

Hawke's Bay Regional Council
Proposal for Hawke's Bay Regional Pest Management Plan

pursuant to the Biosecurity Act 1993

MINUTE AND DIRECTIONS OF HEARING PANEL

[Minute 3]

INTRODUCTION

1. The Biosecurity Act 1993 (**BSA**) provides a step by step process which must be followed in the preparation of a regional pest management plan.
2. The Council directed that the Proposal be publicly notified on 2 February 2018 for a period of submissions until 16 March 2018, followed by a hearing of submissions received.
3. The Hearing Panel completed the First and Second steps of the plan making process by resolving on 18 May 2018 that it was:
 - a. Satisfied that section 70 of the BSA has been complied with in relation to the Proposed Hawke's Bay Regional Pest Management Plan (**the Proposal**); and
 - b. Satisfied of the matters in section 71 of the BSA in relation to the Proposal.
4. The hearing on submissions then took place over the course of 3 hearing days. Council staff gave an opening presentation on 5 July followed by presentations by submitters on 5 and 6 July. Council staff gave a reply presentation on 9 July.
5. Following the hearing we asked Staff to provide us with a response to questions outlined in Minute 2. Staff spoke to their response on 3 August 2018.
6. This Minute now addresses the Third and Fourth steps of the plan making process as set out in sections 72 and 73 of the BSA:
 - a. Third Step: satisfaction with consultation or requirement of more consultation; and
 - b. Fourth Step: approval of preparation of plan and decision on management agency.
7. The Fifth and Sixth steps (as relevant to the Hearing Panel) will be addressed in the Panel's written recommendations report.

THIRD STEP: SATISFACTION WITH CONSULTATION

10. Under section 72(1) of the BSA we are required to be satisfied:
 - (a) *that, if Ministers' responsibilities may be affected by the plan, the Ministers have been consulted;*

- (b) *that, if local authorities' responsibilities may be affected by the plan, the authorities have been consulted; and*
 - (c) *that the tangata whenua of the area who may be affected by the plan were consulted through iwi authorities and tribal runanga; and*
 - (d) *that, if consultation with other persons is appropriate, sufficient consultation has occurred.*
11. The consultation undertaken prior to the public notification of the Proposal is summarised in Section 2.6 of the Proposal. A summary of consultation was also provided in the Staff Recommendations Report that we received prior to the hearing.
 12. A discussion document was released in June 2017 on the future of pest management in Hawke's Bay. The purpose of the discussion document was to seek the community's views on the best approaches to be taken in a new regional pest management plan. The Council received a total of 98 feedback responses.
 13. The Proposal was publicly notified on 2 February 2018 for a period of submissions closing on 16 March 2018. A total of 51 submissions were lodged on the Proposal and 12 submitters attended the hearings to speak to their submission, a number with multiple speakers.
 14. We address each of the requirements of section 72(1) below.

Consultation with Ministers

15. The responsibilities of the Minister for Primary Industries, the Minister of Conservation and the Minister of Land Information may be affected by the plan.
16. Each of these Ministers were consulted with prior to the public notification of the Proposal.
17. Following public notification of the Proposal, the Ministry for Primary Industries (**MPI**) and the Director-General of Conservation (**DOC**) lodged submissions on the Proposal. Staff have liaised further with MPI and DOC. These Ministries have also been given the opportunity to make comment on key programmes on technical and workability matters.
18. We are satisfied, in accordance with section 72(1)(a) that the Ministers whose responsibilities may be affected by the Proposal have been consulted.

Consultation with local authorities

19. The responsibilities of local authorities in Hawke's Bay and neighbouring regions may be affected by the plan. Key programmes were discussed prior to the public notification of the Proposal as set out in the Staff Recommendations Report.
20. Local authorities and neighbouring Regional Councils were notified as key stakeholders during the public notification process of the Proposal.
21. We are satisfied, in accordance with section 72(1)(b) that the local authorities whose responsibilities may be affected by the plan have been consulted.

Consultation with tangata whenua

22. A Biosecurity Working Party, consisting of three councillors and three appointed members of the Regional Planning Committee, was formed in the initial stages of the Regional Pest Management Plan review. The Working Party was responsible for considering and providing recommendations to staff on the Regional Pest Management Plan review process and key issues, including guidance on the development of the discussion document, Proposed Plan and advice on how to best consult with Māori.
23. The Biosecurity team presented both the discussion document and the Proposed Plan to the Māori Committee, and updated them on key items of interest and the process of engagement.
24. Three emails were sent specifically to the Regional Policy Committee, Māori Committee and Post Settlement Governance Entities, one advertising the release of the discussion document for public consultation, one offering to meet with interested parties in person to discuss the Regional Pest Management Plan review and a final email advertising the release of the Proposed Plan for public consultation.
25. This third email resulted in interest in the Proposed Plan and as a result a hui was held at Peak House, Te Mata Peak on 5 March where Hawke's Bay Regional Council staff attended and presented. This hui was organised by Tangata Whenua Hawke's Bay.
26. Following public notification of the Proposal, Ngāti Pahauwera Development Trust, Tangata Whenua Hawke's Bay and Maungaharuru Tangitū Trust lodged a submission on the Proposal.
27. We are satisfied, in accordance with section 72(1)(c) that the tangata whenua of the area who may be affected by the plan have been consulted.

Consultation with other persons

26. In considering whether we are satisfied that sufficient consultation has occurred with other persons as required by subsection (1)(d), the Panel must have regard to the following matters under section 72(2) of the BSA:
 - (a) *the scale of the impacts on persons who are likely to be affected by the plan; and*
 - (b) *whether the persons likely to be affected by the plan or their representatives have already been consulted and, if so, the nature of the consultation; and*
 - (c) *the level of support for, or opposition to, the proposal from persons who are likely to be affected by it.*
27. A discussion document was released in June 2017 discussing the future of pest management in Hawke's Bay. The purpose of the discussion document was to seek the community's views on the best approaches in a new regional pest management plan. Details have been provided in the Staff Recommendations Report.
28. Further opportunity for feedback has also been provided through the public notification of the Proposal where the community has had an opportunity to submit on the proposal and speak to their submission at the hearing.

29. We have considered the scale of impacts of the proposed plan, which are wide ranging across the region. The impacts affect a range of stakeholders and we had submissions both in support, and in opposition to some of the pests included in the plan. We received helpful input from the public for identification of new pests, as well as organisms of interest. Staff were able to respond to those submissions and refine the Proposal.
30. Given the wider ranging scale of impacts, we are satisfied that undertaking notification and carrying out hearings enabled us to consider those impacts, and that the public generally, as well as those directly affected, had an opportunity to take part in an open and public process.
31. Having regard to the matters set out in section 72(2) of the BSA, we are satisfied that the requirements of section 72(1)(d) have been met and sufficient consultation has occurred with other appropriate persons.

Whether issues raised in all the consultation undertaken on the Proposal have been considered

32. We are also required to be satisfied under section 73(1) of the BSA that all issues raised in all the consultation undertaken on the Proposal have been considered.
33. As set out in Section 2.6 of the Proposal, issues raised during consultation have been used by staff to help guide the development of the RPMP Proposal.
34. Following notification of the Proposal we directed Council staff to prepare a report containing:
 - a. A summary of the key themes raised in submissions;
 - b. A summary of the submissions received on the Proposal highlighting key issues raised in submissions, including staff recommendations in response to each submission.
 - c. An assessment against the consultation requirements in section 72 of the BSA.
35. This Staff Report was provided to us on 21 June 2018 and made available on the Council's website.
36. We have carefully considered the issues raised in submissions together with the evidence lodged, oral presentations, written comments and any further matters raised at the hearing.

Conclusion on consultation

38. We are satisfied that the consultation required by section 72(1) has occurred and that all of the issues raised in all the consultation undertaken on the Proposal have been considered in accordance with section 73(1).

FOURTH STEP: APPROVAL OF PREPARATION OF PLAN AND DECISION ON MANAGEMENT AGENCY

Approval of preparation of plan

39. Having been satisfied that the consultation required by section 72(1) has occurred and that all of the issues raised in all the consultation undertaken on the Proposal have been considered as required by section 73(1), the Panel may now approve the preparation of a plan. We make directions below for the Staff to prepare a draft plan in accordance with sections 73 and 74 of the BSA. This draft plan will be provided to the Panel for the Panel to make its final recommendations on the Plan.

Management Agency

40. Having approved the preparation of a plan, the Panel must apply section 100 of the BSA to decide which body is to be the management agency. Under section 100(1), the management agency specified in a plan must be a department, a council, a territorial authority or a body corporate.
41. In deciding which body is to be the management agency, the Hearing Panel must take the following into consideration:
- (a) *the need for accountability to those providing the funds to implement the plan; and*
 - (b) *the acceptability of the body to –*
 - (i) *those providing the funds to implement the plan; and*
 - (ii) *those subject to management provisions under the plan; and*
 - (c) *the capacity of the body to manage the plan, including the competence and expertise of the body's employees and contractors.*
42. It is proposed that Hawke's Bay Regional Council will be the management agency responsible for implementing the Proposal and the resultant Plan because:
- (a) Hawke's Bay Regional Council is accountable to the Plan funders, through the requirements of the Local Government Act 2002;
 - (b) It has implemented previous regional pest management strategies; and
 - (c) It has the capacity, competency and expertise to implement the Plan.
43. Following consideration of the matters set out in section 100 we determine that Hawke's Bay Regional Council be the management agency for the plan.

DIRECTIONS

Draft Hawke's Bay Regional Pest Management Plan

44. The Panel directs Council staff to prepare a draft Hawke's Bay Regional Pest Management Plan in response to matters raised in submissions. The draft Plan must:
- a. Specify the matters set out in section 73(3) of the BSA;
 - b. May contain the matters set out in section 73(4) to (6) of the BSA; and
 - c. Must meet the requirements of section 74 of the BSA.

45. The Panel also directs that staff:
- a. Incorporate recommendations made by Staff in response to Hearing Panel Minute 2 with the addition of the following:
 - i Inclusion of a wilding conifer programme and good neighbour rule;
 - ii Inclusion of a feral goat coordinated management area programme and good neighbour rule;
 - iii Inclusion of an old man's beard programme along the Kaweka and Ruahine Ranges and good neighbour rule;
 - iv Inclusion of hedgehogs as a site-led pest;
 - v Move yellow bristle grass from exclusion to sustained control;
 - vi Increase possum residual trap catch requirement for the good neighbour rule from 4% to 5%;
 - b. Amend draft Plan as per Hearing Panel decision in the Hearing Panel Recommendations on Submissions report (Appendix 1).
 - c. Make any minor corrections or drafting clarifications that staff consider necessary.
46. The draft Hawke's Bay Regional Pest Management Plan is to be provided to the Hearing Panel by **5pm, 10 October 2018**, accompanied by the Staff Report and cost benefit analysis as set out below.

Staff Report

47. Council staff are directed to prepare a Staff Report containing:
- a. An assessment of the draft Plan against the matters specified in section 73 of the BSA;
 - b. An assessment of the draft Plan against the requirements of section 74 of the BSA; and
 - c. Address any recommended changes to be made to funding provisions in the RPMP.
48. Council staff are also directed to update the cost benefit analysis, reflecting the changes made to the Plan.
50. The Staff Report is to be provided to the Panel by **5pm, 10 October 2018** and made available on the Council's website.
51. Once the Panel receives the draft Hawke's Bay Regional Pest Management Plan, Staff report and updated cost benefit analysis, it will commence its final deliberations before providing its recommendations to the Council.

ISSUED by the Hearing Panel

10 September 2018