



Safer Waterways Bill 2018

Report No. 7, 56th Parliament
Innovation, Tourism Development
and Environment Committee
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Innovation, Tourism Development and Environment Committee

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Acknowledgements

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Abbreviations

2017 Bill	Safer Waterways Bill 2017
2018 Bill/Bill	Safer Waterways Bill 2018
ABS	Australian Bureau of Statistics
AgForce	AgForce Queensland Farmers Limited
authority	Queensland Crocodile Authority
CCC	Capricorn Conservation Council
CITES	Convention on International Trade in Endangered Species of Wild Flora and Fauna
Conservation Plan	Nature Conservation (Estuarine Crocodile) Plan 2007
CYLC	Cape York Land Council
DEHP	former Department of Environment and Heritage Protection
DES/department	Department of Environment and Science
director	Director of the Queensland Crocodile Authority
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
ECeCoQ	Environment Council of Central Queensland
EDO NQ	Environmental Defenders Office of Northern Queensland Inc.
FNQROC	Far North Queensland Regional Organisations of Councils
Gecko	Gecko Environment Council
ITDEC/committee	Innovation, Tourism Development and Environment Committee
LSA	<i>Legislative Standards Act 1992</i>
Conservation Plan	Nature Conservation (Estuarine Crocodile) Plan 2007
Nature Conservation Regulations	Nature Conservation (Administration) Regulation 2017 and Nature Conservation (Wildlife Management) Regulation 2006
NC Act	<i>Nature Conservation Act 1992</i>
OQPC	Office of the Queensland Parliamentary Counsel
Port Douglas SLSC	Port Douglas Surf Life Saving Club
QCMP	Queensland Crocodile Management Plan

QPS	Queensland Police Service
SLSQ	Surf Life Saving Queensland
TTNQ	Tourism Tropical North Queensland
TPDD	Tourism Port Douglas & Daintree
Tref	Townsville and Regions Environment Foundation
Wildlife Queensland	Wildlife Preservation Society of Queensland
WTMP	Wildlife Trade Management Plan

Chair's foreword

This report presents a summary of the Innovation, Tourism Development and Environment Committee's examination of the Safer Waterways Bill 2018.

The committee's task was to consider the policy to be achieved by the legislation and the application of fundamental legislative principles – that is, to consider whether the Bill has sufficient regard to the rights and liberties of individuals, and to the institution of Parliament.

On behalf of the committee, I thank those individuals and organisations who made written submissions on the Bill. I would also like to thank all the many people who attended and participated in the public hearings on the Bill in Cairns, Townsville, Mackay, Port Douglas and Brisbane. Your contributions were greatly appreciated by committee members.

While it was abundantly clear that the issues surrounding crocodile management in Queensland are of significant public interest, the measures proposed by this Bill did not have the support of the majority of submitters nor those who attended public hearings. In particular, the potential for this Bill to allow untrained people to kill crocodiles and also legalise trophy hunting poses a real, serious and completely unacceptable risk to public safety. Furthermore, the ill-conceived restrictions on foreign investment contained in the Bill threaten the viability of the crocodile farming industry and jobs in regional Queensland. The Committee recommends the Safer Waterways Bill 2018 not be passed.

The committee greatly appreciated the time taken by Grahame and Giovanna Webb and Peter Freeman to show committee members their farms and to provide invaluable advice.

I also thank our Parliamentary Service staff and the Department of Environment and Science.

I commend this report to the House.

A handwritten signature in blue ink, reading 'D. Pegg'.

Duncan Pegg MP

Chair

Recommendation

Recommendation 1

4

The committee recommends the Safer Waterways Bill 2018 not be passed.

1 Introduction

1.1 Role of the committee

The Innovation, Tourism Development and Environment Committee (ITDEC/committee) is a portfolio committee of the Legislative Assembly which commenced on 15 February 2018 under the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly.¹

The committee's primary areas of responsibility include:

- Innovation and Tourism Industry Development and the Commonwealth Games, and
- Environment and the Great Barrier Reef, Sciences and the Arts.

Section 93(1) of the *Parliament of Queensland Act 2001* provided that a portfolio committee is responsible for examining each bill and item of subordinate legislation in its portfolio areas to consider:

- the policy to be given effect by the legislation
- the application of fundamental legislative principles, and
- for subordinate legislation – its lawfulness.

1.2 Referral and inquiry process

The Safer Waterways Bill 2018 (Bill/2018 Bill) was introduced into the Legislative Assembly on 21 March 2018 by Mr Shane Knuth MP, the Member for Hill and referred to the committee on 22 March 2018. The committee is to report to the Legislative Assembly by 21 September 2018.

On 25 May 2017 Mr Shane Knuth MP, the then Member for Dalrymple introduced the Safer Waterways Bill 2017 (2017 Bill) which contained similar provisions to the 2018 Bill. The 2017 Bill was referred to the Agriculture and Environment Committee with a report due to be tabled by 27 November 2017. The 2017 Bill lapsed when the 55th Parliament was dissolved on 29 October 2017.²

ITDEC's inquiry process included:

- an invitation to stakeholders and committee subscribers to make written submissions – 34 submissions were received (see Appendix A for a list of submissions)
- public briefing by the Member for Hill on 14 May 2018
- public hearing in Brisbane on 11 June 2018
- site visit to Crocodylus Park hosted by Professor Grahame Webb on 25 June 2018
- round table discussions in Darwin with the Northern Territory Government and experts in the field on 26 June 2018
- public hearings in Cairns and Port Douglas on 27 August 2018
- public hearing in Townsville on 28 August 2018
- public hearing in Mackay on 29 August 2018 (see Appendix B for a list of public hearing witnesses)
- site visit to Hartley's Crocodile Adventures on 28 August 2018, and
- review of written advice from the Member for Hill and the Department of Environment and Science (DES/department).

¹ *Parliament of Queensland Act 2001*, section 88 and Standing Order 194.

² Agriculture and Environment committee inquiry website - <http://www.parliament.qld.gov.au/work-of-committees/former-committees/AEC/inquiries/past-inquiries/SaferWater>

The submissions, advice received from the Member for Hill and the department, and transcripts of the briefing and hearings are available on the committee's webpage.³

1.3 Policy objectives of the Bill

The explanatory notes advised that the Bill aims to:

- responsibly reduce the risk of crocodile attack as much as possible
- eliminate from the State's waterways all crocodiles that pose a threat to human life while protecting crocodiles from becoming endangered as a species, and
- create a significant and sustainable crocodile industry in Queensland through controlled egg harvesting.⁴

Part 2 of the Bill proposes that a Queensland Crocodile Authority (authority) be established in Cairns and Part 4 proposes that the authority has a board made up of people with relevant experience in crocodile management to assist the director of the authority, provide recommendations to the director and report annually to the Minister about the performance of the director.

In the introductory speech on the Bill, the Member for Hill advised:

The Safer Waterways Bill 2018 provides a practical, balanced solution which will remove crocodiles from urban or public areas commonly used by people for recreation. This removal may involve killing or relocating the crocodile to an authorised farm, which is a policy position similar to the Northern Territory crocodile management strategy. If managed responsibly, crocodiles have the potential to be a great asset for Queensland rather than just a danger to people.

As well as protecting human lives, the Safer Waterways Bill 2018 aims to create a significant and sustainable crocodile industry in Queensland through controlled egg harvesting. The Northern Territory currently has a successful egg harvesting program. Evidence suggests that egg harvesting can help sustain crocodile populations rather than diminish them. This creates a huge economic opportunity which is currently untapped in Queensland.

Significantly, the Safer Waterways Bill provides landowners with the opportunity to apply through the Queensland Crocodile Authority for authorisation to manage crocodiles on their land. Indigenous landowners have a connection with and understanding of the land and should be empowered to manage that land as they see fit. Non-Indigenous private landowners can apply for the same rights.⁵

At the public briefing on the Bill the Member for Hill stated that the current crocodile management strategy is biased towards protecting the lives of crocodiles over human life and that the Bill places greater value on human life than the lives of crocodiles and seeks to responsibly reduce the risk of crocodile attacks.⁶

The Member advised 'the policy of prioritising human life is in response to community outrage at the lack of action taken to protect North Queenslanders from the risk crocodiles pose to visitors and residents' and the Bill has multiple objectives including aiming 'to eliminate all crocodiles that pose a threat to human life from our waterways while maintaining an appropriate level of protection to prevent crocodiles from becoming an endangered species'.⁷

³ <http://www.parliament.qld.gov.au/work-of-committees/committees/ITDEC/inquiries/current-inquiries/4SaferWater2018>

⁴ Explanatory notes, p 1.

⁵ Queensland Parliament, Record of Proceedings, 21 Mar 2018, p 588.

⁶ Public briefing transcript, Brisbane 14 May 2018, p 1.

⁷ Public briefing transcript, Brisbane 14 May 2018, p 1.

The Member also clarified that the proposal is to remove crocodiles from urban and public areas that are commonly used by people for recreation and that this may involve killing or relocating crocodiles to an authorised farm.⁸

1.4 Private Member consultation on the Bill

The explanatory notes advised that significant consultation had been undertaken in preparation of the Bill including detailed engagement with affected communities through public forums and private engagement. Other major stakeholder groups consulted included:

- Indigenous groups
- local government
- crocodile experts
- professional fishing community and other community groups, and
- federal members of parliament.⁹

In the explanatory speech on the Bill, the Member for Hill provided further details about the results of consultation:

Some views were expressed during consultation that no crocodiles should be killed or relocated. This does not align with the policy objectives of keeping people safe from crocodiles. Other views were expressed that the policy objective of keeping people safe from crocodiles could be achieved by relocating any problem crocodile to other locations.

Consultation with experts suggests that crocodiles may become more dangerous once they have been relocated. Therefore, crocodiles should be relocated to farms or properly managed reserves. The consultation also reveals that because there are so many crocodiles that require removal to keep people safe, it is very unlikely that there would be a desire from existing crocodile farms to house all those crocodiles. Based on this extensive consultation it has become clear that the combination of killing and relocating to farms is the best way to achieve the policy objectives.¹⁰

1.4.1 Stakeholder views

The Capricorn Conservation Council (CCC) submitted that consultation on the Bill prior to its introduction 'could be described as unacceptable, with no evidence shown regarding consultation of any of the sixteen (16) Indigenous Councils or Native Title holders, located in the crocodile management area'.¹¹

The submission from David White, owner/operator of Solar Whisper Wildlife Cruises was also critical of the consultation process:

This Bill talks of consultation but not one of the operators I called was consulted. There was a travelling road show that spoke hysterical stories to the public, if this was the bill's consultation process then that was erroneous. I attended the largest of these meetings as stated by the chair Brett Olds and Speaker Bob Katter in Cairns. The meeting was recorded by live feed and put on social media for everyone to view. The overwhelming response, indeed, many people said this was the first time they could speak out, was the support for education to keep humans safe and was against a cull.¹²

⁸ Public briefing transcript, Brisbane 14 May 2018, p 2.

⁹ Explanatory notes, p 3.

¹⁰ Queensland Parliament, Record of Proceedings, 21 Mar 2018, p 589.

¹¹ Submission 10, p 3.

¹² Submission 17, p 1.

Australia Zoo stated that ‘the Bill’s authors have purported to have consulted widely but have made no contact with Queensland researchers who have carried out the world’s longest continuous study of crocodilian behaviour – Australia Zoo and the University of Queensland’.¹³

The Wildlife Preservation Society of Queensland (Wildlife Queensland) advised that it had not been consulted and that ‘consultation may have occurred widely but not within conservation organisations’.¹⁴

The Environment Council of Central Queensland (ECoCeQ) argued that the community consultation that was undertaken showed an irrational fear of crocodiles:

*We do want politicians to listen to us, but we want them to be moderate in their response and to provide us with information based on scientific intelligence. Talk of an explosion in crocodile populations is not yet supported. It may well be the case that those populations that were decimated in the 1960s and 1970s are in recovery mode. We will soon find out whether that is after the population surveys are released.*¹⁵

Brynn Mathews advised that he attended the public consultation in Cairns and that ‘the meeting loudly condemned the Katter Party proposals’.¹⁶

1.4.2 Response by the Member for Hill

The Member for Hill provided the committee with a response to issues raised in submissions. In relation to consultation on the Bill he advised:

*The Bill is the culmination of a significant consultation process including regional forums held in Cairns, Innisfail, Mareeba and Port Douglas, Indigenous groups, local government, Federal members of Parliament, professional fishing community and other community groups. We have also consulted heavily with crocodile experts including Professor Grahame Webb, who is universally recognised as a world-wide leading expert on Crocodiles, as well as one of the architects behind the Northern Territory crocodile management plan.*¹⁷

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.

After examination of the Bill, including consideration of the policy objectives to be implemented, stakeholders’ views, department advice and information provided by the Member for Hill, the committee recommends that the Bill be not be passed.

Recommendation 1

The committee recommends the Safer Waterways Bill 2018 not be passed.

¹³ Submission 9, p 1.

¹⁴ Submission 13, p 3.

¹⁵ Public hearing transcript, Mackay, 29 August 2018, p 11.

¹⁶ Submission 12, p 1.

¹⁷ Comments/Response: The Safer Waterways Bill 2018 Submissions, 13 July 2018, p 1.

2 The current regulatory approach for managing crocodiles

There are two species of crocodile in Queensland, freshwater (*Crocodylus johnstoni*) and estuarine (*Crocodylus porosus*). The Bill only applies to the management of estuarine crocodiles, also known as the saltwater crocodiles.

2.1 Background to the current regulatory approach¹⁸

The department provided the committee with the following background information on the current regulatory approach for managing crocodiles in Queensland which is designed on the basis of the:

- location of crocodiles
- conservation status of crocodiles, and
- risks associated with human-crocodile interactions.

2.1.1 Location of crocodiles

In Queensland, crocodiles are known to occur throughout the Gulf of Carpentaria, Cape York Peninsula, Torres Strait, and along the east coast. Crocodiles are regularly present as far south as the Boyne River near Gladstone and occasionally as far south as the Mary River in South East Queensland.

Estuarine crocodiles most commonly live in the tidal reaches of rivers and associated inlets and wetlands. However, they also occur along beaches and offshore islands in the Great Barrier Reef and Torres Strait, and in freshwater lagoons, rivers, and swamps up to hundreds of kilometres inland from the coast.

As a result there is a possibility that crocodiles may be present in or near almost any water body north from the Gladstone area, all the way to the Northern Territory border. Colloquially, this area is known as ‘croc country’.

2.1.2 Conservation status

The Australian Government Department of Environment and Energy provided:

*The salt-water Crocodile was harvested extensively in the wild throughout northern Australia, during the 1940s, 50s and 60s. A severe reduction in the population resulted in management measures being put in place by all range states and the Commonwealth. Full protection was given to the Salt-water Crocodile in Western Australia in 1970, in the Northern Territory in 1971, and in Queensland in 1974.*¹⁹

Dr Adam Britton, a professional in crocodile conservation management, has estimated that the number of crocodiles killed prior to the introduction of management in the 1970s was 95 per cent of the Australian wild crocodile population.²⁰

In Queensland, estuarine crocodiles are listed as a ‘vulnerable’ species. This species status means that:

- the population size or distribution of the wildlife has declined, or is likely to decline, to an extent that the wildlife may become endangered because of a threatening process; or
- the population size of the wildlife has been seriously depleted and the protection of the wildlife is not secured; or

¹⁸ Section 2.1 contains information provided by the DES, Submission 19, pp 3-6 unless otherwise referenced.

¹⁹ http://www.environment.gov.au/cgi-bin/sprat/public/publicspecies.pl?taxon_id=1774 (accessed 24 August 2018) referenced in submission 19, p 3.

²⁰ <http://theconversation.com/staying-safe-in-crocodile-country-culling-isnt-the-answer-60252> (accessed 24 August 2018) referenced in submission 19, p 3.

- the population of the wildlife is—
 - low or localised; and
 - dependent on habitat that has been, or is likely to be, adversely affected, in terms of quantity or quality, by a threatening process.

The Australian Government also regulates human and crocodile interactions, on account of the species being listed under the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES). The estuarine crocodile is currently listed as both a marine species and migratory species under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

2.1.3 Population monitoring

Since the cessation of hunting in Queensland there has not been a co-ordinated population monitoring program. Surveys were undertaken from 1994-2000 and 2009-2010, however these were limited to a number of targeted creeks and rivers. Consequently, the size of the crocodile population in Queensland is not currently known and there is limited information on population trends since the ban on hunting in the 1970s.

Conversely, in the Northern Territory, a long-term crocodile population monitoring program has been in effect since the 1970s. This program has resulted in estimates that there are 90 000 to 100 000 non-hatchling crocodiles in the Northern Territory, which is a significant increase relative to the estimated population in 1971 of just 3 000 non-hatchling animals²¹.

2.1.4 Human crocodile interactions

There is limited data in relation to crocodile attacks prior to 1975. However, there are some records, with 17 non-fatal and 11 fatal attacks being recorded between 1889 and 1967.²²

According to statistics compiled on crocodile behaviour, between 1971 and May 2016 (45.42 years) there were 112 recorded crocodile attacks across Western Australia, the Northern Territory and Queensland. Of these attacks, 33 (30 per cent) were fatal.²³

Between 2006 and 2016 (11 years) in Australia, the Australian Bureau of Statistics (ABS) recorded that 16 people died as a result of a bite or strike by a crocodile.²⁴ Across Australia, this equates to an average of approximately 1.454 deaths per year. Between 2006 and 2016 in Queensland, the Queensland Government recorded that four people died as a result of a crocodile attack.²⁵ Across Queensland, this equated to an average of approximately 0.364 deaths per year.

However, in 2017 there were two further fatal attacks in Queensland at Palmer Point, north of Innisfail and Craiglie Creek, Port Douglas.²⁶

²¹ <http://www.environment.gov.au/system/files/resources/9a96862e-6d41-4435-953f-327fa6f1b167/files/nt-saltwater-crocodile-mgt-plan-2016-2020.pdf> (accessed 24 August 2018) referenced in submission 19, p 4.

²² <https://www.sbs.com.au/news/interactive-how-likely-is-a-crocodile-attack-in-australia> (accessed 24 August 2018) referenced in submission 19, p 4.

²³ <http://theconversation.com/staying-safe-in-crocodile-country-culling-isnt-the-answer-60252%20Accessed%208%20May%202017> (accessed 24 August 2018) referenced in submission 19, p 4.

²⁴ Australian Bureau of Statistics 2016, *Causes of Death, Australia, 2016*, 'Table 13.1 Underlying cause of death, All causes, Year of Occurrence, Australia, 2006-2016', data cube: Excel spreadsheet, cat. No. 3303.0 <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/3303.02016?OpenDocument> (accessed 24 August 2018) referenced in submission 19, p 4.

²⁵ <https://www.ehp.qld.gov.au/wildlife/livingwith/pdf/crocodile-attacks-queensland.pdf> (accessed 24 August 2018) referenced in submission 19, p 4.

²⁶ <https://www.ehp.qld.gov.au/wildlife/livingwith/pdf/crocodile-attacks-queensland.pdf> (accessed 24 August 2018).

2.1.5 Human crocodile population data

The department advised that without population monitoring data in Queensland, it is difficult to know for certain whether crocodile populations have been increasing but noted that the human population has greatly increased in croc-country over this time.

In 1976 it was estimated that the Cairns region had a residential population of 128,030 people²⁷, and in the 2016 Census the ABS recorded the Cairns region as having a population of 240,190 people²⁸. This is an 87.604 per cent population increase over this time, and the Cairns region is now the largest population hub in northern Australia.²⁹

In the Townsville region, the estimated 1976 population was 177,240 people.³⁰ The 2016 ABS Census recorded the Townsville region as having a population of 229,031 people.³¹ This is a 29.221 per cent population increase over this time.

On average, between 2006 and 2016, the Cairns region has had an average population increase of 3,708 people per year.³² Similarly, the Townsville region during this period has had an average population increase of 3,236 people per year.³³

Cairns and Townsville are also popular for recreational water-based activities. For instance, in 2016 it was recorded that there were a total of 22,075 recreational ships registered in the Cairns Maritime Region.³⁴ By using the ABS Census results from the same year, this equates to an average of one boat for every 11 people in Cairns. Similarly, a total of 23,674 recreational ships were registered in the Townsville Maritime Region³⁵, equating to an average of one boat for every 10 people in Townsville. By comparison, the average across Queensland is one recreational vessel per 19 people.³⁶

The department concluded:

The rapid and significant expansion of the human population, the popularity of water-based activities in croc-country, and the suspected recovery in the crocodile population have resulted in an increased likelihood of crocodile sightings and interactions between humans and crocodiles.³⁷

²⁷ https://www.cairns.qld.gov.au/__data/assets/pdf_file/0015/134151/Pop_NorthAust.pdf (accessed 30 August 2018) referenced in submission 19, p 5.

²⁸ http://quickstats.censusdata.abs.gov.au/census_services/getproduct/census/2016/quickstat/306?opendocument (accessed 30 August 2018) referenced in submission 19, p 5.

²⁹ https://www.cairns.qld.gov.au/__data/assets/pdf_file/0015/134151/Pop_NorthAust.pdf (accessed 30 August 2018) referenced in submission 19, p 5.

³⁰ https://www.cairns.qld.gov.au/__data/assets/pdf_file/0015/134151/Pop_NorthAust.pdf (accessed 30 August 2018) referenced in submission 19, p 5.

³¹ http://quickstats.censusdata.abs.gov.au/census_services/getproduct/census/2016/quickstat/306?opendocument (accessed 30 August 2018) referenced in submission 19, p 5.

³² http://quickstats.censusdata.abs.gov.au/census_services/getproduct/census/2016/communityprofile/306?opendocument (accessed 30 August 2018) referenced in submission 19, p 5.

³³ http://quickstats.censusdata.abs.gov.au/census_services/getproduct/census/2016/communityprofile/318?opendocument (accessed 30 August 2018) referenced in submission 19, p 5.

³⁴ <http://www.qgso.qld.gov.au/products/reports/pop-growth-highlights-trends-reg-qld/pop-growth-highlights-trends-reg-qld-2015.pdf> (accessed 30 August 2018) referenced in submission 19, p 5.

³⁵ <http://www.qgso.qld.gov.au/products/reports/pop-growth-highlights-trends-reg-qld/pop-growth-highlights-trends-reg-qld-2015.pdf> (accessed 30 August 2018) referenced in submission 19, p 5.

³⁶ Recreational vessel census June 2016, found at <https://www.msq.qld.gov.au/About-us/Maritime-statisticsand-reports-library> (accessed 30 August 2018) referenced in submission 19, p 5.

³⁷ Submission 19, p 6.

2.2 Current regulatory approach for crocodiles³⁸

The department provided the committee with the following information on the obligations under state, national and international law that regulate the management of crocodiles in Queensland.

2.2.1 Commonwealth/International obligations

Where crocodile products are to be exported, requirements of the CITES apply. This convention is applied by the Australian Government through requirements under the EPBC Act. In order to meet these requirements, an approved Wildlife Trade Management Plan (WTMP) is required for Queensland's crocodile industry.

To the extent that harvesting of crocodiles is permitted in Queensland, this must also be reflected in the WTMP – even if the harvested crocodiles will not be part of the export industry. This is required to ensure Australia can satisfy the requirements of CITES and that Queensland's approach for allowing the harvesting of crocodiles from the wild is sustainable. To date, crocodile WTMPs approved by the Commonwealth – for Queensland and the Northern Territory – address this requirement through approving maximum quotas of animals that can be taken from the wild, and the purpose for which they can be taken from the wild.

2.2.2 Queensland's framework

The current regulatory approach for crocodiles is established through the *Nature Conservation Act 1992* (the NC Act), the Nature Conservation (Administration) Regulation 2017 and Nature Conservation (Wildlife Management) Regulation 2006 (Nature Conservation Regulations), and the Nature Conservation (Estuarine Crocodile) Plan 2007 (Conservation Plan).

2.2.2.1 NC Act

The NC Act establishes the objectives for the management of native wildlife (plants and animals) in Queensland. These objectives include protection of native wildlife and its habitat, and that the use of wildlife is to be ecologically sustainable.

2.2.2.2 Nature Conservation Regulations

The Nature Conservation Regulations establish the permit and licencing arrangements for native wildlife in Queensland. These regulations provide for the farming of crocodiles and the harvesting of crocodiles (harvesting is only permitted to the extent that the the Conservation Plan allows).

2.2.2.3 Conservation Plan and the QCMP

The final element of the framework is the Conservation Plan which establishes the approach for the management of problem crocodiles, which is administered through the Queensland Crocodile Management Plan (QCMP). Under the Conservation Plan and QCMP, 'problem crocodiles' have the same meaning as 'rogue crocodiles' under the Bill.

The Conservation Plan outlines the circumstances under which a crocodile may be considered a 'problem crocodile' and therefore targeted for removal from the wild. This is complemented by the detailed guidance in the QCMP regarding when, and where, the chief executive may consider a crocodile is a problem crocodile.³⁹

The Conservation Plan also has the potential to allow the harvesting of crocodiles. However, the plan is currently silent on this – meaning that crocodile harvesting is not currently permitted.

³⁸ Section 2.2 is taken from information provided by DES, Submission 19, pp 6-8 unless otherwise referenced.

³⁹ https://www.ehp.qld.gov.au/wildlife/livingwith/crocodiles/crocodile_plan (accessed 3 May 2018)

The QCMP is the overarching framework for the statewide management of public safety risks associated with crocodiles in Queensland. Management is based on crocodile management zones where crocodiles are removed in certain circumstances across different areas in the state in accordance with the level of risk posed.⁴⁰ As noted above the QCMP provides detailed guidance regarding when, and where, the chief executive may consider that a crocodile is a problem crocodile.

The QCMP was released in 2017, following consultation with key stakeholders and the broader community in 2016. The department advised that overall, there was a strong level of support for the Crocodile Management Plans that were already in place. This consultation process included an online survey of the general community, which received 1961 responses. In summary, the results of the survey of the general community indicated:

- half of respondents support the notion that crocodile management must be a balance of conservation and public safety
- support amongst residents in northern Queensland for removal of aggressive and dangerous crocodiles around urban areas was 76 per cent and support for removal of larger crocodiles around urban areas was 47 per cent
- across Queensland, 28 per cent of respondents did not support the removal of aggressive crocodiles around urban areas, and 32 per cent believed that crocodile management should be based heavily on conservation, indicating a preference for removal of fewer crocodiles
- approximately 15 per cent of respondents support the widespread removal of crocodiles around urban areas, and
- respondents living near crocodiles had a relatively good knowledge of how to keep themselves safe from crocodiles.

The consultation report for this process is found at:

<http://www.ehp.qld.gov.au/wildlife/livingwith/pdf/crocodile-management-consultation.pdf>

The department advised that while the QCMP is not a statutory document it provides clear guidance to departmental staff and the community on the State's expectations for managing the risks associated with human – crocodile interactions.

In addition to the approach identified in the QCMP, any crocodile may be considered a problem crocodile if the Chief Executive administering the Conservation Plan considers the crocodile:

- is, or is likely to become, a danger to humans; or
- has passed through a crocodile prevention barrier and is, or is likely to become, a danger to aquaculture fisheries resources, stock, or a working dog.

⁴⁰ https://www.ehp.qld.gov.au/wildlife/livingwith/crocodiles/crocodile_plan (accessed 3 May 2018)

3 Examination of the Bill

This section of the report outlines the committee's examination of the Bill.

3.1 Policy objectives of the Bill

As noted in section 1.3 of this report the Member for Hill advised that the Bill has multiple objectives including aiming 'to eliminate all crocodiles that pose a threat to human life from our waterways while maintaining an appropriate level of protection to prevent crocodiles from becoming an endangered species'.⁴¹

The explanatory notes provided the following reasons for the proposed policy objectives:

- the proposed policy has come about in response to calls from North Queenslanders for action in response to an increased number of crocodiles and crocodile attacks
- North Queensland communities are consistently reporting significant increases in crocodile numbers and waterways in which people previously swam are now infested with crocodiles
- an effective crocodile management strategy is urgently required to save lives
- the increase in crocodile numbers adversely and significantly affects the way North Queenslanders live – there are life-saving, rowing and skiing clubs closing their doors because crocodiles are driving their members away
- if managed responsibly, crocodiles have the potential to be a great asset for Queensland
- the Bill proposes to give power to landholders to apply to manage crocodiles on their land, and
- Indigenous landholders have a connection with, and understanding of, the land and should be empowered to manage that land as they see fit – the Bill proposes that they can apply to do that in relation to crocodiles.⁴²

3.1.1 Stakeholder views

The committee was provided with a considerable amount of evidence from stakeholders about what they perceived to be the level of threat to human lives posed by crocodiles in Queensland waterways; and the impact the presence of crocodiles may have on the State and local economies and the safety of local communities. This evidence, summarised below, illustrates a wide variety of views on this issue.

Wildlife Queensland argued that the issue faced by northern Queensland involves inherently contradictory responsibilities:

*There are two fundamental but inherently contradictory responsibilities relating to crocodiles: an obligation to conserve them and an obligation to keep people safe from them. The obligation to protect people from harm has to accommodate and accept the realisation that it is neither practical nor economically feasible to ensure complete safety from crocodiles in and around the natural waters of northern Queensland. Risks can be minimised but they cannot be eliminated completely.*⁴³

⁴¹ Public briefing transcript, Brisbane 14 May 2018, p 1.

⁴² Explanatory notes, pp 1-2.

⁴³ Public hearing transcript, Brisbane, 11 June 2018, p 6.

3.1.1.1 *Tourism industry*

The tourism industry held divergent views on the impact of crocodiles on their industry. Many tourist operators raised concerns that tourists' concerns that northern waterways and coastal areas were not safe was having a negative impact on the tourism industry and it would only take one crocodile related incident to decimate the industry. These concerns are provided below.

The Tourism Tropical North Queensland (TTNQ) submission argued that the time has come to put in place a realistic, considered plan for crocodile management in Queensland as 'heated media, public and online debate, plus unlawful crocodile deaths is divisive and indicates the current approach is not working for our community'.⁴⁴ The submission noted reports that crocodiles are 'now apparently being found as far south as the Mary River, only 150 kilometres north of Noosa':

... [this] underscores that this is a Queensland wide issue. Where nodes of high human use overlap, we are concerned at the current, and potentially future impacts to tourism. We recognise that wildlife viewing of crocodiles, particularly in the north, is an important attraction and that nuances of management will differ from place to place.

Tourism contributes an estimated \$3.3B to the TNQ region's economy and Tropical North Queensland is promoted as one of the world's most inspiring nature-based destinations with the Great Barrier Reef, beaches and the Wet Tropics rainforest at the centre of this focus. Our population swells in the Cairns region alone by about 40,000 visitors a day as they explore our natural environment. Tourism is a key economic driver for the whole state with \$25B revenue and employing over 225,000 people.

...

Enjoyment of our beaches and marine environment is critical to continued tourism growth and to the ongoing power and value of brand Queensland.

*A single significant incident will have ramifications not just in the Tropical North, but across Queensland, and is likely to result both in a call for an extreme response, as well having a severe effect on our reputation. The potential impacts are well beyond tourism.*⁴⁵

At the Cairns public hearing the Chair of the TTNQ reiterated that tourism is now the major economic driver in the north and advised that 'it is absolutely vital that that tourism industry, which is currently the driver of our economy, is retained and maintained in all of its forms'.⁴⁶

Monique Johnson told the committee that in Port Douglas tourism dollars drive the local economy and 'everything else flows from there, my family has three businesses here with three generations representing construction, boutique and holiday rental' and she raised a concern that 'if a tourist loses their life our businesses and real-estate prices will be worthless'.⁴⁷

Wendy Crossman raised a similar concern stating 'when someone dies, that death is going to destroy the local tourism industry. It is not going to soften it; it is going to destroy it... They want a safe beach and if they think they are not safe on that beach, then tourism is going to die'.⁴⁸

⁴⁴ Submission 1, p 1.

⁴⁵ Submission 1, pp 1-2.

⁴⁶ Public hearing transcript, Cairns 27 August 2018, p 15.

⁴⁷ Submission 26, p 1.

⁴⁸ Public hearing transcript, Port Douglas, 27 August 2018, p 20.

Mal Phillips, who attended the Port Douglas hearing, submitted that he is aware of accommodation cancellations and property sales falling as a result of the bad publicity on social media and argued that a program needs to be put in place now to combat this issue. He also indicated that he was in full support of the proposals in the Bill.⁴⁹

Jamie Chetcuti pointed out that it was important to stay focussed and not get emotional:

*I would like the committee to simply understand that, for people living in North Queensland and operate tourist businesses, our living depends on it. ... We need to do everything we can to make sure that tourists are coming to Townsville, they are comfortable and that there are things they can do.*⁵⁰

Tourism Port Douglas & Daintree (TPDD) noted that the region covers diverse range of tourism opportunities showcasing the region's spectacular natural environment and advised that TPDD does not underplay the importance of experiences that offer potential sightings of saltwater crocodiles. The submission pointed to research commissioned by TPDD and conducted by CQUniversity which indicates that 'beaches' and 'the natural environment' are consistently amongst the top five motivators for travel to the region:

Therefore, the success of our region is intricately linked with our beach lifestyle and marine activities. As such, negative publicity surrounding crocodile sightings and attacks in the mainstream and social media, contributes to a perceived increasing risk and resulting diminishing safety of our beaches, which poses a potentially devastating impact on our tourism industry through lost visitation and reduced length of stay.

*Tourism operators and community groups have operated safely in our region's marine environments for decades, but the situation has changed significantly over the past few years that there is now widespread concern for loss of income, business and lifestyle from increased crocodile activity. In Cape Tribulation, frequent crocodile sightings resulted in the permanent closure of a successful and highly-esteemed kayaking business that had been operating for 29 years without incident.... Resort operators across our region also report on the adverse effect of crocodile sightings on our beaches, some having also been forced to close beach access at times, leaving visitors confused, concerned and questioning the safety of spending time on our beaches.*⁵¹

Peter Davidson and Astrid van Peelen who owned the kayaking business referred to by TPDD provided a submission explaining that in 2016 they were forced to close their business due to serious safety concerns for guests and staff. They have since tried to change their business permits to allow them to carry passengers in their rescue boat to keep conducting sightseeing tours but have so far been unsuccessful due to restrictions in legislation around the Great Barrier Reef Marine Park and its permits.⁵²

However, the submission from David White (Solar Whisper Wildlife Cruises) illustrated concerns nature-based tourism operators had with the objectives of the Bill. Mr White advised that he considers that the Bill threatens the asset that crocodiles are to Queensland and 'threatens my business and other businesses that make a living from tourism' and provided evidence that other tour operators are of the same view:

All these tours showing thousands of people crocodiles in the wild are generating millions of dollars for the local community and providing much needed jobs in rural areas. They are threatened by both the outcomes of the Bill and the ideology it represents. The outcomes of increased removal of crocodiles will impact on my business and all those incomes generated by showcasing crocodiles

⁴⁹ Submission 31, p 1.

⁵⁰ Public hearing transcript, Townsville, 28 August 2018, p 14.

⁵¹ Submission 23, pp 1-2.

⁵² Submission 27, p 1.

*and also the name that Australia has of protecting its wildlife. The implications of tarnishing Australia's name overseas would be devastating for tourism in general.*⁵³

Mr White also argued that while the Bill maintains the more crocodiles that are removed the safer it will be this has been proven in the past to be erroneous:

*When 95 per cent of crocs were killed and the population of Queensland was relatively low, there were still attacks. It has been shown that removing crocodiles creates a false sense of security and this means people are more likely to make bad choices on the false belief that the waters are safe. Unless every single crocodile is killed throughout Australia then culling does not work.*⁵⁴

Peter Freeman, Director of Hartley's Crocodile Adventures submitted that his company does not support the Bill as it believes the Bill in its current form is ill conceived and has little regard to the inherent complexities of wild crocodile management.⁵⁵ However, the submission also advised:

*In some way, I can understand the community emotion behind this Bill. The Queensland Wildlife Service (unsure of this year's title for that department) has mishandled crocodile management for over 30 years and community anger has reached boiling point. The community has become deeply polarised and the ongoing belligerence of the current controlling authority only exacerbates the issue.*⁵⁶

3.1.1.2 Local Government

The concerns raised by a large proportion of the tourism industry were, to some extent, echoed by local government.

The Far North Queensland Regional Organisations of Councils (FNQROC) which represents 13 member councils, advised that FNQROC and member councils are generally supportive of the Bill in principle but also raised a number of issues in relation to it. FNQROC submitted that with a gross regional product of \$14.5 billion and the base economies being driven primarily by tourism (\$3 billion) 'we are cognisant that striking a balance between environmental protection and economic pursuits is integral to our ongoing prosperity'.⁵⁷

Further, FNQROC submitted that while safer swimming and recreation is at the core of the Bill's objectives 'the policy objective states an undeliverable objective of which the main thrust is to eliminate the threat to human life by killing all crocodiles which pose a threat and somehow preserving the species at the same time'.⁵⁸

At the Cairns public hearing FNQROC advised:

*Councils are very concerned around devolution, deliberate or otherwise, that comes from some of these actions put in train through changes and shifts in legislation and policy. We think the Safer Waterways Bill as it is put forward is a really good catalyst to have the conversation, but we are fairly confident, looking at it in a lot of detail, that there are a lot of concerns and triggers et cetera that it hits in terms of the issues and concerns that the community face, but by and large it certainly does not hold a lot of the solutions that we would be seeking and it does raise quite a few concerns. We welcome the dialogue.*⁵⁹

⁵³ Submission 17, p 1.

⁵⁴ Submission 17, p 1.

⁵⁵ Submission 7, p 2.

⁵⁶ Submission 7, p 2.

⁵⁷ Submission 6, p 1.

⁵⁸ Submission 6, p 2.

⁵⁹ Public hearing transcript, Cairns, 27 August 2018, p 3.

The submission from the Cape York Land Council (CYLC) broadly supported the intentions of the Bill ‘because, if passed, it will make Cape York Aboriginal communities safer and will also provide economic development opportunities for Aboriginal communities’.⁶⁰ However, CYLC considered there are a number of ways the Bill could be improved.⁶¹ The Council’s recommended changes are outlined in the relevant sections of this report.

3.1.1.3 Other stakeholders generally in support of the objectives of the Bill

The submission from AgForce Queensland Farmers Limited (AgForce) advised that communities across North Queensland are consistently reporting significant increases in crocodile numbers and that ‘waterways which people previously regularly swam in without significant risk, are now infested with crocodiles’.⁶² The submission noted that potential crocodile impacts to agriculture include:

- loss of working dogs and livestock watering at the edge of water holes
- risk to human life when servicing submersible water pumps in high risk watercourses and dams
- increased difficulty when treating water weed infestations, and
- should a culling program be endorsed, the costs of applying for, training, preparing for and undertaking it needs to be considered and resourced.⁶³

Mr Warren Entsch MP, Federal Member for Leichhardt advised the committee that ‘there is no question that there is a major issue in our region in relation to crocodiles’ and ‘what you are seeing now, with a serious increase in population, is that these animals are now being forced into areas they would never normally go ... you start to see them going up into swimming holes and waterholes’.⁶⁴ Mr Entsch stated that from liveability point of view this is a very serious issue and it has a massive impact on the tourism industry:

*We have people who in Port Douglas, for example, who are selling their houses facing on to Four Mile Beach because they can no longer go kayaking along the beach because they are getting followed by crocodiles. We have people north of the river who have shut down their sea kayaking business because they can no longer guarantee the security and safety of their customers. It is a very serious business from an economic point of view and from a safety point of view*⁶⁵

Mr Entsch concluded his evidence by stating that a business-as-usual approach is going to be a disaster and there needs to be an acknowledgement that there is a major issue with a proliferation of crocodiles in the region and that this needs to be dealt with in a sensible way.⁶⁶

Surf Life Saving Queensland (SLSQ) submitted it would like to see a continued proactive approach to the removal of problem crocodiles and crocodiles that frequent or travel through public waterways in the interests of public safety. The submission also noted that the growth in crocodile numbers at populated locations has put public safety at further risk and while SLSQ understands that the Daintree area is where one would go to see a crocodile, it sees the popular areas such as Four Mile Beach – Port Douglas, Cairns northern beaches and waterways, Etty Bay, Mission Beach, Forrest Beach, Townsville city beaches, Ayr, Bowen and Mackay city beaches as locations where problem crocodiles should be removed.⁶⁷

⁶⁰ Submission 20, p 1.

⁶¹ Submission 20, p 1.

⁶² Submission 18, p 2.

⁶³ Submission 18, p 3.

⁶⁴ Public hearing transcript, Cairns, 27 August 2018, p 3.

⁶⁵ Public hearing transcript, Cairns, 27 August 2018, p 4.

⁶⁶ Public hearing transcript, Cairns, 27 August 2018, p 10.

⁶⁷ Submission 24, p 1.

The Port Douglas Surf Life Saving Club (Port Douglas SLSC) advised that Four Mile Beach is bookended by two crocodile habitats occupied by a number of 4 to 5 metre crocodiles and this is having a negative impact on Club membership and ‘from a safety point of view we have real concerns as the wellbeing of our nippers and the public at large using Four Mile Beach’.⁶⁸ The Club noted that over the past seven years sightings of crocodiles in the Port Douglas region have increased annually and, while crocodiles are generally expected to travel between habitats at night, they are now being seen more frequently in daylight hours.⁶⁹

The Vice President of Port Douglas SLSC advised at the Port Douglas hearing that there is a high number of people and a high volume of crocodiles in the region and they are not compatible. He concluded ‘the opening statement by Mr Knuth is that the aim of the legislation is to establish that the life of a human is more important than the life of a crocodile. We would agree with that.’⁷⁰

A number of stakeholders advised that the increase in crocodile numbers over recent years is limiting the ability to swim in local waterways.⁷¹ For example, John and Marjorie Paterson advised that they supported the Bill’s proposed strategies, that since crocodiles have been protected in Queensland their numbers have rebounded, and that in populated areas, creeks, rivers and beaches should be able to be used for recreation without the threat of crocodiles:

*We recognize the need for crocodiles to exist in sparsely populated areas and national parks. They are part of the natural environment, and locals and tourists who enjoy seeing them should be able to do so. We recognise that there are people who make their living from crocodile tours, and we appreciate their concerns that their livelihood may be affected if crocodile numbers fall too much. However, we believe that with proper management it is possible to have areas where crocodiles are protected, and other areas where people can safely enjoy outdoor recreation such as swimming, walking dogs on the beach, picnicking, kayaking, and where farmers can safely make their living and protect their property, animals and families.*⁷²

Tania Czislowski raised similar concerns noting that ‘you can’t even enjoy walking in ankle deep water on the beach anywhere around Cairns or Daintree or the Cape for fear of being taken’ and submitting:

*We feel very strong about culling seasons needing to be introduced so that the numbers of large, dangerous, rouge crocs would be reduced for the safety of humans. Because it is so long now since the culling stopped they are not weary [sic] about anything or anyone anymore, they are so brazen, and are just everywhere you look in North Queensland, making it totally unsafe to enjoy the little things like going for a swim in a freshwater creek in the heat or have a picnic and let the little kids play in the creek.*⁷³

3.1.1.4 Other stakeholders opposed to the objectives Bill

A number of stakeholders rejected the Bill in its entirety. For example, the ECoCeQ submitted that it opposed the Bill as the Council opposes the indiscriminate culling of crocodiles and the indiscriminate taking of eggs, skins or other crocodile products for commercial purposes. In relation to the policy objectives of the Bill the ECoCeQ stated:

It is irresponsible and impractical to consider that the way to keep people safe is to kill anything that might pose a danger to them. A better way to achieve safety is to provide ongoing education to tourists and to people living near crocodiles. We must learn to use our waterways safely. People

⁶⁸ Submission 2, p 1.

⁶⁹ Submission 2, p 1.

⁷⁰ Public hearing transcript, Port Douglas, 27 August 2018, p 4.

⁷¹ For example, Donald Brown, submission 3 and public hearing transcript, Cairns, 27 August 2018, pp 12- 20.

⁷² Submission 11, pp 1 and 2.

⁷³ Submission 25, p 1.

*living near crocodiles had a relatively good knowledge of how to keep themselves safe from crocodiles according to the Report on Crocodile Management in North Queensland in 2016 undertaken by DEHP. The Safer Waterways Bill as proposed, is not consistent with this previous research.*⁷⁴

Australia Zoo advised that it could be argued that crocodiles are not the most dangerous native animal if attacks and deaths are used as the only measure citing the National Coronial Information Factsheet 2011 on which crocodiles are rated eight, causing nine deaths between 2000 and 2010, with bees and sharks the highest rated with 16 deaths.⁷⁵ Australia Zoo also submitted:

*Any increase in crocodile attacks could also be attributed to increased human populations and increased tourism in north Queensland with no increase in education programs, however, more research needs to be undertaken to ascertain the true origins of increased human-crocodile interactions.*⁷⁶

The Townsville and Regions Environment Foundation (Tref) submitted that while they understand people's fear of being taken by a big crocodile, the statistics show that between 2000 and 2010 nine people were killed by crocodiles compared with 27 killed by domestic dogs, 18 by cattle, 16 by bees, 18 by sharks and 14 by venomous snakes.⁷⁷

Wildlife Queensland's submission strongly opposed the Bill.⁷⁸ It acknowledged that the interaction between human and crocodiles on occasions leads to tragic situations but also noted that adverse wildlife human interactions occur with a range of other species including snakes, sharks and cassowaries.⁷⁹

The CCC submitted that in Australia, crocodiles have been regarded as both sacred and as a natural resource by First Nations Peoples since the beginning of human settlement.⁸⁰ In response to the advice in the Explanatory Notes that crocodiles are preventing people swimming in waterways where they previously swam the CCC quoted Charlie Manolis, the chief scientist at Wildlife Management International who believes crocodile numbers are now equivalent to what they were in the early 19th century, at first contact between the First Nations Peoples and Europeans:

*"The reality is, yes, they used to swim there, but their parents didn't, or their grandparents, or their great-grandparents." If they did, he says, they would almost certainly have been eaten. "There's been a generational break in the awareness of crocodiles and the danger they pose."*⁸¹

The CCC submission rejected the Bill in its entirety 'due to its inadequate community consultation, zero researched data and poorly drafted legislation' and recommended that the Queensland Government, amongst other things:

- commit to rigorous community consultation with all First Nations Peoples located in crocodile habitat areas regarding crocodile management
- commit to increasing the employment and training of 'Indigenous Ranger and Protected area' programs, and

⁷⁴ Submission 4, p 1.

⁷⁵ Submission 9, p 4.

⁷⁶ Submission 9, p 5.

⁷⁷ Submission 30, p 1.

⁷⁸ Submission 13, p 1.

⁷⁹ Submission 13, p 2.

⁸⁰ Submission 10, p 1.

⁸¹ Submission 10, p 3.

- explore nature-based tourism ventures for Aboriginal and Torres Strait Islander, First Nations Peoples communities.⁸²

Another submitter claimed that an anti-crocodile campaign in the Cairns Post had unreasonably inflamed parents' fears for the safety of their children on local beaches and argued that:

*This Bill is a manifestation of an archaic view of our place in the environment and attempts to entrench the view that nature only exists to serve humanity, not that homo sapiens is just another species, albeit a very dominant one, that needs to redefine our relationship to nature before the ecosystem services we rely on for our air, water and food collapse.*⁸³

Vince Vitale, a canefarmer on the Herbert River, summed up his opposition to the Bill stating:

*As far as I am concerned, there is not a problem with crocodiles: there is a problem with people. Politicians, newspapers and other people like that cause crocodiles more trouble than anyone else. If politicians did not look for votes all the time they would not be bragging and bashing our ears about crocodiles.*⁸⁴

Another canefarmer on the Herbert River, Raymond Venables, agreed, advising that he is happy with the current management program and that the current bill is an 'abomination' and 'should not even be considered'.⁸⁵

Dan Bamblett, owner of Hands on Wildlife, indicated that the current crocodile management and monitoring plan is working and that the main risk of the Bill is it could make crocodile attacks more likely by creating a false sense of security which will increase risk-taking behaviour – 'crocodiles would need to be hunted to extinction for there to be any guarantee of safety for people using the waterways'.⁸⁶

The submission from Plastic Free Living Community Group noted that Australia is one of the very few places in the world where estuarine crocodiles have a good chance of survival in the wild, and the only country where the freshwater crocodile is found.⁸⁷ The submission argued:

Because crocodiles are an important part of the food chain and help keep our wetland environments healthy and stable, protecting them is vitally important. This means Australians have a responsibility to conserve and manage the country's crocodile populations carefully. Queenslander's and our visitor's need to be better educated when visiting crocodile habitats, respect these animals and appreciate that, like other native animals, crocodiles are part of the natural and cultural heritage of central and northern Australia. One of the main guidelines from the Environment and Heritage Protection area is to never interfere with crocodiles or their eggs which are simple guidelines to help protect crocodiles and people.

*Just because there are more of us doesn't mean there should be less of them.*⁸⁸

The Alliance to Save Hinchinbrook Inc. submission acknowledged that crocodiles are now re-appearing in localities where a whole generation of humans have grown up without them, however it objected to the proposal that crocodiles are infesting favoured swimming spots, and therefore they should be killed or otherwise removed:

Many of our members have worked, sailed, dinghied or walked in crocodile habitat. We know it is not safe to swim in crocodile habitat; although some of us have taken that risk on occasion.

⁸² Submission 11, p 4.

⁸³ Brynn Mathews, submission 12, pp 1 and 2.

⁸⁴ Public hearing transcript, Townsville, 28 August 2018, p 12.

⁸⁵ Public hearing transcript, Townsville, 28 August 2018, p 16.

⁸⁶ Tabled paper, Townsville public hearing, 28 August 2018, p 1.

⁸⁷ Submission 15, p 1.

⁸⁸ Submission 15, p 1.

Including myself. That is not a logical reason for pushing a species back to the point of threatened extinction. It is normal for people to take risks, even against their better judgement. Any time a person enters such waters or adjacent land there is the risk of encountering crocodiles, among other risks (such as deadly box jelly fish and other stingers, according to the time of year).

...

Deaths by crocodile have been due mostly to imprudent behaviour of the person – entering an area where there are known crocodiles, drunkenness, sleeping or camping near a river where there are crocodiles, swimming ashore or dropping overboard for a quick cool-off from a boat anchored in a known crocodile-inhabited river. These are all real instances of risks taken by real people who knew better. For some people, the risk taken turned into a fatal reality.⁸⁹

The Mackay Conservation Group submission noted that concerns have been raised about the number of fatalities caused by crocodiles in Northern Queensland but argued that the public perception of the fatality rate does not conform with the actual number of fatalities.⁹⁰

Gecko Environment Council (Gecko) submitted that the threats by crocodiles are currently comprehensively addressed in the Queensland Crocodile Management Plan 2017 ‘which does not advocate the largescale slaughter and exploitation of these animals proposed in the Bill’.⁹¹

The submission from the Environmental Defenders Office of Northern Queensland Inc. (EDO NQ) also noted that the Management Plan ‘sets out a comprehensive and coordinated framework for managing the risks crocodiles pose to people, while continuing to ensure that crocodiles can maintain healthy populations in their natural habitat’ and stated that the entire Bill should be rejected.⁹²

3.1.2 Department advice

The department advised that the policy outcomes identified in the Bill could be achieved through amendments to the existing legislative framework established by the NC Act without the need for additional legislation.⁹³

3.1.3 Response by the Member for Hill

The Member for Hill provided the committee with a response to issues raised in submissions. In relation to the purpose of the Bill the Member advised that Bill’s objective is ‘not to wipe out crocodile population, rather to provide a balance, where people can feel protected and the potential for attacks and/or deaths are drastically reduced, thereby protecting our most valuable industry – tourism. Constant media attention on crocodile sightings, attacks, deaths and beach closures is without question a threat to the region’s economy and livelihoods of entire communities’.⁹⁴

The Member provided the following:

The evidence available on crocodile sightings, points towards an explosion in the number of crocodiles, particularly in North Queensland, which has potential devastating consequences on the regions multi-billion dollar tourism industry, loss of human life and continual loss of valuable livestock to the grazing industry.

⁸⁹ Submission 21, p 3 and p 4.

⁹⁰ Submission 22, pp 1-2.

⁹¹ Submission 14, p 2.

⁹² Submission 16, p 1 and p 4.

⁹³ Covering letter to submission 19.

⁹⁴ Comments/Response: The Safer Waterways Bill 2018 Submissions, 13 July 2018, p 9.

Due to an unchecked increase in the number of Crocodiles in the North there is evidence of crocodiles pushing further into populated waterways, affecting the everyday lives of North Queenslanders.

Crocodiles are reportedly inhabiting crop watering drains and waterways on farming properties in the tablelands, inland popular rivers and lakes and regularly within stinger swimming enclosures and along the foreshore of popular tourist beaches in North Queensland.

Water sport businesses have been affected, rowing clubs are struggling to attract numbers and one of the States valuable institutions – Surf Life Saving Queensland are reporting a significant drop of in their nippers programs – primarily because of the fear of crocodiles on Northern Beaches.

The regions \$3billion tourism industry is also under sever threat as outlined in submissions from TTNQ and TPDD.

The current crocodile management plan is simply not working and is not providing a balance between crocodile numbers and the expected level of safety for Queenslanders and visitors using our beaches and waterways in North Queensland.

The current plan is causing a backlash from the community who feel that their concerns are not being taken seriously and are largely ignored. A recent poll undertaken in the Cairns Post (3rd July 2018) showed 77% of people living in the Far North support a controlled cull of crocodiles.⁹⁵

More specifically, the Member for Hill advised support for:

- the submissions from TTNQ and TPDD
- a number of recommendations made by the Port Douglas SLSC and SLSQ
- consultation with FNQROC on implementation of management policies under the proposed authority, and
- the recommendations made by CYLC to improve the Bill.⁹⁶

3.2 Introduction to the Bill

The Member for Hill advised that the Bill achieves the policy objectives by creating a Queensland Crocodile Authority.⁹⁷ Part 2 of the Bill proposes that the authority be established in Cairns, Part 3 provides for the appointment of a director of the authority and the director's functions and powers, and Part 4 of the Bill establishes a board of the authority made up of people with relevant experience in crocodile management to assist the director of the authority, provide recommendations to the director and report annually to the Minister about the performance of the director.

The Bill only applies to the management of estuarine crocodiles, as Schedule 1 defines 'crocodile' to mean an animal of the species *Crocodylus porosus*. It defines a 'rogue crocodile' to mean a crocodile if:

- (a) the crocodile has attacked, is likely to attack, or is behaving aggressively towards, a person; or
- (b) the location or behaviour of the crocodile makes the crocodile a threat, or a potential threat, to the safety or well-being of humans; or

⁹⁵ Comments/Response: The Safer Waterways Bill 2018 Submissions, 13 July 2018, p 1.

⁹⁶ Comments/Response: The Safer Waterways Bill 2018 Submissions, 13 July 2018, pp 2-6.

⁹⁷ Public briefing transcript, Brisbane, 14 May 2018, p 2.

(c) the crocodile—

(i) has passed over, through or under a crocodile prevention barrier on land on which aquaculture fisheries resources, stock or a dog ordinarily used for managing stock normally live; and

(ii) is, or is likely to become, a danger to the resources, stock or dog.⁹⁸

3.3 Part 2 – Establishment of a Queensland Crocodile Authority

3.3.1 Proposed provisions

Clauses 5 and 6 of the Bill propose that an authority called the Queensland Crocodile Authority be established and that the business premises of the authority must be located in Cairns and the director and staff of the authority must reside in Cairns.

Clause 7 proposes that the functions of the authority will be:

- (a) to act as necessary to assist the director and the board in carrying out their respective functions; and
- (b) to perform another function conferred on the authority under this or another Act; and
- (c) to perform functions incidental to a function under clause 7 (a) or (b).

Clause 8 provides that the staff of the authority are to be employed under the *Public Service Act 2008*.

The explanatory notes advised:

*Ultimately, people who live in North Queensland are best placed to manage crocodiles. And people with experience managing crocodiles should have input into the ongoing management of crocodiles in Queensland.*⁹⁹

In relation to the costs of establishing and operating the authority, the explanatory notes advised that these costs will be met from within existing departmental allocations.¹⁰⁰

3.3.2 Department advice

The department advised that whilst the establishment of the authority and board would provide for semi-independent oversight of crocodile management in Queensland, there are a number of limitations with the current proposal including:

- arrangements for funding and resourcing for the authority are unclear, and
- requiring staff to reside in Cairns would limit officers' capacity to respond to crocodile sightings as staff are currently distributed throughout the range of crocodile habitat and there are also industrial relations implications in mandating staff reside in Cairns.¹⁰¹

The department raised a concern that should establishment and operation of the authority rely on current departmental allocations, as suggested by the explanatory notes, it will likely not provide any greater benefit for crocodile management than the status quo.

This is because it is likely that there will be additional administrative and overhead costs associated with establishment and operation of the authority than the status quo. For example – there will likely be additional costs in order to establish an office for the Authority, establish and maintain

⁹⁸ Safer Waterways Bill 2018, Schedule 1.

⁹⁹ Explanatory notes, p 2.

¹⁰⁰ Explanatory notes, p 3.

¹⁰¹ Submission 19, p 11.

*administrative systems and procedures for the Authority, and potentially relocate staff who do not currently reside in Cairns...*¹⁰²

In relation to the mandatory location of authority staff to reside in Cairns, the department advised that this would limit officers' capacity to respond to crocodile sightings, as staff currently are distributed throughout the range of crocodile habitat and 'there are also industrial relations implications in relation to mandating that staff reside in Cairns – particularly as the Bill declares that it prevails over other legislation to the extent of any inconsistency'.¹⁰³

Further, it is not clear whether it is intended that the employees will be existing wildlife management staff undertaking this work – who will be required to move to Cairns – or whether their current jobs would be replaced by these positions.

In addition to this, should staff be required to reside in Cairns, there needs to be a clear definition of spatial scale for Cairns. For example, does this relate to the Cairns Regional Council boundary, the Cairns electorate, the Cairns statistical local area, or another boundary?

If however, it is intended that staff will not attend sightings to identify or remove problem crocodiles, but rather issue permits to people to undertake this service, there is a risk that the community could incur a cost for hiring a licenced person to carry out this service.

For example, the standard cost for hiring a person to remove a snake from a home ranges from \$95 to \$150.³⁴ These costs are based on the travel cost, time, risk involved, and removal and appropriate relocation of the reptile.

*For crocodile management, the costs for capture and removal or disposal are significantly higher. A generally effective and safe method to capture a crocodile is through use of a trap. As an example, a single crocodile trap costs the department between \$8 000 to \$10 000, with an additional \$17 000 cost for a specialist trailer. Therefore, it is plausible that a person licenced to undertake crocodile removals would seek to recoup these kinds of costs as a fee for service.*¹⁰⁴

3.3.3 Stakeholder views

A number of stakeholders supported the proposal to establish an authority. For example, John Byrne, Club Ambassador from the Townsville Sailing Club applauded the fact that there is sufficient discretion in the Bill so that:

.. the proposed authority can choose to exercise the powers or not to do so according to a level of public common sense rather than just legislation. What we have seen for many years now is the absence of that discretion such that public servants charged with responsibility of environmental control of crocodiles, have not had the power to resist the vocal minority.

Existing legislative arrangements are too slow and too ineffective....

*On the other hand if the community knows that an authority tasked with public safety through common sense administration, is protecting public interests, our recreational standard of living will be maintained and enhanced.*¹⁰⁵

Koorana Crocodile Farm supported the formation of an authority¹⁰⁶ but made a number of recommended changes to the Bill which are outlined under the relevant sections of this report.

¹⁰² Submission 19, p 14.

¹⁰³ Submission 19, p 14.

¹⁰⁴ Submission 19, p 15.

¹⁰⁵ Tabled paper, Townsville public hearing, 28 August 2018, p 1 and p 2.

¹⁰⁶ Submission 8, p 1.

A number of local governments and their representative organisations raised a concern that the changes proposed in the Bill may result in a devolution of responsibility for crocodile management to local government.¹⁰⁷ FNQROC submitted that ‘member councils many of which are small rural, remote and Indigenous councils do not have the financial or experience to undertake crocodile management’.¹⁰⁸

*The proposed mechanism to administer crocodile management The Queensland Crocodile Management Board somehow delivers multi-tenure, multi-stakeholder program with a single Director and board of seven with no additional expense from the public purse and these costs will be met from within existing departmental allocation. Further consideration needs to be undertaken on a potential resource gap. Local governments do not have the resources to undertake more than they currently do.*¹⁰⁹

In response to a question from the committee at the Cairns public hearing FNQROC stated:

*When it comes to concerns about the funding of the proposed crocodile management board, I think it is highly aspirational to consider that that would be run within the existing resources of the department. Essentially, there is no fat on a skeleton. If all of these proposals come in train with the Safer Waterways Bill—we have 20-plus very complex interactions with authorised landholders, egg collection and more complex management boundaries, all to be done within the current remit or budget of the aforesaid department, including the establishment of a yet another layer of administration within that—when we look at that in detail, to do that within existing resources seems very aspirational to us.*¹¹⁰

The FNQROC submission questioned whether the authority would be able to address the individual requirements of Councils as well as the emerging council/department communications which are evolving and appear to be working in most instances:

The State will need to ensure this is not seen as another layer of bureaucracy by the community which can enable a blame game and delay action to occur.

In setting up the authority the State should consider:

- *How could this be more effective than Councils working with the department?*
- *How are Councils involved in the process?*
- *How they can address the differences in needs between communities?*
- *Are there any additional administrative burdens?*¹¹¹

FNQROC supported Cairns as the nominated location for an authority:

*If an authority is to be set up it is imperative that it is located in Cairns and contains members with appropriate knowledge and skills to ensure decisions are made both based on fact whilst considering the communities most affected to manage the balance between people safety and protecting an endangered species; both of which are prevalent within our region.*¹¹²

¹⁰⁷ See for example, Cairns Regional Council, public hearing transcript, Cairns, 27 August 2018, p 3; and Townsville City Council, public hearing transcript, Townsville, 28 August 2018, p 3 and p 4.

¹⁰⁸ Submission 6, p 1.

¹⁰⁹ Submission 6, p 4.

¹¹⁰ Public hearing transcript, Cairns, 27 August 2018, p 6.

¹¹¹ Submission 6, p 5.

¹¹² Submission 6, p 5.

TPDD supported the establishment of the authority in Cairns to oversee the effective management of crocodiles at ground zero; the ongoing revision of appropriate zoning of beaches and waterways to ensure rapid response to reported sightings; and closer monitoring through local involvement. TPDD recommended:

- that local groups such as the Jabalbina be included ‘so that we can have on-the-ground management in the Douglas shire – not just from Cairns – because that can also be a detriment for us’,¹¹³ and
- the tourism industry be recognised as a key stakeholder in crocodile management with appropriate and adequate consultation, engagement and representation at all levels in the establishment of the proposed authority.¹¹⁴

While the Port Douglas SLSC did not state whether it supported the proposed establishment of an authority it did support the crocodile management program being conducted from Cairns rather than Brisbane or Townsville:

*The current regime of having decisions made by Bureaucrats in Brisbane is like having a Committee from Port Douglas managing crucial issues in South East Queensland. Our experience is that there is a disconnect from South East Queensland as to what is actually happening in the Far North.*¹¹⁵

TTNQ advised that it supported place-based management and are ‘very keen that the government works swiftly to work towards a plan for best practice management. Perhaps that is in the form of a crocodile authority for the state. Perhaps it is within the current environment department’.¹¹⁶

Other stakeholders were opposed to the establishment of a new authority and were of the view that the department is the appropriate authority to oversee crocodile management.¹¹⁷ For example, Ingrid Marker advised that DES has a strong team of highly trained staff, is leading the way with cutting edge crocodile capture techniques and is fully equipped with vehicles, traps and trained officers. She submitted:

*Taking into consideration the environmental importance crocodiles are to the ecosystem, based on long term scientific studies, and in consultation with key stakeholders, consideration was given to the cultural, social, economic, tourism and public safety as the number one priority for their policies and procedures.*¹¹⁸

Wildlife Queensland saw little merit in introducing new legislation to establish the authority on the basis this could be achieved under the NC Act and that Act ‘is the appropriate legislation to ensure the conservation of this species listed as vulnerable’.¹¹⁹ At the Brisbane public hearing Wildlife Queensland noted that if the government is of the view that a crocodile authority based in Cairns is the answer to the problem, this could be achieved by amending section 88 of the NC Act relating to protected crocodiles.¹²⁰ Wildlife Queensland also argued that the proposal authority would not be able to operate with the current budget limitations in the department.¹²¹

¹¹³ Public hearing transcript, Port Douglas, 27 August 2018, p 3.

¹¹⁴ Submission 23, p 2.

¹¹⁵ Submission 2, p 4.

¹¹⁶ Public hearing transcript, Cairns, 27 August 2018, p 13.

¹¹⁷ See for example, submission 15, p 1; and Daniel Bamblett, public hearing transcript, Townsville, 28 August 2018, p 16.

¹¹⁸ Submission 32, p 1.

¹¹⁹ Submission 13, p 2.

¹²⁰ Public hearing transcript, Brisbane, 11 June 2018, p 6.

¹²¹ Public hearing transcript, Brisbane, 11 June 2018, p 8.

The ECoCeQ was concerned about the proposal that funding for the authority would be taken from the existing budget of the department. It argued that 'this would be a misuse of these funds which are allocated for protection of the natural environment, native species and biodiversity'.¹²²

Vince Vitale, a cane farmer from the Herbert River, did not agree with an authority being located in Cairns 'because we do not need to be pushed around by Cairns. This has been going on for a long time. We will not be told what to do... As far as I am concerned, we have good situation at the moment ... It is a waste of money and time'.¹²³

The Alliance to Save Hinchinbrook argued that 'to devolve the management of these important crocodile species to 'North Queenslanders' would be to abrogate the clear duty of the state government to govern for the whole state, not just for the South East'.¹²⁴

In response to a question from the committee at the Port Douglas public hearing the TPDD noted that the department, rather than an authority, would be able to implement initiatives as long as there was more on-the-ground management in the region. TPDD noted that 'tyranny of distance' is a problem but that with more departmental manpower in the north it could be achieved:

*Our Jabalbina rangers are level 1 in training so they can put in place some measures as far as cages and trapping, but if a crocodile is sighted it has to be someone from a higher grade of training so they have to come from either Townsville or Cairns if we are lucky, and that is where we have some serious delays. It is not just for Port Douglas. For Cape Tribulation you are adding on another hour and 45 minutes at least, and that is where we have had really serious issues in delays and the management there.*¹²⁵

At the Mackay public hearing the CCC said it would be reluctant to support more authorities and that the resources should go back to the Queensland Parks and Wildlife Service rangers and the education program.¹²⁶

3.3.4 Committee comment

The committee noted the divergent views of stakeholders about whether a Queensland Crocodile Authority should be established, and if it is established, whether it should be located in Cairns.

The committee raises the following concerns about the proposed establishment of the authority:

- the costs associated with the establishment and operation of the authority are proposed to be met from within the existing departmental budget which may limit the capacity of the authority to carry out its responsibilities and functions and may also impact on the ability of the department to carry out its current roles and responsibilities, and
- the requirement that all authority staff must reside in Cairns would limit the capacity of the authority to respond to crocodile sightings, as departmental staff are currently distributed throughout the range of crocodile habitat in Queensland.

¹²² Submission 4, p 3.

¹²³ Public hearing transcript, Townsville, 28 August 2018, p 13.

¹²⁴ Submission 21, p 5.

¹²⁵ Public hearing transcript, Port Douglas, 27 August 2018, p 9.

¹²⁶ Public hearing transcript, Mackay, 29 August 2018, p 12.

3.4 Part 3 – Director of the Queensland Crocodile Authority

3.4.1 Proposed provisions

Clause 9 of the Bill proposes that the authority must have a director who is to be appointed by the Legislative Assembly following a recommendation by the Minister.

Clause 9(3) requires the Minister to be satisfied that any director recommended has qualifications or experience relevant to the appointment and is of good character and clause 9(5) requires the director to operate from the business premises of the authority.

Clause 10 provides the terms of appointment and ending of appointment for the director, including that except as decided, the person is not entitled to receive any payment, any interest in property of other valuable consideration or benefit (10(2)).

In addition to providing the director with the authority to manage the authority's affairs, clause 11(1) proposes the functions of the Director would include:

- taking measures to minimise injuries and deaths caused by crocodiles in the State (11(1)(a))
- authorising persons to farm crocodiles (11(1)(b))
- deciding the number of crocodile eggs that may be harvested each year and authorising persons to harvest crocodile eggs in any part of the State (11(1)(c) and 11(1)(d))
- deciding the number of crocodiles that may be culled, and authorise persons to carry out the culling (11(1)(e) and 11(1)(f))
- ensuring the prompt management of rogue crocodiles by authorising people to kill or relocate rogue' crocodiles in any part of the State (11(1)(g))
- authorising land owners kill crocodiles on their land, or allow other persons to kill crocodiles on their land, or harvest crocodile eggs on the owner's land or otherwise manage crocodile on the land (11(1)(h))
- authorising persons to otherwise display, interact with, keep, take or use crocodiles or crocodile eggs (11(1)(i))
- ensuring carcasses of crocodiles that are authorised to be killed are dealt with so that, as far as possible, no part of a carcass is wasted (11(1)(j))
- referring offences related to crocodiles and crocodile eggs to the Police Service (11(1)(k))
- coordinate research and surveying of crocodiles and crocodile eggs (11(1)(l))
- promoting the farming of crocodiles and the harvesting of crocodile eggs and investigate the viability of the use of State land to farm crocodiles or as crocodile reserves (11(1)(m) and 11(1)(n))
- declaring and managing crocodile reserves (11(1)(o)), and
- making recommendations to Queensland Parliament about crocodile management (11(1)(p)).

Clauses 12 and 13 provide for the powers of the director and the delegation of director's powers to an appropriately qualified member of the authority's staff.

3.4.2 Department advice – appointment and administrative powers

This section examines department advice in relation to the appointment and administrative powers of the director only. The proposed functions of the director are examined in the following sections of this report.

The department advised that the appointment of the director by a resolution of the Legislative Assembly is a higher standard for appointment than the director-general of the department within which the authority will be based and for appointments to other Government statutory bodies and provided the following examples:

- under the *Wet Tropics World Heritage Protection and Management Act 1993* the directors of the Wet Tropics Management Authority are appointed by the Governor in Council, and
- under the *Racing Integrity Act 2006* the Racing Integrity Commissioner and Deputy Racing Integrity Commissioners are appointed by the Governor in Council.¹²⁷

The department also advised the terms for ending a director's appointment are less robust than those for other statutory authorities and do not adequately address circumstances where a director may fail to meet their obligation under the Act.¹²⁸

The department provided further comment on the appointment and terms of ending appointment for the director and the board which are detailed in the relevant sections of this report.

3.4.3 Stakeholder views

This section examines stakeholder views in relation to the appointment and administrative powers of the director only. The specific functions of the director are examined in the following sections of this report.

Gecko noted that the proposed functions of the director are a very wide-ranging list of responsibilities which is an extensive workload and places a considerable amount of power in the hands of one person.¹²⁹

Professor Grahame Webb advised the committee that it would be important to ensure continuity of personnel in the authority noting that 'careers being what they are, the loss of institutional memory is a major handicap. So contracting key members for longer periods of time, if possible, will possibly be the biggest determinate of a sustainable, evidence-based, adaptive approach'.¹³⁰

3.5 Part 4 – Board of the Queensland Crocodile Authority

3.5.1 Proposed Provisions

Part 4 of the Bill provides for the appointment and operation of the Board of the Queensland Crocodile Authority with members to be appointed by the Legislative Assembly following a recommendation by the Minister.

Clause 14 proposes that the functions of the board include:

- making recommendations to the director about the strategies and the operational and administrative policies to be followed by the director and the authority, and the goals and objectives of the director and the authority
- making recommendations to the director about, and monitoring, the way the director performs their functions and exercises their powers and the way the authority performs its functions, and
- reporting annually to the Minister about the performance of the director.

¹²⁷ Submission 19, p 15.

¹²⁸ Submission 19, p 11.

¹²⁹ Submission 14, p 2.

¹³⁰ Correspondence dated 28 June 2018.

Clause 15 provides for the appointment of seven board members which must include:

- at least one member who is an Aboriginal person, or a Torres Strait Islander who has experience with crocodiles
- at least one member who has worked in the crocodile farming industry
- at least one member who resides in the State in Mackay, or north of Mackay, and has experience in wildlife conservation
- at least one member who resides in the State in Mackay, or north of Mackay, and is involved in one or more community organisations with an interest in recreational activities associated with waterways, and
- in relation to the remaining members – persons who have appropriate experience or qualifications to contribute to the management of crocodiles in the State.

Clauses 16 to 18 provide for the appointment of a chairperson, terms and ending of member appointments and vacation of office.

Clauses 19 to 22 provide for the conduct of business, time of meetings, quorum requirements and conduct of meetings.

3.5.2 Department advice

The department noted that the Bill provides that the director and board members may be appointed on the terms of appointment decided by the Minister (see clauses 10(1)) and 17(2)) and raised a concern that there is no detail for the relationship of the Authority or the terms of these appointments to the *Crime and Corruption Act 2001*, *Financial Accountability Act 2009*, *Statutory Bodies Financial arrangements Act 1982*, or the *Corporations (Queensland) Act 1990*. The department referred to the following examples of how this has been addressed for other authorities and appointments in legislation - the Racing Integrity Commission under the *Racing Integrity Act 2006* and the Wet Tropics management Authority under the *Wet Tropics World Heritage Protection and Management Act 1993*.¹³¹

The department also noted that as the Bill states that it will override other legislation to the extent of any inconsistency, there is a risk that the terms of appointment determined by the Minister could be legitimately inconsistent with these Acts.¹³²

The department advised the terms for ending a board member's appointment are less robust than those for other statutory authorities.¹³³ Specifically the department advised:

*The provisions providing for the Minister to terminate the appointment of a director or board member do not sufficiently address all circumstances where a director or board member may no longer be suitable for the position. For example, similar provisions under the Wet Tropics World Heritage Protection and Management Act 1993 also include where the person is neglectful of his/her duty, and where the person contravenes a provision of the Act without reasonable excuse.*¹³⁴

¹³¹ Submission 19, p 15.

¹³² Submission 19, p 15.

¹³³ Submission 19, p 11.

¹³⁴ Submission 19, p 16.

3.5.3 Stakeholder views

CYCL submitted that given the extent of Cape York Aboriginal land where crocodiles exist and where the provisions of the Bill would apply, the Bill should be amended to provide that there is a dedicated Cape York Aboriginal board member position, an Aboriginal Board member for the rest of Queensland, and a Torres Strait Islander member.¹³⁵

CYCL also noted that the proposed quorum of three is a minority of Board members and proposed that the quorum be a minimum of the chairperson plus at least three other members, and where the chairperson has the deciding vote if a majority vote is not achieved.¹³⁶

3.6 Removal of problem (rogue) crocodiles

3.6.1 Current regulatory approach¹³⁷

The department advised that it is responsible for the removal of all problem (rogue) crocodiles¹³⁸ and in accordance with the framework established by the QCMP, crocodiles removed from the wild for public safety reasons may be provided to a licenced crocodile farm for breeding or display purposes, or humanely euthanased. Relocating crocodiles from one location to another in the wild does not occur. Additional restrictions on farm relocation apply to an 'icon crocodile', which is a crocodile that is four metres or longer and which has unusual characteristics that distinguish it from other estuarine crocodiles, including, for example, albinism.

The QCMP established six new crocodile management zones in 2017 setting out how DES would manage wild crocodiles in each zone—depending on the size, location and behaviour of each animal sighted. DES has a CrocWatch phone number for members of the public to report crocodile sightings. The Queensland Crocodile Management Update 2017 advised that DES investigates every crocodile sighting report it receives and, in keeping with the QCMP, seeks to remove any animal assessed as being a problem crocodile. The department's historic and recent responses to each of the crocodile sighting reports it receives can be viewed at - <https://www.ehp.qld.gov.au/wildlife/livingwith/crocodiles/crocwatch>.¹³⁹

The QCMP details the 'limited' circumstances under which a crocodile may be considered a problem crocodile and therefore removed as well as the process for determining that a crocodile is a problem crocodile. The circumstances include where:

- A. the crocodile has attacked, is about to attack, or is behaving aggressively towards, a person
- B. the nature of the crocodile's location or behaviour makes the crocodile a threat, or a potential threat, to the safety or wellbeing of humans
- C. a crocodile has passed over, through or under a crocodile prevention barrier on land, on which aquaculture fisheries resources, stock, or a working dog normally lives and is likely to become, a danger to the resources, stock or dog.¹⁴⁰

The QCMP also details the Queensland Government's approach to the management of crocodiles which is based on *crocodile management zones* with different parts of the state are located within different management zones. The particular zone is determined by the overall risk to public safety that is present there. Factors used in evaluating the risks to public safety in different parts of the state include:

¹³⁵ Submission 20, p 2.

¹³⁶ Submission 20, p 2.

¹³⁷ Section 3.6.1 is taken from information provided by DES, Submission 19, p 8 unless otherwise referenced.

¹³⁸ Submission 19, Attachment 1, p 20.

¹³⁹ Queensland Crocodile Management Update 2017, 13 July 2018
<https://www.ehp.qld.gov.au/wildlife/livingwith/pdf/crocodile-management-update-2017.pdf>
(accessed 4 September 2018).

¹⁴⁰ Queensland Crocodile Management Plan, March 2017, p 8.

- A. the size of the human population in an area
- B. the size of the crocodile population in an area
- C. whether crocodiles are resident or transitory in an area, and
- D. the viability of various management options in an area.

The criteria for determining that a crocodile is a problem crocodile are slightly different in each zone taking into consideration the differing risk factors.

Boundaries for the crocodile management zones are determined by the Chief Executive, in consultation with stakeholders, with the aim of minimising risks to public safety and ensuring the conservation of crocodiles in the wild.

Each area of Queensland is zoned as one of the following crocodile management zones:

- a 'barrier and removal zone'
- an 'active removal zone'
- a 'targeted management zone'
- a 'targeted beach management zone'
- a 'general management zone' or
- an 'atypical habitat zone'.

The zone rationale is provided in the QCMP and the area included in each crocodile management zone is shown on the crocodile management zone maps which can be found on the department's website.¹⁴¹

SLSQ advised that it has further developed its State Coordination Centre to capture and disseminate crocodile sightings similar to its shark and stinger sightings data to ensure that lifeguards, lifesavers and local government are well informed of any risks.¹⁴²

The Queensland Government recently announced that SLSQ will receive \$150,000 to assist with its crocodile spotting drone program in North Queensland. At the Brisbane public hearing SLSQ advised that the use of drones to spot crocodiles has only just started in North Queensland:

*We did some trials up there in February.... We do it very effectively in the south-east with sharks and people, so we are just learning the aspects of crocodiles and their movements under water and everything. ... They are only in their infancy, but we do have long-term visions. Drones will not be the be-all and end-all, but drones will further assist our clubs, members and lifeguards in protecting bathing reserves and the water that is out there in front of them. Bathing reserves can go a couple of hundred metres out to sea and couple of hundred metres north and south of the flags. We are investigating and working with agencies to work out how drones will play their part in reducing crocodiles in these areas where people and visitors and our members participate every day.*¹⁴³

¹⁴¹ Queensland Crocodile Management Plan, March 2017, p 10.

¹⁴² Submission 24, p 1.

¹⁴³ Public hearing transcript, Brisbane 11 June 2018, p 7.

3.6.1.1 Removal statistics

On average, between 1995 and 2012, 18 crocodiles were removed from the wild each year. The average number of crocodiles removed increased to 54 between 2013 and 2016. Between 2016 and 2018 a total of 169 problem estuarine crocodiles were removed from the wild due to public safety concerns and placed with pre-approved crocodile keepers.¹⁴⁴

From the period 1 January 2018 to 10 September 2018 a total of 26 captured problem crocodiles have been removed from the wild by departmental staff, approved officers and the Dawul Wuru Indigenous Corporation (private contractor) and translocated to four pre-approved facilities in Queensland.¹⁴⁵

At the committee's 2018 estimates hearing the Director-General of DES advised that the average removal time for problem crocodiles is under eight days and 'bearing in mind that crocodiles are often elusive and require significant work in terms of that tracking, it is done by a very dedicated and brave team'.¹⁴⁶

The department's Service Delivery Statements for the 2018-19 Budget disclosed that the 2017-18 target service standard for the percentage of problem crocodile declarations resolved within three months was 75 per cent but the estimated actual percentage for that year was 98 per cent. In relation to this service standard the department advised that if the department determines that a crocodile poses an unacceptable risk, it is declared to be, and dealt with, as a problem crocodile and that the three month timeframe takes into account the reasonable time to resolve the matter based on previous cases – it is not a statutory timeframe.¹⁴⁷

3.6.2 Proposed provisions

Clause 11(1)(g) proposes that the director will have the power to ensure the prompt management of rogue crocodiles by authorising people to kill or relocate 'rogue' crocodiles in any part of the State. Rogue crocodiles are defined in the Bill as crocodiles posing a threat to human safety, including crocodiles in urban areas or waterways commonly used by people for recreation.¹⁴⁸

Part 8, clause 27(2)(d) of the Bill requires the subordinate legislation to specify that if the authority becomes aware of a rogue crocodile, the director must take action to manage any risk associated with the crocodile within 48 hours. The Member for Hill advised at the Cairns hearing that this would apply if 'a crocodile is in a swimming hole, a public waterway or a beach'.¹⁴⁹

Clause 27(2)(e) provides that the subordinate legislation must ensure that all rogue crocodiles are dealt with by either killing the crocodile; or relocating the crocodile to a crocodile reserve or to a crocodile farm if a person, authorised by the director to farm crocodiles, requests that the crocodile be relocated to their farm.

The explanatory notes stated:

*The Safer Waterways Bill 2018 would ensure that crocodiles are removed by an authorised person if they are a threat to humans. This removal may involve killing or relocating the crocodile to an authorised farm. It would involve the removal of crocodiles from urban or public areas commonly used by people for recreation.*¹⁵⁰

¹⁴⁴ DES, correspondence dated 11 September 2018, p 1.

¹⁴⁵ DES, correspondence dated 11 September 2018 (Response 1), pp 1-3.

¹⁴⁶ Estimates public hearing transcript, Brisbane, 1 August 2018, p 57.

¹⁴⁷ DES, Service Delivery Statements, Queensland Budget 2018-19, p 10.

¹⁴⁸ Explanatory notes, p 2.

¹⁴⁹ Public hearing transcript, Cairns, 27 August 2018, p 1.

¹⁵⁰ Explanatory notes, p 1.

3.6.3 Department advice

The department advised that clause 27(2)(e)(ii)(B) limits the ability of any farms that have a licence in effect before the Act commences to take on a relocated crocodile, as their licences would not be issued by the director of the authority and that ‘this creates an arbitrary and unfair restriction on these farms, should they wish to take on these animals’.¹⁵¹

3.6.4 Stakeholder views

The committee was provided with a great deal of evidence about the current management of problem crocodiles and the proposals in the Bill for the management of rogue crocodiles.

Mick Burns, Chair of the Crocodile Farmers Association of the Northern Territory advised the committee that there are more crocodiles and the crocodiles are bigger:

There is more agricultural activity in remote areas which is close to where the crocodile habitat is. There is better access to these remote areas, with better roads and road improvement, recreational fishing and the like. Therefore, human-crocodile conflict is the single biggest risk—for not only the people who reside in the northern areas of Queensland but also the industry itself. Conservation outcomes will not be achieved if this issue is not addressed. That is very clear and it is a very well-known fact. It is the best experience we have from managing crocodiles in the Northern Territory.

*Crocodiles need to be identified. Problem crocodiles need to be identified and removed. It is important that we do this in a smart way. We need better data. We need to be very conscious, as one of the earlier presenters mentioned, about the indiscriminate killing of crocodiles. That is going to do Queensland damage on a range of fronts, and we have to be very careful that that is not one of the outcomes.*¹⁵²

TTNQ noted that in the Northern Territory, consideration is given to the effects of problem crocodiles ‘where the activity of the crocodile is affecting the productivity of industry or commercial enterprises’ whereas the Queensland plan has no such provision. TTNQ therefore requested that the State Government review the impacts on productivity of industry or commercial enterprises in addition to public safety when defining ‘problem crocodiles’.¹⁵³

TTNQ also requested that the State Government review greater exclusion zones and intensive removal of crocodiles from highly populated locations and investigate and implement safe swim zones and safe swim enclosures at popular creeks and beaches.¹⁵⁴

At the Townsville hearing John Byrne concluded:

*The proper place for crocodiles is in the rivers and natural environments. The passing of this Bill will not cause a fall in crocodile numbers. At the moment, the public threat in any city is generally only caused by one or two animals. The common-sense removal or culling of those animals will not affect the crocodile population, but it will maintain the safety and the standard of living of the human population.*¹⁵⁵

Councillor Moller from Cairns Regional Council raised a concern about the zonings in the management plan. In particular she was concerned that while the Cairns northern beaches are in a proactive removal zone the communities and river systems to the south of Cairns are in a general management zone.¹⁵⁶

¹⁵¹ Submission 19, p 18.

¹⁵² Public hearing transcript, Cairns, 27 August 2018, p 21.

¹⁵³ Submission 1, p 2.

¹⁵⁴ Submission 1, p 2.

¹⁵⁵ Public hearing transcript, Townsville, 28 August 2018, p 12.

¹⁵⁶ Public hearing transcript, Cairns, 27 August 2018, p 9.

Councillor Greaney from Townsville City Council encouraged the state government to reinforce the departmental staff's ability to respond to crocodiles if and when necessary.¹⁵⁷ Mr Bruce from Townsville City Council did however advise the committee that from their experience working with the State Government in the Townsville area 'if there is a problem of crocodiles there is a process in place and the state does respond and our experience is it responds well. Crocodiles have been removed from the Strand. They have been captured'.¹⁵⁸

FNQROC advised that community and visitor safety is of importance to councils in the region and commented:

*Arguably we have an effective strategy in place given the statistically low level of mortality from crocodile attacks, particularly when compared to other related (recreational) causes of mortality i.e. drowning.*¹⁵⁹

In relation to Bill's proposal to remove crocodiles that are a threat to humans and remove them from urban or public areas commonly used by people for recreation, FNQROC noted that this currently occurs however:

*The Bill brings in a much broader range of operators into the process which could lead to less predictable and reliable management than a State led program. This may lead to more crocodiles being removed from the environment but consideration needs to be had on how this would be delivered in a consistent way. Consideration would also need to be given to the risk of artificially manipulating territorial boundaries of 'familiar' animals. It is ambiguous how broad a scale is proposed – the intent reads as widespread and all sorts of tenures. This should be further clarified so as to not give a false sense of safety to the community.*¹⁶⁰

At the Cairns public hearing FNQROC concluded that there is a broader safer swimming issue in the Far North, and it is not just about crocodiles.

We have issues with tourists drowning in our fast-flowing rainforest streams. We have multiple incidents a year. We have incidents with more people coming to the reef and different demographics visiting the reef. We have increasing issues with marine stingers, the southern distribution of Irukandji, other things expanding, things being driven by factors outside of our control, with climate change, warming waters et cetera. There are a lot of shifts and changes happening in our natural systems, and species are moving around and changing in there. Nature abhors a vacuum, and it will fill those spaces that are provided by those opportunities in that disturbance.

*We cannot look at the crocodile management issue in isolation and say, 'It's just about crocodiles.' It is really about this whole thing of safer swimming, how we recreate around water and those things. We simply will not be able to do some of the things that we did in the past. Crocodiles will not be the only cause of that, so we need to have a holistic and very wide spectrum picture around that.*¹⁶¹

Councillor Moller from Cairns Regional Council noted that reports of the interface and the interaction between community and crocodiles has grown exponentially in recent times and the current management approach – education and targeted removal – is not really addressing the increasing numbers.¹⁶²

¹⁵⁷ Public hearing transcript, Townsville, 28 August 2018, p 3.

¹⁵⁸ Public hearing transcript, Townsville, 28 August 2018, p 7.

¹⁵⁹ Submission 6, p 3.

¹⁶⁰ Submission 6, p 3.

¹⁶¹ Public hearing transcript, Cairns, 27 August 2018, p 11.

¹⁶² Public hearing transcript, Cairns, 27 August 2018, p 6.

TTNQ submitted that the current zoning strategies do not take into consideration the economic impacts – such as the damage to the Queensland brand, as well as adding a barrier to travel in some areas with high tourism use in our coastal areas. The submission noted that the economic impact is a strategic component of the Northern Territory plan.¹⁶³

TPDD recommended:

- ongoing revision of appropriate zoning of beaches and waterways to ensure improved and rapid response to reported sightings and closer monitoring through local involvement
- investment in the development of safe swimming enclosures, and
- ongoing research into the habits and numbers of crocodiles in the region, including tagging, tracking and monitoring possibilities, as well as potential deterrent, repellent, and behavioural management techniques and technologies to discourage crocodiles from approaching humans.¹⁶⁴

The ECoCeQ supported the current management approach stating:

*Currently in Queensland, a crocodile that is posing a problem either by its presence in an urban area, or by repeated sightings at a popular recreational site is trapped and relocated by the Qld Parks and Wildlife Service. This is an effective management strategy. It is not possible or sensible to attempt to remove or kill all the crocodiles in our waterways. People need to be crocodile safe, just as they have to be sun safe.*¹⁶⁵

Gecko raised a concern that term ‘rogue crocodile’ used in the Bill is very loosely defined and these powers ‘could potentially trigger an open season on crocodiles by those wishing to benefit from sales of eggs or skins or prized parts of carcasses such as teeth and skulls’¹⁶⁶. The Plastic Free Living Community Group agreed that the definition is too loose and ‘could see detrimental effects on population numbers and territory issues as crocodiles are territorial and there is a pecking order’.¹⁶⁷

EDO NQ pointed out that while the Bill and the current conservation plan each have fairly similar definitions of dangerous crocodiles (problem crocodiles and rogue crocodiles respectively), the definition in the Bill removes any reference to the identity of the decision maker who determines whether a crocodile is rogue or otherwise:

*The conservation plan provides for the discretion of the chief executive in this determination while the bill only supplies a direct definition. This is a cause of concern as it would potentially offer unfettered discretion to persons authorised to kill crocodiles to determine themselves whether a crocodile is rogue.*¹⁶⁸

John Lever from Koorana Crocodile Farm argued that private enterprise should be brought back into the contractual removal of crocodiles in order to speed up the removal process.¹⁶⁹

Ted Ramsamy advised that the removal of crocodiles was taking far too long:

John [Lever] is sitting there. We are sitting here. We could have a team together in five minutes and remove that animal, instead of several weeks later the animal is still there. They put a couple of traps out, but the animal is still there. He is not going into the trap straightaway. Wintertime is

¹⁶³ Submission 1, p 1.

¹⁶⁴ Submission 23, p 2.

¹⁶⁵ Submission 4, p 3.

¹⁶⁶ Submission 14, p 2.

¹⁶⁷ Submission 15, p 1.

¹⁶⁸ Public hearing transcript, Cairns, 27 August 2018, p 24.

¹⁶⁹ Public hearing transcript, Mackay, 29 August 2018, p 3.

*the worst time, because he is laying out on the bank and he is not eating that much. He is not going to go into that trap.*¹⁷⁰

Dan Bamblett recommended that the department needed to be well funded and properly resourced to ensure it can respond quickly to any reports and take the actions necessary to resolve the issue.¹⁷¹

In response to a question from the committee about the capacity of crocodile farms to keep taking rogue crocodiles that are removed Bob Katter MP advised that there is a proposal to for a major crocodile sanctuary that has not yet been made public and this would lessen the need for them to be relocated to farms and would also be 'a wonderful environmental adjunct to northern tourism on the scale in which they are going to do it'.¹⁷²

Ingrid Marker referred to Four Mile Beach and the fact that it is next to a mangrove area so will never be free of crocodiles:

*If there are crocodiles in the ecosystem and they are saying it is safe waterways, it gives the public a false and deluded sense of safety... You are never going to keep it croc safe.... They [rangers] will tell you that it is not the big fellow sitting on the bank that is the problem; it is the 10 other little fellows that are all hiding and fighting to take over and dominate that site and they are fast, feisty and aggressive. The big guy sitting on the bank does not have anything to prove, much like a large dog. They do not eat a lot. They are not eating people. The scare people because they smile at them and show them their teeth. It is the fear of crocodiles; it is not the actual event of a crocodile attack.*¹⁷³

The Mackay Conservation Group advised that the Mackay area was once home to a large population of mature crocodiles with the largest crocodile ever found in Australia (9.7 metres) being shot in Mackay in the late 1880's. However, now observations of crocodiles is relatively rare which 'indicates that the interactions between people and crocodiles is either of no concern or infrequent or both'.¹⁷⁴

Australia Zoo submitted that while the removal of dangerous crocodiles which have attacked or threatened to attack humans is justified, their removal will not limit the chances of further attacks and will create a false sense of security for residents and tourists.¹⁷⁵ The submission provided evidence that crocodiles will move back to where they came from or be replaced by other crocodiles and advised:

*Based on the evidence provided, it is clear that simply removing crocodiles will not mitigate the probability of attacks on humans and the best course of action is for people in crocodile territory to be "Croc-wise" and take sensible steps to minimise human-crocodile interaction.*¹⁷⁶

At the Brisbane public hearing Australia Zoo provided evidence that in 1975 when the crocodile population, especially large crocodiles, was likely at its lowest ebb and that those crocodiles that survived the full-scale hunting would be very wary of humans, Queensland had the first recording of a person's death caused by a crocodile attack:

Peter Reimers, who was 32 years old, was killed by a crocodile while he was cooling off in the shallows of the Mission River near Weipa. Three decades of unregulated hunting could not save

¹⁷⁰ Public hearing transcript, Mackay, 29 August 2018, p 6.

¹⁷¹ Tabled paper, Townsville public hearing, 28 August 2018, p 2.

¹⁷² Public hearing transcript, Townsville, 28 August 2018, p 5.

¹⁷³ Public hearing transcript, Cairns, 27 August 2018, p 26.

¹⁷⁴ Submission 22, p 1.

¹⁷⁵ Submission 9, p 3.

¹⁷⁶ Submission 9, p 4.

*Mr Reimers' life because he did not follow the simple crocwise message, which is staying away from the water's edge or not going into the water.*¹⁷⁷

The submission from Wildlife Queensland argued that problem crocodiles should be placed in a zoo, farm or euthanased as translocation is not a viable option given research has shown that they will travel vast distances to return to their original territory.¹⁷⁸

Tref objected to the use of the term rogue crocodile arguing crocodiles cannot be rogue – they can be a problem for other waterway users, and hence the QCMP uses the more correct term problem crocodile.¹⁷⁹

The Alliance to Save Hinchinbrook recommended:

- there should be no interference with crocodile populations unless conducted by Queensland Government officers for essential public safety or by authorised persons for approved essential scientific conservation-related research.
- when appropriate science-based information has been obtained, and a full understanding of the relationship between Indigenous peoples and crocodiles has been obtained, and if some management measures are proposed, that a full and proper consultation be carried out, and
- existing relevant Queensland Parks and Wildlife Service programs and regulations be enhanced, resourced and enforced to ensure crocodiles do not become a 'problem' due to human behaviour such as feeding, discarding waste, taunting etc.¹⁸⁰

At the regional hearings a number of stakeholders discussed the cultural significance of crocodiles to the First Nations peoples and the need for consent from the Traditional Owners before a crocodile is removed or culled. Janey Deakin a Pormpuraaw Traditional Owner told the committee:

*We have rogue crocs at the beach that we would like to see taken away, removed. We need to remove some of the crocs and put them into the croc farm. Some do a business in safari but have consent to do it within the traditional land, on someone else's traditional land. We would like to get consent when we go into someone else's land. With come crocodiles, because of their spiritual aspects with connection with each other, we cannot cull them. We actually leave them alone.*¹⁸¹

Mr Gudju Gudju Fourmile advised that he has a problem with people removing crocodiles off their country and bringing them down south without the asking permission and told the committee that there needs to be 'a lot more talking with Traditional Owners about the management of crocodiles'.¹⁸²

Ingrid Marker from Garners Beach Cassowary Hospital advised that when a large crocodile is transferred to the centre they go through a due process with the Traditional Owners of the land it came from:

*It cannot be disposed of willy-nilly or go into any other holding facility after it goes through the centre. It has to be put into consultation with the Traditional Owners. If it [the Bill] were passed that the man on the land could shoot it, they could be shooting traditional animals.*¹⁸³

In response to a question from the committee following the public hearings, the department advised that it seeks to consult with the relevant traditional owners and consider their wishes in relation to the fate of the crocodile, noting that public safety is a paramount consideration when deciding how to deal

¹⁷⁷ Public hearing transcript, Brisbane, 11 June 2018, p 2.

¹⁷⁸ Submission 13, p 2.

¹⁷⁹ Submission 30, pp 2-3.

¹⁸⁰ Submission 21, p 2.

¹⁸¹ Public hearing transcript, Cairns, 27 August 2018, p 12.

¹⁸² Public hearing transcript, Cairns, 27 August 2018, p 25.

¹⁸³ Public hearing transcript, Cairns, 27 August 2018, p 25.

with problem crocodiles.¹⁸⁴ The department also advised that it ‘regularly works collaboratively with aboriginal organisations in managing estuarine crocodiles’ and that the department has delivered formal crocodile management training modules to Land and Sea Rangers from several Indigenous local governments and other organisations in north and far north Queensland.¹⁸⁵

3.7 Crocodile culling and harvesting

3.7.1 Current approach

As previously noted, estuarine crocodiles are a protected species in Queensland, listed as a vulnerable species under the NC Act and they are also protected nationally under Commonwealth legislation and internationally under CITES. These arrangements effect how crocodiles are managed.¹⁸⁶

The QCMP details the strategic management framework that has been implemented to reduce risks to public safety and protect crocodiles in the wild and notes:

*The necessary scientific evidence to support these management arrangements is being provided by the department through a comprehensive multi-year survey of crocodile populations in rivers and estuaries from Cape York to Gladstone. This work is based on advice from some of the world’s leading crocodile scientists and will help guide best practice crocodile management into the future. This program began in 2017.*¹⁸⁷

On 13 July 2018 the Minister for Environment and the Great Barrier Reef, Minister for Science and Minister for the Arts announced that the first stage of this survey had been completed and the Queensland crocodile management update 2017 had been released.¹⁸⁸ The 2017 update advised that the three-year monitoring program involved vessel-based (1380 kilometres in 28 river systems) and helicopter surveys (800 kilometres in eight river systems) in selected waterways across ‘croc’ country and has been reviewed and endorsed by the International Union for Conservation of Nature Crocodile Specialist Group which includes the world’s leading experts in crocodile biology and monitoring.¹⁸⁹

While the 2017 update did not provide the number of crocodiles identified in the survey, the Courier-Mail reported that the monitoring program had so far found one crocodile per kilometre in waterways between Gladstone and Cape York Peninsula and quoted that northern wildlife operations manager as stating that this was far less than the average in the Northern Territory where there are between five and 10 crocodiles per kilometre.¹⁹⁰

The DES website notes that through research, it hopes to:

- assess crocodile numbers, distribution and movement patterns
- gain a better understanding of their population dynamics
- gain a better understanding of their reproductive biology, and
- encourage conservation and management of healthy wild populations, while keeping the risk to people as low as possible.¹⁹¹

¹⁸⁴ DES, correspondence dated 11 September 2018 (response 2), p 1.

¹⁸⁵ DES, correspondence dated 13 September 2018 (response 2a), p 1.

¹⁸⁶ Queensland Crocodile Management Plan, March 2017, p 7.

¹⁸⁷ Queensland Crocodile Management Plan, March 2017, p 7.

¹⁸⁸ Media statement – Queensland Crocodile Management update released, 13 July 2018.

¹⁸⁹ Queensland Crocodile Management Update 2017, 13 July 2018
<https://www.ehp.qld.gov.au/wildlife/livingwith/pdf/crocodile-management-update-2017.pdf>
(accessed 4 September 2018).

¹⁹⁰ Courier-Mail, 14 July 2018, p 4 – ‘Croc numbers found to be too low for cull program’.

¹⁹¹ <https://www.ehp.qld.gov.au/wildlife/livingwith/crocodiles/> (accessed 4 September 2018)

3.7.2 Proposed provisions

Clause 11 of the Bill proposes that the director of the authority have the following functions in relation to crocodile culling and harvesting:

- deciding the number of crocodiles that may be culled each year in any part of the State (11(1)(e))
- authorising persons to carry out the culling of crocodiles in any part of the State (11(1)(f))
- authorising the owner of Indigenous land, State leasehold land or other land that is not State land to:
 - kill crocodiles on the owner's land, or
 - allow other persons to kill crocodiles on the owner's land, for payment of a fee or free of charge, or
 - otherwise manage crocodiles on the owner's land (11(1)(h))
- ensuring the carcasses of all crocodiles killed under an authorisation granted by the director are dealt with so that, as far as possible, no part of a carcass is wasted (11(1)(j))
- coordinating research into, and the routine surveying of crocodile population numbers and distribution and crocodile egg numbers and distribution in the State (11(1)(l)).

Clause 11(2) proposes that the director must not, when carrying out a function under clause 11(1), do anything the director reasonable believes will cause, or is likely to cause, the population size of crocodiles to decline to an extent that crocodiles may be in danger of extinction.

The explanatory notes advised:

Authorised landholders will be empowered in regards to all aspects of crocodile management on their property. If a crocodile is on their property, they may choose whether to kill it, have it relocated to a farm, or let it remain on their property. If they choose for it to be euthanased, they may do this themselves, or accept payment from another person who wishes to kill the crocodile.

By placing a value on crocodiles, landholders are unlikely to simply kill all of the crocodiles on their land, unless this is necessary for them to safely live and operate on that land.¹⁹²

In relation to the disposal of crocodile carcasses the explanatory notes provided:

It is hoped that anytime a crocodile is euthanased, whether it be on a private property, or on state land, that the crocodile carcass is fully utilised, for example by selling teeth, meat or skins, or by producing blood and bone from unsaleable parts of the carcass.¹⁹³

The explanatory notes acknowledged that there may be some areas of the Bill that may encroach on the Commonwealth EPBC Act and advised that 'consultation with the relevant commonwealth government Minister has indicated a willingness to consider mechanisms that will ensure no conflict between this Bill and the Commonwealth Act exist'.¹⁹⁴

¹⁹² Explanatory notes, p 2.

¹⁹³ Explanatory notes, p 2.

¹⁹⁴ Explanatory notes, p 4.

3.7.3 Department advice

The department advised that it would be difficult to establish a suitable quota of crocodiles to be harvested as there is no recent population data on Queensland's crocodiles and it may therefore be a challenge to demonstrate to the Australian Government that the proposed approach is sustainable and in keeping with Australia's obligations under CITES.¹⁹⁵

*Quotas will need to be included in a WTMP and provided for the Commonwealth's approval. Should the Commonwealth disagree with proposed quotas, the Commonwealth may not endorse the WTMP. If no WTMP is in effect at a point in time, it would shut-down the current farms and international market until such time that a WTMP is agreed to.*¹⁹⁶

Noting that the Bill (clause 4) proposes that the Act will prevail over other legislation to the extent of any inconsistency the department raised a concern that activities undertaken by members of the public may not held accountable to the standards for humane treatment of animals under the *Animal Care and Protection Act 2001* and further, in order to satisfy the Australian Government for the purpose of the WTMP, compliance with the Australian 'Code of practice for the humane treatment of wild and farmed Australian crocodiles' would be required.¹⁹⁷

In relation to the proposal to increase the potential scope for crocodile harvesting, the department advised that it is unclear whether this will trigger a 'controlled action' under the Commonwealth's EPBC Act.¹⁹⁸

The department also made the following observations:

- many waterways in the State are 'unallocated state land' and thus do not fall within the tenures listed as suitable for the purpose of clause 11(1)(h) – and queried whether it is the intent that management of crocodiles in these waterways be undertaken in accordance with clause 1(1)(h)(i)
- it is not clear how the powers to authorise the killing of crocodiles under clause 11(1)(h) is different to the powers allowing the take of crocodile under 11(1)(i) – and queried if (i) is allowing display, interaction, take, keep, and use of crocodiles (which includes allowing killing and other management of crocodiles) in any part of the State, what additional benefit is being provided by clause (h)
- where a person is authorised to manage crocodiles on non-freehold land this may constitute a future act for the purposes of the *Native Title Act 1993*, and
- the Commonwealth has twice refused proposals by the Northern Territory Government to allow private citizens to kill crocodiles and the grounds for this refusal have included the potential for inhumane outcomes:

What consideration has been given to mitigating the potential for actions to be inhumane – particularly given the Bill will override requirements of the Animal Care and Protection Act to the extent of any inconsistencies? Further, what consideration has been given to the likelihood of the Commonwealth agreeing to this proposal?

- in relation to clause 11(1)(j) - dealing with crocodiles 'as far as possible' is a test that may not always be practical to meet and queried what the intended outcome of this requirement is

¹⁹⁵ Submission 19, p 12.

¹⁹⁶ Submission 19, p 16.

¹⁹⁷ Submission 19, p 12.

¹⁹⁸ Submission 19, p 12.

- in relation to clause 11(2) – how does this provision align with:
 - the explanatory notes’ statement that the aim of the Bill includes ‘protecting crocodiles from becoming endangered as a species’
 - obligations under the EPBC Act for crocodiles as a listed migratory species (i.e. a person must not take an action that has, will have, or is likely to have, a significant impact on the species), and
 - obligations under CITES that trade will not be detrimental to the survival of the species in the wild?¹⁹⁹

The department also noted that the Bill does not require that a person seeking an authority to shoot crocodiles be suitably authorised under the *Weapons Act 1990*.²⁰⁰

3.7.4 Stakeholder views

The committee received anecdotal evidence from various stakeholders that the number of crocodiles in the north of the state has increased significantly over recent decades.²⁰¹ A number of stakeholders argued that this increase in numbers was putting public safety at risk and supported culling. For example, the submission from the Port Douglas SLSC estimated there are 80,000 crocodiles in the wild in Queensland and stated ‘it is fair to say that crocodiles are no longer an endangered species’:

*A proactive crocodile management plan should be implemented to reduce numbers of crocodiles in areas that are populated by humans such as Port Douglas and the residential beach areas of Cooya Beach, Newell Beach and Wonga Beach, north of Port Douglas.*²⁰²

At the Port Douglas public hearing the Vice President of the Port Douglas SLSC added that he thinks that culling is the next step as ‘unless culling is carried out humans are going to come out at the wrong end’.²⁰³

Paul West from Townsville also supported culling on the grounds of public safety but argued that shooters must be accredited and licenced and only cull at the appropriate times (not in breeding season).²⁰⁴

Jack McDougall strongly supported culling and believes that Indigenous people should be doing it.²⁰⁵

However, a number of other stakeholders did not support any culling on the basis that scientific studies have not been finalised to determine the stage of recovery of the Queensland crocodile population.

The Alliance to Save Hinchinbrook recommended that the Queensland Government carry out the necessary scientific and observational studies to gain credible data on crocodile activity and breeding rates (including egg health and sex) and survival before considering taking any broad-scale action to interfere with the recovery of crocodiles.²⁰⁶

¹⁹⁹ Submission 19, pp 16-17.

²⁰⁰ Submission 19, p 14.

²⁰¹ See for example, FNQ Consultants, submission 29; Tref, submission 30; Stuart Waugh, submission 28; Mal Philips, submission 31, p 1; Gordon Rasmussen, George Pitt and Jesse Eggins, public hearing transcript, Port Douglas, 27 August 2018; Jamie Chetcuti, public hearing transcript, Townsville, 28 August 2018, p 11; Robbie Katter MP and Bob Katter MP, public hearing transcript, Townsville, 28 August 2018, p 2.

²⁰² Submission 2, p 4.

²⁰³ Public hearing transcript, Port Douglas, 27 August 2018, p 5.

²⁰⁴ Submission 34, p 1.

²⁰⁵ Public hearing transcript, Mackay, 29 August 2018, p 18.

²⁰⁶ Submission 21, p 2.

Australia Zoo submitted that, as a minimum, that any action to reduce crocodile numbers should await more crocodile surveys over several years so an accurate trend in population growth or decline can be ascertained:

*This is a species that was on the verge of extinction in the 1970's. Changes to legislation to ban hunting was their saving grace. In reality what we are seeing now is a recovery of a critically endangered species. What we don't know is how well it has recovered and how fragile populations may still be. The research is critical before making any changes.*²⁰⁷

Australia Zoo's submission went on to argue that the Bill's proposal to allow anyone with a permit to capture or shoot crocodiles 'is a recipe for disaster' and will increase the number of attacks and deaths caused by crocodiles by increasing contact with crocodiles by people with limited experience:

*Additionally, injured animals become more dangerous. If they are struggling to catch their natural diet die to being shot, they may become dependent on other food sources which in turn can increase the human-animal contact.*²⁰⁸

Gecko noted that while crocodiles have increased in number since the last century as a result of protection, 'there is a real danger that over exploitation, which could occur under the Bill, will return this species to an endangered status'.²⁰⁹ The submission also argued that the proposal to allow other people to kill crocodiles on the owner's land 'opens the door to elite trophy hunting on private land, with the ability for persons to capture crocodiles elsewhere for release on other properties. The largest and most impressive specimens would likely be targeted for their potential lucrative sale to hunters, skewing the natural age distributions in wild populations'.²¹⁰

Tara Bennett from TPDD responded to a question from the committee at the Port Douglas public hearing by advising that she was 'hesitant to endorse culling – 'It does not really apply to the philosophy of nature-based tourism and respecting the environment and those assets that are earning our tourism revenue''.²¹¹

Tref was opposed to the culling of crocodiles on environmental, ecological and safety grounds, noting that if large crocodiles are removed other crocodiles will occupy that niche. Tref was also opposed to safari hunting on public or private land.²¹² At the Townsville Public Hearing Tref advised:

*... we have had and explosion in the number of people. In fact, we have had a 45 per cent increase in the population of Cairns and I believe a 69 per cent increase in the Townsville population, yet we have had 11 crocodile deaths since 1985 and most of them have been due to human misadventure and young people drunkenly hanging around waterholes. There have been inquests into these deaths so we know why people died. I am concerned that the issue has been politicised.*²¹³

The owner/operator of Solar Whisper Wildlife Cruises advised:

Though crocodile populations are recovering this supposed drastic increase in numbers is not based on science. Currently the Qld government is doing a count, this count will show the number of crocodiles that exist up here. Speaking to may tour operators we have not seen any change in

²⁰⁷ Submission 9, p 4.

²⁰⁸ Submission 9, p 5.

²⁰⁹ Submission 14, p 2.

²¹⁰ Submission 14, p 3.

²¹¹ Public hearing transcript, Port Douglas, 27 August 2018, p 5.

²¹² Submission 30, p 2.

²¹³ Public hearing transcript, Townsville, 28 August 2018, p 17.

*number but rather a stabilisation of crocodile populations and many operators believe in fact there are less crocodiles due to their constant removal, legally and illegally.*²¹⁴

Solar Whisper Wildlife Cruises also pointed out that while a lot of people want to use the Northern Territory model (zero tolerance in Darwin Harbour) the Harbour has a narrow entrance while Queensland has 'open coastline with rivers. It is totally different'.²¹⁵

A number of stakeholders also raised a concern that the Bill does not have tight enough requirements in relation to the people that could carry out crocodile culling.

EDO NQ raised a concern that while the Bill requires persons authorised to deal with rogue crocodiles to have the skills and training to kill crocodiles, this requirement does not extend to authorised landowners and the persons they allow to kill crocodiles on their land which could lead to inhumane practices.²¹⁶ They also advised that the Northern Territory scheme does not allow for landowners to receive financial gain by allowing individuals onto their land to kill crocodiles also known as trophy hunting.²¹⁷

Wildlife Queensland submitted that it could be argued that allowing any person without appropriate training and education to take a crocodile in the wild could result in inhumane practices²¹⁸ and recommended that the Government continue to monitor crocodiles to establish population size and trends over their natural range to facilitate the conservation of this vulnerable species.²¹⁹ However, Wildlife Queensland acknowledged that while crocodiles should have a place in Queensland it would be reasonable to define large areas where large crocodiles have no place and crocodile populations must be actively managed to balance crocodiles' and peoples' needs.²²⁰

The TTNQ submitted:

*While we look forward to the release of detailed findings of the Queensland Government's estuarine crocodile population survey, we know that sightings of, and interactions with saltwater crocodiles along our coastline and waterways (including in inland and islands) are increasing. Regardless of average population density statistics, distribution of crocodiles is likely to be aggregated according to habitat and food availability. Recent research in the NT indicates feral animals such as pigs, are increasingly are a food source, with Reef & Rainforest Research Centre flagging a possible change in natural population architecture.*²²¹

While the TTNQ submission did not directly refer to culling it did request that, subject to the results of the crocodile population survey, the State Government work with the Federal Government for removal of crocodiles from the vulnerable species list and that a policy be implemented to control introduced species that create an artificial food chain. The TTNQ also supported ongoing investment in population studies, particularly in areas of high human use.²²²

²¹⁴ Submission 17, p 3.

²¹⁵ Public hearing transcript, Port Douglas, 27 August 2018, p 7.

²¹⁶ Public hearing transcript, Cairns, 27 August 2018, p 24.

²¹⁷ Tabled paper, Cairns public hearing, 27 August 2018, p 1.

²¹⁸ Submission 13, p 2.

²¹⁹ Submission 13, p 3.

²²⁰ Public hearing transcript, Brisbane, 11 June 2018, p 6.

²²¹ Submission 1, p 1.

²²² Submission 1, p 3.

In response to a question from the committee at the Cairns public hearing about the impact large-scale killing of crocodiles might have on tourism in the north, the Chair of the TTNQ responded:

It is very clear that we are a sustainable, environmentally focused region and we must maintain that in any action that we take. As the bill currently stands, I think the wording is not right. There are a whole bunch of sections that have been referred to previously by Mr Entsch and others that are not appropriate within the current bill. The large-scale killing of crocodiles, particularly by people who are not qualified, to me is completely inappropriate. That is the last thing that this region would want from a brand perspective, as well as what is happening on the ground.

*We think there is a great opportunity, as has already been mentioned, for traditional owners to be involved in the management and particularly the economic benefits from harvesting crocodiles in one form or another. As far as large-scale culling is concerned, we are completely against that.*²²³

In response to a question from the committee about crocodile hunting by untrained people, SLSQ advised:

I would be concerned for our lifesavers and lifeguards trying to regulate a beach 365 days a year with hunters and would-be hunters on populated beaches. That would be of great concern to the organisation that those people could be out there...

*For us it would be of great concern because our people are on the front line. They are on those coastal beaches every single day. Would-be hunters could bring a different type of danger to our visitors and people who enjoy those beaches.*²²⁴

Mr Entsch while in support of a number of elements of the Bill, raised a concern about authorising landholders to start slaughtering these animals without any controls or giving somebody else permission to go out and kill these animals.²²⁵ Mr Entsch raised a particular concern that giving people indiscriminate rights to kill crocodiles would destroy any CITES certification which would have a significant impact on the crocodile farming industry in the State.²²⁶

Mr Entsch did however support culling in highly populated areas and the Northern Territory concept of zero tolerance, suggesting an area from south of the Daintree River as long as the animals were removed by a qualified person.²²⁷ Mr Entsch explained how a zero tolerance policy might work:

*Crocodile farmers who have the experience in handling and managing crocodiles would sign up immediately if they could go into an area where there is zero tolerance and they could take any eggs that are produced in that area. Hatchlings are a valuable commodity. Even animals up to around about a metre or even higher are valuable, because the animal is normally slaughtered at about 1.8 metres. With the smaller animals you can process them, and as part of their licence to do that we could also negotiate for them to take the bigger animals and relocate them, some of which would be useful for breeding. The big old males generally have to be euthanased, because you have to keep them on their own indefinitely. That could be for decades without any production from them.*²²⁸

²²³ Public hearing transcript, Cairns, 27 August 2018, p 14.

²²⁴ Public hearing transcript, Brisbane, 11 June 2018, p 9.

²²⁵ Public hearing transcript, Cairns, 27 August 2018, p 3.

²²⁶ Public hearing transcript, Cairns, 27 August 2018, p 7.

²²⁷ Public hearing transcript, Cairns, 27 August 2018, p 4.

²²⁸ Public hearing transcript, Cairns, 27 August 2018, p 5.

Mr Stephen Andrew MP, Member for Mirani stated that it would be hard to police the vigilante killing of crocodiles:

*The only way it could be measured or taken into consideration is for the sensible management of what we are trying to suggest here – to go out there, to make sure that we do look at the numbers and we have an understanding of the numbers and what crocodiles are resident in the creeks. I know they move all the time and I know that floods move them all the time, but if they are known about we can work together with the landholder to sustain their presence there. They would know that they are there and they can keep an eye on them.*²²⁹

However, Mr Andrew went on to state that there are some places such as coastal waters of the regional urban areas where crocodiles need to be taken out of the ecosystem and relocated ‘so that the vigilante thing does not occur’.²³⁰

One local business owner in Port Douglas called for an ‘absolute no go zone for crocs on beaches where there SLSC and swimming beaches’ and prevention planning and population cap on the crocodiles for populated areas.²³¹ Paul West from the Townsville region recommended a better management plan be introduced to reduce the number of crocodiles in the proximity of built up areas, farming communities, swimming holes and offshore islands frequented by locals and tourists.²³²

The ECoCeQ raised a concern that the Bill does not require monitoring or recording of the crocodile killing ‘which could be indiscriminate, and open to cruelty and abuse’.²³³ At the Mackay public hearing the ECoCeQ added:

*The fear factor is out of proportion to the risk that they pose. Statements by Dr Adam Britton indicate that culling crocodiles does not keep people safe because of that false sense of security and because when you take out that apex male other males come in—the younger males—and they are agitated because they are battling for the same territory. Crocodile management plans such as the Crocwise education program and the removal of potentially problematic crocodiles are the best ways to ensure that people are responsible for their own safety.*²³⁴

FNQROC stated that the Bill has a management action of culling wild crocodiles which is not consistent with the broader public sentiment expressed in regional and state-wide opinion and perception surveys and noted that any future legislation needs to be cognisant and manage this sentiment.²³⁵ The submission also noted that the terms ‘killing, culling and euthanizing are used interchangeably throughout the Bill yet they all have differing definitions’²³⁶ and that ‘it is ambiguous how the requirements of International, National and State legislation and agreements will be addressed to facilitate development of an industry which involves the harvesting (or killing) of wild crocodiles’²³⁷.

In response to a question from the committee at the Cairns public hearing FNQROC provided further evidence on the existing international, national and state obligations:

... it is ambiguous how those recommendations are managed within the proposal as it is being put forward. It is really not addressed at all. It is addressed in the policy speak in the front. It is almost dismissed. It is probably one of the biggest hurdles or obstacles in there. It is incredibly complex

²²⁹ Public hearing transcript, Mackay, 29 August 2018, p 4.

²³⁰ Public hearing transcript, Mackay, 29 August 2018, p 4.

²³¹ Monique Johnson, submission 26, p 1.

²³² Submission 33, p 1.

²³³ Submission 4, p 3.

²³⁴ Public hearing transcript, Mackay, 29 August 2018, p 11.

²³⁵ Submission 6, p 2.

²³⁶ Submission 6, p 2.

²³⁷ Submission 6, p 4.

and, as has already been outlined in the hearing today, we have so much reputation riding on that. The ongoing viability of the industry is really stitched to that.

I would say that we also have our reputation as a sustainable tourism destination. There is considerable reputational risk for the region in terms of how we behave and respond to these—that is very real and that is what we face—as custodian of the reef. Our custody of the reef is a good example of that. They are the broad things. I think they are really skipped over within the current proposal. They do not go into the detail that is required. There is not a regulatory impact statement or other provided that looks at those flow-on effects to other industries.²³⁸

CYLC noted clause 11(h)(ii) and advised that ‘to allow for crocodile hunting for the payment of a fee to the land owner is supported for Aboriginal land because it provides an opportunity for economic activity that the land owners may take up if they choose’.²³⁹

In relation to public versus private benefit FNQROC pointed out that by placing a commercial value on wild crocodiles the proposed policy aims to monetise the management of crocodiles:

Whilst alternative solutions for consideration to a problem are encouraged, the State needs to consider the potential for exploitation for personal gains which may have a negative impact on the intended public benefit of safer waterways.²⁴⁰

At the Cairns public hearing FNQROC reiterated this concern and advised:

... this challenge with private versus public benefit when we start to look at monetising crocodiles out there, particularly if we look at these considerations of authorised landholders. Consider a catchment where you have five landholders—two want to preserve crocodiles, one is indifferent and the other two want to sell the rights for other people to hunt those crocodiles. We end up with all of these perverse elements on top of what is really a complex ecological, social and economic issue, and we lose oversight of that entirely. Placing the commercial value on wild crocodiles, particularly if it is decentralised and put out to individuals to manage, as is proposed in components of this legislation, is fraught. It really is a minefield and we cannot see how that could possibly make the waterways safer or help conserve crocodiles in the long term.²⁴¹

Koorana Crocodile Farm raised similar concerns submitting that clause 11(1) would provide for a landowner to kill a crocodile if they feel in danger from it but they could then commercialise it and that it would be ‘easy to abuse the privilege and kill any croc and say it came from his land’ and be too hard to control.²⁴² The submission also advised:

I do not agree with safari hunting of crocs as it is too hard to enforce and control. In addition, a wounded croc is much more dangerous and there will be wounded crocs if safari hunting is permitted. Moreover, a stable crocodile community is headed up by an Alpha male. Normally this is the largest male in the system.

Removal of this male will cause disruption as others fight for dominance ending up with dislocated crocs establishing a new hierarchy. Hunters will of course be seeking the largest croc.²⁴³

²³⁸ Public hearing transcript, Cairns, 27 August 2018, p 10.

²³⁹ Submission 20, p 1.

²⁴⁰ Submission 6, pp 4-5.

²⁴¹ Public hearing transcript, Cairns, 27 August 2018, p 10.

²⁴² Submission 8, p 1.

²⁴³ Submission 8, p 1.

Hartley's Crocodile Adventures raised a concern with clause 11 of the Bill which on its reading provides the director with 'unfettered powers to treat wild crocodiles as a pest species where they can be caught or culled based on the arbitrary decision of an individual, and the killing can continue to the point where the wild populations may become extinct'.²⁴⁴

A number of stakeholders totally opposed the proposal that landowners be able to kill crocodiles or allow other persons to kill crocodiles on their land.²⁴⁵ Others, including AgForce supported the power the Bill would give to landholders to manage crocodiles on their own land.²⁴⁶

Wildlife Queensland noted that the Bill suggests crocodile hunting would be allowed and advised that the Commonwealth Government has rejected trophy hunting in relation to crocodiles several times.²⁴⁷

3.7.5 Committee comment

The committee has noted the views of stakeholders both in support, and against, the proposals in the Bill regarding crocodile culling.

The committee is concerned that the current drafting of clauses 11(1)(h) and 27(2)(g) of the Bill would allow untrained people to kill crocodiles and may legalise trophy hunting. The committee is of the view that this would result in unacceptable safety issues on both private and public land.

The committee is also concerned that the culling and hunting provisions proposed in the Bill are likely to breach international, national and state obligations and would therefore negatively impact on the ability of Queensland crocodile farms to export crocodile products.

3.8 Crocodile egg harvesting

3.8.1 Background information - provided by the department²⁴⁸

Commercial egg harvesting occurred for a short period in Queensland in order to stock crocodile farms that were established in the 1980s. Since that time, crocodile farms in Queensland have used either captive breeding, or eggs and juveniles sourced from the Northern Territory to supply their farms. Commercial harvesting of crocodiles – including eggs – is currently prohibited in Queensland.

Commercial egg harvesting has been undertaken in the Northern Territory since the 1980s in order to supply licensed crocodile farms. The majority of farmed crocodiles in the Northern Territory are from harvested wild eggs, with captive breeding supplying a small number of the total captive population. Wild harvested eggs and hatchlings from those eggs are regularly sold and transferred to Queensland crocodile farms. The sustainability of the Northern Territory's harvest of wild eggs is based on regular and detailed population monitoring across a number of river systems and the setting of a harvest ceiling using a population and a harvesting simulation model.

Over the last decade a number of crocodile farms in Queensland have expressed an interest in being able to commercially harvest crocodile eggs to supply their farms. A number of entities have also presented proposals for remote Indigenous communities to be able to support local employment by commercially harvesting crocodile eggs. These proposals have never been fully realised because there is no population monitoring data available to ensure that Queensland can demonstrate that it meets the IUCN's obligations for the harvest to be sustainable.

²⁴⁴ Submission 7, p 2.

²⁴⁵ See for example, CCC submission 11, p 4.

²⁴⁶ Submission 18, p 4.

²⁴⁷ Public hearing transcript, Brisbane, 11 June 2018, p 6.

²⁴⁸ Section 3.8.1 is taken from information provided by DES, Submission 19, pp 8-9.

However, two research projects have been undertaken since 2008 by Dr Adam Britton from the Northern Territory. The first project assessed the status of the existing wild population and nest areas on the west coast of the Cape York Peninsula. The second project conducted a small-scale experimental harvest of eggs to test whether harvesting eggs in this area could be sustainable. The experimental harvest was authorised under a scientific purposes permit, issued by the then Department of Environment and Heritage Protection.

Using this data, and in partnership with Pormpuraaw Aboriginal Regional Council, the Queensland Government is currently investigating establishment of a small-scale experimental egg harvesting pilot for the Edward River Crocodile Farm. In order to allow egg harvesting to occur, even on a limited basis, Queensland would need to gain approval under the EPBC Act for a WTMP which includes egg harvesting.

To gain Commonwealth approval, the Commonwealth Minister must be satisfied about a range of matters, including whether there is sufficient evidence to demonstrate that the harvesting will not be detrimental to the survival of the species or its conservation status, the harvesting will not threaten habitat or biodiversity, and monitoring and data collection will be used to ensure sustainability. This will also need to take into consideration that Queensland has less suitable habitat and lower densities of crocodiles than the Northern Territory.

Allowing for commercial harvesting of crocodiles eggs would also require an amendment to the Conservation Plan to allow a commercial wildlife harvest licence to be issued for estuarine crocodile eggs.

3.8.2 Proposed provisions

In relation to egg harvesting clause 11(1) of the Bill proposes that the functions of the director include the power:

- to decide the number of crocodile eggs that may be harvested each year in any part of the State (11(1)(c))
- to authorise persons to harvest crocodile eggs in any part of the State (11(1)(d))
- for Indigenous land, State leasehold land or other land that is not State land – to authorise the owner of the land to harvest crocodile eggs on the owner’s land (11(1)(h)(iii))
- to authorise persons to otherwise display, interact with, keep, take or use crocodiles or crocodile eggs in any part of the State (11(1)(i))
- to refer the suspected commission of offences relating to crocodiles or crocodile eggs to the police service (11(1)(k))
- to coordinate research into, and the routine surveying of crocodile egg numbers and distribution in the State (11(1)(l)(ii))
- to promote the farming of crocodiles and the harvesting of crocodile eggs in the State (11(1)(m)).

The Bill proposes that the director provide an annual report to the Minister and that, in relation to egg harvesting, this report must include the number and location of crocodile eggs authorised to be harvested and actually harvested in the State at the time of the report (clauses 23(2)(e) and (f)). The proposed quarterly reports must also include the number and location of crocodile eggs authorised to be harvested and actually harvested in the State at the time of the report (clauses 24(3)(c) and (d)).

The Bill proposes that the Minister must table proposed subordinate legislation in the Legislative Assembly which provides for the director to authorise an adult, who has completed a crocodile egg harvesting safety course approved by the authority, to harvest eggs in any part of the State (clause 27(1)(2)(b)).

The Explanatory notes stated that the Bill legalises egg harvesting for permit holders:

The landholder will likely see the value in crocodile eggs, and the income they can generate for the landholder.

*If there are crocodile eggs on their land, they can choose to leave the eggs, harvest the eggs and sell them, or have someone else pay to come onto their land and harvest them.*²⁴⁹

The Explanatory notes advised that the Northern Territory currently has a successful egg harvesting program and ‘evidence suggests egg harvesting can help sustain crocodile populations, rather than diminish them, and creates a huge economic opportunity, which is currently untapped in Queensland’²⁵⁰.

3.8.3 Department advice

The department advised that it would be difficult to establish a suitable quota of crocodile eggs to be harvested as there is no recent population data on Queensland’s crocodiles:

In the absence of this, it may be a challenge to demonstrate to the Australian Government that the proposed approach is sustainable and in keeping with Australia’s obligations under the Convention on International Trade in Endangered Species (CITES).

*It is also unknown how an increase in quota may affect the viability of existing farms. An increase in the take of crocodiles and eggs from the wild could compromise the market value of farmed crocodile products should there be a surge in supply but not demand. Economic forecasting may be required to determine if this is a risk to the existing industry.*²⁵¹

The department noted that clause 11(1)(e) allows the harvesting of eggs anywhere in the state, whilst clause 11(1)(i) deals with all other aspects of the take, keep and use of crocodile eggs and that there is no definition of ‘take’ for the purpose of crocodile eggs in the Bill. The department queried whether it is the intent that take be considered to include harvest in relation to eggs, or that harvest and take are separate activities and if so, what benefit is there in having both clauses (e) and (i) if they are both achieving the same outcome?²⁵²

3.8.4 Stakeholder views

The committee heard divergent views on the Bill’s proposal to allow crocodile egg harvesting in order to create a sustainable crocodile industry in Queensland.

A number of stakeholders were in opposition. For example, Australia Zoo submitted that no evidence has been provided to support the claim that ‘a significant and sustainable crocodile industry in Queensland’ can be created through croc-egg harvesting:

*Without long-term population surveys and scientifically robust research into the effects of egg harvesting, no-one can claim that egg harvesting is “sustainable”.*²⁵³

The ECoCeQ referred to the impact of climate change on crocodile numbers with the inundation of their eggs from floods and their mating behaviour as the season changes and species extinction:

²⁴⁹ Explanatory notes, p 2.

²⁵⁰ Explanatory notes, p 1.

²⁵¹ Submission 19, p 12.

²⁵² Submission 19, p 16.

²⁵³ Submission 9, p 4.

*The Northern Territory is talked about as the golden child of how to manage crocodile populations, but I am not sure that those populations are still increasing with the harvesting of all of those eggs. I think we should consider the extinction of crocodiles as well.*²⁵⁴

Tref did not support the ‘stealing’ of crocodile eggs from nests submitting that mother crocodiles are very protective of their eggs and hatchlings so are likely to be killed to access the eggs and fewer eggs in nests will lead to longer-term crash in populations.²⁵⁵

Other stakeholders were more supportive of the proposal. For example, TTNQ requested that the Government review current crocodile management, and in doing so, consider the establishment of an egg collection and wild harvest policy that ensures the economic benefit to landholders and the community for sustainable use of habitat, in particular local Indigenous communities.²⁵⁶ Wildlife Queensland noted the pilot project planned for Cape York and advised that it was not opposed to the pilot provided it is subject to certain conditions²⁵⁷.

FNQROC noted that ‘there is no doubt that there is some economic opportunity underpinning this Bill, particularly for remote communities who live on country (this benefit however is speculative)’.²⁵⁸ In response to a question from the committee at the Cairns public hearing FNQROC provided:

*To clarify, the point we were making there is that, firstly, the assumption is made that there is an economic driver behind egg harvesting here. As the member for Leichhardt has said, we are dealing with a very different population dynamic here within the Far North. Whether the resource is actually there to establish a sustainable industry in the first place is a big question. We are very supportive of Indigenous communities managing their land and continuing to be the custodians of the wildlife on that land, as they have forever. We are very supportive of that. I think that is where the economic opportunities exist. If we started to see more investment in crocodile farming et cetera, it would bring council into that because we start to look at water extraction, land use planning, land use changes, development of infrastructure and wastewater management. All of this would be in the lens. We have a very close eye on the region in terms of GBR health and general water quality et cetera, as well as potential impacts and flow-on effects.*²⁵⁹

The CCC indicated that it does not support the monetisation of crocodiles as first choice, however if, after further research shows that crocodile and crocodile egg harvesting could be an economically and environmentally sustainable option, it should be initially offered to First Nations Peoples.²⁶⁰

Port Douglas SLSC recommended that the committee examine the Northern Territory crocodile management program and adapt the useful strategies implemented there – ‘in particular harvesting of eggs which would produce a win/win situation by achieving a reduction of numbers of crocodiles and employment for Indigenous people’.²⁶¹

²⁵⁴ Public hearing transcript, Mackay, 29 August 2018, p 12.

²⁵⁵ Submission 30, p 2.

²⁵⁶ Submission 1, p 2.

²⁵⁷ Submission 13, p 3.

²⁵⁸ Submission 6, p 2.

²⁵⁹ Public hearing transcript, Cairns, 27 August 2018, p 7.

²⁶⁰ Submission 11, p 4.

²⁶¹ Submission 2, p 4.

3.9 Crocodile farming

3.9.1 Background²⁶²

The department advised that the Nature Conservation Regulations establish the permit and licencing arrangements for native wildlife in Queensland and that while these regulations provide for the farming of crocodiles and the harvesting of crocodiles, harvesting is only permitted to the extent that the Conservation Plan allows.

From a farming perspective, the production systems for crocodiles are 'closed cycle captive breeding' and 'ranching', as follows:

- closed-cycle farms are captive breeding facilities that are self-sustaining with respect to livestock, with products from crocodiles contained and bred on sight without augmentation from wild specimens, and
- ranching is the rearing, in a controlled environment, of animals taken as eggs or juveniles from the wild, where they would otherwise have had a very low probability of surviving to adulthood.²⁶³

Crocodile farms in Queensland, unlike in the Northern Territory²⁶⁴, are predominantly closed-cycle captive breeding facilities. However, there is some augmentation from the wild in the form of eggs and live crocodiles imported into Queensland from the Northern Territory, where crocodile ranching is permitted.

Ranching is not permitted in Queensland. Adults are also brought into Queensland crocodile farms through the removal from the wild of problem crocodiles.

The first crocodile farm in Queensland (and Australia) was established by the Federal Government in 1972 at the Edward River Aboriginal Community in north Queensland, prior to the introduction of protections for crocodiles in Queensland.²⁶⁵ The farm aimed to provide employment for Aboriginal people in remote areas, for which it was successful.

The first commercial crocodile farm in Queensland was established in November 1981²⁶⁶ and there are currently nine licenced wildlife farms for crocodiles in Queensland.²⁶⁷

3.9.1.1 *Value of the industry*

The department advised that the value of the industry can be measured in terms of skins, meat and employment.

Skins

²⁶² Section 3.9.1 is taken from information provided by DES, Submission 19, pp 6-7 unless otherwise referenced.

²⁶³ <https://www.cites.org/eng/resources/terms/glossary.php#r> (accessed 30 August 2018), referenced in Submission 19, p 6.

²⁶⁴ Commonwealth of Australia, June 1998, Commercial Utilisation of Australian Native Wildlife, Chapter 11–Crocodiles https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Completed_inquiries/1996-99/wild/report/c11 (accessed 30 August 2018), referenced in Submission 19, p 7.

²⁶⁵ Commonwealth of Australia, June 1998, Commercial Utilisation of Australian Native Wildlife, Chapter 11–Crocodiles https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Completed_inquiries/1996-99/wild/report/c11 (accessed 30 August 2018), referenced in Submission 19, p 7.

²⁶⁶ Koorana Crocodile Farm, <https://www.koorana.com.au/>, (accessed 30 August 2018), referenced in Submission 19, p 7.

²⁶⁷ DES, Submission 19, Attachment 2.

Skins are sold on a per centimetre basis from the measurements across the chest²⁶⁸. Prices for skins range from around \$600 up to \$1,000²⁶⁹. Generally, a salted crocodile skin has a basic value of about \$275, after tanning the value increase to about \$600, as a finished product, or series of finished products, the skin is worth upwards of \$1,500²⁷⁰. Exceptional quality, hand-made, made to order handbags can sell for upwards of \$50,000 – with some exclusive products selling for prices at, or in excess of, \$300,000.²⁷¹

It is estimated that Australian estuarine crocodiles make up between two and ten percent of the international luxury crocodile leather market.²⁷²

Meat

At three years of age, the meat value of a crocodile is about \$75 - \$100. While a young crocodile carries only about five kilos of quality meat, it is worth about \$20 per kilo.²⁷³

In 1998, the demand for crocodile meat was higher than supply, and Australia imported approximately 80 tonnes of meat per annum.²⁷⁴

Employment

The number of people employed by crocodile farms varies according to the size of the venture and operating structure, as well as the extent to which products are processed on site.

The Northern Territory's crocodile farming industry has been valued as contributing \$106.8 million to the Territory's economy in 2014/15. This valuation included an assessment of the following economic contributions of the industry:

- skins, live products (eggs, hatchlings, large crocodiles), meat, teeth, skulls, claws
- scientific and veterinary knowledge, skills and experience

²⁶⁸ The Australian (2015) Louis Vuitton and Hermes turn out saltwater crocodiles into high fashion <https://www.theaustralian.com.au/life/weekend-australian-magazine/saltwater-crocodiles-high-fashion-meets-evolutionary-design/news-story/5dd554716513843885959a63afb150f0> (accessed 30 August 2018) referenced in Submission 19, p 7.

²⁶⁹ The Australian (2015) Louis Vuitton and Hermes turn out saltwater crocodiles into high fashion <https://www.theaustralian.com.au/life/weekend-australian-magazine/saltwater-crocodiles-high-fashion-meets-evolutionary-design/news-story/5dd554716513843885959a63afb150f0> (accessed 30 August 2018) referenced in Submission 19, p 7.

²⁷⁰ Commonwealth of Australia, June 1998, Commercial Utilisation of Australian Native Wildlife, Chapter 11– Crocodiles https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Completed_inquiries/1996-99/wild/report/c11 (accessed 30 August 2018), referenced in Submission 19, p 7.

²⁷¹ <https://news.artnet.com/market/most-expensive-bag-ever-sold-2016-507656>, <http://www.cnbc.com/2017/06/01/this-379261-hermes-birkin-handbag-is-the-most-expensive-ever-sold.html> (accessed 30 August 2018), referenced in Submission 19, p 7.

²⁷² ABC Far North Queensland 2013 Fashion giants want Aussie crocs in the bag <http://www.abc.net.au/local/stories/2013/04/22/3742794.htm> (accessed 30 August 2018), referenced in Submission 19, p 7.

²⁷³ Commonwealth of Australia, June 1998, Commercial Utilisation of Australian Native Wildlife, Chapter 11– Crocodiles https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Completed_inquiries/1996-99/wild/report/c11 (accessed 30 August 2018), referenced in Submission 19, p 7.

²⁷⁴ Commonwealth of Australia, June 1998, Commercial Utilisation of Australian Native Wildlife, Chapter 11– Crocodiles https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Rural_and_Regional_Affairs_and_Transport/Completed_inquiries/1996-99/wild/report/c11 (accessed 30 August 2018), referenced in Submission 19, p 7.

- regulatory knowledge and experience
- tourism associated with farming
- employment (including through activities such as farming, abattoir, tourism, ranching, veterinary), and
- remote value (contribution of the industry to remote economic development, including through employment of traditional owners and distribution of royalties for ranching).²⁷⁵

3.9.2 Proposed provisions

Clause 11 of the Bill proposes that the director have the following functions in relation to crocodile farming:

- authorising persons to farm crocodiles in Queensland (11(1)(b))
- promoting the farming of crocodiles (11(1)(m))
- investigating viability of the use of State land to farm crocodiles (11(1)(n)).

Clause 27 proposes that the Minister develop subordinate legislation within two months of the date of Assent (clause 27(1)(a)) and that the objectives of the subordinate legislation ensure that authorities to farm crocodiles, issued after the commencement, are issued only to Australian entities (clause 27(2)(j)). Clause 27(3) provides that in relation to clause 27:

Australian entity means—

(a) an individual who is an Australian citizen or a permanent resident; or

(b) a listed corporation; or

(c) another corporation in which all the shares in the corporation are directly or ultimately owned, other than as a trustee, by an Australian entity; or

(d) the trustee of a listed unit trust; or

(e) the trustee of another trust in which all of the trust interests in the trust are directly or ultimately owned, other than as a trustee, by an Australian entity.

listed corporation means a corporation in which a majority of the shares in the corporation are quoted on the market operated by the Australian Securities Exchange.

listed unit trust means a unit trust in which a majority of the units in the trust are quoted on the market operated by the Australian Securities Exchange.

ultimately owned means owned through a series of entities owning shares in corporations or trust interests in trusts, or a combination of any of them.

3.9.3 Department advice

In relation to clause 27(2)(j) the department noted the following risks to the proposed approach to limiting foreign ownership:

- it may be inconsistent with Free Trade Agreement commitments to the national treatment of foreign investment and the department recommended that advice be sought from Trade and Investment Queensland or the Commonwealth Department of Foreign Affairs and Trade to ensure that the bill is not inconsistent with these requirements
- it may jeopardise market competition and attractiveness in Queensland, given the lack of such restrictions in the Northern Territory, and

²⁷⁵ Ernst & Young, 'Economic Value of the Crocodile Farming Industry to the Northern Territory', 2017.

- it may unfairly bias the market towards those farms that already have a level of foreign ownership relative to Australian-owned farms.²⁷⁶

3.9.4 Stakeholder views

3.9.4.1 *Economic opportunities*

TTNQ asked the State Government to consider focusing on growth of a sustainable crocodile farming industry as a key driver for conservation, as well as other opportunities for regional economic benefit.²⁷⁷

Duncan McInnes, Chairman of the Muluridji Aboriginal Corporation RNTBC²⁷⁸ told the committee about the crocodile hunting his family undertook prior to 1975 and how the protection of crocodiles had caused a tremendous financial disadvantage to Indigenous people all over Northern Australia – ‘You took our culture off us. You told us we cannot practise our culture’. He went on to say that if the Indigenous people in Northern Australia were allowed to hunt crocodile they will do it economically and environmentally soundly:

Can you imagine what it would be like if tourists could see actual country people doing their culture – hunting the crocodiles, breeding the eggs, doing the skins – all economic development. At the moment, you chuck them on the dole queue. That is what we have done. I am guilty of it, because I have never had enough cojones to stand up for it, because my father always said that white man right. I am saying to you today, give that back.²⁷⁹

Janey Deakin, a Pormpuraaw Traditional Owner, referred to the crocodile farm they have at Pormpuraaw and advised that they would like to see the farm go back to the traditional owners to operate it – collect eggs, cull crocodiles and use the skin and meat:

This would provide employment for the community because there is a low employment rate at Pormpuraaw. It is very hard for everyone to have a job there. Having a business run by the Traditional Owners would provide income for those people.²⁸⁰

Ted Ramsamy told the committee that they used to have a farm and John at Koorana received their animals. However, the farm became economically unviable for the farm to keep going ‘because there were too many other restrictions by government and national parks’.²⁸¹ He added that he had put a proposal to the government that Indigenous people become involved in the capturing and holding of crocodiles in ponds at their property at Seaforth so that ‘those animals could be distributed to farms that are already established or, if they are not taken up, they could be used as an economic base for the local Indigenous people of this area’.²⁸²

Anthony Munro commented that it is very important to take into account Indigenous Traditional Owners’ cultures and values and objections and outcomes – ‘some do practise eating and culling and some do not practise that’.²⁸³ Mr Munro referred to the Murray-Darling Basin water plan and the engagement of the Traditional Owners – ‘listening to their objections and their values and uses’ and informed the committee:

There are Traditional Owner groups here that have a good knowledge of their hunting rights, but they still have to practice their hunting rights in the dark – physically in the dark. They know the

²⁷⁶ Submission 19, p 18.

²⁷⁷ Submission 1, p 2.

²⁷⁸ Registered Native Title Bodies Corporate

²⁷⁹ Public hearing transcript, Port Douglas, 27 August 2018, p 11.

²⁸⁰ Public hearing transcript, Cairns, 27 August 2018, p 12.

²⁸¹ Public hearing transcript, Mackay, 29 August 2018, p 3.

²⁸² Public hearing transcript, Mackay, 29 August 2018, p 3.

²⁸³ Public hearing transcript, Mackay, 29 August 2018, p 16.

*crocs are out there. They know that it is only a matter of time before there is someone taken. They know their waters, but they are not allowed to practise their rights under their native title legislation to hunt their traditional food, which is crocodiles.*²⁸⁴

Ross Benstead, Works Coordinator and Property Manager with the Muluridgi Tribal Aboriginal Corporation RNTBC, also advised that of the 15 Prescribed Body Corporates across Cape York Peninsula 'most of them would like have a look at the crocodile industry again'.²⁸⁵

FNQROC noted that 'there is no doubt that there is some economic opportunity underpinning this Bill, particularly for remote communities who live on country (this benefit however is speculative)'.²⁸⁶ FNQROC's submission argued that to support the positive economic opportunities egg harvesting and farming could provide, the State would need to consider additional impediments to enable viable ventures including:

- land use changes
- infrastructure requirements
- water extraction and treatment, and
- the impact on local government (particularly remote and indigenous) planning and environmental health issues.²⁸⁷

In response to a question from the committee at the Cairns public hearing FNQROC provided:

*We have had examples where croc farms have failed in the past and they have released animals into the environment. How do we maintain that due diligence within the industry to actually clean up after itself? The more players you introduce, the more we monetise a wildlife commodity like this and the more we expose ourselves to risk. We really need to consider the need to go into these conversations with eyes wide open and really consider what the opportunities are. That is why we are highlighting there that we think the real opportunities in this space sit with Indigenous communities, Indigenous landholders and traditional owners to manage country as they see fit.*²⁸⁸

SLSQ suggested the Queensland Government consider the development and opening of traditional Queensland Indigenous managed crocodile farms strategically located in North Queensland to create and enhance tourism, conservation, employment, income and public awareness.²⁸⁹

Tref noted that crocodile farming is already in practice, but due to environmental and animal welfare concerns, does not support expansion.²⁹⁰

3.9.4.2 CITES export permits

The submission from Hartley's Crocodile Adventures argued the Bill could have serious implications for Queensland's crocodile farms noting:

The economic survival of our crocodile farm and its associated retail arm Croctique, is reliant on the company's ability to obtain CITES Export Permits from Wildlife Trade in Canberra. No export permits, no business, no staff; that simple!

²⁸⁴ Public hearing transcript, Mackay, 29 August 2018, p 16.

²⁸⁵ Public hearing transcript, Port Douglas, 27 August 2018, p 13.

²⁸⁶ Submission 6, p 2.

²⁸⁷ Submission 6, pp 3-4.

²⁸⁸ Public hearing transcript, Cairns, 27 August 2018, p 7.

²⁸⁹ Submission 24, p 1.

²⁹⁰ Submission 30, p 2.

*Australian crocodiles are protected by state, commonwealth and international law. Both C.porosus and C.johnstoni are listed on Appendix II of CITES, for which Australia is a signatory. The international trade/movement of crocodilian products is only allowable if government management plans for crocodiles meet strict requirements. The Safe Waterways Bill 2018 makes no clear reference to developing a CITES approved management plan. Section 11 (l) refers to research and routine surveying of wild populations but unless it meets certain criteria, it will not be accepted.*²⁹¹

Koorana Crocodile Farm also raised a concern about the possible impacts of the Bill on the crocodile farming industry noting that if the total conservation programme has aspects within it that are questionable (such as uncontrolled shooting by landowners) then the Queensland Bill may be questioned by CITES:

*At the moment the Australian skins can be traded to or on traded from another country to USA. No other country has this advantage as the USA (Washington Convention) recognises the Aust Gov croc conservation controls. We should not introduce legislation that may jeopardise this industry advantage.*²⁹²

Mr Fourmile noted that Australia is a signatory to the International Union for Conservation of Nature, and saltwater crocodiles are critically endangered as listed in the CITES convention on trade in endangered species and asked 'Would it not destroy the existing Queensland industry just for the sake of a cull of these endangered species? That is something to keep in mind.'²⁹³

3.9.4.3 Proposal that only Australian entities to be authorised to farm crocodiles

FNQROC raised a concern that the Bill (clause 27(2)(j)) would only entitle Australian entities the authority to farm crocodiles, essentially excluding foreign investment in the development of the industry, and noted that 'this narrowing of the financing of a high risk enterprise could hinder the attractiveness of any enterprise to investors (given the majority of the high value market for skins is international)'.²⁹⁴ In response to a question from the committee at the Cairns public hearing FNQROC added:

... there is a rather peculiar recommendation in there that only Australian entities have the authority to farm crocodiles, so we immediately exclude foreign investment. Our population in Australia is not big. We are not huge consumers of crocodile products. All of those products are going offshore. The fact that that has even been included in the legislation seems quite peculiar.

...

*When we look in the industry's own advice, which I looked at for the background of this, it is a high-risk investment which involves a lot of infrastructure, a lot of planning, lots of permitting, lots of licensing, and then you have to wait. There is a long tail, no pun intended, on the return on investment, before you get that return back. It is a high-risk investment, so it is very peculiar that that is included in the legislation. I really have not come across something like that before.*²⁹⁵

Mr Entsch added that Queensland already has foreign entities owning crocodile farms and queried whether they would need to be shut down even though they are some of the major players.²⁹⁶

²⁹¹ Submission 7, pp 1-2.

²⁹² Submission 8, p 1.

²⁹³ Public hearing transcript, Cairns, 27 August 2018, p 22.

²⁹⁴ Submission 6, p 4.

²⁹⁵ Public hearing transcript, Cairns, 27 August 2018, p 10.

²⁹⁶ Public hearing transcript, Cairns, 27 August 2018, p 10.

Mick Burns from the Crocodile Farmers Association of the Northern Territory advised that it would be a major error to limit ownership of crocodile farms to Australian entities:

*International brands already own farms in Queensland. I think they own the two biggest farms in Queensland. The international involvement has helped underwrite the industry in Australia. There is absolutely no question about that. We are an international industry. We are probably under five per cent of the world market. We are probably under 15 per cent of the premium skin market. For this to be maintained, we have to continue to try to attract the support that only the big brands can offer.*²⁹⁷

In response to a question from the committee about this provision, Robbie Katter MP advised that this clause was peripheral to the real objective of the Bill and that he would speak to the Member for Hill about it.²⁹⁸

3.9.5 Committee comment

The committee is concerned about the implications of proposed clause 27(2)(j) which would only entitle wholly-owned Australian entities to farm crocodiles and the significant impact this would have on the viability of the crocodile farming industry.

As noted previously, the committee is also concerned that the culling and hunting provisions proposed in the Bill are likely to breach international, national and state obligations and would therefore negatively impact on the ability of Queensland crocodile farms to export crocodile products.

In this regard, the committee noted that crocodile farms make an economic contribution to local communities and there are ongoing opportunities associated with the industry.

3.10 Education, training and signage

3.10.1 Current approach

3.10.1.1 *Education and training*

The QCMP advises that ‘regardless of the number of crocodiles that are removed the best way to avoid a crocodile attack is for people to be aware of the risks posed by crocodiles, and for individuals to stay safe when they are in and around waterways that may be inhabited by crocodiles’:

Maintaining awareness and exercising key behaviours when in and near the water is called ‘being Crocwise’.

To be Crocwise a person should:

- *Understand that management of crocodiles never completely removes the risk that a crocodile may be present.*
- *Know that crocodiles are ambush predators and evidence of their presence may not be obvious.*
- *Pay attention to any warning signs at the locations you visit.*
- *Be aware that crocodiles can attack people in boats and the smaller the boat the greater the risk.*
- *Pay attention to zone specific Crocwise messages (see Part B of this QCMP).*
- *Whenever you see a crocodile, report it to CrocWatch by calling 1300 130 372.*

²⁹⁷ Public hearing transcript, Cairns, 27 August 2018, p 21.

²⁹⁸ Public hearing transcript, Townsville, 28 August 2018, p 5.

- *Avoid incidental or deliberate feeding, e.g. leaving food scraps near the water, or disposing of bait at boat ramps.*²⁹⁹

The 'Crocwise' educational campaign was introduced by the Queensland Government in October 2001. It was developed by the department to inform the public about the value of crocodiles and their habitat. It also provides information about the importance and dangers of crocodiles through various interpretive strategies. These include:

- media announcements
- educational posters and brochures
- talkback radio
- warning signs
- ranger talks
- displays
- stickers
- magazine articles, and
- websites.³⁰⁰

The Queensland Crocodile Management Update 2017 advised that Crocwise educational activities aim to reach as many people as possible across Croc country to inform people on how to behave safely in areas of crocodile habitat, through public forums, meeting with clubs and groups and presenting to school students.

*During 2017 DES continued to hold Crocwise Roundtable meetings with stakeholders from the community, state government, local government, the tourism sector and the conservation movement. These forums allowed DES to hear from well-informed stakeholders about how to improve the effectiveness of Crocwise safety messaging, based on sharing information, collaboration and the use of vital local knowledge about local communities.*³⁰¹

In 2017, DES made 100 Crocwise presentations, reached over 50,000 people informing them of Crocwise behaviour and released 20 new Crocwise safety products. DES also provided Crocodile Management Training to members of SLSQ, QPS and Aboriginal and Torres Strait Land and Sea Ranger groups – including Jabalbina Land and Sea Rangers at Mossman and Wujal Wujal; Carpentaria Land Council Aboriginal Corporation Land and Sea Rangers from Normanton, Karumba and Mornington Island; and Gunggandji and Djunbunji Land and Sea Rangers from Yarrabah. The Update noted that these groups provided DES with valuable assistance with crocodile management and the promotion of Crocwise messaging during 2017.³⁰²

²⁹⁹ Queensland Crocodile Management Plan, March 2017, pp10-11.

³⁰⁰ Department of Environment and Science website, *Crocodiles*, https://www.ehp.qld.gov.au/wildlife/livingwith/crocodiles/#vulnerable_to_extinction, (accessed 4 September 2018).

³⁰¹ Queensland Crocodile Management Update 2017, 13 July 2018 <https://www.ehp.qld.gov.au/wildlife/livingwith/pdf/crocodile-management-update-2017.pdf> (accessed 4 September 2018).

³⁰² Queensland Crocodile Management Update 2017, 13 July 2018 <https://www.ehp.qld.gov.au/wildlife/livingwith/pdf/crocodile-management-update-2017.pdf> (accessed 4 September 2018).

3.10.1.2 Signage

The DES website advises that throughout north and central Queensland, yellow warning signs are placed at access points to waterways where estuarine crocodiles might live and warns that people should be aware, as estuarine crocodiles may be present, even if there are no warning signs.³⁰³

3.10.2 Proposed provisions

The Bill does not propose any functions for the director or the authority in relation to education, training or signage.

3.10.3 Stakeholder views

3.10.3.1 Signage

Councillor Greaney from Townsville told the committee that there are increased risks at boat ramps due to scrap disposal and these risks could be reduced with clear signage.³⁰⁴

SLSQ recommended that the standardisation of signage with the Australian standards is a must:

*... a standard messaging for Crocwise in Queensland is needed. I use the example of the government campaign, which is a good one, 'If its flooded, forget it'. We are saying that if everyone across all levels of government and agencies in Queensland knows that every single day there is a standardisation in the Crocwise education delivery-that is a must. That will only further instil education into the current generations and those that will come after us, coupled with the signage. If we look throughout Queensland we see there is different signage. We are seeking to fulfil our commitment to see signage in keeping with the Australian standards-so use that as our benchmark.*³⁰⁵

David White (Solar Whisper Wildlife Cruises) advised that there is much confusion about signage and it needs to be improved.³⁰⁶

Brynn Mathews told the committee that while we can talk about managing crocodiles 'we are just playing around the edges':

*All we can manage is the human interaction. We can make humans manage the risk of exposure to them. Our best approach is through education and information. You can put up a sign, but the croc does not read the sign. It is ridiculous, the whole concept of managing an animal like that that has been on the planet for 10 times as long as us.*³⁰⁷

Stuart Waugh submitted that signs are not the solution stating 'signs cannot stop a hungry crocodile'.³⁰⁸

Mr Fourmile alluded to the fact that people ignore crocodile warning signs and take dangerous risks, commenting:

*We read the signs that say you should not swim here because of crocodiles. If you go and get bitten by a crocodile, is it the crocodile's fault? I do not think so. It is the human who cannot read the sign who has the problem.*³⁰⁹

³⁰³ <https://www.ehp.qld.gov.au/wildlife/livingwith/crocodiles/> (accessed 4 September 2018).

³⁰⁴ Public hearing transcript, Townsville, 28 August 2018, p 4.

³⁰⁵ Public hearing transcript, Brisbane, 11 June 2018, p 5.

³⁰⁶ Public hearing transcript, Port Douglas, 27 August 2018, p 6.

³⁰⁷ Public hearing transcript, Cairns, 27 August 2018, p 26.

³⁰⁸ Submission 28, p 2.

³⁰⁹ Public hearing transcript, Cairns, 27 August 2018, p 22.

3.10.3.2 *Education and training*

FNQROC raised a concern that the Bill contains no education, communication or engagement provisions yet the intent is keeping the community and visitors safe.³¹⁰ EDO NQ echoed the concern that the Bill is silent on public education.³¹¹

Wildlife Queensland while noting that the Bill is silent on community education and submitted that educating the community about crocodile awareness 'is highly desirable and must be enhanced':

*The current program is headed in the right direction with Croc Wise and other activities. With more resources better outcomes could be achieved with the community more aware and better informed.*³¹²

A number of stakeholders indicated their support for community education rather than crocodile culling. For example, Solar Whisper Wildlife Cruises advised that experts in the field of human crocodile conflict have shown that education is the best way to maintain human safety. This submission noted that while Queensland has an excellent Croc wise program that is informative and educational, the program needs to be delivered to all aspects of the community and have a prevalence on social media.³¹³ A number of further stakeholders supported the view that education should be the key tool in minimising crocodile attacks.³¹⁴

Dan Bamblett argued strongly that the primary focus of any crocodile management plan or legislation must be education and that the Crocwise message needs to be communicated often and effectively to all age groups.³¹⁵

TTNQ recommended the State government make an 'immediate investment in an effective signage and education program to minimize community and visitor risk while maintaining positive regional messaging and promoting crocodile tourism attractions'³¹⁶:

*We acknowledge and agree with current adaptation and mitigation strategies, such as the ongoing opportunity for tourism's contribution to 'croc-wise' messaging for public communications. The nuance of these communications is vital and can easily be misconstrued. Our industry makes great efforts to promote visitation and celebrate our region's attractions. We seek transparency but are concerned at perceptions that reinforce barriers to travel.*³¹⁷

At the Cairns public hearing the Chair of TTNQ elaborated on this concern stating 'we are all for awareness and creating much better education for our visitors and locals, but when you get to the point where the official advice is to not walk along the edge of the beach, that becomes a pretty major issue for a place like Port Douglas'.³¹⁸ Ms Morris further advised:

The industry is very aware and very involved with the awareness campaign, and that is a very good thing. The nuancing of the messaging as well is really important. We are a remarkable, wonderful island of environmental attractions between World Heritage, the Great Barrier Reef and the rainforest, but we are isolated. Putting up more barriers to travel is something that is very challenging for the tourism industry. We have to be careful with the way we spread those

³¹⁰ Submission 6, p 2.

³¹¹ Tabled paper, Cairns public hearing, 27 August 2018.

³¹² Submission 13, p 3.

³¹³ Submission 17, p 2.

³¹⁴ See for example, CCC submission 10, p 3 and Plastic Free Living Community Group, submission 15, p 2.

³¹⁵ Tabled paper, Townsville public hearing, 28 August 2018, p 1.

³¹⁶ Submission 1, p 3.

³¹⁷ Submission 1, p 1.

³¹⁸ Public hearing transcript, Cairns, 27 August 2018, p 18.

*messages to make sure they are accurate, relevant and appropriate for the place. As we progress I think we are constantly working towards how we can improve that messaging with the department. Generally I think it is going quite well, but the fact that we still have people swimming in places that are inappropriate means that we have a long way to go.*³¹⁹

Mr Bob Katter MP reiterated the concern about campaigns warning people not to use the beach stating 'if you launch an education program, you can kiss goodbye to the tourism industry in Far North Queensland and probably all of North Queensland'.³²⁰

The ECoCeQ submitted that while the Queensland Government has a simple Crocwise education plan 'it has not yet been very well distributed' and recommended that widespread public education of Crocwise should be implemented and 'should be widely distributed to schools, fishers, tourist centres etc.'. ³²¹

Australia Zoo submitted that it is its belief that individual culling and relocation are not effective ways to manage crocodile/human co-existence; rather, research and education are the key - advising that each year, the Irwin family venture into local schools in Weipa to conduct talks with children, to educate them on how to live safely alongside crocodiles and also conduct community talks to educate and inform local communities.³²²

At the Brisbane public hearing Australia Zoo stated that it did not believe the Crocwise campaign is working effectively because it is not financed properly and it is not widespread amongst schools and other institutions where the most value could be found from the education program.³²³ Its submission recommended that a comprehensive Croc-wise campaign be funded for Queensland and international markets to ensure human-crocodile interactions are minimised.³²⁴

The Alliance to Save Hinchinbrook recommended that the government lead and educate the community and recommended an education program such as the Northern Territory's 'Be Croc-wise' program.³²⁵

SLSQ requested that the Queensland Government continue to work with SLSQ on the Crocwise program both locally and at state level.³²⁶

Townsville City Council advised that it has been working with the State Government on the Crocwise program for 10 years and it has seen a ramping up of the program locally.³²⁷

3.11 Part 5 Administration

3.11.1 Proposed provisions

Clause 23 would require the director to prepare and give to the Minister an annual report not later than four months after the end of the financial year. This report must include data on licences, permits and authorities issued, unlawful killing of crocodiles, egg harvesting, relocation of crocodiles, and crocodile attacks. The Minister would be required to table the report on the Legislative Assembly within 14 days of receiving it.

³¹⁹ Public hearing transcript, Cairns, 27 August 2018, p 19.

³²⁰ Public hearing transcript, Townsville public hearing, 28 August 2018, p 6.

³²¹ Submission 4, p 4.

³²² Submission 9, pp 1-2.

³²³ Public hearing transcript, Brisbane, 11 June 2018, p 3.

³²⁴ Submission 9, p 8.

³²⁵ Submission 21, p 2.

³²⁶ Submission 24, p 1.

³²⁷ Public hearing transcript, Townsville, 28 August 2018, p 7.

Clause 24 proposes that the director must publish a quarterly report on the department's website containing similar data to the Annual Report and that it must be published within four weeks after the end of the quarter.

3.11.2 Department advice

The department advised that some reporting already occurs on crocodile attacks and permits issued.³²⁸

The department noted that the timeframes required for reporting may be difficult to achieve in practice as there would be timeframe lags between the data at the time of writing the report and data at the time the report is approved and made available.³²⁹

3.11.3 Stakeholder views

Koorana Crocodile Farm noted that clause 24(3)(b) requires quarterly reporting of the particulars of each crocodile lawfully killed but raises a concern that 'if landowners are permitted to kill crocs they may not report the act as they are usually in remote areas and will not be found out - once again hard to enforce the reporting and thus no record of the death'.³³⁰

CYCL proposed that the Annual and Quarterly reports should also:

- Outline steps taken to engage with Traditional Owners of areas where crocodile management is undertaken and how consent for these activities was sought and received, and
- Outline the economic development opportunities created for Traditional Owners as a result of crocodile management functions performed in accordance with the Bill.³³¹

3.12 Part 6 Crocodile Reserves

3.12.1 Proposed provisions

Part 6 (clause 25) of the Bill provides the director with the power to declare, by written notice published in the gazette, a stated area of land as a crocodile reserve for the purpose of protecting particular crocodiles in, or relocated to, the reserve.

Clause 25(2) clarifies that if a person has an interest in land, their consent is required before the land can be declared as a crocodile reserve.

The explanatory notes do not provide any information about the establishment of crocodile reserves other than to state that 'consultation with experts suggested that crocodiles may become more dangerous once they have been relocated, therefore, crocodiles should only be relocated to farms or properly managed reserves'.³³²

3.12.2 Department advice

The department advised that it is not clear what the benefits or limitations are of establishing crocodile reserves as there is insufficient detail to determine the intent of these reserves, or the effect of creating such a reserve. It provided the following examples of where it considers further clarity is required:

- availability of resourcing to manage the reserves
- whether the reserves intended to be:
 - a stand-alone tenure

³²⁸ Submission 19, Attachment 1, p 22.

³²⁹ Submission 19, p 17.

³³⁰ Submission 8, p 1.

³³¹ Submission 20, p 2.

³³² Explanatory notes, p 3.

- binding on the landowner and any future successors in title
- noted on title
- subject to specific management requirements and management plans, and if so whether these need to be approved by the director of the authority
- whether declaration of a reserve would constitute a Future Act under the *Native Title Act 1993*
- intended interpretation of ‘interest in the land’ (e.g. is it intended to cover the registered interests, land subject to a lease, mining interest, geothermal tenure or Greenhouse Gas (GHG) authority, land that is a forest entitlement area etc?).³³³

3.12.3 Stakeholder views

CYLC noted that the director may declare an area as a crocodile reserve, however the director may not make this declaration without the consent of a person with an interest in the land but that the Bill does not define what an interest in land constitutes. CYLC was strongly of the opinion that a native title holder must be defined as a person with an interest in land and that this definition should be inserted into the Bill.³³⁴

FNQROC noted that crocodiles are universally protected under the NC Act and its regulations and ‘there are inconsistencies in the level of protection and purpose of reserves may be difficult to communicate. How does this interact with National Parks/Marine Parks?’³³⁵

The Plastic Free Living Community Group submitted that crocodile reserves should continue to always be designated as National Park areas.³³⁶

Stuart Waugh suggested that ‘all crocodiles within 150-kilometre radius exclusion zone around any human habitation be removed and relocated to a special Crocodile Sanctuary to be created in pristine, uninhabited, remote environment, such as can be found in Cape York’. He suggested that this could be managed by rangers.³³⁷

Koorana Crocodile Farm submitted:

*.... the talk of crocodile reserves to relocate crocs to will not work as crocs have a homing advice so the crocs will return to the river system that they came from. This is old science that has been known since the 1970's. Any crocs captured from the wild should be sent to farms or disposed of by someone in authority and duly recorded. This may be someone who is a government employee or someone appointed by the authority from outside the ranks of government.*³³⁸

3.13 Part 8 - Regulation (licences, permits and other authorities)

3.13.1 Proposed provisions

As outlined in section 3.4 of this report clause 11 of the Bill provides the functions of the director. These functions include providing appropriate licences, permits and other authorities to allow the culling, harvesting and farming of crocodiles; authorising a person to harvest eggs, kill or relocate rogue crocodiles, and to cull and/or manage other crocodiles; and regulating the keep and use of crocodile carcasses taken from the wild.

³³³ Submission 19, p 13 and Attachment 1, p 22.

³³⁴ Submission 20, p 2.

³³⁵ Submission 6, p 5

³³⁶ Submission 15, p 1.

³³⁷ Submission 28, p 3.

³³⁸ Submission 8, p 1.

Part 8 (Transitional provision), clause 27(1) proposes that the Minister be required, within two months after the day of assent, to table a document in the Legislative Assembly containing proposed subordinate legislation to achieve the objectives outlined in clause 27(1)(2) which relate to licences, permits and other authorities.

3.13.2 Department advice

The department advised that it is difficult to ascertain the benefits that would be achieved from the Bill's proposed approach to authorities as it appears the authorities will be linked to those under the NC Act:

Amendments to the NC Act and regulations will be required in order to establish the suite of authorities required. However, the exact relationship between the authorities proposed under the Bill and the NC Act requires clarification.

The proposal to allow members of the public to kill crocodiles may also compromise the existing crocodile industry. This is because the Australian Government would need to agree to the proposed approach and a quota through the Queensland crocodile Wildlife Trade Management Plan (WTMP). The Australian Government has previously rejected two similar proposals for members of the public to kill crocodiles (termed safari hunting) presented by the Northern Territory. Should the Australian Government not agree to the proposed approach and the existing WTMP lapse, the farming industry cannot continue with export of any crocodile products until such time that a WTMP is agreed to.³³⁹

In relation to clause 27(1) the department raised a concern that the requirement to table subordinate legislation within two months from assent is insufficient time for a draft regulation to be prepared:

Firstly, the regulation cannot be drafted until such time as the Act is assented, as it provides the head of power for the regulation to be made.

Secondly, the standard Government approval processes for significant subordinate legislation to be prepared and subject to approvals is greater than two months. This is because following the requirements of the 'Queensland Government Guide to Better Regulation' for public engagement and consultation, as well as drafting, and then approvals processes can take at least six months – longer if a Regulatory Impact Statement is required.

Further, if consideration needs to be given to complex policy matters – such as linkages with the Native Title Act, or with land title requirements for crocodile reserves, this will take time to resolve.

Consequently, the two month period is not sufficient to allow compliance with the 'Guide to Better Regulation' and to follow drafting processes.³⁴⁰

3.13.3 Stakeholder views

Australia Zoo noted that the legislation will capture every zoo and wildlife park that holds crocodiles and that this would add to the administrative burden of the crocodile authority as well as those businesses that require multiple licences and reporting which was only recently eliminated through the *Exhibited Animals Act 2015*:

That legislation was 10 years in the making. As of right now it will encompass no fewer than 16 major tourism businesses – and that is just zoos and wildlife parks – and not other elements that may also hold this species of crocodile throughout the entire state such as demonstrators, with whom no consultation has occurred. This but one prime example of, even at the most basic level, how badly researched and poorly written this legislation is, and I ask the committee to reject it in its entirety.³⁴¹

³³⁹ Submission 19, pp 11-12.

³⁴⁰ Submission 19, pp 17-18.

³⁴¹ Public hearing transcript, Brisbane, 11 June 2018, p 3.

Gecko raised a concern that clauses 27(2)(b) and (c) (which enable the director to authorise people to harvest eggs and kill rogue crocodiles) contain loose wording which does not address any sustainability issues or the conservation status of crocodiles.³⁴²

CYLC raised an issue relating to native title rights in relation to the proposed legislation. It argued that because the taking of crocodiles will affect native title rights to hunt and collect eggs, there should be a process built in to the legislation to ensure that consent of traditional owners for that country is received.³⁴³

*We also think that on Aboriginal land and on state leasehold land the business of managing crocodiles should be an Indigenous specific business. On Aboriginal land, because Aboriginal people own that land, they should do the management on that country, but also where it is state land under a lease, most likely a pastoral lease – the conditions of the lease will not give pastoralists the powers or the rights to use the land to collect the eggs or hunt crocodiles. Under the conditions of their pastoral lease they can only really graze cattle. We think any business to do with managing crocodiles should be given to the traditional owners from those areas. That provides an opportunity for people to set up small businesses and to gain economic development from the provisions of this proposed legislation.*³⁴⁴

CYCL considered that the preferred arrangement would be that for crocodile hunting or harvesting of eggs on State leasehold land should be approved as a separate interest in the land, such as through a licence, and that the eligibility for licences be limited to the Traditional Owners for that area, or another person with their consent. It submitted that the Bill should identify that the director has powers to grant a licence or similar to authorise Traditional Owners to commercially hunt crocodiles and harvest eggs on State leasehold land, and to also provide rights of access to these people.³⁴⁵

The submission from the Wildlife Queensland also raised a concern that the Bill's proposal to allow the take, keep and use including killing and hunting of crocodiles on private and State land raised a possible conflict with the *Native Title Act 1993* if such actions are deemed to be Future Acts.³⁴⁶

3.14 Offences and penalties

3.14.1 Proposed provisions

Clause 11(1)(k) provides that the director have the function of referring the suspected commission of offences relating to crocodiles or crocodile eggs to the police service.

3.14.2 Department advice

The department advised that currently offences are established under the NC Act and Regulations and powers rest with DES conservation officers and Queensland Police Service (QPS) officers can be appointed as conservation officers under that Act.³⁴⁷

In relation to clause 11(1)(k) the department noted that offences will likely be identified in the Regulations but queried what offences the police will be dealing with and how they will interact with the offence provisions under the NC Act which is the Act that the Bill intends will be the mechanism for issuing licences, permits and other authorities.³⁴⁸

³⁴² Submission 14, p 2.

³⁴³ Public hearing transcript, Cairns, 27 August 2018, p 12.

³⁴⁴ Public hearing transcript, Cairns, 27 August 2018, p 12.

³⁴⁵ Submission 20, p 2.

³⁴⁶ Submission 13, p 2.

³⁴⁷ Submission 19, Attachment 1, p 21.

³⁴⁸ Submission 19, p 17.

In relation to the process proposed in the bill the department advised that it is unclear what compliance and enforcement powers are intended to be exercised by the QPS, how these powers relate to powers under the NC Act and why the QPS is the preferred entity for the exercise of these powers.³⁴⁹

3.14.3 Stakeholder views

Australia Zoo provided the following evidence regarding enforcement:

*It is currently illegal to shoot crocodiles, yet we know that that does happen. That is very difficult to police. When it is legal to shoot crocodiles, I do not know how you are going to police who is doing what. How are you going to know what permits are issued? How is that followed up? I cannot even fathom how it is possible. I am not clear, nor am I sure that it has been made clear, as to where the money to resource this is going to come from in the first place. I think the budget is non-existent at the minute anyway.*³⁵⁰

Gecko submitted that given the large and isolated areas within which crocodiles thrive it would be impossible to adequately supervise or control the activities of an increased number of licensed operators as well as curtail illegal activities.³⁵¹

³⁴⁹ Submission 19, p 12.

³⁵⁰ Public hearing transcript, Brisbane, 11 June 2018, p 8.

³⁵¹ Submission 14, p 3.

4 Compliance with the *Legislative Standards Act 1992*

4.1 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* (LSA) 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, and
- the institution of Parliament.

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

4.1.1 Rights and liberties of individuals

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

4.1.1.1 *Rights and liberties of individuals*

Clause 6 provides that the authority must be located in Cairns and the director and staff of the authority must reside in Cairns.

Reasonable and fair treatment of individuals is relevant in deciding whether legislation has sufficient regard to rights and liberties of individuals. Ordinary activities should not be unduly restricted:³⁵²

Legislation should be reasonable and fair in its treatment of individuals. It should not be discriminatory.

Even if legislation does not specifically encroach on rights and liberties under the law, there remains the basic policy issue of whether legislation is reasonable and fair.

Committee consideration

The committee noted that the requirement for the staff and authority to reside in Cairns potentially impinges on the rights and liberties of individuals, given that the Bill would restrict their choice of a place of residence.

Member for Hill response

In relation to the proposed requirement that the director and staff reside in Cairns, the Member for Hill referred to the explanatory notes, which state:

*... people who live in North Queensland are best placed to manage crocodiles. And people with experience managing crocodiles should have input into the ongoing management of crocodiles in QLD.*³⁵³

Acknowledging the proposal that the director is to be appointed under the Bill, whereas staff are to be employed under the *Public Service Act 2008*, the Member for Hill referred to section 28 of the *Public Service Act 2008*, which provides for merit criteria applicable for the employment of public service staff:

In applying the merit principle to a person, the following must be taken into account—

³⁵² OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 133.

³⁵³ Correspondence dated 3 September 2018, p 1.

*(a) the extent to which the person has abilities, aptitude, skills, qualifications, knowledge, experience and personal qualities relevant to the carrying out of the duties in question...*³⁵⁴

The Member further stated:

The Bill establishes living in Cairns as a merit criteria based on the unique challenges of managing environmental values of sustainable crocodile numbers and social values of public safety in communities affected by rising croc populations.

SE QLD based decision makers isolated from the context or experience of South East Queensland residents poses significant issues to the Authorities capacity to implement the actions required. The Explanatory Notes state the requirement that people who live in North Queensland understand the unique challenges of living with crocodiles and therefore have the prerequisite experience, aptitude and knowledge to perform the tasks required in the management of crocodiles as prescribed in the bill.

Arguably the requirement for directors and staff to live in Cairns is no more a restriction on the rights and liberties of individuals than the requirement of experience and knowledge suitable to the position's requirements.

*The Explanatory Notes state that the requirement of the director, staff and board members to live in Cairns is necessary for carrying out the activities of the Queensland Crocodile Authority and Board.*³⁵⁵

4.1.1.2 Administrative power

Clause 7 sets out the functions of the authority and these include to act as necessary to assist the director and the board in carrying out their respective functions.

Clause 10 allows for the Minister to terminate the appointment of the director of the authority if the director becomes mentally or physically incapable of satisfactorily performing the functions of director, is convicted of an indictable offence, or is guilty of misconduct of a kind that warrants dismissal from the public service.

Clause 12 provides for the powers of the director and states that the director may do all things necessary or convenient to be done to perform the director's functions.

Clause 17 gives the Minister the power to terminate the appointment of member or chairperson of the Board of Queensland Crocodile Authority if certain events occur. These are the same conditions for the ending of the appointment of the director set out in clause 10.

Legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined:

*Depending on the seriousness of a decision made in the exercise of administrative power and the consequences that follow, it is generally inappropriate to provide for administrative decision-making in legislation without providing criteria for making the decision.*³⁵⁶

Queensland parliamentary committees have been concerned by provisions that do not sufficiently express the matters to which a decision maker must have regard in exercising a statutory administrative power.³⁵⁷

³⁵⁴ Correspondence dated 3 September 2018, p 1.

³⁵⁵ Correspondence dated 3 September 2018, p 1.

³⁵⁶ OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 15.

³⁵⁷ OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 15; citing Scrutiny Committee Annual Report 1998-1999, para 3.10.

Legislation should make rights and liberties, or obligations, dependent on administrative power only if subject to appropriate review:

*Depending on the seriousness of a decision and its consequences, it is generally inappropriate to provide for administrative decision-making in legislation without providing for a review process. If individual rights and liberties are in jeopardy, a merits-based review is the most appropriate type of review.*³⁵⁸

In the past, there have been occasions where committees have expressed opposition to clauses removing the right of review. Where ordinary rights of review are removed, thereby preventing individuals from having access to the courts or a comparable tribunal, an assessment is made as to whether sufficient regard had been afforded to individual rights, noting that such a removal of rights may be justified by the overriding significance of the objectives of the legislation.³⁵⁹ Provisions removing review under the *Judicial Review Act 1991* might be regarded as unobjectionable, if an adequate alternative review mechanism is provided.³⁶⁰

Rights of review

Clause 10 and 17 provide for the Minister to end the appointments of the director or board members if certain conditions are met. While review rights have not been specifically excluded from this Bill (including review under the *Judicial Review Act 1991*), a review process has not been specifically provided for in the Bill and there is no mention of it in the explanatory notes. The director and committee members whose appointments are ended by decision of the Minister, are not provided with a legislative option within the Bill to have the decision reviewed.

While a person would still have rights to seek review of administrative decisions in the courts via the *Judicial Review Act 1991*, this will only review the legality of the decision. It does not allow review on the merits of the decision.

Previous committees have taken care to ensure the principle that there should be a review or appeal against the exercise of administrative power is adhered to.

Committee consideration

The committee noted that the power is potentially not sufficiently defined and subject to appropriate review.

Administrative decision making power without providing criteria for making decisions

Clause 12 allows the director to do all things necessary or convenient to be done to perform the director's functions. The Bill and explanatory notes do not add any further clarification to the extent and breadth of the powers of the director or 'all things necessary or convenient'. This potentially gives the director wide ranging powers and powers such as right to entry or other powers that have not been specifically excluded.

Similarly, clause 7 provides that one of the functions of the authority is to act as necessary to assist the director and the board in carrying out their respective functions. This could again confer wide ranging powers on to the Authority, which have not been defined.

Committee consideration

The committee noted that the Bill potentially confers wide ranging powers.

³⁵⁸ OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 18.

³⁵⁹ OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 19.

³⁶⁰ OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 19, citing Alert Digest 2004/8, p 8, paras 21-24; Alert Digest 2003/6, p 6, paras 46-48.

4.1.1.3 *Clear and precise*

Clause 9 provides for the appointment of the director of the authority. The Minister makes a recommendation to the Legislative Assembly, which then appoints the person by resolution. Before making this recommendation, the Minister must be satisfied the person has:

- (a) qualifications or experience relevant to the appointment, and
- (b) is of good character.

The director is appointed under the *Safer Waterways Act* and not under the *Public Service Act 2008*.

Clause 10 sets out the terms of appointment of the director and how the appointment is ended.

The director is appointed on terms of appointment decided by the Minister. The Minister may terminate the appointment of the director if the director is mentally or physically incapable of performing the functions of director, is convicted of an indictable offence or is guilty of misconduct of a kind that warrants dismissal from the public service.

Clause 11 provides for the functions of the director. It states that the director, when carrying out a function, must not do anything the director reasonably believes will cause, or is likely to cause, the population size of crocodiles to decline to an extent that crocodiles may be in danger of extinction.

Clause 15 discusses the appointments of members of the Board of Queensland Crocodile Authority. It provides that the board must consist of seven members made up of:

- (a) at least one member who is an Aboriginal or Torres Strait Islander, who has experience with crocodiles
- (b) at least one member who worked in the crocodile farming industry
- (c) at least one member who resides in Queensland, in or north of Mackay and has experience in wildlife conservation
- (d) at least one member who resides in Queensland, in or north of Mackay and is involved in one or more community organisations with an interest in recreational activities associated with waterways, and
- (e) persons who have appropriate experience or qualifications to contribute to the management of crocodiles in Queensland.

A member is appointed under the *Safer Waterways Act* and not under the *Public Service Act 2008*.

Clause 17 sets out the terms of appointment of the Board and the ending of appointments. The Minister decides on the terms of appointment and remuneration of the members and chairperson. The clause provides for the termination of appointment under the same conditions as the termination of appointment of the director (clause 10).

Clause 6 provides that the business premises of the authority be located in Cairns.

Legislation should be unambiguous and drafted in a sufficiently clear and precise way.³⁶¹ Plain English is recognised as the best approach to the use of language in legislation, with the objective to produce a law that is both easily understood and legally effective to achieve the desired policy objectives.³⁶²

The Office of the Queensland Parliamentary Counsel (OQPC) guide on 'clear meaning' states:

A provision that confers power on an entity should clearly express the nature of the power and, where appropriate, provide guidance as to how the entity on which the power is conferred should exercise it.

³⁶¹ *Legislative Standards Act 1992*, section 4(3)(k).

³⁶² OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, pp 87-88.

*Where legislation gives the maker of an administrative decision discretion to exercise that power, the considerations the decision maker must take into account will depend on the construction of the statute conferring the discretion. If the empowering provision does not adequately describe the relevant considerations, a court will imply them based on the scope, purpose and subject matter of the statute.*³⁶³

Further:

*The Scrutiny Committee also criticised a provision the Electricity Amendment Bill (No.3) 1997, which proposed to give an ombudsman the power to ‘do anything else necessary or convenient to be done for, or in connection with, the performance of the ombudsman’s functions’. The Committee said the provision should specify whether the provision included power to enter and search premises and seize evidence. It recommended that the provision be redrafted to address the issue and to clarify whether persons affected would have any right to seek review of any relevant decisions.*³⁶⁴

In relation to definitions, the guide states:

It is important that statutory definitions be drafted precisely. ... Accordingly, if the meaning or application of a statutory definition is unclear, there is a serious risk of confusion in interpreting both the statute itself and subordinate legislation made under its authority.

...

*On a number of occasions, the Scrutiny Committee drew Parliament’s attention to the absence of statutory definitions for terms that the committee considered central to proposed legislation. In examining the School Uniform Bill 1999, which proposed to impose sanctions under the now repealed Education (General Provisions) Act 1989 for school students who did not comply with ‘dress code’ requirements, the Scrutiny Committee expressed concern that the term ‘dress code’ was not defined. As students might be subject to sanctions for failing to observe dress codes, the Scrutiny Committee recommended the term to be defined.*³⁶⁵

Member for Hill response

In relation to concerns about review rights, the Member for Hill stated:

*It is assumed the review process contained in the Public Service Act 2008 Chapter 7 would apply inasmuch as it relates to the dismissal or termination of employment of a public servant.*³⁶⁶

In relation to concerns that clause 7 might potentially confer wide ranging powers on the Authority, which have not been defined, and a lack of definitions, the Member stated:

The Bill clearly defines the activities and responsibilities of the Authority and does not confer any powers other than those prescribed in the Bill.

*It is assumed the right to entry and any other extraneous powers would not be endowed upon the role of Director that are otherwise not conferred on any other Director or Ministerial appointment.*³⁶⁷

³⁶³ OQPC, *Principles of good legislation: OQPC guide to FLPs on Clear meaning*, paragraph 30 and 31

³⁶⁴ OQPC, *Principles of good legislation: OQPC guide to FLPs on Clear Meaning*, paragraph 33

³⁶⁵ OQPC, *Principles of good legislation: OQPC guide to FLPs on Clear Meaning*, paragraphs 39 and 40

³⁶⁶ Correspondence dated 3 September 2018, p 2.

³⁶⁷ Correspondence dated 3 September 2018, p 2.

Nature of the power

There is arguably some potential uncertainty in clause 9, as the Minister appoints a director if the Minister is satisfied the person has qualifications or experience relevant to the appointment and is of good character.

There is no further guidance in the Bill or the explanatory notes to clarify what would constitute relevant experience or qualifications or good character. The good character test is sometimes used in other jurisdictions, such as the *Migration Act 1958* (C'th). In that context, there is quite a lot of material,³⁶⁸ but the 'good character' requirement set out in the Bill does not contain any guidance on how it is to be assessed

Under clauses 10 and 17, the Minister may appoint the director and board members on terms of appointment and remuneration decided by the Minister. There is no further guidance in the Bill on the criteria for appointment of the director or board members (other than the qualification, experience and good character requirements in clause 9(3)).

There is potential uncertainty with regard to the criteria used to appoint of the director and the Board.

Clause 15 deals with the appointment of the members of the Board of the Queensland Crocodile Authority. The Minister makes a recommendation of the appointment to the Legislative Assembly, which appoints the member by resolution. The clause sets out requirements that members must possess, such as, 'experience with crocodiles', 'has worked with crocodiles', 'has experience in wildlife conservation', 'appropriate experience or qualifications to contribute to the management of crocodiles'.

There is no further guidance in the Bill on these terms and how the Minister would assess criteria such as 'experience with crocodiles' and 'worked with crocodiles' is unclear.

Undefined terms

The terms 'Cairns' in clause 6 is not defined. In its submission, the department states:

*...there needs to be a clear definition of spatial scale for Cairns. For example, does this relate to the Cairns Regional Council boundary, the Cairns electorate, the Cairns statistical local area, or another boundary?*³⁶⁹

Committee consideration

The committee noted the potential ambiguity in interpreting the meaning of 'Cairns'.

Member for Hill response

In relation to concerns about clause 9 and the appointment of a director, based on qualifications or experience relevant to the appointment and on an appointee being of 'good character', the Member for Hill advised:

*Given the difficulty of estimating a person's character it would be problematic to list in the bill all the criteria necessary for establishing a person is of good character. Consequently this Clause relies on the Minister's discretion however it is assumed the appointment of the Queensland Crocodile Authority Director would be subject to Director appointments generally as defined in the Public Service Commission (PSC) process for merit-based appointments.*³⁷⁰

³⁶⁸ For example, see www.homeaffairs.gov.au

³⁶⁹ Submission 19, p 15.

³⁷⁰ Member for Hill, correspondence dated 3 September 2018, p 2.

4.1.2 Institution of Parliament

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

4.1.2.1 *Delegation of legislative power*

Clause 27 provides for the making of subordinate legislation to achieve the objectives set out in clause 27(2). These include:

- providing for the director the power to issue, cancel, suspend, impose conditions and amend licences in relation to crocodiles and crocodile eggs (27(2)(a))
- enabling the director to authorise a person to harvest eggs (27(2)(b))
- enabling the director to authorise a person, whom the director reasonably believes has the skills and training, to kill crocodiles (27(2)(c))
- enabling the director to authorise a person, whom the director reasonably believes has the skills and training, to cull crocodiles (27(2)(f))
- enabling the director to authorise a land owner to kill crocodiles, harvest eggs or manage crocodiles or allow other persons to kill or manage crocodiles and harvest eggs on their land (for a fee or not) (27(2)(g))
- ensuring the carcasses of all crocodiles killed under an authorisation are dealt with so that, as far as possible, no part of a carcass is wasted (27(2)(i)), and
- otherwise ensuring the director, the board and the authority can carry out their respective functions (27(2)(k)).

Section 4(4)(a) of the LSA provides that a Bill should allow the delegation of legislative power only in appropriate cases and to appropriate persons. As noted in the OQPC FLP Notebook, this matter is concerned with the level at which delegated legislative power is used.

Generally, the greater the level of political 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.

Clauses 27(2)(a) and (b) will give the director the power, through subordinate legislation issue, to cancel, suspend, impose conditions and amend licences in relation to crocodiles and eggs.

Further, clauses 27(2)(c) and (f) would enable the director, through subordinate legislation, to authorise a person to kill or cull crocodiles. Firstly, it is unclear what the distinction between kill and cull would be and whether this should be defined. Secondly, it appears to be a grant of power which would affect the rights of an individual (i.e. the person to receive authorisation to kill or cull), which perhaps should be granted through an Act rather than subordinate legislation.

The provision in clause 27(2)(k) sets out the objective to be set out in subordinate legislation. The objective states that it would ensure the director, board and authority can carry out their respective functions. This potentially could confer broad powers on these authorities.

Committee consideration

The committee considered that, on balance, clause 27 potentially does not have sufficient regard to the institution of Parliament.

4.1.2.1 *Scrutiny of the Legislative Assembly*

Clause 27 provides for the making of subordinate legislation to achieve the objectives set out in clause 27(2). Some of these include:

- providing for the director the power to issue, cancel, suspend, impose conditions and amend licences in relation to crocodiles and crocodile eggs (27(2)(a))
- enabling the director to authorise a person to harvest eggs (27(2)(b))
- enabling the director to authorise a person, whom the director reasonably believes has the skills and training, to kill crocodiles (27(2)(c))
- enabling the director to authorise a person, whom the director reasonably believes has the skills and training, to cull crocodiles (27(2)(f))
- enabling the director to authorise a land owner to kill crocodiles, harvest eggs or manage crocodiles or allow other persons to kill or manage crocodiles and harvest eggs on their land (for a fee or not) (27(2)(g))
- requiring crocodiles killed under these provisions, only to be killed by shooting or harpooning (27(2)(h)), and
- ensuring the carcasses of all crocodiles killed under an authorisation are dealt with so that, as far as possible, no part of a carcass is wasted (27(2)(i)).

Subject matter appropriate for the level of legislation

The OQPC advises:

Section 4(5)(c) of the Legislative Standards Act 1992 states that subordinate legislation should contain only matters appropriate to that level of legislation. Although an Act may legally empower the making of particular subordinate legislation, there remains the issue of whether the making of particular subordinate legislation under the power is appropriate. ...

...Of course, Parliament retains the right to disallow particular subordinate legislation on any ground. However, it was the Scrutiny Committee's view that the power to disallow a regulation did prevent the Committee from objecting to a regulation on the basis that its subject matter would be more appropriately dealt with in an Act.

... The parliamentary portfolio committees have also expressed concern about the appropriateness of including particular types of provisions in subordinate legislation. Examples of the types of matters that have drawn the committee's attention include:

- *important matters for the operation of the Act; and*
- *offences and penalties; and*
- *fees and taxation; and*
- *rights of appeal and review.*³⁷¹

In considering whether legislative power to create offences and prescribe penalties could be delegated in limited circumstances, committees have considered the need for three requirements to be met in order for there to be sufficient safeguards in place:

- rights and liberties of individuals should not be affected by the delegation of the power
- the obligations imposed on a person under the delegated power be limited, and

³⁷¹ OQPC, *Principles of good legislation: OQPC guide to FLPs – the institution of Parliament – subordinate legislation*, page 12

- the maximum penalties generally ought not to exceed 20 penalty units.

In relation to including appeal or review rights in subordinate legislation:

Under section 29 of the Statutory Instruments Act 1992 a statutory instrument may provide for a review or right of appeal against a decision made under:

- *the statutory instrument; or*
- *the Act or other statutory instrument under which the statutory instrument is made.*³⁷²

However, the Scrutiny Committee considered that review of decisions and appeals should be established in an Act rather than by subordinate legislation. The basis of the Scrutiny Committee's concern was that no formal avenue of appeal under an Act would exist until appropriate regulations were made.

Clause 27(2)(i) states that an objective will be to ensure all carcasses are dealt with so that no part of a carcass is wasted. This raises the question of whether 'ensuring' means that non-compliance is an offence. Although no offence is provided for in the Bill or explanatory notes, it implies that there may be an offence if there is non-compliance. There may be a potential breach of fundamental legislative principles if an offence is made from this provision.

Similarly, clause 27(2)(h) requires that crocodiles that are killed or culled under these provisions must only be killed by shooting or harpooning. It is unclear whether non-compliance would constitute an offence.

The explanatory notes stated:

*It is hoped that anytime a crocodile is euthanased, whether it be on a private property, or on state land, that the crocodile carcass is fully utilised, for example by selling teeth, meat or skins, or by producing blood and bone from unsaleable parts of the carcass.*³⁷³

In the public briefing, it was stated:

Chair: *In relation to the use of the carcass after a crocodile is shot, you said that you hoped it would be fully utilised. There is no requirement in the bill for that to occur, is there?*

Mr Knuth: *There is no forced legislation. Obviously it would be very, very difficult for Indigenous communities on the cape to relocate a carcass, but if there is a processing plant available we want to work to the best of our ability to transfer that crocodile carcass to an abattoir to be used for blood and bone; likewise if there are opportunities for skin and the selling of teeth. It is about providing a mechanism. If it is available to us, well and good. The authority would play a part in determining the criteria of how we can use the carcasses for the benefit of the economy of Queensland. (emphasis added)*³⁷⁴

This would suggest that there is no offence for not complying with the objective that all carcasses are dealt with so that no part of a carcass is wasted.

In relation to the decisions made by the director under clauses 27(2)(a), (b), (c), (f) and (g), it is unclear whether there are any review or appeal rights attached to these decisions. It is noted that the Bill does not specifically exclude appeal rights under the *Judicial Review Act 1991*. Although it is unclear whether review or appeal rights have been intended or considered, if there were to be review rights provided for in the Bill, these might be better placed in the Act rather than the subordinate legislation.

³⁷² Clauses 55 and 56.

³⁷³ Explanatory notes, p 2.

³⁷⁴ Public briefing transcript, Brisbane, 14 May 2018, p 3.

Committee consideration

The committee noted that providing for the above matters in the Bill, rather than subordinate legislation, would potentially enhance the legislative scrutiny process and, therefore, have greater regard to the institution of Parliament.

Member for Hill response

In relation to queries as to whether no offence is intended in relation to non-compliance regarding utilisation of the carcass and the method of killing crocodiles, the Member for Hill advised:

The referral in the Explanatory Notes regarding the utilisation of a crocodile carcass is to provide for the full value of a crocodile, killed in the fulfilment of policy objectives, to be realised rather than penalise for non-compliance.

*There is no offence associated with non-compliance.*³⁷⁵

4.2 Explanatory notes

Part 4 of the LSA 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.

The explanatory notes tabled with the Bill comply with part 4 of the LSA, save in two respects mentioned below.

Firstly, the explanatory notes did not contain an explanation of the purpose and intended operation of any of the clauses of the Bill as required by clause 23(1)(h) of the LSA. Under subsection 23(2), if information required under subsection 23(1) was not included, a reason for the non-inclusion must be provided. No explanation is provided in the explanatory notes.

Secondly, the explanatory notes state that the Bill has been drafted with regard to the fundamental legislative principles as defined in section 4 of the LSA and is consistent with fundamental legislative principles. A number of matters of fundamental legislative principle have been identified, as set out above in this report. The explanatory notes do not address any issues of fundamental legislative principle.

³⁷⁵ Member for Hill, correspondence dated 3 September 2018, p 2.

Appendix A – Submitters

Sub #	Submitter
001	Tourism Tropical North Queensland
002	Port Douglas Surf Life Saving Club
003	Donald Brown
004	Environment Council of Central Queensland
005	Blaise Cini
006	Far North Queensland Regional Organisations of Councils
007	Hartley's Creek Crocodile Farming Company Pty Ltd
008	Koorana Crocodile Farm
009	Australia Zoo
010	Capricorn Conservation Council
011	John and Marjorie Paterson
012	Brynn Mathews
013	Wildlife Preservation Society of Queensland
014	Gecko Environment Council Association Inc.
015	Plastic Free Living Community Group
016	Environmental Defenders Office of Northern Queensland Inc.
017	Solar Whisper Wildlife Cruises
018	AgForce Queensland Farmers Ltd
019	Department of Environment and Science
020	Cape York Land Council Aboriginal Corporation
021	Alliance to Save Hinchinbrook Inc.
022	Mackay Conservation Group
023	Tourism Port Douglas & Daintree
024	Surf Life Saving Queensland
025	Tania Czislowski
026	Monique Johnson

- 027 Peter Davidson and Astrid van Peelen
- 028 Stuart Waugh
- 029 FNQ Consultants
- 030 Townsville and Regions Environment Foundation
- 031 Paul West
- 032 Ingrid Marker
- 033 Paul West
- 034 Lesley Bailey

Appendix B – Public briefing and public hearings

Public briefing, Brisbane, 14 May 2018

- Mr Shane KNUTH MP, Member for Hill

Public hearing, Brisbane, 11 June 2018

- Mr Des BOYLAND, Policies and Campaigns Manager, Wildlife Preservation Society of Queensland
- Mr John BRENNAN, Chief Executive Officer, Surf Life Saving Queensland
- Ms Kelsey ENGLE, Zoo Curator, Australia Zoo
- Mr Bill FERGUSON, Government Relations Manager, Australia Zoo

Public hearing, Cairns, 27 August 2018

- Mr Shane KNUTH MP, Member for Hill, Parliament of Queensland
- Mr Warren ENTSCHE MP, Member for Leichhardt, Parliament of Australia
- Mr Brett MOLLER, Councillor, Cairns Regional Council
- Mr Travis SYDES, Natural Assets and Sustainability Coordinator, Far North Queensland Regional Organisation of Councils
- Mr Donald Brown, Private capacity
- Mr Shannon BURNS, Policy Officer, Cape York Land Council Aboriginal Corporation
- Ms Janey DEAKIN, Pormpuraaw Traditional Owner, Cape York Land Council Aboriginal Corporation
- Mr Tim McGREEN, Hope Vale Traditional Owner, Cape York Land Council Aboriginal Corporation
- Ms Wendy MORRIS, Chair, Tourism Tropical North Queensland
- Mr Mick BURNS, Managing Director, Porosus Pty Ltd
- Mr Gudju Gudju FOURMILE
- Mr Brynn MATHEWS
- Mr Naim SANTOSOMILLER, Law Graduate, Environmental Defenders Office of Northern Queensland Inc.

Public hearing, Port Douglas, 27 August 2018

- Mr Shane KNUTH MP, Member for Hill
- Ms Tara BENNETT, Executive Officer, Tourism Port Douglas & Daintree
- Mr Michael BOLT, Vice-President, Port Douglas Surf Life Saving Club
- Mr David WHITE, Owner/Operator, Solar Whisper Wildlife Cruises
- Mr Ross BENSTEAD, Works Coordinator and Property Manager, Muluridji Tribal Aboriginal Corporation RNTBC
- Mr Jesse EGGINS, Coordinator, Cairns Underwater Association
- Mr Duncan McINNES, Chairman, Muluridji Tribal Aboriginal Corporation RNTBC

Public hearing, Port Douglas, 27 August 2018 (con't)

- Ms Wendy CROSSMAN
- Mr George PITT
- Mr Gordon RASMUSSEN

Public hearing, Townsville, 28 August 2018

- Mr Greg BRUCE, Principal Sustainability, Future Cities Office, Townsville City Council
- Mr Bob KATTER MP, Member for Kennedy, Parliament of Australia
- Mr Robbie KATTER MP, Member for Traeger, Parliament of Queensland
- Mr John BYRNE, Club Ambassador, Townsville Sailing Club
- Mr Jamie CHETCUTI, Townsville WaterSports
- Mr Stuart WAUGH
- Mr Vince VITALE
- Mr Daniel BAMBLETT
- Mr Jon LULY
- Ms Rebecca SMITH, Spokesperson, Townsville and Regions Environment Foundation
- Mr Raymond VENABLES

Public hearing, Mackay, 29 August 2018

- Mr Stephen ANDREW MP, Member for Mirani, Parliament of Queensland
- Mr John LEVER, Owner/Operator, Koorana Crocodile Farm
- Mr Ted RAMSAMY, Private capacity
- Ms Christine CARLISLE, President, Environment Council of Central Queensland
- Mr Michael McCABE, Coordinator, Capricorn Conservation Council
- Mr Peter McCALLUM, Coordinator, Mackay Conservation Group
- Mr Jack McDOUGALL, Private capacity
- Mr Anthony MUNRO, Private capacity
- Mr Lance PAYNE, Private capacity

Statements of Reservation

In supporting the Committee's recommendation regarding the Safer Waterways Bill 2018, I feel it is important to note the opportunity the investigations into this Bill has provided to highlight potential actions to address the priority concerns of submitters who are living with crocodiles in North Queensland. As there is no provision to incorporate these into Committee recommendations or statements as they fall outside the Bill's scope, I have outlined three actions as follows for consideration -

- The Indigenous Ranger program incorporated into the Queensland Crocodile Management Plans would provide skills development, enterprise and opportunity through contractual arrangements with our indigenous communities, promoting traditional culture and knowledge to crocodile management. It would also extend the current staff resourcing to assist in facilitating swifter response times to relocate crocodiles of concern.*
- The next review of the Queensland Crocodile Management Plan provides opportunity in consultation with impacted communities to reclassify zoning and develop place based management plans, as well look to how newer technologies can assist in monitoring targeted locations.*
- Communications between agencies and the community would benefit through an increase in the Crocwise Program targeting both residents and visitors, as well greater information provision via the Crocwatch page. Basic additions could include individual locations of reported sightings with an updated status to avoid replication of reported sightings, with ease of access through a phone app.*

The Department and agencies are to be commended on the work they have been undertaking in the management and research of crocodiles. There is much to be learnt through the analysis of data being collected, and whilst this is being done, the genuine concerns of residents needs to be acknowledged and acted upon in line within current framework and legislation. The contents of the Committees Report and stakeholder submissions should be considered in how best to address these concerns.



Sandy Bolton MP
Noosa

Date – 17th September 2018

STATEMENT OF RESERVATION – SAFER WATERWAYS BILL 2018

Time and time again, we were reminded of the extent to which communities in North and Far North Queensland are unnecessarily suffering under the Palaszczuk Labor Government's do-nothing approach to crocodile management. However, unfortunately through the Committee proceedings, it was evident that the Safer Waterways Bill 2018, in its current form, will not provide the solution that North and Far North Queensland residents are crying out for.

The current Palaszczuk Labor Government has replaced the LNP's crocodile management plan with a convoluted bureaucracy. During this Bill's consideration, it was abundantly clear that North and Far North Queensland locals and tourists alike do not have confidence in the Government's policy, which puts crocodiles first, not humans.

The degree of Labor's indifference to North and Far North Queensland residents was uncovered by the LNP during this Committee's parliamentary estimates on 1 August 2018. During questioning, it was revealed that the Palaszczuk Labor Government deems a period of three months to be an acceptable service standard when it comes to the removal of problem crocodiles that threaten communities in North and Far North Queensland. During the public hearings for this Bill in North and Far North Queensland, this unacceptable three month timeframe was seen as blatantly irresponsible at best and incredibly dangerous at worst for North and Far North Queensland residents and tourists.

Mr COSTIGAN: You obviously have a vast and strong member based organisation. It has been recently revealed that the department has three months as the KPI in terms of removing problem crocodiles. If you were to poll or quiz your members with the question, 'Do you find that acceptable?' what would be the consensus or general feeling of tourism operators across Far North Queensland or under the TTNQ umbrella?

Ms Morris: In most of those areas it is obviously way, way too long. It is hugely challenging when you know there is a croc in an area people are visiting frequently that is hanging around where it has not been hanging around before, but at the same time we very much acknowledge that place based management is going to be vital. Places like Daintree are absolutely essential to the north and we want to encourage and allow the continuation of croc viewing there—it is a huge part of experiencing unique nature—however, there are places where it is completely inappropriate and three months is too long to wait. (Page 18, Cairns Hearing 27 August 2018)

Mr COSTIGAN: Speaking of waiting, from your experience how would you describe the waiting for the authorities to remove a crocodile from our beaches or wherever?

Mr Ramsamy: It is far too long. John [Lever] is sitting there. We are sitting here. We could have a team together in five minutes and remove that animal, instead of several weeks later the animal is still there. They put a couple of traps out, but the animal is still there. He is not going into the trap straightaway. Wintertime

is the worst time, because he is laying out on the bank and he is not eating that much. He is not going to go into the trap.

Mr COSTIGAN: The government says that up to three months is an acceptable time frame to get rid of a problem crocodile. What is your response to that, Mr Lever or Mr Ramsamy?

Mr Ramsamy: How much do you value a life? (Page 6, Mackay Hearing, 29 August 2018)

In addition to the patently unacceptable three month department performance measure, the excerpt from the Committee's public hearing in Cairns below identifies that the current watered down definition of 'problem crocodile' is also causing significant community concern. Just last year, in the misleadingly named crocodile management plan, the Palaszczuk Labor Government watered down the management response for active removal zones to 'focus on large crocodiles' over two metres in size.

Mr KRAUSE: Would you agree, though, when it comes to the department dealing with problem crocodiles that a standard of three months does not accord with the urgency that it needs for landholders? You say it is their workplace.

Councillor Moller: Absolutely. For a general management zone, which most of my southern waterways are—and this is the frustration of the community—the crocodile has to be over a certain size, it has to be exhibiting aggressive behaviour and it has to be reported to the department. The department then has to tick off before there is any action. (Page 6, Cairns Hearing, 27 August 2018)

The fact that all crocodiles, regardless of size or behaviour, are no longer targeted for removal in active removal zones is completely misaligned with community expectations in North and Far North Queensland. Young children participating in community organisations such as nippers should not be unnecessarily exposed to risk of attack, irrespective of size or temperament of a crocodile, and on that note, we acknowledge the compelling evidence presented to the Committee by the Port Douglas Surf Lifesaving Club in relation to the decline in club numbers attributed to the increasing menace of crocodiles in the local community.

While submission after submission and witness after witness consistently raised the systemic failings of the Palaszczuk Labor Government to effectively manage crocodiles for the security of North and Far North Queensland communities, it was also clear that the Safer Waterways Bill 2018, in its current form, is not the right solution. A number of written submissions and expert witnesses identified key issues relating to the cowboy policy contained within the Bill. It would lead to a number of adverse outcomes, including the potential closure of crocodile farms that are not 100% Australian-owned, resulting in job losses and worse still, less places for crocodiles to be accommodated if they were to be relocated from the wild.

Under the Safer Waterways Bill 2018, there is also the real prospect of the indiscriminate killing of crocodiles, meaning their skins, meat and everything else would be wasted instead of being utilised as part of an expanded industry within a regulatory framework that still has community safety as of paramount importance.

Incredibly, even Katter's Australian Party candidate for Cook at the last State Election, Gordon Rasmussen, does not support the Safer Waterways Bill 2018 in its entirety.

Mr Rasmussen: There are things about this bill that I do not agree with 100 per cent.

CHAIR: Such as?

Mr Rasmussen: Such as the eradication or the culling of the crocodiles on the Daintree River. I am quite happy to see the Daintree River still have the crocodiles there for the tourism industry that is there. They were there when I was a child. We were always told not to go in the Daintree because of the crocodiles. (Page 20, Port Douglas Hearing, 27 August 2018)


Also, if left unaddressed, as outlined in the below excerpt, issues such as the risk to Australia's obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) may ultimately cripple the Australian crocodile farming industry from being blacklisted by trading partners.

Mr Lever: I had that in my submission as well. I think it would be against the international convention, and I think it would also be against the Australian legislation for the conservation of the animal. Once you are discredited on the conservation issue, you lose your ranking. We have a beautiful opportunity here with our species and farming them for their leather. The international community sees Australia as having such a strong conservation presence for this species that our skins are allowed into America after they are tanned. No other country can do that. The saltwater crocodiles from Papua New Guinea cannot go into America; the ones from Indonesia cannot go into America. No other country can. Only the Australian ones can, so they are in huge demand. That is once again why these international people want the supply chain from Australia. They get the skins back to France, make them into handbags and sell the handbag into America because they have the supply chain trail, if you like, through the tag numbers that are put on there. I am a strong believer in CITES. I think it is a fabulous organisation and we should do nothing to ripple the waves there. (Page 5, Mackay Hearing, 29 August 2018)

In government, the LNP implemented a crocodile management policy modelled on the Northern Territory's successful three-tiered approach. North and Far North Queensland residents, business operators and tourists should not have to wait for another LNP Government to implement a commonsense policy.

Put simply, Labor's wait-and-watch approach to crocodile management is outright dangerous to North and Far North Queensland residents and tourists, noting the untold damage to the State's tourism industry that would occur if more crocodile attacks happen – something that the Committee was reminded of at its public hearings where

the industry made that very clear, especially through the Cairns-based regional tourism organisation, Tourism Tropical North Queensland.



Jason Costigan MP
Member for Whitsunday



Jon Krause MP
Member for Scenic Rim