

Fisheries (Spanish Mackerel) Declaration Amendment 2025

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, the Honourable Anthony Perrett MP, Minister for Primary Industries provide this human rights certificate with respect to the *Fisheries (Spanish Mackerel) Declaration Amendment 2025* (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

Spanish mackerel (*Scomberomorus commerson*) is an iconic fish species in Queensland which is highly sort after in both recreational, commercial, and First Nations fishing sectors. The East Coast Spanish Mackerel Harvest Strategy 2023-2028 (harvest strategy) that underpins the management arrangement for the East Coast Spanish Mackerel Fishery (the fishery) was amended on 4 December 2025 to improve sustainable commercial and recreational access to fishery resources.

The policy objective of the Amendment Declaration is to support the sustainable and profitable management of the fishery by maintaining the regulatory environment in alignment with the rules and objectives of the harvest strategy. Harvest strategy rules are used in combination with ongoing stock assessment modelling to determine optimal management of the fishery's resources for environmental, community and commercial benefit.

The Amendment Declaration achieves the policy objective by making amendments to the Fisheries Declaration 2019 (Fisheries Declaration) to:

- Increase the recreational boat in possession limit from two fish per boat with two or more recreational fishers on board, to four fish with four or more recreational fishers onboard (excluding licenced charter fishing trips);
- Add further regulated periods (seasonal closure periods) for the Northern Spanish mackerel waters for the period 2026-2029 based on lunar phasing to account for species-specific behaviour.

Increasing the recreational boat limits improves recreational access to fishery resources and achieves the purpose of the Amendment Declaration by aligning recreational access with the increased biomass estimate from the recent stock assessment, in recognition of the improved risk profile for the fishery.

Updating seasonal closure periods provides for periods where fishing is prohibited in the Northern Spanish mackerel waters to protect Spanish mackerel during the spawning season when they are more vulnerable to fishing pressure. This achieves the objective of providing for best management of the fishery in alignment with the harvest strategy.

There is no alternative way to give effect to the rules within the harvest strategy than by legislative amendment. The rules in the harvest strategy enable the fishery to be economically productive while maintaining sustainable fish stocks to provide ongoing access to fishery resources.

For the harvest strategy to be enforceable and take effect, the regulatory environment must reflect management arrangements within the harvest strategy. Therefore, the objective of the Amendment Declaration achieves the purpose of ensuring the fishery continues to be economically productive and accessible for community enjoyment while maintaining sustainable fish stocks as it ensures the regulatory environment and the harvest strategy are aligned.

Human Rights Issues

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

Section 24 Property rights.

Quota has property-like characteristics, which means that in cases where the use of entitlement provided under quota is restricted, reallocated or reduced, quota holders' property rights are limited.

The Amendment Declaration introduces updated seasonal closure periods for the Northern Spanish mackerel waters, limiting the use of entitlement during these periods. This is an ongoing arrangement to provide seasonal closure periods that align with the behaviour of stock in the fishery.

Limiting fishing effort in Northern Spanish mackerel waters through seasonal closure periods is a necessary aspect of fisheries management to ensure the long-term sustainability of the property right and is an established management tool for fisheries.

Property rights are not arbitrarily limited by the setting of updated seasonal closure periods in the Amendment Declaration and is consistent with a free and democratic society based on dignity, equality, and freedom.

Section 28 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 protected under section 28 of the *Human Rights Act 2019*. Insofar of Aboriginal peoples' and Torres Strait Islander peoples' right 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 (section 28(2)(d)); and a right to conserve and protect the environment and productive capacity of their territories, waters, coastal seas and other resources (section 28(2)(e)) are engaged because the Amendment Declaration changes the broader management arrangements for the take of Spanish mackerel in Queensland, and provides updated seasonal closure periods.

These rights are not limited as the management changes made in the subordinate legislation do not restrict cultural or customary harvest of Spanish mackerel.

No further assessment under the *Human Rights Act 2019* is required.

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

Section 24 – Property Rights

(a) the nature of the right

Section 24 of the *Human Rights Act 2019* protects property rights. This section is modelled on article 17 of the Universal Declaration of Human Rights. The right protects a person from having their 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 their 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 Amendment Declaration limits property rights protected under section 24 of the *Human Rights Act 2019*. The Amendment Declaration does this by providing for ongoing seasonal closure periods in the Northern Spanish mackerel waters. Primary Commercial Fishing Licences with quota entitlement allow the holder to take commercial take of Spanish mackerel up to their Individual Transferable Quota (ITQ) limit, and for this reason have property-like characteristics. Providing for seasonal closure periods interferes with the property rights of those licences and recreational fishers targeting Spanish mackerel.

The purpose of limiting these property rights by setting seasonal closure periods, is to continue to support the rebuilding of the Spanish mackerel stocks while allowing continued, sustainable commercial and recreational access to fisheries resources at other times of the year. These actions will provide for continued access to community resources into the future. Sustainable management of a fishery resource promotes the common good and, while enabling future sustainable harvest, promotes the rights of holder of the property-like licences. 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 the property rights of licence-holders by setting seasonal closure periods for the Northern Spanish mackerel waters achieves the purposes of the limitation. Providing ongoing closure periods for the Northern Spanish mackerel waters will support the ongoing sustainable management of Spanish mackerel, while allowing for commercial and recreational take to continue at other times of the year.

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

The purposes of the amendments cannot be achieved through any less restrictive and reasonably available means. Harvest strategies are a regulatory tool consistent with contemporary best practice fisheries management principles, as well as principles of ecologically sustainable development.

Maintaining the status quo will result in differences between the harvest strategy and the regulatory environment, failing to recognise ongoing requirements in the Northern Spanish mackerel waters to provide periods of reduced fishing effort. Seasonal closure periods are

required to ensure the ongoing availability of stock by reducing stress caused by fishing effort to safeguard the ongoing economic and ecological survival of the fishery.

- (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 maintain sustainable, productive access to the fishery outweighs the limited human-rights impacts to licence-holders. While setting seasonal closure periods will limit the use of entitlement during those periods in the Northern Spanish mackerel waters, licence-holders are otherwise fully able to exercise the property-like rights of their licences. The limitation on property rights is, therefore, reasonable, and demonstrably justified in the circumstance.

Conclusion

This proposal is compatible with human rights under the *Human Rights Act 2019* because it limits human rights only to an extent that is reasonable and demonstrably justifiable in accordance with section 13 of the *Human Rights Act 2019*.

I consider that the *Fisheries (East Coast Spanish Mackerel Management) Declaration Amendment 2025* is compatible with the *Human Rights Act 2019* because it does interfere with a human right, but that limitation is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

THE HONOURABLE ANTHONY PERRETT MP
MINISTER FOR PRIMARY INDUSTRIES

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