

Submission template

Review of the Plant Variety Rights Act 1987: Outstanding Policy Issues

Your name and organisation

[Redacted]	[Redacted]
[Redacted]	[Redacted]
Organisation/Iwi	Seed Force Ltd

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Responses to questions in the discussion document

Treaty of Waitangi issues

1	<p>Definitions</p> <p>Do you agree with our proposed definition of ‘indigenous plant species’? If not, do you have an alternative to propose?</p>
	<p><i>[Insert response here] Indigenous plant species definition should be as referenced in the NZ Taxonom and Botany reference books .</i></p>
2	<p>Definitions</p> <p>Do you agree that ‘non-indigenous species of significance’ be listed in regulations and that the list reflect the table above? If not, why not? Are there species that should be on that list that are not?</p>
	<p><i>[Insert response here]A non indigenous species of significance list is very subjective- who determines the list . There should rather be a list of non indigenous species that are found in NZ as the first reference point. From this a list of significance could be determined BUT by whom?</i></p>
3	<p>Disclosure obligations and confidentiality</p> <p>Are there any confidentiality considerations in relation to the additional information required under the new disclosure obligations? If so, how should this information be treated?</p>
	<p><i>[Insert response here]The only issue would be where a party applies for a PVR and it relates to a business opportunity to utilise a plant species in a novel way. Confidentiality should be available to retain the IP for the business opportunity</i></p>
4	<p>Māori Advisory Committee - appointments</p> <p>Do you agree with the proposal to change the name of the Committee to the ‘Māori PVR Committee’? If not, do you have any other recommendations?</p>
	<p><i>[Insert response here]NO this is not appropriate. There should only be one reference body covering NZ for PVR. I support the retention of the Maori Advisory committee because this is what their defined function is -advice.</i></p>
5	<p>Māori Advisory Committee - appointments</p> <p>Do you agree with our proposed amendments to the appointment process? If not, why not? Do you have any alternative amendments to propose?</p>
	<p><i>[Insert response here]No comment</i></p>
6	<p>Māori Advisory Committee - appointments</p> <p>Do you agree with our proposed amendments to the criteria for appointment? If not, why not? Do you have any alternative amendments to propose?</p>
	<p><i>[Insert response here] Yes agree</i></p>

7	<p>Māori Advisory Committee – decision making processes</p> <p>Do you agree with the proposed list of considerations the Committee is required to take into consideration when determining whether an application? If not, why not?</p>
	<p><i>[Insert response here] yes agree</i></p>
8	<p>Māori Advisory Committee – decision making processes</p> <p>Are there any additional factors that should be added to the list of relevant considerations?</p>
	<p><i>[Insert response here] no</i></p>
9	<p>Māori Advisory Committee – decision making processes</p> <p>Do you agree that the Committee should take an investigative approach to decision-making (Option 1)? If not, why not?</p>
	<p><i>[Insert response here] yes</i></p>
10	<p>Māori Advisory Committee – decision making processes</p> <p>Do you agree that the Committee should be required to reach a unanimous decision and only in the event that, despite all efforts, a decision cannot be reached can the Chair of the Committee allow a decision to be made by either a consensus or a vote (Option 3)? If not, why not?</p>
	<p><i>[Insert response here] Achieving a unanimous decision is often difficult and this could hold up any approval process going forward. Also for Maori there are tribal differences in relation to importance of certain species. Rather a majority ruling would be preferable to ensure any process remains on track.</i></p>
11	<p>Māori Advisory Committee – decision making processes</p> <p>Do you agree the Committee should only facilitate discussions between kaitiaki and breeders on the issue of mitigations (Option 2)? If not, why not? Is there an alternative you wish to propose?</p>
	<p><i>[Insert response here] Yes I agree with Option 2.</i></p>
12	<p>Post-determination considerations</p> <p>Do you agree with our preferred option for a first stage review of determinations of the Committee (Option 3)? If not, why not? Is there an alternative you wish to propose?</p>
	<p><i>[Insert response here] yes agree with option 3</i></p>
13	<p>Post-determination considerations</p> <p>Do you have any thoughts about either the timeframe for initiating this first stage review or the proposal of adding a person to the Committee when they are reviewing a determination, and who might be appropriate?</p>
	<p><i>[Insert response here]</i></p>

14	Post-determination considerations
	Do you agree with our proposal for imposing a time limit in relation to a review of a determination of the Committee? If not, why not?
	<i>[Insert response here] yes I agree</i>
15	Post-determination considerations
	What do you think is an appropriate timeframe for an aggrieved party to notify Commissioner and the Committee of their intention to seek judicial review?
	<i>[Insert response here] Should be 4 weeks</i>
16	Post-determination considerations
	Do you agree with our preferred option and process for objections after grant in relation to the kaitiaki condition (Option 2)? If not, why not? Is there an alternative you wish to propose?
	<i>[Insert response here] Yes agree option 2</i>

Operational issues

17	Information available to the public
	What are your views of the problem identified by MBIE?
	<i>[Insert response here] The UPOV and PVR rights of plant varieties needs to retain the status quo -whereby information is available to the public via the PVR office.</i>
18	Information available to the public
	What do you think about the options outlined by MBIE? What would be your preferred option and why? Are there other options that could be adopted?
	<i>[Insert response here] Note- that information being made public should only be done so when a PVR application is made and when a decision is made.</i>
19	Information available to the public
	If you support Option 3 what timeframe would you suggest for the information to be made public and why?
	<i>[Insert response here] Yes support option 3</i>
20	Supply of plant material in relation to a specific application
	Do you consider that these provisions regarding the supply of plant material for a specific application are causing any problems? If so, why?

[Insert response here] There needs to be some flexibility on when seed is provided. A PVR application can be made during the year however the supply of seed should not be needed on application. Rather the seed should be supplied on request 3 weeks prior to planting of any PVR field comparison trial.

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Provision of propagating material for comparison and reference purposes

What are your views of the problem identified by MBIE?

[Insert response here] Growing trials should have some flexibility – where a new variety with no prior off shore PVR is being applied for then compulsory trials should be required. Where plant varieties have PVR offshore then flexibility should be considered and maybe no trial is necessary. Depending on the species.

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Provision of propagating material for comparison and reference purposes

Do you support MBIE's preferred option? If not, what other option(s) should be adopted, and why?

[Insert response here] I support option 4

23

Provision of propagating material for comparison and reference purposes

Do you agree that if material is not provided lapse or cancellation could occur? Can you think of other ways to enforce this requirement? What is the appropriate timeframe?

[Insert response here] Yes agree that any application should lapse.

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Should growing trials be optional or compulsory?

What are your views of the problem identified by MBIE?

[Insert response here] No flexibility is required

25

Should growing trials be optional or compulsory?

Do you support MBIE's preferred option? If not, what other option(s) should be adopted, and why?

[Insert response here] Optional

26

Who should conduct growing trials?

What are your views of the problem identified by MBIE?

[Insert response here] again option 4 where final determination is made by the Commissioner

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Who should conduct growing trials?

Do you support MBIE's preferred option? If not, what other option(s) should be adopted, and why?

[Insert response here] Need to have flexibility here as well.

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Trial and examination fees

What are your views of the problem identified by MBIE?

	<i>[Insert response here] I agree with the Option 3 proposed</i>
29	Trial and examination fees Do you support MBIE's preferred option? If not, what other option(s) should be adopted, and why?
	<i>[Insert response here] YES</i>
30	Trial and examination fees What would be the appropriate timeframe for payment of trial and examination fees in options 2 and 3?
	<i>[Insert response here] I think there needs to be 2 months</i>
31	Hearings and appeals relating to decisions of the Commissioner of PVRs Do you agree that the Act should include provision for a right to be heard along the lines of that in section 208 of the <i>Patents Act 2013</i> . If not, why?
	<i>[Insert response here] yes agree</i>
32	Hearings and appeals relating to decisions of the Commissioner of PVRs What is your view on where appeals to decisions of the Commissioner should be considered (i.e. District Court or High Court)? Why?
	<i>[Insert response here] These should be held by an independent expert panel- I don't think a District court has the expertise. Maybe this panel should be defined by the Commissioner and the applicant should be happy with to oblige.</i>

Other comments

[Insert response here]