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Vote Fisheries

4-year Budget plan including

Addendum – Maori Aquaculture Settlement – Crown’s Obligation

01 December 2010 Original Submission

09 February 2011 Addendum

Submitted by:

[the Ministry of Fisheries]

Section 1: New Baseline and Summary of Changes

Direction of Change

Fisheries contribute directly to the Government's goal of growing New Zealand's economy through greater efficiencies and by realising greater benefit from the seafood New Zealand farms and catches.

The Ministry of Fisheries (the Ministry) acts as the government's principal adviser on New Zealand's fisheries management and on matters related to the aquatic environment, including issues that may impact on the continued viability of fisheries or other marine resources.

Fisheries 2030 was approved by Cabinet and published in September 2009. Fisheries 2030 sets out a clear pathway for the fisheries sector and identifies a number of actions needed to achieve the goal of: *New Zealanders maximising the benefits from the use of fisheries resources within environmental limits.*

Meeting the actions and priorities set out in Fisheries 2030 and the Government's priorities for the fisheries sector is the driver of how the Ministry is organised and how it delivers its services. Fisheries 2030 informs how resources are allocated within the Ministry, what projects will be progressed and what priority various actions will receive.

The Ministry has undergone significant change as a result of having undertaken a number of internal reviews of services to provide the organisation with the required focus and resources to deliver on Government priorities and Fisheries 2030 to reduce cost and improve performance.

Overall Impact

For the next 4-5 years, the Ministry has a clear focus and direction. Fisheries 2030 will continue to provide the Ministry with its direction and focus.

The Ministry is currently structured and funded to deliver on Government priorities including Aquaculture reform and partly funded to deliver the full range of aquaculture implementation initiatives arising from the reforms (the Aquaculture Unit and the proposed Aquaculture Development fund).

The Ministry recently signalled to Government (Cab Min 10 24/10) that further work in the Aquaculture area was required in order to meet government priority at a cost ranging from \$1-1.5m per annum over the next 5 years. The funding sought reflects the work programme set out in the aquaculture strategy and action plan that will be considered by Cabinet following the enactment of the Aquaculture Amendment Bill.

Cabinet agreed to fund this work and that the additional funding would be managed by the Ministry's newly developed Aquaculture Business Unit.

The Ministry is not seeking new funding from Government as part of Budget 2011 but is signalling that it will fund the full aquaculture implementation work through reprioritisations including the proposed aquaculture development fund, for at least 3 years, when these initiatives will be evaluated for effectiveness.

In addition, the Ministry will self fund cost pressures such as wage round increases and Information Services Strategic Plan implementation from within its baselines. The Ministry is also not seeking any new capital requirements.

Section 2: Vote Priorities and Pressures

Priorities for the Vote

The Ministry's priorities over the next 4 years will continue to be focused on achieving Government's priorities and includes the following:

- Aquaculture
 - Aquaculture Reform – The Ministry will deliver on the Aquaculture reform project by June 2011 that provides for the development of a package of legislative and other reforms designed to reduce costs, delays and uncertainty, promote investment and enable integrated decision-making.
 - Aquaculture Strategy and Unit - In July 2010, the Aquaculture Unit was established in the Ministry to be the government's principal adviser on aquaculture and to develop a national aquaculture strategy and action plan for Aquaculture.
 - Aquaculture settlement – the Crown is committed to meeting the settlement obligations for new aquaculture space, and has commenced work with iwi leaders to identify improved delivery mechanisms with the new reforms.
 - Marine and Coastal Area (Takutai Moana) Bill – The Ministry will develop the fisheries component of the Marine and Coastal Area (Takutai Moana) Bill negotiations. There are four significant negotiations awaiting passage of the Marine and Coastal Area (Takutai Moana) Bill excluding Ngati Porou, of which 3 (Te Whanau-a-Apanui, Te Rarawa & Ngati Porou k Hauraki) have significant fisheries issues.
- Increase in Compliance resources – the Ministry intends to increase its resources as stated in its 2010/15 Statement of Intent as follows:
 - Fishery Officers – Uniformed Officers from 100 to 104; warranted from 156 to 160 by June 2012 and Honorary Fishery Officer Network – from 200 to 250 by June 2012.
- Inform & Assist – the Ministry will continue to embed the “inform & assist” model of compliance that improves the decision making of frontline staff about the best options for intervention and to inform and assist all fishing sectors about compliance issues and what they need to do to comply with Fisheries regulations.
- Pacific Island Country Development – The Ministry will continue to lead and support engagement with Pacific countries on fisheries issues as part of its International obligations. The work will promote the sustainable use of the

valuable shared fisheries resources of the Pacific regions as a key contributor to economic growth and development.

- Deepwater Research - Fisheries 2030 recognises the importance of research and stock assessment in the effective management of fisheries as well as the need for research services to be delivered efficiently. The 10-year Research Programme implements part of the Research Services Strategy and aims to produce comprehensive, robust and consistent time series information that can be used to manage New Zealand's deepwater fisheries sustainably and in a more cost-efficient and effective manner. The contract and procurement phase of the 10 year plan is currently underway. The Ministry expects to start formalising long-term research contracts from December 2010 onwards.

In addition, the Ministry will also focus its priorities to deliver on Fisheries 2030 ensuring it achieves efficiency and effectiveness with the following:

- Fisheries Plans - The Ministry will continue to develop a planned approach to the long-term management of fisheries and environmental impacts based around agreed objectives and develop and implement Fisheries Plans for:
 - Deepwater Fisheries - The Minister of Fisheries and Aquaculture recently approved the release of a draft National Fisheries Plan for Deepwater and Middle-depth Fisheries (National Deepwater Plan). The plan sets out the management approach across all deep water species including Orange Roughy, Hoki and Squid for the next 5 years.
 - Highly Migratory Species - The Minister of Fisheries and Aquaculture recently approved the National Fisheries Plan for Highly Migratory Species. The Plan includes larger pelagic species such as southern bluefin tuna and bigeye tuna, gamefish, and pelagic sharks, as well as skipjack and albacore tuna.
 - Inshore Fisheries – The Ministry will develop and implement the plans to manage across all inshore water species covering inshore finfish, shellfish and freshwater fisheries. Draft plans have been presented to the Minister of Fisheries and Aquaculture for discussion.
 - Forum/Iwi plans and Obligations to Māori - The Ministry will also develop and implement Forum Fisheries plans that address Iwi requirements and support the development and implementation of the “Treaty Strategy” that provides a framework for the Crown and tangata whenua to work together to provide for the sustainable use of fisheries, with the Crown meeting the range of fisheries obligations it has to Māori.
- Maintenance of the Quota Management System – the Ministry will continue to deliver a range of core business services in an effective and efficient manner and will focus, as an example, on the following activities:
 - Inshore Research – continue undertaking sound evidence-based research into a number of inshore fish species to enable the Ministry to manage the fishery in an effective and efficient manner.

- Develop and implementation of standards - The Ministry is responsible for managing environmental impacts under the Fisheries Act 1996. The Ministry is working to achieve this through the development of standards that will set the expected level of environmental performance for fisheries and the management measures that will be required to meet the standard.
- Research to Improve Amateur Catch Estimation - A Government priority and a strategic action under Fisheries 2030 is to carry out research into amateur fishing, assessing catch levels and areas of greatest importance and value to amateur fishers. The *Research to Improve Amateur Catch Estimation* project is underway to deliver this information. The project has two separate but inter-related parts:
 - Amateur catch estimation - This work is designed to gather information on amateur fishing across the country to give a broader picture of amateur catch and fishing activity. A large-scale multi-species survey of New Zealanders will be done in the summer of 2011/12.
 - Charter boat reporting and research - A project to implement amateur charter vessel registration and reporting is well underway and will come into effect in late 2010.

Pressures Facing the Vote

The Ministry reduced its baseline through the Line-by-Line review undertaken in 2008/09. \$6.057 million was returned to the Crown equating to 5.8% of the Vote (based on the 2009/10 appropriation at the March Baseline Update) of which \$1.7 million was cost recovered.

Over the past 2 years, significant organisational change has occurred to ensure that the Ministry is clearly focused to deliver on Fisheries 2030 and Government priorities.

The key cost to the Ministry each year is the cost of personnel. Whilst FTE numbers have decreased as a result of organisational reviews, the Ministry must fund its personnel cost and subsequent increases in this cost category. An agreed increase of 2.5% in 2010/11 and a further 2.5% for the 2011/12 equates to increased cost of approximately \$0.96 million (equivalent to about 10 full time equivalent positions) in 2011/12 and subsequent annual increases of at least \$0.99 million for the next 2 years. These cost increases will be self funded requiring on-going efficiency and effectiveness savings.

Other pressures include:

- The delivery of the Information Services Strategic Plan (ISSP) – the Ministry is a “Rich” information user and the ISSP is a three-year programme aligned to Fisheries 2030 that will simplify and enhance the quality and usability of the significant annual flow of fisheries and scientific data. The pressures are centred around the costs to deliver the programme and the technical solutions that are proposed. Costs will be incurred in both operational and capital areas.

- Funding requirements for Aquaculture reforms – as outlined earlier.
- Continue to deliver against a full work programme with fewer resources. The Organisation Design Review undertaken in 2009 and subsequent reviews (Obligations to Maori and Organisation Services review) made large scale changes in a number of areas that were necessary to position the organisation to deliver Fisheries 2030 (these changes are outlined in detail in section 1 of this proposal). The Ministry will need to carefully manage its resources to meet priority demands.

Drivers of Costs

85% of the Ministry's appropriation is consumed by a combination of personnel and contracted services costs. Contracted services cover the large science research programme that the Ministry undertakes annually as well as the FishServe contract; a contract with Commercial Fisheries Services Ltd for the delivery of registry services as required under the Fisheries Act 1996.

The main driver of costs for the Vote therefore are; the number of staff and salary level, and the quantity and value of research contracts:

- People – a large proportion of its staff providing enforcement and compliance services. As of 30 June 2010, the Ministry had a funded establishment of 460 people and employed 437 staff.
- Research – Good fisheries management is informed and underpinned by sound and robust scientific research and assessment of the health and abundance of both fishstocks and the environment that supports them. Fisheries 2030 recognises the importance of research and stock assessment in the effective management of fisheries as well as the need for these research services to be delivered efficiently so we get as much research as possible for every dollar spent. Fisheries Plans will set priorities for required research into particular areas or fisheries. This information will feed back into making effective management decisions to ensure long-term sustainability. Objectives and strategic actions under Fisheries 2030 are in place to continue improving the level of information we have on our fisheries and marine environment while gaining greater efficiency and value for money.
- Registry Services – the Ministry has a contract with FishServe for the delivery of registry services at a value of \$4.5 million per year. Accurate and timely registry information (including permit holder register, vessel registers, quota and ACE ownership, and catch data) is collected under the contract to support sustainability and utilisation decisions within each fishery. The Ministry is required to ensure contracted or devolved registry services are delivered in a manner consistent with the standards and specifications for those services. These services also include the administration and registry services aspects of the introduction of new species into the Quota Management System.

Other drivers of costs include:

- Infrastructure costs (total costs of \$11.2 m). These costs represent the base or foundation that supports the Ministry and includes:
 - Property – the Ministry provides national services with offices located in a number of locations throughout New Zealand.
 - Vehicles and vessels – these are used by the compliance and enforcement teams to patrol the New Zealand coast line.
 - Systems – the Ministry has a number of information’s systems that support the gathering and reporting of operational, Finance and HR information.

Cost Recovery

The Ministry is fully funded to cover all of its activities. A portion of the costs of these activities is recovered through the cost recovery provisions of the Fisheries Act 1996, by way of cost recovery levies

The costs of fisheries and conservation services to be recovered through levies for the 2010/11 financial year amounts to \$32.431 million (GST exclusive) or about 30% of the Ministry’s appropriations.

The services that are being cost recovered during the 2010/11 year are as follows:

- Registry Services, 100% cost recovered (\$5.092 million)
- Commercial Compliance, 100% cost recovered (\$10.008 million)
- Observer services, 100% cost recovered (\$3.133 million)
- Research Services, 58% cost recovered (\$14.291 million).

Measures

In addition to increased governance and performance management initiatives, the Ministry has identified the following measures that will ensure that costs are being considered and addressed regularly:

- Research Services Strategy - This Ministry-led collaborative review with industry focused on the planning, prioritisation and procurement of fisheries science research. More effective and less frequent engagement in the planning phase will reduce the cost to the Ministry and stakeholders in planning of research. Simplified project milestones and administration will also enable more research to be undertaken from the available funding, providing the commercial levy payers with better value for their contributions and more research results for fisheries management.
- 10-year - Research Plan - The 10-year Research Programme implements part of the Research Services Strategy and aims to produce comprehensive, robust and consistent time series of information that can be used to manage New Zealand’s deepwater fisheries sustainably and in a more cost-efficient and effective manner.

- Procurement Strategy – A procurement strategy was developed during the 2009/10 year that will implement long-term procurement arrangements with key suppliers across major categories of expenditure. For example, in addition to the Ministry for Economic Development's (MED) procurement initiatives, the Ministry has one preferred travel company, preferred legal providers and is currently evaluating proposals for preferred science research providers.
- Information Services Strategic Plan - The Ministry's new Information Services Strategic Plan (ISSP) that identifies opportunities for improved performance was approved in March 2010. The ISSP describes the current and future ICT state for the Ministry and details a 3 year work programme.

Risks

The following high level risks have been identified:

Effective and efficient delivery of services – the Ministry has a fully committed work programme to be undertaken in the next 4 years to deliver against Fisheries 2030 and in particular Aquaculture. There is a risk that the resources required to complete Fisheries 2030 and Aquaculture implementation are under estimated and the Ministry needs to ensure that it continues to govern and monitor progress against its deliverables using sound project and control management techniques.

Confidence and compliance – underlying confidence and compliance obligations with the Quota Management System. The management of New Zealand commercial fisheries is based on individual transferable quota and Government decision making around allowable catches. Maintenance of the integrity of the QMS and the activities of fisheries is critical to the ongoing functioning of the current management model. This includes significant reporting obligations on commercial fishers for landings, rights for fishing (Annual catch entitlements) and catch and effort reporting. Monitoring of activity by recreational, customary and commercial fishers underpins the management system and significant resources are deployed to monitor performance, legal and illegal activities. Research into stock sustainability is essential to enable allowable catch decisions to be made periodically to ensure catch limits are enabling utilisation while maintaining longer term sustainability.

Section 3: Proposed Changes for Budget 2011 (Reprioritisation)

Cost Pressures

Specifically, the Ministry has identified the following cost pressures that require a combination of self funding solutions which are outlined in table 1 and discussed in more detailed as follows:

- Aquaculture reform – In August 2009 Cabinet endorsed a shared direction and strategy to improve the environmental and economic performance of the fisheries sector through Fisheries 2030. A key focus of Fisheries 2030 is support for aquaculture development. As outlined earlier, the Ministry is the lead agency and the project is designed to develop a package of reforms that aim to:

- reduce costs, delays and uncertainty in relation to the aquaculture regulatory process
- promote investment in aquaculture development
- enable integrated decision-making.

In last year's Baseline Alignment Proposal, a transfer of \$0.7 million from 2009/10 to fund the operation of the Ministry's Aquaculture Unit and the development of the Aquaculture strategy and action plan was provided for 2010/11 only. The Ministry identified additional funding requirements of \$0.5 million for 2011/12, \$0.6 million for 2012/13, \$0.773 million for 2013/14 and \$1.4 million for 2014/15 and out-years. This funding is still required but will be self funded through various reprioritisation processes.

- Aquaculture development fund – the fund is designed to cover for the work associated with the amendment of Regional Coastal Plans for the purpose of managing aquaculture development. Preliminary estimates for the 5 year work programme indicated to Cabinet (CAB MIN (10) 24/10 refers) suggested a funding requirement of \$1-1.5 million annually. The Ministry has now identified costs for the next 4 years of \$1.25 million in 2011/12, \$1.25 million in 2012/13, \$1.25 million in 2013/14 and \$0.750 million in 2014/15. This funding is being sought as part of this process by transferring anticipated savings achieved through reprioritisation achieved in 2010/11, with the remainder being funded through reprioritisation in future years.
- ISSP - the ISSP is a three-year programme aligned to Fisheries 2030 that will simplify and enhance the quality and usability of the significant annual flow of fisheries and scientific data. The Ministry has identified implementation costs of \$1 million in 2011/12 and \$0.8 million in 2012/13 to fully implement the proposed ISSP programme. The operating costs for 2010/11 of \$1 million have already been self funded through reprioritisation effort.
- Salary movements – In June 2010, the Chief Executive decided to apply a 1% adjustment to the salary scales effective 01 July 2010 and a minimum of 1% effective from July 2011. 1.5% was further budgeted for performance and development increments in 2010/11 and the same is expected for 2011/12.

Savings Options

Whilst the Ministry has identified a number of cost pressures (as noted above), a range of saving options have been identified that will contribute significantly to meeting these cost pressures. These are outlined as follows:

- Reduction of FTE – the Ministry reported to the States Services Commission that is anticipating to reduce FTE's from 460 (30 June 2010) to 450 (30 June 2011) to 437 (30 June 2012). The savings in personnel costs arising from this reduction are in the vicinity of \$0.7 million to \$1.0 million per annum.

- Organisation Services Review (OSR) savings – the OSR resulted in a decision to re align Corporate Services providing HR, Finance, Legal, and Information Technology services to front line activities. This has been implemented effective 01 October 2010. The savings arising from this initiative are approximately \$1.25 million per annum. Additional savings from 2013/14 onwards are expected from wider Government initiatives from BASS and shared services offerings (at least a 5% gain or \$0.75 million is expected in this area) that will be used to offset future cost pressures.
- ISSP savings achieved through reprioritisation – This three year programme will enhance the quality and usability of data. There is a one off investment cost (reflected in the cost pressures above) to achieve ongoing savings. The savings associated from this initiative are approximately \$0.4 million for 2011/12 ramping up to \$1.0 million from 201/14 and relate to a combination of resizing of staff in the Information Services team, consolidating information systems and applying currently offered shared services options with the whole of Government IT initiatives offered by DIA's Government Technology Services. For 2014/15, front line productivity savings are forecast as a result of the ISSP.
- Aquaculture settlement savings – The Maori Commercial Aquaculture Claims Settlement Act 2004 provided a full and final settlement of Maori commercial aquaculture interests since 21 September 1992. A payment of \$100 million for the agreed pre-commencement settlement plus interest was paid to the Trustee, Te Ohu Kaimoana (TOKM) on behalf of those iwi in March 2010. The Ministry funds the operation of the trustee with \$1 million per annum. It is envisaged that services required following completion of the pre commencement obligation and progressing the new space obligation will from 2013/14 and future years require reduced services from the trustee and corresponding Ministry costs. This is expected to achieve savings of \$0.4 million respectively for the two years.
- Transfer of savings achieved through reprioritisation – the Ministry is proposing to transfer anticipated savings of \$3 million from the 2010/11 year to fund the cost pressures discussed above, in particular the Aquaculture development fund. Our proposal seeks to spread this year's anticipated 2010/11 savings evenly over the next 3 financial years, noting that the Ministry is contributing to the total cost of this fund.

Section 4: Summary of Financial Movements

No additional resources are being sought under this Vote. The Ministry will continue to use its current baseline to deliver its priorities and services. In total, the cost pressures discussed in section 3 amounts to \$6.79 million per annum by 2014/15. To fund these cost pressures, a transfer of \$3 million from 2010/11 into 2011/12, 2012/13 and 2013/14 (\$1 million each) will be necessary. The balance of the cost pressures will be met by on-going reprioritisation decisions as well as seeking further efficiency and effectiveness savings.

It is expected that fiscally neutral adjustments may be required across output classes and these adjustments will be considered as part of the October and/or February- March Baseline Update processes.

Table 1 - describes in more detail fiscal impacts for the next 4 years.

Four-Year Budget Plan - Financial Summary Report (Operating - Including Operating Associated with Capital Initiatives 2011)

Vote: Fisheries	2010/11	2011/12	2012/13	2013/14	2014/15
	(\$000)	(\$000)	(\$000)	(\$000)	(\$000)
Share Allocation	0	0	0	0	0
Operating					
Baseline (2010/11 OBU)	114,632	102,368	101,906	101,233	101,233
Changes:					
Centralised Saving					
Total Centralised Saving	0	0	0	0	0
Reprioritisation					
Aquaculture Development Fund	0	1,250	1,250	1,250	750
Aquaculture Reform	0	500	600	773	1,400
					[9]
Information Systems Strategic Plan	0	1,000	800	0	0
Information Systems Strategic Plan Savings	0	-370	-766	-1,000	-1,000
					[9]
Ministry Reprioritisation / Savings	-3,000	-113	-584	-511	-3,067
Organisation Services Review	0	-1,243	-1,243	-1,243	-1,243
Salary Increases	0	967	1,959	3,178	4,643
Salary Provision Savings	0	-991	-1,016	-1,047	-1,083
					[9]
Transfers Outside Vote					
Total Transfers Outside Vote	0	0	0	0	0
					[9]

Four-Year Budget Plan - Financial Summary Report (Capital 2011)

	Vote: Fisheries	2010/11	2011/12	2012/13	2013/14	2014/15
		(\$000)	(\$000)	(\$000)	(\$000)	(\$000)
Capital						
Baseline (2010/11 OBU)		6,835	2,900	2,900	2,900	2,900
Proposals for new Capital Funding						
Refurbish/Replace						
Total Refurbish/Replace		0	0	0	0	0
Improve Functionality						
Total Improve Functionality		0	0	0	0	0
Meet Demand						
Total Meet Demand		0	0	0	0	0
Capital Associated with Operating Initiatives						
Total Capital Associated with Operating Initiatives		0	0	0	0	0
Total Capital Proposals		0	0	0	0	0
Total Proposed Capital Baseline		6,835	2,900	2,900	2,900	2,900

Hon Bill English

Minister of Finance

Addendum – Maori Aquaculture Settlement – Crown’s Obligation

Purpose

1. This paper is an addendum to the Vote Fisheries - 4 year Budget Plan submitted on 01 December 2010. The Ministry of Fisheries (the Ministry) is now seeking new funding from the Government and requests a [6] increase in appropriation over four years for Vote Fisheries – Aquaculture Settlement. This request for an increase is due to Cabinet decisions on the Maori aquaculture settlement that will increase the Crown’s new space settlement obligation.

Executive Summary

2. The Maori Commercial Aquaculture Claims Settlement Act 2004 (the Settlement Act) settled Maori contemporary claims to commercial aquaculture space. The Settlement Act establishes an entitlement to the rights and values associated with 20% of space created for the purpose of aquaculture. The intent of the Settlement Act was to ensure that Maori have access to space in the coastal marine area for the purpose of engaging in aquaculture.
3. The Ministry of Fisheries (the Ministry) seeks an increase in appropriation [6] due to Cabinet decisions that the Crown is financially responsible for the new space obligation under the Maori Aquaculture settlement [CAB Min (10) 31/8 refers]. This funding will allow the Crown to meet its aquaculture settlement statutory obligations and its obligations under the principles of the Treaty of Waitangi.

Background

4. The Ministry acts as the government’s principal adviser on New Zealand’s fisheries management and on matters related to the aquatic environment, including aquaculture and the settlement.
5. In New Zealand, aquaculture is already the fastest-growing sector of our seafood industry. Annual sales are estimated at more than NZ\$350 million, about 20% of all fisheries. The industry has set itself a goal of NZ\$1 billion sales each year by 2025. The Government is committed to unlocking this potential as part of its Economic Growth Agenda, to increase export earnings and create new jobs.
6. The Settlement Act provides for the full and final settlement of contemporary Maori claims to commercial aquaculture. The Settlement Act provides Maori with an entitlement to 20% of aquaculture space created on or after 21 September 1992 and provides for the allocation and management of aquaculture settlement assets.

7. The Settlement Act addresses claims to aquaculture space created between 21 September 1992 and 31 December 2004 (*pre-commencement* space) and for claims relating to space created from 1 January 2005 (*new aquaculture space*). Almost all of the Crown's obligations relating to pre-commencement space were addressed last year through the Maori Commercial Aquaculture Claims Settlement (Regional Agreements) Amendment Act 2010 (Settlement Amendment Act), and \$121.296 million has previously been appropriated for that purpose.

The Aquaculture Reforms

8. Parliament is currently considering legislation to simplify and streamline the way aquaculture is managed in New Zealand. The Aquaculture Legislation Reform Bill (No 3) (the Bill) proposes amendments to 4 separate Acts including the Settlement Act. It is anticipated that the Bill will be enacted by 1 July 2011. The key objectives of the Bill are reducing cost, delays and uncertainty, promoting investment in aquaculture development, and providing for integrated decision-making.
9. The Bill proposes amendments to the Resource Management Act that remove the elements that the Māori Commercial Aquaculture Claims Act (the Settlement Act) relies on to deliver on the Crown's obligations in respect of 'new' aquaculture space.
10. The changes also provide an opportunity for the Crown to facilitate iwi economic development and the sustainable growth of the sector, but remove the elements that the Settlement Act relies on to deliver on the Crown's obligations in respect of 'new' aquaculture space. The Crown believes that a settlement delivery mechanism that delivers certainty to iwi and industry has the potential to advance the industry.

Cabinet decisions

11. On 30 August 2010 Cabinet agreed [CAB Min (10) 31/8 refers] to discussions amongst the Crown (represented by the Minister of Fisheries and Aquaculture, the Attorney-General, and the Minister of Maori Affairs), iwi leaders and the trustee to:
 - a) focus on the issue that the settlement will not work well under the proposed regime;
 - b) discuss how best to deliver the settlement in light of the reforms; and
 - c) assemble a group of technical advisers to explore options for a revised settlement mechanism and proposal for engaging with iwi within regions.
12. Cabinet agreed to an engagement process that included establishing a leadership group of Ministers and Iwi Leaders assisted by a technical group of Crown and iwi advisors. The role of the technical group was to develop options and to discuss these options with iwi through a series of engagement hui. The technical group will then use feedback from iwi to refine the options to ensure the legislation provides the ability to deliver the settlement using a range of mechanisms. These hui concluded on 3 February 2011 and feedback from iwi is due on 18 February 2011.

13. Cabinet also agreed that the Crown is financially responsible for the aquaculture settlement. [6]

Options for a revised settlement mechanism

14. The Bill contains a provision that allows for the Crown to deliver on the new space obligation by ensuring that space is transferred to the trustee, or through regional agreements. In order to introduce the Bill, the gap in relation to the settlement needed to be addressed and it was agreed with iwi leaders that the mechanism used for delivery of the pre-commencement space obligation would suffice at least until the engagement process was complete.
15. The technical group identified two delivery paths for the settlement obligation for new space: regional agreements and a 'fall back' in the absence of regional agreements. Both options will require funding by the Crown.
16. Regional agreements would be negotiated between the Crown and iwi. Negotiations would be based and informed by iwi aspirations into aquaculture and forecasting information. The forecasting information estimates growth of the aquaculture space in New Zealand, so that the Crown and iwi may agree a settlement.
17. Regional agreements could comprise of space, cash or a combination, or include anything else that can be agreed between the Crown and iwi. Under a regional agreement, iwi would be able to choose whether space or cash, or a combination, or any other type of asset would best support their aspirations. This option may also provide for more creative deliverables; however they would be at the same cost as cash or equivalent space.
18. The fall back option would require the Crown to obtain space for iwi through either purchasing existing aquaculture space or applying to create aquaculture space as a private applicant.

[6]

[6]

Crown Liability

20. It is established policy that private property or interests will not be used to fulfil historical Treaty settlement obligations. Based on this principle, Cabinet agreed [CAB Min (10) 31/8 refers] that the Crown is financially responsible for the aquaculture settlement. [6]

21. The Ministry of Fisheries commissioned consultants LECG (who developed the valuation methodology for the pre-commencement settlement) to give an indication of the possible extent of the Crown's new space settlement obligation as outlined in the Settlement Act. [6]

[6]

Funding Sought

25. The Crown's liability to Maori for the aquaculture settlement is established by the Settlement Act. This funding is required to fully recognise the Crown's liability, and, upon passing of the Aquaculture law reforms, to allow the Ministry to enter into negotiations with regional iwi in good faith.
26. Currently the Ministry has no appropriation to settle the Crown's new space liability as the current Settlement Act envisages space being delivered to meet the Crown's settlement obligation. The Ministry of Fisheries four year Budget plan did not include the costs of the settlement as this matter was still being considered by Ministers and iwi leaders. It is anticipated that the aquaculture reforms will become law by 1 July 2011, therefore it is critical that there is funding available for the Crown to meet its statutory obligations from that time.

[6]

[6]

33. Settlement management costs include negotiator costs and related professional fees for both the Crown and iwi. There is a possibility of extending the role of Te Ohu Kaimoana Trustee Ltd (the Trustee) to assist iwi to agree new space settlements. There are potential efficiency gains as the Trustee has played an important role in assisting iwi during the pre-commencement settlements.

Impact and Risk of Delay

34. In the event the required funding cannot be obtained through Budget 2011, the Crown will be unable to enter into negotiations to deliver on its new space obligations once the aquaculture reforms become law. This will lead to a new treaty grievance. The Government has publically voiced its support and commitment to delivering the new space settlement obligation to Maori.
35. Over the past 5 months, a sub group of Ministers have been engaging with iwi leaders in good faith on designing a new settlement delivery mechanism that requires Crown funding to make it work. Consultation hui with iwi over the past 2 months have focused on delivery mechanisms such as a cash settlement, providing of space or a combination of both all of which require Crown funding. If the Crown does not bear the cost of the settlement, these cost will need to be borne elsewhere, and will likely fall on the aquaculture industry.
36. The Government has assured the aquaculture industry that the Crown is financially responsible for the settlement, and that it would not force the industry to give up 20% of new aquaculture space for settlement purposes. Industry bearing the cost of the settlement would undermine the purpose of the aquaculture reforms and would not encourage aquaculture growth. The aquaculture settlement is a key element of making the aquaculture law reforms work.
37. Without the necessary funding to deliver the new space settlement obligation to Maori, Cabinet will need to reconsider its position on the settlement and the aquaculture law reforms. Cabinet will also need to reconsider whether to compel the industry to bear the cost of the settlement. In the event funding cannot be secured, a briefing paper canvassing options available to the Government and the potential next steps for the settlement will need to be considered by Cabinet.

Ability to Reprioritise

38. The Ministry has demonstrated through its Four-Year Budget Plan that it is able to reprioritise existing funding to meet its priorities over the medium term. This includes funding within existing baselines both the set up of an aquaculture unit in the Ministry and an aquaculture development fund, as well as other cost pressures such as salary increases. Further requirement to absorb additional costs would place the Ministry at risk of being unable to meet its core service delivery functions.