

12 October 2007

## **1. On New Zealand's biological resources:**

**Do you think we need to have good information about bioprospecting activities in New Zealand, including the type and nature of such activities? Please give reasons for your answer.**

It is absolutely essential that New Zealand collects all relevant information about bioprospecting activities currently occurring in New Zealand (and also any which may be planned). The government should endeavour to collect this information immediately. It may be that we have already 'missed the boat' i.e. many potentially relevant biological species have already been collected and benefits could have gone 'offshore'.

It is vital that we know what is currently being done so we can coordinate bioprospecting activities across the country. This could allow us to make better use of resources required to determine if a potential biological agent is worth following up (i.e. prevent duplication of work). It would also be desirable to develop a framework (or see what is currently in place) which protects any information contained in collections of biological materials that have already taken place (such as those collections held by CRI's).

In terms of collection and ownership of any benefits from biological resources information should be sought to identify what CRI's (and other research institutes) are doing to protect Maori interests. Have CRI's sought relationships with iwi? It is my opinion that CRI's should seek iwi partnerships and sign agreements on benefit sharing before they collect materials from rohe. Tangata whenua are seeking support from the government to allow a comprehensive bioprospecting framework to be developed. The government should fund this.

**As a traditional knowledge holder, bioprospector and/or access provider, what are your experiences of bioprospecting in New Zealand?**

I know that bioprospecting is occurring in NZ, due to the release of newspaper articles of some high profile products e.g. Peloruside, *ex situ* collections by CRI's such as NIWA and Scion. But I do not have any primary experience of being a traditional knowledge holder, bioprospector and/or access provider. It is weird that the government has recently stopped funding some potentially beneficial bioprospecting activities e.g. Peloruside research.

**Can you provide any information that would be useful to develop a bioprospecting framework in New Zealand, for example, provide information about bioprospecting costs, benefits, outcomes and current benefit sharing agreements? Please describe, if so.**

No I cannot. I believe NZ government agencies should request this information from universities, CRI's and private companies and any other organisations which are involved in bioprospecting in New Zealand.

## **2. On New Zealand's current frameworks to access biological resources:**

**Do you think the existing access frameworks would benefit from operating within a more co-ordinated and comprehensive bioprospecting framework? If so, why? If not, why not?**

Yes, there should be a more co-ordinated and comprehensive bioprospecting framework. Not sure how the current access to biological resources is monitored? Not sure what the different access frameworks are? Is there a one-stop shop to find out all this information? Information should be available via the internet. Focal point for this information is a good idea.

## **3. On a comprehensive bioprospecting framework for New Zealand:**

**Do you think that New Zealand should have a comprehensive policy framework to manage bioprospecting activity in this country? Please give reasons for your answer.**

Yes. Protecting what we have and ensuring that benefits are gained by New Zealand. The framework should be user friendly and not over prescribed to ensure that the work can still be conducted without undue costs and paperwork required from researchers.

**What are your views on the proposed vision and policy principles to guide New Zealand's bioprospecting policy?**

Bioprospecting should not be separated from access to the biological resources and indigenous knowledge and the issue of benefit sharing. Benefit sharing should also be part of the policy. Agreements should ideally already be in place with iwi before collection of resources occurs. In situations where iwi have not been informed of resources collected from their rohe, steps should be taken to initiate a relationship. Research centres are likely to be very reluctant to share any benefits with iwi in a retrospective sense. The WAI262 outcome could have a bearing on this if Maori are deemed to be 'owners' of all indigenous flora and fauna.

### **1. Potential policy benefits and costs**

- **Do you see any other potential benefits or costs arising from a bioprospecting framework apart from those discussed in this document?**

Economic benefits to Maori arising from allowing access to taonga and developing research partnerships and investment in activities that are likely to derive a direct benefit (e.g. aquaculture stock improvement).

- **Which benefits do you think would be the most beneficial for New Zealand to capture?**

Access to international companies and expertise for development of pharmaceuticals and hopefully upskilling of NZ personal.

Revenue generated which should be reinvested into Science and Maori development in NZ.

- **Do you think that there are potential benefits that are not worth capturing because of the costs involved in doing so?**

No. Wherever possible avenues should be sought to ensure a benefit of some sort is obtained for NZ. Otherwise, why allow access to the resource?

## **2. Policy scope**

- **What are your thoughts on the current definition of bioprospecting?**

Some thought should also be given to benefit sharing, otherwise when will policy on benefit sharing be developed and how will it integrate with the bioprospecting framework? Do it now so it is done and not something that 'will be considered at a later point' and never is! An ethical guide for bioprospecting?

Something should be done to ensure *ex-situ* collections are managed in some way.

- **What are your views on how the "in scope" and "out of scope" boundaries of bioprospecting have been defined?**

Traditional activities should not be affected e.g. weaving. No loss of access to resources for Maori (for traditional usage). Other things like collecting firewood are not bioprospecting. This should be recognised!

Something should be done to ensure *ex-situ* collections are managed in some way and are subject to some sort of framework and guidelines that are nationally agreed on and endorsed by Maori.

- **Do you think that non-commercial research activities should be within the scope of a bioprospecting policy? If so, why? If not, why not?**

Both commercial and non-commercial activities should be covered by the policy because a non-commercial research activity could lead to a commercial venture and even if it is non-commercial we still need a record of what is being done and why.

- **If yes, can you think of any specific activities that should nonetheless be excluded from the scope of a bioprospecting policy?**

No.

- **If yes, what levels of compliance should be expected from non-commercial researchers?**

They should have to register what they are planning on doing and afterwards they should state their outcomes and whether any of these outcomes have any potential commercial applications which are being pursued.

- **Which kinds of biological resources should be accessed for bioprospecting?**

Everything in NZ could potentially be accessed for bioprospecting and the policy should recognise and protect all of these resources.

- **In your view, which of the three tiers of access (central government, local government and private) should be included in a bioprospecting framework?**

What about iwi access to ownership? Private landowners should not be able to override decisions made by other owners? For example what happens if iwi oppose access to something and the bioprospector gets access to the resource from DoC or someone else? What if the landowner does not fully understand the issues? Everyone should be working together for the benefit of NZ. Access fees should be charged to help cover cost associated with compliance and running the national focal point (but these should not be overly high otherwise this will prohibit research). Royalties should also be negotiated. **All levels of access need to be monitored and have appropriate policy developed.** No point having some of these access points out of scope.

- **Do you think that ex situ collections should be included in a bioprospecting policy?**

*Ex situ* collections should also be regulated. What is the use of having a policy framework for collecting biological samples in NZ, if a company could approach one of the Crown Research Institutes (who have big collections), effectively these companies could 'come in the back door'. Presumably CRI's would have policies in place to prevent this happening, or would at least insist on some sort of 'payback' for access to resources, but I'm not sure how much say government would currently have in this process. Also, have allowances being made for Maori interests?

- **Do you think that non-indigenous biological material should be included in a bioprospecting policy?**

All material should be included in a bioprospecting policy to encompass biotechnology breakthroughs in agricultural, horticultural etc. sectors. There may be different requirements for non-indigenous vs indigenous material. Anything that is only found in NZ (i.e. indigenous) should be developed in partnership with iwi.

### **3. Administrative frameworks**

- **Do you think that New Zealand should have a National Focal Point? If yes, what form could it take?**

Yes. A national focal point would be good. But each iwi should be able to have a say in development of their own frameworks for their rohe (similar to regional councils).

- **Do you think that New Zealand should have a Competent National Authority? If yes, what roles and responsibilities could it have?**

Yes. Coordinate regional initiatives. Create a database. Help put potential bioprospectors in contact with appropriate people. Provide guidelines for ethical interactions with Maori in terms of benefit sharing. Administer certificates of origin (if these are implemented). It should be a requirement of any collection that biological samples are adequately catalogued as to their place of origin, time of collection etc. This information will be useful for benefit sharing.

## **4. On mātauranga Māori:**

**How do you think use of mātauranga Māori for bioprospecting can be most appropriately managed and protected?**

I am unsure. It appears that mātauranga Māori is already being exploited without returns to iwi because the information is made freely available (i.e. public domain). I think some of these benefits should still be captured and the money invested centrally in Maori development. This could also occur when a resource is shared across multiple iwi boundaries. A process should be put into place to allow the benefit to be shared. However, this could be incorporated into the development of a framework by Maori.

**What do you think of the suggestions made in this document as options to protect mātauranga Māori (a voluntary register, ensuring legally and fully mandated governance entities, a code of best practice for bioprospectors, or an advisory council to a Competent National Authority)?**

Why would Maori want to register their knowledge on the public domain where it could be used without any obligation of benefits for the knowledge holders (see above).

There should be a code of best practice for bioprospectors and Maori should contribute to this. Elements of the code may need to be enforced?

There does need to be a National Authority and there should be Maori members of this council.

## **5. On international bioprospecting frameworks:**

**What aspects of the Bonn Guidelines of the Convention on Biological Diversity (CBD) do you believe should be considered in developing a domestic bioprospecting framework?**

If NZ does allow access to our gene banks and biological resources to other countries (as mentioned in the International Treaty on Plant Genetic Resources for Food and Agriculture), what does NZ get out of it? Unlike other countries we don't have the expertise here to conduct our own clinical trials by accessing plants from other countries.

**Are there aspects of international bioprospecting frameworks as outlined in section 5 (or any others you know about) that could be useful to consider during the development of a bioprospecting framework in New Zealand?**

I don't know enough about other systems to comment.

## **6. On any other issues:**

**Do you have any further suggestions or comments on the issues raised in this document?**

### *Consultation Process*

Database for 'information sharing' is incomplete and/or was not utilised correctly because WAI262 counsel were not notified of this policy framework directly from govt channels, instead they found out through other networks.

This is an opportunity to develop and improve relationships between Maori and the Crown. Advocate for empowerment of Maori and sharing of skills and resources that will lead to true engagement and partnership.

More effort to communicate bioprospecting information to ALL New Zealanders and encourage MORE stakeholders to take part (not just Maori).

### *Timeframes*

The disjunction between the national and international timeframes for developing bioprospecting frameworks is of concern. (Important international meeting in May 2008)

Although more time can be spent on domestic processes the international timetable is set. *This could lead to conflicts later if NZ agrees to something in the International forum which is not acceptable at a domestic scale?* i.e. could an international framework impact our national framework and regional/iwi frameworks?

*SO it is important that elements that we might want included in a NZ framework are preserved at International level.* Also that none of these outcomes unduly prejudice the outcome of the WAI262 report.

Impt to note that CBD is treaty about protecting biodiversity, sustainability, **access and benefit sharing**. We can decide how we manage these things (i.e. the framework).

***It is the access and benefit sharing with Maori and international prospectors which needs protecting, because this is what will be on the international agenda.***

Suggestions were made that our international and national agenda ARE different i.e. opposition of indigenous participation in the CBD at the international level whereas going through this consultation with Maori at the local level.

***Participation from ALL relevant govt agencies (what about Crown Research Institutes?)***

MED and MFAT are leading this process and potentially biasing this document towards a commercial focus. Document as it stands appears to lack environmental protection themes regardless of the fact that all key agencies (incl DoC, MFish and MfE) are apparently engaged in this process.

***Protection of Maori interests***

Maori interests should ALWAYS be protected. Not where appropriate – who decides if appropriate?

Maori want to be involved at all stages: development of framework, implementation, enforcement, policies etc etc. Maori are not just there to be ‘consulted’ with or put into a box i.e. Matauranga. Not just kaitiaki, also kaiwhakahaere (Not just protection of resources, but also the right to commercially develop resources in a sustainable fashion).