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# Introduction

## Background

The origins of the National Surveillance Pest Plant Initiative ('the initiative') can be traced back to around 1995. It arose from advocacy by the Royal Forest and Bird Protection Society and the Department of Conservation (DoC) relating to the Society's 'Forest Friendly Award' scheme. Under that scheme, the Society encouraged plant merchants to voluntarily agree not to sell or display several environmentally harmful weeds. While the award scheme was relatively successful, its effectiveness was limited because not all merchants would participate.

The initiative in its present form provides a structure within which restrictions against the sale of certain pest plants are coordinated and enforced. Regional councils and unitary authorities ('councils') include a common list of plants as 'pests' in their regional pest management strategies. 'Pest' status enables councils to enforce sections 52 and 53 of the Biosecurity Act 1993 ('the Act'). These make it an offence to sell, propagate, distribute and commercially display 'pests' and 'unwanted organisms'. Authorised persons employed by councils inspect commercial plant nurseries and retail outlets to ascertain the presence of the plants. Councils may provide advice or initiate prosecutions.

The purpose of this paper is to seek submissions on a proposal to continue this initiative and to seek support for a multiparty accord in the future. To get things started, a number of questions have been included throughout the paper. This is not an exhaustive list of issues for discussion, and comments on any aspects of the proposal are welcomed.

The particular species that will be targeted by the initiative are not discussed in this document. At this stage, it is important to focus on the initiative's underlying principles.

## An Invitation

This proposal has been developed in consultation with interested parties, and has support from both the Pest Management Strategy Advisory Committee and the Biosecurity Council. However, for the initiative to work, all stakeholders need to be involved. To that end we invite you to enter a submission.

Submissions must be received by Monday 4 December 2000. Written submissions may be addressed to:

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MAF Biosecurity Authority  
P O Box 2526  
WELLINGTON  
E-mail submissions may be sent to:  
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## Official Information Act

Please note that all submissions are subject to the Official Information Act and can be released, if requested, under that Act.

If you have specific reasons for wanting your submission, or part of it, withheld, please set out the reasons in the submission. MAF will consider these reasons when making any assessment for release of submissions under the Official Information Act.

# Performance of the current initiative

## Benefits of the initiative

The current initiative has delivered significant benefits by encouraging a nationally integrated approach to containing the spread of pest plants. These include:

- Greater consistency between regions with respect to 'pest' status for particular plants.
- Reducing the risk of harmful plants being spread by human activities.
- Reducing the future risks posed by pest plants through an efficient and effective approach.
- More efficient consultation and negotiation between councils and industry regarding the inclusion of plants in a regional pest management strategy.

Another significant benefit of the current initiative is its flexibility. Councils can opt for greater intervention for any of the plants on the list. For example, a council may include the plant in its regional strategy with more stringent controls. Similarly, a government department could intervene with its statutory powers.

## Issues of concern with the current initiative

While the initiative has delivered benefits, there are shortcomings with the present system. Concerns include:

- Inconsistencies between councils with respect to 'pest' status for plants. This could get more pronounced as regional pest management strategy reviews proceed under different timetables.
- Incomplete national coverage. Two councils have not yet made regional plant pest management strategies, and others have not included the complete list of pest plants in their strategies.
- The need to develop a more robust analysis for each plant listed in a pest management strategy in light of sections 72 and 77 of the Act. Amendments to section 72 and the inclusion of appeal provisions may have increased the risk of legal challenge during strategy reviews.



*Question one:  
Have you identified any further problems with the present system?  
Could they be addressed within the framework of the proposal outlined below?*

# Options

## Options for sustaining the initiative

Concerns raised about the future of the initiative are evidence of wide interest and support for it. However, as many councils have commenced their first five-yearly reviews of regional strategies, urgent decisions are required about how best to sustain the initiative.

It is hoped that this widespread interest can be translated into a commitment to develop it in a manner that retains the existing benefits yet addresses its weaknesses.

Five possible future options for the initiative were considered.

### Option 1: Abandon the initiative

#### Advantages

- All risks and responsibilities for surveillance on harmful plants that are not an immediate priority for a council would be avoided.

#### Disadvantages

- Abandonment would undermine a concept with a proven track record and wide support.
- An uncoordinated approach would develop and lead to further national inconsistency in managing the spread of plants.
- The ability to acquire a plant in a region where it is not listed as a 'pest' could significantly undermine another council's enforcement of 'pest' status.

### Option 2: Maintain the status quo

#### Advantages

- Maintains the present benefits of the initiative by relying on councils to include plants on the surveillance list as 'pests' in regional strategies.

#### Disadvantages

- Despite a proven track record, the problems with the current system remain.

### Option 3: Prepare a national pest management strategy for national surveillance pest plants

#### Advantages

- A national pest management strategy under the Biosecurity Act would ensure a nationally consistent and coordinated approach to the plants on the list.

#### Disadvantages

- Developing and maintaining a national strategy is time consuming and costly. This is particularly so as the current national surveillance list includes plants that could harm human health, agricultural production and the environment, and so affects the responsibilities of more than one agency.
- Legal difficulties may be encountered when developing a strategy for such a diverse collection of organisms. For example, satisfying the assessment requirements of sections 57 and 61 of the Act in relation to each plant may prove difficult.

### Option 4: Enforcement by government departments with biosecurity responsibilities

#### Advantages

- Where a plant has been determined as an 'unwanted organism' by a chief technical officer (CTO), government departments may exercise powers under Part VI of the Act without a pest management strategy.

### **Disadvantages**

- This way of enforcing a ban on sale and distribution of surveillance plants would require departments to assume and resource a largely new role for themselves. Councils have already established pest plant surveillance and enforcement mechanisms that have produced significant benefits.

### **Option 5: Enforcement by councils following determination of surveillance plants as 'unwanted organisms'**

#### **Advantages**

- Status as an 'unwanted organism' has the same effect as status a 'pest'. CTOs may assess plants proposed for inclusion on the list and determine whether that plant is an 'unwanted organism'.
- Authorised persons, appointed by CTOs but employed by councils, could enforce sections 52 and 53 of the Act with respect to plants determined as 'unwanted organisms', without having to include the plant in the regional pest management strategy.
- Consistent national coverage.

#### **Disadvantages**

- Some councils may be obliged to search for plants not currently included in their regional pest management strategy.
- Success depends greatly on the co-operation and commitment of all parties.

### **The preferred option**

Option 5 is the most practicable approach. It resolves the central concerns raised about sustaining the initiative. A national list of 'unwanted organisms' ensures the consistency issues with the current initiative are addressed. It also gives the nationwide coverage currently lacking. In addition, the momentum of consultation and cooperation that has developed would be maintained.

We now consider how Option 5 could be put into action.

## **Proposal for action to sustain the initiative (Option 5)**

The preferred approach (Option 5) is for CTOs to consider determining harmful plants as 'unwanted organisms' so that councils may enforce sections 52 and 53 of the Act. For this to work, it will be necessary to establish a way to manage a review of the current 'national surveillance pest plant' list and for proposing and determining future additions or deletions.

A subset of plants declared 'unwanted organisms' could be maintained as a separate 'national surveillance list' ('the list'). The list would be the focus for council attention in terms of enforcing the ban on sale and distribution in accordance with sections 52 and 53.

A formal multiparty accord between relevant government departments and councils could be one way of formalising the arrangement. Such an accord would confirm that costs lie where they fall; and it would provide for a working group to provide advice to support decisions on adding or removing plants from the list.

*Question two:  
Do you support the idea of a  
multiparty accord, and would  
you make a commitment to be  
bound by it?*

# Stakeholder

## Stakeholder roles

*Question three:  
Are you comfortable with the roles  
outlined below?  
Do you see any impediments to  
meeting respective obligations?*

**Key roles and responsibilities for individual parties in developing and implementing the initiative include:**

### Councils

**The success of the initiative rests heavily on maintaining the goodwill of councils and their operational commitment. To ensure complete national coverage, every council must implement the initiative in its region. Implementation includes:**

- Helping develop the multiparty accord and staying committed to it
- Incorporating the plants on the list into routine surveillance and inspection programmes, targeting plant nurseries and retail outlets.
- Having authorised persons employed by councils enforce sections 52 and 53 of the Act in relation to the listed plants and giving directions or exercising general powers (under sections 122 and 114 respectively) in accordance with any appointment and/or instruction issued by a CTO.
- Providing related advisory and information services.
- Submitting annual reports to MAF Biosecurity on activities undertaken in terms of the councils' commitment to the initiative. The report should not be an onerous task and is likely to be in the form of a questionnaire developed by MAF Biosecurity.

**The proposal would involve little more than what is currently being done by councils to implement their pest management strategies. The main areas of difference would be the blanket national coverage, and differences in the way authorised persons are appointed for the enforcement aspects of the initiative.**

### Government departments

**The active involvement of government departments is also pivotal to the success of the initiative. Key departmental activities include:**

- Helping develop the multiparty accord and staying committed to it.
- Helping develop a system to coordinate the appointment of authorised persons by CTOs. Such a system would be necessary to ensure consistent standards for appointees, and to allow for the maintenance of complete records of relevant appointments.
- Advising councils and auditing council service delivery to assist quality assurance.
- Discretionary provision of surveillance, enforcement and advisory and information services in a region where the relevant council has not committed to the initiative. It is however essential to the success of the initiative that all councils support it. This proposal is based on the assumption that complete agreement can be reached.

### MAF Biosecurity Authority

**MAF Biosecurity will take the lead in developing and managing the initiative. In particular it will:**

- Overview the initiative and the process for adding or removing plants from the list.
- Act as secretariat for the working group providing advice to support decisions on adding or removing plants from the list.
- Lead the development and maintenance of the multiparty accord.

- Maintain the unwanted organisms register and a separate subset of unwanted plants as a national surveillance list (most probably in the form of a schedule to the multiparty accord).
- Coordinate identification and information programmes to support the initiative.
- Collate annual reports submitted by councils on their initiative activities.

### Chief technical officers

CTOs appointed by the chief executives of government departments determine whether harmful plants are 'unwanted organisms' in light of the particular responsibilities of their respective departments. Which CTO considers a plant for 'unwanted' status and inclusion on the list will depend upon the actual or potential risk of harm presented by the plant.

The Biosecurity Council requires each government department with biosecurity responsibilities to maintain its own policy statement setting out the criteria by which its CTO determines an organism to be unwanted. The following are examples of harm-related issues that may determine which CTO considers a particular plant:

- harm to pasture or exotic forests (MAF)
- harm to natural habitats and indigenous biodiversity (DoC)
- harm to public health (Ministry of Health)
- harm to marine fisheries (Ministry of Fisheries).

CTOs also consider appointing and issuing instructions to authorised persons employed by councils (see sections 103 and 104 of the Act) that would enable those persons to give directions under section 122 and exercise general powers under section 114 of the Act.

A process and timeframe for council, requests for determining organisms as 'unwanted organisms' has been agreed to by CTOs and endorsed by the Biosecurity Council. For more information, see issue 23 of *Biosecurity* or visit the MAF website at [www.maf.govt.nz/UO](http://www.maf.govt.nz/UO).

### Technical working group

The primary function of the group is to provide a mechanism for councils and other key interest groups to review and prepare comments on proposals to include plants on the national surveillance list. CTOs may also consider species recommended by the group when making their determinations.

Membership of the group is likely to include representatives from:

- MAF Biosecurity Authority
- other government departments with biosecurity responsibilities (Conservation, Health and Fisheries)
- councils
- interest groups (e.g., Nursery and Garden Industry Association, Royal Forest and Bird Protection Society, New Zealand Flower Industry Federation).

*Question four:*  
*Do you have any comments or suggestions about the working group administering the list of plants – how it is made up and how it operates?*

# Other matters

The initiative does not undermine the effectiveness of the Act. For example, 'unwanted organism' status does not preclude the organism being included as a 'pest' in a regional or national strategy. Nor does it preclude additional action by a council or a government department (e.g., by way of a small-scale management programme or the exercise of Part VI or other statutory powers).

This integrated approach, involving multiple stakeholders, may be a valuable model for other national initiatives. For example, assisting with the detection of 'new organisms' (e.g., plants) which are the concern of the Environmental Risk Management Authority under the Hazardous Substances and New Organisms Act 1996.



# Where to

## Where to from here?

Several milestones have been identified in order to progress the proposal to continue the initiative, and a timeframe has been developed for each of these stages. The ultimate goal is to have a revised initiative operating prior to the completion of the first round of regional pest management strategy reviews.

### Submissions

Submissions on this proposal are invited up to 4 December 2000. It is important that your submission indicates your strength of commitment to the principle of a national accord, as this will underpin the future of the initiative.

All submissions will be analysed and considered during December 2000, and will contribute to subsequent stages of development of the proposal.

### Development of a list of unwanted organisms

A technical working group will be convened by MAF Biosecurity to identify the initial list of plants to be covered. This list will be included in a draft accord to be distributed to stakeholders for consideration in January/February 2001 (see below).

### Development of a national accord

A draft National Pest Plant Accord, to be considered by councils and relevant government departments, will be developed after submissions are received. The document, including a proposed list of plants to be covered by the accord, will be distributed for comment in January/February 2001.

Following feedback on the draft, a final accord will be developed for agreement in February/March 2001. A list of plants that will provide the focus of the initiative will be attached as a schedule to the accord. Adoption of the accord would signify a renaming of the initiative as the National Pest Plant Accord.



*Question five:  
Do you have any objections to  
a re-naming of the initiative?  
Suggestions for other names  
are welcome.*

### Implementing the Accord

Relevant CTOs would determine 'unwanted organism' status for the plants contained in the accord schedule and consider the appointment of authorised persons under the Act for surveillance and enforcement purposes. This would be done before completion of the first round of reviews of regional pest management strategies in order to ensure continuity of coverage.

Councils would no longer need to include plants covered by the accord as 'pests' in their strategies as is required under the present initiative. However, they would be free to put additional measures in place in their strategies if desired.