

Coversheet: Conservation (Freshwater Fisheries Regulation) Reform Bill

Advising agencies	DOC
Decision sought	Agree to introduce a Bill to modernise freshwater fisheries law for indigenous fish
Proposing Ministers	Minister of Conservation

Summary: Problem and Proposed Approach

<p>Problem Definition</p> <p>What problem or opportunity does this proposal seek to address? Why is Government intervention required?</p>
<p>The freshwater fisheries provisions in the Conservation Act need updating to provide an effective framework for managing indigenous freshwater fisheries. The current legislative framework, particularly the regulation-making powers, is out of date and not fit-for-purpose for the future.</p>

<p>Proposed Approach</p> <p>How will Government intervention work to bring about the desired change? How is this the best option?</p>
<p>The Government through the Minister of Conservation (and in some cases Minister of Fisheries) is responsible for managing freshwater indigenous fisheries. To do so an effective regulatory regime is needed. The only way to correct problems with the existing statutory regime is through legislative amendment. In some cases, correcting issues with the existing regulations will be impossible if the provisions in the Act on regulation-making are not corrected.</p>

Section B: Summary Impacts: Benefits and costs

<p>Who are the main expected beneficiaries and what is the nature of the expected benefit?</p>
<p>The primary benefits are to freshwater fisheries, freshwater biodiversity values and the efficiency of government administration. The Government will benefit from being able to more efficiently and effectively undertake their management role.</p> <p>Treaty partners will benefit because the toolbox for implementing fisheries recovery programmes signalled in Treaty settlements will be improved.</p> <p>Parties who are regulated (fishers, owners of fish passage barriers) will benefit from the removal of legal uncertainties, legal risks, some approval requirements, and creation of an improved ability to review existing regulations.</p>

The public will benefit because a public resource will be better managed. Restoration partners (including councils and community groups) will benefit because the toolbox for implementing and protecting fisheries restoration work will be improved. People wishing to take fish and return them uninjured to the water (e.g. schools showing fish to children) will benefit because their activity will no longer require an authorisation under the Conservation Act.

Where do the costs fall?

People who wish to catch indigenous freshwater fish for non-consumption purposes (e.g. fertiliser, sport) will need an authorisation. Those activities now seldom occur, although were frequent in the past. It is not anticipated that requests for authorisation will be made, as the few people who fish for sport are unlikely to consider the activity worth the effort of applying.

What are the likely risks and unintended impacts, how significant are they and how will they be minimised or mitigated?

Most of the amendments proposed are relatively minor and technical, and based on long experience administering the legislation. It is not expected that there would be unexpected consequences from the change, and the minor risk of that will be far outweighed by the benefits of removing current unintended consequences and legal risks. The risk will be minimised through close communication between DOC technical and legal staff and PCO during drafting, and by consulting MPI fisheries experts.

A potential risk of effects on Maori fishing rights will be avoided by ensuring that all the provisions being changed are subject to a provision that states that they have no effect on Maori fishing rights.

None of the changes will amend or directly affect the operation of the Fisheries Act, removing much of the risk of further complication of the overlapping jurisdictions.

None of the provisions would completely prohibit any activity, so authorisations can be used to address any unexpected effects on individuals.

Identify any significant incompatibility with the Government's 'Expectations for the design of regulatory systems'.

The status quo (which these proposals seek to improve) is incompatible with the expectations, particularly in relation to:

:

- processes that produce predictable and consistent outcomes for regulated parties across time and place
- well-aligned with existing requirements in related or supporting regulatory systems through minimising unintended gaps or overlaps and inconsistent or duplicative requirements
- sets out legal obligations and regulator expectations and practices in ways that are easy to find, easy to navigate, and clear and easy to understand.

Section C: Evidence certainty and quality assurance

Agency rating of evidence certainty?

Highly confident. There is significant experience in administering the current law, and most amendments have been identified because of problems that have arisen in real cases. DOC has completed a technical review of the existing Freshwater Fisheries Regulations 1983 as they apply to indigenous fisheries, which included discussions with the Fish Passage Advisory Group, Ngai Tahu, and some individual fisheries experts, and changes proposed for the regulation making powers are based on the findings of that work.

To be completed by quality assurers:

Quality Assurance Reviewing Agency:

DOC internal review and Treasury QA review

Quality Assurance Assessment:

The Regulatory Quality Team at the Treasury has reviewed the Regulatory Impact Assessment "Conservation (Freshwater Fisheries Regulation) Reform Bill" produced by the Department of Conservation and dated 20 April 2018.

Reviewer Comments and Recommendations:

The review team considers that it **partially meets** the Quality Assurance criteria. We consider the options analysis meets the quality assurance criteria. However the key constraint, which has been acknowledged in the Regulatory Impact Assessment, is that the time frame did not allow consultation with iwi and stakeholders. Although attempts have been made to mitigate the lack of consultation by narrowing the proposed legislative reforms to those required to improve the legislative toolkit, stakeholders are likely to have some concerns about the lack of consultation and the limited scope of the review

Impact Statement: Conservation (Freshwater Fisheries Regulation) Reform Bill

Section 1: General information

Purpose
<p><i>The Department of Conservation</i> is solely responsible for the analysis and advice set out in this Regulatory Impact Statement, except as otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing:</p> <ul style="list-style-type: none">• final decisions to proceed with a policy change to be taken by or on behalf of Cabinet

Key Limitations or Constraints on Analysis
<p>A key constraint in preparing the policy proposals and this RIS was timeframes. The work needed to be completed to allow the Bill to be introduced at a specific date set in the legislative programme. That did not allow consultation with iwi and stakeholders.</p> <p>That means that the proposals could not be tested. However in many cases the issues had been identified because the current legislation had thrown up a problem in a real life situation, or the technical review of the existing regulations (which was done in consultation with some external experts) identified the problem.</p>

Responsible Manager (signature and date):
<p>Guy Kerrison Policy Manager, Land and Freshwater Policy Policy and Visitors Group Department of Conservation 20 April 2018</p>

Section 2: Problem definition and objectives

2.1 What is the context within which action is proposed?

The legislative framework

Indigenous freshwater fisheries are managed by the Crown, under the Conservation and Fisheries Acts. The Conservation Act contains a range of controls and tools for managing indigenous fish and the threats to them.

The Freshwater Fisheries Regulations 1983 (FWFR 1983) were made under the 1983 Fisheries Act, but transferred to the Conservation Act 1987 by the Conservation Law Reform Act 1990. These include regulations on a range of matters relevant to freshwater indigenous fish, including controls on noxious fish and fish passage barriers.

New Zealand's freshwater fisheries

New Zealand has 77 species of freshwater fish. 53 of them are indigenous and most of those are endemic (found nowhere else in the world). A large proportion of the native fish species are endangered, generally as a result of habitat loss or degradation, loss of spawning sites, barriers to fish passage, or impacts of introduced fish.

Eels, lamprey (piharau/kanakana), mullet, estuarine flounder, and migratory galaxiids (whitebait) are the only freshwater fish species that are regularly fished. Koura (freshwater crayfish) and freshwater mussels (kakahi) have also been important fisheries species.

Eels (tuna) are an important commercial fishery, as well as being subject to customary and recreational fishing. Commercial eel fishing is managed under the Fisheries Act quota management system. The fishery has been impacted by changes in eel fishery productivity due to habitat loss and degradation, and loss of fish passage for migrating juveniles (moving upstream) and breeding adults (moving downstream). NIWA estimates the commercial eel fishery to be worth \$6.1m annually.¹

Tuna are a highly valued customary fishery. That value is evidenced by their prominence in many Treaty settlements. Piharau, koura and kakahi are also important customary fisheries.

Whitebait fisheries are managed under two sets of whitebait fishing regulations, by the Department of Conservation (DOC). The regulations do not control the amount of fish taken, but rather the fishing pressure (through controls on catch methods, seasons, and hours in which fishing can occur). The fish can be sold.

Because whitebait fishers are not licensed, information on the financial value of the fishery is not readily available. The fish sell for a high price (prices viewed as part of this study ranged from \$40-\$100/kg). One DOC internal report in 2000 stated that the average catch for the Awarua River (Southland) was around 4 tonnes annually, which (at \$50/kg) would be around \$200,000 in direct sale value from that one river. Stands in good fishing locations (e.g. Haast) sell for considerable sums (e.g. 2017 listings had "buy-now" prices of \$69,000, \$92,500 and \$40,000), reflecting the value of the fish that can be caught from those stands. Work is underway to develop whitebait aquaculture to provide a higher and more consistent income from the fishery.

¹ <https://www.niwa.co.nz/te-k%C5%ABwaha/tuna-information-resource/pressures-on-new-zealand-populations/commercial-tuna-fisheries>

Some whitebait fishers will fish continuously through the season, and the income from the sale of fish is a key part of their annual income. Those fishers are significantly affected by the major variations in whitebait runs that are now a feature of the fishery, although prices may be higher in lean years. Because access to desirable fishing locations is often difficult to obtain, loss or decline of a local fishery will have a major effect on the affected fishers, as they cannot readily move to an alternative location.

Communities recognise the value of the fishery, and community funded projects to improve the fisheries are being initiated (e.g. a recent \$179,000 community initiative in Foxton to improve fish passage in one stream).

As well as the sale of the fish, whitebaiters provide other benefits to the economy. Most fishing is in isolated rural locations, so even relatively small-scale spending by whitebaiters (e.g. on food, petrol, accommodation) is an important economic contribution to those communities.

Whitebaiting is an important part of the culture in some regions, such as the West Coast.

Whitebait are also an important customary fishery for some iwi.

Many types of fishing are regulated, as are fish passage barriers, and use of noxious fish.

Future state if no action is taken

The regulatory regime is old and inefficient. Without reforms, inefficient and ineffective regulation will continue. That will have negative impacts on some sectors (e.g. unnecessary controls, inefficient regulatory processes), and on the effectiveness of fisheries management. As the public demand more effective controls (this is already happening in relation to whitebait and fish passage barriers), the impacts on those sectors will grow. Under the current management 'toolbox', any additional controls may not be optimal, because only a limited range of tools will be available.

Iwi and community interest in active restoration of fisheries and recovery of indigenous fish species is growing rapidly. There are already frustrations being expressed because the controls on restoration activities (e.g. movement of fish, reduction in fish passage barriers) are excessive or unduly costly, or because the improved fishery cannot be adequately protected. Work in this area has shown that some of the key improvements in the regulatory system that are needed cannot be delivered under the current law. For example streamlining of fish passage barrier regulations is strongly supported by the national Fish Passage Advisory Group and key sectors, but there is no regulation making power that would allow the existing regulations to be replaced with new regulations.

Some fisheries have significantly reduced in productivity and size over the last 50-100 years, notably whitebait, eel, mussels and lamprey. That has significant economic and cultural impacts, and the state of those fisheries is of high concern to iwi and/or the public. Given the pressure to recover those fisheries, action will have to be taken. If the toolbox is limited, either because some tools are missing or they are faulty, the Minister will be forced into using sub-optimal solutions. That will exacerbate an existing problems of the public demanding sub-optimal or poorly targeted solutions because their understanding of relative impacts and fisheries management is poor. For example there have been requests to ban commercial sale or fishing of some species, when the evidence shows that habitat loss and degradation is a far larger problem, and that correcting that problem may allow both fishing and

population recovery.

Replacing old regulations with modern, more efficient and effective regulations cannot be done if the regulation making powers in the Act do not cover the relevant matters. As fish passage barriers and noxious fish need to be managed, the only choice open to the Minister if the regulation making powers are not corrected will be to leave the old regulations in place. The impacts of problems with those regulations will grow over time.

2.2 What regulatory system, or systems, are already in place?

As set out in 2.1, there is an existing regulatory regime for indigenous freshwater fisheries, noxious fish, and some related matters. The Conservation Act and its regulations contain a range of tools to allow management of indigenous fish, management of threats to indigenous fish, and control of noxious fish to be undertaken. These include:

- The ability for DOC to prepare fisheries management plans for approval by the Minister
- The ability to control take of indigenous fish
- Regulation (by the Ministers of Conservation and Fisheries) of movement of aquatic life between waterbodies
- Regulations that control all structures that could create a barrier to indigenous fish movements
- Regulations that control activities that may spread noxious fish
- Controls on fishing using noxious substances and electric fishing
- Powers to prevent or restrict fishing in specific places.
- Controls on damage to spawning sites.

Freshwater fisheries are a government-controlled natural resource, so regulation of the use and management of those fisheries is the only effective option available. The regulations provide rights to fishers and others, as well as restricting activities that could damage the public and private interest in fisheries.

Freshwater fisheries are also managed by fish and game councils (in the case of sports fish) and the Minister of Fisheries under the Fisheries Act.

The reforms being proposed do not directly affect sports fish but will more effectively manage some threats to sports fish.

The reforms do not include changes to the Fisheries Act, but do include one change to the powers of the Minister of Fisheries under the Conservation Act, to correct a problem identified by MPI.

There was a jurisdictional review undertaken in the early 2000s, looking at the relationship between the Fisheries and Conservation Act regimes. That did not reach agreement on fundamental reforms to reduce overlap, but actions have been taken to reduce issues created by the overlapping regimes. This review is not seeking to resolve that problem, but rather make the Conservation Act provisions effective and efficient within the current regime.

2.3 What is the policy problem or opportunity?

In summary, the problem is:

- Freshwater indigenous fisheries are economically, culturally and recreationally important
- Freshwater indigenous fish are important parts of NZ's unique biodiversity
- The productivity and size of some freshwater fisheries have significantly reduced in recent years
- The public is demanding reform to fisheries management to correct that, including greater implementation/enforcement of existing regulatory arrangements
- There are a range of measures that could be used to address the main causes – habitat loss and degradation, loss of fish passage, loss of spawning sites
- In many cases the current regulatory regime either does not address those causes, or the relevant part of the regime is poorly designed
- If there is no change, there will be continued pressure for solutions, and in the absence of an effective toolbox there will be pressure to provide solutions (eg, bans on commercial fishing) that don't address the underlying causes, or controls on the underlying causes will have to be done in a way that imposes unnecessary regulatory costs or legal risks.

For example, it is intended to review the fish passage regulations to make the approval process for agencies with large numbers of old structures (particularly roading authorities) more efficient, and allow approvals to ensure that available resources for restoring fish passage are targeted to those structures with the most effect on fisheries. If the regulation-making power is not amended, the proposed changes may not be able to be made.

The noxious fish regulations that were made in 1983 also cannot be reviewed unless the Act includes a relevant regulation-making power. That means that new noxious fish problems will not be able to be addressed, and the existing regulations cannot be made more efficient and effective.

In terms of missing powers, a key need is to be able to enforce industry best practice where poor practice results in significant fish kills.

The underlying cause is out-of-date or poorly drafted legislation. That can only be addressed through legislation reform.

The scale of cost is difficult to assess, as it will partly depend on what fisheries management

activities and what fisheries uses develop over time. But just the cost of doing regulation reform with an inadequate toolbox will greatly outweigh the cost of fixing the toolbox through the proposed legislation.

2.4 Are there any constraints on the scope for decision making?

Because the legislation needed to be completed in time to meet a designated slot in the House, and that did not allow consultation or complex drafting, the scope was limited by Ministers to:

- Regulatory issues within the Conservation Act regime. Any issues in the Fisheries Act were excluded.
- Changes within the current regime to make it more effective and efficient. Changes to resolve the jurisdictional overlaps were excluded.
- Changes to resolve known problems that had been identified through past analysis and experience, including the results of past consultation.
- The changes were not to affect Maori fishing rights.
- The changes were not to directly affect the main commercial fishing activities (whitebaiting, and commercial eel fishing). Any changes to the whitebaiting regime would be done through regulations after consultation. Commercial eeling is managed by MPI.
- The changes could remove unnecessary regulatory controls, including by revoking old regulations. They could not add regulatory controls on significant economic sectors that are not currently controlled. Any necessary controls would be added through future regulation reviews.
- Changes that did not require complex drafting.

A regulations review is scheduled, which will address many of the excluded matters. The Minister has determined a process for considering the whitebait fishery.

2.5 What do stakeholders think?

MPI fisheries managers – they were invited to identify any problems they have with the Conservation Act provisions, and consulted to ensure there were no effects on the Fisheries Act regime. They have not expressed concerns about the intent of the reform, but are concerned about the lack of consultation and the timeframes for drafting.

Maori fisheries rights holders – the reform was designed to ensure there were no changes to Maori fisheries rights. Any changes would have been of concern to these stakeholders, and would have required consultation and agreement.

Iwi as Treaty partners – the reform has been designed to ensure there is a full and effective toolbox for fisheries management work. That will be necessary to fully implement many Treaty settlements. Iwi will, however, be concerned at the lack of consultation. An engagement strategy is being developed and will be implemented at the time of introduction of the Bill.

NZCA and the conservation boards – these statutory bodies are recommending improvements in fisheries management. It is expected that they will welcome the reforms, provided the new toolbox is subsequently effectively used to resolve on-the-ground problems. They will be advised through the normal relationship management arrangements.

Regulated parties – a range of parties are regulated under the regime, notably those fishing certain species, owners of fish passage barriers, those using noxious fish. Some are likely to consider the changes inadequate to fully address the concerns they have about being regulated, or the way the regime regulates others (e.g. some whitebait fishers oppose sock nets). Those concerns would need to be addressed in the next stage of the reforms. It is expected that some will welcome the immediate fixes to some problems and legal risks, notably the parties who have been involved to date in fish passage barrier reform work. There may be concern from some stakeholders about new regulation making powers that could allow some currently unregulated activities that kill fish to be regulated. But any future regulation of those activities would need to be fully consulted, and the intention is that those regulations would enforce industry best practice developed by or with the sector.

Groups involved in fisheries management and restoration – that includes community groups, fisheries groups (e.g. whitebaiting associations) and councils. They will benefit from the reforms, but may be disappointed at the limited scope.

The public – the public have been demanding improved fisheries management. These reforms will make reforms to fisheries management easier, and it is expected that the public will welcome that. It is likely, however, that many submissions will question why more extensive reforms are not being done, notably banning of all or commercial whitebait fishing.

Section 3: Options identification

3.1 What options are available to address the problem?

Non-regulatory approaches are not an option for reforming an existing regulatory regime.

Non-regulatory approaches will be considered in deciding whether to make future regulations and carry out other implementation work.

In most cases, legislative change was the only option available to address the identified problem. That is the case for all technical amendments to existing legislation.

In the case of revoking old regulations, using a normal regulation change process was considered. That was rejected, however, because it would take considerably longer, and the regulations pose a legal risk and unnecessary cost to the private sector. There had already been substantive work looking at those regulations as part of the technical review of the regulation, and the results of that work were considered in choosing between the options.

In the case of removing controls on no-impact takes of fish, an option was to do that through a future regulation change. That would have delayed removal of an unnecessary regulation, and the primary legislation was considered a more appropriate location for such a fundamental part of the regime. While those activities are probably prohibited and unable to be authorised under the Conservation Act regime (the wording in the regulations is unclear), that law is not enforced, and DOC has if anything encouraged education activities that involve temporary removal of fish. It is not desirable to have an agency encouraging or ignoring activities that are contrary to its own regulatory regime, even if the regime is out of date and inappropriate.

In the case of requiring an authorisation for non-food take of fish, an option was to do that through a future regulation change. That would have delayed controls on practices which are either not occurring (e.g. fishing for fertiliser) and which would be seen by most people as inappropriate, or have been actively opposed (e.g. killing eels for sport). The primary legislation was considered a more appropriate location for such a fundamental part of the regime.

In the case of the regulation making powers, the options were to:

1. Only amend existing regulation-making powers
2. Amend existing powers, and add powers that would be necessary to amend existing regulations
3. Add regulation-making powers for all matters that a fisheries management regime may need to tackle
4. Add regulation-making powers to cover all activities that may affect fisheries.

Option 4 was rejected, as it would result in significant overlap with the RMA regime in particular.

Option 1 was rejected, as it would prevent effective reform of existing regulations, which the technical review has found to be urgently in need of reform.

Option 3 was preferred over option 2, as it would future proof the regime, allowing any outcomes of fisheries management work with partners (e.g. industry best practice, Treaty implementation work) to be efficiently implemented. Putting in additional regulation making powers does not in itself have any effect on any party, or mean that they have to be used, so the only extra cost of this option was legislation making time (drafting, select committee

consideration). Any need to add regulation making powers later would delay fisheries management improvements, and may result in less efficient mechanisms being used.

In summary, the proposals in the Cabinet paper include:

- Technical changes to existing provisions to correct drafting problems
- New regulation-making powers to ensure existing regulations can be reviewed
- New regulation-making powers to fill gaps in the range of fisheries management issues that can be covered in regulations
- Changes to the basic rules on when fish can be taken, to match societal expectations and common practice.

3.2 What criteria, in addition to monetary costs and benefits, have been used to assess the likely impacts of the options under consideration?

The criteria used were:

- Whether the resulting legislative regime could deliver an effective fisheries management regime
- Whether the proposed change would increase or decrease regulatory costs and risks for other parties
- Whether the proposed changes would correct legal problems identified by courts and government legal advisors
- Whether the proposed changes would bring the regime closer to or further from current public attitudes and practices (in relation to matters such as fishing for fertiliser)
- Whether the change would increase or reduce the range of tools in the toolbox
- Whether the change might change Maori fishing rights
- Whether consultation through the Parliamentary process was acceptable given the nature of the proposed change

In general, there were no strong conflicts between criteria requiring trade-offs.

3.3 What other options have been ruled out of scope, or not considered, and why?

- *List the options and briefly explain why they were ruled out of scope or not given further consideration.*

Complete reform of the system to resolve jurisdictional overlaps with the Fisheries Act. Past attempts did not reach clear agreement, so there was no agreed reform that could be implemented through a Bill in the available timeframe.

Significant changes to existing fishing rules. This will require extensive analysis and consultation. If that results in identification of necessary changes, those would be implemented through a review of the regulations.

Changes to sports fisheries rules. This would generally need to be initiated by fish and game councils (unless it only affects the Taupo trout fishery that DOC administers), and would affect a very different group of stakeholders.

Doing the regulation reform first, and fixing the regulation making powers later. This is not a

desirable approach, as it delays implementation of a consulted reform, and it is not clear that it is appropriate to presume that Parliament will provide the necessary power. In addition, that would have prevented use of the available legislative review slot, further delaying the high priority review of regulations.

Section 4: Impact Analysis

These tables only cover those matters where multiple options were available.

Reform of Regulation-making powers	No action	Only reform existing regulation-making powers	Add regulation-making powers related to existing regulations	Add regulation making powers needed for fisheries management	Add regulation-making powers to deal with all effects on fisheries
Effective in terms of achieving good fisheries management?	0	+	++	++	++
Minimise overlaps with other regimes	0	0	0	0	- Overlaps with RMA on habitat issues
Ensure the regime can deal with all fisheries reform matters	0	+	+ Leaves a major gap in the scope of future management reforms	++ Covers all fisheries management matters	++ Provides ability to compensate for failures in other regimes
Overall assessment	0	+ Little improvement	+ Leaves a major gap in the regulation-making powers, notably for activities that cause fish kills	++ This would provide a full set of regulation-making powers covering all matters that a fisheries manager may need to directly control	++ This would provide a fuller set of powers, but create significant overlap with other agencies' responsibilities

Changes to rules on take of indigenous freshwater fish	No action	Only remove the unnecessary control on non-impacting take	Only control non-food takes	Do both reforms	Delay reforms until review	Full fisheriesa management review
Effective in terms of achieving good fisheries management?	0	+	+	++	+	++
Reflect public views	0	+	+	++	+	++
Avoid costs on significant fishing sectors	0	+	+	++	+	+
Achieve timely changes	0	++	++	++	+	-
Place changes at the right level of legislation	0	+	+	++	0	+
Overall assessment	0	<p>+</p> <p>Addresses the problem of unnecessary controls, but does not prevent unacceptable take of fish</p>	<p>+</p> <p>Addresses an unacceptable take of fish, but does not remove an unnecessary control on take</p>	<p>++</p> <p>Addresses both problems using best instrument</p>	<p>+</p> <p>This would delay control, and place the control in subsidiary legislation rather than the Act (which is not desirable)</p>	<p>++</p> <p>This would significantly delay reform</p>

Key:

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

-- much worse than doing nothing/the status quo

Section 5: Conclusions

5.1 What option, or combination of options, is likely best to address the problem, meet the policy objectives and deliver the highest net benefits?

The reforms in the proposed legislation have been narrowed down to those where:

- The reforms can only be done through legislation or the primary legislation is more appropriate than a regulation;
- The reforms will make the existing regime more efficient and effective, but not result directly in major shifts in fisheries management intent (e.g. will not immediately change how most take is controlled) or the overall regime (e.g. address the jurisdictional overlap with the Fisheries Act).

That was considered necessary for a Bill which needed to be non-complex (given available drafting time) and consulted through the select committee process rather than through a prior consultation process.

Within that constraint, creating a full toolbox that could deal with existing and likely future fisheries reform needs was chosen. A partial toolbox would delay or bias future management reforms, with negative effects on the sector and fisheries.

There is high confidence in that choice, largely because of the amount of fisheries review work that has been undertaken in recent years, and the long experience of DOC in implementing the existing legislation.

There is high confidence that the specific legislative changes been chosen are consistent with that choice.

Opposition is expected to come from those who believe that consultation through the select committee process is inadequate, and those who believe that a more significant reform should have been undertaken.

It is important to note that further regulations created under an improved legislative toolkit would be subject to their own policy approval and regulatory assessment process.

5.2 Summary table of costs and benefits of the preferred approach

Affected parties <i>(identify)</i>	Comment: <i>nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks</i>	Impact <i>\$m present value, for monetised impacts; high, medium or low for non-monetised impacts</i>	Evidence certainty <i>(High, medium or low)</i>
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Additional costs of proposed approach, compared to taking no action

Regulated parties	A few individuals will not be able to fish without an authorisation (those who fish for sport, those	Low impact overall. Impacts an essentially	Medium
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	who do recreational fishing in conservation areas).	recreational activity, not an economic interest	
Regulators	None		High
Wider government	None		Medium
Other parties	None		Medium
Total Monetised Cost	<i>No significant costs</i>		
Non-monetised costs	<i>Effect on recreational activities of a few individuals. They will generally have easy access to alternatives, or the lost activity is one society does not condone.</i>	<i>Low</i>	Medium

Expected benefits of proposed approach, compared to taking no action			
Regulated parties	More efficient regime. Removal of some unnecessary costs/regulations. Removal of some unnecessary legal risks.	Low	High
Regulators	More efficient and effective regime.	High	High
Wider government	More efficient and effective regime.	Low	Low
Other parties	Greater ability to deliver fisheries management outcomes that are being sought by the public and iwi	Medium	High
Total Monetised Benefit	Not monetised.	Low	Low
Non-monetised benefits	Significant benefits, particularly in terms of allowing more efficient and effective reforms to be undertaken in future.	<i>Medium</i>	High

5.3 What other impacts is this approach likely to have?

None identified.

5.4 Is the preferred option compatible with the Government's 'Expectations for the design of regulatory systems'?

Yes

Section 6: Implementation and operation

6.1 How will the new arrangements work in practice?

The proposal is to introduce an amendment bill to change primary legislation.

This will not change the overall responsibilities within Government, as it is simply amending an existing regime.

Most implementation will be by DOC undertaking planned regulation reviews. In the long run this will make it easier for other parties to complete work they have commenced or wish to undertake (e.g. the Fish Passage Advisory Group, local government, iwi), but has no immediate effects on them. Specific implementation requirements will depend on subsequent changes to regulations, which will be subject to their own regulatory impact process.

The arrangements will come into force when the Bill is enacted. There is no need for a transitional period, as it has no direct effect on ongoing activities that are covered by the regulatory regime.

6.2 What are the implementation risks?

No significant risks.

Section 7: Monitoring, evaluation and review

7.1 How will the impact of the new arrangements be monitored?

Day to day implementation of the Act will identify any continuing or new problems with the provisions in the Act.

Any regulation reforms will test whether the regulation-making powers are sufficient.

No specific monitoring or evaluation work is considered necessary.

7.2 When and how will the new arrangements be reviewed?

The normal practice is for DOC to maintain a register of problems with primary legislation, and for those issues to be corrected when an amendment bill is able to be scheduled in the legislative programme. Legislative priorities reflect the size and range of problems with an Act.