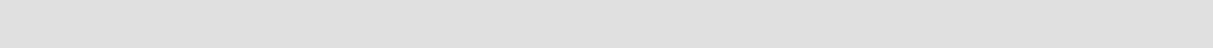




TERMS OF REFERENCE FOR

Tiakina Kauri Governance Group for the Kauri Protection Programme and the PA National Pest Management Plan

July 2022 version



CONTENTS

1	BACKGROUND	5
2	PURPOSE OF THIS DOCUMENT	5
3	PROGRAMME STRUCTURE AND ROLES	6
4	PURPOSE AND FUNCTIONS OF THE GOVERNANCE GROUP	7
	4.1 PURPOSE OF THE GOVERNANCE GROUP	7
	4.2 FUNCTIONS OF THE GOVERNANCE GROUP	7
5	WORKING METHODS	8
	5.1 CROWN AND MĀORI CO-CHAIRS	8
	5.2 MEETINGS	8
	5.3 OPERATING PRINCIPLES AND DECISION MAKING	8
	5.4 HEALTH & SAFETY	9
6	MEMBERSHIP	10
	6.1 SEEKING ADDITIONAL ADVICE	11
7	CONFIDENTIALITY	12
	7.1 GENERAL CONFIDENTIALITY REQUIREMENTS	12
	7.2 PRIVACY ACT	12
	7.3 OFFICIAL INFORMATION ACT, LOCAL GOVERNMENT OFFICIAL INFORMATION AND MEETINGS ACT 1987	12
8	MEDIA	12
9	REMUNERATION	13
10	CONFLICT OF INTEREST	13
	10.1 DEFINITION OF A CONFLICT OF INTEREST	13
	10.2 DECLARATION OF CONFLICT	13
	10.3 MANAGEMENT OF CONFLICT OF INTEREST	13
11	REVIEW	14

11.1 DURATION	14
11.2 PURPOSE AND FUNCTIONS	14
12 SIGNATORIES	14
APPENDIX 1: CONFLICT OF INTEREST DECLARATION FORM – NO CONFLICT	15
APPENDIX 2: CONFLICT OF INTEREST DECLARATION – TO DECLARE CONFLICT	16
APPENDIX 3: TIRITI PATHWAYS APPROACH TO DECISION-MAKING	17

1 BACKGROUND

Phytophthora agathidicida is a pathogen which infects kauri and causes a disease commonly referred to as kauri dieback. It was first recorded in the early 1970s on Aotea. A cure for the disease has not yet been found and the pathogen can kill the trees it infects. It can be spread by movement of soil and infected kauri may not show symptoms for many years. It can kill kauri of all ages and that has the potential for severe impacts on biodiversity, cultural and economic values.

To address the risks posed by kauri dieback and halt the spread of *P. agathidicida*, the Kauri Dieback Programme was established in 2009 as a multi-agency, iwi/ hāpu/whanau and community response. A review in 2013, found that while good progress had been made up to that point, it now needed a nationally consistent approach with a formal statutory basis and stronger systems, long term funding and commitment from all parties.

Regulatory options were evaluated and a National Pest Management Plan (NPMP) was recommended as it was assessed as the most effective regulatory model, capable of setting the programme up for enduring success. A NPMP is a planning tool that enables a management agency to manage a harmful organism that has potential national impacts.

The management agency is to be established within the Ministry for Primary Industries Biosecurity New Zealand Branch and there will be a Governance Group to oversee the whole Kauri Programme, the Kauri Protection Agency(now known as Tiakina Kauri), and its work.

2 PURPOSE OF THIS DOCUMENT

This document defines the terms of reference for the Tiakina Kauri | Kauri Protection Governance Group (the Governance Group), which is responsible for strategic oversight of the Tiakina Kauri | Kauri Protection Agency which leads and coordinates the implementation of the National Pest Management Plan across New Zealand. The Governance Group comprises representatives from tāngata whenua, local and central government agencies, science, and community.

The Kauri Protection Agency is created by the order in council signed by the Governor General on 4 July 2022. This order created a national pest management plan (NPMP) which enters into force on 2 August 2022.

3 PROGRAMME STRUCTURE AND ROLES

The Governance Group provide strategic oversight of the programme. They are responsible for recommending for approval the operational plan(s) which set and specify the work to be completed for kauri protection.

The Tiakina Kauri | Kauri Protection Agency are responsible for developing and leading the programme, which will be delivered either directly or through iwi/hapū/whanau, regional and district councils, community groups and DOC and will report on all related activities to the Kauri Governance Group.

The Knowledge Advisory Group provides independent expert advice on research needs, research procurement and quality assurance.

Biosecurity New Zealand hosts the Kauri Protection Agency. Included in this responsibility is the oversight and allocation of funds as recommended by the governance group, employment of the staff of the agency and provision of resources to run the agency.

To avoid ambiguity regarding funding: the funds provided for the agency are subject to MPI control and accountability; and the Governance Group is not able to direct other funding held by other agencies (unless they agree to that).

4 PURPOSE AND FUNCTIONS OF THE GOVERNANCE GROUP

4.1 PURPOSE OF THE GOVERNANCE GROUP

The Governance Group will provide strategic oversight of the kauri protection programme and Tiakina Kauri | Kauri Protection Agency which leads and co-ordinates the implementation of the National Pest Management Plan and kauri strategy nationally.

Appointed by MPI's Deputy Director-General Biosecurity New Zealand to provide governance of the kauri protection and the NPMP, the Governance Group has oversight of all government funded kauri protection work undertaken in kauri lands. It works with Biosecurity New Zealand to direct resource allocation.

The Governance Group will recommend the annual national operational plan for approval by MPI's Deputy Director-General Biosecurity New Zealand. Other responsibilities include reviewing monitoring and performance reports from the Agency on the kauri protection work delivered by either itself or through other agencies and iwi/hapū/whanau.

4.2 FUNCTIONS OF THE GOVERNANCE GROUP

The Governance Group will be responsible for recommending the direction of work to be completed by the agency and within the programme. It will:

- Approve the kauri protection strategy to deliver the desired results of the national pest management plan.
- Reflect and embed the responsibilities of the Treaty of Waitangi and recognise kauri protection is a shared responsibility which gives due autonomy to iwi/hapū/whanau and provides for substantive expression of rangatiratanga.
- Be champions and advocates for the agency and the overall programme of work, being delivered in good faith, fairly, reasonably, honestly, and with appropriate regard to social and cultural impacts.
- Set the context for the agency and all people working on the programme and annual plans.
- Ensure effective communication at the strategic and governance level between all the organisations involved in the programme.
- Objectively evaluate, review and monitor the effectiveness of the agency, the annual plans and progress against the National Pest Management plan objectives.
- Support the agency to report results to interested stakeholders and treaty partners.
- Source resources to enable delivery of agreed activities and future funding.
- Report back to the Minister for Biosecurity and update the Minister of Conservation.
- Identify and manage strategic issues and risks and remove barriers for the Agency and the work programme.
- Meet at least annually with the Kauri Kahui which meets each year with Ministers.

5 WORKING METHODS

5.1 CROWN AND MĀORI CO-CHAIRS

The co-chair's role is vital to the efficient working of the partnership programme. It is vital the incumbents have a strong interest in the outcome of the programme. The incumbents must be available for the duration of this programme and should be able to chair the team for periods measured in years not months.

The Ministry for Primary Industries Deputy Director-General Biosecurity New Zealand will appoint the co-chairs in consultation with the Minister for Biosecurity and determine their term of appointment. The Deputy Director-General sought the views of partners in the current Kauri Dieback programme, the Tangata Whenua Roopu, in the initial appointment of the co-chairs.

One co-chair will be Māori, and the other co-chair will be a senior official. Having these co-chairs will provide for both a Te Ao Māori and a Crown perspective at the highest level which will benefit the Agency and the programme to deliver the operational plan in accordance with the Treaty of Waitangi.

The chairs must also be able to represent and advocate for the Agency and the programme in a range of forums.

5.2 MEETINGS

At the beginning of each financial year, the Governance Group will determine its meeting calendar for the following twelve months, including the frequency, location and type (face to face or teleconference) of meetings it plans to hold.

5.3 OPERATING PRINCIPLES AND DECISION MAKING

The specific issues to be discussed during a meeting will be outlined in advance in an agenda provided by the Manager of the Kauri Protection Agency and approved by the co-chairs. The Governance Group will, at all times, have open, frank and independent discussion on options available to improve the agency and the work programme. The GovernanceGroup will:

- Ensure that group processes, discussion and decision making are inclusive and equitable.
- Make decisions* by consensus or, where consensus cannot be reached, differences are managed through negotiated compromise or the pathways approach^.
- Use clear language in all communications.
- Treat others with respect.
- Respect the equality of all member organisations and their representatives
- Listen actively and think about what others are saying.

- Accept that the concerns and goals of others are legitimate.
- Act in good faith in all aspects.

*While the Governance Group generally makes the decisions on the direction of the programme, there are some decisions where the delegated authority to make such decisions sits above or outside of the Kauri Protection Agency or the National Pest Management Plan. In these cases, the Governance Group will make a recommendation to the relevant delegated authority. Examples of this include:

- Financial delegations e.g. certain Biosecurity New Zealand staff hold the delegation to sign off on funding agreements, contracts and payments. The Minister approves the drawdown of Crown funding. Also, the Governance Group is not able to direct other funding held by other agencies (unless they agree to that).
- Regulatory powers e.g. Biosecurity New Zealand Chief Technical Officer holds the delegation to change the unwanted organism status of kauri dieback under the Biosecurity Act.
- Organisation policy e.g. regional councils, territorial local authorities, DOC and Māori organisations will have policies which their staff will need to follow. MPI contracts, which the Agency will use, will include health and safety conditions.

^ The pathways approach is one tool to help achieve a relational partnership between the Crown and Māori, based on the Treaty of Waitangi, rather than simple majority vote. The pathway decision making process is attached as appendix 3. When a conflict does arise, decisions can be examined objectively and made based on how they respond to those pathways.

Up until 31 December 2022 or the date all the members of Group have been appointed, whichever is sooner, a quorum will be achieved in the presence of both co-Chairs. After that date a quorum will be achieved in the presence of at least both co-Chairs and four other members of the Group.

Members of the Group who represent an agency (e.g. DOC, Regional councils) will be expected to consult with, and obtain the support of, the agency or organisations they represent as required before committing to various courses of action. It is the responsibility of the Kauri Protection Agency to put in place appropriate systems that ensure all relevant managers and staff are kept informed of the Governance Groups' decisions and any obligations to implement those decisions.

5.4 HEALTH & SAFETY

The Group's responsibility with regard to promoting and ensuring health and safety is in its influencing role. The Group should ensure health and safety information is discussed and acted on at Governance Group meetings and is included in the Agency's work

programme. This ensures that critical Health & Safety risks have been identified, and the group gains assurance that the mitigations agreed for those risks are adequate and in place.

The Governance Group's primary influence and direction over operational work is through the Agency's operational plans and the Agency's contractual arrangements promoting the health and safety of workers. This may be done by:

- Ensuring that health and safety matters are discussed as part of contractual discussions.
- Ensuring that contracts are clear about where the burdens of health and safety responsibilities lie.
- Setting out monitoring or reporting arrangements that would allow the Group to identify health and safety issues.

Given the Governance Group's role and functions, members of the Governance Group may be personally liable if the group is held to have breached its duties under the health and safety legislation. In light of this Biosecurity New Zealand will put in place insurance for the members of the group, in respect of the costs of defending health and safety proceedings. The Governance Group should note the Act does not permit Biosecurity New Zealand or the insurance to cover fines imposed under the Act.

Insurance will cover past, present & future representatives from each organisation.

6 MEMBERSHIP

The Governance Group will comprise the following people/positions, or their nominated substitutes, as captured in the table below.

The appointment process for Co-Chairs is set out above in section 5.1.

The appointment process for members is a nomination from the relevant groups identified in the table below to the Ministry for Primary Industries Deputy Director-General, Biosecurity New Zealand. The recommended appointment term is an initial 12-month period with an extension to three years. Re-appointment after three years for a further term is possible. Members can resign at any time or a new nomination can be put forward by the nominating body to replace them.

Governance Group Role	Person/Position
Crown co-Chair	Senior Official from a Crown Agency. Current position is the Department of Conservation Deputy Director-General Operations.
Māori co-Chair	As nominated by the four Māori members on the governance group, for Te Ao Māori
Member (Regional Councils)	As nominated by the Regional Councils of Northland, Auckland, Bay of Plenty and Waikato.

Member (Knowledge Advisory Group)	Co-Chair, Knowledge Advisory Group
Member (Community)	Appointed by MPI's Deputy Director-General Biosecurity NZ
Member (Te Tai Tokerau mana whenua)	As nominated by mana whenua
Member (Iwi Collab)	As nominated by the Iwi Collab
Member (Tāmaki Makaurau mana whenua)	As nominated by mana whenua
Member (Bay of Plenty/Waikato/Hauraki mana whenua)	As nominated by mana whenua
Member Department of Conservation	As nominated by the Department of Conservation (only when/if the crown co-Chair is not from DOC)
MPI ex-officio (non-voting)	Director Readiness and Response Services

6.1 SEEKING ADDITIONAL ADVICE

On occasions, the Group may invite individuals with specific knowledge to attend meetings to provide additional advice as required. Only members of the Group may be party to any discussion and decisions resulting from advice given.

7 CONFIDENTIALITY

7.1 GENERAL CONFIDENTIALITY REQUIREMENTS

- a. The group operates on an open basis, and members should assume that all information presented to the Governance Group, whether in written or oral form, may be made public.
- b. Any person presenting information to the Governance Group, whether written or oral, may request that that information be treated as confidential by the members and observers.
- c. At the request of a member, the Chair may seek agreement from Biosecurity New Zealand and anyone who supplied confidential information to the Governance Group for confidentiality in that information to be waived.
- d. Where information is already in the public domain (through no fault of a member or observer), the confidentiality requirements do not apply to that information.

7.2 PRIVACY ACT

Members and observers must at all times comply with the requirements of the Privacy Act 1993 and keep information about identifiable individuals confidential.

7.3 OFFICIAL INFORMATION ACT, LOCAL GOVERNMENT OFFICIAL INFORMATION AND MEETINGS ACT 1987

- a. All information provided to the GovernanceGroup will be treated as official information under the Official Information Act 1982 and, subject to the requirements of that Act, may be released to the public if there are no grounds for withholding it. Local Government have similar requirements under the Local Government Official Information and Meetings Act 1987.
- b. If information is required to be released under the Official Information Act 1982 it will only be released to the extent necessary.
- c. If Biosecurity New Zealand is considering releasing information under the Official Information Act 1982, Biosecurity New Zealand will attempt to consult with the person who provided the information before making a final decision on release.

8 MEDIA

- a. Members and observers must refrain from representing the GovernanceGroup, or commenting on the business of the GovernanceGroup, to the media.
- b. The Co-Chairs may seek agreement from Biosecurity New Zealand for the Governance Group to release a media statement on any matter related to these terms of reference.

- c. With the prior agreement of Biosecurity New Zealand, a member may participate in a media interview or make some other public statement about the business of the Governance Group.

9 REMUNERATION

Costs (including time and travel) for participation on the Governance Group will be borne by each representative's employer. Where a member of the Governance Group is not representing an employer, alternative arrangements to cover travel and reimbursement costs will be agreed on a case-by-case basis consistent with the Cabinet Fees Guidelines.

10 CONFLICT OF INTEREST

10.1 DEFINITION OF A CONFLICT OF INTEREST

- a. A conflict of interest occurs when a member's or observer's private interest or professional obligation interferes or appears to interfere with an issue that is before the Governance Group.
- b. A conflict of interest may also occur when there is a possibility that a benefit may apply to the sector, industry or organisation that is represented by a member or observer.
- c. A conflict of interest may be real or perceived.

10.2 DECLARATION OF CONFLICT

- a. Members and observers are responsible for declaring any real or potential conflict of interest to one of the Co-Chairs, as soon as the conflict arises.
- b. Before becoming a member of the Governance Group, individuals will be asked to formally declare real or possible conflicts of interests (Appendix 1) or declare they have no conflicts of interest (Appendix 2). This declaration will include conflicts of interest for current or future services they may commercially offer to the programme. The conflicts of interest will be recorded and reviewed and accepted (or otherwise) by the Governance Group. If circumstances change for any member following acceptance of their declaration by the Governance Group, these changes must be raised with a Co- Chair as soon as possible.

10.3 MANAGEMENT OF CONFLICT OF INTEREST

- a. At the discretion of a Co-Chair, members and observers may participate in discussions about issues in which they have declared a conflict of interest.
- b. Members and observers may not participate in any vote or decision on an issue in which they have a conflict of interest, whether it has been declared or not.

11 REVIEW

11.1 DURATION

The Governance Group will continue for the duration of the programme, or until the Governance Group recommends to the DDG Biosecurity that the GovernanceGroup is no longer required.

11.2 PURPOSE AND FUNCTIONS

The Governance Group's purpose and function will be reviewed at the end of the first year of the programme to ensure they are fit for purpose.

12 SIGNATORIES

We, the partners, hereby record our agreement to the terms of this reference, including its appendices and schedules.

Signature
Name:
Designation:

Signature
Name:
Designation:

Signature
Name:
Designation:

Signature
Name:
Designation:

APPENDIX 1: CONFLICT OF INTEREST DECLARATION FORM – NO CONFLICT

Tiakina Kauri Kauri Protection Governance Group	
<p>Conflict of interest declaration</p> <p>I declare that, to the best of my knowledge, I do not have:</p> <ul style="list-style-type: none"> • Any financial interest, either now or in the future, in the supply of goods or services to this programme. • Any relatives or associates with a financial interest in the supply of goods or services to this programme; or • Any personal bias, inclination, personal obligation, allegiance or loyalty that would in any way affect my recommendations in relation to the technical evaluation of the impact and potential management options, except as set out in Appendix 2. <p>I undertake to make a further declaration detailing any conflict, potential conflict or apparent conflict that may arise throughout the duration of my involvement with this programme.</p> <p>Contact with suppliers</p> <p>While a member of the Kauri Protection GovernanceGroup, I will not:</p> <ul style="list-style-type: none"> • Share confidential information, documents or conversations related to the partnership programme or any advisory group without express permission from both co-chair of the GovernanceGroup; or • Receive any gift, gratuity, or any other form of inducement from any potential suppliers of goods and services to this project. <p>I will pass any requests for information and meetings that I receive from potential suppliers to the chair for handling via formal channels.</p>	
Governance Group member	Review/acknowledgement
<p>Signature: _____</p> <p>Name: _____</p> <p>Date: _____</p>	<p>Signature: _____</p> <p>Name: _____ Co-Chair</p> <p>Date: _____</p>

APPENDIX 2: CONFLICT OF INTEREST DECLARATION – TO DECLARE CONFLICT

Tiakina Kauri Kauri Protection Governance Group													
<p>Conflict of interest declaration The following record outlines possible or potential conflicts of interest identified by:</p> <p>Name:</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 45%;">Conflict</th> <th style="width: 50%;">How the conflict will be managed</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1</td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">2</td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">3</td> <td></td> <td></td> </tr> </tbody> </table> <p>I undertake to make a further declaration detailing any conflict, potential conflict or apparent conflict that may arise throughout the duration of my involvement with this project. I agree to abstain from any discussions on possible recommendations where such a conflict arises.</p> <p>Contact with suppliers While a member of the Kauri Protection GovernanceGroup, I will not:</p> <ul style="list-style-type: none"> Share confidential information, documents or conversations related to the programme without express permission from the chair of the programme GovernanceGroup; or Receive any gift, gratuity, or any other form of inducement from any potential suppliers of goods and services to this project. <p>I will pass any requests for information and meetings that I receive from potential suppliers to the chair for handling via formal channels.</p>			Conflict	How the conflict will be managed	1			2			3		
	Conflict	How the conflict will be managed											
1													
2													
3													
Governance Group member	Review/acknowledgement												
Signature: _____ Name: _____ Date: _____	Signature: _____ Name: _____ Co-Chair Date: _____												

APPENDIX 3: TIRITI PATHWAYS APPROACH TO DECISION-MAKING

We are cognisant of the status of Te Tiriti o Waitangi as New Zealand's founding document and the inequities in outcomes that exist for Māori.

The Co-Governance Group agrees to adopt an innovative structure consistent with its commitment to be a Tiriti-led group. The group will operate in a manner that ensures Māori participate meaningfully as partners at all times. This means Māori and non-Māori views carry equal weight in governance discussions and consensus decision-making will be the practice.

Decision-making by consensus: differences are managed through negotiated compromise or a pathways approach (outlined below).

In order to achieve consensus decision making we will:

- Build and maintain a shared understanding of what everyone is trying to achieve
- Build the structures, processes, and understanding about how people will work together
- Involve people who have the right experience and capacity
- Be accountable and transparent about performance, achievements, and challenges
- Plan for financial sustainability and adapt as circumstances change.

Tiriti-led consensus decision-making

The Governance Group's decision-making processes will be by consensus, with equal weight given to the Māori and non-Māori partners.

Consensus decision-making is straightforward when the partners agree on an issue. However, when the partners' views are dissonant, there are three possibilities: compromise, impasse, or pathway approaches. In such circumstances, the Governance group will seek and endorse the Māori pathways approach in its decision-making.¹

In this setting, a Māori pathways approach has three main features:

1. Pathways to outcomes - it addresses Te Tiriti o Waitangi implications from a Māori outcomes perspective
2. Pathways to capability - it specifically provides for Māori workforce development
3. Pathways to knowledge - it addresses the development of new knowledge from a kaupapa Māori and mātauranga Māori perspective.

The above pathways include a Māori pathway (outcome), equity pathway (capability), and an excellence pathway (knowledge). In this instance Tiriti considerations, equity, and merit have equal weight.

¹ Māori pathways are increasingly commonplace and the health system in particular has been a leader in this regard; for example, they exist in Medical Education (University of Otago) and in some funding bodies (Health Research Council, Lottery Health) and workforce development funding (Te Rau Puawai, Te Rau Matatini, Māori Health Workforce Development administered by the Ministry of Health). Ka Hikitia (Māori Education Strategy) refers to Māori pathways in education. Te Ara Tauwhaiti (Māori Corrections Strategy) refers to a kaupapa Māori pathway to address recidivism.