

22 June 2016

Mr M Dunne
Ministry for Primary Industries
PO Box 10420
Wellington

Cc Vicky Reeve
Principal Adviser
Cost Recovery
Ministry for Primary Industries

Dear Martyn

COMMENTS ON DRAFT 2016/17 COST RECOVERY LEVIES

1. You have asked for comments on the draft 2016/17 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.

The Submitters

Fisheries Inshore New Zealand

3. 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.
4. 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.

5. We have included comments from major inshore commercial fishing representative bodies, including Northern Inshore, Area 2 and Southern Inshore.

Deepwater Group

6. 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.
7. 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

8. In this section, we comment on process and generic matters relating to the levy model. The sections below relating to the validity of cost recovery, the inclusion of general public interest and the definition of adverse effect are largely as submitted last year but have included responses to the Ministry's comments in the 20 August 2015 response to the joint Inshore and Deepwater submission.
9. We do not apologise for the repetition as such but consider it is imperative that the correct context is set out for cost recovery. We will need to repeat much of this argument in our response to the recently issued discussion document on "Developing a Cost Recovery Framework for the Ministry for Primary Industries". Again we do not apologise for that repetition.

The Consultation Process

10. 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, viz, PAU2008-01 project, the levying of the 2016/07 observer programme and the omission of parts of the 2014/15 MPI observer programme, and do not need to be canvassed in detail in this submission.
11. MPI forwarded a replacement levy model on 16 June which updates the earlier consultation model for the agreed amendments. Those amendments have reduced the levies payable by \$940,000. Not all the points raised by the industry have yet been addressed.
12. The submission therefore focuses on issues in respect of the 2016/17 levies and research projects and any Unders and Overs matters that have not yet been resolved.
13. We value and support the openness and collaborative nature of that process.
14. We note that many of the issues regarding the nature and value of individual research projects can be addressed with more specific Management and Monitoring Plans. These Plans would provide specificity as to the nature of management and the services required. We would very much welcome this approach and look forward to working on such a framework in advance on next year's consultation on fisheries services. Allied to this is greater flexibility in service delivery whereby the Crown specifies deliverables and standards and the market provides. Again we look forward to the increased efficiency and effectiveness of such an approach and the more constructive relationship it would engender.

Cost Recovery Invalid

15. We have previously stated our view as to the validity of the Fisheries (Cost Recovery) Rules 2001 (the Rules). Since cost recovery is under current review by MPI, we take the opportunity to restate our views and opposition to the validity of levies based on the current regulations.
16. The Rules can only be valid to the extent that they enable the principles within the Act to be implemented, are consistent with and do not seek to modify those principles or extend the definitions beyond those contained in the empowering sections of the Fisheries Act 1996.
17. Fisheries and Conservation Services are defined in section 2 of the Act and are wider in scope than the activities defined in section 262 which sets out the recoverability of fisheries and conservation activities. The fact that an activity is a Fisheries or Conservation Service as

defined by the Fisheries Act does not imply that the activity may be cost recoverable. For a service to be cost recoverable, it must first be assessed against and pass the thresholds contained in Sections 2 and 262 of the Act and then be considered under the Cost Recovery Rules for the levels of cost recovery. If a service is inconsistent with the definitions in section 2 and principles in section 262, it must be presumed that the activity is not cost recoverable.

18. It is our view that a number of past and current services that have been subject to cost recovery do not meet the statutory definitions in section 2 of the Act, and/or are inconsistent with the cost recovery principles in section 262 of the Act. As a consequence, the Crown has unlawfully levied the industry for these services. Our view is that MPI's current cost recovery proposals continue that unlawful activity.

General Public Interest

19. The Act requires that services provided in the general public interest rather than in the interest of an identifiable person or class of person cannot be cost recovered. Most cost recovery of Government activities takes place in a context of "public goods", "club goods" and "private goods". It should be noted that "public goods" and "services in the general public interest" are not necessarily synonymous. While public goods may be provided in the general public interest, general public interest invokes wider considerations than public goods and includes goods and activities provided which might otherwise be considered to be club or private goods but are provided in the general public interest. A general public interest need not be limited to specific goods or services – it may be a concept, a societal objective or a societal standard. To assess whether an activity or output is undertaken in the general public interest requires an assessment of the purpose of the activity.
20. We consider that general public interest includes, among other things:
 - a. The sustainable utilisation of New Zealand's fisheries resources;
 - b. The maintenance of law and order;
 - c. Management of protected species; and
 - d. Management of the benthic habitat.
21. Activities currently attributed to commercial fishstocks, e.g. compliance, stock assessment, protected species research and benthic research, contain a significant element of Crown funding to reflect the general public interest in those matters. New Zealand prides itself on its image and history of a sustainable economy. Stock assessment research and protected species management are indisputably management tools to maintain and promote that image and the responsible stewardship of our natural resources. We would expect the share of Crown funding to be guided by the public interest of wider society in such issues. For example, we would expect the compliance, general management of protected species and benthic research activities to be funded in toto or in part by the Crown. Given the shared general public interest and the extractive users' interest, we would expect sustainable utilisation research to have a contribution from the Crown to reflect that wider interest.
22. We note that the Ministry has made a specific allowance for a public good component in respect of benthic invertebrates. While we welcome that decision, it would appear that MPI considers that public interest exists only in respect of non-QMS species. It is difficult to understand why that contribution should only be 50% when there is no demonstrated risk or adverse effect to benthic invertebrates for the commercial fishing sector. As discussed, section 262(d) requires there to be a risk or adverse effect on the aquatic environment and for the service to avoid, remedy or mitigate that risk or adverse effect for cost recovery to be

valid. The objective relating to benthic invertebrates meets neither of those thresholds and should have no cost recovery.

23. Having recognised the general public interest in the benthic invertebrates, we would have expected MPI to recognise that there is a significant public interest in the QMS species and fisheries sustainability that a significant contribution to the remainder of the programme costs would be in order.
24. In its August 2015 response, the Ministry contends that compliance, stock assessment, protected species and benthic research are undertaken in response to the risks of adverse effects and adverse effects themselves, of fishing under the Fisheries Act. We note that that advice conflicts strongly with the proposition put forward in the discussion document. While the fishing sectors may benefit directly from the provision of catch allowances, the activities generate significant benefits for the New Zealand economy in the management of the aquatic environment resource and the portrayal of New Zealand as a sustainable user of its resources. It is equitable that the New Zealand economy should contribute to the costs of those activities. That is not to say that either industry or the Government should pay the cost of the services in full but the funding shares should reflect the share of benefits from the management of the resource. It is for that reason that we cannot accept the Ministry's perspective.

Adverse effect

25. The principle contained in section 262(d) of the Act allows for fisheries and conservation services that are provided to avoid, remedy or mitigate a risk to, or an adverse effect on, the aquatic environment or aquatic biodiversity to be cost recovered.
26. Adverse effect is not defined in the Fisheries Act per se. In the absence of any legislative definition, adverse effect needs to be interpreted in the context of the purpose and principles of the Act. Section 9 provides the relevant environmental principles and obligations that inform the definition of adverse effect. By implication, an impact that is adverse to an individual or protected species, but not of sufficient magnitude to compromise the long term viability of the species concerned, is not an adverse effect in terms of the Act. It is clear from a contextual analysis of the Act, and its interpretation by the Courts, that the risk or adverse effect referred to should not be construed as any negative impact on the aquatic environment.
27. To qualify for cost recovery under this principle, an adverse effect must exist or a material risk of an adverse effect be demonstrated. It is not sufficient to assert or allege such a risk exists without the provision of supporting material and rationale. That point was made clear in the Auditor General's report of December 2002. It is also not acceptable to continue to impose cost recovery when it has been clearly demonstrated that the commercial fishing industry does not have an adverse effect or a risk of such an effect.
28. While commercial fishing may have an adverse effect or pose a risk of such to aspects of the aquatic environment, e.g., seabirds or the benthos, it does not necessarily imply that any research or service undertaken in respect of that effect or risk is cost recoverable. The Act restricts cost recoverability to services to avoid, remedy or mitigate known risk or adverse effects. It does not extend to dimensioning that risk, general environmental or protected species management or undertaking wider biological research.
29. The 20 August 2015 Ministry response provides no information or rationale that furthers this discussion. The Ministry response simply states that it does not need to demonstrate an

adverse effect or risk thereof exists before recovering costs. We cannot agree with that perspective.

The Rules

30. In respect of the Rules, we do not accept that the rules reasonably reflect the principles and intent of the Act. Our specific comments on the validity of the schedule items are as follows:

Activity	Comment
Surveillance and monitoring and enforcement of commercial fishing activities	The maintenance of law and order are matters of general public interest. As with other surveillance and enforcement activities, they should not be cost recovered from commercial fishing. These are not club goods and the sector has no means to enforce standards and regulations on fishers or quota-holders.
Research relating to protected species populations where risk to those populations by human intervention has or has not been estimated	The risk to a protected species population from human intervention is immaterial to the setting of any cost recovery rate. The issue at stake is whether commercial fishing activity poses an adverse effect or a risk thereof to the protected species population. In the event that commercial fishing poses or can be demonstrated to pose an adverse effect or risk thereof, then what is cost recoverable is research to avoid, remedy or mitigate that risk or adverse effect. Research into the population for management of the species is a general public interest matter and is not cost recoverable.
Services (including 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	Cost recoverable activities are limited to those specifically related to the avoidance, remedy or mitigation of that risk or adverse effect. Wider research relating to the existence, scale or consequences of effect are not cost recoverable.
Stock assessment research	The sustainable utilisation of New Zealand's aquatic resources is a matter of general public interest. The management outcome of sustainable utilisation is not limited to the extractive users of the resource. All stock assessment research contains an element of general public interest which is not reflected in the current recovery rules. The General Public Interest is not limited to the recreational and customary TAC allowances.
Observer coverage	Observers are not a fisheries service as such, they exist to collect data for other purposes. The cost recoverability of observer activities therefore needs to be assessed in relation to the services they provide.
Monitoring harvest levels	Catch reporting and the monitoring of harvest levels is an operational facet of sustainable utilisation and contributes significantly to the general public interest.
Quota and commercial fishing administration and registry services, including access and introducing new species into QMS	The registry activity that is cost recovered is limited to the management of registers, reporting of catch and the issue of permits. Activities such as spatial access and introducing new species to the QMS should not be cost recoverable under the principles.

31. We consider it would be appropriate that the Ministerial advice on the 2016/17 levies should note that we consider the Minister to continue to be in breach of section 263(4) of the Act when recommending the cost recovery rules were consistent with the principles in section 262.

Inequity for Stocks with Low Catch Levels

32. We note that, despite assurances given in 2014 to industry leadership by Scott Gallacher, Deputy Director-General Regulation and Assurance to the industry, that this issue would be addressed, other than the proposed TAC review for SQU1J, there has been no action to resolve the general matter.
33. Even if the SQU1J TAC catch levels are reduced, SQU1J will be faced with a 2016/17 levy of \$638,532 largely for compliance and registry services. We would advocate that the Ministry look to adjust the port prices for SQU1J for this year to address the 2016/17 inequity.
34. We note however that the position for those stocks with low catch to TACC ratios will not change in 2016/17 and no changes appear likely in 2017/18 as a consequence of the First Principle Review.

Kermadec Stocks

35. Notwithstanding the September 2015 Cabinet paper noting that if quota is continued to be held by quota-holders, there should be no cost recovery in respect of that quota, levies are proposed for the Kermadec stocks. Notwithstanding the small monetary value of the levies proposed, there is no equity in imposing levies on quota-holders while removing their ability to catch Kermadec stocks.
36. We consider there should be no levies on Kermadec (FMA10) stocks.

Completion of Research Projects

37. We have previously drawn the attention of the Ministry to the need to complete research projects in a timely manner if they are to inform management of the stocks. Delays in the presentation of research findings limit the capacity of MPI to properly manage fisheries in a timely manner.
38. The Unders and Overs review this year contains 24 research projects that have been finalised. Of those, eight are projects initiated more than 5 years ago. We commend the Ministry on addressing those older projects and look forward to addressing the remaining older projects, which date back to 2004.

Cost Recoverability of CSP Programme

39. Section 264 of the Act, which requires the Minister to be satisfied that the proposed levy order is consistent with the Cost Recovery Rules, applies to both the levies for MPI activities and CSP activities.
40. In our submissions of 22 April 2015 and 10 March 2016 on the proposed CSP research programme, we raised similar issues as to the cost recoverability of CSP activities as are raised in this submission and in our 2016/17 levy model submission. MPI should 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 Rules. Fisheries Inshore NZ would be happy to provide a copy of our submissions to you.

Recovery of Overheads

41. The costs recovered by MPI include a recovery of MPI overheads. The overheads includes corporate payments for accommodation, communications, personnel services, IT services, financial management, strategic management and the executive management. Information provided in 2014-15 indicated that overheads charged to science, compliance and registry activities were in excess of 45% of the direct costs of those activities.
42. 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 is not yet available to inform this submission.
43. 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 NEW 2016/17 EXPENDITURES

44. We comment on more stock-specific or activity-specific matters in the levy model.

MPI Compliance

45. As indicated previously, we are of the opinion that the compliance activity is not wholly cost recoverable from industry. It is a matter of general public interest and that interest should be reflected in cost recovery as per the principle in section 262(b) of the Fisheries Act.

46. We note that the activities of the group, in terms of inspections and enforcement action, have decreased in recent years. On that basis, we would have expected some decrease in the level of compliance spending. However, the Ministry asserts that expenditure continues to rise. We have received no information to substantiate that assertion. With the high commitment of resources to the investigation of alleged offences by Hawkes Bay Seafoods, we would have expected the transfer of compliance expenditure to enforcement activities to be reflected in a lower compliance spend for 2015/16 and 2016/17.

47. We are concerned as to the robustness of the compliance cost recovery budget and the virtual absence of any supporting information for the activity. There is no strategic or annual operating plan for the group. There is no statement of the services to be provided in respect of compliance and there is no supporting statement of performance for the year. We also understand there is no financial budgeting or financial reporting or reporting of effort and resource use for fishing by the Compliance group. There is effectively no reliable information available to support the MPI claim for cost recovery of compliance activity.

48. Fisheries Inshore welcomes the invitation from the Fisheries Compliance Directorate division to set up a programme of greater engagement for the inshore finfish sector. The recent release of compliance reports on fishing activity in ECSI finfish fisheries demonstrates the need for such engagement. These matters should have been made known to quota-holders at the time rather than the matters being brought to light in a questionable manner in the Simmons catch reconstruction report.

49. We are concerned that the proposed IEMRS project will make further inroads into fisheries management expenditure. While IEMRS is incurring costs and the Ministry is seeking a recovery of some IEMRS costs, we believe that the project is still in a conceptual stage, has yet to be formally approved by the Minister and has no CAPEX approved for the development. We see no grounds for the recovery of any costs for IMERS given its current stage of development.

50. We repeat last year's call for a joint Ministry and industry review of compliance activities to document the role and activities of compliance, identify potential savings and make recommendations as to future directions for the group. We view this as essential as IEMRS will have significant impacts on the nature and cost of compliance activity and should also influence the future demand for and delivery of some observer and research services.

MPI Observers

51. The model proposes 100% cost recovery of East Coast North Island SNA1 Trawl and Danish Seine programmes. The September 2013 Minister's decisions on SNA1 provided that the costs of SNA1 video or observer industry would be split 50%:50% between industry and the Crown.

52. Cost recovery for FMA1 stocks associated with the SNA1 observation programme of the trawl and Danish seine sectors need to be amended.

MPI Research

53. 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 warmly noted.
54. We have raised the issue of the level of overheads applied to research projects. In 2015/16, the level of research overheads was limited to \$1,812,352 pending a review of the budget assumptions and the imminent First Principles Review of the cost recovery process.
55. Having recognised the need to cap science overheads last year to recognise reviews of overheads and with neither of those reviews completed, we see no reason why the cap applied last year to Research overheads should not be applied in this year's levy model. The applied overheads of \$3.98m of 2016/17 overheads are no more robust than the 2015/16 level of \$5.97m, which was reduced to \$1.81m.
56. We note that the draft levy model contains \$9.7m for the recovery of deepwater stock assessment projects in 2016/17. We also note that these recoveries are near the top end of the project cost as given in the Statement of Fisheries Research Services. When the expenditure profiles for previous similar projects are reviewed, the first year costs are a significantly lower proportion of the estimated project cost. We also have doubts as to the ability of NIWA, being the likely research provider for the projects, to complete the work within 2016/17. Accordingly, we request MPI to review the 2016/17 levying for the deepwater stock assessment research programme. We do not oppose the projects per se, just the proposed cost recovery levels for 2016/17. We see no reason why industry should be cast into the role of a lender of funds to the Ministry for these projects?
57. By contrast, we are concerned with the recoveries for PRO2013-01 Estimation on Seabird and Marine Mammal Captures. The project involved the estimation of captures for 2013/14, 2014/15 and 2015/16 with project PRO2016-01 being the estimation of captures for 2016/17, 2017/18 and 2018/19. The information we hold indicates a levy in 2013/14 for \$227,000, no levy in 2015/16 and a proposed levy for \$188,100 in 2016/17 with expenditure of only \$129,200 to the end of 2015. Being an annual task, we would expect levying each year commensurate with the expenditure. This would serve to smooth out the levy cost of the project and prevent a large recovery in any particular year.

A New Projects

ENV2016-01 Spatially explicit quantitative risk assessment of fish and shark species caught in deepwater fisheries

58. This project seeks to bring together the results of two prior research projects – DEE2011-03 and ENV2014-01 – apparently to give effect to a unilateral decision by MPI to assess and potentially to manage deepwater fish species within a spatially explicit quantitative risk assessment framework.
59. Industry has not been consulted on the efficacy of this approach, either in terms of the utility of the proposed methodological approach or in terms of the efficacy of any results to inform management decisions.

60. Industry does not support this project as proposed and considers it to be inappropriate in view of the current management framework applying to deepwater fisheries resources which is on a fishstock basis rather than on a spatial management basis.
61. The development of spatially explicit risk models for the seabird and other marine mammal species has been an expensive, fraught and prolonged exercise. While offering promise for managers, they as yet remain 'works in progress'. The seabird risk assessment model is still suffering from problems due to the spatial component of the model (overlap of species with fishing effort) some five years after its initial introduction and the marine mammal risk assessment has yet to be completed to a level where it can be provided to the Working Group for review some two and a half years into development (the spatial component being one of the issues still requiring resolution).
62. Discussions as to the adoption of a spatially explicit risk management basis for deepwater activities were conducted in the early days of the development of risk assessments. Discussions on the practicality of a spatially explicit risk framework for the management of deepwater activities need to be fully reassessed in the light of the experience since gained with the other semi-quantitative risk assessments.
63. Industry supports the completion of risk assessment work on seabirds and marine mammals and the acceptance of the results by the Working Group and managers, and a review of this work during 2016-17, prior to this approach being trialled on fish and shark species.
64. Industry does not support the management of deepwater stocks on a spatially explicit risk assessment approach as appears to be contemplated in this proposed project and seeks consultations with MPI on the merits of what is being proposed and how this can be used to inform management of these fisheries within the QMS before such an expensive and risky project is contemplated or commenced.
65. At this time, given the very low level of information and the apparently low risk of success and high costs industry does not support this project proceeding in 2016-17.
66. If this project has any merit, it is perhaps simple to explore new (high risk) methodological approaches to develop and build from scratch a scientific framework for risk assessment of fish and sharks on a limited pilot-scheme basis, both to establish the scientific merit and to establish the management utility of the results. As such the development costs (and risks) should be fully borne by the Crown. At such time that the method is proven to work scientifically and has the support of managers as to its benefit in supporting management decisions, then its broader application could be contemplated (alongside the attribution of costs by fishstock to industry).
67. We understand DEE2011-03 was terminated after a small expenditure on the project. To assert that ENV2016-01 would build on the results of that project is baseless. The termination of the project should have (but has not) initiated the refund of the levies paid on this earlier project (\$138,423).
68. We understand that, as originally conceived, ENV2016-01 was to be pilot project focussed on the deepwater shark species only. This approach fully met a number criteria including,
- (i) Developing and testing a 'proof-of-concept' study,
 - (ii) Constraining costs until the approach could be established and accepted by the MPI science working group process and managers as 'fit for purpose',

- (iii) Enabling time for discussions about how outputs from such an approach could and should be applied by managers,
- (iv) Advancing the needs of the NPOA—sharks in a timely manner by assessing the deepwater sharks first (based on a not unreasonable expectation that a number of the deepwater shark species may be ranked relatively high by the risk assessment due to their biology and lack of knowledge on deepwater fish generally), and
- (v) Working to a fairly rapid reporting timeframe due to the limited number of species to be included.

69. The current proposal misses almost all of these positive attributes.

70. An experimental pilot study on selected species funded by the Crown with the objective of seeing whether or not it is feasible to develop a model is an appropriate first stage before embarking on a \$300k project that appears to have no controls to limit expenditure should the methodologies show no promise.

PRO2016-01 Demographic Parameters of Black Petrels and PRO2016-02 Factors affecting capture rate of black petrels and flesh-footed shearwaters

71. There has been significant research already undertaken into Black Petrels. We are concerned that these projects are to be undertaken independently of the research direction and strategy of the Black Petrel Action Group.

72. We consider the projects should be developed and specified in conjunction with the Action Group and only proceed if the Group sees research value in the projects proceeding.

TAR2016-01 East Coast TAR stock assessment

73. We have a major concern with the overall cost of this project. A total of \$1.653m will have been spent since 2013 on an assessment for East Coast tarakihi as a consequence of having insufficient information to provide a robust stock assessment for East coast tarakihi in 2012.

74. East Coast Tarakihi have an annual port price value of \$17m, with a discretionary annual spend on management of less than \$340,000. The stock assessment programme implemented by MPI science has effectively removed any rent from the fishery.

75. To complete the assessment and update the CPUE for the fisheries, a sum of \$200,000 has been budgeted for 2016/17. We consider that amount is excessive given the availability of analysed and groomed data.

SNA2 and Black Petrel Related Research

76. We note that SNA2 is levied for any work relating to black petrels.

77. While 96% of SNA2 is caught by trawl, the capture of black petrels in snapper fisheries is limited to surface and bottom long line fisheries, not trawl fisheries. Long lining for snapper is uncommon in FMA2.

78. SNA2 should be removed from any research for black petrels.

SNA2016-01 Catch at age of SNA7

79. We note and commend the Ministry for implementing a 50% cost recovery level for this project.

SNA2014-01 Biomass Estimation of SNA1

80. This project is shown as having a 56% recovery from industry on the basis of the TAC allocations. The September 2013 Minister's decisions on SNA1 provided for the costs of any tagging survey to be split 50%:50% between industry and the Crown.

81. Cost recovery of this project should be limited to 50%.

Tier 2 Projects

82. The 2016-17 Fisheries Services document contains a number of Tier 2 inshore research projects. These have not been levied and should not be levied in 2016/17 unless there is further discussion with industry.

B Existing Projects

INS2014-01 Indicator based analysis of the status of New Zealand shark populations

83. We raised the cost recovery of this project last year. No action was taken to address the issue.

84. The objective of INS2014-01 was to establish indicators to monitor trends in the stock status of specific QMS shark, skate and chimaera populations. It was initially thought that the sharks to be reviewed would be sharks caught in the inshore sector. A range of inshore sharks were levied for the project.

85. In March 2015, MPI varied the project, focusing on sharks that scored highest on the risk assessment and, in particular, the non-QMS sharks which were largely deepwater sharks. The project remains focused on those non-QMS species while still levying the inshore QMS shark stocks – the correlation between the research species and the levied stocks being effectively zero.

86. Quite apart from levying incorrect stocks, just because those sharks scored the highest in the assessment, it cannot be said those sharks are at high risk from commercial fishing in New Zealand. The non-QMS sharks had assessment scores equal to those of the highest ranking QMS species, which are deemed not to be at a high risk from commercial fishing. It therefore follows that the non-QMS sharks with similar rankings are not at high risk of an adverse effect. In short, there was no need for the project as originally conceived.

87. In the 2015-16 levy model, MPI continued to levy the same inshore QMS shark stocks for a further \$25,000 notwithstanding there being no project proposal, no need for the research project in the first instance and an intent to divert the funding to a different range of non-QMS stocks caught by a different sector of the commercial fishing fleet. MPI proposes to levy a further \$17,000 for the project this year, continuing the inequity of previous years.

88. This approach simply cannot be construed as lawful, there is no demonstrated adverse risk to non-QMS sharks and the levying of inshore shark stocks for analyses of deepwater sharks is inequitable.

ENV2014-02 NPOA Sharks: Age and Growth of Selected at-risk Species

89. Industry opposed this project in 2014 when it was proposed as a placeholder project with a levy of \$87,265 and 142 fishstocks being levied for the project. The project was again levied in 2015/16 for a further \$39,853 from 141 stocks. It is proposed that a further \$58,245 be levied in 2016/17 over 255 stocks. In total, \$185,363 has been levied over between 141 and 255 stocks for a project that industry has yet to see a detailed specification or list of sharks to be analysed.
90. With no sharks having been assessed as having an adverse effect, cost recovery is not warranted, notwithstanding the NPOA desire to obtain greater information on some sharks.

ENV2015-03 Addressing key information gaps – sharks

91. In the 2015 research programme, this project was a placeholder with no identification of the content or the sharks to be addressed. A total of 283 deepwater, HMS and inshore stocks were levied for the project.
92. The scope of the project has since been defined and it now focuses on only deepwater sharks. The L1 Risk Assessment did not identify the sharks being researched are at an adverse risk from commercial fishing. Cost recovery for the project is not lawful.
93. MPI proposes to levy 255 deepwater, HMS and inshore stocks for the project in 2016/17. It is not appropriate that inshore and HMS stocks be levied for a project related to sharks caught by the deepwater sector.

PRO2015-04 Addressing key information gaps for Maui dolphins

94. In addition to the \$100,000 for this project in the levy model last year, an additional \$25,000 is contained in this year's levy model for the same problem.
95. This project was a placeholder in last year's research programme with no project specification provided. Industry still has no information as to the objective or content of the project. Furthermore, it would appear that the project has not been discussed with the Maui Research Group which was established to develop a research programme for Maui dolphins. With no content or specifics on the project, it cannot be said that industry has been consulted on the project. With no effective consultation, cost recovery is not lawful or acceptable.
96. In addition to the above argument, it is well-known that the long-overdue semi-quantitative Marine Mammal Risk Assessment estimates a risk score for Maui dolphins that is significantly less than posing an adverse effect. That score is based on a robust assessment of capture rates. Industry should not be penalised by having additional levies imposed for MPI's inability to deliver research within a timely manner.

Previously Closed Projects

97. The following projects were closed in 2015.
 - a. SNA2012-01 Estimation of year class strength for snapper in SNA8
 - b. TRE2012-01 Monitoring the length and age structure of commercial landings in TRE1
 - c. TRE2012-02 Monitoring the length and age structure of commercial landings in TRE7
98. They should be removed from the 2016/17 research Unders and Overs analysis.

CSP Research

99. Rather than discuss each new or existing project in this submission, we refer you to our 26 April 2016 submission on the draft CSP programme. The points raised in that submission remain appropriate to the CSP proposals in this levy model. We can provide a copy of that submission if necessary.
100. In the case that the CSP research projects do continue, the inclusion of SKI2 in the stocks to be levied for POP2016-03 Updating the Basking Shark By-catch Review is incorrect. We assume that the stock is a typo but are uncertain as to what stock should be levied.

PART III UNDERS AND OVERS ANALYSES

101. In this section, we deal with Unders and Overs issues, a number of which have already been addressed by MPI.

Compliance

102. We are concerned that there has been no allowance made to the compliance costs in respect of compliance/enforcement activity related to the Hawke's Bay Seafoods matters. MPI entered the Hawke's Bay Seafoods premises in late September 2014 following a six-month investigation into apparent inconsistencies between landings and export returns. The intervention by fisheries officers was to secure evidence as to offences. Given the extent of the September 2014 compliance action, it would appear that the compliance activity had moved from an investigation phase to an enforcement and prosecution phase prior to September 2014.

103. In addition to the prosecution focus, it was apparent from the public response to the announcement of the review that compliance matters are a matter of wider general public interest.

104. Some adjustment to the compliance expenditure could therefore be expected.

MPI Research

105. The following Unders and Overs research matters are still to be addressed:

INT2013-01 ECSI Trawl survey

The project is shown with the following information and has a recovery due of \$409,283.

:	Final Consulted Cost	Final Consulted plus indirect allocation	Total modelled (incl indirect)	Industry modelled (incl indirect)	Actual (incl indirect) spend to 30 June 2012
INT2013-01	1,100,000	1,265,000	704,366	667,514	1,136,244

106. Industry disagrees with the calculation. The final consulted cost of \$1.1m is not correct or appropriate.

107. The only cost for the project ever consulted with industry was included in the Fisheries Research Services document of 13 June 2013 provided by Martin Cryer in response to a request for the project details. That document contains a cost estimate range of \$500,000-\$1,000,000. The consulted cost provided by MPI is not within that range and is inappropriate.

108. Our analysis of the 2015/16 Research Overs and Unders show the consulted cost issue is only a problem in respect of INT2013-01. The consulted costs for the other projects appear to be within the range in the consultation documents but there is a longer term issue to be addressed in respect of the consulted cost. In most cases, industry is only consulted within a cost range, there being 7 groups ranging from \$50,000 to in excess of \$5,000,000. If there is a variation that requires a cost recovery variation, then a specific cost will be provided to industry for consultation. In all other projects, a specific cost is not advised to industry. However, for the purposes of Unders and Overs, a specific cost is required. There is a need

for the Ministry to advise a specific cost prior to the addressing of the project in the Unders and Overs assessment. We would welcome some discussion with the Ministry on this matter.

109. The problem for project INT2013-01 is if \$1.1m is not within the range consulted, what is the appropriate consulted cost? Looking at the consulted costs provided for other projects, I have not been able to find any that are at the maximum end of the range. Using \$1m is therefore not appropriate. The previous 2011 ECSI trawl survey had a similar cost range but a consulted cost of \$900,000. The contracted project cost was \$938,120 but that was never advised to industry in any consultation.

110. Industry considers a consulted cost of \$900,000 for INT2013-01 would seem appropriate.

MPI Observers

111. We note and commend the Ministry on its performance in reducing the daily rates for observer programmes.

112. MPI has resolved the problem that unders and overs were not applied to the Inshore Trawl WCNI (Maui and BIBV) and SNA1 Trawl (AKE) programmes. This resulted in an increase in the level of over-recovery or refund of \$55,568.

113. We note that the daily cost applied to the deepwater programmes in the Unders and Overs was \$468 per observer day. MPI has previously agreed to a maximum daily rate of \$450 for deepwater programmes and the rate should be reduced to that agreed cost.

114. We earlier noted the September 2013 Ministerial decisions in respect of SNA1 monitoring. An adjustment will be required to the observer costs for the SNA1 trawl and Danish seine programmes to reflect the decision for the Crown to meet 50% of the costs of those programmes.

CSP Observers

115. 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 \$703.55). The rate in the Unders and Overs calculation should be the rate levied.

116. The CSP Unders and Overs spreadsheet has a total over-recovery of \$359,844.02 to be applied. However, the amount applied in the levy model totals only \$323,507.80, a difference of -\$36,336.02, with both positive and negative differences by stocks.

CSP Research

117. 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 28 April 2014 advice to CSP on the draft CSP programme. We refer you to that submission.

PART IV MATTERS PREVIOUSLY RESOLVED PRIOR TO THIS SUBMISSION

118. 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. Omission of Over-Recovery on Project PAU2008-01 –\$ 236,886 credited
- b. Omission of two inshore observer programmes in Observer Unders and Overs calculation - \$55,568 credited
- c. Error in calculation of CSP Observer Unders and Overs – the previous recovery sought of \$359,844 was reversed.