

NGĀ KAIHAUTŪ TIKANGA TAIAO REPORT

Application for the Reassessment of Sodium Fluoroacetate (1080)

Application Code: HRE05002

(An application for the reassessment of 1080 and substances containing 1080)

1. APPLICATION CODE

HRE05002

2. BRIEF DESCRIPTION OF APPLICATION

In 2002 the Animal Health Board (AHB) and DOC (Applicants) invited the Authority to decide whether or not there were grounds for reassessing the use of sodium fluoroacetate (1080) and substances containing 1080 under section 62(1)(a) of the Hazardous Substances and New Organisms (HSNO) Act 1996. The Authority decision was that there were grounds for reassessment.

The AHB and DOC submitted their Application for reassessment of sodium fluoroacetate (1080) and substances containing 1080 in October 2006. Sodium fluoroacetate is used in New Zealand to control and reduce vertebrate pests that are vectors for bovine tuberculosis (Tb) and are significant threats to a range of biodiversity values. The Applicants are seeking approval for continued use of 1080 and substances containing 1080, pursuant to section 63 of the HSNO Act 1996 for the control of possums, wallabies and rabbits, and for targeted by-kill of rodents and mustelids (mainly stoats).

The reassessment Application comprises a hazard classification of 1080 and an assessment of the risks, costs and benefits of using 1080 in New Zealand.

3. APPLICANT

This Application for reassessment of 1080 is made jointly by William McCook (Chief Executive) on behalf of the Animal Health Board (AHB) and Alastair Morrison (Acting Director General) on behalf of the Department of Conservation (DOC).

4. REASON FOR MAKING A NGĀ KAIHAUTŪ TIKANGA TAIAO REPORT

Ngā Kaihautū Tikanga Taiao (Ngā Kaihautū) is a statutory advisory committee that was established under Part 4A of the HSNO Act to provide advice and assistance, from a Māori perspective, to the Authority on matters of policy, process, and applications of significance to Māori. Ngā Kaihautū members are not authorised by iwi or hapū to speak on their behalf but rather they are a collection of individual Māori mandated under the HSNO Act. Key roles are to ensure “the principles of the Treaty of Waitangi (Te Tiriti o Waitangi)” (Section 8) and the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, valued flora and fauna, and other taonga’ (Section 6d) are taken into account by the Authority when exercising powers and functions under the Act.

Ngā Kaihautū is aware that 1080 involves considerable interest and poses significant issues for Iwi/Māori who have a diverse range of views about the use of 1080 to control a range of vertebrate pests in New Zealand, particularly the aerial application of this pesticide. A continuum of opinion from strong support to strong opposition has been expressed on the use of 1080 and its implications on Treaty of Waitangi, environmental, cultural, health and well being and economic development outcomes. Therefore, it is incumbent on Ngā Kaihautū to provide advice to the Authority with respect to incorporating these issues into the Part V decision making process.

In addition to Part V decision making Ngā Kaihautū, as process guardian, has the responsibility to protect and uphold the integrity of tikanga and mātauranga Māori, and the Treaty of Waitangi to ensure it is appropriately applied to Hazardous Substances and New Organisms (HSNO) issues in general.

5. PROCESS OF REPORT PREPARATION

1 Doctors James Ataria and Shaun Ogilvie, members of Ngā Kaihautū, were assigned to write this report because of their combined 16-years of research experience on the efficacy, fate and impact of 1080 on target and non-target species, and their recent collaborative projects with Māori organisations. To obtain information on Māori views regarding the process undertaken to reassess 1080 and the outcomes of significance to Māori the authors examined the Application, including the Tuputupuwhenua analysis of the written minutes made during national consultation hui undertaken by the applicant. Other sources of information were an independent report on the national consultation hui commissioned by Ngā Kaihautū (Appendix 1), and public submissions to the Application from organisations and individuals who were identifiably Māori.

6. ADEQUACY OF INFORMATION AND CONSULTATION

A total of 20 consultation hui were held throughout New Zealand from August to October 2004. The consultation hui were held primarily in regions where 1080 aerial and ground control were part of DOC and AHB operations, and where 1080 was a significant issue to local Māori. In areas where hui were not held, it was assumed that tangata whenua would utilise the written submission process as a vehicle to express their issues. The process of using the network of the then DOC Kaupapa Atawhai Managers to advertise the hui and disseminate information to Māori is endorsed by Ngā Kaihautū as a means to access one of the more comprehensive networks of Māori in New Zealand.

The 20 hui were based on the July 2004 discussion document 'The Use of 1080 for Pest Control'. The discussion document contained a comprehensive summary of background and up-to-date scientific research on 1080. However, many consultees found the information difficult to comprehend because of the writing style and frequent use of scientific terminology and concepts. There were also a number of verbal and written statements expressing concern that the information contained in the discussion document and applicants' presentation were biased to support their application for the continued use of 1080.

Ngā Kaihautū acknowledges the significant resources and time that the applicants committed to produce the discussion document and undertake the Category 3 National Consultation deemed necessary for this Application. Consultees were on the whole positive to the kanohi ki te kanohi (face to face) approach and the opportunity to hear background information and recent research findings on 1080. However, Ngā Kaihautū is aware of concerns expressed by consultees and submitters regarding the quality of the consultation and the process undertaken (Appendix 1). Many considered the hui to be about dissemination of information rather than true consultation – the latter being regarded as a requirement of the applicants under the Treaty of Waitangi. According to the ERMA New Zealand user guide "Working with Māori under the HSNO Act 1996: A Guide for Applicants" (ER-UG-01-4 04/05) genuine consultation involves "the statement of a proposal not yet finally decided upon, listening to what others have to say, considering their responses and then deciding what will be done." Consultation is therefore a two-way process and clearly some consultees and submitters felt this was not achieved.

1 Ngā Kaihautū could find little evidence (Appendix 1) that an appropriate process and sufficient time was used during the consultation hui to discuss outcomes of significance to Māori, and options for mitigating potential adverse effects. This is supported by the lack of information in the Application relating to these outcome areas. Ngā Kaihautū believes that this was a significant lost opportunity to
2 provide this information to the ERMA decision making committee who has a legal duty to incorporate this information into Part V decision making.

The Application contains future scenarios WITH and WITHOUT 1080. During the consultation with Māori, however, the applicants focussed only on the WITH 1080 scenario. This approach is reflected in submissions from identifiably Māori organisations and individuals, who give little consideration to a future scenario without 1080, and to the risks and benefits for Māori of alternatives to 1080 (such as cyanide), that could be adopted in this scenario.

Ngā Kaihautū support the use of an independent consultant (Tuputupuwhenua Research) to create a
3 report on the written minutes that arose from the consultation hui. However, we are concerned that the information provided in the Tuputupuwhenua report is insufficient for two reasons. Firstly Tuputupuwhenua did not attend any of the consultation hui, instead relying solely on the minutes. Secondly only the minutes of nine of the 20 consultation hui were provided to Tuputupuwhenua for the purposes of undertaking their analysis.

4 While Ngā Kaihautū considers there were significant short-comings in the consultation process outlined above, Māori nevertheless had the opportunity (and were encouraged) to give their views in submissions, and in this hearing process.

7. KEY ISSUES

While there is no single Māori view on 1080, there were some key issues that commonly arose in submissions from identifiably Māori organisations and individuals:

- 5 • Toxins in the environment were often seen as unacceptable and contrary to the principles of Tikanga Māori,
- Many of the issues raised were associated specifically with the practice of aerial application of 1080,
- The unacceptability of toxins was however often tempered by an acknowledgement of the need to manage the impacts of introduced pest species on forests, native birds, and other taonga,
- Local community involvement was seen as vital; as tangata whenua in each rohe have their own particular relationship with their natural resources, they will also have their own particular views on the use of 1080,
- Such involvement was seen as needing to occur from the earliest stages of planning 1080 operations, with local Māori, in true partnership, involved in setting priorities and designing locally-appropriate pest control activities,
- There was a commonly-stated need for greater Māori involvement in monitoring both the target and non-target outcomes of pest control activities,
- There was comment on the need for ongoing research activities aimed at elucidating alternatives (to 1080 aerial application) that are more acceptable to Māori.

The most significant and consistent theme from identifiably Māori submitters was concern that in many cases the current processes and systems determining the use and management of 1080 both regionally and nationally were disempowering to Māori. As the kaitiaki of natural resources within their regions and as Treaty of Waitangi partners, the equitable partnership with Māori is considered critical to successful future pest management.

In instances where genuine attempts to embrace and promote the Treaty principles have occurred many Māori concerns have been satisfactorily addressed resulting in robust outcomes that are supported by all parties. A particularly pertinent example is that of the Lake Taupo and Lake Rotoaira Forest Trusts (Submission 9298). These Trusts manage about 50,000 hectares of Māori-owned land, much of which is planted in forestry. The Trustees are responsible for ensuring the performance of the plantations, and protecting native and exotic flora and fauna. A key aspect of this responsibility is mitigating the damage of possums, ferrets, stoats and rats, which threaten the future of the forests and of birdlife. The Trusts have created working partnerships with the region's principal pest control operator (EPRO Ltd) and Environment Waikato –the Regional Council acting for the Animal Health Board. Through these partnerships, protocols have been created that ensure meaningful and timely consultation, and that those proposing to use 1080 on Trust lands enter into any consultation in the spirit of good faith. The Trustees have, through the partnerships and the resultant protocols, been able to make amendments to the pest control activities that resulted in allaying many of the Māori landowner concerns about the risks of 1080.

The future development of such partnerships will mean that Māori have a voice in expressing means to mitigate the risks and enhance the benefits of 1080 use.

8. CONTROLS

Ngā Kaihautū is of the view that if the decision-making committee decides to approve the use of 1080, then consideration must also be made to enforce controls that:

- Support the development of meaningful partnerships between pest control agencies and local Māori,
- Are based on good partnership models that currently exist eg, Lake Rotoaira Forest Trust (Submission 9298) and Te Ao Mārama Inc. (Submission 8510),
- Increase Māori participation in setting research priorities and ongoing research on 1080, particularly investigating alternatives to 1080.

The adoption of such controls, based on partnership models, will not only significantly minimise Māori cultural risk, but also potentially enhance benefits for Māori.

9. OVERALL CONCLUSIONS

Ngā Kaihautū consider that pre-application consultation and Treaty of Waitangi disparities are the key issues pertaining to the reassessment of 1080.

- 1 Inadequacies in the pre-application consultation approach and Māori dissatisfaction with the consultation process appeared to reduce the efficacy of the consultation to provide necessary cultural information to the decision making committee. However, consultation did engage a diverse range of iwi, and Māori were encouraged to participate in the submission process.

Based on the submissions it is clear that Māori opinion on 1080 is diverse. Whether opinion is in support or opposition to 1080, it is in our opinion, closely correlated to the extent that Treaty principles have been incorporated into management processes. Therefore, if the use of 1080 is approved, consideration of options to mitigate Māori cultural risks should focus on the development of meaningful partnerships between pest control agencies and Māori.

Noho ora mai.

10. SIGNATURE AND DATE

James Ataria (PhD)
26 April 2007

Shaun Ogilvie (PhD)
26 April 2007