



Your fisheries – your say

Fisheries New Zealand Discussion Paper 2019/02

February 2019

OUR VISION

Abundant and sustainable fisheries, thriving communities, and a healthy marine environment for the benefit of all New Zealanders.



Fisheries New Zealand

Tini a Tangaroa

New Zealand Government

Join the conversation on proposals to reshape, improve and modernise New Zealand's fisheries management system.

Whatever your interest, you can play a part in ensuring New Zealand's fisheries are sustainable now and in the future.

We invite you to work with us to improve our fisheries management system.

This consultation document presents our proposed changes to policy settings and rules to ensure more efficient and sustainable commercial fishing.

If you are interested, make sure you have your say.

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Fisheries New Zealand Discussion Paper 2019/0x
ISSN No: 2624-0165 (online)
ISBN No: 978-1-98-857192-8 (online)
ISBN No: 978-1-98-857193-5 (print)

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How to use this consultation document

We want your views on our proposals to improve the management of New Zealand's commercial fisheries.

Finding your way around the document

An executive summary provides an overview of the full consultation document, including some background information, a summary of the proposals, next steps and how to have your say.

This summary is followed by the full consultation document that covers proposals to improve our fisheries management system, including improving incentives for good fishing practice by commercial fishers. The proposals are:

- amending the rules for commercial fishers that set out what fish must be brought back to port and what fish can be returned to the sea (also referred to as landings and discards);
- ensuring effective and fair offences and penalties;
- streamlining the decision-making process for setting catch limits;
- technical fisheries management changes.

What next?

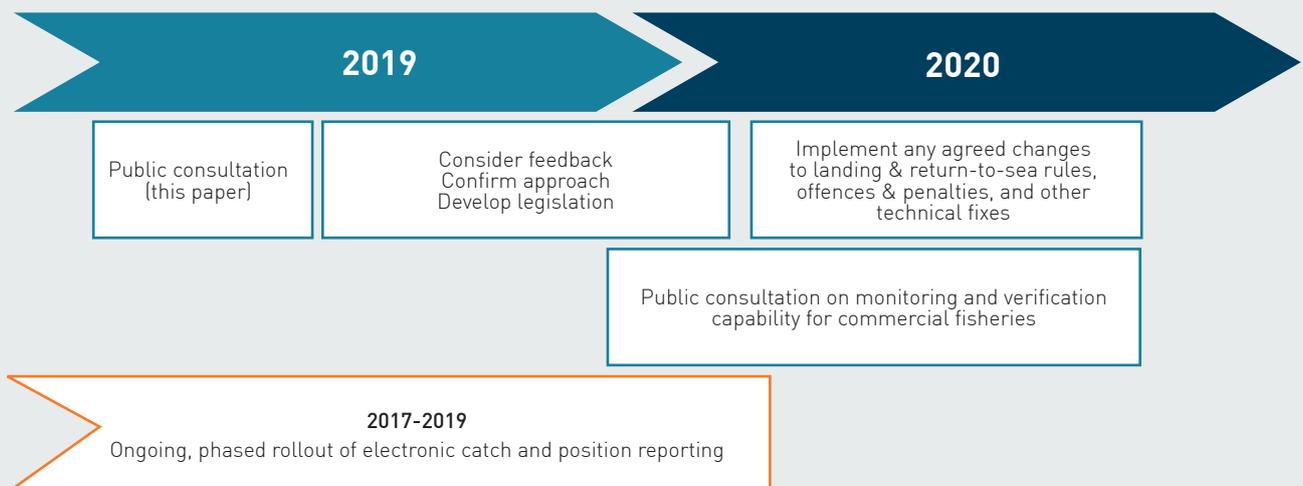
Your feedback will inform the next steps in this process, which includes developing and seeking approval for policy changes and any necessary legislative changes.

Once the policy settings have been considered and agreed in 2019, the next step will be to consider appropriate options to improve our monitoring and verification capabilities for commercial fisheries.

Is this consultation about on-board cameras?

No. This consultation is about getting the policy settings that underpin commercial fishing activities right. Once we have agreed on these we will come back to you to consult on options for an appropriate level of monitoring and verification of commercial fisher activities. We expect to do that later in 2019.

Figure 1: Proposed process and timelines for strengthening fisheries management



A message from the Minister of Fisheries

As Minister of Fisheries, my primary task is to make sure the Government meets its responsibilities as set out in legislation and to ensure our fisheries are healthy, resilient and managed sustainably so future generations have the privilege of enjoying them as we do.

I know this privilege well, hailing from the beautiful Hawke's Bay, historically one of our busiest inshore fisheries. The pleasure of casting a line off the beach or a trip in a tinnie with mates and every expectation of a decent catch, are all part of growing up in a community for whom fishing is a livelihood and part of life.

Fisheries, and the wider marine environment, are of great value to all New Zealanders and are taonga for tangata whenua in their role as kaitiaki and as customary, recreational and commercial fishers.

The sector generates over \$4.2 billion of economic activity, which includes around 16,000 jobs. It provides recreational activity for New Zealanders and tourists – about 700,000 people fish each year and spend around \$946 million on recreational fishing and related activities.

So, it is important our fisheries are well looked after.

This Government recognises that New Zealanders now expect more from our fisheries management system than it currently delivers.

It is my view that we must always be looking to improve how we manage our fisheries, to add value for those who fish the seas for a living, for those who enjoy the recreational opportunities afforded by the ocean's bounty, and for those who collect kaimoana for customary occasions and act as kaitiaki of our marine environment.

That is why we need to revisit the rules that determine how we manage our fisheries, and address the complexity that has built up over the years, with the aim to improve the quality and quantity of information that we rely on to care for our precious resource.

My vision is to have abundant and sustainable fisheries, thriving communities and a healthy marine environment for the benefit of all New Zealanders. This draws on the aspirations and goals for our fisheries that I have heard from the wide range of stakeholders and tangata whenua I have met with

since I became the Minister of Fisheries. Some of these goals include the greater use of technology, more innovation and improving sustainability.

To achieve this, change in the fisheries management system is required, to improve how it works now and into the future. We need a system that incentivises good practice commercial fishing, and builds trust and confidence. The fishing industry needs a system that is consistent and easy to understand, as well as responsive to changing variables like increasing or declining fish stocks. The management system must also align with our global brand around sustainability, innovation, and premium products.

Our rules must protect our marine resources, rare treasures and unique environments, which are important to all New Zealanders, including commercial fishers. I am aware of the impact that some of these proposed changes could have on the fishing industry and on individual fishers. However, I believe change is required and we would be remiss if we did not take this opportunity.

This consultation is an important step in this process.

Every New Zealander has a stake in, and a responsibility to care for, our marine ecosystems. No matter what your interest is, you can play a part in ensuring the sustainability and abundance of our marine environment. It is important that we hear your views on what these changes may mean for you, how you fish and your livelihood.

Share your views to help us get these changes right.

Thank you for taking the time to read and consider the proposals discussed.

Kia ora rawa atu

Hon Stuart Nash
Minister of Fisheries



Executive summary

Our Vision

Abundant and sustainable fisheries, thriving communities, and a healthy marine environment for the benefit of all New Zealanders.

As a nation, we led the world in how to manage fisheries when we introduced the quota management system 30 years ago. This system still underpins how we manage our fisheries today. But advancements in technology, emerging innovation, and increasing consumer expectations for sustainable seafood are driving a need for change.

To achieve the vision of this Government, change to the fisheries management system is required to improve how it works now and into the future.

Some changes are already underway.

The next step in this programme of work is this consultation that will inform proposed changes to enhance sustainability and performance, and provide a platform to address the future challenges and opportunities that our fisheries face.

The proposals include:

- amending the rules for commercial fishers that set out what fish must be brought back to port and what fish can be returned to the sea;
- ensuring effective and fair offences and penalties;
- streamlining the decision-making process for setting catch limits;
- technical fisheries management changes.

Informed by your feedback on the proposals in this consultation document, a later stage will be to consider and consult on appropriate options to improve our monitoring and verification capabilities for commercial fisheries.

These proposed changes help set us up to explore a third step: an ecosystem-based approach to managing our marine environment, investing in innovation, and empowering local communities to have greater involvement in the decisions that affect them.

We welcome your feedback on our proposals.

Your fisheries – your say.

Our fisheries system

Our fisheries management system is based on quota for commercial fishers, and allowances for recreational and customary fishers. When this was introduced it was seen as a bold and innovative system that set a new international standard for effective and efficient fisheries management.

Since then, there have been significant developments in technology, scientific understanding of fisheries and the wider marine environment, consumer expectations about sustainability, New Zealanders' understanding and expectations of the fisheries management system, and the development of our global brand.

While our system has not remained static since its introduction, changes have largely focused on single issues and have not always taken a broad view of the system and fisheries. This has left areas of inconsistency and complexity in the rules and means our system is not driving good fishing practice as effectively as it could. For example, unnecessary waste of fish and relatively low levels of investment in innovation.

A process of change has already begun

The establishment of Fisheries New Zealand is driving change in how we manage our fisheries. This renewed focus has allowed the government to reset its work programme, which aims to return significant benefits to the sector and New Zealand.

Fisheries New Zealand is striving to be more proactive and collaborative in its management approach to enable innovation across all aspects of fisheries management. For example:

- working alongside Ngāi Tahu, the Department of Conservation, and the Yellow-Eyed Penguin Trust on a broader management approach for the yellow-eyed penguin/hoiho recovery plan;
- working collaboratively with a wide range of stakeholders to develop the National Blue Cod Strategy.

Other improvements to the fisheries management system include the introduction of new electronic catch and position reporting for commercial fishers. This replaces the out-dated paper-based system for commercial fishers with near real-time information on where they fish and what they catch.

Electronic catch and position reporting is already in place for trawl vessels over 28 metres in length. The rollout across the rest of the fleet began in January 2019 and will be in place across the whole fleet by December 2019.

We have also introduced new rules to allow innovative trawl gear to be used. The first approval for a new type of deepwater gear was provided in 2018. This technology aims to allow fishers to catch more of the fish they want to catch, that are of higher quality, while avoiding other species.

Current proposals to ensure our system is incentivising good fishing practice

To achieve our vision we need better information and increased innovation in the management and use of good fishing practices.

The proposals presented in this consultation document are designed to encourage a culture change so that every fish is valued by all commercial fishers. This needs to be driven by clear and easily understood rules that incentivise fishers to find ways to more selectively target only the fish they want. And that requires them to be more accountable, maximise the value of their catch, report accurately, and verify what they catch.

We rely on information from fishers to make key decisions about the sustainability of our fisheries and minimise impacts on the marine environment. So, it is crucial that this information is as accurate as possible.

This is also important for providing assurances about the sustainability of our fisheries to New Zealanders, consumers and overseas markets.

This consultation document focuses on policy proposals to incentivise good commercial fishing practice. The proposals we are seeking your feedback on are:

Fisheries New Zealand

Our job is to sustainably manage our fisheries and their impact on the wider marine environment, to provide the greatest overall benefit to New Zealanders.

We set annual catch limits and monitor fishers to ensure they comply with the rules. We also design and monitor interventions to minimise the impact of fishing on the marine environment (including the seabed, sea birds and mammals, and fish species). This work is informed by an evidence base built from independent research that guides decisions for fisheries management.

1. Amending the commercial fishing rules that set out what fish must be brought back to port and what fish can be returned to the sea

The current rules are complex for fishers, open to interpretation, and can be difficult for fishers to comply with and for Fisheries New Zealand to monitor. These proposals aim to simplify the rules and better incentivise good fishing practice.

2. Ensuring an effective and fair offences and penalties regime

We need to ensure the offences and penalties regime reflects any proposed changes to the landings and return-to-sea rules, so they are fair and appropriate.

3. Streamlining the decision-making process for setting catch limits

Decisions on catch limits could be made more quickly, using the improved information from electronic reporting. This could be done in a way that better focuses on the long-term goals for fisheries. We would also like to look at how we might streamline management decisions to support catch limit adjustments (for example, measures such as closed areas, seasonal closures and gear restrictions).

4. Technical fisheries management changes

These changes, while technical and mostly minor in nature, are important to improve the functionality of the Fisheries Act 1996 and ensure it is fit for purpose. The proposed changes are:

- better estimating the other sources of fishing mortality;
- a range of technical fixes to the Fisheries Act 1996.

Your feedback will help inform possible policy and regulatory change

Your input into the proposed changes will help us get them right and ensure we are working to protect our fisheries and marine environment for future generations.

How to have your say

We want to hear your views on the proposals contained in this consultation document.

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

- Have a question? Look at our FAQs at www.fisheries.govt.nz/haveyoursay, or email the team at fisheries.review@mpi.govt.nz.
- Want to talk to us? We are holding meetings across New Zealand. See our full schedule at www.fisheries.govt.nz/haveyoursay.
- Want to have your say? Make a submission online at www.fisheries.govt.nz/haveyoursay, email a submission to fisheries.review@mpi.govt.nz, or send your submission to:

Fisheries Change Programme
Fisheries New Zealand
P O Box 2526
Wellington 6011

In your submission, please include:

- your name, or organisation name;
- your email, or postal address.

Consultation will run from 4 February 2019 to 17 March 2019.

We look forward to hearing from you.

Please note that your submission is public information. Submissions may be the subject of requests for information under the Official Information Act 1982. The Act specifies that information is to be made available to requesters unless there are sufficient grounds for withholding it, as set out in the Act. If you have specific reasons for wanting to have your submission or personal details withheld, please set out your reasons in the submission. Fisheries New Zealand will consider those reasons when making any assessment for the release of submissions if requested under the Act.



Proposals to ensure our system is incentivising good fishing practice by commercial fishers



Amending the rules for commercial fishers that set out what fish must be brought back to port and what fish can be returned to the sea

Have your say on:

- A review of the rules for landings (fish brought to port) and returns (fish that can be returned to the sea) from commercial catch.

The goal of this review is to encourage good practice and innovation in commercial fisheries by having rules that are clear, easy to comply with and set the right incentives.

The options are:

- **Option 1:** Tighten the rules for returning fish to the sea. This option tightly limits the fish that can be returned to the sea, as well as allowing live returns under specified conditions.
- **Option 2:** Increase the flexibility around the fish that can be returned to the sea. This option allows for dead fish to be returned to the sea based on biological and economic grounds, as well as allowing live returns under specified conditions.
- **Option 3:** Retain current rules (status quo). This option makes no change to the current rules for landing and returning fish.

Introduction

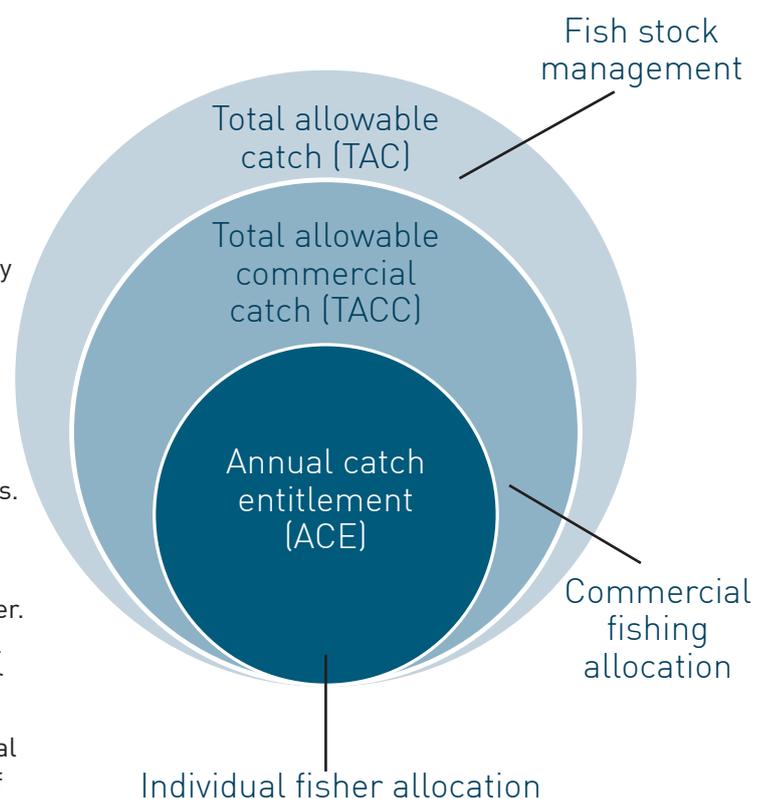
Fisheries New Zealand requires accurate information on fishing activity to ensure fisheries resources are managed sustainably. In particular, we need good information on the total levels of fishing effort and total removals of target and non-target species from fisheries, so that robust decisions can be made on setting catch limits and we can monitor the catch of individual fishers.

In commercial fisheries, some independent information is obtained by fisheries observers, but in many fisheries most information on fishing effort and catch comes from self-reported catch by individual fishers.

This information combined with information gathered on biology of the fish, and fisheries-independent information (for example, trawl surveys and other research) is used in stock assessments that inform the setting of catch limits.

The quota management system (QMS) sets the relationship between total catch allowed from a fishery and the catch allowed by an individual fisher. The total allowable catch (TAC) is the main control for ensuring that a stock is fished sustainably over time. Within the TAC, allocations for each sector are set, with commercial fishing limited by the total allowable commercial catch (TACC). The activity of individual commercial fishers is controlled through

Figure 2: Relationship between TAC, TACC and ACE



an annual catch balancing regime to limit catch to within the TACC. This regime requires fishers to cover all their catch of quota species within annual catch entitlements (ACE), or pay a deemed value (a payment made for catch exceeding ACE).¹

The rules controlling the landing and returns of fish to the sea play a major role in determining the quality of catch information Fisheries New Zealand receives from commercial fishers.

Current rules for landings and returns to the sea

A commercial fisher's catch is either landed (brought to shore) or returned to the sea. Currently, there are a range of rules that determine what parts of a commercial fisher's catch have to be landed and what parts can be, or in some cases must be, returned to the sea. However, the rules are complex, open to interpretation and difficult to monitor.

The Fisheries Act 1996 (the Act) generally prohibits commercial fishers from returning to the sea any fish that are managed under the QMS. But there are some defined exceptions. They include the following:

- For the 19 species that have a minimum legal size (MLS), all undersize fish must be returned and reported, whether they are alive or dead.² They are not counted against ACE.
- Some fish can be returned if they are alive or likely to survive. These species, and their conditions for release, are listed in Schedule 6 of the Act. They must be reported, but in most cases are not counted against ACE.
- Similarly, Schedule 6 lists a small number of QMS fish that can be returned dead. These include some shark species (for example, blue shark, spiny dogfish, porbeagle shark, and mako shark). They must be reported and are counted against ACE.

The rules were designed with the intent that all commercially caught fish are recorded and, in the case of QMS species, correctly counted against a fisher's ACE (or covered by a deemed value payment). The underlying incentive is to encourage fishers to find ways to catch only the fish that they want so that they fish within the ACE they hold, while allowing fish that are proven to survive to be returned to the sea.

¹ Annual catch entitlement (ACE) is an entitlement to harvest a quantity of fish, aquatic life, seaweed or other stock, taken in accordance with a fishing permit and any conditions and limitations imposed by or under the Fisheries Act 1996. Deemed values are the payment commercial fishers must make to the Crown when they do not have ACE to cover what they catch.

² QMS species that have an MLS are listed in the Fisheries (Commercial Fishing) Regulations 2001.

Anyone breaking the existing rules faces a significant penalty due to the historically low likelihood of being caught.

What's the issue?

The rules that determine which fish are landed and which are returned to the sea need to be practical and clear. Currently, some of the rules are inconsistent, open to interpretation and hard to comply with:

- **Inconsistent:** the rules for which fish can be returned to the sea have developed over time, and in some cases there is no clear rationale for why some fish or size of fish can be returned but not others. For example, snapper has an MLS but red gurnard does not. Both are highly desired commercial species and often caught together.
- **Open to interpretation:** some of the species listed in Schedule 6 can be returned to the sea if they are likely to survive. However, there is no clear guidance on when a fish is likely to survive and assessment is somewhat subjective.³ A fish may appear healthy but may be unlikely to survive if it has spent significant time trapped in the end of a net or it has come up from depth.
- **Hard to comply with:** the rules can be, in parts, unclear and hard to understand. This contributes to catch not being correctly or accurately reported.

Proposed options

We have three options for you to consider:

- **Option 1:** Tighten the rules for returning fish to the sea. This would tightly constrain returns to the sea and result in the removal of commercial MLSs for finfish.
- **Option 2:** Increase the flexibility around fish being returned to the sea. This would mean increasing the range of fish that could be returned to the sea.
- **Option 3:** Retain the current rules for what is landed and what is returned to the sea.

The key difference between these three options is the strength of the incentives to change fishing practices and to find value. Option 1 provides the strongest incentive to drive this change because it would require fishers to actively avoid catching fish that are of lower value, (for example, small fish), but the impact and practicality of this would need to be carefully considered.

³ Schedule 6 in The Fisheries Act 1996 lists the stocks that may be returned to the sea and the conditions for their release.

Discussion of options

The following options take a system-wide approach to how our fisheries management rules operate together to incentivise fishing behaviour.

To help you assess the options and structure your feedback, we have developed four objectives to measure success:

- be clear, practical and give fishers certainty about what is required of them when they are sorting and reporting catch;
- incentivise fishers to avoid unwanted catch (for example, small fish and low-value species) so we get the best value from our fisheries;
- future-focused and administratively efficient to maximise certainty for fishers and to be fit-for-purpose;
- improve the sustainability of our fishing environment by encouraging positive changes in fishing practices and enhancements to management practices.

Option 1: Tighten the rules for returning fish to the sea

Objectives	Rating	Our assessment
Clear and practical for fishers	HIGH	Rules would be transparent and consistent across species.
Incentives to reduce unwanted catch	HIGH	Rules would incentivise fishers to maximise the value for their landed catch and minimise unwanted catch.
Future-focused and efficient	HIGH	Rules are easily understood and administratively efficient.
Improves sustainability	HIGH	Rules encourage innovative fishing methods.

Key features of Option 1

Option 1 is intended to simplify, strengthen and align the incentives for good fishing practices for commercial fishers. It does this by removing the inconsistencies between fish species and shifting the settings to require commercial fishers to return more of their catch to port (maximising the use of the fish caught – fewer dead fish are allowed to be returned to the sea), and allowing live healthy fish to be returned to the sea when they have a good chance of survival.

The major changes are:

- Removal of all commercial MLSs for finfish.

- Use of Schedule 6 would be reviewed and limited to only those fish that have either no or negative economic value (for example, ammoniating sharks⁴), and catch would be covered by ACE. The review would be evidenced-based and seek to identify when fish are likely to survive and could be released (based on current scientific evidence, which could include consideration of capture method and depth, how the fish have been handled, etc).

A key consideration for this option would be how to transition from our existing settings to the proposed rules. In many inshore fish stocks this would likely require new and more frequent stock assessment to ensure the TAC is set appropriately.

Under this option more small fish would be returned to shore. Fisheries New Zealand would need to assess how best to monitor how the industry performs in this area. This option would create a cost to the commercial fishers to either minimise unintended catch, innovate, or maximise the value from those fish and increased monitoring costs. This would be a key incentive shift, the difference is:

- Option 1: small finfish that are dead must be landed unless they are notified under the revised Schedule 6.
- Option 3 (status quo): small finfish below an MLS must be returned to the sea if dead or alive.

Option 2: Increase the flexibility around fish being returned to the sea

Objectives	Rating	Our assessment
Clear and practical for fishers	MEDIUM	Rules would be transparent but possibly subject to regular change, which could increase complexity.
Incentives to reduce unwanted catch	LOW	Use of MLSs and Schedule 6 could increase if the economic value is low or the species are uneconomic to catch.
Future-focused and efficient	LOW	Rules will change, regularly increasing the administrative costs and creating greater uncertainty for fishers.
Improves sustainability	MEDIUM	Incentives for innovation is low, more fish will be returned to the sea dead or alive.

⁴ Ammoniating sharks are those species that spoil very quickly after they are caught and contaminate other fish in the hold.

Key features of Option 2

Option 2 is intended to maximise the value of the catch through increased flexibility for commercial fishers to return fish to the sea. Under this option, the use of MLS would be retained for existing finfish and extended to new finfish species. In determining the MLS for each species, consideration would be given to both the biological and economic value of the fish catch. This approach will require a regular assessment and adjustment to ensure optimal MLS sizes are used, otherwise the value of the fish landed would be suboptimal.

The major changes are:

- Use of MLS would be reviewed and likely extended for new finfish species. The review would be evidence based, where the size of the fish released would be based on the market value and biological evidence (health of the fish stock).
- Use of Schedule 6 would be reviewed and likely extended to those fish that have lower economic value relative to the other fish caught (this would mainly impact inshore shared fisheries).

This option would have a low initial cost to the industry, however, the higher flexibility and complexity would require the greatest level of monitoring to ensure the fish being returned to the sea would be the correct species and size. The other element to consider would be the need for a higher level and extent of research, to ensure the fish stocks remain healthy.

Option 3:

Retain current rules (status quo)

Objectives	Rating	Our assessment
Clear and practical for fishers	MEDIUM	Inconsistency by fish stocks and incentives to innovate remain unchanged.
Incentives to reduce unwanted catch	LOW – MEDIUM	System is designed to manage unwanted catch (for example, importance of deemed values).
Future-focused and efficient	LOW	Administrative costs and fisher uncertainty will remain.
Improves sustainability	MEDIUM	Incentives for innovation are low, implementing sustainability changes can be slow and complex.

Key features of Option 3

Option 3 represents the current system. The landing and discarding rules would remain unchanged. The only immediate changes that would impact fishers' behaviour would be better information on total catch, which would be used to support sustainable catch limits (from the introduction of electronic catch and position reporting).

Fisheries New Zealand also notes that current legislative and regulatory requirements for dealing with dead rock lobster are inconsistent, and we need to clarify how predated or other dead rock lobster are reported. Regulation 42(1)(a) of the Fisheries (Commercial Fishing) Regulations 2001 prohibits commercial fishers' landing dead lobster, while the Fisheries Act 1996 (the Act) prohibits the discarding of dead lobster. We propose to revoke regulation 42(1)(a) so that the landing requirements are dealt with solely in the Act, or by exemption in Schedule 6 or its replacement.

Ensuring we have appropriate monitoring and verification capabilities

Once the policy settings have been considered and agreed in 2019, the next step will be to develop appropriate options to improve our monitoring and verification capabilities for commercial fisheries. All options would benefit from an enhanced monitoring and verification investment to ensure the integrity of the fisheries management system is at least maintained, or even enhanced to support greater value from markets. Any possible changes would be consulted on later in 2019.

Summary of options

The following table summarises the landings and return-to-the-sea options.

Option 1: Tighten the rules for returning fish to the sea

Our assessment against the objectives:

Clear and practical for fishers:	HIGH
Incentives to reduce unwanted catch:	HIGH
Future-focused and efficient:	HIGH
Improves sustainability:	HIGH

Release of live fish:

- There will be stricter consideration of which live fish are able to be returned to the sea, for example when they have a good chance of survival, which may result in a reduced scope/use of Schedule 6 for some species.

Minimum legal size (MLS):

- Removal of MLS for finfish, but MLSs retained for shellfish, eels, and crustacean species.
- This measure, combined with a reduced scope/use of Schedule 6, would incentivise commercial fishers to adopt fishing practices to minimise their catch of small and unwanted fish.

Return of dead fish:

- Fish in the QMS allowed to be returned to the sea dead under very limited circumstances. For example, ammoniating sharks.
- Fishers would be required to report and count their catch against ACE.

Merits

- Clear rules based on strong scientific evidence.
- Fewer dead sub-MLS fish returned to the sea.
- Reduced opportunities to high grade, especially if MLS removed (high-grading is the decision by fishers to discard fish of low value, which then allows them to land more valuable fish).
- Incentivises innovation as fishers will have to land most fish caught, particularly in inshore mixed-species fisheries.
- Better reporting of fish returned or landed, improving information about catch to inform sustainability of fish stocks.
- A simplified monitoring capability is required (to cover fish returned to the sea).

Disadvantages

- Potential for some more small, low economic value fish in the market.
- Costs to industry while fishers transition to the new rules.
- Increased pressure on reporting, which would require increases in monitoring capabilities and scope (to ensure fishers are following the rules).

Option 2: Increase the flexibility of fish returned to the sea

Our assessment against the objectives:

Clear and practical for fishers:	HIGH
Incentives to reduce unwanted catch:	HIGH
Future-focused and efficient:	HIGH
Improves sustainability:	HIGH

Release of live fish:

- This option will provide potentially greater flexibility in the use of Schedule 6 to release live fish.
- Any increased flexibility in the use of Schedule 6 is supported by evidence that live and healthy fish are more likely to survive and aid the sustainability of fish stocks.
- This option would enable fishers to return more fish to the sea from their catch.

Minimum legal size (MLS):

- Potential for an MLS to be set for a wider range of species than currently, including finfish, and that would be based on economic grounds (for example, value of fish).
- This would result in more fish being returned to the sea.

Return of dead fish:

- Continue to allow, but under very limited circumstances, the return of dead fish to the sea for certain species (listed in Schedule 6. For example, sharks, which have economic value).
- Fishers would be required to report and count their catch against ACE.
- All returns are reported. If species are returned to the sea, they are counted against ACE.

Merits

- Low initial cost to industry.
- Increased value from ACE as greater fish are returned to the sea (there is an increase in the number of fish returned to the sea when based on economic grounds).
- Few small fish in the market.

Disadvantages

- More dead fish in the sea than under current rules.
- Increased complexity of rules.
- Low incentive to innovate fishing practices.
- Increased pressure on reporting, which would require increases in monitoring capabilities and scope (to ensure fishers are following the rules).
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Option 3: Retain the current rules (status quo)

s:

MEDIUM

LOW

LOW

MEDIUM

Our assessment against the objectives:

Clear and practical for fishers: MEDIUM

Incentives to reduce unwanted catch: LOW-MEDIUM

Future-focused and efficient: LOW

Improves sustainability: MEDIUM

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and scope (to cover size and

Release of live fish:

- Fishers' incentives are mixed, with a limited scope for returning live fish to the sea as defined in Schedule 6. These are reported, but not covered by ACE (except for spiny dogfish).

Minimum legal size (MLS):

- Fishers are required to return and report all sub-MLS fish (dead or alive to the sea), but do not count them against ACE.

Return of dead fish:

- Some QMS species may be returned to the sea dead or near-dead if in Schedule 6 (for example, spiny dogfish, blue shark, mako shark, and porbeagle shark). They are reported and counted against ACE.
- Any fish not in the QMS may be returned to the sea, but it needs to be reported.

Merits

- Familiar and has low cost to industry.
- No change in amount of small fish in the market.

Disadvantages

- Provides few incentives to innovate to reduce catch of small and unwanted fish.
- Inconsistency of rules between species remains.

Fishing for change: Case studies of innovation

One of the goals of the proposals we are consulting on is to increase the incentives for good fishing practices. Such change will require innovation in how fish are harvested, some of which is already occurring. Below are two case studies of recent innovations to trawl nets that aim to improve the value of fish that is caught.

Recent innovations in harvesting fish are focused on what is caught (for example, selectivity) and the state the fish are in when they are caught (for example, quality and survivability). Under the precision seafood harvesting programme, new trawl technology has recently been approved for the deepwater hoki, hake and ling fisheries.

Precision seafood harvesting (PSH) programme

PSH is a 7-year programme started in 2012 between government and industry partners. It aims, through the use of innovative trawl technology, to assist fishing vessels to target specific species and sizes of fish, and enable crews to bring the fish on board in better condition. This can improve the value of a catch and the sustainability of New Zealand's fisheries.

In June 2018, Fisheries New Zealand approved the use of new innovative trawl technology for commercial operations in some deepwater fisheries – the PSH modular harvest system (MHS). This was the first technology to be approved under new regulations introduced in 2017, which support innovation in trawl gear to achieve better quality of catch, add value, and ensure sustainable use.

The MHS trawl net performs better than traditional mesh trawl nets in a number of areas, including delivering better quality fish, achieving better size-selection for hoki and ling, and increasing catch rates (hoki by weight per nautical mile trawled), which may reduce impacts on the seabed.

“Back-of-the-boat” innovation in New Zealand's inshore fisheries

Two Hawke Bay commercial fishers have developed unique trawl gear with the aim of reducing catches of small and unwanted fish.

Karl Warr has developed a metal cage that is fitted to the end of his trawl gear. The cage-style cod-end has smooth stainless steel apertures that maintain their shape during the trawl, so small fish can be released and mature fish are retained. The screens can be further modified to target certain size ranges of different species. The structure also allows for a lower water pressure within the cage, which helps keep the retained fish in better condition.

Rick Burch has integrated light weight rope in his trawl gear. When combined with a variety of larger mesh sizes and orientations he found it reduced his catch of small fish, such as gurnard.

Experiments to date have shown that both approaches have the potential to reduce the amount of small fish in their catch, while improving catch of target species and sizes.

Consultation questions:

1. We have identified the following objectives for our landings and returns policy:
 - clear and practical rules for fishers;
 - incentives to reduce unwanted catch;
 - future-focused and efficient;
 - improves sustainability.

Which of the proposed options do you think best meets these objectives? Why?

2. Are there any other options that should be considered when thinking about commercial landings and returns to the sea?
3. Are there any other objectives you think should be included? Why?

4. Our proposed options include the use of:
 - minimum legal sizes (MLSs) for commercial fisheries);
 - Schedule 6 of the Fisheries Act 1996.

What do you think is the best way to set these rules in a way that encourages good fishing practice?

5. Any changes to the existing rules could have an impact on the way in which fish are disposed of and received, and in the profile of catch landed. What opportunities and challenges would you see under each of the proposed options for changing the existing rules?
6. Do you have any further comments?

Ensuring effective and fair offences and penalties

Have your say on:

- The introduction of a number of new criminal offences focused on the level of offending behaviour, including the introduction of infringement offences.
- The introduction of a defence for illegal returns to prevent the capture of protected species.
- The removal of the defence of fisheries officer or observer authorisations for returning fish to the sea.

Introduction

Maintaining a level playing field for commercial fishers, where everyone follows the rules, is important to protecting the integrity of our fisheries management system. This is a key priority for Fisheries New Zealand.

The Fisheries Act 1996 (the Act) has a general prohibition on returning fish to the sea. This means returning most fish to the sea is illegal. However, there are some circumstances where returning fish to the sea is legal. For example, fish below minimum legal size (MLS) or as listed in schedule 6 of the Act. We are consulting on proposals to change these rules, which you can read about elsewhere in this consultation document (see page 8).

Our current offences and penalties regime is based on a low likelihood of detection. Therefore, it has significant penalties regardless of the level of offending.

Electronic catch and position reporting will provide richer information about which fish are caught and where. This information will provide Fisheries New Zealand with a more comprehensive picture about fishing activity, including illegal behaviour. We propose introducing a more comprehensive range of offences and penalties to ensure they are fair and appropriate and reflect any proposed changes to our fisheries rules – and our improving capability to detect non-compliance.

We also want to make changes to ensure that fishers are not unduly punished when they act to prevent interactions with protected species. We want to ensure our rules are clear and specific, and that fishers are allowed, and encouraged, to act to protect these species.

Introducing new criminal offences

What's the issue?

Our current offences and penalties regime does not allow us to effectively distinguish between different levels of offending behaviour. For example, a fisher that illegally discards 10 fish has committed the same offence as a fisher that illegally discards 1,000 fish.

As a result, both fishers can potentially be penalised with the same maximum penalty. This penalty is a fine of up to \$250,000 and automatic forfeiture of catch, gear and vessel.⁵ While the courts tailor the level of penalty to the particular offence, we do not think this broad offence is the best way to effectively deter illegal behaviour and ensure fair results.

Proposed option

We propose keeping the general prohibition on returning fish to the sea.

If a commercial fisher breaches the prohibition, by returning fish to the sea, and the returns do not fall under any of the circumstances where this is legal, the fisher will have committed an offence.

We want to introduce a graduated offences structure that has a stronger focus on the level of offending. That is, the level of fish that are illegally discarded. This will allow us to tailor the range of penalties to the level of harm the offending has on the marine environment and integrity of our fisheries management system.

An example of a penalty structure could be:

- Breaching the rules in relation to fewer than 50 fish in a day illegally returned to the sea. This would be punishable by a penalty of up to \$10,000 but would not be eligible for forfeiture (for example, loss of boat or gear).

⁵ Fisheries Act 1996, sections 72, 252(3)(b) and 255C.

- Breaching the rules in relation to 50 or more fish in a day illegally returned to the sea. This would be punishable by a penalty of up to \$100,000 and the court would have the power to order property forfeiture.
- Breaching the rules for returning fish to the sea on two or more occasions within a three-year period. This would be punishable by a penalty of up to \$250,000 and would have an automatic property's forfeiture.

An alternative variation to graduating offences based on a measure, such as amount of fish in a day, is to use a points system. For example, this could be similar to the demerit points system used for driving offences. Once a fisher has accumulated enough points they get escalated up the offence scale.

We will assess potential structures based on feedback received.

Introducing infringement offences

Infringement offences are offences that do not result in a criminal offence. This means there is no criminal record for such offending and they are often penalised with a fine. Parking tickets are infringement offences.

What's the issue?

The Act does not allow us to use infringement offences for illegal behaviour that involves taking or possessing fish, which could include breaking the landings and return-to-sea rules.⁶

We think infringement offences are a useful tool to address offending that involves small amounts of fish. Infringement offences make it clear to all commercial fishers that any breach of the rules is unacceptable, while providing a reasonable and fair approach to correcting illegal behaviour.

Proposed option

We propose introducing infringement offences for low-level breaches of our commercial landing and return-to-sea rules. These offences could sit alongside and complement the criminal offences set out in the section above. To do this, the Act would need to be amended. The Act already allows for infringement offences for other offences, which can be penalised with fines up to \$3000.

Changes to defences for illegally returning fish to the sea

Currently there are defences available for commercial fishers relating to what they can return to the sea and in what circumstances. The defences include:

- returning parts of fish where legally caught fish have been processed on-board;
- return was necessary to ensure safety of vessel or people;
- return has been authorised by a fisheries officer or observer. This must be recorded and counted as part of a fisher's catch.

What's the issue?

We need to strike the right balance between holding individuals accountable for illegal behaviour and providing defences for unavoidable or positive returns to the sea. We think it is important that every defence has a clear and specific reason. We do not think there are circumstances where fisheries officers or observers need to authorise returns to the sea that are not already covered by other defences.

A case for returning fish to the sea

In 2017, a fisher released fish to preserve a pod of dolphins. While the fisher reported the catch against their annual catch entitlement, they were still liable for prosecution. The Ministry for Primary Industries made the decision not to prosecute.

What change are we proposing and why?

We would like to remove the defence for returns to the sea that are approved by a fisheries officer or observer. We think legitimate reasons for discarding are already covered by the other defences. Approval from a fisheries officer or observer could be viewed as potentially legitimising the returning of fish to the sea in circumstances that would otherwise be unlawful and does not incentivise good fishing practice.

We also want to introduce a new defence provision that allows fishers to lawfully return fish to the sea to save protected species. Fishers will have to report this catch, but it will not be counted as part of their annual catch entitlement.

This will give protected species a better chance of being released alive, while ensuring that those fish returned to the sea are still estimated and counted as part of the overall catch.

⁶ Fisheries Act 1996, section 297(1)(na).

Consultation questions:

7. Do you think new offences based on the quantity of fish illegally returned to the sea will support a more proportionate system? Why?
8. Do you have an alternate option for changing the offences and penalties regime (for example, using a demerits points system similar to driving offences)?
9. We think infringement offences are a useful tool to address offending that involves small amounts of fish. Do you agree or disagree?
10. If you agree, what amount of fish should have infringement offences, rather than criminal offences? For example, 10 fish.
11. We think a defence for returning fish to avoid the capture of protected species achieves the right balance between protection and catch accountability. What do you think?
12. We are proposing to remove the defence for returning fish if a fisheries officer or observer approves. Do you agree or do you think there are good reasons for retaining this defence?



Streamlining the decision-making process for setting catch limits

Have your say on:

- Streamlining the process for setting the total allowable catch for commercial fisheries by making greater use of harvest control rules.

Why are we doing this?

There is an opportunity to increase the responsiveness of our adjustments to catch limits, provide greater certainty to stakeholders about when and by how much catch limits are likely to change, and make good use of the improved information from electronic reporting.

Introduction

To protect the sustainability of New Zealand's fisheries, it is important that catches are maintained within set limits. Catch limits work to ensure a sustainable level of harvest, meaning we might allow only a fraction of a total fish stock to be caught, leaving the rest for the future.

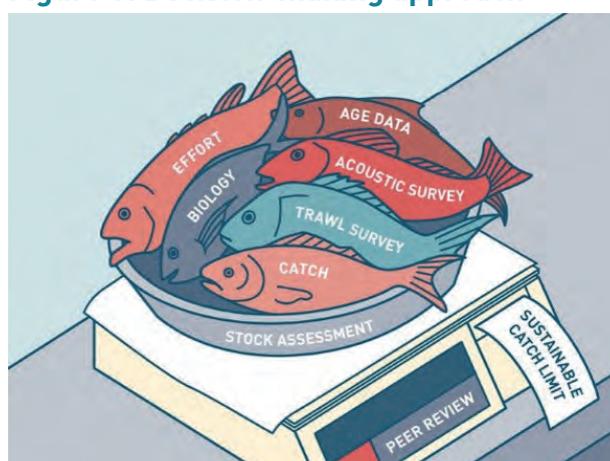
Adjusting a catch limit is one of the most important decisions we make to ensure the sustainability of our stock. This decision can impact those who fish for a living, recreationally, or for customary purposes. So it's vital that the decision, and any change to supporting management controls, is responsive, provides certainty to stakeholders, is transparent, and maintains the integrity of our science that underpins the decision.

Our current approach to setting catch limits

For catch limits to be effective at maintaining a sustainable harvest, they need to reflect the health and characteristics of the fish stock. Using scientific methods, we collect information from a number of sources, including catch reports from fishers, observers and, in some cases, undertaking surveys of fish stocks using research vessels. We also collect information on important biological and environmental factors, such as the size and age that a fish matures at.

This information is then collated and a best estimate of current and future abundance is made. This process is peer reviewed, to ensure that it meets a consistent and robust standard. This evidence-based approach is critical to the success of our fisheries management decisions. The more

Figure 3: Decision-making approach



information we have, the more we can understand about stock levels and therefore manage them appropriately.

The results of our science are compared against our benchmark for sustainability (the ideal size that the fishery should be).⁷ If a change is necessary, options for change are developed and, following a public consultation period, advice is provided to the Minister, who makes the final decision.

What's the issue?

Adjustments to catch limits can be infrequent. Out of a total of 165 stocks that we have good information on, Fisheries New Zealand has the capacity to adjust the catch limit for about 10 to 30 stocks annually.⁸ This variation depends largely on the availability of information and research resources to carry out assessments. We generally prioritise stocks where sustainability could be at risk, or large or

⁷ The setting of management targets and limits is guided by the Harvest Strategy Standard for New Zealand Fisheries, and must be consistent with a requirement in the Fisheries Act 1996 to maintain the stock at or above a level that will produce the maximum sustainable yield (BMSY). The Harvest Strategy Standard recommends a default soft limit of $\frac{1}{2}$ BMSY or 20% B₀ (virgin biomass), whichever is higher, and a default hard limit of $\frac{1}{4}$ BMSY or 10% B₀, whichever is higher.

⁸ There is currently a total of 642 fish stocks in the quota management system.

economically important stocks (for example, hoki – our largest fishery by volume, and rock lobster).

The process for how we use this information and come to a decision is robust, although lengthy and resource intensive. It can take a significant period to determine abundance, and then due to regulatory procedures, it can be a further year until a decision is made. This is one of the key constraints to the number of catch limits we can adjust each year.

These factors mean that our adjustments could lag behind the actual rate of change in abundance of the stock. The size of a fish stock can quickly fluctuate in response to fishing pressure as well as complex environmental conditions. Sustainability can be put at risk if we don't respond quickly enough when a stock is depleted, or wider fisheries can be impacted if a fish stock recovers quickly and becomes a by-catch issue for fishers targeting other species.

Proposed option: Using harvest control rules to more quickly respond to changes in our fisheries

Fisheries New Zealand proposes allowing for harvest control rules (HCRs), also known as decision rules, to adjust catch limits. HCRs are a pre-agreed set of responses to a change in the health of the stock, and work by translating our science into a recommended catch limit. We think their increased use should first be in our commercial fisheries.

Benchmark for sustainability

For most of our fisheries, we must maintain the size of the stock at or above a level that will ensure the greatest harvest over the long term, known as maximum sustainable yield (MSY). For example, when a fish stock is estimated to be below this benchmark, the catch limit would be lowered so that the stock moves back to or above a level that would support the MSY.

Why initially prioritise commercial fisheries?

We propose initially enabling HCRs to provide recommendations for the total allowable commercial catch (TACC) in fisheries that are mostly commercial. For example, deep-water fisheries such as orange roughy. This is because there are usually greater amounts of information available from these fisheries (from sources such as fisher catch reporting, observer sampling, and surveys) and limited competing demands of different sectors. This approach can then progressively be applied to our inshore shared fisheries as an appropriate body of information is built up.

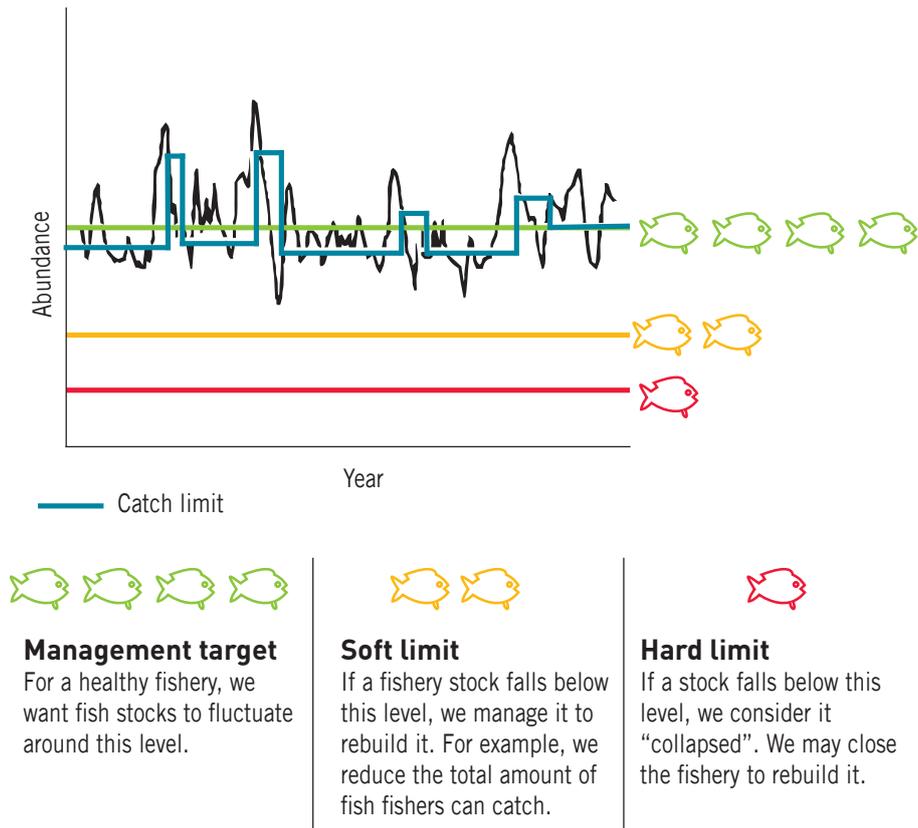
Management procedures and harvest control rules (HCRs)

Our proposed change is the key operational component in a broad package of tools that are used to manage fish stocks, known as management procedures. Management procedures use some of our existing tools and establish a feedback loop. They include:

- Management objectives, including a management target for a stock and the reference limits above which the stock needs to be maintained to ensure its long-term sustainability.
- The specific inputs into the HCRs, including the data and analyses used to determine the health of the stock.
- Performance measures, to determine the HCR that best meets objectives, and contingencies to follow if the management procedure is not performing as expected.
- An HCR that best meets these performance measures.

Management procedures use fishery indicators that, when selected correctly, reflect the health of the stock. An example would be measuring commercial catch rates. These methods are less resource intensive than undertaking stock assessments, but must be carefully selected and evaluated to ensure that they accurately reflect stock abundance. A full stock assessment would still be undertaken periodically to ensure that the indicators are accurate, but would be undertaken less often.

Figure 4: Example of maintaining fish stock within management target



How do you develop and operate an HCR?

Developing HCRs requires an extensive and transparent consultation process. This process would also include discussions on the accompanying management procedures (see box above).

Fisheries New Zealand would work with stakeholders and communities to determine appropriate objectives. For example, stakeholders may seek to maximise stability of catches over time, or maintain high abundance of the stock so that a diverse range of fish sizes are available. Setting the objectives is the important first step, as all other steps then focus on achieving these.

During the development of an HCR, specific consideration would also be given to managing environmental impacts. For example, as a consequence of an increase in catch limits, there may be a greater level of fishing effort.

An HCR would then be extensively tested, so that it successfully delivers its objectives.

Once agreed, an HCR can be used for up to five years, though it may be reviewed earlier if it is not meeting its objectives. With an HCR in place, the

process for adjusting the total allowable catch (TAC) would involve just three steps:

- Determining the value of the fishery indicator(s).
- Applying the HCR to determine whether, and to what extent, the TAC needs to be adjusted based on the value of the fishery indicator(s).
- A decision on adjusting the TAC, which could be preceded by a short public consultation process. Alternatively, it may be considered that consultation is not necessary for operational TAC changes based strictly on an agreed HCR, and that consultation be limited to the years when new assessments and revised management procedures or HCRs are developed.

An example of how an HCR might operate to maintain a fish stock within the management target and above limits is presented in Figure 4. Note that stock abundance (black line) and the TAC (blue line) are on different scales, with the TAC representing some fraction of stock abundance.

Benefits of HCRs

By strengthening our response to changes in the abundance of our stocks, we can better achieve our sustainability outcomes. HCRs provide two key advantages over our current response to changes in abundance: responsiveness, and greater certainty and transparency.

Responsiveness

Using HCRs could substantially speed up the process of changing catch limits. Extensive public consultation would take place during the development of the management procedure and HCR. This means the extent of public consultation for each change in catch limits could then be reduced, or potentially eliminated.

This would allow Fisheries New Zealand to act more regularly and efficiently to adjust catch limits to take advantage of short-term increases in abundance for a stock, or more quickly respond to a decline in abundance. This could potentially provide the opportunity to free up resources, which could be used to review more stocks more often and allow greater focus on key fisheries where sustainability could be at risk.

Greater certainty and transparency

Establishing a management procedure enables stakeholders to determine their objectives for a fishery, and the strategies to achieve these objectives. These objectives, and corresponding rules, would provide greater certainty to stakeholders about how and when Fisheries New Zealand will respond to changes in our fisheries. For example, there would be greater certainty that reduced catch limits would later be matched with an increase when the stock improves. This approach provides the New Zealand public with the assurance that if change occurs in selected fish stocks, the appropriate actions can be taken quickly.

Maintaining the integrity of our decisions

We need to ensure that developing and operating an HCR will not affect the Minister's oversight and accountability of catch adjustments. We could achieve this by requiring each new HCR to be

approved by the Minister, and including provisions that enable the HCR to be suspended if it is not performing as expected or a stock has fallen below the soft limit. HCRs will need to uphold obligations under the Treaty Settlement. This includes acknowledging the special relationship of tangata whenua with important fishing grounds, and providing the opportunity for input and participation in sustainability decisions.

It is critical that any new framework for using HCRs continues to provide opportunities for Māori and stakeholders to engage in decision-making processes that could potentially affect their rights and interests. This engagement would be mainly focused on setting objectives when establishing the management procedure, rather than the more operational decision of adjusting the TACC.

Next steps

Fisheries New Zealand is considering a process to develop a management procedures standard for the use of HCRs in New Zealand fisheries. This standard will set out further details of how HCRs would be established, implemented and evaluated.

The Fisheries Act 1996 could be amended to better enable TACs to be adjusted using HCRs. The need for such a change will be assessed following feedback from stakeholders on the proposal to allow for HCRs to recommend changes to TACs.

Wider changes also being explored

Fisheries New Zealand is also examining how fisheries management controls are implemented when government intervention is required. In particular, a number of controls to support sustainability or provide for use are currently implemented using regulation (for example, bag limits).

Case study: Experience of using HCRs in New Zealand rock lobster fisheries

Management procedures that include HCRs are used in seven of New Zealand's rock lobster fisheries to guide the setting of TACCs each year. Each procedure is designed to ensure that stock abundance is moved to, or maintained at or above, the agreed management target level for that stock.

Monitoring programmes track agreed fishery indicators (commercial catch rates) and HCRs specify what action will be taken when the indicators change. A full scientific stock assessment of each stock is undertaken every four to five years. These assessments estimate the current status of the stock relative to the desired levels of abundance, and also review how the stock has responded to previous management controls, and whether it is working to achieve stakeholder objectives while meeting our legal obligations.

This approach has provided stakeholders with greater transparency and certainty about how catch limits will be changed each year. The CRA 8 (Southern) rock lobster fishery is the oldest example of formal management procedure use in New Zealand. This has been in place since 1997 and used to successfully rebuild the fishery from a depleted state, and has since maintained it above the agreed target level.

The regulatory process is not well suited to creating a management framework that can respond quickly and effectively to environmental, biological or use concerns. Regulatory change can take up to a year to implement, which is much slower than a TAC change, and is resource intensive for government and fishers.

There is no clear rationale for the division of instruments used for implementing management controls. We think that this process could be simplified by using Gazette notices rather than regulation changes. Instruments such as Gazette notices would provide a quicker response mechanism and are already used in a number of situations to specify management controls (for example, TACCs).

Fisheries New Zealand is considering the use of regulations to implement fisheries controls with a view to allowing a broader range of controls to be implemented by a final decision by the Minister of Fisheries through a Gazette notice. We are interested in views on specification of minimum legal sizes, method, area and season related controls via Gazette notice along with general comments on the initiative.

Consultation questions:

13. What advantages or disadvantages do you see in increasing the use of harvest control rules to adjust commercial catch limits? Why?
14. If we use harvest control rules for more fisheries, we consider they should be initially introduced in fisheries that have mostly commercial fishing. Please share your views on this approach.
15. Are there particular fisheries where harvest control rules should be introduced? Please specify.
16. A harvest control rule can shift the process for public consultation, with a greater focus on consultation to develop the long term objectives of a fishery and the development of the harvest control rule. As a result, public consultation for the TACC adjustment may be condensed. What advantages and disadvantages do you see in this change?

Exploring wider changes

17. Do you think the current processes effectively respond to the changes within a fishery?
18. Do you have any other comments about the timing and methods currently used in this process?



Technical fisheries management changes

Have your say on:

- Attributing other sources of fishing mortality to the sector that caused it.
- Allowing for improved monitoring and verification to view discarding and processing as well as fishing activity.
- Technical fixes to the Fisheries Act 1996.

Introduction

The technical changes proposed in this section are important to improve the functionality of the Fisheries Act 1996 (the Act), and ensure it is fit for purpose in light of other proposed changes. For example, potential changes to the landings and discards rules.

Better estimating other sources of fishing-related mortality

Better information on commercial catch from electronic catch and position reporting will allow Fisheries New Zealand to improve some of the existing fisheries management settings.

Setting the total allowable catch (TAC) for a fish stock includes an assessment of all catch that is landed and reported (commercial) or taken (customary and recreational) and all other deaths attributed to fishing.

The other deaths attributed to fishing is commonly referred to as “other sources of fishing-related mortality” (OSFM). OSFM includes illegal take, under-reporting, death of fish required to be returned to the sea, “ghost fishing” by lost gear and burst nets.

Fisheries New Zealand estimates OSFM using a variety of methods appropriate to each fisheries sector, using data derived from fisheries research and enforcement activities. This data is considered when the Minister of Fisheries sets and allocates the TAC for a fish stock.

What’s the issue?

Currently, OSFM is often not attributed to a particular fishing sector but instead is simply a portion of the TAC that cannot be harvested.

Fisheries New Zealand considers that all fishers should take responsibility for the costs of their fishing activity. Accounting for all fishing mortality in the system and, as far as possible, attributed to the fisher who caused it, should encourage

good fishing practices and incentivise fishers to maximise value and reduce waste.

Proposed option: Making better use of information

Introducing electronic catch and position reporting, alongside recent changes to how and what has to be reported by commercial fishing vessels, provides an opportunity to better estimate aspects of the OSFM caused by commercial fishers.

This proposal will make better use of the improved information from electronic reporting and ensure fishers are accountable for all the fish they catch. The proposed change, while minor, is part of the wider proposed changes to incentivise fishers to maximise value and reduce waste.

Fisheries New Zealand proposes to explicitly attribute the OSFM to the commercial sector when there is sufficient data. This will encourage the commercial sector to reduce unseen and unreported fish deaths through improved fishing practices (gear improvements, handling of fish when on board). If this can be achieved, then the portion of the TAC available for harvest for that sector may be increased to reflect the additional catch.

Illegal catch (such as, poaching) would not be attributed to an individual sector, rather it would be taken into account when setting the TAC.

Example: fish stock X

For example, for fish stock X, information suggests about 10 tonnes of fish caught commercially is under-reported within each fishing year. When setting the TAC, the Minister of Fisheries takes this estimate into account and allocates within the TAC an allowance for OSFM of 10 tonnes.

If information is obtained that shows that the amount of under-reporting by the commercial sector is significantly less than 10 tonnes, then the Minister could reduce the existing allowance for OSFM and commensurately increase the TACC.

Proposed option: Other Changes to the Fisheries Act 1996

We have identified other proposed changes to improve the functioning of the Fisheries Act 1996 (the Act). These are outlined below.

Amendment of powers relating to the installation and maintenance of equipment to observe fishing

The Act, at sections 113K(1)(n) and 297(1)(ca), allows for prescribing requirements or matters relating to the installation and maintenance of equipment (including electronic equipment) to observe fishing or transportation.

Fishing is defined as the activities related to catching, taking or harvesting of fish.

Fisheries New Zealand thinks this definition is too narrow and consider that it should also cover the wider activities related to fishing, such as:

- returning fish to the sea;
- processing fish;
- interactions with protected species.

Observing this wider activity will help ensure that the provisions are workable, in the event there is a later decision to use them.

Amendments to ensure continuity between the North and South Islands

When setting or varying a total allowable commercial catch (TACC), the Minister must allow for Māori, customary non-commercial fishing interests. In doing so, the Minister is required to take into account any Mātaitai reserves and area closures.

As currently drafted, this requirement refers only to North Island closures. We propose to extend it to South Island closures.

Proposed option: Removing redundant provisions from the Fisheries Act 1983

We propose to remove the redundant provisions from the Fisheries Act 1983 that have been replaced or are now dealt with in other legislation, and clarifying areas of uncertainty or gaps. For example, provisions on marine farming and spat catching permits, which are now dealt with under Part 9A of the Fisheries Act 1996 and the Resource Management Act 1991.

Consultation questions:

19. Do you have any comments on any of the technical changes we are proposing?

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