

Report and Recommendations of the Biosecurity Working Party

Proposed Hawkes Bay Partial Plan Review
Under the Biosecurity Act 1993

Introduction

At its meeting on 24 November 2021 the Hawke's Bay Regional Council (the Council) under clause 32 of schedule 7 of the Local Government Act 2002 appointed us (**the Biosecurity Working Party**) as the Hearing Panel on "Proposed changes to Possum Control – a partial plan review", a proposed change to the Hawkes Bay Regional Pest Management Plan (**Proposal**).

The Council delegated to us the powers, functions and duties of the Council set out in:¹

- a) Sections 71 to 74 (excluding section 72(5) and sections 100D(6)(b) of the Biosecurity Act 1993 ('BSA' / 'the Act') in respect of the Plan; and
- b) Sections 75(1) and 75(2) of the BSA to prepare a written report on the Plan. These include the powers, functions and duties of hearing submissions on the Proposal and making recommendations to the Council on change of delivery mode.

Part 5 of the BSA sets out a six-step process that must be followed when making a regional pest management plan (set out in sections 70 to 75 of the BSA). This report includes amendments to the Hawke's Bay Regional Pest Management Plan that we recommend to Council for its approval, together with reasons for accepting or rejecting submissions lodged on the Proposal.

A table setting out our reasons for accepting or rejecting submissions lodged on the Proposal is attached as **Appendix 5**. A copy of the our recommended proposed amendments to the Hawke's Bay Regional Pest Management Plan is attached as **Appendix 1**.

Hawke's Bay Regional Council is undertaking a review of the Regional Pest Management Plan (RPMP 2019) to include proposed changes to the way that Possum Control Areas (PCA) are managed. The Proposal proposes to transition the current PCA programme from land occupier responsibility for possum control to the use of contractors instead. The PCA programme is a significant regional biosecurity programme that delivers a range of benefits particularly for biodiversity.

The Hearing Process

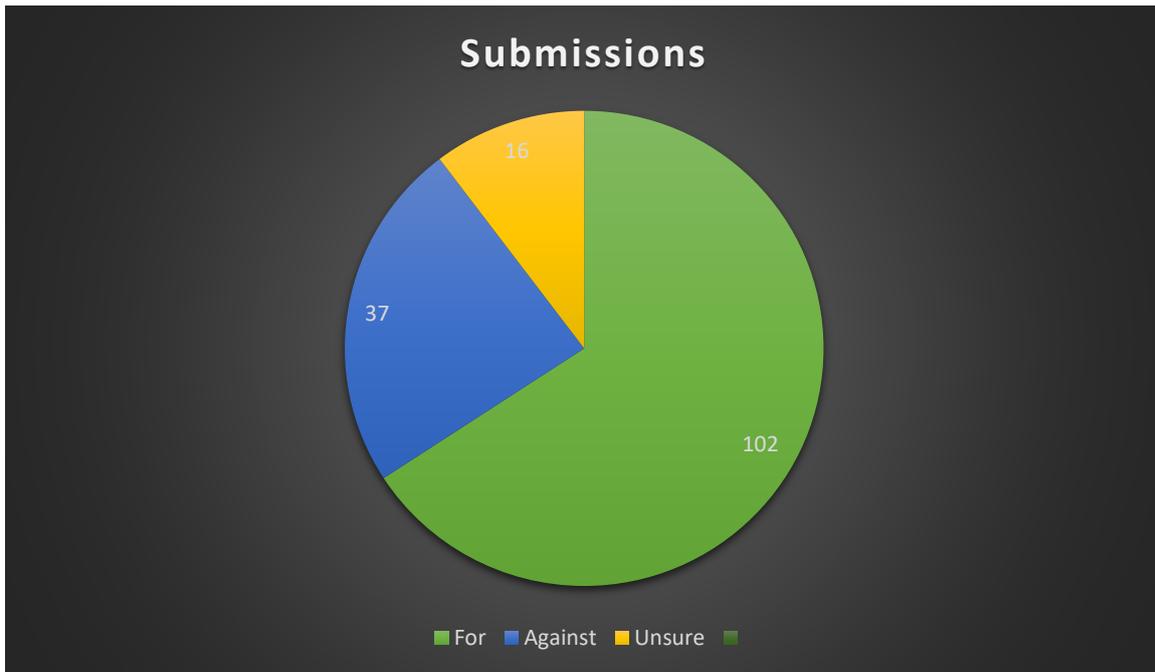
The Proposal was notified for submissions on 1 July 2022. Submissions closed on 31st July 2022.

The Council staff provided an overview of the review of the way that Possum Control Areas are currently managed under the Hawke's Bay Regional Pest Management Plan 2018-2038.

Submissions received

- A total of 155 submissions were received through the consultation period. The majority were submitted online.
- Of these, 102 submitters supported moving to a contractor delivery model, 37 were against a change and 16 were unsure.
- Of the 155 submissions, 28 had indicated their preference but had not commented further (18%).

¹ The Biosecurity Working Party was re-established following the general local election in October 2022 (with the same delegation and on similar terms of reference as the original Biosecurity Working Party) at the Council meeting on 16 November 2022.



Of the 102 submitters in support the key themes included:

Theme	Sub themes
Biodiversity	<ul style="list-style-type: none"> Biodiversity gains possible from the approach for the region
Current system has failed	<ul style="list-style-type: none"> Awareness that the current model has weaknesses
Consistency	<ul style="list-style-type: none"> Using contractors will allow for greater consistency across the region
Land tenure	<ul style="list-style-type: none"> Ensuring that all properties are treated equally, including Forestry, DOC and lifestyle blocks

Of the 37 submitters who did not support the proposed changes to possum control the clear themes were:

Theme	Sub themes
Costs/more information required	<ul style="list-style-type: none"> Specific costs per property Do not want any further rates increases
Already controlling possums	<ul style="list-style-type: none"> Do not want to pay for a contractor when the work is already being undertaken by land occupier
Other pests	<ul style="list-style-type: none"> Focus on other pests as a priority and not just possums
Contactor hesitation	<ul style="list-style-type: none"> Concern around contractors entering property from a Health and Safety perspective Contractors using toxins/ poisons

Of the 16 submitters who did not know whether they supported the proposal, the overall theme was needing more information specifically pertaining to costs. Staff were asked by the BWP to produce an example of how property rates could change under current rating modelling and using the Council managed contractor approach. A copy of this report is attached as **Appendix 4**. The rating approach currently used is likely to change as a result of the Revenue and Financing Policy review currently occurring.

The Hearing and Deliberation process

The following section sets out the key matters that were raised in submissions. While only some of the submitters chose to be heard at the hearing, 9 in person and 4 via written statement, we have considered all submissions together with matters raised at the hearing.

The Biosecurity Working Panel met on the 6th September 2022 at Hawke's Bay Regional Council, Council chambers commencing at 0900 to conduct its deliberations following the hearing of submissions. The following Biosecurity Working Party members were present, as well as the following HBRC staff.

- Councillor Will Foley (Chair)
- Councillor Jacqueline Taylor
- Councillor Jerf van Beek
- Councillor Charles Lambert
- Mr John Simmons (Independent consultant)
- Mr Mark Mitchell (Team Leader/Principal Advisor Biosecurity-Biodiversity)
- Ms Lauren Simmonds (Biosecurity Review Project Manager)
- Mr Peter Martin (Senior Governance Advisor)

The key themes raised in the submissions included:

- Concerns regarding the effectiveness of the current model for possum control;
- Biodiversity benefits from possum control;
- Concern that neighbouring land occupiers are not undertaking possum control;
- Land tenure neutral approach;
- Achieving greater consistency in possum control;
- The need to focus on other pests and not just on possums;
- Contractor uncertainty; and
- Concerns relating to how the programme will be funded.

There was overall consensus of support for the following:

- Using professional contractors in managing possums;
- Regional biodiversity benefits;
- Land tenure neutral approach;
- Achieving greater consistency in possum control; and
- Awareness of the current model not providing consistent results

Many submitters commented that they were supportive of transitioning possum control from occupier responsibility to contractor delivered. Submitters commented on operational and implementation activities, including the way the rules are enforced, the method of undertaking pest control (for example, the use of poisons) and the distribution of costs.

Some of the key issues/concerns raised were:

- Needing more information pertaining to specific costs per property and industry;
- Hesitation in contractors entering their property and/or use of toxins;
- Focusing on other pests as a priority and not just on possums.

Approve the use of contractors for consistency:

The current land occupier responsibility model for possum control is harder to manage than using contractors. There are many more occupiers potentially doing control on their own properties than the number of contractors it would take to control possums effectively at a landscape scale. One 3,000 hectare PCA in Hawke's Bay has 133 properties, while the average per PCA is about 50 properties. When attempting to ensure that control is done in the right way at the right time, large numbers of small properties introduce considerable uncertainty into the system. There are about 4,300 properties in the current PCA programme. Monitoring the performance of each property is a daunting prospect if each does their own possum control. Three to five contractors could cover 400,000 hectares. For most land occupiers, possum control is just one of many jobs to be done, and even with the best intentions, some owners will do possum control irregularly or not at all. Contractors will be more singularly focused on meeting their performance measures and targets within their allocated areas. This does not reflect badly on farmers, it simply acknowledges the reality for anyone whose primary business is not possum control. We agree that a transition to a contractor-based model will not only ensure consistency for possum control outcomes but also ensure positive outcomes for biodiversity which benefits the region mutually.

Land tenure:

Another reoccurring theme that submissions touched on was taking a land tenure neutral approach, specifying that urban, lifestyle, farmland, forestry, Māori, Council and DOC land should be included in the programme. A contractor model would include all land within Possum Control Areas, including forestry and DOC land. Although only a 500m buffer can be applied to Crown Land under the Biosecurity Act, council staff have stated they have an agreement with DOC to undertake control of possums on DOC estate within the PCA programme.

Pests:

It is noted that some of the feedback we received raised concerns regarding controlling other pests such as cats, rabbits, deer, goats. The RPMP has a number of other pest programs that provides support to land occupiers in managing these pests. Although there may be opportunities for these pests to be under region wide control at some point in the future these issues fall outside of the scope of the PCA review which focuses on possums.

Hesitation on using contractors:

In response to submitters expressing hesitation on using contractors, staff clearly outlined all land occupiers will be contacted by a contractor before any possum control work is undertaken on their property. Land occupiers will have an opportunity to talk to a pest control expert about any concerns they may have regarding health and safety, methods of control, land access around certain times of the year, and any additional concerns or comments. Following this, a land access agreement between the land occupier and contractor will be produced which captures these agreed preferences that will guide how the contractor will undertake the work.

Concerns were also raised regarding health and safety of people coming onto the property to do work. Some land occupiers (especially functioning businesses) consider that health and safety of all people coming onto the property is the land occupier's responsibility and don't want to be liable for any mishaps that can occur at their place of business. These health and safety concerns can be addressed when the contractor is working with the land occupier to write up the land access agreement including the health and safety plan. Through this process the land occupier can make the contractor aware of any hazards, health and safety concerns or the requirement of a site induction before work is undertaken, in accordance with any obligations under the Health and Safety at Work Act 2015. While this action would not discharge the ongoing obligations of the land occupier (e.g. to advise the contractor of any new

hazards or changes in circumstances), it will be the contractor's responsibility to act in accordance with the health and safety plan.

The status quo is working:

Some submitters commented that they are undertaking adequate possum control and the proposed transition to contractors was unnecessary. Some also noted they had not seen any possums for years and didn't believe there was an issue. However, Council staff analysis shows that nearly 70% of current PCA properties do not use a contractor of which approximately 50% are likely doing little to no control. Additionally, if best practice trapping and baiting techniques are not being employed this may cause possums to become bait or trap-shy which can make removing these individuals costly in the long term. We agree that a shift to using professional contractors will ensure that possum control in the Hawke's Bay is reliable and of a high standard, with wider positive flow-on benefits for biodiversity around the region.

Costs:

One of the main themes that spanned many submissions, both in support or against transitioning to a contractor delivered model, was concern around cost. There were multiple submissions stating they do not want a rates increase or had an expectation that the proposed changes should be cost neutral. It was stated that the land occupier responsibility model was implemented to ensure possum control was undertaken without loading unnecessary costs on land occupiers. Further submissions touched on the fact that some land occupiers are undertaking adequate possum control themselves and feel this Proposal would subsidise (and therefore reward) those not meeting their responsibilities. There was concern around the additional financial implications to farmers also dealing with FEMP requirements and an expectation that HBRC looks at ways to reduce costs. There was a submission that felt the cost analysis included in the Proposal did not provide enough context for how costs will be fairly apportioned across ratepayers. Additionally, there were submissions that felt the positive benefits of possum control apply to everyone in our community.

Council staff noted that HBRC increased the possum monitoring programme this financial year (2021-2022) from 114,534 ha to 308,000 ha in an attempt to identify those land occupiers not undertaking control prior to transitioning to a contractor delivered model. Any property that fails this monitoring will be required to undertake control to reduce possums to low levels at their expense.

The existing funding split for the current PCA programme is 70% targeted rate, 30% general rate. Given the primary driver of this programme is biodiversity, it is proposed that the funding split is substantially changed to account for this. It is proposed that the programme be primarily funded by a general rate with a smaller percentage of targeted rate to reflect the greater proportion of biodiversity benefits than production benefits. No Council decisions on new PCA budgets or any revised allocation of costs have been made. These issues will be considered and discussed with the community as part of the 2024 Long Term Plan (LTP). The changes envisioned in this proposal to move from land occupier responsibility to the use of contractors instead are enabling, but would not be enacted until the 2024-34 LTP and the Revenue and Financing Policy have been reviewed. Until any changes to the PCA programme are implemented, revenue sources and the allocation of costs will remain unchanged from the current RPMP.

Biodiversity benefits:

Throughout the submissions it was positive to note the overwhelming support for the protection and enhancement of our natural assets with several submissions touching on the positive biodiversity benefits that could be achieved through coordinated possum control. Staff stated that the Proposal would support achieving the HBRC Strategic Plan, adopted in June 2020. One of the plan's four focus areas is "healthy, functioning and climate-resilient biodiversity." Implementation includes scaling-up biodiversity protection by using new technologies and techniques, including pest control operations. As stated earlier in this report, there has been substantial research undertaken in New Zealand that shows the significant biodiversity gains that are achieved from possum management.

Consultation requirements

We wish to firstly thank all parties and submitters that have been involved in the process:

- To prepare the proposal to amend the RPMP to change the mode of delivery for the PCA programme and
- of engaging in the consultation process.

Summary of consultation

On 1st July 2022 Hawke's Bay Regional Council released a Proposal on the future of possum control in Hawke's Bay. The purpose of the Proposal was to seek feedback on the proposed change from occupier responsibility to a HBRC managed contractor delivery model. This proposal was publicly notified on 1 July 2022, with submissions closing on 31 July 2022. To encourage public input, several mechanisms for submitting feedback were provided including phone, email, letter, and paper or online submission form. A total of 155 submissions were received with the majority received via the online submission form. The release of the Proposal was advertised on the Hawke's Bay Regional Council website and Facebook page, a YouTube video, an article in "The Bay Buzz", and 4,500 letters to stakeholders. An email was also sent to key stakeholders, including Iwi groups, the Department of Conservation, Federated Farmers, OSPRI, TB Free Committee, Forestry sector, Ministry for Primary Industries, Biodiversity Hawke's Bay and Hawke's Bay Regional Council contractors.

Local authorities

Hawke's Bay Regional Council has consulted with neighbouring councils in relation to the process for the Regional Pest Management Plan review. Key topics discussed were:

- The current Possum Control Programme
- Funding for changing the delivery model
- Engagement with stakeholders
- Tender guidelines

Māori Perspective

A Biosecurity Working Party, consisting of five councillors and 2 representatives of the Māori Committee was formed. The purpose of the Biosecurity Working Party included "hearing submissions and making recommendations to the Regional Council on the Proposal to amend the Hawke's Bay Regional Pest Management Plan (RPMP) in relation to the Possum Control Area Programme and to make decisions under sections 71 to 74 (excluding sections 72(5) and 100D(6)(b)) of the Biosecurity Act (BSA) as well as any other wider purposes in respect of the Partial Plan Review process for the Possum Control Area programme." Additionally, the Biosecurity Working Party was to provide instruction to staff on the development of the Proposed Plan and advice on how best to consult with Māori.

When the Biosecurity Working Party was formed, there was intent to provide an update to the Māori Committee. At the advice of the Māori Partnerships group, the agenda item was not at the Māori Committee due to a full agenda. As a result, the Biosecurity Working Party has relied on the guidance of the Māori Committee members that sit on the Biosecurity Working Party.

Other persons

Hawke's Bay Regional Council has held meetings with key industry and interest groups such as Department of Conservation, Federated Farmers, OSPRI, Beef and Lamb and Pest Control Contractors.

Satisfaction as to consultation requirements

On 6 September 2022, the Biosecurity Working Party determined that the requirements of section 72 were satisfied in respect of consultation. In coming to that conclusion, the Biosecurity Working Party has had regard to the scale of impacts on persons likely to be affected by the Proposal, whether the persons likely to be affected have been consulted, and the high level of support (and opposition) for the Proposal from those likely to be affected. We are also satisfied in accordance with section 73(1) of the Biosecurity Act 1993 that all of the issues raised in consultation have been considered through the preparation of the Proposal, presentations at the hearing and the original submissions lodged..

Funding

The existing funding split for this programme is 70% targeted rate, 30% general rate. Given the primary driver of this programme is biodiversity, it is recommended that the funding split is substantially changed to account for this. It is proposed that the programme is primarily funded by a general rate (70%) with a smaller percentage of target rate (30%) to reflect the greater proportion of biodiversity benefits than production benefits. The funding split for this programme is also subject to the funding analysis required under the Local Government (Rating) Act 2002.

When determining the appropriate cost allocation for this programme, Council must consider how the costs will be shared amongst those who:

- have an interest in the plan
- benefit from the plan (including collective benefits)
- contribute to the pest problem or pose a risk of spreading a pest through their activities.

These factors have been considered as part of the development of the Proposal and will continue to be considered under section 100T of the Act; when the funding split is confirmed as part of the review of the Revenue and Finance Policy. Consultation on the Revenue and Finance Policy review is due to commence in 2023.

No Council decisions on new budgets or any revised allocation of costs have been made. These issues will be considered and discussed with the community as part of the 2024 Long-Term Plan (LTP) process. The changes envisioned in this proposal are enabling but would not be operational until the LTP process has been completed and the Revenue and Financing Policy has been consulted upon and final changes adopted by HBRC. That is, an occupiers will still be responsible for possum control until such time as the property is under active possum management by the Hawke's Bay Regional Council or OSPRI.

Conclusions and Recommendations

The Hearing Panel was delegated authority under:

- 1.1. Sections 72 to 74 (excluding section 72(5)) and sections 100D(6)(b) of the Biosecurity Act 1993 ('BSA', 'the Act'), in respect of the Proposal; and
- 1.2. Sections 75(1) and (2) of the BSA to prepare a written report on the Plan.

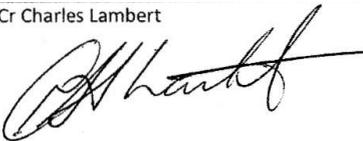
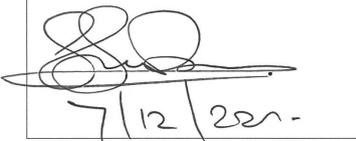
We have considered and deliberated on the Proposal, the submissions lodged on it, the evidence and submissions presented at the hearing, together with the draft version of the amendments to the Plan and reports provided by Council Officers. We are satisfied that the amendments to the RPMP set out in Appendix 1 meets the requirements for a regional

pest management plan under the BSA. Council Officers provided the Panel with an assessment of the draft Plan against sections 73 and 74 of the Act. We agree with and accept that assessment of the draft amendments to the Plan. In particular, the draft amendments to the Plan contain all of the matters required by section 73 of the Act (to the extent that they are relevant) and meets the requirements of section 74 of the Act (to the extent that they are relevant), including:

- 1.3. The amendments are not inconsistent with the National Policy Direction, any other pest management plan or pathway management plan, and any regional policy statement or regional plan, or any regulations (section 74(a));
 - 1.4. The benefits of the Plan as proposed to be amended outweigh the costs, after taking account of the likely consequences of inaction or other sources of action (section 74(b));
 - 1.5. Persons that are required, as a group, to meet directly the costs of implementing the Plan accrue, as a group, benefits outweighing the costs, or contribute, as a group, to the creation, continuance or exacerbation of the problems proposed to be resolved by the Plan as proposed to be amended (section 74(c));
 - 1.6. There is likely to be adequate funding for the next 5 years (section 74(d)); and
 - 1.7. Plan Rule 14 will assist in achieving Objective 11 and will not trespass unduly on the rights of individuals (section 74(e)).
2. Cr Jerf Van Beek opposes the transition from occupier responsibility model to contract model, due to some landowners managing their own properties sufficiently and with concerns over cost to these landowners. Cr Van Beek would like to see a hybrid model put into place, where landowners who are doing their own controls effectively would be exempt from paying the contractor rates associated with the PCA programme.
 3. We have prepared this report in accordance with section 75(1) of the Act and set out our recommended reasons for accepting or rejecting submissions in accordance with section 75(2) of the Act in Appendix 5. We recommend that the Council adopt our written recommendations and report and approve the amendments to the plan set out in Appendix 1.

Issued this 16 November 2022

For the Hearing Panel:

<p>Cr Will Foley</p> <p>Cr Will Foley</p> 	<p>Cr Charles Lambert</p> <p>Cr Charles Lambert</p> 
<p>Cr Jerf Van Beek</p> <p>Cr Jerf Van Beek</p> 	<p>Mr John Simmons</p> <p>Mr John Simmons</p> 