



Overhaul of the Biosecurity Act 1993

Terms of Reference

July 2019

1. Context for the overhaul of the Biosecurity Act 1993

New Zealand's biosecurity system protects our national identity and collective wellbeing from the risks of pests and diseases. This includes:

- **Our environment** – including indigenous biodiversity, ecosystems and landscapes, taonga species and valued exotic species.
- **Our economy** – including primary industries, trade and tourism.
- **Our culture** – including Māori cultural and spiritual values.
- **Our social values and expectations** – including New Zealanders' lifestyles, health and wellbeing, our national identity, and recreational and historical values.

The Biosecurity Act 1993 (the Act) provides a legal framework that supports the effective operation of the biosecurity system by putting in place essential powers and duties that enable:

- Leadership in the biosecurity system;
- Pre-border activities to manage risk offshore;
- Activities at the border to manage risk from incoming craft, passengers and goods;
- Funding arrangements and cost recovery for some areas of biosecurity;
- Surveillance for pests and diseases;
- Timely responses to incursions; and
- Long-term management of pests and diseases that have established in New Zealand.

The Act is now over 25 years old and has only been subject to two substantive amendments, in 1997 and 2012. A comprehensive review has not been undertaken and the amendments to date were limited in scope.

Over the last 25 years, there have been changes in technology, our climate, increased volumes of goods entering New Zealand, greater diversity of places of origin and growing expectations for collaboration and shared responsibility in

the system. These changes have put pressures on the system and the Act, and were not contemplated 25 years ago when the Act was first passed.

There are growing concerns between the regulators and stakeholders over what the biosecurity system should achieve, and how it should operate. Including increasing expectations that the system can achieve a level of protection that eliminates risk, and a belief that any incursion is a failure of the biosecurity system. Internationally, our trading partners have expressed concern with New Zealand's slow response times to market access requests.

2. Purpose of the overhaul of the Act

Given these sustained and increasing pressures on the biosecurity system including a number of recent high profile biosecurity incursions. It is timely to undertake an overhaul of the Act to determine:

- Those parts of the Act that remain effective and fit for purpose;
- Those parts of the Act that require amendment to continue to deliver to the Act's primary objectives; and
- The amendments that are required to ensure the Act provides an effective legal framework for delivery of a biosecurity system that can continue to manage the ongoing risk of pests and diseases to our way of life.

The Ministry for Primary Industries (MPI) will lead a forward-looking and strategic overhaul of the Act. This overhaul will focus on ensuring the regulatory settings are appropriate and the Act remains future focused in light of emerging challenges and opportunities.

This will also involve the development of a sustainable approach to biosecurity funding, including an approach to managing the substantial and unpredictable fiscal impacts of large biosecurity responses like *Mycoplasma bovis*.

Collectively, we want to ensure any changes to the Act provide flexibility to enable future improvements in the system, promote more effective and efficient biosecurity risk management, encourage partnerships in the management of biosecurity, and support the effective operation of the system.

3. Alignment with Government policy objectives

The Government's priorities for New Zealand focus on an economic strategy that aims to improve the wellbeing and living standards of all New Zealanders. This is built on three key platforms:

- Sustainability – protecting our environment and the wellbeing of our communities;
- Inclusivity – supporting our regions to grow and ensuring that all New Zealanders share in the rewards of economic growth; and
- Productivity – efficient production systems that produce and export higher value goods.¹

¹ As outlined in the Government's economic priorities <https://www.beehive.govt.nz/feature/economy-growing-and-working-all-us>

The primary industries play a fundamental role in the nation's economic, environmental, social wellbeing and ongoing prosperity. More than any other developed country, New Zealand relies heavily on the success of its primary sector and the biosecurity system that underpins those industries. Biosecurity also protects our native biodiversity and taonga species which have social and cultural value for all New Zealanders. Our natural heritage and landscapes are some of the key reasons international visitors choose to come to New Zealand, and biosecurity plays an important role in protecting these.

4. Principles for the overhaul of the Act

The process MPI will undertake for the overhaul of the Act will be in accordance with the principles agreed and outlined in the Biosecurity 2025 Direction Statement.

Principles to guide how we work together:

- Everyone has a role to play in biosecurity.
- We learn from our experiences and share those lessons with others.
- Collaborative approaches and wide participation are enabled and encouraged.
- The role of tangata whenua as kaitiaki, and Mātauranga Māori, are recognised and provided for.

Principles to guide decision-making during the overhaul process:

- Decision-making is transparent and takes into consideration cultural, social, economic, and environmental values.
- Decisions are timely, and take account of consequences that may be irreversible.
- Decisions recognise international obligations and commitments, and the need to facilitate safe imports, safe travel, and support assured exports.

5. Scope of the overhaul of the Act

In scope for the overhaul of the Act

Identify areas of the Act that remain fit for purpose and do not require substantive amendment.

Identify areas of the Act that are not working well and require amendment to continue to deliver to the Act's primary objectives.

Develop a fully costed implementation plan for delivery of the amended legislation.

Known issues in scope of this review include:

1. Changes to the primary legislation that are required to clarify or develop:
 - A purpose statement and principles to guide decision-making under the Act;

In confidence

- The relationship between Te Ao Māori and the biosecurity regulatory framework; and
 - Roles and responsibilities across the biosecurity system.
2. Changes to the primary legislation that are required to support:
 - Funding for the biosecurity system;
 - The setting of import requirements;
 - Compliance, enforcement and incentives; and
 - Alignment and streamlining of the Act (including alignment with other legislation and technical amendments).
 3. Changes to the Act to incorporate lessons learned and continuous improvement.

Outside scope for the overhaul of the Act

The scope of this legislative process is limited to changes to the primary legislation.

Additional changes that arise from this reform will form part of a separate and future work programme that addresses:

- The development and delivery of any necessary secondary or tertiary legislation consequent on changes made to the Act; and
- Implementation of operational changes.

6. Approach for the overhaul of the Act

The overhaul of the Act will be led by MPI in close collaboration with all key partners in the biosecurity system. This will include a series of discussions with representatives of Māori, industry, and environmental interests; regional councils, territorial authorities and central government agencies; as well as a formal public consultation process.

Key stages of the overhaul

The overhaul will be undertaken in accordance with the following process:

Stage One – Gathering evidence

MPI will meet with Māori and a wide range of stakeholders, who represent all parts of the biosecurity system. This will allow MPI to gather evidence, test our understanding of key issues and identify a suite of proposed policy reforms to the Act for testing with the wider public.

The purpose of this stage will be to ensure that public consultation is well informed, identifies the correct issues and drives the right conversations when the discussion document is in the public domain.

Stage Two – Testing ideas through public consultation

Consistent with the Biosecurity 2025 principle that New Zealand has a biosecurity team of 4.7m people, public consultation on the proposed changes to the Act will be a critical part of the process.

MPI will travel to regional centres to ensure that the consultation process is as inclusive as possible.

This will include substantive and meaningful engagement with Māori informed by and consistent with the Government's current expectations of Māori engagement.

Stage Three – Refining proposals for legislative change

Post consultation, MPI will collate and analyse feedback from the public as well as affected stakeholders.

During this period we may re-test our ideas with affected stakeholders as our thinking evolves in response to feedback received. By the conclusion of this stage, we will have policy proposals ready for Government consideration.

As part of developing the policy proposals, MPI will undertake an analysis of the costs for implementing any legislative changes.

Stage Four – Legislative change

MPI will work with the Parliamentary Counsel Office to draft a Bill amending aspects of the Biosecurity Act 1993 to reflect policy decisions made by Government.

Once the Bill has been introduced to the House and referred for consideration at Select Committee, all interested and affected stakeholders will have a further opportunity to input into the policy and legislative changes being proposed through the select committee process.

Stage Five – Develop an implementation plan

MPI will work across the system to ensure that it is ready for the legislative changes once these take effect and to identify the resources that will be required to support implementation. As a part of this, we will work with all key stakeholders to ensure that they are aware of the legislative changes that have been made, and understand how these will affect them going forward.