

# CONFIRMED MINUTES

## BOARD ZOOM MEETING: APPROVAL TO SUBMIT PROPOSAL TO MINISTER

At the **April 2023 Board Meeting** on **21 Apr 2023** these minutes were **confirmed as presented**.

<b>Name:</b>	The Management Agency National American Foulbrood Pest Management Plan
<b>Date:</b>	Tuesday, 14 February 2023
<b>Time:</b>	8:00 am to 12:00 pm (NZDT)
<b>Location:</b>	Zoom, Zoom
<b>Board Members:</b>	Mark Dingle (Chair), Dennis Crowley, Gabriel Torres, Hayley Praghert, Jason Ward, Murray Lewis, Mr Russell Marsh
<b>Attendees:</b>	Clifton King, Jan MacKay, John Sanson, Mike Harre
<b>Apologies:</b>	Jane Rollin, Val Graham

### 1. Finalise consideration of round 3 submissions

#### 1.1 Final analysis and consideration of round 3 submissions

The Board considered the Submissions Analysis Report and Management Agency response to Round 3 submissions reports in conjunction with consideration of the Round 3 Consultation Summary Booklet. The minutes for this agenda item are recorded under item 1.2 Approval of Round 3 Consultation Summary Booklet.

#### 1.2 Approval of Round 3 Consultation Summary Booklet

The Board reviewed the draft consultation summary booklet and requested the following changes to its content, presentation and layout:

- The summary requires a clear description of the proposed changes to plan order
- References to decisions requires wording changes to make it clearer that "the Management Agency" made the decisions
- Replace "...has decided..." on page 2 with "...proposes to..."
- References to the website link to access the detailed analysis of submissions etc. need to be reformatted to make them stand out more to the reader
- Changes to the Summary of the Management Agency Response section should:
  - Highlight that the majority of submissions agreed with the proposed changes to the plan order
  - Change the subheading to describe the "concerns" raised in submissions
  - Add a subsection for General Powers

The Board considered advice from MPI that the definition of a corporation as it applies to the Biosecurity Act 1993 is defined by the Corporations (Investigation and Management Act) 1989 as

‘a body of persons, whether incorporated or not, and whether incorporated or established in New Zealand or elsewhere’.

The Board considered that the use of this definition would result in too much ambiguity as to which beekeepers should be classified as a corporation and which were not. This would make it difficult to implement a consistent and transparent approach to the implementation of infringement fines. The Board also noted that as the definition is prescribed by higher order legislation it is not appropriate for the plan order to prescribe a separate definition of a 'corporation'.

The Board confirmed that the primary reason for introducing infringement fines was the ability to deter non-compliance. The Board considered that the ability to impose a larger infringement fine for corporations as proposed would not provide additional deterrence to non-compliance by corporations, and that corporations were more likely to be deterred from non-compliance by the Management Agency's current ability to cancel DECA agreements for non-compliance - as the consequences of DECA cancellation increase with the number of colonies owned.

The Board decided that there should be a single rate of infringement fines for individuals and corporations, and that the proposed size of the infringement fines should be the same as was proposed for individual persons.



### **Release of Submissions Analysis Report**

The Board approved the release of the Submissions Analysis Report.

**Decision Date:** 14 Feb 2023

**Outcome:** Approved



### **Release of Management Agency response to Round 3 submissions report**

The Board approved the release of the Management Agency response to Round 3 submissions report subject to updating the response to theme "12. Fine structure is not weighted properly. Penalties to reflect the seriousness of the offense, the size of the beekeeping operation, and allow discretion for mitigating circumstances and history of non-compliance" to reflect the Board decisions on corporate infringement fines described above.

**Decision Date:** 14 Feb 2023

**Outcome:** Approved



### **Single rate of infringement fines for individuals and corporations**

The Board decided that a single rate of infringement fines should be proposed for both individuals and corporations as:

- The Biosecurity Acts definition of corporation has too much ambiguity to allow a differential fine to be imposed consistently and transparently
- The higher fines proposed for corporations is unlikely to have a significant additional deterrence effect, and
- Beekeepers with large numbers of colonies, including corporations are more likely to be deterred from non-compliance by the Management Agency's current ability to cancel their DECA.

The single rate of the infringement fine should be as proposed in the third round of consultation for individuals, i.e.:

- 11. Obligations to keep bee in movable frame beehives: \$400
- 15. Prohibition of keeping bees in a place other than an apiary: \$400
- 27. Annual Disease Return: \$200
- 32. Certificate of Inspection: \$400

**Decision Date:** 14 Feb 2023

**Outcome:** Approved



## **Confirmation of proposed amendments and powers as proposed in the third round of consultation**

The Board considered submissions and confirmed that the final version of the proposal submitted to the Minister should contain the following amendments to plan rules as proposed in the third round of consultation:

- 15. Prohibition on keeping bees in a place other than an apiary
  - subject to change to a single rate of infringement fines as described above
- 19. Allocation of identification code
- 11. Obligation to keep honey bees in moveable frame beehives
  - subject to change to a single rate of infringement fines as described above
- 32. Certificate of inspection
  - subject to change to a single rate of infringement fines as described above
- 28. Obligation of beekeeper to destroy honey bees and materials
- New. Training of employee beekeepers
- 39. Review of Certificate of Inspection Exemption
- New. Transitional Provisions for Review of Certificate of Inspection Exemption
- New. Notification of beehive transfer
- 27. Annual Disease Return
  - subject to change to a single rate of infringement fines as described above

The Board considered submissions and confirmed that the final version of the proposal submitted to the Minister should contain addition of the following powers as proposed in the third round of consultation:

- 114. General Powers
- 115. Use of Dogs and devices.

**Decision Date:** 14 Feb 2023

**Outcome:** Approved



## **Confirmation of prior decision regarding laboratory test results**

The Board confirmed its decision at the November 2022 meeting to propose replacing the proposed new rule requiring diagnostic laboratories to provide AFB test results with two rules:

1. Requirement for sample submitters to identify samples submitted to laboratories for AFB testing, and
2. Requirement for laboratories to provide AFB test results.

**Decision Date:** 14 Feb 2023

**Outcome:** Approved



## **Approval to release AFBPMP Consultation Round 3 booklet**

The Board did not approve the release of the AFBPMP Consultation Round 3 booklet.

The Board requested that the required changes described above are made to the booklet, and that it is resubmitted to the Board for approval via email.

**Decision Date:** 14 Feb 2023

**Outcome:** Not Approved



### **Finalise Management Agency response to Round 3 submissions**

Clifton to amend the Management Agency consideration of theme "12. Fine structure is not weighted properly. Penalties to reflect the seriousness of the offence, the size of the beekeeping operation, and allow discretion for mitigating circumstances and history of non-compliance" to reflect the Boards decision to propose a single rate of infringement fines for both individuals and corporates.

**Due Date:** 24 Feb 2023

**Owner:** Clifton King



### **Update and resubmit AFBPMP Consultation Round 3 booklet for approval**

Clifton to update the AFBPMP Consultation Round 3 booklet to reflect the Boards decisions described above and resubmit it to the Board for approval via email.

**Due Date:** 24 Feb 2023

**Owner:** Clifton King

## **2. Approve submission of proposal to Minister**

### **2.1 Approve submission of proposal to Minister**

The Board noted that:

1. The proposal has been prepared in accordance with the requirements of section 61 of the Biosecurity Act 1993.
2. The proposal had been sent to a professional proof reader
3. The Consultation Summary Report had been prepared to demonstrate the Management Agency's compliance with the consultation requirements specified by section 63 of the Biosecurity Act 1993
4. The Cost Benefit Analysis has not been changed since the Board approved its release for consultation
5. The draft covering letter from the Board Chair to the Minister.

The Board reviewed Māori consultation activities undertaken and discussed whether these met requirements and were sufficiently well described.



### **Approve submission of proposal to the Minister**

The Board approved submission of the proposal, Consultation Summary Report, and Cost Benefit Analysis to the Minister subject to the following requirements:

- Making the necessary changes to reflect the Boards decision to propose a single rate of infringement fines for both individuals and corporations
- Ensuring section 17.5 of the of the proposal appropriately reflects obligations under the Treaty of Waitangi
- Improving the description of the approach to consulting with Māori in the Consultation Summary Report.

**Decision Date:** 14 Feb 2023

**Outcome:** Approved



### **Update proposal to reflect Board infringement fine decision**

Clifton to update proposal to reflect the Board decision to propose a single rate of infringement fines for both individuals and corporations.

**Due Date:** 24 Feb 2023  
**Owner:** Clifton King



### **Update proposal and Consultation to reflect obligations and approach to Māori**

Jan to:

- Update proposal to reflection obligations under the Treaty of Waitangi (MPI noted that the Biosecurity Act 1993 is not specific regarding Treaty obligations), and
- Update the Consultation Summary Report to include a fuller description of Māori consultation undertaken.

**Due Date:** 24 Feb 2023  
**Owner:** Jan MacKay

## **3. Release plan**

### **3.1 Release plan**

The Board considered the schedule and outstanding actions to submit the proposal to the Minister. The Board noted that schedule described in the Board paper was no longer feasible and that a new schedule was required.

The Board considered the sequence of actions proposed for the day the proposal is released and decided that they should occur in the following order:

1. Submit proposal to Minister
2. Update consultation webpage
3. Notify beekeepers via email.

The Board also decided that the Management Agency should also release a media statement announcing the submission of the proposal to the Minister.



### **Update schedule for submission of proposal to Minister**

Clifton to update schedule for submission of proposal to Minister and inform MPI.

**Due Date:** 24 Feb 2023  
**Owner:** Clifton King



### **Prepare media statement**

Clifton to arrange preparation of media statement.

**Due Date:** 24 Feb 2023  
**Owner:** Clifton King

## **4. Close Meeting**

### **4.1 Close the meeting**

**Next meeting:** No date for the next meeting has been set.

**Signature:**\_\_\_\_\_

**Date:**\_\_\_\_\_