



In Executive Council

*His Excellency the Governor-General is recommended to sign
the attached Order in Council approving the
National Policy Direction for Pest Management 2015*

A handwritten signature in blue ink, appearing to be 'N. Guy'.

Hon Nathan Guy, Minister for Primary Industries

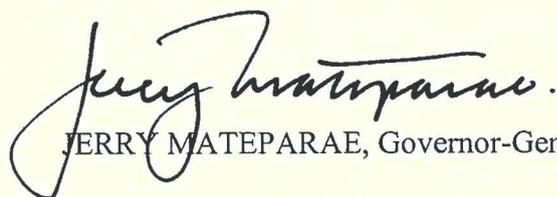
Approved in Council

A handwritten signature in blue ink, appearing to be 'M. L. Webb', written over two horizontal lines.

Clerk of the Executive Council

A handwritten signature in blue ink, appearing to be 'Justina Marshall'.

National Policy Direction For Pest Management 2015



JERRY MATEPARAE, Governor-General

Order in Council

At Wellington this 17th day of August 2015

His Excellency The Governor General

Present:

His Excellency the Governor-General in Council

Pursuant to section 57(7) of the Biosecurity Act 1993, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council and on the recommendation of the Minister for Primary Industries (having satisfied the requirements of that Act), approves the following National Policy Direction for Pest Management 2015.

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PREAMBLE

New Zealand's pest management system is complex, due to the biological nature of pests and the differing impacts they have. Many parties are involved in managing pests, including central government agencies, regional councils, industry groups, Māori, non-Government organisations, landowners and occupiers, community groups and the public. These parties carry out a range of pest management activities to protect New Zealand's economic, environmental, human health and socio-cultural values. Pests have the potential to cause significant harm to these values.

Part 5 of the Biosecurity Act 1993 (the Act) supports the eradication or effective management of harmful organisms in New Zealand by providing for the development of national or regional pest and pathway management plans, and small-scale management programmes. Part 5 also provides for the appropriate distribution of costs associated with these plans and programmes. The national and regional plan processes provide for consultation with communities on the control of established pests that are of concern to them. A regional council may declare a small-scale management programme in the region if a pest could be eradicated or controlled effectively with small-scale measures within three years of the measures starting.

These plans and programmes must meet the purpose of Part 5 of the Act, which is to provide for the eradication or effective management of harmful organisms that are present in New Zealand by providing for:

- a. the development of effective and efficient instruments and measures that prevent, reduce, or eliminate the adverse effects of harmful organisms on economic wellbeing, the environment, human health, enjoyment of the natural environment, and the relationship between Māori, their culture, and their traditions and their ancestral lands, waters, sites, waahi tapu, and taonga; and
- b. the appropriate distribution of costs associated with the instruments and measures.

The plans balance property rights by setting rules that specify the rights and obligations of those parties to which they apply.

The Act requires the responsible Minister to make a national policy direction. National and regional pest and pathway management plans and regional small-scale management programmes must be consistent with the national policy direction.

PURPOSE OF THE NATIONAL POLICY DIRECTION

Under section 56(2) of the Act the purpose of the national policy direction is to ensure that activities under Part 5 of the Act provide the best use of available resources for New Zealand's best interests and align with one another, when necessary, to contribute to the achievement of that Part.

The national policy direction will do this by:

- a. clarifying requirements for Part 5 regulatory instruments; and
- b. ensuring consistent application of these requirements nationally and between regions, as appropriate.

WHAT DOES THE NATIONAL POLICY DIRECTION APPLY TO?

Although a significant amount of pest management occurs outside of the Act, this national policy direction only applies to pest management activities that occur under the Act. Specifically, it applies to proposals for national and regional pest and pathway management plans, the plans themselves, and regional small-scale management programmes under the Act. The term "plan" refers to plans for pests that have been developed by national pest management agencies or regional councils. Depending on the wording of the particular direction, directions apply to some or all of these instruments.

Persons developing and making any of the instruments referred to above must comply with this national policy direction together with requirements prescribed in the Act itself.

The national policy direction is not meant to be a substitute for, or prevail over, the Act's statutory purpose or the existing statutory tests.

This national policy direction is a disallowable instrument but is not a legislative instrument for the purposes of the Legislation Act 2012.

WHAT ARE THE IMPLICATIONS OF NOT MEETING THE REQUIREMENTS IN THE NATIONAL POLICY DIRECTION?

Before the Minister can recommend to the Governor-General that an Order in Council be made to approve a national pest or pathway management plan, the Minister needs to be satisfied that the proposed plan, and the process undertaken for the proposed plan, are not inconsistent with the national policy direction.

Before a regional council can make a regional pest or pathway management plan or small-scale management programme, the regional council needs to be satisfied that the proposed plan or programme, and the process undertaken for the proposed plan or programme, are not inconsistent with the national policy direction.

An application can be made to the Environment Court if a party considers that a regional pest or pathway management plan is inconsistent with the national policy direction, or if a process requirement for a proposed plan did not comply with the national policy direction.

If the Environment Court considers that the application has merit, it can direct the regional council to change the plan.

1. TITLE

This national policy direction is the National Policy Direction for Pest Management 2015.

2. COMMENCEMENT

This national policy direction will take effect 28 days after the date of the publication of a notice in the New Zealand Gazette stating that the Governor-General has approved the direction.

3. INTERPRETATION

1. In this national policy direction, unless the context otherwise requires:

“**Act**” means the Biosecurity Act 1993.

“**Exacerbator**” means a person who contributes to the creation, continuance, or exacerbation of the problems proposed to be resolved by a pest or pathway management plan.

“**Subject**”

- (a) in relation to a proposal for a pest management plan, means the organism or organisms proposed to be specified as a pest or pests under the plan; and
- (b) in relation to a pest management plan, means the pest to which the plan applies; and
- (c) in relation to a proposal for a pathway management plan, or to a pathway management plan, means the pathway or pathways to which the proposal for a plan, or to which the plan, applies; and
- (d) in relation to a small-scale management programme, means the unwanted organism specified in the programme.

2. Any term or expression that is defined in the Act and used, but not defined, in this national policy direction has the same meaning as in the Act.

4. DIRECTIONS ON SETTING OBJECTIVES

Pest management plan

- (1) For each subject in a proposal for a pest management plan, or in a pest management plan, the objectives in the plan must:
 - (a) state the particular adverse effect or effects of the subject on the matters listed in section 54(a) of the Act that the plan addresses; and
 - (b) state the pest management intermediate outcomes that the plan is seeking to achieve, being one or more of the following intermediate outcomes:
 - (i) “exclusion” which means to prevent the establishment of the subject that is present in New Zealand but not yet established in an area;
 - (ii) “eradication” which means to reduce the infestation level of the subject to zero levels in an area in the short to medium term;
 - (iii) “progressive containment” which means to contain or reduce the geographic distribution of the subject to an area over time;

- (iv) “sustained control” which means to provide for ongoing control of the subject to reduce its impacts and its spread to other properties;
- (v) “protecting values in places” which means that the subject that is capable of causing damage to a place is excluded or eradicated from that place, or is contained, reduced, or controlled within the place to an extent that protects the values of that place; and
- (c) for each applicable outcome in sub clause (1)(b)(i) to (iv), specify –
 - (i) the geographic area to which the outcome applies; and
 - (ii) the extent to which the outcome will be achieved (if applicable); and
 - (iii) the period within which the outcome is expected to be achieved; and
- (d) for the outcome in sub clause (1)(b)(v) (if applicable), specify –
 - (i) one of the following:
 - (A) the geographic area to which the outcome applies (if practicable); or
 - (B) a description of a place to which the outcome applies; or
 - (C) the criteria for defining the place to which the outcome applies; and
 - (ii) the extent to which the outcome will be achieved (if applicable); and
 - (iii) the period within which the outcome is expected to be achieved; and
- (e) In relation to sub clause (1)(d)(i)(B) and (C), if a description or criteria is used to describe places to which an outcome applies, the description or criteria must give sufficient certainty, in the view of the relevant regional council (in the case of regional pest or pathway management plans) or the Minister responsible for the plan (in the case of national pest or pathway management plans), to land owners and occupiers so that they are aware that the outcome applies to them; and
- (f) if the period within which the pest management intermediate outcome is expected to be achieved is more than 10 years, state what is intended to be achieved in the first 10 years of the plan, or during the current term of the plan prior to next review (as applicable).

Pathway management plan

- (2) For each subject in a proposal for a pathway management plan, and in a pathway management plan, the objectives in the plan must:
 - (a) state the particular adverse effect or effects of the harmful organism(s) on the matters listed in section 54(a) of the Act that the plan addresses; and
 - (b) state any key known organisms that are to be managed; and
 - (c) state the pest management intermediate outcomes to which the plan is seeking to contribute, being one or more of the following intermediate outcomes:
 - (i) “exclusion” (if applicable) which means to prevent the establishment of an organism, being spread by the subject, that is present in New Zealand but not yet established in an area;
 - (ii) “eradication” (if applicable) which means to reduce the infestation level of an organism, being spread by the subject, to zero levels in an area in the short to medium term;
 - (iii) “progressive containment” (if applicable) which means to contain or reduce the geographic distribution of an organism, being spread by the subject, to an area over time;
 - (iv) “sustained control” (if applicable) which means to provide for the ongoing control of an organism, being spread by the subject, to reduce its impacts and its spread to other properties;

- (v) “protecting values in places” (if applicable) which means that an organism being spread by the subject, that is capable of causing damage to a place, is excluded or eradicated from that place, or is contained, reduced, or controlled within the place to an extent that protects the values of that place; and
- (d) if none of the outcomes in sub clause (2)(c)(i) to (v) is applicable, include a “Pathway Programme” in which the intermediate outcome for the programme is to reduce the spread of harmful organisms; and
- (e) for each applicable outcome in sub clause (2)(c)(i) to (iv), specify –
 - (i) the geographic area to which the outcome applies; and
 - (ii) the extent to which the outcome will be achieved (if applicable); and
 - (iii) the period within which the outcome is expected to be achieved; and
- (f) for the outcome in sub clause (2)(c)(v) (if applicable), specify –
 - (i) one of the following:
 - (A) the geographic area to which the outcome applies (if practicable); or
 - (B) a description of a place to which the outcome applies; or
 - (C) the criteria for defining the place to which the outcome applies; and
 - (ii) the extent to which the outcome will be achieved (if applicable); and
 - (iii) the period within which the outcome is expected to be achieved; and
- (g) In relation to sub clause (2)(f)(i)(B) and (C), if a description or criteria is used to describe places to which an outcome applies the description or criteria must give sufficient certainty, in the view of the relevant regional council (in the case of regional pest or pathway management plans) or the Minister responsible for the plan (in the case of national pest or pathway management plans), to land owners and occupiers so that they are aware that the outcome applies to them; and
- (h) if the period within which the pest management intermediate outcome is expected to be achieved is more than 10 years, state what is intended to be achieved in the first 10 years of the plan, or during the current term of the plan prior to next review (as applicable).

Small-scale management programme

- (3) For each subject of a small-scale management programme the objectives in the programme must:
 - (a) state the particular adverse effect or effects of the subject on the matters listed in section 54(a) of the Act that the programme addresses; and
 - (b) state the pest management intermediate outcomes that the programme is seeking to achieve, being one or more of the following outcomes:
 - (i) “exclusion” which means to prevent the establishment of the subject that is present in New Zealand but not yet established in an area;
 - (ii) “eradication” which means to reduce the infestation level of the subject to zero levels in an area in the short to medium term;
 - (iii) “progressive containment” which means to contain and reduce the geographic distribution of the subject to an area over time;
 - (iv) “sustained control” which means to provide for the ongoing control of the subject to reduce its impacts on values and its spread to other properties; and
 - (c) for each applicable outcome in sub clause (3)(b), specify –
 - (i) the geographic area to which the outcome applies; and
 - (ii) the extent to which the outcome will be achieved (if applicable); and

(iii) the period within which the outcome is expected to be achieved.

5. DIRECTIONS ON PROGRAMME DESCRIPTION

- (1) For each subject in a pest management plan or pathway management plan, the plan must contain one or more of the following programmes, and may not contain any other types of programmes:
 - (a) “Exclusion Programme” (if applicable) in which the intermediate outcome for the programme is to prevent the establishment of the subject, or an organism being spread by the subject, that is present in New Zealand but not yet established in an area:
 - (b) “Eradication Programme” (if applicable) in which the intermediate outcome for the programme is to reduce the infestation level of the subject, or an organism being spread by the subject, to zero levels in an area in the short to medium term:
 - (c) “Progressive Containment Programme” (if applicable) in which the intermediate outcome for the programme is to contain or reduce the geographic distribution of the subject, or an organism being spread by the subject, to an area over time:
 - (d) “Sustained Control Programme” (if applicable) in which the intermediate outcome for the programme is to provide for ongoing control of the subject, or an organism being spread by the subject, to reduce its impacts on values and spread to other properties:
 - (e) “Site-led Pest Programme” (if applicable) in which the intermediate outcome for the programme is that the subject, or an organism being spread by the subject, that is capable of causing damage to a place is excluded or eradicated from that place, or is contained, reduced, or controlled within the place to an extent that protects the values of that place:
 - (f) for pathway management plans, if none of the programmes in subclause (a) to (e) are applicable, the plan must contain a “Pathway Programme” in which the intermediate outcome for the programme is to reduce the spread of harmful organisms.
- (2) The specific names for programmes as set out in sub clause (1)(a) to (f) must be used as appropriate in all pest management plans and pathway management plans.
- (3) The programme selected for a subject in a plan under sub clause (1) must be consistent with the pest management intermediate outcome stated for the subject in the plan under clause 4 of this national policy direction.

6. DIRECTIONS ON ANALYSING BENEFITS AND COSTS

Pest management plan and pathway management plan

- (1) When determining the appropriate level of analysis of the benefits and costs of the plan for each subject for the purposes of a proposal for a pest management plan or pathway management plan, a proposer must consider:
 - (a) the level of uncertainty of the impacts of the subject, or an organism being spread by the subject, and of the effectiveness of measures; and
 - (b) the likely significance of the subject, or an organism being spread by the subject, or of the proposed measures, in terms of stakeholder interest and contention, and total costs of the proposed plan; and

- (c) the likely costs of the programme relative to the likely benefits; and
 - (d) the level of certainty and the quality of the available data.
- (2) In the proposal for a pest management plan or pathway management plan, an analysis of the benefits and costs of the plan for each subject must:
- (a) identify, and quantify (if practicable), the impacts of the proposed subject or an organism being spread by the subject; and
 - (b) identify two or more options for responding to the subject or an organism being spread by the subject (one option must be either taking no action or taking the actions that would be expected in the absence of a plan); and
 - (c) identify, and quantify (if practicable), the benefits of each option; and
 - (d) identify, and quantify (if practicable), the costs of each option; and
 - (e) state the assumptions (if any) on which the impacts, benefits and costs are based; and
 - (f) be at an appropriate level of detail as determined in accordance with sub clause (1); and
 - (g) take into account any risks that each option will not achieve its objective; and
 - (h) identify any realistic mitigation options for the risks identified in sub clause (2)(g); and
 - (i) adjust the benefits and costs for each option as appropriate to take account of sub clause (2)(g) and (h); and
 - (j) clearly identify which option is preferred.
- (3) When taking into account any risks that each option will not achieve its objective under sub clause (2)(g), a proposer must consider:
- (a) the technical and operational risks of the option; and
 - (b) the extent to which the option will be implemented and complied with; and
 - (c) the risk that compliance with other legislation will adversely affect implementation of the option; and
 - (d) the risk that public or political concerns will adversely affect implementation of the option; and
 - (e) any other material risk.
- (4) When taking into account any risks that each option will not achieve its objective under sub clause (2)(g), a proposer must:
- (a) for analyses where the benefits are fully quantified, either:
 - (i) estimate the residual risks as a probability of success and calculate the expected benefits of the option by multiplying the benefits by the probability of success; or
 - (ii) state the residual risks to the programme and calculate what the probability of success would need to be to make the expected benefits equal the costs; and
 - (b) for all other analyses (where the benefits are not fully quantified):
 - (i) state the residual risks to the programme and, where practicable, give an indication of likelihood and impact; and
 - (ii) specify which of the benefits are most likely to be affected if the risk eventuated.
- (5) The proposer of a pest management plan or pathway management plan must document the assessments made in sub clauses (1), (3) and (4) and make them publicly available with the proposal for a pest or pathway management plan.

7. DIRECTIONS ON PROPOSED ALLOCATION OF COSTS FOR PEST AND PATHWAY MANAGEMENT PLANS

Pest management plan and pathway management plan

- (1) If a proposer of a pest or pathway management plan is determining an appropriate grouping of subjects, or organisms being spread by the subject, for cost allocation analysis, the proposer must consider:
 - (a) whether the subjects, or organisms being spread by the subject, have similar groups of beneficiaries and exacerbators; and
 - (b) whether the exacerbators have similar existing legislative responsibilities and rights; and
 - (c) if applicable, whether the organisms in a proposed pest management plan are at a similar stage of infestation and whether the proposer has similar management objectives for the organisms.

- (2) When determining the appropriate cost allocation to be proposed for a pest management plan or pathway management plan, a proposer must:
 - (a) identify and estimate the direct costs of the plan and identify the indirect costs of the plan; and
 - (b) where possible, identify the beneficiaries of the plan; and
 - (c) where possible, identify the active and passive exacerbators; and
 - (d) determine whether the best cost allocation method is to have beneficiaries or exacerbators or a mixture of both bearing the costs of the plan and determine the appropriate cost allocation by considering all of the following matters:
 - (i) the legislative responsibilities and rights of beneficiaries and exacerbators;
 - (ii) the management objectives of the plan and the stage of infestation;
 - (iii) the most effective agents to undertake the control to meet the objectives of the plan;
 - (iv) if proposing that beneficiaries bear any of the costs of the plan, how much each group of beneficiaries will benefit from the plan and whether each group of beneficiaries will benefit more than the amount of costs that it is proposed that it bear;
 - (v) if proposing that exacerbators bear any of the costs of the plan, how much each group of exacerbators is contributing to the problem addressed by the plan;
 - (vi) the degree of urgency to make the plan;
 - (vii) efficiency and effectiveness of the cost allocation method and proposed cost allocation;
 - (viii) practicality of the cost allocation method and proposed cost allocation;
 - (ix) administrative efficiency of the cost allocation method and proposed cost allocation;
 - (x) security of funding of the cost allocation method and proposed cost allocation;
 - (xi) fairness of the cost allocation method and proposed cost allocation;
 - (xii) whether the proposed cost allocation is reasonable;
 - (xiii) the parties who will bear the indirect costs of the plan;
 - (xiv) the need for any transitional cost allocation arrangements;
 - (xv) the mechanisms available to impose the cost allocation; and
 - (e) consider what is the best mechanism(s) to impose the cost allocation, taking into account the cost allocation method chosen, the most effective control tools and agents to undertake the control to meet the objectives of the plan, practicality, administrative efficiency, security of funding and any statutory requirements; and

- (f) document the steps and assessments carried out under sub clause (a) to (e) and the rationale for the proposed allocation of costs, and make them publicly available with the proposal for a pest or pathway management plan.

8. DIRECTIONS ON GOOD NEIGHBOUR RULES

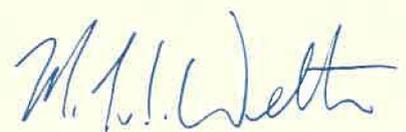
Regional pest management plan

- (1) Before a rule can be identified as a good neighbour rule in a regional pest management plan, the regional council must be satisfied of the matters in sub clause (a), (c), and (d) and must comply with the requirements in sub clause (b) and (e):
 - (a) In the absence of the rule, the pest would spread to land that is adjacent or nearby within the life of the plan and would cause unreasonable costs to an occupier of that land.
 - (b) In determining whether the pest would spread as described in sub clause (a) the regional council must consider the proximity and characteristics of the adjacent or nearby land and the biological characteristics and behaviour of the particular pest.
 - (c) The occupier of the land that is adjacent or nearby, as described in sub clause (a), is taking reasonable measures to manage the pest or its impacts.
 - (d) The rule does not set a requirement on an occupier that is greater than that required to manage the spread of the pest to adjacent or nearby land as described in sub clause (a).
 - (e) In determining the rules to be set to manage the costs to an occupier of land that is adjacent or nearby, of the pest spreading, the regional council must consider:
 - (i) the biological characteristics and behaviour of the particular pest; and
 - (ii) whether the costs of compliance with the rule are reasonable relative to the costs that such an occupier would incur, from the pest spreading, in the absence of a rule.

9. DIRECTIONS ON TIMING OF INCONSISTENCY DETERMINATION

Pest management plan and pathway management plan

- (1) The Minister or regional council must make a determination under section 100E of the Act, as to whether a pest management plan or pathway management plan is inconsistent with the national policy direction, within 18 months of the Governor-General approving the making, revocation, or replacement, of the national policy direction.


Clerk of the Executive Council