

7. REGULATORY MANAGEMENT

7.1 Biosecurity Act Powers

The powers conferred on the NRC by the Biosecurity Act for the purposes of implementing the Regional Pest Management Strategies are outlined below. Authorised persons will exercise many of these powers on behalf of the Principal Officer (Chief Executive Officer) of the NRC. The Principal Officer shall appoint authorised persons and may delegate powers to any authorised person, subject to sections 103 and 105 of the Biosecurity Act. When carrying out their duties, an authorised person shall be limited to using those powers specified in their warrant of appointment, based on those powers listed:

Administrative Powers	Reference in the Biosecurity Act	Level of Delegation
Making of rules.	section 80B	NRC in Regional Pest Management Strategies.
The appointment of authorised and accredited persons.	section 103(3) and (7)	Principal Officer of the NRC.
Delegation to authorised persons.	section 105	
Power to request a warrant to inspect a dwelling or marae.	section 110	
Duty to provide information.	section 43	An "authorised person" appointed by the Principal Officer of the NRC shall have authority to exercise such powers and functions contained within these sections, as defined in the Regional Pest Management Strategies, on the authorised persons warrant of appointment, and the NRC Deed of Delegation.
Power to require assistance.	section 106	
Power of inspection.	sections 109 and 112	
Power to record information.	section 113	
General powers.	section 114	
Use of dogs and devices.	section 115	
Power to seize abandoned goods.	section 119	
Power to examine organisms.	section 121	
Other powers in respect of "risk goods".	section 122	
Power to vaccinate.	section 123	
Enforcement of area controls.	section 134	

7.2 Authorised and Accredited Persons

Authorised Persons

All those persons, who may, from time to time, be so appointed by the Principal Officer of the NRC, shall be authorised persons appointed pursuant to section 103 of the Biosecurity Act and shall exercise such functions, powers and duties as are specified in their individual warrants of appointment.

Appointment of Accredited Persons

The Principal Officer of the NRC may, from time to time, appoint suitably qualified contractors or other persons as accredited persons in terms of section 103(7) of the Biosecurity Act to perform works specified in contract documents.

7.3 Offences

Any person who contravenes section 154 of the Biosecurity Act, including but not limited to, breaching any rule in the Strategies or without reasonable excuse, failing to comply with a direction or failing to comply with the Biosecurity Act, commits an offence against the Act. For the purpose of clarity, the existence of rules in the Strategies in no way limits the application of any provision of the Biosecurity Act. The NRC will, at its discretion, bring a prosecution against any person who commits an offence against the Biosecurity Act.

7.4 Exemption Provisions

Any occupier or other person may, upon representation to the NRC, seek an exemption from any provision of a rule prescribed in these Strategies. Such exemptions will be considered as follows:

- a. NRC may, if it considers it appropriate, exempt any person from any specified requirement in any rule included in these Strategies in accordance with the Biosecurity Act.
- b. Before granting an exemption under this section, the NRC must be satisfied in the circumstances of each case that:
 - i. the requirement has been substantially complied with and that further compliance is unnecessary; or
 - ii. the action taken, or provision made in respect of the matter to which the requirement relates, is as effective or more effective than actual compliance with the requirement; or
 - iii. the prescribed requirements are clearly unreasonable or inappropriate in the particular case; or
 - iv. events have occurred that make the prescribed requirements unnecessary or inappropriate in the particular case, and that the granting of the exemption will not significantly prejudice the attainment of the objectives of these Strategies.

NRC will maintain a register recording the number and nature of exemptions granted. This register will be available for public inspection during normal office hours.

7.5 Policy Enforcement

Issue of Legal Directions by Authorised Persons

An authorised person may issue a legal direction to any occupier to carry out specified works or measures for the purposes of eradicating or preventing the spread of any pest in accordance with a Pest Management Strategy. The legal direction shall be issued under section 122(a) of the Biosecurity Act and specify the following matters:

- a. The land in respect of which works or measures is required to be undertaken;
- b. The pest for which the works or measures are required;
- c. Works or measures to be undertaken to meet the occupier's obligations;
- d. The time within which the works or measures are to be undertaken;
- e. Action that may be undertaken by the management agency if the occupier or occupiers fail to comply with any part of the direction; and
- f. The name, address, telephone number and fax number of the management agency and the name of the authorised person issuing the legal direction.

Failure to Comply with a Legal Direction

Where a legal direction has been given to an occupier and the occupier has not complied with the requirements of the legal direction within the time specified, then the management agency may enter onto the land specified in the legal direction and carry out, or cause to be carried out, the works or measures specified in the legal direction, or such other works or measures as are reasonably necessary or appropriate for the purpose of giving effect to the requirements of the legal direction.

Recovery of Costs Incurred by Management Agency

Where a management agency undertakes works or measures for the purposes of giving effect to the requirements of a legal direction, it shall recover the costs incurred from the occupier pursuant to section 128 and 129 of the Biosecurity Act and may register the debt as a charge against the land.

Variation of a Legal Direction

Where, upon the representations of an occupier issued with a legal direction, an authorised person is satisfied that:

- a. Steps have been taken to comply with the direction; and/or
- b. The occupier has been prevented by reasonable cause from completing the necessary works or measures;

the authorised person may vary the requirements of the legal direction, including extending the time period specified for works or measures to be undertaken, as considered appropriate.

Cancellation of a Legal Direction

When an authorised person is satisfied that:

- a. Works or measures have been undertaken to meet the occupier's obligations; or
- b. For some other reason it is no longer appropriate to enforce the legal direction;

the authorised person may cancel that legal direction.

Modes of Service for Legal Directions

A legal direction to an occupier is to be served in the ways set out in below:

1. Where an occupier is a person (other than the Crown), or a body by:
 - a. Delivering it personally to the person; or
 - b. Delivering it (including by facsimile) at the usual, last known place of residence or business of the person; or
 - c. Sending it in a prepaid post addressed to the person at the last known place of residence or business of the person; or
 - d. Where it is not practicable to give it in accordance with sub clause (a), (b) or (c), by placing it on some conspicuous part of the land in a way that it will remain legible for a reasonable time.
2. Where the occupier is a Minister of the Crown, by giving it to the Chief Executive of the appropriate department or state owned enterprise in accordance with sub clauses (1)(a) to (1)(c).
3. Where the occupier is a body (incorporated or not) a legal direction shall be given by:
 - a. Giving it to an officer of the body in accordance with sub clauses 1(a) to (1)(c); or
 - b. Delivering it to the registered office of the body in accordance with sub clauses (1)(a) to (1)(c); or
 - c. In the case of a partnership, a legal direction shall be given to any one of the partners in accordance with sub clauses (1) (a) to (1) (c).
4. Where a legal direction is to be served on owners of Māori land, the service shall be in accordance with section 181 of the Te Ture Whenua Māori Act 1993.

In the event of a land occupier or other persons failing to comply with any rule prescribed in the Strategies, or with any provisions of the Biosecurity Act in relation to declared pests, an authorised person of the NRC will:

- a. Advise the land occupier or other person of their noncompliance;
- b. Advise they take remedial action and initiate the regulatory procedures set out in section 7; or
- c. Advise the land occupier or other person that they have committed an offence against the Biosecurity Act and initiate court proceedings.

8. RELATIONSHIP TO OTHER STRATEGIES

Integrated management aims to minimise the effects of cross-boundary issues and give effect to the objectives of these Strategies. The NRC will use the following procedures in relation to integrated management and cross-boundary issues:

- Liaison with MAFBNZ with regard to pest management issues which are best dealt with or coordinated at a national level;
- Liaison with Crown land occupiers with respect to coordination of pest management programmes;
- Liaison with the Auckland Regional Council on cross-boundary issues pertaining to pest management;
- Liaison with other Regional Councils on pest management matters which are relevant to more than one region;
- Encouraging other authorities (e.g. territorial local authorities) to adopt policies and practices which will avoid, remedy or mitigate adverse effects associated with pests, and coordinating education initiatives with other agencies; and
- Making submissions on documents prepared by other authorities.

There is an operative Regional Pest Management Strategy in the neighbouring Auckland region and national Strategies for Bovine Tb and American Foulbrood. The Northland Pest Management Strategies are not considered to be inconsistent with these Strategies.

These Northland Regional Pest Management Strategies have been prepared, taking into account related Strategies, policy statements and plans. Under section 76(4) of the Biosecurity Act, RPMS are not to be inconsistent with:

- a. Any national or Regional Pest Management Strategy (whether relating to the same region or any other region or regions) concerning the same organism; or
- b. Any regulation; or
- c. Any Regional Policy statement or Regional Plan prepared under the Resource Management Act 1991.

9. EFFECTS OF IMPLEMENTING THE STRATEGIES

The Biosecurity Act requires Pest Management Strategies to specify the actual or potential effects that the implementation of a Strategy may have on:

- a. The relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and taonga.
- b. The environment; and
- c. The marketing overseas of New Zealand products.

9.1 Effects on Māori

The implementation of the Northland Regional Pest Management Strategies is anticipated overall to have positive effects on Māori culture and traditions. The Strategies should enable Northland Māori to address the impacts of pests within their rohe through education and advice and, more specifically, through site-led programmes such as Community Pest Control Areas. The implementation of the Strategies will also reduce the risk of incursion by new pests and thereby avoid impacts upon cultural values.

Iwi will also have the option to undertake or participate in community/stakeholder pest control, which will enable iwi to address pests within their rohe and have input into the practices utilised to manage pests via pest management plans. The NRC may also have regard to the provisions of hapu/iwi management plans in developing pest management policy.

Accordingly, the risk of adverse effects on tikanga, kaitiakitanga, taonga and wāhi tapu as a result of pest control is minimised and the Northland Regional Pest Management Strategies are considered to have beneficial effects for Māori and their cultural and traditions with their ancestral lands, waters, wāhi tapu and taonga.

9.2 Effects on the Environment

The implementation of the Northland Regional Pest Management Strategies will reduce the risk of environmental impacts as a result of new pest incursions through increased surveillance within the region, and the development of response plans. Publicity campaigns and education programmes will raise awareness and increase the reporting of pests. The Strategies will enable communities and stakeholders to manage the impact of pests on the ecological, production, recreation and aesthetic values of the region through CPCAs.

Detrimental effects of the proposed Strategies include the use of herbicides and pesticides that can adversely impact non-target species, animal welfare and general public health. These effects will be minimised by only using registered toxins and approved animal control techniques. The NRC believes that any detrimental impacts arising from control operations will be low and would be less significant than the benefits. Control operations requiring the use of chemicals, structures or other such activity are subject to the provisions of the Resource Management Act 1991. As such, the Strategies are considered to have beneficial effects on the environment.

9.3 Effects on marketing of New Zealand products overseas

The implementation of the Strategies is not expected to have any significant impact on the marketing overseas of New Zealand products. However, surveillance for and the management of plant and animal pests may provide some minor improvement in the market for New Zealand goods overseas. Similarly, the control of pests in areas of significant ecological importance should enhance the biodiversity, recreational and aesthetic values important to tourism to some degree. Adverse effects will be minimised by only using registered toxins and approved animal control techniques. Consequently, the Strategies are expected to have a small positive effect on New Zealand's marketing overseas in general, and its export products.

10. FUNDING

The underlying tenet of the Biosecurity Act is that the beneficiaries of a Pest Management Strategy, or those who exacerbate a pest problem, should be required to pay.

Funding of the Strategies is determined through two Acts:

- Biosecurity Act 1993 – sections 77 and 97 – based on cost/benefit and exacerbator/beneficiary principles; and
- Local Government Amendment Act 2002 – sets out a process for apportionment of costs and developing funding mechanisms to test equity and reasonableness.

Section 77 of the Biosecurity Act requires a Strategy to specify:

- Beneficiaries and exacerbators;
- The rationale for the proposed allocation of cost; and
- Identify any unusual administrative costs or problems.

10.1 Beneficiaries and Exacerbators

Pest management is an individual's obligation in the first instance. Individuals are beneficiaries and exacerbators of pest problems, to varying degrees. The extent to which an individual contributes to pest problems depends on whether their inaction has the potential to cause significant impairment to other occupier values or to the environment generally. It is often difficult to distinguish between beneficiaries and exacerbators as they can be one and the same, however the following are identified:

Beneficiaries include:

- The public, communities and individuals who derive direct or indirect benefit from pest control;
- Occupiers (including those who occupy the CMA);
- Sectoral public (i.e. industries, interest groups);
- The Crown; and
- Territorial authorities.

Exacerbators include:

- Those who transport, spread or provide habitat for pests (knowingly or otherwise); and
- Those, who through inaction, contribute to pest problems.

The NRC has determined that achieving the purpose and objectives of the Northland Pest Management Strategies provides 'public good' and that the regional community in general collectively benefits from the implementation of the Strategies.

10.2 Funding Sources and Rationale

The Plant Pest Management Strategy is expected to cost \$600,000 per annum. The Animal Pest Management Strategy is expected to cost \$435,000 per annum. The Marine Pest Management Strategy is expected to cost \$100,000 per annum. The NRC, pursuant to sections 16-18 of the Local Government (Rating) Act 2002, intends to fund the implementation of these Strategies by way of the existing biosecurity component of regional rates.

The Strategies are to be funded by rates because the pests in question have the potential to significantly impact the economic, biodiversity, recreation, amenity and cultural values of the region as a whole, and the regional community has an interest in protecting these values. As such, the Strategies provide 'public good' benefits region-wide.

The Strategies also provide for community/stakeholder pest control initiatives (CPCA) whereby, after NRC assistance, the community/stakeholder as beneficiary funds the ongoing cost of managing the pest. The community/stakeholder pest control schemes will also provide wider benefits beyond the control site through reduction of pest numbers, and as such initial ratepayer funding of these schemes is justified.

10.3 Cost Recovery

Section 135 of the Biosecurity Act provides Regional Councils with options to recover the costs of administering the Act and performing its functions, powers, duties under a Pest Management Strategy. The mechanisms include user charges and cost recovery in the event of non-compliance with a legal direction. Cost recovery is also used in specific circumstances as a disincentive to exacerbators, particularly where population density of a particular pest is very low and where land management practices undermine the Strategies objectives.

10.4 Compensation

In terms of section 76(1)(n) of the Biosecurity Act, no compensation shall be payable by the NRC with regard to losses incurred by individuals as a direct result of the implementation of these Strategies, including the removal of pests as required under the Strategies' rules.

10.5 Identification of Unusual Administrative Costs

No unusual administrative problems or costs are expected in recovering the costs to any of the persons that are required to pay.



Putting Northland first

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