



***The Safety of Non-commercial Food -
NZFSA Roles and Responsibilities***

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NZFSA Roles and Responsibilities with respect to the Safety of Non-commercial Food

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1 Introduction

1. 'Non commercial' food is food *not intended for sale*. Non-commercial food activities include wild food gathering, hunting, and recreational catch; and home vegetable gardening, fruit cultivation, rearing domestic animals for food, homekill slaughter, and home cooking.
2. Activities where people grow, take, hunt, fish and/or process 'non-commercial' food are recognised as part of the traditional Kiwi way of life. The consumption of non-commercial food is important to many cultures, including Māori and Pacific Island.
3. The New Zealand Food Safety Authority (NZFSA) generally does not regulate non-commercial food. This means that non-commercial food and related activities are generally not subject to legal requirements for food safety.
4. NZFSA manages safety risks of non-commercial food by carrying out non-regulatory intervention. This includes providing information, messages and advice ('risk communication') that support safe food practices, decisions and consumption within the community, home, and marae. NZFSA also monitors certain food safety hazards, such as marine biotoxins in recreational shellfish, and works closely in an advisory capacity with other agencies.

1.1 Problem definition

5. Non-commercial food and related activities are wide ranging and diverse, and can have a multitude of associated hazards (refer Section 3). There are a number of associated risks that need to be managed by government, including risks to New Zealand's public health and reputation as a trusted supplier of safe food.
6. Due to differences in consumption levels, risks associated with many non-commercial foods are not as significant as those associated with the commercial food supply. However, there are generally no NZFSA controls applied to non-commercial food, meaning there can be no assurance of food safety.
7. NZFSA receives many queries from the public, media, and other agencies (including international agencies and authorities) regarding the safety of non-commercial food and related activities. These include, but are not limited to, queries relating to vertebrate toxic agent or pesticide drops (associated with pest management), shellfish biotoxin levels, and sewage spills.
8. New Zealand's trading partners sometimes confuse warnings that relate to non-commercial food with those issued for the commercial food supply chain.
9. There are a number of Acts that impact upon non-commercial food and related activities, as well as a number of agencies that exercise various roles and responsibilities under these Acts. For example, District Health Boards (DHBs) have a role in protecting public health under the

Public Health and Disability Act 2000, while Territorial Authorities (TAs) eg, city and district councils, and Regional Councils (RCs) have the primary role in the sustainable management of natural and physical resources under the Resource Management Act 1991. DHBs and TAs also have roles in protecting public health under the Health Act 1956.

10. In implementing its legislation¹, generally NZFSA only applies controls on food and activities relating to the commercial supply chain². However, NZFSA's mandate³ is wider than ensuring the safety of commercial food. For example, it also goes to the safety of non-commercial food (refer Section 4).
11. Gaps or overlaps exist between agencies' mandates with respect to managing risks associated with non-commercial food and related activities. This is also influenced by legislative complexity (refer Appendix One – Non-commercial food: legislative framework).
12. In some situations there can be a lack of clarity over various agencies' roles and responsibilities. This lack of clarity has the potential to negatively impact upon New Zealand's public health and reputation as a trusted supplier of safe food, in turn affecting New Zealand's economic and social wellbeing.

1.2 Objectives

13. Key objectives of the Government in this area are to enhance government efficiency and integration, and to protect New Zealand's international reputation to facilitate trade. This goes towards growing the New Zealand economy and increasing social wellbeing.
14. This Information Paper is designed to support NZFSA's Policy Statement⁴ on its roles and responsibilities with respect to the safety of non-commercial food and related activities, including recreational catch and wild food.
15. Through the development and publication of this Paper and its corresponding Policy Statement, NZFSA aims to achieve the following objectives:
 - to enhance government performance (including efficiency and integration) in protecting New Zealand's public health from risks associated with non-commercial food and related activities; and
 - to ensure the integrity of New Zealand's international reputation as a trusted supplier of safe food.

¹ Including the Food Act 1981, Agricultural Compounds and Veterinary Medicines Act 1997, Animal Products Act 1999, and Wine Act 2003.

² An exception is that under the Animal Products Act 1999 NZFSA applies controls to 'homekill and recreational catch'. For example, it cannot be sold for food, and may only be consumed by the animal owner, their family or household, or employees; or hunters/catchers, their family or household, or their hunting/catching party.

³ Mandates are set by government in a number of ways with roles and responsibilities being described in legislation as well as an agency's Statement of Intent. Mandates are also reflected in an agency's Mission Statement, Memoranda of Understanding, and procurement contracts.

⁴ A Policy Statement is a formal statement of NZFSA's considered position on a particular matter.

2 Background

16. In February 2009, NZFSA published a Policy Statement on Wild Food⁵. This statement drew on the Wild Food Review Position Paper⁶. To meet the objectives in Section 1.2, NZFSA has undertaken to issue a new, and complementary, Policy Statement about all non-commercial food and related activities, not only wild food.

2.1 Key definitions

‘Food’

17. This Information Paper applies to non-commercial activities involving *all food*. Section 2 of the Food Act 1981⁷ defines ‘food’ to mean anything that is used or represented for use as food or drink for human beings; and includes:

- any ingredient, nutrient or other constituent of any food or drink, whether that ingredient or nutrient or other constituent is consumed or represented for consumption by human beings by itself or when used in the preparation of or mixed with or added to any food or drink;
- anything that is or is intended to be mixed with or added to any food or drink; and
- chewing gum, and any ingredient of chewing gum, and anything that is or is intended to be mixed with or added to chewing gum.

18. Food also includes animal product intended for human consumption that is regulated under the Animal Products Act 1999, and wine product regulated under the Wine Act 2003.

‘Sale’

19. Non-commercial food activities are those involving any food *not intended for sale*. In relation to food, ‘sell’, ‘sale’ and ‘sold’ is defined by sections 4 and 5 of the Food Act 1981 to mean sell for human consumption or use; and includes:

- selling for resale for human consumption or use;
- offering or attempting to sell, or receiving for sale, or having in possession for sale, or exposing for sale, or sending or delivering for sale, or causing or permitting to be sold, offered, or exposed for sale;
- barter;
- offering as a prize or reward for the purposes of advertising a business or trade; and

⁵ Refer: <http://www.nzfsa.govt.nz/policy-law/policy-statements/wild-food-policy-statement.htm>

⁶ Refer: <http://www.nzfsa.govt.nz/consumers/wild-foods-review/final-position-paper/final-position-paper.pdf>

⁷ Note that a new Food Bill that is proposed to replace the Food Act 1981 was recently introduced to Parliament. If enacted, this new legislation may slightly alter some definitions, for example, those for ‘food’ and ‘sale’.

- supplying under a contract, together with accommodation, service, or entertainment, in consideration of an inclusive charge for the article supplied and the accommodation, service, or entertainment.
20. Operators who provide food as part of a charge/fee for accommodation, for example, at 'farm stays', 'marae stays', and bed and breakfasts, must meet applicable food safety requirements.
21. Despite some food business activities not being considered to be of a 'commercial scale', if food is sold, then operators must comply with relevant regulations. This includes fundraising BBQs, selling home produce for charity, and the sale of milk, fruit, and vegetables at the farm gate.

'Non-commercial food'

22. Non-commercial food is food that:

- is non-commercially: grown, harvested, produced, or processed;
- is not traded or sold; and
- is for human consumption, either raw or processed.

23. Non-commercial food activities involving food that is not 'wild' are those with foods that are *not naturally present or occurring* in the New Zealand environment. Non-commercial, non-wild food activities include home vegetable gardening and fruit cultivation, rearing domestic animals for food, homekill slaughter, and home cooking.

'Wild food'

24. Wild food is defined under the Wild Food Review as any food that *is naturally present or occurring* in the New Zealand environment that:

- is non-commercially: harvested, gathered, or taken from that environment;
- is not traded or sold; and
- is for human consumption, either raw or processed.

25. Wild food⁸ activities include picking, foraging, hunting, recreational catch, and fishing.

⁸ 'Wild food' that meets the above criteria can include:

- feral land animals (eg, deer, goats, pig, rabbits);
- birds (eg, waterfowl, pheasants, mutton birds);
- fish (marine and freshwater, including eel, whitebait, trout);
- marine invertebrates (eg, paua, mussels, oysters, tuatua, pipi, kina, sea snails);
- freshwater invertebrates (eg, koura);
- insects and insect products (eg, huhu grubs, wild honey);
- plants (eg, puha, poroporo, ferns, nettles, blackberries);
- water plants (eg, watercress, seaweed);
- fungi (eg, wild mushrooms); and
- fruit (eg, berries, nuts, seeds).

3 Hazards

Home and community activities

26. In the last decade non-commercial food activities, involving food that is both wild and non-wild, have been increasing due to economic and/or environmental factors.
27. Non-commercial food faces similar food safety hazards to commercial food. In both cases, with poor handling, preparation, and storage practices, and inadequate cooking, the consequences can be the same ie, harmful organisms can cause foodborne illness. The risks are higher for vulnerable people including young, frail elderly, pregnant and immune-compromised people.
28. *Campylobacter* and *Salmonella* are among the most common organisms⁹ associated with foodborne illness in the home and community environment. These organisms thrive and cause foodborne illness when food, particularly poultry, is stored too warm or inadequately cooked, and can spread to other foods when surfaces are not cleaned properly.
29. Food safety hazards also exist outside of home and community kitchens. For example, if using agricultural compounds and veterinary medicines (ACVMs) when non-commercially gardening and rearing animals, people are advised to abide by appropriate good agricultural and veterinary practice and instruction labels, so that they may avoid excess chemical residues.

Wild food and recreational catch

30. Wild food and recreational catch can be exposed to, and contain, diverse food safety hazards, including: microbial hazards such as bacteria, viruses, and parasites; and chemical hazards such as natural toxins, heavy metals, chemical control agents, environmental contaminants and marine biotoxins.
31. For example, areas of New Zealand are being treated with the following poisons:
- 1080 to manage feral rabbit populations and stop the spread of diseased possums; and
 - brodifacoum to protect native wildlife and forests from rats, stoats and possums¹⁰.
32. In 2005, NZFSA commissioned the Institute of Environmental Science and Research Limited (ESR) to review non-commercial wild foods in New Zealand¹¹. The aim was to gain a better understanding

⁹ *Salmonella* can also be present in any raw food of animal origin, such as meat, poultry, milk and dairy products, eggs, seafood, and some fruits and vegetables. *Listeria* can be present in raw fish, shellfish and fish products; raw meat, poultry and their products; raw vegetables; raw and inadequately pasteurised milk, as well as raw eggs.

¹⁰ In November 2009, the Department of Conservation (DoC) and the Animal Health Board released a joint statement that banning 1080 and brodifacoum would pose an unacceptable risk to native bird species and the dairy and meat industries. Of cattle and deer it says: "Possums infected with tuberculosis cause the overwhelming majority of new TB infections in cattle and deer herds around the country. 1080 is vital to protecting New Zealand's annual \$12 billion dairy and meat export trade."

¹¹ Refer: <http://www.nzfsa.govt.nz/consumers/wild-foods-review/index.htm>

of consumption of wild foods and determine if there is a risk (in terms of severity) to public health, and if so, to develop the means to ensure the risk is reduced.

33. The ESR report identified that 23% of the New Zealand population hunt and/or gather food from the wild. The report also found that males and Māori are particularly likely to carry out these activities. The National Nutrition Survey (1997) found that around 25% of Pacific peoples ate shellfish at least once a week, compared with 15% of Māori and only 3% of Pākehā and other groups. The survey also found that Pacific peoples ate fish the most frequently.
34. The ESR report identified the following food groups as presenting the greatest risk to wild food consumers, due to a high consumption:
- wild game (land animals) – mainly from brodifacoum and microbiological hazards; and
 - shellfish (marine invertebrates) – mainly from microbiological contamination associated with recreational collection of shellfish.
35. The review concluded that wild food does not pose a major risk to public health in New Zealand but that current data is limited.
36. NZFSA collates data on marine biotoxins but not for other hazards associated with non-commercial food¹². The other NZFSA monitoring programmes are in relation to the commercial food supply¹³. Obtaining additional data on non-commercial food hazards would need to be crown funded¹⁴.
37. Most people rarely eat non-commercial wild food; and are therefore seldom exposed to associated hazards. However, for people who do (noting that this proportion may be increasing over time), the key is for government to coordinate to get information to them so they know how best to protect the health of themselves and their families.

¹² Other agencies are also involved in monitoring. For example, refer the *Microbiological Water Quality Guidelines for Marine and Freshwater Recreational Areas*: <http://www.mfe.govt.nz/publications/water/microbiological-quality-jun03/> (Ministry for the Environment and Ministry of Health, 2003).

¹³ Commercial monitoring programmes carried out by NZFSA include:

- the National Chemical Residue (non-dairy) and Chemical Contaminant (dairy) Monitoring Programmes for providing food safety assurances on all animal products, including farmed and wild animals, raw milk and dairy products, fish and shellfish, and honey;
- National Microbiological Database for systematic and ongoing monitoring of premises slaughtering cattle, sheep, deer, goats, poultry, and ostriches;
- Food Residue Surveillance Programme for compliance with chemical food safety standards across a wide range of foods both, both imported and domestic; and
- Total Diet Survey for evaluating the level of exposure of the New Zealand population to chemicals in the food supply.

¹⁴ For example, it is not efficient or practical to apply a charge (for cost recovery purposes) to people who undertake non-commercial food activities.

4 NZFSA's mandate for safe non-commercial food

38. Government policy provides direction for managing risks to New Zealand's public health, economy, environment and social wellbeing. Because of the need for specialist knowledge to deal with particular risks, the management of different risk areas has been placed with different government agencies. Agencies are expected to cooperate closely in areas that unavoidably overlap.

39. NZFSA's mandate is "to protect consumers by providing an effective food regulatory programme that covers food produced and consumed in New Zealand as well as imported and exported food products...In pursuing this mandate the overriding priority will always be to protect consumers"¹⁵.

40. In fulfilling its mandate NZFSA has a number of roles and responsibilities. For example, and of particular relevance to non-commercial food and related activities, NZFSA is required to:

- *"base risk management decisions, which are designed to protect consumers, on sound science and an evidence base, applying precaution when faced with scientific uncertainty;*
- *recognise that there are New Zealand customs and practices that involve the non-commercial hunting, gathering and/or preparation of food where the public does not expect regulatory intervention; and*
- *communicate food risks, hygienic practices and nutritional information as far as these are known and relevant to the food supply chain and consumer behaviour"* (NZFSA's Statement of intent 2009 – 2012, page 3).

41. NZFSA's food regulatory programme is primarily directed at food for sale (ie, the commercial food supply). However, 'consumers' include consumers of non-commercial food, including wild food and recreational catch. To protect such consumers without applying regulatory controls, NZFSA must manage associated risks by monitoring certain hazards, working closely with other agencies, and providing information and advice. This meets the Government's objectives for Better and Less Regulation¹⁶.

¹⁵ NZFSA's *Statement of intent 2009 – 2012*: <http://www.nzfsa.govt.nz/about-us/accountability-documents/statement-of-intent/soi-2009-2012.pdf> Outcome 3 within the SOI is "Consumer Food Practices and Choices that Support Better Health". The intermediate outcome of this is that "informed consumers make healthier and safer choices".

¹⁶ Refer <http://www.beehive.govt.nz/release/cutting+red+tape+create+better+smarter+economy>

5 NZFSA roles and responsibilities for the safety of non-commercial food

42. To deliver on NZFSA's overarching mandate to protect consumers, NZFSA carries a number of functions. NZFSA roles and responsibilities to achieve the safety of non-commercial food are broadly grouped into three categories. NZFSA carries out:

- monitoring of marine biotoxins in recreational shellfish (refer section 5.1);
- integrated risk management in cooperation with other agencies, for example, those that may apply controls or take action to manage chemical and microbial hazards (refer section 5.2); and
- risk communication so that New Zealanders are aware of, and can contribute to, managing food related risks (refer section 5.3).

5.1 Monitoring recreational shellfish safety

43. Monitoring of naturally occurring marine biotoxins in recreational bivalve mulluscan shellfish was developed in response to a foodborne illness outbreak in 1993. Reports of illness were associated with the consumption of shellfish harvested from the north-east coast of the North Island. This illness was most likely linked to a form of neurotoxin shellfish poisoning. At the time, New Zealand's commercial shellfish industry was effectively shut down and public warnings were issued to deter non-commercial shellfish harvesting.

44. The non-commercial marine biotoxin monitoring programme (NCMBMP) is designed to gather data on marine biotoxin levels in shellfish and phytoplankton species, so that consumers of non-commercial shellfish can be advised when shellfish in their area is unsafe to collect and eat. It focuses on major non-commercial shellfish harvesting areas, and covers 90% of New Zealand's coastline.

45. Areas not monitored under the NCMBMP are those where:

- shellfish are scarce or absent, or where there is little or no population or access is impractical (for example, Fiordland);
- shellfish should not be taken from due to being either a marine reserve or sufficiently polluted, as may be determined or advised by other agencies; and
- commercial monitoring occurs and data is shared under the agreement with Aquaculture New Zealand (this avoids monitoring duplication by providing NZFSA access to industry marine biotoxin data).

46. The NCMBMP was transferred from the Ministry of Health (MoH) to NZFSA in 2002. The NCMBMP is the only area related to non-commercial food activity in which NZFSA currently funds specific routine monitoring activities.
47. NZFSA reviewed the NCMBMP in early 2010. As a result, responsibility for its delivery (eg, management of sampling, testing and analysis) transferred from DHBs (under contract to NZFSA) to NZFSA's Verification Agency (VA) on 1 July 2010¹⁷.
48. NZFSA's VA now undertakes some of the sampling, and contracts local agencies for other sampling. NZFSA contracts laboratories to undertake required testing and analysis and maintains a central database of results. NZFSA ensures that relevant DHBs' Public Health Units (PHUs) are notified when unsafe biotoxin levels are found, and confirmed.
49. Secondary aspects of the NCMBMP include undertaking operational studies such as validating test methods, investigating toxicity in multiple shellfish species during toxin events, and data reviews.

5.2 Integrated risk management

50. NZFSA works collaboratively with a number of agencies in areas of shared interest. NZFSA works particularly closely with MoH as both have responsibilities relating to, for example, the safety of non-commercial food and nutrition. This is recognised in the Memorandum of Understanding (MoU) between MoH and NZFSA.
51. NZFSA has MoUs (or 'partnership agreements') with numerous government departments, as well as other agencies such as Local Government New Zealand, Auckland and Canterbury DHBs, and overseas authorities.
52. When the NCMBMP transferred to NZFSA, the responsibility for effective public health responses was retained by MoH. It was agreed that NZFSA would provide technical support for DHBs to carry out their public health response obligations.
53. NZFSA operates in an advisory capacity for all agencies, providing advice on food safety to help ensure that any necessary warnings are science-based, proportional to relevant food safety or suitability risks, and that relevant stakeholder interests are taken into account.
54. Issuing alerts and physical warning signs for unsafe recreational shellfish is considered best left for local or regional management. For example, the Ministry for the Environment and MoH recreational water guidelines state that the "Medical Officer of Health has a lead role, given his/her responsibilities under the Health Act, to ensure the proper steps are taken by [TAs] to protect public

¹⁷ Roles, responsibilities and protocols for the NCMBMP are set out in the Marine Biotoxin Monitoring and Response Manual for Non-Commercial Shellfish. Refer: <http://www.nzfsa.govt.nz/consumers/food-safety-topics/marine-biotoxin-alerts/m-b-m-r-manual/index.htm> Note that sensitive information has been removed from this public document, and that various hyperlinks will not work as they are only for internal use.

health”¹⁸. For this, DHBs’ PHUs, TAs and RCs work together to share information and implement the appropriate public health response which may include issuing warnings, media statements, and/or erecting signage.

55. Warnings and alerts for unsafe recreational shellfish are issued through websites, local newspapers, television and radio stations, and utilise PHU, TA, iwi, and hapu networks. Warnings and alerts can change and the public are advised to contact their local PHU or TA if they are in doubt about where they should take shellfish from¹⁹.

56. Warnings for unsafe shellfish often cover several DHB (and TA) jurisdictions. To provide some level of national calibration, NZFSA maintains a section of its website for non-commercial marine biotoxin warnings that have been issued (eg, by PHUs)²⁰.

57. To clarify roles and responsibilities around the issuance of public health warnings, including those for unsafe recreational shellfish, NZFSA and MoH have agreed to:

- review the status quo (as set out in this paper) and consider the arguments for and against PHUs leading public health responses in cooperation with various local and regional agencies;
- determine which central agency should have overall responsibility for the performance of this function at the local level; and/or
- ensure that relevant MoUs, contracts, service agreements and/or operational guidelines provide sufficient clarity in this area.

5.3 Risk communication

58. NZFSA provides authoritative food safety and suitability ‘risk communication’ for New Zealanders so that they are aware of, and can contribute to managing, food-related risks. NZFSA’s risk communication includes the central provision of educative information, messages and advice on managing risks associated with the consumption of non-commercial food, including wild food and recreational catch, in the community, home, and marae.

59. Recent NZFSA initiatives are the ‘Food Smart: Clean. Cook. Chill’ television advertisement campaign for food safety²¹, and Te Kai Manawa Ora - Marae Food Safety Guide²² that covers both commercial and non-commercial food activities.

¹⁸ Refer B2, *Microbiological Water Quality Guidelines for Marine and Freshwater Recreational Areas*: <http://www.mfe.govt.nz/publications/water/microbiological-quality-jun03/>

¹⁹ For contacts refer: <http://www.nzfsa.govt.nz/processed-food-retail-sale/food-complaints/public-health-nits.htm>

²⁰ Refer: <http://www.nzfsa.govt.nz/consumers/food-safety-topics/marine-biotoxin-alerts/>

²¹ Refer: <http://www.foodsmart.govt.nz/>

²² Refer: <http://www.nzfsa.govt.nz/consumers/maori-pacific-other-cultures/marae-food-safety-guide/>

60. Information may be targeted towards individuals, population groups, whānau, community groups, iwi and hapu networks, and public institutions such as schools. NZFSA works with Māori under NZFSA's 'Shared Vision' Strategy, and the Pacific community through 'Umu Pasifika'.
61. NZFSA also works with consumer groups and conducts consumer surveys, so that NZFSA is informed about their food safety concerns, what they are eating, their food handling practices in the home and community, and how food choices may be affecting their longer-term health.
62. NZFSA currently makes a number of information papers and pamphlets about non-commercial food available to the general public, through its publications programme and its public website. For example, NZFSA advises that certain non-commercial foods should not be consumed by vulnerable populations. In particular, young, pregnant, frail elderly, or immune-compromised people are advised not to consume unpasteurised (raw) milk or wild food and recreational catch including pig, deer, and shellfish.
63. The information made available on wild food and recreational catch is primarily directed at those aiming to 'go commercial' and become approved suppliers to commercial businesses. Some information, however, is specifically targeted towards the safety of non-commercial food:
- food safety for seafood gathers – <http://www.nzfsa.govt.nz/consumers/hunting-collecting-fishing/seafood-gatherers/>); and
 - hunting, collecting, fishing and homekill – <http://www.nzfsa.govt.nz/consumers/hunting-collecting-fishing/>
64. Due to the volume of enquiries received about wild shellfish safety, NZFSA has published educational material on risks associated with wild shellfish. This is featured in the Wild Food DVD and two complementary booklets: *Food Safety for Hunters* and *Food Safety for Seafood Gatherers*.
65. Recreational hunters are advised that, in certain areas within the Marlborough Sounds, wild pigs may be exposed to residue contamination from poison use²³.
66. Examples of information made available to the public by other agencies that may contribute towards managing various risks associated with non-commercial food and related activities include:
- [animal welfare minimum standards and best practice](#) [Biosecurity New Zealand].
 - [marine recreational fishing – know the limits](#) [Ministry of Fisheries];
 - [recreational hunting – what to hunt, what not to hunt, and where to get permits](#) [DoC];
 - [check where pesticides have been used in New Zealand](#) [DoC]; and
 - [conservation threats and impacts](#) [DoC].

²³ Refer: <http://www.nzfsa.govt.nz/consumers/hunting-collecting-fishing/restricted-hunting-areas/>

6 Conclusion

67. Non-commercial food and related activities are generally not regulated by NZFSA. Non-regulatory intervention is more appropriate, efficient and effective in managing associated risks, such as those to New Zealand's public health and international reputation as a trusted supplier of safe food.

68. NZFSA currently carries out the following non-regulatory roles and responsibilities to manage risks associated with non-commercial food and related activities:

- providing science-based information to consumers on safe handling of food in their home and communities, including avoiding risks arising from inadequate hygiene, transporting, storing, and cooking, for example:
 - the 'Food Smart: Clean. Cook. Chill' consumer awareness campaign for food safety; and
 - the Wild Food Safety DVD and two complementary booklets: *Food Safety for Hunters* and *Food Safety for Seafood Gatherers*;
- providing targeted information for different groups of New Zealanders, including working with Māori under NZFSA's 'Shared Vision' Strategy, and the Pacific community through 'Umu Pasifika';
- working with consumer groups and conducting consumer surveys, so that NZFSA is informed about their food safety concerns, what they are eating, their food handling practices in the home and community, and how food choices may be affecting their longer-term health;
- providing a monitoring programme for marine biotoxins in recreational shellfish and providing PHUs with data to implement appropriate public health responses, in cooperation with TAs and RCs, for unsafe recreational shellfish around New Zealand; and
- providing specific advice to local government, central government, and international agencies regarding all food safety issues, relating to both commercial and non-commercial food.

69. NZFSA will continue to work closely with relevant agencies so that government efficiency may be improved in this area. This may include a review of the allocation of certain roles and responsibilities and/or their implementation.

70. By strengthening the performance (including coordination and integration) of monitoring, information sharing, and risk communication, foodborne illness associated with non-commercial food may be reduced. This, in turn, may strengthen the integrity of New Zealand's reputation for having a safe food supply chain.

Appendix One – Non-commercial food: legislative framework

The table below summarises relevant Acts, their purpose/scope, roles and responsibilities of various agencies and the application to non-commercial food:

ACT	SUMMARY OF PURPOSE/SCOPE	RESPONSIBLE AGENCIES' ROLES AND RESPONSIBILITIES	APPLICATION TO NON-COMMERCIAL FOOD
<p>Agricultural Compounds and Veterinary Medicines Act 1997</p>	<p>To prevent or manage risks associated with the use of agricultural compounds, being risks to: public health, trade in primary produce, animal welfare and agricultural security.</p>	<p>The New Zealand Food Safety Authority's (NZFSA) responsibilities include:</p> <ul style="list-style-type: none"> • developing, implementing, and reviewing standards relating to agricultural chemicals and veterinary medicines (ACVMs) and corresponding maximum residue limits (MRLs – which are set under the Food Act 1981); • authorising ACVM products and monitoring their importation, manufacture, sale and use; and • maintaining public registers/lists and investigating non-compliance. 	<p>An 'own-use standard' has been issued as a code of practice approved under section 28 of this Act. Under Schedule 1 compounds (with some exceptions) that are not trade name products may be used by persons treating their own animals or plants on or in any land, place or water owned or occupied by them. However, the exemption lists some substances that cannot be used under this standard unless there is a specific code of practice approved.</p>
<p>Animal Products Act 1999</p>	<p>To minimise and manage risks associated with the production and processing of all animal material and all products derived in whole or in part from animals and facilitate trade and export of animal products.</p>	<p>NZFSA's responsibilities include:</p> <ul style="list-style-type: none"> • developing, implementing, evaluating and reviewing animal product legislation (including standards, regulations, and specifications for both domestic and export operators); • providing guidance and assistance for operators to meet their requirements; • restricting procurement of wild game (intended for sale) from certain areas; • approving risk management programmes (RMPs); • recognising agencies and persons to perform specialised functions, such as verification, evaluation, and laboratory testing; • carrying out monitoring and surveillance; • enforcing compliance to the Act, RMPs, Regulated Control Schemes (imposed under the Act or its regulations), and specifications; • providing verification services and official assurances as required by overseas governments; • issuing overseas market access requirements; • maintaining public registers/lists; and • managing the electronic certification system (e-cert) for animal product exports. 	<p>The Act sets out controls on animals that are homekill or recreational catch. Homekill or recreational catch cannot be sold for human or animal consumption. Anyone who eats it or feeds it to their pets does so at their own risk.</p> <p>Recreational catch is the activity of killing, capturing, taking, or harvesting and then processing a wild animal by a recreational hunter or fisherman, or other person undertaking similar recreational activities for the use or consumption of the hunter, fisherman, or other person. Recreational catch product must only be for the use or consumption of the catcher/hunter (or the catcher's party or family or household).</p> <p>Homekill may only be used and eaten by the animal owner and his or her family or employees. A person who has domestically-reared or hunted or harvested an animal is able to kill and process the animal themselves on their own property or at or near the place where the animal was hunted or harvested. The person, hunter or harvester may alternatively have the animal killed or processed by a listed homekill or recreational catch service (eg, slaughter and dressing) provider, on the service provider's premises or place or on the catcher's property or at or near the place where the animal was hunted or harvested.</p>

<p>Animal Welfare Act 1999</p>	<p>To prohibit ill treatment of animals and place obligations on people who own or are in charge of animals to meet animal's physical, health and behavioural needs and to alleviate pain or distress.</p>	<p>The Ministry of Agriculture and Forestry's (MAF) responsibilities include:</p> <ul style="list-style-type: none"> • leading and facilitating the management of animal welfare policy and practice in New Zealand; • developing, implementing, evaluating and reviewing animal welfare standards; and • encouraging voluntary compliance with animal welfare standards and, where necessary, enforcing the law. <p>Complaints made about non-compliance, including cases of animal ill-treatment or cruelty, are investigated by MAF and the Society for the Prevention of Cruelty to Animals (SPCA).</p> <p>Animal Welfare Inspectors include MAF officers, inspectors from approved organisations (eg, Royal New Zealand SPCA) appointed by the Minister, and the Police.</p>	<p>Animal welfare controls can relate to non-commercial food sources such as wild or domestic animals. For example, it is an offence under the Act to kill any animal in such a way that it suffers unreasonable or unnecessary pain or distress.</p>
<p>Biosecurity Act 1993</p>	<p>To provide for the exclusion, eradication, and effective management of pests and unwanted organisms.</p>	<p>MAF's responsibilities include:</p> <ul style="list-style-type: none"> • providing "whole-of-system" leadership of New Zealand's biosecurity system; • providing biosecurity border risk management services; • implementing biosecurity surveillance activities, and pest management and incursion response programmes; and • enforcing New Zealand's biosecurity regulations. <p>Powers under the Act can be used variously by other government agencies, Regional Councils (RCs) and pest management agencies.</p>	<p>Pests and unwanted organisms can be present in the non-commercial food supply, particularly wild food. A "pest" is defined as an organism specified in a pest management strategy and an "unwanted organism" is defined to mean any organism that a chief technical officer believes is capable or potentially capable of causing unwanted harm to any natural and physical resources or human health.</p>
<p>Conservation Act 1987</p>	<p>To promote the conservation of New Zealand's natural and historic resources.</p>	<p>The Department of Conservation's (DoC) responsibilities include:</p> <ul style="list-style-type: none"> • regulating certain edible species of introduced animals defined to be "wild animals". This includes deer, wallaby, thar, chamois, possums, and feral goats and pigs, and includes the whole or any part of the carcass of any such animal; • managing protected areas that may be used for the collection of wild food (eg, traditional plants used by Māori for food and medicine, and honey); • managing some species that can be harvested for food (notably game birds, wild animals, trout and other sports fish, titi and whitebait); and • facilitating acceptable recreational food collection activities through the provision of visitor facilities and information. 	<p>Prohibitions on food harvesting, such as the prohibition on the harvesting of meat from stranded whales, and requirements that other food harvesting must be authorised (eg, collection of traditional plants) may reduce the health risks associated with those foods, but is not primarily designed for that purpose.</p> <p>Generally DoC does not consider food safety in making decisions under these Acts as such matters are not explicitly included in relevant legislation. If there was a clear risk to public health, then access to the foods could be restricted or discouraged.</p>
<p>Wild Animal Control Act 1977</p>	<p>To provide for the control of harmful species of introduced wild animals and the means of regulating the operations of recreational and commercial hunters, including wild animal recovery hunting using aircraft, so as to achieve concerted action and effective wild animal control.</p>		
<p>Reserves Act 1977</p>	<p>To provide for the preservation and management of:</p> <ul style="list-style-type: none"> • areas valued for recreational use, wildlife, landscape amenity or scenic 		

	<p>value;</p> <ul style="list-style-type: none"> • natural ecosystems, landscapes and the survival of indigenous species of flora and fauna; and • public access to the coastline, islands, lakeshore and riverbanks. 	<p>The harvesting of wild food is highly restricted by conservation legislation, particularly in relation to fully protected species (eg, whales, protected birds), in national parks and in most types of reserves.</p> <p>DoC manages all aspects of this activity, except:</p> <ul style="list-style-type: none"> • game birds and sports fish (other than in the Taupo fishery area) are managed by fish and game councils; and • some protected reserves that are managed by other public bodies (for example TAs, reserve boards, or iwi organisations), with DoC maintaining only high level oversight. 	<p>DoC may share information it has on food safety where it interacts with the public for other reasons, but does not develop communications specifically for this.</p> <p>Doc considers that it, and fish and game councils, may provide a conduit for NZFSA findings on food safety to certain people (eg, sports fishers, titi harvesters, beekeepers with concessions, recreational hunters, and whitebait fishers), as appropriate.</p>
<p>Fisheries Act 1996</p>	<p>To provide for the utilisation of fisheries resources while ensuring sustainability.</p>	<p>The Ministry of Fisheries (MFish) is the Government’s principal adviser on fisheries management.</p> <p>This includes providing advice on policy and statutory decisions about fisheries management and aquaculture, eg, on area closures, restrictions on fishing methods, fishing seasons and reporting requirements.</p> <p>MFish also provides advice in relation to New Zealand’s position on international fisheries management.</p> <p>MFish provides or purchases services to maintain the effective management of New Zealand’s fisheries including:</p> <ul style="list-style-type: none"> • providing compliance services, including education, enforcement and prosecution; • providing observers onboard commercial fishing vessels; • purchasing and providing oversight and quality assurance for scientific research into fisheries and the marine environment; • collecting catch information such as catch, fishing effort and area, fishing method and other fisheries information; and • purchasing and monitoring the delivery of contracted and devolved fisheries registry services (such as registered commercial fishing vessels and quota ownership). <p>MFish also discharges the Crown’s obligations under the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, the Māori Fisheries Act 2004 and the Māori Commercial Aquaculture Claims Settlement Act 2004.</p>	<p>People do not need a permit to fish recreationally in New Zealand fisheries waters, provided they do not sell or trade their catch and follow the recreational fishing rules.</p> <p>Some exceptions apply. If anyone wants to fish in freshwater for “sportsfish” such as trout, salmon and perch they need to obtain a licence from Fish and Game New Zealand.</p> <p>If fishing under the customary fishing regulations²⁴ an authorisation is needed (as set out in the regulations), and the fish cannot be sold or traded.</p>

²⁴ The Fisheries (Kaimoana Customary Fishing) Regulations 1998, the Fisheries (South Island Customary Fishing) Regulations 1999 and Regulation 27A of the Fisheries (Amateur Fishing) Regulations 1986

<p>Food Act 1981²⁵</p>	<p>To provide for the safety of food for sale.</p>	<p>NZFSA's responsibilities include:</p> <ul style="list-style-type: none"> • developing, implementing, evaluating and reviewing domestic and prescribed (eg, for imports) food standards; • implementing food labelling and composition standards under the Australia New Zealand Food Standards Code; • approving food safety programmes and maintaining public registers/lists; and • managing compliance enforcement (and contracting a number of District Health Boards (DHBs) for certain functions). <p>Territorial Authorities' (TAs) responsibilities include:</p> <ul style="list-style-type: none"> • registering and inspecting premises in accordance with the Food Hygiene Regulations 1974 (FHRs); • exempting premises from the FHRs that operate with a NZFSA-approved template food safety programmes (FSP); • acting as third party FSP auditors (verifiers); and • carrying out compliance enforcement activity. 	<p>The Food Hygiene Regulations set out that home cooking (ie, non-commercial activities where food is not intended for sale) must be segregated from commercial operations (ie, where food is intended for sale).</p> <p>The processing of non-commercial meat may be carried out at registered food premises, provided strict conditions are met (eg, the meat is wholesome; free from contamination; processed and stored separately from meat intended for sale; adequately labelled to distinguish it from meat for sale; that a notice at the premises clearly informs customers that processing of unregulated meat is carried out at the premises; and that the operator must keep records to show who owns the meat, its type and quantity etc). This supports the Animal Products Act prohibition on selling homekill/recreational catch and the ability for Dual Operator Butchers to handle/process both regulated and unregulated meat under their RMP.</p>
<p>Hazardous Substances and New Organisms Act 1996</p>	<p>To protect the environment, and the health and safety of people and communities by preventing or managing the adverse effects of hazardous substances and new organisms.</p>	<p>The Ministry for the Environment (MfE) administers the Act and regulations. The Environmental Risk Management Authority (ERMA) New Zealand implements the Act by, for example, processing applications to import or manufacture hazardous substances and new organisms.</p> <p>In terms of enforcement, MAFBNZ is responsible for new organisms. For hazardous substances, various agencies are responsible for enforcing compliance eg:</p> <ul style="list-style-type: none"> • MoH is responsible for protecting public health; and • TAs are responsible for any registered premises (except those specified as the responsibility of other agencies). 	<p>This Act sets controls on genetically modified (GM) organisms that may be used to create food products. For example, by setting conditions on the environmental release of a GM crop. At this time there are no GM food crops approved for environmental release in New Zealand. Food Standards Australia New Zealand (FSANZ) is responsible for food labelling and the pre-market safety assessment of food produced using gene technology eg, GM. Standard 1.5.2 of the Australia New Zealand Food Standards Code lists those GM foods that are approved for sale in New Zealand.</p>
<p>Health Act 1956</p>	<p>To improve, promote, and protect public health.</p>	<p>The Ministry of Health's (MoH) responsibilities include:</p> <ul style="list-style-type: none"> • administers the notification, surveillance, and response to infectious diseases including food borne, and other enteric diseases and zoonoses (and also including public health issues related to transmissible <i>Spongiform encephalopathies</i>); and • responding to public health risks and emergencies. 	<p>MoH is responsible for improving, promoting, and protecting public health. In addition to its statutory functions, it will provide advice and information to support public health promotion (for example nutrition promotion).</p>

²⁵ Note that a new Food Bill that is proposed to replace the Food Act 1981 was recently introduced to Parliament. If enacted, this new legislation may alter the roles and responsibilities of NZFSA and TAs.

		<p>TAs are responsible for a number of functions, including:</p> <ul style="list-style-type: none"> • registering premises under the Health (Registration of Premises) Regulations 1966; and • identifying, and abating “nuisances” as defined under the Act. 	
Local Government Act 2002	To provide for democratic and effective local government that recognises the diversity of New Zealand communities. To that end the Act (amongst other things) provides for local authorities to play a broad role in promoting the social, economic, environmental, and cultural well-being of their communities, taking a sustainable development approach.	<p>The Department of Internal Affairs administers the Act. It is implemented by RCs and TAs. Specific powers come from other Acts.</p> <p>Under this Act, TAs are responsible for establishing community outcomes, long term planning, setting policy, providing services, and regulating certain activities through bylaws.</p>	Activities related to the safety of non-commercial food and related activities may indirectly contribute to community wellbeing, but are unlikely to be directly addressed under this Act.
Medicines Act 1981	To regulate the manufacture, sale, and supply of medicines, medical devices, and related products.	MoH administers these Acts to regulate medicines and controlled drugs.	Controls under the Medicines Act apply only to medicines substances or ingredients manufactured, imported, sold, or supplied for administering to people for a therapeutic purpose. Controls under the Misuse of Drugs Act can be on edible foods classified as ‘controlled drugs’ (such as cannabis and magic mushrooms).
Misuse of Drugs Act 1975	To regulate for the prevention of the misuse of drugs.		
Resource Management Act 1991	To promote the sustainable management of natural and physical resources.	<p>MfE and DoC have national direction and intervention powers. Day to day implementation of the Act is undertaken by RCs and TAs. RCs are responsible for developing policy, issuing resource consents and monitoring the state of the environment. RC contaminant monitoring can relate to the safety of non-commercial food and related activities primarily relates to coasts, freshwater, air, and discharges.</p> <p>RCs may:</p> <ul style="list-style-type: none"> • monitor the bacterial quality of fresh and marine waters (eg, <i>Escherichia coli</i> (<i>E.coli</i>) and <i>Cryptosporidium</i> in freshwater and <i>Enterococci</i> in marine water); • test for heavy metals in freshwater, rivers, streams and marine sediments; and • monitor soil quality, including for heavy metals. <p>TAs are responsible for developing policies, rules and procedures, assessing resource consent applications and monitoring land use activities.</p>	<p>Controls can affect wild food activities. For example, Part 3 of the Act sets out duties and restrictions on the use of land, the coastal marine area, river and lake beds, and water; and prohibits discharges of contaminants onto water or land unless authorised by a RC, resource consent or regulation.</p> <p>Controlling land use activities for the purpose of sustainable management may relate to non-commercial food and related activities but is not targeted towards this.</p>

<p>Wine Act 2003</p>	<p>To minimise and manage risks to human health arising from the making of wine; facilitate the entry of wine into overseas markets; and enable the setting of export eligibility requirements.</p>	<p>NZFSA's responsibilities include:</p> <ul style="list-style-type: none"> • developing, implementing, evaluating and reviewing wine legislation (includes standards, regulations, and specifications) and codes of practice; • providing guidance and assistance for winemakers to meet their requirements • registering wine standards management plans and monitoring and enforcing compliance; • recognising agencies and persons to perform specialised functions, such as verification and laboratory testing; • providing official assurances as required by overseas markets; and • managing the certification system for wine exports. 	<p>N/A</p>
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