

1996—No. 81

**THREATENED SPECIES CONSERVATION ACT 1995—  
REGULATION**

(Threatened Species Conservation (Savings and Transitional) Regulation 1996)

NEW SOUTH WALES



*[Published in Gazette No. 30 of 8 March 1996]*

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Threatened Species Conservation Act 1995, has been pleased to make the Regulation set forth hereunder.

PAM ALLAN, M.P.,  
Minister for the Environment.

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**Citation**

1. This Regulation may be cited as the Threatened Species Conservation (Savings and Transitional) Regulation 1996.

**Commencement**

2. This Regulation is, pursuant to clause 1 (2) of Schedule 7 to the Principal Act, taken to have commenced on 1 January 1996 (being the date of commencement of the Principal Act).

**Definitions**

3. In this Regulation:

“**the EPA Act**” means the Environmental Planning and Assessment Act 1979;

“**the NPW Act**” means the National Parks and Wildlife Act 1974;

“**the Principal Act**” means the Threatened Species Conservation Act 1995.

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**Further savings and transitional provisions in respect of Part 4 EPA****Act matters**

**4 (1)** This clause applies to and in respect of an application for development consent under Part 4 of the EPA Act that was made, but that has not been finally determined, before the commencement of the Principal Act.

**(2)** Section 92D of the NPW Act (fauna impact statements) continues to apply for the purposes of an application for development consent to which this clause applies despite the repeal of that section by the Principal Act. For that purpose, the period of 28 days after consultation within which the Director-General of National Parks and Wildlife must notify requirements for the preparation of the fauna impact statement is to be the period of 28 days after consultation or 28 days after the publication of this Regulation in the Gazette (whichever is the longer period).

**Further savings and transitional provisions in respect of Part 5 EPA Act matters**

**5. (1)** This clause applies to and in respect of an activity to which Part 5 of the EPA Act applies (or an approval for the carrying out of any such activity) where an assessment of the activity under that Part had commenced, but the provisions of that Part were not fully complied with for the activity, before the commencement of the Principal Act.

**(2) If, in respect of any activity (or an approval) to which this clause applies:**

- (a) a fauna impact statement was duly obtained before the commencement of the Principal Act under section 92D of the NPW Act, but the provisions of Part 5 of the EPA Act had not been fully complied with before that commencement; or
- (b) the Director-General of National Parks and Wildlife had duly notified under that section the person preparing a fauna impact statement before that commencement of requirements with respect to the form and contents of the statement, but the statement had not been obtained before that commencement,

the statement (so long as it is obtained in accordance with the provisions of that section as in force immediately before its repeal by the Principal Act) is taken to be a species impact statement obtained in accordance with the Principal Act. For the purpose of obtaining any such statement after the commencement of the Principal Act, section 92D of the NPW Act continues to apply despite its repeal.

(3) Any such statement, to the extent that it does not deal with any species of plant or animal with which a species impact statement would be required to deal, is taken to include any information with respect to any such species that is contained in any environmental impact statement obtained in connection with the activity.

(4) Subclause (2) does not apply to an activity that has not been carried out before the commencement of the Principal Act if the Minister for Planning (by notice served on the person obtaining the statement concerned) so directs.

#### **Saving for general licences under section 120 of the NPW Act**

**6 (1)** This clause applies to a licence under section 120 of the NPW Act:

- (a) which was in force immediately before the commencement of the Principal Act and which was issued for a purpose for which such a licence may not be issued after that commencement because of section 91 (2) of the Principal Act; or
- (b) which is issued for such a purpose after that commencement and in respect of which a fauna impact statement has been prepared for the application for the licence under section 92D of the NPW Act in accordance with requirements given by the Director-General of National Parks and Wildlife under that section before that commencement.

(2) A licence to which this clause applies continues in force (in the case of a licence referred to in subclause (1) (a)) or may be issued (in the case of a licence referred to in subclause (1) (b)), despite section 91 (2) of the Principal Act. The licence may be varied under section 133 of the NPW Act.

(3) A licence to which this clause applies is taken to be a licence under Part 6 of the Principal Act and is as efficacious, in relation to the action that it authorises, as a licence granted under that Part.

(4) Sections 92B–92D of the NPW Act continue to apply for the purposes of an application for a licence referred to in subclause (1) (b) despite the repeal of those sections by the Principal Act.

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**EXPLANATORY NOTE**

This Regulation deals with matters of a savings and transitional nature that were not dealt with in Schedule 7 to the Threatened Species Conservation Act 1995.

This Regulation is made under the Threatened Species Conservation Act 1995, in particular clause 1 (Savings and transitional regulations) of Schedule 7.

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