Commercial remote sensing payloads: national interest considerations and approach to permitting

1.1 Background

Commercial remote sensing payloads can support a range of end uses that are in large part unknowable at the point of permitting a payload. Remote sensing data is used for a wide range of civil purposes including search and rescue, agriculture, transport, mapping, and resource management. The data also has uses for defence and intelligence-related customers.

The following approach to remote sensing permitting decisions seeks to minimise the risks to New Zealand's national interests, including our reputation, values, and foreign policy goals, while recognising those risks cannot be entirely eliminated.

1.2 The Outer Space and High-altitude Activities Act sets out how national interest is considered when granting payload permits

Section 17(2) of OSHAA enables the Minister to decline granting a payload permit if the Minister is not satisfied that the proposed operation of the payload is in the national interest, taking into account the following factors:

i. economic or other benefits to New Zealand of the proposed operation;
ii. any risks to national security, public safety, international relations, or other national interests;
iii. the extent to which the risks can be mitigated by licence or permit conditions;
iv. any other matters that the Minister considers relevant.

1.3 Consideration of national interest in relation to remote sensing payloads

New Zealand's approach to assessing remote sensing payload permit applications and mitigating any national interest risks associated with them aligns with the approach of trusted and credible space regulators internationally.

The assessment process does not focus on individual customers, because the nature of remote sensing services means operators can have thousands of customers that change frequently, including downstream users that it would not be practical or realistic to try to identify.

Instead, the process focuses on:

- Controls on the technical capabilities of the satellite, for instance the quality or the timeliness of the satellite imagery which the operator can sell commercially, rather than end-use. We look at

whether the satellite is adding to existing commercially available capability; capability over and above what is available commercially would need to be considered more closely.

- Operators' own internal systems and processes that vet and influence the types of customers that they will sell data to.

Where a satellite operator holds an overseas licence, the conditions and controls applied through that licence mitigate many of the risks identified for New Zealand's national interests. For example, US National Oceanic and Atmospheric Administration licences apply technical restrictions on the products operators are permitted to sell commercially and prohibit them from selling to designated entities.

The Minister also imposes standard conditions on remote sensing payload permits prohibiting the sale of data to sanctioned or terrorist entities.

Applications are considered on a case-by-case basis, and the Minister has the ability to decline any payload.