

6. REGULATORY MANAGEMENT

To achieve the purpose of the Strategies and to give effect to its objectives and means of achievement, the Northland Regional Council will use statutory powers under the auspices of the Biosecurity Act.

6.1. POWERS CONFERRED FOR STRATEGY IMPLEMENTATION

6.1.1. Biosecurity Act - Regulatory Provisions

The powers conferred on the Northland Regional Council by the Biosecurity Act for the purposes of implementing the Strategies are outlined below. Authorised Persons will exercise many of these powers on behalf of the Principal Officer of the Northland Regional Council who 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	Northland Regional Council in Pest Management Strategies
The appointment of authorised and accredited persons. Delegation to authorised persons Power to request a warrant to inspect a dwelling or marae.	section 103(3) and (7) section 105 section 110	Principal Officer of the Northland Regional Council
Duty to provide information. Power to require assistance. Power of inspection. Power to record information. General powers. Use of dogs and devices. Power to seize abandoned goods. Power to examine organisms. Other powers in respect of "risk goods". Power to vaccinate. Enforcement of area controls.	section 43 section 106 sections 109 and 112 section 113 section 114 section 115 section 119 section 121 section 122 section 123 section 134	An "authorised person" appointed by the Principal Officer of the Northland Regional Council shall have authority to exercise such powers and functions contained within these sections as defined in the Pest Management Strategies on the authorised persons warrant of appointment, and the Northland Regional Council Deed of Delegation.

6.1.2 Authorised Persons, Accredited Persons And Delegation

Authorised Persons

All those persons, who may, from time to time, be so appointed by the Principal Officer (Chief Executive Officer) of the Northland Regional Council, 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 (Chief Executive Officer) of the Northland Regional Council 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.

Delegation of Functions, Powers and Duties Under National Pest Management Strategies

The Northland Regional Council, and its authorised persons, may, pursuant to section 105 of the Biosecurity Act, accept delegation from the Minister or a Chief Technical Officer to enable the performance of functions, powers and duties under National Pest Management Strategies.

6.2. 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 Northland Regional Council will, at its discretion, bring a prosecution against any person who commits an offence against the Biosecurity Act.

6.3. EXEMPTION PROVISIONS

Any occupier or other person may, upon representation to the Northland Regional Council, seek an exemption from any provision of a Strategy rule prescribed in section 6.4 of these Strategies. Such exemption will be considered as follows:

- (a) Northland Regional Council may, if it considers it appropriate, exempt any person from any specified requirement in any rule included in this Strategy in accordance with the Biosecurity Act.
- (b) before granting an exemption under this section, Northland Regional Council 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 this Strategy.

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

6.4. PEST MANAGEMENT RULES

FAILURE TO COMPLY WITH THESE RULES CREATES AN OFFENCE UNDER SECTION 154 (r) OF THE BIOSECURITY ACT 1993.

6.4.1 Rules Pertaining to Pest Animal Management Strategies

Some of these rules restate or reinforce requirements already within statutes and regulations. They are in no way meant to dismiss or replace these statutory or regulatory provisions but, instead, to restate them within one document and to provide support for the body or Government department charged with their administration.

6.4.1.1 Requirement to Brand Mark or Similarly Identify All Farmed Deer and Goats

No person shall keep deer or goats on a property unless they are branded or marked with some clearly visible identification.

6.4.1.2 Prohibition on Transport of Unbranded Deer into Northland

No person shall transport any unbranded or unmarked deer into Northland from any other part of New Zealand.

6.4.1.3 Prohibition on Liberation of Deer and Goats From Properties

No person shall liberate release or allow to escape from captivity any deer or goats held on any property and shall report any escapes to the Regional Council within 24 hours. (Reiterates in part, section II Wild Animal Control Act 1977).

6.4.1.4 Keeping or Farming of Goats Within Restricted Area (Land Adjacent to Nationally Significant Indigenous Habitat)

No person shall keep in captivity or farm goats within 1 kilometre of the boundaries of areas of nationally significant indigenous habitat identified generally on Map B and more definitively on cadastral maps held by the Northland Regional Council except with, and subject to the conditions stated in, a consent issued by the Northland Regional Council.

6.4.1.5 Keeping of Deer and Goats Must Not Cause Accelerated Soil Erosion

No person shall keep deer or goats in a manner which is likely to cause injury or damage to any Regionally significant indigenous flora or fauna or is likely to lead to soil erosion, contamination of any water body by sediment or result in flooding.

6.4.1.6 Requirement For Properties Containing Goats to be Appropriately Fenced

Every occupier on whose land goats are being kept shall at all times ensure that the land is fenced to a standard which effectively contains the goats and prevents their escape.

NB: A similar provision relating to fencing to contain deer is included in section 12, 12A, 12B of the Wild Animal Control Act.

6.4.1.7 Capture and Destruction of Deer and Goats and Recovery of Costs Incurred By Management Agency

When the owner of escaped deer or goats advises the Council of their escape a management agency, authorised person or accredited person may, having given the owner 7 days to recover the animals, capture and/or destroy any deer or goats found not contained by fencing and may recover the cost of such work from the owners of the animals, or the person(s) responsible for their release. (Parallels powers of Director-General of Conservation pursuant to section 12C, Wild Animal Control Act 1977.

6.4.1.8 Prohibition on Transport of Possums Into Northland

No person shall transport any possum, whether dead or alive, into Northland from any other part of New Zealand.

6.4.1.9 Prohibition on Keeping of Possums in Captivity Except Where Licensed

No person shall keep a possum in captivity, including as a pet, unless the premises in which the possum is held are licensed by the Department of Conservation under the Wild Animal Control Act 1977. (section 12, Wild Animal Control Act 1977) .

6.4.1.10 Control of Possum Populations by Land Occupiers

Where a management agency has undertaken initial control work on a property and reduced possum populations the occupier of the property shall maintain the possum population densities at a RPI of 40% or less.

6.4.1.11 Control of Pest Animal Populations by Land Occupiers in Community Pest Control Areas

Where a management agency has undertaken initial control work on a property and/or supplied resources to reduce pest animal population densities to a level agreed to in a management plan for the area, the occupier of the property shall maintain the pest animals population densities to those agreed to in the management plan.

6.4.1.12 Control of Rabbits by Land Occupiers

Where the management agency has undertaken initial control work reducing rabbit population density below 4 on the McLean Scale or where the population has traditionally been below 4, the occupier shall maintain the population, at his/her own expense, maintain rabbits below that level.

6.4.1.13 Prohibition on Liberation of Rabbits or Hares

No person shall liberate or release from captivity any rabbits or hares.

6.4.1.14 Prohibition on Transport of Live Rabbits and Hares into Northland

No person shall transport any live feral rabbits or hares into Northland from any other part of New Zealand.

6.4.1.15 Prohibition on Mustelid Farming

No person shall keep in captivity or farm any mustelids in Northland.

6.4.1.16 Prohibition on Liberation of Mustelids and Cats

No person shall liberate or release from captivity any mustelid or cat.

6.4.1.17 Prohibition on Distribution and Sale of Pest Animals

No person shall distribute to other persons or offer for sale or hold in a premises where animals are offered for sale any live pest animal, which is subject of a Northland Regional Council Pest Management Strategy, except to slaughter.

6.4.2 Rules Pertaining to Pest Plant Management Strategies

6.4.2.1 Clearance of Broom, Gorse and Ragwort Inside All Property Boundaries

Every occupier shall maintain a strip of land inside each property boundary free of broom, gorse and ragwort where such land adjoins other land or a road which is free of the said pest plants or is being actively controlled by adjoining occupiers.

The pest free strip of land shall be of the following dimensions:

- Broom and gorse - 10 metres inside each boundary
- Ragwort - 50 metres inside each boundary

6.4.2.2 Clearance of Broom, Gorse, Pampas Grass, Privet and Wild Ginger Inside Roadside Property Boundaries

Every occupier shall maintain a 10 metre wide strip of land free of broom, gorse, pampas grass, privet and wild ginger, inside each property boundary which adjoins a road, where the road controlling authority is controlling the said plants on the adjacent roadside.

6.4.2.3 Clearance of Broom, Gorse, Pampas grass and Ragwort From Quarries, Mines, Limeworks and Stockpile Areas

Every occupier and operator of a quarry, mine or stockpile of natural overburden or other similar material shall maintain the work area and a 50 metre strip of land around the work area or stockpile free of broom, gorse, pampas grass and ragwort.

6.4.2.4 Clearance of Ragwort From Floodplains

Every occupier shall maintain any land which is within a floodplain and which floods on average at least once each year, free of ragwort and shall take all necessary measures to prevent ragwort seeding on such land.

6.4.2.5 Clearance of Ragwort From Roadsides by Occupiers

Every occupier shall maintain the land between their property boundaries and the carriageway of any adjoining road free from ragwort.

6.4.2.6 Clearance of Broom, Gorse, Pampas Grass, Privet and Wild Ginger from Roadsides by Road Controlling Authorities

Every road controlling authority shall implement a control programme aimed at controlling and progressively eradicating broom, gorse and wild ginger from the Regions road reserves and controlling and eradicating pampas and privet from areas of light or sparsely infested road reserves under their jurisdiction in accordance with a five year management plan which shall be negotiated with and agreed to by the Northland Regional Council.

6.4.2.7 Management Plans for Properties with African Feathergrass in Infested Areas

Where African feathergrass is present on a property within the area shown on Map C of this document, the occupier in conjunction with the Northland Regional Council, shall implement a management plan to control the pest plant and ensure that it does not spread to non-infested areas of the property.

6.4.2.8 Total Control of Pest Plants on Properties

The occupier or owner of a property on which any of the following pest plants are growing shall prepare and implement a programme aimed at achieving eradication of that plant on that property:

- Bathurst bur
- Nodding thistle and Californian thistle
- Spartina

6.4.2.9 Prohibition on Distribution and Sale of Pest Plants

- (i) No person shall distribute to other persons or offer for sale, or hold in a premises where plants are offered for sale, any pest plant which is subject to a Northland Regional Council Pest Management Strategy or included in the National Accord List of Plants Banned from Sale & Distribution.

- (ii) No person shall distribute or offer for sale to other persons any agricultural lime, roading aggregate, sand or fill material which contains the seeds or any other vegetative material capable of propagation from a pest plant subject of a Northland Regional Council Pest Management Strategy or included in the National Accord List of Plants Banned from Sale & Distribution.
- (iii) No person shall transport or use any equipment, machinery or product which contains the seeds or any other vegetative material capable of propagation from a pest plant subject of a Pest Management Strategy or included in the National Accord List of Plants Banned from Sale & Distribution.
- (iv) No person shall plant, transplant or re-distribute any pest plant subject of a Pest Management Strategy or included in the National Accord List of Plants Banned from Sale & Distribution.

6.4.2.10 Recovery of Costs of Nassella Tussock Control

The Council may recover the extra costs by direct charge to the occupier concerned as provided for in section 135 of the Biosecurity Act.

The proportion of the cost recovered will be determined by the degree of difficulty in finding nassella seedlings, as affected by the vegetative cover on the land and in accordance with the Northland Regional Council charging policy. Nassella Tussock infested areas are ranked into five categories with the following levels of cost recovery:

- (i) Surveillance sites, that is sites found free of nassella for the preceding three or more years. **No cost recovery.**
- (ii) Sites where nassella is still being found but which have been permanently retired from grazing and on which there is a full canopy cover of indigenous scrub or forest, or such a cover is being actively encouraged. **No cost recovery.** A plan to retire the land must be in accordance with a management plan and a Memorandum of Understanding agreed to by the land occupier and the Land Operations Manager of the Northland Regional Council. Any such agreement must be entered into prior to the annual ranging programme.
- (iii) Sites where nassella is still being found but which are being managed to encourage a dense, well grazed pasture with easy access and no obstructions which prevent plants being seen. **20% cost recovery.**
- (iv) Active sites with major obstructions to access and visibility. Typically non or lightly grazed pasture with less than 10% scrub or scrubby weeds. **40% cost recovery.**
- (v) Active sites with major access problems and obstructions to visibility. Typically reverted pasture with greater than 10% cover of gorse or scrub, unpruned pine forest with long grass or scrub understorey or pine forest with heavy pruning and/or thinning slash. **60% cost recovery.**

6.4.2.11 Total Clearance of Wild Ginger or Privet Within Areas Under Community Schemes

Where a community group is undertaking control of wild ginger and/or privet according to a community or area-wide control programme approved by the Northland Regional Council, the occupier or owner of a property on which the pest plants are growing shall prepare and implement a programme aimed at achieving eradication of that plant on that property

6.4.2.12 Maintenance of Lantana Infestation Sites

The occupier of a property on which lantana has been controlled by Council service delivery shall maintain the property clear of lantana.

6.4.2.13 Total Control of Privet in Urban Areas

Privet trees and hedges are permitted under this Pest Management Strategy providing that:

- (i) Hedges are maintained in a trim state;
- (ii) Privet trees or hedges do not exacerbate human health problems. Where Privet is claimed to exacerbate human health problems a medical certificate/letter is required as proof of this claim.
- (iii) Privet trees or hedges do not exacerbate the spread of Seed and re-invasion of an already cleared area.

6.4.2.14 Total Clearance of Pest Plants within Areas Under Community Control Schemes

Where a community group is undertaking control of pest plants according to a community control programme approved by the Regional Council, the occupier or owner of a property on which the pest plants are growing shall prepare and implement a programme aimed at achieving eradication of that plant on that property.

6.4.3 Rules Pertaining to Pest Ants Management Strategy

6.4.3.1. Prohibition on Distribution of Pests

- (i) No person shall distribute or offer for sale to other persons any material or equipment which may contain or harbour pest ants specified in this strategy without first undertaking suitable control measures to eliminate ants specified in this strategy.
- (ii) No person shall transport or use any equipment, machinery or product outside an area which is identified as having an infestation of pest ants specified in this strategy, that may contain or harbour the pest or otherwise pose a risk of spreading the pest without first undertaking suitable control measures to eliminate ants specified in this strategy.

6.4.3.2. Control of Pest Ants within Areas under Community Control Schemes

Where an management agency has undertaken initial control work on property and/or supplied resources to reduce pest population densities to a level in an

agreed management plan, the occupier of the property shall maintain pest population densities to those agreed to in the management plan.

6.4.3.3. Control of Pest Ants in Areas Identified as Portals for Distribution

Where a property, through activities undertaken on the property, is identified as a portal for the active distribution of ants a management programme to control or contain the infestation is required, to be implemented by the land occupier

6.5. POLICY ENFORCEMENT

6.5.1 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;
- (f) The name, address, telephone number and fax number of the management agency and the name of the authorised person issuing the legal direction.

6.5.2 Failure to Comply with a Legal Direction

Where a legal direction has been given to an occupier under section 6.5.1 of this document 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.

6.5.3 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.

6.5.4 Variation of a Legal Direction

Whereupon 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 he or she considers appropriate.

6.5.5 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.

6.5.6 Modes of Service for Legal Directions

A legal direction to an occupier under section 6.5.1 is to be served in the ways set out in Clauses (1), (2), (3), and (4) 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 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 subclause (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 subclauses (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 subclauses 1(a) to (1)(c); or
 - (b) delivering it to the registered office of the body in accordance with subclauses (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 subclauses (1)(a) to (1)(c).

- (4) Where a legal direction is to be served on owners of Maori land the service shall be in accordance with section 181 of the Te Ture Whenua Maori Act 1993.

In the event of a land occupier or other persons failing to comply with any Strategy rule prescribed in section 6.4 of the Strategies or with any provisions of the Biosecurity Act in relation to declared pests, an Authorised Person of the Northland Regional Council will:

- (a) advise the land occupier or other person of their non-compliance, advise they take remedial action and initiate the regulatory procedures set out in section 6.5. ;or
- (b) advise the land occupier or other person that they have committed an offence against the Act and initiate court proceedings.

6.6. SMALL SCALE INFESTATION RESPONSE MEASURES

The Northland Regional Council may be required to undertake a rapid response to a new pest problem (e.g the invasion of a pest not previously present in the Region or New Zealand), or a recognised small pest problem which has been granted unwanted organism status. Small scale management programmes under section 100 of the Biosecurity Act can be used once a pest has been declared an unwanted organism without the need for a Pest Management Strategy if:

- a) An unwanted organism present in the Region could cause serious adverse and unintended effects unless early action to control it is taken; and
 - b) The organism can be eradicated or controlled effectively by small-scale measures within three years of commencing measures to control the organism, because:
 - (i) Distribution of the organism is limited; and
 - (ii) Technical means to control the organism are available; and
 - c) The taking of all the measures (including the payment of any amount to a person for the purpose of compensating that person for a loss) is likely to cost less than an amount for the time being prescribed for the purposes of this section by the Governor-General by Order in Council; and
- a) The taking of those measures is unlikely to result in a significant monetary loss to any person, other than person who has contributed to the presence or spread of the organism by failing to comply with the Biosecurity Act or any Pest Management Strategy.