

**Local Government
New Zealand**
te pūtahi matakōkiri

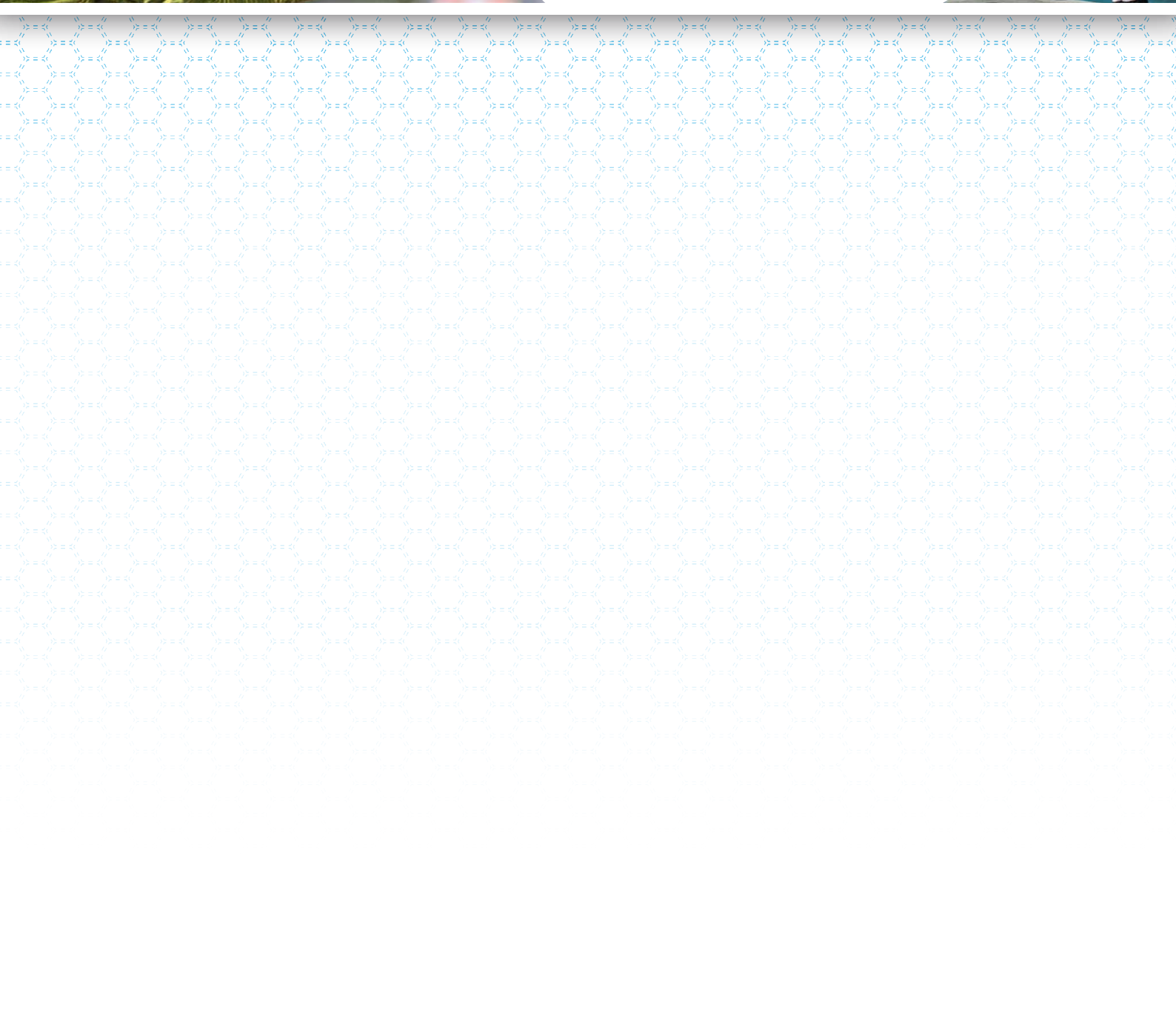


TABLE OF CONTENTS

INTRODUCTION	2
<i>LOCAL GOVERNMENT NEW ZEALAND</i> POLICY PRINCIPLES	2
COMMENTS	3
Part 5 Pest Management	3
Future of Pest Management	3
Crown good neighbour obligations	4
Roles and responsibilities.....	5
Minister may assign responsibility for decision	6
National policy direction	7
Environment Court	9
Preparation and review of pest management plans	10
Pathway management plans	10
Enforcement and compliance orders	11
Amendments to the Wild Animal Control Act and Wildlife Act	12
CONCLUSION	13
RECOMMENDATIONS	13

INTRODUCTION

1. *Local Government New Zealand* thanks the Primary Production Committee for the opportunity to make this submission in relation to Biosecurity Law Reform Bill.
2. *Local Government New Zealand* makes this submission on behalf of the National Council, representing the interests of all local authorities of New Zealand.

It is the only organisation that can speak on behalf of local government in New Zealand. This submission was prepared following consultation with local authorities. Where possible their various comments and views have been synthesised into this submission.

In addition, some councils will also choose to make individual submissions. The *Local Government New Zealand* submission in no way derogates from these individual submissions.

3. *Local Government New Zealand* prepared this submission following:
 - an analysis of the Biosecurity Law Reform Bill
 - analysis of all feedback from councils
4. This final submission was endorsed under delegated authority by:
 - Lawrence Yule, President, National Council
 - Fran Wilde, Regional Sector Chair and National Council member
 - Eugene Bowen, Chief Executive, *Local Government New Zealand*.
5. *Local Government New Zealand* wishes to be heard by the Primary Production Committee to clarify the points made by this written submission as necessary.

LOCAL GOVERNMENT NEW ZEALAND POLICY PRINCIPLES

6. In developing a view on the provisions in this Biosecurity Law Reform Bill we have drawn on the following high level principles that have been endorsed by the National Council of *Local Government New Zealand*. We would like Primary Production Committee to take these into account when reading this submission.
 - **Local autonomy and decision-making:** communities should be free to make the decisions directly affecting them, and councils should have autonomy to respond to community needs.
 - **Accountability to local communities:** councils should be accountable to communities, and not to Government, for the decisions they make on the behalf of communities.
 - **Local difference = local solutions:** avoid one-size-fits-all solutions, which are over-engineered to meet all circumstances and create unnecessary costs for many councils. Local diversity reflects differing local needs and priorities.

- **Equity:** regulatory requirements should be applied fairly and equitably across communities and regions. All councils face common costs and have their costs increased by Government, and government funding should apply, to some extent, to all councils. Systemic, not targeted funding solutions.
- **Reduced compliance costs:** legislation and regulation should be designed to minimize cost and compliance effort for councils, consistent with local autonomy and accountability. More recognition needs to be given by Government to the cumulative impacts of regulation on the role, functions and funding of local government.
- **Cost-sharing for national benefit:** where local activities produce benefits at the national level, these benefits should be recognised through contributions of national revenues.

COMMENTS

Part 5 Pest Management

Future of Pest Management

7. Most of the pest control that occurs in New Zealand happens voluntarily. Individuals or groups of people undertake a wide array of pest control activities as part of day-to-day life. These range from spraying fungicides on our rose gardens, the use of animal remedies, volunteer community groups clearing weeds or possums from ecologically significant areas, and farmers or foresters controlling pests on their land.
8. Not all pest management happens automatically however. In many cases, public intervention is required to achieve community goals and after due process, people may be required to engage in or fund pest management activities to achieve economic, social, environmental or cultural outcomes that are considered important by the broader community.
9. In 2008, the regional councils prepared a “think-piece” describing New Zealand’s present arrangements and processes for determining pest management activities. The focus of the “think-piece” was primarily on public good intervention situations where it is vital that the right processes, incentives, and checks and balances exist within our systems and approaches, to ensure that pest management occurs as effectively and efficiently as possible.
10. Key matters raised in the think piece were the need for better co-ordination, more collaborative partnerships, and clarity of purpose and roles. Two proposals stood out as fundamental to ensuring an optimal pest management system:
 - (a) obliging the Crown to meet good neighbour obligations under Regional Pest Management Strategies
 - (b) clarifying the leadership role of the Ministry of Agriculture and Forestry (MAF) and councils.

11. Councils support the review of the Biosecurity Act (1993) and applaud the objectives underpinning the amendments proposed:
 - more effective and efficient risk management
 - clearer roles and responsibilities
 - improved collaboration and partnerships
 - ability to handle future change.
12. Councils appreciate the considerable effort and resource that MAF, and others, have assigned to the Future of Pest Management (FOPM) project. The pest management provisions of the Bill have addressed a number of issues and recommendations raised by councils in 2008 and throughout the consultative process to develop the amendments.
13. Councils concur with Government's view that biosecurity is critical to New Zealand's prosperity and way of life. For the pest management system to be as efficient, effective and fair as possible however, legislation must be very clear on roles and responsibilities, provide statutory instruments that are fit for purpose, and support processes and systems that facilitate improved collaboration nationally, regionally and with industry.
14. Amendments to the Act should not duplicate existing provisions or unnecessarily complicate arrangements that already operate effectively. To do so would be to risk existing partnerships, and the bank of goodwill which has supported pest management activities over the last decade.
15. Councils make the following specific comments to ensure the necessary detail to support the most efficient and effective pest management delivery and outcomes.

Crown good neighbour obligations

16. Councils strongly support clause 8 of the Bill requiring the Crown to meet "good neighbour" rules within regional pest management plans and commend Government for addressing what has been, to date, a major deficiency in implementing effective pest management in New Zealand. Unlike other land occupiers, the Crown is not required to comply with rules in regional pest management strategies, unless it chooses to be bound. This has undermined the effectiveness of pest management in a region as pests spill from Crown land onto neighbouring land. In many regions the Crown is the largest land occupier. By requiring the Crown to meet "good neighbour" rules within regional pest management and pathway plans, pest management is both more effective, and more equitable.
17. Clause 4 of the Bill provides a definition of "good neighbour rules". Councils are concerned with confining the application of the good neighbour rules to where costs fall on the adjacent land owner. Adjacent means next to or adjoining and implies that the properties must physically adjoin each other. However pest spread is not necessarily confined to adjoining properties, for example pest plant seeds can be spread via water. For the purposes of certainty, Councils recommend subsection (b) in the interpretation of good neighbour rule be deleted, noting that subsection (d) ensures Councils comply with the directions in the national policy direction relating to the setting of good neighbour rules in Part 5 Clause 56(3).

Decision sought

18. Retain clause 8 [Act binds the Crown].
19. Amend subsection (b) of the definition of "good neighbour rule" to read:
"(b) It seeks to limit the spread of a pest that would otherwise cause costs to occupiers of nearby land".

Roles and responsibilities

20. Councils support the functions set out in clause 12A of the Bill for the Director-General. These functions clearly articulate the Director-General's leadership role for pest management across New Zealand.
21. Councils are very concerned that clauses 12A(2) and 12B(2) of the Bill, which outline the ways in which the Director-General and regional councils provide leadership, are not more closely aligned. This is despite general agreement by stakeholders throughout the FOPM working group process that national and regional pest management roles and responsibilities should be aligned as closely as possible. As noted throughout the FOPM process, MAF and regional councils have assumed a leadership role in pest management, the difference being a matter of scale i.e. national and regional. The Ministry also has the added responsibility of overseeing the wider biosecurity system.

22. The Bill adopts different wording when describing the ways leadership is provided for nationally and regionally. For example, clause 12A(2)(a) states that the Director General provides leadership by *"facilitating the development and alignment of national pest management plans and national pathway management plans"*.

12B(2)(a) says regional councils should provide leadership by *"...promoting the optimal contribution of pest management to relevant community and national strategies."*

23. Councils strongly support amendments to clause 12B of the Bill to promote better alignment between national and regional pest management responsibilities. These should reflect the fundamentals of pest management that were agreed through the FOPM process:

- developing, monitoring and reviewing an agreed strategic direction
- co-ordinating pest management organisations
- promoting collective action
- maintaining an overview of pest management to identify risks and opportunities.

24. Leadership as defined in the Bill raises many more questions. What for example is "optimal contribution", how would it be measured and by whom? What are "relevant community or national strategies" and who decides? Similarly, Clause 12B(3) says regional councils should provide leadership by *"...promoting co-ordination of pest management between regions"*? While Councils might agree with the intent of the clause, acknowledging the importance of co-ordination between Councils, it is another question as to whether Councils should and can be legislated to do this. Many Councils are already promoting co-ordination of pest

management between regions as a matter of good practice. Additionally, and from a purely legal and technical point of view, councils cannot give effect to this responsibility as they do not have jurisdiction beyond their boundaries.

Decision sought

25. Amend clause 12B(2) to read:

"(2) The ways in which the regional council provides leadership in the region include:

(a) promoting strategic alignment of pest management within the region

(b) facilitating the development and alignment of regional pest management plans and regional pathway management plans within the region

(c) promoting public support for pest management

(d) facilitating communication and co-operation between those involved in pest management to enhance effectiveness, efficiency, and equity of programmes."

26. Delete clause 12B(3) to remove reference to regional councils providing leadership by promoting co-ordination of pest management between regions.

Minister may assign responsibility for decision

27. Councils support clause 55 of the Bill whereby the responsible Minister can assign responsibility for a decision on the appropriate response to an issue relating to a harmful organism or pathway.
28. There are many parties, government and non government, which contribute to or have a role to play in pest management. In the past however, there have been instances where parties have actively avoided assuming responsibility for undertaking pest management (and assuming the costs of intervention) or the debate on who is responsible has taken too long to resolve. In order to promote timely and effective decision making it is appropriate that the responsible Minister assign lead accountability to the agency or organisation best placed to decide on the merits of intervention. The decision to intervene or not to intervene will rest with the party assigned the decision making responsibility.
29. We note that when the responsible Minister assigns responsibility to a department or regional council for a decision on intervention, the Minister may also specify a time within which the decision must be made. Councils support this in principle as early intervention is important in pest management. To ensure the success of the decision making role this principle needs to be applied to other non-government parties assigned the decision making responsibility. We acknowledge that this may not be able to be prescribed in legislation but highlight this as a matter that MAF needs to address through other mechanisms such as industry agreements.

Decision sought

30. Retain clause 55 [Responsible minister may assign responsibility for decisions].
31. Note the need to address the requirement for timely decisions to intervene through other non-regulatory mechanisms such as industry agreements.

National policy direction

32. Councils strongly support clause 56(5), which sets out matters that the Minister must have regard to before including any other matter in the national policy direction. Clause 56(5) is particularly important given Council concerns about the matters where national policy direction may be developed (clause 56(4)).
33. Promulgation of binding directions on some of the matters set out in clause 56(4) would derogate from the flexibility and efficiencies promoted elsewhere in the Bill e.g. the provision to make national policy direction to identify an appropriate consultation process (clause 56 (4) (h)) when clauses 63 and 71 enables decision making on consultation to be made by central or regional government using established criteria i.e. the scale of the impacts and the level of support or otherwise for a proposal. Other matters set out in clause 56(4) duplicate existing provisions in the Act e.g. when to review, setting of rules, the granting of exemptions, and the distribution of benefits and costs.
34. Some matters may also undermine the principles of local governance as outlined in *Local Government New Zealand's* Policy Principles e.g. one size fits all policy designed to address matters when communities have different priorities and needs.
35. Councils acknowledge the necessity of national policy direction to define good neighbour rules but seriously question how other matters proposed for national policy direction will contribute to the objectives of the review of the Bill i.e.:
 - more effective and efficient risk management
 - clearer roles and responsibilities
 - improved collaboration and partnerships
 - ability to handle future change.

There is considerable risk that existing support and goodwill for pest management activities will be eroded. The local community, and those who engage in the development of provisions in pest management strategies, provide the check and balances of regional pest management activities. It is noteworthy that to date there have been no appeals on regional pest management strategies that have proceeded to an Environment Court hearing.

36. The provisions in clause 100(3)(c) of the Bill for regional pest and pathway management plans to be reviewed under the Act following the making, revoking and replacement of the national policy direction are also unnecessary and potentially onerous and inefficient.

37. Councils seek a two year transition provision to allow sufficient time to give effect to initial national policy direction. This will enable transition arrangements to fit into mandatory review schedules for most regional pest management strategies which are due to expire shortly.
38. Councils acknowledge that the national policy direction may be periodically reviewed. There is a need to ensure that the review and amendment of the national policy direction does not unnecessarily require a review of future regional pest management plans. Councils question why a review involving additional public consultation on a plan would be necessary under clause 100(3) after promulgation or amendment of the national policy direction given that councils are obliged to comply with changes being required nationally, regardless of local community choices or preferences. The Council notes that section 55 of the Resource Management Act (RMA) provides for regional plans to be amended (to give effect to a national policy statement) without the need for consultation. The Council seeks the inclusion of similar type provisions in the Biosecurity Act.

Decision sought

39. Retain clauses 56(3) and 56(5).
40. Insert a new clause that provides regional councils with an initial two year transition period to review their regional pest management strategies and give effect to the initial national policy direction made under section 57.
41. Amend clause 100(3) and replace with a new clause that reads:
"(1) When the national policy direction is made under section 57, amended under section 58(1), or revoked and replaced under section 58(2), the Minister or council must amend all plans or relevant parts of all plans
(2) The Minister or council must make the amendments referred to in subsection (1):
 - (a) as soon as practicable; or*
 - (b) within the time specified in the national policy direction (if any); or*
 - (c) before the occurrence of an event specified in the national policy direction (if any)**(3) The Minister or council must:*
 - (a) make the amendments referred to in subsection (1) without using the consultative processes in sections 63, 71, 81 or 89; and*
 - (b) publicly gazette or give public notice of the amendments within 5 working days after making them."*

Environment Court

42. Councils are concerned with the ambiguity of wording in clause 74(2)(a) to (c) as it creates risk of unwarranted delays and costs being imposed through applications to the Environment Court by people who did not choose to actively participate in consultation as outlined under clause 71(4)(c).
43. As it currently reads (in the absence of joining words "and" or "or") any person that participated in the consultation process could refer the Council's decisions on a plan to the Environment Court. Not only does this risk unwarranted delays and costs, this is also inconsistent with the approach adopted in the Resource Management Act 1991, whereby appeals against Council decisions on regional policy statements and plans are confined to submitters (or matters raised in submissions).
44. Councils assume that sections 74(2)(a) and (b) relate to circumstances where the preparation or review of a regional pest management plan has been confined to targeted consultation not involving a submission process. To date however all regional pest management strategies been prepared following a full consultation process involving public submissions. It is recommended that where regional councils have consulted under clause 71(4)(c) i.e. full consultation, that applications to the Environment Court be confined to submitters.
45. On a related matter, Councils note that under proposed section 74(5), if an application is made to the Environment Court, the Court must hold a public hearing. This means that the Court cannot deal with non-contentious matters on the papers. For example, if the parties go to mediation and reach agreement, the Court cannot make a consent order on the papers – it must convene a hearing. Similarly, if an applicant wishes to withdraw proceedings, this must be done in open Court.
46. In contrast under the RMA, the Environment Court frequently deals with withdraws of proceeding, consent memoranda, and other non-contentious matters in Chambers, and on the papers. Councils seek amendments to proposed section 74(5) of the Act to allow the Environment Court to deal with non-contentious matters without the need to hold a public hearing.

Decision sought

47. Amend clause 74(2) to read:
"(2) The following persons may make an application when:
 - (a) consultation on a proposal was undertaken in the way described in section 71(4)(a) and (b), a person who participated in consultation during the preparation of the proposal: or*
 - (b) consultation on a proposal was undertaken in the way described in section 71(4)(a) and (b), a person who is likely to be affected by the plan and did not participate in consultation only because the person was not given an opportunity to participate: or*
 - (c) consultation on a proposal was undertaken in the way described in section 71(4)(c), a person who made a submission on the proposal."*

48. Amend proposed section 74(5) of the Act to allow the Environment Court to deal with non-contentious matters without holding a public hearing.

Preparation and review of pest management plans

49. Councils support clauses 63, 65, 71 and 75 of the Bill, which seek to improve and simplify processes for preparing and reviewing national and regional pest management plans.
50. Requirements under the Biosecurity Act to publicly notify and conduct an inquiry for all pest management strategies, even where affected parties agree with the strategy, has been identified as a barrier to national pest management strategies in particular. For example, once a pest management strategy is in place, it cannot be materially changed without reviewing the entire strategy. For councils this means that recently identified pest organisms cannot be addressed through a pest strategy without reviewing the strategy in its entirety i.e. there is no provision to add or delete a plant or animal from a strategy without the full review.
51. Councils note that clauses 63, 65, 71 and 75 will streamline the plan preparation process and provide much more flexibility to agencies preparing not only national pest management plans but also regional pest management plans. Other amendments to enable partial reviews and extending the life of a plan from five to ten years before mandatory review, will also make the preparation, implementation and review of plans much more efficient.
52. Councils note that proposed section 75 of the Act is "silent" on notifying the making of a plan. It is suggested that proposed section 75 be amended to include an additional provision that expressly requires regional councils to state, as part of the making of a plan, when a plan becomes operative or give notice of the commencement of the plan.

Decision sought

53. Retain clauses 63, 65, 71 and 75.
54. Amend proposed section 75 of the Act to include an additional provision that expressly requires regional councils to state, as part of the making of a plan, when a plan becomes operative or give notice of the commencement of the plan.

Pathway management plans

55. Councils support clauses 78 to 84 and clauses 86 to 94 of the Bill that allow the development of national and regional pathway management plans to address the movement of harmful organisms along pathways.
56. In most cases, managing the spread of harmful organisms by preparing plans that target specific high risk pathways will be best addressed with a nationally led response. However, there may be occasions when a regional council sees merit in using this tool to address a pest spread issue within their region. Accordingly the Council supports regional councils having access to this new statutory instrument.
57. The preparation and development of pathway plans should follow a similar statutory process to that set out for pest management plans.

58. In line with councils preferred appeal process (bullets 34 & 35 of this submission) amend clause 92(2) the appeal process for pathway management plans to reflect the appeal process for a pest management plan.

Decision sought

59. Retain clauses 78 to 84 and clauses 86 to 94.
60. Amend clause 92(2) to read:
- "(2) The following persons may make an application when:*
- (a) consultation on a proposal was undertaken in the way described in section 71(4)(a) and (b), a person who participated in consultation during the preparation of the proposal: or*
- (b) consultation on a proposal was undertaken in the way described in section 71(4)(a) and (b), a person who is likely to be affected by the plan and did not participate in consultation only because the person was not given an opportunity to participate: or*
- (c) consultation on a proposal was undertaken in the way described in section 71(4)(c), a person who made a submission on the proposal."*

Enforcement and compliance orders

61. Council are unclear of the relationship between section 122 (refer clause 49) relating to directions and proposed section 154 of the Act (refer clause 61) relating to compliance orders. Councils also note that the wording of proposed amendments pose practical difficulties to regional councils that will reduce the efficiency and effectiveness of future enforcement action.
62. First, the Bill seeks to substitute section 122(2) of the Act, which relates to notices in writing directing a person to comply with a rule in a pest management strategy [plan], with a similar provision which only relates to pathway management plans. There is no explanation for this change in the introductory material of the Bill. Therefore it is unclear why section 122(2) would only want to focus on one new but untried statutory instrument while excluding pest management plans. Of note, while some plan rules may overlap with section 122(1)(a)-(c), some rules may be made for a range of other purposes (as currently provided for in proposed section 72).
63. Second, the issuing of a direction under section 122 is a pre-requisite to default work under section 128 of the Act. Under the current Act, a person who has not complied with a rule in a pest management plan may be directed to do so by a notice issued under section 122(2) of the parent Act. In the event of non-compliance, default works or other actions may then be undertaken by the management agency under section 128 and the costs incurred by the management agency may be recovered. Default work cannot be invoked unless there is a preceding non-compliance with a direction or requirement. The Council notes that the Bill does not propose any changes to section 128 of the Act.

64. The provisions about compliance orders, in part, duplicate section 122(2) of the Act but do not enable the management agency to act under section 128.
65. Third, councils note that under the proposed section 154E, compliance orders may be subject to appeal to the District Court, on their merit, with rights of subsequent appeal to the High Court, Court of Appeal and Supreme Court on points of law. Councils are concerned that, as currently written, proposed section 154F means that an appeal will act as a stay on the order and there is no right to have the stay lifted. As a result there may be considerable and unwarranted delays in having any appeals dealt with in the District Court, and there are risks of even more delays through second and subsequent appeals. This, in turn, could derogate from pest management objectives by delaying the eventual removal of pests and allowing them to spread further and impact on other people.
66. Councils note that abatement notices are appealable to the Environment Court under section 325(3) of the RMA but these appeals do not operate as a stay on the notice. Councils therefore suggest that the effectiveness and utility of compliance orders could be enhanced through the inclusion of some safeguards that allow applications for stays to be dealt with in a timely manner and that the Court can screen out frivolous appeals.

Decision sought

67. Seek that section 122(2) of the current Act be retained.
68. Seek amendment to proposed sections 154E and 154F to include provisions that:
 - (a) Ensure an appeal does not act as a stay
 - (b) Give the appellant the right to apply for a stay
 - (c) Require the Court to deal with applications expeditiously, and
 - (d) Require the Court to determine applications for a stay on the basis of whether granting a stay would be consistent with the objectives of effective pest management.

Amendments to the Wild Animal Control Act and Wildlife Act

69. Councils support amendments to the Wild Animal Control Act and Wildlife Act so that wallabies, possums and injurious birds can be managed solely under the Biosecurity Act without having to comply with additional requirements.
70. Under existing legislation regional councils may include possums, wallabies and pest birds in their regional pest management strategies. However, councils are then required to seek the Minister of Conservation's approval under the Wild Animal Control Act if wallabies or possums are to be destroyed. The requirement to comply with two sets of legislative requirements undermines the efficiency and effectiveness of pest management for these species. Similarly Part 4 of the Wildlife Act contains some largely redundant empowering provisions to allow regional councils to carry out bird control and charge rates.

Decision sought

71. Retain clauses 81 and 82.

CONCLUSION

72. *Local Government New Zealand* is generally supportive of the changes proposed.
73. *Local Government New Zealand* thanks Primary Production Committee for the opportunity to comment on this Biosecurity Law Reform Bill.
74. Council concerns primarily relate to some detail in the Bill (rather than intent) where amendments are required to increase certainty and clarity, promote efficiencies, and avoid perverse outcomes e.g. the requirement to undertake a statutory review following the making, revoking or replacement of the national policy direction
75. Of particular concern, is the disjunct between the Director-General and regional council pest management responsibilities, despite stakeholder acknowledgement and support for alignment of these roles throughout the FOPM process. Also, the potential for references to the Environment Court by non submitters to a publicly notified regional pest management plan and the potential for the amendments relating to 122(2) directions and compliance orders to undermine effective and efficient pest management.
76. For the pest management system to be as efficient, effective and fair as possible however, legislation must be very clear on roles and responsibilities, provide statutory instruments that are fit for purpose, and support processes and systems that facilitate improved collaboration nationally, regionally and with industry.
77. Amendments to the Act should not duplicate existing provisions or unnecessarily complicate arrangements that already operate effectively. To do so is to risk existing partnerships, and the bank of goodwill which has supported pest management activities over the last decade.

RECOMMENDATIONS

Local Government New Zealand makes the following recommendations:

78. Retain clause 8 [Act binds the Crown]
79. Amend subsection (b) of the definition of "good neighbour rule" to read:
"(b) *It seeks to limit the spread of a pest that would otherwise cause costs to occupiers of nearby land*"
80. Amend clause 12B(2) to read:
"(2) *The ways in which the regional council provides leadership in the region include:*
 - (a) *promoting strategic alignment of pest management within the region*
 - (b) *facilitating the development and alignment of regional pest management plans and regional pathway management plans within the region*

(c) promoting public support for pest management
(d) facilitating communication and co-operation between those involved in pest management to enhance effectiveness, efficiency, and equity of programmes."

81. Delete clause 12B(3) to remove reference to regional councils providing leadership by promoting co-ordination of pest management between regions
82. Retain clause 55 [Responsible minister may assign responsibility for decisions]
83. Note the need to address the requirement for timely decisions to intervene through other non-regulatory mechanisms such as industry agreements
84. Retain clauses 56(3) and 56(5)
85. Insert a new clause that provides regional councils with an initial two year transition period to review their regional pest management strategies and give effect to the initial national policy direction made under section 57
86. Amend clause 100(3) and replace with a new clause that reads:

"(1) When the national policy direction is made under section 57, amended under section 58(1), or revoked and replaced under section 58(2), the Minister or council must amend all plans or relevant parts of all plans
(2) The Minister or council must make the amendments referred to in subsection (1):

 - (a) as soon as practicable; or*
 - (b) within the time specified in the national policy direction (if any); or*
 - (c) before the occurrence of an event specified in the national policy direction (if any)*

(3) The Minister or council must:

 - (a) make the amendments referred to in subsection (1) without using the consultative processes in sections 63, 71, 81 or 89; and*
 - (b) publicly gazette or give public notice of the amendments within 5 working days after making them"*
87. Amend clause 74(2) to read:

"(2) The following persons may make an application when:

 - (a) consultation on a proposal was undertaken in the way described in section 71(4)(a) and (b), a person who participated in consultation during the preparation of the proposal: or*
 - (b) consultation on a proposal was undertaken in the way described in section 71(4)(a) and (b), a person who is likely to be affected by the plan and did not participate in consultation only because the person was not given an opportunity to participate: or*
 - (c) consultation on a proposal was undertaken in the way described in section 71(4)(c), a person who made a submission on the proposal"*

88. Amend proposed section 74(5) of the Act to allow the Environment Court to deal with non-contentious matters without holding a public hearing
89. Retain clauses 63, 65, 71 and 75
90. Amend proposed section 75 of the Act to include an additional provision that expressly requires regional councils to state, as part of the making of a plan, when a plan becomes operative or give notice of the commencement of the plan
91. Retain clauses 78 to 84 and clauses 86 to 94
92. Amend clause 92(2) to read:

"(2) The following persons may make an application when:

 - (a) consultation on a proposal was undertaken in the way described in section 71(4)(a) and (b), a person who participated in consultation during the preparation of the proposal: or*
 - (b) consultation on a proposal was undertaken in the way described in section 71(4)(a) and (b), a person who is likely to be affected by the plan and did not participate in consultation only because the person was not given an opportunity to participate: or*
 - (c) consultation on a proposal was undertaken in the way described in section 71(4)(c), a person who made a submission on the proposal."*
93. Seek that section 122(2) of the current Act be retained.
94. Seek amendment to proposed sections 154E and 154F to include provisions that:
 - (a) Ensure an appeal does not act as a stay
 - (b) Give the appellant the right to apply for a stay
 - (c) Require the Court to deal with applications expeditiously, and
 - (d) Require the Court to determine applications for a stay on the basis of whether granting a stay would be consistent with the objectives of effective pest management
95. Retain clauses 81 and 82.