

23 June 2017

Mr M Dunne
Ministry for Primary Industries
PO Box 10420
Wellington

Cc Leeanne McAviney
Director
Cost Recovery
Ministry for Primary Industries

Dear Martyn

COMMENTS ON DRAFT 2017/18 COST RECOVERY LEVIES

1. You have asked for comments on the draft 2017/18 levies for MPI and CSP. This submission reflects the view of Fisheries Inshore New Zealand Ltd and the Deepwater Group Ltd. The submission is in two parts – first, matters of a generic concern and second, individual comments on levy components. A number of industry organisations and companies will forward their own submissions as they consider appropriate.
2. This submission has been prepared by Tom Clark of Fisheries Inshore New Zealand Limited. Any queries should be directed to Mr Clark.
3. We have included comments on the cost recovery of compliance activities in this submission. We have a meeting scheduled for 27 June to meet with the compliance unit to discuss their cost recovery claims. We may seek to change the section on compliance costs as a consequence of that discussion. MPI has indicated that the deadline for any amending submission will be 30 June 2017.

The Submitters

Fisheries Inshore New Zealand

4. Fisheries Inshore New Zealand Limited (FINZ) represents the inshore finfish, pelagic and tuna fisheries of New Zealand. It was formed in November 2012 as part of the restructuring of industry organisations. Its role is to deal with national issues on behalf of the sector and to work directly with and on behalf of its quota owners, fishers and affiliated Commercial Stakeholder Organisations (CSOs). As part of that work it also works collaboratively with other industry organisations and Sector Representative Entities (SREs), Seafood New Zealand, Ministry for Primary Industries (MPI) and the Department of Conservation.
5. Its key outputs are the development of, and agreement to, appropriate policy frameworks, processes and tools to assist the sector to more effectively manage inshore, pelagic and tuna fishstocks, to minimise their interactions with the associated ecosystems and work positively with other fishers and users of marine space where we carry out our harvesting activities.
6. We have included comments from major inshore commercial fishing representative bodies, including Northern Inshore and Southern Inshore.

Deepwater Group

7. Deepwater Group Limited (DWG) is a non-profit organisation that works in partnership with the Ministry for Primary Industries to ensure that New Zealand gains the maximum economic yields from its deepwater fisheries resources, managed within a long-term sustainable framework.
8. Their mission is to optimise the sustainable economic value of our deepwater fisheries. DWG's vision is to be recognised as the best managed deepwater fisheries in the world.

PART I – GENERIC ISSUES

9. In our submission of 22 June last year, we commented at length on the issue of the validity of cost recovery and the legal provisions relating to cost recovery. We do not accept your argument in your reply of 24 August 2016 and hold to the views expressed in our June 2016 submission.
10. This difference of opinion is a matter of great significance and will need to be addressed as a priority issue in the First Principles Review of cost recovery.

The Consultation Process

11. As in previous years, we have worked collaboratively with members of the MPI Cost Recovery Team in reviewing and analysing the draft levy model. That process has enabled us to identify and resolve some matters. However, we consider that a pre-release review by Tom Clark could have resolved more points before the model was more widely released for consultation.

Lack of Progress with the First Principles Review of Fisheries Levies

12. The First Principles Review of MPI Cost Recovery was announced in late 2015 with a Terms of Reference issued in December 2015. MPI planned to consult on cost recovery in the period to March 2016 and implement changes with effect from mid-2017. That timeframe proved optimistic. The consultation document was only released in June 2016 with submissions closing in July 2016. Despite assurances that there would be further consultation with industry on the proposal, MPI released its preliminary findings in February 2017 without any meaningful dialogue with the seafood industry.
13. MPI has indicated that strategic issues, including:
 - a. general public interest;
 - b. adverse effect; and
 - c. cost recoverability of fisheries and conservation servicesand operational issues, including:
 - a. use of Port Price,
 - b. recovery shares;
 - c. attributions to stocks,
 - d. treatment of research overheads,
 - e. use of TACCs rather than catch, and
 - f. the Unders and Overs policy

can only be reviewed in the context of that wider review.

14. Despite assurances that there would be meaningful engagement with industry, we have yet to be advised of any consultation programme or see any MPI documentation such as Terms of Reference or scope of enquiry or statement of issues that would indicate that the First Principles Review for fisheries and conservation levies will proceed in a timely, structured and appropriate manner.
15. Continuing with the existing systems imposes a burden on both the Ministry and industry that is disproportional to the merits and costs of the outputs and denies any opportunity to progress the

resolution of any strategic or operational issues associated with cost recovery. Industry is coming to the opinion that the refusal of MPI to engage on cost recovery is their strategic response to a matter they wish to ignore rather than a response based on pro-active and timely management of the issue. In that respect, we note the general failure of MPI to engage with the IRG or provide a forward workplan for consideration by interested stakeholders.

16. We request that MPI convenes a meeting with industry in short time to discuss and outline the way forward for the review of fisheries and conservation services levies.

Cost Recoverability of CSP Programme

17. Section 264 of the Act requires the Minister to be satisfied that the proposed levy order for MPI activities and CSP activities is consistent with the Cost Recovery Rules.
18. In our submissions of 22 April 2015, 10 March 2016 and 22 May 2017 we included advice on the *ultra vires* nature of some of the levies in the then proposed CSP research programmes. We ask MPI to review those submissions on CSP activities in the context of providing the Minister with advice as to the consistency of DOC's CSP programme with the prescribed Rules. We have included a copy of our submission on CSP with this submission.

Recovery of Overheads

19. The costs recovered by MPI include a recovery of MPI overheads. The overheads include corporate payments for accommodation, communications, personnel services, IT services, financial management, strategic management and the executive management.
20. It is unclear as to what percentage if any of those overheads should be cost recovered. MPI has confirmed that it will provide comprehensive information detailing the nature and value of MPI overheads. However, that information requested some 2 years ago has not yet been provided by MPI and was therefore not available to inform this submission. We again request that MPI provide this information.
21. Our view is therefore that until MPI can provide such information and justify its recovery in terms of the Fisheries Act principles, we are opposed to the recovery of corporate overheads.

PART II COMMENTS ON 2017/18 EXPENDITURES

MPI Compliance

22. MPI asserts that the \$10m cap that has been previously applied to cost recovery for compliance activities is no longer appropriate and that the Ministry is now able to provide robust estimates of budget and actual expenditure on commercial compliance activities.
23. The cap was considered appropriate for the reason that MPI could not prove nor demonstrate that its compliance cost recovery figures were robust. The Ministry of Fisheries previously operated an expenditure and resourcing process that identified expenditures at the fishing sector level. That capability was lost with the subsequent merger of the Ministry of Fisheries into the Ministry for Primary Industries. In the absence of such information, it was agreed that the cost recovery for compliance activities should be retained at the previous Ministry of Fisheries level of \$10m per annum.
24. MPI now asserts that they have the functionality to identify compliance costs at the fishing sector level and the cap should no longer apply.
25. We have seen no evidence of the increased transparency of costs asserted by the Ministry. The information presented to industry in support of compliance cost recovery is no different to that presented in previous years. It consists only of a spreadsheet of compliance division business units,

the total budgets for those units and the percentage of expenditure attributable to commercial compliance. We see no information as to the derivation of those costs, the derivation of the share nor any indication of improved systems. We see no activity outputs such as inspections, investigations or letters issued for those units. We see no use of the Ministry's WebTime resource allocation function. In addition to that overall lack of apparent transparency, we note other issues that cause us to doubt the robustness of the claim.

26. In 2016, MPI undertook a review of the structure and resourcing of its compliance function. The number of compliance districts was cut from 14 to 6 with the removal of 8 senior staff and some further reductions in staffing levels for the district offices. The cost reductions of that restructuring are not reflected in the 2017/18 claim for cost recovery.
27. As a result of the removal of all foreign charter vessels, there has been a reduction in the number of vessels with VMS and in the number of vessels in the deepwater fleet, which have been progressively reduced from 63 in 20014/15 to 49 in 2016/17. There should, accordingly, be a significant reduction in the costs associated with these activities. We cannot accept the MPI cost recovery claim.
28. Cost recovery of compliance activities is limited by the Cost Recovery Rules to compliance monitoring and detection of offences. The costs of investigation of offences and any subsequent enforcement activity is not recoverable under the cost recovery rules. Our understanding of the operational activities of the compliance units is that the investigation units report to the National Investigations Manager and are involved in investigating potential or detected offences. They are not involved in the detection of possible offences. To that extent the recovery of the costs of the investigation are not valid.
29. The compliance costs contain an expenditure estimate of \$923,000 to be recovered for IEMRS. That amount now appears to be distributed between the MPI operational units. MPI has provided no information as to the nature of expenditure to be recovered nor the basis for the estimated cost. We cannot support any claim in the absence of any information as to its calculation and nature.
30. As a consequence of the above matters, we believe the recovery should be no more than \$8m for 2017/18.

MPI Registry

31. We note that the draft levy proposal for Registry Services includes a budgeted expenditure of \$219,000 for IEMRS. There is no justification or background as to the nature of or the extent of the expenditure. Without that information we are unable to assess the cost-recoverability of the expenditure.
32. The summary table of costs and benefits Table 5.3 on page 20 of the RIS indicates that the \$1.6m costs for FishServe to develop capacity to process electronic returns is not shown as a cost recoverable item. Section 108 on page 18 of the Cabinet Economic Growth and Infrastructure Committee paper¹ indicates the only costs to be recovered from industry would be operational costs of electronic reporting and do not include any recovery of the capital costs of systems development. We seek confirmation that those capital costs will not be cost recovered from industry.
33. Lastly, the budget for registry services fails to include a deduction of the amount to be recovered for Marine Farming fees. The costs are included in the contracted cost of services from FishServe and should be deducted from the amount to be levied for the wild stocks sector.

MPI Observers

34. We note that the agreed cap of \$450 per day for observers' services for the deepwater and mid-depth fisheries and \$950 per day for the inshore have been retained as per the undertakings given by MPI.

¹ <https://www.mpi.govt.nz/document-vault/17602>

MPI Research

35. We consider that significant improvements have been made in 2016/17 in the MPI Research programme. While the research programmes still lack robust fisheries management input, the reduction in the use of placeholder projects and the removal of inappropriate research projects is welcomed.
36. We have provided our comments on the research projects included in the 2017-18 levy in a separate submission to Shelton Harley, Chief Scientist, MPI. We have appended a copy of that submission to the e-mail containing this submission.

PART III UNDERS AND OVERS ANALYSES

37. In this section, we deal with Unders and Overs issues.

MPI Research

38. MPI proposes to close the following projects with refunds of some of the levied amounts. We disagree with their proposal.:

| Project | Title | Completed/ Withdrawn | Total cost modelled (incl indirect) | Industry share modelled (incl indirect) | Actual (incl indirect) spend to Completion | Refundable Over Recovery | Refund %age |
|------------|--|-------------------------|---|---|---|--------------------------------|----------------|
| DEE2014-03 | Stock Assessment SQU1T and SQU6T | Completed | 354,563.98 | 354,563.98 | 100,256.79 | -254,307.18 | 28.28% |
| SCA2010-02 | Stock assessment Northland scallops | Completed | 118,655.36 | 63,282.86 | 4,533.91 | -60,864.77 | 7.16% |
| DWR2015-01 | Vessel time HOK2010-03 | Cancelled | 174,705.87 | 174,705.87 | 165,989 | -8,716.87 | 95.01% |
| DEE2011-03 | Risk Assessment Tier 3 stocks | Cancelled | 138,423.25 | 138,423.25 | 10,836.69 | -127,586.55 | 7.83% |

DEE2014-03 Stock Assessment SQU6T SQU1T

39. The project objective was to provide a stock assessment for SQU6T and SQU1T. A total of \$354,563.98 was levied. However, the project was effectively cancelled with expenditure of \$100,256.80 having been incurred. MPI proposes to refund the outstanding levies of \$254,307.18.
40. The project was not completed and was cancelled when it was realised the stock assessment could not be successfully completed. In the absence of a deliverable stock assessment methodology, or tangible outcomes the full amount levied (\$354,563.98) should be refunded to industry, not just the unspent portion of the levies.

SCA2010-02 Stock assessment Northland scallops

41. This project was not completed. It was cancelled without any useful results. We see no reason why any funds should be retained by MPI.
42. We seek repayment of the full amount of industry levies, \$63,282.86.

DWR2015-01 Vessel time HOK2010-03

43. We understand this project was cancelled and merged into a wider Hoki stock assessment process. We have sought additional information on the management of the wider project to support MPI's claim for the retention of the bulk of the levies on a cancelled project.
44. Until such information is provided and allows us to assess the overall project outcome, we cannot support the retention of the bulk of the levied amount.

DEE2011-03 Risk Assessment Tier 3 stocks

45. This project was cancelled with no progress on the research objectives. The expenditure incurred relates to the establishment of the contract and not the execution of the contract.
46. We see no reason why any levies should be retained given the project was cancelled with no research outputs.

MPI Observers

47. We note and commend the Ministry on its performance in reducing the daily rates for observer programmes.
48. We note that the daily cost applied to the deepwater programmes in the Unders and Overs was \$554 per observer day for monitoring the deepwater fleet and \$532 for the mid-depth fleet.
49. MPI has previously agreed to a maximum daily rate of \$450 and the rate should be reduced to that agreed cost. We also raised this matter last year. We have supplied a copy of the advice from Scott Gallacher that the costs would be held. That agreement came at a time when the provision of observer services by MPI was under review. Evidence was provided that comparable observer services could be purchased from private service providers at a cost of \$450 per day. That was the target price MPI sought to achieve. MPI agreed that they would cap the daily rate at that price as an incentive for MPI to reduce costs. The Observer Services Review was subsequently terminated by MPI and proposals that could have resulted in savings were set aside. We note that MPI is using a cap of \$450 per day for observer services in 2017/18 and see no reason why the Ministry should not continue to meet its undertaking in respect of observer services delivered in previous years.

CSP Observers

50. The CSP Unders and Overs calculation for observers uses the MPI charge-out rate (DW \$450, HMS \$585 and INS \$635), not the levied rate which includes the DOC overheads (DW \$498.58, HMS \$648.15 and INS \$703.59).
51. The rate in the Unders and Overs calculation should be the rate levied.

CSP Research

52. Our concerns with the CSP Unders and Overs for CSP activities relate to the cost recoverability of the projects themselves rather than the calculations of the Unders and Overs due to industry. Our concerns as to the cost recoverability of the projects were contained in our advice to CSP on the draft 2015/16 CSP programme. We refer you to that submission.

PART IV MATTERS PREVIOUSLY RESOLVED PRIOR TO THIS SUBMISSION

53. For the record, we believe it is appropriate to document those matters which had been resolved by industry and MPI during the review process. These include:
 - a. Updated TACC's for CRA and SBW stocks to reflect April 2017 changes
 - b. Corrected prices used for DOC observer calculations, only levying half of inshore days as the industry agreement
 - c. Combined projects HOK2010-05 and HOK2015-01 as this was always the intention. HOK2015-01 was an extra trawl survey.
 - d. Added PAU7 to project PAU2017-03
 - e. Refunded SNA2015-02 from 2016/2017 and 2017/18 as it was incorrectly double charged through the overhead and directly from SNA1.
 - f. \$7000 change to DOC overhead to reflect the final plan
 - g. Reduction in registry services processing charges
 - h. Removal of spatial management charge from registry services.