Regulatory Impact Statement

Future Funding of Maritime New Zealand: Proposal for Revised Third Party Charges

Agency Disclosure Statement

This Regulatory Impact Statement has been prepared by the Ministry of Transport.

It provides an analysis of proposed changes to Maritime New Zealand's third party funding arrangements.

Options for addressing the problem have been considered within the parameters for third party funding under the Maritime Transport Act 1994 to meet the cost of Maritime New Zealand services and activities.

The Maritime New Zealand Funding Review established that Maritime New Zealand revenue sources, particularly direct charges and a levy (the marine safety charge), are misaligned with the activities and services that each revenue source is intended to fund and, in turn, with the government's cost-recovery principles.

Impacts on business have been modelled, and a gradual transition to higher fee rates is proposed. The proposed funding arrangements have been developed in consultation with a reference group representing key maritime sector interest groups, and have been publicly consulted on for a six week period.

The expected future costs do not include potential changes to regulatory activity that are subject to government decisions on the proposed introduction during 2013/14 of a new maritime operator safety system and a new framework for seafarer qualifications. Any fee or levy changes specific to those proposals will be subject to separate consultation.

The proposal includes the assumption that the current volume of directly chargeable services will continue. The proposed changes to direct charges would increase costs to individuals and businesses, although the additional costs to New Zealand-based businesses will be offset by a reduction in the levy. Due to the phasing of funding changes, the full benefit of lower levy rates will not be available until year six.

The proposal will not impair private property rights, or the incentives for businesses to innovate and invest, or override any of the fundamental common law principles (as referenced in Chapter 3 of the Legislation Advisory Committee's Guidelines on Process and Content of Legislation). The proposals are consistent with the Government's August 2009 *Better Regulation, Less Regulation* statement.

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Status quo and problem definition

Maritime New Zealand's role and funding sources

1. Maritime New Zealand is the regulatory agency for the New Zealand maritime sector. Its functions include advice and services to government (including development of rules and other regulatory instruments, administration of international convention obligations, and maritime security), ship registration, the provision of maritime safety services to recreational boating, and safety services and compliance functions in relation to maritime qualifications and maritime operations.

2. Maritime New Zealand's role also includes marine oil spill response and search and rescue coordination, which are funded separately from the above functions and are outside the scope of this proposal.

3. Crown funding of $6.68 million per annum is appropriated for Maritime New Zealand advice and services to government, including $1.27 million for safety services relating to recreational boating and $0.7 million to cover the cost of some specific compliance functions.

4. The remainder of Maritime New Zealand's funding for activities subject to this proposal is derived from third party revenue, specifically:
   - direct charges (fees) for regulatory services, imposed by regulations made under section 445 of the Maritime Transport Act 1994 and section 87 of the Ship Registration Act 1992. Direct charges are intended to recover the costs of regulatory services provided in the form of individually identifiable transactions
   - a levy (the marine safety charge), imposed on commercial ships by regulations made under section 191 of the Maritime Transport Act 1994. The levy is imposed to pay for safety services where it is not feasible to measure and charge for individual usage.

5. Table 1 summarises the purposes of these third party charging mechanisms and the forecast revenue from each for the 2012/13 financial year.

Table 1 – Maritime New Zealand third party revenue 2012/13

Description	Purpose	2012/13 revenue $000
Direct charges, commercial maritime activity	Meet costs of regulatory services: - seafarer and ship certification, licensing, permits, approvals and exemptions - audits - environmental permits and approvals - costs of regulatory services relating to the registration of ships	1,840
Levy (marine safety charge)	Provide funding for: - aids to navigation - distress and safety radio - marine safety information - other ship safety related services	17,140
Total		18,980

6. Maritime New Zealand's direct charges and the levy were last reviewed in 2008, with subsequent reviews to be carried out three-yearly. The last review was undertaken in 2011/12.

<u>Funding review analysis of actual costs of Maritime New Zealand activities and services</u>

7. The 2011/12 Maritime New Zealand Funding Review's analysis of data found that:
   - direct charges specified in existing regulations are far below actual service delivery costs, and do not cover all transactions for which a direct charge could be made
   - the Crown funding provided for recreational boating-related costs does not cover the full costs that Maritime New Zealand incurs for boating-related activities and services[1]
   - levy revenue from the marine safety charge is used to meet both the shortfall in cost recovery for regulatory services and the funding gap for recreational boating activities and services.

8. Table 2 shows the differences between forecast 2012/13 revenue from these funding streams and the forecast 2012/13 costs of the activities and services that each is intended to fund.

Table 2 – 2012/13 revenue and cost forecast

Funding mechanism	Purpose	2012/13 revenue $000	2012/13 cost $000	Surplus/ (shortfall) $000
Direct charges	Meet costs of regulatory services and ship registration services	1,840	5,500	(3,660)
Levy	Funding of shipping safety services	17,140	11,684	5,456
Crown funding	Meet recreational boating-related costs	1,274	3,070	(1,796)
Total		20,254	20,254	

9. As Table 2 shows, the levy is supporting not only services for which costs should be recovered through direct charges, but also activities and services that relate to recreational boating.

10. The net effect is that $5.456 million of levy revenue is subsidising activities that are supposed to be funded through direct charges and Crown funding.

11. Additionally, using marine safety charge revenue to meet costs incurred for services provided under the Ship Registration Act 1992 is outside the scope of the levy.

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1 Recreational boat users benefit from access to Maritime New Zealand aids to navigation, distress and safety radio system and safety information, and impose operational costs for enforcement, accident investigation and prosecutions, but recreational boats are statutorily exempt from marine safety charges.

12. Overall, Maritime New Zealand's third party revenue sources and expenditure are misaligned with the intended structure for third party funded activities and services under sections 191 and 445 of the Maritime Transport Act 1994 and the government's cost recovery principles. Change is required to address this but, for revenue to be sustainable, reform must be done in a way that manages the financial impact, particularly for those paying direct charges.

13. The problem is that, while total fees and levy revenue would not increase, a sudden change in the current cost recovery arrangements to align them with the Maritime Transport Act could have significant financial impacts on those who pay direct charges, on some industry sub-sectors, and on third party revenue sustainability for Maritime New Zealand. Any new arrangements must be sensitive to potential effects on participation in the domestic maritime sector, which comprises mostly small to medium sized businesses and pays almost all Maritime New Zealand direct charges.

Objective

14. The objective is to align Maritime New Zealand's third party funding structure with the purposes for which third party charges may be imposed under the Maritime Transport Act 1994, in a manner that is sustainable and equitable. To achieve this, the revised charging system must satisfy the funding principles in Appendix 1.

Regulatory impact analysis

15. In developing a funding approach that would achieve the objective, the Funding Review considered regulatory and non-regulatory options.

<u>Non-regulatory options</u>

16. Consideration was first given to achieving efficiencies to reduce the overall costs of Maritime New Zealand's chargeable services and achieve more effective collection of existing direct charges.

17. Maritime New Zealand implemented non-regulatory action in February 2012 to fully collect existing direct charges that the Value for Money Review found were either not being recovered or were being only partially recovered (estimated impact $0.5 million in 2012/13). Maritime New Zealand has made $0.5 million in cost savings recommended by the Value for Money Review, and expects further efficiency improvements in corporate and regulatory services to reduce annual delivery costs for chargeable services by $1 million by 2018/19. These measures have all been factored into cost and revenue projections but their combined effect cannot resolve the much larger gap between existing direct charges and the actual cost of the services provided.

<u>Regulatory options</u>

18. After taking into account cost savings and efficiency gains, and applying the funding principles (refer Appendix 1) the Funding Review established that the following changes to Maritime New Zealand's future funding arrangements would be required:

- direct charges should recover an additional $2.83 million per annum
- Crown funding for activities and services relating to recreational boating should increase by $1.4 million
- levy revenue should reduce by $4.86 million.

19. The revenue changes can only be achieved through regulatory action to increase direct charges and reduce levy rates prescribed by existing regulations. The Funding Review has undertaken detailed analysis of the impact on levy rates and direct charges.

20. In calculating the levy rates, the Review included an assumption that funding from recreational boating-derived fuel excise duty will become available under section 9(1) of the Land Transport Management Act 2003[2] to address the $1.4 million gap in Crown funding for recreational boating. The Ministers of Transport and Finance have agreed to provide this additional funding with effect from 1 July 2013.

21. Three options for implementing the necessary alterations to existing charges were identified by the Funding Review, and have been evaluated against the objective and the funding principles in Appendix 1:

- Option 1 – immediate transition to revised charges and levy
- Option 2 – three year transition period
- Option 3 – six year transition period.

22. Table 3 compares the impact of each option on GST exclusive direct charge rates and on total revenue from direct charges and levies. Details of levy rate changes are included at Appendix 3.

Table 3 – Comparative effects of options

Direct charges $/hour Revenue $000 /p.a.	**2012/13 (baseline)**	**2013/14**	**2014/15**	**2015/16**	**2016/17**	**2017/18**	**2018/19**
Option 1 [3] Direct charge rate	90	235	235	235	205	205	205
Direct revenue	1,840	4,952	4,952	4,952	4,670	4,670	4,670
Levy revenue	17,140	12,738	12,738	12,738	12,670	12,480	12,280
Total revenue	18,980	17,500	17,690	17,560	17,340	17,150	16,950
Option 2 Rate of charge	90	125	165	205	205	205	205
Direct revenue	1,840	2,800	3,650	4,670	4,670	4,670	4,670
Levy revenue	17,140	14,700	14,040	12,890	12,670	12,480	12,280
Total revenue	18,980	17,500	17,690	17,560	17,340	17,150	16,950
Option 3 Direct charge rate	90	125	145	160	175	190	205
Direct revenue	1,840	2,800	3,210	3,510	3,810	4,120	4,670
Levy revenue	17,140	14,700	14,480	14,050	13,530	13,030	12,280
Total revenue	18,980	17,500	17,690	17,560	17,340	17,150	16,950

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[2] Section 9(1) provides for the Ministers of Transport and Finance to appropriate boating-derived fuel excise duty for recreational boating safety and safety awareness and maritime safety services that benefit the users of pleasure craft. Estimated annual fuel excise duty from recreational boating has been estimated at over $25 million (NZIER, 2009).

[3] Full current cost of services applied until next funding review 2015/16, and year six rate brought forward to 2016/17, as for Option 2.

Note: the year on year total revenue reductions from 2015/16 in Table 3 reflect the impact of efficiency gains

23. The impacts at an operator level were modelled using 'example companies', which represent what an operator in each sector might expect if they were paying the direct charges shown. Most direct charges relate to transactions that occur at intervals of several years or on isolated occasions, rather than as a recurring annual cost. For modelling purposes, periodic charges have been annualised.

24. Appendix 2 summarises the modelling to show the impact on example companies in key maritime sectors, based on current (2012/13) costs and full cost recovery.

25. Table 4 summarises the evaluation of each option against the objective and funding principles.

Table 4 – Analysis of options for transition path to achieve full cost recovery

	Authority for charges and levy	**Equity – charges reflect benefits**	**Ability to pay**	**Accountability and transparency**	**Sustainability**	**Efficiency-value for money**
Option 1	✓✓✓ Maritime New Zealand funding arrangements would move immediately into line with cost recovery principles and statutory funding model	✓✓✓ Costs are fairly distributed among maritime operators Levy payers gain full benefits without delay	××× Minimal opportunity to adjust to large increase in direct charges Impacts greatest on individuals and smaller domestic operators Operators of foreign ships unaffected as direct charges	✓ New time recording and financial systems provide strong cost and revenue allocation data Data shared with Sector Reference Group 3 yearly review cycle	××× Revenue risks from reduced demand, avoidance behaviour high debt recovery costs	× Full fees in place before efficiency gains
Option 2	✓✓ Maritime New Zealand funding arrangements would take 3 years to fully align with cost recovery principles and statutory funding model	✓✓ Costs are fairly distributed among maritime operators Levy payers would not receive the full benefit of levy reductions for 3 years	✓ Longer adjustment period will reduce impacts on individuals and smaller operators	✓ As above	×× Revenue risks from reduced demand, avoidance behaviour high debt recovery costs	× Full fees in place before efficiency gains fully realised

Option 3	✓ Maritime New Zealand funding arrangements would take 6 years to fully align with cost recovery principles and statutory funding model	✓ Costs are fairly distributed among maritime operators Levy payers would not receive the full benefit of levy reductions for 6 years	✓✓ Long transition period will minimise impacts on individuals and smaller operators	✓ As above	✓✓ Lower revenue risk from reduced demand, avoidance behaviour high debt recovery costs	✓✓ Provides the opportunity for Maritime New Zealand to fully realise efficiency gains before moving to full cost recovery

Key to weighting of factors in Table 4: Positive; ✓ **low;** ✓✓ moderate; ✓✓✓ high: Negative: **X** low; **XX** moderate: **XXX** high

Conclusions and recommendations

26. Option 1 raises 'ability to pay' issues for domestic vessel operators and individuals, who would face heavy immediate or short term increases in costs. The impact of such a sharp change in approach potentially raises significant revenue risk for Maritime New Zealand.

27. Such outcomes would be incompatible with the objective and the Funding Review principles. Sector Reference Group input to options for consultation indicated that an immediate step change was not seen as realistic. While Option 2 allows time to partly mitigate the impacts of change, it still raises ability to pay and revenue risks.

28. On balance, Option 3 best meets the objective. Option 3 would mean levies for foreign-going ships partly subsidise direct charges over the six-year transition period. However, the levies would still reduce steadily, while direct charges rose. Implementing the transition to full cost recovery over six years would reduce the risk to revenue sustainability, allow efficiency gains to be fully reflected in fees for direct services, and would mitigate the impacts of an abrupt change on small to medium businesses and individuals.

Consultation

29. The Maritime New Zealand Funding Review (as for the preceding Value for Money Review) was undertaken with engagement of a Sector Reference Group, comprising representatives from across the maritime sector. The Group's role was to provide information and insight both from a wider sector perspective and from individual sub-sectors. The funding principles summarised in Appendix 1, supporting data for the review, and funding options, were all tested with the Group before the Consultation papers, approved by Cabinet for release, were prepared.

30. There has been a six week public consultation process on the proposals presented in the Maritime New Zealand Funding Review consultation document.

31. Stakeholders generally support the conceptual approach, reflecting the engagement of the Sector Reference Group. Few stakeholders raised issues with regard to the

proposed reduction in the levy. The New Zealand Shipping Federation has objected to the continued use of passenger capacity in calculating the levy rate for interisland passenger ferries. Foreign ship operators made no submission during the consultation period but Shipping New Zealand and the International Container Lines Committee have since said they consider the levy reduction is too small and the implementation period too long. A range of submitters, including the New Zealand Marine Transport Association, the New Zealand Shipping Federation and a number of individual operators submitted that the hourly rate calculated for Maritime New Zealand services is too high, with some questioning the cost-effectiveness or efficiency of services.

32. Submissions reflected the relative impacts of the proposed levy reductions and fee increases on particular sector categories. The proposals have not been altered in response to the submissions. Recovering the actual cost of chargeable activities will necessarily impose extra costs on affected parties but the six-year transition allows a lengthy adjustment period. The levy and fee calculations draw on detailed cost and revenue allocation data generated from upgraded Maritime New Zealand time-recording and financial systems and take into account both cost savings already realised and planned costs savings. The results were shared with stakeholders through the Sector Reference Group and detailed analysis was made available as part of the funding review consultation process. Should further efficiencies be identified, the benefits would be passed on to the sector at the next three-yearly review.

Implementation

33. The Ministry of Transport will lead the legislative change process to enable implementation of the proposals outlined in the paper. Amendments to the following regulations would be necessary:

- Marine Safety Charges Regulations 2000
- Shipping (Charges) Regulations 2000
- Ship Registration (Fees) Regulations 1992.

34. The proposal to phase fee increases over a number of years is designed to mitigate impacts on fee payers and the risks of avoidance, bad debts, and increased collection costs presented by a single step to full cost recovery.

35. The revised fees and levy will be implemented through Maritime New Zealand's existing fee and levy collection system, and will involve no new processes or increases in compliance costs for affected parties.

36. Affected parties will receive advance notice of the changes, which are proposed to come into effect on 1 July 2013. Maritime New Zealand will keep stakeholders informed of changes through its website, publications and the Sector Reference Group.

Monitoring, evaluation and review

37. Monitoring, evaluation and review of any changes to Maritime New Zealand's direct charges and levies that may result from this proposal will be undertaken as part of the existing three-year review cycle for Maritime New Zealand funding. The next funding review is due to be undertaken in 2015, which will provide the opportunity to evaluate the results of the changes at the mid-point of the proposed 6 year transition period.

Appendix 1

Funding principles

The funding options have been developed by applying the funding principles, listed below, to activity and cost data generated by the Maritime New Zealand Funding Review.

a. Authority – this relates to Maritime New Zealand having the statutory or legal basis for the outputs/services delivered and for the imposition of direct charges and marine safety charges.

b. Efficiency – this relates to Maritime New Zealand using funding in a way that achieves value for money

c. Equity – this relates to ensuring that those who benefit from an activity are those who should pay for the activity.

d. Accountability – this relates to Maritime New Zealand being able to show transparently to Parliament, the maritime sector, and to taxpayers how funding is expended (and generated in the case of direct charges).

The funding principles have been developed using the Treasury and Office of the Auditor General guidelines. A sector reference group, made up of industry representatives, has agreed the funding principles and have provided input to their application to the cost and activity data.

The principles also include specific recognition of each sector's ability to pay for the combination of fees and levies that will be required, and that it may be appropriate to transition to higher fees over time. Recognition is also given to that it may be more appropriate to allocate higher costs to larger commercial entities than to small to medium sized entities.

Appendix 2

Marine Safety Charge and fee impacts - key vessel operating sectors

Notes

1. This Appendix shows the combined impact of fee and levy changes on example vessels or example operators in each key sector (i.e. impacts are not an average).
2. For international ship categories, which are not subject to fees, the table shows the impact of levy changes for an example vessel in that category.
3. New Zealand vessel and operator numbers are shown to indicate the relative sizes of each vessel and operator category.
4. The impacts may vary from operator to operator, ship to ship, and year to year depending on the pattern of periodic (non-regular) payments.

International cruise ship (2000 passenger capacity) which makes 3 voyages and 18 port visits per year (Note: averaged over 7 cruise ships of about 2,000 passenger capacity)		
Number of vessels	7	
Total levies paid		
Current 2012/13	**Full cost recovery**	**Impact – increase or (decrease)**
$118,800	$90,720	($28.080)
International container ship (40,000 dead weight tonnes) which makes 6 voyages and 17 port visits per year		
Number of vessels	10	
Total levies paid		
Current 2012/13	**Full cost recovery**	**Impact – increase or (decrease)**
$46,100	$35,180	($10,920)
International container ship (14,000 dead weight tonnes) which makes 12 voyages and 61 port visits per year		
Number of vessels	5	
Total levies paid		
Current 2012/13	**Full cost recovery**	**Impact – increase or (decrease)**
$47,470	$36,230	($11,240)

New Zealand large non-passenger operator (2 ships with total deadweight tonnes of 84,000)			
Number of operators	7	Number of vessels	10
Total fees and levies paid			
Current 2012/13		**Full cost recovery**	**Impact – increase or (decrease)**
$ 252,178		$201,811	($50,367)

New Zealand interisland ferry operator carrying passengers (3 ferries with combined passenger capacity of 2,800)			
Number of operators	2	Number of vessels	5 (1 foreign flagged)
Total fees and levies paid			
Current 2012/13	**Full cost recovery**		**Impact – increase or (decrease)**
$792,883	$612,905		($179,978)

Deepwater fishing fleet operator (2 ships with combined gross tonnes of 3,080)			
Number of operators (approx)	21	Number of vessels (approx)	52
Total fees and levies paid			
Current 2012/13	**Full cost recovery**		**Impact – increase or (decrease)**
$ 14,639	$9,413		($5,226)

Inshore fishing operator (2 vessels with combined length overall of 30 metres)			
Number of operators (approx)	200	Number of vessels (approx)	1130
Total fees and levies paid			
Current 2012/13	**Full cost recovery**		**Impact – increase or (decrease)**
$900	$1,273		$373

Domestic passenger operator (2 ferries with combined length overall of 31 metres)			
Number of operators (approx)	1200	Number of vessels	1348
Total fees and levies paid			
Current 2012/13	**Full cost recovery**		**Impact – increase or (decrease)**
$ 941	$1,140		$199

Commercial jet boat operator (operating in enclosed waters) (3 jet boats with combined length overall of 18 metres)			
Number of operators (approx)	45	Number of vessels (approx)	116
Total fees and levies paid			
Current 2012/13	**Full cost recovery**		**Impact – increase or (decrease)**
$902	$1,892		$990

Appendix 3

Comparison of existing (2012/13) and proposed levy rates and revenue by vessel category as at the end of the six year transition period in 2018/19

Category of ship	Basis of payment	Current rate (GST excl)	Revenue 2012/13 ($000)	Fully adjusted future rate (GST excl)	Fully adjusted revenue ($000)
Foreign non-passenger ship (summer load line)	First port visit per voyage Subsequent port visits per voyage	11.84 cents per deadweight tonne 4.02 cents per deadweight tonne	11,910	9.03 cents per deadweight tonne 3.07 cents per deadweight tonne	8,730
Foreign non-passenger ship (no summer load line)	First port visit per voyage Subsequent port visits per voyage	17.25 cents per unit of gross tonnage 4.31 cents per unit of gross tonnage		13.16 cents per unit of gross tonnage 3.29 cents per unit of gross tonnage	
Foreign passenger ship	Each port visit	$3.30 multiplied by passenger capacity	2,880	$2.52 multiplied by passenger capacity	1,990
New Zealand non-passenger ship	Annual	$2.86 per deadweight tonne	340	$2.12 per deadweight tonne	250
New Zealand passenger ship	Annual	$277 multiplied by passenger capacity	990	$205.35 multiplied by passenger capacity	730
New Zealand fishing ship	Annual	Greater of – a) $15 multiplied by the overall length b) $4.50 per unit of gross tonnage	520	Greater of – a) $8.27 multiplied by the overall length b) $2.48 per unit of gross tonnage	290
Any commercial ship or river raft not included in another category	Annual	Greater of – a) $18.75 multiplied by overall length b) $5.63 per unit of gross tonnage	500	Greater of – a) $10.33 multiplied by overall length b) $3.10 per unit of gross tonnage	280
Total revenue			**17,140**		**12,270**