

Notice is given that a Submissions Hearing meeting will be held on:

Date: Monday 16 April 2018
Time: 9.30am
Meeting Room: Tasman Council Chamber
Venue: 189 Queen Street
Richmond

Submissions Hearing Proposed Tasman-Nelson Regional Pest Management Plan 2017-2027

AGENDA

MEMBERSHIP

Chairperson Cr S Bryant

Members Cr D McNamara
Cr S Brown
Cr M Lawrey
Cr K Fulton
Cr B McGurk

(Quorum 2 members)

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AGENDA

1 OPENING, WELCOME

2 PROCEDURAL MATTERS – Including consideration of any late submissions

2.1 Report to Regional Pest Management Committee Members Regarding Late Submissions.

2.2 Regional Pest Management Plan Decision Process

3 HEARING OF SUBMISSIONS

3.1 Hearing of Submissions Timetable Guideline

Councillors are reminded to bring their folder of submissions to the meeting please.

Any submissions are also on the Council web site.

Attached is a draft schedule of the submitters wishing to speak on the day. The schedule is subject to change prior to the meeting, so a final schedule will be distributed to Councillors at the start of the meeting.

4. DELIBERATIONS

4.1 Procedural Motion To Exclude The Public

2. PROCEDURAL MATTERS

2.1 Consideration regarding accepting or rejecting late submissions to the Tasman-Nelson Regional Pest Management Plan Proposal

Background

The Regional Pest Management Plan proposal was open for submissions for six weeks commencing the beginning on November 2017 with a closing date of December 15th 2017. The submission period was chosen to keep the submission phase clear of the Christmas holiday period and also clear of the cut off date for “working days” under other acts such as the Resource Management Act 1991 (RMA).

Many potential submitters subsequently contacted staff requesting that they be allowed another week or two to prepare their submission. Those making this time extension request were advised that the latest date they should have their submission lodged was prior to the commencement of the Christmas statutory holiday period (22 December 2017). This advice was recognised that it was not going to be until after the statutory holiday period that the summary of submissions would be completed, so submissions received by 22 December could still easily be accommodated. It also recognised that some of the additional week’s grace being requested could not be counted as “working days” anyway.

Submissions received after 22 December 2017

Since 22 December two other parties have asked that their late submissions be received.

These are :

Fairlight Ltd who forwarded their submission on 18 January 2018 with the explanation that there had been insufficient time before submissions closed to prepare their submission and it was not until after they returned home following the new year that they were able to dedicate the necessary time to prepare their submission.

Abel Tasman Birdsong Trust (ATBST) who forwarded their submission on 7 March 2018 with the explanation that the submission had been completed by 22 December but there had been an administrative mix up and it was not lodged until after they became aware of their mistake.

Both Fairlight and ATBST have been informed that submissions had closed and that the express permission of the Regional Pest Management Joint Committee would be required to formally receive their submission.

Consideration

When considering whether or not to receive these late submissions, regard should be given to the following matters.

- 1 Will accepting these late submissions disadvantage any other parties who had either submitted on time or not been able to submit at all as they were out of time?

- 2 Will accepting these late submissions have natural justice implications as they have not been included in the publically notified submissions and there has not been a call for further submissions in support or opposition to these late submissions?
- 3 Do these late submissions significantly add to the matters to be resolved or the time taken through the submission process?

A decision to accept these late submissions will mean that they become part of the formal process and therefore will need full consideration along with formal decisions. It also follows that if the Councils accept these late submissions and then through the formal process, reject the content of these submissions in whole or in part, that Council decision could be appealed to the Environment Court.

In consideration of matters 1 and 2 above it is the staff view that:

1. Many submitters ran out of time to prepare their submissions. Some contacted Council staff to arrange a time extension, others worked late to complete their submission, others limited their submission to key points to save time and others chose not to submit at all. Any open ended submission period will be unfair on some submitters.
2. The two submissions are quite different in their content. The Fairlight submission raises a wide range of new matters which include comments on process, style, consultation, equity, documentation, biosecurity service delivery, the relationship between Councils and charitable trusts and questions the financial management of some trusts. These submissions are not replicated in any other submissions received and therefore they have not been publically notified and subject to the scrutiny of other parties. Nor have other parties had opportunity to submit in support of or in opposition to these matters.

The Abel Tasman Birdsong Trust (ATBST) submission on the other hand is very similar to the Project Janszoon submission. This is not surprising as Abel Tasman Birdsong Trust and Project Janszoon share a common geographic area (Abel Tasman National Park), work closely with each other and use the same consultants and/or contractors. Matters raised in the ATBST submission are also raised by a wide range of other submitters, particularly those made from the Golden Bay area. The matters raised therefore have already been publically notified and further submissions in support of or opposition to have been invited.

3. Accepting these two late decisions will have two quite different impacts on the RPMP hearing process and potentially on the extent of drafting changes and decision documentation to complete the process. The Fairlight submission raises new matters, many of which are procedural, stylistic or structural within the Plan Proposal. Consideration and resolution of these matters is likely to take a significant amount of time and effort. It should also be noted that the RPMP proposal format is based on an agreed national template. That template is being used throughout the country in an effort to achieve a degree of national consistency among regions and their regional pest management plans. The Tasman – Nelson Plan Proposal has been reviewed by those responsible for creating and maintaining the template as well as our neighbouring councils and MPI who all agree that the Tasman – Nelson Proposal is currently largely consistent with that template.

The Abel Tasman Birdsong Trust submission on the other hand does not introduce new matters and is very similar to the Project Janszoon submission. It also has matters in common with many other formally received submissions. Therefore regardless of whether the ATBST submission is received or not, the Committee will need to consider and decide on the matters contained within this submission.

Discussion

Receiving the two late submissions under consideration (Fairlight Ltd and Abel Tasman Birdsong Trust) will potentially disadvantage some other submitters who had difficulty achieving the close of submissions date (15 Dec 2015) or if requested by the submitter the week extension to 22 December.

Matters raised by Fairlight Ltd are not raised by other submitters and comprise new material which other parties have not had the opportunity to see and support or oppose.

Matters raised by ATBST are common with other submitters and in particular Project Janszoon.

Receipt of the Fairlight Ltd submission will potentially require additional Committee and staff time.

Options

1. Do not receive the late submissions.

Implications:

- No other party will be disadvantaged
- No additional natural justice issues will be introduced.
- Matters raised by Fairlight Ltd will not be able to be formally considered.
- Matters raised by ATBST will be considered as they are already covered by other submitters.

2. Receive the late submissions

Implications:

- Other submitters who had difficulty meeting the close off date for submissions will be potentially disadvantaged
- There will be some natural justice issues related to the content of the Fairlight submission as other parties have not had the opportunity to review its content or given the opportunity to support it or oppose it.
- Consideration of the Fairlight submission will require additional Councillor and staff time.

3. Receive the late submissions and notify them for further submissions

Implications:

- Other submitters who had difficulty meeting the close off date for submissions or have not made a submission at all will be potentially disadvantaged.
- No additional natural justice issues will be introduced.

- Consideration of the Fairlight submission will require additional Councillor and staff time.
- Calling for further further submissions will introduce additional work and delay to the RPMP process.

Preferred option

1. Do not receive the late submissions.

2.2 Regional Pest Management Plan Decision Process

Background

On 16 April 2018 the Regional Pest Management Committee meets to hear submissions on the Regional Pest Management Plan Proposal and to seek explanations and clarifications from the submitters.

Between 16 April and 25 June (when the Committee meets to make decisions) staff will be working to:

1. Group submission into themes or topics where the decisions to be made by the Council's Regional Pest Management Committee are interrelated so that making a decision will relate to all submissions in that theme.
2. Analyse each theme or topic area against
 - Practicality; and
 - Good biosecurity practice; and
 - Legal requirements, in particular the requirements of the Biosecurity Act 1993 and its associated National Policy Direction 2015; and
 - The iwi view regarding the changes sought.
3. Prepare an analysis report for each theme area detailing the matters in 2 above which the Regional Pest Management Joint Committee should have regard to when reaching its recommended decisions.

25 June Meeting Process

During its deliberations on June 25th the Committee will need to:-

1. Consider each theme or topic area and its associated submission parts with regard to the biosecurity, legal and iwi context (provided by staff).
2. Reach and record agreed decision statements for each theme or topic area considered.
3. Reach and record agreed reasons for accepting (in whole or part) submissions related each theme or topic area.

Note: A record of agreed decisions and the reasons for them will be maintained by administration staff during the course of this meeting with the wording projected onto screens during the deliberation.

Following Committee Decisions

The terms of reference of the Regional Pest Management Committee provides it with the power to recommend decisions on the Regional Pest Management Plan submissions, however final decisions must be made by both full councils.

At the subsequent meetings the full Council's will need to consider and approve a range of matters related to the preparation and development of the Regional Pest Management Plan Proposal which arise from sections 70 to Section 75 (inclusive) of the Biosecurity Act 1993. They will need to consider and approve:

- That the Plan Proposal satisfies the various requirements of Section 70 of the Act.

- That the Plan Proposal is consistent with other biosecurity instruments (both national and regional), that the pests declared are capable of causing real harm and the rules included are well targeted and reasonable, under Section 71.
- That the consultation undertaken meets the requirements of the Act and was appropriate to the task under Section 72.
- That the issues raised during consultation have been adequately addressed and the Plan preparation process had been appropriate under Section 73.
- The issue of the revised plan including changes resulting from decisions under Section 74.
- The issue of decisions to all submitters by way of a decisions report giving reasons for accepting or rejecting submissions under Section 75.

Therefore following the Committee consideration of submissions and its formulation of recommended decisions, staff will prepare the following reports for consideration by full Council:

- A report on the Plan preparation process
- A final Plan document.
- A Decisions report suitable to be publically distributed.

Following public notice of decisions submitters will have up to 15 working days to lodge any appeals to the Environment Court.

3 HEARING OF SUBMISSIONS

3.1 Hearing of Submissions Timetable Guideline

9.30am	Opening Introduction and Chair's Brief Motion to allow two late submissions	Submission Number
09.35	Chris Rowse – Project Devine	17583 & 18113
09.55	Andrew Macalister – Project Janszoon	17580
10.15	Lionel Solly – Department of Conservation	16796
10.35	Gillian Pollock – Forest and Bird	14859 & 18119
Break for Morning Tea		
11.05	Dai Mitchell – individual	16770
11.15	Angela Johnson – Federated Farmers	16798
11.30	Lawson Davey – Nelson Marlborough Fish & Game	16768
11.40	Pamela Pope – individual	16771 & 18124
11.50	Neil Page – Native Bird Recovery Richmond	16772 & 18124
Break for Lunch		
13.00	Greg Mason – Motueka Valley Association	16787
13.10	Ministry for Primary Industries - Wayne Murphy, Sherman Smith, Mike Harre	17586 & 18126
13.25	Heather Arnold – Nelson Forests Ltd	16797
13.35	Debs Martin – Royal Forest & Bird Protection Society of NZ	17584
13.45	Gillian Bishop – Tasman Environmental Trust	16888 & 18124
14.00	Phillip Borlase – Individual	16793
14.10	Trevor Knowles - Individual	16903
14.30	Gavin O'Donnell - Individual	16906
14.40	Rebecca Sharp – Tasman Pine Forests Ltd	17579
14.50	Leigh Marshall – Nelson City Council	16993
Close		

4. DELIBERATIONS

4.1 Procedural Motion To Exclude The Public

The following motion is submitted for consideration:

THAT the public be excluded from the following part(s) of the proceedings of this meeting. The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution follows.

This resolution is made in reliance on section 48(1)(d) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by section 6 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public, as follows:

Reason for passing this resolution in relation to each matter	Particular interest(s) protected (where applicable)	Ground(s) under section 48(1) for the passing of this resolution
The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 6.	48(i)(d) - To deliberate in private in a procedure where a right of appeal lies to a Court against the final decision.	s48(1)(d) The public conduct of the part of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under section 6.