



Department of
Primary Industries

Better Regulation Statement

Fisheries Management Legislation Amendment
Regulation 2021

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**Compliance with Schedule 1 of the *Subordinate Legislation Act 1989*
Fisheries Management Legislation Amendment Regulation 2021**

Contents

1	Title of Proposal.....	5
2	Background	5
3	Objective of the Regulatory Framework.....	5
4	Options to achieve the objective	5
5	Assessment of costs and benefits	6
6	Conclusion and preferred option.....	22
7	Evaluation and Review.....	22
	Appendix A.....	23
	Appendix B.....	33
	Appendix C.....	34

1 Title of Proposal

The proposed regulation will be called the *Fisheries Management Legislation Amendment Regulation 2021 (proposed Regulation)*.

2 Background

The proposed Regulation would be made under the *Fisheries Management Act 1994 (the Act)*. The Act is the primary legislation that sets the foundation for strategic and coordinated management of the fisheries resources of NSW. The Act is supported by ten regulations. The proposed Regulation is made up of amendments to two of these, namely the:

- Fisheries Management (General) Regulation 2010 (**General Regulation**)
- Fisheries Management (Aquaculture) Regulation 2017 (**Aquaculture Regulation**)

The assessment undertaken in this BRS addresses the seven better regulation principles which are outlined in the [NSW Government Guide to Better Regulation \(TPP19-01\)](#).

3 Objective of the Regulatory Framework

The primary object of the Act is to provide a framework to conserve, develop and share the fishery resources of the State for the benefit of present and future generations. The regulatory framework aims to ensure that all users have fair access to the resource, as well as preserving it for future generations.

The State's fisheries resource provides a range of benefits to industry and the community. There is an intrinsic value to the general community in preserving fish stocks and fish habitat and a preference for consuming fresh, locally produced seafood.

[Appendix C](#) contains further detail about the objectives of the Act and the relevant regulations.

The proposed Regulation contains amendments to the regulations listed above that are aimed at promoting fishing business efficiency, reducing unnecessary red tape, supporting rights for users of the fisheries resource and are largely of an administrative nature.

The proposed Regulation also encompasses machinery of nature amendments to related legislation which require updating to align with the proposed amendments. These are of an administrative nature only and do not affect the impacts identified in Tables 1 and 2 of the proposed amendments. As such, they have not been specifically addressed here.

These machinery of nature amendments are detailed in schedules 3-9 of the Fisheries Management Legislation Amendment Regulation 2021.

4 Options to achieve the objective

The *Subordinate Legislation Act 1989* requires consideration of alternative options to the proposed Regulation relative to the base case. In this assessment, the base case is a scenario where the Government maintains the existing level of regulation without adopting the proposed Regulation (i.e. a 'do nothing' scenario).

The following two options are assessed against the base case:

1. make the proposed amendments to the regulation (**Option 1**); and
2. remove the provisions identified for amendment in Option 1 (**Option 2**).

[Option 1 – make the proposed Regulation](#)

Option 1 is the preferred option. Option 1 includes measures that will either amend, repeal or introduce new regulatory provisions. These are set out below in Table 1 along with their impacts,

costs, and benefits. Stakeholders broadly support each proposal and the benefits outweigh the costs.

The overwhelming majority of the amendments are administrative in nature and are aimed at reducing red tape, duplication and/or confusion. For example, in Schedule 3, Clause 150 of the General Regulation the term “Wyuna Canal” is used to identify waters where nets are prohibited. However, the term “Wyuna Canal” is not widely known and is not used on maps. Option 1 proposes changing the reference from “Wyuna Canal” to lot number references.

The policy problem is identified for each proposal in Option 1 in the table and each of these proposals have been consulted on. The consultation process, an overview of submissions received, and DPI recommendations are provided in the consultation report (*Public Consultation Report - Fisheries and Aquaculture Regulation Amendment Proposals*).

Option 2 – remove all provisions defined under the proposed Regulation

The NSW Government Guide to Better Regulation (TPP19-01) instructs Departments to consider simplifying and repealing regulations when considering options. Option 2 addresses this imperative by considering the impacts of simply removing the provisions listed for *amendment* in Option 1. These are set out in Table 2. For consistency with Option 1, Table 2 also includes the following proposals that are not analysed under Option 2:

1. In the small number of cases where an Option 1 proposal is for a *new* provision, there is no equivalent in Option 2. This is because Option 2 is compared not to Option 1 but rather to the base case and if a provision doesn't presently exist its repeal cannot be evaluated.
2. Similarly, where an Option 1 proposal is for the repeal of a section, there is no further analysis in Option 2 as the outcome would be the same.

5 Assessment of costs and benefits

The assessment of costs and benefits is conducted separately for Option 1 and Option 2, relative to the base case and set out in Tables 1 and 2 below.