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Report to the Rural Services and Wairarapa Committee
from Wayne O'Donnell, Manager, Biosecurity

Regional Pest Management Strategies - Minor Amendments

1. Purpose

To obtain Committee resolution to amend the Regional Pest Plant Management Strategy and the Regional Animal Pest Management Strategy in accordance with Section 88A of the Biosecurity Act 1993 (the Act).

2. Background

The Biosecurity Amendment Act 1997 has substantially changed the content requirements for Regional Pest Management Strategies (RPMS).

Section 88A of the Act allows a RPMS to be amended from time to time by a Regional Council by resolution without a full review of the Strategy. These are termed "minor amendments".

A minor amendment may only be made if the Regional Council is satisfied that the amendments will not have any significant effects on the rights, obligations, or obligation to contribute to Strategy costs, of any person.

3. Nature of Amendments

Both RPMS (Animals and Plants) have been reviewed. Proposed changes have been made in accordance with the new requirements of the Act. Changes can be grouped under three main headings;

1. Deletion of material no longer required by the Act.
2. Changes to provisions of the Strategies to align with the amended Act.
3. Changes to text for purpose of clarification or correction.

3.1 Deletion of Material no Longer Required by the Act

Previously the required contents of **Proposed Strategies** were very similar to the required contents of **Made Strategies**. The amended Act has restricted the

required content of existing strategies substantially, limiting content primarily to statutory matters. Accordingly, the present Strategies now contain much obsolete text.

Tables 1 and 2 in Appendix 1 identify the Sections which have been deleted for the Animal and Plant Strategies respectively.

3.2 Changes to Provisions of the Strategies to Align With Amended Act.

There are a range of amendments to the Act which make parts of the Strategies either non-compliant, or in need of amendment (by addition or deletion).

Of most significance are changes to the enforcement provisions of the Act. These are now strongly linked to the offence and penalty provisions, enabling effective drafting of Rules. Clearly, any rules should not change the original intent of the Strategy if they are to be considered a “minor amendment”.

All significant changes are discussed below:

- (1) ***Roadsides and adjacent occupiers*** – Previously the Act made adjoining occupiers responsible for pest control on road verges. The Amended Act makes the road occupiers (i.e. roading authorities) responsible by default, **unless** a Strategy specifically makes adjoining occupiers responsible. We have reworded the Strategy to maintain the status quo, i.e. adjoining occupiers retain responsibility. A change to roadside responsibility at this time could not be considered a minor amendment. The issue of roadside responsibility will be revisited when the Strategies are formally reviewed in 2001.
- (2) ***Local Authority contributions*** - The basis of contributions by Local Authorities to the Strategy are now explicitly identified (contributions by general rate on rateable land occupied by Local Authorities).
- (3) ***General Rules relating to spreading of pests*** - The Act makes it an offence to communicate, release, sell or propagate pests (Section 52 & 53). We have included a similar provision as a Strategy Rule in relation to each pest species identified in both the Animal and Plant Strategies. The reason for restating the Act is to allow the Council to undertake enforcement at a level below jury trial, which would be required for prosecutions under Sections 52 or 53. The wording of the new rule is;

“No person may knowingly communicate, or cause to be communicated, or release, or cause to be released, or sell, or offer for sale, or hold in premises where animals are offered for sale, or act in such a manner as is likely to encourage or cause the propagation, breeding or multiplication of, species.

A breach of this rule will create an offence under section 154(r) of the Act.”

Note that this does not necessarily prohibit the keeping of pests as pets. Although a similar provision did not apply to all species in the Strategies previously, it can be considered a minor amendment, as it does not place any new obligations or responsibilities on any person.

- (4) ***General Rules to prevent interference with Council monitoring and control operations*** – The amended Act makes it an offence to move or interfere with any article or substance left in any place by an Authorised Person (Section 121A). We have inserted a similar Rule in the Strategy, applicable to each Plant and Animal Pest species, as follows;

“No person may move or interfere with any article or substance left at a place by an authorised person pursuant to this Strategy for the purpose of –

*(1) Confirming the presence, former presence, or absence of **species**;*
or

*(2) Managing or eradicating any **species**;*

Other than in accordance with the direction or under the supervision of an authorised person.

A breach of this rule will create an offence under section 154(r) of the Act.”

- (5) ***No Rule relating to control of possums*** – The existing strategy requires occupiers to control possums where they “...pose significant externalities”, i.e. where possums on their land have an adverse effect on neighbouring properties. The final decision on whether any externality was “significant” was dependant on an Authorised Persons “opinion”.

We have deleted all reference to a Rule requiring occupiers to carry out possum control for three reasons;

- Rules must be clear and unambiguous, they must not rely on “opinion”.
- A clear rule specifying a maximum allowable possum density (e.g. by trap catch method) could not be considered a minor amendment.
- There have been no neighbour complaints to Council requiring possum control enforcement since the Strategy commenced.

- (6) ***Rule relating to control of rabbits*** – a Rule relating to rabbit control replaces the previous “Occupier Obligations”, with no change in intent, as follows;

“Occupiers shall maintain rabbit populations on the land they occupy at, or below level 5 of the Modified McLean Scale.

A breach of this rule will create an offence under section 154(r) of the Act.”

- (7) **Rule relating to control of rooks** – a Rule relating to rook control has been inserted to prevent disturbance, and hence fragmentation of rookeries. Previously the “Occupier Obligations” section **recommended** that occupiers desist from controlling rooks and rookeries. The new Rule reads;

“All persons are prohibited from:

*a) discharging a firearm at any rook or rookery; or
b) laying any poison bait that is acceptable to rooks where rooks are known to*

be present from time to time; or

c) damaging, disturbing or interfering in any way with a rookery;

Other than in accordance with the direction or under the supervision of an authorised person.

A breach of this rule will create an offence under section 154(r) of the Act.”

- (8) **Rules relating to control of Total Control Pest Plants (terrestrial and aquatic)** - Rules relating to control of each Total Control Pest Plant replace the previous “Occupier Obligations”, with no substantial change in intent. However, the criteria has been changed for control to take place prior to flowering rather than prior to seeding. Example wording follows;

*“Occupiers in the Wellington Region are required to destroy all adult and juvenile plants of **species** annually prior to flowering on land they occupy.*

A breach of this rule will create an offence under section 154(r) of the Act.”

- (9) **Rules relating to control of Boundary Control Pest Plants** - Rules relating to control of each Boundary Control Pest Plant replace the previous “Occupier Obligations”, with no substantial change in intent. However, the criteria has been changed for control to take place prior to flowering rather than prior to seeding. Example wording as follows;

*“Occupiers in the Wellington Region are required to destroy all adult and juvenile plants of **species** annually prior to flowering and within **x** metres of their boundary where adjoining land is clear or being cleared of **species**.*

A breach of this rule will create an offence under section 154(r) of the Act.”

- (10) **Administrative Powers** – These have been amended to align with the amended Act. In particular, two new powers have been added, section 114A “Application of articles or substances from aircraft”, and section 121A “Power to apply article or substances to a place”.

- (11) ***Exemption Provisions*** – The amended Act makes all Rules subject to exemption, **unless** the rule specifically states that exemptions will not apply. The amended Act specifies the conditions relating to exemptions, and these have been essentially repeated in the Strategy document.
- (12) ***Enforcement Policy*** – This has been included, essentially repeating the course of action required by the Act.

3.3 Changes to Text For Purpose of Clarification or Correction

Numerous small changes have been made to text, correcting typos, or replacing statutory terms with new terms under the amended Act. Most changes are inconsequential.

There is a consequential change relating to rabbit management presented for the Committee's consideration.

Rabbit Management – Previously Council staff were only able to undertake service delivery rabbit control on riverbeds. The intent of the original Strategy was for Council staff to be able to control rabbits where tenure cannot be readily established. We have expanded the Strategy to also enable work to be undertaken on **esplanades or similar public commons**. Also, there is now reference to Key Native Ecosystems, to allow control of rabbits where they are causing damage in these areas.

4. Conclusion

The Strategy documents have been substantially amended, reducing their size by approximately fifty percent.

The minor amendments align the Strategies with the new requirements of the amended Act, and will not impact significantly on objectives and implementation of the Strategies, or the costs and obligations of stakeholders.

5. Recommendation

- That the Committee, as the delegated Regional Management Agency, approve the changes to the Regional Pest Plant Management Strategy and the Regional Animal Pest Management Strategy for the Wellington Region under Section 88A of the Biosecurity Act 1993 as outlined in this report.*
- That the Council affixes the Seal of the Council to the amended Regional Pest Plant Management Strategy and the amended Regional Animal Pest Management Strategy for the Wellington Region.*

3. *That public notice occurs indicating that minor changes to the Regional Pest Plant Management Strategy and the Regional Animal Pest Management Strategy for the Wellington Region have been approved.*
4. *That copies of the revised versions of the Strategies be distributed to interested parties.*

Report prepared by:

Approved for submission by:

Wayne O'Donnell
Manager, Biosecurity

Colin Wright
Divisional Manager, Wairarapa