
Future of Pest Management

Pest Management Roles and Accountabilities

Working Paper 2

Final report of Workstream B Working Group

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I Purpose

This paper describes roles and accountability structures proposed for the management of pests in New Zealand. It is a working paper of the Future of Pest Management project which was charged with identifying proposed improvements to pest management systems in New Zealand to fit them for the challenges of the next twenty five years. This paper is one input into the preparation of a national plan of action which will set out the proposals for improvement.

The New Zealand Biosecurity Central Regional Forum (BCR) commissioned MAF Biosecurity to manage the work on behalf of the BCR. The paper collects together the analysis of a cross sectoral working group. It does not represent the formal policy views of any of the agencies, research organisations nor sectors involved.

II Summary of proposals

The working group has recommended that:

- a) The **outcomes, roles and accountabilities framework** that the Biosecurity Central Regional Government Forum (BCR) has agreed in principle forms the basis of development for the future of pest management. BCR has agreed:
 - the principles for how pest management will operate;
 - a high level division of roles into oversight roles, decision-making roles and delivery roles; and
 - a framework (matrix) for determining who is best placed to make decisions on pest programmes (allocates decision-making roles).
- b) The **design principles** for the allocation of roles be that:
 - i. The system needs to evolve from one in which decisions to become involved in the management of a pest issue are ad hoc and unco-ordinated, to one where the government ensures that co-ordinated decisions on the best management approach in the best interests of NZ as a whole.
 - ii. A system meeting the above principle has additional roles defined for government, and mechanisms to ensure that the decisions are made (i.e. that we do not have “non decisions” where there are collective interests at stake).
 - iii. Decisions on what should be done about a pest issue (intervention) should be made by those best placed.
 - iv. Although parties may be required to consider whether an intervention is appropriate, no party should be compelled to intervene to manage a pest issue (except where the response is a club response, the club has accepted its role, and compulsion is required to avoid free-riders).
 - v. All those with a potential role in pest management should have clearly mandated duties.
 - vi. Partnerships with joint decision-making and/or collaborative governance should be encouraged, recognising joint and overlapping interests – but an overall lead needs to be accountable for decisions that need to be taken.
 - vii. Decisions need to be made consistently and transparently, be well communicated and made publicly available.

- viii. Those making decisions about an intervention should be accountable for implementation.
- c) The **high level roles** in used future pest systems development be:
- i. Oversight and leadership
 - ii. Intervention decision-making
 - iii. Decision implementation
- d) The **oversight and leadership role** consist of the following sub-roles:
- i. Developing, monitoring and reviewing an agreed strategic direction for the pest management system
 - ii. Co-ordinating pest management agencies and interests at the national level
 - iii. Establishing and leading a system to resolve uncertainty in pest management responsibilities - the gatekeeper role
 - iv. Supporting intervention decision-making
 - v. Promoting collective action
 - vi. Identifying and responding to national pest risk
 - vii. Managing the pest management toolbox
- e) The **gatekeeper role** should involve:
- i. determining whether collective action could result in better outcomes than individuals acting alone for a particular pest issue;
 - ii. making a preliminary assessment of the preferred high level objective for the pest issue;
 - iii. applying the best-placed criteria to determine where the role of intervention decision-maker should lie, and assign this role;
 - iv. prioritising the particular pest issue against other pest issues that it has considered;
 - v. ensuring that a decision is made and communicated to those affected; and
 - vi. keeping a public register of all its decisions, and subsequent intervention decisions.
- f) The **gatekeeper role** should be the responsibility of MAF but that, as a matter of operational practice, MAF exercise that role in an inclusive way, ideally through a committee that includes representation from regional councils, tangata whenua, Department of Conservation and any other relevant party.
- g) The **oversight and leadership roles** of *promoting collective action* and managing the *pest management toolbox* and who should be responsible for these roles are being determined by work streams E and F respectively.
- h) Subject to (g) above, the **oversight and leadership roles** be undertaken by MAF.
- i) The roles outlined above should apply equally in **terrestrial and aquatic environments** (including both marine and freshwater).
- j) **Default roles** (as listed in Appendix 5) be allocated in the marine and aquatic environment to apply until such time as a gatekeeper decision determines otherwise.

- k) The high level roles for regional councils should be to:
- providing leadership on pest issues at the regional scale
 - acting as intervention decision-maker in respect of pests and pathways that affect, or have the potential to affect, values that are of regional significance and which cannot be adequately or effectively managed by private interests acting on their own
 - implementing decisions on pest management where it has been the intervention decision maker (or on behalf of other intervention decision-makers).
- l) The following proposals be considered for legislative amendment:
- i) providing for the new gatekeeper role, and giving responsibility for this role to MAF or the Minister for Biosecurity.
- ii) providing for the following decision-making principles for the gatekeeper:
- The process should be flexible enough so that the process used may be tailored to the complexity and public interest associated with the issue.
 - The process should allow for public input (although the degree of that input will need to vary in accordance with the above principle).
 - The process should ensure that the relationship of Maori and their culture and traditions with their ancestral land, water, waahi tapu, valued flora and fauna and other toanga are taken into account.
 - Assessment of pest issues should be done consistently with the principles that the BCR Forum has agreed to, namely that:
 - decisions will aim to provide the best overall outcome for New Zealand's economy, society, environment and health;
 - decisions will ensure that the distribution of costs and benefits across society is efficient and equitable;
 - decisions will be made by those best placed to do so;
 - the decision process will include those whose accountabilities are affected;
 - decisions will be timely, transparent and communicated to those affected;
 - decisions will be informed by the best information available at the time and uncertainty will not prevent or delay a decision;
 - 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.
- iii) specifying the process and criteria for the gatekeeper to use, including criteria for when gatekeeper consideration is justified
- iv) providing for the gatekeeper's decision to be binding on public entities (i.e. central and regional government).
- v) giving responsibility for all other oversight and leadership sub roles (subject to the findings of Work Streams E and F) to MAF.
- vi) providing for specified roles for regional councils.

III Background

1. The pest management system is an unusual model of government intervention. Most pest management is freely undertaken by individuals or groups of individuals (i.e. "clubs") with a common interest. This is because they directly benefit from managing the pests and it is, therefore, in their interests to do it.
2. However, government may also need to play a role. In some cases, relying on individual actions means that the pest management is less effective, efficient or equitable than it could be. In these cases, government intervention may be required to prevent free-riding, co-ordinate interventions or facilitate collective responses. Because there is a case for government intervention, a public management system has evolved and the usual range of administrative and oversight roles to manage this system are necessary.

What is the issue?

3. Pest management roles and responsibilities can be found in a number of statutes and across jurisdictional boundaries. Within these, the system has only a few mandatory roles and responsibilities, with the rest being discretionary. Roles tend to be determined on a case by case basis with the principles and processes for making those determinations not clear or consistent.

Rationale for the current system

4. The roles in pest management are not mandatory because it is considered that those with an interest to act will do so, and therefore there is no need to require action by any particular individual. Where the potential benefits of pest management are broader than the individual, those who benefit will band together and pool their resources based on how much they are willing to pay to avoid the costs of the pest. The role of government is to ensure they have the necessary powers to prevent free-riding. Where the benefits of pest management fall on a region or the nation as a whole, the regional or national government will contribute as members of the club representing the beneficiaries.

Problems with the current system

5. In practice, lack of accountability leads to debate and delay in making management decisions. There is a perception that some decisions at the national level are not being made at all and are simply left to be addressed by other parties who may (or may not) have a stronger incentive. An alternative perspective is that decisions have been made, but other parties do not agree with those decisions. Amongst other things, this issue implies that a problem exists with the design, implementation, communication and/or general understanding of decision making processes and systems for national programmes.
6. Where there are many parties that benefit from pest management, it becomes easier for individuals to 'free-ride' on the efforts of others (and more difficult to enforce their obligations). This means that the costs of setting up and maintaining a system to prevent free-riding increases, and at the same time the benefits on any one party decreases, meaning the incentive for an individual to take the lead in

establishing a system can be far outweighed by the costs. There are also many situations where it is difficult to identify individual beneficiaries of pest management, and therefore difficult to make them contribute.

7. As a result of these problems in role definition and allocation New Zealand is:
 - not getting pest management where and when it should be;
 - sometimes getting pest management where and when it is not a priority;
 - sometimes not managing pests in the most efficient way; and/or
 - experiencing costs associated with pest management that are not falling equitably.
8. A number of specific areas where the working group considered that current system has gaps are:
 - managing aquatic pests and pathways;
 - responding to legacy pests of national significance;
 - managing zoonotic and wildlife diseases;
 - managing the spread of pests on domestic pathways; and
 - responding to emerging risks and opportunities.

Design principles

9. The working group has progressed its analysis with the view that:
 - a) The system needs to display strategic leadership, evolving from one in which decisions to become involved in the management of a pest issue¹ are ad hoc and unco-ordinated, to one where the government ensures that nationally important outcomes are promoted through co-ordinated decisions on the best management approach being made by those best placed to do so.
 - b) A system meeting the above principle has additional roles defined for government, and mechanisms to ensure that the decisions are made (i.e. that we do not have “non decisions” where there are collective interests at stake).
 - c) Decisions on what should be done about a pest issue (intervention) should be made by those best placed. This is determined by the scale and nature of objectives, where the impacts fall (and therefore potential benefits arise), who has the incentives to act (including public accountability), and who has the necessary powers to act².
 - d) Although parties may be required to consider whether a response is appropriate, no party should be compelled to intervene to manage a pest, except where the response is a club response, the club has accepted its role, and compulsion is required to avoid free-riders.
 - e) All those with a potential role in pest management should have clearly mandated duties.
 - f) Partnerships with joint decision-making and/or collaborative governance should be encouraged, recognising joint and overlapping interests (i.e. those ‘best placed’ will not necessarily be a single entity) – but an overall lead needs to be accountable.

¹ For the purposes of this paper “pest issue” means any intervention to prevent or reduce unwanted damage by harmful organisms that have established in NZ by: preventing establishment; responding to emerging opportunities and risks; reducing spread on pathways; eliminating or rolling back a harmful organism; controlling the harmful organism; or protecting values in places.

² As previously agreed by BCR

- g) Decisions need to be made consistently, transparently, be well communicated and made publicly available.
- h) Those making decisions about an intervention should be accountable for implementation.

IV Critical roles in pest management

10. The BCR has previously agreed a high level division of roles into *oversight roles, decision-making roles and delivery roles*. We have refined these into the following critical roles.

Oversight and leadership

- 11. An oversight role is necessary for any system that involves legal frameworks and expenditure of public funds. Leadership in this context involves taking responsibility for ensuring the many potential players in pest management can, and do, play an effective role both individually and collectively.
- 12. The working group has gone into some detail about what this role involves (see Appendix 4). In summary these roles are as follows:
 - Developing, monitoring and reviewing an agreed strategic direction for the pest management system
 - Co-ordinating pest management agencies and interests at the national level
 - Establishing and leading a system to resolve uncertainty in pest management responsibilities
 - Supporting intervention decision-making
 - Promoting collective action
 - Identifying and responding to national pest risk
 - Managing the pest management toolbox
- 13. Most of these oversight roles are currently being undertaken by MAF and the working group considers that they should continue to do so. Two of these roles (promoting collective action and managing the toolbox) are the subject of other work streams. This paper does not comment further on those roles.
- 14. The major new role is to establish and lead a system to *resolve uncertainty in pest management responsibilities*. This has been termed the “gatekeeper role”. This role is part of the leadership responsibility but is largely absent within current arrangements.

The gatekeeper role

- 15. The current system relies on the party who is best placed to make the decision to recognise its position as being best placed and act accordingly (self-determination). However, this causes some of the problems discussed above.
- 16. To help resolve the problems the gatekeeping role would have six tasks.

- a) Determine whether collective action could result in better outcomes than individuals acting alone for a particular pest issue.
 - b) Make a preliminary assessment of the preferred high level objective for the pest issue³.
 - c) Apply the best-placed criteria to determine where the role of intervention decision-maker should lie, and assign this role.
 - d) Prioritise the particular pest issue against other pest issues that it has considered.
 - e) Ensure that a decision is made and communicated to those affected.
 - f) Keep a public register of all its decisions, and subsequent intervention decisions.
17. In situations where there would need to be a partnership approach for any intervention decision, the gatekeeper would determine a lead decision-maker for the partnership, who would be accountable to the gatekeeper for making the intervention decision.

Scope of the gatekeeper role

18. There are a number of options for the scope of pest-related issues a gatekeeper role might encompass. These options include:
 - a. Any individual pest (and any associated vector)
 - b. Only “new” pests and associated vectors (i.e. excluding legacy pests)
 - c. Both pests and generic pathways/vectors (i.e. gatekeeper could consider a vector without identifying specific pests)
 - d. Pests, pathways/vectors and sites
19. There is strong argument that there is a role for a gatekeeper across all pests, pathways and sites. The approach taken to legacy pests will need to be reviewed from time to time on the basis of new information and changed impacts and priorities. Indeed, in the initial stages of the gatekeeper coming into operation existing pests could be a major part of the workload. On the other hand, allowing gatekeeper consideration of the full suite of existing pests presents a risk that recently made (and often contentious) decisions made by government and regional councils are revisited, with associated disruption and cost. While this issue could be expected to recede over time, it could be problematic in the initial stages.
20. Enabling the gatekeeper to consider generic pathways offers some potential efficiencies – meaning that pathways for multiple pests could be considered through one process.
21. Work stream B did not reach a consensus view on these issues. However, for the gatekeeper to fully address the problems identified it would seem necessary for it to be able to consider the broadest suite of pests, as well as generic pathways and sites. The concern about revisiting existing, recently made decisions could be managed by including transitional arrangements that prevented the gatekeeper from considering pests and pathways in respect of which a decision has been made since a specified date. Such a transition might expire within a fixed period after commencement of the role. A period of five years prior to the new arrangements taking effect with the transition expiring five years after the new arrangements take effect would seem appropriate.

³ Being one of the objectives agreed in the previous BCR outcomes, roles and accountabilities paper

Triggering gatekeeper assessment

22. The second matter requiring a decision is how the gatekeeper consideration of an issue is triggered. There are three options:
 - a. The gatekeeper could initiate examination of a pest where it considered it necessary to do so.
 - b. The gatekeeper would initiate examination of any pest or pathway referred to it
 - c. Both a and b above.
23. It is the Work stream's view that option (a) would mean the gatekeeper has an inquisitorial role rather than a simple administrative one. This would have resourcing implications as the potential workload of the gatekeeper would be much greater.
24. For those reasons gatekeeper consideration of a pest or pathway should be triggered only by a formal referral.

Should the ability to refer a pest be restricted?

25. Given that the purpose of the gatekeeper is to provide a forum where matters of uncertainty over responsibilities for pests can be resolved, the working group does not favour any major restriction on the ability to refer a pest.
26. On the other hand it would not be desirable for the gatekeeper's work to be hampered by frivolous or vexatious referrals. Therefore the working group considers that the gatekeeper should be able to reject applications that:
 - a. do not provide adequate information; and/or
 - b. do not meet prescribed criteria (relating to, for example, the significance of risk); and/or
 - c. relate to matters that it has specifically determined within the last five years.
27. Information requirements should be set at a level sufficient to demonstrate that there are sound reasons for a gatekeeper assessment but without being too onerous. A suggested list of information requirements are provided as Appendix 3. Suggested criteria to act as a threshold for referrals are included as Appendix 3.

Gatekeeper decision-making process

28. The working group has developed an indicative process for the gatekeeper's consideration of referrals. It considers, however, the detail of this process to be operational matter for MAF to confirm, possibly by way of regulation. Some principles, are however important to confirm at this stage.
 - The process should be flexible enough so that the process used may be tailored to the complexity and public interest associated with the issue.
 - The process ought to allow for public input (although the degree of that input will need to vary in accordance with the above principle).
 - The process should ensure that the relationship of Maori and their culture and traditions with their ancestral land, water, waahi tapu, valued flora and fauna and other toanga are taken into account.

- Assessment of pest issues should be done consistently with the principles that the BCR Forum has agreed to, namely that:
 - decisions will aim to provide the best overall outcome for New Zealand's economy, society, environment and health;
 - decisions will ensure that the distribution of costs and benefits across society is efficient and equitable;
 - decisions will be made by those best placed to do so;
 - the decision process will include those whose accountabilities are affected;
 - decisions will be timely, transparent and communicated to those affected;
 - decisions will be informed by the best information available at the time and uncertainty will not prevent or delay a decision; and
 - 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.

Nature of the gatekeeper decision

29. As noted in paragraph 16, the gatekeeper will make two primary decisions. First, it would make a preliminary decision about what the high level objective should be for the pest issue. Both short and long term objectives may be identified. This decision would be in the nature of a recommendation and would guide the intervention decision-maker rather than bind them. This is considered necessary to allow the intervention decision-maker the ability to change the approach on the basis of better information. Once the intervention decision-maker has made a decision, it should notify the gatekeeper of its decision, so that the public record can be updated.
30. Second, the gatekeeper will identify the party or parties that are most appropriately the intervention decision-maker given the objective(s) identified. Assigning a party (or parties) the role of intervention decision-maker would not require that party to take any action other than to make a decision on what pest management action ought to be carried out (if any). This is important as only the best placed party has the information to determine what is feasible with available resources and existing priorities.
31. The working group considers that the gatekeeper's decision on who the intervention decision-maker is should be binding for government agencies and regional councils, that is, the party would be required to make a decision within a certain time period. Where the intervention decision-maker is determined to be a non-government entity (i.e. a club), that party would be invited rather than required to make a decision.
32. In making that decision, the gatekeeper would (taking account of the proposed objective for management) apply the criteria based on those already agreed by BCR, namely:
 - Who is the community of interest that is potentially affected by the pest or who benefits from the programme
 - Who has the right incentive to make a decision that will minimise the costs across society and fairly distribute costs (and maximise benefits).

- Who has (or can assign) the necessary legal powers to implement the objective
33. The working group has developed some principles and criteria for how the gatekeeper should make its decisions (see Appendix 3). These will need further development and refinement to provide the necessary clarity and guidance for the gatekeeper. Developing these within operating procedures should be an early task for the gatekeeper.

MAF as the gatekeeper

34. The working group considered a number of options for the form of the gatekeeper role. It placed emphasis on the need to avoid bias in decision-making. For that reason the working group considers it is most appropriately a role for a multiparty committee. On the other hand, the gatekeeper role may ultimately be characterised as being about the exercise of oversight and leadership and therefore may logically fall to MAF. Having the role conducted by MAF also has the advantage of being relatively cost effective, avoiding duplication of skills and resources, and maintaining clear lines of accountability.
35. Notwithstanding MAF's suitability for the role, as noted by the Working Group, there is a possibility of conflict of interest, as MAF would be both gatekeeper and potential intervention decision-maker. While this is not ideal, the advantages of MAF as the gatekeeper may outweigh the disadvantages provided the concerns about actual or perceived conflicts can be managed by:
- having robust and transparent processes and criteria; and
 - undertaking the role in an inclusive way, ideally through the use of a committee structure that includes representation from regional councils, tangata whenua, Department of Conservation and any other relevant party.

Intervention decision-making

36. The role of the intervention decision-maker is to determine whether a pest or pathway programme will occur, confirm or amend its high level objective, and design the programme in detail.
37. This role will be undertaken by the parties best placed to do so. This will either be resolved by:
- a. the best placed party recognising their interests and their best placed position and acting accordingly; or
 - b. the gatekeeper's decision, if such a decision is sought.
38. Depending on the circumstances, this may be a central government agency, regional councils, an individual or club or some combination of all those parties. Importantly, intervention decision-making should not be contingent on there first being a gatekeeper decision. The gatekeeper role exists to remove uncertainty, not to act as a threshold step which, until passed, restricts intervention decision-making.
39. The working group considers that there should be principles, criteria and processes for making intervention decisions, including, amongst other things, effective engagement with stakeholders and iwi, how rights and obligations of landowners should be determined and performance measurement requirements for pest

programmes. These need further work to develop, but would be drawn from the principles already agreed by BCR, the Biosecurity Funding principles, and Government-industry agreements.

40. There is a question about whether intervention decision-makers should be required to use these principles, criteria and processes. This is being considered by work stream C.

Decision implementation

41. This role is the actual “doing” (or getting done) of a pest programme. BCR has already noted that the organisation best placed to make decisions and be accountable for the programme may not be best placed to deliver it.
42. Although the gatekeeper role and transparent criteria provide the process for “deciding who decides”, it does not address the issue of who delivers. The simplest and most appropriate approach is to adopt the principle that the party that is the intervention decision-maker should be responsible for ensuring delivery of any programme they agree on. If it is not well placed to deliver itself, because it does not have the powers or resources (people, equipment, information etc) then it may well negotiate (and potentially “sub-contract”) with another party that is better placed. Where there are multiple parties involved in the intervention decision, the sharing of responsibility for delivery needs to be clearly set out in the decision.

Regional council roles

43. The working group did not specifically address the roles of regional councils concentrating instead on specification of leadership and gatekeeper roles as outlined above. However, at a high level the roles of regional councils are inferred by the demarcation of those other roles. These regional roles may be described as
- providing leadership on pest issues at the regional scale
 - acting as intervention decision-maker in respect of pests and pathways that affect, or have the potential to affect, values that are of regional significance and which cannot be adequately or effectively managed by private interests acting on their own
 - implementing decisions on pest management where it has been the intervention decision maker (or on behalf of other intervention decision-makers).
44. Some further development of these roles may be necessary before they are confirmed in legislation.

V Aquatic Pests

45. A key issue the working group has considered is whether a different approach to allocating responsibilities needs to apply in marine and freshwater environments.
46. In principle, the critical roles outlined in section IV above should apply equally in terrestrial and aquatic environments (including both marine and freshwater).

47. While these basic role and responsibility principles apply in marine and freshwater environments, the result of applying them will likely yield different results in terms of what action is required by whom. This is because:
- a. In the marine area, the land ownership situation is vastly different. While there is some private ownership and some private occupation, the vast majority of the seabed is Crown land.
 - b. Although there will be private interests at risk from pests (such as fishing and aquaculture interests) individual or club responses to those risks will seldom occur without intervention because they will be unable to fully capture the benefits of a response. Furthermore, occupiers of coastal space are impaired from managing all pest risks because they are unable to control public access to and around private assets occupying marine space. Public access can only be restricted by the Minister of Conservation or regional councils.
 - c. The Crown, although it is owner of the vast majority of the seabed, does not occupy the space, and actions of the Crown do not generally exacerbate a pest risk (as ownership and use of land may do). Therefore, good neighbour obligations (if any) are likely to be severely limited.
 - d. The ability to actively manage pests that have established is limited, both by the biological characteristics of marine organisms, and the limited tools and techniques that currently exist for the marine area. Pathway control is therefore often the most likely response.
48. What this means is that the gatekeeper's decision on marine pests is more likely to be that public responses to marine pests are necessary for effective action than might be the case for terrestrial pests. The objective of management is much more likely to focus on reducing spread on pathways, and therefore very often the intervention decision-maker will be the party with the powers to manage the specific pathway.
49. Freshwater environments are more similar to the terrestrial environment in terms of landowners' responsibilities but more like the marine environment in terms of vectors and pathway issues to be managed.
50. Relying on gatekeeper decisions may not, however, provide the necessary level of certainty about roles in the aquatic environment. For that reason, the working group has developed default roles. These roles would apply until such time as a gatekeeper decision determines that a different arrangement would be more appropriate on a case by case basis. Proposed default roles in the aquatic environment are attached as Appendix 4.
51. In setting out these default roles two qualifiers are important. First, the oversight and leadership roles apply in the aquatic areas just as they do on land. This means there is a clear role for MAF in (amongst other things) best practice guidance, in co-ordination, in leading on pests presenting national scale risk and on resolving uncertainty through exercising a gatekeeper function. These functions will be critical in the aquatic context. The second qualifier is that the default roles specified in Appendix 4 will seldom be effectively exercised in isolation and that in most

circumstances several of these roles will need to be exercised jointly through partnership arrangements.

52. Note that what, if any, good neighbour responsibilities apply in the marine and freshwater environments should be considered, in light of BCR's decision on Work stream C and, in particular, in the development of national policy direction.

Involving tangata whenua

53. The working group has identified three areas where specific recognition of tangata whenua perspectives and interest should be recognised through the clarification of pest management roles.
54. First, as noted in paragraph 12, the leadership and oversight role should specifically provide for engagement with tangata whenua.
55. Second, as noted in paragraph 35, the working group considers it appropriate that the gatekeeper role be exercised by MAF with input from other parties representative of the key outcomes and values potentially at risk from pests. In that context, tangata whenua are uniquely positioned to comment on the matters of cultural importance to Maori. Furthermore, involving tangata whenua in gatekeeper decisions helps to give practical expression to the Treaty partnership relationship.
56. Third, providing for public involvement in gatekeeper and intervention decisions provides an opportunity to improve the ability of tangata whenua to participate in pest management decisions.

Giving effect to proposals

57. The proposals of the working group should be given effect to in the following ways, subject to further consideration by work stream D:
- a. *Oversight and leadership* – Amendment to the Biosecurity Act to allocate functions to MAF.
 - b. *New gatekeeper function* – Amendment to the Biosecurity Act to specifically include the gatekeeper function for MAF.
 - c. *Gatekeeper's decision-making principles* – Amendment to Biosecurity Act.
 - d. *Gatekeeper's referral acceptance criteria* – Criteria regarding whether the referred matter is appropriate to be the subject of a gatekeeper decision to be included within the Biosecurity Act.
 - e. *Gatekeeper's decision-making process* – To be specified in regulation under the Biosecurity Act (or, alternatively, within the Act itself if so determined by work stream D).

- f. *Gatekeeper's decision-making criteria* – Criteria regarding how the intervention decision-maker(s) are to be identified (and responsibility shared) to be specified in non statutory operating guidelines to be developed by the gatekeeper.
- g. *Form in which gatekeeper role is exercised* – the means by which the gatekeeper role involves a key stakeholder committee should be considered further by Work Stream A.
- h. Intervention decision-maker (general) – question of who is the intervention decision-maker to be left to be self-determined (i.e. not provided for in law or by other means) except as provided for in i and j below.
- i. Role of regional councils - Amendment to Biosecurity Act.
- j. Intervention decision – maker (aquatic) – default roles in the aquatic environment to be confirmed and recorded by memorandum of understanding between MAF, DoC and regional councils.
- k. Gatekeeper decision on who is the intervention decision maker(s) to be binding on public sector entities (including regional councils) – to be provided for in the Biosecurity Act.
- l. Intervention decision-maker responsible for implementation – to be provided for in the Biosecurity Act in conjunction with h above.
- m. Good neighbour obligations in the marine area – to be determined by national policy being progressed by Work Stream C.

Working Paper - Not Government Policy

Appendix 1 – Role allocation design principles

Table 1 below sets out the relationship between the BCR system wide principles and the work stream’s design principles for allocating pest management roles. As demonstrated in the Table below the work stream principles (highlighted) are secondary principles that are directly aligned with many of the BCR principles but have been tailored to specifically address role determination. Principle 3 [Best placed] is both a BCR and a work stream principle. However, the work stream has identified additional principles relating to discretion and accountability to underpin what ‘best placed’ responsibilities entail.

Table 1: Alignment between the work stream’s design principles and the BCR design principles

BCR (overall system) principles	Work stream (role determining) principles
1. Decisions will aim to provide the best overall outcome for New Zealand’s economy, society, environment and health	1. The system needs to evolve from one in which decisions to become involved in the management of a pest issue are ad hoc and uncoordinated, to one where the government ensures that co-ordinated decisions on the best management approach are made by those best placed to do so.
2. Decisions will ensure that the distribution of costs and benefits across society is efficient and equitable	2. A system meeting the above principle has additional roles defined for government, and mechanisms to ensure that the decisions are made (i.e. that we do not have “non decisions” where there are collective interests at stake).
3. Decisions will be made by those best placed to do so	4. Although parties may be required to consider whether an intervention is appropriate, no party should be compelled to intervene to manage a pest issue.
	5. Those making decisions about an intervention should be accountable for implementation.
4. The decision process will include those whose accountabilities are affected	6. Partnerships with joint decision-making and/or collaborative governance should be encouraged, recognising joint and overlapping interests – but an overall lead needs to be accountable
5. Participants know who is responsible and understand the processes used to make decisions	7. All those with a potential role in pest management should have clearly mandated duties.
6. Decisions will be timely, transparent and communicated to those affected	8. Decisions need to be made consistently and transparently, and be well communicated and made publicly available.
7. Decisions will be informed by the best information available at the time and uncertainty will not prevent or delay a decision	
8. 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	
9. Transitions will occur in a way to ensure pests are managed effectively through the transition period	
10. All landowners will meet their obligations as good neighbours	
11. The system supports continuous improvement, learning, and innovation	

Notwithstanding the direct relationship between some of the BCR and work stream principles, there are many instances where work stream principles contribute, in part or to a lesser degree, to other BCR principles.

Appendix 2 - Previous agreement on role and accountabilities

Objectives of the programme: determined by most cost-effective strategy, fair distribution of costs	<ul style="list-style-type: none"> prevent establishment in NZ respond to emerging risks in NZ complete rollback or elimination at a national scale 		<ul style="list-style-type: none"> prevent establishment in the region respond to emerging risks in the region eliminate or rollback at a regional scale control the pest 		<ul style="list-style-type: none"> protect outcomes within places... 			
					Publicly owned places, public service provided		Privately owned places	
Impacts: Who is the community of interest that is/potentially affected by the pest or who benefits from the programme	Impacts of pest and benefits of the programme fall on the NZ public	Impacts of pest and benefits of the programme fall on a club or sector (private benefits)	Impacts of pest and benefits of the programme fall on the regional public	Impacts of pest and benefits of the programme fall on a club or sector	National community (e.g. national park, rail, state highway)	Regional or local community gains benefits of service (e.g. local park)	National and /or regional community, if public benefit provided (e.g. biodiversity)	Landowner: where the impacts fall on landowner's values
Incentives to act: Including who is accountable to the affected community of interest	Crown <i>As regional variation undermines effectiveness of a regional response.</i>	Relevant industry or sector <i>If there is demand and willingness to pay by the majority of members.</i>	Region <i>As landowner variation undermines effectiveness of an individual response</i>	Relevant industry or sector. <i>If there is demand and willingness to pay by the majority of members.</i>	Crown <i>(determines level of service and how to deliver it)</i>	Local Government <i>(determines level of service, and how to deliver it)</i>	Landowner, Crown and/or regional government	Landowner
Powers: what is needed to achieve the programme; who holds them, can they be delegated		May require action to prevent free-riders		May require action to prevent free-riders	Crown as landowner has powers to act within land of the Crown	Local Government landowner has powers to act within land	Landowner where powers are not required	Landowner where powers are not required
	Requires ability to act, and certainty of outcome, across NZ. May require powers that cannot be delegated beyond government		Requires ability to act, and certainty of outcome, across the region. May require powers that cannot be delegated beyond government					
Given the above, who should be involved in the d-making role	Crown	Relevant sector or industry; Crown	Regions	Relevant sector or industry if no powers required; otherwise region and sector	Crown landowner	Local government landowner	Private landowner	Private landowner
Other roles	Regions: support Crown response	Crown: facilitate club response; regulate to prevent free rider	Regions: determines rights and obligations to manage externalities; facilitate club response; regulate to prevent free rider; Crown: may provide mechanisms to ensure consistency between regions, and address inter-regional issues, where appropriate		Crown and Regions: may facilitate the private landowners response to provide public benefits; Regions: determines rights and obligations to manage externalities between landowners (applies to land of the Crown and local government and privately owned land); Crown: may provide policy guidance for allocating rights and obligations for externalities			
	Regions: carry out devolved functions where best placed to achieve national outcomes							

Appendix 3 – Processes and decision-making considerations to be applied by the gatekeeper

(a) Contents of referral seeking assessment of a pest/vector

- Information to clearly identify the pest (or disease syndrome or vector) that should be examined.
- A statement setting out what the submitter considers to be the risk posed by the pest/disease syndrome/vector, and the parties that could be affected by pest.
- A statement (with appropriate supporting justification) setting out why the submitter believes that collective action is warranted for the pest/disease syndrome/vector, and therefore why it warrants consideration by the gatekeeper.
- A statement setting out what they consider to be the current state of the pest/disease syndrome/vector (e.g. newly established and just beginning to expand), and what they consider to be the urgency of a gatekeeper decision (e.g. urgent decision needed because the pest is just beginning to significantly expand its range but is probably still eradicable).
- If the pest/disease syndrome/vector has been previously examined by the gatekeeper, justification for a re-examination.
- A list of the information that the submitter is aware of that could be used by the gatekeeper. Where that information is in the possession of the submitter, they must agree to make that information available to the gatekeeper for their work.
- Information about the submitter, and what discussion they had with other parties before making the submission.

(b) Criteria for determining when gatekeeper consideration is justified

Collective action or government involvement in management of a pest may be desirable where:

- Effective management will require legal powers under the Biosecurity Act.
- Eradication from New Zealand or from part of New Zealand is a feasible and desirable objective for management.
- Range containment is a feasible and desirable objective for management, and requires management of a vector that the affected land and resource owners do not control.
- Effective management will require a new management tool (e.g. develop and register a toxin, develop a new way to detect the pest) that would require significant investment, and that investment should be shared across a number of parts of society.
- Individual actions on the pest will result in an unfair distribution of costs.
- Collective action will result in significantly increased efficiency of control.
- There is an identified group of people who are prepared to take collective action, but require a legal framework for their work (e.g. to prevent free-riders within the group).

(c) Determining whether collective action is required and what objective may be appropriate

In determining whether collective action would result in better outcomes, the gatekeeper would consider:

- the extent of the potential impacts from the pest issue;
- where these impacts fall and the values and outcomes that would be affected;
- the likely behaviour of the pest; and
- whether private actions can respond sufficiently to the pest issue.

(d) Allocating intervention decision-making responsibilities

In determining who the intervention decision-maker ought to be the BCR matrix (see Appendix 2) will be applied.

(e) Principles for determining whether the decision-maker should be central or regional

In addition to the BCR matrix there are three overarching principles that the gatekeeper decision-maker may need to apply to determining whether a decision on public good interventions should be made at a national or regional level. They involve who is 'best placed' to make:

1. **Informed decisions:** whether central government or regional councils have access to the greatest amount of relevant information (subjective and objective) necessary to determine whether to implement a collective management response. Subjective information refers to being able to determine the preferences of the affected community of interest. Objective information includes access to good objective information and skills for analysing complex processes, results may be poor.
2. **Balanced decisions:** whether central government or regional councils best represent the jurisdiction of the effects and costs. This involves matching the decision-maker with social choices adopted. It allows for diversity across New Zealand in social choices, it lessens the risk of over or under-provision of a public good, and it avoids inter-jurisdictional externalities.
3. **Cost effective decisions:** This involves realising opportunities for economies of scale (i.e. national versus regional) to reduce the cost of decision making. Where costs of decision making are high and preferences are relatively homogenous, national policies can save considerably on policy duplication costs. Conversely, multiple regional jurisdictions may be more cost effective for reflecting heterogeneous preferences (e.g. to control a

Table 1: Social choice and devolution

LOCAL DECISIONS		
	Local benefits	National benefits
Local costs	<ul style="list-style-type: none"> • Balanced • Efficiently diverse 	<ul style="list-style-type: none"> • Under provision • Inefficiently diverse
National costs	<ul style="list-style-type: none"> • Over-provision 	<ul style="list-style-type: none"> • Balanced • Inefficiently diverse

NATIONAL DECISIONS		
	Local benefits	National benefits
Local costs	<ul style="list-style-type: none"> • Balanced • Inefficiently consistent 	<ul style="list-style-type: none"> • Over-provision
National costs	<ul style="list-style-type: none"> • Under provision • Inefficiently diverse 	<ul style="list-style-type: none"> • Balanced • Efficiently consistent

widespread pest such as wilding pines).

Table 1 summarises the effects of mismatches between local and national decision making and the benefits and costs of the decision. The most balanced decisions occur when benefits and costs are matched at the same scale. Where mismatches occur between the level of decision making and the benefits and costs, there is a risk of public goods being under provided or over provided. Mismatches may also result in inefficient decision making due to incorrect reflection of diverse preferences.

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Appendix 4 - System oversight and leadership role

Sub-role	Specific activity	Who
Develop, monitor and review an agreed <i>strategic direction</i> for the pest management system	Ensure that the pest management provisions of the Biosecurity Act remain relevant and effective over time	MAF
	Develop and maintain strategic direction outside of the BSA as necessary to ensure overall system performance (e.g. pest management content of the Biosecurity Strategy, the FOPM project)	MAF
	Measure the performance of the system and provide feedback to participants	MAF
<i>Facilitate co-ordination</i> of pest management agencies and interests at national level	Liaison with government departments	MAF
	Engaging with tangata whenua and iwi	MAF
	Co-ordination of the Biosecurity Central Regional Government Forum	MAF
Establish and lead system to <i>resolve uncertainty</i> in pest management responsibilities [i.e. “gatekeeper” role]	Convene and chair a gatekeeper committee (to determine preliminary objectives for pest management and to identify the appropriate intervention decision-maker).	MAF
	Maintain a database of gatekeeper decisions	MAF
<i>Support intervention</i> decision-making and implementation	Develop and promote best practice information and guidelines aimed at those making intervention decisions	MAF
	Develop and provide access to system tools (e.g. databases, pest prediction models)	MAF
Promote <i>collective action</i>	Foster partnerships that build capacity, capability and/or effectiveness of programmes	MAF at national level (Other levels to be determined by work stream F)
	Co-ordinate long term pest management programmes where appropriate	MAF
	Co-ordinate collective funding of national or regional programmes.	MAF (national) Regional Councils (regional)
Identify and respond to <i>national pest risk</i>	Assume responsibility for agreed national interest pests	MAF
	Scan biosecurity environment to identify	MAF

	changes in the risk profile of harmful organisms or identify changes to the opportunity to manage effectively	
Manage the <i>tool box</i>	Ensuring physical pest control and monitoring tools are available	To be determined by work stream E
	Provide best practice information and guidance to tool users aimed at those involved in implementation of intervention decisions	

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Appendix 5 – Default role in the aquatic environment

Type of Pest Management [†]	Circumstance	Intervention Decision-maker* (Except to the extent, or until such time, as a gatekeeper decision determines differently)
Population Management (Species-led management)	Pest not previously detected in NZ	MAF
	Pest already in NZ and an objective has been set to eradicate or contain nationally	MAF
	Pest already present in NZ but not previously in region and no objective to eradicate or contain nationally has been agreed	Becomes site management issue – see below
Site/place Management (Management to protect values of specific places) <i>Guiding principle: That party with the primary interest in a place ought to be the intervention decision-maker in respect of that place.</i>	Marine protected areas	DoC
	Places of national significance	MAF
	Places recognised by formal regional policy as being of special value to regional communities (and not being marine protected areas or places of national significance)	Regional councils
	Privately owned structures/facilities in marine and freshwater environments (e.g. marine farms, oil rigs, jetties etc)	Industry/structure owners
	Bed of a river or lake	River/lake bed owner
Pathway/Vector Management	Prevention of pest establishment in NZ (at border activity - ballast water, biofouling, hitch hiker organisms, goods and containers)	MAF
	Risk to any national or regional value associated with inter-regional vessel movement	MAF
	Risk to any national or regional value associated with intra-regional movement of structures, equipment and vessels	Regional councils (to the extent that risk can be mitigated through exercise of RMA powers)
	Risk to any national or regional value associated with development of marinas, wharves, jetties and moorings and the on-going maintenance of such facilities	Regional councils (to the extent that risk can be mitigated through exercise of RMA powers)
	Risk to any national or regional value associated with discharges of organic material from vessels (inside territorial sea and on land) including discharges associated with maintenance (hull cleaning etc)	Regional councils (to the extent that risk can be mitigated through exercise of RMA powers and except insofar as discharges are subject to a national regulation implementing international conventions)
	Risk to any national value not able to be managed by powers available to regional councils (in the absence of a RPMS)	MAF

[†]Note that although these “types” of pest management are identified separately here, effective action is likely to require that they are often exercised together – requiring partnerships where responsibilities fall to different parties

* Note this column only identifies to public agencies and industry. In some situations, public agency may choose, notwithstanding this allocation, to involve a club/community group in a “co-intervention decision-maker” role.