

New South Wales

# Dingo Cultural Heritage and Protection Bill 2022

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The objects of this Bill are—

- (a) to recognise and protect the heritage value of dingo populations to Aboriginal persons, and
- (b) to recognise the importance of dingoes, as apex predators, in maintaining biological diversity.

## Outline of provisions

### Part 1 Preliminary

**Clause 1** sets out the name, also called the short title, of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act.

**Clause 3** defines certain words and expressions used in the proposed Act.

**Clause 4** sets out the objects of the proposed Act.

### Part 2 Dingo heritage management plan

**Clause 5** requires a draft dingo heritage management plan (the *draft plan*) to be prepared by the Secretary of the Department of Planning and Environment (the *Secretary*).

**Clause 6** requires the Secretary to give notice of the public exhibition of the draft plan and to give members of the public an opportunity to make representations on the draft plan.

**Clause 7** requires the Secretary to provide a copy of the draft plan to the Indigenous and Scientific Advisory Panel and to give the panel an opportunity to make representations on the draft plan.

**Clause 8** requires the Secretary to forward the draft plan and representations to the Minister for consideration.

**Clause 9** enables the Minister to adopt the draft plan with or without alteration or to refer the draft plan back to the Secretary for further consideration.

**Clause 10** requires the Secretary to carry out and give effect to a plan adopted by the Minister (an *adopted plan*).

**Clause 11** provides for the amendment or replacement of an adopted plan.

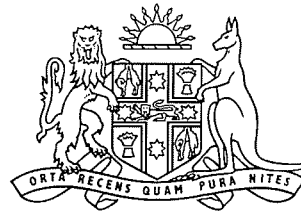
### **Part 3    Miscellaneous**

**Clause 12** enables the Governor to make regulations for the proposed Act.

**Clause 13** enables the Secretary to delegate the exercise of a function of the Secretary under the proposed Act.

### **Schedule 1    Indigenous and Scientific Advisory Panel**

**Schedule 1** provides for the constitution and procedures of the Indigenous and Scientific Advisory Panel.



New South Wales

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New South Wales

# Dingo Cultural Heritage and Protection Bill 2022

No. , 2022

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## A Bill for

An Act to recognise and protect the heritage value of dingo populations to Aboriginal persons and to recognise the importance of dingoes, as apex predators, in maintaining biological diversity.

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The Legislature of New South Wales enacts—

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Dingo Cultural Heritage and Protection Act 2022*.

### 2 Commencement

This Act commences on the date of assent to this Act.

### 3 Definitions

In this Act—

**Aboriginal person** has the same meaning as in the *Aboriginal Land Rights Act 1983*.

**adopted plan** means a dingo heritage management plan adopted by the Minister under Part 2.

**Department** means the Department of Planning and Environment.

**dingo** means an animal that—

- (a) breeds in the wild in Australia, and
- (b) is of the genus *Canis*, including—
  - (i) the species *Canis dingo*, *Canis lupus dingo*, or *Canis familiaris (dingo)*, or
  - (ii) a hybrid of *Canis lupus familiaris* or *Canis familiaris* with a species in subparagraph (i).

**draft plan**—see section 5.

**Panel**—see Schedule 1, section 1.

**Secretary** means the Secretary of the Department.

**trophic cascade** means an ecological phenomenon triggered by the addition or removal of top predators and involving reciprocal changes in the relative populations of predator and prey through a food chain, which often results in dramatic changes to the ecosystem structure and nutrient cycle.

**Note**—The *Interpretation Act 1987* contains definitions and other provisions that affect the interpretation and application of this Act.

### 4 Objects of Act

The objects of this Act are as follows—

- (a) to recognise—
  - (i) the significance of the dingo and dingo populations to Aboriginal persons and their relationship with dingoes, and
  - (ii) the heritage value of that relationship,
- (b) to protect that heritage,
- (c) to recognise dingoes—
  - (i) are apex predators, and
  - (ii) have a key role in regulating trophic cascades, and
  - (iii) are of significant importance in maintaining biological diversity due to the key role,
- (d) to protect dingoes.

## Part 2 Dingo heritage management plan

### 5 Preparation of draft dingo heritage management plan

- (1) The Secretary must cause a draft dingo heritage management plan to be prepared (the *draft plan*).
- (2) The draft plan must—
  - (a) identify the heritage value of dingo populations to Aboriginal persons, and
  - (b) set out how that heritage value will be protected, and
  - (c) identify the value of the role of dingoes in regulating trophic cascades and maintaining biological diversity, and
  - (d) set out how dingoes will be protected to ensure their role and biological value are protected, and
  - (e) take into account the objects of this Act, and
  - (f) include the matters prescribed by the regulations, if any.
- (3) The draft plan must not include or recommend measures of lethal control of dingoes, including shooting or poisoning dingoes.
- (4) The Secretary must seek the advice of the Panel in the preparation of the draft plan.

### 6 Public consultation on draft plan

- (1) The Secretary must give notice of the public exhibition of the draft plan by publishing the notice in the Gazette and in other ways the Secretary considers to be appropriate, if any.
- (2) The notice must specify—
  - (a) how a person may make a representation on the draft plan, and
  - (b) the period within which representations may be made, being a period of not less than 30 days from the date on which the notice is published in the Gazette.

### 7 Consultation with Panel

- The Secretary must—
- (a) provide a copy of the draft plan to the Panel, and
  - (b) specify a period of not less than 30 days within which the Panel may make representations on the draft plan to the Secretary.

### 8 Draft plan and representations must be given to Minister

- The Secretary must, as soon as practicable after the end of the later of the periods referred to in sections 6 and 7, forward a copy of the following to the Minister for consideration—
- (a) the draft plan,
  - (b) representations on the draft, if any—
    - (i) made by the Secretary, and
    - (ii) received under sections 6 and 7,
  - (c) a summary of the representations received under section 6.

### 9 Adoption of plan

- The Minister may, after considering the following, adopt the draft plan without alteration or with the alterations the Minister thinks fit, if any, or may refer it back to the Secretary for further consideration—

(a)	the draft plan,	1
(b)	representations made by the Secretary or the Panel under this Part, if any,	2
(c)	representations made by other persons under this Part, or a summary of the representations, if any.	3
		4
<b>10</b>	<b>Adopted plan must be carried out and given effect to</b>	5
	An adopted plan must be carried out and given effect to by the Secretary.	6
<b>11</b>	<b>Amending or replacing adopted plans</b>	7
(1)	The Minister may, at any time, direct the Secretary to prepare a draft amending plan to make amendments to an adopted plan or to prepare a new draft plan to replace an adopted plan.	8
		9
		10
(2)	When adopted—	11
(a)	an amending plan amends the adopted plan, and	12
(b)	a new draft plan repeals a previous adopted plan.	13
(3)	Sections 6–9 apply to a draft amending plan in the same way as the sections apply to a draft plan.	14
		15

<b>Part 3</b>	<b>Miscellaneous</b>	1
<b>12</b>	<b>Regulations</b>	2
	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to this Act.	3 4 5
<b>13</b>	<b>Delegation</b>	6
	The Secretary may delegate the exercise of a function of the Secretary under this Act, other than this power of delegation, to—	7 8
	(a) a person employed in the Department, or	9
	(b) a person, or a class of persons, authorised for the purposes of this section by the regulations.	10 11



## Schedule 1 Indigenous and Scientific Advisory Panel

### Part 1 General

#### 1 Definitions

In this Schedule—

**Chairperson** means the Chairperson of the Panel.

**Deputy Chairperson** means the Deputy Chairperson of the Panel.

**member** means a member of the Panel.

**Panel** means the Indigenous and Scientific Advisory Panel constituted under section 2.

### Part 2 Constitution

#### 2 Minister must constitute Panel

The Minister must constitute an Indigenous and Scientific Advisory Panel.

#### 3 Composition of Panel

- (1) The Panel must consist of at least 8 but no more than 11 members appointed by the Minister.
- (2) The members of the Panel must include the following persons—
  - (a) at least 4 Aboriginal persons,
  - (b) at least 4 ecologists with expertise in the area of dingo behaviour and the impact of dingo populations on the environment,
  - (c) other persons who, in the Minister's opinion have expertise and experience in one or more of the following areas—
    - (i) dingo welfare,
    - (ii) landholder engagement about non-lethal controls to protect farmed animals from predators,
    - (iii) community involvement in conservation.
- (3) The Minister must ensure, as far as possible, the composition of the Panel reflects the expertise and experience referred to in subsection (2).
- (4) The Minister must appoint 1 of the members as the Chairperson of the Panel and 1 of the members as the Deputy Chairperson of the Panel in the members' instruments of appointment or by another instrument.
- (5) The Secretary must arrange for—
  - (a) a senior officer of the National Parks and Wildlife Service to attend meetings of the Panel, and
  - (b) secretarial support to be available to the Panel.

#### 4 Functions of Panel

The function of the Panel is to provide advice—

- (a) to the Minister or the Secretary, if requested to do so, on the identification of the heritage value of dingoes and the management and protection of dingo populations in New South Wales, and
- (b) to the Secretary on the preparation of a draft dingo heritage management plan under this Act, Part 2.

<b>5</b>	<b>Terms of office of members</b>	1
	Subject to this Schedule and the regulations, a member holds office for the period,	2
	not exceeding 4 years, specified in the member's instrument of appointment, but is	3
	eligible for re-appointment if otherwise qualified.	4
<b>6</b>	<b>Part-time appointments</b>	5
	Members hold office as part-time members.	6
<b>7</b>	<b>Remuneration</b>	7
(1)	A member is entitled to be paid the remuneration the Minister determines from time	8
	to time for the member.	9
(2)	Remuneration may include travelling and subsistence allowances.	10
<b>8</b>	<b>Vacancy in office of member</b>	11
(1)	The office of a member becomes vacant if the member—	12
(a)	dies, or	13
(b)	completes a term of office and is not re-appointed, or	14
(c)	resigns the office by written notice addressed to the Minister, or	15
(d)	is removed from office by the Minister under this section, or	16
(e)	is absent from 3 consecutive meetings of the Panel of which reasonable notice	17
	has been given to the member personally or by post, unless the Minister—	18
(i)	has granted the member leave to be absent, or	19
(ii)	has excused the member's absence, or	20
(f)	becomes mentally incapacitated.	21
(2)	The Minister may remove a member from office at any time.	22
<b>9</b>	<b>Filling of vacancy in office of member</b>	23
	If the office of a member becomes vacant, the Minister must, subject to this Act and	24
	the regulations, appoint a person to fill the vacancy.	25
<b>10</b>	<b>Chairperson and Deputy Chairperson</b>	26
(1)	The Chairperson or Deputy Chairperson vacates office as Chairperson or Deputy	27
	Chairperson if the person—	28
(a)	is removed from the office by the Minister under this section, or	29
(b)	resigns the office by written notice addressed to the Minister, or	30
(c)	ceases to be a member of the Panel.	31
(2)	The Minister may remove the Chairperson or Deputy Chairperson from office as	32
	Chairperson or Deputy Chairperson at any time.	33
<b>11</b>	<b>Effect of certain other Acts</b>	34
(1)	The provisions of the <i>Government Sector Employment Act 2013</i> relating to the	35
	employment of Public Service employees do not apply to a member.	36
(2)	A person is not disqualified from holding a specified office as well as the office of a	37
	member, or from accepting and retaining remuneration payable to the person under	38
	this Act as a member, because of a provision made by or under an Act—	39
(a)	requiring the person who is the holder of the specified office to devote the	40
	whole of the person's time to the duties of that office, or	41

(b)	prohibiting the person from engaging in employment outside the duties of that office.	1 2
<b>12</b>	<b>Personal liability</b>	3
(1)	A protected person is not personally subject to any liability for anything done—	4
(a)	in good faith, and	5
(b)	for the purpose of exercising a function under this Act.	6
(2)	The liability instead attaches to the Crown.	7
(3)	In this section—	8
	<i>done</i> includes omitted to be done.	9
	<i>liability</i> means civil liability and includes action, claim or demand.	10
	<i>protected person</i> means—	11
(a)	a member of the Panel, or	12
(b)	a person acting under the direction of the Panel or a member of the Panel.	13
<b>Part 3</b>	<b>Procedure</b>	14
<b>13</b>	<b>General procedure</b>	15
	The procedure for the calling of meetings of the Panel and for the conduct of business at the meetings is, subject to this Act and the regulations, to be determined by the Panel.	16 17 18
<b>14</b>	<b>Quorum</b>	19
	The quorum for a meeting of the Panel is a majority of its members for the time being.	20 21
<b>15</b>	<b>Presiding member</b>	22
(1)	The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson, or in the absence of both the Chairperson and the Deputy Chairperson, a person elected by the members of the Panel who are present at a meeting of the Panel, must preside at a meeting of the Panel.	23 24 25 26
(2)	The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.	27 28
<b>16</b>	<b>Voting</b>	29
	A decision supported by a majority of the votes cast at a meeting of the Panel at which a quorum is present is the decision of the Panel.	30 31
<b>17</b>	<b>Transaction of business outside meetings</b>	32
(1)	The Panel may, if it thinks fit, transact all or part of its business by the circulation of papers among all the members of the Panel for the time being.	33 34
(2)	For the purposes of subsection (1)—	35
(a)	papers may be circulated by electronic means, and	36
(b)	the Chairperson and each other member have the same voting rights as they have at an ordinary meeting of the Panel, and	37 38
(c)	a resolution in writing and approved in writing by a majority of the members is taken to be a decision of the Panel made at a meeting of the Panel.	39 40

(3)	An approved resolution is, subject to the regulations, to be recorded in the minutes of the meetings of the Panel.	1 2
<b>18</b>	<b>Transaction of business by telephone or other electronic means</b>	3
(1)	The Panel may, if it thinks fit, transact all or part of its business at a meeting at which all or some of the members participate by telephone or other electronic means, but only if a member who speaks on a matter before the meeting can be heard by the other members.	4 5 6 7
(2)	The Chairperson and each other member have the same voting rights as they have at an ordinary meeting of the Panel.	8 9
<b>19</b>	<b>First meeting</b>	10
	The Minister may call the first meeting of the Panel in a way the Minister thinks fit.	11