



ACT
Government

REGULATORY IMPACT STATEMENT

Fisheries (Fishing Gear) Declaration 2025

DI2025- 252

Prepared in accordance with *Legislation Act 2001*, section 34

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Overview

This regulatory impact statement (RIS) relates to the Fisheries (Fishing Gear) Declaration 2025 (the **instrument**), made under section 17 of the *Fisheries Act 2000* (**Fisheries Act**).

The Fisheries Act is the primary legislation in the ACT for the management of the recreational fishery and the commercial trade of fish. The primary objectives of the Fisheries Act are to:

- conserve native fish species and their habitats
- manage fisheries sustainably by applying the principles of ecologically sustainable development
- to provide high quality and viable recreational fishing
- cooperate with other Australian jurisdictions in sustaining fisheries and protecting native fish species.

The purpose of this RIS is to assess the regulatory impacts to the community of new amendments to the instrument and restrictions imposed on recreational fishing in the ACT through the instrument.

This RIS for the instrument made under section 17 of the Fisheries Act, assesses the impacts of the proposed provisions and provides:

- a) background on policy objectives for fisheries management in the ACT;
- b) identification of problems with existing management;
- c) policy objectives;
- d) options to achieve the policy objectives, including costs and benefits and a preferred policy option;
- e) background on consultation;
- f) mutual recognition issues; and
- g) a conclusion.

The instrument will not impose a social or economic cost on the community. The proposed changes generally seek to ease restrictions rather than impose new ones.

Part 3 of the Fisheries Act enables the Minister and the Conservator of Flora and Fauna to set restrictions on recreational fishing by way of closures and declarations by disallowable instrument. Within part 3, section 17 permits the Minister to declare fishing gear that may be used for taking fish and gear that is prohibited for taking fish.

The instrument is within the parameters of the authorising law and is not inconsistent with the policy objectives of another territory law. The instrument is appropriately placed in legislation subordinate to the Fisheries Act. The instrument does not unduly trespass on existing rights or make rights unduly dependent upon non-reviewable decisions.

This RIS complies with the requirements for a subordinate law as set out in part 5.2 of the Legislation Act. An explanatory statement for the proposed law has been prepared for tabling.

Background

Fishing regulation is necessary to ensure the ongoing sustainability of the river system and the environment, and to ensure that recreational fishing can continue.

The gear restrictions set out in the instrument achieve this by restricting fishing gear that can be used and held in possession to what is appropriate for fishing zones and fish species and by reducing the likelihood of overfishing and unintended bycatch. These restrictions are proportionate to the

environmental risk, more consistent with other jurisdictions, and justified in achieving sustainability goals.

The instrument prescribes fishing gear that may be used for taking fish and is prohibited for taking fish. It includes changes to address matters identified by recreational anglers and associated stakeholder groups, following the appointment of a Fisheries Conservation and Compliance Officer (FCCO) by the ACT Government in November 2023. The subsequent compliance, education and enforcement activities undertaken by the FCCO identified that the previous fishing gear declaration instrument did not adequately address the fishing gear that is allowed to be held in possession in or beside waters, in line with other jurisdictions in similar waters.

Information required by section 35 of the *Legislation Act 2001*

(a) The Authorising Law

The Fisheries Act is the authorising law for the proposed instrument. Under **section 17, Declaration of fishing gear**, the Minister may, by way of a disallowable instrument, declare fishing gear that may be used for taking fish; or that is prohibited for taking fish.

(b) Policy objectives of the proposed law

The instrument seeks an appropriate balance between the protection of the environment and ensuring a viable recreational fishery.

It aims to better align fishing regulations across jurisdictions (particularly the ACT, NSW and Victoria), making compliance by the public, and enforcement, less complicated (i.e. similar rules apply on both sides of the border) and encouraging consistency in fisheries management.

The instrument also provides further clarity around fishing gear that may be held in possession, including locations in which it can be possessed, and how that gear can be rigged for use in the different waters (i.e. fishing zones) in the ACT.

(c) Achieving the policy objectives

The instrument includes the following changes relating to fishing gear.

- The previous instrument (DI2020-113) allows for only 2 rods or handlines to be held in possession in or beside Open Waters. The instrument increases the permitted number of rods or handlines that can be held in possession in or beside open waters from 2 to 4. It does not, however, change the number of rods that can be *used* in Open Waters. The instrument also clarifies how those rods or handlines can be rigged whilst in possession. This aligns with New South Wales rules for comparable waters (i.e. fishing zones).
- The previous instrument (DI2020-113) allows for only 1 rod or handline to be held in possession in or beside Trout Waters. The instrument increases the permitted number of rods or handlines that can be held in possession in or beside Trout Waters from 1 to 2. It does not, however, change the number of rods that can be *used* in Trout Waters. The instrument also clarifies how those rods or handlines can be rigged whilst in possession. This aligns with New South Wales rules for comparable waters (i.e. fishing zones).
- The previous instrument (DI2020-113) allowed for the use of handlines in trout waters. The instrument prohibits the use of handlines in trout waters, which aligns with New South Wales rules for comparable waters (i.e. fishing zones).
- The previous instrument (DI2020-113) does not adequately define enclosed nets and traps. The prohibition of these nets and traps is intended to protect native animals such as

platypus, rakali and turtles. The instrument clearly defines enclosed traps and their prohibition in the ACT.

- The instrument includes new definitions for ‘artificial lure’, ‘artificial fly’, ‘hook’ and ‘enclosed trap’, to more closely align with interstate definitions and contemporary methods and equipment used by anglers.

(d) Consistency of the proposed law with the authorising law

The primary objectives of the Fisheries Act are to:

- conserve native fish species and their habitats
- manage fisheries sustainably by applying the principles of ecologically sustainable development
- provide high quality and viable recreational fishing
- cooperate with other Australian jurisdictions in sustaining fisheries and protecting native fish species.

The instrument will better align fishing regulation across jurisdictions and improve fisheries management, compliance and enforcement, and is therefore consistent with the primary objectives of the Fisheries Act.

The instrument’s provisions are within the parameters of the authorising law and is appropriately placed in legislation subordinate to the Fisheries Act.

(e) Inconsistency with the policy objectives of another Territory law

A range of legislation operates at local, state/territory and national levels throughout Australia to regulate both recreational and commercial fishing and to protect native, managed and threatened fish species. The instrument is not inconsistent with the policy objectives of any other Territory law.

The instrument seeks to bring ACT fishing restrictions more closely in line with those in New South Wales and Victoria to promote better public compliance across jurisdictions and to promote more consistent regulation across jurisdictions. The increase in the number of rods or handlines permitted in possession in open waters and trout waters is consistent with rules in New South Wales.

(f) Reasonable alternatives to the proposed law

The instrument has been prepared in the context of the existing provisions. The options considered in relation to each identified problem were:

Option 1: Retain the provisions in the existing declaration.

This option does not meet the ACT Government’s intention to better align fishing regulation across jurisdictions to make public compliance and enforcement less complicated and encourage greater consistency in fisheries management.

Option 2: Introduce new or amended provisions to the declaration.

This option is consistent with ACT Government’s intention to more closely align fishing regulation across jurisdictions, particularly with NSW, to ensure similar rules apply on both sides of the border. It represents the most positive outcome for the community due to benefits associated with simpler public compliance and enforcement, and consistency in fisheries management.

Option 2 provides clarity and consistency for fishers operating across state and territory borders and will help maintain sustainable and equitable fishing into the future. It ensures restrictions on

recreational fishing and allowable gear reflect current knowledge and practice. It is also the only option that supports the objectives of government action.

(g) Brief assessment of the benefits and costs of the proposed law

The instrument will increase the number of rods or handlines allowed in possession in or beside open waters from 2 to 4 and increase the number of rods or handlines allowed in possession in trout waters from 1 to 2. It also provides a better and more effective definition of enclosed traps, their prohibition, and mentions their impacts on native wildlife.

These amendments better align with fishing regulation across jurisdictions (particularly the ACT, NSW and Victoria) to make public education, compliance and enforcement simpler (i.e. similar rules apply on both sides of the border), and fisheries management more consistent.

As the instrument allows for an increase in the number of rods or handlines that can be held in possession and does not generally impose further restrictions, there is unlikely to be any cost to the community as a result of the instrument becoming law.

The prohibition of handlines in trout waters is unlikely to have any impacts or costs to the community as handlines cannot be used effectively, and are generally not used, in areas where only artificial lure and artificial fly are permitted.

The proposed changes will allow artificial lure and artificial fly anglers to interchange between spare rigged rods, which is common practice when fishing. The changes also restrict bait anglers from deploying too many baited rods at any one time. Rods rigged with lures and/or flies are commonly held by an angler whilst fishing, whereas baited rods can be set and may not be attended or held by the angler (noting that attendance is required). Bait fishing is also known to have a greater impact on fish stocks, with lower survival rates where fish are being released back into the water. A bait angler is permitted to have 2 rods rigged for bait and 2 rods rigged with lure and/or artificial fly.

Note: In the instrument, a hook, as defined, includes a single hook, a double hook or a treble hook. Up to 3 treble hooks attached to any artificial fly or lure is permitted.

(h) Consistency of the proposed law with Scrutiny of Bills Committee Principles

The Standing Committee on Legal Affairs (Legislative Scrutiny Role) Terms of Reference require the Committee to consider whether (among other things) any instrument of a legislative nature made under an Act which is subject to disallowance and/or disapproval by the Assembly:

- i. is in accord with the general objects of the Act under which it is made;
- ii. unduly trespasses on rights previously established by law;
- iii. makes rights, liberties and/or obligations unduly dependent upon non-reviewable decisions; or
- iv. contains matters which in the opinion of the Committee should properly be dealt with in an Act of the Legislative Assembly.

An analysis of the proposed law against these items follows.

The instrument aims to achieve the objects at section 3 of the Fisheries Act, sustaining a recreational fishery while conserving native species and doing so in cooperation with other jurisdictions. The regulations also protect native fish and other native species impacted by fishing activity and result in more sustainable fisheries management to provide high quality and viable recreational fishing.

The proposed law does not unduly trespass on rights previously established by law.

The instrument relaxes restrictions on a person's right to engage in recreational fishing and the gear permitted to be held in possession whilst doing so. Furthermore, it clarifies where that gear can be held in possession and how it may be rigged. The new amendments found in the instrument are necessary, to ensure consistency with surrounding jurisdictions and to ensure that ACT fishing regulation continues to reflect best-practice fisheries management.

The instrument does not make any rights, liberties or obligations unduly dependent upon non-reviewable decisions.

The new restrictions in the instrument relate to the offences in Part 8 of the Fisheries Act. A number of these offences are strict liability offences. However, the Fisheries Act provides for defences to offences to ensure a fair and reasonable approach to enforcement.

The new restrictions in the instrument are consistent with the operation of the offence provisions of the Fisheries Act.

Conclusion and recommended option

This RIS complies with the requirements for a subordinate law as set out in part 5.2 of the Legislation Act. An explanatory statement for the proposed law has been prepared for tabling.

The cost-benefit analysis above shows that the proposed changes to the instrument ease restriction, provide greater clarity for anglers, and better align with other jurisdictions.

The introduction of the new and amended provisions proposed for the fishing gear declaration is the preferred policy option. The benefits to the environment and sustainability of the recreational fishery of the new and enhanced provisions, and cross-jurisdictional consistency, outweigh any potential social costs to recreational fishing activity.