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Primary Production Select Committee  
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**SUBMISSION TO THE NATIONAL ANIMAL IDENTIFICATION AND TRACING  
AMENDMENT BILL (NO. 2)**

To: The Primary Production Select Committee

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**This is a submission to the National Animal Identification and Tracing Amendment Bill  
No. 2**

**We wish to appear before the Committee to speak to our submission.**



## Introduction

- 1.1 DairyNZ welcomes the opportunity to submit to the Primary Production Select Committee on the National Animal Identification and Tracing Amendment Bill No. 2 (the Bill).
- 1.2 DairyNZ is the industry good organisation representing New Zealand's dairy farmers. Funded by a levy on milksolids and through government investment, our purpose is to secure and enhance the profitability, sustainability and competitiveness of New Zealand dairy farming. DairyNZ is the major shareholder in NAIT Ltd, with Beef + Lamb NZ, DeerNZ and the Crown through the Ministry for Primary Industries (MPI).
- 1.3 DairyNZ is also involved in biosecurity traceability as a partner under Government Industry Agreements (GIA) in the *Mycoplasma bovis* (*M bovis*) response, with considerable commitment by all parties to strengthen our biosecurity system through changes to the NAIT Act. DairyNZ has significant involvement in planning processes for delivering tools to implement new legislation for our dairy farmers, involving delivering expert technical analysis of regional and farm-scale economic data, farm systems knowledge, farmer behaviour, and quality science. Our farm focused work includes research and development to create practical on-farm tools and extension to support on-farm adoption of appropriate and efficient biosecurity and traceability farming practices.
- 1.4 DairyNZ, as part of strengthening the biosecurity system and addressing the *M bovis* Action Plan Goal 3 – to leave NZ's biosecurity system stronger is also leading implementation of an integrated On farm biosecurity plan, a major component of which is traceability.
- 1.5 The amendments proposed within the Bill are therefore of significant importance for New Zealand dairy farmers. DairyNZ is keenly interested in ensuring that the outcomes of the proposed amendments result in a more efficient and effective delivery of a national traceability scheme, both in terms of national traceability outcomes and the workability of the provisions that will ultimately result from any changes made through the Bill. Dairy farmers are at the 'sharp end' of New Zealand's national traceability scheme, impacted by the provisions developed and implemented under the NAIT Act on a daily basis.

## General Comments

- 1.6 DairyNZ supports the overall purpose of the Bill; to improve the framework governing the national identification and tracking (NAIT) and to provide for the rapid and accurate tracing of farm animals and their movements to enable biosecurity management and manage human health risks, such as *M bovis* currently affecting cattle in New Zealand. DairyNZ has weighed the proposed changes against this intended purpose, relying on our understanding of what currently does and does not work in respect to the NAIT Act within New Zealand.
- 1.7 DairyNZ has not detailed each clause individually but has highlighted those proposals that we consider significantly incorrect and therefore need further consideration.



**DairyNZ, as a major shareholder in NAIT Ltd strongly opposes the proposal that the legislation be amended for the Crown to take ownership of private individuals' data when the existing legislation provides for the transfer of data from one NAIT type entity to another if needed, which is all that is needed to address risk.**

**DairyNZ does not support amending the threshold for Ministerial intervention in a NAIT organisation, to allow earlier and graduated actions if appropriate. We seek clarity about what this means in practice and what safeguards are in place to protect dairy farmers' sunk investment in the national traceability scheme.**

**DairyNZ is concerned about the significant number of public sector organisations that may have access to dairy farmer's data for other purposes.**

**DairyNZ also has concerns about conflict of interest between organisational interest and public interest with the influence of a proposed Crown appointee.**

## **Specific Comments**

**Require that a PICA must only use NAIT tags at a specific location they were issued for (with an associated offence provision).**

- 1.8 The current system allows a NAIT tag to be purchased by a PICA for one location, and then used at another location. We agree that this breaks the traceability chain for NAIT animals. In a biosecurity incident, this slows the tracing of individual animals and hampers the response. PICAs will only be able to fit tags for a specified NAIT location. This means that all NAIT animals will be linked to their birthplace, which will give more complete information about where animals have been and what contact they have had with others.
- 1.9 We do however question the language of "using NAIT tags at a specific location". Other language within the Act uses the language "fitting of tags" and we recommend for consistency that the same language be used in this context.
- 2.0 We understand that MPI considers the proposed transitional provision of 12 months to be sufficient to ensure there is time for PICAs to use up any existing stock of tags. NAIT Limited is expected to implement this change by a combination of operational changes over the transitional period, by amending their systems and database to collect the information on tag allocations, and through changing the relevant Standard to require tag manufacturers and distributors to collect and communicate the information. Corresponding infringement offences will be enacted and enforced by NAIT officers.

### **Recommendation:**

*DairyNZ **supports** the proposed change for biosecurity reasons. We do however note a number of issues that may impact implementation, such as stockpiling of tags, time lag of tag arrivals post the order, cost of tags, and so strongly support the one year lead-in period. Successful implementation will only be achieved through strong and clear communications to all farmers impacted by the proposed changes.*



**Rename the ‘impracticable to tag’ exemption as “unsafe to tag” (with the sole criterion that the safety of the PICA is at risk) and remove the exemption five years after the amendment bill is passed.**


- 2.1 We acknowledge that when the NAIT scheme was first established, provision was made for a small number of exemptions, which were meant to be a transitional measure only. One of the most commonly used is the ‘impracticable to tag’ (ITT) exemption, which recognises that in some instances cattle and deer may be too large or unused to being handled to be tagged without risk to the safety of the PICA. Now that the scheme has been operating for a number of years, DairyNZ supports the view that the use of this exemption should be by exception, as all NAIT animals should be tagged at birth.
- 2.2 We agree that the exemption should only apply where, for example, a large animal has **lost a tag**. In reality, the number of untagged animals sent to slaughter has stabilised at around 3% for cattle and between 1% and 4% for deer since mid-2015. There have also been some concerns about tag failure and new technology must be adopted within the 5-year period to address this.
- 2.3 We support renaming the exemption as only applying to “unsafe” rather than ‘impracticable’ to retag animals will help to influence the behaviour of PICAs and make clear that the exemption can be used only where the PICA’s safety is directly at risk.
- 2.4 Once again, language should highlight that the expectation is that tags have got lost and the activity is retagging animals who are deemed unsafe rather than tagging them for the first time. It is important to convey the correct sense of why new tags are needed in the transaction between last farm and processor. We therefore propose that the language “unsafe to retag” be used.
- 2.5 We also recognise that once the amendment bill is enacted PICAs will have five years to ensure that they have adjusted their on-farm retagging practices before the exemption is removed. At that time, they will need to make sure that they either have the correct safety equipment to re-tag large animals or arrange for a vet to assist them.

**Recommendation:**

*DairyNZ **supports** this change in terminology noting that criteria for what is ‘unsafe’ will be needed. We do however propose to use the language “**unsafe to retag**” to emphasise the expectation that only lost tags should initiated retagging. Once again, new technology to address tag failure and an effective communications plan is needed for implementing this process.*

**Require a seller to, on request, make the location history of a NAIT animal available to a purchaser of that animal, and make it an infringement offence to fail to do so.**

- 2.6 DairyNZ was part of the OSPRI led NAIT review where this proposal arose. We are supportive of this as it will strengthen purchasing decisions and give confidence about the potential biosecurity risks from purchasing new animals.



We also suggest that a broad range of information should be provided by the sellers on the provenance of animals (including place of birth, health status/treatments, all movements and broken chains”.

**Recommendation:**

*DairyNZ **supports** the proposal and recognises the benefits of extending the range of information to include place of birth, health status/treatments, all movements and broken chains”.*

**Align the penalty caps and infringement fees with the Biosecurity Act 1993 and the Animal Products Act 1999**

- 2.7 DairyNZ understands that infringement fees for small scale offending are currently set at \$300 for failing to register as a PICA and \$150 for other offences. This is considerably lower than equivalent offending under the Biosecurity Act and Animal Products Act and sends confusing messages about the level of importance of NAIT compliance.
- 2.8 We understand similar offending under these other Acts would set the fee for failing to register as a PICA at \$800 and a \$400 for other offences. We recognise that this proposal strengthens the incentive to make sure all animals are tagged and registered.

**Recommendation:**

*DairyNZ **supports** the change to the infringement fees for PICAs. We do however have concerns about the interpretation of applying fees on a “per animal” basis which could be costly to a farmer who has a small percentage of non-compliance within a very large herd. We recommend a cap on that value.*

**Amend the definition of PICA to clarify that the responsibilities apply to everyone in charge of NAIT animals**


- 2.9 DairyNZ understand that the Act will be clear that where there is evidence that a PICA is being directed to act in a particular way, for example not tagging NAIT animals, the person or body that is making that direction can be penalised as a party to the offence. This will ensure that in cases of systemic non-compliance, corporate responsibility is taken rather than being linked solely to an individual PICA. This aligns with the Crimes Act provisions.

**Recommendation:**

*DairyNZ **supports** the proposal, to provide improved accountability and clarity.*

**Require PICAs to report annually the presence and estimated numbers of non-NAIT animal species (such as goats, pigs or sheep) at a NAIT location, to assist biosecurity responses**

- 3.0 We understand that PICAs are asked for information on other animal species held at their NAIT location. We know that around 55% of PICAs already choose to provide this information voluntarily. In a biosecurity response to a disease that affects multiple species, this information would be extremely useful in assessing the risks and taking action. We are also of the view that this should extend to all domesticated species that relate to lifestyle properties.

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- 3.1 We strongly support MPI and NAIT Ltd having access to appropriate information to support the response to a cross-species biosecurity incursion, for example foot and mouth disease. We recognise that this information will help to identify the locations at highest risk for spreading a disease between species.
- 3.2 We also therefore strongly support an additional proposal by Beef + Lamb NZ (B+LNZ) to seek the introduction of sheep into the NAIT scheme at the farm and mob level to address this risk. We understand that B+LNZ are developing a business case for consideration by the Minister responsible for NAIT, under Section 67 (5) of the NAIT Act 2012. We also recognise that there may be significant opportunities for the dairy, deer and possibly other sectors to integrate electronic Animal Status Declaration (eASD) functionality to meet obligations under the Animal Products Act 1999.

**Recommendation:**

*DairyNZ **strongly supports** the additional proposal by Beef + Lamb NZ to seek the introduction of sheep into the NAIT scheme at the farm and mob level under Section 67 (5) of the NAIT Act 2012.*

**Clarify the use of and access to NAIT core data to amend the Act's purpose of holding core data to include responding to stock theft and wandering stock; and enable all public sector organisations to apply for access to NAIT core data for the purposes of the Act**

- 3.3 We support the proposal to clarify the circumstances in which NAIT core data can be accessed. We recognise that the focus will be on the legitimate use of the data and whether the purposes for holding it are met, rather than who is requesting it. It will also be useful for public-sector organisations to be able to request access to the data for the specific purposes set out in the Act.

**Recommendation:**

*DairyNZ **supports** the proposal to amend the Act's purposes of holding core data to include responding to stock theft and wandering stock. We would also ask what status would apply to stock found dead as this is unclear in the Bill.*

**Improve access to NAIT information by MPI staff designated by the Director-General and facilitate its use by other authorities.**

- 3.4 As a major industry partner in the *M bovis* response we recognise that improved data access for MPI will mean that information can be accessed more efficiently, to benefit New Zealand's primary sector more broadly. Allowing decisions on MPI access to the data to be made by the Director-General of MPI rather than an independent NAIT panel, alongside enabling direct access for specific staff on an ongoing basis, will reduce the demands on NAIT Ltd to deal with multiple data requests from MPI and considerably speed up the process. The ability for MPI to facilitate access of information to other authorities is however of concern. The list of public sector organisations is huge and the provision of dairy farmer's data to those organisations with no assurance around the protection of confidential data is alarming.



## Recommendation:

*DairyNZ **does not support** the change to facilitate access of information to other public sector organisations and requests further clarification on what specific information can be accessed and for what purposes. We also want a clear understanding of how their request relates to the provisions of the Act and assurances around the protection of confidential information.*

### **Amend the threshold for Ministerial intervention in a NAIT organisation, to allow earlier and graduated actions if appropriate**

- 3.5 As a NAIT Ltd shareholder we recognize that currently the Minister's powers to intervene directly in the NAIT organisation can only be exercised where there is a "significant risk to the integrity and effective operation of the scheme as a whole".
- 3.6 The Minister has indicated that it should be possible to intervene if required, without having to demonstrate that the integrity of the whole scheme is being compromised. We understand the rationale for such a change is that it would enable the full range of responses already anticipated in the Act to be considered. These range from appointing a person to perform a single function temporarily, right through to the replacement of a NAIT organisation. Section 9 of the Act specifies when and how intervention by the Minister can occur. It is proposed that Section 9 be amended to make clear that intervention could occur when only a part of the scheme is affected and to support a graduated intervention when appropriate.

## Recommendation:

*DairyNZ **does not support** this proposal. It is unclear what this means in real terms, will the Minister therefore have the ability to disrupt the NAIT operation at any time for any reason? As a shareholder of NAIT Ltd we are concerned at the lack of transparency around what this will mean in practice and what safeguards will be in place to protect dairy farmers' sunk investment in the national traceability scheme.*

### **Allow the Minister from time to time, to inform the Board of his/her priorities and expectations and set expectations that a NAIT organisation will keep the Minister informed on its performance in delivering its statutory duties and functions (as is normal business practice)**

- 3.7 A specific provision is being proposed allowing a Minister to, at appropriate intervals, inform the NAIT Board of her/his priorities and expectations of the organisation is proposed to be inserted into the Act. The new provision will also require a NAIT organisation to prepare statements of the organisation's financial position, the results of the organisation's activities, for these to be audited, for such statements to be included in the organisation's annual report and forwarded to the Minister.

The Act will require a NAIT organisation to:

- include in its National Operating Plan the details of how it will measure and independently audit its activities in relation to the performance of its statutory duties and functions
- report to the Minister the independently audited results of its performance against the measures specified in the National Operating Plan, at an agreed frequency

- provide the Minister with results of the annual review of the National Operating Plan before the new plan is finalised
- report to the Minister how government appropriations and industry levies have been spent.

**Recommendation:**

*The Minister is free at any time to write to the NAIT Board advising the Government's priorities and expectations relating to the organisation's performance of its functions and duties under the Act. We are not clear as to why this needs to be stipulated in the Act. The additional reporting obligations are standard for a Crown Entity and we have no concerns about stronger performance measurement reporting, which must be an assurance for our dairy farmers.*

**Crown ownership of core data**

- 3.8 NAIT shareholders are of the view that any amendments made by the Bill should not change the status quo of data in the NAIT scheme belonging to the data submitters (principally farmers, sale yards and slaughterhouses) and ownership of the NAIT database belonging to the NAIT organisation.
- 3.9 We strongly oppose the proposed clause that gives the Crown ownership of data and expressly ruling out the need for the Crown to provide consideration for NAIT data supplied by the NAIT organisation to the Crown.
- 4.0 It has long been the NAIT organisation's and its stakeholders' position that even though disclosure of data to the NAIT organisation is a legal requirement, ownership remains vested in the disclosing parties. The NAIT organisation merely has an implied licence to use that data for its statutory functions.
- 4.1 The effect of the new provision is that, by virtue of owning the data, decisions on dealing in it would be made in the public interest, which could conflict with the interests of the disclosing parties. Further, the Crown would be the sole beneficiary of any dealings. We consider that the proper beneficiaries of any dealings in NAIT data should be the parties disclosing the data, for which the NAIT organisation is the trustee.
- 4.2 We do not agree that Crown ownership of NAIT data is necessary for public policy reasons; the other provisions of the Bill that provide for ongoing provision of NAIT data by NAIT Ltd to a third party for the purposes and functions of the NAIT Act are sufficient to maintain NAIT system performance.
- 4.3 If, contrary to our view, legislators agree that Crown ownership is necessary, we strongly contend that this Crown appropriation of private assets must be pursuant to a process designed to ensure equitable treatment of the interests of the asset owners. As an organisation representing the interests of data owners' dairy farmers, we with other NAIT shareholders strongly object to the proposal. We are unaware of other appropriations that have not offered fair recompense to the asset owner. If, as is inferred from the explanatory note, the Government believes that this clause is confirming an implicit understanding of Crown ownership in core NAIT data, all industry shareholders of NAIT strongly disagree.



## Recommendation:

*DairyNZ as the major shareholder in NAIT Ltd **strongly opposes** the proposal that the legislation be amended for the Crown to take ownership of private individuals' data when the existing legislation provides for the transfer of data from one NAIT type entity to another if needed, which is all that is needed.*

**Include a specific power for the Minister to issue, amend or revoke 'directions' in relation to the performance of a function or duty or the exercise of a power, and include usual safeguards for directing entities, such as requiring the Minister to consult the Board before issuing a direction, and directions must be tabled in Parliament.**

- 4.4 The Act allows the Minister to issue policies that the NAIT organisation must 'have regard to', and standards that it must 'comply with'. The original intention was that these policies and standards would provide a Minister the ability to adjust how the NAIT organisation carries out its operations and strategic planning.
- 4.5 We understand that the change will provide a specific mechanism for a Minister to use in appropriate circumstances. Section 12 of the Act outlines the Minister's ability to issue, amend or revoke policies and standards. This section would be amended to refer to 'directions' and to clarify that these are different to the standards issued by OSPRI. We also understand that Ospri/NAIT is proposing changes under the Act as to how it makes operational policies and standards, to better strengthen the integrity of the national traceability scheme.

## Recommendation:

*DairyNZ **supports** the proposal to include a specific power for the Minister to issue, amend or revoke 'directions' in relation to the performance of a function or duty or the exercise of a power.*

**Provide that, informed by an assessment of the Director-General, the Minister may make a (non-voting) appointment to the NAIT Board for a specified term, not exceeding 3 years. This appointee will have the right to attend all discussions related to the NAIT Board, the NAIT scheme, and the wider traceability system.**

- 4.6 We understand that it is inappropriate for the Crown to take a formal shareholding (including voting rights) in a fully private company. And we understand that the current delivery model where a wholly independent private company has such significant statutory powers, duties and functions, and no contract for services, is highly unusual.
- 4.7 By agreement with the Board and in line with the company's Constitution the Director-General for MPI has currently appointed an observer to sit on the NAIT Board. The current observer role if continued could be useful for both MPI, NAIT Ltd and shareholders. It gives insight into how the NAIT organisation is working, relays government interests, concerns, and trends to the Board, and allows for early identification of issues. The observer position can be filled by whoever the Crown deems appropriate as the needs of the Crown and NAIT change.
- 4.8 We also understand that this new proposal aims to ensure that a Minister may appoint a suitable person to the Board who can represent government interests and appropriately feed information back to the Minister/MPI 'as of right'. This would not be a voting position and would not be a "deemed Director".

- 4.9 It could however present a significant conflict between the interest of the organisation and public interest to have an observer present when the organisation's specific interests are being considered as is legally required by law by independently appointed Directors on the Board.
- 5.0 An alternative model that would warrant consideration is the **Local Government Act 2002**, which looks to focus on the "good of the organisation" where the Minister may appoint a Crown Observer to a local authority if—
- (a) the Minister believes, on reasonable grounds, that a significant problem relating to the local authority exists and—
    - (i) the appointment of a Crown Observer is necessary to enable, or better enable, the local authority to effectively address the problem; or
    - (ii) the appointment of a Crown Observer is necessary to enable, or better enable, the Minister to monitor the local authority's progress in addressing the problem; or
    - (iii) a Ministerial body currently or previously appointed to the local authority has recommended the appointment; or
  - (b) the Minister has received a written request from the local authority to do so.

- A Crown Observer must, to the extent authorised by his or her terms of reference, —
- (a) assist the local authority to address the problem; and
  - (b) monitor the local authority's progress in relation to the problem; and
  - (c) make recommendations to the Minister on whether the Minister should take further action in relation to the local authority, including whether the Minister should appoint any other Ministerial body to the local authority; and
  - (d) ensure, as far as practicable, that the existing organisational capability of the local authority is not diminished.

If applicable, and to the extent authorised by its terms of reference, a Crown Observer must also assist the local authority with, and monitor progress on, any related matter as recommended by a Ministerial body currently or previously appointed to the local authority.

### **Recommendation:**

*Shareholders have been seeking senior input from the Crown into the NAIT/OSPRI Board for some time. This would provide an effective governance model with MPI input as well as recognising the Minister's priorities, to give assurance that the national traceability scheme is working effectively.*

*DairyNZ is concerned however that the current proposal has the potential to cause conflicts of interest in Board meetings, where organisational interests vs public interest could conflict with the presence of a Crown observer. We therefore propose that a Crown Observer model similar to the one under the Local Government Act 2002 be considered as an alternative model.*

### **Submission Ends**