

Fisheries Amendment Declaration 2024

Explanatory Notes for SL 2024 No. 189

made under the

Fisheries Act 1994

General Outline

Short title

Fisheries Amendment Declaration 2024.

Authorising law

Sections 33, 34 and 35 of the *Fisheries Act 1994*.

Policy objectives and the reasons for them

A number of minor amendments are required to clarify the rules set out in the *Fisheries Declaration 2019* (the Fisheries Declaration). Specifically, to:

- prescribe additional dates for the coral reef fin fish fishery regulated period for the regulated waters,
- amend the description of snapper and pearl perch regulated waters to provide more clarity,
- correct the unintentional inclusion of Gulf of Carpentaria waters in the recent amendments for recreational and charter possession limits for Spanish mackerel.

Prescribe additional dates for the coral reef fin fish fishery regulated period for the regulated waters declaration

The coral reef fin fish fishery regulated periods (seasonal closures) were introduced in 2004 to protect spawning coral reef fin fish when they are more vulnerable to fishing pressure. Section 23 of the Fisheries Declaration sets out a regulated waters declaration prohibiting the take and possession of regulated coral reef fin fish during the seasonal closures. The seasonal closures are based on extensive and independent peer reviewed scientific advice and fall on different dates each year corresponding with the new moon during October and November. Accordingly, the Fisheries Declaration must specify the particular seasonal closure dates for each year.

The current seasonal closure dates are prescribed up to and including 2023. Therefore, additional seasonal closure dates from 2024 onwards must be prescribed in the Fisheries Declaration to ensure they can be enforced.

Amend the description of snapper and pearl perch regulated waters to provide more clarity

Part 5, Division 4 of the Fisheries Declaration provides regulated waters declarations for taking or possessing other particular fish. Most of the provisions in this Division describe regulated waters in terms of specific locations (eg. north Cape York regulated waters) or species (eg. spanner crab waters, northern rocklobster waters).

However, Section 35 of the Fisheries Declaration places prohibitions on taking or possessing snapper or pearl perch in 'regulated tidal waters'. 'Regulated tidal waters' are defined in Schedule 1, Part 2 of the Fisheries Declaration as tidal waters in Queensland waters. There are no definitions within fisheries legislation for 'tidal waters' or 'Queensland waters'. The interpretation of the seaward extent of 'regulated tidal waters' for section 35 therefore requires reference to various other pieces of legislation, which is inconsistent with the rest of Division 4.

In the interests of clarity, and for consistency with the rest of Division 4, reference to 'snapper and pearl perch waters' is preferred to 'regulated tidal waters'.

Correct the unintentional inclusion of Gulf of Carpentaria waters in the recent amendments for recreational and charter possession limits for Spanish mackerel

The Fisheries Declaration was amended in 2023 by the *Fisheries Legislation (Spanish Mackerel and Bar Rockcod) Amendment Declaration 2023* (the Amendment Declaration) (<https://www.legislation.qld.gov.au/view/html/asmade/sl-2023-0080>) to, among other things:

- reduce the recreational possession limits for Spanish mackerel from 3 to 1 (Schedule 2, Part 2 of the Fisheries Declaration),
- omit the extended charter trip possession limits for Spanish mackerel, which previously allowed twice the possession limits for trips greater than 48 hours (previous section 118).

The original policy intent was to support the recovery of east coast Spanish mackerel in response to the 2020 stock assessment by reducing recreational and extended charter trip possession limits on the east coast only. However, the amendments made by the Amendment Declaration apply to the whole of Queensland and the Amendment Declaration had the unintended consequence of applying reduced recreational and extended charter trip possession limits for Spanish mackerel in the Gulf of Carpentaria. The Gulf of Carpentaria Spanish mackerel stock is a separate stock, which is not subject to the sustainability concerns experienced with the east coast stock. The reductions to possession limits were not intended to apply in the Gulf of Carpentaria fishery.

Amendments are required to the recreational and charter possession limits for Spanish mackerel to ensure the reductions intended for the east coast do not apply to the Gulf of Carpentaria.

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

Achievement of policy objectives

Prescribe additional dates for the coral reef fin fish fishery regulated period for the regulated waters

The policy intent is achieved by adding the following additional periods to Section 23(2) of the Fisheries Declaration:

- from 30 September to 4 October 2024

- from 29 October to 2 November 2024
- from 18 October to 22 October 2025
- from 17 November to 21 November 2025
- from 8 October to 12 October 2026
- from 6 November to 10 November 2026
- from 26 October to 30 October 2027
- from 25 November to 29 November 2027
- from 15 October to 19 October 2028
- from 13 November to 17 November 2028
- from 5 October to 9 October 2029
- from 3 November to 7 November 2029
- from 24 October to 28 October 2030
- from 22 November to 26 November 2030
- from 13 October to 17 October 2031
- from 12 November to 16 November 2031
- from 1 October to 5 October 2032
- from 31 October to 4 November 2032
- from 20 October to 24 October 2033
- from 19 November to 23 November 2033.

Amend the description of snapper and pearl perch regulated waters to provide more clarity

The policy intent is achieved by replacing 'regulated tidal waters' with 'snapper and pearl perch regulated waters' in Section 35 of the Fisheries Declaration, and making consequential amendments to Schedule 1, Part 2 of the Fisheries Declaration.

Correct the unintentional inclusion of Gulf of Carpentaria waters in the recent amendments for recreational and charter possession limits for Spanish mackerel

The policy intent is achieved by amending the entry for 'Spanish mackerel' in Schedule 2, Part 2 of the Fisheries Declaration to provide for a maximum recreational take and possession limit of 3 fish for the Gulf of Carpentaria and 1 fish for the east coast.

Additionally, a new provision, applicable to the Gulf of Carpentaria only, is inserted to allow for an extended charter trip possession limit for Spanish mackerel. A recreational fisher who is, or has been, on a boat and taking part in a licensed charter fishing trip that is conducted for a continuous period of at least 48 hours may, during the licensed charter fishing trip, take and possess twice the regulated maximum number of Spanish mackerel.

Consistency with policy objectives of authorising law

The subordinate legislation is consistent with the main purpose of the Fisheries 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 would fail to address the various administrative issues that were identified in declarations about coral reef fin fish, snapper and pearl perch, and Spanish mackerel. The intent of these declarations cannot be achieved effectively by the status quo, which impacts upon the overall outcome of best practice fisheries management.

The amendments represent the simplest and most practical solutions to the administrative issues that were identified. The amendments are for the purpose of clarifying existing arrangements rather than increasing the restrictions. Therefore, no alternatives of lesser impact exist.

Benefits and costs of implementation

The general public and in particular fisheries stakeholders will benefit from improved clarity about the fishing rules for coral reef fin fish, snapper and pearl perch, and Spanish mackerel.

No additional costs are involved because the amendments are all minor and for the purpose of clarifying existing arrangements rather than increasing the restrictions.

Consistency with fundamental legislative principles

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

No FLP issues have been identified because the proposed amendments are all minor and administrative in nature.

Consultation

Fisheries Queensland within the Department of Agriculture and Fisheries consulted internally regarding the proposed administrative amendments.

Regulatory Impact Analysis

A Summary Impact Analysis Statement (IAS) for the Amendment Declaration has been prepared and approved by the Deputy Director-General, Fisheries and Forestry. The key findings of the IAS were that the amendments are minor and machinery in nature. There are no new regulatory costs as it involves correcting technical errors and ensuring the continuation of existing regulatory arrangements. The proposal does not result in a substantive change to regulatory policy or new impacts on business, government or the community.

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.