

In Confidence

Office of the Minister of Fisheries
Chair, Cabinet Legislation Committee

FISHERIES AND CONSERVATION SERVICES LEVY ORDERS 2019/20

Proposal

1. I seek authorisation to submit the following to the Executive Council:
 - The Fisheries (Cost Recovery Levies for Fisheries Services) Order 2019
 - The Fisheries (Cost Recovery Levies for Conservation Services) Order 2019.

Background

2. Fisheries New Zealand recovers the costs of services it provides in relation to commercial fisheries largely through annual levies on quota owners. This typically comprises around 40% of the total annual investment and operating costs of Fisheries New Zealand (averaging approximately \$80 million in the last four years). The Crown funds the remaining costs.
3. Cost recovery occurs through fisheries and conservation Levy Orders that are set under the Fisheries Act 1996 (the Act) and the Fisheries (Cost Recovery) Rules 2001 (the Rules). Setting of the Orders does not require new policy decisions from Cabinet because the Rules specify the services that must be cost recovered and how the levies must be calculated. The Rules also specify how the recoverable costs are allocated between the 642 fish stocks.
4. The Levy Orders are reset annually to align with the start of the 1 October fishing year. The attached draft levy orders have been calculated in accordance with the Rules.
5. New Zealand's fisheries and marine environment is a valued taonga, whose health and wellbeing is culturally and environmentally important to all New Zealanders. It is also commercially valuable, with exports currently valued at \$1.4 billion per year and expected to continue growing at 3% per year over the next five years.
6. Fisheries New Zealand and the Department of Conservation (DOC) provide services to ensure the sustainability and wellbeing of our fisheries and marine environment. This benefits commercial, recreational and customary fishers.
7. The services set out in the Rules include any fisheries research and fisheries-related conservation research (as determined by DOC) that relates to commercial fisheries, as well as registry services, commercial fisheries compliance, and observer services.

8. Overall investment has increased by approximately \$20 million in the last five years. This is largely driven by the fisheries change programme and establishing digital monitoring much of which is time-limited funding. This work is largely outside the scope of services that are cost recovered through the levies. For instance, the Government has agreed that implementing on-board cameras in the Maui Dolphin area will be Crown funded.

Proposal

9. The attached Levy Orders have been calculated under the Rules and I seek authorisation to submit these to the Executive Council to come into force on 1 October 2019. Overall they result in total recovery of \$34.5 million, an increase of \$6.0 million from 2018/19.
10. Table 1 provides the composition of the proposed 2019/20 levies by service type, and compares this with the previous four years.

Table 1: Fisheries and Conservation Services Levies 2015-16 to 2019-20 (\$m)

Service	2015/16	2016/17	2017/18	2018/19	2019/20
Commercial compliance	10.5	0.5	12.8	13.3	13.5
Registry services	3.9	3.9	3.9	3.7	3.8
Fisheries research	11.0	15.6	12.1	11.8	13.0
Observer services	4.1	3.5	3.2	3.2	3.1
Conservation services ¹	2.2	2.0	1.9	2.0	2.2
Total levied costs	31.6	35.5	33.9	34.0	35.6
Overs and unders applied	(0.7)	(2.2)	(5.1)	(5.5)	(1.1)
Net levied costs	30.9	33.3	28.8	28.5	34.5

Most levy components are in line with previous years

11. Registry service (vessel registrations and fishing permits, and processing fishing catch returns) and the cost of providing observer coverage on vessels are relatively stable, reflecting the nature of these services.
12. Commercial compliance investment has also been relatively stable in the last three years.

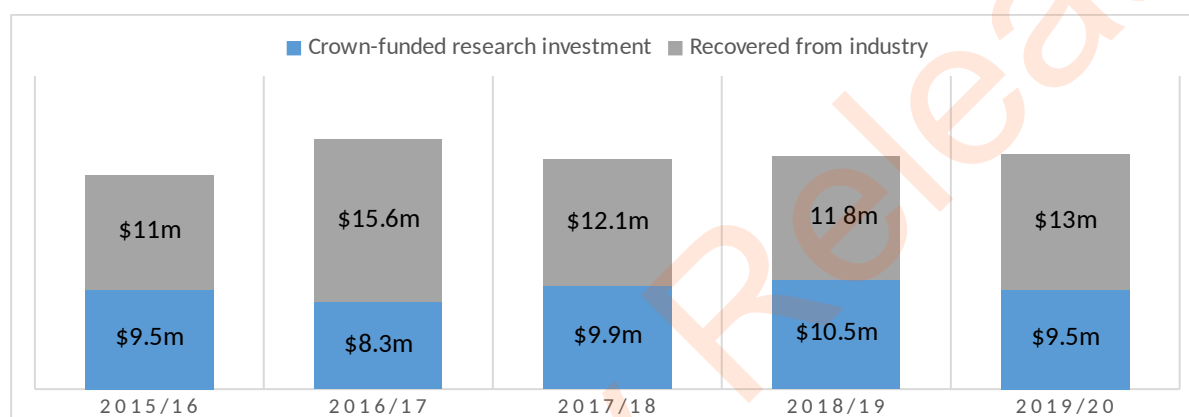
Fisheries Research has increased significantly from last year

13. Fisheries research is required to help us understand the state of New Zealand's fisheries and respond in an effective way. It is essential for making informed decisions on the sustainability and the future of our fisheries.

¹ The Conservation Services Programme (CSP) is delivered by the Department of Conservation, who consult separately with industry on the scope of services.

14. It is not unusual for a fish stock to experience a large increase or decrease in levies year on year. This is because unlike registry and compliance costs (which are apportioned across all fish stocks), the costs of research (and observers) are allocated to specific stocks being researched, which can result in significant variability.
15. The proportion of research costs recovered from industry (compared to Crown-funded) varies depending on project specific research objectives. For 2019/20 this has resulted in a greater proportion of total research costs being allocated to the commercial sector, as shown in Figure 1.

Figure 1: Fisheries Research Investment 2015/16 to 2019/20 (\$m) ²



Overs and Unders are less than last year

16. I am required to have regard to any under- or over-recovery from previous years' levies. Fisheries New Zealand reconciles costs from previously levied services and adjusts the final levies to reflect any past over or under recovery. Actual costs from the most recently complete financial year (2017/18) have been reconciled with levied costs for the same period, resulting in \$1.1 million to be returned to the industry and applied to next year's levy (2019/20).
17. The amount returned to industry in next year's levies is \$4.5 million less than the return to industry applied this year. The larger return was primarily due to a significant work programme to reconcile older science research projects that had been completed or cancelled, but not previously accounted for.
18. This work programme has now been completed and in future regular monitoring will mitigate the likelihood of future large returns.

² Full data tables for all figures are included in the Appendix to this paper.

Impact by fish stock

19. While total levy costs are relatively consistent year on year, the levy on individual fish stocks can vary. It is not unusual for a fish stock to experience a large increase in levies, particularly where significant research projects are planned for that stock.
20. For 2019/20 the levies for:
 - a. 66% of fish stocks is unchanged from last year (425 stocks)
 - b. 18% of fish stocks decrease (115 stocks)
 - c. 16% of fish stocks increase (102 stocks)
21. For owners of quota in a wide range of fish stocks the net impact of changes to levies is generally less significant - where the levy for some fish stocks increase, others decrease. For owners of quota in fewer fish stocks, the variance in levy can be more significant.

Consultation

22. Industry was consulted on the draft levy rates over a four week period, concluding on 28 June 2019. That consultation was in addition to regular stakeholder engagement occurring through Fisheries New Zealand's annual research planning process.
23. Consultation is not required under the Act, but I consider that it is a key part of good engagement with industry. It also allows me to take their feedback into account when setting the levies.
24. Sixteen submissions were received. Nine focused on understanding stock-specific increases caused by their inclusion in specific research projects. A number expressed concern that some of the costs being recovered were outside the scope of the Rules as they should be considered a public good and therefore funded by the Crown.
25. Five responses raised concern with the level of transparency in the levy setting process while four others highlighted the improvement on previous years.
26. Consultation with industry identified some minor issues that have led to a \$0.2 million reduction in the total to be cost recovered (\$34.7 million prior to consultation reduced to \$34.5 million).
27. Fisheries New Zealand continues to focus on improving transparency and reporting to industry.
28. I am satisfied that the proposed levies for 2019/20 are consistent with the cost recovery principles in the Act and with the Rules. Fisheries New Zealand and DOC have taken the same approach as outlined in legislation to determining the levies that has been applied since 2001 when the regime commenced.

Departmental Consultation

29. The Department of Conservation and Treasury were consulted on this paper and their comments have been included.

Legislative Implications

Timing and 28 Day Rule

30. The levy orders will come into force on 1 October 2019, the start of the 2019/20 fishing year. I propose that they be notified in the New Zealand Gazette no later than 3 September 2019 to ensure sufficient time to inform stakeholders and meet the 28-day rule.
31. If the levy orders do not come into force on 1 October 2019, MPI would be unable to collect any levies during the 2019/20 fishing year.

Compliance

32. The legislative and procedural compliance of the proposed levy orders fulfil the following requirements:
 - 30.1 Principles of the Treaty of Waitangi
 - 30.2 New Zealand Bill of Rights Act 1990
 - 30.3 The principles and guidelines set out in the Privacy Act 1993
 - 30.4 Relevant international standards and obligations and
 - 30.5 Human Rights Act 1993

Statutory pre-requisites

33. The orders comply with the requirements of Part 14 of the Act, namely:
 - 31.1 The principles established in section 262 of the Act have been followed when determining the costs to be levied on the commercial fishing industry
 - 31.2 I am satisfied that the proposed Levy Orders are consistent with the requirement of the Fisheries (Cost Recovery) Rules 2001
 - 31.3 In recommending the making of the Levy Orders I have had regard to the under and over recovery of costs from previous financial years as required by section 265 of the Act.

Regulations Review Committee

4. There are no known grounds for the Regulations Review Committee to draw the proposed levy orders to the attention of the House under Standing Order 319.

Certification by Parliamentary Counsel

35. Parliamentary Counsel Office have certified the attached levy orders as in order for submission to Cabinet.

Impact Analysis

36. The Regulatory Quality Team at the Treasury has determined that the regulatory decisions sought in this paper are exempt from the requirement to provide a Regulatory Impact Assessment as they have no or minor impacts on businesses, individuals or not for profit entities.

Publicity

37. All levy payers will be notified of the new levy rates by MPI following promulgation of the levy orders.

Proactive Release

38. I propose that MPI proactively release this paper and corresponding Cabinet minute in full within 30 days, in line with Cabinet policy and the State Services Commission's guidance on proactive release of official information.

Recommendations

The Minister of Fisheries recommends that the Cabinet Legislation Committee:

1. **Note** that I have approved the proposed levies included in the Fisheries (Cost Recovery Levies for Fisheries Services) Order 2019 and the Fisheries (Cost Recovery Levies for Conservation Services) Order 2019;
2. **Note** that I am satisfied that the levy orders are consistent with the cost recovery provisions in Part 14 of the Fisheries Act 1996 and the Fisheries (Cost Recovery) Rules 2001, that I have had regard to the under- and over-recovery of costs from previous financial years as required by section 265 of the Act, and that all requirements of the Act and the Rules have been applied when calculating the levy orders;
3. **Authorise** the submission of these Orders to the Executive Council and
4. **Note** that these Orders will come into force on 1 October 2019.

Authorised for lodgement

Hon Stuart Nash
Minister of Fisheries