

Regulatory Impact Statement:

Taupō Sports Fishing Conditions and Anglers Licences

Agency Disclosure Statement

This Regulatory Impact Statement has been prepared by the Department of Conservation.

It provides an analysis of options to enable the effective management of the Taupō Sports Fishery by making it practical to more frequently change the conditions for fishing.

The Taupō Sports Fishery is managed under the Taupō Fishery Regulations 2004 which are made under the Conservation Act 1987 and the Maori Land Amendment and Maori Land Claims Adjustment Act 1926. Options requiring amendment to primary legislation were outside the scope of this analysis, thereby limiting options to those that could be implemented by amending the Taupō Fishery Regulations while remaining consistent with the existing Acts.

Implementation of the policy proposals in this paper will require Cabinet approval to issue drafting instructions for regulations to be prepared by Parliamentary Counsel Office, followed by further Cabinet consideration and approval of any proposed amendments to the Taupō Fishery Regulations.

Jeff Flavell, Policy Director

18 August 2015

Executive summary

1. The current requirement to amend the Taupō Fishery Regulations 2004, whenever changes need to be made to fishing conditions for the Taupō fishery, is not fit for purpose and this is preventing flexible and responsive fishery management.
2. The alternative mechanism of anglers notices, used by all Fish and Game Councils to manage sports fisheries outside of Taupō for many years, is the preferred method to practicably manage fishing conditions in the Taupō fishery.
3. Technical matters relating to angler licensing and enforcement in Taupō fishery need to be remedied.
4. The preferred option, that of amending the Taupō Fishery Regulations 2004 to enable the use of anglers notices and resolve the technical matters, would provide for effective and efficient fishery management.

Status quo and problem definition

The fishery

5. The Taupō sports fish (trout) fishery is a freshwater fishery comprising Lake Taupō, the rivers and streams that flow into Lake Taupō (including lakes Kuratau, Otamangakau, Rotoaira, and Moawhango), and the short length of the Waikato River from Lake Taupō to the Huka Falls¹. The sports fish comprise introduced rainbow and brown trout. Native freshwater crayfish, smelt and other native freshwater fish are also present, as well as introduced catfish, but none of these species is part of the sports fishery or affected by the proposals in this RIS.
6. The fishery is managed by the Department of Conservation (DOC) under the Conservation Act 1987 and the Taupō Fishery Regulations 2004. DOC has similar functions to a Fish and Game Council with regard to Taupō District. The Taupō Fishery Advisory Committee, established under the Regulations, provides management advice from anglers to the Department, and liaises with the New Zealand Fish and Game Council on matters of mutual interest.
7. The Tūwharetoa Māori Trust Board has a concurrence role (under section 14 of the Māori Land Amendment and Māori Land Claims Adjustment Act 1926) in setting the forms and classes of Taupō trout fishing licences, and licence fees, with the Department. (These arrangements are not affected by the proposals in this paper.)
8. The fishery has been managed as a sports fishery since trout were introduced to the area over a century ago. Anyone wanting to fish for trout must hold a fishing licence. Management of the fishery is funded solely from the sale of fishing licences (40,000 sold annually, providing revenue of \$1.3 million). A 2013 study² estimated the fishery adds \$11 million per year to the size of the economy and supports almost 300 jobs.

¹ The exact area is defined in the Taupō District Order 1983 (SR 1983/287). The boundary of Taupō District only loosely follows catchment boundaries.

Fishery management

9. Key to managing the success and sustainability of the Taupō sports fishery is managing the number and sizes of fish that may be taken, and the methods by which fish may be caught. There is also a need to manage when and where fishing is allowed or not allowed, and ensure that every fisher contributes to the management of the fishery by purchasing a valid licence. If changes to fishing requirements and restrictions are not made when necessary, then the quality of fishing and angler satisfaction can decline, leading to fewer people participating in sports fishing, and reduced economic activity associated with the fishery.
10. There is currently a need to update the conditions governing how, when and where fish may be caught in the Taupō fishery. But more importantly, there is a need to make it easier to change fishing conditions more regularly in response to changing environmental or social factors. DOC's management of the fishery is being compromised because of the inflexibility of the current regulatory regime.
11. Conditions for fishing in the Taupō fishery are set out in the Taupō Fishery Regulations 2004. Updating any of the conditions requires an amendment to the regulations. Owing to the cost and time required to change the regulations, adjustments to fishing conditions have been made infrequently. This is hindering good fishery management, contributing to poorer fishing and less enjoyment by anglers. Since declining licence sales mean less funding for management, this leads to reduced management effort which in turn makes it even harder to improve the fishery.
12. A 2013 review of Taupō fishery management² found concerns from anglers and the wider community about the health of the fishery and declining participation rates. Sales of all fishing licence types are decreasing and are now just half what they were 25 years ago.

Management difficulties

13. The Department closely monitors the fishery for trends in the abundance, size, age and condition of sports fish. But while the fishery is well monitored, it cannot be properly managed under the status quo of the 2004 regulations. The following examples of management situations illustrate the difficulties being faced.
14. Sports fish numbers are highly variable owing to natural fluctuations in numbers of fish spawned. However, there is no easy way to change the daily bag limits as the daily limits are set in the Taupō Fishery Regulations 2004 (reg. 24(1)). Size limits for legally takeable fish are also fixed in the Regulations (reg. 24(2)). A downturn in lake productivity in the mid 2000s resulted in the Taupō fishery containing small, low quality fish for 5 years, and few large, good quality fish. Anglers deserted the fishery as angling deteriorated. Thus an opportunity to manage the fishery well – by raising the daily catch limit and/or allowing smaller trout to be harvested for a year or two until quality improved – was lost. To do this under the current regime would have required amending the regulations at least twice; first to reduce the legal size limit and increase the catch limit, and then to change them back again when angling quality improved.

² *Exploring Future Opportunities for the Taupō Fishery: A Review of the Taupō Sports Fishery*. 20 May 2013.

15. The locations and seasons where and when fishing is allowed are fixed by regulation (regs. 4(1), 5, 14 and 18). It is currently difficult to open or close areas to allow short-term trials to see if problems can be remedied or improvements made to the fishery.
16. The permitted types of fishing flies, lures, lines, and requirements for downriggers are specified in the regulations (regs. 4(1), 20 and 21, and Schedule 1). This means it is not possible to easily change these in response to new developments in fishing gear widely desired by anglers and often in use overseas. For example, electronic lures and spray-on scents are prohibited (regs. 20(1)(b)(vii) and 21(1)(a)). Trials of new fishing methods are difficult to implement, and therefore not tried, because two amendments to the regulations could be required – first to enable the new method, and then to change it if the new method needed to be adjusted or stopped in the light of experience.
17. DOC wants to maximise opportunities for fishing, and enable more children to participate in trout fishing, but this requires new fishing conditions to be implemented and trialled. For example, rivers which are currently reserved for fly-fishing only could be opened to junior anglers for spin-fishing (an easier and less expensive technique) for some or all of the season to encourage participation. In other situations the Department may need to trial more restrictive fishing methods in order to improve the quality of the fishery.
18. Restrictions on the use of boats (reg. 22) aimed at preventing anglers in boats from interfering with shore-based anglers cannot be easily adjusted. Also, the current wording of this regulation is confusing and unclear to many anglers, which makes it difficult for them to comply with it.
19. Officials conclude that the regulations governing fishing conditions in the Taupō sports fishery need to be amended – not only to meet current fishery management needs but also to allow future changes to fishing restrictions and conditions to be made more easily.

Licensing and enforcement matters

20. In addition to the problems with fishery management described above, there are a few technical matters relating to angler licensing and enforcement of fishing conditions that need to be remedied. These are described below, and can be addressed through technical amendments to relevant parts of the Taupō Fishery Regulations, independent of which option is adopted to resolve the wider fishery management problem.

Issuing of licences

21. The sale of fishing licences is governed by regulations 7–13 of the Taupō Fisheries Regulations 2004. The wording reflects the licensing method used in 2004, and envisages “paper-based” licences issued by agents. For example, regulation 8(3) requires issuing agents to return “unissued licences and the butts of all issued licences” when required to do so by the Department.
22. The Department has recently (in 2014) begun selling licences online, in addition to a paper-based system. The purchase of fishing licences online, rather than in physical form from a physical issuing agent, is enabled under the provisions of the Electronic Transactions Act 2002 (sections 18 and 21). It would nonetheless be useful to improve the regulations so that they better reflect the use of both electronic and physical issuing of licences.

23. Regulation 8(3) regarding the return of unissued licences and butts of issued licences allows verification that all licence fees have been properly remitted to the Director-General. This regulation could usefully be broadened to ensure verification of online sales so that the Director-General can be assured that all licences sold online (perhaps by a contracted company) have been paid for and that all licence revenue received has been remitted to the Director-General. Revision of the regulations should reflect the phasing out of licence butts. Similarly, references to issuing officers need revision to reflect that an internet site may be an intermediary between an authorised issuing officer and the licence applicant.

Verifying identity of licence-bearer

24. Because management of the Taupō fishery is funded solely from fishing licence sales, the Department's compliance function is an important role. If there was not an effective deterrence (being apprehended by a ranger and potentially prosecuted) for fishing without a licence, then the entire fishery and the interests of law abiding anglers would suffer.

25. With the introduction of licences issued online, there is expected in the future to be an even greater need to ensure a person showing a licence to an enforcement officer is the legitimate holder of that licence. Under the new online licensing system, licences are provided to purchasers as a pdf file containing certain key information such as the holder's name and a reference number unique to that licence. The licence holder is required to print out the pdf, sign the licence (reg. 9), and carry it with them when fishing (reg. 19 refers).

26. In the future, DOC is expecting that many people will chose not to print out their licences once they receive them by email but will simply hold the pdf on a smartphone or other portable electronic device. While this enables licence holders to show a pdf to a ranger, it may be difficult to confirm that the bearer is the legitimate holder. Problems could develop if people shared a licence pdf with friends or family members, potentially allowing many people to fish for the cost of only one licence, which would defraud the fishery.

27. To overcome this, DOC seeks that, in addition to the provisions requiring anglers to provide their name and residential address (reg. 19), the Taupō Fishery Regulations 2004 be amended to require anglers to also provide their date of birth, and evidence of their name, residential address and date of birth, within a reasonable time³ when requested by an enforcement officer. This information currently must be provided as part of a licence application but cannot be requested by an enforcement officer in the field.

28. This proposal would be consistent with other law enforcement regimes such as in section 8 of the Te Urewera Act 2014 and section 51 of the Walking Access Act 2008. Such new provisions would mean that if an enforcement officer ranger has a doubt about the validity of a licence or whether a person has committed an offence against the Regulations, the person would also have to provide verification of their identity by, for example, producing a driver's licence within a reasonable time.

³ The term "a reasonable time" is carried over from section 37(1) of the Conservation Act 1987 and has proved practical and useful in enforcement practice.

Requiring persons possessing trout to provide personal details

29. The Regulations require anyone “taking trout or in possession of a rod or gear suitable for taking trout” to give their personal details and show their licence if asked by an enforcement officer (reg. 19). Situations have arisen where people have been in possession of trout in suspicious circumstances, but have not been observed fishing and/or do not have fishing gear with them.
30. As currently worded, the regulation does not require persons in possession of trout to give an officer their full name and place of residence, show their licence, and allow the contents of creels or containers to be inspected, no matter how suspicious the circumstances are. Without evidence of personal details and licences (or lack thereof) to identify potential offenders, prosecutions for offences may be frustrated. A simple remedy would be to add “possession of trout” to the circumstances in regulation 19 that enable the officer to require information from the angler.

Clarification

31. The sale of trout taken in Taupō District is prohibited (see section 26ZQ(1A) of Conservation Act 1987 and reg. 2A of Freshwater Fisheries Regulations 1983). However, the wording of the 1983 Regulations (reg. 3) mean this is not immediately apparent.
32. To address this lack of clarity, the Freshwater Fisheries Regulations 1983 and/or the Taupō Fishery Regulations 2004 need to be amended to make it clear that trout in Taupō District are sports fish for the purposes of the Conservation Act. This will make it clear that section 26ZQ(1A) of the Conservation Act applies throughout the country and that trout taken in Taupō District may not be sold.

Objectives

33. This analysis is being undertaken because of difficulties currently being experienced in managing the Taupō sports fishery. Management of the fishery could be significantly improved by changing the conditions for sports fishing more frequently to respond to rapid natural fluctuations in the numbers and sizes of fish and the ongoing changes in technology, angler preferences and social behaviour.
34. The primary objective is to enable flexible management of the fishery, including the ability to respond quickly to environmental or social changes that impact on the fishery.
35. A second objective is to deal with some technical issues relating to angler licensing and enforcement.
36. The outcome sought is a better managed fishery that delivers improved angler satisfaction and greater participation in recreational sports fishing by New Zealanders and overseas visitors.

Options and impact analysis

Option 1 – enable the use of anglers notices

37. The preferred option is to amend the Taupō Fishery Regulations 2004 by removing those regulations that prescribe conditions of fishing that need to be changed regularly to facilitate proper management of the fishery. Those conditions would thereafter be contained, as necessary, in an anglers notice published in the *New Zealand Gazette*. The anglers notice, usually published annually, would be prepared by the Director-General of Conservation and recommended to the Minister of Conservation for approval under sections 53(4) and 26R(3) of the Conservation Act 1987. The parts of the Regulations proposed for transfer to an anglers' notice, and an outline of consequential supporting amendments to the Regulations, are listed in Appendix 1.
38. This arrangement is the same that currently in place, and used for many decades, for sports fishery management in Fish and Game regions (those parts of the country other than Taupō District) under sections 26R(3)–(6) of the Conservation Act 1987.⁴ Penalties for offences would remain unchanged.⁵
39. The Conservation Act 1987 already contemplates the use of anglers notices in setting fishing conditions for Taupō through specific provisions in section 26R of the Conservation Act, which applies to Taupō by way of section 53(4). These provisions also constrain this option in that they prescribe who is to submit an anglers notice to the Minister for approval and stipulate subsequent publication in the Gazette.⁶
40. This option would allow the efficient management of the Taupō sports fishery by enabling fishing conditions to be changed rapidly and easily in response to changing circumstances in the fishery and angler needs. This option would provide consistency with the approach used for setting fishing conditions in sports fisheries elsewhere in the country. Details of fishing conditions are provided to anglers each time they buy a fishing licence. This would continue.

Option 2 – frequent amendments to regulations

41. The other option is for the status quo, except that the changes required to manage the fishery properly would be submitted as necessary (usually annually) to Cabinet for approval to amend the Taupō Fishery Regulations 2004 by Order in Council.

⁴ Notices approved by a Minister rather than Regulations by Order in Council have been used to set fish size and bag limits, etc, in areas other than Taupō District since 1951. Such notices have been published in the *NZ Gazette* since 1983. It appears to have been an anomaly that, in 1983, Taupō reverted back to using Regulations to set conditions (the pre-1951 regime).

⁵ Under both regulation 29 of the Taupō Fishery Regulations 2004 (which applies currently) and section 26R(6) of the Conservation Act 1987 (which applies to anglers notices), the maximum penalty for offences is \$5000.

⁶ For example, amendment to the Conservation Act 1987 would be required to allow the Taupō Fishery Advisory Committee to have a formal role in submitting the notices to the Minister for approval as Fish and Game Councils do under section 26R(3) of the Act. Similarly section 26R(3)(d) of the Act (as modified by section 53(4)(d)) means that alternative methods of publication to the *NZ Gazette* are not possible. Amendments to the Act are outside the scope of this review.

42. Should this option be adopted, DOC officials would need, as required, to prepare a list of specific technical changes that need to be made to the Taupō Fishery Regulations. This would then be submitted to Cabinet for approval so that instructions could be provided to PCO. Once the amendments were prepared by PCO, they would require approval by Cabinet Legislation Committee prior to submission to the Governor-General for signing.
43. This option (Option 2) would provide for improved management of the fishery. However, it is not preferred because officials consider it a poor use of Cabinet time, and an excessive use of PCO resources, to amend the regulations with the frequency required for good fishery management (generally annually) to alter fishing conditions as minor as the types of lure that may be used or the number of fish that may be taken in one day.

Option not considered

44. The use of notices published in newspapers to set additional fishing conditions is provided for by section 26ZL(1)(c) of the Conservation Act 1987. But while such notices can provide additional restrictions on conditions set in the Taupō Fishery Regulations 2004, they cannot remove restrictions imposed by the Regulations. This provision in the Act therefore cannot provide for fishery management in a way that meets the objectives.

Consultation

45. The Taupō Fishery Review 2013 was undertaken by representatives of the Department of Conservation, the Taupō Fishery Advisory Committee, Tūwharetoa Māori Trust Board, Fish & Game New Zealand, Lake Rotoaira Trust, Taupō District Council, and consultants TRC Tourism and APR Consultants. The review also consulted many anglers. The review (among other things) looked into the difficulties arising from the inability to manage the fishery by changing fishing conditions easily, and concluded that the use of anglers notices would remedy this problem. The analysis in this paper has confirmed that conclusion.
46. The Taupō Fishery Advisory Committee and the Tūwharetoa Māori Trust Board fully support the move to anglers notices. There is a strong desire among the Taupō trout fishing community generally for the implementation of an anglers notice regime.
47. The input of the Taupō Fishery Advisory Committee, Tūwharetoa Māori Trust Board and Fish & Game New Zealand will be sought in the development of draft revised regulations and/or new anglers notices (subject to the requirements of Cabinet Office circular CO(14)(4)), depending on the option chosen by Ministers.
48. Te Puni Kōkiri has been consulted on these proposals and has no issues with the proposals.

Conclusions and recommendations

49. The Department concludes that Option 1 is the option that best meets the objectives. This would involve removing those parts of the Taupō Fishery Regulations 2004 that concern matters that could be better regulated through anglers notices, and subsequently regulating those matters in an anglers notices published in the NZ Gazette. Option 1 provides the flexibility required to manage the fishery (which the status quo does not) and

avoids the unnecessary costs of Cabinet time and excessive PCO involvement that Option 2 (frequent, normally annual, amendments to the Regulations) would require. Neither option would result in changes in costs to anglers; Option 1 has lower implementation costs for government agencies.

50. The Department recommends that Option 1 be adopted, with the Taupō Fishery Regulations 2004 being amended by the revocation of those regulations, and amendment of associated supporting regulations, listed in Appendix 1 of this paper. Those matters will then be managed using an anglers notice for the Taupō fishery approved by the Minister of Conservation and published in the NZ Gazette.
51. The Department recommends that, at the same time, the Regulations be amended to address the licensing and enforcement technical matters identified in this paper.

Implementation plan

52. The option chosen by Cabinet would need to be implemented through the preparation of drafting instructions for Parliamentary Counsel followed by submission to Cabinet Legislation Committee of an Order in Council to amend the Taupō Fishery Regulations 2004. If Option 1 is adopted, the first anglers' notice will need to be prepared also. If Option 2 is adopted, amendments would be drafted only for the Regulations.
53. The Department proposes to seek the input of the Taupō Fishery Advisory Committee and Tūwharetoa Māori Trust Board on amended regulations (subject to CO(14)(4) requirements) before submission to Cabinet Legislation Committee for approval.
54. The amended Regulations would ideally come into force at the start of the 2016/17 Taupō fishing season, which runs from 1 July 2016 to 30 June 2017⁷. The first anglers notice would also be prepared to come into force on 1 July 2016.

Monitoring, evaluation and review

55. The effectiveness of the adopted option will be apparent from feedback from sports fishers on whether or not the Taupō sports fishery is better managed. It is noted that the preferred option has been used for many decades to manage sports fisheries in all other parts of the country and found to work effectively.

⁷ Each new fishing year begins on 1 July (regulation 4(1) "open season" (d) of Taupō Fishing Regulations 2004).

Appendix 1: Elements of Taupō Fishery Regulations 2004 proposed for revocation or amendment

56. The Department has identified the following regulations as likely to require amendment to implement the policy proposals. However, this list may change following detailed analysis by Parliamentary Counsel Office as part of its drafting process.

57. The following parts of the Taupō Fishery Regulations 2004 are proposed for revocation (under Option 1). Conditions relating to the matters covered by these regulations would be placed in anglers notices in the *New Zealand Gazette*. (If Option 2 is chosen by Ministers, these regulations would require amendment rather than revocation.)

- **Regulation 5 Fishing prohibited in certain waters**
- **Regulation 18 Prohibitions relating to trout fishing** (Hours may need modifying, or could remain in Regulations with added qualifier “unless otherwise specified in an anglers notice”.)
- **Regulation 20 Restrictions on methods of fishing**
- **Regulation 21 Restriction on lures** (including **Schedule 1** of the Regulations)
- **Regulation 22 Restriction on use of boats**
- **Regulation 24 Bag and size limits** (Some consequential references may need to be included in regulations)

58. The following parts of the Taupō Fishery Regulations 2004 are proposed for amendment to provide for matters associated with anglers notices (under Option 1). (If Option 2 is chosen, amendment is likely to be needed to support changes to other regulations.)

- **Regulation 4 Interpretation** (Some items will require amendment, others are best moved to anglers notices to provide for flexibility in definitions.)
- **Regulation 14 Rights to fish conferred by licences** (There can be a need for a licence to be valid for only part of Taupō District or only in certain circumstances such as when fishing from boats, rather than always being valid for all of the District.)

59. The following parts of the Taupō Fishery Regulations 2004 are proposed for amendment to address technical issues identified in this paper.

- **Regulations 8–13** require improvement for online sales and to allow additional information to be collected as part of licence applications.
- **Regulation 19** requires amendment to improve ability to request details from anglers.
- A clarification is required to the Freshwater Fisheries Regulations 1983 and/or the Taupō Fishery Regulations 2004 to make it clear that trout in Taupō District are a sports fish for the purposes of the Conservation Act.