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289-24

Approval report – Application A1257

Australian native bee honey

FSANZ has assessed an application made by the Australian Native Bee Association to amend the Australia New Zealand Food Standards Code to accept honey produced by Australian native stingless bees as a standardised food in Australia and New Zealand.

On 22 November 2023, FSANZ sought submissions on two draft food regulatory measures and published an associated report. FSANZ received seven submissions.

FSANZ approved the two draft food regulatory measures on 24 Ap. The Food Ministers' Meeting was notified of FSANZ's decision on 8 May 2024.

This Report is provided pursuant to paragraph 33(1)(b) of the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act).

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Supporting document

The following document, which informed the assessment of this application, is available on the FSANZ website:

[SD1 Risk and technical assessment \(at approval\)](#)

Executive summary

Food Standards Australia New Zealand (FSANZ) received an application from the Australian Native Bee Association Inc. to vary the Australia New Zealand Food Standards Code (the Code) to permit the sale and use of honey produced by stingless bees native to Australia.

The Code currently includes a definition for 'honey' which specifies that honey is produced by honey bees. It also includes compositional requirements for reducing sugar and moisture content of food sold as honey.

Honey from Australian native stingless bees cannot currently be sold in Australia and New Zealand because it does not meet the definition of honey in the Code or the compositional requirements for honey in Standard 2.8.2 – Honey. Specifically:

- Australian native bees of the genera *Tetragonula* and *Austroplebeia* are not classified as honey bees
- the minimum reducing sugar content is less than honey bee honey; and the maximum moisture content of native bee honey is more than honey bee honey
- Native bee honey also typically contains more than 2% of the sugar trehalulose, which is usually absent or at lower levels in honey bee honey.

The consumption of Australian native bee honey at the requested compositional limits for moisture content and reducing sugars does not present a risk to public health if beekeepers apply good hygienic practice. Risks to vulnerable populations are comparable to the risks associated with consumption of honey bee honey. In particular:

- Infants are at risk from honey contaminated with *C. botulinum* spores, regardless of whether the honey is produced by honey bees or native bees.
- Some individuals are allergic to pollen, propolis or royal jelly in honey bee honey. Native bee honey poses similar risks to such individuals.

For reasons set out in the call for submission report, the risk management conclusion was to permit the sale and use of Australian native bee honey. FSANZ therefore prepared two draft food regulatory measures as follows:

- a new standard for native bee honey, setting composition and labelling requirements
- a consequential variation, containing amendments to existing provisions in the Code including referring to Australian native bee honey in requirements related to Maximum Residue Limits set out in Schedule 20, and the provision of a definition for 'native bee honey' in Standard 1.1.2.

FSANZ called for submissions on the draft regulatory measures from 22 November 2023 to 17 January 2024. Seven submissions were received. All submitters were generally supportive of permitting the sale and use of honey produced by stingless bees native to Australia but some specific issues were raised regarding the proposed regulatory measures. FSANZ has had regard to these submissions.

The draft new standard was amended following the call for submissions to make an editorial correction.

The draft consequential variation was amended following the call for submissions, including to take account of amendments made in December 2023 to the Code's conditions for making 'no added sugar' nutrition content claims.

For reasons set out in this report, FSANZ has approved a draft new standard – Standard 2.8.3 – Native bee honey, which sets out compositional and labelling requirements for native bee honey. A food that is sold as native bee honey will have to be 'native bee honey' as

defined in the Code. The minimum reducing sugar content of native bee honey will have to be 50%, the maximum permitted moisture will have to be 28%, and native bee honey will need to contain no less than 2% trehalulose.

The general labelling requirements in the Code will apply to native bee honey in the same way as they apply to honey bee honey, including the prescribed name 'honey'. There is, however, an additional requirement that the prescribed name 'honey' is presented in conjunction with a description that adequately describes the true nature of the native bee honey, e.g. 'Australian native bee honey'

For reasons set out in this report, FSANZ has also approved an amended draft variation with consequential amendments to existing provisions in the Code.

1 Introduction

1.1 The applicant

The applicant is the Australian Native Bee Association Inc. Information about the Australian Native Bee Association is provided in the application in Appendix 3.

1.2 The application

The applicant seeks to amend the Australia New Zealand Food Standards Code (the Code) to accept honey produced by Australian native stingless bees as a standardised food in Australia and New Zealand—in other words, to permit the sale and use of honey produced by stingless bees native to Australia in these two countries.

The applicant claims that honey from Australian native stingless bees cannot currently be sold in Australia and New Zealand as it does not meet the definition of honey in the Code and the compositional requirements for honey in Standard 2.8.2 – Honey.

Currently, a food that is sold as ‘honey’ must meet the definition of honey in the Code and contain no less than 60% reducing sugars and no more than 21% moisture. The applicant claims that native bee honeys contain more water and less sugars than conventional honeys and may not meet the compositional requirements for food sold as honey. The applicant seeks a maximum moisture content of 28% in native bee honey and the lower limit of reducing sugars to be no less than 50%.

1.3 The current Standard

Australian and New Zealand food laws require food for sale to comply with relevant requirements in the Code. The requirements relevant to this application are summarised below.

1.3.1 Honey as a standardised food

Requirements for food sold as honey are prescribed in Standard 2.8.2 – Honey. Section 2.8.2—3 specifies that a food sold as ‘honey’ must:

- (a) be honey; and
- (b) contain:
 - (i) no less than 60% reducing sugars; and
 - (ii) no more than 21% moisture.

Honey is defined in Standard 1.1.2 as *the natural sweet substance produced by honey bees from the nectar of blossoms or from secretions of living parts of plants or excretions of plant sucking insects on the living parts of plants, which honey bees collect, transform and combine with specific substances of their own, store and leave in the honey comb to ripen and mature.*

There are various provisions relating to honey (as defined in Standard 1.1.2) in the Code, e.g.:

- Honey is specifically allowed in foods such as jam and fruit wine and permitted to be used to make mead.
- If the monosaccharide and disaccharide content of added sugars and honey in food for infants is more than 4 g/100 g, the word ‘sweetened’ must be stated on the label of a package of food for infants (paragraph 2.9.2—7(3)(d)).

- Honey must not be included in food for infants, unless the honey has been treated to inactivate *Clostridium botulinum* spores, and specific labelling requirements apply.
- Schedule 15 specifically prohibits the use of food additives in ‘honey and related products’.

1.3.2 Labelling requirements

1.3.2.1 Name of the food

Subsection 1.2.1—6(1) requires a food for sale in a package that is required to bear a label, to be labelled with the name of the food.¹ Subsection 1.2.2—2(1) states that the name of the food is the prescribed name if the food has a prescribed name. Section 2.8.2—4 specifies that ‘Honey’ is a prescribed name for honey as defined in the Code. If a name of a food is not prescribed, the food is required to have a name or description sufficient to indicate the true nature of the food (subparagraph 1.2.2—2(1)(b)(i), and that includes any additional words the Code requires to be included in the name of the food (subparagraph 1.2.2—2(1)(b)(ii)).

Based on the above Code requirements, a food for sale that meets the definition of honey must be named ‘Honey’ and must meet the compositional requirements for reducing sugars and moisture.

1.3.2.2 No added sugar claim conditions

The conditions for ‘no added sugar’ claims in Schedule 4 were amended in December 2023 (before release of the A1257 call for submissions) following consideration of Proposal P1062 – Defining added sugars for claims². These conditions include that a food about which a ‘no added sugar’ claim is made must not contain honey as an added ingredient, consistent with the approach before amendment in December 2023.

As a result of the amendments made via P1062, the conditions for ‘no added sugar’ claims now also include an additional requirement that a ‘no added sugar’ claim cannot be made if the food for sale is an ‘added sugar’ (as defined), including if the food for sale is honey.

For an ‘unsweetened’ nutrition content claim, one of the requirements is that a food about which an ‘unsweetened’ claim is made must meet the conditions for a nutrition content claim about ‘no added sugar’.

1.3.2.3 Other labelling requirements

The Code generally requires packaged food for sale to be labelled with date-marking information³ (see subsections 1.2.1—6(1) and 1.2.1—8(1)). Date marking information is:

- a) the use-by date for the food (if any); or
- b) if there is no use-by date:
 - i. the best-before date of the food; or
 - ii. for bread that has a shelf life of less than 7 days:
 - A. the best-before date; or
 - B. the baked-for date; or
 - C. the baked-on date (see subsection 1.2.5—3(1)).

¹ See also subsection 1.2.1—8(1).

² Information about P1062 is available on the [FSANZ website](#).

³ The terms ‘use-by date’, ‘best-before date’, ‘baked-for date’, ‘baked-on date’, and ‘small package’ are defined in Standard 1.1.2 – Definitions used throughout the Code

There are exceptions to those requirements. Unless the food is an infant formula product, the date marking information is not required if:

- a) the best-before date of the food is 2 years or more after the date it is determined; or
- b) the food is an individual portion of ice cream or ice confection.

Also, if the food is in a 'small package', the only date-marking information required is the use-by date (if any).

The Code generally requires the labels on packaged food for sale to contain information about storage conditions and directions for use (see subsections 1.2.1—6(1) and 1.2.1—8(1)). These requirements include a statement of specific storage conditions if needed to ensure the food will keep until the use-by or best-before date, and, if the food must be used or stored following certain directions for health or safety reasons—those directions.

Other relevant generic labelling requirements in the Code applying to packaged foods for sale are:

- legibility requirements (see Division 6 of Standard 1.2.1)
- lot identification (see divisions 2 and 3 of Standard 1.2.1; and section 1.2.2—3)
- name and address of the supplier in Australia or New Zealand (see divisions 2 and 3 of Standard 1.2.1; and section 1.2.2—4)
- statement of ingredients (see divisions 2 and 3 of Standard 1.2.1; and Standard 1.2.4)
- information relating to nutrition, health and related claims (see divisions 2 and 3 of Standard 1.2.1; and Standard 1.2.7)
- nutrition information (see divisions 2 and 3 of Standard 1.2.1; and Standard 1.2.8)
- characterising ingredients and components labelling (see divisions 2 and 3 of Standard 1.2.1; and Standard 1.2.10).

1.3.2.4 Food for infants

Section 2.9.2—3 specifies that a food for infants cannot contain honey unless the honey has been treated to inactivate *Clostridium botulinum* spores. Paragraph 2.9.2—7(3)(e) requires that if honey has been used as an ingredient in a food for infants, that food must be labelled with the word 'sterilised' in association with the word 'honey'.

Paragraph 2.9.2—7(3)(d) also requires that if the monosaccharide and disaccharide content of added sugars and honey in a food for infants is more than 4 g/100 g—the word 'sweetened' must be included on the label of a package of food for infants.

1.3.3 Maximum Residue Limits for agricultural and veterinary chemicals

In Australia, a range of approved agricultural and veterinary (agvet) chemicals are permitted to be used on plants and animals destined for human consumption, resulting in chemical residues in foods at the point of sale.

The Code requirements for maximum residue limits (MRLs⁴) for agvet chemicals relevant to this application are summarised below:

⁴ A maximum residue limit (MRL) is the highest amount of an agricultural or veterinary (agvet) chemical residue that is legally allowed in a food product sold in Australia whether it is produced domestically or imported. MRLs are set based on how much of the chemical is needed to control pests and/or diseases.

- Section 1.1.2—2 of the Code provides that an *agvet chemical* means ‘an agricultural chemical product or a veterinary chemical product, within the meaning of the Agvet Code’.⁵
- Paragraph 1.1.1—10(6)(d) of the Code provides that, unless expressly permitted by the Code, food for sale must not have, as an ingredient or component, a detectable amount of an agvet chemical or a metabolite or degradation product of an agvet chemical.
- Standard 1.4.2 and Schedules 20 and 21 of the Code set out the relevant permissions and permitted maximum and extraneous residue limits, for agvet chemicals in food for sale.
- These permissions and residue limits are set by reference to a particular food or food group. A reference in Standard 1.4.2, Schedule 20 and Schedule 21 to a particular food or food group is to the food as described in Schedule 22 – Foods and Classes of food (see subsection 1.4.2—3(4)).
- Currently Schedule 22 describes ‘honey’ as a commodity of animal origin. It does not include a reference to native bee honey.

Schedule 20 – Maximum Residue Limits⁶ currently lists single commodity MRLs for honey for amitraz, fipronil, flumethrin, fluvalinate, glyphosate, oxytetracycline and phosphine. The Australian Pesticides and Veterinary Medicines Authority (APVMA) has also established ten MRLs in Schedule 20 for ‘All other foods’⁷ which could be applied to honey. These MRLs were established by the APVMA as the agency responsible for regulating agvet chemical use in Australia. Where there is no MRL in the Code for a food, a zero-tolerance approach applies, where there must be no detectable residues in or on the food.

1.3.4 Natural contaminants

There is limited information on contaminants in native bee honey. The risk of exposure to such contaminants is no greater for native bee honey than for honey bee honey (see SD for details). While Schedule 19 of the Code sets out a maximum level for the tutin in honey bee honey, this contaminant is unique to New Zealand. The definition for honey in Schedule 19 requires no amendments because native bee honey is not produced in New Zealand.

1.4 International standards

There is a Codex Alimentarius Standard for Honey (CXS 12-19811)⁸. This standard defines honey as the natural sweet substance produced by honey bees from the nectar of plants or from secretions of living parts of plants or excretions of plant sucking insects on the living parts of plants, which the bees collect, transform by combining with specific substances of their own, deposit, dehydrate, store and leave in the honey comb to ripen and mature.

It includes a requirement for a moisture content of not more than 20% (except for heather honey) and the sum of fructose and glucose content to be not less than 60 g per 100 g.

Internationally, in countries where native bee honey is sold commercially, handling and

⁵ The Agricultural and Veterinary (Agvet) Chemicals Code (Agvet Code) is set out in the Schedule to the *Agricultural and Veterinary Chemicals Code Act 1994* (Cth). The APVMA are responsible for the development and administration of the Agvet Code.

⁶ Schedule 20, compilation 75. Accessed on 4/10/2023: <https://www.legislation.gov.au/Series/F2015L00468>

⁷ All other foods MRLs are set on a case-by-case basis. The purpose of establishing these MRLs is to remove the zero tolerance to food commodities with low level inadvertent residues of chemicals that result from farming processes such as spray drift and crop rotation, following their legitimate use on animals and plants. See FSANZ Proposal P1027 for further information.

⁸ Available at [Standards | CODEXALIMENTARIUS FAO-WHO](#)

processing requirements have been added to their respective food codes, including Argentina, Malaysia, and Brazil.

1.5 Reasons for accepting application

The application was accepted for assessment because:

- it complied with the procedural requirements under subsection 22(2) of the *Food Standards Australia New Zealand Act 1991* (FSANZ Act), and
- it related to a matter that:
 - (a) might be developed as a food regulatory measure, and
 - (b) warranted the variation of food regulatory measures.

1.6 Procedure for assessment

The application was assessed under the General Procedure in the FSANZ Act.

1.7 Decision

For the reasons outlined in this report, FSANZ decided to approve the two draft food regulatory measures as proposed following assessment, with amendments.

The draft new standard was amended to make an editorial correction.

The draft consequential variation was amended to make an editorial correction and to take account of amendments made in December 2023 to the Code's conditions for making 'no added sugar' nutrition content claims (made under Proposal P1062 – Defining added sugars for claims).

The approved draft regulatory measures take effect on gazettal and are in Attachment A.

The related explanatory statements are in Attachment B. An explanatory statement is required to accompany an instrument if it is lodged on the Federal Register of Legislation.

The draft food regulatory measures on which submissions were sought are in Attachment C.

2 Summary of the findings

2.1 Summary of issues raised in submissions

FSANZ called for submissions on a draft standard and a draft variation to the Code from 22 November 2023 to 17 January 2024. Seven submissions were received. All submitters supported permitting the sale and use of honey produced by stingless bees native to Australia.

The submissions were received from:

1. Staff member, University of Queensland
2. New Zealand Food and Grocery Council (NZFGC)
3. NSW Food Authority (NSWFA)
4. Australian Honey Bee Industry Council (AHBIC)
5. Apiculture New Zealand (ANZ)
6. Victorian Department of Health and the Victorian Department of Energy, Environment and Climate Action (VDH)
7. New Zealand Food Safety (NZFS).

Table 1: Summary of issues

Issue	Raised by	FSANZ response (including any amendments to drafting)
Microbiological safety		
<p>Microbiological fermentation may pose unintended food safety concerns. Fermentation after packaging may pose a risk of spoilage (including spore formers such as <i>Clostridium botulinum</i>) and physical danger (e.g. burst container).</p> <p>Requests FSANZ explore additional requirements such as microbiological requirements and specific labelling requirements regarding date marking and/or storage conditions to control the level of fermentation in Australian native bee honey for sale.</p>	NSWFA	<p>There is no evidence that the limited fermentation process due to higher moisture content will impact on the safety of the honey from a microbiological perspective. Fermentation is self-limiting due in part to the decrease in pH (3.5-3.7, average 3.6) of the honey as it ages. The degree of fermentation and the increasing concentration of organic acids (which can also inhibit microbial growth) in the honey depend on storage conditions and can be controlled through processing.</p> <p>It is unlikely that any foodborne pathogens introduced during processing will survive or grow to sufficiently high numbers to cause disease, for the same reasons as in the fermented honey (as detailed above). See response below regarding Good Hygienic Practices and food safety requirements.</p> <p>The generic labelling requirements in the Code apply, including those for date marking and storage instructions. It is up to individual suppliers to determine the labelling required for their product in accordance with the Code (see section 1.3.2.3 above).</p> <p>Given the identified level of risk and the fact that fermentation can be controlled and can vary in different native bee honeys, FSANZ does not consider it is necessary to prescribe additional or specific requirements or conditions over and above those in the Code.</p>
<p>Concerned about the increased risk of microbial contamination and illness due to the higher moisture content and greater manual handling in harvesting. Scaling up the processing of this traditional food to a commercial product may increase associated food safety risks. Note microbiological safety data submitted with the application was limited to 21 samples of native bee honey from 10 beekeepers, only 3 stored at room temperature.</p>	VDH	<p>As noted above.</p> <p>FSANZ agrees that the harvesting process can introduce microbial contamination to the honey, including potential for cross-contamination between hives. Good Hygienic Practices (GHP) during harvesting and processing will minimise the risk of the introduction of foodborne pathogenic bacteria.</p> <p>FSANZ notes that food businesses receiving native bee honey from collectors are required by Standards 3.2.2 and 3.2.3 to take practicable measures to ensure they only accept food that is protected from the likelihood of contamination; and ensure that food is only sold if it is safe and suitable. If these measures are not considered sufficient to manage the food safety risk, jurisdictions could prescribe a food safety program for food businesses which filter and pack native bee honey.</p>

Issue	Raised by	FSANZ response (including any amendments to drafting)
<p>Good hygiene practices (GHP): consider adding process and handling requirements to address fermentation and reduce the risk of microbial cross contamination during harvesting.</p>	<p>NSWFA, VDH</p>	<p>There are national food safety standards that apply in Australia to provide a risk-based, preventative approach to providing safe and suitable food.</p> <p>FSANZ considers that any potential risks associated with the sale of native bee honey should be managed by the food business receiving honey. Under Standard 3.2.2, they are required to take practicable measures to ensure they only accept honey that is protected from the likelihood of contamination (such as having supplier assurance of GHP); only process safe and suitable food; package food in a manner that does not introduce contamination; and ensure food handler hygiene.</p> <p>FSANZ's assessment found no evidence that potential food safety risks from native bee honey are not able to be managed by existing food safety standards.</p>
<p>Notes processing requirements overseas where native bee honey is commercially sold, to limit bacterial and yeast growth/contamination. Requests FSANZ consider including a similar approach/measures in the Code.</p>	<p>NSWFA VDH</p>	<p>As above.</p>
<p>Keepers of native bees must apply good hygienic practice during harvest and processing. Requests FSANZ, in consultation with the applicant, demonstrate that expected GHPs in the production of Australian native bee honey would be sufficient to produce safe and suitable food for sale, and are implemented as standard business practice across the industry.</p>	<p>NSWFA</p>	<p>Australian food laws – which apply the food standards that comprise the Code – place obligations on Australian food businesses to produce food that is safe and suitable to eat, and place health and hygiene obligations on food handlers.</p> <p>FSANZ recognises that GHP will vary from business to business depending on the nature of the food business and the food handling operations undertaken. For example, factors such as inherent hazards in the food, the potential for contamination during food handling and how the food is processed contribute to food safety risks. Standard 3.2.2 requires a food business to take practicable measures to ensure they only accept honey that is protected from the likelihood of contamination (this could be achieved by implementing measures such as having supplier assurance of GHP); and to ensure their processes do not contribute to food safety risks. Information provided in the SD highlights factors that may contribute to these risks but cannot provide a detailed description of GHP for the native bee industry.</p>

Issue	Raised by	FSANZ response (including any amendments to drafting)
Notes food businesses who sell Australian native bee honey (including home-based businesses) in NSW would be subject to food safety compliance and enforcement activities.	NSWFA	Noted
Would like to know whether consideration has been given to how Chapter 3 and 4 standards would apply given the activities involved with harvesting, bottling and distribution?	VDH	There is no primary production and processing standard for any honey production (Chapter 4 of the Code). Chapter 3 requirements apply to a business that receives and prepares honey or native bee honey for sale. As noted above, Standard 3.2.2 requires a food business to take practicable measures to ensure it only accepts honey that is protected from the likelihood of contamination and to process only safe and suitable native bee honey/honey.
FSANZ did not include the potential contamination of <i>Bacillus cereus</i> and other <i>Bacillus</i> spp. in the microbiological safety assessment.	NZFGC, ANZ	Spores of <i>Bacillus</i> spp are commonly detected in honey, including those of <i>Bacillus cereus</i> . <i>B. cereus</i> produces toxins when the concentration of vegetative cells is high. Due to the low pH of stingless bee honey (3.5-3.7, average 3.6), any <i>B. cereus</i> vegetative cells will decline in number, their growth will be inhibited, and it is unlikely that they would achieve the level required for toxin production. There is also some evidence of anti-microbial active compounds in stingless bee honey which may also impact the ability of <i>B. cereus</i> and other <i>Bacillus</i> spp to grow. <i>B. cereus</i> in stingless bee honey is therefore considered to be of low risk of causing illness.
<p>Consumers perceive honey as a non-alcoholic food. Concern about the risk of unintended consumption of alcohol through Australian native bee honey.</p> <p>Low level alcohol consumption by some consumers such as pregnant women, provisional drivers and people with religious beliefs may cause serious consequences as well as disrespect these persons.</p>	NSWFA	<p>It is important to recognise that while fermentation in native bee honey could produce some alcohol, this is dependent on the microflora associated with the nectar and pollen collected by the bees. This is fundamentally different from intentionally fermented beverages such as mead with higher alcohol content in the final product.</p> <p>We note that:</p> <ul style="list-style-type: none"> • The risk of alcohol production is comparable to fermentation of fruits that can occur under certain conditions, such as when fruits are damaged, overripe, or exposed to the yeast naturally present in the environment. In such cases, the alcohol content may increase slightly, but it is still typically very low. • The fermentation process is self-limiting with organic acids the main product of this process, sugars and any alcohol present converted to organic acids. • It is unlikely that alcohol is detectable immediately after harvest. After considerable storage

Issue	Raised by	FSANZ response (including any amendments to drafting)
		<p>at warm temperatures alcohol concentration would be very low.</p> <ul style="list-style-type: none"> • Foods that contain more than 1.15% alcohol by volume must be labelled with a statement of their alcohol content (Standard 2.7.1 - Labelling of alcoholic beverages and food containing alcohol).
<p>FSANZ should clarify if fermented Australian native bee honey would be able to be sold as mead. If not, suggests additional consequential amendment to the Code to allow inclusion of Australian native bee honey in the definition of mead.</p>	<p>NSWFA</p>	<p>The applicant did not ask for amendments to the Code regarding the use of native bee honey for producing fermented beverages. FSANZ did not identify any risks to be managed in this regard and therefore has not made any amendments to the provisions in the Code for mead.</p>
<p>Biosecurity</p>		
<p>Biosecurity restrictions to prevent the spread of diseases should apply to the native bee honey.</p>	<p>NZFGC, ANZ</p>	<p>The Australian government establishes and enforces export regulations to ensure that food products meet the necessary biosecurity and safety standards before being exported. This involves collaboration with industry stakeholders, compliance with international standards, and the development of certification and inspection processes.</p> <p>The regulation of biosecurity for food exported from Australia is primarily managed by the Department of Agriculture, Fisheries and Forestry, including food products.</p> <p>We note that native stingless bees are not affected by European or American foul brood disease. They are also not susceptible to varroa destructor bee mite. We acknowledge that some brood pathogens may pose a risk to native bees, but that infection is extremely rare. Australian stingless bees displayed significantly faster detection and cell dismantling which may result in lower instances of brood diseases.</p>
<p>Under NZ's Biosecurity Act, animal products cannot be imported into New Zealand, unless an import health standard (IHS) has been developed. At present, there is no import health standard to allow importation of honey from Australia.</p>	<p>NZFS</p>	<p>Noted</p>

Issue	Raised by	FSANZ response (including any amendments to drafting)
Labelling and composition		
<p>The proposed approach to prescribe the name 'honey' and require a description that adequately describes the true nature of Australian native bee honey does not provide sufficient legal separation between European bee honey and Australian native bee honey as the descriptor is left to industry. The submitter considers a distinctive prescribed name for Australian native bee honey is necessary to help consumers to differentiate Australian native bee honey due to the potential fermentation that occurs.</p> <p>The proposed approach to apply the same prescribed name 'honey' to both products will complicate and delay complaint investigations. Submitter also questions how a regulatory officer would respond to complaints about blended honey products.</p>	NSWFA	<p>As outlined in the SD, FSANZ notes that native bee honey poses similar risks to individuals allergic to pollen, propolis or royal jelly in honey bee honey. FSANZ therefore considers that the 'honey' component of the requested prescribed name is appropriate to be a prescribed name. Consumers can readily identify the product as a honey, including people who suffer adverse reactions to pollen and need to avoid contact with bee products.</p> <p>FSANZ does not consider it necessary to prescribe the name 'Australian native bee honey' or similar. FSANZ considers that the requirement in the approved draft standard to include a description that adequately describes the true nature of the product is adequate to enable identification if it is labelled in accordance with this requirement. The approach aligns with the identified level of risk (noting responses above regarding fermentation and food safety standards) and the approach taken more generally to the requirements for the naming of foods in the Code. The risk of mislabelling of blended products applies equally to honey bee honey and native bee honey.</p> <p>See sections 2.3.3 and 2.3.5 below.</p>
<p>Support labelling with honey as a prescribed name to adequately inform those at risk from honey, and requiring further wording to make it clear that the product is 'native honey.'</p>	NZFS	Noted.

Issue	Raised by	FSANZ response (including any amendments to drafting)
<p>The proposed draft does not reflect the recent changes in Schedule 4 to no added sugar claims conditions through P1062 – Defining added sugars for claims.</p> <p>In the conditions for no added sugar claims in Section S4—3, it could be tidier to insert native bee honey after honey instead of after malt extracts.</p>	<p>NSWFA, NZFS</p>	<p>‘Native bee honey’ has been added to the conditions for ‘no added sugar’ nutrition content claims. The draft variation in the Call for submissions (see Attachment C) has been amended as a consequence of the changes to Schedule 4 made in December 2023. See section 2.3.4.</p> <p>In the conditions for no added sugar claims SectionS4—3, ‘native bee honey’ has now been inserted after ‘honey’.</p> <p>The approved draft variation is in Attachment A.</p>
<p>‘Native bee honey’ is not an appropriate descriptor as it implies this honey can come from any of the 1600 species of native bees in Australia whereas there are only around eleven species that can produce it. ‘Stingless bee honey’ or ‘native stingless bee honey’ are more suitable.</p>	<p>AHBIC</p>	<p>Native bee honey must be labelled with the prescribed name ‘honey’ presented with a description that adequately describes the true nature of native bee honey. FSANZ considers this approach is adequate for the purposes of consumer information and that a requirement for the name to refer to the specific species (stingless) is not needed. Suppliers may however, choose to include ‘stingless’ in the name of their product.</p> <p>This approach is consistent with the approach for ‘honey’ which must be produced by honey bees. There are many other species of honey bee (e.g., more than two thousand in Europe alone).</p> <p>It will be in the interests of the native bee sector and retailers of native bee honey to be active in providing information about their products. FSANZ is of the opinion that consumer understanding of native bee honey will increase as more products become available.</p>

Issue	Raised by	FSANZ response (including any amendments to drafting)
<p>Two percent compositional limit for trehalulose in native bee honey may provide opportunity for adulteration. Consider setting the minimum limit higher to address these concerns.</p>	<p>VDH</p>	<p>While the levels of trehalulose vary between native bee honeys they usually stay above 2%. The applicant requested a requirement that native bee honey contain no less than 2% trehalulose to provide an additional and directly measurable factor to distinguish native bee honey from honey. This level is high enough to differentiate native bee honey from honey bee honey, which commonly contains less than 2% trehalulose, but low enough to take account of seasonal variations. See section 2.3.2.2 below.</p> <p>In practice, the trehalulose requirement needs to be understood in the context of the definition of native bee honey. In the rare instance that a honey bee honey contains 2% or more trehalulose it still should not be sold as native bee honey because it does not meet the definition.</p> <p>We note that establishing the identity and purity of native bee honey can occur using various methods that may find whether the honey is genuine, pure, and produced by native bee species in a specific region. Combining multiple testing methods can supply a comprehensive picture of the native bee honey's origin and authenticity.</p>
<p>Notes evidence that trehalulose levels over 2% have been observed in European bee honey (reported levels of 0.5 to 2.5 g/100 g and 0 to 3.3 g/100 g (SD page 8)). Does not consider trehalulose levels could be used as a means of separating the two honey types to a level where it is beyond reasonable doubt. Requests FSANZ further explore and define compositional parameters that allow regulators to appropriately identify and separate these two honey products as well as any non-compliant products.</p>	<p>NSWFA</p>	<p>As above.</p>
<p>Other issues</p>		
<p>Would like to work with FSANZ to develop a standard to prevent fraud with mānuka honey.</p>	<p>ANZ</p>	<p>The Code can be changed through an application to FSANZ. We encourage you to contact FSANZ for assistance before you formally submit an application. We note the New Zealand Ministry for Primary Industries has developed a definition for manuka honey that can be used to authenticate whether a particular honey is New Zealand mānuka honey.</p>

Issue	Raised by	FSANZ response (including any amendments to drafting)
Standard does not cover native honeys or honeys from stingless bees from other parts of the world. We suggest that this is made clear in the name of Standard 2.8.3, to read Australian native bee.	NZFS	We agree that the Standard currently does not cover native honeys or honey from stingless bees from other parts of the world. However, it seems prudent to plan for future applications which result in amendments to the standard to cover a wider range of products.
Potential risk of pesticide residues in native bee honey, given the different foraging activity of the native bee.	VDH	<p>Schedule 20 (Maximum Residue Limits) lists single commodity MRLs for honey from honey bees. The APVMA⁹ have also established ten MRLs in Schedule 20 for 'All other foods' which could be applied to honey. Where the APVMA has established MRLs in Schedule 20 for 'All other foods' in relation to certain agvet chemicals, FSANZ, in consultation with the APVMA, considers that, those MRLs would also apply to native bee honey as they currently do for honey. As part of the process of establishing 'All other foods' MRLs in the Code, a dietary exposure assessment is undertaken and MRLs are incorporated into the Code if no public health and safety issues are identified.</p> <p>Where there is no MRL in the Code for a food, a zero-tolerance approach applies, where there must be no detectable residues in or on the food.</p> <p>FSANZ has no evidence that the risk of exposure to agvet chemicals is greater for native bees than for honey bees.</p>
Considers the similar nature, composition and allergic concerns do not justify separate standards in the Code to regulate European bee honey and Australian native bee honey. Propose a new division in the existing honey standard as an alternative approach. A new food standard for Australian native bee honey is not consistent with the approach in other commodity standards.	NSWFA	<p>The applicant requested a new standard created in Part 2.8 – Sugars and Honey.</p> <p>FSANZ considers that the differences between native bee honey and honey bee honey, as set out in the relevant standards, are significant enough to justify two separate standards. A separate standard is a simpler way of incorporating native bee honey into the Code and ultimately achieves the same end point as including native bee honey in Standard 2.8.2.</p>

⁹ The Australian Pesticides and Veterinary Medicines Authority (APVMA) is the agency responsible for regulating agvet chemical use in Australia and establishes MRLs.

Issue	Raised by	FSANZ response (including any amendments to drafting)
<p>With the proposed changes, commercialisation of native bee honey is imminent. This will have a number of positive influences, including for Indigenous businesses. Is concerned, however, that as the commercial value of Indigenous foods grows, the cultural values often erode. Recommends relevant Aboriginal legal advice around Indigenous Cultural Intellectual Property (ICIP) is sought. This could lead to ensuring structures are in place to prevent black cladding, promoting and supporting Indigenous enterprises, and respecting rights to access and use of native bees for traditional purposes.</p>	<p>Staff member, University of Queensland</p>	<p>Noted. These issues are broader than the assessment of this application under requirements of the FSANZ Act.</p> <p>In addition, FSANZ sought comment from First Nations Bushfood and Botanicals Alliance Australia and Australian Native Foods and Botanicals on the application. No comments were received.</p>
<p>It is insensitive to claim manuka honey is unique to Australia and it is important this reference be removed, and the insensitivity avoided in future.</p>	<p>NZFGC, ANZ</p>	<p>Noted. It was not FSANZ's intent to infer that manuka honey is unique to Australia. The report has been amended accordingly.</p>

2.2 Risk assessment

In Australia, native bee honey has been used for thousands of years and continues to be used today.

Australian native bees of interest are of the genera *Tetragonula* and *Austroplebeia* and therefore are not known as honey bees, which are within the genus *Apis* of the bee clade, all native to mainland Afro-Eurasia.

Australian native bee honey does not meet the compositional requirements for honey in the Code as follows:

- The minimum reducing sugar content of native bee honey is 50%, less than in honey bee honey.
- The maximum moisture content found in native bee honey is 28%, more than in honey bee honey.

The risk assessment concluded that consumption of Australian native bee honey at the requested compositional limits for moisture content and reducing sugars does not present a risk to public health if beekeepers apply good hygienic practices.¹⁰ Risks to vulnerable populations are comparable to those from consumption of honey bee honey.

In particular:

- The trehalulose content of native bee honey is at least 2%, more than in most honey bee honey. This is one of the defining characteristics of native bee honey.
- Trehalulose consumption does not appear to have any adverse effects in humans.
- It is possible for honey from honey bees to contain hazardous natural substances such as alkaloids synthesized by plants. The risk of dietary exposure to such contaminants is similar for native bee honey.
- Infants are at risk from honey contaminated with *C. botulinum* spores, regardless of whether the honey is produced by honey bees or native bees.
- Products of microbial fermentation and natural microflora present in native bee honey are not a health risk for the general population.
- Fermentation is self-limiting, depending on the storage conditions and any microbial controls applied during processing and storage.
- Some individuals are allergic to pollen, propolis or royal jelly in honey bee honey. Native bee honey poses similar risks to such individuals.

2.3 Risk management

Following assessment, FSANZ prepared a draft Standard and a draft consequential variation and called for submissions on both for a period of eight weeks.

The risk management options available to FSANZ following the call for submissions are to either:

- approve the draft Standard and draft variation as proposed following assessment, or
- approve the draft Standard and/or draft variation subject to such amendments as FSANZ considers necessary, or
- reject the draft Standard and/or draft variation.

¹⁰ As stated in section 2.2.2.1 below, requirements in Chapter 3 of the Code, which relate to food safety, would apply to the harvesting and processing of native bee honey.

Having regard to all submissions received, for the reasons set out in this report, FSANZ considered it appropriate to approve:

- the draft standard proposed in the call for submissions, subject to an amendment to correct an editorial error; and
- an amended version of the draft variation proposed in the call for submissions.

The draft variation was amended to make an editorial correction and to take account of amendments made in December 2023 to the Code's conditions for making 'no added sugar' nutrition content claims (made under Proposal P1062 – Defining added sugars for claims).

The approved draft standard and draft variation are at Attachment A.

The approved draft food regulatory measures amend the Code to include a definition of 'native bee honey' (with specific reference to honey produced by Australian native stingless bees from the genera *Tetragonula* or *Austroplebeia*) and compositional limits for food sold as native bee honey and make other amendments to existing provisions in the Code.

Risk management considerations for this application relating to the definition, composition, labelling and other parts of the Code that refer to 'honey' are discussed below.

2.3.1 Definition

The Code defines honey in Standard 1.1.2 as *the natural sweet substance produced by honey bees from the nectar of blossoms or from secretions of living parts of plants or excretions of plant sucking insects on the living parts of plants, which honey bees collect, transform and combine with specific substances of their own, store and leave in the honey comb to ripen and mature.*

FSANZ concludes that honey produced by Australian native bees does not meet the definition of honey in the Code because it is not produced by honey bees, which are commonly understood to belong to the genus *Apis*, which is a part of the family *Apidae* (see the SD). Native bees of interest are of the genera *Tetragonula* and *Austroplebeia*.

Additionally, native bees store their honey in honeypots which are not arranged in a honeycomb. The applicant considers that native bees do not collect nectar from the secretions of living parts of plants or excretions of insects, but rather the nectar from the blossoms of plants.

The applicant requested the following definition applies to native bee honey: *the natural sweet substance produced by Australian native stingless bees from the genera *Tetragonula* or *Austroplebeia* following the collection of nectar from the blossoms of plants.*

The applicant's requested definition differs from the Code definition for honey because the feeding and diet, behaviour, honey storage and life history of native stingless bees differs from honey bees. FSANZ has decided to accept this definition because it reflects the differences in biology between native bees and honey bees and the honey they produce.

2.3.2 Compositional requirements

2.3.2.1 Moisture content and reducing sugars

The moisture content of honeys from Australian native bees ranges from 17 to 28%¹¹. Not all honeys from native bees therefore meet the Code maximum limit for honey moisture content of 21%. The content of reducing sugars in honey from native bees ranges from 55 to 62 g/100 g⁷ (see the SD for more information).

¹¹ See SD for references and further details.

Honeys from Australian native bees therefore commonly (though not always) exceed 21% moisture content and consist of less than 60% reducing sugars¹², the compositional requirements for honey in the Code.

Although microbiological fermentation can occur in native bee honey due to the higher moisture content and lower level of reducing sugars compared to honey bee honey, FSANZ has assessed that this is unlikely to cause illness (see SD and section 2.1 above).

FSANZ has therefore decided to amend the Code as requested by the applicant, to require that native bee honey contains:

- no less than 50% reducing sugars
- no more than 28% moisture.

While the consumption of native bee honey presents no health risks to the general population, keepers of native bees must apply good hygienic practice during harvest and processing to ensure the safety of their produce. FSANZ notes that the requirements in Chapter 3 relating to food safety will apply to the harvesting and processing of native bee honey.

2.3.2.2 Trehalulose

The primary feature differentiating native bee honey from conventional honeys is the high concentration of trehalulose. Trehalulose¹³ is a type of reducing sugar.

While the levels of trehalulose vary between native bee honeys, they are at least 2% and can be much higher (see SD). The applicant requested a requirement that native bee honey contain no less than 2% trehalulose to provide an additional and directly measurable factor to distinguish native bee honey from honey produced by *Apis mellifera*. This level is generally high enough to differentiate native bee honey from most honey bee honeys

Although the levels of trehalulose in some honey bee (*Apis*) honeys are similar to those of native bee honey, it is more common for native bee honey to contain much higher levels (as high as 49 g/100 g)¹⁴. The approved draft standard requires a minimum of 2% trehalulose in native bee honey as requested by the applicant, to provide a measurable factor to aid with distinguishing it from honey bee honey.

2.3.3 Name of the food

The applicant requested the term 'native bee honey' to be a prescribed name for the purposes of the name of the food labelling requirement (see section 1.3.2 above).

The reasons provided by the applicant for this were firstly, to assist allergy-sensitive individuals who may wish to avoid foods containing honey due to the potential presence of small quantities of pollen and/or propolis and, secondly, to assist consumers to make an informed choice between native bee honey and honey produced by *Apis mellifera* [honey bees], and to prevent misleading and deceptive conduct.

As outlined in the SD, native bee honey poses similar risks to individuals allergic to pollen, propolis or royal jelly in honey bee honey. FSANZ therefore considers that the 'honey' component of the requested prescribed name is appropriate to be a prescribed name. This ensures that consumers can readily identify the product as a honey, enabling ease of

¹² Sugar that serves as a reducing agent due to its free aldehyde or ketone functional groups in its molecular structure. Examples are glucose and fructose.

¹³ Trehalulose is a disaccharide made up of a molecule of fructose bound to a glucose molecule. Like isomaltulose, it is a structural isomer of sucrose, also found in small quantities in conventional honey. The trehalulose content of honey from *Tetragonula* is 18.5 g/100 g on average. Honey produced by *Austroplebeia* averages 4.5 g/100 g (Fletcher, Hungerford, and Smith, 2021).

¹⁴ See SD for details.

identification for people who may suffer adverse reactions to pollen or other bee products and therefore wish to avoid contact with bee products.

FSANZ considers that native bee honey should be required to be labelled with the word 'honey' but does not consider it is necessary to prescribe the name 'native bee' because it is not justified by the identified level of risk.

Additionally, there are bees native to countries other than Australia¹⁵ that produce honey that can be harvested¹⁶. The requested term 'native bee honey' does not clarify that the bees in this instance are native to Australia or distinguish the honey from that produced by other native bees. Some suppliers of Australian native bee honey may therefore prefer to refer to 'Australian' in the name of the product.

Instead of the prescribed name 'native bee honey', the new draft standard requires native bee honey to be labelled with the prescribed name 'honey' which must be presented in conjunction with a description that adequately describes the true nature of native bee honey. This is because the 'honey' component of the requested prescribed name is appropriate to be a prescribed name to manage allergen related risks. However, it is not considered necessary to prescribe the term 'native bee' as there are no safety risks that apply to native bee honey in particular.

An adequate description of the product should be included in the name to enable consumers to make an informed choice between native bee honey and honey produced by honey bees. Examples provided in the approved draft standard are: 'Native bee honey', 'Native stingless bee honey', 'Australian native bee honey'.

The approved draft variation defines native bee honey to mean the natural sweet substance produced by Australian native stingless bees from the genera *Tetragonula* or *Austroplebeia* following the collection of nectar from the blossoms of plants.

If native bees do not belong to the specified genera they do not meet the criteria, and their honey is not native bee honey as defined in the approved new standard. This is consistent with the approach for 'honey' which must be produced by honey bees.

2.3.4 'No added sugar' claims

The conditions for 'no added sugar' nutrition content claims in Schedule 4 of the Code prohibit such claims on foods that contain honey or that are honey (see section 1.3.2.2).

The Australian Food Composition Database - Release 2.0¹⁷ lists the total sugar content of honey bee honey as 103.4 g/100 mL (72.8 g/100 g). The New Zealand Food Composition Data¹⁸ base lists the sugar content of multifloral honey bee honey as 70.5 g/100 g.

The total sugar content of native bee honey reported is lower than honey bee honey: 62.3 g/100 g for *T. carbonaria* honey, 65.5 g/100 g for *A. australis* honey^{19,20}.

Carbohydrates in the form of sugars are the single major constituents of honey bee as well as native bee honeys. FSANZ has therefore added 'native bee honey' to the conditions for 'no added sugar' nutrition content claims in Schedule 4 of the Code, so that such claims cannot be made about a food that contains native bee honey or that is sold as native bee

¹⁵ Bees other than species of honey bees native to Europe and Asia.

¹⁶ Nordin, A., Sainik, N.Q.A.V., Chowdhury, S.R., Saim, A.B. and Idrus, R.B.H., 2018. Physicochemical properties of stingless bee honey from around the globe: A comprehensive review. *Journal of Food Composition and Analysis*, 73, pp.91-102.

¹⁷ <https://www.foodstandards.gov.au/science/monitoringnutrients/afcd/pages/default.aspx>

¹⁸ <https://www.foodcomposition.co.nz/>

¹⁹ Oddo, L.P., Heard, T.A., Rodríguez-Malaver, A., Pérez, R.A., Fernández-Muiño, M., Sancho, M.T., Sesta, G., Lusco, L. and Vit, P., 2008. Composition and antioxidant activity of *Trigona carbonaria* honey from Australia. *Journal of medicinal food*, 11(4), pp.789-794.

²⁰ Haley D and Heard T. 2021. Microbial and physicochemical properties of honey from Australian *Tetragonula* and *Austroplebeia* stingless bees. *The Cross-Pollinator*, Issue 20, pp 3-10, Apr 2021.

honey.

The draft variation proposed in the call for submissions (see Attachment C) has been amended as a consequence of amendments made to Schedule 4 in December 2023 following FSANZ's consideration of Proposal P1062 – Defining added sugars for claims²¹. The approved draft variation is in Attachment A.

2.3.5 Other labelling requirements

There were no microbiological risks found that would justify requiring specific labelling requirements for reasons of health or safety, for example, storage instructions, on native bee honey over and above the current requirements in the Code (see sections 1.3.2.3 and 2.1 and the SD). The general labelling requirements in the Code will apply to native bee honey in the same way as they apply to honey bee honey, following Part 1.2 of the Code.

Of particular relevance, this includes the requirements for date marking, a statement of specific storage conditions if needed to ensure the food will keep until the use-by or best-before date, and, if the food must be used or stored following certain directions for health or safety reasons—those directions. It is up to the supplier of the food to decide whether such instructions are required for that particular food.

2.3.6 Other parts of the Code referring to honey

2.3.6.1 Food for infants

FSANZ concluded from the risk assessment that as with all honey, contamination of native bee honey with spores of *Clostridium botulinum* is a risk for infants (see section 2.1 above and the SD).

There are currently requirements in Standard 2.9.2 – Food for infants, that honey must not be included in food for infants, unless the honey has been treated to inactivate *C. botulinum* spores. To address this risk, FSANZ has imposed the same requirements to food for infants in relation to honey, to native bee honey.

Additionally, as carbohydrates in the form of sugars are the single major constituents of both honey bee honey and native bee honey, FSANZ has amended paragraph 2.9.2—7(3)(d) of the Code. This amendment requires the word 'sweetened' to appear on the label of packaged food for infants if the food contains more than 4 g/100 g in total of monosaccharide and disaccharide from one or more of the following sources:

- added sugars
- honey
- native bee honey.

2.3.6.2 Classification of honey as applied to Australian MRLs

A description for native bee honey is included in Schedule 22 - Foods and classes of foods in the approved draft variation. This delineates honey and native bee honey definitions, and clarifies that the existing Australian MRLs for honey do not apply to native bee honey. The inclusion of a native bee honey definition in Schedule 22 also avoids the need for future amendments by FSANZ to include native bee honey as a food in Schedule 22 in the event the APVMA proposes and includes MRLs for native bee honey in Schedule 20.

The applicant did not ask, and we have not approved, any amendments to the Code for MRLs applying to Australian native bee honey. Where there is no Australian MRL in the Code for native bee honey, a zero-tolerance applies i.e. there must be no detectable

²¹ Information is available on the FSANZ website at [P1062 Defining added sugars for claims \(foodstandards.gov.au\)](https://www.foodstandards.gov.au/p1062/Defining-added-sugars-for-claims)

residues of the relevant agvet chemical in or on the native bee honey. However, where the APVMA has established MRLs in Schedule 20 for 'All other foods' in relation to certain agvet chemicals, FSANZ, in consultation with the APVMA, considers that those MRLs will also apply to native bee honey as they currently do for honey.

2.3.6.3 *Permission for use of food additives in honey*

Schedule 15 specifically prohibits the use of food additives in 'honey and related products'. FSANZ considers that this will apply to native bee honey. The applicant did not request, and FSANZ has not approved, any amendments to this prohibition or any other amendments relating to the use of food additives in native bee honey specifically.

2.3.7 Handling and processing requirements

In some countries where native bee honey is sold commercially, handling and processing requirements have been added to their respective food codes, including Argentina, Malaysia and six states in Brazil.

In Australia, there are six national food safety standards that apply a risk-based, preventative approach to providing safe and suitable food, including native bee honey. They are based on the principle that food safety is best ensured by implementing food hygiene controls at each stage of food handling and that additional risk management tools may be required. The FSANZ assessment found no evidence that potential food safety risks from native bee honey are not managed by existing food safety standards.

The applicant did not request, and FSANZ has not approved, any amendments relating to handling and processing specific to native bee honey.

2.3.8 Risk management conclusion

The risk management conclusion is to amend the Code to regulate the sale and use of Australian native bee honey.

For reasons set out in this report, FSANZ has approved a draft new standard – Standard 2.8.3 – Native bee honey which sets out compositional and labelling requirements for native bee honey. A food that is sold as native bee honey will have to be 'native bee honey' as defined in the Code. The minimum reducing sugar content of native bee honey will have to be 50%, the maximum permitted moisture will have to be 28%, and native bee honey will be required to contain no less than 2% trehalulose.

For reasons set out in this report, FSANZ has also approved a draft variation containing consequential amendments to existing provisions in the Code. The draft variation contains amendments which include (but are not limited to) the following:

- amending subsection 1.1.2—3(2) to insert a definition of 'native bee honey'
- amending Standard 2.9.2 so that the current requirements applying to honey in food for infants will also apply to native bee honey
- amending Schedule 22 to include a description for Australian native bee honey for the purposes of requirements related to MRLs in Schedule 20.

2.4 Risk communication

2.4.1 Consultation

Consultation is a key part of FSANZ's standards development process. FSANZ developed and applied a standard communication strategy to this application. All calls for submissions are notified via the Food Standards Notification Circular, media release, FSANZ's social

media channels and Food Standards News.

The process by which FSANZ considers standards development matters is open, accountable, consultative and transparent. Public submissions were called to assist consideration of the draft variation and draft standard, including from Peak First Nations bush foods organisations. FSANZ acknowledges the time taken by individuals and organisations to make submissions on this application.

The draft standard and draft variation were considered for approval by the FSANZ Board having regard to all submissions made during the call for submissions period.

2.5 FSANZ Act assessment requirements

2.5.1 Section 29

2.5.1.1 Consideration of costs and benefits

Changes have been made to the Impact Analysis requirements by the Office of Impact Analysis (OIA)²². Impact analysis no longer has to be finalised with the OIA. FSANZ has developed a Risk-based Framework to help decide whether preparation of a regulatory impact statement (RIS) is required. Under the new approach, FSANZ's assessment is that a RIS is not required for this application, as the approved changes for the sale of Australian native bee honey are not likely to create significant impacts. There may be small costs of compliance to industry, which may benefit from regulatory certainty. Consumers may benefit from clear labelling requirements to make informed choices.

FSANZ, however, considered the costs and benefits that may arise from the draft variation for the purposes of meeting FSANZ Act requirements. The FSANZ Act requires FSANZ to have regard to whether costs that would arise from the draft variation outweigh the direct and indirect benefits to the community, government or industry that would arise from the draft variation (paragraph 29 (2)(a)).

The purpose of this consideration is to decide if the community, government and industry is likely to benefit, on balance, from a move from the status quo, where the status quo is rejecting the application. This analysis considered the permission to sell and use Australian native bee honey, including requirements for the labelling and composition of native bee honey and consequential amendments to existing provisions in the Code.

The consideration of the costs and benefits in this section was not intended to be an exhaustive, quantitative economic analysis of the regulatory measures and, in fact, most of the effects that were considered cannot easily be assigned a dollar value. Rather, the assessment sought to highlight the potential positives and negatives of moving away from the status quo by approving the draft standard and draft variation to the Code.

FSANZ's assessment at the call for submissions stage was that the direct and indirect benefits that would arise from the amended measures most likely outweigh the associated costs. No further information was received during the consultation process that changed that assessment.

2.5.1.2 Costs and benefits of permitting the sale and use of native bee honey

The approved draft regulatory measures are deregulatory as they permit the sale and use of honey produced by stingless bees native to Australia. For the native bee honey industry, there may be small costs to comply with new labelling and compositional requirements in the Code. However, the introduction of clear and standardised regulations for Australian native bee honey may provide the industry with regulatory certainty, reduced ambiguity and

²² [Regulatory Impact Analysis Guide for Ministers' Meetings and National Standard Setting Bodies | The Office of Impact Analysis \(pmc.gov.au\)](https://www.pmc.gov.au/regulatory-impact-analysis-guide-for-ministers-meetings-and-national-standard-setting-bodies)

consistent practices. This certainty may facilitate long-term planning and investment into the growth of the Australian native bee honey sector.

For consumers, while those with bee-related allergies may need to avoid consuming native bee honey, clear labelling requirements will allow consumers to make informed choices about native bee honey products. Improved regulatory certainty for producers may benefit consumers through the increased availability of Australian native bee honey products, and could offer consumers greater confidence in the safety of these products.

This approach may result in a small, inconsequential cost to government in terms of an addition to the current range of foods that are already monitored for compliance. However, the approach may support regulatory certainty, consumer safety and informed decision making, to align with efforts to promote transparency and protect public health.

2.5.1.3 Conclusions from cost benefit considerations

FSANZ's assessment is that the direct and indirect benefits that would arise from permitting the sale and use of Australian native bee honey most likely outweigh the associated costs.

2.5.2 Other measures

There are no other measures (whether available to FSANZ or not) that would be more cost-effective than a food regulatory measure developed or varied because of the application.

2.5.3 Any relevant New Zealand standards

There are no relevant New Zealand standards.

2.5.4 Any other relevant matters

Other relevant matters are considered below.

2.5.5 Subsection 18(1)

FSANZ has also considered the three objectives in subsection 18(1) of the FSANZ Act during the assessment.

2.5.5.1 Protection of public health and safety

FSANZ has completed a risk and technical assessment (SD) which is summarised in section 2.1 above. The assessment concluded that there are no public health and safety concerns associated with consumption of native bee honey to the general population as proposed.

2.5.5.2 The provision of adequate information relating to food to enable consumers to make informed choices

The labelling and information requirements relating to native bee honey are discussed in sections 2.3.3-2.3.5 and 2.3.6.1 above.

2.5.5.3 The prevention of misleading or deceptive conduct

The compositional and labelling requirements applying to native bee honey, as discussed above in sections 2.3.2 and 2.3.3 respectively, contribute to the prevention of misleading or deceptive conduct.

2.5.6 Subsection 18(2) considerations

FSANZ has also had regard to:

- **the need for standards to be based on risk analysis using the best available scientific evidence**

FSANZ used the best available scientific evidence to conduct the risk analysis. The applicant sent a dossier of information and scientific literature as part of its application. This dossier, together with other technical and scientific information, was considered by FSANZ in assessing the application. The risk assessment is provided in the SD and summarised in section 2.2 above.

- **the promotion of consistency between domestic and international food standards**

FSANZ considered the promotion of consistency between domestic and international food standards. No issues were identified for this application relevant to this objective.

- **the desirability of an efficient and internationally competitive food industry**

The approved regulatory measures will support the native bee honey industry.

- **the promotion of fair trading in food**

No issues were identified for this application relevant to this objective.

- **any written policy guidelines formulated by the Food Ministers' Meeting**

There are no ministerial policy guidelines relevant to the assessment of this application.

Attachments

- A. Approved draft variations to the Australia New Zealand Food Standards Code
- B. Explanatory Statements
- C. Draft variations to the Australia New Zealand Food Standards Code (call for submissions)

Attachment A – Approved draft variations to the Australia New Zealand Food Standards Code

Attachment A contains:

- Approved draft new Standard 2.8.3 – Native bee honey; and
- Approved draft consequential variation to the Australia New Zealand Food Standards Code to support the new standard.

Standard 2.8.3 – Native bee honey

The Board of Food Standards Australia New Zealand gives notice of the making of this Standard under section 92 of the *Food Standards Australia New Zealand Act 1991*. The Standard commences on the date of gazettal.

Dated [To be completed by the Delegate]

[Insert Delegate's name and position]

Delegate of the Board of Food Standards Australia New Zealand

Note:

This Standard will be published in the Commonwealth of Australia Gazette No. FSC XX on XX Month 20XX. This means that this date is the gazettal date for the purposes of the above notice.

Standard 2.8.3 Native bee honey

Note 1 This instrument is a standard under the *Food Standards Australia New Zealand Act 1991* (Cth). The standards together make up the *Australia New Zealand Food Standards Code*. See also section 1.1.1—3.

Note 2 The provisions of the Code that apply in New Zealand are incorporated in, or adopted under, the *Food Act 2014* (NZ). See also section 1.1.1—3.

Division 1 Preliminary

2.8.3—1 Name

This Standard is *Australia New Zealand Food Standards Code – Standard 2.8.3 – Native bee honey*.

Note Commencement:
This Standard commences on the date of gazettal, being the date specified as the commencement date in notices in the *Gazette* and the *New Zealand Gazette* under section 92 of the *Food Standards Australia New Zealand Act 1991* (Cth). See also section 93 of that Act.

2.8.3—2 Definitions

Note: In this Code (see subsection 1.1.2—3(2) of Standard 1.1.2):

Native bee honey means the natural sweet substance produced by Australian native stingless bees from the genera *Tetragonula* or *Austroplebeia* following the collection of nectar from the blossoms of plants.

Division 2 Requirements for food sold as native bee honey

2.8.3—3 Composition

A food that is sold as native bee honey must:

- (a) be native bee honey; and
- (b) contain:
 - (i) no less than 50% reducing sugars; and
 - (ii) no more than 28% moisture; and
 - (iii) no less than 2% trehalulose.

2.8.3—4 Labelling of native bee honey

For the labelling provisions:

- (a) 'honey' is a *prescribed name for native bee honey; and
- (b) the *prescribed name must be presented in conjunction with a description that adequately describes the true nature of native bee honey.

Examples 'Native bee honey', 'Native stingless bee honey', 'Australian native bee honey'

Note The labelling provisions are set out in Standard 1.2.1.

Food Standards (Application A1257 – Australian native bee honey – Consequential Amendments) Variation

The Board of Food Standards Australia New Zealand gives notice of the making of this variation under section 92 of the *Food Standards Australia New Zealand Act 1991*. The variation commences on the date specified in clause 3 of this variation.

Dated [To be completed by the Delegate]

[Insert Delegate's name and position]

Delegate of the Board of Food Standards Australia New Zealand

Note:

This variation will be published in the Commonwealth of Australia Gazette No. FSC XX on XX Month 20XX. This means that this date is the gazettal date for the purposes of clause 3 of the variation.

1 Name

This instrument is the *Food Standards (Application A1257 – Australian native bee honey – Consequential Amendments) Variation*.

2 Variation to Standards in the *Australia New Zealand Food Standards Code*

The Schedule varies Standards in the *Australia New Zealand Food Standards Code*.

3 Commencement

The variation commences on the date of gazettal.

Schedule

[1] Standard 1.1.1 Structure of the Code and general provisions

Subsection 1.1.1—2(2) (heading ‘Part 2.8 Sugars and honey’, after the entry relating to ‘Honey’)

Insert:

2.8.3 Native bee honey

[2] Standard 1.1.2 Definitions used throughout the Code

Subsection 1.1.2—3(2)

Insert:

Native bee honey means the natural sweet substance produced by Australian native stingless bees from the genera *Tetragonula* or *Austroplebeia* following the collection of nectar from the blossoms of plants.

[3] Standard 1.2.2 Information requirements – food identification

Subsection 1.2.2—2(1) (Note 2, subparagraph (xii))

Repeal the subparagraph, substitute:

(xii) ‘honey’ (Standards 2.8.2 and 2.8.3);

[4] Standard 2.9.2 Food for infants

[4.1] Paragraph 2.9.2—3(1)(b)

Repeal the paragraph, substitute:

- (b) the following types of food unless the food has been treated to inactivate *Clostridium botulinum* spores:
- (i) honey;
 - (ii) native bee honey; or

[4.2] Paragraphs 2.9.2—7(3)(d) and (e)

Repeal the paragraphs, substitute:

- (d) the word ‘sweetened’—if the food contains more than 4 g/100 g in total of monosaccharide and disaccharide from one or more of the following sources:
- (i) added sugars;
 - (ii) honey;
 - (iii) native bee honey; and
- (e) the word ‘sterilised’ in association with the word ‘honey’—if any of the following food has been used as an ingredient:
- (i) honey;
 - (ii) native bee honey.

[5] Schedule 4 Nutrition, health and related claims

Section S4—3 (table item related to ‘Sugar or sugars’, descriptor of ‘No added’ in column 3, paragraph (e) in column 4, subparagraphs (xi) – (xiii))

Repeal the subparagraphs, substitute:

- (xi) native bee honey;
- (xii) malt;
- (xiii) malt extracts;
- (xiv) any of the following unless the food for sale is a prescribed beverage:
 - (A) concentrated fruit juice;
 - (B) concentrated vegetable juice;
 - (C) deionised fruit juice;
 - (D) deionised vegetable juice.

[6] Schedule 22 Foods and classes of foods

Section S22—4 (heading ‘Honey and other miscellaneous primary food commodities of animal origin’, after the statement dealing with the portion of honey to which the MRL and ERL apply (and which is analysed))

Insert:

Native bee honey

Commodity: Native bee honey.

Portion of the commodity to which the MRL and ERL apply (and which is analysed): whole commodity.

Attachment B – Explanatory Statements

EXPLANATORY STATEMENT

Food Standards Australia New Zealand Act 1991

Australia New Zealand Food Standards Code – Standard 2.8.3 – Native bee honey

1. Authority

Section 13 of the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act) provides that the functions of Food Standards Australia New Zealand (the Authority) include the development of standards and variations of standards for inclusion in the *Australia New Zealand Food Standards Code* (the Code).

Division 1 of Part 3 of the FSANZ Act specifies that the Authority may accept applications for the development or variation of food regulatory measures, including standards. This Division also stipulates the procedure for considering an application for the development or variation of food regulatory measures.

The purpose of the application was to amend the Code to permit the sale and use of honey produced by stingless bees native to Australia.

The Authority considered the Application in accordance with Division 1 of Part 3 and has approved two draft regulatory measures: a draft Standard (*Australia New Zealand Food Standards Code – Standard 2.8.3 – Native bee honey*); and a draft variation (*Food Standards (Application A1257 – Australian native bee honey – Consequential Amendments) Variation*). This draft explanatory statement relates to the approved draft Standard.

Following consideration by the Food Ministers' Meeting (FMM), section 92 of the FSANZ Act stipulates that the Authority must publish a notice about the draft Standard.

2. Variation is a legislative instrument

The approved draft Standard is a legislative instrument for the purposes of the *Legislation Act 2003* (see section 94 of the FSANZ Act) and is publicly available on the Federal Register of Legislation (www.legislation.gov.au).

This instrument is not subject to the disallowance or sunset provisions of the *Legislation Act 2003*. Subsections 44(1) and 54(1) of that Act provide that a legislative instrument is not disallowable or subject to sunset if the enabling legislation for the instrument (in this case, the FSANZ Act): (a) facilitates the establishment or operation of an intergovernmental scheme involving the Commonwealth and one or more States; and (b) authorises the instrument to be made for the purposes of the scheme. Regulation 11 of the *Legislation (Exemptions and other Matters) Regulation 2015* also exempts from sunset legislative instruments a primary purpose of which is to give effect to an international obligation of Australia.

The FSANZ Act gives effect to an intergovernmental agreement (the Food Regulation Agreement) and facilitates the establishment or operation of an intergovernmental scheme (national uniform food regulation). That Act also gives effect to Australia's obligations under an international agreement between Australia and New Zealand. For these purposes, the Act establishes the Authority to develop food standards for consideration and endorsement by the FMM. The FMM is established under the Food Regulation Agreement and the international agreement between Australia and New Zealand, and consists of New Zealand, Commonwealth and State/Territory members. If endorsed by the FMM, the food standards on gazettal and registration are incorporated into and become part of Commonwealth, State

and Territory and New Zealand food laws. These standards or instruments are then administered, applied and enforced by these jurisdictions' regulators as part of those food laws.

3. Purpose

Honey from Australian native stingless bees cannot currently be sold in Australia and New Zealand as it does not meet the definition of honey in the Code and the compositional requirements for honey in Standard 2.8.2 – Honey.

The Authority has approved a draft new Standard, Standard 2.8.3 – Native bee honey which will be included in the Code. The measures in the draft Standard, along with measures in a draft variation and existing measures in the Code, permit and regulate the sale and use of native bee honey.

4. Documents incorporated by reference

The approved draft Standard does not incorporate any documents by reference.

5. Consultation

In accordance with the procedure in Division 1 of Part 3 of the FSANZ Act, the Authority's consideration of Application A1257 included one round of public consultation following an assessment and the preparation of a draft Standard, a draft variation and an associated report. Submissions were called for on 22 November 2023 for an 8-week consultation period.

Changes have been made to the Impact Analysis requirements by the Office of Impact Analysis (OIA)²³. Impact analysis no longer must be finalised with the OIA. Under the new approach, FSANZ's assessment is that a regulatory impact statement is not required for this application, as the proposed changes address regulatory uncertainty surrounding the sale of Australian native bee honey and are not likely to create significant impacts. There may be small costs of compliance to industry, however, industry may benefit from regulatory certainty, and consumers may benefit from clear labelling requirements to make informed choices.

6. Statement of compatibility with human rights

This instrument is exempt from the requirements for a statement of compatibility with human rights as it is a non-disallowable instrument under section 44 of the *Legislation Act 2003*.

7. The draft Standard

The approved draft Standard is introduced by two notes providing information about the place of the Standard within the Code and the application of the relevant draft Standard in New Zealand. The first note in the approved draft Standard explains that the instrument is a standard under the FSANZ Act, and that the draft Standard and the other standards together make up the Code. The second note in the approved draft Standard explains that provisions of the Code that apply in New Zealand are incorporated in, or adopted under, the *Food Act 2014* (NZ).

The approved draft Standard contains the following provisions.

Division 1

This Division contains the following preliminary provisions of the approved draft Standard.

Section 1: This provision establishes the name of the draft Standard i.e.: *Australia New*

²³ [Regulatory Impact Analysis Guide for Ministers' Meetings and National Standard Setting Bodies | The Office of Impact Analysis \(pmc.gov.au\)](https://www.pmc.gov.au/regulatory-impact-analysis-guide-for-ministers-meetings-and-national-standard-setting-bodies)

Zealand Food Standards Code – Standard 2.8.3 – Native Bee Honey.

The note to section 1 in the approved draft Standard explains that the draft Standard commences on the date of gazettal, being the date specified as the commencement date in notices in the Gazette and the New Zealand Gazette under section 92 of the *Food Standards Australia New Zealand Act 1991* (Cth) (see also section 93 of this Act).

Section 2: This provision signposts to subsection 1.1.2—3(2) of Standard 1.1.2, where the definition of ‘native bee honey’ is provided (see item [1] of the *Food Standards (Application A1257 – Australian native bee honey – Consequential Amendments) Variation*); and sets out a copy of that definition.

Division 2

This Division contains the following provisions related to requirements for food sold as native bee honey (as defined in the Code).

Section 3: This provision sets out the following compositional requirements of food sold as native bee honey.

A food that is sold as native bee honey must:

- be native bee honey (as per the definition of this term in subsection 1.1.2—3(2)); and
- contain:
 - no less than 50% reducing sugars; and
 - no more than 28% moisture; and
 - no less than 2% trehalulose.

Section 4: This provision sets out the following labelling requirements for native bee honey.

For the labelling provisions, which (as explained in the note to this section) are set out in Standard 1.2.1:

- ‘honey’ is a prescribed name for native bee honey; and
- the prescribed name must be presented in conjunction with a description that adequately describes the true nature of native bee honey e.g. ‘Native bee honey’, ‘Native stingless bee honey’, and ‘Australian native bee honey’.

The ‘prescribed name’ of a particular food is defined in subsection 1.1.2—2, as meaning a name declared by a provision of the Code to be the prescribed name of the food.

EXPLANATORY STATEMENT

Food Standards Australia New Zealand Act 1991

Food Standards (Application A1257 – Australian native bee honey – Consequential Amendments) Variation

1. Authority

Section 13 of the *Food Standards Australia New Zealand Act 1991* (the FSANZ Act) provides that the functions of Food Standards Australia New Zealand (the Authority) include the development of standards and variations of standards for inclusion in the *Australia New Zealand Food Standards Code* (the Code).

Division 1 of Part 3 of the FSANZ Act specifies that the Authority may accept applications for the development or variation of food regulatory measures, including standards. This Division also stipulates the procedure for considering an application for the development or variation of food regulatory measures.

The purpose of the application was to amend the Code to permit the sale and use of honey produced by stingless bees native to Australia.

The Authority considered the Application in accordance with Division 1 of Part 3 and has approved two draft regulatory measures: a draft Standard (*Australia New Zealand Food Standards Code – Standard 2.8.3 – Native bee honey*); and a draft variation (*Food Standards (Application A1257 – Australian native bee honey – Consequential Amendments) Variation*). This explanatory statement relates to the approved draft consequential amendments variation.

Following consideration by the Food Ministers' Meeting (FMM), section 92 of the FSANZ Act stipulates that the Authority must publish a notice about the draft variations.

2. Variation is a legislative instrument

The approved draft variation is a legislative instrument for the purposes of the *Legislation Act 2003* (see section 94 of the FSANZ Act) and is publicly available on the Federal Register of Legislation (www.legislation.gov.au).

This instrument is not subject to the disallowance or sunset provisions of the *Legislation Act 2003*. Subsections 44(1) and 54(1) of that Act provide that a legislative instrument is not disallowable or subject to sunset if the enabling legislation for the instrument (in this case, the FSANZ Act): (a) facilitates the establishment or operation of an intergovernmental scheme involving the Commonwealth and one or more States; and (b) authorises the instrument to be made for the purposes of the scheme. Regulation 11 of the *Legislation (Exemptions and other Matters) Regulation 2015* also exempts from sunset legislative instruments a primary purpose of which is to give effect to an international obligation of Australia.

The FSANZ Act gives effect to an intergovernmental agreement (the Food Regulation Agreement) and facilitates the establishment or operation of an intergovernmental scheme (national uniform food regulation). That Act also gives effect to Australia's obligations under an international agreement between Australia and New Zealand. For these purposes, the Act establishes the Authority to develop food standards for consideration and endorsement by the FMM. The FMM is established under the Food Regulation Agreement and the international agreement between Australia and New Zealand, and consists of New Zealand, Commonwealth and State/Territory members. If endorsed by the FMM, the food standards on gazettal and registration are incorporated into and become part of Commonwealth, State and Territory and New Zealand food laws. These standards or instruments are then administered, applied, and enforced by these jurisdictions' regulators as part of those food

laws.

3. Purpose

Honey from Australian native stingless bees cannot currently be sold in Australia and New Zealand as it does not meet the definition of honey in the Code and the compositional requirements for honey in Standard 2.8.2 – Honey.

The Authority has approved the draft variation containing amendments as a consequence of the draft Standard. The measures in the approved draft variation, along with measures in the approved draft Standard and existing measures in the Code, permit and regulate the sale and use of native bee honey.

4. Documents incorporated by reference

The approved draft variation does not incorporate any documents by reference.

5. Consultation

In accordance with the procedure in Division 1 of Part 3 of the FSANZ Act, the Authority's consideration of Application A1257 included one round of public consultation following an assessment and the preparation of a draft Standard, a draft variation and an associated report. Submissions were called for on 22 November 2023 for an 8-week consultation period.

Changes have been made to the Impact Analysis requirements by the Office of Impact Analysis (OIA). Impact analysis no longer must be finalised with the OIA. FSANZ has developed a Risk-based Framework to help decide whether preparation of a regulatory impact statement (RIS) is required. Under the new approach, FSANZ's assessment is that a Regulatory Impact Statement is not required for this application.

6. Statement of compatibility with human rights

This instrument is exempt from the requirements for a statement of compatibility with human rights as it is a non-disallowable instrument under section 44 of the *Legislation Act 2003*.

7. Variation

Clause 1 of the approved draft variation provides that the name of the variation is the *Food Standards (Application A1257 – Australian native bee honey – Consequential Amendments) Variation*

Clause 2 of the approved draft variation provides that the Code is amended by the Schedule to the variation.

Clause 3 of the approved draft variation provides that the variation commences on the date of gazettal of the instrument.

Items [1] – [6] of the Schedule to the approved draft variation contain amendments to existing provisions to the Code, which are consequential to the draft Standard.

Item [1] of the Schedule to the approved draft variation amends Standard 1.1.1 Structure of the Code and general provisions.

Section 1.1.1—2 contains provisions related to the structure of the Code.

This item inserts a reference '2.8.3 Native bee honey' into the list of standards in the Code, which are set out in subsection 1.1.1—2(2).

'Standard 2.8.3 Native bee honey' is the name of the approved draft Standard to be included in the Code.

The reference to the approved draft Standard is inserted in that list under the heading 'Part 2.8 Sugars and honey' and after the entry relating to 'Honey.'

Item [2] of the Schedule to the approved draft variation amends Standard 1.1.2 Definitions used throughout the Code – in particular, section 1.1.2—3, which sets out definitions for particular foods applying throughout the Code, unless a contrary intention appears.

This item inserts the following definition of ‘native bee honey’ into subsection 1.1.2—3(2):

Native bee honey means the natural sweet substance produced by Australian native stingless bees from the genera *Tetragonula* or *Austroplebeia* following the collection of nectar from the blossoms of plants.

Item [3] of the Schedule to the approved draft variation amends Standard 1.2.2 Information requirements – food identification, by repealing subparagraph (xii) in Note 2 to subsection 1.2.2—2(1) and substituting it with proposed new subparagraph (xii).

Note 2 lists prescribed names and their location in the Code.

Subparagraph (xii) in Note 2 currently refers to ‘honey’ (Standard 2.8.2);’.

New subparagraph (xii) refers to ‘honey’ (Standards 2.8.2 and 2.8.3);’. This amendment has the effect of including the prescribed name for native bee honey in the list of prescribed names and their location in the Code in Note 2 to subsection 1.2.2—2(1).

Item [4] of the Schedule to the approved draft variation amends Standard 2.9.2 Food for infants as follows.

Item [4.1] repeals paragraph 2.9.2—3(1)(b), and substitutes it with new paragraph 2.9.2—3(1)(b).

Subsection 2.9.2—3(1) lists foods that food for infants must not contain. Paragraph 2.9.2—3(1)(b) currently refers to ‘honey, unless it has been treated to inactivate *Clostridium botulinum* spores; or’.

New paragraph 2.9.2—3(1)(b) includes ‘native bee honey’ in that provision.

The effect of the amendment is that food for infants must not contain (among other things) the following types of food unless the listed food has been treated to inactivate *Clostridium botulinum* spores:

- honey;
- native bee honey.

Item [4.2] repeals paragraphs 2.9.2—7(3)(d) and (e) and substitutes them with new paragraphs 2.9.2—7(3)(d) and (e).

Subsection 2.9.2—7(3) lists, for the purposes of the labelling provisions in Standard 1.2.1, the required information relating to composition of food for infants.

Current paragraph 2.9.2—7(3)(d) requires the word ‘sweetened’ to be stated on the label on a package of food for infants if the food contains more than 4 g/100 g in total of monosaccharide and disaccharide from added sugars and/or honey.

New paragraph 2.9.2—7(3)(d) requires the word ‘sweetened’ to be stated on the label on a package of food for infants if the food contains more than 4 g/100 g in total of monosaccharide and disaccharide from one or more of the following sources:

- added sugars;
- honey;
- native bee honey.

Current paragraph 2.9.2—7(3)(e) requires the word ‘sterilised’ to be stated in association with the word ‘honey’ on the label on a package of food for infants if honey has been used as an ingredient in the food.

New paragraph 2.9.2—7(3)(e) requires the word ‘sterilised’ to be stated in association with

the word 'honey' on the label on a package of food for infants if honey and/or native bee honey has been used as an ingredient in the food.

Item [5] of the Schedule to the approved draft variation amends Schedule 4 Nutrition, health and related claims.

This item amends the table entry related to 'Sugar or sugars' in the table to section S4—3 which sets out conditions for nutrition content claims for the purposes of subsection 1.2.7—12(1).

Subsection 1.2.7—12(1) requires that if a property of food (as defined in Standard 1.1.2) is mentioned in Column 1 of the table to section S4—3, a nutrition content claim may only be made about that property of food in accordance with section 1.2.7—12.

For example, subsection 1.2.7—12(3) requires that if a claim is made in relation to a food about the property 'sugar' or 'sugars' referred to in Column 1 of the table to section S4—3 and the claim uses the descriptor 'No added' mentioned in Column 3 of the table, or a synonym of that descriptor, the food must meet:

- any general claim conditions for the relevant property of food in Column 2 of the table (of which there are none); and
- the specific claim conditions in Column 4 of the table for that descriptor.

Currently, paragraph (a) in Column 4 of the table - for the descriptor of 'No added' in Column 3 of the table provides that one condition of a 'No added sugar' claim is that the food must not contain added sugars. Paragraph (e) lists the sources of added sugars for the purposes of condition (a), including honey at subparagraph (x).

The amendment in item [5] repeals subparagraphs (xi) – (xiii) from paragraph (e) in column 4 of the above described table item related to 'Sugar or sugars', descriptor of 'No added' in column 3, and substitutes those subparagraphs with:

- (xi) native bee honey;
- (xii) malt;
- (xiii) malt extracts;
- (xiv) any of the following unless the food for sale is a prescribed beverage:
 - (A) concentrated fruit juice;
 - (B) concentrated vegetable juice;
 - (C) deionised fruit juice;
 - (D) deionised vegetable juice.

The effect of the amendment is to add 'native bee honey' to the list of added sugars for the purposes of 'no added' sugar or sugars claims. This means that a 'no added' sugar(s) claim cannot be made if (among other things) the food contains native bee honey.

Item [6] amends Schedule 22 – Food and classes of foods.

Schedule 22 contains descriptions of various classes of food commodities and specifies the portions of food commodities for the purposes of certain standards in the Code, including Standard 1.4.2 – Agvet chemicals. Although Schedule 22 applies in both Australia and New Zealand, Standard 1.4.2 applies only in Australia. New Zealand has its own standards for agvet chemical residues in food, which are enforced by the New Zealand Government (through the Ministry of Primary Industries). Under the Trans-Tasman Mutual Recognition Arrangement (a non-treaty arrangement between New Zealand and Australia's Commonwealth, state and territory governments), food which is produced in New Zealand and complies with relevant New Zealand food laws may be imported to and sold in Australia; and food which is produced in Australia and complies with relevant Australian food laws may

be imported to and sold in New Zealand.

Paragraph 1.4.2—3(2)(a) requires that when calculating the amount of a permitted residue in a food, only the amount that is in the portion of the commodity specified in Schedule 22 must be calculated.

Item [6] amends section S22—4, which describes the foods that are classed as animal food commodities. The amendment inserts a new entry relating to native bee honey into this section, under the heading ‘Honey and other miscellaneous primary food commodities of animal origin,’ after the statement dealing with the portion of honey to which the MRL and ERL apply (and which is analysed).

The new entry consists of:

‘Native bee honey

Commodity: Native bee honey.

Portion of the commodity to which the MRL and ERL apply (and which is analysed): whole commodity.’

Attachment C – Draft variations to the Australia New Zealand Food Standards Code (call for submissions)

Attachment C contains the following draft regulatory measures on which submissions were sought:

- draft new Australia New Zealand Food Standards Code – Standard 2.8.3 – Native bee honey; and
- a draft consequential variation to the Code to support the proposed new standard.

Standard 2.8.3 – Native bee honey

The Board of Food Standards Australia New Zealand gives notice of the making of this Standard under section 92 of the *Food Standards Australia New Zealand Act 1991*. The Standard commences on the date of gazettal.

Dated [To be completed by the Delegate]

[Insert Delegate's name and position]

Delegate of the Board of Food Standards Australia New Zealand

Note:

This Standard will be published in the Commonwealth of Australia Gazette No. FSC XX on XX Month 20XX. This means that this date is the gazettal date for the purposes of the above notice.

Standard 2.8.3 Native bee honey

Note 1 This instrument is a standard under the *Food Standards Australia New Zealand Act 1991* (Cth). The standards together make up the *Australia New Zealand Food Standards Code*. See also section 1.1.1—3.

Note 2 The provisions of the Code that apply in New Zealand are incorporated in, or adopted under, the *Food Act 2014* (NZ). See also section 1.1.1—3.

Division 1 Preliminary

2.8.3—1 Name

This Standard is *Australia New Zealand Food Standards Code – Standard 2.8.3 – Native Bee Honey*.

Note Commencement:

This Standard commences on the date of gazettal, being the date specified as the commencement date in notices in the *Gazette* and the *New Zealand Gazette* under section 92 of the *Food Standards Australia New Zealand Act 1991* (Cth). See also section 93 of that Act.

2.8.3—2 Definitions

Note: In this Code (see subsection 1.1.2—3(2) of Standard 1.1.2):

Native bee honey means the natural sweet substance produced by Australian native stingless bees from the genera *Tetragonula* or *Austroplebeia* following the collection of nectar from the blossoms of plants.

Division 2 Requirements for food sold as native bee honey

2.8.3—3 Composition

A food that is sold as native bee honey must:

- (a) be native bee honey; and
- (b) contain:
 - (i) no less than 50% reducing sugars; and
 - (ii) no more than 28% moisture; and
 - (iii) no less than 2% trehalulose.

2.8.3—4 Labelling of native bee honey

For the labelling provisions:

- (c) 'honey' is a *prescribed name for native bee honey; and
- (d) the *prescribed name must be presented in conjunction with a description that adequately describes the true nature of native bee honey.

Examples 'Native bee honey', 'Native stingless bee honey', 'Australian native bee honey'

Note The labelling provisions are set out in Standard 1.2.1.

Food Standards (Application A1257 – Australian native bee honey – Consequential Amendments) Variation

The Board of Food Standards Australia New Zealand gives notice of the making of this variation under section 92 of the *Food Standards Australia New Zealand Act 1991*. The variation commences on the date specified in clause 3 of this variation.

Dated [To be completed by the Delegate]

[Insert Delegate's name and position]

Delegate of the Board of Food Standards Australia New Zealand

Note:

This variation will be published in the Commonwealth of Australia Gazette No. FSC XX on XX Month 20XX. This means that this date is the gazettal date for the purposes of clause 3 of the variation.

1 Name

This instrument is the *Food Standards (Application A1257 – Australian native bee honey – Consequential Amendments) Variation*.

2 Variation to Standards in the *Australia New Zealand Food Standards Code*

The Schedule varies Standards in the *Australia New Zealand Food Standards Code*.

3 Commencement

The variation commences on the date of gazettal.

Schedule

[1] Standard 1.1.1 Structure of the Code and general provisions

Subsection 1.1.1—2(2) (heading ‘Part 2.8 Sugars and honey’, after the entry relating to ‘Honey’)

Insert:

2.8.3 Native bee honey

[2] Standard 1.1.2 Definitions used throughout the Code

Subsection 1.1.2—3(2)

Insert:

Native bee honey means the natural sweet substance produced by Australian native stingless bees from the genera *Tetragonula* or *Austroplebeia* following the collection of nectar from the blossoms of plants.

[3] Standard 1.2.2 Information requirements – food identification

Subsection 1.2.2—2(1) (Note 2, subparagraph (xii))

Repeal the subparagraph, substitute:

(xii) ‘honey’ (Standards 2.8.2 and 2.8.3);

[4] Standard 2.9.2 Food for infants

[4.1] Paragraph 2.9.2—3(1)(b)

Repeal the paragraph, substitute:

(b) the following types of food unless the food has been treated to inactivate *Clostridium botulinum* spores:

- (i) honey;
- (ii) native bee honey; or

[4.2] Paragraphs 2.9.2—7(3)(d) and (e)

Repeal the paragraphs, substitute:

(d) the word ‘sweetened’—if the food contains more than 4 g/100 g in total of monosaccharide and disaccharide from one or more of the following sources:

- (i) added sugars;
- (ii) honey;
- (iii) native bee honey; and

(e) the word ‘sterilised’ in association with the word ‘honey’—if any of the following food has been used as an ingredient:

- (i) honey;
- (ii) native bee honey.

[5] Schedule 4 Nutrition, health and related claims

Section S4—3 (table item related to ‘Sugar or sugars’, descriptor of ‘No added’ in

column 3, paragraph (a) in column 4)

Omit 'or malt extracts; and', substitute:

malt extracts, or native bee honey; and

[6] Schedule 22 Foods and classes of foods

Section S22—4 (heading 'Honey and other miscellaneous primary food commodities of animal origin', after the statement dealing with the portion of honey to which the MRL and ERL apply (and which is analysed))

Insert:

Native bee honey

Commodity: Native bee honey.

Portion of the commodity to which the MRL and ERL apply (and which is analysed): whole commodity.