

**LIST OF ORGANISATIONS MAKING SUBMISSIONS
ON THE DRAFT CONSULTATION DOCUMENT RELATING
TO THE PROPOSED SERVICES FOR 2007/2012**

Full name of organisation	Short version
The New Zealand Seafood Industry Council Ltd	SeaFIC
Te Ohui Kai Moana Trustee Ltd	Te Ohu
Deepwater Group Ltd	DWG
Te Runanga o Ngati Kuia Charitable Trust	Ngati Kuia
Te Runanga o Ngai Tahu	Ngai Tahu
Maketu Taiapure Committee of Management	Maketu Taiapure
Environs Holdings Ltd	Environs
Waikaretu Marae	Waikaretu

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ISSUES RAISED AND MINISTRY RESPONSES

FISHERIES SERVICES

Issue 1 – General comment on consultation

Output Class	N/A
Output	N/A
Proposed services page no.	N/A
Page and paragraph number from stakeholder submission	Te Ohu: pages 1 – 2; paras 6 - 10

Submission Details

Te Ohu comment

6 Between 1999 and 2006 the Ministry has spent in excess of \$588m on the delivery of fisheries management services. Over this period the costs have increased by approximately 33% or \$28.8m, and staffing levels have shifted from 308 to 413 in 2006 (*see Table 1*). We are concerned with the increase in spending since 1999 and the lack of discernable benefits to Maori and stake holders generally. Our expectation is the Ministry will improve its delivery and performance to stake holders in the future.

	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Plan
	1999/00	2000/01	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07
Total output expenditure	60,547	66,640	71,502	70,661	68,524	76,256	84,716	89,441
Total planned industry contribution	30,006	30,832	33,267	33,735	33,800	34,068	33,955	32,516
Actual costs to be recovered	30,006	30,832	31,694	33,185	8,987	27,433	32,331	32,516

7 A disturbing aspect of this and the previous SOIs is the diminishing amount of information that the Ministry is providing stake holders on various projects, particularly those covered under “Fisheries Services” in general. It has become virtually impossible to comment and in some instances, as will be highlighted shortly, only two or three paragraphs have been provided to justify increased expenditure in excess of a million dollars. The Ministry must direct its attention towards ensuring adequate information is made available, to the extent that stake holders are able to make properly informed decisions.

8 The High Court provides us with a definition of consultation.¹

Consulting involves the statement of a proposal not yet finally decided upon, listening to what others have to say, considering their responses and then deciding what will be done.

9 The High Court has also noted that consultation should be a reality, not a charade. Although there are no universal legal requirements as to form, the Court found that essential elements of genuine consultation should include:

- *sufficient information provided to the consulted party, so that they can make intelligent and informed decisions*
- *sufficient time for both the participation of the consulted party and the consideration of the advice given, and*
- *genuine consideration to that advice, including an open mind and willingness to change.*

10 Our expectation is the Ministry will adhere to the Court's standards when consulting with stake holders.

Ministry of Fisheries analysis

Te Ohu has not balanced its comments on the increase in Vote Fisheries against initiatives for all stakeholders and specific initiatives intended to foster improved engagement with iwi. Some examples of these are:

- increases in fisheries research to maintain the Ministry's ability to provide up to date information on fish stocks for the purposes of setting appropriate harvest levels
- a significant increase in the past two years in the amount devoted to aquatic environment research
- new initiative funding (\$11.5 million over four years) approved in Budget 2005 introducing a range of strategies targeted at poaching and black market activities, particularly in the paua and rock lobster fisheries
- new initiative funding approved in Budget 2004 to finalise the implementation of the Fisheries Deed of Settlement. This includes strengthening Maori-Crown relationships through the establishment of Pou Hononga and promoting ways in which Maori can engage more effectively in all local coastal/marine management issues
- implementing the settlement provisions in the Maori Commercial Aquaculture Claims Settlement Act 2004. These provisions are designed to settle all Maori claims to commercial marine farming post 21 September 1992, by providing iwi with an allocation of an area equivalent to 20% of the total space allocated since 1992 and 20% of new marine farming space.

¹ Air New Zealand Ltd v Wellington International Airport Ltd, High Court Wellington Registry, CP 403/91. McGTehan J, 6 January 1992, p8.

The Ministry notes the comments by Te Ohu on the level of information provided in the consultation process on the services proposed to be delivered in 2007/08, but would observe that there has not been any diminution of information over that supplied in the previous year. The outputs and services are now well established and the Ministry does not believe the consultation process would be enhanced by the addition of lower level detail that, again, has not changed from previous years.

The letter inviting stakeholders to participate in the consultation process set out a process for providing additional information and meeting stakeholders to resolve any issues requiring clarification.

Proposed fisheries research projects are discussed extensively in the research working groups, with stakeholders being provided with opportunity to debate the merits of any project in those working groups and then again in the services consultation process.

With respect to the proposed new initiatives, the Ministry met with SeaFIC representatives to provide additional information, particularly on those initiatives that were subject to the cost recovery provisions of the Fisheries Act 1996. SeaFIC acknowledged the value of this further information. We would encourage stakeholders to do this on a wider basis for future years.

Recommendation

The Ministry of Fisheries recommends that you:

- (a) **note** the comments from Te Ohu concerning the increase in Ministry costs, and their views on the adequacy of consultation; and
- (b) **note** the response from the Ministry.

Issue 2 – Maximising value outcome

Output Class	N/A
Output	N/A
Proposed services page no.	N/A
Page and paragraph number from stakeholder submission	SeaFIC: page 1; paras 5 - 11

Submission Details

SeaFIC comment

5 We have set out our position on the maximising value fisheries outcome in a series of submissions dating back three years. In 2006, for example, we made comments in paragraphs 49-51 of our submission on *Proposed Fisheries Services to be provided in 2006/07* and in paragraphs 68-69 of our submission on the Initial Position Paper dated July 2006.

6 We understand, however, that some senior fisheries managers from the Ministry have recently disavowed knowledge of the industry's position. For the avoidance of any doubt we restate our position as follows.

7 SeaFIC has no issue with the outcome as it is stated:

The value New Zealanders obtain through the sustainable use of fisheries resources and protection of the aquatic environment is maximised.

or indeed with the contributing outcome:

People are able to realise the best value from the sustainable and efficient use of fisheries.

8 SeaFIC challenges, however, the Ministry's linkage of these outcomes to its functions under the Fisheries Act 1996 and its assignment to the Minister of a role in optimising value. There is nothing in the Fisheries Act that legitimises the approach that has been adopted. Value is not referred to in the Act. The purpose of the Act is to provide for the utilisation of fisheries resources while ensuring sustainability. Utilisation means "conserving, using, enhancing and developing fisheries resources to enable people to provide for their social, economic and cultural wellbeing".

9 In our view, enabling people to provide for their wellbeing means precisely that. It is about making sure there are no impediments put in the way of people being able to provide for themselves unless there are good sustainability reasons. It is not about the Ministry (or the Minister) making decisions about where the collective best interest lies.

10 Not only is there no statutory basis for the Minister or the Ministry to assign fish resources to particular sectors in the hope of maximising value for society but the task is beyond the government in any case. There is no adequate way of comparing market and non-market values. Even if this could be done any decisions made on the basis of such a valuation will be time bound and unresponsive to changes in the way that society values the resource.

11 Maximising value for society and achieving the efficiency that the contributing outcome seeks can only be achieved through a market mechanism that can quickly respond to sectoral and societal changes in preference. As we have submitted before, SeaFIC considers the Crown should concentrate on completing the rights-based framework for fisheries management instead of trying to attribute value. If the rights-based framework was completed there would be no need for government interventions based on comparisons of value between sectors because rights holders could then make their own decisions in furtherance of their own social, cultural and economic wellbeing.

Ministry of Fisheries analysis

The Ministry of Fisheries disagrees with the submitter's view that there is no role for Government in inter-sector allocation of resources to enable best value from the use of resources.

To achieve overall best value from fisheries resources, there needs to be the ability to transfer some rights to use the resources. Individual transferable quota provides for the optimal allocation of commercial fishing rights, but there is currently no mechanism by which stakeholders can adjust levels of access to fisheries resources across sectors. Instead, transfers across sectors can only be achieved through government allocation decisions.

Unless and until mechanisms are put in place for stakeholders to have a greater role in determining levels of access for their sector, the government will need to make allocation decisions. To fail to address allocation issues (acknowledging some significant difficulties and disadvantages in doing so), would be to preclude a proper role for government in achieving best value from the use of resources.

The Shared Fisheries policy initiative has proposed some steps that might be taken to improve allocation across sectors, such as better representation of amateur sector interests (see section 8 of the Shared Fisheries proposals), better information on amateur catch (see section 2), and redress following adjustments in allocations or access (see section 7). The Shared Fisheries proposals do not foreclose on the future possibility of direct transactions between commercial and amateur fishing sectors; rather, they take some steps in that direction.

The Ministry considers that the Fisheries Act clearly provides the Minister of Fisheries with discretion to make decisions on allocation of fisheries among sectors (section 21). Including quantitative valuation information in advice on those decisions is intended to increase the transparency and accountability of such decisions.

Recommendation

The Ministry of Fisheries recommends that you:

- (a) **note** that SeaFIC has clarified and reiterated its endorsement of the Ministry's outcome statements, but noted its concern at the linkage of those statements to the Fisheries Act; and
- (b) **note** the response to these issues from the Ministry.

Issue 3 – Fisheries operations - description

Output Class	Fisheries operations
Output	N/A
Proposed services page no.	14
Page and paragraph number from stakeholder submission	Te Ohu: page3; para 11

Submission Details

Te Ohu comment

11 The last two bullet points under the headings Description and Objectives relate to biodiversity matters and should be transferred to the Biodiversity portions of the document (pp.12, 21 or 22). This action would have two beneficial results.

- It would remove the risk of the industry and Maori being incorrectly charged for biodiversity matters; and,
- It would result in a more accurate representation of the true costs of the Biodiversity Strategy.

Ministry of Fisheries analysis

The structure of each of the Departmental Output Expense sections is designed to cover the full extent of the outputs in that section. Thus, in this case, the description and objectives relate to all outputs under the Fisheries Operations Departmental Output Expense.

These are followed by more detailed comments on the services to be provided for each of the outputs, their linkages to Government themes and Ministry outcomes and the specific performance measures against which progress towards the achievement of the outcomes will be measured.

The table on page 3 of the proposed services document clearly states what services are subject to cost recovery. There is no possibility of biodiversity and biosecurity costs being incorrectly charged to industry.

Recommendation

The Ministry of Fisheries recommends that you:

- (a) **note** the views of Te Ohu concerning the placement of the biosecurity and biodiversity sections of the Fisheries operations departmental output expense; and
- (b) **note** the response from the Ministry.

Issue 4 – MPA Strategy

Output Class	Fisheries operations
Output	New Zealand fisheries utilisation and sustainability reported
Proposed services page no.	14 - 15
Page and paragraph number from stakeholder submission	Te Ohu: page3; para 12

Submission Details

Te Ohu comment

While provision is made under this heading for costs of implementing the Government's MPA Strategy, no provision appears to have been made for either adjusting that Strategy in light of the industry proposals for Benthic Protection Areas (put forward in mid-2006) involving substantive areas of NZ waters to be closed to commercial fishing, or for assisting in the implementation of those industry proposals. If the Ministry is going to support this industry initiative they should make the appropriate corrections to the SOI

Ministry of Fisheries analysis

At the time of preparing this SOI for consultation, the Benthic Protection Area (BPA) proposal had yet to be approved by Government. Decisions on the proposal are still, at this time, pending.

Irrespective of the BPA proposal the MPA strategy and implementation plan will still need to be progressed in 2007/08. The focus of that implementation plan in 2007/8 is in the following areas:

- West Coast
- Hauraki Gulf
- Sub-Antarctic Islands

Approval of the BPA proposal would not materially affect this work programme in 2007/08.

Recommendation

The Ministry of Fisheries recommends that you:

- (a) **note** the views of Te Ohu that for the Ministry to support the industry initiative of Benthic Protection there is a need to make appropriate changes to the SOI ; and
- (b) **note** that approval of the Benthic Protection Areas proposal will not materially affect the work programme for Marine Protected Areas in 2007/08.

Issue 5 – Deed of Settlement implemented

Output Class	Fisheries operations
Output	Deed of Settlement implemented
Proposed services page no.	16 - 17
Page and paragraph number from stakeholder submission	Te Ohu: page 3; paras 13 – 15 Ngati Kuia: pages 1 – 3 complete document Ngai Tahu – complete document

Submission Details

Te Ohu comment

13 The proposals under this heading largely comply with Te Ohu's urgings in recent years. However, we feel compelled to comment on two specific issues.

14 Firstly, there is a lack of any reference to a review of the Ministry's process and information policies concerning mataitai reserves. Te Ohu provided detailed information on this subject in last years SOI, and had numerous discussions with the Ministry on solutions to overcome many of the problems that were and continue to be experienced by Iwi. We are still waiting for the Ministry to produce a series of policies that reflect those discussions.

15 Secondly, we continue to be concerned about the way in which the Ministry consults with Iwi. In our view, the Ministry will have far greater success in delivering on its Treaty obligations if the relationships with Maori are built primarily (not necessarily exclusively) with Mandated or Recognised Iwi Organisations (MIOs and RIOs). Our observations and discussions with MIOs and RIOs suggest the Ministry often puts greater attention on hapu and whanau relationships. In turn, this leads to undermining of the work being undertaken by MIOs and RIOs, and division within Iwi.

Ngati Kuia

This submission has been developed in response to the Ministry of Fisheries Statement of Intent (SOI) document released for public submission on the 10 January 2007. Owing to constant resourcing difficulties this submission only addresses points of concern from the SOI which relate to the implementation of the Deed of Settlement.

The issue has been raised and addressed that the main thrust of this submission is to recommend that the Ministry of Fisheries provide for a service contract with Te Tau Ihu iwi in the SOI currently being consulted. Initially, this is seen as a pilot project and will endeavour to fulfill our iwi expectations for sustainable fisheries management with added value through kaitiakitanga integration and added capacity

This submission has been prepared on behalf of Ngati Kuia, which is a member of the Te Tau Ihu Fisheries Forum constituting of Te Atiawa, Ngati Apa, Ngati Rarua, Ngati Tama, Ngati Toa, Ngati Koata and Rangitane.

Deed of Settlement Implemented

The Ministry of Fisheries will be well aware of progress and financial commitment being made by Te Tau Ihu iwi in relation to the establishment of a forum. That developing

relationship is currently reflected, at least in part, in a draft memorandum of understanding (MOU) between Te Tau Ihu Iwi and the Ministry of Fisheries. The intention is to further the interests of both parties to primarily improve the management of the fisheries resources in Te Tau Ihu, and to recognize and provide for the use and management systems of tangata whenua. More specifically.

The Ministry of Fisheries has an obligation to:

- provide for the input and participation of Tangata Whenua into processes which provide for utilization, while ensuring sustainability, in the Fisheries Act and have particular regard to kaitiakitanga when making decisions relating to those processes;
- must consult with those parties (including engagement with Maori and Tangata Whenua) who may be affected by the Ministry's proposals;
- must develop policies to help recognize use and management practices, including Mātauranga Maori, of Tangata Whenua in the exercise of non-commercial fishing rights;
- must make regulations to recognize and provide for the extent of Maori customary food gathering, and the special relationship between Tangata Whenua and places of customary food gathering importance;

It is the considered view of Ngati Kuia and Te Tau Ihu iwi that the Ministry will better achieve their obligations through entering into a service contract directly with iwi from the Te Tau Ihu o Te Waka region.

Even though the Poutakawaenga and Pouhononga strategy goes some way to meeting the Crown's obligations, there is much more that could be achieved for the Ministry and Iwi, through the Ministry contracting Iwi directly to provide particular services. Under the current system there is a real risk that the forum may not gather the momentum and expertise required to achieve the unified result that will benefit our goals and the matauranga/knowledge of the biodiversity we are aiming to protect on behalf of past, present and future generations.

Accordingly, this submission recommends that:

The Ministry provides in the annual budget for a service contract with Te Tau Ihu Iwi in the 2007-08 Statement of Intent

The Ministry may wish to consider implementing a service contract with Te Tau Ihu iwi as a pilot project, perhaps over a three year period. The outcomes of such a project should easily be able to measure performance against the current strategies employed by the Ministry for delivering on Treaty obligations. This will provide an opportunity to measure the value of either regime, and to plan for longer term arrangements.

To date the Ministry has not consulted with Ngati Kuia, or any other Iwi for that matter, on ways for the Crown to best deliver on its obligations to Maori. Indeed, this is the first occasion for which Ngati Kuia have expressed a view on the subject.

We welcome and encourage further dialogue with the Ministry on this matter.

Ngai Tahu

Please accept this as my submission on this *take*. My consultation letter stated that I was to contact you both if I had any comments on the proposed services.

I would like to see the Ministry provide a dedicated fund for the monitoring and assessment of Area Management Tools (principally mātaimai and taiāpure). I do not believe it is acceptable that Ngāi Tahu and other iwi have to apply to the Ministry for contestable funds to conduct assessments that are absolutely essential.

Immediately after the establishment of a Marine Reserve, DOC provide funds to monitor and assess the area. Yet the Ministry provide no reciprocal funding for the assessment of Area Management Tools established under their legislation.

This is, in my view, a serious oversight on the part of the Ministry - one that should be rectified immediately.

Thanks for the opportunity to submit on this very important *take*.

Ministry of Fisheries analysis

Te Ohu Kai Moana (TOKM) raises two specific issues. One relates to the lack of any reference to a review of processes and information policies concerning mātaimai reserves. The other covers concerns over how the Ministry consults with iwi, and suggests we put greater attention on hapū and whānau relationships.

Te Ohu makes submissions seeking to enhance Ministry processes on providing better information to stakeholders about mātaimai reserves. The Ministry continues to enhance its information processes to ensure interested stakeholders are adequately informed and can input into Ministry processes.

Discussions with Te Ohu and other stakeholders over the last 6 months have already enhanced these processes.

The Ministry accepts there needs to be different levels of consultation with tangata whenua. For example, Treaty settlements with individual iwi impose distinct and specific obligations. The different and changing status of iwi (e.g., mandated and recognised) also needs to be taken into account in respect to consultation. However, s 12 of the Fisheries Act provides for consultation on prescribed matters with Māori and the input and participation of tangata whenua. Tangata whenua, in relation to a particular area, is defined in the Act as “... *the hapū, or iwi, that is Māori and holds mana whenua over that area*”. Clearly, therefore, the Ministry has an obligation to consult not only with iwi (and at different levels) but also with hapū.

Te Runanga o Ngāti Kuia Charitable Trust (Ngāti Kuia) asks the Ministry to provide for a ‘service contract’ with the eight iwi of Te Tau Ihu o Te Waka. The submitter considers such a contract would enable the Ministry to better achieve its obligations towards tangata whenua in the top of the South Island.

The Ministry notes that Ngāti Kuia is a party to the Memorandum of Understanding between the Tau Ihu Iwi Fisheries Forum and the Ministry. While the Ministry does not preclude a contract of service between iwi and the Ministry, it notes that resources can be made available to the Forum in different ways. The Ministry is of the view that the appropriate arrangement to provide resources should be developed in a co-ordinated and planned manner under the umbrella of an Iwi Forum and its strategic plan. The Tau Ihu Iwi Fisheries Forum is currently developing a strategic plan and, therefore, it would be premature to make any reference to a contract for services in the SOI at this time.

Te Runanga o Ngai Tahu (Ngai Tahu) seeks a dedicated fund for monitoring and assessing mātaihai reserves and taiapure-local fisheries.

The Ministry will continue to assist iwi to develop fisheries-related research proposals for funding from the Ministry's contestable and non-contestable funding sources. In respect of the latter, the Ministry accepts it may need to broaden the scope of this particular funding resource. Funding for assessment, research and monitoring of Area Management Tools is available from other government agencies. One example of this has been the successful application by both the University of Otago and NIWA for funding from the Foundation of Research Science and Technology (FoRST).

Recommendation

The Ministry of Fisheries recommends that you:

- (a) **note** the views of Te Ohu Kai Moana, Ngāti Kuia and Te Runanga o Ngai Tahu in their comments changes they believe are required in the Deed of Settlement output material; and
- (b) **note** the response from the Ministry.

Issue 6 – Statutory decision processes administered

Output Class	Fisheries operations
Output	Statutory decision processes administered
Proposed services page no.	18
Page and paragraph number from stakeholder submission	Te Ohu: page 3; para 16

Submission Details

Te Ohu comment

16 The 6 months timescale that the Ministry allows itself under Performance Indicator 2 seems unduly generous and must impose considerable costs and concerns on applicants. We believe a much shorter timescale should be applied.

Ministry of Fisheries analysis

The 6-month timeframe included in performance indicator 2 provides a minimum standard for the most complex and difficult special permit applications that the Ministry receives. In these cases (i.e., where additional consultation and potentially ministerial approval is required) we believe 6 months is reasonable.

The majority of applications for special permits are not so complex and are completed within 2 months of receipt of the application.

Recommendation

The Ministry of Fisheries recommends that you:

The Ministry of Fisheries recommends that you:

- (a) **note** the submissions of Te Ohu Kai Moana; and
- (b) **note** the response from the Ministry.

Issue 7 – Non-commercial fisheries compliance

Output Class	Fisheries compliance
Output	Non-commercial fisheries compliance
Proposed services page no.	25
Page and paragraph number from stakeholder submission	Te Ohu: page 3; para 17 Maketu Taiapure complete document

Submission Details

Te Ohu comment

17 Somewhat unexpectedly, there is a substantial reduction of \$549,000 in the sum proposed for non-commercial fisheries compliance work. But no reasons are given as to why the budget is proposed to be reduced. In the absence of any good rationale we cannot support a reduction in this budget.

Maketu Taiapure

The Maketu Taiapure (stage 1) is located in the Bay of Plenty equidistant from Tauranga and Whakatane. The Taiapure was gazetted on 16th September 1996, with a Committee of Management appointed by the Minister of Fisheries after that.

The short term goal of the Committee was to study the existing resource and harvesting activity in the area. This has been achieved and is ongoing.

The medium term goal is to control the harvesting of the resource to a sustainable level and to undertake enhancement. This is a continuing activity.

The longer term goal is that there will be sustainable use for all users of the resource.

We find there is continuing pressure on our resource, especially with the closure of mussel beds at both Tauranga and Whakatane. Our work is all voluntary and we would appreciate assistance from the Ministry of Fisheries compliance section.

We therefore request that the Ministry of Fisheries undertake to increase the number of Compliance Officers, especially in the Bay of Plenty, which has a huge impact from not only the Bay of Plenty residents but those from the Waikato.

Ministry of Fisheries analysis

Increased costs have led to a risk assessment of the four main compliance outputs - commercial, non-commercial, international and poaching & black market to determine Compliance priorities. The non-commercial output has been assessed as being the best able to absorb a marginally lower level of compliance activity. The output reduction is approximately 1% of the four combined compliance outputs.

The Ministry applauds the initiatives undertaken by the Maketu Taiapure Committee of Management in actively managing their local fisheries. These initiatives are complementary

to the government's fishery plan project framework. The Ministry wishes to work closely with iwi to ensure the sustainability of fisheries resources and to identify services that will assist Iwi to meet their fisheries objectives.

Increased compliance effort is already available in the Bay of Plenty through the increase in Honorary Fishery officers from 12 in 2003 to 19 in 2007.

Recommendation

The Ministry of Fisheries recommends that you:

- (a) **note** the comments from Te Ohu and the Maketu Taiapure Committee of Management; and
- (b) **note** the response from the Ministry.

Issue 8 – Poaching and black market activities deterred

Output Class	Fisheries compliance
Output	Poaching and black market activities deterred
Proposed services page no.	27
Page and paragraph number from stakeholder submission	Te Ohu: pages 3 - 4; para 18

Submission Details

Te Ohu comment

18 Exactly the same situation as for non-commercial fisheries compliance on p.25 – a substantial reduction (\$691,000) is proposed in the funding for these important areas, despite the known level of offending and the acknowledged risks to fisheries resources from the illegal activities. Te Ohu in particular has actively sought for increased Ministry action over poaching and black market activities in recent years, and has applauded the increases in attention now given to these problems up to now.

Ministry of Fisheries analysis

In 2005/06 the Ministry of Fisheries received an additional \$2.889 million (GST excl) to increase its capacity and address the risks in the Poaching and Black-market sector. In addition to receiving these funds the Ministry further prioritised Compliance resources into the Poaching and Black-market output in order to effectively implement the specific initiatives. While a relatively small reduction is proposed in this output for 2007/08 deterring poaching and black market activities remains a top priority and represents a third of the Ministry's Compliance expenditure.

Recommendation

The Ministry of Fisheries recommends that you:

- (a) **note** the comments from Te Ohu; and
- (b) **note** the response from the Ministry.

FISHERIES RESEARCH PROJECTS

Issue 9 – General comments

Output Class	Fisheries information
Output	Utilisation and sustainability of New Zealand fisheries resources measured
Proposed services page no.	9 - 11
Page and paragraph number from stakeholder submission	DWG: pages 1 – 3; paras 4 - 18

Submission Details

DWG comment

4 At the RCC meeting the Ministry proposed that stakeholders comment on the projects only once – after the RCC – and dispense with the second iteration of essentially the same points after the release of the SOI. We agreed in principle that this was reasonable, but we reserved the right to make another submission addressing the research project after the release of the SOI. This reservation was based on the possibility that our first submission could be misinterpreted (or ignored).

Cost recovery

5 DWG submitted that the cost allocations of a number of the proposed research proposals had to be reviewed. In our opinion, these projects did not meet the test in section 262(d) of the Fisheries Act 1996 and thus their costs could not be attributed to and recovered from Industry.

6 In our view, Principle (d) in section 262 of the Fisheries Act 1996 makes it clear that conservation services or fisheries services research other than those “*provided to avoid, remedy or mitigate a risk to, or an adverse effect on, the aquatic environment or biological diversity*”, cannot be attributed to and recovered from Industry.

7 It is our opinion that baseline aquatic environment research and baseline protected species research are not recoverable from Industry under the Principles, and fall with the “general public interest” Principle in section 262(b). This public good research includes:

- 7.1 research carried out to provide information on the current state of the aquatic environment, biological diversity or a protected species; and
- 7.2 research to determine whether (and to what extent) commercial fishing provides a risk to, or an adverse effect on, the aquatic environment, biological diversity or a protected species.

8 MFish did not agree with our interpretation of section 262. Their response to our submission was:

- 8.1 *The Ministry notes DWG’s comments on cost recovery. Section 262(d) of the Fisheries Act provides for costs to “be attributed to the persons who caused the*

risk or adverse effect”. Our advice is that this does not limit cost recovery to “proven” adverse effects, because both risks and adverse effects are included. The definition of “effect” in the Fisheries Act (section 2) is very broad and includes direct, indirect, past, present, future, cumulative, and potential effects of fishing. The definition of “fisheries services” includes (part c) “research relating to ... stock assessment and the effects of fishing” (not necessarily “adverse effects”). Thus, the Ministry cannot agree with DWG that costs cannot be recovered for “research to determine whether (and to what extent) commercial fishing provides a risk to, or an adverse effect on, the aquatic environment, biological diversity or a protected species”, provided that the research is produced for the purpose of the Act and there is a reasonable basis for believing that there may be a risk to or adverse effect on the aquatic environment posed by fishing.

9 In our view, the Ministry advice is incorrect. This is not an argument about what is or is not a fisheries (or conservation) service. A project falling within the definition of a “fisheries service” is not sufficient to make it automatically also cost recoverable from industry.

10 Our interpretation of the statutory regime concludes that be recoverable from Industry, the service(s) must fall within:

- 10.1 the respective definitions of conservation services and fisheries services under section 2 of the Act; and
- 10.2 one of the attribution Principles in section 262 of the Act (262(a), (c), or (d)); and
- 10.3 one of the 11 Items specified in the Schedule to the Rules (to the extent that these Items are *intra vires* the Act).

11 And while The Ministry advice is correct that the definition of fisheries services research does not require that there be an adverse effect on the aquatic environment that is only part of the equation. Principle (d) in section 262 provides that for costs to be to be attributive to Industry, Industry must cause a risk to, or **adverse** effect, on the aquatic environment or biological diversity (emphasis added).

12 Fisheries services or conservation services research into the effects of fishing on the aquatic environment or on a protected species therefore falls into 2 categories;

- 12.1 research into, or the gathering of information on the current state of the aquatic environment or of protected species;
- 12.2 research to avoid or mitigate a risk to, or adverse effect on, the aquatic environment, or protected species.

13 The cost of the services that fall into the first category are provided in the general public interest under section 262(b), rather than to benefit (or be caused by) an identifiable person, and therefore may not be recovered from Industry.

14 The cost of services that fall into the second category must be, as far as practicable, attributable to the persons who caused the risk or adverse effect. It follows that a “belief” that fishing could have posed a risk or adverse effect to the aquatic environment or biological diversity is insufficient; the risk or adverse effect must have been demonstrated, so that costs to avoid, remedy or mitigate that risk or adverse effect can be recovered from Industry.

Protected species projects cost attribution

15 Additionally, a number of protected species research project on incidental capture of seabirds or marine mammals had (erroneous) cost attribution as Item 9 (monitoring harvest levels); their incidental capture of does not constitute harvesting them.

16 We submitted that research relating to protected species (i.e. the research which meets the test that it is cost recoverable from the Industry) is cost recovered in accordance with items 2 or 3 of the Rules. The Ministry response to this point was:

16.1 *The Ministry notes DWG’s suggestion on cost recovery. This study will be levied against schedule item 4. Schedule items 2 and 3 relate to research on protected species populations where risk to the population can come from more than one human intervention. Estimating the bycatch of commercial fishing clearly relates only to that portion of the total risk posed by commercial fishing, consistent with the wording of schedule item 4.*

17 The rationale that these projects should be levied according to Item 4 of the Schedule is wrong. (This discussion is on a without prejudice that these protected species fisheries interactions projects constitute “research to avoid or mitigate a risk, or adverse effect on, the protected species”).

18 It would appear that the Ministry has misinterpreted what “risk” the individual Schedule items pertain to. The Ministry approach has been to look at the relative risk, i.e. the risk to the individual birds destined for autopsies is known (100% mortality). However, the cost attribution should be on a proportional basis, i.e. what proportion of the absolute risks to the entire population is caused by fishing.

Ministry of Fisheries analysis

The Ministry notes the submission by DWG on the appropriateness of cost recovery where adverse effects have not been “demonstrated” but is confident in its advice and previous analysis. Section 262(d) of the Act clearly provides for cost recovery of services provided to avoid, remedy, or mitigate risks as well as (adverse) effects, and Section 2 clearly provides that effects can include potential effects and is not restricted to “definite” effects. Both “risk” and “potential adverse effect” imply uncertainty about whether an effect is “definite”. Thus, the Ministry is confident that there is no requirement for a risk or adverse effect to have been demonstrated before cost recovery can apply.

Similarly, the Ministry is confident that schedule item 4 of the Cost Recovery Rules is appropriate for research projects to estimate the bycatch of protected species in commercial fisheries. The total risk to a protected species population may come from more than one source, but the risk inherent in the bycatch of commercial fishing comes entirely from

commercial fishing. Thus, these services are provided “to avoid, remedy, or mitigate **that portion of the risk** to, or adverse effect on, the aquatic environment ... **caused by commercial fishing**” (from schedule item 4, emphasis added).

The Ministry would also note that the issues raised by DWG will be thoroughly canvassed in the review of the cost recovery framework.

Recommendation

The Ministry of Fisheries recommends that you:

- (a) **note** the comments from DWG on the appropriateness of the application of cost recovery to projects where, in its view, the adverse effects ‘test’ required to support cost recovery has not been satisfied;
- (b) **agree** with the Ministry’s view that ‘adverse effects’ are not limited to actual occurrences, but can also include potential effects and that it is appropriate to apply the cost recovery provisions of the Fisheries Act to those research projects meeting the adverse effects test; and
- (c) **note** that this issue will be considered in the context of the review of the cost recovery framework.

Issue 10 – EEL 2007/04 – Assessment of the eel fishery in the Pouto lakes in the northern Kaipara

Output Class	Fisheries information
Output	Utilisation and sustainability of New Zealand fisheries resources measured
Proposed services page no.	9 - 11
Page and paragraph number from stakeholder submission	Environs – complete letter Waikaretu – complete letter

Submission Details

Environs

Environs Holdings Ltd is the subsidiary of Te Uri O Hau Settlement Trust that is responsible for carrying out the kaitiaki duties within the rohe (add more from deed). We would like to indicate our strong support for project EEL2007/04 of the Ministry’s Proposed Fisheries Services for 2007. The Pouto Lakes proposal will greatly benefit Te Uri O Hau by enabling the hapu to actively be involved in research that will allow us to fulfil our role as kaitiaki. This information can then be utilized in the ongoing management of this taonga.

Environs have had preliminary discussions with Ian Ruru (Maumahara Consultancy Services Ltd) who has a strong background in eel research and has undertaken Ministry of Fisheries projects in the past whilst working closely with iwi. We anticipate working alongside a research provider to improve our scientific knowledge and techniques and hope to combine these skills with matauranga maori to achieve the objectives outlined in the proposal.

We believe that this research is consistent with and promotes the obligations of the Minister with regard to the eel fishery in the Pouto Lakes as specified in the Te Uri O Hau Deed of Settlement 2000, and Te Uri O Hau Settlement Act 2002. The research will assist decision making in relation to whether restrictions on fishing methods and/or temporary closures may be required to restore and enhance the eel resource in the area. Environs believe that the outcomes will benefit not only the local environment, but will contribute to eel research in other parts of the country.

Waikaretu

We write to endorse the Pouto Lakes Proposal (EEL2007/04) for eel research as outlined in the Proposed Fisheries Services for 2007 document. Tuna or eel is a highly valued resource for the Te Uri O Hau hapu. In the past whanau came from all over the rohe to catch eels in the Pouto Lakes. They were a staple part of the diet and are considered a taonga species for Te Uri O Hau. In more recent times the resource has become depleted and effected by land based activities as well as fishing pressure.

We understand that tangata whenua will be able to actively participate in the research which will enhance our kaitiaki role by providing us with new scientific and technical skills to add to our current customary management practices. This will allow greater understanding of the eel population in the Pouto lakes. The results could then be applied to decision making around whether restrictions on fishing methods and/or temporary closures may be required to restore

and enhance the eel resource in the area. We strongly support this project and look forward to our involvement in this research process.

Ministry of Fisheries analysis

The Ministry acknowledges the support from both Environs Holdings Ltd and Waikaretu Marae for this project.

Recommendation

The Ministry of Fisheries recommends that you:

- (a) **note** the supportive comments from the Environs Holdings and Waikaretu Marae for research project EEL 2007/04 – Assessment of the eel fishery in the Pouto lakes in the northern Kaipara; and
- (b) **note** the response from the Ministry

PROPOSED NEW INITIATIVES FOR 2007/08

Issue 11 – General comments

Output Class	N/A
Output	N/A
Proposed services page no.	N/A
Page and paragraph number from stakeholder submission	SeaFIC: pages 2 – 3; paras 12 - 18

Submission Details

SeaFIC comment

12 SeaFIC has concerns about the proposed additional fisheries services for 2007/08 that are set out on pages 32-35.

General Comments

13 The Ministry's vote has grown by \$21 million or 31% in the last three years and staff numbers have increased from 302 to 408 in that same period. We believe that, despite the growth, the effective outputs from the Ministry have not increased proportionately. For example:

- the growth in the research budget has been used to fund staff increases at the expense of the actual research undertaken;
- the observer programme still delivers only 70% of its approved programme;
- the delivery of standards and other policy initiatives have fallen significantly behind scheduled timeframes; and
- corporate services costs have risen by over 50% over the last three years.

14 We have concerns about the value of some of the proposed projects for which the Ministry is seeking funding (see details below). Notwithstanding that, we believe that if any new initiatives are to be approved they should be provided from a reprioritisation of the Ministry's resources and efforts rather than yet more growth in the Ministry's budget.

15 We are completely opposed to proposals that will require more levies being extracted from the seafood industry. Our view is that, in putting these proposals up for consideration, the Ministry has not been cognisant of the likely impact on the industry if the proposals are approved. The seafood industry appears to have been viewed as a cash cow but the costs that are being imposed are inequitable when viewed against similar industries within New Zealand and with our international competitors. This puts the industry at a disadvantage in the international market and undermines the industry's potential role in the transformation of the New Zealand economy. Further eroding the economic viability of the sector will not assist to reverse the trend of disinvestment in the sector as evidenced in the closure of processing factories, sale and retirement of vessels and reductions in training facilities.

16 We are concerned that the new initiatives proposed include no statement of the benefits that would arise from the additional expenditure. There could be some justification for some additional funding if there were demonstrable benefits to be obtained from the

expenditure. However the discussions of the initiatives contain no demonstrable or quantified benefits. Instead, a number of the projects are justified by generalisations such as “*expects changes in fisher behaviour leading to increase in sustainability of fisheries with increases in access and value*” and “*provide for better, more informed fisheries management decision making to underpin strategies designed to extract close to the maximum sustainable yield from fisheries...*”. We do not accept that such statements provide justification for any additional expenditure.

17 Furthermore, the bids show no linkages to the implementation of objective-based fisheries management and no alignment with the Government’s objectives. Despite the adoption by the Ministry of an objective based framework for the management of New Zealand fisheries, the current bids make no reference to that framework and do not appear to advance that approach in the management and operations of the Ministry.

18 SeaFIC does not consider there is sufficient justification to warrant any increase in the Ministry’s vote.

Ministry of Fisheries analysis

The Ministry acknowledges SeaFIC’s opposition to proposals that would increase the cost recovery levies paid by the industry, and the difficult economic situation that the industry currently faces.

We note that the costs of new initiative proposals (if approved), like those of all fisheries services, are subject to the Fisheries (Cost Recovery) Rules 2001. These Rules comply with the cost recovery principles in the Fisheries Act; in particular, S262(c) states that:

“Costs of conservation services or fisheries services provided to manage or administer the harvesting or farming of fisheries resources must, so far as is practicable, be attributed to the persons who benefit from harvesting or farming the resources.”

Concerns over the impact of cost recovery levies on the industry will be discussed and may be mitigated through the current review of the Rules.

The new initiative bids largely represent significant new services. If Government decides not to fund particular initiatives, the Ministry will need to advise the Minister on difficult reprioritisation decisions and/or scale back implementation of the proposals.

The proposals have been developed in response to opportunities to gain specific benefits from changes in services (such as additional funding for fisheries research or shared fisheries), or, in part, through engagement in wider processes (such as Project Protector, the South Pacific Regional Fisheries Management Organisation, Support for aquaculture, and the International Polar Year).

The Ministry considers that the new initiatives are aligned with the purpose of the Fisheries Act and the benefits to be obtained from better achieving that purpose. Specific comments on the new initiatives are addressed in the respective questions.

There has been no appreciable growth in the Ministry’s research budget over the past several years. In fact, in real terms, the budget for fisheries research is now 58% of what it was in

1991-92 (see response to Issue 13 for the details of this calculation). The increase in staff numbers recently is due to a concerted effort to fill vacant positions and resolve the chronic shortage of science staff the Ministry has had for several years. In addition, two new positions have been created and filled, but these have been funded from the Fish Plans new initiative vote.

In respect of the Observer issues, the Ministry comments as follows:

- Coverage achieved in levied fisheries in 2005/06 was 4,791 days against a plan of 5,675 days, an achievement of 84%. Coverage requirements in levied fisheries are primarily determined by research data requirements.
- Coverage achieved in fisheries where coverage is a permit requirement (e.g. CCAMLR), or is industry requested (e.g. VSCF), was 572 days against a plan of 1,965 days, an achievement of 29%. Coverage achieved in “permit fisheries” is a function of commercial fishing activity in these fisheries.
- The “levied fisheries” coverage planned in 2006/07 is 6,481 days with the current forecasted full year coverage being 5,609 days, equating to 87% of plan.
- The “permit fisheries” coverage planned in 2006/07 is 1,154 days with the current forecasted full year coverage being 1,080 days, equating to 94% of plan.
- The Ministry’s Observer Services team continues to develop the observer recruitment, selection and training and development programmes to ensure the capacity and capability to achieve coverage plans. This includes 2 observer intakes per year, typically in May and October.

Development of fisheries standards has taken longer than was originally planned. This is not unexpected given the critical role that standards play in the new objectives-based approach to fisheries management and the intense interest by stakeholders. The level of stakeholder interest is shown by the fact that the Ministry has received a number of requests to extend the consultation period on the draft Harvest Strategy Standard. In response to these requests the Ministry has recently further extended the consultation period. Key standards are scheduled to be available to guide development of fisheries plans in the second half of the 2007 calendar year.

For the Ministry to deliver on its obligations the organisation must be robust, efficient and continually improving. In the past 3 years the Ministry has invested in increasing its capability and in the development of core infrastructure systems. These are necessary to meet government standards and to provide the basis for improved stakeholder services.

Recommendation

The Ministry of Fisheries recommends that you:

- (a) **note** the views of SeaFIC that there is little justification for any increase in funding to Vote Fisheries; and
- (b) **note** the responses from the Ministry.

Issue 12 – Fisheries compliance – maritime patrol team

Output Class	Fisheries enforcement
Output	All compliance outputs
Proposed services page no.	32
Page and paragraph number from stakeholder submission	SeaFIC pages 4 – 5; paras 20 – 27 Te Ohu: page4; paras 19 – 23 DWG: pages 4 – 5; paras 19 - 30

Submission Details

SeaFIC comment

20 Our concern with the Project Protector initiative is it effectively stems from the Government’s decision to develop a new role for the Navy and purchase a fleet of seven vessels. The initiative does not arise from an in-depth review of the needs for an at-sea compliance function for the Ministry or the alternative options to achieve that objective.

21 The costs to operate the initiative are excessive. The proposal includes provision for one manager, one planner, three analysts, one trainer and one prosecutor in addition to 15 at-sea fisheries officers. In other words, 7 of the extra staff that will be employed will be contributing to the overheads that will be charged to the taxpayer and to the industry. We believe that the land based support staff should be significantly reduced. There is no case for a prosecutor (such staff are not normally attached to the compliance group in any event) or for a planner (given that a manager is to be engaged). The number of analysts is excessive (given that it is uncertain as to how much and of what form any information is to be collected). Any analysis should come from within existing staffing.

22 At an estimated cost of \$3.6 million for coverage of 1,013 sea-days (a significant amount of which will be dead time sailing to or between fishing grounds or intercepts), the daily cost of \$3,600 compares unfavourably to the current daily cost of \$525 for an observer who currently provides the same compliance deterrent but without the powers of the compliance officers. We note that there will be no reduction in observer services as a result of this initiative.

23 This initiative has been in development for a number of years. Despite industry requests for greater information, the Ministry has not consulted industry on the proposal scope, intentions or resourcing implications of the initiative. Furthermore, we understood from the discussions that no charges would be levied on industry for this project.

24 We are dubious that new sea-going staff will be able to be recruited (as is the case with observer services). We also have concerns that observer staff currently employed will transfer to the new compliance role leaving the observer activity even more under-resourced than present.

25 We are concerned that the Ministry has not attempted to estimate the level of commercial non-compliance that currently exists in New Zealand fisheries and estimate the impact this initiative would have on reducing that non-compliance. The Ministry does not have an effective programme of communicating compliance issues to the industry to enable industry to address the problems itself. At present, we are unable to understand how the

Ministry can objectively say there is a compliance issue in the industry. In our view the chances of the patrol boats detecting any additional non-compliant activity is limited.

26 We believe that the incursions into the Economic Zone of non-NZ flagged vessels and the policing of international waters can be carried out by the Navy, rather than requiring Ministry compliance staff to take an active or primary role. We support the contribution of the initiative to eliminate poaching and illegal fishing but again consider that existing Ministry resources could be better deployed to achieve that objective without the need for Project Protector.

27 We do not support the initiative as currently promoted by the Ministry. We consider that better value could be achieved through a combination of:

- deploying further observers and reviewing their role and powers;
- continuing to use the Navy to undertake compliance activities as is the current situation; and
- if the Ministry's assessment is that the patrol boats provide better compliance opportunities, then it should reduce other less effective compliance programmes so as to manage the new activity within its existing budget.

Te Ohu comment

19 Te Ohu was told by Ministry officials on the Paua Compliance Working Group that the costs associated with the new Project Protector vessels would be met by the Crown. We are now told that industry is expected to contribute 50% or \$1.8m of the operating costs of Project Protector.

20 The justification provided for this project is that not all risks of fisheries sustainability can be monitored from land or from minor sea patrol capability. The specific fisheries risks that are to be addressed as part of this initiative relate to dumping, area misreporting and misreporting generally, incursion into the EZ of non-NZ flagged vessels, and obligations in international waters.

21 In total there are 3 paragraphs provided to justify an overall budget of \$3.6m, of which \$1.8m is to be recovered from Industry. There is absolutely no rationale provided to show how or why the costs are to be apportioned on a 50/50 basis between the Crown and Industry. Nor is there any detail on how the Industry costs will be apportioned amongst the various fisheries. It's interesting to note that the specific fisheries risks referred to above will not apply to all stocks. For example, inshore fisheries like Paua, Rock Lobster, Cockle, Seaweed, and Surf Clam fisheries. Therefore any costs should not be attributed to these stocks.

22 Moving beyond the next year or two there is also the question of whether the Ministry expects the industry to provide ongoing funding for Project Protector. What will happen in situations where it can be shown the risks are very low for any particular fishery?

23 Te Ohu strongly rejects this project in its current form. We do however encourage more dialogue between the Ministry and industry on this matter to resolve the cost recovery implications.

DWG comment

19 This is a proposal by the Ministry to provide a patrol team to utilise the new Project Protector vessels. The cost is given as \$3,636 in 2007/08 and the fishing industry is to be levied an estimated \$1.818 million to pay for this 'Kiwi Coast Guard' personnel.

20 This genesis of this "additional service" was the appearance of Project Protector - a "new initiative" in January 2006. Project Protector was briefly mentioned in the 2006 Statement of Intent's "context" document. The objective of that project was to deliver over the next three years a range of inshore and offshore patrol vessels. The proposal was not fleshed out and industry submissions requested that the Ministry spell out what exactly the project entailed and how much of the cost of the project would be borne by the Ministry in relation to other departments (such as Customs).

21 We did not receive any response (formal or otherwise) to the request. Next information we (and everyone else in NZ) received about Project Protector was a press release last year about acquisition of these vessels.

22 The SOI is now proposing as a new initiative "to provide a patrol team to utilise these new vessels, together with support staff to "manage the volume of data and intelligence generated, in order to ensure greater compliance with fisheries legislation".

23 This initiative purports to "address fisheries risks such as dumping, area misreporting and misreporting generally, incursion into the EEZ of non-NZ flagged vessels, and obligations in international waters." The Ministry has also said that "the at sea patrolling capability will change in fishermen's behaviour which will lead to increase in sustainability of fisheries with increases in access and value obtained by all users."

24 However, we submit that this initiative is not based any review what if any sea going compliance functions are needed by the Ministry. In our view, stripped of the mixture of high minded (and patronizing) sentiments, it would appear that the reality is that the Royal New Zealand Navy has acquired these vessels and now the Ministry feels compelled that it must come up with a "absolutely must be done by us" workload in order to justify their acquisition.

25 While the consultation document does not have any indications about the number of this maritime patrol team, (which is totally in line with the overall paucity of information about this project), we understand that it would be 22 FTEs comprising fifteen fisheries officers, three analyst, one manager, one planner, one trainer and one full time prosecutor (i.e. maritime patrol is a misnomer as 31.8% of the new staff fall into land based "overheads" category). It of course would be too much to expect that these additional FTEs would be offset by a corresponding decrease in the existing land based compliance team.

26 We submit that the consultation on this initiative did not provide adequate information to enable the consulted parties to make intelligent and useful responses and therefore fails the test set in the leading case on consultation²;

27 DWG expresses its strong opposition to industry funding this expansion of the Ministry capacity. We submit that, should there be a justifiable need for a squadron of sea-

² *Wellington International Airport Ltd v. Air NZ*, Court of Appeal [1993] 1 NZLR 671.

going “policemen”, which need has by no mean been demonstrated, it must be fully Crown funded.

28 Alternatively, subject to the need actually being demonstrated, we submit that Fisheries related component of the “Protector” programme should be available for open tender and fully contestable.” (This is not unique, “civilian” vessels and crews undertake this role in the Falklands, Japan and elsewhere).

29 However, should the Ministry find the suggestion of a civilian compliance regime totally abhorrent, we remind the Ministry that since officers of the Royal New Zealand Navy are vested in the role of Fishery officers (by statute), there is no need for additional seagoing staff.

30 DWG does not support this proposal.

Ministry of Fisheries analysis

Significant gaps in maritime patrol capability, including fisheries, have been the subject of substantial work in the past 5-6 years. This is clearly outlined in the publicly available, widely discussed and circulated, Maritime Patrol Review Report, which was co-ordinated by the Department of the Prime Minister and Cabinet. Decisions relating to the acquisition of the new maritime patrol capability clearly articulated that fisheries resource protection was one of the key roles for the vessels.

The 3 paragraphs in the 2007/08 draft Statement of Intent is a highly summarised version of the substantial amount of work that has been undertaken in the past 5 years to assess fisheries compliance history and the potential deterrent value of regular patrols. The Ministry resource planning has progressively evolved over time leading up to the proposals for Project Projector funding for the 2007/08 financial year.

Vote Defence is funding the acquisition and operating costs of the 7 new vessels while the Ministry’s funding proposal relates to the costs that support the 7 new vessels undertaking specific fisheries patrols. The proportion of costs to be recovered from industry reflects the assessment of need in respect of different fisheries – both inshore and deep water. While fisheries patrol planning includes assumptions that some patrol work will be conducted without the need for fishery officers on board at all times there will be continual re-assessment of compliance risk, and patrol activity to optimise patrol effectiveness and efficiency.

Land-based staff are not considered overheads, but essential fisheries compliance staff who provide for more effective targeting of land and sea patrols. Land patrols by fishery officers complement sea patrols and any reduction of complementary compliance programmes would diminish overall compliance effectiveness. Fisheries prosecutors are currently attached to compliance groups throughout New Zealand.

Achieving high levels of compliance requires an integrated package of measures and observers form part of this package. Fishery observers and fishery officers have significantly different roles, functions, powers and skills and cannot be compared. In the past, industry has been at pains to ensure that fishery observers whose primary role is to collect scientific

information, do not carry out enforcement functions, to the point that this has been enshrined in legislation. Fishery observers have no powers to take any action when non compliant behaviour is observed other than to record their observations. To do otherwise would create unnecessary tensions, conflict and potential health and safety issues for observers on board fishing vessels.

The Ministry does not anticipate any significant recruitment problems. Interest from observers and other compliance enforcement agencies towards fisheries compliance work has existed for many years.

The Ministry has some difficulty effectively communicating commercial non-compliance issues with the industry. There have been attempts in the past to communicate with industry on non compliance issues which have resulted in a mixed success. At times, there are security and *sub judice* issues associated with investigations and prosecutions of serious offending. The Ministry is conscious of the need to find the means of providing improved information on compliance levels and the impacts on fishery sustainability.

No decisions have yet been made in respect of this proposal and industry comments will be given genuine consideration before any final decision is made.

Recommendation

The Ministry of Fisheries recommends that you:

- (a) **note** the strong opposition from SeaFIC, Te Ohu and DWG to the Project Protector initiative; and
- (b) **note** the response from the Ministry.

Issue 13 – Environmental certification of fisheries

Output Class	Fisheries policy advice
Output	New Zealand fisheries policy advice provided
Proposed services page no.	32 - 33
Page and paragraph number from stakeholder submission	SeaFIC: page 6; paras 34 – 39 DWG: page5; paras 31 - 34

Submission Details

SeaFIC comment

34 SeaFIC does not accept that expenditure of \$1.3 million for MSC certification at this time and as envisaged by the Ministry, will provide real benefits.

35 The certification systems are still in their formative stages and are undergoing development. New players are entering or contemplating entering the market. There is significant disquiet and concern over the lack of consistency of certification standards and the delays incurred from environmental challenges. It is far too soon for the Government to commit to this programme.

36 Certification involves having a number of components being assessed – the fisheries stocks, the environmental impacts and the fisheries management regime. The funding that has been sought will only meet the cost of having the general fisheries management framework certified. It will not of itself result in any fisheries being certified. Consequently, we cannot help but view the initiative as the Ministry seeking approval of its fisheries management regime rather than making a concerted effort to add value to New Zealand seafood exports.

37 Based on industry's involvement in these matters, we believe that the \$1.3 million budget sought for the project is highly excessive. We would expect the actual costs to achieve a certification of the fisheries management regime to be a fraction of the project bid value.

38 We note that the initiative will have very limited value if not accompanied by additional funding in future years to meet the costs of specific fisheries being certified. The initiative as stated in the SOI does not include that additional funding need, estimated to be \$1 million per year with a matching industry component for the certification of 4 fish-stocks per annum.

39 Certification is in essence an industry issue and there has been no consultation with industry on this initiative. Industry has an active programme relating to certification currently underway. That programme is aimed at introducing more certainty and standardisation into the process and, until those objectives are achieved, industry could not support the Ministry's initiative.

DWG comment

31 The consultation documents simply states that the Ministry “will seek an assessment of its management regime, then contribute to the certification of fisheries using an approved fisheries plan approach”. The proposed cost of this service is \$1.3 million.

32 While DWG would welcome the Government providing an attestation that New Zealand fisheries are sustainable (akin to its public endorsement of farming), this is insufficient information to ascertain the merits of this proposal.

33 For example, there is no indication whether this initiative will have any connection to the Government’s “Environmental Choice NZ ecolabel” and the establishment of a database of reliable ecolabel and standards verification schemes.

34 We therefore have to reserve our judgment. However, as presented in the consultation materials, at first glance the proposal looks very much like the Ministry seeking endorsement of its fisheries management at a rather excessive cost.

Ministry of Fisheries analysis

The quantum of funding sought is based partly on anecdotal values of previous tenders for assessments, and the estimated amount of Ministry time/support needed. The Ministry would welcome the industry providing it with information to support its view that the work would cost less than estimated. The Ministry hopes to obtain savings through negotiations so that the full sum would not be expended.

The initiative focuses on MSC certification, as the only widely acknowledged certification of sustainable wild fisheries, in accordance with FAO guidelines. For some fisheries, other environmental certification schemes may be appropriate. It is important, however, that the certification body be seen as independent of industry or government bodies.

The Ministry agrees that the first stage of the initiative will have little value if it is not accompanied by a programme of certifications in following years. The proposal to have the fisheries management regime assessed first is intended primarily to achieve overall economies of scale in certifying New Zealand’s major fisheries, and to enable the Ministry to employ its resources efficiently in support of future certifications of particular fisheries.

SeaFIC submits that there has been no consultation with industry on this initiative and that the initiative is not supported at the present time. The Ministry notes that there has been consultation with industry leaders, originating from the Primary Industry Forum you chaired on 31 August 2006. The industry leaders consulted expressed support for a joint government-industry approach to environmental certification, as envisaged in this initiative.

If this initiative does not have the support of the wider industry, it should not proceed. However, the industry should note that would mean that the Ministry may not have sufficient resources available to support any future certifications industry undertakes.

Recommendation

The Ministry of Fisheries recommends that you:

- (a) **note** that SeaFIC and DWG are concerned that the environmental certification initiative is overpriced and, on the basis of current information, do not support it.

- (b) **note** that the Ministry considers that assessing the New Zealand fisheries management regime and certification of key fisheries would have real medium-long term benefits in terms of market access and returns, and that the environmental certification initiative is an excellent fit with the government theme of sustainable economic transformation.

Issue 14 – Additional fisheries research funding

Output Class	Fisheries information
Output	Utilisation and sustainability of New Zealand’s fisheries resources measured Biodiversity of New Zealand’s marine environment estimated
Proposed services page no.	33
Page and paragraph number from stakeholder submission	SeaFIC: pages 5 – 6; paras 28 – 33 Te Ohu: page 4; paras 24 – 25 DWG: pages 5 – 6; paras 35 - 38

Submission Details

SeaFIC comment

28 The justification for extra funding for additional fisheries research is poor.

29 We were informed by the Science Manager for the Ministry that the extra \$6 million of funding that has been sought (of which approximately \$3.9 million will be extracted from industry) is to assist to catch up in real terms with the level of funding in 1991/92. In that regard, we note that the growth in the research budget in recent years has been in research management and corporate overheads rather than purchasing actual research. We would also point out that, in 2006/07, the Ministry chose to transfer \$1 million of its research budget to support the development of standards and fisheries plans. We did not support that transfer.

30 The new funding in 2007/08, however, will be directed at Tier 2 projects listed in the Statement of Intent. These are described as being of “lower priority” and are characterised by a myriad of small inconsequential projects plus one very large biomass assessment of Snapper which is considered to have fundamental problems that will limit the integrity and value of the project. Many of the Tier 2 projects were in fact Tier 2 projects in the previous year and represent a backlog of low priority research rather than a deferral of high priority research. Little thought has been given by the Ministry as to how the funding might be used in years beyond 2007/08.

31 The industry has become highly sceptical of the fisheries management value of research undertaken by the Ministry over the years. Vast amounts have been spent on stock assessment research for the more significant stocks in recent years without providing more than rough guesses as to biomasses.

32 Furthermore, SeaFIC has significant doubts about the capacity of research providers to be able to conduct the extra research. This problem has significantly affected the research programme in recent years and NIWA, the main supplier, has not geared up for any increase in demand. SeaFIC fears that in the short term staff resources already assigned to existing projects will be re-scheduled to work on these lesser priority projects.

33 SeaFIC opposes any extra funding for research services for 2007/08 or subsequent years. There should be a reprioritisation of existing funding to ensure that research that is of high priority is completed and a reduction of overheads to fund any additional projects that are needed.

Te Ohu comment

24 Te Ohu does not support the Ministry increasing industry research costs as no detailed information is provided as to:

- What the additional research is and for?
- Why it is necessary?
- Does the value and size of the fisheries concerned justify that research?

25 We do however support the Crown contribution increasing so that more information can be collected on the level of non commercial catches. For many years now Te Ohu and Industry have voiced our concerns about the lack of such information

DWG comment

35 This initiative seeks additional \$6 million (with \$3.9 to be cost recovered from industry) to increase research information, which will then (allegedly) “provide for better, more informed fisheries management decision making to underpin strategies designed to extract close to the maximum sustainable yield from fisheries where appropriate, and will thus capture the economic benefits of fishing with greater certainty and at less risk”.

36 These are rather lofty sentiments but in our view the research that would be enabled by these additional funds would not live up to them.

37 This funding would be directed at the large number of “perennial bridesmaids”, i.e. low priority Tier Two projects that keep being proposed and then deferred. There is no indication which of these competing Tier Two project would be selected nor how would they actually contribute towards effective fisheries management.

38 DWG does not support this initiative.

Ministry of Fisheries analysis

Funding for fisheries research (not including biodiversity research) has declined from \$22 million in 1991–92 to \$17.3 million in 2005–06. Using the Reserve Bank CPI Inflation Calculator, \$22 million 1991–92 dollars is almost \$30 million 2006 dollars. This means that, in real terms, the budget for fisheries research is now 58% of what it was 14 years ago.

While the buying power of the fisheries research budget has been declining, demands for research have more than doubled. The QMS now covers 94 species and 619 fishstocks compared with 31 species and 183 fishstocks in 1991–92 (a 3.0-fold increase in the number of species and a 3.4-fold increase in the number of fishstocks). Also, public and international concern about the environmental effects of fishing has increased, especially regarding the bycatch of seabirds and marine mammals, ecosystem considerations, and impacts of fishing on benthic habitats. New Zealand’s international research obligations have also increased as New Zealand vessels have expanded their activities and the New Zealand government has signed into new international agreements.

Thus, it is becoming increasingly difficult each year to provide the information required by fisheries managers and the Minister. As a consequence, managers are required to formulate advice based on sub-optimal information.

The number of new research projects that can currently be funded in the 2007/08 financial year is 83 (spread over dozens of commercial and recreational fish stocks and environmental projects). The number of projects that had to be deferred is 36. The estimated 2007/08 cost for the 36 deferred projects is \$5.43 million. However, the estimate of \$5.43 million for funding deferred projects in 2007/08 does not account for the fact that several projects have been scaled back or have had several sub-objectives forcibly delayed into future years. This amounts to an additional \$1.46 million of funding initially estimated as being required for 2007/08, giving a total shortfall of \$6.89 million. For the current (2006-07) financial year, the estimated shortfall was \$7.2 million.

Contrary to statements made in the submissions, these are not “low priority Tier 2 projects”. As the submitters know, the Ministry oversees a lengthy consultation process for research planning each year involving all interested parties. There are at least 12 full-day Research Planning Group meetings, with opportunities for oral input. This is followed by a 2-day Research Coordinating Committee (RCC) meeting where all surviving projects are re-evaluated and re-prioritised. Shortly after that meeting formally written submissions are invited from stakeholders to which the Ministry provides formal written responses. The current submission is the fourth opportunity for input.

Participants provide input to prioritisation levels (Low, Medium and High) and assist in refining project objectives. Projects designated as low priority are dropped early in this process, at the stage of the Research Planning Group meetings. Low priority projects rarely, if ever, make it through to the RCC. The Tier 1/Tier 2 designation is not made until about early December when the Ministry conducts a budget forecast to estimate the \$ amount already committed for existing projects that will continue into the upcoming financial year. This determines the amount available for new projects.

For the 2007/08 year, 36 projects had to be designated as Tier 2, due to lack of funding. Of these, 23 were designated by the RCC to be High priority, and 13 to be Medium priority. They include some small projects and several large ones. One of the large ones is a tagging project for SNA 1. This has been shown to provide a reliable absolute estimate of snapper biomass. The snapper Medium Term Research Plan calls for tagging studies to be conducted once every 5 years. It has been 12 years since the last tagging study (i.e. the project has been deferred for seven consecutive years) due to its high cost which has been impossible to fit into a shrinking budget. Another large project is the 2007 survey of hoki in Cook Strait which we have major reservations about deferring due to the current depressed status of hoki and the fact that the two most recent estimates from this survey have been the lowest on record.

The other 34 projects are a mixture of deepwater, snapper, middle depths, pelagic, inshore, shellfish, non-commercial and environmental projects that are all supported by the Ministry scientists and managers as being required services to inform management decisions.

If additional funds are received, they will be used to fund Tier 2 projects. However, the process for determining which projects get funded will depend on the amount received, timing considerations, and research provider capacity. The increase in funding has been requested as

a multi-year bid, because we have an ongoing chronic problem of being required to drop high priority research projects due to a lack of research funds.

Recommendation

The Ministry of Fisheries recommends that you:

- (a) **note** the lack of support from SeaFIC, Te Ohu and DWG for this initiative; and
- (b) **note** the response from the Ministry.

Issue 15 – Shared fisheries

Output Class	Fisheries policy
Output	New Zealand fisheries policy advice provided
Proposed services page no.	34
Page and paragraph number from stakeholder submission	SeaFIC; pages 6 – 7; paras 40 - 44

Submission Details

SeaFIC comment

40 The Ministry has commented that it is using the highly political shared fisheries agenda to provide an umbrella for other initiatives – some of which the Ministry has failed to receive funding for in the past. These include:

- developing and implementing a valuation methodology for allocating available fish catch between sectors (in essence a bid for additional research funding),
- undertaking additional research on recreational catch (yet another bid for additional research funding)
- establishing an Amateur Fishing Trust (the need and role for which has not been detailed); and
- providing for a review of baseline allocations..

41 The bid buys into, without any justification or analysis, the myth that existing allowances are unfair. It reinforces our concern that the government intends to unilaterally reallocate fisheries on the basis of value. And it pre-empts the establishment of an amateur fishing trust. We note the reference to endowment funding in relation to the trust. This suggests a far greater degree of pre-determination than has been disclosed to us.

42 We note with concern that, while the bid seems to cement in some elements of the government’s package, there is no provision for compensation.

43 We note also, with surprise, the request for extra funding for research of amateur catch under the “Shared fisheries” bid. In SeaFIC’s view this research should have the highest priority and should not be tacked on to the new initiative bids. It should not be dependent on the whole shared fisheries package being adopted. We have been told that the Ministry also considers such research to be very important yet no new research will be initiated until 2008/09. Research on recreational catch should be funded by a re-prioritisation of the existing research programme.

44 We are opposed to the funding being sought by the Ministry and are astounded that the bid has been made given that the public is still being consulted on the Ministry’s Shared Fisheries project. There is no certainty that any elements of the government’s package will be supported by the public or by Parliament. We acknowledge the urgent need for information on the recreational catch but believe that should be achieved by a proper prioritisation of the research budget.

Ministry of Fisheries analysis

The Ministry refutes the SeaFIC comment (para 40 above) that it is using the Shared Fisheries proposals to provide an umbrella for other initiatives that have not received funding in the past. The examples listed are elements of the Shared Fisheries policy proposals that would require funding from 2007/08 if the government decides to proceed with them.

The annual nature of the budget process is not a good fit with the projected timing of decisions on the Shared Fisheries proposals (July 2007). The Shared Fisheries new initiative bid notes that Ministers have not yet made decisions on the proposed policy, and does not preempt what those decisions might be. If Ministers decide to proceed with changes following from the Shared Fisheries proposals but this new initiative bid is unsuccessful, implementation would likely need to be delayed until 2008-09 or difficult reprioritisation decisions would be necessary.

The proposal to consider adjustments to baselines acknowledges issues that some stakeholders have with some current allocations. If this proposal is approved by Government, the process would involve an examination of some current allocations. The outcome would only be determined through that process.

No funding was sought for “compensation” (redress) in 2007-08 because the Ministry currently has no basis to anticipate the magnitude of any re-allocation or the redress that might be considered in such cases. The bid assumes that, if re-allocation does occur, it will be in financial years after 2007-08. Accordingly, it is assumed that the focus of any work on this matter in 2007-08 would be to establish the process for any consideration of current allocations only.

We acknowledge SeaFIC’s support for extra funding for research on amateur catch. The Ministry also considers this to be a high priority, and considers that such research is not necessarily dependent on all the shared fisheries proposals being adopted. We also note that there is a continuing research effort under current funding, whereas the bid proposes an increase in funding in this area.

Recommendation

The Ministry of Fisheries recommends that you:

- (a) **note** that SeaFIC opposes the Shared Fisheries new initiative bid and is concerned it suggests pre-determination of Ministers’ decisions; and
- (b) **note** that, if the new initiative bid is unsuccessful but Ministers decide to proceed with changes to shared fisheries policy, difficult reprioritisation decisions would be needed or implementation would need to be delayed until 2008/09.

Issue 16 – Support for aquaculture

Output Class	Fisheries policy
Output	New Zealand fisheries policy advice provided
Proposed services page no.	34
Page and paragraph number from stakeholder submission	SeaFIC: pages 45; paras 45 - 46

Submission Details

SeaFIC comment

45 The Government has already made significant resources available to encourage aquaculture development. There are already programmes within the Ministry of Economic Development and Ministry for the Environment trying to foster aquaculture. In our view these programmes are unlikely to achieve much. We believe that there are significant problems arising from the legislation and the implementation option chosen by Government that have deterred any further investment in aquaculture. Until those problems are confronted and addressed, initiatives such as the one proposed have little prospect of success and little merit.

46 SeaFIC seeks the deletion of this programme.

Ministry of Fisheries analysis

This initiative seeks to provide the Ministry with the resources needed to support the Government's response to the Aquaculture Strategy, including the programmes led by other government agencies. If the Ministry is resourced to contribute more fully to the group's work, in actively promoting the growth of aquaculture, this will improve the chances of more aquaculture development taking place and an increase in investment.

The Ministry notes that concerns have been expressed over implementation of the aquaculture legislation. The work programme under this initiative includes dedicated support for the identification and addressing of any barriers arising during the implementation.

Recommendation

The Ministry of Fisheries recommends that you:

- (a) **note** that SeaFIC considers that there are significant problems arising from the aquaculture legislation and that the existing aquaculture implementation programmes and the proposed initiative are of little merit; and
- (b) **note** that the Ministry considers that dedicated resources could facilitate the identification and establishment of further aquaculture development.

**Issue 17 – Transformation of reporting and recordkeeping framework
Inshore trawl catch effort form**

Output Class	Fisheries operations
Output	New Zealand fisheries utilisation and sustainability reported
Proposed services page no.	33 – 34; and 35
Page and paragraph number from stakeholder submission	SeaFIC: pages 7 – 8; para 47 Te Ohu: page 4; para 26

Submission Details

SeaFIC comment

47 We believe that both these initiatives have significant merit but should be implemented by re-prioritising the existing budgets and resources of the Ministry. While the Frameworks project may provide long term benefits, we cannot see why it cannot be commenced using resources currently employed by the Ministry. The costs associated with the Inshore Trawl Catch Effort Form relate to the operating costs of the new systems and are offset by savings in the operations of the forms to be replaced. We do not believe that the actual costs will be as high as estimated.

Te Ohu comment (related to reporting and recordkeeping)

26 Te Ohu is cautiously supportive of developing a new system that provides more efficient methods of collection, storage and dissemination leading to increased efficiency in processing information. We also support initiatives that result in reduced costs to stake holders and the Crown. We would suggest though that this project not be given a priority and that consultation takes place with stakeholders to define the reporting and data needs and the reporting and data capture systems to be implemented

Ministry of Fisheries analysis

The Ministry notes the submissions of SeaFIC and Te Ohu and notes the relative priority they give to these projects. The Ministry has developed a new initiative bid to fund these projects as we believe other work programmes already undertaken have higher priority than this work.

We note that the costs outlined in the bid have yet to be tested by the market and we agree with SeaFIC that the costs are likely to be lower. If this proves correct only the actual cost of delivery will be spent (and therefore recovered from the industry).

Recommendation

The Ministry of Fisheries recommends that you:

- (a) **note** the cautious support for these initiatives from SeaFIC and Te Ohu; and
- (b) **note** the response from the Ministry.

Issue 18 – East coast iwi customary management

Output Class	Fisheries policy
Output	New Zealand fisheries policy advice provided
Proposed services page no.	35
Page and paragraph number from stakeholder submission	SeaFIC: page 8; para 48

Submission Details

SeaFIC comment

48 While we are supportive of assistance to improve the management of customary fisheries, we were concerned to hear Ministry officials indicating that the scope of this project and the alternative outcomes might hold implications for commercial fishing and its management in the East Coast. We cannot support this initiative if its scope is wider than improving the scope of customary fishing but believe that, in any event, it should be funded from existing Ministry resources.

Ministry of Fisheries analysis

The Crown and two iwi on the east coast of the north island, te whanau a apanui and ngati porou, are engaged in negotiations relating to claims over the foreshore and seabed in that area. There is potential for similar negotiations to develop in other parts of the country. The Ministry of Fisheries is supporting the crown in identifying where territorial customary rights were likely to have existed prior to the passage of the foreshore and seabed act. In those areas where rights can be shown to have existed, in a manner consistent with the criteria set out in the foreshore and seabed act, the Ministry of Fisheries is working as part of a Crown team to develop policies and proposals to address the issues relating to the foreshore and seabed and fisheries that have been raised by the two iwi.

The negotiations schedule requires intensive effort and adequate resources to complete negotiations in a timely manner. Support to the Crown's foreshore and seabed negotiations is a new area of work for the Ministry of Fisheries and has required dedicated resources to assess issues raised by iwi and to begin developing policy and regulatory responses to support negotiations. To date, the resources dedicated to this work area are the bare minimum necessary to provide input by the Ministry into the foreshore and seabed negotiations. The demands on ministry resources will increase in the future as policy and regulatory responses are developed and implementation commences.

Recommendation

The Ministry of Fisheries recommends that you:

- (a) **note** that SeaFIC does not believe it can support this initiative if its scope is wider than improving the scope of customary fishing but believes that, in any event, it should be funded from existing Ministry resource; and
- (b) **note** that, if the new initiative bid is unsuccessful but Ministers decide to proceed with changes to shared fisheries policy, difficult reprioritisation decisions would be needed or implementation would need to be delayed until 2008/09.