



Date: 14 October 2019

To: Hilary Aikman, Director National Operations

From: Mark Davies, Director Operations, Western South Island

Subject: PERTH VALLEY - SHIP RAT CONTROL OPERATION 2019

Purpose

1. To consider the granting of a permission for undertaking a ground control operation using brodifacoum (Pestoff Rodent Pellets) in bait stations (where the bait is not "captured") to remove surviving or invading ship rats in the Perth River valley.
2. This is part a "mop-up" operation. Brodifacoum will only be used where there is evidence of a rat(s) or that the geographic barrier system has been breached by a rat(s). The bait stations would be centred on the site of rat detection or the breach and involve an area of 2 – 16ha and applied at a maximum of three such sites.
3. Department staff have prepared an assessment report based on the Standard Operating Procedure (SOP) approved by the Environmental Protection Authority (the Authority) for consideration of the use of vertebrate pesticides. This, along with the application, are attached for your consideration.
4. As decision maker you are required to consider matters under the Hazardous Substances and New Organisms Act 1996 (HSNO Act) on behalf of the EPA and the relevant conservation legislation. This paper sets out the statutory considerations under the HSNO Act and the conservation legislation so that, taken together, you can decide whether to grant permission for this rat control operation.

Applicant

5. The application was prepared by s 9(2)(a) from Zero Invasive Predators Ltd. Any permission should be granted in the name of Zero Invasive Predators Ltd and cover staff and contractors.

Hazardous Substances and New Organisms Act 1996

6. Under the HSNO Act, the Authority has approved the use of brodifacoum 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.

7. 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 the Director National Operations.
8. In considering an application, in accordance with section 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.
9. The attached assessment sets out the consideration of the adverse effects and conditions. You are able to rely on that assessment, noting that the use of brodifacoum has been approved and so the focus of the consideration is the use of this approved substance on land administered or managed by DOC.
10. 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.
11. This purpose is supported by the principles in section 5, which are to be recognised and provided for, being:
- (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.
12. It is also necessary to take into account the precautionary approach (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.
13. The use of brodifacoum in this case is for the purpose of killing rats to control the population for the protection of indigenous fauna. Although it is recognised that the use of hazardous substances is not ideal, it is the best and most cost-effective option available for ensuring an effective kill of any identified invading rats. The control of rats ensures the sustainability of indigenous species and protects taonga.
14. 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.

15. The conditions imposed on this operation support a precautionary approach. It is, however, recommended that you grant an exemption from DOC's Policy "Use of second-generation anticoagulants Policy" (DOCDM 97398) and reflect that in the DOC Performance Standards for Pesticide Uses #53. The best practice standard normally applied to brodifacoum 0.02kg cereal pellets in bait stations requires that the pesticide only be used in operations where there is "captive" bait. This refers to a situation where the bait is secured within the bait station so that the pests (rats) cannot remove the bait but must consume it at the bait station.
16. The application has sought that the bait is not captured as this will mean that the uptake of bait will be greater. Rats will be able to remove and consume the pellets elsewhere which will increase the amount of bait consumed, individually and collectively. It does, however, increase the risk that species other than rats may consume the bait and be affected, including native species. The application and assessment report have set out the information you need to consider in granting an exemption to DOC's Policy on "captive" bait stations.
17. 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. The granting of a permission is recommended, along with the exemption for "captive" bait stations and thus the change to the applicable performance standards.

Wildlife Act 1953

18. Rats will be controlled and sought to be eliminated through this operation.
19. 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 use of any vertebrate pesticides, the resulting improvement in successful breeding means the population numbers increase and thus the species is protected.
20. 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.
21. Section 54 enables the Director-General to authorise the killing of animals that he is satisfied are causing damage to other wildlife. Rats cause damage to indigenous wildlife, including birds and their eggs and their food sources. You can be satisfied that rats are causing damage and that killing them is for the benefit of protected wildlife. Any other unprotected wildlife which may die as a result of this operation do not require a specific authorisation under the Wildlife Act as they are not sought to be controlled through this operation. It is recommended that a section 54 authorisation, therefore, be granted for the killing of rats as the "nuisance" animals.

Conservation Act 1987

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

23. 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.

24. 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.

25. 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 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 brodifacoum has been shown to provide protection.

26. The operations, therefore, are in accordance with the management of the stewardship areas.

27. 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 brodifacoum to control rats, it is possible for the Minister to be satisfied that the operation is desirable to preserve the wilderness area's indigenous natural resources.

28. Further, this is supported by the relevant conservation management strategy (discussed below). There is no relevant conservation management plan.

29. 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.

30. There is no relevant conservation management plan for the conservation areas covered by this application. The West Coast Conservation Management Strategy 2010-20 recognises 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.

31. 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.
32. While section 38 does not cover fresh water fish, it is noted that there is no evidence that brodifacoum will enter waterways from this operation. The use of bait stations should limit any such possibility. As the use of vertebrate toxins is in accordance with the conservation management strategy, if permission is granted under the HSNO Act the activity would be permitted under the appropriate regional plan and thus the Resource Management Act 1991.

Consultation

33. 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, which has occurred.
34. The requirements for consultation imposed by the Authority under the HSNO Act are extensive. That consultation covers the issues of killing pests and protected wildlife, as well as the use of vertebrate toxins, 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

35. The application is consistent with the above provisions and the proposed permission reflects this. The proposed permission document is attached for your consideration.

Recommendations

It is recommended that you:

1. **Agree** to consider the application, assessment report and this memo;
 Agree / Disagree
2. **Note** that the consultation undertaken by Departmental staff is sufficient to meet the section 4 Conservation Act obligations;
 Agree / Disagree
3. **Agree** to grant a permission in the name of the applicant, Zero Invasive Predators Limited, which will cover its staff and contractors;
 Agree / Disagree
4. **Agree** that the proposed permission and conditions consider the adverse effects of the use of brodifacoum on DOC managed or administered land and that granting the

permission is in accordance with the purpose of the Hazardous Substances and New Organisms Act 1996, recognising the life-supporting capacity of ecosystems and the well-being of people and communities and taking into account the principles and other matters in sections 5, 6, 7 and 8 of that Act;

Agree / Disagree

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

Agree / Disagree

6. **Agree** that an exemption to DOC's Policy "Use of second-generation anticoagulants" (DOCDM 97398), requiring the use of "captive" baits, be granted because of the better rate of bait consumption by rats (and therefore deaths) if they can remove the bait from the bait station and eat it elsewhere, notwithstanding that this increases the risk of consumption (and possible death) of species not sought to be controlled, including indigenous species;

Agree / Disagree

7. **Agree** to grant the exemption for the use of "captive" bait and reflect this in the restrictions imposed in DOC Performance Standards for Pesticide Use # 53 as part of the permission;

Agree / Disagree

8. **Agree** you are satisfied that, in the area of the operation, rats are causing damage to wildlife so killing of these pests in general accordance with the application will meet the purpose of the Wildlife Act;

Agree / Disagree

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

Agree / Disagree

10. **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

11. **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

12. **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

13. **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;

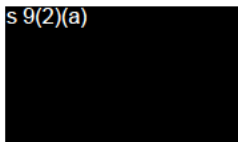
Agree / Disagree

14. **Agree**, in relation to the area of operation that is conservation 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

15. If you have agreed to the above, **sign** the attached Permission, **initial** the pages of the attached Assessment report, **initial** the attached map, and **initial and sign** the attached DOC Performance Standard Sheets for Pesticide Use # 53.

s 9(2)(a)



.....15/10/2019.....

Mark Davies, Director Operations

Decision made by me on 15th October 2019

s 9(2)(a)



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Hilary Aikman, Director National Operations

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