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# Beekeepers Association of the ACT

PO Box 1482, Woden, ACT, 2606

25 May 2007

Mr Bill Pender  
Inquiry Secretary  
Future Development of the Honey Bee Industry  
Standing Committee on Agriculture, Fisheries and Forestry  
House of Representatives  
PO Box 6021  
Parliament House  
Canberra ACT 2600

Dear Mr Pender

## **Submission to Inquiry into the Future Development of the Australian Honey Bee Industry**

Please find attached the submission from the Beekeepers Association of the ACT to the inquiry into the Future of the Australian Honey Bee Industry.

The Committee can contact the Association by writing to me or by telephone

Yours sincerely

Dr David Alden  
President

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## Inquiry submission – Beekeepers Association of the ACT (Inc)

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### **A – INTRODUCTION**

1. This submission is from the Committee of the Beekeepers Association of the ACT, which is an incorporated association under the *Associations Incorporation Act 1991* (ACT). Membership of the Beekeepers Association of the ACT is open to everyone with an interest in beekeeping living in and around Canberra, which includes hobby and commercial beekeepers. However, at present, the majority of members in the Association are hobby beekeepers. Many of these beekeepers practice beekeeping in an urban or semi-urban environment. Some of them own hives situated in New South Wales (NSW) or Victoria and so are required to be registered in those States.

2. The objectives of the Association are to foster good beekeeping practice in the ACT and surrounding areas, to promote the interests of beekeeping, and to disseminate and exchange information about, and encourage the study of, all aspects of beekeeping.

3. The Association welcomes the opportunity to raise issues in relation to the regulation and control of beekeeping and beekeeping diseases in and around the ACT under the *Animal Diseases Act 2005* (ACT). The Association believes these issues have the potential to affect the biosecurity of the honey bee industry in NSW and therefore are relevant to the third term of reference for this inquiry.

### **B – BACKGROUND**

#### 1. Overview of apiaries regulation in the ACT

##### *The Apiaries Ordinance 1928*

4. On 1 March 1928 the Governor-General of the Commonwealth of Australia, pursuant to the powers conferred on him by the *Seat of Government Acceptance Act 1909* and the *Seat of Government (Administration) Act 1910*, enacted the *Apiaries Ordinance 1928*. This purpose of the Apiaries Ordinance was to “Regulate the Bee Industry and to Prevent the Spread of Diseases in Bees”.

5. The Apiaries Ordinance:

- defined “apiary” to mean “any place where bees are kept” and “bee-keeper” to mean “any person who keeps bees or any person in charge of bees”;
- defined “disease” to mean “foul-brood” and “bee-moths” and conferred a power on the Minister to declare any other diseases and pests to be diseases with the meaning of the Apiaries Ordinance;
- defined “frame-hive” to mean “a hive containing movable frames in which the combs are built and which may be readily removed from the hive for examination”;
- defined “Inspector” to mean an inspector appointed under the Apiaries Ordinance, which could include an inspector appointed under the NSW legislation *Apiaries*

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*Act 1916* (NSW) and authorised in writing by the Minister to exercise power under the Apiaries Ordinance;

- required bee-keepers to register their apiaries within one month of establishment, and to give 14 days notice of an intention to move the apiary;
- made it an offence to keep bees (other than native bees) in any hive other than a frame hive (maximum penalty = £20);
- conferred powers on the Minister to appoint Inspectors and other “officers” to carry out the provisions of the Apiaries Ordinance;
- prohibited the keeping or sale of diseased bees, bee products, and bee-keeping equipment;
- provided that where a person wanted to import any bees, hives, combs or bee-keeping equipment into the Australian Capital Territory they needed to make an application (Importation Application) to the Minister for his consent;
- prohibited importation unless the Minister had consented to the Importation Application;
- provided that Importation Applications to the Minister be accompanied by a certificate from a NSW Apiaries Officer that the bees, hives, combs and equipment were disease free;
- provided that occupiers or lessees of land in the ACT were to notify the Minister if any bees, hives, combs or bee-keeping equipment were brought onto their land from outside the ACT;
- provided that a bee-keeper who became aware of any disease in their bees or hives were to notify the Minister or Inspector in writing;
- provided the Inspector with a power to enter premises to inspect bees, hives and bee-keeping equipment;
- provided that Inspector with the power to certify in writing that the bees were diseased, were a danger to other bees, and should be destroyed (Destruction Certificate);
- provided that, where an Inspector had issued a Destruction Certificate, the Minister could then make a written Order directing the bee-keeper to destroy the diseased bees (Destruction Order);
- provided that the Destruction Order was to be served on the bee-keeper, and if, at the end of 7 days, the bee-keeper had not destroyed the bees, the Inspector could enter the premises and destroy the bees at the bee-keeper’s expense;
- provided that an Inspector could require a bee-keeper to “re-adjust” or alter his hives and frames to ensure that frames could be readily removed (presumably to conform with bee-space measurements);
- provided that an Inspector could certify that equipment should be cleansed, disinfected and quarantined for one month, or re-adjusted. Where that was not possible the Inspector could destroy the equipment. The cost of destruction was to be born by the bee-keeper (unless the value of the equipment was greater than £5, where written approval from the Minister was then required);
- indemnified Inspectors and Officers against actions for trespass and damage unless damage was willful and unnecessary;

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- allowed for recovery of the cost of the work by Inspectors and Officers from beekeepers where bee-keepers had failed to comply with written Destruction Orders; and
- provided that the Minister could make Regulations not inconsistent with the above laws.

6. The Ordinance remained largely unchanged over the years, but was supplemented by the *Apiaries Regulations* in 1931. The Ordinance was amended several times after it was enacted, often to deal with technical issues such as machinery of government issues or changes in the community. For example, all provisions in the Apiaries Ordinance were amended in 1966 to ensure penalties were expressed in decimal currency. However, these changes did not change the primary purpose of the Ordinance, which was to regulate the apiary industry and to control the spread of disease in bees.

7. Of particular relevance to this submission, in 1959 the *Ordinances Revision Ordinance 1959* repealed the power of the Minister to allow NSW Apiaries inspectors to exercise powers under the ACT Apiaries Ordinance. The Revision Ordinance also repealed the Minister's power to enter into agreements with NSW about the payment of NSW Apiaries inspectors. In 1959, the *Ordinances Revision Ordinance 1959* repealed the power of the Minister to delegate his powers and functions under the Apiaries Ordinance.

### ***The Apiaries Act 1928***

8. In 1989, with the change to self-government for the ACT, the *Apiaries Ordinance 1928* was renamed the *Apiaries Act 1928*, and the power to make Regulations was removed from the Minister and vested in "the Executive".

9. In November 1994 the *Statute Law Revision (Penalties) Act 1994* amended the Apiaries Act to change the penalties from being expressed in dollar amounts to penalty units.

10. In December 1994, the *Statutory Offices (Miscellaneous Provisions) Act 1994* amended the Apiaries Act to provide that the Chief Executive of the ACT was to create and maintain 1 or more statutory offices in the ACT Government, whose functions were to include the functions of an "inspector" under the Apiaries Act 1928. Transitional provisions allowed the previously appointed Inspector(s) to continue on as the statutory office holder(s).

### ***Repeal of the Apiaries Act 1928 and Apiaries Regulations***

11. In 1997, the *Animal Diseases (Amendment) Act 1997* repealed the *Apiaries Act 1928* and the *Apiaries Regulations*. The disease control mechanisms in the Act and Regulations were either repealed entirely, or transferred into the *Animal Diseases Act 1993* and the *Animal Diseases (Bees) Regulation 2000*. In 2005, the *Animal Diseases Act 1993* and the *Animal Diseases (Bees) Regulation 2000* were repealed by the *Animal Diseases Act 2005*. In 2006, new regulations, the *Animal Diseases Regulations 2006*

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were made. The disease aspects of beekeeping are now regulated under the *Animal Diseases Act 2005* and Part 4 of the *Animal Diseases Regulation 2006*.

12. For beekeepers in the ACT, the most significant outcomes of the repeal of the Apiaries legislation were the abolition of the statutory office under the Apiaries Act and the abolition of the requirement for beekeepers to register their hives and apiaries. These provisions have not been reenacted in any other ACT legislation.

### ***Animal Diseases Act 2005***

13. As noted above, beekeepers in the ACT are now regulated under the *Animal Diseases Act 2005*. The Animal Diseases Act defines 'animal' to include 'an invertebrate', which includes bees. Under this Act, the Minister has the power, as in the Apiaries Ordinance and Apiaries Act, to declare a disease to be a disease within the meaning of the Animal Diseases Act. A disease is declared to be 'exotic' or 'endemic'.

14. Also under this Act, the Chief Veterinarian of the ACT is the 'Director' for the purposes of animal disease control in the ACT and is empowered to exercise quite significant and intrusive powers under the Act. The Director is also the person whom beekeepers are meant to contact to get a certificate of health for their bees.

15. In addition, the Animal Diseases Act empowers the 'chief executive' to 'authorise' people to perform inspection functions under the Act. The exercise of these powers is generally reviewable in the AAT. However, under section 73 of the Animal Diseases Act, the authorised people are given 'additional powers' in relation to honey bees and that these additional powers do not appear to be reviewable at the AAT (unlike other jurisdictions).

16. The Animal Diseases Act also confers a range of powers on the 'chief executive', including decisions on compensation for animals that must be destroyed to control the spread of declared diseases. The Act does not define who the chief executive is for the Act, but paragraph 163(2)(a) of the *Legislation Act 2001* (ACT) provides that "A provision which refers to the chief executive without identifying the chief executive's title is a reference to the chief executive of the administrative unit responsible for the provision". Therefore, the chief executive for the purposes of the Animal Diseases Act will be the agency head of the ACT Department that administers the Animal Diseases Act.

## **2. Purposes of regulation of beekeeping in the ACT**

### ***Protecting the honey industry from disease***

17. It appears that the primary object of the Apiaries Act (originally enacted as a Commonwealth Ordinance) was to protect the industry against disease in bees in the ACT. In this, our research indicates that the Apiaries Act was consistent with Apiaries legislation in other jurisdictions.

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18. As discussed, some of the aspects of disease control have been reenacted in the *Animal Diseases Act 2005*. However, the lack of both a requirement to register hives, and a dedicated and experienced apiaries inspector means that, in practice, there is no ongoing and regular monitoring of hives and bee diseases in the ACT.

### ***Public nuisance and public health***

19. The Association is aware that legislation in other jurisdictions also provides mechanisms for the community to address the public nuisance and public health issues around urban beekeeping. This includes the capacity for a member of the public to make a complaint about a beekeeper, the complaint to be investigated, remedies to be provided and orders to be issued, and appeal avenues to administrative tribunals for beekeepers.

20. Currently, it is not clear to the Association how these issues are regulated in the ACT. It appears that the *Domestic Animals Act 2000* may be the legislation with the most relevant application. However, there are some problems with trying to apply it to bees.

21. Unlike the Animal Diseases Act, the Domestic Animals Act does not explicitly define 'animal' to include bees. The Explanatory Statement for the Act only mentions cats and dogs, and notes that the Domestic Animals Act repealed the *previous Dog Control Act 1975* and the *Animal Nuisance Act 1975*.

22. The Domestic Animals Services website deals with issues mainly relating to cats and dogs. Therefore, the evidence suggests that the Domestic Animals Act was only intended to apply to dogs and cats and other animals that are sold in pet shops.

23. Further, the practical experience of Association members is that, where the activities of a beekeeper may represent nuisance to the community, there does not appear to be any mechanism available to the public to identify the appropriate administrative unit to deal with the nuisance.

24. While these issues are not strictly within the terms of reference for this inquiry, regulation of the beekeepers in the ACT under similar regimes which exist in jurisdictions such as NSW could be an additional benefit to the ACT community. The regulation of public nuisance and public health issues would be assisted by reenacting a requirement that beekeepers in the ACT register their hives.

## **C – ISSUES FOR BEEKEEPERS ASSOCIATION OF THE ACT**

### **1. Lack of recognition by the ACT Government of issues relevant to beekeepers**

25. Since the repeal of the *Apiaries Act 1928*, regulation of beekeeping and beekeepers appears to have become less rigorous in the ACT.

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26. The ACT Administrative Arrangements Order (dated 17 April 2007) confers responsibility for the administration of the *Animal Diseases Act 2005* on the Chief Minister as the Minister for the Environment. Therefore, the administrative unit responsible for administering the Animal Diseases Act in the ACT appears to be Environment ACT.
27. The Animal Diseases Act allows the Director and 'authorised' people to exercise significantly intrusive powers. However, the ACT government does not appear to have provided any information to the public or beekeepers about the Minister's powers under the Animal Diseases Act, or about the role of the Chief Veterinarian as the 'Director'.
28. Further, there does not appear to be any information or advice available about the application of the Animal Diseases Act to beekeepers, the powers that can be exercised against beekeepers or their rights of review if those powers are exercised. As there are specific provisions in the Animal Diseases Act that provide 'authorised' people with additional powers in relation to honeybees, it is reasonable to expect clear enunciation of government policy in relation to those additional powers. For example, there appear to be no guidelines available to the public to explain how the Director or the 'authorised' persons must exercise those powers. It may be that guidelines have been developed and are being used. However, if that is the case, the guidelines have not been made readily available to the public or to beekeepers.
29. In addition, the experience of Association members seeking information from the ACT Government indicates that staff members in Environment ACT are not able to answer queries on the Animal Diseases Act as it applies to bees, unless the query specifically deals with where to take diseased hives to have them destroyed.
30. The Association is concerned by the fact that information about powers of search and entry under the Animal Diseases Act can only be discovered by reading the relevant legislation and referring to the Administrative Arrangements Order. Most members of the general public would not consider that this meets the definition of information that is readily or easily accessible.
31. Initially, when the Apiaries Act was repealed and the regulatory powers were transferred to the Animal Diseases Act, Environment ACT provided a Fact Sheet that outlined these issues. However, the Fact Sheet is no longer available. The Association believes the lack of information and support for beekeepers reflects a general misunderstanding within the ACT Government that honeybees are 'pests' and the activity of beekeeping does not deserve or require the expenditure of public funds to regulate it appropriately. We believe that this change in viewpoint is a direct result of not having a dedicated and experienced apiaries officer who understands the issues around bees and beekeeping and disease control.
32. This view is supported by the fact that an electronic search of the ACT Government website using the word 'bees' will only generate one hit, which provides information about bees as 'pests' equivalent to European Wasps.



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33. As bees play a vital role in agriculture as pollinators, the failure of the ACT Government to present bees as anything other than pests is disappointing to ACT Beekeepers. It appears to represent a biased view of bees and one that focuses only on the bush environment.

34. While bees may be pests in the bush environment, in the urban environment they are a vital pollinator of fruit trees and vegetables in gardens and therefore have a valid role in that environment, as well as in the rural environment (of course, these are often hard to distinguish between in Australia, and especially so in Canberra due to the deliberate integration with the bush). Nevertheless, we feel it would be useful to those interested in bees, as well as general members of the public, if the information on the ACT Government websites presented both views of bees.

### 2 Approach by ACT Government ignores the threat to the honey industry

35. At the time of repeal of the Apiaries Act, the message the Association received from the ACT Government was that ACT beekeepers were only a hobby group and not an 'industry', and therefore did not require an industry specific approach. This continues to be the message as perceived by the Association.

36. However, in the view of our Association, this represents a narrow view, particularly for beekeepers in NSW. The bees managed in the ACT are geographically situated on an island of land within the State of NSW, which has a significant apiculture industry. It is not unlikely that an outbreak of disease within the ACT, which is (in practical terms) unregulated, could spread to NSW beekeepers through the movement of diseased hives and/or the infection of feral colonies.

37. Unfortunately, the Association is unable to give the Committee an accurate account of the numbers of beekeepers in the ACT and surrounds. However, one of our long term members, who ran a beekeeping supplies shop in Canberra over many years, estimates that there may be between 300 to 600 beekeepers in the ACT. However, due to the repeal of the requirement to register apiaries, the Association has no way to verify that estimate. The Association has only 40 financial members.

### 3. Beekeepers Association approach to the ACT Government

38. The Association raised these issues with the ACT Government in detail in March 2007. To date, we have not received a reply

## **D – POSSIBLE SOLUTIONS**

39. The Association believes a range of solutions exist. We understand that heavy regulation is costly and could lead to the extinction of hobby beekeeping in the ACT, which is not a solution the Association would support. However, moderate regulation,

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such as in NSW, seems appropriate. The solution favoured by the Association is that the ACT reenacts the Apiaries Act in the ACT, in consultation with the relevant stakeholders.

40. Alternatively, the ACT to enter into an arrangement with the NSW Government whereby ACT beekeepers were regulated under the NSW Apiaries Act and the ACT Government partly funded that function.

41. Finally, the ACT might confer the ACT Assembly's power to regulate beekeepers directly on the NSW Parliament, or the Commonwealth may wish to legislate to confer those powers directly on the NSW Parliament.

### **E – SUMMARY**

42. As an Association, we feel that the 10 years since the repeal of the Apiaries Act in the ACT has seen the erosion of disease regulation and monitoring in the ACT, which represents a significant biosecurity threat to the honey industry in NSW. This has the potential to affect the honey industry in Australia in general.

43. Further, as an Association, we also feel it is time that the ACT Government officially reviewed the impact of the repeal of the Apiaries Act. If such a review does not recommend re-enactment of an Apiaries Act in the ACT, we hope that it will recommend other options for regulating beekeeping in the ACT in a way that protects the honey industry overall, without imposing impossible burdens on urban beekeepers.



Dr Dave Alden

President

Beekeepers Association of the ACT (Inc)

25 May 2007