



Regulatory Impact Statement: Amendments to the Fisheries Act 1996

Decision sought	To agree proposals to amend the Fisheries Act 1996 and associated regulations
Agency responsible	Ministry for Primary Industries
Proposing Ministers	Minister for Oceans and Fisheries
Date finalised	23 July 2025

The proposed amendments to the Fisheries Act 1996 (the Act) and associated regulations will reduce unnecessary regulation and contribute to export growth by supporting commercial fishers to be more productive and efficient. The proposals will enable more responsive management of our fisheries. This means that fishers will be able to take advantage of increased utilisation opportunities and fisheries managers will be able to better ensure sustainability when risks arise.

Summary: Problem definition and options

What is the policy problem or opportunity?

New Zealand's fisheries are managed within sustainable limits and, as a result, wild capture harvest and export volumes are forecast to remain flat. Meeting the Government's commitment to lifting New Zealand's productivity and economic growth to increase opportunities and prosperity for all New Zealanders will be achieved primarily through improved productivity and efficiency.

Regulatory barriers are currently impeding the productivity and potential of the wild fisheries sector.

In recent years there has been a significant improvement in the quality of commercial fisher reported data with electronic catch and position reporting, and increased verification of this data via on-board cameras and fisheries observers. These improved data streams provide the opportunity to enable the development of more responsive approaches to the management of New Zealand's fisheries and improve productivity and efficiency.

A need for more responsive approaches to management

A catch limit sets the total quantity of each fish stock managed under the Quota Management System (QMS) that can be taken and is the key measure to enable use and to ensure sustainability. The current process for to set catch limits is prescriptive and resource intensive.

There are 350 QMS fish stocks regularly harvested, Fisheries New Zealand monitors all of these stocks and addresses the most pressing 20 to 30 each year. This does not always provide for responsive decisions to changes in the abundance of fish stocks. There are missed use opportunities and sustainability responses can be a bit slow and, as a consequence, more excessive than if we'd acted sooner

Opportunity to enhance protection for on-board camera footage and progress other camera programme improvements

On-board cameras have been rolled out onto around 218 commercial fishing vessels, for the purpose of monitoring and verifying fish catch. Fishers are concerned that on-board cameras will impinge of privacy and commercial sensitivity. Concerns have also been raised around the usefulness and practicality of rolling out cameras onto certain vessels (i.e. vessels that are too small to have a dry space or independent power supply), and lack of clarity around when cameras should be in operation

Opportunity to increase flexibility for commercial fishers for when QMS fish must be landed and when they can be returned to the sea

Despite the improvements in verified fisher reported data, the landing and discards framework may not be working as efficiently as it could. In light of advances that have been realised through on-board cameras to at-sea monitoring and verification of fisher-reported data, Cabinet has made the decision to provide for commercial fishers to return QMS fish to the sea. The goal is to reduce unnecessary costs being imposed on industry. Amendments need to be made to the Act to implement Cabinet's decision.

Recent court rulings have limited Ministerial discretion

Recent court rulings have limited how relevant factors can be considered and narrowed the Minister for Oceans and Fisheries' (the Minister) discretion, particularly in their ability to consider voluntary commercial measures and social, cultural and economic information when setting or varying sustainability measures, including the setting of catch limits.

Recent court cases relating to crayfish fisheries have also challenged catch limit decisions. However, the main concern is about a broader environmental issue, such as kina barrens, that a catch limit decision in and of itself may not be able to solve. Judicial reviews have used obligations under the Act relating to the setting of catch limits to link two different issues, managing fish stock abundance and adverse effects of fishing, in one decision. This creates significant challenges for managing fisheries and could result in unnecessary restrictions on fishing for little or no environmental benefit.

What is the policy objective?

The policy objective is to make the fisheries management system more responsive, certain, and efficient, and by doing so improve the productivity and potential of the seafood sector through four changes.

1. Improving responsiveness and flexibility in the fisheries management system

The objective is to improve the responsiveness, transparency, and certainty of the catch limit setting process. This would improve the Minister's ability to provide for use while ensuring sustainability, be more responsive to changes in fish abundance including to address sustainability concerns when they emerge and improve the efficiency of fisheries management decisions.

2. Enhancing protection for on-board camera footage and other camera programme improvements

The policy objectives are to ensure the on-board cameras programme cost-effectively meets its purpose of independently verifying catch without unnecessarily impinging on fisher privacy and commercial sensitivity.

3. Fine tuning rules for commercial fishers that set out when QMS fish must be landed and when they can be returned to the sea

The Government has decided to amend the Act to provide for commercial fishers to return QMS species to the sea when monitored by on-board cameras or observers ("monitored returns") (CAB-24-MIN-0353 refers). This will reduce unnecessary costs for commercial fishers by providing more flexibility over which QMS fish can be landed or returned to sea, while ensuring that incentives are still in place for fishers to catch what they want and make the best use of what they catch. This RIS deals with options for implementing monitored returns as per this Cabinet decision.

In addition to implementing monitored returns, other amendments are sought to aspects of the landing and discard rules. These amendments would ensure they are workable for government and fishers and are future proofed to take advantage of advancements in fishing gear and technology.

4. Reducing the risk of judicial review as recent court rulings have limited Ministerial discretion

There will be improved operation of the system while maintaining the set of laws needed to support the use of fisheries and manage the impacts of fishing.

What policy options have been considered, including any alternatives to regulation?

This RIS summarises our analysis on the policy decisions for amendments to fisheries legislation. It considers a wide range of proposals which could be implemented in a package to achieve the best results. The options are summarised in the table below. Where there is more than one option the preferred option/s are in bold.

Note that most of this package of proposals was designed together with industry and many address the provision or amendment of very specific mechanisms in the Act (or the lack of mechanisms). Therefore, at times there is only one key "option" for achieving the proposal.

1. Improving responsiveness and flexibility in the fisheries management system	
Proposal	Policy Option/s
Multi-year catch decisions	Minister can make one decision to set catch limits for up to five years
Management procedures	Set out in advance how catch limits for a fish stock would be adjusted over five years
Low knowledge stocks	Create separate provisions in the Act for setting catch limits for low knowledge fish stocks
Better integrating socio-economic factors	Clarify the Minister's ability to take socio-economic factors into account when setting catch limits
Recognition of commercial non-regulatory measures	A. Provide the Minister with discretion when setting catch limits may recognise any commercial non-regulatory measures that support sustainability

	B. Minister must recognise and consult on any non-regulatory measure proposed by industry
Differential Annual Catch Entitlement (ACE) carry forward	A. Increase the ACE carry forward limit from 10 to 15% B. Additional ACE carry forward for a stock for one year in exceptional circumstances
Carry forward of ACE for rock lobster stocks	A. Remove rock lobster from Schedule 5A and thus allow 10% carry forward of ACE B. A bespoke carry forward arrangement for rock lobster C. Additional ACE carry forward for a stock for one year in exceptional circumstances
Increasing the threshold for suspension of fishing permits for non-payment of deemed values	Increase the threshold from \$1,000 to \$2,000
2. Greater protection for on-board camera footage and other programme improvements	
Enhancing camera protections for on-board camera footage	A. Greater recognition for MPI's current approach to requests for camera footage by the Ombudsman (non-regulatory) B. An exemption of footage from the Official Information Act 1983 (OIA)
Amending the scope of on-board cameras	Remove the requirement for an on-board camera for longline vessels greater than 32m, any vessel less than 8m, and set net vessels using the mothership and tender model
Amending the use of on-board cameras	A. Require on-board cameras to operate port-to-port (means operating 24/7 while the vessel is at sea). B. Require on-board cameras to operate during fishing, fishing-related activity (this includes when the vessel is under power and transiting to or from a fishing site). Cameras would not be required to operate outside these activities. C. Industry alternative - cameras are active only during fishing and fishing related activity, for example, not during transit
3. Rules for commercial fishers that set out when QMS fish must be landed and when they can be returned to the sea	
How to implement monitored returns	
Providing for monitored returns in legislation	A. Provide for monitored returns via secondary legislation B. Provide for monitored returns in the Act
How to reduce reporting and verification complexity with the introduction of monitored returns	A. Restrict monitored returns to QMS species that do not have other landing exceptions (such as a minimum legal size) B. Allow monitored returns to apply to any QMS species but remove some existing landing exceptions that require review and are unlikely to meet the relevant provision under section 72A of the Act
Appropriately accounting for mortality from fishing associated	Adjusting allowances within the catch limit where a landing exception is removed

with the proposed removal of some landing exceptions	
Impact of increased Total Allowable Commercial Catches on quota holders for relevant stocks where landing exceptions are removed	A. Engaging preferential allocation (28N) rights ¹ B. Not engaging preferential allocation (28N) rights
Other improvements to the broader landing and discard framework	
Amending fishery officer defence	Amend the defence for commercial fishers so that a fishery officer can authorise and supervise the return or abandonment of QMS fish, without being present when the fish was taken
Provision to release QMS fish at depth	Enable the Minister to provide for a landing exception to permit commercial fishers to deliberately release QMS fish at depth using fishing gear or technologies that have little to no impact on fish survival
Technical amendment to simplify the legislative implementation process after the Minister makes decisions on whether to keep a minimum legal-size exception	Move the finfish minimum legal size (MLS) regulations that require review from the Fisheries (Commercial Fishing) Regulations 2001 to Part 2 of the Fisheries (Landing and Discard Exceptions) Notice
D. Reducing the risk of judicial review of sustainability decisions	
Restricting the time period for judicial review of a decision to be lodged	A. Proposing a 3-month limitation on a catch limit decision and a 6-month limitation on other sustainability measures from formal notification (MPIs preferred option) B. Proposing a limitation of 20 working days on any decision made under the Act (Minister's preferred option)
Focussing the role of the catch limit on managing fishstock abundance	Ensuring that the consideration of effects of fishing when setting or varying the catch limit is clarified and adverse effects are limited to only those effects the catch limit can meaningfully avoid, remedy or mitigate

All options were considered against the status quo except for implementing the use of monitored returns, which has already been agreed to by Cabinet (the associated options with respect to monitored returns considered how best to implement Cabinet's decision).

Not intervening would result in continued reliance on existing legislative provisions in the Act and associated commercial fishing regulations, which are impeding the productivity and potential of the seafood sector.

The proposed amendments align with the Minister's preferred options in the Cabinet paper, except for a difference in preferred options concerning a time restriction for judicial review of decisions made under the Act (refer to Subsection 2B).

¹ 28N rights are historical preferential access rights to quota.

MPI did not include non-regulatory options for most proposals as we consider that non-regulatory measures such as guidelines and changing policies would not provide sufficient certainty, nor would they address regulations that impede the productivity.

A non-regulatory option was considered for enhancing the privacy and protection of on-board camera footage.

Implementing the proposed changes will require changes to the Act and relevant fisheries regulations.

What consultation has been undertaken?

In February 2024, the Minister established the Seafood Industry Forum (the Forum) to identify opportunities for improving commercial fisheries. The initial development of many of the proposed amendments was done alongside industry through the Forum.

A discussion document on proposed amendments to the Act was released for public consultation that was held from 12 February to 11 April 2025. MPI presented the proposal at 21 meetings to iwi and a range of stakeholders. Approximately 26,950 submissions were received from Treaty partners/tangata whenua and seven broad stakeholder groups (fishing industry, recreational fishers, local government, environmental interests, academics, tourism operators, and the public).

Commercial fishing and Iwi interests generally supported the opportunity to change the Act to increase the speed, certainty, and transparency of decision-making, and to remove regulations that are overly complex, duplicative, or impose unnecessary compliance costs, while continuing to ensure sustainability.

Most submissions from environmental non-government organisations (ENGOS) recognise the need for improvement to the fisheries management system, however, in general, they do not support the proposals as written. We received mixed views from recreational fishing groups, although most submitters did not support the proposals.

The proposals to reduce the risk of judicial review of sustainability decisions and a proposed fine for breach of conditions relating to the use storage and sharing of on-board camera footage were not included in public consultation. These proposals were added at ministerial request following consultation. The opportunity for public input into these proposals will be via the Select Committee stage.

Is the preferred option in the Cabinet paper the same as preferred option in the RIS?

Officials support all the preferred options in the Cabinet paper except for the proposal to place a limit of 20 working days to lodge a judicial review of decisions under the Act.

The MPI preferred options were a period of 3 months for catch limit decisions and 6 months for other sustainability decisions made under the Act. Further discussion can be found in "Subsection 2D: Reducing the risk of judicial review of sustainability decisions".

Summary: Minister's preferred option in the Cabinet paper

Costs (Core information)

Improving responsiveness and flexibility in the fisheries management system.

For some of the new proposals that create greater flexibility for setting catch limits there will be increased upfront costs and resources for MPI and fisheries stakeholders to set them up. The

multi-year catch limits mechanisms will often require a more in-depth assessment and management plan than would normally occur with the current annual “one-off” decisions.

The preferred options impose no additional costs for recreational or customary fishers apart the cost of attending and contributing to develop management procedures and multi-year catch setting plans.

Providing greater protection for on-board camera footage and other camera programme improvements.

The preferred option is providing an exemption from the OIA for footage from cameras on-board commercial vessels. This will result in a small reduction in transparency of information as onboard camera footage would never be made publicly available under the OIA. MPI would continue to proactively release fisheries information relating to the management of fisheries resources and the effects of fishing. There would likely be an increased cost associated with compiling and releasing this information to satisfy the public interest in fisheries management.

Rules for commercial fishers that set out when QMS fish must be landed and when they can be returned to the sea

The greatest cost comes from the proposed removal of certain existing landing exceptions, under which fish could previously be returned without having to be balanced with annual catch entitlement (ACE).² The removal of these exceptions would mean commercial fishers would now have to balance fish that could previously be returned to the sea at no cost, irrespective of whether they land it or return it to the sea under a monitored return exception. However, with monitored returns many fishers won't have to incur the costs associated with landing this fish, just the ACE cost.

For fishers using vessels without on-board monitoring (observers or cameras), there will be an additional cost arising from the requirement to store, transport and land potentially unwanted or unmarketable lower (or no) value fish, forgoing the revenue of more valuable catch and, in some cases, additional costs to dispose of it on land.

While many licensed fish receivers and ACE fishers will incur additional costs, the main costs associated with the removal of certain existing landing exceptions are expected to fall on inshore mixed trawl fishers because of the methods used and the species caught.

Reducing the risk of judicial review of fisheries management decisions

The risk of limiting the timeframe for judicial reviews is that it may not reduce the number of judicial reviews as the Courts could receive judicial review applications with less supporting information given the restricted time period.

In addition, we are changing the law for setting catch limits, which affects what can be reviewed by the Courts.

Focussing the catch limit setting on managing the abundance of fish stocks may heighten the interest in how MPI uses other sustainability measures (such as are closures and method restrictions) to meet the Act's obligation to avoid, remedy, or mitigate adverse effects of fishing.

General – across proposals

² Annual Catch Entitlement (ACE) is the right to catch a certain amount of a fish stock during a fishing year.

For government, and MPI as the administrator/regulator of the fisheries management system, there are expected to be short-term costs in implementing the amendments to the Act and regulations. There is a risk that MPI potentially will need to allocate more resources to be able to meet the demand for some of the new measures. Resource pressures can be mitigated by applying management procedures and multi-year catch limits to a limited number of stocks (initially) with consideration given to available resources, stakeholder support, and an assessment of overall costs and benefits.

Benefits (Core information)

It is difficult to quantitatively estimate the benefit and costs of the proposed amendments given the lack of data or potential variability of applying them to different fisheries. MPI commissioned a Cost Benefit Analysis (CBA) from Sapere.³

The CBA quantitatively assesses the potential economic impacts of select proposals (management procedures, ACE-carry forward, and monitored returns). For each of these proposals Sapere concluded there was an overall net benefit to the fishing sector. However, there are limitations of data, and the benefits realisation depends on the uptake of new measures by the fishing sector.

Improving responsiveness and flexibility in the fisheries management system.

The proposals seek to improve the responsiveness, transparency, and certainty of the catch setting process to improve the Minister's 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 tangata whenua and all other fisheries stakeholders to have input into how we manage our fisheries, alongside consultation on changes to specific measures.

Some of the reform proposals contribute to reducing existing litigation risks by adding to or clarifying aspects of the Act.

The proposals aim to provide more certainty and transparency about how stocks would be managed when there is limited information. The proposals aim to improve certainty for tangata whenua and stakeholders by making it clearer why, when, or how Government would act to address sustainability and utilisation matters.

This would enable more active and effective management of a greater range of stocks. Some of the proposals (e.g. recognition of commercial non-regulatory measures) may also create stronger incentives for the development of collective industry action with consequential improvements to stock management.

The proposed improvements to the 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.

Providing greater protection for on-board camera footage and other camera programme improvements.

While acknowledging concerns raised by some stakeholders about an exemption, we consider, on balance, that an exemption is appropriate as it is the most practical solution given the amount of footage captured and achieving a balance of continued support and use of cameras from fishers. To address submitters' points that an OIA exemption would reduce transparency and

³ Sapere is a consulting firm that provides independent economic and public policy services.

accountability, we propose that any exemption from the OIA only apply to camera footage itself. The public could continue to request other information derived from camera footage (such as annotation data from MPI video reviewers). MPI would also continue to consider such requests for annotated data on a case-by-case basis against provisions under the OIA, including whether redactions are appropriate to protect privacy and commercial information. MPI would also continue to proactively release aggregate data on fishing activity and protected species interactions, some of which would be verified by cameras.⁴

Rules for commercial fishers that set out when QMS fish must be landed and when they can be returned to the sea

Commercial fishers will be provided with more flexible options within the landing and discard rules that make best use of verified information from on-board cameras. Lower operational costs are expected for fishers and licensed fish receivers generally with this additional flexibility. The rules will also maintain an incentive to catch only the fish fishers want.

Reducing the risk of judicial review of sustainability decisions

The benefit of having a restricted period in which judicial challenges can be lodged is that the proposed time period for challenging fisheries management decisions reflects the desire for these decisions to be confirmed as soon as practicable after being made while still providing a reasonable period to review the decision, although this is arguable for the 20 working-day proposal. This would increase the certainty for fishers, support investment and other longer-term decisions, and reduce potential costs.

The benefits of focusing the role of the catch limit on stock abundance is that it provides increased certainty to fishers that a catch limit decision is less likely to be successfully challenged on the basis that it does not also manage the adverse ecosystem effects of fishing. It also focusses the TAC on things it can reasonably manage and so supports effective regulation and good decision-making.

Balance of benefits and costs (Core information)

Does the RIS indicate that the benefits of the Minister's preferred option are likely to outweigh the costs?

We consider that the overall benefits outweigh the costs.

Clearer regulatory conditions will benefit all fishers, provide for efficiency gains for fishers and Government, and overall lower costs for industry. Greater harvest will be enabled for fishers when fish stocks are abundant, and industry will have opportunities to generate more revenue from fisheries at these times.

The legislative improvements will also provide for more timely responses when sustainability risks arise. There will also be greater input, certainty, and transparency in decision-making for tangata whenua and stakeholders. This should lead to long-term value gains through more responsive management practices.

Amending the Act to enable additional carry-forward of uncaught ACE for a stock, for a fishing year, in exceptional circumstances will help alleviate economic impacts in exceptional

⁴ <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-quarterly-report/>

circumstances outside of the fisher's control that have prevented a significant proportion of ACE from being harvested.

Exempting camera footage from the OIA would provide certainty that footage will be protected and effectively manage the privacy and commercial sensitivity concerns for fishers. Ensuring fishing footage is securely held and only used for fisheries management purposes is critical for ongoing fisher support for the cameras programme and there will be reduced costs in processing OIA requests for footage.

The minor changes to the roll-out of cameras will reduce costs for some fishers and resolve inconsistencies and ensure that the camera programme remains workable. The amendment to the use of cameras will confirm current practice and limit costs of footage transfer and storage.

There will be initial resource investment to implement and develop various measures (e.g. multi-year catch limits and management procedures), but once in place there will be reduced resources required on an annual basis.

Under the monitored returns, removing verification and reporting complexities will make the commercial landing and discard rules more workable for fishers. It will reduce administrative burdens for both the fishing industry and regulators.

There will be a cost in that both live and dead returns would be required to be reported and balanced with ACE or incur deemed values. This will 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.

The benefit of the proposed time period for challenging sustainability decisions reflects the desire for these decisions to be confirmed as soon as practicable after being made while still providing a reasonable period to review the decision. Although, the Minister's preferred option of 20 working days will be perceived as unreasonable by stakeholders.

Amendments to clearly define and separate the function of the TAC and management of adverse effects of fishing will ensure both the obligation to ensure sustainable harvesting of fish stocks and manage adverse effects of fishing on the wider aquatic environment can be met effectively and efficiently without unnecessary restriction on use.

Implementation

How will the proposal be implemented, who will implement it, and what are the risks?

The proposals will be implemented and take effect through the Fisheries Reform Bill which is proposed to take effect in mid-2026. New provisions would take effect upon enactment. MPI will be responsible for the ongoing operation and enforcement of the new arrangements around the commercial landing and discard rules. This will occur within existing resources and baselines.

Possible implementation risks are a lack of understanding and knowledge by commercial fishers of the new provisions and the possible potential of their use. MPI will need to commit resources and time to identify and develop options such as management procedures and multiyear catch limits for stocks. This would include assessing the costs and benefits on a stock-by-stock basis to identify suitable stocks.

Implementation of the reforms will be done within baselines, however, if there is initially high interest from commercial fishers in progressing with various options then this might place a high workload on MPI and require prioritisation of stocks.

Limitations and Constraints on Analysis

Limited quantitative data

A key limitation in the analysis was the availability of quantitative data to undertake a cost benefit analysis on the proposed amendments to the Act. Where quantitative data is not available, estimated costs and benefits were based on information provided from existing data sources and through some targeted stakeholder engagement. Where applicable, qualitative assessments were done using case studies and the counterfactual.

Results from CBA do not necessarily reflect sector-wide impacts. For example, the management procedure analysis is limited to one stock (red gurnard (GUR 7), and results in practise will vary depending on stock dynamics and uptake by stakeholders. Similarly, the ACE carry-forward analysis is based on a one-off rock lobster example during COVID-19, and the probability and scale of future events may differ from the scenarios modelled. The analysis of monitored returns is informed by feedback from a small number of fishers and licensed fish receivers. Uncertainty remains in discarding behaviour across the industry due to variations in the economic profile of each trip, vessel size, trip timing or market price variability of fish species.

Cabinet decision made on enabling monitored returns

The decision to enable monitored returns was made by Cabinet and not subject to a RIS. Therefore, the scope of this amendment was how do we provide for Cabinet's decision to enable return of QMS species under landings and discards rules when monitored by an on-board camera or observer.

Some proposals not yet consulted on

The proposals to reduce the risk of judicial review of decisions, involve a change to setting key sustainability measures but are yet to be consulted on. The Select Committee will provide an opportunity to seek stakeholder views.

I have read the Regulatory Impact Statement, and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager's signature:
Alastair Cameron

s9(2)(a)

Quality Assurance Statement

Reviewing Agency: MPI and DIA

QA rating: Partially meets

Panel Comment:

A panel from the Department of Internal Affairs and the Ministry for Primary Industries has reviewed the Regulatory Impact Statement (RIS) prepared by the Ministry for Primary Industries on 21 July 2025.

This RIS has been assessed as partially meeting the [quality assurance criteria](#) set out on the Ministry for Regulation's website.

The panel considers that its substantive feedback was addressed. However, as the RIS cover sheet noted, there were a range of constraints and limitations on the analysis. The lack of quantitative data in some areas and the late addition of a proposal limited consultation on the proposals and full analysis of the impacts was not possible.

Glossary

Term	Acronym	Definition
Annual Catch Entitlement	ACE	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.
Annual Catch Entitlement Shelving	ACE shelving	When a quota owner voluntarily transfers an agreed portion of their ACE to a single (non-fishing) third party so that it is unavailable to harvesters.
Annual Catch Entitlement carry forward	ACE carry forward	For most stocks, if the full ACE amount is not caught during the fishing year, a small amount (up to 10%) of it will get re-issued to the next fishing year. This is called an 'underfishing allocation' or ACE carry forward.
Biomass	-	The size of a stock in units of weight. Often, refers to only one part of a stock.
Bycatch	-	Fish species, or size classes of those species, caught unintentionally with target species.
Catch	-	The total weight (or sometimes number) of fish caught by fishing operations.
Catch Per Unit of Effort	CPUE	The quantity of fish caught with one standard unit of fishing effort (e.g., the number of fish taken per 1000 hooks per day; or the weight of fish taken per hour of trawling). Often used as an abundance index.
Deemed Values	-	The payment commercial fishers must make to the Crown when they do not have ACE to cover what QMS species they catch.
Discards	-	The portion of catch disposed of at sea, dead or alive. Also referred to as 'returns', or 'returns to sea'.
Ecosystem-based fisheries management	EBFM	Environmental management approach that incorporates the holistic interactions within the marine system (rather than a single focus such as a single fish species).
Fish	-	All species of finfish and shellfish, at any stage of their life history, whether living or dead.
Fisheries (Landing and Discard Exceptions) Notice	-	This notice contains stocks or species that commercial fishers may or must return to the sea and any conditions associated with their return. Some species and stocks were previously listed on Schedule 6 of the Act that permitted or required commercial fishers to return them to the sea. Schedule 6 was revoked under the Fisheries Amendment Act 2022.
Fish stock	-	Any fish, aquatic life, or seaweed of one or more species that are treated as a unit for the purposes of fisheries management.
Green-weight	-	The unprocessed weight of fish
Input controls	-	Regulations that limit the fishing effort in a fishery (e.g., gear, location, seasons).
Landings	-	Fish caught at sea and brought back to port.
Licensed Fish Receiver	LFR	The primary entities that can receive fish from commercial fishers, and trade fish including trade fish to other LFRs.
Maximum Sustainable Yield	MSY	The greatest yield of a fish stock that can be achieved over time while maintaining the stock's productive capacity, having regard to the population dynamics of the stock and any environmental factors that influence the stock.
Minimum Legal Size	MLS	The minimum legal size of fish which may be taken from the sea.
Other sources of mortality from fishing	OFSM	The other deaths of fish attributed to fishing (such as illegal fishing, incidental mortality of fish that pass-through nets, fish returned to the sea that later die, and "ghost fishing" by lost gear).
Output controls	-	Regulations that limit the catch in a fishery (e.g., implementing a catch limit).
Quota	-	Any individual transferable quota or provisional individual transferable quota that represent quota owners' share of a fishery.

Term	Acronym	Definition
Quota Management System	QMS	The system that sets the relationship between total catch allowed from a fishery and the catch allowed by an individual fisher.
Quota Management Area	QMA	For each QMS species, separate management areas have been defined for each fishstock.
Schedule 5A		The Fisheries Act 1996 section that lists stocks that cannot carry forward any of their unused ACE into the next fishing year.
Stock	-	Any fish, aquatic life, or seaweed of 1 or more species that are treated as a unit for the purpose of fisheries management.
Sustainability	-	<p>Maintaining a population at levels so that exploitation does not seriously compromise its reproductive ability and genetic diversity. In the Fisheries Act 1996, section 8 outlines the purpose of the Act to “provide for the utilisation of fisheries resources while ensuring sustainability.”</p> <p>The Fisheries Act 1996 defines ensuring sustainability as— “(a) Maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations; and (b) Avoiding, remedying, or mitigating any adverse effects of fishing on the aquatic environment.”</p>
Total Allowable Catch	TAC	Total quantity of each fish stock that can be taken by commercial, customary, recreational fishery interests and OSFM, to ensure sustainability of that fishery in a given period, usually a year.
Total Allowable Commercial Catch	TACC	Total quantity of each fish stock that the commercial fishing industry can catch in a given year. The TACC is a portion of the TAC that is set after allowances have been made for customary and recreational fishing, and OSFM.
Utilisation	-	In the Fisheries Act 1996, section 8 outlines the purpose of the Act, to “provide for the utilisation of fisheries resources while ensuring sustainability.” Utilisation means conserving, using, enhancing and developing fisheries resources to enable people to provide for their social, economic and cultural well-being.

Outline of proposals covered in the RIS

1. The proposed changes discussed in this Regulatory Impact Statement (RIS), 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.
2. The RIS is organised into three sections.
 - **Section 1** diagnoses the policy problem.
 - **Section 2** assesses the proposals to address the policy problems/opportunities and is split into 5 subsections. In most cases, the proposals considered below are not mutually exclusive and can be implemented in combination. Note that within some of the proposals there are options for how best to achieve the desired outcome.
 - **Subsection 2A:** Proposals to improve responsiveness and flexibility in the fisheries management system. These are:
 - Multi-year catch decisions
 - Management procedures
 - Low knowledge stocks
 - Integrating socio-economic factors into catch limit decisions
 - Recognising commercial non-regulatory measures
 - Differential ACE carry forward
 - Carry forward of ACE for rock lobster stocks
 - Increasing the threshold for suspension of fishing permits for non-payment of deemed values
 - **Subsection 2B:** Proposals for greater protection for on-board camera footage and other camera programme improvements. These are:
 - Enhancing protections for on-board camera footage
 - Amending the scope of the on-board camera programme
 - Clarifying when on-board cameras do not need to be used
 - **Subsection 2C:** Rules for commercial fishers that set out when QMS fish must be landed and when they can be returned to the sea. The proposals are:
 - Implementing monitored returns, which has already been agreed to by Cabinet, and options on how to best give effect to this decision
 - Improving the broader commercial landing and discarding framework
 - **Subsection 2D:** Reducing the risk of judicial review of sustainability decisions. The proposals have not been subject to consultation as they were introduced by the Minister after the consultation period had ended. The proposals are:
 - Restricting the time period for judicial review of a decision to be lodged
 - Focussing the role of the catch limit on managing stock abundance
 - **Subsection 2E:** Providing broader discretion in how deemed value rates are set for different fleet and species combinations. The proposal has not been subject to consultation but was received during submissions. The Minister has included the proposal in his Cabinet paper.
 - **Section 3:** Describes delivering an option.

Section 1: Diagnosing the policy problem

What is the context behind the overall policy problem and how is the status quo expected to develop?

New Zealand's fisheries

3. The oceans and fisheries around New Zealand 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.
4. Ministry for Primary Industries (MPI) data indicates seafood export revenue is forecast to rise 2 percent to \$2.2 billion in the year to 30 June 2025.⁵ Aquaculture is forecast to grow 13 percent, while wild capture is forecast to fall 3 percent due to lower volumes. Over the long term, wild capture revenue is forecast to remain flat as lower volumes are offset by higher prices.
5. High seafood prices are driven by a continued trend of tight global supply and sustained global demand. Despite improvements in prices, high input costs remain a challenge for fishers.
6. As fisheries are managed within sustainable limits, wild capture export volume is forecast to remain largely flat. For this reason, export growth will be achieved primarily through improved productivity and efficiency, rather than volume growth.
7. 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.

The fisheries management system

8. New Zealand's wild caught fisheries are primarily governed by the Act. The purpose of the 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 QMS, introduced in 1986 (**Figure 1**).⁶

⁵ Data from MPI's "Situation and Outlook for Primary Industries (SOPI), June 2025".

⁶ For a full glossary of all fisheries terms see <https://fs.fish.govt.nz/page.aspx?pk=77&tk=316>.

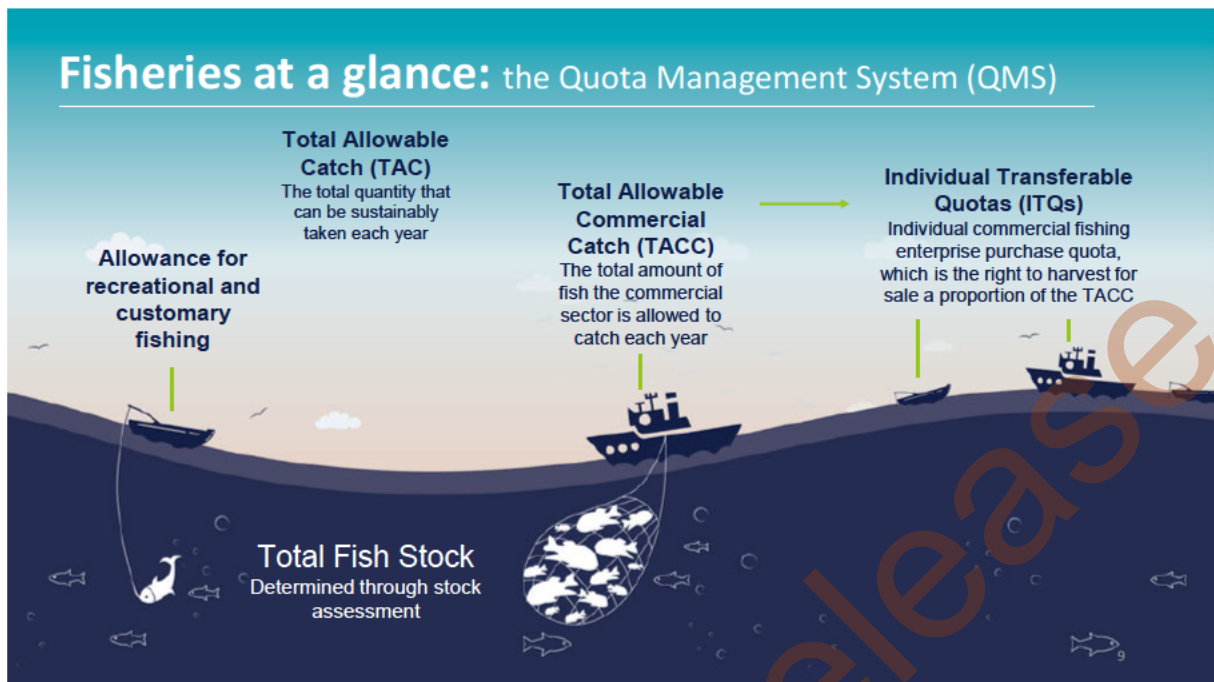


Figure 1: New Zealand's Quota Management System

9. The QMS is a rights-based individual transferable quota system that supports the management of New Zealand's fisheries. It controls fishing activity through the setting of a catch limit, the total allowable catch (TAC). The TAC sets the quantity of fish that can be taken for each fish stock per fishing year. The total allowable commercial catch (TACC) is the tonnage portion of the TAC set aside for commercial quota once allowances for non-commercial (customary and recreational) interests have been considered, and allowance made for other sources of fishing mortality. The QMS has improved the sustainability of many of New Zealand's fisheries.
10. The activity of individual commercial fishers is controlled through an annual catch balancing regime to limit their catch to within the TACC. This regime requires fishers to cover all their catch of quota species with ACE or pay a deemed value (a payment made for catch exceeding ACE).⁷
11. Providing long-term fishing rights via quota incentivises sustainable fishing practices and economic efficiency. In principle, the QMS creates an incentive for fishers to fish within sustainable limits in a way that maximises the value from their ACE and minimises any penalty payments.
12. Mortality of fish caused by fishing that is not fully accounted for compromises the integrity of the QMS and the long-term sustainability and value of our fisheries. Accurate reporting allows for mortalities to be accounted for and, in the case of commercial QMS fisheries, costs to be attributed to fishers. These costs drive the incentives inherent in the system, encouraging sustainable and economically efficient harvesting.

⁷ ACE is generated from the quota share held for a particular stock. Quota is the property right of a stock represented as shares that can be bought and sold. Quota shares are generated when a stock is introduced into the QMS.

13. The recent installation of on-board cameras on 218⁸ commercial fishing vessels has been a major development in the management of our fisheries. Cameras enable independent verification of the information provided by commercial fishers on fishing and related activities (e.g., protected species interactions, catch, and discards).
14. Multiple international studies have ranked the New Zealand QMS and its management of particular fish stocks against a range of global indicators. While each study has had a somewhat different framing, New Zealand's rankings in these studies has consistently been at the higher end compared to other countries.⁹

Features of the commercial fishing industry

15. As of June 2025, 856 fishing vessels are registered to fish commercially in New Zealand waters. Of these, there are approximately 45 vessels operating solely in deep-water fisheries, and the remainder are either inshore, or fish in both deep-water and inshore.
16. All registered vessels can fish within New Zealand's Exclusive Economic Zone (EEZ), and approximately 10 of these also have permits allowing them to fish outside the EEZ. There are 732 fishing permit holders. Of these, 468 have just one registered vessel. Data for 2025 also shows that there are 1164 quota owners and 190 licenced fish receivers.

Recent trends

17. There is growing demand for transparency and traceability in fishing practices, particularly in markets such as Europe and the United States. The proposed changes to strengthen the fisheries management system have economic and reputational benefits for fishers and the public. This includes increased trade potential and competitive advantage, as well as maintaining New Zealand's interests and international standing regarding sustainably managed fisheries.
18. Modernising and strengthening the New Zealand fisheries management system to improve the sustainability of fisheries for New Zealand's future sends strong signals to the public about sustainable fishing practices, both in terms of how the system is being regulated and fisher behaviour. Such signals are also likely to have a consequential positive effect on consumer purchasing patterns.

What is the policy problem or opportunity?

19. In February 2024, the Minister established the Seafood Industry Forum (the Forum) to identify opportunities for improving commercial fisheries, given the predicted stable catch levels in our wild 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.
20. Consequently, in September 2024, the Minister asked officials to develop a package of options for changes to the Act that build on the opportunity to use more verified data to enable an increase in the speed, certainty and transparency of decision making, and address the problem of operational and regulatory cost pressures.

⁸ As of 10 July 2025.

⁹ <https://www.nature.org/media/asia-pacific/new-zealand-fisheries-quota-management.pdf>

21. The proposed amendments have been considered under four general areas:
 - a) improving responsiveness and flexibility in the fisheries management system.
 - b) providing greater protection for on-board camera footage and other camera programme improvements.
 - c) implementing new rules for commercial fishers that set out when QMS fish must be landed and when they can be returned to the sea.
 - d) reducing the risk of judicial review of sustainability decisions.
22. The proposed amendment options have been informed by discussions with the Forum and are discussed in this RIS in four separate sections.

What objectives are sought in relation to the policy problem?

23. The key objectives of the package of proposals in this document are to:
 - Enable more responsive fisheries management by leveraging increased fisheries data and enhanced verification provided by on-board cameras.
 - Enable greater harvest for fishers when fish stocks are abundant, providing industry opportunities to generate more revenue from fisheries at these times.
 - Provide for more timely responses to changes in abundance or sustainability risks.
 - Reduce costs to fishers and improve efficiency.

What consultation has been undertaken?

24. Public consultation occurred from 12 February to 11 April 2025 and generated approximately 26,950 submissions.¹⁰ These included submissions from Treaty partners/tangata whenua and seven broad stakeholder groups (fishing industry, recreational fishers, local government, environmental interests, academics, tourism operators, and the public).
25. Overall, industry and iwi organisations were generally supportive of the proposals, but had mixed views on the ACE carry forward proposals (discussed below).
26. Most submissions from ENGOs recognise the need for improvement to the fisheries management system, however, in general, they do not support the proposals as written. We received mixed views from recreational fishing groups, although most submitters did not support the proposals.
27. ENGO and recreational fishing groups key concerns have included that:
 - a) the proposals favour commercial fishing over other interests, and would compromise sustainability, precautionary approaches, protected species and/or result in depleted fish stocks; and
 - b) multi-year catch decisions and management procedures would reduce public input and participation in fisheries management decisions.
28. Input on the options was also received from the Seafood Industry Forum.
29. As noted earlier the proposals to reduce the risk of judicial review of sustainability decisions have yet to be consulted on. Iwi and fisheries stakeholders will get an opportunity to provide their views on these proposals during the select committee consideration of the fisheries amendment bill.

¹⁰ 743 of these were unique submissions, while the balance was submitted through templates or forms provided by groups including LegaSea, industry, and ENGO's.

What scope will options be considered within?

30. The options were considered within the scope set by Cabinet for developing proposals for changes to the Act to deliver agile commercial fisheries and improve decision-making, and to provide additional protections for the privacy of camera footage.
31. Options for more flexible catch-setting reflect international best practice.
32. The scope for monitored returns was restricted to how we provide for the Cabinet decision to provide for monitored returns. The decision by Cabinet was not subject to a RIS. This RIS contains the detailed policy design of how best to give effect to implementing monitored returns.

Proactive Release

Section 2: Assessing proposals to address the policy problems/opportunities

Section 2A: Proposals to improve responsiveness and flexibility in the fisheries management system

What is the context behind the policy problem

Setting catch limits

33. 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 (MSY). This is the maximum long-term average catch that can be taken from a stock without impairing its sustainability.
34. The QMS comprises 642 stocks with different biological characteristics, and economic, social, and cultural values. A significant proportion of these (292 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 one general approach to setting catch limits, which requires the same resourcing and information.

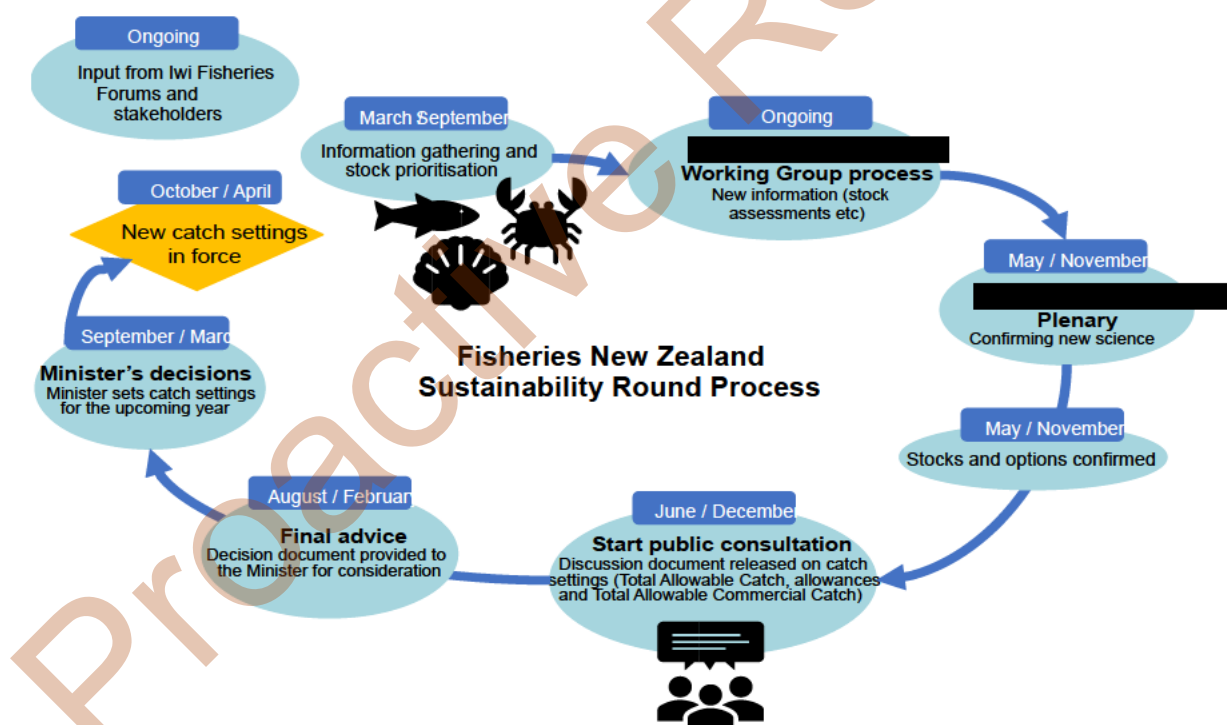


Figure 2: Sustainability round process

35. Figure 2 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.

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

What criteria will be used to compare options to the status quo?

37. The following criteria were used to assess options:

- **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.
- **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).
- **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.

What is the policy problem or opportunity and what are the options are being considered?

38. The table below provides a summary of proposals. Note each proposal can be considered independently of one another.

Proposal Summary	
1: Status quo	No new interventions
2: 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.
3: 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.
4: 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 Act).
5: Better integrating social, cultural, and economic factors	Ensure the Minister can account for socio-economic factors when setting catch limits.
6: Recognition of commercial non-regulatory measures	Clarify how the Minister can consider commercial non-regulatory measures when making TAC setting decisions, to provide greater certainty and better support collective action. We consulted on: <ul style="list-style-type: none"> a) Providing the Minister with discretion to recognise any non-regulatory measure. b) Require the Minister to only consider ACE shelving and catch spreading.
7: Differential ACE carry forward	Allow fishers to carry forward more uncaught ACE in cases of under fishing in a given fishing year. We consulted on:

	a) Increasing the ACE carry forward limit from 10-15% b) Additional ACE carry forward for a stock for one year in exceptional circumstances.
8: Carry forward of ACE for rock lobster stocks	Enabling the carry forward of a proportion of unused ACE for rock lobster stocks to the subsequent fishing year. We consulted on: a) Removing rock lobster from Schedule 5A ¹¹ . b) Enabling a bespoke carry forward arrangement. c) Additional ACE carry forward for a stock for one year in exceptional circumstances.
9: Increasing the threshold for suspension of fishing permit for non-payment of deemed values	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.

Proposal One - Status quo

39. The current statutory process for changing catch settings, via sustainability rounds, constrains the number of fishstocks that can be reviewed and catch settings adjusted (20-30 per year). This is because the available resources to carry out a sustainability review, which are resource intensive, in any given year are limited. This means that the system is not as responsive to variations in stock abundance as they occur, as it could be. This gives rise to four problems:
- it precludes more straight forward and less resource intensive ways of setting catch limits;
 - risks to sustainability that might be avoided through more frequent incremental change;
 - ability to harvest stocks that have increased in abundance is constrained by current TAC/TACC settings; and
 - more significant infrequent changes, which are more disruptive for fishers, may be required to catch settings, rather than frequent incremental changes.
40. Reliance on the sustainability round processes to change Total Allowable Catches (TACs) means that fishers do not have certainty on why, when or how Government will intervene. This undermines incentives for longer term and more collective management and can result in a more adversarial process. Advice is complex, bespoke and decision-making is tightly prescribed – meaning there isn't a lot of scope for changing proposals in response to submissions.
41. There is also a lack of clarity in managing fish stocks in the Minister's ability to consider non-regulatory (voluntary) sustainability measures when deciding on the need for regulatory measures, how to best recognise social, cultural, and economic factors when rebuilding a stock, and how best to use improved verification of fisher reporting and new analytical tools to allow sustainable use of stocks where there is low information about stock status.

Proposal Two -Multi-year catch decisions

Opportunity

¹¹ Schedule 5A of the Act lists fish stocks for which underfishing rights (carry forward of ACE) do not apply.

42. 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 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.
43. 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.
44. This proposal is supported by Te Ohu Kaimoana and the commercial fishing industry. Recreational and environmental groups, however, are concerned it may undermine precautionary decision-making and pose sustainability risks.

Proposal

45. The proposal is to enable the Minister to make **one decision** to set, via secondary legislation, annual TAC changes for a period of up to five years. A multi-year decision could be used to:
 - phase adjustments, for example setting out a series of catch limit reductions; or
 - put in place a temporary increase for a stock that applies for a set period, after which it reverts to the original level.
46. Multi-year catch limits provide greater certainty to fishers and others around future catch limit adjustments. They will clearly signal a planned decrease over time and the certainty that this is going to happen will enable industry to better plan and deploy catch effort over time. They can also be used in fisheries that experience big pulses in recruitment, leading to an increase in abundance, to help deploy increased fishing effort and for how long.
47. They would 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.
48. Consultation on a multi-year TAC would be required when considering appropriateness of the tool for a particular stock. If a multi-year decision is implemented, changes to the TAC would be set at the start and not be consulted on over the specified period. However, if new information suggests the approach will not achieve the desired sustainability or use outcomes the Minister can choose to stop the multi-year approach and consult on an alternative single or multi-year option.

How does the option compare to the status quo/counterfactual?

Criteria	Status quo	Proposal 2 – 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.

Key for qualitative judgements:

- ++ much better than doing nothing/the status quo/counterfactual
- + better than doing nothing/the status quo/counterfactual
- 0 about the same as doing nothing/the status quo/counterfactual
- worse than doing nothing/the status quo/counterfactual
- much worse than doing nothing/the status quo/counterfactual

Proposal Three - Management Procedures

Opportunity

49. Management procedures (also known as harvest control rules or preset decision rules) are pre-agreed procedures for how and when catch limits will be adjusted for a particular fish stock within set parameters. 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 above in Figure 2.
50. The Act is currently silent on management procedures. Nonetheless, forms of operational management procedures are currently used to inform catch limit setting for a limited number of QMS stocks.
51. 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.
52. There is an opportunity to enable the Minister to approve management procedures under the Act which could:
 - 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.

- provide opportunity for more upfront input from tangata whenua and stakeholders into what they want from the fishery over a longer period than a year, and how and when catch limits should be adjusted for a particular stock over a given period.
 - provide greater certainty and transparency about when, how, and why catch limits would be adjusted for those stocks in a management procedure.
53. Te Ohu Kaimoana supported this proposal, highlighting its potential to enhance long-term strategic engagement with iwi and stakeholders, particularly increasing Māori influence in fisheries management.¹² However, individual iwi and customary fishers expressed mixed views, with some concerned about reduced opportunities for input and participation.
54. Industry submitters were generally strongly supportive, viewing management procedures as international best practice. Industry prefers simple legislative requirements, with technical details addressed through guidance. While there was interest in extending procedures beyond five years for long-lived, stable stocks, MPI has discounted this approach because the uncertainty in a scientific assessment of the state of a fishery significantly increases with time unless refreshed.
55. Recreational fishing groups, many LegaSea¹³ form submissions and ENGOs largely opposed the proposal. Both expressed concerns about risks to stock sustainability, the quality of input data, and reduced transparency.
56. Recreational fishing groups were particularly concerned about the potential erosion of recreational fishing rights, and that procedures would entrench sector allocations. However, New Zealand Sports Fishing Council provided conditional support for their use in deepwater fisheries.

Proposal

57. The proposal is to enable the Minister to make management procedures that set out how, when and why catch limits would be adjusted for specific fish stocks for up to five years in secondary legislation. The power to make catch limit changes under an approved procedure would be delegated to the MPI Director-General.
58. A similar proposed amendment progressed as far as Committee of the Whole House stage in 2022. At the time, ENGOs and most recreational fishers were concerned that such an approach would undermine public input in how fisheries are managed and would favour commercial interests over recreational sector or environmental considerations.
59. The current proposal is narrower in scope, applying only to catch limits, rather than other sustainability measures. Each procedure would need to include how sustainability (including management of adverse effects to the extent relevant) and utilisation obligations would be met over the lifetime of the procedure. The Minister would also be required to consult on a procedure before deciding on whether it should be approved.
60. Overall, MPI considers management procedures would provide more certainty about how and when catch limits may be changed, give stakeholders more of a say on how fisheries are

¹² Te Ohu Kaimoana, also known as the Māori Fisheries Trust, is a statutory body established under the Māori Fisheries Act 2004. It represents the collective fishing interests of 58 iwi (Māori tribes). Its primary role is to advance these interests, particularly in the development of fisheries, fishing, and related activities, with the aim of benefiting iwi and Māori generally.

¹³ LegaSea is a not-for-profit organisation established by the New Zealand Sport Fishing Council in 2012 to represent the interests of recreational fishers.

managed over the long term, and reduce reliance on the resource-constrained annual catch setting process.

61. MPI considers that annual monitoring and existing provisions in the Act support the ability to intervene during the period a management procedure is in place if the rule is not operating as intended and will provide adequate safeguards for sustainability.

How does the option compare to the status quo/counterfactual?

Criteria	Status Quo	Proposal 3 – 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 current 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.

Proposal Four - Low knowledge stocks

Opportunity

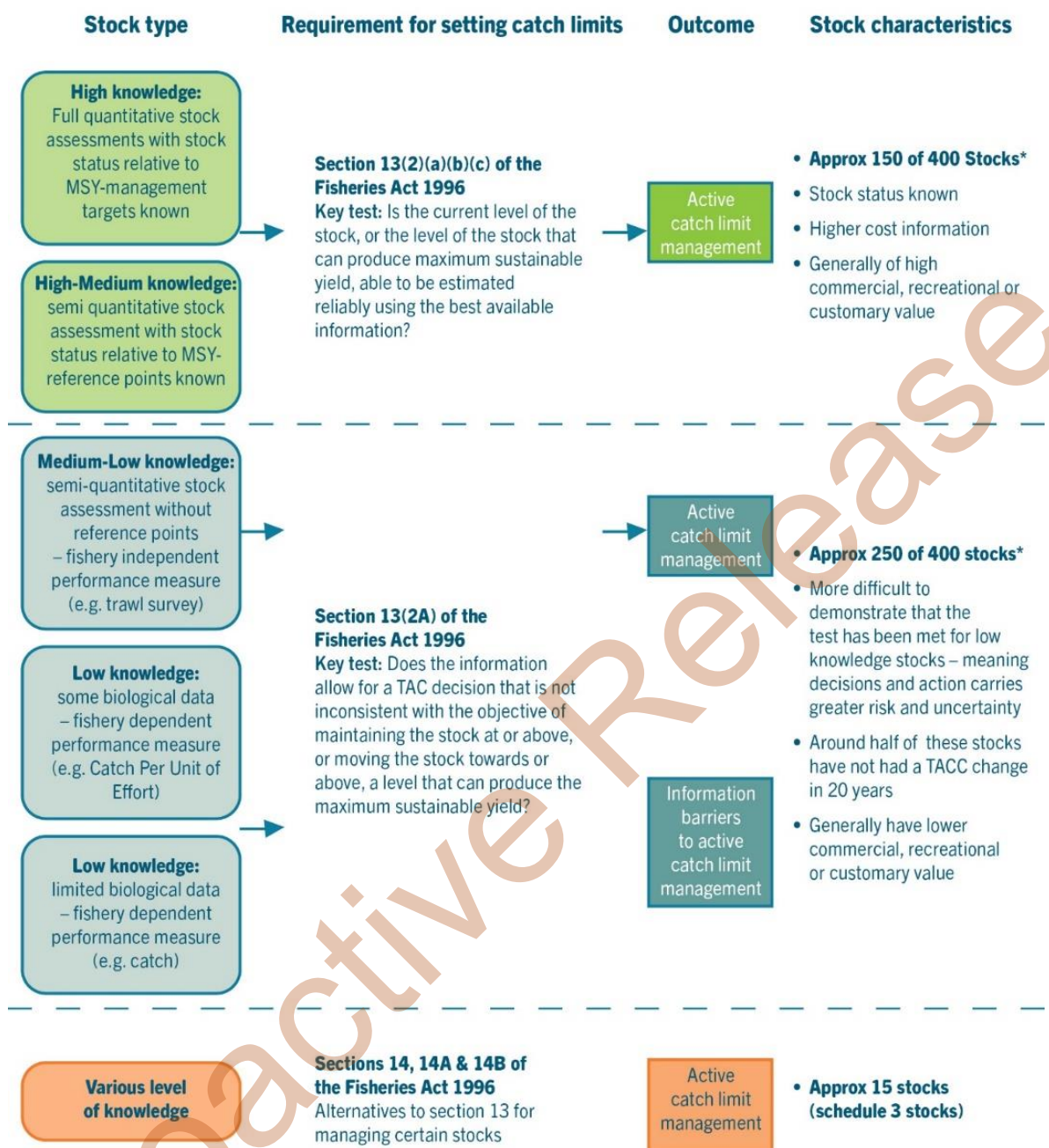
62. Around 400 fish QMS stocks are monitored by MPI for sustainability risk and utilisation opportunities. For these stocks, there are tests around stock status that impose information requirements on catch limit decisions. About 150 stocks have a quantitative assessment of their status relative to the MSY management targets.
63. Approximately 250 “low information” stocks lack sufficient data for formal scientific assessment (see **Figure 3**). The current legislative framework supports management of lower information stocks through sections 13(2A) and 14 of the Act. 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) of the Act has been met.¹⁴
64. 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.
65. Support for this change was mixed, with recreational fishing groups and ENGOs arguing that low information stocks require more precautionary management to ensure sustainability. Seafood New Zealand and the Pāua Industry Council supported the intent, while some smaller commercial operators opposed it. Supporters recommended a clear hierarchy for setting TACs, starting with existing legislative provisions and using the new provision for low information stocks only when necessary.

Proposal

66. The proposal is to address the challenge of sustainably managing 250 “low information” stocks by creating separate TAC setting provisions for high, medium and low information stocks. There is also a proposal to provide greater clarity on the ability to set TACs for low information stocks where we undertake a semi-quantitative assessment (we have termed this group “medium information” stocks).¹⁵

¹⁴ 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 of the Act).

¹⁵ Semi-quantitative stock assessment methods are used when data limitations prevent the application of complex, data-intensive, quantitative models. These methods provide an index of relative abundance rather than an estimate of absolute abundance, and they are often used to monitor trends in fish populations or in situations where detailed data are scarce



*Excludes 293 approx. nominal QMS stocks, <10 tonnes catch per year

Figure 3: Stock management based on level of knowledge

67. We recommend amending the Act for:
- Medium information stocks** to improve the wording of section 13(2A) to provide greater clarity on the ability to set TACs for these stocks; and
 - Low information stocks** to create a new provision to improve the ability to manage “low information” stocks without compromising the need to ensure sustainability or provide for use that reflects the lower level of information available for these stocks.
68. These changes would provide more certainty and transparency about our management approach for low and medium information stock. It also better aligns information

requirements of TAC setting with the value of a stock and risks of adverse effects on the marine environment.

69. We consulted on using “better meets the purpose of the Act” as a proxy for the management intent when setting or adjusting a TAC for a low information stock. The proposed wording is already used to support alternative TAC setting provisions in the Act. Industry submissions said this test was too broad. We support the desire to further refine this wording to provide more clarity about desired levels of abundance. However, determining more directive wording that does not unnecessarily restrict use while ensuring sustainability is not a simple task for stocks with little information.
70. We consider it workable in the absence of a suitable alternative. Additional detail around how the low knowledge provision would operate can be included in proposed operational guidelines.
71. We recommend providing discretion to the Minister to apply the provision following consultation on a stocks’ possible TAC. The overall management approach for low information stocks should reflect the need for caution given uncertainty in information. However, the need for caution should not unnecessarily restrict utilisation and should be assessed relative to the best available information on the risk of overfishing for each stock.

How does the option compare to the status quo/counterfactual?

Criteria	Status quo	Proposal 4 – Low information stocks
Certainty	0 The wide variety of stocks managed under section 13(2A) of the 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. “not inconsistent with”) increases complexity and resource cost of advice which reduces efficiency of management.	++ It increases efficiency of the system by providing clarity around the ability to manage and simplifying the tests for management required under the Act.

Proposal Five - Better integration of social, cultural and economic factors

Opportunity

72. 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.
73. Following introduction of the Act, social, cultural, and economic factors were routinely considered alongside biological matters when proposing catch limit options for the Minister to consider. However, recent court judgements have held that socio-economic factors have a much more limited application in catch limit setting.
74. When developing a catch limit for a stock that requires rebuilding, the current wording in the Act is now, as a result of the court rulings, difficult to implement because:
- The 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.
 - It is difficult to determine a range of appropriate periods for the rebuild of a stock based on consideration of biological factors alone (that is, without considering socio-economic factors).
 - 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.
75. There is an opportunity to amend the current wording in the Act to better reflect the inherent trade-off between level of use and period of rebuild in determining an appropriate level of sustainable utilisation.

Proposal

76. The proposal is to change the Act to:
- Enable the Minister to consider social, cultural, and economic factors alongside biological factors when determining how, and over what period, a stock should move toward the desired level of abundance.
 - Ensure consistent application of key considerations, including biological characteristics, environmental conditions, and stock interdependence, when setting TACs, regardless of stock status.
77. The proposed change would improve transparency and understanding by clarifying the various factors the Minister can consider when setting a TAC and allow TAC decisions to better take into account socio-economic impacts on fishers when determining the way and rate a stock moves towards its desired level of abundance.
78. Industry and iwi generally support the proposal. Recreational fishing groups and ENGOs oppose the proposal and consider existing legal interpretations to be sufficient and any change may compromise sustainability.
79. We acknowledge the concern of ENGOs and recreational fishing groups that the proposal might compromise sustainability. However, the proposed changes are consistent with international practice and the historic application of the Act, which saw successful rebuilds in significant fisheries (for example, snapper and hoki). In making TAC decisions, the Minister is also required to consider a range of other obligations in the Act that ensure that socio-economic considerations do not override sustainability.

How does the option compare to the status quo/counterfactual?

Criteria	Status quo	Proposal 5 – 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).

Proposal Six - Recognition of commercial non-regulatory measures

Opportunity

80. Currently, the fishing industry voluntarily implements various non-regulatory measures that are not required by the Act, such as ACE 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. The effectiveness of these two measures can be measured through established administrative processes and monitored by the government through commercial fisher reporting.
81. How the Minister considers non-regulatory measures when setting or varying catch limits under the Act has seen different ministers take different interpretations. This is also being tested in the Court, with one judgement ruling the measures are not a relevant consideration.¹⁶ This reduces the incentives for fishers to take collective action that benefits themselves and the fishery.
82. There is an opportunity to clarify when and how the Minister is able to consider non-regulatory measures when determining the need for, and extent of, adjustments to a regulatory catch limit, that would better support their use.
83. Many iwi, recreational fishing groups, and ENGOs oppose this change, citing concerns about enforceability of a non-regulatory measure, the effectiveness of some measures being uncertain and changing through time, and the risk of undermining formal sustainability

¹⁶ [Fisheries Inshore New Zealand Ltd v Royal Forest & Bird Protection Society of New Zealand Inc — \[2023\] 3 NZLR 781](#)

processes. The commercial fishing industry, as well as some iwi and some recreational fishers, generally support the proposal, and supported expanding upon it in various ways.

Proposal

84. 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.
85. We consulted on two options to enable the Minister to consider measures put in place voluntarily by the commercial sector, when deciding on the need for, and extent of, changes to regulatory sustainability measures (including setting a catch limit)
- **Option A:** Providing the Minister with discretion to recognise **any** non-regulatory measure. The Minister **may** consider the relevance and weight to give any measure.
 - **Option B:** The types of measures the Minister must recognise would be specified in a Notice (initially ACE shelving and catch spreading). The Notice could be amended to add or remove measures over time. The Minister **must** consult on any non-regulatory measure proposed by industry that is contained in the Notice and following consultation determine the weight to give the measure (if any) when setting or varying a regulatory sustainability measure.
86. We recommend proceeding with Option A as it provides discretion for the Minister to recognise and give weight to non-regulatory measures that industry choose to put in place where they are robust and effective.
87. The benefits of Option A are that it:
- Provides greater flexibility by widening the set of tools that can be used to manage fisheries.
 - Encourages greater collective action between quota holders, which can support improved fisheries management outcomes more generally.
 - Allows for a more responsive approach to management (including within fishing year reduction to commercial catch).
 - Allows new innovative non-regulatory measures to be considered on a case-by-case basis.
88. MPI acknowledge that there are risks associated with greater recognition of non-regulatory measures, including the government not being able to actively enforce a non-regulatory measure. However, the increased Ministerial discretion reduces certainty for industry that a measure they develop will be considered by the Minister and any weight the Minister might give such a measure. This lack of certainty may reduce incentives for industry to develop these types of proposals.
89. However, 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).
90. We consider this Option A strikes the right balance between improving flexibility while maintaining oversight, allowing trust in the use of non-regulatory measures to be developed over time.

91. We do not recommend Option B as we consider that it removes discretion for the Minister to decide not to recognise and consult on non-regulatory measures. This means such measures that may be sub-standard (for example, not supported by a majority of fishers) or apply to fisheries where non-regulatory measures are deemed inappropriate (for example, abundance is very low or the timeframe for rebuild is lengthy) will still need to be consulted on if they are listed on the Notice.

Implementation

92. Under the recommended Option A, it is not proposed to specify the types of non-regulatory measures that can be considered. This open approach could see industry submitting proposals that do not meet standards or expectations. To mitigate this risk, we propose that:
- the non-regulatory measures to be considered are limited to those that relate to TAC setting only (measures designed to manage abundance of the stock at the level of the QMA).
 - the measures can only be proposed by the fishing industry; and
 - industry notifies us of a non-regulatory measure before statutory consultation on regulatory sustainability measures.

How do the options compare to the status quo/counterfactual?

Criteria	Status quo	Proposal 6 – Recognition of commercial non-regulatory measures	
		Option A – Provide Minister with discretion to recognise any non-regulatory measure	Option B – The Minister must consider ACE shelving and catch spreading
Certainty	0 Uncertainty around when the Minister could consider a measure would remain.	++ Industry certainty increases. Administration of ACE shelving and catching spreading is known to be effective. Other measures are more challenging to assess for benefits to sustainability (i.e. not necessarily directly measurable in stock projections).	++ Industry certainty increases. Administration of ACE shelving and catching spreading is known to be effective.
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.	++ Provides incentives for industry to be more responsive to changes in stock abundance but removes discretion for the Minister to decide not to recognise and consult on measures.
Efficiency	0 No efficiency improvements.	++ Measures may support more efficient operation of the system.	++ Measures may support more efficient operation of the system.

Proposal Seven- Differential ACE carry forward

Opportunity

93. 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:
- how much of the total fishing quota they own; and
 - how much of a fish stock commercial fishers are allowed harvest annually.
94. 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. 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.
95. 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”.
96. The current ACE carry forward provisions in section 67A of the Act provide ACE holders with some flexibility in situations where a fisher has under-caught their available ACE for the year. 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.
97. This carry forward is automatically generated by FishServe¹⁷ at the end of the fishing year into the permit holder’s ACE account.
98. 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 of the Act.¹⁸
99. 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.
100. Therefore, there is also an opportunity to reduce the economic impacts on fishers of one-off adverse events such as extreme weather events (e.g., 2023’s Cyclone Gabrielle), closures resulting from biotoxin events or significant short term market collapse, such as that experienced by the rock lobster industry during Covid when a major export market (China) closed.

Proposal

¹⁷ FishServe is a seafood industry-owned company that has provided the systems and tools that support and enhance the operation of the QMS.

¹⁸ ACE carry forward is not currently available for rock lobster but there is a proposal on this as part of this consultation.

101. We consulted on two options:

- **Option A:** Increase the ACE carry forward limit from 10% to 15% through an amendment to section 67A of the Act.
- **Option B:** Additional ACE carry forward for one year outside of the current default provision of 10% in exceptional circumstances, with agreement from the owners of 75% of quota shares. This would also be available for stocks on Schedule 5A.

102. **Option A** received little support from all sectors. **Option B** is supported by industry, as it would reduce the economic impacts of one-off adverse events by allowing fishers to take more of their uncaught catch in the next fishing year.

103. Recreational fishing groups and ENGOs generally opposed any increase in carry forward due to concerns about potential sustainability risks.

104. We recommend **Option B** to provide increased flexibility for fishers to carry forward more ACE in cases of underfishing. The MPI Director General would be empowered to approve a one-off increase for a single year, in exceptional circumstances, where quota owners of more than 75% of quota shares in a stock agree.

105. We note, in response to some stakeholders' concerns, that assessment of sustainability risk is one of the factors proposed for consideration by the MPI Director General when deciding whether additional carry forward is appropriate.

Proactive Release

How do the options compare to the status quo/counterfactual?

Criteria	Status quo	Proposal 7 – Differential ACE carry forward	
		Option A – Increase the ACE carry forward limit from 10% to 15%	Option B – Additional ACE carry forward for a stock for one year in exceptional circumstances
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.	0 A generic increase in ACE carry forward is as certain as the status quo.	++ 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 A. 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 would add a small amount of flexibility for fishers to respond to individual circumstances preventing catch.	++ Proposed additional carry forward is targeted and allows for 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).	0 A generic increase in carry forward is as efficient as the status quo.	++ Additional administrative work to propose and assess a request however, it is a more efficient process than ad-hoc requests under the status quo.

Proposal Eight - Carry forward of ACE for rock lobster stocks

Opportunity

106. 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.
107. 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.
108. 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).

Proposal

109. We consulted on two options:
 - **Option A:** Removal of rock lobster from Schedule 5A would make it subject to the current default ACE carry forward arrangement (up to 10% of uncaught ACE).
 - **Option B:** A bespoke carry forward arrangement for rock lobster 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.
110. Despite the perceived benefits, **Option A** received no support from any stakeholder, so we are not progressing this.
111. Furthermore, rather than progress a separate arrangement for rock lobster under Option B, we propose, based on further analysis an **alternative option (Option C)** that rock lobster stocks are covered by the differential ACE carry forward exceptional circumstances proposal outlined in the previous section (Proposal Seven- Differential ACE carry forward).
112. This is recommended because MPI notes creating bespoke legislative arrangements for specific fisheries is not common or good practice and can be complex and costly for government to administer. s9(2)(ba)(i)

How do the options compare to the status quo/counterfactual?

Criteria	Status quo	Proposal 8 – Carry forward of ACE for rock lobster stocks		
		Option A – Removal of rock lobster from Schedule 5A	Option B – A bespoke carry forward arrangement for rock lobster	Option C – Additional ACE carry forward for a stock for one year in exceptional circumstances
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.	+ 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 A. However, there would be some increased certainty as this is not currently provided for in the status quo.
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.	++ Proposed additional carry forward is targeted and allows for responses to adverse one-off events
Efficiency	0 Provides efficiency in that there is no administration for industry or MPI. However other than adjusting commercial catch limit,	++ 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%	++ Additional administrative work to propose and assess a request however, it is a more efficient process than ad-hoc requests under the status quo.

	there is no opportunity for improving efficiencies for managing stocks when ACE cannot be fully fished.		<p>minimum quota holder vote to implement and would only be implemented for a specific QMA and a specific year at a time.</p> <p>Potential extra administration costs incurred by MPI.</p>	
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Proactive Release

Proposal Nine - Increasing the threshold for suspension of fishing permit for non-payment of deemed values

Opportunity

113. Section 79 of the Act 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.¹⁹
114. The current value of \$1,000 was first set in 1996 and has not changed; the proposed increase to \$2,000 would align the threshold with inflation.
115. 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.

Proposal

116. Raising the threshold would lower transaction costs for fisheries who may have accrued deemed values and would lower the likelihood of fishers unreasonably losing their fishing permit for non-payment.
117. This proposal was seen as pragmatic by most commercial fishing submitters (though not supported by non-commercial submitters).

How does the option compare to the status quo/counterfactual?

Criteria	Status quo	Proposal 9 – 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.

¹⁹ 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.

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

118. MPI considers that the package of proposals together with the preferred options within certain proposals can enable more responsive fisheries management by leveraging increased fisheries data and provide more flexibility in the fisheries management system, particularly with the setting of TACs.

Improving responsiveness and flexibility in the fisheries management system	
Proposal	Policy Options
Multi-year catch decisions	Minister can make one decision to set catch limits for up to five years
Management procedures	Set out in advance how catch limits for a fish stock would be adjusted over five years
Low knowledge stocks	Create separate provisions in the Act for setting catch limits for low knowledge fish stocks
Better integrating socio-economic factors	Clarify the Minister's ability to take socio-economic factors into account when setting catch limits
Recognition of commercial non-regulatory measures	Providing the Minister with discretion when setting catch limits to recognise commercial non-regulatory measures that support sustainability (Option A)
Differential Annual Catch Entitlement (ACE) carry forward	Additional ACE carry forward for a stock for one year in exceptional circumstances (Option B)
Carry forward of ACE for rock lobster stocks	Additional ACE carry forward for a stock for one year in exceptional circumstances (Option C)
Increasing the threshold for suspension of fishing permits for non-payment of deemed values	Increase the threshold from \$1,000 to \$2,000

119. We have tested options with the industry forum and consulted those impacted by the proposals. Sapere undertook a CBA for the options to improve responsiveness and flexibility in the fisheries management system. Their assessment is a mix of quantitative and qualitative assessments.
120. Overall, their analysis shows the preferred options would have a net benefit.
121. The provision to enable management procedures and multi-year catch decisions will enable more make the catch limit setting process more responsive, transparent and efficient. They will improve certainty and support multi-year planning across the fisheries sector. Benefits also include reduced administration costs once these procedures are put in place.

International evidence supports management procedures as effective tools for sustainable fisheries²⁰.

122. Sapere's CBA showed that more responsive TACC adjustments can yield increased catch without compromising sustainability. The scale of benefits will vary stock by stock.
123. Strengthening the recognition of non-regulatory sustainability measures is expected to incentivise more coordinated efforts among quota owners and commercial fishers by increasing certainty in the benefits of collective action. While such measures are not government-enforced, industry groups have developed binding civil contracts to ensure compliance. Though difficult to quantify, the proposal could lead to significant long-term value gains through more nuanced and responsive management practices.
124. The low information stocks amendment seeks more flexible statutory language for managing these stocks by modifying Section 13(2A) of the Act. However, the impacts of such changes cannot be assessed through quantitative analysis because legal risk, future application, and MPI's policy responses are uncertain. Any benefits will depend on how the revised language is interpreted and implemented over time.
125. The proposed amendment to integrate social, cultural, and economic factors into decisions on stock rebuild periods is difficult to assess using traditional cost-benefit analysis. This amendment restores flexibility that MPI believed it had prior to a 2021 court ruling and will lead to better decisions on the sustainable use of a fishery undergoing a rebuild to move back to target management levels.
126. For ACE carry-forward proposals a rock lobster case study by Sapere as part of the CBA, demonstrates the potential value of allowing exceptional ACE carry-forward in response to rare external shocks, such as the COVID-19 market disruption. A one-off 10 percent carry-forward provision during 2019/20 generated an estimated \$9.4 million in net economic benefit.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

127. Yes

²⁰ Punt, A. E., Butterworth, D. S., de Moor, C. L., De Oliveira, J. A., & Haddon, M. (2016). Management strategy evaluation: best practices. *Fish and fisheries*, 17(2), 303-334.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

128. This table reflects the marginal costs and benefits of the package of preferred options to improve responsiveness and flexibility in the fisheries management system.

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Commercial fishing sector (Regulated group)	Greater upfront costs to develop and implement some measures that involve multi-year planning (e.g. management procedures).	Medium	Medium (based on industry indicative costs of current procedures and the assumption that participation costs are about the same across sectors) Depends on the extent of uptake of various new provisions
Fisheries New Zealand (Regulator)	Greater upfront costs (money and time) to develop and implement some measures that involve multi-year planning (e.g. management procedures)	Medium Fishserve, which administers the QMS, will need to amend their systems s9(2)(b)(ii)	
Others (ENGOS, customary and recreational fishers) (e.g., wider govt, consumers, etc.)	Greater upfront costs to develop and implement some measures that involve multi-year planning (e.g. management procedures)	Medium	
Total monetised costs		s9(2)(b)(ii)	
Non-monetised costs			Medium
Additional benefits of the preferred option compared to taking no action			
Commercial fishing sector (Regulated group)	Greater incentives for investment in multi-year planning and for self-governance (e.g. development of non-regulatory measures).	Low/medium Case study for one stock (GUR7) and use of management procedures gave a Net Present Value (NPV)	

	Increased potential to demonstrate transparency through wider range of management approaches.	over 10 years of 0.08 to 1.12 million.	
Fisheries New Zealand (Regulator)	<p>Potential for development of a deeper-information base to improve decision-making (e.g., improved management of low knowledge stocks).</p> <p>Incentive for greater involvement of stakeholders in planning future management of fish stocks.</p> <p>Benefits from improving the systems responsiveness to changes in fish abundance, including responding more quickly to sustainability issues.</p>		
Others (ENGOS, customary and recreational fishers) (e.g., wider govt, consumers, etc.)	Increased opportunities to have greater input into multi-year management plans plus greater transparency in how fishstocks are being managed.		
Total monetised benefits			
Non-monetised benefits		Low/Medium	

Subsection 2B: Greater protection for on-board camera footage and other camera programme improvements

What is the context behind the policy problem/opportunity and how is the status quo expected to develop

129. On-board cameras were introduced as part of the implementation of a wider digital transformation strategy for commercial fishing to enable monitoring of fishing activity and verification of catch/effort reporting. Camera footage is used to monitor and verify commercial fishing operators' self-reporting of their fish catch. The footage also includes bycatch events, which can include:
- unwanted fish that are returned to the sea; and
 - interactions with seabirds and marine mammals.
130. The roll-out has been mostly completed with 218 vessels covered. The programme plans for approximately 230 vessels to have cameras on-board.
131. The introduction of on-board cameras on commercial fishing vessels means that Fisheries New Zealand now holds a large volume of footage of everyday commercial fishing activity (for example, MPI calculates over 22,000 fishing events were captured by cameras in the 2023/24 fishing year, this is estimated to rise to 60,000 events in 2025/26).
132. 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, and in government buildings or public spaces.
133. Cameras capture all activity within their set field of view. As such, footage captured may often include personal as well as commercially sensitive information (e.g., gear or method innovations).
134. There is a public interest in the transparency and accountability of information government uses to manage fisheries resources. On-board camera footage is subject to the Official Information Act 1982 (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.

Enhanced protections status quo

135. MPI recognises the public interest in seeking information relating to the management of fisheries resources and 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.²¹
136. MPI also 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. These reports are drawn from fisher reporting and some of the interactions will have been verified by cameras.

²¹ <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-quarterly-report/>

137. MPI owns the data collected from onboard cameras and fisheries observers. In general, all information MPI holds is “official information” under the OIA. Once on-board camera footage is in MPI’s possession, it is subject to the OIA and must be made available to a requestor unless there is good reason for withholding it. Each request under the OIA, and reasons for withholding any information must be considered on its own merits.
138. Any decisions by MPI on requests for video footage may be investigated and reviewed by the Ombudsman if a complaint is made.
139. MPI considers requests for footage under the OIA using criteria set out in MPI’s Guidelines for the Release of Fisheries Data.²² 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.
140. To date, MPI has responded to 18 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.
141. In situations where commercial fishers have requested footage of their own operations (e.g. with the intention to improve fishing practices), MPI has provided access including through secure viewing onsite, video clips or written summaries. These requests are considered under the Privacy Act if they have come from natural persons pertaining to their own footage
142. MPI’s current approach to assessing requests for footage under the OIA provides strong protections for footage. The OIA withholding grounds have allowed MPI to withhold footage when needed to protect privacy and confidentiality – to date no footage has been released to third parties (although this is currently being tested via a complaint to the Ombudsman). Releasing other information such as annotated data has satisfied the public interest without having to release the footage itself.
143. Uncertainty remains, however, as MPI must consider each request on a case-by-case basis, and any decisions to withhold information can be subject to complaint to the Ombudsman, who may rule that MPI has to release the footage under the provisions of the OIA.
144. Concerns raised by some industry stakeholders relating to the potentially negative consequences of releasing, in response to requests under the OIA, video footage provided to MPI from legally required on-board cameras. In particular, concerns have been raised about third-party access of the footage and:
- the privacy interests of individual commercial fishers;
 - the commercial sensitivity of, for example, specific fishing locations, fishing techniques, and the design of fishing and processing equipment; and
 - unwarranted criticism by the media and public resulting from the release of footage showing legal activity (for example, incidentally caught protected species, fish under the minimum landing size returned to sea).

²²<https://www.mpi.govt.nz/dmsdocument/34803/direct/>

145. There is a risk these concerns may erode fisher support for cameras and undermine the continued provision of accurate reporting that informs fisheries management decision making.
146. 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.

Roll-out status quo

147. Trawl vessels above 32 metres (high use of observers) and set net vessels below 8 metres (limited on-board electronics) 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.
148. There is now 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 the following vessels from requiring onboard cameras:
- bottom longline vessels greater than or equal to 32 metres in length (3 vessels);
 - all vessels less than 8 metres (around 3 vessels); and
 - set net vessels using the mothership and tender models (7 vessels).

Use requirements status quo

149. Under the current regulations²³, on-board cameras must be used to record fishing and related activities.
150. The Electronic Monitoring System Guide for On-Board Cameras (May 2024)²⁴ provides guidance to fishers that camera systems must be active when:
- conducting a fishing event using an in-scope method that commenced within a specified area;
 - sorting, processing, or returning to the sea any fish taken during a fishing event using in-scope methods that commenced within a specified area;
 - transporting, within a specified area, any fish taken by in-scope fishing methods.
151. 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.
152. There is an opportunity provide more clarity around fisher obligations to operate camera systems in relation to “transportation”.

What criteria will be used to compare options to the status quo?

Enhanced protections

153. We used the following criteria to assess the options for enhanced protections for on-board camera footage against the status quo.

²³ Refer regulation 9(1) of Fisheries (Electronic Monitoring on Vessels) Regulations 2017

²⁴ <https://www.mpi.govt.nz/dmsdocument/57997>

- **Certainty:** is defined as providing certainty to all stakeholders on how camera footage is handled and when it is given out or withheld.
- **Privacy and confidentiality:** pertain to the information of fishers to be protected and held securely to shield from misrepresentation and abuse.
- **Transparency:** is about transparency of fisheries management to all stakeholders. The public has an interest in fisheries as fish are a public resource. However, there is disagreement about how this public interest could be satisfied.

Roll-out of on-board cameras

154. The options to assess the scope of the on-board camera programme were assessed against the criteria of:

- **Monitoring effectiveness:** ensure the monitoring is fit for purpose and able to capture all relevant activity.
- **Efficiency:** ensuring the monitoring solution is cost efficient.
- **Practicality:** ensuring the monitoring solution is workable.

Use requirements for on-board cameras

155. The options for fisher obligations to operate camera systems were assessed against the following criteria:

- **Monitoring effectiveness:** ensure the monitoring is fit for purpose and able to capture all relevant activity.
- **Efficiency:** ensuring the monitoring solution is cost efficient.
- **Privacy and confidentiality:** balancing the need to collect high-quality data to inform fisheries decision, while at the same time minimising the impact of fishers' privacy.

What options are being considered?

Enhanced protections

Status Quo

156. MPI would continue to manage camera footage as per the status quo.
157. Having footage subject to the OIA and releasing written summaries when footage is requested, as well as the proactively released data, supports a transparent approach to fisheries management. Thus far, the public interest test has been met through these methods.
158. The status quo provides some certainty that footage is accessible to the public, however there is also uncertainty around when footage may be withheld or released under the OIA.

Option A – Greater recognition of MPI's practices by the Ombudsman

159. Option A is a non-regulatory option that builds on the status quo. The general approach remains but MPI would seek confirmation of its practices for assessing requests for camera footage from the Ombudsman. The aim is to provide additional assurance that MPI is meeting its obligations under the OIA when dealing with such requests, in particular when deciding to withhold camera footage.
160. To confirm MPI's approach to OIA requests and enhance the status quo, MPI could continue to work with the Ombudsman's Office to:

- provide an Ombudsman's Statement of Position with respect to on-board cameras, which outlines to what extent withholding grounds in the OIA could be applied to camera footage and what information might satisfy the public interest. This would give greater assurance of how the Ombudsman would apply these grounds in a complaint; and/or
- review MPI's OIA practices with regards to camera footage to confirm MPI's practices are appropriate or identify improvements to ensure MPI is adequately interpreting and applying the grounds correctly to requests.

161. These actions provide further assurance that MPI's current practice will robustly protect privacy and confidentiality interests in the footage. Release of footage remains a possibility, however, as each request must be considered on a case-by-case basis, and any reasons to withhold must be balanced against the public interest in releasing the information.
162. It is possible that MPI itself, or the Ombudsman via complaint, may find the public interest requires the release of footage. This option therefore retains greater transparency but leaves residual uncertainty about footage release with potential to impact the reputation of fishers and their companies or potentially reveal private or commercially sensitive information.

Option B - On-board camera footage to be exempt from the OIA (recommended option)

163. Specifying through the Act that camera footage is exempted from the OIA provides the greatest certainty that camera footage will be protected. A legislated camera footage OIA exemption means that
- camera footage would no longer be "official information" under the OIA,
 - the OIA provisions could not be used to release camera footage, and
 - the public could not request camera footage under the OIA.
164. We recommend the Act sets out the purposes for which MPI may only provide footage to third parties:
- a) that fishing vessel on-board camera footage (camera footage) is not subject to the Official Information Act 1982 (OIA) and that is irrespective of which public service agency, Minister of the Crown in their official capacity, or organisation holds it; and
 - b) the Director-General of the Ministry for Primary Industries (MPI) with discretionary decision-making power to give out camera footage to third parties for any of the following purposes:
 - i. maintenance of the law (for example, prosecutions).
 - ii. to other government departments, and government organisations to support them carrying out Crown functions.
 - iii. to body corporates such as vessel operators, permit holders, or fishing companies where the footage pertains to their own operations.
 - iv. to conduct fisheries research commissioned or approved by MPI; and
 - v. any additional purpose determined by the Director-General to be necessary to enable the Crown to carry out its functions and where use of camera footage would be reasonable in the circumstances (for example emergency and personal safety situations).
 - vi. This discretionary power will not apply in circumstances whereby law camera footage must be provided e.g. court order.

- c) that, in exercising their power in (b) above, the Director-General must consider whether there are any privacy or commercial sensitivity reasons for not giving out the camera footage.
 - d) that camera footage may be given out by the Director-General of MPI subject to conditions relating to use, storage and sharing that the Director-General considers appropriate.
 - e) for offence and penalty provisions for failure to comply with any conditions imposed by the Director-General.
165. These purposes primarily relate to uses by the Crown, such as compliance and prosecutions of fisheries management or other criminal or employment proceedings, sharing with DOC to support effective management of the impacts of fishing on protected species, and fisheries research. We have proposed a provision to give vessel operators, permit holders, or fishing companies footage pertaining to their own operations to ensure they can continue to access their own footage.
166. This list of purposes reflects current practice, but it is possible other legitimate uses may emerge in the future. To avoid the risk that this approach prevents MPI from providing footage to third parties for other legitimate purposes in the future, we recommend the list includes the ability for MPI to determine other additional purposes for which footage can be provided.

Stakeholder views on the options

167. The fishing industry is strongly in favour of an OIA exemption. They maintain that the potential for footage to be released if the public interest outweighs the withholding grounds poses a high risk to their privacy and their confidentiality being violated regardless of any increased recognition of the current approach.
168. Many mandated iwi organisations were against the OIA exemption and expressed concerns about transparency and holding fishers accountable for their actions, specifically around environmental impacts. However, some Māori businesses and other iwi organisations were in favour of the OIA exemption to protect the privacy of their fishers.
169. Many individual and ENGO submitters thought that the status quo should remain, but that an enhanced status quo option would be better than an outright OIA exemption.
170. Submissions from the New Zealand Law Society and the Office of the Ombudsman strongly advised against any exemptions, because the OIA is a constitutional measure that reflects fundamental freedoms and there are already withholding grounds in the OIA.
171. The Office of the Privacy Commissioner also provided separate comment to MPI advising that it does not believe a case has been made to exempt on-board camera footage from the OIA to better protect privacy and that the current withholding grounds should be sufficient.
172. The Ministry of Justice (MOJ), in meetings with MPI, commented that the use of OIA exemptions has been increasing in New Zealand and this poses a reputational risk as New

Zealand is part of the Open Government Agreement and the International Open Data Charter²⁵.

MPI's response

173. While acknowledging concerns raised about an exemption, we consider, on balance, that an exemption is appropriate as it is the most practical solution given the amount of footage captured and achieving a balance of continued support and use of cameras from fishers.
174. To address submitters' points that an OIA exemption would reduce transparency and accountability, we propose that any exemption from the OIA only apply to camera footage itself. The public could continue to request other information derived from camera footage (such as annotation data from MPI video reviewers). MPI would continue to consider such requests for annotated data on a case-by-case basis against provisions under the OIA, including whether redactions are appropriate to protect privacy and commercial information.
175. MPI would also continue to proactively release data 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 to satisfy the public interest in fisheries management. We will also be transparent about compliance monitoring and enforcement processes arising from review of camera footage.

How do the options compare to the status quo/counterfactual?

Criteria	Status quo	Option A – Greater recognition for MPI's approach to requests for footage	Option B - 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	++ 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 onboard camera footage would never be made publicly available under the OIA, although MPI would continue to proactively release

²⁵ The Open Government Partnership (OGP) was launched in 2011. It is a voluntary, multilateral initiative to promote open government, combat corruption, and improve governance. New Zealand made a Declaration on Open and Transparent Government in 2011. This sets out a government-wide approach to increasing the openness and transparency of the New Zealand government; by actively releasing high-value public data it collects and holds on behalf of taxpayers.

	reason for withholding it.		fisheries information relating to the management of fisheries resources and the effects of fishing.
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Roll-out of cameras

176. The proposals below represent minor reductions to the proposed scope of the cameras programme.

Large bottom longline vessels

Status quo

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

178. This would mean there is a double-up of resources as longline vessels greater than 32 m have high levels of observer coverage²⁶. It would also be in contradiction with trawl vessels greater than 32m as these vessels are currently exempt from requiring cameras for the same reasons as outlined in this paper for large bottom longline vessels.

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

179. This option would remove the requirement for longline vessels greater than 32 metres in length to have cameras installed.

180. Fisheries observer coverage is high, and this approach would also be consistent with trawl vessels greater than 32 metres, which excluded from the camera requirements. Under this option observer coverage would also be maintained when appropriate.

²⁶ Within the New Zealand's Exclusive Economic Zone (EEZ), observer placement has averaged around 30 percent over the last three years, with observer coverage mandatory outside the EEZ for Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR) fisheries.

How does the option compare to the status quo/counterfactual?

Bottom longline vessels greater than 32 metres

Criteria	Status quo	Proposal: Remove the requirement for bottom longline vessels greater than or equal to 32 metres to operate on-board cameras
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.	+ Provides the same benefits as the status quo but with no additional costs.

All vessels less than 8 metres

Status quo

181. This would maintain the requirement for vessels less than 8 metres using methods other than set net to require cameras to be installed.
182. However, as the current on-board camera solution is not suitable for small vessels due a lack of dry space independent power supply to store and run the equipment, in the short-term temporary exemptions would be required until such time as a suitable solution is available.
183. Work would continue to identify an on-board camera solution that resolves the practical constraints of such vessels.

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

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

How does the option compare to the status quo/counterfactual?

All vessels less than 8 metres

Criteria	Status quo	Proposal: Remove the requirement for any vessel less than 8 metres to operate on-board cameras
Practicality	0 Currently not possible to install the camera solution on these vessels. Monitoring continues through electronic reporting and global position reporting (ER/GPR).	0 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.

Set net vessels using the mothership and tender model

Status quo

185. This option would maintain the requirement for vessels using the mothership and tender model to install cameras. However, as the current on-board camera solution is not suitable for small vessels due a lack of dry space independent power supply to store and run the equipment, in the short-term exemptions would be required until such time as a suitable solution is available.
186. Work would continue to identify an on-board camera solution that resolves the practical constraints of such vessels.

Proposal - Removing on-board camera requirements for set net vessels using the mothership and tender model

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

Set net vessels using the mothership and tender model

Criteria	Status quo	Proposal: 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.

Use Requirements

188. These proposals deal with the opportunity to provide more clarity around fisher obligations to operate camera systems in relation to “transportation”.

Status quo

189. Advice to fishers reflects the current requirement to operate cameras, however, the broad definition of “transportation” in regulations would continue to provide uncertainty for fishers regarding their obligations.

Option A – Port-to-port

190. This option requires footage to be recorded 24/7 while at sea. It represents the lowest regulatory complexity because there is no interpretation required regarding camera usage. It also has the highest cost and privacy implications for fishers, as cameras are permanently recording while at sea. The increased footage would have minimal benefit to monitoring effectiveness as the additional footage would be collected during times when fishing and/or related activity is not occurring. This was not recommended.

Option B - On-board cameras required to record fishing and related activities (recommended)

191. This option strikes a balance between Option A and the industry alternative (Option C - proposed during consultation and outlined below). It balances the need for monitoring to increase public confidence while reducing costs associated with collecting footage at times with a low chance of fishing or related activity occurring e.g. when power down, at anchor, or drifting.

Option C - Industry alternative

192. During consultations a large number of submissions, generally from industry participants supported an alternative option where cameras are active only during fishing and fishing related activity, for example, not during transit, at anchor, drifting, or powered.

193. The difference between Option B and the industry alternative Option C relates the definition of ‘fishing and related activity’ and if it includes transiting to and from fishing locations. While both options require the cameras to be turned on during fishing and related activity, under Option B this includes transiting to and from fishing locations and under the industry alternative Option C it does not. Under Option B cameras could be turned off when the vessel is at anchor, drifting, and/or powered down, while under the industry alternative the cameras could also be turn off while transiting to and from fishing locations.

194. The industry alternative has the lowest cost and privacy implication on fishers, and the highest regulatory complexity for fishers, as they must interpret what constitutes “fishing and related activity” and when to operate cameras. It also reduces public confidence in the cameras programme, by providing additional opportunities for unmonitored illegal activity.

195. The cost differential between Option B and the industry alternative is complex to estimate, as it depends on the degree of behaviour change exhibited by fishers, with some fishers currently choosing to leave their cameras on port-to-port to minimise the risk of inadvertently forgetting to turn them on.
196. There is a risk of illegal discarding under all options. However, if this were to occur outside the field of view of the cameras or during times when cameras are not operational it could be assessed to some extent through catch report information.

How do the options compare to the status quo/counterfactual?

Criteria	Status quo	Option A – on-board cameras to operate port-to-port	Option B – on-board cameras required to record fishing and related activities	Option C – industry alternative
Monitoring effectiveness	0	0 All fishing and related activity would be monitored.	0 All fishing and related activity would be monitored.	- More restrictive monitoring of transiting to and from fishing locations.
Efficiency	0	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.	0 Footage would only be recorded and transmitted during fishing but increased regulatory complexity.
Privacy and confidentiality	0	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.	++ Footage would only be recorded and transmitted during fishing.

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

197. The preferred options that meet the objectives are summarised below.

Greater protection for on-board camera footage and other programme improvements	
Enhancing camera protections for on-board camera footage	An exemption of footage from the OIA (Option B)
Exempting a range of vessels from the onboard camera rollout	An exemption for vessels that not feasible to have a camera or there is high level of observer coverage
Amending the use of on-board cameras	Require on-board cameras to operate during fishing, fishing-related activity (that is, the vessel is under power and transiting to or from a fishing site). Cameras would not be required to operate outside these activities (Option B)

198. The recommended option for protecting on-board camera footage is to specify through the Act that camera footage is exempted from the OIA (Option B). This provides the greatest certainty that camera footage will be protected. A legislated camera footage OIA exemption means that camera footage itself would no longer be “official information” under the OIA. The public could continue to request other information derived from camera footage (such as written summaries from MPI).
199. It will be important that MPI continues to proactively release data 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 to satisfy the public interest in fisheries management and maintain transparency.
200. The minor changes to the roll-out of cameras will resolve inconsistencies and ensure that the programme remains workable.
201. This includes the proposals to exempt a range of vessels from the onboard camera rollout where it is either not feasible to install cameras (set net vessels using tenders and all vessels less than 8m in overall length) or where there is a high level of fisheries observer coverage (large bottom longline vessels).
202. For use requirements, the recommended option is Option B. It will clarify that on-board cameras would be required to record fishing and related activities and transportation to and from fishing locations, but not when at anchor, drifting or when powered down. This option would confirm current practice and limit costs of footage transfer and storage.
203. Other options, port to port and the industry alternative, were not favoured. Port to port coverage offered little more in the way of monitoring effectiveness relative to the extra cost. The industry alternative wanted to go further than the options proposed and not require cameras to be in use when transiting to and from fishing locations. This was not recommended because of its regulatory complexity and the risk of losing public confidence in the effectiveness of cameras to monitor all fishing-related activity.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

204. Yes

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Commercial fishing sector (regulated groups)	Loss of public trust in fishing activity	Non-monetised Low/medium	Medium
Fisheries New Zealand (regulators)	Cost of proactively releasing more data from camera footage Risk of legal challenge OIA requests for other camera information	Non-monetised Low/medium	Medium
Others (ENGOS, customary and recreational fishers)	Some parties will object to the proposed amendments as restricting the ability to allow for transparency and accountability.	Non-monetised Low/medium	Medium
Total monetised costs		NA	NA
Non-monetised costs		Low/Medium	
Additional benefits of the preferred option compared to taking no action			
Commercial fishing sector	Increased certainty of protection of privacy and confidentiality of camera footage.	Low/medium	Medium
Fisheries New Zealand	The preferred option will reduce non-monetised costs in responding to OIA requests for footage, but the amount is difficult to quantify.	Low/medium	Medium
Others (e.g., wider govt, consumers, etc.)	Possible greater restrictions on accessing camera footage for fisheries research etc.	Low/medium	Medium
Total monetised benefits	-	-	-
Total non-monetised benefits	-	Low/medium	-

Subsection 2C: Rules for commercial fishers that set out when QMS fish must be landed and when they can be returned to the sea

What is the context behind the policy problem/opportunity and how is the status quo expected to develop

205. A commercial fisher's catch is either landed (brought to shore) or returned to the sea. A long-standing requirement under the Act is that commercial fishers must not return or abandon any species managed under the QMS to the sea or other waters from which they were taken. However, the Act provides for exceptions and defences to the rule (discussed further below). The ability or requirement for commercial fishers to return QMS species to the sea are commonly referred to as the landing and discard rules.
206. 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:
- reported accurately; and
 - accounted for appropriately in the fisheries system and attributed to:
 - individual fishers (through the annual catch balancing regime); or
 - quota owners collectively (accounted for within the allowance for other sources of mortality from fishing as part of the catch limit for a stock).
207. In 2022, the Act was amended to tighten the reasons for why a QMS species may or must be returned to the sea and how such exceptions can be made under the Act.²⁷ The policy intent of the changes was to encourage greater selectivity and waste reduction by limiting the circumstances around what, how, and when QMS fish can be returned.
208. To allow or require a commercial fisher to return or abandon a QMS fish to the sea, the Minister for Oceans and Fisheries must now be satisfied that one of these three provisions (reasons) under section 72A of the Act is met:
- a) the stock or species has an acceptable likelihood of survival if returned; or
 2. keeping the stock or species will either damage the rest of the catch (for example, ammoniating species) or the stock or species is damaged due to unavoidable circumstances; or
 3. the stock or species must be returned for a biological, ecosystem, or fisheries management purpose – and has an acceptable likelihood of survival if returned.
209. In addition to these provisions, commercial fishers have defences available to them under the Act. These include if the return or abandonment of QMS fish was:
- due to the act or default of another person, or to an accident or some other cause beyond their control,
 - to ensure the safety of the vessel or any crew member,
 - believed to be necessary to ensure the safety of a protected marine mammal, shark or ray species, or
 - authorised and supervised by a fishery officer or observer that was present when the fish was taken (note there are current proposals to amend this defence).

²⁷ The Fisheries Amendment Act 2022

210. These rules create a tight framework of “reasons” why QMS species can or must be returned and recognises the benefits of legal discarding in some circumstances. The current rules mean that:

- the accounting for most fishing mortality against ACE or deemed values, which creates an incentive for commercial fishers to avoid fish that has low or no value to them,
- dead fish should be, in most circumstances, reported and landed to licensed fish receivers (LFRs) for accurate account of total removals by greenweight.²⁸

The Government has agreed to allow QMS fish to be returned to the sea if monitored by an observer or on-board camera system

211. In September 2024, Cabinet agreed to provide for commercial fishers to return QMS species to the sea when monitored by on-board cameras or observers (CAB-24-MIN-0353 refers), which we term “monitored returns”. The Government agreed to consult on how best to implement monitored returns as well as other changes to other rules that set out when commercial fishers must land QMS fish and when they can be returned to the sea and associated regulatory amendments (CAB-24-MIN-0494 refers).

212. There was no RIS developed to inform the decision to introduce monitored returns. This RIS outlines how to best give effect to Government’s decision to implement monitored returns as well as other options to improve the broader commercial landing and discard framework.

Status quo – what can or cannot be returned to the sea

213. Currently, there are 98 QMS species or assemblages of species, 41 of which have some type of landing exception – either within the Fisheries (Commercial Fishing) Regulations 2001 or area-based commercial regulations (in relation to the required return of fish below a minimum legal size) or within the Fisheries (Landing and Discard Exceptions) Notice.

214. Of the 41 species, there are 26 species that require a review against the exception provisions set in section 72A of the Act (described above) to assess whether a particular landing exception should continue, be amended, or be removed. The reviews are required as part of implementation of the Fisheries Amendment Act 2022, which must be completed by September 2026.²⁹

215. Under the status quo, the range of QMS species or conditions under which QMS species may be returned to the sea (under the existing exception provisions in the Act) is expected to be further constrained once implementation of the Fisheries Amendment Act 2022 is completed.

216. However, given Government’s decision to introduce monitored returns, commercial fishers operating vessels with monitoring on-board will be provided with greater flexibility to return QMS species to the sea.

What is the policy problem or opportunity?

217. The ability to provide for commercial fishers to return QMS fish to the sea is tightly constrained. The current framework reflects that, in the absence of at-sea monitoring, the main way to ensure catch is accurately reported is the requirement to land most QMS fish to LFRs.

²⁸ While verification of actual greenweight (the unprocessed weight of fish) is provided through LFRs, there is limited monitoring of LFR activities, and therefore limited verification of the weights reported by them.

²⁹ There is a proposed amendment in the Regulatory Systems (Primary Industries) Amendment Bill (the PIRSA) to extend this out to September 2028

218. Consequently, the costs imposed on industry under the current framework are high with:
- the use of onboard cameras and fisheries observers,
 - the tightening of reasons why QMS species may be returned to sea and covering more catch with ACE as these rules are tightened, and
 - landing more unwanted or low value catch as the rules are tightened, with additional handling, fuel and storage costs, forgoing the retention of more valuable catch, little economic returns when landed and, in some cases, additional costs if it needs to be disposed of on land.
219. The current framework fails to recognise the recent advances made in at-sea monitoring and verification of fisher reported data. New Zealand has rolled out on-board cameras on approximately 230 commercial vessels, in addition to the use of fisheries observers. On-board cameras increase the ability to monitor what is going on at sea to help verify catch reporting.
220. The introduction of on-board cameras creates an opportunity to consider more flexible options within the landing and discard rules to make the best use of verified information from cameras and to lower operational costs for fishers and licensed fish receivers. Increased verification of reported catch data via on-board cameras and fisheries observers reduces the need for all QMS fish to be landed, particularly if unwanted.
221. Given these advancements, the Government decided to amend the Act to provide for monitored returns. The Government agreed to consult on how best to implement monitored returns as well as other changes to other rules that set out when commercial fishers must land QMS fish and when they can be returned to the sea and associated regulatory amendments (CAB-24-MIN-0494 refers).
222. This RIS outlines how to best give effect to Government's decision to permit monitored returns with the options focused on:
- How to provide for monitored returns in legislation.
 - Reducing verification and reporting complexities associated with the introduction of monitored returns by removing landing exceptions for eighteen QMS species.
 - Adjusting the Total Allowable Commercial Catch and allowance for other sources of mortality caused by fishing within the catch limit for each stock where a landing exception is removed.
 - Whether to engage preferential allocation (28N) rights if adjustments are made to allowances within the catch limit for relevant stocks.
223. Other regulatory amendments proposed relate to improving the operation of the broader landing and discard framework by:
- Amending the defence for commercial fishers where a fishery officer can authorise and supervise the return or abandonment of QMS fish without requiring the presence of the fishery officer when the fish was taken.
 - Creating a landing exception provision to permit commercial fishers to deliberately release QMS fish at depth using fishing gear or technologies that have little to no impact on fish survival.
 - Simplifying the implementation process for the required review of the commercial finfish minimum legal size (MLS) exceptions under the Fisheries Amendment Act 2022.

Tangata whenua and stakeholder views

224. Submissions received from industry, Te Ohu Kaimoana, and most Mandated Iwi Organisations were, in general, strongly supportive of the proposed changes. Seafood New Zealand noted

that monitored returns are a significant step towards realising the benefits of the on-board camera programme.

225. The primary concerns from recreational fishers, some iwi groups, ENGOs, and members of the public were that the changes would compromise information integrity, increase wastage and discarding, and reduce incentives on fishers to improve fishing practices, make best use of their catch or avoid unwanted catch.

What criteria will be used to compare options to the status quo?

226. As noted earlier, the decision to amend the Act to enable monitored returns has already been made by Government. The proposals consulted on focused on how to best give effect to this decision. The status quo is therefore not an option, and no criteria are used to compare options to the status quo. Instead, a general risk-benefit assessment is applied to consider how best to implement monitored returns.

227. For the proposals that do not relate to implementation of monitored returns, they are considered against the following criteria relative to the status quo:

- **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.
- **Responsiveness:** The extent to which each option enables the fisheries management system to adapt to changes.
- **Efficiency:** The extent to which each option allows stakeholders and government resources to be allocated in a way that delivers the maximum benefits at minimum cost.

What options are being considered?

Options – Implementing monitored returns

228. Cabinet decisions to introduce monitored returns rules out consideration of the status quo/counterfactual.
229. Monitored returns are proposed to be introduced in legislation so that a commercial fisher may return any fish that is subject to the QMS if monitored by an observer or on-board cameras regulated and operated by MPI, whereby:
- a) monitored means that:
 - i. an observer must be on board the vessel when the fish is taken and be present to monitor and verify the returns of fish; or
 - ii. on-board cameras are recording footage of the setting, hauling, sorting, processing and returns of fish.
 - b) there is an ability to set conditions or requirements (bespoke to on-board cameras or observers) to ensure appropriate verification can be achieved, on a species, stock or methods basis, after consultation.
 - c) fish reported returned under a monitored return exception must be included in the commercial fisher's reported catch for the purposes of counting that catch against annual catch entitlement.
230. Fishery observer authorised returns are currently enabled by a defence under section 72(5)(c) of the Act. Providing for monitored returns (by observers or on-board cameras) as an exception provision means "observers" would be removed from the existing defence. There is no need to retain the observer authorised return defence when a monitored return exception is introduced as commercial fishers would be legally permitted to return/abandon any QMS fish if an observer is present and can monitor and verify the return.

231. The following table sets out supporting amendment options to best give effect to the introduction of monitored returns. A general risk-benefit assessment is applied to explore the trade-offs of different options. The options across each area of implementation are not mutually exclusive and can be applied in combination.

Proactive Release

How do the options compare to one another?

Options to implement monitored returns	Summary, Risks (–) and benefits (+)
How to provide for monitored returns in legislation	
A. Provide for monitored returns via secondary legislation	<p>Introduce monitored returns via a new exception provision, which is envisaged to operate in a similar way to the existing exception provisions under section 72A of the Act. The Minister would issue an instrument (like current exceptions are set in the Fisheries (Landing and Discard Exceptions) Notice) permitting monitored returns from the time the new provision in the Act was enacted.</p> <ul style="list-style-type: none"> + Consistent with how exceptions to the landing requirement are currently provided for in legislation + Provides greater flexibility as exceptions can be introduced, amended or removed without the need to amend the Act – Provide less certainty to industry around the ongoing availability of monitored returns as a landing exception
B. Provide for monitored returns in the Act (preferred)	<p>Introduce monitored returns via a new exception in the Act itself rather than secondary legislation.</p> <ul style="list-style-type: none"> – Less consistent with how exceptions to the landing requirement are currently provided for in legislation + Provides flexibility as monitored return exceptions could be amended (but not revoked) without the need to amend the Act ++ Provide greater certainty to industry around the ongoing availability of monitored returns as a landing exception
How to reduce reporting and verification complexity with the introduction of monitored returns	
A. Restrict monitored returns to QMS species that do not have other landing exceptions	<p>The introduction of monitored returns would come during a transition period following the Fisheries Amendment Act 2022, which tightened the commercial fishing rules for when QMS species must be landed, and when they may or must be discarded at sea. Under the Fisheries Amendment Act 2022, existing landing exceptions (that is, a species may or must be returned to the sea) for approximately 26 (out of 41) QMS species (primarily finfish and sharks) must be reviewed to determine whether they should remain, be amended, or revoked.</p> <p>This option would introduce monitored return exceptions only for QMS species that do not have another landing exception (approximately 57 species).</p> <ul style="list-style-type: none"> – Does not reflect Cabinet’s decision to allow any QMS fish to be returned to the sea if monitored by an observer or on-board camera system.

Options to implement monitored returns	Summary, Risks (–) and benefits (+)
	<ul style="list-style-type: none"> – Increases reporting complexities for fishers with monitoring on their vessels, as monitored returns would apply to only some species, while other exception types apply to the remaining species but subject to specific conditions – Provides less certainty to fishers on how species with existing exceptions that require review will be managed. – Ongoing changes because of the required reviews of existing landing exceptions, adding operational complexities for fishers. – Provides less flexibility for fishers with monitoring on their vessels to deal with unwanted catch that may have a landing exception but only under certain conditions, which are tightly constrained.
B. Allow monitored returns to apply to any QMS species but remove some existing landing exceptions that require review and are unlikely to meet the relevant provision under section 72A of the Act (preferred)	<p>This option would reduce verification and reporting complexities by removing 18 existing exceptions that require review under the Fisheries Amendment Act 2022. These exceptions are considered unlikely to meet the current relevant exception provisions in the Act to continue, which require an acceptable likelihood of survival. Having more than one landing exception for a species during the transition period would introduce reporting complexities for fishers by having multiple disposal codes for the same species and potentially different conditions or requirements to meet. Achieving appropriate verification is also important if a species has more than one landing exception with different requirements to balance that catch with ACE or not, due to an increased risk of misreporting to avoid paying ACE for fish returned.</p> <ul style="list-style-type: none"> + Provides greater certainty to fishers on how species with existing exceptions that require review will be managed to better inform their future operating environment + Gives fishers with monitoring on their vessels the greatest flexibility to return any QMS species to the sea (for example, without limitations on size or life status of the fish) + Reduces the combination of reporting codes and conditions that fishers would need to comply with + Reduces verification complexities for on-board camera reviewers and observers to determine whether fish being returned to sea are being reported against the appropriate code and meeting relevant conditions associated with their return – Fishers without monitoring on their vessels would need to land some QMS fish they previously could return to sea and will need to balance that retained fish with ACE (noting these exceptions would likely be revoked anyways, but at a later date)
Appropriately accounting for mortality from fishing associated with the proposed removal of some landing exceptions	

Options to implement monitored returns	Summary, Risks (–) and benefits (+)
A. Adjusting allowances within the TAC where a landing exception is removed (preferred)	<p>The proposal would amend the Total Allowable Commercial Catch (TACC) and other sources of mortality from fishing allowance for each stock where a minimum legal size or live-release exception is removed, to reflect that the mortality associated with those current returns will now be accounted for within the TACC instead of the other sources of mortality allowance. There would be no change to the Total Allowable Catch for each stock.</p> <p>The Minister would be empowered to vary the TACC and other sources of mortality allowance once by notice under section 20(2) of the Act, without the need to comply with any other legislative requirements, to reflect that the mortality associated with current returns under exceptions proposed for removal will now be accounted for within a stock's total allowable commercial catch.</p> <p>Adjustments to the total allowable commercial catch and other sources of mortality allowance for each stock would be based on the highest reported return volume for each stock between the 2019-20 and 2023-24 fishing years.</p> <ul style="list-style-type: none"> + Mortality associated with current returns under exception proposed for removal is appropriately accounted for within a stock's TAC. + Increased ACE available to fishers to cover catches previously not required to be balanced.
Impact of increased Total Allowable Commercial Catches on quota holders for relevant stocks where landing exceptions are removed	
A. Engaging preferential allocation (28N) rights	<p>Preferential allocation rights were granted to permit holders under section 28N of the Fisheries Act 1983 who elected to take administrative rather than compensated reductions to their catch allocations when catch limit reductions were made for some stocks when the QMS was established (referred to as 28N rights).</p> <p>The proposal would make commercial catch limit adjustments (as outlined in the proposal above to the amend the TACC and other sources of mortality from fishing allowance for each stock) to the three stocks that have 28N rights (snapper 1 - SNA1, tarakihi 2 - TAR2, and red cod 3 - RCO3), where exceptions are proposed to be removed, and engage 28N rights.</p> <ul style="list-style-type: none"> +The proposed TACC adjustments would increase the TACC under section 23 of the Act. Operation of section 23 of the Act (the engagement of 28N rights) is the law.

Options to implement monitored returns	Summary, Risks (-) and benefits (+)
	<ul style="list-style-type: none"> - Quota shares of owners who do not have 28N rights would be reduced and redistributed to the holders of 28N rights, resulting in a compounded impact on non-28N holders who would be worse off with the removal of exceptions as they would receive no additional ACE from the catch limit adjustments. - Recent High Court decision noted that the Crown has failed to offset the effect of engaging 28N rights in a way that preserves the value of the assets Māori acquired under the settlement.
B. Not engaging preferential allocation (28N) rights (preferred)	<p>The proposal would make commercial catch limit adjustments to the three stocks that have 28N rights (SNA1, TAR2, RCO3), where exceptions are proposed to be removed, without engaging the 28N rights. The adjustments would be distributed based on the current proportion of shares to persons owning quota for that stock. This would be achieved through a transitional provision to the Act.</p> <ul style="list-style-type: none"> + The proposed TACC adjustments are not based on increased abundance of the stocks, which is what generally engages section 23 (and 28N rights) of the Act. It is an administrative adjustment to where mortality is accounted for within the overall TAC. + All quota owners are in no worse a situation prior to any TACC adjustment and still obtain some additional ACE based on their current quota shares based on these administrative adjustments. - s9(2)(h)

Proposals – other amendments to the commercial landing and discard framework

232. The following section sets out options to improve the broader commercial landing and discard framework. The proposals are not mutually exclusive and can be implemented in combination.

Status quo/Counterfactual

233. The status quo would retain the current legal settings that control the commercial landing and discard rules and the inherent problems within those settings. These problems include:

- a) Unnecessarily inhibiting the use of a commercial fishers' defence to return or abandon QMS fish to the sea if authorised and supervised by a fishery officer;
- b) Not providing a pathway to provide for future advances in fishing gear or technology if evidence demonstrates that QMS fish can be released (without removal from the waters they were taken) with little to no impact on fish survival when this gear or technology is used; and
- c) Unnecessarily resource intensive and time-consuming implementation process of the Minister's decision, which would require Cabinet approval to amend the relevant commercial fishing regulations when deciding whether to require finfish below a minimum legal size to be returned to the sea.

Proposal 1 – Amending the defence for commercial fishers so that a fishery officer can authorise and supervise the return or abandonment of QMS fish, without being present when the fish was taken

234. The proposal would amend the current defence under section 72(5)(c) of the Act that enables commercial fishers to return or abandon QMS fish (in breach of the landing and discard rules) if a fishery officer is present when the fish was taken, and the return or abandonment is authorised and supervised by a fishery officer to make it more workable.

235. It would do this by removing the requirement under section 72(5)(c)(i) for a fishery officer to be present when the fish is "taken", reflecting that fishery officers are rarely deployed on commercial fishing vessels when fish are being caught, while maintaining the requirement for them to authorise the return or abandonment and be present when catch is returned for verification purposes.

Proposal 2 - Enable the Minister to provide for a landing exception to permit commercial fishers to deliberately release QMS fish at depth using fishing gear or technologies that have little to no impact on fish survival

236. This proposal would amend the Act by introducing a new landing exception provision under section 72A that would enable the Minister to permit commercial fishers to return or abandon QMS fish if released:

- at depth in the waters from which they were taken (without their removal from those waters); and
- using fishing gear or technologies that have been shown as unlikely to, or have little, impact on their survival.

237. The amendments would also specify that when assessing an exception proposal under this provision, the Minister must have regard to the following matters:

- The characteristics of the fishing activity (for example, fishing depths, event lengths, catch composition and volumes).
 - Evidence of gear design and use that enables deliberate selective release of fish, with the main species/sizes of fish released likely to survive.
238. The proposal would provide for the use of technology and fishing gear for deliberate selection and underwater release of catch at-depth, thereby reducing unwanted catch and improving survival of fish released. This is different to gear design, such as use of different mesh sizes or configurations, where fish can escape fishing gear without human interference. The matters the Minister must consider would ensure the gear or technologies enable selectivity and have minimal impacts on survival of fish released.
239. While such technologies and gear may not be currently available for commercial use, the proposal future proofs the landing and discards framework to account for future advances in computer vision, artificial intelligence and machine learning that may allow deliberate selection and underwater release of catch to take place at-depth.

Proposal 3 - Move the finfish minimum legal size (MLS) regulations that require review from the Fisheries (Commercial Fishing) Regulations 2001 to Part 2 of the Fisheries (Landing and Discard Exceptions) Notice.

240. Notwithstanding the proposal to remove some commercial finfish MLS to reduce reporting and verification complexity with the introduction of monitored returns, this proposal would amend the Act and the Fisheries (Commercial Fishing) Regulations 2001 to facilitate moving the rules requiring the return of commercial finfish species below their MLS from regulation 31(6) of the Fisheries (Commercial Fishing) Regulations to Part 2 of the Fisheries (Landing and Discard Exceptions) Notice.
241. This is a technical amendment to simplify the legislative implementation process after the Minister makes decisions on whether to keep a minimum legal-size exception.

How do the options compare to the status quo/counterfactual?

Criteria	Status quo	Proposal 1: Amending the defence for commercial fishers so that a fishery officer can authorise and supervise the return or abandonment of QMS fish, without being present when the fish was taken.	Proposal 2: Enabling the Minister to provide for a landing exception to permit commercial fishers to deliberately release QMS fish at depth using fishing gear or technologies that have little to no impact on fish survival.	Proposal 3: Moving the finfish minimum legal-size regulations that require review from the Fisheries (Commercial Fishing) Regulations 2001 to Part 2 of the Fisheries (Landing and Discard Exceptions) Notice.
Certainty	0	+ Improves the availability or potential use of the existing defence by commercial fishers	+ Provides a pathway for new technologies/gear to be used to reduce unwanted catches	0 Minister is authorised to make decisions on whether to retain, amend or remove the requirement to return finfish below a minimum legal size, which must be reviewed.
Responsiveness	0	+ Improves fishery officers' ability to authorise and supervise the return of QMS fish	+ Allows the Minister to consider and provide for commercial fishers to release fish where gear or technology is shown to result in a high likelihood of survival	+ Simplifies the implementation process of the Minister's decision, which would no longer require Cabinet approval to amend the relevant commercial fishing regulations when deciding whether to require finfish below a minimum legal size to be returned to the sea.
Efficiency	0	+ Removes unnecessary constraints on fishery officers' discretion to authorise and supervise the return of QMS fish	0 Innovative gear/technologies can be provided for under other existing pathways. Similar resource requirements would still need to be met under this proposal.	+ Reduces the time and resourcing required by officials to give effect to the Minister's decisions.
Overall assessment	0	+	+	+

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

Implementing monitored returns

242. Our preferred package of options for the implementation of monitored returns is to:

- a) Implement monitored returns as an exception to the general landing requirement within the Act itself.
- b) Reduce verification and reporting complexities associated by removing existing landing exceptions that require review for eighteen QMS species.
- c) Adjust the TACC and allowance for other sources of mortality caused by fishing within the catch limit for each stock where a landing exception is removed.
- d) Not engage preferential allocation (28N) rights when adjustments are made to the TACCs for relevant stocks (SNA1, TAR2, and RCO3) where a landing exception is removed.

243. Under a monitored return exception, both live and dead QMS fish would 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 Act.

244. Removing verification and reporting complexities will make the commercial landing and discard rules more workable for fishers. It will reduce administrative burdens for both the fishing industry and regulators.

245. The adjustment of TACCs for stocks with a landing exception proposed for removal represents a shift in how fishing mortality is accounted for within the TAC. It is a necessary and fair mechanism that reflects that mortality associated with current returns under exceptions proposed to be removed will now be accounted for against ACE (i.e., the TACC). It increases availability of ACE for fishers.

246. The CBA by Sapere concluded that enabling fishers with onboard monitoring to return QMS species to the sea (with ACE balancing or deemed values) could improve flexibility and reduce compliance costs. Sapere's qualitative assessment showed that benefits are likely to outweigh cost and modelled a cost savings estimate NPVs between \$2.78 million and \$5.39 million over a ten-year period.

Improving the broader commercial landing and discard framework

247. Our preferred package of proposals to improve the broader commercial landing and discard framework is to:

- a) amend the defence for commercial fishers where a fishery officer can authorise and supervise the return or abandonment of QMS fish without requiring the presence of the fishery officer when the fish was taken.
- b) create a landing exception provision under section 72A of the Act to permit commercial fishers to deliberately release QMS fish at depth using fishing gear or technologies that have little to no impact on fish survival.
- c) simplify the implementation process for the required review of the commercial finfish MLS exceptions under the Fisheries Amendment Act 2022 by moving the finfish MLS

regulations from the Fisheries (Commercial Fishing) Regulations 2001 to Part 2 of the Fisheries (Landing and Discard Exceptions) Notice.

- 248. Amending the fishery officer authorised return defence will remove unnecessary constraints on fishery officer's discretion to authorise and supervise return of QMS fish and improve the availability or potential use of the existing defence by commercial fishers.
- 249. The landing exception that permits QMS fish to be deliberately released at depth could incentivise investment in more selective and sustainable fishing practices. Development of such practices reduces wastage and handling time, and fish released in good condition contribute to stock health.
- 250. The technical amendment will reduce the time and resourcing required by officials to give effect to Minister's decisions, which would no longer require Cabinet approval to amend the relevant commercial fishing regulations, when deciding whether to require finfish below a MLS to be returned to the sea.

Is the Minister's preferred options in the Cabinet paper the same as the agency's preferred options in the RIS?

- 251. Yes

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Commercial fishing sector (regulated groups)	<p>Commercial fishers with or without monitoring on their vessels will incur ongoing costs balancing catch of QMS fish with ACE (or incurring deemed values) that they previously were able to return to the sea without balancing with ACE or incurring deemed values.</p> <p>There are likely to be additional economic impacts on fishers without monitoring on their vessels arising from the opportunity costs associated with having to store and transport to shore unmarketable or unwanted lower (or no) value fish.</p>	<p>\$0.54 million (balancing catch with ACE)</p> <p>Non-monetised Low (opportunity costs)</p>	<p>Medium</p> <p>Fishers with or without monitoring on their vessels may be able to avoid increased ACE balancing costs if they have ways to avoid that catch in the first instance.</p> <p>If fishers without monitoring on their vessels can sell some or all the unwanted or unmarketable fish they can no longer return to the sea, the earnings received may offset some costs. However, it is impossible to estimate the price received for unwanted/ unmarketable fish.</p>
Fisheries New Zealand (regulators)	<p>The volume of fish reported returned to the sea is expected to increase relative to the status quo, which will increase verification and compliance monitoring requirements in the short term to a new equilibrium once the use of monitored returns is embedded.</p> <p>Fishserve, which administers adjustments to the TACC on behalf of Fisheries New Zealand, will need to significantly amend their systems to not engage 28N rights with the proposed TACC adjustments for relevant stocks. These system changes will likely incur a one-off cost to Fisheries New Zealand.</p>	<p>Non-monetised Medium</p> <p>Medium (Fishserve system changes)</p>	<p>Medium</p> <p>While more fish would be returned to the sea, no changes are proposed to current verification protocols. In the short-term, additional resources may be required to communicate the changes and support fishers adjusting to them. In the longer term, there may be changes to review protocols to ensure sufficient and efficient verification of monitored returns.</p> <p>While Fishserve noted that associated system</p>

			changes would result in additional costs, values were not provided.
Others (e.g., ENGOs, customary and recreational fishers)	ENGOs, recreational fishers and some iwi oppose the changes as they consider this will have an ongoing negative impact on stock sustainability and increase wastage in the fishery.	Non-monetised Low	Medium
Total monetised costs	-	\$0.54 million per annum	Medium
Non-monetised costs	-	Low/Medium	
Additional benefits of the preferred option compared to taking no action			
Commercial fishing sector (regulated groups)	Commercial fishers with monitoring on their vessels will have the greatest ongoing cost reduction as they will no longer be required to land unwanted QMS fish. This reduces costs associated with processing, storing and disposing of unwanted catch. Licensed fish receivers will have ongoing cost reductions associated with handling and disposal of unwanted catch.	Cost benefit analysis estimates these changes (primarily associated with the introduction of monitored returns) will have cost saving NPVs between \$2.78 million and \$5.39 million over a ten-year period.	Low These estimates should be interpreted with caution as they are derived from data and behavioural assumptions based on interviews with a small sample of commercial fishers (three) and licensed fish receivers (three).
Fisheries New Zealand (regulators)	Complexities associated with verification and reporting requirements where some existing landing exceptions are removed expected to reduce.	Non-monetised Medium	Medium
Total monetised benefits	-	\$2.78-5.39 million NPV over a ten-year period	Low
Non-monetised benefits	-	Medium	

Subsection 2D: Reducing the risk of judicial review of sustainability decisions

What is the context behind the policy problem/opportunity and how is the status quo expected to develop

- 252. Recent court cases relating to crayfish and orange roughy fisheries have challenged catch limit decisions via judicial review.³⁰ However, the main concern is about a broader environmental issue, such as kina barrens or bottom-trawling, that a catch limit decision in and of itself may not be able to solve. This link is driven by the obligations in section 8 and section 9 of the Act to consider adverse effects on the wider aquatic ecosystem when making TAC decisions under the Act.
- 253. Catch limits are primarily aimed at ensuring the sustainability of a harvested stock within a QMA.
- 254. Recent Court challenges of catch limit decisions have been lodged, on average, about six months (range two and a half to ten months) after the decision was notified. Also, recently a judicial review was lodged for sustainability decisions made five years ago, which concerned protection of dolphins.

What is the status quo

- 255. Legal challenges have significant cost and resource pressures. Recent cases taken by ENGOs have had a particular focus on environmental aspects of the Act. They have chosen to influence interpretation of the Act through the Court rather than at an operational level. Under the status quo, challenges will likely continue from parties using catch limit decisions to judicially review wider issues.
- 256. Under the status quo there will continue to be uncertainty created by challenges to historical decisions, which means decision are not enduring and this may disrupt business investment and planning by industry.
- 257. MPI can reduce the risk of being successfully challenged by applying good mitigations. In response to recent litigation, officials are applying a range of operational changes to reduce the risk of fisheries decisions being successfully challenged. These include fuller consideration of the obligation to make decisions based on best available information and that MPI's advice reflects that it has considered all relevant information.
- 258. In addition there is an opportunity to leverage off the current legislative reform package including measures that may reduce the risk of successful litigation. For example, better integrating social, cultural and economic factors when setting catch limits and providing recognition of non-regulatory sustainability measures.

What is the policy problem or opportunity?

- 259. The linking in the Act of obligations to manage two different issues, fish stock abundance and adverse effects of fishing, together in one decision creates challenges for managing fisheries and could result in unnecessary restrictions on fishing for little or no environmental benefit.

³⁰ Judicial review is an inherent jurisdiction of the courts to review decisions made under statutory powers, whereas appeals are specific legislated provisions providing parties with legal recourse to challenge decisions. There is no legislative provision that allows for an appeal of a TAC decision.

260. It is often not practical, or even possible, to implement measures (such as area closures, gear restrictions) to manage adverse effects at the same time as considering an adjustment to the catch limits. The timescale for setting a catch limit is annual versus the management of adverse effects which occurs as required.
261. Adverse effects tend to be caused by the fishing method used, rather than the amount of catch taken. Effective and efficient management of adverse effects can be more complex than setting a catch limit as it often involves more than one fish stock, different gear types, and typically require management at a different scale than a QMA (e.g. can range from fine scale, such as kina barrens on a reef, to New Zealand wide, such as interactions with seabirds). Often a suite of measures is required to manage an adverse effect of fishing.
262. The judicial challenges of catch limit decisions are often coming deep into the fishing year, which creates regulatory uncertainty and discourages fishers from investing in a fishery. There are judicial reviews of decisions made many years ago. And some challenges are coming from parties that have not engaged in the consultation process for the catch limit decision.
263. In addition there is an opportunity to leverage off the current legislative reform package including measures that may reduce the risk of successful litigation. For example, better integrating social, cultural and economic factors when setting catch limits and providing recognition of non-regulatory sustainability measures.

What criteria will be used to compare options to the status quo?

264. The following criteria were used to assess options:
- **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.
 - **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.
 - **Reasonableness:** The extent to which the options provide reasonable opportunity for decisions to be considered and a review to be lodged.

What options are being considered?

265. The focus of the proposals is on improving operation of the system while addressing the legislation and issues giving rise to judicial review.

Proposal One – Status Quo

266. Current legislative provisions for setting catch limits would continue and risk the Courts continuing to conflate the role of the catch limit in managing abundance with managing the adverse effects of fishing. There would also be the risk of judicial reviews of historic decisions. For example, recently a judicial review was lodged for a decision made five years ago.

Proposal Two – Restricting the time period for judicial review of a decision to be lodged

267. The changes proposed under this proposal are to place a time limit for lodging a judicial review of decisions made under the Act.
268. Such a restriction could:
- provide certainty for fishers that a decision will not be challenged after the set time period; and
 - reduce the risk of litigation by encouraging better engagement in the consultation on fisheries decisions by stakeholders so that potential concerns and different points of view are raised as part of the decision-making process.

269. Any timeframe restricting a review should not limit access to the courts unreasonably. There are examples of limitation periods for judicial challenges within the Act. Challenges to interim or annual deemed value decisions must be made within three months.
270. There are two options being considered. Option A is recommended by MPI and Option B is preferred by the Minister and is recommended in the Cabinet paper.

Option A - MPI preferred

271. The changes proposed under this option are:
- a) limit lodging a judicial review of a catch limit decision to a specified period (three months) from the date of formal notification in the *New Zealand Gazette*; and
 - b) limit review of other sustainability measure decisions (for example, area closures and gear restrictions) to six months from notification
272. For other section 11 sustainability measures to manage adverse effects of fishing on the aquatic environment, we propose a different, longer, limitation period of six months from notification as their implementation is often not directly linked to the start of a fishing year. This provision will prevent challenges to historic decisions.
273. These periods were considered reasonable lengths of time for parties to assemble a challenge to a particular decision, given that most plaintiffs will seek further information from the Minister and MPI through the OIA (20 working days to respond to a request) before submitting a challenge to the Court.

Option B - Minister preferred

274. Under this option a limitation of 20 working days is proposed for any decision made under the Act. The 20 days is in line with the Fast-track Approvals Act 2024. The scope of this option is much wider than Option A as it is proposed to apply to decisions beyond catch limit and sustainability measures.
275. MPI consider that this option may be viewed by fisheries stakeholders as restricting the right to judicial review. The timeframe may not allow for a comprehensive gathering and analysis of all relevant information by the plaintiff.
276. The risk of significantly limiting the timeframe for judicial reviews is that it may not reduce the number of judicial reviews as the Courts could choose to hear judicial review applications with less supporting information given the restricted time period.

Proposal Three – Focussing the role of the TAC on managing stock abundance

277. We propose under this proposal to:
- Define that the role of the catch limit is to manage the abundance of the stock for which it is being set, at the level of the QMA.
 - Retain the ability to consider effects of fishing on QMS and non-QMS stocks taken in association (bycatch) when setting or varying the catch limit.
 - Limit the range of adverse effects that can be addressed by the catch limit to predator/prey relationships.
 - Limit the extent of those considerations to ensure that the catch limit cannot be used to unnecessarily and unduly restrict utilisation.
 - Require the Minister to consider the effect of any other sustainability measures either in place or being considered to manage the adverse effects of fishing.

278. This proposal is intended to ensure that the consideration of effects of fishing when setting or varying the catch limit is clarified. Adverse effects are limited to only those effects the catch limit can meaningfully avoid, remedy or mitigate (with or without additional measures) without unnecessarily limiting utilisation (when compared to use of other tools).

How do the options compare to the status quo/counterfactual?

Criteria	Status quo	Proposal 2 – Time period and decisions for judicial review		Proposal 3 - TAC setting
		Option A – MPI recommendation for restriction times	Option B – Minister preferred restriction time	
Certainty	0	+ Provides more certainty around fisheries decisions.	+ Provides more certainty around fisheries decisions.	++ Clearly separates the function of TAC setting from management of broader adverse effects.
Efficiency	0	+ Provides clear limit on time available to lodge a judicial review.	+ Provides clear limit on time available to lodge a judicial review.	++ Separating catch limit setting from management of adverse effects of fishing will ensure both functions can be done effectively and efficiently.
Reasonableness	0	+ The time periods for TAC and sustainability decisions provide reasonable opportunity for decisions to be considered and a review to be lodged.	- The impact of a tighter timeframe and wider scope of application have yet to be assessed.	+ There is greater clarity on the function of the TAC, and it does not impact on the overall legislative requirement to avoid, remedy, or mitigate the adverse effects of fishing.

Lack of consultation

279. These proposals are a significant change to the catch limit setting provision in the Act that, because they were decided only recently, have yet to be consulted on. They are likely to be controversial at the select committee stage and seen by ENGOs, recreational groups, some iwi/Māori, and some members of the wider public as preventing judicial challenges and weakening the Act's requirement to ensure fishing is sustainable.

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

Restricting the time period for judicial review of a decision to be lodged

280. The benefit of this proposal is that the proposed time period for challenging sustainability decisions reflects the desire for these decisions to be confirmed as soon as practicable after being made while still providing a reasonable period to review the decision.
281. A risk of overly limiting the timeframe for judicial reviews is that it may not reduce the number of judicial reviews as the Courts could allow judicial reviews with less supporting information given the restricted time period.
282. As noted above, MPI considers that Option A provides reasonable time periods and scope of application.

Focussing the role of the TAC on managing stock abundance

283. This option is recommended because it will provide greater clarity around the separation in function between catch limit decisions and obligations to avoid remedy and mitigate adverse effects and provide greater protection from successful judicial review on these decisions.
284. The benefits of this option are that:
- A catch limit decision is less likely to be successfully challenged on the basis that it does not also manage the adverse ecosystem effects of fishing.
 - It provides significant operational efficiencies by limiting the range of adverse effects that need to be considered and therefore included in advice to support catch limit decision making.
 - It provides increased certainty to fishers, thereby supporting investment and other longer-term decisions.
285. The proposed changes do not impact on the overall legislative requirement to avoid, remedy or mitigate the adverse effects of fishing on the environment, or the wider set of tools available under the Act to do so.
286. Focussing the catch limit setting on managing the abundance of fish stocks may heighten the intent to put in place other sustainability measures to meet the Act's obligation to avoid, remedy, or mitigate adverse effects of fishing.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

287. Yes, for proposal 3 to focus the role of the catch limit on managing stock abundance.
288. No, for proposal 2, as discussed above, there is a difference in the period and scope for the time restriction on lodging a judicial review.
289. As noted above although there has yet to be public consultation on these proposals the select committee will provide an opportunity to hear stakeholder views on this matter and make final decisions about how to better protect the ability to set catch limits, while ensuring sustainability.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Commercial fishing sector (regulated groups)	Some parties may object to the proposed amendments as restricting the ability to judicially review. However, parties can still challenge within timeframe. Parties considering a judicial review of a decision will face time pressure to lodge with the Courts in the timeframe.	Non-monetised Low	Low/Medium There may be a reduction in judicial challenges but not able to predict this.
Fisheries New Zealand (regulators)	The timeframe for lodging a judicial review will create pressure to respond promptly to requests for relevant information.	Non-monetised Low/medium	
Others (e.g. ENGOs, customary and recreational fishers)	Some parties may object to the proposed amendments as restricting the ability to judicially review. However, parties can still challenge within timeframe. Parties considering a judicial review of a decision will face time pressure to lodge with the Courts in the timeframe. The increased clarity of the purpose of the TAC will restrict the ability to challenge other issues, such as adverse effects.	Non-monetised Low/medium	
Non-monetised costs		Low/medium	Low/medium
Additional benefits of the preferred option compared to taking no action			
Commercial fishing sector	The preferred options will reduce non-monetised costs in responding to judicial reviews taken by ENGOs and non-commercial fishers, but the amount is difficult to quantify. Increased certainty on role of TAC and that decisions will not be challenged after a certain	Low/medium	Medium Dependent on the impact of proposals to reduce the risk of litigation

	time. Fewer challenges of TAC decisions.		
Fisheries New Zealand	<p>The preferred options will reduce non-monetised costs in responding to judicial reviews, but the amount is difficult to quantify.</p> <p>Increased certainty on role of TAC and that decisions will not be challenged after a certain time. Fewer successful challenges of TAC decisions.</p>	Low/medium	
Total monetised benefits	-	-	-
Non-monetised benefits		Low/medium	Low/medium

Section 3: Delivering an option

How will the proposal be implemented?

290. Legislative amendments are required to the Fisheries Act 1996 and associated regulations to make the changes proposed to strengthen the New Zealand fisheries management system. It is expected that a bill will be introduced later in 2025 and progressed through the Parliamentary process, with enactment expected in mid-2026.
291. Commercial fishers will need sufficient time to respond to these changes, particularly the ability to use monitored returns, to adjust their operations and to continue to develop ways of avoiding, or creating value from, unwanted fish. In many cases they cannot simply avoid catching unwanted fish and the impact could be significant— especially with some current methods. This will require innovation and new ways of fishing – whether that be new technologies, new methods or new approaches to how current methods are used. We will continue to monitor the level of deemed values and disposals at sea in key fisheries.
292. The successful implementation of management procedures and multi-year TACs will be a challenge to ensure that the scope of these provisions and their upfront design is sufficient to ensure they work, and that Treaty Partners and stakeholders are included in that process. Many stakeholders noted the importance of public consultation but agreed decision-making needs to be faster and more responsive. Thus, if implemented without building space for stakeholder participation there could be issues with stakeholders feeling left out and believing decision-making is industry motivated.
293. There will also be some initial costs to government to adjust systems to administer the new rules. MPI will monitor the implementation of these proposals in the medium and long term to determine whether they are meeting the desired objectives. Long term, it is anticipated that the preferred options will provide benefits to all affected parties.
294. Clarifying the use requirements for on-board cameras would require regulatory change to the Fisheries (Electronic Monitoring on Vessels) Regulations 2017. MPI would also update external facing guidance documents for fishers for example *Electronic Monitoring System Guide for On-Board Cameras* (May 2024) which provides guidance to fishers on the operation of camera systems to meet these obligations during a fishing trip.

How will the proposal be monitored, evaluated, and reviewed?

295. All proposals will be part of the Fisheries Bill and therefore subject to evaluation by the select committee, who will be hearing views from a range of fisheries sector stakeholders and representatives.
296. Once the Bill is passed, MPI is best placed to collect information and monitor the impact of the proposed changes to the Act and various regulations and subsequently the fisheries management system. MPI will monitor the progress of proposals using existing means of data collection; during and post the transitional phase of their introduction. This information includes ACE prices and ACE markets for key inshore species and stocks, changes in catch levels and quantity of small fish in markets (domestic and international). This will include data from the electronic reporting of catch and position along with feedback from fishers through stakeholder forums.
297. Use of monitoring and verification through on-board cameras will also inform the evaluation of the proposals. Data will be analysed, discussed, and, where necessary, decisions made in collaboration with Treaty Partners and stakeholder representatives.

298. MPI can track the progress of the changes to the fisheries management system, and to consider how they are working in practice through the data discussed above.
299. Affected parties will continue to be able to make complaints to the Ombudsman, Privacy Commissioner and through the court system if they are unhappy with the outcome of this policy.
300. With the new arrangements in place MPI will likely need to produce more written summaries of footage and other data collected from cameras. To satisfy the public interest, more proactive data could be published which would require further work from MPI.
301. It is not proposed that there will be any formal review of the proposals. However, a review will likely be triggered if monitoring data (such as from electronic monitoring, ACE price data, and stock sustainability assessments) shows that the arrangements are having unintended, unforeseen consequences, or having the reverse effect from that intended.
302. MPI will continue its programme of engagement and communication with stakeholders, including those affected by the proposals, and will include consideration of targeted engagement to meet requirements as needed during the implementation of changes to the fisheries system. Regular engagement with stakeholders will provide an opportunity for them to raise any concerns with the new arrangements – both through the relationship between the regulator and regulated parties, and the regular relationships between government departments and consumer advocacy groups.

Camera footage protections

303. 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.
304. 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.
305. The OIA exemption will have been successful if MPI has the ability to refuse OIA requests on camera footage but retains the ability to share footage in certain circumstances. Success could be measured in the number of Ombudsman complaints and judicial challenges on this topic.
306. 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

307. This proposal would be implemented through an amendment to the Electronic Monitoring Regulations.
308. 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.
309. 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.