

Submission template

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

Your name and organisation

Name	[REDACTED]
Email	[REDACTED]
Organisation/Iwi	Rijk Zwaan Zaadteelt en Zaadhandel B.V.

[Double click on check boxes, then select 'checked' if you wish to select any of the following.]

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I do not want my submission placed on MBIE's website because I would like my submission to be kept confidential

Please check if your submission contains confidential information:

I would like my submission (or identified parts of my submission) to be kept confidential, and **have stated below** my reasons and grounds under the Official Information Act that I believe apply, for consideration by MBIE.

I would like my submission (or identified parts of my submission) to be kept confidential because...
[Insert text]

Responses to questions in the discussion document

Treaty of Waitangi issues

1	Definitions
	Do you agree with our proposed definition of 'indigenous plant species'? If not, do you have an alternative to propose?
	<i>No opinion</i>
2	Definitions
	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?
	<i>No opinion</i>
3	Disclosure obligations and confidentiality
	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?
	<i>No opinion</i>
4	Māori Advisory Committee - appointments
	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?
	<i>No opinion</i>
5	Māori Advisory Committee - appointments
	Do you agree with our proposed amendments to the appointment process? If not, why not? Do you have any alternative amendments to propose?
	<i>No opinion</i>
6	Māori Advisory Committee - appointments
	Do you agree with our proposed amendments to the criteria for appointment? If not, why not? Do you have any alternative amendments to propose?
	<i>No opinion</i>
7	Māori Advisory Committee – decision making processes
	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?
	<i>No opinion</i>

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>
	<i>No opinion</i>
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>
	<i>No opinion</i>
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>
	<i>No opinion</i>
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>
	<i>No opinion</i>
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>
	<i>No opinion</i>
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>
	<i>No opinion</i>
14	<p>Post-determination considerations</p> <p>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?</p>
	<i>[No opinion]</i>
15	<p>Post-determination considerations</p> <p>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?</p>

	<i>No opinion</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>No opinion</i>

Operational issues

17	Information available to the public
	What are your views of the problem identified by MBIE?
	<i>We appreciate the awareness of confidentiality issues]</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>Option 2 is preferred and would solve the problem, because information origin and breeding information can reveal the breeding strategy and is therefore commercially sensitive information.</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]</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?
	<i>In our case – vegetable varieties – no growing trial in New Zealand takes place, but we need to submit an untreated seed sample before the novelty deadline. Untreated seeds are not part of our commercial stock in New Zealand, so will need to be sent from the Netherlands. We would prefer to delay the submission date to not later than the grant date.</i>
21	Provision of propagating material for comparison and reference purposes
	What are your views of the problem identified by MBIE?

In our case – vegetable varieties – no growing trial in New Zealand takes place, but in general a PVP office should be reluctant to accept propagating material for comparison and reference purposes from the applicant, if the applicant is not the owner of the comparison variety, since it cannot be guaranteed that the correct variety is submitted. It is also difficult for the applicant to obtain such a sample from a competitor, because it needs to be untreated and we cannot obtain a phytosanitary certificate for this sample. We, therefore, feel that if a PVP office decides to perform their own growing trials, a prerequisite is to have a good reference collection consisting of samples received from the owners.]

Provision of propagating material for comparison and reference purposes

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

Yes we support option 2. That applicants and grantees be required to provide propagating material for comparison and reference purposes – however with the addition of the words "of their own varieties".

Provision of propagating material for comparison and reference purposes

23 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?

We think it is the responsibility of the PVP Office to obtain propagating material for comparison and reference purposes if the material is not owned by the applicant. So, therefore, we do not agree that if this material is not provided lapse or cancellation could occur.

Should growing trials be optional or compulsory?

24 What are your views of the problem identified by MBIE?

Growing trials should not be compulsory if a foreign DUS report from another UPOV member state can be taken over.

Should growing trials be optional or compulsory?

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

[We support option 2 only when a foreign DUS report is considered as a growing trial.] In any case, we feel that a growing trial always should take place following the specific UPOV guideline, but not necessarily in the country itself.

Who should conduct growing trials?

26 What are your views of the problem identified by MBIE?

[A growing trial should be performed by an official examination office, following the specific UPOV guideline]

Who should conduct growing trials?

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

	<i>[Yes, we support option 4..]</i>
28	<p>Trial and examination fees</p> <p>What are your views of the problem identified by MBIE?</p>
	<i>[For us, so far this has not been applicable, since we only deal with take over fee of a foreign DUS report, but we understand the issue.]</i>
29	<p>Trial and examination fees</p> <p>Do you support MBIE's preferred option? If not, what other option(s) should be adopted, and why?</p>
	<i>We support preferred option 3.]</i>
30	<p>Trial and examination fees</p> <p>What would be the appropriate timeframe for payment of trial and examination fees in options 2 and 3?</p>
	<i>[In our case, the take over fee should be paid once the foreign DUS report becomes available, otherwise the report cannot be taken over and PVR cannot be granted. However, it is our experience in e.g. the Netherlands, that examination fee has to be paid before the start of the deadline of the growing trial.]</i>
31	<p>Hearings and appeals relating to decisions of the Commissioner of PVRs</p> <p>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?</p>
	<i>Yes, we agree]</i>
32	<p>Hearings and appeals relating to decisions of the Commissioner of PVRs</p> <p>What is your view on where appeals to decisions of the Commissioner should be considered (i.e. District Court or High Court)? Why?</p>
	<i>[No opinion]</i>

Other comments

[Insert response here]