

Appendix N – Synopsis of Biosecurity legislation and the RMA

1. The Biosecurity Act manages the incursion of weed and animal pest species. Regional Councils are the primary government partner through their role in pest management. Southland Regional Council has developed a Biosecurity Strategy 2019 – 2024 and a Regional Pest Management Plan (RPMP) 2019 – 2029.
2. The strategy has the objectives of leading regional biosecurity management, connecting people to biosecurity solutions and have appropriate legislation and enforcement in place.¹ The primary policy tools that support the biosecurity objectives are the Southland Regional Pest Management Plan 2019 and the Fiordland Marine Regional Pathway Management Plan 2017. The strategy seeks to have a consistent and effective policy framework. The Resource Management Act is listed as being relevant legislation that sets high level goals for resource management/biodiversity.²
3. The Regional Pest Management Plan (RPMP) seeks to promote an active and integrated approach to the management of indigenous ecosystems and habitats by implementing the regional pest management programmes and plans and assisting with pest plant and pest animal management.³ The RPMP limit territorial authority actions to requirements to carry out pest management on land they occupy.⁴ Weed and pest species are identified and include several feral animals but not domestic animals. These are considered pest agents which are not subject to statutory obligations and include domestic cats on Stewart Island Rakiura, domestic goats and domestic pigs.
4. The RPMP states that while the Biosecurity Act is the main regulatory tool for managing pests, there are complementary powers within the RMA that can be used to ensure the problem is not exacerbated by activities regulated under the RMA. This reference is however in the context of s30 of the RMA which deals with the functions of regional councils.⁵ The RPMP does not specify how the tools of the RMA might be used, other than to say that pests and weeds should not be exacerbated by activities regulated under the RMA.

¹ Page 3.

² Page 24.

³ Refer Policy BIO.7 and Method BIO.4

⁴ Refer s3.3.3

⁵ Page 11 RPMP

5. While there is reference to the RMA and the regulation of activities as a tool, the RMPM does not envisage it as a primary tool. Neither the Strategy nor the Plan specify how that the RMA could be used. Territorial authorities are perceived as landowners who undertake pest management on the land they own or administer, including road corridors.

RMA Planning documents

6. The Southland Regional Policy Statement provides some direction for the role of District Plans in pest management, noting that district plans can reduce the risk of areas of indigenous biodiversity being colonised by exotic invaders. However, a strong focus is on non-regulatory methods such as education, public awareness, promotion and partnerships with the community, landowners, tangata whenua and other groups.⁶ These methods are available to Gore District outside of the District Plan should it wish to pursue them. Relevant excerpts are included below:

- a. SRPS Introduction in the Biodiversity chapter notes the following:

“Aside from land development and clearance, there are many other pressures and threats to remaining areas of indigenous vegetation and habitats of indigenous fauna. Domestic stock (sheep, cattle and deer) can destroy indigenous vegetation and undergrowth, particularly in forest and wetland sites, and prevent regeneration. Feral animals (pigs, deer, goats and possums) also have detrimental impacts on biodiversity both through consuming native vegetation, and predating on native birds, lizards and invertebrates. Mustelids (ferrets, stoats and weasels), rodents (rats and mice), cats and, to some extent, possums are the main predators. All of these species are widespread and numerous in Southland. There are a number of pest free islands located in the Southland region that are essential to the maintenance of New Zealand’s indigenous biodiversity. These include Codfish Island/Whenua Hou and Breaksea Island. Southland’s weed species also pose a serious threat to the survival of indigenous plant species. Weeds can invade and displace indigenous species, particularly in open habitats where light conditions often allow them to quickly out-compete less vigorous native species. The edges of forest, shrubland, regenerating hillsides, river beds, wetland and coastal sites, are also vulnerable to the impact of invasive weeds.”

- b. The SRPS also states that:

⁶ Page 89.

“Territorial authorities: (2) will be primarily responsible for specifying the objectives, policies and methods for the control of the use of land for the maintenance of indigenous biodiversity on all land excluding the coastal marine area, wetlands, and lakes and rivers and their margins. Explanation/Principal Reasons In accordance with Section 62(1)(i)(iii) of the Act, the local authorities of the Southland region have the option of undertaking a collaborative approach to maintaining indigenous biodiversity. The Southland Regional Council will be responsible for the control of the maintenance of indigenous biodiversity in the coastal marine areas, wetlands, and lakes and rivers and their margins, and the territorial authorities will be responsible for all land outside of the coastal marine area, wetlands, and lakes and rivers and their margins.”

- c. SRPS Policy BIO.7 relating to Active management states the following:

“Promote an active and integrated management approach to maintaining and restoring or enhancing indigenous biodiversity through methods including the Regional Pest Management Plan for Southland, and advice and information on pest management, fencing and planting.

Explanation/Principal Reasons Indigenous biodiversity is under threat not only because of human induced habitat loss, but also because of the spread of pest plants or the predation by pest animals. Southland has numerous introduced pest plant and pest animal species, which have and continue to degrade indigenous biodiversity. Regional pest management programmes and plans should help to maintain, and restore or enhance indigenous biodiversity. Additionally, provisions in regional and district plans can reduce the risk of areas of indigenous biodiversity being colonised by exotic invaders. Examples include wilding trees, garden plants and weeds, such as gorse and broom, entering areas where they are presently absent. Fencing can maintain areas of indigenous biodiversity by preventing domestic livestock access.”

- d. SRPS 6.4 Methods notes that the Southland Regional Council will:

“Method BIO.4 – Pest plant and pest animal management (a) Implement regional pest management programmes and plans to maintain, enhance or restore indigenous ecosystems and habitats to a healthy functioning state. (b) Assist individuals and groups with pest plant and pest animal management.”

- e. There are no Local authority methods relating to pest plant and pest animal management. It is therefore recommended that ECO-R2 and ECO-R3 are deleted as it is envisaged that pest plants and pest animals will be managed via the implementation of the RPMP. This is re-enforced by HR SXX – See ECO – P12 discussion.

7. The NPSIB for Indigenous Biodiversity does not mention pest or weed management specifically although it is implied in the objective of restoration of indigenous biodiversity.⁷ The NPSIB also directs consideration of indigenous species occupancy across their natural range, the full range and extent of ecosystems and habitats used or occupied by indigenous biodiversity, and the resilience and adaptability of ecosystems: all of which are potentially impacted by weed and pest incursion.
8. The NPSIB also requires Councils to have regard to regional biodiversity plans when developing their own plans.⁸ The s32 to the NPSIB clearly envisages controls in District Plans and provides an example of compliance costs of fencing of an SNA.⁹
9. Council must consider the extent to which the district plan needs to be consistent with the plans or proposed plans of adjacent territorial authorities.¹⁰ The neighbouring Plans are Southland District and Clutha District although as Clutha is in Otago, consideration of Invercargill City District Plan is more relevant as it is in the same region. In addition, the Clutha District Plan predates the NPSIB.
10. Pest management is a matter of control (ECO-MAT4) in rules in the Southland District Plan 2024. Planting of pest species as set out in the Regional Pest Strategy and the National Pest Accord in specified areas is prohibited. The plan also includes a map of known wilding pine areas.
11. Invercargill District Plan 2019 seeks to gather information of the effects of pests (ECO-P9). Clearance of pest species (as identified in the Regional Pest Management Strategy for Southland 2013 or any replacement plan prepared under the Biosecurity Act 1993) is a permitted activity. In areas of significant indigenous biodiversity, matters to consider include methods to address adverse effects on animal and plant pest control (ECO-R14). There is no clear direction across both plans that Gore District need to be consistent with.
12. In summary, Council may include pest management provisions if it considers necessary to achieve its functions to achieve the purpose of the Act but must ensure that they are efficient and effective. This includes examining the extent to which:

⁷ Clause 2.1 (1)(b)(iii) and Policy 13

⁸ Clause 3.23(2)

⁹ Refer p129 NPSIB S32 Evaluation report

¹⁰ Section 74(2)(c) of the RMA.

- a. proposed objectives are the most appropriate way to achieve the purpose of the Act, and
 - b. provisions are the most appropriate way to achieve the objectives, including identifying other reasonably practicable options for achieving the objectives.¹¹
13. Pest management is a very necessary part of maintaining indigenous biodiversity, which is an indisputable function of the District Council. However, the existence of a dedicated management regime that is directed at pest management requires Council to be certain that District Plan provisions are necessary as a complementary aid to that regime. For the reasons outlined in this assessment it is my view that they are not shown to be necessary as the Biosecurity legislation and tools can be relied upon.

¹¹ S32 of the RMA