

ANNEX C RELEVANT PROVISIONS OF THE DECISIONS ON THE  
STATUS OF ADVISORY PESTS AND KAURI DIEBACK

**EXHIBIT NOTE**

This is the annexure marked "C" referred to within the affidavit of Linda Dorothy Conning and sworn/affirmed at WHAKATANE this 9th day of NOVEMBER 2010 before me

Signature [Signature]

**EXHIBIT NOTE**

This is the annexure marked "C" referred to within the affidavit of WHAKATANE and sworn/affirmed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ before me

Signature \_\_\_\_\_

# Council's Pest Management Strategic Direction/ Te Aronga Rautaki Patu Kīrearea a Toi Moana

This Regional Pest Management Plan (RPMP) is the key policy document to direct the management of pests in the Bay of Plenty region and demonstrate regional leadership on pest management.

The Biosecurity Act 1993 requires regional councils to 'provide regional leadership in pest management' and pest management encompasses activities that '*...prevent, reduce, or eliminate adverse effects from harmful organisms that are present in New Zealand*' (section 12(B) Biosecurity Act 1993).

Provisions within this RPMP are the regulatory part of the pest management toolbox. The RPMP by nature of the legislative requirements represents a species led approach to pest management. That means the RPMP lists specific pests, prescribes the level of management required to meet the objectives for that pest and identifies who is responsible for managing the pest.

A large number of well-established pests that did not meet the thresholds prescribed by the Biosecurity Act 1993 to be included in the RPMP's pest management programmes have been added as Advisory pests in Appendix 1.

The table below sets out Council's overall biosecurity objectives and aspirations and illustrates how the Council intends to achieve them, including leading pest management responses, supporting other agency initiatives and providing advice.

The pest threats that Council needs to manage are constantly changing. There is the constant threat of new pests arriving in the region and the risk of existing pests moving into new areas. Now it is generally acknowledged that climate change is a contributing factor to pest incursions, this is increasing these threats. Council intends to address this changing pest landscape through its focus on prevention, detection and early intervention.

While a number of Council's core activities contribute directly to the management of pests, in some cases a targeted approach to pest management is required. For example, to protect high value sites such as biodiversity areas, a site led approach is most effective. Rather than focusing on individual pest species, pests within a high value site need to be managed. In some cases this may include pests additional to those regulated by the RPMP.

There are no good neighbour rules in the RPMP. Boundary control of pests is managed both through regulation and agreed understandings between neighbours, the Crown and Council.

Strategic direction	Council will achieve this by...
<b>Prevent pests entering and establishing in the Bay of Plenty.</b>	<ul style="list-style-type: none"> <li>• Greater surveillance of 'new to region' pests.</li> <li>• Leading eradication of 'new to region' pests, if feasible.*</li> <li>• Utilising Biosecurity Act 1993 provisions to manage new incursions including partial review of RPMP and small scale eradication.</li> </ul>

Strategic direction	Council will achieve this by...
<b>Manage pests when it is practical and cost effective to do so, using Council's regulatory and/or operational roles.</b>	<ul style="list-style-type: none"> <li>• Prioritising which pests need Council intervention.*</li> <li>• Leading management of pests where eradication is a feasible option would be of regional benefit.*</li> <li>• Maintaining progressive containment efforts where good progress has been, and can be, made.*</li> </ul>
<b>Support the efforts of landowners/occupiers and communities to manage established pests and prevent pest spread.</b>	<ul style="list-style-type: none"> <li>• Supporting pest management initiatives that protect regional biodiversity.</li> <li>• Providing pest management education and advice on the management of pests.</li> <li>• Embedding pest management considerations into Council decision-making agreements with landowners and occupiers.</li> <li>• Requiring that some pests are destroyed and over time their population/infestation levels are reduced.*</li> <li>• Regulating boundary control for the management of some pests to ensure equal effort between neighbours.*</li> <li>• Regulating the movement, distribution or release of pests.*</li> <li>• Promoting a pathway management approach initially through education and advice and later through pathway management plans.</li> </ul>
<b>Work in partnership with other parties that have pest management responsibilities and interests.</b>	<ul style="list-style-type: none"> <li>• Supporting national, inter-regional and industry led pest management initiatives and contribute resources where appropriate.</li> <li>• Participating in the National Pest Plant Accord by enforcing a national ban on the sale, propagation and distribution of recognised harmful plants which have been declared 'unwanted organisms'.</li> <li>• Supporting Māori pest management initiatives.</li> <li>• Supporting agencies that have clear pest management leads.</li> <li>• Promoting on-farm biosecurity.</li> <li>• Promoting marine farm/aquaculture biosecurity.</li> <li>• Participating in collective approaches across pest management agencies.</li> <li>• Working with the Crown to establish agreed understanding around potential boundary pests.</li> <li>• Supporting ongoing science to advance effective pest management including actions to monitor and adapt to climate change impacts on pest species.</li> <li>• Partnering in the delivery of National Pest Management Plans and Management Plan responses.</li> </ul>
<i>*These activities are supported by regulatory provisions in the RPMP.</i>	

Council will monitor how this pest management strategic direction is progressing through its annual reporting requirements. Appendix 3 shows how the Council's pest management strategic direction is being delivered at the time this RPMP was completed.

# Plan establishment/ Te whakatū i te mahere

## 1 Introduction/Kupu Whakataki

### 1.1 Purpose/Kaupapa

The purpose of the RPMP is to outline Council's pest management framework to effectively manage or eradicate specified organisms in the Bay of Plenty region. Doing so

- minimise the actual or potential adverse or unintended effects associated with those and
- maximise the effectiveness of individual and collective actions in managing pests regionally coordinated approach.

Many organisms in the Bay of Plenty region are considered undesirable or a nuisance where individual action or inaction in managing pests imposes undue effects on others management needed.

The Biosecurity Act 1993 has prerequisite criteria that must be met to justify such intervention. RPMP identifies those organisms classified as pests to be managed through the RPMP.

The RPMP will empower the Bay of Plenty Regional Council to exercise the relevant advisory, delivery, regulatory and funding functions available under the Biosecurity Act 1993 to specific objectives identified in Part Four: Pest Management of this RPMP.

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#### *Part 5: Managing pests and harmful organisms*

Part 5 of the Biosecurity Act 1993 specifically covers pest management. Its primary purpose is to provide for harmful organisms to be managed effectively or eradicated. A harmful organism is assigned pest status if included in a pest management plan (also see the prerequisites in ss69-78 of the Biosecurity Act 1993). Part 5 includes the need for ongoing monitoring to determine whether pests and unwanted organisms are present, and keeping them under surveillance. Part of this process is to develop effective and efficient measures (such as policies and plans) that prevent, reduce, or eliminate the adverse effects of pests and unwanted organisms on land and people (including Māori, their kaitiakitanga and taonga). Part 5 also addresses the issue of who should pay for the cost of pest management.

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## 2.5 Relationship with the National Policy Direction/Hononga ki te Aronga Kaupapahere ā-Mōtū

In September 2015, the National Policy Direction for Pest Management came into force.

The stated purpose of the National Policy Direction for Pest Management 2015 is to ensure activities under Part 5 of the Biosecurity Act 1993 provide the best use of available resources, New Zealand's best interests, and align with each other (when necessary), to help achieve the purpose of Part 5.

As required by law, Council needed to determine consistency between the current RPMP National Policy Direction for Pest Management 2015 and if there were any inconsistencies they would be resolved. Through this process, Council determined that the Regional Pest Management Plan for the Bay of Plenty 2011-2016 was inconsistent with the National Policy Direction for Pest Management 2015 and therefore needed to be revoked and replaced by the RPMP (which is this RPMP).

The following table sets out the National Policy Direction for Pest Management 2015 (NPD) requirements and the steps taken to comply with them.

### BAY OF PLENTY REGIONAL COUNCIL TOI MOANA

NPD requirements	Steps taken to comply
<b>Programme is described</b>	The types of programmes in this RPMP comply with clause 5 of the NPD.
<b>Objectives are set</b>	The objectives in this RPMP comply with Clause 6 of the NPD.
<b>Benefits and costs are analysed</b>	The cost and benefit assessment is set out in <i>Regional Pest Management Plan for the Bay of Plenty region: Meeting the Biosecurity Act 1993 requirements</i> .
<b>Funding rationale is noted</b>	The funding rationale described in section 9 of the RPMP has been developed in line with clause 7 of the NPD.

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# Pest management/Te Patu Kīrearea

## 4 Organisms classified as pests/Ngā rauropi kua kīia he kīrearea

The organisms listed in Table 1 are classified as pests.

It should be noted that under s52 and s53 of the Biosecurity Act 1993 any person is banned from selling, propagating or distributing any pest, or part of a pest, covered by the RPMP. Not complying with s52 and s53 is an offence under the Act and may result in the penalties noted in s157(1) of the Act.

Table 1 Organisms classified as pests.

Common name	Scientific name	Programme	Page*	M.
<b>Plant kingdom</b>				
<b>African feather grass</b>	<i>Cenchrus macrourus</i>	Progressive containment	49	
<b>Alligator weed</b>	<i>Alternanthera philoxeroides</i>	Exclusion	26	
		Eradication	37	
		Progressive containment	49	
<b>Apple of sodom</b>	<i>Solanum linnaeanum</i>	Progressive containment	50	
<b>Asiatic knotweed</b>	<i>Fallopia japonica</i>	Progressive containment	50	
<b>Bat-winged passionflower</b>	<i>Passiflora apetela</i>	Exclusion	27	
<b>Blackberry</b>	<i>Rubus fruticosus agg.</i>	Sustained control	68	
<b>Boneseed</b>	<i>Chrysanthemoides monilifera</i>	Progressive containment	51	
<b>Chilean flame creeper</b>	<i>Tropaeolum speciosum</i>	Exclusion	28	
<b>Chilean needle grass</b>	<i>Nassella neesiana</i>	Exclusion	29	
<b>Climbing asparagus</b>	<i>Asparagus scandens</i>	Sustained control	68	
<b>Climbing spindle berry</b>	<i>Celastrus orbiculatus</i>	Progressive containment	52	
		Sustained control	69	
<b>Coast tea tree</b>	<i>Leptospermum laevigatum</i>	Eradication	38	
<b>Creeping gloxinia</b>	<i>Lophospermum erubescens</i>	Eradication	38	
<b>Darwin's barberry</b>	<i>Berberis darwinii</i>	Exclusion	29	
		Progressive containment	53	
<b>Egeria</b>	<i>Egeria densa</i>	Exclusion	30	
		Progressive containment	54	
<b>Elodea</b>	<i>Elodea canadensis</i>	Exclusion	30	
		Sustained control	69	
<b>Field horsetail</b>	<i>Equisetum arvense</i>	Exclusion	31	

Common name	Scientific name	Programme	Page*
<b>Plant kingdom</b>			
<b>Wilding conifers</b>			
Lodgepole pine	<i>Pinus contorta</i>	Progressive containment	62
Scots pine	<i>Pinus sylvestris</i>		62
Dwarf mountain pine	<i>Pinus mugo</i>		61
Mountain pine	<i>Pinus uncinata</i>		61
European larch	<i>Larix decidua</i>		61
Douglas fir	<i>Pseudotsuga menziesii</i>	Sustained control	74
Bishops pine	<i>Pinus muricata</i>		73
Maritime pine	<i>Pinus pinaster</i>		74
Ponderosa pine	<i>Pinus ponderosa</i>		75
Corsican pine	<i>Pinus nigra</i>		73
Radiata pine	<i>Pinus radiata</i>		75
Woolly nightshade	<i>Solanum mauritianum</i>	Progressive containment	63
		Sustained control	76
Yellow flag iris	<i>Iris pseudacorus</i>	Progressive containment	63

Common name	Scientific name	Programme	Page*
<b>Animal kingdom</b>			

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NOTE: The list of animal pests on pp20-21 has been omitted.

### *Unwanted organisms*

In addition to the pests listed in Table 1, the release, sale, breeding, multiplying and propagation any Unwanted Organism (UWO) (as recognised and registered by a Chief Technical Officer employed under the State Sector Act 1988) is controlled under the Biosecurity Act 1993. The UV register maintained by the Ministry for Primary Industries contains a long list of plants and animals including insects and other invertebrates, as well as diseases - not all of which appear in this RPMP. The Bay of Plenty Regional Council will support agencies that have clear pest management leads (as set out in the Council's pest management strategic direction on pages 1-2).

Newly imported organisms are regulated under the Hazardous Substances and New Organisms Act 1996 by the Environmental Protection Authority.

While the Biosecurity Act 1993 has requirements for pests that are included in programmes and managed under an RPMP, there are many other organisms that Council and the community consider as pests.

If these organisms have not been included in the RPMP it may be because those pests are managed by another agency or they are now so widely established that regional intervention (e.g. requiring pest removal) would not be practicable or affordable.

Council considers these other organisms to be part of the wider biosecurity framework in the region. The other organisms have been termed Advisory pests and are listed in the RPMP in Appendix 1. Council will continue to provide management advice relating to Advisory pests as part of its pest management strategic direction.

Rules in regional and district plans and provisions in land management agreements that refer to pests specified or listed in the RPMP apply to Advisory pests included in Appendix 1 as well as other pests directly managed under this RPMP.

### *Unlisted organisms*

Bay of Plenty Regional Council's management programme is guided by, but not limited to, the pests that have established viable or persistent populations in the region, at the time of writing.

The Biosecurity Act 1993 allows regional councils to carry out small-scale eradication or control programmes for unwanted organisms, which are not already named in their RPMP, by developing a Small Scale Management Programme (SSMP). A SSMP allows Council to use certain powers under the Biosecurity Act 1993 to assist with the management of a pest.

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## 5.2 Pest management programmes/Ngā kaupapa patu kīrearea

One or more pest management programme will be used to control pests and any other organisms covered by this RPMP. The types of programme are defined by the National Policy Direction for Pest Management 2015 and reflect outcomes in keeping with:

- the extent of the infestation; and
- whether it is possible to achieve the desired control levels for the pests.

The intermediate outcomes for the National Policy Direction for Pest Management 2015 programmes are described below:

- 1 Exclusion Programme: to prevent the establishment of the subject, or an organism being spread by the subject, that is present in New Zealand but not yet established in an area.
- 2 Eradication Programme: to reduce the infestation level of the subject, or an organism being spread by the subject, to zero levels in an area in the short to medium term.
- 3 Progressive Containment Programme: to contain or reduce the geographic distribution of the subject, or an organism being spread by the subject, to an area over time.
- 4 Sustained Control Programme: to provide for ongoing control of the subject, or an organism being spread by the subject, to reduce its impacts on values and spread to other properties.

The National Policy Direction for Pest Management 2015 also identifies "Protecting Values Places" as an intermediate outcome.

Bay of Plenty Regional Council has opted to use non-regulatory approaches to protecting values in specific places and so site-led rules do not feature in this RPMP. The non-regulatory approach specifically for protecting biodiversity is supported through the Council's pest management strategic direction (see pages 1-2).

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### 6.4 Sustained control programme/Te Kaupapa Pupuri Whakauka

Where a pest is well established and preventing its spread is no longer a realistic objective, management of the pest focuses on reducing the impacts of the pest. This is sustained control.

Table 9 Sustained control programme pests.

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Pests listed in Table 9: blackberry, climbing asparagus, climbing spindleberry, Elodea, gorse, lantana, old man's beard, ragwort, reed sweet grass, wild ginger, wilding conifers (6 species), woolly nightshade.

Table 10 Management regime for the sustained control programme.

<b>Objective</b>	Over the duration of the RPMP, reduce impacts to production, environmental and public values by controlling sustained control pests (listed in Table 9) in the Bay of Plenty and preventing unreasonable impacts from these pests spreading across property boundaries where neighbouring occupiers are actively managing the pest.
<b>Principal measures</b>	
<i>Requirement to act</i>	Generic rules 6, 7 and 8 (see Table 12) will support the sustained control of pests listed in Table 9. Council will enforce sustained control rules as set out in Table 11 where required. Council and occupiers may develop pest management agreements.
<i>Service delivery</i>	Council may undertake management of sustained control pests as part of a biosecurity programme. Council will mediate between neighbours when required to ensure pest management between adjoining properties reflects equal effort.
<i>Council inspection</i>	Council will follow up complaints received on sustained control pests to ensure their management (or lack of).
<i>Advocacy and education</i>	Council will advocate for the sustained control of these pests through biodiversity protection agreements. Council will carry out programmes to increase public awareness of the sustained control programme and the responsibilities occupiers have in reducing the impact of these pests. Council will support ongoing science to advance effective pest management.
<b>Monitoring</b>	
<i>Indicators</i>	Number of reports and requests for advice made by the community. Number of pest management agreements initiated (including Memoranda of Understandings with Crown agencies and Crown entities). Number of complaints received about these pests.
<i>Method of monitoring</i>	Tracked through Council contact reporting. Complaints received.
<i>Frequency of monitoring</i>	Annually where complaints have been received.
<i>Frequency of reporting</i>	Annually.
<b>Outcomes</b>	Impacts from these pests is managed to acceptable levels. The spread of these pests across boundaries is managed.

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Table 11 Rules for sustained control pests.

Rules for sustained control pests	
<b>Rule 4</b>	<p>In areas where the following pests are included as sustained control pests:</p> <ul style="list-style-type: none"> <li>• Blackberry (entire region)</li> <li>• Ragwort (entire region)</li> <li>• Gorse (entire region)</li> </ul> <p>Occupiers must destroy these pests either:</p> <ol style="list-style-type: none"> <li>1 Within 10 m of any property boundary where the adjoining occupier is destroying blackberry, ragwort and/or gorse within 10 m of the boundary</li> <li>2 If required by a written direction from an authorised person.</li> </ol> <p>Occupiers must comply with Rule 4 unless a property specific pest management agreement has been agreed and signed between the occupier and the Council.</p>
<b>Rule 5</b>	<p>In areas where the following pests are included as sustained control pests:</p> <ul style="list-style-type: none"> <li>• Climbing asparagus (entire region)</li> <li>• Climbing spindle berry (Map 13)</li> <li>• Lantana (Map 10)</li> <li>• Reed sweet grass (entire region)</li> <li>• Old man's beard (Map 14)</li> <li>• Woolly nightshade (Map 12)</li> <li>• Douglas fir (entire region)</li> <li>• Bishops pine (entire region)</li> <li>• Maritime pine (entire region)</li> <li>• Ponderosa pine (entire region)</li> <li>• Corsican pine (entire region)</li> <li>• Radiata pine (entire region)</li> <li>• Wild ginger (entire region)</li> </ul> <p>Occupiers must destroy these pests, either:</p> <ol style="list-style-type: none"> <li>1 Within 200 m of any property boundary where the adjoining occupier is destroying climbing asparagus, climbing spindle berry, lantana, reed sweet grass, old man's beard, woolly nightshade, douglas fir, bishops pine, maritime pine, ponderosa pine, corsican pine, radiata pine and wild ginger within 200 m of the boundary, or</li> <li>2 If required by a written direction from an authorised person.</li> </ol> <p>Occupiers must comply with Rule 5 unless a property specific pest management agreement has been agreed and signed between the occupier and the Council.</p>
To manage sustained control programme pests, generic rules 6, 7, 8 and 9 also apply.	
<b>Advisory Note</b>	A breach of any rules for sustained control programme pests creates an offence under section 154N (19) of the Biosecurity Act 1993.

## Rules for sustained control pests

### Explanation

Rule 4 supports a good neighbour approach in that if one neighbour is actively managing a plant pest, their efforts should not be undermined by the inaction of their neighbours. These rules are not good neighbour rules as defined by the Biosecurity Act 1993 and therefore do not bind the Crown. Council considers this rule is for boundary control purposes and would only act on a complaint from a compliant neighbour. Whilst seed dispersal mechanisms can include seed drop by bird and wind, the distance of 10 m reflects a primary pest spread dispersal mechanism for seed drop.

Like Rule 4, Rule 5 supports a good neighbour approach but the larger distance of 200 m reflects the primary pest spread dispersal mechanisms are more likely to be wind, bird and water. Whilst these dispersal mechanisms may spread pests up to several kilometres, Council thinks 200 m is a practical and pragmatic distance for a boundary control approach.

The second part of Rules 4 and 5 supports action if Council deems action is required. A need for action may be triggered by a significant increase in pest infestation and their impacts, a strategic site identified by Council (e.g. adjoining place with high values), an elevated risk of spread and/or complaints from compliant neighbours. Occupiers have certainty at the time of notification that at some time in the future they may be required to manage the sustained control pests listed on land they occupy.

With regards to management of wilding conifers listed in Rule 5, Council will align its requirements for action with those being implemented through the New Zealand Wilding Conifer Management Strategy.

In some instances, pest management agreements may offer a more pragmatic alternative approach and provide for joint pest management. These agreements may take into account:

- Complexity and equitability issues associated with the history and timing of plant pest infestation and sources. For example, many original *contorta* sources are legacy Crown plantings or historic shelter and amenity plantings and some wilding conifer sources have been legally established (under the Resource Management Act (RMA)) with no legal obligation to manage wilding conifer spread.
- Some pest infestations are due to the actions/inactions of previous occupiers.
- In some areas it may be unreasonable to expect adjoining landowners to control pests (e.g. steep topography).
- Complex land ownership issues.

Sustained control pests that are not managed by Rules 4 and 5 are still subject to provisions in the Biosecurity Act 1993 as they are listed as pests in this RPMP and also managed through generic rules 6, 7, 8 and 9 of this RPMP.

**Generic Rules for exclusion, eradication, progressive containment or sustained control programmes**

<b>Rule 6</b>	No person shall:
1	Move or interfere with any article or substance left in place by an authorisation holder for the purpose of monitoring, controlling, or eradicating a pest listed in a pest management programme in this RPMP, or
2	Move, or allow to be moved, any live pest listed in this RPMP, or any nodule, vessel, organism or goods that are contaminated with any pest listed in a pest management programme in this RPMP, or
3	Keep, plant, propagate, distribute or release any pest listed in a pest management programme in this RPMP or assist in their maintenance including tending, feeding or sheltering them.

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## Appendix 1: Advisory pests

The following table includes other organisms that adversely affect production, environmental and/or public values but are not the subject of identification and rules in this RPMP. For that reason they have been termed Advisory pests. These Advisory pests are still intended to be managed as part of the biosecurity framework. Rules in regional and district plans and provisions in land management agreements that refer to pests specified or listed in preceding versions of the same) apply to Advisory pests included in Appendix 1 as well as the other pests directly managed under this RPMP.

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Appendix 1 comprises 80 plant species including kauri dieback and 13 animal species (hedgehogs added).