

Chair
Cabinet Economic Development Committee

Approval for Public Consultation on Strengthening the Management of New Zealand's Commercial Fisheries

Proposal

1. I am seeking Cabinet approval to undertake public consultation on the attached Consultation Document, 'Your fisheries – your say'.

Executive Summary

2. Fishing plays an important cultural and recreational role in New Zealand, as well as contributing 16,000 jobs and \$4.2 billion in total economic activity. Fisheries, and the wider marine environment, are valued by all New Zealanders and are taonga for tangata whenua.
3. First established over 30 years ago, the Quota Management System (QMS) underpins our fisheries management system. The QMS is highly regarded globally and has improved the sustainability of many of our fisheries.
4. I have heard from stakeholders and the public that they expect much more from our fisheries management system than it currently delivers. Advancements in technology, emerging innovation, and increasing consumer expectations for sustainable seafood are driving a demand for change in how we manage our fisheries.
5. My vision is *abundant and sustainable fisheries, thriving communities and a healthy marine environment for the benefit of all New Zealanders*. This draws on the aspirations and goals for our fisheries I have heard from our stakeholders.
6. To achieve this, change to the fisheries management system is required to improve how it works now, and in the future. The recent launch of Fisheries New Zealand was my first step. This will provide a renewed focus of working collaboratively with stakeholders to enable innovation: from how we manage our fisheries to how we deliver value across the supply chain, from catching fish to the consumer's plate.

7. The second step is a broad programme of change to address current areas of underperformance and look to the future challenges and opportunities that our fisheries face. The programme has two sequential parts, they are:
- **Part 1: Changes to ensure our system is incentivising good fishing practice by commercial fishers.** This includes taking a system-wide approach to how our fisheries management rules operate together to motivate good fishing practice.
 - **Part 2: Improving our monitoring and verification capability for commercial fisheries** to ensure the integrity and transparency of the richer information commercial fishers are providing on which fish are caught and where.
8. I am seeking Cabinet approval to consult with tangata whenua, industry and the public on **Part 1: Changes to ensure our system is incentivising good fishing practice by commercial fishers.** These include:
- **Amending the rules for commercial fishers that set out what fish must be brought back to port, and what fish can be returned to the sea.** The current rules are complex and open to interpretation. This proposal aims to simplify these rules, and ensure that they incentivise good practice fishing.
 - **Reviewing the penalty and offences regime.** We need to ensure the penalties and offences regime reflects any proposed changes – and our improving capability to detect non-compliance – so it is fair and appropriate.
 - **Streamlining the decision-making process for setting catch limits.** These decisions could provide more certainty to stakeholders, respond more quickly to changes in our fish stocks, and make better use of the improved information from electronic reporting.
 - **Minor Fisheries Management Changes.** This includes proposals to:
 - i. Broaden the range of activity that can be electronically monitored on commercial vessels.
 - ii. Enable better estimation of other sources of fishing mortality.
 - iii. Technical fixes to improve the functioning of the Fisheries Act 1996.
9. Public consultation for Part 1 is intended to start in early 2019. Once we have received input into these proposals we will have a better understanding of how to progress Part 2, which is improving our monitoring and verification capabilities for commercial fisheries. ^{s9(2)(f)(iv)}
10. The third step is to ensure our settings and fishing practice continue to be innovative and best practice. This includes *exploring more ecosystem-based approaches to managing the marine environment*, investing in innovation and empowering local communities to have greater involvement in the decisions that affect them.

11. I plan for the fisheries management system to look different in three years' time (and different again in six years' time). The changes I am proposing will reset the incentives for commercial fishing and position the fisheries management system to increase the involvement of local communities and local decision-making processes, while also enabling New Zealand to meet our international obligations relating to ecosystem based approaches to managing fisheries. This is the long term change needed to support my vision for fisheries.

Background

Our fisheries have great significance to New Zealanders

12. Fishing plays an important role in the New Zealand economy and society, across commercial, recreational, and customary interests. Fishing contributes approximately 16,000 jobs and about \$4.2 billion in total economic activity. Recreational fishing is a popular leisure activity for both New Zealanders and tourists – approximately 700,000 people fish each year and spend around \$946 million on recreational fishing and related activities.¹
13. Tangata whenua have a central role in the sustainable utilisation of New Zealand's fisheries resources, as customary, recreational and commercial fishers. The 1992 Deed of Settlement and the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 confirmed the rights and interests of tangata whenua in fisheries.
14. New Zealand's fisheries management system is built around the Fisheries Act 1996 (the Act) and the Quota Management System (QMS), which was introduced in 1986. The purpose of the Act is to provide for the utilisation of fisheries resources while ensuring sustainability. The principles of the Act make it clear this incorporates the long-term viability of fisheries resources, the aquatic environment and habitats. The QMS has improved the sustainability of many of New Zealand's fisheries.
15. When it was introduced in 1986, the QMS took into account the science, technology and social expectations of the time. Our approach to managing fisheries using quotas and allowances remains world leading, and has since successfully been applied by other countries to manage their fisheries. However, public expectations about how New Zealand fisheries are managed in the 21st century have significantly changed.
16. Recent changes in response to these shifting expectations have largely focused on single issues, and have not taken a broad view of the system and impacts of change. This has left areas where our system is not driving good fishing practice in our commercial fisheries. For example, there is unnecessary wastage of fish and relatively low levels of investment in innovation.

¹ NZIER report to MPI economic impact of seafood sector: an input – output and CGE assessment and New Zealand Marine Research Foundation report: Recreational Fishing in New Zealand: a Billion Dollar Industry (2016).

17. Over the past year I have met with, and have taken the time to listen to, a broad range of stakeholders and have heard their concerns. What is clear is that fisheries have great significance to all New Zealanders, and they have come to expect more from our fisheries management system than it currently delivers.

Setting a direction for improvements to the fisheries management system

18. My vision for fisheries is *abundant and sustainable fisheries, thriving communities and a healthy marine environment for the benefit of all New Zealanders.*
19. To achieve this vision requires an ambitious and broad work programme. It also requires constant innovation and improvement, to ensure New Zealand has a world-leading fisheries management system. This means New Zealand's fisheries management system will continue to adapt to new aspirations and emerging challenges.

Improvements to the fisheries management system are already underway

20. I have already taken the first step to achieving this vision for New Zealand's fisheries, by establishing Fisheries New Zealand. Fisheries New Zealand has provided a stronger focus of working collaboratively with stakeholders to enable innovation across all aspects of fisheries management. This includes:
- Extending electronic catch and position reporting to provide more accurate and timely information about which fish are caught and where. This reporting has been implemented on trawler vessels over 28 metres in length, and implementation will be staged for the remainder of the commercial fishing fleet by December 2019.
 - Changing the rules to enable commercial fishers to trial and apply to use innovative trawl technology.
 - Exploring how we set deemed values, to ensure that the payments we set to ensure sustainable catch remains an effective management tool.
 - Working alongside Ngāi Tahu and the Yellow Eyed Penguin Trust to develop a broader management approach to developing a hoiho (yellow eyed penguin) recovery plan.
 - Improving our management of the impacts of fishing on the environment. This includes understanding the set net fishery and its environmental footprint, developing a national approach to considering risks to seabirds from fishing, and a review of the Hector's and Maui Dolphin Threat Management Plan.

The next step is to ensure our system is incentivising good practice commercial fishing, with innovation at its centre

21. With Fisheries New Zealand's collaborative and innovative approach embedded and practical improvements in place, it is time to take the next step. The next step is to address current areas of underperformance and look to the future challenges and opportunities that our fisheries face.
22. To carry this out effectively, I am proposing to progress this work in two parts. Part 1 will take a system-wide approach to how our fisheries management rules operate together to motivate good fishing practice. I am seeking Cabinet approval for a Consultation Document to support a robust public consultation on proposed changes to ensure our settings motivate good fishing practice.
23. Following this, I will progress work to assess our monitoring and verification capability for commercial fisheries. Part 2 will explore options to ensure the integrity and transparency of the richer information commercial fishers are providing on which fish are caught and where.

24. s9(2)(f)(iv)



25. s9(2)(f)(iv)




These steps will ensure a strong foundation for future opportunities and challenges

26. Step three is more future focused to explore *ecosystem-based approaches to managing the marine environment*, investing in innovation and empowering local communities to have greater involvement in the decisions that affect them.

Comment

27. I propose to consult on Part 1: Changes to ensure our system is incentivising good fishing practice by commercial fishers.

s9(2)(f)(iv)



28. Part 1 proposals are focused on ensuring our fisheries management system is incentivising good fishing practice by commercial fishers. The proposals include:
- *Amending the rules for commercial fishers that set out what fish must be brought back to port, and what fish can be returned to the sea.* The current rules are complex and open to interpretation. This proposal aims to simplify these rules, and ensure that they incentivise good practice fishing.
 - *Reviewing the penalty and offences regime.* We need to ensure the penalties and offences regime reflects any proposed changes – and our improving capability to detect non-compliance – so it is fair and appropriate.
 - *Streamlining the decision-making process for setting catch limits.* These decisions could provide more certainty to stakeholders, respond more quickly to changes in our fish stocks, and make better use of the improved information from electronic reporting.
 - *Other fisheries management changes.*
29. Consultation will take place in early 2019. This will include targeted stakeholder meetings including with Te Ohu Kaimoana³ and attending iwi fisheries forums. To make it as easy as possible for people to have their say, officials will also develop a range of submission options, including an online submission form.

Contents of the Consultation Document

Proposal 1: Amend the rules for commercial fishers that set out what fish must be brought back to port (landed), and what fish can be returned to the sea

30. The current rules are complex, open to interpretation, as well as difficult to monitor. The current rules provide few incentives for fishers to innovate and minimise bycatch of unwanted species because many fish may be returned to the sea. As a result, the rules are insufficient to drive a change to more innovative fishing practices.
31. I propose to simplify these rules and ensure that they incentivise good practice fishing.
32. Under all options, the eventual requirement to report all fish caught, part of new reporting requirements under electronic catch reporting, will mean there are greater incentives on fishers not to illegally discard fish or high-grade their catch (landing only the most valuable fish).

³ Te Ohu Kaimoana is an independent trust, established to provide for the allocation and governance of fisheries assets transferred under the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and Fisheries Deed of Settlement.

Options for simplifying the rules for what fish is landed and what is returned to the sea

33. The Consultation Document has three options:
- Option 1: increase the incentives for good fishing practices. This would tightly constrain returns to the sea and would mean the removal of most minimum legal sizes for fin fish.
 - Option 2: increase the flexibility around fish being returned to the sea. It would mean increasing the range of fish that could be returned to the sea.
 - Option 3: retaining the current rules for what is landed and what is returned to the sea.
34. The key difference between options is the strength of the incentives to change fishing practices, and to find value. Option 1 provides the strongest incentives to drive this change, while Option 3 reflects the status quo.

Proposal 2: Amend the existing offences, penalties and defences

35. I want to ensure that our regime effectively protects our marine environment, integrity of the fisheries management system and maintains a level playing field for our commercial fishers.
36. Our current offences and penalties regime is based on a low likelihood of detection. Therefore it has harsh penalties regardless of the level of offending.
37. Electronic catch and position reporting will provide richer information about which fish are caught and where. This information will provide Fisheries New Zealand a more comprehensive picture about fishing activity, including illegal behaviour. This proposal seeks to introduce a more comprehensive range of offences and penalties to better reflect proposed changes to the rules that set out what fish must be brought back to port (landed), and what fish can be returned to the sea.
38. I also want to make changes to ensure that fishers can act to prevent interactions with protected species. Protecting our rare marine treasures is important to all New Zealanders, including commercial fishers. I want to ensure our rules are clear and specific that fishers are allowed, and encouraged, to act to protect these species.

Options for changes to offences, penalties and defences

39. The Consultation Document seeks feedback on:
- The introduction of a number of new offences focused on the level of offending behaviour, including infringement offences.
 - The introduction of a defence for illegal discarding to prevent the capture of protected species.
 - The removal of the defence of fisheries officer or observer authorisations.

40. Changes to offences and penalties will require amendments to the Act. Fisheries New Zealand consulted the Ministry of Justice prior to inclusion of these proposals in the Consultation Document.

Proposal 3: Streamline the decision-making process for setting catch limits

41. Setting a Total Allowable Catch (TAC) limit is one of the most important decisions to ensure the sustainable use of fish stocks. Our stakeholders are seeking a broader management approach that delivers greater certainty of when and by how much a TAC is adjusted.
42. There is an opportunity to increase the responsiveness of our adjustments of TACs, and improve stakeholder certainty about when and by how much TACs are likely to change. This will also use the improved information from electronic reporting.
43. Changes in the abundance of our fish stocks can happen quickly. If changes to TACs don't reflect this, it can impact the commercial value of the stock when abundance increases, or increase the risk to sustainability when abundance falls. This is required to keep pace with the changing market conditions that fishers face, as well as to better consider the range of aspirations our stakeholders have.

Proposed approach to more efficient adjustment of catch limits

44. I propose allowing for TACs to be adjusted using a harvest control rule. Harvest control rules set out pre-agreed actions that are taken in response to changes in the abundance of a fish stock. These actions reflect stakeholder objectives for the fishery, and would be developed and tested extensively with stakeholders. They are already used as part of the management of several rock lobster stocks, but must adhere to the existing decision process, reducing their efficiency.
45. This proposal would initially be applied to commercial fisheries, where there are greater amounts of information available and limited competing demands of different sectors for a portion of the TAC. There is potential for their use in our important shared fisheries that would deliver the benefits of harvest control rules to our recreational fishers. Testing them in more information rich commercial fisheries first will enable Fisheries New Zealand to learn how to best implement them in shared fisheries.

Other Fisheries Management Changes

46. These changes, while technical in nature, are important to improve the functionality of the Act, and ensure it is fit for purpose in light of other proposed changes.

Attributing other sources of fishing mortality to the sector that caused it

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

Allowing for improved monitoring and verification to view discarding and processing, as well as fishing activity

48. This change is necessary to ensure that all parts of fishing operations are monitored.

Technical fixes to the Fisheries Act 1996

49. These are necessary to ensure consistency between different parts of the Act. They include:
- Amendments to ensure continuity between the North and South Island.
 - Clarifying forfeiture provisions.

Consultation

50. There is likely to be a range of views on the Consultation Document proposals across different fishing sectors, and commercial fishing methods. Getting a broad range of views is important to best inform any legislative and regulatory changes. The approach to consultation aims to ensure a broad reach of the consultation document across everyone with an interest in fishing, and the marine environment.
51. The following Government departments were consulted in the development of the draft Cabinet paper and their views incorporated: Department of Conservation, Ministry for the Environment, Ministry of Justice (Including Crown-Māori Relations), The Treasury, Te Puni Kōkiri, Office of the Privacy Commissioner, and the Department of Prime Minister and Cabinet.

Financial Implications

52. There are no financial implications arising from this paper. The costs of consultation will be funded from within baseline funding.
53. As part of Budget 2018, Fisheries New Zealand received [REDACTED] for an independent review into the fisheries management system. This funding will be redirected to support the broader programme of work, including work underway (such as reviewing our approach for setting deemed values) and further changes to strengthen the management of our fisheries.

54. The estimated costs, to Government and the industry, of implementing Digital Monitoring and enabling innovative trawl technologies, were calculated as part of regulatory impact analysis when Cabinet approved Fisheries (Electronic Monitoring on Vessels) Regulations 2017.
55. I have requested that my officials review this regulatory impact analysis. This will be provided when I return to Cabinet with proposals to improve our monitoring and verification capability within the fisheries management system.

Human Rights Implications

56. The proposals have no implications for the rights protected in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Legislative Implications

57. There are no legislative changes arising out of the release of the Consultation Document. Legislative change will be required if proposals are accepted by Cabinet, following consultation.

Regulatory Impact Analysis

58. The Regulatory Quality Team at the Treasury has determined that the regulatory decisions sought in this paper are exempt from the requirement to provide an Impact Assessment as the relevant issues have been addressed in the Consultation Document.

Publicity

59. Fisheries New Zealand has developed a communications plan to engage with stakeholders and tangata whenua. I intend to issue a media statement in early 2019 announcing the release of the Consultation Document and consultation process. The Consultation Document will be published on the Fisheries New Zealand website. There is likely to be moderate public interest in these proposals given recent media attention on fisheries issues. I intend to proactively release this paper, redacted as appropriate in accordance with the Official Information Act 1982.

Recommendations

60. I recommend that the Committee:

1. **Note** that while the fundamentals of New Zealand's fisheries management system are sound and performing well, there are opportunities to improve settings to better incentivise commercial fishing practice and ensure trust and confidence in the management system, now and into the future.
2. **Note** that my vision for New Zealand's fisheries and the proposals in the Consultation Document 'Your fisheries – your say' are based on my extensive stakeholder engagement.
3. **Note** that the Consultation Document is part of a broader programme of work to ensure our fisheries management system continues to be innovative and world-leading.
4. **Note** that funding Fisheries New Zealand received from Budget 2018 to establish an independent review will now be used to progress the programme of work to improve our fisheries management system.
5. **Note** I intend to ensure the current fisheries management settings, and wider incentives on commercial fishers are incentivising good fishing practice, before considering the scope and use of further monitoring and verification technology.
6. **Agree** the Consultation Document 'Your fisheries – your say' be released for public consultation during early 2019;
7. **Authorise** the Minister of Fisheries to make minor, technical and editorial amendments to the Consultation Document prior to its public release;
8. **Note** that I will report back to Cabinet on the outcomes of consultation and my proposed next steps for monitoring and verification within the fisheries management system.

Authorised for Lodgement

Hon Stuart Nash
Minister of Fisheries

