

Appendix two – Legislative and regulatory provisions relevant to threatened species

Legislation or regulation	DCCEEW functions relevant to threatened species
Core functions	
<i>Biodiversity Conservation Act 2016</i>	<p>The BC Act establishes the Threatened Species Scientific Committee responsible for listing of threatened species and ecological communities, extinct species and ecological communities, and key threatening processes (Part 4, Division 7). DCCEEW provides administrative support to the Committee.</p> <p>DCCEEW has responsibility for the Biodiversity Conservation Program (known as Saving our Species) which aims to maximise the security of threatened species and ecological communities in the wild (Part 4, Division 6).</p> <p>The Minister may declare any area in the State to be an area of outstanding biodiversity value (Part 3). DCCEEW supports the Minister to exercise this function.</p> <p>The BC Act establishes the Biodiversity Conservation Offsets Scheme, administered by DCCEEW, and the Biodiversity Conservation Investment Strategy, prepared by DCCEEW on behalf of the Minister (Part 5). It also establishes the Biodiversity Conservation Trust as a separate statutory body to deliver private land conservation.</p> <p>DCCEEW must provide development applicants with its requirements for a threatened species impact statement (following development of a biodiversity development assessment report), where the proposed development activities are likely to affect threatened species (Section 7.20).</p>
<i>National Parks and Wildlife Act 1974</i>	<p>The National Parks and Wildlife Service has the responsibility to carry out works and activities including the conservation and protection of wildlife (including threatened species, populations and ecological communities, and their habitats) (Part 2, Section 12).</p> <p>The Minister may obtain land for reservation for conservation of threatened species, populations or ecological communities, or their habitats (Part 11, Section 145). The National Parks and Wildlife Service leads a land acquisition program to establish new parks and add to the existing reserves.</p> <p>The Minister may declare land reserved under this Act as an asset of intergenerational significance if it has environmental or cultural values of intergenerational significance (Part 12A). DCCEEW supports the Minister to exercise this function.</p>
<i>Environmental Trust Act 1998</i>	<p>This Act establishes the NSW Environmental Trust, a grant funding body chaired by the Minister for the Environment. DCCEEW supports the administration of NSW Environmental Trust grant programs and funding.</p>
<i>Marine Estate Management Act, 2014</i>	<p>This Act establishes the Marine Estate Management Authority, comprising four NSW Government agencies including DCCEEW with responsibility for managing the marine estate. The Authority is delivering the Marine Estate Management Strategy 2018–2028, and DCCEEW has responsibility for delivering Initiative five which relates to impacts on threatened species.</p>

Legislation or regulation

DCCEEW functions relevant to threatened species

Regulatory functions

Biodiversity Conservation Act 2016

DCCEEW may grant a biodiversity conservation licence that authorises acts that would otherwise constitute an offence (including impact on animals or plants that are of a threatened species or threatened ecological community) (Part 2).

DCCEEW has regulatory compliance mechanisms including stop work orders, interim protection orders, remediation orders and directions relating to protected animals and threatened species to respond to contraventions of the BC Act and native vegetation legislation (Part 11).

DCCEEW has responsibility for a program for the collection, monitoring and assessment of information on the status and trends of biodiversity (Part 14).

Biodiversity Conservation Regulation 2017

The Minister may enter into a joint management agreement with other public authorities for the management or control of any action that is jeopardising the survival of a threatened species or threatened ecological community (Division 2.2, Section 2.25). DCCEEW supports the Minister to exercise this function.

National Parks and Wildlife Regulation 2019

The Secretary of DCCEEW must ensure that conservation activities for land declared an Asset of Intergenerational Significance are carried out in accordance with the approved conservation action plan (Part 7A, Section 78G).

Advisory functions

Environmental Planning and Assessment Act 1979

DCCEEW must be consulted before an environmental planning instrument is made that may adversely impact critical habitat, threatened species, populations or ecological communities, or their habitats (*Environmental Planning and Assessment Act 1979*, Section 3.25).

Crown Land Management Act, 2016

DCCEEW must provide advice on applications to remove conservation restrictions on former Crown lands that are in close proximity to national parks or wilderness reserves, under the *Crown Land Management Act 2016* (Section 5.57 (6)).

Climate Change (net zero future) Act 2023

DCCEEW has responsibility for delivering climate change strategies and plans. The Climate Change Act specifies that action to address climate change should take into account the need to reduce the risk climate change poses to the survival of all species and actions should consider the impact on animals (Part 2, Section 8).

Source: Audit Office of New South Wales analysis.