

Nature Conservation (Protected Areas Management) (Apiary Areas) Amendment Regulation 2023

Explanatory notes for SL 2023 No. 148

made under the

Nature Conservation Act 1992

General Outline

Short title

Nature Conservation (Protected Areas Management) (Apiary Areas) Amendment Regulation 2023

Authorising law

Sections 36A and 175 of the *Nature Conservation Act 1992*

Policy objectives and the reasons for them

The policy objective is to make consequential amendments to the *Nature Conservation (Protected Areas Management) Regulation 2017* (current regulation) to support implementation of provisions contained in part 4, division 3 of the *Nature Conservation and Other Legislation Amendment Act 2022* (Amendment Act), which will automatically commence on 22 October 2023. These provisions support delivery of a Palaszczuk Government election commitment to amend the *Nature Conservation Act 1992* to grant a 20-year extension to allow beekeeping on national parks until 31 December 2044, in areas where bee keeping was an existing use prior to the transfer of land to national park.

The Amendment Act provisions will amend the *Nature Conservation Act 1992* upon commencement to provide:

- a 20-year extension for beekeeping on apiary areas within national parks; and
- that the Minister may recommend to the Governor in Council the making of a regulation prescribing apiary areas in certain circumstances; and
- that the chief executive may grant apiary permits for apiary areas prescribed in regulation if the grant complies with any requirements prescribed in regulation for apiary areas; and

- that a regulation may prescribe requirements about apiary sites in an apiary area or limits on the number of apiary sites for an apiary area.

Consistent with and consequential to these Amendment Act provisions, the *Nature Conservation (Protected Areas Management) (Apiary Areas) Amendment Regulation 2023* (Amendment Regulation) will amend the current regulation to prescribe apiary areas where beekeeping may continue on national parks, requirements with which the chief executive must comply when granting apiary permits and certain requirements about apiary sites in apiary areas. This will ensure that the legislation can operate effectively when both the Amendment Act and Amendment Regulation provisions commence on 22 October 2023.

Achievement of policy objectives

Schedule 5 of the current regulation lists the apiary areas where beekeeping may occur on national parks until 31 December 2024. The schedule was first created in 2004 and includes two parts that list 87 former forest reserves that were intended to be dedicated as national parks and 1058 apiary sites.

In recognition of potential land tenure and other changes that have occurred over the last 20-years, a review was undertaken to confirm the name of the national park that each former forest reserve has become, as well as the location and number of apiary sites where data in the Department of Environment and Science's spatial layers and permitting system indicated that there were some anomalies. The Amendment Regulation will replace Schedule 5 of the current regulation with a new schedule to reflect the results of the review.

The review found 41 extra apiary sites on the following national parks, which are in addition to the 1058 apiary sites prescribed in Schedule 5 of the current regulation:

- 3 on Nerang National Park;
- 1 on Tamborine National Park;
- 29 on Wrattens National Park;
- 3 on Tewantin National Park;
- 3 on Mooloolah River National Park; and
- 2 on Wongi National Park.

These 41 extra apiary sites are included in the new schedule because they were found within the original boundaries of the former forest reserves that were dedicated as national park, or the beekeeping in these areas was otherwise authorised to continue. Specifically, under the *Nature Conservation Act 1992*, previous use authorities have been issued under section 36 to allow existing beekeeping to continue in three locations of former Yurol State Forest, which has now been dedicated as Tewantin National Park. A special management area (controlled action) was also declared to allow existing beekeeping to continue in three locations of former Beerwah State Forest, which was dedicated as Mooloolah River National Park.

The review also found that 44 apiary sites prescribed in the current regulation are located outside of national park boundaries. These included:

- 15 on conservation parks instead of national park (formerly Maroochy Forest Reserve 1, Maroochy Forest Reserve 3, Moggill Forest Reserve and Clagiraba Forest Reserve);
- 12 on State forests;
- 14 on road reserves;

- 2 on Seqwater land; and
- 1 on freehold land.

Because a regulation can only prescribe apiary sites that are on national park, these 44 sites found outside national park boundaries have been removed from the new schedule being inserted by the Amendment Regulation. Ongoing beekeeping may continue in these locations subject to requirements of the administering landholder.

In summary, the Amendment Regulation will replace Schedule 5 of the current regulation with a new schedule that prescribes a contemporary list of apiary areas where beekeeping may continue. This includes a new table with three columns. Column one identifies the names of the national parks where the apiary areas are located; column two identifies the apiary areas within the national park; and column three identifies the maximum number of apiary sites permitted in each apiary area. The following outcomes of the review are also reflected in the new schedule:

- 41 extra apiary sites will be added;
- 44 apiary sites located outside of national park boundaries will be removed; and
- 1055 apiary sites will be prescribed, instead of 1058 apiary sites.

The Amendment Regulation also prescribes certain requirements with which the chief executive must comply when granting apiary permits. These generally reflect existing provisions that limit the grant of apiary permits to conservation parks, resources reserves and apiary areas in national parks, and limit the number of permits that can be granted in national parks based on the maximum number of apiary sites prescribed for each apiary area.

New provisions also reflect current administrative practices where there is a lack of specificity in the regulation about apiary permits being granted for apiary sites and to specify that the permit needs to identify the location of each apiary site to which it relates.

Prescribing these matters in the regulation is reasonable and appropriate because new section 36A of the *Nature Conservation Act 1992* specifically provides for these matters to be prescribed in regulation.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the authorising law. New section 36A of the *Nature Conservation Act 1992* specifically provides for the matters in the Amendment Regulation to be prescribed in regulation.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with the policy objectives of other legislation. *The Biosecurity Act 2014* includes a number of requirements in relation to the keeping and movement of bees, but the provisions relate to separate matters and there is no inconsistency.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives. New section 36A of the *Nature Conservation Act 1992* specifically provides for the matters in the Amendment Regulation to be prescribed in regulation.

Benefits and costs of implementation

The State Government will continue to resource the assessment and administration of apiary permit applications and maintaining the associated permitting and spatial data systems used to administer and manage apiary permits. Coordination of park management activities such as fire and pest management activities will also continue in a way that minimises impacts on beehives located in national parks for an additional 20 years.

It is anticipated that these costs will be met from existing budget allocations as it is a continuation of existing functions. The department will incur some of these costs through management of beekeeping on other Queensland Parks and Wildlife Service managed areas such as conservation parks and resources reserves, with permits for these areas are managed through the same systems.

In accordance with *The Queensland Government Guide to Better Regulation*, an Impact Analysis Statement was prepared identifying that the proposal is minor and machinery in nature and no further regulatory impact analysis is required.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles. The legislation does not affect the rights and liberties of individuals. The use of subordinate legislation as opposed to primary legislation is specifically provided for in new section 36A of the *Nature Conservation Act 1992*.

Consultation

Representatives of the Queensland Beekeepers' Association (QBA), including the QBA President and the State Secretary, were consulted on 7 September 2023. A draft version of the Amendment Regulation was shown and explained, with questions from QBA representatives answered at the time. QBA representatives raised several implementation related matters and other queries, but did not have any specific concerns about the proposed Amendment Regulation. As such, no changes were made to the legislation as a result of the consultation.

No other public consultation occurred because the Amendment Regulation is consequential in nature, and necessary to support implementation of provisions in part 4, division 3 of the Amendment Act, which was previously consulted on and passed by Parliament in 2022.

In accordance with *The Queensland Government Better Regulation Policy*, the Office of the Best Practice Regulation (OBPR) was notified in relation to the regulatory proposal.