

# Submission

On

**Biosecurity Act 1993 Proposed  
amendments.**

Submission to:

**Biosecurity System Policy team**  
Policy and Trade Branch  
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## Introductory Comments

1. The Forest Owners Association Incorporated (FOA) and the New Zealand Farm Forestry Association (FFA) welcomes the opportunity to provide feedback on the Consultation on the Proposed amendments to the Biosecurity Act.

## Summary

2. The forestry sector recognises the importance of the biosecurity system and the critical role it, and its many participants, play in protecting our natural, urban and rural environments, our people, our culture(s), and our primary industries, as well as new Zealand's natural advantage.
3. We recognise that many of the proposals and amendments are conceptual and still require further work and that the impacts and economic costs on system participants (i.e., primary industries) need to be further assessed and better understood.
4. The review and associated proposals are very wide ranging. We have considered these and where relevant to the interests of the plantation forestry sector we have offered our responses, positions or perspectives relative to each proposal or the associated questions.
5. There are many proposals that we support and agree that these will contribute to the improvement of the biosecurity system.
6. There are, however, other proposals that we do not support. Many appear to be about pushing costs and responsibility away from the lead agency for the biosecurity system, the Ministry for Primary Industries, and onto system participants, and in particular primary industry participants. While we recognise resource constraints are a contributing factor, these are not only impacting on Crown revenue and resource availability.
7. There are some proposals that appear to be circumventing negotiated and agreed partnership agreements and pathways to resolution and others that appear to be giving management agencies, government departments or regionals councils greater flexibility or powers through which to impose or recover costs or impose rules, requirements, or conditions that could potentially have significant impacts on operational activities or land use. We have reflected our opposition to these and included our rationale as to why.

## Submitters

### The Forest Owners Association (FOA)

8. The FOA is the representative membership body for the commercial plantation forest growing industry. FOA members are responsible for the management of approximately 1.2 million of New Zealand's 1.8 million hectares of plantation forests. FOA members account for over 70% of the annual harvest.

### The Farm Forestry Association (FFA)

9. The FFA is the representative membership body for small forest block owners, farmers, foresters, investors, growers and managers, it has a membership of around 1200 with its members owning or managing approximately 100,000 ha across New Zealand. The FFA also ensures that the interests of some 16,000 small forest owners and investors across New Zealand are represented.

### The Plantation Forestry Sector

10. In 2024, the forest growing sector was worth \$5.748 billion in export value, and this is expected to increase to \$5.980 billion in 2024<sup>1</sup> due to a combination of reduced supply and subdued international markets which are not anticipated to rebound. The sector contributes about \$9 billion toward GDP across its wider supply chain. The Ministry for Primary Industries expects forest product export values to exceed \$9 billion by 2030.<sup>2</sup>
11. Plantation forestry is predominantly a commodity market which means that forest owners are price takers. The profits or returns to forest owners are dependent on a variety of factors, *inter alia*, market conditions, supply and demand dynamics, supply chain costs, regulatory compliance costs etc. Ultimately, the growers return is the sale price less all the costs incurred in growing and getting the products to the market.
12. Plantation forests are a unique primary industry sector that contribute significant public benefit through environmental services when compared to other sectors, including, *inter alia*, soil conservation, improving air and water quality, erosion control, carbon sequestration and offsetting emissions, recreational access, contribution to biodiversity and conservation. They also represent feedstocks for current and future environmentally sustainable energy production (i.e., bioenergy) and for high-value products that offer alternatives to those made from fossil fuels. This vital role is only going to increase in the future.
13. The forestry sector also supports the employment of over 40,000 people in rural and urban New Zealand throughout its supply chains.
14. Forestry plays a critical role in the maintenance, sustainability and viability of nationally important infrastructure such as railways and almost every international shipping port across New Zealand.
15. Biosecurity threats have long been appreciated by the forestry sector which has invested in forest health and biosecurity for well over 50 years. It remains the only primary industry sector that has invested in, leads, and maintains a national forest biosecurity surveillance and

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<sup>1</sup> <https://www.mpi.govt.nz/dmsdocument/66648-Situation-and-Outlook-for-Primary-Industries-SOPI-December-2024>

<sup>2</sup> <https://www.mpi.govt.nz/dmsdocument/41319-fit-for-a-better-world-background-analysis-on-export-earnings-in-the-primary-sector>

diagnostics program. It also invests significantly into readiness and response preparedness activities, increasing industry and public awareness and research and development targeted forest health and biosecurity outcomes. The majority of this predated and is delivered outside of the Government Industry Agreement partnership.



Brendan Gould  
Director Biosecurity and Risk

## Feedback

### 1 - Overview

Introduction	
Question 6 - What impacts do you expect to see considered in the full cost-benefit analysis?	<p>The Biosecurity Act review proposals are wide ranging from minor technical amendments to significant changes. All of which will have both foreseen and beneficial and unforeseen and unintended or potentially adverse implications on behaviours, participation, costs, affordability, and operational implications, many of which will be highlighted as part of the consultation process.</p> <p>Many of the proposals seek to shift costs and responsibility away from the Crown or reduce its costs and liabilities and seem to suggest that this is a proxy for the effectiveness and efficiency of the wider biosecurity system. However, as we are well aware and as is stated numerous times in the consultation documents, there are many participants in the biosecurity system and many beneficiaries of its effectiveness, direct and indirect. These costs are being pushed onto other system participants, and in particular primary industry participants and could potentially enable increasing the increase the regulatory burden on primary industries.</p> <p>We believe that the cost benefit analysis should assess the full range of costs for all system participants including beneficiaries and exacerbators and assess the impacts and implications of these at a broader economic scale, not just direct but also indirect, including aspects such as sector viability, different ownership structure and scale, sector contribution to local, regional and national GDP, employment etc. Many sectors operate in commodity markets and as such their growers are price takers which means that costs cannot be passed onto consumers as with other industries or sectors so cost implications can have a significant impact on grower returns and in turn viability. Including targeted case studies would be beneficial to articulate the potential range of impacts, i.e. for forest owners the size and scale of forest ownership has a huge bearing on growers' ability to resource or invest in biosecurity</p>

	<p>initiatives or in fact return a profit at harvest with ever increasing operational and regulatory compliance costs. These nuances need to be understood so that decisions are not based on assumptions or ideology but on evidence.</p>
<p><i>Question 7 - Do you agree with the objectives of the proposed amendments? Please explain in detail.</i></p>	<p>The overarching policy objective of the proposed amendments is to ensure biosecurity measures continue to protect our environment and support our economy. As a secondary objective, we want to provide all users of the Act with a fit-for-purpose toolbox that is complete, effective, efficient and future-proof.</p> <p>If these objectives are delivered, we should see:</p> <ul style="list-style-type: none"> <li>enhanced measures to prevent and manage biosecurity risks – offshore, at the border, and within New Zealand;</li> <li>the right behaviours being incentivised, and improved personal responsibility;</li> <li>fit-for-purpose legislation with reduced compliance costs;</li> <li>appropriate sharing of decision making;</li> <li>the facilitation of trade opportunities.</li> </ul> <p>Yes, we agree with the objectives and the expected outcomes. However, we note there are clear undertones of cost savings for the Crown in many of the proposed changes that will enable costs and responsibility to be devolved away from the Crown and onto system participants, and in particular GIA signatories. While we agree that that everyone has a role to play, we would highlight that the primary industries make a far more significant contribution to biosecurity management in the post border space than almost all other beneficiaries and that because they are willing to engage and contribute to the system they should not be seen as a revenue stream to fund the wider biosecurity system. With regards to incentivising the right behaviours we do not support a one size fits all approach as the abilities, needs as well as the practicality and cost implications will differ significantly for different participants so these need to be nuanced to avoid significant cost or regulatory burden impacts that could impact on the sustainability and viability of sectors and sector participants. We also have a fundamental opposition to with the Biosecurity Act potentially being exploited to enable alternative revenue streams for national or regional government initiatives unless these are agreed to and developed in partnership with those being asked to contribute, or as an alternative mechanism to control or influence land use so consideration needs to be given to ensure that there are safeguards in place to ensure that this cannot occur.</p>

## 2 – System-wide issues

<p><b>Purpose clause in the Biosecurity Act</b></p>	<p>While not fundamentally opposed to the inclusion of a purpose statement, this needs to add value and serve a demonstrable purpose rather than being cosmetic or purely administrative in nature.</p>
<p>Proposal 1 – Insert an overarching purpose clause in the Biosecurity Act</p>	<p>We are largely ambivalent about the need to include a purpose statement. The Act has operated and performed relatively well for 30 or so years without one so we question what need this is addressing and the value it will add other than cosmetic or for administrative consistency purposes but are not opposed to including one if it assists system participants in understanding the purpose and intent of the Act.</p> <p><b>We agree</b> that the statement include reference to:</p> <ul style="list-style-type: none"> <li>A statement about protection.</li> <li>A statement about giving effect to international agreements.</li> <li>Clarification that trade (both imports and exports) is facilitated.</li> <li>Reference to environmental, economic, social, and cultural values so there is a legislative mandate to consider them in decision-making.</li> <li>Clarification that the Biosecurity Act is about effective management of biosecurity risks.</li> </ul> <p>However, we <b>do not support</b> the proposed inclusion of a reference to “...<i>the system being operationally efficient in delivering biosecurity outcomes</i>”. Operational efficiency should not be a legislative requirement as the performance and efficiency of the system is really an operational matter and should be up to the lead agency and other system participants to determine. We question why this was included other than to provide the Crown with a means to reduce public investment on the basis of “efficiency” and would also question who it would be efficient for.</p>
<p>Proposal 2 – Include new purpose clauses, as well as revise existing purpose clauses, for selected parts of the Biosecurity Act</p>	<p>If a purpose statement is to be added, then we would support all purpose statements being reviewed to ensure alignment and consistency.</p>

<p>Question 8 - Do you agree with our preferred approach to progress proposal 2? Why, or why not?</p>	<p>Refer earlier response, we are largely ambivalent about the need to include a purpose statement, but if one is to be included then we would support proposal 2 to ensure alignment and consistency. <b>We do not support</b> including reference to operational efficiency in the purpose statement as we believe that this is an operational and not a legislative matter.</p>
<p>Question 9 - To what extent do you feel that a purpose clause in the Biosecurity Act would help us achieve better biosecurity outcomes?</p>	<p>Refer earlier response, we are largely ambivalent about the need to include a purpose statement, but do see value for those who require this, but we see this as largely an administrative and cosmetic exercise. Including the four core values in the purpose statement would provide greater certainty for some system stakeholders about what the Biosecurity Act is intended to protect, however. Equally, a current system lead agency biosecurity strategy would also achieve this.</p>
<p>Question 10 - What do you think the purpose of the biosecurity system should be? Do you agree with the elements we have set out for proposal one? Is there something that should not be included?</p>	<p>We agree that the statement include reference to:</p> <ul style="list-style-type: none"> <li>• A statement about protection.</li> <li>• A statement about giving effect to international agreements.</li> <li>• Clarification that trade (both imports and exports) is facilitated.</li> <li>• Reference to environmental, economic, social, and cultural values so there is a legislative mandate to consider them in decision-making.</li> <li>• Clarification that the Biosecurity Act is about effective management of biosecurity risks.</li> </ul> <p>However, <b>we do not support</b> the proposed inclusion of a reference to “...the system being operationally efficient in delivering biosecurity outcomes”. Operational efficiency should not be a legislative requirement as the performance and efficiency of the system is really up to lead agency and other system participants to determine. We question why this was included other than to provide the Crown with a means to reduce public investment on the basis of “efficiency” and would also question who it would be efficient for.</p>
<p><b>Ministerial involvement in significant decisions</b></p>	

<p>Proposal 3 - Vest a Minister with a 'call-in' power</p>	<p>We believe that the current requirement of a CTO making technical biosecurity decisions should remain independent of political or social influence to ensure that these are based on risk, scientific and technical advice as well as operational implications of such decisions (<b>Status quo</b>).</p> <p>It would be naive or misleading to assume or state that the Minister for Biosecurity does not already have significant influence on biosecurity decision making. The Minister for Biosecurity and Cabinet already have significant influence on major decisions as Cabinet will ultimately need to approve resourcing for a significant or major response and as such wider considerations can then be given. We would have some concerns that decisions may be unduly influenced by politics or changing social perception rather than technical merits of any proposed response actions. We specifically note the reference to aerial application of treatments which will likely be highly political due to the likely social opposition generated by a small number of vocal critics, regardless of the technical evidence and national benefits behind either the effectiveness or potential impacts or implications of not undertaking treatments in such a situation, or the broader social perspectives.</p> <p>It is unclear what specifically is meant by the term “call in power” and how this is initiated or enacted, this needs to be clearly articulated and defined to avoid misinterpretation. i.e. is this escalated by MPI or is this initiated by the Minister. Either way care would need to be taken that this is an enabler only and that it does not become a barrier to, or deflection from, timely decision making, which is critical for emergency responses.</p> <p>Scale and implications thresholds of either of the two identified sections would need to be clearly articulated to ensure that “ministerial” decision making in such a situation is only required once such a threshold is met. I.e. we would not expect ministerial intervention for small scale application of substances from aircraft in rural settings.</p>
<p>Option 3A - Vest the Minister responsible for the Biosecurity Act with a 'call-in' power</p>	<p>While we do not believe it is necessary, of the two proposals this would be the preferred. We agree that the threshold would need to be high and that the occasion to use such a power should be rare and for specific very high-risk situations only. We also believe that this should be specifically restricted to responses only and no other CTO decision to ensure separation and independence of technical phytosanitary decision making from political non-technical drivers or influence.</p> <p>The current significance test in our view is too broad and wide ranging and also appears to specifically exclude economic implications. Greater specificity is required to ensure that the bar and significance remains very high before such call in powers are/can be utilised. The use of the term “significant” is too open to interpretation.</p>

	<p>If this is to be included then we recommend that there is a clear and documented two-step process 1) CTO Decision and 2) a Ministerial decision that takes account of the CTO decision, to ensure that there is clear accountability and responsibility for any decision taken.</p> <p>There would need to be consideration given to how such a decision would apply within the GIA joint decision making and cost sharing framework.</p>
<p>Option 3B - Vest the Minister of the portfolio the chief technical officer works in with a 'call in' power</p>	
<p><i>Question 11 - Do you agree with our preferred approach to progress option 3A? Why, or why not?</i></p>	<p>We believe that the current requirement of a CTO making technical biosecurity decisions should remain independent of political or social influence to ensure that these are based on risk, scientific and technical advice as well as operational implications of such decisions.</p> <p>The Minister for Biosecurity and Cabinet already have significant influence on major decisions as Cabinet will ultimately need to approve resourcing for a significant or major response and as such wider considerations can then be given. We would have some concerns that decisions may be unduly influenced by politics rather than technical merits of any proposed response actions. We specifically note the reference of aerial application of treatments which will likely be highly political due to the negative social outcry, regardless of the technical evidence behind either the effectiveness or impacts.</p> <p>This proposal highlights the importance of operational readiness plans and response policies for those circumstances that are likely to warrant such ministerial scrutiny so that there is clarity in process, roles and responsibilities, resourcing and risk consideration before such an event occurs. The fact that this is being proposed in our view reflects poor response planning and transparent policy development by BNZ.</p> <p>While we don't believe that it is needed, if this is to be included then we recommend that there is a clear and documented two-step process 1) CTO Decision and 2) a Ministerial decision that takes account of the CTO decision, to ensure that there is clear accountability and responsibility for any decision taken. We also recommend as reflected above that BNZ/MPI develop clear operational response plans and policies to guide decision making for such "rare" situations</p>

	<p>What would the implications be if such a decision was taken that ran counter to a GIA decision noting the potential cost or impact implications of such a decision? We would assume that as such a decision was not made jointly that the Crown would by default assume all costs of either the action or impacts of inaction.</p>
<p><i>Question 12 - Do you agree with the threshold that we have set? Have we missed anything?</i></p>	<p>We agree that a very high bar is required and that such a power is only used by exception or for specifically defined events. The current criteria go some way to provide some threshold descriptions, but these largely describe the same considerations taken by the CTO and the term “significant” is too broad and open to interpretation as to be meaningless as a threshold qualifier. We believe these should be more specific and if a term like “extremely significant” is to be used then it needs to be clearly defined as to this means.</p> <p>The current thresholds state “fiscal risk”, which we assume to be Crown fiscal risk, it does not include “economic risk”. We believe that “economic risk” should be specifically stated alongside environmental and national security risks etc.</p> <p>We recommend that “societal risks” be included as well, we note that the criteria currently include “social and cultural values”, which we agree with, however the Minister should also be considering societal implications more broadly that just values (i.e., jobs, employment, consumer costs, supply chains, infrastructure maintenance etc etc) and we believe that social and cultural values are inherently different to broader societal factors or considerations</p>
<p><i>Question 13 - What factors suggest that a power is better exercised by an elected official? What factors suggest a power is better exercised by a non-elected official?</i></p>	<p>This is a difficult question to answer as decisions have been delegated to CTOs to ensure that decision are technically sound while also considering a wide range of factors, they are not bound to make solely technical decisions. Elected officials can directly influence the decision via the leadership of the organisation or through cabinet decision making. It is our understanding that decisions that meet the threshold proposed are already subject to elected official consideration through cabinet, funding decisions and regular engagement between officials and Ministers.</p> <p>In our view, this proposal highlights the importance of operational readiness plans and response policies for those circumstances that are likely to warrant such ministerial scrutiny so that there is clarity in process, roles and responsibilities, resourcing and risk consideration before such an event occurs. The fact that this is being proposed reflects poor response planning and transparent policy development by BNZ. The forest industry has advocated for improve readiness planning around aerial applications for close to two decades with no tangible progress made by BNZ/MPI detailing how such an event might be rolled out or what consideration might influence decision making.</p>

<p><b>Local knowledge in decision-making</b></p>	
<p>Proposal 4 – Enable local knowledge to inform or guide decision-making in specific parts of the Biosecurity Act</p>	<p>We agree that local knowledge can add value to biosecurity system decision making in some situations, namely where it has local application, and that enabling this to be a consideration in some specific areas would be beneficial. However, the Act does not prevent this from occurring currently so this is really an operational matter, however we note that its inclusion in the Act will ensure that it is considered.</p> <p>We do however wonder if the scope of how this might influence decision making needs to be considered to ensure that local knowledge makes a credible contribution to the decision outcomes without hindering the speed of decision making, especially where urgency is required, or creating delay points or gateways in decision making that can then be exploited. Where consultation is required for decisions this in our view already provides for local knowledge inputs alongside all other consultation inputs.</p> <p>We also recommend that local knowledge in this context be clearly defined to avoid future reinterpretation or misinterpretation of its meaning and purpose.</p>
<p><i>Question 14 - How could local knowledge make decision-making more effective?</i></p>	<p>Local knowledge potentially adds a different perspective to decision making. We agree that local knowledge can add value to biosecurity system decision making in some situations and that enabling this to be a consideration in some specific areas would be beneficial.</p>
<p><i>Question 15 - How could we mitigate the potential delays in the decision-making process where there are differences between local and scientific knowledge?</i></p>	<p>Decision making should not be dependent on any such conflicts. We believe the role, function and expertise of the CTO, as required by the Act currently, should enable them to consider all the relevant and available information that they have to inform their decision at that time, and they should be able to decide based on this. Where there is a conflict in values or scientific or local knowledge, then the CTO will need to be able to make a judgment based on the information that is available at the time and be able to justify and defend their decision as they currently do (or should do). We do not see this being an issue if CTO appointments are based on technical knowledge and expertise. We also note that a large aspect of this will be how the CTO decision making process is implemented and informed by the lead agency, i.e., decision making policies and guidelines.</p> <p>We would also recommend that the term local knowledge be clearly defined to avoid any future miss or reinterpretations of the terms intent or meaning.</p>

<b>Biometric information</b>	
<p>Proposal 5 - Clarify that the collection, use or storage of information (including personal information) includes biometric information</p>	<p>We <b>are ambivalent</b> to this proposal.</p> <p>However, the ability for the biosecurity system to adapt to changing technology, information collection, and analysis is critical to ensure that the system remains effective and efficient. Biometric data is now routinely collected for a wide range of purposes, and we do not see why it should be treated any differently to other personal information.</p>
<p><i>Question 16 - Do you agree with proposal 5? Why, or why not?</i></p>	<p>We <b>are ambivalent</b> to this proposal.</p> <p>However, the ability for the biosecurity system to adapt to changing technology, information collection, and analysis is critical to ensure that the system remains effective and efficient. Biometric data is now routinely collected for a wide range of purposes, and we do not see why it should be treated any differently to other personal information.</p>
<p><i>Question 17 - Are there any additional legislative safeguards that should be included for MPI's use of biometric information?</i></p>	<p>The Government likely already has strict standards in the use of personal and biometric information, including how it is protected, how it is used and how it is shared. This should be treated in the same manner as other personal data.</p>
<b>Enforcement</b>	
<p>6A - Powers of inspectors during searches</p> <p>Proposal 6 - Introduce a power of arrest for obstruction during searches</p>	<p>We are <b>ambivalent</b> about this proposal.</p> <p>However, we note this would represent a significant escalation in the powers of inspectors and we anticipate that it would in turn generate the need for expertise, capability, capacity, training, resources and funding and as such would question how this adds to the effectiveness and efficiency of the biosecurity system in a resource constrained environment.</p>
<p>6B – Border fines for travellers with high-risk goods</p> <p>Proposal 7 - Create an additional infringement penalty for higher risk goods</p>	<p>We <b>support</b> an additional and higher infringement fee for high-risk goods as proposed as long as it can be applied efficiently at the border. We also believe that high risk goods should include plants, parts of plants, and plant products (i.e. seeds, leaves, needles, wood etc), and soil (on shoes, sporting equipment such as golf equipment etc), and not just meat and fruit.</p>

	<p>However, we do question if this is intended as a deterrent or as a revenue gathering exercise. Does MPI have evidence that supports that implementing a higher infringement notice for high-risk goods will drive the right behaviours. We recommend that any changes and or increases should be evidence based.</p>
<p><i>Question 19 - Do you prefer a blanket approach to infringements for erroneous declarations at the border, or a scaled approach?</i></p>	<p>We support a scaled approach</p>
<p><i>Question 20 - Do you think the infringement fee in this proposal is set at the right level?</i></p>	<p>Yes, however as noted above the implementation of such a significant change should be based on evidence that this will drive the desired behaviour change.</p>
<p>6C – Regional council access to infringement offences for pest and pathway management plans</p> <p>Proposal 8 – Introduce the ability for regional councils to establish infringement offences in regional pest management plans</p>	<p>We <b>do not support</b> this proposal</p> <p>It is unclear why the Status quo is not being utilised for this purpose now, neither the proposal document nor the RIS clearly outline why the status quo is a barrier or issue.</p> <p>If this is to be implemented, we recommend that MPI should have final signoff, and not just be consulted, to approve any such infringement offence to ensure that they operate at and are applied to nationally accepted standards and objectives to avoid their misuse, inconsistent applications or their used as revenue gathering or non-biosecurity punitive measures. There would also need to be a clear dispute resolution process that could be followed by members of the public if they challenge the merits or legitimacy of any infringement penalties.</p> <p>Some councils have unfortunately demonstrated recently that they will exploit the lack of clarity in regulations or legislation to gather revenue from a range of situations (i.e. applying differential rates to different land use types). As such introducing such powers should require national oversight and sign off as well as a disputes process to ensure that this mechanism is not used vexatiously or for purposes that do not directly and clearly progress national or regionally significant pest management initiatives</p> <p>We believe that the threshold should be high to ensure that this is justifiable and cannot be misused</p>

<p><i>Question 21 - Do you agree with our preferred approach to progress proposal 8? Why, or why not?</i></p>	<p>No, there is insufficient detail provided in the consultation document to inform the merits of this proposed approach.</p>
<p><i>Question 22 - Do you think councils should have the ability to designate infringements for pest and pathway management plans? Why, or why not?</i></p>	<p>We support the status quo with a two-stage process but that the amendment process be made more efficient. This will ensure that the lead agency for the biosecurity system retains accountability and oversight of how infringement offences are set and enforced to ensure consistency</p>
<p><i>Question 23 - Do you think the proposed infringement fee is set at the right level? Why, or why not?</i></p>	
<p><i>Question 24 - Do you think the safeguard requiring MPI consultation is sufficient? Why, or why not?</i></p>	<p>No, we believe that consultation is insufficient, rather MPI should be consulted and have a CTO approval sign off function to ensure national consistency in infringement setting and enforcement.</p> <p>We believe that there needs to be a clear disputes process that is overseen jointly by MPI and Councils to ensure consistent application of infringements nationally and to ensure that there is oversight of, and clear accountability by councils on how and where infringements are applied.</p>
<p><i>Question 25 - Do you think the proposed criteria for regional councils to follow when setting an infringement are sufficient? Why, or why not?</i></p>	<p><b>No</b>, we believe that there needs to be a criterion that states that the Councils have clearly documented evidence of prior attempts (voluntary, assisted and directed compliance) to correct the action for which they intend to issue any infringement notices (as a lower bar enforcement action). This will ensure that the intent behind infringement notices is about enabling positive behaviour change and penalising recidivist or immovable behaviour and not revenue gathering, vexatious intent, or just ease of application.</p>
<p><b>6D – Enhancing compliance options for breach of a Controlled Area Notice</b></p>	

Proposal 9 - Amend an existing offence, establish a new offence and corresponding infringement	We <b>support</b> this proposal, overall having three levels of offending in breach of CANs would enhance the effectiveness of their application for incursion response management.
<i>Question 26 - Do you agree with our preferred approach to progress proposal 9? Why, or why not?</i>	We <b>support</b> this proposal, overall having three levels of offending in breach of CANs would enhance the effectiveness of their application for incursion response management.
<i>Question 27 - Do you think compliance officers enforcing Controlled Area Notices should be able to issue an infringement against an individual breaching a rule in a Notice?</i>	Yes, for low level offending, while medium and serious offending this should progress as per the existing process.
<i>Question 28 - Do you think the infringement fee in this proposal is set at the right level?</i>	Yes, a \$400 (individuals) and \$800 (corporations) infringement fee for low level offending is likely at the right level to enable behaviour change and awareness of the importance of CANS and the seriousness of the implications of breaching these.  Consideration should be given to enabling some degree of leniency to address some situations where the competence of an offender might mean they do not comprehend the requirements of a CAN, such as dementia, or other diagnosed mental illnesses or impairments.
<b>6E – Stronger compliance options at PoFAs</b>	
Proposal 10 - Enable pecuniary penalties for breaches of PoFA requirements	We support a change from the status quo but are ambivalent about the two proposal options. Given the incentives relative to the costs of breaching POFA conditions/requirements are so offset under the status quo, either of the proposed changes would likely ensure that the benefits vs costs of “gaming the system” would likely have greater influence on improved compliance. This would in turn reduce the biosecurity risk exposure at what is a primary point of entry for biosecurity threats into New Zealand.
Proposal 11 - Create a new offence for breaching PoFA conditions of	As above

approval with a fine of up to \$200,000 and a continuing penalty of \$10,000 each day	
<i>Question 29 - To what extent are these proposals likely to incentivise better compliance?</i>	Given the incentives relative to the costs of breaching POFA conditions/requirements are so offset under the status quo, either of the proposed changes would likely ensure that the benefits vs costs of “gaming the system” would likely have greater influence on improved compliance. This would in turn reduce the biosecurity risk exposure at what is a primary point of entry for biosecurity threats into New Zealand.
<i>Question 30 - What alternative tools could be used to incentivise compliance?</i>	POFAs that breach their POFA conditions could be required to pay a contribution towards the exacerbator share of any GIA or any other biosecurity responses?
<b>6F – Arrest powers for Police (minor and technical)</b>	
Proposal 12 - Clarify arrest powers of police officers (or authorised biosecurity officers pending current proposal)	NA
<b>Sentencing</b>	
Proposal 13 - Introduce sentencing guidance into the Biosecurity Act	
<i>Question 31 - Do you agree with our preferred approach to progress proposal 13? Why, or why not?</i>	Yes, <b>we support</b> sentencing guidance to provide greater consistency, clarity and transparency in sentencing decision making.
<i>Question 32 - What advantages and disadvantages might there be in</i>	We believe that it would provide greater consistency, clarity and transparency in sentencing decision making

<p><i>including sentencing guidelines in the Biosecurity Act?</i></p>	
<p><i>Question 33 - What specific considerations relevant to the biosecurity system do you think should be given weight in sentencing decisions?</i></p>	<p>Intentional actions and the seriousness of the potential implications of the risks associated with these actions should form a component of the consequences that apply.</p>

### 3 – Funding and Compensation

<p><b>Funding the Biosecurity System</b></p>	<p>We note that the consultation document places a heavy emphasis on Crown funding and the role of the Crown in the biosecurity system but fails to recognise the significant role that primary industries, and other participants play in the system, and the investment and co-investment that the primary industries make within the biosecurity system, both within and external to GIA.</p> <p>Unfortunately, this proposal appears to be largely focused on how MPI can recover, circumvent, or reduce its costs as the lead agency and primary participant in the Biosecurity System with little recognition or regard for the costs or contributions of others in the biosecurity system.</p> <p>We also note that the document fails to acknowledge the very significant costs that are imposed upon, and incurred by, the primary industries to manage contemporary and historic biosecurity issues that have established in NZ. Nor does it recognise that the vast majority of biosecurity incursions are the direct result of border biosecurity breaches or failures.</p> <p>“Funding the Biosecurity System through the Government Industry Agreement”. The GIA was never intended to be a mechanism to fund the biosecurity system, so this turn of phrase is disappointing and can only be read by us as a clear signal of MPI’s ultimate intent for GIA. GIA was always about achieving better biosecurity outcomes through joint decision making and making better use of collective resources and expertise. The cost sharing for readiness and response activities ensured that industry signalled its actual and highest priorities through having “skin in the game” and that these informed and influenced decision making.</p> <p>We also wish to highlight that there are many participants, beneficiaries and exacerbator within the biosecurity system. GIA represents a framework through which one small group of engaged participants/beneficiaries has proactively worked with MPI to develop and implement a framework to enable improved engagement and partnership with the Crown and improve biosecurity outcomes for that group. GIA does not underpin the whole biosecurity system nor is it a mechanism through which the Crown should be seeking to fund the biosecurity system.</p>
<p><b>Funding and the GIA</b></p>	
<p><b>Cost-Shares in the GIA</b></p>	

Proposal 14 – Amending cost sharing in the GIA

We **do not support** either of the options proposed. The Forestry sector, along with other primary industry sectors, negotiated the terms and conditions of GIA and the GIA deed with the Crown through MPI in good faith. We see these proposals as a direct attempt to circumvent the negotiated and agreed terms and conditions outside of the GIA Deed its operating principles.

Prior to GIA the Crown covered all readiness and response costs and the primary industries were stakeholders. GIA was never intended to be a mechanism to fund the biosecurity system, it was first and foremost a partnership framework to enable primary industry sectors to actively participate in decision making for, and implementation of, readiness and response activities that impacted their respective sectors. In doing so, and to ensure effective prioritisation in such decision-making, primary industry signatories agreed to a proportional share of the associated costs of such decisions and agreed activities.

This agreement was very clearly on the basis that those creating the risks (exacerbators) should contribute toward the preparedness and response costs of the risks that their activities were creating and subsequently imposing on the primary industry sectors. MPI and prospective signatories negotiated and agreed that a 20% exacerbator share was appropriate.

Signatories, including the forestry sector, subsequently sought mandate from their membership based on the terms and conditions that were negotiated. This proposal is inconsistent with the terms and conditions upon which mandate was sought. We would not support any proposal that seeks to circumvent these negotiated terms and conditions as this proposal appears to be attempting to do.

Section 4.3 of the GIA Deed already allows for review of any aspect of the deed at any time or at least every five years and would ensure that this is undertaken in the spirit of partnership and in accordance with the Principles for the Signatories to work in partnership (Section 2.2) that all signatories agreed to.

We wish to highlight that costs are not only increasing for the Crown but are significantly impacting on industry operational costs, and regulatory and compliance costs are increasing significantly.

We were somewhat perplexed with the statement in the RIS that states “*It may not be equitable for the Crown to continue meeting the exacerbator fee*”. We do not believe that it is equitable for signatories to incur the externality costs created by exacerbators either which is the key driver behind the exacerbator fee which MPI agreed to. Nor do

	<p>we believe that it is equitable or fair for signatories to incur the costs arising from MPI's inability to recover costs from exacerbators.</p>
<p>Option 14a – mandating a periodic review of the cost-shares in the GIA deed</p>	<p>We <b>do not support</b> this proposal option. The Forestry sector, along with other primary industry sectors, negotiated the terms and conditions of GIA and the GIA deed with the Crown through MPI in good faith.</p> <p>Prior to GIA the Crown covered all readiness and response costs and the primary industries were stakeholders. GIA was never intended to be a mechanism to fund the biosecurity system, it was first and foremost a partnership framework to enable primary industry sectors to actively participate in decision making for, and implementation of, readiness and response activities that impacted their respective sectors. In doing so, and to ensure effective prioritisation in such decision-making, primary industry signatories agreed to a proportional share of the associated costs of such decisions and agreed activities.</p> <p>This agreement was very clearly on the basis that those creating the risks (exacerbators) should contribute toward the preparedness and response costs of the risks that their activities were creating and subsequently imposing on the primary industry sectors. MPI and prospective signatories negotiated and agreed that a 20% exacerbator share was appropriate.</p> <p>Signatories, including the forestry sector, subsequently sought mandate from their membership based on the terms and conditions that were negotiated. This proposal is inconsistent with the terms and conditions upon which mandate was sought. We would not support any proposal that seeks to circumvent these negotiated terms and conditions as this proposal appears to be attempting to do.</p> <p>Section 4.3 of the GIA Deed already allows for review of any aspect of the deed at any time or at least every five years and would ensure that this is undertaken in the spirit of partnership and in accordance with the Principles for the Signatories to work in partnership (Section 2.2) that all signatories agreed to.</p>
<p>Option 14B - Set out a cost-share framework in legislation to guide cost-share arrangements with GIA partners</p>	<p>We <b>do not support</b> this proposal option. The Forestry sector, along with other primary industry sectors, negotiated the terms and conditions of GIA and the GIA deed with the Crown through MPI in good faith.</p> <p>Prior to GIA the Crown covered all readiness and response costs and the primary industries were stakeholders. GIA was never intended to be a mechanism to fund the biosecurity system, it was first and foremost a partnership framework to enable primary industry sectors to actively participate in decision making for, and implementation of, readiness and response activities that impacted their respective sectors. In doing so, and to ensure effective</p>

	<p>prioritisation in such decision-making, primary industry signatories agreed to a proportional share of the associated costs of such decisions and agreed activities.</p> <p>This agreement was very clearly on the basis that those creating the risks (exacerbators) should contribute toward the preparedness and response costs of the risks that their activities were creating and subsequently imposing on the primary industry sectors. MPI and prospective signatories negotiated and agreed that a 20% exacerbator share was appropriate.</p> <p>The mechanisms for determining and agreeing cost shares have been negotiated and agreed and are already detailed within the Deed. While we see some benefit in providing some basic guidance for setting cost shares, we do not believe the Act is the right place to provide guidance and that it would be better and more appropriately delivered under the GIA framework as an operational rule or cost share guidance that is then agreed to by signatories as per the principles of the Deed.</p> <p>Signatories, including the forestry sector, sought mandate from their membership based on the terms and conditions that were negotiated. If the proposed framework conflicts in any way with these (namely the 50% industry cap, or the 20% exacerbator share) without signatory agreement, this would represent a significant variation to the Deed terms and conditions and would likely have significant implications for the ongoing viability of the GIA as a partnership.</p>
<p><i>Question 34 - Do you agree with our preferred approach to progress option 14B? Why, or why not?</i></p>	<p>We <b>do not support</b> this proposal option. The Forestry sector, along with other primary industry sectors, negotiated the terms and conditions of GIA and the GIA deed with the Crown through MPI in good faith.</p> <p>Prior to GIA the Crown covered all readiness and response costs and the primary industries were stakeholders. GIA was never intended to be a mechanism to fund the biosecurity system, it was first and foremost a partnership framework to enable primary industry sectors to actively participate in decision making for, and implementation of, readiness and response activities that impacted their respective sectors. In doing so, and to ensure effective prioritisation in such decision-making, primary industry signatories agreed to a proportional share of the associated costs of such decisions and agreed activities.</p> <p>This agreement was very clearly on the basis that those creating the risks (exacerbators) should contribute toward the preparedness and response costs of the risks that their activities were creating and subsequently imposing on</p>

	<p>the primary industry sectors. MPI and prospective signatories negotiated and agreed that a 20% exacerbator share was appropriate.</p> <p>The mechanisms for determining and agreeing cost shares have been negotiated and agreed and are already detailed within the Deed. We do not believe the Act is the right place to provide guidance for what is a mutually developed and agreed partnership agreement and that it would be better and more appropriately delivered under the GIA framework as an operational rule or cost share guidance that is then agreed to by signatories as per the principles of the Deed.</p> <p>Signatories, including the forestry sector, sought mandate from their membership based on the terms and conditions that were negotiated. If the proposed framework conflicts in any way with these (namely the 50% industry cap, or the 20% exacerbator share) without signatory agreement, this would represent a significant variation to the Deed terms and conditions and would likely have significant implications for the ongoing viability of the GIA as a partnership.</p>
<p><i>Question 35 - What benefits do you see with having a cost share framework in legislation? Do you think this should be set out in the Biosecurity Act or in regulations?</i></p>	<p>We <b>see no benefit</b> of including these in either the legislation or regulations. We see this only as a means for the Crown to circumvent the terms and conditions upon which the GIA Deed and partnership was based upon and which signatories and Crown agreed to. Signatories sought mandate on the agreed terms and conditions (including the cost share framework) which are already captured in the deed and any changes to these run the real risk of impacting on GIA signatory membership</p>
<p><i>Question 36 - How do you think having a cost share framework might impact the GIA Deed? What impacts do you think it might have on GIA negotiations and reconfirming the GIA Deed?</i></p>	<p>Signatories, including the forestry sector, sought mandate from their membership based on the terms and conditions that were negotiated and are reflected in the Deed. If the proposed framework conflicts in any way with these (namely the 50% industry cap, or the 20% exacerbator share) without signatory agreement, this will represent a significant variation to the Deed terms and conditions and would likely have significant implications for the ongoing viability of the GIA as a partnership.</p>
<p><i>Question 37 - What risks do you see with adopting this approach? How will it impact on your participation in the GIA? How would it affect your business?</i></p>	<p>We believe that these proposals would represent a material change to the terms and conditions under which we sought mandate from our members to join GIA.</p> <p>The operating, fiscal and regulatory environment that primary industries operate in now are significantly different to those that existed when the Deed was developed and signed by many signatories. Operating and regulatory compliance costs have escalated exponentially, national and regional government agencies are actively seeking to</p>

	<p>push costs onto or recover costs from primary industries to address their own fiscal constraints and are imposing numerous regulatory constraints and requirements on operational activities. Operating costs have increased significantly and returns and profits have decreased significantly. Collectively these are impacting on the profitability and in many cases the viability of many sectors.</p> <p>We believe that getting or maintaining mandate now under the existing market conditions, regulatory and cost constraints would be uncertain and extremely challenging at best.</p> <p>We also see a significant risk that the excellent relationship that GIA framework has enabled between the Crown and signatories and the credibility of the Crown as a trusted partner would be eroded if this progresses outside of the agreed principles of GIA.</p>
<p><b>Cost Recovery from Non-Signatory Beneficiaries of the GIA</b></p>	<p>We <b>fully support</b> the need for NSB's to contribute their share toward the readiness and response activities that they directly benefit from.</p> <p>We also wish to highlight that there are some significantly sized NSB's that have emerged and expanded in recent years as a direct result of Government Policy. Carbon forestry (both exotic and native) is in our view a significantly sized NSB as they benefit from the carbon credits that they earn from their trees. These trees are protected by the investment made from the plantation forestry sector but are not currently contributing towards GIA activities from which they directly benefit.</p>
<p>Option 15A – Levy non-signatory beneficiaries to build an up-front fund</p>	<p>While we are largely ambivalent about how these costs are recovered, we consider the upfront collection of levies to be far more complex, administratively costly and have a lot more uncertainty, than levying after a response – or readiness activity. Effective funding will be collected in a vacuum in terms of the knowledge of how this will be used in the future, it will incur administrative and management costs which will no doubt be recovered from these NSB's, which we see as highly inefficient. Systems and processes will need to be developed to ensure that each NSB's funding can be traced and accounted for to ensure that it is only used for activities for which those sectors are beneficiaries.</p>
<p>Option 15B – Levying non-signatory beneficiaries after a response to recover costs</p>	<p>We <b>prefer this</b> option as it would be the most efficient to implement, the values collected would be largely known or could be adjusted if and as required and administrative costs would be limited to when activities occur and applied to the contributions of those NSBs that are charged.</p>

<p><i>Question 38 - For industry readers, how would the options impact your business? For other readers, how would the options affect balance/fairness in cost recovery?</i></p>	<p>NSB contributions would likely form a significant contribution toward existing readiness and future response costs. This would enable any freed-up levy funding resources to be applied toward further improving the state of forest biosecurity readiness.</p>
<p><i>Question 39 - If you are a GIA partner, which option do you think is better aligned with the existing GIA cost share arrangement? What benefits do you see with the options?</i></p>	<p>We believe that 15B is the most closely aligned with existing GIA cost share arrangements and would be the most efficient (in both time and resourcing) to implement. Note comments above relating to each of the options.</p>
<p><b>Compensation</b></p>	
<p>Proposal 16 - Refining how non-compliance would make a person ineligible for compensation</p>	<p>We <b>do not support</b> this. We understand the intent behind this proposal, namely, to penalise non-compliance. We agree that where there is an egregious and deliberate attempt to not-comply or circumvent the rules then there should be some of penalty. However, a punitive punishment like ineligibility for compensation is highly likely to exacerbate the issue that compensation is looking to address. There will always be a spectrum of compliance and while ineligibility looks good at face value, it will likely push poor intransigent performers to bury or hide issues.</p> <p>A key driver behind compensation is to ensure that someone can report a pest of pathogen knowing that they will not be financially worse off for doing so regardless of their situation or “performance” or “perceived compliance”. Creating the spectre or uncertainty that a reporter, person, company etc may not be eligible for compensation will very likely ensure that they look after their own interests before any altruistic (or good biosecurity) behaviour such as reporting – probably the key driver for compensation. This may in fact create a disincentive to be pro-active or engage in biosecurity risks management as the potential risks to them of not getting it right become unacceptable.</p> <p>This may be able to be addressed in a more targeted way that is specific to each response (by response governance) or management plan (by the Minister) so that any such situation is contained to that specific need or situation and that the required behaviours and repercussion specific to that situation can be well communicated but ring fenced for that particular event/situation.</p>

	<p>Many of the proposed compensation improvements appear to be predicated on incursions and associated compensable activities predominantly occurring in a contained production environment. While we acknowledge that many will, we believe that this is an incorrect assumption that potentially biases the proposed improvements – at least this is how we have read the proposal and supporting information. For forestry, we anticipate that the vast majority (but not all) of detections and subsequent responses would occur in populated and urban centres and away from plantation forests so the behaviour of forest owners or managers would be largely immaterial to any compensation decisions.</p> <p>National surveillance efforts (including MPIs high risk site surveillance programme and the forestry sectors Forest Biosecurity Surveillance Programme and Non-model allocated Surveillance Programme) take a risk-based approach meaning that the majority if not all surveillance effort is targeted within these high-risk urban centres. Given the population densities these are also the areas where general surveillance (or public reporting) is highest and most likely to detect suspected new incursions.</p> <p>Further, as forests are long rotation crops, interactions with forests are not frequent except at establishment, thinning and harvest each of which is several years apart. Many forests are open to the public, many are mandated to have public access which presents a unique risk as forest owners have little to no ability to influence behaviours which represent the highest exposure risk.</p> <p>We therefore strongly advocate for flexibility and the ability to vary compensation requirements to suit the situation.</p>
<p>Proposal 17 - Enabling more detailed compensation entitlements and requirements via regulations</p>	<p>We <b>do not support</b> this. While this approach may have merit in some situations (i.e. FMD) where the detail is well known and predictable, we do not see this as being universally practical to develop and maintain for the range of responses, situations, sectors, impacted parties, nature of the impacts etc. It would also have spatial and temporal considerations and market influences that would add further complexity and uncertainty. We do not see this being practical or workable in the forestry context.</p>
<p>Proposal 18 - Removing restrictions on the ability to vary compensation and enable upfront payment of future losses that have not yet been incurred</p>	<p>We <b>support</b> this proposal as it would improve flexibility, and enable earlier payment for faster recovery</p>

<p>Proposal 19 - Codify the operational dispute resolution process</p>	<p>We <b>support</b> codifying the proposed resolution process</p>
<p><i>Question 40 - Do you agree with our preferred approach to progress proposals 16, 17, and 18? Why, or why not?</i></p>	<p>Not in their entirety no, we <b>do not support 16 and 17</b> as proposed but <b>we do support</b> 18 and 19.</p> <p>16 - We understand the intent behind this proposal, namely, to penalise non-compliance. We agree that where there is an egregious and deliberate attempt to not-comply or circumvent the rules then there should be some of penalty. However, a punitive punishment like ineligibility for compensation is highly likely to exacerbate the issue that compensation is looking to address. There will always be a spectrum of compliance and while ineligibility looks good at face value, it will likely push poor intransigent performers to bury or hide issues.</p> <p>A key driver behind compensation is to ensure that someone can report a pest of pathogen knowing that they will not be financially worse off for doing so regardless of their situation or “performance” or “perceived compliance”. Creating the spectre or uncertainty that a reporter, person, company etc may not be eligible for compensation will very likely ensure that they look after their own interests before any altruistic (or good biosecurity (behaviour. This may in fact create a disincentive to be pro-active or engage in biosecurity risks management as the potential risks to them of not getting it right become unacceptable.</p> <p>This may be able to be addressed in a more targeted way that is specific to each response (by response governance) or management plan (by the Minister) so that any such situation is contained to that specific need or situation and that the required behaviours and repercussion specific to that situation can be well communicated but ring fenced to that particular event/situation.</p> <p>17 - We <b>do not support</b> this. While this approach may have merit in some situations (i.e. FMD) where the detail is well known and predictable, we do not see this as being universally practical to develop and maintain for the range of responses, situations, sectors, impacted parties, nature of the impacts etc. It would also have spatial and temporal considerations and market influences that would add further complexity and uncertainty. We do not see this being practical or workable in the forestry context.</p>

<p><i>Question 41 - Do you agree with our proposed definition of biosecurity law? Is there anything we should include or should be taken out?</i></p>	<p><b>In part, we support</b> direct biosecurity legislation that has direct biosecurity outcomes such as the NAIT Act 2012 and other legislated systems, however the latter needs to be specific and not a general refence that leaves this open to interpretation.</p> <p>We do not agree with the inclusion of “other biosecurity requirements (for example, resource consents that set out a condition requiring a biosecurity management plan”. This is too broad and nonspecific and presents a significant risk that anything that has any item with a biosecurity reference could be included and that this could be misused or misapplied. We believe that the threshold for inclusion should be high at the legislation or regulation level and incorporate specific biosecurity or biosecurity related legislation and plans or requirements that are enacted under the Biosecurity Act. We do not support Biosecurity Management Plans under the RMA as these should be addressed under the RMA and not the Biosecurity Act.</p>
<p><i>Question 42 - Do you think our proposed suite of changes (proposals 16-19) are adaptable enough to cater to different situations and scenarios? Can you think of any situation where the options in this suite may be inadequate?</i></p>	<p>16-17 – No, refer to specific comments for these proposals</p> <p>18-19 - Yes</p>
<p><i>Question 43 - When considering compensation, how much value should be placed on certainty of compensation payments versus the flexibility of the compensation scheme?</i></p>	<p>There needs to be a balance between certainty and flexibility. No response will be the same and the circumstances, those affected and impacted, and the resulting compensation requirement will always need to be flexible and adaptable. We believe that maintaining flexibility as a key element of compensation is critical.</p>
<p><i>Question 44 - Is there anything else you would like to provide comments on regarding</i></p>	<p>GIA Deed Principle 2.2.3 states “Partnership between Signatories will involve <b>joint decision-making</b> and <b>cost-sharing</b> for biosecurity readiness and response activities.” It appears that compensation decision making is an MPI</p>

<i>improvements to the compensation scheme?</i>	decision and is not subject to joint decision and as such it is unclear to us why this is considered a cost shared activity under GIA and whether it is appropriate for cost sharing under this partnership arrangement.
<i>Question 45 - What impact would proposal 19 have on dispute resolution?</i>	This would provide greater clarification and transparency of the dispute resolution process.
Proposal 20 – Stating which types of losses are and are not compensable, including removing some or all consequential losses from compensation	<p>While we support the need for greater clarification of generally what types of losses are compensable and what are not, we believe the diversity of situations and responses means that there must be flexibility and the ability to vary how compensation is applied, and that restricting it based on a few response experiences, regardless of how complex they were, is insufficient justification to make changes that could impact on future compensation needs and objectives or situations for future responses or actions for other impacted parties.</p> <p>At this stage <b>we do not support</b> the proposed options, and <b>we do not support</b> consequential losses being ineligible.</p> <p>We <b>do not support</b> putting arbitrary time frames on compensation claims as these very clearly do not account the significant variations in how different primary industry sectors operate or where and how costs and liabilities are incurred in their respective operations. For instance, radiata pine generally has a 25–30-year rotational cycle and almost all planting harvesting or silvicultural activities have significant planning and lead in time for contractors, supply chains and logistics, these can be several years in advance. Following harvest, or tree removal several years of fallowing, land preparation and reestablishment is required and the associated costs that go along with these. These in turn will vary depending on the forest owner, their scale and ability secure or break such service agreements. Flexibility to suit the situation, circumstance is imperative.</p> <p>We <b>would however support</b> the ability to determine the nature of, or vary, the contingent liability that is compensable to suit the objectives and circumstance of any specific response or activity (i.e., national pest management or pathway plan), to ensure that it contributes to the objectives of that response or activity and enables affected parties (where this is set by the respective response (through joint decision making) or activities) to be able to seek compensation for consequential losses. This will allow for variations to suit each unique situation. Affordability and fiscal caps for responses would be a key factor that would need to be considered.</p>

<p>Option 20A: only income and professional fees are eligible for compensation.</p>	<p>We <b>do not support</b> this proposed option and believe that there should be flexibility and the ability to vary compensation requirements to suit the situation.</p>
<p>Option 20B: all consequential losses are eligible for compensation for the first year a producer is affected. By setting a time limit on compensation eligibility the affordability and long-term sustainability of the scheme is supported. It may also encourage producers to improve biosecurity management and personal accountability.</p>	<p>We <b>do not support</b> putting arbitrary time frames on compensation claims as these very clearly do not account the significant variations in how different primary industry sectors operate or where and how costs and liabilities are incurred in their respective operations.</p>
<p>Option 20C: all consequential losses are eligible for compensation for the first six months a producer is affected. Similar to option 20B, this would place a time limit on compensable losses and may encourage better biosecurity management behaviours.</p>	<p>We <b>do not support</b> putting arbitrary time frames on compensation claims as these very clearly do not account the significant variations in how different primary industry sectors operate or where and how costs and liabilities are incurred in their respective operations.</p>
<p>Option 20D: only professional fees are eligible for compensation.</p>	<p>We <b>do not support</b> this proposed option and believe that there should be flexibility and the ability to vary compensation requirements to suit the situation.</p>

<p>Option 20E: no consequential losses are eligible for compensation. Similar to option 20D, this option will likely impact on people’s behaviour. Both these options would make the compensation scheme more efficient by making claims simpler to assess and make the law clearer.</p>	<p>We <b>do not support</b> this proposed option and believe that there should be flexibility and the ability to vary compensation requirements to suit the situation.</p>
<p><i>Question 46 - How do you currently protect against loss?</i></p>	<p>This is highly variable between and across forest owners and managers. In general, some have insurance although this is specific to certain risk events such as fire and windthrow and not biosecurity. The cost of insurance at the spatial and temporal scale that forestry operates means that this is largely not viable, and scale and premiums are frequently prohibitive. We estimate that approx. 35% of small forest owners and approx. 39% of large owners/managers have standing crop insurance. This does not include biosecurity risk. Some self-insure in that they invest in their own risk management capability and capacity, such as fire, where some forest owners that have sufficient scale maintain their own fire fighting capability and a “hit it hard hit it fast” strategy. This capability supplements FENZ rural firefighting capacity (so provides a significant public good).</p> <p>Many large forest owners also have the ability to spread their risk across forest estates throughout New Zealand and abroad. This is unfortunately not an option for the approx., 16,000 small forest owners and investors.</p> <p>The forest industry has long invested in forest health and biosecurity readiness, in fact this investment, capability and capacity predates GIA by some 60 years. It remains the only primary industry GIA signatory member that invests in its own national biosecurity surveillance programme, and it also invests in and maintains access to technical and operational response capability and capacity. The industries approach to biosecurity risk management and readiness, particularly surveillance for early detection represents is primary protection against a biosecurity or new forest health issues with the objective of maximising the opportunity to prevent newly arrived pests or pathogens from establishing in in plantation forests, through early detection.</p>

<p><i>Question 47 - If compensation was limited, what alternative would you use to protect yourself or your business?</i></p>	<p>We do not believe that compensation is a significant factor in forest owners risk management consideration. Ultimately compensation is about enabling early reporting with minimal risk that the reporter will be unduly penalised financially for doing so. We suspect that unless forests are relatively small or isolated that response activities for pests established in a plantation forest (depending on the feasibility of control and eradication options) will likely be limited in their scale and as such compensation will be limited. The implications will also vary depending on the forest owner, their scale, financing arrangements and liability as well as the age of the forest, i.e. mature forests can potentially recover costs through early harvest, while younger immature forests have little to no value but have incurred significant establishment and silviculture costs. We suspect that the sector will continue to invest in its own forest health and biosecurity readiness programme as its primary means of protection.</p>
<p><i>Question 48 - How do you think people's behaviour might change if less compensation was available</i></p>	<p>Compensation offers some protection that incentivises early reporting and enables behaviours that are more altruistic yet minimise the risk to the individual for doing the right thing or doing the right thing early. The reduction or removal of compensation will simply remove this incentive, and behaviours will ultimately focus on what's best for the individual. i.e. why report a pest or disease that benefits the wider sector or NZ Inc. if you get penalised for doing so?</p>
<p><i>Question 49 - What role does compensation play in helping you recover from an incursion?</i></p>	<p>This is very much dependent on the situation or circumstance, as noted above compensation to a large degree provides a safety net that support the desired behaviours. Take this away then the cost benefit of the behaviour no longer stacks up for the individual. We see compensation playing a key role in the early stages of a response, namely, to encourage reporting or the right behaviours, after this is really becomes dependent on the response objectives.</p> <p>We also want to highlight that the question asks about the role of compensation in “<b>..helping you recover...</b>”, like many other sectors the forestry growing sector is only a small part in what is a fairly comprehensive supply chain, it supports over 40,000 people and their families, is a significant contributor to national and regional GDP and the rural economy, enables significant local and international investment in New Zealand and there are many downstream sectors and industries that rely on the wood grown in plantation forests, such as housing, sustainable packaging etc.</p> <p>Forests, uniquely in the primary food and fibre sector, provide a wide range of environmental services such as biodiversity, erosion control, improving air quality, flood protection, soil conservation as well as economic social and</p>

	<p>cultural activities within plantation forests such as mountain biking, hunting fishing, Rongoa Māori etc, amongst many other.</p> <p>They also provide carbon sequestration which we suspect has not been considered by the crown in this context to date. While we do not sufficiently know how this might be addressed under the compensation system the implications of carbon liabilities in the event of a significant incursion that impacts on tree health will have significant and national ramifications in terms of carbon offsets and resulting liabilities if carbon is released or can no longer be accumulated in trees. This also has significant ramifications for small forest owners who may have cashed in the credits to invest back into their farms or forests and would have no cashflow and significant liability as a result!</p> <p>So, we would like to ask that same question of the Crown - <i>What role does compensation play in helping New Zealand recover from an incursion, when consideration is given to the broader economic, environmental social and cultural values and benefits of plantation forests being impacted by a pest or pathogen that could significantly impact on these values, and national liabilities and the implications that this may create?</i></p>
<p><i>Question 50 - How critical is it for you to know you could be compensated for something when you are making biosecurity decisions?</i></p>	<p>This will depend on the situation and or circumstances. Where there is an immediate financial impact, or a significant liability is created for an individual or company knowledge that compensation is available is critical. Knowing that I will not be worse off for reporting the presence of a potential pests that could impact NZ, or the primary industries will be a significant consideration in deciding whether to report or not.</p>
<p><b>Compensation and Pest and Pathway Plan Compliance (minor and technical)</b></p>	
<p>Proposal 21 – Make excluding compensation for breaches of national pathway management plans (NPMPs) and regional management plans (RPMPs) optional, or align with section 162A of the Biosecurity Act</p>	

<p>Option 21A – Make excluding compensation optional in the event of non-compliance with a pest or pathway management plan</p>	<p>We would support this option as it aligns with our earlier suggestion (responses to proposal 16, question 40 and proposal 20) that <i>“This may be able to be addressed in a more targeted way that is specific to each response (by response governance) or management plan (by the Minister) so that any such circumstance is contained to that specific need or situation and that the required behaviours and repercussion specific to that situation can be well communicated but ring fenced for that particular event/situation.”</i></p>
<p>Option 21B – Differentiate how non-compliance affects compensation between pest management plans and pathway management plans</p>	<p>We don’t support this option, however, note that it may also be useful. It is in conflict with our position on making decisions on non-compliance eligibility by response or plan to make this specific to each respective situation.</p>
<p><i>Question 51 - What impacts could it have on you if you were dealing with different compensation requirements for pest, and for pathway management plans? How will it affect your understanding if you must deal with different compensation pathways?</i></p>	<p>NA</p>

## 4 – Border and imports

<p><b>Development of import health standards</b></p>	<p>Import Health Standards represent the most important and effective preventative risk management tool in New Zealand’s Biosecurity system. We believe that these need to be as effective at managing biosecurity risk as they can be while recognising that they also need to enable safe trade.</p> <p>We recognise that MPI is struggling to keep up with demand in the current IHS process and that options need to be explored to make this more efficient.</p> <p>We note that in the introductory context it states that “<i>In some cases, the amount of time spent on developing new IHSs does not reflect the biosecurity risk the goods pose. An example is when <b>products are imported in small quantities and/or imported irregularly</b></i>”. This statement as it is written appears to be in conflict or inconsistent with justifications used to support proposal 7 - Create an additional infringement penalty for higher risk goods – which advocates for a risk-based infringement penalty system where the presence of what is considered a “high risk good” determines the infringement fee, and frequency or regularity of detection are immaterial!</p> <p>We would recommend consideration be given to outsourcing or contracting IHS development beyond MPI, potentially at a fixed fee or rate to aid with speeding up their development with MPI maintaining oversight and approval.</p>
<p>Proposal 22 – Enable technical amendments to an IHS without consultation</p>	<p>We <b>support this proposal in principle</b> and the need for a more flexible and efficient process. However, only if the scope of what constitutes a “technical amendment” is clearly defined and consulted on and that this has no material bearing on the potential risk management objectives of the IHS. We would also advocate for targeted engagement or consultation with affected or potentially impacted parties to ensure that the proposed “minor and technical changes” do not present a change in biosecurity risk or impact on these parties.</p>
<p>Proposal 23 - Enable a rapid amendment process for IHSs during the first year of trade in a good without consultation</p>	<p>We <b>support this proposal in principle</b>, but only if the risk management practices being changed reflect an increase in risk management and not a reduction. If the changes reflect a reduction in risk management, then this should be consulted or as suggested for Proposal 22 a more efficient targeted engagement or consultation with affected or potentially impacted parties would also be acceptable to achieve the efficiency goal.</p>

Proposal 24 - Enable the ability to issue one-off or ad hoc permits for goods being imported as a one-off or on a sporadic basis	We <b>support this proposal in principle</b> , however, these should be restricted to known low risk products only, but they should be treated as high risk given the associated uncertainty and that the treatments applied should be at the highest level of risk management appropriate to address this uncertainty.
Proposal 25 - Enable use of permits to allow trade to continue while a suspended IHS is being reviewed	We <b>support this option</b> , on the premise that stricter risk management measures are required, and that this option should not be available if the IHS was suspended due to concerns about the pathway risk.
Proposal 26 - Enable consultation on a risk management proposal for a good, rather than on the draft IHS itself	It is unclear how this proposal offers any efficiency to IHS development.
<i>Question 52 - If each proposal was implemented, how would it impact you or your business?</i>	See comments above for each proposal
<i>Question 53 - Do you think these proposals would make importing easier? Why, or why not?</i>	This is difficult to answer as the IHS risk management requirement will determine the ease of importing, the proposals, however, will improve the efficiency associated with MPI's processing of these.
<i>Question 54 - On what grounds (if any) do you think one-off permits to import goods should be issued?</i>	They should be restricted to known low risk products only, but they should be treated as high risk given the associated uncertainty and that the treatments applied should be at the highest level of risk management appropriate to address this uncertainty.
<i>Question 55 - Are you aware of any additional barriers to importing contained in the Biosecurity Act? How might these be addressed?</i>	No
<b>Section 24 – independent review panels</b>	

<p>Proposal 27 - Improving efficiency in the import health standard review</p>	<p>We <b>do not support any of the proposed changes</b> as this represents the only avenue for industry to object to and challenge the technical integrity on which IHS's are based. The proposals appear to be about removing or setting the bar at a level that will prevent MPI's processes from being challenged and independently reviewed. While we acknowledge that MPI must weigh up a lot of factors when developing IHS's, we and the public of New Zealand, have a basic expectation that these will be technical and scientifically justifiable and so should be open to scrutiny and challenge and the current independent review mechanism provides for this. As such we object to any attempt to remove or place unjustified barriers to such independent scrutiny.</p> <p>We do not believe that any of these proposals contribute to improvements in the efficiency, effectiveness or performance of the biosecurity system and note that only two reviews have ever been undertaken under Section 24 and none in the last decade.</p>
<p>Option 27A – Amend the Biosecurity (Process for Establishing Independent Review Panel) Notice 2015 and work on cost recovery</p>	<p>We <b>do not support</b> this proposal as it is intentionally seeking to put in place a financial barrier to prevent MPI's operational and technical processes being challenged. Regardless of the intent behind these reviews, this proposal appears to ignore the likely costs that the review applicants incurred in initiating and participating in these reviews.</p>
<p>Option 27B - Amend section 24 so the review is undertaken by a senior public official rather than by establishing an independent review panel</p>	<p>We <b>do not support</b> this proposal as it clearly offers no independence from the Crown.</p>
<p>Option 27C - Amend section 24 so that the review must only be about new evidence</p>	<p>We <b>do not support</b> this proposal as it restricts the grounds upon which MPI' IHS development process can be reviewed or challenged, and we do not believe that this is appropriate.</p>
<p>Option 27D – Remove section 24 from the Biosecurity Act</p>	<p>We <b>do not support</b> this proposal as this as it completely removes the new Zealand publics and industry's ability to independently review MPI's IHS development and decision-making process.</p> <p>IHS's represent the most effective and efficient pathway risk management mechanism within the biosecurity system that sets the controls on those creating the risk. There are increasing expectations that primary industries will work in partnership with the Crown, increasingly undertake and fund their own readiness and risk management activities</p>

	and share or incur costs for response activities and compensation, which many of the review proposals are predicated on. We do not accept that there is any justification that supports the removal of our ability to challenge the appropriateness or robustness of IHS's and the processes undertaken to development them when we will incur almost all of the risk, impact and costs if they are ineffective or insufficient.
<i>Question 56 – Do you agree with our preference for option 27D, followed by option 27B? Why, or why not?</i>	<b>No</b> , refer to responses above for each of these respective proposal options
<i>Question 57 - What impacts would removing section 24 have on the efficiency of the imports system?</i>	We don't believe it would have any beneficial impact on the efficiency of the import system. This is supported by the fact that there have only ever been two reviews ever undertaken under Section 24.
<i>Question 58 - Are there other ways to provide checks and balances on MPI's decision-making that would promote an efficient import system?</i>	Yes, through the ability to have these independently reviewed, which is why Section 24 was incorporated in the Act.
<b>Border clearances for cruise craft passengers</b>	
Proposal 28 – Create additional powers and duties in the Biosecurity Act enabling biosecurity inspectors to process passengers disembarking a vessel but who have already arrived in New Zealand	Yes, <b>we support this proposal</b> as it allows for the unique biosecurity risks associated with international cruise ship passengers to be more effectively managed.
<b>Management of biofouling removal in New Zealand's Exclusive Economic Zone</b>	

Proposal 29A – Amend the Biosecurity Act to clarify that MPI has the power to regulate biofouling removal in relation to all vessels’ arrival in the EEZ with a clearly stated intention of arriving in New Zealand	NA
Proposal 29B – Amend the EEZ Act to enable MPI to regulate biofouling removal under specific regulations	NA
<i>Question 60 - Do you agree with our preferred approach to progress proposal 29A? Why, or why not?</i>	NA
<i>Question 61 - Are there any reasons that our preferred approach would not be an efficient tool to manage biofouling removal in New Zealand? If so, what are they?</i>	NA
<b>Limiting volumes of food in the air passenger pathway</b>	In this context we question what the benefits to new Zealand are of allowing passengers to effectively import large volumes of food as part of their luggage. We fully support restricting the amount for food and therefore potential biosecurity risk that passengers can bring in their luggage. We also believe that if through their actions of importing large amounts of food they are creating an undue demand on border biosecurity staff to assess the risk of these items then they should be charged for that service.
Proposal 30 - Amend the purpose section of Part 3 (Importation of risk goods) of the Biosecurity Act to	While we understand the intent of this proposal <b>we do not support</b> incorporating “operational efficiency” as a justification for restricting anyone’s rights or including this as a purpose description of the Act as this will set a precedent that could then be applied more broadly to other biosecurity activities and as such, we do not support this.

include improving operational efficiencies	
Proposal 31 - Enable the Director-General to impose a limit on the volume of a class of food moving through the air passenger pathway	<p><b>We support this proposal.</b></p> <p>We would also suggest that consideration be given to extending this to enable 1) incorporating a cost recovery or fee based processing system where the Director- General can set volume limits for food classes above which passengers will be charged the costs of processing, inspecting and assessing these, or they can safely discard these to avoid this cost, and 2) implement a separate food processing and risk assessment service line at the airport or points of entry for these passengers to access this service (or be directed to if found to be in excess of the limits). This will ensure that those creating the demand and resulting inefficiency will need to pay for this, it will redirect these high demand passengers to a separate processing line where they will likely be subject to delays, and it will ensure they do not create undue delays on passengers that operate within the allowable thresholds. This approach would ensure that the option to bring large volumes of food into New Zealand as part of the luggage allowance will still be available, will still be subject to the same import conditions but that the opportunity to do so will come at a cost both financially and most likely in processing time.</p>
Question 62 - Should “operational efficiencies” justify the limitation of food in the air passenger pathway? Why, or why not?	<p>In this context we do question what the benefits to new Zealand are of allowing passengers to effectively import large volumes of food as part of their luggage. We fully support restricting the amount for food and therefore potential biosecurity risk that passengers can bring in their luggage. We also believe that if through their actions of importing large amounts of food they are creating an undue demand on border biosecurity staff to assess the risk of these items then they should be charged for that service.</p> <p>While we understand the intent of this proposal <b>we do not support</b> incorporating “operational efficiency” as a justification for restricting anyone’s rights or including this as a purpose description of the Act as this will set a precedent that could then be applied more broadly to other biosecurity activities and as such, we do not support this. But as noted above, and as is used widely across the biosecurity system already, cost recovery should be considered above a certainty volume threshold to resource the delivery of this currently free service.</p>
Question 63 - If this proposal proceeds, what sort of exemptions might be required and why?	Beyond certain thresholds some exemptions should be catered for, such as medical or special dietary needs, however care should be taken to avoid these being exploited when there are options available in New Zealand.

	As noted in our response to proposal 31 above, making this a cost recovered or fee for service option would allow this option to remain, but that it would come at a risk management and processing (and potentially time) cost.
<b>Containment and transitional facilities</b>	
Proposal 32 – Streamline the legislative framework for transitional and containment facilities	
<i>Question 64 – Do you agree with our preferred approach to progress proposal 32? Why, or why not?</i>	NA
<i>Question 65 - Do you think this proposal would deliver a more enduring and efficient system for regulating and approving facilities? Why, or why not?</i>	NA
<i>Question 66 - If you are a facility owner or operator, how do you anticipate this option would impact your business?</i>	NA
Proposal 33 - Enabling third-party verification at transitional facilities	
Option 33A - Amend the Biosecurity Act to include the ability for an authorised third-party to undertake verification activities at transitional facilities	

Option 33B – Enable the Director-General of MPI to recognise third-parties to undertake specified roles and functions	
<i>Question 67 – Do you agree with our preferred approach to progress proposal 33B? Why, or why not?</i>	This proposal seems to make sense. Our only comment is that the biosecurity system efficiency that this approach is delivering only appears to accrue to MPI and that this is achieved by pushing these costs and inefficiencies onto other biosecurity system participants. That said we do see these presenting opportunities to make better use of and grow capability and capacity beyond MPI.
<i>Question 68 - What capabilities should third parties have to demonstrate before undertaking verification under the Biosecurity Act?</i>	This will depend on the service that is being delivered and the service standards or requirements that are set by MPI. However, these should be suited to the function that they are delivering, be achievable, realistic, and not impose significant or unrealistic costs onto users (i.e. they should be comparable to the costs as if MPI were doing the verification).
<i>Question 69 - Are there any areas of the Biosecurity Act where third-party verification should not take place? Why?</i>	This would really depend on the need and without fully evaluating the entire Act this isn't really a question that we are able to answer. Third party verification is already successfully and effectively used across the biosecurity system, so it is an effective approach to the delivery of risk management. We would expect that regardless of how verification is delivered accountability for its effectiveness and delivery must ultimately reside with MPI.
<b>Providing biosecurity information to incoming passengers on commercial craft</b>	
Proposal 34 – Providing biosecurity information to incoming passengers	
Option 34A – Remove the general duty under section 17AA of the Biosecurity Act and its supporting regulations to provide biosecurity information to incoming passengers	

<p>Option 34B – Include a requirement for carriers of a commercial craft to provide notice to the Director-General of MPI that biosecurity information has been provided to incoming passengers</p>	
<p><i>Question 70 - Do you think the duty established under section 17AA and its associated regulations is effective or necessary? Why, or why not?</i></p>	<p>Yes, <b>we do believe</b> that this duty is effective, and if it isn't it should be made to be effective through better understanding and adapting how it is delivered and making improvements to ensure this. We also believe that the aircraft or vessels conveying these passengers are directly benefiting from doing so and so play a significant role in creating and enabling the associated risk by doing so. As such they should be required to play a role in ensuring that these risks are managed or mitigated as best as possible, as is expected of all other risk creators.</p> <p>As the lead and sole agency responsible for managing biosecurity risk at the border and compliance with IHS's we would expect that MPI would be best placed to provide a detailed and comprehensive assessment of the effectiveness or otherwise of the duty established under 17AA. MPI has access to compliance levels and border interactions wrt to biosecurity risk so should be able to undertake the analysis to understand if this is effective or not and if not why.</p> <p>Internationally arriving passengers represent one of the most significant and diverse pathways for biosecurity risk exposure to and into new Zealand. It is critical that passengers are made aware of the biosecurity requirements that are expected or that they will face when entering New Zealand. Those conveying them represent the best and most efficient point of communicating these requirements as they have a “captured” audience and there can be no excuses that passengers were not made aware of the rules and requirements.</p>
<p><i>Question 71 - Do you think that the regulations should include a requirement for carriers of commercial craft to notify the Director-General of MPI that biosecurity information has been provided to passengers? If so, how do you think this notification</i></p>	<p>Yes, <b>we support this</b> if it improves the performance of the passenger pathway to mitigate biosecurity risk. This would be consistent with expectations on importers and exporters. Yes, there should be a verification process put in place to ensure that it is being performed effectively.</p>

<i>should be verified and communicated to the Director-General?</i>	
<b>Establishment of biosecurity control area in PoFA (minor and technical)</b>	
Proposal 35 - Make explicit the ability for a PoFA standard to establish a biosecurity control area	<b>We support this proposal</b>

## 5 – Readiness and response

<p>General</p>	<p>It is disappointing that the opportunity was not taken to provide a more detailed and accurate account of the history behind the formation and development of GIA, including how long it took and the drivers behind it. We believe that this information would have ensured that potential submitters to these proposals would have had a significantly more informed understanding and perspective of GIA and its role in the biosecurity system. Namely that this was a mechanism for the primary industries to engage in decision making on activities in the readiness and response space that impacted on them and that to do so they incurred a share of the costs to ensure that priorities aligned with what the sectors were willing to co-invest in. It was never intended to replace or usurp MPI’s leadership role of the biosecurity system and its mandate or responsibilities to the wider interest of NZ.</p> <p>The way the consultation documents have been presented suggests that it is only government and primary industries working together under GIA that contribute to better biosecurity outcomes. This is misleading and will likely result in misinformed feedback and a view that industry is having undue influence on biosecurity decision making.</p> <p>The primary industries joined GIA to ensure that their respective sectors were better accounted for and protected from biosecurity threats through their active participation in decision making on matters that directly impacted or benefited on their sectors. By participating they also committed to paying a share of the costs which ensured that industry had “skin-in-the-game” and would therefore prioritise effort to those activities of greatest value, impact or benefit to the respective sectors.</p> <p>However, as the lead agency for Biosecurity MPI has always had the accountability and leadership of the wider system to ensure that it protects the full range of values expected by New Zealanders, other stakeholders and crown partners across the full spectrum of economic, environmental, social, cultural and human health values. GIA has in no way prevented MPI from delivering its mandate or responsibility.</p>
<p><b>Government/industry agreement</b></p>	<p>We believe that the current scope of GIA is fit for purpose and represents the scope that the primary industries co-developed with the Crown and subsequently signed. We do acknowledge that there are some challenges with working in partnership under GIA and that there is scope of operational improvement, but that much of this is being addressed under the GIA framework.</p>

On page 5 of the consultation document four issues have been identified relating to readiness and response **“Industry parties cannot always agree on decisions that relate to readiness and response activities”**. This is the inherent reality of partnerships and the GIA partnership and highlights the importance of readiness. Under GIA industry partners have the autonomy to decide their priorities and where they invest their limited resources to the greatest effect or impact for those that they represent and who will ultimately pay the costs through a levy. This was a core construct of GIA upon which prospective industry signatories sought and subsequently received mandate to sign the deed.

The consultation document also notes that this “...leads to often lengthy and resource-intensive discussions with decisions based on accommodating all industry participants rather than what may be best for New Zealand as a whole.” We agree that this can and has been an issue for some responses but that these are expected teething issues for what is in reality a relatively newly experienced partnership arrangement for many signatories, including MPI. We would also highlight that the GIA secretariate on behalf of GIA signatories has projects in place working to resolve some of these issues at a wider partnership level.

However, the GIA Deed does not remove MPI’s biosecurity leadership function and ability to take response decisions at its own cost where they consider such an approach would be in the best interests of NZ as a whole. We would also note that MPI is a party to every readiness and response agreement.

“MPI cannot always effectively represent the interests of some stakeholders and partners...”. We agree this can be an issue as it may have implications for readiness and response activities delivered under GIA, however, this is not an issue limited to or created by GIA. MPI needs to ensure that these “diverse stakeholder” or partner interests are accounted for in non-GIA, or primary industry (GIA) focused, readiness and response activities. But that in the GIA context bringing these interests to the GIA table is a minimum commitment that MPI agreed to.

The value and importance of “diverse stakeholder” interests in biosecurity decision making is acknowledged, however, we do not believe that this issue would, nor should, be addressed by incorporating it into the GIA framework which was established to ensure that the primary industries “diverse interests” were represented in a formalised relationship with the Crown, and which came at a significant cost to the industry relative to the status quo prior to GIA being established.

While we appreciate this as an issue it is concerning that MPI has been unable to resolve developing a framework to ensure that non-GIA signatory interests are able to be represented – where GIA was established to ensure that the

interests of the primary industries were represented. We do not see this as an issue for GIA to resolve for MPI, nor do we see this as a legislative issue, rather this is something that MPI needs to resolve as the Biosecurity System leader and as the representative of non-signatory interests and associated costs.

*“GIA limits cost sharing, decision making and compensation to readiness and response activities. This.... may limit or skew investment in other areas of biosecurity.....”*. This is a perplexing statement that fails to recognise the history and background to GIA or nor the fact that the GIA enables cost sharing and joint decision making for readiness and response, which prior to its existence this was fully a crown responsibility

*“This expertise is often interchangeable between industry and industry groups. This creates inefficiencies in the duplication of resources that often puts smaller industries at a disadvantage.”* It is unclear what the inefficiencies or disadvantages are that are referred to in this statement, and from whose perspective. Prior to GIA, MPI had almost all of the biosecurity system capability, capacity and expertise making MPI in effect the sector focuses agencies. Only a handful of industry bodies had biosecurity capability (i.e. the forest industry has had biosecurity or forest health capability and capacity in various forms for several decades prior to GIA).

As is noted, industry signatories have had to build some capacity to meet the requirements of the GIA deed, this is variable across industry bodies, but this variability is dependent on a number of factors and not just industry size or the GIA deed. In many cases this expertise is not dedicated solely to Biosecurity but forms part of a multidisciplinary roles that fulfil a number of functions as required by each signatory industry to meet their sectors needs and expectations. GIA has resulted in a significant increase in the non-government biosecurity expertise.

We **do not agree** that this creates inefficiencies and if it does, we suspect that this will be from some self-serving perspectives only.

It is unclear what the disadvantages are that are referred to in this statement and what it is relative to. If smaller sectors cannot afford this expertise and investment this should have been apparent before they joined GIA, or they should consider what opportunities exist to work collectively with others sectors to collaborate on establishing and resourcing this capability. The Act does not currently prevent this, in fact there are examples of this in place already. The barrier is the willingness of these sectors working together to achieve this outcome.

We would also argue that of the potential structures that are proposed, industry bodies will require capability to engage with them as they currently do. We would argue that the current structure is significantly more efficient and effective than the proposals that have been put forward.

<p>Proposal 36 - Modify and grow the Government Industry Agreement</p>	
<p>Enabling the Deed to cover other areas of biosecurity in New Zealand such as pest management</p>	<p>We <b>do not support</b> expanding the scope of GIA to include pest management. We do however support exploring tools and options to enable better and more efficient access to pest and pathway plans for when GIA responses need to transition to long term management and there is joint agreement to do so.</p> <p>While we acknowledge that there is room for improvement in the pest management space the proposal as it is currently presented is very wide ranging and does not differentiate between long established pests and their management and more recent arrivals that need to transition from response to long term management.</p> <p>We <b>do not and will never support</b> bringing the management of long-established pests into the GIA framework in any way. Most, if not all long established environmental or other pests have a long history of presence in NZ and generally have a poor management track record or history of inaction by national or regional government, so we do not support GIA encompassing these scenarios and inheriting these issues and associated costs over which we have had no joint decision making or ability to control.</p> <p>We note that there are some inaccuracies in statements made in the RIS document. For instance, On-farm biosecurity and pathway management are not excluded from GIA as the RIS states. In fact, under GIA, signatories have worked together to develop and implement a nursery biosecurity certification scheme – Plant Pass, with the objective of providing an option to mitigate the risk of spreading biosecurity risks through the nursery pathway. On-farm, on -orchard, in-forest etc biosecurity is something that most sectors are actively promoting and seeking to improve through their own readiness planning and programmes.</p> <p>We have significant concerns that this proposal could be used by the crown to push its core functions and costs onto industry.</p>
<p>Aligning response and pest management levying provisions</p>	<p>As <b>we do not support</b> broadening the scope of GIA and subsequently the Deed, <b>we do not support</b> aligning response and pest management levying provisions under GIA. We see little to no benefit or efficiency in doing so other than some minor administrative efficiencies. However, we would support the ability to aligning these if this was agreed between the impacted parties or GIA signatories and was part of a transition to pest management programme, but not for long established pests.</p>

<p>Enabling the creation of more than one deed</p>	<p>We <b>do not support</b> the creation of more than one Deed and are somewhat perplexed with this proposal. We also question some of the statements made about this option “building sector skill and resilience”.</p> <p>The only opportunity we see this creating is for MPI to withdraw from delivering some of its core readiness and functions, capability and capacity, which it has always delivered, and transferring the accountability onto a third-party entity at industries expense.</p> <p>We do not believe this will be more effective or efficient for industry signatories, in fact it will likely deliver a significant greater administrative burden, bureaucracy and costs for industry signatories and there will be little incentive for them to build capability and capacity, as is the case in Australia.</p> <p>Australia’s approach was developed to deal with the complexities of its Federal and State government systems and the different jurisdictional rules that the primary industry has to work in across these., New Zealand is fortunate in that it only has a single layer of government and does not have the federal state complexity.</p>
<p>Enabling other participants in the biosecurity system to become more active in GIA decision-making</p>	<p>We <b>do not support</b> expanding GIA or its membership beyond primary industries and are strongly of the view that that the focus of GIA should remain as it is, as a partnership between the Crown and primarily industry signatories as it was developed and intended to be.</p> <p>We agree that broader participation in the biosecurity system is critical. However, GIA is a partnership agreement that was developed between MPI and industry over many years as a mechanism for the primary industries to engage in decision making on activities in the readiness and response space that impacted on them. To do so they agreed to incur a share of the costs (which were previously fully covered by MPI) to ensure that their stated priorities aligned with what the sectors were willing to co-invest in (giving them “<i>skin-in-the game</i>”). It was never intended to replace or usurp MPI’s leadership role of the biosecurity system and its mandate or responsibilities to represent and account for the wider interests of NZ and its many stakeholders.</p> <p>We do not see GIA in its current form (including the Deed), or the legislation, preventing MPI from fulfilling its minimum commitment of “<i>Representing the interests of non-Signatories and other stakeholders, including Māori</i>”, or preventing MPI from fulfilling its mandate or responsibilities to represent and account for the wider interests of NZ and its many stakeholders. Rather we see this as an operational or implementation issue for MPI to resolve and clarify and bring solutions to the GIA table as a signatory and as per its minimum commitment.</p>

	<p>There are multiple examples where OA signatories have actively sought input and participation from non-signatory system participants (including, DoC, Regional Councils and Māori perspectives). In almost all cases they have subsequently had significant input and impact on the outcomes being sought (i.e. Plant Pass, Lepidoptera Readiness), but they participate as observers.</p>
<p>Proposal 37 – Create one or more biosecurity focussed cross-industry organisations to build primary sector skill and resilience</p>	
<p><i>Question 72 - To what extent is intervention from MPI required to grow and develop the GIA?</i></p>	<p>The GIA Deed is very clear about its objectives and outcomes and the principles for the signatories to work in partnership. MPI is a signatory to the Deed as are industry. As such we have a fairly basic, yet fundamental, expectation that MPI will work with the signatories to grow and develop the GIA. Therefore, asking a question about the extent of intervention from MPI that is required modify the GIA, largely in a manner that appears to suit MPI’s aspirations for how the GIA can suit its interests, and that have by and large not been fully explored with all GIA signatories is of significant concern, as it is not in the spirit of partnership.</p>
<p><i>Question 73 - Do you think the current scope of the GIA is fit-for-purpose and working? Why?</i></p>	<p>We believe that the current scope of GIA is fit for purpose and represents the scope that the primary industries co-developed with the Crown and subsequently signed. We believe that GIA is working well and that the partnership has enabled a stronger, more meaningful, constructive, and collaborative relationship between MPI and individual sectors. It has also enabled industry partners to work more collaboratively on shared or common biosecurity issues and opportunities and that collectively this is having significant beneficial outcomes for all parties and the wider biosecurity system.</p> <p>We acknowledge that there are some challenges with working in partnership under GIA and that there is scope for operational improvement, but that much of this is being addressed under the GIA framework under the leadership of the Secretariat and in partnership with other signatories.</p> <p>As noted earlier we <b>do not support</b> expanding the scope or membership of GIA. We would however strongly advocate for greater transparency by MPI on how it invests in readiness and response activities within and external to GIA and across the core values to ensure that all signatories are being treat fairly. We would also strongly advocate for MPI to clarify and establish how it intends to achieve its minimum commitment to “<i>Representing the</i></p>

	<p><i>interests of non-Signatories and other stakeholders, including Māori” or to enable these to be represented as the Crown signatory to the deed.</i></p> <p>We suspect that there may be some misconceptions about GIA, its intent and how it is perceived to operate by some system participants and who may feel like they are missing out in having a say on matters that fall under GIA. We also suspect that the success of GIA as a partnership is seen as an opportunity to exploit to make it “all-things-to-all-people”. While we believe GIA is a good model, it literally took decades and significant dedicated effort to get it to where it is now. There are lessons that can be learned from the approach taken and where it’s landed to inform how to approach the development of other such partnership agreements, which we would encourage, but we do not support changing the scope of GIA as this would put the work to date and its future potential for signatories at risk.</p>
<p><i>Question 74 - What role do you see industry organisations playing in New Zealand’s biosecurity system?</i></p>	<p>Industry has a significant role in the biosecurity system as it relates to the management of biosecurity risks to each specific industry sectors interests and also those where there are shared risks or interests. Industry participants are effectively a core part of the front line of the post border biosecurity system and who have a lot to lose if there is an incursion that impacts on their sector. They have an incentive to participate and contribute to proactively minimising their risk exposure where they are best placed and able to do so. This includes activities from across the post border system such as understanding their risk and risk pathways, promoting early reporting and surveillance, undertaking response readiness activities, managing risk pathways where it is practical and cost effective to do so and ensuring biosecurity awareness of their members. Many sectors make a significant investment in biosecurity risk management and biosecurity research outside of GIA, i.e. only a small portion (~25%-30%) of the investment that the forest sector makes in biosecurity readiness and research is under the GIA framework (we note that this small proportion largely reflects MPI’s budget constraints rather the sectors wiliness to do more under GIA, if more could be done under GIA we believe that co investment between the crown and industry could go significantly further in delivering better biosecurity outcomes.</p>
<p><i>Question 75 - Which options do you think would be most useful to grow and develop the GIA?</i></p>	<p>As is reflected above in our responses to each option, we <b>do not support</b> any of the options suggested as we do not believe that these will benefit GIA or industry signatories.</p>
<p><i>Question 76 - Do you anticipate any problems with establishing industry organisations?</i></p>	<p>Yes. Given GIA took close to 20 years to develop and evolve prior to the deed being signed, we would anticipate that attempting to implement a model such as in Australia would take a significant period of time. It would likely need to be supported by all sectors and given this option was discounted by most sectors in NZ as GIA was developed, that</p>

	<p>may prove challenging if not impossible. We do not believe that it will be more efficient, nor do we believe that it would serve all sectors equally. In fact, we believe it would become significantly more expensive for industry, and we would likely lose our ability to directly control or influence the work that is done for our respective sector. It would also most likely become an added level of bureaucracy with a significant resource demand that would form another barrier or layer between industry and government.</p> <p>If implemented industry would no longer have any incentive to develop or maintain its own biosecurity capability or capacity.</p> <p>We would not support this as we see no benefit in this approach for the forestry sector, we see only costs, risks, subsidisation and uncertainty.</p>
<b>Liability protection for GIA partners</b>	
Proposal 38 – Amend Part 5A to state that this confers functions on GIA Signatories to make joint decisions under the Deed and Operational Agreements	<b>We support liability protection</b> as it is fundamental to joint decision making under the GIA
<i>77 – Do you agree with our preferred approach to progress proposal 38? Why, or why not?</i>	<b>Yes, we support the proposed approach</b> as it represents a significantly more efficient and enduring approach to address the liability issue that exists under GIA in regard to joint decision making.
<i>78 - To protect GIA partners from legal liability, which do you think is the better option – amending the Biosecurity Act or the existing Crown indemnity? Why?</i>	Amend the act as per comment above
<b>Faster emergency declarations</b>	

<p>Proposal 39 – Change the decision-maker for a biosecurity emergency from the Governor-General to the Minister for Biosecurity</p>	<p>Yes, <b>we agree with</b> this proposal.</p>
<p><i>Question 79 – Do you agree that the Minister for Biosecurity should be the decision maker for an emergency response under the Biosecurity Act? If not, who do you think would be the best decision maker?</i></p>	<p>Yes, <b>we agree with and support</b> this proposal.</p> <p>This issue highlights the importance of good readiness planning to ensure that response activities can be activated rapidly while the decision making process gets underway, which has always been a key objective behind GIA.</p> <p>We note that the proposal document offers no context as to why the Governor General is currently identified as the key decision maker. We would expect that under the new approach the Minister for Biosecurity would have to undertake the same level of consultation as they would if seeking a decision from the GG?</p>
<p><b>Biosecurity practices</b></p>	
<p>Proposal 40 – Add a general biosecurity duty in the Biosecurity Act</p>	<p>We <b>support the general concept</b> of incorporating a general biosecurity duty within the Act. However, we believe that improved awareness and education is a critical component and precursor to doing so. We also believe that it is imperative that there is a sound understanding of the operational implications, constraints and realities of potential risk management practices to ensure that these and expectations around these are well informed and are not imposed based on ideological beliefs or a one size fits all mentality.</p> <p>Key concerns we do have with this duty would be:</p> <ol style="list-style-type: none"> <li>1) How it might be applied or miss-applied and as such we would expect that any general biosecurity duties, or good practice, would be developed with, and in consultation with industry sectors and not imposed. This will ensure that these are fit for purpose and that these are a foundation on which to enable better biosecurity practices and not impose them.</li> <li>2) The term or concept is very nonspecific and open to interpretation, while this clearly allows for more enabling legislation, our concern would be where this is interpreted differently by different parties and is used to enforce or impose unreasonable or unaffordable conditions or expectations on participants where</li> </ol>

	<p>the likelihood of a risk being realised is low or the risk has been miss or poorly managed historically by management agencies.</p>
<p>Proposal 41 – Expand the range of specific risk management requirements that can be set up through regulations under the Act</p>	<p>While we see this proposal potentially being useful in some situations, we would have significant concerns about how these could be used to impose ideological risk management requirements, push costs onto industry or be used to control or constrain industry activities or practices. While reference is made to the safeguards supposedly offered through consultation and impact assessment, our general experience in government consultation processes is that this offers little in the way of safeguards for industry or a meaningful ability to influence proposed regulations.</p> <p>We would therefore strongly advocate for a requirement that any such risk management provisions must be developed in partnership (and not just consultation) with the industries (this is especially relevant to GIA signatures) on which they are intended to be applied. It is our position that this would align with the principles of GIA and in fact GIA already has the readiness framework under which these could or should be co-developed.</p> <p>We would also strongly advocate for risk proportionate regulations to ensure that these are very clearly risk based.</p>
<p>Proposal 42 – Add provisions in the Act to enable greater use of the risk-based regulatory model where businesses are required to develop their own risk management plan</p>	<p>While we see these provisions potentially being useful in some very high likelihood or very high biosecurity risk or high impact circumstances, we would not support their general application as this would largely create a significant administrative and regulatory burden in terms of costs and resources with minimal tangible or justifiable biosecurity benefit.</p> <p>If this option were to be included, we believe there should be a high threshold of biosecurity risk or impact that would need to be met to justify the these being implemented as a potential option to achieve clear and specific outcomes or these are proposed or agreed to by an industry sector(s) or GIA signatory as being the best mechanism to enable their respective sector participants to achieve sector wide biosecurity outcomes.</p> <p>Either way, these must be developed and agreed in partnership between government and industry and not imposed unilaterally.</p>
<p><i>Question 80 - How might a general biosecurity duty improve biosecurity system outcomes?</i></p>	<p>A general biosecurity duty would strengthen the concept of good biosecurity practice being a core expectation on all new Zealanders. Having this clearly articulated in the Act would also strengthen the impact of industry sectors approaches to biosecurity risk management with their respective members.</p>

<p><i>Question 81 - Should we enhance legislation's role in improving biosecurity practices, or is it better to rely on non-legislative approaches like information and education?</i></p>	<p>In the first instance, this is primarily about education and awareness raising and engaging with sectors to ensure that they understand the risks and that they are provided with the tools and materials to enable them to make informed decisions on how to improve how they manage the biosecurity risks to their interests and others. But it should also be made clear what the implications might be if risks are not effectively managed, and this is where the options of using legislative or regulatory tools can play its part.</p> <p>We have concerns with how such legislative tools may be misused by some agencies to serve their own agendas, or to increase the growing regulatory burden and associated cost for primary industry sectors and as such would strongly recommend that these are a last resort tool only and should only be used following a robust and open process and have high levels of accountability and justification. This would ensure that where the majority within a sector are “doing the right thing” this can then serve as a tool to incentivise or compel those that are not, as a last resort.</p>
<p><i>Question 82 - How might we incentivise businesses to improve management of biosecurity risk?</i></p>	<p>In the first instance, this is primarily about education and awareness raising and engaging with sectors to ensure that they understand the risks and that they are provided with the tools and material to enable them to improve how they manage the biosecurity risk to their interests.</p> <p>We would argue that GIA has made a significant improvement in the awareness of biosecurity risks and risk management in the primary industry sector through creating a platform or mechanism through which awareness has been raised. This has given industry greater ownership, input and control into how risk management has been developed for their sector. Very importantly the fact that signatories also now bear a cost for biosecurity risk management means that they are increasingly incentivised to minimise their risk exposure.</p> <p>Many primary industry sectors in NZ are commodity-based sectors meaning that growers or owners are price takers. This means that they cannot pass their costs onto consumers and this effectively reduces their already small margins. So, they have significant incentives to minimise the risks to their product(s) and their return but this needs to be balanced against the costs. This is an important factor we believe that Govt often don't consider when proposing concepts that may impose additional costs onto growers. The ever increasing operational and regulatory cost burdens are increasingly starting to impact on sector participant viability in commodity markets.</p>

	<p>Exploring opportunities to ensure that risk creators are more involved and perhaps have greater “skin in the game” for the inadvertent cost that their activities create may improve their risk management behaviour. How this is approached will differ for different participants.</p> <p>But ultimately, a legislative or regulatory tool should be available as a last or final resort if a proactive and education-based approach has failed to make significant headway, and the risks of inaction are too significant to ignore.</p>
<p><i>Question 83 - To what extent might it be costly and difficult to develop a risk management plan for your business?</i></p>	<p>Developing fit for purpose risk management plans should be relatively simple with the right information, templates and risk management guidance and flexibility. The Implementation and monitoring of these may be more challenging and resource constrained. There is also the need to ensure that risk management plans are going to have a meaningful impact on that business risk exposure, i.e. there will only be certain risks that can be mitigated through a risk management while many others will be uncontrollable.</p> <p>We would like to highlight that the ease and cost of developing and implementing risk management plans will vary across different ownership types and models. For the forestry sector you could say generically that there are large corporate forest owners and there are small private forest owners (the reality is that this huge oversimplification of what is a very complex mix of ownership structures). One could assume that it would be easier for a large corporate forest owners, or management company, to be able to allocate resources towards developing and implementing risk management plans than it would be for a small forest owner who grows a small number of trees on their property as a retirement investment, or a side project. However, a large forest owner/management company may manage tens or hundreds of thousands of hectares of forests comprising thousands if not tens of thousands of individual forest blocks for one or many owners, extending over multiple local or regional government jurisdictions.</p> <p>The scale of operations is also a factor that needs to be considered, i.e. as a peacetime activity cleaning a small vehicle entering an orchard that may take 10-15 minutes is not the same proposition as clearing a fleet of logging trucks entering a forest to pick up harvested logs where cleaning may take several hours and significantly impact a truck drivers (who is a contractor) driving hour allowance. Some risk management strategies are not transferable or scalable, so a one size fits all approach is not appropriate.</p> <p>The point we are making here is that it is difficult to say how costly or difficult it would be given this complexity. The forest sector is not comparable to say a small orchard or farm that is relatively contained and subject to a few transactional activities that can be easily managed at the farm gate or forest gate, it is far more complicated than that.</p>

	As noted previously many primary industry sectors in NZ are commodity-based sectors meaning that growers or owners are price takers. This means that they cannot pass their costs onto consumers and this effectively reduces their already small margins. So, they have significant incentives to minimise the risks to their product(s) and their return but this needs to be balanced against the costs. This is an important factor we believe that Govt often don't consider when proposing concepts that may impose additional costs onto growers. The ever increasing operational and regulatory cost burdens are increasingly starting to impact on sector participant viability in commodity markets.
<b>Amend section 100ZA (minor and technical)</b>	
Proposal 43 – Amend Section 100ZA to add a power for the Minister to “un-recognise” an industry body when a sector withdraws from the GIA	We <b>support</b> this proposal

## 6 – Long term management

<p><b>Pest and pathway management and small-scale management programmes</b></p>	<p>We note with some disappointment the lack of recognition in the introductory commentary for this section of the significant role, investment, and costs contributed or incurred by primary industry participants, landowners and managers in the biosecurity system for the prevention and management of established pests or pathogens. We believe that this is an aspect that should be recognised to ensure that it is known that not only do they make a significant and often under recognised and undervalued contribution to the biosecurity system locally, regionally and nationally, they also inherit and incur the ongoing costs and impacts of a wide range of pest and pathogens through productivity losses and management costs created by the activities of others.</p> <p>For example, the forest industry invests close to \$1.5M pa on industry good biosecurity readiness and biosecurity research and development activities (not including FTE’s and in-kind contributions). A recent survey of a small number of larger forestry companies (N~8) invested on average over \$110k pa each on pest control programmes (including goats, deer, pigs, mustelids, cats, rats, possums, hedgehogs, wallaby’s, wasps etc) to protect indigenous biodiversity values (including protection of kokako, kiwi, bats, dotterel, gecko, whio, kea, kauri snails, indigenous and alpine vegetation, dune habitat etc). This doesn’t include wilding control for non-plantation species which is also a significant investment made by forest owners and management companies (several million dollars per year), or foliar pathogen control (Dothistroma or Red need cast control). This is just a small fraction of the costs or investment made toward biosecurity and pest control by forest owners across New Zealand’s.</p>
<p>Proposal 44 (Option 2)- Simplify the process to create national or regional pest and pathway management plans</p>	<p>We <b>support</b> the proposed approach to simplify the process for NPMP and RPMP’s, particularly where this applies to new or recent incursions that need to transition to long term management.</p> <p><b>However,</b> we believe that there should be a clear distinction made between newly arrived pests or pathogens transitioning to long term management and long-established pests either under long term control or are being considered for control. We believe the process should include some safeguards or constraints around how and what species can be included or considered for inclusion to ensure that this is not used vexatiously as another mechanism or work around that can be exploited to restrict or control land use or push costs onto landowners. For instance, controls on the use, or planting of economically important exotic plantation forestry species that are already managed through other legislation and National Environmental Standards, or other primary industry land use.</p>

	Further, we believe that these safeguards should also ensure that simplifying the process does not open the flood gates for previously unviable or non-cost-effective programmes to be considered because it becomes easier to push costs onto landowners to fund these programmes.
Proposal 45 (Option 3) – Enable (but not require) integrated national or regional pest and pathway management plans	We <b>support</b> this proposal as it enable greater and more efficient risk management options to be consolidated together which would be beneficial in supporting the transition from response to long term management.
Proposal 46 (Option 4) – Enable (but not require) the ability to have consolidated levies for national pest and pathway management plans	We <b>support</b> this proposal where it applies to the transition and management of recently established pests or pathogens, and where, as a GIA signatory, this enables the more efficient delivery of an agreed transition to and an ongoing management programme
Proposal 47 (Option 5) – Make it easier for regional councils to create small-scale management programmes	<p>While we understand the intent of this proposal and see the potential benefit, we <b>DO NOT support</b> this proposal unless there are sufficient safeguards that ensure that this mechanism cannot be used vexatiously to impose costs or constraints on landowners or land managers based on land use type or be used for organisms that pose minimal impact.</p> <p>Providing powers under the Act for “any organism” is in our view too broad and should be constrained with some impact principles or requirements that must be met to ensure that this isn’t misused. If these were put in place and were sufficient to mitigate the misuse of this power with appropriate checks in place and an ability to challenge any potential misuse of these powers, then we would, in principle support this proposal.</p>
Proposal 48 (Option 6) – Enable management agencies to provide exemptions from rules in national pest or pathway management plans	We <b>support</b> this, <b>however</b> , would recommend that safeguards are put in place to ensure that any exemptions are available to being audited to ensure that they are not misused or used to favour or give unfair advantage to certain parties over and above others, and that there is clear responsibility and accountability for all exemption decisions taken.

<p>Proposal 49 (Option 7)– Enable more than one entity to share management agency responsibilities</p>	<p>We <b>DO NOT support</b> this proposal as it is currently presented as there is insufficient detail on how this might operate in practice, and it is unclear why the existing requirements prevent the outcomes that the proposed amendment aims to enable. While we understand and support the enabling intent behind this proposal, namely joint decision making and delivery/implementation, or partnership, etc, we believe that there must be a clear lead agency or entity with overarching accountability and responsibility, and this is not apparent in the proposal.</p> <p>The plantation forestry industry operates nationally and across regions, with land ownership and land management of forest estates spanning and operating across multiples regional boundaries, in many cases within the same forest and forest estate. This already presents significant administrative and operational management challenges and requires engagement across multiple points of contact across several national and regional agencies.</p> <p>A lack of a clear national or regional lead entity to coordinate management rules and activities nationally or across and within regions, will further complicate engagement across multitudes of management agencies each with their own priorities, interests, biases, and ways of operating.</p> <p>For forest owners, landowners and managers this will create unnecessary inefficiencies, add complexity, inconsistency and an administrative burden on those that operate across regions. It also runs the real risk of inconsistent interpretation, application and enforcement of any rules.</p> <p>Effective partnerships should enable multiple entities to collaborate and form a single overarching entity to deliver the same outcomes that this proposal is seeking to achieve, without creating a multi headed hydra.</p> <p>The proposal does not detail how or why the existing legislation is a barrier to, or prevents, this occurring now which suggests that this is an operational barrier and not a legislative barrier.</p>
<p>Proposal 50 (Option 8) – Enable management agencies and regional councils the function of issuing permissions for pests in national and regional pest and pathway management plans</p>	<p>This would likely enable greater efficiency.</p> <p>How would will consistency in consideration, evaluation and decision making across programmes and agencies be ensured?</p>
<p>Proposal 51 (Option 9) – Enable regional councils to remove</p>	<p>NA</p>

exemptions from a regional pest or pathway management plan rule before the end of the original timeframe	
<i>Question 84 - Do you agree with our preferred approach to progress proposals 44-51? Why, or why not?</i>	While we largely support many of the proposals, we do not support all, Refer to comments for each specific proposal above
<i>Question 85 - Are there additional areas in long-term management that could be streamlined, removed, or changed?</i>	NA
<i>Question 86 - How much of a difference might these proposals make to more efficient and effective long-term management?</i>	Refer to comments for each proposal above
<i>Question 87 - What will be the impacts of enabling pest and pathway management plans to be combined? What risks do you anticipate?</i>	It will enable greater and more efficient risk management options to be consolidated together which would be beneficial in supporting the transition from response to long term management.
<i>Question 88 - Do you think the right checks and balances for decision-making are in place with respect to the changes we are proposing? Why or why not?</i>	Not for all, refer comments in response to each proposal above
<b>Alignment of long-term management outcomes</b>	

<p>Proposal 52 (Option 2) – Enable multiple National Policy Directions for pest management to be made</p>	<p>We <b>support</b> this proposal in principle, and in particular the flexibility and efficiency that it is seeking to deliver. However, we do question if multiple NPDs are the most efficient way to achieve these or whether this will result in the need to update multiple NPD's, rather than just one, to ensure consistency across these, or these may potentially create inconsistent national direction across different landscapes/outcomes which would become difficult to resolve across a multitude of NPD's.</p> <p>If Proposal 53 (Option 3) is implemented in some form, then a single NPD could serve to prescribe boiler plate / baseline requirements expected across the potential range of these regulation products. These regulation products would then serve to enable the flexibility to better target aspects to specific pests or environmental outcomes.</p>
<p>Proposal 53 (Option 3) – Enable new regulations to be made to create nationally consistent baseline objectives, policies or rules for pest management</p>	<p>We <b>support</b> this option as it will provide nationally consistent standards, objectives, policies and rules for pest management.</p> <p>The Forestry industry has strongly advocated for and actively worked with Government (national and regional) and other stakeholders to develop consistent National Environmental Standards (NES). These provide the industry with greater understanding and certainty of the standards that are required to be met and that will be applied at the regional and district level. The development of these should be undertaken with industry sectors to ensure that the operational realities of industry operations and land users are considered and input into their development. These ensure consistency and enable the industry to operate to nationally consistent rules, expectations and standards. While the rules implemented locally or regionally may exceed these requirements, in such instances these variances need to be technically justified and not imposed with not technically defensible merit.</p> <p>As noted previously in our submission, the forestry sector operates across New Zealand with activities occurring across multiple regions. National consistency in the application of risk management and risk mitigation measures is critical for ensuring efficient risk management approaches that achieve maximum national benefit.</p> <p>We recommend that MPI consider how the NES were developed, implemented and managed as a framework to inform this proposal, and that in developing these that landowners and managers are included in their development to ensure that the standards that they set are fit for purpose and are achievable (both practically and economically) and that consideration is given to how these may be applied in different situations, land uses and operational settings.</p> <p>These should be applicable to all agencies and landowners, including crown agencies and entities.</p>

Proposal 54 – Amend section 55 of the Biosecurity Act and its associated regulations (Responsible Minister may assign responsibility for decisions on a harmful organism or pathway)	
Option 54A - Strengthen section 55 by requiring that the party that is assigned responsibility must take action to manage the harmful organism or pathway	This proposal appears to be somewhat at odds with many other proposals and objectives relating to shared responsibility, collaboration and enabling partnerships
Option 54B – Streamline the process set out in regulations to remove unnecessary steps or duplication	We <b>support</b> this option in principle.
Option 54C – Repeal section 55 of the Act and revoke its associated regulations	We <b>DO NOT support</b> this option. It is unclear why this option has been proposed, nor what value, benefit or impact would it have
<i>Question 89 - Do you agree with our preferred approach to progress proposals 52, 53 and 54B? Why, or why not?</i>	Refer to responses to each proposal above
<i>Question 90 - Do you think nationally consistent baseline objectives, policies or rules for long-term management would be helpful? Why, or why not?</i>	Yes, these will provide nationally consistent standards, objectives, policies and rules for pest management. The Forestry industry has strongly advocated for and actively worked with Government (national and regional) and other stakeholders to develop consistent National Environmental Standards (NES). These provide the industry with greater understanding and certainty of the standards that are required to be met and that will be applied at the regional and district level. The development of these should be undertaken with industry sectors to ensure that the operational realities of industry operations and land users are considered and input into their development. These

	<p>ensure consistency and enable the industry to operate to nationally consistent rules, expectations and standards. While the rules implemented locally or regionally may exceed these requirements, in such instances these variances need to be technically justified and not imposed with not technically defensible merit.</p> <p>As noted previously in our submission, the forestry sector operates across New Zealand with activities occurring across multiple regions. National consistency in the application of risk management and risk mitigation measures is critical for ensuring efficient risk management approaches that achieve maximum national benefit.</p> <p>We recommend that MPI consider how the NES were developed, implemented and managed as a framework to inform this proposal, and that in developing these that landowners and managers are included in their development to ensure that the standards that they set are fit for purpose and are achievable (both practically and economically) and that consideration is given to how these may be applied in different situations, land uses and operational settings.</p> <p>These should be applicable to all agencies and landowners, including crown agencies and entities.</p>
<p><i>Question 91 - What is the best way to achieve national consistency of baseline objectives, policies or rules for long-term management?</i></p>	<p>Refer to response to question 90 above.</p>
<p><b>Management of unwanted and notifiable organisms</b></p>	
<p>Proposal 55 (Option 2) – Amend section 52 to define “communicate” in relation to a pest or unwanted organism</p>	<p>We <b>support</b> the proposal to define the meaning of the term “communicate”, as it relates to a pest or unwanted organism under the Biosecurity Act</p> <p>However, we recommend that this be defined in Section 2 Interpretation, rather than in section 52 as this would appear to be the most appropriate place to include definitions or interpretations of such terminology.</p>
<p>Proposal 56 (Option 3) – Enable a chief technical officer to tailor the application of sections 52 and 53</p>	<p>We <b>support</b> proposal to give the Chief Technical Officer the ability to determine how sections 52 and 53 should be applied relative to a specific unwanted organism.</p>

<p>when declaring an unwanted organism</p>	<p>Consideration should be given to the administrative and practicalities around how such variations will be documented and subsequently communicated and be made readily and easily accessible to the public.</p>
<p>Proposal 57 (Option 4) – Align the permissions for exemptions in section 53(2) with the exemptions in section 52</p>	<p>We <b>support</b> this proposal.</p>
<p>Proposal 58 (Option 5) – Clarifying in the Biosecurity Act how unwanted organism status can be removed and making this process more efficient</p>	<p>We <b>support</b> this proposal.</p> <p>There are numerous examples of organisms that have retained their UO status despite being widely established and unmanaged.</p> <p>This, along with proposal 56 would go some way to resolving the current issue of having to seek CTO approval to undertake management research on a newly established, but potentially no longer managed (under the Act), pest or pathogen. This has resulted in significantly delays in valuable research that could have contributed to mitigating the risk of such newly established organisms spreading and impacting on a range of values (i.e. Myrtle rust).</p>
<p>Proposal 59 (Option 6) - Include a new transitional provision for all unwanted organisms to expire after five years</p>	<p>We <b>DO NOT support</b> this proposal and do not believe that this is an issue that warrants a legislative solution.</p> <p>We recognise the intent behind why this has been proposed – namely to reduce the UO list to more manageable levels. This primarily will reduce MPI’s ongoing need to review the UO list and remove those that no longer present a risk. The proposed approach will enable MPI to fast track this and maintain the list by exception or when concern has been raised by stakeholders.</p> <p>However, the proposed approach will create a significant and ongoing administrative burden on MPI by having to review the entire list every 5 years, and subsequently on industry and other potentially impacted or concerned system participants. Who will now need to maintain continual watch on the UO list to ensure that significant pests or pathogens do not fall off the list after 5 years and likely follow a highly bureaucratic process to ensure that they are maintained as UO’s.</p>

	<p>We <b>do not agree</b> with the proposal document that this approach will be more efficient or effective, in fact we believe it will be more inefficient and would increase the probability that a pest or pathogen that should be on the UO list will be dropped, thus impacting on NZ ability to rapidly respond should it be detected in NZ.</p> <p>We believe that this is an operational matter that is within MPI’s ability to address and that it is not a legislative issue that warrants a legislative solution. There is currently nothing in the Act preventing MPI from undertaking regular reviews of existing UO’s and removing those that no longer present sufficient risk that warrant the powers that UO status affords them.</p>
<p>Proposal 60 (Option 7)– Improve the management of notifiable organisms</p>	<p>We <b>support</b> this proposal,</p> <p>The existing NO process is highly inefficient and resource intensive and is inconsistent with.</p> <p>We would however recommend that the term “Notifiable Organism” and the purpose for this designation be clearly defined in <b>Section 2 – Interpretation</b> so that its purpose is clearly understood, as at this time the purpose of this designation is unclear to many system participants.</p>
<p>Proposal 61 – Changing the name of the term “Unwanted Organism” to controlled organisms (minor and technical)</p>	<p>We <b>DO NOT Support</b> this proposal and do not believe it is minor nor technical but is a significant and fundamental change to a term that underpins, and has underpinned, the Biosecurity Act since its implementation.</p> <p>What appears to be a largely communications exercise to potentially appease the semantic preferences of unknown system participants for unknown and unquantified or demonstrable benefit is insufficient justification for such a significant change. We would also have significant concerns if local communities were to be given the powers to determine the status or organisms at local level and impose Biosecurity Act conditions or constraints on such organism without national or regional oversight or consideration.</p> <p>We note that this proposal has not been assessed in the Regulatory Impact Statement document and believe that the implications of implementing this change would be significant but would add little to no benefit. I.e. all documents, regulations, contracts partnership agreement pest management plans, operational agreements etc will all have to be amended</p> <p>The term “controlled organism” has specific connotations that are significantly narrower than the existing term “unwanted organism” which is probably why the latter term was used for this purpose.</p>

<p>Question 92 - Do you agree with our preferred approach to progress proposals 55-60? Why, or why not?</p>	<p>We support 55-58 and 60, but do not support 59 or 61, refer to responses to each specific proposal above</p>
<p>Question 93 - If the term “communicate” is retained in section 52 of the Biosecurity Act, should it have a very broad meaning (i.e., to include moving a single specimen of the organism from one place to another) or a narrower meaning focussed on transmitting a disease or pest from one organism to another? Why?</p>	<p>It should be broader in terms of interpretation</p>
<p>Question 94 - What impacts do you anticipate from the proposed process of enabling a chief technical officer to tailor the application of sections 52 and 53 for unwanted organisms?</p>	<p>Consideration should be given to the administrative and practicalities around how such variations will be documented and subsequently communicated and be made readily and easily accessible to the public.</p>
<p>Question 95 - What impacts do you anticipate as a consequence of the proposed process for removing unwanted organism status?</p>	<p>We <b>DO NOT support</b> this proposal and do not believe that this is an issue that warrants a legislative solution.</p> <p>We recognise the intent behind why this has been proposed – namely to reduce the UO list to more manageable levels. This primarily will reduce MPI’s ongoing need to review the UO list and remove those that no longer present a risk. The proposed approach will enable MPI to fast track this and maintain the list by exception or when concern has been raised by stakeholders.</p> <p>However, the proposed approach will create a significant and ongoing administrative burden on MPI by having to review the entire list every 5 years, and subsequently on industry and other potentially impacted or concerned system participants. Who will now need to maintain continual watch on the UO list to ensure that significant pests or pathogens do not fall off the list after 5 years and likely follow a highly bureaucratic process to ensure that they are maintained as UO’s.</p>

	<p>We do not agree with the proposal document that this approach will be more efficient or effective, in fact we believe it will be more inefficient and would increase the probability that a pest or pathogen that should be on the UO list will be dropped, thus impacting on NZ ability to rapidly respond should it be detected in NZ.</p> <p>We believe that this is an operational matter that is within MPI’s ability to address and that it is not a legislative issue that warrants a legislative solution. There is currently nothing in the Act preventing MPI from undertaking regular reviews of existing UO’s and removing those that no longer present sufficient risk that warrant the powers that UO status affords them.</p>
<p><i>Question 96 - Do you think the transitional provision with a one-off five-year transitional period to remove unwanted organisms is an appropriate mechanism to refine the unwanted organism register?</i></p>	<p>No</p> <p>We recognise the intent behind why this has been proposed – namely to reduce the UO list to more manageable levels. This primarily will reduce MPI’s ongoing need to review the UO list and remove those that no longer present a risk. The proposed approach will enable MPI to fast track this and maintain the list by exception or when concern has been raised by stakeholders.</p> <p>However, the proposed approach will create a significant and ongoing administrative burden on MPI by having to review the entire list every 5 years, and subsequently on industry and other potentially impacted or concerned system participants. Who will now need to maintain continual watch on the UO list to ensure that significant pests or pathogens do not fall off the list after 5 years and likely follow a highly bureaucratic process to ensure that they are maintained as UO’s.</p> <p>We do not agree with the proposal document that this approach will be more efficient or effective, in fact we believe it will be more inefficient and would increase the probability that a pest or pathogen that should be on the UO list will be dropped, thus impacting on NZ ability to rapidly respond should it be detected in NZ.</p> <p>We believe that this is an operational matter that is within MPI’s ability to address and that it is not a legislative issue that warrants a legislative solution. There is currently nothing in the Act preventing MPI from undertaking regular reviews of existing UO’s and removing those that no longer present sufficient risk that warrant the powers that UO status affords them.</p>
<p><i>Question 97 - Do you think the right checks and balances are in place in the process for removing and monitoring</i></p>	<p>This is difficult to answer with no insight into what these checks and balances are. However, we contend that the majority if not all of the issues that this proposal is seeking to resolve are legacy issues that predate the formation of</p>

<p><i>unwanted organism status? Are there any ways this process could be improved?</i></p>	<p>Biosecurity New Zealand in 2004. We believe that the issues not a legislative issue but rather a policy or operational issue. MPI has had 20 years to work to resolve this issue but has still been unable to do so?</p>
<p><i>Question 98 - Is the current definition of an unwanted organism fit-for-purpose? What improvements can be made to ensure that designating an organism as unwanted is proportionate to the potential harm it may cause?</i></p>	<p>Yes, we <b>DO NOT support</b> this proposal and do not believe that this is an issue that warrants a legislative solution.</p> <p>We recognise the intent behind why this has been proposed – namely to reduce the UO list to more manageable levels. This primarily will reduce MPI’s ongoing need to review the UO list and remove those that no longer present a risk. The proposed approach will enable MPI to fast track this and maintain the list by exception or when concern has been raised by stakeholders.</p> <p>However, the proposed approach will create a significant and ongoing administrative burden on MPI by having to review the entire list every 5 years, and subsequently on industry and other potentially impacted or concerned system participants. Who will now need to maintain continual watch on the UO list to ensure that significant pests or pathogens do not fall off the list after 5 years and likely follow a highly bureaucratic process to ensure that they are maintained as UO’s.</p> <p>We do not agree with the proposal document that this approach will be more efficient or effective, in fact we believe it will be more inefficient and would increase the probability that a pest or pathogen that should be on the UO list will be dropped, thus impacting on NZ ability to rapidly respond should it be detected in NZ.</p> <p>We believe that this is an operational matter that is within MPI’s ability to address and that it is not a legislative issue that warrants a legislative solution. There is currently nothing in the Act preventing MPI from undertaking regular reviews of existing UO’s and removing those that no longer present sufficient risk that warrant the powers that UO status affords them.</p>
<p><b>Definitions related to unauthorised goods</b></p>	
<p>Option one - Refining definitions for “New Zealand progeny” and “goods” and classifying New Zealand-born progeny as risk goods</p>	<p>We <b>support</b> this option, however, note that Option two below is our preferred option.</p>

Option two - Refining definitions for “New Zealand progeny” and “goods” and classifying New Zealand-born progeny as unauthorised goods	We <b>support</b> this proposal as it will address a gap in the current biosecurity systems protections that allows the progeny of illegally imported or unauthorised goods to be exempt from Biosecurity Act powers and interventions which could pose a significant biosecurity threat.
Section 115 (use of dogs and devices)	
Proposal 63 – Amendment to section 115 (use of dogs and devices) (minor and technical)	NA

## 7 – Surveillance and interfaces with Department of Conservation – administered legislation

<p><b>Interaction with the Freshwater Fisheries Regulations 1983</b></p>	
<p>Proposal 64 - Enabling the Biosecurity Act to take precedence over sports fishing benefits</p>	<p>NA</p>
<p>Proposal 65 - Enabling the Biosecurity Act to take precedence over sports fishing benefits following agreement from a chief technical officer</p>	<p>NA</p>
<p>Proposal 66 - Enabling biosecurity powers, functions or duties to take precedence over other provisions where a fish is also an unwanted organism</p>	<p>NA</p>
<p>Proposal 67 – Amending the Biosecurity Act to require Ministerial decision-making if a regional council and Fish and Game Council</p>	<p>NA</p>
<p><b>Surveillance and interaction with the Marine Mammals Protection Act</b></p>	
<p>Proposal 68 - Change the purpose of Part 4 by enabling monitoring for pests, notifiable organisms,</p>	<p>We <b>support</b> expanding the purpose of Section 42 Purpose of Part 4 to broaden the mandate of the Act to enable surveillance for a wider range of biosecurity threats that it currently allows.</p>

unwanted organisms, and other organisms that may cause infections, diseases, or unwanted harm	We note that this has benefits beyond just the interaction with the Marine Mammals Protection Act
Proposal 69 – Include a reference to the Marine Mammals Protection Act in the Biosecurity Act	NA
<b>Interaction with the Wild Animal Control Act</b>	
Proposal 70 – Clarify that regional councils can enter private land to control wild animals	<p>We <b>DO NOT support</b> this proposal, <b>nor do we agree</b> with the preferred approach proposed in proposal 70.</p> <p>Our position on this is on the basis of plantation forestry landowners, forest owners and forest managers.</p> <p>We disagree with the statement in the consultation document that “<i>Because of this interaction between the Biosecurity Act and the Wild Animal Control Act, it is unclear whether regional councils are allowed to enter private land for pest management purposes.</i>”.</p> <p>It is very clear that there is no exemption under either the Biosecurity Act or the Wild Animal Control Act that allows regional councils to enter private land for pest management purposes, unless they are acting as agents for or contractors to the Department of Conservation. There is no uncertainty. This has been the case since the Biosecurity Act came into force in 1993 and the pest Boards were replaced by regional councils circa 1989.</p> <p>The fact that the WACA retained a reference to a now long repealed Act and entities that no longer exist and have not done so for decades is immaterial. There is no lack of clarity.</p> <p>No reference is made in the proposal about the extensive provisions, and objection/disputes process requirements that were detailed in S56 of the Agricultural Pests Destruction Act 1967. When the Biosecurity Act 1993 replaced the Agricultural Pests Destruction Act 1967 no provisions were made for councils to have specific powers to enter and destroy wild animals on private land, nor were the extensive provisions or disputes process. We do not believe that there was ever any intent in the development of the Biosecurity Act to allow councils to enter private land without the consent of the owner occupier to control or eradicate pest animals.</p>

	<p>Proposal 70 would represent a significant, and insufficiently justified expansion of regional councils powers with minimal control and disputes process. No assessment or evidence is provided on whether, or why, the existing management provisions of the Biosecurity Act are not working or that there is any conflict with the Wild Animal Control Act.</p> <p>From the material provided the key issue appears to be an operational matter between regional councils and the Department of Conservation rather than a legislative issue and this is where it would be best resolved. Maintaining DOC as the authorising agency for such pest control actions would ensure national consistency in the undertaking of such an activity and allow the DOC to set that standards and requirements that must be followed when undertaking such activities.</p> <p>Forest ownership, landownership and forestry rights arrangements can be very complex, and the management of pests is dealt with in a manner that best suits the situation and arrangements that are in place.</p> <p>Plantation forests are effectively industrial sites or workplaces with multiple high-risk hazards, this means that forest owners or forest managers are PCBU's and have legal duties under the HSWA and must manage and control forest access to ensure they can meet these legal duties. They are also high value assets that need to be protected from various risks (i.e., fire, pests, pathogens etc) that people and various activities pose. Forest owners would need to be able to put in place necessary measures to mitigate any risks and ensure that these are adhered to. This proposal would effectively conflict with these legal duties and create significant and unacceptable risk and liability for landowners.</p> <p>As noted above, there is no conflict between the Biosecurity Act or the Wild Animal Control Act and no justification to significantly expand the powers of regional councils to enter private land without landowner/occupier consent to control wild animals.</p>
<p>Proposal 71 - Make a technical amendment to section 7(5) of the Biosecurity Act to correct a reference to conservation land</p>	<p>NA</p>

Question 112 – Do you agree with our preferred approach to progress proposals 70 and 71? Why, or why not?

We **DO NOT support** this proposal, **nor do we agree** with the preferred approach proposed in proposal 70.

Our position on this is on the basis of plantation forestry landowners, forest owners and forest managers.

We disagree with the statement in the consultation document that “*Because of this interaction between the Biosecurity Act and the Wild Animal Control Act, it is unclear whether regional councils are allowed to enter private land for pest management purposes.*”.

It is very clear that there is no exemption under either the Biosecurity Act or the Wild Animal Control Act that allows regional councils to enter private land for pest management purposes, unless they are acting as agents for or contractors to the Department of Conservation. There is no uncertainty. This has been the case since the Biosecurity Act came into force in 1993 and the pest Boards were replaced by regional councils circa 1989.

The fact that the WACA retained a reference to a now long repealed Act and entities that no longer exist and have not done so for decades is immaterial. There is no lack of clarity.

No reference is made in the proposal about the extensive provisions, and objection/disputes process requirements that were detailed in S56 of the Agricultural Pests Destruction Act 1967. When the Biosecurity Act 1993 replaced the Agricultural Pests Destruction Act 1967 no provisions were made for councils to have specific powers to enter and destroy wild animals on private land, nor were the extensive provisions or disputes process. We do not believe that there was ever any intent in the development of the Biosecurity Act to allow councils to enter private land without the consent of the owner occupier to control or eradicate pest animals.

Proposal 70 would represent a significant, and insufficiently justified expansion of regional councils powers with minimal control and disputes process. No assessment or evidence is provided on whether, or why, the existing management provisions of the Biosecurity Act are not working or that there is any conflict with the Wild Animal Control Act.

From the material provided the key issue appears to be an operational matter between regional councils and the Department of Conservation rather than a legislative issue and this is where it would be best resolved. Maintaining DOC as the authorising agency for such pest control actions would ensure national consistency in the undertaking of such an activity and allow the DOC to set that standards and requirements that must be followed when undertaking such activities.

Forest ownership, landownership and forestry rights arrangements can be very complex, and the management of pests is dealt with in a manner that best suits the situation and arrangements that are in place.

Plantation forests are effectively industrial sites or workplaces with multiple high-risk hazards, this means that forest owners or forest managers are PCBU's and have legal duties under the HSWA and must manage and control forest access to ensure they can meet these legal duties. They are also high value assets that need to be protected from various risks (i.e., fire, pests, pathogens etc) that people and various activities pose. Forest owners would need to be able to put in place necessary measures to mitigate any risks and ensure that these are adhered to. This proposal would effectively conflict with these legal duties and create significant and unacceptable risk and liability for landowners.

As noted above, there is no conflict between the Biosecurity Act or the Wild Animal Control Act and no justification to significantly expand the powers of regional councils to enter private land without landowner/occupier consent to control wild animals.