

# **Nature Conservation and Other Legislation Amendment Bill 2022**

**Report No. 19, 57th Parliament  
State Development and Regional Industries  
Committee**

**April 2022**

## **State Development and Regional Industries Committee**

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All web address references are current at the time of publishing.

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## Chair's foreword

This report presents a summary of the State Development and Regional Industries Committee's examination of the Nature Conservation and Other Legislation Amendment Bill 2022.

The primary purpose of the Bill is to provide a 20-year extension to existing arrangements that enable beekeeping to occur on certain national parks. The committee has recommended that the Bill be passed.

It is clear to the committee that beekeeping plays an important and valuable role and that national parks provide the conditions necessary for honeybees to thrive. The committee has recommended that the Department of Environment and Science develop clear and accessible guidelines for beekeeping on national park sites to ensure that any potential risks to the natural environment are appropriately managed.

The committee acknowledged the complexities associated with identifying alternative apiary sites outside of national parks. That said, the committee was of the view that more substantial progress should have been made on this task. The committee has recommended that the Department of Environment and Science adopt a clear strategy and plan to identify and secure alternative apiary sites over the period of the 20-year extension.

On behalf of the committee, I thank all organisations and individuals who made written submissions on the Bill and appeared at public hearings. I also thank Queensland Beekeepers' Association for hosting our subcommittee on an apiary site inspection, our Parliamentary Service staff and fellow committee Members for their collaborative approach throughout the inquiry.

I commend this report to the House.



Chris Whiting MP

Chair

## Recommendations

### Recommendation 1

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The committee recommends the Nature Conservation and Other Legislation Amendment Bill 2022 be passed.

### Recommendation 2

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The committee recommends that the Department of Environment and Science:

- develop clear and accessible guidelines for beekeeping on sites in national parks, within the next 12 months, to ensure potential risks to the natural environment are appropriately managed
- adopt a clear strategy and plan to identify and secure alternative apiary sites over the period of the 20 year extension.

## 1 Introduction

### 1.1 Role of the committee

The State Development and Regional Industries Committee (committee) is a portfolio committee of the Legislative Assembly which commenced on 26 November 2020 under the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly.<sup>1</sup>

The committee's primary areas of responsibility include:

- State Development, Infrastructure, Local Government and Planning
- Agricultural Industry Development, Fisheries and Rural Communities
- Regional Development, Manufacturing and Water.

The functions of a portfolio committee include the examination of bills in its portfolio area, and as referred by the Legislative Assembly, to consider:

- the policy to be given effect by the legislation
- the application of fundamental legislative principles
- matters arising under the *Human Rights Act 2019*.<sup>2</sup>

### 1.2 Inquiry process

The Nature Conservation and Other Legislation Amendment Bill 2022 (Bill) was introduced into the Legislative Assembly and referred to the committee on 24 February 2022 for examination and report by 8 April 2022.

On 1 March 2022, the committee invited stakeholders and subscribers to make written submissions on the Bill. Twenty-nine submissions were received. See **Appendix A** for a list of submitters.

The committee received a public briefing about the Bill from officials from the Department of Environment and Science (the Department) on 14 March 2022. A transcript is published on the committee's web page. See **Appendix B** for a list of officials.

The Department also provided a written response to the issues raised in submissions on 25 March 2022.

The committee held public hearings on 21 and 28 March 2022 in Southport and Brisbane, hearing from industry representatives and environmental interest groups. See **Appendix C** for a list of witnesses.

A subcommittee conducted a site inspection on 1 April 2022. It visited two apiary sites in the Scenic Rim with representatives from the Queensland Beekeepers' Association to learn more about the industry and beekeeping in national parks. See **Appendix D** for details of the inspection.

All inquiry documents including submissions, correspondence from the Department and transcripts of the briefing and hearings are available on the committee's webpage.<sup>3</sup>

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<sup>1</sup> *Parliament of Queensland Act 2001*, section 88 and Standing Order 194.

<sup>2</sup> *Parliament of Queensland Act 2001*, s 93; and *Human Rights Act 2019*, ss 39, 40, 41 and 57.

<sup>3</sup> See: <https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=172&id=4151>

### 1.3 Policy objectives of the Bill

The Bill has several distinct objectives. The primary objective of the Bill is to:

- Deliver an election commitment to provide a 20-year extension to allow beekeeping in specified national parks to continue until 31 December 2044.

Secondary objectives of the Bill are to:

- Enhance the Department of Environment and Science's ability to prevent and respond to misconduct on areas managed by the Queensland Parks and Wildlife Service by creating offences for impersonating or obstructing forestry officers
- Relocate powers of officers to seize and deal with seized things from subordinate legislation into the *Nature Conservation Act 1992* (Nature Conservation Act) to reflect current drafting practices
- Amend the *Wet Tropics World Heritage Protection and Management Act 1993* (Wet Tropics Act) to reflect intergovernmental changes from the Australian Government Review of the COAG Councils and Ministerial Forums
- Remove duplicate consultation processes when amending the Wet Tropics Management Plan as a result of changes to the Wet Tropics Act
- Correct minor errors in the Nature Conservation Act and Wet Tropics Act.<sup>4</sup>

These objectives, including stakeholder views are discussed further in **Chapters 2 and 3** of this report.

### 1.4 Government consultation on the Bill

According to the explanatory notes, targeted consultation on the Bill began in early December 2021 with the Queensland Beekeepers' Association and several conservation groups. Queensland Beekeepers' Association supported the proposed amendments and the conservation groups affirmed their opposition to the extension of beekeeping in national parks.<sup>5</sup> Similar views were presented by submitters to the inquiry, and are discussed further in **Chapter 2**.

First Nations groups with native title claims or determinations over national parks with apiary sites were sent letters on 28 October 2021. The letters invited feedback from First Nations groups, including advice on any impacts to human rights from the proposal by 29 November 2021.

One First Nations group provided feedback that to be consistent with section 28 of the *Human Rights Act 2019* it was necessary for the Department to consult and seek consent before granting apiary permits. This is further detailed in the human rights Statement of Compatibility accompanying the Bill.<sup>6</sup>

The Queensland Human Rights Commission submitted several observations on the government's consultation with First Nation peoples. Issues raised, including the Department's response are discussed further in **Chapter 5**.

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<sup>4</sup> Explanatory notes, pp 1-2.

<sup>5</sup> Explanatory notes, p 6.

<sup>6</sup> Explanatory notes, p 6.



**1.5 Should the Bill be passed?**

Standing Order 132(1) requires the committee to determine whether or not to recommend that the Bill be passed.

**Recommendation 1**

The committee recommends the Nature Conservation and Other Legislation Amendment Bill 2022 be passed.

## 2 Extending established beekeeping in Queensland national parks

### 2.1 What does the Bill propose and why

The Bill proposes to provide a 20-year extension to allow beekeeping on specified national parks to continue until 31 December 2044. It follows an election commitment made by the government in 2020.

Currently, commercial beekeeping occurs in a number of national parks due to transfers of state forest to national parks which occurred predominantly in the early 2000s. Commercial beekeeping activities involve beekeepers utilising tracks and trails to transport hives of non-native European honeybees to designated locations known as apiary sites.<sup>7</sup>

Commercial beekeeping is inconsistent with the management principles for national parks in the Nature Conservation Act, which requires that national parks be managed, to the greatest possible extent, for the permanent preservation of the natural condition and the protection of the cultural natural resources.<sup>8</sup>

However, to support implementation of land transfers of state forest to national park as agreed under the South East Queensland Forests Agreement, the Nature Conservation Act was amended to allow beekeeping to continue on these areas until 31 December 2024. Departmental officials advised that this transition provision was agreed to minimise disruption to the beekeeping industry and provide time for relocation of beekeeping to other sites.<sup>9</sup>

The Department of Environment and Science (Department) advised that the new extension provision to 2044 recognises the detrimental impact of the loss of national park access would have on the supply of honey bee products and crop pollination services provided to the horticulture industry.<sup>10</sup>

The Bill also simplifies the framework for authorising beekeeping on national parks. This will occur by formally prescribing apiary sites in regulation, after which beekeepers can apply for permits in the same way that they currently do. The Department advised that there will be no operational change for the industry.<sup>11</sup>

The Department advised that the new framework for managing the extension of beekeeping was consulted on with the Queensland Beekeepers' Association as part of the process of developing the Bill, and that the organisation supported the amendments.<sup>12</sup>

### 2.2 Beekeeping in Queensland national parks

Currently, there are 1,088 apiary sites across 49 of Queensland's national parks, with the most common sites being in natural clearings, logging dumps or gravel pits.

A list of apiary sites by national park, at 1 March 2020, is provided in the table below.

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<sup>7</sup> Deputy Director-General, Queensland Parks and Wildlife Service and Partnerships, Department of Environment and Science, Public briefing transcript, Brisbane, 14 March 2022, p 1.

<sup>8</sup> Department, Public briefing transcript, Brisbane, 14 March 2022, p 1.

<sup>9</sup> Department, Public briefing transcript, Brisbane, 14 March 2022, p 2.

<sup>10</sup> Department, Public briefing transcript, Brisbane, 14 March 2022, p 2.

<sup>11</sup> Department, Public briefing transcript, Brisbane, 14 March 2022, p 2.

<sup>12</sup> Department, Public briefing transcript, Brisbane, 14 March 2022, p 2.

**Table: List of apiary sites by national park, at 1 March 2020**

<b>National Park</b>	<b>No. of sites</b>
Bania National Park	5
Bellthorpe National Park	26
Bingera National Park	1
Blackdown Tableland National Park	14
Bulburin National Park	7
Bunya Mountains National Park	12
Cherbourg National Park	7
Conondale National Park	227
Cordalba National Park	5
Crows Nest National Park	9
D'Aguilar National Park	145
Danbulla National Park	1
Dan Dan National Park	2
Deer Reserve National Park	4
Dularcha National Park	4
Gatton National Park	3
Geham National Park	1
Glass House Mountains National Park	13
Glenbar National Park	1
Goomboorian National Park	19
Great Sandy National Park	8
Grongah National Park	30
Gympie National Park	18
Kirrama National Park	3
Kondalilla National Park	1
Kroombit Tops National Park	32
Littabella National Park	6
Lockyer National Park	38
Main Range National Park	11
Maleny National Park	4
Mapleton National Park	42
Mooloolah River National Park	3
Mount Barney National Park	4
Mount Binga National Park	2
Mount Walsh National Park	2
Nangur National Park	12
Nerang National Park	22
Nour Nour National Park	9
Oakview National Park	8
Pidna National Park	2
Springbrook National Park	14
Tamborine National Park	10
Tewantin National Park	22
Tuchekoi National Park	4
Warro National Park	11
Wongi National Park	53
Woocoo National Park	2
Woondum National Park	21
Wrattens National Park	188
<b>TOTAL</b>	<b>1088</b>

Source: Queensland Government, Information sheet, Have your say – Beekeeping on national parks, Attachment 2.

Commercial beekeeping in Queensland is migratory. Beehives are transported to multiple areas to meet the nutritional needs of the bees.<sup>13</sup> Hives will be in an area with significant floral resources (flowering plants that provide nectar and pollen for bees) for a period as short as 6 weeks before being relocated as part of a 2-5 year cycle.<sup>14</sup> Queensland Beekeepers' Association stated:

Beekeeping is conducted on a wide range of land tenures including national park, state forests, private lands, leasehold lands and other state lands. Bees are located on flora resources for short periods when there is a significant flaring event. When this event is over, the bees are shifted to a new location.

Many beekeepers have diverse portfolios of apiary sites across many different land tenures, floral resource types and geographical areas. Many commercial beekeepers have portfolios that traverse different states and are significant distances from home. It would not be uncommon for commercial beekeepers to have sites in their portfolio in excess of 1,000 kilometres from home base.<sup>15</sup>

**Figures: Site inspection of commercial apiary**



Clockwise from above: Commercial apiary at Moonview Special Management Area; Jim Madden MP consults with members of the beekeeping industry; and Jim McDonald MP dons a beekeeping suit.

Source: Subcommittee apiary site visit, Scenic Rim, 1 April 2022.

## 2.3 Stakeholder views

The committee received twenty nine submissions, the majority of which were from industry organisations within the beekeeping, agricultural and horticultural sectors. These organisations outlined their strong support for the Bill. The committee also received several submissions from environmental interest groups which did not support the Bill. These stakeholders contended that beekeeping was against national park management principles and had a detrimental impact the natural environment. Key issues raised are discussed further below.

### 2.3.1 Benefits of national park lands for beekeeping

Queensland Beekeepers' Association submitted that high-value floral resources are rare outside national parks due to a combination of extreme weather, urban clearing and agricultural

<sup>13</sup> Queensland Beekeepers' Association, submission 21, p 2.

<sup>14</sup> Queensland Beekeepers' Association, submission 21, p 7.

<sup>15</sup> Jacob Stevens, Public hearing transcript, Gold Coast, 21 March 2022, p 1.

development. The group also stated that national parks provide a safe refuge for bees from potentially dangerous urban and agricultural environments.<sup>16</sup>

Beekeepers work closely with the agriculture and horticulture industry but some farming practices are hazardous for bees. These practices include the use of harmful pesticides and monocultures, with monocultures lacking the variety bees need for a healthy diet.<sup>17</sup> Queensland Beekeepers' Association submitted that natural areas, such as in national parks, give bees a place to prepare for and recover from these commercial environments.<sup>18</sup>

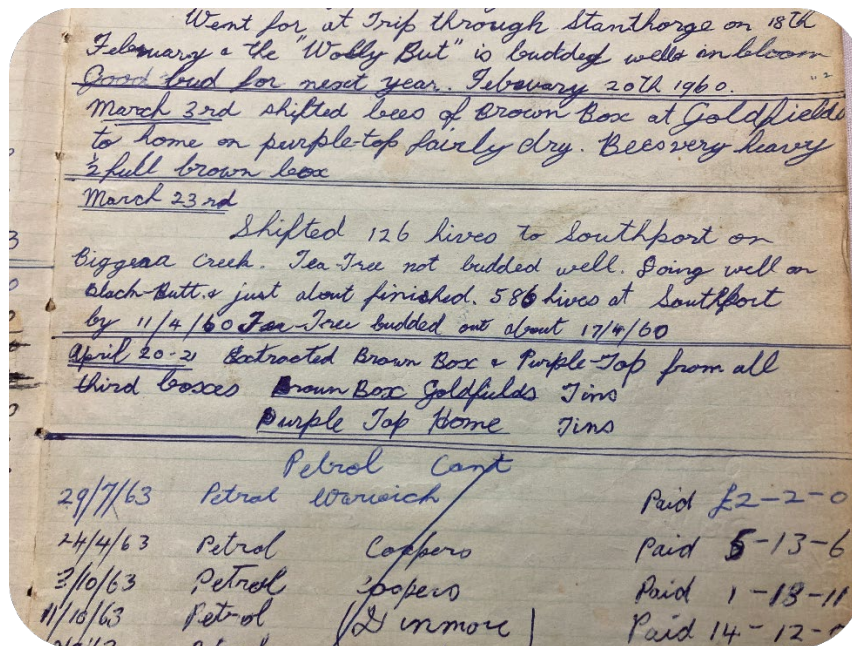
The Department acknowledged that national parks provide a safe place for bees, free from chemicals, which can be used for a range of activities including preparation of hives for the pollination of crops, hive recovery after pollination jobs, over wintering and generating honey to provide income when there is no pollination work to be done.<sup>19</sup>

Cotton Australia submitted that excluding apiarists from national parks could increase risk of exposure of beehives to insecticides used to grow crops on other land in industries such as cotton. If apiarists are forced onto other lands where cotton is grown, it could also hinder cotton crop management.<sup>20</sup>

The Department acknowledged the potential for negative impacts on beehives from agricultural pesticides and that arrangements for sharing land involve assessment of the use of such chemicals.<sup>21</sup>

Beekeeping Australia submitted that the reliance on natural forests was such that if national parks were shut off to bee keepers, their businesses would not be viable.<sup>22</sup>

**Figure: Extract of Australian beekeeper's diary (entry dated 23 March 1960)**



Source: Public hearing, Queensland Beekeepers' Association, 21 March 2022.

<sup>16</sup> Submission 21, p 4.

<sup>17</sup> Queensland Beekeepers' Association, submission 21, p 10.

<sup>18</sup> Submission 21, p 10.

<sup>19</sup> Department of Environment and Science, Correspondence, 25 March 2022, response to issues raised in submissions, p 4.

<sup>20</sup> Submission 16, p 1.

<sup>21</sup> Department of Environment and Science, Correspondence, 25 March 2022, response to issues raised in submissions, p 4.

<sup>22</sup> Beekeeping Australia, submission 2, p 1.

Some stakeholders also advised that given the historical connection to the land, and the botanical and biodiversity benefits of the national park sites, it was important that beekeepers not lose access to sites currently in operation. They also pointed to the benefits of shared access arrangements for national parks as currently found in Victoria.<sup>23</sup>

### 2.3.2 Important role that honeybees play for the horticultural and food industries

Many inquiry stakeholders identified the important role that beekeeping plays for the agricultural and horticultural industries.

The Queensland honeybee industry produces honey and other products valued at \$64 million.<sup>24</sup> Honey production has been the major focus of Queensland beekeepers for many years, but significant growth in horticultural industries have seen a significant increase in demand for paid pollination services.<sup>25</sup>

Queensland Beekeepers' Association advised that honeybee pollination provided an estimated average of \$2.1 billion of economic value for Queensland in the 2014-15 financial year.<sup>26</sup> The bulk of major crops benefit from pollination, with Queensland's managed honeybees providing pollination services to tree, fruit, vegetable, fodder and broadacre crops.<sup>27</sup>

The growth of these pollination services has resulted in Queensland beekeepers travelling interstate to participate in the pollination season for certain crops. For example, the almond industry required 275,000 hives to pollinate crops in 2021.<sup>28</sup>

The Australian Honey Bee Industry Council stated that honeybee dependent businesses would fail without pollinators, as there is no alternative to honeybees for commercial pollination.<sup>29</sup>

**Figure: Smoker being used to pacify bees (left) and interior of beehive (right)**



Source: Subcommittee apiary site visit, Scenic Rim, 1 April 2022.

Growcom (the peak body representing the fruit, vegetable and nut growing industries) submitted that a thriving honey bee industry able to provide pollination services was an essential resource to the continued success and expansion of the horticulture sector, which contributes approximately \$3bn to the state economy and supports over 20,000 jobs across the regions.<sup>30</sup>

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<sup>23</sup> Subcommittee Apiary Site Inspection, Queensland Beekeepers' Association, 1 April 2022.

<sup>24</sup> Queensland Beekeepers' Association, submission 21, p 6.

<sup>25</sup> Queensland Beekeepers' Association, submission 21, p 2.

<sup>26</sup> John Karasinski, The Economic Valuation of Australian Managed and Wild Honey Bee Pollinators in 2014-15, p 24.

<sup>27</sup> Queensland Beekeepers' Association, submission 21, p 5.

<sup>28</sup> Almond Board of Australia, submission 28.

<sup>29</sup> Submission 18, p 2.

<sup>30</sup> Submission 6, p 4.

The Australian Food and Grocery Council (representing Australia’s food and beverage manufacturing sector) agreed with this view, submitting that the resilience of food and grocery manufacturing relied in part on the continued success of the beekeeping industry.<sup>31</sup>

According to a 2008 study by the Rural Industries Research and Development Corporation, many crops are wholly dependent on honeybee pollination, as illustrated in the table below:

**Table: Dependence on honeybees for pollination of selected crops (as a percentage of yield)<sup>32</sup>**

Crop	Dependence %	Crop	Dependence %
<b>Tree crops</b>		<b>Vine crops</b>	
Almond	100	Blueberry	100
Apple	100	Cucumber	100
Apricot	70	Kiwi	80
Avocado	100	Pumpkin	100
Cherries	90	Rock melon	100
Citrus <sup>a</sup>	30 – 80	Squash	10
Grapefruit	80	Water melon	70
Lemon & Lime	20	<b>Seed production</b>	
Macadamia	90	Beans	10
Mandarin	30	Broccoli	100
Mango	90	Brussels sprout	100
Nectarine	60	Cabbage	100
Orange	30	Canola	100
Papaya	20	Carrot	100
Peach	60	Cauliflower	100
Pear <sup>a</sup>	50 – 100	Celery	100
Plum & Prune	70	Clover	100
<b>Ground crops</b>		Lucerne	100
Peanut	10	Mustard	100
<b>Broad acre crops</b>		Onions	100
Canola	15	Soy	10
Cotton	10	Sunflower <sup>a</sup>	30 - 100

Notes: <sup>a</sup> – depends on variety

Source: Gill (1989), Crop Pollination Association (personal communication 2007).

### 2.3.3 Beekeeping is inconsistent with national park management

Several Queensland-based conservation groups provided submissions opposing the extension of beekeeping in national parks.

For example, Friends of Nerang National Park submitted that extending apiary sites on national parks for a further twenty years is ‘deeply troubling’, submitting that beekeeping is inconsistent with the “cardinal principle” for national parks under the Nature Conservation Act.<sup>33</sup>

Section 17(1) of the Nature Conservation Act provides five management principles for national parks. The first principle states that a national park is to be managed to ‘provide, to the greatest possible extent, for the permanent preservation of the area’s natural condition and the protection of the area’s cultural resources and values’.<sup>34</sup>

Section 17(2) of the Nature Conservation Act states that this principle is the cardinal principle for the management of national parks. A licence or permit over land in a national park can only occur if ‘the

<sup>31</sup> Australian Food and Grocery Council, submission 8, p 1.

<sup>32</sup> Rural Research and Development Corporation, Analysis of the Market for Pollination Services in Australia, p 2.

<sup>33</sup> Explanatory notes, p 1.

<sup>34</sup> Nature Conservation Act section 17(1)(a).

cardinal principle for the management of national parks will be observed to the greatest possible extent'.<sup>35</sup>

In response to this issue, the Department advised that the Bill acknowledges this inconsistency in Clause 25 and limits the grant of apiary permits to limited and specific locations until 2044, where there has been a demonstrable history of beekeeping.<sup>36</sup>

### **2.3.4 Honeybees are an exotic species and damage vegetation and compete with native species**

Wildlife Queensland and Friends of Nerang National Park submitted that the European honeybee was an exotic species and their presence on national parks is inconsistent with the cardinal principle of a national park.<sup>37</sup>

Wildlife Queensland stated that honeybees impact the environment by competing with native species for tree hollows and floral resources, such as pollen and nectar.<sup>38</sup> The organisation also added that heavy vehicle access to hives may cause additional damage to vegetation and if not effectively controlled may result in exotic weed invasions. It is feasible for the activities of honeybees to influence the floristic composition of an ecosystem and in turn that may influence the fauna populations.<sup>39</sup>

Wildlife Queensland also stated that Australian flowering plants survived for millions of years without honeybees, instead relying on domestic pollinators such as native bees, flying foxes, butterflies, honeyeaters and other native animals.<sup>40</sup>

Honeybees compete with native bees, can damage and even destroy some native flowers, causing viable seed to be lost from the ecosystem.<sup>41</sup> Competition from honeybees is listed as a “Key threatening process” under the New South Wales *Threatened Species Conservation Act 1995*.<sup>42</sup>

The submissions and testimony of stakeholders who supported the Bill referred to the lack of evidence that well-managed honeybee hives pose minimal threats to regional ecosystems.<sup>43</sup> However, Wildlife Queensland referenced a 2022 paper in *Pacific Conservation Biology*<sup>44</sup> which found that, while the published literature is insufficient to conclude whether honeybees compete with native bees, further studies were needed:

Data indicates that effects of honey bees are species specific, and more detailed investigations are required on how a different species and life history traits affect interactions with honey bees. Under these circumstances, the precautionary principle should come into play—caution in advance.<sup>45</sup>

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<sup>35</sup> Nature Conservation Act section 35(1)(b)(i).

<sup>36</sup> Department of Environment and Science, Correspondence, 25 March 2022, response to issues raised in submissions, p 3.

<sup>37</sup> Wildlife Preservation Society of Queensland (Wildlife Queensland), submission 1, p 2; Friends of Nerang National Park, submission 7, p 1.

<sup>38</sup> Wildlife Queensland, submission 1, p 2; Friends of Nerang National Park, submission 7, p 1.

<sup>39</sup> Submission 1, p 2.

<sup>40</sup> Wildlife Queensland, submission 1, p 2.

<sup>41</sup> Wildlife Queensland, submission 1, p 2.

<sup>42</sup> Wildlife Queensland, submission 1, p 3; Friends of Nerang National Park, submission 7, p 3; *Threatened Species Conservation Act 1995* (NSW) Schedule 3.

<sup>43</sup> Hive and Wellness, submission 19, p 2; Jacob Stevens, Public hearing transcript, Gold Coast, 21 March 2022, p 2.

<sup>44</sup> Kit Prendergast, Kinglsey Dixon and Philip Bateman, ‘The evidence for and against competition between the European honeybee and Australian native bees’, *Pacific Conservation Biology* (2022).

<sup>45</sup> Des Boyland, Public hearing transcript, Brisbane, 28 March 2022, p 2.



### 2.3.5 Impact of honeybees on tree hollows

Friends of Nerang National Park advised the committee that over 300 native animals rely on tree hollows and national parks provide a refuge for species that are under threat from loss of habitat. Examples of these animals include the greater glider, powerful owl and glossy black cockatoos.<sup>46</sup> Friends of Nerang National Park added observations of feral honeybees occupying tree hollows, without any apiaries nearby, that could provide suitable habitats for these native species:

I have seen a large hollow-bearing tree with feral honeybees in it and there are no apiaries within a one-kilometre radius. Clearly there are some stepping stones that these colonies have taken deep into our protected areas as well and they are taking up that critical resource.

It would be fantastic, from Friends of Nerang National Park's view and from Gecko Environment Council's point of view, to limit access for feral animals in our protected areas to ensure we are safeguarding those threatened species that are currently not facing a very bright future due to multiple reasons.<sup>47</sup>

**Figure: Swarms of bees observed in Nerang National Park**



Source: Friends of Nerang National park, submission 7, p 2. Note: red arrow points to bees.

A specific example is the greater glider which consists of three species of gliding marsupials and were listed as vulnerable in 2016 and endangered in 2021. A single glider requires as many as 16 tree hollows per hectare. Friends of Nerang National Park is carrying out a project to install 50 nest boxes to provide refuge for greater gliders, but this work would be undermined if honeybees were to occupy these nest boxes:

Occupancy of these nest boxes or natural hollows by feral animals is a highly undesirable outcome, but one that is possible given the current use of apiaries in Nerang National Park adjacent to greater glider populations.<sup>48</sup>

Friends of Nerang National Park also pointed out that we are currently in the midst of the Holocene extinction as declared by the scientists in the Anthropocene Review in 2015 and the United States' National Academy Sciences in 2017:

<sup>46</sup> Friends of Nerang National Park, submission 7, p 3.

<sup>47</sup> Friends of Nerang National Park, submission 7, p 2.

<sup>48</sup> Friends of Nerang National Park, submission 7, p 1.

The committee may be aware that we are in the midst of the sixth mass extinction, which was declared by scientists in 2015 and is currently ongoing and will only increase due to threats from climate change. In order to protect our native species from death by a thousand cuts, I am here to speak on behalf of my experience on the ground to say that feral honey bees are indeed a problem for our threatened wildlife and other wildlife in our protected areas, and we really should be doing everything we can to ensure that our wildlife in our protected areas remains protected.<sup>49</sup>

In response, the Department acknowledged that there are potential impacts associated with the use of national park sites for beekeeping. The Department advised that it has established an interagency working group to investigate matters including:

- the development and adoption of a code of practice for beekeeping on protected areas to address a number of the matters raised in these submissions
- initiatives to assist beekeeping to progressively relocate from national parks over the next 20 years
- seeking opportunities to increase alternative sites off national parks.<sup>50</sup>

### **2.3.6 Efforts to identify alternative sites for the beekeeping industry**

The committee asked the Department what steps had been taken to support the industry in find alternative apiary sites outside of national parks. The Deputy Director-General advised that the Department would look to identify options, including undertaking negotiations with private land owners.<sup>51</sup>

The Deputy Director-General acknowledged the complexities associated with finding alternative sites including competing uses for land for agricultural or other private purposes, and that arrangements for how beekeepers would enter and exit the land would need to be managed. The Deputy Director-General explained that previous efforts (by the then agriculture department) did not identify a large number of alternative sites.<sup>52</sup>

To move the project forward, the Department has set up a working group that is internal to government. The Deputy Director-General advised that the Department is working closely with the Queensland Beekeepers' Association.<sup>53</sup>

The Deputy Director-General advised that the first meeting of the working group was held in November 2020, and that there have been three meetings since that time.<sup>54</sup>

Several submitters advised that it is not possible to locate additional alternative beekeeping sites where road access is available, as bee keepers already use all available areas.

In response the Department advised that a working group had been formed to investigate this matter, including whether the government can facilitate access arrangements to suitable lands which might be currently constrained.<sup>55</sup>

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<sup>49</sup> Jessica Walsh, Public hearing transcript, Brisbane, 28 March 2022, p 3.

<sup>50</sup> Department of Environment and Science, Correspondence, 25 March 2022, response to issues raised in submissions, p 2.

<sup>51</sup> Department of Environment and Science, Public briefing transcript, Brisbane, 14 March 2022, p 3.

<sup>52</sup> Department, Public briefing transcript, Brisbane, 14 March 2022, p 3.

<sup>53</sup> Department, Public briefing transcript, Brisbane, 14 March 2022, p 3.

<sup>54</sup> Department, Public briefing transcript, Brisbane, 14 March 2022, p 4.

<sup>55</sup> Department of Environment and Science, Correspondence, 25 March 2022, response to issues raised in submissions, p 3.

**2.3.6.1 *Role of agricultural industry***

Some stakeholders suggested that the agricultural industry should be encouraged to create habitats that are suitable for sustaining honeybee populations.

By way of example, Friends of Nerang National Park submitted that it should not be the role of conservation areas to provide habitats for honeybees ‘during a time of unprecedented biodiversity loss’.<sup>56</sup> As an alternative, the organisation suggested:

[W]hen you travel out towards Ipswich you see a lot of cleared agricultural areas and there are not a lot of plantings in between. We could plant little corridors between these paddocks and things like that which would have that resource that we need.

They could be native, they could be eucalypts that flower or they could be non-native plants—I want to say ‘invasive’ because I get rid of weeds all the time—that also have that resource we need. That can help boost the food that is available for honey bees and it would also greatly benefit the environment. If we put in these stepping stones in our agricultural areas we are also improving the movement of animals which is currently quite disjointed.

I see that as being a really holistic win. It is something that the conservationists would absolutely endorse, given that we are planting natives. It would be something that I would love to help advocate for.<sup>57</sup>

When Bee Foundation also identified a number of initiatives that could help reduce dependency on floral resources in national parks:

- Bee Friendly Farming – a certification program that works with land managers to help protect, preserve and promote pollinator health
- Powerful Pollinators – a program designed to increase the prevalence, health and diversity of the pollinators in the landscape by encouraging the strategic planting of ‘trees for bees’ for example.<sup>58</sup>

When Bee acknowledged that while the above programs are worthy initiatives they are not a complete substitute for access to native flora for building up hives capable of pollinating crops such as almonds, canola and apples.<sup>59</sup>

**Figure: Open commercial beehive (left) and bees returning to hive with pollen (right)**



Source: Subcommittee apiary site visit, Scenic Rim, 1 April 2022.

<sup>56</sup> Friends of Nerang National Park, submission 7, p 3.

<sup>57</sup> Jessica Walsh, Public hearing transcript, Brisbane, 28 March 2022, p 4.

<sup>58</sup> When Bee Foundation, submission 22, pp 4-5.

<sup>59</sup> When Bee Foundation, submission 22, pp 4-5.

## 2.4 Committee comment

The committee is satisfied that provisions in the Bill, that provide up to a 20-year extension to existing arrangements for beekeeping to occur on certain national parks, are appropriate and fit for purpose.

The committee notes that this extension applies only to areas where beekeeping was an existing use prior to the transfer of the land into the national park estate.

It is clear to the committee that beekeeping plays an important and valuable role to Queensland's horticultural and food industries. The committee also acknowledges that national parks provide the conditions necessary for honeybees to thrive.

That said, the committee acknowledges the views of environmental groups that beekeeping is inconsistent with national park management. To that end, the committee recommends that the Department develop clear and accessible guidelines for beekeeping on sites in national parks to appropriately manage any potential risks to the natural environment.

The committee acknowledges the complexities associated with identifying alternative apiary sites outside of national parks but is of the view that more substantial progress should have been made over the past 20 years to identify and acquire alternative apiary sites. The committee therefore recommends that the Department adopt a clear strategy and plan to identify and secure alternative apiary sites over the period of the 20-year extension.

### Recommendation 2

The committee recommends that the Department of Environment and Science:

- develop clear and accessible guidelines for beekeeping on sites in national parks, within the next 12 months, to ensure potential risks to the natural environment are appropriately managed
- adopt a clear strategy and plan to identify and secure alternative apiary sites over the period of the 20 year extension.

**Figure: Subcommittee members at apiary site with Queensland Beekeepers' Association**



Source: Subcommittee apiary site visit, Scenic Rim, 1 April 2022.

## **2.5 Issues outside of the scope of Bill**

Cedar Hill Corporate Group submitted that there were significant disparities in the Nature Conservation (Protected Areas Management Regulation) 2017 relating to the length of permits for different forest users.

For example, apiary permits may be granted for up to five years, resource permits for scientific or education purposes for up to three years, commercial activity permits for up to three years and stock grazing permits for up to 10 years.<sup>60</sup>

Cedar Hill Corporate Group suggested that the maximum term for “another resources permits” be amended from one year to five years.

The Department confirmed that the suggestions was outside of the scope of the Bill, but can be considered during a future review of the Nature Conservation (Protected Areas Management Regulation) 2017.

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<sup>60</sup> Cedar Hill Flowers and Foliage, submission 9, p 1.

### 3 Secondary objectives of the Bill

#### 3.1 Enhancing the Department's capacity to response to misconduct in managed areas

##### 3.1.1 New offences for misconduct on national parks

The Bill proposes new offences for misconduct on areas managed by Queensland Parks and Wildlife Service, such as State forests, marine parks, recreation areas and national parks.<sup>61</sup>

During the Bill's public briefing, the Deputy Director-General, Queensland Parks and Wildlife Service and Partnerships advised that there have been a number of recent examples where visitors to national parks have had negative interactions with people holding themselves out to be rangers and behaving in a disreputable or threatening manner.<sup>62</sup>

The Deputy Director-General advised that such actions have a detrimental impact on visitors and tarnish the reputation of the government and its employees and that this risk can be seen as being greater when one considers the key role of rangers in helping to manage public safety in these areas.<sup>63</sup>

Consequently, the Bill inserts the following new offences into the following Acts:

- *Forestry Act 1959* (Forestry Act) – new offences for impersonating forest officers or rangers in or for a State forest or timber reserve
- *Marine Parks Act 2004* (Marine Parks Act) – new offences for impersonating a rangers in or for a marine park
- *Nature Conservation Act 1992* (Nature Conservation Act) – new offence for impersonating a ranger in or for a protected area
- *Recreation Areas Management Act 2006* (Recreation Areas Management Act) – new offence for impersonating a ranger in or for a recreation area.

##### 3.1.2 Proceedings and penalties for the offence of impersonating a ranger

A judicial process is followed to determine if someone has committed the offence of impersonating a ranger – that is, an investigation will occur, proceedings will be brought in a Queensland court and the offence must be proved beyond reasonable doubt before a finding can be made against the person.<sup>64</sup>

The committee asked why the Department has used this approach rather than allowing officers to issue personal infringement notices (PINs). PINs are administrative penalties that do not involve investigations and legal proceedings, unless the PIN is contested by the recipient. The Department provided:

Decisions about whether to apply a PIN for an offence in legislation are informed by principles developed by the Department of Justice and Attorney-General to guide State agencies when developing legislation. These principles are contained in the '*Guidelines for the prescription of penalty infringement notice offences under the State Penalties Enforcement Regulation 2014*'.

Given that the issuing of a PIN involves the imposition of a penalty without judicial consideration and determination, one of the principles applied is that minor offences that are objectively defined will generally be the most suitable for prescription of a PIN. Offences that are legally complex or would be factually complex are unsuitable for prescription as a PIN.

Offences that are serious or have a high maximum penalty also generally require judicial determination. Seriousness may be indicated by the nature of the offending behaviour (for example consequences of the

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<sup>61</sup> Explanatory notes, pp 2-3.

<sup>62</sup> Department of Environment and Science, Public briefing transcript, Brisbane, 14 March 2022, p 2.

<sup>63</sup> Department, Public briefing transcript, Brisbane, 14 March 2022, p 2.

<sup>64</sup> Department, Public briefing transcript, Brisbane, 14 March 2022, p 5.

behaviour for the safety of others) or the maximum penalty for an offence. Complexity may be indicated by the nature, or number, of elements of the offence.

The guideline cites the example of offences for impersonation of an officer as being unsuitable for prescription of a PIN offence.<sup>65</sup>

### **3.2 Obstructing officers on managed lands and waters**

The Bill also proposes separate amendments to better address circumstances where an officer specifically appointed to exercise compliance powers on lands and waters managed by Queensland Parks and Wildlife is obstructed.<sup>66</sup>

The Deputy Director-General explained that existing offences for obstructing Queensland Parks and Wildlife officers under the Marine Parks Act, Nature Conservation Act and Recreation Areas Management Act apply to obstructing an authorised officer in the exercise of a power under these Acts.

The Bill proposes to specifically insert into these acts the functions of these such officers and expand existing offences so that they also apply to obstructing any officers in the performance of a function under the relevant act.<sup>67</sup>

Currently, it is possible for a person to be a ranger in the Queensland Parks and Wildlife Service, yet not be an authorised officer under the above legislation. For example, a person could be working as a ranger in a State forest and not be a forest officer appointed under the Forestry Act. The Department states estimates that out of approximately 800 rangers, approximately 600 of them are authorised officers under the above legislation.<sup>68</sup>

The Deputy Director-General explained that it is already an offence for someone to impersonate an authorised officer under this legislation and that the amendments are covering a gap, namely rangers who are not appointed as authorised officers.<sup>69</sup>

The Deputy Director-General explained that the amendment will deliver consistency across legislation. There is already an offence for obstructing a forest officer when performing their duties under the Forestry Act, and it can be the same individual appointed to multiple authorised officer positions working in forests, national parks, recreation areas and marine parks. The Department emphasised the importance of consistent legislative provisions that protect staff from being obstructed from doing their jobs.<sup>70</sup>

#### **3.2.1 Committee comment**

The committee is satisfied that amendments are appropriate and fit for purpose.

### **3.3 Transferring powers from subordinate legislation to the Nature Conservation Act**

The third matter addressed by the Bill is to relocate a number of provisions from the subordinate legislation to the Nature Conservation Act in line with contemporary drafting standards.<sup>71</sup> This follows a statutory review process of expiring subordinate legislation which was completed in 2020 and

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<sup>65</sup> Department of Environment and Science, correspondence, 25 March 2022, attachment, p 1.

<sup>66</sup> Department of Environment and Science, Public briefing transcript, Brisbane, 14 March 2022, p 2.

<sup>67</sup> Department, Public briefing transcript, Brisbane, 14 March 2022, p 2.

<sup>68</sup> Department, Public briefing transcript, Brisbane, 14 March 2022, p 5.

<sup>69</sup> Department, Public briefing transcript, Brisbane, 14 March 2022, p 4.

<sup>70</sup> Department, Public briefing transcript, Brisbane, 14 March 2022, p 2.

<sup>71</sup> Department, Public briefing transcript, Brisbane, 14 March 2022, p 3.

identified a number of administrative processes, such as seizure processes, as more appropriately belonging in the Nature Conservation Act.<sup>72</sup>

The Bill proposes to move seizure powers and the requirements for dealing with seized things from subordinate legislation to the Nature Conservation Act.<sup>73</sup>

The Bill will achieve this by:

- transferring administrative process provisions to the Nature Conservation Act as a streamlining amendment, where they would be otherwise replicated across three regulations
- transferring seizure provisions to ensure conservation officers have clear and appropriate powers that are not distributed across the Nature Conservation Act and three regulations
- redrafting relocated provisions into a modern form based on a precedent that reflects current drafting practices and is acceptable to Parliamentary Committees.<sup>74</sup>

The Deputy Director-General confirmed that the relocation of these provisions does not change existing policy or introduce new provisions under the Nature Conservation Act. Rather, it is simply a reform process to meet contemporary drafting standards, remove regulatory duplication and simplify the application of functions under the Nature Conservation Act.<sup>75</sup>

### **3.3.1 Committee comment**

The committee is satisfied that amendments to relocate seizure powers and requirements from subordinate legislation to the Nature Conservation Act are appropriate and fit for purpose.

## **3.4 Amendments to the Wet Tropics World Heritage Protection and Management Act**

The Bill proposes to update the Wet Tropics Act to respond to changes by the Australian Government to intergovernmental arrangements between the Commonwealth and Queensland.

The Deputy Director-General explained that these changes are necessary following the abolition of the Wet Tropics Ministerial Council during the National Cabinet reform.<sup>76</sup> All references to the Ministerial Council in the Wet Tropics Act will be replaced to reflect the new arrangements.

The Bill will also remove the outdated version of the *Management scheme intergovernmental agreement for the Wet Tropics of Queensland World Heritage Area* (Intergovernmental Agreement) from the Wet Tropics Act and instead referencing the Intergovernmental Agreement in a definition in Schedule 3 of the Act.<sup>77</sup>

The remaining amendment to the Wet Tropics Act involves streamlining consultation processes for changes to subordinate legislation when those changes came about from changes to the Wet Tropics Act.<sup>78</sup>

### **3.4.1 Committee comment**

The committee is satisfied that amendments to the Wet Tropics Act are appropriate and fit for purpose.

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<sup>72</sup> Department of Environment and Science, Public briefing transcript, Brisbane, 14 March 2022, p 3.

<sup>73</sup> Department, Public briefing transcript, Brisbane, 14 March 2022, p 3.

<sup>74</sup> Explanatory notes, p 3.

<sup>75</sup> Department of Environment and Science, Public briefing transcript, Brisbane, 14 March 2022, p 3.

<sup>76</sup> Explanatory notes, p 3.

<sup>77</sup> Explanatory notes, p 3.

<sup>78</sup> Explanatory notes, p 3.



### **3.5 Correction of minor errors in legislation**

Finally, the Bill also proposes to correct minor errors in the Nature Conservation Act and Wet Tropics Act. These include correcting scientific terms used in the Nature Conservation Act and correcting reference numbers within the Wet Tropics Act.<sup>79</sup>

#### **3.5.1 Committee comment**

The committee is satisfied that the proposed minor corrections are appropriate and fit for purpose.

### **3.6 Stakeholder views**

The Wildlife Preservation Society of Queensland and Cedar Hill Flowers and Foliage supported the secondary objectives of the feedback.<sup>80</sup>

There was limited other feedback offered by stakeholders.

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<sup>79</sup> Explanatory notes, p 3.

<sup>80</sup> Department of Environment and Science, Correspondence, 25 March 2022, attachment, p 7.

## 4 Compliance with the *Legislative Standards Act 1992*

### 4.1 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* (Legislative Standards Act) states that ‘fundamental legislative principles’ are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals
- the institution of Parliament.

The committee has examined the application of the fundamental legislative principles (FLPs) to the Bill. The committee brings the following to the attention of the Legislative Assembly.

### 4.2 Rights and liberties of individuals

Section 4(2)(a) of the Legislative Standards Act requires that legislation has sufficient regard to the rights and liberties of individuals.

#### 4.2.1 New, amended and relocated offences

The Bill creates or amends offences under multiple Acts, making it necessary to consider the rights and liberties of individuals as well as whether the offences are relevant and proportionate. New offences will be created for impersonating a ranger or authorised officer under the relevant Act:

- Clause 4 (Forestry Act)
- Clause 8 (Marine Parks Act)
- Clause 18 (Nature Conservation Act)
- Clause 46 (Recreation Areas Management Act)

All the above offences carry a maximum penalty of 50 penalty units (\$6,892.00).<sup>81</sup>

The Bill amends the scope of the offence of obstructing rangers or officers appointed under the relevant Act:

- Clause 7 (Marine Parks Act)
- Clause 16 (Nature Conservation Act)
- Clause 45 (Recreation Areas Management Act)

The offences currently relate to the obstruction of an officer in the ‘exercise of a power’ under the relevant Act. In all cases, the amendment extends this to also include obstruction in the ‘performance of a function’ under the Act. The penalties for these offences are unchanged.

Clause 15 of the Bill moves the offence of ‘tampering with a seized thing’ (currently section 152B of the Nature Conservation Act), to a new section and calling it the ‘offence to interfere’. The conduct covered by the offence remains the same.

The maximum penalty is 500 penalty units (\$68,925) for interfering with a seized thing that is evidence, remaining unchanged. There is also a lesser offence of interfering with seized things other than evidence which attracts a penalty of 100 penalty units (\$13,785), which is also a PIN offence.

#### 4.2.1.1 *Fundamental legislative principles for new, amended and relocated offences*

The creation of new offences and penalties affects the rights and liberties of individuals. The explanatory notes state that creating offences for impersonating rangers (clauses 4, 8, 18 and 46) are

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<sup>81</sup> *Penalties and Sentences Act 2015* section 5A; Penalties and Sentences Regulation 2015 section 3. A penalty unit is currently \$137.85.

justified to prevent people impersonating Queensland Parks and Wildlife employees and damaging the Department's reputation. The Department states there have been situations, in Queensland Parks and Wildlife-managed areas, where people who claimed to be rangers have acted threateningly or punitively; or denied people their right to camp in pre-booked locations.<sup>82</sup>

This reduces the enjoyment by visitors to Queensland Parks and Wildlife-managed areas and diminishes public respect for genuine rangers. The Department justifies this by stating the new offences will provide 'a deterrent and enhance [the Department's] ability to take action for this type of misconduct'.<sup>83</sup> The Department adds that the maximum penalty is consistent with the same offences for impersonating officers under the Marine Parks Act, Nature Conservation Act and Recreation Areas Management Act.<sup>84</sup>

For the obstruction offences (clauses 7, 16 and 45), the explanatory notes state the amendments are designed to improve clarity around when an inspector, conservation officer or authorised officer is being obstructed.<sup>85</sup> The amendments ensure that the offence will apply to a person who obstructs one of these officers in the performance of their functions as well as their powers. While there is variation across the relevant Acts (Nature Conservation Act, Recreation Areas Management Act and Marine Parks Act), the penalties are generally consistent.

For the new offence to interfere (clause 15), the explanatory notes state the following on the maximum penalty:

It is important to maintain the maximum 500 penalty units for interfering with these seized things as the relating offences involve interfering with things that are being used to provide evidence for court that have been seized in the interest of protecting wildlife, or a cultural or natural resource.<sup>86</sup>

Regarding the lesser offence to interfere, for which the maximum penalty is 100 penalty units:

The range of offences involved in interfering with a seized thing vary widely depending on the scenario; as there is a significant maximum penalty of 500 units, it is advantageous to have an alternative option to prosecution through the court system that does not require the same higher level administrative burden or penalty. The ability to issue a PIN and maintain the maximum of 100 penalty units for lesser offences while also keeping the maximum 500 penalty units for significant offences allows a conservation officer to take the most appropriate course of action based on the offence committed. The ability to issue a PIN is justified as it considers whether the imposition of an administrative penalty is a proportionate response to the offending behaviour.<sup>87</sup>

#### 4.2.1.2 Committee comment

The committee is satisfied that the new, amended and relocated offences have sufficient regard to an individual's rights and liberties, given the justification for these offences is to deter people from impersonating rangers and preventing situations where visitors to Queensland Parks and Wildlife-managed areas are deceived; clarifying when a ranger is being obstructed; and preventing reputational damage to the Department. The committee is also satisfied with the maximum penalties for the offences, as they are consistent across the relevant Acts.

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<sup>82</sup> Explanatory notes, p 4.

<sup>83</sup> Explanatory notes, p 4.

<sup>84</sup> Explanatory notes, p 8.

<sup>85</sup> Explanatory notes, pp 10, 14, 15, 19.

<sup>86</sup> Explanatory notes, p 14.

<sup>87</sup> Explanatory notes, p 14.

#### **4.2.2 Review of decisions**

Clause 12 relocates provisions for internal and external review of decisions from three separate regulations<sup>88</sup> into a new Part 8A of the Nature Conservation Act. It is a fundamental legislative principle that legislation make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and ensure it is subject to appropriate review.<sup>89</sup>

##### *4.2.2.1 Fundamental legislative principles and review of decisions*

This issue of FLP is not raised in the explanatory notes, though it is stated these amendments are to reflect current drafting practices – that is, for provisions of these nature to be in the relevant Act rather than subordinate legislation.<sup>90</sup>

##### *4.2.2.2 Committee comment*

The committee is satisfied that the review provisions in clause 12 are appropriate and have sufficient regard to individual rights and liberties. The key features of the provisions are consistent with current provisions in the regulations relating to review processes.

The new Part 8A of the Nature Conservation Act provides for internal review, circumstances where QCAT may stay the operation of an original decision, and external review. Appropriate details are provided on timelines, application requirements and who can apply for review.

#### **4.2.3 Seizure powers**

Clause 14 of the Bill replaces existing sections 152A, 152B to 153 of the Nature Conservation Act with new sections 152A ('General powers for things seized') and 153 ('Keeping seized protected wildlife until conservation value paid').

These provisions outline what the chief executive officer or a conservation officer may do with a thing that has been seized as evidence under the Nature Conservation Act (for example, move the thing from its place of seizure or leave the thing at its place of seizure and restrict access to it). The sections also set out the requirements for keeping seized protected wildlife until the conservation value has been paid.

Clause 15 inserts a new division into the Nature Conservation Act which contains seizure powers for things other than evidence:

- New section 154C contains the power to seize things such as appliances, vehicles, boats or aircraft that are outside protected areas for the protection of native wildlife.
- New section 154D contains the power to seize things such as appliances, equipment, stock, structure, works and vehicles that are in a protected area for the protection of a cultural or natural resource of the area.
- New section 154E contains the power to seize stock from a protected area if the owner of the stock cannot be contacted or will not remove the stock.

Clause 15 also contains provisions which outline how seized things (other than evidence) are to be dealt with, including for example:

- keeping seized things secure
- providing the owner of a seized thing with a seizure notice

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<sup>88</sup> See Chapter 11, Part 1 of the Nature Conservation (Animals) Regulation 2020; Chapter 11, Part 1 of the Nature Conservation (Plants) Regulation 2020; and Chapter 8B, Part 1 of the Nature Conservation (Protected Areas Management) Regulation 2017.

<sup>89</sup> Legislative Standards Act section 4(3)(a).

<sup>90</sup> Explanatory notes, p 2.

- releasing a seized thing when requirements are met.

#### 4.2.3.1 *Fundamental legislative principles for seizure powers*

A consideration for whether legislation has sufficient regard to rights and liberties of individuals depends on whether legislation that confers power to enter premises, and search for or seize documents or other property, only does so with a warrant issued by a judicial officer.<sup>91</sup> This principle supports a long established rule of common law that protects the property of citizens.<sup>92</sup> FLPs are particularly important when powers of inspectors and similar officials are prescribed in legislation because these powers are very likely to interfere directly with the rights and liberties of individuals.<sup>93</sup>

Clause 14 does not amend the seizure powers of the chief executive officer or conservation officers; it reflects modern drafting practices.<sup>94</sup> Further, the powers contained in these sections are not search and entry powers, they relate to what a chief executive or conservation officer can do with things once they have already been seized.

Clause 15 does introduce new seizure powers into the Nature Conservation Act (proposed sections 154C, 154D and 154E). The explanatory notes state that these powers are being relocated from regulations into the Nature Conservation Act to 'ensure officers have clear and appropriate powers'.<sup>95</sup>

The powers may appear contrary to FLPs due the lack of requirement for a judicial officer. However, the explanatory notes state that the seizure powers can only be used in specific circumstances, such as the thing being abandoned or being used to commit an offence.<sup>96</sup> This is because, when abandoned property is found in a protected area, the owner is often unknown. This makes it impossible to serve them with a warrant to seize the thing in question.<sup>97</sup>

#### 4.2.3.2 *Committee comment*

The committee is satisfied that any breach of fundamental legislative principle regarding what may be done with seized things is reasonable and justified. The amendments do not amend the search and seizure powers themselves and are instead for what may be done with seized things. Further, they may be used only in specific circumstances that make it impractical to serve a warrant.

### 4.3 Institution of Parliament

Section 4(2)(b) of the Legislative Standards Act requires legislation to have sufficient regard to the institution of Parliament.

#### 4.3.1 Delegation of legislative power

The Bill delegates legislative power when dealing with certain matters. The Bill allows the following matters to be dealt with using delegated legislative power:

- Clause 24 adds definitions for 'recreational craft' and 'aircraft' to the Nature Conservation Act. The definitions will allow for a regulation to prescribe additional examples of things that are a 'recreational aircraft' and things that are not an 'aircraft'.

<sup>91</sup> Legislative Standards Act section 4(3)(e).

<sup>92</sup> Office of the Queensland Parliamentary Counsel, *Fundamental Legislative Principles: The OQPC Notebook*, p 44.

<sup>93</sup> Office of the Queensland Parliamentary Counsel, *Fundamental Legislative Principles: The OQPC Notebook*, p 45.

<sup>94</sup> Explanatory notes, p 12.

<sup>95</sup> Explanatory notes, p 12.

<sup>96</sup> Explanatory notes, pp 4-5.

<sup>97</sup> Explanatory notes, p 5.

- Clause 25 inserts the new section 36A into the Nature Conservation Act to provide, until 31 December 2044, for the grant of an apiary permit in a national park, subject to certain requirements. Regulations will be used to describe apiary areas and permit requirements.

#### 4.3.1.1 Fundamental legislative principle for subordinate legislation

Whether a Bill has sufficient regard to the institution of Parliament depends on whether the Bill delegates legislative power only in appropriate circumstances to appropriate persons.<sup>98</sup> This question is concerned with the level at which delegated legislative power is used.

The principle is that the greater the level of interference with individual rights and liberties, or the institution of Parliament, the greater the likelihood that the power should be prescribed in an Act of Parliament and not delegated below Parliament.<sup>99</sup>

The explanatory notes state that the amendments in clause 24 (definitions for ‘aircraft’ and ‘recreational craft’) are ‘necessary to provide flexibility to respond to the use of emerging recreational craft and aircraft products on protected areas in a timely manner’.<sup>100</sup>

The legislative power being delegated has limits in that they can only provide additional examples of things already defined under the Nature Conservation Act.<sup>101</sup>

Clause 25 does not have a specific section that analyses FLP issues in the explanatory notes. The intention of section 36A is to allow beekeeping to continue on land where beekeeping was permitted, but has since become a national park.<sup>102</sup>

It is noted that apiary areas will be recorded in a schedule of the Nature Conservation (Protected Areas Management) Regulation 2017.<sup>103</sup> A list of forest reserves for temporary continuation of beekeeping already exists in Schedule 5 of the regulation.

Section 36A sets out the criteria to which the Minister must have regard when recommending the Governor in Council make such regulations and what the regulations may prescribe.<sup>104</sup> This means the regulation will be limited in some way by the Act itself.

#### 4.3.1.2 Committee comment

The committee is satisfied that the Bill has sufficient regard to the institution of Parliament. The definitions created by Clause 24 will be located in the Nature Conservation Act and the regulation will only include examples of things are ‘recreational craft’ and are not an ‘aircraft’. Clause 25 is an extension of existing arrangements for beekeeping in national parks.

## **4.4 Explanatory notes**

#### 4.4.1.1 Committee comment

Part 4 of the Legislative Standards Act requires that an explanatory note be circulated when a Bill is introduced into the Legislative Assembly, and sets out the information an explanatory note should contain.

Explanatory notes were tabled with the introduction of the Bill. Whilst the explanatory notes were fairly detailed, the FLP assessment could have been more comprehensive. For example, the explanatory notes did not always identify the specific clauses that gave rise to FLP issues.

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<sup>98</sup> Legislative Standards Act section 4(4)(a).

<sup>99</sup> QOFC, *Fundamental Legislative Principles: The QOFC Notebook*, p 45.

<sup>100</sup> Explanatory notes, p 5.

<sup>101</sup> Explanatory notes, p 5.

<sup>102</sup> Explanatory notes, p 7.

<sup>103</sup> Explanatory notes, p 16.

<sup>104</sup> Clause 25 (proposed new section 36A(3) and (4) of the Nature Conservation Act).

The aim of explanatory notes is to better inform the community about proposed legislation. As such, best practice for explanatory notes is to:

- clearly identify each specific issue of fundamental legislative principle that arises and the specific clause giving rise to the issue
- set out the reasons for any inconsistency with the fundamental legislative principles
- provide any justification for that inconsistency.

Otherwise, the explanatory notes contain the information required by Part 4.

## 5 Compliance with the *Human Rights Act 2019*

The portfolio committee responsible for examining a Bill must consider and report to the Legislative Assembly about whether the Bill is not compatible with human rights, and consider and report to the Legislative Assembly about the statement of compatibility tabled for the Bill.<sup>105</sup>

A Bill is compatible with human rights if the Bill:

- (a) does not limit a human right, or
- (b) limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the *Human Rights Act 2019* (Human Rights Act).<sup>106</sup>

The Human Rights Act protects fundamental human rights drawn from international human rights law.<sup>107</sup> Section 13 of the Human Rights Act provides that a human right may be subject under law only to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

The committee has examined the Bill for human rights compatibility. The committee brings the following to the attention of the Legislative Assembly.

### 5.1 Human rights compatibility

#### 5.1.1 Consultation with Aboriginal and Torres Strait Islander peoples

Aboriginal and Torres Strait Islander peoples have a unique connection with their traditional lands. This connection was recognised by the High Court in the landmark decision of *Mabo v Queensland (No 2)*<sup>108</sup> and led to the passing of the *Native Title Act 1993* by the Commonwealth Parliament. The distinct cultural rights of Aboriginal and Torres Strait Islander peoples are recognised and protected under the Human Rights Act.<sup>109</sup>

The Queensland Human Rights Commission (QHRC) stated that this extension potentially limits the cultural rights of Aboriginal and Torres Strait Islander peoples under section 28 of the Human Rights Act.<sup>110</sup> The QHRC refers to the United Nations Declaration on the Rights of Indigenous Peoples and the obligation to see the free, prior and informed consent of Indigenous peoples before projects that affect land or resources.<sup>111</sup>

The Department responded that the Bill does not limit cultural rights. The Bill requires that a permit be granted prior to beekeeping occurring on the land and the effect of Clause 27 does not have the effect of extending existing permits. Rather, it enables existing permits to continue as if the provisions that currently relate to their grant were not repealed. This means that permits that are in place now will continue up until a maximum expiry date of 31 December 2024, unless they are otherwise surrendered by the beekeeper or suspended or cancelled by the Department.

Furthermore, subject to the passage of the Bill and the associated regulatory framework being approved, new permits may be applied for, for periods beyond 31 December 2024 and at this time, the decision to grant these permits will be informed in part by assessment of cultural rights impacts.

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<sup>105</sup> Human Rights Act, section 39.

<sup>106</sup> Human Rights Act, section 8.

<sup>107</sup> The human rights protected by the Human Rights Act are set out in sections 15 to 37 of the Act. A right or freedom not included in the Act that arises or is recognised under another law must not be taken to be abrogated or limited only because the right or freedom is not included in this Act or is only partly included; Human Rights Act, section 12.

<sup>108</sup> [1992] HCA 23.

<sup>109</sup> Human Rights Act section 28.

<sup>110</sup> Submission 25, p 2.

<sup>111</sup> Submission 25, p 3.



The Bill is not considered to impact cultural rights as it is not authorising any new beekeeping, or extending existing beekeeping permits. Beekeeping activities after 2024 will occur following the application, assessment and grant of new permits under the amended regulation.<sup>112</sup>

The statement of compatibility outlined the consultation process with twelve First Nations groups who have native title determinations or claims over national parks with apiary sites.<sup>113</sup> The QHRC nonetheless suggested that the Department consider if all Indigenous people with a spiritual connection to the land outside those with Indigenous Land Use Agreements have had the opportunity to comment on the Bill.<sup>114</sup>

In response, the Department acknowledged that cultural and native title rights can be distinctly separate and also recognised the deep connection that First Nations peoples have with their land. Accordingly, it is departmental practice, in response to requests from First Nations peoples, to ensure that when seeking knowledge and advice and engagement in relation to country, that engagement take place with those who have responsibility for speaking on behalf of their own land. While the Department acknowledges cultural rights extend beyond native title rights, the approach in consulting in relation to the potential impacts of the Bill on cultural rights was to seek the views of the representatives of the people who can speak for the land to which the Bill applies.

In the absence of an agreed cross-government framework for broader engagement with First Nations peoples regarding cultural rights under the Human Rights Act, the Department considers this approach to be respectful of the practice of letting people of country speak for their country, whilst also giving those people the opportunity to advise the Department if there are likely to be cultural rights held by other First Nations peoples who are not of that country, or are not recognised native title holders of that country, that should be considered.

Separate to the assessment of cultural rights undertaken by the Department, the committee's inquiry into the Bill also provides an avenue for the public to raise any human rights matters that a community member may feel are engaged by the Bill.<sup>115</sup>

The Department advised that it will investigate new approaches for assessing impacts on cultural rights that may exist beyond those First Nations peoples whose land the beekeeping activities occur on. This investigation will include engaging with the QHRC to discuss where such approaches have been used effectively in other circumstances across government.

The QHRC questioned whether new apiary permits only be granted with the free, prior and informed consent of First Nations peoples with cultural connections to the land including those who have not had formal native title recognition. The Department advised that new apiary permits will be granted with consideration of the requirements of the Human Rights Act and consistent with the Department's obligations as articulated in the Nature Conservation Act.<sup>116</sup>

### **5.1.2 Committee comment**

The committee finds the Bill is compatible with human rights. The committee is of the view that the Bill does not limit any human rights protected by the Human Rights Act but acknowledges issues raised by the Queensland Human Rights Commission regarding consultation with First Nation peoples.

The committee notes the consultation approaches adopted by the Department and welcomes advice that the Department investigate new approaches for assessing impacts on cultural rights that may exist beyond those First Nations peoples whose land the beekeeping activities occur on, and that new

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<sup>112</sup> Department of Environment and Science, Correspondence, response to issues raised in submissions, p 6.

<sup>113</sup> Statement of Compatibility, pp 2-3.

<sup>114</sup> Submission 25, p 5.

<sup>115</sup> Department of Environment and Science, Correspondence, response to issues raised in submissions, p 6.

<sup>116</sup> Department of Environment and Science, Correspondence, response to issues raised in submissions, p 6.

apiary permits will be granted with consideration of the requirements of the Human Rights Act and consistent with the Department's obligations as articulated in the Nature Conservation Act.

### **5.1.3 Statement of compatibility**

Section 38 of the Human Rights Act requires that a member who introduces a Bill in the Legislative Assembly must prepare and table a statement of the Bill's compatibility with human rights.

A statement of compatibility was tabled with the introduction of the Bill as required by section 38 of the Human Rights Act. The statement contained a sufficient level of information to facilitate understanding of the Bill in relation to its compatibility with human rights.

## Appendix A – Submissions

<b>Sub #</b>	<b>Submitter</b>
001	Wildlife Preservation Society of Queensland (Wildlife Queensland)
002	Beekeeping Australia
003	Monson Honey & Pollination
004	Crop Pollination Association of Australia
005	Donald Keith AM
006	Growcom
007	Friends of Nerang National Park
008	Australian Food & Grocery Council
009	Cedar Hill Flowers & Foliage Pty Ltd
010	Trevor Weatherhead AM
011	Rodney Ruge
012	NSW Apiarists' Association Inc
013	Melons Australia
014	Jessica Berry
015	Beechworth Honey Group
016	Cotton Australia
017	National Farmers Federation
018	Australian Honey Bee Industry Council
019	Hive and Wellness Australia Pty Ltd
020	AUSVEG
021	Queensland Beekeepers' Association Inc
022	When Bee Foundation
023	Bundaberg Fruit & Vegetable Growers Cooperative Limited (BFVG)
024	Gecko Environment Council
025	Queensland Human Rights Commission
026	Robert Dewar
027	Australian Macadamia Society
028	Almond Board of Australia
029	Apimondia

## Appendix B – Officials at public departmental briefing

### Department of Environment and Science

- Ben Klaassen, Deputy Director-General, Queensland Parks and Wildlife Service and Partnerships
- Todd Kelly, Manager, Parks and Forest Policy Unit, Protected Area Strategy and Investment, Queensland Parks and Wildlife Service and Partnerships
- Julie Colman, Principal Planning Officer, Wet Tropics Management Authority
- Karalyn Herse, Manager, Conservation Policy and Planning, Environmental Policy and Programs

## **Appendix C – Witnesses at public hearings**

### **Queensland Beekeepers' Association**

- Jacob Stevens, President
- Robert Dewar, past President

### **Wildlife Preservation Society of Queensland**

- Des Boyland, Policies and Campaigns Manager

### **Friends of Nerang National Park**

- Jessica Walsh, Founder and Project Manager

### **Hive and Wellness**

- Dr Ben McKee, Chief Operating Manager

## **Appendix D – Subcommittee apiary site inspection**

### **Subcommittee Members**

- Mr Jim McDonald MP, Member for Lockyer
- Mr Jim Madden MP, Member for Ipswich West

### **Facilitators for Apiary Site Inspection**

- Jacob Stevens, President, Queensland Beekeepers' Association
- Jo Martin, Secretary, Queensland Beekeepers' Association
- Robert Dewar, past President, Queensland Beekeepers' Association
- Brad Jensen, member, Queensland Beekeepers' Association

### **Areas Visited**

- Apiary site, Main Range National Park
- Apiary site, Moonview Special Management Area

## Statement of Reservation

**STATEMENT OF RESERVATION FROM DEPUTY CHAIR JIM MCDONALD MP, MICHAEL HART MP  
AND ROBBIE KATTER MP**

The Opposition welcomes the contribution from Queensland's beekeeping industry, which delivers up to \$2.8 billion of economic input to Queensland through managed honeybee pollination services, as well as significant environmental benefits. We also recognise the importance of honey production in boosting investment and employment in regional areas.

Prior to the 2020 State Election, the Labor Government made a commitment to extend beekeeping permits for a further 20 years in certain national parks that were created as part of the SEQ Forest Agreement in 1999.

Whilst the Opposition is disappointed it has taken the Labor Government so long to come good on their commitment, we welcome the opportunity to be a part of this committee process.

**Support for beekeeping in national parks beyond 2044**

The important role that beekeeping plays is clear. The benefits that national parks provide for beekeeping is clear. It is therefore our view that the end date of 2044 should be scrapped and licensed beekeepers should be able to access national parks in perpetuity.

There were strong calls from industry to support this recommendation.

Mr Robert Dewar, a third-generation beekeeper, and past president of the Queensland Beekeepers' Association told the committee *'while a 20-year extension is better than nothing, my hope is for a better understanding of the importance of bees, so a much longer sense of security can be achieved for the next generation'*.<sup>1</sup>

Robert advised the committee that it was his hope that the government could back his industry. He told us beekeeping is not detrimental to the natural environment – rather, it can complement the environment through weed identification, damage reporting and providing space that emergency vehicles can use in bush fire situations.<sup>2</sup>

Robert also advised the committee that the amount of anxiety that the current approach has caused and continues to cause needs to stop. He submitted: *'Over the years it has put a lot of stress on many families and their businesses. We work hard, it's not a 9-5 job but we love the environment and what we do'*.<sup>3</sup>

Another third-generation beekeeper, Mr Brad Jensen of Beekeeping Australia, said the same. He said he believed the end date should be removed altogether to give the next generation *'confidence to pursue a career in beekeeping'*.<sup>4</sup>

The responsible use of apiary sites also provides fire mitigation and natural surveillance for fire and other biosecurity threat and criminal activity.

**Beehives have a light footprint on national parks**

Another important issue that needs to be made clear is the fact that beekeeping is migratory and transient – as such its footprint is light. The Queensland Beekeepers' Association advised that long gaps between flowerings meant hives were placed in national parks for short periods at a time. This light footprint is just one reason to allow licensed beekeepers perpetual access to national parks.

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<sup>1</sup> Submission 26, p 1.

<sup>2</sup> Submission 26, p 1.

<sup>3</sup> Submission 26, p 1.

<sup>4</sup> Submission 2.



As an example, a honeybee hive would be placed near a floral resource for a period of six weeks. Once the flowering was over, hives would not be brought back until the next flowering, which could be one, three or even five years later. This results in a situation where bees only spent a few weeks in a national park over a period of one or several years, depending on the flowering plant.<sup>5</sup>

There is opportunity for appropriate and sensitive access to sites to be managed through guidelines – such as those recommended by the committee.

The committee was advised that the Department of Environment and Science conducted a review of the scientific literature with relation to the ecological effects of bees in national parks. This review concluded that there was insufficient evidence of any effects.

Furthermore, a feasibility study was conducted in the mid-2000s that found that there were no alternative resources that were not already used by beekeepers to relocate apiary sites off national parks. The lack of alternative resources would indicate that the industry would be severely affected if they were to be locked out of national parks either now or in 2044.

### **Greater collaboration between government and industry**

We were fortunate to have the opportunity to visit working apiary sites in the Scenic Rim with representatives from the Queensland Beekeepers' Association. Something that became clear through the visit was the need for greater collaboration between government and industry.

The Queensland Beekeepers' Association pointed to the Victorian experience as a model of best practice – and advised us that the collaborative approach used by Agriculture Victoria would lead to better outcomes for all through the shared use of public land.<sup>6</sup>

The Victorian Government approach recognises the importance of the bee industry in ensuring food security, boosting regional jobs, and supporting agricultural exports. Beekeeping on public land, except wilderness and reference areas, is encouraged and the administrative burden on beekeepers is reduced through their *Apiculture (beekeeping) on public land policy*.<sup>7</sup>

The policy has been active since 2013 and includes undertakings by government agencies and park services to engage and communicate with beekeepers.

### **Decision not to use penalty infringement notice for offences**

Finally, we have concerns about the cumbersome offence proceedings proposed for those who impersonate a ranger or obstruct them in their daily duties.

We agree, that some form of action should be taken, however it is our view that a penalty infringement notice (PIN) with appropriate penalty for the serious offence, would provide a more streamlined and effective approach, without lengthy and expensive investigations and court hearings.

If the recipient of the PIN wishes to challenge the notice, they can elect to do so and argue their case in court, but for open-and-shut situations, penalisation should be swift and expedient.

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<sup>5</sup> Submission 21, p 7.

<sup>6</sup> SDRIC, Subcommittee, Site Visit with QBA, 1 April 2022.

<sup>7</sup> Victorian Department of Environment, Water and Planning, *Apiculture (beekeeping) on public land policy*, 2013, p 4.

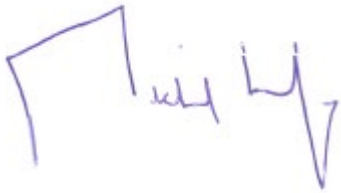
## Conclusion

Whilst we won't be opposing this amendment, the Opposition wants to see the Government better recognise the contribution of Queensland's beekeeping industry. The Opposition also holds concerns with the amount of time it has taken the Government to put forth this legislation following the commitment given to industry in 2020.

The approach the Government is taking could be much more measured and beneficial to industry had the Government listened to stakeholders and taken feedback onboard. Long term industry confidence could have been ensured through scrapping the end date of 2044, instead allowing licensed beekeepers to be able to access to national parks in perpetuity.



Signed  
Jim McDonald MP  
Deputy Chair  
Member for Lockyer



Signed  
Michael Hart MP  
Member for Burleigh



Signed  
Robbie Katter MP  
Member for Traeger