



New South Wales

# Biodiversity Conservation Amendment (Exemptions) Regulation 2020

under the

Biodiversity Conservation Act 2016

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

MATT KEAN, MP  
Minister for Energy and Environment

## Explanatory note

The object of this Regulation is to amend the *Biodiversity Conservation Regulation 2017* to specify that, for a period of 2 years, certain bushfire-affected development involving the clearing of native vegetation is taken not to exceed the biodiversity offsets scheme threshold for the purposes of Part 7 of the *Biodiversity Conservation Act 2016* (the *Act*).

An application for development consent for bushfire-affected development that is taken not to exceed the biodiversity offsets scheme threshold is not required to be accompanied by a biodiversity development assessment report.

Bushfire-affected development is defined in section 7.2 of the Act as proposed development involving the erection of, or repairs to, a bushfire-affected building or structure. A bushfire-affected building or structure is defined in section 7.2 of the Act as a building or structure that was destroyed or damaged as a result of bushfire in the period starting 5 August 2019 and ending 2 March 2020 and that was, immediately before it was destroyed or damaged, lawfully erected.

This Regulation is made under the *Biodiversity Conservation Act 2016*, including sections 7.4(1) and 14.10 (the general regulation-making power).

## **Biodiversity Conservation Amendment (Exemptions) Regulation 2020**

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### **1 Name of Regulation**

This Regulation is the *Biodiversity Conservation Amendment (Exemptions) Regulation 2020*.

### **2 Commencement**

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

### **3 Amendment of Biodiversity Conservation Regulation 2017**

#### **Clause 7.1A**

Insert after clause 7.1—

#### **7.1A Certain bushfire-affected development involving clearing taken not to exceed threshold**

- (1) Despite clause 7.1(1), bushfire-affected development involving the clearing of native vegetation is taken not to exceed the biodiversity offsets scheme threshold if—
  - (a) the proposed development—
    - (i) is the reconstruction or replacement of a bushfire-affected building or structure, and
    - (ii) will result in a building or structure that is the same, or substantially the same, as the building or structure that existed immediately before it was damaged or destroyed, and
  - (b) the development application for the bushfire-affected development is made no later than 2 years after the commencement of this clause.
- (2) This clause is repealed 2 years after it commences.