

c2016-118B
GRNS--The Greens

LEGISLATIVE COUNCIL

Biodiversity Conservation Bill 2016

First print

Proposed amendments

- No. 1 **Purpose of Act**
Page 2, clause 1.3, line 12. Insert “or enhance” after “conserve”.
- No. 2 **Purpose of Act**
Page 2, clause 1.3. Insert after line 14:
(c) to support NSW achieving net zero carbon emissions through the protection and establishment of land-based carbon sinks and to take account of the cumulative contribution of broad-scale clearing to greenhouse gas emissions in NSW,
- No. 3 **Purpose of Act**
Page 2, clause 1.3, line 19. Insert “, ecosystem services” after “biodiversity”.
- No. 4 **Biodiversity for the purposes of Act**
Page 3, clause 1.5 (1), lines 7–9. Omit all words on those lines. Insert instead:
(1) For the purposes of this Act, *biodiversity* means the diversity of life and consists of the following three components:
(a) genetic diversity, being the variety of genes (or units of heredity) in any population,
(b) species diversity, being the variety of species,
(c) ecosystem diversity, being the variety of communities or ecosystems.
- No. 5 **Harming animals**
Page 7, clause 2.1 (2), lines 19–22. Omit all words on those lines.
- No. 6 **Biodiversity Conservation Program**
Page 26, clause 4.35, line 12. Insert at the end of the line:
, and
(c) to prevent the extinction of species and to reduce the number of species that are endangered or otherwise threatened in New South Wales, and
(d) to reverse biodiversity decline by promoting and achieving biodiversity recovery.

- No. 7 **Content of Biodiversity Conservation Investment Strategy**
Page 30, clause 5.3 (5), line 5. Insert at the end of the line:
, and
(e) areas of known habitat of endangered or otherwise threatened species.
- No. 8 **Retirement of biodiversity credits only-no other biodiversity conservation measures**
Page 49, clause 6.2 (d), lines 2-4. Omit all words on those lines. Insert instead "impacts on those values of the proposed development or clearing, and of the retirement of biodiversity credits proposed to offset".
- No. 9 **Payment into Fund as alternative to retirement of biodiversity credits**
Page 49, clause 6.2 (g), lines 22-27. Omit all words on those lines.
- No. 10 **Serious or irreversible impacts on biodiversity values**
Page 49, clauses 6.2 (i), lines 33-37. Omit all words on those lines. Insert instead "the grant of planning approval for proposed development or activities or the biodiversity certification of land".
- No. 11 **Retirement of biodiversity credits only-no other biodiversity conservation measures**
Pages 49 and 50, clause 6.4, line 45 on page 49 to line 19 on page 50. Omit all words on those lines. Insert instead:
(1) For the purposes of the biodiversity offsets scheme, the retirement of biodiversity credits is the only measure to offset or compensate for impacts on biodiversity values after any steps taken to avoid or minimise those impacts.
(2) The regulations may make provision with respect to the class of biodiversity offsets to be retired and the circumstances in which the ordinary rules for the determination of the number and class of biodiversity credits required as biodiversity offsets may be varied.
- No. 12 **Serious or irreversible impacts on biodiversity values**
Pages 49, 50, 74 and 80, clauses 6.2 (i), 6.5, 7.16 and 8.8. Omit "serious and irreversible", "Serious and irreversible" and "*serious and irreversible*" wherever occurring. Insert instead "serious or irreversible", Serious or irreversible" and "*serious or irreversible*", respectively.
- No. 13 **Serious or irreversible impacts on biodiversity values**
Page 50, clause 6.5, lines 21-30. Omit all words on those lines. Insert instead:
For the purposes of the biodiversity offsets scheme, *serious or irreversible impacts on biodiversity values* are any of the following:
(a) any adverse effect on critically endangered species or critically endangered ecological communities,
(b) any adverse effect on a declared area of outstanding biodiversity value,
(c) any adverse effect on an internationally or nationally important wetland, being a Ramsar wetland or a wetland listed on the Commonwealth directory of important wetlands,
(d) any significant adverse effect on an endangered or vulnerable species or an endangered or vulnerable ecological community, and
(e) anything prescribed by the regulations for the purposes of this definition (in recommending the making of such a regulation the Minister must have regard to the principles of ecologically sustainable development contained in 6 (2) of the *Protection of the Environment Administration Act 1991*, and in particular the precautionary principle).
- No. 14 **Status of rehabilitated mining sites under biodiversity assessment method**
Page 51, clause 6.7. Insert after line 16:

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- (3) The biodiversity method must provide that a rehabilitated mining site cannot be used as a biodiversity offset or to generate biodiversity credits.

- No. 15 **Objective criteria for biodiversity assessment method**
Page 51, clause 6.7 (3) (b), line 19. Omit “, in the opinion of the Minister.”
- No. 16 **Validity of biodiversity assessment method**
Page 51, clause 6.7 (3) (b), lines 21 and 22. Omit all words on those lines.
- No. 17 **Review of biodiversity assessment method**
Page 52, clause 6.9 (1), lines 9 and 11. Omit “5 years” wherever occurring. Insert instead “2 years”.
- No. 18 **Payment into Fund as alternative to retirement of biodiversity credits**
Pages 62 and 63, Division 6 of Part 6, line 4 on page 62 to line 3 on page 63. Omit all words on those lines.
- No. 19 **Payment into Fund as alternative to retirement of biodiversity credits**
Page 63, clause 6.34, lines 11 and 12. Omit “(other than amounts paid under Division 6 as an alternative to the retirement of biodiversity credits)”.
- No. 20 **Reporting and other obligations of Fund Manager**
Page 64, clause 6.37. Insert after line 38:

(4) The report must include a list of all payments received under Division 6, the corresponding biodiversity credits that were purchased and retired and any biodiversity offsets that were secured as a result of an obligation under that Division.
- No. 21 **Development other than State significant development or infrastructure**
Page 72, clause 7.13 (4), lines 21 and 22. Omit “environmental, social and economic impacts of the proposed development”. Insert instead “principles of ecological sustainable development contained in section 6 (2) of the *Protection of the Environment Administration Act 1991*”.
- No. 22 **Proposed development or activity that has serious or irreversible impacts on biodiversity values**
Page 74, clause 7.16 (2), lines 13 and 14. Omit “(other than for State significant development), if it is of the opinion that”. Insert instead “if”.
- No. 23 **Proposed development or activity that has serious or irreversible impacts on biodiversity values**
Page 74, clause 7.16 (3), lines 16–23. Omit all words on those lines.
- No. 24 **Proposed development or activity that has serious or irreversible impacts on biodiversity values**
Page 74, clause 7.16 (4), lines 24–30. Omit all words on those lines. Insert instead:

(4) The determining authority must refuse to approve under Part 5 of the *Environmental Planning and Assessment Act 1979*, or if also the proponent must not carry out, a proposed activity to which this Division applies if the proposed activity is likely to have serious or irreversible impacts on biodiversity values.

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- No. 25 **Proposed biodiversity certification that has serious or irreversible impacts on biodiversity values**
Page 81, clause 8.8 (2), lines 1–4. Omit all words on those lines. Insert instead “is to refuse to confer biodiversity certification”.
- No. 26 **Minimum public exhibition period for proposed public consultation documents**
Page 88, clause 9.2 (1), line 20. Omit “4 weeks” insert instead “2 weeks”.
- No. 27 **Validity of public consultation documents**
Page 89, clause 9.5, lines 4–8. Omit all words on those lines.
- No. 28 **Payment into Fund as alternative to retirement of biodiversity credits**
Page 95, clause 10.16 (2) (b), lines 6 and 7. Omit all words on those lines.
- No. 29 **Payment into Fund as alternative to retirement of biodiversity credits**
Page 95, clause 10.16 (3) (b), lines 17–19. Omit all words on those lines.
- No. 30 **Review of Act**
Page 132, clause 14.11 (3) and (4), lines 11 and 14. Omit “5 years” wherever occurring. Insert instead “2 years”.
- No. 31 **Review of Act**
Page 132, clause 14.11 (4), line 14. Omit “12 months”. Insert instead “6 months”.