



# Proposed Amendments to the Fisheries (South Island Customary Fishing) Regulations 1999

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Requests for further copies of this document should be directed to:

Māori Primary Sector Partnerships—Implementation

Ministry for Primary Industries

P O Box 2526, WELLINGTON 6140

Email: [raymond.necklen@mpi.govt.nz](mailto:raymond.necklen@mpi.govt.nz)

Telephone: 0508 272 272

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# Introduction

This discussion document provides initial proposals to amend the Fisheries (*South Island Customary Fishing*) Regulations 1999 (the Regulations). The proposals were instigated and developed by Te Waka a Māui me Ōna Toka Forum (the Forum) with assistance from MPI's Māori Primary Sector Partnerships—Implementation Branch (MPSP). The Forum is representative of all nine South Island iwi, being Ngāi Tahu, Ngāti Apa, Ngāti Koata, Ngāti Kuia, Ngāti Rarua, Ngāti Tama, Ngāti Toa, Te Atiawa and Rangitāne.

In 1992 the Crown and representatives of Māori entered into a deed to effect the settlement of outstanding Māori claims and Treaty grievances in relation to fisheries. Resulting from the deed was the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. Under s 10 of that Act, the Minister for Primary Industries (the Minister)<sup>1</sup> is required to recommend to the Governor-General in Council the making of regulations under s 186 of the Fisheries Act 1996<sup>2</sup> to recognise and provide for customary food-gathering by Māori and the special relationship between tangata whenua and those places which are of customary food-gathering importance to the extent that it is neither commercial in any way nor involves commercial gain or trade.

It is in this context that an earlier version of the Regulations was promulgated in April 1998. These were replaced in 1999 by the current Regulations following a review by South Island iwi and the then Ministry of Fisheries. The 1999 review focused primarily on technical and administrative problems that needed to be addressed.

The Regulations enable South Island iwi to manage their customary fisheries within the area where they are tangata whenua. To achieve this outcome, tangata whenua are required to notify their Tangata Tiaki. The Minister confirms the appointment of Tangata Tiaki following a submission process and, if required, a dispute resolution process. The Regulations also enable tangata whenua to apply for mātaihai reserves to be established over traditional fishing-grounds.

The Regulations have been in force for 14 years and, over time, various issues with the Regulations have presented themselves. Accordingly, the Forum initiated a review of the Regulations.

The amendments, which form the basis of the proposals set out in this paper, have been identified by iwi and MPI to address issues with the Regulations. MPI, therefore, is not consulting with the nine South Island iwi on this paper. Any comments or additional information provided by the agencies and persons being consulted on this paper will be taken back to the Forum for consideration and incorporated into final advice for the Minister.

The proposals are either technical in nature, or designed to remove impediments to the operation of the Regulations thus increasing their functionality in terms of tangata whenua being able to start managing, or being better able to manage, their customary fisheries under the Regulations.

The discussion document provides an initial analysis of the benefits and costs of the proposed amendments. Their implementation indicates significant benefits to tangata whenua throughout the South Island. Overall, there is a reduction in administrative costs associated with several of the proposed amendments both in terms of tangata whenua and MPI.

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<sup>1</sup> The Minister for Primary Industries now exercises the functions and powers of the Minister of Fisheries under fisheries legislation.

<sup>2</sup> Formerly s 89 of the *Fisheries Act 1983*.

# Consultation

The purpose of this paper is to seek comment from agencies and persons having an interest in or are affected by the proposed regulatory amendments.

Specifically, MPI has identified the following agencies to consult with on this paper: Te Ohu Kai Moana (which has been party to the development of these proposals), Te Puni Kōkiri, Department of Conservation, Ministry for the Environment, Ministry of Justice, The Treasury, the Department of Prime Minister and Cabinet, and the Office of the Privacy Commissioner. MPI is also consulting with Seafood New Zealand which represents persons with a commercial fishing interest.

These agencies and persons are encouraged to provide additional information of relevance to, and their views on, these proposals. Submitters' points will be included in final advice to the Minister for Primary Industries on these issues.

Submissions are subject to the Official Information Act (OIA) and can be released, if requested, under the OIA. If there are specific reasons for wanting to have submissions withheld, please set out reasons in the submission. MPI will consider those reasons when making any assessment for the release of submissions if requested under the OIA.

Written submissions should be provided by Friday, 13 September 2013 and should be directed to:

Māori Primary Sector Partnerships—Implementation  
Ministry for Primary Industries  
P O Box 2526  
WELLINGTON 6140  
[FMSubmissions@mpi.govt.nz](mailto:FMSubmissions@mpi.govt.nz)

Following this three-week submission period, MPI will offer to those agencies and persons being consulted an option to meet with MPSP officials to have face-to-face discussions about the proposed regulatory amendments during the week commencing 16 September 2013.

# Proposals

## 1. Amendment to definition of tangata whenua (r 2)

### Objective

The object of this amendment is to update named entities that act for and represent particular iwi in the top-of-the-south (Te Tau Ihu o Te Waka a Māui).

### Problem definition

Iwi are not necessarily represented by the entities named in r 2 of the Regulations given changes over time, primarily as a result of settlements with the Crown.

### Current situation

Definition (b) of “tangata whenua” in r 2 of the Regulations defines tangata whenua in relation to a particular area as the whānau, hapū, or iwi, that hold manawhenua manamoana over that area and are represented by a named iwi Trust or Rūnanga.

### Proposal

It is proposed to amend definition (b) of tangata whenua as follows:

- replace Ngati Apa Ki Te Waipounamu Trust with Ngāti Apa ki te Rā Tō (Charitable) Trust;
- replace Ngati Koata No Rangitoto Ki Te Tonga Trust with Te Pātaka a Ngāti Koata;
- replace Ngati Tama Manawhenua Ki Te Tau Ihu Trust with Ngāti Tama ki Te Waipounamu Trust;
- replace Ngati Toa Rangatira Manawhenua Ki Te Tau Ihu Trust with Te Rūnanga o Toa Rangatira Incorporated;
- replace Te Atiawa Manawhenua Ki Te Tau Ihu Trust with Te Atiawa o Te Waka-a-Māui Trust;
- replace Te Runanga A Rangitane O Wairau with Te Rūnanga a Rangitāne o Wairau Inc; and
- replace Te Runanga O Ngati Kuia Trust with Te Rūnanga o Ngāti Kuia Trust.

### Impact, costs and benefits

The current definition (b) of tangata whenua in the Regulations is no longer accurate. The impact of the proposal will update and correct the current interpretations; it will also benefit tangata whenua by removing the risk of a named entity being challenged as who represents a particular iwi. There are no costs associated with this proposal.

## 2. Amendment to the application of the *Fisheries (Amateur Fishing) Regulations 1986* in relation to mātaihai reserves (r 4)

### Objective

The object of this amendment is to remove the ability of approvals or authorisations under r 27 or r 27A of the *Fisheries (Amateur Fishing) Regulations 1986* (the Amateur Regulations) to be issued in an area which has been declared a mātaihai reserve by the Minister.

### Problem definition

Unlike the appointment of Tangata Tiaki under r 9 of the Regulations, when Tangata Tiaki are appointed by the Minister under r 21 to manage mātaihai reserves it is not explicit in the

Regulations that r 27 and r 27A of the Amateur Regulations no longer apply. The potential is for approvals or authorisations under r 27 or r 27A to continue to be issued in a mātaihai reserve. This results in both regulatory regimes operating in the same area.

### Current situation

Where the appointment of a Tangata Tiaki has been confirmed under r 9 of the Regulations to manage customary fishing in a customary food-gathering area, this means that approvals or authorisations under r 27 or r 27A of the Amateur Regulations can no longer be issued in that area. This is covered in r 4(2) of the Regulations. Whereas, if Tangata Tiaki have not been appointed under r 9 for a customary food-gathering area but a mātaihai reserve is declared over all or part of that area – and Tangata Tiaki appointed to manage that reserve under r 21 – then there is nothing explicit in the Regulations which states that r 27 and r 27A of the Amateur Regulations no longer apply within that reserve.

### Proposal

It is proposed to amend the Regulations to ensure r 27 and r 27A of the Amateur Regulations do not apply in areas where mātaihai reserves have been declared.

### Impact, costs and benefits

The impact and benefit of this proposal will remove the ability to issue approvals or authorisations under r 27 or r 27A of the Amateur Regulations in areas that have been declared mātaihai reserves. There are no costs associated with this proposal.

Agencies and Departments are encouraged to submit their views on this proposal and in particular information on:

- Do you agree with this proposal?
- If not, why not?

## 3. Amendment to the criteria that indicates a dispute (r 8(1))

### Objective

The object of this amendment is to enable the relevant tangata to have the ability to determine who their Tangata Tiaki will be without the need for a “public” submission process<sup>3</sup>.

### Problem definition

Under r 8(1)(b) of the Regulations, submitters under r 7 can make submissions objecting to who should be a Tangata Tiaki for a proposed area thus triggering the dispute resolution process. It is iwi’s view that this criterion undermines the mana of tangata whenua as the notifying authority to decide who represents them in managing their customary fisheries.

### Current situation

There are three criteria a submission can be made in respect of that the Minister may consider indicates a dispute. One of these is in r 8(1)(b) of the Regulations — who should be Tangata Tiaki.

<sup>3</sup> Qualified, in that a person may make a submission if the person belongs to the tangata whenua on whose behalf the notification is made, or the rūnanga, or other organisation representing the relevant iwi interest, or any marae, hapū, or iwi claiming manawhenua manamoana in respect of the area for which the proposed Tangata Tiaki has been nominated.



## Proposal

It is proposed to remove the r 8(1)(b) criterion. This would mean that an objection in relation to who has been nominated by tangata whenua to be a Tangata Tiaki could not longer be considered by the Minister as indicating a dispute. It is up to tangata whenua, as the notifying authority, to decide who represents them in managing their customary fisheries.

## Impact, costs and benefits

The impact and benefit of this proposal returns the ability of tangata whenua to determine who will act for them as Tangata Tiaki. There are no costs associated with this proposal.

Agencies and Departments are encouraged to submit their views on this proposal and in particular information on:

- Do you agree with this proposal?
- If not, why not?

## 4. Amendment to the dispute resolution process (r 8)

### Objective

The object of this amendment is to provide a prescriptive dispute resolution process which ends with a determinative outcome.

### Problem definition

Iwi consider that the dispute resolution process set out in r 8 of the Regulations is not geared towards a determinative outcome. While the process is initially invoked by the Minister, the next stage under r 8(2)(b), which envisages disputing parties agreeing on a dispute resolution process consistent with tikanga Māori, is fraught with issues. Even if the parties agree on a process consistent with tikanga they still may not manage to reach resolution. Then the next stage under r 8(4) is for parties to refer the dispute to an authority agreed to between them for settlement of the dispute. Again, this stage requires agreement and has proven inutile to date. The key issues identified by iwi with the current dispute resolution process are that there is no obligation on an objector to participate in the process; neither are there any guidelines as to resolution or timeframes.

### Current situation

Notifications have the potential to languish in dispute as there is no incentive or imperative for an objecting party to engage with the notifying authority. At times, a submitter simply walks away from their objection, which, in effect, is not sustained. This results in the Minister not being able to confirm the appointment of those nominated as Tangata Tiaki under r 9(1) of the Regulations as he can only do so if — in the case of objecting submissions being raised — a dispute resolution process has been concluded under r 8 and all disputes have been resolved through that process. This has resulted in disputes remaining unresolved, in some cases, for several years with no sign of an outcome. If disputes are not resolved, the Minister cannot appoint Tangata Tiaki to enable the relevant tangata whenua to manage their customary fisheries under the Regulations.

## Proposal

A dispute resolution process needs to be developed that ensures it is undertaken in good faith and in the spirit of finding a resolution. It is therefore proposed to amend r 8 of the Regulations to provide for a prescriptive process that has a determinative outcome as follows:

- The process will commence by the Minister invoking the dispute resolution process under r 8 if a valid objection (i.e. meeting one of the criteria in current r 8(1)(a) or (c)) is received.
- The notifying authority (i.e. the tangata whenua who originally notified their proposed Tangata Tiaki under r 5) will then be required, in good faith, to use its best endeavours to meet with the objector and attempt to resolve the dispute within **3 months** of the date of commencement.
- If no resolution is obtained after **3 months**, the proposal is that MPI may provide a Mediator to assist parties to come to an agreement.
- If, **6 months** after the date the dispute resolution process was invoked and following mediation, the parties cannot come to an agreement, the parties will agree to appoint an Arbitrator over the dispute.
  - i) In the case that parties cannot agree on an Arbitrator, MPI will appoint one for them.
  - ii) Where an Arbitrator is appointed by MPI, the arbitration must be informed by:
    - an understanding of tikanga Māori;
    - a familiarity with local history and geography of Te Wai Pounamu; and
    - an understanding of law and alternative dispute resolution processes.
  - iii) An Arbitrator may adopt any process to resolve the dispute, provided that process is consistent with the principles of natural justice, and endeavour to operate without undue formality.
- If, following mediation and arbitration, no agreement has been reached by the parties, the Arbitrator will make recommendations to the Minister no later than **9 months** following the date of commencement of the dispute.
- The Minister, in absence of an agreement, will confirm the recommendations of the Arbitrator, ending the disputes resolution process.
- If, at any time during the disputes resolution process, the parties come to an agreement to have the objection withdrawn, this will conclude the resolution process.
- The timeframes of the disputes resolution process may be extended by a written request to MPI provided there is agreement with all parties to the dispute.
- MPI shall deem any objection to be abandoned if satisfied that the objector, given fair opportunity, has not participated in the process.

### Impact, costs and benefits

The impact and benefit of this proposal will ensure dispute resolution processes have, in the first instance, an outcome over a set period. In turn this will allow the notifying tangata whenua to manage their customary fisheries under the Regulations. Costs associated with this proposal would revolve around the process of mediation and, if required, arbitration.

Agencies and Departments are encouraged to submit their views on this proposal and in particular information on:

- Do you agree with this proposal?
- If not, why not?
- Is there another proposal that you think should be considered?

## 5. Removal of time-bound appointments (r 9, r 21, r 22)

### Objective

The object of this amendment is to remove the requirement for Tangata Tiaki appointments for both customary food-gathering areas and mātaihai reserves to be limited to a maximum of five-year terms.

## Problem definition

The requirement to renew Tangata Tiaki appointments every five years has created a significant and unnecessary administrative burden, both for South Island iwi currently managing customary fishing under the Regulations (Ngāi Tahu) and MPI. Removing time-bound regulations that limit the length of these appointments would simplify the administration of the Regulations. There is also the risk that appointments could lapse if not renewed in time and the area being managed again, in terms of customary fishing, under r 27 and r 27A of the Amateur Regulations.

## Current situation

Tangata Tiaki are appointed to manage both customary food-gathering areas and mātaihai reserves. Unlike the appointment of Tangata Kaitiaki in the North and Chatham Islands under the *Fisheries (Kaimoana Customary Fishing) Regulations 1998*, appointments under the Regulations may only be for five years or less. If, on or before the end of a person's appointment as a Tangata Tiaki, the relevant tangata whenua advise they wish to nominate that person for a further term the Minister must re-appoint that person for a further term of up to five years. This places an administrative burden not only on tangata whenua but also on MPI and the Minister.

## Proposal

It is proposed to remove all references in the Regulations to Tangata Tiaki appointments being for a defined term, whether the appointments are for customary food-gathering areas or mātaihai reserves. Note that r 10 provides a mechanism for cancelling appointments at the request of the notifying tangata whenua or the appointed Tangata Tiaki.

## Impact, costs and benefits

The impact and benefit of this proposal results in Tangata Tiaki appointments being open-ended as is the case in the North and Chatham Islands. As such, there will be a reduction in administering appointments and a reduction in briefings drafted for the Minister. This will result in a reduction in administrative costs both in terms of time and the cost of publicising appointments in local newspapers and the *Gazette*.

Agencies and Departments are encouraged to submit their views on this proposal and in particular information on:

- Do you agree with this proposal?
- If not, why not?
- Is there another proposal that you think should be considered?

## 6. A new provision to provide for the appointment of further Tangata Tiaki

### Objective

The object of this amendment is to enable tangata whenua, once they have had the appointment of Tangata Tiaki confirmed to manage customary food-gathering within an area under r 9(1) of the Regulations, to be able to have further Tangata Tiaki appointed to manage customary food-gathering within that area without the need to call for public submissions on the nominations.

## Problem definition

Iwi consider that the requirement for the public submission process to be gone through each time the relevant tangata whenua nominates further Tangata Tiaki undermines the mana of that tangata whenua who, through the original notification process, have had their status as tangata whenua confirmed for a particular area under the Regulations.

## Current situation

If nominations are received from the relevant tangata whenua, they are treated as new nominations under r 5 and therefore the notification process set out in r 6 must be utilised. This means that — even if the relevant tangata whenua has already gone through the process of notification, public submissions, dispute resolution (if objecting submissions are received) and appointment — they would need to do so again in order to have any further Tangata Tiaki appointed to manage customary food-gathering within the confirmed area.

## Proposal

It is proposed to add a new provision, whereby the Minister must appoint further Tangata Tiaki without the requirement for public submissions if the Tangata Tiaki are nominated by tangata whenua (as defined under r 2) who have already gone through the r 5 – 9 process. It is envisaged that the process would be similar to that in r 10(2) which provides for the appointment of replacement Tangata Tiaki.

## Impact, costs and benefits

The impact and benefit of this proposal is to remove inefficiencies and to make the process of appointing further Tangata Tiaki consistent with the appointment of replacement Tangata Tiaki. It also enhances the mana of tangata whenua. A cost benefit is associated with this proposal, in that MPI will not be required to publicise the nominations (i.e. call for submissions) in local newspapers.

Agencies and Departments are encouraged to submit their views on this proposal and in particular information on:

- Do you agree with this proposal?
- If not, why not?
- Is there another proposal that you think should be considered?

## 7. Amendment to provide for MPI to notify tangata whenua if there is reasonable cause to suspect an offence has been committed (r 12)

### Objective

The objective of this proposal is to ensure that tangata whenua are made aware that a fishery offence has reasonable cause to suspect an offence has been committed against the Regulations. Currently there is no obligation on the Tangata Tiaki to inform his/her hapū or iwi (that holds manawhenua manamoana over the relevant area) that a request has been made to produce the records concerning the authorisation to which the suspected offence relates.

## Problem definition

South Island iwi are concerned that notifying authorities, acting on behalf of tangata whenua, are not made aware of potential breaches of the Regulations when a fishery officer exercises his or her powers under r 12. The proposed approach ensures tangata whenua, who the Tangata Tiaki is responsible to, is made aware that an offence against the Regulations is suspected.

## Current situation

If a fishery officer has reasonable cause to suspect an offence has been committed against the Regulations, under r 12 he/she may request the Tangata Tiaki, who granted the authorisation, to produce the records concerning the authorisation to which the suspected offence relates. As it is, the current situation means that tangata whenua, who would have nominated the Tangata Tiaki and to whom the Tangata Tiaki is responsible to, may be unaware of a suspected offence. The current situation is not conducive to supporting tangata whenua to manage their customary fisheries.

## Proposal

It is proposed to amend r 12 of the Regulations to ensure the relevant tangata whenua under r 5 or r 8 is notified in writing of any requests made under r 12(a) and r 12(b) by a fishery officer within five working-days following the requests. Such notice would be in the form of a letter and would simply advise that a fishery officer has reasonable cause to suspect an offence has been committed against the Regulations and, therefore, records concerning the authorisation to which the suspected offence relates have been requested from the Tangata Tiaki. The approach ensures tangata whenua are aware that an offence is suspected and can, therefore, intervene and mediate as appropriate; otherwise enquires could be conducted and proceedings brought without their knowledge. This proposal supports tangata whenua to better manage their customary fisheries under the Regulations.

## Impact, costs and benefits

The impact and benefit of this proposal is that tangata whenua, by being made aware of a suspected offence, has the opportunity to assist with any enquiry and is in a position to review the appropriateness of the appointment. There are no costs associated with this proposal. MPI is particularly interested in hearing views in relation to any potential privacy or justice implications of this proposal.

Agencies and Departments are encouraged to submit their views on this proposal and in particular information on:

- Do you agree with this proposal?
- If not, why not?
- Is there another proposal that you think should be considered?

## 8. Amendment to provide more flexibility with reporting (r 15)

### Objective

The objective of this proposal is to provide more flexibility with the requirement of Tangata Tiaki to provide quarterly reports under r 15 of the Regulations.

### Problem definition

South Island iwi have differing levels of administrative support to manage the Regulation's reporting requirements. As such, the requirement to report on a quarterly basis is considered to be an administrative burden on some iwi.

### Current situation

Within one month after the end of each quarter in each calendar year, Tangata Tiaki must provide a summary of information collected under r 32 and r 33; in effect the amount of fish taken by species and fisheries management area. The information is for the sole purpose of setting or varying sustainability measures or developing management controls. Iwi have commented they would like more flexibility with this requirement, as they see quarterly reporting as overly onerous.

### Proposal

It is proposed to amend r 15 of the Regulations to require reporting to occur at regular intervals as agreed between tangata whenua and MPI, but not less than annually; meaning the business year (1 July to 30 June) to coincide with the fisheries planning cycle.

### Impact, costs and benefits

While there is no measurable impact of this proposal other than a potential reduction in data entry by MPI, there may be some impact in the ability to inform proposed sustainability measures with customary usage data. There are no costs associated with this proposal.

Agencies and Departments are encouraged to submit their views on this proposal and in particular information on:

- Do you agree with this proposal?
- If not, why not?
- Is there another proposal that you think should be considered?

## 9. Amendment to provide for reinstating commercial fishing upon establishing a mātaihai reserve (r 20)

### Objective

The objective of this proposal is to provide for the commercial take of specified species, by quantity or time period, to be able to continue within a mātaihai reserve on the declaration of the reserve by way of a condition.

### Problem definition

The process to allow the commercial take of specified species of fish by quantity or time period to be reinstated by regulations within a mātaihai reserve once it has been declared is time consuming and, at times, difficult to progress. The adverse effects on commercial fishers of a reserve must be considered by the Minister when considering an application for a reserve and can be a barrier to a reserve being declared.

## Current situation

Once a mātaihai reserve is declared under r 20 of the Regulations, commercial fishing is prohibited within the reserve under r 24(2) unless regulations are put in place in accordance with the process set out in r 24(3) to allow the commercial take of specified species of fish by quantity or time period from within that reserve. The effect of r 24(2), as currently drafted, is that the applicant tangata whenua and the Minister cannot agree on a condition(s) to allow, for example, limited commercial fishing to continue on declaration of the reserve.

## Proposal

It is proposed to amend the Regulations to allow the Minister to declare an area to be a mātaihai reserve subject to a condition that the commercial take of specified species by quantity or time period is allowed. That condition could be proposed by the applicant tangata whenua during the application process or following the submission period on the application (in response to any concerns raised by commercial fishers, for example). Any condition(s) would need to be agreed by the applicant tangata whenua and the Minister. Note that it is proposed that the power to make regulations to allow the commercial take of specified species of fish by quantity or time period from within that reserve will remain.

## Impact, costs and benefits

The impact and benefit of this proposal is two-fold. It will enable, upon agreement, specified commercial fishing to continue uninterrupted and will provide a mechanism to reduce or remove adverse effects of mātaihai reserves on commercial fishers, which currently acts as an impediment to reserves being established. There would also be a reduction in costs when compared with the costs associated with the current process of reinstating commercial fishing within a mātaihai reserve by way of a regulatory process.

Agencies and Departments are encouraged to submit their views on this proposal and in particular information on:

- Do you agree with this proposal?
- If not, why not?
- Is there another proposal that you think should be considered?

## 10. To provide for the ability to issue infringement notices (r 44)

### Objective

The objective of this proposal is to provide for infringement notices to be issued by MPI for particular offences against the Regulations.

### Problem definition

It is not possible to issue infringement notices under the Regulations. The penalty provisions in the Regulations are fines ramped according to first time or subsequent offending (r 44) and are dealt with through the prosecution and Court processes.

### Current situation

Currently there is no provision for lower-level offending under the Regulations to be dealt with through an infringement regime, rather than through the Court process set out in r 44 of the Regulations. On the first occasion on which a person is convicted of one or more offences under the Regulations, he or she is liable in respect of that offence or each of them to a fine not exceeding \$10,000. On every subsequent occasion on which the person is convicted of one or more offences, he or she is liable in respect of that offence or each of them to a fine not exceeding \$20,000.



## Proposal

It is proposed to amend the Regulations to allow infringement notices to be issued by MPI for particular offences against the Regulations that are not deemed serious enough to be taken to Court and which would, upon conviction, attract the above fine(s).

Agencies and Departments are encouraged to submit their views on this proposal and in particular information on:

- Do you agree with this proposal?
- If not, why not?
- Is there another proposal that you think should be considered?



## Monitoring and Review

Through the ongoing work of the Forum<sup>4</sup>, MPI will continue to monitor and review the effectiveness of the Regulations, in particular the amendments once enacted, to ensure the Regulations continue to support the intent of s 10 of the *Treaty of Waitangi (Fisheries Claims) Settlement Act*. The management of customary fishing and the amendments to the Regulations proposed in this paper would be monitored and reviewed in discussion with iwi who make up the Forum. A formal review process could be sought with iwi whereby they report to MPI on the success or otherwise of the proposed amendments within 12 months of the amendments taking effect.

## Conclusions

The proposals presented in this paper seek to support iwi initiatives to reduce inefficiencies in, and increase the uptake of, the Regulations.

The proposed changes:

- are consistent with the Government's statements on better and less regulation;
- would increase alignment and consistency within the Regulations;
- are aimed at increasing the ability of tangata whenua to manage their customary fisheries under the more comprehensive provisions of the Regulations (when compared with r 27 and r 27A of the Amateur Regulations); and
- will increase the functionality in terms of tangata whenua being better able to manage their customary fisheries under the Regulations and thereby achieving the original intent of the Regulations.

External agencies are encouraged to provide their views on, and additional information of relevance to, the proposals outlined in this paper. Submissions will be reflected in final advice to the Minister. Any changes resulting from the Minister's decisions would take effect following Cabinet's confirmation of the Minister's decision.

In particular:

- Is the description and analysis of the current situation an accurate reflection of your experience?
- Have the key features of each option been accurately and coherently set out?
- Have all the impacts of the options been identified and accurately described?

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<sup>4</sup> Te Waka a Māui Me Ōna Toka Forum.