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Mr I Angus  
Department of Conservation  
PO Box 10420  
Wellington

## **COMMENTS ON DRAFT CSP ANNUAL PLAN 2015/16**

You have asked for comments on the draft CSP annual plan for 2015/16. We provided brief comments on the projects and the activities of CSP on 5 March 2015. This submission reflects the view of Fisheries Inshore Limited and the Deepwater Group Ltd.

Fisheries Inshore 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 behalf of its quota owners, fishers and affiliated Commercial Stakeholder Organisations (CSOs). As part of that work it will also work collaboratively with other industry organisations and SREs, Seafood New Zealand, Ministry for Primary Industries (MPI) and Department of Conservation.

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.

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 their deepwater fisheries resources, managed within a long-term sustainable framework.

Their mission is to optimise the sustainable economic value of our deepwater fisheries. Our vision is to be recognised as the best managed deepwater fisheries in the world.

They represent participants in New Zealand's major deepwater commercial fisheries, including hake, hoki, jack mackerel, ling, orange roughy, oreos, scampi, southern blue whiting and squid. Shareholders of Deepwater Group hold around 96% of the entire deepwater fish quota in New Zealand.

In this submission, we comment on:

- the nature of conservation services;
- the cost recoverability of the services and projects;
- the specific projects proposed by CSP for 2015/16 (see Appendix A); and
- provide an alternative use for mitigation resources (see Appendix B).

We have written previously to you on the nature and cost recoverability of conservation services. We again set out our views.

## **NATURE OF CONSERVATION SERVICES**

The Deepwater Group and Fisheries Inshore are of the view that the CSP programme is defined by the provisions of the Fisheries Act 1996 and can only relate to outputs produced in relation to the adverse effects or risks thereof on protected species from commercial fishing. Adverse effects are to be interpreted with reference to the purpose of the Act and the environmental principles. These principles include requiring that decision makers take into account that associated or dependent species should be maintained above a level that ensures their long term viability.

Any other activities considered by DOC to be appropriate for protected species management, but which fall outside the Fisheries Act definitions, can be undertaken by DOC but not as conservation services as defined in the Fisheries Act.

## **COST RECOVERABILITY OF CSP ACTIVITIES**

The inclusion of an activity in conservation services does not automatically make the costs of the activity cost recoverable. Cost recoverability is defined in s 262 of the Fisheries Act.

It is not appropriate that the cost recoverability of a project be assessed on the basis of the Fisheries (Cost Recovery) Rules 2001. It is our contention that a conservation service project needs first to be assessed against the definitions in s 2 of the Act, the principles set out in s 262 and then, if cost recoverability is appropriate, the Rules can be applied.

We do not accept that all the Fisheries (Cost Recovery) Rules (2001) are an appropriate implementation of the Act's principles and to that extent a number of the Rules are ultra vires. In particular, we contend that the following rules relied on by CSP have no validity:

- Definition of Research relating to protected species populations ... of any species ... taken as a non-targeted species by commercial fishers. Cost recovery for Conservation Services is limited in the enabling provisions of the Fisheries Act to services where an adverse effect or risk thereof applies and the activity is provided to avoid, remedy or mitigate that effect. The definition in the regulations cannot seek to expand the scope of the legislation beyond that which is explicit in the primary Act.

In particular, we contend the only items that can be cost recovered relate to activities to reduce the risk to protected species where the long term viability of the population is at risk. Consequently, seabird population research cannot be cost recovered and should be considered to be undertaken in the "general public interest" of protected species management.

- Schedule 8 Observer coverage to support ...conservation services: CSP observer services need to show their alignment to Conservation Services. Recovery of the observer content can only occur if the conservation service itself is cost recoverable.

In this submission, we have adopted the definitions and principles of the Act as the definitive statement of cost recoverability; the Rules are always a secondary consideration after their applicability has been demonstrated with reference to the primary legislation.

## **PARTICIPATION**

We have welcomed the progress of CSP in respect of increasing stakeholder participation in the planning process for CSP activities. That participation includes the establishment of the RAG, the

development of the medium term strategic plan, participation in the selection of CSP projects and consultation on the draft plan. Notwithstanding that progress, there is still considerable scope for improvement in the participation of stakeholders.

We suggest that CSP devote additional resources to the development of medium term population plans for the protected species most at risk as the basis for wider stakeholder consideration and the research needs that stem from such plans. That foundation is critical for the development of the CSP annual plan. While medium term plans have been drafted by CSP for some species, they have not been considered in depth by the RAG and have not been prepared to an adequate standard to drive operational decision-making.

We believe that there would be great value if the project proposal bids from providers were reviewed by the RAG to ensure that research objectives will be achieved by the proposals received. Collective decision-making would ensure stakeholders continue to be involved in the delivery of research services

## **LACK OF STRATEGIC APPROACH**

The current draft plan demonstrates a continuation of “business as usual” rather than a strategic approach to the application of scarce funding. .

Too many of the current proposals fail to contain a scientific statement of the project objective and the project methodology to allow stakeholders to assess the viability of projects and to understand how success of the project will be evaluated. It is difficult to assess the need for observer monitoring without a statement of the issues they specifically address and a comprehensive programme plan available for the wider research issue.

Many projects require an assessment of the results of work undertaken in 2014-15 but these results (or at least interim reports) have not been tabled, e.g. liaison officer(s) in FMA1, Gibson’s albatross survey methods. Accepting that timing can be an issue, it still must be a requirement that provisional feedback be made available where projects proposed are a “follow on” from the previous year. This particularly applies where new survey methods are trialled.

We note that the Deepwater Group is working with DOC and it is anticipated that an agreed Public Private Partnership will be in place for the 2015/16 year. This will have particular relevance for those projects which relate exclusively to deepwater fishing activities.

## **ALTERNATIVE MITIGATION PROJECT**

In the past decade, a significant sum of Crown and industry funds has been spent on investigating and measuring the risk to seabirds and marine mammals from New Zealand fishing vessels. In contrast that expenditure, the amount spent on mitigation of the risk by the implementation of appropriate and effective risk mitigation on all vessels is significantly less.

The Government has regulated the form of mitigation for all deep-water fishing, bottom longline and surface longline fishing. The apparent unsuitability and inappropriateness of the regulated mitigation has led in some instances to low acceptability and compliance levels, particularly in some inshore sectors. There are no vessel-based mitigation regulations applying to set-net, seine or trawl fisheries for the inshore sector.

The Deepwater Group has accepted ownership of seabird and marine mammal mitigation and has committed resources to ensure that seabird and marine mammal mitigation is effective in its fleet.

By comparison, we recognise the inshore sector has carried although significant work is underway in various sectors.

In recent years, there have been a number of CSP projects looking at new mitigation techniques, analyses of known methods and liaison officers to assist fishers to mitigate risks to seabirds. For 2015/16, CSP are proposing 5 projects measuring the level of interaction with the aquatic environment at a cost of \$1.4m; 7 population projects at a cost of \$0.6m; and 4 mitigation projects at a cost of \$0.4m. However, none of the above expenditures can be expected to save an additional bird or marine mammal in 2015/16. At present, there are a range of organisations, some industry based, some environmental group based and some Crown based addressing sea-bird and marine mammal protection focused on a range of themes – species, fishing methods, - operating in different areas of New Zealand. All organisations – MPI, DOC, SSST, industry (FMA1 and South Island) are doing their own things in their own silos but missing the strategic necessity of implementing appropriate and effective seabird and marine mammal mitigation on every vessel. All parties support the priorities of:

1. reduce captures first by using known mitigation measures; then
2. measure the residual risk; and then
3. find alternative mitigation measures, if the basic measures aren't effective.

However, resources are not being directed in that strategic manner.

We have previously discussed with you an alternative project for mitigation of the risk to protected species in inshore fisheries. We propose that the mitigation projects proposed by CSP for 2015/16 be set aside and replaced with an industry proposal to implement appropriate mitigation on all inshore vessels. The project outline is presented in Appendix B.

## Contact

This submission was prepared by Tom Clark of Fisheries Inshore on behalf of Fisheries Inshore and the Deep Water Group.

Yours sincerely



Tom Clark  
Fisheries Inshore

## APPENDIX A COMMENTS ON PROJECTS

Project	Comment
<b>Interaction Projects</b>	
INT2015-01 Observing commercial fisheries	<p>Observer services are not a conservation or research service in their own right in that they exist only to collect data. It is imperative that the wider research objective to which they contribute be stated in order to review the utility of observer services as a means of collecting data.</p> <p>In view of the costs of observer placement and the development of video monitoring capability, video monitoring should be used where possible as a cost effective alternative to observer placements where possible and appropriate.</p> <p>Given that risks to Maui and Hector dolphins have been mitigated to the extent considered appropriate by the Government, no adverse effect remains and there is no justification for cost recovery of observer services for those species.</p>
Project A Capture rate of Hector’s dolphins in set net fisheries - ECSI	<p>We understand the previous observer coverage of the East Coast South Island setnet fishery has provided sufficient information for the estimation of a capture rate for Hector’s dolphins. Further coverage for this purpose will not materially assist the estimation. Commercial fishing risks to Hector’s dolphins have already been mitigated to the extent required by Government. Yellow-eyed penguin and white pointer sharks have been assessed by the Seabird and Shark risk assessments as not being at risk of an adverse effect from commercial fishing. In the absence of risk of adverse effect and applying the principles of the Act, there is no scope for recovery of the CSP costs</p> <p>If CSP determines to proceed with monitoring, we note that electronic observation of this fishery is possible and could be used in preference to observer placement, particularly if the emphasis lies on protected species capture.</p>
Project B Capture rate of Hector’s dolphins in set net fisheries - SCSI	<p>We understand the previous observer coverage of the East Coast South Island setnet fishery has provided sufficient information for the estimation of a capture rate for Hector’s dolphins. Further coverage for this purpose will not materially assist the</p>

	<p>estimation. The South Coast setnet fishery has already been monitored with no indication that the fishery poses and adverse effect to Hector’s dolphins. Yellow-eyed penguin and white pointer sharks have been assessed by the Seabird and Shark risk assessments as not being at risk of an adverse effect from commercial fishing. In the absence of risk of adverse effect and applying the principles of the Act, there is no scope for recovery of the CSP costs.</p> <p>If CSP determines to proceed with monitoring,, we note that electronic observation of this fishery is possible and could be used in preference to observer placement particularly if the emphasis lies on protected species capture.</p>
Project C Setnet Captures Maui Dolphins WCNI	<p>After nearly three years of observation with no dolphins sighted, let alone biopsied to establish the subspecies, the utility of the programme needs to be re-assessed. We consider the project to be waste of limited resources and the funds could be better spent on alternative methods of monitoring the location of Maui dolphins, such as satellite tracking. The current approach will have cost the Crown over a \$1m in appropriations but there has been no output that improves the prospects of survival of the sub-species.</p> <p>If the Crown is adamant that it must continue with monitoring for presence, then we would suggest that video-monitoring should be considered as a cost-effective alternative to observer placements.</p>
Project D Maui’s Dolphin Interactions Trawling WCNI	<p>While we agree that a rate for the captures of Hector/Maui dolphins by trawlers needs to be established, monitoring the west coast North Island to estimate the rate of interaction will, like the monitoring of the set-net fishery, be an inefficient use of resources. Captures of Maui or Hector dolphins by trawl vessels have been rare events, with no prior observer monitoring in dolphin areas having observed such a capture. The prospect of interactions in the West Coast North Island is remote. If CSP wish to derive a capture rate for Hector species dolphins, the east coast South Island, with higher densities of dolphins, provides a better prospect of captures.</p> <p>We consider CSP would gain more information critical to the survival of the subspecies by investing in alternative technologies to determine the distribution of Maui dolphins or to research the impact of disease on the population.</p> <p>If CSP determines to proceed with the project, we consider that video monitoring should</p>

	<p>be considered as a more cost effective alternative to observer placements.</p> <p>Given that risks to Maui and Hector dolphins have been mitigated to the extent considered appropriate by the Government, no adverse effect remains and there is no justification for cost recovery of observer services for this project</p>
Project E Protected Species Interactions trawling ECSI	<p>The ECSI trawl fishery has been identified as a possible source of risk to several high-risk albatross species. It is unclear what the objective of this project is and if there is any research design behind the project. The project refers to measuring the efficacy of mitigation on vessels and obtaining information to assist with the estimation of cryptic mortality for seabirds. We note that SouthernInshore Fisheries Management is currently running a programme to implement seabird mitigation on all South Island trawlers in the South Island. Any research project focusing on the efficacy of mitigation for seabirds would need to take into account the timing of that programme.</p> <p>In the absence of a detailed research design, this project is little more than counting interactions, which while adding to a better estimation of the capture rate will not assist with the specific objectives.</p>
Project G Snapper 1 Catch Verification – Danish Seine	<p>Insufficient information has been given to this project and no consultation with the SNA 1 Commercial group on why this project is necessary.</p>
Project H Variable affecting capture rates inshore bottom longlining	<p>As with other projects, this project lacks a research methodology and design that will ensure the services being obtained will achieve the objectives. In this instance, the observer services are but the data collection and the wider research programme is not provided for scrutiny.</p> <p>While we acknowledge that the seabird species concerned appear to at risk from the commercial sector and that the research objectives are desirable, the absence of information on the wider research programme means we are unable to support the project in its present form</p>
Highly Migratory Fisheries	<p>That the section justifying an observer programme of 1,020 days can be reduced to half of a page with no objectives and no statement of the issues evidences the lack of strategic purpose behind the programme.</p>

	Industry cannot support this programme without a more detailed and focused statement of the objectives.
Deepwater Fisheries	We understand Deepwater Group is discussing this programme with MPI and we make no comment on that activity in this submission.
INT2013-02 Identification of seabirds captures	This is a routine activity and contributes to the quality of the sea-bird risk assessment. We support the approach of DOC in necropsying some species and only photographing others. We suggest that the species of birds that should be necropsied should be those that have a high risk assessment score or are similar to those species while other species at low risk should only be photographed. This would allow for cost recovery of the necropsied birds on the basis of adverse effect and non-cost recovery of photographed birds which are not at risk of adverse effect. The cost recovery should be related to those stocks for which the observer services are levied, not the wide suite of stocks listed.
INT 2015-02 Identification of marine mammals, turtles and protected fish	With the exception of Maui dolphins, no adverse effect or risk thereof from the commercial fishing sector has been demonstrated for other marine mammals, turtles or protected fish. Given the rarity of an observed capture of a Maui's dolphin, this activity should not be cost-recovered.
INT-2015-033 identification tools for marine mammals, turtles and protected fish	We are not aware that the current resources are inadequate or deficient for the purpose of identification. CSP need to demonstrate that the current provision of resources are materially deficient before they undertake this project. We do not see the project as being a conservation service. Furthermore as noted in the previous project, with the exception of Maui's dolphins, the remainder of the species are not at risk of adverse effect from commercial fishing activity. We note that the equivalent project for fish identification was undertaken at Crown cost by MPI. We consider this project should not be cost recovered. Given that this tool is made available on the DOC website to all interested parties, we consider that DOC establish a publication price for such material to recoup some of the cost from the general public.
INT2015-04 Identification and storage of cold water coral bycatch	The focus of the project is to improve knowledge as to the distribution of cold water corals and to provide storage of genetic material. Given the absence of any demonstrated risk of adverse effect from commercial fishing activity, this project cannot be cost recovered.

INT2015- 05 Black Petrel and flesh-footed shearwater foraging behaviour	We are concerned with the extent of research in FMA1. Project MIT2014-02 was focused on the effectiveness of tori lines. If tori lines and other mitigation measures, such as offal management, are shown to resolve the issue, then the need for greater information on the foraging behaviour and the nature of the problem is redundant. This project should not be undertaken until completion and presentation of MIT2014-02
<b>Population Projects</b>	
POP2015-01 Black Petrel - population abundance	A reliable, comprehensive estimate of the black petrel population is required to provide greater certainty to the risk assessment for the black petrel. Information on the juvenile survival will assist to improve the modelling of the population. However, we consider that both those objectives are related to the general public interest as to the sustainability and management of black petrels and are not directly related to avoiding, mitigating or remedying adverse effects from commercial fishing. As such, the project is not cost recoverable.
POP-2015-02 Flesh-footed shearwater population project	A reliable, comprehensive estimate of the population is required to provide greater certainty to the risk assessment for the flesh-footed shearwater. However, we consider that this project is related to the general public interest as to the sustainability and management of flesh-footed shearwater and is not directly related to avoiding, mitigating or remedying adverse effects from commercial fishing. As such, the project is not cost recoverable.
POP2015-03 Seabird Population- Auckland Islands	CSP has packaged the research projects to be undertaken in the Auckland Islands. This clarifies the importance of the overall project. Having said that, previous research on some of seabird species to be researched has yet to be presented (Gibson's). Undertaking additional work prior to an evaluation of the most recent research is premature. Research with regard to Northern Giant petrels, whilst convenient, is not value for money given the low numbers of petrels likely to be present at the Aucklands. We cannot therefore support these project components. Components of this project would also fall into work contemplated by the Deepwater Group as a part of their PPP (e.g. white capped albatross)..
POP-13 Sea-lion Auckland pup count	Industry contends that it does not have an adverse effect on the sealion population. However we accept that monitoring of the pup count is important in informing the

	current MPI SQU6T Operational Plan 2013-16 and the forthcoming NZ sea lion TMP. However this matter is being separately addressed by the Deepwater Group as a component of their PPP.
POP2015-06 Marine reptiles- review of interactions and populations	No adverse effect has been demonstrated in respect of marine reptiles. As a consequence, no cost recovery is possible. We consider this is a desk-top study that should be undertaken by CSP staff rather than being out-sourced.
POP2015-07 Supporting genetic analysis of protected fish species	No adverse effect is demonstrable in respect of any protected fish species. As a consequence, no cost recovery is possible. We consider this to be research in the general public interest.
<b>Mitigation Projects</b>	
General Comment	<p>Fisheries Inshore and Deepwater support priority being given to the implementation of effective mitigation on all vessels. However, that support is conditioned by the need for all efforts to be co-ordinated to prevent duplication, wasted effort and confusing signals. The present CSP projects need to be integrated into a mitigation programme that will see vessel mitigation plans developed and implemented for all inshore vessels.</p> <p>We are unsure as to extent of expenditure by MPI, CSP and other parties in the pursuit of new/novel/innovative panacea solutions for mitigation of seabird effects. Industry considers that there is an adequate range of mitigation options available to provide appropriate and effective mitigation on all vessels. The identification of and implementation of appropriate mitigation methods for each vessel is critical to achieving an effective outcome. If subsequent monitoring of results indicates those measures are not achieving the desired level of mitigation, then a search for new practices might be undertaken.</p>
MIT2014-01 By-catch Newsletter	Industry attaches no value to this publication and submits it should be ceased upon completion of the current contract..
MIT2015-01 Seabird Mitigation – Inshore longline	Effective vessel mitigation is a priority, any officers need to be used in northern BLL and SLL fleets in co-ordination with industry activity in those fleets
MIT2015-02-3 Small LL vessels - seabird mitigation	Effective seabird mitigation is a priority, and needs co-ordination with industry activity in the sector. there appear to be concerns with the appropriateness of the current regulated measures. We should not be seeking new and novel ideas.

## **APPENDIX B ALTERNATIVE MITIGATION PROJECT**

### **PROJECT OUTLINE: INSHORE MITIGATION**

#### **Project Objective:**

To implement appropriate and effective risk mitigation for seabirds and marine mammals on all inshore finfish fishing vessels by December 2017.

#### **Project Description:**

The project will be to implement appropriate and effective seabird and marine mammal mitigation on all inshore vessels by the end of 2017. The intent is to ensure that all vessels are aware of the risks they impose to sea-bird and mammal populations and implement at least the basic measures to mitigate seabird mortalities. We see that as being offal and waste management and any cost-effective additional mitigation required to reduce remaining risk to a perceived acceptable level. Appropriate and effective mitigation for the inshore recognises that the risk profiles of the inshore fleet varies significantly by size, location, fishing gear, season – and mitigation needs to be appropriate to the risk.

There is no requirement that any regulated provisions must be implemented, particularly if they are not appropriate or effective. Regulatory change to a need for VMPs to be implemented and operated on all vessels rather than regulated devices may be necessary.

The project will not investigate or research new mitigation approaches. The focus is to implement known cost-effective and fisher receptive mitigation.

#### **Project Funding**

The programme will be funded from:

- Proposed 2015/16 CSP projects MIT2015-01, MIT 2015-02
- Southern Inshore and other industry funding; and
- Funding from existing MPI activities – observers.

It is proposed that FINZ will become the organisation responsible for the management of the project and will as such be the prime service provider for DOC funding.

#### **Project Timing**

The project will commence as soon as possible as funding and business plans have been approved by Ministers. While a tentative completion date of December 2017 has been proposed, that date will be determined as a consequence of the programme detail.

#### **Project Outputs**

The project should result in Vessel Mitigation Plans being established for, and operated on, every inshore vessel, with the expected outcome being an increased awareness of aquatic environment impacts by fishers, reduced seabird and marine mammal mortalities and safer handling and release of captured sea-birds and mammals.

## **Project Management**

The project will have a governance structure of a board and such sub-committees as are considered appropriate. The Board would be chaired by the commercial fishing sponsor and would include representatives from MPI, DOC, commercial fishing industry and environmental interests. The programme manager will report to the Board.

Sub-committees may be established as appropriate to the execution of the programme.

It is envisaged that the programme manager will co-ordinate and direct the activities of the liaison officers to be engaged under the CSP programme. The programme manager will be involved in the engagement of those officers.

## **Project Manager Role**

The project manager will report to the programme board and will be responsible for the successful completion of the programme. The manager will undertake such analysis and research as is necessary to establish a programme report. The manager will report progress to the board on a quarterly basis. While the manager will have the powers and authorities appropriate to complete the programme, any controls and delegations will need to recognise that Crown funds are being expensed on the programme.

The project manager will need to:

- establish the range and scope of existing initiatives,
- review existing reference and guideline material available and establish new material as appropriate;
- establish the number and methods of operators to be included in the programme;
- establish a baseline mitigation approach for each sector but appropriate to the risk posed by individual vessel's fishing activity;
- establish a programme and project plans to implement mitigation;
- work with and co-ordinate the activities of DOC appointed liaison officers and MPI observers to achieve mitigation practices, based on an appropriate action plan – be it fleets, fishing methods, spatial areas, etc;
- work with existing initiatives to ensure effective outcomes from those initiatives and no duplication between the programmes.