Nature Conservation and Other Legislation Amendment Bill 2022

Explanatory Notes

Short title

The short title of the Bill is the Nature Conservation and Other Legislation Amendment Bill 2022.

Policy objectives and the reasons for them

The primary objective of the Bill is to deliver an election commitment to provide a 20-year extension to allow beekeeping on specified national parks to continue until 31 December 2044. The extension will only apply to areas where beekeeping could be lawfully undertaken immediately prior to the transfer of the land to national park.

Under the *Nature Conservation Act 1992* (NCA), beekeeping is inconsistent with the cardinal principle for national parks, which requires national parks to be managed to provide, to the greatest possible extent, for the permanent preservation of the area's natural condition and the protection of the area's cultural resources and values.

However, past processes associated with the transfer of a number of State forests to protected areas, primarily under the 1999 South East Queensland Forest Agreement, included changes to the NCA to enable beekeeping to continue temporarily, on certain national parks until 31 December 2024.

These past amendments provided for continued access to specific apiary sites in national parks that are utilised by the beekeeping industry, which in addition to producing honey and other honeybee related products, provide important crop pollination services that support the horticultural industry. Loss of access to these sites on 31 December 2024 would have a detrimental impact on the supply of these services and products. The government has committed to a further time extension to provide the industry with certainty of access in the near future.

While the initial extension of access to apiary sites was intended to provide time for alternative beekeeping sites to be located outside of national parks, this has proven challenging. Therefore, in addition to the extension of time provided by the amendments to the NCA, new work will be undertaken to seek alternative sites off national parks; support adoption of industry best practice on protected areas; and identify initiatives to assist the industry to progressively relocate off-park over the next 20 years.

Unrelated to the beekeeping amendments, other objectives of the Bill are to:

- enhance the Department of Environment and Science's (DES) capacity to respond to misconduct on Queensland Parks and Wildlife Service (QPWS) managed areas such as State forests, marine parks, recreation areas and national parks by:

a) providing new offences for impersonating a forest officer and a ranger; and

b) expanding existing obstruction offences so that they apply to obstructing conservation officers, authorised officers and inspectors in the performance of their functions;

- relocate powers of officers to seize and deal with things that are seized, administrative provisions relating to approved forms, and internal and external reviews of decisions from subordinate legislation into the NCA to reflect current drafting practices;
- make amendments to *Wet Tropics World Heritage Protection and Management Act 1993* (Wet Tropics Act) to reflect National Cabinet changes to intergovernmental arrangements between the State and the Commonwealth following a review of the former Council of Australian Governments' Councils and Ministerial Forums by Mr Peter Conran AM, and to remove an outdated version of the Intergovernmental Agreement from the Act and reference the current version via a definition; and
- to simplify the process for consequential amendments to the Wet Tropics Management Plan 1998 where those amendments result from changes to the Wet Tropics Act. This reduces a duplicate consultation process which invites public submission on matters that have already been decided by Parliament through amendments to the Act; and
- correct several minor errors in the NCA and the Wet Tropics Act.

Achievement of policy objectives

The Bill will achieve its objective of enabling beekeeping to continue in national parks until 2044, by amending the NCA to enable until 31 December 2044:

- the grant of an apiary permit for beekeeping in a national park subject to particular requirements;
- the prescribing in regulation of areas where beekeeping was lawful before the land was dedicated as national park as apiary areas; and
- a person to apply for an apiary permit to undertake beekeeping on the apiary area once the areas are prescribed in regulation.

The Bill will achieve its objective to enhance the DES's capacity to respond to misconduct on QPWS managed areas by amending:

- the *Forestry Act 1959* (Forestry Act) to provide new offences for:
  - impersonating a forest officer; and
  - impersonating a ranger in or for a State forest or timber reserve;
- the *Marine Parks Act 2004* (MPA) to:
  - provide a new offence for impersonating a ranger in or for a marine park;
  - describe the functions of an inspector; and
  - clarify the application of the existing obstruction offence when an inspector is obstructed in the performance of a function under the Act;
- the NCA to:
  - provide an offence for impersonating a ranger in or for a protected area;
  - describe the functions of a conservation officer; and
  - clarify the application of the existing obstruction offence when a conservation officer is obstructed in the performance of a function under the Act;
- the *Recreation Areas Management Act 2006* (RAMA) to:
  - provide an offence for impersonating a ranger in or for a recreation area;
  - describe the functions of an authorised officer; and

- clarify the application of the existing obstruction offence when an authorised officer is obstructed in the performance of a function under the Act.

The Bill will achieve its objective of relocating into the NCA from subordinate legislation the powers of officers to seize and deal with things that are seized, administrative provisions relating to approved forms, and internal and external reviews of decisions by:

- transferring administrative process provisions to the NCA as a streamlining amendment, where they would be otherwise replicated across three regulations;
- transferring seizure provisions to ensure conservation officers have clear and appropriate powers that are not distributed across the NCA and three regulations; and
- redrafting relocated provisions into a modern form based on a precedent that reflects current drafting practices and is acceptable to Parliamentary Committees.

The Bill will achieve its objective of amending the Wet Tropics Act to reflect National Cabinet changes to intergovernmental arrangements between the State and the Commonwealth following a review of the former Council of Australian Governments' Councils and Ministerial Forums by Mr Peter Conran AM, and the abolition of Ministerial Council by:

- replacing all references to the obsolete Ministerial Council with 'the State Minister and the Commonwealth Minister';
- recognising that the State Minister is no longer the chair of the Ministerial Council by:
  - replacing the approval arrangement of 'the Minister and the Ministerial Council' with 'the State Minister and the Commonwealth Minister'; and
  - where needed, describing the administrative arrangements associated with the change for example, nominating the responsibility for the State Minister to instigate a process and the Commonwealth Minister to respond;
- removing the role of secretary to the Ministerial Council because it no longer exists;
- replacing the Schedule 3 definition of Ministerial Council with two definitions, the definition of State Minister and the definition of Commonwealth Minister; and
- replacing all references to 'the Minister' with 'the State Minister' to make the distinction between the two ministers now defined in Schedule 3.

The Bill will achieve its objective to amend the Wet Tropics Act to remove the outdated version of Intergovernmental Agreement from the Act by:

- Removing Schedule 1 which contains an outdated version of the of the *Management scheme intergovernmental agreement for the Wet Tropics of Queensland World Heritage Area* and instead referencing the intergovernmental agreement in a Schedule 3 definition, and noting, the date of the original agreement and where the document can be found. This ensures the current version of the intergovernmental agreement is used.

The Bill will achieve its objective to streamline the process for making consequential amendments in subordinate legislation where those amendments result from a change to the Wet Tropics Act by:

- removing duplicative consultation process that invites public submission on the Wet Tropics Management Plan 1998 about matters that have already been decided by Parliament through amendments to the Act.

The Bill will achieve its objective of correcting several minor errors in the NCA and the Wet Tropics Act by:

- changing incorrect reference numbers and omissions that occurred through a previous amendment to section 14 of the Wet Tropics Act. The former change added a new director at section 14(1)(ab) but failed to complete the change with subsequent reference changes, and with necessary provisions in section 16 regarding appointment of directors and section 22 regarding removal from office; and
- correcting the scientific nomenclature for the marine turtle family in the definition of 'marine turtle' in the NCA and inserting a missing reference to a section that was not identified when previous amendments were made to the Act.

All of these amendments are reasonable and appropriate because they are the only way to achieve the objective. The amendments to relocate subordinate legislation to the NCA are also reasonable and appropriate because they retain current policy intent, whilst implementing contemporary drafting standards.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives.

Estimated cost for government implementation

The State Government will incur costs associated with the extension of beekeeping in national parks for 20 years. These costs arise from the continued administration of apiary permits until 31 December 2044 and coordinating park management activities (e.g. fire and pest management activities) in a way that minimises impacts on beehives located in national parks. It is anticipated that these costs will generally be met from existing budget allocations.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are addressed below.

The new offences for impersonating a forest officer and a ranger may raise fundamental legislative principle issues with respect to whether the legislation has sufficient regard to the rights and liberties of individuals by making a person potentially liable for the new offences. There have been several recent instances in QPWS managed areas, where people who have claimed to be rangers have acted in a threatening and punitive manner or denied people their right to camp in locations that have been pre-booked as part of the visit. These situations lead to the reduction of the visitor's enjoyment of their national park visit, and diminish the public's respect for genuine rangers employed by QPWS. The potential departure from fundamental legislative principles is justified as the new offences will provide a deterrent and enhance DES's ability to take action for this type of misconduct. The offence is not intended to be a penalty infringement notice offence and action taken by DES will depend on the circumstances and evidence, which will be considered on a case-by-case basis.

The relocated seizure powers may appear to be contrary to the fundamental legislative principle that legislation should confer power to seize property only with a warrant issued by a judge or other judicial officer. However, the provisions limit when a conservation officer may exercise their power to seize a thing to the following circumstances:

- it is abandoned (such as the remains of a burnt out car);

- it is being used to commit an offence (e.g. traps being used by wildlife for poachers);
- it is not authorised to be in a protected area under the NCA (e.g. unregistered trail bikes);
- to protect the cultural or natural resources of a protected area (e.g. equipment being used to cut down commercially valuable timber in a national park);
- for the safety of people in a protected area (e.g. moving a vehicle blocking access to a fire trail or other essential road); or
- for the orderly and proper management of a protected area (e.g. amplifying sound equipment being used for a rave party).

On lands other than protected areas, the provisions also allow things to be seized if they need to be seized to protect native wildlife and they are on land without the landholder's consent, or are abandoned.

These powers are required because in many situations, such as property found abandoned in a protected area, or animal traps found on other land, the owner or person in control of the seized thing is unknown, thus making it impossible to serve the owner or person in control of the thing with a warrant prior to seizure. However, where a conservation officer does know, or ought reasonably to know, the name of the person in charge or control of an unauthorised thing in a protected area, the conservation officer may seize the thing if the person has been given a direction and opportunity to remove the thing and has failed to comply. In relation to vehicles, specific exception is made in circumstances where a conservation officer reasonably believes the person is not lawfully able to use the vehicle (such as if the person is under the influence of alcohol or drugs) to comply with a direction. In such cases, the conservation officer may seize the vehicle and move or remove it where necessary for safety purposes, protection of cultural or natural resources or the orderly and proper management of the area.

Clause 15 of the Bill also provides specific and transparent procedures that must be followed in relation to securing and storing seized things, identifying owners through the use of public notices and the release and disposal of seized things. Seized things such as explosives, poisons and traps must be destroyed, but the procedures in *Clause 15* allow for other seized things to be claimed by their owners, or disposed of if they are not claimed. A seized thing can be returned to the owner provided the chief executive is satisfied the person has a right to the seized thing, and reasonable costs associated with the seizure (such as costs associated with removing the seized thing) are paid by the person to the chief executive. If the item is unable to be returned to the owner and it is sold, direction is provided regarding how the sale is to be conducted and dealing with the proceeds of the sale.

Therefore, the seizure provisions represent a reasonable and limited departure from the principles that legislation should only confer power to seize property with a warrant.

Definitions of 'recreational craft' and 'aircraft' are provided in the Bill. However, the provisions will also allow a regulation to prescribe additional examples of things that (i) are 'recreational craft' and (ii) are not an 'aircraft'. These may raise fundamental legislative principle issues with respect to whether the legislation has sufficient regard to the institution of Parliament. The amendments are necessary to provide flexibility to respond to the use of emerging recreational craft and aircraft products on protected areas in a timely manner. The Bill is considered to have sufficient regard to the institution of Parliament because it allows the delegation of legislative power only in appropriate limited circumstances and the regulation remains subject to the scrutiny of the Legislative Assembly.

Consultation

An election commitment was made to the Queensland Beekeepers' Association in October 2020 to extend existing beekeeping in national parks for 20 years. Following announcement of the commitment, the National Parks Association of Queensland (NPAQ), the Wildlife Preservation Society of Queensland (WPSQ) and the Queensland Conservation Council (QCC) jointly wrote a letter to oppose an extension of beekeeping in national parks.

In early December 2021, targeted consultation on an exposure draft of the amendments in the Bill to extend existing beekeeping on national parks until 31 December 2044 occurred with the Queensland Beekeepers' Association and conservation groups that had written to oppose the extension of beekeeping in national parks.

The Queensland Beekeepers' Association supported the proposed amendments and conservation groups reconfirmed their opposition to the proposal to extend beekeeping in national parks for 20 years.

The First Nations groups with native title claims or native title determinations over national parks with apiary sites were also sent a letter and maps showing the apiary site locations within national parks on 28 October 2021 and were invited to provide feedback, including advice about any impacts to human rights from the proposal by 29 November 2021. The representative of one First Nations group provided feedback that to be consistent with section 28 of the *Human Rights Act 2019* it was necessary for DES to undertake consultation and seek consent prior to granting apiary permits. This is further detailed in the human rights Statement of Compatibility accompanying the Bill.

Other amendments in the Bill that correct errors, provide clarity around offences, relocate provisions from subordinate legislation into the NCA and reflect changes to intergovernmental arrangements do not change the intent of the existing legislation. These amendments have no negative consequences and therefore public consultation on these amendments was not considered necessary.

Details of stakeholders consulted are listed in Table 1 below.

Table 1 – Targeted consultation late 2021

Beekeeping Industry	Conservation groups	First Nations groups
Queensland Beekeepers Association	National Parks Association of Queensland (NPAQ)	Kabi Kabi First Nation People
	Wildlife Preservation Society of Queensland (WPSQ)	Jinibara People
	Queensland Conservation Council were unable to meet but indicated that NPAQ and WPSQ would represent its views.	Gaangalu Nation People
		Yuggera Ugarapul People
		Githabul (Waringh Waringh)
		Girramay People
		Tableland Yidinji People
		Bailai, Gurang, Gooreng Gooreng, Taribelang Bunda People
		Danggan Balun (Five Rivers) People
		Wakka Wakka People
		Gold Coast Native Title Claim Group
		Turrbal People
		Jagera People

Consistency with legislation of other jurisdictions

The amendments in the Bill to allow existing beekeeping in national parks to continue until 31 December 2044 are specific to the State of Queensland and are not uniform with or complementary to legislation of the Commonwealth or another state.

There are differing requirements and criteria that apply to beekeeping on national parks across all the states and territories. Apart from when certain types of wilderness areas are declared over national parks in some states, beekeeping that existed before national parks were declared is generally allowed to continue on national parks in NSW, Victoria, South Australia, Tasmania and Western Australia. New beekeeping sites can also potentially be established in national parks in certain circumstances in NSW, Victoria and Tasmania.

The Northern Territory does not allow beekeeping on national parks and the Australian Capital Territory does not allow it unless it is consistent with the specific management plan for a particular national park.

The Wet Tropics Act is specific to the State of Queensland. Amendments reflect changes that have occurred to intergovernmental arrangements between the Commonwealth and State governments.

Notes on provisions

Part 1 Preliminary

Clause 1 states that, when enacted, the Bill will be cited as the *Nature Conservation and Other Legislation Amendment Act 2022*.

Clause 2 states that the following provisions will commence on a day fixed by proclamation:
- part 4, division 3;
- part 10, division 3;
- schedule 1, part 2.

These provisions will commence by proclamation to allow amendments to subordinate legislation to be prepared to support commencement following passage of the Bill.

Part 2 Amendment of Forestry Act 1959

Clause 3 states that Part 2 amends the *Forestry Act 1959*.

Clause 4 inserts two new sections after section 85.

The first new section 85A provides the following offence for impersonating a forest officer.

85A Impersonating forest officer
A person must not pretend to be a forest officer.
Maximum penalty—50 penalty units.

A forest officer is a position to which a person is specifically appointed that has a range of powers, for the purpose of undertaking compliance and enforcement activities, as prescribed in the Act. It is common for State legislation to have offences for impersonating government authorised officers, such as fisheries inspectors, biosecurity inspectors, harbour masters, shipping inspectors and authorised officers under the *Land Act 1994*. This new provision has been inserted to rectify the current absence of an offence for impersonating a forest officer, and ensure consistency across the legislation administered by DES for managing areas of land and sea across the State.

The new offence and the maximum penalty of 50 penalty units is consistent with the same offences for impersonating inspectors, authorised officers and conservation officers appointed under the MPA, NCA and RAMA.

The second new section 85B provides the following new offence for impersonating a ranger.

85B Impersonating ranger
(1) A person who is not a ranger must not, in any way, hold out that the person is a ranger—
(a) in or for a State forest or timber reserve; or
(b) in relation to any forest products or quarry material that are the property of the State.
Maximum penalty—50 penalty units.
(2) In this section—

authorised, by the State, means—
(a) employed or engaged by the State; or
(b) authorised under an arrangement entered into by or for the State.
ranger means a person who is authorised by the State—
(a) to act in a position as a ranger; or
(b) to perform a function ordinarily performed by a person mentioned in paragraph (a).

While new section 85A inserts an offence for impersonating a 'forest officer' into the Act, not all rangers employed by QPWS within DES are required to be appointed as forest officers to undertake their roles. In these instances, the impersonation offence in section 85A will not apply to someone impersonating a ranger.

However, it is common for 'non-statutory officer' rangers, to interact with visitors, and where necessary, ensure people are interacting with areas in parks and forests appropriately. Rangers engaging with the public in this manner, do not require formal appointment as a forest officer or other type of authorised officer. However, across Queensland rangers have a unique relationship with the public in relation to managing visitor interactions on parks and forests, in that even where a ranger is a 'non-statutory officer' they are still seen as being a source of authority and advice and as a consequence, this relationship is open to manipulation.

For example, there have been recent instances of ranger impersonation involving a person claiming to be a ranger (not in uniform) acting in a threatening manner towards two visitors and taking their number plate details, and in another instance a person in a 'ranger-like' uniform telling people that they could not camp in the campsite that had been booked by the visitor. In both these instances, people were holding themselves out to be a ranger for the purpose of intentionally deceiving the visitors.

Importantly, the impersonation does not rely on the exercise of any conferred legislative power as a 'statutory officer' to be real or to have consequences for visitors – even if these consequences are limited to having an unpleasant interaction. It also causes potential reputational damage to DES. The circumstances where a person impersonates a ranger can be the same as someone impersonating a lawyer or a medical practitioner or a police officer – they are claiming to be something they are not and the perception by the public that the person is who they say they are can lead to consequences regardless of whether the impostor is exercising any specific legislated power or not.

New section 85B therefore makes it an offence for a person to hold themselves out to be a ranger to provide a deterrent and allow action to be taken in the event of future instances of misconduct. The offence is not intended to be a penalty infringement notice offence, so the circumstances and evidence for each individual case will always be a key factor in whether DES considers that an offence has been committed and whether to pursue a prosecution for consideration through the court.

The maximum penalty of 50 penalty units is consistent with the maximum penalty for the separate offence being inserted in section 85A for impersonating a forest officer.

It is important to note that DES works in partnership with a number of First Nations groups to jointly manage national parks (Cape York Peninsula Aboriginal land) and Indigenous Joint Management Areas. Aboriginal and other corporations may also partner with the State to care for land and sea country through initiatives such as the 'Indigenous Land and Sea Ranger

Program' and the 'Looking after Country Grant Program'. Rangers employed or engaged by these organisations may be working directly with QPWS (e.g. on monitoring or fire management programs) or may be working on projects independently of QPWS. The definition of ranger in the offence means that people authorised under one of these or any other arrangement entered into by or for the State are not captured by the offence when performing functions consistent with the agreed arrangements.

Part 3 Amendment of Marine Parks Act 2004

Clause 5 states that Part 3 amends the *Marine Parks Act 2004* and identifies that further amendments are included in Schedule 1.

Clause 6 inserts a new section 52A to specify the functions of inspectors under the *Marine Parks Act 2004*, which support amendments being made through clause 7 that clarify the existing obstruction offence in section 91.

The new section provides that inspectors have the following functions:
(a) to investigate, monitor and enforce compliance with this Act;
(b) to investigate or monitor whether an occasion has arisen for the exercise of powers under this Act;
(c) to facilitate the exercise of powers under this Act;
(d) to help achieve the main purpose of this Act by providing advice and information on how the purpose may be achieved.

The section also provides that subject to this Act, an inspector may exercise the powers under this Act for the purpose of these functions.

Clause 7 amends the existing obstruction offence in section 91. It is currently an offence for a person to obstruct an inspector in the exercise of a power under this Act. The amendment clarifies that it is also an offence to obstruct an inspector in the performance of a function under the Act.

This amendment provides improved clarification regarding when an inspector is being obstructed. The amendment removes any doubt by clarifying that it is an offence to obstruct an inspector in the performance of a function or when they are exercising a power under this Act. The specific listing of the functions through clause 6 support this amendment, and improve clarity regarding any obstruction offence.

Clause 8 inserts a new section 92A to provide the following new offence for impersonating a ranger.

92A Impersonating ranger
(1) A person who is not a ranger must not, in any way, hold out that the person is a ranger in or for a marine park.
Maximum penalty—50 penalty units.
(2) In this section—
authorised, by the State, means—
(a) employed or engaged by the State; or
(b) authorised under an arrangement entered into by or for the State.
ranger means a person who is authorised by the State—

(a) to act in a position as a ranger; or
(b) to perform a function ordinarily performed by a person mentioned in paragraph (a).

QPWS rangers within DES manage lands and waters under the Forestry Act, the NCA, the MPA and the RAMA and for consistency of application this provision is being inserted in all these pieces of legislation. The detailed rationale for this provision is outlined at clause 4.

Section 92 of the Act has an existing offence for impersonating an 'inspector', which is a position that a person is specifically appointed to and has various powers as prescribed in the Act. Rangers undertake a variety of duties and it is not necessary to appoint all rangers as an inspector. In these instances, the existing impersonation offence does not apply to someone impersonating a ranger if the ranger is not appointed as an inspector.

There have been instances of misconduct on QPWS managed areas where a person has deceived visitors by impersonating a ranger. If the person is not purporting to be an inspector or exercising any particular powers, limited action can be taken against the person. A new offence is therefore being inserted for impersonating a ranger to provide a deterrent and allow action to be taken in the event of future instances of misconduct.

The maximum penalty of 50 penalty units is consistent with the maximum penalty for a separate offence for impersonating an inspector in section 92 of the Act.

Part 4 Amendment of Nature Conservation Act 1992

Division 1 Preliminary

Clause 9 states that Part 4 amends the *Nature Conservation Act 1992* and identifies that further amendments are included in Schedule 1.

Division 2 Amendments commencing on assent

Clause 10 corrects an error in the definition of 'prescribed provision' in section 62 by inserting a missing cross reference to section 43G of the Act.

The reference to section 43G is being added so that the offence for taking, using, keeping or interfering with a cultural or natural resource of a protected area under section 62 does not apply if the activity is authorised by an authority over, or in relation to, land in a special wildlife reserve. The reference to section 43G should have been inserted as a consequential amendment at the same time as the new class of protected area 'special wildlife reserve' was inserted into the NCA through the *Nature Conservation (Special Wildlife Reserves) and Other Legislation Amendment Act 2019.*

Clause 11 inserts a new section 127A to specify the functions of conservation officers under the *Nature Conservation Act 1992*, which support amendments being made through clause 16 that clarify the existing obstruction offence in section 155.

The new section provides that conservation officers have the following functions:
(a) to investigate, monitor and enforce compliance with this Act;

(b) to investigate or monitor whether an occasion has arisen for the exercise of powers under this Act;
(c) to facilitate the exercise of powers under this Act;
(d) to help achieve the object of this Act by providing advice and information on how the object may be achieved.

The section also provides that subject to this Act, a conservation officer may exercise the powers under this Act for the purpose of these functions.

Clause 12 (Insertion of new Part 8A) streamlines existing review of decision processes by transferring provisions to the Act, otherwise they would be replicated across three regulations. Specifically, *Clauses 30, 33* and *41* omit the relevant provisions from Chapter 11, Part 1 of the Nature Conservation (Animals) Regulation 2020, and Chapter 11, Part 1 of the Nature Conservation (Plants) Regulation 2020, and Chapter 8B, Part 1 of the Nature Conservation (Protected Areas Management) Regulation 2017, respectively. The following four new Divisions are provided in Part 8A:

Division 1 includes a new section 143C that provides definitions for this part.

Division 2 includes new sections 143D to 143G to provide that every review process must start with internal review and makes provision for affected persons applying for an internal review of a decision, and specifies the actions the chief executive must undertake once a review application is received.

Division 3 includes anew section 143H to continue a provision that an affected person of a decision may apply for a stay of operations of the original decision to the Queensland Civil and Administrative Tribunal (QCAT). However, it is not possible to apply for a stay of a decision in relation to an authority to take or interfere with the cultural or natural resources of a protected area or take protected wildlife. In cases where such an authority has been cancelled or suspended it is not considered appropriate to allow the continued taking of cultural or natural resources, or wildlife throughout the period of the internal review. This division also makes provision for QCAT order requirements and stay of operation periods.

Division 4 includes a(new section 143I to continue a provision that a decision may be subject to an external review process. If an affected person has applied for an internal review of an original decision, and is dissatisfied with the review decision, the affected person may apply to QCAT for a review of this decision.

Clause 13 inserts a new division heading in Part 9 (Division 1 General provisions).

Clause 14 omits existing sections 152A to 153 of the Act and inserts new sections 152A and 153, which are amended to reflect modern drafting practice.

Clause 15 inserts new Divisions 2 and 3 into Part 9. This transfers existing seizure powers from subordinate legislation to the Act to ensure officers have clear and appropriate powers that are not distributed across the Act and three regulations.

Division 2 relocates from subordinate legislation powers to seize things. These powers are additional to those search and entry powers under existing Part 9 of the Act which provide powers to seize evidence.

Subdivision 1 inserts a new section 154A that provides definitions for Division 2.

Subdivision 1 also inserts a new section 154B that specifies that a power to seize a thing under Division 2 does not limit, and is not limited by, another power to seize a thing under Division 1.

Subdivision 2 inserts a new section 154C that relocates the provision for the seizure of relevant things (appliances, vehicles, boats, and aircraft) that are found on land without the landholder's consent, or found abandoned on land, or are being used to commit an offence against the Act, for the protection of native wildlife outside protected areas. The definition of land in the Act includes – the airspace above the land; land that is, or is at any time, covered by waters; and waters. Examples of things that might be seized under this provision include guns and traps being used for taking animals, or illegal nets or fishing apparatus that have caught air-breathing freshwater wildlife, such as platypuses and turtles. In these situations, it is often necessary to seize the object immediately in order to prevent injury, suffering or loss of life, and is not considered appropriate to delay the seizure of these things while a warrant is obtained.

Subdivision 2 also inserts a new section 154D that relocates specific provisions allowing for the seizure of things such as vehicles (including boats, aircraft and recreational craft), appliances, equipment, structures or works, and other property such as stock found in a protected area in a variety of circumstances, such as in contravention of the Act, or found abandoned in a protected area. Depending on the circumstances the seizure may only occur if it is necessary to seize a thing immediately in order to preserve public safety, for the protection of natural and cultural resources or for the orderly and proper management of the protected area.

Subdivision 2 also inserts new section 154E that relocates seizure provisions relating to stock mustering from section 153 of the Nature Conservation (Protected Areas Management) Regulation 2017. This continues the ability of the chief executive to seize stock during a muster on a protected area, where the owner of the stock does not remove the stock when directed, or in circumstances where the owner cannot be contacted.

Subdivision 3 inserts new sections 154F to 154N to continue existing requirements for dealing with seized things, relocated from subordinate legislation through—

- clarifying that the subdivision does not apply to a seized thing that is protected wildlife for which an amount of conservation value remains unpaid (new section 154F);
- specifying that certain seized dangerous things must be destroyed, this includes, explosives, a trap, a decoy or poison (new section 154G);
- specifying that seized things must be kept in a reasonably secure way until returned or otherwise dealt with under this part (new section 154H);
- specifies the requirements for giving notice for seized property with a market value of more than $500 (new section 154I), and detailing the procedure if the property is not claimed (new section 154K);
- providing seized things will only be released if the person has a right to the property and pays all reasonable costs (new section 154J);
- detailing the procedure if seized property is not claimed and has a market value of less than $500 (new section 154L);
- detailing how the proceeds of sale of seized property must be applied (new section 154M); and

- specifying compensation is not payable for sale or disposal of seized property (new section 154N).

Division 3 inserts new section 154O that continues existing offence provisions for tampering with seized things. There is currently a maximum penalty under the Act, however, this is for significant offences relating to the tampering of seized things obtained under search and entry powers under the Act. It is important to maintain the maximum 500 penalty units for interfering with these seized things as the relating offences involve interfering with things that are being used to provide evidence for court that have been seized in the interest of protecting wildlife, or a cultural or natural resource. For example, tampering with an illegally taken or kept animal that has been seized would be a significant offence with maximum 500 penalty units.

Division 3 also maintains the maximum 100 penalty units and the ability for conservation officers to issue a penalty infringement notice (PIN) for lesser offences related to interfering with seized things, other than evidence seized under search and entry powers under Part 9 of the Act. This offence provision was previously provided under subordinate legislation. For example, interfering with an abandoned vehicle or unauthorised equipment on a protected area that has been seized may only warrant a lesser offence, for which the issue of a PIN may be appropriate.

The range of offences involved in interfering with a seized thing vary widely depending on the scenario; as there is a significant maximum penalty of 500 units, it is advantageous to have an alternative option to prosecution through the court system that does not require the same higher level administrative burden or penalty. The ability to issue a PIN and maintain the maximum of 100 penalty units for lesser offences while also keeping the maximum 500 penalty units for significant offences allows a conservation officer to take the most appropriate course of action based on the offence committed. The ability to issue a PIN is justified as it considers whether the imposition of an administrative penalty is a proportionate response to the offending behaviour.

Clause 16 amends the existing obstruction offence in section 155. It is currently an offence for a person to obstruct a conservation officer in in the exercise of a power under this Act. The amendment clarifies that it is also an offence to obstruct a conservation officer in the performance of a function under the Act.

This amendment provides improved clarification regarding when a conservation officer is being obstructed. The amendment removes any doubt by clarifying that it is an offence to obstruct a conservation officer in the performance of a function or when they are exercising a power under the NCA. The specific listing of the functions through clause 11 support this amendment and improves clarity regarding any obstruction offence.

Clause 17 amends section 156 to reflect the insertion of new section 154N; relocated the provision to Part 9, Division 4 and renumbers this section as 159B.

Clause 18 inserts a new section 159A to provide the following new offence for impersonating a ranger.

159A Impersonating ranger

(1) A person who is not a ranger must not, in any way, hold out that the person is a ranger in or for a protected area.

Maximum penalty—50 penalty units.

(2) In this section—

authorised, by the State, means—

(a) employed or engaged by the State; or

(b) authorised under an arrangement entered into by or for the State.

ranger means a person who is authorised by the State—

(a) to act in a position as a ranger; or

(b) to perform a function ordinarily performed by a person mentioned in paragraph (a).

QPWS rangers within DES manage lands and waters under the Forestry Act, the NCA, the MPA and the RAMA and for consistency of application this provision is being inserted in all these pieces of legislation. The detailed rationale for this provision is outlined at clause 4.

There is an existing offence for impersonating a 'conservation officer' in section 159 of the Act, which is a position that a person is specifically appointed to and has various powers as prescribed in the Act. Rangers undertake a variety of duties and it is not necessary to appoint all rangers as a conservation officer. In these instances, the existing impersonation offence does not apply to someone impersonating a ranger if the ranger is not appointed as a conservation officer.

There have been instances of misconduct on QPWS managed areas where a person has deceived visitors by impersonating a ranger. If the person is not purporting to be a conservation officer or exercising any particular powers, limited action can be taken against the person. A new offence is therefore being inserted for impersonating a ranger to provide a deterrent and allow action to be taken in the event of future instances of misconduct.

The maximum penalty of 50 penalty units is consistent with the maximum penalty for a separate offence for impersonating a conservation officer in section 159 of the Act.

Clause 19 inserts a new division heading (Division 4 Compensation) after section 159A, as inserted by this Act.

Clause 20 omits Part 10, Division 4. This section, previously introduced under the *Queensland Civil Administration Tribunal (Jurisdiction Provisions) Amendment Act 2009*, is being relocated into Division 3 to align with modernised drafting practices, however the policy intent has not been changed.

Clause 21 inserts a new section 174D that transfers into the Act the existing provision in regulation for the chief executive to approve forms for use under the Act.

Clause 22 amends section 175 (Regulation-making power) to remove certain matters that have been relocated from the regulation to the Act.

Clause 23 inserts a new Division 8 in Part 12 of the Act to provide transitional provisions for the *Nature Conservation and Other Legislation Amendment Act 2022*.

This division inserts new sections 216, 217 and 218 to provide transitional provisions for:

- undecided reviews and appeals that commenced under repealed internal and external review provisions of the Act's subordinate legislation;

- dealing with a thing seized under a repealed seizure provision that had not been released, sold or otherwise disposed of; and
- continued use and approval of forms that were previously approved by the chief executive under relevant sections of the Act's subordinate legislation.

Clause 24 amends the Dictionary to insert definitions for terms used in this part.

Division 3 Amendments commencing by proclamation

Clause 25 inserts a new section 36A to provide, until 31 December 2044, for the grant of an apiary permit in a national park, provided particular requirements are met, such as the Minister being satisfied that beekeeping activities were lawfully carried out or were permitted on the area immediately before the land was dedicated as national park.

Subsection (1) provides that, the chief executive may grant an apiary permit for a national park despite it being inconsistent with the management principles and any management plan (the management strategy) for the park.

However, subsection (2) provides that an apiary permit can only be granted for an area that is prescribed in regulation as an apiary area and where any other requirement prescribed in regulation for granting the permit is complied with.

Not all land in a national park is suitable, or accessible for beekeeping. An apiary area will not necessarily cover an entire national park, rather it will be prescribed for an area of land where the Minister is satisfied beekeeping has been able to be lawfully carried out prior to the land being dedicated as national park.

Given the seasonal and variable availability of honey resources across the landscape throughout the year and in different years, not all apiary sites in an area may be occupied at any particular time. Therefore, the land included in the apiary area will be determined by the demonstrable history of use of sites in the area, regardless of whether particular apiary sites are occupied immediately prior to the dedication of land as national park. Where the land is already a national park on which beekeeping is currently authorised under the NCA (for example a former forest reserve), it is intended that the apiary area will reflect the same land that is currently available for beekeeping.

It is intended to show the extent of each apiary area by reference to a plan or other spatial description, and to record the associated number of apiary sites within it, by individually prescribing these details in a schedule in the Nature Conservation (Protected Areas Management) Regulation 2017.

These apiary sites within each apiary area will be recorded in a public facing online permitting database through which beekeepers can nominate the sites they wish to occupy when applying for a permit. This online tool is already in operation and shows available sites as green, occupied sites as red and sites under permit assessment as orange.

Subsection 3 provides for a number of circumstances when the Minister may recommend to the Governor in Council the making of a regulation prescribing an apiary area.

- Subsection (3)(a) relates to existing apiary areas on prescribed forest reserves where beekeeping can currently continue until 2024. These areas are currently prescribed in Schedule 5 of the Nature Conservation (Protected Areas Management) Regulation 2017 (the Regulation) and yet to be dedicated as national park.
- Subsection (3)(b) relates to existing apiary areas on prescribed forest reserves where beekeeping can currently continue until 2024. These areas are currently prescribed in schedule 5 of the regulation and have already been dedicated as national park.
- Subsection (3)(c) relates to areas of national park that were dedicated before commencement of this section and are subject to a previous use authority under the NCA to provide for beekeeping to continue until 2024.
- Subsection (3)(d) relates to areas of national park that were, before commencement of this section, declared a special management area (controlled action) under the NCA to provide for beekeeping activities to continue until 2024.
- Subsection (3)(e) relates to areas that are dedicated as national park after the commencement of this section and beekeeping activities were lawfully carried out or permitted on the area immediately before the dedication. The provision provides that the regulation prescribing the apiary area may be made after the land is dedicated as national park.
- Subsection (3)(f) relates to an area that is, after the commencement of this section, proposed for dedication as a national park and beekeeping activities are being lawfully carried out or are permitted on the area. The provision provides that the regulation prescribing the apiary area may be made at the same time the land is dedicated as national park.

New section 36A replaces existing section 184, which currently provides for beekeeping to continue until 2024. The new section is broader than section 184 to enable delivery of the election commitment by recognising existing beekeeping on any form of land that becomes national park in future and providing for it to continue until 31 December 2044. Currently section 184 only allows an apiary area to be prescribed in regulation if the area that becomes national park was formerly a forest reserve and the section prevents apiary permits being granted beyond 31 December 2024.

Clause 26 omits section 184 as it is no longer required. Section 184 is being replaced with new section 36A being inserted through clause 25.

Clause 27 inserts transitional provisions through new section 219 to provide for the continuation of existing apiary permits that were in effect immediately before the commencement, and that former section 184 and any former regulation provisions, continue to apply until the earliest of the following:

a) the surrender of the permit;
b) the term of the permit ends;
c) the permit is suspended or cancelled.

Part 5 Amendment of Nature Conservation (Animals) Regulation 2020

Clause 28 states that Part 5 amends the *Nature Conservation (Animals) Regulation 2020*.

Clause 29 inserts a new section 282A to provide a definition of *aircraft* in the Act, to clarify that aircraft does not include a wing in ground effect craft.

Clause 30 omits Chapter 11 (Administrative provisions) as the provisions are being relocated from the regulation to the Act.

Clause 31 omits a number of definitions in Schedule 7 (Dictionary) that are being relocated to the Act.

Part 6 Amendment of Nature Conservation (Plants) Regulation 2020

Clause 32 states that Part 6 amends the *Nature Conservation (Plants) Regulation 2020*.

Clause 33 omits chapter 11 (Administrative provisions) as the provisions are being relocated to the Act.

Clause 34 omits a number of definitions in Schedule 5 (Dictionary) that are being relocated to the Act.

Part 7 Amendment of Nature Conservation (Protected Areas Management) Regulation 2017

Clause 35 states that Part 7 amends the *Nature Conservation (Protected Areas Management) Regulation 2017*.

Clause 36 changes the heading of chapter 7 to 'Miscellaneous' and inserts a new heading for Part 1 of the chapter 'Other authorised activities in protected areas'.

Clause 37 amends section 153 to reflect that certain provisions relating to seizure of stock have been relocated to the Act.

Clause 38 inserts a new heading for Part 2 of the chapter 'Approvals'.

Clause 39 omits chapter 8 (seizure of things in protected areas) to reflect the relocation of the provisions to the Act.

Clause 40 relocates section 159BJ to Chapter 7 and renumbers the section to section 155.

Clause 41 omits Chapter 8B to reflect the relocation of the provisions to the Act.

Clause 42 omits a number of definitions in Schedule 8 (Dictionary) that are being relocated to the Act.

Part 8 Amendment of Recreation Areas Management Act 2006

Clause 43 states that Part 8 amends the *Recreation Areas Management Act 2006* and identifies that further amendments are included in Schedule 1.

Clause 44 inserts a new section 143A to specify the functions of authorised officers under the *Recreation Areas Management Act 2006*, which support amendments being made through clause 45 that clarify the existing obstruction offence in section 194.

The new section provides that authorised officers have the following functions:
(a) to investigate, monitor and enforce compliance with this Act;
(b) to investigate or monitor whether an occasion has arisen for the exercise of powers under this Act;
(c) to facilitate the exercise of powers under this Act;
(d) to help achieve the main purpose of this Act by providing advice and information on how the purpose may be achieved.

The section also provides that subject to this Act, an authorised officer may exercise the powers under this Act for the purpose of these functions.

Clause 45 amends the existing obstruction offence in section 194. It is currently an offence for a person to obstruct an authorised officer in in the exercise of a power under this Act. The amendment clarifies that it is also an offence to obstruct an authorised officer in the performance of a function under the Act.

This amendment provides improved clarification regarding when an authorised officer is being obstructed. The amendment removes any doubt by clarifying that it is an offence to obstruct an authorised officer in the performance of a function or when they are exercising a power under this Act. The specific listing of the functions through clause 44 support this amendment and improves clarity regarding any obstruction offence.

Clause 46 inserts a new section 195A to provide the following offence for impersonating a ranger.

195A Impersonating ranger
(1) A person who is not a ranger must not, in any way, hold out that the person is a ranger in or for a recreation area.
Maximum penalty—50 penalty units.
(2) In this section—
authorised, by the State, means—
(a) employed or engaged by the State; or
(b) authorised under an arrangement entered into by or for the State.
ranger means a person who is authorised by the State—
(a) to act in a position as a ranger; or
(b) to perform a function ordinarily performed by a person mentioned in paragraph (a).

QPWS rangers within DES manage lands and waters under the Forestry Act, the NCA, the MPA and the RAMA and for consistency of application this provision is being inserted in all these pieces of legislation. The detailed rationale for this provision is outlined at clause 4.

Section 195 of the Act has an existing offence for impersonating an ‘authorised officer’, which is a position that a person is specifically appointed to and has various powers as prescribed in the Act. Rangers undertake a variety of duties and it is not necessary to appoint all rangers as an authorised officer. In these instances, the existing impersonation offence does not apply to someone impersonating a ranger if the ranger is not appointed as an authorised officer.
There have been instances of misconduct on Queensland Parks and Wildlife managed areas where a person has deceived visitors by impersonating a ranger. If the person is not purporting to be an authorised officer or exercising any particular powers, limited action can be taken

against the person. A new offence is therefore being inserted for impersonating a ranger to provide a deterrent and allow action to be taken in the event of future instances of misconduct.

The maximum penalty of 50 penalty units is consistent with the maximum penalty for a separate offence for impersonating an authorised officer in section 195 of the Act.

Part 9 Amendment of State Penalties Enforcement Regulation 2014

Clause 47 states that Part 9 amends the *State Penalties Enforcement Regulation 2014*.

Clause 48 amends Schedule 1 to reflect the relocation of offence provisions relating to interfering with seized things from subordinate legislation to the Act.

Part 10 Amendment of Wet Tropics World Heritage Protection and Management Act 1993

Division 1 Preliminary

Clause 49 states that Part 10 amends the *Wet Tropics World Heritage Protection and Management Act 1993* and identifies that further amendments are included in Schedule 1.

Division 2 Amendments commencing on assent

Clause 50 amends section 52 to simplify the process for consequential amendments to the regulation, the Wet Tropics Management Plan 1998, where those amendments result from changes to the Wet Tropics Act. The change removes a duplicative consultation process that invites public submission on matters that had already been decided by Parliament through amendments to the Act. The drafting of section 52 is updated to make the intention of this section clearer, in particular in identifying that the Governor in Council 'approves the amendment of a management plan', rather than 'amends a management plan'. It also makes clear that the procedures applying to the preparation and approval of plans under Part 3 of this act do not apply for the amendments listed in section 52(2).

Division 3 Amendments commencing by proclamation

Clause 51 amends the preamble to change the term 'agreement', to 'intergovernmental agreement' consistent with the change of definition, for the purpose of clarifying that this statement of the preamble refers to the *Management scheme intergovernmental agreement for the Wet Tropics of Queensland World Heritage Area* rather than other types of agreement discussed in the Wet Tropics Act.

Clause 52 amends section 10 to replace the obsolete 'Ministerial Council' with the equivalent State Minister and Commonwealth Minister, to respond to the changes in Commonwealth government reform in 2020. This reform replaced the Council of Australian Governments' (COAG) meetings with the National Federation Reform Council (NFRC) and abolished the Wet Tropics Ministerial Council.

Clause 53 amends section 14 to replace the obsolete 'Ministerial Council' with the equivalent State Minister and Commonwealth Minister, to respond to the changes in Commonwealth government reform in 2020. This reform replaced the Council of Australian Governments' (COAG) meetings with the National Federation Reform Council (NFRC) and abolished the Wet Tropics Ministerial Council.

Clause 54 amends section 16 to achieve two objectives. In the first objective it corrects errors and omissions which resulted from former changes. It does this by correctly referencing changed numbering to section 14, changing reference to 14(a) and (b) to 14(1)(a) and 14(1)(b). It also corrects an omission by adding provisions about a director appointed under 14(1)(ab) by completing the appointment provisions for this director in the circumstance where the Ministerial Council fails to nominate a qualified person. The second objective replaces the obsolete 'Ministerial Council' with the equivalent State Minister and Commonwealth Minister, to respond to the changes in Commonwealth government reform in 2020. This reform replaced the Council of Australian Governments' (COAG) meetings with the National Federation Reform Council (NFRC) and abolished the Wet Tropics Ministerial Council. In response to the abolition of the Ministerial Council and the role of the chair of the Ministerial Council, this section also prescribes the administrative arrangements associated with the change, nominating the responsibility for the State Minister to instigate the process and the Commonwealth Minister to respond.

Clause 55 amends section 20 to replace the obsolete 'Ministerial Council' with the equivalent State Minister and Commonwealth Minister, to respond to the changes in Commonwealth government reform in 2020. This reform replaced the Council of Australian Governments' (COAG) meetings with the National Federation Reform Council (NFRC) and abolished the Wet Tropics Ministerial Council.

Clause 56 amends section 22 to achieve two objectives. In the first objective it corrects errors and omissions which resulted from former changes. It does this by correctly referencing changed numbering to section 14, changing reference to 14(a) and (b) to 14(1)(a) and 14(1)(b). However, in this amendment instead of referencing a director appointed under section14(1)(a), which is the chairperson, the provision uses the words 'the chairperson' instead of '14(1)(a)'. The section provides for the removal from office of directors but omitted to make provision for a director appointed under formerly added section 14(1)(ab). The amendment corrects this omission. The second objective replaces the obsolete 'Ministerial Council' with the equivalent State Minister and Commonwealth Minister, to respond to the changes in Commonwealth government reform in 2020. This reform replaced the Council of Australian Governments' (COAG) meetings with the National Federation Reform Council (NFRC) and abolished the Wet Tropics Ministerial Council.

Clause 57 amends section 23 to replace the obsolete 'Ministerial Council' with the equivalent State Minister and Commonwealth Minister, to respond to the changes in Commonwealth government reform in 2020. This reform replaced the Council of Australian Governments' (COAG) meetings with the National Federation Reform Council (NFRC) and abolished the Wet Tropics Ministerial Council.

Clause 58 deletes section 24(4) to remove the obsolete role of secretary to the 'Ministerial Council' in response to the changes in Commonwealth government reform in 2020. This reform replaced the Council of Australian Governments' (COAG) meetings with the National Federation Reform Council (NFRC) and abolished the Wet Tropics Ministerial Council.

Clause 59 amends section 46 to remove reference to the Ministerial Council from the heading and to replace the obsolete 'Ministerial Council' with the equivalent State Minister and Commonwealth Minister, to respond to the changes in Commonwealth government reform in 2020. This reform replaced the Council of Australian Governments' (COAG) meetings with the National Federation Reform Council (NFRC) and abolished the Wet Tropics Ministerial Council.

Clause 60 amends section 47 to replace the obsolete 'Ministerial Council' with the equivalent State Minister and Commonwealth Minister, to respond to the changes in Commonwealth government reform in 2020. This reform replaced the Council of Australian Governments' (COAG) meetings with the National Federation Reform Council (NFRC) and abolished the Wet Tropics Ministerial Council.

Clause 61 amends section 64 to replace the obsolete 'Ministerial Council' with the equivalent State Minister and Commonwealth Minister, to respond to the changes in Commonwealth government reform in 2020. This reform replaced the Council of Australian Governments' (COAG) meetings with the National Federation Reform Council (NFRC) and abolished the Wet Tropics Ministerial Council.

Clause 62 removes Schedule 1 which contains an outdated version of the *Management scheme intergovernmental agreement for the Wet Tropics of Queensland World Heritage Area* and instead references the intergovernmental agreement in a Schedule 3 definition of the Wet Tropics Act. This ensures the current version of the intergovernmental agreement is used.

Clause 63 amends Schedule 3 Dictionary to remove or update a number of definitions.

Ministerial Council – the obsolete definition is removed and replaced by two new definitions of 'State Minister' and 'Commonwealth Minister'. These definitions identify the relevant ministers according to the legislation for which they are responsible. This change responds to the Commonwealth government reform in 2020 which replaced the Council of Australian Governments' (COAG) meetings with the National Federation Reform Council (NFRC) and abolished the Wet Tropics Ministerial Council.

Agreement – is changed to 'intergovernmental agreement' to distinguish this agreement from other agreements under the Wet Tropics Act. It replaces reference to the former Schedule 1, with the name of the agreement, the *Management scheme intergovernmental agreement for the Wet Tropics of Queensland World Heritage Area.* It adds reference to the 'first made' date of the agreement to help identify the correct document; and includes a note that describes where the current version of the intergovernmental agreement can be found.

Part 11 Other amendments

Clause 64 identifies other minor and consequential amendments to the Acts in Schedule 1 of the Bill.