

2018-19 WARO LAND ASSESSMENTS

Summary of submissions

June 2019

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Section 1: Introduction

Purpose and scope of this document

This document gives an overview and summary of the submissions received during consultation on the proposed Wild Animal Recovery Operations (WARO) land schedule.

The focus of this document is on general issues raised by submitters, rather than location-specific comments, which were considered by local DOC offices when formulating the WARO access recommendations. When completed, the WARO land schedule, in association with specific operating conditions, will be offered to WARO operators in the form of a national WARO concession to undertake certain wild animal control activities on public conservation land.

Consultation focus

The focus for the 2018-2019 consultation and land assessment was run for:

- determining WARO access for areas of new public conservation land;
- land that has had a change in status or is covered by a management plan which is new or has been revised since 2014.
- land that was previously assessed for the 2015 WARO concession but where issues had arisen that may mean a change in WARO access at that place.

Comments were sought for these areas to ensure stakeholder feedback was received and considered by the Department at a regional and national level prior to finalising recommendations for the WARO permit land schedules.

The Department was not consulting on the national WARO permit model or its conditions or undertaking a general review of WARO on public conservation land.

Consultation process

The Department undertook a two-stage consultation process. Consultation focussed specifically on the WARO land schedule.

The first consultation period started on 1 June 2018 and ended on 16 July 2018. 430 submissions were received. The second consultation period started on 27 November 2018 and ended on 15 February 2019. 63 submissions were received.

The consultation process was not a formal public notification under the Conservation Act. Instead, the decision-maker considered (on the recommendation of the DOC Deputy Director-General, Operations) that targeted stakeholder engagement would help inform decisions around WARO access over public conservation land.

First Consultation

Consultation was undertaken at a regional and district level. The District Office reviewed new lands and previously permitted lands against relevant planning documents and engaged in consultation at a local level with wider place-based stakeholders. Regional staff determined which stakeholder groups and which methods of engagement were most appropriate for their region.

Invitations for comment were also sent to WARO concessionaires, the national executive of New Zealand Deerstalkers' Association (NZDA), the Royal Forest and Bird Protection Society of New

Zealand Inc. (Forest & Bird), Lower North Island Red Deer Foundation (LNIRDF), Federated Mountain Clubs (FMC), New Zealand Professional Hunting Guides Association, NZ Bowhunters Association, the Game Animal Council and the NZ Pig Hunting Association.

A panel was established to assess these comments and recommendations. The panel was required to draft the recommendations for WARO access to public conservation land (the land schedules in the new national WARO concession).

Second Consultation

The panel's recommended land schedule formed the platform for the second round of consultation. Previous submitters of the first round were given the opportunity to comment specifically on the panel's recommended land schedule changes resulting from the consultation and assessment to date. Feedback was also encouraged on the possibility of a change to the South Island Roar closure period for 'Permitted' WARO locations.

This round of submissions was assessed against the panel's recommended land schedule to determine whether any further alterations should be made.

Submissions overview

First round of consultation

Around 430 submissions were received by the extended July deadline. This number includes both individual and group submissions e.g. NZDA branches, Forest & Bird, and the South Island WARO Association. While the focus is on written submissions, verbal feedback made at meetings has also been considered.

The number of submissions either supporting or opposing a topic is not the relevant determinant for recommendations going to the decision maker for the national WARO concessions. Rather, it is whether, in any given case, a submission has raised relevant issues about the WARO land schedule. Several common themes emerged and are described in the next section. The feedback was used to help inform regional land recommendations, including considerations such as access and exclusion dates for WARO.

Second round of consultation

63 submissions were received by the extended Jan/February deadline. This number includes both individual and group submissions e.g. NZDA branches and the South Island WARO Association.

The submissions generally reflected their initial submission with the addition of comments which spoke to the specific land recommendations and closure periods. Many submitters also commented on other concession process-based matters or provided general comments on WARO Operations and the importance of recreational hunters.

There is a general trend arising from both rounds of submissions which is that WARO Operators wish for greater permit flexibility, and those who are less favourable toward WARO (generally recreational hunters) are requesting for greater restrictions.

Section 2: Key themes

First round of submissions

Many submitters commented on what they regard as the poor consultation process, the lack of adequate mapping provided, and the insufficient time allowed to submit. While DOC accepts the consultation process could have been done better, the Department thinks it was adequate, as evidenced by around 430 submissions being received. DOC responded to complaints that the initial timeframe for submissions was too short by extending the feedback deadline by two weeks. Maps showing existing WARO access and new areas of public conservation land being considered for WARO were available on the DOC website. Interested parties were asked via email, and the website, to contact the relevant DOC office if they wanted to be involved with the consultation and to find out more information about the land recommendations.

Other feedback ranged from requests for no WARO over public conservation land to, by default, all land should be open to WARO and there were few justifications that could apply to restricting it. In general, most submitters saw a need for WARO. However, recreational hunters felt there should be far greater restrictions for WARO. Conversely, WARO operators felt too many restrictions would make WARO unviable over public conservation land.

This section provides a summary and analysis of the key themes identified in general feedback.

Access

Recreational hunters consistently feel that land that could be easily reached by foot or vehicles should be closed to WARO. Associated with this theme are comments that no new land (new conservation areas) should be opened to WARO, particularly land that came to DOC via the tenure review.

Many submitters opposed to WARO consider more Recreational Hunting Areas (RHAs) should be established or consider that land should be open to recreational hunters prior to being available to WARO. Other submitters consider a WARO exclusion buffer along public conservation land boundaries should be established on all front-country faces. While supporters of WARO consider excluding WARO from defined areas effectively establishes, pseudo-RHAs outside the legal process.

Most WARO supporters consider most land should be open to WARO due to its wild animal control benefits and in consideration of the Wild Animal Control Act and deer control policy. FMC advised they understand the benefits WARO brings to mammalian pest control but seek to restrict WARO access over wilderness areas during the annual high use period of 15 December – 15 February.

WARO operators consider further access restrictions would make WARO unviable. They feel the wider MPI requirements need to be revisited and in combination with proposed 1080 drops limits the land available to hunt. WARO operators submitted that DOC should not allow runholders whose land has come to DOC via tenure review to dictate access.

Comment

In summary, recreational hunters want less land open to WARO and WARO operators want more land open.

While DOC understands the concern of recreational hunters, DOC's primary responsibility and mandate under the Wild Animal Control Act and deer control policy is to protect natural values through wild animal control, while taking into account any effects on other users. It is important to note, as well

as recreational hunters, other users of public conservation land include those who value the lands' indigenous values and want these protected from introduced browsing animals.

Deer control policy, in terms of access, is that commercial and recreational hunters will generally have open access to public conservation land and that the overriding concern is the protection of indigenous biodiversity, rather than the value of deer as a recreational or commercial hunting resource.

Tenure review

Most land coming under DOC management via the tenure review process falls under the Conservation Act until reclassified. Land managed by DOC under the Conservation Act must, as its primary purpose, be managed for conservation purposes (section 6). Managing the land for WARO can occur when this doesn't detract from its conservation management. This means land coming to DOC via the tenure review process should be open to WARO and recreational hunting, unless there is a good reason for it not to be, to ensure concerted wild animal control effort to protect conservation values.

Recreational Hunting Areas (RHA)

DOC supports gazetted Recreational Hunting Areas (RHAs) where recreational hunting effort can keep deer numbers to levels where indigenous ecosystems and forest regeneration are maintained and enhanced. (Section 27 of the Wild Animal Control Act specified that even in RHAs, recreational hunting is not to be the exclusive means of control.)

With regard to excluding access to gazetted Wilderness Areas during the Summer high use period, the Department's view is that WARO access is not automatically excluded from these areas. The requested two-month WARO exclusion, especially over the main breeding season, is considered too long a closure given the purpose of the Wild Animal Control Act. The standard Christmas closure of 22 December – 5 January currently applies. Considerably more information would be needed to apply any longer closure as this is beyond the scope of what has been considered during this concession process. It would be a major change that was not considered for WARO access. A proposed, two-month WARO exclusion from Wilderness Areas was not part of the draft land recommendations or discussed at any of the consultation meetings. Any changes to the current WARO access to wilderness areas need to be part of the reconsideration of WARO access over all public conservation land.

Bearing in mind comments about the introduction of a WARO exclusion buffer along public conservation land boundaries, MPI pesticide declaration requirements already effectively exclude WARO from the first 2 km of public conservation land boundaries, arguably the most accessible land for recreational hunters. This 2 km exclusion zone applies to all areas of public conservation land open to WARO where these areas are adjacent to private land, unless the neighbouring landowner supplies a declaration to the WARO operator that pesticides haven't been laid within 2 km of the public conservation land boundary. The 2 km exclusion buffer is an MPI requirement and not one that can be addressed through this concession process.

Monitoring data shows an increasing deer presence across public conservation land. While excluding WARO from accessible areas may, to some degree, avoid adverse effects on recreational hunters, history indicates that recreational hunting alone is not able to reduce deer densities to low enough levels to allow regeneration of palatable seedlings and saplings. It may also make WARO over public conservation land unviable for some operators¹.

¹ Policy Statement on Deer Control 2001, page 11.

Term & permit model

Submissions supporting WARO argue that concessions should be granted for the longest term possible to allow long-term business planning and investment in the industry, skills and knowledge to be built up and passed on, and to ensure maximum environmental benefit from the activity. Meat processors advised they want certainty of supply long-term as this is important for them when making processing and marketing commitments and investments.

Opposing submissions almost consistently requested a three-year term or less, to allow for a national review of WARO activity to be undertaken.

Comment

In February 2018, the Deputy Director-General, Operations, advised, after taking into consideration stakeholder comments and changes in DOC's operational context and industry requirements, that significant components of the current WARO system continue to be fit for purpose. The Deputy Director-General decided a full WARO review was not warranted.

The 2008 WARO consultation process did identify, however, that in specific locations there may be different wild animal control models, such as the Fiordland Wapiti Block model, that might allow for better concerted wild animal control than the current system offers in that location. Experience shows these processes generally take a long time to develop and finalise (e.g. Ruahine Deer Management Plan, Branch/Leatham community led conservation project). For this reason, it is considered development of alternative, location-specific wild animal control models best occur outside the national WARO concession.

WARO permits contain a condition allowing the Grantor to restrict or remove any area of public conservation land from the WARO land schedule (Schedule 2, clause 16), at any time for any reason. This clause allows for the introduction of new, location-specific wild animal control models, as does legislation under the Game Animal Council Act 2013 around herds of special interest, and the Wild Animal Control Act 1977 in the creation of Recreational Hunting Areas.

Christmas and Roar closures

Most submissions, whether supporting, or in opposition to, WARO, saw benefit in consistency, as much as possible, of Christmas and Roar closures. Recreational hunters want longer closure periods, with many considering Christmas closures should match school holidays. They consider Roar closures should be from 20th March to 20th April, or 15th March to 30th April, as in the North Island. Some want these extended dates to give more surety that WARO wouldn't be operating in the same areas at the same times as ground-based hunters.

WARO operators generally agree that the current, standard South Island WARO Roar closure of 23rd March – 9th April (plus Easter) doesn't best reflect when hunters are in the bush and that these dates should be shifted to begin late March or early April.

Operators and meat processors do not support longer closure periods as these would have a detrimental effect on meat processing plants, on WARO viability over public conservation land and on the environmental benefits of taking more deer from conservation land. No WARO operators submitted that the standard Christmas and Roar closures needed to be amended.

Comment

Excluding WARO for the entire Christmas school holidays nationally, and from 15 or 20 March – 20 or 30 April across all the South Island is considered too restrictive to ensure WARO business viability. Recreationists have areas that are not permitted (red) for WARO where they can visit if they want certainty there will be no WARO, or locations that are 'restricted' (orange), such as Nelson Lakes National Park, where there is a longer exclusion in place.

A longer Christmas holiday WARO closure period is difficult to justify for reasons of public safety – no accidental shootings relating to WARO are known. It would seem there is no justification to exclude WARO over the entire school holiday period in areas where ground hunting is still allowed. As the Department must endeavour to avoid, remedy, or mitigate adverse effects, it does not have a good reason to favour ground hunting over WARO to the extent sought.

There is justification to better align the South Island Roar closure dates with the Roar by shifting these dates to 29 March – 15 April, if this move is favoured by recreational hunters. Kahurangi National Park Bylaws stipulate a WARO Roar exclusion of 23 March – 9 April (plus Easter) for Tasman Wilderness Area, which would need to remain irrespective of the standard Roar closure for other locations. Views on the proposal to shift the standard South Island Roar dates should be canvassed during the second stakeholder engagement period.

Sex biasing of herds

Another key theme in submissions from recreational hunters focussed on the benefits of restricting WARO to the taking of hinds only to provide greater deer control benefits and to potentially remove much of the conflict with recreational hunters. A similar theme was that neither stags in velvet nor trophy stags should be taken.

Conversely, other submissions opposed any change to introduce a hinds-only policy for reasons such as:

- selective culling increases operator costs significantly; and
- lessons learnt from tahr culling show that the leaving of males for recreational hunters does not work to satisfactorily control animal numbers.

A submission from a meat processor noted:

“Wild venison pricing does not actually incentivize the harvest of stags over hinds and it should be noted wild venison is worth less than farm raised venison, Velvet produced from deer shot in the wild is a significantly inferior product to farm raised velvet and thus the value of it again is not a major driver for the specific targeting of stags. Factual processing data shows that there is a relatively even balance between stags and hinds recovered by WARO and observations at the processing level are very few mature stags with trophy potential are actually harvested by WARO operators each year”.

Comment

Evidence does not support statements that wild venison pricing leads to WARO harvesting more stags than hinds. An informal analysis of deer control in Ruahine Forest Park, which examined deer jaws, identified that WARO took roughly 50% stags/50% hinds whereas the recreational hunting mix was 60% stags/40% hinds². This study supports the meat processor submission comment above.

² DOC Technical Advisor Threats (Pers. Comm. July 2018)

Managing the deer herd to enable long term, “sustainable” recreational hunting is not DOC’s role and is not consistent with the Department’s deer control policy³, the Wild Animal Control Act (which is focussed on controlling wild animals) or purpose for which the land is held.

Mechanisms are available, such as creating a herd of special interest under the Game Animal Council Act 2013, or a Recreational Hunting Area (RHA) under the Wild Animal Control Act, to provide exclusive recreational hunting opportunities with no WARO.

Monitoring and data recording

There is strong support amongst recreational hunters for more compliance monitoring of WARO, for stronger consequences for concession breaches and for public visibility (generally via the DOC website) of recent WARO activity on public conservation land, including visibility of GPS waypoints or flight tracking data. Submitters feel DOC should regularly review tracking data to ensure compliance and not simply pass it off as MPI's issue.

Amongst those directly involved in the industry, comments range from strong opposition to supplying DOC with waypoint &/or flight tracking data to support for collection of waypoint and track data for all WARO operations.

Those opposed to supplying DOC with data are concerned about:

- commercial sensitivity and intellectual property ownership,
- DOC’s ability to maintain confidentiality,
- the actual need for this data and its proposed end use,
- the increased administrative burden and cost to operators of having to supply data. Several feel track logs should be supplied for compliance purposes only.

Industry submitters who support supplying data to DOC feel further data collection will benefit DOC and operators by providing greater evidence that vegetation quality improves with WARO and that without WARO deer numbers are not adequately controlled by recreational hunting. This would provide greater evidence to support ongoing WARO across all public conservation land. No operators supported making flight tracking and kill waypoint data available to the public.

Comment

Supply of data:

WARO is highly regulated both in terms of its MPI supply requirements and concession operating conditions. Kill waypoints are currently supplied only to meat processors. Existing permit conditions allow DOC to access kill waypoints from meat processors but obtaining access to the information is time-consuming and reliant on the goodwill of processing companies. For the new national WARO concession, DOC would prefer to have this information also supplied directly to the Department for biodiversity management purposes.

Recreational hunters are not required to provide kill or hunting location data for publishing on the DOC website and there is no good justification as to why WARO kill location and flight tracking information should be published.

³ Department of Conservation Policy Statement on Deer Control 2001

Compliance:

DOC wants to better manage compliance across all concessions, not specifically WARO, using tools available within the concession contract to address concession breaches. For WARO, the concession contract has conditions arguably better than most concessions to allow DOC to have access to information for compliance purposes.

Other

Other common submission points made by recreational hunters include:

- DOC puts the interests of 'a handful of concessionaires' over 100,000s of recreational hunters, who take far more animals;
- Recreational hunting provides a greater contribution to the economy than WARO;
- Recreational hunters provide consistent control effort, whereas WARO is 'boom and bust' and reliant on high deer prices;
- Deer numbers are now under control and are managed adequately by recreational hunters;
- WARO concessionaires should be allowed to drop off recreational hunters under their WARO concession;
- Wild deer are a resource and should be treated as such.

Submitters supporting WARO commonly mention the current high deer numbers and the need for more concerted effort to allow greater animal control. Some state DOC cannot legally apply a restriction to WARO access as this conflicts with legislation and policy. Others note that WARO provides deer control across vast areas of public conservation land at no cost to the tax payer.

Across both opposing and supporting submissions, concern is expressed over DOC's increased 1080 programme and how this would impact on areas available to hunt. WARO operators are particularly concerned that 1080 operations would add further access restrictions, leading to more pressure on business viability and effectively exclude WARO from large areas of public conservation land. Several recreational hunters mention the benefits of using deer repellent in association with 1080 drops.

There is call from both WARO operator and recreational hunter submitters for the number of WARO concessionaires to be restricted in some way. Many recreational hunters support designated areas for operators as this would reduce conflict and increase WARO business viability. One WARO operator submits that the threshold for the minimum number of animals recovered on a WARO permit (introduced in the 2015-18 national Permit and currently set at 200 animals per annum) should be increased to avoid the risk to the industry of "pop up" operators who only operate in boom times with little to lose and who, therefore, may potentially have less regard for compliance.

Comment:

Only matters specified or referred to in section 23 Wild Animal Control Act 1977 (including Part 3B of the Conservation Act 1987) can be considered by the Minister. Other matters, such as which activity contributes more to the New Zealand economy, fall outside the scope of the legislation and are therefore not relevant for consideration as part of this process. Similarly, other less common submission comments such as those below, are not able to be considered as part of this process:

- The ethics of the activity.
- Effects that allowing WARO will have on New Zealand's reputation overseas.
- Whether allowing the activity drives tourists away, attracts tourists or contributes more or less to tourism than other concession activities.
- Whether WARO causes resentment or loss of goodwill from other users of public conservation land or damages DOC's reputation.

- The weight of public opinion – (applications must be determined according to the current legislation not public opinion).

Animal welfare/cruelty allegations associated by some submitters with wild animal control (such as shooting hinds with fawns), are addressed by sections 30A and 30B of the Animal Welfare Act 1999. That Act is clear that wild animal control including WARO is lawful.ⁱ

With regard to recreational hunters providing more consistent effort than WARO operators, it is accepted the level of WARO is influenced by venison prices. Despite this, WARO provides a valuable contribution to deer control and the efforts of both hunting sectors are necessary to reduce deer numbers. For the previous 10 years, the lowest number of feral deer removed in a year by WARO was 14,883 (2010/2011).

Comments around putting the interests of one group ahead of another are not relevant. DOC's concern is about achieving the best co-ordinated control, and the Department's deer control policy does not prioritise use of one group over another as an end in itself.

In terms of WARO concessionaires being authorised to drop off recreational hunters, this was allowed prior to the major WARO concession review in 2009. The ability to drop off hunters was excluded from the new permit (in part in response to recreational hunter requests) because allowing it left the national WARO concession too open to being used for activities outside the concession's intended purpose, making it too broad and too hard to manage.

The call for WARO operators to be restricted in some way is already addressed through a permit condition that allows the Grantor to terminate the concession if fewer than 200 animals are killed or taken. This condition is about ensuring that WARO concessions provide the benefit the Department expects. There are Commerce Act implications for introducing a model that would limit the number of concessionaires who are able to hold a concession.

Second round of Submissions

As mentioned, the second round of consultation provided the opportunity for first round submitters to specifically comment on the panels recommended land schedule and the possibility of a change to the South Island Roar closure period for 'Permitted WARO locations'.

The submissions generally reflected their initial submissions with the addition of comments which spoke to the specific land recommendations and closure periods. Many submitters also commented on other concession process-based matters or provided general comments on WARO Operations and the importance of recreational hunters.

Only four submissions were from WARO Operators, the remainder were mainly recreational hunters in support of greater restrictions. Many of these hunters also associated with the NZ Hunting Guides/ NZ Deerstalkers Association and/or members of the WCDA.

Three of the 62 submissions stood out from the remainder as they expressed strong concerns with the current land schedule recommendations and process. These submissions also want a review of all land available to WARO concessions, not only the changes recommended by the panel. An in-depth summary of the submissions can be found in appendix 2 below.

Access

Following a similar trend as the first round, most submissions commented on specific placed-based access relevant to the submitter. There were many locations with only one submission in support, and a select few submissions which spoke to a wide range of land blocks.

Many submissions in favour of recreational hunting presented arguments that locations should be restricted for WARO access as there is no appropriate monitoring data to justify access and that the available land includes locations of high access/use where safety and tranquillity should be maintained.

However, on the other hand, submissions in favour of WARO Operators expressed concern that the principles of the Wild Animal Control Act 1977 (“WACA”) are not being upheld. One submission went so far as to say that *“DOC’s draft recommendations for WARO land assessments for the South Island: fail to promote the purpose of the Wild Animal Control Act 1977, namely the killing of wild animals; wrongly promote the sporting opportunities for recreational hunters, which are irrelevant as a matter of law; and appear to undermine the preservation obligations in National Parks and the conservation obligations in Conservation Areas.”*

This viewpoint is equally challenged by the claim that, *“The whole process has been so significantly flawed and so significantly at odds to commitments the Department made to hunters and to the High Court that the entire review should be put on hold.”* Many submissions from this perspective request that these concessions should only be granted for a short one to three-year term so that a full and thorough land review may occur.

These submissions highlight the clear disparity and array of viewpoints between submitters. Having said this, it is accepted that the Wild Animal Control Act is fundamental to the decision-making process. The request, regardless of the submitter’s standpoint, is that DoC must ensure that all land access decisions are justifiable against ground-based deer impact management.

Roughly a dozen of the submissions shared the same template. While these submissions oppose greater access for WARO, they recognise the following:

- WARO is an activity which can be a valid deer control tool, but restrictions are needed as it can also significantly discourage recreational hunter and trampler activity, hence it is not appropriate at every place and time.
- The legislation requires the application of adequate and appropriate mitigation for the adverse effects and where those effects cannot be adequately managed the activity should not occur.

Understanding and balancing these views is fundamental and should be in the forefront for DoC when finalising the new WARO land schedule.

Christmas and Roar closures

A variety of submissions were received in regard to closure periods. Similar to submission round one, there is support for consistency for closure periods between the islands as long as they match the seasonal periods.

However, similar to access, views on closure periods oppose and vary, dependant on the individuals perspective. Recreational hunters generally request an increase in both the Christmas and Roar closure periods, whereas WARO Operators support that closure periods remain as they stand, or remain the same length, and shift back about a week to better match seasonal periods.

A group of submitters, using the same submission template and points, requested greater specific closure periods over certain areas. Submissions of this nature emphasise that providing recreational hunting in specific areas to certain groups should be prioritised and considered on a case by case basis.

Other

While the second round of consultation focussed on access and closure periods, comments were provided on wider matters. On a further note, 14 of the 63 submissions were submitted by those who were not involved in the initial process; however, their submissions will be considered.

These wider matters included the following:

- Term
 - o Submitters against WARO requested shorter terms of 2-3 years or even as low as 1 year with emphasis on the need for a full review of the whole WARO process.
 - o Submitters for WARO support the granting of a 10-year permit.
- Hind Policy
 - o Opposition and support were expressed for the hind only policy. Support is driven by AATH and recreational hunters who desire stags. Opposition by WARO Operators
- Data recording and GPS waypoints
 - o Support for better recording for WARO Operators has been requested. Submissions even go so far as to request greater transparency and recording on the DoC external website. This is requested so they can plan their personal recreational hunting in areas that WARO hasn't been recently.
 - o However, there is also opposition from WARO Operators that GPS recordings should only be required in National Parks and no where else.
- Land 2km buffer zone
 - o GPS recordings and the 2km land buffer zone are regulated by MPI. Meat processing plants are bound by these regulations. They must ensure WARO Operators comply to these parameters.
- Carcass drop off sites.
 - o Submitters requested specific zones for carcass drop sites (to refrigerated vehicles). They also submitted that no red ends within closed zones should be available for drop off.
- Other concerns
 - o Some submission scrutinised the consultation process. They were concerned that the wider populous of recreational hunters were not consulted. They also raised concern that the second round of consultation was too restrictive.

Appendix 1

¹ Section 30A Animal Welfare Act 1999 deals with wilful or reckless ill-treatment of wild animals or animals in wild state:

- (1) A person commits an offence if the person wilfully ill-treats a wild animal or an animal in a wild state.
- (2) A person commits an offence if the person recklessly ill-treats a wild animal or an animal in a wild state.
- (3) A defendant has a defence to a prosecution for an offence against subsection (1) or (2) if the defendant satisfies the court that the conduct alleged to constitute an offence is or is part of a generally accepted practice in New Zealand for the hunting or killing of wild animals of that type or animals in a wild state of that type.
- (4) In determining whether wilful or reckless ill-treatment of an animal has occurred, a court may treat an act or omission as lawful (and not subject to subsection (1) or (2)) if satisfied that—
 - (a) the act or omission was done in the course of performing functions for the purposes of another Act; and
 - (b) not to treat the act or omission as lawful would be contrary to the purpose and principles of that Act.

Section 30B of the Animal Welfare Act provides:

- (1) **Nothing in this Act makes it unlawful to hunt or kill—**
 - (a) any animal in a wild state; or
 - (b) **any wild animal** or pest in accordance with the provisions of—
 - (i) the [Wildlife Act 1953](#); or
 - (ii) **the Wild Animal Control Act 1977**; or
 - (iii) the [Conservation Act 1987](#); or
 - (iv) the [Biosecurity Act 1993](#); or
 - (v) any other Act; or
 - (c) any other wild animal or pest; or
 - (d) any game animal in accordance with the provisions of the [Game Animal Council Act 2013](#).

Appendix 2

Submission 24 - This asserts that the draft recommendations will be susceptible to legal challenge, because they:

- fail to promote the purpose of the Wild Animal Control Act 1977, namely the killing of wild animals;
- wrongly promote the sporting opportunities for recreational hunters, which are irrelevant as a matter of law; and
- appear to undermine the preservation obligations in National Parks and the conservation obligations in Conservation Areas.

The relevance of recreational hunters is therefore solely limited to considering how they achieve the purposes of the Wild Animal Control Act 1977 i.e. their role in controlling wild animals in the area.

DOC's task is to consider what measures will be effective in achieving control of wild animals when making land assessments. If WARO concessions would assist in controlling wild animals on the assessed land, it follows that concessions should be granted.

Year-round WARO access is recommended for St James Conservation Area, Branch/Leatham Conservation Area, Nelson Lakes National Park. Also, Rakaia Conservation Area should be open to WARO access.

Submission 46 - This submission provided an opening argument that because of the evolution and maturity of overseas markets, and efforts by Deer NZ, the WARO industry could see the feral deer kill-take increase by another 20% from where it is today. The Association sees this as translating from an annual kill of 30,000 deer shot in the 2018/2019 season to 36,000 being shot.

It claims that the growing compliance costs of the Department are the greatest risk for the WARO industry. It disputes the view that the WARO industry goes through boom and bust cycles in these times as it says the data shows otherwise.

Recreational hunters are a very small proportion of the population but they assert that the Department gives too much credence to recreational hunters and seems to go outside of its statutory mandate to appease them. It argues that DOC is bound by the Wild Animal Control Act to ensure that wild animal numbers are controlled at low levels throughout land administered by DOC to protect conservation values.

Recreational hunting has a subordinate role to play in wild animal control, in its view, but it perceives DOC managers having put relationships with recreational hunters above protection of the land and environment.

It says that since 2004 the hectares closed to WARO has increased by more than 3 million hectares while deer numbers have steadily increased nationally and considers that there is a direct correlation between DOC increasing restrictions to WARO and deer numbers increasing. Therefore, it says this means DOC is breaching the Wild Animal Control Act.

It claims that some DOC managers have closed land to WARO through recreational hunting partnerships whereby recreational hunters will manage weeds and/or pests in return for DOC restricting WARO access, what it calls "green washing". It gives the example of the Letham /Branches Conservation Area Wilding Pine Control partnership with the NZDA in Marlborough.

The Association says the land is 100% covered in wilding pine, with huge conservation losses and the NZDA says its members will volunteer to cut and pull pines. However, they contend that only helicopter spraying will be successful.

They have some specific recommendations, the most relevant of which are:

- DOC should adopt a 10-year maximum term designed as 5 + 5 years;
- They oppose shutting down all of New Zealand for one month or 6 weeks for the roar period as the impact on processing factories and costs is significantly detrimental;
- They oppose any suggestion that Christmas closure time should be increased beyond the statutory public holiday period as it is the peak production time for all processing factories and helicopter operators hunting opportunities;
- They oppose any suggestion of limiting WARO operators to not taking stags or females during a particular period. It says that selective culling increases costs to operators significantly and reduces profitability significantly.
- Despite saying that it supports the continuation of collecting waypoints in National Parks (and wants the Department to pay its members for the information), it then says that DOC has no secure systems in place. This is a problem for operators with continuing threats to their safety;
- They oppose restrictions in Schedule 3 of the Permit because it says their cumulative effect would be to exclude WARO fully and make some areas de facto Recreational Hunting Areas;
- They support a review, prior to any decision being made, of the total land area closed to WARO for 1080 operations as it says its operators need more land, and flexibility to operate on it.
- Recommendations from DOC local managers about sustainable management and benefits to recreational hunters are unlawful, being contrary to the Wild Animal Control Act and National Policy statements;
- They recommend that DOC review closure periods for poison operations as it says that they are being inconsistently applied by DOC staff;
- It recommends a review of all land justifications for DOC administered land as the 2 km buffer zone where WARO hunting is not allowed, because of 1080 operations, creates default RHAs and this, it says, needs to be taken into consideration for land assessments under the Wild Animal Control Act.

Submission 54 - This submission threatens judicial review again, saying that the, "sense of betrayal felt [by it over DOC's stance not to do a wide-ranging review of the whole WARO system] is immense".

It asserts that DOC has, "ignored many of its own staff's regional area recommendations in its National Panel's enthusiasm to open as much land as possible to WARO activity ignoring the legislative requirements to manage adverse effects."

The submission says that the second round of consultation is only looking at changes recommended by the National Panel to the recommendations of the Regional Offices and does not include changes proposed by the Regional Offices which have not been changed by the National Panel. Those changes will essentially be hidden from view and no publicly available single document notes all the proposed changes. The presentation of information is confusing and the absence of maps showing only the affected areas is unhelpful.

The submission claims that, "The whole process has been so significantly flawed and so significantly at odds to commitments the Department made to hunters and to the High Court that the entire review should be put on hold. The current concessions should be rolled over for 2 more years whilst the comprehensive review is undertaken. That rollover must exclude 2015 land area openings declared invalid by the Court.

It says that there is no mandate to consider the economic viability of WARO operators and any recommendation where that was a consideration should be struck out.

It asserts that the Panel recommendations should be set aside, and an independent panel set up as part of a comprehensive review, because, it alleges, the Department's integrity is so significantly in doubt.

It submits that, as a general principle and in accordance with WAC Act requirements to mitigate adverse effects, areas that are readily accessible and regularly hunted should not be open to WARO.

It says WARO is an activity which can be a valid deer control tool but restrictions are needed as it can also significantly discourage recreational hunter activity and hence it is not appropriate at every place and time. However, it claims that the review panel has swung too far in favour of the WARO operators, using an internal policy to usurp what it says are legislative requirements.

DRAFT
