

16 August 2006

Minister of Fisheries
Associate Minister of Fisheries

FISHERIES AND CONSERVATION SERVICES COST RECOVERY LEVIES FOR THE 2006/07 FISHING YEAR

Purpose

1. This paper:
 - a) Recommends cost recovery levies to be applied from 1 October 2006 for the 2006/07 fishing year;
 - b) Comments on the submissions made by the commercial fishing sector on the proposed levies following stakeholder review;
 - c) Provides you with the information you are required to have regard to when making your recommendation that Orders in Council be made for the 1 October 2006 levy orders;
 - d) Seeks your approval to submit a paper to the Cabinet Legislation Committee recommending the proposed levies be promulgated.
2. The setting of cost recovery levies is a regular process and does not involve any new policy or changes in existing policy. As such it does not require consideration by Cabinet Economic Development Committee.

Background

3. Cost recovery has been an integral element of New Zealand's fisheries management regime since 1994. The setting of fisheries services and conservation services levies is a regular process, undertaken every year.
4. The purpose of the fisheries cost recovery regime is to enable the Crown to recover its costs in respect of the provision of fisheries services and conservation services, as far as practicable, from those people who benefit from the provision of those services or cause the adverse effects that the services are designed to avoid, remedy or mitigate.
5. The determination of the proposed cost recovery levies results from decisions taken by the Minister of Fisheries in respect of the fisheries services to be undertaken by the Ministry and by the Minister of Conservation in respect of conservation services undertaken by the Department of Conservation.

6. Following these decisions, the Ministry of Fisheries, using the rules prescribed in the Fisheries (Cost Recovery) Rules 2001 (the 'Rules'), calculates the levies to be applied to each fish stock, based on the total amount to be cost recovered from the commercial fishing industry. There follows a further review process with industry to consider the levies and their application to fish stocks. The Orders in Council setting the levies are then approved by Cabinet.

Requirements of the Minister of Fisheries

7. In determining the proposed cost recovery levies for any year, the Minister of Fisheries has a statutory obligation to:

- (a) consider under and over recovery of Ministry costs;
- (b) adjust the levies by the amount of any settlement credit still remaining for any affected fishstocks as a result of the negotiated settlement reached between the commercial seafood industry and the Crown relating to the over and under recovery of costs of fisheries services and conservation services between 1994 and 2002.

Under and over recovery of costs

8. Section 265 of the Fisheries Act 1996 creates a mandatory obligation on the Minister of Fisheries to have regard to the under or over recovery of costs of any conservation services or fisheries services incurred by the Crown in a previous financial year that the Minister has not previously had regard to when recommending new levy orders.

9. In the context of the fisheries legislation, this requirement has the following elements:

- a) The Minister of Fisheries must turn his mind to the under or over recovery of costs in previous financial years and give those under or over recovery of costs genuine attention and thought. The Minister may not ignore any under and over recovery of costs from 2002/03 to 2004/05 (being the period not covered by 'the settlement'), that the Minister has not previously had regard to.
- b) The Minister is entitled to give the under or over recovery of costs in previous financial years such weight as he considers appropriate.

10. The Minister has already had regard to the 2004/05 under and over recovery of costs of fisheries and conservation services when setting the 1 May 2006 levy orders on 12 April 2006. The remaining balance of \$0.002m, unable to be applied at that time, will be applied to these proposed 1 October 2006 levy orders.

11. Information about the under and over recovery of costs in the financial year ending 30 June 2006 is not available in time to be included in the 1 October 2006 levy order. Consistent with the agreement that the Ministry of Fisheries has with the commercial seafood industry to manage under and over recovery of costs, these 'unders and overs' will be included in amending levy orders, possibly in April 2007.

Settlement of 1994/95 to 2001/02 under and over recovery of costs

12. The Fisheries Amendment Act 2004 gave effect to a negotiated settlement reached between the commercial seafood industry and the Crown relating to the over and under recovery of costs of fisheries services and conservation services between 1994 and 2002 (inclusive), and deemed values, through the reduction of future cost recovery levies. The net reduction in future levies was \$24.593m. This comprised \$24.617m reduction and a \$0.024m increase in future levy orders.

13. Section 265A creates an obligation on the Minister, after calculating the levies in accordance with the Rules, to adjust the amount due by the settlement sum remaining for affected fishstocks, as detailed in Part 2 of Schedule 9A.

14. Following the utilisation of \$1.100m in the 1 October 2006 levy orders, the remaining balance to be applied to future levies is \$0.496m, where the existing balance is unable to be applied to the 1 October 2006 levy order.

Other adjustments to be considered

15. The proposed 1 October 2006 levy orders include an adjustment of \$0.489m for 2005/06 research catch revenue. The research catch revenue relating to 2005/06 research projects has been calculated for affected fish stocks consistent with the approach taken for the research catch revenue relating to the 2004/05 year, and will be offset against the 1 October 2006 levies for those stocks. This approach has been discussed and agreed with SeaFIC. Of the \$0.489m, \$0.001m is unable to be applied to the 1 October 2006 levy orders and will be carried forward and applied to a future levy order.

Issues raised during stakeholder review

16. The proposed cost recovery levies for 2006/07 were distributed to commercial stakeholders on 15 June 2006 for their review and comment invited by 7 July 2006. Where appropriate, the Ministry has altered the proposed cost recovery levies in relation to the feedback. The key issues identified in the feedback relate largely to levying for specific research projects and the impact of levies on specific fish stocks. A full analysis of each issue raised by stakeholders and the Ministry response is provided in Attachment 2.

Impact of levies

17. The Fisheries (Cost Recovery) Rules 2001, for the purposes of apportioning industry costs amongst affected fish stocks, requires that the Chief Executive of the Ministry of Fisheries survey the port prices for each fish stock and fix a price that, in the view of the Chief Executive, is the average port price for each fish stock. The port price also provides a useful measure of the impact of fisheries services levies on a fish stock in relation to the port price for that stock, i.e. a measure of 'affordability'.

18. The table below details the species where the 2006/07 fisheries services levy is greater than 10% of port price (pre adjustments for settlement credit and prior year under/over recoveries):

Species	Quota Management Area	1 October 2006 Levy as % of the 2006/07 port price	1 May 2006 Levy as % of the 2005/06 port price	Difference between levy orders	Reason where % change between levy orders exceeds 10%
Kahawai	1	48%	24%	24%	KAH2006-01, KAH2006-02 and KAH2005-02
Oreo	3A	41%	5%	36%	OEO2006-01
Southern Blue Whiting	6I	33%	4%	29%	SBW2005-02
Kahawai	2	21%	22%	1%	N/A
Kahawai	3	21%	22%	1%	N/A
Kahawai	8	21%	22%	1%	N/A
Gemfish	2	18%	7%	11%	SKI2006-01
Scallop	CS	17%	12%	5%	N/A
Blue Moki	1	16%	7%	9%	N/A
Gemfish	1	15%	2%	13%	SKI2006-01
Scallop	1	12%	9%	3%	N/A

19. For each of the fish stocks listed in the table above, the predominant feature influencing the costs is research. All projects in the approved research plan have been subject to thorough consultation with stakeholders as part of the SOI process.

20. The Ministry acknowledges the impact that research costs can have on commercial interests and is aware that the impact will not fall evenly across all fishers, but it notes that the increased costs are temporary and will only be levied for the life of the research project. This is clearly the situation for gemfish (areas 1 and 2), due to the research projects noted in the table above.

21. The economic viability of fish stocks for which the fisheries services levy exceeds 10% of port price was raised as an issue in the feedback received from SeaFIC, specifically in relation to kahawai and southern blue whiting.

22. Kahawai, oreo and southern blue whiting are all important fisheries with relatively high volume but low unit value in terms of the surveyed port prices. Kahawai has appreciable commercial, recreational and customary interests; black oreo in QMA 3A is the largest of all New Zealand's black oreo fisheries; and Campbell Island southern blue whiting is by far the largest of New Zealand's whiting fisheries. Given the significance of these fisheries, they should all be closely monitored, but their relatively low unit value means that research must be restricted in order to be economically affordable. These conflicting needs are contemplated in the applicable Medium Term Research Plans. Further detail on the costs associated with these fish stocks is provided in Attachment 2.

Fiscal issues

23. The 1 October 2006 levy orders include certain adjustments to the amounts to be recovered for Outputs *Utilisation and sustainability of New Zealand's fisheries resources measured*, *Observer services provided* and *Commercial fishing rules enforced* that result in variances to the budgeted expenditure listed in the 2006/11 Statement of Intent (SOI). These variances are discussed below:

(a) Output: Utilisation and sustainability of New Zealand's fisheries resources measured

The Ministry has research projects in its 2006/07 science programme that were initiated in 2005/06 and therefore levied in that year. However, because the projects spanned two or more years, the 2006/07 levies should only cover the residual expenditure required to complete the projects. Correcting the proposed levies for this issue results in a net reduction of \$0.309m in the 2006/07 levy order revenue when compared to the planned 2006/07 expenditure for Output: *Utilisation and sustainability of New Zealand's fisheries resources measured*. In addition, \$0.190 relating to research project BEN2006-02 has been removed from the levy order. This results in a total reduction to the levied costs for this output of \$0.499m. The reasons for these variances are discussed further in Attachment 2.

(b) Output: Observer services provided

The planned 2006/07 expenditure for *Observer services provided* includes 182 observer sea days provided to satisfy international agreements at a planned cost of \$0.087m. The costs of observer sea days delivered in support of international agreements are not recoverable by way of cost recovery levies. Accordingly the \$0.087m will not be included in the 2006/07 cost recovery levy revenue.

(c) Output: Commercial fishing rules enforced

The Ministry has allocated observer services to the business unit requesting the service, based on the purpose of the requested observer time. Commercial compliance has requested 150 observer days in 2006/07. Accordingly, the commercial compliance output in the levy order has been adjusted by \$0.072m to include the cost of these observer days. The costs for *Commercial fishing rules enforced* of \$8.197m (including the adjustment for compliance specific observer days) as reflected in the levy order will be spread across all fishstocks in accordance with the Fisheries (Cost Recovery) Rules 2001.

Fisheries and conservation services costs to be recovered for 2006/2007

24. The costs to be recovered for fisheries and conservation services by the 1 October 2006 levy orders after adjustments as detailed in Attachment 1, application of historic settlement sums for the period 1 October 1994 to 30 September 2002, and application of prior under and over recovery of costs, are set out below:

Fisheries Services and Conservation Services (\$m excl GST)	2006/07 Fishing Year	1 May 2006 amending levy order
Cost Recovery Levy Orders	31.338	30.945
Transaction Fees and Charges	1.669	2.423
Total Recovery	33.007	33.368

25. The settlement sum available to be applied to the 1 October 2006 levy orders has reduced, as has the adjustment for prior year under and over recoveries (as discussed in paragraphs 7-14). Accordingly, there has been an increase in levies of \$0.393m from the 1 May 2006 levy orders to \$31.338m.

26. These proposed levies include adjustments for settlement sums, 2004/05 under and over recovery of costs (not able to be applied in from 2005/06) and revenue from research catch in 2005/06 of \$1.582m, which are fully provided for and have a nil fiscal impact on the Crown.

A full breakdown of the costs and adjustments is provided in Attachment 1.

Consultation with Other Government Departments

27. The Department of Conservation has been consulted on this paper and agrees with the recommendations.

Treasury Comment

28. Treasury has been consulted on this paper and has not identified any issues requiring further comment.

Regulatory Compliance

29. Section 264 of the Act requires that the Minister must not recommend the making of an order unless the Minister is satisfied that the proposed levy orders to which this paper relates are consistent with the rules in force under section 263 of the Act. Every effort has been made by the Ministry to ensure that the proposed levy orders are consistent with the Fisheries (Cost Recovery) Rules 2001, and no reason has been identified to indicate any inconsistency.

Timing issues

30. The proposed levy Orders need to be effective from 1 October 2006.

31. Accordingly, the Ministry recommends that, if practicable, the levies be considered a meeting of the Cabinet Legislation Committee scheduled for 24 August 2006, Cabinet on 28 August 2006, and gazettal on 31 August 2006 to ensure that stakeholders can be informed of the new rates as soon as possible and meet the 28 day notification period for regulations.

Cabinet Legislation Committee

32. The attached Cabinet Legislation Committee paper proposes the levy orders, as recommended in this paper.

Ministry Officials Available

33. Ministry officials will be available for any briefings you may wish to have when considering the fisheries and conservation cost recovery levies recommended.

Recommendations

34. It is recommended that you:

1. Note that

- a) the provisions of section 264 of the Fisheries Act 1996 require the Minister to be satisfied that the proposed levies being recommended in this paper are consistent with the Fisheries (Cost Recovery) Rules 2001;
- a) section 265 of the Fisheries Act 1996 creates a mandatory obligation on the Minister of Fisheries to have regard to under and over recovery of costs in a previous financial year that the Minister has not previously had regard to when recommending a new levy order;
- b) that the under and over recovery of costs to 2002 were considered as part of the settlement for the period from 1994/95 to 2001/02;
- c) the Ministers of Fisheries have previously had regard to the under and over recovery of costs for the 2002/03, 2003/04 and 2004/05 years;
- d) data to support the calculation of the 2005/06 under and over recovery of costs for fisheries services and conservation services is not currently available, and advice will be provided to you when the information has been obtained;
- e) the proposed levy rates for affected fish stocks are provided as Attachment 3;
- f) the proposed levies contain an adjustment for research catch revenue relating to the 2005/06 year for affected fish stocks;
- g) the proposed levy orders recommended in this paper do not require new policy decisions;
- h) the proposed levy orders need to be effective from 1 October 2006.

2. Approve

- a) the deferral of the adjustment for the 2005/06 financial year under and over recovery of costs until after the information becomes available and the appropriate review process has been completed;
- b) the levy rates provided at Attachment 3 as the levies to be effective from 1 October 2006 for affected fish stocks;
- c) the drafting of the levy orders by the Parliamentary Counsel Office;

- d) that the attached Cabinet Legislation Committee paper proposing the levy orders be submitted for consideration by the Committee on Thursday, 24 August 2006.

Paul Laplanche
Chief Financial Officer
Encl.

Agreed / Agreed as Amended / Decline

Hon Jim Anderton
Minister of Fisheries
/ /2006

Attachment 1

Fisheries and conservation services costs to be recovered for 2006/07

A summary of the costs to be recovered in respect of fisheries and conservation services is as follows. The 1 May 2006 levy order figures, which covered the 2005/06 fishing year are shown for comparative purposes:

Fisheries and Conservation Services	1 October 2006 Levy Order (\$M excl GST)	1 May 2006 Levy Order (\$M excl GST)
Approved SOI – total cost of fisheries services	89.441	85.744
<i>Less</i> adjustments to Output: <i>Observer Services Provided</i> – unrecoverable international observer days	(0.087)	
<i>Less</i> adjustments to research project costs in Output: <i>Utilisation and sustainability of New Zealand's fisheries resources measured¹</i>	(0.499)	
Other adjustments for 1 May 2006 levy order		0.123
Total 2006/07 MFish expenses	88.855	85.867
<i>Less</i> Crown share	(56.102)	(51.593)
Gross MFish expenses recoverable from industry	32.753	34.274
<i>Less</i> cost to be recovered by way of transaction fees and charges	(1.669)	(2.423)
Net MFish costs to be charged by Cost Recovery Levies	31.084	31.851
<i>Plus</i> Conservation Services projects	2.060	1.690
<i>Less</i> Crown Share	(0.225)	(0.222)
Total Recoverable from Cost Recovery Levies	32.919	33.319
<i>Less</i> 1994-2002 net settlement credit applied in 2004/05	(1.100)	(1.572)
<i>Less</i> Adjustment for 2005/06 net future credit for research catch revenue to be applied in 2006/07	(0.480)	(0.774)
<i>Less</i> Adjustment for 2004/05 net future credit over recovery to be applied in 2006/07 (carried f/ward from 2005/06)	(0.001)	
Other adjustments in 1 May 2006 levy order		(0.028)
Total to be collected from industry for fisheries services and conservation services	31.338	30.945

¹ The 2006/07 levies only cover only the residual expenditure required to complete the following projects: GUR2005-02, ENV2005-20, TRE2005-01, GUR2005-01, OYS2005-01, REC2005-04, HAK2005-01, MID2005-02, LIN2005-01 and, HOK2005-03. Also, the costs of BEN2006-02 have been removed from the levy order.

Attachment 2

INDUSTRY RESPONSES AND MINISTRY ANALYSIS ON PROPOSED COST RECOVERY LEVIES FOR 2006/07

Responses received

Written feedback has been received from the following stakeholder groups:

Area 2 Inshore Finfish Management Company Ltd ('Area 2')

Deepwater Stakeholder Group ('Deepwater')

The New Zealand Seafood Industry Council Ltd ('SeaFIC')

In addition, emails were received from Allan MacDonald and Bob Butts, Motupipi Fishing Co., in relation to the issues around SPD deemed values vs levies

The following pages contain:

- the main issues raised in the stakeholder responses and the Ministry of Fisheries reply to those issues; and
- copies of the written responses.

Issue 1	New Ministry website – removal of SOI consultation material
Organisation	SeaFIC

Submission Details

The removal of the 2006/07 SOI consultation material from the MFish website hindered the preparation of a submission.

Ministry of Fisheries Analysis

In order to comply with e-Government requirements, the Ministry of Fisheries has recently revised its website. The new website became active after close of business on Friday 23 June 2006 so that it would be available to stakeholders for the week commencing 26 June 2006. As part of the revision, it was intended to upload an email link for interested stakeholders to obtain the 2006/11 SOI consultation material. This material was not transferred to the new site because to do so would have been counter to the State Services Commission e-Government guidelines. Unfortunately this email link was not uploaded and, following a telephone call from industry, the SOI documents were e-mailed to them on 29 June.

Information on the proposed levies was released for stakeholder review on 15 June 2006, with a request that written submissions be made by 7 July 2006. Industry therefore had from 15 June 2006 to 23 June 2006 and from 29 June 2006 to 6 July 2006 to get their responses completed.

Issue 2	New initiative costs for 2006/07
Organisation	SeaFIC

Submission Details

The costs of the proposed new initiatives were included in the approved 2006/07 output plan, when the consultation for the new initiatives did not close until 8 June 2006. This reinforces industry's perception that the Ministry does not enter the consultation process (the new initiatives process) in respect of its activities with an open mind.

Ministry of Fisheries Analysis

The comments from industry need to be placed in context. In previous years, the Ministry has received approval to release the proposed new initiatives as part of the draft Statement of Intent consultation document. As early as January 2006, the Ministry advised all stakeholders by letter that, because of constraints surrounding the development of the 2006 Budget, the proposed new services for 2006/07 would not be issued with the draft SOI document. We also said in the letter that the new services would be issued for consultation once the Budget had been delivered by the Minister of Finance.

The Budget was delivered on 18 May 2006 and the consultation material was issued to stakeholders on 19 May 2006.

SeaFIC also needs to understand the provisions of the Public Finance Act 1989 (PFA), which requires the figures in the Statement of Intent to equate to those approved by the Government and included in the Estimates for the year ending 30 June 2007. The Ministry entered into the consultation process with an open mind, and would not have implemented the new services until the consultation process was completed and the Minister of Fisheries had made his decisions on those services. But it clearly must adhere to the provisions of the PFA.

Had the Minister declined to approve any of the services, the Ministry would have informed stakeholders of those decisions, and removed the services from the SOI at the first available opportunity – the October Baseline Update process.

It is perhaps also worth noting that none of the proposed new services were subject to cost recovery.

Issues 3, 4, 5, 6	Allocation of observer days to fish stock
Organisation	SeaFIC

Submission Details

(3) The approved project specification specifies a collection of biological data from kahawai ('KAH') and trevally ('TRE') stocks as the basis for research projects KAH2006-01 and TRE2006-01. However, no observer days have been allocated to either KAH or TRE stocks in the proposed 1 October 2006 levy model.

(4) The approved programme for tuna stocks is 800 days, yet only 693 days are allocated to tuna.

(5) No tuna observer days have been allocated to yellowfin tuna ('YFN'), but the project specification includes obtaining length and frequency data for YFN.

(6) SeaFIC does not agree that the 150 compliance observer days should be spread across all fish stocks. SeaFIC believes that all compliance activity, including the observer days, should ultimately be allocated to those fish-stocks which were the focus of compliance activity. That would provide a better relationship between the costs of compliance with the level of compliance in fish stocks.

Ministry of Fisheries Analysis

(3) TRE 2006-01 is a shed sampling project so there is no observer sampling required. For clarity, this project is different to OBS 2006-06 that mentions TRE in the objectives for 2005/06, but does not include days in 06/07. KAH 2006-01 is a "stock structure" project. As such, it will use historically collected data, therefore there is requirement for observer days. This project is different to OBS 2006-06 that mentions KAH in the objectives for 05/06, but does not include days in 2006/07.

(4) The planned programme for Ministry requested observer days for tuna species totals 930 days. 17 of these observer days are delivered as 'international' days and, as such, are not recoverable. Accordingly, the balance of the tuna days have been apportioned amongst the tuna species.

(5) Observers collect data on every fish caught. YFN is only a minor bycatch species, so no observer days have attributed to YFN.

(6) The spreading of Compliance costs amongst fish stock has been an ongoing area of contention with the Fisheries (Cost Recovery) Rules 2001 (the 'rules').

The attribution of commercial compliance related costs falls under schedule item 1 of the rules. Item 1 prescribes that services relating to 'monitoring and offence detection of commercial fishing activities' are to be 100% recovered from industry, with the costs to be apportioned between fishstocks per rule 7(2), i.e. the TACC port price index.

As the observer effort in question is delivered for compliance purposes, the costs must be allocated amongst all fish stocks on the basis of the TACC port price index; the rules offer no flexibility in this respect.

The costs of other compliance related activities, which may or may not have a specific relationship to a particular fish stock, are simply spread across all fish stocks in accordance with the rules, and cannot be attributed to specific stocks.

The Ministry is not in a position to detail what the compliance observer days are delivered for, as it would potentially compromise the maintenance of law and may divulge planned compliance operations and investigations.

Issue 7	Tier 2 projects / Levying for BEN2006/02 <i>Assessing the effects of fishing on soft sediment habitat, fauna, and processes</i>
Organisation	Deepwater/SeaFIC

Submission Details

There is no certainty that a number of the consulted Tier 1 projects will proceed. There has been no indication that the Ministry would seek to recover the costs of ‘uncertain’ Tier 1 and Tier 2 projects in the same levy order. Industry is concerned that there are a number of projects that are by no means likely to succeed, and that these ‘potential’ projects should not be levied. As no Tier 1 projects have been cancelled, Tier 2 projects cannot be substituted.

Specifically, BEN2006-02 this project is Tier 2 and cannot be levied until Tier 1 projects are cancelled and make available sufficient funds for BEN2006-02;

Ministry of Fisheries Analysis

By necessity, the Ministry must manage a process to identify which priority projects are to be budgeted (Tier 1) and which priority projects are initially unfunded (Tier 2). The objective of the Tier 1 and Tier 2 structure is that any Tier 1 projects that do not proceed can be replaced, after and subject to further consultation requirements, by Tier 2 projects. It is stressed that only projects that are considered priority projects, after having been through the research planning and consultation processes, would be designated Tier 1 or Tier 2 projects.

BEN2006-02 was consulted as a Tier 2 project and will not proceed until such time as the requisite funding becomes available and the Minister agrees to proceed with the tender. Stakeholders will be advised when this occurs. Accordingly, the costs of research project BEN2006-02 have been removed from the proposed levy orders.

Issue 8	ENV2005-06 <i>Estimation of protected species captures in longline fisheries using electronic monitoring.</i>
Organisation	SeaFIC/Area2

Submission Details

This is an ‘experimental’ project and should not be recovered.

The main issue lies with levying fish stocks with a very small, if any, component of long-line fishing, in particular SNA2 (97% caught by trawl) and SNA7 (99% trawl). Only a minimal amount of catch (9 tonnes and 2 tonnes respectively) is caught by long-lining. Levying these costs from such fish stocks is contrary to principle (d) section 262 of the Fisheries Act 1996, i.e. as far as is practicable, attribution of costs to persons who cause the risk or adverse effect.

Ministry of Fisheries Analysis

This research is aimed at implementing a system of catch monitoring that has already been subject to extensive trials; in other words, it has passed beyond the initial experimental stage. Monitoring of catch is contemplated by schedule 4 of the cost recovery rules, and remains a 100% industry funded project, aside from one objective which focuses on policy development on intellectual property and data management (100% crown funded).

However, the Ministry agrees that fish stocks with very little, if any, component of longline fishing should not be levied for this project. Accordingly, the allocations to SNA2, SNA7 and SNA8 have been removed..

Issue 9	CRA2006-02 <i>Rock lobster recruitment</i>
Organisation	SeaFIC

Submission Details

This project is a continuation of CRA2005-01 which attributes cost to affected fish stocks on the basis of port price index, so the costs of this project should be allocated on a similar basis. The draft SOI makes no suggestion that the costs would be allocated 20% to each stock, otherwise industry would have responded. The costs should be spread on the same basis as CRA2005-01.

Ministry of Fisheries Analysis

The draft SOI had the following cost recovery information listed for this project:

The percentage allocation for this project will be attributed to the following Fishstocks according to rule 9 (2) of the Fisheries (Cost Recovery) Rules 2001:

- CRA 3, 4, 5, 7 and 8

Rule 9(2) prescribes that if, in respect of services that relate to more than one stock, the chief executive of the Ministry of Fisheries has determined a percentage allocation for the research effort in respect of a particular stock, the costs to be recovered from that stock. While the actual research effort percentages were not detailed in the draft SOI, the chief executive's determination is that 20% of the research effort applies to each of CRA3, 4, 5, 7 and 8.

However, the Ministry has reviewed the way in which the industry costs are spread amongst affected fish stocks, and has amended the method of attribution in line with industry's request. The industry costs have been spread on the basis of port price index for affected stocks in the proposed levy order, consistent with the allocations for CRA2005-01.

Issue 10	GBD2006-01 <i>DNA database for commercial marine fish and invertebrates</i>
Organisation	SeaFIC

Submission Details

This is 'public good' research and should be 100% Crown funded.

Ministry of Fisheries Analysis

As stated in the Ministry response to SeaFIC's submission on this issue in the draft SOI, the Ministry notes SeaFIC's suggestion that this research should be Crown funded. As more fishstocks are introduced to the QMS, there will be an increasing need to understand the differences between stocks and between species. There will be both stock management and compliance implications of this work, but cost recovery is provided for under both circumstances. Recent examples of the kind of analyses that have been required for compliance are distinguishing between individual oreo, cod and marlin species; and identifying actual species of processed shellfish. The Ministry believes there is a growing need for this type of database in order to effectively manage New Zealand fisheries.

Issue 11	OEO2006-01 <i>Estimation of the abundance of black oreo and smooth oreo in selected areas (BOE 3A)</i>
Organisation	SeaFIC/Deepwater

Submission Details

The viability of this project is dependant on the resolution of the issues surrounding deep water acoustic surveys, as acknowledged in a workshop held in November 2005, after which the Ministry stated that no further acoustic surveys would be undertaken until those issues were resolved. This has not occurred, yet the project is going ahead. SeaFIC raised this issue as part of its submission on the draft 2006/07 research plan. Given these issues, SeaFIC does not accept that this project should be levied.

Ministry of Fisheries Analysis

The project is an approved service and was considered as part of the SOI process.

The Ministry has not previously stated that no further acoustic surveys would be undertaken until those acoustic survey issues were resolved. Required research should not be suspended because there is other ongoing work that may influence its interpretation. In the case of black oreo in OEO 3A, this is the largest of the black oreo fisheries and it will have been four years since the most recent fishery-independent survey on this stock. The MFish Deepwater Medium Term Research Plan specifies the need to update the biomass indices for each of the main oreo fisheries in the New Zealand EEZ every 3 to 5 years.

It should also be noted that the experiments planned for winter 2006 are primarily directed at orange roughy, not oreos. Although further work on acoustic estimates of oreos would be useful, there are a greater number of issues about acoustic estimates for orange roughy.

Issue 12	ORH2006-01
Organisation	SeaFIC/Deepwater

Submission Details

This project is listed in the approved research plan for 2006/07 as ORH2006-01A (to be levied against ORH3B) and ORH2006-01B (to be levied against ORH2A, ORH2B and ORH3A). There has been no communication to date about which project will proceed. There are no sustainability concerns for any of these stocks, therefore there is no need for a 'stock management' project. The problems with acoustic surveys remain (as discussed in issue 13 above), yet this project is going ahead. These issues were raised in SeaFIC's SOI submission but were dismissed by the Ministry.

Ministry of Fisheries Analysis

The Ministry has not yet put out a request for tenders for this project. However, we have conducted preliminary discussions internally, and with the Deep Water Stakeholder Group, about the need for the project. We believe that there is higher priority for surveying the East Chatham Rise rather than the Mid-East Coast; therefore, this is the main project that is currently being considered.

The Ministry agreed to cancel all planned orange roughy acoustic surveys for the 2005/06 year in order to facilitate directed experiments to resolve some outstanding issues with acoustic methods. However, the Ministry did not agree to cancel all such surveys for 2006/07 as well.

Issue 13	Project costs already recovered in full
Organisation	SeaFIC/Area 2 (GUR2005-02)

Submission Details

The following projects were tendered and levied for the full amount in 2005/06; the 2006/07 levies should be removed because the funding has already been recovered:

GUR2005-02
 ENV2005-20
 TRE2005-01
 GUR2005-01
 OYS2005-01
 REC2005-04
 HAK2005-01
 MID2005-02
 LIN2005-01
 HOK2005-03

Ministry of Fisheries Analysis

The Ministry has research projects in its 2006/07 science programme that were initiated in 2005/06 and therefore levied in that year. However, because the project spanned two years, the 2006/07 levies should only cover the residual expenditure required to complete the projects. Correcting the proposed levies for this issue results in a net reduction of \$0.309m in the 2006/07 levy order revenue when compared to the planned 2006/07 expenditure for Output: *Utilisation and sustainability of New Zealand's fisheries resources measured*.

Any remaining cost recovery variances between planned and actual costs at the project level will be considered as part of a future under and over recovery analysis when the affected projects have been formally closed.

Issue 14	ENV2005-15 <i>Information for managing the effects of fishing on physical features of the deep-sea environment</i> and ENV2005-16 <i>Investigate the effects of fishing on physical features of the deep-sea environment – allocation of costs to BYX2</i>
Organisation	Area 2

Submission Details

BYX2 is a mid-water fishery and only a small bycatch of the OEO/ORH fisheries, so should not be levied for these deep sea projects. Cost recovery principles require that levies must be attributed, as far as practicable, to the persons responsible for the effects of the fishing.

Ministry of Fisheries Analysis

These research projects first appeared in the 2005/06 research plan. The Ministry notes that Area 2 Inshore Finfish Management Company Ltd made a submission on the 1 October 2005 levy order when this project was first levied; that submission did not contain any comments in relation to ENV2005-15 or ENV2005-16. Area 2 first commented on this project as part of the stakeholder review of the 1 May 2006 amending levies.

The Ministry's Science group considered the submission from Area 2 on these allocations. The Ministry's analysis suggests that a reasonable proportion of BYX2 is reported as being taken by the method of bottom trawl (as opposed to mid-water trawl) throughout much of FMA2. On this basis, it is reasonable to allocate a portion of the costs of ENV2005-15 and ENV2005-16 to BYX2, based on the Fisheries (Cost Recovery) Rules 2001. Accordingly, there has been no amendment to the cost allocations for these projects.

Issue 15	Levies in excess of 10% of port price – viability of fish stocks
Organisation	SeaFIC

Submission Details

12 fish stocks have levies that exceed 10% of the port price. The levies for KAH1, OEO3A, and SBW6I are economically unrealistic. This is the 2nd year in a row that KAH1 has had a high levy rate (23% in 2004/05). These levies are not economic or sustainable and will force industry into an operating loss for that stock. As KAH1 is a QMS fish stock, not catching quota is not a means of avoiding cost.

Ministry of Fisheries Analysis

KAH1, OEO3A and SBW6I are all important fisheries of relatively high volume but relatively low unit value in terms of port prices. Kahawai has appreciable commercial, recreational and customary interests. Black oreo in OEO3A is the largest of all New Zealand's black oreo fisheries. Campbell Island southern blue whiting is by far the largest of New Zealand's whiting fisheries. Given the significance of these fisheries, they should all be closely monitored, but their relatively low unit value means that research must be restricted in order to be reasonably cost effective. These conflicting needs are accounted for in the Medium Term Research Plans that apply to each. There are also other relevant considerations in each case.

Kahawai

In the case of kahawai (QMA 1), 87% of the total fisheries services levy relates to the costs of 3 research projects.

- KAH2005-02 *Stock monitoring of kahawai – recreational catch*
- KAH2006-01 *Stock structure of kahawai*
- KAH2006-02 *Stock monitoring of kahawai – recreational catch*

These projects have a combined total cost of \$450,154 (including Ministry indirect science costs), of which a total of \$100,852 is recoverable from the KAH1 fish stock. In 2005, the Minister of Fisheries requested a stock assessment in order to revise the kahawai TACs. However, as there was insufficient information to conduct an assessment at that time, it was necessary to initiate a research programme to collect the required data. The increased costs of this research are temporary and will only be levied for the life of the research programme. The information provided by these research projects will be used to help determine future sustainability measures thereby ensuring the ongoing viability of the fish stock.

Oreo

In the case of oreo (QMA 3A), the cost is largely due to a single research project, OEO2006-01 (*Estimation of the abundance of black oreo and smooth oreo in selected areas (OEO 3A)*). The project accounts for 87% of the total fisheries services levy for this fish stock, and has a total cost of \$928,414 (including Ministry indirect science costs), which is 95% recoverable from this fish stock. The Deepwater Medium term Research

Plan calls for fishery-independent surveys of the most important oreo stocks every 3-5 years. Black oreo in QMA 3A is the largest of the black oreo stocks and was last surveyed in 2002; the interval between surveys will have been 4 years. The total fisheries services levy for this stock has been around 5-6% of port price since the 2002 survey, and is likely to reduce for at least the three years following the completion of the 2006/07 survey.

Southern blue whiting

87% of the total fisheries services levy for southern blue whiting (QMA6I) relates to research project SBW2005-02 (*Biomass estimation of southern blue whiting using acoustic surveys*). This project has a total cost in 2006/07 of \$1,996,828 (including Ministry indirect science costs), and is to be 100% recovered from SBW6I. Southern blue whiting is a relatively productive species but it also has very high recruitment variability. This means that the fishery needs to be closely monitored to ensure that exploitation rates are kept in check and the stock is not driven to low levels from which it could take a prolonged period to recover. The SBW6I quota holders continually argue in favour of taking the highest reasonable catch, which further necessitates surveys being conducted frequently.

It should be noted that all 2006/07 research projects for these three fishstocks have gone through several rounds of consultation and been approved by the Minister of Fisheries.

Issue 16	SPD relationship between deemed values and cost recovery levy
Organisation	SPD stakeholders

Submission Details

The deemed value level for SPD (in particular area 3) is set too low in relation to the cost recovery levies, making ACE worthless and quota ownership unviable in the face of increasing cost recovery levies.

Ministry of Fisheries Analysis

While the Ministry acknowledges the stakeholder concerns, the cost recovery process is not the appropriate place for a review of deemed values. Information provided by stakeholders will be given due consideration as part of any future review of the deemed values for SPD. However, a summary of the issue is provided below for the Minister's information.

When spiny dogfish (SPD) entered the QMS in October 2004, the decision was taken to set a low deemed value, based on the transaction cost of acquiring ACE and the cost recovery levy for SPD at that time. The rationale was that around half of the SPD catch is never landed (it is discarded by deepwater boats who cannot process it or get it to shore before it ammoniates) and therefore the argument was that the 'true' port price is close to 0c/kg. A special framework was developed to allow SPD to be discarded in the QMS, provided that the discards were counted against ACE. There was much debate at the time about this decision. Provisional quota holders were very unhappy as, of course, the value of their ACE is driven, in part at least, by the deemed value.

The cost recovery levies for some SPD stocks have increased substantially since entering the QMS, largely due to research costs. As a result of this increase and the current deemed value, it would seem that SPD3 quota holders are faced with the undesirable situation of cost recovery levies (at around 4c/kg) being greater than the ACE value (around 2c/kg). There is an argument that the original deemed value rationale was flawed, or that the new cost recovery levies need to be taken into account in the deemed values. However, any review of the deemed values for SPD fish stocks cannot be undertaken until 2007 at the earliest, and does not form part of the current cost recovery process.

The Ministry is currently consulting on a proposal to amend the existing process for reviewing and setting deemed values. As part of this process the decision on whether to review a deemed value will be based on a two stage process. First the stock must meet one of the following criteria:

- Catch is in excess of a TACC
- Deemed values have been paid in the previous fishing year but ACE has remained un-traded
- Changes to the port price of the stock.

If the criteria have been met an environmental scan of the fishery will be undertaken to assess if there have been any:

- TACC adjustments in recent years

- Changes in the structure of the quota/ACE holdings
- Changes in the structure of the market for the fish product (which will include the export market)

As discussed above, all relevant information will be considered as part of any future review of the deemed values for the affected fish stock