

## To the Minister for Biosecurity.

### REQUEST for the REVIEW of the Biosecurity (National American Foulbrood Pest Management Plan) Order 1998

The PMP is to terminate on 31 March 2023.

The provisions of s100D of the Biosecurity Act 1993 provide for the Plan to be extended if a person requests the Minister to extend the duration of the plan.

My proposal as a person quoted in the Act seeks the Minister extends the term of the PMP for a further 10 years prompting the Minister to initiate a Review of the Plan.

#### *I seek to amend two aspects of the regulations;*

1. To redefine the objectives of the plan and create a meaningful measure of the plan in meeting that objective.
2. To create an independent and dedicated entity to manage the PMP.

My proposal sets out the two clauses in the Order in Council I see advantage to amend.

Reasons for the proposed amendments are given.

The consequence of the proposed amendments are also indicated.

I am concerned the beekeeping industry appears to have made little progress in reducing AFB incidence under the current PMP to eventually eliminate AFB from NZ.

I see my proposed amendments as an opportunity to refocus efforts under a modified management and direction.

I am available to assist in the review process going forward if the Minister so desires.

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#### 1. REVIEW PROCESS

In accordance with section s100D (1) (b) of the Biosecurity Act 1993,

I seek the Minister for Biosecurity review the American Foulbrood Pest Management Plan and extend the plan for a further 10 years incorporating my proposed changes outlined below.

I copy relevant aspects from the Biosecurity Act 1993 (BA).

My proposal is based on those aspects.

I acknowledge the Minister may receive other proposals that may differ from my proposal.

My proposal also comments on the review process as I see it.

### 1. (a) Biosecurity Act 1993: s100D Reviews of plans

*“Reasons for reviews*

- (1) *The Minister or council must initiate a review of a plan as a whole if—*  
(b) *the plan is due to terminate in less than 12 months and a person submits a proposal to the Minister or council to extend the plan’s duration; or”*

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##### **“7 Term of plan**

*The plan remains in force until 1 April 2023”.*

I am a beekeeper and levy payer to the current plan. I consider I meet the criteria as a person in Biosecurity Act s100D (1) (b) to present a proposal to extend the plans duration.

I seek the plan is extended to the maximum provided under Biosecurity Act 1993, 10 years.

### 1. (b) Biosecurity Act 1993: s100D Reviews of plans

*“Proposal for review*

- (4) *A review is initiated by a proposal made by the Minister or council or any other person.*  
(5) *The proposal—*  
(a) *must state whether the proposal is to amend, revoke, revoke and replace, or leave unchanged the plan or part of the plan; and”*

My proposal is to amend 2 aspects of the Pest Management Plan (PMP) to better define the aim of the PMP and to establish a dedicated governance entity for the management of the PMP.

Whilst I do not seek to change any other aspect of the Order in council I acknowledge the need for this review to look at the whole PMP regulation and how the plan has been conducted during the 24 years it has been in existence. I consider it is timely at this juncture to have a refocus for the plan going forward. I will expand on this and the reasons behind my proposal in the appropriate parts of my proposal.

### 1. (c) Biosecurity Act 1993: s100D Reviews of plans

*“Proposal for review*

- (5) *The proposal-*  
(d) *must comply with [section 61](#), [70](#), [81](#), or [90](#) to the extent to which the sections are relevant and reading in any necessary modifications; and*

As the current PMP has been in operation 24 years and already been formally reviewed once in that time, I consider the requirements of Section 61 for a National Pest Management Plan have already been met prior to the acceptance of the original introduction of the plan in 1998. Therefore I consider the requirements are no longer relevant to my proposal to amend the aspects I seek to amend.

I have not consulted with other industry participants because I lack information to identify participants and their contact details. That information exists within an in house Apiary

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Register held by Apiculture NZ Inc. I expect the information held in the Register to be protected under the provisions of the Privacy Act. I foresee a reluctance of Apiculture NZ Inc., to release details that would allow me to communicate direct with beehive owners or enable my proposal, and the reasons behind my proposal to be communicated to beehive owners. I believe my proposal is worthy of being considered by all industry participants but, like others in the same position, lack the ability to do so.

The Biosecurity Act may possibly be challenged with different proposals for change at this time. It is disappointing that an independent industry wide group was not formed to look at presenting a more comprehensive and balanced proposal for change if indeed there needs to be change. I anticipate there will be other proposals for change and amendment to the regulations submitted by others as the Act provides. As a person affected by proposed changes I consider I should have the opportunity to be presented with all proposals in order that I can express my views on all proposals for change. Hopefully the Minister will prepare a report, with proposed changes on the American Foulbrood National Pest Management Plan incorporating all amendments proposed by persons as per BA s100D (1) (b). It seems appropriate when the Minister has completed his report and suggested changes then those that are affected by the combination of all proposed changes are consulted and provided the opportunity to submit their views on the totality of proposed changes. That process may take time and I note the provision for the PMP to continue, under BA s100D (8), until all proposals for change are given due regard and the Minister considers all submissions from those affected by any proposed amendment.

This is the process taken for the 2008 review by the Minister at the time, Hon Jim Anderton, and finalised in 2013.

**1. (d) Comment on the review process.**

Whilst it is perhaps beyond the scope of my proposal under the provisions of the Act, to offer comment on the process undertaken at this time, I consider a review of a PMP is a straight forward process directed by the Act. The purpose of a review is to make any necessary changes to keep the regulation relevant and address issues that have arisen in order to improve the efficiency of the plan.

A number of different communications with levy payers have complicated what appears a relatively straight forward review process. It appears MPI have been directing a process that appears without precedence perhaps creating some confusion regarding how a review might progress at this time.

The process for review appears clear in the Act. Precedence has already been established by the manner the review in 2008 took place by the Hon Minister J Anderton at that time. Presumably a proposal was received by the Minister to extend the AFB PMP for a further period of time as per the Act. The Minister, through his employees (MAF) produced a report on the plan and its effectiveness and suggested some changes. The Minister consulted with beekeepers with the intention to introduce any changes that would provide for an improved plan.

In 2008 there were 2,594 registered beekeepers with 20,488 registered apiaries and 344,123 beehives. The Ministers initial consultation attracted 26 submitters that offered

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comment on the proposal for change developed by the Minister. The review process took 5 years with a revised PMP Order in Council finalised and given effect in 2013.

The PMP is due to terminate on 31 March 2023. It is noted the Minister, through his MPI staff has not advised industry of the impending termination of the PMP and invited comment from industry regarding the fate of the PMP.

At this stage there has been indications from 2 beekeeping groups they are working on a proposal to extend the PMP for a further term. Each of the organisations intending on submitting their proposal have indicated they would also like to amend various aspects of the plan starting with changes to the Order in Council. My proposal is additional to any other proposal the Minister may receive. Of note it appears Apiculture NZ have utilised nearly \$300,000 of levy payer's funds to develop their proposal which, to me, may not encompass the views of other organisations or individuals in the process outlined in the Act.

In making my proposal I consider there are a number of other changes to the Order in Council that should be made to bring consistency to terms used throughout the regulations. I see a need to better define responsibilities of beehive owners, especially those corporate owners that may reside overseas. Whilst the concept of beehive management through the Disease Elimination Conformity Agreements remains sound there appears little understanding of the beekeepers or the governance of the PMP such that the DECA concept is, in my view failing to achieve the purpose it was set up for. This aspect should be considered for amendment during this review. Should (corporate) beehive owners for instance be required to pass a competency exam to enable them to be exempt from Certificate of Inspection requirements when they are not active in beehive management and AFB control?

The method of funding the PMP has reverted to being a mess that has been created by the change back to colonies initiated by Apiculture NZ. This aspect should be looked at to see if an easier way of funding the PMP might be implemented. As well provision could be made for beekeepers to split payments for their levy commitments to allow them to better plan their cash flow.

Compensation should be considered to be paid for beekeeping equipment that has been ordered to be destroyed on suspicion that it harbours AFB. I acknowledge there should not be compensation for beehives displaying clinical signs. On occasions authorised persons have issued a direction to destroy equipment that does not display clinical signs of AFB. A situation then occurs where it costs considerable sums of money to challenge through a court of law the need to destroy equipment that does not show clinical signs of AFB.

Beekeepers sometimes destroy equipment as directed because this is the easiest path despite the emotional effects and financial harm caused. Compensation in this case could ease the effect of the agencies intervention in this case. AFB is a little like Covid, just because it is suspected 'contact' occurs that does not mean it will always result in positive cases. If the owner wishes to risk further transmission of AFB by utilising goods that may have a link with AFB then he should be able to plan for the risks involved and accept the consequences of his actions if he gets it wrong.

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There certainly needs to be a better disputes provision within the regulations. Disputes happen regardless of everyone's best intentions. At present disputes remain unresolved because of lack of process or processes provided are not enacted because it appears nobody is familiar with process. Those affected by actions taken under the PMP have little redress and continually seek remediation with complaints to the Minister, his staff and the Ombudsman. Of course the ultimate test would be if a beekeeper was to sue for damages. Which 'entity' would he sue- the entity that calls themselves '*the management agency*', or an organisation that is named in the Biosecurity Order as the management agency for the AFB PMP, Apiculture NZ Inc?

Another of the aspects that should be up for discussion by beekeepers at any review time relates to alternatives to a National Pest Management Plan. As I see it there are other alternatives to having an industry led eradication plan or not having a plan at all. AFB is a bee disease recognised by World Organisation for Animal Health (OIE) as one that signatories to the OIE agreements agree there should be international recognition of the disease and an effort made to control that disease. There are different methods to control AFB adopted by overseas countries. This includes antibiotic feeding to beehives, government control including destruction of beehives with or without compensation, or no regulatory control at all leaving it over to the hive owner to decide. Our NZ Beekeeping industry has collectively chosen elimination of AFB without the use of drugs, prior to 1998. There has been considerable change in the industry since then. Each of these aspects should be considered and a cost benefit analysis done as part of a PMP review process. For example the cost of prophylactic drug treatment of a beehive I estimate at around 30 cents per beehive per treatment- if the drugs were permitted to be used in a (NZ) beehive. 3 treatments per year would still cost less than the \$1.70 per bee colony levy already charged beekeepers for the AFB PMP. The incidence of AFB in NZ is extremely low at less than 5,000 cases of AFB being identified each year. Not allowing for any escalation of AFB incidence I estimate the infected beehives in NZ could be treated with drugs at an annual cost of about \$5,000 whereas the PMP takes \$1.5m collectively from beekeepers each year.

I support having a PMP however it would be hard to justify the cost of maintaining a PMP against say a regime of drug treatment where the cost is borne only by those that actually have incidence of AFB within their operation.

Much of the benefit in maintaining an industry initiative to eliminate AFB without the use of drugs cannot be expressed in monetary terms as the costs of AFB control are shared differently across the industry participants. Those with a reservoir of AFB within their operations have different management costs (if they are diligent with control measures) than those whose operations have no AFB. The benefit a large number of beekeepers get from the PMP is simply an assurance that their neighbouring beekeeper is diligent with their AFB control and that there is an organisation that is checking all beekeepers embrace and work toward the aims of the PMP. Sadly at this time and under the current Operational Plan developed by Apiculture NZ, a beekeeper is deemed 'compliant' with the aims of the PMP if his incidence of AFB does not exceed 10% of his hive holding. The acceptance of an Operational Plan like this challenges that beekeepers are getting 'value' from having a PMP as it ensures AFB will likely remain in (some) beekeeping operations while the management agency continue to work within the current, and flawed Operation Plan. The objectives of

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the Plan to reduce reported incidence of AFB by 5% per annum is unlikely to be met if beekeepers are permitted to increase AFB incidence in their business to 10% of beehives owned.

For the consideration of the Minister for this review of the PMP I suggest the Minister assemble a group of knowledgeable beekeepers that can assist the Minister developing possible changes to the regulations that should be considered by industry participants. I suggest this because tying practical steps that knowledgeable and competent beekeepers take with AFB control in with creating regulations that are sound for the beekeeping industry, I suggest MPI personnel are out of their depth. I see a need for the involvement of subject matter experts would be an advantage for this review to alleviate issues where, in the past, I believe the actions of Apiculture NZ supported by MPI that attend 'management agency' board meetings and are part of the decision making process, have compromised aspects of the PMP and other biosecurity measures within the beekeeping industry.

I do not wish to criticise any individual persons that are associated with the governance of the PMP but I believe the present governance fails to attract input from people with knowledge and skills necessary to maintain effective management of a PMP. I consider changes to both the management agency and the aims of the PMP along the lines proposed will provide a natural progression of the PMP and refocus AFB control to eventually eliminate the disease from NZ Beehives. At worst the beekeeping industry should 'hold AFB at bay' at low level incidence until some future time when AFB spores might become focus for the PMP. This is likely to be when cost effective tools are available to readily identify AFB spores and to ensure the spores are not spread to cause ongoing infection.

## **2. PROPOSED AMENDMENT 1**

### **Biosecurity (National American Foulbrood Pest Management Plan) Order 1998**

#### ***"5 Objectives of plan***

~~*(1) The primary objective of the plan is to manage American foulbrood so as to reduce the reported incidence of American foulbrood by an average of 5% each year.*~~

*(1) The primary objective of the plan is to reduce, on an annual basis, the percentage of beekeeping entities that have clinical cases of AFB in their beekeeping operations.*

*(2) The secondary objectives of the plan are—*

*(a) to locate all places where beehives are situated and ensure that each honey bee colony is inspected at least once each year for American foulbrood; and*

*(b) to identify American foulbrood cases in beehives; and*

*(c) to eliminate American foulbrood in beehives by destroying any American foulbrood cases and associated bee products, and destroying or sterilising associated appliances.*

*(3) For the purposes of this clause, **reported incidence** means, for each period of the 12 months beginning on 1 July in any year, the number of American foulbrood cases expressed as a percentage of the total number of honey bee colonies notified to the management agency."*

Amendment 1 proposal seeks to amend the PMP, Objectives of plan in clause 5 (1). The proposed amendment would alter how that objective is measured.

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The proposed primary aim would be expressed;

*“To reduce, on an annual basis, the percentage of beekeeping entities that have clinical cases of AFB in their beekeeping operations.”*

Clause 5(2) and 5(3) remain unchanged.

This method of expressing the aim of the PMP is similar to an aim stated in clause 5 (2) of the Biosecurity (National Bovine Tuberculosis Pest Management Plan) Order 1998 (TB PMP).

**2. (a) Reasons for change.**

Initially when the PMP was established it was deemed necessary to establish an objective of the plan and to be able to quantify the extent the plan is meeting the objective.

Initially the objective was to reduce reported AFB incidence by 10% per annum. As a result of the 2008-2013 Review the objective was amended to a reduction of 5% of AFB cases per annum, as the strategy at the time had failed to meet its 10% primary objective target. Latest statistics provided on AFB incidence would suggest that there has not been a reduction of 5% per annum for this 10 year period, in fact there appears to be a steadily increasing reported incidence in AFB over the last 10 year period. I suggest setting a goal of reducing AFB incidence and measuring (the reduction of) AFB infected beehives does not promote a culture necessary to eliminate AFB from beekeeping operations. If beekeepers had been working toward the objectives of the PMP there would have been a reduction of AFB incidence over the 24 years of the PMP – clearly the PMP has failed to meet the objective stated therefore it is timely to consider how better the objective of the PMP might be expressed, and measured.

AFB is a bee disease only the people that manage beehives can address. The disease can be eliminated by diligent management of beehives by persons that are competent with both beekeeping and disease management. As well there is a time cost associated with managing the disease such that it has been an option for some to destroy positive cases of AFB but not pursue AFB spores that can remain hidden and transmit AFB throughout the beekeeping concern. AFB control within NZ has been a combination of (voluntary) beekeeper dedication to rid the disease and a regulatory approach to penalise (only) some of those that do not meet the aims of the plan. That approach has seen a stagnation of AFB incidence around the level it remains since the plan began.

This proposal should lead to an improved Operational Plan (OP) that would concentrate effort on those beekeeping enterprises that have AFB incidence. Through a carefully considered Operational Plan all beekeepers performance would be monitored.

Management of the Operational Plan would identify those that have incidence of AFB in their operation and provide those beekeepers the incentive and assistance to manage their beehives in a manner that they transition from a group that have AFB incidence in their operation to a group that do not have AFB in their operation. Measuring the % of beekeeping operations with AFB against those that don't have AFB will provide a base line to measure the success of the plan. The incentive provided to beekeepers could lead to a classification of beehive health similar to that adopted by the TB PMP for cattle herds.

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Eventually it would be hoped that all beekeeping entities can eliminate (clinical) AFB from their operation and remain free of AFB (clinical signs) into the future. Having all beekeepers in a group that no longer has clinical AFB in their operations could be a step in the eventual elimination of AFB. It is appreciated the causative agent in the spread of AFB is unseen spores that sometimes manifest into clinical signs but to eliminate the disease at spore level would require greater commitment and a different approach to AFB elimination than is currently available and cost effective at this time.

The current Operational Plan developed by Apiculture NZ Inc., supports beekeeping operations retaining an AFB incidence in their operation as long as that incidence does not exceed 10% of the beekeeping entities hive holding. The current aim of an annual reduction of AFB incidence by 5% per annum is not being met through the acceptance and implementation of the Operational Plan as it is currently written.

As the current aims of the PMP, a reduction of 5% reported incidence, appear inconsistent with the Operational Plan which provides for beekeepers to manage up to 10% infection in their beehives there should be change to either the aim of the PMP or the OP should be more in keeping with the objective of the plan.

**2. (b) Consequences of the proposed amendment.**

Change here will create division – those operations that have AFB and those that do not.

Change here would require a refocus of the management of the plan and a prioritisation of effort away from the agency finding cases of disease within a beekeeping operation to finding beekeeping operations that have AFB. The agency working with those operations for them to better manage their beekeeping to minimise their incidence of AFB should assist with the proposed aim of the PMP.

Introduction of this amendment will need to introduce a culture change within beekeepers and the agency that manages the PMP. When the current PMP started back in 1998, there was an emphasis on helping beekeepers with their AFB control. That included an understanding that those that did have underlying AFB incidence in their beehives were not 'bad' people. Under recent and current PMP management, AFB has been linked to 'non-compliance' issues within beekeeping operations. The focus of the agency now, seeks to identify those beekeepers that exceed the 10% tolerance level set by Apiculture NZ and conduct enforcement actions that go beyond that which is provided under the regulations.

It appears the PMP has reverted to an enforcement regime similar to that which existed when the Government assumed a more 'hands on' role with AFB control in NZ by Apiary Officers burning people's property as they saw fit.

This amendment seeks to once again place the focus of AFB control back on beekeepers and especially those beekeeping operations that have an ongoing incidence of AFB within their operation. Proper use of the amendment by a refocused management agency should provide an incentive for beekeeping operations to do better with AFB management so the goal of elimination from NZ becomes closer to reality than just remaining an unachievable dream.

### 3. PROPOSED AMENDMENT 2

#### Biosecurity (National American Foulbrood Pest Management Plan) Order 1998

##### ***"6 Management agency***

~~(1) The management agency responsible for implementing the plan is the Apiculture New Zealand Incorporated.~~

*(1) There shall be established a management agency that shall be an elected independent body corporate responsible for implementing the plan.*

*(a) it shall comprise of an agreed number of people from within the beekeeping industry*

*(b) plus an agreed number of people with specialised skills (not necessarily from within industry) to ensure that all statutory regulations are met in the required timeframes;*

*(c) the Minister may make Orders to provide for the establishment of this body.*

*(2) The management agency must, in implementing the plan, work towards achieving the objectives of the plan.*

Amendment 2 proposal seeks to amend the PMP, Management agency in clause 6 (1).

The proposed amendment would provide for a dedicated separate and independent entity to manage the PMP.

Clause 6 (2) remains unchanged

**Please Note:** Amendment 2 has been developed by NZ Beekeeping Inc. I acknowledge their intellectual property associated with this amendment. I support a proposal to change the entity that manages the PMP but acknowledge that such an entity does not yet exist.

The above change, I suggest, makes the intention to change the entity of the management agency clear. The change will enable a 'fit for purpose' entity to be set up by the beekeeping industry under the Ministers direction and guidance.

### **3. (a) Reasons for change.**

#### **3. (aa) History of Apiculture NZ involvement in Pest Management Plan.**

When the AFB PMP was introduced in 1998, the National Beekeepers Association (NBA) was given the role of managing the PMP. NBA was solely a beekeeping organisation that had been in existence since 1913. At the time of introduction the NBA was funded by a commodity paid by commercial beekeepers. The PMP was initially funded out of the commodity levy. Those beekeepers that owned less than 50 beehives were not required to pay the commodity levy yet costs for the PMP thus imposed on the levy payers (members of NBA) introduced a funding system that was not equitable in the greater scheme of things. In 2002 the NBA lost the support of beekeepers to continue funding a compulsory commodity levy. It became a membership organisation and set subscriptions to fund its role as an advocacy organisation for its members. It introduced a biosecurity levy to fund the PMP activities in 2004.

The NBA became a management agency for a national pest management plan by default and has continued because there has been no consideration given to alternative governance arrangements. The requirements under the Act are clear that a recognised legal entity

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should manage a national plan but it appears that a suitable organisation is limited because other conventions do not yet exist where an entity could effectively manage the PMP in the spirit of the Act.

The NBA has struggled to maintain an effective capacity to manage the PMP. Deficiencies that were highlighted in the 2008-13 review appear to remain at this time. There does not appear, in recent times, to have been any reviews conducted on the performance of Apiculture NZ Inc., in its role as management agency for the AFB PMP. MPI systems Audit Team provided an Audit Report number 4764 covering the 2018-19 year. The audit was instigated by Assurance Director for MPI Food Safety. It is unfortunate the audit was conducted with a focus on food safety when AFB is not a food safety issue. More benefit could have been afforded to the beekeeping industry if the audit had been conducted with Terms of Reference that focused on the objectives of the PMP and how effective the plan was meeting the objectives. Although deficiencies were found with the audit that was conducted the auditors missed some important deficiencies with the implementation and management of the plan.

There have been some significant structure changes within NBA over the time of the PMP. At the time of PMP introduction the NBA was a sole and nationwide beekeeping organisation, all commercial beekeepers were deemed to be members of the NBA. Following the beekeepers vote against the commodity levy the rules of the NBA were changed to better reflect a membership driven organisation. Elected NBA executive for a time took on a role reflecting their responsibilities for a PMP under the provisions of BA s100. Federated Farmers (FF) also catered for beekeepers to be a sector of their organisation. In about 2007 NBA provided FF the opportunity to provide a representative to sit on the governance committee for the PMP. There was separation at that stage of the activities of the PMP from the role both NBA and FF played in advocating for their members. In 2015 FF no longer provided a sector of their organisation to advocate for beekeepers.

NBA underwent another structural and constitutional change in 2015 where other aspects of the beekeeping industry became recognised within a sector organisation, renamed as Apiculture NZ Incorporated (Apiculture NZ). Apiculture NZ do not provide for other advocacy groups to be involved in their governance of the PMP as was afforded to FF, nor should they compromise their governance by ceding control of governance to people that are not accountable to the executive of Apiculture NZ. It is now unclear how the former NBA under the banner of Apiculture NZ meets its role as management agency in satisfying the requirements of s100 of the Biosecurity Act. It is particularly unclear how the executive of Apiculture NZ are accountable to levy payers to the AFB PMP under BA s100 (2).

**3. (ab) Preparedness of Apiculture NZ for the role as management agency.**

It appears there is no provision within the Constitution of Apiculture NZ to cater for its ongoing responsibilities as the appointed agency to manage the PMP. This is despite a completely new constitution being introduced while NBA continued its appointment to manage the PMP under its rebranded Apiculture NZ structure. The rules surrounding Apiculture NZ's Annual General Meeting do not provide for levy payers to attend its AGM and seek clarification on any aspects of the PMP including an explanation of any aspects relating to the collection and spending of PMP levies. Nor does the executive board of

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Apiculture NZ provide a forum for levy payers to discuss reports on its governance and performance, including the financial aspects of Apiculture NZ in its role as a management agency for a PMP. The website of Apiculture NZ does not cover any aspect of Apiculture NZ's responsibilities in connection with the PMP. To all intents it appears Apiculture NZ have divorced itself from responsibilities it has been appointed to manage.

**3. (ac) The AFB Governance Document.**

There is a website that promotes AFB control by an organisation that is named "The Management Agency National American Foulbrood Pest Management Plan". There nothing readily available to inform those that peruse this website that Apiculture NZ is the appointed management agency for the AFB PMP. Nor are there any links to the executive of Apiculture NZ that presumably have responsibilities for the PMP under BA s100.

Link to the website is at the end of this section.

There is a Governance Document (policy number 12) amongst the policy documents on the website referred. That document links 'Apiculture NZ' and the organisation referred as 'the management agency' in the website.

In the early days of the strategy as it was then known, NBA differentiated its activities as an advocacy body and its role as management agency for the PMP by calling its PMP activities as 'management agency' related. In the fullness of time there has been an illusion created that 'Apiculture NZ' and the 'management agency' for the AFB PMP are 2 distinct and separate groups. It is unfortunate that the relationship and responsibility for the PMP are not better portrayed by Apiculture NZ or their committee that manages the PMP on behalf of Apiculture NZ.

Never the less a Governance Document is depicted on the website quoted below. I comment on aspects of the document and management of the plan that I believe can be improved by creating a new, and separate entity to manage the PMP.

The document defines that Apiculture NZ is indeed 'the management agency' for the AFB PMP. It goes on to describe the appointment of a committee, presumably within Apiculture NZ to manage the hands on processes involved with the PMP.

It is an acceptable governance arrangement where a board set policy and direction for the CEO of the organisation and his team carry out the tasks directed by the board. There is normally a clear division of responsibilities within this type of governance arrangement.

The governance indicated in policy document 12 appears to differ from normal governance arrangements in that lines are blurred and in most cases confusing against normally established protocols.

The document appears to replicate Apiculture NZ's existing governance arrangements by the setting up of another additional governance board that works independent to Apiculture NZ. That appears to be a stumbling point with effective governance of the PMP now being experienced. Apiculture NZ do not appear to maintain oversee of the operational aspects of the plan nor do they establish and set policy that is a task of normal governance.

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A key aspect of a PMP is the development and acceptance of an Operational Plan, the implementation of the Operation Plan and a review of the performance of the plan. As well there is an annual review process to ensure the Operation Plan remains fit for purpose as situations alter. Operational Plans and the timing of introduction are identified in the Biosecurity Act s100B.

In the Governance Document, there is little mention of an Operational Plan, its development, acceptance, implementation and review as per the requirements of the Act. Instead the Governance Document tasks the management agency board with developing, maintaining and reviewing annually a 'Five Year Plan'. The Governance Document is short on assigning the tasks associated with an Operational Plan under BA s100B to a particular governance group within Apiculture NZ's convoluted Governance structure.

Appointments to the committee are made initially by a recruitment agency then by those members of the 'agency board' selecting a suitable candidate and seeking the endorsement of the chairman of Apiculture NZ for their choice. It seems the acceptability of the board members would not meet the criteria of accountability to the levy payers because of the extra layer of governance created in this instance.

There is provisions for performance reviews indicated in the Governance Document however it does not appear there has been reviews conducted on the performance of the PMP nor does it appear Apiculture NZ has the capacity to conduct an audit regarding the performance of their management team.

Levy payers are not provided evidence that the performance of Apiculture NZ in its capacity as management agency for AFB PMP is being monitored by any independent process.

<https://afb.org.nz/management-agency/>

**3. (ad) Current status of management within Apiculture NZ organisation.**

There are claims within Apiculture NZ circles that the governance of the PMP is 'independent' from Apiculture NZ. If this a true reflection of Apiculture NZ's involvement in the governance of the PMP then should that concept be formalised by creating a separate 'legal' entity for the PMP that can fulfil the requirements of BA s100? I also consider the personnel within Apiculture NZ's current management would support my proposal as a way to more formally establish the sort of truly independent entity that can lead the PMP into the future. It appears Apiculture NZ's current role within the PMP is to appoint one of their board members to be Apiculture NZ's representative in a group that calls themselves "The Management Agency", a group that claims to be an 'independent entity' yet lacks any formal recognition one would expect as a body corporate defined in BA s100.

**3. (ae) Desirability for a membership based advocacy group to be a management agency.**

Further to the reasons I have highlighted above that suggest Apiculture NZ are no longer meeting effective governance of the PMP, the considerations of BA s100 are also relevant in the context of appointment of an advocacy body as a management agency for a PMP. Advocacy bodies are generally created to advocate a (political) view on behalf of a group of people. Whilst there is no reason to suggest an advocacy group cannot manage a PMP it should be preferable for a body that is managing a PMP to be solely devoted to that purpose. There is an assumption that a PMP should be independent from the political aspirations of an advocacy body. As well assets of the PMP should not be able to be used by an advocacy body to communicate and promote benefits that only pertain to one advocacy body, their own.

Apiculture NZ's membership and subscription structure is such that some larger beekeeping operations contribute a significant amount to the financial wellbeing of Apiculture NZ as a membership organisation. It should be acknowledged that this group of beekeepers also have significantly more difficulties to manage AFB because of their scale of operation. It seems that an advocacy organisation carrying out a regulatory and enforcement function as a management agency may from time to time be placed in a conflicted position in carrying out its role with members that provide funds that are important for the advocacy body to function. The risks of offending a member that provides a significant portion of Apiculture NZ's finances may mean that the regulatory aspects of Apiculture NZ's PMP role with that particular member may be relaxed.

**3. (af) Competence displayed by Apiculture NZ.**

It is my view Apiculture NZ lacks the competence to maintain an effective program to achieve the aims of the PMP. To expand, in 2016/17 Apiculture NZ embarked on a 5 year plan for the PMP, noting that there is no requirement under the Biosecurity Act for such a plan. As well Apiculture NZ or its predecessor NBA had not developed and worked from a revised Operational Plan following the 2013 review of the 1998 Biosecurity Order in Council, as required by BA s100B. As a result of its 5 year plan Apiculture NZ concluded both the Levy Order and the 1998 Biosecurity Order in Council were no longer fit for purpose.

In 2018 Apiculture NZ initiated a process to make the Levy Order more fit for purpose- the only change it felt necessary was the method of calculating the levies. Consultation was undertaken for a proposal to fund the levy based on the number of colonies of bees a beekeeper owned on 31 March. This was the funding method of the former Commodity levy that was found unsatisfactory. Despite 53% of respondents to their consultation indicating they did not support the change, Apiculture NZ continued with their proposal to calculate levies on a count of colonies as at 31 March. Drafting errors not picked up by Apiculture NZ or the parliamentary process saw the introduction of a Levy Order that compromised the ability for Apiculture NZ to receive levy funding in a timely manner. Apiculture NZ refused to acknowledge errors that had been created and attempted to collect levy amounts that were not due for payment at the time. Resolution to this very unprofessional incident in Apiculture NZ's management of the PMP was provided by initiatives undertaken and financed by NZ Beekeeping Incorporated and saw a further amendment to the levy order to

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correct the errors. This led to a resumption of collecting levies before the yearly AFB program commenced thus alleviating cash flow problems that would have been created had NZ Beekeeping Inc., not intervened.

As well it is disappointing that in Apiculture NZ's review and amendment of the Levy Order there could have been a consideration to provide the levy payers an extended period to pay their levy liability. This would have provided those that contribute larger sums for their levy to split payments to help beekeepers better manage their cash flow. That aspects such as this could be overlooked and major errors be created questions the competence of Apiculture NZ in its appointed role.

**3. (ag) Ability for Apiculture NZ to consider the views of levy payers.**

There are times when Apiculture NZ is required to consult with levy payers on aspects of the PMP. Rather than highlight a proposal and provide information about the proposal and its proposed outcome then invite comment from levy payers that can be considered, Apiculture NZ uses a survey or 'push poll' to gauge support for their proposal. Whilst Apiculture NZ may consider their duty to consult is fulfilled by this method of consultation it does not focus on levy payers views that may express concern about any aspects of the proposal that should be reconsidered by Apiculture NZ in order that all relevant views are considered before a final decision is made. It appears Apiculture NZ solicits support for any of their proposals as a 'hands up' exercise while disregarding those that may have valid comments why a proposal or aspects of it may need a rethink by Apiculture NZ in light of (new) evidence presented.

It is my view levy payers no longer participate in Apiculture NZ's consultation process because of the futility of their effort in making their views known.

**3. (ah) Compromises to sound industry practices made by Apiculture NZ in its role as a PMP agency.**

AFB regulations have been in existence since the first Apiaries Act in 1906. There has been an evolution of regulations since that time. Other legislation has been introduced making a package within the beekeeping industry that has evolved with changes. Some aspects of change have not been considered leading to a situation where existing conventions continue under some form of 'grandfathered' regulations.

The Apiary Register held by the government was one such multiuse document that continued despite the introduction of the Privacy Act in 1982.

The Register, started around the 1950's was maintained by AsureQuality on behalf of the government and provided for;

- (i) Records to be used by MPI Biosecurity for its purposes in connection with exotic pests and diseases. It provided for international obligations of the government with pests and diseases of OIE status and allowed for a government assured disease status or area freedoms to be declared for bee products, and
- (ii) Food safety in particular for NZFSA to be able to grant 'official assurance' for exported bee products that they come from known locations and a known health status of bee colonies, and

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- (iii) The names and addresses as well as the apiary locations to enable the management of a pest management plan for American Foulbrood.

Information to update the government register continued by way of the requirements of the PMP Order in Council.

Apiculture NZ in its role as management agency decided to establish an in house apiary database for its AFB PMP purposes thus compromising the government's ability to maintain their Apiary Register that it also uses for its own purposes. The government appears to have no ability, because of the Privacy Act to tap into information that beekeepers now supply Apiculture NZ for the express purpose of the AFB PMP. The actions of Apiculture NZ have, in my estimation been particularly damaging to existing arrangements, particularly to MPI in maintaining its function connected with its border security.

Of course the irony of this situation is that representatives of MPI sit as voting members at 'management agency board meetings' where items such as this are considered.

**3. (ai) Compliance with other regulations.**

Apart from aspects of the Biosecurity Act requirements that are either neglected or interpreted with greater latitude than implied in the Act, Apiculture NZ appears tardy in complying with other Acts and conventions. Setting aside too the novel approach to the Income Tax Act described later, Apiculture NZ have a liberal approach to the Privacy Act when it comes to personal information held on its Apiary Register called Hive Hub. It uses information held in the register to further its advocacy role within the industry unrelated to the purpose the information was collected. It provides access to beekeepers listed on the Register to organisations such as Landcare Research and Event Dynamics that enables them promote their services far wider than the membership of Apiculture NZ, information which allows them a privileged position to generate income. In 2012 the activities of management agencies appointed to manage pest management plans were included into the schedule of organisations the Ombudsmen Act covers. There have been a number of complaints made to the ombudsman and I believe resolution to some of those complaints remains outstanding. Apiculture NZ has developed a defensive approach to requests for Official Information, for example a number of OIA requests have been to view copies of submissions received to Apiculture NZ's consultation processes. Apiculture NZ has gone to considerable lengths to not provide this information which is surprising considering other similar organisations quite often display submissions received on their website. It appears Apiculture NZ do not display transparency in their management of the PMP by providing scrutiny by the Ombudsman or through its handling of OIA requests.

It is indeed disturbing that an organisation which seems to focus on beekeepers being compliant to their PMP requirements should display their own non-compliance with regulations. Responsible organisations and especially those with enforcement responsibilities should be above reproach with their compliance with regulations.

### **3. (aj) Financial considerations.**

Authorities that collect and use funds through regulation have a duty to collect only the amount that is reasonably needed, to seek that those providing the funds have a say on how the funds are collected and utilised and to provide documentation to show how the organisation accounts for funds entrusted to it. The Biosecurity Act and the Levy Order provides guidance on the financial aspects of a management agency. The requirements around the budget have been poorly handled over the years by Apiculture NZ. Levy payers are not provided meaningful figures that would allow them to submit their views. There is no forum provided where questions can be asked and answers given in a timely manner that allows levy payers to submit their views on the proposed collection and spending of the levy, a process described in the Levy Order. It appears nearly \$1m was spent on an in house database (Apiary Register called Hive Hub) yet it appears levy payers were not informed the extent of the commitment of levy funds Apiculture NZ proposed spending on that occasion. The true cost to levy payers at the time has been carefully recorded in the financial accounts in such a manner it avoids levy payers of the day knowing how much was spent on this exercise. Comment has already been made how the actions regarding the in house database has possibly compromised the Apiculture industry.

Management agencies are required to ensure financial statements are audited within 5 months of the end of the year. Apiculture NZ has met that requirement twice in the last 10 levy years. An 80% non-compliance rate by Apiculture NZ with Biosecurity Act s100R (2).

### **3. (b) Consequences of proposed amendment 2.**

This amendment is seen as a natural progression of the vision to eliminate AFB within NZ. Having the support of an industry organisation appointed as the management agency for the PMP has got the concept behind pest management plans off the ground and established within the beekeeping industry a need to control a serious bee disease by a responsible beekeeping community.

Initially the NBA served industry well in maintaining and progressing an established framework for AFB control. As the industry has evolved and various interest and advocacy groups have become established, this proposal should see the establishment of an entity, solely dedicated to the management of APB PMP, and fully accountable to the levy payers, as a natural progression within the development of the beekeeping industry.

There will be additional consequences that will have to be overcome in order that management of the PMP transitions from the control of Apiculture NZ to control under a dedicated and independent entity.

### **3. (ba) Entity to manage PMP.**

It is envisaged that there will need to be a new classification for entities suitable to manage pest management plans under the Biosecurity Act going forward. The role of an agency is to manage regulatory aspects of a PMP as directed by its Operational Plan. It performs similar functions as a municipal authority on behalf of a specific community of interest.

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The entity is provided the authority to impose levies on classes of people and spend those levies in accordance with a plan accepted by the levy payers. Money collected by the entity should not be seen as income rather it is funding collected to be spent as directed on a regulated program. Thus funding collected by what amounts to a tax on beekeepers should not be subject to another form of additional tax as 'income' through the Taxation Act 2007. At present, for taxation purposes, Apiculture NZ is classing itself as complying with CW 49 of the Income Tax Act, whereby it classifies its PMP involvement as being established mainly to promote or encourage scientific or industrial research. The PMP was not introduced to conduct research, however it appears there is no provision within the Taxation Act to cater for the activities of PMP management agencies to be exempt from income tax. It is envisaged the entity would have a not for profit purpose to carry out a regulated plan.

It is envisaged beehive owners/levy payers would become stake holders (shareholders) to the entity to manage the PMP. Financial contribution to the entity by way of levies would be linked to the size of the beehive owners operation and voting entitlement would be linked to both size of operation and levies paid.

Governance for both the entity that becomes management agency and the PMP itself would be by way of a board established by a vote of stakeholders. It is envisaged there would be an annual general meeting convened each year which would provide direct contact of the levy payers with the executive of the entity in some ways satisfying the requirements of Biosecurity Act s100 (2). The governance board would establish a chief executive officer who would carry out the role of implementing the Operational Plan. The governance board would establish the Operation Plan and ensure the CEO carries out the requirements of the plan similar to many municipal authorities and councils already in existence in NZ today.

Establishing an election of officers may not ensure competent and knowledgeable people end up on the board of management for the PMP but the process does have an element of providing board members that are acceptable to the majority of those that exercise their vote. It should also provide a situation where those that fail to perform as competent board members are removed by the electors. The payment of director's fees should ensure directors are recompensed for effort and responsibility and there is sufficient attraction to director positions that a high calibre of candidates stand when elections are called.

Apiculture NZ and the executive of the NBA before it, have generally strived to distance themselves from both the responsibilities and negativity in being associated with the plan which may face some criticism in the way it conducts its regulatory role. In proposing a change to fully separate the activities of the PMP from Apiculture NZ Inc, then both entities will be free to pursue their respective pathways.

During the last review there was little discussion regarding a management agency for the PMP. NBA were 'doing the job' while Federated Farmers bee sector lacked the required structure to become a management agency, even if it was to challenge NBA to become the management agency for PMP.

It was suggested in the 2008 review by the Hon Jim Anderton;

*“Another alternative is to create and incorporate an organisation specifically to assume the role of management agency. This could be structured to provide better representation of beekeepers, and would not have other responsibilities to distract it from strategy management. A key drawback is that a significant amount of time and effort would be required to develop the rules of the organisation, get agreement on membership and voting rights, and carry out incorporation. It is not clear that there is any group in the beekeeping industry with the will and resources to carry out these tasks.”*

I consider the time is now right to consider the former Ministers suggestion. The drawbacks indicated do not seem a hurdle although there would be some issues to be overcome with an ‘entity’ and tax implications. I suggest the present Minister could establish on behalf of industry a group of people tasked with transitioning to such a management agency entity described in the 2008 review.

#### **4. Further input**

I look forward to participating further in the review process.

I wish to speak in support of this proposal if provided the opportunity.

**Roger Bray  
Ashburton**

**Levy Payer  
National American Foulbrood Pest Management Plan**