



National Policy Direction for Pest Management 2015

Regulatory Impact Statement

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Requests for further copies should be directed to:

Publications Logistics Officer
Ministry for Primary Industries
PO Box 2526
WELLINGTON 6140

Email: brand@mpi.govt.nz
Telephone: 0800 00 83 33

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Agency disclosure statement

This regulatory impact statement has been prepared by the Ministry for Primary Industries (MPI).

It provides an analysis of options for the proposed content of the National Policy Direction for Pest Management 2015 (the NPD). The analysis is based on information from MPI and stakeholders in New Zealand's pest management system which was used to develop the proposed content of the NPD.

The Minister for Primary Industries (the Minister) has a statutory obligation under section 56(1) of the Biosecurity Act 1993 (the Biosecurity Act) to provide a national policy direction for pest management.

The content of and the process for making the NPD is constrained by the following provisions of the Act:

- Sections 56(3): The NPD must include directions on good neighbour rules.
- Section 56(4): The NPD must include directions on the time within which the Minister or council must determine whether a plan is inconsistent with the direction and must do so within the timing requirements in the direction.
- Section 56(5): The NPD may include directions on the process and content of small-scale management plans.
- Section 56(6): Provides examples of the matters on which directions may be given.
- Section 56(7): Specific matters to which the Minister must have regard to before including any direction in the NPD.
- Section 57(9): The NPD is a disallowable instrument and must be presented to the House of Representatives.
- Section 57: Sets out the process for making the NPD.

The NPD will set content and process requirements for pest and pathway management plans and small-scale management programmes that are developed and implemented under Part 5 (Pest Management) of the Biosecurity Act.

There are minimal costs associated with the NPD. The quantifiable figure for this is not known. National pest management agencies and regional councils fund the development and implementation of plans and programmes through existing rates and levies and these will not be increased to comply with the NPD. Government agencies that administer Crown land will be legally bound to comply with good neighbour rules in regional pest management plans. The compliance costs are not known and will be taken from existing operating budgets from these government agencies. Other costs include using MPI resources to support regional councils and national pest management agencies in implementing the NPD. MPI will not forgo other work in order to undertake this work. The implementation of the NPD is expected to be achieved within MPI's baseline operating budget.

Julie Collins
Director
Biosecurity and Animal Welfare Policy Directorate

Executive summary

The purpose of the NPD is to ensure that pest and pathway management plans and small-scale management programmes provide the best use of available resources and align with one another, when necessary, to contribute to the effective and efficient management of pests.

Prior to the 2012 reforms to the Biosecurity Act, there had been no national direction for developing standardised pest management plans and programmes in New Zealand. This resulted in significant inconsistencies in plans and programmes. Additionally, the Crown had not been legally bound to boundary control rules in regional pest management plans which sought to prevent the impacts of pests on a neighbouring property. The Crown not being obliged to comply with these rules was as an issue as pest management is generally not effective unless all landowners consistently manage the spread of pests. The Biosecurity Act now legally binds the Crown to good neighbour rules in regional pest management plans.

MPI worked with stakeholders over several years to develop the proposed content of the NPD. The NPD will provide mandatory directions for developing pest or pathway management plans and small-scale management programmes under the Biosecurity Act.

The preferred option is to implement the NPD so it provides:

- Set directions for objectives for pest or pathway management plans and small-scale management programmes.
- Set directions for programme descriptions for pest or pathway management plans.
- Process requirements for analysing the benefits and costs for proposed pest or pathway management plans.
- Process requirements for the proposed allocation of costs for pest or pathway management plans.
- The time in which pest or pathway management plans need to be reviewed for being inconsistent with the NPD.
- Process requirements for setting good neighbour rules in regional pest management plans.

The NPD will affect all regional councils who have regional pest management plans and three industry organisations who have national pest management plans. The NPD's directions on good neighbour rules will affect government agencies that administer Crown land.

In 2013, MPI publically consulted on the proposed content of the NPD. Submitters agreed to the NPD with minor or moderate amendments to its content and requested that non-statutory guidance material be developed to assist regional councils and national pest management agencies in implementing the NPD. MPI subsequently amended the NPD and worked with the Department of Conservation, Land Information New Zealand, and regional councils to develop non-statutory guidance material.

Status quo and problem definition

STATUS QUO

Context

Part 5 of the Biosecurity Act establishes instruments for national and regional pest management within New Zealand. These include requirements for the development and review of national and regional pest and pathway management plans and small-scale management programmes to ensure that they run effectively and that costs are appropriately distributed across all parties.

Management agencies are appointed under the Biosecurity Act to be responsible for the development and implementation of their respective plans and programmes. The development and implementation costs of plans and programmes are taken from existing rates and levies. These costs are not expected to change in order to meet the requirements of the NPD.

Currently, all regional councils are management agencies and have regional pest management plans and programmes in place for pests of concern in their region. Three industry groups are management agencies for national pest management plans. It is estimated that it costs around \$500,000 to develop a regional pest management plan which is done by regional councils every ten years (averaging at \$50,000 annually).

Prior to reforms to the Biosecurity Act in 2012, there were few content or process requirements set for plans and programmes. As a result, there was significant variation and inconsistencies in the majority of plans and programmes across New Zealand. This undermined their credibility and increased their associated costs.

Good neighbour rules are rules that require landowners to manage the spread of a pest that would cause unreasonable costs to landowners of adjacent or nearby land. Prior to the reforms, the Crown was not legally obliged to comply with boundary control rules in regional pest management plans which sought to prevent impacts of pests on a neighbouring property. This undermined the plans' ability to succeed as pest management is generally not effective unless all landowners consistently manage the spread of pests. Under the Biosecurity Act, the Crown is now legally bound to good neighbour rules in regional pest management plans. The costs will be taken from existing operating budgets of Crown agencies that administer Crown owned land. The costs of complying with these rules are not yet known.

As the Crown is the largest landowner in many regions, not contributing to pest control when pests spread from Crown land undermined the effectiveness of pest management. Pest management is generally not effective unless all landowners consistently manage the spread of pests. It also caused tension as private landowners questioned why they were required to contribute to pest management when the Crown was not obliged to do the same.

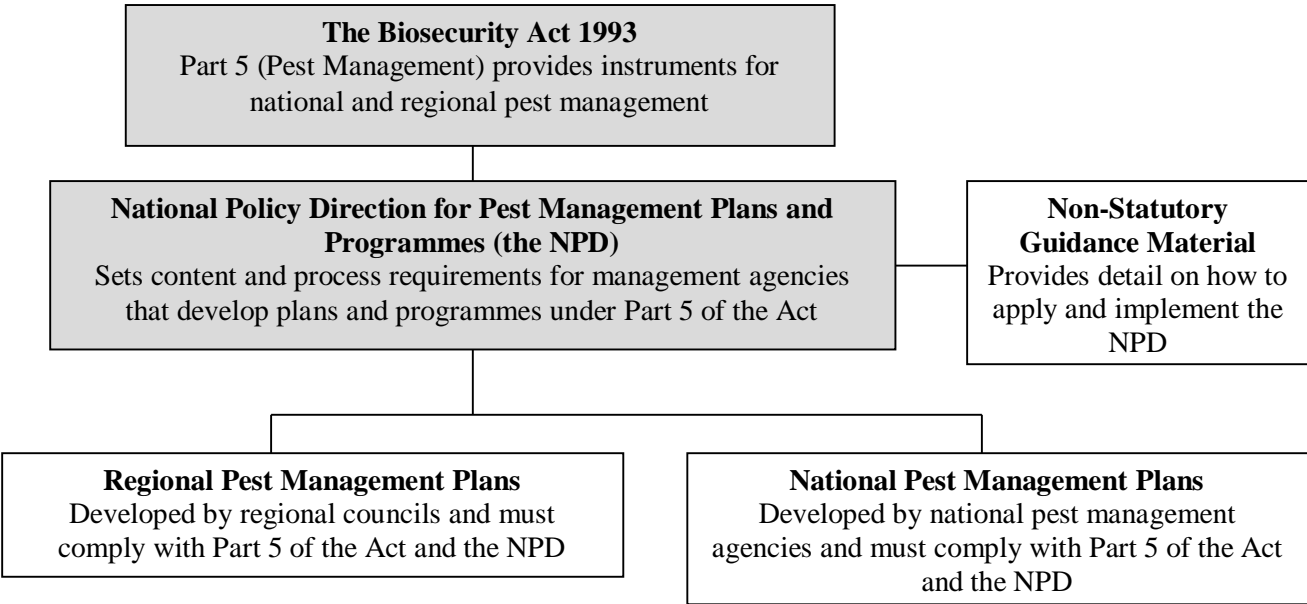
Development of the National Policy Direction for pest management

MPI has collaborated with key stakeholders in pest management over several years to develop the proposed NPD, including the Department of Conservation, Land Information New Zealand, and management agencies.

Small-scale management programmes differ from plans in that they do not require an analysis of benefits and costs or a determination of the allocation of costs. Under the Biosecurity Act there is no requirement to review existing small-scale management programmes to ensure they comply with the NPD, only new small-scale management programmes will need to comply.

A summary of the proposed directions of the NPD is attached at Appendix 1. Figure 1 on the following page sets out how the NPD will fit into the pest management structure established by the Act.

Figure 1: Structure of New Zealand’s pest management system



PROBLEM DEFINITION

The reforms to the Biosecurity Act introduced several new provisions to Part 5 (Pest Management) of the Act. One of the new provisions was s 56(1) which requires the Minister to provide the NPD. The Minister must now determine the content of the NPD.

Sections 56(3) and (4) of the Act state that the NPD must include directions on setting good neighbour rules and timing for making a determination on whether a plan or programme is inconsistent with the NPD. The remaining content of the NPD is at the discretion of the Minister.

Objectives

Section 56(2) of the Biosecurity Act states that the purpose of the NPD it is to ensure that activities 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 purpose of the Part.

Section 56(7) of the Biosecurity Act sets out what the Minister must have regard to the extent to which the direction is likely to:

- (a) achieve the purpose of Part 5 of the Act (Part 5) and of the NPD;
- (b) affect the flexibility of instrument or measures under Part 5;

- (c) affect the timeliness of decisions made under Part 5;
- (d) improve national consistency among instruments made under Part 5;
- (e) affect the accountability of decision-makers, including the accountability of local decision-makers to their communities of interest; and
- (f) affect any other matter that the Minister considers relevant.

Options

Three options have been considered:

- Option one (status quo): The NPD will only contain statutory directions on setting good neighbour rules and the time in which regional councils and national pest management agencies have to determine whether or not plans are inconsistent with the NPD (timing of inconsistency determination).
- Option two (preferred): The NPD will contain statutory directions on:
 - programme descriptions for each subject in a pest or pathway management plan;
 - objectives for each subject in a pest or pathway management plan or a small-scale management programme;
 - the appropriate level of analysis of the benefits and costs for each subject in a pest or pathway management plan;
 - the proposed cost allocation for a pest or pathway management plan;
 - that matters which must be satisfied before a rule can be identified as a good neighbour rule in a regional pest management plan; and
 - timing of inconsistency determination.
- Option three: The NPD will contain the statutory directions set out in option two and additional directions for plans and programmes:

Statutory requirements

- the type of information that must be made available and what information must be reported;
- specific requirements to ensure that each programme contained in a pest or pathway management plan or small-scale management plan meets its objectives;
- clarifying the relationship of activities in Part 5 (such as each programme contained in a pest or pathway management plan or small-scale management plan) relates to other statutes;
- decision-making principles for pest or pathway management plans and small-scale management programmes;
- tests of the values of each programme contained in a pest or pathway management plan or small-scale management plan;
- consultation principles for pest or pathway management plans or small-scale management plans;
- criteria for prioritising programmes contained in a pest or pathway management plan or small-scale management plan and other activities against each other.

OPTIONS ANALYSIS: ASSESSMENT OF OPTIONS AGAINST SECTION 56(7) OF THE BIOSECURITY ACT 1993

Section 56(7) Objectives	Option one – basic NPD	Option two (preferred) – statutory Directions	Option three – additional Directions
<p><u>Section 56(7)(a):</u> Achieves the purpose of this Part and of the NPD.</p>	<p align="center">X</p> <p>This option would not contribute to the purposes of Part 5 and the NPD. It would not provide direction on the other key components of plans and programmes. A lack of direction on these components has resulted in varying programme descriptions, varying quality of objectives, inadequate analysis, and the implementation of plans which have an overall negative net benefit. Additionally, without directions on these components management agencies may duplicate existing work as there would be no direction for the development of these components. Plans and programmes would continue to be inconsistent and unaligned which would not contribute to the best use of available resources.</p>	<p align="center">✓</p> <p>This option would contribute to the purposes of Part 5 and the NPD. It provides directions which set content and process requirement for management agencies to follow. This would avoid unnecessary duplication of existing work and would ensure that plans that make the best use of available resources are implemented. For example, the direction on analysing benefits and costs would ensure that management agencies undertake a robust analysis of the benefits and costs. This will ensure that plans with an overall positive net benefit are implemented.</p>	<p align="center">✓</p> <p>This option would also contribute the purposes of Part 5 and the NPD. It provides the same directions as option two and additional content and process requirements. However, these additional statutory requirements may be overly onerous on management agencies, would not provide a streamlined NPD, and would not are necessarily required contribute to achieving the purposes of the NPD and the Act.</p>
<p><u>Section 56(7)(b):</u> Affects the flexibility of instrument or measures under this Part.</p>	<p align="center">✓</p> <p>This option would provide management agencies a wide range of flexibility when developing the content of plans and programmes as it only provides directions for two components.</p>	<p align="center">✓</p> <p>This option would provide management agencies a degree of flexibility when developing the content of plans and programmes. While the directions set programme descriptions and objectives, management agencies have a choice of which to apply to their plans or programmes. The process requirements provide management agencies the flexibility to tailor specific rules for specific programmes and they will be able to undertake an analysis of benefits and costs and allocation of costs as they see fit (taking into account the statutory requirements of the Act and the NPD). Additionally, the directions are based on current best practice and have been amended following feedback from management agencies.</p>	<p align="center">X</p> <p>This option would greatly limit the flexibility that management agencies have when developing the content of plans and programmes. The additional directions imposed would restrict the degree of autonomy that management agencies have when developing the content of plans and programmes in comparison to the other options.</p>

<p><u>Section 56(7)(c):</u> Affects the timeliness of decisions made under this Part.</p>	<p>X</p> <p>This option would not improve the timeliness, efficiency, or effectiveness of decisions. It would only provide directions on two components of plans. It would not improve decision-making and may prolong or encourage ineffective decision-making as there would be no direction on other key components of plans and programmes, such as process requirements for analysing benefits and costs of proposed plans.</p>	<p>✓</p> <p>This option would improve the timeliness, efficiency, and effectiveness of decisions. It provides directions on key components of plans and programmes. These will reduce the variables in the content of plans and programmes and would improve decision-making. For example, regional councils have developed over 40 terms for programme descriptions which have variable meanings across regional pest management plans. The direction on programme descriptions provide six programme descriptions from which management agencies can choose one or more for a programme.</p>	<p>X</p> <p>This option would assist in some aspects of decisions-making as it includes the directions in option two. However, the additional directions may over complicate decision-making by introducing a number of statutory requirements. The additional directions will also increase the length of time required for developing plans and programmes due to the increased complexity and statutory and non-statutory requirements resulting from the additional directions.</p>
<p><u>Section 56(7)(d):</u> Improves national consistency among instruments made under this Part.</p>	<p>X</p> <p>This option would not improve national consistency of plans and programmes that are developed under Part 5. Under this option, plans and programmes would continue to be inconsistent. It will only go so far to address the inconsistencies in plans and programmes that have been identified. It only provides direction on two components of plans and programmes. Further directions would be needed to improve the consistency of plans and programmes across New Zealand. Part 5 alone does not give sufficient guidance on developing the content of plans and programmes. Prior to the reforms to the Act the lack of a national policy direction for pest management has resulted in variations and inconsistencies in plans and programmes. This undermines the credibility of plans and programmes and increases their associated costs.</p>	<p>✓</p> <p>This option would improve national consistency of plans and programmes developed under Part 5 of the Act by providing statutory directions on key components of plans and programmes. The directions will address areas where inconsistencies and variations in plans and programmes have been identified, including programme descriptions, inadequate objectives, inadequate analysis of benefits and costs, and allocation of costs. Additionally, management agencies were involved in the development of the directions and are supportive of the directions proposed in this option.</p>	<p>✓</p> <p>This option would also improve national consistency of plans and programmes developed under Part 5 by providing statutory and non-statutory directions on a number of components of plans and programmes. This option will further reduce the variations and inconsistencies in plans and programmes. However, the additional directions may seem overly restrictive and unnecessary in comparison to the fewer directions proposed in option two.</p>
<p><u>Section 56(7)(e):</u> Affects the accountability of decision-makers, including the accountability of local decision-makers to their communities of interest.</p>	<p>X</p> <p>This option would not improve the accountability of management agencies. Without directions on the provision of clear and understandable information relating to the analysis of benefits and costs and allocation of costs, affected parties may not</p>	<p>✓</p> <p>This option would improve the accountability of management agencies. These directions set out the steps that decision-makers are obligated to take as part of the development of a plan or programme. This option would improve the justification for rules by</p>	<p>✓</p> <p>This option would also improve the accountability of management agencies by requiring clear and robust analysis. It provides additional direction on the provision and reporting of information. Providing direction on how to undertake appropriate analysis in</p>

	necessarily be able to understand the analysis. This means affected parties may not have the opportunity contribute meaningfully during public consultation on proposed plans.	setting process requirements than require clear and robust analysis for the benefits and costs and allocation of costs for proposed plans. The provision of clear and understandable information will provide affected parties better understanding of the justification for decisions and they would then be able to provide meaningful feedback during public consultation.	order to justify rules in plans would increase the accountability and transparency of plans and programmes. However, the requirement to provide additional information might be onerous on management agencies in addition to the other requirements in option two.
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Consultation

In 2013, MPI publically consulted on the proposed directions of the NPD set out in option two. A consultation document and a media release notifying the public of the consultation were published on MPI's website.

MPI received 43 submissions from organisations and individuals which are detailed in the sections below. The majority of submitters supported the proposed directions with minor or moderate amendments to the content of the proposed direction in the NPD. MPI subsequently amended the directions set out in option two in response to submitters' comments. These amendments are set out below.

Provision of non-statutory guidance material

Aquaculture New Zealand, the Department of Conservation, Federated Famers, Kiwirail, Landcare Research, the National Institute of Water and Atmospheric Research, the New Zealand Plant Protection Society, regional councils and unitary authorities, and Te Runanga o Ngāi Tahu requested that MPI develop non-statutory guidance material to accompany the NPD. Submitters commented that guidance would enable management agencies to better understand the directions of the NPD and how to apply them to new and existing plans and programmes.

In 2014, MPI established the NPD Guidance Advisory Group which consisted of representatives from the Department of Conservation, Land Information New Zealand, and regional councils. The Group advised MPI on the development of the guidance material and the final content of the NPD's directions. The guidance provides management agencies with guidelines and examples of how to apply the NPD's directions.

Directions on setting objectives

Regional councils and unitary authorities requested that the requirement to state the geographic area for the objective "protecting values in places" be removed as it is not always practicable to specify the geographic areas for individual sites in plans. MPI proposes to amend the NPD so that management agencies can use a description of a place or criteria for defining a place for which the objective is to "protect values in places."

Kiwirail, Kiwifruit Vine Health, Landcare Research, and the New Zealand Plant Protection Society commented that specifying the timeframe for achieving an objective may not be appropriate as realistic timeframes need to be tailored for each pest. MPI proposes to amend the directions on setting objectives so that timeframes do not need to be specified.

Directions on analysing benefits and costs

Thirty-two submitters commented on the directions for analysing benefits and costs of a proposed plan. Johannes van Oldenborgh, Forest and Bird, and Te Runanga o Ngāi Tahu were concerned that the direction did not capture the non-monetary costs, benefits, and impacts of managing a pest. The non-statutory guidance material includes information and processes for how to value these non-monetary components, including non-quantifiable impacts to the environment, human health, and social and cultural values.

Save Animals from Exploitation and twenty-two individual submitters requested that the pain that pests would be subject to under pest management activities be considered as part of the analysis. Animal welfare considerations would be included as part of the analysis for non-quantifiable costs. Additionally, the Animal Welfare Act 1999 and Wild Animal Control Act 1977 need to be considered when analysing the costs of proposed plans.

Directions on allocation of costs

TB Free New Zealand, regional councils and unitary authorities considered that the process requirements for the direction on the allocation of costs was too onerous and would not be suitable for determining how costs are allocated for all pests. They suggested that only non-statutory guidance material be provided. MPI proposed that amendments are made to the directions and management agencies are supportive of its inclusion in the NPD, subsequent to these amendments being made and guidance being provided.

Directions on setting good neighbour rules

The Bay of Plenty Regional Council and Landcare Research commented that the Crown should be bound to all rules in regional pest management plans, not just good neighbour rules. TBFree New Zealand commented that good neighbour rules should not be limited to regional pest management plans and requested that they are able to be used in national pest management plans also.

The NPD must be consistent with Part 5 and cannot bind the Crown to meeting all rules in regional pest management plans. Only good neighbour rules in regional pest management plans can impose costs and obligations on the Crown. Under the Biosecurity Act, good neighbour rules can only be used in regional pest management plans. The Crown must meet all obligations and costs imposed by national pest management plans (s 5) and national and regional pathway plans.

Conclusions and recommendations

The preferred option is for the NPD to contain the proposed directions set out in option two. This option is preferred as the proposed directions provide the most suitable content for the NPD by meeting all the objectives set out in s 56(7) of the Biosecurity Act. This option also meets the purpose of the NPD, which is to provide the best use of available resources and ensuring that they align with each other to contribute to effective and efficient pest management.

Options one and three were not preferred as they did not meet all the objectives in s 56(7). In addition, the proposed content would not necessarily ensure the best use of available resources to ensure the alignment and consistency of pest and pathway management plans and small-scale management programmes.

The proposed directions in option two balances the need to provide statutory direction without posing an undue burden on management agencies. The directions provide management agencies relative flexibility when developing the content of plans and programmes. In addition, the directions will encourage management agencies to make the best use of their available resources and implement plans and programmes that effectively and efficiently manage pests.

MPI and stakeholders, including the Department of Conservation, Land Information New Zealand, and management agencies developed the proposed directions in option two. As a result of this collaborative approach, both MPI and stakeholders are supportive on the proposed directions.

Implementation

MPI expects that the NPD will be issued in 2015. MPI will be responsible for monitoring, evaluating, and reviewing the NPD to ensure it is functioning as intended and achieves its objectives. Existing forums, such as the GIA Governance Group and regional councils Bio-managers Group, may also be used to assist with the implementation of the NPD.

To ensure consistency with the NPD, MPI will assist management agencies in implementing the NPD, including providing assistance when agencies review existing pest management plans and develop new pest and pathway management plans and small-scale management plans. Existing small-scale management plans are not required to be consistent with the NPD; only new small-scale management plans will be expected to meet the NPD's directions.

MPI will use existing resources to support management agencies in implementing the NPD. Other work will not be forgone in order for MPI to undertake the implementation of the NPD and this work is expected to be achieved within MPI's baseline operating budget.

MPI will develop an implementation plan for the NPD that will include publishing the NPD and non-statutory guidance material on MPI's website and holding workshops with management agencies to ensure they understand the requirements of the NPD.

As noted previously, non-statutory guidance material has been developed to assist management agencies in applying the NPD. Subsequent editions of the guidance will be able to be released as refinements and additions following feedback from management agencies.

Management agencies will be required to determine whether or not their existing plans are consistent with the NPD's directions within 18 months of the NPD being issued. MPI and management agencies agreed that this was an appropriate amount of time to determine whether plans were consistent with the NPD. Management agencies are aware that they may need to revise their plans following the NPD being issued. There is no timeframe specified for such revisions to plans.

Monitoring, evaluation and review

The benefits of the NPD will not be fully realised until all plans and programmes are compliant. MPI will monitor the NPD's implementation by management agencies.

In 2020, MPI will undertake a review of the NPD to evaluate its effectiveness. Consistent with the collaborative approach taken thus far, MPI will continue to work with management agencies on the review. The review may assess ways to improve the NPD, including recommendations for fine-tuning the NPD directions to ensure that it continues to meet its objectives. The review may evaluate whether the NPD has achieved success factors, including whether it has improved the national alignment and consistency of plans and programmes and whether it has improved the quality of analyses of benefits and costs and proposed allocation of cost. The review of the NPD may be presented in the form of a report to the Minister.

The timeframe between the NPD being issued and the review is estimated to be five years. As there is no date specified for the requirement to make plans and programmes consistent with the NPD, MPI will need to work closely with management agencies during this period to ensure that during the reviews of regional and national pest management plans they revise their plans based on the directions set out in the NPD.

Appendix 1

Summary of the National Policy Direction for Pest Management 2015 (the NPD)	
Clause of the NPD	Requirements
Directions on setting objectives	<p>Sets out the requirements of what the objectives in a plan must contain. For each subject in a plan, the objectives of the plan must :</p> <ul style="list-style-type: none"> state the adverse effects the plan addresses in relation to clause 54(a) of the Act (being the pests effect 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, wāhi tapu and taonga); state the intermediate outcomes the plan seeks to achieve, being one or more of the following: exclusion, eradication, progressive containment, sustained control and/or protecting values in places; for the intermediate outcome protecting values in places state the geographic area to which the outcome applies (if practicable), or a description of a place to which the outcome applies or the criteria for defining the place to which the outcome applies; and 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.
Directions on programme description	<p>Defines the terminology for programme descriptions that must be used to describe a programme within a pest or pathway management plan. For each subject in a plan, the plan must contain one or more of the following programme descriptions:</p> <ul style="list-style-type: none"> exclusion programme; eradication programme; progressive containment programme; sustained control programme; protecting values in places; and/or pathway programme.
Directions on analysing benefits and costs	<p>Sets out the requirements for analysing the benefits and costs for each subject in a plan, including:</p> <ul style="list-style-type: none"> identifying the requirements for an analysis of benefits and costs, including documenting the assumptions the analysis is based on, identifying and quantifying the risks of a plan being successful, and comparison of options; and consideration of the significance of decisions, the urgency of situations, and the relative cost involved.
Directions on proposed allocation of costs	<p>Requires that methodologies and biosecurity funding principles be considered in order to order to ensure efficiency, equity and practicality when determining the allocation of costs for a proposed plan.</p>
Directions on good neighbour rules	<p>Provides directions on developing good neighbour rules for regional pest management plans. States that good neighbour rules can only be used where:</p> <ul style="list-style-type: none"> a pest is likely to spread and cause unreasonable costs to neighbouring land occupiers; the neighbouring land is clear of, or being managed in relation to, 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.
Directions on timing of inconsistency determination	<p>Requires the Minister for Primary Industries or the regional council to determine whether a plan is inconsistent with the NPD within 18 months of the NPD coming into force.</p>