

30 September 2020

Corporate Governance and Intellectual Property Policy
Building, Resources and Markets
Ministry of Business, Innovation & Employment
PO Box 1473
Wellington 6140

Via email to: PVRActReview@mbie.govt.nz

Dear Sir/Madam

Re: PVR Act Review

Please find attached a submission on the PVR Act review.

Please do not hesitate to contact us if you require any further information on this submission.

Yours sincerely



Sarah Cameron
Senior Policy Analyst

TO: MBIE

SUBMISSION ON: PVR Act Review

NAME: NZ Kiwifruit Growers Inc (NZKGI)

ADDRESS: PO Box 4246, Mount Maunganui South, 3149

1. The kiwifruit industry in New Zealand

The kiwifruit industry is a major contributor to regional New Zealand returning \$1.8b directly to rural communities in 2018/19. There are ~3000 growers, 14,000ha of orchards, 10,000 permanent employees and up to 25,000 jobs during the peak season. Approximately 80% of New Zealand's kiwifruit crop is grown in the Bay of Plenty and the industry is expected to grow its global sales to \$4.5b by 2025 which is an increase from \$3.1b in 2018/19. The projected growth of the industry will contribute significantly to the Bay of Plenty GDP increasing it by 135% to \$2.04 billion by 2029/2030.

2. General comments

Thank you for the opportunity to comment on the PVR Act review. NZKGI makes the following comments for consideration.

3. Outstanding Treaty of Waitangi issues

Definitions

NZKGI supports the definition of indigenous plant species: *a plant species that occurs naturally in New Zealand or has arrived in New Zealand without human assistance.*

NZKGI agrees that the list of non-indigenous species of significance be placed in regulations under the new legislation and that the list reflect the plant species noted in the below table:

Common Māori Name	English and Latin
Kuru	Breadfruit, <i>Artocarpus incisa</i>
Hue	Gourd, calabash, <i>Lagenaria siceraria</i>
Aute	Paper-Mulberry, <i>Broussonetia papyrifera</i>
Karaka/Kōpī	<i>Corynocarpus laevigata</i>
Paratawhiti/Paraa	<i>Maritima fraxinea</i>
Perei	<i>Gastrodia Cunninghamii</i> and <i>Orthoceras strictum</i>
Kūmara	<i>Ipomoea batatas</i>
Taro	<i>Colocasia esculenta</i>
Tī pore	Pacific cabbage tree, <i>Cordyline fruticosa</i>
Whikaho	Yam, <i>Dioscorea</i> species

Maori Advisory Committee

NZKGI supports the name change of the Maori Advisory Committee to the suggested Maori PVR Committee but suggests refining to the following: Maori PVR Advisory Committee. This better reflects the intent of the committee.

The committee is seen as a good option as a mechanism for filtering and ruling over ‘taonga species’ however there are concerns over the effectiveness of an advisory committee. It is NZKGI view that the committee make up must include:

- Expertise in Maori world view
- Expertise in Maori science and traditional plant knowledge and practices
- Expertise in mainstream plant taxonomy
- Ecological expertise
- Legal expertise

NZKGI agrees with the proposed amendments to the appointment process which allows for a general call for nominations, and through approaching specific organisations (such as the Federation of Māori Authorities, Te Puni Kōkiri, Te Papa Tongarewa Board, The Waitangi Tribunal, New Zealand universities, Te Hunga Roia Māori o Aotearoa). This is followed by an interview carried out by a panel, which includes the chair of the advisory committee, who advises the Commissioner on the most suitable candidates. In addition, the Commissioner also receives advice from Te Puni Kōkiri. These additional steps feed into the Commissioner’s decision-making process to ensure all members of the committee have the necessary skills to carry out their role.

It is not clear how the committee will be funded but it is presumed that funding will be provided by government - there should not be a cost burden to breeders.

Disclosure requirements

NZKGI submits that it would be difficult for a breeder to meet these disclosure requirements because Kaitiaki is not defined or criteria set and therefore no authority or responsibility has been assigned - it is difficult to attach something to Kaitiaki.

Approach to decision making

NZKGI supports an investigative approach to decision making (option 1) where the committee can facilitate a hui to seek further information from the breeders and Kaitiaki before reaching a decision.

Unanimous decisions vs majority-vote

NZKGI supports option 3 that allows that while the committee must strive to reach a unanimous decision, and in the event that this is not possible despite all efforts, the chair of the committee may allow a decision to be made by consensus or a simple majority vote.

Role of the committee in considering mitigations

NZKGI supports option 2 that the committee can only facilitate discussions between kaitiaki and breeders on the issue of mitigations.

Post-determination considerations

NZKGI supports option 3 that the committee may be asked to reconsider their determination in light of new information provided by a person objecting to the determination rather than via a formal judicial review process. NZKGI supports a six-week review period.

4. Conclusion

NZKGI thanks MBIE for the opportunity to provide further feedback on the PVR review and looks further to further engagement on this topic