

Memorandum of Understanding

Continuing a partnership between the
Ministry of Fisheries and the deepwater fishing
industry for the management
of New Zealand's deepwater fisheries

December 2010

Introduction

This Memorandum of Understanding (MOU) establishes a structured partnership for the Ministry of Fisheries and the deepwater fishing industry to collaborate in managing New Zealand's deepwater fisheries. It updates and replaces the previous MOU from 2008. It reflects the maturing relationship between both parties that has evolved since the first MOU was signed in 2006.

The parties to the MOU are the Ministry of Fisheries (the Ministry) and the Deepwater Group Ltd, which represents quota owners for the commercially important deepwater and middle-depth species. Further information on the Ministry, the Deepwater Group Ltd and the species covered by this MOU can be found in Annex 1.

Why a partnership

The importance of working together

Both parties recognise that effective and sustainable management of deepwater fisheries requires a collaborative approach. The Ministry and the deepwater quota owners share common goals for New Zealand's fisheries, which are specified in the National Fisheries Plan for Deepwater and Middle-depth Fisheries (National Deepwater Plan). However, to achieve those goals, the parties need to draw on their combined knowledge, experience, capabilities and perspectives. Areas where this collaborative partnership has, and will continue, to deliver success include:

- Ensuring that the strategic direction for deepwater fisheries management is more comprehensively specified through incorporating both government and industry perspectives.
- Developing innovative solutions to fisheries management issues, such as catch spreading arrangements within quota management areas and mitigating risks to protected species.
- Ensuring industry support and commitment to management approaches including those management interventions that require reduced catch allocations or fishing restrictions.
- Aligning the objectives specified in the National Deepwater Plan and industry activity "on the water" to provide for better management outcomes.

- Enabling industry to bring commercial acumen and expertise to the procurement of research and other services to ensure cost effective purchasing decisions.
- Providing effective opportunities to implement the informed and assisted compliance model.

Benefits produced by the partnership to date

Tangible benefits achieved by the partnership so far include:

- Fleet-wide adoption of measures to reduce risks to seabirds including implementing Vessel Management Plans across the deepwater trawl fleet.
- Collaborative development of the National Deepwater Plan.
- Collaborative development of a long-term research programme for deepwater fisheries including a commitment to increase observer coverage across the deepwater fleet.
- Agreement on management approaches to provide for long-term sustainable catch limits.
- Large-scale protection of seabed habitats from bottom trawling through the Benthic Protection Areas initiative.
- Development and implementation of a new management regime for the operation of foreign charter vessels, including an Observer Standard.

Both parties consider that acting in isolation is less effective and that ongoing benefits, similar to those described above, will be best achieved through continuing the partnership arrangement. The intention of this MOU is to capture these benefits in a explicit and transparent manner.

What the partnership means (and what it does not mean)

What will this MOU do?

This MOU describes how the Ministry and the Deepwater Group Ltd will work collaboratively on certain areas where there are clear advantages from adopting a coordinated approach. It also recognises that there are, and will continue to be, areas of operation where each party will continue to work independently.

This MOU seeks to formalise the processes that have been operating in a fluid and relatively informal manner under the previous MOU. The parties intend that this will provide more transparency and accountability. It will ensure that the advantages provided so far by the MOU's collaborative approach will continue into the future. Formalising the approach will also provide greater clarity on how the partnership is operating, the specific areas that it addresses and how each party is contributing to the partnership.

The success of the partnership depends on discussions within the MOU framework being open, transparent and honest, and on participants conducting themselves in a professional and non-adversarial manner.

The MOU does not override or replace any existing statutory frameworks or processes, and is intended to support the operation of the Fisheries Act 1996 and the strategic direction specified in Fisheries 2030. The MOU does not create a legal relationship between the two parties and it has no legal status. The MOU does not change any aspect of any employment relationship that either of the MOU parties has with any individual.

Facilitating wider engagement between government and the industry

The framework established by this MOU may also facilitate engagement between deepwater quota owners and other government agencies.

It is not intended that this would bring those other government/industry relationships under the control of the Ministry of Fisheries. Rather the MOU framework could be used to provide a conduit that would allow for a whole-of-government approach to collaborating with the deepwater industry, in the service of common government/industry goals. Areas where this collaborative approach could be used include managing the use of Foreign Charter Vessels, addressing maritime safety issues and engaging on matters relating to international trade and market access.

The parties expect that providing a framework for those other relationships to operate within would provide benefits and efficiencies for both government and industry.

Engaging with parties outside government and the industry

This MOU recognises that input from stakeholders and interested parties outside government and industry is important to the management of New Zealand's deepwater fisheries. It recognises the importance of incorporating this knowledge and expertise into deepwater fisheries management.

Nothing contained in this MOU constrains the Ministry from fulfilling its statutory consultation requirements and the MOU actively encourages greater levels of engagement with stakeholders and interested parties.

Core functions of the Ministry of Fisheries

The Ministry retains core responsibility for delegated statutory decision-making and functions, and for providing independent advice to the Minister of Fisheries and Aquaculture. This MOU does not devolve any aspect of the Ministry's statutory role to any other body.

The Ministry will therefore continue to have the following specific functions:

- **Developing standards** – The Ministry retains the responsibility for developing standards that affect New Zealand's deepwater fisheries, including providing stakeholders with the opportunity to have meaningful input and participation at an early stage.
- **Prioritising use of Ministry resources** – The Minister of Fisheries and Aquaculture and the Ministry will continue to determine the final allocation of the Ministry's resources and services across all fisheries, in accordance with the Ministry's Statement of Intent. However, the role of the Deepwater Management Forum established by this MOU will include identifying those resources and services that could be delivered by the Ministry, by industry, or by both parties collaboratively.
- **Cost recovery** – The cost recovery system will continue under the statutory framework.
- **Policy and operational advice** – The Ministry retains responsibility for providing statutory advice to the Minister of Fisheries and Aquaculture.
- **Enforcement** – The Ministry continues to be responsible for monitoring and enforcement activity to ensure industry compliance with statutory requirements.
- **Treaty of Waitangi commitments** – The Ministry is responsible for delivering on Crown commitments to Māori.
- **Statutory consultation** – The Ministry will continue to consult with stakeholders and other interested parties about specific fisheries management measures, as required by section 12 of the Fisheries Act 1996. This includes measures resulting from approved fisheries plans.

How the partnership will work

This MOU enables both the Ministry and the Deepwater Group Ltd to contribute their knowledge and perspectives to the effective and sustainable management of deepwater fisheries. It implicitly commits both parties to make available the

resources necessary to ensure the outcomes specified in the National Deepwater Plan and Fisheries 2030 are realised.

At the centre of the partnership are two new bodies: the Deepwater Management Forum; and the Deepwater Secretariat. The existing Compliance Committee will continue as a function of the Deepwater Management Forum. Each party is responsible for bearing its own costs of working together within the Deepwater Management Forum and the Deepwater Secretariat.

Descriptions of the Deepwater Management Forum and the Deepwater Secretariat are provided below. Detailed terms of reference for both groups are contained in Annex 2.

Deepwater Management Forum

This body provides advice on the strategic direction for New Zealand's deepwater fisheries. The Deepwater Management Forum maintains an overview of all aspects of deepwater fisheries management.

Specifically, the Deepwater Management Forum is responsible for:

- Agreeing to the Annual Operational Plan and Annual Review Report to the extent that consensus between both parties can be reached. Once agreed the Annual Operational Plan is then included in the Ministry's annual prioritisation process – the content of the Annual Operational Plan may be revised following this prioritisation process.
- Making decisions on non-statutory management measures.¹
- Providing advice on procurement approaches regarding the purchase and monitoring of services to manage deepwater fisheries, including science research, with the aim of achieving greater value for money.
- Coordinating discussions on issues relating to 'Informed and Assisted' compliance with the aim of achieving increased levels of compliance.
- Reviewing and updating as appropriate the strategic direction for the management of New Zealand's deepwater fisheries.
- Engaging on the management options that will form the basis of the statutory advice provided by the Ministry to the Minister of Fisheries and

¹ In the past non-statutory management measures have included the development and implementation of catch spreading arrangements for sub-stock management and the development of Vessel Management Plans and sea lion exclusion devices as part of measures to address protected species interactions.

Aquaculture, with the aim of achieving agreement and buy-in where possible.

Membership of the Deepwater Management Forum includes equal representation from the Ministry's strategic leadership team and from the Board of the Deepwater Group Ltd. The Deepwater Management Forum will also include an independent representative appointed by the Chief Executive of the Ministry with the agreement of the Chair of the Deepwater Group Ltd, following discussions with environmental non-government organisations.

The Chair of the Deepwater Management Forum will be appointed by the Chief Executive of the Ministry with the agreement of the Chair of the Deepwater Group Ltd.

Deepwater Secretariat

The Deepwater Secretariat is responsible for coordinating the day to day collaborative management of New Zealand's deepwater fisheries and supporting the discussions of the Deepwater Management Forum.

The Deepwater Secretariat is tasked with:

- Coordinating the development and implementation of the National Deepwater Plan. This includes developing the remaining fishery-specific chapters and developing and implementing the Annual Operational Plan and the Annual Review Report. The Ministry continues to be responsible for coordinating the wider stakeholder engagement on all aspects of the National Deepwater Plan.
- Developing management options on non-statutory operational policy for approval by the Deepwater Management Forum.
- Coordinating and participating in the process to evaluate research proposals delivered under the discretionary research component of the 10 Year Research Programme.
- Coordinating the provision of technical advice to support the development of operational policy. Technical matters include, but are not limited to, developing management responses to scientific research that has been peer-reviewed through the Science Working Group process, assessing the likely impacts of different management options on meeting management objectives and developing management measures to meet environmental standards.

The Deepwater Secretariat consists of members of the Ministry's Deepwater Team and members of the Deepwater Group Ltd executive. Members of the Ministry's science team will participate in the Secretariat as required.

Amending the MOU

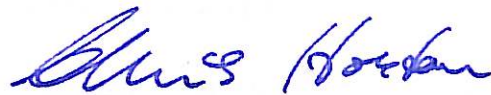
The term of this MOU is ongoing unless otherwise agreed in writing.

This MOU and its annexes may be modified at any time with the written agreement of both parties. Modifications to the MOU must be signed by the Chief Executive of the Ministry and by the Chair of the Deepwater Group Ltd, with the exception of the Terms of Reference contained in Annex 2.

Either party can terminate from this MOU by providing written notification to the other party. Notification must be made by the Chief Executive of the Ministry or the Chair of the Deepwater Group Ltd. However, the expectation is that both parties will actively seek to resolve outstanding issues in the first instance before terminating from the MOU.



Andrew Coleman
Acting Chief Executive
Ministry of Fisheries



Chris Horton
Chairman of the Board
Deepwater Group Limited

Date 17 December 2010.

Date 17th Decem ber 2010

Annex 1: The parties to the MOU and its scope

THE PARTIES

The parties to this MOU are the Ministry of Fisheries and the Deepwater Group Ltd.

Ministry of Fisheries (the Ministry)

The Ministry is the government agency responsible for administering the Fisheries Act 1996 and related legislation in order to provide for the sustainable use of New Zealand's fisheries and to ensure that this use does not adversely affect the marine environment.

The Ministry does this in four ways:

- Delivering research to support fisheries management.
- Advising the Minister of Fisheries and Aquaculture on statutory management measures relating to fish stock sustainability and the adverse effects of fishing on the aquatic environment.
- Managing the process for access to or allocation of fisheries resources.
- Ensuring that those who use New Zealand's fisheries resources comply with the legislation and regulations.

Deepwater Group Ltd

The Deepwater Group Ltd is a company formed in 2005 to represent the interests of quota owners for the majority of New Zealand's deepwater and middle-depth fish stocks.

The Deepwater Group Ltd is a non-profit organisation, committed to sustainable fisheries, working in partnership with the Ministry of Fisheries and with other interest groups to ensure that New Zealand gains the maximum economic benefit from its deepwater fisheries resources and that those resources are managed within a long-term, sustainable framework.

SCOPE OF THE MOU

Fisheries included in this MOU include those QMS species that are targeted commercially and are usually fished at depths between 200 and 1200 metres and

where the quota owning interests are represented by the Deepwater Group Ltd. As of November 2010 this includes the following species and fish stocks:

- Hake (HAK1, HAK4, HAK7)
- Hoki (HOK1)
- Jack mackerel (JMA7)
- Ling (LIN2, LIN3, LIN4, LIN5, LIN6, LIN7)
- Orange roughy (ORH2A, ORH2B, ORH3A, ORH3B, ORH7A, ORH7B)
- Oreos (OEO1, OEO3A, OEO4, OEO6)
- Silver warehou (SWA1, SWA3, SWA4)
- Southern blue whiting (SBW1, SBW6A, SBW6B, SBW6I, SBW6R)
- Squid (SQU1J, SQU1T, SQU6T)
- White warehou (WWA1, WWA2, WWA3, WWA4, WWA5B, WWA7, WWA8)

The Ministry will continue to engage and consult with those quota owners (and their quota owning representative bodies) for the following deepwater species and stocks that are managed by the Ministry's Deepwater Team:

- Alfonsino (all stocks)
- Barracouta (BAR4, 5 & 7)
- Cardinalfish (all stocks)
- English mackerel (EMA3 & 7)
- Frostfish (FRO3, 4, 5, 6, 7, 8, & 9)
- Gemfish (SKI3 & 7)
- Ghost shark, dark (GSH4, 5 & 6)
- Ghost shark, pale (all stocks)
- Giant spider crab (all stocks)
- Jack mackerel (JMA3)
- King crab (all stocks)
- Lookdown dory (all stocks)
- Orange roughy (ORH1)
- Patagonian toothfish (all stocks)
- Prawnkiller (all stocks)

- Redbait (all stocks)
- Red crab (all stocks)
- Ribaldo (RIB3, 4, 5, 6, 7 & 8)
- Rubyfish (all stocks)
- Scampi (all stocks)
- Sea perch (SPE3, 4, 5, 6 & 7)
- Spiny dogfish (SPD4 & 5)
- White warehou (WWA9)

Annex 2: Terms of Reference

DEEPWATER MANAGEMENT FORUM

To be completed once the Terms of Reference have been approved by the members of the Deepwater Management Forum and signed by the Ministry's Deputy Chief Executive Fisheries Management. On completion the Terms of Reference will form part of this MOU.

DEEPWATER SECRETARIAT

To be completed once the Terms of Reference have been approved by the members of the Deepwater Secretariat and signed by the Ministry's Fisheries Manager - Deepwater. On completion the Terms of Reference will form part of this MOU.