

Fisheries Declaration 2019

Explanatory notes for SL 2019 No. 76

made under the

Fisheries Act 1994

General Outline

Short title

Fisheries Declaration 2019

Authorising law

Sections 33, 34, 35 and 36 of the *Fisheries Act 1994*.

Policy objectives and the reasons for them

The Queensland Government released the *Sustainable Fisheries Strategy 2017-2027* (the Strategy) in June 2017. The Strategy committed to delivering a more responsive, evidence-based approach to fisheries management and strengthening compliance powers to better align with the approaches used in other Australian jurisdictions. The *Fisheries (Sustainable Fisheries Strategy) Amendment Act 2019* (the Amendment Act) was a significant step in fulfilling the commitments outlined in the Strategy by establishing the legislative framework for responsive decision making through harvest strategies.

The Explanatory Notes for the Amendment Act provided details about the policy objectives of the amendments it makes to the *Fisheries Act 1994* (Fisheries Act) and the reasons for them. Following this, was the amendment of the *Fisheries Regulation 2008* (Regulation) to support the restructured fisheries management framework established by the Amendment Act. The final component is to make Declarations which will enable future decisions about the management of our fisheries to be made in a responsive way and in line with harvest strategies. The main policy objective of the subordinate legislation is to transition all existing Fisheries Declarations (other than Quota Declarations) that are currently contained within the Regulation and the *Fisheries (East Coast Trawl) Management Plan 2010* (the Plan) into one Fisheries Declaration made by the Chief Executive. This will ensure the continuation of all existing Fisheries Declarations, as the Amendment Act omits provisions that provide for the making of Fisheries Declarations by regulation or by a management plan. Instead of having Fisheries Declarations approved by Governor in Council, it is more timely to have Fisheries Declarations made by the Chief Executive.

Achievement of policy objectives

The subordinate legislation achieves its objectives by creating a new Fisheries Declaration which consolidates all existing Fisheries Declarations (other than Quota Declarations) from the Regulation and the Plan, into a single legislative instrument. The new Fisheries Declaration makes no substantive policy change to existing fishery management arrangements and its creation represents nothing more than a structural legislative change. The new Fisheries Declaration incorporates existing fisheries declarations of the following types:

- regulated waters declarations;
- regulated fish declarations;
- regulated fishing apparatus declarations; and
- regulated fishing method declarations.

Consistency with policy objectives of authorising law

The subordinate legislation is consistent with the main objectives 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

The subordinate legislation is consistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

There is no alternative way to achieve the policy objectives as the Fisheries Act specifically provides for Fisheries Declarations to be made by the Chief Executive.

Benefits and costs of implementation

The benefit of the subordinate legislation is that it will support the aims of the Strategy to create a more modern and responsive approach to fisheries management. It will do this by enabling changes to Declarations to be made more promptly and ensuring decision-making is more responsive to emerging fisheries issues. No costs are anticipated with the transition to Chief Executive made Fisheries Declarations. The new Fisheries Declaration will simply consolidate into one instrument the current Fisheries Declarations already contained in fisheries legislation.

Consistency with fundamental legislative principles

The subordinate legislation has been drafted with regard to the fundamental legislative principles (FLPs), as defined in section 4 of the *Legislative Standards Act 1992* (LSA). A potential FLP has been identified and is addressed below.

Scrutiny of Legislative Assembly – LSA s 4(4)(b)

The potential FLP relates to whether the subordinate legislation has sufficient regard to the institution of Parliament by allowing the Chief Executive to make a Fisheries Declaration that is not subject to Parliamentary scrutiny.

Due to the nature of Fisheries Declarations, which require specific, technical knowledge on regulated waters, regulated fish, regulated fishing apparatus and regulated fishing methods, and the need for the new Fisheries Declaration to be easily adapted to reflect current practices, it would be impractical and overly burdensome on Parliament's time to consider the Fisheries Declaration. It is, therefore, more practical and timely for the Chief Executive to make and amend the Fisheries Declaration based on the Chief Executive's expertise and knowledge.

Consultation

No specific consultation was undertaken on the Fisheries Declaration other than through the release of a *Discussion Paper of Proposed Amendments to the Fisheries Act* in 2018. This provided the community with an opportunity to comment on the proposed changes to the Act, which included changes to the manner in which Fisheries Declarations are made. 240 submissions were received as part of this consultation, with the majority indicating widespread support for the proposed changes to fisheries legislation.

Fisheries Queensland will notify industry of the commencement of the new declaration instrument.

The Office of Best Practice Regulation (OBPR), within the Queensland Productivity Commission, was consulted on whether the changes to fisheries legislation required further regulatory impact analysis through a Preliminary Impact Assessment. These changes included the transition from Declarations contained in Regulation to Chief Executive-made declarations. The OBPR advised that it was satisfied with the consultation undertaken in the development of the Strategy and considered that the proposed amendments would not benefit from further regulatory impact analysis under the *Queensland Government Guide to Better Regulation*.