

Bulletin No. 5

12 October 2023

IMPORTANT NOTICE TO COMMERCIAL AND RECREATIONAL BEEKEEPERS IN NEW SOUTH WALES

Thank you for your continued interest in our potential class action in relation to the government's varroa emergency response.

We have now carefully considered the effects of the government moving to a "management" strategy and how this decision impacts on the different causes of action we were considering against the government. Regrettably, we have concluded that the prospects of bringing a successful class action are simply not strong enough to justify going ahead.

As we mentioned in previous bulletins, class actions are almost always funded by litigation funders. In order to persuade a funder to incur the substantial costs and risks of funding a claim, the legal basis for the claim needs to be sufficiently strong, and the amount of money at stake sufficiently large, to justify the funder taking the risks involved.

In this case, a successful claim by NSW beekeepers would represent an interesting development in the law, but it is by no means clear that a judge would be willing to apply the law in the way we would need it to be extended. In addition, the government's decision to abandon the eradication strategy, while good news for beekeepers, puts a 'cap' on the amount of compensation that can be claimed. We concluded that the amount likely to be recovered, if successful, would not be large enough to take the risks involved in this case - governments set up all sorts of barriers to being held legally accountable.

We are grateful to those beekeepers who have met with us, completed questionnaires or otherwise provided the information we needed to investigate the potential claim. We are sorry we will not be able to advance the claim for you by way of a class action. Levitt Robinson has expended considerable time investigating the claim; these costs will be absorbed by our firm.

Any individual beekeeper who has suffered financial loss may have the right to bring an individual claim for that loss based on the particular facts or his or her situation. There are



some situations reported to us where the misconduct of the DPI officers was so extreme as to warrant making a claim. We would be happy to discuss your individual position with you if you

wish. However, unless the loss is very large, it is unlikely that an individual claim will justify the sizeable costs of bringing a complex and novel claim like this.

As a result of this decision, we will not be proceeding with the meeting previously planned for Sunday 15 October 2023, or any future meetings.

With Compliments

LEVITT ROBINSON

Stewart Levitt

Senior Partner