

# STAKEHOLDER CONSULTATION PROCESS STANDARD – EXECUTIVE SUMMARY

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## Introduction

- 1 The stakeholder consultation process standard sets out –
  - Best practice consultation process to be followed by fisheries managers;
  - Minimum performance measures where appropriate; and
  - A nationally consistent approach.
  
- 2 This process standard has been developed taking into account relevant obligations, including the provisions of s 12 of the Fisheries Act 1996, administrative law requirements, and the MFish Statement of Intent 2006-2011.

## Elements of good consultation

- 3 In general terms, MFish decision-makers should remember to observe the following when undertaking consultation –
  - start consultation early
  - consult widely when appropriate
  - listen to what others have to say
  - be informative
  - be prepared to wait
  - balance the issues
  - ask for feedback
  - conduct consultation in mutual good faith
  - keep consultation a two way process
  - be open minded

## Process

- 4 The process steps for consultation with stakeholders on fisheries management decisions, with performance measures prescribed where appropriate, are as follows –

## *The identification of particular groups for stakeholder purposes*

- 5 The delegated decision-maker is to determine –
- Who has an interest?
  - Who are representative of those having an interest?
- 6 The analyst responsible for managing the consultation process is to review the MFish consultation list to determine who has an interest and is representative. The analyst will make a recommendation to the delegated decision-maker as to which of those groups or persons should be consulted on the proposal. The decision-maker is to formally approve that recommendation before consultation takes place.

## *Initial Consultation Plan*

- 7 MFish must provide an initial consultation plan to stakeholders **20 working days**<sup>1</sup> before the despatch of any proposal. This plan is to include –
- a) A summary of the proposed measures sufficient that the stakeholder can make an informed decision on whether, or the degree to which, they may be affected
  - b) Timeframes for consultation
  - c) The manner of consultation
  - d) The identity of the decision-maker

## *Manner of consultation*

- 8 The delegated decision-maker is also to determine the manner of consultation. The consultation may take place in the form of written exchange of information (ie, hard copy, disk format, e-mail or MFish website), or in working groups, meetings or by telephone.

## *Timeframe for consultation*

- 9 Except for the Ministry processes set out below, a minimum of **30 working days** is to be allowed for consultation with stakeholders on proposals, ie, from the despatch of the initial proposal to the deadline for submissions.
- 10 If it is not possible or unnecessary to provide the minimum period for consultation, MFish will provide reasons to stakeholders.
- 11 MFish will not initiate stakeholder consultation between the dates 20 December and 10 January inclusive, or count the period between those two dates for minimum consultation timeframes.
- 12 Exceptions to this standard are made for MFish processes that operate to predetermined government processes and timelines, or where alternative consultation timeframes are prescribed in legislation. These processes include –

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<sup>1</sup> A “working day” is defined as meaning any day except for a weekend day, public holiday, and those days between 20 December and 10 January (see Resource Management Act 1991).

- Cost recovery variation consultation
- Levy order review
- Management of over and under recoveries
- Consultation on taiapure-local fishery applications

### *Notification of decision*

- 13 A decision letter to stakeholders is to be made available to the decision-maker for his/her signature within **15 working days** of the decision being made. The decision letter must –
- provide feedback on the rationale for the decision
  - provide information on the process for subsequent decision-making and/or promulgation of gazette notices or regulations

### *Review and monitoring*

- 14 A review of the consultation process is to be undertaken within **40 working days** of completion of the consultation process. This review will take the following form –
- Any stakeholder feedback on the consultation process, ie, comment on the delivery of the process, not on the substance of the proposal or the eventual decision.
  - Whether or not MFish met the minimum performance measures and, if not, why not;
  - Determine what changes (if any) should be made to subsequent consultation processes.

# STAKEHOLDER CONSULTATION – PROCESS STANDARD

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## Purpose

- 1 The Ministry of Fisheries' (MFish) purpose in this document is to define a process standard for how it will undertake consultation with fisheries stakeholders<sup>2</sup> before making decisions relating to a range of fishery management issues.
- 2 The consultation process standard will –
  - a) set out best practice process for how MFish will meet its obligations under s 12 of the Fisheries Act 1996 (the 1996 Act) and for other decisions requiring consultation with fisheries stakeholders;
  - b) help to ensure a consistent approach across all MFish business groups when consulting with fisheries stakeholders; and
  - c) set out minimum performance measures where appropriate, eg, a minimum period for stakeholder consultation..

## Contents

- 3 The consultation process standard includes the following –
  - The decision to consult
  - Identification of stakeholders for consultation purposes, which includes -
    - Having an “interest”
    - Representation/mandate
    - MFish stakeholder database
    - Minister’s determination
  - Initial consultation plan
  - Time frame for consultation
  - Notification of decision to stakeholders
  - Monitoring, review and oversight

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<sup>2</sup> Fisheries stakeholders are people or groups with a particular interest in the management of fishery resources. It includes environmental interests, commercial, customary and recreational fishers. Members of the public who are affected by the management of fisheries resources are also covered by the term.

## Scope

- 4 There are three major elements to stakeholder involvement in fisheries management decisions. These are –
  - Stakeholder consultation prescribed by the Fisheries Act 1996;
  - Constructive engagement with stakeholders, as undertaken by MFish in the Statement of Intent 2006-11;
  - Input and participation of tangata whenua.
- 5 Process standards will be developed for all three of these elements. However, the scope of this process standard encompasses –
  - All decisions made by MFish requiring consultation with fisheries stakeholders under s 12 of the 1996 Act.
  - All other decisions made by the Minister or the MFish Chief Executive, whether delegated or not, requiring consultation with stakeholders under the 1996 Act
- 6 This scope takes account of relevant case law and state sector requirements relating to consultation. While the standard focuses on external consultation with stakeholders, it will also shape internal MFish processes.
- 7 The consultation standard excludes the following –
  - Problem definition process
  - Input and participation of tangata whenua and having particular regard for kaitiakitanga (to be addressed in a separate process standard).
  - Quality standards for policy analysis of stakeholder submissions resulting from consultation
  - On-going consultation between MFish and stakeholders in reference groups or working groups
  - Internal MFish consultation and business processes
  - Consultation with other government agencies
  - Constructive engagement with stakeholders (to be addressed in a separate process standard).

## Obligations to consult

### *Elements of consultation*

- 8 The fundamental elements of good consultation are –

- A statement of a proposal not yet decided upon
- Listening to what others have to say and considering responses
- Reasonable time allowed for consideration and response
- Sufficient information provided to those consulted to enable their effective participation.
- The decision-maker keeps an open mind about the outcome and the decision to be made throughout the consultation process.

9 Consultation is not –

- Merely telling or presenting
- The same as negotiation, although a result could be an agreement to negotiate

### ***Administrative law requirements***

10 Administrative law also provides some guidance to the decision-maker. A decision to consult or not to consult, and any decision made after consultation, must be made in accordance with the principles of administrative law and in accordance with Fisheries Act obligations. These principles require decision-makers to act:

- In accordance with law;
- Reasonably; and
- Fairly, in accordance with the principles of natural justice.

11 Decisions not made in accordance with these requirements may be challenged.

12 The requirement to act fairly is most relevant to consultation. Decision-makers must follow proper processes to ensure that those individuals or groups affected by their decisions are given natural justice.

13 A decision can be challenged if a decision-maker is biased in such a way that prevents him or her from fairly considering the issue with an open mind. Examples include where a decision-maker has a financial interest in the issue or has already made up his or her mind before considering relevant information (i.e. predetermination).

14 Any statements or conduct which may suggest a closed mind or predetermination - in the sense that decision-makers are not open to persuasion or argument - should be avoided.

### ***Section 12 Consultation Requirements***

15 Section 12 of the 1996 Act includes a range of specific consultation requirements, and the additional requirement to provide for input and participation of tangata whenua in particular circumstances. The contents of s 12 is attached as Annex I, however briefly there are three aspects to this section –

- a) Under s 12(a) of the 1996 Act, the Minister of Fisheries is required to consult with those classes of persons having an interest (including, but not limited to, Maori, environmental, commercial and recreational interests) in the stock or the effects of fishing on the aquatic environment in the area concerned;
  - b) Section 12(1)(b) outlines the Crown's commitments to provide for the input and participation of tangata whenua. Involving tangata whenua in fisheries management decisions reflects the provisions in the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, and the Crown's commitment to its partner
  - c) Section 12(1)(b)(ii) requires that the Minister have particular regard for the exercise of kaitiakitanga in relation to the people of the area.<sup>3</sup>
- 16 Section 12 only relates to certain sections of the 1996 Act.<sup>4</sup> There are many other sections of the 1996 Act that require the Minister or MFish Chief Executive to consult with stakeholders before making a decision. A list of decision-making sections requiring consultation is attached as Appendix II. Note there are also other MFish activities where consultation is encouraged, eg, setting of policies and guidelines.
- 17 Although the consultation requirements set out in s 12 specifically relate to sustainability decisions, the general principles outlined can be applied to all consultation activities.

### ***Statement of Intent 2006-2011***

- 18 MFish's Statement of Intent for 2006-2011 contains three contributing outcomes that help define how MFish proposes to go about achieving its goal. These contributing outcomes are –
- The health of the aquatic environment is protected
  - People are able to realise the best value from the sustainable and efficient use of fisheries resources
  - Credible fisheries management
- 19 One of the important contributors to achieving the contributing outcomes is tangata whenua and stakeholder consultation and engagement in fisheries management.

### **Process Steps**

- 20 In general terms, MFish decision-makers should remember to observe the following when undertaking consultation –
- start consultation early

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<sup>3</sup> Kaitiakitanga is defined in the 1996 Act as meaning the exercise of guardianship; and in relation to any fisheries resources, includes the ethic of stewardship based on the nature of the resources, as exercised by the appropriate tangata whenua in accordance with tikanga Maori; where tikanga Maori means customary values and practices.

<sup>4</sup> Sections 11(1), 11(4), 11A(1), 13(1), 13(4), 13(7), 14(1), 14(3), 14(6), 14B(1), 15(1) and 15(2) or recommending the making of an Order in Council under s 13(9) or s 14(9) or 14A(1).

- consult widely when appropriate
- listen to what others have to say
- be informative
- be prepared to wait
- balance the issues
- ask for feedback
- conduct consultation in mutual good faith
- keep consultation a two way process
- be open minded

### ***Decision to consult***

- 21 Consultation is required wherever it is prescribed under s 12 or another section of the 1996 Act. Consultation may also be required in cases where it is not legislatively mandated, such as on policy statements or standards. If in doubt, it is better to consult, and to consult as widely as possible, with stakeholders.
- 22 Other considerations that will influence whether to consult include –
- a) Whether consultation is required on any decision that is likely to materially affect the ability or interest of a person in fisheries resources;
  - b) The degree to which the outcome of a decision may affect the interests of a particular group of stakeholders, eg, a significant change in livelihood or business practices. Note that this impact may not necessarily depend on the number of people affected. However, the manner of consultation will vary depending on whether only one person is potentially affected, or two or more;
  - c) The appropriateness of limiting consultation (eg, in the particular circumstances, including considerations of legal risk, stakeholder relationships and impacts on the quality of informed decision-making;
  - d) The nature of the proposed measure, whether the amendment is substantive or technical;
  - e) The benefits of consulting the widest number of stakeholders for the longest period possible,, including considerations of stakeholder buy-in and improvements to Ministry processes and quality of decision-making. In general MFish will consult widely and for long periods on decisions that affect the management framework, (eg, development of the Statement of Intent, the development of Environmental Performance Standards, and the development of Fisheries Management Plans).

### *The identification of particular groups of stakeholders for consultation purposes*

- 23 As noted above, s 12(1) of the 1996 Act provides that the Minister shall consult with such persons or organisations as the Minister considers are representative.<sup>5</sup> Other sections of the 1996 Act contain similar wording, eg, s 60 requiring consultation on applications for exemptions from the quota aggregation limits requires that the Minister consult with such persons or organisations that the Minister considers are representative of those classes of persons having an interest in the section.
- 24 For s 12 and other decisions, the decision-maker has the authority to determine the criteria for the following –
- a) Who has an interest?
  - b) Who are representative of those having an interest?

### *Having an “interest”*

- 25 The first test is what “having an interest” means. The definition of interest in the Oxford dictionary is broad<sup>6</sup> and encompasses the types of interest the different stakeholder groups might have in a fishery. Whatever the type of interest a person or organisation has, it must relate back either:
- a) to a stock, for the purpose of fisheries management or the effects of fishing on the aquatic environment; or
  - b) to environmental performance standards, the SOI, or Fisheries Management Plans (which may not necessarily have a stock basis).
- 26 While there is no “one size fits all” standard for determining who has an interest, in general terms it is preferable to consult as widely as possible, unless it is known for certain that the proposed measure affects only one stakeholder group or a small defined number of stakeholder groups.

### *Representation/Mandate*

- 27 The second test is who is “representative” of a particular stakeholder group. The statutory requirement is only to consult with the person or organisation that is considered to be representative of those classes of persons. In practice, however, there will be instances where people clearly have an interest in an issue, but do not have a ‘mandate’ because there is no representative organisation in existence to advance their interests, or who might only be partly represented by stakeholder groups, eg, the non-commercial sector. In such circumstances, having an ‘interest’ will be the primary consideration. If in doubt, it is preferable to consult widely at the individual fisher level if practical, eg, in circumstances where the measure is area-based and there are a limited number of stakeholders.

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<sup>5</sup> The Minister’s power under s 12(1) is sub-delegated with the consent of the Minister to a number of MFish managers.

<sup>6</sup> “legal concern, title, right; ... pecuniary stake; ... thing in which one is concerned; principle in which a party is concerned; ... selfish pursuit of one’s own welfare; self-interest.”

- 28 A separate Mandate Standard will set out the criteria that organisations will have to meet if they wish to represent the views of a sector or sub-sector in the development or delivery of Fisheries Plans.

### *Determination*

- 29 To help determine which stakeholders to consult, MFish maintains a generic master list of stakeholders for use in sustainability reviews and other consultation processes. This database includes the names and contact details of –
- a) Stakeholder organisations, eg, NZ Seafood Industry Council, Te Ohu Kai Moana, Environment and Conservation Organisations of NZ;
  - b) Commercial stakeholder organisations (CSOs), eg, Northern Inshore Finfish Management Co;
  - c) Some individual fishing companies;
  - d) Individual fishers and other interested persons;
  - e) Iwi groups; and
  - f) Recreational interests.
- 30 The master consultation list is not a default list. The person responsible for managing the consultation process shall review the list to –
- a) Determine which stakeholders have an interest in the proposed measures and are likely to be affected by the outcome of the decision;
  - b) Determine which of those stakeholders should therefore be consulted;
  - c) Determine whether for the particular proposal, there are stakeholders not on the list (eg, local organisations) but who should be consulted.
- 31 Very often, MFish will consult on a package of measures, some of which will be of interest to some stakeholders, and others not. In the interests of efficiency, the proposals may be sent to all stakeholders with an interest in one or more of the proposed measures.
- 32 In some cases, stakeholders may not have any interest in the proposal(s). The consultation plan (see following section) will include a request that stakeholders reply to MFish if they have do not have an interest in commenting on the proposals. If so, their name/contact details will be deleted for the purpose of that specific consultation process, although their details will remain on the generic master list for future consultation processes. If the stakeholder does not reply, it will be presumed they wish to be consulted.
- 33 Following this review, the decision-maker is to formally approve the list of groups/persons that will be consulted on the proposed measure(s).
- 34 The cover note to the decision-maker initiating consultation should briefly note the generic types of stakeholder groups and individuals MFish will consult with.

### ***Initial Consultation Plan***

- 35 The consultation process should be started as early as possible in the decision-making process. Adequate time must be provided to maximise the possibility of active participation by stakeholders.
- 36 The business group coordinating the process is to develop a consultation plan at the beginning of the decision-making process and make this plan available to those stakeholders who MFish determines have an interest and are representative (see section above). The plan will be sent to stakeholders at least 20 working days prior to the despatch of the initial proposal.
- 37 For the purposes of this document, MFish has chosen to apply the definition of a “working day” in the Resource Management Act 1991, ie, a working day means any day except for a weekend day, public holiday, and those days between 20 December and 10 January.
- 38 Wherever possible, consultation processes will be coordinated across MFish business groups. Given that MFish business groups may be undertaking a number of consultation rounds throughout the year, it is desirable that the number of consultation plans be kept to a minimum. Ideally, business groups should develop one plan to cover a six month or yearly period.
- 39 The consultation plan must include the following elements –
- a) A brief outline of the proposal, but containing sufficient information that the stakeholder can make an informed decision on whether they are affected, and to what degree.
  - b) The nature of the information sought from those being consulted, ie, generic or specific comments depending on the type of stakeholder;
  - c) At what stage of the decision-making process stakeholders will be engaged. This may be at the very beginning of the process. The decision-maker and those analysts providing the advice will need to make allowance for oral submissions by stakeholders on a case by case basis.
  - d) Decisions that have already been made and cannot be changed. Stakeholders should not be under any illusions about the decision-making process if there are certain decisions or underlying assumptions that cannot be altered irrespective of their input.
  - e) The formats in which MFish will accept stakeholder submissions, ie, written (hard-copy or electronic), and oral submissions.
  - f) The identity of the decision-maker. In the case of statutory decisions, this will in most cases be either the Minister of Fisheries or the MFish Chief Executive.
  - g) Time-frames for MFish consideration and advice to the decision-maker. At the beginning of the review/development process, the analyst responsible for managing the process must draft a timeline setting out the major milestones at the beginning of the review/development process.

- h) How submitters will be informed of the final decision, eg, letter mailed directly to stakeholders, notification on the MFish website, verbal notification at regional forums, amendments to pamphlet material etc
- i) Any evaluation criteria that will be used.
- j) An analysis of risks that may prevent the process meeting the consultation objectives and proposed steps to mitigate these risks;
- k) An analysis of whether the issue/policy/framework falls within those sections of the Act where there is the obligation to provide for the input and participation of tangata whenua, having particular regard to kaitiakitanga. If so, refer to the Input and Participation Standard (currently under development).

### *Manner of consultation*

- 40 The final important element of the consultation plan is the manner of consultation. The decision-maker has the authority to determine how he or she consults. There is no prescriptive form that consultation must take. The decision-maker determines the “how and how long” in relation to the application of the consultation process.
- 41 Along with written exchanges, MFish can engage with stakeholders in working groups, liaison meetings or over the telephone, before and after the initial proposal is sent to stakeholders. This will depend on a case-by-case assessment of the relative importance of the proposal to both the Ministry and stakeholders, and should be made clear to stakeholders at the start of the process, ie, the consultation plan.
- 42 The MFish proposal may be distributed to stakeholders in one or more of the following formats –
- Hard copy
  - Disk/CD-ROM format
  - E-mail
  - The MFish external website and via other websites if the consultation is done in conjunction with another organisation, eg, the Department of Conservation
  - DVD or video format – could include staff presentations on proposal
  - Notification of the proposal by press release or public notice in newspaper (with information on where to obtain the full proposal) – this may be preferable in cases where MFish is consulting on measures affecting recreational fishers

### *Performance Measure*

- MFish will send a consultation plan to stakeholders at least 20 working days before the start of the formal consultation period

### *Timeframe for consultation*

- 43 The consultation plan should include consideration of adequate time allowed for those consulted to –
- a) Consider information provided;
  - b) Request further information or clarification;
  - c) Formulate their ideas and responses
- 44 The duration of consultation will depend on the circumstances of the case. These circumstances include –
- a) The amount of discussion and negotiation that occurred on the issue with relevant stakeholders before the statutory consultation period;
  - b) The number and range of stakeholder groups affected;
  - c) The effect the proposal will have on those being consulted or the organisational structure of those consulted;
  - d) The manner of consultation, eg, if meetings are required, consultation might take longer than just written correspondence.
- 45 MFish has adopted a performance measure of allowing a minimum of 30 working days for stakeholder consultation. If for any reason a lesser consultation time is considered, then –
- a) Advice must be sought from the Legal Team and the decision-maker (with the exception of the Minister of Fisheries, where a delegated decision-maker may be more appropriate);
  - b) Reasons must be provided in writing to stakeholders as to why a lesser period for consultation has been provided.
- 46 It is important that stakeholders have a reasonable opportunity to review and comment on MFish proposals, and this cannot be assured over the Christmas/New Year period when many stakeholders are preparing for, or are, on holiday. Accordingly, -
- MFish will not send initial proposals to stakeholders for comment between 20 December and 10 January inclusive;
  - The dates between 20 December and 10 January inclusive will not count for the purposes of calculating consultation timeframes.
- 47 Exceptions to this standard are made for MFish processes –
- that operate to predetermined government processes and timelines that are outside MFish’s control; and where failure to meet those timelines would compromise MFish business processes
  - where a different minimum consultation period is prescribed in the 1996 Act. For instance, s 180 requires that objections to or submissions on a proposed taiapure-local fishery must be received within 2 months of publication in the New Zealand *Gazette* of the proposal. In such cases, the statutory minimum takes precedence over the timeframes specified in this standard.

48 The processes that are exempted from the above timeframe are–

- Cost recovery variation consultation
- Levy order review
- Management of over and under recoveries

#### *Performance Measure*

- MFish will provide a minimum of 30 working days for stakeholder consultation, except in specific circumstances where timeframes are externally driven or legislatively mandated.
- MFish will not initiate stakeholder consultation between the dates 20 December and 10 January inclusive, or count the period between those two dates for minimum consultation timeframes.

#### *Notification of decisions to stakeholders*

49 Subsection 12(2) of the 1996 Act requires the Minister of Fisheries to provide, to those parties consulted, reasons in writing for his or her decision to those parties consulted. Decision letters are also required for other decisions made under the 1996 Act.

50 It is important that the Ministry properly acknowledge the time and effort stakeholders take in preparing submissions and/or making oral presentations. This is done by providing adequate feedback. The decision letter will include the following –

- MFish’s response to the views expressed by stakeholders, and where appropriate, how those views have been incorporated into decisions.
- Information on the process for subsequent decision-making, including delays and, if appropriate, reasons for the delays
- The indicative timeframe and process for the promulgation of decisions, eg, Cabinet committee processes

51 The business group coordinating the consultation process is responsible for –

- a) Drafting the decision letter and coordinating input to that letter from other business groups;
- b) Providing a draft decision letter to the decision-maker for his or her signature within 15 working days of that decision being made;
- c) Ensuring that the signed decision letter is sent to –
  - i) All stakeholders that provided written or verbal submissions on the proposal;
  - ii) All other stakeholders impacted by the decision;
  - iii) All MFish business groups that have an interest in or are likely to be impacted by the decision, eg, Research Data Management (Science) if

systems changes need to be made, Compliance Advice Team if compliance incentives can be affected.

52 The decision may be notified to stakeholders in one or more of the following ways –

- by hard copy letter;
- by e-mail;
- by posting on the MFish website;
- by press release.

#### *Performance Measure*

- MFish to provide a decision letter to the decision maker within 15 working days of the decision being made.

#### ***Monitoring, Review & Oversight***

53 As part of the consultation process, stakeholders should be given the opportunity to provide feedback on the delivery of the process itself. The feedback should be evaluated and used to fine tune future consultation processes. MFish will include with the letter or paper setting out the initial proposal a section noting that if stakeholders have any feedback in regard to the delivery of the consultation process, they may complete a stakeholder feedback form (available from any MFish office or on the MFish website) that may be posted or e-mailed to MFish.

54 Within 40 working days of the completion of the consultation process, the business group coordinating the consultation process will convene a meeting of all interested business groups to –

- a) Review any stakeholder feedback on the consultation process, ie, comment on the delivery of the process, not on the substance of the proposal or the eventual decision;
- b) Review whether or not MFish met the performance measures and if not, why not;
- c) Determine what changes (if any) should be made to subsequent consultation processes.

55 Any significant changes to future consultation processes are to be notified to both stakeholders and other business groups.

56 Communications is to prepare an annual report on MFish business groups' compliance with the standards set out in this consultation standard and process.

#### *Performance Measure*

- MFish to initiate a review of the consultation process within 40 working days of completion of the consultation process.

## **Flow-chart**

57 A flow-chart of the consultation process is attached as Annex III.

## **Conclusion**

58 The process standard for stakeholder consultation has been developed in order to set out how the Ministry of Fisheries will meet its obligations to consult with stakeholders before making decisions relating to a range of fishery management issues. The standard sets out best practice process for stakeholder consultation, with reference to relevant legislation and guidelines.

## **Annex I: Section 12 of the Fisheries Act 1996**

**Consultation** – (1) Before doing anything under any of sections 11 (1), 11(4), 11A(1), 13(1), 13(4), 13(7), 14(1), 14(3), 14(6), 14B(1), 15(1), and 15(2) of this Act or recommending the making of an Order in Council under section 13(9) or section 14(8) or section 14A(1) of this Act, the Minister shall –

- a) Consult with such persons or organisations as the Minister considers are representative of those classes of persons having an interest in the stock or the effects of fishing on the aquatic environment in the area concerned, including Maori, environmental, commercial and recreational interests; and
- b) Provide for the input and participation of tangata whenua having –
  - i) A non-commercial interest in the stock concerned; or
  - ii) An interest in the effects of fishing on the aquatic environment in the area concerned –

And have particular regard for Kaitiakitanga.

(2) After setting or varying any sustainability measure or after approving, amending or revoking any fisheries plan, the Minister shall, as soon as practicable, give to the parties consulted in accordance with subsection (1) of this section reasons in writing for his or her decision.

(3) This section does not apply in respect of emergency measures under section 16 of this Act.

## Annex II: Fisheries Act 1996 Requirements to consult

Section Number	Section Title	Section 12 consultation?
11	Sustainability measures	Yes
11A	Fisheries plans	Yes
13	Total allowable catch	Yes
14	Alternative total allowable catch for stock specified in Third Schedule	Yes
14A	Alternative total allowable catch for stocks specified by Order in Council	Yes
14B	Alternative total allowable catch for certain stocks	Yes
14C	Stock may be declared no longer subject to section 14B	
15	Fishing-related mortality of marine mammals or other wildlife	Yes
16	Emergency measures	
17B	Determination that stock or species be subject to quota management system	
19(7)	Matters to be included in notice under section 18	
21(2)	Matters to be taken into account in setting or varying any total allowable commercial catch	
25(3)	Alteration of quota management areas	
59(7)	Aggregation limits	
60(1)	Minister may consent to persons holding quota in excess of aggregation limits	
67B(3)	Amendments to Schedule 5A	
74(9)	Minimum holdings of annual catch entitlement	
75A	Requirement to consult in relation to deemed values	
77(6)	Over-fishing thresholds	
82	Apportionment of foreign allowable catch for foreign fishing vessels	
86(2)	Suspension and revocation of licences	
97	Special permits	

116	Content of statement of procedure	
178	Initial consideration of proposal	
181	Inquiry by tribunal	
184(1)	Management of taiapure-local fishery	
186A(7)	Temporary closure of fishing area or restriction on fishing methods	
186B(6)	Temporary closure of fisheries	
188	Conversion factors	
188A(2)	Spat ratio	
277(1)	Members	
283(2)	Catch History Review Committee established	
296P(1)	Procedure for issuing standards and specifications	
310(1)	Southern scallop enhancement programmes	

**GENERIC CONSULTATION PROCESS FLOWCHART**

