



**Date:** 4 July 2019  
**To:** Mike Slater, Deputy Director-General Operations  
**CC:** Martin Kessick, Deputy Director-General Biodiversity  
**From:** s 9(2)(a) [REDACTED] Acting Director National Operations

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**Subject: PERTH VALLEY - POSSUM AND SHIP RAT CONTROL OPERATION 2019**

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### **Purpose**

1. To consider the granting of a revised permission for undertaking an aerial 1080 operation in Perth Valley.

### **Background**

2. As a result of reviewing Permission 5709603 granted to Chief Executive of Zero Invasive Predators Ltd on 18 February 2019, it was identified there were inaccuracies in that permission document and that a new permission should be considered.
3. Although the information provided in the application and assessment was sufficient to grant the permission, it was noted that the permission should have been granted to the company and that further authorisation, including under the Wildlife Act 1953 should be stated. There was also insufficient documentation of the procedural decisions.
4. Although the pre-feed activities have been undertaken, which do not involve the use of 1080 or the killing of any species, the aerial drop of 1080 has not yet occurred. There is, therefore, an opportunity for you to reconsider the permission and, if you consider it appropriate, to revoke the present permission and grant a new permission.
5. It was considered appropriate to request you as the Deputy Director-General to make the decision as a new decision-maker, as opposed to referring the matter back to the Operations Manager who made the initial decision.
6. Attached is the application and assessment report which is still valid for this reconsideration. It is noted that the operation could occur shortly, if the weather window is opportune, and so there is urgency in undertaking this reconsideration.

### **Proposed Changes**

#### **Applicant**

7. The Applicant is Zero Invasive Predators Limited, which being a company is a legal entity. Staff of Zero Invasive Predators Limited will undertake the logistics but will also sub-contract with suppliers, including Tasman Pest Control Limited to undertake this operation.

8. The permission should be granted in the name of Zero Invasive Predators Limited (and not its Chief Executive). Zero Invasive Predators Limited should hold the permission, which will cover its staff and sub-contractors.

#### Hazardous Substances and New Organisms Act 1986

9. Under the HSNO Act, the Environmental Protection Authority (the Authority) has approved the use of 1080 but has imposed a requirement that:

No person may apply or otherwise use this substance on land administered or managed by the Department of Conservation unless the person first obtains a permission from the Authority.

10. The Authority has delegated its powers to the chief executive of the Authority, who has in turn delegated his powers under section 95A of the HSNO Act to grant permissions for the use of such substances on land administered or managed by DOC to named positions within DOC, including to you as the Deputy Director-General, Operations.
11. In considering an application, in accordance with s 95A(3) you must consider:
  - (a) the adverse effects involved in the use or uses of the substance to which the application relates; and
  - (b) the conditions (if any) that it thinks should be imposed as part of the permission.
12. The assessment attached sets out the earlier consideration of the adverse effects and conditions. These are still applicable and you are able to rely on that assessment, noting that the use of 1080 has been approved and so the focus of the consideration is the use of this approved substance on land administered or managed by DOC.
13. As a decision maker under the HSNO Act you also need to consider the purpose and principles of the HSNO Act, again recognising that the Authority has approved this substance generally. The purpose of HSNO Act is to protect the environment, and the health and safety of people and communities, by preventing or managing the adverse effects of hazardous substances.
14. This purpose is supported by the principles in section 5, which are to be recognised and provided for, of:
  - (a) the safeguarding of the life-supporting capacity of air, water, soil, and ecosystems:
  - (b) the maintenance and enhancement of the capacity of people and communities to provide for their own economic, social, and cultural well-being and for the reasonably foreseeable needs of future generations.
15. It is also necessary to take into account the precautionary principle (section 7), the principles of the Treaty of Waitangi (section 8) and the matters in section 6, being:
  - (a) the sustainability of all native and valued introduced flora and fauna:

(b) the intrinsic value of ecosystems:

(c) public health:

(d) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, valued flora and fauna, and other taonga:

(e) the economic and related benefits and costs of using a particular hazardous substance or new organism:

(f) New Zealand's international obligations.

16. The use of 1080 on lands managed or administered by DOC is for the purpose of killing possums and rats (with a secondary benefit of killing stoats). Although it is recognised that the use of hazardous substances is not ideal, it is the best option available to ensure the sustainability of indigenous species (flora and fauna) and protect taonga. The biodegradability of 1080 means that it has limited long term adverse effects on ecosystems and human health and safety is protected. This is further reinforced by the need to obtain public health permission.
17. The assessment undertaken confirms that the purpose and principles of the HSNO Act have been considered, including ensuring the principles of the Treaty have been given effect to through consultation. The conditions imposed on this operation support a precautionary approach.
18. The assessment confirms that the application is in accordance with the purpose and principles of the HSNO Act and that the adverse effects have been considered and conditions imposed.

#### Wildlife Act 1953

19. The species targeted in this operation are possum and ship rat. Unfortunately, as a result of the 1080 operations it is possible that protected wildlife may be killed even though various mitigation methods are to be used. The treatment area is the habitat of kea and other native birds (including in particular whio and rock wren), and the application recognises a possible risk to these species. The mitigation conditions included with the revised permission reflect the measures proposed and require that they be undertaken. A key mitigation for potential effects on kea is the provision of tahr carcasses.
20. The purpose of the Wildlife Act is the protection and control of wildlife. Although this may apply to individual wildlife in some cases, the Act is focussed at a species level. The scientific research shows that, although there is some risk to individual birds as a result of a 1080 drop, the resulting improvement in successful breeding means the population numbers increase and thus the species is protected.
21. In these circumstances it is recommended that an authorisation be granted by the Director-General under section 53 of the Wildlife Act to kill absolutely protected wildlife (to cover off this possibility) as a result of this operation because it will, in the longer term, aid the protection of wildlife.
22. Section 54 enables the Director-General to authorise the killing of animals that he is satisfied are causing damage to other wildlife or land. The studies undertaken by the



Department have confirmed that possum and rats do cause damage to flora and indigenous wildlife (including birds and their eggs and their food sources). You can be satisfied that possums and rats are causing damage and that killing them is for the benefit of protected wildlife. Any other unprotected wildlife (such as stoats) which may die as a result of this operation do not require a specific authorisation under the Wildlife Act as they are not the targeted species. It is recommended that a section 54 authorisation, therefore, be granted for the targeted species of possums and ship rats.

#### Conservation Act 1987

23. Authorisation under the Conservation Act is concerned with conservation areas. This application relates to four conservation areas; one area being a conservation park (held under section 19), two areas being stewardship land (held under section 25), and one area being wilderness area (held under section 20).

24. Section 19(1) provides:

Every conservation park shall so be managed—  
(a) that its natural and historic resources are protected; and  
(b) subject to paragraph (a), to facilitate public recreation and enjoyment.

25. Section 25 provides that every stewardship area shall be managed so that its natural and historic resources are protected. "Natural resources" includes animals of all kinds and protection covers not only maintaining, but also enhancing.

26. Section 20(1) provides that the indigenous natural resources in a wilderness area should be preserved (the maintenance, so far as is practicable, of its intrinsic values), and there are restrictions on buildings, machinery and vehicles, including no landing or hovering of helicopters for the purpose of embarking or disembarking passengers or goods. Section 20(2) provides:

If—  
(a) the doing of anything on a wilderness area is in conformity with the conservation management strategy or conservation management plan for the area; and  
(b) the Minister is satisfied that its doing is desirable or necessary for the preservation of the area's indigenous natural resources,—  
the Minister may authorise it.

27. In relation to each classification of conservation area it is relevant to consider the specific management requirements as well as the requirements of the section under which the permit is being granted. The purpose of killing possums and ship rats and the possible killing of indigenous animals is aimed at the protection of indigenous species in the longer term, even if individual indigenous animals are killed. Although there is clearly concern about the deaths of individual birds as a result of this operation, from a species perspective the use of aerial 1080 has been shown to provide protection.

28. The operations, therefore, are in accordance with the management of the stewardship areas and the conservation park. There is a slight restriction on the enjoyment of the conservation park, but this is for a limited period and the protection of natural resources does have primacy.
29. As indicated by the name, wilderness areas are less amendable to human activities and the explicit restrictions including on helicopters does raise some issues for the decision maker (for the Minister) to consider. The use of a helicopter is not, however, as a ferry to provide easy access to wilderness areas and nor will it be hovering over the area causing unexpected disturbance to people who wish to have a "wilderness experience". People will be advised of the operation and so can anticipate that a helicopter may be flying over the area and dropping 1080 bait. The activity with the helicopter for this operation is not, therefore, in direct contravention of section 20(1).
30. Further, the purpose of the operation is to preserve the intrinsic value of the natural resources by seeking to exterminate introduced animals which cause damage to both the indigenous flora and fauna, and thus the ecosystem. Given the information about the effectiveness of 1080 to control possums and rats, it is possible to be satisfied that the operation is desirable to preserve the wilderness area's indigenous natural resources.
31. Further, this is supported by the relevant conservation management strategy (discussed below). There is no relevant conservation management plan.
32. Under section 38 of the Conservation Act the Director-General may, if it is in accordance with a management plan (if any) and having had regard to the safety of the public, issue permits for hunting. Hunting for the purposes of this section includes the use of poison.
33. There is no relevant conservation management plan for the conservation areas covered by this application. The West Coast Conservation Management Strategy 2010-20 recognises possums and, to a lesser extent, rats as threats to terrestrial biodiversity values (see Policies 3.3.1.3, 3.3.3.2 and 3.3.3.6 which identify the importance of pest management). Section 4.2 of the Conservation General Policy also identifies the need to manage pest threats. Further, Policies 11.1(a) – 11.1(d) relating to activities and authorisations apply. The application and the permission, if granted, meets these requirements.
34. Although there is no relevant management plan, the proposed operation would be consistent with the Conservation Act, the Conservation General Policy and the West Coast Conservation Management Strategy 2010-2020. Public safety has been provided for by the applicant with use of signage and warnings as was identified in the application.
35. While section 38 does not cover fresh water fish, it is noted that there is no evidence that the killing of fish needs to be authorised. Unlike mammals, fish such as trout and eels are not at significant risk from 1080 during pest control operations. Independent studies stretching back to the late 1970's indicate there is no detectable impact of 1080 on trout or the freshwater invertebrates they feed on such as koura, caddisflies, midges and mayflies. Recent published studies by NIWA and Landcare Research scientists also show that while eels and freshwater crayfish which were deliberately fed 1080 pellets and carcasses of animals killed with 1080 absorbed low concentrations of the toxin, the levels absorbed posed little risk to humans. These

findings are not unexpected. Even if 1080 entered water directly during a pest control operation, fish would not be affected as 1080 is rapidly diluted to low concentrations in water and breaks down into harmless substances.

#### Consultation

36. The Department complies with section 4 of the Conservation Act across all of the Acts it administers. Ensuring that the principles of the Treaty of Waitangi are given effect to requires consultation with the Treaty partner. Although the applicant undertook consultation with affected persons including iwi, the Department has specifically consulted with Te Runanga o Ngai Tahu on pest control operations.
37. The requirements for consultation imposed by the Authority under the HSNO Act are extensive. That consultation did, therefore, cover the issues of killing pests and protected wildlife, which is the focus of the approvals under the conservation legislation. There is confidence that the proposed operation and the consultation undertaken gives effect to the principles of the Treaty.

#### Conclusion

38. The application is consistent with the above provisions and the proposed replacement permission reflects this. The proposed changes have been incorporated within a new permission document which is attached for your consideration.

#### Recommendations

It is recommended that you:

1. Consider the application, assessment report and this memo;
2. Note that the consultation undertaken by the Department on the application with Ngai Tahu was sufficient to meet the section 4 Conservation Act obligations;
3. Agree, under sub-delegation from the chief executive of the Environmental Protection Authority, to revoke permission 5709603 to enable the errors within that document to be corrected through a replacement permission;

Agree / Disagree

4. Agree to grant a new permission in the name of the applicant, Zero Invasive Predators Limited (including its staff and sub-contractors);

Agree / Disagree

5. Agree that the proposed permission and conditions consider the adverse effects of the use of these substances on DOC managed or administered land and that granting the permission is in accordance with the purpose of the HSNO Act, recognising the life-supporting capacity of ecosystems and the well-being of people and communities and taking into account the principles of that Act;

Agree / Disagree



6. Agree, under sub-delegation from the chief executive of the Environmental Protection Authority, to grant permission under s 95A of the Hazardous Substances and New Organisms Act to for the use of 1080 on the land managed or administered by DOC in the operation area;

Agree / Disagree

7. Agree you are satisfied that, in the area of the operation, possums and rats are causing damage to wildlife and the killing of possums and ship rats in accordance with the application will meet the purpose of the Wildlife Act;

Agree / Disagree

8. Agree, under delegation from the Director-General of Conservation, to grant an authorisation under section 54 of the Wildlife Act for the killing of possums and ship rats in the operation area in accordance with the methods in the application;

Agree / Disagree

9. Agree that, for the purpose of providing greater protection for protected indigenous species, individual protected wildlife may be killed as a result of this operation even though the conditions on the permission are complied with, and that this is in accordance with the purpose of the Wildlife Act;

Agree / Disagree

10. Agree, under delegation from the Director-General of Conservation, to grant an authorisation under section 53 of the Wildlife Act for the killing of protected indigenous wildlife for the purpose of greater protection of indigenous wildlife in the operation area in accordance with the methods in the application;

Agree / Disagree

11. Agree, in relation to the area of operation within the Adams Wilderness Area, that this operation is consistent with the management of wilderness areas;

Agree / Disagree

12. Agree, in relation to the area of operation within the Adams Wilderness Area and under delegated authority from the Minister of Conservation, to authorise under section 20 of the Conservation Act the undertaking of this operation;

Agree / Disagree

13. Agree, in relation to the area of operation that is conservation area (conservation park, wilderness area and stewardship area), that the hunting of animals by the use of poison is in accordance with the purpose of the Conservation Act, that no conservation management plan applies (but the operation is in accordance with the relevant conservation management strategy and conservation general policy), and that public safety has been provided for;

Agree / Disagree

14. Agree, in relation to the area of operation that is conservation area and under delegated authority from the Director-General, to grant a permit under section 38 of the Conservation Act for hunting animals by the use of poison;

Agree / Disagree

15. If you have agreed to the above, sign the attached Permission which immediately revokes Permission 5709603 and immediately replaces it with a new permission covering the above matters.

s 9(2)(a)  
s 9(2)(a) Acting Director National Operations

Decision made by me on 17 July 2019

s 9(2)(a)  
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Mike Slater, Deputy Director-General Operations

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