutive decline in the pooled index, triggering decision rule 5.1, which means a 50 tonne TACC decrease,
- (c) The 2022-23 average sCPUE is above 0.5 kg per dilly lift, which means the spanner crab managed area A should remain open,
- (d) Catch did not exceed 20 tonnes in the spanner crab managed area B, which means management action is not required in this region.

Under these conditions, the Report recommended following the harvest strategy decision rules to reduce the TACC for managed area A to 797 tonnes.

This reduction to the prescribed TACC for spanner crab managed area A must be implemented in the *Fisheries (Quota) Declaration 2019* to ensure the sustainable take of spanner crab and commercial harvest levels remain consistent with the Spanner Crab Fishery Harvest Strategy and Sustainable Fisheries Strategy.

The amendment to the TACC will only affect the commercial sector and will not impact other sectors such as recreational and traditional fishing.

Aboriginal Peoples and Torres Strait Islanders traditional fishing rights are protected under native title legislation and relate to harvest for domestic, communal, and non-commercial purposes.

Achievement of policy objectives

Reduction in TACC for Spanner Crab Fishery managed Area A

The policy objective will be achieved by amending the *Fisheries Quota Declaration 2019* to reduce the TACC for the spanner crab managed area 'A' from 847 tonnes to 797 tonnes for the ITQ year commencing on 1 July 2024.

Consistency with policy objectives of authorising law

The subordinate legislation is consistent with the main purpose of the Act to provide for the use, conservation and enhancement of the community's fisheries resources and fish habitats in a way that seeks to:

- apply and balance the principles of ecologically sustainable development; and
- promote ecologically sustainable development.

Inconsistency with policy objectives of other legislation

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

Alternative ways of achieving policy objectives

Maintaining the status quo and maintaining the spanner crab TACC at its current level of 847 tonnes is a less restrictive option. However, it would risk unsustainable decline in the biomass of spanner crab. This would result in adverse impacts on fishers, particularly the commercial sector, Queensland's community, and environment. The status quo would also fail to align with the harvest strategy and meet the objectives of the Sustainable Fisheries Strategy, the main objective of the Act and the Queensland's Government's responsibility to ensure public fisheries resources are managed in a responsible and sustainable manner.

Benefits and costs of implementation

Primary commercial fishing licences with a C2-ITQ quota entitlement entitles the holder to commercially take spanner crab up to their ITQ limit, and for this reason have property-like characteristics. By reducing the TACC for spanner crab, affected commercial fishers will be entitled to take less spanner crab, which is an interference with the property rights of those licences.

The purpose of reducing the TACC for spanner crab is to support rebuilding of the spanner crab stocks to a sustainable biomass level by reducing the current harvest amount. The need to support the recovery of spanner crab to a sustainable biomass level outweighs the limited impact on licence-holders. Whilst the reduction in spanner crab TACC will reduce and or limit a fisher's entitlement under a licence, licence-holders are otherwise fully able to exercise the property-like rights of their licences, and this is not considered a significant impact.

A 50 tonne reduced TACC is unlikely to impact employment or viability of the fishery.

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

Restricting the spanner crab total quota entitlement to sustainable levels will ensure that the fishery will not be overexploited, and can continue to rebuild to a target reference point of 60 per cent biomass (as a proxy for Maximum Sustainable Yield), consistent with the policy objectives of the Sustainable Fisheries Strategy. The total quota entitlement will ensure the fishery can maximise the performance of the fishery to meet environmental, social and economic management objectives.

Consistency with fundamental legislative principles

The drafting instructions have been developed with regard to fundamental legislative principles (FLPs) as defined by section 4 of the *Legislative Standards Act 1992* (LSA).

FLPs that are not in the LSA

Ordinary activities should not be unduly restricted

- Includes - **Right to conduct business without interference**

Reduction in TACC

ITQ units entitle their holders to a share in the fishery-wide prescribed commercial catch (PCC) also known as the TACC, which is dependent upon fishery performance and is intended to be adjusted when necessary in accordance with the rules set out in the harvest strategy. The harvest strategy specifies pre-determined management actions necessary to achieve the ecological, economic and social objectives of a fishery.

The FLP is potentially infringed because the taking and possessing of spanner crabs under existing ITQ values (kg/unit) could be considered to be an ordinary activity that is being limited by this amendment. Implementing the reduced TACC will mean that instead of ITQ holders being able to take their individual share of a 847 tonne TACC of spanner crabs, they will be restricted to their individual share of a 797 tonne TACC, which will be a smaller amount of catch for the next fishing year.

The amendment to the allowable catch is necessary to ensure the sustainable take of Spanner Crab and commercial harvest levels remain consistent with the Spanner Crab Fishery Harvest Strategy and Sustainable Fisheries Strategy.

Commercial Spanner Crab fishers are aware that the TACC for each fishing year is based on assessment of the fishery's performance in accordance with the harvest strategy rules and that the TACC is subject to change.

Consultation

The Spanner Crab Working Group met on the 11 April 2024 and discussed a recommended total quota entitlement for the 2024-25 ITQ year. The Working Group agreed to the total quota entitlement in this subordinate legislation.

Regulatory Impact Analysis

A Summary Impact Analysis Statement (IAS) has been prepared and approved by the Deputy Director-General, Fisheries and Forestry, Department of Agriculture and Fisheries. The key findings of the IAS were that, whilst the reduction in spanner crab TACC will reduce and or limit an existing entitlement under a licence, licence-holders are otherwise fully able to exercise the property-like rights of their licences. Accordingly, this is not considered a significant impact.

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