



# Proposed National Policy Direction for Pest Management Plans and Programmes

MPI Discussion Paper No: 2013/14

ISBN No: 978-0-478-40592-7 (online)  
ISSN No: 2253-3907(online)

May 2013

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# Foreword from the Minister for Primary Industries

Biosecurity is the exclusion, eradication, or effective management of risks that pests and diseases pose to New Zealand's economy, environment, human health, and socio-cultural wellbeing. Pest management is about preventing or reducing the costs and/or impacts caused by harmful organisms that are already in New Zealand.

Established pests have the potential to cause significant harm to New Zealand, including financial costs through lost production, and environmental and socio-cultural costs that are difficult to estimate. Our export sectors derive significant benefits and competitive advantage in part from New Zealand's favourable animal and plant health status and market assurances, meaning that effective pest management can play a part in maintaining or regaining market access.

Due to the biological nature of pests and the different impacts they can have, New Zealand's pest management system is complex. Many parties are involved in managing pests (including central government agencies, regional councils, industry groups, Māori, non-Government organisations, landowners, community groups and the public), and these parties carry out a range of activities such as surveillance, research, and pest control to protect economic, environment, human health and socio-cultural values.

The Biosecurity Law Reform Act 2012 (the Act) made a number of changes to New Zealand's biosecurity system. Among other things, the Act requires me to prepare and consult on a proposed national policy direction for pest management plans and programmes. I have prepared and am now consulting on the proposed national policy direction, which forms the first part of this discussion document.

The national policy direction will ensure that pest management activities under the Biosecurity Act are in New Zealand's best interests and make the best use of available resources. The national policy direction will also ensure that pest management activities align with one another, where appropriate, to provide for the eradication or effective management of harmful organisms present in New Zealand.

The second part of this document provides a report prepared by the Ministry for Primary Industries to accompany the proposed national policy direction and support consultation on it. The report provides the background and reasoning behind the proposed national policy direction.

I encourage management agencies, the New Zealand public and agencies with an interest in pest management to consider the contents of the proposal and provide feedback. These submissions will be invaluable in ensuring the final national policy direction best achieves its purpose.



Hon Nathan Guy  
Minister for Primary Industries

## Part 1 – Proposed National Policy Direction 2013

# Preamble

Established pests have the potential to cause significant harm to New Zealand's economy, environment and health.

New Zealand's pest management system is complex, due to the biological nature of pests and the differing impacts they have. Many parties are involved in managing pests, including central government agencies, regional councils, industry groups, Māori, non-Government organisations, landowners, community groups and the public. These parties carry out a range of pest management activities to protect economic, environment, human health and socio-cultural values.

Part 5 of the Biosecurity Act 1993 (the Act) supports the eradication or effective management of harmful organisms in New Zealand by providing for the development of national or regional pest and pathway management plans, and small-scale management programmes, and providing for the appropriate distribution of costs associated with these plans and programmes. The national and regional plans provide a means for communities to agree on the control of established pests that are of concern to them. A regional council may declare a small-scale management programme in the region if a pest could be eradicated or controlled effectively with small-scale measures within three years of the measures starting.

These plans and programmes must meet the purpose of Part 5 of the Act, which is to provide for the eradication or effective management of harmful organisms that are present in New Zealand by providing for:

- the development of effective and efficient instruments and measures that prevent, reduce, or eliminate the adverse effects of harmful organisms on economic wellbeing, the environment, human health, enjoyment of the natural environment, and the relationship between Māori, their culture, and their traditions and their ancestral lands, waters, sites, waahi tapu, and taonga; and
- the appropriate distribution of costs associated with the instruments and measures.

The plans balance property rights by setting rules that specify rights and obligations of those parties to which they apply.

The Act requires the responsible Minister to make a national policy direction. National and regional pest management plans and pathway management plans, and regional small-scale management programmes must be consistent with the national policy direction.

## WHAT IS THE PURPOSE OF THE NATIONAL POLICY DIRECTION?

The purpose of the national policy direction is to ensure that pest management activities that occur under Part 5 of the Act provide the best use of available resources and align with one another when necessary.

The national policy direction will do this by:

- clarifying requirements for Part 5 regulatory instruments; and
- ensuring consistent application of these requirements nationally and between regions, as appropriate.

## WHAT DOES IT APPLY TO?

Although a significant amount of pest management occurs outside of the Act, this national policy direction only applies to pest management activities that occur under the Act. Specifically, it applies to proposals for national and regional pest and pathway management plans, the plans themselves, and regional small scale management programmes under the Act. The term “plan” refers to plans for pests that have been developed by management agencies or regional councils. Depending on the wording of the particular direction, directions apply to some or all of these instruments.

Persons developing and making any of the instruments referred to above must comply with this national policy direction together with requirements prescribed in the Act itself.

The national policy direction is not meant to be a substitute for, or prevail over, the Act’s statutory purpose or the existing statutory tests.

This national policy direction is deemed to be a regulation for the purposes of the Regulations (Disallowance) Act 1989, but is not a regulation for the purposes of the Acts and Regulations Publications Act 1989.

## WHAT ARE THE IMPLICATIONS OF NOT MEETING THE REQUIREMENTS IN THE NATIONAL POLICY DIRECTION?

The Minister needs to be satisfied that a national pest or pathway management plan is not inconsistent with the national policy direction, and that process requirements in the national policy direction for the proposed plan were complied with, before the Minister can recommend to the Governor-General that an Order in Council be made to make the plan.

A regional council needs to be satisfied that a regional pest or pathway management plan or small-scale management programme is not inconsistent with the national policy direction, and that process requirements in the national policy direction for the proposed plan or programme were complied with, before the Council can make the plan or declare the programme.

An application can be made to the Environment Court if a party considers that a regional pest or pathway management plan is inconsistent with the national policy direction, or if a process requirement for a proposed plan in the national policy direction was not complied with.

If the Environment Court considers that the application has merit, it can direct the regional council to change the plan.

## 2 Title

This national policy direction is the National Policy Direction 2013.

## 3 Commencement

This national policy direction will come into force on xx 2013.

## 4 Interpretation

(1) In this national policy direction, unless the context otherwise requires:

**Act** means the Biosecurity Act 1993

**subject:**

- (a) in relation to a proposal for a pest management plan, means the organism or organisms proposed to be specified as a pest or pests under the plan; and
- (b) in relation to a pest management plan, means the pest to which the plan applies; and
- (c) in relation to a proposal for a pathway management plan, or to a pathway management plan, means the pathway or pathways to which the proposal for a plan, or to which the plan, applies; and
- (d) in relation to a small-scale management programme, means the unwanted organism specified in the programme

(2) Any term or expression that is defined in the Act and used, but not defined, in this national policy direction has the same meaning as in the Act.

## 5 Directions on programme description

(1) For each subject in a pest management plan or pathway management plan, the plan must contain one or more of the following programmes, and may not contain any other types of programmes:

- (a) “Exclusion Programme” (if applicable) in which the intermediate outcome for the programme is to prevent the establishment of the subject, or an organism being spread by the subject, that is present in New Zealand but not yet established in an area:
- (b) “Eradication Programme” (if applicable) in which the intermediate outcome for the programme is to reduce the infestation level of the subject, or an organism being spread by the subject, to zero levels in an area in the short to medium term:
- (c) “Progressive Containment Programme” (if applicable) in which the intermediate outcome for the programme is to contain and reduce the geographic distribution of the subject, or an organism being spread by the subject, to an area over time:
- (d) “Sustained Control Programme” (if applicable) in which the intermediate outcome for the programme is to provide for the sustained control of the

- subject, or an organism being spread by the subject, in an area to a level where the costs imposed on persons are manageable:
- (e) “Site-led Pest Programme” (if applicable) in which the intermediate outcome for the programme is that the subject, or an organism being spread by the subject, that is capable of causing damage to a place is excluded or eradicated from that place, or is contained, reduced, or controlled within the place to an extent that protects the values of that place:
  - (f) for pathway management plans, if none of the programmes in subclause (a) to (e) are applicable, the plan must contain a “Pathway Programme” in which the intermediate outcome for the programme is to reduce the spread of harmful organisms.
- (2) The specific names for programmes as set out in subclause (1)(a) to (f) must be used as appropriate in all pest management plans and pathway management plans.
  - (3) The programme selected for a subject in a plan under subclause (1) must be consistent with the pest management intermediate outcome stated for the subject in the plan under clause 6 of this national policy direction.

## 6 Directions on setting objectives

### PEST MANAGEMENT PLAN

- (1) For each subject in a proposal for a pest management plan, or in a pest management plan, the objectives in the plan must:
  - (a) state the particular adverse effect or effects referred to in section 54(a) of the Act that the plan addresses; and
  - (b) state the pest management intermediate outcomes that the plan is seeking to achieve, being one or more of the following intermediate outcomes:
    - (i) “exclusion” which means to prevent the establishment of the subject that is present in New Zealand but not yet established in an area;
    - (ii) “eradication” which means to reduce the infestation level of the subject to zero levels in an area in the short to medium term;
    - (iii) “progressive containment” which means to contain and reduce the geographic distribution of the subject to an area over time;
    - (iv) “sustained control” which means to provide for the sustained control of the subject in an area to a level where the costs imposed on persons are manageable;
    - (v) “protecting values in places” which means that the subject that is capable of causing damage to a place is excluded or eradicated from that place, or is contained, reduced, or controlled within the place to an extent that protects the values of that place; and
  - (c) for each outcome in subclause (1)(b), specify –
    - (i) the geographic area to which the outcome applies; and
    - (ii) the particular level of the outcome (if applicable).”; and
    - (iii) the period within which the outcome is expected to be achieved; and
  - (d) if the period within which the pest management intermediate outcome is expected to be achieved is more than 10 years, state what is intended to be achieved in the first 10 years of the plan.

## PATHWAY MANAGEMENT PLAN

- (2) For each subject in a proposal for a pathway management plan, and in a pathway management plan, the objectives in the plan must:
- (a) state the particular adverse effect or effects referred to in section 54(a) of the Act that the plan addresses; and
  - (b) state any key known organisms that are to be managed; and
  - (c) state the pest management intermediate outcomes to which the plan is seeking to contribute, being one or more of the following intermediate outcomes:
    - (i) “exclusion” (if applicable) which means to prevent the establishment of an organism, being spread by the subject, that is present in New Zealand but not yet established in an area;
    - (ii) “eradication”(if applicable) which means to reduce the infestation level of an organism, being spread by the subject, to zero levels in an area in the short to medium term;
    - (iii) “progressive containment” (if applicable) which means to contain and reduce the geographic distribution of an organism, being spread by the subject, to an area over time;
    - (iv) “sustained control” (if applicable) which means to provide for the sustained control of an organism, being spread by the subject, in an area to a level where the costs imposed on persons are manageable;
    - (v) “protecting values in places” (if applicable) which means that an organism being spread by the subject, that is capable of causing damage to a place, is excluded or eradicated from that place, or is contained, reduced, or controlled within the place to an extent that protects the values of that place; and
    - (vi) if none of the outcomes in subclause (c)(i) to (v) are applicable, the plan must contain a “Pathway Programme” in which the intermediate outcome for the programme is to reduce the spread of harmful organisms; and
  - (d) for each outcome in subclause (2)(c), specify –
    - (i) the geographic area to which the outcome applies; and
    - (ii) the particular level of the outcome (if applicable); and
    - (iii) the period within which the outcome is expected to be achieved; and
  - (e) if the period within which the pest management intermediate outcome is expected to be achieved is more than 10 years, state what is intended to be achieved in the first 10 years of the plan.

## SMALL-SCALE MANAGEMENT PROGRAMME

- (3) For each subject in a small-scale management programme the objectives in the programme must:
- (a) state the particular adverse effect or effects referred to in section 54(a) of the Act that the programme addresses; and
  - (b) state the pest management intermediate outcomes that the programme is seeking to achieve, being one or more of the following outcomes:
    - (i) “exclusion” which means to prevent the establishment of the subject that is present in New Zealand but not yet established in an area;
    - (ii) “eradication” which means to reduce the infestation level of the subject to zero levels in an area in the short to medium term;
    - (iii) “progressive containment” which means to contain and reduce the geographic distribution of the subject to an area over time;

- (iv) “sustained control” which means to provide for the sustained control of the subject in an area to a level where the costs imposed on persons are manageable; and
- (c) for each outcome in subclause (3)(b), specify –
  - (i) the geographic area to which the outcome applies; and
  - (ii) the particular level of the outcome (if applicable); and
  - (iii) the period within which the outcome is expected to be achieved.

## **PEST MANAGEMENT PLAN, PATHWAY MANAGEMENT PLAN, SMALL-SCALE MANAGEMENT PROGRAMME**

- (4) The specific names for programmes as set out in subclause (1)(b)(i) to (v) must be used as appropriate in all pest management plans.
- (5) The specific names for programmes as set out in subclause (2)(c)(i) to (vi) must be used as appropriate in all pathway management plans.
- (6) The specific names for outcomes as set out in subclause (3)(b)(i) to (v) must be used as appropriate in all small-scale management plans.

## **7 Directions on analysing benefits and costs**

### **PEST MANAGEMENT PLAN AND PATHWAY MANAGEMENT PLAN**

- (1) In the proposal for a pest management plan or pathway management plan, an analysis of the benefits and costs of the plan for each subject must:
  - (a) identify and value the benefits and costs of the plan, including the direct costs to land occupiers of complying with rules in the plan; and
  - (b) state the assumptions (if any) on which the analysis is based; and
  - (c) be at an appropriate level of detail as determined in accordance with subclause (2); and
  - (d) identify and quantify risks to being successful; and
  - (e) analyse and compare different options.
- (2) When determining the appropriate level of analysis of the benefits and costs of the plan, in the proposal for a pest management plan or pathway management plan, a proposer must consider:
  - (a) the level of certainty, including:
    - (i) the level and quality of data available; and
    - (ii) the certainty of impacts; and
  - (b) the likely significance or controversy created by a decision; and
  - (c) the urgency of the situation; and
  - (d) the relative costs involved, for example, very low cost actions should not involve a high cost analysis.
- (3) When identifying and quantifying the risks to being successful under subclause (1)(d), a proposer must consider the risk:
  - (a) that the management approach chosen cannot effectively achieve the objective being sought; and
  - (b) that the management approach chosen will be inadequately applied; and

- (c) that other stakeholders, agencies, or legal processes will adversely affect implementation of the plan; and
  - (d) of causing unintended adverse effects; and
  - (e) that public and political concerns will adversely affect implementation of the plan.
- (4) The proposer of a pest management plan or pathway management plan must document the assessments made in subclauses (2) and (3).

## 8 Directions on proposed funding of costs of pest and pathway management plans

### PEST MANAGEMENT PLAN AND PATHWAY MANAGEMENT PLAN

In considering how it is proposed to fund a pest management plan or pathway management plan, in the proposal for a pest management plan or pathway management plan, the proposer must:

- (a) identify all significant exacerbators and beneficiaries for each subject, or an organism, being spread by each subject; and
- (b) group known exacerbators and beneficiaries based on how they affect the need for pest or pathway control; and
- (c) assess each group's ability to:
  - (i) change its behaviour to reduce the costs of the pest or pathway control or change its behaviour to reduce the risks that give rise to the need for the pest or pathway control; and
  - (ii) determine whether the benefits of the pest or pathway control outweigh the costs of such control; and
  - (iii) determine whether the pest or pathway control is being delivered most cost-effectively; and
- (d) assess how costs can be allocated fairly and in a practical way; and
- (e) document the steps and assessments carried out under subclause (a) to (d) and how any other factors have been considered in making the proposal on funding.

## 9 Directions on timing of inconsistency determination

### PEST MANAGEMENT PLAN AND PATHWAY MANAGEMENT PLAN

The Minister or regional council must make a determination under section 100AA(3) of the Act, as to whether a pest management plan or pathway management plan is inconsistent with the national policy direction, within 18 months of the Governor-General approving the making, revocation, or replacement, of the national policy direction.

# 10 Directions on good neighbour rules

## REGIONAL PEST MANAGEMENT PLAN

- (1) Before a rule can be identified as a good neighbour rule in a regional pest management plan, the regional council must be satisfied of the matters in subclause (a), (c), and (d) and must comply with the requirements in subclause (b) and (e):
  - (a) In the absence of the rule, the pest would spread to land that is adjacent or nearby within the life of the plan and would cause unreasonable costs to an occupier of that land.
  - (b) In determining whether the pest would spread as described in subclause (a) the regional council must consider the proximity and characteristics of the adjacent or nearby land and the biological characteristics and behaviour of the particular pest (the greater the distance between properties, the more difficult to satisfy the test in subclause (a)).
  - (c) The land that is adjacent or nearby, as described in subclause (a), must be clear from the pest or, if the pest is present on that land, the occupier of that land must be taking measures to manage the pest or its impacts.
  - (d) The rule must not set a requirement on an occupier that is greater than that required to manage the spread of the pest.
  - (e) In determining the rules to be set to manage the costs to an occupier of land that is adjacent or nearby, of the pest spreading, the regional council must consider:
    - (i) the biological characteristics and behaviour of the particular pest; and
    - (ii) whether the costs of compliance with the rule are reasonable relative to the costs that such an occupier would incur, from the pest spreading, in the absence of a rule.

## Part 2 – Report to Support Consultation on the Proposed National Policy Direction 2013

## 11 Purpose of this report

New Zealand's pest management system is constantly changing. While some areas work well, the system still needs of a number of improvements.

The Minister for Primary Industries is consulting on a proposed national policy direction for pest management plans and programmes and is inviting feedback from management agencies, interested parties, and the general public. The proposed national policy direction aims to bring national consistency and better value for money to pest management activities.

The following report provides the background and reasoning behind the proposed national policy direction. This report also provides questions to assist in providing feedback, but submitters are welcome to comment on any other matters relating to the proposal.

The closing date for submissions on the development of the national policy direction is 14 June 2013. Information and guidance on providing a submission is included at the end of this part.

## 12 Background – the current approach to pest management

Part 5 of the Biosecurity Act 1993 (the Act) provides a legal basis for excluding, eradicating and effectively managing pests and unwanted organisms. Powers granted by the Act can be used by the Ministry for Primary Industries (MPI), other government agencies, regional councils and pest management agencies. Part 5 establishes important tools for pest management; national and regional pest management plans and small-scale management programmes.

National and regional pest management plans under the Act provide a means for communities to agree on the control of established pests that are important to them by setting rules that specify what parties must do to control pests. Anyone can develop a plan, but most plans have been developed by regional councils or industry groups. A management agency is then appointed to be responsible for implementing and running the plan. The management agency may be a government department, a council, a territorial authority or a body corporate.

If a pest can be eradicated or controlled effectively with small-scale measures and within three years, a regional council may also declare a small-scale management programme.

Part 5 of the Act sets out requirements for the development and review of national and regional pest management plans and small-scale management programmes. These requirements aim to ensure that plans and programmes effectively manage pests efficiently, while distributing costs appropriately across parties.

To date, all 17 regional councils have plans for pests of concern in their region, and another two regional pest management plans are run by other management agencies.

Most existing regional pest management plans consist of a single plan that includes 30-50 programmes, with each programme focused on managing a specific pest. These programmes are grouped into three broad types:

1. Programmes that focus on excluding or eradicating pests with limited distribution from the region. These programmes are typically funded and run by regional councils.
2. Programmes that focus on preventing the spread of widespread or well-established pests between properties and/or to new areas. These programmes seek to progressively “roll back” a pest problem or contain the impacts of a pest.
3. Programmes that focus on preventing the human-assisted spread of pests.

There are also two national pest management plans currently operational, each focusing on a particular species - one for bovine tuberculosis and one for American foulbrood (a disease of bees).

## 13 Changes to the pest management system

In 2008, the Ministry of Agriculture and Forestry (now the Ministry for Primary Industries (MPI)) and regional councils commissioned separate reports on the future of pest management to assess whether the existing system was fit for purpose. The reports found that New Zealand's pest management system worked well, but identified key areas for improvement.

From September 2008, central and regional government agencies, pest management experts, industry and Māori worked together to address the problems identified in these reports. This work aimed to ensure that the pest management system is aligned to outcomes, adaptive, effective and efficient, and based on strong relationships.

The outcomes of this work formed the Pest Management National Plan of Action, which was approved by Cabinet in 2010. The National Plan of Action captures the legislative and non-legislative changes needed to ensure that pest management systems are fit for purpose for the next 25 years. The Plan of Action can be found at: <http://www.biosecurity.govt.nz/pests/surv-mgmt/mgmt/future-project>

### 13.1 THE BIOSECURITY LAW REFORM ACT 2012

The Biosecurity Law Reform Act 2012 made amendments to the Biosecurity Act 1993 that are required to implement changes within the wider biosecurity system, including those from the National Plan of Action. A full version of the amended Act can be found at: <http://www.legislation.govt.nz/act/public/1993/0095/latest/DLM314623.html>

Among other things, the Act requires the Minister for Primary Industries to prepare a proposed national policy direction. The purpose of the national policy direction is:

*to ensure that the pest management activities that occur under Part 5 of the Act provide the best use of available resources for New Zealand's best interests and align with one another, when necessary, to contribute to the achievement of the purposes of Part 5 of the Act.*

The national policy direction will do this by setting clear requirements for the development and content of regional and national pest management and pathway plans, as well as small-scale management programmes.

Once the proposed national policy direction is ready, the Minister for Primary Industries must consult on it using a process that allows management agencies and the general public sufficient time and opportunity to make a submission.

# 14 Background to the proposed national policy direction

## 14.1 DEVELOPMENT OF THE PROPOSED NATIONAL POLICY DIRECTION

MPI and key affected agencies, including the Department of Conservation (DOC), Land Information New Zealand, Local Government New Zealand, representatives from regional councils, and the Department of Internal Affairs, have worked together to develop the content of the proposed national policy direction.

In October 2011, the Chief Executives of MPI, DOC and regional councils endorsed the proposed content. This now forms the Minister for Primary Industries' proposed national policy direction (provided in the first part of this paper).

Agencies also identified a number of issues that were not suitable for inclusion in the national policy direction, but could instead be resolved through non-statutory means (such as best practice guidance). Work on these will form part of the plan for implementing the national policy direction.

## 14.2 CONTENT OF THE PROPOSED NATIONAL POLICY DIRECTION

### What does a successful national policy direction look like?

The Biosecurity Act provides a list of things that the Minister must have regard to in developing the national policy direction. The working group added further criteria to these statutory considerations to determine what a successful national policy direction should look like.

A successful national policy direction is one that:

- meets the purposes of Part 5 of the Act and of the national policy direction, i.e.:
  - provides for the development of effective and efficient pest management instruments and measures;
  - provides for the appropriate distribution of costs associated with the instruments and measures;
  - ensures that Part 5 pest management activities provide the best use of available resources;
  - ensures that Part 5 pest management activities align with each other when necessary; and
  - provides direction on good neighbour rules;
- avoids unnecessary duplication;
- ensures instruments remain agile and flexible;
- provides appropriate national consistency between programmes, while maintaining appropriate local and individual autonomy;
- provides for timely, yet robust, decisions; and
- provides for the appropriate distribution of costs.

### What does the proposed national policy direction cover?

The next part of this report sets out the different sections of the proposed national policy direction. These are:

- directions on common terminology, to ensure that the terminology used to describe programmes within plans is consistent;
- directions on setting objectives, to improve the quality of objectives within plans;

- directions on analysing benefits and costs, to improve the quality of the analyses of costs and benefits;
- directions on proposed funding of costs of pest and pathway management plans, to improve the process used to determine who should fund plan costs;
- directions on timing of inconsistency determination – that is, setting a time limit by when the Minister or council must determine whether existing plans are inconsistent with the national policy direction; and when any such inconsistencies must be fixed; and
- directions on good neighbour rules, to ensure that the setting of good neighbour rules is consistent.

For each set of directions, this report sets out a range of options for addressing each issue, including the status quo, providing non-statutory guidance, and providing national policy direction. The report then assesses each option against the characteristics of a successful national policy direction as set out above to determine which is the preferred option.

The final section of this report sets out MPI's proposal for the implementation, monitoring and review of the proposed national policy direction.

# 15 Content of the proposed national policy direction – options and analysis

## 15.1 BRINGING CONSISTENCY TO TERMINOLOGY USED IN PLANS

### Status quo

The Act is permissive rather than prescriptive, with few defined classes of organisms. Consequently, management agencies have classified pest programmes in their own ways, with different management agencies using different terms to describe or classify the programmes within their plans. A stock take of terms currently used in regional pest management plans identified over 40 different terms being used to describe pest management programmes. These terms have variable meanings and are poorly aligned across plans, often incorporating a mix of outcomes, activities, measures and rules.

For example, the term “total control pests” has commonly been applied to pest species that exist at a low level in a region, and are controlled by the council everywhere and anywhere the pest is found within the region. However, other councils may apply the same term to describe a pest that is widespread, and which land occupiers, rather than the council, must control.

One of the reasons that management agencies use such a variety of terms is to accommodate the full scope of plans, which address not only pest species that rules apply to, but other species that are still of interest to the agency. For example, some regional councils use terms that highlight the provision of advice and information, site-led direct control, surveillance and/or research activities for organisms that are not defined as pests in the plan. Other terms may be used for organisms managed via the National Pest Plant Accord or MPI-led national programmes. In some cases, this has led to programmes being classified by activity (e.g. surveillance), rather than by objective (e.g. exclusion of the pest from the region).

In the absence of any nationally-imposed direction on terminology, regional councils have developed non-statutory guidance of their own. In 1994, a group of council planning and operational practitioners disseminated generic advice on the preparation of regional pest management strategies, including proposed common terminology. Further advice on terminology for pest programmes was disseminated in 2000, 2005, and, more recently, 2009. To date, however, there has been variable uptake of this guidance from management agencies. Where agencies have taken on this guidance, they have generally adapted, refined or expanded upon it based on their own internal logic, meaning that national consistency is not necessarily improved.

The current state for national pest management plans is less complicated, as there are only two national plans, each of which focuses on a single species.

### Problem definition

The lack of consistent terminology makes it difficult for other parties to understand what is meant by any given term, particularly where these parties work across different regions. It also makes it difficult for other parties to determine the relationship between programme names, objectives, performance measures or rules in programmes. This results in uncertainty and confusion across the system. Using different names to mean the same thing (or the same name to mean different things) also makes national monitoring and reporting on programmes difficult.

Problems associated with the wide variation in pest terminology are likely to become worse in the future. For example, there are two new instruments (national and regional pathway management plans), widening the scope for even more variations in terminology.

### Ideal future state

In the ideal future state:

- Decision-makers apply a common logic when determining the terminology, objectives and design of pest management plans and programmes.
- There is improved stakeholder and public understanding of the terminology, objectives and design of the programmes.
- There is enhanced transparency on the logic, rationale and objectives underpinning pest and pathway management programmes.
- There is improved national, regional and inter-regional alignment of objectives and approaches applied to similar programmes where appropriate.
- There are opportunities for decision-makers to promote shared learning by grouping similar programmes.
- There are opportunities to nationally aggregate, monitor and report on regional information, helping to identify system improvements.

### Options

*Option one: no change - status quo*

This option would provide no direction or guidance on terminology.

*Option two: provide non-statutory guidance*

Under this option, MPI, working with affected agencies, would develop non-statutory best practice guidance on terminology for pest and pathway management programmes and objectives across Part 5 instruments.

*Option three: provide national policy direction*

Under this option, the national policy direction would establish common terminology that plans created under Part 5 of the Biosecurity Act would be required to use.

The proposed national policy direction sets out and defines the following six common terms for programme names:

- Exclusion Programme
- Eradication Programme
- Progressive Containment Programme
- Sustained Control Programme
- Site-led Pest Programme
- Pathway Programme

These terms reflect and describe the objectives and outcomes sought, and can be used nationally and regionally. They align with and support the proposed national policy direction on setting objectives (discussed in the next section), as well as the agreed intermediate outcomes in the National Plan of Action. Management agencies must use the term or terms that align with the particular objectives chosen for a programme.

The table below sets out more detail on how these terms apply to pest and pathway plans:

Terminology to be used	The intermediate outcome meant by the term	
	Pest management plan	Pathway management plan
Exclusion Programme	Prevent the establishment of a pest that is present in New Zealand but not yet established in an area.	Prevent the establishment of an organism that is present in New Zealand but not yet established in an area being spread by the pathway.
Eradication Programme	To reduce the infestation level of the pest to zero levels in an area in the short to medium term.	To reduce the infestation level of an organism being spread by the pathway to zero levels in an area in the short to medium term.
Progressive Containment Programme	To contain and reduce the geographic distribution of the pest to an area over time.	To contain and reduce the geographic distribution of an organism being spread by the pathway to an area over time.
Sustained Control Programme	To provide for the sustained control of the pest in an area to a level where the costs imposed on persons are manageable.	To provide for the sustained control of an organism being spread by the pathway in an area to a level where the costs imposed on persons are manageable.
Site-led Pest Programme	A pest that is capable of causing damage to a place is excluded or eradicated from that place, or is contained, reduced, or controlled within the place to an extent that protects the values of that place.	An organism being spread by the pathway that is capable of causing damage to a place, is excluded or eradicated from that place, or is contained, reduced, or controlled within the place to an extent that protects the values of that place.
Pathway Programme	Not applicable.	To reduce the spread of harmful organisms.

## Options analysis

### *Option one: no change - status quo*

Under this option, the problems identified with inconsistent use of terminology are likely to continue, and become worse in future. Regional councils and others may continue to develop advice on best practice, although in the past this has not delivered the level of consistency and alignment sought by MPI and other agencies.

This option allows management agencies to retain complete autonomy and flexibility with the terms they can use, allowing for new terms to be adopted if needed, or for the definitions of existing terms to be altered. However, this option does not provide national consistency or alignment across plans, and there may be duplication of effort in having management agencies develop and define their own terms rather than using a central set of terms.

Organisations that operate across a number of regions would continue to work with a range of definitions, making compliance with requirements more costly.

### *Option two: provide non-statutory guidance*

This option may provide some consistency although there is no certainty that other parties will adopt nationally-developed guidance, meaning that there may continue to be variation and poor alignment between programme terminology and objectives.

### *Option three (preferred): provide national policy direction*

This option is most likely to deliver the level of consistency and alignment sought by MPI other agencies, and achieve the purposes of Part 5 of the Act and the national policy direction.

Although this option results in less flexibility for agencies, the six terms in the proposed national policy direction do not constrain what types of programmes can be done. Instead, the terms focus on the outcome a programme is aiming to achieve, are scalable, and enable a range of pest management activities to be included in the programme as appropriate.

Requiring plans to use common terminology removes the need for each plan to develop its own terminology. This creates greater efficiencies than do the other options by avoiding duplication of effort.

Common terminology will also improve national, regional and inter-regional alignment of objectives, and will enable similar approaches to be applied to similar programmes where appropriate, promoting shared learnings. This provides greater transparency and makes it easier to compare programmes within and across plans, and so will aid monitoring and reporting, making it easier to identify possible system improvements. It also supports opportunities for working across regions and plans. This provides a good balance between national consistency and the loss of management agency autonomy to choose programme names.

Common terminology will also improve understanding, making it easier for the public and others to understand what programmes are aiming to achieve.

This option does not impose costs on management agencies, nor will it cause increased costs to landowners.

#### Questions

- **Does the discussion reflect the existing situation?**
- **Are there alternative options that should be considered?**
- **Have the key features and impacts of each option been accurately described?**
- **Do you agree or disagree with the proposed common terminology?**
- **Do you have any other comments around the establishment of common terminology for pest management plans?**

## 15.2 IMPROVING THE QUALITY OF OBJECTIVES WITHIN PLANS

### Status quo

The Biosecurity Act requires pest management plans to state the objectives of managing each pest. The plan must also set out how the management agency proposes to measure whether the plan's objectives have been achieved. These requirements also apply to the new national and regional pathway management plans (except that in pathway management plans the "subject" to which the objective applies is the pathway that is to be managed, rather than a specific pest).

The Biosecurity Act sets requirements around how programme objectives should be worded or how specific they need to be. The Biosecurity Act does not prescribe how objectives should be worded, what they should include, or how specific they need to be.

When a council declares a small-scale management programme by giving a public notice, the public notice must also specify the objectives of the programme.

### Problem definition

All existing national and regional pest management plans include objectives for pest-specific programmes. However, there is significant variation in the clarity and intent of objectives across programmes.

Poor objectives make it difficult for parties to understand what a programme is trying to achieve and what their own role is in achieving the intended outcomes.

Poor objectives also make it difficult to analyse the costs and benefits of a programme or options within a programme to determine whether a programme will deliver value. This in turn makes it difficult to assess whether a programme is being successful or needs to be reviewed. It also makes it difficult to compare objectives across different programmes and get an overview of the effectiveness of existing pest management programmes.

The difference in terminology used between different management agencies, as mentioned in the previous section, also makes it difficult to monitor and assess the achievement of objectives and the effectiveness of pest programmes.

### Ideal future state

To ensure plans contain quality objectives, the ideal future state is one where:

- the plan clearly states what outcomes it seeks to contribute to for each subject (i.e. the values in the purpose of Part 5 of the Act – economic wellbeing, the environment, human health, enjoyment of the natural environment, and the relationship between Māori, their culture, and their traditions and their ancestral lands, waters, sites, waahi tapu, and taonga);
- users are clear about the distinction between objectives, outcomes, measures, activities, and rules;
- objectives are written to be as specific, measurable, achievable, results-focussed, time bound as possible;
- stakeholders and users are clear about what plans are trying to achieve (overall and for each subject), so they can understand how their role contributes to the objective; and
- performance of a plan or programme within a plan can be measured and/or monitored against the objectives, and informs potential triggers for review.

## Options

### *Option one: no change - status quo*

This option would provide no direction or guidance on setting objectives.

### *Option two: provide non-statutory guidance*

This option would provide best practice guidance, such as examples of good objectives, outside of the national policy direction. This guidance material would also apply to the wider pest management system as best practice.

### *Option three: provide national policy direction*

This option would provide national policy direction on the process for developing objectives, how objectives relate to the pest management outcomes, and the terminology that must be used (in line with the previous section on common terminology).

The proposed national policy direction on setting objectives focuses on ensuring that objectives in plans and small-scale management programmes align with common terminology and are specific about:

- why the programme is being done. Specifically, a plan or small-scale management programme should state the adverse effects that it addresses and the intermediate pest management outcomes it is seeking to achieve;
- the geographic area or scale that each intermediate outcome applies to, e.g. whether it applies nationally, regionally or to a specific area of New Zealand such as part of a region or a specified place;
- when the outcome is expected to be achieved. If the intermediate outcome is expected to take more than 10 years, the plan should set out what will be done in the first 10 years of the plan; and
- any further detail that would allow the intermediate outcome to be more measurable.

## Options analysis

### *Option one: no change - status quo*

This option is not favoured, as doing nothing will not solve the issues identified earlier in this paper. This option may not contribute to the purposes of Part 5 and the national policy direction, as without guidance on objective-setting, pest management activities will not necessarily be effective, efficient or nationally consistent. This option does allow management agencies flexibility in how they develop objectives, but with this comes the risk that management agencies duplicate effort.

### *Option two: provide non-statutory guidance*

Guidance will help management agencies to develop more effective and efficient plans - however, there would be no requirement for drafters to use these guidelines, so this option alone may not solve the problems identified above.

This option retains flexibility by allowing management agencies to use their own ways of developing objectives. Pre-existing best practice advice may also help management agencies to make decisions that are more timely and robust.

### *Option three (preferred): provide national policy direction*

Providing national policy direction on setting objectives should ensure that plans are effective and efficient, nationally consistent where appropriate, and aligned to pest management system outcomes.

Setting national policy direction on developing objectives may help management agencies to make decisions that are more timely and robust, as well as avoiding duplication of effort. This option would also provide national consistency, while still allowing plans to have considerable autonomy and flexibility, as the national policy direction will not determine which pests or pathways should be managed, nor which objectives an agency must manage them to.

This option will increase transparency and thereby improve understanding about the purpose of programmes. Alignment around setting objectives may make it easier to identify opportunities across plans, creating efficiencies across management agencies.

Under the proposed national policy direction on analysing benefits and costs, management agencies will be required to state any assumptions that their analysis is based on. These assumptions form the basis upon which objectives are set. Making agencies define assumptions provides triggers for review and supports programmes being able to respond to changing pest management needs so that objectives are appropriate over time.

The proposed national policy direction does not provide overly specific direction on setting objectives, as it would be difficult to cover the full range of situations that the objectives will need to apply to. Providing direction that is more specific could limit the ability of agencies to set objectives that match their drivers and interests.

The proposed national policy direction also accounts for the differences between pest and pathway management plans. While “managing a pathway” to manage a particular pest could be considered more of an “activity” rather than an “outcome” in a pest management plan, this may not be so applicable in a pathway management plan. The specific pests being managed under a pathway management plan, and hence the objective of managing them, may not be known. Given that both regional and national pathway management plans are new tools and it is not clear how they will be used, the direction aims to be appropriately flexible so that it does not restrict what could be done.

This option will cause very little if any costs to management agencies. The agencies that worked together to develop the content of the proposed national policy direction consider that the process proposed for developing options reflects good practice – meaning that agencies should already be doing something very similar. We expect that land occupiers will not see increased costs due to this direction, as clearer objectives will mean that programmes are more efficient and better-targeted.

### *Non-statutory guidance to support national policy direction*

MPI considers that the national policy direction on improving the quality of objectives has the potential to be supported by non-statutory guidance. Non-statutory guidance additional to the national policy direction would provide management agencies with best-practice advice and examples of how to meet the requirements, as well as helping management agencies work through the difficulties and complexities of setting objectives in the pest management environment.

MPI invites comments on the desirability of supporting the proposed national policy direction on improving the quality of objectives with additional non-statutory guidance.

#### Questions

- **Does the discussion reflect the existing situation?**
- **Are there alternative options that should be considered?**
- **Have the key features and impacts of each option been accurately described?**
- **Is the proposed national policy direction on setting objectives clear on what is required by management agencies?**
- **Do you have any other comments around the proposed national policy direction on setting objectives?**
- **Do you think additional non-statutory guidance to support the national policy direction on setting objectives is needed? If so, what would help?**

## 15.3 ANALYSES OF COSTS AND BENEFITS

### Status quo

Under the Act, when a proposal for a national or regional pest management plan is initiated, management agencies must undertake an analysis of the benefits and costs of managing each pest in the proposed plan. This also applies to the new pathway management plans<sup>1</sup>.

Because plans impose costs, it is essential that all costs are justified and that the benefits of managing a pest outweigh the costs. Before proceeding with a plan, the Minister or Council must be satisfied that the benefits of the proposed plan would outweigh the costs, after taking into account the likely consequences of not doing anything and alternative ways of dealing with the pest issue.

### Problem definition

An analysis of benefits and costs during the development process is the best way to test a plan's value.

### Quality of information

It is generally difficult to determine the true costs and benefits of pest impacts and options available to manage pests, especially for environmental, social or health-related costs. It is also often easier to quantify costs than it is to quantify benefits.

### Transparency and accessibility

In 2009, MPI commissioned Nimmo-Bell to prepare a report on the *Economic Costs of Pests to New Zealand*. The report found that:

*CBA [cost/benefit analysis] reports prepared for Section 72 analyses are publically available documents but generally only on request. Economic information is generally not used by councils in consultation documents or indeed in most proposed regional pest management strategy documents. It is generally perceived that economic information is not of interest to the public unless challenging a decision. Some councils, however, felt that if economic information could be presented in a form that was easily understood by the general public then it would add value to public consultation.*

A report by the New Zealand Institute of Economic Research (NZIER) in 2011 made similar conclusions:

*There is currently a lack of transparency around the quality of the cost benefit analysis processes being used because accessing cost benefit analysis information is, in many cases, difficult.*

*The actual mechanics of calculations are typically left out of these reports, making assessment of the quality of the cost benefit analysis difficult.*

These reports raise several concerns about the ability to access information about costs and benefits, and the lack of transparency of this information. These concerns are discussed in more detail below.

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<sup>1</sup> This requirement does not apply to small-scale management programmes, however.

It is a minor concern that it is difficult to access the analyses of costs and benefits from management agencies after a plan has been made. While this makes it difficult to assess the quality of the analysis and decision-making, the Act does not require management agencies to make these analyses available once the plan is made. Making this information available could help other agencies to carry out their own analyses of costs and benefits, as well as improve the quality of information overall.

It is, however, more of a problem when analyses of costs and benefits are not provided as part of the proposal for a plan, as the Act requires that this is included. For practical reasons (due to the large size of typical cost/benefit analyses), most councils prepare a document separate to the rest of the proposed plan. Providing this information alongside the proposal for a plan would meet the requirements of the Act, but Nimmo-Bell's report suggests that agencies do not always do this. The NZIER report also suggests that key details are often missing from analyses.

Other common problems are analyses that are provided in a form that is not easy to understand, or contains limited detail. This prevents the public from understanding the rationale behind a proposed plan and being able to provide useful comment during the consultation process. This affects the overall quality of the consultation process and the information used to make and justify decisions.

#### *Level of detail*

The most significant area of variation, specifically for regional councils, was in the level of detail provided in analyses of costs and benefits. This is due to some agencies employing economic consultants to develop the analysis of costs and benefits, while others developed their analyses in-house.

Not all analyses require a high level of detail and it is entirely at the discretion of the decision-maker to choose whether to employ outside help or not. However, where costs and high or benefits are marginal, a more detailed analysis may be necessary.

#### *Quality of process*

A review of the methods used by both regional and central government to analyse the costs and benefits of plans highlights variation and, in some cases, key gaps in the analysis. In some situations, the variations in methods are acceptable and appropriate.

Nimmo-Bell's report also noted that, while the increased use and understanding of cost benefit analysis in pest management was a positive sign, improvements could be made to how cost benefit analyses were undertaken.

The most significant gap in analysis was the treatment of uncertainty and risk. Although some of the more detailed cost benefit analyses did incorporate uncertainty by using different pest spread scenarios, few adequately assessed the risk of failure/probability of success.

Addressing uncertainty and risk is a critical element of an analysis of costs and benefits because there is often limited information about impacts of pests and of different management options. Not all interventions have the same chance of being successful, so if uncertainty and risk are not included in the analysis, the analysis may be wrongly biased towards having a positive net benefit (i.e. a greater value than it actually does).

### *Difficulty in undertaking review of programmes*

Over time, information about pests will change, meaning that programmes may need to be reviewed and have their assumptions checked. In some cases, these plans might not meet their objectives or deliver value, and so should be stood down.

Under the previous provisions of the Act, if a management agency wanted to review any part of a plan, they were required to open up the whole plan for review. As a result, agencies did not adapt their plans over time to meet the changes in information or circumstances. Opening up the whole plan for review would incur unnecessary costs and potential re-litigation. The new provisions allow for plans or parts of plans to be reviewed at any time if the plan is failing to achieve its objectives or circumstances change.

### *Quality of decisions*

In some cases, management agencies have opted for management options that produce negative net benefits, clearly not meeting the tests in the Act. The rationale provided by management agencies for pursuing a given option can also be weak and/or difficult to understand. In some cases, the conclusions provided are so difficult to understand that it is difficult to tell whether there is a positive or negative net benefit, or why a particular management option was chosen.

Several analyses reviewed by MPI included the costs to regional councils of implementing a particular option to manage a pest (such as enforcement, inspection and monitoring costs), but did not appear to account for the costs to those land occupiers who are required to undertake control of a pest on their land as a result of a rule in the plan. If these costs are not included, the analysis significantly underestimates the true cost of controlling a particular pest in the region, and inflates the net benefit. If the costs are significant, it could change whether the proposal meets the tests required in the Act, and result in unjustifiable obligations being put on land occupiers.

As an example, one analysis of costs and benefits explicitly recognised that under no circumstances would a particular management option meet the tests in the Act – that is, the costs of managing the pest were much higher than any benefits gained. This analysis also assumed that the plan would prevent the spread of the pest, despite explicitly stating that this had not been case so far. Despite this, the management option was included in the plan.

### **Ideal future state**

The ideal future state is where:

- Appropriate mechanisms are used to evaluate benefits and costs, and these mechanisms are:
  - clear and transparent;
  - used in a consistently robust manner and employ best practice;
  - comparable and easily analysed; and
  - not unreasonably burdensome on those who must undertake them.
- Any requirements on management agencies to undertake evaluations of benefits and costs are flexible enough to allow differing levels of analysis as appropriate.
- At a minimum, any evaluation of benefits will include:
  - identifying and valuing the costs and benefits of a proposal;
  - an evaluation completed at an appropriate level of detail;
  - identification and quantification of any risks to the proposal being successful; and
  - analysis and comparison of different options.

## Options

### *Option one: no change - status quo*

This option would provide no direction or guidance on how to analyse costs and benefits in a proposed plan.

### *Option two: provide non-statutory guidance*

This option would provide non-statutory guidance on how to analyse costs and benefits in a proposed plan.

### *Option three: provide national policy direction on a model cost benefit analysis*

This option would include a best practice cost benefit analysis model in the national policy direction that management agencies must use, with the proviso that the level of analysis should be suitable to the situation and other methods can be used if justified. The national policy direction would also include matters that management agencies must take into account when determining the level of analysis needed.

Direction would focus on the key steps and assessments that any analysis of the costs and benefits of a plan must carry out, ensuring that:

- the level of analysis is appropriate;
- any analysis takes risks that may prevent an option from being successful into account; and
- the analysis is documented.

## Options analysis

### *Option one: no change - status quo*

This option will allow agencies full flexibility in the way that they can conduct an analysis of costs and benefits and the models they can use, without placing any additional requirements on them. However, the status quo will not drive any improvements in the quality of analyses, and will not give guidance on what is an acceptable level of analysis. This means that activities conducted under Part 5 of the Act may not be effective, efficient or provide the best use of resources.

Lack of guidance or direction also may mean that decisions take longer, are not as robust as they could be, or involve duplication of effort.

### *Option two: provide non-statutory guidance*

By providing best-practice guidance, this option may help to make instruments and measures more effective and efficient and help provide better value for money. This option will not place any extra requirements on management agencies and will allow them full flexibility in conducting an analysis of costs and benefits. Best practice advice may also facilitate decisions that are more timely and robust.

However, because this guidance would not be mandatory, its provision may result in only limited improvements in the quality of cost benefit analyses, and will not ensure national consistency.

### *Option three (preferred): provide national policy direction on a model cost benefit analysis*

This option contributes to Part 5 of the Act by ensuring that the best use is made of available resources, and that programmes are efficient and cost effective.

The proposed national policy direction clearly identifies the steps that agencies must take to conduct a robust cost benefit analysis. By ensuring that the analysis of benefits and costs, and the assumptions that this is based on, are documented, the proposed national policy direction also allows decision makers to be appropriately informed by ensuring that uncertainty and information gaps are acknowledged. This will drive greater consistency in cost benefit analyses and make it easier to compare programmes across regions and management agencies.

There is a risk that this option may unintentionally encourage agencies to undertake unnecessary or inappropriate analysis. For example, environmental costs and benefits are difficult to value quantitatively, and other methods of analysing costs and benefits (other than a formal cost/benefit analysis) might be more appropriate. However, the process set out in the proposed national policy direction is flexible enough to mitigate this risk, and does not compel management agencies to undertake an excessive level of analysis.

Management agencies may face increased costs in complying with the proposed direction on analysing costs and benefits. However, the approach proposed is flexible and can be adjusted according to the nature and scale of the issue, and allows agencies to use other methods when justified. The proposed requirements are high-level enough to minimise possible impacts on management agencies, as they do not prescribe what pests to manage, but instead focus on ensuring that management agencies follow best practice when developing a plan.

Use of the proposed process should mean that management agencies undertake clear and documented consideration of the full costs and benefits of each management option. As discussed above, a number of existing pest management plans contain programmes for which the management agency has been unable to demonstrate there is a net benefit – land occupiers will benefit from no longer being subject to such programmes.

#### *Non-statutory guidance to support national policy direction*

MPI considers that the national policy direction on analysing costs and benefits has the potential to be supported by non-statutory guidance. Non-statutory guidance, similar to that set out in option two above, additional to the national policy direction would provide management agencies with best-practice advice and examples of how to meet the requirements of the proposed national policy direction.

MPI invites comments on the desirability of supporting the proposed national policy direction on analysing costs and benefits with additional non-statutory guidance.

#### Questions

- **Does the discussion reflect the existing situation?**
- **Are there alternative options that should be considered?**
- **Have the key features and impacts of each option been accurately described?**
- **Do you agree or disagree with the process proposed in the national policy direction to undertake an analysis of costs and benefits?**
- **Do you have any other comments about the proposed direction on analysing costs and benefits?**
- **Do you think additional non-statutory guidance to support the national policy direction on analysing costs and benefits is needed?**

## 15.4 DIRECTIONS ON PROPOSED FUNDING OF COSTS OF PEST AND PATHWAY MANAGEMENT PLANS

### Status quo

The Act requires that a proposal for a plan specifies:

- the anticipated costs of implementing the plan;
- how those costs are to be funded; and
- the following funding information:
  - (a) *the extent to which any persons or persons of any class, kind, or description are likely to benefit from the plan:*
  - (b) *the extent (if any) to which any persons or persons of any class, kind, or description by their activities or inaction contribute to the creation, continuance, or exacerbation of the problems proposed to be resolved by the pest management plan:*
  - (c) *the rationale for the proposed allocation of costs, including, where it is proposed that the plan should be funded by a levy in accordance with sections 90 to 96,—*
    - (i) *the matters required to be specified in accordance with section 93(1); and*
    - (ii) *how the proposed levy will comply with section 92(1)(d), (e), (f), and (g):*
  - (d) *whether any unusual administrative problems or costs are expected in recovering the costs allocated to any of the persons who are to be required to pay.*

This section is not applicable to small-scale organism programmes, as the relevant regional council funds any small-scale organism management programmes in its region.

Currently, pest management programmes made under Part 5 of the Biosecurity Act are funded in a number of different ways, including:

- a direct obligation on land occupiers to manage a pest;
- through general rates;
- through targeted rates;
- through Crown funding;
- specific levies under the Biosecurity Act; and
- negotiated funding arrangements.

### Problem definition

There is variability in the processes used and the level of analysis undertaken when determining who should pay for activities in proposed plans. This occurs across both national and regional pest management plans.

Currently, the way that programmes are funded is based on a range of factors, including practicality, fairness and efficiency. The rationale for choosing a particular delivery and funding arrangement is not always clear, making it difficult for affected parties to provide useful feedback during consultation on the plan.

It can also be difficult to access the rationale for funding decisions after a plan has been made, as the reasoning behind funding arrangements is not required to be included in the final plan.

This lack of transparency also makes it difficult to assess whether the process used to determine funding is sufficiently robust.

*Why does it matter who funds plan costs?*

The way a programme is funded can be a powerful tool to influence the behaviour of those being regulated. Although regional councils may use occupier obligations as a tool to change the behaviour of those who have pests on their land (exacerbators), there may also be unrealised opportunities to use this tool to change the behaviour of those who benefit from pest management (beneficiaries)<sup>2</sup>. It is important that costs and benefits are distributed appropriately, as this helps ensure that the right incentives are in place, resulting in more efficient and equitable pest management.

A party's willingness to pay for a voluntary activity will determine whether they undertake that activity. When a party is *required* to undertake or pay for an activity, there is little ability for that party to signal their willingness to pay. It is important that, through the distribution of costs, parties are able to show their true preferences as to whether or not the activities should continue.

In addition, the management agency often will not have complete information about the true costs and benefits of managing a pest or pathway. The way that funding is structured can give regulators better information about the costs and benefits of the activity by making parties reveal their true preferences through consultation. This gives the management agency a better idea of a proposal's value.

In existing plans, the person who carries out pest management activities tends to be the person who funds them. Although practical, this may not always be the most efficient or effective solution. For example, it may be more efficient for one agency to take a coordinated and targeted approach, rather than individual parties acting independently.

Lack of consistency in the way that management agencies determine who should fund costs means that there may be opportunities to use the way that programmes are funded to drive efficient pest management that are not currently being used.

*How can funding be used to achieve different outcomes?*

*Efficiency: the biosecurity funding principles*

Pest and pathway management is most appropriately funded by the group or groups that are best placed to do at least one of the following:

- change their behaviour to reduce the costs of the service or the risks that give rise to the need for the service (exacerbators and beneficiaries);
- assess whether the benefits of the service at its current level of provision outweigh the costs and consequently influence the level of service provided (beneficiaries); and/or
- determine whether the service at its current level of provision is being delivered most cost-effectively (service providers).

The primary goal of the funding principles is to encourage efficient pest management. The principles do this by first encouraging possible reductions in the need for pest or pathway management, then encouraging groups to reveal how much they value the pest or pathway management and thus the extent to which it is needed. This allows management agencies to choose the most cost-effective delivery of pest or pathway management.

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<sup>2</sup> Although the means available for regional councils to charge specific beneficiary groups may be limited.

For any pest or pathway, all groups of exacerbators and beneficiaries should be identified, so that their ability to undertake any of the activities in the funding principles can be assessed to determine the appropriate balance of funding.

It is important that exacerbators and beneficiaries are separated based on their abilities to change their behaviour. If, for example, there is one group of exacerbators who can readily change their behaviour and another group who cannot, it may be necessary to treat the two groups differently.

#### *Fairness and the extent to which exacerbators should be charged*

When considering how to allocate the costs of a plan, the Act requires the decision-maker to be satisfied that, if a group of people is required to directly meet the costs of implementing a proposed plan:

- they will, as a group, receive benefits outweighing the costs; or
- they contribute, as a group, to the creation, continuance, or exacerbation of the problems proposed to be resolved by the plan.

Beneficiaries should only be required to meet the costs of a plan where the benefits of management activities exceed the costs. Exacerbators, however, can still be required to meet the costs of the plan where the costs outweigh the benefits, although how much they pay should be in proportion to their ability to change their behaviour to reduce their costs. In this way, funding arrangements can provide clear incentives for exacerbators to change their behaviours.

#### **Ideal future state**

The ideal future state is one where the way a programme is funded:

- is transparent, as are all the costs and benefits of the programme;
- drives efficiency and effectiveness of the programme;
- ensures that there is a fair and practical distribution of costs; and
- creates the right incentives for parties to manage their own risks as much as possible.

#### **Options**

##### *Option one: no change - status quo*

This option would provide no direction or guidance on the funding of costs in a plan.

##### *Option two: provide non-statutory guidance*

This option would provide non-statutory best practice guidance on the funding of costs in a plan.

##### *Option three: provide national policy direction*

This option would provide national policy direction on a process for determining who should pay for the costs of implementing a plan. The proposed direction would ensure that management agencies consider how funding for a programme can be set to achieve efficient, effective, fair outcomes that are practical to implement.

## Options analysis

### *Option one: no change - status quo*

This option would not improve the way that costs are allocated, nor would it encourage national consistency. However, it would allow management agencies full flexibility and autonomy in determining how they fund programmes.

### *Option two: provide non-statutory guidance*

Providing best practice guidance on allocating costs would encourage decision-makers to use the biosecurity funding principles, which may help management agencies to develop plans that are effective and efficient, ensuring the appropriate distribution of costs.

However, this option does not require management agencies to make use of the funding principles or communicate the rationale behind decisions on the allocation of funding. This means that management agencies are not compelled to take advantage of opportunities to use funding to change behaviour or make programmes more efficient.

### *Option three (preferred): provide national policy direction*

The proposed national policy direction will standardise the process for determining who should fund pest management activities, ensuring decision-makers consider how best to achieve an equitable and efficient distribution of costs.

The proposed national policy direction does duplicate some requirements under the Local Government Act for regional councils. However, management agencies other than regional councils are not subject to these requirements, so their inclusion in the national policy direction is appropriate.

The proposed direction provides a flexible approach for determining who should pay. This can be adjusted according to the nature and scale of the issue. The proposed direction requires certain analysis to be undertaken, but does not limit management agencies' decision-making abilities. The national policy direction could not prescribe a particular decision on funding, although the national policy direction could potentially direct decision-makers towards charging certain groups if specific criteria were met.

The proposed direction would ensure that decision-makers consider how funding can be allocated in different ways to pursue the different drivers of efficiency, fairness and practicality in an effort to make programmes more efficient and effective. The appropriate distribution of costs creates the right incentives for parties to manage their own risks as much as possible. This option would also contribute to ensuring that the costs and the rationale for their allocation are transparent, as the national policy direction would require this analysis to be completed and documented.

This option may impose compliance costs on some management agencies, although the degree of impact will depend on the rigour with which each management agency currently makes decisions as to who should fund costs. Use of the proposed process for determining who should fund costs may mean that land occupiers face higher or lower costs in complying with plan rules. However, use of the proposed process should mean that the appropriate funders are identified – that is, exacerbators, beneficiaries, and those who are able to change their behaviour. The process should also help to identify the most cost-effective way of delivering any pest management activities.

### *Non-statutory guidance to support national policy direction*

MPI considers that the national policy direction on determining who should fund plan costs has the potential to be supported by non-statutory guidance. Such guidance could include best practice examples, covering a wider range of situations than the national policy direction does. Guidance may also encourage decision-makers to make use of the existing biosecurity funding principles in determining who should meet plan costs.

MPI invites comments on the desirability of supporting the proposed national policy direction on determining who should fund plan costs with additional non-statutory guidance.

#### Questions

- **Does the discussion reflect the existing situation?**
- **Are there alternative options that should be considered?**
- **Have the key features and impacts of each option been accurately described?**
- **Do you agree or disagree with the process proposed that management agencies must use to determine who should fund?**
- **Do you have any other comments about determining who should fund Part 5 pest management plans?**
- **Do you think additional non-statutory guidance to support the national policy direction on determining who should fund plan costs is needed?**

## 15.5 TIMING OF INCONSISTENCY DETERMINATION

### Status quo

The Act requires the national policy direction to provide requirements as to when the Minister or Council must determine whether existing plans are inconsistent with the national policy direction. The Act also allows for the national policy direction to provide timing requirements for when a plan must not be inconsistent with the national policy direction (i.e. if the Minister or Council determines that a plan is inconsistent with the national policy direction, the length of time within which it must be reviewed and amended to become consistent if necessary).

The advantage of providing national policy direction on the timing of inconsistency determinations in the national policy direction is that it will encourage management agencies to review their existing plans, meaning that all plans will be consistent with the national policy direction sooner rather than later.

Regional councils will have an incentive to align their regional pest management plans with the national policy direction, so that they can bind the Crown to good neighbour rules. Other management agencies do not have this incentive.

### Ideal future state

The ideal future state is that the national policy direction drives improvements into the system sooner rather than later. At the same time, any requirement must not impose unnecessary burden or cost on management agencies, and give them sufficient time to review and amend their plans if necessary.

### Options

#### *Determination of inconsistency*

The Act requires that the national policy direction provide a timing requirement for when the Minister or regional council must determine whether existing plans are inconsistent with the national policy direction. This determination is not intended to be an onerous task.

#### *Resolution of inconsistency*

The Act also provides that the national policy direction *can* (but does not have to) provide a timeframe within which a plan must not be inconsistent with the national policy direction. This means that if a Minister or regional council has determined a plan to be inconsistent, the plan would then have to be reviewed or amended to become consistent with the national policy direction within the timeframe indicated in the national policy direction.

### Options analysis

The proposed national policy direction requires the Minister or regional council to determine whether a plan is inconsistent with the national policy direction within 18 months of the national policy direction coming into force.

Various options were considered for what would be a reasonable length of time for determination and resolution of inconsistency in plans.

#### *Determination of inconsistency*

The following issues were considered in determining the timeframe:

- Based on regional council experience, it takes on average two years to prepare for and develop a proposal, consult on the proposal, and make a plan.
- The increased pressure on agencies when multiple reviews are taking place at the same time.
- The support needed for implementation of the new requirements in the national policy direction.
- The time needed for management agencies to become familiar with and understand the new processes and requirements in the Act and national policy direction.

### *Resolution of inconsistency*

Providing a timeframe by when plans must not be inconsistent with the national policy direction (i.e. they must have been reviewed and amended to bring into line with the national policy direction if needed) could potentially pose undue burden or costs on some management agencies. Management agencies are all at different stages of their plan review process, meaning that a timing requirement for resolution of any inconsistencies could be more unfair to some than to others.

The majority of existing plans are regional pest management plans, implemented by regional councils. Regardless of any requirement in the national policy direction, regional councils will have a strong incentive to review their plans to align with the national policy direction, as the Crown cannot be bound to good neighbour rules until a plan has been aligned with the national policy direction.

Given the potential for the review process to pose undue burden or costs on some management agencies, the proposed national policy direction does not provide a timing requirement for when plans must be brought into line with the national policy direction.

### Questions

- **Does the discussion reflect the existing situation?**
- **Are there alternative options that should be considered?**
- **Have the key features and impacts of each option been accurately described?**
- **Is the proposed national policy direction clear about what needs to be done and by when?**
- **Is the timeframe for making a determination appropriate?**
- **Do you have any other comments around setting a time limit for when a determination of inconsistency must be made, or when a plan must be made consistent with the national policy direction?**

## 15.6 SETTING OF GOOD NEIGHBOUR RULES

### Status quo

Because pests do not recognise land boundaries and are likely to spread if not managed, unmanaged pests on one property can cause costs to neighbouring land occupiers.

Before the Biosecurity Act was amended, the Crown was not required to comply with regional pest management strategies, causing tensions between the Crown and regional councils and land occupiers in situations where the spread of pests off Crown land causes costs to neighbouring land occupiers.

In 2010, Cabinet agreed that the Crown would be required to comply with good neighbour rules in regional pest management plans once the national policy direction is in place and regional pest management plans are aligned to it. Crown land managers may also choose to meet other rules in a regional plan, but are not required to.

Good neighbour rules are those that seek to manage the impacts from pests spilling over from one property to a neighbouring property that is free or being cleared of that pest. An example of a possible good neighbour rule is set out below:

The occupier shall destroy any gorse plant located up to 10 metres from the boundary of the land that he or she occupies when the adjacent property is clear or being cleared of gorse. Land occupiers are only obliged to comply with this rule in occasions when a reasonable complaint is received from an adjoining land occupier. This would require the complainant's land to be already clear, or being cleared of gorse, and that any invasion of the pest plant through the boundary has the potential to cause economic harm to the complainant's land.

### Problem definition

It is essential that it is clear which rules are good neighbour rules, so that they are applied consistently across plans, and so that all land occupiers, including the Crown, know what their obligations are.

### Ideal future state

The ideal future state is that:

- good neighbour rules are established only in circumstances that meet the requirements in the Act and the rest of the national policy direction;
- good neighbour rules contribute positively to regional pest management; and
- direction on good neighbour rules is clear so that rules are applied consistently across plans, and land occupiers know what their obligations are.

### Options

Section 56(3) of the Act requires that the national policy direction must have directions about setting good neighbour rules, so there is only one option – to provide national policy direction.

### Options analysis

The Act defines “good neighbour rule” as one that:

- applies to the occupier of land and to a pest or pest agent that is present on the land; and
- seeks to manage the spread of a pest that would cause costs to occupiers of land that is adjacent or nearby; and

- is identified in a regional pest management plan as a good neighbour rule; and
- complies with the directions in the national policy direction relating to the setting of good neighbour rules.

The proposed national policy direction on setting good neighbour rules describes further tests that a rule must also meet in order to be a good neighbour rule. Good neighbour rules will also have to meet the requirements of the Biosecurity Act and the rest of the national policy direction. Taken together, this will ensure that good neighbour rules are set and applied effectively, efficiently and fairly and consistently.

Broadly, the proposed national policy direction sets that a good neighbour rule can only be established where:

- a pest is likely to spread and cause unreasonable costs to neighbouring land occupiers;
- the neighbouring land is clear or being cleared of that pest; and
- the rule will not set a requirement on an occupier that is greater than that required to manage the spread of the pest.

Good neighbour rules are not about eradicating a pest or managing its spread throughout a region. Rather, the proposed national policy direction on setting good neighbour rules explains that good neighbour rules focus on managing any costs caused to neighbours by the spread of pests. Land occupiers do not have an absolute right to impose impacts on their neighbours; nor do they have an absolute obligation to prevent all pest spread off their land. A reasonable balance of property rights between the two extremes needs to be determined, and good neighbour rules seek to establish this balance.

The national policy direction describes the good neighbour relationship on an individual neighbour-to-neighbour basis. However, rules must be written so that they are applicable to, and understood by, hundreds or thousands of individual landowners across a region. It should be easy for an occupier to know if a good neighbour rule applies to them.

The proposed national policy direction adds value by:

- meeting the requirements in the Act;
- increasing certainty about how councils can set good neighbour rules;
- being flexible enough to apply in a range of circumstances;
- ensuring alignment and consistency for how good neighbour rules are set;
- differentiating good neighbour rules from other rules in a plan and ensuring that they are used in appropriate circumstances; and
- reducing disagreement and potential for litigation on what a good neighbour rule is.

### Questions

- **Does the discussion reflect the existing situation?**
- **Are there alternative options that should be considered?**
- **Have the key features and impacts of each option been accurately described?**
- **Are the guidelines around good neighbour rules sufficiently clear to distinguish between other rules in the regional pest management plans?**
- **Do you have any other comments about good neighbour rules?**

## 16 Conclusions and recommendations

The preferred option for each issue has been indicated in the relevant section, and forms the basis of the Minister's proposed national policy direction at the front section of this paper.

## 17 Implementation

MPI will develop a plan to support implementation of the final national policy direction. This will be aligned with other work required to implement the amendments that the Biosecurity Law Reform Act made to the Biosecurity Act.

## 18 Monitoring and review

MPI is leading a project to develop a framework for evaluating performance of the pest management system. It is intended that the framework will enable national and regional level understanding of baseline performance, the impacts of specific interventions (such as the national policy direction), and opportunities for improvement and greater efficiency. The framework is likely to include a balance of evaluative studies and measurement of system performance over time using specific indicators.

The national policy direction will bring consistency to the way that plans are developed and written, and as a result will make it easier to understand the performance of pest management programmes at a national scale. The proposed national policy direction allows a number of years before all plans must be reviewed and comply with the direction. The benefits of the policy direction will not be fully realised until all plans are compliant. As part of the performance framework, MPI will be able to monitor management agencies' implementation of the national policy direction. MPI plans to undertake a full review of the effectiveness and value of the national policy direction around 2020.

## 19 Submissions

Any person may make a submission in writing on the proposed national policy direction or the report to support consultation on the proposed national policy direction.

### Requirements for submissions

We ask that submitters include the following information in their submissions:

- the title of this document;
- your name and title;
- your organisation's name (if applicable);
- your address and contact details (e.g. phone, email etc);

When commenting on the proposal, we ask that submitters' state:

- what national policy direction content they are referring to;
- those aspects of the proposed national policy direction that the submission supports or opposes;
- the reasons for the support/opposition identified; and
- any specific alternatives to the proposal that the submitter wishes to recommend.

### Closing date for submissions

MPI must receive all submissions by no later than **5:00 pm on 14 June 2013**. Please send submissions to:

Readiness and Response Policy Group  
Biosecurity, Food, and Animal Welfare Policy Directorate  
Ministry for Primary Industries  
P O Box 2526  
WELLINGTON 6140

Email: [npdconsultation@mpi.govt.nz](mailto:npdconsultation@mpi.govt.nz)

Facsimile: 04 894 2530

MPI may also hold workshops in mid-late May on the proposal in Auckland, Wellington, and Christchurch for individuals or agencies interested in attending to provide feedback and discuss the national policy direction.

Please contact Gina Chamberlain at [npdconsultation@mpi.govt.nz](mailto:npdconsultation@mpi.govt.nz) or DDI 04 894 0620 for further details on potential workshop sessions.

### Process following receipt of submissions

Once the submission period has ended and all submissions have been received, MPI will prepare a report and recommendations to the Minister on the submissions and the subject matter of the proposal. The Minister will then consider the report and recommendations, before deciding whether to issue or make any changes to the national policy direction.