



Streamlining the regulatory regime for pest control

SUMMARY OF SUBMISSIONS

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Background

The government consulted on a proposal to streamline the regulatory regime for pest control between 14 April and 26 May 2016. The full proposal is outlined in a [discussion document](#).

This proposal arose from the recommendations of a [report by the Parliamentary Commissioner for the Environment](#) into the use of one of the main vertebrate toxic agents (VTAs) used in New Zealand – sodium fluoroacetate (1080). This report highlighted the problem of the duplication of existing controls under the Hazardous Substances and New Organisms Act 1996 (HSNO Act) and Resource Management Act 1991 (RMA), including time and cost inefficiencies.

The proposal is to add a regulation under section 360(1)(h) of the RMA that would exempt the requirement of the resource consent or rules in regional plans (under section 15 of the RMA) for discharges of specific VTAs in specific circumstances.

The proposal is designed to:

- reduce duplication within the regulatory regime
- ensure that the regulatory regime does not discriminate the choice of VTA for an individual operation, and the best toxin is used in each case
- enable consistency across the country and ensure that best practice in the use of each VTA can be developed and implemented throughout New Zealand
- remove unnecessary costs of the regulatory regime, and unnecessary delays to pest control work, so New Zealand can control vertebrate pests more effectively.

The consultation document was focused on the management regime for VTAs rather than the use of VTAs; or which VTAs can be used in New Zealand. Importantly, the proposal was designed to ensure the same level of protection would be provided to people and the environment should the changes be implemented. Feedback on whether or not the proposal would achieve its aim, and its impact, was sought from iwi, affected organisations and general public.

A total of 220 submissions were received by the Ministry for the Environment.

Purpose

This document presents a summary of the views expressed in submissions received in response to the consultation document and is grouped by common themes.

This report intends to provide a concise summary of the views expressed, not an analysis of those views or recommendations in response to the submissions. Any recommendations in response to submissions are made through policy advice to Cabinet, delivered later in 2016.

Overview of submissions on streamlining the regulatory regime for pest control

Summary of submitters' positions

A total of 220 submissions were received.

Of these, 70% of submissions supported the proposal and 23% of submissions opposed the proposal. Only one submission opposed the proposal in part, 10 submissions supported the proposal in part, and 5 submissions were unclear or didn't state their position.

Table 1: Breakdown of submissions by source

| Category | Number of submissions | Supported | Supported in part | Opposed | Opposed in part | Unclear/not stated |
|--------------------------------|-----------------------|-----------|-------------------|---------|-----------------|--------------------|
| Business/industry | 21 | 21 | 0 | 0 | 0 | 0 |
| Central Government | 3 | 3 | 0 | 0 | 0 | 0 |
| Local Government | 9 | 7 | 2 | 0 | 0 | 0 |
| Iwi | 4 | 1 | 0 | 1 | 1 | 1 |
| Non-governmental organisations | 14 | 3 | 2 | 9 | 0 | 0 |
| Unspecified/other* | 4 | 0 | 2 | 2 | 0 | 0 |
| Individuals | 165 | 118 | 4 | 39 | 0 | 4 |
| Totals | 220 | 153 | 10 | 51 | 1 | 5 |

*This category includes groups such as a political party, and District Health Boards.

55% of the submissions were unique submissions and the remaining were 'template' submissions (pro-forma submissions drafted by particular organisations or groups and submitted by individuals or representatives of groups)¹.

36% of the unique submissions were from individuals, with the remaining from: business and industry; local government; NGOs; and iwi.

Key themes from the consultation

To best reflect the tenor of submissions they are grouped into five categories: supported, supported in part, opposed, opposed in part, unclear/not stated.

Due to the nature of many of the submissions, some interpretation was necessary in applying these categories. Submissions that did not clearly state their position were attributed a position, only where it was obvious from the submission's content and tone.

¹ Many submitters modified a template designed by the Morgan Foundation to include additional comments. The Ministry for the Environment has included all additional comments in its analysis of submissions. Some submitters used the Morgan Foundation template (phrased to agree with the proposal) to show their opposition to the proposal. These submissions have been considered unique submissions and are therefore included in the figures for unique submissions.

Identification of the submission being in 'support' does not necessarily mean the submitter did not offer suggestions for improvement, only that the submission did not suggest that the support was contingent on those suggestions being taken up in the final regulation.

Where the position of a submission was not obvious, submissions were categorised as 'unclear/not stated'.

Some care needs to be taken in the interpretation of these summary findings. The difference in 'supported in part' and 'opposed in part' is open to some debate, but the distinction is intended to reflect the emphasis of the submission.

Overall themes

There were themes common to those supporting the proposal and those opposing the proposal.

Overall, those supporting the proposal said:

- that they had confidence in the Environmental Protection Authority (EPA) review of 1080 in 2007, and/or the investigation into 1080 use by the Parliamentary Commissioner for the Environment (PCE) in 2011
- that 1080 and other VTAs are generally well controlled through legislation such as the HSNO Act
- that the proposal will improve outcomes for pest control operations because of the significant amount of time and money saved by not having to go through RMA resource consent and plan-making processes.

Individual submitters who supported the proposal generally noted their support without further explanation.

Overall, those opposing the proposal said:

- that they don't agree with the use of VTAs, and in particular they don't agree with the use of 1080
- that they don't agree that the science and/or that the figures used by government agencies, local government and/or business and industry are incorrect
- that they had concerns about current and future VTA use.

The removal of local-level consultation was a theme in many submissions.

Overview of submissions from different groups

Business/industry

A total of 21 submissions were received from business and industry groups.

Industry organisations and businesses involved with pest control were strongly supportive of the proposal. Other representative groups such as DairyNZ, Beef+LambNZ, Agcarm, The New Zealand Fur Council, and Federated Farmers of New Zealand were also very supportive.

No submissions were received from business or industry groups opposing the proposal.

Central government

A total of 3 central government agencies made submissions.

Dr Jan Wright, Parliamentary Commissioner for the Environment strongly supported the proposal.

No submissions were received from central government opposing the proposal.

Local government

A total of 9 submissions were received from local government, including a submission from Local Government New Zealand².

7 local government submissions supported the proposal outright, with 2 local government submissions supporting the proposal with suggestions for amendments.

No submissions were received from local government opposing the proposal.

Iwi

A total of 4 iwi made submissions.

Submissions were received from:

- Tuwharetoa Maori Trust Board
- Maungaharuru-Tangitu Trust
- Te Runanga O Ngati Whatua
- Ngati Rangi Trust.

All iwi submissions discussed the importance of consultation regarding pest control operations in their rohe.

One submission opposed the proposal; one submission supported the proposal; one submission opposed the proposal in part; and one submission requested further information about the proposal.

Non-governmental organisations

A total of 14 non-government organisations (NGOs) made submissions.

NGOs who submitted included:

- hunting and fishing groups (for example, New Zealand Deerstalkers Association Incorporated and New Zealand Federation of Freshwater Anglers)
- environmental interest groups (for example, Farmers Against Ten Eighty, Friends of Sherwood, New Zealand Wildlands Biodiversity Management Society, Royal Forest and Bird Protection Society of New Zealand Incorporated)
- community groups (for example, Brook Valley Community Group Incorporated)

The majority of NGOs opposed the proposal (approximately 64%).

² LGNZ is the national organisation of local authorities in New Zealand and all 78 councils are members. They represent the national interests of councils and lead best practice in the local government sector.

Most NGOs objected to the use of VTAs at all and most rejected the basis for the proposal (they rejected both the science and data used). Many raised concern about the perceived removal of consultation. Many expressed their disbelief that current legislative controls were enough to manage use of VTA effectively.

Approximately 21% of NGOs supported the proposal. Two NGOs – Environment and Conservation Organisations of New Zealand Incorporated, and Royal Forest and Bird Protection Society of New Zealand Incorporated supported the proposal with amendments.

Political parties

One political party made a submission - the BAN1080 party. Their submission opposed the proposal primarily because of their opposition to the use of VTAs.

Individuals

A total of 163 submissions were made by individuals (i.e. those not submitting on behalf of an organisation). Approximately 72% of these submissions supported the proposal.

The Morgan Foundation provided [a tool on its website](#) that enabled people to make submissions on the proposal. A total of 83 submissions were made via this tool by individuals who supported the proposal³.

Most submissions made via the Morgan Foundation tool indicated support for the proposal without further comment.

About 23% of individual submitters opposed the proposal. Of those who opposed the proposal, the majority objected to VTA use, and in particular, the use of 1080. Some submitters opposed the proposal because they objected to an avenue of consultation being removed, while some opposed the proposal with the concern that personal and environmental protections were being removed.

Key themes analysis

Key themes

The key themes identified during the analysis of submissions are presented in table 2.

Table 2: Key themes from submissions

| Key theme | Sub-theme |
|-------------------------------|--|
| Opposition to the use of VTAs | Opposition to 1080 |
| Consultation | Local decision-making Ministry for the Environment's consultation process |

³ Many submitters modified a template designed by the Morgan Foundation to include additional comments. The Ministry for the Environment has included all additional comments in its analysis of submissions. Some submitters used the Morgan Foundation template (phrased to agree with the proposal) to show their opposition to the proposal. These submissions have been considered unique submissions and are therefore included in the figures for unique submissions.

| Key theme | Sub-theme |
|--------------------|--|
| Operational issues | Notification of VTA operations Owner/occupier permission for pest control operations Buffers and boundaries, maps and timetables for operations Enforcement/compliance/monitoring and cost recovery |

Iwi submissions are included in the overall analysis of submissions and are also separately addressed in the section titled 'iwi submissions'.

Some components of the proposal specifically affect councils. Council submissions are included in the overall analysis of submissions and are also separately addressed in the section titled 'council submissions'.

Further information by theme

This section of the report summarises comments on the proposal and categorises them into common themes.

Opposition to the use of VTAs

- Over 90% of submitters opposing the proposal did so because they oppose the use of VTAs. The most commonly opposed VTA was 1080, with the majority of submitters exclusively targeting their feedback at this VTA.
- Less than 20% of individual submitters opposed the proposal; of these, almost all were unsupportive of the proposal because of their strong opposition to the use of VTAs. Opposition to 1080 in particular was very common in this group. Few submitters addressed the proposal specifically, preferring to make more pointed statements such as 'Ban 1080'.
- The majority of NGO submitters opposed the proposal because of their opposition to the use of VTAs.
- One political party 'the BAN1080 Party'⁴ opposed the proposal citing their opposition to VTAs.
- Some submitters rejected the proposal outright; they commonly rejected the PCE report and other research/documentation that was used in the development of the proposal. For example, one submitter stated:

"I do NOT agree with the proposals because the Parliamentary Commissioner for the Environment's 2011 evaluation of 1080 is fundamentally flawed (e.g. see Pollard, 2014). It is flawed not only in its content, but also in the references which have been used to support the arguments therein. For instance the research undertaken has methodology that is not valid in the wider scientific community, and at times is unethical."⁵

Submissions opposed to the use of VTAs raised the following views:

- the science used by government agencies, local government, industry groups and/or pest control operators is invalid or incorrect
- that the research carried out by the groups listed above is misinformed, unreliable or purposefully designed to deliberately mislead the public (usually with the goal of financial benefit)
- that there is research missing
- the figures used by the groups listed above are inflated to show more pests and/or more endangered animals than there really are (usually with the goal of financial benefit)
- pest control operators frequently breach the manufacturer's labels on VTAs
- the overall harm from VTAs is far greater than any benefit of pest management.

Concern about 1080 being dropped into water was raised by many of these submitters. Their concern was primarily about ensuring adequate notification about pest control operations so that people could protect themselves around potentially contaminated waterways.

⁴ Individual submitter, Submission reference number 14575

⁵ Individual submitter, Submission reference number 14479

The other concern submitters raised regarding water was around pest control operators either ignoring the VTA product labels (which instruct users to minimise baits entering water) or councils allowing pest control operators to drop 1080 into waterways.

One submitter stated that:

“My principle concern is that there is not proper notification to residents and tourists drawing water from 1080 contaminated water bodies. In fact, the Safety Data Sheet states measures must be taken to "minimise the chance of baits accidentally entering any body of water", but resource consents in the Waikato Region allow indiscriminate dropping of baits directly into water as evidenced by the toxic flightline maps of 1080 drops. Poisoned carcasses are not removed from contaminated water bodies, allowing birds and mammals feeding on these carcasses to become fatally poisoned. There is inconsistency between the warnings on the label and SDS of 1080 and how it is actually distributed, with no follow-up removal of dead carcasses. This is not safe or a good look for residents or tourists coming to our country.⁶”

There were some submissions on the issue of bovine tuberculosis (Tb) and possums. Generally, these submitters stated that:

- there is no reliable evidence that possums are responsible for the transmission of Tb to cattle, and therefore the arguments behind the use of 1080 to eliminate possums to prevent bovine Tb is baseless
- there is so little Tb in New Zealand that there is no need to carry out VTA operations to eradicate Tb-infected possums
- Tb-infected possums do not act as a vector between regions (rather, they stay in small, localised areas).

Two submissions stated that seals could be a vector for Tb transmission to other mammals. They suggest that OSPRI and DoC are ‘reluctant’ to investigate this problem. Other submitters stated that Tb is harboured in soil and that is the main vector for transmission of Tb to cattle.

The majority⁷ of individual submitters, who made suggestions for changes to the conditions or for new conditions to be added to the proposal, wanted VTAs, specifically 1080, banned.

These submitters also advocated for increased controls on 1080 such as making aerial application of VTA publically notifiable through the RMA; a 6 month maximum for consents; and adding personal liability conditions for all people involved in VTA operations (including those who make the decision to those carrying out the operations).

Some of these submitters also suggested:

- that valid research be undertaken into VTAs
- that a ‘people’s panel’ be established with the authority to veto *“unacceptably hazardous, unnecessary and inhumane substances in the first place”*⁸
- that *“a whole new pest management strategy is needed”*⁹
- that aerial application be forbidden from areas next to farmland or within urban limits

⁶ Individual submitter, Submission reference number 14605

⁷ all except one submitter

⁸ Individual submitter, submission reference number 14703

⁹ Individual submitter, submission reference number 14626

- that the definition of pest needs to be revised
- that 1080 only be distributed by hand
- that national parks be exempted from VTA use

One NGO opposed the method of application of VTAs - they said that no VTA should be dispersed aerially and they also objected to the use of bait stations.

Some individual submitters were very concerned about unforeseen consequences of the proposal and some of these predicted that hunters, anglers, dogs, endangered animals, other non-pest species, adults and/or children would die if the proposal was approved:

“You'll kill everything in the wild and poison the land and the water until, one day, you will cause a catastrophic number of human deaths¹⁰.”

A large number of individual submitters were concerned that the proposal would result in damage to the environment and non-targeted pest species. These submitters suggested that unforeseen consequences of the proposal included:

- “The increasingly casual and irresponsible use of toxins, complacency and failure to investigate consequences for the environment and health fully¹¹”
- “Killing of all specified and unspecified targets¹²”
- “All these pesticides kill or give sub-lethal doses to, non-target organisms. Randomly spreading them over large areas means consequences are uncontrolled and unpredictable¹³”
- “Public backlash from people who will not tolerate New Zealand's environment being poisoned¹⁴”.

Opposing submissions commonly raised issues regarding consultation. These issues are addressed later in the following section.

¹⁰ Individual submitter, submission reference number 14597

¹¹ Individual submitter, submission reference number 14634

¹² Individual submitter, submission reference number 14631

¹³ Individual submitter, submission reference number 14613

¹⁴ Individual submitter, submission reference number 14603

Consultation issues

Comments concerning consultation issues fell broadly into two categories:

- the effect of the proposal on local decision-making
- the Ministry for the Environment consultation process

Iwi submissions also raised consultation issues. While submissions from iwi were included in the overall analysis of consultation issues here, more detailed information about submissions are covered in the section titled 'Iwi submissions'.

Some councils, iwi and industry groups noted the consultation work they currently do.

Environment Canterbury noted that they work closely with their local authorities and mana whenua:

"Environment Canterbury works in close collaboration with the ten territorial local authorities (TLAs) in the Canterbury region. Environment Canterbury also works in close partnership with the mana whenua of our region, Ngai Tahu, through our Tuia Relationship Agreement with the ten Papatipu Runanga in Canterbury and the tribal authority, Te Runanga o Ngai Tahu.

... In relation to the proposed conditions ... Environment Canterbury recommends that provision be made for adequate time for regional councils and unitary authorities to notify tangata whenua for the area or areas where the VTA is to be used¹⁵."

The effect of the proposal on local decision-making

Many submitters noted that the proposal would remove the ability for local councils to require resource consents for pest control activity and, as a result, an avenue of local consultation would be removed.

Submitters were generally divided into two groups on this issue:

- business, major industry groups, and local and central government uniformly supported this change
- a majority of NGOs and a minority of individual submitters opposed it.

Submitters supportive of the proposal

Many of these submitters noted the 2007 review of 1080 by the EPA. They expressed their confidence in the process and noted that extensive, nationwide consultation was undertaken as a part of the review.

Most of these submitters noted the report from the PCE on 1080 in June, 2011 and expressed confidence in the findings and recommendations.

Most noted that the RMA process added significant cost (in both time and money) to pest control operations with no discernible improvement neither in public safety nor in the effectiveness of the operation. Some noted that local consultation through the RMA process did not result in any improvements to their operations or increase their knowledge of best practice.

¹⁵ Environment Canterbury Regional Council, submission reference number 14719

All TBFree Committees¹⁶ noted that “interest groups appear to aim for a complete ban on the use of 1080 rather than improve its use in pest control”.

OSPRI (also supported by the submissions from the TBFree Committees) stated:

“It is expected there will be some opposition to the proposed regulation, possibly on the basis that it denies opportunities for local decision-making. However in OSPRI’s experience, local decision-making and consent processes under the RMA can be subject to strong pressure from interest groups and individuals who appear to be seeking a complete ban, or at least much more severe curtailment, on the use of 1080 for pest control. Any public policy debate on this matter rightly should be - and has been - carried out through processes for reassessment of national controls on the use of 1080 under HSNO. Attempts to use regional consent processes under the RMA to effectively re-litigate the outcomes of the HSNO reassessment have imposed needless and inappropriate costs on taxpayers, ratepayers and the biosecurity levy-payers, and has resulted in loss of pest control benefits¹⁷.”

Federated Farmers supported the proposal but were concerned that:

“...there are community groups or individuals that feel aggrieved by what may be perceived to be loss of an avenue to express their concern at a local level. Consequently, this may see more push through the district plan process to make the use of 1080 a prohibited activity. Given the importance of the use of VTAs to the pastoral sector, the Federation seeks assurance that this risk has been recognised and any necessary mitigation measures have been, or will be, taken to prevent such an undesirable outcome from occurring¹⁸.”

Local and central government submissions were generally supportive of the proposal because of the anticipated benefits including eliminating duplication between the RMA and HSNO, and savings in both time and money.

Submitters opposed to the proposal

Submissions addressing the issue of public consultation fell into two camps and felt:

- the removal of the resource consent process silences objectors’ voices
- current consultation through the resource consent process is inadequate, non-existent, or corrupt.

Most frequently noted by this group was the proposal’s effect of removing the ability of opponents of VTAs to express their opposition at the local level.

One NGO argued for a substitution for the RMA process so that local-level public consultation could be kept, and two NGOs argued for increased public consultation instead:

“There is an argument to have triplicate provisions where all of these matters can be considered by a ‘PEOPLE’S PANEL’ who would have a VETO where practices or substances were considered to be beyond the pale of acceptable standards of public decency - such as the prolonged torture of animals with 1080 and brodifacoum in particular¹⁹.”

¹⁶ OSPRI supports 15 TBFree Committees around New Zealand to maintain effective links with the farming community and other stakeholders at a regional level. The TBFree Committees promote the TBFree programme in their regions and are a source of advice and feedback to OSPRI on policy and operational issues.

¹⁷ OSPRI, submission reference number 14632

¹⁸ Federated Farmers of New Zealand, submission reference number 14630

¹⁹ Friends of Sherwood, submission reference number 14692

“[New Zealand Wildlands Biodiversity Management Society] objects strongly to any reduction of the ability and opportunity for full, timely, and meaningful public consultation right down to a local district or private land area by local district or private land area basis. NZWBM advocates strongly for MORE open and meaningful public consultation in relation to all and any VTA poison applications²⁰.”

Hunting and fishing NGOs expressed concern that:

- the Human Rights Act was being breached by removing a *“right which has existed”*²¹
- that local councils have local knowledge, and should be in charge of decisions that affect their local areas (rather than having a centralised decision process)
- that anglers may be at risk of eating trout that have consumed rodents poisoned with 1080 and the anglers may become unwell as a result (they state that local communities could assess the risk of this happening through the resource consent process).

One individual submitter was concerned that:

“As long as [DOC] and other agencies continue to fudge the facts and lie about the obscene damage 1080 and brodifacoum are doing to our environment, flora and fauna, any attempt to limit public consultation is a very scary step away from democracy. Too bad if it is slow and expensive, that is how a democracy works²².”

Some submitters questioned why there is no consultation process now²³.

Some individual submitters were critical of the current consultation process:

“I have experienced the current consultation process and it is woefully inadequate. Needs more regulation²⁴”.

MfE Consultation Process

Six submissions provided negative feedback on the process used for the development of the proposal and the consultation process²⁵.

Four submitters stated that they felt there had been insufficient time for consultation.

The Tūwharetoa Trust Board noted their concern with the period of time allocated for consultation:

“The Consultation Document was released on 14 April 2016, with submissions due six weeks later. This short consultation period has not, in our view, allowed sufficient time for considered debate and discussions on what the proposed changes to the Resource Management Act 1991 (RMA) could mean for iwi, vis-à-vis the existing regulatory framework. This is particularly concerning given the complexities and controversy surrounding the use of sodium fluoroacetate (1080)²⁶.”

²⁰ New Zealand Wildlands Biodiversity Management Society, submission reference number 14685

²¹ New Zealand Deerstalkers’ Association, submission reference number 14633

²² Individual submitter, submission reference number 14414

²³ Note: consultation is currently required under both HSNO and the RMA. There are also consultation processes with iwi.

²⁴ Individual submitter, submission reference number 14613

²⁵ Several submitters commented on the length of time submissions were open for in their cover email, but did not raise this issue in the body of their submissions.

²⁶ Tūwharetoa Māori Trust Board, submission reference number 14727

There was criticism from one NGO about the process of summarising submissions:

“‘The common practice’ by government agencies administering and summarising public submissions for presentation to Ministers or decision making bodies ; "-Of applying a numerical weighting scale of adjustment to each submission 'point' (and or subject) made by submitters means THE EMPHASIS AND IMPORTANCE OF EACH "POINT" IS COMPLETELY UNDER THE CONTROL OF THE RECEIVING AGENCY AND MAY BEAR NO RELATION AT ALL TO THE IMPORTANCE INTENDED OR MEANT BY THE SUBMITTER/S. The makes the submission process farcical.

... [New Zealand Wildlands Biodiversity Management Society] emphatically objects to this type of arbitrary weighting of public input which can distort the inputs and then the outputs of submission processes and eventually Ministerial or legislative decisions affecting New Zealanders²⁷.”

²⁷ New Zealand Wildlands Biodiversity Management Society, submission reference number 14685

Operational issues

Public notification

Some submitters suggested amendments to the notification of pest control operations and/or signage requirements²⁸.

Two individual submitters made specific suggestions about public notification regarding VTA operations:

- public notifications should include the following wording, “As a result of aerial 1080 poison operations, poisoned baits will be discharged directly into streams and waterways within the operational area²⁹”. They also wanted to include contact information for people looking for further information
- aerial operations should be notified in every New Zealand newspaper at least three times.

The New Zealand Fish & Game Council urged public notification by pest control operators:

“The only addition I would make is to urge the review you are conducting to formally require the authorised parties undertaking an operation to publicly accept responsibility for:

- identifying and remedying any unintended consequences upon the legitimate interests of other affected parties, such as the trout fishery and Fish & Game
- full and practical public messaging of all associated public health assurances or risk management requirements relating to the ingestion of trout flesh potentially contaminated with poison residues.

In the case of this latter point the local Medical Officer of Health for the region in which a poisoning operation was to occur would be the logical medical expert to provide the necessary risk assurance and public advice. Fish & Game could assist public notification by prominently profiling any such message on our website³⁰.”

Owner/occupier permissions

Some NGOs, the Tasman District Council and Federated Farmers all raised the issue of whose permission should have to be obtained prior to a pest control operation.

Friends of Sherwood (NGO) suggested that permission be gained from all owners and occupiers of land “*upwind of and downstream of any operation*”³¹.

The Tasman District Council wanted more specific information about whose consent was required.

Federated Farmers said:

“The Federation supports the proposed conditions (page 10 of the consultation document) that occupier permission is obtained for the land where the discharge is to occur. The Federation further believes that it is important that the occupier confirm that they have the legal authority to allow (or otherwise) the proposed operation. Should this

²⁸ Notification and signage is currently required Standard Operating Procedures for pest control operations.

²⁹ Individual submitter, submission reference number 14684

³⁰ New Zealand Fish and Game Council, submission reference number 14658

³¹ Friends of Sherwood, submission reference number 14692

not be obtained, the onus must be on the occupier to make contact with the owner (or their authorised representative) to obtain this agreement. If not already included, the Federation believes that a clause around this issue could usefully be included in, for example, farm lease agreement³².”

Buffers and boundaries, maps and timetables for operations

A range of groups including individuals, NGOs, and industry groups commented on buffers and boundaries.

Royal Forest & Bird Protection Society of New Zealand Incorporated submitted that *“Any regulation should deal with the issue of whether, and in what circumstances, any buffers are required for boundaries and tracks, etc³³”*.

Some submitters wanted buffers and other kinds of exclusion areas to be used more frequently, and a requirement for buffers around:

- walking tracks
- the boundaries of areas targeted for pest control operations
- roads (including forestry roads)
- water (particularly drinking water).

Generally, these areas were suggested because of a fear that people and/or non-target animals might be at risk of poisoning:

“Setbacks from public walking tracks need to be adhered to. These are highly toxic substances and public safety needs to be maintained. Tracks themselves may be cleared by poisonous baits but a child might spot a poisonous bait on the ground close to a track and consume it with serious consequences.³⁴”

On the other hand, some organisations noted problems with buffers and other exclusion areas; Environment and Conservation Organisations of New Zealand said:

“We share concerns about the wide buffer strips often imposed in the use of aerial VTAs, since these too often create reservoirs of infestations and this in turn encourages reinvasions, reapplications and attendant costs, withholding periods for stock, losses of production and access. Reapplications mostly will be needed, but perhaps less often if pest reservoirs are lesser and fewer.³⁵”

The New Zealand Fur Council suggested that a comprehensive package of information about pest control operations nationally should be made available publically.

Enforcement/compliance/monitoring and evaluation

The group of submitters who raised concerns around compliance and monitoring were a very diverse group of submitters. This group included:

- the Parliamentary Commissioner for the Environment
- NGOs

³² Federated Farmers of New Zealand, submission reference number 14630

³³ Royal Forest & Bird Protection Society of New Zealand Incorporated, submission reference number 14628

³⁴ Individual submitter, submission reference number 14581

³⁵ Environment and Conservation Organisations of New Zealand, submission reference number 14686

- individuals
- iwi
- Medical Officers of Health
- Federated Farmers
- other industry groups
- private businesses
- councils.

The PCE supported the proposed conditions, but suggested that the condition for compliance with HSNO Act controls seemed unnecessary.

The importance of monitoring pest control operations was raised by many submitters including Federated Farmers, Dairy NZ, Epro Ltd, the Canterbury District Health Board, and Ngāti Rangi Trust. They noted that the proposal removed the ability of councils to recover their costs for monitoring pest control operations and suggested other options for enabling monitoring to be undertaken.

Submitters who discussed compliance and monitoring issues almost always raised the issue of cost recovery too.

Dairy NZ noted that the inability of councils to recover costs associated with compliance and monitoring may act as a disincentive for councils to do this work.

There was concern expressed primarily by councils that ratepayers would suffer the cost of monitoring pest control operations if councils were no longer able to recover costs as part of the resource consent process under the RMA.

Environment and Conservation Organisations said:

“We note the proposal for no cost-recovery of monitoring of the applications. We sympathise with this given the costs of such for councils, but we also note that the proposed changes in the Resource Legislation Bill do have provisions for councils to cost-recover where there are permitted uses. The two provisions seem to be at odds. Lack of funding may mean no monitoring, violations and discrediting the regime with resultant lack of public confidence. On the other hand, having to pay for monitoring will be prohibitive for many community groups³⁶.”

Extension of proposal to include other pests

Federated Farmers suggested that the proposal could benefit operations against other pests, specifically rabbits.

³⁶ Environment and Conservation Organisations, submission reference number 14686

Iwi submissions

Submissions were received from:

- Tūwharetoa Māori Trust Board³⁷
- Maungaharuru-Tangitū Trust³⁸
- Te Runanga O Ngāti Whatua³⁹
- Ngāti Rangi Trust⁴⁰.

All iwi submissions discussed the importance of consultation regarding pest control operations in their rohe. Two submissions spoke of the duty of kaitiaki to ensure the mauri/mouri, and the spiritual and physical health of their rohe.

One submission opposed the proposal; one submission supported the proposal; one submission opposed the proposal in part; and one submission requested further information about the proposal.

Tūwharetoa Māori Trust Board

The Tūwharetoa Māori Trust Board did not state whether they supported or opposed the proposal; rather they stated their concerns about the Ministry for the Environment consultation process and sought further information about how the proposal would work at a local level.

Maungaharuru-Tangitū Trust

Maungaharuru-Tangitū Trust opposed the proposal.

Their submission noted that the key principle behind Poutiri Ao ō Tāne Project – a community conservation and restoration project with DoC and the Hawkes Bay Regional Council, is to move to wide-scale, ultra-low-cost trapping with the aim of reducing toxin use on farmland in the long-term.

In regard to consultation, Maungaharuru-Tangitū Trust said that they:

“... expect that provision be made for adequate time for Regional Councils and unitary authorities to notify Tangata Whenua for the area or areas where the VTA is to be used and or [sic] proposed”

and

“... expect that full consultation with Tangata Whenua is made in accordance to the RMA as a notified party if and when VTA is to be used within the Takiwā.”

They also expect that they will receive the relevant reports from agencies tasked with compliance responsibilities⁴¹ as Tangata Whenua in their Takiwā and as part of the “due consultation of any proposed VTA application”.

³⁷ Tūwharetoa Māori Trust Board, submission reference number 14727

³⁸ Maungaharuru-Tangitū Trust, submission reference number 14707

³⁹ Te Rūnanga o Ngāti Whātua, submission reference number 14696

⁴⁰ Ngāti Rangi Trust, submission reference number 14612

Te Rūnanga o Ngāti Whātua

Te Rūnanga o Ngāti Whātua supported the proposal.

They noted that the proposal is consistent with ‘Local Government’s approach to controlling VTAs as a permitted activity’ and that it is unlikely to significantly change the way VTAs are used or controlled in their tribal area. They note that HSNO provides environmental protection when pest control is a permitted activity.

On consultation, they noted that one of their key requirements is to be advised of operations in their area so that they can respond to public enquiries.

They note that:

“The proposal is unlikely to affect the way Te Rūnanga monitors general regulatory controls for pest management in any practical way. Te Rūnanga does not routinely monitor permitted activities. Previous engagements have been triggered by compliance or an environmental incident.”

They also note that several other agencies are also involved in monitoring pest control operations.

Ngāti Rangi Trust

Ngāti Rangi Trust opposed the proposal in part.

Ngāti Rangi Trust is currently facilitating the consultation process for TBFree New Zealand for their proposed pest control operation in the Horopito, National Park, Karioi and southern Ruapehu area. Part of this facilitation process involved ‘*address[ing] the myths surrounding Sodium Fluoroacetate (1080)*’.

Their submission acknowledges the importance of pest control operations in protecting New Zealand’s native species, but expressed concern about the use of VTAs within their rohe because “*there will always be an impact on the mouri⁴² of the environment*”.

In reply to consultation question 2(a), Ngāti Rangi Trust stated:

“NRT recognise that there are still sufficient safeguards under the HSNO Act 1996 to reduce or eliminate the RMA layer that requires resource consent and therefore ‘streamlining the process’. Despite this, we request that specific mechanisms outlined within the RMA remains in place to trigger the following:

- 1) Section 6Cc: The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna,
- 2) Section 6e: The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga,
- 3) Section 7a: Kaitiakitanga,
- 4) Section 7d: Intrinsic values of ecosystems,
- 5) Section 8: Treaty of Waitangi”

⁴¹ Such as Worksafe New Zealand, the Ministry of Health, the Environmental Protection Authority, the Department of Conservation, TBFree, and regional councils.

⁴² Ngāti Rangi dialect for mauri (life-force).

They also note:

“The resource consent process, or more importantly the pre-application phase offers iwi an opportunity to engage and offer mechanisms of protection and recognition of these key principles with applicants.

Therefore, NRT oppose this streamlining unless the opportunity to engage at the local level remains as part of the process, eg. [sic] through the resource consent process.”

Ngāti Rangi Trust supports other parts of the proposal.

On compliance and monitoring, Ngāti Rangi Trust raised the issue of cost recovery:

“NRT see the utmost importance of continuing the monitoring and compliance duties. We also recognise that there needs to be the ability to recover costs of the monitoring and compliance checks from the applicant. We view this as another opportunity for local iwi to engage in these duties (monitoring and compliance) to help alleviate long distance logistical issues. A collaborative approach from Worksafe NZ, Ministry of Health (MOH), Environmental Protection Authority, Department of Conservation, TBFree and iwi would be able to establish a streamlined cost effective monitoring and compliance audit program for all applications across the country.”

Councils

This section of the submissions report summarises responses from local government (councils and Local Government New Zealand) on the proposal.

A total of eight councils made submissions. Local Government New Zealand, the representative organisation for all 78 councils, also made a submission.

While the proposal directly affects all councils, it affects them in different ways. Councils with plans containing permitted activity rules for 1080, are affected minimally by the proposal. Councils with plans requiring resource consent for aerial 1080 operations⁴³ are more affected by the proposal.

Adding context to their own and councils' submissions, Local Government New Zealand noted that councils are currently carrying out work to ensure their Regional Pest Management Strategies align with the National Policy Direction for Pest Management⁴⁴.

The consultation document sought feedback on the proposal that three conditions be included in the regulation. These conditions covered:

- occupier permission for the land where the aerial discharge is occurring
- information to be provided to councils
- compliance with HSNO controls.

Council submissions were mostly concerned with the second and third conditions.

Information to be provided to councils about individual pest control operations

The proposed condition relating to the information pest control operators would be required to provide to their local councils with about their operations was to cover:

- location of the planned operation (GPS data)
- timing of the operation
- chemical being used.

The West Coast Regional Council and Horizons Regional Council supported the proposed information requirements on the basis that they will be able to use the information to answer queries from the public.

Waikato Regional Council agreed with the proposed information requirements, and suggested other information that would also add value.

The Tasman District Council stated that the conditions are not specific enough to be enforceable.

⁴³ Plans might require resource consent for aerial 1080 operations as either a controlled, restricted discretionary, discretionary or non-complying activity. Plans might also require resource consent for aerial 1080 operations despite having permitted activity rules for the aerial discharge of 1080.

⁴⁴ This work is associated with the 2012 changes to the Biosecurity Act.

Compliance with HSNO controls

Overall, councils were concerned about what their monitoring requirements will be under the new proposal.

Councils also expressed concern about possible duplication between the proposed compliance condition in the regulation and the compliance and monitoring work other agencies undertake.

The West Coast Regional Council said:

“Reference to regional councils monitoring in the proposal is confusing. Councils should not undertake monitoring and compliance if the regulation is passed. This should be done by a Ministry department for efficiency and to reduce duplication between agencies.”⁴⁵

The Greater Wellington Regional Council said:

“Conflict if regional council officers are undertaking investigations or compliance audits no longer managed under RMA. Any compliance checks and issues should be dealt with by the authority tasked with that particular legislation. Reference to compliance with HSNO controls should be removed.”⁴⁶

⁴⁵ West Coast Regional Council, submission reference number 14698

⁴⁶ Greater Wellington Regional Council, submission reference number 14688

Conclusion

This report is intended to provide a concise summary of the views expressed. It is not intended to provide an analysis of those views or recommendations in response to the submissions. Any recommendations in response to submissions are made through policy advice to Cabinet, delivered later in 2016.