



New South Wales

# Threatened Species Conservation (Savings and Transitional) Amendment Regulation 2005

under the

Threatened Species Conservation Act 1995

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Threatened Species Conservation Act 1995*.

BOB DEBUS, M.P.,  
Minister for the Environment

## Explanatory note

The objects of this Regulation are:

- (a) to provide that amendments made to section 94 (Significant effect on threatened species, populations or ecological communities, or their habitats) of the *Threatened Species Conservation Act 1995* (*the Principal Act*) by the *Threatened Species Conservation Amendment Act 2002* do not apply to an application for a licence under the Principal Act made but not finally determined before the commencement of the amendments, and
- (b) to provide for the transitional application of certain amendments made to the Principal Act by the *Threatened Species Legislation Amendment Act 2004* relating to preliminary determinations made in respect of a listing proposal under the Principal Act before the commencement of those amendments and subsequent final determinations made after that commencement, and
- (c) to provide for the transitional application of certain amendments made to the Principal Act by the *Threatened Species Legislation Amendment Act 2004* with respect to routine agricultural activities.

This Regulation contains only matters of a savings or transitional nature (other than provisions dealing with its citation and commencement).

This Regulation is made under the *Threatened Species Conservation Act 1995*, including clause 1 (1) of Schedule 7 and section 150 (the general regulation-making power).

**2005 No 688**

Clause 1

Threatened Species Conservation (Savings and Transitional) Amendment  
Regulation 2005

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**Threatened Species Conservation (Savings and  
Transitional) Amendment Regulation 2005**

under the

Threatened Species Conservation Act 1995

**1 Name of Regulation**

This Regulation is the *Threatened Species Conservation (Savings and Transitional) Amendment Regulation 2005*.

**2 Commencement**

This Regulation commences on 31 October 2005.

**3 Amendment of Threatened Species Conservation (Savings and  
Transitional) Regulation 1996**

The *Threatened Species Conservation (Savings and Transitional) Regulation 1996* is amended as set out in Schedule 1.

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## Schedule 1 Amendment

(Clause 3)

### Clauses 7–9

Insert after clause 6:

#### **7 Amendment of factors relating to determination of significant effect**

Section 94 (Significant effect on threatened species, populations or ecological communities, or their habitats) of the Principal Act, as in force immediately before the commencement of the amendments made to that section by the *Threatened Species Conservation Amendment Act 2002*, continues to apply to and in respect of an application for a licence under Part 6 of the Principal Act made but not finally determined before that commencement (as if those amendments had not been made).

#### **8 Transitional arrangements for preliminary determinations**

- (1) If a preliminary determination was made in respect of a listing proposal before the commencement of the listing criteria amendments but a final determination had not been made in respect of the listing proposal before that commencement:
  - (a) a final determination made in respect of the listing proposal is to be made on the basis of the provisions of the Principal Act as in force when the final determination is made (and not when the preliminary determination was made), and
  - (b) the 2004 amendments do not apply in respect of the preliminary determination and do not afford any additional opportunity to make submissions to the Scientific Committee about the preliminary determination beyond that provided for by section 22 of the Principal Act, and
  - (c) the 2004 amendments do not affect the validity, operation or use of or reliance on the preliminary determination for the purposes of or in connection with a final determination made in respect of the listing proposal, and
  - (d) any action taken by the Scientific Committee in connection with or in respect of the preliminary determination before the commencement of the listing criteria amendments is valid and effectual and may be relied on for the purposes of or in connection with the making of a final determination in respect of the listing proposal.

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Threatened Species Conservation (Savings and Transitional) Amendment  
Regulation 2005

Schedule 1      Amendment

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(2) In this clause:

*final determination* means a determination under section 23 of the Principal Act.

*listing criteria amendments* means the amendments made by Schedule 1 [17] to the *Threatened Species Legislation Amendment Act 2004*.

*listing proposal* means a proposal for inclusion, or amendment, of matter in or omission of matter from Schedule 1, 2 or 3 of the Principal Act.

*preliminary determination* means a determination under section 22 of the Principal Act.

*the 2004 amendments* means amendments made by the *Threatened Species Legislation Amendment Act 2004* and includes any regulations made pursuant to the listing criteria amendments.

**9 Transitional arrangements for routine agricultural activities**

(1) Section 113A of the Principal Act as in force immediately before the repeal of that section by the *Threatened Species Legislation Amendment Act 2004* continues to apply as if that section had not been repealed.

(2) This clause ceases to have effect on the commencement of section 118G (Defences) of the *National Parks and Wildlife Act 1974* as inserted by Schedule 3.1 [7] to the *Threatened Species Legislation Amendment Act 2004*.

BY AUTHORITY

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