

H0292

30 July 2009

Minister of Fisheries

FISHERIES AND CONSERVATION SERVICES COST RECOVERY LEVIES FOR THE 2009/10 FISHING YEAR

Purpose

1. This paper:
 - a) Recommends cost recovery levies to be applied from 1 October 2009 for the 2009/10 fishing year under section 264 of the Fisheries Act 1996;
 - b) Comments on the submissions made by the commercial fishing sector on the proposed cost recovered fisheries services for 2009/10 and the cost recovery levies for 1 October 2009, and on the under and over recoveries of levies for 2007/08;
 - 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 2009 levy orders;
 - d) Seeks your approval to submit a paper to the Cabinet Legislation Committee recommending the proposed orders 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 the Cabinet Economic Growth and Infrastructure Committee.

Appendices

3. A series of appendices is attached to the paper. They are:
 - Appendix 1 The costs of Fisheries and fisheries-related Conservation services to be recovered for 2009/10.
 - Appendix 2 Ministry responses to the issues raised in industry submissions on the proposed cost recovered services for 2009/10 and the cost recovery levies to be imposed from 1 October 2009.
 - Appendix 3 The industry submissions on the proposed cost recovered services for 2009/10 and the cost recovery levies to be imposed from 1 October 2009.
 - Appendix 4 The industry submission on under and over recoveries of levies for the 2007/08 year; there is agreement between the industry and the Ministry so no separate response is required.
 - Appendix 5 The proposed cost recovery levies for 2009/10.

Background

4. The setting of fisheries services and conservation services levies is a regular process, undertaken every year.

5. 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. Part 14 of the Fisheries Act 1996 (the Act) sets out the purpose of the Part as being “to enable the Crown to recover its costs in respect of the provision of conservation services and fisheries services”.

6. Section 262 of the Act specifies five principles for cost recovery:

- (a) If a conservation service or fisheries service is provided at the request of an identifiable person, that person must pay a fee for the service;
- (b) Costs of conservation services or fisheries services provided in the general public interest, rather than in the interest of an identifiable person or class of person, may not be recovered;
- (c) Costs of conservation services or fisheries services provided to manage or administer the harvesting or farming of fisheries resources must, so far as practicable, be attributed to the persons who benefit from harvesting or farming the resources;
- (d) Costs of conservation services or fisheries services provided to avoid, remedy, or mitigate a risk to, or an adverse effect on, the aquatic environment or the biological diversity of the aquatic environment must, so far as practicable, be attributed to the persons who caused the risk or adverse effect; and
- (e) The Crown may not recover under this Part [14 – Cost Recovery] the costs of services provided by an approved service delivery organisation under Part 15A.

The Ministry considers that the proposed levies to be introduced from 1 October 2009 are consistent with these principles.

7. The determination of the proposed cost recovery levies results from decisions taken each year 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 fisheries-related conservation services undertaken by the Department of Conservation (DoC).

8. 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 fishstock, based on the total amount to be cost recovered from the commercial fishing industry. There then follows a further review process with industry to consider the levies and their application to fishstocks.

9. In February this year, you agreed to the adoption of a single consultation process with fisheries stakeholders, with the consultation limited to those services subject to cost recovery. In conducting that process, the Ministry provided stakeholders with the information on the proposed cost recovered services, along with the indicative cost recovery levies to be applied from 1 October 2009. In order for them to consider the proposed services and the attendant levies, the Ministry specifically advised stakeholders that the levies were exclusive of previous years' unders and overs and the settlement credit. The purpose was to obtain views on the 'pure' levies for 2009/10 services. The consultation ran from 29 May to 17 June 2009.

10. In this period, the Ministry also provided the Seafood Industry Council (SeaFIC) with information related to the calculation of the under and over recoveries of cost recovery levies applied in the 2007/08 year.

Requirements of the Minister of Fisheries

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

- a) consider any other under and over recovery of Ministry costs of any conservation or fisheries services; and
- 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.

12. Section 265 of the Fisheries Act 1996 requires 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.

13. The Minister must:

- a) 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;
- b) not ignore any under and over recovery of costs from 2002/03 onwards (being the period not covered by 'the settlement'), that the Minister has not previously had regard to;
- c) give the under or over recovery of costs in previous financial years such weight as he considers appropriate.

14. The Minister has already had regard to the 2002/03 to 2006/07 under and over recovery of costs of fisheries and conservation services when setting previous levy orders. There remains now the requirement to give consideration to the 2007/08 unders and overs when determining the 1 October 2009 levies.

15. Information about the under and over recovery of costs in the financial year ending 30 June 2009 is not available in time to be included in the 1 October 2009 levy order. Consistent with the agreement between the Ministry of Fisheries and the commercial seafood industry to manage under and over recovery of costs, these unders and overs will be included in future levy orders.

16. Section 263 of the Act requires the Minister, before making a recommendation to the Governor-General on the levies to be imposed in any year, to be satisfied that the levies are consistent with the Rules. The Ministry is satisfied that the Rules have been applied correctly and the resultant levies are consistent with the Rules.

How do under and over recovery variances occur?

17. Variances between the planned budget and actual results are calculated at the end of every year. An under or over recovery is a variation from the consulted conservation and fisheries services budgets. This can be either an expenditure variance or a revenue variance as described in the table below.

	Under-recovery	Over-recovery
Expenditure Variance	Actual expenditure was higher than budgeted, e.g., a research project costs more than estimated	Actual expenditure was lower than budgeted, e.g., the agreed price for a research project is lower than estimated
Revenue Variance	Less revenue was invoiced than projected, due to catch variations caused for non-ITQ species, etc.	More revenue was invoiced than projected due to catch variations caused for non-ITQ species, etc.

18. Each of these needs to be considered in the development of future years' levies. Each can have an impact on the actual levies to be paid. All under and over recoveries must be allocated to a fish stock level as the levies are determined on that basis.

The composition of the levies

19. The amount finally to be paid in cost recovery levies in any year is determined after the application of three factors:

- a) The levies for the services to be delivered in the forthcoming year; and
- b) The application of the under and over recoveries from previous years; and
- c) The application of the remaining 'settlement credit'.

20. Following the determination of the 1 October 2008 levy orders, there was a total of \$0.245 million in over recoveries still to be applied from previous years. This comprised:

- a) \$0.016 million in unallocated under and over recoveries since 2002; and
- b) \$0.229 million in unallocated settlement credits from prior to 2002.

21. Commentary on previous years' unders and overs, the settlement credit and the levies for 2009/10 is provided in the following paragraphs.

The principles for resolving under and over recovery of levies

22. Following the settlement of the under and over recoveries prior to 2002, the Ministry and industry agreed on a set of Principles for the Management of Under and Over Recovery of Cost Recovery Levies (the Agreement). Broadly the Agreement notes that:

- a) Under and over recoveries shall be analysed at output level.
- b) The analysis of under and over recovery of budgeted costs from the research programme will be performed at a research project level.
- c) The under and over cost recovery process should not result in the cross subsidisation of one fish stock, or class of fish stock, by another.
- d) The industry should not be charged for costs that they have not been consulted on through the appropriate consultation process.

23. The Agreement also establishes a series of ‘tests’ that need to be carried out in order to determine whether costs in excess of those consulted on when the levies were initially set have subsequently been subject to consultation and might therefore be recovered. In the absence of these tests, the Agreement does not presume the ability to recover the extra costs. Over recoveries must be refunded to the industry through reduction of future years’ levies.

Under and over recoveries for 2007/08

24. The Ministry’s assessment of the 2007/08 under and over-recoveries was provided to SeaFIC on 9 June 2009, with a request that comments be provided by 17 June. SeaFIC has agreed with the Ministry calculation of fisheries services unders and overs. As noted in the table below, across all Ministry and DoC services, there is a total net refundable over recovery of \$3.362 million.

	Recoverable Under recovery	Refundable Over recovery	Net under (-) / over (+) recovery
Fisheries Services	(211,927)	3,055,368	2,843,441
Conservation Services	(5,304)	524,503	519,199
Total	(217,231)	3,579,871	3,362,640

The components of the refundable over recovery of \$3.055 million for fisheries services are:

Outputs where actual expenditure was less than the levy-based estimate:	
Registry services	\$322,452
Statutory decision processes	\$175,008
Commercial fisheries compliance	\$700,881
29 research projects with actual costs less than consulted estimates	\$967,625
13 research not meeting the criteria for recovery as set out in the Agreement	\$615,288
Revenue variance - the main component of this relates to non-ITQ fish stocks. To calculate initial levies for non-ITQ fish stocks, the Ministry and SeaFIC estimate what the catch is likely to be. The revenue variance occurs when there is a difference between actual catch and the estimate).	\$192,275
Observer variance - where actual delivered observer days differed from the plan	\$81,839
Total	\$3,055,368

25. The main components of the recoverable under recovery of \$0.212 million for fisheries services are 7 research projects where final expenditure was more than the amounts consulted or where the amount levied was less than the amounts consulted. These amounts are under recoveries, and, in line with the Agreement we have with industry on under and over recoveries, are able to be recovered as part of the next years levy process.

26. Under and over recoveries due to changes in TAC or TACC between 1 October 2007 and 30 September 2008 were also calculated.

27. The Ministry has incorporated the above changes into the proposed 1 October 2009 levies.

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

28. 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 a \$24.617m reduction and a \$0.024m increase in future levy orders.

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

The proposed levy orders for 1 October 2009 will utilise \$0.076m of the current unallocated settlement balance, leaving an amount of \$0.153m to be applied to future levy orders. There are three fish stocks with remaining settlement balances:

Fish stock	Remaining settlement balance
Orange Roughy 7A	\$39,470
Scallops 1	\$113,015
Sea Perch 7	\$781
Total	\$153,266

The 1 October 2009 levy process

30. The proposed cost recovery levies for 2009/10 were distributed to commercial stakeholder organisations on 28 May 2009, with a request that comments be provided to the Ministry by Wednesday 17 June 2009. Responses were received from:

- SeaFIC
- Area 2 Inshore Finfish Management Co Ltd
- New Zealand Rock Lobster Industry Council

Issues raised by stakeholders

31. A brief commentary on the cost recovery related issues and the Ministry response is shown in Attachment 1. Appendix 2 is split into 2 sections. The first section lists the issues raised by stakeholders relating to the proposed cost recovered fisheries services. The Ministry's response to these issues is set out in advice paper H0293 dated 1 July 2009, that deals with the Fisheries Services to be delivered in 2009/10. You approved this advice paper on 7 July. The second section lists the stakeholder submissions on the proposed cost recovery levies for 1 October 2009 and the Ministry response to these issues. Appendix 3 contains the stakeholder submissions.

Impact of levies

32. The Fisheries (Cost Recovery) Rules 2001, for the purposes of apportioning industry costs amongst affected fish stocks, require 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'. The following table details the species where the 2009/10 fisheries services levy is greater than 10% of port price.

LEVY AFFORDABILITY			
Fishstock	Levy (\$/kg)	Port price (\$/kg)	%
OEO4	0.24	0.80	29.51%
SBW6I	0.08	0.35	21.53%
SCACS	3.00	14.38	20.86%
PPI1A	0.20	1.10	18.55%
SCA7A	2.40	14.38	16.69%
SCA7B	2.40	14.38	16.69%
SCA7C	2.40	14.38	16.69%
JMA1	0.02	0.16	14.32%
LDO1	0.09	0.72	12.90%
LDO3	0.08	0.70	11.45%
EMA7	0.04	0.36	11.44%
COC1A	0.21	1.90	11.13%
SKI2	0.19	1.79	10.34%
RIB1	0.05	0.48	10.33%

33. For each of the fishstocks listed in the table above, the predominant feature influencing the costs is research or observers. All cost recovered projects in the approved fisheries research plan have been subject to thorough consultation with stakeholders prior to your approval.

Fisheries and conservation services costs to be recovered for 2009/10

34. At summary level, the costs to be recovered for fisheries and conservation services through the 1 October 2009 levy orders are set out below. Appendix 1 provides fuller details including adjustments to cover historic settlement sums for the period 1 October 1994 to 30 September 2002, and application of prior year under and over recovery of costs:

Fisheries Services and Conservation Services	1 October 2009 levy order (\$m excl GST)	1 October 2008 levy order (\$m excl GST)
Cost Recovery Levy Orders	\$30.967	\$34.811
Transaction Fees and Charges	\$1.688	\$2.078
Total Recovery	\$32.655	\$36.889

Consultation with Other Government Departments

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

36. Treasury has been consulted on this paper and has no comment.

Regulatory Compliance

37. Section 264(2) 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, as amended by the Fisheries (Cost Recovery) Amendment Rules 2007 and no reason has been identified to indicate any inconsistency.

Timing issues

38. The proposed levy orders need to be effective from 1 October 2009.

Cabinet Legislation Committee

39. The Cabinet Legislation Committee paper seeking approval to the cost recovery levies to be applied from 1 October 2009 is attached to this advice paper. It is suggested that the levy proposals be considered by LEG at its meeting on 20 August 2009.

Ministry Officials Available

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

Recommendations

41. It is recommended that you:

41.1 Note that:

- a) section 264(2) of the Fisheries Act 1996 requires the Minister to be satisfied that the proposed levies being recommended in this paper are consistent with the Fisheries (Cost Recovery) Rules 2001;
- b) 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;
- c) 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;
- d) the Ministers of Fisheries have previously had regard to the under and over recovery of costs for the 2002/03 to 2006/07 years;
- e) the quantum of under and over recovery of costs for 2007/08 is included in this current advice paper and the amounts have been incorporated into the development of the levies for 1 October 2009;
- f) data to support the calculation of the 2008/09 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;
- g) the proposed levy rates for affected fish stocks are provided as Appendix 5;
- h) the proposed levy orders recommended in this paper do not require new policy decisions;
- i) the proposed levy orders need to be effective from 1 October 2009.

41.2 Approve:

- a) the attached Cabinet Legislation Committee paper proposing the levy orders to be effective from 1 October 2009 for affected fish stocks to be submitted for consideration at the Committee's meeting on 20 August 2009, noting also the cost recovery levy rates to be applied from 1 October 2009 will be notified in the New Zealand Gazette on Thursday 27 August 2009;
- b) the drafting of the levy orders by the Parliamentary Counsel Office.

Paul Laplanche
Chief Financial Officer

Encl.

Agreed / Agreed as Amended / Decline

Hon Phil Heatley
Minister of Fisheries
/ /2009

Synopsis of Industry issues and Ministry responses

Output/research project	Industry issue	Ministry response
General comments in relation to cost recovery affordability	Industry expresses concerns about levy affordability, particularly for small by-catch stocks.	The Ministry has a policy preference for levy costs not to be greater than 10% of the port price, however, sometimes it is necessary to go beyond this to undertake the research necessary to determine stock status and advise the Minister on appropriate harvest levels.
SCA2009/06 and BEN2009/04	Industry seeks deferral of these projects for one year.	These projects have been deferred.
COC1A levy	Industry considers the levy excessive, noting that it encompasses two years of costs to catch up for there being no levy in 2008/09.	We have invited industry to determine whether they want the increased levies to be applied for 2009/10 or be resolved as part of the under and over recovery process at the end of the project. They have agreed to recover the additional amount at the end of the project.
Observer Services – Protected species	Industry argues that the Ministry is applying the wrong cost recovery rule to these projects and that the cost recovery should not be any more than 50%.	Observer coverage under these projects is intended to assess the steps taken to avoid, remedy or mitigate adverse effects on protected species and seabirds and consider whether further steps are necessary. Schedule Item 4 is therefore appropriate.
Allocation of indirect research costs	Industry acknowledges the need to develop a new basis for the allocation of science time, and expresses the desire to work with the Ministry to achieve this.	Ministry welcomes the industry approach, but does not believe use of the port price index is an appropriate allocation solution.

Output/research project	Industry issue	Ministry response
PRO2009/01: Abundance, distribution and productivity of Hector's and Maui Dolphins	SeaFIC contends that it should not be levied for this project. Area 2 believes MOK1 should not be included in the cost recovery from this project.	In the Ministry's view, there is no basis for saying, as SeaFIC does, that the Minister's decision has removed the risk to Hector's and Maui's dolphins from commercial fishing. Observers have sighted many dolphins outside the current closures, and one dolphin has been observed caught on a commercial vessel, clearly demonstrating that the risk to the dolphins from fishing is not zero. The actual level of risk has not been estimated so cost recovery under Schedule item 3 remains appropriate. MOK1 excluded from this project.
PRO2009/04: Development and efficacy of seabird mitigation measures	Industry disagrees with the cost recovery assessment; contending that instead of 100% recovery it should be 50%. Wants changes in stocks allocated to this project for cost recovery purposes.	This project is entirely focussed on mitigating that proportion of risk (to seabirds) posed by longline commercial fishing. Schedule item 4 is appropriate. All HPB stocks should be cost-recovered for this project along with SNA 1 and LIN 7.
SKI2009/01: Monitoring length and age structure of commercial gemfish landings in QMA1	Industry considers the cost to be excessive.	Cost estimate based on earlier project costs, and is considered to be the correct band for this work.
HPB2009/01: Spawning locations of hapuku migrating in Cook Strait	Industry seeks removal of project.	Project should be retained as Tier 2. Will not proceed without additional discussion in a science working group.
INS2009/03: Characterisation of FMA2 fisheries	Industry advocates amendments to the schedule of stocks from which this project is cost recovered.	Agrees that this project should be cost recovered across all FMA 2 stocks. Accept changes proposed by Area 2.
SCH2009/01: Catch at length of the commercial landings of school shark in SCH1 and SCH2	Want project withdrawn.	This project has been withdrawn.

Output/research project	Industry issue	Ministry response
CRA2009/01: Stock assessment of rock lobster	Industry contends the costs of this project should be attributed to stocks based on the attribution pattern of CRA2006/01.	The attributed costs for each fish stock will need to be reviewed when the final project objectives are determined and the work plan is finalised for the first year of the 3 year project
CRA2009/02: Rock lobster recruitment	Industry submits that there is a disjunct between the overall objectives of CRA 2009/02 and the one specific Objective 1 described in the consultation document.	The specific objective in this project is to collect data on puerulus settlement from the agreed core sites. The end point for the project is when these data are loaded on the database and a final report is submitted summarising the latest years' results.
PRO2007/01: Estimating the nature and extent of incidental captures of seabirds in New Zealand commercial fisheries PRO2007/02: Estimating the nature and extent of marine mammal captures in New Zealand commercial fisheries	Industry contends that these projects should be subject to a 50% cost recovery not the 100% specified in the levy model.	These projects are entirely focussed on that proportion of the risk (to seabirds and marine mammals, respectively) posed by captures during commercial fishing. Estimating the bycatch of commercial fishing clearly relates only to that portion of the total risk posed by commercial fishing, consistent with the wording of schedule item 4. Schedule item 4 is therefore appropriate.
SCA2009/07: Medium Term Research Plan	Project should not be cost recovered.	Ministry agrees.

Fisheries and conservation services costs to be recovered for 2009/10

A summary of the costs to be recovered in respect of fisheries and conservation services is as follows. The 1 October 2008 levy order figures, which covered the 2008/09 fishing year are shown for comparative purposes. All figures are in \$million and GST exclusive.

Fisheries and Conservation Services	1 October 2009 Levy Order	1 October 2008 Levy Order
Approved output plan – total cost of fisheries services	99.661	96.428
<i>Less Crown share</i>	(60.686)	(60.374)
<i>Less carry forward</i>	(5.041)	
Gross MFish expenses recoverable from industry	33.934	36.054
<i>Less cost to be recovered by way of transaction fees and charges</i>	(1.688)	(2.078)
Net MFish costs to be charged by cost recovery levies	32.246	33.976
<i>Plus Conservation Services projects</i>	2.121	1.962
<i>Less Crown Share</i>	(0.247)	(0.251)
Total recoverable from cost recovery levies	34.120	35.687
<i>Less 1994-2002 net settlement credit applied</i>	(0.076)	(0.089)
<i>Less 2007/08 net future credit over recovery to be applied in 2009/10 and adjustment for 2006/07 (carried f/ward from previous years) and</i>	(3.045)	(0.775)
<i>Rounding necessary to determine the levy per quota share</i>	(0.032)	(0.012)
Total to be collected from industry for fisheries services and conservation services	30.967	34.811

**LIST OF ORGANISATIONS MAKING SUBMISSIONS
ON THE PROPOSED COST RECOVERED FISHERIES
SERVICES FOR 2009/10
AND
PROPOSED COST RECOVERY LEVIES
FOR 1 OCTOBER 2009**

Full name of organisation	Short version
Area 2 Inshore Finfish Management Co Ltd	Area2
NZ Rock Lobster Industry Council	NZRLIC
New Zealand Seafood Industry Council Ltd	SeaFIC

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ISSUES RELATING TO PROPOSED COST RECOVERY LEVIES

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ISSUES RELATING TO PROPOSED COST RECOVERY LEVIES

General	General comments in relation to cost recovery affordability
Organisation	Area 2: page 2

Submission details

Area 2

General Concerns: Area 2 supports concerns re levy affordability of some stocks, particularly small bycatch stocks. For example, for JDO2- 7% of the port price is being levied solely for research services. This excludes other MFish costs. We believe there is a limit that can be levied from many stocks and that the levy order needs to be more carefully considered.

Ministry analysis

The Ministry has a policy preference for research costs not to be greater than 10% of the port price for any given Fishstock. However, for stocks that have minimal levies and minimal research for several consecutive years, it may sometimes be necessary to go beyond the 10% rule due to the necessity of undertaking research to determine stock status in order to advise the Minister on appropriate annual harvest levels. The following research projects and output costs have an impact on JDO2.

PRO2007-02	Estimating the nature and extent of marine mammal captures in New Zealand commercial fisheries	\$506
INS2009-03	Characterisation of FMA 2 fisheries	\$14,687
INT2009-01	Trawl survey for FMAs 1 and 9	\$41,856
PRO2009-01	Abundance and distribution of Hector's and Maui's dolphins	\$729
BEN2007-01	Assessing the effects of fishing on soft sediment habitat, fauna, and processes (BPA)	\$249
	Observer costs	\$17,737
	Compliance	\$20,797
	Registry services	\$10,047

However, the Ministry agrees that the costs for INS2009/03: Characterisation of FMA2 fisheries, could be recovered from all FMA stocks. This will reduce the amount cost-recovered from JDO 2 for research purposes.

Recommendation

It is recommended that you:

- (a) note the comments from submitters; and
- (b) note that the costs of the research project INS2009/03: Characterisation of FMA2 fisheries will be recovered from all FMA stocks, thus reducing the amount cost-recovered from JDO 2 for research purposes.

Scallops	Specific comments in relation to cost recovery affordability
Organisation	SeaFIC: page 6; para 46

Submission Details

SeaFIC

46 We note the significant increase in the levies for the scallop fisheries. These all stem from research projects. While there is a recognised need for the research to be undertaken, we see no reason why so many research projects need to be undertaken for 2009/10. For example SCA1 has research levies totalling \$153,133 of which 5 are new 2009 projects. Equally SCACS have research levies of \$104,701 for 2009/10 with 4 of those being new 2009 projects. It is not acceptable that such a high research loading be placed on the stocks in one year. SCACS have an AGM on 19 June 2009 and will consider a prioritisation of the projects and which projects should be deferred for the year. The quota-holders for SCA1 are also requesting time to prioritise their projects. We will advise you as soon as possible as to the outcome of those decisions.

Ministry of Fisheries Analysis

The Ministry acknowledges that the levies for scallop fisheries will be relatively high if all projects proceed this year.

Project SCA2009/06 on environment-recruit relationships is most relevant to stock assessment and management approaches that do not use annual surveys to assess whether an in-season increase is likely to be sustainable.

Project BEN2009/04 on assessing the spatial overlap of scallop dredging and benthic habitat has a lower priority in the near term than the proposed biomass surveys. Deferral of BEN2009/04 would enable further discussion of its fit with the strategic approach to managing benthic effects of fishing and the most appropriate funding option.

Both projects can be deferred for a year and removed from the levy.

Recommendation

It is recommended that you:

- (a) note the comments from submitters; and
- (b) note that these projects will be deferred for one year and therefore not subject to cost recovery in 2009/10.

COC1A	Specific comments in relation to cost recovery affordability
Organisation	SeaFIC: page 6; paras 47-48

Submission Details

SeaFIC

47 The COC1A levy is excessive this year due to a failure to levy the Snake Bank annual survey last year. The need to recover the 2008/09 levy will place a very high cost burden on the quota-holders since only 40% of the TACC is caught on average. The levy is consequently an effective 52.5% on average of port price on catch and, for those quota-holders who do not use or do not sell their ACE, the levy is a dead cost.

48 In view of the impact, we request that only one year's recovery of the survey be levied each year and the missed year be recovered at the end of the programme

Ministry of Fisheries Analysis

Project COC2007/01 was established in the 2007/08 year and provided for annual surveys and work to estimate growth and yield until 2011/12.

While it is true that the costs for 2008/09 were not levied, this does not change the requirement for the costs to be recovered under the cost recovery provisions of the Fisheries Act 1996.

We have invited industry to determine whether they want the increased levies to be applied for 2009/10 or be resolved as part of the under and over recovery process at the end of the project.

Industry has opted to resolve the issue as part of the under and over recoveries at the end of the project.

Recommendation

It is recommended that you:

- (a) note the comments from submitters; and
- (b) note that the additional amount will be included as part of the under and over consideration at the end of the project.

Observers	Other Services: Services provided to monitor interactions between inshore commercial fishing and protected species OBS 2009/02: Research Observer Services to estimate the effects of New Zealand fisheries on protected species, biodiversity and habitats of significance
Organisation	SeaFIC: pages 4-5; paras 24-31

Submission details

SeaFIC

Other Services: Services provided to monitor interactions between inshore commercial fishing and protected species

24 The cost recovery rule applied to this project is Schedule Item 4 – Services provided to avoid, remedy, or mitigate that portion of the risk to, or adverse effect on, the aquatic environment or biological diversity of the aquatic environment caused by commercial fishing. A cost recovery level of 100% has been applied.

25 Industry disagrees with that assessment.

26 Clearly the services are research based and have a focus on protected species. Schedule item 4 is not appropriate for protected species activities.

27 The issue is whether the cost recovery should be based on item 2 or item 3. Item 2 requires the risk to be in some way estimated and item 3 applies a default of 50%. The project is focused on both dolphins and sea-birds and while, as per the discussion of PRO2009/01, the risk to dolphins has been avoided or mitigated to the point of no adverse effect by the minister's May 2006 decisions, no risk assessments have yet been completed for the sea-bird element. Recognising that this work is currently underway in the Seabird Standards project but is not yet complete, the appropriate cost recovery rule is Schedule Item 3 – 50%.

Sealions: Services provided to monitor interactions between inshore commercial fishing and protected species (OBS2009/02)

28 The cost recovery rule applied to this project is Schedule Item 4 – Services provided to avoid, remedy, or mitigate that portion of the risk to, or adverse effect on, the aquatic environment or biological diversity of the aquatic environment caused by commercial fishing. A cost recovery level of 100% has been applied.

29 Industry disagrees with that assessment.

30 Clearly the services have a focus on protected species. Schedule item 4 is not appropriate for protected species activities.

31 The issue is whether the cost recovery should be based on item 2 or item 3. Item 2 requires the risk to be in some way estimated and item 3 applies a default of 50%.

Recognising that risk assessments from human intervention have not been undertaken, the appropriate cost recovery rule is Schedule Item 3 – 50%.

Ministry analysis

The SeaFIC view is that any cost recovery related to protected species must be covered by either Items 2 or 3 of the Schedule to the Rules. MFish does not share this view.

Items 2 & 3 do specifically refer to “research related to protected species” and these Items cover research required or carried out in the interests of the effective management of protected species taken as non-targeted species by commercial fishers.

Item 4 covers “services” including research (other than deep water benthic research) provided to avoid, remedy, or mitigate that portion of the risk to, or adverse effect on the aquatic environment or biological diversity of the aquatic environment caused by commercial fishing.

Aquatic environment is defined in section 2 of the Fisheries Act 1996 to include all aquatic life and oceans etc where aquatic life lives and includes any species of plant or animal that at any stage of its life history must inhabit water and includes seabirds. “Aquatic environment” thus includes protected species and seabirds and Item 4 covers research other than deep water benthic research.

Accordingly, activities relating to protected species can potentially come within Schedule, Items 2, 3, or 4.

Turning to the specific observer services covered by these projects, while some action has been taken to mitigate impacts on Hector’s and Maui’s dolphins, we do not know whether this action is sufficient to prevent adverse effects or reduce adverse effects to levels considered acceptable by Government.

Project OBS 2009/02 is concerned with collecting data describing fishing events and the incidental capture of protected species and other fauna during fishing events to allow the estimation of effects of New Zealand fisheries on protected species, biodiversity and habitats of significance. It includes the monitoring of the use of sea lion exclusion devices and the mortality of seabirds arising from collisions with trawl warps.

As such, the observer coverage under these projects is intended to assess the steps taken to avoid, remedy or mitigate adverse effects on protected species and seabirds (which are part of the aquatic environment) and consider whether further steps are necessary. Schedule Item 4 is therefore appropriate.

Recommendation

It is recommended that you:

- (a) note the comments from submitters; and
- (b) note the response from the Ministry; and
- (c) note that MFish advises that cost recovery for this project under Schedule Item 4 is consistent with the Rules.

Indirect costs	Allocation of research indirect costs
Organisation	SeaFIC: page 7; paras 49-51

Submission details

SeaFIC

49 The Ministry has proposed an alternative method to allocate the costs of the Science division between stocks. While the alternative approach will make some changes, in some instances significant changes, to the allocation of costs, we do not believe that the approach proposed is inherently any more equitable than the existing model. We would also note that the problem of excessively high levies for the scallop fisheries would be exacerbated by the new approach.

50 The core problem is the attribution of costs based on project levies. Science services are not directly related to projects and the costs should not be attributed on that basis. A more equitable approach would be to allocate the costs based on either an overall port price index basis or on a fisheries grouping using the port price index within the fisheries grouping.

51 We do not accept that the alternative basis should be used for 2009/10 and would prefer to work with the Ministry on a fairer basis for 2010/11.

Ministry analysis

The alternative basis for allocating science team costs provided by the Ministry would have seen those costs allocated using the time spent by each member of the science team on research project groupings, while then separately allocating ancillary costs such as data and contract management based on the costs of each project.

What the industry has proposed is an amended approach utilising the port price index, possibly within a fisheries grouping (eg deepwater). While the Ministry welcomes the industry offer of working together to produce a more useful allocation method, we do not favour the use of a port price index for this purpose.

For 2009/10 the existing allocation basis will be continued.

Recommendation

It is recommended that you:

- (a) note the comments from submitters with respect to the development of a revised cost allocation method for research indirect costs; and
- (b) note that the Ministry welcomes the industry offer on this project, but will, in the meantime, retain the existing basis for allocating research indirect costs to research projects for 2009/10.

Proposed Fisheries Research Projects

Research project	PRO2009/01: Abundance, distribution and productivity of Hector and Maui Dolphins
Organisation	Area 2:page 1 SeaFIC: page 5; paras 37-40

Submission Details

Area 2

MOK1 should not be levied for this project. Although MOK1 includes FMAs 1,2, 7,8 and 9, over 85% of MOK1 is landed in FMA2, which is not the focus of this project. FMA2 is not an area where Hector or Maui dolphins are known to reside. In past years, MOK1 has been exempt from levies for Hector/Maui dolphin projects.

It is fair to levy FLA2, RCO2 and JDO2 because a higher proportion of these stocks comes from FMA8 – an FMA which is the focus of PRO2009/01.

Action required – remove levy from MOK1

SeaFIC

37 The cost recovery rule applied to this project is Schedule Item 3 – Research relating to protected species where the risk to populations by human intervention has not been estimated. A cost recovery level of 50% has been applied.

38 SeaFIC does not agree with that assessment.

39 In 2008, the Minister made decisions to avoid or mitigate to low levels the risk of commercial fishing on Hector and Maui dolphins. The measures were based around the exclusion of fishing activity from dolphin habitat and effectively removed any adverse effect on the populations. In the light of those decisions which inter alia will reduce the revenue of the fishing sector, it is not credible, not equitable and not lawful for the Ministry to impose cost recovery on a project that is essentially necessary for the management of the dolphins.

40 The project should be assessed under schedule item 2 of the cost recovery regulations with the numerator being the risk to the populations posed by commercial fishing in the EEZ being 0. The Ministry has implicitly assessed the risk to the dolphins from human intervention and through the Minister's decisions has removed the risk from commercial fishing. Industry cannot be levied for this project.

Ministry of Fisheries Analysis

On the basis that a very high proportion of the catch in MOK 1 is taken in FMA 2, MOK 1 will be excluded from the cost recovery levy for this project.

In the Ministry's view, there is no basis for saying, as SeaFIC does, that the Minister's decision has removed the risk to Hector's and Maui's dolphins from commercial fishing. The Minister's decision on the dolphin closures represented his decision on how he intended to manage risk, not an intention to reduce the risk to zero. His decision letter clearly indicates that he sought to find an appropriate balance between utilisation and sustainability and to minimise mortality caused by fishing to the degree that he considered necessary. In fact, observers have sighted many dolphins outside the current closures, and one dolphin has been observed caught on a commercial vessel, clearly demonstrating that the risk to the dolphins from fishing is not zero. The actual level of risk has not been estimated, however, so cost recovery under Schedule Item 3 remains appropriate.

Recommendation

It is recommended that you:

- (a) note the views of submitters; and
- (b) note that the Ministry:
 - (i) agrees that MOK1 should be removed from the stocks to be levied for research project PRO2009/01: Abundance, distribution and productivity of Hector's and Maui Dolphins; and
 - (ii) maintains that cost recovery under Schedule Item 3 of the Rules is consistent with the Rules.

Research project	PRO2009/04: Development and efficacy of seabird mitigation measures
Organisation	Area 2: page 1 SeaFIC: page 6; paras 41-44

Submission Details

Area 2

SNA2 should not be levied for this project. The project focuses exclusively on longline fisheries and over 90% of SNA2 is trawl caught. SNA2 should not be levied.

Action required – remove levy from SNA2

SeaFIC

41 The cost recovery rule applied to this project is Schedule Item 4 – Services provided to avoid, remedy, or mitigate that portion of the risk to, or adverse effect on, the aquatic environment or biological diversity of the aquatic environment caused by commercial fishing. A cost recovery level of 100% has been applied.

42 Industry disagrees with that assessment.

43 Clearly the project has a focus on protected species. As stated above, schedule item 4 is not appropriate for protected species activities. Given that the risk from human intervention has not been assessed, schedule item 3 (50% recovery) is the only appropriate rule.

44 This project applies to demersal and longline stocks. The stock allocations are incorrect. All HPB stocks should be included and all LIN except LIN7, all SNA except SNA1 should be removed.

Ministry of Fisheries Analysis

As discussed under “Observers” (see above), the SeaFIC view is that any cost recovery related to protected species must be covered by either Items 2 or 3 of the Schedule to the Rules. MFish does not share this view.

Items 2 & 3 do specifically refer to “research related to protected species” and these Items cover research required or carried out in the interests of the effective management of protected species taken as non-targeted species by commercial fishers.

Item 4 covers “services” including research (other than deep water benthic research) provided to avoid, remedy, or mitigate that portion of the risk to, or adverse effect on the aquatic environment or biological diversity of the aquatic environment caused by commercial fishing.

Aquatic environment is defined in section 2 of the Fisheries Act 1996 to include all aquatic life and oceans etc where aquatic life lives and includes any species of plant or animal that at

any stage of its life history must inhabit water and includes seabirds. “Aquatic environment” thus includes protected species and seabirds and Item 4 covers research other than deep water benthic research.

Accordingly, activities relating to protected species can potentially come within Schedule Items 2, 3, or 4.

Turning to the specifics of this project, it is clear that the aim is to avoid, remedy, or mitigate that portion of the risk to, or adverse effect on the aquatic environment or biological diversity of the aquatic environment caused by commercial fishing, namely longline fishing effects on seabirds. As such, Schedule Item 4 is appropriate.

In relation to the fishstocks cost recovered for this project, the Ministry agrees that all HPB stocks should be cost recovered, and that for snapper and ling, only SNA 1 and LIN 7 should be cost recovered, on the basis of proportions of snapper and ling taken by methods other than longline.

Recommendation

It is recommended that you:

- (a) note the comments from submitters; and
- (b) note that the Ministry agrees that cost recovery for this project:
 - (i) should be applied to all HPB fish stocks, LIN7 and SNA1; and
 - (ii) should be removed from all other LIN and SNA stocks.
- (c) note the Ministry view that the cost recovery of the costs for this project under Schedule Item 4 is consistent with the Rules.

Research project	SKI2009/01: Monitoring the length and age structure of commercial landings of gemfish in QMA1
Organisation	Area 2: page 1

Submission Details

Area 2 notes that whilst both SKI1 and SKI2 are being levied for SKI1 sampling, the reverse has never applied, that is, SKI1 has never contributed to SKI2 sampling.

Area 2 presumes that in future, SKI1 will be levied for SKI2 sampling. Area 2 supports the costs of gemfish research being shared as if it was a single stock- which is what is currently presumed.

The cost estimate for this project is excessive. SKI1 is a pre-spawn fishery and the TACC is landed in four or five landings in a three to four week period in July each year. This project should not cost anywhere near the estimated \$75,000 – \$150,000.

Action required – cost estimate excessive – must be revised

Ministry of Fisheries Analysis

The cost of research for SKI 1 and 2 are shared between the 2 Fishstocks as they are assessed as one biological stock. The Ministry notes Area 2 support for this.

The cost estimate for the project is based on earlier project costs, and is considered to be the correct band for this work.

Recommendation

It is recommended that you:

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

Research project	HPB2009/01: Spawning locations of hapuku migrating in Cook Strait
Organisation	Area 2: page 2

Submission Details

Area 2

My meeting notes clearly indicate this project was not supported at the RCC. It is pure nonsense to speculate that “Targeting the release of 20 tagged fish should yield about 8 returns in two years”, at an estimated cost of \$25,000 - \$75,000. Even though this project has Medium Priority, Tier 2, it should not even be in this consultation round. It should be removed, as the RCC agreed.

Action required – remove this project completely

Ministry of Fisheries Analysis

The Research Coordinating Committee supported this project under the proviso that feasibility and methods would receive additional discussion prior to the project being considered for tender.

The Ministry believes the project should be retained as a Tier 2 project with Medium priority, but with an assurance that it will not proceed without additional discussion in a science working group the timing of which would be notified to Area 2.

Recommendation

It is recommended that you:

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

Research project	INS2009/03: Characterisation of FMA2 fisheries
Organisation	Area 2: page 2 SeaFIC: page 4; paras 22-23

Submission Details

Area 2

Most of the stocks named in the list to be characterised are not listed for cost recovery purposes. Area 2 had hoped that characterisation and relative abundance (or other biological reference points) for all stocks would be covered in the project. Consequently, all stocks receiving attention should be levied, so that costs are fairly allocated.

Action required- Add SKI2, HPB2, WAR2, RCO2, SCH2, SNA2, SPE2, MOK1 to list of stocks levied. Remove very small stocks; POR2 (TACC is 6t); PAR2 (TACC is 2 t) from levy order

SeaFIC

22 This project involves a characterisation of all inshore finfish in FMA2. The characterisation is not limited to the fish-stocks as listed in the proposed levy model.

23 We concur with the Area 2 submission that cost recovery should be applied across all FMA2 stocks.

Ministry of Fisheries Analysis

The Ministry agrees that this project should be cost recovered across all FMA 2 stocks. We will implement the recommended additions and deletions (above) to the list of stocks from which the costs of this project are to be recovered.

Recommendation

It is recommended that you:

- (a) note the comments from submitters; and
- (b) note the Ministry agrees that the schedule of stocks from which this project is cost recovered should be amended to include those recommended in the Area 2 submission.

Research project	SCH2009/01: Catch – at – length of the commercial landings of school shark in SCH1 and SCH2
Organisation	Area 2: page 2

Submission Details

Area 2

This project has been withdrawn. There should be no levy.

Action required – no levy for SCH1 &2

Ministry of Fisheries Analysis

A decision was made on 18 June 2009 to withdraw this Tier 2 project. As this was not a Tier 1 project, it was not included in the cost recovery levy model.

Recommendation

It is recommended that you:

- (a) note the comments from submitters; and
- (b) note that the Ministry has withdrawn this project from the list of Tier 2 projects.

Research project	CRA2009/01: Stock assessment of rock lobster
Organisation	NZRLIC: page 1 SeaFIC; page 4; para 21

Submission Details

NZRLIC

There are three new objectives (# 6, # 7, #8), two of which are written up in the project description in a manner that does not fully reflect the earlier NRLMG research planning group discussion. Our submission on objective #7 is that the activity is not specifically a stock assessment task - it sits somewhere in the communication/information management category. Our contention is that Obj #7 should be deferred from the CRA 2009/01 project pending further review and consideration by the NRLMG.

Our submission on Obj #8 is that the current wording as set out in the rationale is somewhat ambiguous. The NRLMG intended that a "feasibility study" be a desktop study of the strengths/weaknesses/logistics and costs of a fishery independent potting survey. The Project objective has been interpreted by some to be a research potting trial of some unspecified dimension. As such, the issue of affordability could be a critical consideration. It is just not clear to us how we might best respond until the correct interpretation is confirmed. The Project description and rationale require greater clarity and this too is a matter that should be easily remedied in the NRLMG research planning meeting on June 24th.

With respect to the Cost Recovery Information supplied in the consultation document the NZ RLIC submits that a more attributable percentage allocation is possible once the details of the final Objectives are confirmed. The allocation as shown is not supported by the NZ RLIC. We refer MFish to the attributions in the current stock assessment research contract as being the more likely outcomes for CRA2009/01.

The NZ RLIC is satisfied that the indicative price of \$2 million over three years is both realistic and reasonable.

SeaFIC

21 We concur with the NZ RLIC request that the costs of this project should be attributed to stocks based on the attribution pattern of CRA2006/01

Ministry of Fisheries Analysis

It is a great disappointment to the Ministry that NZRLIC has not taken the opportunity to comment on this project since the meeting of the NRLMG research planning group on 18 September 2008. The three new objectives were suggested at that meeting and, as a result, the Ministry's scientists added them to the project.

Subsequently, the Research Co-ordinating Committee (which is open to all stakeholders) met in early October, and an opportunity for written submissions from all stakeholders was provided following that meeting, with submissions due in early November. For rock lobsters, the draft research projects have remained unchanged since early October due to a lack of input to either of these processes, or since.

There is ample opportunity in 2009 for the NRLMG to discuss all the specific objectives to be tendered for this project before the project goes out to tender later this year. The intention for objective 8 is clearly stated to be a feasibility study, there is no mention of a large-scale field trial.

The attributed costs for each fish stock will need to be reviewed when the final project objectives are determined and the work plan is finalised for the first year of the 3 year project.

Recommendation

It is recommended that you:

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

Research project	CRA2009/02: Rock lobster recruitment
Organisation	NZRLIC: page 1

Submission Details

NZRLIC

The Rock Lobster Recruitment project has caused difficulties for industry, MFish and the science provider for many years and between us we have managed to reach sufficient accommodation to maintain a long time series of data in the expectation that it may be possible to develop a predictive index in which we would have some confidence. To date this has eluded us and along the way there has unfortunately been some blood on the tracks and it is against this background that the NZ RLIC submits on CRA2009/02.

The NZ RLIC has considerable difficulty with the current wording of the project and is extremely concerned with the indicative costs - in particular the inherent uncertainty in relation to a project cost ranging from \$250K to \$500K for the full three year term. We understand that MFish is proposing a research programme that exceeds current appropriations and the reasons for doing so. We also understand some of the difficulties encountered when estimating future costs in multiple year contracts but our contention is that there must be more inherent discipline in pricing this Project. The NZ RLIC has oversight of a separate but complementary direct-funded settlement monitoring project in CRA 5 which provides us with a reliable estimate of collector servicing and maintenance costs and even allowing for the wider coverage envisaged by the Project description the range of the indicative price is excessive.

More importantly, we submit that there is a disjunct between the overall objectives of CRA 2009/02 and the one specific Objective 1 described in the consultation document. This may be simply an administrative oversight or lack of clarity in presentation but the specific objective as described does not and will not serve to "*correlate trends in puerulus settlement with trends in abundance ...*".

The objective requires only that specific collectors be checked monthly leading to an annual index of settlement. For the NZ RLIC the critical aspect of this Project relates to "correlation" and if that activity is not intended and/or explicitly required then the Project has no potential value in terms of providing information to stock assessments or management decision making. The NZ RLIC therefore seeks changes to the description of Objectives within CRA2009/02 to establish the proper relevance between the research activity and the application of the results.

Ministry of Fisheries Analysis

The specific objective in this project is to collect data on puerulus settlement from the agreed core sites. The end point for the project is when these data are loaded on the database and a final report is submitted summarising the latest years' results.

The purpose of this data collection project is to achieve the overall objective “To correlate trends in puerulus settlement with trends in abundance ...”. However, this type of work does not need to be repeated every year. An additional objective such as appeared in the previous project CRA2006-02 will be considered in a future year.

The Ministry is not proposing a new research programme that exceeds current specifications. The cost of the project will fall within the indicative range but would be at the lower end, based on the cost of the current 3-year project.

Recommendation

It is recommended that you:

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

Research project	<p>PRO2007-01: Estimating the nature and extent of incidental captures of seabirds in New Zealand commercial fisheries and</p> <p>PRO2007/02: Estimating the nature and extent of marine mammal captures in New Zealand commercial fisheries</p>
Organisation	SeaFIC: page 5; paras 33-36

Submission Details

SeaFIC

33 The cost recovery rule applied to these projects is Schedule Item 4 – Services provided to avoid, remedy, or mitigate that portion of the risk to, or adverse effect on, the aquatic environment or biological diversity of the aquatic environment caused by commercial fishing. A cost recovery level of 100% has been applied.

34 Industry disagrees with that assessment.

35 Clearly the project has a focus on protected species. As stated above, schedule item 4 is not appropriate for protected species activities. Given that the risk from human intervention has not been assessed, schedule item 3 (50% recovery) is the only appropriate rule.

36 Given that these programmes have been levied since 2007/08, we will be seeking a recovery of the excess level of charges in those projects on completion of the project.

Ministry of Fisheries Analysis

As discussed under “Observers” (see above), the SeaFIC view is that any cost recovery related to protected species must be covered by either Items 2 or 3 of the Schedule to the Rules. MFish does not share this view.

Items 2 & 3 do specifically refer to “research related to protected species” and these Items cover research required or carried out in the interests of the effective management of protected species taken as non-targeted species by commercial fishers.

Item 4 covers “services” including research (other than deep water benthic research) provided to avoid, remedy, or mitigate that portion of the risk to, or adverse effect on the aquatic environment or biological diversity of the aquatic environment caused by commercial fishing.

Aquatic environment is defined in section 2 of the Fisheries Act 1996 to include all aquatic life and oceans etc where aquatic life lives and includes any species of plant or animal that at any stage of its life history must inhabit water and includes seabirds. “Aquatic environment” thus includes protected species and seabirds and Item 4 covers research other than deep water benthic research.

Accordingly, activities relating to protected species can potentially come within Schedule, Items 2, 3, or 4.

Turning to the specific focus of these projects, it is clear that these projects are provided to avoid, remedy, or mitigate that portion of the risk to, or adverse effect on the aquatic environment or biological diversity of the aquatic environment caused by commercial fishing – namely, seabird and marine mammal captures during commercial fishing (rather than being for the effective management of protected species taken as non-targeted species by commercial fishers).

Schedule Item 4 is therefore appropriate.

Recommendation

It is recommended that you:

- (a) note the comments from submitters; and
- (b) note the Ministry view that the cost recovery of the costs for this project under Schedule Item 4 is consistent with the Rules.

Research project	SCA2009/07: Medium Term Research Plan
Organisation	SeaFIC: page 6; para 45

Submission Details

SeaFIC

46 We note that the costs of establishing Medium Term Research Plans in other fisheries are not cost recovered. We see no valid reason why the Scallop MTRP should be treated any differently.

Ministry of Fisheries Analysis

The Ministry agrees that this project should be treated consistently with other like projects. This work will now be undertaken internally and therefore this project can be withdrawn.

Recommendation

It is recommended that you:

- (a) note the comments from submitters; and
- (b) note the Ministry agrees that this project should not be subject to cost recovery.



The New Zealand Seafood Industry Council Ltd

18 June 2009

Mr B Ashton
Manager Cost Recovery
Ministry of Fisheries
PO Box 1020
WELLINGTON

Dear Brian,

SUBMISSION ON THE 2009/10 LEVY MODEL

1. Thank you for the opportunity to comment on the 2009/10 application of the cost recovery rules. We will provide separate comments on the Unders and Overs for 2007/08.

I APPROPRIATIONS DOCUMENTATION

2. I am taking this opportunity to draw your attention to issues with respect to the above Estimates document.

New Policy – Increased Observer coverage

3. My understanding of this approval was a three year programme totalling \$6m, \$1m in 2008/09, \$2m in 2009/10 and \$3m in 2010/11. The Minister's statements on the approval did not indicate this was a permanent budget increase.

Crown Revenue and Capital receipts –Deemed Values

4. The description for this item should be amended to be "Revenue forecast to be paid by fishers who have overfished" as against the current reference to quota-holders who have overfished.

II THE CONSULTATION DOCUMENT

5. The Ministry has provided an abbreviated level of material for this year's consultation. The Ministry has deleted any detailed information not related to cost recovery from the material provided.

6. While the reduced information may be considered to be in accord with the statutory obligations for consultation, it provides little recognition of the need for accountability, transparency and collaborative relationship building in the management and utilisation of a shared resource. How the Ministry is prioritising and allocating its resources and efforts is not available in the Statement of Intent, the Estimates information, the consultation material or the levy model.

7. While industry's submissions in the past may have had little impact on decisions on matters wider than cost recoverable expenditures, we were at least informed and given the opportunity to comment on the other Ministry activities which impacted on our interests in New Zealand fisheries. We hope that this does not presage a wider reduction of industry involvement and engagement in areas such as research planning and development of fisheries plans.

Output Expense – Fisheries Information

8. We note that research activity will be decreased as a result of the expenditure review. We note that, while forecast research expenditure levels are increased for 2009/10 to reduce the level of carry forward, the commitment budget for further research has been reduced.

9. The Ministry has long lamented the decline in the level of funding allocated to research. While industry might have disagreed with how that funding has been utilised in the past, we have supported the Ministry's case for increased research expenditure. It is disappointing that the expenditure review trimmed \$1.8 million off the priority research budget. While we advocated a reduction of \$1 million in the observer budget, we advocated that funding should be transferred to the research budget to bolster the level of research.

10. We note that the carry forward of research expenditure has increased significantly over recent years and is estimated by the Ministry to be \$8 million. We are sceptical that the Ministry will be able to achieve a \$5m reduction in that carry forward due to resource shortages in the research provider market. Industry has been already levied for much of that carry forward and it is not the role of industry to act as the banker for the Ministry.

11. In respect of the performance measure relating to the percentage of catch from assessed stocks, we would be concerned if the Ministry considered it desirable to undertake stock assessments for all stocks. Formal stock assessments are expensive and the low economic value of many stocks, especially those in the inshore, precludes such stock assessments as being an effective management tool.

12. In respect of observer coverage of fishing activity, we note the Ministry limits its performance measure to observer delivery levels in the SQU6T fishery. Industry considers that a more generic performance measure referring to delivery rates across all fisheries is more appropriate than focusing on a single stock delivery level.

Output Expense- Registry Services and Compliance

13. We have no comment in respect of the output expense descriptions or the performance indicators in respect of commercial activities.

III THE MODEL INPUTS

Port Prices

14. SeaFIC concurs with the decision of the Ministry to retain the port prices used for the 2008/09 levy allocation, given the poor response to the Port Price Survey. This has been an ongoing problem for a number of years and we would welcome the opportunity to work with the Ministry to establish a new process to be effective for 2010/11.

TACCs and Catch Volumes

15. The TACCs and catch volumes for non-ITQ stocks have been correctly input into the model.

Business Plan, Research Plan, Observer Plan and CSP Plan

16. These accord with the figures contained in the consultation document.

IV APPLICATION OF COST RECOVERY RULES-

Compliance and Registry Services

17. We agree that the rules have been correctly applied to these outputs.

Research

18. SeaFIC does not agree with the application of cost recovery in respect of some projects. In particular, we have significant problems with the cost recovery of projects related to protected species.

19. A number of projects that are related to protected species have been treated under Schedule Item 4 of the cost recovery regulations. We consider that is inappropriate. Protected species research is to be levied under either Schedule Item 2 or Schedule Item 3, depending on the existence of risk assessments. Schedule Item 4 is only appropriate for non-protected species activity such as benthic impacts.

20. Comments on specific projects follow:

CRA2009/01 Stock Assessment of Rock Lobster

21. We concur with the NZ RLIC request that the costs of this project should be attributed to stocks based on the attribution pattern of CRA2006/01.

INS2009-03 Characterisation of FMA2 Fisheries

22. This project involves a characterisation of all inshore finfish in FMA2. The characterisation is not limited to the fish-stocks as listed in the proposed levy model.
23. We concur with the Area 2 submission that cost recovery should be applied across all FMA2 stocks.

Observers Other Services- Services provided to monitor interactions between inshore commercial fishing and protected species

24. The cost recovery rule applied to this project is Schedule Item 4 – Services provided to avoid, remedy, or mitigate that portion of the risk to, or adverse effect on, the aquatic environment or biological diversity of the aquatic environment caused by commercial fishing. A cost recovery level of 100% has been applied.
25. Industry disagrees with that assessment.
26. Clearly the services are research based and have a focus on protected species. Schedule item 4 is not appropriate for protected species activities.
27. The issue is whether the cost recovery should be based on item 2 or item 3. Item 2 requires the risk to be in some way estimated and item 3 applies a default of 50%. The project is focused on both dolphins and sea-birds and while, as per the discussion of PRO2009/01, the risk to dolphins has been avoided or mitigated to the point of no adverse effect by the minister's May 2006 decisions, no risk assessments have yet been completed for the sea-bird element. Recognising that this work is currently underway in the Seabird Standards project but is not yet complete, the appropriate cost recovery rule is Schedule Item 3 – 50%.

Observers – Sealions Services provided to monitor interactions between inshore commercial fishing and protected species

28. The cost recovery rule applied to this project is Schedule Item 4 – Services provided to avoid, remedy, or mitigate that portion of the risk to, or adverse effect on, the aquatic environment or biological diversity of the aquatic environment caused by commercial fishing. A cost recovery level of 100% has been applied.
29. Industry disagrees with that assessment.
30. Clearly the services have a focus on protected species. Schedule item 4 is not appropriate for protected species activities.
31. The issue is whether the cost recovery should be based on item 2 or item 3. Item 2 requires the risk to be in some way estimated and item 3 applies a default of 50%. Recognising that risk assessments from human intervention have not been undertaken, the appropriate cost recovery rule is Schedule Item 3 – 50%.
- 32.

PRO2007-01 Estimating the nature and extent of incidental captures of seabirds in New Zealand commercial fisheries and PRO2007/02 Estimating the nature and extent of marine mammal captures in New Zealand commercial fisheries

33. The cost recovery rule applied to these projects is Schedule Item 4 – Services provided to avoid, remedy, or mitigate that portion of the risk to, or adverse effect on, the aquatic environment or biological diversity of the aquatic environment caused by commercial fishing. A cost recovery level of 100% has been applied.

34. Industry disagrees with that assessment.

35. Clearly the project has a focus on protected species. As stated above schedule item 4 is not appropriate for protected species activities. Given that the risk from human intervention has not been assessed, schedule item 3 (50% recovery) is the only appropriate rule.

36. Given that these programmes have been levied since 2007/08, we will be seeking a recovery of the excess level of charges in those projects on completion of the project.

PRO 2009/01-Abundance, Distribution and Productivity of Hector's and Maui Dolphins

37. The cost recovery rule applied to this project is Schedule Item 3 – Research relating to protected species where the risk to populations by human intervention has not been estimated. A cost recovery level of 50% has been applied.

38. SeaFIC does not agree with that assessment.

39. In 2008, the Minister made decisions to avoid or mitigate to low levels the risk of commercial fishing on Hector and Maui dolphins. The measures were based around the exclusion of fishing activity from dolphin habitat and effectively removed any adverse effect on the populations. In the light of those decisions which inter alia will reduce the revenue of the fishing sector, it is not credible, not equitable and not lawful for the Ministry to impose cost recovery on a project that is essentially necessary for the management of the dolphins.

40. The project should be assessed under schedule item 2 of the cost recovery regulations with the numerator being the risk to the populations posed by commercial fishing in the EEZ being 0. The Ministry has implicitly assessed the risk to the dolphins from human intervention and through the Minister's decisions has removed the risk from commercial fishing. Industry cannot be levied for this project.

PRO 2009/04 Development and efficacy of seabird mitigation measures

41. The cost recovery rule applied to this project is Schedule Item 4 – Services provided to avoid, remedy, or mitigate that portion of the risk to, or adverse effect on, the aquatic environment or biological diversity of the aquatic environment caused by commercial fishing. A cost recovery level of 100% has been applied.

42. Industry disagrees with that assessment.

43. Clearly the project has a focus on protected species. As stated above, schedule item 4 is not appropriate for protected species activities. Given that the risk from human intervention has not been assessed, schedule item 3 (50% recovery) is the only appropriate rule.

44. This project applies to demersal and longline stocks. The stock allocations are incorrect. All HPB stocks should be included and all LIN except LIN7, all SNA except SNA1 should be removed.

SCA2009/07 Medium Term Research Plan

45. We note that the costs of establishing Medium Term Research Plans in other fisheries are not cost recovered. We see no valid reason why the Scallop MTRP should be treated any differently.

V STOCKS WITH LEVY GREATER THAN 10% OF PORT PRICE

Scallop Stocks

46. We note the significant increase in the levies for the scallop fisheries. These all stem from research projects. While there is a recognised need for the research to be undertaken, we see no reason why so many research projects need to be undertaken for 2009/10. For example SCA1 has research levies totalling \$153,133 of which 5 are new 2009 projects. Equally SCACS have research levies of \$104,701 for 2009/10 with 4 of those being new 2009 projects. It is not acceptable that such a high research loading be placed on the stocks in one year. SCACS have an AGM on 19 June 2009 and will consider a prioritisation of the projects and which projects should be deferred for the year. The quota-holders for SCA1 are also requesting time to prioritise their projects. We will advise you as soon as possible as to the outcome of those decisions.

COC1A

47. The COC1A levy is excessive this year due to a failure to levy the Snake Bank annual survey last year. The need to recover the 2008/09 levy will place a very high cost burden on the quota-holders since only 40% of the TACC is caught on average. The levy is consequently an effective 52.5% on average of port price on catch and, for those quota-holders who do not use or do not sell their ACE, the levy is a dead cost.

48. In view of the impact, we request that only one year's recovery of the survey be levied each year and the missed year be recovered at the end of the programme.

VI ALLOCATION OF RESEARCH COSTS

49. The Ministry has proposed an alternative method to allocate the costs of the Science division between stocks. While the alternative approach will make some changes, in some instances significant changes, to the allocation of costs, we do not believe that the approach proposed is inherently any more equitable than the existing model. We would also note that

the problem of excessively high levies for the scallop fisheries would be exacerbated by the new approach.

50. The core problem is the attribution of costs based on project levies. Science services are not directly related to projects and the costs should not be attributed on that basis. A more equitable approach would be to allocate the costs based on either an overall port price index basis or on a fisheries grouping using the port price index within the fisheries grouping.

51. We do not accept that the alternative basis should be used for 2009/10 and would prefer to work with the Ministry on a fairer basis for 2010/11.

VII CONTACT

52. If you wish to discuss any comments in this submission please contact the writer.

53. Yours sincerely

A handwritten signature in black ink that reads "Tom Clark". The signature is written in a cursive, slightly slanted style.

Tom Clark
Principal Policy Analyst
Seafood Industry Council

17/06/2009

Submission to: Ministry of Fisheries

From: Area 2 Inshore Finfish Management Company Ltd

Contact Pat Reid 03 547 2373 or 021 542 543

Re: Fisheries Research Services – Consultation on Cost Recovered Research Services for 2009/2010

Area 2 Inshore Finfish Management Company Ltd submits the following comments re cost recovered research services and levies for 2009/2010.

PRO2009/01 Abundance, distribution and productivity of Hector and Maui Dolphins

MOK1 should not be levied for this project. Although MOK1 includes FMAs 1,2, 7,8 and 9, over 85% of MOK1 is landed in FMA2, which is not the focus of this project. FMA2 is not an area where Hector or Maui dolphins are known to reside. In past years, MOK1 has been exempt from levies for Hector/Maui dolphin projects.

It is fair to levy FLA2, RCO2 and JDO2 because a higher proportion of these stocks comes from FMA8 – an FMA which is the focus of PRO2009/01.

Action required – remove levy from MOK1

PRO2009/04 Development and efficacy of seabird mitigation measures

SNA2 should not be levied for this project. The project focuses exclusively on longline fisheries and over 90% of SNA2 is trawl caught. SNA2 should not be levied.

Action required – remove levy from SNA2

SKI2009/01 Monitoring the length and age structure of commercial landings of gemfish in QMA1

Area 2 notes that whilst both SKI1 and SKI2 are being levied for SKI1 sampling, the reverse has never applied, that is, SKI1 has never contributed to SKI2 sampling.

Area 2 presumes that in future, SKI1 will be levied for SKI2 sampling. Area 2 supports the costs of gemfish research being shared as if it was a single stock- which is what is currently presumed.

The cost estimate for this project is excessive. SKI1 is a pre-spawn fishery and the TACC is landed in four or five landings in a three to four week period in July each year. This project should not cost anywhere near the estimated \$75,000 – \$150,000.

Action required – cost estimate excessive – must be revised

HPB2009/01 Spawning locations of hapuku migrating in Cook Strait

My meeting notes clearly indicate this project was not supported at the RCC. It is pure nonsense to speculate that “Targeting the release of 20 tagged fish should yield about 8 returns in two years”, at an estimated cost of \$25,000 - \$75,000. Even though this project has Medium Priority, Tier 2, it should not even be in this consultation round. It should be removed, as the RCC agreed.

Action required – remove this project completely

INS2009/03 Characterisation of FMA2 fisheries

Most of the stocks named in the list to be characterised are not listed for cost recovery purposes. Area 2 had hoped that characterisation and relative abundance (or other biological reference points) for all stocks would be covered in the project. Consequently, all stocks receiving attention should be levied, so that costs are fairly allocated.

Action required- Add SKI2, HPB2, WAR2, RCO2, SCH2, SNA2, SPE2, MOK1 to list of stocks levied. Remove very small stocks; POR2 (TACC is 6t); PAR2 (TACC is 2 t) from levy order

SCH2009/01 Catch – at – length of the commercial landings of school shark in SCH1 and SCH2.

This project has been withdrawn. There should be no levy.

Action required – no levy for SCH1 &2

General Concerns: Area 2 supports concerns re levy affordability of some stocks, particularly small bycatch stocks. For example, for JDO2- 7% of the port price is being levied solely for research services. This excludes other MFish costs. We believe there is a limit that can be levied from many stocks and that the levy order needs to be more carefully considered.

Thank you for considering this submission.

17 June 2009

Brian

A brief submission by the NZ RLIC on behalf of the nine CRAMACs to keep our consultation options open until the National Rock Lobster Management Group (NRLMG) research planning meeting concludes on June 24th. It is unfortunate that the MFish cost recovery consultation deadline does not line-up with the research planning timetable this year but possibly no problem with that so long as you are able to refer back through the relevant MFish Policy and Science managers before confirming recommendations to the Minister.

In regard to CRA 2009/01

There are three new objectives (# 6, # 7, #8), two of which are written up in the project description in a manner that does not fully reflect the earlier NRLMG research planning group discussion. Our submission on objective #7 is that the activity is not specifically a stock assessment task - it sits somewhere in the communication/information management category. Our contention is that Obj #7 should be deferred from the CRA 2009/01 project pending further review and consideration by the NRLMG.

Our submission on Obj #8 is that the current wording as set out in the rationale is somewhat ambiguous. The NRLMG intended that a "feasibility study" be a desktop study of the strengths/weaknesses/logistics and costs of a fishery independent potting survey. The Project objective has been interpreted by some to be a research potting trial of some unspecified dimension. As such, the issue of affordability could be a critical consideration. It is just not clear to us how we might best respond until the correct interpretation is confirmed. The Project description and rationale require greater clarity and this too is a matter that should be easily remedied in the NRLMG research planning meeting on June 24th.

With respect to the Cost Recovery Information supplied in the consultation document the NZ RLIC submits that a more attributable percentage allocation is possible once the details of the final Objectives are confirmed. The allocation as shown is not supported by the NZ RLIC. We refer MFish to the attributions in the current stock assessment research contract as being the more likely outcomes for CRA2009/01.

The NZ RLIC is satisfied that the indicative price of \$2 million over three years is both realistic and reasonable.

In regard to CRA2009/02

The Rock Lobster Recruitment project has caused difficulties for industry, MFish and the science provider for many years and between us we have managed to reach sufficient accommodation to maintain a long time series of data in the expectation that it may be possible to develop a predictive index in which we would have some confidence. To date this has eluded us and along the way there has unfortunately been some blood on the tracks and it is against this background that the NZ RLIC submits on CRA2009/02.

The NZ RLIC has considerable difficulty with the current wording of the project and is extremely concerned with the indicative costs - in particular the inherent uncertainty in

relation to a project cost ranging from \$250K to \$500K for the full three year term. We understand that MFish is proposing a research programme that exceeds current appropriations and the reasons for doing so. We also understand some of the difficulties encountered when estimating future costs in multiple year contracts but our contention is that there must be more inherent discipline in pricing this Project. The NZ RLIC has oversight of a separate but complementary direct-funded settlement monitoring project in CRA 5 which provides us with a reliable estimate of collector servicing and maintenance costs and even allowing for the wider coverage envisaged by the Project description the range of the indicative price is excessive.

More importantly, we submit that there is a disjunct between the overall objectives of CRA 2009/02 and the one specific Objective 1 described in the consultation document. This may be simply an administrative oversight or lack of clarity in presentation but the specific objective as described does not and will not serve to "*correlate trends in puerulus settlement with trends in abundance ...*".

The objective requires only that specific collectors be checked monthly leading to an annual index of settlement. For the NZ RLIC the critical aspect of this Project relates to "correlation" and if that activity is not intended and/or explicitly required then the Project has no potential value in terms of providing information to stock assessments or management decision making. The NZ RLIC therefore seeks changes to the description of Objectives within CRA2009/02 to establish the proper relevance between the research activity and the application of the results.

With regard to what are best referred to as 'generic cost recovered fisheries services' - in particular Fisheries Compliance - I could rehash the historical complaint about lack of strategic compliance planning (and activity), lack of accountability and absence key performance indicators relevant to the levy burden on CRA and PHC quota share owners. But you have heard all that from the NZ RLIC before (at least since 1997) and it has been ineffectual in terms of the final outcomes. On behalf of the NZ RLIC I have far greater confidence that our submissions on rock lobster research projects will be more influential as a consequence of the far more cooperative and collaborative planning processes operated under the auspices of the NRLMG.

Kind regards

Daryl Sykes

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21 June 2009

Mr B Ashton
Manager Cost Recovery
Ministry of Fisheries
PO Box 1020
WELLINGTON

UNDERS AND OVERS 2007/08

Ministry of Fisheries Programme

1. I have reviewed the Ministry calculations of Unders and Overs for 2007/08 as forwarded on 9 June 2009.
2. I agree with the application of the Unders and Overs rules and the calculations of the Ministry. I have also checked the TAC/TACC adjustments and they appear correct.

Department of Conservation Programme

3. I have reviewed the Department of Conservation calculations of Unders and Overs for 2007/08 forwarded to me on 17 June 2009.
4. I have undertaken a reconciliation of the observer data at the fish-stock level. Alan Martin provided me with details of the programme and out-turn by fisheries. I note that there are differences between his programme and the levy model but the overall total of days is correct. I have used the days levied as per the levy model. I also note that the levied cost of the programme differs – the levy model uses an average \$829.50 per diem while the DOC estimate uses an average \$815.70. I have used the levied cost. DOC has provided the cost of the observer services delivered during 2007/08 as being \$639,549. With a total of 902 days delivered, this equates to an actual per diem cost of \$720.11.
5. My calculations of observer services for the fish-stocks can be found in the Excel spreadsheet which is included in the e-mail forwarding this report.

Summary of Results

6. The following table summarises the outcomes:

Summary of 2007-08 Under and Over Recovery of Cost Recovery Levies				
MFISH Services	Total Under Recovery	Total Recoverable Under Recovery	Total Refundable Over Recovery	Total Non-Recoverable Under Recovery
	(excl GST)	(excl GST)	(excl GST)	(excl GST)
Research	213,534	195,972	(1,582,913)	17,561
Observers	284,453	10,251	(81,839)	274,202
Revenue				
- Non-Quota	4,922	4,922	(191,810)	-
- Quota	781	781	(24)	-
- Marine Farms	-	-	(441)	-
Departmental				
- Statutory decision processes administered	-	-	(175,008)	-
- Registry services managed	-	-	(322,452)	-
- Commercial fishing rules enforced	-	-	(700,881)	-
Total Mfish Under and Over Recovery	503,690	211,927	(3,055,368)	291,763
DoC Services				
Revenue				
- Non-Quota	-	-	(6)	-
- Quota	3,907	3,907	(4)	-
Revenue Subtotal	3,907	3,907	(10)	-
Projects				
INT2007/01 Observers		1,397	(382,937)	
INT2007/02 Seabird Autopsy			(79,768)	
POP2007/01 Sea Lion			(45,000)	
POP2005/02 White capped albatross			(16,798)	
Total DOC Under and Over Recovery	3,907	5,304	(524,503)	
Combined 2007/08 Under and Over Recovery	507,597	217,231	(3,579,871)	291,763

7. This gives a net over-recovery or refund to industry of \$3,362,340.

8. If you have any queries, please contact me at SeaFIC 802-1514.

Tom Clark

Tom Clark
Principal Policy Analyst
Policy Division
Seafood Industry Council

**PROPOSED COST RECOVERY LEVIES TO BE INTRODUCED
FROM 1 OCTOBER 2009**