

# **Policy for responding to pests and diseases (risk organisms)**

**Draft for Consultation**

**September 2007**



## **Disclaimer**

This document is not yet Government policy.

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## Policy Objective

**MAF Biosecurity New Zealand will respond where risk organisms pose nationally significant threats to New Zealand's people, environment and economy. Responses will aim to achieve the best overall outcome for New Zealand by minimising the impacts of both the risk organism and the response itself. They will be based on the best available scientific and other information and be delivered in accordance with available resources and overall biosecurity priorities.**

**MAF Biosecurity New Zealand may contribute to responses where risk organisms are not nationally significant, on a case by case basis, where those benefiting from the response also contribute resources.**

## Policy Purpose

1. The purpose of this policy is to:
  - define the values<sup>1</sup> that the biosecurity response system seeks to protect from risk organisms;
  - define expectations for our readiness to respond to a potential risk organism;
  - outline our roles, responsibilities and policies when MAF Biosecurity New Zealand leads a biosecurity response, or our indicative roles where we participate in a response in collaboration with other biosecurity stakeholders, including Māori;
  - outline the potential roles, responsibilities and contributions of other interested parties;
  - define the performance expectations for the overall biosecurity response system;
  - guide our decision-making during a biosecurity response; and
  - guide the development and maintenance of our response management procedures.

## Policy Scope

2. This policy applies to our readiness for and responses to:
  - suspected incursions of new risk organisms;
  - risk organisms already established in New Zealand and of national interest;
  - “new organisms” that do not have approval under the Hazardous Substances and New Organisms Act 1996, or that have breached containment or other controls; and
  - imported risk goods that have received biosecurity clearance but are subsequently found to require further biosecurity risk management.
3. This policy applies from the time a risk organism is identified by, or notified to, us until such time as a decision is made that:
  - the organism has been eradicated;
  - long term arrangements to manage the organism are in place (which may or may not include our involvement);
  - further biosecurity management of the organism is not technically feasible;
  - a more appropriate biosecurity agency than us will lead the response;
  - the risks posed by the organism do not warrant any further action by Government at this time, either because the biosecurity risk of the organism is negligible, or it is not significant relative to other priorities; or

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<sup>1</sup> The values referred to are economic, environmental, health and social/cultural (including values to Māori), and human health. See also Definitions.

- the matter is not primarily of biosecurity interest, and it has been redirected to the appropriate accountable agency<sup>2</sup>.
4. This policy applies only to MAF Biosecurity New Zealand's organism management responsibilities during a whole-of-MAF response. Recovery and communications functions during such a response are the responsibility of other MAF groups, and food safety and trade functions are the responsibility of the New Zealand Food Safety Authority. Policies governing these functions will be separately maintained.
  5. This policy is part of a wider suite of MAF Biosecurity New Zealand policies (refer Appendix Three). Where a discrepancy exists between this policy and an older policy, this policy will apply.
  6. This policy may be adapted and used by other agencies leading responses to risk organisms.

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<sup>2</sup> For example, a food safety matter would be referred to the New Zealand Food Safety Authority

## Emergency Management Approaches – the 4Rs

7. The Government’s emergency response system has adopted the “4Rs” approach to risk management – reduction, readiness, response, recovery<sup>3</sup>. Each of the 4Rs requires action at individual, business, community and government levels. This policy is limited to readiness, response and some aspects of recovery.

“R”	Generic definition <sup>4</sup>	Application of the concept in the biosecurity context	Policy
<b>Reduction</b>	Identifying the long term risks to human life and property from hazards, and taking steps to eliminate these risks if practical, and if not, reducing their likelihood and the magnitude of their impact.	Pre-border and border activities associated with reducing arrival or chance of establishment of risk organisms which impact on the values we wish to protect.	Not covered by this policy. MAF maintains separate policies relating to pre-border and border activities.
<b>Readiness</b>	Developing operational systems and capabilities before an emergency happens. This includes self-help and response programmes for the public, as well as specific programmes for emergency services.	Preparedness to manage a biosecurity response including surveillance to detect organisms, contingency planning and capability building.	Covered by this policy, except for surveillance, which is covered by separate policy and procedures.
<b>Response</b>	The actions taken immediately before, during or directly after an emergency to save lives and property, and to help communities recover.	Investigation of suspect risk organisms. Control of a risk organism by eradication or other nationally led programme of containment or control. Transition to and long-term management. Learning from response.	Covered by this policy. Trade issues associated with food safety or products are covered by separate New Zealand Food Safety Authority procedures. See also <i>MAF Emergency Communications Manual</i> .
<b>Recovery</b>	Co-ordinated efforts and processes used to bring about the immediate, medium-term, and long- term regeneration of a community following an emergency.	Long-term management activities will usually include elements of recovery.	Partially covered by this policy. Administration of compensation under the Biosecurity Act 1993 is part of response. Other types of Government assistance available following an adverse event is covered by the <i>MAF Adverse Events Recovery Policy</i> .

Note that the generic definitions have a strong focus on human health and property. We take this definition further in this policy to include animal and plant health and the protection of environmental values (e.g. biodiversity).

## Definitions

8. Significant terms used in this policy are defined in Appendix One. Other terms used have the same meaning as those in the Biosecurity Act 1993.

<sup>3</sup> Ministry of Civil Defence and Emergency Management (MCDEM) (2004) *National Civil Defence & Emergency Management Strategy*

<sup>4</sup> MCDEM (2007) *National Hazardscape Report*

# Background

## NEW ZEALAND IS AT RISK

9. New Zealand is more reliant on primary production than any other developed country. Our indigenous flora and fauna are precious to New Zealanders and tourists alike. We have unique native species that are a core part of our natural heritage and culture, and we pride ourselves on enjoying high standards of lifestyle and wellbeing.
10. These things are under threat as biosecurity risks escalate. Growth in trade and travel increases the probability of incursions through new and busier pathways, and climate change is extending the range of organisms that pose a biosecurity risk. We must also manage risk organisms that have already established here and are having negative impacts.

## MULTIPLE SECTORS AND STAKEHOLDERS

11. Biosecurity responses are undertaken in the terrestrial, freshwater, and marine environments. People may react differently to the threat of a risk organism, reflecting the magnitude of the direct or indirect impacts they face from the organism and/or the actions necessary to manage the organism. We must balance divergent needs and try to achieve the best overall outcome for New Zealand.
12. While biosecurity response includes responding to organisms that could impact on human health, the Ministry of Health is responsible for responding to outbreaks of diseases that primarily affect people. For example, the Ministry of Health would lead a response to avian influenza if it was affecting people (i.e. human to human transmission of disease), whereas we would lead a response to avian influenza affecting birds.

# Expectations for Biosecurity Responses

## THE VALUES BEING PROTECTED

13. The Government has signalled its biosecurity expectations including that “the criteria for assessment of benefits and costs includes the full range of effects across all sectors, and in particular, consequences for the environment, human health and well-being, economic production, and Māori cultural values”.<sup>5</sup> These are the values we seek to protect.

## EXPECTATIONS FOR THE BIOSECURITY RESPONSE SYSTEM

14. Our stakeholders, including Māori, have specific expectations for the biosecurity response system<sup>6</sup>:

### Timely, transparent and information-based response decision-making

- Response benefits will outweigh costs, with the aim being to improve New Zealand’s overall economic, environmental, health and social/cultural values.
- Multi-disciplinary science advice will provide the context for decision-making.
- Decisions will be made promptly to preserve viable response options.
- Decisions, and the rationale for them, will be communicated quickly and clearly.
- Actions will be justified by available information.
- Resources will be allocated based on overall biosecurity priorities.
- Risk assessment should be informed by the likelihood and consequences of the risks identified against each of the values.
- All decisions will be legally compliant and consistent with the agreed response policy.

### Response programmes that meet their objectives and performance measures

- Eradication is the preferred objective subject to it being consistent with Government goals, and taking into account net benefit, feasibility, available resources and any barriers such as factors that cause public concern.
- Objectives, performance measures, and review points will be determined and communicated at the outset.
- Progress will be measured, with objectives changed if necessary as new information becomes available.
- Resources allocated will be adequate to meet objectives.
- Clear triggers for terminating the response, or for transitioning to long-term management and recovery, will be identified.

### Effective management of response programmes

- Recognised emergency management standards and organisational structures will be adopted.
- Organisational structures will be scaleable to meet changing response demands.
- Our systems will be integrated with whole-of-government and key stakeholder systems.
- Operations will be cost-effective.
- Required skill sets will be identified and applied to each response.

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<sup>5</sup> *Tiakina Aotearoa/Protect New Zealand: Biosecurity Strategy for New Zealand 2003*

<sup>6</sup> These expectations are summarised from the *Biosecurity Strategy* (2003) and were discussed with focus groups of representative stakeholders in 2005 and 2006

**Stakeholders have confidence in the response system, make useful contributions and support the system**

- They will understand response decision-making processes.
- They will have sufficient information and take responsibility for managing their own risks.
- Clear roles and responsibilities will be agreed before crises develop.
- They will be actively involved, consulted and informed as appropriate.
- Key stakeholders will work in partnership with us.

**The response system is enhanced over time**

- Response tools and capability will be managed sustainably.
  - People managing a response will be supported and developed.
  - Opportunities will be taken to improve and increase the range of tools through research.
  - Lessons will be identified and fed back into the system.
  - Public awareness and support will increase.
15. These expectations for the system have been considered and incorporated into this policy, will be reflected on during responses, and will guide post-response debriefs and/or reviews.

# Statutory Basis for Biosecurity Responses

## LEGAL REQUIREMENTS

16. The Biosecurity Act provides a range of powers that can be applied to a response, and is the main legal basis for how we respond to risk organisms. The Biosecurity Act is administered by MAF.
17. The Biosecurity Act empowers responses, but does not oblige the Government or others to respond to any given risk organism. Powers under the Biosecurity Act can be accessed by the Crown directly, by regional councils through regional pest management strategies and small scale management programmes, and by other organisations that can meet the criteria to be a pest management agency under a national pest management strategy. Where legal powers are used, compensation for verifiable losses arising from the use of those powers may apply (see also section 70 to 74).
18. We also enforce the Hazardous Substances and New Organisms Act (the HSNO Act) by responding to detections of new organisms present in New Zealand without HSNO Act approval and enforcing any non-compliance in relation to new organisms. This includes new organisms that have breached containment, conditional release, or other controls that have been set by the Environmental Risk Management Authority (ERMA). We must also consider the hazardous substances provisions of the HSNO Act when a biosecurity response involves the use of a hazardous substance.
19. Other legislation may take precedence over, or need to be used in conjunction with, the Biosecurity Act. Appendix Four outlines key legislation that impacts on a biosecurity response.

## INTERNATIONAL TREATIES, AGREEMENTS AND AGENCIES

20. Biosecurity responses should be undertaken in accordance with international treaties and agreements that New Zealand has signed. Such agreements set out principles, standards, criteria and recommendations that should be followed. Many of these agreements are trade-based, facilitating the trading of goods between countries, or have an emphasis on the maintenance or enhancement of resources or values (e.g. rights of people, environmental safeguards, etc). Such treaties and agreements are used to develop New Zealand law in the relevant area.
21. The most relevant international organisations and/or agreements in the biosecurity context are:
  - World Trade Organization (WTO) and the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) – setting the framework for trade and rules for managing risks from pests and diseases;
  - Commission on Phytosanitary Measures (CPM) – implementing the International Plant Protection Convention (IPPC) for plants-based trade;
  - World Organisation for Animal Health (OIE) – animals-based trade;
  - World Health Organization (WHO) and the International Health Regulations 2005 – particularly in respect of zoonoses (diseases of animals that might be transmitted to humans);
  - International Maritime Organization (IMO) – organisms in ballast water and bio-fouling of vessels by organisms;

- Convention on Biological Diversity (CBD) – biological diversity, sustainable development, utilisation of genetic resources; and
- Convention on International Trade in Endangered Species (CITES) – limiting the impact of trade in endangered species.

Appendix Five outlines some of the key organisations and associated documentation that are relevant to biosecurity responses.

## Roles and Responsibilities

22. A range of organisations and individuals have an interest and involvement in biosecurity responses. They may be:
- directly or indirectly affected by the risk organism;
  - affected by response actions;
  - able to reduce the risk of introducing and spreading risk organisms (even if they are not directly affected by the organism);
  - able to report possible risk organisms to us for consideration;
  - participating in the response in some way, such as subject matter experts, service providers, community advisers, funding contributors, etc; and/or
  - the most appropriate organisation to lead a response to a particular risk organism, at a local or national level. This may be determined early on in a response, or as a result of a later transfer of responsibilities from one agency to another.
23. We will lead, co-ordinate or fund responses to many risk organisms. There will be some risk organisms, however, that do not require a co-ordinated response, or where co-ordination and decisions need to be made with or by other biosecurity stakeholders. The following section defines our understanding of the roles and responsibilities of the various players.

### MAF BIOSECURITY NEW ZEALAND

24. MAF Biosecurity New Zealand is a business group of the Ministry of Agriculture and Forestry. We have responsibility for leading a fully integrated, transparent and efficient biosecurity system, including implementing *Tiakina Aotearoa, the Biosecurity Strategy for New Zealand*.
25. We lead or co-ordinate responses to national interest organisms where the impacts of these organisms are considered significant and/or there is a need for rapid response to mitigate impacts. An organism is determined of national interest based on the questions and criteria set out in Appendix Six and detailed in procedures developed under this policy.
26. When an organism is considered not to be of national interest, we inform other affected parties and may participate in a response co-ordinated by those parties. If no-one is willing to co-ordinate a response, we may cease any further action and leave further management of the organism to individuals or landowners. Where other parties are willing to contribute resources but are unable to co-ordinate a response (for example because they have no response infrastructure or their capacity would be exceeded), we will consider our participation on a case-by-case basis.
27. Where there is a prior agreement in place, setting out the relative roles and responsibilities of the Government and other beneficiaries in relation to an organism or group of organisms, that agreement will be implemented.

28. Our specific roles with respect to biosecurity response are:

#### **Roles prior to response**

- Maintaining a generic biosecurity response capability including leadership, management, policy, investigative, diagnostic, communications and liaison functions.
- Maintaining specific capability for responding to national interest risk organisms.
- Pursuing prior agreements between Government and industry organisations covering joint decision-making and resourcing for responses.
- Receiving notifications of and identifying suspected risk organisms.
- Conducting a preliminary investigation of risk organisms to determine the issues, objectives, and relative priority of responding.
- Redirecting a response to another organisation under established procedures for specific organisms.
- Taking urgent measures where these preserve management options before a response plan is approved.
- Evaluating options and making decisions taking into account the views of affected parties, including Māori.
- Informing other relevant parties of the risk organism and its status.

#### **Roles during response**

- Co-ordinating analysis on the options for responding to national interest organisms;
- Leading biosecurity responses for national interest organisms.
- Contributing to biosecurity responses led by another agency where there is some national interest.
- Transitioning MAF-led responses to long-term management programmes in an orderly and planned way via an agreed process.
- Participating in responses to organisms considered not to be of national interest, in accordance with formal agreements or on a case-by-case basis.
- Participating in long-term management of organisms where this could be justified in light of other priorities.
- Administering the Biosecurity Act, and associated regulations (e.g. to put national pest management strategies in place).
- Communications to Government, stakeholders and the public in general.

### **WHOLE-OF-MAF RESPONSES**

29. The Director-General of MAF can initiate a whole-of-MAF response via the MAF National Response Centre when:

- the impact of the organism or response is significant;
- our response capacity is exceeded; and/or
- there are risks to outcomes for which other MAF business units are responsible.

30. When this happens we are responsible for organism management functions and providing the MAF National Response Centre with policy advice and administrative support (see also *National Response Centre Procedures*).

### **WHOLE-OF-GOVERNMENT RESPONSES**

31. For biosecurity responses to a very significant risk organism, or where MAF capability is exceeded, or where the Minister for Biosecurity or Prime Minister otherwise considers a

whole-of-government response is appropriate, the response will be implemented through the Government's crisis management framework. This multi-government agency approach is overseen by the Domestic and External Security Co-ordination (DESC) Cabinet Committee, chaired by the Prime Minister. In this context, MAF is the lead agency for biosecurity and new organisms.

32. MAF input into whole-of-government responses is co-ordinated through the MAF National Response Centre.

## **NEW ZEALAND FOOD SAFETY AUTHORITY**

33. We work closely with the New Zealand Food Safety Authority on biosecurity events that have trade and/or food safety implications. The New Zealand Food Safety Authority protects and promotes public health and safety and facilitates the access to markets for New Zealand food and food related projects.

## **OTHER GOVERNMENT AGENCIES**

34. We have memoranda of understanding (MoU) with the other central biosecurity agencies (Ministry of Health, Department of Conservation, Ministry of Fisheries), and with the Environmental Risk Management Authority (ERMA New Zealand). These MoU outline the respective roles and consultation requirements for biosecurity or new organism actions, including preparation and response. In this context, MAF is the lead agency for biosecurity and new organism incursions. If necessary, the Biosecurity Chief Executives' Forum can also be engaged.

## **THE CROWN AS A LANDOWNER**

35. Where a Crown agency is involved in a response as a landowner, that agency will have the same rights as any private landowner. There may, however, be additional legal obligations that need to be considered where the Crown is a landowner, such as access rights, or in respect of the type of response options that are feasible.

## **MĀORI**

36. This policy acknowledges the Crown's obligations under the Treaty of Waitangi and the roles of Māori as:
  - Kaitiaki (guardians) within the biosecurity system, who need to know that the risks to flora and fauna are being minimised, established environmental risks are being managed appropriately and the biodiversity of our native systems is being protected;
  - having expertise on Mātauranga Māori me ona tikanga<sup>7</sup>; and
  - stakeholders who may be directly or indirectly impacted on by a risk organism or a response.

## **REGIONAL COUNCILS**

37. Regional councils may choose to respond to organisms that pose risks within their regional boundaries. The primary mechanism for regional council biosecurity activities is a regional pest management strategy under the Biosecurity Act, but regional councils may also initiate a small-scale response under section 100 of the Biosecurity Act, or assist with responses that are led by other organisations.

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<sup>7</sup> Loosely defined as knowledge and understanding of the physical world

38. Regional councils work with:
  - us, through the Biosecurity Central/Regional Government Forum, to agree roles and responsibilities and in respect of programmes for specific risk organisms;
  - Crown land managing agencies (e.g. Department of Conservation, Land Information New Zealand), to co-ordinate activities or better achieve common goals; and
  - each other, to co-ordinate activities across regional boundaries.
39. Regional councils may appoint principal officers under the Biosecurity Act to determine actions to be taken in respect of organisms declared “pests” within regional pest management strategies.
40. The Crown may contribute funding to regional pest management strategies to manage the spread of pests from Crown land to other land, or undertake other activities that contribute to regional pest management.

## SCIENCE AND TECHNOLOGY PROVIDERS

41. We maintain strong links with science and technology providers, and signal science capability needs in the *Biosecurity Science Strategy for New Zealand* and the fora it establishes. Response programmes are often long-term in nature and control tools may need to be adapted or developed for a response to be technically feasible. Scientific input and research-based methodologies may be needed from an early stage. Science and technology providers also form part of an international network of specialist expertise, which can be drawn on for information and opinions to support decision-making.

## INDUSTRY

42. Industry (growers, processors and those providing services within the primary sectors) may be directly affected by risk organisms. Companies can have programmes to manage biosecurity risks to their own interests, or these can be co-ordinated across a sector. Many long-term management programmes for industry-specific organisms are either managed by industry, or are fully or partially funded by industry through compulsory or voluntary levies.
43. Industries are encouraged to enter into prior agreements with the Crown covering joint decision-making and resourcing for responses to particular organisms or categories of organisms. Such agreements would provide both industry and the Crown with increased certainty over whether a response will be initiated and, if so, how it will be managed. Where the terms and conditions of an agreement vary from this policy, the terms and conditions of the agreement will apply.
44. In the absence of a prior agreement, industry may still elect to contribute resources to a particular response being considered by Government. This will increase the likelihood that a response will be undertaken.

## Biosecurity Readiness

45. We will develop systems and capability to detect, identify and respond to potential risk organisms in all environments (terrestrial, marine, freshwater).
46. While we will maintain core competencies and resources, we will continue to rely on an ability to rapidly scale-up these resources as required. We will do this through reassigning resources from other activities, contracting for the provision of services, or entering into partnerships with other organisations.
47. Areas where we will develop and maintain specific readiness are outlined below.

### Skills and information capability

- Ensuring staff have the skills and knowledge needed to respond to a range of potential risk organisms, including policy, technical, project management, and communications skills and knowledge.
- Developing relationships with a broad range of individuals and organisations with response skills and expertise.
- Gathering ongoing intelligence to profile the risks posed to New Zealand by organisms not yet found in New Zealand, including potential pathways, likelihood of entry and potential significance.
- Maintaining capability to receive, assess and respond to reported detections of potential risk organisms including access to vaccines and treatment products.
- Supporting research to develop new investigation, response and surveillance tools.

### Relationships and communications

- Developing relationships and networks with a range of stakeholders, including Māori, in order to understand their likely needs, concerns and contributions.
- Working with industry and other stakeholders to assist them in their efforts to manage biosecurity risks they create, are exposed to, or are accountable for.
- Collaborating with other countries, particularly Australia, the United States, Canada, the United Kingdom and Ireland, for knowledge and capability for responses.
- Working with the New Zealand Food Safety Authority, the Ministry of Foreign Affairs and Trade and New Zealand's trading partners to reduce the trade risks associated with biosecurity risk events.

### Systems

- Using a generic response business approach, organisational structures and standardised processes across all sectors.
- Developing a generic incident action plan to be used in cases where a specific plan has not yet been developed.
- Ensuring all systems have the inherent ability to scale up the resources needed for a response as required and when needed, using standardised systems.
- Ensuring that the supply of services from all parties is underpinned by defined performance standards.
- Simulating MAF-led responses at various scales, to:
  - test all or parts of the response system;
  - test incident action plans for specific risk organisms;
  - train staff and stakeholders in response roles; and

- build relationships with stakeholders, and increase their understanding of response systems.
- Contributing to simulations led by other New Zealand government or private organisations, or government agencies in other countries, where this will improve MAF capability and experience for responses.
- Capturing what is learnt from responses and simulations to improve MAF systems and preparedness.

#### **Specific risk organism preparedness**

- Prioritising development of contingency incident action plans for specific risk organisms according to potential risk, available resources and level of relevant stakeholder contributions/support.
- Prioritising surveillance programmes and ongoing activities to increase the likelihood of detecting priority risk organisms according to potential risk, available resources and level of relevant stakeholder contributions/support.
- Informing targeted sectors of the public about what they can do to keep watch for specific risk organisms of concern.
- Reviewing incident action plans and related policy and procedures periodically to identify opportunities for improvement.

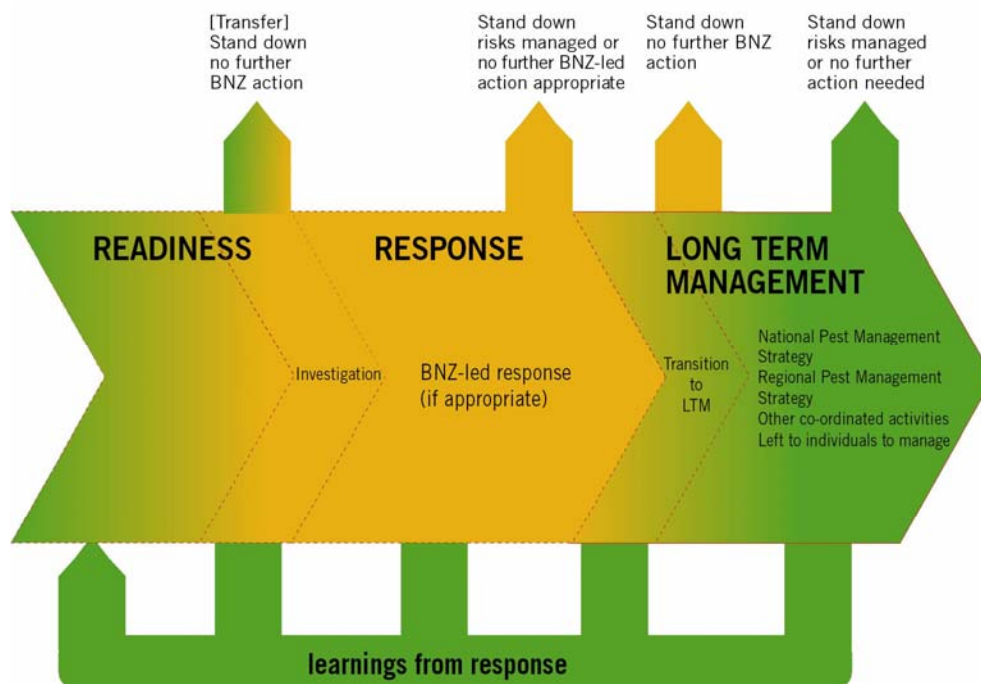
# Biosecurity Response

- 48. This section of the policy applies where we lead a response to a risk organism. It should be read in conjunction with the *Biosecurity Response Procedures and Tools*, which sets out the management practices to be followed during a response.
- 49. Where a Crown/Industry agreement covering joint decision-making and resourcing for responses to particular organisms exists, the terms and conditions of the agreement will take precedence over this policy.

## RESPONSE PHASES

- 50. Specific response phases covered by this policy are (see Figure One):
  - **Investigation** – We will investigate where there are credible reports of suspected incursions of risk organisms, where the risk profile of an established organism changes, and where new management options for responding to risk organisms (such as a new biological control) become available.
  - **Response** – We will consider urgent measures to preserve management options, and implement an agreed incident action plan with specific response objectives.
  - **Transition to long-term management** – We will work with other interested parties to establish long-term arrangements for the management of an organism where needed. This could include transferring accountability for managing a response to a more appropriate organisation.
  - **Long-term management** – We may contribute to the management of a risk organism, usually as part of a programme led by another organisation.
  - **Learning from responses** – We will review our response systems during or following a response with the aim of improving those systems for the future.

Figure One: Response phases



## POLICY APPLICABLE TO ALL RESPONSES

### Decision-making

51. Response decision-making will be guided by the *Biosecurity Decision Steps*, and associated *Process Principles and Content Principles* (Appendix Six). We will:
  - a) gather sufficient information to support decision-making. This includes identifying the current and future organism impacts, identifying the range of options, confirming that these options are feasible, and assessing the impacts of the options;
  - b) consider both short and long-term costs and benefits across all values (including non-quantitative elements) when making decisions, including the likely impacts if actions are or are not taken. This includes the public acceptability of proposed actions;
  - c) inform analyses with multi-disciplined national and international scientific and other advice (e.g. from existing literature, networking or subject matter experts);
  - d) prioritise the response against our other current interventions (including existing responses);
  - e) consider the need for access to statutory powers required to take the action(s) proposed;
  - f) be clear to stakeholders and affected parties, including Māori, what the values and processes underpinning the decision-making are; and
  - g) seek to consult with stakeholders, wherever possible, prior to making decisions.
52. Where the impacts of not intervening are likely to be irreversible, there is a stronger case for intervention even when the benefits only marginally outweigh the costs.
53. Within legal constraints, we will not delay making decisions where this delay would compromise viable response options. Decisions will be made on the basis of the knowledge and information available at the time the decision must be made. Where there is uncertainty, decisions will focus on what reasonable steps can be taken at the time, while maintaining future options where appropriate and being transparent about the uncertainties and assumptions.

### Authority to make decisions

54. Where the potential impacts of a risk organism or response are significant, or new funding is required, decisions on whether and how the Government will respond may be taken by the Cabinet. In these situations we will prepare advice for the Minister for Biosecurity to take to the Cabinet. In preparing this advice we will consult with other relevant government agencies and, as far as is practicable, other stakeholders.
55. We are responsible for decisions required to implement responses directed by the Cabinet, and for decisions on lower level responses (generally routine responses that can be managed within existing budgets). The Director-General of MAF delegates this decision-making authority to us through the appointment of chief technical officers under the Biosecurity Act, through other delegations under the Biosecurity Act, through delegations made under the State Sector Act 1988, and by assigning organisational responsibilities to role-holders. The Director-General remains responsible and accountable for the use of delegated powers or functions as outlined in MAF's *Delegations Policy*.
56. People holding statutory decision-making authority in a response are empowered to exercise or delegate their responsibilities as they see fit within organisational policies and procedures. There are some constraints on this:

- Functions or powers can be sub-delegated only with the approval of the delegator, unless specifically allowed for by legislation.
  - Decisions with financial implications must be made by persons with the appropriate financial delegation.
  - Persons exercising statutory powers under the Biosecurity Act (chief technical officers, inspectors, accredited and/or authorised persons) must do so in accordance with the objectives set for the response.
57. To ensure the timeliness of decision-making, decision-rights for responses are delegated to the lowest organisational level with the necessary identified competencies able to make the decisions needed. Decision-makers must have the skills and experience necessary in making such decisions. They must be able to:
- understand the consequences of the decision, including the impact on the values we are seeking to protect;
  - align the decision with Government priorities;
  - examine and review the advice received across the full range of critical issues; and
  - make decisions in accordance with this policy and other defined standards (see also Appendix Six).
58. A decision-maker must be an individual. All decisions are subject to peer review, and consultation may occur with any interested or affected person or organisation. Decision-rights may be escalated upwards through the organisation and to Ministers when the designated decision-maker considers:
- the issues are more complex than those usually encountered;
  - the level of risk is higher than expected for that level of decision-making;
  - there is a lack of confidence or competency to make the decision;
  - there is significant variance in the views of peers and others consulted.
59. Those making recommendations and giving advice to decision-makers need to be competent in respect of the stream of advice (e.g. science, communications, planning, policy, legal, etc) being given, and have an understanding of the factors affecting the costs and benefits arising from the decision.

## Documentation

60. We will document key response decisions. This will include:
- a) delegations of authority (role holder, decision-rights, etc);
  - b) risk organism notifications;
  - c) redirections of response where investigation of the risk organism determines the issue better fits the mandate of another agency;
  - d) assessments of the credibility of notifications;
  - e) recommendations and decisions to:
    - stand down an investigation;
    - initiate a response;
    - undertake urgent actions prior to a full response;
    - undertake a full response, including the response options and response objectives;
    - subsequently amend full response options and objectives;
    - transition a response to long-term management;
    - stand down a response;
  - f) any discussions which may infer an expectation by any party for compensation under section 162A of the Biosecurity Act or any other payment by the Crown;
  - g) any offers of voluntary assistance;

- h) any other correspondence, meeting minutes, and other records that provide transparency on the decision-making processes and the decisions made;
- i) the formal debriefing report; and
- j) records of any exercise of statutory powers (and when such powers are amended or withdrawn).

### **Response management**

61. Response projects will adopt a Co-ordinated Incident Management System (CIMS)-based management structure, terminology and processes for interagency co-ordination and response planning<sup>8</sup>. Responses will be managed in such a way that systems, people and their capabilities are supported and developed so they can perform sustainably.

### **Urgent measures**

62. Urgent measures are time-critical actions taken before response project management processes are in place or consultation has commenced. Urgent measures may be taken:
- a) to prevent or slow down the increase in risk to New Zealand's overall economic, environmental, health and social/cultural values arising from the risk organism; and/or
  - b) where failure to take the urgent measure would compromise an otherwise viable response option.
63. The extent of an urgent measure should be appropriate/in proportion to the risks it attempts to address and based on best available information at the time of the decision.
64. In determining whether urgent measures are needed, the *Biosecurity Decision Steps*, and associated *Process Principles and Content Principles* (Appendix Six) should be considered as well as:
- a) the adequacy of available information;
  - b) the feasibility of the proposed measure(s);
  - c) the likely change in biosecurity risk if the measures(s) are taken, including the probability of losing or significantly impacting on future potential response option(s);
  - d) the consequences of undertaking the measures(s), including the public acceptability and impact on resources available for the rest of the response;
  - e) the need for access to statutory powers required to take the measure(s);
  - f) a high-level review of the overall net benefit of the measure(s) including costs and benefits and their likelihoods; and
  - g) the relative priority of the measure(s) with respect to other work in relation to this response and other responses.

### **Consultation**

65. To the extent possible within time and resource constraints we will consult and consider the views of those individuals/organisations, or groups representative of individuals/organisations, that are:
- a) affected or potentially affected by the risk organism;
  - b) affected or potentially affected by the proposed response options; and
  - c) able to contribute to the development or execution of the response.
66. This should enable our staff and affected stakeholders to gain better understanding of:
- a) the nature of the risk organism;
  - b) the risks to the values being protected;

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<sup>8</sup> *New Zealand Co-ordinated Incident Management System (CIMS) - Teamwork in Emergency Management*, NZ Fire Service Commission 1998

- c) the objectives of taking action, and the views of affected parties, including Māori, on the options;
- d) how stakeholders, including Māori<sup>9</sup>, may be impacted on by the organism and/or the response, and other stakeholder concerns.

## Communications

67. A key biosecurity outcome is that New Zealanders are informed and involved participants in the biosecurity system. This means New Zealanders understanding biosecurity risks, changing risk behaviours, increasing participation in biosecurity activities, and supporting biosecurity programmes.
68. Biosecurity communications help ensure that stakeholders understand and support our biosecurity response activities, requirements and systems, and have sufficient information to manage their own related risks.
69. We will communicate in an ongoing and timely manner with target audiences and the public at large, including providing feedback to those who contribute ideas and/or identify issues. We will determine the approach, nature and extent of consultation and communication taking into consideration the:
  - a) information needs of stakeholders and affected parties;
  - b) urgency with which response decisions need to be made;
  - c) extent to which consultation and communication will improve response decision-making and acceptance of decisions; and
  - d) costs of communication and consultation, both to us and those being consulted.

## Compensation

70. The primary purpose of compensation is to provide incentives for early reporting of risk organisms. Compensation is payable under section 162A of the Biosecurity Act where powers under the Act are exercised for the purpose of managing or eradicating any organism, and the exercise of those powers causes verifiable loss as a result of:
  - a) the damage to or destruction of a person's property; or
  - b) restrictions, imposed in accordance with Part VI or Part VII (of the Act), on the movement or disposal of a person's goods.
71. The types of losses that might be compensatable include:
  - plants or animals, not already affected by the risk organism, that are destroyed or reduced in value;
  - losses arising from restrictions on sale or movement imposed by a restricted place notice or movement controls under the Biosecurity Act.
72. Compensation is not payable under section 162A of the Biosecurity Act:
  - a) for a loss suffered before the time when the exercise of powers commenced;
  - b) to a person who has failed to comply with the Biosecurity Act or regulations made under the Act and whose failure has been serious or significant or has contributed to the presence of the organism or to the spread of the organism being managed or eradicated;
  - c) for damage caused by the organism itself;
  - d) for losses resulting from the inability to sell, display, breed or propagate affected plants, animals or property that result from the status of the organism rather than the exercise of the powers; or

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<sup>9</sup> This includes their culture and traditions, relationship with ancestral lands, waters, sites, waahi tapu and taonga

- e) for any voluntary action undertaken that is not a result of the exercise of powers under the Biosecurity Act.

73. All reasonable steps must be taken by affected parties to mitigate losses. Compensation is calculated so that those affected are no better or worse off than any person whose property or goods are not directly affected by the exercise of the powers. Loss is based on the value of property at the moment before the exercise of the powers commenced, or the actual cost was incurred. It is the responsibility of the individual or organisation incurring the loss to present a claim, which must be verified by evidence. We will consider all claims for compensation, and offer settlement where this is consistent with section 162A of the Biosecurity Act.

74. The Biosecurity Act provides for arbitration where there is dispute over the eligibility for, or amount of, compensation.

### **Ex gratia payments**

75. Where losses are incurred, but fall outside of what is compensatable under section 162A of the Biosecurity Act, the Crown may consider providing an ex gratia payment on a case-by-case basis.

### **Supply of goods and services**

76. Where we negotiate for supply of goods or services under this policy, such goods and services will be procured in accordance with the *MAF Procurement Policy* and will be formalised through a contract prior to commencement or delivery.

### **Voluntary assistance**

77. We may seek voluntary assistance for managing some functions during a response.

### **Other Government assistance in a response**

78. The Government may choose to provide other forms of financial and non-financial support to industry, communities or businesses in accordance with the *Adverse Event Recovery Policy* administered by MAF Policy. This includes, but is not limited to:

- a) human and animal welfare;
- b) facilitating business and/or trade continuity and economic recovery; and/or
- c) mitigating the social, business and other effects of response activities (this is a facilitation role distinct from administration of compensation or ex-gratia payments under sections 70 to 74 above).

### **Exit points/ stand down**

79. We will consider standing down a response when:

- a) the risk organism is no longer considered of national interest, following further information gathering or investigation;
- b) the costs of responding outweigh the benefits;
- c) the risks posed by the organism are considered negligible or less than other response priorities;
- d) no feasible response option exists. Government may, however, elect to support further investigation and/or research to identify management tools, and may re-institute a response at some future point;
- e) the risks posed by the organism fall on an identified sector, and that sector has the capacity to manage those risks without further government intervention; and/or
- f) the objectives of the response incident action plan have been met, e.g. eradication.

80. Should we decide to stand-down a response, nothing prevents another agency or organisation from assuming responsibility for managing the ongoing risks posed by the risk organism (subject to applicable law).

## **POLICY APPLICABLE TO SPECIFIC RESPONSE PHASES**

### **Investigation**

81. The investigation phase begins when we receive a notification of a suspect risk organism, or a change in the behaviour of a known pest, and ends with a recommendation by the investigators as to the most appropriate action to take in respect of that risk organism.
82. We will:
- a) maintain a widely publicised hotline (i.e. 0800 exotic disease and pest emergency hotline) for receiving notification of potential biosecurity risk organisms;
  - b) assess the credibility of all notifications of potential risk organisms based on:
    - the likelihood that non-biosecurity factors are the only causes of the issue notified;
    - the likely seriousness of the potential impacts arising from the issue notified; and
  - c) identify or diagnose all credible notifications to a point where investigation decisions can be made to stand-down, recommend that a response is initiated, or transfer to the appropriate organisation (where not a biosecurity issue).
83. We will refer to the appropriate organisation:
- a) any non-biosecurity issues exposed during investigation; and
  - b) any biosecurity issues exposed during investigation for which another organisation has responsibility.
84. In order to reduce confusion and unwarranted concern, communications during the investigation phase will be on a need-to-know basis as per our *Emergency Management Communications Manual*.

### **Response**

85. The response phase comprises seven areas of activity:
- a) Undertaking urgent measures to preserve the range of potential response options until such time as a full response plan has been approved. For example, measures may be taken to maintain the option of later eradication (see also section 51).
  - b) Assessing the risks (likelihood x consequence) that the risk organism poses to the values being protected.
  - c) Considering the relative priority of the response with respect to other responses.
  - d) Developing and evaluating response options in order to determine the most appropriate course of action.
  - e) Approval (and funding where required) of the course of action seen as the most appropriate response to the risk organism. This is underpinned by a documented Incident Action Plan with defined response objectives.
  - f) Implementation of the Incident Action Plan.
  - g) Ongoing evaluation of the Incident Action Plan and agreed adjustments to that plan as needed.
86. We will evaluate all viable response options which, at a minimum, will include:
- a) a baseline scenario that describes the likely impacts if there is no Government intervention;
  - b) eradication of the risk organism from all New Zealand habitats;

- c) sustained control to mitigate the impacts of the risk organism, including establishing zone freedom (exclusion from an area) or compartment freedom (excluding from populations of a host species) or social marketing to raise awareness.
87. We will develop objectives for each response option.
88. We will seek the advice of organisations or individuals who:
- a) are involved in planning and implementing the response in accordance with formal agreements;
  - b) may be more appropriate than us to lead a response;
  - c) may be involved in any long-term management of the risk organism; and/or
  - d) have relevant knowledge or experience of managing the risk organism or a similar organism.
89. In our assessments of the viability of response options we will:
- a) evaluate the risk posed by the risk organism to the values being protected;
  - b) consider the costs and benefits of response options, including:
    - the operational costs to complete the response options;
    - the negative and positive impacts of the response options on the values being protected;
    - the value of impacts that have a measurable market value;
    - the non-quantitative assessment of impacts that do not have a measurable market value; and
  - c) determine either the equivalent market value of non-financial costs and benefits and consolidate this with market value cost and benefits, or describe the costs and benefits in terms relevant to the nature of the non-market values where an equivalent market value cannot be derived.
90. The discount rates recommended by The Treasury will be applied in the benefit cost analysis. Timescales used will be epidemiologically or ecologically relevant to the organism under consideration, but will generally be based on 20 years and no more than 35 years.
91. In selecting a response option we will consider:
- a) the biosecurity risk faced and the level of intervention justified;
  - b) the consequences of failure associated with each option;
  - c) the costs (taking contributions from other stakeholders into account) and benefits of each option including net benefits and the cost:benefit ratio of each option (including non-financial); and
  - d) the strategic fit with the Government's strategies and goals, feasibility, resources and barriers to success.
92. We will re-evaluate response objectives during the response. Re-evaluations may occur both intermittently and through formal review to determine if objectives are being achieved and if the objectives continue to be appropriate given any changes in circumstances. Evaluation will use the same approach taken to evaluating potential response options during initial response.
93. Subsequent to achievement of response objectives, the requirements for ongoing surveillance will be determined.

## **Transition to long-term management**

94. We will not usually lead a long-term management programme, although we may contribute to it. Long-term management should be undertaken by the organisation(s) who are best placed to respond and who receive the greatest benefits. This means organisations with:
- a) the requisite infrastructure and resources;
  - b) local, regional, or landowner responsibility for the affected habitat; and
  - c) the greatest skills and experience in managing the risk organism.
95. The transition to long-term management is complete when a long-term management organisation has been identified, a long-term management plan has been agreed, and an orderly transfer of responsibilities is completed.
96. We will begin working with other organisations that may lead or contribute to a response to consider contingency plans for the long-term management of a risk organism in parallel with the response. The extent of this planning will depend on the selected response option, but may be undertaken even when eradication is the objective.
97. We will disestablish our response team at the end of the transition period. Any contribution we make to a long-term management programme will be included in “business-as-usual” work programmes.

## **Long-term management**

98. Long-term management may include activities that target specific organisms (pest-led programmes), target specific pathways to prevent the spread of the organism (pathway programmes), and/or target organisms at specific sites to protect site values (site-led programmes). Long-term management actions may include:
- a) seeking zone or compartment freedom from the risk organism;
  - b) containing the spread of the organism, usually by management of an internal border or outer perimeter through some form of movement controls;
  - c) excluding the risk organism from specific high value areas through a combination of perimeter controls, and local elimination of populations within the high value area;
  - d) reducing the prevalence of the risk organism (e.g. possum control in reserves and national parks); and/or
  - e) mitigating the impacts of the risk organism by other means, such as education and awareness raising.
99. New research is often required to enable long-term management. We will work with science providers, funders and users to prioritise this research.

## **Learning from response**

100. We will ensure that:
- a) what we learn during a response is captured and communicated during the response;
  - b) the performance of responses, our policies and procedures are formally reviewed at the conclusion of a response; and
  - c) this learning is used to update the generic response systems and risk organism-specific plans.
101. A formal debriefing will occur when a response has been stood down or when the response has been formally transferred to another organisation. The participants in the debriefing will include project members of the response and key stakeholders. The

debriefing will consider whether the expectations for the biosecurity response system (refer section 14) were met.

102. In addition to formal debriefing, it may be appropriate to consider a wider review of the response. This could be initiated by MAF or requested by Government, and should operate to an established terms of reference. Persons leading such a review will not be those responsible for the execution of the response.

## Appendix One: Definition of Key Terms

<b>Biosecurity risk</b>	The consequences (potential harm) of a risk organism and the likelihood (probability) of that harm occurring.
<b>Eradication</b>	The removal of every individual and propagule of a species from New Zealand so that only reintroduction from beyond New Zealand's borders would enable the re-emergence of the species. Achievement of eradication should be demonstrated by surveillance. <sup>10</sup>
<b>Freedom</b>	Status achieved where proof exists that an organism is absent from New Zealand (national freedom), or an area (zone freedom <sup>11</sup> ), or a target population of host species (compartment freedom). Such freedom may require interventions (at the New Zealand border, or a zone perimeter, or around a target population) to be maintained. It may arise from demonstrating, usually by a surveillance programme, that the organism was either never present or has been eradicated.
<b>Incursion</b>	The occurrence of an organism not previously known to be present in New Zealand, where there is a likelihood that the specimen(s) found is part of a self-sustaining/breeding population. Note that re-invasion of a species that has already been eradicated or controlled is considered a new incursion.
<b>Incident action plan</b>	This term is taken from the Co-ordinated Incident Management System (CIMS framework), and in the context of this policy is used to mean a statement of the objectives, strategies, and critical functions for managing a response.
<b>Interception</b>	Where a risk organism, not known to be present in New Zealand, is found but there is no evidence that a self-sustaining/breeding population is present. Destroying/treating the risk organism removes the threat.
<b>Long-term management</b>	Ongoing efforts to mitigate the impacts of an established organism, sometimes referred to as "pest management". It includes: <ul style="list-style-type: none"> <li>• national pest management strategies administered by pest management agencies in accordance with regulations made under the Biosecurity Act 1993<sup>12</sup>;</li> <li>• regional pest management strategies administered by regional councils in accordance with Part V of the Biosecurity Act;</li> <li>• other small scale responses administered by regional councils under section 100 of the Biosecurity Act;</li> <li>• the national, regional or local management of pests and their impacts under other legislation such as the Wild Animal Control Act, Wildlife Act, and Conservation Act;</li> <li>• other forms of co-ordinated activities undertaken by a group/groups of stakeholders, e.g. industry-led disease/pest programmes;</li> <li>• non-co-ordinated activities by landowners, organisations and/or individuals in respect of risk organisms.</li> </ul>
<b>National interest organisms</b>	Organisms seen as being nationally significant because of their impact on New Zealand's values, and for which MAF Biosecurity New Zealand will lead a national response or co-ordinate the long-term management activities of other organisations. See also Appendix Six for the process and criteria for determining a national interest organism and refer to the national interest organism register.
<b>MAF National Response Centre</b>	The MAF National Response Centre, led by the Director General of MAF, is MAF's co-ordinating structure for managing responses that have MAF-wide implications. It is also MAF's mechanism for linking with the whole-of-government emergency management system.
<b>Organism management</b>	Decisions on, and programmes for, containing, controlling or eradicating a risk organism under the MAF National Response Centre.
<b>Response</b>	The actions taken immediately before, during or directly after a risk organism has been confirmed where management of the risks posed by that organism is considered appropriate. (This includes investigation of suspect risk organisms, identification of the pest or disease, containment, and initial assessments of the organism's impacts and response options.) A response may also be initiated where the impacts of the risk organism have increased, or new response options become available, that make a response feasible.
<b>Risk organism</b>	An organism either already present in, or new to New Zealand, that poses a potential biosecurity risk.

<sup>10</sup> Adapted from Zavaleta, Hobbs & Mooney (2001) Viewing Invasive species removal in a whole system context: *Trends in Ecology and Evolution* 16(8) 454-59; Myers, Simberloff, Kuris and Carey (2000) Eradication revisited: dealing with exotic species. *Tree* 15(8): 316-320; and Myers, Savoie and Randen (1998) Eradication and pest management: *Annual Review Entomology* 43: 471-491.

<sup>11</sup> Sometimes referred to as "local eradication" where the organisms is established in New Zealand but restricted to certain parts of New Zealand (e.g. 7A of the Biosecurity Act).

<sup>12</sup> National pest management strategies may also be put in place as part of preparedness for risk organisms not yet present in New Zealand

<b>Stakeholder</b>	Any organisation or individual who may be affected by the impacts of a risk organism or a response undertaken against it. This also includes Māori in their Kaitiaki role and the general public.
<b>Values</b>	<p>The economic, environmental, health and social/cultural values of New Zealand that are threatened by risk organisms. Under MAF's Statement of Intent, we consider the impact of the risk organism or the proposed response options on:</p> <ul style="list-style-type: none"> <li>• the sustainable economic growth and prosperity for New Zealanders;</li> <li>• healthy New Zealanders and a vibrant rural community; and</li> <li>• maintained and enhanced economic, social and cultural benefits for New Zealanders from the natural environment.</li> </ul> <p>These values overlap to some extent and are seen as contributing to the public good.</p>

## Appendix Two: References

The following documents were referenced in preparing this policy. They assist in setting the boundaries and context for the policy. Those with an asterisk must be referred to when implementing this policy.

- *153 Series of Standards (Animal Diseases)*, 153 Standards Working Group (2005)
- *Agreement on the Application of Sanitary and Phytosanitary Measures*, World Trade Organization (1995)\*
- *Biosecurity Investigation and Response – High-level Service Design*, MAF (April 2006)
- *Compliance and enforcement activities regarding incursion action for new organisms*, Operational Agreement ERMA New Zealand and MAF (August 2005)
- *Crown Contributions to Regional Pest Management Strategies (RPMS)*, MAF Discussion Paper 2005/01 (July 2005)
- *Disease Management Procedures* (National Response Centre), MAF (2005)
- *Exercise Taurus/ Operation Waiheke – Lessons Learnt*, MAF (July 2006)
- *Future Funding of Biosecurity Services*, MAF Discussion Paper 04/01, MAF (2004)
- *Integrated Risk Management Framework*, MAF (2005)
- *Interim Roles and Responsibilities* paper developed for Central/Regional Government Forum (2006)
- *International Animal Health Emergency Reserve Agreement* Australia, Canada, Ireland, New Zealand, USA and UK (May 2004)
- *Joint Decision-Making and Resourcing for Readiness and Incursion Response*, Surveillance and Incursion Response Working Group, Discussion Paper 2007/02 (draft June 2007)
- *Management options for harmful organisms under the Biosecurity Act 1993*: MAF information paper No. 34, MAF (2000)
- *Marine Biosecurity – Risk Management Framework*, Ministry of Fisheries (2002)
- *Memorandum of Understanding between ERMA New Zealand and the Ministry of Agriculture and Forestry Concerning New Organism Enforcement\** (2003)
- *Memorandum of Understanding on biosecurity activities between Ministry of Agriculture and Forestry and Department of Conservation, Ministry of Fisheries and Ministry of Health\**
- *Ministry of Fisheries Incursion Response Protocol*, Ministry of Fisheries draft (August 2003)
- *National Civil Defence and Emergency Management Strategy*, Ministry of Civil Defence and Emergency Management (2004)
- *National Hazardscape Report*, Ministry of Civil Defence and Emergency Management (2007)
- *National Pest Plant Accord*, MAF, regional councils, biosecurity agencies (2007)
- *New Zealand Co-ordinated Incident Management System (CIMS) - Teamwork in Emergency Management*, NZ Fire Service Commission (1998)
- *Policy Statement on Responding to an Exotic Organism Incursion*, Biosecurity Council, (September 2001)
- *Small-scale Management of Unwanted Organisms and Section 100 of the Biosecurity Act 1993*, Information Paper 01/40, MAF (July 2001)
- *Specification for Measured Response to Exotic Diseases of Plants*, MAF (2003)
- *Specification for Response to Exotic Diseases of Forests*, MAF (2002)
- *Tiakina Aotearoa/ Protect New Zealand: Biosecurity Strategy for New Zealand*, Biosecurity Council (2003)
- *Terrestrial Animal Health Code; Aquatic Animal Health Code; The Manual of Diagnostic Tests and Vaccines for Terrestrial Animals; The Manual of Diagnostic Tests for Aquatic Animals*, World Animal Health Organisation

## Appendix Three: Related Policies and Procedures

The following policies and procedures relate to this policy, some of which are under review and may be amended or deleted. This policy overrides statements made in an older policy or procedure where a discrepancy exists.

- *A Biosecurity Science Strategy for New Zealand / Mahere Rautaki Putaiao Whakamaru* (draft 2007)
- *Adverse Events Recovery Policy*, MAF (2007)
- *Biosecurity Response Procedures and Tools*, MAF (2007)
- *Delegations Policy*, MAF (2007)
- *Emergency Management Communications Manual*, MAF (2006)
- *MAF Biosecurity: New Zealand Animal Disease Response Policy* (2004)
- *MAF Regulatory Authority Policy Statement: Meeting the Transparency Obligations of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures* (1998)
- *National Response Centre Procedures*, MAF (2005)
- *Policy Statement on Consultation*, MAF (November 2003)
- *Policy Statement on the Development of National Pest Management Strategies by Departments*, Biosecurity Council (December 2000)
- *Policy Statement on Unwanted Organisms for the Purpose of the Biosecurity Act 1993*, MAF and Biosecurity Council (September 1998)
- *Procurement Policy*, MAF (2006)
- Relevant Codes of Welfare developed under the Animal Welfare Act 1996
- *Small-scale management of Unwanted Organisms and Section 100 of the Biosecurity Act*, Information Paper 01/40, MAF (July 2001)
- *Tiakina Aotearoa / Protect New Zealand: Biosecurity Strategy for New Zealand*, Biosecurity Council (August 2003)
- *Treaty of Waitangi Issues Analysis Guide*, MAF (2007)

## Appendix Four: Associated Legislation

The following legislation potentially affects the planning and execution of biosecurity responses. This list is not exhaustive, and policy and legal advice in planning a response is needed.

### BIOSECURITY ACT 1993

The Biosecurity Act is administered by MAF. It provides a legal basis for excluding, eradicating and effectively managing pests and unwanted organisms, and its powers can be variously used by MAF Biosecurity New Zealand, other government agencies, regional councils and pest management agencies. It is an enabling tool that provides a range of functions, powers and options for the management of risk organisms.

Management options under the Biosecurity Act are:

- import and border controls aimed at effective management of risks associated with the importation of risk goods, including treatment of contaminated goods and craft;
- access to Part VI powers for organisms declared unwanted organisms;
- exigency actions where other options are not adequate or available;
- national pest management strategies that provide access to powers and rules by any organisation that is declared a pest management agency. Any response must be undertaken within those powers or rules, unless the strategy is subsequently amended or revoked in accordance with the Biosecurity Act;
- regional pest management strategies (mainly administered by regional councils);
- access by regional councils to powers in the Biosecurity Act for small-scale management programmes under section 100 of the Act without needing to have a pest management strategy; and
- enforcement of section 52 and 53 prohibitions (which make it an offence to sell, propagate, breed, release or display an unwanted organism or pest).

Where possible voluntary support for response actions will be sought, however response actions may invoke use of powers under the Biosecurity Act where needed.

### HAZARDOUS SUBSTANCES AND NEW ORGANISMS ACT 1996

The Hazardous Substances and New Organisms Act (the HSNO Act) aims to protect the environment, and the health and safety of people and communities by preventing or managing the adverse effects of hazardous substances and new organisms. The Act is administered by the Ministry for the Environment and implemented by the Environmental Risk Management Authority (ERMA New Zealand), which makes decisions on applications to import, manufacture, develop, test or release a hazardous substance or new organism.

MAF Biosecurity New Zealand is the enforcement agency for the HSNO Act's new organisms' provisions, and responds to detections of new organisms present in New Zealand without HSNO Act approval. This includes new organisms that have breached containment, conditional release, or other controls that have been set by ERMA New Zealand.

The HSNO Act may also apply if a response involves using hazardous substances (defined as substances that are explosive, flammable, corrosive, toxic, economic, or have the capacity to oxidize).

## **RESOURCE MANAGEMENT ACT 1991**

The Resource Management Act (RMA) is administered by the Ministry for the Environment. Its purpose is to promote the sustainable management of natural and physical resources. Part 3 of the RMA deals sets out duties and restrictions on the use of land, the coastal marine area, river and lake beds, and water. The RMA prohibits discharges of contaminants onto water or land unless the discharge is authorised by a regional council, resource consent or regulation. Activities during a response may require resource consents or exemption from Part 3 of the RMA. The process and requirements for exemptions are set out in section 7A of the Biosecurity Act.

## **AGRICULTURAL COMPOUNDS AND VETERINARY MEDICINES ACT 1997**

The Agricultural Compounds and Veterinary Medicines (ACVM) Act is administered by the New Zealand Food Safety Authority. The scope of this Act includes regulatory control of agricultural compounds (veterinary medicines/plant compounds), and their importation, manufacture, sale and use. If a response involves application of agricultural compounds then the requirements of the ACVM Act are likely to apply.

## **ANIMAL WELFARE ACT 1999**

The Animal Welfare Act is administered by MAF. It requires that “owners of animals and persons in charge of an animal take all reasonable steps to ensure that the physical, health, and behavioural needs of the animals are met”. Physical, health, and behavioural needs are defined in section 4 of the Act. Animal Welfare Codes created under Part 5 of the Act may need to be considered when planning and carrying out responses. Relevant codes include the *Code of Recommendations and Minimum Standards for the Emergency Slaughter of Farm Livestock*, as well as codes for treatment of specific types of livestock such as layer hens, pigs, horses, and dairy cattle. The Act also may affect the use of traps, research involving animal pests, and how an animal pest is treated if it is captured live.

## **ANIMAL PRODUCTS ACT 1999**

The Animal Products Act and the Animal Products (Ancillary and Transitional Provisions) Act 1999, and various regulations made under these Acts, are administered by the New Zealand Food Safety Authority. They regulate the production and processing of animal material and animal products traded and used in New Zealand, or exported from New Zealand, to manage associated risks and facilitate overseas market access. The Animal Products Act requires all animal products traded and used to be “fit for intended purpose”. This means they must meet New Zealand animal product standards. The New Zealand animal product standards are contained in Part 1 of the Animal Product Regulations 2000. The risk management system potentially applies anywhere in the value chain from production, through processing, to the market.

## **CONSERVATION ACT 1987, RESERVES ACT 1977, NATIONAL PARKS ACT 1980, MARINE RESERVES ACT 1971**

These Acts are administered by the Department of Conservation. Response activities that take place on conservation land or within marine reserves may require exemptions from the requirements of these Acts.

The Conservation Act addresses the conservation of natural and historic resources to maintain their intrinsic values, provide for the enjoyment of the public, and to safeguard the options of

future generations. The Conservation Act established the Department of Conservation and sets out the functions of the Department.

The Freshwater Fisheries Regulations are made under the Conservation Act. They cover a number of matters relating to freshwater fish such as the licensing of fishers, the taking or movement of freshwater fish, the processing of those fish and the controls on the taking of indigenous fish.

The Reserves Act covers the set up and management of nature, scientific, historic, scenic and recreation reserves (among others). The purpose of such reserves is to provide for the benefit and enjoyment of the public, to ensure the survival of all indigenous species in their natural habitat, to preserve representative examples of areas that together originally gave New Zealand its own recognisable character, and to preserve public access to coastline, river banks, lake shores, and islands.

The National Parks Act sets out the establishment and management of National Parks. The purpose of national parks is to preserve, for their intrinsic worth and for the benefit, use, and enjoyment of the public, areas of New Zealand that contain scenery of such distinctive quality, ecological systems, or natural features so beautiful, unique, or scientifically important that their preservation is in the national interest. They are preserved as far as possible in their natural state.

The Marine Reserves Act provides for “the setting up and management of areas of the sea and foreshore as marine reserves for the purpose of preserving them in their natural state as the habitat of marine life for scientific study.” In a marine reserve all marine life is totally protected, there is no fishing allowed, no polluting, disturbance or damage, and no removal of any natural thing from the marine reserve.

## **ENVIRONMENT ACT 1986**

The Environment Act is administered by the Ministry for the Environment, which is set up under the Act. The Act also creates the office of the Parliamentary Commissioner for the Environment. The Act promotes the management of the natural and physical resources of New Zealand.

## **FISHERIES ACT 1996**

The Fisheries Act is administered by the Ministry of Fisheries. Its purpose is to provide for the sustainable utilisation of fisheries resources (which includes avoiding, remedying, or mitigating any adverse effects of fishing on the aquatic environment). The Fisheries Act allows for emergency measures to be taken if there has been a disease outbreak or “a significant adverse change in the aquatic environment”. Under section 16 of the Act, the Minister of Fisheries may close an area by “prohibiting the harvesting of all or any fish, aquatic life, or seaweed in that area.”

## **FORESTS ACT 1949**

The Forests Act is administered by MAF. It will apply if, as part of a response, there is a need to destroy indigenous trees that are subject to the Act.

## **HEALTH ACT 1956**

The Health Act is administered by the Ministry of Health. It deals with the improvement, promotion and protection of public health. Matters relevant to biosecurity include the powers and duties of local authorities, the duty of ships' masters to notify suspected infectious diseases, provisions relating to diseases that require quarantine, and regulations relating to public health, including prevention and the spread of infectious diseases.

## **HEALTH AND SAFETY IN EMPLOYMENT ACT 1992**

The Health and Safety in Employment Act is administered by the Department of Labour. Maritime New Zealand and the Civil Aviation Authority have administrative and enforcement roles in their sectors; as the Police do in respect of commercial vehicles.

The Act applies to all New Zealand workplaces and places duties on employers, the self-employed, employees, principals and others who are in a position to manage or control hazards. Hazards arising from organisms or response actions will need to be managed recognising these responsibilities.

## **LOCAL GOVERNMENT ACT 2002**

The Local Government Act is administered by the Department of Internal Affairs. Guidelines have been developed where regulatory functions may involve local government, which has a duty to consult with rate payers under this Act.

## **NGAI TAHU CLAIMS SETTLEMENT 1998**

The Ngai Tahu Claims Settlement addressed grievances from Ngai Tahu regarding the Crown's obligations under the Treaty of Waitangi. The Settlement included legal provisions to formalise Ngai Tahu's role in conservation management on their takiwa (ancestral land). Responses that could impact on Ngai Tahu's takiwa may need to consider the arrangements that were put in place as part of the settlement.

## **WILD ANIMAL CONTROL ACT 1977**

The Wild Animal Control Act is administered by the Department of Conservation and regulates certain species of introduced animals defined by the Act to be "wild animals". These include deer, wallaby, thar, chamois, possums, and feral goats and pigs.

## **WILDLIFE ACT 1953**

The Wildlife Act is administered by the Department of Conservation and protects specified wildlife while permitting the hunting of some wildlife at certain set times, e.g. ducks, game, pukekoes, Canadian geese and other species. The Act also sets up Acclimatisation Societies.

## Appendix Five: International Treaties, Agreements and Agencies

The following documented treaties and agreements potentially affect the planning and execution of biosecurity responses. This list is not exhaustive, but highlights key agreements and international organisations. Many of New Zealand's requirements are trade-based and are usually codified into bilateral agreements between New Zealand and a country we trade with.

### WORLD TRADE ORGANIZATION (WTO)

The WTO is the only global international organisation dealing with the rules of trade between nations. At its heart are the WTO agreements, negotiated and signed by the bulk of the world's trading nations and ratified in their parliaments. The goal is to help producers of goods and services, exporters, and importers conduct their business by providing a strategic and clear legal framework for the conduct of international trade. Principles include trade without discrimination, freer trade (gradually through negotiation), predictability (through binding countries and requiring transparency), promoting fair competition and encouraging development and economic reform. See also [www.wto.int](http://www.wto.int).

The **General Agreement on Tariffs and Trade (GATT)**, a series of rules-based agreements setting out how signatory countries can trade goods with each other, is relevant for biosecurity. Agreements under GATT can have a sectoral focus (e.g. Agreement on Agriculture) and can be negotiated and reviewed over time and cover multiple clauses. Article 20 of GATT allows governments to act on trade in order to protect human, animal or plant life or health, provided they do not discriminate or use this as disguised protectionism.

**Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement)** allows countries to set their own standards, but regulations must be based on science. They should be applied only to the extent necessary to protect human, animal or plant life or health. They should not arbitrarily or unjustifiably discriminate between countries where identical or similar conditions prevail. The SPS Agreement recognises three international organisations to set standards for this purpose:

- the FAO/WHO Codex Alimentarius Commission (food);
- the World Organisation for Animal Health (OIE);
- the Commission on Phytosanitary Measures (CPM) (plant health).

**Agreement on Technical Barriers to Trade (TBT Agreement)** tries to ensure that regulations, standards, testing and certification procedures do not create unnecessary obstacles.

### WORLD ORGANISATION FOR ANIMAL HEALTH (OIE)

The stated objectives of the OIE are to:

- ensure transparency in animal disease and zoonoses situations;
- to collect, analyse and disseminate scientific veterinary information;
- to provide expertise and encourage international solidarity in the control of animal diseases;
- within its mandate under the SPS Agreement, to safeguard world trade by publishing health standards for international trade in animals and animal products;
- to improve the legal framework and resources of national veterinary services; and

- to provide a better guarantee of the safety of food of animal origin and to promote animal welfare through a science-based approach.

The four standards established by the OIE to meet the SPS Agreement are:

- *Terrestrial Animal Health Code* – this sets out the standards for ensuring that trade in animals and animal products does not spread listed animal diseases;
- *Aquatic Animal Health Code* - same as above for animals of aquatic origin;
- The Manual of Diagnostic Tests and Vaccines for Terrestrial Animals; and
- The Manual of Diagnostic Tests for Aquatic Animals.

MAF’s response, surveillance and testing policies and procedures for specific animal diseases draw heavily on, and seek to be compliant with, these Codes. MAF also has, as the New Zealand Government’s “competent authority”, responsibility for reporting the occurrence of risk organisms to OIE, reporting the official controls that have been put in place to manage biosecurity risks, and providing official assurances of New Zealand’s country, area or compartment freedom based on directed surveillance programmes. See also [www.oie.int](http://www.oie.int).

## **FOOD AND AGRICULTURAL ORGANIZATION OF UNITED NATIONS (FAO)**

FAO’s primary mandate is to lead international efforts to reduce hunger. Within this framework, the FAO acts as the host for the International Plant Protection Convention (IPPC) Secretariat.

**Commission on Phytosanitary Measures (CPM)** – established in 2006, the CPM undertakes the tasks outlined in the SPS Agreement in relation to the International Plant Protection Convention (IPPC) – outlining actions to prevent the spread and introduction of pests of plants and plant products, and to promote appropriate measures for their control. The International Phytosanitary Portal is the forum for reporting and exchange of general information. Like OIE, a National Plant Protection Organisation (for New Zealand this is MAF) is responsible for a range of phytosanitary functions and for reporting. See also [www.ippc.int](http://www.ippc.int).

## **WORLD HEALTH ORGANIZATION (WHO)**

WHO is the United Nations specialised agency for health. WHO’s objective is the attainment by all peoples of the highest possible level of health. Health is defined in WHO’s Constitution as a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity. WHO tracks and provides information on major disease outbreaks in the world and can produce guidelines for human disease management. These are particularly relevant for MAF in respect of zoonotic diseases, such as avian influenza. See also [www.who.int](http://www.who.int).

## **CODEX ALIMENTARIUS COMMISSION (CODEX)**

Codex is a commission established by FAO and WHO to develop food standards, guidelines and related texts such as codes of practice under the Joint FAO/WHO Food Standards Programme. The main purposes of this Programme are protecting health of the consumers and ensuring fair trade practices in the food trade, and promoting co-ordination of all food standards work undertaken by international governmental and non-governmental organisations. See also [www.codexalimentarius.net](http://www.codexalimentarius.net)

## UNITED NATIONS ENVIRONMENT PROGRAMME (UNEP)

The UNEP covers a range of environmental programmes. Three conventions of interest to biosecurity under UNEP are:

**Convention on International Trade in Endangered Species of Wild Animal and Fauna (CITES)** – CITES seeks to limit the impact of trade on endangered species. The import, export, re-export and introduction from the sea of species covered by CITES must be authorised through a licensing system. MAF Quarantine supports the system through its border inspection services. Finding an unauthorised CITES-listed organism requires actions to be taken to re-export it back to country of origin or to destroy it.

**International Maritime Organization (IMO)** – Aims to improve maritime safety and prevent pollution from ships. Relevant biosecurity-related measures include conventions on anti-fouling systems, ballast water management and dumping of waste.

**Convention on Biological Diversity (CBD)** – CBD is one of a number of conventions which aim to realise a “comprehensive strategy for sustainable development – meeting our needs while ensuring that we leave a healthy and viable world for future generations”.<sup>13</sup> The CBD establishes three main goals:

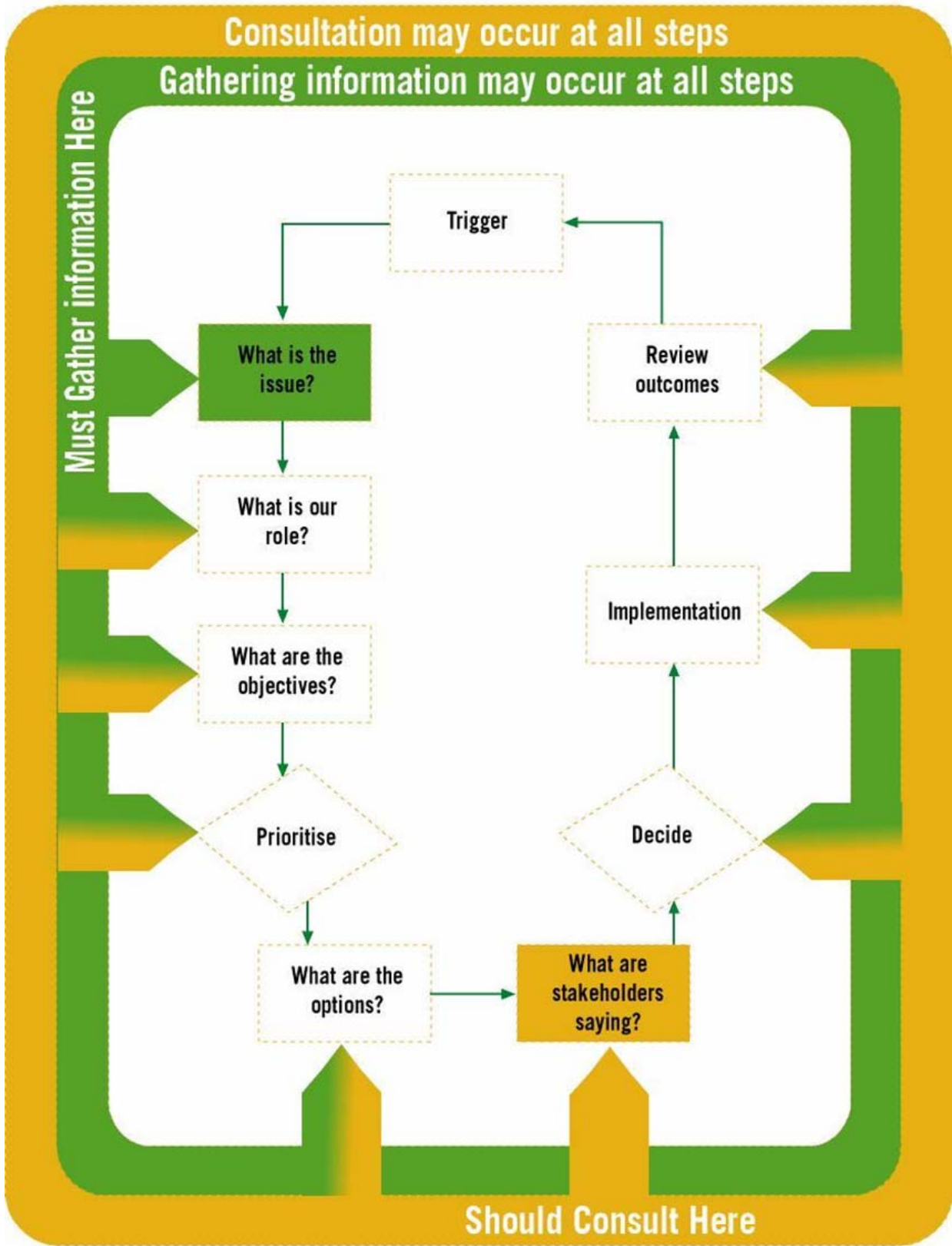
- the conservation of biological diversity;
- the sustainable use of its components; and
- the fair and equitable sharing of the benefits from the use of genetic resources.

The CBD places both a duty of care to protect biodiversity values, but also constrains the types of treatments and actions that can be taken in respect of a response where it can affect biodiversity and environmental values.

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<sup>13</sup> 1992 Earth Summit, Rio de Janeiro (“Rio Summit”)

# Appendix Six: Biosecurity Decision Steps and Principles



## Explanation of the Biosecurity decision steps

### **Gather information**

Gather information throughout the whole decisions process, particularly to help define the issue and to identify and assess options.

### **Consultation**

Identify and consult affected parties as early as possible in the process and give sufficient time and information to affected parties. Where there is little information, consultation may need to be ongoing or occur at several points in the decisions process. Consultation may not be necessary in all cases.

#### *Consultation*

- Who should be consulted?
- How should they be consulted?
- What is the objective of the consultation?
- What is the key information that needs to be provided?
- What is the scope/timeframe of the consultation?
- Do the expectations of those consulting/those being consulted align with consultation objectives?
- What are the areas of concern identified?

### **Trigger**

A trigger such as a 0800 call, an incursion, new information, or an Import Health Standard application should prompt the decisions process.

### **What is the issue?**

Explain the background to the issue, including the nature and extent of the issue and the need for action.

#### *Nature of the issue*

- What is it?
- What is the underlying cause of the issue?
- What are the symptoms of the issue?
- What is the likelihood & consequence of the issue?
- What are the risks/opportunities?
- Has this been an issue in the past?
- How successful have we been at addressing it?
- What behaviours need to change?
- Who needs to change behaviour?

#### *Size and scale of the issue*

- How significant is the issue?
- What is the scope of the issue?
- Who is it an issue for?
- Does consultation need to occur to help define the issue/objectives?

#### *Need for action*

- What is the urgency/need for action?
- How reversible are the impacts of the issue?
- Are there any relevant government objectives/outcomes?

### **What is our role?**

Clarify/agree who has the mandate/duty to act.

- Do we have a legislative requirement or prearranged role?
- Is it a pre-agreed role or responsibility of another agency?
- Who is best placed to solve it?
- Do we need to agree role division between MAF Biosecurity New Zealand and another agency?
- Who is best placed within MAF Biosecurity New Zealand to be responsible?

### **What are the objectives?**

Identify what needs to be managed to best achieve the outcomes. Clearly define the objective(s) to address the underlying cause of the issue in a way that does not pre-determine solutions, and is easily measurable. Clearly specify if objectives are subject to constraints like time or resources.

- How will we measure success?
- What feedback is needed?

### **Prioritise risks and opportunities**

Rank the risks and opportunities of the issue against other issues and decide whether to continue analysis.

- Prioritise against strategic fit, net benefit, feasibility, resources, and barriers to success. For good practice prioritise using strategic fit and net benefit *first* to identify where the real risks and opportunities lie and then consider feasibility, resources and barriers.
- What are the likely costs associated with maintaining the status quo?

### **What are the options?**

Develop, analyse and evaluate realistic options for achieving the objectives and that can be implemented.

#### *Develop options*

- What is the status quo?
- Is more information needed to inform development of options?
- Can the options be implemented?

#### *Analyse options*

- What is the level of analysis required and timeframe?
- What are the costs and benefits of intervening/not intervening?
- Who benefits and who bears the cost of each option?
- How well do the options manage the risks?
- How will behaviours affect the level of compliance?
- Do the options address the underlying cause or the symptoms of the issue?

- What are the indicators for measuring success/performance?

#### *Evaluate options*

- Prioritise options against strategic fit, net benefit, feasibility, resources, and barriers to success.
- What is the preferred option?

### **What are the stakeholders saying?**

Consult with affected parties even if you have already discussed the issue with them previously. Consultation must be genuine and feedback used to inform your decision. If you decide not to consult on the options make your reasons for this decision clear.

### **Decide on an option**

Choose an option, decide what we are going to do or not do and clearly communicate the decision to affected parties.

### **Implement the decision**

Develop an implementation plan and take action.

- Is a communication strategy required?
- What risks may affect successful implementation?
- What review mechanisms and performance targets are needed?

### **Monitor and review outcomes**

Monitor and evaluate performance, and review against the objectives. If recommendations from the review identify new information or issues these should feed back into the decisions process.

- How well does the decision meet the success/ performance criteria and objectives?
- How well does the decision respond to the risks, costs and benefits and public reaction to your actions?
- What are the intended/unintended effects of the action?
- What is the level of compliance?

*Note that the dot points are intended to guide thinking, whereas the principles are compulsory.*

## Biosecurity decisions principles

### Process Principles

#### **1. Follow the criteria and processes prescribed in relevant legislation and ratified international standards**

Where legislation prescribes the process to be followed and/or criteria to be applied for a particular decision, these must be followed and applied. International standards or treaties that have been ratified by the government must also be followed.

#### **2. Analyse the issue before trying to find solutions**

Spend time identifying the 'real' issue, before thinking through solutions by:

- understanding and analysing: the issue, the context, the risks and opportunities and the objectives first; *then*
- thinking through solutions to manage the issue and assessing strategic fit, net benefit, feasibility, resources, and any other barriers for the solutions.

#### **3. Decisions should be made by those best placed to do so**

Unless specified elsewhere (such as in legislation), decisions should be made by the people who have the right information, skills and incentives as they are best placed to make good decisions in that area.

#### **4. Timely and well-informed**

There will always be uncertainty and lack of information, but we must make the best decisions we can with the best information available at the time. The level of information sought and analysis should be proportional to the size of the risk/opportunity identified in the available timeframe and the urgency required.

#### **5. Consistency**

Follow a consistent decisions process but only to the point where it is sensible to do so. Apply decisions principles, criteria and tools consistently so that decisions do not differ in assessment approach.

#### **6. Consult affected parties, including Māori**

Identify and consult those affected by our decisions, including Māori, as soon as possible in the decisions process. Give sufficient time and information to affected parties so they can provide effective feedback before final decisions are made and so they can manage their own risks and interests at the same time.

#### **7. Transparency**

Tell affected parties, in plain language they can understand, what the decision is and the reasoning behind the decision so they understand the decision, the implications, and the behaviours being sought.

### Content Principles

#### **8. Decisions should aim to improve New Zealand's overall economic, social, health and environmental values**

Decisions should be driven by the objective of securing positive consequences and limiting negative consequences for our economic, social, health and environmental values as a country except where there are specific government objectives, directions or statutory requirements.

All decisions by the government to intervene should be tested to check that the intervention is justified and delivers more benefits than costs.

#### **9. Prioritise based on strategic advantage, technical feasibility, and net benefit**

Prioritise using the following criteria, or develop and agree an alternative set of criteria before making the decision.

- Strategic fit – how well does it fit with the government's or MAF's strategies and goals?
- Net benefit – what is the overall net benefit including costs, benefits and their likelihoods?
- Feasibility – is it feasible and what is the probability of success?
- Resources – what resources, skills and capabilities are required?
- Barriers – are there other barriers to success, such as the factors that cause public concern (coercion, unfairness, dread, etc)?

#### **10. Uncertainty is not an excuse for inaction**

Where there is uncertainty, decisions should focus on what reasonable steps can be taken at the time, while maintaining future options where appropriate and being transparent about the uncertainties and assumptions.

#### **11. Irreversibility provides a stronger case for intervention**

Where the impacts of not intervening are likely to be irreversible, there is a stronger case for intervention even when benefits only marginally outweigh costs.

#### **12. Risks/opportunities should be managed by those best placed to do so**

Those with the most appropriate incentives, capability, access to resources and the best information related to any specific opportunity or risk should manage those risks/opportunities.

#### **13. Favour outcome-based over prescription-based interventions**

Favour performance/outcome based interventions over prescriptive interventions, wherever practicable and appropriate. Standards should be enforceable, and should draw on existing (industry) standards as much as is practicable to minimise compliance costs and allow innovation.