

Coversheet: NAIT Bill Package 2019

Advising agencies	Ministry for Primary Industries (MPI)
Decision sought	Approval to progress proposed legislative changes to the National Animal Identification and Tracing (NAIT) Act 2012
Proposing Ministers	Hon Damien O'Connor Minister for Biosecurity

Summary: Problem and proposed approach

Problem Definition

The ability to achieve the objectives of the NAIT Act are being compromised by:

- non-compliance by some PICAs (Person In Charge of a NAIT Animal)
- insufficient clarity about roles and responsibilities of some participants in the NAIT system
- insufficient clarity around who should have access to NAIT data, how they access that data and for what purpose.

Relatively modest but essential legislative changes are required to help address these issues by closing some inadvertent loopholes, improving the incentives for compliance by regulated parties, enabling better use of NAIT data, and clarifying the performance management framework that applies to a NAIT organisation.

The proposed changes are intended to complement the significant operational initiatives being implemented by NAIT Ltd and MPI to improve the performance of the NAIT scheme in line with recommendations arising from an OSPRI-led review and lessons learned from the *Mycoplasma bovis* disease outbreak.

Proposed Approach

Changes to the NAIT Act and associated regulations (alongside operational initiatives being implemented by NAIT Ltd and MPI) will enable improvements in the performance of the NAIT scheme by:

- improving tagging requirements to enhance the traceability of current NAIT animals
- improving the incentives to comply with NAIT obligations
- making the scheme fit for the future by clarifying the roles and responsibilities of regulated parties and improving the information available for managing the response to biosecurity risks
- improving access to and streamlining the use of NAIT data
- improving the performance management framework for a NAIT organisation.

Section B: Summary Impacts: benefits and costs

Who are the main expected beneficiaries and what is the nature of the expected benefit?

MPI's recommended package of changes to the NAIT Act and associated regulations benefits all participants in the dairy, beef, and deer industries and provides a stronger foundation for the system to be potentially extended to the wider livestock industry in the future.

NAIT supports New Zealand's biosecurity system. Improving the effectiveness of the NAIT scheme will help manage the risk posed by biosecurity incursions or contamination scares. Effective animal tracing helps reduce the breadth and length of outbreaks by identifying where at-risk livestock are located in a timely manner, and enabling clear identification of stock movements and potential avenues of disease spread.

NAIT also helps maintain access to international markets for animal products where credible lifetime (birth to slaughter) traceability is required to support assurances that the food products are safe to eat.

Enabling improvements to the effectiveness of the national animal identification system also provides the foundation for future extension of the system to other animals – which will deliver similar benefits to the wider livestock industry and New Zealand's biosecurity system.

Expected benefits for key stakeholder groups are as follows:

Immediate Beneficiaries	Benefits
PICAs	<ul style="list-style-type: none"> • <i>Reduction in lost sales:</i> A more effective animal tracing system reduces the risk to farmer livelihoods and income from a biosecurity outbreak by providing information that helps to reduce its scale and duration. • <i>Price premiums:</i> Improved lifetime traceability contributes to achieving premium prices for livestock. (Price per kilo not discounted for untagged animals or animals without full traceability). • <i>Reduced slaughter levy:</i> Improved compliance means reduced ITT slaughter levy for untagged animals. • <i>Improved stock protection:</i> Improved access to NAIT data provides assurance of the provenance of stock at time of purchase. • <i>Reduced stock losses:</i> Improved access and streamlined use of data enable earlier return of wandering or stolen stock. • <i>Wellbeing:</i> Improved PICA/farmer and family well-being from reduced stress as a result of clear and more timely traceability which helps reduce the scale and duration of disease outbreaks.
Meat processors	<ul style="list-style-type: none"> • <i>More efficient processing:</i> Improved NAIT compliance rates increases the efficiency of livestock processing at meat works. • <i>Reduced disruption:</i> Minimises disruption to processing operations in the event of a disease outbreak.

Meat exporters	<ul style="list-style-type: none"> • <i>Reduction in lost sales:</i> A more effective animal tracing system supports a more effective biosecurity response, which reduces the time access to export markets may be denied as a result of an adverse biosecurity or food safety event.
Local Government	<ul style="list-style-type: none"> • <i>More efficient management of wandering stock:</i> Time and cost savings from easier access to NAIT data to assist in the return of wandering stock.
Police	<ul style="list-style-type: none"> • <i>More efficient policing of stock theft:</i> Time and cost savings from being able to access NAIT data when dealing with stolen or wandering stock.
NAIT Ltd (as regulator)	<ul style="list-style-type: none"> • <i>Improved dataset:</i> Improved compliance enabled by the legislative changes will <i>result</i> in NAIT Ltd being able to maintain a more complete NAIT dataset. • <i>More efficient & effective compliance management:</i> Clarifying the definition of PICAs and improving the incentives to comply with NAIT requirements enables NAIT Ltd to deliver more efficient and effective compliance management services. • <i>Efficient Administration:</i> Improved incentives for compliance should result in greater voluntary compliance, which supports more efficient administration of the NAIT system. • <i>Efficient Administration (2):</i> Enabling the streamlining of data access arrangements should reduce data request processing costs. • <i>Improved accountability:</i> Improvements to the performance management framework provide greater clarity and certainty around NAIT Ltd's accountability arrangements.
MPI (as regulatory steward)	<ul style="list-style-type: none"> • <i>More efficient compliance management:</i> Clarifying the definition of PICAs and improving the incentives to comply with NAIT requirements enables MPI to provide more efficient and effective compliance management services. • <i>More efficient & effective delivery of biosecurity services:</i> Improved NAIT compliance and direct access to NAIT data enables more efficient and effective delivery of MPI's biosecurity responsibilities. • <i>More efficient & effective regulatory stewardship:</i> Improvements to the performance management framework enables more effective regulatory stewardship.

Where do the costs fall?

The overall costs associated with implementing the recommended package of proposed legislative changes are relatively low.

Tagging improvements to enhance traceability

The legislative changes are expected to encourage an increase in earlier tagging to enable tracing through an animal's full lifecycle (when combined with the operational improvements being implemented by NAIT Ltd and MPI).

The monetised costs of tagging are met by regulated parties – PICAs – through the cost of tags. We do not anticipate the legislative changes (or the associated operational initiatives) will result in a significant increase in the number of tags used in the NAIT system and therefore costs to PICAs. About 97% of animals processed at meat works have been tagged either by the PICA, or at the meat works immediately prior to processing, with the cost of that tagging met by the PICA. The anticipated improvement in compliance will largely involve earlier tagging by PICA to enable recording of farm to farm movements. This shifts the time at which the cost is incurred, not the actual tag cost. There may be a small increase in tags used at the margins as a result of any increase in the number of animals that lose their tags and require re-tagging through their lifecycle.

The non-monetised additional costs associated with enhancing traceability are largely met by PICAs and information providers in the form of the additional time required to fully comply with NAIT requirements (registering NAIT locations, tagging and registering animals, and recording stock movements). This requirement is, however, already in existing legislation.

Removing the exemption on tagging unsafe to tag NAIT animals would impose some additional costs. Phasing the exemption out after 5 years from passage of the legislation means most currently unsafe to tag animals should not require re-tagging in their lifetime. However we anticipate PICAs as a group would face an additional ongoing cost estimated to be between \$94,000 - \$845,000 per annum if they need to use a vet to re-tag animals that lose tags and are deemed 'unsafe to tag.'¹

Improving the incentives to comply:

The increase in infringement fees and penalty limits to align with the Biosecurity and Animal Products Act levels will impose additional costs on any PICAs and transport operators who do not comply with legislative requirements and are caught and fined. There is no additional cost to PICAs that are meeting their obligations under the NAIT Act.

The establishment of a new offence for transporting an untagged animal that does not have an exemption has the potential to increase PICA and transporters' compliance costs.² We do not anticipate any additional cost to the justice sector as any infringement offence notices will be issued and administered by MPI and do not require prosecution through the courts. The administration costs of enforcement action associated with the new offence will be met from MPI's existing NAIT compliance operating budget.

Ensuring the scheme is fit for the future – PICA definition: Extending the definition of a PICA to include corporates rather than limiting it to 'natural persons' will mean organisations could be found liable for non-compliance instead of, or as well as, an individual registered as a PICA or information provider. A corporate found liable would incur the costs associated with any enforcement action taken by the regulator. There may

¹ The assumptions underpinning this estimate are included in Appendix A. The lower bound estimate is based on a cost of \$40 per animal, while the upper bound estimate assumes vet call costs of \$255 per visit (with an average of 2 animals tagged per visit).

² The proposed legislation will not prescribe how PICAs and transporters must meet the requirement to not transport untagged animals. Given that a PICA is already responsible for ensuring animals are tagged at all times, we expect transporters may rely on the PICA to formally declare that the animals are NAIT compliant. Others may want to check each animal before it is loaded. If this proposal becomes law, MPI and NAIT Limited will work with transporters to develop best practice guidance on implementing it. Please see Appendix B for the estimated costs and the assumptions that underpin them. Given MPI's NAIT dedicated compliance team has only been fully operational for a few months and further operational policy work is required to determine good practice guidance and compliance management arrangements, any estimated cost of infringement fees would be highly speculative. The intent is that the introduction of the offence will encourage changes in behaviour that encourage compliance with existing law rather than impose significant additional infringement costs on PICAs or transporters.

also be an administrative cost associated with identifying corporate entities that have ownership of, or responsibility for, NAIT animals either directly or through PICAs engaged by them.

Ensuring the scheme is fit for the future – Reporting on non-NAIT animals: The proposal to require PICAs to report annually on non-NAIT animals will involve a small additional administrative burden on PICAs who are not already providing this information voluntarily, estimated to be approximately 20 minutes of a PICAs time.³ The cost will be minimised by requiring the information to be provided at the end of the financial year, when most PICA are already providing it for tax purposes anyway.

Improving access to & streamlining the use of NAIT data: NAIT Ltd and MPI would incur an upfront establishment cost from training more users of the system, which should reduce over time and also be balanced to some extent by a reduction in the number of individual requests for data.

Improving performance management of a NAIT organisation: The proposed improvements to performance management will be able to be met by NAIT Ltd leveraging off its existing business planning and reporting arrangements. It will require very little additional time from NAIT Ltd staff to meet the accountability requirements. MPI will need to ensure it has appropriate capability and capacity to give effect to the improved performance management framework, including non-legislative accountability arrangements associated with the negotiation and management of the contract for services associated with Crown appropriations. It is anticipated that these requirements will be met from within existing operating budgets.

What are the likely risks and unintended impacts, how significant are they and how will they be minimised or mitigated?

Risk of data misuse and consequent non-compliance by PICAs

Some stakeholders have expressed concern that as a result of the proposed changes to data access there is a heightened risk that NAIT data could be used for purposes other than those intended by the NAIT Act. For example, they worry that information could be used by Inland Revenue, or by regional councils to assess compliance with Resource Management Act requirements. Therefore there is a related risk that PICAs may not comply with all their regulatory requirements.

The likelihood of the data being misused is assessed as low. Access to NAIT data will continue to be overseen by NAIT Ltd's Data Management Advisory Panel. Government agencies, including IRD and regional councils, are unable to access and use NAIT data for purposes other than those set out in the Act. Moreover, we anticipate NAIT Ltd and MPI will ensure their data management arrangements have appropriate checks and balances in place to manage the release of NAIT data.

The risk of PICA non-compliance as a result of their concerns about the risk of data-misuse by government agencies is assessed as moderate if not mitigated. The communication programmes implemented by NAIT Ltd and MPI to support the implementation of the legislative changes, will need to highlight the checks and controls, including legislative protections that are in place, to allay stakeholder concerns.

Information sharing at time of sale

Stakeholders have noted that enabling improved access to NAIT animal data at the point of sale to confirm the provenance of livestock may increase the likelihood of farmers

³ Around 55% of PICAs already provide voluntary returns.

purchasing NAIT animals directly rather than using the services of a stock agent. It could also result in PICAs and stock agents seeking to mask the identity or point of origin of animals, which would be – as now – illegal.

More direct farmer to farmer sales may be an unintended consequence of the proposal to make the NAIT location history available to the purchaser. The likelihood of this occurring is assessed as relatively low as the data provided to buyers from the NAIT system will relate to the NAIT location history rather than the owner or PICA selling the animal. Moreover, a stock agent's value includes the time they save a purchaser locating suitable livestock that may need to be sourced from more than one provider.

We do not propose any mitigation measures to reduce the likelihood of direct PICA to PICA sales. If access to NAIT data to support improved biosecurity outcomes has the unintended consequence of improving market efficiency (by removing information asymmetries) this is likely to be a net benefit to the livestock sector.

The risk of sellers or stock agents masking the origin of animals will be mitigated by operational measures, including implementation of an agreed action plan by NAIT Ltd and MPI which includes:

- NAIT Ltd focusing on informing and educating PICAs on their responsibilities and the benefits of the system; extension of field staff and inspection; reporting, monitoring and application of notices of direction; and
- MPI devoting additional resources to support field inspection; infringement and prosecution-related activities.

Identify any significant incompatibility with the Government's 'Expectations for the design of regulatory systems'.

MPI's approach is aligned with the guidance provided in *Government Expectations for Good Regulatory Practice* (April 2017).

Section C: Evidence certainty and quality assurance

Agency rating of evidence certainty

MPI considers there is an adequate evidence base for the proposed changes to the NAIT legislative framework. The proposals address shortcomings in the current system that have been identified by the NAIT Review and MPI.

The policy development process commenced with a two-year review of the NAIT scheme over 2016-2018, led by Operational Solutions for Primary Industries (OSPRI Ltd) and supported by a steering group of shareholders plus a technical committee comprising representatives of the entire sector.⁴ That review was complemented by policy work undertaken by MPI in response to the *Mycoplasma bovis* disease outbreak.

On 17 October 2018 Cabinet approved a set of regulatory proposals for public consultation [DEV-18-0228 refers]. Comprehensive consultation was conducted for eight weeks, closing on 19 December 2018. It involved the release of an MPI public discussion paper- *Proposed Act and regulations changes to improve NAIT (October 2018)*, face to face meetings with key stakeholders, and attendance at regional agricultural shows and

⁴ OSPRI, *NAIT Review Final Report on the Recommendations* (29 March 2018)

relevant industry meetings, and was supported by extensive communications to the sector via traditional and social media.

In addition to the general public consultation, the Minister for Biosecurity instituted a targeted engagement process with NAIT Ltd's shareholders and governance bodies on the performance management framework for a NAIT organisation.

The final proposals take account of stakeholder feedback.

To be completed by quality assurers:

Quality assurance reviewing agency:

Ministry of Primary Industries

Quality Assurance Assessment:

A Quality Assurance Panel from the Ministry for Primary Industries reviewed the Regulatory Impact Assessment "NAIT Bill Package 2019" produced by the Ministry for Primary Industries. The Panel considers that it meets the quality assurance criteria. MPI's analysis of costs, benefits and other impacts is sound and the regulatory analysis assessment criteria have been met.

Impact Statement: NAIT Bill Package 2019

Section 1: General information

Purpose

The Ministry for Primary Industries is solely responsible for the analysis and advice set out in this Regulatory Impact Assessment (RIA) except as otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing key policy decisions to be taken by Cabinet.

This RIA provides an analysis of options to change the National Animal Identification and Tracing Act 2012. The Act establishes a scheme that is intended to:

- provide for the rapid and accurate tracing of individual, or groups of, NAIT animals from birth to death or live export
- provide information on the current location and movement history of individual, or groups of, animals
- improve biosecurity management
- manage risks to human health arising from residue in food, food-borne diseases, and diseases that are transmissible between animals and humans
- support improved animal productivity, market assurances and trading requirements.

The proposals for changing the legislation are assessed against the status quo and cover:

- improving tagging
- improving the incentives to comply with NAIT requirements
- ensuring the scheme is fit for the future
- improving access to and streamlining the use of NAIT data
- improving the performance management framework for a NAIT organisation.

Key limitations or constraints on analysis

Scope: The policy development process that underpins the proposals considered in this RIA is focused on changes to the current NAIT Act and associated regulations. It did not include consideration of:

- changes that affect the ownership or organisational form of the existing NAIT organisation
- integration of the NAIT scheme and animal status declaration requirements under the Animal Products Act
- changes to related statutes including:
 - The Biosecurity Act - keeping harmful organisms out of New Zealand and responding to any incursions that do occur
 - The Animal Products Act - minimising and managing risks to human or animal health and trade
 - Animal Welfare Act - establishing minimum standards for the treatment of animals and how we ensure compliance with them.

Addressing issues relating to the ownership and governance of a NAIT organisation, including NAIT Ltd, were ruled out of scope in favour of a focus on improving the performance management framework for a NAIT organisation.

Further policy work is required on whether, and if so how, to ensure NAIT data - which is critical to the ongoing delivery of the traceability system – is secure and protected for farmers, the wider industry, and the public interest in the future. If this work shows change is needed, a separate regulatory impact assessment on that proposal will be prepared.

While the potential for closer integration of the NAIT and ASD systems has been identified as a future option, the NAIT Review said no action should be taken at present. Integration of the two systems would be complex. This issue is likely to be considered once there is a consistently high level of compliance with the NAIT scheme, the NAIT database is functioning as originally intended, there is a high level of animal status declarations being made electronically, and market access considerations have been fully worked through.

A separate review of the Biosecurity Act is being progressed by MPI which will address wider biosecurity issues.

Constraints

MPI considers it has adequate information to complete an assessment of the regulatory impact of proposed changes to the NAIT Act.

Given the initial assessment that the overall impact of these changes on regulated parties is relatively small and is largely intended to encourage better compliance with the Act's existing objectives, the assessment process has not involved a cost-benefit analysis that fully quantifies the additional costs and benefits of the proposed changes. Where necessary the RIA has relied upon a qualitative assessment by MPI and industry subject matter experts on the impact of the proposed changes, including the feedback received during the consultation process with primary industry peak bodies and other key stakeholders.

Responsible Manager (signature and date):


Grant Bryden
Director, Policy & Trade Branch
Ministry for Primary Industries

29.1.2018

Section 2: Problem definition and objectives

2.1 What is the context within which action is proposed?

Animal tracing & biosecurity

Animal identification and tracing is a key component in New Zealand's wider national biosecurity system. Effective biosecurity is critical to the protection of New Zealand's primary industries which are a key contributor to New Zealand's overall economic and social prosperity. Dairy, meat, and wool exports earned \$26.2 billion in the year to 30 June 2018.⁵

NAIT-related livestock industry overview

Dairy: The total cow population in 2017/18 was 4.99 million. These animals are located in 11,590 herds distributed over 1.755 million effective hectares. 60 percent of dairy herds are managed by owner-operators, 12 percent by contract milkers, and 27 percent by share-milkers.⁶ Dairy companies processed 20.7 billion litres of milk produced by these herds.⁷ Dairy industry exports earned \$16.65 billion in the year ending 30 June 2018.⁸

Beef: The beef cattle population was 3.8 million at 30 June 2018.⁹ Combined beef and sheep farming continues to be the most extensive agricultural activity for most farms. There were 29,655 farms that had at least one beef cattle and or at least one sheep in 2016.¹⁰ Beef and veal exports earned \$2.94 billion in the year ending 30 June 2018.¹¹

Deer: The farmed deer population was 892,931 as at 30 June 2018. Around 2,000 farmers are involved in the industry. Total deer industry exports earned \$3.22 billion in the year ending 30 September 2018. This total includes \$198 million from venison, \$65 million from velvet, \$47 million from co-products and 11 million from hides and leather.¹²

The risk

The risks to the New Zealand economy posed by biosecurity incursions or contamination scares are significant. A wide range of diseases have the potential to have an adverse impact on the livestock industry with foot and mouth disease an example of one that would have the most significant impact on the New Zealand economy. While the likelihood of an outbreak of foot and mouth disease is considered very low, its economic impact under some scenarios has been estimated as being more than \$16 billion.¹³ Outbreaks of other diseases affecting animals – such as chronic wasting disease, brucellosis or *Mycoplasma bovis* – have a higher probability of occurring and have the potential to have significant adverse economic impacts. For example, MPI estimated that the recent outbreak of *Mycoplasma bovis*, if not eradicated, would cost \$1,382 million in lost production.¹⁴ The cost of phased eradication

⁵ MPI, Situation and Outlook for Primary Industries – March 2019

⁶ The ownership of the remainder is unknown.

⁷ DairyNZ, New Zealand Dairy Statistics 2017-18 (2018 Livestock Improvement Corporation & DairyNZ Ltd)

⁸ MPI, Situation and Outlook for Primary Industries – March 2019

⁹ Statistics NZ, Agricultural production statistics: June 2018 (provisional). <https://www.stats.govt.nz/information-releases/agricultural-production-statistics-june-2018-provisional>

¹⁰ New Zealand's Environmental Reporting Series: Environmental Indicators Change in farm numbers and farm size. http://archive.stats.govt.nz/browse_for_stats/environment/environmental-reporting-series/environmental-indicators/Home/Land/farm-size-and-numbers.aspx

¹¹ MPI, Situation and Outlook for Primary Industries – March 2019, p 9.

¹² Deer Industry New Zealand website: <https://www.deernz.org/about-deer-industry/nz-deer-industry/deer-industry-statistics/glance-industry-statistics#.XFOmNVwzaUk>

¹³ Foot-and-Mouth Disease Economic Impact Assessment: What it means for New Zealand MPI Technical Paper No: 2014/18

¹⁴ Cabinet Paper, Mycoplasma Bovis Response Options, Funding, and the Resilience of the Agricultural System (CAB-18-SUB-0130)

over a ten year period has been estimated by MPI at \$781-886 million (50th-90th confidence percentile).¹⁵

Valuing a national response

A national animal identification and tracing scheme does not reduce the likelihood of an initial disease outbreak. It should, however, reduce the impact of an outbreak should it occur. The regulatory impact assessment undertaken by MAF during the establishment of New Zealand's current scheme estimated that it would reduce the economic impact of a foot and mouth disease-like outbreak by 4-10 percent.¹⁶ That could represent a reduction in the adverse economic impact of a foot and mouth disease outbreak in the order of between \$640 million and \$1.6 billion under some scenarios.¹⁷

Improving the effectiveness of the NAIT scheme will help manage the risk posed by biosecurity incursions or contamination scares. Effective animal tracing helps reduce the breadth and length of outbreaks by identifying where at risk livestock are in a timely manner, and enabling stock movements to be traced to reduce the disease spreading. NAIT also helps support New Zealand to maintain its access to international markets for animal products, where credible lifetime (birth to slaughter) traceability is required to support assurances that the final food product is of good quality and safe to eat.

2.2 What regulatory system, or systems, are already in place?

Key features

New Zealand's animal identification and tracing scheme was established by legislation in 2012 and currently covers cattle and deer.

The NAIT Act 2012 establishes a scheme to:

- provide for the rapid and accurate tracing of individual, or groups of NAIT animal from birth to death or live export
- provide information on the current location and movement history of individual, or groups of, animals
- improve biosecurity management
- manage risks to human health arising from residue in food, food-borne diseases, and diseases that are transmissible between animals and humans
- support improved animal productivity, market assurances and trading requirements.

The scheme provides information on individual animals, the persons in charge of those animals (PICAs), the current location of NAIT animals, and their movement between locations. This information is intended to ensure NAIT animals can be quickly located and traced in an animal disease outbreak.

The scheme is currently operated by NAIT Ltd, a private company that is a subsidiary of OSPRI Limited. The OSPRI shareholders are DairyNZ, Beef+Lamb New Zealand, and Deer Industry New Zealand.

¹⁵ Cabinet Paper, Mycoplasma Bovis response options (CAB-18-SUB-0245))

¹⁶ Ministry of Agriculture and Forestry, *Approval of National Animal Identification System: Regulatory Impact Statement*, 30 November 2019, p 3.

¹⁷ Assumes a 4-10 percent reduction in the economic cost of a foot and mouth outbreak which has been estimated to have an economic impact of \$16 billion under some scenarios in *Foot-and-Mouth Disease Economic Impact Assessment: What it means for New Zealand* MPI Technical Paper No: 2014/18

We estimate the total cost of the current scheme to be in the order of \$38 million per annum. Approximately 81% of the estimated total cost (\$31 million) is met by PICAs, while 19% (\$7 million) is met by the Crown.¹⁸

Fitness for Purpose

The *Mycoplasma bovis* outbreak detected in July 2017 has been the first significant test of the NAIT scheme. It exposed a number of areas where the scheme is not working effectively.

The main issues were inadequate compliance of some farmers with their obligations. Cattle were found untagged and animal movements, especially farm-to-farm, were not recorded. While the vast majority of NAIT animals are recorded as tagged at the point they are processed at meat works, this is often as a result of tagging undertaken immediately prior to processing either by the PICA or at the meat works. OSPRI has noted that over the three years to January 2018 the number of animals slaughtered without NAIT identification appears to have stabilised at 2.8% for cattle and 1.8% for deer.¹⁹ NAIT compliance for farm to farm animal movements has been estimated as 30-40%, with even lower rates of compliance for farm-to-farm calf sales.²⁰

NAIT data was also of variable quality, which further complicated the biosecurity response. Non-compliance had not been routinely addressed, which led to some participants not taking their obligations seriously.

That said, since the *Mycoplasma bovis* incursion, both MPI and NAIT Ltd have stepped up compliance and verification activities. That activity ranges from active analysis of the NAIT database for non-compliance and sending warning letters, through to formal investigation being undertaken and infringement notices being issued.

¹⁸ This estimate includes:

- The Crown funding to NAIT Ltd of **\$2.14 million** in FY 2018/19.
- MPI's NAIT related compliance operations budgeted at **\$5.2 million** for FY 2018/19.
- NAIT tag costs of **\$13.77 million** in FY 2017/18 (based on the estimated average tag cost of \$3.50 x 3,932,222 tags sold. Number of tags sold is based on NAIT Ltd tag levy revenue received at \$0.9 per tag).
- Meat Processor Untagged Animal Slaughter levy: **\$0.96 million** in FY17/18.
- Estimated value of PICA time required to tag and register NAIT animals and record movements estimated at **\$8.30 million** per annum (Based on the average hourly earnings in the agricultural sector (\$26.21), estimated time to tag and register each animal (5 minutes), estimated number of NAIT Animals registered in FY17/18 (3,798,250). Therefore (\$26.21 x 5min/60mins) x 3,798,250 animals = \$8.30 million. This estimate does not include the cost of yarding stock and assumes tagging takes place as part of another farm process.
- The estimated annualised cost of NAIT related tagging and scanning equipment of **\$7.75 million**. This estimate assumes:
 - o Average cost of NAIT scanners @ \$1,000 (Scanners vary considerably in cost. Portable mini-RFID readers range in price from \$350-500 (excl. GST), Portable RFID wand/stick readers range in price from \$1000-\$2,500 (excl. GST), while Fixed panel RFID readers range in price from \$2,800-\$3,500 (excl. GST) – see <https://ospri.co.nz/our-programmes/nait/information-resources/technical-tips/tagging-animals/>
 - o 43,245 deer and cattle farm and dairy herds (29,655 farms with cattle & sheep, 2,000 deer farms and 11,590 dairy herds).
 - o Estimated average cost of NAIT tag applicators @ \$75
 - o Tag applicators and scanners used for other animal tagging purposes (therefore half cost)
 - o Applicators and scanners depreciated over 3 years
 - o Equation: $(\$1,075 \times 43,245 \text{ farms/herds}/2)/3 = \$7.75 \text{ million per annum}$

The estimate does not include the cost of infringement fees or fines incurred by PICAs. Accordingly, the cost to the Crown is not offset by any revenue generated from infringement fees or fines. The estimate also does not include the cost of NAIT scanners in saleyards.

¹⁹ OSPRI, *NAIT Review Final Report for Government on Recommendations* (29 March 2018) p 26.

²⁰ Aide-memoire to the Minister for Biosecurity, Additional information for Cabinet review of *Mycoplasma bovis* Cabinet paper, 2 March 2018.

2.3 What is the policy problem or opportunity?

Problem definition

The ability to achieve the objectives of the NAIT Act are being compromised by:

- non-compliance by some PICAs (Persons In Charge of Animals)
- insufficient clarity about roles and responsibilities by some participants in the NAIT system
- insufficient clarity around who should have access to NAIT data, how they access that data, and for what purpose
- insufficient oversight and performance management of the NAIT system.

While a number of operational measures have been taken by NAIT Ltd and MPI to address non-compliance, there is still a need for a limited number of legislative changes to increase the incentives for regulated parties to comply, clarify roles and responsibilities, better leverage the data collected by the NAIT scheme, and improve the management framework for overseeing the performance of a NAIT organisation.

The evidence base

MPI considers there is an adequate evidence base that underpins this assessment.

The shortcomings in the current system have been identified through:

- an independent industry review that evaluated the current NAIT system
- MPI policy work undertaken as part of the response to the *Mycoplasma bovis* outbreak.

The policy development process commenced with a two-year review of the NAIT scheme over 2016-2018, led by Operational Solutions for Primary Industries (OSPRI Ltd) and supported by a steering group of shareholders plus a technical committee comprising representatives of the entire sector. It was complemented by policy work undertaken by MPI in response to the *Mycoplasma bovis* disease outbreak.

A set of regulatory proposals was approved for consultation by Cabinet on 17 October 2017 [DEV-18-0228 refers]. Comprehensive consultation was conducted for eight weeks, closing on 19 December 2018. It involved the release of an MPI public discussion paper- *Proposed Act and regulations changes to improve NAIT (October 2018)*, face to face meetings with key stakeholders, and attendance at regional agricultural shows and relevant industry meetings, and was supported by extensive communications to the sector via traditional and social media.

In addition to the general public consultation process, the Minister for Biosecurity instituted a targeted engagement process with representatives of NAIT Ltd's Board, shareholders and Stakeholder Council, on proposals to fill gaps in the legislated performance management regime for a NAIT organisation.

The final proposals take account of stakeholder feedback.

2.4 Are there any constraints on the scope for decision making?

Scope:

The policy development process that underpins the proposals considered in this RIA are focused on changes to the current NAIT Act. It did not include consideration of:

- legislative changes that affect the ownership or organisational form of NAIT Ltd or a NAIT organisation and ensure the protection of NAIT data.
- integration of NAIT and the Animal Status Declaration (ASD) schemes
- changes to related legislation including:

- The Biosecurity Act - keeping harmful organisms out of New Zealand and respond to any incursions that do occur, under the Biosecurity Act
- The Animal Products Act - minimising and managing risks to human or animal health and trade, under the Animal Products Act
- Animal Welfare Act - establishing minimum standards for the treatment of animals and how we ensure compliance with them.

Addressing issues relating to the ownership and governance of a NAIT organisation (currently NAIT Ltd) were ruled out of scope in favour of a focus on improving the legislated performance management framework. Further policy work is required on whether, and if so how, to ensure NAIT data - which is critical to the ongoing delivery of the traceability system – is secure and protected for farmers, the wider industry, and the public interest in the future. If this work shows change is needed, a separate regulatory impact assessment on that proposal will be prepared.

While the potential for closer integration of the NAIT and ASD systems has been identified as a future option, the NAIT Review said no action should be taken on this at present. Integration of the two systems would be complex. This issue is likely to be considered in the future only once there is a consistently high level of compliance with the NAIT scheme, the NAIT database is functioning as originally intended, there is a high level of animal status declarations being made electronically, and market access considerations have been fully worked through.

A separate review of the Biosecurity Act is being progressed by MPI which will address wider biosecurity issues.

Constraints

MPI considers it has adequate information to complete an assessment of the regulatory impact of proposed changes to the NAIT Act. Given the initial assessment that the overall impact of these changes on regulated parties is relatively small and is largely intended to encourage compliance with the Act's existing objectives, the assessment process has not included an economic cost-benefit analysis that fully quantifies the additional costs and benefits of the proposed changes. Where necessary the RIA has relied upon a qualitative assessment by MPI and industry subject matter experts, including the feedback received during the consultation process with primary industry peak bodies and other key stakeholders.

2.5 What do stakeholders think?

The key stakeholders in the NAIT system include:

- regulated parties: PICA and, information providers including transport operators, stock agents, saleyards
- meat processors (who may also be PICAs and meat exporters)
- meat exporters (who may be meat processors)
- regulatory agencies: (NAIT Ltd & MPI)
- NAIT Ltd shareholders, the NAIT Board, the Stakeholder Council
- other Government agencies with an interest in animal welfare and biosecurity

A set of regulatory proposals was approved for consultation by Cabinet on 17 October 2017 [DEV-18-0228 refers].

Comprehensive consultation was conducted for eight weeks, closing on 19 December 2018. It involved the release of an MPI public discussion paper- *Proposed Act and regulations changes to improve NAIT (October 2018)*, face to face meetings with key stakeholders, and attendance at regional agricultural shows and relevant industry meetings, and was supported by extensive communications to the sector via traditional and social media.

MPI received 92 submissions in response to its public consultation, from a wide range of individuals, companies and peak bodies with an interest in the NAIT scheme. Māori, including iwi, were invited to provide feedback on the proposals but no submissions identifiable as being from Māori were received. The summary of submissions will be published on MPI's website at the time this RIA is published.

In broad terms the majority of submissions acknowledged the need to make further improvements to the NAIT scheme and saw value in the intent of most of the specific proposals outlined in MPI's consultation paper.

While the majority of submissions supported making it an offence to transport untagged animals that do not have an exemption, transport operators did not agree. Those in favour of the proposal considered it would increase compliance, although many reinforced that the ultimate responsibility has to stay with the PICA. Those opposed were mainly concerned that it would be challenging to comply with the requirement and would generate additional compliance costs. We note it is not intended for the legislation to prescribe how PICAs and the transport industry must ensure compliance with the transportation requirement and this generates some uncertainty in the impact assessment. If this proposal is accepted, MPI and NAIT Ltd will - in consultation with PICA representatives and the transport industry – develop best practice guidance on ways to meet the obligation. For the purposes of this assessment, we have assumed that transporters will require PICAs to give them the necessary assurances that the animals are NAIT compliant. Therefore, on balance MPI considers the benefits to the scheme are likely to outweigh the anticipated additional compliance costs.

Stakeholder feedback, further analysis, and advice from other Government agencies has led us to modify other proposals relating to traceability and improving the incentives to comply with NAIT requirements. We have also decided not to progress a proposal relating to the separation of untagged animals. Further detail on how consultation has affected these options is included in Section 3 of this assessment.

In addition to the general public consultation process, the Minister for Biosecurity instituted a targeted engagement process with representatives of NAIT Ltd's Board, shareholders, and Stakeholder Council on proposals to improve the legislated performance management

regime for of a NAIT organisation.

The current NAIT governance stakeholders are uncertain whether any change to the performance framework in the NAIT Act is necessary, but accept that some changes will be made. There was support for the Minister's priorities and expectations to be formally articulated, and for the proposals related to reporting and monitoring, with the proviso that these be not too onerous to implement. They were not averse to the Minister making an appointment to the NAIT Board, but were concerned there may be conflicts between that person's obligations under the Companies Act and those under the NAIT Act. As a consequence of this feedback and further advice from central agencies, MPI has modified its proposal. It does not involve the appointment of a Director as a Board member, but rather the ability to - if the Minister wishes - appoint a Ministerial representative who would observe the Board's decision-making processes, assist the Board in understanding the policies and priorities of the Government, and advise the Minister on any matters related to NAIT Ltd's activities and performance. The representative would be able to attend Board meetings, and receive copies of all information provided to Board members. Their letter of appointment would make clear they are not performing the duties of a Director. The terms and conditions of any appointment will be agreed between the Minister and the person.

NAIT governance stakeholders were also concerned that the proposal to change the threshold for Ministerial intervention in a NAIT organisation was setting the threshold too low and could result in undue interference in the day to day activities of the organisation. As a consequence MPI has modified this proposal to enable Ministerial intervention when the Minister considers the organisation has failed to adequately discharge one or more of its statutory duties or functions that impact on the effective operation of the scheme.

More broadly, MPI considers that the proposed measures to enhance accountability and enable earlier and graduated interventions by the Minister in response to performance risks or concerns are both prudent and reasonable. Around a third of NAIT Ltd's income is provided by a Crown appropriation. The rest of its revenue comes from compulsory levies, and the company performs regulatory functions (including compliance and enforcement) determined by statute that make a key contribution to New Zealand's biosecurity.

Section 3: Options identification

3.1 What options are available to address the problem?

Grouped options

MPI has considered a range of proposals to address the identified shortcomings in the current NAIT scheme. The options form an overall package of proposed legislative changes to the NAIT Act and associated regulations that are designed to be mutually reinforcing. They complement a wide range of other operational improvements that were identified as a result of the NAIT Review. Those improvements are being actively implemented by OSPRI and MPI.

The recommended mutually supporting options that require amendments to the NAIT Act are as follows:

- 1 *To improve tagging of current NAIT animals to enhance their traceability*
 - 1.1 Require that a PICA must only use NAIT tags at the specific location they were issued for, with a 12 month transition period and an associated offence provision.
 - 1.2 Change the timeframe for when a PICA must declare the movement of unsafe to tag animals from '48 hours prior' to "before sending"; and set a requirement that unsafe to tag animals must be visibly identifiable (that is, clearly marked); and provide an

associated infringement offence.

- 1.3 (a) Rename the 'impracticable to tag' exemption as "unsafe to tag" (with the sole criterion that the safety of the PICA is at risk),
 - 1.3 (b) and remove the exemption five years after the amendment bill is passed.
- 2 *To improve the incentives to comply with NAIT requirements*
- 2.1 Enable a seller to, on request, make the location history of a NAIT animal available to a purchaser of that animal.
 - 2.2 Align penalty limits with those in the Biosecurity and Animal Products Acts.
 - 2.3 Align infringement fees with those under Biosecurity and Animal Products Acts.
 - 2.4 Make it an offence to transport an untagged animal that does not have an exemption.
- 3 *To ensure the scheme is fit for the future*
- 3.1 Amend the definition of PICA to clarify that the responsibilities apply to everyone in charge of NAIT animals.
 - 3.2 Require PICAs to report annually the presence and estimated numbers of non-NAIT animal (such as sheep, goats, pigs) at a NAIT location, to assist biosecurity responses.
- 4 *To improve access to and streamline the use of NAIT data*
- 4.1 Amend the Act's purposes of holding the data to include responding to stock theft and wandering stock.
 - 4.2 Enable all public sector organisations to apply for access to NAIT core data for the purposes of the Act
 - 4.3 Improve access to NAIT information by MPI staff designated by the Director General, and facilitate its use by other authorities.
- 5 *To improve the performance management framework for a NAIT Organisation*
- 5.1 Allow the Minister to, from time to time, formally inform the NAIT Board of government priorities and expectations
 - 5.2 Set the expectation that a NAIT organisation will keep the Minister informed on its performance in delivering its statutory duties and functions.
 - 5.3 Amend the threshold for ministerial intervention in section 9 of the Act to include the non-performance of one or more statutory duties and functions that impact the integrity or effective operation of the scheme, and to allow earlier and graduated actions when needed;
 - 5.4 Include a power for the Minister to issue, amend or revoke 'directions' in relation to the performance of a statutory function or duty or the exercise of a power, with the commensurate safeguards of a requirement to consult the NAIT Board and to table the direction in Parliament
 - 5.5 allow the Minister, if desired and informed by an assessment by the Director-General of the Ministry for Primary Industries, to appoint a representative for a specified term whose functions are to observe the decision-making processes and decisions of the Board, help the Board understand the policies and priorities of the Government, and advise the Minister on any matters relating to the Board or its performance, and ensure this representative may attend any meeting of the Board and will be provided with copies of all information that is supplied to Board members.

How consultation has affected these options

The NAIT Review involved significant input from key stakeholder and industry groups, and shaped many of the proposals outlined in MPI's consultation document.

Most of the proposed options in the preceding section remained largely unchanged as a result of the public consultation. Four options have, however, been changed significantly and one has been withdrawn.

Significantly changed options

Location-specific tagging

In the consultation document MPI included a proposal to require that a PICA must only use NAIT tags at the location for which they were issued. Most submissions supported the proposal, although some noted there was a potential cost to PICAs associated with using tags limited to a particular location. NAIT shareholders suggested a lead-in period to ensure farmers can use existing stocks of tags. As a consequence MPI has amended the proposal to include a 12-month transition period (NAIT Ltd will also enable tags to be reallocated electronically to another NAIT location upon request, provided the tags have not been physically branded with location details).

Unsafe to Tag exemption

In the consultation document we included a proposal to rename 'impracticable' to tag to 'unsafe' to tag to better reflect its purpose.

Most submissions supported the proposed terminology change to 'unsafe to tag.' Although MPI did not prefer the option included in the consultation paper of removing the exemption, some submissions acknowledged the exemption was open to abuse and others questioned whether an exemption was necessary at all. Some stakeholders suggested there is a health and safety risk associated with removing the exemption as some PICAs may seek to tag 'unsafe' animals themselves without appropriate equipment or, if necessary, assistance from a vet.

We now propose that the 'unsafe to tag' exemption should be removed five years after the amendment bill is passed. This period is intended to provide time for PCIA to adjust their on-farm tagging practices before the exemption is removed and for most currently 'unsafe to tag' animals to have exited the scheme (will have been processed). Once the exemption is removed PICA will need to make sure they have the correct safety equipment to re-tag large animals or arrange for a vet to assist them.

Reporting the movement of unsafe to tag animals

In the consultation document we included a proposal to change the existing timeframe for when a PICA must declare the movement of an unsafe to tag animal from '48 hours prior' to "before sending."

Most submissions supported providing more flexibility in reporting timeframes as long as the declaration is made before the animal is sent to the meatworks. Some stakeholders pointed out, however, that it can be challenging to easily identify animals that are exempt from tagging when they were being transported. As a consequence, we have amended the proposal to include a requirement that unsafe to tag animals must be visibly identifiable (that is, clearly marked). We do not propose prescribing how this marking may be done).

Provision of life history data

In the discussion document we included a proposal to amend the existing provision relating to PICAs getting the location history of an animal, to '*allow the life history of data to be provided to a PICA as a potential seller of a NAIT animal.*' This was intended to strengthen one of the intended benefits of the scheme for PICAs, which is to enable them to see an animal's history before they buy it, to inform their purchase decision and thereby manage their own biosecurity risks.

While the majority of submissions supported the proposal, feedback from stakeholders identified that this proposal would only be effective if the sellers of animals willingly shared the information with potential buyers. The recent disease outbreak has made farmers wary, and the seller may not be willing to share it. Moreover, the Ministry of Justice had

reservations over making the failure of a citizen to provide information to another citizen an infringement offence.

As a consequence, we now propose to 'enable a seller to make available the NAIT location history to purchasers of NAIT animals.' there will be no associated infringement offence. We anticipate a prudent purchaser will want to receive this information from a seller. By clarifying that a seller can do so and enabling it to be done easily via their NAIT database account, we expect the exchange of animal location information will become standard industry practice to support the sale and purchase process.

Withdrawn option

Separation of untagged animals

In the consultation document we proposed that untagged animals arriving at a NAIT location should be separated from other animals. This would mirror the practice seen during the *Mycoplasma bovis* response where cattle from infected farms were segregated on arrival at stockyards, and is good general on-farm biosecurity practice.

The main feedback received was that it became irrelevant where transporters would be picking up animals from multiple farms, and so animal co-mingling would already have taken place by the time the animals arrive at their destination. In addition, where a consignment of animals may include one or two without tags, submissions raised health and safety concerns about trying to separate stressed and excitable animals from the herd. For these reasons, MPI recommends not taking this proposal forward. The indirect benefits of improving compliance with tagging requirements would be met by a number of the other proposals, including making it an offence to transport untagged animals that do not have an exemption.

Consideration of relevant experience from other countries

The independent NAIT Review commissioned by OSPRI in 2016 to evaluate NAIT's performance included an international comparison of traceability systems. It specifically considered livestock identification and traceability systems in Australia, Canada, the European Union and the United Kingdom and compared them with New Zealand's system.²¹

This assessment helped inform the development of the Review's recommendations, including the proposed legislative changes that are the subject of this RIA.

²¹ See OSPRI, *NAIT Review: Final Report for Government on the Recommendations* (29 March 20128) pp 18-21, 40

.2 What criteria, in addition to monetary costs and benefits, have been used to assess the likely impacts of the options under consideration?

MPI's assessment of the options has used the following criteria, which have been given equal weighting.

Effectiveness: Contribution to policy outcomes and objectives. In particular:

- a. to improve how New Zealand manages biosecurity risk
- b. enhance the traceability of NAIT animals
- c. improve regulated parties' compliance with NAIT obligations
- d. work alongside NAIT-related legislation, in particular the Biosecurity and Animal Products Acts.

Proportionality: The regulatory burden (cost) is proportional to the benefits that the proposed change is expected to deliver.

Certainty (including accountability):

- a. regulated parties have certainty about their legal obligations and the regulatory system provides predictability over time
- b. legislative requirements are sufficiently clear to be applied consistently and fairly
- c. regulators can justify their decisions and are subject to public scrutiny
- d. all participants in the regulatory system understand their roles, responsibilities and legal obligations.

Durability: The legislative framework enables:

- a. the regulatory system to evolve in response to changing circumstances or new information on system performance.
- b. the regulator (the NAIT organisation) to adapt its approach to the attitudes and needs of different regulated parties (PICAs)
- c. regulated parties have scope to adopt cost effective and innovative approaches to meeting their legal obligations.

Practicality/risk: These criteria includes:

- a. meeting legislative requirements is feasible
- b. the implementation risks are low or within acceptable parameters
- c. implementation can be achieved within reasonable timeframes
- d. the risk of perverse incentives and unintended consequences is low.

3.3 What other options have been ruled out of scope, or not considered, and why?

Other issues not being addressed through legislative change

MPI's discussion paper sought views on other possible improvements to the NAIT Act including:

- the wider role of transporters in the NAIT scheme
- the role of stock agents and traders
- the inclusion of other species in NAIT.

Following consultation, MPI has determined that legislative change in these areas is not required at this time. Instead, MPI will progress discussions with the transport industry to ensure that in the event of a biosecurity incursion, transporters will be able to provide the information required swiftly and efficiently. Likewise there is scope to progress operational initiatives to confirm the role, responsibilities and good operating practices of stock agents

and traders. Finally, while there is value in extending the NAIT Act to cover other species in time, MPI's assessment is that this should only take place after the issues with the current scheme have been addressed.

Transport operators

Under the NAIT Act transport operators are currently exempt from taking a role as PICAs, and when an animal is moved it is the sending and receiving PICAs who have responsibility for recording the movement, regardless of the route the animal takes to get there.

In the event of a biosecurity incursion, however, if animals co-mingle on a truck or at transit stops this information would be important in responding to and tracing the disease. One way to source this information could be to require transporters to submit information to NAIT on where the trucks have stopped, or to pass this on to PICAs so they can submit the information.

While there was broad support for the need for information on the co-mingling and route of animals being transported between NAIT locations, a common concern was the cost and complexity of capturing this data through NAIT.

Given the issues raised through the consultation process and the broad lack of support for giving transporters a specific role in the scheme, MPI has not recommended regulatory change in this area. Instead MPI considers further discussions with the transport industry are needed to make sure that, in the event of a biosecurity incursion, they will be able to provide the information required swiftly and efficiently. For example, a form of Memorandum of Understanding may be helpful in setting expectations on both sides about what would be requested in the event of a disease outbreak.

Stock agents and traders

Stock agents and traders often play a critical role in the NAIT scheme, operating in numerous settings, and many take their obligations seriously. However, MPI has heard reports that some stock agents are not conducting themselves as they should, for example actively masking the origin of an animal in order to protect their future business. We asked some questions in the discussion document around whether stock agents and traders should be given a specific role in the NAIT scheme to regulate how they operate in relation to the scheme.

The experience reported through the public consultation process is variable, and there seems to be some confusion about whether stock agents or PICAs are responsible for complying with NAIT. As expected, the roles in the NAIT scheme taken by stock agents and traders vary, which makes it difficult to establish a one-size-fits-all solution.

MPI has not recommended taking forward legislative proposals for stock agents and traders, as the issues can be addressed through operational changes. These include NAIT Ltd drafting a new Standard that will apply to organisations wishing to complete only the animal movement record on behalf of PICA. In addition, the industry association has developed a voluntary code of conduct for stock agents and traders, which needs time to bed in.

Inclusion of other species

The NAIT scheme was originally envisaged as covering more animal species than just cattle and deer, and the Act currently permits their inclusion. In the event of a cross-species disease incursion such as foot and mouth, knowing the location and movement history of other species such as sheep and pigs would be beneficial for the response.

The inclusion of other species in NAIT could take a different form to cattle and deer, which are tagged individually. Other species could be included at property level, mob level or individually.

Most submissions on the consultation highlighted the current weaknesses in NAIT and said they thought the existing scheme needs to be strengthened and working well before considering extending it. Of those submissions that gave a view on which species should be considered for inclusion, sheep, goats, pigs and camelids were common answers. Farm or mob-level information was favoured, with very little support for individual tagging of these animals.

MPI considers that - in line with the original intention of the scheme and given the biosecurity benefits - other animal species should be brought into NAIT in the future. However, the existing scheme needs to be improved before this happens.

The NAIT scheme can be extended to include other species in the future through an Order in Council amending the schedule to the NAIT Act. It does not require change to the NAIT Act.

There would, however, be value in signalling to the livestock sector that the government intends to include other animals in the NAIT scheme in the future, after a formal policy process that includes opportunity for further sector input.

Section 4: Impact Analysis

Marginal impact: Summary assessment of how options identified in section 3.1 compare with the status quo using the criteria set out in section 3.2.

Key: ++ much better than doing nothing/the status quo; + better than doing nothing/the status quo; 0 about the same as doing nothing/the status quo; - worse than doing nothing/the status quo; -- much worse than doing nothing/the status quo.

Group 1: Improve tagging to enhance traceability				
	Status Quo	1.1 Tag linked to specific location	1.2 Declaring movement of unsafe to tag animals changed from '48 hours prior' to 'before sending.	1.3(a) Rename the 'Impracticable to tag' exemption as 'unsafe to tag'
Criterion: Effectiveness	0	++ Enhances traceability. Encourages compliance by providing greater consequences for non-compliance and clarifying requirements.	+ Continues to ensure a record is maintained of untagged animal movements	+ Change to 'unsafe to tag' should reduce the number of exemptions required.
Criterion: Proportionality	0	++ No significant additional cost of using tags at a specified location, as 12 month phase in period & NAIT Ltd will provide ability to reallocate tags to another location. New offence only applies if PICAs are non-compliant. Minimal additional costs more than offset by significant benefits of more accurate traceability.	+ No additional costs and greater likelihood of improved compliance with reporting requirements	+ Added cost proportionate to the anticipated benefit (improved compliance resulting in enhanced traceability).
Criterion: Certainty (incl. Accountability)	0	+ Clarifies requirements around use of tags at specified locations and signals intent to enforce tagging requirements prior to movement. However, application of the legislation & enforcement of the new offence will depend on the operational response of regulators.	0 No additional impact from status quo on certainty of regulatory response or accountability for meeting legal obligations	+ Change to 'unsafe to tag' provides more clarity to PICAs & regulator on which animals should be exempt from tagging.
Criterion: Durability	0	0 No significant change from status quo in enabling regulator or regulated parties to respond to changes in the environment or adopt cost effective responses to requirements.	+ Changing the declaration timeframe provides PICA with more flexibility in how they meet their regulatory requirements. (It is however, a temporary fix as it will become obsolete once the exemption is removed (see proposal 1.3)).	0 Changes have no impact on durability of the legislation.
Practicality/ Risk	0	- Implementation risk low but greater than status quo. NAIT Ltd need to enable reallocation of tags which has some risk associated with system changes and their application. Also a compliance issue when PICA operates different LINZ land parcels within a 10k radius, although this issue exists currently.	+ Easier to comply with reporting requirements as animals are often mustered less than 48 hours before transportation	- Low risk. Developing common understanding and application of 'unsafe to tag' is an implementation issue. Coverage for fallow deer which are 'impracticable' to tag will still need to be addressed as a specific exemption.
Overall assessment	0	++ Cost effective initiative that is of net benefit compared with the status quo.	+ Cost effective initiative that is of net benefit compared with the status quo.	+ Cost effective initiative that is of net benefit compared with the status quo.

Group 1: Improve Tagging to enhance traceability (continued) Proposal 1.3(b) remove the exemption relating to unsafe to tag animals			
	Status Quo	Option A: Phase the unsafe to tag exemption out over 12 months	Option B: Remove the exemption five years after the amendment bill is passed.
Criterion: Effectiveness	0	++ Reduces number of untagged livestock, enhancing traceability, and enables farm to farm transport.	+ Reduces number of untagged livestock, enhancing traceability, and enables farm to farm transport. However, a longer a longer phase out period means the benefits take longer to realise.
Criterion: Proportionality	0	-- Significant costs associated with early implementation may outweigh added biosecurity benefit given 'unsafe to tag animals only permitted to be transported to meat processors under status quo'. ²²	- Additional costs need to be weighed against the additional biosecurity benefit, given 'unsafe to tag' animals are only permitted to be transported to meat processors under status quo ²³
Criterion: Certainty (incl. Accountability)	0	+ Provides greater clarity on tagging requirement, removing any doubt. Provides greater certainty around the consequences of non-compliance.	+ Provides greater clarity on tagging requirement, removal of any doubt. Provides greater certainty around the consequences of non-compliance. Likely to result in increased PICA compliance.
Criterion: Durability	0	0 No significant change.	0 No significant change.
Practicality/ Risk	0	- Is a requirement in some overseas jurisdictions. Limited phase in period would mean many PICAs would need to arrange for 'unsafe to tag' animals to be tagged. There is an increased risk that PICAs may use unsafe practises to meet the requirement.	0/- Is a requirement in some overseas jurisdictions. Phased implementation reduces implementation costs and issues. Some increased risk, however, that PICAs may use unsafe practises to meet the retagging requirement
Overall assessment	0	0/- The added costs to PICA associated with the early phase out of the exemption from unsafe to tag stock together with the estimated ongoing costs, may outweigh the additional biosecurity benefits.	+ While PICAs will incur added costs retagging animals that lose their original tags at a point in their lifecycle when they are considered a safety risk, the proposal is assessed as having an overall net benefit. It is likely to result in greater overall compliance with tagging requirements and enhance the effectiveness of the tracing system.

²² The cost to PICAs of using a vet to tag the estimated population of 'unsafe to tag' NAIT animals could be between \$10.4 million and \$15.9 million if vets' visits were not undertaken in conjunction with other scheduled visits. If tagging of 'unsafe to tag animals could be scheduled to occur in conjunction with other vets visits the cost could be reduced to around \$5 million. There would also be an ongoing annual cost associated with re-tagging animals that lost their tags and were considered unsafe to tag at that point. This ongoing annual cost is estimated to be between \$94,000 - \$845,000 per annum (assuming the use of vets to tag these animals). Note these estimated costs are based solely on the use of vets to sedate and tag 'unsafe to tag' animals. It does not estimate the overall costs if PICAs choose to tag these animals themselves using on-farm safety equipment (for example a cattle head-stop). Such an approach would reduce the monetised cost to the PICA of engaging a vet, but may increase the risk of injury with subsequent lost productivity and ACC costs. The more detailed assumptions underpinning these estimates are included in Appendix A.

²³ Because PICA would not be required to tag current 'unsafe to tag' animals, they would avoid the estimated \$5million to \$15.9million one off costs associated with phasing out the tag exemption over 12 months. They would still face the ongoing annual cost associated with retagging animals that lost tags and at that point were deemed unsafe to tag, estimated to be between \$94,000 and \$845,000.

In confidence

Group 2: Improve the incentives to comply with NAIT requirements				
	Status Quo	2.1 Enable a seller to make location history available to a purchaser.	2.2 & 2.3 Align penalty limits and infringement fees with Biosecurity and Animal Products Acts	3.4 Offence to transport untagged animals without an exemption
Criterion: Effectiveness	0	++ Helps inform the purchasing decision and enables PICAs to manage their own biosecurity risks. Will act as another incentive to ensure animals are tagged and full life history is available.	+ Gives judges more scope to apply a penalty commensurate to the level of offending. Underscores seriousness of non-compliance and provides an increased deterrent.	+ Enhances traceability. Encourages compliance by providing greater consequences for non-compliance and clarifying requirements.
Criterion: Proportionality	0	++ Limited additional cost in providing the information. Added cost proportionate to the anticipated benefit (improved awareness of animal life-history, improved compliance enhancing traceability).	+ Increase in penalties limits and the new offence only constitute an additional cost for non-compliant PICAs. Added cost proportionate to the anticipated benefit (improved compliance resulting in enhanced traceability).	0 New offence requires a change in practice that is likely to add to compliance costs. The extent of the added cost will depend on the practices adopted by transporters & PICAs which at this time are uncertain. Our initial assessment is that these costs are likely to be proportionate to the anticipated benefit, provided PICAs are required to provide assurance to transporters that each animal in a consignment is either tagged or has an exemption.
Criterion: Certainty (incl. Accountability)	0	+ Clarifies the requirement to make NAIT data available to inform purchasing decisions.	0/+ Signals intent to enforce requirements and potential for increased consequences. However, application of the new penalty and offence limits will depend on the operational response of regulators and the judiciary.	+ Creation of a new offence imposes an additional responsibility on the transporter, while PICAs are still held accountable for tagging all animals under other offence and infringement provisions.
Criterion: Durability	0	0 No significant change to the status quo.	0/+ Provides greater flexibility to regulator and judiciary to respond to actions of regulated parties. No significant change from status quo in enabling regulated parties to respond to changes in their business environment or adopt cost effective responses to requirements.	0/+ Approach to ensuring NAIT animals are tagged prior to transportation will not be prescribed, providing flexibility to regulated parties (transporters & PICAs) in terms of how they meet the requirement).
Practicality/ Risk	0	- Implementation risk low but greater than status quo. Operational policies and procedures to enable cost-effective transmission of information between parties will need to be established and implemented by NAIT Ltd	- Implementation risk low but greater than status quo.	- Medium risk: The introduction of the offence requires a change in PICA and transport practices. MPI and NAIT Ltd will need to work with transporters and PICAs to ensure they are aware of the requirement and help facilitate the introduction of good practices that ensure untagged animals are not transported either farm to farm, from farm to sale-yard, or from farm to meat processors where they do not have an exemption.
Overall assessment	0	++ Cost effective initiative that is of net benefit compared with the status quo.	+ Cost effective initiative that is of net benefit compared with the status quo.	0/+ Initiative is likely to be cost effective and of net benefit compared with the status quo, provided compliance practice is based on the PICA providing assurance to the designated transporter.

Group 3: Strengthening the Scheme			
	Status Quo	3.1 PICA Definition	3.2 Report Annually on non-NAIT Species
Criterion: Effectiveness	0	+ Ensures that the obligations under the NAIT Act apply to all participants performing functions of a PICA, including corporate entities. Will ensure that in cases of systematic non-compliance corporates can be held to account rather than regulatory action being limited to an individual. Should improve compliance and improve the effectiveness of the traceability scheme.	+ Compulsory annual return on other species at a NAIT location will provide a more comprehensive record than the status quo that can be drawn on for biosecurity purposes if required.
Criterion: Proportionality	0	+ No significant additional costs, but delivers benefits in terms clearer accountabilities and as a result enables improved compliance.	+ Because 55% of PICAs already provide voluntary returns and most report similar data for tax purposes the additional cost (time to complete return) is very low ²⁴ in relation to the added benefit gained from a more comprehensive annual survey of the location of other species.
Criterion: Certainty (incl. Accountability)	0	+ Clarifies roles & responsibilities of NAIT scheme participants (individuals & corporates).	+ Proposal clarifies the responsibility of PICAs to provide information by making it compulsory. Response to non-compliance remains an operational matter.
Criterion: Durability	0	+ Broadening definition of PICA provides more flexibility in terms of how PICAs obligations are met and enforced.	0 No significant difference to the status quo in enabling the system to evolve or enabling regulated parties to adopt cost-effective approaches to meeting obligations.
Practicality/ Risk	0	+ No significant implementation issues. Implementation risks assessed as very low.	+ Low implementation risks, given data already provided on voluntary basis by 55% of PICAs and also gathered for tax return purposes.
Overall assessment		+ Cost effective initiative that is of net benefit compared with the status quo.	+ Cost effective initiative that is of net benefit compared with the status quo.

²⁴ Our indicative estimate of the additional cost to PICAs is \$356,400 per annum, assuming (88,000 PICA's x 45% not currently providing returns voluntarily x \$9 (\$ value assumes completing the annual return takes 20 minutes and values that time at the average hourly earnings in the agricultural sector which is estimated to be \$26.21 per hour).

In confidence

	Status Quo	Group 4: Improve access to & streamline the use of NAIT data	Group 5: Improve the performance management framework for a NAIT Organisation
Criterion: Effectiveness	0	++ Enables significant improvements to ease of access & use of data, enabling more efficient and effective use by MPI, local Animal Control Officers and the Police.	++ Enables more effective performance monitoring and graduated response by the Biosecurity Minister in the event of unforeseen changes in the operational environment or operations of a NAIT organisation.
Criterion: Proportionality	0	++ Relatively low cost of system changes and user training – which are to be met from within existing operating budgets – is more than offset by improved efficiency and effectiveness for MPI, Police, Council Animal control officers and any other users.	++ Very low implementation costs in return for significant improvements in accountability which enable appropriate Ministerial intervention if circumstances require.
Criterion: Certainty (incl. Accountability)	0	+ Clarifies data access requirements and enables NAIT Ltd to provide access in a consistent manner for the purposes intended.	+ Clarifies accountability arrangements between a NAIT organisation and the Biosecurity Minister. Provides greater certainty around the role and powers of the Minister and the performance requirements that a NAIT organisation must meet. Application of the new provisions is dependent on the approach adopted by the parties.
Criterion: Durability	0	+ Enables greater flexibility around the way in which users can access NAIT data.	+ Improves the flexibility available to the Minister and a NAIT organisation to respond to unanticipated changes in the business environment or the performance of a NAIT organisation.
Practicality/ Risk	0	+ Low implementation risk - system already largely enabled to meet requirements if legislation is enacted. Tailored log-in portal will need to be created for MPI and staff training provided. NAIT Ltd to maintain measures to ensure PICA privacy requirements are met.	++ No significant implementation risks. NAIT Ltd is able to leverage existing accountability arrangements and MPI can adapt and apply standard monitoring mechanisms that apply to state entities.
Overall assessment	0	++ Cost effective initiative that is of net benefit compared with the status quo.	++ Cost effective initiative that is of net benefit compared with the status quo.

Key:

++ much better than doing nothing/the status quo; + better than doing nothing/the status quo; 0 about the same as doing nothing/the status quo; - worse than doing nothing/the status quo; -- much worse than doing nothing/the status quo.

Section 5: Conclusions

5.1 What option, or combination of options, is likely best to address the problem, meet the policy objectives and deliver the highest net benefits?

The proposed approach

MPI's recommended approach is to proceed with the full package of legislative changes covering:

- improving tagging
- improving the incentives to comply with NAIT requirements
- ensuring the scheme is fit for the future
- improving access to and streamlining the use of NAIT data
- improving the performance management framework for a NAIT organisation.

Rationale

Improved effectiveness enables better biosecurity risk management: The proposed package will enable more effective delivery of the NAIT scheme, which will help manage the risk posed by biosecurity incursions or contamination scares. More effective animal tracing will help reduce the breadth and length of disease outbreaks by identifying where at-risk livestock are in a timely manner and helping to control the movement of stock.

The additional costs are low in comparison to the anticipated benefits: The establishment and ongoing operating costs associated with these measures are relatively low in comparison with the anticipated improvements in the NAIT scheme's performance.

Greater certainty is provided to scheme participants through clarifying requirements, compliance and accountability arrangements. Many of the elements in the package clarify and reinforce compliance with the NAIT Act's original objectives. The package clarifies the roles and responsibilities of key participants in the regulatory system including PICAs, NAIT Ltd, and MPI.

The changes provide greater flexibility to PICAs, NAIT Ltd, and the Minister for Biosecurity in how they perform their roles, which enhances the durability of the NAIT system: Ensuring it is clear that the definition of PICAs includes bodies corporate, and changing the movement declaration timeframe for an untagged animal provide more flexibility to PICAs in how they meet their regulatory requirements. The proposed offence for transporting untagged animals is outcome focused and will not prescribe how transport operators and PICAs meet the requirement. The performance management framework proposals will provide more flexibility to the Minister and the NAIT organisation to respond to unanticipated changes in the business environment or the performance of a NAIT organisation. Overall, greater flexibility is likely to improve the durability of the NAIT system.

Implementation is straightforward and our assessment suggests the risks are low: NAIT Ltd has advised that it is well placed to implement the proposed operational changes and MPI is ready to meet its responsibilities.

Confidence in assumptions and the evidence base

MPI considers there is an adequate evidence base for the proposed changes to the NAIT legislative framework.

The proposals address shortcomings in the current system identified through the industry's NAIT Review (which spent two years involving the sector and assessing the scheme's performance, and made several recommendations for change) and MPI policy work

undertaken as part of the response to the *Mycoplasma bovis* outbreak.

The policy options arising from the independent Review and MPI's policy development process were tested in an extensive stakeholder consultation process that tested our assumptions. As already noted, feedback received was instrumental in shaping the final package of proposed changes to the NAIT legislation.

Stakeholder support

Key stakeholder groups have acknowledged the need to make further improvements to the NAIT scheme and see value in the intent of most of the specific proposals outlined in MPI's consultation paper. Stakeholder feedback and further analysis has led MPI to modify particular proposals relating to traceability and improving the incentives to comply with NAIT requirements. We have also decided not to progress a proposal relating to the separation of untagged animals. While transport operators have expressed concern about the proposal to make it an offence to transport untagged animals without an exemption, on balance we consider the benefits to the scheme outweigh the anticipated additional compliance costs.

NAIT Ltd's Board, shareholders and Stakeholder Council are uncertain that any change to the performance framework in the NAIT Act is necessary, but accept that some changes will be made. Given the Crown's ongoing annual contribution to NAIT Ltd's budget and NAIT Ltd's accountability for delivering statutory functions that make a key contribution to New Zealand's biosecurity, MPI considers the proposed measures to enhance accountability and enable earlier and graduated interventions by the Minister in response to performance risks or concerns are both prudent and reasonable.

5.2 Summary table of the margin costs and benefits of the preferred approach

Affected parties	Comment	Impact	Evidence certainty
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Additional costs of proposed approach, compared to taking no action

Regulated parties: - PICA	Some additional time required to comply with new requirements, including completing an annual return on non-NAIT animals, providing information on request to potential buyers of stock, and completing a transportation declaration. Additional costs from purchase of new transport declaration forms, higher infringement fees and penalty limits incurred by non-compliant PICAs.	Low	Medium
Regulated parties: - Transport operators	Additional time required to comply with new requirements, including possible retention of transport declaration forms. Additional costs from infringement fees incurred by non-compliant transport operators.	Low-Medium	Low ²⁵

²⁵ The proposed legislation will not prescribe how transporters must ensure they are not transporting animals that are not tagged or exempt from tagging. Further implementation work will be needed to support this new requirement. There is therefore some uncertainty around the additional costs they will incur. If, however, good practice is based around the PICA providing assurance to transporters that NAIT animals are tagged or have an exemption, then the additional cost to transporters should not be significant.

Regulator - NAIT Ltd	Cost of system changes and provision of user training for data access. Some additional staff time is required to engage with MPI and the Biosecurity Minister on performance management and reporting issues. System improvement costs to be met from within forecast budget baseline expenditure. No requirement to increase NAIT levy to cover costs of implementing legislative changes.	Low	Med-High
Regulatory steward: - MPI	Cost of additional performance monitoring and staff training related to data access. Costs associated with stakeholder communications on the changes, staff training on NAIT data access, and giving effect to the performance management framework changes, including provision of advice to the Minister, will be met from within existing baseline operating budgets.	Very Low	Med-High
Wider government: - Local Gov't - Police	Cost of attending training on access & use of data	Very Low Very Low	High High
Meat processors	No additional costs	None	High
Meat exporters	No additional costs	None	High
Total Monetised Cost		Low	Medium
Non-monetised costs		Low	Medium

Expected benefits of proposed approach, compared to taking no action

Regulated parties: - PICA	<p><i>Reduction in lost sales:</i> A more effective animal tracing system reduces the risk to farmer <i>livelihoods</i> and income from a biosecurity outbreak by providing information that helps to reduce its scale and duration.</p> <p><i>Price premiums:</i> Improved lifetime traceability contributes to achieving premium prices for livestock. (Price per kilo not discounted for untagged animals or animals without full traceability).</p> <p><i>Reduced slaughter levy:</i> Improved compliance means reduced ITT slaughter levy for untagged animals.</p> <p><i>Improved stock protection:</i> Improved access to NAIT data provides assurance of the provenance of stock at time of purchase.</p> <p><i>Reduced stock losses:</i> Improved access and streamlined use of data enable <i>earlier</i> return of wandering or stolen stock.</p>	Medium	Medium
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Regulators: - NAIT Ltd	<p><i>Improved dataset:</i> Improved compliance enabled by the <i>legislative</i> changes will result in NAIT Ltd being able to maintain a more complete NAIT dataset.</p> <p><i>Efficient & effective compliance management:</i> Clarifying the definition of PICAs and improving the incentives to comply with NAIT requirements enables NAIT Ltd to deliver more efficient and effective compliance management services.</p> <p><i>Efficient administration:</i> Improved incentives for compliance should result in greater voluntary <i>compliance</i> which supports more efficient administration of the NAIT system.</p> <p><i>Efficient administration:</i> Enabling the streamlining of data access arrangements should reduce data request processing costs.</p> <p><i>Accountability:</i> Improvements to the performance <i>management</i> framework provide greater clarity and certainty around NAIT Ltd's accountability arrangements.</p>	Medium	Med-High
Regulatory Steward: - MPI	<p><i>More efficient compliance management:</i> Clarifying the definition of PICAs and improving the incentives to comply with NAIT requirements <i>enables</i> MPI to provide more efficient and effective compliance management services.</p> <p><i>More efficient & effective delivery of biosecurity services:</i> Improved NAIT compliance <i>and</i> direct access to NAIT data enables more efficient and effective delivery of MPI's biosecurity responsibilities.</p> <p><i>More efficient & effective regulatory stewardship:</i> Improvements to the performance management framework enables more effective regulatory stewardship.</p>	Medium	Med-High
Wider government: - Local Gov't	<i>More efficient management of wandering stock:</i> Time and cost savings from easier access to <i>NAIT</i> data to assist in the return of wandering stock.	Low-Medium	High
Wider government: - Police	<i>More efficient policing of stock theft:</i> Time and cost savings from being able to access NAIT data when dealing with stolen or wandering stock.	Low-Medium	High
Meat Processors	<i>More efficient processing:</i> Improved NAIT compliance rates increases the efficiency of livestock <i>processing</i> at meat works.	Med-High	Med-High

Meat Exporters	<i>Reduction in lost sales:</i> A more effective animal tracing system supports a more effective <i>biosecurity</i> response, which in turn reduces the time access to export markets may be denied as a result of an adverse biosecurity or food safety event.	Medium	Med-High
Total Monetised Benefit		Medium	Medium
Non-monetised benefits		Medium	Medium

5.3 What other impacts is this approach likely to have?

Risks & uncertainties:

Compliance: The level of improved compliance with NAIT requirements arising from the implementation of the proposed legislative changes is uncertain. Compliance levels will be subject to ongoing monitoring by NAIT Ltd and MPI that will inform their compliance management activities.

Stock agents and traders: The unintended consequence of an adverse impact on stock agents as a result of better PICA access to NAIT information is uncertain and relates to the increased potential for farmers to purchase NAIT animals directly rather than using a stock agent's services. The likelihood of this occurring is assessed as relatively low as data provided to buyers from the scheme will relate to animal location history rather than the owner or PICA selling the animal. No additional action is proposed to mitigate this risk. If the removal of information asymmetries to support improved biosecurity outcomes has the unintended consequence of improving market efficiency, this is likely to generate a net benefit to the livestock sector.

Implementation risks: The risks associated with implementing the changes – which include NAIT Ltd implementing systems and business changes, communicating changes to PICAs and other key stakeholders, and giving effect to the enhanced accountability arrangements by NAIT Ltd and MPI, have been assessed by both organisations as low. Risks will be monitored and addressed through both organisations' NAIT programme implementation plans.

5.4 Is the preferred option compatible with the Government's 'expectations for the design of regulatory systems'?

MPI's approach is aligned with the guidance provided in *Government Expectations for Good Regulatory Practice* (April 2017)

Section 6: Implementation and operation

6.1 How will the new arrangements work in practice?

An amendment bill and amendment regulations will be required to enact the proposals discussed in this RIA. The proposed NAIT Amendment Bill is category 2 on the Government Legislation Programme for 2019, which would result in the legislative process being completed by the end of the 2019 calendar year.

The proposals are relatively straightforward to implement. MPI and NAIT Ltd will work together to ensure the changes are implemented in a timely and cost-effective manner. NAIT Ltd is already progressing some system development work as part of its ongoing business process improvement programme, in the anticipation of the legislation being enacted.

MPI and NAIT Ltd will need to work with the transport industry to develop operational guidance for affected parties to support the implementation of the new requirements.

A communications programme to ensure that all affected parties are aware of the changes and their responsibilities will be developed and implemented by MPI and NAIT Ltd, in consultation with DairyNZ, Beef+Lamb New Zealand, and Deer Industry New Zealand.

Most of the amendments will come into effect immediately the legislation is passed, but there will be a transition period for using up existing tags that cannot be reassigned, and there will be a provision revoking the unsafe to tag exemption five years from the bill's enactment.

Proposal Grouping	Implementation timeframe
<p><i>1 To improve tagging of current NAIT animals to enhance their traceability</i></p> <ul style="list-style-type: none"> - 1.1 Require that a PICA must only use NAIT tags at the specific location they were issued for, with a 12 month transition period and an associated offence provision. - 1.2 Change the timeframe for when a PICA must declare the movement of unsafe to tag animals from '48 hours prior' to 'before sending'; and set a requirement that unsafe to tag animals must be visibly identifiable (that is, clearly marked); and provide an associated infringement offence. - 1.3 (a) Rename the 'impracticable to tag' exemption as 'unsafe to tag' (with the sole criterion that the safety of the PICA is at risk), 1.3 (b) and remove the exemption five years after the amendment bill is passed 	<p>Immediately upon enactment apart from:</p> <ul style="list-style-type: none"> 1.1 Which will have a 12 month transition period 1.3 Which will remove the exemption five years after the amendment bill is passed.
<p><i>2 To improve the incentives to comply with NAIT requirements</i></p> <ul style="list-style-type: none"> - 2.1 Enable a seller to, on request, make the location history of a NAIT animal available to a purchaser of that animal. - 2.2 Align penalty limits with those in the Biosecurity and Animal Products Acts. - 2.3 Align infringement fees with those under Biosecurity and Animal Products Acts. - 2.4 Make it an offence to transport an untagged animal that does not have an exemption. 	<p>Immediately upon enactment.</p>

<p><i>3 To ensure the scheme is fit for the future</i></p> <ul style="list-style-type: none"> - 3.1 Amend the definition of PICA to clarify that the responsibilities apply to everyone in charge of NAIT animals. - 3.2 Require PICA's to report annually the presence and estimated numbers of non-NAIT animal (such as sheep, goats, pigs) at a NAIT location, to assist biosecurity responses. 	<p>Immediately upon enactment but in the case of annual reporting in accord with the timeframes specified in legislation</p>
<p><i>4 To improve access to and streamline the use of NAIT data</i></p> <ul style="list-style-type: none"> - 4.1 Amend the Act's purposes of holding the data to include responding to stock theft and wandering stock. - 4.2 Enable all public sector organisations to apply for access to NAIT core data for the purposes of the Act - 4.3 Improve access to NAIT information by MPI staff designated by the Director General, and facilitate its use by other authorities. 	<p>Immediately upon enactment</p>
<p><i>5 To improve the performance management framework for a NAIT Organisation</i></p> <ul style="list-style-type: none"> - 5.1 Allow the Minister to, from time to time, formally inform the NAIT Board of government priorities and expectations - 5.2 Set the expectation that a NAIT organisation will keep the Minister informed on its performance in delivering its statutory duties and functions. - 5.3 Amend the threshold for ministerial intervention in section 9 of the Act to include the non-performance of one or more statutory duties and functions that impact the integrity or effective operation of the scheme, and to allow earlier and graduated actions when needed; - 5.4 Include a power for the Minister to issue, amend or revoke 'directions' in relation to the performance of a statutory function or duty or the exercise of a power, with the commensurate safeguards of a requirement to consult the NAIT Board and to table the direction in Parliament - 5.5 Allow the Minister if s/he wishes, informed by an assessment by the Director-General of the Ministry for Primary Industries, to appoint a representative for a specified term whose functions are to observe the decision-making processes and decisions of the Board, help the Board understand the policies and priorities of the Government, and advise the Minister on any matters relating to the Board or its performance, and ensure this representative may attend any meeting of the Board and will be provided with copies of all information that is supplied to Board members; 	<p>Immediately upon enactment with specific requirements in accord with timeframes agreed between the parties.</p>

The implementation timeframes are designed to ensure all affected parties have sufficient time to understand and then meet their responsibilities.

6.2 What are the implementation risks?

Risk of data misuse and consequent non-compliance by PICAs

Some stakeholders have expressed concern that as a result of the proposed changes to data access, there is a risk that NAIT data could be used for purposes other than those intended by the NAIT Act. For example, the information could be used by Inland Revenue, or by regional councils to assess compliance with Resource Management Act requirements. The perception that data could be misused brings the risk that as a consequence PICAs may not comply with all their regulatory requirements.

The likelihood of the data being misused is assessed as low. Access to NAIT data will continue to be overseen by NAIT Ltd's Data Management Advisory Panel and government agencies, including IRD and regional councils, are unable to access and use NAIT data for purposes other than those in the Act. Moreover, we anticipate NAIT Ltd and MPI will ensure their data management arrangements have appropriate checks and balances in place to manage the release of NAIT data.

The risk of PICA non-compliance as a result of their concerns about the risk of data-misuse by government agencies is assessed as moderate if not mitigated. The communication programmes implemented by NAIT Ltd and MPI to support the implementation of the legislative changes, will need to address the issue by highlighting the checks and controls, including legislative protections, that are in place to allay stakeholder concerns.

New transportation declaration

There is a risk that PICAs may mistakenly consider that the provision of a declaration to transporters certifying that all animals in a consignment are either tagged or have an exemption, meets their requirement to inform NAIT Ltd of the animal movement. This risk will be mitigated through the practice guidance MPI and NAIT develop and the associated communications programme.

Information sharing at time of sale

Stakeholders have noted that enabling improved access to NAIT animal data at the point of sale to confirm the provenance of livestock may increase the likelihood of farmers purchasing NAIT animals directly rather than using the services of a stock agent. It could also result in PICAs and stock agents seeking to mask the identity or point of origin of animals, which would be - as now - illegal.

More direct farmer to farmer sales would be an unintended consequence of the proposal to make the NAIT location history available to the purchaser. The likelihood of this occurring is assessed as relatively low as the data provided to buyers from the NAIT system will relate to the NAIT location history rather than the owner or PICA selling the animal. Moreover, a stock agent's value includes the time they save a purchaser locating suitable livestock which may need to be sourced from more than one provider.

We do not propose any mitigation measures to reduce the likelihood of direct sales. If access to NAIT data to support improved biosecurity outcomes has the unintended consequence of improving market efficiency (by removing information asymmetries), this is likely to be a net benefit to the livestock sector.

The risk of sellers or stock agents masking the origin of animals will be mitigated by implementation of an agreed action plan by NAIT Ltd and MPI which includes:

- NAIT Ltd focusing on informing and educating PICAs on their responsibilities and the benefits of the system, field extension and inspection, reporting, monitoring and application of notices of direction; and
- MPI devoting additional resources to support field inspection, infringement and prosecution related activities.

Section 7: Monitoring, evaluation and review

7.1 How will the impact of the new arrangements be monitored?

MPI oversees the biosecurity system, of which the NAIT scheme is a part. The Ministry will monitor the implementation of the proposed legislative changes as part of its:

- ongoing monitoring and evaluation of biosecurity legislation
- annual regulatory scanning and planning
- performance management and monitoring arrangements with NAIT Ltd
- regulator stakeholder engagement forums.

Both MPI and the NAIT Board are responsible for ongoing monitoring of feedback from system participants on how changes are working and whether they are fit for purpose.

NAIT Ltd will also be developing its performance monitoring and reporting, including a new series of key performance indicators for the NAIT scheme. These will help measure how NAIT is working, including the effectiveness of the proposed legislative package of changes.

7.2 When and how will the new arrangements be reviewed?

A further review of the NAIT legislation has not been scheduled at this time.

The ongoing monitoring of the NAIT scheme - which includes the implementation of the legislative and regulatory changes outlined in the RIA - will enable MPI to:

- identify any issues that prompt the need for policy work leading to further legislative or regulatory change, or
- suggest the system is sufficiently well developed that the timing is right to consider further legislative changes to enable:
 - o the extension of the scheme to other species; and/or
 - o the future integration of NAIT and the Animal Products Act's animal status declaration.

UNSAFE TO TAG EXEMPTION

COST ESTIMATES FOR TAGGING PREVIOUSLY EXEMPT NAIT ANIMALS

PURPOSE

This note estimates the cost of using vets to tag NAIT animals that are deemed by a PICA as 'unsafe to tag.' This estimate is intended to be taken into account by MPI's policy advisers when assessing the costs and benefits of removing the current exemption from tagging unsafe to tag NAIT animals.

OVERVIEW

The cost to PICAs of using a vet to tag the estimated population of 'unsafe to tag' NAIT animals could be between \$10.4 million and \$15.9 million if vets' visits were not undertaken in conjunction with other scheduled visits.

If tagging of 'unsafe to tag' animals could be scheduled to occur in conjunction with other vets visits the cost of associated with the vets visit could be reduced to around \$5 million.

Note this is the estimated total cost of dealing with the current population of 'unsafe to tag' animals. There would be a smaller ongoing cost associated with re-tagging animals that lost their tags and were considered unsafe to tag at that point. This ongoing annual cost is estimated to be between \$94,000 - \$845,000 per annum (assuming the use of vets to tag these animals).

Note these estimated costs are based solely on the use of vets to sedate and tag 'unsafe to tag' animals. It does not estimate the overall costs if PICAs choose to tag these animals themselves using on-farm safety equipment (for example a cattle head-stop). Such an approach would reduce the monetised cost to the PICA of engaging a vet, but may increase the risk of injury with subsequent lost productivity and ACC costs.

The assumptions underpinning these estimates are outlined in the next section of this note.

INITIAL COST OF TAGGING PREVIOUSLY EXEMPT LIVESTOCK

Estimated number of unsafe to tag NAIT Animals:

124,432 (3.87 million cattle x 2.8% untagged and 0.89 million deer x 1.8% untagged)
Percentage estimate of unsafe to tag animals is based on the reported number of animals slaughtered without NAIT identification.²⁶ We have assumed these percentages provide a reasonable proxy for the number of unsafe to tag animals across the total NAIT livestock population.

Vet's Fee for separate callout to tag an unsafe animal: \$165-\$215

This total fee is based on the following assumptions:

- Callout fee of \$75-\$100
- Mileage \$50-\$75 (\$1.50 per kilometre x 33.33-50kms),
- Sedative \$20 per animal.
- Additional time per animal of \$20 (15mins x \$75 per hour)

²⁶ OSPRI, *NAIT Review: Final Report on the Recommendations* (29 March 2018) p 26

Number of vet visits required to tag all 'unsafe to tag' NAIT animals: 31,108-62,216.

- Low estimate assumes an average of 4 unsafe to tag animals tagged per visit.
- High estimate assumes an average of 2 unsafe animals

Total cost

- High fee estimate (for an average of four animals) x low number of visits
\$335 x 31,108 = \$10.4 million
- Low fee estimate (for an average of 2 animals) x high number of visits
205 x 62,216 visits = \$12.8 million
- High fee estimate (for an average of 2 animals) x high number of visits
\$255 x 62,216 = \$15.9 million

Vet fee to tag an unsafe animal while on a routine visit: \$40

If tagging of 'unsafe to tag' animals was scheduled to occur in conjunction with other scheduled vets visits the cost of associated with the vets visit could be reduced to around \$40 per animal assuming the callout fee and travel costs were attributed to the vet's other farm visit activities:

Vets Fee for tagging 'unsafe' animals when on a routine visit:

- Assume sedative costs of \$20 per animal
- Assume additional time costs of \$20 per animal

This results in total costs as follows:

- 31,108 visits x \$160 = \$4.98 million
- 62,167 visits x \$80 = \$4.98 million.

ONGOING ANNUAL COSTS

Assume 2.8% of cattle and 1.8% of deer in the total population require retagging each year because of tag loss and are deemed 'unsafe to tag.'

Total Animals: 6,270 per annum.
Low number of vet visits: 6,270/4 animals = 1,568
High number of vet visits: 6,270/2 animals = 3,135

Vet fees assuming special call out

- High fee estimate (for an average of four animals) x low number of visits:
\$335 x 1,568 = \$ 525,280 per annum
- High fee estimate (for an average of 2 animals) x high number of visits:
\$255 x 3,315 = \$845,325 per annum
- Low fee estimate (for an average of 2 animals) x high number of visits:
\$205 x 3,315 visits = \$679,575 per annum

Vets fee for tagging 'unsafe to tag' animals when on a routine visit:

- Assume sedative costs of \$20 per animal
- Assume additional time costs of \$20 per animal
- Total costs:
 - o 1,568 visits x \$160 = \$94,080 per annum
 - o 3,315 visits x \$80 = \$94,080 per annum.

TRANSPORTATION OF NAIT ANIMALS

COST ESTIMATES ASSOCIATED WITH NOT TRANSPORTING UNTAGGED ANIMALS THAT DO NOT HAVE AN EXEMPTION

PURPOSE

This note estimates the cost of PICAs completing a declaration to assure a transport operator that a consignment of NAIT animals are either tagged or have an exemption. It also notes that transport operators may incur additional costs of storing the forms post-transport.

OVERVIEW

The package of proposed changes to the NAIT legislation includes a proposal to 'make it an offence to transport an untagged animal that does not have an exemption.'

The proposed legislation will not prescribe how PICA's and transporters must meet the requirement. If this proposal proceeds, MPI will need to develop good practice guidelines to support its introduction. While some implementation work is required, we anticipate that guidance will include PICAs providing assurance to a transporter that each animal in a consignment of NAIT animals is either tagged or has an exemption.

PICAs are already legally required to at all times ensure all animals are either tagged or have an exemption, and it is an offence to send (to the meatworks) an untagged animal that does not have an exemption. Furthermore, untagged animals are not permitted to be sent anywhere other than a meatworks (ie, not to another farm; not to a saleyard), so the introduction of this offence does not increase their tagging compliance costs.

If the provision of a PICA declaration becomes the industry standard approach to providing assurance that transportation requirements are being met, the additional cost to PICAs will include the purchase of new declaration forms to provide to the transporter (in a similar way to ASD forms).

The form costs are estimated to be in the order of \$72,000 per annum for the industry as a whole. This estimate is based on the following assumptions:

- Declaration booklet (50 forms): \$4.65²⁷ (or \$0.093 cents per form)
- NAIT animal consignments per annum: \$770,000²⁸
- \$0.093 x 770,000 = \$71,610 per annum

The additional PICA time required to complete this form is valued at \$336,000 per annum. This estimate is based on the following assumptions:

- PICA time \$26.21 per hour²⁹
- Time required to complete declaration: 2 minutes
- Number of declarations: 770,000
- Number of hours required to complete all declarations 770,000/30 = 25,667 hours
- Total Value of PICA time: 25,667 hours x \$26.21 = \$672,732 per annum.

²⁷ Based on the current cost of ASD Form Booklet but with 50 forms instead of 25 as less information will be required

²⁸ Farm to meat processor, Farm to Farm, Farm to Sale-yard, Sale-yard to Farm, Sale-yard to Meat processor movements. Based on estimated number of ASDs created by species and type of movement for NAIT animals in 2016 Calendar Year (data provided by NAIT Ltd)

²⁹ Based on average hourly earnings in the agricultural sector

MPI anticipates transporters may want to retain the declaration forms for a period after transportation so they have a record that they have complied with legislative requirements if MPI's compliance staff have cause to check on a particular consignment. Transporters would, therefore, incur the cost of retaining and storing these forms.

MPI has not estimated the cost all transporters having a NAIT scanner/wand as at this stage we think a PICA declaration is likely to be the most cost-effective way of providing assurance.