

# Impact Summary: Importation of Trout Meat for Sale

## Section 1: General information

### Purpose

The Department of Conservation is solely responsible for the analysis and advice set out in this Regulatory Impact Statement, except as otherwise explicitly indicated. This analysis has been produced for the purpose of informing:

- policy decisions to be made by the Acting Minister of Conservation and the Minister of Customs, in consultation with Cabinet, on whether to continue the current restrictions on the importation of trout meat for sale after the current import prohibition expires in September 2021.

### Key Limitations or Constraints on Analysis

This Regulatory Impact Statement has been prepared by the Department of Conservation (DOC). It provides an analysis of options to manage the importation of trout meat after the current importation prohibition provided by the Customs Import Prohibition (Trout) Order 2018 expires.

The analysis was based on the information available on the potential impacts of trout imports. A key constraint to this analysis is that, in February 2021, the Government decided that it did not want to undertake a review of trout farming (i.e., the commercial status of trout) at this time. This constrains the analysis because the issues of trout farming, trout imports, and the commercial sale of trout are inextricably linked. In addition, while officials have previously recommended that a public review and detailed analysis be undertaken to inform future renewals of the import prohibition, this has never been agreed to by the Government.

For these reasons, no engagement with Māori or public consultation has been undertaken as part of this analysis as this would quickly lead to a contentious and costly review of the non-commercial status of trout, given the links with trout imports. Despite this, the wide range of public and sector group views is generally well known to Government agency officials because recreational anglers and fishery managers, prospective trout farmers and food importers, sector representatives, and some Māori groups have been continually and frequently expressing their views to Ministers and officials over the last two decades.

As trout imports have been largely prohibited for many decades, and the situation in New Zealand is very different to that overseas, it was therefore necessary to make predictions of likely effects of changed approaches to trout imports based on DOC's experience of trout fishery management and enforcement, supported by information from other Government agencies and Fish and Game Council fishery managers.

The closely related issue of trout farming is outside the scope of this regulatory impact assessment (RIA) and is therefore not examined in detail.

Another constraint is that the extent of consumer demand for trout in New Zealand is unknown. That there is some demand is suggested by the occasional enquiries to DOC regarding requirements for trout imports under the Customs Import Prohibition (Trout) Order 2018, and its predecessors.

This RIA concludes that allowing the CIPO to expire without having a new CIPO in place would be a high-risk option with no strong evidence of benefits to outweigh those risks.

**Responsible Manager (signature and date):**

Guy Kerrison  
Policy Manager, Resource Management Policy  
Policy and Visitors Group  
Department of Conservation

4 June 2021

*To be completed by quality assurers:*

**Quality Assurance Reviewing Agency:**

Department of Conservation Regulatory Impact Analysis Panel

**Quality Assurance Assessment:**

The Department of Conservation Regulatory Impact Assessment Panel has reviewed the Regulatory Impact Summary and considers that it partially meets the Quality Assurance criteria.

**Reviewer Comments and Recommendations:**

The Government's recent decision not to undertake a review of trout farming means the proposal in this RIA has not been consulted on. The RIA explains that the issue of trout imports is inextricably linked to trout farming and that consultation on trout imports could not be separated from a trout farming review. However, the known views of Māori and stakeholders are reasonably well articulated.

Because the proposal is to renew long-standing restrictions on the importation of trout meat, there is limited data available to understand the impacts of lifting the restrictions. The risks of not renewing the Order, particularly in the absence of a wider review and consultation are well articulated.

The Panel supports the assertion that new monitoring is required for any unforeseen problems arising from any new exemption for petfood.

## Section 2: Problem definition and objectives

### 2.1 What is the policy problem or opportunity?

#### Introduction to problem

1. The Customs Import Prohibition (Trout) Order 2018 prohibits<sup>1</sup> the importation of trout meat for sale. If nothing is done, this Customs Import Prohibition Order (CIPO) will expire, and the importation of trout meat and trout products will be unrestricted from 30 September 2021.
2. The sale of trout (except for trout caught from the wild) is lawful in New Zealand. The reason it is not available for sale is because there is no way to obtain trout to sell – trout farming, selling wild-caught trout, and importing trout are all prevented by legislation or the CIPO. The reasons for making trout unavailable for sale relate to preservation of the recreational trout fishery.
3. The trout sports fishery is managed by Fish and Game Councils and the Department of Conservation under the Conservation Act 1987. The trout fishery is under pressure in many places from angler take, and other impacts, and its sustainability is at risk. It is believed by trout fishery managers and enforcement officials that the importation and sale of trout would create an incentive for some people to illegally take and sell wild-caught trout and that effective enforcement to prevent this would not be affordable. A major increase in illegal take, together with impacts from methods used to illegally take fish, would be expected to lead to a decline in the recreational trout fishery.
4. There is strong public interest in the New Zealand trout fishery among the anglers that utilise the fishery, and the businesses that support anglers in their use of the fishery. If the fishery were to decline, the economic impacts could be significant.
5. The import prohibition, combined with the legislative prohibitions on the sale of wild-caught trout and the domestic farming of trout (all aimed at protecting the wild trout fishery), means that retailers and restaurants are unable to sell trout and consumers are unable to buy trout meat and trout products.
6. There is a clear interest among businesses (including Māori groups) for the prohibition on the domestic farming and sale of trout to be reviewed. Some consider trout farming has the potential to create a new industry and provide employment, increase the size of the economy, and provide valuable exports. However, earlier this year, in response to a select committee recommendation on petition 2017/135, the Government decided that it does not propose to review the legislation preventing trout farming at this time.
7. OIA section 9(2)(d)  
[Redacted]

<sup>1</sup> Except for quantities of less than 10kg that are not intended for sale. Larger amounts, and trout or trout products intended for sale, can be imported only with the consent of the Minister of Conservation.

8. The two groups with conflicting interests in this matter are:
  - would-be purchasers of trout and trout products and businesses wanting to support them; and
  - trout anglers and businesses supporting them.
9. All of the benefits from the importation of trout for sale would go to members of the first group – members of public wanting to purchase trout, and those businesses providing for that demand through retailing imported trout. The analysis notes that allowing importation would not allow a domestic farming industry to develop, as trout farming is prohibited by legislation.
10. All of the risks from the importation of trout for sale would be borne by members of the second group – the fisheries managers (Fish and Game Councils and DOC), recreational anglers and the businesses that support the recreational trout fishery. There would be no benefits from the importation or sale of trout for this group of interests.
11. Allowing trout imports without addressing the issue of domestic trout farming may impede any future development of a domestic trout farming industry.

#### **Current legal situation and legal history**

12. Trout (including rainbow and brown trout) are currently regarded as ‘non-commercial’ species in New Zealand. Trout caught from the wild cannot be bought or sold, and trout cannot be farmed commercially<sup>2</sup> or imported for sale. The sale of farmed or imported trout is allowed, but there is no way to obtain such trout. Trout can be obtained only by persons who buy a sports fish licence and catch their own fish in accordance with freshwater sports fishing regulations, or who are given such fish by someone who has caught them.
13. These arrangements are historical (prohibitions on the sale of wild-caught trout date back to the 1930s or earlier) and have changed over time, but have always been oriented towards protecting the sustainability and values of the recreational trout fishery. The commercial farming of trout has been prohibited since 1983.
14. The restrictions on the importation and commercial sale of trout and trout products are implemented through:
  - Part 5B of the Conservation Act 1987, in particular
    - section 26ZQ(1), which prohibits the sale (including barter or offering for sale) of trout<sup>3</sup> caught in New Zealand, and
    - section 26ZI(4), which bans the commercial farming of trout.
  - Section 301(a) of the Fisheries Act 1996, which does not allow the making of regulations allowing licensing of fish farms for the rearing and breeding of trout for sale.
  - A 31 March 2020 Gazette notice<sup>4</sup> made under the Freshwater Fish Farming Regulations 1983 lists those species that may be farmed and the list does not include trout.
  - The Customs Import Prohibition (Trout) Order 2018 (made under the Customs and Excise Act 1996) which prohibits the importation of trout (alive or dead) and

trout products, unless in quantities under 10 kilograms not intended for sale. The Minister of Conservation has the discretion to grant consent to the importation of trout intended for sale or in quantities greater than 10 kilograms, and any approval may be subject to conditions that are not inconsistent with the prohibition.

15. Imports of trout meat and trout products (if agreed to by the Minister of Conservation) are also required to meet the biosecurity import requirements under the relevant import health standards<sup>5</sup> (IHSs) issued under the Biosecurity Act 1993 in the interest of protecting the health of fish in New Zealand from pests and diseases. Three current standards set out the biosecurity requirements for the import of all salmonid fish products (which include salmon, trout and char) – from Australia, the European Union, Canada, Norway and the USA. These standards do not allow the importation of live trout.
16. The Customs Import Prohibition (Trout) Order 1998 (SR 1998/436), which placed an 18-month ban on any commercial importation of trout or trout products, was the first to be put in place under section 54 of the Customs and Excise Act 1996. It was intended to allow time for Parliament to consider legislation on the issue. This action followed the development of an import health standard which would have allowed the importation of trout meat and trout products to begin.
17. A Private Members Bill, the Conservation (Protection of Trout as a Non-commercial Species) Amendment Bill was introduced in 1998 and adopted as a Government Bill in 2000. The Bill would have made it an offence to buy, sell or possess any trout for the purpose of sale regardless of its origin. The Bill never progressed beyond the Committee Stage and was discharged in 2008. During this period, the CIPO was maintained.
18. The 1998 Customs Import Prohibition Order (CIPO) was renewed three times. It was then replaced by the Customs Import Prohibition (Trout) Order 2001. This CIPO was extended for another three years in 2004.
19. Investigations by officials in 2007 found that alternative options than a CIPO for protecting the non-commercial status of trout would require additional enforcement and fisheries management effort and would be unlikely to be as effective as the import prohibition. The 2004 CIPO was consequently replaced by another in 2007. This was followed by a further CIPO in 2010, which was extended for another three

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<sup>2</sup> Section 26ZQ(3) of the Conservation Act allows the purchase, sale, or possession for sale of sports fish where the sale or intended sale is between Fish and Game Councils, or between a Fish and Game Council and the Crown acting for conservation purposes, where the fish have been bred or reared by the seller. This provides for cost recovery in Fish and Game- and DOC-operated trout hatcheries raising fish for children's fish-out ponds and the small proportion of wild fisheries that are artificially stocked. Section 26R(2) of the Conservation Act prohibits Fish and Game Councils from engaging in any activity that has as its predominant purpose the making of a commercial gain from that activity (except as provided in section 26Q(1), which relates to the sale of sports fishing and game bird hunting licences and the sale of game bird habitat stamps).

<sup>3</sup> Section 26ZQ(1) prohibits the sale of sports fish. Sports fish are defined (section 2 of Act) as every species of freshwater fish declared, by Order in Council, to be sports fish for the purposes of this Act. The species declared as sports fish are listed in Schedule 1 of the Freshwater Fisheries Regulations 1983. While salmon are sports fish, they can also be farmed or imported for sale, and so are available commercially.

<sup>4</sup> Notice Specifying Fish Species Which May be Farmed (2020) (Notice MPI 1134)

<sup>5</sup> An import health standard (IHS) is a document issued under section 24A of the Biosecurity Act 1993. An IHS states the requirements that must be met before risk goods can be imported into New Zealand.

years in 2012. This was replaced by another CIPO in 2015 and the current CIPO in 2018.

20. Officials have in the past recommended that a public review be undertaken immediately following a CIPO renewal to allow consideration of the subsequent renewal to be based on better information, but this has never been agreed to by the Government. This has been an ongoing information constraint for each CIPO renewal process.

21. The Customs Import Prohibition (Trout) Order 2018 (LI 2018/165) expires at the close of 29 September 2021. In the absence of further legislative action, trout meat or trout products in any form that comply with the import health standards could be imported to New Zealand for sale from 30 September 2021. As noted previously, the sale of trout is not illegal, there is just currently no way to obtain trout to sell.

### **Economic and recreational value of trout fishery**

22. The New Zealand trout fishery is renowned internationally and attracts significant numbers of overseas tourists to New Zealand. Freshwater sports fishing licence sales nationally amount to \$11.1 million per year (145,000 licences sold), but far greater amounts are spent on outdoor equipment (including fishing gear, boats and vehicles), travel, accommodation, and other services associated with the recreational fishery.

23. The Taupō fishery makes up about 28% of the nation-wide trout fishery. The Taupō fishery alone creates at least \$29 million per year in business turnover, adds \$11 million to the size of the economy, and sustains nearly 300 jobs<sup>6</sup>. In Taupō fishery, about one trout is taken for each licence sold. This means that each fish legally taken is worth around \$725 in business turnover and adds \$275 to the domestic economy, and every 130 fish legally taken support one full-time job.

24. The Taupō recreational trout fishery is of longstanding cultural and economic importance to Ngāti Tūwharetoa, and has been a key part of their relationship with the Crown since 1926. The ongoing well-being of the trout fishery is an important part of this relationship. Trout are an important taonga to the tribe, provide an important food source for some members, and improved (non-commercial) access to trout was provided for in the Ngāti Tūwharetoa Claims Settlement Act 2018.

25. The value of the rest of the nation-wide trout fishery is additional to these Taupō values.

### **Vulnerability of trout fishery**

26. The import prohibition and the prohibition on the farming of trout are aimed at protecting the New Zealand wild trout fishery. Trout fishing must be done by rod and line, with restrictions on the types of fishing lure and other fishing gear set out in fishing regulations and anglers' notices. There are also limits on the number of fish that may be taken per day by each fishing licence holder. Many anglers practice catch and release, which maximises the fish available for future anglers. Despite these management efforts, many parts of the trout fishery are under pressure from

<sup>6</sup> Section 3B.2.5 *Review of the Taupō Sports Fishery 2013* (An independent report commissioned by DOC).

angler take and environmental pressures such as decreasing water quality in the lower reaches of rivers.

27. The New Zealand trout fishery is mostly self-supporting, which greatly reduces the cost of sustaining the fishery. Nearly all fish are bred naturally in the wild; hatchery-raised fish released into the wild make up less than 5% of the fishery. The most vulnerable parts of the fishery are those where trout aggregate in large numbers (generally for spawning) in places within easy reach of motor vehicles or quad bikes. In these areas, large numbers of fish could be netted and readily taken away for illegal sale. DOC enforcement officials have observed groups of two to four people easily catching 30–80 trout (worth around \$600 to \$1600 at current wholesale prices in Australia) in less than an hour by sweeping a spawning stream with a gill net. Fish taken in this way can currently provide a cheap source of food but cannot readily be sold for financial gain.
28. If there is a frequent loss of large numbers of spawning fish and the destruction of eggs in spawning gravels by trampling it could be expected to lead to a significant decline in the parts of the trout fishery that depend on those spawning areas. DOC considers the Taupō and Rotorua Lakes trout fisheries to be the most vulnerable to the impacts of potential large-scale illegal netting of fish in this way.
29. Current trout fishery enforcement with regard to the attempted illegal sale of trout is straightforward, effective, and low cost. Enforcement currently requires only about 9% of sports fishery management budgets. Members of the public that have an interest in the trout fishery and who observe any trout being offered for sale quickly report alleged offences to enforcement officials. This currently limits the potential for people to sell wild-caught trout illegally on a large scale. Current poaching levels are very low, but a constant compliance effort is needed.<sup>7</sup>
30. If imported trout could be sold, the illegal sale of wild-caught trout would be much more difficult and costly to detect. For example, if a retailer or restaurant was suspected of acquiring wild-caught trout, enforcement officials would at least need to inspect documentation to try to confirm whether the trout found on the premises was legally acquired. However, once fish is removed from packaging and placed in a fridge or a shop display, it can be very difficult to be certain that it is the same fish referred to in documentation and not fish acquired illegally from another source. If some fish is acquired from legitimate sources by a retailer, additional illegally obtained wild-caught fish can be claimed to be from the same legal source.
31. Allowing the importation of trout for sale would increase the incentives for some people to illegally sell wild-caught trout for financial gain (rather than taking only for food, as currently). While the actual scale of any increase in poaching cannot be known, it is possible that trout could be illegally taken in financially valuable amounts. Given that important parts of the wild trout fishery are already under pressure from current take levels, any major increase in take or decrease in breeding success (such as from increased angler harvest or poaching impacts) would be likely to adversely impact on the fishery and lower its recreational and economic values. A

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<sup>7</sup> DOC and Fish and Game Council enforcement officials in the Taupō and Rotorua Lakes trout fisheries report that offences begin to increase rapidly when 'undetected' poaching is seen to be successful and decrease when successful prosecutions occur.

major decline in the trout fishery would be expected to result in potentially significant economic and employment impacts on the Taupō and wider New Zealand economy.

32. Before considering whether trout could be made available for sale, it would be desirable to design a new compliance regime, determine how it could be funded and by whom, and who would operate it. Funding sources might include potential increases to sports fish licence fees, cost recovery from trout importers, Crown funding, or some combination of these. Whether an affordable compliance regime could be effective would be a key matter to be determined by a review

### **Comparison with other fisheries**

33. While it would be desirable to seek to quantify the risk of poaching impacts based on experience in other fisheries or in other countries, direct comparisons are problematic. Whitebait, for example, is imported and sold commercially, and the wild resource is not adversely affected by this. However, there is no “quick and easy” way to catch very large amounts of whitebait contrary to the regulations without being detected.
34. The sale of salmon in New Zealand has also not led to significant salmon poaching, for a simple reason. Salmon in edible condition can be caught in large numbers only in the lower reaches of a few South Island rivers in areas where the illegal use of nets is easily seen. Salmon, in spawning aggregations further up the rivers, are no longer suitable for consumption as their flesh has begun to decay and is inedible. In contrast, edible trout can readily be caught with nets in visually concealed spawning streams where detection is difficult.
35. Other countries have both trout sales and wild trout fishing. However, these wild fisheries have significant differences to the New Zealand trout fishery. For example, in situations where trout fisheries are contained entirely within large private estates overseen by gamekeepers, public access to the fisheries is prevented and opportunities for poaching are restricted. Some other fisheries are sustained largely by artificial stocking and the impact of losing spawning fish in these fisheries can be insignificant on their sustainability. In other overseas fisheries, wild trout are small and relatively few, and opportunities for netting large numbers of fish can be limited. These differences make direct comparison of New Zealand and overseas situations problematic.

### **Importation and sale of trout**

36. There is some interest from food importers to be allowed to import and sell trout meat, apparently in response to an unmet demand among the general public. While the extent of public demand for trout is unknown, the Minister of Conservation occasionally receives applications from interests wishing to import trout. There have been 3 applications in the last 14 years. However, informal feedback from industry groups suggests the lack of import applications is not because of a lack of interest but, rather, there is considered to be no utility in applying to import trout.



37. To date, only one application has been approved and there were unusual circumstances in that case.<sup>8</sup>
38. Discontinuing the import prohibition order would allow food importers to import trout and thereby meet apparent consumer demand for trout.
39. At least one major company in the aquaculture industry has said it has a strong interest in being able to begin to farm trout (see below) and Aquaculture New Zealand has indicated it supports enabling the farming of trout. Some Māori have also indicated an interest in trout aquaculture. While trout farming is outside the scope of this RIA, this implies that demand exists for commercial access to trout, though it remains to be tested how big that demand is and how much of that demand would be domestic and how much in export markets.
40. The importation and sale of trout meat and trout products could be expected to provide an increase in business turnover in some parts of the food industry, and some additional employment. However, if food consumption did not increase overall, this new activity would merely displace existing food sales and business activity and might provide only a small net increase in business activity.

*Recommended additional exemption for petfood*

41. Officials have recently identified that there is a demand among petfood importers to import petfood that contains generally small amounts of trout product as an ingredient. This was discovered when a prospective importer made enquiries about potentially importing such petfood. Officials believe that if an application were to be made to the Minister of Conservation to import such petfood, officials would recommend that the application be approved, subject to conditions, as such imports would not be inconsistent with objectives of the import prohibition.<sup>9</sup> Officials understand that the inclusion of small amounts of “highly regarded” ingredients in processed petfood (for example, venison, duck, trout, etc) may improve its attractiveness to people buying the petfood for their cats and dogs.
42. Officials consider that, rather than requiring prospective importers to seek the consent of the Minister to import such petfood (and be subject to the associated application processing costs), in addition to the exemption allowing the importation of trout in quantities under 10 kilograms and not intended for sale, the following should also be exempt from the import prohibition:

“Petfood containing trout that:

- (a) is commercially prepared and packaged for direct retail sale; and
- (b) is labelled as petfood; and
- (c) is in its original sealed packaging on arrival in New Zealand.”

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<sup>8</sup> A rare error by Customs NZ resulted in an illegal importation of trout that had been seized by Customs being released to the importer. The importer then thought it was legal to import trout and imported a bigger consignment, which was seized by Customs. Faced with the unexpected loss of the valuable second consignment, the small importer sought the assistance of Ministers. Importation of the second consignment was approved by the Minister of Conservation, and Customs NZ then released the seized fish. The importer was advised that future imports may not be approved.

<sup>9</sup> Clause 4(2) of the Customs Import Prohibition (Trout) Order 2018 refers.

43. "Petfood" would be defined in the import prohibition order as referring to "food intended for direct consumption by dogs or cats only", which is the definition used in current IHSs.
44. This exemption would allow such petfood to be imported without requiring the consent of the Minister of Conservation, as is the case currently for trout in quantities under 10 kilograms and not intended for sale.
45. Such an exemption would align with the current petfood IHSs, which would need to be complied with.
46. Officials are satisfied that the importation of pet food meeting the above criteria would not provide an opportunity for illegally caught wild trout to be substituted for imported product, and can therefore be exempt from the import prohibition without posing a risk to the wild trout fishery. It is unlikely that domestic petfood brands would be incentivised to source illegal trout to use in their products because the risk of being caught and prosecuted would be high. Domestic brands are readily recognisable, and officials understand that virtually all petfood imported into New Zealand currently is labelled as of non-New Zealand manufacture. This means that any use of wild trout in domestic petfood could be easily identified and prosecuted.

OIA section 9(2)(h)



48. The importation of raw materials containing trout for manufacturing into petfood in New Zealand would still require the consent of the Minister of Conservation.
49. For these reasons, officials consider that, if the import prohibition is renewed, petfood meeting the above criteria should be exempt from the import prohibition. While this would give importers an advantage over domestic producers, this exemption would merely remove administrative costs as officials would expect to recommend such imports for approval if an import application were to be made under the existing CIPO.

OIA section 9(2)(h)



### Connection between trout farming and trout imports

52. There is increasing interest within the New Zealand farming and aquaculture sector – including among Māori interests – to be able to farm trout in New Zealand, both to meet domestic demand and for export. While the issue of domestic trout farming is outside the scope of this RIA (and lifting the trout CIPC would not enable trout farming or the commercial sale of New Zealand wild trout), allowing the importation of trout for sale would be likely to trigger calls to remove the prohibitions on trout farming in the Conservation Act and Fisheries Act.

53. Officials are not aware of any detailed business case that has been prepared that demonstrates whether or not trout farming would be commercially viable in this country, nor what the potential scale of possible farming or exports might be, or whether it would add to or displace other potential aquaculture businesses.

54. A petition (2017/135 of Clive Edward Barker) requesting “That Parliament review present legislation on trout farming,” was recently considered by the Primary Production select committee. The committee reported back to Parliament on 7 August 2020 and recommended “that the Government give serious consideration to commercialising trout farming.”

55. The Government publicly responded to the petition on 16 February 2021, advising that the Government had carefully considered the Primary Production Committee’s report on the petition and that –

A review of legislation preventing trout farming is not a priority for the Government at this time. Significant economic and employment gains can be made through the current actions set out in the 2019 Aquaculture Strategy. The Government does not propose to consider the merits of commercial trout farming at this time but remains open to doing so in future once implementation of the strategy is more advanced.”

[CBC-21-SUB-0022 Appendix 1; CBC-21-MIN-0022; CAB-21-MIN-0013]

56. If New Zealand were to permit trout to be farmed commercially in the future (for example, if an alternative way of protecting wild trout stock were to be found) then the need to maintain the prohibition on trout imports would fall away.

57. Removal of the trout CIPO in advance of allowing commercial trout farming in New Zealand could place any future trout farming industry at a disadvantage. Domestically farmed trout would not be available for sale until trout farms were authorised and then it would take several years for any trout farms to be established and trout grown to saleable size. New domestic producers could then have to compete with established supplies of imports.
58. Some Māori, including several Ngāti Tūwharetoa entities, Ngāti Pikiao, and Ngāti Ruapani ki Waikaremoana, have expressed an interest in farming trout for commercial sale. Changing the status quo and allowing the import prohibition to lapse without consultation with Māori would be contrary to Treaty principles<sup>10</sup> and may trigger a negative reaction from some Māori, particularly since allowing trout imports would not allow trout farming. Changing the status quo without first engaging with the Ngāti Tūwharetoa Māori Trust Board would be also contrary to a 2019 accord between the Board and the Crown.
59. Allowing imports without allowing trout farming may also lead to a negative reaction from Trout New Zealand (a forum established to advocate for trout farming) and the Bay of Plenty Regional Aquaculture Organisation.

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<sup>10</sup> Under section 4 of the Conservation Act 1987, DOC is required to give effect to the principles of the Treaty of Waitangi when carrying out its work.

## 2.2 Who is affected and how?

60. The question of whether to renew the Customs Import Prohibition (Trout) Order 2018 or allow it to lapse is one that places two groups of interests at odds with each other:

- (A) would-be purchasers of trout and trout products and businesses wanting to support them; and
- (B) trout anglers and businesses supporting them.

61. Examples of group A include consumers wanting to buy a wider range of fish or foods containing fish products in restaurants or supermarkets, restaurateurs and retailers wanting to offer a wider range of fish and fish-based products, and wholesalers, importers, and potentially fish farmers, wanting to provide a wider range of products.

62. Examples of group B include trout anglers, businesses selling fishing equipment, boats and boating supplies, businesses providing travel, accommodation and restaurant services to anglers, and fishery managers whose employment is funded entirely by fishing licence fees.

63. A summary of the sets of interests is given in the table below.

<b>Group A – Trout purchasers and businesses supporting them</b>	<b>Group B – Trout anglers and businesses supporting them</b>
<ul style="list-style-type: none"> <li>• Derive no benefit from the wild trout fishery</li> <li>• Would receive all the benefits from the importation of trout for sale</li> <li>• Would experience no risks from the importation of trout for sale</li> <li>• Would experience no costs from the importation of trout for sale (only minor cost-recovery)</li> <li>• Businesses would expect to gain a financial benefit from the importation of trout for sale</li> </ul>	<ul style="list-style-type: none"> <li>• Derive all the benefits from the wild trout fishery</li> <li>• Would receive no benefits from the importation of trout for sale</li> <li>• Would carry all the risks from the importation of trout for sale</li> <li>• Anglers would carry all the potential costs of increased enforcement effort required if trout imported for sale</li> <li>• Businesses will experience a financial cost if the wild trout fishery declines</li> </ul>
<p><b>Conclusion</b></p> <ul style="list-style-type: none"> <li>• Nothing to lose from sale of trout</li> <li>• Everything to gain from sale of trout</li> </ul>	<p><b>Conclusion</b></p> <ul style="list-style-type: none"> <li>• Nothing to gain from sale of trout</li> <li>• Potentially much to lose from sale trout</li> </ul>

64. A decision on the importation of trout therefore requires a decision about how to balance these two conflicting sets of interests.

## 2.3 What are the objectives sought in relation to the identified problem?

65. The Government's objectives in regard to the issues examined in this paper can be summarised as follows:

- Avoid adverse effects on wild trout stocks
- Maximise recreational and tourism enjoyment benefits of wild trout fishery
- Maximise employment and economic values derived from the wild trout fishery
- Provide for maximum consumer choice in purchasing decisions
- Maximise economic growth and employment opportunities in the wider economy
- **OIA section 9(2)(d)**

66. The interactions between these issues mean that it is not always possible to progress all these objectives simultaneously. Actions that could advance some of the objectives – such as increasing consumer choice by allowing trout imports – may offset progress on other objectives – such as maximising enjoyment of the trout fishery if inadequately managed poaching impacts caused the fishery to decline.

67. The benefits of the recreational trout fishery and businesses supporting anglers are known and have been realised (see paragraphs 22–25).

68. The amount of economic growth and employment that might derive from allowing imports and sale of trout is not known but may displace existing food options rather than providing a significant increase (see paragraph 40). There is no clear evidence that allowing trout imports would progress the objective of maximising economic growth and employment in the wider economy. Allowing trout imports would definitely progress the objective of progressing consumer choice.

69. Given the expected increase in enforcement costs if trout imports and sale occur, allowing trout imports would be expected to impose new costs on recreational anglers who currently fund enforcement. If enforcement were inadequate and the trout fishery declined, a loss of angler and tourist enjoyment benefits and a decrease in employment and economic values could be anticipated by anglers and businesses supporting them. Licence fee revenue would also decrease if fewer fishing licences were sold, resulting in less funding for fishery management and enforcement, leading to further declines.

70. This analysis gives greater weight to maintaining existing recreational and tourism benefits and existing employment and economic values from the trout fishery than to increasing consumer choice. These are essentially the two sets of objectives that need to be weighed against each other. The first set of benefits and values therefore constitute the priority objectives and are, of course, dependent on the wellbeing of wild trout stocks.

## Section 3: Options identification

### 3.1 What options have been considered?

71. Three options have been identified by officials:

- Renew the CIPO for an indefinite period.
- Renew the CIPO for a nine-year period.
- Take no action, which would allow the Customs Import Prohibition (Trout) Order 2018 to expire at the close of 29 September 2018.

72. A sub-option within the two renewal options is to either have, or not have, an additional exemption for imported petfood containing small amounts of trout product.

73. Decision criteria used to consider the options are:

- The extent to which the option achieves the objectives, particularly the priority objectives
- Does the option minimise administrative costs?
- Does the option pose implementation risks (for example s.9(2)(d) or Treaty-related risks)?

74. A potential fourth option of undertaking a full review before considering whether to renew the CIPO was not considered because on 16 February 2021 the Government advised that it does not propose to consider the merits of commercial trout farming at this time but remains open to doing so in future once implementation of the 2019 Aquaculture Strategy is more advanced. A full review of the trout import prohibition was not carried out as part of this RIA as it would have quickly led to a costly and contentious review of the commercial status of trout, including trout farming.

75. Renewing the CIPO and then undertaking an immediate review of the status of trout has similarly not been considered as an option for the same reasons.

#### Option 1 – extend CIPO for indefinite period [preferred]

76. The option of extending the CIPO for an indefinite period would meet the objectives of avoiding adverse effect on trout stocks and maximising the recreational and tourism benefits, and economic and employment values associated with the wild trout fishery.

77. This option would not meet the objectives of maximising consumer choice, or

OIA s.9(2)(d)

OIA section 9(2)(n)

78. Each renewal requires considerable time by officials and Cabinet. By having a renewal with no expiry date, this cost can be avoided, noting that the CIPO could be revoked at any time if a future suitable review process indicated that the import prohibition could be removed without unacceptable impacts on the wild trout fishery.

### Option 2 – extend CIPO for nine years

79. Extending the import prohibition for a further nine years would meet the objectives of avoiding adverse effects on trout stocks and maximising the recreational and tourism benefits and economic and employment values associated with the wild trout fishery. Again, this option would not meet the objectives of maximising consumer choice, or OIA section 9(2)(d).
80. This option has the disadvantage of requiring a reconsideration of the CIPO in nine years' time, potentially with no significant further information available to support that decision – as has been the situation for all previous renewals over the last two decades. If a future suitable review process within the nine-year period indicated that the import prohibition could be removed without unacceptable impacts on the wild trout fishery, the CIPO could be revoked at any time.

### Option 3 – allow CIPO to expire

81. The option of taking no action and allowing the Customs Import Prohibition (Trout) Order 2018 to expire at the close of 29 September 2021 would mean that trout meat and trout products could be imported for sale from 30 September 2021. This would fully meet the objectives of maximising consumer choice in purchasing decisions, and OIA s.9(2)(d).
82. The importation and sale of trout meat and trout products could be expected to provide an increase in business turnover in some parts of the food industry, and some additional employment. However, if food consumption did not increase overall, this new activity would merely displace existing food sales and business activity and might provide only a small net increase in business activity. Thus, this option may not progress the objective of maximising economic growth and employment opportunities in the wider economy.
83. If the sale of imported trout led to an increase in illegal harvest and sale of wild trout, there may be adverse impacts on the priority objectives of avoiding adverse effects on wild trout stocks and maximising the recreational and tourism values of the wild trout fishery and the associated economic and employment benefits. A significant increase in the harvesting of wild trout (especially illegal harvest of spawning aggregations) would be likely to result in a decline in parts of the sports fishery, leading to a decrease in angler satisfaction and a decrease in participation in trout angling. A decrease in angling activity would be expected to lead to a reduction in business turnover in supporting industries and a reduction in employment. In addition, a reduction of wild fishery enforcement effort would be anticipated as fishery management resources decreased as a result of fewer fishing licence sales and reduced licence fee revenue.
84. Just allowing importation, without development of any domestic commercial fishery, could potentially result in a net decrease in business turnover and employment within New Zealand. Immediate changes to importation rules without changing the prohibition on production and sale of trout within New Zealand could have adverse impacts on future development of a domestic industry.
85. Some food importers and trading partners would be likely to welcome this option as it would allow the importation of trout. However, there may be concerns about that occurring when a domestic industry cannot be legally developed, particularly from aquaculture interests.



86. There would be strong opposition to trout imports from fish and game councils, recreational sports fishers<sup>11</sup> and other community sectors that benefit from current arrangements (such as Taupō businesses that provide services for recreational fishers). These recreational fishing interests can be expected to strongly oppose any relaxation of current regulatory controls on the grounds that any potential increased risk to the wild trout fishery is unacceptable to their interests. They will also be concerned that changes in importation rules will flow on to changes in rules on trout farming and sale of trout caught in the wild in New Zealand.
87. This option could also leave fish and game councils and DOC without the resources to provide for effective enforcement if poaching impacts on the wild trout fishery proved to be significant. Designing arrangements to compensate for this before September this year would be difficult.

#### Sub-options on possible petfood exemption

88. Options 1 and 2 could each include, or not include, a new exemption on processed petfood containing trout product.
89. The sub-option of **providing** this exemption [**preferred**] would remove the need for prospective importers to obtain the consent of the Minister of Conservation to import the petfood meeting the specified criteria (paragraphs 42–44 refer), and eliminate the associated application processing costs. This sub-option would progress the objective of maximising consumer choice, without detracting from the objectives of avoiding adverse effects on wild trout stocks, maximising recreational and tourism enjoyment benefits and employment and economic values of the wild trout fishery. It would probably not increase economic growth and employment opportunities in the wider economy as such petfood would displace a similar amount of existing petfood sales. A disadvantage is that it would provide a small advantage to petfood importers over domestic petfood producers who would not be able to access that market. A further disadvantage is that **OIA section 9(2)(d)** with this exemption (paragraph 47 refers).
90. The sub-option of **not providing** this exemption would mean that prospective importers would have the cost and uncertainty of needing to seek the Minister of Conservation's consent for any such petfood imports. This would not progress any of the objectives in regard to the issues examined in this paper. This sub-option would avoid giving a small advantage to petfood importers over domestic producers, and avoid **OIA s.9(2)(d)**.

<sup>11</sup> In 2007/08, 11% of South Island male residents and 2% of North Island male residents purchased sports fishing licences (not including licences for the Taupō fishery), and two-thirds of these spent an average of 18 days angling that year (NIWA report: *Angler usage of lakes and river fisheries managed by Fish & Game New Zealand: results from the 2007/08 National Angling Survey*).

**Summary table**

91. This options analysis can be summarised in the following table.

<b>Option</b>	<b>Achieve objectives?</b>	<b>Administrative costs</b>	<b>Implementation risks</b>	<b>Evaluation summary</b>
Option 1: extend indefinitely	++ Achieves priority objectives well	+ No significant administrative costs	- Very minor OIA s.9(2)(d) Small risk from lack of Treaty engagement and public consultation.	Achieves priority objectives well. Very minor implementation risk.
Option 2: extend for nine years	++ Achieves priority objectives well.	- Administrative cost of review after nine years	- Very minor OIA s.9(2)(d) Small risk from lack of Treaty engagement and public consultation.	Achieves priority objectives well. Administrative cost to review after nine years.
Option 3: allow to expire	-- Does not achieve the priority objectives. Would not contribute substantially to other objectives without a full review.	0 Eliminates all CIPO-related costs. Creates significant new enforcement costs.	- High risk from lack of Treaty engagement and public consultation. Eliminates OIA s.9(2)(d)	Does not achieve the priority objectives. Removes some costs but creates greater ones. High implementation risk from changing status quo without Treaty engagement and public consultation.
Additions to options 1 or 2 if petfood exemption is adopted.	+ Increases range of objectives that are fully or partly achieved	+ Reduces need for processing applications (compared to current CIPO)	- Additional minor OIA s.9(2)(d) Very small advantage to overseas suppliers.	Addition of exemption improves consumer choice and reduces administrative costs.

### 3.2 Which of these options is the proposed approach?

92. Option 3 (allowing the order to lapse without a replacement CIPO in place) is not recommended, as the available evidence suggests that the net effect on the economy could be negative (particularly in the short term), and any **OIA s.9(2)(d)** could be adequately managed under Options 1 or 2. In addition, allowing trout imports in advance of allowing domestic trout farming could damage the development of a domestic industry. It would not, in itself, allow development of trout farming in New Zealand.
93. Option 3 is the highest risk option. It would not be appropriate to remove the import prohibition without consulting Māori, and a strong negative reaction from the recreational fishing community and supporting businesses would be likely.
94. Option 2 would address risks to the wild trout fishery and any **OIA s.9(2)(d)** could be managed, but would require a further renewal process in nine years' time, when there may or may not be additional information available to fully assess the threats that imports would pose to the wild trout fishery.
95. Option 1 is preferred as it would deliver on the objectives, with an expectation that the CIPO could be revoked if a suitable future review found that any adverse impacts on the wild trout fishery and supporting businesses could be managed and associated costs allocated appropriately.
96. Since discussion about the importation of trout inevitably generates expectations around trout farming in New Zealand, and commercial farming and sale of trout domestically would mean that imports (subject to relevant IHSs) would need to be permitted to align with WTO requirements, it is vital that the two matters of trout farming and imports are considered together when a review of the commercial status of trout is undertaken.
97. There has been no comprehensive recent analysis of the potential costs and benefits of trout imports or commercial trout farming, and how the potential impacts of either on the recreational fishery could be mitigated. Such an analysis will be needed before informed decisions can be made on whether to allow commercial trout sales. Such an analysis should include, among other things:
- how genetic and disease risks could be managed (relevant only to trout farming); and
  - how a compliance regime to enforce the prohibition on the sale of wild trout could be implemented, funded, and to whom the costs should fall.
98. Until such a review is undertaken, a prohibition on the importation of trout should be continued. Option 1 – renewal of the CIPO for an indefinite period – is considered the best option to provide this because the only potential risk with this option is assessed to be minor.
99. The sub-option of providing a new exemption for the import of petfood meeting the specified criteria (paragraphs 39–41 refer) is proposed to be adopted as it provides for increased consumer choice without posing risks to the trout fishery or associated interests. Importantly, if an importer was to apply to import such petfood (in the absence of the exemption), the application would probably be granted because consenting to the imports would not be contrary to the purpose of import prohibition. It is therefore considered appropriate to provide the exemption to remove costs and

uncertainties for prospective importers, despite the fact that domestic petfood producers would not be able to access this market.

## Section 4: Impact Analysis (Proposed approach)

### 4.1 Summary table of costs and benefits

Affected parties (identify)	Comment: nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks	Impact <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts</i>
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#### Additional costs of proposed approach, compared to taking no action

Regulated parties	Businesses wanting to import trout for sale, prospective retailers, and public wanting to buy trout will not be able to do so (no increase in consumer choice – except for some petfood). However, any importation for sale may be offset by lower sales of other food items, possibly providing little net increase in economic activity in the food retail sector.	Low
Regulators	Trout fishery enforcement agencies (Fish & Game and DOC) will have no changes to the costs of enforcement. (If the CIPO lapsed, significant increases in enforcement costs would result.)	Low
Wider government	There may be some <b>OIA s.9(2)(d)</b> .	Low
Other parties	N/A	
<b>Total Monetised Cost</b>	N/A	
<b>Non-monetised costs</b>		Low

#### Expected benefits of proposed approach, compared to taking no action

Regulated parties	Trout anglers will not have to fund increased enforcement effort through increased licence fees.	High
Regulators	Trout fishery enforcement agencies (Fish & Game and DOC) will not have increased costs for enforcement. Government agencies will not have administrative cost of reviewing CIPO every nine years.	High
Wider government	N/A	

Other parties	Businesses and employment supporting the recreational trout fishery, and the trout fishery itself, will not be placed at risk. Parties seeking to have trout farming allowed (e.g., supporters of the petition seeking this, including some Māori) will not be placed at a disadvantage through importers being able to access a market they cannot (except for some petfood).	Medium
<b>Total Monetised Benefit</b>	N/A	
<b>Non-monetised benefits</b>		High

#### 4.2 What other impacts is this approach likely to have?

No known additional impacts other than those already described elsewhere.

## Section 5: Stakeholder views

### 5.1 What do stakeholders think about the problem and the proposed solution?

100. The NZ Fish and Game Council, which has a statutory function to advise the Minister of Conservation on issues relating to sports fish (section 26C(1)(b) of the Conservation Act refers), was asked for its views and advises that fish and game councils unanimously support the continuation of the import prohibition. They advise,

“Our grounds for opposing the importation of trout or trout products are based upon the risks it poses to New Zealand’s exceptional trout fishery... Our view is that the imported fish could not be easily distinguished from wild New Zealand trout in its processed form and that it is not feasible or equitable for Fish & Game, or the licence holders that fund Fish & Game, to increase compliance to a level to adequately monitor the wild fishery to prevent the illegal capture of wild spawning fish.”<sup>12</sup>

101. There has been no public consultation on the options covered by this paper as this would amount to reviewing the non-commercial status of trout, which the Government has decided not to undertake at this time, and the issues of trout farming, trout imports, and the commercial sale of trout are inextricably linked. However, the wide range of public and sector group views is generally well known to officials, because recreational anglers and fishery managers, prospective trout farmers and food importers, sector representatives, and some Māori groups have been continually expressing their views to Ministers and officials over the last two decades – seeking change or wanting to ensure the status quo.

<sup>12</sup> Letter to DOC on 21 November 2020

102. Likewise, Māori have not been consulted on the possibility of removing the current import prohibition, and broad engagement with Māori would be appropriate in accordance with Treaty principles before a change to the status quo was implemented – as would happen if the current CIPO was simply allowed to expire.

103. A major petfood importer consulted on the issue of petfood containing trout product is supportive of the proposed exemption for such petfood and the proposed conditions on such imports.

104. Officials from MFAT, MBIE, MPI, TPK, Te Arawhiti, and The Treasury were consulted in the preparation of this analysis. DPMC and Customs NZ were kept informed.

105. OIA s.9(2)(d)

106. MBIE prefers Option 1 or 2 to ensure that specific work to investigate and quantify the likely impacts of allowing trout imports is completed before the CIPO is removed. This work should be part of a wider work programme to investigate the risks and benefits of a commercial trout industry in New Zealand. MBIE notes that legalising commercial trout farming could unlock significant regional economic development opportunities with export potential.

107. MPI supports Option 1 or 2, which would provide time for consultation to be undertaken and investigation of ways to manage potential transition issues before any removal of the CIPO. Regarding the broader issue of the commercialisation of trout in New Zealand, MPI considers that there are potential benefits and risks. These would need to be addressed through a separate process, including consultation, to assess whether such risks could be mitigated before any decisions to change the status quo were made.

108. TPK considers a continuation of the import prohibition is necessary to ensure the sustainability of the recreational trout fishery, but would like to see future wider discussion on options for possible trout farming in New Zealand. Some Māori and Māori-owned companies have sought the Government's assistance to explore this.

## Section 6: Implementation and operation

### 6.1 How will the new arrangements be given effect?

109. If a decision is made to extend the CIPO beyond 29 September 2021 for an indefinite period then an Order in Council will be required under section 96 of the Customs and Excise Act 2018, on the recommendation of the Minister of Customs, to implement a Customs Import Prohibition (Trout) Order 2021. The Minister of Customs will need to be of the opinion that the prohibition was necessary in the public interest, as required under the Customs and Excise Act.
110. No transition arrangements will be required as this preferred option will be maintaining the status quo that has been in place since 1998. The import prohibition will continue to be implemented by Customs New Zealand.
111. DOC will advise known petfood importers of the petfood exemption and conditions.

## Section 7: Monitoring, evaluation, and review

### 7.1 How will the impact of the new arrangements be monitored?

112. If the import prohibition is extended beyond 29 September 2021, DOC officials will continue to monitor any changes to the circumstances and knowledge base underpinning the evidence for the need for the import prohibition.
113. The only new monitoring required will be for any unforeseen problems arising from any new exemption for petfood. This will be undertaken by DOC staff. Officials will also remain alert to any other classes of trout product imports which could potentially be allowed without posing a risk to the trout fishery.

### 7.2 When and how will the new arrangements be reviewed?

114. If the import prohibition is extended beyond 29 September 2021 for an indefinite period, the new CIPO will need to be reviewed as part of any review of legislation prohibiting trout farming.
115. If a future review of the non-commercial status of trout was to find that the import prohibition was no longer required, or if such a review decided to allow trout farming, then the CIPO could be revoked at any time.