

Threatened Species Test of Significance Guidelines summary

The Guidelines provide the framework for the application of the test of significance outlined in section 7.3 of the *Biodiversity Conservation Act 2016* (BC Act).

How is the test applied to development and activities?

The test of significance is one trigger for determining whether a development or activity is likely to significantly affect threatened species under section 7.2 of the BC Act.

The test must be applied to:

- proposed development under Part 4 (not including major projects) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) that does not exceed the Biodiversity Offsets Scheme thresholds
- activities under Part 5 of the EP&A Act.

The Guidelines do not apply to threatened species, populations or ecological communities listed under the *Fisheries Management Act 1994* or to 'pending or interim planning applications' or 'pending Part 5 assessments' within the meaning of the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*.

The Guidelines provide a consistent method of threatened species impact assessment across New South Wales and will assist councils in determining whether a development is likely to significantly affect threatened species, populations, or ecological communities or their habitats requiring entry to the Biodiversity Offsets Scheme.

Key considerations

- The test of significance does not have to be prepared by a person accredited to apply the Biodiversity Assessment Method. However, the Guidelines assume those applying the test of significance have sufficient knowledge and experience to do so. Specifically, practitioners are expected to have appropriate technical expertise and knowledge of species and their habitats.
- Evidence will be required to demonstrate that the Biodiversity Offsets Scheme does not apply to a development. The test of significance and any supporting information must be provided to the consent authority.
- The consent authority may reject a development application within 14 days of receiving it if the application does not contain sufficient information to determine whether a development is likely to significantly affect threatened species (Environmental Planning and Assessment Regulation (clause 51(1)(b))).
- Where information is not available to conclusively determine that there will not be a significant impact on a threatened species or ecological community, or its habitat, it should be assumed that a significant impact is likely.
- If a development (Part 4) is likely to significantly affect threatened species, ecological communities or their habitats, the Biodiversity Offsets Scheme will apply and a biodiversity development assessment report must be prepared by an accredited assessor. If an activity

(Part 5) is likely to significantly affect threatened species, ecological communities or their habitats, the proponent must either prepare a species impact statement and seek concurrence from the Department of Planning, Industry and Environment or engage an accredited assessor to prepare a biodiversity development assessment report (opt-in to the Biodiversity Offsets Scheme).

- Where a development or activity is not likely to significantly affect threatened species, ecological communities or their habitats, biodiversity impacts will be considered in the broader impact assessment process under section 4.15 or section 5.5 of the EP&A Act.

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