From: Wendy Clark [mailto:[redacted]]
Sent: Monday, 9 September 2019 1:38 p.m.
To: Plant Variety Rights Act Review
Subject: Submission on the Plant Variety Rights Act 1987 review

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Organisation: Individual

Nothing confidential in submission

Please advise if my format is incorrect. I didn't think you would want an attachment.

SUBMISSION

The proposed changes to the Plant Variety Rights Act 1987 assume a partnership between Crown and citizens with a Maori ancestor. They also assume that native or endemic plants are the property of groups with a Maori ancestor. Neither of these assumptions are supported by a simple reading of the 1840 peace treaty known as the Treaty of Waitangi.

I fail to see why tribal interests have a greater interest (or should be given preferential rights) in plants over any other stakeholder group or citizen of New Zealand. Therefore, I oppose the proposed requirement for breeders to consult with groups that call themselves kaitiaki and I oppose such groups from potentially being given the power to veto a PVR (clause 51 (c)).

Breeders need a clear pathway, confidentiality and certainty that their investment is worthwhile. They need to be rewarded for their research and development effort. We need to ask ourselves if the proposed changes are going to give breeders the confidence to invest in new breeds and varieties that will benefit New Zealand Inc. I believe they risk incentivising breeders to go off-shore with their commercial and entrepreneurial activities.

Why would a breeder want to co-develop his product? Why would he want to share his hard earned and commercially sensitive intellectual property with outside groups? A government's job is to provide an enabling business environment, not burden entrepreneurs with unnecessary compliance costs.

What is proposed here mirrors obligations that resource consent applicants have to go through in Auckland. Numerous iwi groups are notified of the application. All may demand a site visit. Each group can impose conditions additional to those imposed by Council. Usually they charge a fee for this 'service'. Potentially the applicant could pay in excess of 15 sets of fees. There is no fee structure. No time

limit. No right of appeal. No accountability. No controls to ensure that extortion does not take place. There are no provisions to stop tribal interests from blocking competitors' developments, or to prevent them from 'clipping the ticket' on other peoples' ventures. Applicants are 'over a barrel'. If they don't pay the arbitrary fee, or they complain, they don't get the iwi tick of approval and their application stalls on a council desk - indefinitely.

If these proposals go ahead, the same scenario will occur. It is not conducive to a unified society.

I would ask MBIE to consider:

How are 'kaitiaki' going to be accountable?
How is MBIE going to guarantee confidentiality?
What happens if there are disagreements as to who is the so-called 'kaitiaki' of this plant material?
Why are we injecting issues into the process that will require a disputes process?
Why is a Ministry of Business, Innovation and Employment actively seeking to complicate and add substantial compliance costs to the process?

This is not an Act that requires 'Treaty compliance'. I oppose the 'treaty compliance' clauses.

Kind regards

Wendy Clark
