



**MINISTRY OF FISHERIES**  
**Te Tautiaki i nga tini a Tangaroa**

# **BRIEFING FOR THE MINISTER OF FISHERIES**

**5 March 2004**



# TABLE OF CONTENTS

<b><u>1. OVERVIEW</u></b> .....	1
<b><u>1.1 Introduction</u></b> .....	1
<b><u>1.2 Ministry of Fisheries</u></b> .....	2
<b><u>1.3 Recent changes</u></b> .....	3
<b><u>1.4 Where we are now</u></b> .....	6
<b><u>2. STRATEGIC FRAMEWORK</u></b> .....	9
<b><u>2.1 MFish Strategic Plan</u></b> .....	9
<b><u>2.2 Mission</u></b> .....	10
<b><u>2.3 Roles</u></b> .....	10
<b><u>2.4 Our Values</u></b> .....	11
<b><u>3. CURRENT ISSUES</u></b> .....	13
<b><u>3.1 Immediate issues: March and April 2004</u></b> .....	13
<b><u>3.2 Next 6 months</u></b> .....	25
<b><u>3.3 Over the next 3 years</u></b> .....	41
<b><u>4. MFISH ORGANISATION AND EXTERNAL RELATIONSHIPS</u></b> .....	47
<b><u>4.1 MFish organisation</u></b> .....	47
<b><u>4.2 Boards within the fisheries portfolio</u></b> .....	54
<b><u>4.3 External relationships</u></b> .....	54
<b><u>5. FISHERIES SECTOR</u></b> .....	63
<b><u>5.1 Status of the stocks and marine environment</u></b> .....	63
<b><u>5.2 Marine fisheries and biodiversity research</u></b> .....	64
<b><u>5.3 Fisheries sector</u></b> .....	64
<b><u>5.4 Legislative framework and regulatory management</u></b> .....	66

# 1. OVERVIEW

## 1.1 Introduction

This briefing provides an overview of the fisheries sector and the key issues likely to come before the Minister of Fisheries over the next three years. It details the contribution of the Ministry of Fisheries to the Government's role in the fisheries sector, and its marine biosecurity responsibilities.

### ***Fisheries Management***

The Minister of Fisheries, along with the Ministry of Fisheries (MFish), is accountable for the sustainable utilisation and cost-effective administration of New Zealand's fisheries resources in accordance with domestic and international legal obligations.

Fisheries management in New Zealand deals with a resource that is ecologically, socially, culturally and economically important to the country as a whole; acknowledges the customary use and management rights of tangata whenua; reflects the fact that, as an island nation and signatory to the United Nations Law of the Sea Conventions, we have international obligations relating to fisheries in New Zealand waters and in the high seas; and deals with the underlying tensions between groups interested in fishing and those groups concerned primarily with conservation of resources.

Fisheries management relates to the relationship New Zealanders have with the ocean and their environment, and their aspirations for the future of that environment. The fisheries sector is characterised by conflict between various participants who have competing values and objectives. The contentious nature of the issues is demonstrated by the level of litigation with over 20 cases, mostly by way of judicial reviews, currently on the books. The sector has also been at the forefront of innovation and change, with considerable ongoing legislative amendment.

The operating environment for the Minister of Fisheries and MFish can be very difficult. Our fisheries and their management are under ongoing public scrutiny. Five particular factors impact on the operating environment:

- lack of consensus on the long-term direction of fisheries management
- conflict between recreational, customary and commercial fishers over access to fisheries
- those in the sector having firm views on fisheries management and not being reluctant to make those views known, including through the courts and the political system
- lack of public awareness and understanding of fisheries management and the management framework, resulting in ill-informed debate and lower than desired public support
- MFish and stakeholder capability, capacity and information to make the best use out of existing legal frameworks.

On the other hand the sector has a very well developed legal and strategic framework against which complex issues in the sector can be managed.

The Minister is central to the way in which fisheries management issues are addressed and reconciled and is in a position to provide leadership and direction within the fisheries sector.

Domestically, the Fisheries portfolio has links with the Agriculture, Biosecurity, Conservation, Economic Development, Environment, Food Safety, Māori Affairs,

New Zealand Defence Forces, Police and Treaty Settlements portfolios. The portfolio also has an international focus resulting in links with the Foreign Affairs and Trade, and Trade Negotiations portfolios.

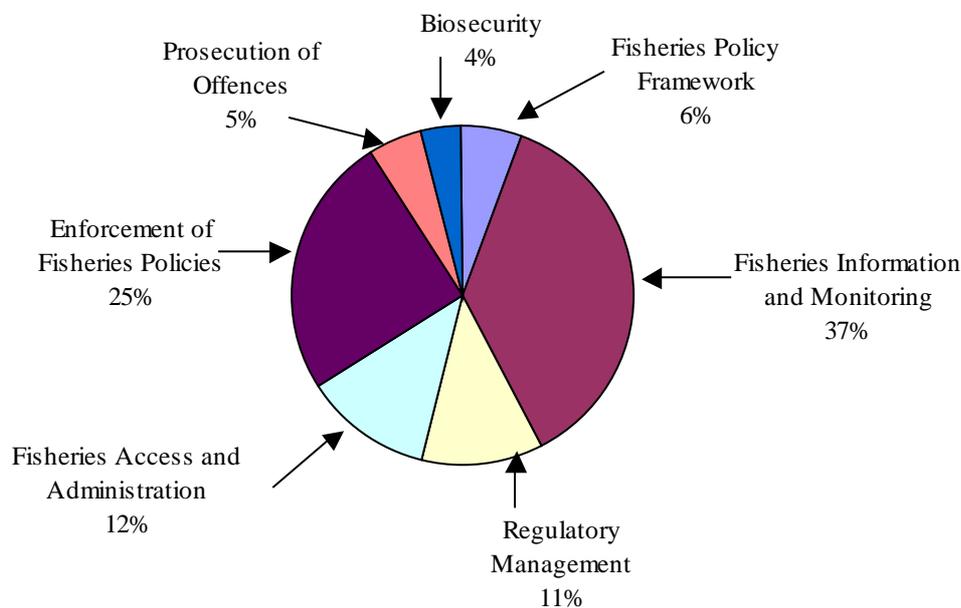
## 1.2 Ministry of Fisheries

MFish is the principal adviser to the Minister of Fisheries. We are also the principal adviser to the Minister for Biosecurity, in relation to marine biosecurity. Our core roles are:

- advising the government on the policy and legal frameworks for the efficient and sustainable use of fisheries, the protection of the aquatic environment and the management of marine biosecurity risks
- maintaining relationships with tangata whenua and ensuring services are delivered that support the Crown's obligations to Māori in respect of fisheries
- ensuring delivery of services that support the effective operation and integrity of the policy and legal frameworks.

MFish was established on 1 July 1995 and at 31 January 2004 employed 353 permanent staff. Its output class budgets for 2003-04 in the approved Statement of Intent total \$74.084 million, excluding GST. This comprises \$71.135 million in Vote Fisheries and \$2.949 million in Vote Biosecurity (Fisheries). Cost recovery levies and transaction charges for Vote Fisheries applied to the commercial fisheries sector amount to \$33.800 million or 47.5% of Vote: Fisheries (\$32.067 million of this amount is recovered from cost recovery levies).

The MFish budget for 2003/04 is split between output classes as follows:



The capability of MFish has been stretched in recent times. This is in terms of the sheer workload and the limited resources available to us. Our strategic thrust towards a greater environmental focus and creating greater opportunities for tangata whenua and stakeholder involvement have contributed to this and will continue to do so particularly in the science, policy, and fisheries management areas of our work. We also face capacity issues in the

specialised enforcement areas. Benchmarked against other OECD countries, New Zealand has a relatively low level of government investment in fisheries management.

MFish stakeholders include customary, recreational, commercial, and environmental interests. The main organisations representing these interests are iwi, New Zealand Seafood Industry Council (SeaFIC), Treaty of Waitangi Fisheries Commission, New Zealand Recreational Fishing Council, Worldwide Fund for Nature, environment and conservation organisations, and the Royal Forest and Bird Protection Society.

The main service provider organisations are FishServe for registry services and NIWA for research services.

In addition to its fisheries management responsibilities, MFish is responsible to the Minister for Biosecurity for the provision of a range of marine biosecurity services. These services include developing a risk management strategy for marine biosecurity, monitoring ballast water discharge, incursion response plans, baseline surveys of ports, and vector monitoring for *Undaria*. MFish responsibilities for biosecurity are actioned primarily through the powers of the Biosecurity Act 1993. MFish has no operational capability in marine biosecurity. Operational services are contracted from other agencies.

New Zealand's marine environment is unique, relatively pristine, and vulnerable to invasion by exotic organisms. New organisms in the sea can compete with native species, upset ecosystem balance, and reduce biodiversity. They can also provide valuable harvest species, such as Pacific oysters. The effects of exotic marine species on New Zealand's environment and economy are, to date, poorly understood. However, overseas examples show that the impacts can be substantial.

While not a major part of our operations, the biosecurity role of MFish has expanded significantly in recent years. Along with other agencies with biosecurity responsibilities, MFish is implementing the New Zealand Biosecurity Strategy. Implementation of the New Zealand Biosecurity Strategy is likely to result in structural changes to the way marine biosecurity services are delivered. The Chief Executive of MFish is a member of the Biosecurity Chief Executive's Forum, which is tasked with decisions on the future delivery of biosecurity services.

### **1.3 Recent changes**

The last three years have seen substantial changes in both the sector and in MFish. The 2003–2008 Strategic Plan sets out the manner in which MFish intends to give effect to the Fisheries Act 1996. It signals an increased focus on meeting environmental obligations, allowing stakeholders to maximise the value they obtain from using fisheries, delivery of Deed of Settlement obligations and stakeholder participation. The MFish draft Statement of Intent for 2004–2008 sets out in more detail specific mechanisms by which these will be achieved.

#### ***Focus on environmental issues***

The purpose of the Fisheries Act 1996 is to provide for the utilisation of fisheries resources while ensuring sustainability. The Act increases the environmental focus of the legal framework, notably by introducing environmental and information principles, which require decisions to be based on the best available information and to take account of the wider ecosystem in which fisheries exist. While the setting of sustainable catch limits, based on scientific research, continues to underpin sustainable stock management, we have increasingly expanded our efforts to deliver ecosystem-based management. Recent initiatives

include increased research on the environmental effects of fishing, development of a National Plan of Action to reduce seabird mortality, regulatory measures to address fishing mortality of Hector's dolphins, closure of 19 seamounts to trawling, and collaborative work with the Department of Conservation to improve the process for establishing marine reserves and other marine protected areas. The Strategy for Managing the Environmental Effects of Fishing, currently under development, recognises these initiatives, but looks for further improvement in a coordinated and proactive strategy to meet all environmental obligations in an efficient and consistent manner. The draft Strategy proposes the setting of environmental standards against which proposed stock strategies and fisheries plans will be assessed. Stock strategies and fisheries plans are the two principal mechanisms to deliver fisheries management outcomes.

### ***Participation***

MFish is also undertaking a review of its strategy to deliver on its obligations to Māori arising from the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and the principles of the Treaty of Waitangi. The final strategy will address strategic and operational aspects of our obligations and implement mechanisms to achieve an improved working relationship with Māori. The strategy will complement the implementation of customary regulations and other provisions to recognise the role of Māori in fisheries management.

Participation will also be enhanced through stock strategies developed by MFish, fisheries plans developed by stakeholders, and improvements to the MFish Statement of Intent process. Consultations on the annual Statement of Intent have been extended to provide improved opportunities for discussion and review as a result of stakeholder participation.

### ***New Fisheries Management Approach***

MFish's draft Statement of Intent (SOI) for 2004-2008 signals a new approach to the management of fisheries. Key elements underpinning the new approach are:

- a focus on achieving the fisheries outcomes set out in:
  - the purpose and principles of the Fisheries Act 1996
  - Government policy statements
  - MFish goals and strategies
  - fisheries standards
- provision for alternative fisheries management frameworks to achieve outcomes and manage risks
- prioritisation of limited government resources on the basis of achieving outcomes and managing risks.
- integration of services through transparent planning and prioritisation frameworks.

The new approach requires MFish to develop stock strategies covering all fish species and, if requested by stakeholders, to assist them in the development of a government approved fisheries plans. Four components will be necessary to support the approach:

- standards by which the performance of the stock strategy or fisheries plan can be judged
- rights allocated for the use of the fisheries resources

- processes to enable stakeholder participation in management, whether through stock strategies or fisheries plans
- improved specification of the activities and services necessary to support fisheries management outcomes.

Standards, approved by government, are the means by which MFish will implement the obligations of the Fisheries Act. These will include performance and process standards. Performance standards relate to the sustainability of fisheries resources and the aquatic environment, and the use of the fisheries resources. In this context, standards are a mechanism for establishing and implementing limits and targets. Process standards are about how management is undertaken and relate to input and participation, consultation and monitoring requirements.

The standards framework will be “enabling” in nature rather than documenting prescriptive requirements. Stock strategies or fisheries plans will be the preferred method for the delivery of standards. Crown delivery of those standards will predominantly be in the form of a stock strategy. Stakeholders may also deliver those standards via a fisheries plan. The performance standards will be the same for both delivery tools. Process standards may vary. The performance and process standards will meet the Crown’s obligation to Māori.

MFish has defined a stock strategy as a document that sets out the Crown’s proposed management objectives for a fishery, the services required and standards and rules necessary to achieve those objectives. Stock strategies will be developed within or across fisheries. They will encompass objectives for providing for use and ensuring sustainability, including ensuring environmental issues are addressed. MFish intends that, in 2004-05, stock strategies will be implemented for deepwater stocks and the development started for inshore and pelagic stocks.

While stakeholders can develop a fisheries plan independent of the MFish stock strategy, the latter will provide a useful starting point for stakeholders to develop fisheries plans. A fisheries plan is a record of what a stakeholder group wants to achieve in a fishery and how the group will go about achieving it. A fisheries plan will contribute to fisheries outcomes beyond what MFish proposes to achieve through a stock strategy. Incentives and opportunities will need to be provided to enable stakeholders to optimise preferred outcomes under a fisheries plan. Where rights are well defined and allocated, the development of a fisheries plan is how value in fisheries can be best maximised.

A core role of government is to define the means by which stakeholders can use fisheries resources. The allocation of rights to stakeholders is an important element in enabling people to provide for their own well being through the use of fisheries resources. The allocation of rights creates the tools and a positive incentive for people to be responsible for maximising value and ensuring sustainability. For example, the introduction of species into the quota management system and allocation of catch among sectors creates a shared interest in the management of fisheries.

Stakeholders can participate in managing the fishery through the development of standards, stock strategies and/or fisheries plans. In addition, MFish will improve opportunities for Māori to contribute to and participate in fisheries management, consistent with the Deed of Settlement.

The development of stock strategies and fisheries plans will change the way the fisheries are managed in New Zealand and, therefore, how MFish will operate to fulfil its role. This new approach, which will better reflect the core role of government, will be implemented in an

incremental fashion and centres on how Government and stakeholders will meet fisheries management objectives.

We have identified a Fisheries Intervention Plan as the mechanism for establishing the services that Government contributes to fisheries management. The Fisheries Intervention Plan will be the foundation for development of MFish planning and reallocation of resources. It is the function of a stock strategy to determine measures and resources required to achieve a stated objective and to determine the relative risk of particular approaches. The Fisheries Intervention Plan will assess priorities across the stock strategies and fisheries plans and determine the services that are actioned. A period of transition will be required as stock strategies and fisheries plans are developed and implemented.

### ***Organisational changes***

Moving towards this new approach to fisheries management will involve a number of internal changes within the Ministry of Fisheries. This includes better integration of our services, a realignment of our existing processes, the development of new skills, and consideration of new executive governance arrangements. These necessary changes will be implemented during the next two to three years as resources and "business as usual" permit.

## **1.4 Where we are now**

New Zealand's fisheries management regime has given rise to:

- *An internationally competitive fishing industry*

The fisheries sector is New Zealand's fourth largest export earner but has undergone a significant decline in returns in the last twelve months. Export revenues that peaked at NZ\$1.5 billion in 2001 and 2002 declined by 20% to NZ\$1.2 billion in 2003, primarily as a result of the rapid strengthening of the New Zealand dollar against the US dollar. Most fish export sales are denominated in US dollars, regardless of market. The proportion of export sales originating from aquaculture remained stable at 15%. The industry estimates that if the New Zealand dollar retains its current international strength, revenues could decline further by another 15% in 2004 to little more than NZ\$1 billion.

The industry operates under the pioneering and highly successful quota management system without subsidies and contributes to the cost of fisheries management via both cost recovery and direct delivery. The sector employs 26,000 people (10,000 directly) and makes an important contribution to regional economies. For example, in 1996 the fishing industry in the Nelson region is estimated to have generated a \$383 million contribution to GDP and employed 5,440 people.

- *A high quality and popular marine recreational fishery*

Up to 20% of New Zealanders participate in recreational fishing every year. Recreational fishing also attracts foreign tourists. Free access to a healthy fishery by world standards is available to all recreational fishers. Both the northern snapper fishery and the Nelson scallop fishery are examples of world-class recreational fisheries.

- *Resolution of customary fishing claims*

New Zealand is one of the first countries to comprehensively address resolution of aboriginal claims to fishing. The 1992 Deed of Settlement gave Māori a substantial stake

in commercial fishing and provided for the non-commercial customary fishing and management rights of tangata whenua.

- *Sustainable harvests*

The majority of our commercial fisheries are harvested at a sustainable level. Recovery strategies are in place for all stocks known to be depleted. Work is continuing to develop new frameworks and standards consistent with our environmental focus, and to improve our knowledge about the state of stocks and environmental impacts of fishing.

These outcomes have not occurred by chance. Since 1986, New Zealand has successfully used market instruments and science-based advice to manage the use of our fisheries resources. This includes the quota management system for the commercial sector. The regime is innovative and we are the focus of considerable international attention as other nations seek to resolve the difficult issues of sustainable fisheries utilisation. Under the quota management system, the sector has evolved from one focused on a race to fish to one increasingly focused on investment in market developments and the resource, commensurate with the ability to assume collective accountability for fisheries management.

Benchmarked against other OECD nations, we have a very efficient management regime, but also a relatively low level of government investment in fisheries management. For example, the ratio of net government expenditure on fisheries management to the annual landed value of the fishery resource averaged 17 % in OECD countries in 1997. The New Zealand ratio was 4 %. The corresponding percentages for other OECD countries with credible management regimes include: Australia - 9 % (before taking into account expenditure by State Governments); Canada – 25 %; the United Kingdom – 13 %; Iceland – 4 %; Japan – 21 %; Norway – 12 %; the United States – 24 %.

The management regime has laid a useful foundation, but challenges remain to ensure that we can achieve the goal of maximising the value New Zealanders obtain through sustainable use of fisheries resources. In particular we need to improve the environmental performance of the fisheries sector, improve collective accountability for fisheries management, and invest in capability within the sector including in MFish. Progress in these areas will take time. Progress relies on new information, altered fishing practices and values, development of mutual trust, and consensus building skills. Underpinning this will be legislative changes to enable new institutional frameworks to evolve.



## 2. STRATEGIC FRAMEWORK

MFish's direction is determined primarily by the Fisheries Act 1996, Government policy statements, and the MFish Strategic Plan 2003–2008. The Statement of Intent (SOI) sets out MFish's programme to implement this direction.

### 2.1 MFish Strategic Plan

The five-year MFish strategic plan for the period 2003 to 2008 was released in early 2003. The strategic plan will guide MFish's business planning and decision-making, and the services we provide as our contribution to fisheries management and marine biosecurity.

The plan sets out a single goal for the fishery:

*Maximise the value New Zealanders obtain through the sustainable use of fishery resources and protection of the aquatic environment.*

This in turn is supported by three underlying strategies:

- protect the health of the aquatic environment by:
  - developing and implementing frameworks and processes to:
    - manage the effects of fishing on the aquatic environment
    - maintain marine biodiversity and aquatic habitats
    - avoid or manage marine biosecurity risks
    - allow the government or stakeholders to take action against those who degrade the aquatic environment.
  - enabling New Zealanders to participate effectively in developing policies, frameworks, and standards to manage effects on, and protect, the aquatic environment.
- enable people to get the best value from the sustainable and efficient use of fisheries by:
  - better defining and integrating the rights and obligations of commercial, customary, recreational, and other users and allocating those rights and obligations
  - maintaining the integrity of policies, frameworks, and processes to support the rights and obligations associated with fisheries use and conservation
  - developing institutional frameworks and capacity for fisheries stakeholders and the public to participate effectively in fisheries management
  - enabling New Zealanders to participate effectively in developing frameworks and processes for using fisheries resources and making decisions.
- ensure the Crown delivers on its obligations to Māori with respect to fisheries by:
  - implementing its partnership obligations
  - establishing and maintaining effective relationships
  - developing frameworks and processes to implement the 1992 Fisheries Deed of Settlement
  - ensuring contemporary grievances are not created.

## 2.2 Mission

The MFish mission is **To be the guardian of the multitudes of Tangaroa**. This is reflected in the Māori name for MFish– Te Tautiaki i nga tini a Tangaroa.

## 2.3 Roles

Effective fisheries management relies on active participation of all those with an interest in fisheries resources and the aquatic environment. The MFish Strategic Plan sets out the expected roles of different participants in fisheries management.

### ***Tangata Whenua and Stakeholders***

The role of tangata whenua, fisheries stakeholders and the public is to:

- provide input into and participate in government decision-making processes on:
  - policy and legal frameworks
  - the nature and extent of fisheries and marine biosecurity services
- comply with the rules
- take greater collective responsibility for meeting the purposes and principles of the Fisheries Act 1996 through:
  - developing and implementing fisheries plans that meet government standards
  - delivering fisheries services to government standards and specifications.

### ***Ministry of Fisheries***

The core role of MFish, in collaboration with other government agencies, is advising on and implementing government policy in the following areas of core responsibility: ensuring ecological protection and sustainability; meeting international and Treaty of Waitangi obligations; enabling efficient resource use; and ensuring the integrity of management systems.

For each of these core responsibilities, some of the key functions follow.

- Ensuring Ecological Sustainability:
  - research and monitor the health of fisheries and the aquatic environment, and the effects of fishing
  - specify environmental standards related to the use of fisheries and the impact of fishing on the aquatic environment
  - maintain the potential of fisheries resources to meet the reasonably foreseeable needs of future generations
  - set, implement and enforce sustainability measures
  - research and manage biosecurity risks.
- Meeting Treaty of Waitangi Obligations:
  - involve Māori in fisheries management decision making
  - deliver 20 per cent of new quota to Māori
  - provide for and protect customary fishing rights.

- Enabling Efficient Resource use:
  - define and allocate rights to use fisheries resources
  - provide frameworks to allow rights holders to exercise those rights
  - recognise and protect New Zealand’s fishing and conservation interests during the negotiation of international agreements.
- Ensuring the Integrity of Management Systems:
  - evaluate and monitor fisheries plans
  - set standards and specifications for services such as research and administration
  - monitor and audit the delivery of fisheries and marine biosecurity services
  - manage fisheries and aquatic environment information
  - deliver criminal law enforcement and prosecution services
  - ensure management and information frameworks are consistent with New Zealand’s international fisheries obligations.

## 2.4 Our Values

Our mission is an important one and a privilege. Fulfilling that mission, and earning respect nationally and internationally as the guardian of the multitudes of Tangaroa, requires strong and consistent values within MFish.

Our values are:

- we are proud to be part of the **New Zealand Public Service** and will maintain the highest standards of professional behaviour. We will:
  - fulfil our lawful obligations to government with professionalism and integrity
  - perform our official duties honestly, faithfully and effectively, respecting the rights and interests of the public and our colleagues
  - not bring MFish or the public service into disrepute through our private activities.
- we recognise the status of Māori as tangata whenua. Our behaviour will, at all times, be consistent with the responsibilities of the Crown as partner to the Treaty of Waitangi and our specific legal obligations under the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and the Fisheries Act 1996.
- in our day-to-day work, we will act in ways consistent with our behavioural values.

### ***Leadership***

We will develop effective and innovative ways to help people contribute to, and support, the MFish deliver on its mission.

### ***Relationships and People***

We will develop, internally and externally, constructive and collaborative relationships built on trust.

***Working in Teams***

We will share information and knowledge through exceptional teamwork and networking.

***Achieving Results***

We will create an organisation that encourages and recognises people's contribution to our achievements and dedication to our mission.

### 3. CURRENT ISSUES

MFish has a number of key fisheries issues to be resolved over the period 2004 to 2007. These issues are outlined below. The issues have been grouped according to whether they require attention immediately, over the next 6 months, or over the next three years. Within each timeframe, issues are grouped into four types of issue: policy, regulatory, service delivery, or organisational.

For each issue the key actions or decisions the Minister(s) may need to take are identified.

---

#### 3.1 Immediate issues: March and April 2004

---

##### Policy issues

##### ***Western Central Pacific Fisheries Commission***

The Western and Central Pacific Fisheries Convention (WCPFC), concluded in Honolulu in September 2000, establishes a tuna conservation and management regime in the Western and Central Pacific including on national allocations. Resources harvested by New Zealanders, both in New Zealand waters and elsewhere, fall within the ambit of the Convention's regime. New Zealand ratified the WCPFC in mid-2003. The Convention is expected to enter into force in June 2004 with the first meeting of the Commission expected to take place within the following few months. The sixth preparatory conference for WCPFC will be held in April 2004 in Bali, Indonesia.

##### ***Action:***

- Approve, with Minister of Foreign Affairs and Trade, the New Zealand negotiating brief for the sixth preparatory conference in April 2004.

##### ***CCSBT***

The Commission for the Conservation of Southern Bluefin Tuna (CCSBT) manages southern bluefin tuna (SBT) in the South Pacific and Indian Oceans. The 2003 meeting of the CCSBT, hosted and chaired by New Zealand, saw Commission members (New Zealand, Australia, Japan, Korea and Taiwan) make considerable progress towards putting the Commission onto a functional, sustainable footing by agreeing to a total allowable catch for SBT, as well as national allocations (quotas) for the first time since 1997. New Zealand's existing voluntary allocation of 420 tonnes was maintained for the 2003-04 fishing season with the Commission agreeing that there is an outstanding issue with respect to adjustments to allocations, including New Zealand's, which need to be resolved by the next meeting.

A special meeting of the Commission will be convened in Korea in April 2004 to facilitate the adoption of a scientifically based management procedure process for setting TACs. The meeting will also consider the accession of several new members to the Commission. The next full meeting of the CCSBT will be in October 2004.

##### ***Action:***

- Approve a negotiating brief for the CCSBT Special Meeting in April 2004 (and the brief for the full meeting in October 2004).

## ***Foreshore and seabed***

MFish is providing input into the development of the new foreshore and seabed framework. The intent of the new framework is to provide a clear and unified system for recognising Māori customary rights in the foreshore and seabed. In addition, work is underway that looks at practical initiatives to develop effective working relationships between whanau, hapu and iwi who hold mana and ancestral connection over an area of foreshore and seabed, and central and local government decision makers.

The new foreshore and seabed framework will not deal with those rights that fall within the Fisheries Deed of Settlement because it is a full and final settlement. However, there are strong links and MFish's experience with the Fisheries Deed of Settlement make it essential that MFish continues to provide input into foreshore and seabed policy work. MFish is particularly concerned to make sure that customary rights are given appropriate recognition so that the solutions developed as part of the foreshore and seabed policy decisions are durable and sustainable.

The December Cabinet Committee foreshore and seabed paper briefly outlines impediments to the customary fishing regulations and notes that MFish is developing a budget bid for consideration by Ministers. The bid is to enable MFish to address the key capacity issues (of both MFish and tangata whenua) that are hindering the implementation of the customary fishing regulations. This is part of the MFish Treaty Strategy, which is discussed further in section on policy issues over the next 6 months.

Officials across a range of departments, led by Department of Prime Minister and Cabinet (DPMC), have been working to develop the detailed policy and drafting instructions on foreshore and seabed following the set of decisions made by the Cabinet Committee in December 2003. MFish is providing input into aspects of that work, particularly the development of the customary title and customary rights concepts and the proposed changes to the Resource Management Act. MFish also has a key interest in the regional working groups (which will involve tangata whenua, local and central government), particularly about how they best integrate with the regional fisheries forums that MFish is establishing as part of its Treaty Strategy.

It is intended that the foreshore and seabed legislation be introduced into Parliament in March 2004.

### ***Action***

- None. This item is for your information only.

## ***Fisheries Act Amendment Bill (No 3) (FAB3)***

The FAB3 is designed to introduce scampi into the quota management system (QMS), revise quota allocation and the management of non-QMS species, expand the QMS to include highly migratory species (HMS) outside New Zealand fisheries waters, and make technical amendments to better achieve the intent of legislation. It is intended that the FAB3 be introduced into the House on 29 March 2004.

### ***Scampi***

The Primary Production Committee report to the House on 2 December 2003 recommended that scampi be introduced into the QMS on 1 October 2004 using catch history as the basis for quota allocation. Due to the significant litigation risks of introducing scampi into the QMS using the normal gazettal process, the previous Minister of Fisheries announced on

19 December 2003 that introduction would be by legislation. This decision has since been confirmed by Cabinet.

To complete the introduction of scampi into the QMS on 1 October 2004, this part of the FAB3 will need to be reported back from Select Committee earlier than the remainder of the Bill. This is to allow time to complete the remaining statutory obligations in the quota allocation process in the months leading up to 1 October 2004. It is proposed that during the first reading of the FAB3 you instruct Select Committee to split the Bill and report back the scampi part as a separate Bill on or before 22 June 2004.

### ***Revising Allocation and Non-QMS Management***

On 3 December 2003 the Cabinet Economic Development Committee (EDC) agreed to amend the Act to clarify the role of the QMS, improve certainty and process for introducing species into the QMS, change the mechanisms for allocating quota and to revise the framework for authorising commercial fishing.

A number of amendments are proposed, including:

- improvements to the allocation of quota by phasing out the current catch history allocation mechanism
- development of sustainability and utilisation thresholds for identifying species for consideration for QMS introduction
- lifting of the permit moratorium
- change to generic authorisation on commercial fishing permits
- the development of a transitional schedule to list species that would be allocated using past catch history years mechanism when they are introduced to the QMS and species for which the government has sustainability concerns. The permit moratorium and “inevitable consequence” provisions of the Act would be extended to species on the transitional schedule.

### ***Highly Migratory Species Management***

On 3 December 2003 EDC agreed to amend the Fisheries Act 1996 to allow for all of New Zealand’s harvest of HMS to be managed under the QMS. Under current provisions of the Act, the QMS does not apply outside the New Zealand fisheries waters, and therefore a number of amendments to the Act are required.

### ***Technical Amendments***

On 3 December 2003 EDC gave policy approval for technical amendments to the Act. Since the full implementation of the Fisheries Act 1996 on 1 October 2001, 23 issues have been identified which require minor technical amendment to better achieve the intent of legislation. The amendments cover many different sections and parts of the Act.

It is proposed that you instruct Select Committee to report back the FAB3, other than scampi, on or before 22 July 2004 to enable it to be enacted by 12 August 2004.

**Actions:**

- approve a Cabinet Legislation Committee paper to go to Cabinet Office on 15 March
- support the introduction of FAB3 into the House (planned for 29 March)
- request in your first reading speech that the Select Committee report back the scampi part of the FAB3 on or before 22 June 2004 and report back the remainder of FAB3 on or before 22 July 2004.

**Marine Reserves Bill**

In June 2002 Parliament referred the Marine Reserves Bill to the Local Government and Environment Select Committee. This legislation is administered by the Department of Conservation (DoC). MFish has worked with DoC to support the Select Committee process. The Select Committee finished hearing submissions on the Bill in August 2003, but has not entered the consideration phase. This was due to Treaty issues and related uncertainty associated with the foreshore and seabed policy.

Key changes from the existing legislation (Marine Reserves Act 1971) are:

- a revised purpose focussing on biodiversity protection
- ability to establish marine reserves in the Exclusive Economic Zone
- removal of discretion to allow fishing in marine reserves
- a requirement that the Minister of Conservation consult the Minister of Fisheries before approving the establishment of a reserve (replacing the current requirement for the Minister of Fisheries to concur).

Under the Bill, a marine reserve cannot be established where there is an undue adverse effect on a range of specified interests, including fishing interests. In deciding whether an adverse effect is undue, the Minister of Conservation is required to weigh up the adverse effect against the public interest. Public interest is defined to include both biodiversity and other benefits arising directly from establishing the reserve. Tangata whenua and fisheries stakeholders expressed concerns about the operation of this provision. Other concerns include the removal of the Minister of Fisheries' concurrence role and the lack of a requirement to assess risks to biodiversity and examine whether a marine reserve is likely to be the best method of protection.

The December 2003 foreshore and seabed decisions invited the Minister of Conservation to report back to the Cabinet Policy Committee within two months on proposed changes, if any, to the Marine Reserves Bill. This report back has been delayed, pending greater clarity on the foreshore and seabed decisions. The report back is now intended to go directly to the foreshore and seabed Ministerial Group plus the Ministers of Conservation and Fisheries.

**Action:**

- In conjunction with other Ministers, consider the report back from officials, which is expected within the next 2 months.

### ***Allocation of Crown Quota***

MFish will be providing you with a briefing paper by 30 March 2004 on options for allocating Crown quota for fish stocks managed under the QMS. A key issue is whether there should be preferential access to Crown quota. The current Cabinet agreed policy is that Crown quota is allocated to the highest bidder through open public tender.

The previous Minister of Fisheries requested further advice on the options for allocating Crown quota following a meeting with industry leaders in late 2002 to discuss, amongst other matters, the introduction of paddle crab and pilchard into the QMS. The meeting followed an unsuccessful legal challenge of the Minister of Fisheries decision to introduce paddle crabs, pilchards, anchovy and butterfish into the QMS on 1 October 2002. The plaintiffs were permit holders currently fishing for the four species in various fisheries management areas. They challenged the use of statutory catch history years (i.e. 1990/91 to 1991/92) for the calculation of Provisional Catch History to allocate Individual Transferable Quota (ITQ) in light of considerable development in the fisheries over the previous decade. Other industry stakeholders have since raised similar concerns in relation to the introduction of other species into the QMS, including the tuna bycatch species and green-lipped mussels.

The fishing industry's level of interest in the issues surrounding the allocation of Crown quota is high. The views of the industry on this issue are mixed, with some strongly supporting a change to the allocation approach, and others supporting allocation via open public tender. MFish has been liaising with the Seafood Fishing Industry Council (SeaFIC) in the development of advice on this issue, and will continue to do so.

#### ***Action***

- Consider a briefing paper on MFish on options for the allocation of Crown quota, to be provided by 30 March 2004.

### ***Aquaculture Moratorium Extension Bill***

A Bill to extend, until the end of December 2004, the existing moratorium on resource consents for marine farming was reported back to the House on 1 March and had its second reading on 4 March 2003. The Bill is to be considered by the Committee of Whole during the 3<sup>rd</sup> week of March beginning Tuesday 16<sup>th</sup>. The 3<sup>rd</sup> reading is expected to take place during the 4<sup>th</sup> week of March on the 23<sup>rd</sup> or 24<sup>th</sup> at the latest. The Bill must be enacted by Wednesday 24 March 2004 because the existing moratorium expires at midnight on the 24<sup>th</sup> March.

#### ***Actions:***

- Deliver the third reading speech to enable the Bill to be enacted by 24 March 2004.

### ***Aquaculture reform***

In November 2001 Cabinet agreed to a package of measures to reform the management regime for aquaculture. The reform initiative is being lead by the Minister of Fisheries, in association with the Ministers of Environment, Conservation and Māori Affairs. The reforms will be enacted through the Resource Management (Aquaculture) Amendment Bill. It is expected that the Bill will be introduced into the House following passage of the foreshore and seabed legislation. It needs to be enacted prior to the expiry of the (to be extended) aquaculture moratorium in December 2004. This timeframe is extremely tight. This is due to ongoing delays in resolving the Government's position with respect to the extent to which unextinguished Māori aquaculture rights exist, and options to recognise such undetermined

rights through the aquaculture reforms. In addition, a slower than expected turnaround of the Bill by Parliamentary Counsel Office has meant that Officials have not received an advanced draft of the Bill since providing the last set drafting instructions in September 2003.

The purpose of the reforms is to enable aquaculture to increase the contribution it makes to the national economy, while not undermining the fisheries management regime or Treaty settlements, and ensuring adverse effects of aquaculture are managed. The reforms will give Regional Councils greater powers to manage and control the development of aquaculture, by requiring new development to take place within Aquaculture Management Areas.

The reforms will enable an integrated approach to be taken to coastal planning, aquaculture development and fisheries management, and remove much of the duplication of the current regulatory regime for aquaculture. Regional Councils will have sole responsibility for managing the adverse effects of aquaculture on the environment. To provide ongoing protection of fisheries interests, including the Crown's obligations to Māori under the Deed of Settlement, MFish will retain the role of determining whether the establishment of a proposed Aquaculture Management Area will have an undue adverse effect on fishing. MFish will also maintain a registry of fish farmers, to impose restrictions in relation to the acquisition and disposal of farmed stock.

***Actions:***

- Approve, with other Ministers, an approach to address Treaty issues related to the aquaculture reforms.
- Approve a paper to Cabinet Legislation Committee to introduce the Resource Management (Aquaculture) Amendment Bill, following enactment of foreshore and seabed legislation.

***Fisheries Amendment Bill (No 2)***

MFish is currently supporting progression of the Fisheries Amendment Bill No. 2 through the House. The purpose of the Bill is to give effect to a negotiated settlement relating to under and over recovery of past cost recovery levy orders. The Bill brings finality to the past levy orders by resolving past issues relating to a Ministerial discretion. Additionally the Bill resolves a drafting error in the offence provisions of the Fisheries Act 1996.

The Bill contains provisions seeking to:

- give effect to a negotiated settlement reached between the commercial seafood industry and the Crown relating to the under and over recovery of costs of fisheries services and conservation services between 1994 and 2002, through the reduction of future cost recovery levies. The net sum to be reduced from future levies is \$24.593 million.
- ensure that the offence provisions within the Fisheries Act 1996 capture serious intentional offending against the quota management system.
- ensure that any reference to 'the Act' in the Fisheries Act 1996 includes both the Fisheries Act 1996 and any regulations and rules made under the Fisheries Act 1996.

The Primary Production Committee reported the Bill back on 27 February 2004. The Bill needs to be enacted by 18 March 2004, in order that the 1 April 2004 fisheries and conservation services levy orders can be gazetted on 25 March 2004. The Bill had its second reading on the 4<sup>th</sup> March 2004 and is scheduled for a third reading on the 17<sup>th</sup> March 2004.

### **Action**

- Deliver the third reading speech to enable the Bill to be enacted by 18 March.

### **Regulatory issues**

#### ***Sustainability and other management measures—1 April fishing year***

MFish is in the process of preparing the following sustainability and management controls advice for your consideration:

- *Southern Blue Whiting (SBW)*

MFish has just completed consultation with stakeholders on sustainability and management controls for the SBW 6 fishery for the 2004 fishing year that commences on 1 April. MFish proposed a 10% reduction to the Total Allowable Catch for one of the three SBW fisheries. Final advice to you summarising submissions from stakeholders, and responding to issues raised is being prepared. This advice will be submitted on or about 8 March 2004.

- *Rock lobster*

Final advice on sustainability and management controls for rock lobster will be submitted to you on 12 March 2004. There are no proposals for adjustment to TACs for the 2004-05 fishing year.

- *Foveaux Strait oysters*

Results of a recent survey of the oyster beds will be available within the next two weeks and will show whether the oyster disease *Bonamia* has caused significant oyster mortality over the past summer. The commercial oyster season is scheduled to begin on 28 March 2004. MFish will provide you with advice on the prospects for a season as soon as survey results are available during the week of 15 March.

- *Squid*

MFish is investigating an industry request for an increase to the squid TAC within the current fishing year (2003/04). No timetable for the process to progress this proposal has been developed but advice is likely to be submitted to you in mid-March following analysis of available information and consideration of options.

### **Actions:**

- Decide on sustainability measures for southern blue whiting and rock lobster by 19 March 2004.
- Decide on opening the Foveaux Strait oyster fishery and TAC by mid-March 2004.
- Decide on a possible increase to the TAC for squid as a result of increased abundance, expected in mid-March.

### **Cost Recovery Levy Order**

Under the Fisheries Act 1996, the Crown recovers a proportion of its total costs from the commercial fishing industry. The five principles in section 262 of the Act along with the

Fisheries (Cost Recovery) Rules 2001, determine whether, and to what extent MFish costs can be recovered from the commercial industry.

Cost recovery levy orders occur annually, with the levies being set in time for the commencement of the fishing year on 1 October. As part of the settlement of the under and over dispute, the previous Minister agreed, that the 1 October 2003 levy orders would be repealed with new orders promulgated by 1 April 2004. The intention of the deferral in levy collection is to deliver to levy payers the broad benefit of the settlement.

The 1 April 2004 levy orders for fisheries and conservation services will, subject to the enactment of the Fisheries Amendment Bill (No 2):

- recover the 12 months costs (July 2003 to June 2004) over the 6 months (April 2004 to September 2004)
- reduce the levies by \$15.225m, being the net application of part of the 1994-95 to 2001-02 settlement credit
- reduce the levy by \$1.172m net in relation to the 2002-03 years under and over recovery.

The advice paper to the Minister on setting the levy was provided at the beginning of March. The levies will go to the 18 March 2004 Cabinet Legislation Committee meeting, the 22 March 2004 Cabinet meeting and be gazetted on 25 March 2004.

**Action:**

- Approve the fisheries services and conservation services levy order for 2003-04 for consideration by the Cabinet Legislation Committee on 18 March 2004.

**Seabirds**

On 16 February 2004, the previous Minister of Fisheries and the Minister of Conservation approved the final national plan of action to reduce the incidental catch of seabirds in New Zealand fisheries (“the NPOA”). The NPOA is a joint initiative with the Department of Conservation (DoC). MFish and DoC are currently preparing the final NPOA for release to stakeholders. Following this, a process to implement the NPOA will commence.

New Zealand, with its extensive coastline, productive ocean and numerous islands, is an important breeding ground for about 80 seabird species, including many albatross and petrel species that breed nowhere else in the world. Seabird populations globally are facing the threat of incidental capture from fishing activity, particularly longline and trawl fishing.

The NPOA is a long-term strategy for addressing the incidental catch of seabirds in New Zealand fisheries waters. It also seeks to influence the capture of seabird species protected under the Wildlife Act 1953 by New Zealand and foreign vessels fishing in high seas waters. The NPOA sets out a number of management measures that will be used to reduce seabird deaths. These include education and awareness building and the implementation of voluntary codes of practice in nine key fisheries that impact on seabird populations. The NPOA also includes proposals for regulatory controls on fishing activity, and limits on the number of seabird deaths caused by fishing vessels. Further work is planned to consider options for taking legal action against individual vessels that catch seabirds and options for using economic instruments to reduce seabird bycatch.

The NPOA has both domestic and international implications. It responds directly to obligations under the Fisheries Act 1996 and the Wildlife Act 1953. It also meets New Zealand’s obligations as Party to the United Nations Food and Agricultural Organisation’s

International Plan of Action for Reducing the Incidental Catch of Seabirds in Longline Fisheries (“the IPOA”).

Fishing industry and conservation stakeholder interest in the release of the final NPOA is high. The Royal Forest and Bird Protection Society, in particular, has been critical of the Government’s response to reducing seabird deaths in fisheries in the past, and the amount of time taken to develop the NPOA. The process to develop the NPOA began in 1999, with the first draft released for public consultation in June 2000.

MFish and DoC are currently preparing the NPOA for release to stakeholders. As part of this process, MFish will prepare a media statement for you to release jointly with the Minister of Conservation. MFish will also prepare a fact sheet about the NPOA and a set of questions and answers on the key issues it covers to assist with the release of the document. MFish will keep you informed about the implementation of the NPOA.

### ***Actions***

- Agree to a joint media statement from yourself and the Minister of Conservation to release the final NPOA, expected by 31 March.

### **Service delivery issues**

#### ***Coastwatch programme***

Television One is currently running a series of eight specially focussed real life drama programmes that focus on the enforcement activities of the MFish compliance district teams. Cream Television Ltd produced the programmes with funding provided by NZ On Air. Four episodes have now been screened and a further four are scheduled for March/April 2004 in the current series. A further series has been commissioned by Television New Zealand. They contain real life scenes, mostly shot during 2003, with the delay due to the time required to complete the court processes and achieve prosecution results.

The programmes are an excellent opportunity to improve the understanding of issues facing our fisheries, and the enforcement services that are deployed around the country. The programme is targeted as entertainment, based on unscripted action and real offenders. It is not without controversy as the levels and types of offending captured are played out in the homes of a large number of New Zealanders. Viewing rates are high for this first time series, and diverse debate has ensued.

This exposure of some of the issues around our fisheries, and the role that the public can and should play is an important step as we seek to have a better-informed public into sustainability issues and fishing rules. Short-term negatives from this series are expected to be outweighed over time by the residual messages and improved understanding of some aspects of the way we manage our fisheries and aquatic resources.

### ***Actions***

- None. This item is for your information only.

## **Organisational issues**

### ***March Baseline Update***

The March Baseline Update is used to update baselines for Cabinet decisions and revised forecasts, and provides an opportunity to realign the original appropriation to reflect actual business activity. The March Baseline Update for Vote Fisheries provides for a number of adjustments that will be explained in the paper to be submitted to you on 5 March 2004. The submission is due with the Minister of Finance on 12 March.

#### ***Action:***

- Refer a submission to the Minister of Finance before 12 March.

### ***New initiatives proposed for the 2004 Budget***

In preparation for the 2004 Budget, Chief Executives have identified a series of new initiatives for consideration. Following clearance from Minister's a further short round of consultations on possible 2004 Budget initiatives is being considered to ensure consultation obligations for the Statement of Intent (discussed below) are met.

#### ***Action:***

- Support the MFish bids that have been agreed by Chief Executives for further consideration.
- Seek approval from the Minister of Finance to consult with tangata whenua and stakeholders on possible 2004 budget initiatives.

### ***Scampi***

Scampi management has been the subject of extensive stakeholder and public interest over the last 18 months. This follows extensive litigation by scampi participants over the last decade.

Due to allegations of corruption and incompetence in the management of the scampi fishery, in 2003 the Primary Production Committee undertook an inquiry into the management and administration of the scampi fishery by both the former Ministry of Agriculture and Fisheries (MAF) and the current Ministry of Fisheries. The Select Committee tabled its report in the House in December 2004.

The Committee reported that the corruption allegations were not substantiated during its inquiry and that those who earlier made the allegations then sought to distance themselves from the backdrop they created.

The Committee examined the past regime and found significant failings in respect of inconsistent administration of the permitting system for scampi up until 1 October 1990. The Committee also noted, given their experience of recent Ministry advice concerning catch history, they were not so sanguine about how much progress had been made by the Ministry of Fisheries.

The Committee recommended that scampi be introduced into the QMS as of 1 October 2004 using catch history as the basis of quota allocation. The Committee also made a number of technical recommendations on catch history records. The Government has accepted this recommendation and has announced the introduction of scampi will be by way of a legislative amendment to the Fisheries Act 1996 (see the section on FAB3 under policy issues in the next 6 months).

The Select Committee also identified 6 scampi fishers who had a justified grievance with the treatment they received from the former Ministry of Agriculture and Fisheries. The Committee recommended that MFish negotiate a payment to end the disputes between them. The Committee recommended minimum ex gratia payments of \$400,000 for five of the named fishers, and \$900,000 for the other fisher.

MFish is in the process of establishing its negotiating team and is likely to commence negotiations before the end of March 2004. Depending on the success of those negotiations requests will be made of you for approval of these ex gratia sums.

Following the allegations mentioned above the State Services Commissioner also established an Inquiry into the systems and processes operated by the former MAF and MFish. This Inquiry heard evidence from affected parties over 2003. It is expected to release its report in April 2004 at the earliest.

MFish does not expect either the Select Committee or State Services Commissioner Inquiries to resolve the complaints that some fishers have had with the management of scampi over the last decade. We expect further litigation from disaffected fishers to be pursued.

***Actions:***

- Approve the ex gratia payments agreed by the negotiating team.
- Consider the report of the State Services Commission inquiry, expected in April at the earliest.

***Statement of Intent***

Annually, MFish, like all other government agencies, develops a Statement of Intent (SOI), which details the strategic direction, the outcomes to be achieved, and the programmes to be undertaken over the next two to five years and an annual output plan for fisheries services. The SOI is required to be presented to Parliament at the time of the Government's Budget statement. In developing its SOI, the Ministry is also required to consult with tangata whenua and stakeholders on the fisheries services to be provided for the forthcoming year. Distribution to stakeholders of the draft SOI, in December 2003, marked the commencement of that consultation process for the 2004-05 fisheries services. Following a stakeholder meeting in February and the receipt of written submissions from stakeholders, MFish subsequently provides a final advice paper to you on the recommended services for the year.

Our aim is for MFish to become a more outcome- and output-focused organisation. The SOI sets out this aim and the necessary steps to implement the new approach. This is outlined in more detail in the earlier section on new fisheries management approach.

The approved Statement of Intent becomes our primary consultation document for cost recovery purposes. Your approval to the final outputs in the Statement of Intent will be needed in April 2004.

***Action:***

- In April, approve the SOI and fisheries services for the 2004-05 financial year.



---

## **3.2 Next 6 months**

---

### **Policy issues**

#### ***South Indian Ocean Fisheries Agreement***

Officials from Southwest Indian Ocean coastal states and States that have fished in the high seas portion of the South Indian Ocean, including New Zealand, met for the third time in January 2004 to discuss the development of a regional fisheries management organisation for the South Indian Ocean. New Zealand companies helped develop the high seas fishery (largely for orange roughy) in the Southwest Indian Ocean in the late 1990s. New Zealand has been involved in negotiations since 1999 to establish a regional fisheries agreement to manage these deep-sea resources.

Considerable progress was made at the January consultation towards meeting New Zealand's objectives for a cost-effective high seas management framework in the medium term within which we can secure continued access to the deep-sea fisheries for New Zealand operators. The interests of developing coastal states for cooperation in relation to fisheries within Exclusive Economic Zone (EEZ) jurisdictions in Southwest Indian Ocean is to be progressed separately within a fisheries body to be established under the Food and Agriculture Organisation (FAO). Management of high seas fisheries, including straddling fish stocks, will be addressed via establishment of a legal framework outside the FAO. The next session of consultation is expected to occur before July 2004. MFish has offered to consider provision of funding assistance to ensure that the next session occurs within this timeframe.

#### ***Action:***

- By June 2004 approve, with the Minister of Foreign Affairs and Trade, the New Zealand negotiating brief for the fourth consultation on South Indian Ocean fisheries management.

#### ***CCAMLR and Antarctic Fishing***

The Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR) has the aim of conservation, including rational use, of Antarctic marine living resources. New Zealand is party to CCAMLR and is actively involved in the work of the CCAMLR Commission, Scientific Committee, and working groups. New Zealand vessels have undertaken exploratory fishing for toothfish in the Ross Sea area of Antarctic for the past seven seasons. In 2002, the Ross Sea toothfish fishery was worth NZ\$17 million to New Zealand in export earnings.

In May 2002, Cabinet agreed on a framework for New Zealand participation in CCAMLR fisheries. In July 2004 officials will report back to Cabinet on progress against the 2002 Cabinet decision and will request further refinement of that decision.

In October 2004, MFish (and MFAT) officials will attend the annual CCAMLR meeting during which conservation and management measures will be agreed on for the following year. The Minister of Fisheries will be required to approve New Zealand's negotiating position for that meeting. In addition, the Minister of Fisheries will be required to make permitting decisions under the Antarctic Marine Living Resources Act 1981 in late November to determine which New Zealand vessels will fish in Antarctica during the 2004-05 season.

**Actions:**

- Consider a paper in July 2004 reporting to Cabinet on progress made against the 2002 Ross Sea and Southern Ocean Review Cabinet decisions.
- By July approve a paper requesting Cabinet decision on future New Zealand fishing activities and marine protection in the Ross Sea.
- By July decide on the extent of involvement in CCAMLR fisheries by NZ flagged vessels in the 2004-05 fishing season (in conjunction with Minister of Foreign Affairs and Trade).
- By October approve (in conjunction with the Minister of Foreign Affairs and Trade) New Zealand's negotiating position for the meeting of the Commission for the Conservation of Antarctic Marine Living Resources.
- By November 2004 decide on Antarctic Marine Living Resources Act fishing permits.

***Illegal, Unreported and Unregulated (IUU) Fishing***

IUU fishing is a significant problem in global fisheries, both on the high seas and within national jurisdictions. IUU fishing undermines efforts to conserve and manage fish stocks sustainably, and because it is unregulated, can have detrimental effects on bycatch species such as seabirds, and the environment. New Zealand is actively working through a number of organisations to address IUU fishing. These include international organisations such as the UN Food and Agricultural Organisation (FAO) and the OECD, and regional organisations such as the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) and the Commission for the Conservation of Southern Bluefin Tuna.

New Zealand is developing a National Plan of Action to address IUU fishing. The Plan of Action is being developed within the framework of the FAO International Plan of Action to prevent, deter and eliminate IUU fishing and will be completed by June 2004. Since 2003, the previous Minister of Fisheries was working as part of a Ministerial taskforce to address IUU fishing.

**Action:**

- Approve New Zealand's National Plan of Action on Illegal, Unreported, and Unregulated (IUU) Fishing by June 2004.

***International Fisheries Strategy***

Recent changes in international law and increasing international activity by New Zealand fishers has prompted MFish to develop a draft strategy to guide our international fisheries work. The draft is based on guidance given by the Minister of Fisheries early in 2002, focussing on economic interests, environmental leadership, and international relations. Further guidance on the strategy will be sought from the Minister before the middle of 2004. Consultation with stakeholders and other agencies will commence after MFish has received the Minister's confirmation of the approach.

**Action:**

- Before August 2004, approve for consultation a draft strategy for international fisheries.

### ***Trans-Tasman issues***

Annual trans-Tasman fisheries discussions will be held in July in New Zealand. These discussions deal with cooperation with Australia on matters of mutual interest. Key issues this year will be protecting biodiversity in the Tasman high seas and aligning our positions on IUU fishing (discussed above).

The protection of high seas marine biodiversity has received much international attention, including within multi-lateral environmental fora such as the Convention on Biological Diversity (CBD) and various other United National processes. The focus has to a large extent been on the impacts of fishing on biodiversity, in particular bottom trawling over seamounts. There have been strong calls from some NGOs to prohibit bottom trawling and for the establishment of marine protected areas (MPAs) on the high seas.

New Zealand and Australian officials have discussed options for biodiversity protection in the Tasman Sea for a number of years, including in high seas areas. Although there is currently no specific legal mechanism for establishing high seas MPAs, there are some options available, at least on a bi-lateral basis. Momentum to pursue this work has followed on from the CBD Conference of Parties in February 2004.

#### ***Actions:***

- Consider, with Minister of Conservation and Minister of Foreign Affairs, options for protection of marine biodiversity in the Tasman Sea.

### ***Strategy to Manage the Environmental Effects of Fishing***

MFish is currently completing a strategy to manage the environmental effects of fishing for New Zealand fisheries. New Zealand has developed a range of initiatives to address specific issues related to the effects of fishing on the aquatic environment, including establishment of areas closed to particular fishing methods, observer programmes, imposition of marine mammal by-catch limits, and requirements for fishers to use by-catch mitigation devices. However, to date, these initiatives have been largely reactive and somewhat *ad hoc*.

The purpose of the MFish Strategy for Managing the Environmental Effects of Fishing is to improve management of the adverse effects of fishing on the aquatic environment, and to ensure MFish meets all its environmental obligations in an efficient and consistent manner.

To date a draft strategy has been produced and circulated for consultation. We have received responses from a wide range of stakeholders and expect to develop a final draft for your consideration in May 2004 and subsequent release in June 2004. Implementation of the strategy will require an extensive work programme, including undertaking species threat assessments for a range of species that may be adversely affected by fishing and developing a range of environmental standards.

#### ***Action:***

- Consider the proposed MFish Environmental Management Strategy in May 2004.

### ***Deemed Values entitlement review***

Deemed values are an important part of the quota management system's balancing regime. The balancing regime is the range of civil and criminal incentives that act to constrain commercial catch to the sustainability measures set under the Fisheries Act 1996. The regime acts on individual fishers to ensure catch is covered by annual catch entitlement (ACE) and

monthly and annual balancing dates. ACE is generated once each year by quota shares of the total allowable commercial catch (TACC).

If a fisher catches an amount of fish in excess of his or her ACE, then he or she must pay a deemed value. Deemed values are the primary deterrent to taking fish they do not cover with ACE. If deemed values are not paid, a fisher's permit is suspended and fishing without a valid permit is a criminal offence. Deemed values are treated as non-departmental Crown revenue. Annual deemed value demands made by the Ministry over the last three years have trended from an average of \$6–7 million per annum prior to 1 October 2001, to an average of \$9-10 million per annum.

As part of the agreement on the cost recovery “unders and overs” issue (discussed above under Fisheries Act Amendment Bill (No 2) 2004), the Ministers of Fisheries, Conservation and Finance agreed a Crown-industry joint working group on deemed values be convened. The working group is to look at the entitlement of rights holders to a proportion of revenues collected from deemed values.

Seafood Industry Council (SeaFIC) and MFish have corresponded on the review and how it should be carried out. There are still points of disagreement that need to be resolved before the review can commence. The most prominent of these points relates to the involvement of other stakeholders in the review process.

**Action:**

- Consider the reports and recommendations following completion of the review.

**Marine Protected Areas Strategy**

MFish and DoC have prepared a draft marine protected areas strategy. The strategy's objective is to achieve a network of protected areas to protect marine biodiversity. Marine protected areas can include a wide variety of environmental features such as reefs, seagrass beds, mudflats, seamounts, trenches and deep-water seabed. A range of management tools, including marine reserves, fisheries closures and restrictions and cable protection zones, could provide biodiversity protection.

A marine classification system will be used to identify the range of environment types, based on the best available scientific information. The precise location of each marine protected area and type of management tool used to provide the protection will need to be determined with input from all interested parties, and will involve consideration of biodiversity values. MFish and DoC are continuing to work on how social, cultural and economic matters should be incorporated into decision-making and how coordination is to be achieved nationally.

Implementation of the strategy will require improved coordination and integration of marine biodiversity protection actions taken by MFish, DoC, tangata whenua, regional councils, and other parties. The draft strategy is being finalised for public consultation and is expected to be completed by the end of May 2004.

**Action:**

- In conjunction with the Minister of Conservation, refer a proposal to Cabinet to release the draft strategy for public consultation by June 2004.

## **CITES**

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is an international agreement with the aim of ensuring that international trade in wild animals and plants does not threaten their survival. Trade is regulated through CITES by listing species on one of three appendices, each of which limits trade to varying degrees.

Australia has informally notified DOC and MFish that it will be proposing that great white shark be listed under CITES Appendix I. In addition, there is a current German proposal to list Porbeagle shark and spiny dogfish on Appendix II of CITES to be considered at CITES COP13 in October 2004 if it receives support from the European Union and range states. MFish and MFAT officials will consider the implications of a CITES listing for great white shark, Porbeagle shark and spiny dogfish prior to the next CITES meeting. Officials will provide advice to Ministers in a joint briefing paper to be put forward before the October CITES conference.

### **Actions:**

- In conjunction with other Ministers, approve New Zealand's negotiating position for the October CITES conference.

## **CMS**

The Convention on the Conservation of Migratory Species of Wild Animals (CMS) is an international agreement with the aim to conserve terrestrial, marine and avian migratory species throughout their range. The conservation of migratory species is regulated through CMS by listing species on one of two appendices, each of which provides varying degrees of protection and obligations on range states to negotiate international agreements for their conservation and management.

Great white shark has been listed on Appendix I of the CMS, which requires range states to prohibit the taking (hunting/fishing) of listed species. MFish is currently producing a paper on the management options for prohibited fish species.

### **Actions:**

- None. This item is for your information.

## **Māori Fisheries Bill**

The Treaty of Waitangi Fisheries Commission (Commission) is charged with preparing a proposal for the allocation of fisheries settlement assets to all Māori. The Minister of Fisheries is responsible for assessing the proposal for conformity to the provisions of the Fisheries Deed of Settlement, the Māori Fisheries Act 1989 and the findings of various Courts on those documents. The Minister is then responsible for bringing forward a government Bill to give effect to the proposal that was approved.

On 6 June 2003, the Government accepted that the Commission's proposal met the requirements. A government Bill was then prepared to give effect to the agreed model. On 13 December 2003, Cabinet approved the introduction of the Māori Fisheries Bill to Parliament. The Bill was referred to the Fisheries and Other Sea-Related Legislation Select Committee, with a report back date of 30 June 2004. The Select Committee will commence hearing submissions after 16 March 2004.

Key aspects of the allocation model, contained in the Bill, are:

- recognition of 58 iwi or iwi groups as the beneficiaries of the Fisheries Settlement. Two of these—Hauraki and Te Arawa—comprise groups of 12 and 10 iwi respectively that are to be treated as single iwi for the purposes of allocating Settlement assets and benefits
- disposition of three classes of assets: quota, cash, and company shares. All Settlement quota will be allocated to iwi. Cash will be used for transitional functions, establishment of trusts, and temporary financing, with net cash assets eventually going to iwi. Company shares—approximately half of all Settlement assets—will be retained in a new holding company, Aotearoa Fisheries Limited (AFL), in trust for iwi
- allocation of all Settlement fisheries quota to recognised iwi by formulae based on population, coastline length, and a scheme for classification of quota according to where the fish is caught
- Establishment of a new organisation, TOKM, to replace the Commission and carry the allocation of Settlement assets and other aspects of the scheme forward.
- establishment of two further trusts administered by TOKM:
  - Te Wai Māori Trust to assist with development of Māori interests in freshwater fisheries; and,
  - Te Putea Whakatupu Trust to provide funding to Māori for education, training and research in relation to Māori involvement in the business and activity of fishing and fisheries
- establishment of a commercial asset holding company, AFL, to manage the commercial company assets currently held by the Commission, with separate income and voting shares. All voting shares and 20% of income shares will be held by TOKM in trust for iwi. The remaining 80% of income shares will be distributed to iwi on the basis of population.

The Māori Fisheries Bill is the culmination of a process to settle Māori claims to commercial fishing. The settlement created a unique situation, in that it is the responsibility of the Commission to bring forward an allocation model, and the responsibility of the government, once the model is accepted, to enact the agreed model. The Select Committee will also need to take into account these circumstances and have regard to the fact that this legislation will implement a Treaty Settlement commitment.

In addition, the Fisheries Deed of Settlement provides that any iwi with an interest in the Bill can request the government to recommend to Parliament that the Bill be referred to the Waitangi Tribunal for review. The Attorney-General had indicated that the government must make a recommendation to parliament if so requested.

Officials will be providing advice to the Committee on the rationale for the Bill, including its place in the Treaty settlement process, and on submissions on the Bill from the public.

### **Actions**

- Support the implementation of the government’s decisions on the Bill through the Select Committee process.

### **Treaty Strategy**

MFish is developing a Treaty Strategy, which sets out how the Ministry will deliver on its obligations arising from the 1992 Treaty of Waitangi (Fisheries Claims) Settlement Act and comply with the principles of the Treaty. The Strategy focuses on establishing strong working relationships at a regional level between MFish and iwi/hapū fisheries

representatives, including undertaking training and capacity building on both sides of the partnership relationship. The Strategy seeks to encourage iwi and hapū to think about their commercial and non-commercial fisheries interests in a holistic and strategic manner.

The Treaty Strategy signals the intent to establish regional fisheries forums, which will provide a regular focus point where hapu and iwi representatives can meet to discuss fisheries matters and to provide an opportunity for tangata whenua to have input to fisheries management processes. MFish Treaty relationship facilitators will work with each region. Their role will be to manage the MFish / tangata whenua relationship at the regional level, to establish and organise the regional forums, and progress the implementation of the customary fishing regulations. Other components of the Treaty Strategy include the establishment of a high-level reference group to provide advice and feedback to the MFish Executive Team on Treaty issues.

To date, MFish has consulted iwi and hapu across more than half of New Zealand on the Treaty Strategy; the overall feedback has been supportive of the proposed approach. Hui are yet to be held in a number of regions; but consultation is expected to be completed by the end of June 2005. It is intended that implementation be phased out, as MFish does not have the capacity to rollout the proposed model of engagement to all regions at this time. MFish has developed a budget bid to enable it to fully implement the Treaty Strategy. However, implementation is underway using existing resources.

It is expected that the high level Treaty Strategy document will be finalised by May 2004. Work will continue on the implementation planning and roll out of the Strategy.

**Action:**

- Consider the proposed MFish Treaty strategy prior to finalisation in May 2004.

**Sea Lion Plan**

MFish will be providing you with a plan to manage the interaction between New Zealand sea lions and the squid trawl fishery around the Auckland and Campbell Islands (SQU6T). The plan will be provided to you by 15 September 2004. A plan is currently in place for the 2003-04 season, and similar plans have been utilised over the past several years.

The plan seeks your agreement to setting a maximum allowable level of fishing related sea lion mortality (MALFRM) in this fishery. The plan will detail how monitoring of the fishery will occur and how the fishery is to be closed if the MALFRM is reached or exceeded.

You are required to consult with the Minister of Conservation before making your final decision on the setting of the MALFRM.

The sea lion operational plan has been the focus of High Court proceedings initiated by the fishing industry during the past two seasons. These proceedings concern your ability under the Act to set a MALFRM, the advice you receive from MFish concerning this limit, and allowances for bycatch mitigation that you consider as a part of the plan.

**Action:**

- Approve, after consulting the Minister of Conservation, the plan to manage the interaction between New Zealand sea lions and the southern squid fishery by September 2004.

## **Local Management Issues**

There are three areas of the country where stakeholders and local government agencies have expressed interest in the management of local fisheries.

- *Fiordland Marine Conservation Strategy:*

The Fiordland Marine Conservation Strategy (the Strategy) was produced by the Guardians of Fiordland (the Guardians) to provide an integrated approach to the management of Fiordland's marine resources. The Strategy has been endorsed by the Hon Pete Hodgson and the Hon Marion Hobbs (Minister for the Environment). MFish was directed by Cabinet to work with other government and regional agencies (including DoC, MfE and Environment Southland) and the Guardians to identify the best means for implementing the Strategy. MFE is co-ordinating this work, and a Cabinet paper outlining the options for implementing the Strategy by September 2005 will be submitted by late April 2004. Prior to submission of the Cabinet paper MFish will provide the Minister for Fisheries with a briefing on the options for implementation of the strategy.

- *Kaipara Harbour:*

The Kaipara Harbour Sustainable Fisheries Management Study Group has produced a draft strategy, titled Fishing for the Future, for the management of fisheries in the Kaipara Harbour. MFish has provided comments to the Group on the Strategy. The Group has yet to submit the Strategy to MFish for formal appraisal. In January 2004 MFish provided a briefing to the former Minister of Fisheries on the Strategy.

- *Marlborough Sounds Fisheries Management Working Group (MSFMWG):*

MSFMWG was established to develop the aspirations expressed by those who attended a two-day hui in October 2002 on the *Future Management of Coastal Marine Areas in the Marlborough Sounds*, which was jointly sponsored by the Marlborough District Council and the Nelson/Marlborough Conservation Board. MSFMWG continues to form as a group, with working party meetings throughout 2003. MSFMWG has developed objectives and is considering the development of a fisheries management plan.

### **Action:**

- Consider the briefing paper, available in April, on the forthcoming Cabinet paper addressing the implementation of the Fiordland Marine Conservation Strategy.

## **Regulatory issues**

### **Marine reserves**

Establishment of marine reserves by the Minister of Conservation requires the concurrence of the Minister of Fisheries. MFish is currently processing three marine reserve concurrence requests, which include:

- *Paraninihi (Taranaki):*

The Department of Conservation (DoC) and MFish are preparing a draft statement of facts concerning areas of agreement in respect to fisheries impacts on the proposed marine reserve. Clarification of stakeholder perspectives has been completed. MFish will be making progress in the near future to complete the concurrence document. This report will be prepared in line with the recommendations of the Trapski J report.

- *Glenduan* (North Nelson):

Interdepartmental agreement has been reached on the science supporting the claimed values. A request by DoC to place the concurrence process on hold remains in place. DoC has indicated an intention to commence another consultation process in the near future.

- *Taputerangi* (Wellington south coast):

The concurrence process is on hold pending outcome of a judicial review of the Minister of Conservation's decision to establish the reserve. Ngāti Toa filed the review.

**Actions:**

- Make a decision on concurrence for Paraninihi marine reserve, based on the concurrence report to be provided in April/May.
- Make decisions on concurrence for the Glenduan and Taputerangi marine reserves, once the concurrence reports are completed.

**Highly Migratory Species**

New Zealand's domestic tuna fishery is worth about \$32 million per annum and comprises a troll fishery for albacore, a longline fishery for southern bluefin, Pacific bluefin, bigeye, yellowfin, and albacore tunas, and a small purse seine fishery for skipjack tuna. New Zealand vessels also fish for tuna in high seas areas and, through arrangements with other governments, in the fishery management zones of some Pacific Island Nations. Unlike other major New Zealand domestic fisheries, tuna fisheries have been open access. New Zealand domestic tuna fisheries are constrained by the availability of tuna in New Zealand fisheries waters and the longline fishery in particular has been characterised by overcapacity and poor economic returns. Following a recent review of management options the then Minister decided, in principle, that New Zealand tuna fisheries will be managed using Individual Transferable Quotas (ITQs). ITQ management will initially apply to all major tuna species within New Zealand fisheries waters and for tuna species taken by New Zealand fishers outside New Zealand fisheries waters where a national allocation is agreed through the relevant Regional Fisheries Management Organisation. TACs will reflect agreed national allocations. Where national allocations have not been set, it is proposed that TACs will be set so as not to constrain fishing unduly, while ensuring sustainability of the stocks.

Four tuna species—southern bluefin tuna, Pacific bluefin, bigeye, and yellowfin—are in the process of being brought into the QMS on 1 October 2004. Catch history qualifying years for these species have been set and MFish is currently consulting on proposed TACCs. A final decision on whether to bring albacore and skipjack tunas into the QMS on 1 October 2005 will be required by about July 2004. There are differences of opinion among permit holders as to the appropriate catch history qualifying years for these species, with most fishers preferring years that would maximise their own quota allocation.

The Fisheries Act currently does not provide for tuna species taken outside New Zealand fisheries waters (other than southern bluefin tuna) to be managed in the QMS. The Fisheries Amendment Bill No.3 contains provisions that would extend the coverage of the QMS to allow these species to be managed in the QMS in all areas.

**Action:**

- Determine, by July 2004, whether to bring skipjack and albacore tunas into the QMS on 1 October 2005, and the related catch history qualifying years.

## ***Mātaitai Reserves***

The Fisheries (Kaimoana Customary Fishing) Regulations 1998 and the Fisheries (South Island Customary Fishing) Regulations 1999 provide for the establishment of mātaitai reserves. There are two mātaitai reserves established on the South Island (Rapaki and Koukourarata). MFish has seven current applications for mātaitai reserves at various stages in the process: Moremore (Hawke Bay); Waitutu (south coast of South Island); Patterson Inlet (Stewart Island); Raukokore (East Cape); Moeraki (between Dunedin and Oamaru); Tamaitemioka Titi Moutere (south west of Stewart Island); Mataura River (Gore); D'Urville Island (Marlborough). Four of the applications will require action in the near term:

### ***Actions:***

- Consider the final advice on the Moremore mātaitai reserve application available in April/May.
- Consider the final advice on the Waitutu mātaitai reserve application available in April/May.
- Consider the final advice on the Patterson Inlet mātaitai reserve application available in May.
- Consider the final advice on the Raukokore mātaitai reserve application available in May/June.

## ***Temporary closures under s186A***

Temporary closures for up to two years are provided for as part of the customary management framework under the Fisheries Act 1996. Currently there are four temporary closures at Western Coromandel (Ngarimu to Wilsons Bay), Pukerua Bay, Hicks Bay and Wakutu Quay (Kaikoura). A request has been made to reactivate a temporary closure application at Porangahau (Hawke's Bay). MFish will be preparing an advice paper on the renewal of the closure at Western Coromandel, which expires June 2004.

### ***Action:***

- Consider the final advice on renewal of the Western Coromandel temporary closure available in May.

## ***Introduction of new species to the QMS***

MFish has set a target of introducing 50 species into the QMS by 1 October 2004. The actual number introduced will depend on a case-by-case analysis.

The QMS commenced in 1986 when 32 species, the majority of the commercially caught species, were introduced. More fisheries were introduced in 1998 and 2000, but various constraints have meant that the introduction process has been slower than expected. Full commencement of the Fisheries Act 1996 and development of the new registry computer system, as of 1 October 2001, removed the last major constraints to further QMS introductions. As at 1 October 2003, 62 species were managed within the QMS. By 1 October 2004 at least 95 species will be managed within the QMS.

Introducing further species to the QMS will improve the management framework for all users (customary, recreational and commercial) while also enabling the Crown to meet its obligations to Māori under the Deed of Settlement. The Deed of Settlement obliges the

Crown to allocate 20 % of all individual transferable quota resulting from QMS introductions to Māori (via Te Ohu Kai Moana).

The QMS introduction process requires a series of consultation documents and final advice to the Minister. As with all allocation processes, this will be contentious with interested industry parties. Each introduction date requires a total of 12 to 18 months preparation. The final output occurs at the start of each April and October fishing year when species or stocks are introduced into the QMS.

The previous Minister has approved 19 species for introduction on 1 October 2004. MFish is currently consulting with stakeholders on sustainability measures and other management controls for these stocks that will apply under the new QMS. Final advice incorporating analysis of stakeholder submissions will be submitted to you in mid-May for 15 of these species.

A separate consultation process on sustainability measures and management controls for North Island eels, spiny dogfish, green lip mussels and kahawai has been developed because stakeholder interest is highest in proposals for management of these species. Final advice on these species will be submitted to you in late May 2004.

It is intended that the process of introduction of stocks into the QMS will be ongoing. A further group of species are proposed for introduction on 1 October 2005. Initial analysis has identified 10 species for introduction. MFish is currently determining available resources to ascertain whether more species could be introduced on this date. A meeting with you to discuss the species proposed for introduction is set down for 19 May 2004.

**Actions:**

- By 4 June 2004 set the TAC and TACC for 15 species entering the QMS on 1 October 2004.
- By 18 June 2004 set the TAC and TACC for the remaining four species entering the QMS on 1 October 2004.
- Recommend consequential regulations supporting the entry of species in October 2004.

***Sustainability and management controls for the October 2004/05 fishing year***

A review of sustainability and management controls is to be undertaken for stocks with urgent sustainability or utilisation concerns whose fishing year commences on 1 October 2004. You will need to determine your initial position on these sustainability measures in June and your final decision, following consultation with stakeholders, in September 2004.

It is likely that the TAC for hoki will be reviewed as part of this package. Initial indications from the stock assessment suggest that a significant reduction to the TAC may be required in order to ensure sustainability. The hoki fishery is New Zealand biggest wet fish fishery. A significant reduction will result in socio-economic impacts to the commercial sector.

Proposals for the Adaptive Management Programme for 2004 are under development. The Adaptive Management Programme provides a framework under which TACs can be increased in the absence of a stock assessment. Special reporting and monitoring requirements—designed to improve information—should lower the risk of increased catch in a fishery. MFish is currently finalising initial proposals for management of the following stocks –school shark (SCH 3, 5, 7 and 8), elephant fish 5 (ELE 5), bluenose (BNS 2), gurnard (GUR 7), john dory (JDO 7), ghost shark (GSP 1 and 5). MFish will consult with

stakeholders on proposals and submit advice containing recommendations to you on or about 11 June 2004.

### **Actions**

- Decide on sustainability measures and management controls for 2004 Adaptive Management Programme stocks by late June 2004.
- Decide on sustainability measures and management controls for stocks with a 1 October fishing year in September 2004.

### **Aquaculture permitting**

MFish is currently responsible for allocating rights for aquaculture in the form of marine farming permits, and fresh water fish farm licences and managing the ongoing aquaculture rights.

- *Marine farming permits*

MFish has 215 marine farming or spat catching permit applications under the current aquaculture legislation in process. Some applications date back to 1998, but the majority (86%) are from 2001-2003. This backlog arose due to two factors. There was a sudden demand for water space as the economic returns from marine farming increased, and coastal plan development by regional councils progressed. Secondly, as marine farming reached increasing densities, particularly in the Marlborough Sounds (where 90% of the applications originate), there was need for better scientific information in support of applications to assess impacts on fisheries resources. Applicants have been slow obtaining additional research. In 2003 marine farmers in the Sounds began a collective approach to providing research on a regional basis. MFish is waiting for the results of that research. Meanwhile, applications outside the Marlborough Sounds are receiving attention, such as the 2465 ha application in Hawke Bay.

- *Existing leases, licenses and permits*

MFish is responsible for the management of marine farming leases, licenses under the Marine Farming Act 1971 and marine farming permits under the residual Fisheries Act 1983. This includes the maintenance of the marine farming register and processing of transfers, sub-leases, extensions of term and mortgages (as well as others). The Aquaculture reform process will consolidate these existing rights under the Resource Management Act (RMA).

- *Fresh water fish farms*

MFish allocates rights to farm species in any location above mean high water (including salt water) through Fresh Water Fish farming permits. There are approximately 120 farms nationwide.

### **Action**

- None. This is for your information only.

## ***Maui and Hector's dolphins***

The interaction of fishing with Maui's and Hector's dolphins is an on-going issue.

- *West Coast North Island:*

Maui dolphins are listed as critically endangered, and probably number less than 150 individuals. In 2003, a large part of the west coast of the North Island (out to 4 nautical miles) was closed, by regulation, to both commercial and recreational set netting. Current initiatives involve gathering further information regarding the distribution of Maui dolphins, particularly in offshore areas to assess their possible interaction with trawling, and their distribution within harbours. MFish and World Wide Fund for Nature have jointly funded aerial surveys, and results are due towards the end of 2004.

- *Canterbury*

A limit has been set of three Hector's dolphin deaths per year attributable to set netting for the area between the Waiau River and Waitaki River. Regulatory measures for recreational fishers have been introduced to support this limit. The industry has introduced a range of mitigation measures (including a code of practice and the use of acoustic pingers) to give a high probability that the limit of three Hector's dolphins will not be exceeded. Industry is currently trialling a video monitoring programme as a means of verifying the success of these measures.

- *West Coast South Island:*

The largest sub-population of Hector's dolphin is found on the west coast of the South Island. The last census suggests that this population consists of about 5400 animals and that there are no real concerns about the status of this population. DoC has advised MFish that steps are being taken to propose a marine mammal sanctuary around Buller Bay. The role of the Minister of Fisheries in establishing a marine mammal sanctuary is unclear in law, but may potentially amount to a requirement to give concurrence to a decision in principle from the Minister of Conservation.

### ***Action:***

- None. This is for your information only.

### ***Standards***

The Fisheries Act 1996 sets out the obligations that relate to management of fisheries and the effects of fishing on the aquatic environment. There is currently no express statement of how those obligations are given effect to in a particular fishery. Nor is there any system that enables an assessment of whether or not current practice meets obligations.

The means by which MFish has decided to implement the obligations of the Fisheries Act is by developing standards. The use of standards is an increasingly common practice in environmental management, for example, air and water quality. However, in the marine environment the task is more problematic given the complexity of the system and the difficulties involved in obtaining complete and accurate information.

The standards that are developed for fisheries will be in the form of performance and process measures. In a performance context standards are a mechanism for establishing and implementing limits and targets. Process standards are how management is undertaken – for example consultation, monitoring and auditing. The standards themselves will relate to stock and environmental management, the allocation of rights, and governance arrangements.

Work on the development of fisheries standards is at a preliminary stage and will be on-going over the next several years. MFish will discuss with you progress on the development of standards on a regular basis. MFish proposes that you will approve the standards that are set, following a process of engagement with fisheries stakeholders.

### **Action**

- None. This is for your information only

### **Stock Strategies**

Stock strategies will set out the Government's objectives, standards, and procedures for managing each fishery or group of fisheries. Stock strategies will be expressed in a set of standards, rules, and supporting services tailored to individual fisheries. Strategies are designed to achieve the sustainability, utilisation, and related environmental objectives as expressed in the Fisheries Act and the Statement of Intent, under the broad incentive structure of the Quota Management System. A stock strategy will bring together the harvest plan, monitoring, research, enforcement, and other elements of fisheries management, and will show the links between these elements and allow MFish to better prioritise its limited resources.

It is the intention of MFish that initial stock strategies will be implemented for deepwater stocks by July 2004. The work on the deepwater stocks is being used as pilot case study for the development of standards and stock strategies. MFish will provide advice to you on regulatory measures required to give effect to the individual stock strategies.

Stock strategies will make a substantive contribution towards achieving the Governments overall goal for fisheries management of maximising the value New Zealanders obtain through the sustainable use of fisheries resources and protection of the aquatic environment. Stock strategies will be developed by MFish. However, MFish recognises that we are not well placed to decide precisely how to maximise value - because we don't have all the fine-scale knowledge and experience, and information about value available to stakeholders. MFish expects innovations to further increase value to be articulated by stakeholders in proposals for fisheries plans (discussed in the section on policy issues over the next 3 years).

### **Action**

- None. This is for your information only.

### **Appointment of Kaitiaki**

The Fisheries (Kaimoana Customary Fishing) Regulations 1998 and the Fisheries (South Island Customary Fishing) Regulations 1999 provide for the Minister, after due process has been followed, to confirm the appointment of Tangata Kaitiaki/Tiaki or Tangata Tiaki/Kaitiaki, respectively. Once confirmed, the Kaitiaki may authorise the taking of fisheries resources for customary food gathering from within a defined customary food gathering area/rohe moana.

Currently there are in excess of 100 Tangata Tiaki/Kaitiaki appointments in the South Island. In the North Island there have been 68 appointments of individual Tangata Kaitiaki/Tiaki and a number of specific positions in a few organisations. Over the next six months MFish expects further Tangata Kaitiaki/Tiaki to have their appointments confirmed by the Minister. Further, MFish expects a number of notifications will be advertised following obligatory timeframes that are set in the customary fishing regulations.

**Actions:**

- None. This item is for your information only. You have delegated your responsibilities in this area to the Associate Minister of Fisheries.

**Service delivery Issues*****Fishery Officer Health and Safety***

MFish has a responsibility under the Health and Safety in Employment Act 1992 to take all practical steps to ensure the safety of employees while at work. Hazards must be eliminated or isolated. In the event that a hazard cannot be eliminated or isolated, the employer must minimise the likelihood that the hazard will cause harm.

Fishery Officers represent the Crown and are responsible for enforcing fisheries legislation. If required, they can exercise powers that may significantly impinge on the freedoms of individuals. If prosecuted, offenders may face significant penalties and the forfeiture of property.

In addition to the many health and safety risks associated with operating in the field, Fishery Officers face the risk of assault in the course of their day-to-day work. Most officers hold positions requiring a high level of interaction with the public and they may operate in isolated areas.

MFish has reviewed the health and safety issues for Fishery Officers. Officials are particularly concerned about the risks of officers being assaulted and have taken a number of actions. The factors influencing the risk of assault are complex and no one option will adequately mitigate that risk. Consequently, the MFish approach to the matter has been relatively broad. Actions have been taken to improve recruitment, operational policies, tactical options training, field communications, support for small stations, and equipment.

MFish has also investigated what defensive equipment it could issue to Fishery Officers, including OC (pepper) spray and batons. Options available are constrained by the Crimes Act 1961 and Arms Act 1983. The view of MFish is that without change to legislation, Fishery Officers cannot carry and use defensive tools such as pepper spray and batons.

Any decision to issue Fishery Officers with these sorts of tools needs to be well-considered. MFish is currently undertaking analysis that explores whether the Ministry can meet its obligations under the Health and Safety in Employment legislation in the absence of these tools.

The Chief Executive will shortly consider advice on the matter and make a decision on whether MFish should seek the Minister's approval to progress a change to the legislation.

**Action:**

- Consider advice on this matter from the Chief Executive in April/May 2004.

## **Organisational issues**

### ***TPK Agency Review***

In October 2003 the Chief Executives of the Ministry of Fisheries and Te Puni Kokiri (TPK) signed-off the terms of reference for TPK to undertake an agency review of the Ministry of Fisheries during 2003-04. Agency reviews are carried out by the Sector Monitoring Group within TPK and focus on organisational capability and look at whether the agency under review has the resources, systems and processes it needs to operate effectively for Māori within the context of its own particular role and legislative needs. The review will therefore examine aspects of MFish's activity in the areas of commercial and customary fisheries management as they relate to the Crown's fisheries obligations. Opportunities for further development of that capability will also be identified.

Information used in the review is being gathered via document analysis and interviews conducted with MFish staff, Māori and fisheries stakeholders. This process will be completed during the first part of 2004 and a draft report provided by TPK in June. Officials will provide further briefings as this work develops.

#### ***Action:***

- None at this stage. It is expected that the final report will be provided to the Minister of Māori Affairs and a joint briefing of Ministers may be desirable depending on the nature of the review findings.

---

## 3.3 Over the next 3 years

---

### Policy issues

#### ***Facilitating development of fisheries plans***

Fisheries plans aim to facilitate the integration of decisions on fisheries management measures and implementation strategies. They allow stakeholders to act collectively to assume greater responsibility for managing fisheries by developing specific proposals, and funding and delivering services to support the implementation of some or all of these proposals. Fisheries plans will meet standards set by the Government for a fishery and will complement stock strategies implemented by the Government in that fishery. Fisheries plans provide a mechanism for greater participation by stakeholders and the consequent potential for efficiencies and innovation in the management of fisheries.

Plans will include management objectives and the corresponding implementation strategies to ensure sustainable use. Development and approval of specific fisheries plans, and any associated measures to implement these stakeholder initiatives, will be ongoing. MFish will shortly be publishing a policy framework document setting out for stakeholders MFish's policy on fisheries plans. MFish has recently appointed a manager to promote the development of fisheries plans by stakeholders.

#### ***Action:***

- Approve a document setting out MFish policy on fisheries plans.
- Approve fisheries plans based on proposals from stakeholders and evaluation from MFish.

#### ***Oceans Policy***

The Government announced the development of an oceans policy in 2000. Substantial work and consultation with the public has since taken place. This included a series of meetings around the country by a Ministerial Advisory Group led by Dame Cath Tizard, and a number of stakeholder workshops and hui.

The Oceans Policy Project is an inter-governmental project that is "housed" in the Ministry for the Environment. Oceans Policy is an important project that has the potential to generate significant improvement in marine management decision-making. MFish has actively contributed to it, together with approximately 12 other government agencies.

Key drivers for the development of a New Zealand oceans policy are the need to manage human impacts on the oceans more effectively, and the desire to make sure New Zealand gets the best value (in economic, social and cultural terms) from the sustainable use of the oceans. Oceans policy is needed to provide clear and coherent goals and objectives for managing the marine environment and to improve frameworks and mechanisms, whether legislated or otherwise, to ensure coordination across decisions on marine resource management.

In August 2003 the Oceans Policy Ministerial Group, led by Hon Pete Hodgson as Oceans Minister, were provided with a cabinet paper, draft discussion document and accompanying policy paper. Cabinet has not considered this material. The project is now largely on hold, pending progress on the foreshore and seabed decisions. No substantive work on Oceans Policy is expected for the remainder of this calendar year. When work does resume, there

will be a need to review the work done to date in light of the foreshore and seabed policy and legal framework.

**Actions:**

- None. This is for your information only.

**Recreational fishing framework**

MFish has been working for several years on options to improve the framework for recreational fisheries management. At present both commercial and recreational fishers face incentives to seek Ministerial agreement to increase their respective share of the total allowable catch rather than working co-operatively to improve fishing. Issues that need to be addressed include inadequate information on recreational catch in some fisheries, inadequate specification of rights, and inadequate ability to manage recreational catch at sustainable levels in some circumstances.

Cabinet set out the following objectives and constraints to guide the development of the reform option

Objectives:

- access to a reasonable share of inshore fishery resources equitably distributed between recreational fishers
- improve, where practical, the quality of recreational fishing
- increase public awareness and knowledge of the marine environment and the need for conservation of fishery resources
- improve management of recreational fisheries
- reduce conflict within and among fishery user groups
- maintain current tourist fisheries and encourage the development of new operations where appropriate
- prevent depletion of resources in areas where local communities are dependent on the sea as a source of food
- provide more opportunities for recreational fishers to participate in the management of fisheries.

Constraints:

- avoid undermining the Fisheries Deed of Settlement
- recognise the legitimate rights of other fisheries stakeholders including the commercial and customary sectors
- operate within fiscal constraints imposed by the Crown and the rules surrounding expenditure of public funds
- recognise the explicit consideration given to sustainability of fishstocks and the environmental principles of the Fisheries Act 1996
- be consistent with any outcomes of the oceans policy process and the biodiversity strategy.

MFish staff, together with the Minister at times, met with an Amateur Fisheries Reference Group during 2003 to develop options for reform. Although agreement was reached in a

number of areas, the Reference Group was unable to provide the Minister with support for any amendment to the current provisions of the Act governing the allocation of the Total Allowable Catch (TAC).

Work is continuing on improving the quality of information on recreational fisheries, and MFish has agreed to review up to 10 specific Regulations nominated by the Reference Group.

### **Action**

- None at this stage. This is for your information only.

### **Collective responsibility**

The SOI signals that over time the value of New Zealand fisheries can be maximised if fisheries stakeholders assume greater responsibility for managing fisheries, within limits set by the government to protect the environment, third parties, and minority interests. Provided costs are internalised, stakeholders are often better placed than government to identify management initiatives that will increase the value of the fisheries resource. However, since fisheries are common pool resources, fisheries stakeholders must usually act collectively if they are to achieve benefits from such management initiatives.

MFish will be examining the constraints stakeholders face in making, monitoring and enforcing decisions regarding fisheries management. If a need for new policy to address the constraints is identified, options (including new legislative tools) will be developed and, following consultation with stakeholders, a preferred option will be recommended to the Minister. Our current view is that MFish work will be deferred to enable the outcome of a SeaFiC Steering Group report on this issue to be considered.

### **Action:**

- By June 2005 consider advice on preferred options to enable stakeholders to assume collective responsibility for fisheries management.

### **Cost recovery**

Under the Fisheries Act 1996, the Crown recovers a proportion of its total costs from the commercial fishing industry. The current cost recovery framework consists of principles (set in the Fisheries Act 1996), rules (set by regulation), and levy orders (set by Order in Council). The principles set out beneficiaries-pays and risk-creator pays approaches for guiding the recovery of departmental (MFish and DoC) costs.

The five principles in section 262 of the Act along with the Fisheries (Cost Recovery) Rules 2001, determine whether, and to what extent MFish costs can be recovered from the commercial industry. The cost recovery principles are:

- if a conservation service or fisheries service is provided at the request of an identifiable person, that person must pay a fee for the service
- costs of conservation services or fisheries services provided in the general public interest, rather than in the interest of an identifiable person or class of person, may not be recovered
- costs of conservation services or fisheries services provided to manage or administer the harvesting or farming of fisheries resources must, so far as practicable, be attributed to the persons who benefit from harvesting or farming the resources

- costs of conservation services or fisheries services provided to avoid, remedy, or mitigate a risk to, or an adverse effect on, the aquatic environment or the biological diversity of the aquatic environment must, so far as practicable, be attributed to the persons who caused the risk or adverse effect
- the Crown may not recover the costs of services provided by an approved service delivery organisation under Part 15A.

Cost recovery rules are altered as the characteristics of Government provided services change. Certainty is provided through the cost recovery principles, while the rules and levies are to change more regularly.

Levy orders are currently based on cost recovery rules set in 2001. Given the changing nature of Government services since that time a reassessment of the rules is needed. The reassessment of rules is likely to focus on fisheries management regulatory outputs and international fishing issues that, under the current rules, are not cost recovered. MFish also considers there is also scope for encouraging stakeholder participation by using cost recovery as an incentive for greater stakeholder involvement in fisheries management and service delivery (e.g., through fisheries plans). Our current assessment is that proposals to enable consultation on revisions to the framework will be completed in the next financial year.

**Action:**

- Consider a policy proposal from MFish in 2004/05

**WTO negotiations on fishing**

In November 2001, the World Trade Organisation (WTO) Ministerial Conference in Doha launched a new round of multilateral trade negotiations and an expanded work programme of research and analysis. A key outcome for New Zealand was the inclusion of a mandate for negotiations on fish subsidies. This is an important milestone in a campaign New Zealand has pursued for a number of years, and which will have significant benefits for trade, the environment and development. MFish will provide technical input to the negotiations and submissions prepared by the Ministry of Foreign Affairs and Trade for the Minister for Trade Negotiations.

**Actions:**

- None. This is for your information only.

**Service delivery issues**

***Biodiversity strategy***

The New Zealand Biodiversity Strategy was released in February 2000 and has a 20-year vision of halting the decline in New Zealand's indigenous biodiversity. MFish is contributing to implementation of the strategy in a number of areas, including commissioning research to improve our understanding of marine biodiversity and developing the marine biosecurity programme. A public education and awareness programme is also funded under the strategy. These initiatives are closely linked to other work undertaken by MFish and contribute to our commitments to better meet the environmental obligations set out in legislation.

The biodiversity package includes funding of \$5.4 million in Vote Fisheries, and \$2.9 million in Vote Biosecurity (Fisheries) in 2003-04. MFish works closely with other departments—

chiefly Department of Conservation, Ministry of Agriculture and Forestry, and the Ministry for the Environment—on biodiversity initiatives.

Since 2000 a significant level of progress has been made towards our marine biodiversity objectives – through research programmes we have begun to increase our knowledge of marine biodiversity and our capacity for management; a number of management measures, including fisheries restrictions and marine biosecurity controls, have been implemented to protect marine biodiversity; and through our education and awareness initiatives we are beginning to inform and influence New Zealanders on the importance of preserving marine biodiversity.

**Action:**

- None. This item is for your information only.

**Poaching and Black Market**

Over the past 10 years MFish has become increasingly aware that the poaching of rock lobster and paua throughout New Zealand has been increasing and having some significant effect on the resources. The sum of Total Allowable Commercial Catches (TACCs) for paua for 2003-04 is 1,058 tonnes. The sum of TACCs in 1998/1999 was 1,258 tonnes and it has slowly declined since then to its present level. Based on analysis of information and intelligence, it has been estimated by MFish analysts that the illegal black-market take for paua is some 960 tonnes per year (just short of the sum of TACCs for the country). Of particular note is that the combined TACCs for PAUA2 and PAUA3 is 212.8 tonnes, however these two areas account for a large proportion of the illegal black market take.

There have been a number of high profile compliance operations identifying the poaching and collection of large quantities of black market paua, most of which was destined to move to the main centres. Some for domestic consumption by principally Asian communities and restaurants, but a large proportion also for export to Asian countries.

Over the past five years increasing intelligence on Asian crime links into professional black-market poaching activity has been gained from the use of informants, ongoing enquiries, and through closer relationships with other government agencies particularly through the Combined Law Agency Group (CLAG). Reliable contacts overseas have provided detailed intelligence in respect to the black-market scene in New Zealand and the identification of high profile offenders targeted during subsequent enforcement operations, including:

- *Operation Pacman*

An operation involving the deployment of two Special Duty Fishery Officers working undercover. The operation exposed a large number of offenders, who were apprehended and prosecuted. A number of the offenders had their convictions quashed due to difficulties with the wording of the legislation.

- *Operation Black Ice*

Identified the practice of tour group leaders taking large quantities of black-market paua from New Zealand mixed in with tour group's baggage.

- *Operation Bond*

Followed on directly from Operation Pacman. Examination of exhibits located in Auckland led to an investigation into the activities of one of the principal offenders already identified. The enquiry determined that over a seven-month period 6.5 tonnes of

processed black-market paua meat were sent by means of New Zealand Post to addresses in the New Territories, Hong Kong.

Enquiries in Hong Kong and southern China have confirmed substantial quantities of black market paua entering those markets. Serious trade related issues have also been identified with false labelling, as legitimate NZ product, of contaminated paua and Australian black market abalone. Scientific examination has confirmed paua that has been processed using a variety of chemicals far in excess of allowable limits, as well as unlawful chemicals in excessive quantity. This includes the use of hydrogen peroxide, a strong bleaching agent.

MFish efforts to curb the level of poaching and black market trade in fish products, especially paua, are seriously constrained by limited resources. MFish will continue to use all opportunities to deter those active in poaching and black market activity, including; collaboration with other agencies, inspections, surveillance, informant management and covert operations. At the same time we will continue to consider internal priorities, and submit, for consideration by Ministers, budget bids for additional resources.

**Action:**

- None. This item is for your information only.

## 4. MFISH ORGANISATION AND EXTERNAL RELATIONSHIPS

### 4.1 MFish organisation

The fisheries management changes in recent years have required MFish to focus on its role in the delivery of the Crown's core responsibilities and its ability to respond to stakeholder expectations for involvement and participation in fisheries management decisions.

Since the end of 2000 MFish has been giving effect to a new organisational design, intended to re-align processes and internal structures, and to ensure we have the required people skills to carry out the functions that are critical to the Crown's role in fisheries management. The charts below summarise the current organisational structure and functional responsibilities.

In relation to the existing governance of MFish:

- the three person Executive Team, comprising the Chief Executive and two Deputy Chief Executives, is accountable for setting the MFish strategic direction, establishing frameworks, oversight of Statement of Intent, and monitoring the internal environment and external relationships
- the Management Forum is made up of the managers from each of the ten MFish business groups. The Forum is collectively accountable to the Executive Team for the day-to-day operational management of MFish including development, review, and delivery of the Statement of Intent, monitoring performance against the plan, and corporate and information management policies
- the Business Managers, reporting to a Deputy Chief Executive, have individual responsibility to deliver on components of the Statement of Intent for which they are accountable including delivery of outputs, cost centre budget management, and people management.

In recognition of the special contribution of its Māori staff, MFish has established Te Roopu Awatea—the MFish network for Māori staff—with responsibility for:

- being the initial source of advice on tikanga and tahā Māori
- providing peer support for all staff in tahā Māori
- advising the Executive Team on ways in which MFish can value the special contribution of its Māori staff
- providing feedback to the Executive Team and managers in MFish on progress in valuing the special contribution of its Māori staff.

The draft SOI includes various initiatives to commence implementation of the new fisheries management approach outlined in section 1.3 of this brief. The governance implications for MFish are also discussed in section 1.3.

## ***People***

As at 31 January 2004, MFish employed 353 permanent staff plus 10 temporary staff and 10 staff on casual contracts. MFish has offices in:

- Kaitaia
- Whangarei
- Auckland
- Tauranga
- Whitianga
- Opotiki
- Hamilton
- Gisborne
- Napier
- New Plymouth
- Masterton
- Wellington (Head Office)
- Wellington (National Operations)
- Petone
- Blenheim
- Nelson
- Christchurch
- Dunedin
- Invercargill
- Chatham Islands

Following the organisational design decisions, MFish commenced implementation of a number of people related policies and initiatives. These are designed to create the opportunities for MFish staff to excel, retain and develop the necessary skills, move towards a constructive culture and ensure a healthy workplace. The development of an integrated framework of people management policies commenced in June 2002 and is now well advanced. The framework includes policies on individual performance management, conflicts of interest, human resource planning, organisational management and technical specialist development. The framework also addresses the risks associated with knowledge loss through staff turnover and absences.

In addition to those staff on individual employment agreements, MFish currently has staff who are members of either PSA or NUPE, and who are covered by one of the collective employment agreements of their respective unions. MFish is currently involved in separate negotiations with both unions to renew the collective agreements.

Capability within MFish and the wider fisheries sector remains a serious problem. As a small organisation we face substantial recruitment and retention problems. We have particular capacity issues in the policy, fisheries management, science and specialised enforcement

areas. We also have a low current level of resourcing in the biosecurity area, relative to the risks and potential costs of incursions. The relatively low fisheries management capacity which characterises New Zealand, means that the government and the sector carries a high level of risk attributable to lack of information and skills. Scarcity of capability, both in the public and private sector, undermines the prospects of policy initiatives that the government may wish to pursue.

The initiatives detailed in the draft SOI to commence implementation of the new fisheries management approach means that new staff positions are being created. MFish is a growing organisation, both in terms of job types and staff numbers. These matters will require a greater degree of lateral thinking in terms of the MFish approach to assessing the skills and competencies it needs in the future, and how it recruits new staff. Current thinking includes considering candidates for some jobs who have economic and social science skills instead of the more traditional marine science skills in order to provide a more balanced skill mix to meet the demands of the new approach to fisheries management. As well, there is an immediate need to recruit highly skilled Māori staff throughout the Ministry.

# MFish Functional Responsibilities



**Policy & Treaty Strategy**

Fisheries management  
 Frameworks (developing & monitoring)

- Commercial
- Recreational
- Customary
- Compliance
- Environmental/Biodiversity
- Aquaculture

Treaty Strategy

**International & Biosecurity**

International Fisheries  
 Biosecurity

**Fisheries Management**

Fisheries evaluation and environmental standards  
 Fisheries plans  
 Operational planning  
 Treaty Relationship facilitation  
 Information stewardship  
 Liaison with other agencies  
 Education and information  
 Outputs for Marine reserves  
 Stock assessment  
 Sustainability advice  
 Biodiversity initiatives  
 Fisheries monitoring  
 Advice on other statutory processes  
 Dispute Resolution  
 Allocation of access  
 Maori/Customary processes  
 Special permits  
 Non QMS management

Aquaculture permitting

**Compliance**

Planning  
 Relationship management  
 Information stewardships  
 Strategies  
 Enforcement

- Audit
- Inspection
- Surveillance
- Investigation

Prosecution

Observers

Non-Commercial

Customary liaison

Honorary network  
 Education

**Service Delivery**

Registry management  
 Standards & specs  
 Contract management  
 Tendering

Information stewardship

Project co-ordination

**Science**

Research standards  
 Tendering & contracting

Stock assessment & research planning advice  
 Process co-ordination

Information stewardship

Research data

**Information**

Information stewardship

Information needs strategy

Systems development

Corporate information analysis & reporting

Manage and operate IT infrastructure

Corporate Communications

Security

**Strategic HR**

HR Strategy  
 Remuneration  
 Development  
 People  
 Management  
 stewardship

**Legal**

- Legal services
- Audit & risk management

**Corporate Planning & Services**

Business Advisory Services

- Finance
- Govt reporting
- Business planning

Corporate Operations

- Administration support
- Ministerial support



<b>National Manager Fisheries Management</b>	<b>National Manager Compliance</b>	<b>Manager International &amp; Bio- Security</b>	<b>Manager Policy &amp; Treaty Strategy</b>	<b>Manager Service Delivery</b>	<b>Chief Scientist</b>	<b>Chief Information Officer</b>	<b>Chief Legal Advisor</b>	<b>Manager Strategic Human Resource</b>	<b>Manager Corporate Planning &amp; Services</b>
<b>Mike Arbuckle</b>	<b>Dave Wood</b>	<b>Jane Willing</b>	<b>Mark Edwards</b>	<b>Russell Burnard</b>	<b>John Annala</b>	<b>John Hanson</b>	<b>Cathryn Bridge</b>	<b>Bruce McGregor</b>	<b>Peter Boon</b>

## **Information**

MFish owns a series of databases, which provide information essential to the development of research projects, setting of catch limits, providing advice to Ministers on fisheries management control measures, and as input into the development of measures for the enforcement of fisheries laws. The more important databases include research, catch effort, the observer database, quota management systems, compliance and enforcement information and reference files.

## **Finances**

### **Financial information**

MFish has responsibility for output classes within two Votes: Vote Fisheries and Vote Biosecurity (Fisheries). The table below sets out the Main Estimates figures for all MFish output classes and the corresponding Statement of Intent figures after approval by the Minister.

<b>Output Class</b>	<b>Main Estimates (\$ million GST excl)</b>	<b>Statement of Intent (\$ million GST excl)</b>
<b>Vote Fisheries</b>		
Policy Framework	4.355	4.354
Fisheries Information and Monitoring	29.040	26.953
Regulatory Management	8.465	8.418
Fisheries Access and Administration	9.045	9.034
Enforcement of Fisheries Policies	18.888	18.759
Prosecution of Offences	3.553	3.617
<b>Total Vote Fisheries</b>	<b>73.346</b>	<b>71.135</b>
<b>Vote Biosecurity (Fisheries)</b>		
Marine Biosecurity Advice	<b>2.949</b>	<b>2.949</b>
<b>Total</b>	<b>76.295</b>	<b>74.084</b>

The Main Estimates are completed before the MFish Statement of Intent is finally approved. Therefore figures in the Estimates do not fully reflect the effort MFish is directing to its outputs. Changes to the Estimates in order to reflect actual levels of business activity are made at Supplementary Estimates time. The main difference between the totals above reflects the exclusion from the final Statement of Intent of increased observer coverage for seabird bycatch in commercial fishing activities (\$2.210 million GST exclusive). This was approved by Cabinet and included in the Main Estimates totals. However, it was withdrawn from the final Statement of Intent, pending further consultation with industry on the economic impacts of the proposal.

### **Cost recovery**

Determination of cost recovery levies occurs annually and, as noted earlier, the levies recover a proportion of MFish's total costs from the commercial fishing industry.

Additionally there will be at least one revised cost recovery levy order to accommodate any TAC/TACC changes that may be approved by the Minister following consideration of the final advice paper for the annual Review of Sustainability Measures and Other Management Controls and any changes to the level of observer coverage for seabirds.

The table shows the trend in industry contribution to the delivery of MFish outputs. The figures represent the final approved Departmental Forecast Report for MFish for 02/03.

	98/99	99/00	00/01	01/02	02/03	03/04		04/05
	Actual	Actual	Actual	Actual	Actual	SOI	1 Apr 04 proposed	Planned
MFish Departmental costs recovered	22.168	16.775	16.826	15.997	15.780	16.844	16.583	16.170
MFish Research costs recovered, prior to carry forwards	10.453	10.719	10.683	13.600	14.919	15.223	8.900	15.223
Total cost recovery levies	<b>32.621</b>	<b>27.494</b>	<b>27.509</b>	<b>29.597</b>	<b>30.699</b>	<b>32.067</b>	<b>25.483</b>	<b>31.393</b>
Total MFish expenditure	56.457	53.946	60.441	65.004	70.662	74.084	67.042	72.900
Fisheries Services Levies as % of total MFish expenditure	57.7%	50.9%	45.5%	45.5%	43.4%	43.3%	38.0%	43.1%

1 April 04 Proposed Cost Recovery levies	<b>25.483</b>
Plus Conservation Services	2.108
Less Settlement Credit	(15.225)
Less 2002/03 Under and Over	(1.172)
Less adjustment to minimise Under and Over recovery and smoothing	(3.066)
Net Recovery 1/4/04	<b>8.128</b>

Historically, the pattern of MFish expenditure throughout the year has not fully reflected its budgeted expenditure, which has been the basis for determining cost recovery levies. The result is that there have been both under and over recoveries from the commercial fishing sector. MFish now has in place processes and protocols to better manage over and under recovery of cost with industry.

### **Litigation**

MFish operates in an environment in which parties (primarily the fishing industry) often pursue matters through the Courts by way of judicial review. There are currently 22 cases, mostly judicial reviews, against MFish. Cumulatively these cases will involve very considerable resources for the MFish Legal and Fisheries Management business groups. This work will be at cost to operational work, and may impede initiatives such the introduction of species to the QMS.

The current issues around which much of the litigation is centred include:

- challenges to the introduction of new species in the QMS and allocation of rights
- challenges to sustainability measures
- challenges to individual permitting decisions.

## 4.2 Boards within the fisheries portfolio

A number of boards and committees are appointed by the Minister of Fisheries. Details of the membership of the main boards and a short commentary on their functions are set out below.

### ***Catch History Review Committee***

<b>Membership</b>	<b>Location</b>	<b>Date of original appointment</b>	<b>Expiry date of present term</b>
Mr T Castle (Chairman)	Wellington	28 Feb 1998	30 September 2008
Ms J Lowe	Christchurch	28 Feb 1998	30 September 2008
Mr J Boyack	Auckland	3 October 2003	30 September 2008

The Catch History Review Committee is established under the Fisheries Act 1996 to hear and determine appeals against decisions by the Chief Executive in relation to allocations of provisional catch history or eligibility to receive provisional catch history. The Chief Executive's decisions are a precursor to allocations of quota when species are introduced into the QMS.

### ***Taiapure-Local Fishery Management Committees***

Once a taiapure-local fishery is in place, the Minister appoints a committee of management. The committee has the power to recommend the Minister make regulations to conserve and manage fisheries in the taiapure-local fishery.

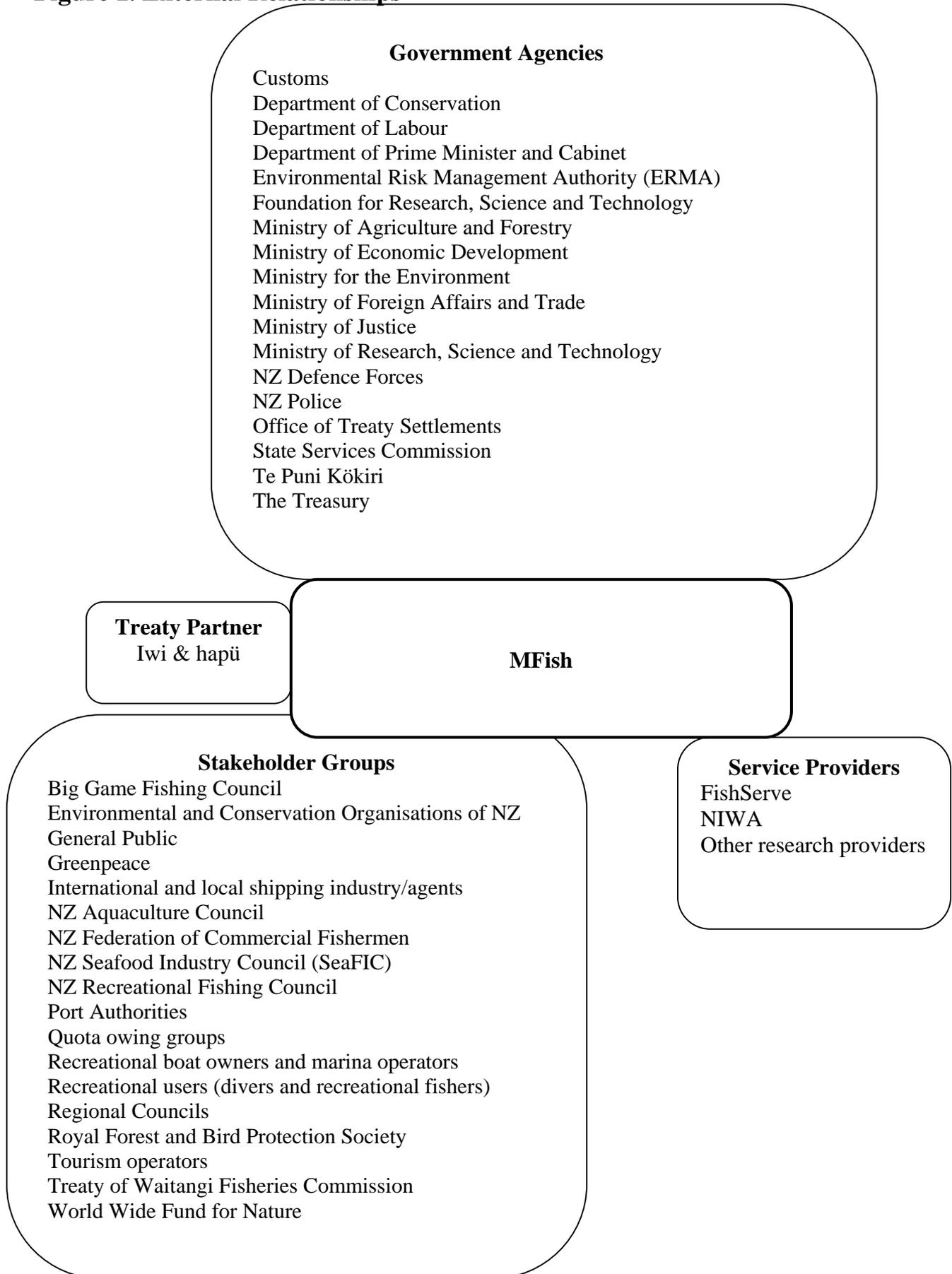
At present there are five committees appointed, with two others likely to be appointed in the near future. The terms of appointment of a committee are set out in section 184 of the Fisheries Act 1996.

There is currently no direct funding to support the work of taiapure-local fishery management committees. This is an issue of concern to some committees.

## 4.3 External relationships

MFish has a wide range of external relationships including other government agencies, Treaty partners, service providers and stakeholders groups. These relationships are summarised in Figure 1 and described further below.

**Figure 1. External Relationships**



## **Government agencies**

### ***Department of Conservation (DoC)***

DoC has a statutory function to advocate for conservation of natural and historic resources. It also has responsibility for marine reserves and protecting marine mammals and seabirds. The Chief Executive of DoC is a member of the Biosecurity Chief Executives Forum.

MFish works with DoC on operational advice concerning protected species interactions with fishing, and marine reserve proposals under the Marine Reserves Act. The views and input of DoC officials are often sought in the development of MFish policy. DoC regional offices interact with MFish staff at the local level on fisheries related issues. MFish administers the conservation services cost recovery levy process. DoC and MFish are working together on aquaculture reform and oceans policy.

A Memorandum of Understanding (MOU) formalises the departments' agreement to work together. It is directed at ensuring cooperation in a number of areas including protected species fisheries interactions, marine reserves, biosecurity risks, research and the nature and extent of fisheries and conservation services. Despite the MOU there is still unproductive tension between the agencies on some issues. Both Chief Executives are committed to improvement, and are establishing processes to ensure the departments work in a constructive manner to achieve the overall collective interests of government.

A Marine Reserve Protocol between the Ministry and Department of Conservation was implemented on 1 August 2003. The protocol serves to integrate the distinct roles that the two agencies have in promoting and evaluating marine reserve applications by the Department or non-Government agencies. It outlines processes both departments will follow to promote open communication, integrity, and professionalism when dealing with each other. It also sets out steps that should ensure the statutory requirements of the Marine Reserves Act are met.

### ***Ministry for the Environment (MfE)***

MfE provides advice on the state of the New Zealand environment, the way environmental laws work in practice and actions necessary to improve environmental management. It administers the Resource Management Act and contributes to interdepartmental work on biological diversity and marine environmental issues.

MfE and MFish are working together on environmental indicators for fisheries, aquaculture reform, and oceans policy, which MfE is leading. MfE also provides input on a range of fisheries policy issues.

### ***Ministry of Foreign Affairs and Trade (MFAT)***

MFish works closely with MFAT on international fisheries issues. Issues relate mainly to protecting and enhancing New Zealand's fisheries interests in global fisheries agreements, regional fisheries management, foreign licensing and market access. Although MFAT is the lead government agency on most international fisheries issues, MFish provides specialised technical support.

### ***Ministry of Agriculture and Forestry (MAF)***

The Ministry of Agriculture and Forestry (MAF) provides advice to the Government on agriculture and forestry matters, including primary production and trade.

MAF's Biosecurity Authority has a lead role in implementing the Biosecurity Act 1993 in the terrestrial and freshwater environments for animal, plant and forestry pests and diseases affecting

agriculture, horticulture, forestry and indigenous flora and fauna. MAF provides advice on these matters to Minister for Biosecurity. The MAF Biosecurity Authority conducts a number other activities, including border inspection and containment. MFish implements the Biosecurity Act 1993 in the marine environment to deal with the risk of entry and establishment, and implement controls of undesirable marine organisms. MFish provides advice on these matters to the Minister for Biosecurity. The Chief Executive of MAF is the Chair of the Biosecurity Chief Executives Forum.

The New Zealand Food Safety Authority is a separate organisation attached to the Ministry of Agriculture and Forestry. It administers legislation covering food (including seafood) for sale on the domestic market, primary processing of animal products and official assurances related to their export, exports of plant products and the controls surrounding registration and use of agricultural compounds and veterinary medicines. It is the New Zealand's controlling authority for imports and exports of food and food related products.

### ***Ministry of Research, Science and Technology (MoRST) and Foundation for Research, Science and Technology (FoRST)***

MFish works with MoRST and FoRST to determine research and funding priorities in fisheries research and minimise the overlap of research between funding organisations.

### ***New Zealand Police***

MFish has a Memorandum of Understanding with New Zealand Police that provides the formal authority for operational arrangements of mutual co-operation and assistance. In addition to the primary law enforcement and policing roles, sworn members of Police are deemed to be Fishery Officers under the Fisheries Act.

Active co-operation between MFish compliance business and NZ Police includes the provision of operational support in specific enforcement operations and training and development of personnel. Collaboration also occurs in other areas including health and safety of personnel, development and operation of new processes, systems and technologies, sharing of specialised skills/capacity and resources, and sharing of technology and information.

### ***New Zealand Defence Forces***

The NZ Defence Forces have responsibilities for surface and aerial surveillance of the EEZ. MFish and NZ Defence Forces share information on offshore fishing operations to ensure that surveillance efforts are directed at the areas of highest risk and that fisheries related surveillance capacity is efficiently utilised.

MFish continues to support and participate in the implementation of the Maritime Patrol Review outcomes, including increased and improved aerial surveillance and the upgrading of the Navy fleet. Along with other agencies with interests and responsibilities in the maritime environment, MFish contributes to the operation of the Maritime Intelligence Co-ordination Centre (MICC), established in 2001 at the Joint Defence Operations Headquarters at Trentham. A National Maritime Co-ordination Centre (NMCC) has been established, also at the Joint Defence Operations Headquarters, to co-ordinate all government maritime patrol requirements and delivery of surveillance and patrol services. MFish is an active participant in the working group and the operation of the NMCC.

### ***Other***

MFish works with Treasury, Te Puni Kōkiri, Office of Treaty Settlements, Department of Prime Minister and Cabinet, Ministry of Justice, State Services Commission, Ministry of Economic

Development, Department of Labour, Environmental Risk Management Authority, and Customs on fisheries related issues as they arise.

### ***Treaty Partner: relationships with tangata whenua***

MFish interacts with tangata whenua on a number of different levels. This interaction will continue to increase. Treaty settlement processes often include fisheries matters. In addition we continue to implement the customary fishing regulations and have ongoing consultation obligations in the Fisheries Act 1996. Māori are now the largest players in New Zealand's commercial fishing industry. Tangata whenua can manage their non-commercial customary fishing activity through customary regulations. Māori are also substantial recreational fishers.

The Treaty of Waitangi Fisheries Commission (Commission) manages the commercial fishing assets of Māori, on behalf of Māori. While MFish currently interacts with the Commission in respect of commercial fisheries, that interaction will need to embrace iwi-based fishing organisations when allocation of the fisheries settlement assets takes place.

The Fisheries Act 1996 requires the Minister to provide for the input and participation of tangata whenua in sustainability decisions that affect their non-commercial interests. MFish currently consults with over 100 iwi and hapū on matters affecting their fisheries. However, the obligation to provide for input and participation of tangata whenua requires more meaningful forms of interaction be developed and implemented. The Treaty strategy, discussed earlier, is the major MFish initiative directed at building better working relationships with tangata whenua, and improving the delivery of legislative obligations.

### ***External service providers***

In 1999 the Fisheries Act 1996 was amended to enable more flexible delivery of fisheries management services. In October 2001, the Fisheries Act 1996 was fully commenced, bringing in major changes to the nature of some services and the method by which they are delivered. Many registry-based services are now devolved to SeaFIC as an approved service delivery organisation (ASDO) or provided under contract through SeaFIC. The Minister sets standards and specifications for devolved services, while the Chief Executive sets standards and specifications for contracted services.

Once functions, duties and powers are transferred to an ASDO the specific related services become the sole responsibility of the ASDO to deliver. Failure to comply with the statute and standards and specifications can lead to civil sanctions imposed on the ASDO.

Functions, duties and powers that remain the responsibility of the Chief Executive can be delivered by MFish or by a service delivery agency under a contract. In respect of fisheries research services, a fully contestable contracting process was introduced from 1 July 1997.

The two principal external service providers are FishServe and NIWA. MFish also has contracts with other providers for research services.

### ***FishServe***

SeaFIC was appointed the ASDO for delivery of registry-based services and statutory functions were transferred to it on 1 October 2001. Since then, Commercial Fisheries Services Limited, a wholly owned subsidiary of SeaFIC, assumed responsibility for delivery of registry services and MFish ceased to be involved directly in the delivery of services. Commercial Fisheries Services operates under the brand name 'FishServe'.

Functions, duties and powers devolved to FishServe include:

- registering clients and vessels;
- licensing fish receivers;
- issuing catch return books (excluding catch effort returns), returns management processes including electronic data transfer for statutory reporting (excluding catch effort);
- processing quota and ACE transactions, including mortgages and caveats;
- catch balancing.

In addition to its devolved services, FishServe provides services under contract to MFish as a service delivery agency. Functions, duties and powers contracted to FishServe include:

- delivery of catch effort services, including issuing return books and the returns management process;
- issuing fishing permits;
- registering foreign owned vessels, charter vessels, and fish carriers;
- monitoring catch limits; and
- delivery of revenue services, including invoicing, receiving and debt management of cost recovery and deemed values.

### **NIWA**

Research projects are let through a contestable tendering process where tenders are evaluated through an earned value basis, combining aspects of both quality and cost. Most contracts for fisheries research, in what is still a relatively 'thin' market, have been awarded to the National Institute for Water and Atmospheric Research Ltd (NIWA).

Aside from its research activities, NIWA also maintains, on behalf of MFish, the research databases and other research information.

### **Stakeholder groups**

Before taking a range of statutory decisions under the Fisheries Act 1996, the Minister must consult with stakeholders, including Māori, the commercial fisheries sector, recreational fisheries interests, and environmental groups.

### **Commercial Fishing and Aquaculture Sector**

A number of organisations represent the fishing industry in New Zealand. There are also a number of companies or incorporated bodies that represent commercial interests of a particular fishery or a range of fisheries.

- *New Zealand Seafood Industry Council (SeaFIC)*

The NZ Seafood Industry Council is a company whose shares are principally held by commercial stakeholder organisations. The shareholders elect a Board responsible for managing the business affairs of the Company. The Board is responsive to advice from the Policy Council, a forum open to participants in the commercial seafood industry. In 1997 SeaFIC took over the majority of the activities mandated by the Fishing Industry Board Act 1963. Its primary role is the promotion and development of the New Zealand seafood industry.

- *Treaty of Waitangi Fisheries Commission (Commission)*

The Commission was established as part of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. It holds in trust assets provided by the Crown prior to and after the Settlement. Its main task is the development of a method to allocate the trust's assets to iwi. Its functions are to:

- facilitate the entry of Māori into, and development by Māori of, the business and activity of fishing
- grant assistance to enable Māori or groups of Māori to enter into, continue in or develop the business and activity of fishing.

- *New Zealand Federation of Commercial Fishermen*

This organisation represents small owner operators in the fishing industry.

- *New Zealand Fishing Industry Guild*

This organisation represents the interest of those who work on fishing boats and in processing sheds.

- *New Zealand Aquaculture Council*

Formed by its constituent groups, this organisation represents the aquaculture industry on national issues affecting all sectors of aquaculture, as well as the NZ Abalone Farmers Association, New Zealand Oyster Farmers Association and the Central Eel Enhancement Company.

## **Environmental Sector**

MFish interacts with a number of environmental groups with strong interests in the sustainability of fisheries and the effect of fishing on the environment.

- *Environmental and Conservation Organisations of New Zealand (ECO)*

ECO represents 70 member organisations with a concern for conservation and the environment, and is involved in a number of MFish processes, including the determination of fisheries services, research planning, and sustainability advice. A major interest for this group is in the provision for non-extractive use of our fisheries.

- *Royal Forest and Bird Protection Society*

This organisation represents 40,000 members in 56 branches around the country and has been an advocate for conservation and protection of New Zealand's natural resources since 1923. It is interested in marine reserves and issues relating to the protection of New Zealand's marine ecosystem.

- *Greenpeace*

This is an international organisation with over 31,000 supporters in New Zealand. Its primary interest is the adverse effect of fishing on protected species.

- *World Wide Fund for Nature*

This is a science-based international conservation organisation. An independent science advisory committee oversees its research and policy programmes.

## ***Recreational Fishing Sector***

Most marine recreational fishers do not belong to recreational fishing organisations. However, the following groups represent or advocate for segments of the sector.

- *New Zealand Recreational Fishing Council Inc (NZRFC)*

This is an umbrella group representing the Big Game Fishing Council and the NZ Underwater Association as well other national associations, regional associations and clubs throughout New Zealand.

- *Option 4*

This is an issues-based group that arose in response to an earlier Ministry attempt at reform (Soundings). It does not claim to represent amateur fishers, but has actively participated in the current reform process.



## 5. FISHERIES SECTOR

New Zealand's fisheries resources are valuable and of considerable interest to a wide range of New Zealanders. Māori have strong cultural ties with fisheries, which are recognised through the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. Some 20 per cent of New Zealand's population are recreational fishers. Fisheries matters attract considerable interest from environmentalists and the wider public.

The New Zealand exclusive economic zone (EEZ) is the fourth largest in the world at approximately 1.3 million square nautical miles. A characteristic of the EEZ is its depth, with 72% in waters more than 1,000 metres deep, 22% between 200-1000 metres, and only 6% less than 200 metres. Fishing within the EEZ is heavily reliant on species found in waters at depths ranging from 200-1200 metres, rather than species found in shallower waters.

Despite the size of the New Zealand EEZ, our fisheries resources are not as abundant or productive as in many other parts of the world, due to factors such as a narrow continental shelf, a lack of nutrient upwellings, and being on the periphery of the range of highly migratory species such as tuna. Nevertheless our marine ecosystems and species are highly diverse. About 8,000 marine species have been found in New Zealand waters, including 964 species of fish, 2,000 species of molluscs (snails, shellfish, and squid), 400 species of echinoderms (kina, and starfish), and 900 species of seaweed. The result is a wide variety of marine plants and animals with a patchy distribution.

The commercial fisheries sector is New Zealand's fourth largest export earner. In 2003, the export value from the fishing industry was \$1.2 billion, representing a revenue reduction of 20% over 2002. Exports account for by far the largest proportion of the product with about 88% by value being exported. The industry is also a large employer, involving some 26,000 people through direct employment and flow on effects. Unlike most other countries, the New Zealand industry receives no government subsidies and, in addition, makes a contribution to the costs of fisheries management through cost recovery.

### 5.1 Status of the stocks and marine environment

Approaches to fishery management continue to evolve as understanding of the marine environment increases and attitudes change. There is recognition that fisheries are part of an ecosystem and should not be managed in isolation. Growing awareness of the need to maintain wider ecosystem viability is moving us towards an integrated approach to fisheries and environmental management.

While both MFish and the industry put significant resources and time into monitoring stock status, the nature of fish populations and the limited available information makes evaluating the state of New Zealand's marine ecosystems difficult.

Coastal fisheries were heavily depleted in the two decades prior to 1985. Since 1986, most QMS stocks for which biomass and productivity data are known are thought to be above sustainable levels. However, for most of the species managed under the QMS, too little is known to be able to assess stock status.

For several species where information is available, stocks have been depleted below levels judged to produce maximum sustainable yields<sup>1</sup>, but management strategies are in place to rebuild these stocks to sustainable levels. The 14 fish stocks that are known to be below maximum sustainable yield

---

<sup>1</sup> Maximum sustainable yield is defined as "the greatest yield that can be achieved over time while maintaining the stock's productive capacity, having regard to the population dynamics of the stock and any environmental factors that influence the stock".

include oyster, gemfish, orange roughy, paua, snapper and rock lobster stocks. In all cases a rebuild strategy is in place allowing the stock to rebuild over time to maximum sustainable yield.

Shellfish and some other marine invertebrates remain vulnerable to over-harvest and habitat degradation, caused by sediment from rivers, pollution, changes in sea temperature, and fishing activities. Although our coastal waters and habitats are generally held to be of high quality by international standards, they are under stress in some areas, particularly near large estuarine towns and cities and the mouths of large rivers. Estuarine and marine ecosystems are also threatened by the invasion of exotic species; a problem aggravated by vessels transporting ballast water and hull encrustations.

Little is known about the composition of benthic species, the resilience and regenerative capacity of deepwater seamount habitat, or the actual nature and extent of damage by trawling. The history of seamount fisheries in the northern hemisphere is one of sequential collapse, and concerns about rapid decline of deepwater fish stocks in seamount fisheries in New Zealand and Australia suggests such habitat could be quite fragile, and trawling may have an effect on long term productivity.

## **5.2 Marine fisheries and biodiversity research**

MFish has a research planning process for the provision of information required to support fisheries and marine biodiversity management decisions. This process provides directions for future research needs, including medium-term research plans and short-term research proposals. Research needs are identified from a number of sources, including fisheries assessment meetings (including liaison networks), research planning meetings with stakeholders, research science providers and MFish.

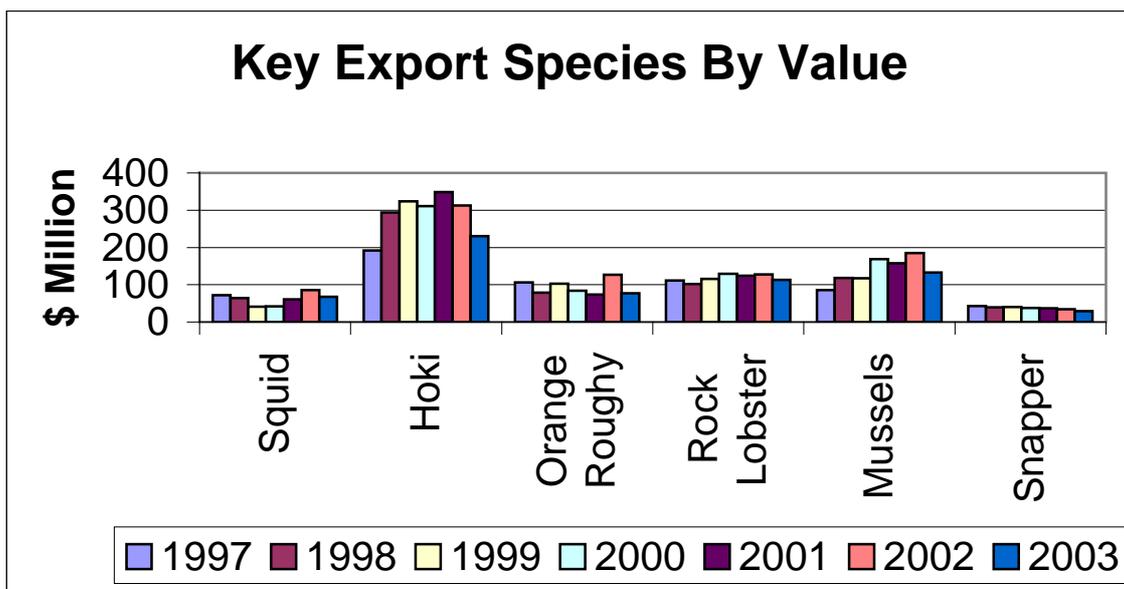
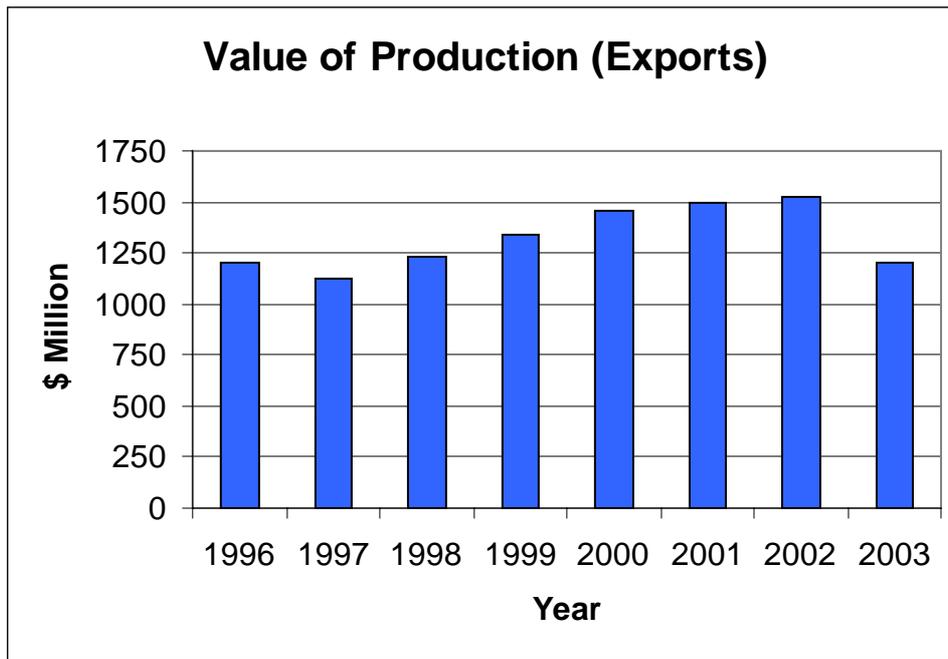
Fisheries research includes projects on estimating stock size and sustainable yields from New Zealand's major fish stocks, determining the impacts of fishing and aquaculture on the marine environment, estimating the level of recreational harvest, socio-economic research, and investigation into Māori customary fisheries. The total budget for fisheries research for the 2003-04 year is \$ 21.6 Million.

Marine biodiversity research funded by MFish includes research on coastal and deep-sea seamount communities, the impact of terrestrial runoff on rocky reefs, coralline algae and other seaweeds, the ecology of coastal Ross Sea marine communities, genetic identification of plankton and fish, and reviewing our current understanding of the biodiversity of selected New Zealand's marine communities. Significant projects during 2003-04 have included two major research voyages – one in the Tasman Sea funded jointly with the Australian National Oceans Office and the other in the Ross Sea, Antarctica funded jointly with Land Information New Zealand and conducted in collaboration with the Italian Antarctic research programme. A publicly accessible web-based National Aquatic Biodiversity Information System has been developed and is being tested by selected users prior to being officially launched in the first half of 2004. The total budget for marine biodiversity research for the 2003/04 year is \$ 3.3 million.

## **5.3 Fisheries sector**

### ***Commercial fisheries***

Despite the diversity in marine species found in the New Zealand EEZ, as few as 130 are fished commercially. Of these, only 43 species are commercially significant. The deepwater species (hoki, hake, ling, orange roughy, oreo dories, squid, and silver warehou) as well as spiny red rock lobster, paua (abalone), greenshell mussels, and snapper dominate the fishing industry. The following graphs show the value of exported production and the value of catch for selected species.



About 750,000 tonnes of seafood is harvested annually from New Zealand's fisheries. Seventy % of fish taken is from our deepwater and midwater fisheries, while 11% are pelagic, 10% are farmed species, and 9% are from our inshore fisheries.

The New Zealand seafood industry's apparent export dependency declined in 2003 as export revenues were impacted by the strengthening New Zealand dollar. Our major export markets are Japan (16%), other Asian countries (27%), European Union (18%), United States (17%) and Australia (12%). For the first time in more than a decade export dependency slipped below 90%, although domestic sales are estimated to have remained static at less than \$140 million annually for the last five years.

In the 1970s, open access to fisheries resources and emphasis on increasing commercial harvest led to over-fishing, which impacted on fishstocks and returns to fishers. The extension of New Zealand control over the EEZ, coupled with new technology, meant that our fishing industry could expand to

fish new species and areas. The introduction of the QMS in 1986 was partly aimed at addressing over-fishing.

As a result of the fisheries settlement Māori now own around 40% of quota and have additional involvement in another 20% of quota. The commercial assets are currently held and managed by the Commission, which has developed an allocation model for distribution of the assets to iwi. Implementation of the model is reliant on passage of the Māori Fisheries Bill. Subsequently many iwi will have the opportunity to become directly involved in the commercial fishing industry.

### ***Aquaculture***

Aquaculture is an important activity in terms of the contribution it makes to the economy. Aquaculture exports grew from \$68 million in 1991 to peak at \$241 million in 2002. They declined by 23% to \$186 million in 2003. The largest contributor is Greenshell mussels, which is now the second largest seafood export by species and value. Other important species are quinnat (king) salmon (\$39 million) and Pacific oyster (\$13.2 million). While techniques are being developed to farm a growing variety of other species, such as seaweed, paddle crabs, rock lobster, koura, seahorses, kingfish, snapper, flatfish and sponges, commercial investment in taking those techniques to market has markedly reduced in the last two years.

### ***Recreational fisheries***

Recreational fishing, both marine and fresh water, is a popular activity. Surveys indicate that up to 20% of the population engage in marine recreational fishing annually, gaining a variety of benefits, ranging from enjoyment and relaxation to sustenance for their families. Recreational fishing also contributes to the economy, through business for equipment suppliers, charter boat operators and tourist facilities. Research into the value of recreational fishing estimates the expenditure made by recreational fishers to catch five key recreational species to be nearly \$1 billion per annum. As the population concentration grows in areas such as Auckland there is increased pressure on the regional recreational resources.

While marine recreational fishers may catch at least 40 species, the main species are snapper, blue cod, kahawai, rock lobster, paua and scallops. Many of the species taken by recreational fishers are fished in competition with the commercial fishing sector. In a relatively small number of fisheries, such as the snapper fishery off the north-east coast of the North Island, and the blue cod fishery at the top of the South Island, recreational catch makes up a large proportion of the total catch.

## **5.4 Legislative framework and regulatory management**

The Fisheries Act 1996 provides the legislative framework for managing fisheries resources. The purpose of the Act is to provide for utilisation of fisheries resources while ensuring sustainability. In giving effect to the purpose of the Act, decision makers are required to take into account environmental and information principles, and to act consistently with the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and international obligations.

Fisheries are a common pool resource, which requires government intervention to avoid the potential for overexploitation from the demands of competing levels of commercial, recreational and customary Māori fishing activity. This intervention can be direct, such as the imposition of regulatory controls on fishing, or indirect through the establishment of legal frameworks that create rights and responsibilities for users to manage the resource sustainably.

The Treaty of Waitangi guarantees customary fishing rights. Various claimants commenced legal proceedings over the establishment of the QMS in 1986 arguing that it effectively alienated Māori from their fisheries rights secured by Article 2 of the Treaty of Waitangi, and required the Crown to settle the resulting claims. In 1989 the Māori Fisheries Act provided for the establishment of the

Māori Fisheries Commission and transferred 10% of the TACCs of all species in the QMS to the Commission until a method of allocation and distribution was determined. In 1992, as part of the claims settlement process, the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 was enacted. This Act provided Māori with a half share in Sealord Group Limited and guarantees Māori access to commercial fishing through the Crown's obligation to allocate 20% of all quota for new species coming into the QMS. The Settlement has completed the Crown's obligations arising from the Treaty of Waitangi, and all claims by Māori to fishing rights under the Treaty are settled.

### ***Sustainable utilisation***

The Fisheries Act establishes a broad framework for managing customary, recreational and commercial fishing. The Minister of Fisheries is required to establish sustainable catch levels for fisheries managed for harvest. For each stock a Total Allowable Catch (TAC) is set, either at the time of entry into the Quota Management System (QMS) or when the Total Allowable Commercial Catch (TACC), set under the Fisheries Act 1983, of an existing QMS stock is varied. In most cases the TAC is set according to target levels referenced to producing maximum sustainable yield. The TACC is a subset of the TAC, after allowances are made (outside the QMS) for non-commercial fishing interests and other sources of fishing-induced mortality.

### ***Customary fishing***

The Settlement Act obliges the Crown to involve tangata whenua in fisheries management decisions and recognise Māori customary non-commercial fishing rights and management practices. The Fisheries Act provides for a number of tools and processes that are available to Māori in recognition of customary rights.

Customary fishing regulations recognise and provide for customary food gathering by Māori, and the special relationship between tangata whenua and places of customary food gathering importance. Kaitiaki, or guardians of the tangata whenua, manage the exercise of customary fishing rights. Regulations covering customary fishing provide for kaitiaki of the tangata whenua to issue customary fishing authorisations for fishing within their area. The regulations do not remove the right of tangata whenua to catch their recreational limits under the recreational fishing regulations, nor do they provide for commercial fishing.

The customary fishing regulations also provide for establishing mātaitai reserves, being traditional fishing grounds and areas of special significance to tangata whenua, with tangata whenua managing all non-commercial fishing in mātaitai.

Customary rights to manage fishing are also exercisable through taiapure/local fisheries areas and temporary closures.

### ***Recreational fishing***

The basic legal right underpinning recreational fishing is an access right to go fishing in the sea for personal use. Recreational interests are recognised in the Fisheries Act, which establishes an allowance for recreational take within the TAC, and provides for consultation with recreational interests before setting or varying a TAC or TACC.

The public access right is subject to restrictions under the recreational fishing regulations. At an individual level recreational fishing is managed through daily bag limits and a range of method restrictions, size limits, and seasonal closures. Recreational catch cannot be sold. There are no reporting requirements for recreational catch.

A large number of charter fishing vessels operate in areas such as Hauraki Gulf and Marlborough Sounds. These are included in the recreational fishing category because they do not sell their fish, but rather provide transportation services.

### ***Commercial fishing***

The Quota Management System (QMS) is the primary fisheries management tool to provide for commercial utilisation of fisheries resources while ensuring sustainability. Under the QMS a TACC is set for a fishstock within a Quota Management Area. Quota Management Areas are species specific, and most correspond to one or more Fisheries Management Areas, shown in Figure 2. Individual transferable quota (ITQ) is fully transferable, subject to certain restrictions on aggregation and foreign ownership. ITQ gives rise to an annual catch entitlement (ACE) each year.

All commercial fishing requires a permit. For species within the QMS, there is an obligation to cover all catch with ACE. Commercial fishing is subject to a wide range of input controls and reporting requirements.

Some species continue to be managed outside the QMS. These are still subject to catch regimes. There is a moratorium on the issue of new permits for non-QMS species to control effort prior to introducing these species into the QMS.

### ***Catch Balancing Regime***

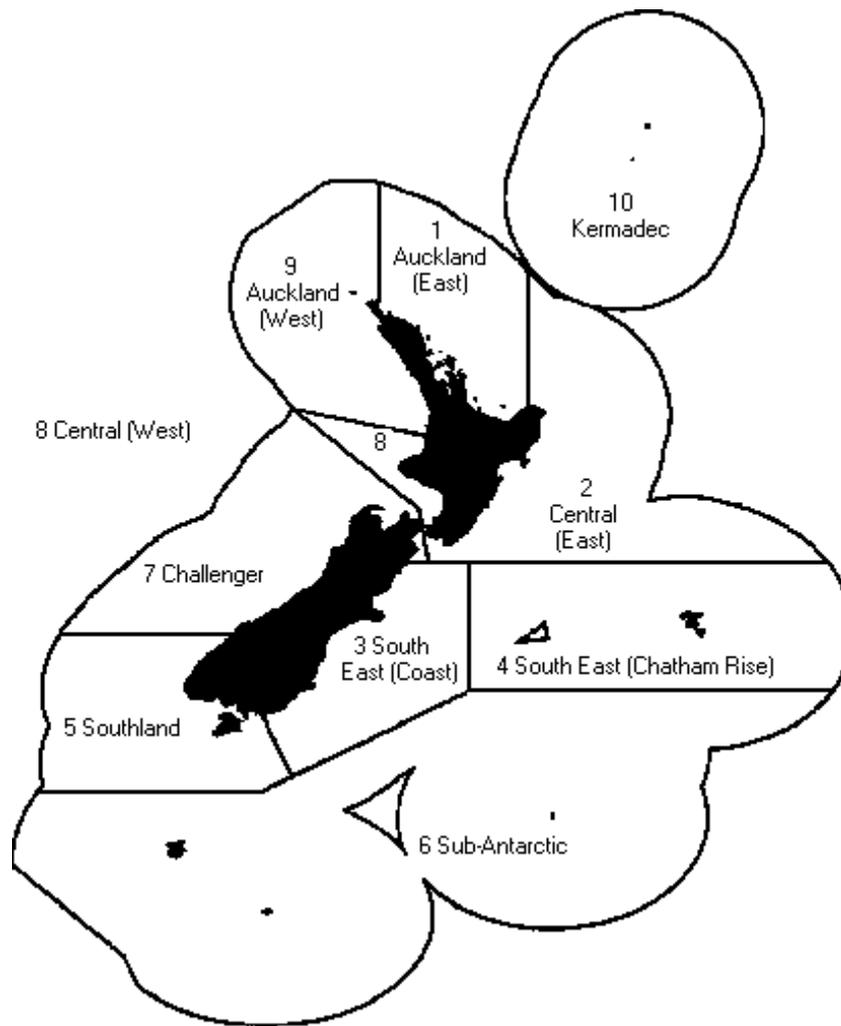
The catch balancing regime, which came into force on 1 October 2001, is the regime by which a fisher's catch is counted against their catching rights. The regime is designed to provide appropriate incentives to encourage fishers to cover all their catch of QMS fishstocks with ACE. Instead of it being a criminal offence to take catch in excess of quota—as it was under the 1983 Act—overfishing is controlled, in the first instance, by graduated administrative disincentives based on the payment of deemed values.

There are five main components of the catch balancing regime:

- interim deemed values are a 'reminder' to fishers to obtain ACE to cover catch during the fishing year;
- annual deemed values are the main incentive for fishers to cover all catch with ACE. For most stocks, the annual deemed value rate increases as the amount of catch in excess of a fisher's ACE increases;
- permit suspensions prohibit fishers from fishing if interim or annual deemed values are not paid.
- overfishing thresholds (specified as a %age of ACE) will apply to a few fishstocks where overfishing raises particular concerns. A fisher's permit is deemed to contain a condition prohibiting the fisher continuing to fish in an area where the fisher's catch exceeds ACE by a specified amount.
- tolerance levels (specified as a fixed quantity of catch) are designed to prevent overfishing thresholds being triggered by trivial amounts of catch in excess of ACE.

Accurate and timely catch reporting is an important source of information on how the catch balancing regime is working in relation to individual fishstocks.

**Figure 2. New Zealand Fisheries Management Areas**



## ***Aquaculture***

Marine farming is managed under the Fisheries Act 1983 and the Resource Management Act 1991. MFish may issue a marine farming permit as long as it does not have an undue adverse effect on fishing or the sustainability of any fisheries resource, and a coastal permit has been obtained under the Resource Management Act. A moratorium on marine farm applications has been in place since March 2002. The moratorium is currently being extended to December 2004. Aquaculture reform legislation is currently being developed.

MFish has issued approximately 600 marine farm permits and licences for the Marlborough Sounds, 200 in the Firth of Thames and Coromandel and smaller number in other areas around New Zealand. These permits are predominantly for farming green-lipped mussels. In addition, MFish has authorised 175 oyster farm leases and 100 land-based farming operations. MFish is currently processing over 200 marine farm permit applications and expects to receive approximately another 20 applications over the next year as the last of the resource consent applications that fall outside the moratorium are completed. Some of these are for very large areas.

A small number of marine farm applications have been declined or approved on a modified basis due to the impact that the proposed farm would have on fisheries habitat or fishing. There is concern about the cumulative effect of additional marine farms in areas where marine farming is already highly developed (such as the Marlborough Sounds) and their impact on carrying capacity (i.e. the depletion of nutrients in the environment attributable to the increase in marine farming).

## ***International fisheries***

Existing international obligations provide the framework for fisheries management in New Zealand. The 1982 United Nations Convention on the Law of the Sea (1982 UN Convention) is the centrepiece of international law. It defines the extent of the territorial sea and the exclusive economic zone, and outlines the rights and duties of both the coastal state and other nations in relation to these areas. The 1982 UN Convention describes the rights and status of operations on the high seas.

The 1995 United Nations Agreement on the Straddling Fish Stocks and Highly Migratory Fish Stocks (1995 UN Fish Stocks Agreement) came into force on 11 December 2001. It provides a framework for implementing articles of the 1982 UN Convention relating to straddling stocks and highly migratory stocks. The agreement sets out conservation and management objectives for these stocks and clarifies the rights and duties of coastal States in their EEZs and the rights and duties of other States fishing on the high seas. It affirms the role of regional fisheries management organisations as the means for co-operation to bring about conservation and management of these stocks

Almost all other international fisheries arrangements acknowledge and are subordinate to the 1982 UN Convention and the 1995 UN Fish Stocks Agreement. Both provide a framework for regional fisheries arrangements. New Zealand is party to several such arrangements: Convention for the Conservation of Antarctic Marine Living Resources; the Arrangement Between the Government of New Zealand and the Government of Australia for the Conservation of Orange Roughy on the South Tasman Rise; and Commission for the Conservation of Southern Bluefin Tuna.

New Zealand fishers are involved in three distinct international fisheries; deep water and middle depth trawling; deepwater long lining; and tuna purse seining and long lining. These have been developed, initially at least, on the basis of the proximity of New Zealand to the resources concerned. New Zealand is close to the Ross Sea and sits on the doorstep to the largest tuna fishery in the world (Western and Central Pacific tuna fishery). New Zealand middle-depth and deepwater high seas fisheries development has also been based on the stocks found in the Indian and Atlantic Oceans, as well as (closer to New Zealand) in the Challenger Plateau, Lord Howe Rise, Louisville

Ridge and South Tasman Rise.

As a consequence of this evolving international legal architecture, we expect opportunities for access to high seas resources will largely disappear over the next 5 to 10 years. The 1995 UN Fish Stocks Agreement has strengthened regional fisheries management organisations and access to high seas resources will be subject to the measures they establish. In addition to the agreements mentioned above, already there are organisations covering the management of highly migratory stocks in the Atlantic Ocean, Eastern Pacific Ocean, Indian Ocean and the Western and Central Pacific Ocean (yet to come into force). With regard to demersal species, organisations cover the Northwest Atlantic, Northeast Atlantic, and Southeast Atlantic (not yet in force) Oceans. Furthermore, negotiations are currently underway on agreements that would cover demersal species in the Indian Ocean and in the Tasman Sea.

New Zealand government's involvement in these arrangements is twofold—enhancing economic opportunities while ensuring sustainability. We have a responsibility to prevent Southern Hemisphere fisheries undergoing the intense exploitation that is occurring with many Northern Hemisphere fisheries. At the same time, New Zealand must secure its economic interests in the fisheries covered by such arrangements to safeguard the availability of current and future economic opportunities.

New Zealand controls the high seas activities of our fishers using the Fisheries Act 1996. The Act sets out, among a range of things, a high seas fishing permit regime, a regime for the control of nationals, provisions that cover the discharge of monitoring and control requirements in the context of regional fisheries management organisations (e.g., boarding and inspection provisions), and a system of offences and penalties. High seas fishing permits are currently authorising the activities of 50 New Zealand flagged vessels.

The New Zealand fishing industry is heavily dependent on world markets for its financial viability. Improved access to overseas markets will therefore improve industry's economic performance. New Zealand stands to make significant gains from multilateral trade liberalisation negotiations taking place under the auspices of the World Trade Organisation (WTO). New Zealand is currently contributing to a study in the Organisation for Economic Co-operation and Development (OECD) that will contribute to the WTO negotiations for the trade liberalisation for fish and fish products.