

Attachment C - Biosecurity Act Assessments

Section 72

(1) If the council is satisfied of the matters in [section 71](#), the council may take the third step in the making of a plan, which is for the council to consider whether the council is satisfied—

Requirement	Comment on compliance
<p>(a)that, if Ministers’ responsibilities may be affected by the plan, the Ministers have been consulted; and</p> <p>(b)that, if local authorities’ responsibilities may be affected by the plan, the authorities have been consulted; and</p> <p>(c)that the tāngata whenua of the area who may be affected by the plan were consulted through iwi authorities and tribal runanga; and</p> <p>(d)that, if consultation with other persons is appropriate, sufficient consultation has occurred.</p>	<p>(a) The Minister’s responsibilities are not affected by the proposed plan because no rules in the Proposed Regional Pest Management Plan set out in Appendix A either add or remove any responsibilities affecting the Minister.</p> <p>(b) As Auckland Council is a Unitary Authority, no other Auckland territorial authorities have been consulted. Consultation has been undertaken with Waikato Regional Council with respect to the Hunua Ranges.</p> <p>(c) The tāngata whenua of the area who may be affected by the plan were consulted through iwi authorities, as outlined in the analysis report contained within Attachment B to this report.</p> <p>(d) The proposed plan was publicly notified in early 2018 and feedback from that consultation is described in detail in Attachment B to this report. This is in addition to earlier consultation that was described in the Consultation Summary document (Attachment C to committee report CP217/23161) and was required by Council resolution ENV/2017/165. Staff consider that sufficient consultation has now been undertaken, as set out below.</p>
<p>(2)In considering whether the council is satisfied as required by subsection (1)(d), the council must have regard to the following:</p> <p>(a)the scale of the impacts on persons who are likely to be affected by the plan; and</p> <p>(b)whether the persons likely to be affected by the plan or their representatives have already been consulted and, if so, the nature of the consultation; and</p>	<p>In November 2017, the Committee agreed that consultation undertaken to date was not sufficient as the general public had not had an opportunity to be consulted on the full plan. As such, Auckland Council agreed to publicly notify the proposed plan, so that there would be a significant opportunity for the public to provide feedback. Consultation was undertaken concurrently with the Long Term Plan 2018-2028 consultation, which was extensive and</p>

<p>(c)the level of support for, or opposition to, the proposal from persons who are likely to be affected by it.</p>	<p>resulted in a significant amount of feedback being received from interested parties. Staff consider that the positions of affected parties have been clearly elucidated through this process.</p> <p>As described in the analysis report contained within Attachment C to this report, feedback on the proposed plan was largely supportive, with the notable exception of the approach to cat management. Staff recommendations have been made to mitigate these concerns.</p>
<p>(3)If the council is satisfied as required by subsection (1), the council must apply section 73.</p>	<p>Please refer to the analysis on s 73 for staff advice on compliance with this provision.</p>
<p>(4)If the council is not satisfied as required by subsection (1), the council may require consultation to be undertaken on the proposal.</p>	<p>Not applicable – staff are satisfied as required by subsection (1).</p>
<p>(5)If the council requires consultation to be undertaken, the council must determine the way or ways in which the consultation must be undertaken, including, but not limited to, ways such as—</p> <p>(a)consultation with persons likely to be affected by the plan or with their representatives:</p> <p>(b)the appointment by the council of 1 or more persons to carry out an independent inquiry into the proposal on terms of reference set by the council:</p> <p>(c)public notification of the proposal and the receipt of submissions.</p>	<p>Not applicable – staff are satisfied as required by subsection (4).</p>
<p>(6)After the consultation required by the council has been undertaken, the council must apply subsection (1) again.</p>	<p>This assessment has been undertaken above.</p>

Section 73

If the council is satisfied as required by section 72(1) and is satisfied that the issues raised in all the consultation undertaken on the proposal have been considered, the council may take the fourth step in the making of a plan, which is to approve the preparation of a plan.

Requirement	Comment on compliance
<p>(2) If the council approves the preparation of a plan, the council must apply section 100 to decide which body is to be the management agency.</p>	<p>The council has applied s 100 to decide which body is to be the management agency. Please refer to the analysis of s 100 for staff advice on compliance with this provision.</p>

<p>Matters to be specified</p> <p>(3) A plan must specify the following matters:</p> <p>(a) the pest or pests to be eradicated or managed:</p> <p>(b) the plan's objectives:</p> <p>(c) the principal measures to be taken to achieve the objectives:</p> <p>(d) the means by which the achievement of the plan's objectives will be monitored or measured:</p> <p>(e) the sources of funding for the implementation of the plan:</p> <p>(f) the limitations, if any, on how the funds collected from those sources may be used to implement the plan:</p> <p>(g) the powers in Part 6 to be used to implement the plan:</p> <p>(h) the rules, if any:</p> <p>(i) the rules, if any, that are good neighbour rules:</p> <p>(j) the management agency:</p> <p>(k) the actions that local authorities, local authorities of a specified class or description, or specified local authorities may take to implement the plan, including contributing towards the costs of implementation:</p> <p>(l) the portions of road, if any, adjoining land covered by the plan and, as authorised by section 6, also covered by the plan:</p> <p>(m) the plan's commencement date and termination date:</p> <p>(n) any matters required by the national policy direction.</p>	<p>(a) the pests to be eradicated or managed are those assigned to one or more programmes in section 7 of the plan.</p> <p>(b) the plan's objectives are those of the pest programmes contained within the plan. Objective(s) for each pest in the plan are included in the corresponding programme(s) in section 7 of the plan.</p> <p>(c) the principal measures of achievement for each objective in the plan are included in the corresponding pest programme(s) in section 7 of the plan.</p> <p>(d) the means by which the achievement of the plan's objectives will be monitored or measured are set out in the corresponding principal measures of achievement in section 7 of the plan and in section 8 of the plan.</p> <p>(e) the sources of funding for the implementation of the plan are set out in section 10 of the plan.</p> <p>(f) there are no limitations on how the funds collected from those sources may be used to implement the plan. These are available to implement all aspects of the plan.</p> <p>(g) the council may use any of the powers provided in Part 6 as the management agency for the plan to implement the plan, as set out in section 2.1.1 of the plan.</p> <p>(h) the rules are set out in the corresponding pest programme(s) in section 7 of the plan.</p> <p>(i) the rules that are good neighbour rules are identified as such in the plan.</p> <p>(j) Section 3.1 of the plan proposes that Auckland Council is the management agency. Please refer to the following analysis of compliance with s 100 in this regard.</p> <p>(k) As Auckland Council is a unitary authority under the Local Government (Auckland Council) Act 2009, no other local authorities are involved in the implementation of the plan. Auckland Council, as the relevant local authority, may take any of the actions specified in sections 6 and 7 of the plan.</p>
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	<ul style="list-style-type: none"> (l) The portions of road which adjoin land covered by the plan and also covered by the plan, as authorised by section 6 of the Biosecurity Act 1993, are set out in section 3.3.4 of the plan; (m) The plan’s commencement date and termination date are set out in section 1.3 of the plan. (n) all matters required by the national policy direction (namely objectives and programme descriptions) are set out in section 7 of the plan.
<p>Compensation</p> <p>(4) A plan—</p> <ul style="list-style-type: none"> (a) may provide for the payment of compensation for losses incurred as a direct result of the implementation of the plan: (b) must not provide for the payment of compensation for the following losses: <ul style="list-style-type: none"> (i) loss suffered because a person’s income derived from feral or wild organisms is adversely affected by the implementation of the plan: (ii) loss suffered before an inspector or authorised person establishes the presence of the pest on the place of the person suffering the loss: (iii) loss suffered by a person who fails to comply with the plan. 	<ul style="list-style-type: none"> (a) As set out in section 3.2 of the plan, the plan does not provide for compensation for losses incurred as a direct result of the implementation of the plan. (b) the plan does not provide the payment of compensation for the types of loss proscribed in (b)(i)-(iii).
<p>Rules</p> <p>(5) A plan may include rules for all or any of the following purposes:</p> <ul style="list-style-type: none"> (a) requiring a person to take specified actions to enable the management agency to determine or monitor the presence or distribution of the pest or a pest agent: (b) requiring a person to keep records of actions taken under the rules and to send to the management agency specified information based on the records: (c) requiring the identification of specified goods: (d) prohibiting or regulating specified methods that may be used in managing the pest: (e) prohibiting or regulating activities that may affect measures taken to implement the plan: (f) requiring audits or inspections of specified actions: 	<p>The plan contains the following types of rules:</p> <ul style="list-style-type: none"> i) specifying, for the purposes of section 52(a), the circumstances in which the pest may be communicated, released, or otherwise spread ii) prohibiting or regulating the movement of goods that may contain or harbour the pest or otherwise pose a risk of spreading the pest. iii) requiring the occupier of a place to carry out specified treatments or procedures to assist in preventing the spread of the pest iv) regulating activities that may affect measures taken to implement the plan v) requiring the destruction of goods if the goods may contain or harbour the pest or otherwise pose a risk of spreading the pest

<p>(g) specifying, for the purposes of section 52(a), the circumstances in which the pest may be communicated, released, or otherwise spread:</p> <p>(h) requiring the occupier of a place to take specified actions to eradicate or manage the pest or a specified pest agent on the place:</p> <p>(i) requiring the occupier of a place to take specified actions to eradicate or manage the habitat of the pest or the habitat of a specified pest agent on the place:</p> <p>(j) prohibiting or regulating specified activities by the occupier of a place if the activities are of the kind that would promote the habitat of the pest on the place:</p> <p>(k) requiring the occupier of a place to carry out specified activities to promote the presence of organisms that assist in the control of the pest on the place:</p> <p>(l) prohibiting or regulating specified activities by the occupier of a place, which deter the presence on that place of organisms that assist in the control of the pest:</p> <p>(m) requiring the occupier of a place to carry out specified treatments or procedures to assist in preventing the spread of the pest:</p> <p>(n) requiring the owner or person in charge of goods to carry out specified treatments or procedures to assist in preventing the spread of the pest:</p> <p>(o) requiring the destruction of goods if the goods may contain or harbour the pest or otherwise pose a risk of spreading the pest:</p> <p>(p) prohibiting or regulating specified uses of goods that may promote the spread or survival of the pest:</p> <p>(q) prohibiting or regulating the use or disposal of organic material:</p> <p>(r) prohibiting or regulating the use of specified practices in the management of organisms that may promote the spread or survival of the pest:</p> <p>(s) prohibiting or regulating the movement of goods that may contain or harbour the pest or otherwise pose a risk of spreading the pest.</p>	<p>vi) regulating the use or disposal of organic material</p> <p>vii) requiring the occupier of a place to take specified actions to eradicate or manage the pest or a specified pest agent on the place.</p>
<p>(6) A rule may—</p> <p>(a) apply generally or to different classes or descriptions of persons, places, goods, or other things:</p>	<p>(a) Each rule in section 7 of the plan sets out whether that rule applies generally or to different classes of people, places, goods or other things.</p>

<p>(b) apply all the time or at 1 or more specified times of the year:</p> <p>(c) apply throughout the region or in a specified part or parts of the region with, if necessary, another rule on the same subject matter applying to another specified part of the region:</p> <p>(d) specify that a contravention of the rule creates an offence under section 154N(19).</p>	<p>(b) All rules in the plan apply all the time.</p> <p>(c) Each rule in section 7 of the plan sets out whether that rule applies throughout the region or in a specified part or parts of the region.</p> <p>(d) All rules in the plan specify that a contravention of the rule creates an offence under section 154N(19) of the Biosecurity Act 1993.</p>
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Section 100(2)

The management agency specified in a plan must be 1 of the following bodies; a department; a council; a territorial authority; a body corporate. In deciding which body is to be the management agency, the Minister or council must take the following into consideration:

Requirement	Comment on compliance
<p>(a) the need for accountability to those providing the funds to implement the plan; and</p>	<p>(a) As set out in section 10 of the plan, it is proposed that the funds to implement the plan be sourced from rates paid by liable Auckland ratepayers. Therefore, the council is the most appropriate body to be held accountable for the use of these funds.</p>
<p>(b) the acceptability of the body to-</p> <p>i. those providing funds to implement the plan; and</p> <p>ii. those subject to the management provisions under the plan; and</p>	<p>(b)</p> <p>i. Funds to implement the plan are provided by Auckland ratepayers. Consultation on both the proposed Regional Pest Management Plan and natural environment targeted rate indicates that there is strong support from Auckland ratepayers for the council to be responsible for implementing the plan as the management agency; and</p> <p>ii. Consultation on the proposed Regional Pest Management Plan and natural environment targeted rate indicates that there is strong support from parties affected by the plan, for the council to be responsible for implementing the plan.</p>
<p>(c) the capacity of the body to manage the plan, including the competence and expertise of the body's employees and contractors.</p>	<p>(c) Council has both the capacity and capability to manage the plan. Council employees and contracts have demonstrated this competence and expertise through the successful</p>

	implementation of previous Regional Pest Management Strategies.
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Section 74

If the council is satisfied that section 73 has been complied with, the council may take the fifth step in the making of a plan, which is for the council to consider whether the council is satisfied, in relation to the plan prepared under section 73,—

Requirement	Comment on compliance
<p>(a) that the plan is not inconsistent with—</p> <p>(i) the national policy direction; or</p> <p>(ii) any other pest management plan on the same organism; or</p> <p>(iii) any pathway management plan; or</p> <p>(iv) a regional policy statement or regional plan prepared under the Resource Management Act 1991; or</p> <p>(v) any regulations; and</p>	<p>(a) The Regional Pest Management Plan contained within Attachment A is not inconsistent with:</p> <p style="padding-left: 40px;">(i) the national policy direction The Regional Pest Management Plan is consistent with all clauses of the National Policy Direction, including in setting of objectives and programme descriptions.</p> <p style="padding-left: 40px;">(ii) any other pest management plan on the same organism Council is not aware of any other operative management plans with which proposed RPMP provisions are inconsistent.</p> <p style="padding-left: 40px;">(iii) any pathway management plan As there is no operative pathway management plan within the Auckland region, this provision is not applicable.</p> <p style="padding-left: 40px;">(iv) a regional policy statement or regional plan prepared under the Resource Management Act 1991 The Auckland Unitary Plan Regional Policy Statement section B7 identifies that animal and plant pests threaten the viability of indigenous ecosystems and species. Regional Plan provisions further detail this threat, and identify that indigenous biodiversity should be enhanced, including through encouraging and enabling the control and eradication (where possible) of plant and animal pests. Rules generally permit without resource consent the removal of pest plants, and promote the inclusion of pest control measures as a condition of resource consent in appropriate circumstances. Provisions are also included to address marine biosecurity issues, in relation to</p>

	<p>boat hulls and structures in the Coastal marine Area. The specific threat of kauri dieback disease is identified, with policy and rules directing that works in the vicinity of kauri are managed to prevent the spread of soil and kauri plant material. Staff are satisfied that all of these provisions are consistent with, and complement, those in the RPMP.</p> <p>(v)any regulations Council is not aware of any regulations with which proposed RPMP provisions are inconsistent</p>
<p>(b) that, for each subject of the plan, the benefits of the plan outweigh the costs, after taking account of the likely consequences of inaction or other courses of action; and</p>	<p>For each subject contained within the plan, the benefits of the plan would outweigh the costs after taking account of the likely consequences of inaction or other courses of action. These findings are set out in the Cost: Benefit Analysis accompanying the proposed plan, and that analysis remains up to date and relevant.</p>
<p>(c) that, for each subject of the plan, persons who are required, as a group, to meet directly any or all of the costs of implementing the plan— (i) will accrue, as a group, benefits outweighing the costs; or (ii) contribute, as a group, to the creation, continuance, or exacerbation of the problems proposed to be resolved by the plan; and</p>	<p>As set out in the Cost Allocation Analysis accompanying the proposed plan (analysis remains up to date and relevant), staff are satisfied that for each subject, the persons who are required, as a group, to meet directly any or all of the costs of implementing the plan— (i)would accrue, as a group, benefits outweighing the costs; or (ii)contribute, as a group, to the creation, continuance, or exacerbation of the problems proposed to be resolved by the plan</p>
<p>(d) that, for each subject of the plan, there is likely to be adequate funding for the implementation of the plan for the shorter of its proposed duration and 5 years; and</p>	<p>Staff are satisfied that for each subject, there is likely to be adequate funding for the implementation of the plan for the shorter of its proposed duration and 5 years. The council has implemented a Natural Environment Targeted Rate, which will provide \$161 for implementation of the plan, in addition to \$85m from general rates over 10 years.</p>
<p>(e) that each rule— (i) will assist in achieving the plan’s objectives; and (ii) will not trespass unduly on the rights of individuals.</p>	<p>Each proposed rule - (i)would assist in achieving the plan’s objectives, because all rules have been drafted to align with the objectives and outcomes sought be the corresponding programme; and (ii)would not trespass unduly on the rights of individuals. The council has undertaken the Cost: Benefit and Cost Allocation analyses accompanying the proposed plan. This identified both qualitative and quantitative costs that may arise from the proposed programmes. Through these analyses, the council concluded that those costs are</p>

	reasonably and fairly allocated according to the extent to which parties are beneficiaries of the implementation of the plan or exacerbators.
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Section 75

(1) When the council is satisfied of the matters in section 74, the council must prepare a written report on the plan.

Requirement	Comment on compliance
(2) If the council has received submissions on the proposal, the council must— (a) set out in the report the council’s reasons for accepting or rejecting the submissions; and (b) give a copy of the report to every person who made a submission.	(a) Officer recommendations of reasons for accepting or rejecting submissions are set out in Attachment A to this report. (b) Following adoption of the operative plan, a copy of the final decision report will be given to every person who made a submission.
(3) The report must give the council’s decision on the plan.	(3) The report will set out the council’s final decision on the plan.
(4) The council must give public notice— (a) stating the council’s decision on the plan; and (b) stating where the plan resulting from the council’s decision can be read.	(a) Following adoption of the operative plan, council will give public notice stating the council’s decision on the plan; and (b) Following adoption of the operative plan, council will give public notice of where the plan resulting from the council’s decision can be read.

Section 100T

Requirement	Comment on compliance
(1) A regional council must decide the extent to which it should fund the implementation of its regional pest management plan or its regional pathway management plan from a general rate, a targeted rate, or a combination of both, set and assessed under the Local Government (Rating) Act 2002.	(1) In 2018 council set a natural environment targeted rate for environmental initiatives including those contained within the proposed Regional Pest Management Plan. The targeted rate applies to all ratepayers in Auckland. Staff recommend that implementation of the plan be from a combination of general rate (\$85m over 10 years) and targeted rate (\$161m over 10 years).
(2) In making the decision, the council must have regard to— (a) the extent to which the plan relates to the interests of the occupiers of the properties on which the rate would be levied:	In deciding to fund the implementation of the plan through a combination of general and targeted rates, both applied to properties throughout the region, council has had regard to the following: (a) The plan relates extensively to the interests of occupiers of properties across the region, as the plan will prevent pest impacts across most, if

(b) the extent to which the occupiers of the properties on which the rate would be levied will obtain direct or indirect benefits from the implementation of the plan:

(c) the collective benefits of the implementation of the plan to the occupiers of the properties on which the rate would be levied compared with the collective costs to them of the rate:

(d) for the regional pest management plan, the extent to which the characteristics of the properties on which the rate would be levied and the uses to which they are put contribute to the presence or prevalence of the pest or pests covered by it:

(e) for the regional pathway management plan, the extent to which the characteristics of the properties on which the rate would be levied and the uses to which they are put contribute to the actual or potential risks associated with the pathway.

not all, properties. Therefore it is appropriate that the plan is funded from both the targeted rate and general rates.

(b) As set out in the [Cost: Benefit](#) and [Cost Allocation](#) analyses accompanying the proposed plan, most, if not all, occupiers throughout the region on whose properties the rates will be levied, will obtain both direct and indirect benefits.

(c) As set out in the [Cost: Benefit](#) and [Cost Allocation](#) analyses accompanying the proposed plan, the collective benefits of the implementation of the plan to the occupiers of the properties on which the rate would be levied outweigh the collective costs to those occupiers.

(d) As set out in the [Cost: Benefit](#) and [Cost Allocation](#) analyses accompanying the proposed plan, the characteristics of properties throughout the region on which the rate would be levied and the uses to which they are put contribute substantively to the presence or prevalence of the pest or pests covered by it.

(e) As this is a regional pest management plan, this provision is not applicable.