Ministry for Primary Industries
Manatū Ahu Matua

Consultation Paper on Proposed Revisions to the Cost Recovery Regimes

Biosecurity, Animal Products, Agricultural Compounds and Veterinary Medicines, Wine and Animal Welfare

Introductory Chapters

Excerpt from MPI Discussion Paper No: 2015/02

ISBN No: 978-0-477-10530-9 (online)

ISSN No: 2253-3907 (online)

Prepared for Public Consultation

January 2015

New Zealand Government

Growing and Protecting New Zealand

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Glossary

ACVM – Agricultural Compounds and Veterinary Medicine Act 1997. The purpose of this Act of Parliament is to reform and restate the law relating to agricultural compounds.

APA – Animal Products Act 1999. The purpose of this Act of Parliament is to reform and restate the law relating to the processing of animal material into products for use, trade and export.

APEC – Asia Pacific Economic Co-operation. This is a forum for 21 Pacific Rim member economies that seeks to promote free trade and economic cooperation throughout the Asia-Pacific region.

AWA – Animal Welfare Act 1999. The purpose of this Act of Parliament is to reform the law relating to the welfare of animals and the prevention of their ill-treatment.

AWEC – Animal Welfare Export Certificate. A certificate issued under the Animal Welfare Export Certificate Regulations 1999 to ensure that any animal welfare risks during travel are minimised.

BSEL – Biosecurity System Entry Levy. This levy paid by stakeholders funds a proportion of the fixed costs common to all activities associated with managing biosecurity risks at the border.

CODEX – Codex Alimentarius Commission. A collection of internationally recognized standards, codes of practice, guidelines and other recommendations relating to foods, food production and food safety.

DIRA – the Dairy Industry Restructuring Act 2001. The purpose of this Act of Parliament is to provide for the transition of the New Zealand Dairy Board to a wholly owned subsidiary of new co-op and its conversion into a company.

EU – European Union.

FTE – Full-time equivalent.

GIA – Government and Industry Agreements are agreements between government and industry sectors to share management of risk.

GMP – Good Manufacturing Practice certificate.

GST – Goods and Services Tax. Most fees are shown on a GST-exclusive basis. The current rate of GST is 15%.

IRD – Inland Revenue Department.

JBMS – Joint Border Management System   A set of integrated information technology products that New Zealand Customs Service and MPI use jointly to manage risk at the border

MAF – Ministry of Agriculture and Forestry, one of the agencies that were merged to form MPI.

MPI – the Ministry for Primary Industries, the government department undertaking the present consultation.

MPI VS – Ministry for Primary Industries Verification Services.

NCCP – National Chemical Contaminants Programme.

NZFSA – New Zealand Food Safety Authority, one of the agencies that were merged to form MPI.

OECD – Organisation for Economic Co-operation and Development is an international economic organisation of 34 countries founded in 1961 to stimulate economic progress and world trade.

OIA – Official Information Act 1982. The purpose of this Act of Parliament is to make official information more freely available, to provide for proper access by each person to official information relating to that person, to protect official information to the extent consistent with the public interest and the preservation of personal privacy.

OMARs – Overseas market access requirements. Notices issued by MPI with standards for exporters.

RMP – Risk management programme that is registered under the APA.

RTT – Research, teaching and testing sectors.

T&CFs – Transitional and Containment Facilities. Border and other facilities that accept imported goods and organisms.

VICH – Veterinary Co-operation on International Harmonisation.

WECS – Wine Export Certification Service. MPI processes applications to determine whether wine is eligible for export and issues Export Eligibility Statements for each consignment of wine to confirm that it is eligible for export.

WPC – Whey Protein Concentrate.

1 Introduction

1.1 OVERVIEW

The primary industries earned New Zealand $38.3 billion in exports in the year to June 2014. Our biosecurity and food safety systems are critical to the operation and viability of the primary industries. They provide the basis for New Zealand's official assurances to its trading partners about the safety and provenance of exports, protect consumers in New Zealand and overseas, and help prevent biosecurity incursions which could damage people, primary production and the environment. The systems add significant value to the returns New Zealand producers receive for their exports.

This is the first review of biosecurity and food safety fees since the creation of the Ministry for Primary Industries (MPI or "the Ministry") on 1 July 2011. Biosecurity fees were last reviewed in 2010 and the food safety fees were reviewed in 2008.

Since the last review, demand for services has increased, driven by increasing trade volumes as well as a greater number of food businesses. A rising volume of services, improvements to services, and cost pressures (price inflation), have increased the cost of delivering services.

The Government has responded to the increased demand for services by raising efficiency and by making significant improvements, these include:

- savings of $23.6 million from the merger of the Ministry's predecessor agencies, of which $2.8 million is attributable to industry and has been used to offset additional cost increases for industry;
- absorbing biosecurity response costs;
- introducing a Joint Border Management System;
- increasing the roster of dogs for cargo inspections; and
- increasing Ministry staff numbers in China.

The Ministry has been under-recovering from about half of the sectors in provides services to for several years. The Government is required to ensure that it neither overcharges nor undercharges for its services, and therefore a review of fee rates is now overdue. This update is also an opportunity to look at current policy settings for cost recovery and, where appropriate, to refresh these settings.

This consultation document sets out proposals for changing the way that MPI recovers costs from individuals and industries. Most of these changes are simple fee rate updates to reflect changes to costs, new services or expanded services since the last review. In all, the Ministry is proposing to change 254 fees across five sectors.

Other proposals propose improvements to how we recover costs, to improve the efficiency, equity, effectiveness, or transparency of charging regimes.

We are seeking your views on any and all changes that interest you. Section 2.4 explains how to provide feedback on the proposals.

The document is divided up by sector (Biosecurity, Animal Products, Agricultural Compounds and Veterinary Medicines, Animal Welfare, and Wine). Issues that affect all five sectors are listed in a separate section.

The deadline for feedback is **20 February 2015**.

1.2 MINISTRY FOR PRIMARY INDUSTRIES

MPI is the Government agency charged with administering Vote Primary Industries and Vote Food Safety. The Ministry was formed on 1 July 2011 from the merger of:

- Ministry of Agriculture and Forestry (including Biosecurity New Zealand);
- Ministry of Fisheries;
- New Zealand Food Safety Authority.

1.3 PURPOSE AND STRUCTURE OF THIS DOCUMENT

This consultation document presents the findings of MPI's recent review of cost recovery for animal products, agricultural compounds and veterinary medicines, wine, animal welfare and biosecurity services. It seeks comments from interested parties on a range of cost recovery proposals related to the delivery of those services.

Although the document describes the functions performed by MPI under the various Acts, we are not seeking submissions on the nature and level of those functions. Such consultation is carried out when establishing work programmes and setting standards and specifications that apply to a specific industry, through the relevant industry-MPI consultation forums.

This document is presented in several parts:

- **Part 1** contains important introductory information about cost recovery for MPI services.
- **Part 2** gives instructions and information for making submissions.
- **Part 3** gives a high-level of overview of the cost recovery proposals.
- **Part 4** describes and seeks feedback on cost recovery proposals relating to the Biosecurity Act 1993.
- **Part 5** describes and seeks feedback on cost recovery proposals relating to the Agricultural Compounds and Veterinary Medicines Act 1997.
- **Part 6** describes and seeks feedback on cost recovery proposals relating to the Animal Products Act 1999. It is subdivided into live animal and germplasm exports (Part 6A), approvals and certification services (Part 6B), charges on animal products (Part 6C), verification services (Part 6D) and dairy industry fees and charges (Part 6E).
- **Part 7** describes and seeks feedback on cost recovery proposals relating to the Animal Welfare Act 1999**.**
- **Part 8** describes and seeks feedback on cost recovery proposals relating to the Wine Act 2003.
- **Part 9** describes and seeks feedback on proposals that affect multiple cost recovery regimes.

1.4 BACKGROUND

As MPI is a result of a merger of different agencies, there is now a lack of consistency of approach to cost recovery across the various sectors.

Because parts of some cost recovery arrangements are the same across different regimes, we propose amending multiple sets of regulation at the same time, to standardise some arrangements and language, and to ensure as much consistency and fairness as possible.

Parts 4 to 9 of this consultation document include the following information for each legislative regime:

- activities undertaken by MPI;
- policy issues identified and considered as part of the review;
- proposed updates for current fees and charges (refer to schedules in appendices);

- details of each cost recovery proposal, including:
  - background information
  - problem definition;
  - proposed fees and charges;
  - questions for consideration in submissions.

1.5 STATUTORY FRAMEWORK FOR COST RECOVERY

1.5.1 MPI's role as a regulator

MPI is a major central government regulator, with primary responsibility for food safety issues and biosecurity. The cost of delivering some of the functions that MPI undertakes in carrying out its duties can be recovered from users where service provision is not funded by way of Parliamentary appropriation.

The authority for recovering costs from third party users of services is established in a number of pieces of existing legislation:

- Agricultural Compounds and Veterinary Medicines Act 1997;
- Animal Products Act 1999;
- Food Act 1981;
- Wine Act 2003;
- Biosecurity Act 1993;
- Animal Welfare Act 1999.

High-level principles for determining who should pay and the share they should pay are set out in each Act. The principles of equity, efficiency, transparency and justifiability are common themes throughout the Agricultural Compounds and Veterinary Medicines Act 1997, Animal Products Act 1999, Wine Act 2003, and Animal Welfare Act 1999. The Biosecurity Act 1993 refers to the principles of equity and efficiency.

In most cases, fees for cost-recovered activities are set by Regulations. The legislative frameworks for cost recovery are designed to ensure that the Ministry does not over-recover or under-recover the cost of service delivery.

In addition to the existing legislation noted above, the Food Act 2014, which allows for cost recovery of services provided to third parties, will fully come into force in March 2016. The first group of fees is due to take effect from 1 March 2016. Regulations to support the operation of the new Act, including those relating to cost recovery, are being developed.

In the years since current levies, fees and charges were set the demands for MPI's services have increased significantly. These services have also changed over the years as a result of policy changes and to meet increasing domestic and international expectations for New Zealand's biosecurity and food safety systems.

1.5.2 Cost recovery principles

The cost recovery principles that must be applied are specified and defined in the individual Acts under which cost recovery is permitted. The principles are, however, consistent across the Animal Products Act, Agricultural Compounds & Veterinary Medicines Act and Wine Act, and are summarised as follows:

- ***Equity*** – Users or beneficiaries of a function, power or service will generally be required to fund the cost of providing the function, power or service at a level that reflects their use or benefit.
- ***Efficiency*** – Costs should generally be allocated and recovered in a manner that ensures maximum benefits are delivered at minimum cost.

- ***Justifiability*** – The costs (including indirect costs) associated with providing a function, power or service should be reasonable and justifiable.
- ***Transparency*** – The cost of providing a service, function or power should be identified and allocated as closely as is practicable to the period when the service is provided.

The Animal Welfare Act also refers to the principles above but does not have the same detail in explaining what they mean. The Biosecurity Act requires that the principles of equity and efficiency be applied in the cost recovery area.

MPI applies all four principles to all cost recovery, whether or not they are specified by the legislation for individual cost recovery regimes.

MPI follows the guidelines set out in the Treasury's *Guidelines for Setting Charges in the Public Sector* ('Treasury guidelines')[1] and the Office of the Auditor-General Good Practice Guide *Charging fees for public sector goods and services* ('Auditor-General guide')[2]. A more complete description of the guidelines for undertaking cost recovery is provided in section 1.11, Appendix 1.

1.5.3 Periodic cost recovery reviews

The fees set in regulations must be regularly reviewed and refreshed to ensure charges, fees and levies are accurate and they correctly reflect the cost of delivering services to third party users. Revenue generated under the current fee levels is now insufficient to meet the costs incurred by the Ministry for delivery of services to third party users in these areas.

In most instances the principal Acts also specify the minimum frequency with which cost recovery reviews must be undertaken:

- Agricultural Compounds and Veterinary Medicines, Animal Products, and Wine – three-yearly;
- Biosecurity – not specified;
- Animal Welfare – not specified.

Periodic review of cost recovery regulations is also consistent (and recommended) under the relevant guidelines published by the Treasury and the Office of the Auditor-General. Review of all cost recovery for food safety, animal welfare and biosecurity is now overdue.

Periodic cost recovery reviews for the food safety and biosecurity systems were due to be undertaken at the time MPI was created from the merger of the three earlier agencies. The reviews were deferred to allow for the bedding down of the changes and for the financial implications of the merger to be properly sorted through and factored into cost recovery reviews. The delay also allowed MPI to complete redevelopment of the overhead cost allocation model. At the time of the merger it was expected there would be impacts on cost recovery for the new Ministry, including beneficial impacts for third party service users.

The current fee structures for food safety, biosecurity and animal welfare are therefore based on costs of the Ministry and other agencies from the 2009/10 financial year or earlier, typically five to seven or more years ago.

1.5.4 Memorandum accounts

MPI uses memorandum accounts to monitor cost recovery revenue and expenses for food safety and biosecurity. There are four memorandum accounts for this purpose:

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[1] *Guidelines for Setting Charges in the Public Sector*, The Treasury, December 2002.http://www.treasury.govt.nz/publications/guidance/finmgmt-reporting/charges

[2] *Charging Fees for Public Sector Goods and Services*. Good Practice Guide. Office of the Auditor-General, June 2008. http://www.oag.govt.nz/2008/charging-fees/

- verification of the food regulatory programme;
- approvals, accreditations and registrations;
- standards setting for the food industry;
- border biosecurity clearance fees.

The verifications, approvals and standards setting memorandum accounts were all established prior to the 2006/07 financial year. The border biosecurity clearance fees memorandum account was created on 1 July 2010 from the consolidation of four previous memorandum accounts that were created on 1 July 2007.

Memorandum accounts must be reported as part of MPI's annual report.

1.6 CURRENT STATUS OF COST RECOVERY

1.6.1 Market developments since the last review

Demand for MPI's services has increased substantially since the last cost recovery reviews were undertaken. Table 1 provides brief snapshot of increases in market activity since 2009.

Table 1: Activity levels in key service areas

Activity area	2009	2014	% increase
Vehicle imports - excl. rolling stock (billion $)	3.72	6.36	+71
Wine export volume (million L)	205	320	+56
Export cargo volume – sea (million T)	25.3	38.3	+51
Dairy exports milk solids (billion kg)	2.1	3.0	+43
Harmonised trade imports – China (billion $)	6.3	8.1	+29
Export cargo volume – air (thousand T)	92	104	+13

Source: Statistics New Zealand, New Zealand Winegrowers, and New Zealand Customs Service.

This increased demand has resulted in pressure on the quality and quantity of services provided, and the costs of delivering services.

MPI has endeavoured to ensure that cost increases are reasonable, it is operating efficiently, and efficiency gains are factored into the budgeted costs for service delivery. It has benchmarked its operating efficiency as follows:

- Of the proposed revenue increases since fee rates were last updated, the portion attributable to Ministry cost pressures is $3.5 million. This is less than half the $9 million increase that would have occurred if costs had risen at the rate of general inflation.
- The 2013/14 Benchmarking Administrative and Support Services (BASS) survey places the Ministry's corporate services' costs at 12.3 percent of total running costs. This has improved from 13.7 percent last year and is below the 13.6 percent median (2012/13 median of 14.4 percent) of comparable public sector agencies[3].
- The Ministry's procurement function received the highest rating of the 16 agencies (as at 2012/13) that had participated in the ArcBlue Procurement Review.

[3]Benchmarked against the Department of Conservation, Department of Internal Affairs, Land Information New Zealand, Ministry of Foreign Affairs and Trade, Ministry of Health, New Zealand Customs Service, New Zealand Transport Authority, New Zealand Trade and Enterprise, and Statistics New Zealand.

- The Ministry realised savings from the mergers of predecessor agencies of approximately $23.6 million, including $2.8 million in savings to third parties. These savings are reflected in the proposed charges.
- The Ministry has absorbed a range of costs across its Crown-funded and cost-recovered activities. This includes absorbing the costs of three fruit fly responses in 2014/15; and in 2015/16 absorbing $7.9 million in costs for additional observers on foreign charter vessels and increasing airport passenger numbers (especially from countries with a low understanding of New Zealand's biosecurity requirements).
- Proposed professional services hourly rates (from $109 to $155) compare favourably with rates for other New Zealand agencies (for example, they are up to $241 at the Civil Aviation Authority; and also compare favourably with border clearance services and agricultural verification rates in Australia (from AUD132 to AUD306).
- Market feedback suggests the Ministry costs for verification services are the same or lower than those of private sector competitors.

1.6.2 The need for change

MPI is required by most of the legislation it administers (the Biosecurity, Agricultural Compounds and Veterinary Medicines, Animal Products and Wine Acts) to recover the costs of providing services that are not Crown-funded. These fees are set through cost recovery regulations that have not been amended for a number of years. This has resulted in under-recovery, as the costs of providing these services have risen owing to changes to improve service delivery and general cost pressures.

These increased costs are financially unsustainable and will put pressure on the level of service MPI can offer.

Furthermore, when the three agencies merged into MPI, a number of inconsistencies in the fees charged became evident. The result is that some users pay more than others for similar services, while some others pay nothing at all.

1.6.3 Options for change

We are inviting feedback on the four main options for cost recovery (Table 2). They are to maintain the status quo, increase the fees for activities, increase fees and enact smaller policy proposals, or undertake a 'first principles' review of MPI's cost recovery.

Table 2: Options for cost recovery

Proposal	Analysis
Status quo	MPI continues to under-recover for the services it offers under regulation.
Update existing fees for services provided under regulation	MPI recovers costs for the services it offers, in line with relevant legislation, by 1 July 2015. Opportunities to improve services or flexibility through policy changes deferred.
Update existing fees & enact policy proposals	MPI recovers costs for the services it offers, in line with relevant legislation, by 1 July 2015. Proposed policy changes implemented within same timeframe.
Completion of a first principles review of cost recovery, followed by an update to fees and policies	MPI defers fees updates until it completes a first principles review of cost recovery across all its services. Changes would not be in place for 1 July 2015. This would result in substantial, unrecoverable deficit, and the quantum of fee increases would ultimately be larger.

1.6.4 A first principles review of MPI cost recovery

A first principles review of MPI cost recovery is scheduled for completion later in 2015. That review has a much broader scope that the current consultation, including a consideration of:

- harmonising cost recovery regimes across the Ministry;
- the overall cost of Ministry fees to businesses and others;
- further analysis of practical trade-offs between volumes, prices and standards (including risk);
- appropriate funding sources for all Ministry services;
- timeframes for fee updates;
- optimal timeframes for recovering historic debts;
- alignment with other cost recovery regimes.

The first principles review will also consider any issues identified through the current consultation process that are outside the scope of this consultation document, and will ensure the Ministry's cost recovery frameworks are operating in accordance with the underlying statutory frameworks and the high-level principles and guidance provided by the Treasury and Office of the Auditor-General.

1.6.5 Cost recovery regimes excluded from the current review

The current review does not include cost recovery under the following legislation:

- Climate Change Response Act 2002;
- Commodity Levies Act 1990;
- Forests Act 1949;
- National Animal Identification and Tracing Act 2012.

Cost recovery under the Fisheries Act 1996 is also not covered by this review, as it is reviewed annually in accordance with the requirements of that Act.

Cost recovery under the Food Act 1981 has not been included in the current review. Cost recovery under this Act is relatively minor in terms of the amounts involved. Furthermore, the enactment of the Food Act 2014 requires cost recovery and other regulations to be developed and implemented as part of the gradual commencement of the provisions of this Act. Once implemented, the cost recovery provisions of the Food Act 2014 will supersede those of the Food Act 1981.

Funding and cost recovery issues relating to the Government Industry Agreement (GIA) on Biosecurity Readiness and Response, and to pest management, have not been included in the current review of biosecurity cost recovery. Work on GIA cost recovery arrangements is progressing separately. (See section **Error! Reference source not found.**, for further details.)

The development of cost recovery regulations under the Airports (Processing of International Travellers) Act 2014 is also not included in the scope of the current fee reviews.

1.6.6 Cost recovery under the Food Act 2014

MPI is developing cost recovery proposals for services that will be delivered under the Food Act 2014.

The consultation process for Food Act 2014 cost recovery is being dealt with separately from the process for services covered by this document.

1.7 FEE CHANGES NOT SUBJECT TO DETAILED POLICY PROPOSALS

The proposals discussed in detail in this document do not cover updates to existing fees, charges and levies where no change to the basis of calculation or applicability of the fees, charges and levies is proposed. Rates for most items have been updated to reflect current cost structures and anticipated demand for services. The updated rates are included in the Appendices at the end of each section.

Your comment on these updates is invited as part of any feedback you provide.

1.8 USE OF FORMULAE TO CALCULATE FEES, CHARGES AND LEVIES

In some instances MPI has chosen to propose fees, charges and levy calculations based on formulae. The use of formulae will allow fees to rise (and potentially fall) in line with changes in the actual cost of providing the service. In some cases the formulae will rely on MPI internal cost assessments. We recognise that there may be some concern about the transparency of costs in these cases and propose to take the following steps to safeguard against cost rises that are not transparent or justifiable. These measures could include:

- benchmarking internal cost rises against a published target linked to general inflation;
- subjecting the service area to periodic external audits;
- allowing for a targeted, case-by-case, review of proposed fee levels by portfolio Ministers.

1.8.1 Questions for consideration

Question 1.8:

1) In principle, do you support the use of formulae for setting charges for some activities, or would you prefer a ‘prescribed fee’ basis?
2) Do you think the safeguards are sufficient in ensuring the fees, levies and charges set by way of formulae are fair and reasonable?

1.9 USE OF HOURLY RATE CHARGES

Hourly rate charges are one of a number of available options for recovery of costs incurred in delivering services to users. When determining the most appropriate method for cost recovery (for example, fixed fee, hourly rate charges and levies) a number of factors are taken into consideration. These include factors influencing the likely demand for the services and both the Ministry’s and users’ ability to manage the demand – such as volume, frequency and timing. The mandated principles (where applicable) of equity, efficiency, justifiability and transparency are also taken into consideration.

Other factors taken into consideration include the method and location of service delivery – for example, whether site visits are required or whether the service is office-based – and the technical expertise required for service delivery.

The Ministry is in agreement with recent comments from the Treasury and the Productivity Commission that hourly fees can be useful for recovering costs where the costs associated with individual cases are highly variable and the fee-payer can take action to reduce these costs.

In some instances, the Ministry is proposing to use fixed fees that are based on hourly rate charges. Where this approach is being proposed, an explanation of the basis of calculation is included as part of each proposal. This approach is proposed where a service is typically provided on the basis of a number of process steps throughout the year. The total time assigned to each process step has then been aggregated to help determine the total costs being incurred by the Ministry. In these instances charging a single ‘unit’ fee is administratively more efficient for both the Ministry and the service user than charging for each process step individually as process steps are performed.

1.10 GOODS AND SERVICES TAX (GST)

Fees, charges and levies in the current regulations were put into effect on both a GST-inclusive and GST-exclusive basis. This document shows fees, charges and levies on a GST-exclusive basis. This approach has been taken:

- to ensure consistency and comparability within and between cost recovery regimes;
- to recognise that the majority of the Ministry's fee-paying customers are businesses that are likely to be registered for GST, so they can offset any GST paid in their GST returns.

At the time current fees, charges and levies were put into effect, the rate of GST was 12.5%. The GST rate subsequently increased to 15%, and fees, charges and levies were restated to reflect the increased rate. This means that where fees published in regulations are 'GST-inclusive' they will not always correspond to the actual GST-inclusive fee being charged.

The Ministry is seeking to promulgate revised and/or new fees, charges and levies on a GST-exclusive basis. This will ensure consistency across all fee regimes, and will also help to ensure that the published rates for fees, charges and levies remains correct should there be future changes to GST rates. All figures in this consultation document are *GST-exclusive* unless otherwise stated.

1.11 *APPENDIX 1 - GUIDELINES FOR SETTING CHARGES AND FEES*

MPI follows the guidelines (subject to relevant legislation) set out in the Treasury's *Guidelines for Setting Charges in the Public Sector* ('Treasury guidelines')[4] and the Office of the Auditor-General Good Practice Guide, *Charging fees for public sector goods and services* ('Auditor-General guide')[5].

1.11.1 The Treasury guidelines for charging fees

The Treasury guidelines outline policy considerations such as who should be charged a fee and whether a public entity should recover less than the full costs of providing a good or service. The guidelines state that:

- Charges should, in general, be set at the full cost of providing the service, where full cost includes all overheads and non-cash (such as capital charges), measured in accrual accounting terms.
- Charges should not be excessive in relation to the costs incurred.
- Charges can be set to vary by the location where the service is provided or by the time at which the service is provided, but a balance needs to be struck between the gains from complex fee structures and the costs in terms of a loss of simplicity.
- The process for setting charges should be clear and appropriate.
- Transaction costs in setting and collecting the charges should be kept as low as practicable.
- Appropriate consultation with those affected should be undertaken when setting and changing the charges.
- There should be a robust basis for any charges.
- There should be fair treatment for taxpayers, beneficiaries of the service and 'risk exacerbators'.

1.11.2 Auditor-General guide for charging fees

The Auditor-General guide directs and government departments and other public entities to apply three principles when setting fees for providing services to third parties:

- ***Authority*** – There must be legal authority to charge a fee for the services that a public entity is legally obliged to provide to third parties. MPI's authority to charge for service provision is contained in the Acts listed in section 1.5.1 of this document.
- ***Efficiency*** – Services should be provided to the desired level of quality from a given quantity of resources, thereby achieving value for money. For service provision to be efficient, MPI needs to have an adequate understanding of the costs (both direct and indirect) of providing third party services, and have appropriate systems in place to monitor costs.
- ***Accountability*** – An entity must ensure that its processes for identifying costs and setting fees are transparent. MPI achieves this through consulting affected parties on any proposed fee changes and by separate disclosure of revenue and expenses for third party service provision through memorandum accounts.

[4] *Guidelines for Setting Charges in the Public Sector*, The Treasury, December 2002. http://www.treasury.govt.nz/publications/guidance/finmgmt-reporting/charges

[5] *Charging Fees for Public Sector Goods and Services*. Good Practice Guide. Office of the Auditor-General, June 2008. http://www.oag.govt.nz/2008/charging-fees/

1.11.3 Economic description of services

In economic terms, services can be characterised as public, 'club' or private goods.[6] Club goods are also known as industry goods. In practice, there is often no clear delineation of boundaries between them, and a product or service can have elements of all three. A key question then becomes the degree to which practical considerations of how costly it is to charge the user of a service outweigh the benefits of charging.

MPI has adopted the following definitions to help determine the most appropriate source of funding for services delivered to users:

- ***Public good*** – A good is considered public when excluding users from its benefits is either difficult or costly (meaning it is 'non-excludable', in economic terms) and its use by one person does not detract from its use by another (making it is 'non-rivalrous'). In practice, pure public goods are rare. Many government-provided services share the characteristics of public goods to some extent. There is a good case for recovering the costs of a public good from the community as a whole by general taxation (that is, through government funding for delivery of these services to users).
- ***Club good*** – Inn the case of a club good, in contrast, users can be excluded from the benefits of use at low cost), but its use by one person does not detract from its use by another (making it non-rivalrous). The key difference is that the ability to exclude users implies that it is feasible to charge for use. Charging club members can be an efficient way of recovering costs. An example of a club good is activities undertaken by MPI to promote an industry, such as dairy residue monitoring.
- ***Private good*** –Users can be excluded from benefits at low cost, and its use by one person conflicts with use by another (meaning it is both excludable and rivalrous). There is a strong case for recovering the costs of private goods from those who benefit directly from their provision. An example of a private good is certification that a company's goods comply with all relevant export requirements.

1.11.4 Cost basis for fees and charges

MPI uses full accrual accounting to determine the cost of providing services, an approach that is consistent with generally accepted accounting practice:

- ***Direct costs*** include personnel and operating costs (and can include fixed and variable costs).
- ***Indirect costs*** include management and support services and corporate overhead costs, which include accommodation, equipment and communications. MPI's fixed costs form part of the cost of producing its outputs, and are apportioned across all outputs each year. The 'drivers' for allocating indirect costs across activities and functions for outputs are selected to best represent a fair use of the particular function or service.

This approach ensures that the full cost of providing services is considered when determining the level of cost recovery that will be required.

[6] A fourth category, "merit goods", are goods desired by the community as a whole at higher rates of consumption than if they were supplied at full cost. Merit goods may involve a mixture of Crown and third party funding, and the loss in public benefits from charging at full cost has to be significant. No merit goods were identified and they have not therefore been included in the current review.

2 Making submissions on the proposals

2.1 CONSULTATION

Individual legislative frameworks and government guidelines require MPI to consult with affected parties on cost recovery mechanisms that best meet government guidelines while taking into account the parties' expectations and needs.

We will meet with key industry representative groups to seek their views on the cost recovery proposals presented in this document.

Feedback from individuals, businesses and other organisations is also invited.

2.2 DEADLINE FOR SUBMISSIONS

We must receive submissions on the cost recovery proposals contained in this document no later than **5 pm** on **20 February 2015**. We may not be able to accept or consider submissions received after this time.

2.3 HOW SUBMISSIONS WILL BE USED

2.3.1 Analysis of submissions

We will analyse all feedback received from submissions. We will take that feedback into account when finalising proposals for the Government to consider.

We may follow up with some of those who make submissions if further discussion or clarification is needed.

We will produce a summary of all submissions and make it publicly available on our website.

2.3.2 Official Information Act 1982

The Official Information Act 1982 (the OIA) states that information should be made available unless there are grounds for withholding it. The grounds for withholding information are outlined in the OIA.

Reasons for withholding information could include information that is commercially sensitive or personal information such as names or contact details. Those making submissions should indicate any grounds for withholding information included in their submissions.

We will take any such indications into consideration when determining whether or not to release information or to include specific submission information in the published summary of submissions. The final decision on what will be released will remain with MPI.

Any decision by MPI to withhold information requested under the OIA may be reviewed by the Ombudsman.

2.4 HOW TO COMMENT ON PROPOSALS OR ANSWER QUESTIONS

We invite submissions from all interested parties affected by the cost recovery proposals included in this document and on the questions that accompany each proposal.

2.4.1 Preparation of submissions

The following points may assist in preparing a submission:

- When commenting on a specific item or question, please include the reference information (for example, "Common#1"), section number, paragraph number or Table/Figure number that clearly identifies the item being discussed.

- Be as specific as possible in your statements. For example, use phrases such as ‘I support the fee increase in Wine#... for the following reasons…’ and ‘I disagree with the fee increase proposed in APA#...for the following reasons...’. In that way, you will help us to report your views accurately and enable us to gauge the level of support for individual proposals.
- Please focus your submission on cost recovery for MPI services as discussed here. This submission process is not the most effective channel to raise broader policy issues or challenges affecting your sector.
- You may find it helpful to present your feedback in terms of the key cost recovery principles (section 1.5.2) and the potential impact on your business or sector.
- Where possible, please use examples, or data, to illustrate your points.

2.4.2 What to include in your submission

Please include the following information in your submission:

- the title of this document;
- your name, and title;
- your organisation’s name (if applicable);
- your contact details – mailing and email addresses, and telephone numbers (cell phone and landline).

2.4.3 Format for submissions

Typed submissions are preferred, although submissions in clear handwriting will be accepted.

Typed submissions should be sent in Microsoft Word or email format. PDF documents are not compatible with our submission processing systems.

2.5 ADDRESS FOR SUBMISSIONS

1) Submissions, queries and other feedback can be emailed to:

   costrecovery@mpi.govt.nz

2) Paper documents should be posted to:

   Cost Recovery Review Consultation
   Policy & Trade Branch
   Ministry for Primary Industries
   PO Box 2526
   Wellington 6140

All submissions must be emailed or sent in time to reach us by the deadline. We cannot accept responsibility for submissions that are not received by the required deadline or where transmission is delayed because of reasons beyond our control.

3 Overview of cost recovery proposals

3.1 WHY THE COST RECOVERY REGIME IS BEING REVIEWED

This is the first review of Biosecurity and Food Safety fees since the creation of the Ministry on 1 July 2011. The current fee regime is based on the cost structures of the Ministry's predecessor agencies from 2010, or earlier, and is consequently overdue for revision.

The Government is legally required to ensure that it neither overcharges nor undercharges for its services. The Ministry is mindful that increasing charges can, in some instances, add a significant financial burden on smaller, more marginal businesses.

In the lead-up to this review the Ministry has redeveloped its overhead cost allocation model for fees, levies and charges, and subsequently received independent verification of the model's validity from Deloitte. The Ministry then undertook an internal review and stock-take of the services it provides and the level of resources required to meet the demand for those services. It has been an opportunity for the Ministry to refresh policy settings, review existing fee structures, and check that the cost recovery regime is fit for purpose, namely:

- Fees do not under, or over, recover costs.
- Fees are updated to reflect changes in activity, cost drivers and industry structure.
- The policy underlying fees remains appropriate.

Implementation of the proposals from the cost recovery review will ensure that third-party users of the Crown's Biosecurity and Food Safety services pay an equitable share of the cost of delivering the services they use.

The operational environment has changed significantly since the fees were last set (five to seven years ago). These changes include:

- evolving and emerging biosecurity risk pathways;
- the increased sophistication and range of services provided (in response to increasingly exacting requirements of our international trading partners);
- growth in industry sectors (such as the trebling of wine industry production since 2005);
- the increasing cost of specialised technical services (such as an estimated 10 percent uplift in veterinarian salary costs since 2007[7];
- expanded and improved services (such as the use of dogs in cargo handling), and increasing service expectations and standards.

As a consequence of changes to the operational environment, fee levels are no longer meeting the cost of their delivery and MPI proposes to increase fees in most areas to reflect true costs. Some of the new fees are not directly comparable with the existing fees because the nature of the services and activities has changed significantly since the fee settings were last reviewed.

3.2 A SUMMARY OF PROPOSED CHANGES TO COST RECOVERY[8]

Table 3 summarises the proposed overall changes in cost recovery across biosecurity and food safety. The revenue is currently collected under 254 different fees and charges. Of note is the change from a deficit of at least $5.0 million in 2014/15 to a surplus of $3.9 million in 2015/16. This surplus is necessary to correct for deficits in the associated memorandum accounts owing to the under-recovery of costs over the last three years. In future years the

[7] MPI participates in the New Zealand Veterinary Association veterinary salary bench marking surveys, to ensure total MPI veterinary remuneration remains comparable to the general market.

[8] All figures are exclusive of GST.

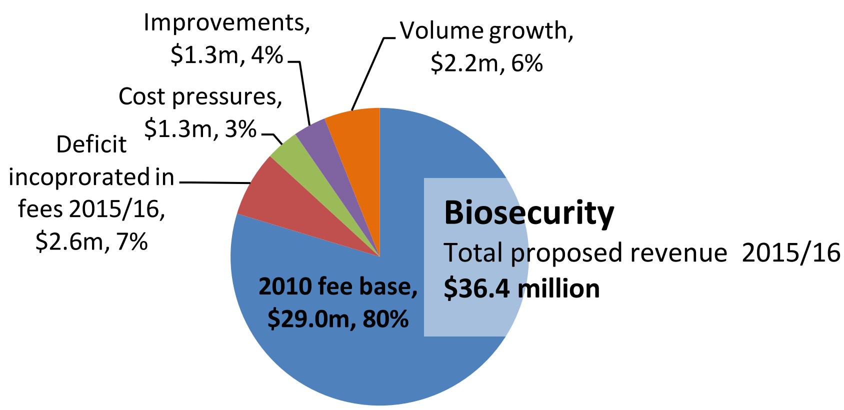
level of surplus or deficit will be carefully managed to ensure that, on average, the value of the memorandum accounts remains close to zero.

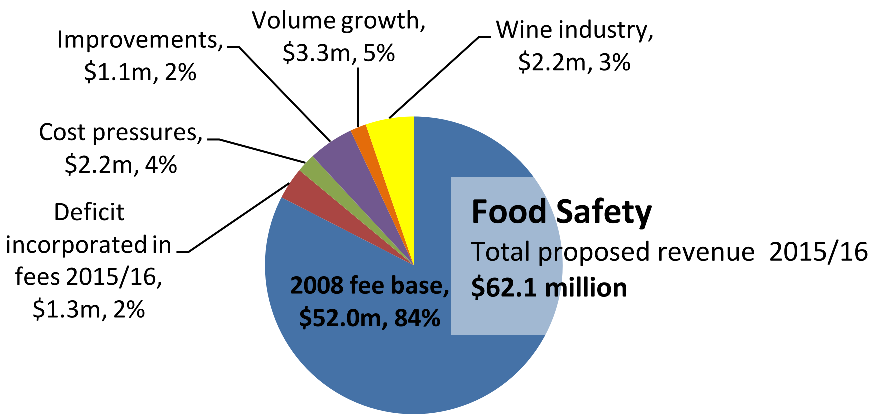
Table 3: Impact of proposed new fees on cost-recovered revenue and expenditure

Area	Current 2014/15 ($million)			Proposed 2015/16 ($million)		
	Revenue	Expenditure	Surplus /(Deficit)	Revenue	Expenditure	Surplus /(Deficit)
Food safety	55.3	57.7	(2.4)	62.1	60.8	1.3
Biosecurity	30.4	33.0	(2.6)	36.4	33.8	2.6
Total	85.7	90.7	(5.0)	98.5	94.6	3.9

The key components of cost recovery revenue and expenditure are summarised in Figure 1.

Figure 1: Breakdown of proposed cost recovery revenue in 2015/16, relative to when the fees were last updated.





Costs have been allocated to activity areas on the basis of surveys of 'assessed effort' in undertaking particular tasks, assessed standard times for completing tasks, and billing information. Once the cost of improved services and volume growth has been accounted for, cost growth has been less than the rate of inflation since the fees were last reviewed (2010 for Biosecurity and 2007/08 for Food Safety).

3.2.1 Proposed changes to biosecurity fees

The total forecast revenue (based on proposed fees and charges) in the 2015/16 financial year of $36.4 million comprises:

- Biosecurity System Entry Levy (BSEL) at $19.2 million: rates will increase by 18 percent, from $11.11 to $13.15[9];
- hourly rate charges at $5.7 million: the hourly rate for quarantine inspectors will increase by 15 percent, from $88.89 to $102.27;
- zone charges: $2.1 million;
- transitional facilities: $1.8 million;
- animal import permits: $0.9 million;
- personal effects: $0.5 million;
- vehicle imports: $0.06 million.

Improvements to the biosecurity system include:

- enhanced risk management of transitional and containment facilities;
- increasing use of detector dogs on the cargo pathway.

3.2.2 Proposed changes to food safety fees

The total expected revenue in the 2015/16 financial year of $62.1 million consists of fees derived from:

- common programme charge across establishment and circuits of $44.90, compared with current charges of $41.04 and $20.97 respectively;
- increases in veterinary inspection rates of approximately 3.5 percent in establishment, 29 percent in circuit and 105 percent in live animal ─ official assurance certificate fee unchanged at $32;
- main food safety hourly rate increases from $122 to $155;
- approximately $0.01 increase in lamb equivalent meat levy;
- approximately a 45 percent decrease in seafood and shellfish levies owing to memorandum account surpluses, in years one and two only;
- increases in levies for egg sector, bees and honey, animal feeds, hides and skins, in years one and two only;
- new activities and cost recovery for exportation and risk management of infant formula manufacture;
- introduction of new wine levies comprising a $330k domestic levy on New Zealand Winegrowers, and an export levy of around $0.01 per litre of export wine, with annual exports < 10,000 litres per business exempt;
- ceasing rebates for the cost of laboratory fees wine export samples, which will increase wine industry costs by a further $0.8 million.

Improvements and refinements to the Food Safety system include:

- food assurance systems to match the rapid growth of infant formula exports;
- increased expenditure of $1.1 million relating to dairy and animal products residue programmes;
- alignment with European Union/Swiss veterinary inspection rates;

[9] The BSEL payable in relation to import entries, that includes the fixed JBMS component of $4.22, will increase from $15.33 to $17.37.

- alignment of veterinary inspection rates across Biosecurity and Food regulations;
- introducing a one-hour minimum charge rather than invoicing in 15-minute intervals;
- alignment of hourly rate charges;
- improved dairy residue monitoring;
- more equitable treatment of small and large dairy exporters and processors.

3.2.3 Questions for consideration

Question 3.2

1) After reading the policy proposals and schedule of proposed fees, do you think that the impacts on your business and sector are fair and reasonable?
2) Are the proposed fees, charges and levies likely to adversely affect the viability of your business or sector? If you believe this to be the case, please give examples to support this.