

Fisheries Quota (Regulated Coral Trout) Amendment Declaration 2023

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019*, I, Mark Furner MP, Minister for Agricultural Industry Development and Fisheries and Minister for Rural Communities, provide this human rights certificate with respect to the *Fisheries Quota (Regulated Coral Trout) Amendment Declaration 2023* (the Amendment Declaration) made under the *Fisheries Act 1994*.

In my opinion, the Amendment Declaration, as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The Queensland Sustainable Fisheries Strategy 2017–2027 sets out a 10-year reform agenda, including clear targets to be achieved for sustainable fisheries management. A key target of the Strategy is to set sustainable catch limits based on achieving maximum economic yield for all Queensland fisheries (around 60 per cent biomass) by 2027. A key management tool outlined in the Strategy to achieve this goal is the use of harvest strategies.

The Reef Line Fishery Harvest Strategy 2020–2025 (Harvest Strategy) is used to manage all the coral reef fin fish species in Queensland as part of the Line (Coral Reef Finfish) Fishery (Reef Line Fishery).

The approach taken to ensure the sustainability of regulated coral trout in the Reef Line Fishery is to restrict the amount of regulated coral trout, in weight, that can be taken by commercial fishers each year. The weight restriction is achieved through the mechanism of a total quota entitlement declared in the *Fisheries Quota Declaration 2019*.

The 2022 *Stock assessment of Queensland east coast common coral trout (Plectropomus leopardus)* (the Stock Assessment) concluded that a small reduction in the current total quota entitlement is required. This is to assist in maintaining the target biomass level that aims to achieve maximum economic yield for the Reef Line Fishery (60 per cent of biomass), with a small amount of rebuilding of stock required to safeguard against uncertainty,

The policy objectives of the *Fisheries Quota (Regulated Coral Trout) Amendment Declaration 2023* (the Amendment Declaration) are therefore to ensure the sustainability of the Reef Line Fishery and to safeguard against uncertainty by reducing the total allowable commercial catch for regulated coral trout by 51 tonnes in time for the 2023-24 fishing season.

Human Rights Issues

Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)

Property rights

The Amendment Declaration engages and limits the property rights protected under section 24 of the *Human Rights Act 2019*. Under this section, “All persons have the right to own property alone or in association with others” and “a person must not be arbitrarily deprived of the person’s property.” Deprivation of property is not limited to physical dispossession of property. It can also take the form of any interference with the use, enjoyment, or exploitation of private property.

The Amendment Declaration engages a person’s property rights because Primary Commercial Fishing Licences (PCFLs), which entitle the holder to participate in the commercial fisheries for which the relevant fishery symbols are written on his or her licence, have property-like characteristics for the licence-holder. PCFLs are required to commercially fish in the Reef Line Fishery.

The amendment to the total quota entitlement for regulated coral trout in the Reef Line Fishery, which reduces the total quota entitlement from 963 tonnes to 912 tonnes, limits the property rights of a licence-holder in the Reef Line Fishery. This is because it reduces the amount of fisheries resources that can be taken under a PCFL in the Reef Line Fishery.

Cultural rights – Aboriginal peoples and Torres Strait Islander peoples

The Amendment Declaration engages the distinct cultural rights of Aboriginal peoples and Torres Strait Islander peoples to maintain and strengthen their distinctive spiritual, material, and economic relationship with the land, territories, waters, coastal seas, and other resources with which they have a connection under Aboriginal tradition or Island custom, as protected under subsection 28(2)(d) of the *Human Rights Act 2019*. This right is engaged because the Amendment Declaration changes the broader management arrangements for the take of regulated coral trout, a group of coral reef fish species, in Queensland.

This right is not limited, however, as the quota reduction does not restrict cultural harvest of regulated coral trout or negatively affect the group of species’ availability for cultural harvest. Instead, the Amendment Declaration positively protects Aboriginal peoples’ and Torres Strait Islander peoples’ rights as the reduced quota supports the recovery of regulated coral trout to a sustainable biomass level. This, in turn, will increase the availability and security of the species for cultural harvest.

Consideration of reasonable limitations on human rights (section 13 *Human Rights Act 2019*)

Property rights

(a) the nature of the right

Section 24 of the *Human Rights Act 2019* provides for property rights. This clause is modelled on article 17 of the *Universal Declaration of Human Rights*. The right essentially protects a

person from having his or her property unlawfully removed. Subsection (1) provides that all persons have the right to own property alone or with others. Subsection (2) provides that a person must not be arbitrarily deprived of his or her property.

(b) the nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of limiting a licence-holder's property rights by reducing the total quota entitlement for regulated coral trout in the Reef Line Fishery is to sustainably manage the species in the Reef Line Fishery in line with the Harvest Strategy. This will support further maximisation of the economic yield in the Reef Line Fishery in the future.

Sustainable management of fisheries resources promotes the common good whilst achieving maximum economic yield promotes the development of Queensland's commercial fishing industry. These purposes are consistent with a free and democratic society based on dignity, equality, and freedom.

(c) the relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose

Limiting a licence-holder's property rights by reducing the total quota entitlement for regulated coral trout in the Reef Line Fishery directly achieves the purpose of the amendment.

Setting restrictions on the fisheries resources that can be taken by commercial fishers reduces the likelihood of overfishing, and therefore stock depletion. This, in turn, helps to ensure Queensland's commercial fishing industry continues sustainably into the future.

(d) whether there are any less restrictive and reasonably available ways to achieve the purpose

Maintaining the *status quo* for regulated coral trout is not supported as this would be inconsistent with the decision rules set out in the Harvest Strategy. This strategy aims to set sustainable catch limits based on achieving maximum economic yield for the Reef Line Fishery (60 per cent of biomass).

Amending the *Fisheries Quota Declaration 2019* is the only way to achieve the policy objectives. Non-legislative options would not be able to effectively regulate fisheries and are not considered an appropriate or effective option for sustainable management of coral trout.

(e) the balance between the importance of the purpose of the limitation and the importance of preserving the human right, taking into account the nature and extent of the limitation

The need to sustainably manage regulated coral trout stocks in the Reef Line Fishery, as part of the broader objective for sustainable management of Queensland fisheries resources under the Strategy, outweighs the limited impact on commercial fishers made by reducing the total quota entitlement for this group of species in the Reef Line Fishery. Whilst the value of the individual transferable quota units (held under the PCFL) may be affected by reducing the amount of regulated coral trout that can be taken this restriction is necessary to ensure that regulated coral trout is managed sustainably throughout Queensland, including to help ensure the state's commercial fishing industry continues sustainably into the future. The limitation on property rights is therefore reasonable and demonstrably justified in the circumstance.

Conclusion

I consider that the Amendment Declaration is compatible with the *Human Rights Act 2019* because it limits human rights only to the extent that is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality, and freedom.

THE HONOURABLE MARK FURNER MP
MINISTER FOR AGRICULTURAL INDUSTRY DEVELOPMENT AND FISHERIES
AND MINISTER FOR RURAL COMMUNITIES

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