

Regulatory Impact Statement: Amendments to fisheries regulations

Coversheet

Purpose of Document	
Decision sought:	Analysis produced for the purpose of informing in-principle Cabinet decisions to approve drafting of amendments to fisheries regulations
Advising agencies:	Ministry for Primary Industries
Proposing Minister:	Minister for Oceans and Fisheries
Date finalised:	25 May 2023
Problem Definition	
<p>At least 200 pieces of fisheries-related secondary legislation are administered by the Ministry for Primary Industries (MPI) and Fisheries New Zealand (FNZ).¹ The regulations and other secondary legislation contain minor errors, duplication, gaps, and inconsistencies, as well as regulations that are out of date. These legislative defects have led to issues including ambiguity, regulations not being fit for purpose, undesirable compliance outcomes, and barriers to innovation. Most, however, are not significant enough to warrant individual regulatory amendment proposals.</p>	
Executive Summary	
<p>Accumulation of minor errors and out of date regulation reduces the effectiveness of the fisheries regulatory system. Regulatory amendments are required to maintain consistency with the purpose of the Fisheries Act 1996, under which the regulations are developed.</p> <p>In early 2022, FNZ released a document for public consultation comprising a package of proposed operational changes to over 30 fisheries regulations covering customary, amateur, and commercial fisheries. Proposals were put forward by tangata whenua and stakeholders, as well as originating from Fisheries New Zealand and other branches within MPI.</p> <p>Within the wider package, the majority of the proposals were exempt from Impact Analysis requirements. This group of proposals was split off from the remainder, and is being progressed via a separate process that is operating to a different timeline. Within this group of proposals, most relate to the recordkeeping requirements that apply to commercial fishing and aquaculture industry stakeholders or to the creation of additional infringement offences.</p> <p>For the eight proposals subject to Impact Analysis requirements, public consultation was completed in 2022, and feedback received has been incorporated into advice provided to the Minister for Oceans and Fisheries. FNZ is now at the stage of seeking endorsement from Cabinet of the preferred options.</p>	

¹ Fisheries New Zealand is a branded business unit within MPI. It was established on 30 April 2018.

In relation to the proposals subject to Impact Analysis requirements, the broad theme resulting from stakeholder feedback was one of broad collective support for the proposals. Submitters also concurred with FNZ's assessment that there would be little in the way of material impact on any fisheries stakeholder following implementation of any of the proposals

The issues considered in this Cabinet paper are not sufficient to cause a major regulatory system failure but will result in sub-optimal performance.

The status quo is to continue to operate with the issues resulting from the legislative defects. Resolution of the issues could come at some point when more pressing issues require the specific regulations to be reviewed. However, it is likely that waiting for a suitable vehicle through which issues could be resolved would take many years.

The preferred option is to progress the amendments via a package that provides for multiple amendments to multiple fisheries regulations. In isolation, the impact of each individual amendment is small or negligible. Collectively, however, the package will contribute to improvements across the fisheries regulatory system with limited changes to existing obligations for fisheries stakeholders.

Limitations and Constraints on Analysis

The fact that public consultation has already been undertaken constrains the analysis by limiting consideration of further options that were not consulted on.

The proposals for additional infringement offences were constrained by the fisheries legislation that applied at the time of consultation (early 2022). Prior to amendments coming into force in late 2022, the Fisheries Act 1996 specifically excluded the creation of infringement offences that related to taking or possessing of fish by a commercial fisher.

A limitation that was identified when comparing options for some infringement fees or legislative penalties was that there was nothing directly comparable against which the options could be assessed.

A constraint on the impact analysis was the limited information available on the extent to which the proposals addressed in this RIS would create new obligations for fisheries stakeholders. Based on the information available, FNZ assumed that the impact on relevant stakeholders would be minimal. Feedback from submitters during the public consultation process confirmed this assumption.

There is no impact on how confident Ministers can be when using the analysis based on the limitations and constraints identified.

Responsible Manager(s) (completed by relevant manager)

Emma Taylor
Director Fisheries Management
Fisheries Management
Ministry for Primary Industries



16 June 2023

Quality Assurance (completed by QA panel)

Reviewing Agency:	MPI
Panel Assessment & Comment:	The MPI Regulatory Impact Analysis Panel (RIAP) has reviewed the Regulatory Impact Statement “ <i>Amendments to Fisheries Regulations</i> ” produced by the Ministry for Primary Industries. The review team considers that the RIA meets the QA criteria.

1: Diagnosing the policy problem

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

1. In 2020, FNZ began developing a technical regulation package. Business units were invited to put forward proposals for regulatory amendment, including minor amendments that were unlikely to be considered significant enough to justify progressing as standalone issues.
2. As well as from business units within MPI, a small number of proposals originated following requests from tangata whenua and stakeholders for specific regulatory amendments. A subset of those proposals are addressed in this Regulatory Impact Statement.
3. Undertaking a fisheries technical regulation package is consistent with broader Government requirements around regulatory stewardship and agencies’ obligations under the Public Service Act 2020.
4. MPI decided to progress a technical regulation package as a vehicle to make amendments to a number of the regulations it administers. The proposals addressed in this Regulatory Impact Statement relate to the following regulations:
 - Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986
 - Fisheries (Commercial Fishing) Regulations 2001
 - Fisheries (Kaimoana Customary Fishing) Regulations 1988
 - Fisheries (Licensed Fish Receivers) Regulations 1997
 - Fisheries (Ngāti Tūwharetoa, Raukawa and Te Arawa River Iwi) Regulations 2017
 - Fisheries (Recordkeeping) Regulations 1990
 - Fisheries (Reporting) Regulations 2017
 - Fisheries (South Island Customary Fishing) Regulations 1999
 - Fisheries (South-East Area Commercial Fishing) Regulations 1986
 - Te Arawa Lakes (Fisheries) Regulations 2006
 - Waikato-Tainui (Waikato River Fisheries) Regulations 2011

What is the policy problem or opportunity?

5. Over time, small errors, inconsistencies, or out of date regulations can result in issues including ambiguity, regulations not being fit for purpose, undesirable compliance outcomes, and barriers to innovation.
6. MPI has identified numerous small errors together with a number of opportunities to improve and enhance fisheries regulations. Addressing these issues collectively via a regulatory amendment package is viewed by MPI as administratively efficient for stakeholders, the Minister for Oceans and Fisheries, and Cabinet.
7. One example of an opportunity to improve and enhance fisheries regulations is the proposals to increase the number of infringement offences. Prior to public consultation, FNZ identified several instances where the only option currently available for directed or enforced compliance with relatively minor fisheries regulations was prosecution. In most instances, undertaking a prosecution in relation to an alleged breach of the relevant regulation would be unlikely to be commensurate to the scale of the alleged offending.
8. Creating infringement offences as an alternative to prosecution is likely to improve compliance outcomes by providing additional incentives for voluntary compliance with the relevant regulations.
9. An example of a persistent error is the discrepancy that currently exists between timeframes to complete one of the records required under the Fisheries (Recordkeeping) Regulations 1990 and one component of a report required under the Fisheries (Reporting) Regulations 2017.
10. Commercial fishing permit holders are required to provide specific information on a report within 15 days after a landing has finished. They are dependent on a third party for that information, however, but there is no regulatory requirement for the third party to provide that information within the same timeframe.
11. In conjunction with Treasury, MPI has identified the issues within the wider package that are not exempt from the Impact Analysis requirements set out in Cabinet Office Circular (20) 2.
12. The issues that require development of a Regulatory Impact Statement (RIS) have been grouped into two broad categories:
 - Amendments to the fisheries offences and penalties framework including the creation of additional infringement offences.
 - Amendments to licensed fish receiver recordkeeping obligations to address errors and inconsistencies
13. The regulatory impacts of all amendments have been assessed against the following headings:
 - a. What is the policy problem or opportunity?
 - b. What objectives are sought in relation to the policy problem?
 - c. What criteria will be used to compare options to the status quo?
 - d. What options are being considered?
 - e. How do the options compare to the status quo/counterfactual?
 - f. What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

- g. What are the marginal costs and benefits of the option?
 - h. How will the new arrangements be implemented?
 - i. How will the new arrangements be monitored, evaluated, and reviewed?
14. The last two items are addressed collectively in Section 3.

What objectives are sought in relation to the policy problem?

15. For the purposes of developing the consultation document that was released for public consultation on 17 January 2022,² a series of objectives were defined against which all proposals in that paper were assessed. The objectives were developed prior to the release of the consultation document.
16. Of the objectives that were developed, not all were relevant to the proposals in this RIS. The two objectives that were identified as being most relevant to the proposals addressed in this Regulatory Impact Statement are:
- **Objective 1** – improving compliance outcomes. This refers to opportunities to enhance the VADE compliance delivery model.³
 - **Objective 2** – increasing consistency within or between regulations. It refers to regulations that do not apply consistently to all stakeholders or where requirements in one regulation are inconsistent with related requirements in a different regulation.

Consultation / engagement with tangata whenua and stakeholders

17. As noted above, some of the proposals set out in the consultation document released in January 2022 (and addressed in this Regulatory Impact Statement) originated as a request from tangata whenua. Prior to the consultation document being released, a summary of key proposals was developed and made available at Iwi Fisheries Forum meetings held in the latter part of 2021.
18. A meeting with Te Ohu Kai Moana⁴ was held prior to the consultation document being released to gain initial feedback on the proposals as a whole.
19. A further summary that outlined key proposals of interest to tangata whenua was developed and made available for distribution to Iwi Fisheries Forums immediately after consultation commenced.
20. A small number of proposals were also developed at the request of stakeholders such as fishing industry representative organisations. While none of those proposals were subject to Impact Analysis requirements, FNZ did undertake limited engagement with those stakeholders during the development of the consultation document. While the primary purpose was to ensure the relevant proposals were consistent with the stakeholder's request, the nature of other proposals was discussed.
21. In total, 66 submissions were received in response to the consultation document. Of these, 16 commented on one or more of proposals addressed in this discussion

² The consultation document referred to is available [here](#).

³ VADE is an acronym that stands for voluntary, assisted, directed, and enforced. More information about the VADE compliance delivery model is available [here](#).

⁴ Te Ohu Kaimoana is a charitable trust established through the Māori Fisheries Act 2004. It was established to advance the interests of Māori in fishing and fisheries-related activities.

document. The 16 submitters included tangata whenua, recreational fishing representatives, commercial fishing stakeholders and representative bodies, as well as members of the public.

22. There was broad support for the proposals that related to offences and penalties. Several submitters viewed the creation of additional infringement offences as being positive and likely to result in improved outcomes in terms of compliance with the relevant fisheries regulations.
23. Some concerns were raised, however, about the potential for the number of infringement notices that could be issued for minor errors such as spelling mistakes. The advice provided to the Minister for Oceans and Fisheries on this noted that the process of issuing infringement notices is discretionary and that these concerns were unfounded.
24. Regarding the proposals to clarify licensed fish receiver reporting obligations, there was also broad support from submitters for these proposals. Submitters also commented that the proposals largely aligned with what was already in practice.

Section 2: Deciding upon an option to address the policy problem

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

25. Options for policy proposals are assessed against three criteria:

Original policy intent

This is the ability to deliver the policy outcomes intended by the legislation. This criterion considers the interpreted or implied meaning of legislation in relation to its intent. It may also assess the capacity to carry out the original aim of the legislation against its original specifications.

Effectiveness / efficiency

A qualitative assessment is made of whether an option is likely to achieve the objective or contribute to achieving the objective. Some options will leave the regulatory outcomes unaltered and make the administration less onerous for government or regulated parties. Alternatively, a net benefit to the operating environment for industry will occur with little change to resourcing associated with the regulation.

Equity

Equity refers to degree in which fair and reasonable outcomes could be achieved by the options. This includes the capacity to deliver fit for purpose penalty regimes under legislation.

26. Options for corresponding infringement fees or legislative penalties are assessed against three criteria:
- Is the proposed fee or penalty proportional to the offence?
 - Is the proposed fee or penalty comparable to similar offences?
 - Will the proposed fee or penalty provide sufficient deterrence?

What scope will options be considered within?

27. All options must be consistent with the relevant regulation-making power in the primary legislation (section 297 of the Fisheries Act 1996).
28. As noted, consultation was carried out in early 2022. At this time, the section 297 of the Act precluded extending the infringement offences framework for commercial fishers, to anything that related to taking or possessing fish. This constrained the proposals that were included in the consultation document relating to infringement offences that would apply to commercial fishers.
29. More broadly, the Fisheries Act 1996 requires that infringement fees must not exceed \$3,000, although Ministry of Justice guidelines recommend that a fee should not normally exceed \$1,000.
30. The scope of feasible options has not been limited by Minister's commissioning, previous policy decisions, or stakeholder engagement.

What options are being considered?

31. For each proposal addressed in this RIS, Table 1 indicates which of the objective(s) outlined above were considered relevant.

Table 1. Description of proposed regulatory amendments and assessment of each proposal against objectives

✓✓ - primary objective

✓ - secondary objective

- objective not relevant to proposal

Description of proposal	Compliance outcomes	Consistency
<i>Amendments to the fisheries offences and penalties framework</i>		
Create schedule of infringement offences for breaches of the Fisheries (Recordkeeping) Regulations 1990	✓✓	-
Create infringement offence for failure to respond to directive issued under Fisheries (Reporting Regulations) 2017	✓✓	✓
Create infringement offences relating to seabird mitigation requirements set out in circulars issued under the Fisheries (Commercial Fishing) Regulations 2001	✓✓	-
Creating infringement offences for breaches of bylaws made under customary fisheries regulations.	✓✓	-
Create explicit offence for failure to comply with conditions on a fish receiver's licence (issued under Fisheries (Licensed Fish Receivers) Regulations 1997)	✓✓	-
Create corresponding offence provision for a regulation that relates to the Otago commercial rock lobster fishery (regulation 7(4) of the Fisheries (South-East Area Commercial Fishing) Regulations 1986	✓✓	-
<i>Amendments to licensed fish receiver recording obligations</i>		
Amend Fisheries (Recordkeeping) Regulations 1990 to specify when licensed fish receivers must make 'separate greenweight entries' on a one of the records required to be completed under those regulations (purchase invoices)	✓	✓✓
Amend Fisheries (Recordkeeping) Regulations 1990 to align the timeframe for completing one of the records required to be completed under those regulations (purchase invoices) with the timeframe that applies to commercial fishers for completing 'landing reports' that are required under the Fisheries (Reporting) Regulations 2017	✓	✓✓

32. For the proposals in this RIS that relate to offences and penalties, Table 2 summarises performance of the infringement fee or legislative penalty options against the relevant criteria referred to in paragraph 26).

Table 2. Assessment of options for infringement fees and legislative penalties for the corresponding proposals in Table 1 above against criteria identified in Section 2

✓ - meets criteria

X – does not meet criteria

N/A – criteria not applicable

Description of proposed infringement offence or legislative penalty	Options for corresponding infringement fee or legislative penalty	Proportional to offence?	Comparable to similar offences?	Provides sufficient deterrence	Comment
Infringement offences for breaches of the Fisheries (Recordkeeping) Regulations 1990	\$250	✓	X	X	May not provide sufficient deterrence
	\$400 (<i>preferred</i>)	✓	✓	✓	Strikes balance between being proportional to the scale of the offence, comparability to similar offences, ⁵ and provides sufficient deterrence.
	\$750	X	X	✓	May not be proportional to the scale of the offence.
Infringement offence for failure to respond to directive issued under Fisheries (Reporting Regulations) 2017	\$200 (<i>preferred</i>)	✓	✓	✓	Below the lowest current fee for infringement offences under the reporting regulations (\$400). Potentially viewed as more appropriate as the fisher has already provided the relevant report.
	\$400	X	✓	✓	Equivalent to the infringement fee for all other infringement offences under the reporting regulations that relate to failing to record required information
Infringement offence for failure to use seabird mitigation requirements set out in circulars issued under the Fisheries (Commercial Fishing) Regulations 2001	\$400	✓	N/A ⁶	✓	This is the same as the lowest fee for breaches of the reporting regulations
	\$500 (<i>preferred</i>)	✓	N/A	✓	A higher infringement fee reflects the importance of ensuring adherence to use of seabird mitigation devices.
	\$750	X	N/A	✓	May not be proportional to the scale of the offence.

⁵ The lowest infringement fee for breaches of the Fisheries (Reporting) Regulations 2017 is \$400.

⁶ Currently, the only infringement offences for commercial fishing relate to breaches of the reporting regulations. There are no infringement offence provisions that relate to on-water activities.

Description of proposed infringement offence or legislative penalty	Options for corresponding infringement fee or legislative penalty	Proportional to offence?	Comparable to similar offences?	Provides sufficient deterrence	Comment
Infringement offence for breaches of technical specifications for seabird mitigation requirements set out in circulars issued under the Fisheries (Commercial Fishing) Regulations 2001	\$250 (<i>preferred</i>)	✓	N/A	✓	Equivalent to lowest infringement fee for breaches of amateur fishing regulations.
	\$300	✗	N/A	✓	May not be proportional to the scale of the offence.
	\$400	✗	N/A	✓	May not be proportional to the scale of the offence.
Infringement offence for breach of bylaws made under customary fisheries regulations: not more than twice the daily limit	\$250 (<i>preferred</i>)	✓	✓	✓	Same as fee for equivalent offence in amateur fishing regulations.
	\$500	✗	✗	✗	May not be proportional to the scale of the offence.
Infringement offence for breach of bylaws made under customary fisheries regulations: more than twice the daily limit but not more than three times.	\$500 (<i>preferred</i>)	✓	✓	✓	Same as fee for equivalent offence in amateur fishing regulations.
	\$1,000	✗	✗	✗	May not be proportional to the scale of the offence.
Create explicit offence for failure to comply with conditions on a fish receiver's licence (issued under Fisheries (Licensed Fish Receivers) Regulations 1997)	\$10,000	✓	✗	✓	Not directly comparable to similar offences.
	\$20,000 (<i>preferred</i>)	✓	✓	✓	Indicative of a less serious offence than receiving fish without a fish receiver's licence. Comparable to penalties for similar offences in other regulations.
	\$100,000	✗	✗	✓	Current maximum fine for receiving fish without a licence. Unlikely to be proportional to offences relating to adherence to conditions.
Create corresponding offence provision for a regulation that relates to the Otago commercial rock lobster fishery (regulation 7(4) of the Fisheries (South-East Area Commercial Fishing) Regulations 1986	\$20,000 (<i>preferred</i>)	✓	✓	✓	This is the same as the penalty that applies to existing Otago commercial rock lobster offences of a similar nature.

Impact analysis for individual proposals

33. For each regulatory proposal, a separate table has been developed. Part 1 presents tables for the proposals relating to amendments to the fisheries offences and penalties framework. Part 2 presents tables address the proposals for amendments to licensed fish receiver recordkeeping obligations.
34. In each table, the preferred option is identified and compared to the status quo based on an assessment of which of the preferred option or status quo best meets the criteria of proportionality, comparability, and deterrence using the policy objectives and criteria and stakeholder feedback. Additionally, the marginal costs and benefits of the preferred option are identified.
35. For proposals in Part 1, the options for the corresponding infringement fee or legislative penalty are also listed, and the preferred option is indicated. The preferred option is the one identified in Table 1 above, and is the option that best meets the criteria outlined in section 2.

Part 1 - Issues relating to amendments to offences and penalties framework

Creation of infringement offences for breaches of Fisheries (Recordkeeping) Regulations 1990

- **Primary regulations: Fisheries (Recordkeeping) Regulations 1990**

Proposal context	Currently, prosecution is the primary intervention response available for directed or enforced compliance of the Fisheries (Recordkeeping) Regulations 1990. This is an issue because the technical nature of these regulations means that prosecution is more often than not unlikely to be commensurate to the scale of the alleged offending.	
What options are being considered?	<p><u>Status Quo</u>: prosecution remains the primary intervention response. This will continue to hinder operation of the VADE compliance model by not providing for intervention that is commensurate to the scale of offending.⁷</p> <p><u>Option 2</u>: Create infringement offences for breaches of the Fisheries (Recordkeeping) Regulations 1990 with a corresponding fee of i) \$250, ii) \$400 (<i>preferred</i>), or iii) \$750.</p>	
Relevant objective(s)	Primary objective: improving compliance outcomes	
Analysis of options against criteria.*	<u>Option 1 (status quo)</u>	<u>Option 2</u>
*Key for qualitative assessments:	<p><u>Original policy intent</u>: 0 Retains intent of recordkeeping regulations as key tool in audit trail process for fish and fish product.</p> <p><u>Effectiveness / efficiency</u>: 0 Does not contribute to primary objective of improving compliance outcomes. No change in incentives for behavioural change.</p>	
++ much better than doing nothing / the status quo		<u>Original policy intent</u> : 0 Retains intent of recordkeeping regulations as key tool in audit trail process for fish and fish product
+ better than doing nothing / the status quo		<u>Effectiveness / efficiency</u> : ++ Signals the importance of the role that the recordkeeping regulations play in the audit trail process for fish and fish product. Does not change obligations under these regulations but increases incentives for stakeholders to fully comply with
0 about the same as doing nothing / the status quo		
- worse than doing nothing / the status quo		

⁷ VADE is an acronym that stands for voluntary, assisted, directed, enforced. The principle of the VADE compliance delivery model is that enforcement action (such as prosecution or issuing an infringement notice) acts as the incentive for voluntary compliance.

<p>- - Much worse than doing nothing / the status quo</p>	<p><u>Equity:</u> 0 Limited incentives for stakeholders to fully comply with the regulations</p>	<p>existing obligations. May also increase incentives for fishery officers to investigate adherence to existing regulations.</p> <p><u>Equity:</u> ++ Infringement offences would enhance the VADE compliance delivery model by providing for compliance intervention that is commensurate to the scale of the alleged offending.</p>
<p>What option is likely to best address the problem, meet the policy objectives and deliver the highest net benefits?</p>	<p>Option 2: this option retains the original policy intent but will enable enforcement measures to be undertaken more easily, more often, and more effectively.</p>	
<p>Which infringement fee option best fits the criteria?</p>	<p>The option for a \$400 infringement fee is the only option that is consistent with the three criteria.</p>	
<p>What do stakeholders think?</p>	<p>Ten submissions commented on this proposal. Stakeholders were broadly supportive of both the policy (to create infringement offences for breaches of recordkeeping obligations) and of the preferred infringement fee of \$400. Some concerns were raised about the potential for multiple infringement notices to be issued for the same error or omission, or for notices to be issued on the basis of genuine errors rather than deliberate offending. Some stakeholders thought the infringement fee should be lower than \$400 or that rather than being fixed, it should be proportionate to the size of the organisation to which the notice is being issued or to the value of the offence.</p> <p>The process of issuing infringement notices is discretionary; they not generated automatically. This means the concerns raised regarding errors or multiple offences are unlikely to materialise.</p> <p>Infringement fees must be fixed; there is no legislative provision for a fee for the same infringement offence to be proportionate.</p>	
<p>What are the marginal costs and benefits of the option?</p>	<p><u>Costs:</u> neutral. No change in obligations for any party subject to existing regulations. No additional government funding required to administer.</p> <p><u>Benefits:</u> Example benefits of enhanced compliance include reduced opportunities for black market seafood to enter the product flow chain.</p>	

Creation of infringement offence for failure to respond to directive issued under Fisheries (Reporting) Regulations 2017

- **Primary regulations: Fisheries (Reporting) Regulations 2017**

Proposal context	Directives can be issued to commercial fishers under regulation 44 of the Fisheries (Reporting) Regulations 2017 asking them to either correct information they have provided in reports required under those regulations or confirm that the information provided is correct. Currently, prosecution is the primary intervention response available when a fisher fails to respond to a directive. This is an issue because the technical nature of the correction/confirmation process means that prosecution is almost certainly unlikely to be commensurate to the scale of the alleged offending.	
What options are being considered?	<p><u>Status Quo</u>: prosecution remains the primary intervention response. This will continue to hinder operation of the VADE compliance model by not providing for intervention that is commensurate to the scale of offending.</p> <p><u>Option 2</u>: Create an infringement offence for failure to respond to a notification issued under regulation 44 of the Fisheries (Reporting) Regulations 2017 that relates to the information correction/confirmation process with a corresponding infringement fee of i) \$200 (<i>preferred</i>), or ii) 400.</p>	
Relevant objective(s)	<p>Primary objective: improving compliance outcomes</p> <p>Secondary objective: increasing consistency within regulations</p>	
<p>Analysis of options against criteria. *</p> <p>*Key for qualitative assessments:</p> <p>++ much better than doing nothing / the status quo</p> <p>+ better than doing nothing / the status quo</p> <p>0 about the same as doing nothing / the status quo</p> <p>- worse than doing nothing / the status quo</p> <p>-- Much worse than doing nothing / the status quo</p>	<p style="text-align: center;"><u>Option 1 (status quo)</u></p> <p><u>Original policy intent</u>: 0 Retains intent of direction provisions being able to be used in this context.</p> <p><u>Effectiveness / efficiency</u>: 0 Does not contribute to primary objective of improving compliance outcomes or secondary objective of increasing consistency within regulations. Does not increase incentives for fishers to respond to directions.</p>	<p style="text-align: center;"><u>Option 2</u></p> <p><u>Original policy intent</u>: 0 Retains intent of direction provisions being able to be used in this context.</p> <p><u>Effectiveness / efficiency</u>: ++ Signals the importance of ongoing quality and accuracy of data received from permit holders. Does not change obligations under these regulations but increases incentives for stakeholders to fully comply with existing obligations.</p>

	<p><u>Equity: 0</u> Absence of appropriate compliance interventions means the limited incentives for stakeholders to respond to directives issued regarding the correction/confirmation process will remain.</p>	<p><u>Equity: ++</u> The ability to issue an infringement notice would enhance the VADE compliance delivery model by providing for compliance intervention that is commensurate to the scale of the alleged offending. Availability of appropriate components of VADE model may also stimulate interest within Fisheries New Zealand in using compliance tools to effect behavioural change.</p>
<p>What option is likely to best address the problem, meet the policy objectives and deliver the highest net benefits?</p>	<p>Option 2: this option retains the original policy intent but will enable enforcement measures to be more effectively taken to ensure quality and accuracy of data.</p>	
<p>Which infringement fee option best fits the criteria?</p>	<p>The option for a \$200 infringement fee is the only option that is consistent with the three criteria.</p>	
<p>What do stakeholders think?</p>	<p>Nine submissions commented on this proposal. Around half of the submitters supported the proposal or were neutral. Several of the other submissions suggested that of greater importance was the need to understand the causes of errors and why fishers were receiving so many directives and failing to respond. Some were also concerned about the potential for excessive use of infringement notices. Only two submissions commented on the proposed infringement fee: one was broadly supportive, while the other thought a fee of \$20 was more appropriate.</p> <p>The issue of why errors or potential errors are being made in the first place is under active investigation by FNZ and FishServe. The process of issuing infringement notices is discretionary; they not generated automatically. This means the concerns raised excessive use of infringement offence provisions are unlikely to materialise.</p>	
<p>What are the marginal costs and benefits of the option?</p>	<p><u>Costs:</u> neutral. No change in obligations for any party subject to existing regulations. No additional government funding required to administer.</p> <p><u>Benefits:</u> Example benefits of the proposal include the flow-on effects for increases to the quality and accuracy of data received from fishers that can be used for science and management purposes.</p>	

Creation of infringement offences for failure to adhere to mandatory seabird mitigation requirements

- **Primary regulations: Fisheries (Commercial Fishing) Regulations 2001**

Proposal context	Circulars issued pursuant to regulation 58A of the Fisheries (Commercial Fishing) Regulations 2001 require some commercial fishers to take measures that mitigate the risk of seabird captures. Currently, prosecution is the primary intervention response available for directed or enforced compliance with these requirements. This is an issue because the technical nature of the requirements means that prosecution may not always be commensurate to the scale of the alleged offending.	
What options are being considered?	<p><u>Status Quo</u>: prosecution remains the primary intervention response. This will continue to hinder operation of the VADE compliance model by not providing for intervention that is commensurate to the scale of offending.</p> <p><u>Option 2</u>: Create infringement offences for breaches of circulars issued pursuant to regulation 58A of the Fisheries (Commercial Fishing) Regulations 2001. Separate offences would be created for a) failure to comply with requirements in a circular, and b) breaches of technical specifications of required mitigation measures. The corresponding infringement fees for the first category of infringement offences would be i) \$400, ii) \$500 (preferred), or iii) \$750. For the second category of infringement offence, the corresponding fees would be i) \$250 (preferred), ii) \$300, or \$400.</p>	
Relevant objective(s)	<p>Primary objective: improving compliance outcomes</p> <p>The proposal also contributes to broader objectives around reducing the risk to protected species</p>	
Analysis of options against criteria. * *Key for qualitative assessments: ++ 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	<p style="text-align: center;"><u>Option 1 (status quo)</u></p> <p><u>Original policy intent</u>: 0 Retains intent of mandatory seabird mitigation measures (reducing the risk to seabirds from commercial fishing activity).</p> <p><u>Effectiveness / efficiency</u>: 0</p>	<p style="text-align: center;"><u>Option 2</u></p> <p><u>Original policy intent</u>: 0 Retains intent of mandatory seabird mitigation measures (reducing the risk to seabirds from commercial fishing activity).</p> <p><u>Effectiveness / efficiency</u>: ++</p>

<ul style="list-style-type: none"> - worse than doing nothing / the status quo - - Much worse than doing nothing / the status quo 	<p>Does not contribute to primary objective of improving compliance outcomes or to broader goal of reducing risk to seabirds.</p> <p><u>Equity:</u> 0 Does not create appropriate incentives for all stakeholders to comply with all relevant requirements all the time</p>	<p>Signals the importance that FNZ places on adherence to required seabird mitigation measures. Does not change existing obligations for fishers to use required measures but increases incentives for stakeholders to fully comply with those obligations.</p> <p><u>Equity:</u> ++ The ability to issue an infringement notice would enhance the VADE compliance delivery model by providing for compliance intervention that is commensurate to the scale of the alleged offending. It would also signal to conservation groups that, in enhancing the VADE model, FNZ expects nothing less than 100% compliance with seabird mitigation measures.</p>
<p>What option is likely to best address the problem, meet the policy objectives and deliver the highest net benefits?</p>	<p>Option 2: this option retains the original policy intent but the ability for enforcement measures to be taken more readily will increase incentives for fishers to adhere to mandatory seabird mitigation requirements.</p>	
<p>Which infringement fee option best fits the criteria?</p>	<p>The options of a \$500 infringement fee for offences that relate to failure to comply with requirements and a \$250 fee for offences that relate to breaches of technical specifications are the only options that are consistent with the relevant criteria.</p>	
<p>What do stakeholders think?</p>	<p>Nine submissions commented on this proposal. All but one were broadly supportive with one not stating a position on the issue. Some suggested that consideration be given to creating infringement offences for other categories of fisheries regulations. Only two submissions commented on the proposed infringement fee: one did not express a preference, while the other thought fees of \$100/\$250 were more appropriate than the \$250/\$500 fees proposed by FNZ. Creating infringement offences for other categories of fisheries regulations is something that can be considered now that a relevant change to the Fisheries Act 1996 has come into force.</p>	
<p>What are the marginal costs and benefits of the option?</p>	<p><u>Costs:</u> neutral. No change in obligations for any party subject to existing regulations. No additional government funding required to administer.</p> <p><u>Benefits:</u> Example benefits of the proposal include reduced risk to seabirds resulting from increased adherence to mandatory seabird mitigation measures.</p>	

Creation of infringement offences for breaches of bylaws made under customary fisheries regulations

Primary regulations:

- Fisheries (Kaimoana Customary Fishing) Regulations 1998
- Fisheries (Ngāti Tūwharetoa, Raukawa and Te Arawa River Iwi) Regulations 2017
- Te Arawa Lakes (Fisheries) Regulations 2006
- Waikato-Tainui (Waikato River Fisheries) Regulations 2011

<p>Proposal context</p>	<p>Section 186 of the Fisheries Act 1996 enables regulations to be made that recognise and provide for customary food gathering by Māori. To date, four sets of regulations have been developed. All four sets of regulations provide for the creation of bylaws that impose restrictions or prohibitions on, for example, species, quantity, size limits, method, or areas where species may be taken. The offences and penalties regime that currently applies bylaws made under the customary fisheries regulations does not include the ability for infringement notices to be issued for breaches of bylaw notices. To date, while some prosecutions have been taken for breaches of bylaws, primarily mātaihai reserve bylaws, they are uncommon and are often viewed as not appropriate to the scale of the offending.</p>
<p>What options are being considered?</p>	<p><u>Status Quo</u>: prosecution remains the primary intervention response. This will continue to hinder operation of the VADE compliance model by not providing for intervention that is commensurate to the scale of offending. It is also viewed as inconsistent with the Crown's obligations under fisheries treaty settlements.</p> <p><u>Option 2</u>: Create infringement offences for breaches of bylaws issued under customary fisheries regulations. Separate offences would be created for a) offences that involve taking or possessing more than the daily limit of a species to which a bylaw applies, but not more than two times that daily limit, and b) for all other offences, which would encompass taking or possessing more than two times the daily limit but not more than three, as well as those bylaws that set out blanket prohibitions or general requirements. The proposed infringement fees for the first category of infringement offence would be i) \$250 (preferred), or ii) \$500. For the second category of infringement offence, the proposed infringement fees would be i) \$500 (preferred), or ii) \$1,000.</p>
<p>Relevant objective(s)</p>	<p>Primary objective: improving compliance outcomes</p>

Analysis of options against criteria. * *Key for qualitative assessments:	<u>Option 1 (status quo)</u>	<u>Option 2</u>
<p>++ much better than doing nothing / the status quo</p> <p>+ better than doing nothing / the status quo</p> <p>0 about the same as doing nothing / the status quo</p> <p>- worse than doing nothing / the status quo</p> <p>-- Much worse than doing nothing / the status quo</p>	<p><u>Original policy intent:</u> 0 Retains intent of bylaw-making provisions within the customary fisheries regulations</p> <p><u>Effectiveness / efficiency:</u> 0 Does not contribute to primary objective of improving compliance outcomes.</p> <p><u>Equity:</u> 0 Limited incentives for fishers to fully comply with bylaws created under customary fisheries regulations.</p>	<p><u>Original policy intent:</u> + Recognises and enhances the intent of bylaw-making provisions within the customary fisheries regulations as part of the wider Treaty settlement process.</p> <p><u>Effectiveness / efficiency:</u> ++ Recognises the importance of customary food gathering areas to Tangata Whenua and the need for increased incentives for fishers to adhere to bylaws. Does not change existing obligations for fishers to adhere to relevant bylaws but increases incentives to do so.</p> <p><u>Equity:</u> ++ The ability to issue an infringement notice would enhance the VADE compliance delivery model by providing for compliance intervention that is commensurate to the scale of the alleged offending. It would also signal to treaty partners that, in enhancing the VADE model, FNZ views anything less than 100% compliance with bylaws as unacceptable. It may also stimulate interest within Fisheries New Zealand in monitoring adherence with bylaws knowing that appropriate compliance tools are available for use if required.</p>
What option is likely to best address the problem, meet the policy objectives and deliver the highest net benefits?	Option 2: this option enhances the original policy intent of regulations that recognise and provide for customary food gathering by Māori. The ability for enforcement measures to be taken more readily will increase incentives for amateur fishers to adhere to bylaws created under customary fisheries regulations.	
Which infringement fee option best fits the criteria?	The options for \$250/\$500 infringement fees for the two infringement offence categories are the only options that are consistent with the three criteria.	

<p>What do stakeholders think?</p>	<p>Eight submissions commented on this proposal; none opposed the proposal for infringement notices to be able to be issued for breaches of bylaws made under customary fisheries regulations.</p> <p>One submission suggested there should be a greater role for kaitiaki of rohe moana in managing compliance with regulations that are applicable to their rohe moana. Another suggested that consideration should be given to extending the approach to commercial fishers, if bylaws enable commercial fishing within a specific area.</p> <p>One submission commented on the proposed infringement fees: the suggestion was that the fees proposed by FNZ (\$250/\$500) should be doubled (\$500/\$1,000) to recognise the importance to iwi of areas such as mātaihai reserves.</p> <p>The role of kaitiaki in managing compliance was out of scope as changes to the Fisheries Act 1996 would be required before that could be considered. Similarly, extending the approach to commercial fishers was also out of scope as it is not currently provided for under the Fisheries Act 1996.</p> <p>The Minister for Oceans and Fisheries was presented with both fees structure options and approved the preferred option of \$250/\$500 infringement fees for the two different infringement categories.</p>
<p>What are the marginal costs and benefits of the option?</p>	<p><u>Costs</u>: neutral. No change in obligations for fishers in areas that are subject to bylaws. No additional government funding required to administer.</p> <p><u>Benefits</u>: Example benefits of the proposal include increased biomass of fish and other aquatic life within areas subject to bylaws resulting from increased adherence to relevant bylaws.</p>

Create explicit offence provision for failure to comply with conditions on a fish receiver's licence

- Primary regulations: Fisheries (Licensed Fish Receivers) Regulations 1997

<p>Proposal context</p>	<p>Licensed fish receivers (LFRs) play a key role in the quota management system; commercial fishers must not sell or dispose of fish other than to an LFR. The Fisheries (Licensed Fish Receivers) Regulations 1997 set out the process for obtaining a fish receiver's licence. The Regulations also provide for the chief executive of MPI to impose specific conditions on any licence. The Regulations do not, however, contain an explicit offence provision for failure to comply with those conditions. While there is a generic offence provision in section 228 of the Fisheries Act 1996, creation of a specific offence and associated penalty within the Regulations may improve visibility and accessibility of the relevant rules for all stakeholders. Additionally, the maximum penalty if convicted of committing an offence under section 228 of the Act is a fine not exceeding \$100,000, which is the same as that for receiving fish without a licence.</p>	
<p>What options are being considered?</p>	<p><u>Status Quo</u>: rely on use of generic offence provision in section 228 of the Fisheries Act 1996, with associated maximum penalty of \$100,000. This will continue to hinder operation of the VADE compliance model by not providing for intervention that is commensurate to the scale of offending.</p> <p><u>Option 2</u>: Create specific offence provision within the Fisheries (Licensed Fish Receivers) Regulations 1997 for failure to adhere to conditions on a fish receiver's licence. The corresponding maximum penalty would be a fine not exceeding: i) \$10,000, ii) \$20,000 (<i>preferred</i>), or iii) \$100,000.</p>	
<p>Relevant objective(s)</p>	<p>Primary objective: improving compliance outcomes</p>	
<p>Analysis of options against criteria. *</p> <p>*Key for qualitative assessments:</p> <p>++ much better than doing nothing / the status quo</p> <p>+ better than doing nothing / the status quo</p> <p>0 about the same as doing nothing / the status quo</p>	<p style="text-align: center;"><u>Option 1 (status quo)</u></p> <p><u>Original policy intent</u>: 0 Retains intent of legislative ability to impose conditions on a licence within the licensed fish receiver regulations</p> <p><u>Effectiveness / efficiency</u>: 0 Does not contribute to primary objective of improving compliance outcomes.</p>	<p style="text-align: center;"><u>Option 2</u></p> <p><u>Original policy intent</u>: 0 Retains intent of legislative ability to impose conditions on a licence within the licensed fish receiver regulations</p> <p><u>Effectiveness / efficiency</u>: + Improved visibility of the offence will contribute to increased awareness of requirement to adhere to conditions. Does not</p>

<ul style="list-style-type: none"> - worse than doing nothing / the status quo - - Much worse than doing nothing / the status quo 	<p><u>Equity:</u> 0 Limited incentives for LFRs to comply with conditions on licence.</p>	<p>change existing obligations for LFRs to adhere to conditions on a fish receiver's licence but may increase incentives to do so.</p> <p><u>Equity:</u> ++ A more appropriate legislative penalty will enhance the VADE compliance delivery model by providing for compliance intervention that is commensurate to the scale of the alleged offending. It could result in increased use of the provision providing for conditions to be imposed.</p>
<p>What option is likely to best address the problem, meet the policy objectives and deliver the highest net benefits?</p>	<p>Option 2: this option retains the original policy intent for conditions to be imposed on the holder of a fish receiver's licence. However, creating a specific offence provision within the Fisheries (Licensed Fish Receivers) Regulations 1997 may improve visibility and accessibility of the relevant rules for all stakeholders. Additionally, a legislative penalty of a fine not exceeding \$20,000 rather than the status quo (\$100,000) is indicative of failure to adhere to conditions being a less serious offence than receiving fish without a fish receiver's licence.</p>	
<p>Which legislative penalty option best fits the criteria?</p>	<p>The option of a fine not exceeding \$20,000 is the only option that is consistent with the three criteria.</p>	
<p>What do stakeholders think?</p>	<p>Four submissions commented on this proposal; none explicitly opposed it. One suggested a sliding scale of penalties depending in the relative size of an LFR's operation while another proposed convening a working group with LFRs to determine specific offences and appropriate fees. The latter submission also suggested that use of infringement notices could be an appropriate intervention option.</p> <p>It is not possible to include a sliding scale of penalties in legislation. However, the judicial process provides for discretion in terms of the legislative penalty that is imposed.</p> <p>FNZ considered that the working group approach was not necessary. The use of infringement notices is something that will be able to be considered once the Fisheries Amendment Bill comes into force.</p>	
<p>What are the marginal costs and benefits of the option?</p>	<p><u>Costs:</u> neutral. No change in obligations for licensed fish receivers. No additional government funding required to administer.</p> <p><u>Benefits:</u> Example benefits of the proposal include reduced compliance risk from the operation of licensed fish receivers identified as needing to have conditions imposed.</p>	

Create corresponding offence provision for a regulation that relates to the Otago commercial rock lobster fishery

- **Primary regulations: Fisheries (South-East Area Commercial Fishing) Regulations 1986**

Proposal context	<p>In the Otago commercial rock lobster fishery (CRA 7), fishers are able to take smaller rock lobster than in other fisheries. The compliance framework that applies to this fishery to manage the compliance risks associated with taking smaller lobster is set out in the Fisheries (South-East Area Commercial Fishing) Regulations 1986. Regulation 7(4) of these regulations relates to product tagging and labelling requirements for rock lobster or rock lobster tails taken under the CRA 7 provisions that are intended for sale in New Zealand. Although the regulation sets out legislative obligations, it currently has no corresponding offence and penalty provisions.</p>	
What options are being considered?	<p><u>Status Quo</u>: absence of ability to fully enforce all aspects of CRA 7 compliance framework. This will continue to hinder operation of the VADE compliance model by not providing for intervention response.</p> <p><u>Option 2</u>: Create specific offence provision within the Fisheries (South-East Area Commercial Fishing) Regulations 1986 for failure to adhere to comply with regulation 7(4). There was a single option for the corresponding maximum penalty, which was a fine not exceeding \$20,000.</p>	
Relevant objective(s)	<p>Primary objective: improving compliance outcomes</p>	
Analysis of options against criteria. * *Key for qualitative assessments: ++ 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	<p style="text-align: center;"><u>Option 1 (status quo)</u></p> <p><u>Original policy intent</u>: 0 Retains intent of wider CRA 7 compliance framework.</p> <p><u>Effectiveness / efficiency</u>: 0 Does not contribute to primary objective of improving compliance outcomes.</p>	<p style="text-align: center;"><u>Option 2</u></p> <p><u>Original policy intent</u>: 0 Retains intent of wider CRA 7 compliance framework.</p> <p><u>Effectiveness / efficiency</u>: + An explicit offence provision is necessary to fully give effect to the intent of the regulation. Does not change existing obligations for commercial fishers and licensed fish receivers relating to the CRA 7 fishery but increases incentives to adhere to all obligations.</p>

<p>- - Much worse than doing nothing / the status quo</p>	<p><u>Equity:</u> 0 Limited incentives for commercial fishers and licensed fish receivers to comply with all aspects of CRA 7 compliance framework.</p>	<p><u>Equity:</u> + An explicit offence provision will enhance the VADE compliance delivery model by providing for compliance intervention to be undertaken in relation to all aspects of the CRA 7 compliance framework. It could also stimulate interest within Fisheries New Zealand in monitoring adherence with all aspects of that framework.</p>
<p>What option is likely to best address the problem, meet the policy objectives and deliver the highest net benefits?</p>	<p>Option 2: this option retains the original policy intent around this aspect of the CRA 7 compliance framework. However, creating a explicit offence provision within the Fisheries (South-East Area Commercial Fishing) Regulations 1986 will ensure compliance intervention can be undertaken in relation to all aspects of the CRA 7 compliance framework. Additionally, a legislative penalty of a fine not exceeding \$20,000 is consistent with that for other administrative regulations associated with the CRA 7 fishery.</p>	
<p>Which legislative penalty option best fits the criteria?</p>	<p>The option of a fine not exceeding \$20,000 was consistent with the three criteria. It also corresponds to the current penalty for similar offences that relate to other administrative regulations that support the operation of the Otago commercial rock lobster fishery.</p>	
<p>What do stakeholders think?</p>	<p>Five submissions commented on this proposal; all supported it. Two submissions acknowledged it would not materially impact those involved in the fishery.</p>	
<p>What are the marginal costs and benefits of the option?</p>	<p><u>Costs:</u> neutral. No change in obligations for commercial fishers or licensed fish receivers. No additional government funding required to administer. <u>Benefits:</u> The proposal represents a minor enhancement to the existing compliance framework around this particular fishery. There is likely to be only a limited increase in benefits to the fishery as a whole.</p>	

Part 2 - Amendments to licensed fish receiver recording obligations to address errors and inconsistencies

Specifying the circumstances when licensed fish receivers must record species-specific information on one of the records required to be completed under recordkeeping requirements

- **Primary regulations: Fisheries (Recordkeeping) Regulations 1990**

<p>Proposal context</p>	<p>Commercial fishers are required to provide reports under Parts 1 and 2 of the Fisheries (Reporting) Regulations 2017. In order to complete specific aspects of some reports, fishers are dependent on receiving the required information from licensed fish receivers (LFRs). LFRs' requirements in this context are set out in the Fisheries (Recordkeeping) Regulations 1990 (recordkeeping regulations).</p> <p>For a small number of species/stocks, the requirements between what fishers are required to include on reports required under Part 1 of the Fisheries (Reporting) Regulations 2017 and Part 2 differ. The requirements relate to the species codes that must be used; individual species codes are required under Part 1 (e.g. HAP – hapuku) while a generic code is required under Part 2 (e.g. HPB – hapuku and bass). Fishers are therefore dependent on LFRs for species-specific information in order to complete reports required under Part 1. LFRs are required to provide the relevant information on a record called a 'purchase invoice'.</p> <p>The recordkeeping regulations acknowledge these requirements. However, the clause that sets out the species or species groups for which an LFR is required to record species-specific information on a purchase invoice is out of date.</p>
<p>What options are being considered?</p>	<p><u>Status Quo</u>: out of date clause applying to LFRs in regulation 13(3)(i) of the Fisheries (Recordkeeping) Regulations 1990. LFRs' obligations will continue to be inconsistent with commercial fishers' requirements under Part 1 of the Fisheries (Reporting) Regulations 2017.</p> <p><u>Option 2</u>: Amend regulation 13(3)(i) of the Fisheries (Recordkeeping) Regulations to clarify when LFRs must record 'separate greenweight entries' on purchase invoices for different species. The desired outcome is that the current reference to individual species is replaced with a clarification of when the requirement to record 'separate greenweight entries' applies.</p>
<p>Relevant objective(s)</p>	<p>Primary objective: Increasing consistency within or between regulations</p> <p>Secondary objective: improving compliance outcomes</p>

Analysis of options against criteria. * *Key for qualitative assessments:	<u>Option 1 (status quo)</u>	<u>Option 2</u>
<p>++ much better than doing nothing / the status quo</p> <p>+ better than doing nothing / the status quo</p> <p>0 about the same as doing nothing / the status quo</p> <p>- worse than doing nothing / the status quo</p> <p>-- Much worse than doing nothing / the status quo</p>	<p><u>Original policy intent:</u> 0 Not consistent with original policy intent.</p> <p><u>Effectiveness / efficiency:</u> 0 Does not contribute to primary objective of increasing consistency between regulations or secondary objective of improving compliance outcomes.</p> <p><u>Equity:</u> 0 Limited incentives for LFRs to provide commercial fishers with the information fishers need to satisfy reporting obligations.</p>	<p><u>Original policy intent:</u> ++ Amendment will give effect to the original policy intent about requiring LFRs to provide additional information in specific circumstances.</p> <p><u>Effectiveness / efficiency:</u> ++ Regulatory amendment will clarify obligations for LFRs around recording specific information that commercial fishers require that does not match current LFR recordkeeping obligations. There is no change to reporting obligations for commercial fishers, but the risk of fishers not being able to comply with reporting requirements is reduced as LFRs will have a specific obligation to provide them with the relevant information that they need.</p> <p><u>Equity:</u> ++ Regulatory amendment provides legislative backing for LFRs to provide all the information that commercial fishers need to comply with their reporting requirements. Enhances the VADE compliance delivery model by reducing the risk of fishers not being able to comply with reporting requirements as a result of something beyond their control.</p>
What option is likely to best address the problem, meet the policy objectives and deliver the highest net benefits?	Option 2: this option restores the original policy intent around the requirement for LFRs to record species-specific information in some circumstances. In doing so, it ensures commercial fishers will be able to adhere to requirements relating to species-specific reporting. The option is viewed as confirming existing obligations for LFRs rather than creating new ones.	
What do stakeholders think?	Six submissions commented on this proposal; the majority supported it while two were neutral. One submission noted that the proposal aligned with what was already in practice. Another questioned the ongoing need for Monthly Harvest Returns,	

	<p>which are a type of report that commercial fishers are required to provide under Part 2 of the Fisheries (Reporting) Regulations 2017. Consideration of the ongoing need for Monthly Harvest Returns was outside the scope of the current proposal.</p>
<p>What are the marginal costs and benefits of the option?</p>	<p><u>Costs</u>: Neutral on the basis that the option is viewed as confirming existing obligations for LFRs rather than creating new ones. No change in obligations for commercial fishers. No additional government funding required to administer.</p> <p><u>Benefits</u>: Increased certainty that commercial fishers will have the correct information provided to them by LFRs in order to comply with their statutory reporting requirements. Enhances the quality of information available for science and management purposes.</p>

Aligning the timeframe for licensed fish receivers to complete ‘purchase invoices’ with that for commercial fishers to complete landing reports

- **Primary regulations: Fisheries (Recordkeeping) Regulations 1990**

<p>Proposal context</p>	<p>Under the Fisheries (Reporting) Regulations 2017, commercial fishers are required to record the greenweight of fish or fish product that is conveyed or sold to a licensed fish receiver (LFR) not later than 15 days after a landing has finished.</p> <p>In order to satisfy this requirement, commercial fishers are dependent on LFRs a) providing them with greenweight information, and b) providing that information within the required timeframe. LFRs obligations in this context are set out in regulation 13 of the Fisheries (Recordkeeping) Regulations 1990, which relates to the completion of a record called a ‘purchase invoice’. Within this regulation however, there is no explicit obligation on the LFR to provide that information to the permit holder within a timeframe that allows the permit holder to satisfy their reporting obligations.</p> <p>If an LFR does not provide greenweight information to a permit holder within 15 days after a landing has finished, the permit holder could be subject to an infringement notice for ‘failing to record the required information in a landing report within 15 days after a landing is finished’. The corresponding fee for this infringement is \$400.</p>	
<p>What options are being considered?</p>	<p><u>Status Quo</u>: ongoing inconsistency between timeframes for commercial fishers to record greenweight under Part 1 of the Fisheries (Reporting) Regulations 2017 and LFRs’ obligations in regulation 13(3) of the Fisheries (Recordkeeping) Regulations 1990 to provide the relevant information to fishers.</p> <p><u>Option 2</u>: Amend regulation 13 of the Fisheries (Recordkeeping) Regulations such that the timeframe for LFRs to complete purchase invoices aligns with that for commercial fishers to complete landing reports required under the Fisheries (Reporting) Regulations 2017.</p>	
<p>Relevant objective(s)</p>	<p>Primary objective: Increasing consistency within or between regulations</p> <p>Secondary objective: improving compliance outcomes</p>	
<p>Analysis of options against criteria. *</p> <p>*Key for qualitative assessments:</p> <p>++ much better than doing nothing / the status quo</p>	<p><u>Option 1 (status quo)</u></p> <p><u>Original policy intent</u>: 0</p> <p>Not consistent with original policy intent.</p>	<p><u>Option 2</u></p> <p><u>Original policy intent</u>: +</p> <p>Amendment consistent with the original policy intent.</p>

<p>+ better than doing nothing / the status quo</p> <p>0 about the same as doing nothing / the status quo</p> <p>- worse than doing nothing / the status quo</p> <p>- - Much worse than doing nothing / the status quo</p>	<p><u>Effectiveness / efficiency:</u> 0 Does not contribute to primary objective of increasing consistency between regulations or secondary objective of improving compliance outcomes.</p> <p><u>Equity:</u> 0 Absence of regulatory requirement means limited incentives for LFRs to provide commercial fishers with the information fishers need in a timely manner.</p>	<p><u>Effectiveness / efficiency:</u> + Regulatory amendment will result in consistent timeframes between the two regulations. There is no change to the nature of the information that LFRs must provide, only the timeframe within which it must be provided. The risk of fishers not being able to comply with reporting timeframes through no fault of their own will be reduced if there is a specific obligation on LFRs to provide fishers with the relevant information within a defined time period.</p> <p><u>Equity:</u> ++ Regulatory amendment provides legislative backing for LFRs to provide the information that commercial fishers need in a timely manner. It enhances the VADE compliance delivery model by reducing the risk of fishers not being able to comply with reporting timeframes as a result of the actions of others.</p>
<p>What option is likely to best address the problem, meet the policy objectives and deliver the highest net benefits?</p>	<p>Option 2: this option is consistent with the original policy intent around the requirement for LFRs to provide greenweight information to fishers such that fishers can meet their reporting obligations in a timely manner. In doing so, it ensures commercial fishers will be able to adhere to requirements relating to the timeframe by which they must provide greenweight. The option is viewed as not being a major change to LFRs' existing recordkeeping obligations.</p>	
<p>What do stakeholders think?</p>	<p>Seven submissions commented on this proposal. All supported it or offered qualified support while one offered no position. One submission noted that fishers are responsible for something they have no control over nor have any reasonable recompense with LFRs.</p>	
<p>What are the marginal costs and benefits of the option?</p>	<p><u>Costs:</u> Neutral on the basis that the option is viewed as not changing obligations for LFRs other than the timeframe by which purchase invoices must be completed. No change in obligations for commercial fishers. No additional government funding required to administer.</p> <p><u>Benefits:</u> Increased certainty that commercial fishers will have information provided to them by LFRs such that they can comply with the relevant statutory reporting timeframes.</p>	

Section 3: Delivering an option

How will the new arrangements be implemented?

36. Subject to Cabinet approval, the regulatory amendments will be drafted by Parliamentary Counsel Office before going back to Cabinet for final approval.
37. Once operational, MPI, as the regulator, would be responsible for the ongoing operation of the new arrangements, should they proceed. The nature of the proposed regulatory amendments means there is no role for local government or other relevant groups.
38. It is anticipated that the arrangements will come into effect during late 2023 with the majority applying to LFRs and commercial fishers. The nature of the amendments, and the fact they do not substantially amend obligations for any fisheries stakeholders, means that little in the way of preparation will be required for those stakeholders.
39. While the proposals do not create or materially change obligations for any fisheries stakeholders, it is likely that for some stakeholders, the level of awareness of existing obligations is limited.
40. As an example, the Fisheries (Recordkeeping) Regulations 1990 apply to a wide group of persons involved in aspects of the commercial fishing supply chain. One of these groups is 'dealers in fish,' who are required to keep records but are not required to be registered.⁸ Unless fishery officers directly engage with dealers in fish to advise them on recordkeeping obligations, it is possible that some of them may not fully understand their recordkeeping obligations. The absence of a requirement to be registered also precludes the ability for FNZ to undertake targeted communication regarding recordkeeping obligations.
41. Increasing awareness of legislative obligations is a component of the VADE compliance delivery model. Directed compliance, such as issuing an infringement notice, is viewed as an option that should be taken after assisted compliance efforts have failed to achieve the desired behavioural change.
42. Some preparation will be required within FNZ, as fishery officers will need to be made aware of the increased number of infringement offences and that some gaps identified in the legislation have been addressed. Within fisheries compliance, there are specialist training officers who would undertake that work.
43. Similarly, MPI's infringement processing team will also need to be in a position to process any infringement notices that are issued for the new infringement offences. We consider, however, that there will be sufficient preparation time for regulated parties and the regulators.
44. The risks and concerns identified in submissions were primarily around ensuring that the proposed new infringement offence provisions were used appropriately e.g. ensuring that infringement notices were not issued in relation to errors or spelling mistakes. These risks will be mitigated as part of the fishery officer awareness process. The need for infringement notices to be issued only where there is clear non-

⁸ A 'dealer in fish' is defined as a person who is engaged in acquiring fish for the purposes of sale. Supermarkets and fresh fish suppliers are examples of parties that may meet the definition of being a dealer in fish.

compliance or where other options have not resulted in the desired behavioural changes would be clearly communicated.

How will the new arrangements be monitored, evaluated, and reviewed?

45. The new arrangements do not materially change existing obligations for any fisheries stakeholder. The desired outcome of most of the new arrangements is to increase the incentives to adhere to the specific piece of legislation to which the offences and penalties relate.
46. In some instances, it may be possible that sufficient information becomes available to measure whether the rate of adherence to a specific piece of legislation changes after the new arrangements come into force. However, no new systems to monitor the new arrangements will be required and no additional data will need to be collected beyond that which is already collected.
47. It is not anticipated that the new arrangements will require review in the future. However, it is possible that if, for example, the new arrangements highlight issues with existing obligations, those obligations themselves could be reviewed rather than the offences and penalties that apply to those obligations.
48. It is also possible that the new arrangements may be used to inform future proposals that further increase the number of infringement offence provisions following possible changes to regulation-making provisions in the Fisheries Act 1996.