



Australian Capital Territory

# Nature Conservation (Minor Public Works) Amendment Act 2017

A2017-39

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J2016-755

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

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Australian Capital Territory

# Nature Conservation (Minor Public Works) Amendment Act 2017

A2017-39

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

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

## 1 Name of Act

This Act is the *Nature Conservation (Minor Public Works) Amendment Act 2017*.

## 2 Commencement

This Act commences on the day after its notification day.

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

## 3 Legislation amended

This Act amends the *Nature Conservation Act 2014*.

*Note* This Act also amends the following legislation (see sch 1):

- [Planning and Development Act 2007](#)
- [Planning and Development Regulation 2008](#).

## 4 Chapter 9 exceptions New section 252 (2) (a) (iv)

*after the note, insert*

- (iv) undertaken in carrying out minor public works on a reserve in accordance with a minor public works code approved by the conservator of flora and fauna under section 318A; or

*Note* **Minor public works**—see the [Planning and Development Act 2007](#), sch 4, s 4.1.  
**Minor public works code**—see s 318A.

**5 New chapter 13A***insert***Chapter 13A Minor public works in reserves****318A Minor public works code**

- (1) The conservator of flora and fauna may approve a code of practice (a *minor public works code*) for minor public works carried out by or for the Territory in a reserve.

*Note* A power given under an Act to make a statutory instrument (including a code of practice) includes power to amend or repeal the instrument (see [Legislation Act](#), s 46 (1)).

- (2) A minor public works code—
- (a) must set out standards and practices for carrying out minor public works in a reserve to ensure the works are not likely to have a significant adverse environmental impact; and
  - (b) may include the following:
    - (i) circumstances in which minor public works are not likely to have a significant adverse environmental impact;
    - (ii) conditions to apply to stated minor public works to ensure the works do not have a significant adverse environmental impact.

*Note* Power to make a statutory instrument includes power to make different provision in relation to different matters or different classes of matters, and to make an instrument that applies differently by reference to stated exceptions or factors (see [Legislation Act](#), s 48).

- (3) An approved minor public works code may apply, adopt or incorporate a law or instrument as in force from time to time.

*Note 1* The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or at a particular time, is taken to be a notifiable instrument if the operation of the [Legislation Act](#), s 47 (5) or (6) is not disapplied (see s 47 (7)).

*Note 2* A notifiable instrument must be notified under the [Legislation Act](#).

*Note 3* A reference to an instrument includes a reference to a provision of an instrument (see [Legislation Act](#), s 14 (2)).

- (4) If the conservator of flora and fauna approves a minor public works code, the conservator must review the code at least once every 5 years.

- (5) An approved minor public works code is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (6) In this section:

***minor public works***—see the [Planning and Development Act 2007](#), schedule 4, section 4.1.

## Schedule 1 Other amendments

(see s 3)

### Part 1.1 Planning and Development Act 2007

#### [1.1] Schedule 4, section 4.1, new definitions

*insert*

***minor public works*** means—

- (a) maintenance of—
  - (i) a road or car park; or
  - (ii) a footpath, bicycle path, bicycle parking facility, walking track or other pedestrian area; or

**Examples—maintenance of other pedestrian area**

tree planting and repaving, reconstruction of kerbs and gutters

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

- (iii) a culvert or drainage line; or
- (b) bushland regeneration, landscaping, gardening, tree planting, tree maintenance, tree removal or fire fuel reduction or maintenance of a fire trail; or
- (c) installation or maintenance of any of the following:
  - (i) a water tank or trough, including a water meter attached to the tank or trough;
  - (ii) a fence;
  - (iii) a stockyard;

(iv) an erosion control structure;

**Example**

a retaining wall

(v) a sign;

(vi) park furniture;

**Example**

bench seat or shelter

(vii) small tower or support structure; or

**Example**

small tower housing a telemetry unit or solar panel

(d) installation of a bollard, rock or log for habitat enhancement or to limit vehicle access.

*minor public works code*—see the *Nature Conservation Act 2014*, section 318A.

*reserve*—see the *Nature Conservation Act 2014*, dictionary.

**[1.2] Schedule 4, part 4.3, item 3**

*substitute*

3	proposal for development in a reserve, unless— <ul style="list-style-type: none"><li>(a) the conservator of flora and fauna produces an environmental significance opinion that the proposal is not likely to have a significant adverse environmental impact; or</li><li>(b) the proposal is for minor public works to be carried out by or for the Territory in accordance with a minor public works code approved by the conservator of flora and fauna under the <i>Nature Conservation Act 2014</i>, section 318A</li></ul>
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**[1.3] Dictionary, new definitions**

*insert*

*minor public works*, for schedule 4 (Development proposals in impact track because of need for EIS)—see schedule 4, section 4.1.

*minor public works code*, for schedule 4 (Development proposals in impact track because of need for EIS)—see the *Nature Conservation Act 2014*, section 318A.

*reserve*, for schedule 4 (Development proposals in impact track because of need for EIS)—see the *Nature Conservation Act 2014*, dictionary.

## **Part 1.2 Planning and Development Regulation 2008**

**[1.4] Schedule 1, new section 1.90 (1) (a) (iii)**

*insert*

- (iii) is for minor public works carried out in a reserve in accordance with a minor public works code approved by the conservator of flora and fauna under the *Nature Conservation Act 2014*, section 318A; and

**[1.5] Schedule 1, section 1.90 (2), new definitions**

*insert*

*minor public works*—see the Act, schedule 4, section 4.1.

*minor public works code*—see the *Nature Conservation Act 2014*, section 318A.

*reserve*—see the *Nature Conservation Act 2014*, dictionary.

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 14 September 2017.

**2 Notification**

Notified under the [Legislation Act](#) on 13 November 2017.

**3 Republications of amended laws**

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

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I certify that the above is a true copy of the Nature Conservation (Minor Public Works) Amendment Bill 2017, which was passed by the Legislative Assembly on 31 October 2017.

Acting Clerk of the Legislative Assembly

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