

In Confidence

Office of the Associate Minister of Agriculture (Animal Welfare)
Cabinet

Report-back on results of economic analysis of proposed changes to the Code of Welfare for Pigs, and potential mitigation options

Proposal

1. This paper:
 - 1.1 provides an economic analysis of the changes to the Code of Welfare for Pigs recommended by the National Animal Welfare Advisory Committee (NAWAC);
 - 1.2 provides information on possible mitigation measures that could be put in place for pork producers in New Zealand if these proposals were implemented; and
 - 1.3 seeks Cabinet agreement for the release of the joint consultation document presenting these proposals for public consultation.

Executive Summary

2. In November 2020, the High Court of New Zealand found the regulations and minimum standards relating to the use of farrowing crates and mating stalls by the pork industry to be unlawful and invalid.
3. Under the Animal Welfare Act 1999 (the Act), NAWAC provides me with independent advice on animal welfare issues. As a result of the High Court judgement, NAWAC reviewed the Code of Welfare for Pigs fully, considering good practice, scientific evidence, and available technology, and provided me with a draft revised Code of Welfare for Pigs (the draft Code). If the draft Code is adopted, it will most likely also result in new regulations for pork producers.
4. NAWAC is recommending some significant changes to the management of pigs for pig farming. These changes, if progressed, will put New Zealand in the forefront of animal welfare for indoor pig farming internationally.
5. NAWAC is seeking my approval to undertake public consultation on the draft Code. Under section 71 of the Act, I must approve the notification of the draft Code for consultation. Previously, NAWAC has undertaken public consultation on draft codes of welfare first, after which the Minister for Primary Industries (MPI) has undertaken a further round of consultation on associated regulations.
6. NAWAC and MPI have developed a joint discussion paper to facilitate consultation on the draft Code and associated regulations. NAWAC will be seeking feedback on the animal welfare analysis which they have conducted through the process of reviewing the draft Code. MPI will be seeking input from stakeholders on associated regulations, and the likely economic and compliance costs of transitioning to the new arrangements. This information will support the development of regulatory impact advice by MPI, and so the joint consultation document requires your agreement for release.

7. To ensure that those most affected by the proposals in the draft Code have the best opportunity to comment, I provided the discussion document to New Zealand Pork (NZPork)¹ prior to wider public consultation. NZPork indicated that the proposals are likely to:
 - 7.1 have strong negative effects on New Zealand pork producers;
 - 7.2 9(2)(ba)(i) [redacted] and [redacted]
 - 7.3 lead to more pork being imported from overseas.
8. An economic assessment of the draft proposals estimates that, if these proposals are implemented, an average pig farmer would:
 - 8.1 need to invest \$2.5 million in new infrastructure;
 - 8.2 earn reduced cash earnings;
 - 8.3 and require 19 years to save existing cash earnings to cover the cost of the required infrastructure.
9. It is likely that mitigation options for pork producers would include transition periods (up to a maximum of 15 years) under the Animal Welfare Act 1999 (the Act), and potential co-funding from the Sustainable Food and Fibre (SFF) Futures Fund for pilot research projects testing systems that comply with the draft proposals. 6(e)(vi) [redacted]
[redacted]
[redacted]
[redacted]
[redacted]
10. On 9 March 2022, I presented the results of the economic analysis and potential mitigation options to Cabinet Economic Development Committee (DEV). In response, DEV invited me to report back to Cabinet as soon as practicable with advice on these matters and with a proposed document for public consultation [DEV-22-MIN-0026 refers].
11. I am seeking Cabinet agreement to begin public consultation on NAWAC's proposals in April 2022.

Background

High Court judgement

12. On 13 November 2020, the High Court of New Zealand found the regulations and minimum standards made under the Act relating to farrowing crates and mating stalls to be unlawful and invalid.

¹ Operating under the Pork Industry Board Act (1997), New Zealand Pork is the operational name of the New Zealand Pork Industry Board. They represent the majority New Zealand's pig farmers and producers (approximately 93 of the 108 commercial producers in New Zealand). Their stated aim is to promote and maintain the reputation of the industry and its products by representing, advocating, and defending the interests of New Zealand pig farmers.

13. On 14 December 2020, Cabinet agreed to new regulations², with a phase out period, that allowed the continued use of current farrowing crate and mating stall systems by the pork industry for five years until 2025 [CAB-20-MIN-0524 refers].

NAWAC's review of the Code of Welfare for Pigs

14. At the same time, NAWAC began a review of the Code. On 27 May 2021, I received a letter from the Chair of NAWAC regarding the review of the Code, including its assessment of the performance of alternate farrowing and mating systems. I was advised that NAWAC had arrived at their recommendations by specifically considering good practice, scientific evidence, and available technology.

Initial economic analysis and joint discussion document

15. At this point, NAWAC and MPI developed a joint consultation document³ which included the results of an initial economic analysis of NAWAC's proposals on farrowing crates and mating stalls⁴.

Substantive changes proposed by NAWAC

16. The substantive changes proposed by NAWAC include:
- 16.1 prohibiting the use of farrowing crates, or significantly restricting their use;
 - 16.2 increasing the space allowances for grower and weaner pigs;
 - 16.3 increasing the minimum weaning age for piglets;
 - 16.4 requiring manipulable material or objects that encourage normal behaviours for pigs, including requiring nesting material be provided prior to farrowing; and
 - 16.5 restricting the use of mating stalls.
17. NAWAC's proposed changes would make New Zealand one of the world leaders in terms of animal welfare standards for indoor pig farming. However, the proposals will also have significant cost and productivity implications for the domestic pork industry. Further information on the international context, likely economic effects on New Zealand outdoor and free-range pork producers, and possible mitigation options is included in Appendix One.

NZPork feedback on draft proposals

18. To support transparency of process, and to ensure that those most affected by the proposals have the best opportunity to comment, I provided the draft proposals to NZPork on 5 October 2021 [DEV-21-MIN-0197 refers].

² Animal Welfare (Care and Procedures) Regulations 2018.

³ Undertaking joint consultation will make for a more efficient and effective process for stakeholders, NAWAC and MPI without compromising the independence of NAWAC's code development process. It will also ensure that advice is developed as quickly as possible to give industry stakeholders certainty about changes to their obligations under the Act.

⁴ NAWAC had not finalised its remaining proposals at the time, and so these were not included in the initial economic analysis.

19. NZPork provided the following feedback on the document:
- 19.1 Expected costs of transitions for NZPork members – if implemented, the proposed changes to the Code of Welfare for Pigs would require pork producers to substantially change practices. This would likely require significant capital investment and negatively impact profitability across the sector;
 - 19.2 Appropriate transition periods for the proposals – 9(2)(ba)(i) [REDACTED]
[REDACTED] and
 - 19.3 Expected impacts from the proposals on levels of pork imported from overseas – the proposed changes to the Code of Welfare for Pigs, if implemented, will increase the production costs of local pork, leading to a decrease in the amount of pork produced in New Zealand, and a consequential increase in the volume of imported pork.

Economic impacts of the draft proposals

Changes to farrowing and mating systems will require significant capital investment and have a substantial impact on cash flow for farmers

- 20. To better understand the possible economic effects of the draft proposals, the Sapere Research Group (Sapere) completed a second economic assessment, covering all of the draft proposals [DEV-21-MIN-0265 refers]. Appendix Two presents the full second Sapere economic analysis.
- 21. The second Sapere net cost analysis focuses on the proposed changes to:
 - 21.1 use of farrowing crates (limited use, or no use);
 - 21.2 space for grower pigs (two options, both proposing more space than currently used);
 - 21.3 weaning age (proposed change from 21 to 28 days); and
 - 21.4 provision of nesting material, chewing material and toys (which would require changes to slurry systems).
- 22. The remaining draft proposals are assumed to have moderate to negligible economic impacts, which do not materially affect the final conclusions of the second economic assessment.
- 23. Sapere's second economic analysis estimates that an average 350 sow indoor pork producer would:
 - 23.1 face capital expenditure of at least \$2.5 million to implement these four proposals;
 - 23.2 earn estimated cash earnings of about \$184,000 after implementation (down from estimated cash earnings of \$381,000 prior to implementation); and
 - 23.3 require 19 years to save the cost of the capital expenditure required⁵.

⁵ Sapere estimates that, on cash earnings of \$184,000, this pork producer would not be able to repay a loan borrowed to implement NAWAC's proposals.

24. Sapere estimates that, in order to allow indoor pork producers to maintain their current levels of cash earnings, prices for New Zealand pork would need to rise by 18.8 percent.
25. Despite public interest in the welfare of animals in New Zealand society, price is still a major consideration in consumer purchasing behaviour. A price premium of around 18.8 percent could place some domestic pork products beyond the purchasing power of some households.
26. It is also important to note that, if such a rise in prices were to occur, not all of this increase would be passed on to pork producers. In addition, such a price rise is not likely, given competition from alternative meat options, and competition from imported pork (60 percent of all pork consumed in New Zealand is imported).

Other proposed changes will impact the wider industry

27. The indoor pig farming industry represents 55 percent of farms in the pork industry (or approximately 59 farms in total⁶) and these farms will bear all the costs of meeting new farrowing, grower space, weaning and slurry management requirements. The additional changes, such as proposals around tail docking, are also expected to increase operational and capital costs for pork producers using other production systems.
28. Through consultation, MPI will be actively seeking comment from industry on the likely impacts of these additional proposals.

The proposed changes may impact on the long-term viability of a domestic pork industry

29. Sapere's second economic analysis shows that the proposed changes could be expected to reduce farm productivity, cashflow, and profitability, most especially for indoor pork producers. This may disincentivise participation in the industry and, combined with an aging workforce and depreciating infrastructure, may lead farmers to consider exiting the industry. This may cause localised financial or employment impacts in rural communities and supporting industries. Poor profitability may also disincentivise new producers from entering the industry as alternative land uses may provide a higher return on investment.
30. It is important to note that increasing domestic animal welfare standards is likely to increase reliance on imported products. Approximately 60 percent of pork consumed in New Zealand is imported, and the majority of this is from the European Union (EU), the United States and Canada. The regulations regarding the use of farrowing crates in these countries are similar to what is currently allowed in New Zealand (four weeks after farrowing). Should the draft proposals be implemented, then the majority of imported pork products will no longer meet production standards expected of pork produced domestically. Appendix One sets out the international context.

⁶ In 2020, there were around 108 pigs farms in New Zealand.

Potential mitigation options

- 31. Given these possible long-term effects on the domestic pork industry, I have considered various potential mitigation options for New Zealand pork producers, should the draft proposals be implemented [DEV-21-MIN-0265 refers].
- 32. The following options could most likely be used to mitigate some of the impacts on pork producers of the draft proposals:
 - 32.1 transition periods under the Animal Welfare Act 1999 (up to a maximum of 15 years); and
 - 32.2 pilot research projects potentially co-funded by the SFF Futures Fund⁷.

33. 9(2)(f)(iv) [Redacted]

34. 9(2)(f)(iv) [Redacted]

Public consultation

Joint NAWAC/MPI discussion document

- 35. The joint NAWAC/MPI consultation document has been updated to include the second economic assessment, and is attached at Appendix Three.
- 36. The joint consultation document will:
 - 36.1 seek feedback on the animal welfare analysis undertaken by NAWAC;
 - 36.2 test the assumptions and conclusions of the second economic analysis; and
 - 36.3 seek input on the economic impacts of the remaining changes that NAWAC has proposed.

Public notification and consultation on the proposed Code

- 37. Under section 71 of the Act, NAWAC must seek my approval to release a draft code of welfare for public consultation, and after that publicly notify its intent to issue a draft code of welfare for consultation.

⁷ Subject to the required investment and expected benefits of individual projects, as assessed on a case-by-case basis. SFF Futures Fund is limited to non-trade distorting support for research and development.

38. In addition to my approval, before publicly notifying a draft code, NAWAC must be satisfied of a number of matters under section 71 of the Act, including that “*representatives of persons that are likely to be affected by the draft [code] have been consulted about it.*” I am satisfied that the matters under section 71 of the Act have been met.
39. Under the Animal Welfare Act 1999, NAWAC only requires my assent to begin consultation on the draft proposals. Once I have received a notification from NAWAC of intent to consult on a draft code I am limited in the steps I may take. Officials advise that I can:
- 39.1 pause to consider the draft code;
 - 39.2 ask for advice on the draft code; or
 - 39.3 ask NAWAC questions to assist my understanding of the code.
40. However, I cannot reasonably refuse to give assent, ask NAWAC to reconsider the draft code, or make changes to the draft code. 9(2)(h)
41. As the joint discussion document includes an MPI section designed to inform a subsequent Regulatory Impact Assessment focused on supporting regulations, Cabinet approval is required to begin public consultation on the joint discussion document.
42. On 9 March 2022, I presented the results of the economic analysis and potential mitigation options to DEV. In response, DEV invited me to report back to Cabinet as soon as practicable with advice on these matters and with a proposed document for public consultation [DEV-22-MIN-0026 refers].
43. Accordingly, I am seeking Cabinet approval to begin public consultation on the joint consultation document (Appendix Three). Consultation is anticipated to run for eight weeks, beginning in April 2022. NZ Pork has requested a longer period of public consultation, given the pressures on farms caused by COVID19.

Post-consultation next steps

Options for finalised draft Code

44. After consultation NAWAC will, subject to any changes they choose to make, likely submit a finalised draft Code to me to be issued.
45. Once I receive the Code, under the Act, I may choose from the following options:
- 45.1 issue the Code, after making such changes (if any) to the draft Code as I consider appropriate;
 - 45.2 refer the Code back to NAWAC with a request that NAWAC reconsider one or more aspects of the Code;
 - 45.3 decline to issue the Code (I must give NAWAC the reasons for declining to issue the Code); or
 - 45.4 seek review or amendment of the Code after it is issued.

⁸ This Cabinet paper contains legally privileged information.

46. 9(2)(h)

[REDACTED]

Next Steps After Consultation

- 47. Subject to the results of the consultation, including feedback on the impacts of the changes and the transition period needed, I am expecting:
 - 47.1 NAWAC to provide a final draft Code for my consideration; and
 - 47.2 MPI to provide me advice on:
 - 47.2.1 the final draft Code and any proposed regulations if necessary, including a further economic analysis of the implications to the industry; and
 - 47.2.2 other opportunities to support the industry to transition to the proposed new systems.

Financial Implications

48. There are no direct financial implications to the Crown due to the proposals in this Cabinet paper. Later decisions in this process (such as providing short-term financial support to pork producers to make infrastructural changes) could have direct financial implications to the Crown, and will be developed with The Treasury.

Legislative Implications

49. There are no legislative implications from this paper. However, I am expecting that legislation or regulations will be required to enable the new Code, if approved.

Impact Analysis

50. MPI's Regulatory Impact Assessment (RIA) panel has reviewed the MPI-developed sections of the consultation document on proposals for a new Code of Welfare for Pigs. The panel acknowledges the analytical constraints for MPI presented by NAWAC's independence in development of the Code as prescribed in the Animal Welfare Act 1999 and overall ownership of the consultation document. The MPI RIA panel notes that this will impact future regulatory impact analysis on the proposed regulations. The panel considers that MPI has endeavoured to identify and present the economic impacts of the proposals to the extent that they are able.

51. A Regulatory Impact Statement will be part of the package presented to Cabinet, including the finalised regulations. The Regulatory Impact Statement, informed by an economic analysis of NAWAC's finalised proposals, will be prepared in accordance with Cabinet's impact analysis requirements and will be submitted at the time that Cabinet approval is sought for the policy relating to the relevant regulations. The consultation will support development of that Regulatory Impact Statement.

Population Implications

52. As well as the domestic pork industry, rural communities and consumers are likely to be affected by changes to animal welfare requirements. Analysis is still to be finalised that will quantify the direct impacts upon these groups. The analysis will form part of future advice to Cabinet.

Human Rights

53. The proposals in this paper have no human rights implications under the Human Rights Act 1993 or the New Zealand Bill of Rights Act 1990.

Consultation

54. In preparing this paper, MPI has notified the Department of the Prime Minister and Cabinet (Policy Advisory Group). In preparing this paper, MPI has consulted with The Treasury, the Ministry of Foreign Affairs and Trade, Ministry of Business, Innovation and Employment, the Ministry for the Environment, the Department of Corrections, and NZPork.

Communications

55. MPI and NAWAC will work with my Office in developing communications around the release of the discussion paper.

Proactive Release

56. I intend to proactively release this Cabinet paper with redactions where appropriate under the Official Information Act 1982 following Cabinet's consideration of this paper.

Recommendations

I recommend that Cabinet:

1. Note that in 2020, the High Court of New Zealand found the regulations and minimum standards relating to the use of farrowing crates and mating stalls by the pork industry to be unlawful and invalid;
2. Note that on 14 December 2020, Cabinet agreed to a phase out period to allow the continued use of current farrowing crate and mating stall systems by the pork industry for five years until 2025 [CAB-20-MIN-0524 refers];
3. Note the National Animal Welfare Advisory Committee has provided the Associate Minister for Agriculture (Animal Welfare) with a draft new Code of Welfare for Pigs after a full review;
4. Note that the National Animal Welfare Advisory Committee is recommending some significant changes to the management of pigs which, if progressed, will put New Zealand in the forefront of animal welfare for indoor pig farming internationally;
5. Note that draft proposals are likely to have significant cost and productivity implications for the domestic pork industry which may impact its viability;
6. Note that New Zealand Pork has indicated that the proposals are likely to: have strong negative effects on New Zealand pork producers; 9(2)(ba)(i) [redacted]; and lead to more pork being imported from overseas;
7. Note that an economic analysis of the draft proposals for the Code of Welfare for Pigs estimates that an average 350 sow indoor pig farmer would:
 - 7.1 need to invest \$2.5 million in new infrastructure;
 - 7.2 earn reduced cash earnings; and
 - 7.3 require 19 years to save existing cash earnings to cover the cost of the required infrastructure;
8. Note that likely potential mitigation options for New Zealand pork producers, should the draft proposals be implemented, include:
 - 8.1 transition times provided for under the Animal Welfare Act 1999 (up to a maximum of 15 years); and
 - 8.2 potential co-funding under the SFF Futures Fund for pilot research projects testing management and production systems that comply with the draft proposals;
9. 9(2)(g)(i) [redacted]
[redacted]
[redacted]
[redacted]
[redacted]

10. 9(2)(g)(i) [Redacted]

11. 9(2)(g)(i) [Redacted]

- 12. Note that DEV has invited me to report back to Cabinet as soon as practicable with advice on these matters and with a proposed document for public consultation [DEV-22-MIN-0026 refers]; and
- 13. Agree to the Ministry for Primary Industries and the National Animal Welfare Advisory Committee undertaking public consultation on the proposed Code of Welfare for Pigs beginning in April 2022.

Authorised for lodgement

Hon Meka Whaitiri
Associate Minister of Agriculture (Animal Welfare)

