

In Confidence

Office of the Minister for Biosecurity
Chair, Cabinet Economic Development Committee

UPDATE ON WAIRARAPA PEA WEEVIL ERADICATION, AND PROPOSAL TO AMEND DELEGATIONS FOR APPROVAL OF *EX GRATIA* PAYMENTS

Proposal

1. This paper provides an update on the eradication of pea weevil from the Wairarapa. It also seeks approval to amend the delegations for approval of *ex gratia* claims arising from the response, to streamline approval and payment processes.

Executive Summary

2. The Ministry for Primary Industries (MPI) has enforced a ban on growing peas in the Wairarapa area since the 2016/17 growing season, to eradicate the pea weevil (*Bruchus pisorum*) population found there in March 2016.
3. Pea weevils only feed on peas and can reduce yields substantially. The growing ban ensures that no food source remains for the weevils, and that they die out naturally.
4. Pea growers have suffered losses as a result of the growing ban, but due to a technicality, they are not eligible for compensation under the Biosecurity Act 1993 (the Act). At the time the powers were exercised, pea crops had not been planted. This means that there was no property damaged or destroyed, no goods were restricted by the movement controls, and so the criteria for compensation were not met.
5. In such cases MPI is able to consider making *ex gratia* payments to recompense losses incurred through the response, and incentivise farmers to report pests and unwanted organisms and otherwise comply with biosecurity measures.
6. MPI's initial response to the *ex gratia* claims arising from the pea weevil response was met through baseline funding, and MPI undertook to report back to Cabinet if claims exceeded the estimated \$2.6 million.
7. Eradication was not quite achieved after the initial two year growing ban came to an end, with 15 weevils found. The growing ban was extended for a further two year period over the 2018/19 and 2019/20 growing seasons to ensure it would be successful.

8. MPI now expects that claims will reach the \$2.6 million limit previously authorised by Cabinet, and forecasts a new upper limit of \$5 million will be required in order to accommodate the *ex gratia* claims that are expected as a result of the extension of the growing ban for a further two years.
9. Funding for the response and *ex gratia* payments is provided from within the *Compensation and ex gratia payments following a Biosecurity Event* appropriation. I am not seeking any additional funding in this proposal.
10. In December 2017, Cabinet authorised the Minister of Finance and the Minister for Primary Industries¹, to jointly approve *ex gratia* claims which arise from the Wairarapa pea weevil response that are in excess of \$75,000, up to the limit for all claims of \$2.6 million.
11. Cabinet also authorised the Minister for Biosecurity to approve *ex gratia* payments between \$30,000 and \$75,000.
12. I propose that I be granted delegations to approve pea grower *ex gratia* claims up to a combined maximum for all claims **Commercial sensitivity** of \$5 million.
13. This change will significantly streamline the claims authorisation process, reduce transactional costs for MPI and for Ministers, and enable MPI to settle claims more quickly.

Background

14. MPI detected pea weevils in stored pea seed in a Wairarapa warehouse at the end of March 2016.
15. Pea weevils are an agricultural pest of pea plants, and decrease the yield of dried peas for processing (for both human consumption and stock feed), and reduce the germination of seeds for sowing. The weevil requires pea plants in the flowering stage to complete its lifecycle. Weevil populations do not increase in the dried, stored peas.

Impacts of pea weevil

16. Pea weevils only feed on peas. New Zealand produces approximately 60,000 tonnes of peas each year with a total estimated economic value of \$160 million. Prior to the detection of pea weevil in the Wairarapa, 10% of the national pea crop was grown in this region.
17. In heavy infestations, pea weevil can reduce crop yields by 15%. Applying this yield reduction to total New Zealand production would mean potential crop production losses of \$15 million, per annum.²

¹ Hereafter referred to as the Minister for Biosecurity due to portfolio name changes

² Note that other studies have different estimates of yield loss from pea weevil, ranging from 10-85 percent. See <http://www.plantwise.org/KnowledgeBank/Datasheet.aspx?dsid=9907>

18. New Zealand exporters would also face additional compliance costs if pea weevil became established. Produce would need to be inspected and treated, and further costs might be incurred at overseas borders.

MPI's response to the detection of pea weevils

19. In March 2016, MPI initiated a biosecurity response to investigate the spread of the weevils, assess management options, and confirm whether eradication was feasible. Investigations confirmed that pea weevils were confined to the Wairarapa.
20. With agreement from the pea industry, MPI implemented a two year ban on pea growing in the Wairarapa through the Act. A Controlled Area Notice was also issued in July 2016 and imposed restrictions on the movement of pea plants, pea seeds, and pea straw.
21. The growing ban and other measures will ensure there is no host material for the weevil to lay eggs and feed on to complete its lifecycle. Adult weevils are active only in spring, when the adults can fly up to five km in search of pea flowers, where the females lay eggs on the developing pods. There the larvae reduce yields by eating the pea seeds, and continue to damage the harvested (dried, not green) peas.
22. The adult weevils hibernate during summer, autumn and winter. Some may survive in hibernation until their second summer as an adult, hence the need to ban pea growing for two years after the last pea weevil has been found. Without their food source the weevils will die out naturally.

Two year growing ban had to be extended

23. The two year growing ban on peas in the Wairarapa was imposed over the 2016/17 and 2017/18 seasons.
24. During the first year of the ban 1,735 pea weevils were found. In the second year a total of 15 weevils was found.
25. These last few weevils meant that the eradication had not quite been achieved. The joint MPI-industry governance group, acting on advice about the progress of eradication, decided that a further two year ban was needed over the 2018/19 and 2019/20 seasons for it to be completed.
26. No pea weevils were detected in the 2018/19 season. If none are detected in 2019/20, the eradication will be deemed successful. Trapping results are expected in January 2020, and if successful, MPI will inform growers and stakeholders soon after.

Recompensing pea growers for losses

27. Under the Act, people are entitled to receive compensation for losses which are caused by the exercise of powers in a biosecurity response. Responses may require property to be destroyed, or restrictions to be placed on the movement or disposal of goods.
28. Because of a technicality, pea growers are not eligible for normal compensation processes under the Act. At the time the powers were exercised, pea crops had not been planted. This means that for the most part there was no property damaged or destroyed, no goods were restricted by the movement controls, and so the criteria for compensation were not met.
29. Although pea growers' property had not been destroyed, pea growers have complied with the growing ban, and as such incurred losses. In such cases MPI is able to consider making *ex gratia* payments to recompense losses. *Ex gratia* payments are not required to be made by law. They are made only in exceptional circumstances, on a case-by-case basis. They are made out of goodwill when there is considered to be a moral obligation towards the claimant.
30. In this case *ex gratia* payments to growers encourage early reporting of risks (new pea plants sprouting from a previous crop), on-going cooperation with the response (not growing peas), and also to retain incentives for individuals to manage their own risk (planting alternative crops).

Ex gratia payments made to claimants

31. In February 2017, Cabinet agreed that pea growers and pea straw processors could request *ex gratia* payments for the loss of pea income for the 2016/17 and 2017/18 seasons.³
32. The payments are made based on MPI's assessment of what the grower could be expected to achieve in pea income during the claim period, less any income achieved through growing alternative crops.⁴ The *ex gratia* guidelines also require growers to take reasonable steps in the circumstances to mitigate losses.
33. As of 3 October 2019, MPI has made *ex gratia* payments to pea growers as follows:

³ Refer to CAB-17-MIN-0120.

⁴ MPI applied a formula which looked at the grower's previous three pea growing seasons, and worked out an average for the number of hectares of peas grown, and income achieved per hectare, to work out the estimated loss in pea income during the ban. There have been some exceptions to this formula where individual circumstances have required a different approach or there is less than three years' data to work from.

Table 1: Paid and anticipated claims for the first two years of losses incurred in the pea weevil response

	2016/17 growing season	2017/18 growing season	Total
<i>Ex gratia</i> claims paid	\$1.015m	\$0.755m	\$1.770m
Claims for destruction of stock	\$0.147	-	\$0.147
Estimate for claims not yet settled	\$0.262m	\$0.421m	\$0.683m
Approximate total to date	\$1.277m	\$1.176m	\$2.453m

Table 2: Anticipated costs of pea weevil response for the following two years

	2018/19 growing season	2019/20 growing season	Total
<i>Ex gratia</i> claims (estimated)	\$1.1m - \$1.4 m	\$1.1m - \$1.4 m	\$2.2m– \$2.8m
Operating costs	\$0.200m	\$0.200m	\$0.400m
Approximate total	\$1.3m - \$1.6m	\$1.3m - \$1.6m	\$2.6m- \$3.2m

Process improvements

34. The process for submitting and assessing requests for *ex gratia* payments has been complex and time consuming for both growers and the MPI assessment team. The complexity and time needed to make decisions is disproportionate, given the relatively small monetary amounts compared to other responses.
35. As well as recommending changes in this paper to streamline financial delegations, MPI has identified opportunities for improving the *ex gratia* payment process for pea weevil claim for both claimants and staff, enabling MPI to assess and pay claims more quickly.

Financial Implications

36. The costs of continuing with the pea weevil biosecurity response are estimated to be up to \$1.6 million per annum, including payments of up to \$1.1 million to \$1.4 million annually for *ex gratia* claims for growers and pea processors.
37. I propose that Cabinet authorise an increase to the total limit for all claims from \$2.6 million to \$5 million, from within the current funding appropriation in Vote Biosecurity. MPI will report back to the Minister for Biosecurity on the implications of this.

38. Funding for the costs of *ex gratia* payments to pea weevil growers is provided from within the *Compensation and ex gratia payments following a Biosecurity Event* appropriation. No additional funding is sought in this proposal.

Financial Delegations

39. Pea Weevil *ex gratia* claims over \$30,000 and up to \$75,000 are currently approved by the Minister of Biosecurity. Claims over \$75,000 are currently approved jointly by the Minister of Finance and the Minister for Biosecurity.
40. Cabinet previously agreed that joint Ministers could approve *ex gratia* claims up to \$2.6 million, the previously expected maximum for the response.
41. Now that the timeframe for pea weevil eradication has been extended I propose changing the financial delegations so that the Minister for Biosecurity may approve claims up to a total combined limit of \$5 million (for all claims). This change in delegations would remove the need for co-approval from the Minister of Finance for claims in excess of \$75,000, reducing the time it takes to get claims approved and also simplifying the process.
42. There are two reasons for this. Firstly I consider I have sufficient experience with pea weevil *ex gratia* payment claims to take sole responsibility. I also have significant experience and expertise in scrutinising and approving larger claim payments in other biosecurity responses, such as the *Mycoplasma bovis* response. In addition, the assessment process that is used has been thoroughly developed and tested, so is robust enough to give confidence to decision-makers.

Consultation

43. Treasury was consulted on this paper and supports the recommendations.
44. In addition, options for changing delegations have been discussed with growers and industry organisations, who have supported options that will streamline the claims process.

Non-financial implications

45. There are no human rights, legislative, gender or disability implications arising from this paper.

Regulatory Impact Analysis

46. A regulatory impact analysis is not required as no regulatory change is sought.

Publicity

47. There is no media publicity planned about this change. Industry representatives, including Federated Farmers, Vegetables NZ, and the Foundation for Arable Research, and Wairarapa pea growers will be informed of Cabinet's decision on the proposal outlined in this paper.

Proactive Release

48. Following Cabinet consideration I propose to proactively release this paper in full.

Proactively Released

Recommendations

It is recommended that the Committee:

1. **Note** that in late March 2016, pea weevils were detected in pea seed in the Wairarapa;
2. **Note** that, as part of a biosecurity response, the Ministry for Primary Industries imposed a two year growing ban in the Wairarapa for the 2016/2017 and the 2017/2018 growing seasons to eradicate pea weevil, an unwanted organism;
3. **Note** that Cabinet authorised the Minister of Finance and the Minister for Biosecurity to jointly approve *ex gratia* claims which arise from the Wairarapa pea weevil response that are in excess of \$75,000, up to a total limit for all claims of \$2.6 million⁵;
4. **Note** that, following the detection in the 2017/2018 season of a small number of pea weevils, this ban was extended to cover the 2018/2019 and 2019/2020 growing seasons;
5. **Note** that total expenditure on all pea weevil *ex gratia* payments now totals \$1.917 million and that MPI is forecasting that the \$2.6 million limit will be soon reached;
6. **Note** that the level of individual *ex gratia* payments for growers in 2018/19 is expected to be similar to those in 2017/18 with the smallest being \$19,663 and the largest \$197,611;
7. **Agree** to amend the delegations for approval of all *ex gratia* claims to allow the Minister for Biosecurity to approve *ex gratia* claims arising from the Wairarapa pea weevil response up to a total limit for all claims of \$5.0 million;
8. **Note** that no additional funds are being sought in this proposal as sufficient funding for the costs of *ex gratia* payments to pea weevil growers are provided for from within the *Compensation and ex gratia payments following a Biosecurity Event* appropriation;

⁵ EGI-17-MIN-0043 refers.

9. **Note** that should further pea weevils be discovered, I will provide a further briefing to ensure that the financial implications of the discovery will be discussed and considered by this Committee.

Authorised for lodgement

Hon Damien O'Connor
Minister for Biosecurity

Proactively Released