

13 December 2024

Biosecurity System Policy Team  
Policy and Trade Branch  
Ministry for Primary Industries  
PO Box 2526  
Wellington 6140  
Via email: [biosecuritybill@mpi.govt.nz](mailto:biosecuritybill@mpi.govt.nz)

### **Northland Regional Council submission on proposals to reform the Biosecurity Act 1993**

Northland Regional Council (NRC) is grateful for the opportunity to provide feedback on the upcoming Biosecurity Act 1993 reforms. In summary, NRC supports:

- Enabling more local knowledge in decision making;
- Access for regional councils to infringement offences (for RPMPs);
- Increasing the scope of the Government Industry Agreement;
- Improvements to and streamlining of the plan-making process;
- Alignment of long-term management outcomes across regions;
- Clarifications of terms and definitions throughout the Act; and
- Amendments to how the Biosecurity Act interfaces with Department of Conservation administered legislation.

NRC notes that the draft bill has not yet been prepared and much of the analysis around costs and benefits have not yet been finalised. In this regard, NRC wishes to remain informed of these processes, particularly as it relates to devolvement of powers and responsibilities from MPI to regional councils. We appreciate increased scope in our decision-making and enforcement powers but are cognizant of the related costs associated with the increased scope.

We have provided our feedback in the tables on the following pages. These tables note MPI's issues and proposals, as well as NRC's stance in support or opposition alongside our commentary for each matter. We have included all of MPI's proposals and options, and focused feedback on those proposals and options that are most relevant to Te Taitokerau.

Of particular note, we recognise that the existing Act and proposed amendments do not include any reference to Te Tiriti o Waitangi. We recommend that such a clause is considered, as a direct link to Te Tiriti will strengthen the powers already in the Act, by:

- Recognising the Tiriti's principles of active protection for our taonga species and ecosystems;
- Incorporating Te Tiriti principles to ensure Māori involvement in biosecurity governance and decision-making processes, which would enhance programmes and responses;
- Recognising Māori as kaitiaki of our environments and ecosystems;
- Ensuring that a holistic approach to biosecurity is achieved, considering the interconnectedness of all living things.

We look forward to reviewing the draft Amendment Bill when it becomes available, and also invite MPI to contact us with any further opportunities for input and consultation

Ngā mihi nui



Geoff Crawford  
**Chair - Northland Regional Council**

The table below sets out the proposals put forward by MPI and NRC's comments .

MPI preferred proposals are highlighted in yellow.

### SYSTEM-WIDE ISSUES PROPOSALS

Theme	Proposal		Support / Oppose	NRC Comment
Purpose clause in the Biosecurity Act	1	Insert an overarching purpose clause in the Biosecurity Act		No comment
	2	Include new purpose clauses, as well as revise existing purpose clauses, for selected parts of the Biosecurity Act	Support	<p>We consider that the existing purposes in the Act are clear and do not hinder our ability to carry out biosecurity management. For example, s54 sets out the Purpose of Pest Management, which is broad enough to enable us to develop a robust Regional Pest Management and Marine Pathways Plan.</p> <p>We note that both the existing Act and the amendment proposals put forward do not explicitly reference Te Tiriti o Waitangi. We recommend that MPI seriously consider including references to Te Tiriti to better recognise the holistic approach to environmental management undertaken by kaitiaki.</p> <p>We look forward to further consultation on specific wording.</p>
Ministerial involvement in significant decisions	3A	Vest the minister responsible for the Biosecurity Act with a 'call-in' power.	More info required	More information is required to understand what powers would be exercised in this instance. It would be concerning for a political Minister to be able to override local decisions on our own regional operations.
	3B	Vest the Minister of the portfolio the chief technical officer works in with a 'call-in' power.	More info required	There are additional risks associated with timely decision making, noting the length of time required for a call-in process.

Local knowledge in decision-making	4	Enable local knowledge to inform or guide decision-making in specific parts of the Biosecurity Act	Support	Though not specifically referenced, staff feel that we are able to incorporate local and community knowledge, including matauranga Māori, without hindrance in our Regional Pest Management and Marine Pathways Plan. However, RPMPs manage pests that have already arrived in New Zealand, and to this end we support MPI's proposal to include reference to local and community knowledge as it relates to decisions on the importation of risk goods and surveillance and prevention. These proposals would require MPI's Chief Technical Officers to seek out local knowledge to understand the full range of potential effects on human health and the environment.
Biometric information	5	Clarify that the collection, use, or storage of information (including personal information) includes biometric information.		No comment
Powers of inspectors during searches	6	Introduce a power of arrest for obstruction during searches.		No comment
Border fines for travellers with high-risk goods	7	Create an additional infringement penalty for higher risk goods		No comment
Regional council access to infringement offences for pest and pathway management plans	8	Introduce the ability for regional councils to establish infringement offences in regional pest management plans	Support	We strongly support the intention to make infringement notices available to regional councils. Regional councils need to have appropriate powers to enforce RPMPs, which are practical and appropriate to the scale of offence. Offence provisions are a powerful tool to encourage positive behaviour change. The existing framework requiring offenders being taken to court is so onerous and resource hungry that it is rarely, if ever, used.

				<p>Further consultation with MPI on the appropriate level of infringement fee is needed.</p> <p>It may be more useful to have a sliding scale of infringement fee appropriate for the offence rather than a flat fee as proposed. There are potential challenges with consistency with the establishment and application of infringement offences between regional plans. It is likely that infringement offences could be used across a wide range of rules. However, councils can work to address this as a collective group.</p> <p>The requirement to consult MPI (and the Ministry of Justice) would add an additional step and as yet unknown time cost into the plan-making process.</p> <p>We seek clarification on the third criterium (contravention of the rule is likely to occur in high volumes) to understand what MPI considers to be high volumes. In general, it is unlikely that regional councils will be issuing infringement notices in large quantities so this criterium may be unachievable.</p>
Enhancing compliance options for breach of a Controlled Area Notice (CAN)	9	Amend an existing offence, establish a new offence and corresponding infringement.	Support	Support having an additional tool to enforce CANs.
Stronger compliance options for places of first arrival (PoFA)	10	Enable pecuniary penalties for breach of PoFA requirements	Support	See below
	11	Create a new offence for breaching PoFA conditions of approval with a fine of up to \$200,000 and a continuing penalty of \$10,000 each day	Support	Northland has several ports of first arrival and NRC supports stronger compliance options particularly when it comes to preventing unwanted organisms being transported into the region.

Arrest powers for Police (minor and technical)	12	Clarify arrest powers of police officers (authorised biosecurity officers pending current proposal)		NRC supports arrest powers for police and does not support giving arresting powers to biosecurity officers.
Sentencing	13	Introduce sentencing guidance into the Biosecurity Act	Support	This will be helpful in establishing nationally consistent penalties and provide prosecuting councils with guidance in the absence of case law.

#### FUNDING AND COMPENSATION PROPOSALS

Theme	Proposal		Support / Oppose	NRC Comment
Cost-shares in the Government-Industry Agreement	14A	Mandate a periodic review of the cost-shares in the GIA deed.		No comment
	14B	Set out a cost-share framework in legislation to guide cost-share arrangements with GIA partners	Support	NRC supports this proposal to clarify and establish a cost-share framework to guide GIA partners. This is expected to improve the ability for MPI to lead incursion responses to prevent pests from establishing and becoming long-term management issues.
Cost recovery from non-signatory beneficiaries	15A	Levy non-signatory beneficiaries (NSBs) to build an up-front fund.		No comment
	15B	Levey NSBs after a response to recover costs/		No comment
Compensation – Improvements to	16	Refining how non-compliance would make a person ineligible for compensation	Support	We recognise the importance of enabling more transparent compensation processes to encourage better and more accurate reporting.

operation of the scheme	17	Enabling more detailed compensation entitlements and requirements via regulation	Support	
	18	Removing restrictions on the ability to vary compensation and enable upfront payment of future losses that have not yet been incurred	Support	
	19	Codify the operational dispute the resolution process		No comment
Compensations – Scope of losses that are compensable	20	<p>Stating which type of losses are and are not compensable, including removing some or all consequential losses from compensation.</p> <p>All sub-options (listed below 20A – 20E) include the proposal to address the first part of the option about tangible property and goods. The main trade-offs between the options are on how consequential losses are treated.</p>		No comment
	20A	Income and professional fees are payable.		No comment

	20B	All consequential losses are payable for the first year a producer is affected by the exercise of government powers.		No comment
	20C	All consequential losses are payable for the first six months a producer is affected by the exercise of government powers.		No comment
	20D	Professional fees are payable.		No comment
	20E	No consequential losses are payable.		No comment
Interaction between compensation and pest management plans (minor and technical)	21	Make excluding compensation for breaches of national pathway management plans (NPMPs) and regional management plans (RPMPs) optional or align it with s162A of the Biosecurity Act.	Further information required	The enforcement of rules for National plans could be affected by this proposal and we would like to understand more about this.
	21A	Make excluding compensation optional in the event of non-compliance with a pest or pathway management plan optional.	As above	As above
	21B	Differentiate how non-compliance affects compensation between pest	As above	As above

		management plans and pathway management plans.		
--	--	--	--	--

**Border and import proposals**

Theme	Proposal	Support / Oppose	NRC Comment
Development of import health standards	22	Enable technical amendments to an HIS without consultation.	No comment
	23	Enable a rapid amendment process for HISs during the first year of trade in a good without consultation.	No comment
	24	Enable the ability to issue one-off or ad hoc permits for goods being imported as a one-off or on a sporadic basis	No comment
	25	Enable the use of permits to allow trade to continue while a suspended HIS is being reviewed.	No comment
	26	Enable consultation on a risk management proposal for a good rather than the draft HIS itself.	No comment

Section 24 independent review panels	27A	Amend the Biosecurity (Process for Establishing Independent Review Panel) notice 2015 and work on cost recovery.		No comment
	27B	Amend section 24 so the review is undertaken by a senior public official rather than by establishing an independent review panel		These sections relate to import health standards and we have made no specific comment
	27C	Amend section 24 so that the review must only be about new evidence		No comment
	27D	Remove section 24 from the Biosecurity Act.		No comment
Border clearances for cruise craft passengers	28	Create additional powers and duties in the Biosecurity Act enabling biosecurity inspectors to process passengers disembarking a vessel but who have already arrived in New Zealand.	Support	NRC supports measures designed to strengthen our border security, particularly as we are now seeing tourists and passengers becoming pathways for pests 'inter-regionally'. Freshwater gold clam is of particular concern, where tourists may unwittingly carry these in water-gear between destinations.
Better management of biofouling removal in New	29A	Amend the Biosecurity Act to clarify that MPI has the power to regulate biofouling removal in relation to all vessels arriving in the EEZ with a clearly stated	Support	We support the intention to strengthen the national response to biofouling in the EEZ within the BSA. Biofouling is a primary pathway for new marine pests, particularly in tourist destinations and internationally renowned marinas. Having the ability to enforce biofouling removal prior to entry into

Zealand's Exclusive Economic Zone		intention of arriving in New Zealand.		our Coastal Marine Areas reduces the risk of marine pests from establishing in our ports, harbours, and bays.
	29B	Amend the Exclusive Economic Zone and Continental Shel (Environmental Effects) Act 2012 (EEZ Act) to enable MPI to regulate biofouling removal under specific	Support	
Limiting volumes of food in the air passenger pathway	30	Amend the purpose section of Part 3 of the Biosecurity Act to include improving operational efficiencies.	Support	Support
	31	Enable the Director-General to impose a limit on the volume of a class of food moving through the air passenger pathway.	Support	Support
Facility approval framework	32	Streamline the legislative framework for transitional and containment facilities.		No comment
Enabling third-party verification at transitional facilities	33A	Amend the Biosecurity Act to include the ability for an authorised third-party to undertake verification activities at transitional facilities.		No comment
	33B	Enable the Director-General of MPI to recognise third parties to		No comment

		undertake specified roles and functions.		
Providing biosecurity information to incoming passengers on commercial craft	34A	Removing general duty under section 17AA of the Biosecurity Act and supporting regulations to provide biosecurity information to incoming passengers.		No comment
	34B	Include a requirement for carriers of commercial craft to provide notice to the Director-General of MPI that biosecurity information has been provided.		No comment
Establishment of biosecurity control area in Place of First Arrival (minor and technical)	35	Make explicit the ability for a Place of First Arrival Standard to establish a biosecurity control area (BCA).		No comment

#### Readiness and response proposals

Theme	Proposal		Support / Oppose	NRC Comment
Government Industry Agreement	36	Modify and grow the GIA	Support	This will significantly impact NRC by formally including us in GIA decisions. We can then better contribute to and align with long-term thinking,
	37	Create one or more biosecurity focused cross-industry	Support	

		organisations to build primary sector skill and resilience.		potentially leading to more comprehensive and cohesive biosecurity strategies with minimal implementation costs.  Proposal 37's creation of biosecurity-focused cross-industry organisations will further improve our region's biosecurity resilience and enhance coordination and investment in biosecurity efforts.
Liability protection for GIA partners	38	Amend Part 5A to state that this confers functions on GIA Signatories to make joint-decisions under the Deed and Operational Agreements.	Support	Support
Faster emergency declarations	39	Change the decision-maker for a biosecurity emergency from the Governor-General to the Minister for Biosecurity.	Support	We support this as such declarations are operational and require urgency.
Biosecurity practices	40	Add a general biosecurity duty in the Biosecurity Act	Support	We support this in general as it would set the expectations for duties requiring good biosecurity practices, but monitoring and enforcement needs clarity to make sure these are effective.
	41	Expand the range of risk management plans that can be set through regulations under the Act.		No comment
	42	Add provisions to the Act to enable greater use of the risk-based regulatory model where businesses are required to		No comment

		develop their own risk management plan.		
Minor technical amendment to section 100ZA (minor and technical)	43	Amend section 100ZA to add a power for the Minister to “un-recognise” an industry body when a sector withdraws from the GIA.	Support	Support

#### Long-term management proposals

Theme	Proposal	Support / oppose	NRC Comment	
Pest and pathway management and small-scale management programmes	44	Simplify the process to create national or regional pest and pathway management plans	Support	<p>The proposed streamlined process reduced redundant and pedantic efforts that are currently required to prepare a Regional Pest Management Plan. The first “proposal” steps are combined to enable the plan drafting to commence immediately with the creation of a new plan.</p> <p>Our current approach to the review process is more aligned with what MPI is proposing. Consultation at the start of any plan is considered to be best practice and encourages participation in the process.</p> <p>Fewer regulatory steps and checkpoints also means we can draft plans more quickly and efficiently, reducing time gaps between biosecurity response and long-term management (<i>e.g.</i> Caulerpa, Corbicula, etc.).</p>
	45	Enable (but not require) integrated pest and pathway management plans	Support	NRC currently has a combined Pest Management and Marine Pathway plan.

				It is logical to enable different forms and methods of pest/pathway management to allow fit-for-purpose approaches to different issues in different geographies.
	46	Enable (but not require) the ability to have consolidated levies for NPMPs	Support	A simpler approach for levying industry sectors could improve engagement with primary sector and tourism sector.
	47	Make it easier for regional councils to create small-scale management programmes (SSMPs)	Support	We support the proposed changes that enable a wider range of programmes and increased timeframes/funding caps.
	48	Enable management agencies to provide exemptions from rules in NPMPs	Support	We support the ability to have jurisdiction over NPMPs as they relate to decision-making, but only where cost-recovery is available. This proposal will benefit from further consultation between MPI and councils on the development of a framework.
	49	Enable more than one legal entity to share management agency responsibilities	Support	This could lead to improved cooperation between agencies and empower partnerships between RCs, iwi, management agencies, and central government agencies.
	50	Enable management agencies and regional councils the function of issuing permits for pests in NPMPs or RPMPs	Support	We support the ability to have jurisdiction over NPMPs as they relate to decision-making, but only where cost-recovery is available. This proposal will benefit from further consultation between MPI and councils on the development of a framework.
	51	Enable regional councils to remove exemptions from a regional pest or pathway management plan rule before	Support	We support ability to revoke an exemption if holder contravenes conditions of a permit/exemption.  A process would be developed to provide notification, opportunity for holder to rectify, and imposition of further conditions by councils.

		the end of the original time frame		
Alignment of long-term management outcomes	52	Enable multiple National Policy Directions for Pest management to be made	Support	Provides greater flexibility in amending a National Policy Direction where new threats emerge while existing threat management continues
	53	Enable new regulations to be made to create nationally consistent baseline objectives, policies, or rules for pest management	Support	Regionally consistent rules and regulations are very much necessary for efficient control of pests in terms of pathway plans as well as movement across territorial boundaries. E.g. banning the sale and propagation of a species in one region but not its neighbour will significantly reduce plan effectiveness.
	54A	Strengthen s55 by requiring that the party that is assigned responsibility must take action to manage the harmful organism or pathway		No comment
	54B«	Streamline the process set out in the regulations to remove unnecessary steps or duplication	Support	We support all steps undertaken to streamline long-term management planning steps, particularly where there is duplication and/or multiple steps requiring completion in a sequential manner.
	54C	Repeal s55 of the Act and revoke its associated regulations		No comment
Management of unwanted organisms and notifiable organisms	55	Amend s52 to define “communicate” in relation to a pest or unwanted organism	Support	Support for these in general where there is more clarity on terms and definitions. Overall reduction in unnecessary or repetitive permission processes only slows emergency responses.
	56	Enable a chief technical officer to tailor the application of ss52	Support	NRC wishes to be included in further discussions with MPI regarding unwanted organism list review. We suggest forming a special interest group

		and 53 when declaring an unwanted organism		or similar to progress this over the programmed five years. This will not only spread the workload but will enable a more robust review process from experts on the ground.
	57	Align the permissions for exemptions contained in s3(2) with those in s52	Support	
	58	Clarifying in the Biosecurity Act how unwanted organism status can be removed and making this process more efficient	Support	
	59«	Include a new transitional provision for all unwanted organisms to expire after five years	Support	
	60	Improve the management of notifiable organisms	Support	
Minor and technical	61	Changing the name of the term “Unwanted Organisms” to “Controlled Organisms”		
Definitions related to unauthorised goods	62A	Provide a definition for ‘New Zealand-born progeny’ in s2 of the Biosecurity Act	Support	Support for these in general where there is more clarity on terms and definitions.
	62B	Amend the definition of “goods” in s2 of the Biosecurity Act to include planted trees or plants	Support	

		alongside moveable personal property		
	62C	Amend the definition of “risk goods” in s2 of the Biosecurity Act to include the New Zealand-born progeny of unauthorised goods.	Support	
	62D	Amend the definition of “unauthorised goods” to include the New Zealand-born progeny of unauthorised goods.	Support	
Minor and technical	63	Amendment to s115 (use of dogs and devices)		No comment

#### Surveillance and interfaces with Department of Conservation-administered legislation

Theme	Proposal		Support / oppose	NRC Comment
Interaction with the Freshwater Fisheries Regulations 1983	64	Enable the Biosecurity Act to take precedence over sports fishing benefits	Support	Sports fishing releases (legal and otherwise) have occurred throughout Northland in arguably inappropriate aquatic environments, resulting in biodiversity decline and the spread of other unwanted organisms.
	65	Enable the Biosecurity Act to take precedence over sports fishing benefits following agreement from a chief technical officer	Support	The existing framework requires good faith and good relationships between individuals at Fish and Game and management agencies. While this has improved in recent times there is an inherent risk that future

	66	Enable biosecurity powers, functions, or duties to take precedence over other provisions where a fish is also an unwanted organism	Support	empowered individuals within Fish and Game could progress personal agenda, as has been done in the past without consequence.  Having BSA above or equal to Freshwater Fisheries Regulation and CTO mediation will encourage a fair and effective pathway towards sustainable aquatic ecosystems.
	67	Amend the Biosecurity Act to require Ministerial decision-making if a regional council and Fish and Game Council do not agree	Oppose	Ministerial involvement removes decision making abilities from local decision makers.
Surveillance and interaction with the Marine Mammals Protection Act 1978	68	Change the purpose of Part 4 by enabling monitoring for pests, notifiable organisms, unwanted organisms, and other organisms that may cause infections, diseases, or unwanted harm.	Support	We support improved alignment and reference between these two Acts.
	69	Include a reference to the Marine Mammals Protection Act in the Biosecurity Act	Support	
Interaction with the Wild Animal Control Act 1977	70	Clarify that regional councils can enter private land to control wild animals	Support	This will provide more clarity and understanding for our own Biosecurity officers. It may be useful and helpful for regional councils if media / consultation collateral on this point can be developed and shared by MPI for councils to use in our public education campaigns.
	71	Make a technical amendment to section 7(5) of the Biosecurity Act to correct a reference to conservation land	Support	Support

