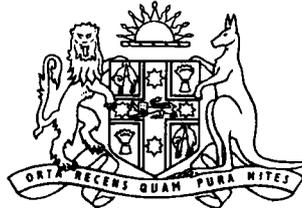


[Act 2002 No 78]



New South Wales

Threatened Species Conservation Amendment Bill 2002

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Threatened Species Conservation Act 1995*, and other legislation that has provisions relating to threatened species, for the following purposes:

- (a) to clarify listing criteria for endangered populations, endangered ecological communities, vulnerable species and species that are presumed extinct,
- (b) to make provision for the listing of vulnerable ecological communities,
- (c) to allow the Minister administering the *Threatened Species Conservation Act 1995* and the Minister administering the *Fisheries Management Act 1994* to jointly determine the question of whether certain semi-aquatic or semi-terrestrial species should be prima facie eligible for listing under the

* Amended in committee—see table at end of volume.

Threatened Species Conservation Act 1995 or under the *Fisheries Management Act 1994*,

- (d) to make further provision with respect to the procedure for nomination and listing of species under the *Threatened Species Conservation Act 1995*,
- (e) to enable the Chairperson of the Scientific Committee, with the agreement of the Chairperson of the Fisheries Scientific Committee, to refer a nomination of a key threatening process that affects both terrestrial and aquatic environments to the Fisheries Scientific Committee for consideration (and vice versa),
- (f) to allow the Scientific Committee to make minor amendments to listings without going through the public participation procedure under the *Threatened Species Conservation Act 1995*,
- (g) to make less onerous the requirements relating to the periodic review of listings by the Scientific Committee,
- (h) to allow the Director-General of National Parks and Wildlife to make arrangements with the Director of Fisheries for the joint preparation of a recovery plan or threat abatement plan,
- (i) to make it clear that the interests of indigenous people are to be considered in the preparation of a recovery plan or threat abatement plan,
- (j) to enable the preparation of recovery plans and threat abatement plans relating to more than one species or key threatening process,
- (k) to update the *Threatened Species Conservation Act 1995* in light of changes to Commonwealth legislation,
- (l) to make further provision with respect to the licensing of activities that may harm threatened species or protected fauna or native plants,
- (m) to modify the test applied to determine whether an activity is likely to significantly affect threatened species, populations or ecological communities,
- (n) to make further provision with respect to the preparation, contents and sale of species impact statements,
- (o) to allow the Director-General of National Parks and Wildlife, and the Scientific Committee, to withhold certain information from the public, in circumstances where the public interest or concerns for the safety or welfare of an individual justify it,
- (p) to make further provision in respect of the composition and members of the Scientific Committee and the Biological Diversity Advisory Council,
- (q) to provide for the effect of a new listing of a vulnerable species on licence applications, development applications and environmental assessment,

- (r) to make further provision with respect to environmental assessment, including by providing for situations in which an environmental impact statement is not required under the *Environmental Planning and Assessment Act 1979*,
- (s) to make further provision in respect of certain offences relating to the harming or picking of animals and plants under the *National Parks and Wildlife Act 1974*,
- (t) to clarify the situations in which land used for the maintenance of threatened species, populations or ecological communities is exempt from land tax,
- (u) to make other miscellaneous amendments, including transitional, consequential and ancillary amendments.

Outline of provisions

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 on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Threatened Species Conservation Act 1995* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Environmental Planning and Assessment Act 1979*, the *Fisheries Management Act 1994*, the *Freedom of Information Act 1989*, the *Land Tax Management Act 1956* and the *National Parks and Wildlife Act 1974* set out in Schedule 2.

Schedule 1 Amendment of Threatened Species Conservation Act 1995

Clarification of listing criteria

The criteria for listing a population as an endangered population are changed so that, among other things, it is made clear that the population must be of conservation value at the State or regional level. The intention is to exclude from listing isolated populations of limited conservation value. See **Schedule 1 [14]**.

The criteria for listing an ecological community as an endangered ecological community are changed so that the question of whether the evolutionary development of the community is threatened is no longer relevant to eligibility. See **Schedule 1 [15]**.

The criterion for listing a species as presumed extinct is changed so that it is no longer required that the species has not been definitely located in nature during the preceding 50 years. It is sufficient that it has not been recorded in its known or expected habitat, despite targeted surveys, over a time frame appropriate to its life cycle and form. See **Schedule 1 [16]**.

The criterion for listing a species as a vulnerable species is changed to make it clear that the species must be considered to be endangered in New South Wales. See **Schedule 1 [17]**.

Vulnerable ecological communities

It will now be possible to list an ecological community as a vulnerable ecological community. An ecological community will be eligible for listing as a vulnerable ecological community if it is likely to become endangered unless the circumstances and factors threatening its survival cease to operate. (See **Schedule 1 [10] and [18]**.) The Director-General of National Parks and Wildlife will be able to prepare a recovery plan for a vulnerable ecological community. (See **Schedule 1 [37]**.) However, the listing of an ecological community as a vulnerable ecological community (unlike the listing of a species as a vulnerable species) will not trigger the licensing provisions of the Act or the provisions relating to stop work orders. (See **Schedule 1 [5]**).

Consequential amendments are set out in **Schedule 1 [2]–[4], [7], [71] and [72]**.

A listing of a vulnerable ecological community will also not trigger certain offence provisions in the *National Parks and Wildlife Act 1974* and development and environmental assessment provisions in the *Environmental Planning and Assessment Act 1979*. Those provisions are explained further below.

Listing of semi-aquatic or semi-terrestrial species

At present, animals and plants, other than fish and marine vegetation, may be listed (in appropriate circumstances) as threatened species under the *Threatened Species Conservation Act 1995*. Fish and marine vegetation may be listed (in appropriate circumstances) as threatened species under Part 7A of the *Fisheries Management Act 1994*. However, in some cases where an invertebrate animal or fish, or a plant or marine vegetation, may inhabit both land and water, a question may arise as to whether that species is more appropriately dealt with under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*. The amendments allow the Ministers administering those Acts to resolve that question by making a joint order declaring the species concerned to be a species for the purpose of one or the other of the Acts. Any such declaration does not require the species concerned to be listed as a threatened species under either Act. See **Schedule 1 [6]**

and the mirroring amendments to the *Fisheries Management Act 1994* in **Schedule 2.2 [2]**. **Schedules 1 [1]** and **2.2 [1]** include consequential amendments. A consequential amendment is also made to the *Environmental Planning and Assessment Act 1979* in **Schedule 2.1 [5]** and the *National Parks and Wildlife Act 1974* in **Schedule 2.5 [34]**.

Procedure for listing

Nominations for listing of threatened species, populations or ecological communities will be required to be made in accordance with guidelines published by the Director-General of National Parks and Wildlife and the Scientific Committee. See **Schedule 1 [20]**.

The amendments also make it clear that a minimum of 30 days must be allowed for the making of submissions to the Scientific Committee concerning the Committee's preliminary determination, and that a final determination in respect of the nomination must be made within 6 months after the closing date for submissions in respect of the preliminary determination. See **Schedule 1 [25] and [27]**.

When publishing a notice of a determination, the Scientific Committee will no longer be required to publish the reasons for its determination. However, the Scientific Committee will be required to make those reasons available to the public, together with copies of the determination, at offices of the National Parks and Wildlife Service and in other ways. See **Schedule 1 [22], [23] and [26]–[31]**.

Referral of nomination to Fisheries Scientific Committee

If a nomination of a key threatening process is made that has an impact on both terrestrial and aquatic environments, the Chairperson of the Scientific Committee will be able to consult the Chairperson of the Fisheries Scientific Committee for the purpose of determining whether the nomination should also be considered by the Fisheries Scientific Committee under Part 7A of the *Fisheries Management Act 1994*. If the Chairpersons agree it should also be considered by the Fisheries Scientific Committee, the nomination will be treated as both a nomination under the *Threatened Species Conservation Act 1995* and a nomination under Part 7A of the *Fisheries Management Act 1994*. This will facilitate the listing of such key threatening processes under both Acts. See **Schedule 1 [21]**. **Schedule 1 [2]** includes a consequential amendment.

There will be a reciprocal procedure in the *Fisheries Management Act 1994* for the referral of nominations made under that Act to the Scientific Committee for consideration under the *Threatened Species Conservation Act 1995*. See **Schedule 2.2 [3]**.

Minor amendments to listings

The amendments will allow the Scientific Committee to make amendments to the listings set out in Schedules 1, 2 and 3, without following the public participation procedure set out in the Act, if the amendment is made for any of the following purposes:

- (a) to reflect any change in the name of a species as a result of taxonomic revision,
- (b) to correct any minor error or omission,
- (c) to clarify a description of an ecological community (but not to change the area of an ecological community).

Notice of the Scientific Committee's decision to amend a listing under the new provisions must be published in the same manner as a final determination of the Scientific Committee under the Act.

See **Schedule 1 [32]**. **Schedule 1 [8]** is a consequential amendment.

Review of listings

The amendments require the Scientific Committee to review the Schedules to the Act at least every 2 years, rather than bi-annually as at present. See **Schedule 1 [19]**.

Joint preparation of recovery plans and threat abatement plans

The Director-General of National Parks and Wildlife will be able to make arrangements with the Director of NSW Fisheries for the joint preparation of a recovery plan or threat abatement plan under the *Threatened Species Conservation Act 1995* and Part 7A of the *Fisheries Management Act 1994*. If a joint plan is prepared the Minister administering the *Threatened Species Conservation Act 1995* will be able to exercise his or her functions relating to the approval of the plan only with the concurrence of the Minister administering the *Fisheries Management Act 1994*. See **Schedule 1 [38] and [44]**.

Corresponding provisions are inserted in the *Fisheries Management Act 1994* (see **Schedule 2.2 [4]**).

Interests of indigenous people

The amendments make it clear that the special knowledge and interests of indigenous people are to be taken account of in the preparation of a recovery plan or threat abatement plan. See **Schedule 1 [39] and [45]**.

Multi-species or multi-threat plans

The amendments will allow a recovery plan to be prepared in respect of more than one species, population or ecological community and a threat abatement plan to be prepared in respect of more than one key threatening process. See **Schedule 1 [37] and [43]**.

Consultation with respect to recovery and threat abatement plans

The amendments provide that consultation with a public authority that is to be responsible for the implementation of any measures to be included in a recovery plan or threat abatement plan is to take place at the Department head level rather than the Ministerial level. See **Schedule 1 [41], [42], [46] and [47]**.

Update of references to Commonwealth legislation

The *Endangered Species Protection Act 1992* of the Commonwealth has been replaced by the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth. Several provisions in the *Threatened Species Conservation Act 1995* are updated to reflect this change. The changes also reflect the fact that the categories of listed threatened species and listed threatened ecological communities under the Commonwealth legislation no longer directly correspond with the listing categories under the *Threatened Species Conservation Act 1995*. See **Schedule 1 [9]–[12] and [40]**.

The amendments will also require the list of threatened species, populations and ecological communities to be amended to show that a species or ecological community has subsequently been listed under the Commonwealth legislation. See **Schedule 1 [13]**.

The time limits for preparation of recovery plans and threat abatement plans are expressly specified, rather than directly linked to the time limits for the preparation of those plans under the Commonwealth legislation (as the listing categories under that legislation are different). See **Schedule 1 [37] and [43]**.

Licensing of activities that may harm threatened species, populations and ecological communities, and their habitats

At present, the licensing provisions of the *Threatened Species Conservation Act 1995* restrict the purposes for which a general licence may be issued under the *National Parks and Wildlife Act 1974* to authorise the harming or picking of threatened species. The amendments make it clear that the purposes for which a licence may be issued under the *Threatened Species Conservation Act 1995* are not so limited.

In relation to licensing, amendments are also made to the *National Parks and Wildlife Act 1974* to provide for the issue of a scientific licence that authorises the harming or picking of threatened species and the harming or picking of fauna or plants that are protected under that Act. The amendments relating to scientific licences are explained below in the matter relating to Schedule 2.

The amendments make further provision in respect of property management plans under the *Threatened Species Conservation Act 1995*. At present, the Director-General of National Parks and Wildlife may approve a property management plan for land prepared by a landholder. Actions identified in and carried out in accordance with the plan do not require a licence under the Act.

The amendments make it clear that property management plans may provide for the rights of third parties to take action on or in respect of land. For instance, if an approved property management plan contains provisions that authorise Aboriginal persons to harm animals or pick plants for cultural reasons, that action will not require a licence under the Act.

In addition, it is made clear that the Director-General is not a determining authority for the purposes of Part 5 of the *Environmental Planning and Assessment Act 1979* when approving a property management plan.

See **Schedule 1 [49] and [56]** (proposed section 113B). (Proposed section 113A, as set out in Schedule 1 [56], is a restatement of section 91 (3), (4) and (6) of the Act.) **Schedule 1 [75]** includes a transitional provision.

Modification of test of significant effect on threatened species, populations or ecological communities, or their habitats

At present, if an application is made for a licence to harm or pick threatened species, populations or ecological communities or to damage their habitats, the Director-General of National Parks and Wildlife is required to make a determination as to whether the action is likely to significantly affect threatened species, populations or ecological communities or their habitats. If the Director-General determines that it is likely to have that effect, the applicant must prepare a species impact statement before the application can proceed.

The amendments substantially revise the factors that must be taken into account by the Director-General in applying that test. They also require the Director-General to take account of any assessment guidelines relating to the determination that are issued by the Minister (with the concurrence of the Minister for Planning). See **Schedule 1 [50] and [51]**.

A corresponding amendment is made to the test under Part 7A of the *Fisheries Management Act 1994*. See **Schedule 2.2 [5] and [6]**.

A similar test is applied for the purposes of certain development and environmental assessment provisions in the *Environmental Planning and Assessment Act 1979*. That test is amended in the same fashion. See **Schedule 2.1 [4]**.

Species impact statements

The amendments require a species impact statement to include the following:

- (a) an assessment of whether a species, population or ecological community is adequately represented in conservation reserves or other similar protected areas in the region,
- (b) an assessment of whether any of those species, populations or ecological communities is at the limit of its known distribution.

See **Schedule 1 [53] and [54]**.

The Director-General will be given power to require an applicant for a licence to provide additional copies of a species impact statement and to sell those copies to the public (with proceeds going to the applicant). See **Schedule 1 [52]**.

Provisions relating to the accreditation of persons to prepare assessments of species impact statements are removed. See **Schedule 1 [55]**.

Effect of new listing of vulnerable species on licence application

The amendments provide that a change to the list of vulnerable species does not apply in respect of an application for a licence under the Act, but only for a period of 12 months after the application is made. Accordingly, the application may be determined within that period as if the amendment had not been made. See **Schedule 1 [56]** (proposed section 113C).

Constitution and members of Scientific Committee

The number of members of the Scientific Committee is increased from 10 to 11. The new member is to be a scientist who is employed by a public authority that has land management responsibilities and is selected by the Minister. See **Schedule 1 [58] and [59]**.

The amendments make expertise in aquatic biology, rather than marine ecology, a relevant qualification for the office of member. See **Schedule 1 [60]**.

In a case where a person or body responsible for nominating a member of the Scientific Committee fails to do so, the Minister will be able to seek nominations from any other person or body that the Minister considers to be a suitable substitute. See **Schedule 1 [61]**.

The amendments also prevent members of the Scientific Committee from serving more than 2 consecutive periods of office on the Committee (current members excluded) and require the Minister to have regard to the desirability of maintaining some continuity in the membership of the Committee when determining the terms for which individual members will be appointed to office. See **Schedule 1 [62] and [75]**.

Constitution and members of Biological Diversity Advisory Council

The number of members of the Biological Diversity Advisory Council is increased from 14 to 15. The new member is to be a nominee of the Royal Botanic Gardens and Domain Trust. See **Schedule 1 [63] and [64]**.

In a case where a person or body responsible for nominating a member of the Council fails to do so, the Minister will be able to seek nominations from any other person or body that the Minister considers to be a suitable substitute. See **Schedule 1 [65]**.

Decision not to disclose certain information

At present, the Act allows the Director-General of National Parks and Wildlife to withhold information about the location of critical habitat from the public in certain circumstances where the public interest requires it. The amendments will allow such information to be protected from disclosure under the *Freedom of Information Act 1989*. See **Schedule 1 [67]–[69] and Schedule 2.3**.

The amendments will also allow the Scientific Committee to determine that the following matter should not be disclosed to the public:

- (a) information provided to the Scientific Committee relating to the location of threatened species, populations or ecological communities, if the Committee is of the opinion that the public interest requires that the information not be disclosed to the public,
- (b) information provided to the Committee that may identify an individual who made a nomination of a listing or made a submission in respect of a nomination, if the Committee is of the opinion that the safety or welfare of the individual concerned requires that the information not be disclosed to the public.

See **Schedule 1 [70]**.

Such information will also be protected from disclosure under the *Freedom of Information Act 1989*. See **Schedule 2.3**.

Miscellaneous

The annual report of the Director-General in respect of the operation of the *Threatened Species Conservation Act 1995* is required to include a report on the implementation of Parts 3, 4 and 5 of the Act. See **Schedule 1 [66]**.

An incorrect reference to the Director-General is corrected. See **Schedule 1 [24]**.

Amendments are made for the purpose of clarifying that provisions relating to critical habitat apply only in respect of endangered species, populations and ecological communities. See **Schedule 1 [34] and [35]**.

A provision is inserted to make it clear that the Valuer-General is to be given notice of the declaration of critical habitat. See **Schedule 1 [36]**.

A consequential amendment is made to an introductory note set out in the Act. See **Schedule 1 [48]**.

Schedule 1 [73] and [74] allow savings and transitional regulations to be made as a consequence of the proposed Act.

Schedule 2 Amendment of other Acts

Vulnerable ecological communities

Amendments to the *Environmental Planning and Assessment Act 1979* make it clear that references in that Act to threatened species, populations and ecological communities do not include vulnerable ecological communities. The purpose of the amendments is to ensure that the listing of a vulnerable ecological community does not trigger the various provisions in that Act relating to development or activities that are likely to have a significant impact on threatened species, populations and ecological communities (for instance, provisions that require an environmental impact statement to be prepared in respect of any such activity). See **Schedule 2.1 [1]–[3] and [6]**. Those provisions will still apply in respect of any threatened species or endangered population that happens to be a part of a vulnerable ecological community.

The listing of a vulnerable ecological community may be taken into account for the purposes of the preparation of an environmental planning instrument. However, any such instrument may not include provisions (similar to those provisions of the Act that apply in respect of other threatened species, endangered populations and endangered ecological communities) requiring consultation with or the concurrence of the Director-General of National Parks and Wildlife or the Minister

administering the *Threatened Species Conservation Act 1995* in respect of development that may impact on a vulnerable ecological community. See **Schedule 2.1 [7]**.

Amendments are made to the *National Parks and Wildlife Act 1974* to make it clear that the listing of a vulnerable ecological community does not trigger various offences in that Act relating to the harming of an animal or the picking of plant that is of or part of a threatened species, population or ecological community. Those offences will only apply in respect of endangered species, vulnerable species, endangered populations and endangered ecological communities. See **Schedule 2.5 [6], [18]–[20], [24], [29], [32] and [33]**.

New listings of vulnerable species

Amendments to the *Environmental Planning and Assessment Act 1979* provide that a change to the list of vulnerable species does not apply in respect of:

- (a) a development application made before the change to the list was made, or
- (b) an activity that is the subject of an environmental assessment under Divisions 2 and 3 of Part 5 of that Act if an environmental impact statement was obtained in respect of the activity and publicly exhibited before the change to the list was made, or
- (c) a request for the Minister's approval under Division 4 of that Part if the request was made before the change to the list was made, or
- (d) a designated fishing activity that is the subject of an environmental assessment under Part 5 of that Act if an environmental impact statement was obtained in respect of the activity and publicly exhibited before the change to the list was made.

The provisions cease to apply in respect of a development or activity at the end of the period of 12 months after the application was made, approval sought or environmental impact statement publicly exhibited (as the case requires). See **Schedule 2.1 [10], [11] and [14]**.

Modification of concurrence to carrying out of activity

Under the *Environmental Planning and Assessment Act 1979*, the carrying out by a Minister or a public authority of certain activities that affect threatened species, populations or ecological communities, or their habitats, requires the concurrence of the Director-General or the Minister administering the *Threatened Species Conservation Act 1995*. Amendments to those provisions will make it clear that the Director-General or the Minister (as the case requires) may revoke, vary or modify the terms of his or her concurrence. See **Schedule 2.1 [13]**.

Requirement to submit an environmental impact statement

At present, under the *Environmental Planning and Assessment Act 1979*, if a Minister or a public authority proposes to carry out or grant approval in respect of an activity that is likely to significantly affect the environment, the Minister or public authority must examine and consider an environmental impact statement in relation to the activity.

The amendments provide that if an activity is on land that is, or is part of, critical habitat, or is likely to significantly affect threatened species, populations or ecological communities, or their habitats, and the activity is not likely to otherwise significantly affect the environment, an environmental impact statement is not required if a species impact statement, prepared in accordance with the *Threatened Species Conservation Act 1995*, is submitted instead. The provisions of Part 5 of the *Environmental Planning and Assessment Act 1979* relating to environmental impact statements (including provisions relating to publicity and examination of the statement) will apply in respect of the species impact statement. See **Schedule 2.1 [12]**.

Consequential amendments to Fisheries Management Act 1994

The amendments to the *Fisheries Management Act 1994* mirror various amendments to the *Threatened Species Conservation Act 1995* described above. See **Schedule 2.2**.

Freedom of information

The *Freedom of Information Act 1989* is amended to provide that a document containing matter that the Director-General or the Scientific Committee has decided should not be disclosed to the public (as described above) is an exempt document for the purposes of that Act. See **Schedule 2.3**.

Land tax amendments

The amendments to the *Land Tax Management Act 1956* make it clear that land that is the subject of a conservation agreement under the *National Parks and Wildlife Act 1974* is exempt from land tax if the primary purpose of the agreement is the maintenance of threatened species, populations or ecological communities to assist their preservation. See **Schedule 2.4**.

Defence—conservation agreements and joint agreements

It is made a defence to certain offences under the *National Parks and Wildlife Act 1974* relating to the harming and picking of animals and plants if the action was authorised by a conservation agreement under that Act or a joint management

agreement under the *Threatened Species Conservation Act 1995*. See **Schedule 2.5** [8], [15], [23], [26], [28] and [31]. **Schedule 2.5** [42] includes a transitional provision.

The amendment to the *Threatened Species Conservation Act 1995* set out in **Schedule 1** [57] is consequential on the above changes.

Defence—actions the subject of an environmental assessment

At present, it is a defence to various offences under the *National Parks and Wildlife Act 1974* that the action was carried out or approved by a determining authority (that is, a Minister or a public authority) if the determining authority complied with Part 5 of the *Environmental Planning and Assessment Act 1979* (which relates to environmental assessment). The amendments make it clear that, in the case of an activity approved by a determining authority, it also must be carried out in accordance with that approval. See **Schedule 2.5** [5], [9], [22], [27] and [30].

Defence—offence of selling protected native plants

Amendments to the offence relating to the selling of protected native plants in *National Parks and Wildlife Act 1974* provide a defence in certain circumstances to domestic hobbyists. See **Schedule 2.5** [17].

Licences under the National Parks and Wildlife Act

A new category of licence is provided for under the *National Parks and Wildlife Act 1974*. The licence will authorise the harming or picking of threatened species, populations and ecological communities, and other species of fauna or plants protected under that Act, for scientific, educational or conservation purposes. See **Schedule 2.5** [39]. It will no longer be possible to issue a general licence or a licence to pick native plants solely for those purposes (**Schedule 2.5** [36], [37] and [38]). Consequential amendments are made to various offence provisions and other provisions. See **Schedule 2.5** [2]–[4], [7], [10], [12]–[14], [16], [21] and [25]. Transitional provisions are included in **Schedule 2.5** [42].

An amendment is made to a provision that requires licence holders to comply with conditions of their licence to clarify that it extends to licences under the *Threatened Species Conservation Act 1995* as well as licences under the *National Parks and Wildlife Act 1974*. See **Schedule 2.5** [40].

Miscellaneous

Minor amendments to the *Environmental Planning and Assessment Act 1979* are made to direct the reader's attention, in connection with references to the *Threatened Species Conservation Act 1995*, to the mirroring provisions of Part 7A of the *Fisheries Management Act 1994*. See **Schedule 2.1 [8] and [9]**.

An amendment is made to the offence of buying, selling or possessing protected fauna under the *National Parks and Wildlife Act 1974* to make it clear that the offence does not apply in respect of threatened species or endangered populations. Section 118B provides for the offence in that regard. See **Schedule 2.5 [11]**.

Amendments to the *Environmental Planning and Assessment Act 1979*, the *Fisheries Management Act 1994* and the *National Parks and Wildlife Act 1974* provide for the making of savings and transitional regulations as a consequence of the other amendments to those Acts. See **Schedule 2.1 [15], 2.2 [7] and 2.5 [41]**.