



Submission on the Fisheries Amendment Bill

30 April 2026

To the Primary Production Committee

Submitter details

This submission is from the Parliamentary Commissioner for the Environment, Simon Upton.

I wish to appear before the Primary Production Committee to present my submission.

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Parliamentary Commissioner for the Environment

The Parliamentary Commissioner for the Environment was established under the Environment Act 1986. As an independent Officer of Parliament, the Commissioner has broad powers to investigate environmental concerns and is wholly independent of the government of the day. The current Parliamentary Commissioner for the Environment is Simon Upton.

Key points

- The Bill increases flexibility and operational efficiency for industry but weakens the scientific, environmental, and governance foundations required for sustainable fisheries management.
- The Bill reduces transparency, oversight, and public accountability in fisheries management, and will limit effective scrutiny of decision-making, by restricting the period for judicial review.
- The Bill does not address foundational issues in fisheries resources management such as consideration of multi-species management and ecosystem-based fisheries management. This is a missed opportunity to reform the New Zealand fisheries system to make it a truly sustainable one.

I recommend:

- **that the Bill take a more precautionary approach to stock management when information is limited**
- **a three-month period for judicial review, consistent with official advice.**

Introduction

The Fisheries Amendment Bill (the Bill) proposes comprehensive changes to the Fisheries Act 1996 (the Act). The aims of the Bill are to modernise industry rules, increase efficiency, and address red tape. Hence, the changes proposed in the Bill essentially focus on support to the fishing industry to optimise both their operations and their economic return.

The purpose of the Act is “to provide for the utilisation of fisheries resources while ensuring sustainability”.¹ Key changes advanced by the Bill are inconsistent with that purpose. This submission focusses on three main points in the Bill:

- decision-making under uncertainty
- reduction in transparency, oversight, and public accountability
- failure to move towards an integrated approach to fisheries management.

Decision-making under uncertainty

The Bill expands responsiveness and flexibility in decision-making regarding fisheries. The policy rationale for these changes is based on the Government having greater access to information on fish stocks through, *inter alia*, electronic monitoring and the use of on-board cameras.

These two sources cannot, however, be a full replacement for the information required to make detailed stock assessments. Effective assessment requires adequate biological and ecological information, including catch composition, size and age structure, necessary to estimate biomass and population dynamics.² Central to this is the need for continuity and curation of these data over time.

Further, the likelihood of adequate information provision in the future is declining. Industry levy-funded fisheries research, primarily supporting fish stock assessments, has decreased by approximately 19% in nominal terms between 2023/24 and 2025/26. Crown funding has also reduced, which means overall funding for research over this period has fallen by 24% in nominal terms (or approximately 28% when inflation adjusted). Decreased funding will result in reduced monitoring, fewer stock assessments, and the erosion of technical and scientific capacity.³

Fish stocks classed as ‘low-information’ are typically managed using catch-per-unit-effort (CPUE) indices alone. CPUE is widely recognised as an unreliable proxy for fish stock abundance as it can be influenced by changes in fishing behaviour, technology, and targeting practices.⁴ As a result, management decisions for these fish stocks are poorly informed. This concern is reinforced by the fact that approximately half of these low-information fish stocks have not had a Total Allowable Catch (TAC) adjustment in over 20 years.⁵

¹ Fisheries Act 1996, s 8(1).

² There are many scientific publications that cover the need for robust biological information for proper assessment of fisheries sustainability. See for example, Hulme-Moir, W., 2017. Risk and uncertainty in New Zealand's fisheries management: Adaptive management under the fisheries act 1996. *New Zealand Journal of Environmental Law* 21:229-277 (<https://search.informit.org/doi/reader/10.3316/informit.656432335461848>); and Perryman, H.A., Hansen, C., Howell, D., and Olsen, E., 2021. A Review of Applications Evaluating Fisheries Management Scenarios through Marine Ecosystem Models. *Reviews in Fisheries Science & Aquaculture* 29: 800-835 (<https://doi.org/10.1080/23308249.2021.1884642>).

³ Fisheries cost recovery levies annual reports 2023/24 (<https://www.mpi.govt.nz/dmsdocument/69597-Fisheries-Cost-Recovery-Levies-Annual-Report-202324>). MPI personal communications for the 2025/26 fiscal year noted that 2025/26 figures are estimated.

⁴ CPUE is a key fisheries metric for the quantity of fish caught (catch) divided by the total fishing activity (effort). It is an indicator of relative fish abundance.

⁵ New Zealand Sport Fishing Council Submission: Proposed amendments to the Fisheries Act, 11 April 2025 (<https://www.nzsportfishing.co.nz/wp-content/uploads/2025/04/Fisheries-Act-joint-submission-11-April-2025.pdf>).

The scale of the limited information problem is considerable. Of the approximately 402 fish stocks or sub-stocks managed under the QMS,⁶ around 250 are classified as low-information, meaning they lack sufficient data to estimate trends in abundance over time, or maximum sustainable yield.⁷

The proposed expansion in decision-making flexibility fails to address the foundational problem: that the investment in research and information pertinent to fisheries sustainability, and particularly fish stock data collection and analysis in New Zealand is falling.

Amendments to increase flexibility include disconnecting sustainability measures from TAC decision-making, which may erode mechanisms that currently support sustainable fishing practices, and setting catch limits for five-year periods, which risks a 'set and forget' culture developing.⁸

I recommend the Bill takes a more precautionary approach to stock management when information is limited. This would increase the incentive to invest in a level of data collection and analysis that informs quality decision-making and would be consistent with the Act's information principles. Specifically, the Committee should consider:

- amending new section 14D(b) (clause 16), to limit the ability of the Minister to set the TAC for subsequent fishing years, so that this is only applicable to high-information quota management stocks
- removing the amendments to section 11 (clause 6), which disapply sustainability preconditions from the setting of the TAC for QMS stocks
- removing new section 13F (clause 10), which limits how the sustainability purpose of the Act and the environmental principles are applied in setting a TAC.

A reduction in transparency, oversight, and public accountability

The Bill is proposing changes which could seriously limit the scrutiny of fisheries management decisions and weaken the checks and balances necessary to ensure environmental protection along with a healthy fisheries industry. This could lead to further declines in New Zealand's fish stocks, stronger adverse effects on the environment, and a loss of public trust in the QMS.

While I am concerned about several of the proposed changes, I have only had the capacity to look at one in detail: restricting the time period for judicial review.⁹

Shortened timeframes for judicial review

The Bill seeks to create space within the Act to separately manage stock abundance and the adverse environmental effects of fishing. Dividing these elements in the proposed legislation has likely been pursued in light of recent successful litigation by the Environmental Law Initiative, which has challenged catch limit decisions on the grounds of environmental sustainability. To constrain judicial review of catch limit decisions on environmental grounds the time period for judicial review has been shortened.

Shortening the time period for judicial review to 20 working-days prevents effective public challenge of Ministerial decision-making. I note that challenging public decision-making may require initial information gathering, often relying on information received via requests under the

⁶ <https://www.mpi.govt.nz/fishing-aquaculture/fisheries-management/fish-stock-status>

⁷ <https://www.mpi.govt.nz/fishing-aquaculture/fisheries-management/fish-stock-status> and New Zealand Sport Fishing Council submission: Proposed amendments to the Fisheries Act, 11 April 2025 ([Fisheries-Act-joint-submission-11-April-2025.pdf](#)), Fisheries Amendment Bill, cl 10 (new s 13D).

⁸ Fisheries Amendment Bill, cls 6 and 16 (new s 14D(b)).

⁹ Fisheries Amendment Bill, cl 65 (new s 313A).

Official Information Act 1982 (OIA). The time period proposed by the Bill is equivalent to the statutory response time for OIA requests, meaning that obtaining relevant information could consume the entire window for filing a review. Potential litigants could address this challenge by filing and commencing proceedings, to ensure they are within the time limit, before obtaining appropriate information to inform their decision to pursue judicial review. A restrictive time period may therefore have the unintended consequence of increasing judicial review applications, negating the efficiencies the Bill seeks to gain.

The Legislation Design and Advisory Committee cautions against limiting the ability of the courts to judicially review a decision, as it interferes with the courts' constitutional role, and undermines the rule of law.¹⁰ Such restrictions "should be rare and limited to cases where finality is critical and be proportionate to that objective".¹¹ The proposed period of 20 days does not adequately balance the need for finality on a decision for fishers with the right to judicially review public decision-making.

I note that a three-month time limit for judicial review of TAC decisions was recommended by the Ministry of Primary Industries.¹²

If the Committee is satisfied that a time limit is justified, I recommend a three-month period for commencing judicial review proceedings, consistent with officials' advice.

Failure to move towards an integrated approach to fisheries management

Finally, I note that while New Zealand has made some progress towards developing ecosystem-based fisheries management in recent years,¹³ the Bill does not contribute to that progress and in many respects takes a step backwards. There is no meaningful progression towards multi-species management, ecosystem-based management, marine spatial planning, or the incorporation of habitat and biodiversity considerations.¹⁴ It is my view that this is a missed opportunity, both environmentally and economically.

The Bill fails to recognise fisheries and fisheries management as integral components of the broader marine environment. Rather, it reinforces a narrow, single fish stock approach that does not address well-established systemic shortcomings. This direction is inconsistent with internationally recognised approaches that prioritise ecosystem integrity as the foundation for sustainable fisheries.¹⁵

Fisheries operate within complex ecological systems. Target species are inherently dependent on the health, structure, and functioning of the ecosystems they inhabit. The issues with overfishing of snapper and lobster, resulting in widespread kina barrens, is a good example of this. Managing fish stocks as isolated units is scientifically untenable. Continuing to rely on a single-stock framework represents a significant missed opportunity to develop a framework that provides for both healthy ecosystems and sustainable economic returns.

10 Legislation Design and Advisory Committee Guidelines (2021), Chapter 28, Part 1.

11 Excluding or limiting the right to judicial review was one of the 'issues of note' in 2017-2018, see the Legislation Design and Advisory Committee Annual Report 2018, p.9.

12 Ministry for Primary Industries, 2025. Advice on amendments to the Fisheries Act 1996 to reduce judicial review risk, 17 June 2025, para 26.

13 Grüss, A. et al., 2025. Towards ecosystem-based fisheries management in New Zealand: an ecosystem approach to fisheries management case study in FMA 7. New Zealand Aquatic Environment and Biodiversity Report No. 360. p. 80 (<https://www.mpi.govt.nz/dmsdocument/70133-AEBR-360-Towards-ecosystem-based-fisheries-management-in-New-Zealand-an-ecosystem-approach-to-fisheries-management-case-study-in-FMA-7>).

14 See literature review on ecosystem-based fisheries management referenced in footnote 13 above.

15 Grüss, A. et al., 2025 (referenced in full in footnote 13) and references therein.

Of particular concern in this Bill is the inadequate treatment of both existing and emerging pressures, including biodiversity loss, habitat degradation, climate change impacts, and the ecological interdependence of species. These omissions place the proposed framework at odds with international best practice, including ecosystem-based management principles and the expectations embedded in global market certification standards. This approach risks undermining the premium received from our exported fish.

It seems perverse to knowingly undermine access to information about our fish stocks and persist in treating fish stocks as isolated from one another at the very moment that our oceans are coming under unprecedented pressures from phenomena such as marine heat waves. A lack of knowledge will not remove risk – it will simply place the resilience of our fishing industry at **greater** risk.

The Committee should ask some hard questions about whether there is any research that would indicate that the measures contained in this Bill will improve New Zealand's ability to avoid adverse environmental outcomes.

Kind regards

A handwritten signature in black ink, consisting of a series of fluid, connected strokes. It starts with a long, sweeping horizontal line from the left, followed by a vertical line that curves slightly to the right at the top, and ends with a short horizontal stroke to the right.

Rt Hon Simon Upton
Parliamentary Commissioner for the Environment
Te Kaitiaki Taiao a Te Whare Pāremata