

**Department of Conservation:
Administration of the
Conservation Services Programme
– Follow-up audit**

February 2005

*This is the report of a performance audit we carried out
under section 16 of the Public Audit Act 2001.*

ISBN 0-478-18127-2

Foreword

In December 2002, I presented a report to the House of Representatives on administration of the Conservation Services Programme by the Department of Conservation.

The report largely examined those aspects of the Conservation Services Programme that affected commercial fishing operations, following a request for an inquiry from the New Zealand Seafood Industry Council Limited.

More than 2 years later, I considered it timely to go back to the Department of Conservation, and the Ministry of Fisheries, to see what progress had been made in implementing my recommendations.

It is encouraging to see that the Department and the Ministry have implemented the majority of those recommendations.

I thank staff of the Department of Conservation, the Ministry of Fisheries, and the other organisations involved, for their assistance and co-operation.

A handwritten signature in black ink, consisting of a horizontal line that curves upwards and loops back to the left, ending in a small flourish.

K B Brady
Controller and Auditor-General

1 February 2005

Contents

Summary.....	5
Part 1 – Introduction	8
Our previous inquiry	8
How we conducted our follow-up audit.....	8
Part 2 – Justification for funding research as a conservation service.....	10
Conservation services research projects and application of the cost recovery framework .	10
Commercial fishing’s effect on the black petrel	11
Explicit assurance for the Minister of Fisheries.....	12
Part 3 – Application of the cost recovery rules	14
Estimating risk to protected species.....	14
Population management plan for the New Zealand sea lion.....	15
Resolving disputes about risk estimation and cost recovery assessments	15
Part 4 – Consulting on the annual plan	17
Inviting written submissions on draft annual plans, and circulating those submissions.....	17
Part 5 – Information on under- and over-recovery of costs.....	18
Providing the Ministry of Fisheries with timely expenditure information	18
Providing the Minister of Fisheries with information the Minister is required to consider	19
Part 6 – Management of the observer programme.....	21
Observer days: Availability of information and using the days levied.....	21
Part 7 – A strategic plan for the Conservation Services Programme	23
Preparing a strategic plan for the Conservation Services Programme	23
Part 8 – Accountability for the Conservation Services Programme	25
Including more information in the annual plan.....	25
Part 9 – Implementing the results of research	27
Translating research into improved fishing practices	27
Transparency in considering if research results should change the direction and content of the Conservation Services Programme	29
Appendix – Our 2002 inquiry recommendations.....	31
Figure 1 – Relationship between the Conservation Services Programme’s strategic plan, research plan, and annual plan	29

Summary

In 2002, we conducted an inquiry into administration of the Conservation Services Programme by the Department of Conservation (DOC).

The Conservation Services Programme is a research programme within DOC's Marine Conservation Unit. The Programme's objectives are to understand the nature and extent of adverse effects from commercial fishing activities on protected species in New Zealand fisheries waters, and to develop effective solutions to mitigate those adverse effects.

Funding for some of the Programme is collected from the fishing industry via a levy (the Conservation Services Levy).

The report from our 2002 inquiry made a number of recommendations for improvement. This report follows up on the progress made in implementing our recommendations.

Overall, DOC and the Ministry of Fisheries have implemented the majority of our recommendations, with much progress occurring since late-2003. Some work remains to be carried out before all our recommendations are implemented in full.

Justification for funding research as a conservation service

DOC has made progress in justifying the relationship between a research project, the effect of commercial fishing on the particular protected species, and the associated levy.

DOC has also made progress in demonstrating to stakeholders how the cost recovery framework has been applied to proposed research projects, including the rationale for the apportionment of costs to industry.

In addition, DOC is funding the research that it believes will prove that commercial fishing is having an adverse effect on the black petrel. Without that link having been established, it is appropriate, in our view, for the Crown to fund this research (rather than the commercial fishing industry).

In line with our recommendations in 2002, DOC is providing assurance to the Minister of Fisheries that proposed projects are "conservation services" for the purposes of the Fisheries Act 1996.

Application of the cost recovery rules

DOC has commissioned work to improve the methodology for estimating risk to protected species populations from human activities. However, the New Zealand Seafood Industry Council Limited has concerns regarding the process used to develop this work, and its efficacy.

In our view, more work is required by DOC, in consultation with interested parties, before there can be a real improvement in the methodology for estimating risk to protected species populations from human activities.

In our view, DOC is now taking effective steps to implement a population management plan for the New Zealand sea lion.

DOC has attempted to improve procedures to resolve disputes about risk estimation and assessment of cost recovery, and is relying upon its consultation process to identify concerns at an early stage.

Consulting on the annual plan

In line with our recommendations in 2002, DOC invites interested parties to make written submissions on the Conservation Services Programme's draft annual plan and circulates those submissions before the consultation meeting. DOC also provides a timetable to convey which documents will be circulated and when this will occur.

Information on under- and over-recovery of costs

DOC and the Ministry of Fisheries have improved their exchange of information for the management of the Conservation Services Levy.

The Ministry of Fisheries is providing more detailed, accurate, and timely information on the delivery of observer days.

DOC and the Ministry of Fisheries have put in place procedures for providing the financial information necessary for the Minister to meet his statutory obligations under the Fisheries Act 1996.

Management of the observer programme

The Conservation Services Programme's *Annual Report 2003-04* provides information on the observer coverage for that year, including information on the days levied and the days actually used. This more transparent approach is in line with our recommendations in 2002.

DOC and the Ministry of Fisheries are working more closely together to ensure that the observer programme runs smoothly, and are taking steps to ensure that the number of agreed observer days take place.

A strategic plan for the Conservation Services Programme

DOC is preparing, in consultation with interested parties, a draft strategic plan for 2005-10. Most of the elements that we recommended be in a strategic plan have been included.

Accountability for the Conservation Services Programme

DOC has taken steps to improve the level of accountability for the Conservation Services Programme. For the first time, DOC is proposing to indicate, 5 years in advance, the nature and extent of its research intentions.

In our view, DOC could further improve accountability by accurately assessing and documenting the term of a project, so that the overall resource implications are known from the outset.

If multi-year projects occur, we expect DOC to report on the costs incurred and the progress made against the objectives.

Implementing the results of research

Some initiatives have been implemented to help commercial fishers to reduce the potential adverse effects of commercial fishing. We understand other initiatives are pending.

DOC is taking steps to ensure that its planning documents for the Conservation Services Programme support research findings being translated into improved fishing practices.

DOC is preparing a number of planning documents and a framework designed to guide and inform the priority projects for the Conservation Services Programme. These documents are being developed in consultation with interested parties.

It is too early to determine if these initiatives provide a more transparent process for considering whether research findings indicate a need for change in the direction and content of the Conservation Services Programme.

Part 1 – Introduction

Our previous inquiry

- 1.1 In 2002, we reported¹ on an inquiry that we undertook into the way the Department of Conservation (DOC) managed the Conservation Services Programme.
- 1.2 The Conservation Services Programme is a research programme within DOC's Marine Conservation Unit. The Programme's objectives are –
1. *To understand the nature and extent of adverse effects from commercial fishing activities on protected species in New Zealand fisheries waters.*
 2. *To develop effective solutions to mitigate adverse effects of commercial fishing on protected species in New Zealand fisheries waters.*²
- 1.3 Funding for some of the Conservation Services Programme is collected from the fishing industry via a levy (the Conservation Services Levy).
- 1.4 The inquiry resulted from a complaint from the New Zealand Seafood Industry Council Limited (SeaFIC). SeaFIC raised a number of issues about the Conservation Services Programme:
- the justification for funding research as a conservation service;
 - the application of cost recovery rules;
 - consultation on the annual plan;
 - information on the under- or over-recovery of costs;
 - management of the observer programme; and
 - strategic planning for the Conservation Services Programme.
- 1.5 Our inquiry identified 2 issues in addition to those raised by SeaFIC:
- accountability for the Conservation Services Programme; and
 - implementing the results of conservation services research.

How we conducted our follow-up audit

- 1.6 We followed up on the recommendations made in our 2002 report, to determine what progress has been made.

¹ Report of the Controller and Auditor-General (December 2002), *Department of Conservation: Administration of the Conservation Services Programme*, ISBN 0-478-18100-0.

² Section 1.4.4 of the Conservation Services Programme's draft *Strategic Plan 2005-10*.

- 1.7 We asked questions of DOC managers, staff of the Ministry of Fisheries, SeaFIC, the Royal Forest and Bird Protection Society of New Zealand, and commercial fishing companies. We reviewed documentation from DOC and the Ministry of Fisheries.
- 1.8 In the rest of this report, we discuss the recommendations made in 2002, the progress made in implementing those recommendations, and our conclusions.

Part 2 – Justification for funding research as a conservation service

Conservation services research projects and application of the cost recovery framework

- 2.1 In our 2002 report, we concluded that DOC should justify the relationship between a research project and the effect of commercial fishing on a protected species, and the levy associated with the research.
- 2.2 We also identified a need for DOC to demonstrate to stakeholders, in all cases, that the cost recovery framework had been applied to the proposed research projects, and that the rationale for the apportionment of costs to the industry was fully justified.

What progress has been made in implementing our recommendations?

- 2.3 DOC has introduced a method to identify proposed research projects in consultation with interested parties. DOC proposes research projects after:
- applying the policies (developed in consultation with interested parties) and the prioritisation methodology contained in the Conservation Services Programme's draft *Strategic Plan 2005-10*; and
 - analysing the relevant international literature.
- 2.4 The method developed by DOC has already been used to identify the species that ought to take priority in research projects. The priority species are listed in the Conservation Services Programme's draft strategic plan.
- 2.5 The Conservation Services Programme's draft *Research Plan 2005-10* further describes the framework for prioritising the research and classifies the proposed research projects into relevant groups.
- 2.6 The Conservation Services Programme's annual plan is intended to put into operation the prioritised research projects by selecting, according to the priority, the number of research projects to be undertaken for the year the annual plan covers. The Conservation Services Programme's *Annual Plan 2004-05* included a table of project costs (including costs to the fishing industry) and the applicable cost recovery rule.
- 2.7 DOC now has in place policies relating to:
- mandate and focus (to clarify the relevant legislative mandate and how DOC intends to apply it);
 - species prioritisation (the criteria that DOC applies when prioritising species for proposed research);

- policy guidance specific to each research group (to provide further information on how DOC intends to focus its research); and
 - cost recovery and administration (to clarify the meaning of the Fisheries (Cost Recovery) Rules 2001³ and how DOC will apply them).
- 2.8 DOC will amend future annual plans of the Conservation Services Programme, to ensure that a specific link is made between a research project and the effect of fishing on the species being researched.
- 2.9 DOC's work in this area remains contentious. SeaFIC believes that some of the policies are vague, and is concerned that DOC has not defined what constitutes a "public interest". The costs of conservation services in the "general public interest" cannot be recovered from the fishing industry.⁴
- 2.10 However, SeaFIC is optimistic that its concerns will be addressed, as there is goodwill between all parties.

Our conclusions

- 2.11 DOC has made progress in justifying the relationship between a research project and the effect of commercial fishing on the particular protected species, and the associated levy.
- 2.12 DOC has also made progress in demonstrating to stakeholders how the cost recovery framework has been applied to proposed research projects, including the rationale for the apportionment of costs to industry.
- 2.13 We expect DOC to continue to refine the work it has undertaken.

Commercial fishing's effect on the black petrel

- 2.14 In 2002, we found limited evidence to support DOC's belief that large numbers of black petrels were caught in long commercial fishing lines. We recommended that DOC reconsider the adequacy of its evidence.
- 2.15 We recommended that, if DOC continued to have that belief, it should justify its view by demonstrating:
- the current or potential adverse effect that commercial fishing has on the black petrel;
 - the extent of that effect; and
 - how the applicable research relates to that effect.

³ Statutory Regulation 2001/229.

⁴ Section 262(b) of the Fisheries Act 1996 states "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".

What progress has been made in implementing our recommendations?

- 2.16 DOC continues to believe that black petrels are vulnerable to commercial fishing. In order to demonstrate the nature and extent of the adverse effects of fishing on black petrels, DOC considers that it needs:
- demographic information of the black petrel population;
 - modelling of the demographic information;
 - foraging studies, to determine the overlap with fishing activities; and
 - information derived from observations.⁵
- 2.17 SeaFIC does not consider that black petrels are vulnerable to commercial fishing, and submitted during consultation for the Conservation Services Programme's 2004-05 annual plan that there were other human sources of mortality for the black petrel. DOC considered these submissions, and no longer recovers research costs from the fishing industry.
- 2.18 DOC is funding research on the black petrel during the 2004-05 year. If DOC is satisfied from the research that the black petrel is vulnerable to commercial fishing, then DOC believes that the fishing industry should pay for costs in proportion to the risk it poses to this species.

Our conclusions

- 2.19 DOC is funding the research it believes will prove that commercial fishing is having an adverse effect on the black petrel. Without that link having been established, it is appropriate, in our view, for the Crown to fund this research (rather than the commercial fishing industry).
- 2.20 If DOC decides to impose a levy for future research, we are confident that DOC's process for annual consultation with interested parties will ensure that any such decisions are subject to the appropriate scrutiny.

Explicit assurance for the Minister of Fisheries

- 2.21 In 2002, we noted that the Minister of Fisheries recommends the making of the levy order to recover the costs of both conservation and fisheries services, but has no direct role in determining whether a project is within the definition of "conservation services" for the purposes of the Fisheries Act 1996.
- 2.22 We recommended that the Minister of Fisheries receive explicit assurance from the Minister of Conservation that any conservation services projects that the

⁵ According to DOC, the small size of almost all the commercial fishing vessels using long lines and fishing in the outer Hauraki Gulf and along the shelf edge of the Bay of Plenty – the areas that DOC believes black petrels forage in New Zealand – complicates the placement of Ministry of Fisheries' observers.

fishing industry is levied for are “conservation services” as defined in section 2 of the Fisheries Act 1996.

What progress has been made in implementing our recommendation?

2.23 The Conservation Services Programme’s *Annual Plan 2004-05* includes a statement from the Minister of Conservation to the effect that the projects referred to in the annual plan are “conservation services” for the purposes of the Fisheries Act 1996.

2.24 A letter is also now sent from the Minister of Conservation to the Minister of Fisheries, which includes a statement to the same effect.

Our conclusion

2.25 DOC does provide assurance to the Minister of Fisheries that proposed projects are “conservation services” for the purposes of the Fisheries Act 1996.

Part 3 – Application of the cost recovery rules

Estimating risk to protected species

- 3.1 In our 2002 report, we explained that DOC used a method of risk estimation based on “event history”⁶ of mortality when assessing the risk posed by commercial fishing to the New Zealand sea lion.
- 3.2 The issue of risk, including risk estimation, is important because it influences how the Fisheries (Cost Recovery) Rules 2001 are applied. These rules prescribe the proportion of costs of conservation services and fisheries services to be recovered as levies, and how the costs are to be divided between those who must pay – for instance commercial fishers.
- 3.3 We considered DOC’s approach to be appropriate in the case of the New Zealand sea lion, but recommended that DOC consider improving its guidance on estimating risk to protected species populations from human activities.

What progress has been made in implementing our recommendation?

- 3.4 DOC has attempted to improve its guidance on the methods for estimating risk. DOC commissioned a consultancy firm to provide advice on this matter in the form of a short report. The consultant’s report found DOC’s preliminary risk assessment for the New Zealand sea lion to be robust (subject to 2 conditions).⁷
- 3.5 DOC intends to commission work that will apply this risk assessment approach to albatross populations and further test the methodology.
- 3.6 SeaFIC considers the consultant’s report to be more a theoretical overview of the difficulties in risk assessment methodologies. It believes that:
- the report fails to appropriately review the adequacy of risk assessment for the New Zealand sea lion;
 - the consultant appears to be unaware of work already undertaken to develop a model specific to the New Zealand sea lion population; and
 - the report has not been circulated as part of DOC’s consultation process.

⁶ Event history uses evidence of mortality caused by humans as the basis for estimating risk.

⁷ The 2 conditions were: (1) Deaths resulting from commercial fishing are of a similar demographic nature to deaths from total human interventions; and (2) most deaths from human interventions result from commercial fishing.

Our conclusion

- 3.7 In our view, more work is required by DOC, in consultation with interested parties, before there can be a real improvement in the methodology for estimating risk to seas lions, and other protected species populations, from human activities.

Population management plan for the New Zealand sea lion

- 3.8 In 2002, we found disagreement about the sources of risk to the New Zealand sea lion population. We recommended that DOC consider preparing a population management plan for sea lions. We also recommended that DOC consider introducing formal incentives to reduce the by-catch (accidentally catching sea lions in fishing lines or nets).

What progress has been made in implementing our recommendation?

- 3.9 The summary to the Conservation Services Programme's draft *Strategic Plan 2005-10* states that:

A population management plan for New Zealand sea lion will be developed to be approved in time to inform the 2005/06 fishing season.

- 3.10 The Minister of Conservation has agreed that a population management plan should be prepared for the 2005-06 fishing season. DOC has advised us that the population management plan will be prepared, alongside a species management plan that will examine non-fishing threats to the New Zealand sea lion (such as public interaction with the animals on the mainland, and natural diseases).
- 3.11 Four meetings and workshops, regarding the population and species management plans, were held between September and November 2004.
- 3.12 DOC has advised that the population management plan for the New Zealand sea lion may include recommendations regarding formal incentives to reduce the by-catch.

Our conclusion

- 3.13 In our view, DOC is now taking effective steps to implement a population management plan for the New Zealand sea lion.

Resolving disputes about risk estimation and cost recovery assessments

- 3.14 In 2002, we noted that there was an assumption in the cost recovery rules that risks to populations posed by commercial fishing can be estimated without undue uncertainty and therefore without dispute. In our view, this was not the case, as

the application of the cost recovery rules required some considerable technical discussion.

- 3.15 There was no mechanism for resolving disputes over population modelling. Population models are important, because they form the basis for the assumptions about how vulnerable a species is to commercial fishing.
- 3.16 We recommended that DOC consider improving the procedures to resolve disputes about risk estimation and assessment of cost recovery.

What progress has been made in implementing our recommendation?

- 3.17 DOC has, for the first time, drafted a strategic plan for the Conservation Services Programme, for the 5-year period 2005-10. The draft strategic plan includes:
- criteria and a framework to assist in determining priority projects for the Conservation Services Programme's annual plan; and
 - guidance for cost recovery and the administration of levied projects (including risk assessment).
- 3.18 Policies have been established to inform decision-making on species prioritisation, cost recovery, and the administration of policies (including risk assessment).
- 3.19 DOC hopes that the open process used to develop the draft strategic plan will allow the concerns of interested parties to be addressed early, thereby avoiding disagreement about the development of each annual plan and recovery of associated costs.
- 3.20 DOC also intends to address the ambiguity of some of the cost recovery rules through policies in the Conservation Services Programme's draft strategic plan.
- 3.21 The draft strategic plan does not refer to a discrete process for the resolution of disputes about risk estimation and assessment of cost recovery. We also note that the risk assessment information in the draft strategic plan refers to the consultant's report that SeaFIC has expressed concerns about.

Our conclusions

- 3.22 DOC has attempted to improve the procedures to resolve disputes about risk estimation and assessment of cost recovery.
- 3.23 In our view, the information in the draft strategic plan relating to estimating risk needs refinement, given SeaFIC's concerns with the consultant's report commissioned by DOC. The consultation process being used to develop the Conservation Services Programme's draft strategic plan should provide the means for this.

Part 4 – Consulting on the annual plan

Inviting written submissions on draft annual plans, and circulating those submissions

- 4.1 The Conservation Services Programme's draft annual plan sets out the proposed programme for the coming year. While we noted in our 2002 report that DOC was attempting to improve the timeliness of consultation on the draft plan, we recommended that DOC:
- invite parties to make written submissions on the draft annual plan, then circulate those submissions to all parties before the consultation meeting; and
 - continue to ensure that all parties were aware of the documents being circulated.

What progress has been made in implementing our recommendations?

- 4.2 DOC gave interested parties the opportunity to make written submissions on the draft 2004-05 annual plan for the Conservation Services Programme, and circulated these submissions before the consultation meeting. DOC has said that it will continue to do this.
- 4.3 A detailed draft timetable for development of the 2004-05 plan was provided to interested parties, including details of documents and other relevant information that was scheduled to be provided over the consultation period. The consultation period ran from the middle of January through to April 2004, increasing the likelihood that interested parties had the time and resources to participate meaningfully. (In previous years, consultation occurred over the Christmas and New Year period.)
- 4.4 Other parties confirmed that DOC has made progress on consultation, and had circulated submissions received from the various interested parties before the consultation meeting (including late submissions, as and when they were received).

Our conclusions

- 4.5 DOC has adequately addressed the recommendations in our 2002 report, by actively inviting written submissions on the Conservation Services Programme's draft annual plan, and circulating those submissions before the consultation meeting. A timetable informs interested parties of the documents to be circulated, and when this will happen. The interested parties seem reasonably satisfied with this approach.

Part 5 – Information on under- and over-recovery of costs

Providing the Ministry of Fisheries with timely expenditure information

- 5.1 In our 2002 report, we found timing difficulties arising from differences between fishing years, the Crown’s financial year, and the Minister’s timeframe for setting a levy order for the coming fishing year.
- 5.2 We recommended that DOC provide the Ministry of Fisheries with timely information on the Conservation Services Programme’s expenditure as soon as possible after the end of each financial year. In turn, the Ministry of Fisheries needed to give DOC timely information on services provided by the Ministry of Fisheries for relevant projects (such as observer days).

What progress has been made in implementing our recommendations?

- 5.3 Communication between DOC and the Ministry of Fisheries has improved. Both organisations have worked to significantly improve the flow of information relating to cost recovery, rather than focusing only upon year-end expenditure.
- 5.4 The Ministry of Fisheries believes that there has been considerable improvement in the cost recovery information provided by DOC, and that this is reflected in the Conservation Services Programme’s annual plan.
- 5.5 The Ministry of Fisheries reported a further improvement in the sharing of information between DOC and the Ministry of Fisheries. An “Expectation Letter”, dated 26 August 2004, records the framework for the working relationship between DOC and the Ministry of Fisheries in relation to setting the Conservation Services Levy.
- 5.6 The “Expectation Letter” includes timelines and flow charts that map the levy-setting process for the annual 1 October levy and the 1 April amendment levy (levies are reviewed and amended during the fishing year as more complete information becomes available). By recording the responsibilities of each organisation, the “Expectation Letter” should ensure that timely and appropriate information exchanges occur.
- 5.7 The Ministry of Fisheries and the seafood industry have established a set of operating policies to promote consistent and transparent management of under- and over-recoveries relating to previous financial years when setting a cost recovery levy.

- 5.8 DOC advised us that it is receiving from the Ministry of Fisheries more detailed, accurate, and timely information on the delivery of observer days.

Our conclusions

- 5.9 DOC and the Ministry of Fisheries have improved the process for exchanging information to manage the under- and over-recovery of costs associated with the Conservation Services Levy.
- 5.10 The Ministry of Fisheries is providing more detailed, accurate, and timely information on observer days.

Providing the Minister of Fisheries with information the Minister is required to consider

- 5.11 In 2002, we recommended that the Ministry of Fisheries ensure that it provides the Minister of Fisheries with information the Minister is required to consider under section 265 of the Fisheries Act 1996.

What progress has been made in implementing our recommendation?

- 5.12 The Ministry of Fisheries provided us with copies of its advice papers given to the Minister of Fisheries, for the Fisheries and Conservation Services Cost Recovery Levies for 2003-04 and 2004-05. These papers recommend the proposed cost recovery levies to be applied for the given year, and both papers refer to the mandatory obligation created by section 265 of the Fisheries Act 1996.⁸
- 5.13 During the annual audit of the Ministry of Fisheries for 2003-04, we confirmed that cost recovery levies were monitored, enabling future levy orders to be accurately adjusted for under- and over-recoveries from previous years. The audit also confirmed that the Ministry was now providing the Minister with information for his consideration when setting the levy order, and noted that communication between the Ministry of Fisheries and DOC was much improved.
- 5.14 In 2002, there was no method agreed with the industry for determining which expenditure or revenue variances were recoverable, although a working party had been set up to establish principles or rules for this purpose. The Ministry of Fisheries and the seafood industry have now agreed to a set of guiding principles for the recognition and analysis of cost recovery levies.

⁸ When recommending a new levy order, the Minister of Fisheries is required to have regard to the under- or over-recovery of costs of any conservation services and/or fisheries services incurred by the Crown in a previous financial year that the Minister of Fisheries has not previously had regard to.

- 5.15 A submission by SeaFIC on the proposed levies for the 2003-04 fishing year acknowledged the success of the joint under- and over-recovery working group in establishing agreed principles for integrating recovery results into levy orders.

Our conclusion

- 5.16 DOC and the Ministry of Fisheries have put in place procedures for providing the financial information necessary for the Minister to meet his statutory obligations under the Fisheries Act 1996.

Part 6 – Management of the observer programme

Observer days: Availability of information and using the days levied

- 6.1 The Ministry of Fisheries' observer programme provides important information for the Conservation Services Programme. DOC arranges with the Ministry of Fisheries for observers to be placed on fishing vessels for a specified number of days to collect certain information. The Ministry invoices DOC for the days on which observers are placed on fishing vessels.
- 6.2 In our 2002 report, we recommended that DOC make available to interested parties the information on observer days (the days for which the commercial fishing industry is levied, and the days actually used). We also recommended that DOC work with the Ministry of Fisheries and the fishing industry to ensure that all observer days levied actually take place.

What progress has been made in implementing our recommendations?

- 6.3 The Conservation Services Programme's *Annual Report 2003-04* provides information on the observer coverage for that year, including the days levied and the days actually used.
- 6.4 The Ministry of Fisheries' Observer Services team was unable to provide all the observer days requested by the Conservation Services Programme and other clients. There were 20% fewer observer sea days than specified in the *Annual Plan 2003-04*. However, an interim stakeholder committee (including DOC) was established to manage the allocation of observer days. This committee agreed to an adjustment during the year, and this resulted in the reduction.
- 6.5 DOC told us that:
- its advisory officers liaised closely with snapper fishers to facilitate access by observers during the 2003-04 summer season; and
 - it is preparing a report, summarising findings from the observer programme during the 2003-04 fishing year (October to September).
- 6.6 SeaFIC has stated to us that, while some problems remain, DOC is engaging more closely with the Ministry of Fisheries on the allocation of observer days, and they share costs if one observer can undertake both DOC's and the Ministry's tasks on one day.
- 6.7 The Ministry of Fisheries has undertaken an extensive review of the observer programme in order to improve its performance. One of the resulting projects is the Observer Co-operation Group. The aim of this group is to facilitate placing

observers on fishing vessels and resolve operational issues that can prevent planned observer days from occurring.

Our conclusions

- 6.8 The Conservation Services Programme's *Annual Report 2003-04* provides information on the observer coverage for that year, including information on days levied and days used.
- 6.9 DOC is working more closely with the Ministry of Fisheries to ensure that the observer programme runs smoothly.
- 6.10 The Ministry of Fisheries has undertaken a recent review of the observer programme. One of the expected outcomes of this review is that agreed observer coverage will be achieved.

Part 7 – A strategic plan for the Conservation Services Programme

Preparing a strategic plan for the Conservation Services Programme

7.1 In our 2002 report, we concluded that, as a matter of best practice for management of the research programme, the Conservation Services Programme be planned, costed, and carried out within the context of a strategic plan.

What progress has been made in implementing our recommendation?

7.2 In preparing the Conservation Services Programme's *Annual Plan 2004-05*, DOC relied upon an Interim Strategic Statement. This statement provided a framework for the policy direction of the Conservation Services Programme for that year.

7.3 DOC, in consultation with interested parties, is drafting a strategic plan for the Conservation Services Programme for the period 2005-10. Once finalised, the strategic plan and the 5-year research plan will underpin development of the Conservation Services Programme's annual plans that fall within the same 5-year period.

7.4 In line with our recommendations in 2002, the draft strategic plan makes progress on:

- the current and potential sources of adverse effects of commercial fishing on protected species;
- a priority order of the protected species most at risk from the adverse effects;
- a priority order for the development of research; and
- clear criteria for including other protected species in projects.

7.5 DOC provided us with a revised version of the monitoring section within the draft strategic plan. The revision describes how the Conservation Services Programme could be monitored and evaluated.

7.6 The draft strategic plan does not specifically provide information on consultation and its timing. It does provide information on the steps that will be followed to prepare the annual plan.

7.7 In 2002, we recommended that the strategic plan include indicative budgets. This information does not appear in the Conservation Services Programme's draft strategic plan, but indicative costs are included in the draft research plan.

Our conclusions

- 7.8 DOC has prepared a draft strategic plan for the Conservation Services Programme for 2005-10, in consultation with interested parties. The draft strategic plan includes most, but not all, of the factors that we recommended be included.

Part 8 – Accountability for the Conservation Services Programme

Including more information in the annual plan

- 8.1 In our 2002 report, we identified a need for greater accountability and reporting of money spent and progress achieved on the Conservation Services Programme.
- 8.2 We recommended that the Conservation Services Programme's annual plan include more information on research budgets, timetables, and progress against research objectives – especially for multi-year projects.

What progress has been made in implementing our recommendations?

- 8.3 The Conservation Services Programme's *Annual Plan 2004-05* included information on:
- a project description, including objectives, term, rationale, and proposed output;
 - the total net cost of each project;
 - separately reported research⁹ and administration costs; and
 - separately reported industry cost and Crown cost (including information on the applicable fisheries cost recovery rule and fish stocks being levied).
- 8.4 The Conservation Services Programme's draft *Research Plan 2005-10* provides a 5-year preview of research projects that DOC is proposing. This plan includes:
- name of the project;
 - the project's priority, objectives, and intended year that it will be undertaken;
 - species or fisheries affected; and
 - indicative cost.
- 8.5 The progress of a project against research objectives is not addressed in the draft research plan. However, we note that the Conservation Services Programme's *Annual Report 2003-04* provides, to some extent, an update on progress against objectives of the projects referred to in the Programme's *Annual Plan 2003-04*.

⁹ Some of the research costs were estimated ranges.

- 8.6 The *Annual Plan 2004-05* states that a project's duration is usually limited to one year, although some mitigation projects have a 2-year period. It also states that, with the exception of population studies on New Zealand sea lions, all multi-year contractual obligations will be concluded on 30 June 2004. This will allow the Conservation Services Programme's strategic plan to guide the 5-year research plan and resulting annual plans, without the constraints of established contractual obligations.
- 8.7 This suggests there may be no, or considerably fewer, multi-year projects in the immediate future. If so, this will help to address the perceived lack of progress in reporting against objectives for multi-year projects.
- 8.8 In the *Annual Plan 2004-05*, some projects include the comment "to be reviewed annually". The total cost of these "rolled-over" projects is not always clear. However, implementation of the 5-year strategic plan and the 5-year research plan should enhance future accountability. They are based on the policy objective that all research projects have clear end points, and that indicative overall costs for proposed projects are provided.

Our conclusions

- 8.9 DOC has taken steps to improve the level of accountability for the Conservation Services Programme. DOC is proposing to indicate the nature and extent of its research intentions 5 years in advance.
- 8.10 In our view, DOC could further improve accountability by accurately assessing and documenting the term of a project, so that overall resource implications are known from the outset.
- 8.11 If multi-year projects do occur, it is still our view that, as research progresses, it is reasonable to expect reporting on the costs to date and progress against the objectives.

Part 9 – Implementing the results of research

Translating research into improved fishing practices

- 9.1 At the time of our 2002 report, 115 reports had been published arising from research work through the Conservation Services Programme. These reports constitute a valuable research effort.
- 9.2 We noted that it was not always clear how effectively the research findings were translated into improved fishing practices that could reduce the adverse effects of commercial fishing.
- 9.3 We recommended that DOC work with the Ministry of Fisheries to take a more active role in ensuring that research findings are translated into improved fishing practices.

What progress has been made in implementing our recommendation?

- 9.4 The Conservation Services Programme's draft *Strategic Plan 2005-10* includes the following policy objective –
- The Conservation Services Programme will ensure that the outputs of funded projects are communicated effectively to the appropriate audience in a timely manner, either as part of the project or through collective reporting mechanisms.*
- 9.5 The draft strategic plan refers to 3 functions that are served by this policy objective:
- accountability, by demonstrating that purchased services have been delivered;
 - providing a greater level of understanding of interactions, species, and mitigation techniques; and
 - facilitating techniques to mitigate the adverse effects of commercial fishing.
- 9.6 DOC acknowledges in the Conservation Services Programme's draft *Research Plan 2005-10* that there has been insufficient reporting of the results of the Programme's funded work to fishers in New Zealand. To address this deficiency, DOC has planned a project to provide workshops in fishing ports.
- 9.7 The objectives of the workshops are to:
- provide feedback to fishers on mitigation advancements;
 - provide feedback on protected species by-catch results;
 - learn what fishers are doing with respect to mitigation techniques; and
 - allow the Conservation Services Programme to learn from fishers.

- 9.8 DOC states in the draft research plan that this will, in turn, build trust and respect between fishers and the Conservation Services Programme, enabling progress to be made towards mitigation and a reduction in the by-catch of protected species.
- 9.9 In addition, DOC has taken the following steps to increase the translation of research findings into improved fishing practices:
- appointed fisheries advisory officers to provide advice directly to skippers and crews of fishing vessels;¹⁰
 - increased the funding of projects developing or testing the implementation of mitigation techniques;
 - increased the priority of projects for writing up existing data by employing a scientist; and
 - provided support to Southern Seabird Solutions.¹¹
- 9.10 SeaFIC believes that considerable progress had been made in relation to acting upon the research findings of the seabird autopsy reports. Results of these reports, in conjunction with the reports of observers, are now being used to help inform priorities for fisheries and fishing methods. This requires:
- further observer coverage, aimed at establishing the timing and causes of seabird interaction, and mitigation methods;¹²
 - developing mitigation methods; and
 - educating fishers.
- 9.11 We note from the draft *Strategic Plan 2005-10* that one of the policy objectives guiding the Conservation Services Programme's research states –
- High priority will be given to projects that contribute to the research, development and communication of effective mitigation methods/approaches.*

Our conclusions

- 9.12 Initiatives have been implemented to help commercial fishers to reduce the potential adverse effects of commercial fishing. We understand other initiatives are pending, and would expect these to include ongoing concentration on the fishing vessels responsible for most of the seabird mortality.
- 9.13 DOC is taking steps to ensure that its planning documents for the Conservation Services Programme support research findings being translated into improved

¹⁰ The *Annual Report 2003-04* notes that advisory officers were funded to assist ling, tuna and snapper fishers to avoid accidentally catching seabirds.

¹¹ Southern Seabird Solutions is an incorporated trust, working with environmental groups, fishing companies, and governments to create co-operative approaches to reduce the number of fishing-related seabird deaths throughout the southern hemisphere.

¹² DOC advised that planned observer coverage includes focusing upon the vessel types that have a known history of "problems", with the aim of determining the practices that are causing the harm.

fishing practices. This has the potential to provide an improved setting for more activity in this area in the future.

Transparency in considering if research results should change the direction and content of the Conservation Services Programme

9.14 In 2002, we recommended that DOC establish a more transparent process for considering whether research findings indicate any need for changes in the direction and content of the Conservation Services Programme.

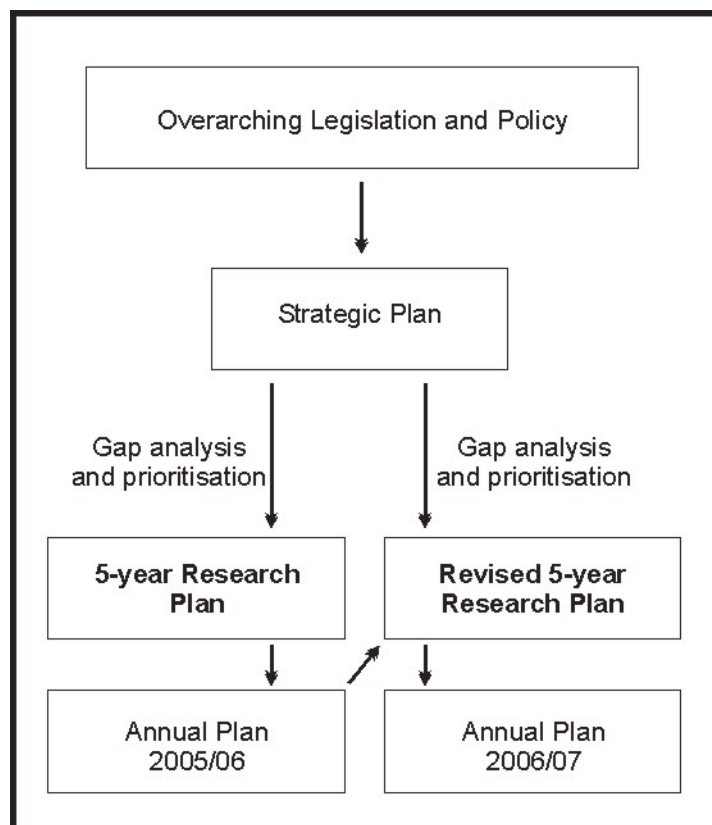
What progress has been made in implementing our recommendation?

9.15 DOC is drafting a number of planning documents and a framework to determine the priority projects for the Conservation Services Programme. These documents are being prepared in consultation with interested parties.

9.16 The planning documents include a 5-year strategic plan, a 5-year research plan, and an annual plan.

9.17 The relationship between the documents is described in Figure 1 below.

*Figure 1
Relationship between the Conservation Services Programme's strategic plan, research plan, and annual plan*



- 9.18 The strategic plan is explained through the research plan. The research plan then provides specific guidance for each annual plan. While the research plan takes a 5-year forward view, it will be updated annually. DOC's intention is that this will allow subsequent consultation on annual plans to focus on project details, rather than broader strategic issues.
- 9.19 The process described above is supported by a number of policy objectives, and is the means for prioritising research projects. DOC intends that this will establish a more transparent framework for prioritising research projects for each annual plan.
- 9.20 The Royal Forest and Bird Protection Society of New Zealand expressed support for the work DOC has undertaken. It believes there had been an improvement in DOC's reporting on research, reviewing the results of projects, and involving stakeholders. The Society welcomed the overall direction and openness demonstrated by DOC – for instance, the system for prioritising, and the 5-year plan that indicates the future research direction and scale of projects. The Society noted that it would be making submissions on these matters.
- 9.21 One fishing company commented that the draft *Strategic Plan 2005-10* contains a significant body of work that reviews the direction and content of the Conservation Services Programme. The company believes that the ability to review annually the information needs and priorities of the research will be a significant improvement.
- 9.22 However, the company also expressed concern that some research projects are continuing to appear in annual plans even though commercial fishers may no longer have an adverse effect on a protected species.
- 9.23 SeaFIC expressed a similar view. Its concern was that long-term projects have not been examined to determine whether they need modification or termination, or whether their overall purpose had been achieved.
- 9.24 DOC advises that it is taking steps to address these concerns. For example, in the past, long-term projects may not have had clearly defined objectives; nor have they always been reviewed in relation to those objectives. In relation to the observer programme (one of the major long-term projects), DOC advises that it has commissioned work that will review past observer data with the intention of optimising observer placement in the future.

Our conclusions

- 9.25 DOC is preparing a number of planning documents, and a framework designed to guide and inform the priority projects, for the Conservation Services Programme. These documents are being developed in consultation with interested parties.
- 9.26 It is too early to determine if these initiatives will provide a more transparent process for considering whether research findings indicate a need for change in the direction and content of the Conservation Services Programme.

Appendix

Our 2002 inquiry recommendations

Justification for funding research as a conservation service: Research into the black petrel

We recommend that:

- DOC provides clear justification of the relationship between a research project and the effect of commercial fishing on the particular protected species, and the levy associated with the research.

In the case of the black petrel research project, we recommend that:

- DOC reconsiders the adequacy of the evidence as to whether commercial fishing has an adverse effect on the black petrel population.
- Should DOC remain of the view that commercial fishing has an adverse effect on the black petrel population, it justifies that view by demonstrating:
 - the current or potential adverse effect that commercial fishing has on the black petrel population;
 - the extent of that effect; and
 - how the research relates to that current or potential adverse effect, or concerns measures to mitigate that effect.

In order to reduce the risk of challenge to the validity of the levy Order in relation to any particular conservation service, the Minister of Fisheries should receive explicit assurance from the Minister of Conservation that any conservation services project for which the fishing industry is levied is a “conservation service” as defined in the Fisheries Act.

Application of the cost recovery rules: Research into the New Zealand sea lion

While we found that, in this case, DOC had applied the rules appropriately, DOC should demonstrate to stakeholders in all cases that the cost recovery framework has been applied, and the rationale for the apportionment of costs to the industry is fully justified.

DOC should consider:

- improving the methodology for estimating risk to protected species populations from human activities;
- preparing an approved population management plan for the New Zealand sea lion under the Marine Mammals Protection Act 1978;
- assessing the desirability of formal incentives to reduce the by-catch; and
- improving the procedures to resolve disputes about risk estimation and assessment of cost recovery.

Consulting on the conservation services plan

We recommend that:

- DOC invites parties to make written submissions on the draft plan, then circulates those submissions to all parties before the consultation meeting.
- DOC continues to ensure that all parties are aware of the documents being circulated.

Information on over- and under- recovery of costs

We recommend that:

- DOC provides the Ministry with timely information on the Programme's expenditure as soon as possible after the end of each financial year. In turn, the Ministry needs to give DOC timely information on services provided by the Ministry for relevant projects (such as observer days).
- The Ministry ensures that in future it provides the Minister of Fisheries with the information the Minister is required to consider under section 265 of the Fisheries Act.

Management of the Observer Programme

We recommend that DOC:

- makes the reconciled information on observer days available to interested parties;
- works with the Ministry of Fisheries and the fishing industry to ensure that all observer days levied take place.

A strategic plan for the Conservation Services Programme

We recommend that DOC prepares a strategic plan for the Conservation Services Programme that includes the elements set out in paragraph 8.6.

Accountability for the Conservation Services Programme

We recommend that DOC includes in the approved Conservation Services Plan more information about the research budgets, timetables, and progress against research objectives – especially for multi-year projects.

Implementing the results of conservation services research

We recommend that DOC, working with the Ministry, takes a more active and timely role in ensuring that research findings are translated, where appropriate, into improved fishing practices.

We recommend that DOC establishes a more transparent process for considering whether research findings indicate any need for changes in the direction and content of the Conservation Services Programme.