Biosecurity (Updating of Code of Practice and Biosecurity Zone Map) Amendment Regulation 2024

Explanatory Notes for SL 2024 No. 247

made under the

Biosecurity Act 2014

General Outline

Short title

Biosecurity (Updating of Code of Practice and Biosecurity Zone Map) Amendment Regulation 2024

Authorising law

Sections 26, 104, 128, 129 and 503 of the *Biosecurity Act 2014* (the Act)

Policy objectives and the reasons for them

Electric ant biosecurity zone extension

The policy objective of the *Biosecurity (Updating of Code of Practice and Biosecurity Zone Map) Amendment Regulation 2024* is to ensure the electric ant biosecurity zone is appropriate to enable regulatory provisions to be applied in the event of an electric ant detection and to mitigate the risk of further spread of electric ants.

The National Electric Ant Eradication Program (the Program) commenced in May 2006, tasked with eradication of the invasive ant species *Wasmannia auropunctata* (electric ant) from Far North Queensland. The electric ant is category 1 restricted matter under the Act.

Movement of electric ant carriers is controlled through the implementation of the biosecurity zone, established under section 128(1)(a) of the Act. Section 74 of the *Biosecurity Regulation 2016* (the Regulation) identifies the biosecurity zone as the area shown on the electric ant biosecurity zone map called 'Electric ant biosecurity zone map—EA02' (the electric ant biosecurity zone) dated 15 June 2018.

The electric ant biosecurity zone was drafted as a larger area than the known infestations to acknowledge movement corridors and the potential spread of electric ants. The biosecurity zone is representative of the area where there is a potential risk of electric ant infestation and spread, in consideration of human assisted movement corridors and

includes suburbs within the Cairns Regional, Cassowary Coast Regional, Douglas Shire, Mareeba Shire, and Tablelands Regional local government areas.

The risk of spread of electric ants to the extended areas covered in the 'Electric ant biosecurity zone map EA03' dated 30 September 2024, means that an amendment to the biosecurity zone is required to ensure movement controls and restrictions can be applied for containment and eradication of electric ants if necessary.

Updating the *Code of Practice for the management and control of Panama disease tropical race 4 on infested property in Queensland* (Code of Practice)

The primary policy objective of updating the Code of Practice is to reduce the burden on affected banana growers and provide them with a more practical and cost-effective solution to manage Panama disease tropical race 4 (Panama TR4) on infested properties.

Panama disease tropical race 4 (Panama TR4) is a serious banana disease. It is a form of fusarium wilt, Fusarium oxysporum f. sp. cubense tropical race 4, a fungal disease that lives in the soil and has the capacity to survive for decades in the soil. It poses a significant threat to Queensland's banana production and the livelihoods of growers and those in the banana supply chain.

As Panama TR4 cannot be eradicated, it needs considerable management in terms of control and containment, because it is easily spread by the movement of infected banana plants and material, contaminated soil and water, people, vehicles, machinery, and animals.

On 22 June 2023, the Governor in Council approved the *Biosecurity (Panama Disease Tropical Race 4) Amendment Regulation 2023* to implement version 1 of the mandatory code of practice for the management and control of Panama disease tropical race 4 on an infested property in Queensland.

Version 1 of the Code of Practice currently requires that once an infected banana plant is detected, all banana plants within a distance of 10 metres along a row in each direction from the infected plant must be destroyed, as well as the immediate adjacent rows of plants.

Achievement of policy objectives

Electric ant biosecurity zone extension

The subordinate legislation will achieve this objective by amending section 74 of the Regulation to refer to the new electric ant biosecurity zone map which will include the following areas within the biosecurity zone:

- The Yarrabah Shire adjacent to the Cairns Regional Local government area (Cairns LGA). All movement corridors into the Yarrabah Shire pass through the Cairns LGA and residents are known to travel to or from Cairns or other centres within the electric ant biosecurity zone. The majority of infestations within the restricted zone are within the Cairns LGA portion of the biosecurity zone with two infestations detected approximately 10 km from the Yarrabah Shire, and one on a major access corridor;

- The locality of Dunk includes the Family Islands National Park, east of South Mission Beach. The Family Islands include a group of islands popular for day trips and camping, attracting visitors from the local government areas that constitute the current biosecurity zone. While there are many commercial operators providing transport to Dunk Island, including a water taxi, it is expected that most visitors travel via private boat, bringing electric ant carriers (such as camping equipment) from their residential homes. Therefore, there is an increased risk of movement of electric ant carriers to the locality of Dunk;

- Low Isles is also a popular site for day trips. While camping is not permitted, there are several structures on the Island including a caretaker's cottage, light house, and several other service buildings. Visitors to the Island and volunteers depart Port Douglas where there are several large and active electric ant infestations in the region. A volunteer group (Low Isles Preservation Society) have established a live-in caretaker's position on the Island, and assist with tasks such as weather reporting, public contact, maintenance, and cleaning. This regular movement on and off the island by tourist, tourism operators, and volunteers increases the risk of movement of electric ant carriers onto the Island. Other islands that are popular for day trips and camping, such as Fitzroy Island, Green Island and Snapper Island, are currently included in the biosecurity zone, recognising the risk of electric ant carrier movement.

Section 74A of the Regulation and section 129(1)(c) of the Act allow that a lesser restrictions area can be established within a biosecurity zone to provide for lesser restrictions than would otherwise apply. If a detection is made within the electric ant biosecurity zone, the lesser restrictions area will be removed from properties deemed infested, and the regulatory provisions of the biosecurity zone will apply.

Code of Practice

The subordinate legislation will achieve this objective by introducing version 2 of the *Code of Practice for the Management and Control of Panama disease tropical race 4 on Infested Property in Queensland* (the Code of Practice).

Version 2 of the Code of Practice reduces the distance from and including the infected plant in which a grower has to destroy banana plants (the destruction zone) to prevent the spread of Panama TR4.

The distance from the infected plant which will comprise the destruction zone will be 10 metres in total (i.e. five metres in both directions from the infected plant). Additionally, the Code of Practice no longer requires the destruction of banana plants in the rows adjacent and either side of the infected plant.

Consistency with policy objectives of authorising law

The subordinate legislation is consistent with the objectives of the Act.

Inconsistency with policy objectives of other legislation

The subordinate legislation is consistent with the policy objectives of other legislation.

Alternative ways of achieving policy

Electric ant biosecurity zone extension

An alternative option to the biosecurity zone extension was considered as follows:

Status quo

This option will retain the status quo and not implement any changes to the existing electric ant biosecurity zone. This option will not require any changes to messaging or operational requirements. However, whilst this option results in no administrative impact, it does not address the risks presented by electric ants moving outside the current electric ant biosecurity zone.

Persons residing in the additional Local Government Areas not included in the existing electric ant biosecurity zone, will be potentially disadvantaged as they will be unnecessarily subject to regulatory restrictions should electric ants be discovered there. This option unnecessarily imposes regulatory restrictions on people as it will not provide for lesser restriction areas to be established within the additional Local Government Areas.

Code of Practice

The policy objective of the subordinate legislation could be achieved by amending the *Biosecurity Regulation 2016* to prescribe the requirements of the Code of Practice in detail. The benefit of this alternative is that the current requirements to mitigate the biosecurity risk posed by Panama TR4 would be overtly stated and evident in legislation. This would avoid the potential for an affected grower to refer to outdated requirements should reference be made to a superceded version of the Code of Practice.

The main disadvantage of this alternative is that the ability to amend the regulatory requirements to deal with Panama TR4 in a flexible and time-efficient manner, should research or treatment methods change, would be diminished. Any change to regulatory provisions would be required through an amendment of the regulation which would increase the time in responding to spread of the disease.

Adoption of a further reduced size of the destruction zone, to less than what is currently in version 2 of the Code of Practice, or not imposing a destruction zone at all, is also an alternative. The benefit to impacted growers would mean that fewer banana plants surrounding the infected plant would need to be destroyed and therefore lessen the economic impact on affected growers.

The disadvantage is that the containment of spread of Panama TR4 on the affected property would be less effective if at all. Reduced containment would potentially result in a banana growers entire crop becoming infected and heightening the prospect of spread to other banana growing properties or regions throughout Queensland.

Self-regulation would empower banana growers to adopt treatment and or containment strategies to deal with Panama TR4 as they choose to suit their individual preference. The benefit of flexibility for individual growers in the short term would be outweighed eventually as self-regulation would not limit the spread of the disease and ultimately result in greater detriment and economic impacts on other growers as Panama TR4 spreads. Under a self-regulation alternative, enforcement and compliance would not be possible.

Benefits and costs of implementation

Electric ant biosecurity zone extension

There will be no impacts to residents and businesses in the extended biosecurity zone area unless an electric ant infestation is detected. However, the Chief Executive may approve a notice which would lessen restrictions in particular areas of the zone should an infestation occur.

If this occurs, the Program has established facilities where electric ant carriers can be taken, if carriers are needed to be disposed of. Residents and businesses are encouraged to apply for a Biosecurity Instrument Permit to enable the movement of carriers to occur if not taken to an established facility.

The Program works with the applicant to enable the movement of the carriers while mitigating the risk of spread of electric ant. Movement controls, under section 75 of the Regulation can be applied in an area of the biosecurity zone not in the lesser restrictions area.

The Queensland Government will not incur any additional costs in the implementation of this subordinate legislation. Enforcement and extension activities will be undertaken within existing budgetary constraints.

Code of Practice

The revised Code of Practice will benefit banana growers who have been affected by Panama TR4 as it will limit their economic loss through the reduction in the size of the destruction zone, yet continue to control and contain the spread of the disease and minimise the biosecurity risk.

In view of the potential for significant adverse impacts posed by Panama TR4 on the banana industry, the requirements in the mandatory Code of Practice will benefit local economies in banana growing regions and the Queensland economy generally by minimising the spread of this disease.

The Queensland Government will not incur any additional costs in the implementation of this subordinate legislation. Enforcement and extension activities will be undertaken within existing budgetary constraints.

Consistency with fundamental legislative principles

The subordinate legislation has been drafted with regard to, and is consistent with, the fundamental legislative principles (FLPs) set out in section 4 of the *Legislative Standards Act 1992*.

Consultation

Electric ant biosecurity zone extension

The Office of Best Practice Regulation was notified of the proposed amendments, and a Summary Impact Analysis Statement was prepared to ensure that the regulatory review requirements were met. Although it is acknowledged that the proposed amendment extends the electric ant biosecurity zone to include additional areas, the mere extension of the biosecurity zone in itself, is unlikely to result in significant adverse impacts on persons in those additional areas covered by the zone. This is particularly so as everyone already has a general biosecurity obligation under section 23 of the *Biosecurity Act 2014*. It is evident that if there are no infestations of electric ants in the extended area of the biosecurity zone, there will be no impacts at all. If subsequent infestations of electric ants are detected in the extended area of the biosecurity zone, it would however be difficult to determine the incremental costs associated with those detections in any event.

Code of Practice

The Program consulted with all four affected councils on the intention to progress an amendment to the Regulation with no objections raised from each of the applicable Chief Executive Officers of the Local Government Areas consulted.

The Program currently engages in proactive surveillance and community engagement activities in the Yarrabah Shire, and in the local government areas that constitute the current biosecurity zone. This engagement includes:

- surveillance training programs with local indigenous rangers
- responding to public reports of suspect ants and requests for free property surveys
- monthly surveillance at waste transfer stations (sentinel site surveillance)
- social media campaigns
- regular communication with council staff.

This ongoing presence and engagement in the community and cooperation with the councils has resulted in familiarity and support for the Program and a sound awareness of electric ants.

A Summary Impact Analysis Statement was prepared to ensure that the regulatory review requirements were met. As per The Queensland Government Better Regulation Policy the subordinate legislation did not require further regulatory impact analysis as the amendments are deregulatory and does not increase the cost or regulatory burden on business/community.