



New South Wales

Biodiversity Conservation (Savings and Transitional) Amendment (Threatened Species Conservation) Regulation 2019

under the

Biodiversity Conservation Act 2016

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Biodiversity Conservation Act 2016*.

GABRIELLE UPTON, MP
Minister for the Environment

Explanatory note

The object of this Regulation is to amend the *Biodiversity Conservation (Savings and Transitional) Regulation 2017* as follows:

- (a) to specify that applications to the Minister for the Environment to enter into a biobanking agreement under the repealed *Threatened Species Conservation Act 1995* in connection with certain biodiversity certification or the Upper Hunter Biodiversity Plan must be made within 3 years of the repeal of that Act in order to be determined, and the agreement taken to be entered into, under the commencement of the *Biodiversity Conservation Act 2016*,
- (b) to increase the time periods within which the Minister may determine certain applications made under the *Threatened Species Conservation Act 1995* to enter into biobanking agreements, and may enter into the agreements,
- (c) to provide that, in the case of applications for biodiversity certification that had been in the course of preparation but not yet made under Part 7AA of the *Threatened Species Conservation Act 1995* before its repeal (and preserved under clause 37 of the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*), section 142B and any other relevant provisions of that Act and the regulations under that Act apply to the determination of those applications.

This Regulation is made under the *Biodiversity Conservation Act 2016*, including section 14.10 (the general regulation-making power) and clause 1 of Schedule 9.

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1 Name of Regulation

This Regulation is the *Biodiversity Conservation (Savings and Transitional) Amendment (Threatened Species Conservation) Regulation 2019*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Biodiversity Conservation (Savings and Transitional) Regulation 2017

[1] Clause 14 Biobanking agreements under TSC Act—pending or interim applications

Insert “within 3 years” after “1995” in clause 14 (1) (c).

[2] Clause 14 (1) (c)

Omit “33,”.

[3] Clause 14 (1) (d)

Insert at the end of clause 14 (1) (c):

, or

- (d) that is made under Part 7A of the *Threatened Species Conservation Act 1995* within 3 years after the repeal of that Act (as if that Act had not been repealed) in connection with the Upper Hunter Biodiversity Plan (within the meaning of clause 33 (1)).

[4] Clause 14 (2)

Omit the subclause. Insert instead:

- (2) The Minister may, within the following time period that applies to the application, determine the application and enter into a biobanking agreement under Part 7A of the *Threatened Species Conservation Act 1995* (as if that Act had not been repealed) if satisfied that the application substantially complies with Part 7A of that Act:
- (a) in the case of an application made under subclause (1) (a) or (b)—within 21 months after the commencement of the new Act,
- (b) in the case of an application made under subclause (1) (c) or (d)—within 4 years after the commencement of the new Act.

[5] Clause 37 Biodiversity certification proposals under TSC Act—applications not yet made

Omit “of that Act continues” from clause 37 (3).

Insert instead “and other relevant provisions of that Act and the regulations under that Act continue”.