

Fisheries Amendment Declaration 2024

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* (HR Act), 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 Amendment Declaration 2024* (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 HR Act. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The Amendment Declaration is made under the *Fisheries Act 1994*.

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 (e.g. north Cape York regulated waters) or species (e.g. spanner crab, northern rocklobster).

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

(<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, these amendments apply to the whole of Queensland and the Fisheries Legislation (Spanish Mackerel and Bar Rockcod) Amendment Declaration 2023 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.

Human Rights Issues

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

The Amendment Regulation has been considered with regards to the HR Act and it has been determined that no human rights are engaged by the Amendment Declaration.

Conclusion

I consider that the Amendment Declaration is compatible with the HR Act because it does not limit human rights.



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

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