

**ISSUES RAISED IN STAKEHOLDER SUBMISSIONS  
ON PROPOSED FISHERIES SERVICES AND  
MINISTRY OF FISHERIES ANALYSIS AND  
RECOMMENDATIONS**

## LIST OF ORGANISATIONS MAKING SUBMISSIONS ON THE DRAFT STATEMENT OF INTENT 2006/2011

Full name of organisation	Short version
The New Zealand Seafood Industry Council Ltd	SeaFIC
Te Ohui Kai Moana Trustee Ltd	Te Ohu
New Zealand Big Game Fishing Council	NZBGFC
Te Runanga o Ngati Awa	Ngati Awa
Te Kupenga Whiturauroa a Maui	Te Kupenga
Mahia Coastal Marine Representing: <ul style="list-style-type: none"> <li>- Rongomaiwahine Iwi Trust</li> <li>- Mahia Boating and Fishing Club</li> </ul>	MCM

**Note 1:** Te Ohu has stated that it is not in a position to comment on the nuts and bolts of expenditure under the item headings for the proposed fisheries services, but strongly endorses the SeaFIC submission regarding Proposed Fisheries Services for 2006/07. The comments from SeaFIC on the proposed fisheries services can therefore be taken as inclusive of the views of Te Ohu.

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## ISSUES RAISED AND MINISTRY RESPONSES

### Issue 1 – Financial performance indicators

<b>Output Class</b>	N/A
<b>Output</b>	N/A
<b>Proposed services page no.</b>	N/A
<b>Page and paragraph number from stakeholder submission</b>	SeaFIC: page 13, paras 64 - 67

#### Submission Details

##### SeaFIC comment

64. The published Statement of Intent for 2005/06 contains a general financial expectation for all outputs relating to the expected variance of actual expenditure from appropriated expenditure. This expected result is not contained in the draft Proposed Fisheries Services 2006/07 but SeaFIC believes that it needs to comment on that outcome.

65. In 2005/06, the Ministry used a general performance expectation that “*actual expenditure is within the range of 90% -110% of the budgeted amount*”. We note that this range has recently been amended from a 5% variance to a 10% variance.

66. Section 4(1) of the Public Finance Act 1989 provides that the Crown or an Office of Parliament must not incur expenses or capital expenditure except as expressly authorised by an appropriation, or other authority, by or under an Act of Parliament. Neither the Appropriation Act nor the Public Finance Act provides any authority for the Ministry to have a capability to generally exceed appropriations by 10%. While the cost recovery principles provide for the automatic recovery of over-expenditure up to 10% of the levied amount, those principles are exercised under the Fisheries Act and provide for unexpected events. The principles do not of themselves empower the Ministry to exceed its appropriations.

67. SeaFIC is of the opinion that the automatic recovery of up to 10% of approved budgets through the Unders and Overs principles has resulted in an institutionalisation of over-expenditure within the Ministry. There is no authority for the Ministry to generally exceed its appropriations. SeaFIC believes that the Ministry should amend its performance indicator to be in accordance with those of other Government organisations, namely, expenditure will not exceed the appropriated amount.

#### Ministry of Fisheries analysis

SeaFIC clearly does not understand the legislation related to appropriations. Parliamentary appropriations are set at the total Vote level and also at output expense level, but not by output.

The comment that the automatic recovery of up to 10% of approved budgets through the Unders and Overs principles has resulted in an institutionalisation of over-expenditure within

the Ministry simply does not bear any analysis. In fact, on no occasion since its establishment as a separate department in July 1995 has the Ministry overspent its total appropriation.

The reason for including the additional information on outputs is not related to the provisions of the Public Finance Act or the Appropriation Act. It is because the Ministry seeks a level of transparency in the information it provides to stakeholders and to fulfil its responsibilities to inform stakeholders of the amounts to be recovered from the commercial sector through the cost recovery provisions of the Fisheries Act.

### **Recommendation**

The Ministry of Fisheries recommends that you:

- (a) **note** the comments from submitters
- (b) **note** the Ministry's response.

## Issue 2 - Fisheries policy work programme

<b>Output Class</b>	Fisheries policy advice
<b>Output</b>	New Zealand fisheries policy advice
<b>Proposed services page no.</b>	7 and 8
<b>Page and paragraph number from stakeholder submission</b>	SeaFIC: page 13 paras 68 - 71

### Submission Details

#### SeaFIC comment

68. The first bullet point in the output explanation is “protecting the health of the aquatic environment”. SeaFIC notes that, while the Ministry may have the responsibility to protect the health of the aquatic environment, the Fisheries Act defines those activities which can be cost recovered. The Fisheries Act limits the recoverable research by the Ministry to avoiding, remedying or mitigating any adverse effects of fishing. This limitation may not permit the costs of all research to be undertaken by the Ministry under the theme of protecting the aquatic environment to be recoverable by levy.

69. SeaFIC is concerned at the lack of detail on major policy issues that are to be considered during the year. In particular, there is no reference to :

- a) Development of standards to improve governance and performance in all fisheries management activities including consultation;
- b) Timeframes for the marine protection planning forum process;
- c) Resolution of the allocations issues;
- d) Review of the cost recovery framework.

70. The above are all major initiatives highlighted by the Ministry as being critical to achieving its strategic objectives. We recognise that the Ministry has had problems in previous years achieving the deadlines it has set for policy initiatives. This cannot be used as a reason, however, to omit any reference to the unit’s business plan for the current year.

71. The seafood industry is the fifth largest export earner for New Zealand and employs over 26,000 people. It has potential for significant growth but this is contingent on extra investment. We submit that the investment that is needed will always be limited when potential investors are uncertain about the policy and cost environments in which they have to work. Priority should be placed by the Ministry on establishing transparent and certain policies and standards. We urge the Ministry to put resources in 2006/07 into resolving the issues set out in paragraph 69 above, and to specify in the work programme what will be undertaken and when.

### Ministry of Fisheries analysis

The final scope of the policy work programme for 2006/07 is contingent on decisions that are yet to be taken by the Minister and, because of the necessary engagement in marine sector development, is influenced by initiatives of other agencies. Nevertheless, a number of policy reforms which we think are important to undertake are listed in the front part of the SOI. This

has been done to provide information on of the nature and scope of a potential policy programme. The final policy work programme will be agreed between the Minister and the Chief Executive and amended as necessary during the year. Bearing the above in mind, the expected time frame for progressing the issues SeaFIC has identified above are:

#### *Standards development*

A suite of environmental and fisheries management standards are currently under development by fisheries operations to inform proof of concept fisheries plans for the southern blue whiting, Coromandel scallop and Foveaux Strait dredge oyster fisheries. Where possible these standards are generic and will apply across all fisheries. In some cases however standards specific to each of the proof of concept fisheries will be produced in the first instance.

The environmental standards currently under development relate to seabirds, sealions, seals, sharks, Hector's and Maui dolphins, non-QMS bycatch, MPA protection and benthic impacts. The seabird, seal, and sealion standards are scheduled for completion by June 2006, and the MPA protection and benthic impact standards by July 2006. These standards are all generic apart from the seabird standard which initially will only be produced for the southern blue whiting fishery as it is not relevant to either scallop or dredge oyster fisheries. Individual benthic impact standards will also be developed for each of the three proof of concept fisheries and they are due for completion in June 2006. Shark, Hector's and Maui dolphin and non-QMS bycatch standards will all be generic and are scheduled for completion by August 2006, September 2006 and October 2006 respectively.

Fisheries management standards currently under development relate to deemed value, governance and representation, purchase of services, service delivery, reporting, allocation, consultation, input and participation of tangata whenua, stock targets and risk analysis. All of these standards will be generic apart from stock targets which will deal only with stocks managed under section 13 of the Fisheries Act, 1996. This includes all of the three proof of concept fisheries. The deemed value, governance and representation, and reporting standards are scheduled for completion by May 2006; stock targets and purchase of services by June 2006; allocation, consultation and input and participation of tangata whenua by July 2006; service delivery by October 2006; and risk analysis by January 2007.

#### *Marine protection planning forum*

The Marine Protected Area Policy has a four-stage approach to implementation following the approval by Cabinet of the MPSA Policy and Implementation Plan. The focus of work to be carried out this year is on stage one. This is to develop the approach to classification, formulate a standard of protection, and map existing management mechanisms. The Minister of Fisheries and Minister of Conservation will be asked to make decisions on classification and protection standards in June this year. Some initial engagement with stakeholders and information collection is underway for the West Coast South Island, Auckland/Hauraki Gulf, and the Sub Antarctic Islands.

#### *Resolution of the allocations issues*

The Ministry welcomes the support shown by stakeholders for the shared fisheries initiative. We are currently seeking stakeholder views on the key challenges and issues that need to be addressed and suggestions for workable options to address these issues. Details of the intended process have already been provided to stakeholder groups. Key steps include the release of a public discussion document on options (expected in July this year) which will

initiate a four-month submission period. Government decisions on final policy are expected in June 2007, and if required, legislative change enacted in 2008. This is the planned process, but final timeframes will be contingent on decisions by government.

*Review of the cost recovery framework*

The Ministry had intended to initiate a review of the cost recovery framework in 05/06. This was delayed for reasons including the need for decisions to be made about the scope of the review. We expect decisions to enable the review to proceed to be made in the near future.

**Recommendation**

The Ministry of Fisheries recommends that you:

- (a) **note** the issues SeaFIC suggest are important and need to be progressed through the Ministry's work programme
- (b) **note** the Ministry's response.

### Issue 3 - Consultation and information dissemination processes

<b>Output Class</b>	Fisheries policy advice
<b>Output</b>	New Zealand fisheries policy advice
<b>Proposed services page no.</b>	N/A
<b>Page and paragraph number from stakeholder submission</b>	NZBGFC: page 1 paras 3 - 4

#### Submission Details

##### NZBGFC comment

3 Through our involvement with the Hokianga Accord and regional recreational forums our representatives are engaging with the tangata whenua, other recreational fishers and the Ministry. Our submission to the draft plan for fisheries services is that MFish need to make resources available for well funded and staffed consultation and information dissemination processes with non-commercial fishers during 2006/07. These resources are critical to delivering good process for the shared fisheries project that is underway and to allow for informed contributions from the public on a wide range of other issues.

4 For example, the marine protected areas strategy encourages stakeholders to explore the available options. As the agency responsible for giving effect to the implementation of mataitai and taiapure it is the Ministry's responsibility to engage with the public and increase awareness of how these tools work. Research into current public understanding of these and other marine protection tools is an essential first step in achieving good processes and outcomes for the MPA strategy. NZBGF agrees with option4 and the Hokianga Accord that improved public awareness is necessary for these tools to be used successfully.

#### Ministry of Fisheries analysis

The Ministry is encouraged by the work that NZBGFC and others are doing to strengthen relationships with other stakeholders and tangata whenua. In board terms we agree that the Ministry needs to improve its communication and information dissemination to all stakeholders including non-commercial fishers. One major initiative in this area is an extensive redevelopment of the Ministry external website. The focus of this redevelopment is to provide access to information that can help build stakeholder and tangata whenua understanding and participation in fisheries management. It will include key information about the role and operation of the Ministry; essential facts and figures about New Zealand and international fisheries; descriptions of the different sectors and how they operate; the rules and regulations applying to New Zealand's fisheries; information about the status of our fisheries, and regularly updated information on key projects being undertaken by the Ministry. We expect the new website and interface to be launched in May 2006 with improvements and content added subsequently. During 2006/07 we intend to add functionality to enable stakeholders to engage in the Ministry's activities and projects interactively through the website, by for example being able to directly submit material or view Q & A forums.

In terms of the 'shared fisheries project' the intended process to promote informed contributions during the initial consultation stage include: posting the public discussion document on the Ministry website; emailing (or hard copying) the paper to a wide stakeholder list; presenting the paper options at regional recreational forums, iwi forums and at the

national level; and requesting comment from the Recreational Fishers Ministerial Advisory Group.

The Ministry's primary focus of engagement on the use of mātaítai, taiapure and the customary regulations is with tangata whenua. While it is important that stakeholders and the public understand these mechanisms, it is most important that tangata whenua are provided with information on how to use these tools first. The purpose of mātaítai reserves is to provide for customary fishing use and management practices. The purpose of taiapure is to better recognise iwi management rights over areas important for spiritual needs or customary food gathering. Neither can be proposed primarily for biodiversity protection. Nevertheless, sustainable utilisation of fisheries resources and protection of marine biodiversity are not mutually exclusive. If tangata whenua so wish, it is possible that these tools could be applied in such a way that they can contribute to the MPA network. As with any potential MPA, the management measures in the taiapure or mātaítai reserve would need to meet the protection standard in order to be recognised as part of the network.

## **Recommendation**

The Ministry of Fisheries recommends that you:

- (a) **note** the NZBGFC views about the importance of resourcing engagement and communication with the non-commercial sector, and the need to inform stakeholders about customary management tools.
- (b) **note** the Ministry's response.

#### Issue 4 – Extent of Ministry functions

<b>Output Class</b>	Fisheries policy advice
<b>Output</b>	International fisheries policy advice
<b>Proposed services page no.</b>	9
<b>Page and paragraph number from stakeholder submission</b>	SeaFIC: page 14, para 72

#### Submission Details

##### SeaFIC comment

72. The reference to the Ministry’s participation in multi-lateral trade negotiations is surprising since the Ministry has no need to be involved in such negotiations and its involvement would represent an extension to the function of the Ministry. SeaFIC is concerned if the extension of the Ministry’s interests is at the expense of the Ministry concentrating its resources on the primary aims of utilisation and sustainability.

#### Ministry of Fisheries analysis

The Ministry’s involvement in multi-lateral trade negotiations is in support of work led by the Ministry of Foreign Affairs and Trade, and is related to negotiations where outcomes in support of the Ministry’s objective of securing the maximum value from New Zealand’s fisheries resources. Examples of such involvement include negotiations at the World Trade Organisation on disciplining fisheries subsidies (an objective SeaFIC has expressed strong support for in the past) and in Free Trade Agreements where New Zealand has strong offensive interests in the fisheries sector.

Ministry involvement in these negotiations provides the technical fisheries input required to maximise the potential to realise economic benefits to the New Zealand fishing sector, and in turn increase the value New Zealander’s obtain from their fishing resources. Ministry participation is not cost recovered from the fishing industry, and travel associated with these negotiations is funded from an inter-Governmental funding pool for activities in support of trade related negotiations.

#### Recommendation

The Ministry of Fisheries recommends that you:

- a) **note** the comments from the submitters; and
- b) **note** that the Ministry continues to participate in multi-lateral trade negotiations where outcomes are likely to realise economic benefits to the New Zealand fishing sector, and in turn increase the value New Zealander’s obtain from their fishing resources.

## Issue 5 – Reduction in the research programme

<b>Output Class</b>	Fisheries information
<b>Output</b>	Utilisation and sustainability of new Zealand's fisheries resources measured
<b>Proposed services page no.</b>	14 - 15
<b>Page and paragraph number from stakeholder submission</b>	SeaFIC: page 14, para 73

### Submission Details

#### SeaFIC comment

73. The cost of this output is \$22.222 million, of which \$14.666 million (that is 66%) is to be recovered from industry. SeaFIC notes the reduction in research costs to be levied on the industry for 2006/07. However, this has not reinstated the expenditure back to the levels that applied before the settlement of the historical Unders and Overs issue. Research expenditure was temporarily increased in 2002/03 to use some of the settlement credits available to fish-stocks. With those settlement credits largely exhausted and research being funded by fish-stock levies, retention of the research programme at the higher level puts an additional financial strain on the fishing industry. The programme should be reduced to its former levels.

#### Ministry of Fisheries analysis

The SeaFIC assertion that 'research expenditure was temporarily increased in 2002/03 to use some of the settlement credits available to fish-stocks' is not correct.

The 2002 Budget provided a permanent increase of \$5 million to Vote: Fisheries for fisheries research in order to meet the environmental and information obligations of the Fisheries Act 1996.

This information was included in the Ministry of Fisheries draft 2002 – 2005 Business plan consultation document issued in February 2002.

#### Recommendation

The Ministry of Fisheries recommends that you:

- a) **note** the comments from the submitters
- b) **note** the response from the Ministry.

## Issue 6 – Ministry overheads on research programme

<b>Output Class</b>	Fisheries information
<b>Output</b>	Utilisation and sustainability of New Zealand's fisheries resources measured
<b>Proposed services page no.</b>	14 – 15
<b>Page and paragraph number from stakeholder submission</b>	SeaFIC: page 15, para 74

### Submission Details

#### SeaFIC comment

74. We believe that there has been an unacceptable increase in the level of Ministry overhead being allocated to the research activity. The following table details the movements in recent years:

<b>MINISTRY OVERHEADS ON RESEARCH PROGRAMME</b>				
<b>Year</b>	<b>Direct Costs \$m</b>	<b>Total costs \$m</b>	<b>Overheads \$m</b>	<b>Overheads %age of direct</b>
2002/03	19.78	21.62	1.84	9.30
2003/04	19.35	21.82	2.47	12.77
2004/05	18.70	22.89	4.19	22.42
2005/06	18.99	23.41	4.42	23.30
2006/07	17.27	22.22	4.95	28.66

### Ministry of Fisheries analysis

The SeaFIC table does not convey the complete picture. Extracting the direct costs of research and then including all other costs as overheads ignores the fact that a large proportion of the additional costs are directly related to the running of the research programme. As the following table shows, corporate overheads represent a relatively small percentage of the total costs. All figures are in \$million.

<b>Year</b>	<b>Direct research costs</b>	<b>Specific support costs*</b>	<b>Corporate overheads</b>	<b>Total costs</b>	<b>Corporate overheads as % of total costs</b>
2006/07	17.27	4.476	0.479	4.955	10

<b>Cost centre</b>	<b>Direct support</b>	<b>NIWA data management</b>	<b>Direct business support costs</b>	<b>Total</b>
Fisheries Sciences	1.847		0.229	2.076
Research data management	0.582	0.950	0.124	1.656
Contracts monitoring	0.286		0.034	0.320
Manager operations	0.295		0	0.295
Manager development	0.124		0	0.124
Legal	0.004		0.001	0.005
<b>Total</b>	<b>3.138</b>	<b>0.950</b>	<b>0.388</b>	<b>4.476</b>

Output 21 (Utilisation and sustainability of New Zealand's fisheries resources measured) direct costs cover the provision of frontline scientific activity, excluding research. These costs include a portion of the cost of the Ministry's science team, the management of research data, the management of the research contracting process and the provision of data IT management systems.

The Ministry's scientists manage a comprehensive schedule of forums and processes to ensure that:

- The Ministry's research program is robustly constructed and thoroughly consulted on;
- Research tenders are thoroughly evaluated and research progress is monitored;
- The data generated by research is thoroughly analysed, reviewed and interpreted by Ministry scientists and stakeholders. Ministry scientists develop and oversee appropriate peer review process, including the contracting of external scientists to provide independent review in selected cases; and
- The best available scientific information is incorporated into stock assessments and assessments of the effects of fishing, and provided to fisheries managers and stakeholders as a basis for formulating management decisions.

Forums managed by the Ministry's scientists include: stock assessment working groups, aquatic environment working groups, stock assessment plenaries, research planning groups, and the research coordinating committee. Processes managed by the Ministry science group include the annual research planning process, the annual stock assessment process, aquatic environment processes, and the science component of the SOI consultation process.

The Ministry's research data management and IT teams are responsible for ensuring that the data generated by the Ministry's research program is efficiently and safely stored and is readily available, as appropriate, to Ministry scientists, stakeholders and other interested parties.

The Ministry's contract management unit are responsible for ensuring that the Ministry's research tendering process is robust and transparent and that contracts are administered to the highest standards.

Output 21 Direct costs are therefore the costs directly associated with managing the Ministry's science program to the standard expected and required by government, stakeholders, research providers, and other interested parties. From 2003/04 to 2006/07 direct costs have increased from \$2.1m to \$2.7m, an increase of 29%. This additional investment has been required to ensure that the Ministry managed science forums and processes meet stakeholder expectations for consultation and engagement in the science programme, data is cost effectively stored and is disseminated, as appropriate, efficiently and the research contracting process is robust.

## **Recommendation**

The Ministry of Fisheries recommends that you:

- a) **note** the comments from submitters;
- b) **note** the response from the Ministry

## Issue 7 – Tier 1 and Tier 2 research projects

<b>Output Class</b>	Fisheries information
<b>Output</b>	Utilisation and sustainability of New Zealand's fisheries resources measured
<b>Proposed services page no.</b>	14 and 15
<b>Page and paragraph number from stakeholder submission</b>	SeaFIC: pages 15 and 16, paras 76 - 79 NZBGFC page 1 para 5

### Submission Details

#### SeaFIC comment

76 SeaFIC disagrees with the proposal of the Ministry to establish a contingency tier of approved projects to be substituted for withdrawn projects. The Ministry sees this as a means of overcoming shortfalls in expenditure when projects are withdrawn. SeaFIC does not support the proposal for the following reasons:

- It is unlikely that substituted projects could be tendered and incur any significant expenditure in the remainder of the financial year
- Any expenditure in the subsequent year for priority projects will be reduced by the need to fund lower priority projects substituted in the previous years
- A full consultation on lower priority projects which are not substituted in the year constitutes a waste of time and effort for both Ministry and industry staff at a time when work pressures are already high. The effort put into lower priority projects will come at the expense of consideration of the high priority projects which will continue.
- It is probable that there would need to be some further consultation on the projects prior to their tender as a result of cost movements or shifting of objectives.
- Ministry effort and time will be expended in selecting the projects to be substituted.
- The substituted projects will result in an unnecessary addition of activity to the Unders and Overs exercise and instability in the level of fish stock levies.

77 SeaFIC does not accept that the proposal to substitute lower priority projects for withdrawn projects will provide the fiscal benefits sought by the Ministry. We consider it will have significant impacts on the undertaking of high priority projects. SeaFIC believes that the Ministry would be better advised to review and amend the processes for identifying, assessing and approving projects to remove the need to withdraw fully assessed, priority projects rather than introduce a contingency plan for substituting lower priority projects.

78 We find it incomprehensible that the Ministry can be inviting tenders in the first round (tenders for which closed on 10 February 2006) for three Tier 2 projects when no Tier 1 projects or other previous projects have been withdrawn. In our view, that these projects are being tendered casts doubt on the integrity of the reasoning and processes being followed by the Ministry in respect of the contingency proposal.

80 We have made further comments on the nature of research services and individual projects in a later section of this submission.

#### NZBGFC comment

5 Having a two tiered research services list adds some transparency to the process of selecting research projects to put out to tender and is supported. Second Tier projects may miss out on funding.

### **Ministry of Fisheries analysis**

Fisheries research investment is undertaken to provide information that will support the scientific evaluation of the status of fisheries resources, the effects of fishing on the aquatic environment, the evaluation of alternative approaches and measures to give effect to management strategies, and the analysis of cultural, social and economic factors relevant to management decisions.

There is a thorough and robust process in place to identify and consult on fisheries research projects proposed in support of fisheries management. The process is implemented by Fisheries Working Groups, Research Planning Groups, the Research Co-ordinating Committee and through the SOI process. Stakeholders and stakeholder consultation are an integral component of this process.

The research planning and SOI processes also include discussion and consultation on the apportionment of research costs between the Crown and Industry, the apportionment being determined under the Fisheries (Cost Recovery) Rules 2001.

The Ministry's research programme is finalised within budgetary constraints determined by the Government and with due consideration of the financial impact of the research investments on the Industry and individual fishers.

Research, planning and tendering processes are constantly being reviewed to ensure they deliver best value for the research investment, reflect fisheries management objectives and capture opportunities for new technologies and scientific methodologies.

For a variety of reasons such as acceptable research proposals not being received from suppliers, the cost of research proposals being in excess of budget, or time and/or events overtaking the need to undertake the research, some research projects do not proceed.

The cancellation of projects represents an opportunity for other priority projects to proceed. Previous SOI consultations on research projects have been limited to a portfolio of projects, the cost of which is projected to be within budgetary constraints. This has resulted in the missing of the opportunity for non-budgeted, but high priority, priority projects to be undertaken when budgeted projects are cancelled. The establishment of a portfolio of unbudgeted priority projects, that have been through the research planning and consultation process, that can be brought forward to replace cancelled projects, will enable the Ministry to ensure that as many priority research projects, as budgetary funding allows, are undertaken.

It is stressed that only projects that are considered priority projects, after having been through the research planning and consultation processes, would replace cancelled projects.

SeaFIC's comment that it is unlikely that replacement projects would be tendered and incur any significant expenditure in the remainder of the financial year may well be correct for the majority of replacement projects; however, as long as projects have commenced or will commence, there is an approved process for the associated expenditure to be carried forward into the next financial year. This will not affect the quantum of funding available in that year for high priority projects, because the funding already committed on unfinished projects is added to, not replacing the funding available for new projects.

The research planning process through Working Groups, Research Planning Groups and the Research Co-ordinating Committee, as well as the SOI consultation process results in the determination of research project priorities. Projects that remain in the Minister's research portfolio, following this process, are considered priority projects. Funding constraints are such that not all of these priority projects can be assigned funding. The intent of the Tier 1 and Tier 2 lists is to ensure that priority projects that are cancelled can be replaced with other priority projects that have been fully consulted on. The Ministry does not accept SeaFIC's point that full consultation on lower priority projects would constitute a waste of time and effort. Lower priority projects will drop out of the Minister's research portfolio through the course of the research planning process.

Under a Tier 1 and Tier 2 structure there will be a need to decide which tier is appropriate for each priority project, given budgetary considerations. In reality this is no different from the current situation where it must be decided which priority projects will and which won't be funded.

SeaFIC is correct that there will probably need to be further consultation on Tier 2 projects when these projects are proposed as replacements for cancelled Tier 1 projects. As the Tier 2 projects will have already been through the Ministry's thorough research planning process, consultation would be focussed on any timing delay impact on the project's merits and cost recovery implications. This consultation process would provide SeaFIC, and other stakeholders, an opportunity to raise any relevant concerns over the impact of the proposed project substitution on unders and overs and fish stock levies. As previously detailed, all Tier 1 and Tier 2 projects are priority projects that have been through the Ministry's thorough research planning process, therefore the additional Ministry time and effort required to select Tier 2 projects to replace cancelled Tier 1 projects, raised as a concern by SeaFIC, will not be excessive.

In response to SeaFIC's submission point 77, the objective of the proposed Tier 1 and Tier 2 system is to ensure that the scientific information, identified as a priority by the research planning process, for the Ministry to effectively manage fisheries resources, is as complete as is possible. The proposed Tier 1 and Tier 2 system will have no detrimental effect on the priority projects, quite the opposite, it will enhance the possibility of priority projects proceeding. If SeaFIC has specific suggestions for improving the process for identifying, assessing and approving projects, the Ministry would welcome receiving them.

The Ministry acknowledges the comments from SeaFIC in paragraph 78. Some 2006/07 projects were tendered in 2005/06 in anticipation of potential funding being available

following the cancellation of some 2005/06 projects. It has transpired that the potential funding is not available and the tendering process has been halted.

### **Recommendation**

The Ministry of Fisheries recommends that you:

- (a) **note** the comments from the submitters
- (b) **note** that the Ministry will encourage submitters to continue to fully engage in the research planning process and will seek their views on ways in which the research planning process could be further improved.

## Issue 8 – Observer services

<b>Output Class</b>	Fisheries information
<b>Output</b>	Observer services provided
<b>Proposed services page no.</b>	17
<b>Page and paragraph number from stakeholder submission</b>	SeaFIC: pages 16 and 17, paras 80 - 84

### Submission Details

#### SeaFIC comment

80 Observer services is one area of the Ministry’s operation that is noticeably not yet aligned with the “new approach” to fisheries management, in particular, the move to objectives-based fisheries management and increased transparency and accountability. We question why the observer services business unit has a separate budget if its services are all determined and purchased by other parties (e.g. MFish science, fisheries management, and compliance groups, DoC and industry). In particular, we would have expected the budget for observer services required for particular research projects to be included in those research projects.

81 SeaFIC does not agree with the third expected result which assumes a + / - 10% variation in days to the agreed annual plan. That limitation is at variance with the fourth expected result which provides for the plan to be varied. We have concerns that the 10% variance may be used to undertake additional observer activities which are not requested by any of the observer group clients but which subsequently become recoverable through the principles applying to Unders and Overs.

82 The Ministry has indicated that the daily cost of an observer is expected to be \$500. SeaFIC has previously raised with the Minister and the Ministry its concern as to the costs of observer services. The daily cost of a Ministry observer is significantly greater than that of a private sector observer to the expense of the industry. In 2004/05, the cost of a Ministry supplied observer day (\$579) was over 50% greater than the cost of a private sector alternative (\$310). The Ministry has indicated that overhead costs for the observer activity in 2006/07 are estimated to be 21% of the direct costs. That level of overhead needs to be reduced if a cost effective and efficient service is to be provided.

83 In the absence of information demonstrating otherwise, our concern is that the recent changes to the delivery of observer services, including additional management staff, additional administrative capacity, indications of a desire to develop an “internationally competitive” observer service and other service development initiatives, are serving to build a “gold-plated” observer capacity within the Ministry, paid for by the industry. The industry would only be comfortable with the Ministry taking such an approach if, prior to the building of the MFish Observer Business Unit:

- Clear standards were in place (set by the various purchasers of observer services) to define the actual services to be provided, so that we could be sure industry was paying for what is required for fisheries management purposes, rather than paying for a service delivered to some unspecified “world class” standard; and

- The provision of observer services is made contestable, so that cost-effectiveness becomes a genuine consideration in purchase decisions.

84 The cost of observer services is a matter of considerable concern to the fishing industry. SeaFIC wrote to the Ministers of Finance and Fisheries at the end of 2005 putting forward a case for the contestable provision of observer services. We have yet to receive responses but intend to vigorously pursue this issue with the Ministry and Ministers. We seek that provision be made in the Ministry's work programme in 2006/07 for the development of the two pre-requisites outlined in the previous paragraph.

### **Ministry of Fisheries analysis**

The Ministry agrees with SeaFIC's comment that Observer requirements should be determined by fisheries objectives. Each of the fisheries working groups, which include SeaFIC and other stakeholder representatives, has developed where there is a requirement for Observer services, projects titled "Research Observer Services. These projects detail overall and specific objectives for Observer coverage together with the coverage required. These projects are subject to the Ministry's thorough consultation process which provides all stakeholders, including SeaFIC, the opportunity to comment on any and all aspects of the project.

While it is true that Observer requirements are determined by Working Groups, the Ministry's Compliance business group, DoC and Industry (permit and regulatory coverage requirements), the management of Observer services as a separate and distinct budget, facilitates financial management and transparency of costs. However, there are other ways to obtain this information than having the observers as a separate output. A thorough evaluation of these options, including costs, will be undertaken in 2006 preparatory to the development of the fisheries services consultation document for the 2007/08 financial year.

The Observer Services management team delivers actual coverage days as close as possible to the coverage plan determined by the relevant working group projects and subsequent consultation process. The +/-10% variation in average versus plan coverage days, before consultation is triggered, is to recognise that the duration of fishing trips depends on a number of variables beyond the control of the Observer Services, such as the quality of fishing and weather. The targeted cost of an Observer coverage day is \$500 excl. GST. The proposed budget for 2006/7 is approximately \$470 per day. The projected reduction against target is due to the scaling down of management following the completion of the Observer Services improvement program and the realisation of cost reductions following negotiations with travel providers. The approximate breakdown of the 2006/07 proposed budget is:

Direct cost of an observer day:	\$345 per day excl. GST
Observer Services management and administration	\$88 per day excl. GST
Ministry overheads	<u>\$37</u> per day excl. GST
	\$470 per day excl. GST

The direct cost of an Observer day represents 73% of the total projected cost of an Observer day. The Observer Services management and administration cost is the cost of ensuring that we have a fully trained and competent Observer pool who are thoroughly briefed on client data requirements and are appropriately equipped and effectively deployed. This cost also includes projects to further enhance the efficiency and effectiveness of the Observer

programme, such as the electronic capture of data at sea and the development of an NZQA-recognised Observer qualification. The Ministry overhead cost is incurred in providing the shore-based Observer management team with the required infrastructure.

Regarding SeaFIC's recommendation that the provision of Observer Services be made contestable, it is noted that this recommendation is the subject of a dialogue between SeaFIC and the Ministry's Chief Executive.

### **Recommendation**

The Ministry of Fisheries recommends that you:

- a) **note** the comments from submitters; and
- b) **encourage** SeaFIC to discuss their concerns and recommendations regarding the Observer programme, with the Chief Executive

## Issue 9 – Funding transfers

<b>Output Class</b>	Fisheries operations
<b>Output</b>	New Zealand fisheries utilisation and sustainability reported
<b>Proposed services page no.</b>	20 - 21
<b>Page and paragraph number from stakeholder submission</b>	SeaFIC: 17, para 85

### Submission Details

#### SeaFIC comment

85 SeaFIC notes the budget for this output has increased by \$2.214 million or 35% but there is no explanation for the increase. SeaFIC notes that \$1 million has been transferred from the science research budget to this output but no details have been provided as to the nature of the services being transferred or the purpose of the additional funding. There appears to be no significant growth in the outputs.

### Ministry of Fisheries analysis

As noted on pages 13 and 19 of the “Proposed Fisheries Services for 2006/07” the transfer of \$1 million from output ‘Utilisation and sustainability of new Zealand’s fisheries resources measured’ to output ‘New Zealand fisheries utilisation and sustainability reported’ is to underpin the development of fisheries plans.

As outlined in the Statement of Intent for 2005/2008, the Ministry is committed to working with stakeholders to better define what is required from fisheries (objectives), and to clearly link the management interventions and services to those objectives. Fisheries plans are seen as an important mechanism to improve stakeholder involvement in – and ownership of – fisheries management in New Zealand.

In the development of a fisheries plan, the Ministry will work with tangata whenua and stakeholders to build consensus on objectives, develop a risk assessment to evaluate management strategies, and then specify the services and management measures that will be applied to the fisheries plan. A fisheries plan will bring together the harvest plan, monitoring, research, enforcement, and other elements of fisheries management; show the links between these elements and will allow the Ministry to better prioritise its limited resources.

### Recommendation

The Ministry of Fisheries recommends that you:

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

## Issue 10 – Timeframes for expected results

<b>Output Class</b>	Fisheries operations
<b>Output</b>	New Zealand fisheries utilisation and sustainability reported
<b>Proposed services page no.</b>	20 - 21
<b>Page and paragraph number from stakeholder submission</b>	SeaFIC: page 17, para 86

### Submission Details

#### SeaFIC comment

86 SeaFIC recommends that the “expected results” should have specified timeframes. These reports should be provided in a specified timeframe to give the industry some certainty before the start of the fishing year (i.e. TAC/TACC set and advised in a more timely fashion).

### Ministry of Fisheries analysis

The issue relates to the timing of utilisation and sustainability advice provided to the Minister, and the resulting interval between the Minister’s decision and the beginning of the fishing year.

The Ministry endeavours to run processes that result in the Minister making sustainability decisions at least one month before the start of the fishing year. In each case there is a balance sought between the [earlier] timing of the decision and the use of the latest information available to ensure the best possible outcome.

For some processes, such as QMS introduction, the Ministry has been successful in recent years in achieving ever-earlier decisions. We do accept that in some instances, given the timing of relevant science inputs and the statutory obligation to consult on an initial position, final decisions in the sustainability round are unavoidably made close to the start of the fishing year.

The Ministry will continue to look for opportunities to improve processes further in 2006/07 to achieve better outcomes and would welcome suggestions from stakeholders. However, given the importance of these types of decision we would prefer to maintain the flexibility to manage the balance for the best outcome on a case by case basis rather than work to complete all processes to a fixed timeframe.

### Recommendation

The Ministry of Fisheries recommends that you:

- a) **note** the SeaFIC comments; and
- b) **note** the balance the Ministry is striving to achieve between timing and information and that the Ministry will continue to look for opportunities to further improve processes and would welcome stakeholder suggestions.

## Issue 11 – Fisheries plans

<b>Output Class</b>	Fisheries operations
<b>Output</b>	New Zealand fisheries utilisation and sustainability reported
<b>Proposed services page no.</b>	20 - 21
<b>Page and paragraph number from stakeholder submission</b>	SeaFIC: page 17, para 87

### Submission Details

#### SeaFIC comment

87 SeaFIC is concerned that there are no details of outputs relating to the development of fisheries plans. As noted earlier in our submission, it is critical that the standards and formats of fisheries plans be available and agreed to allow industry firstly to comprehend the Ministry’s initiative and, if appropriate, initiate the development of fisheries plans of their own volition. Also absent is a detailed plan for the development of fisheries plans to be undertaken by the Ministry during 2006/07. SeaFIC believes that the Ministry should be able, based on its experience gained to date in the “proof of concept” plans, to provide a programme for plans to be developed in 2006/07.

### Ministry of Fisheries analysis

MFish is working to establish standards across a range of issues relevant to fisheries plans development. Excepting those relating exclusively to Ministry processes, each will be consulted on externally before adoption. Once these are settled, they will provide greater certainty around the fisheries plan development process. With respect to fisheries plans for 2006/07, the Ministry is currently planning for the next suite of fisheries plans and will work with stakeholders to identify appropriate groupings of fisheries and opportunities for their involvement. The proof-of-concept plans are still underway, scheduled for completion in the coming months. They will inform the project plan to develop additional fisheries plans in 2006/07.

### Recommendation

The Ministry of Fisheries recommends that you:

- a) **note** the SeaFIC comments
- b) **note** the response from the Ministry.

## Issue 12 – Deed of Settlement

<b>Output Class</b>	Fisheries operations
<b>Output</b>	Deed of Settlement implemented
<b>Proposed services page no.</b>	22
<b>Page and paragraph number from stakeholder submission</b>	SeaFIC: page 18, paras 88 – 89 Ngāti Awa page 1 para 1 Te Kupenga: page 1

### Submission Details

#### SeaFIC comment

88 The cost of this output is forecast to rise by \$0.392 million or 6% to \$5.386 million.

89 SeaFIC welcomes the initiatives being undertaken by the Ministry to implement the customary aspects of the settlement. However, we believe the Ministry, through its Pou Hononga and extension officers, need to place greater emphasis on the wider fisheries management regime and the rights of the commercial sector, including the Maori rights holders. This is needed to avoid increasing the tension between Maori and commercial rights holders and to achieve the desired rate of progress on initiatives such as the establishment of mātaihai reserves.

#### Ngāti Awa comment

1 Will all non-commercial Maori fishing be categorized as customary fishing and if so, why?

#### Te Kupenga comment

We have found the engagement with the Ministry of Fisheries through the regional forum concept as a productive and mutually beneficial way to interact. I'm sure your staff (Pou Hononga, SFMA Central Inshore Team and Extension Services) attending the meetings would concur with our mutually beneficial view. On this basis we signal to you that the concept should continue and the funding set aside for the running of these forums be increased.

In light of the political and media climate excessively highlighting Maori shortcomings, calls for funding cuts and allegations of 'race based funding' we find it necessary to remind the Ministry that this is not merely a policy issue rather it is a direct result of a negotiated agreement via the Deed of Settlement and Treaty of Waitangi Fisheries Settlement Act.

We are aware that the Ministry annually receives several millions of dollars to operate the Deed of Settlement project whilst \$200,000 is set aside for the operation of forums. Having completed over a year of meetings we know from experience that \$20,000 whilst a sufficient start, is not enough to operate our forum and in particular cover costs of follow-up meetings and work resulting from the quarterly forum meetings.

We are not seeking to be paid for our time but we do seek adequate funds to cover expenses in meeting workloads expected by both our people and the Ministry. We hope the Statement of Intent will reflect our requirements

### **Ministry of Fisheries analysis**

The Ministry appreciates the positive comments made by submitters in respect to the implementation of the customary component of the Deed of Settlement including the creation of Regional Iwi Forums.

The Ministry acknowledges the need for a greater emphasis on a more inclusive approach to fisheries management – one that aligns the aspirations of both commercial and customary sectors. While the Ministry can play a part in this, there is a major role for each iwi to balance the needs and aspirations of their respective whānui.

There is no plan to categorise all non-commercial fishing by Maori as customary fishing. The Ministry recognises two categories of non-commercial fishing, customary and recreational. The Ministry also recognises that a large number of Maori fish for themselves and their wider whānau under the recreational regime.

There is no extra funding for the operation of Regional Iwi Forums. The Ministry notes that attendance by Ministry staff at Forum meetings is not met from the \$20,000 annual budget for each Forum. Nor is the provision of services provided to Forums by Pou Hononga, Extension Services, and SFMA Teams. Forums are encouraged to utilise these services, and consider ways of maximising the resources that are available, such as entering into a contract that meets the needs of the Forums and the Ministry.

### **Recommendation**

The Ministry of Fisheries recommends that you:

- a) **note** the above comments from the three submitters; and
- b) **note** and endorse the Ministry's responses.

## Issue 13 - General issues relating to Mataitai Reserve process and consultation

<b>Output Class</b>	Fisheries operations
<b>Output</b>	Deed of Settlement implemented
<b>Proposed services page no.</b>	N/A
<b>Page and paragraph number from stakeholder submission</b>	Te Ohu; Appendix

### Submission Details

#### Te Ohu comment

Our assessment of mataitai reserve applications leads us to make the following general comments about the assessment and approval process for mataitai reserves. These comments relate to the need for the Ministry of Fisheries to:

- provide baseline information to applicants
- provide standardised information to interested parties
- improve consultation
- more widely notify applications.

### Baseline information

Te Ohu considers the Ministry of Fisheries should do more to ensure that applicants are provided with baseline information, either before or at the time of a mataitai reserve application being lodged.

It is evident that many applicants for mataitai reserves lack awareness of what fisheries management involves, including:

- the quota management system (QMS)
- the range of fisheries management tools
- fisheries management processes
- current management initiatives
- customary regulations and associated policies
- stock assessment information (including research and development)
- the roles and responsibilities of commercial entities (CSO's)
- the implications of their application on commercial interests, and
- management plans

In our view, this lack of awareness has resulted in poorly thought-out applications that have lead to unnecessary conflict between stake holders. There are numerous examples amongst the applications lodged to date where these conflicts could easily have been avoided had the applicant had knowledge in these areas. The Ministry of Fisheries must accept some responsibility for this situation.

Te Ohu encourages the Ministry of Fisheries to engage Pouhononga and Poutakawaenga to work with prospective and actual applicants as soon as enquiries about mataitai reserves are made or applications lodged. Their role should be to ensure that applicants are provided with the information referred to above, and to provide support to applicants where it is appropriate for them to do so.

Te Ohu also encourages the Ministry of Fisheries to have the above discussions within the Iwi Forums that have been established around the country. At the same time the Ministry of Fisheries should be encouraging applicants to:

- take a coordinated approach to establishing mataitai reserves, therefore avoiding the ad hoc, and often ill informed, approach that is used presently – at least in some parts of the country
- work in with their Mandated Iwi Organisations when making an application for mataitai
- consult with neighboring iwi and hapu who might have an interest in the application
- consult with Te Ohu and AFL, and
- do as much discussion with these parties as possible before lodging applications.

Improving applicant awareness and understanding in all the above areas will go some way to improving the quality of applications and communications, and reducing conflicts.

### **Standardizing information**

The amount and quality of information that is made available to the public at the time of a mataitai reserve application being notified is inadequate. This tends to result in more unnecessary conflicts as people assume the worst about what they do not know.

Applicants should make available the following information when an application is first notified in newspapers:

- Name and contact details
- Reasons for the application
- The special relationship that the applicant has with the area proposed as a mataitai reserve
- Why the applicants have chosen the area applied for, including why they think it is a size appropriate for management
- How the applicant proposes to manage the mataitai reserve. What, if any, bylaws are anticipated
- The expected impacts on commercial and non-commercial fishers. Is it intended to stop commercial fishing in the mataitai reserve, and if so why?

The Ministry of Fisheries should also make available information to the public about:

- the Crown's obligations to Maori regarding commercial and non-commercial fishing
- what a mataitai reserve is
- what can and cannot be done in a mataitai reserve
- the bylaw making processes including when people can expect to be consulted

- what ongoing role the Minister will have in managing fisheries within the mataitai reserve.

We note that the Ministry of Fisheries makes available most of the above information at local community meetings. In the future Te Ohu would like to see the information distributed well in advance of local community meetings so interested parties are in a better position to engage at local community meetings.

Our experience is that many people who attend local community meetings know little if anything about mataitai reserves. Unfortunately this creates a situation where people spend most of their time at the meeting trying to understand what a mataitai reserve is and don't get around to asking many questions about the specific application.

Te Ohu considers that standardizing the information that is made available to the public when applications are notified will lessen the amount of unnecessary conflicts between stakeholders, improve the quality of consultation and communications with those having an interest in an application, and ensure the public is in a better position to participate at local community meetings.

In our view Pouhononga and Poutakawaenga should be assisting applicants to make available the information referred to above as early as possible.

## **Consultation**

The High Court provides us with their interpretation of consultation. Its interpretation is worth noting because it provides reference points to guide our understanding of what constitutes "consultation". This is especially important when you consider some of the issues that we discuss shortly. The High Court has stated:<sup>1</sup>

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.

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.

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

We expect the Ministry of Fisheries consultation processes will be consistent with the standards set out by the High Court.

### **Notifying Te Ohu of mataitai reserve applications**

We are concerned that the Ministry of Fisheries does not consult us in relation to mataitai applications, despite Te Ohu Kai Moana's statutory responsibilities regarding maori fisheries, and the fact the organisation is a substantial quota owner for all fishstocks. We recommend that the Ministry of Fisheries notify and consult us in relation to all future mataitai applications.

### **Notifying Mandated Iwi Organisations**

Te Ohu also suggests that Mandated Iwi Organisations (MIO's) who may have an interest in an area to which a mataitai reserve has been applied for should receive notification of that application directly. MIO's and other stakeholders should not have to scan news papers to obtain information. Pouhononga should be working with iwi to ensure they receive and understand mataitai reserve applications.

### **Notifying the Seafood Industry Council and commercial stakeholder organisations**

Te Ohu considers the Ministry of Fisheries should notify the Seafood Industry Council (SeaFIC) of all mataitai reserve applications, especially given the advocacy role that SeaFIC has in relation to commercial fisheries in New Zealand.

Other commercial stakeholder organisations (CSO's) that may have an interest in stocks potentially affected by an application should also receive notification.<sup>2</sup>

### **Notifying applications and calling for submissions from the local community**

Regulation 18 (1) sets out the requirements for notifying mataitai reserve applications, as follows.

No later than 20 working days after receipt of any application under regulation 17, the Minister must cause notice of the application to be published at least twice, with an interval of not less than 5 working days between each publication, in a newspaper circulating in the locality of the proposed mataitai reserve

Regulation 18(2) requires notices given in accordance with Regulation 18(1) to invite written submissions from the local community.

The notice must invite written submissions to be made by the local community, and allow a minimum of 20 working days for such submissions to be made.

In our view these regulations are important but insufficient because:

- a) Persons who have a commercial interest in the fisheries affected by a proposed mataitai reserve, and who live outside the locality of the proposed mataitai reserve, do not receive notification; and
- b) Persons who meet the definition of a local community member, but live outside the locality of the proposed mataitai reserve, do not receive notification.

We consider the regulations need to be corrected so that "all" persons who may be affected by a mataitai reserve application receive notice. Until such changes are able to be made we

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<sup>2</sup> See appendix 2 for a list of all commercial stakeholder organisations.

suggest the Ministry of Fisheries interprets Regulations 18(1) and 18(2) as being a minimum requirement that does not prevent wider circulation of notices in national newspapers and consults as we have set out above.

### **Consultation with industry**

Regulation 19 (5) (b) requires applicants to - invite written submissions about the fish stocks in the area specified in the application from persons who take fish, aquatic life, or seaweed or whose ability to take fish, aquatic life or seaweed or whose ownership interest in quota may be affected by the proposed mataitai reserve.

Regulation 19 (5) requires that notices – Must be published in a newspaper circulating in the locality of the proposed mataitai reserve.

In our view Regulations 19(5) and 19(5) (b) are flawed, because:

- persons who have a commercial interest in the fisheries affected by a proposed mataitai reserve, and who live outside the locality of the proposed mataitai reserve, do not receive notification of the application.<sup>3</sup>
- persons who have a commercial interest in the fisheries affected by a proposed mataitai reserve, and who do not meet the “local community” definition, are technically prevented from being able to speak at local community meetings called in accordance with Regulation 19(2).
- persons who have a commercial interest in the fisheries affected by a proposed mataitai reserve are only able to make written submissions in relation to any application.
- there is no requirement for the applicants and the Ministry to meet formally with Industry.

Mataitai reserve applications need to be more widely notified in newspapers to ensure all persons having a commercial interest in fisheries affected by an application are aware of the application and are able to input and participate in the process, including speaking at meetings called in accordance with Regulation 19(2).

In our view the Ministry of Fisheries should interpret Regulations 19(5) and 19(5)(b) as minimum requirements which do not prevent –

- the Ministry of Fisheries directly notifying all quota owners, Te Ohu, SeaFIC and relevant CSO’s
- wider distribution of mataitai reserves notices
- allow people outside the local community to input and participate in local community meeting called in accordance with Regulation 19(2), and
- formal meetings between applicants and industry.

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<sup>3</sup> The majority of PAU5D quota is owned outside of Southland. For example, Te Ohu and AFL own 49% of the PAU5D TACC and are based in Wgnt.

***Te Ohu recommends the Ministry of Fisheries improves the process associated with mataitai reserve applications, as follows***

- *Ensure that applicants are provided with baseline information, preferably before a mataitai reserve application is lodged*
- *Standardise the information that is made available to the public at the time of a mataitai reserve application being lodged*
- *Notify Te Ohu of all mataitai reserve applications*
- *Notify all Mandated Iwi Organisations (MIO's) who may have an interest in an area to which a mataitai reserve has been applied for*
- *Notify the Seafood Industry Council of all mataitai reserve applications*
- *Notify all Commercial Stakeholder Organisations (CSO's) operating in the area of a mataitai reserve application*
- *Ensure public notifications for mataitai reserve are more widely distributed.*

### ***The Prevent test and related issues***

#### ***Regulation 20(1)(e)(ii) requires any mataitai reserve to not –***

- (a) Prevent persons with a commercial interest in a species taking their quota entitlement or annual catch entitlement (where applicable) within the quota management area for that species; or
- (b) Prevent persons with a commercial fishing permit for a non-quota management species taking fish, aquatic life, or seaweed under their permit within the area for which that permit has been issued.

The Ministry of Fisheries has developed policy to provide guidance on the process and factors to consider when assessing mataitai reserve applications. That policy is contained in a document entitled “*Process standards for assessing mataitai reserve applications*”. The main thrust of that policy as it relates to commercial fishing has been to clarify the “Prevent” test and the methodology and information needs that will be used to support any decisions.

The Ministry of Fisheries policies say a commercial fisher is prevented by the proposed mataitai if that fisher cannot catch his or her ACE within the remaining QMA in “that fishing year”.<sup>4</sup> Commercial fishers are also prevented when fishers incur increased costs to a level that makes their operations economically unviable when fishing in the remainder of the

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<sup>4</sup> Process standards for assessing mataitai reserve applications. p4, paragraph 2.4.13; p5, paragraph 3.1.20; p6, paragraph 3.1.23-24; p11, paragraphs 53-55.; pp16-17, paragraphs 10-12.

QMA.<sup>5</sup> Te Ohu agrees with this policy but we are concerned about the way that information will be used to make/inform decisions. For example:

- the current policy prevents any consideration of longer term impacts that may result from the establishment of a mataitai reserve. The policy does this by unnecessarily constraining the assessment to “that fishing year” or “that fishing season”. In our view, anything that can be directly connected to the mataitai reserve at the time of the assessment, and in relation to any year, is relevant and must be considered.<sup>6</sup> A mataitai is not in place for only a year - there is no subsequent re-consideration after the initial decision. A mataitai becomes a measure that only the kaitiaki can request be altered.
- it is not clear which fishing year will be taken into account for the purposes of the assessment. Is it the year the application is lodged, or the year in which the application is assessed, or the year the application is approved? The recently approved Moremore application took 4 years to gain Ministerial approval. In that case the whole period was relevant.
- the policy needs to ensure the displaced fishing can be sustainably harvested from within the remaining QMS, not just “harvested” as it is worded currently.<sup>7</sup> Te Ohu is concerned at the prospect that increased pressure on the remaining QMA could lead to a subsequent reduction in the TACC.
- the policy suggests that the extent of additional costs is only relevant when it affects “most or the majority” of fishers. In our view this interpretation goes beyond what is required at Regulation 20(1) (e) (ii) by interpreting the word “persons” to be “most or the majority”. In our view “persons” simply means more than one person.
- there is no policy on how agreed catch limits are to be adjusted within a mataitai reserve. How different is the process to the current system? How will the mataitai reserve influence decisions?
- there is no policy on how to measure the ability of the remaining QMA to absorb displaced quota.<sup>8</sup>
- there is no policy on how new stocks entering the QMS will be dealt with. We note that some of these stocks may not be of importance to customary non-commercial fishers.

**Te Ohu recommends** that the Ministry of Fisheries refrain from making any decisions on mataitai reserve applications until there has been a review of the Ministry of Fisheries standards and process policies relating to mataitai reserves, including a comprehensive review of the “Prevent” test and the full range of impacts.

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<sup>5</sup> *ibid.* pp5-6, paragraph 3.3.1.22

<sup>6</sup> *Ibid.* p4, paragraph 2.4.13; p5, paragraph 2.4.18. An assessment cannot predetermine possible future changes to TACCs, as these changes may be due to several factors, such as species’ biological characteristics and dispersion of fishing effort.

<sup>7</sup> *Ibid.* p p4, paragraph 2.4.13; p5, paragraph 3.1.20; p6, paragraph 3.1.23-24; p11, paragraphs 53-55.; pp16-17, paragraphs 10-12.

<sup>8</sup> *Ibid* p6; See also p9, paragraph 48 - steps in decision path.

## **Ministry of Fisheries analysis**

Te Ohu Kai Moana makes a number of detailed suggestions about how the Ministry should notify interested parties about mātaimai applications and best apply the statutory tests contained in the Fisheries (South Island Customary Fishing) Regulations 1999 and the Fisheries (Kaimoana Customary Fishing) Regulations 1998.

These suggestions range from how the Ministry should amend its process standards when applying these regulations to specific submissions on how the regulations should be amended.

The Ministry notes the suggestions made by Te Ohu Kai Moana.

The Ministry, in 05/06, undertook an extensive review of its process standards. These were subject to extensive legal review. We are not aware of any reason to amend these process standards under the current customary regulations.

Te Ohu Kai Moana has made a number of suggestions concerning notification of mātaimai applications. The Ministry proposes to discuss these suggestions with the submitter and other interested parties to determine if the notification step should be broadened.

It is not appropriate to stop making decisions under the current legislation and process standards.

## **Recommendation**

The Ministry of Fisheries recommends that you:

- a) **note** the comments from TOKM;
- b) **note** that the Ministry has recently completed an extensive review of its mātaimai process standards. The Ministry has no plans for a review of mātaimai process standards during the 2006/07 financial year;
- c) **note** that the Ministry proposes to discuss notification of mātaimai applications with the submitter and other interested parties to determine if the notification step should be broadened; and
- d) **note** that it is not appropriate to stop making decisions on mātaimai reserve applications received.

## Issue 14 – Deed of Settlement-research and database requirements

<b>Output Class</b>	Fisheries operations
<b>Output</b>	Deed of Settlement implemented
<b>Proposed services page no.</b>	N/A
<b>Page and paragraph number from stakeholder submission</b>	MCM page 3 - 6

### Submission Details

#### Increased Regional Research activity

5 There needs to be more research emphasised in statistical areas of QMA, as this will provide a more detailed/intimate assessment of what is truly occurring with various spp, in particular, shellfish. This would then lead to providing an increase knowledge base of what happens to each spp which then leads to effective management decisions on each spp. This type of research can also be complimented with research data collection for Mataitai, 186a Temporary Closures, Taiapure, and Regulations 27 A aspects when these issues are ready to be assessed.

#### Central Customary Database

6 The need for data collection regarding customary take, via Regulation 27 A and Kaimoana Regulation Permits is eminent as there is very little collection of this information and also very little of this information used toward TAC setting. Collecting this data would allow provisions for realistic TAC settings, and also contribute to gaining increased knowledge of what is occurring in particular tauranga ika, thus providing more knowledge of spp activity and establishing a better trend of activity. This could then lead into quicker and effective decision making processes and implementations.

7 This should see:

- ⇒ A single and or many specific areas in New Zealand establishing options of harvesting data collection on customary take as a pilot project:
  - this should include harvest data collection from both Regulation 27 and Kaimoana Regulations since 1999 - 2005 throughout New Zealand;
    - This will provide some base line data.
  - Regulations 27 A and Kaimoana Regulation permit records and other non commercial harvesting recording options established in New Zealand via NIWA, MCMS and in areas such as Waimarama, eg non commercial record forms.
- ⇒ Design a user friendly database
  - This should include data such as the amount, spp, area of harvest and destination etc;
  - This database should be able to evaluate, manipulate and predict information;

- This data base should also provide accurate information for TAC allocation, essential data for Mataitai and other customary management tools establishments etc;
- And have the capacity to compare results of the data collection with other areas.

⇒ Implement the plan through out most to all areas as a Project within the DoSIP .

eg

Stage one:	Pilot Case Study
Stage two:	Options Package designed
Stage three:	Implementation of Package
Stage four:	Database for customary harvest activity

8 These can be achieved via Deed of Settlement/non commercial, other and or individual key spp fisheries research projects.

### **Central Recreational Database**

8a This is very similar to the Central Customary Database but put into Recreational text.

### **Non commercial Utilisation and Sustainability measures**

9 Need to increased effort in non commercial research services, as this area is least known or in most cases guessed when setting TAC levels.

10 Possible options of ensuring that non commercial harvest rates are included within the Ministry can be determined by accepting research proposals that signal data collection of non commercial take in areas of significance (significance in this text is associated to areas that have the capacity to carryout such research projects effectively, with some preference to those proposed projects being carried out in areas which have management tools that are consistent with Fisheries Act implemented in their area etc) and or Implement the plan mentioned in the section of this document titled Central database.

11 For the QMS to work effectively the best available information must be taken into consideration. If the option of having the data collected for non commercial harvest is available it must/should be taken into consideration and or be part of decision making processes. Such issues should be promoted through the Regional Forums. Therefore leading to accurate stock assessment modelling planning and implementation, that then leads to effective TAC level settings and finally leading to accurate predictions amongst stock assessments of a stock.

12 QMS is good so long as the TAC is set at an effective level which will maximise the value in future/long term which also leads to increased value of spp and better business planning etc.

13 There should also be a focus on the higher valued to mid valued stocks that also may show low abundance in spp of research. For an example high valued spp such as rock lobster and paua is highly valued in customary, recreation and commercial areas and have the potential to recover and or rebuild and monitor stocks more efficiently than those such as fish.

14 A research component should be included in the 'expected results' of the Deed of Settlement Implementation to build robust structures when negotiating fisheries management decisions.

15 It is suggested that DoSIP hold a significantly increased customary related funds, and also project proposals of research. The DoSIP can be the arena that deals with all customary issues.

16 DoSIP should have the capacity to relate with mandated representatives from the retrospective Iwi and Hapu and engage with the Ministry of Fisheries at higher levels so that maximum results for customary issues can be implemented to suit each fishing year of the various stocks.

17 Due to the fact that Maori have a substantial interest across all stakeholder avenues all sectors including commercial interests should be included in the 'expected results' where possible. This could lead into a better understanding of the customary management tools and how they can be of benefit to all across all stakeholder groups.

18 It is also suggested that there be single regional forums for non commercial issues, instead of having forums for customary and forums for recreational. This causes a perceived separation between the two sectors, when in more instances than not are one in almost the same.

19 The benefits of the combination are obvious. One in many examples in particular, are the establishment of mataitai in a area. Both groups will be able to achieve a united, secure and comprehensive front with a predominately customary issue.

20 With a combined budget to carryout the non commercial Regional forums, will reduce costs in some instances therefore having the ability to focus funds into achieving objectives effectively instead of talking of the same issues, causing separation, meeting with the same Ministry officials and other government groups for the same reason as the other forum.

21 The combination of the two should then also have the ability to meet the objectives of both groups, formulate a central forum for non commercial related issues, inform both groups of each stakeholder rights and obligations, which could then lead to, because of a better understanding of each group, a united voice for non commercial.

22 Direct the AFL and TOKM, SeaFIC etc in to these forums to utilise the forums for these issues pertaining to any customary issues of Iwi and hapu and or non commercial issues. Attendees of Iwi/Hapu recreational clubs should have a mandate to present issues facing their rohe. Having this will lead to the forums having robust and direct views of what the region wants.

23 For an example:

Forum Construction should also include reps from each sector – AFL, TOKM, SeaFic, NZRLIC, Mfish, NIWA, etc

Listening to the constructive initiatives/directions of the Iwi and Hapu and recreational (if combined), and reporting the views of these groups back to their retrospective agencies to make better management developments.

eg

- Day one      Morning session held with all mandated Iwi and Hapu Reps and recreational groups (if combined) discussing general fisheries issues with Ministry of Fisheries.  
Afternoon session discussing mandated proposals and initiatives etc from Iwi and Hapu and recreational groups (if combined) that have been circulated to the members, executive committee and subcommittees of the regional forum 2 weeks prior to Day one, presented to the forum from each of the individual areas within the parameter of the Regional forum.
- Day two      Formalise a robust combined Proposal for the region to present to the invited agency representatives from the various industry/government groups on Day three.
- Day three     Presentation of the combined proposal to invited agencies of interest.  
  
All members via secretary, executive committee and sub committee of the regional forum receive written comments on the proposal from the various agencies.
- Day four     Meeting held within the next four weeks with the agencies of interest presenting the outcomes from the agencies concerning the presented combined proposal. This meeting should include a detailed direction from the Ministry of fisheries and other agencies, which should have all interested groups answering to any matters arising.  
Afternoon session could see a changed proposal (if necessary) to implement comments from agencies. The best way forward for the proposal is the ultimate aim of this hui.

24      This forum will be the direct route of communication with interested groups that provides a base for tangata whenua and recreational groups (if combined) to maximise the potential to address fishery issues.

### **Ministry of Fisheries analysis**

The Ministry has established a project to capture data on customary take. The project will capture customary non-commercial data, by species and QMA, which is required to be provided under the customary fishing regulations. The project will also capture data that is supplied voluntarily under r 27 and r 27A of the amateur fishing regulations.

Phase 1 of the project, the identification of needs for a centralised database, has been completed. Phase 2 is underway with the building of the database. The Ministry anticipates the database will be operational by the end of June 2006.

The information gathered in the database will be used for fisheries management purposes such as setting or varying sustainability measures or developing management controls. The information will also be useful for stock assessment and research planning.

The Ministry agrees that, to the fullest extent possible, non-commercial take, both customary and recreational, should be included when setting and allocating TACs. The Ministry is

limited, however, in what it can fund in terms of non-commercial research. The suggestion to fund research that gathers data on non-commercial take in areas of significance is noted.

Non-commercial research is managed by Fisheries Sciences. There is no move to change this arrangement within the Ministry. However, the Pou Hononga, employed under the DoSIP, have considerable input into the process of calling for and evaluating customary research proposals.

The suggestion to form a single regional forum for non-commercial issues is noted. The Ministry observes though that the Regional Iwi Forums do not necessarily have a singular focus on customary issues. They are able to take a broader view in respect to fisheries management. The Ministry, however, sees merit, when appropriate, in Regional Iwi Forums engaging with Recreational Forums over common issues.

### **Recommendation**

The Ministry of Fisheries recommends that you:

- a) **note** the comments from the above submitter;
- b) **note** the Ministry is building a database to capture customary take, and endorse the approach the Ministry is taking and the purpose for which the information will be used;
- c) **note** the Ministry's response in respect to the submitter's views on non-commercial research and the formation of non-commercial Forums.

## Issue 15 – Registry costs

<b>Output Class</b>	Fisheries operations
<b>Output</b>	Registry services managed
<b>Proposed services page no.</b>	25
<b>Page and paragraph number from stakeholder submission</b>	SeaFIC: page 18, para 90

### Submission Details

#### SeaFIC comment

90 The cost of this output is forecast to rise by \$0.310 million or 8%. Payments to FishServe for the registry function make up approximately two thirds of this output. FishServe has provided estimates to the Ministry indicating that its claims for charges will be unchanged from the 2005/06 level. This indicates that the services provided by the Ministry total around \$1.8 million but are forecast to rise by 11% in 2006/07. The Ministry has not explained the reason for that level of increase.

### Ministry of Fisheries analysis

Since the draft fisheries services document was released there has been a reduction in the cost of the FishServe contract.

The cost of this output should now be \$4,995,592.

### Recommendation

The Ministry of Fisheries recommends that you:

- a) **note** the comments from SeaFIC; and
- b) **note** that the cost of registry services management should be \$4,700,000.

## Issue 16 –Enforcement expenditure

<b>Output Class</b>	Fisheries enforcement
<b>Output</b>	General
<b>Proposed services page no.</b>	18
<b>Page and paragraph number from stakeholder submission</b>	SeaFIC: page 18, paras 91 – 95 MCM: page 7 para 35

### Submission Details

#### SeaFIC comment

91 SeaFIC notes the overall decrease in spending on enforcement in 2006/07 from \$29.742 million to \$29.551 million. We are concerned that at a time when non-compliance is high profile and is to be targeted for attention, aggregate Ministry expenditure levels on enforcement are decreasing.

92 We note the Ministry’s highlighting of the increase of \$1.917 million in budget for the output “Poaching and Black Market Activities deterred” but also note the Ministry’s failure to highlight that the compliance budgets for customary and recreational fishing have been decreased by \$2.246 million, despite reports highlighting levels of non-compliance in those areas.

93 We note that the Ministry has in the Context document highlighted the importance of “Project Protector” and the need for increased resourcing to be able to achieve the benefits of that initiative. That position does not appear to be reflected in the decreased compliance budget.

94 SeaFIC does not agree with the decision of the Ministry to amalgamate the customary and recreation compliance activities into one output. These are very distinct sectors with different compliance issues. The costs of compliance in each of those sectors should be transparent. Amalgamation of the outputs will not achieve that objective. We note that this initiative was not discussed with the Joint Strategic Compliance Group and appears to be contrary to the objective of “attributing the cost of managing risk”.

95 SeaFIC notes the inclusion of quantitative results measures for the Compliance outputs and would like to congratulate the Ministry on this initiative.

#### MCM comment

35 Make provisions for Iwi Compliance Plans which is formalised by both Iwi and Ministry

### Ministry of Fisheries analysis

#### SeaFIC Comments

#### **Para 91 & 92**

The compliance budgets for customary and recreational fishing have been decreased which reflects the fact that where recreational and customary offending reaches certain levels e.g

where a recreational fisher is found to be in possession of fish or shellfish more than three times the daily limit or where there are serious breaches of customary fishing rules that activity is characterised as poaching and black-market and recorded as such. The increase in funding for the output “Poaching and Black Market Activities deterred” reflects our belief that greater effort should be focussed on detecting and prosecuting this type of illegal activity.

### **Para 93**

Project Protector funding is not included in the draft SOI budgets as it has not yet been considered by Ministers.

### **Para 94**

The Ministry has amalgamated the customary and recreational activities into one output because it has become increasingly difficult to differentiate these activities. The majority of activities in the customary sector relate to Regulation 27 issues which operate as a defence mechanism to offences under the Recreational Regulations. Therefore the vast majority of recreational patrols, operations and inspections are a mix of the two output activities and can often not be isolated for reporting or cost attribution.

### **MCM comment**

Compliance activities undertaken within the non commercial output include customary patrols and Kaitiaki education and training programmes to improve understanding and compliance with customary rules and regulations. The Ministry will continue to work in partnership with iwi to ensure this occurs.

### **Recommendation**

The Ministry of Fisheries recommends that you:

- (a) **note** the comments from submitters, and
- (b) **note** the Ministry response.

## Issue 17 – Commercial enforcement

<b>Output Class</b>	Fisheries enforcement
<b>Output</b>	Commercial fishing rules enforced
<b>Proposed services page no.</b>	29
<b>Page and paragraph number from stakeholder submission</b>	SeaFIC: page 19; paras 96 - 97

### Submission Details

#### SeaFIC comment

96 SeaFIC notes the increase in commercial sector enforcement spending from \$7.995 million to \$8.330 million. This represents both a nominal and real increase in expenditure. SeaFIC questions how a real increase in expenditure can be proposed when there are no definitive measures as to the level or trend of non-compliance in the commercial sector available to support the need for a real level of increase. In addition, SeaFIC notes that the lower level of inspections and observations to be undertaken in respect of commercial fishing activities in 2006/07.

97 The Ministry refers to its “risk based compliance strategy”. SeaFIC supports in principle this approach but believes that it would be in the best interests of stakeholder relationships if this concept was explained more fully to the industry.

### Ministry of Fisheries analysis

#### **Para 96**

The increase in costs is attributable to an increase in operational hours (2.7%) and a slight increase in hourly rate (1.5%). While the commercial compliance output will cost greater than in 2005/06 it is still well below the level of 2004/05 in both real (\$9.258 million) and relative (41% as compared to 32%) terms.

The commercial fishing industry poses a number of compliance risks and recent prosecutions for a variety of offending in the commercial sector indicate that this risk continues to exist and needs to be managed. While assessing levels of non compliance is difficult the Ministry will this year undertake analysis to better determine compliance risks within the commercial sector.

SeaFIC has made direct comparisons between the measures provided in the 2004/05 Annual Report and the Draft 2005/06 Statement of Intent. These measures are not directly comparable as MFish Compliance has recently developed a resourcing model which itemises tasks being undertaken in the Surveillance group to a lower level than previously. However Compliance has reviewed these measures with the following amendments:

Landings observed	100-150
Vessel inspections	500-550
LFR inspections	100-150

**Para 97**

The Compliance risk based strategy has previously been discussed at the Joint Strategic Compliance Group and is now undergoing refinements and will be discussed further within that group next year.

**Recommendation**

The Ministry of Fisheries recommends that you:

- (a) **note** the comments from submitters, and
- (b) **note** the Ministry response.