

The Fisheries Amendment Bill Update

New Zealand Sport Fishing Council

August 2022



Background

In June 2021, Cabinet agreed to progress a package of legislative changes to the Fisheries Act 1996 and associated regulations through the **Fisheries Amendment Bill**. This follows public consultation in 2015 (Fisheries System Review), 2016 (Future of our Fisheries), 2019 (Fisheries Change Programme), Cameras on Boats (2021) and development of the Bill in 2021.

The Fisheries Amendment Bill was introduced to Parliament on 13 April 2022. The Bill is currently being considered by the Primary Production Select Committee. Public submissions on the Bill closed 17 June 2022. Public hearings were held on 30 June, 4 and 7 July 2022.

On 26 July the MPI Fisheries Policy Team sent an update via email advising of next steps and asked for feedback on the high-level options developed to address regulatory changes to establish an infringement system for landing and discards, and the disposal of fish. MPI will consider any feedback received and issue discussion documents for formal consultation later in the year.

The proposed changes include:

- **Landings and Discards** - amending the rules for commercial fishers that set out what Quota Management (QMS) species must be brought back to port and what can be returned to the sea (i.e., exemptions currently under Schedule 6 and sub-minimum legal size returns).
- **Offences and Penalties** - changes to the corresponding offences and penalties to create a more graduated and effective regime for illegal discarding.
- **Pre-set decision rules** - changes to the decision-making process to enable decisions on catch limits and/or other sustainability measures to be more responsive to changes in the abundance of a fish stock.
- **Technical amendments** - technical changes to support the use of new technology, including improving the effectiveness of on-board cameras and clarifying cost recovery arrangements.

The Select Committee is due to provide its report on the Bill to the House on 12 September 2022.

Further information on the Bill can be found on the [MPI website here](#).

Discussion

Revelations of widespread dumping and unreported catch of protected species emerged during the 2013 public consultation discussing the future management of Snapper 1. In making his decision the then Minister of Fisheries, Nathan Guy, decided to have mandatory camera coverage of the commercial fleet, starting first with trawlers working in the Snapper 1 fishery on the North Island's northeast coast. His intention was to limit illegal practices.

However, we know from our research that managing unintended and unwanted catch is the Achilles heel of every jurisdiction using quotas to control catch. If there was a simple remedy it would have become apparent long ago and so far it remains an unsolved problem of using catch limits to control catch. The current proposals from MPI follow this same path.

The solution to unwanted catch is to not catch it in the first place - Improved selectivity, not multiple discard avenues, is the only way to resolve unwanted catch.

Almost a decade on, the primary purpose of the cameras remains - to limit illegal practices by validating self-reported catch returns and ensuring compliance with discard regulations.

Yet, the early camera trials revealed that verification of species and bin weights was not possible using cameras over the deck.

If the public and commercial fishers are expected to invest at least \$70 million into the programme, then we need assurances that success is possible.

Has the proposed camera technology improved to the level that would allow sufficiently fine-scale data to be collected?

If yes, the simple solution is to have a science-based approach. This means having a significant proportion of vessels fitted with cameras directly over a conveyor or fish table recording all catch on that vessel and using AI technology to record the species and size of fish, accompanied by records of all location and fishing gear parameters.

If not, then the Minister needs to seriously review the investment in electronic monitoring and immediately prevent any amendments to the Fisheries Act and regulations that would weaken the penalty regime related to the dumping and discarding of fish.

Cameras not a silver bullet

Onboard cameras and land-all catch have been promoted to the Minister as a silver bullet, and we have previously supported camera installations as part of an overall policy package to simplify management and monitoring of catch. The latest proposals from MPI seek to enable alternative methods for the disposal of landed fish and to introduce a system of graduated penalties and exemptions.

These latest proposals merely legalise fish dumping rather than preventing it.

The complexity of introducing several new pathways for disposal of unintended or unwanted catch is only now becoming apparent as minds turn to regulation drafting and penalties.

It is concerning that the initial attraction to land-all catch except for endangered species is being lost as these latest exemption proposals are designed to avoid burdening either the fisher or the Licensed Fish Receiver.

We recommend the Minister acts cautiously when considering the proposed changes as they create more loopholes for releasing fish without addressing the fishing techniques responsible for poor selectivity and the economic drivers leading to the gross wastage of our fish.

If the purpose has changed from measuring all the catch to something different, say measuring some of the catch and providing a range of disposal options, then we need to know what success will look like.

A much clearer statement of purpose and success is urgently required to guide the final stages of these amendments.

Current management

The current proposals are still based on the assumption that we can manage fish stocks by relying on output limits - catch limits and measuring landed catch. Successful management by quota requires measuring at-sea catch and comparing that to the recorded, landed catch.

A weakness with the Quota Management System is that we have mixed trawl fisheries that can capture 20 different species, from valuable to valueless. We have rent-seeking quota owners and Licensed Fish Receivers (LFRs) who lease Annual Catch Entitlements (ACE) to fishers while specifying the unloading expectations. Catch not meeting the LFR's demands is routinely dumped and the fisher is able to stay at sea until the vessel's hold has sufficient fish to make it economic to return to base. Discarding and dumping is just an economic exercise enabling the externalisation of the ecological cost.

If the objective is to limit illegal practices, then the economics have to change - It has to be economical for the fisher to land all catch.

In the broad sense of changes to discard rules, landing all catch must deliver an economic benefit to the fisher and the compliance costs must be met. The same necessity doesn't apply to the LFR who has a range of disposal methods currently available; once the catch has been measured and recorded the disposal is at the sole discretion of the LFR with appropriate records being maintained.

If the Licensed Fish Receiver remains as the gatekeeper and the only way MPI verifies landings is by self-reporting, then the LFR must receive all the catch except for a very few exceptions. Adding cameras achieves little if species and sizes cannot be discerned.

There is no coherent purpose. If the cameras cannot determine the accuracy of weight estimates, species, alive or dead, and fish becomes routinely discarded under a pile of exemptions then there is no point in spending \$70 million upfront on camera installations.

Alternative solution - Rescue Fish

Since 2018 the New Zealand Sport Fishing Council and LegaSea have invested around one million dollars and dedicated resources into developing an alternative to the Quota Management System. The Rescue Fish policy package resolves the above issues by using both input and output limits on each fishing permit. This removes the ability of fishers to discard fish and keep on fishing. Each permit has a limited number of fishing days and a limited amount of gear to be used. Fishing stops when either the quota limit is reached, or the vessel days are used.

In terms of land-all catch, if there's an issue with unwanted catch fishers will need to deploy techniques that are more selective, such as longlining versus trawling. Land-all catch ought to be an incentive to learn how to leave unwanted catch in the water.

We know that the selectivity achieved nowadays is light years ahead of what it was 40 years ago. And we encourage those small-scale commercial fishers who are currently trialling more selective techniques, even without any incentive to do so. As the incentives align, fishers will become increasingly skilled at selectivity.

Our [Rescue Fish reform policy](#) comprises five fundamental policy changes:

1. Unwind the rights based allocation system.
2. Set national non-discretionary stock management targets.
3. Establish a co-governance body comprising Māori and Government to set Total Allowable Catches (TACs).
4. Establish regional fisheries management bodies to maintain a marine spatial plan to meet local needs.
5. Establish a resource rental.

The primary purpose of reform is to overcome the regulatory capture of government agencies by fisheries rights holders. The mechanism is to repatriate all rights, except indigenous rights, back to the government. Without this, no reform is possible.

The secondary purpose is to improve fish stock abundance and diversity, primarily by setting legislated stock targets. The catch limits that would conform with these targets will be decided by the co-governance body using the precautionary principle.

Regional marine spatial plans will be informed by research and include fishing controls, gear restrictions, and marine protected areas. Resource rentals will ensure commercial fishing is rewarding and best practice techniques are deployed to protect the marine environment and maximise the value of each fish harvested.

There is increasing support for fisheries reform because as the current dysfunction continues the crisis deepens, and the need for systemic reform becomes more apparent.

Next steps

1. Develop a response to the latest request for feedback from the MPI Fisheries Policy team.
2. Collate material in anticipation of formal consultation on regulatory change later in 2022.
3. Continue to advocate for the Fisheries Amendment Bill to be split so the cameras and regulatory change discussions can proceed, and a separate Bill to discuss pre-set decision rules and changes to the administration amateur fishing regulations can be progressed separately.

Relevant links

Policy alternative - [Rescue Fish reform policy](#)

Fisheries NZ latest proposals for [regulatory change and new penalties](#)

Fisheries Amendment [Bill proposals](#).

Select Committee hearings and Fisheries [Amendment Bill process](#).

Recreational and environmental interests Amendment Bill [joint submission](#).

Timeline

2015 - [Fisheries System Review](#)

2016 - [Future of our Fisheries](#)

2019 - [Fisheries Change Programme](#)

2021 - [Cameras on Boats](#)

2022 - [Fisheries Amendment Bill](#)