Plant Variety Rights Act 1987 review: Options Paper

Your name and organisation

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Responses to questions in the Options Paper

1	**Objectives of the PVR Act** Do you have any further comment to make on the objectives of the PVR Act?
	[Insert response here]
2	**Meeting our CPTPP obligations** Do you agree with our analysis and conclusion of the CPTPP options? If not, why not?
	[Insert response here]
3	**Treaty compliance – criteria for analysis** Do you agree with the criteria that we have identified? Do you agree with the weighting we have given the criteria? If not, why not?

	NO. The review paper contains proposals to incorporate Treaty of Waitangi clauses in the legislation that in effect will mean Maori will decide if a Plant Variety Right (PVR) should be granted, (see 'New decision-making process' clause below). By sharing decision making with a private body, the proposed regime would compromise the integrity of our countries democracy. *"New decision-making process: empower the Commissioner of Plant Variety Rights, jointly with the Chair of the Māori advisory committee, to decide whether, on the basis of the Māori advisory committee's advice, the PVR should be granted".*
4	**Treaty compliance – key terms** Do you agree with our proposed approach to these key terms? Do you have any comments on the principles listed above and how they might apply in practice? For example, would it be useful to specifically list non-indigenous species of significance?
	NO. The review paper contains proposals to incorporate Treaty of Waitangi clauses in the legislation that in effect will mean Maori will decide if a Plant Variety Right (PVR) should be granted, (see 'New decision-making process' clause below). By sharing decision making with a private body, the proposed regime would compromise the integrity of our countries democracy. *"New decision-making process: empower the Commissioner of Plant Variety Rights, jointly with the Chair of the Māori advisory committee, to decide whether, on the basis of the Māori advisory committee's advice, the PVR should be granted".*
5	**Treaty compliance – options analysis** Do you agree with the proposed options? Are there alternatives we have missed? Do you agree with our analysis and conclusions? If not, why not?
	NO. The review paper contains proposals to incorporate Treaty of Waitangi clauses in the legislation that in effect will mean Maori will decide if a Plant Variety Right (PVR) should be granted, (see 'New decision-making process' clause below). By sharing decision making with a private body, the proposed regime would compromise the integrity of our countries democracy. *"New decision-making process: empower the Commissioner of Plant Variety Rights, jointly with the Chair of the Māori advisory committee, to decide whether, on the basis of the Māori advisory committee's advice, the PVR should be granted".*
6	**UPOV 91 alignment – criteria for analysis** Do you have any comment to make about our approach to, and criteria for, the preliminary options analysis in this paper?
	[Insert response here]
7	**Definitions – breed** Our preferred option is to incorporate the definition of "breed" that was considered in the previous review to address concerns around discovery of varieties in the wild. Do you agree? If not, why not?

	[Insert response here]
8	**Definitions – general** Do you have any comments on the definitional issues discussed in this Part?
	[Insert response here]
9	**Scope of the breeder's right** Do you have any comments about these new rights required by UPOV 91?
	[Insert response here]
10	**Exceptions to the breeder's right** Do you have any comments about the exceptions required by UPOV 91?
	[Insert response here]
11	**Term of the right** Do you agree with the proposed options? Are there alternatives we have missed? Do you agree with our analysis and conclusions? If not, why not?
	[Insert response here]
12	**Essentially derived varieties** Do you agree with the proposed options? Are there alternatives we have missed? Do you agree with our analysis and conclusions? If not, why not?
	[Insert response here]
13	**Rights over harvested material** Do you agree with the proposed options? Are there alternatives we have missed? Do you agree with our analysis and conclusions? If not, why not?
	[Insert response here]
14	**Farm saved seed** Do you agree with the proposed options? Are there alternatives we have missed? Do you agree with our analysis and conclusions? If not, why not?
	[Insert response here]
15	**Compulsory licences – general issues** Do you agree with the discussion and the proposals in relation to the five issues discussed above? If not, why not? Other than the two substantive issues below, are there other issues we have missed?
	[Insert response here]

16	**Compulsory licences – grace period** Do you agree with the proposed options? Are there alternatives we have missed? Do you agree with our analysis and conclusions? If not, why not?
	[Insert response here]
17	**Compulsory licences – section 21(3)** Do you agree with the proposed options? Are there alternatives we have missed? Do you agree with our analysis and conclusions? If not, why not?
	[Insert response here]
18	**Enforcement – infringements** Do you agree with the discussion and the proposals in relation to the four issues discussed above? If not, why not? Should the PVR Act provide that infringement disputes be heard in the District Court? Are there others issues relating to infringements that we have missed?
	[Insert response here]
19	**Enforcement – offences** Do you agree with the proposed options? Are there alternatives we have missed? Do you agree with our analysis and conclusions? If not, why not?
	[Insert response here]
20	**Exhaustion of the breeder's right** Do you have any comments about the exhaustion provision required by UPOV 91?
	[Insert response here]
21	**Cancellation and nullification of the breeder's right** Do you have any comments about the cancellation and nullification provisions required by UPOV 91, and MBIE's additional proposals discussed in this section?
	[Insert response here]
22	**Extending coverage to algae** Do you have any comments to make about whether or not algae should be included within the definition of "plant" for the purposes of the PVR regime?
	[Insert response here]
23	**Provisional protection** Do you agree with our preferred option for dealing with provisional protection? If not, why not?
	[Insert response here]

24	**Transitional provisions** What is your view on the options presented here in relation to this issue? Are there alternatives we have missed? How should transitional provisions apply to EDVs?
	[Insert response here]

Other comments

[Insert response here]