

2016

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Minister for the Environment and Climate Change)

# Nature Conservation Amendment Bill 2016

## Contents

---

	Page
1 Name of Act	2
2 Commencement	2
3 Legislation amended	2
4 What is a <i>species</i> ? New section 15 (1) (b) (ia)	2
5 What is a <i>native species</i> ? Section 16 (2)	2
6 Sections 63 and 64	3
7 Threatened ecological communities list—categories New section 69 (b) (ia)	7

## Contents

---

		Page
8	Threatened ecological communities list—eligibility for categories New section 70 (1A)	7
9	Definitions—pt 4.3 Section 72A, definition of <i>listing advice</i>	8
10	Listing advice Section 79G	8
11	Minister to decide whether to include item in list Section 79H	8
12	Section 79H (3) (b), note	8
13	New division 4.4.1 heading	8
14	Definitions—pt 4.4 Section 80, new definitions	9
15	Section 80, definition of <i>listing advice</i>	9
16	Section 80, new definitions	10
17	New division 4.4.2 heading	11
18	Nominations—scientific committee may reject nomination New section 82 (1) (c)	11
19	Nominations—public consultation Section 84 (1) to (3)	11
20	Nominations—scientific committee to carry out <i>listing assessment</i> Section 85 (3), note	12
21	Scientific committee to prepare listing advice Section 86	12
22	Minister to decide whether to include, transfer or omit item Section 87 (1)	13
23	Section 87 (1), new note	13
24	Section 87 (2), note	13
25	Minister's decision—include item Section 88 (1), note	13
26	Section 88 (2) (a)	14
27	Minister's decision—transfer item Section 89 (1), note 1	14
28	Section 89 (2) (a)	14
29	Minister's decision—omit item Section 90 (1), note	14
30	Section 90 (2) (a)	15

## Contents

---

	Page	
31	New divisions 4.4.3 and 4.4.4, and division 4.4.5 heading	15
32	Final version of list and notification	
	Section 91 (1)	19
33	Section 91 (2) (d)	19
34	Scientific committee to prepare conservation advice	
	Section 92	19
35	Section 93	20
36	Minor amendment—including similar species	
	Section 95 (2) and note	20
37	Minor amendment—omitting similar species	
	Section 96 (2) and note	21
38	Definitions—Act	
	Section 98, definition of <i>relevant species</i>	21
39	New section 100A	21
40	Draft action plan—conservator to prepare	
	Section 101 (2)	22
41	Section 101 (2) (b), note	23
42	Action plan—monitoring and review	
	Section 108 (7)	23
43	New section 108A	23
44	Draft native species conservation plan—conservator to prepare	
	Section 117, note 2	24
45	Conservator's directions	
	Section 331 (3) (a), note	24
46	New chapter 21	24
47	Dictionary	26
48	Dictionary, new definitions	26
49	Dictionary, definition of <i>conservation advice</i>	27
50	Dictionary, new definitions	27
51	Dictionary, definitions of <i>extinct in the wild species</i> , <i>extinct species</i> and <i>listing advice</i>	27
52	Dictionary, definition of <i>minor amendment</i>	27
53	Dictionary, new definitions	27
54	Dictionary, definitions of <i>provisionally listed threatened ecological community</i> and <i>provisionally listed threatened species</i>	28

Contents

---

	Page
55 Dictionary, new definitions	28
56 Further amendments, mentions of <i>on the threatened</i>	29
<b>Schedule 1      Planning and Development Act 2007— Consequential amendments</b>	<b>30</b>

2016

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Minister for the Environment and Climate Change)

# Nature Conservation Amendment Bill 2016

---

## A Bill for

An Act to amend the *Nature Conservation Act 2014*, and for other purposes

---

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **1 Name of Act**

2 This Act is the *Nature Conservation Amendment Act 2016*.

3 **2 Commencement**

4 This Act commences on the day after its notification day.

5 *Note* The naming and commencement provisions automatically commence on  
6 the notification day (see [Legislation Act](#), s 75 (1)).

7 **3 Legislation amended**

8 This Act amends the *Nature Conservation Act 2014*.

9 *Note* This Act also amends the *Planning and Development Act 2007*  
10 (see sch 1).

11 **4 What is a *species*?**  
12 **New section 15 (1) (b) (ia)**

13 *insert*

14 (ia) a variety; and

15 **5 What is a *native species*?**  
16 **Section 16 (2)**

17 *substitute*

18 *Note* *Coastal sea*—see the dictionary.

19 *Continental shelf*—see the dictionary.

20 *Exclusive economic zone*—see the dictionary.

21 *Seabed*—see the dictionary.

---

**6 Sections 63 and 64**

*substitute*

**63 Threatened native species list—categories**

- (1) The Minister must make a threatened native species list.
- (2) The list must contain the species eligible to be included in 1 of the following categories (a *national category*) in the list:
  - (a) extinct;
  - (b) extinct in the wild;
  - (c) critically endangered;
  - (d) endangered;
  - (e) vulnerable;
  - (f) conservation dependent.
- (3) The list may contain the species eligible to be included in 1 of the following categories (a *regional category*) in the list:
  - (a) regionally threatened;
  - (b) regionally conservation dependent;
  - (c) provisional.

**64 Threatened native species list—eligibility for national categories**

- (1) A native species is eligible to be included in the extinct category in the threatened native species list if, assessed at a national scale, there is no reasonable doubt that the last member of the species has died.

- 1           (2) A native species is eligible to be included in the extinct in the wild  
2 category in the threatened native species list if, assessed at a  
3 national scale—
- 4           (a) it is known only to survive in cultivation, in captivity or as a  
5 naturalised population well outside its past range; or
- 6           (b) it has not been recorded in its known or expected habitat, at  
7 appropriate seasons, anywhere in its past range, despite  
8 exhaustive surveys over a time frame appropriate to its life  
9 cycle and form.
- 10          (3) A native species is eligible to be included in the critically  
11 endangered category in the threatened native species list if, assessed  
12 at a national scale, it is facing an extremely high risk of extinction in  
13 the wild in the immediate future.
- 14          (4) A native species is eligible to be included in the endangered  
15 category in the threatened native species list if, assessed at a  
16 national scale—
- 17           (a) it is not critically endangered; but
- 18           (b) it is facing a very high risk of extinction in the wild in the near  
19 future.
- 20          (5) A native species is eligible to be included in the vulnerable category  
21 in the threatened native species list if, assessed at a national scale—
- 22           (a) it is not critically endangered or endangered; but
- 23           (b) it is facing a high risk of extinction in the wild in the  
24 medium-term future.
- 25          (6) A native species is eligible to be included in the conservation  
26 dependent category in the threatened native species list if—
- 27           (a) it is a fish; and



- 1 (b) it is the subject of a plan of management, within the meaning  
2 of the *Environment Protection and Biodiversity Conservation*  
3 *Act 1999* (Cwlth), that identifies actions necessary to stop the  
4 decline of, and support the recovery of, the species to  
5 maximise its chances of long-term survival in the wild; and
- 6 (c) the plan of management is in force under a law of the  
7 Commonwealth, the Territory or a State; and
- 8 (d) the ending of the plan may result in the species becoming  
9 vulnerable, endangered or critically endangered.

10 (7) In this section:

11 *assessed at a national scale*, for an item—see section 80.

12 *Note* *Item* includes a species (see s 80).

13 *fish* includes all species of bony fish, sharks, crustaceans, molluscs  
14 and other marine organisms, but does not include marine mammals  
15 or marine reptiles.

16 **64A Threatened native species list—eligibility for regional**  
17 **categories**

- 18 (1) A native species is eligible to be included in the regionally  
19 threatened category in the threatened native species list if—
- 20 (a) the species occurs or is likely to occur in the ACT; and
- 21 (b) there are threatened native species list criteria for the category;  
22 and
- 23 (c) the species satisfies the threatened native species list criteria  
24 for the category.
- 25 (2) A native species is eligible to be included in the regionally  
26 conservation dependent category in the threatened native species list  
27 if—
- 28 (a) the species occurs or is likely to occur in the ACT; and

- 1 (b) there are threatened native species list criteria for the category;  
2 and
- 3 (c) the species satisfies the threatened native species list criteria  
4 for the category.
- 5 (3) A native species is eligible to be included in the provisional  
6 category in the threatened native species list if—
- 7 (a) there is a significant decline in the number of members of the  
8 species in the ACT or surrounding region; or
- 9 (b) the species—
- 10 (i) occurs or is likely to occur in the ACT or surrounding  
11 region; and
- 12 (ii) is listed as a threatened native species under a law of  
13 another jurisdiction corresponding, or substantially  
14 corresponding, to this Act; or
- 15 (c) the species was listed in the extinct category of the threatened  
16 native species list but has been definitely located in nature in  
17 the ACT or surrounding region since it was last listed as  
18 extinct.
- 19 *Note* See also s 97 about rediscovery of species that were extinct.
- 20 (4) A native species is no longer eligible to be included in the  
21 provisional category in the threatened species list if it has been in  
22 the category for 18 months.
- 23 (5) A native species is not eligible to be included in a regional category  
24 in the threatened native species list if—
- 25 (a) it is eligible to be included in a national category in the list; or  
26 (b) it is included in the protected native species list.
- 27 *Note* **Protected native species list**—see s 111.

- 1 (6) However, a native species that is eligible to be included in the  
2 extinct category or extinct in the wild category in the threatened  
3 native species list may be included in a regional category in the list  
4 if the species is introduced or reintroduced into the ACT.

5 *Note* *Species* includes a distinct population of biological entities prescribed  
6 by regulation to be a species (see s 15, def *species*, s (1) (b) (ii)).

7 **7 Threatened ecological communities list—categories**  
8 **New section 69 (b) (ia)**

9 *before section 69 (b) (i), insert*

10 (ia) collapsed;

11 **8 Threatened ecological communities list—eligibility for**  
12 **categories**  
13 **New section 70 (1A)**

14 *before section 70 (1), insert*

- 15 (1A) An ecological community is eligible to be included in the collapsed  
16 category in the threatened ecological communities list if there is no  
17 reasonable doubt that its defining biotic or abiotic features are lost  
18 from all occurrences and the characteristic native biota are no longer  
19 sustained.

20 **Example**

21 Collapse may occur when most of the diagnostic components of the characteristic  
22 native biota are lost from the ecological community, or when functional  
23 components (biota that perform key roles in ecological community organisation)  
24 are greatly reduced in abundance and lose the ability to recruit.

25 *Note* An example is part of the Act, is not exhaustive and may extend, but  
26 does not limit, the meaning of the provision in which it appears (see  
27 [Legislation Act](#), s 126 and s 132).

- 1 **9**        **Definitions—pt 4.3**  
2            **Section 72A, definition of *listing advice***
- 3            *omit*
- 4 **10**       **Listing advice**  
5            **Section 79G**
- 6            *omit*
- 7 **11**       **Minister to decide whether to include item in list**  
8            **Section 79H**
- 9            *omit*
- 10          listing advice
- 11          *substitute*
- 12          conservation advice
- 13 **12**       **Section 79H (3) (b), note**
- 14          *substitute*
- 15          *Note 1*    **Conservation advice**—see s 90C (1).
- 16          *Note 2*    **Key threatening processes list criteria**—see s 78.
- 17 **13**       **New division 4.4.1 heading**
- 18          *before section 80, insert*
- 19 **Division 4.4.1**        **Definitions—pt 4.4**

1 **14** **Definitions—pt 4.4**  
2 **Section 80, new definitions**

3 *insert*

4 *assessed at a national scale*, for an item, means the risk assessment  
5 criteria under the common assessment method is applied to the item  
6 throughout—

- 7 (a) Australia or an external Territory; or  
8 (b) the coastal sea of Australia or an external Territory; or  
9 (c) the seabed of the coastal sea of Australia or an external  
10 Territory; or  
11 (d) the continental shelf; or  
12 (e) the exclusive economic zone.

13 *Note* *Coastal sea*—see the dictionary.

14 *Continental shelf*—see the dictionary.

15 *Exclusive economic zone*—see the dictionary.

16 *Seabed*—see the dictionary.

17 *common assessment method* means the methodology used to assess  
18 the risk of extinction of a species or collapse of an ecological  
19 community, agreed between—

- 20 (a) the Commonwealth; and  
21 (b) the Territory; and  
22 (c) a participating State.

23 **15** **Section 80, definition of *listing advice***

24 *omit*

1 **16 Section 80, new definitions**

2 *insert*

3 ***nationally threatened***, in relation to an item, means—

4 (a) an item that is a listed threatened species or listed ecological  
5 community under the *Environment Protection and Biodiversity*  
6 *Conservation Act 1999* (Cwlth) (a *Commonwealth listed item*);  
7 or

8 (b) an item (a *State assessed item*) that—

9 (i) is eligible to be a listed threatened species or listed  
10 ecological community under the *Environment Protection*  
11 *and Biodiversity Conservation Act 1999* (Cwlth); and

12 (ii) has been assessed by a participating State as a threatened  
13 species or ecological community at a national scale, using  
14 the common assessment method; or

15 (c) an item that—

16 (i) is either—

17 (A) eligible to be included in a national category of the  
18 threatened native species list; or

19 (B) eligible to be included in the threatened ecological  
20 communities list; and

21 (ii) has been assessed by the Territory as a threatened native  
22 species or threatened ecological community at a national  
23 scale, using the common assessment method.

24 ***participating State*** means a State that uses the common assessment  
25 method to assess a species or ecological community at a national  
26 scale.

---

1 **17 New division 4.4.2 heading**

2 *before section 81, insert*

3 **Division 4.4.2 Including, transferring and omitting**  
4 **items in list—general**

5 **18 Nominations—scientific committee may reject**  
6 **nomination**  
7 **New section 82 (1) (c)**

8 *insert*

- 9 (c) if the nomination is about including a nationally threatened  
10 item in, or transferring a nationally threatened item within, a  
11 list, and the item is a Commonwealth listed item or a State  
12 assessed item—the inclusion or transfer is more appropriately  
13 dealt with under section 90A.

14 **19 Nominations—public consultation**  
15 **Section 84 (1) to (3)**

16 *substitute*

- 17 (1) The scientific committee must prepare a notice about a nomination  
18 (a ***public consultation notice***) if the nominated item—
- 19 (a) is a native species nominated to be included in, transferred  
20 within or omitted from a national category in the threatened  
21 native species list; or
- 22 (b) is an ecological community nominated to be included in,  
23 transferred within or omitted from the threatened ecological  
24 community list.
- 25 (2) In any other case, the scientific committee may prepare a public  
26 consultation notice about a nomination.

- 1 (3) A public consultation notice—  
2 (a) must state that—  
3 (i) anyone may give a written submission to the scientific  
4 committee about the nomination; and  
5 (ii) submissions may be given to the scientific committee  
6 only during the period starting on the day the public  
7 consultation notice is notified under the [Legislation](#)  
8 [Act](#) and ending on a stated day, being a day at least  
9 6 weeks after the day it is notified (the *public*  
10 *consultation period*); and  
11 (b) must include the nomination; and  
12 (c) may invite people to comment on other matters that the  
13 scientific committee considers relevant.  
14 *Note* The public consultation notice need not contain the precise location of  
15 the species (see s 363).

16 **20 Nominations—scientific committee to carry out *listing***  
17 ***assessment***  
18 **Section 85 (3), note**

19 *after*

20 s 64

21 *insert*

22 s 64A

23 **21 Scientific committee to prepare listing advice**  
24 **Section 86**

25 *omit*



- 1 **22** **Minister to decide whether to include, transfer or omit**  
2 **item**  
3 **Section 87 (1)**
- 4 *omit*  
5 listing advice  
6 *substitute*  
7 conservation advice
- 8 **23** **Section 87 (1), new note**
- 9 *insert*  
10 *Note* The Minister may include certain nationally threatened items in a list  
11 without a nomination under div 4.4.3.
- 12 **24** **Section 87 (2), note**
- 13 *substitute*  
14 *Note* The final version of the list and the conservation advice for the item are  
15 notifiable instruments (see s 90C and s 91).
- 16 **25** **Minister's decision—include item**  
17 **Section 88 (1), note**
- 18 *after*  
19 s 64  
20 *insert*  
21 and s 64A

1 **26 Section 88 (2) (a)**

2 *omit*

3 listing advice

4 *substitute*

5 conservation advice

6 **27 Minister's decision—transfer item**  
7 **Section 89 (1), note 1**

8 *after*

9 s 64

10 *insert*

11 and s 64A

12 **28 Section 89 (2) (a)**

13 *omit*

14 listing advice

15 *substitute*

16 conservation advice

17 **29 Minister's decision—omit item**  
18 **Section 90 (1), note**

19 *after*

20 s 64

21 *insert*

22 and s 64A

1 **30 Section 90 (2) (a)**

2 *omit*

3 listing advice

4 *substitute*

5 conservation advice

6 **31 New divisions 4.4.3 and 4.4.4, and division 4.4.5 heading**

7 *after section 90, insert*

8 **Division 4.4.3 Including or transferring certain**  
9 **nationally threatened items**

10 **90A Minister may include or transfer nationally threatened**  
11 **items without nomination**

- 12 (1) This section applies to a nationally threatened item that is a  
13 Commonwealth listed item or a State assessed item (a *relevant*  
14 *item*).
- 15 (2) The Minister may, without a nomination—
- 16 (a) include a relevant item in a list; or
- 17 (b) transfer a relevant item from 1 category in a list to another  
18 category in a list.
- 19 (3) Before including a relevant item in, or transferring a relevant item  
20 within, a list, the Minister must—
- 21 (a) consult with the scientific committee; and
- 22 (b) have regard to a conservation advice for the item.

- 1 (4) A relevant item may only be included in, or transferred to, a national  
2 category in a list that corresponds with—
- 3 (a) for a Commonwealth listed item—the category in which the  
4 Commonwealth lists the item; and
- 5 (b) for a State assessed item—the category in which the State  
6 assesses the item is eligible to be listed.
- 7 (5) If the Minister decides to include a relevant item in, or transfer a  
8 relevant item within, a list under this section, the Minister must—
- 9 (a) revise the list; and
- 10 (b) prepare a final version of the list.
- 11 *Note* The final version of the list is a notifiable instrument (see s 91).

## 12 **Division 4.4.4 Conservation advice**

### 13 **90B Conservation advice guidelines**

- 14 (1) The Minister may make guidelines (the *conservation advice*  
15 *guidelines*) about the preparation of a conservation advice for an  
16 item, including—
- 17 (a) information to be included in a conservation advice; and
- 18 (b) requirements for the preparation of a conservation advice.
- 19 (2) A guideline is a notifiable instrument.

20 *Note* A notifiable instrument must be notified under the [Legislation Act](#).

### 21 **90C Conservation advice**

- 22 (1) The Minister must ensure that there is an advice about each item  
23 included in a list (a *conservation advice*).

24 *Note* For a nationally threatened item, an advice adopted under s 90E is the  
25 conservation advice.

- 1 (2) The conservation advice must—  
2 (a) set out—  
3 (i) the grounds on which the item is eligible to be included  
4 in, transferred within, or omitted from, the list; and  
5 (ii) the main factors that make it eligible; and  
6 (b) for an item that is a native species or an ecological  
7 community—include any information required to be included  
8 by a conservation advice guideline about stopping the decline  
9 of the species or community or supporting the recovery of the  
10 species or community; and  
11 (c) include anything else required to be included by a conservation  
12 advice guideline.

13 *Note 1* The conservation advice need not contain the precise location of a  
14 species or community (see s 363).

15 *Note 2* Eligibility for the threatened native species list is dealt with in s 64 and  
16 s 64A.

17 Eligibility for the threatened ecological communities list is dealt with in  
18 s 70.

19 Eligibility for the key threatening processes list is dealt with in s 77.

- 20 (3) A conservation advice is a notifiable instrument.

21 *Note 1* A notifiable instrument must be notified under the [Legislation Act](#).

22 *Note 2* The power to make an instrument includes the power to amend or repeal  
23 the instrument (see [Legislation Act](#), s 46).

- 24 (4) In this section:

25 *conservation advice guidelines*—see section 90B (1).

26 **90D Conservation advice—scientific committee to prepare**

- 27 (1) The scientific committee must prepare a conservation advice for an  
28 item.

- 1 (2) In preparing a conservation advice for an item, the scientific  
2 committee must do anything required to be done for the advice by a  
3 conservation advice guideline.
- 4 (3) However, the scientific committee need not prepare a conservation  
5 advice for an item if the Minister adopts an advice for the item  
6 under section 90E.
- 7 (4) The scientific committee must give a conservation advice for an  
8 item to the Minister not later than 15 months after—
- 9 (a) for an item the subject of a listing assessment—the end of the  
10 4-week period, or public consultation period, mentioned in  
11 section 85 (1) (Nominations—scientific committee to carry out  
12 *listing assessment*); or
- 13 (b) for a nationally threatened item to be included in, or transferred  
14 within, a list under division 4.4.3 (Including or transferring  
15 certain nationally threatened items)—the Minister requests a  
16 copy of the conservation advice.
- 17 (5) However, the Minister may extend the time for giving the advice  
18 under subsection (4).
- 19 (6) In this section:  
20 *conservation advice guidelines*—see section 90B (1).

21 **90E Conservation advice—adopting advice for nationally**  
22 **threatened item**

- 23 (1) This section applies to a nationally threatened item.
- 24 (2) The Minister may adopt an advice prepared by the Commonwealth  
25 or a participating State for the item if the advice corresponds, or  
26 substantially corresponds, with the requirements for a conservation  
27 advice mentioned in section 90C (2).
- 28 (3) If the Minister adopts an advice for the item under this section, the  
29 advice is taken to be the conservation advice for the item.

- 1 (4) In this section:  
2 *conservation advice guidelines*—see section 90B (1).

3 **90F Conservation advice—scientific committee to review**

- 4 (1) The scientific committee may review a conservation advice on its  
5 own initiative or at the conservator’s request.  
6 (2) In reviewing the conservation advice for an item, the scientific  
7 committee may make recommendations to the conservator about the  
8 advice.

9 **Division 4.4.5 Final version of list and notification**

10 **32 Final version of list and notification**  
11 **Section 91 (1)**

12 *after*  
13 section 87  
14 *insert*  
15 , section 90A

16 **33 Section 91 (2) (d)**

17 *omit*

18 **34 Scientific committee to prepare conservation advice**  
19 **Section 92**

20 *omit*

1 **35 Section 93**

2 *substitute*

3 **Division 4.4.6 Minor amendments of list**

4 **93 What is a *minor amendment*?—div 4.4.6**

5 In this division:

6 ***minor amendment***, of a list, means an amendment to—

- 7 (a) include a species in the threatened native species list in the  
8 circumstances mentioned in section 95 (Minor amendment—  
9 including similar species); or
- 10 (b) omit a species from the threatened native species list in the  
11 circumstances mentioned in section 96 (Minor amendment—  
12 omitting similar species); or
- 13 (c) transfer a species from the extinct category to the provisional  
14 category of the threatened native species list in the  
15 circumstances mentioned in section 97 (Minor amendment—  
16 rediscovery of extinct species); or
- 17 (d) update the name of a threatened native species or threatened  
18 ecological community; or
- 19 (e) correct an inaccuracy.

20 **36 Minor amendment—including similar species**  
21 **Section 95 (2) and note**

22 *substitute*

- 23 (2) In deciding whether a minor amendment is appropriate, the Minister  
24 must consider the conservation advice for the eligible species.

25 *Note* **Conservation advice**—see s 90C (1).



1 **37 Minor amendment—omitting similar species**  
2 **Section 96 (2) and note**

3 *substitute*

- 4 (2) In deciding whether a minor amendment is appropriate, the Minister  
5 must consider the conservation advice for the species.

6 *Note* *Conservation advice*—see s 90C (1).

7 **38 Definitions—Act**  
8 **Section 98, definition of *relevant species***

9 *substitute*

10 *relevant species* means—

- 11 (a) a regular migratory species; and  
12 (b) the following species, other than a species that the Minister  
13 decides, under section 100A, does not need an action plan:  
14 (i) a critically endangered species;  
15 (ii) an endangered species;  
16 (iii) a vulnerable species;  
17 (iv) a regionally threatened species;  
18 (v) a regionally conservation dependent species.

19 **39 New section 100A**

20 *insert*

21 **100A Minister to decide if action plan needed**

- 22 (1) This section applies to each of the following species (an *applicable*  
23 *species*):

- 24 (a) a critically endangered species;  
25 (b) an endangered species;

- 1 (c) a vulnerable species;
- 2 (d) a regionally threatened species;
- 3 (e) a regionally conservation dependent species.
- 4 (2) Before an applicable species is included in, or transferred within, a
- 5 list, the Minister must decide whether an action plan needs to be
- 6 prepared for the species.
- 7 (3) In deciding whether an action plan needs to be prepared for an
- 8 applicable species, the Minister must seek the advice of the
- 9 scientific committee.
- 10 (4) The Minister may decide that an action plan does not need to be
- 11 prepared for an item if satisfied that—
- 12 (a) the species does not occur in the ACT or occurs infrequently in
- 13 the ACT; and
- 14 (b) having no plan will not increase the risk of extinction of the
- 15 species.
- 16 (5) In this section:
- 17 *list*—see section 80.

18 **40 Draft action plan—conservator to prepare**

19 **Section 101 (2)**

- 20 *substitute*
- 21 (2) However, the conservator need not prepare a draft action plan—
- 22 (a) for a species mentioned in section 100A—if the Minister has
- 23 decided that an action plan is not needed for the species; or
- 24 (b) for a relevant species—if the species is the subject of a native
- 25 species conservation plan.

---

1 **41 Section 101 (2) (b), note**

2 *omit*  
3 s 92

4 *substitute*  
5 s 90C (1)

6 **42 Action plan—monitoring and review**  
7 **Section 108 (7)**

8 *after*  
9 make recommendations to the conservator about the plan

10 *insert*  
11 , including that the plan is no longer needed for a species

12 **43 New section 108A**

13 *in part 4.5, insert*

14 **108A Action plan—ending action plan after review**

15 (1) This section applies if the scientific committee recommends to the  
16 conservator that an action plan is no longer needed for a species  
17 under section 108 (7).

18 (2) The conservator may request that the Minister end the action plan.

19 (3) If the Minister receives a request from the conservator, the Minister  
20 must decide whether to end the action plan.

21 (4) In deciding whether to end the action plan, the Minister must have  
22 regard to the recommendation of the scientific committee.

23 (5) The Minister may end the action plan if satisfied that ending the  
24 plan will not increase the risk of extinction of the species the subject  
25 of the plan.

1 **44** **Draft native species conservation plan—conservator to**  
2 **prepare**  
3 **Section 117, note 2**

4 *omit*  
5 s 64 (6)

6 *substitute*  
7 s 64A (2)

8 **45** **Conservator’s directions**  
9 **Section 331 (3) (a), note**

10 *omit*  
11 s 92 (2)

12 *substitute*  
13 s 90C (1)

14 **46** **New chapter 21**

15 *insert*

16 **Chapter 21** **Transitional—Nature**  
17 **Conservation Amendment**  
18 **Act 2016**

19 **420** **Meaning of *commencement day*—ch 21**

20 In this chapter:

21 *commencement day* means the day the *Nature Conservation*  
22 *Amendment Act 2016*, section 3 commences.

---

1    **421       Threatened native species list**

- 2           (1) The threatened native species list, in force immediately before the  
3           commencement day, is taken to be the threatened native species list  
4           on the commencement day.
- 5           (2) A species included in a category in the threatened native species list  
6           immediately before the commencement day is taken to be included  
7           in the category in the threatened native species list on the  
8           commencement day.
- 9           (3) The validity of the threatened native species list on the  
10          commencement day is not affected by a failure to comply with a  
11          requirement for the list under section 63.

12    **422       Conservation advice not needed for species already on**  
13    **list**

- 14          (1) This section applies to a species if, immediately before the  
15          commencement day—
- 16               (a) it is included in a category in the threatened native species list;  
17               and
- 18               (b) there is no conservation advice for the species.
- 19          (2) A conservation advice need not be prepared for the species.
- 20          (3) Nothing in this section—
- 21               (a) prevents the scientific committee from preparing a  
22               conservation advice for a species; or
- 23               (b) dispenses with the requirement under this Act for a  
24               conservation advice for the species if the species is transferred  
25               within the list on or after the commencement day.

1     **423     Transitional regulations**

- 2             (1) A regulation may prescribe transitional matters necessary or  
3             convenient to be prescribed because of the enactment of the *Nature*  
4             *Conservation Amendment Act 2016*.
- 5             (2) A regulation may modify this chapter (including in relation to  
6             another territory law) to make provision in relation to anything that,  
7             in the Executive’s opinion, is not, or is not adequately or  
8             appropriately, dealt with in this chapter.
- 9             (3) A regulation under subsection (2) has effect despite anything  
10            elsewhere in this Act or another territory law.

11    **424     Expiry—ch 21**

12            This chapter expires 2 years after the commencement day.

13            *Note*     Transitional provisions are kept in the Act for a limited time.  
14            A transitional provision is repealed on its expiry but continues to have  
15            effect after its repeal (see [Legislation Act](#), s 88).

16    **47     Dictionary**

17            *insert*

- 18
  - State

19    **48     Dictionary, new definitions**

20            *insert*

21            *assessed at a national scale*, for an item, for part 4.4 (Including,  
22            transferring and omitting items in a list)—see section 80.

23            *coastal sea*, of Australia or an external Territory—see the [Acts](#)  
24            *Interpretation Act 1901* (Cwlth), section 15B (4) (Application of  
25            Acts in coastal sea).

1            *common assessment method*, for part 4.4 (Including, transferring  
2            and omitting items in a list—general)—see section 80.

3            **49            Dictionary, definition of *conservation advice***

4            *substitute*

5            *conservation advice* means an advice mentioned in section 90C.

6            **50            Dictionary, new definitions**

7            *insert*

8            *continental shelf*—see the *Seas and Submerged Lands Act 1973*  
9            (Cwlth), section 3.

10           *exclusive economic zone*—see the *Seas and Submerged Lands*  
11           *Act 1973* (Cwlth), section 3.

12           **51            Dictionary, definitions of *extinct in the wild species*,  
13            *extinct species* and *listing advice***

14           *omit*

15           **52            Dictionary, definition of *minor amendment***

16           *substitute*

17           *minor amendment*, for division 4.4.6 (Minor amendments of list)—  
18           see section 93.

19           **53            Dictionary, new definitions**

20           *insert*

21           *national category*, in the threatened native species list—see  
22           section 63 (2) (Threatened native species list—categories).

1            *nationally threatened*, in relation to an item, for part 4.4 (Including,  
2            transferring and omitting items in list)—see section 80.

3            *participating State*, for part 4.4 (Including, transferring and omitting  
4            items in list)—see section 80.

5            **54            Dictionary, definitions of *provisionally listed threatened*  
6            *ecological community* and *provisionally listed threatened*  
7            *species***

8            *omit*

9            **55            Dictionary, new definitions**

10           *insert*

11           *regional category*, in the threatened native species list—see  
12           section 63 (3) (Threatened native species list—categories).

13           *regionally conservation dependent species* means a species  
14           included in the regionally conservation dependent category in the  
15           threatened native species list.

16           *regionally threatened species* means a species included in the  
17           regionally threatened category in the threatened native species list.

18           *seabed* includes—

- 19           (a) the surface of a coral formation; and  
20           (b) subsoil of seabed (including coral beneath the surface of a  
21           coral formation).



---

**56 Further amendments, mentions of *on the threatened***

- 1  
2           *omit*  
3           on the threatened  
4           *substitute*  
5           in the threatened  
6           *in*  
7           • section 61  
8           • section 65 (1)  
9           • section 66 (1) (a)  
10          • section 72 (1) (a)  
11          • section 117, note 2  
12          • dictionary, definition of *conservation dependent species*  
13          • dictionary, definition of *critically endangered ecological*  
14          *community*  
15          • dictionary, definition of *critically endangered species*  
16          • dictionary, definition of *endangered ecological community*  
17          • dictionary, definition of *endangered species*  
18          • dictionary, definition of *vulnerable ecological community*  
19          • dictionary, definition of *vulnerable species*

1 **Schedule 1**      **Planning and Development**  
2 **Act 2007—Consequential**  
3 **amendments**

4 (see s 3)

5 **[1.1] Schedule 4, section 4.1, definition of *provisionally listed***  
6 ***threatened species***

7 *substitute*

8 *provisionally listed threatened species* means a species included in  
9 the provisional category in the threatened native species list under  
10 the [Nature Conservation Act 2014](#).

11 **[1.2] Schedule 4, section 4.1, new definitions**

12 *insert*

13 *regionally conservation dependent species*—see the [Nature](#)  
14 [Conservation Act 2014](#), dictionary.

15 *regionally threatened species*—see the [Nature Conservation](#)  
16 [Act 2014](#), dictionary.

17 **[1.3] Schedule 4, section 4.1, definition of *threatened***  
18 ***ecological community*, note**

19 *before*

- critically endangered ecological communities;

21 *insert*

- collapsed ecological communities;

1 **[1.4] Schedule 4, part 4.3, item 1, column 2, new paragraphs**  
2 **(da) to (dc)**

3 *insert*

4 (da) regionally threatened species;

5 (db) regionally conservation dependent species;

6 (dc) provisionally listed threatened species;

7 **[1.5] Dictionary, definition of *provisionally listed threatened***  
8 ***species***

9 *substitute*

10 *provisionally listed threatened species*, for schedule 4  
11 (Development proposals in impact track because of need for EIS)—  
12 see schedule 4, section 4.1.

13 **[1.6] Dictionary, new definitions**

14 *insert*

15 *regionally conservation dependent species*, for schedule 4  
16 (Development proposals in impact track because of need for EIS)—  
17 see the [Nature Conservation Act 2014](#), dictionary.

18 *regionally threatened species*, for schedule 4 (Development  
19 proposals in impact track because of need for EIS)—see the [Nature](#)  
20 [Conservation Act 2014](#), dictionary.

---

## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 3 May 2016.

**2 Notification**

Notified under the [Legislation Act](#) on 2016.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

---

© Australian Capital Territory 2016