



Enabling innovative trawl technologies

Regulatory Impact Statement

ISBN No: 978-1-77665-557-1 (online)

May 2017

Disclaimer

While every effort has been made to ensure the information in this publication is accurate, the Ministry for Primary Industries does not accept any responsibility or liability for error of fact, omission, interpretation or opinion that may be present, nor for the consequences of any decisions based on this information.

Requests for further copies should be directed to:

Publications Logistics Officer
Ministry for Primary Industries
PO Box 2526
WELLINGTON 6140

Email: brand@mpi.govt.nz

Telephone: 0800 00 83 33

Facsimile: 04-894 0300

This publication is also available on the Ministry for Primary Industries website at <http://www.mpi.govt.nz/news-and-resources/publications/>

© Crown Copyright - Ministry for Primary Industries

Contents

Page

Agency Disclosure Statement	1
1 Executive summary	2
2 Status quo and background	3
3 Problem Definition	3
4 Objectives	4
5 Options and regulatory impact analysis	4
5.1 Summary of analysis	5
5.2 Option 1 – current state	5
5.3 Option 2 – maintain current regulations and consider use of non-regulatory provisions	5
5.4 Option 3 – amend existing regulations	6
5.5 Option 4 – amend regulations to deregulate the use of trawl gear	7
6 Consultation	8
7 Conclusions and recommendations	9
8 Implementation plan	9
Appendix 1: Application process for assessing and approving use of new trawl technologies, including cost recovery	13
Appendix 2: Matters the Director-General would have regard to in his/her assessment	14
Appendix 3: Implementing the EITT proposals	15

Agency Disclosure Statement

This Regulatory Impact Statement (RIS) has been prepared by the Ministry for Primary Industries (MPI). It provides an analysis of options to enable the commercial use of innovative trawl fishing gear.

Existing commercial fishing regulations only provide for trawl nets comprised solely of mesh. The focus of new trawl gear developments underway is on improving economic and environmental outcomes. With some of these new developments trialling materials other than mesh, it is timely for the regulations to be reviewed.

The analysis is based on regulatory and non-regulatory options available to MPI.

The key constraints with regards to the analysis presented in this paper are:

- timeframe for implementation
- uncertainty around quantifying the scale and benefits of the proposal
- uncertainty in estimating time and cost to industry

The proposed regulatory changes have an implementation date of 1 October 2017. This timeframe relies on the legislative process moving forward seamlessly. The September 2017 general election poses a risk that implementation will be delayed if, for example, there are other demands on the relevant Cabinet committees.

It is difficult to quantify both the potential scale of the proposal (how many innovative trawl technology applications there will be) and the benefits of the proposal, although the proposal is clear about the outcomes it seeks to achieve from improved, modernised trawl gear.

Ongoing costs to government from the preferred option are expected to be minimal (\$155,000 - \$225,000 per annum) with cost recovery principles applying for the majority of the regulatory implementation process. However, costs to be imposed on applicants remain uncertain as it is unclear how long it will take MPI to assess applications.

The analysis provided is based on extensive consultation with fishing industry stakeholders, iwi and the public via a public submission process. A range of Government agencies have also been consulted.

Bryan Wilson

Deputy Director-General
Regulation and Assurance

/ /2017

1 Executive summary

1. Trawling is a long-established fishing method in New Zealand that provides a cost-effective and efficient means to catch large quantities of fish. In 2016, nearly 200 commercial fishing vessels used trawling to catch approximately 85% of New Zealand's total catch.
2. The design and use of commercial trawl gear is governed by regulations, the primary purpose of which is to set minimum net mesh sizes. With advances in technology, these regulations are now considered overly prescriptive as they presume that trawl nets will consist solely of mesh.
3. Recent developments in trawl gear have included trawl nets, parts of which are made of materials that cannot be classed as mesh and therefore do not fall within existing regulations.
4. With current regulations limiting the scope for trawl gear innovations, the fishing industry is missing out on potentially achieving better economic and environmental outcomes. Such outcomes could include contributing to sustaining fish stocks in the short-term and increasing fish stocks long-term; improving desired catch levels of targeted species; and improving catch quality. The social licence to operate trawl gear could also be improved with trawl gear that reduces impacts on the benthic environment¹ and on protected species.
5. The Fisheries Act 1996 contains provisions that provide for trials and experiments with fishing gear. Although appropriate for these purposes, the special permit provisions are not intended to enable ongoing commercial use of fishing gear that would otherwise not meet regulatory requirements.
6. MPI consulted on four options when developing these proposals:
 - current state;
 - maintain current regulations and consider use of non-regulatory provisions;
 - amend regulations to enable commercial use of approved, innovative trawl gear; and
 - amend regulations to deregulate the use of trawl gear.
7. The preferred option, and that strongly favoured by submitters, is to amend regulations to enable commercial use of approved, innovative trawl gear.
8. The Director-General would be able to approve applications to use such trawl gear after assessing its performance. Components of the regulatory framework would relate to the application process, the ability to impose conditions, and the ability to recover costs related to observer coverage.
9. Under all options, the costs associated with developing and testing innovative trawl gear under a special permit would be borne by the individual innovator. An hourly fee would be charged by MPI to applicants for processing applications. This would initially be set at \$150.65 (incl. GST) and be subject to review as part of ongoing fisheries cost recovery processes. Total application costs could be in the order of a few thousand dollars depending on the length of time taken to process an application.
10. MPI's implementation costs for the preferred option are estimated to be around \$115,000, covering the costs of developing the methodology to assess performance of trawl gear. MPI's ongoing operating costs to process and monitor applications received are estimated to be in the range of \$155,000 - \$225,000 per annum and would be met from within baseline.

¹ Relating to the bottom of the sea and/or to the organisms that live there

2 Status quo and background

11. There are currently nearly 200 commercial fishing vessels that use trawling as a method of taking fish. Approximately 85% of New Zealand's total catch was taken by trawling methods during 2016. Trawling is a long-established fishing method that provides a cost-effective way to catch large quantities of fish that cannot be caught as efficiently with other methods such as long-lining or purse-seining.
12. The use of trawl gear as a commercial fishing method is governed by regulations that have been in existence since at least the 1980s. These regulations presume that trawl nets will consist solely of mesh and are based around setting minimum net mesh sizes together with restrictions relating to structural features of trawl nets (to ensure mesh size is not compromised).
13. The primary rationale for setting minimum net mesh sizes is to protect juvenile fish: fish below a specific size are able to escape through the mesh of the net. The basis for setting minimum net mesh sizes was to allow fish to get to a breeding size before being captured.
14. Together with other regulatory requirements, such as minimum legal sizes of fish that can be retained by commercial fishers, trawl net specifications contribute to achieving the purpose of the Fisheries Act 1996 (the Act), which is to provide for the utilisation of fisheries resources while ensuring sustainability. Allowing use of trawl nets provides for utilisation of fisheries resources while setting minimum net mesh sizes contributes to ensuring sustainability by mitigating any adverse effects associated with catching juvenile fish.
15. Trawl gear is unlawful if it does not meet the existing regulated specifications.
16. However, innovative trawl gear that does not meet existing regulated specifications is currently being trialled under the Special Permit provisions provided in the Act. These trawl designs cannot be formally assessed, approved or adopted for commercial use without a change to regulations.
17. Key drivers for developing innovative trawl gear include:
 - reducing the bycatch of undersized/juvenile fish to assist in sustaining fish stocks and increasing fish stocks long term;
 - reducing the quantity of unwanted fish (non-target species) to improve desired catch levels of targeted species; and
 - enabling fishers to increase the value of their catch by improving catch quality.²

3 Problem Definition

18. The existing regulations prescribe aspects of trawl fishing gear that limit the ability to commercially implement innovations that do not comply. The existing controls are based around the specification of net mesh size and the exclusion of any structural features that might alter the effect of mesh sizes.
19. Some current innovations under development replace net mesh (in some parts of the net) with materials that cannot be defined as mesh, and as mesh size cannot be measured, the innovations do not comply with existing regulations.
20. Trials and experiments that allow the development of these innovations are authorised by special permits (issued under section 97(1)(a)(iv) of the Act). However, special permits

² Fish caught in conventional trawl gear can often be damaged by contact with other fish and the gear, especially if large volumes are caught. One type of innovative trawl gear currently under development aims to land fish in much better condition than conventional trawls.

are not considered appropriate for ongoing authorisation of such trawl gear for commercial use.³

21. The purposes of special permits, as stated in the Act, do not extend to commercial use, but are instead focused on education, investigative research, dealing with unwanted aquatic life, and trials and experiments with fishing gear or fishing vessels.
22. These problems dampen incentives to innovate, resulting in lost opportunities for fishers to reduce bycatch of juvenile fish and unwanted fish, and limiting their ability to increase the value to the wild fish harvest by improving catch quality. It is also possible that innovations to address benthic impacts and adverse effects on protected species are being stifled.
23. In the absence of a mechanism that provides for use of such gear, it will remain unlawful for commercial fishers to use it on an ongoing basis.
24. MPI believes that by developing a mechanism that provides for the commercial use of innovative trawl gear there is potential to improve fish stocks and catch quality, and reduce impacts on the benthic environment and on protected species. As a result there will be improved economic and environmental outcomes, the scale of which will depend on uptake and use of innovative trawl gear by the commercial fleet.

4 Objectives

25. Four objectives have been developed to guide the assessment of options to enable innovative trawl technologies. These are:
 - Consistency with the purpose of the Act⁴
 - Consistency with Government's growth and innovation objectives
 - Efficiency for government and industry
 - To achieve stakeholder support for innovative trawl technology
26. The options considered in the regulatory impact analysis are analysed against these objectives.

5 Options and regulatory impact analysis

27. Four options to address the problem definition have been considered by MPI in developing these proposals, and have been publically consulted on. These are:
 - Current state: Maintain current regulations but do not consider use of non-regulatory provisions;
 - Maintain current regulations and consider use of non-regulatory provisions;
 - Amend existing regulations to enable commercial use of approved, innovative trawl gear;
 - Amend regulations to deregulate the use of trawl gear.

³ The Precision Seafood Harvesting trials currently underway using a special permit involve gear being tested by 3-4 vessels. MPI is aware of two or three other fishers working on innovations aimed at improving specific aspects of trawl gear performance, which may result in special permit applications to trial the gear.

⁴ The purpose of the Fisheries Act 1996 is to provide for the utilisation of fisheries resources while ensuring sustainability. It is intended that both aspects should be accommodated as far as practicable in the administration of fisheries. The weight given to utilisation must not be such as to jeopardise sustainability.

5.1 SUMMARY OF ANALYSIS

28. Table 1 below compares options 1-4 against the objectives outlined above.

Table 1. Summary of qualitative analysis of policy options against the objectives

Objectives	Option 1: Current state	Option 2: Consider using non-regulatory provisions	Option 3: Amend existing regulations	Options 4: Deregulate use of trawl gear
Purpose of Act.	✘	✘	✓	✘
Business Growth Agenda	✘	✘	✓	✓
Efficiency	✘	✘	✓	✓
Stakeholder support	✘	✘	✓	✘

5.2 OPTION 1 – CURRENT STATE

29. Under this option, the Government would not make any changes to the fisheries regulations. Additionally, non-regulatory options that could potentially be used to facilitate use of innovative trawl technologies would not be considered.
30. Innovative trawl gear that did not comply with existing regulations would not be permitted for commercial use.
31. This option would not achieve any of the objectives. It would not contribute to achieving the purpose of the Act because it would not provide for utilisation of innovative trawl gear.

5.3 OPTION 2 – MAINTAIN CURRENT REGULATIONS AND CONSIDER USE OF NON-REGULATORY PROVISIONS

32. Under this option, the Government would not make any changes to the fisheries regulations. Innovative trawl gear that did not comply with existing regulations would only be permitted for commercial use if some way of fitting its use within existing provisions could be found.
33. Non-regulatory provisions that were considered included voluntary measures, use of conditions on fishing permits, and extending the use of special permits issued under section 97 of the Act.
34. The use of voluntary measures such as codes of practice is not feasible because it would require substantial regulatory change to provide for such measures to be approved.
35. Amending conditions on fishing permits to allow for use of innovative trawl gear was considered. However, this approach was found to be inconsistent with requirements in the Act which requires fishing permit conditions to be standard and generic for all permit holders. Conditions relating to trawl gear would need to be placed on all permits whether the permit holder is operating a trawler or not. As a condition generally imposes more onerous restrictions, it would not be appropriate to circumvent existing regulations with permit conditions.
36. Another approach considered was whether the use of Section 97 special permits issued under the Act could be extended to allow for commercial use of innovative trawl gear that does not comply with existing regulations. However, under the Act, the purposes of special permits are focussed on education, investigative research, dealing with unwanted

aquatic life, and trials and experiments with fishing gear or fishing vessels – the use of special permits does not extend to allowing indefinite commercial use.

37. This option would also not contribute to any of the objectives. As with Option 1, it would not contribute to achieving the purpose of the Act because it would not provide for utilisation of innovative trawl gear. If a suitable non-regulatory option had been available, this option is likely to have been the most efficient for both government and industry.

5.4 OPTION 3 – AMEND EXISTING REGULATIONS

38. Amendments to existing regulations would provide a framework for assessing new technologies against currently regulated trawl gear. The existing prescriptive regulations would remain while the regulatory amendment would be more performance-based. The Director-General would assess innovations and be able to approve new innovative trawl technologies for commercial use subject to possible conditions.

39. Components of the regulatory amendment could include:

- Matters the Director-General may consider in his/her assessment of an application;
- A means of providing guidance to potential applicants about the information that would need to be included in an application and how that information would be obtained e.g. via use of circulars;⁵
- A mechanism for how the Director-General's approval would be implemented;
- The ability for the Director-General to impose conditions relating to the use of approved trawl gear;
- The ability to recover costs of observer coverage associated with use of approved trawl gear from vessel operators; and
- An hourly charge set at \$150.65 (incl. GST) for MPI to process applications (which is the rate MPI charges for similar services and is reviewed as part of annual reviews of fisheries cost recovery).

40. This option would contribute to all objectives. It is consistent with the purpose of the Act in that it would contribute to enhanced utilisation and, depending on the nature of any approved gear, could result in better environmental outcomes. If the approved gear resulted in better quality of catch, the increase in the value of exports is consistent with the Government's Business Growth Agenda. It also has support from stakeholders, as demonstrated by the consultation undertaken on the proposal.

41. Assessing applications on an individual basis may not be as efficient as the deregulation option. However, it would ensure that only trawl gear that met all objectives could be used in New Zealand's fisheries.

42. It would address the problem definition by providing an enabling environment for the commercial use of approved, innovative trawl gear thereby providing the opportunity for New Zealand to be at the forefront of international trends in trawl gear development and use focussed.

Costs to industry

43. Costs to industry associated with developing and trialling innovative trawl gear would be met by individual innovators. This includes the requirement to balance all catch of species managed under the Quota Management System (QMS) with Annual Catch Entitlement. Depending on the nature of the gear being developed, costs could be substantial. Potential

⁵ The Act enables regulations to provide for circulars, which are able to set out general criteria for a specific issue. The regulation itself would set out the matters that the circular would provide technical information on. MPI envisages a circular issued under these provisions could, for example, set how the statistical basis for assessing performance of innovative trawl gear against conventional gear.

innovators would have to consider the balance between costs and the benefits from improved value of catch and marketing/sale of the technology.

44. MPI proposes a further regulatory amendment to introduce an hourly fee for processing applications. This is consistent with both the cost recovery principles set out in the Fisheries Act 1996 and with existing processes that recover costs for assessing applications.⁶ MPI proposes an initial hourly fee of \$150.65 (incl. GST), which can be reviewed if required. .
45. We cannot estimate precisely the total cost to the applicant for this service but know that as a comparison, an applicant was charged 30 hours of MPI time for a reasonably complicated special permit. Using this as a basis, plus the fact that the assessment required for new trawl technology is new, it may be reasonable to assume that a straight-forward application could take 40 hours at a cost of \$6,026 (incl. GST).
46. If fishery observer coverage is required as a condition of approval then MPI will also need to impose this cost on applicants. A regulatory amendment is necessary to provide for this by specifying that the costs of observer coverage could be direct charged to vessel operators.
47. Existing trawl net manufacturers may be adversely impacted by increased competition as new types of trawl gear are developed and adopted. However, the manufacturing of new types of trawl gear would create opportunities for new entrants to enter the trawl gear market.

Costs to MPI

48. There would be an implementation cost to MPI to develop any methodology needed to assess performance of new trawl technologies (the results of which would be included in applications). In the short term (current financial year) this cost is estimated to be around 0.85 of an FTE (around \$115,000).
49. MPI anticipates there will be ongoing operational costs associated with monitoring and review of these technologies. This cost is estimated to be between 1.35 and 1.95 FTE, which equates to a range of \$155,000 - \$225,000 based on a midpoint analyst salary of \$96,218 plus 20% to include full personnel costs. These costs would be met from baseline funding under existing funding arrangements.
50. Once applications start to be received and approved trawl gear becomes more widely used by the fishing industry, we can expect:
 - Increased costs to Fisheries Management and Fisheries Science associated with researching and monitoring the impacts of new trawl technology; and
 - Increased costs to Compliance associated with increased inspection rates of fishing vessels using new trawl technology and providing appropriate training for compliance staff.

5.5 OPTION 4 – AMEND REGULATIONS TO DEREGULATE THE USE OF TRAWL GEAR

51. This option would see the removal of the existing regulations governing trawl gear and require the fishing industry to work within broad definitions of “trawl net” and “trawling” definitions. It would be efficient for both government and industry.
52. Option 4 would support growth and innovation but may not encourage sustainable use of fisheries resources, or be supported by many stakeholders.

⁶ For example, the costs of assessing special permit applications are recovered via an hourly fee set out in regulations. This hourly rate is based on an estimate of 10% of an FTE (Principal Fisheries Scientist) being available to process applications. The full average cost of the salary is calculated at \$196,888. Ten percent of an FTE and 150 hours provides a rate of \$131.00 (\$150.654 incl. GST).

53. One of the primary reasons for the existing regulatory controls is to protect juvenile fish. Removing existing controls would have implications for MPI's ability to manage the impacts of fishing on juvenile fish. Some of these impacts could be controlled by catch limits under the QMS, however, that in itself may not be enough to mitigate the adverse impacts.
54. Existing regulatory controls also form part of the context within which existing catch limits are set. If these controls were significantly amended or removed, the impact would need to be considered in revised stock assessment processes. As an example, the way research interprets catch per unit of effort for any trawl fishery may need to be revised.

6 Consultation

55. Consultation has been undertaken on the EITT proposals and consisted of:

- Posting the consultation document "*The Future of our Fisheries: Volume IV: Enabling Innovative Trawl Technologies (EITT)*" on the MPI website and alerting stakeholders to this. Stakeholders were given a six week consultation period between 11 November and 23 December 2016 to provide submissions;
- Discussing the proposal at 15 public meetings held around New Zealand during November/December 2016; and
- Discussing the proposal at 12 iwi fora around New Zealand during November/December 2016.

56. Sixty-one submissions relating to the EITT proposals were received. Of these, 44 used MPI's submission form, which was developed to incorporate the other documents that were consulted on at the same time.⁷ A further 17 stand-alone submissions also addressed the EITT proposals.

57. There was general agreement with the range of options proposed. There was no support expressed for Options 1 and 2 (status quo and use of non-regulatory measures respectively). Option 3 (MPI's preferred option) was clearly favoured by the majority of submitters who expressed a preference. Option 4, deregulation, was expressly rejected by several submitters who felt it was a poor option to have included with other submitters questioning the rationale for including this option.

58. Concerns raised regarding MPI's preferred option included:

- The need for performance criteria and the assessment process to be clear; and
- The potential for the process, and its associated costs, to prove a barrier to applicants operating on small budgets.

59. A small number of submitters also questioned MPI's proposal that fishers who wish to use approved trawl gear should notify their intention to do so. They felt that simply reporting when the gear was used, by use of a specific method code on catch effort returns, would be sufficient.

60. Fifteen submissions expressed concerns regarding the impacts of all trawl methods, not just potential innovative trawl technologies. Many felt that the impacts of trawling meant that it should be phased out, that areas where trawl vessels can operate should be further restricted, or that MPI should implement incentives that would encourage fishers to use alternative fishing methods. MPI stated at the start of the consultation document that such matters were out of the scope of the EITT proposals.

⁷ The EITT proposals were a component of the wider Future of our Fisheries programme. Four separate consultation documents were released by MPI, one of which contained the EITT proposals.

61. The only change made to the preferred option in response to consultation was in relation to observer coverage. MPI considered that if the primary reason for observer coverage related to the use of approved, innovative trawl gear, MPI should have the ability to directly charge fishing vessel operators for the costs of that coverage.⁸

7 Conclusions and recommendations

62. The options analysis indicates that Option 3, *Amend existing regulations* is the only option that will contribute to all the objectives. Implementing a performance-based framework will provide an incentive for innovators to develop modified trawl gear, which was confirmed in feedback from submissions. It will also ensure that innovators have clarity around what is required for gear to be approved for subsequent use by commercial fishers.

63. Options 1 and 2 would not contribute to any of the objectives. Both options would neither encourage nor support innovation or growth by allowing commercial use of new technologies.

64. Option 4 would support growth and innovation. It is also, arguably, the most efficient option in that it would not require case by case assessment of applications. The option does not have stakeholder support though (confirmed through the submission process), and may not be consistent with the purpose of the Act (it would provide for utilisation but may not ensure sustainability).

65. A summary of the relative scale of costs and benefits of the preferred option is presented in Table 2 below. In the context of Table 2, environmental benefits and fisheries management benefits refer to performance of innovative trawl gear (e.g. how selective it is and how reduced catch of juveniles can contribute to sustainability), while economic benefits refers to fishers earning more for better quality catch.

66. The scale of the benefits clearly relates to uptake and use of approved, innovative trawl gear by fishing vessel operators. Benefits would be maximised if the entire fleet (currently around 200 vessels) adopted a form of new technology.

Table 2. Summary of relative scale of costs and benefits of preferred option

Cost / benefit	Assessment
MPI costs	Low
Industry costs	Low
Environmental benefits	Low to medium
Fisheries management benefits	Low to medium
Economic benefits	Low to medium
<i>Net benefit</i>	<i>Low to medium</i>

8 Implementation plan

67. In parallel with developing the proposed regulatory amendment, MPI has closely considered how the MPI internal process would operate once innovators were able to submit applications to have their modified trawl gear assessed by the Director-General. Considerations include:

- ensuring that innovators are optimistic and encouraged, and not disillusioned, by the process;

⁸ Most observer coverage costs are recovered by cost recovery levies imposed on quota owners. Regulations enable direct charging of observer coverage costs for specified circumstances set out in the regulations. The same daily fee applies under all circumstances and would also apply to coverage relating to use of approved, innovative trawl gear. The fee is currently \$571.65 (excluding GST).

- being clear about the details that innovators would need to include in an application, and the associated costs;
 - matters the Director-General would have regard to in his/her assessment; and
 - monitoring the use, uptake and success of approved trawl innovations.
68. The application process is set out in the attached Appendix 1 along with those matters the Director-General would have regard to during the assessment process in Appendix 2 (thereby addressing the first two bullet points above). Implementation of the regulations will be supported by circulars and non-regulatory documents, alongside a compliance/monitoring regime for new trawl gear. These are clarified in Appendix 3.
69. It is proposed that the EITT regulatory change come into effect on 1 October 2017. As part of the wider Future of our Fisheries review, the timing of EITT aligns with the Integrated Electronic Monitoring and Reporting System (IEMRS) regulatory proposals, which are also on track for 1 October 2017.
70. The EITT and IEMRS proposals have similar stakeholders (e.g. the Sector Representative Entities, which includes the Deepwater Group and Fisheries Inshore NZ). Ideally, a single MPI communications plan will be developed that addresses both proposals. However, if the IEMRS proposals are delayed due to their complex nature, EITT can move forward independently.

8.1 MONITORING THE UPTAKE AND SUCCESS OF APPROVED TRAWL GEAR

71. There are existing regulatory provisions that require operators of registered commercial fishing vessels to notify FishServe of their intention to use additional fishing methods on their vessels.⁹ These provisions will be used to ensure MPI is aware of which fishing vessels may use approved, modified trawl gear.
72. Regulations require fishing permit holders to provide details of how and where commercial fishing is undertaken together with quantities of fish caught. Permit holders will be required to use fishing method codes for approved, modified trawl gear that differ from codes used for standard gear. This will enable MPI to monitor use of such gear on an individual fishing event basis, which can, in turn, be taken into account in stock assessments or protected species capture analysis. There are no costs to fishers associated with use of different codes, while adding such codes is routinely undertaken in fisheries data management.
73. Data to monitor the use and uptake of trawl innovations will be collected and analysed by MPI to determine the success or effectiveness of innovations – the objectives of this proposal, alongside relevant fisheries management plans and other documents will be used as a basis for that analysis.

8.2 MONITORING, EVALUATION AND REVIEW OF THE REGULATIONS

74. MPI will review the regulatory framework within 3-5 years of implementation. Timing for the review will depend to some degree on MPI having received sufficient applications in order to determine whether any changes may be required. A review would include the following analysis:
- Whether the new regime has contributed to the policy objectives;
 - The quality of the applications (are the applicants getting the right guidance prior to submitting applications?);
 - The time it takes MPI to assess and approve applications and the ease of this process;

⁹ Under Part 15A of the Fisheries Act 1996 FishServe is an approved service delivery organisation that provides administrative services to the New Zealand commercial fishing industry.

- The costs to the applicant of the approval process (are they reasonable or onerous?); and
- Were the predicted costs to MPI accurate?

75. Some of the current fisheries management regime settings may be reviewed as part of the Future of our Fisheries work programme, which was launched in November 2016 and will continue over the next 2-4 years. This could change the context in which the preferred option was developed. If management settings of relevance to approved trawl technology change, this could also be the driver for a review of the framework to determine if it is still fit for purpose.

Appendix 1: Application process for assessing and approving use of new trawl technologies, including cost recovery

<p>DEVELOPMENT</p> <ul style="list-style-type: none"> The innovator (applicant) develops and trials new trawl gear (referencing criteria in a circular against which the application will be assessed). A special permit under section 97 of the Fisheries Act 1996 may be required. 	<p>All costs borne by innovator (applicant)</p>
<p>PRE-APPLICATION</p> <ul style="list-style-type: none"> Applicant may request meetings with MPI during development and testing stage to discuss development of new gear and seek guidance. MPI may provide advice to applicants to assist them in submitting a quality application. 	<p>Assessment costs (MPI) Proposed hourly rate of approximately \$150 (first half hour free). Total cost will be dependent on how organised the applicant is in the first instance and how much guidance they require.</p>
<p>APPLICATION CHECK AND REGISTRATION</p> <ul style="list-style-type: none"> Applicant lodges application with MPI for the approval of the new gear. Application checked for completeness. 	<p>No separate costs for lodging application</p>
<p>APPLICATION ASSESSMENT AND DECISION</p> <ul style="list-style-type: none"> MPI technical experts receive and assess the application against assessment criteria. MPI technical experts makes recommendation to the Director-General to approve/decline the application; or asks applicant for further information. Applicant able to re-submit specific sections of the application directly to MPI if assessment process indicates additional information or analysis required. The Director-General makes final decision to accept/decline the application. Applicant advised of outcome. Approval process includes issuing the equivalent of a model number or seal for the approved product. If the application is approved, the applicant is then able to promote and sell the new trawl design (with model number or seal). 	<p>Assessment costs (MPI) Proposed hourly rate of approximately \$150. Total cost will be dependent on the complexity of the application and the quality of supporting technical information.</p>
<p>USER APPROVAL PROCESS</p> <ul style="list-style-type: none"> Vessel operators can then notify their intention (via FishServe) to use the approved trawl gear and must specify each vessel on which they intend to use the gear. 	<p>No additional costs to fishers</p>
<p>COMPLIANCE AND MONITORING</p> <ul style="list-style-type: none"> Compliance (Fisheries Officers) able to identify those vessel operators with approval to use new trawl gear (for example, a copy of approval to be kept on board for inspection and verification). Fisheries management able to identify approved new trawl technology (for example, a form of seal or indented number). 	<p>No additional costs to fishers.</p>

Appendix 2: Matters the Director-General would have regard to in his/her assessment

The performance of modified trawl would be compared to trawl gear currently provided for by regulations. Key considerations identified to enable this assessment include:

- Species composition of catch
- Size composition of catch
- Impact on protected species
- Benthic impacts
- Relevant Fisheries Plans approved under section 11A
- Whether the gear provides for better utilisation of the fisheries resource
- Any other matters that the Director-General considers relevant.

In order for an application to demonstrate performance against these considerations, and possibly others, trial experiments for new trawls will need to be designed and carried out. Both the experimental design and the results will need to be evaluated by MPI. Due to the specialised and technical nature of this work, MPI may consider using its Fisheries Assessment Working Group process to assist in evaluation.¹⁰

¹⁰ Fisheries Assessment Working Group meetings are open to everyone who wishes to attend. At meetings, presentations made by research providers are evaluated. The Groups themselves do not make management recommendations or decisions as this responsibility lies with MPI fisheries managers or the Minister for Primary Industries.

Appendix 3: Implementing the EITT proposals

Regulations	Circulars	Non-regulatory (MPI internal)
<p>The regulations will contain the following matters:</p> <p>Matters the Director-General may consider in his/her assessment of an application;</p> <ul style="list-style-type: none"> * A means of providing technical guidance to potential applicants about the information that would need to be included in an application and how that information would be obtained; * A mechanism for how the Director-General's approval would be implemented; * The ability for the Director-General to impose conditions relating to the use of approved trawl gear; * The ability to recover costs of observer coverage associated with use of approved trawl gear from vessel operators; and * An hourly fee of \$150.65 for MPI to process applications. 	<p>The Fisheries Act 1996 enables regulations to provide for circulars.</p> <p>Circulars set out general criteria for a specific issue.</p> <p>In this case, circulars could provide technical details clarifying experimental trial requirements to help guide all potential trawl innovators.</p> <p>Circulars can be updated as new trial experiments are honed and developed.</p>	<p>MPI will develop internal operational procedures/ guidelines to assist MPI staff when assessing innovative trawl applications, developing conditions and providing initial advice to the Director-General who will make the final decision on all applications.</p> <p>For example, guidelines may suggest, for example, that particular Fisheries Management Plans are taken into consideration when assessing an application for trawling in a particular fishery.</p> <p>The application process will also encourage applicants to meet regularly with MPI staff <i>pre-application</i> to ensure applications are complete when submitted.</p> <p>This will reduce the need for MPI to go back to applicants for further information once an application has been lodged.</p>