

6 April 2018

Russell Berry
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Dear Russell

Re: Consultation Government Industry Agreement (GIA)

Apiculture New Zealand has now completed an analysis of the GIA survey results and we have also worked through questions raised by industry as part of the process. We enclose a copy for your information.

I would like to take this opportunity to respond to the additional material we received from you in a written submission dated 30 November 2017. We have also sought advice from the GIA Secretariat to assist us with some of the points raised in your letter.

New Zealand Beekeeping Incorporated

We understand and appreciate the experience New Zealand Beekeeping executive bring to the table when it comes to biosecurity matters, as well as other industry groups. For this reason, we involved all industry sectors in asking for their input into our survey. This was reflected in our communications to all of industry, which included emails and hard copy information to all, as well as updates and information via the October 2017 Journal, which as you know goes to all of industry. In our email updates to all non-commercial and commercial beekeepers, for example, we specifically noted the following: *“Because this is a key biosecurity decision for all of industry, the survey has been sent to every registered beekeeper (commercial and non-commercial), as well as packers and processors and all members of Apiculture New Zealand.”*

The Biosecurity Act 1993

In this section, you outline concerns that *“GIA has become a set of ad hoc arrangements that lack a formal legal entity to function as a true partnership between government and industry in a way that could be expected to effectively conduct readiness and response activities.”*

Section 5A of the Biosecurity Act 1993, as amended in 2012, clearly sets out the purpose of the GIA, the mechanism by which the partnership will operate, and the criteria the Minister will apply in considering whether a sector organisation has a mandate to join GIA.

The GIA Deed sets out the scope of GIA’s coverage, the commitments the parties are making to each other, the administration of GIA, funding arrangements, and the role and structure of Operational Agreements. Operational Agreements are developed between the Government and one or more specific industry groups to conduct readiness and response activities that are sector or pest specific. Rather than being ‘ad hoc’ as you suggest, there is therefore a well-defined framework for the GIA partnership to operate within the biosecurity system. Partners operate within mandate granted, in descending order, by:

- a) Part 5A of the Biosecurity Act 1993
- b) The Deed dated 20 May 2014 (Deed) and updated in 2016

- c) Formal operational rules, when set under clause 4.1.6 of the Deed
- d) Operational agreements, providing for joint decision-making Deed signatories to achieve specific outcomes for enhanced readiness and response activities.

The Deed is a multilateral agreement between the Signatories. Section 100Z of the Biosecurity Act 1993 makes provision for the Deed and the Operational Agreements and includes a non-exhaustive list of the matters they may cover but does not establish their nature of characteristics.

The Deed itself does not create an incorporated entity such as a company or an incorporated society – in other words there is no separate legal entity that can enter into contracts and relationships with third parties. Operational Agreements set the parameters for the detail of readiness and response activities, obligations and liabilities. They create the legal framework under which the GIA partners are able to fulfil their rights and obligations under GIA.

GIA partners have well defined roles and powers as set out in the legislation, the Deed and any Operational Agreements signed. This does not include any formal role ‘advising the Minister’, which remains the responsibility of MPI. Of course, in some instances the Minister may seek the view of the GIA partners, and those partners may take it upon themselves to collectively offer advice to the Government. However, GIA does not have the advisory role you suggest.

We believe GIA is working and understand that it continues to evolve. It now has 16 signatories, and 18 partners in total. We also understand that not all of GIA’s infrastructure is complete (notably compulsory cost sharing amongst partners, and cost recovery for non-signatory industry beneficiaries) but participants in the scheme have been independently surveyed (as outlined in the GIA Annual Report) and report strong satisfaction with GIA and a commitment to making it work. We also understand that new activities are taking place in partnership between industry and Government and industry groups are working together in new and different ways.

MPI is, we understand, providing a significant level of information on the performance of the border, to signatories that is not available to non-signatories, to assist its partners assess the level of risk faced, and the appropriate response.

It should be noted that while it is probable that the Minister would consult with beekeepers on any bee-related biosecurity incursion, it is not guaranteed. Even should that occur, the Government has no compulsion to act on bee diseases or consider our point of view. To guarantee engagement and involvement in the decision-making process we must join GIA. That entails some cost, but that cost is balanced against the risk of being left on the side-lines while others with a contractual relationship with Government make decisions that impact the livelihood of our industry.

Recent incursions of the beekeeping industry

In your letter you refer to *the spread of Varroa, Nosema ceranae and Deformed Wing Virus and that it appeared “there was no formal response from government.”* Signing the GIA means we can set out a clear-cut agreement with Government in advance on how we would manage a certain pest or disease incursion, ensuring there is an agreed response from Government.

Regarding your concern *“that industry and government considered GIA was seen as some sort of biosecurity protection of ‘insurance against the establishment of unwanted organisms’ therefore relaxation of the current border protection would take place to allow bee products into NZ.”*

There is no suggestion that GIA's inclusion of readiness and response decision rights will lead to a lessening of focus at the border. Decisions about activities before and at the border remain the direct responsibility of the Crown. These activities are, however, included within the scope of the GIA Deed, with industry partners having the right to 'engagement across the system'. We think this is a positive development and could work to enhance Government's role in border security, based on the expertise that our industry would bring to the table.

The Beekeeping Industry today

As you point out the beekeeping industry in New Zealand has seen considerable growth which has brought challenges to our industry in the biosecurity space, particularly as we have seen the increase in mobility of hives. We agree that border and pre-border measures are important in keeping further pests and diseases out, where possible.

We note your point that *“there has not been any indication within the ApiNZ proposal or the consultation documents as to what would likely be included as an Operational Agreement, nor has there been any information on how the OA would be performed as part of the legislation under the GIA concept.”*

The framework provided by the legislation and GIA Deed sets out how Operational Agreements work under GIA. You are correct we have not provided detail of what will be in bee sector OA, because that comes later. The first step is to join GIA, the second is to work with MPI and other beneficiary GIA partners to develop an OA or OAs that reflects the needs, priorities and budgets of our industry.

Regarding the detail outlined above we do not know what that will entail nor the final cost. We understand that all existing signatories, even MPI, have faced this situation in signing up to GIA – that is the core purpose of the partnership – to work together to develop a mutually agreed readiness programme and response plans. This may create uncertainty about a final product, which is why we won't commit to any expenditure until we have an agreed OA and we will only commit to things that are affordable and are important to our industry. As you are aware, an important feature of the GIA is the capacity to set fiscal caps on expenditure.

Industry Organisations

In this section you advise that you had hoped and expected more discussion between the different beekeeping groups to establish if the concept of GIA is relevant, and to establish what range of options might be available for beekeepers to consider.

We believe there has been considerable discussion and debate on GIA which began at the June 2014 conference in Wanganui and has continued since. Additionally, at our national conference in July last year, members of our GIA and Biosecurity Focus Group were available at the ApiNZ Industry Good stand and had numerous discussions with members and others within the beekeeping sector. We would add that we are open to discussion but would note that we were not approached by any sector entities requesting this, during the consultation and survey period.

Regarding the range of options and details, as outlined earlier, we have been careful to point out that seeking a mandate from industry is the first step and that the detail necessarily follows.

The Apiculture NZ Proposal

You express the view that it *“appears ApiNZ proposes to represent multiple sectors within the beekeeping or bee products sector.”* We would note that ApiNZ was established in 2016 specifically to unite industry and bring together the wider industry. As a result we **do** represent multiple sectors including commercial and non-commercial beekeepers, honey packers and exporters as well as affiliated industry companies and organisations.

With regards to your point that NZ Beekeeping considers *“that a review of the concept should take place by Government”* based on your view that there is *“sufficient conflict with what is being presented to industry participants by the various organisations and the provisions of the Biosecurity Act ...”*

We do not agree with this assertion. The concept of partnerships between industry and Government must be preferable to the Government being able to work unilaterally, or to work in conjunction with other industry groups that benefit from beekeeping activities and make decisions that we will bear the brunt of. In addition, there has been ongoing growth in the numbers of industry sectors joining GIA with several more significant primary sector groups looking to join. This would suggest a model that is working and embraced by the wider primary sector.

The Government has adopted the GIA model as its means of delivering biosecurity activities. The Government has given no indication that it will back away from that approach. If Government policy changes in future we would respond at the time – in the meantime we are missing the boat while other industries forge ahead.

We are doing our members and industry a real disservice if we don't grab the opportunity created by GIA to take some control of this key risk facing all our industry and our key sector partners.

We would also like to respond to your point *“that beekeepers should have been informed how the voting and governance process would take place”*. In updating and informing the industry, we believe we provided a good level of information on the GIA particularly in the information supplied in the brochure. This information was also reviewed by the GIA Secretariat and MPI. We acknowledge the level of detail around the voting and governance process was not outlined in this brochure, however, we did provide links to the GIA website should people be looking for more information and detail. These links were also provided in the online and hard copies of the survey, so that respondents could satisfy their personal responsibility of due diligence. We have also now provided this information in the questions and answers on our website.

There is again further reference to your earlier point around detail and potential cost for the sort of readiness and response programme that might be appropriate for the industry as it exists today. As set out earlier, all these matters will be worked out in partnership with Government and other industry groups if we join GIA. Additionally, as mentioned we can also apply a fiscal cap which limits our exposure to the unknown.

Until we get around the GIA table, the Government will not be contractually obliged to negotiate with us, which creates a risk ourselves, of ad hoc imperfect consultation and decisions being made by others on our behalf that we may also that we may have to pay for in the future. We have already experienced this as 'observers' on the myrtle rust Governance Group run by MPI.

This is an unacceptable situation for this industry's progress towards signing the GIA to be held up by any group.

The counterfactual to joining GIA is not some combination of influence and consultation at no cost to members. This will result in no influence, greater distance from the Government and our key industry partners and being left at the whim of ad hoc Government decision making and consultation. Worse, we will have to pay for that privilege with no say in how that money is spent.

Finally, in relation to the tone of the materials and consultation document and the survey itself we acknowledge your points. We would note that in developing the supporting documents and the survey, we engaged with MPI and the GIA Secretariat to ensure our material was accurate and met the requirements of engagement.

Thank you for your submission and the considerable effort you have made in expressing the points outlined in your letter. I would be very happy to meet with you and go through the survey results in detail, as well as further discuss the points raised in this letter.

Yours sincerely



Bruce Wills
Chair