Ministry for Primary Industries
Manatū Ahu Matua

Proposed amendments to the Fisheries Act: Consultation Document

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A message from the Minister for Oceans and Fisheries

Our wild-caught fisheries sector is an important part of New Zealand's economic engine, generating more than $1.6 billion in export revenue in 2024, and bringing jobs and opportunities to communities throughout the country.

The Coalition Government is committed to supporting the sector's success as part of its strong growth agenda.

Sustainability will always be the bottom line in fisheries management and the foundations laid by the quota management system continue to serve New Zealand well and support the overall sustainability of our fish stocks.

Within that, there is room for improvements to the rules to make it easier for the sector to do business.

In February 2024 I established the Seafood Industry Forum to identify barriers and opportunities to growth. Operational and regulatory cost pressures were reported as holding industry back and making it difficult to invest in growth and innovation.

The package of proposals in this document would enable more responsive fisheries management by leveraging increased fisheries data and enhanced verification provided by on-board cameras.

Greater harvest would be enabled for fishers when fish stocks are abundant, and industry would have opportunities to generate more revenue from fisheries at these times. The targeted legislative improvements would also provide for more timely responses to changes in abundance or sustainability risks and improve efficiency.

There are also proposals to reduce costs to fishers, address concerns about private and commercially sensitive footage from cameras on boats, and give them more options about what to do with their catch.

The benefits of a healthy seafood sector flow through to all New Zealanders through jobs, revenue, and regional prosperity. I encourage you to carefully consider these proposals and have your say.

Hon Shane Jones
Minister for Oceans and Fisheries

Executive Summary

1. This consultation document seeks feedback on a package of proposals to make the fisheries system more responsive, certain, and efficient, to enhance value to fishers and better ensure sustainability.

New Zealand's fisheries

2. Our oceans and fisheries are important to New Zealanders' identity, wellbeing, and prosperity. They have ecological, cultural, and recreational importance, and support a valuable part of the economy. Wild-capture fisheries generate around $1.6 billion in exports annually and the industry employs around 9,000 people.

3. Ministry for Primary Industries (MPI) data indicates wild capture export revenue is forecast to grow to almost $2 billion by 2028 due to continuous upward pressure on prices, driven by continued demand and tight supply. Despite improvements in prices, high input costs remain a challenge for fishers.[1]

4. The Government is committed to lifting New Zealand's productivity and economic growth to increase opportunities and prosperity for all New Zealanders, and to remove regulations that impede the productivity and potential of the seafood sector.

5. As fisheries are managed within sustainable limits, wild capture export volume is forecast to remain largely flat (with annual fluctuations impacting fisheries production). For this reason, export growth will be achieved primarily through improved productivity and efficiency, rather than volume growth.

6. In February 2024, the Minister for Oceans and Fisheries (the Minister) established the Seafood Industry Forum (the Forum) to identify opportunities for improving commercial fisheries. Discussions with the Forum have highlighted that operational and regulatory cost pressures are constraining profit margins, impeding productivity, and making it difficult to invest in growth and innovation. At the same time, recent improvements in the volume and quality of verified catch data have provided opportunities to improve how fisheries are managed.

7. Consequently, in September 2024, the Minister for Oceans and Fisheries asked officials to develop a package of options for changes to the Fisheries Act to increase the speed, certainty and transparency of decision making and remove regulations that are overly complex, duplicative or impose unnecessary compliance costs. These options are informed by discussions with the Forum.

Recent increases in the amount of verified data create opportunities to improve the Fisheries Act and supporting regulations

8. New Zealand's wild caught fisheries are primarily governed by the Fisheries Act 1996 (the Fisheries Act). The purpose of the Fisheries Act is to provide for utilisation of fisheries while ensuring their sustainability. Most of the fish species that are important to New Zealanders are managed under the quota management system (QMS)[2].

9. The QMS has had many refinements since its inception nearly 40 years ago. It continues to provide a strong foundation to manage New Zealand's fisheries sustainably and is well regarded internationally. Nonetheless, improvements are possible in light of recent developments in data and technology.

[1] MPI Situation and Outlook for Primary Industries (June 2024).
[2] For a full glossary of all fisheries terms please see https://fs.fish.govt.nz/page.aspx?pk=77&tk=316.

10. In recent years, a step-change has been made with the move to electronic catch and position reporting by commercial fishers, and increased verification of this catch and data via on-board cameras and fisheries observers. These improved data streams support the development and use of analytical tools for more responsive and efficient management of New Zealand's fisheries.

11. The proposed legislative and regulatory changes leverage new data and tools to enhance fisheries management in line with the Government's goals.

Proposals

12. The proposed changes, together with operational improvements, would make the fisheries system more responsive, certain, and efficient and remove regulations that impede the productivity and potential of the seafood sector.

13. This consultation document is organised in three Parts. Parts 1-2 seek public input on changes to the Fisheries Act and Part 3 seeks feedback on how to implement Cabinet-agreed changes to introduce monitored returns:

    13.1. **Part 1**: Proposals to improve responsiveness, efficiency and certainty of decision making;

    13.2. **Part 2**: Greater protection for on-board camera footage and ensuring the on-board camera programme is workable;

    13.3. **Part 3**: Implementing new rules for commercial fishers that set out when QMS fish must be landed and when they can return to sea.

Part 1: Proposals to improve responsiveness, efficiency and certainty of decision making

14. As a package, the proposals in Part 1 would make clear why, when, or how the Government (that is, the Minister or MPI) would address sustainability and utilisation matters.

15. These proposals build on the fundamentals of the QMS, and would enable more harvest for commercial, recreational, and customary fishers when fish stocks are abundant, and better ensure sustainability when risks arise. Efficiency gains in administering the Fisheries Act would enable more active management of a greater number of fish stocks.

16. Part 1 of this consultation document seeks your feedback on the following proposals:

    16.1. **multi-year catch decisions**: enable the Minister to make one decision to set annual total allowable catch limits (TAC) in advance for a given period up to five years. Adjustments could be phased or temporary;

    16.2. **management procedures**: enable the Minister to approve transparent procedures that set out when, how and why catch limits would be adjusted for specific fish stocks for a set period up to five years. Management procedures would be subject to stakeholder consultation prior to approval. Powers to adjust a catch limit within the bounds of the procedure would be delegated to the MPI Chief Executive and would not require further review and consultation with stakeholders.

    16.3. **low knowledge stocks**: create a new catch limit setting provision to enable better management of low knowledge stocks. This change recognises that we do not always have information on the status of these stocks in relation to maximum sustainable yield, and therefore need greater flexibility to make

decisions responsively (and still consistent with the purpose and principles of the Fisheries Act);

16.4. **better integrating social, cultural, and economic factors**: ensure the Minister can account for socio-economic factors when setting catch limits;

16.5. **recognition of non-regulatory sustainability measures**: clarify how the Minister can consider non-regulatory measures undertaken by industry, such as Annual Catch Entitlement (ACE) shelving, when making sustainability decisions, to provide greater certainty and better support collective action;

16.6. **differential ACE carry forward**: allow fishers to carry forward more uncaught ACE in cases of under fishing in a given fishing year; and

16.7. **ACE carry forward for rock lobster**: enable some uncaught rock lobster ACE to be carried forward to the subsequent fishing year, which is currently not allowed under the Fisheries Act.[3]

Other regulatory improvement to reduce costs

17. Part 1 of this consultation document also seeks your views on a technical change to increase the monetary limit contributing to the threshold that triggers suspension of a fishing permit for non-payment of deemed values. This was raised through the Forum as an issue causing unnecessary costs to fishers.

Part 2: Enhancing protections for on-board camera footage and ensuring the on-board camera programme is workable

18. Part 2 of this consultation document seeks feedback on possible changes to the rules relating to on-board cameras.

19. The current rollout of on-board cameras on inshore vessels commenced in 2023 and cameras are now installed on approximately 158 commercial fishing vessels, with two further rollouts to be undertaken by May 2025. On-board cameras provide independent verification of the information provided by commercial fishers on fishing activities.

20. The proposals include:

20.1. **enhancing protections for on-board camera footage** to address fisher concerns regarding privacy and confidential information;

20.2. **amending the scope of the on-board camera programme** to exclude a small number of vessels where camera monitoring is currently impracticable or unnecessary; and

20.3. **clarifying when on-board cameras do not need to be used**, specifically when vessels are at anchor, drifting, or powered down.

Part 3: Implementing new rules for commercial fishers that set out when QMS fish must be landed and when they can be returned to the sea

21. Part 3 seeks your views on implementing new rules for commercial fishers about when QMS catch must be brought to shore (“landed”) and when it can be returned to the sea.

22. The Government has decided to amend the Fisheries Act to provide for commercial fishers to return QMS species to the sea when monitored by on-board cameras or

[3] In this paper references to catch limits generally refer to the total allowable catch including the total quantity of each fish stock that can be taken by applicable commercial, customary Maori interests, recreational fishery interests and other sources of fishing-related mortality.

observers. These returns would need to be counted against a fisher's ACE, which provides an ongoing incentive to minimise unwanted catch. We propose that this is enabled via a new exception provision, which is envisaged to operate in a similar way to the existing exception provisions under section 72A of the Fisheries Act.

23. These changes aim to make best use of verified information provided by on-board cameras to increase flexibility and reduce regulatory costs for industry.

Your feedback will help inform possible change

24. We want to hear your views on the proposals contained in this consultation document. Your input into the proposed changes will help us get them right and ensure we are working to maintain the sustainability of fisheries and supporting our fisheries sector to grow.

25. There are a range of ways that you can learn more and get involved.

Attend an online session

26. During consultation we will be holding public drop-in sessions online to present information, and answer questions. These will be hosted by MPI officials. To attend, email us and we'll get back to you with details. Email your request to fish.reform@mpi.govt.nz.

Making your submissions

27. MPI welcomes written submissions on the proposals contained in this document. All submissions must be received by MPI no later than **5.00pm on Friday 28 March 2025**.

28. Submissions should be made through this survey: https://mpi.surveymonkey.com/r/FisheriesReform2025ConsultationSurvey

29. Alternatively, you can send submissions directly to: fish.reform@mpi.govt.nz

30. If you would like to provide hard copy submissions, please send them to the following address to arrive by 5pm on Friday 28 March 2025.

    Fisheries Policy Team
    Policy and Trade Branch
    Ministry for Primary Industries
    PO Box 2526 Wellington 6140
    New Zealand

What to include in your submission

31. Make sure you tell us in your submission:

    31.1. the topic of the consultation. If submitting by email (put 'Submission on proposed amendments to the Fisheries Act' in the subject line);

    31.2. your name and title (unless you are making an anonymous submission);

    31.3. your organisation's name (if you are submitting on behalf of an organisation, and whether your submission represents the whole organisation or a section of it); and

    31.4. your contact details (such as phone number, address, and email – unless you wish to remain anonymous).

Submissions are public information

32. Note that all, part, or a summary of your submission may be published on the MPI website. Most often this happens when we issue a document that reviews the submissions received.

33. People can also ask for copies of submissions under the Official Information Act 1982 (OIA). The OIA says we must make the content of submissions available unless we have good reason for withholding it. Those reasons are detailed in sections 6 and 9 of the OIA.

34. If you think there are grounds to withhold specific information from publication, make this clear in your submission or contact us. Reasons may include that it discloses commercially sensitive or personal information. However, any decision MPI makes to withhold details can be reviewed by the Ombudsman, who may direct us to release it.

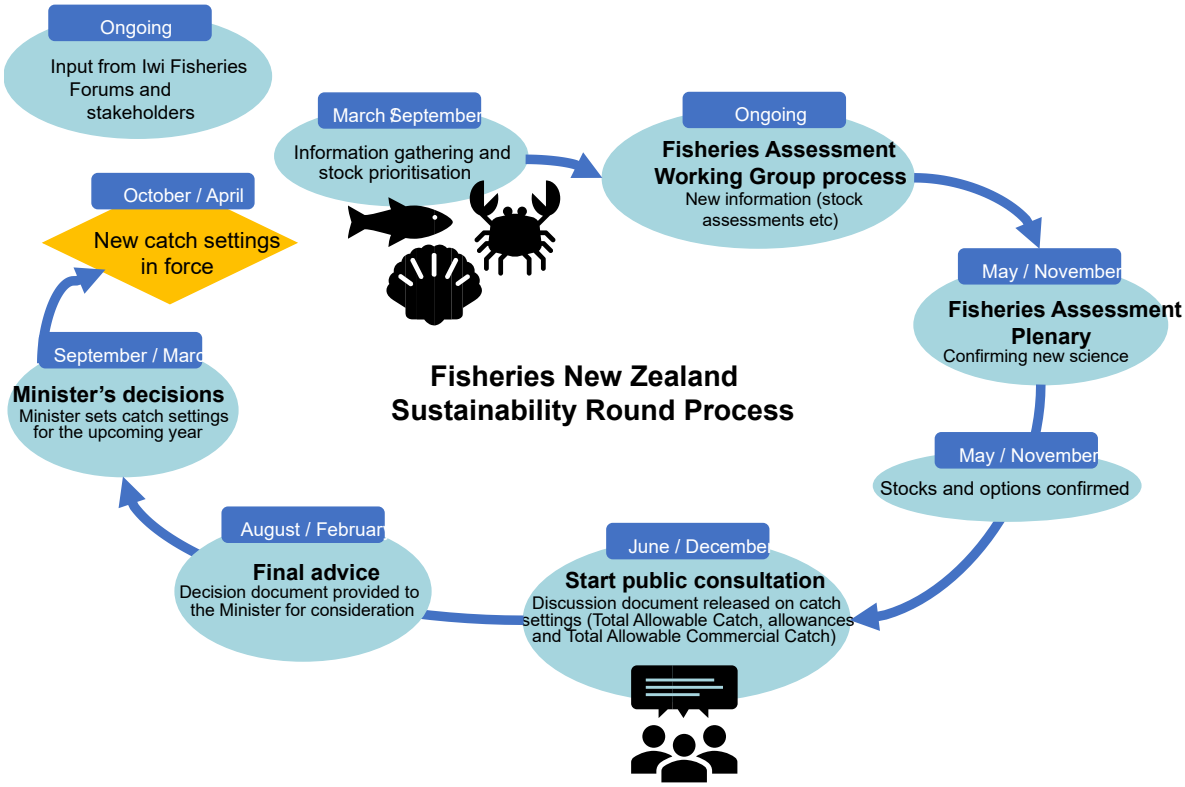
Part 1: Proposals to improve responsiveness, efficiency and certainty of decision making

35. As a primary management measure within the QMS, the Minister sets a catch limit for each fish stock. The catch limit aims to maintain fish stocks at or above a level that can produce the maximum sustainable yield. This is the maximum long-term average catch that can be taken from a stock without impairing its sustainability.

36. While catch limits are a strong focus in this consultation document, there are other measures to manage the effects of fishing on the aquatic environment, such as restrictions on fishing methods in certain areas, closed seasons, and managing fishing interactions with protected species. There are also fisheries plans that set out the strategic direction and objectives for certain fisheries or areas, such as deepwater fisheries, and for managing the threats of fishing to protected species.

37. The QMS comprises 642 stocks with different biological characteristics, and economic, social, and cultural values. A significant proportion of these (293 stocks) have negligible or no catches or catch allowances, with the remaining having greater levels of use. Despite the diversity between these stocks, there is currently one general approach to setting catch limits, which requires the same resourcing and information.

Figure 1: Biannual sustainability round process



38. Figure 1 above outlines the biannual (April and October) catch setting process (referred to as a sustainability round). All stocks are regularly monitored by Fisheries New Zealand and are reviewed at a high level each year to identify sustainability issues or utilisation opportunities. For many stocks, this shows that current settings remain appropriate. For other stocks, it shows that an increase or decrease may be appropriate.

39. Limited government and stakeholder resources means only a limited number of stocks (20-30) are included in sustainability rounds each year. As a consequence, catch limit changes tend to be larger and less frequent.

40. The proposals in Part 1 seek to improve the responsiveness, transparency, and certainty of the catch limit setting process to improve our ability to provide for use while ensuring sustainability. Combined with operational changes they also support a shift toward multi-year planning and processes that would provide more and different opportunities for stakeholders and tangata whenua to have input into how we manage our fisheries, alongside consultation on changes to specific measures.

41. The proposals aim to improve certainty for stakeholders by making it clearer why, when, or how Government would act to address sustainability and utilisation matters. The proposals aim to provide more certainty and transparency about how stocks would be managed when there is limited information. This would enable more active and effective management of a greater range of stocks.

42. The proposed improvements to the Fisheries Act are expected to enhance the government's ability to deliver outcomes like abundant fisheries, a healthy marine environment, and economic, cultural and social benefits from the utilisation of fisheries resources.

43. In Part 1, we use the following criteria to assess options:

    43.1. Certainty: The potential for each policy option to allow stakeholders to predict how regulation would apply, so they can prepare for how that regulation might affect them.

    43.2. Responsiveness: The extent to which each option enables the fisheries management system to adapt to changes (e.g. changes in the abundance of fish stocks).

    43.3. Efficiency: The extent to which each option allows stakeholder and government resources (e.g. fisheries resources or fisheries management time) to be allocated in a way that delivers the maximum benefits at minimum cost.

Multi-year Catch Decisions

Have your say on:

44. Enabling the Minister to approve multi-year adjustments to the catch limit through one decision.

Current approach

45. For a given fish stock, the Minister can currently decide on one annual catch limit change at a time. This means that the Minister must make separate decisions if there are a series of changes to be made to a catch limit over successive years. For each decision, the Minister needs to assess all the information and relevant considerations under the Fisheries Act (even if information has not changed from the previous year) and consult on proposed changes. This is time-consuming, resource intensive and constrains the ability for commercial fishers to plan over the longer-term.

What's the opportunity?

46. There is an opportunity to improve certainty and efficiency of the fisheries system by allowing the Minister to approve a set of changes to a catch limit for a single stock over more than one fishing year, through one decision.

47. A multi-year catch decision could:

    47.1. provide certainty to fishers and others around future adjustments over the period of the multi-year programme, allowing them to plan ahead with more confidence; and

    47.2. alleviate the time and resource intensive process of the current annual sustainability round process. This creates opportunity for Fisheries New Zealand to focus on other fisheries issues and actively manage more fisheries.

Proposal

48. We propose to provide for two types of multi-year catch decision adjustments: A) phased adjustments; and B) temporary adjustments. Both would enable an annual catch limit to be adjusted more than once from a single Ministerial decision.

49. We propose that a decision could be made on adjustments to take place over a maximum period of five years. This time limit is so the management approach can be more fully reviewed periodically and consulted on.

A) Phased catch limit adjustments

50. A phased catch limit adjustment would be a single sustainability decision that sets the catch limit for each year in a specified period of no more than five years. In other words, the Minister would decide on phased annual changes to the catch limit, without having to make a separate annual sustainability decision each year.

51. This approach could provide benefit when a large reduction to the catch limit is considered necessary, and there is a desire for a managed transition to lessen the socio-economic impact of the reduction by staging the catch limit reduction across more than one year. A catch limit could also be increased incrementally to reflect a cautious approach to increasing harvest for a stock or to align with expected pulses in recruitment of young fish to the fishery.

52. If new information became available that suggested the status of the stock was different to that at the time of making the decision, further advice would be provided to the Minister, and the decisions amended if necessary following consultation.

53. Phased changes to catch limits have been made before but have required a new Ministerial decision to be made each year (including consultation, advice and decision-making support for the Minister). An example of such phased catch limit adjustments for Bluenose stocks is provided.

Example of phased catch limit adjustments: Bluenose stocks

In 2011, the Minister of Fisheries and Aquaculture agreed to a plan to rebuild bluenose stocks to the target. This involved a three-year phased reduction to catch limits (see Table 2) in order to mitigate short-term socio-economic costs. Unlike the multi-year catch decisions proposal we are currently consulting on, for bluenose stocks each decision required a new consultation and decision-making process which increases resource costs of making changes and reduces certainty in situations where there is no new information that would significantly change the assessment of the stock.

2011 Rebuild Plan – TACs, TACCs and allowances, by year.

Year	Total combined TAC (t)	Total allowable commercial catch (TACC) (t)	Recreational allowance (t)	Māori customary allowance (t)	Allowance for other sources of fishing-related mortality (t)
2010/11	2477	2325	63	42	47
2011/12	1685	1580	63	9	33
2012/13	1195	1100	63	9	22
2013/14	704	620	63	9	12

B) Temporary catch limit increase

54. A temporary catch limit increase would involve a formal decision to increase the catch limit for a fixed period (e.g. 3 to 5 years). The catch limit would return to its original level at the end of that period unless information supported a new catch limit. If there was rationale for a new catch limit, this would be set through the usual sustainability round process. The temporary catch limit could be reduced before the set period expires if new information becomes available that indicates it is required (i.e. a sustainability concern). A change within the period would be consulted on prior to implementation.

Determining appropriateness of temporary adjustments

55. In deciding on the appropriateness of temporary adjustments for a particular stock, the Minister would need to consider:

    55.1. best available information on the status of the stock. This approach is appropriate where there is good information to suggest that a stock has been lightly fished (now and in the past) and is therefore above the biomass that supports maximum sustainable yield;

    55.2. biological information (with particular focus on susceptibility to overfishing and also ecosystem function);

55.3. interdependence of stocks (with a particular emphasis on impacts on stocks taken in association); and

55.4. the likelihood that a temporary increase to the catch limit would provide useful additional information on stock abundance relative to risk of overfishing or adverse environmental impact.

56. Guidelines could be developed to provide transparency around when and how this approach may be used.

Implementing a multi-year catch decision

57. We propose that the Minister would decide on catch limits for each fishing year within the defined period. The catch limits for each year would be set in secondary legislation, as for other catch limits.

58. If new information became available that suggested the status of the stock was different to that at the time of making the decision, further advice would be provided through the sustainability round process and the catch limit could be amended if necessary.

Analysis of options

Criteria	Status quo	Proposed option – Multi-year catch decisions
Certainty	0 Cannot approve a planned set of changes in advance.	+ Certainty is increased by allowing for a single decision that applies to multiple years providing clarity around short/medium term changes to catch limits.
Responsiveness	0 Requirement for full consultation and analysis on catch limit change each year slows down the change process or means changes are not progressed.	++ Responsiveness is increased by allowing multiple catch limit changes to be made without the need to support multiple processes and decision-making.
Efficiency	0 Requirement to consult and analyse even if no new information is available costs resource and time.	++ Proposed change would enhance administrative efficiency by reducing the need to resource additional processes/decision-making.

Consultation questions for multi-year catch decisions

- Do you agree with the problem/issue? If not, why not?
- Do you support the proposal? Why or why not?
- Are there any impacts or issues that have not been identified that you consider important?
- Are there benefits that have not been identified for the options?
- Is there another option we haven't considered?

- Do you have any additional comments or suggestions?

Management procedures

Have your say on:

59. Enabling the Minister to approve management procedures for suitable QMS fish stocks that set out how and when catch limits would be adjusted over a given period.

Introduction

60. Management procedures (also known as harvest control rules) are pre-agreed procedures for how and when catch limits will be adjusted for a particular fish stock. Engagement with tangata whenua and stakeholders would be required before they are established. Where management procedures are in place, changes to catch limits would be simpler to make compared to the status quo and would not need to go through the full sustainability round review process described on page 10.

Current approach

61. The Fisheries Act is silent on management procedures. Nonetheless, forms of operational management procedures are currently used to inform catch limit setting for a small number of QMS stocks, for example:

    61.1. Bounty Platform Southern Blue Whiting (6B);

    61.2. Pāua stocks;

    61.3. Rock lobster stocks for Otago (CRA 7) and Stewart Island, Southland, and Fiordland (CRA 8); and

    61.4. Southern bluefin tuna.

62. These operational management procedures are valuable but not particularly efficient because, when a management procedure suggests a change to a catch limit, the process for making that change must follow the normal sustainability round process.

What's the opportunity?

63. Enabling the Minister to approve management procedures under the Fisheries Act could:

    63.1. allow suitable QMS fish stocks to be managed more efficiently by agreeing in advance when and how catch limits would be adjusted, so the adjustment process can be simpler, reducing the time and resources that are required under the current process;

    63.2. provide opportunity for more proactive input from tangata whenua and stakeholders into how and when catch limits should be adjusted for a particular stock over a given period; and

    63.3. provide greater certainty and transparency about when, how, and why catch limits would be adjusted for those stocks in a management procedure.

Proposal

64. The proposal is to amend the Fisheries Act to enable the Minister to approve management procedures that set out when, how, and why catch limits would be adjusted for specific QMS fish stocks for a set period.

65. Management procedures approved by the Minister would be in secondary legislation and published accordingly.

66. Management procedures would apply only to catch limits (including, where relevant, allowances), and could not be set for other measures (such as area closures). This means that they would be used to determine the quantity of the relevant stock that could be taken in a given fishing year.

67. New Zealand and overseas experience indicate they are most commonly used, and work best, for catch limit decisions.

68. The proposal is for management procedures to be flexible so that they can apply to catch limits in different ways depending on how the stock is utilised. For example, some stocks are utilised by customary, recreational and commercial fishers (typically inshore stocks), whereas others are utilised by commercial fishers only (typically deepwater stocks).

69. Therefore, a management procedure could apply to total allowable commercial catch limit only where appropriate. Alternatively, it could apply to all aspects of catch limits. If so, it would need to specify how it would provide for adjusting allowances for customary and recreational fishing as part of any future catch limit adjustments. These aspects of a potential management procedure would be of keen interest to customary, recreational, and commercial fishers, and would need to be explicitly consulted and engaged on before decisions are made.

Case study: Operational management procedures and Southern Blue Whiting

Southern Blue Whiting is a deepwater fish species generally found in New Zealand's Sub-Antarctic waters. It is an important export species (valued at $23M in 2023).

Southern Blue Whiting on the New Zealand Bounty Plateau (SBW 6B) has been managed by using a harvest control rule (HCR) since 2017 to inform catch limit decisions. The HCR is designed to ensure the stock is managed at or above a biomass level that would support maximum sustainable yield.

Acoustic surveys are a key source of information that estimate abundance (using acoustic detectors) and provide the basis for the HCR. In August 2023, the HCR indicated that a catch limit of almost 5,000 tonnes would be appropriate (i.e. an increase of 2,679 tonnes). On 1 April 2024, the Minister approved an increase in the catch limit from 2,264 tonnes to almost 5,000 tonnes for the 2024-25 fishing year.

70. The Fisheries Act contains a range of matters that decision makers are currently required to consider each time they decide on or make an adjustment to a sustainability measure (including a catch limit).

71. We propose that the management procedures would include specific consideration of how catch limit changes under the procedures would address these requirements.[4]

72. This proposed change is designed to ensure that separate consideration of these obligations is not required each time a change to catch limit settings is made under the procedure (so long as the procedure is operating as intended and exceptional circumstances do not apply).

73. We also propose that the Fisheries Act could outline the scope and content of management procedures. This would provide clear provisions for the purpose, scope, approval, and use of management procedures under the Act. These provisions could be supported by more detailed technical guidelines. Under the proposals, the Fisheries Act could set out that a management procedure could contain:

[4] This means that the Minister would need to meet the obligations under the Fisheries Act to ensure sustainability and take into account the information principles and environmental principles.

73.1. objectives for the stocks concerned;

73.2. biomass target (if any);[5]

73.3. performance measure(s);

73.4. an equation that calculates the appropriate catch limit based on the performance measures; and

73.5. operating specifications and parameters about how it would operate (including provision for exceptional circumstances where a management procedure may not be followed).

Development and Implementation

Initial consideration, consultation and approval of a management procedure

74. If the Fisheries Act is changed as proposed, there would an upfront resource investment to develop and implement management procedures and change the way a stock is managed that would need to be considered. The costs and benefits would need to be weighed up on a stock-by-stock basis to identify suitable stocks early in the process.

75. Engagement with people with interests in the relevant fish stock and tangata whenua on the development of a management procedure would be a key part of the proposed process. This engagement process would provide an opportunity for those interested to have more proactive input into how the stock covered by the management procedure is managed in the long-term compared to current engagement and consultation processes.

76. Formal consultation would also be required on any proposed management procedures and views of submitters would need to be considered by the Minister in making a decision on whether to approve a procedure.

Monitoring a stock and changing a catch limit

77. Management procedures rely on data to assess the performance of the fish stock relative to the objectives (for example, from biomass surveys, fisher reporting or catch data). The actual performance measures would be decided on a case-by-case basis depending on the best available information and particular characteristics of the stock.

78. The performance of a management procedure could be reported on by making the results of stock monitoring available to the public.

79. Within a procedure there would be an equation that calculates how a fish stock is performing, relative to the relevant objectives and targets, and proposes the appropriate catch limit. A simple example would be “if the stock level falls to a certain level below the target level, then the catch limit for the next fishing year is to be reduced by a certain percentage”.

80. The ability to change a catch limit in accordance with the procedure and equations mentioned above would be delegated to the Chief Executive of MPI and continue to be published in the Gazette ahead of the fishing year commencing.

81. Noting the consultation on the development of the management procedure, we propose that consultation would not be required on catch limit changes that are made under a procedure that has been approved by the Minister.

[5] Biomass is the size of the stock in units of weight.

Exceptional circumstances

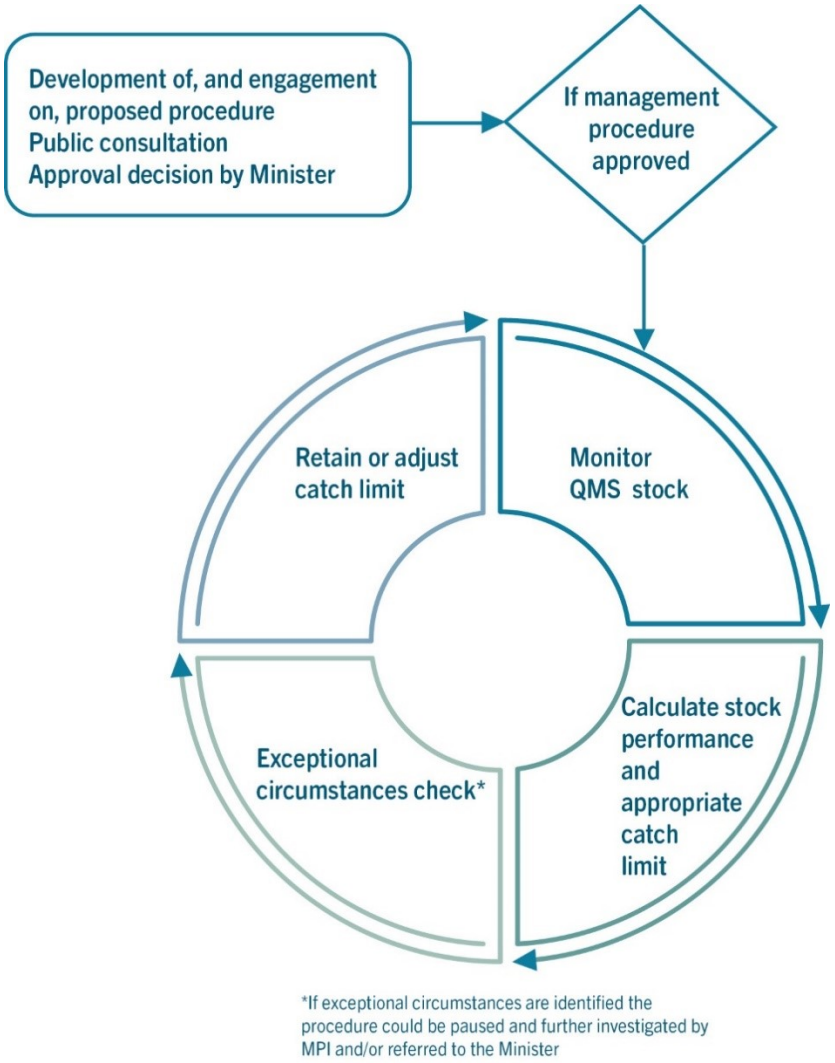
82. From time to time, there could be good reasons not to act on a management procedure; or at least to undertake further investigations prior to implementing a catch limit change generated from the procedure. Exceptional circumstances could include adverse events such as seismic events, extreme weather-related sedimentation or other significant changes in the marine environment or sustainability risks.

83. A formal check would be undertaken prior to finalising a catch limit adjustment to determine if any exceptional circumstances apply.

84. All the matters to be checked could vary depending on the operating parameters of the procedure. If exceptional circumstances are identified an adjustment could be deferred pending further investigations or the procedure referred to the Minister for a further decision.

85. Figure 2 below shows, in a simplified way, how management procedures could work.

Figure 2: How management procedures could work



Review of management procedures

86. We propose that the Fisheries Act would provide that management procedures could be in place for a maximum of five years, with the maximum period reflecting the

characteristics of the stock. If it was desired for the management procedure to continue to operate beyond the period set by the Minister when the procedure was approved, then consultation and a Ministerial decision, with full consideration of all statutory requirements, would be needed.

Analysis of proposal

Criteria	Status Quo	Proposal – Management procedures
Certainty	0 Management procedures may be considered by the Minister making catch limit decisions, but decisions may or may not reflect the procedure.	++ Greater certainty and transparency in mid-term decision-making. Clarify defined stock-based management objectives.
Responsiveness	0 Minister must conduct a full review of the stock concerned along with the changes recommended by a procedure meaning the status quo is not as responsive as it could be.	++ Catch limit adjustments are more strategic and maximise responsiveness. They provide the ability to respond more frequently to changes in stock abundance while the management procedure is in place.
Efficiency	0 The need to conduct a full review means the operation of the procedure is not administratively efficient.	++ There is an initial resource investment to develop management procedures. Catch limit adjustments streamlined. Reduced resources required on an annual basis to adjust catch limits once the procedure is set up.

Consultation questions for management procedures

- Do you agree with the problem/issue? If not, why not?
- Do you support the proposal? Why or why not?
- Are there any impacts or issues that have not been identified that you consider important?
- Are there benefits that have not been identified for the options?
- Is there another option we haven't considered?
- Do you have any additional comments or suggestions?

Low information stocks

Have your say on:

87. Better allowing for sustainable utilisation of fish stocks where there is low information about fish stock status, supported by improved verification of fisher reporting and new analytical tools.

Introduction

88. Around 400 fish stocks are monitored by MPI for sustainability risk and utilisation opportunities, and the catch limits of the highest priority stocks are prioritised for formal review and adjustment through a "sustainability round" process (20-30 fish stocks on average per year). For these stocks, there are tests around stock status that impose information requirements on catch limit decisions. They can be split into the categories[6] in Figure 3 below.

Current approach

89. The current legislative framework supports management of lower information stocks through sections 13(2A) and 14. In principle, these provisions are designed to provide the needed flexibility for management of these types of stocks/species. However, for low information stocks, there are often high levels of uncertainty as to whether the "not inconsistent" test under section 13(2A) has been met.[7]

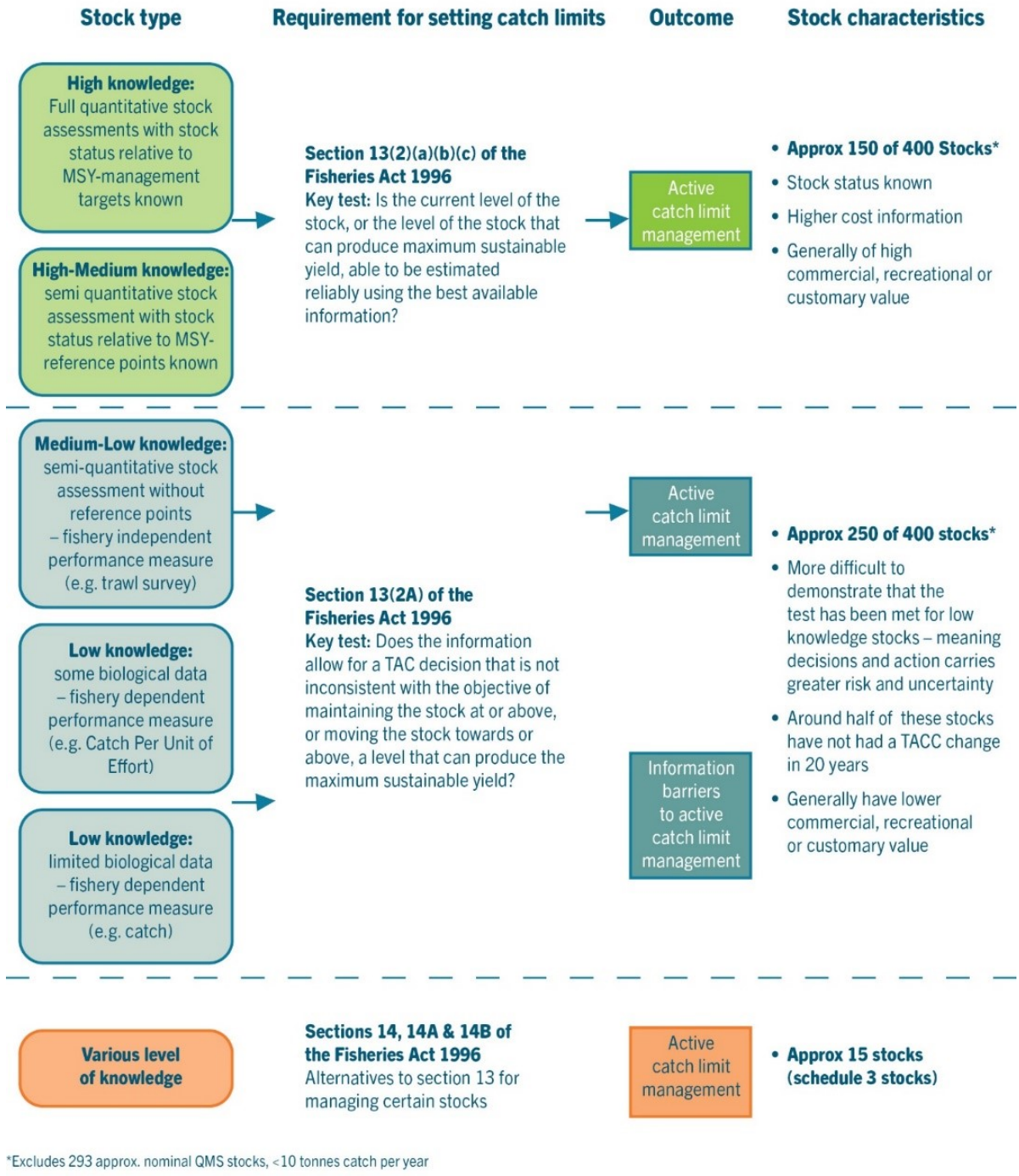
90. Section 14 contains alternative provisions for setting catch limit where biomass that supports maximum sustainable yield cannot be estimated (due to biological characteristics or because it is a highly migratory stock covered by an international catch setting arrangement). The Minister (subject to concurrence by the Minister for the Environment and with 95% quota holder support) can set a catch limit for a commercial bycatch stock that maintains the stock above long term viability. This latter provision has never been used because the requirements create significant barriers and administrative costs.

[6]There are 15 stocks currently listed on Schedule Three of the Fisheries Act, which allows them to have a catch limit set under section 14 (to better achieve the purpose of the Act). This schedule contains stocks where maximum sustainable yield cannot be estimated, or they are Highly Migratory Stocks and managed in accordance with an international agreement.

[7] We consider the test requires an assessment of whether the information supports a catch limit decision that is not inconsistent with the objective of maintaining the stock at or above, or moving the stock towards or above, a level that can produce the maximum sustainable yield. Although "not inconsistent with" is a lesser test than a requirement to be "consistent" with, it still creates a relationship between the catch limit decisions under this section and biomass that supports maximum sustainable yield (which is the overall intent of section 13).

91. Although these stocks are monitored using best available information, a lack of information on fish stock status has meant these stocks generally have a lower priority relative to stocks where more information allows better assessment of risks to legislative obligations. As a consequence, around half of low information stocks have not had a catch limit adjusted in over 20 years.

Figure 3: Stock management based on level of knowledge



What's the opportunity?

92. There is an opportunity to better ensure sustainable utilisation of low information stocks. There is also an opportunity to increase efficiency, transparency, and certainty

by better aligning the legislative information requirements with the value of the stock and risks of overfishing and/or adverse impacts on the environment from harvesting these stocks. This can be achieved through both operational and legislative approaches.

Proposal

93. We propose to create a new provision for setting catch limits when:

    93.1. the Minister is satisfied it is not possible to manage the stock under section 13(2A) because the best available information[8] cannot provide an estimate of stock status or a reliable index of abundance (and therefore cannot measure a level of biomass that supports maximum sustainable yield); and

    93.2. setting a catch limit under the new provision would better meet the purpose of the Fisheries Act than setting a catch limit in accordance with section 13.

94. We propose that in deciding on an appropriate catch limit under the new section, the Minister would also need to take into account explicitly interdependence of stocks, biological characteristics of the stock, and any environmental conditions affecting the stock.

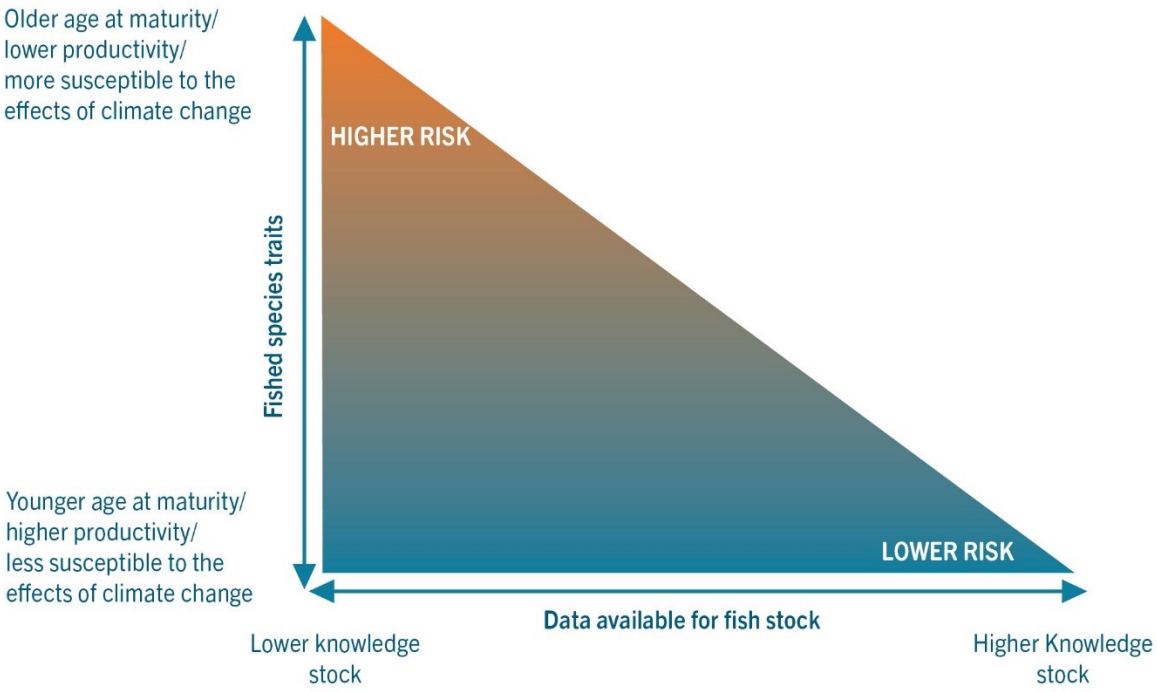
95. The test of "better meets the purpose of the Act" provides broad discretion around the level of abundance for a fish stock. We consider this discretion is necessary to enable action to be taken given the limited information available to manage to a more specific stock level and the relative cost (compared to harvest value) of getting more information. The intention of the change is to better reflect available information and remove uncertainty in the ability to actively manage low knowledge stocks to better ensure sustainability and provide for use. We invite views on alternative wording to achieve the objectives of this proposal.

96. Consistent with the information principles,[9] the overall intent is to be more cautious in catch limit setting to reflect uncertainty in information when compared to other categories of stocks (high and medium information).

97. We propose that low information stocks are managed using a risk-based categorisation, which incorporates biological characteristics and an assessment of catch information. This would allow a more granular approach to assessing risk of over harvesting based on best available information. The categorisation is also intended to provide more clarity on the costs and benefits of obtaining more certain information on stock status relative to levels of sustainable use.

[8] Best available information here means information that, in the particular circumstances, is available without unreasonable cost, effort, or time.
[9] See section 10 of the Fisheries Act.

Figure 4: Low knowledge risk categorisation



Analysis of proposal

Criteria	Status quo	Proposal – Low information stocks
Certainty	0 The wide variety of stocks managed under section 13(2A) of the Fisheries Act does not provide certainty about the future management approach for low knowledge fisheries. Development of guidelines could increase certainty, but they would have no legal standing.	+ The proposed legislative and operational frameworks would increase certainty about how, when, and why management action may be taken through clarification of management outcomes, use of decision rules and development of guidelines on the overall approach to management of these fisheries.
Responsiveness	0 Operational process changes (monitoring against triggers) would improve responsiveness but would not reduce complexity needed in advice to ensure obligations are met. The resource cost of complexity reduces the ability to be more responsive.	++ It increases responsiveness by better supporting the more active management of low knowledge stocks.
Efficiency	0 The current requirement to meet existing provisions (i.e.	++ It increases efficiency of the system by providing clarity

	"not inconsistent with") increases complexity and resource cost of advice which reduces efficiency of management.	around the ability to manage and simplifying the tests for management required under the Fisheries Act.

Proposed implementation options

98. We are seeking feedback on a range of implementation options to provide certainty on how any new low knowledge legislative framework would operate.

Implementation option 1: Schedule

99. We propose that the catch limit setting provision can only be applied to stocks listed in a new schedule to the Fisheries Act. This replicates the existing system for "alternative TAC setting provisions" outlined in section 14. Addition or removal of stocks on the schedule would be done by Order in Council and would require prior consultation.

100. The benefit of this approach is the level of oversight and opportunity provided for stakeholder input on fish stocks proposed to be included or removed from the schedule. The cost of this approach is the reduced flexibility, administrative cost, and the slower speed of changes to a schedule through an Order in Council process (which must be approved by Cabinet).

Implementation option 2: Notice

101. As an alternative to a schedule, stocks could be listed on a Notice which could be amended by the Minister (following consultation). This option would remove the requirement to make changes via Order in Council which has Cabinet oversight and would therefore significantly improve flexibility and speed.

Implementation option 3: Broad discretion

102. The final option is providing broad discretion for the Minister to use the new catch limit provision if a stock meets the tests outlined at paragraph 91 above (insufficient information to use section 13 and the purposes of the Fisheries Act are better met by setting a catch limit under the new section). Consultation on use of the proposed section to set a catch limit would be required under this option (likely as part of the sustainability measures as occurs currently when outlining what part of section 13 is appropriate for a particular stock).

103. This option would provide the greatest flexibility and speed, and best reflects the likely dynamic nature of stocks that might be considered low knowledge over time. However, this option has a lower level of oversight.

Guidelines

104. Under all three implementation options, we propose operational guidance to support the use of the new provisions should they be approved. This guidance would support advice and option development to ensure they are consistent with legislative obligations, based around the risk categorisation approach outlined earlier.

Consultation questions for low information stocks

- Do you agree with the problem/issue? If not, why not?
- Do you support the proposal? Why or why not?
- Which implementation option do you prefer and why?

- Are there any impacts or issues that have not been identified that you consider important?
- Are there benefits that have not been identified for the options?
- Is there another option we haven't considered?
- Do you have any additional comments or suggestions?

Better integrate social, cultural, and economic factors when deciding a rebuild period

Have your say on:

105. Providing greater recognition of socio-economic factors when setting or altering catch limits.

Introduction

106. Fundamental to good fisheries management is that catch limits are adjusted, sometimes significantly, where necessary to ensure sustainability and provide for use. However, a catch limit adjustment, and the manner in which the catch limit is allocated, may have significant social, cultural, and economic implications for stakeholders. Following introduction of the Fisheries Act in 1996, social, cultural, and economic factors were routinely considered alongside biological matters when proposing catch limit options for the Minister to consider.

107. Under this approach there were significant rebuilds to several depleted stocks including snapper (SNA 7 (see figure 6 below) and SNA 8), hoki (HOK 1) and a number of rock lobster stocks (particularly CRA 8). However, recent court judgements[10] have held that socio-economic factors have a much more limited application in catch limit setting outside of the "way and rate" considerations. When rebuilding a stock that is below the biomass that supports maximum sustainable yield, the Minister is required to determine an appropriate period for the stock to rebuild to that level, as well as the "way and rate" the stock rebuilds within that period. "Way" is how a fishery moves to the target (i.e. one or more than one change to a catch limit) and "rate" is how fast. Way and rate allows the Minister to choose the size and frequency of catch limit changes that will (having regard to socio-economic factors) best rebuild the stock within the appropriate period (i.e. a series of smaller reductions or one large reduction).

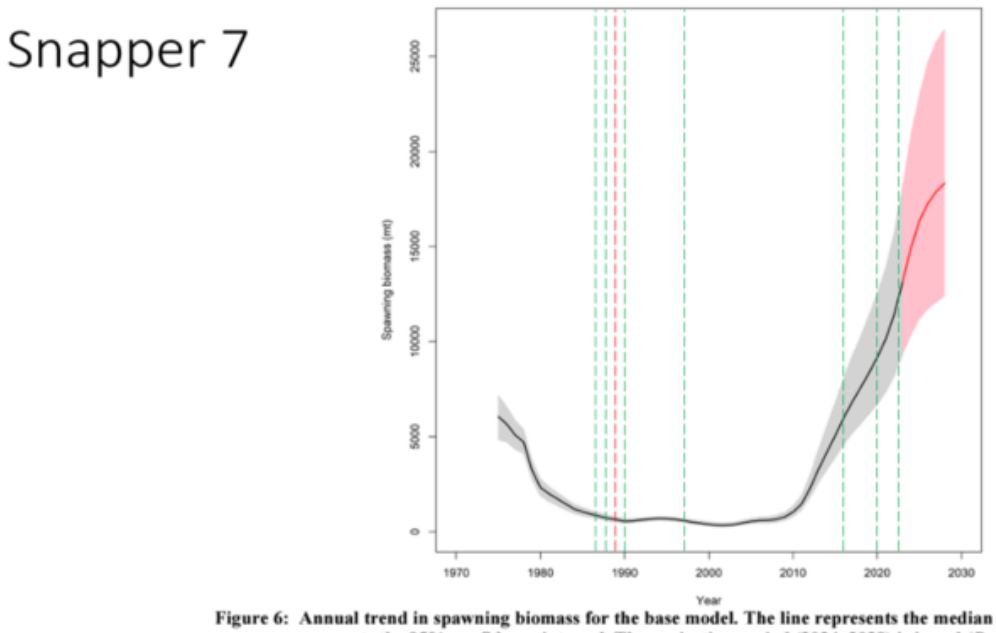


Figure 6: Annual trend in spawning biomass for the base model. The line represents the median and the shaded area represents the 95% confidence interval. The projection period (2024–2028) is in red (*RecF* option).

[10] TAR judgement CIV-2019-485-752 [2021] NZHC 1427; [2023] NZCA 359, [2023] 3 NZLR 780 (Brown, Courtney and Goddard JJ) [CA judgment] and SC 99/2023 [2024] NZSC 111.

Current approach

108. When setting[11] a catch limit, the Minister must consider a range of factors depending on the status of the stock and whether the Minister wants to increase or maintain the abundance of the stock or provide for greater utilisation.

109. For stocks that are at or above the biomass that supports maximum sustainable yield, the Minister must have regard to the interdependence of stocks (i.e. the role of the stock in the ecosystem).

110. If a stock is below the biomass that supports maximum sustainable yield, the Minister must have regard to the interdependence of stocks, biological characteristics of the stock, and any environmental conditions affecting the stock.

111. The current wording allows the use of social, cultural, and economic factors in determining:

    111.1. an appropriate rebuild period from the range of rebuild periods that may be available for a stock; and

    111.2. the way and rate a stock rebuilds within the appropriate period.

112. When developing a catch limit for a stock that requires rebuilding, the current wording in the Fisheries Act is difficult to implement because:

    112.1. The Fisheries Act requires the Minister to first determine the way and rate a stock rebuilds and then consider an appropriate period over which a stock rebuilds. However, for the provisions to work in combination, as intended, it is more practical to consider a period of rebuild appropriate to the stock, and then consider the way and rate the stock rebuilds within that appropriate period.

    112.2. From a scientific and fisheries management perspective, it is difficult to determine a range of appropriate periods for the rebuild of a stock based on consideration of biological factors alone. In practice, the fastest a stock can increase in abundance is when all factors impacting on the stock, including fishing, is stopped. However, this would impose an unnecessary constraint on use in many cases.

    112.3. Way and rate and appropriate rebuild period are different ways of achieving the same thing. It is unclear whether both are required to achieve the desired outcome of a stock rebuild within an acceptable timeframe.

What's the opportunity?

113. Internationally, the requirement for decision-makers to consider a range of options that include different ways of rebuilding depleted stocks based on biological and socio-economic considerations is commonly recognised. The current wording in the Fisheries Act does not fully reflect this inherent trade-off between level of use and period of rebuild in determining an appropriate level of sustainable utilisation.

[11] In this paper when we say "setting" in relation to the TAC/catch limit, TACC and allowances we also mean varying/adjusting.

114. There is an opportunity to amend section 13 to:

    114.1. clarify the various factors the Minister should consider under each provision;

    114.2. clarify that there are different approaches to achieving the level that can support maximum sustainable yield;[12] and

    114.3. allow consideration of social, cultural, and economic factors the Minister considers relevant in determining:

        114.3.1. the range of appropriate periods for rebuilding the stock;

        114.3.2. an appropriate period; and

        114.3.3. the way and rate a stock will rebuild within that period.

Proposal

Amend the Fisheries Act to provide greater recognition of socio-economic factors when setting the catch limit

115. We propose the Fisheries Act is amended to make clear that when setting a catch limit under sections 13 and 14, the Minister shall have regard to the following factors:

    115.1. biological characteristics of the stock;

    115.2. any environmental conditions affecting the stock;

    115.3. interdependence of stocks; and

    115.4. any social, cultural, and economic factors the Minister considers relevant.

116. The proposed change reflects historic (pre-2021) practice, which was the basis for successful rebuild plans in SNA 8, SNA 7, HOK 1 and a number of rock lobster fisheries.

117. This would ensure consistency across the catch limit setting provisions and means that the Minister would consider social, cultural, and economic factors when determining:

    117.1. the range of periods for recovery appropriate to the stock;

    117.2. an appropriate period for the stock to get to a biomass level that supports maximum sustainable yield; and

    117.3. the way and rate the stock moves toward the target within the appropriate period.

118. The Minister would need to meet the obligations under the Fisheries Act to ensure sustainability and take into account the information principles (including precaution) and environmental principles. This would ensure that decisions do not give inappropriate weight to social, cultural, and economic factors relative to biological factors when setting the catch limit.

[12] Increasingly, Fisheries New Zealand is using reference points based on the fishing mortality rate or exploitation rate that produces the maximum sustainable yield and will move the stock to the maximum sustainable biomass level. This approach removes the need to estimate the abundance of a stock before fishing began, which is inherently uncertain.

Analysis of proposal

Criteria	Status quo	Proposal – Greater recognition of socio-economic factors
Certainty	0 Certainty that socio-economic factors cannot be applied when determining the range of appropriate periods for a stock to rebuild.	0 Certainty that socio-economic factors can be given appropriate weight when setting catch limits.
Responsiveness	0 Limited ability to respond to significant socio-economic impacts when adjusting catch limits in depleted fisheries.	+ Makes the legislative obligations easier to implement. Improves responsiveness to the specific circumstances applying to a fishery – including social, cultural, and economic circumstances.
Efficiency	0 Limited ability to consider socio-economic impact means potentially greater than necessary impacts on users. Ongoing difficulty implementing legislative obligations.	+ Proposed clarification could increase the range and complexity of options that require analysis but would also support more efficient outcomes for commercial fishers through greater recognition of socio-economic impacts (more opportunity to adjust business practices).

Consultation questions for better integration of social, cultural, and economic factors

- Do you agree with the problem/issue? If not, why not?
- Do you support the proposal? Why or why not?
- How would you define “a period appropriate to a stock” for a rebuilding timeframe by considering only the biological characteristics of the stock and environmental considerations?
- Are there any impacts or issues that have not been identified that you consider important?
- Are there benefits that have not been identified for the options?
- Is there another option we haven’t considered?
- Do you have any additional comments or suggestions?

Recognition of non-regulatory sustainability measures

Have your say on:

119. Clarifying the Minister's ability to consider non-regulatory (voluntary) sustainability measures when deciding on the need for, and extent of, changes to regulatory sustainability measures (including setting a catch limit) under the Fisheries Act.

Introduction

120. The fishing industry currently implements various non-regulatory measures that are not required by the Fisheries Act, such as ACE[13] shelving (agreeing not to catch a certain portion of the commercial catch limit) and catch spreading (agreeing to spread catch in certain sub-areas of the Quota Management Area (QMA)), which contribute to sustainable stock management. Examples of where these measures are used include hoki, orange roughy, east coast tarakihi, pāua and rock lobster fisheries.

121. The fishing industry also implements non-regulatory measures that change fishing behaviour and can help increase abundance, manage environmental effects, and ease conflict with non-commercial fishers (e.g. area closures, seasonal closures and different harvest sizes). For example, due to the biology of the fish and market demands, pāua fisheries in the South Island operate with a voluntary commercial minimum harvest size that is larger than the regulated minimum legal size. This helps increase the rate of growth and resilience of the pāua stocks.

Current approach

122. How the Minister considers non-regulatory measures when setting or varying sustainability measures under the Fisheries Act has seen different parties take different interpretations. This reduces the incentives for fishers to take collective action that benefits the fishery.

123. ACE shelving and catch spreading are the most common non-regulatory measures used. ACE shelving and catch spreading have both been successfully applied in some fisheries (e.g. rock lobster, pāua and orange roughy) to support sustainability. The effectiveness of these two measures can be measured through established administrative processes and monitored by the government through commercial fisher reporting.

CRA 3 (Gisborne) rock lobster fishery

As part of the April 2024/25 sustainability round, Fisheries New Zealand proposed to reduce the CRA 3 commercial catch limit by 20% to 40%. Recent science information showed CRA 3 biomass was above the management target, but the current and future status of the stock was uncertain because of the effects of Cyclones Hale and Gabrielle.

The CRA 3 industry supported a 30% reduction to the commercial catch and proposed that the reduction be achieved by an ACE shelving arrangement. The Minister considered that a reduction in the commercial catch limit was required for the fishery and could not give full weight to the proposed shelving arrangement.

The Minister decided to reduce the CRA 3 commercial catch limit by 20% (which was considered sufficient for sustainability reasons) from April 2024 based on best available information and suggested that the industry could support the reduction with shelving to further reduce risk to the stock. The CRA 3 industry subsequently shelved an additional 10% of the available ACE to reduce fishing pressure and to support the sustainability of the stock.

[13] Annual Catch Entitlement (ACE) is the right to catch a certain amount of a fish stock during a fishing year.

What is ACE shelving?

Commercial fishing ACE is the right to catch a certain amount of a stock during a fishing year. The amount of ACE a commercial fisher gets each fishing year for a stock depends on how much of the total fishing quota they own and how much of a stock fishers can catch each year (the commercial catch limit).

ACE shelving occurs when quota owners agree to reduce their catch of a stock by a specified proportion for a fishing year. This is generally achieved through a formal transfer of ACE to a separate non-fishing account that is managed independently. When this happens for a sustainability reason, quota owners are unable to access any carry forward of their uncaught ACE in the next fishing year.

Fisheries New Zealand monitors this through FishServe.

What is catch spreading?

Commercial catch spreading occurs when quota owners and commercial fishers agree to spread catch across sub-areas of a QMA for an individual stock or group of stocks during a fishing year.

Sometimes catch spreading is directly associated with a catch limit decision (e.g. quota owners agree to spread the commercial catch limit into sub-area limits along accepted boundary lines e.g. orange roughy), but it can also relate to more routine fine-scale management of a stock (e.g. pāua).

Fisheries New Zealand monitors this through electronic catch and position reporting which all commercial fishers must provide.

What's the opportunity?

124. There is an opportunity to clarify when and how the Minister is able to consider non-regulatory sustainability measures when determining the need for, and extent of, adjustments to regulatory sustainability measures (including the catch limit), that would better support their use.

125. Effective non-regulatory measures can be more responsive to sustainability risks and utilisation opportunities, lower the resource and administrative burden on the government, and increase certainty about management outcomes for industry. It is also good regulatory practice for the government to use regulatory intervention only where it is the best way to achieve desired outcomes of New Zealanders.

126. There are also risks associated with greater recognition of non-regulatory measures, including the government not being able to actively enforce a non-regulatory measure, and the effectiveness of some measures being uncertain and changing through time.

127. On balance we consider that the benefits of the Minister being able to take into account non-regulatory measures outweigh the risks because they can provide positive benefits to stock sustainability (particularly by allowing quicker responses to sustainability concerns than may be possible using the regulatory framework).

Proposal

128. We propose two options for the Minister to consider non-regulatory measures when deciding on regulatory sustainability measures (including when setting the catch limit). The intention is that the non-regulatory measures would not be used to reduce competition, including price fixing or raising market prices. How this works with sustainability measures would need to be carefully worked through.

Option 1: Provide the Minister with discretion to recognise any non-regulatory measure

129. Under this option when deciding on the need for and the extent of any change to a regulatory sustainability measure the Minister ***may*** consider the relevance and weight

(if any) to give to any non-regulatory sustainability measure. This option is different from option 2 in that the Minister does not have to consider a non-regulatory arrangement if such a measure is in place. For example, the Minister could choose not to consider a non-regulatory measure where there is a risk of a significant impact to the stock or local population in the event of non-compliance with a measure.

130. No limit is proposed on the type or nature of measure that could be considered under this option. Non-regulatory measures could include sector agreed seasonal or area closures, gear restrictions, minimum harvest sizes, protected species mitigation measures, ACE shelving, catch spreading, or other measures.

131. The benefits of this option are that it:

    131.1. provides the opportunity for formal recognition of non-regulatory sustainability measures;

    131.2. provides discretion for the Minister as to whether and how any particular measure would be considered, taking into account the specific circumstances;

    131.3. provides discretion to the Minister to determine the weight (if any) a particular measure would be given on a case-by-case basis;

    131.4. removes the administrative cost of defining a list of non-regulatory measures that the Minister can consider; and

    131.5. allows new innovative non-regulatory measures to be considered on a case-by-case basis.

132. The risks of this option are:

    132.1. relative to regulated measures, it is less certain that non-regulatory measures would be complied with;

    132.2. it does not provide certainty about whether a particular measure would be considered or the weight the Minister may give that measure in making a decision;

    132.3. it improves, but does not maximise, the incentives for development of non-regulatory measures as a consequence of that uncertainty; and

    132.4. Fisheries New Zealand may not be able to actively monitor some types of non-regulatory measures and confirm that they are being enforced by a sector, which creates risks on whether some of the measures would be effective. However, commercial fishing activities can be monitored in near real time which helps to mitigate some of the risks associated with some of the measures.

Option 2: The Minister <u>must</u> consider ACE shelving and catch spreading

133. Under this option when deciding on the need for and the extent of any change to a regulatory sustainability measure the Minister ***must*** first consider the relevance and weight to give an ACE shelving or catch spreading arrangement in place for the stock or stocks. This option is different from option 1 in that the Minister has to consider a non-regulatory arrangement if such a measure is in place.

134. We propose that the type of measures the Minister must consider under this option are limited, by specifying the type of measures which must be considered in a Notice. The Notice could be amended to include new measures over time, subject to public consultation and decision by the Minister.

135. We propose that, initially, ACE shelving and catch spreading arrangements would be specified in the Notice. This reflects the current use of these measures, their general acceptability and effectiveness, and the ability of Fisheries New Zealand to monitor performance of them over time.

136. Under this option, stakeholders would be required to inform Fisheries New Zealand of any ACE shelving, catch spreading or other recognised arrangement in place or proposed, prior to statutory consultation on sustainability measures for one or more stocks, if they want it to be considered by the Minister.

137. The specific non-regulatory measure would then be recognised as a consultation option, providing other stakeholders with the opportunity to consider the relevance and weight that should be given to the measure and provide submissions.

138. The benefits of this option are:

    138.1. it provides certainty to industry that if a non-regulatory measure is on the Notice it would be considered by the Minister;

    138.2. the incentives to develop non-regulatory measures listed on the Notice that contribute to effective fisheries management are greater than option 1;

    138.3. the cost of assessment is limited to a particular set of measures which may allow streamlining of processes; and

    138.4. there are already established administrative processes to support the effectiveness of ACE shelving and catch spreading.

139. The risks of this option are:

    139.1. relative to regulated measures, it is less certain that non-regulatory measures would be complied with;

    139.2. there is no certainty about the weight the Minister would place on an arrangement; and

    139.3. the list of measures that can be considered is more limited than option 1 and therefore provides less flexibility and discretion to consider other measures.

140. This option could be implemented either instead of or in addition to option 1.

Exercise of Ministerial discretion

141. In deciding on whether to consider a measure under option 1, or the weight that a particular measure could be given under both options, the following factors could be considered either in legislation or in operational guidelines:

    141.1. **The effectiveness of the measure in supporting sustainability**. The ability to demonstrate efficacy (e.g. a seasonal spawning closure may have positive benefits for the stock but is not necessarily directly measurable in stock projections; therefore, its efficacy in supporting sustainability is uncertain).

    141.2. **The status of the stock**. Use of non-regulatory measures would generally be considered less appropriate as a primary approach in situations where there was good information to indicate the stock required significant rebuilding (e.g. below 20% of the estimated unfished biomass).

    141.3. **The desire to maintain integrity of the management system**. The policy intent is that the catch limit should remain the primary tool for ensuring sustainability and that ACE shelving to reduce catch in particular should be

considered as a supportive or transitional measure until the catch limit is adjusted, rather than a replacement for it.

141.4. **The robustness of the arrangement**. In general terms, the greater the level of risk that the agreement may fail (e.g. because it cannot be actively enforced), and/or the greater the risk to the stock from that failure, the less weight/relevance might be given to a particular arrangement.

Other matters

142. Non-commercial fishing interests can also apply non-regulatory/voluntary measures to support sustainability (e.g. lower daily bag limits, higher size limits and area closures). However, the ability to implement such measures by the recreational sector in particular is more challenging for governance, monitoring and compliance reasons. For this reason, at this time, the options proposed are focused on consideration of non-regulatory measures by the commercial sector.

Analysis of options

Criteria	Status quo	Option 1 - Minister <u>may</u> recognise any non-regulatory measure	Option 2 – Minister <u>must</u> consider ACE shelving and catch spreading
Certainty	0 Uncertainty around when the Minister could consider a measure would remain.	+ Certainty increases. Measures other than shelving/spreading are more challenging to assess for benefits to sustainability (i.e. not necessarily directly measurable in stock projections).	++ Clarifying change to Fisheries Act increases industry certainty. Administration of ACE shelving and catch spreading is known to be effective in supporting sustainability.
Responsiveness	0 Measures applied in limited circumstances. Reduced incentives for industry to apply responsive measures.	++ Provides incentives for industry to be more responsive to changes in stock abundance.	++ Per option 1.
Efficiency	0 No efficiency improvements.	+ Measures may support more efficient operation of the system.	+ Per option 1.

Consultation questions for recognition of non-regulatory sustainability measures

- Do you agree with the problem/issue? If not, why not?
- Which option do you prefer and why? Are there other options we haven't considered?
- Do you support the matters and criteria proposed for the Minister to consider when exercising discretion in considering a non-regulatory measure? Are there other things to consider?

- How do you think non-regulatory measures should be implemented to minimise the risk of reducing competition?
- Are there any impacts or issues that have not been identified that you consider important?
- Are there benefits that have not been identified for the options?
- Do you have any additional comments or suggestions?

Differential ACE carry forward

Have your say on:

143. Proposed changes to ACE carry forward arrangements.

Introduction

144. Commercial fishers that own quota shares receive an amount of ACE at the start of each fishing year. This determines how much of a fish stock that can be caught during the fishing year. The amount of ACE a quota holder receives depends on:

    144.1. how much of the total fishing quota they own; and

    144.2. how much of a fish stock commercial fishers are allowed harvest annually.

145. Occasionally, there are circumstances unrelated to sustainability issues where fishers may not be able to catch the full amount of their available ACE. For example, bad weather or vessel repairs.

146. There are also one-off adverse events such as extreme weather events, closures for naturally occurring biotoxins, or a significant market shock that makes harvesting fish uneconomic, which prevents fishers from catching some or all of their available ACE.

147. For most stocks, if the full ACE amount is not fished during the fishing year, a small amount of it will get re-issued to the next fishing year. This is called an 'underfishing allocation' or ACE carry forward.

Current approach

148. The current ACE carry forward provisions in section 67A of the Fisheries Act provide ACE holders with some flexibility in situations where a fisher has under-caught their available ACE for the year.

149. For most stocks, at the end of a fishing year, each ACE holder is able to carry forward into the next fishing year the lesser amount of either the amount of ACE not used or 10% of their ACE holdings as at the close of the 15th day after the end of the fishing year.

150. This carry forward is automatically generated by FishServe at the end of the fishing year into the permit holder's ACE account.

151. The carry forward provisions are not available to be used in the next fishing year if the stock has a commercial catch limit reduction in that fishing year, or if the stock is listed on Schedule 5A.[14]

What's the opportunity?

152. There is an opportunity to provide more flexibility by increasing the carry forward by a small amount. This would allow individual fishers to respond to individual circumstances (such as illness, individual boat issues or small amounts of ACE that are left unfished at the end of the fishing year). While this would go some way towards mitigating significant adverse events, it would not necessarily address the full impact of such adverse events. There is also an opportunity to reduce the economic impacts on fishers of one-off adverse events such as extreme weather events (such as 2023's Cyclone Gabrielle), closures resulting from biotoxin events or significant short term market collapse (such as those experienced by the rock lobster industry during Covid).

[14] ACE carry forward is not currently available for rock lobster but there is a proposal on this as part of this consultation.

Proposed options

Option 1 – Increase the ACE carry forward limit from 10% to 15%

153. Option 1 would be an increase in underfishing allocation from 10% to 15% through an amendment to section 67A of the Fisheries Act. We expect that the small increase to 15% would provide fishers added flexibility to respond to individual circumstances (e.g. illness, individual boat issues), whilst not adding significant risks to sustainability.

154. Once set up, this would be the simplest approach to administer as no further consultation or amendments would be needed. The generic increase across eligible stocks would provide certainty and an increased utilisation benefit for a wide range of fishers.

155. However, this option would not address all potential situations where differential ACE carry forward would be useful. For example, situations where fishers are unable to catch a more significant proportion of their ACE due to one-off adverse events that are not related to sustainability (e.g. storm events).

Option 2 – Additional ACE carry forward for a stock for one year in exceptional circumstances

156. Under option 2, ACE carry forward would be provided for one year outside of the default Fisheries Act provisions of 10% (or 15% if option 1 is agreed) or Schedule 5A in exceptional circumstances.[15]

157. Owners of at least 75% of the quota shares would need to propose a request for additional ACE carry forward to the MPI Chief Executive.

158. It is proposed that requests should be received at a minimum of two months before the end of the fishing year. This is to allow for sufficient time to process and consider the requests, and issue ACE carry forward for the next fishing year.

159. It is proposed that approval should sit with the MPI Chief Executive as this mechanism is intended to operate within a fishing year, meaning the process for making the decision needs to be rapid.

160. When considering a proposal from quota owners, the decision maker would need to have regard to:

    160.1. the reason for any underfishing in the stock i.e., that the underfishing is not related to stock sustainability; and

    160.2. whether the additional ACE carry forward is likely to pose a sustainability risk to the stock.

Case study: Rock lobster

Rock lobster stocks are on Schedule 5A meaning ACE carry forward is not permitted.

In 2020, the commercial rock lobster fishing industry experienced severe unexpected market disruption due to COVID-19 impacting on exports to China.

To help alleviate this impact, via an Order in Council, the Minister allowed a one-off 10% ACE carry forward for the next fishing year. Fishers were able to carry forward up to 120 tonnes of ACE as a result (export value of approximately $13.7 million).

[15]For example, extreme weather events, seismic events, closures for naturally occurring biotoxins, or a significant market shock that makes harvesting fish uneconomic, which prevents fishers from catching some or all of their available ACE.

161. Option 2 would provide greater flexibility to address specific exceptional circumstances. This would help mitigate negative economic impacts while ensuring sustainability, meaning fishers can make better use of their ACE.

162. However, this option would impose administrative costs from both MPI and stakeholders each time a request for a differential carry forward amount is being considered or made.

Analysis of options

Criteria	Status quo	Option 1	Option 2
Certainty	0 Ability to allow ACE carry forward for stocks not on Schedule 5A or increased ACE carry forward for stocks on that schedule is subject to ad hoc assessment which creates significant uncertainty about approval.	++ A generic increase in ACE carry forward provides certainty of how much ACE can be carried forward.	+ Proposals are considered case-by-case meaning fishers would have less certainty on what proportion of their ACE can be carried forward compared to option 1. However, there would be some increased certainty as this is not currently provided for in the status quo.
Responsiveness	0 Ad hoc consideration of changes takes time and requires regulation change which significantly reduces responsiveness.	+ A generic increase in carry forward allows fishers to make better use of their ACE.	++ Proposed additional carry forward is targeted and allows responses to adverse one-off events
Efficiency	0 Limited number of requests for change but process for assessing requests ad hoc and inefficient (e.g. the provision for rock lobster carry forward due to COVID-19 was made through Order in Council).	+ A generic increase in carry forward is as efficient as the status quo. It could also reduce the number of requests for a change to the carry forward amount.	+ Additional administrative work to propose and assess a request. Fishers can make better use of their ACE if requests are approved.

Consultation questions for differential ACE carry forward

- Do you agree with the problem/issue? If not, why not?
- Which option do you prefer and why? Are there other options we haven't considered?

- Are there any impacts or issues that have not been identified that you consider important?
- Are there benefits that have not been identified for the options?
- Do you have any comments or suggestions on the types of exceptional circumstances that should be considered for Option 2?
- Do you have any additional comments or suggestions?

Carry forward of annual catch entitlement (ACE) for rock lobster stocks

Have your say on:

163. Enabling the carry forward of a proportion of unused ACE for rock lobster stocks to the subsequent fishing year.

Introduction

164. As discussed in the previous section, occasionally, there are circumstances where fishers may not be able to catch the full amount of their available ACE. There are also one-off adverse events such as extreme weather events, closures for naturally occurring biotoxins, or a significant market shock that makes harvesting fish uneconomic which prevents fishers from catching some or all of their available ACE.

165. For most stocks, if the full ACE amount is not fished during the fishing year, a small amount of it will get re-issued to the next fishing year. This is called an 'underfishing allocation' or ACE carry forward.

166. Rock lobster is currently a Schedule 5A stock, meaning that ACE holders are not able to carry any unused ACE forward to be used in the subsequent year.

Current approach

167. Rock lobster is listed on Schedule 5A because it is easier for fishers targeting single species stocks to catch their exact ACE holding or to trade it with someone else who could catch it by the end of the fishing year.

What's the opportunity?

168. There is an opportunity to provide more flexibility by making a small amount of ACE available for rock lobster beyond the fishing year. As with the earlier proposal, this would allow fishers to respond to individual circumstances (such as illness, individual boat issues or small amounts of ACE that are left unfished at the end of the fishing year for whatever reason). This could be either for routine use or for exceptional circumstances relating to one-off adverse events, such as extreme weather events, closures resulting from biotoxin events or significant short-term market collapse (such as those experienced by the rock lobster industry during Covid).

Proposed options

Option 1: Removal of rock lobster from Schedule 5A

169. This option would enable up to 10% of uncaught ACE to be carried forward for all quota management areas (QMAs), or 15% if option 1 under the previous proposal is approved. It would be possible to apply this to either some or all rock lobster stocks.

170. This change would be implemented by Order in Council (secondary legislation) and would not require a change to the Fisheries Act itself.

171. ACE carry forward would be permanently available each fishing year.

Option 2: A bespoke carry forward arrangement for rock lobster

172. This option would amend the Act to enable a maximum of 10% carry forward for a rock lobster QMA, for a particular year only, at the initiative of industry, and with the support of 75% of quota owners in the QMA.

173. The approach would be guided by a policy on the circumstances where carry forward should be exercised – such as factors like market or biotoxin closures constraining ACE being fully caught, – and circumstances where it should not be exercised, such as where carry forward would create or exacerbate sustainability risks for the stock. When a decision is made to carry forward ACE the approach would be same as for other QMS stocks e.g. the lesser amount of either the amount of ACE not used or 10% of the ACE holdings held as at the close of the 15th day of after the end of the fishing year.

Analysis of options

Criteria	Status quo	Option 1 – Removal of rock lobster from Schedule 5A	Option 2 – A bespoke carry forward arrangement for rock lobster
Certainty	0 There is certainty that no ACE can be carried over to the subsequent fishing year for use. This does not provide quota owners and others that are dependent on the industry the certainty that they can make the economic return they need to do business.	++ All quota holders have certainty that up to the maximum of 10% (or 15%) ACE can be carried forward to the subsequent fishing year in events preventing full ACE use.	+ All quota holders only have certainty that up to the maximum of 10% of ACE can be carried forward to the subsequent fishing year in events preventing full ACE use when 75% or more quota holders agree for a particular fishery area.
Responsiveness	0 Does not attempt to respond to the need for carry forward.	++ Provides an automatic approach to carry forward, as needed.	+ Responsive to the unique need for carry forward for a particular area, but also requires a 75% minimum quota holder vote. This would have to be done by a certain date to be responsive to fishery management decisions on the whole.
Efficiency	0 Provides efficiency in that there is no administration for industry or MPI. However other than adjusting commercial catch limit, there is no opportunity for improving efficiencies for managing stocks when ACE cannot be fully fished.	++ Can be applied by the ACE holders as needed to improve the efficiency in which quota is managed and carried forward or not.	+ Can be applied by quota owners and then used by ACE holders as needed to improve the efficiency in how ACE is utilised and carried forward or not. However, requires a 75% minimum quota holder vote to implement and would only be implemented for a specific QMA and a specific year at a time.

			Potential extra administration costs incurred by MPI.

Consultation questions for carry forward of ACE for rock lobster stocks

- Do you agree with the problem/issue? If not, why not?
- Which option do you prefer and why? Are there other options we haven't considered?
- Are there any impacts or issues that have not been identified that you consider important?
- Are there benefits that have not been identified for the options?
- Do you have any additional comments or suggestions?
- Should the MPI Chief Executive have final approval for ACE to be carried forward under option 2?

Increasing the threshold for suspension of fishing permit for non-payment of deemed value

Have your say on:

174. Whether section 79 of the Fisheries Act should be amended to increase the monetary amount of deemed values due for payment by a fisher before their fishing permit is suspended for non-payment.[16]

Opportunity:

175. The current monetary threshold in section 79 of the Fisheries Act for the suspension of a fishing permit for non-payment of deemed values has never been updated.

176. The incidence of fishing permit suspension for failure to pay deemed values has been consistently very low compared to the total number of permit holders, and has been gradually but steadily declining over the years. However, there is an opportunity to consider whether the threshold settings for suspension remain fit for purpose.

Current approach

177. Section 79 provides for the automatic suspension of a commercial fishing permit if the total amount of deemed values the permit holder owes exceeds $1,000 and has not been paid within 20 days of payment being demanded.

178. Some industry representatives consider that suspension for non-payment should be removed, or the threshold be increased, because current requirements are unnecessarily costly for fishers.

179. The possibility of a fishing permit being suspended helps to ensure fishers meet their obligations. For that reason, the complete removal of suspension is not included as an option.

Proposal

Increase the monetary threshold for unpaid deemed value

180. We propose increasing the monetary threshold at which a fishing permit would be liable to be suspended for non-payment of deemed values.

181. Since the ‘over $1,000’ deemed value threshold was set in 1996, the monetary value of commercially caught fish, along with deemed value charges set by Fisheries New Zealand, have increased. With these factors in mind and adjusting for the impacts of inflation over the past 28 years, we propose increasing the monetary element of the suspension threshold from over $1,000 to over $2,000.

182. We considered whether changes to the current time limit of 20 days to pay outstanding deemed values was warranted, but we propose the time limit remains the same. This is because:

[16] Commercial fishers who catch more fish than their ACE may be charged the “deemed value” of the extra catch. Deemed values are higher than the cost of buying ACE. This means extra fish caught will cost more than the ones that were covered by ACE. This encourages commercial fishers to use ACE to balance their catch and keep catch within limits.

182.1. Timely and prompt payment of deemed values due is crucial to maintenance of the fisheries management system; and

182.2. Extending the time limit for payment of deemed values along with increasing the monetary limit, could unduly increase the financial burden on fishers because they can accumulate new deemed value debt over the longer period, already having deemed values to pay.

Analysis of proposal

Criteria	Status quo	Proposal – Change the monetary threshold for unpaid deemed value
Certainty	0 Clear rules on payment and timeframe requirements.	0 Maintains and updates existing framework.
Responsiveness	0 Does not reflect effects of inflation and increases in deemed values over time.	+ Updates threshold to reflect changes in deemed value settings while retaining tight limit to ensure timely payment.
Efficiency	0 Framework is fit-for-purpose, but low threshold sees a loss of fishing permit for non-payment.	+ Reduces the risk of suspension of fishing permit for non-payment.

Consultation questions for threshold for suspension of fishing permit for non-payment of deemed value

- Do you agree with the problem/issue? If not, why not?
- What are your views on changing the monetary amount of deemed value due under section 79 to ‘over $2,000’?
- Are there any impacts or issues that have not been identified that you consider important?
- Are there any options we haven’t considered?
- Do you have any additional comments or suggestions?

Implementation, monitoring, and evaluation for Part 1

183. Most of the options presented in this document would require changes to the Fisheries Act to be implemented. Once Cabinet decides on the options, we will work with stakeholders to design, sequence, and implement the operational requirements of the finalised options.

184. We will:

    184.1. seek input from tangata whenua and fishers on how to operationalise the resulting changes as per the Fisheries Act's requirements;

    184.2. ensure fishers are well informed on implementation approaches; and

    184.3. work with fishers to support transition to new provisions.

185. Monitoring and evaluation would use existing means of data collection as much as possible to assess the performance of the changes against the policy objectives. Where information gaps are identified, a new baseline can be established by collecting relevant information over the first few years after the changes take effect.

Part 2: Greater protection for on-board camera footage and ensuring the on-board camera programme is workable

186. The purpose of on-board cameras is to independently verify the information provided by commercial fishers on fishing and related activities (e.g. protected species interactions, catch, and discards). This means more flexible and confident fisheries decisions can be made, leading to better managed fish stocks and improved environmental outcomes.

187. Data collected from on-board cameras confirms that they are improving the quality of data available to inform fisheries management, particularly in relation to protected species interactions.

188. Currently, on-board cameras are installed on approximately 158 commercial fishing vessels, with two further rollouts to be undertaken by May 2025.

189. There is an opportunity to review some aspects of the programme to ensure the on-board cameras programme cost-effectively meets its purpose and continues to inform fisheries management decision-making.

190. We are seeking your views on the following matters:

    190.1. **Camera footage protections for on-board cameras:**

    Camera footage is subject to release under the Official Information Act 1982 (OIA). While the OIA includes broad grounds for withholding sensitive information, there are fisher concerns about the potential for footage to be released showing private or commercially sensitive information, or legal fishing activity that could be unfairly used to negatively impact the reputation of the industry both domestically and abroad.

    190.2. **Amendments to the scope of on-board cameras for a small number of vessels:**

    Removing on-board camera requirements for bottom longline vessels 32 metres or larger. We consider that Fisheries Observers are a more appropriate way to monitor these large longline vessels (currently 3 vessels) because of the need to collect biological samples at sea to inform stock assessments. These boats process and freeze fish at sea, meaning that biological sampling is only possible at the time of capture.

    Removing on-board camera requirements for set net vessels using the mothership and tender model. Currently there are seven setnet vessels using the mothership and tender model. Under this model it is the tender (small ancillary vessel) that is used to set and haul the nets with the mothership exclusively used for the storage of fish and, as outlined below, on-board cameras are not suitable for small boats like tenders.

    Excluding all vessels less than 8 metres in length requiring on-board cameras. Due to their size they do not have an independent power source or dry space for the storage of camera equipment and therefore the camera system is not suitable for placement on these vessels (currently 3 vessels).

    190.3. **Clarifying requirements regarding when cameras must be used:**

To meet the purposes for on-board cameras, footage needs to record fishing and related activity. The current regulations have a wide scope and could require vessels to use cameras when fishing or related activity is not occurring. This would increase the cost associated with footage transfer and storage and negatively impact fisher privacy.

191. In Part 2, we have assessed the options against the following criteria, depending on which was most relevant to the objectives of the proposal:

    191.1. Certainty: The potential for each policy option to allow stakeholders to predict how regulation would apply, so they can prepare for how that regulation might affect them.

    191.2. Efficiency: The extent to which each option allows industry and government resources (e.g. fisheries resources or fisheries management time) to be allocated in a way that delivers the maximum benefits at minimum cost.

    191.3. Transparency: The extent to which information is made available to the public.

    191.4. Privacy and confidentiality: The extent to which an option sufficiently protects privacy and commercially sensitive information.

    191.5. Monitoring effectiveness: the extent to which an option is able to be monitored to ensure effective implementation.

    191.6. Practicality: The extent to which an option can be implemented, including without undue costs.

Camera footage protections for on-board cameras

Have your say on:

192. Options for enhanced protections to provide certainty for fishers in terms of privacy and commercial sensitivity of camera footage.

Introduction

193. The recent introduction of government-owned cameras on commercial fishing vessels means that Fisheries New Zealand now holds a large volume of footage of everyday commercial fishing activity (for example, over 22,000 fishing events were captured by cameras in the 2023/24 fishing year).

194. This is a rare situation as it is mandated that government-owned cameras be installed on private property and workspaces (including where some fishers live on-board a vessel for days or weeks at a time) and are used whenever vessels are conducting relevant fishing activity. Other footage collected by the government is mostly by officials (such as police wearing body cameras), and in government buildings or public spaces.

Camera footage and the OIA

195. On-board camera footage is subject to the OIA. The purposes of the OIA are to increase the availability of official information over time, and to make information available unless there is a good reason for withholding it.

196. Cameras capture all activity within their set field of view. As such, footage captured will often include personal as well as commercially sensitive information (e.g., gear or method innovations).

197. There is a public interest in the transparency and accountability of information government uses to manage fisheries resources. The OIA provides a framework for balancing these public interests with the need to keep sensitive information confidential, including through grounds to withhold private and commercially sensitive information.

198. Each request under the OIA for footage must be assessed on a case-by-case basis to determine if it should be released or withheld according to the grounds in the OIA. Any decisions by MPI to withhold camera footage may be investigated and reviewed by the Ombudsman if a complaint is made.

Concerns about the release of camera footage

199. Fishers have raised concerns as to whether the withholding grounds in the OIA are sufficient protection for camera footage. In particular, there are concerns about the release of footage under the OIA including:

    199.1. risk to privacy of individual commercial fishers (e.g. identification of individuals; vessel identification);

    199.2. commercial sensitivity of, for example, specific fishing locations, fishing techniques, and the design of fishing and processing equipment; and

    199.3. footage of legal fisheries operations such as bycatch being taken out of context and used to unfairly impact the reputation of fishers and their companies, or of the image of the industry both domestically and abroad.

200. There is a risk these concerns will erode fisher support for cameras and undermine the continued provision of accurate reporting that informs fisheries management decision-making.

Current approach

201. MPI considers requests for footage under the OIA using criteria set out in MPI's Guidelines for the Release of Fisheries Data.[17] The guidelines set out how information is treated, which information is likely to be withheld and under what grounds, and which information is likely to be released.

202. To date, MPI has responded to 10 OIA requests specifically for footage from on-board cameras. MPI has withheld footage for reasons under section 9 of the OIA, including for reasons of privacy and the likelihood of prejudicing the commercial position of the fishers who provide the information, and section 6(c) where release could prejudice the maintenance of the law. When refusing footage for the above reasons, we seek to provide information in another form that addresses the request, for example a written summary of the number of protected species interactions recorded by cameras in a time period.

203. In situations where commercial fishers have requested footage of their own operations (e.g. of a protected species interaction with the intention improve fishing practices), MPI has provided access including through secure viewing onsite, video clips or written summaries.

204. In addition, recognising the public interest in seeking information relating to the management of fisheries resources, MPI proactively publishes information quarterly on the number of fishing events captured by cameras, the number of events reviewed by MPI, and the percentage of reviewer detected species interactions that were also reported by fishers. In addition, MPI publishes a broad range of information about environmental interactions between commercial fishers and the aquatic environment, including seabird, marine mammal, and turtle bycatch by fishing method and location.[18] These reports are drawn from fisher reporting and some of the interactions will have been verified by cameras.[19]

What's the opportunity?

205. As the rollout of on-board cameras continues there is an opportunity to enhance camera footage protections to maintain fisher support and continued provision of camera footage.

Proposed options

Option 1: Greater recognition for current approach to requests for footage

206. To provide greater recognition for MPI's approach to OIA requests, we would seek to confirm our practices for assessing requests for camera footage with the Ombudsman. This would provide additional assurance that we are meeting our obligations under the OIA when dealing with such requests, in particular when we decide to withhold camera footage. The OIA would remain as the framework for assessing requests for on-board camera footage.

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[17] https://www.mpi.govt.nz/dmsdocument/34803-Guidelines-for-Release-of-Fisheries-Information
[18] https://www.mpi.govt.nz/fishing-aquaculture/sustainable-fisheries/managing-the-impact-of-fishing-on-protected-species/seabirds-and-protected-marine-species-caught-by-commercial-fishers/
[19] Where protected species reporting errors are identified through review of footage, Fisheries New Zealand works with fishers to update the data.

207. It would remain possible for camera footage to be released in the future as decisions to withhold would continue to be assessed on a case-by-case basis and remain subject to possible investigation by the Ombudsman.

Option 2: Exemption of footage from the OIA

208. This option would remove the ability for requesters to use the OIA to ask for footage collected from on-board cameras. This would require amendment to the Fisheries Act.

209. Such a legislative provision would enable MPI to refuse requests for the camera footage under section 18(c)(i) of the OIA, which states that the making available of the information requested would be contrary to the provisions of a specified enactment.

210. This option would provide legislative certainty that the OIA does not apply to the release of footage held by MPI from onboard cameras.

Continued release of information captured by cameras

211. Under both options MPI would continue to proactively release fisheries information relating to the management of fisheries resources and the effects of fishing, such as the quarterly report of fisheries environmental interactions. This information would include data derived from on-board cameras and not the footage itself.

212. Under option 2 the public could still request information on fishing events under the OIA. Footage would be exempt from this request, although MPI would undertake a process to consider the information that could be released and in what format (e.g., written summaries of the number of fishing events, fish or protected species caught in an area) in order to protect the privacy and commercial sensitivity of fishers.

213. Footage and data collected by on-board cameras would continue to be available for certain purposes such as:

    213.1. allowing vessel operators secure access to footage of their fishing activity, with the appropriate permissions of those identifiable and in accordance with the Privacy Act 2020;[20]

    213.2. fisheries research commissioned by MPI;

    213.3. enforcement action, such as prosecutions; or

    213.4. making footage available to other government agencies if appropriate.

[20] Under the Privacy Act, anybody can ask MPI to access whatever information it holds about them.

Analysis of options

Objectives	Status quo	Option 1 – Greater recognition for MPI's approach to requests for footage	Option 2 – Exemption of footage from the OIA
Certainty	0 Lack of certainty for fishers regarding release of footage.	+ May provide greater certainty around treatment under the OIA of on-board camera footage.	++ Provides certainty to industry that footage would not be released.
Privacy and Confidentiality	0 Future risk of footage that is private or commercially sensitive being publicly released.	0 Future risk of footage that is private or commercially sensitive being publicly released.	++ No risk of footage that is private or commercially sensitive being publicly released.
Transparency	0 Information collected from on-board cameras including footage is available unless there is good reason for withholding it.	0 Information collected from on-board cameras including footage is available unless there is good reason for withholding it.	- Small reduction in transparency of information as on-board camera footage would never be made publicly available under the OIA, although MPI would continue to proactively release fisheries information relating to the management of fisheries resources and the effects of fishing.

Consultation questions for camera footage protections for on-board cameras

- Do you agree with the problem/issue? If not, why not?
- Which of the proposed options do you prefer and why? Are there any options we haven't considered?
- Are there any impacts or issues that have not been identified that you consider important?
- Are there benefits that have not been identified for the options?
- Under an OIA exemption, there would be certain circumstances in which there is a need to release camera footage. Under what circumstances and to whom do you consider that such information could be released?

- Do the options provide the appropriate balance between privacy of individuals concerned and the public interest in transparency?
- Do you have any additional comments or suggestions?

Amendments to the scope of on-board cameras

Have your say on:

214. Whether the scope of the on-board camera rollout set out in the Fisheries (Electronic Monitoring on Vessels) Regulations 2017 (Electronic Monitoring Regulations) should be amended to exclude a small number of vessels, comprising vessels which are greater than 32 metres in length, and vessels less than 8 metres where camera monitoring is impractical.

Introduction

215. The focus of the on-board camera rollout is inshore vessels that pose the greatest risk to protected species and/or have significant amounts of fish bycatch.

216. Deepwater trawl vessels (that are longer than 32 metres in length or exclusively target scampi) are currently excluded from the on-board camera rollout. This is because Fisheries New Zealand observers are considered a more efficient way of monitoring these vessels because observers need to be placed on these vessels to collect biological samples at sea.

217. Small set net vessels (less than 8 metres in length) are also excluded from the scope of the rollout. This is because these small vessels have very limited on-board electronics, meaning they cannot operate the 'standard' camera systems used on other vessels, and because they do not have the 'dry space' required for the storage of an on-board hard drive (referred to as a yellowfin). They also tend to operate within enclosed areas such as harbours where the risk to protected species is low.

Current approach

218. Trawl vessels above 32 metres and set net vessels below 8 metres are excluded from the requirement to operate on-board cameras. This creates an inconsistency with large and small vessels that use methods other than trawl.

219. On-board cameras complement existing approaches to verify fisher reporting and monitor behaviour at sea. Where practical, observers are placed on commercial fishing vessels to independently verify data on fish being caught, collect information about bycatch and take biological samples to assist scientific assessment of fish populations.

220. Electronic reporting and global position reporting systems are active 24 hours a day while at sea, providing near real time data on vessel speed and location, and daily information on catch. This reporting is also used to monitor commercial fisheries and provides an overall picture of fishing activity to inform trends and patterns for catch and protected species interactions.

<u>Large bottom longline vessels</u>

221. All bottom longline vessels, regardless of length, are currently within scope of the on-board camera rollout.

222. Currently, there are three bottom longline vessels greater than 32 metres operating in New Zealand. These large vessels fish exclusively in southern offshore waters, targeting ling in New Zealand's Exclusive Economic Zone (EEZ), or Antarctic toothfish outside the New Zealand's EEZ which are managed under the Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR). Fishing trips are typically 6-8 weeks in length with all fish processed and frozen at sea.

223. Observer coverage on these vessels is generally high. Within the EEZ, observer placement has averaged around 30% over the last three years, with observer coverage mandatory outside the EEZ for CCAMLR fisheries.

224. Due to the mandatory observer requirement in international fisheries and the need for at-sea biological sampling to support stock assessments, in many circumstances, observers are likely to be placed on these vessels irrespective of cameras.

Set net vessels using the mothership and tender model

225. A tender model involves a mothership (between 10 and 20 metres in length) serviced by several smaller ancillary vessels (called tenders). These tenders are generally very small (less than 4 metres), with no independent power source or dry space for camera equipment. During such operations, the tender is used to set and haul the nets, with the mothership used for the storage of fish.

226. Under the Fisheries Act, tenders are considered part of the mothership rather than a separate vessel. Therefore, if the mothership is 8 metres or greater in length, cameras are currently required to be installed on the tender as well even if they don't meet the length requirement.

227. As is currently the case for set net vessels less than 8 metres in size, tenders are unable to utilise the on-board camera system because they do not have an independent power source or dry space for the storage of camera equipment. As the current solution is not suitable for vessels less than 8 metres, exemptions under the Electronic Monitoring regulations have been issued to vessels using the mothership / tender model that fish in an area where the Electronic Monitoring regulations apply.

228. Currently there are seven vessels using a mothership/tender model that occasionally use set net methods. To enable the small number of mothership / tender vessels to operate cameras, a bespoke solution would need to be developed and installed at potentially significant expense relative to the volume of catch from these vessels.

All vessels less than 8 metres

229. Set net vessels under 8 metres are excluded from the requirement to operate on-board cameras. However, small vessels using other methods (such as bottom longline) are within the scope of the requirement.

230. As with set net vessels less than 8 metres, all fishing vessels of this size, regardless of method, are unable to utilise the on-board camera system due to the lack of independent power and dry space. Fishing activity on these vessels is monitored using Electronic Reporting (ER) / Global Position Reporting (GPR).

231. To date no bottom longline vessels less than 8 metres in length have been required to use cameras. This is likely to change as part of upcoming rollout as three vessels less than 8 metres have bottom longlined at least once in the last year.

232. The low number of bottom longline fishing events and small catch volumes associated with these vessels means there is limited risk to protected species and limited value in installing cameras on these vessels. Removing these vessels from the requirement to use cameras would align with the existing approach for small set net vessels.

What's the opportunity?

233. There is an opportunity to amend the scope of the on-board camera programme to reduce unnecessary costs and provide for a more practical use of on-board cameras, by excluding on-board cameras from:

233.1. bottom longline vessels greater than or equal to 32 metres in length (3 vessels);

233.2. set net vessels using the mothership and tender models (7 vessels); and

233.3. all vessels less than 8 metres (around 3 vessels).

Proposed options

Large bottom longline vessels

Status quo

234. This option would maintain the requirement for longline vessels greater than or equal to 32 metres in length to have cameras installed by 3 March 2025.

We are proposing the following exclusion options

Option 1: Remove the requirement for bottom longline vessels greater than or equal to 32 metres to operate on-board cameras

235. This option would remove the requirement for longline vessels greater than 32 metres in length to have cameras installed. Under this option observer coverage would be maintained.

Analysis of options

236. The options above have been assessed against the criteria of 'practicality' and 'efficiency' to ensure the scope of the on-board camera rollout remains fit-for-purpose and cost-effective.

Criteria	Status quo	Option 1 – Amend the scope for large bottom longline vessels
Monitoring effectiveness	0 High ability to monitor due to use of both cameras and observers.	0 Observer coverage on these vessels is generally high so have ability to monitor in most cases.
Efficiency	0 Cameras and observers being used simultaneously has a higher cost with little to no additional benefit.	+ Prevents unnecessary costs of cameras and observers being utilised simultaneously.

Set net vessels using the mothership and tender model

Status quo

237. This option would maintain the requirement for vessels using the mothership and tender model to install cameras. Work would continue to identify an on-board camera solution that resolves the practical constraints of such vessels.

Option 1: *Removing on-board camera requirements for set net vessels using the mothership and tender model.*

238. This option would exclude vessels using the set net and tender model from requiring on-board cameras.

Analysis of options

Criteria	Status quo	Option 1: Amend scope for set net vessels using the mothership and tender model
Practicality	0 Under the current system, it is not possible to install cameras on tender vessels. A bespoke solution would need to be developed and installed at significant expense relative to the volume of catch from these vessels.	+ More practical as it is not possible to install cameras on tender vessels using the current on-board camera system.
Efficiency	0 Installing cameras on motherships would increase costs with no additional benefit because all the fishing activity occurs on the tender.	+ Provides the same benefits as the status quo but with no additional costs.

All vessels less than 8 metres

Status quo

239. This option would maintain the requirement for vessels less than 8 metres using methods other than set net to require cameras to be installed. Work would continue to identify an on-board camera solution that resolves the practical constraints of such vessels.

Option 1: Remove the requirement for any vessel less than 8 metres to operate on-board cameras

240. This option would exclude vessels less than 8 metres using methods other than set net from on-board cameras requirements.

Criteria	Status quo	Option 1: Amend the scope for small vessels less than 8 metres
Practicality	0	0

	Currently not possible to install the camera solution on these vessels. Monitoring continues through electronic reporting and global position reporting (ER/GPR).	Cameras would not be required on these vessels. Monitoring continues through electronic reporting and global position reporting (ER/GPR).
Efficiency	0 Increased costs would arise as a bespoke solution would have to be developed and installed for a small number of vessels.	+ No further costs imposed.

Consultation questions on the scope of on-board cameras

- Do you agree with the problem/issue? If not, why not?
- Are there any impacts or issues that have not been identified that you consider important?
- Are there benefits that have not been identified for the options?
- Are there any costs and benefits of the proposed implementation method that have not been identified?
- Which of the proposed options do you prefer and why? Are there any options we haven't considered?
- Do you have any additional comments or suggestions?

Clarifying camera use requirements

Have your say on:

241. Clarifying when on-board cameras are required to be in use.

Introduction

242. The purpose of on-board cameras is to independently verify the information provided by commercial fishers. To meet this purpose, footage needs to be captured of fishing and related activity, such as sorting catch and returning fish to the sea.

243. This proposal seeks to clarify when on-board cameras are required to be operating. It is important to note that electronic reporting and global position reporting systems are active 24 hours a day while at sea, providing near real time data on vessel speed and location, and daily information on catch.

Current approach

244. Under the current regulations[21], on-board cameras must be used to record fishing and related activities, including:

    244.1. the taking, return, abandonment, processing, or sorting of fish or other animals that are aquatic life;

    244.2. transportation connected with monitored fishing; and

    244.3. measures to avoid, remedy, or mitigate fishing related mortality.

245. The Electronic Monitoring System Guide for On-Board Cameras (May 2024)[22] provides guidance to fishers on the operation of camera systems to meet these obligations during a fishing trip. The guide sets out that systems must be 'ACTIVE' when:

    245.1. conducting a fishing event using an in-scope method that commenced within a specified area;

    245.2. sorting, processing, or returning to the sea any fish taken during a fishing event using in-scope methods that commenced within a specified area;

    245.3. transporting, within a specified area, any fish taken by in-scope fishing methods.

246. There are circumstances during a fishing trip where fishers are advised that they may switch the camera system to 'STANDBY'. Examples of such circumstances are set out in the Electronic Monitoring System Guide for On-Board Cameras May 2024 and include when:

    246.1. using fishing methods outside the scope of the Electronic Monitoring Regulations (e.g. potting, trolling, or dahn/drop lining);

    246.2. at anchor and not conducting any transportation or commercial fishing related activity;

    246.3. conducting customary fishing or using fishing methods outside the scope of the Electronic Monitoring regulations (e.g. potting, trolling or dahn/drop lining); or

[21] Refer regulation 9(1) of Fisheries (Electronic Monitoring on Vessels) Regulations 2017.
[22] https://www.mpi.govt.nz/dmsdocument/57997

246.4. conducting in-scope fishing activity that started outside the area in which camera use is required and continue inside.

247. Whilst advice to fishers reflects the requirement to operate cameras, the broad definition of "transportation" in regulations creates some uncertainty for fishers regarding their obligations.

What's the opportunity?

248. "Transportation" is defined in section 2 of the Fisheries Act 1996 as:

248.1. the receiving and carriage of fish, aquatic life, or seaweed by any vessel; or

248.2. the storage and refrigeration of fish, aquatic life, or seaweed by any vessel for the purpose of carriage.

249. There is an opportunity provide more clarity around fisher obligations to operate camera systems in relation to "transportation".

Proposed options

Option 1: Require on-board cameras to operate port-to-port

250. Under this option, on-board cameras would need to be 'active' from the time the vessel leaves port or enters an area[23] where cameras are required, to when they return to port or leave the area[24] where on-board cameras are required.

251. This option would increase costs associated with additional data collection, download, and storage, and increase load on vessel electronics when vessels are at anchor or powered down.

252. This option would also require vessels passing through an area subject to camera monitoring to operate a camera system, even if the vessel does not undertake any fishing in that area. Footage would be recorded every time a fisher is in view of a camera regardless of whether fishing was occurring.

Option 2: Require on-board cameras to operate during fishing and transit to and from fishing locations

253. Under this option, on-board cameras would need to record fishing and related activities, including when:

253.1. conducting a fishing event using an in-scope method;

253.2. sorting, processing, or returning to the sea any fish taken during a fishing event using in-scope methods; and

253.3. transiting to, from, and between fishing locations when using in-scope methods.

254. Cameras would not be required to operate outside these activities – this includes while at anchor, drifting, or powered down.

255. Under this option, cameras would be required to collect all footage needed to achieve objectives of verifying fish catch and returns to the sea, protected species interactions, and use of mitigation devices. As cameras would not need to operate outside these times, costs of footage capture and transmission would be lower, and less personally identifiable footage of fishers outside fishing activity would be captured.

[23] If entering an area while already at sea.
[24] If not returning to port and continuing to fish in an area that doesn't require cameras.

256. Fisheries New Zealand would also retain the ability, through the use of Vessel Specific Monitoring Plans under Part 2 of the Fisheries (Electronic Monitoring on Vessels) Regulations 2017, to require specific vessels to operate cameras port-to-port if necessary to assist monitoring compliance with the regulations.

Options analysis

257. The options above have been assessed against the criteria of 'monitoring effectiveness', 'efficiency' and 'privacy and confidentiality' to ensure the scope of the on-board camera rollout allows for the effective, cost-efficient monitoring of fishing and fishing related activity while also balancing the need to protect the privacy of the fishers.

Criteria	Option 1 – on-board cameras to operate port-to-port	Option 2 – on-board cameras required to record fishing and related activities
Monitoring effectiveness	0 All fishing and related activity would be monitored.	0 All fishing and related activity would be monitored.
Efficiency	0 Footage would be recorded, stored, and transmitted when fishing or related activity is not occurring.	+ Footage would be recorded and transmitted only when fishing or related activity is occurring.
Privacy and confidentiality	0 Cameras would be running 24 hours a day, impacting privacy of fishers.	+ Footage would be recorded and transmitted only when fishing or related activity is occurring.

Consultation questions on clarifying camera use requirements

- Do you agree with the problem/issue? If not, why not?
- Which of the proposed options do you prefer and why? Are there any options we haven't considered?
- Are there any impacts or issues that have not been identified that you consider important?
- Are there benefits that have not been identified for the options?
- Are there any costs and benefits of the proposed implementation method that have not been identified?
- Is there another option we haven't considered?
- Do you have any additional comments or suggestions?

Implementation, monitoring, and evaluation for Part 2

Camera footage protections

258. MPI has well established practices and systems for managing and responding to OIA requests. This includes comprehensive guidelines for the release of fisheries information, which covers information collected by on-board cameras installed on vessels capturing fishing activity under the Electronic Monitoring Regulations, and any information derived from footage captured by the on-board cameras.

259. A record of all OIA requests and responses to them is kept, which enables monitoring of the nature and extent of requests and a consistent approach to be taken to similar requests.

260. Regular engagement with Iwi Fisheries Forums and stakeholders will provide an opportunity for questions to be asked about any changes and to assess any concerns that are raised.

Amendments to the scope of on-board cameras and clarifying camera use requirements

261. This proposal would be implemented through an amendment to the Electronic Monitoring Regulations.

262. Fisheries New Zealand will monitor the wider rollout of on-board cameras in line with expectations for regulatory stewardship set by the New Zealand Government. The new arrangements will, in this regard, be captured in Fisheries New Zealand's regular review of the fisheries regulatory system.

263. Regular engagement with Iwi Fisheries Forums and stakeholders will provide an opportunity for questions to be asked about any changes and to assess any concerns that are raised.

Part 3: Implementing new rules for commercial fishers that set out when QMS fish must be landed and when they can be returned to the sea

264. Part 3 seeks input into how we plan to implement changes to the Fisheries Act that the Government has already agreed to.

Overview

265. In 2022, the Fisheries Act was amended to tighten the reasons for when and how a commercial fisher may or must return or abandon a QMS species to the sea. These are commonly referred to as the landing and discard rules. Those changes were designed to further encourage commercial fishers to avoid unwanted fish and make best use of what they catch.

266. Effective at-sea monitoring strengthens the incentives for fishers to accurately report catch, which provides greater certainty around information accuracy. The introduction of on-board cameras has enhanced the ability to verify commercial at-sea activities, providing greater certainty of fisher-reported data. There now is an opportunity to consider more flexible options within the landing and discard rules to make the best use of verified information from on-board cameras and lower operational costs for fishers and licensed fish receivers.

267. The Government has decided to provide for the return of QMS species to the waters from which they were taken if the returns are monitored by an observer or on-board camera system. This will be given effect to by amending the Fisheries Act.

268. The catch reporting and balancing requirements under the QMS provide an incentive for fishers to catch only the fish they want and make the best use of fish caught. These incentives are supported by ensuring monitored returns of QMS fish are balanced with ACE (or incur deemed values).

269. Below we discuss how we propose to implement monitored returns and other proposed amendments to support effective operation of the landing and discard rules.

Monitored returns

Have your say on:

270. How to best give effect to Government's decision to provide for the return of QMS species to the waters from which they were taken if the returns are monitored by an observer or on-board camera system (referred to as "monitored returns") and counted against ACE.

Introduction

271. A longstanding requirement under the Fisheries Act is that commercial fishers must not return or abandon any QMS species to the sea or other waters from which they were taken, other than when specific exceptions or defences apply.

272. An effective QMS requires good information on fishing activity and catches (whether landed or returned) to inform catch balancing and fisheries management decisions. Without at-sea monitoring, the main way to ensure catch is accurately reported is the requirement to land most QMS species to licensed fish receivers (LFRs), with the reasons for commercial fishers to return QMS fish to the sea being tightly constrained.

Under the current landing exception provisions in section 72A of the Fisheries Act, the Minister may:

272.1. Permit the return of a stock or species if it has an acceptable likelihood of survival if returned in the manner specified; or

272.2. Permit the return of a stock or species if keeping it will either damage the rest of the catch taken by the fisher (for example, ammoniating species such as spiny dogfish) or the stock or species is damaged due to unavoidable circumstances (for example, disease or predation); or

272.3. Require the return of a stock or species if the return is for a biological, ecosystem, or fisheries management purpose and the stock or species has an acceptable likelihood of survival if returned in the manner specified (for example, the requirement to return rock lobster carrying eggs).

273. For QMS species that must be landed, commercial fishers have a defence available to them for returning fish to the sea if an observer is present who can authorise and supervise those returns. This gives fishers with observers on board more flexibility around what QMS species must be landed and allows them to return species that do not have a landing exception, while enabling verification of the species and volumes returned to sea.

What's the opportunity?

274. The Government has decided to enable monitored returns of QMS species. The proposals are focused on how to best give effect to this decision.

Proposal: Introduction and implementation of monitored returns

275. Providing for monitored returns is proposed to be introduced via a new exception provision, which is envisaged to operate in a similar way to the existing exception provisions under section 72A of the Fisheries Act. This provision would permit any QMS species to be returned to the waters from which they were taken if the returns are monitored by an observer or on-board camera system.[25]

276. Monitoring in this context would mean that:

276.1. an observer must be on board when the fish is taken and authorise and supervise the returns of fish, or

276.2. on-board cameras are recording footage of the setting, hauling, sorting, processing and returns of fish.

277. The new provision would be in addition to the three existing provisions (listed above), which would remain.

278. Fishery observer authorised returns are currently enabled by a defence under section 72(5)(c) of the Fisheries Act. We are proposing to remove "observers" from the defence, and instead provide for monitored returns (by observers or on-board cameras) as an exception provision.

279. We propose to implement the fishery observer and camera monitored return exceptions under the new provision via the Bill itself, which would be set in secondary legislation. That is, a commercial fisher would be able to return any QMS species if the returns are monitored by an observer or on-board camera system from the time an amended Fisheries Act comes into force.

[25] As regulated and operated by Fisheries New Zealand.

All returns (live and dead QMS fish) made under a monitored return exception would be required to be balanced with ACE or incur deemed values.

280. The QMS works, in part, by imposing a cost on the industry for fish mortality from commercial fishing. These costs encourage fishers to catch only the fish they want and make the best use of what they catch. For the incentives to work most effectively, fish mortality needs to be:

    280.1. reported accurately; and

    280.2. accounted for appropriately in the fisheries system and attributed to:

        280.2.1. individual fishers (through the annual catch balancing regime); or

        280.2.2. quota owners collectively (accounted for within the allowance for other sources of mortality from fishing as part of the catch limit for a stock).

281. Under a monitored return exception, both live and dead QMS fish could be returned. Both live and dead returns would be required to be reported and balanced with ACE or incur deemed values. This is necessary to maintain the appropriate incentives for fishers to accurately report catches, stay within available ACE and avoid unwanted catch, which would be undermined if different balancing requirements applied to live versus dead fish under monitored returns. Consistent with the current balancing requirement for observed authorised returns, we propose the balancing requirement be set in the Fisheries Act.

How will information integrity be managed?

282. To protect the integrity of the QMS, the proposed introduction of monitored returns relies on ensuring there are appropriate incentives to accurately report the return of QMS fish to the sea. Although, in general, the requirement to balance returns could incentivise misreporting to avoid costs, this risk is reduced with effective monitoring.

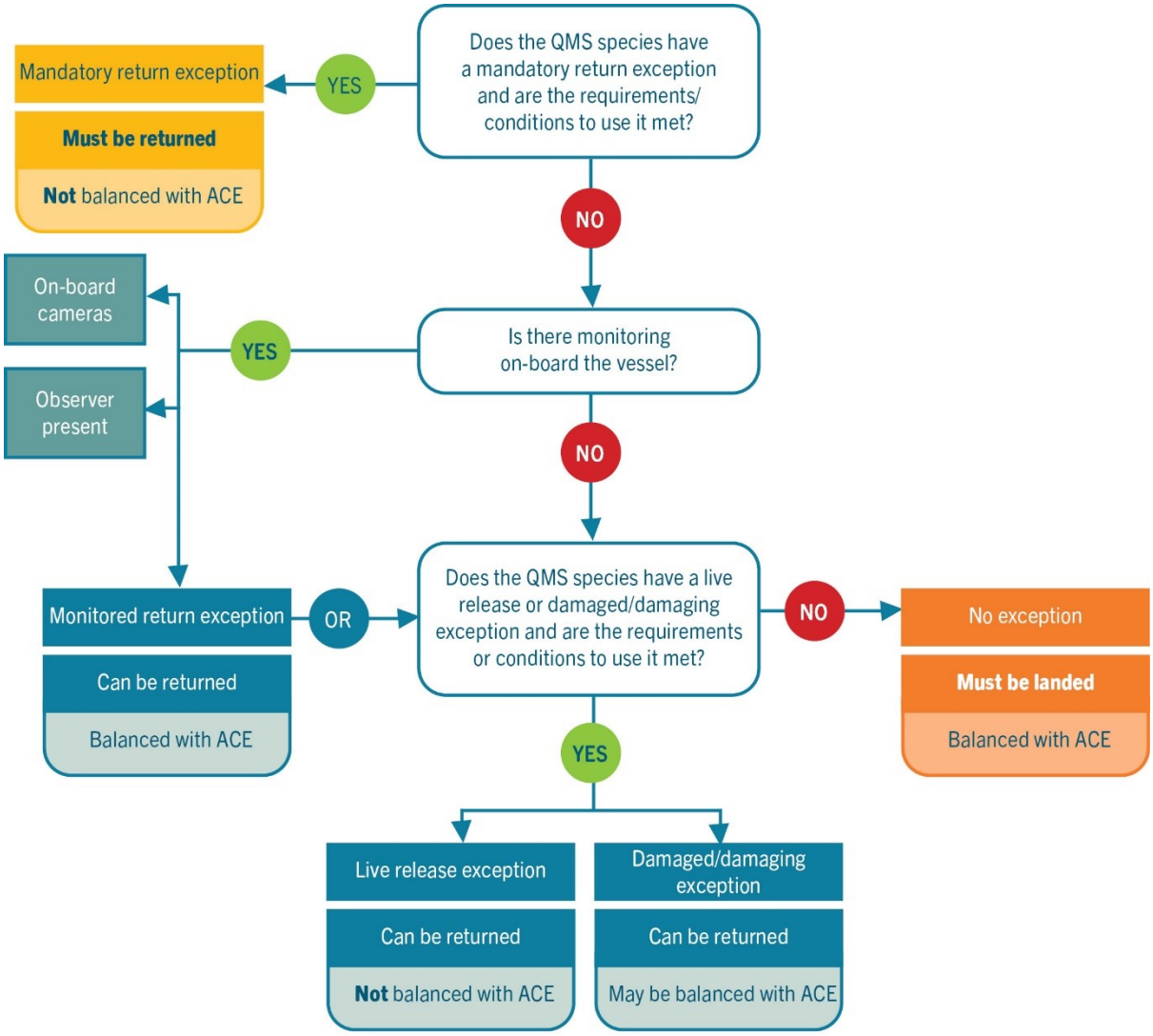
283. The requirement to balance monitored returns provides incentives to fish selectively and make the best use of what is caught, as the cost imposed will feed into operational decisions to ensure the economic viability of businesses. Where the cost of returning fish to sea and balancing with ACE is high, fishers are more likely to enhance their selectivity or find other opportunities to use unwanted fish rather than return more fish to sea.

284. Information on the use of observer authorised discards over the last five years shows only a small proportion of total catch (from events where an observer is present) is returned to the sea, with an average of 1-2 percent of total observed catches returned from deepwater and inshore/highly migratory species fleets.

285. Given the financial incentive to land fish that needs to be balanced with ACE, we expect that the use of monitored return exceptions would follow a similar trend.

286. Achieving appropriate verification is especially important when different balancing requirements apply to different exceptions for the same species, due to the increased risk of misreporting to avoid paying ACE for fish returned. Having multiple landing exceptions can also introduce reporting complexities for fishers by having multiple disposal codes for the same species and different conditions or requirements to meet (see Figure 5).

Figure 5: Determining whether a QMS species can be returned to the sea and the relevant landing exception when monitored return exceptions are introduced.



NOTE:
Where exceptions that permit, but do not require, QMS fish to be returned to the sea (indicated with green shapes) apply, fishers have the choice of returning the fish to the sea or landing it. All fish that is landed must be balanced with ACE.

287. If a mandatory return exception applies, all fishers, irrespective of whether there is monitoring on-board, must return the fish it applies to if conditions of the exception are met. For any other circumstances, fishers with monitoring on their vessel would have the ability to use monitored return exceptions (balanced with ACE), for any QMS species. They could also use any other type of exception that applies to the species (for example, one that doesn't require the returns to be balanced with ACE), if the relevant conditions are met (where applicable). Fishers without monitoring on their vessels would be able to use a live-release or damaged/damaging exception (as shown in the bottom of Figure 5) if the relevant conditions (if any) are met.

288. Monitored return exceptions would be able to be amended to support appropriate verification if necessary. For example, to specify operational procedures to ensure workability of the exception, such as handling practices for fish being returned or location where the return can take place that is in view of a camera.

289. To reduce verification and reporting complexities, we are proposing to remove some existing exceptions (see below). Alternatively, monitored return exceptions could be introduced only for QMS species that do not have another type of landing exception. For fishers with monitoring on their vessels, this would increase reporting complexities

as monitored returns would apply to only some QMS species, while other exception types apply to the remainder. This may provide less flexibility for some fishers with monitoring. We welcome stakeholder views on this.

Proposal: Reducing verification and reporting complexities

290. The introduction of monitored returns would come during a transition period following the Fisheries Amendment Act 2022, which tightened the commercial fishing rules for why QMS species must be landed, and when they may or must be discarded at sea.

291. As a result of these amendments, existing landing exceptions for approximately 26 QMS species (primarily finfish and sharks) must be reviewed to determine whether they should remain, be amended, or revoked. These reviews have been paused in light of the policy proposals in this paper.

292. To reduce verification and reporting complexities, we propose to remove some exceptions that require review and are considered as unlikely to meet the current relevant exception provisions, which require an acceptable likelihood of survival. These changes (set out below) would be implemented via the Bill.

293. We propose to remove the existing commercial minimum legal size (MLS) exceptions (under which returns are not required to be balance with ACE) for seven finfish species (see Table 1). For these species, post-release survival from their primary harvest methods is unlikely and return volumes are generally low.

Table 1: Commercial MLS landing exceptions to be revoked for all fishing methods	
Blue moki	Sand flounder
Butterfish	Tarakihi
Flatfishes	Trevally
Red cod	

294. Fishers with monitoring on their vessels (observers or cameras) would instead be able to return the species in Table 1 (balanced with ACE) without limitation around size under the new proposed monitored returns exception or land them. Fishers that don't have monitoring on their vessels would be required to land these species.

295. We propose to remove the commercial MLS and live release exceptions for eleven QMS species (see Table 2) when caught by trawl (all types), Danish seine and set net. Research indicates that most QMS finfish and shark species are unlikely to survive when caught and returned by these methods.

Table 2: Landing exceptions to be revoked for trawl, Danish seine and set net			
Commercial MLS	**Live release**		
Blue cod	Southern bluefin tuna	Mako shark	Rough skate
Snapper	Swordfish	Porbeagle shark	Smooth skate
	Blue shark	Rig	School shark

296. For the species in Table 2, the current landing exceptions would be amended and continue to be available to fishers using methods other than trawl, Danish seine, or set net, until reviewed. Those fishers would be able to (or must in the case of MLS) continue returning these species if they meet the conditions or requirements of the exception, without the need to balance the returns with ACE. All fishers with monitoring

on their vessels (irrespective of method used) would be able to return these species without limitation around life status or size (or land them), but they would have to balance them with ACE.

297. We also propose to remove the live release landing exception for Patagonian toothfish (irrespective of method caught). There have been no returns of this species since its introduction to the QMS in 2010. The exception was provided to support previous research, which could be addressed via special permit if needed in the future. Otherwise, it could be returned under the new proposed monitored return exception.

298. These changes would reduce reporting complexities for fishers as monitored returns will apply to all QMS species, and only a limited number of species would have other types of exceptions. Fishers with monitoring on their vessel would have greater flexibility immediately when the amendments to the Fisheries Act take effect.

Adjust the associated allowances within the catch limit for each stock for species if the MLS and live release exceptions are removed

299. Under current exceptions, mortality associated with returns is estimated and generally accounted for within the catch limit in the allowance for other sources of mortality from fishing (OSFRM).

300. For stocks where an MLS or live-release exception is removed, it is proposed that the settings are adjusted via the Bill to reflect that the mortality associated with those current returns will now be accounted for against ACE (i.e., the commercial catch limit) instead of the OSFRM allowance. This is because:

    300.1. mortality associated with the returned fish will already be accounted for within the catch limit. Not removing it from the OSFRM would result in double counting of this mortality; and

    300.2. removing the estimated mortality from the OSFRM, but not reallocating to the commercial catch limit, would effectively be a catch limit decrease with no associated rationale.

301. We propose to base the proportion to be reallocated from an OSFRM to the commercial catch limit for each stock on relevant reported returns, and the estimated proportion of those returns that is unlikely to survive, informed by research on survivability.[26]

302. For stocks where no allowance for OSFRM is set or the allowance is negligible relative to likely mortality we propose no adjustments are made. We note the mortality associated with these returns has not previously been accounted for within the OSFRM. Due consideration would be given to the appropriateness of the catch limit, OSFRM and commercial catch limit when sustainability measures for those stocks are next reviewed.

303. Details of the proposed commercial catch limit and OSFRM adjustments to associated stocks if the MLS and live release exceptions are removed are available on the MPI website in supplementary material.

[26] McKenzie, J.R.; Underwood, M.J.; Jones, E.G.; Jordan, L.; Bian, R. (2024). Estimation of finfish release survival from New Zealand inshore commercial fisheries. New Zealand Fisheries Assessment. Report 2024/09. 180 p. https://fs.fish.govt.nz/Doc/25599/FAR-2024-09-Estimation-Of-Release-Survival-for-Inshore-Finfish-From-Commercial-Fisheries-4459.pdf.ashx

Monitoring, evaluation, and review

304. The use of landing exceptions would be monitored by Fisheries New Zealand to inform fisheries management, including stock monitoring and management settings, and compliance with reporting requirements.

305. Reviews of monitored returns for specific species or stocks may be proposed if monitoring indicates information integrity may be compromised. For example, if there is a need for a higher degree of confidence in the accuracy of fisher-reported data for a particular stock because of sustainability concerns.

306. Regular engagement with Iwi Fisheries Forums and stakeholders will provide an opportunity for questions to be asked about the exceptions provided under the new monitored return provision and assess any concerns that are raised.

Consultation questions on implementing monitored returns

- Do you support the proposed implementation approach for monitored returns? Why or why not?
- Do you agree with the proposed approach to reduce verification and reporting complexities by removing some current landing exceptions? Is there another approach we should consider?
- What do you see are the costs and benefits of monitored returns?
- For commercial fishers, what costs do you have under the current landing and discard rules and how would those costs change with the introduction of monitored returns?
- What benefits, impacts, or issues that have not been identified do you consider important?
- Do you have any additional comments or suggestions?

Other proposed amendments to the landing and discard rules

Simplify the implementation process for review of the commercial finfish minimum legal size (MLS) exceptions

307. Notwithstanding the proposals to remove and adjust commercial finfish MLS outlined above, we propose to move the finfish MLS regulations that require review from the Fisheries (Commercial Fishing) Regulations 2001 to Part 2 of the Fisheries (Landing and Discard Exceptions) Notice. This is a technical amendment that would simplify the legislative implementation process after the Minister makes decisions on whether or not to keep an MLS exception.

Amend the defence for commercial fishers where a fishery officer can authorise and supervise the return or abandon QMS fish

308. Commercial fishers must not return or abandon any QMS species to the sea or other waters from which they were taken unless there is an exception. A defence to this general requirement is that a commercial fisher may return or abandon QMS fish if a fishery officer was present when the fish, aquatic life, or seaweed was taken, and the return or abandonment is authorised and supervised by a fishery officer.[27]

309. Given fishery officers are rarely deployed on vessels, there is no clear rationale for the defence to require a fishery officer to be present at the time the fish was taken. The key requirement is that they should be present at the time of return so they can authorise, supervise, and verify the catch being returned or abandoned.

310. To make the defence more workable, we propose to remove the requirement that a fishery officer be present when the fish, aquatic life, or seaweed was taken. We do not propose changes to the other requirements of the defence.

Enable the Minister to provide for a landing exception to permit QMS fish to be deliberately released at depth using fishing gear or technologies that have little to no impact on fish survival

311. New technologies can allow fishers to be more selective and support the release of unwanted catch in the best condition possible resulting in a higher chance of survival.

312. For example, as noted in the 2021 report *The Future of Commercial Fishing in Aotearoa New Zealand* the combination of fishing gear, acoustic, and video technology could in future facilitate more selective fishing methods.[28] Advances in computer vision, Artificial Intelligence and machine learning have the potential to allow for the deliberate selection and underwater release of catch to take place at-depth, thereby reducing unwanted catch.

313. We propose to create the ability to enable fishers to use fishing gear or technology to deliberately release unwanted catch at depth. This is different to gear design, such as use of different mesh sizes or configurations, where fish can escape fishing gear without human interference.

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[27] The defence applies both to fishery officers and observers. However, as monitored returns would include returns monitored by observers, the defence will be amended to remove reference to "observer''.

[28] Gerrard, J. 2021. The Future of Commercial Fishing in Aotearoa New Zealand - Full Report. The Office of the Prime Minister's Chief Science Advisor. Report. https://www.pmcsa.ac.nz/files/2020/01/Fish-report-Full-report-11March21.pdf

314. We propose to add another exception provision to enable the Minister to permit the return or abandonment of QMS fish if released:

    314.1. at depth[29] in the waters from which they were taken (without their removal from those waters), and

    314.2. using fishing gear or technologies that have been shown as unlikely to, or have little, impact on their survival.

315. We propose such an exception would be fishery and/or gear or technology based and not require an assessment on a stock or species basis.

316. In considering the fishing gear or technologies that are likely to enable live release of fish at depth, with no or minimal impacts to their ongoing survival, we welcome feedback on any factors the Minister should have regard to. For example:

    316.1. characteristics of the fishing activity (e.g., fishing depth, event length);

    316.2. whether any non-conventional gear has been approved for use under the commercial fisheries regulations (e.g., Enabling Innovative Trawl Technologies); and

    316.3. evidence of gear design and use that minimises damage and stress to the fish.

Consultation questions on additional amendments to the landing and discard rules

- Do you support the technical amendment to simplify the implementation process for review of commercial finfish minimum legal size exceptions? Why or why not?
- Do you agree with the proposed amendment to the defence where a fishery officer can authorise and supervise the return or abandon QMS? Why or why not?
- Do you agree with the proposal to enable commercial fishers to use gear or technology to release fish at depth? Why or why not?
- What do you see are the costs and benefits of these proposed amendments to the landing and discard rules?
- Do you have any additional comments or suggestions?

[29] Refers to where the impacts of barotrauma and crushing are avoided or minimised. This is likely to be dependent on the capture method and/or fishery where the fishing gear or technology is used to deliberately release fish.