

Version
as at 24 August 2023



**Biosecurity (National PA Pest Management Plan) Order
2022**
(SL 2022/208)

Cindy Kiro, Governor-General

Order in Council

At Wellington this 4th day of July 2022

Present:

Her Excellency the Governor-General in Council

This order is made under sections 66 and 165(14)(c) of the Biosecurity Act 1993—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Biosecurity made after being satisfied of the matters in section 65 of that Act.

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This order is administered by the Ministry for Primary Industries.

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Order

1 Title

This order is the Biosecurity (National PA Pest Management Plan) Order 2022.

2 Commencement

- (1) Clause 19 comes into force on 2 August 2023.
- (2) The rest of this order comes into force on 2 August 2022.

3 Interpretation

In this order, unless the context otherwise requires,—

Act means the Biosecurity Act 1993

alternative PA host plant material means any part (including the seed and other germplasm) of a plant species other than kauri that can harbour PA

animal means a mammal, a bird, a reptile, or an amphibian

earthworks means a disturbance of soil and earth land surfaces (including by blading, boring, contouring, cutting, drilling, excavating, filling, moving, piling, placing, removing, replacing, ripping, thrusting, or trenching) using tools or machinery

kauri means any living kauri plant (*Agathis australis*) in place, or for planting or propagation, including containerised, field-grown, and tissue culture plants, and parts thereof, including seeds and germplasm

kauri forest

- (a) means—
 - (i) a forest or bushland ecosystem that contains more than 1 kauri; or
 - (ii) land being regenerated with planting for the purpose of establishing, or revegetating, a kauri forest ecosystem; and
- (b) includes any land within the kauri hygiene zone of any kauri tree on the edge of the forest or bushland ecosystem

kauri hygiene zone means 3 times the maximum radius of the canopy dripline of a kauri tree

kauri land means land within the district or region of Northland Regional Council, Auckland Council, Waikato Regional Council, or Bay of Plenty Regional Council

management agency means the Ministry (as defined by section 2(1) of the Act)

occupier has the meaning given to it by section 2(1) of the Act

PA means the primary causal agent of kauri disease, known as *Phytophthora agathidicida*

Plan means the National PA Pest Management Plan made under clause 4

plant production premises means any place where 1 or more kauri are propagated

risk item means an item that may, when in a kauri forest, come into contact with—

- (a) soil, other than gravel; or
- (b) plant matter, other than track surfacing

road means any road as defined in section 2(1) of the Land Transport Act 1998

track surfacing means a substance or structure that prevents direct contact of risk items with soil or kauri fibrous roots, and includes boardwalks, gravel, and asphalt.

Plan

4 National PA Pest Management Plan

This order makes the National PA Pest Management Plan.

5 Pest to be managed

The organism PA is the pest to be managed in accordance with the Plan.

6 Plan's objectives: general

The objectives of the Plan are to—

- (a) reduce the spread of PA; and
- (b) maintain areas free of PA; and
- (c) reduce the impact of PA within infected sites; and
- (d) locally eliminate PA within infected sites; and
- (e) protect kauri with special value from PA; and
- (f) facilitate controlled access to kauri forests where it does not compromise the future or protection of kauri.

7 Plan's objectives: adverse effects of PA to be addressed

The adverse effects of PA and the loss of kauri that the Plan addresses are—

- (a) adverse effects on the relationship between Māori, their culture and traditions, and their ancestral lands, waters, sites, wāhi tapu, and taonga; and
- (b) adverse effects on the environment caused by 1 or more of the following:
 - (i) loss of endemic species:
 - (ii) changes in plant community structure:
 - (iii) increased soil erosion:
 - (iv) changes in hydrology; and
- (c) adverse effects on enjoyment of the natural environment caused by restrictions imposed on recreational activities in kauri forests to minimise further degradation of the forests from the effects of PA; and

- (d) adverse effects on economic well-being caused by rising emissions of greenhouse gases from the depletion of the stored carbon in kauri when they die.

8 Plan's objectives: intermediate outcomes

- (1) The intermediate outcomes for the Plan are—
 - (a) sustained control of PA to reduce its impacts on infected kauri and its spread to other kauri in New Zealand; and
 - (b) exclusion of PA that is present in New Zealand from areas where PA is not yet established; and
 - (c) containment within, or reduction of the geographic spread of PA from, an area over time.
- (2) The intention is that intermediate outcomes will be achieved in the first 10 years after the Plan comes into force.

9 Principal measures to achieve objectives

- (1) The principal measures to achieve the objectives set out in clauses 6 to 8 are—
 - (a) determining and establishing special risk areas and kauri protection areas; and
 - (b) growing awareness, partnerships, and hapū- and iwi-led collaboration and engagement across the community in the management of PA; and
 - (c) applying mātauranga Māori, including cultural harvest, and the results of science and research to the management of PA; and
 - (d) carrying out surveillance and monitoring to enable—
 - (i) mapping of the distribution of kauri and kauri forests; and
 - (ii) mapping of the presence or absence of PA; and
 - (iii) an understanding of the rate of the spread of PA; and
 - (iv) an understanding of the impacts of PA on kauri and forests; and
 - (v) an understanding of the application and effectiveness of PA control tools, mātauranga Māori, and other management practices to manage the spread of PA; and
 - (vi) an understanding of the levels of compliance with the requirements of the Plan; and
 - (e) implementing hygiene standards and programmes, and imposing movement controls on risk items that are, or may be, capable of contributing to the spread of PA; and
 - (f) excluding stock from kauri forests; and
 - (g) excluding or controlling animal vectors from areas of kauri land and supporting alternative hunting opportunities; and

- (h) managing kauri forest access in collaboration and partnership with mana whenua; and
 - (i) improving track user infrastructure, including track upgrades and re-routing to manage and mitigate the spread of PA; and
 - (j) applying effective treatments to kauri; and
 - (k) protecting high-value kauri germplasm and planting kauri that are less susceptible to PA.
- (2) In this clause,—
- kauri protection area** means an area—
- (a) that is in a kauri forest; and
 - (b) that meets 1 or more of the following criteria:
 - (i) it contains kauri or forests that have significance to Māori and have cultural value in association with historic events, occupation, and cultural activities:
 - (ii) it contains kauri with important genetic variability:
 - (iii) the kauri in the area contribute to the diversity, distribution, and abundance of animal and plant species or have other significant ecological value to that area such as being old growth or having the ability to naturally regenerate:
 - (iv) it contains iconic kauri or stands of kauri; and
 - (c) in relation to which the landowner has agreed to a kauri protection status
- special risk area** means an area where—
- (a) there is a high risk of infection from PA; or
 - (b) infection from PA in the area would lead to further transmission of PA.

10 Means of measuring achievement of Plan's objectives

- (1) This clause sets out the means of measuring the achievement of the Plan's objectives.
- (2) Whether the Plan's objectives are being achieved is to be measured by monitoring and recording the following on a regular basis:
 - (a) the management agency's level of understanding of the distribution of PA across kauri lands and kauri forests:
 - (b) the level of resilience of kauri forests in response to PA:
 - (c) the level of public and industry engagement in the management of PA:
 - (d) the management agency's available access to capability, knowledge, and tools to support effective management of PA:
 - (e) the number of physical PA spread mitigations:
 - (f) the level of compliance with the requirements of the Plan.

11 Sources of funding for implementation of Plan

Implementation of the Plan is to be funded—

- (a) by the Crown; and
- (b) from other funds (if any) received by the management agency for the purpose of implementing the plan; and
- (c) from other funds (if any) received by local authorities that may be used to implement the plan.

12 Limitations on how funds may be used to implement Plan

There are no limitations on how the funds identified in clause 11 may be used to implement the Plan.

13 Powers under Part 6 of Act to be used to implement Plan

- (1) An authorised person appointed under section 103 of the Act for the purposes of the Plan may, in relation to the Plan, exercise all or any of the powers conferred on that person and specified in subclause (2).
- (2) The powers are—
 - (a) the power to require assistance (*see* section 106 of the Act):
 - (b) the power of inspection (*see* sections 109 and 112 of the Act):
 - (c) the power of entry in respect of offences (*see* sections 111 and 112 of the Act):
 - (d) the power to record information (*see* section 113 of the Act):
 - (e) the general powers (*see* section 114 of the Act):
 - (f) the power to apply articles or substances from an aircraft (*see* section 114A(3) of the Act):
 - (g) the power to use dogs and devices (*see* section 115 of the Act):
 - (h) the power to seize evidence (*see* section 118 of the Act):
 - (i) the power to seize abandoned goods (*see* section 119 of the Act):
 - (j) the power to intercept risk goods (*see* section 120 of the Act):
 - (k) the power to examine organisms (*see* section 121 of the Act):
 - (l) the power to apply articles or substances to places (*see* section 121A of the Act):
 - (m) the power to give directions (*see* section 122 of the Act):
 - (n) the power to vaccinate, etc (*see* section 123 of the Act):
 - (o) the power to declare a place to be a restricted place (*see* section 130 of the Act):

- (p) the power to permit movement of any organism, organic material, risk goods, or other goods, in contravention of a notice under section 131(3) of the Act (*see* section 134(1)(b) of the Act).
- (3) The management agency may, in relation to the Plan, exercise all or any of the powers conferred on it and specified in subclause (4).
- (4) The powers are—
 - (a) the power to act on default (*see* section 128 of the Act):
 - (b) the power to declare any specified area to be a controlled area (*see* section 131 of the Act):
 - (c) the power to recover costs (*see* section 135 of the Act):
 - (d) the power to waive all or any part of a debt (*see* section 136 of the Act).

Plan rules

14 Plan rules

- (1) Clauses 15 to 24 contain the Plan rules.
- (2) A person commits an offence against the Act who fails to comply with any of Plan rules 1 to 10 (*see* section 154N(18) of the Act).
- (3) Plan rules 1 to 3 apply to all of New Zealand.
- (4) Plan rules 4 to 10 apply only to kauri land.

15 Plan rule 1: obligation to report

- (1) An occupier of land who recognises that a kauri on the land is exhibiting any symptoms of PA must, as soon as is reasonably practicable, report the symptoms and the location of the kauri to the management agency, an inspector, or an authorised person.
- (2) Subclause (1) does not apply to an occupier who knows that the management agency is aware that the tree is or may be exhibiting symptoms.

16 Plan rule 2: provision of information

- (1) A person must provide the management agency, an inspector, or an authorised person with any information of a kind described in subclause (3) that is requested in writing by the management agency, inspector, or authorised person.
- (2) The person must provide the information within the time specified in the request, which must be reasonable and not less than 48 hours from the time the request is made.
- (3) The information is any information about—
 - (a) kauri trees, including dead kauri trees, or any alternative PA host plant material; and
 - (b) soil or growing medium that has or may have come into physical contact with a kauri tree or alternative PA host plant material; and

- (c) machinery, equipment, or persons that may have come into physical contact with—
 - (i) any kauri tree or alternative PA host plant material; or
 - (ii) any soil or other growing medium that has been in physical contact with any kauri tree or alternative PA host plant material.

17 Plan rule 3: restriction on the movement of kauri

- (1) A person who produces or propagates a kauri must not allow the kauri to be moved unless they have, and operate in accordance with, a production plan that meets the requirements of subclause (3).
- (2) The objective of a production plan is to detail how the spread of PA will be prevented—
 - (a) between kauri at the same plant production premises; and
 - (b) outward from the plant production premises.
- (3) A production plan must include practices and procedures to ensure that—
 - (a) any person at the plant production premises involved in the production or propagation of kauri is informed about—
 - (i) PA; and
 - (ii) how PA spreads between plants; and
 - (iii) how to identify the symptoms of PA in—
 - (A) kauri; and
 - (B) if applicable, alternative PA host plant materials; and
 - (b) kauri cones and seeds collected are—
 - (i) free from soil, invertebrates, water, and other organic matter; and
 - (ii) from a place where PA has not been detected; and
 - (iii) from a place where any kauri trees are in good health and are not showing any symptoms of PA; and
 - (c) growing media used for kauri production or propagation—
 - (i) does not originate from a kauri forest; and
 - (ii) has not been mixed with an unknown source of growing media; and
 - (iii) is not reused for plant production or propagation; and
 - (d) containers, tools, and surfaces used for kauri production or propagation are cleaned and sterilised before reuse; and
 - (e) seed-sowing and potting is undertaken in batches; and
 - (f) there is documented weekly monitoring and inspection of kauri for PA symptoms; and

- (g) kauri remain on the premises for no less than 3 months after final potting; and
 - (h) while kauri remain on the premises in accordance with paragraph (g), they—
 - (i) are not mixed with other batches of plants; and
 - (ii) are kept away from other propagation areas; and
 - (i) end-of-process PA testing is conducted for any batch of kauri showing signs of any disease or sickness by a laboratory that is independent of the plant production premises; and
 - (j) records for paragraphs (f) to (i) are kept for a minimum of 3 years and can be provided on request under clause 16.
- (4) Every person referred to in subclause (1) must provide the management agency with a copy of that person's production plan, and information that records how the person has operated in accordance with that plan, within 1 week of the agency requesting the plan and information.
- (5) Subclause (1) does not apply in respect of kauri planted or growing before 2 August 2022.
- (6) However, a person must not allow a kauri planted or growing before 2 August 2022 to be moved unless they have practices and procedures in place to ensure that end-of-process PA testing is conducted as set out in subclause (3)(i).

18 Plan rule 4: PA risk management plans

- (1) An occupier of land must have, and operate in accordance with, an approved PA risk management plan if a management agency, an inspector, or an authorised person gives the occupier written notice that the land is at risk of PA.
- (2) The occupier must submit a PA risk management plan for approval by the management agency, an inspector, or an authorised person within a time that is reasonable and not less than 90 working days after the notice is given.
- (3) The objective of a PA risk management plan is to detail how—
- (a) the spread of PA will be controlled, including how it will be contained to exclude it from any kauri forest; or
 - (b) the effects of PA will be limited.
- (4) A PA risk management plan must contain—
- (a) the objective of the plan; and
 - (b) the actions to achieve the objective of the plan; and
 - (c) a map of the land identifying any kauri tree locations and other significant features such as roads, other trees, tracks, and cleaning stations; and
 - (d) procedures and practices to ensure that the actions in paragraph (b) meet the objective of the plan; and

- (e) procedures for reporting to the management agency, inspector, or authorised person on the implementation of, and compliance with, the plan.
- (5) In subclause (1), land is **at risk of PA** if—
 - (a) there is a risk of kauri trees on the land being infected by PA; or
 - (b) the land—
 - (i) has kauri or alternative host material that is infected by PA; or
 - (ii) is a pathway from land on which kauri or alternative PA host plant material is infected by PA to other land.

19 Plan rule 5: earthworks PA risk management plan

- (1) This rule applies to an occupier of land that includes a kauri hygiene zone.
- (2) The occupier must not undertake earthworks in a kauri hygiene zone unless they have, and operate in accordance with, an earthworks risk management plan that is approved for that land by the management agency, an inspector, or an authorised person.
- (3) The objective of an earthworks risk management plan is to manage and mitigate the risk of the spread of PA by earthworks.
- (4) An earthworks risk management plan must contain—
 - (a) the objective of the plan; and
 - (b) the actions to achieve the objective of the plan; and
 - (c) a map of the land (which may include areas outside the kauri hygiene zone) identifying—
 - (i) kauri tree locations; and
 - (ii) the boundary of any earthworks; and
 - (iii) points from where the earthworks site may be accessed; and
 - (iv) signs identifying from where the earthworks site may be accessed; and
 - (v) where kauri hygiene protocols are displayed; and
 - (vi) where vehicles may be parked (if applicable); and
 - (vii) where items contaminated with soil may be washed down; and
 - (d) procedures for cleaning all vehicles and equipment to prevent PA entering or leaving the site; and
 - (e) procedures for—
 - (i) the management of any soil, sludge, or organic material that is retained within a kauri hygiene zone; and
 - (ii) transportation of that soil, sludge, or organic material to a landfill approved by the management agency, inspector, or authorised person for that purpose; and

- (f) procedures to limit the risk of water potentially contaminated with PA entering—
 - (i) a kauri hygiene zone; or
 - (ii) a kauri forest; or
 - (iii) a water course connected to a kauri hygiene zone or kauri forest; and
 - (g) procedures to ensure that all persons entering the earthworks site are provided with a copy of the plan; and
 - (h) procedures for reporting to the management agency, inspector, or authorised person on the implementation of, and compliance with the plan, which must include—
 - (i) annual reporting on compliance with the plan; and
 - (ii) immediate reporting when there is significant non-compliance with the plan; and
 - (i) procedures to ensure that the management agency, inspector, or authorised person is notified of the start and end of each earthworks.
- (5) A person permitted by an occupier to undertake earthworks on land in a kauri hygiene zone must not undertake the earthworks unless—
- (a) the occupier has provided the person with an earthworks risk management plan approved for that land; and
 - (b) the person operates in accordance with that plan.
- (6) This rule does not apply to an occupier of land if the earthworks—
- (a) consist of domestic gardening or the burial of animals, but only if the occupier cleans all footwear, tools, and machinery used so that those items are free of visible soil and organic material prior to entry into and exit from the kauri hygiene area; or
 - (b) are undertaken—
 - (i) in response to an emergency; and
 - (ii) during that emergency; or
 - (c) are undertaken in compliance with an earthworks risk management plan required by a territorial authority that includes—
 - (i) the objectives of the plan; and
 - (ii) the activities to be undertaken to achieve those objectives; and
 - (iii) maps of the areas that the plan applies to, including locations of items and features key to managing the spread of PA (that may be outside any kauri hygiene area); and

- (iv) cleaning procedures for all vehicles and equipment entering or exiting the site to prevent PA being introduced into or leaving the site; and
 - (v) procedures for—
 - (A) the management of any soil, sludge, or organic material retained within a kauri hygiene zone; and
 - (B) the transportation of that soil, sludge, or organic material to a landfill approved by the territorial authority, management agency, inspector, or authorised person to accept that material; and
 - (vi) procedures for the management of water to limit the risk of water potentially contaminated with PA entering—
 - (A) a kauri hygiene zone; or
 - (B) a kauri forest; or
 - (C) a water course connected to a kauri hygiene zone or kauri forest; and
 - (vii) procedures for reporting on compliance with the plan at least annually, and when there is a significant non-compliance with the plan.
- (7) In subclause (6)(b), **emergency** means—
- (a) an adverse effect on the environment that requires immediate preventive measures; or
 - (b) an adverse effect on the environment that requires immediate remedial measures; or
 - (c) a sudden event causing or likely to cause loss of life, injury, or serious damage to property.

20 Plan rule 6: stock exclusion notice

- (1) An owner of a grazing animal must ensure that the animal does not enter a kauri forest during a specified exclusion period if a management agency, an inspector, or an authorised person gives the occupier written notice (a **stock exclusion notice**) that PA has been detected—
- (a) in the kauri forest; and
 - (b) within 500 m of an access point to the forest.
- (2) A stock exclusion notice must specify—
- (a) the kauri forest that grazing animals must not enter; and
 - (b) the exclusion period.

21 Plan rule 7: restriction on release of animals

- (1) A person must not release an animal into—

- (a) a kauri forest; or
 - (b) an area from which the animal could reasonably be expected to enter a kauri forest.
- (2) This rule does not apply in respect of—
- (a) the movement or grazing of animals on a farm (but this does not affect the application of any stock exclusion notice); or
 - (b) animals that are permitted to be released under the Wildlife Act 1953 or any other enactment; or
 - (c) animals that are—
 - (i) free of visible soil and organic matter prior to entering the kauri forest and upon leaving the forest; and
 - (ii) under the control of a person while moving through the kauri forest.

22 Plan rule 8: obligation to clean items before entering or exiting kauri forest

- (1) Immediately before entering or exiting a kauri forest, a person must clean any risk item that is in their possession.
- (2) The person must clean the risk item so that visible soil and organic matter is removed.

23 Plan rule 9: obligation to use cleaning stations

- (1) A person who uses a track or road in a kauri forest must clean applicable items at each cleaning station they pass.
- (2) The item must be cleaned so that visible soil and organic matter has been removed.
- (3) An **applicable item** is an item that the cleaning station is designed to clean.

24 Plan rule 10: open tracks and roads in kauri forest

- (1) This rule—
 - (a) applies to an owner of land in a kauri forest if a track or road passes through that land; but
 - (b) does not apply in respect of a track of which the owner is unaware or that is not intended for public use.
- (2) The owner must comply with 1 or more of the following requirements:
 - (a) ensure all tracks and roads avoid the kauri hygiene zone:
 - (b) install 1 or more cleaning stations to remove visible soil and organic matter from risk items:
 - (c) install track surfacing to minimise the risk of—

- (i) the spread of soil or organic matter into, within, or from a kauri hygiene zone; and
 - (ii) contact with kauri fibrous roots by risk items.
- (3) If the owner complies with subclause (2)(b) or (c) the owner must ensure that groundwater and surface water drain away from kauri trees.

Management agency

25 Management agency

The management agency responsible for implementing the Plan is the Ministry.

Miscellaneous matters

26 Actions that local authorities may take to implement Plan

A local authority may contribute to the implementation of the Plan by—

- (a) contributing to the funding of the implementation of the Plan in its region or district; and
- (b) co-ordinating and undertaking compliance activities to implement the Plan in its region or district; and
- (c) actively managing PA on publicly owned lands; and
- (d) regulating earthworks under the plan for its region or district under the Natural and Built Environment Act 2023.

Clause 26(d): replaced, on 24 August 2023, by section 805(5) of the Natural and Built Environment Act 2023 (2023 No 46).

27 Application of Plan to exclusive economic zone

The Plan does not apply to the exclusive economic zone or to any part of the exclusive economic zone.

28 Application of Plan to roads

The Plan covers the portions of road open to the public that pass through kauri forests.

Plan's commencement and termination dates

29 Plan's commencement and termination dates

The Plan commences on 2 August 2022 (except clause 19) and terminates on 2 August 2032.

30 Compensation

- (1) Compensation under this plan is payable if—
 - (a) the management agency or an authorised person has exercised a power that requires the destruction of goods; and

- (b) the owner of the goods claims compensation within 12 months of the date on which—
 - (i) the loss occurred; or
 - (ii) the applicant should reasonably have been aware that the loss occurred; and
 - (c) the loss is not of a kind described in section 64(4)(b) of the Act.
- (2) The compensation payable under subclause (1) must not—
- (a) exceed the actual value of the goods destroyed; or
 - (b) include any other losses arising from the destruction of the goods, whether direct or consequential.

*Consequential amendment to Biosecurity (Infringement Offences) Regulations
2010*

31 Principal regulations

Clause 32 amends the Biosecurity (Infringement Offences) Regulations 2010.

32 Schedule 1 amended

In Schedule 1, after the item relating to section 154N(17)(b)(v), insert in the first to third columns:

s 154N(18)	Failing to comply with Plan rule 8 (clause 22) of the Biosecurity (National PA Pest Management Plan) Order 2022, which relates to cleaning of items before entering or exiting a kauri forest	300
	Failing to comply with Plan rule 9 (clause 23) of the Biosecurity (National PA Pest Management Plan) Order 2022, which relates to the use of cleaning stations in a kauri forest	400

Rachel Hayward,
Acting Clerk of the Executive Council.

Notes

1 *General*

This is a consolidation of the Biosecurity (National PA Pest Management Plan) Order 2022 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Natural and Built Environment Act 2023 (2023 No 46): section 805(5)