



New South Wales

# Threatened Species Conservation Amendment (Special Provisions) Bill 2008

## 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* to confirm that the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* has biodiversity certification under that Act.

The Bill also amends the *Local Government Act 1993* to make it clear that, for local government rating purposes, where part of a parcel of land is the subject of a conservation agreement under the *National Parks and Wildlife Act 1974*, the rate payable on the whole parcel is to be proportionately reduced.

## 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 the date of assent to the proposed Act.

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

**Clause 4** is a formal provision that gives effect to the amendments to the *Local Government Act 1993* set out in Schedule 2.

**Clause 5** provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

## **Schedule 1      Amendment of Threatened Species Conservation Act 1995**

On 14 December 2007, an order made by the Minister Assisting the Minister for Climate Change, Environment and Water (Environment) (*the original order*) was published in the Gazette conferring biodiversity certification on *State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (the Growth Centres SEPP)*. Biodiversity certification removes the need for each separate development under the Growth Centres SEPP to comply with the threatened species, assessment and concurrence provisions under the *Environmental Planning and Assessment Act 1979*, on the basis that the Growth Centres SEPP, in addition to other relevant measures specified in the original order, will lead to overall improvement or maintenance of biodiversity values.

**Schedule 1 [2]** inserts proposed Part 7 into Schedule 7 to the *Threatened Species Conservation Act 1995*. The purpose of the proposed Part is to confirm that the Growth Centres SEPP has biodiversity certification.

The proposed Part confers biodiversity certification on the Growth Centres SEPP. The biodiversity certification only applies to certain land within the Growth Centres SEPP, that is the land to which the original order applied. The Minister may vary the land within the Growth Centres SEPP to which the biodiversity certification applies. The biodiversity certification remains in force until 30 June 2025, as provided by the original order.

The Minister may, by order published in the Gazette, suspend or revoke the biodiversity certification of the Growth Centres SEPP if any relevant biodiversity measure has not been complied with. The *relevant biodiversity measures* are the conditions of biodiversity certification that were set out in the original order (subject to any future variation by the Minister following a review of the biodiversity certification).

The suspension or revocation of the biodiversity certification of the Growth Centres SEPP does not affect the validity of development consent granted under Part 4 of the *Environmental Planning and Assessment Act 1979*, or any approval of an activity granted in accordance with Part 5 of that Act, before the suspension or revocation.

The biodiversity certification is taken to have had effect on and from 14 December 2007, the date of the original order, and anything done or omitted to be done on or after 14 December 2007 under the *Environmental Planning and Assessment Act 1979* in connection with the biodiversity certification is duly validated.

**Schedule 1 [1]** provides for the making of savings and transitional regulations consequent on the enactment of the proposed Act.

## **Schedule 2      Amendment of the Local Government Act 1993**

**Schedule 2 [1]** amends section 555 of the *Local Government Act 1993* in relation to the calculation of local government rates where part of a parcel of land is the subject of a conservation agreement under the *National Parks and Wildlife Act 1974*. The amendment makes it clear that, instead of the land being rated as 2 separate parcels as is currently the case, any rate levied on the whole parcel (for any period on or after 1 July 2008) is to be reduced by the proportion that the area of the parcel, which is the subject of the conservation agreement, bears to the area of the whole parcel of land. For example, if a parcel of land would normally be subject to a rate of \$1,000, but 40% of the area of the land is subject to a conservation agreement, that rate is to be reduced by 40% to \$600.

**Schedule 2 [2]** provides for the making of savings and transitional regulations consequent on the enactment of the proposed Act.





New South Wales

# Threatened Species Conservation Amendment (Special Provisions) Bill 2008

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New South Wales

# Threatened Species Conservation Amendment (Special Provisions) Bill 2008

No. , 2008

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## A Bill for

An Act to amend the *Threatened Species Conservation Act 1995* with respect to the biodiversity certification of the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006*; and to amend the *Local Government Act 1993* with respect to rates payable on land subject to conservation agreements.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Threatened Species Conservation Amendment (Special Provisions) Act 2008</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on the date of assent to this Act.	6
<b>3 Amendment of Threatened Species Conservation Act 1995 No 101</b>	7
The <i>Threatened Species Conservation Act 1995</i> is amended as set out in Schedule 1.	8 9
<b>4 Amendment of Local Government Act 1993 No 30</b>	10
The <i>Local Government Act 1993</i> is amended as set out in Schedule 2.	11
<b>5 Repeal of Act</b>	12
(1) This Act is repealed on the day following the day on which this Act commences.	13 14
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	15 16

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<b>Schedule 1</b>	<b>Amendment of Threatened Species Conservation Act 1995 No 101</b>	1
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	(Section 3)	3
<b>[1] Schedule 7 Savings, transitional and other provisions</b>		4
Insert at the end of clause 1 (1):		5
	<i>Threatened Species Conservation Amendment (Special Provisions) Act 2008</i> , to the extent that it amends this Act	6
		7
<b>[2] Schedule 7, Part 7</b>		8
Insert after Part 6:		9
<b>Part 7</b>	<b>Biodiversity certification of State Environmental Planning Policy (Sydney Region Growth Centres) 2006</b>	10
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<b>17</b>	<b>Definitions</b>	13
(1)	In this Part:	14
	<i>Growth Centres SEPP</i> means the <i>State Environmental Planning Policy (Sydney Region Growth Centres) 2006</i> , as in force from time to time.	15
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	<i>relevant biodiversity measures</i> means (subject to subclause (2)) the provisions set out as conditions of biodiversity certification in relation to the Growth Centres SEPP in the order under this Act published in the Gazette on 14 December 2007 (pages 9651–9662).	18
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	<i>subject land</i> means (subject to subclause (3)) the land shown edged heavy black as certified land on the maps marked “South West Growth Centre—Biodiversity Certification” and “North West Growth Centre—Biodiversity Certification” deposited in the head office of the Department.	23
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(2)	The Minister may by order published in the Gazette amend the relevant biodiversity measures for the purposes of this Part following a review under clause 18 (4) of biodiversity certification conferred by this Part.	28
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(3)	The Minister may by order published in the Gazette replace a map referred to in the definition of <i>subject land</i> in subclause (1) with a map referred to in the order that shows certified land that is within a growth centre within the meaning of the Growth Centres SEPP.	32
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<b>18 Biodiversity certification of Growth Centres SEPP</b>	1
(1) Biodiversity certification is conferred, by the enactment of this Part, on the Growth Centres SEPP.	2 3
(2) The biodiversity certification conferred by this Part applies:	4
(a) only to the subject land, and	5
(b) to all development and activities that may be carried out under the Growth Centres SEPP, and	6 7
(c) to all threatened species, populations and ecological communities.	8 9
(3) The biodiversity certification conferred by this Part is not subject to any conditions.	10 11
(4) The Minister is to undertake periodic reviews of the biodiversity certification conferred by this Part to determine whether it should be maintained or modified.	12 13 14
<b>19 Application of Division 5 of Part 7 of the Act</b>	15
(1) Sections 126I (1) and (2), 126J (2)–(4), 126L and 126M of this Act apply to the biodiversity certification conferred by this Part in the same way as they apply to biodiversity certification conferred under Division 5 of Part 7 of this Act.	16 17 18 19
(2) Except as provided by subclause (1), Division 5 of Part 7 of this Act does not apply to the biodiversity certification conferred by this Part.	20 21 22
<b>20 Period of biodiversity certification</b>	23
(1) The biodiversity certification conferred by this Part remains in force (subject to this Part) until 30 June 2025.	24 25
(2) This Part does not prevent further biodiversity certification of the Growth Centres SEPP under Division 5 of Part 7 of this Act after the biodiversity certification conferred by this Part ceases to be in force.	26 27 28 29
<b>21 Suspension or revocation of biodiversity certification</b>	30
(1) The Minister may, by order published in the Gazette, suspend or revoke the biodiversity certification conferred by this Part if the Minister is of the opinion that any relevant biodiversity measure has not been complied with. This subclause does not limit section 126L of this Act.	31 32 33 34 35

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- (2) The suspension or revocation of the biodiversity certification conferred by this Part does not affect the validity of any development consent granted under Part 4 of the *Environmental Planning and Assessment Act 1979*, or any approval of an activity granted in accordance with Part 5 of that Act, before the suspension or revocation. 1  
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- (3) If the Minister suspends or revokes the biodiversity certification under this clause, the Minister may, in the order, determine the application of the suspension or revocation to anything pending under the *Environmental Planning and Assessment Act 1979* at the time of the suspension or revocation. 7  
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- 22 Part has effect from 14 December 2007** 12
- (1) The biodiversity certification conferred by this Part is taken to have had effect on and from 14 December 2007. 13  
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- (2) Anything done or omitted to be done on or after 14 December 2007, including under the *Environmental Planning and Assessment Act 1979*, that would have been validly done or omitted had the biodiversity certification conferred by this Part been in force at the time it was done or omitted, is taken to be validly done or omitted. 15  
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**Schedule 2 Amendment of Local Government Act  
1993 No 30**

(Section 4)

**[1] Section 555 What land is exempt from all rates?**

Omit section 555 (3). Insert instead:

- (3) If part of a single parcel of land is the subject of a conservation agreement within the meaning of the *National Parks and Wildlife Act 1974* (as referred to in subsection (1) (b1)), any rate levied on that whole parcel (for any period on or after 1 July 2008) is to be reduced by the following percentage:

$$\frac{A_{ca}}{A_{whole}} \times \frac{100}{1}$$

where:

$A_{ca}$  is the area of that part of the parcel that is the subject of the conservation agreement, and

$A_{whole}$  is the area of the whole parcel.

**Note.** For example, if a parcel of land would normally be subject to a rate of \$1,000, but 40% of the area of the land is subject to a conservation agreement, that rate is to be reduced by 40% to \$600.

**[2] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts**

Insert at the end of clause 1 (1):

*Threatened Species Conservation Amendment (Special Provisions) Act 2008*, to the extent that it amends this Act