

AUSTRALIAN CAPITAL TERRITORY

NATURE CONSERVATION ACT 1980

DETERMINATION OF CRITERIA

NO. 46 OF 1997

Pursuant to section 50 of the *Nature Conservation Act 1980* (the Act), I determine that the criteria for the purposes of paragraph 47(2)(b) of the Act are as set out in the Schedule

Dated this.....^{23rd}.....day of January 1997



CONSERVATOR OF FLORA AND FAUNA

**DETERMINATION FOR THE GIVING OF A DIRECTION UNDER SECTION 47 OF THE
NATURE CONSERVATION ACT 1980**

1. A direction shall be in writing.
2. A direction shall be signed and dated by the Conservator.
3. A direction shall specify the period within which the direction is to be complied with. Such a period shall not expire any earlier than 14 days after the date of the direction
- 4.(1) A direction to protect or conserve a native animal, native plant or native timber may direct the occupier of the land to:
 - (a) to undertake a particular activity,
 - (b) not undertake a particular activity;
 - (c) stop undertaking a particular activity; or
 - (d) modify a particular activity.
- 4.(2) Such a direction may be given when an activity would or could adversely affect the conservation requirements of the native animals, native plants and native timber on the land or of the Territory. Particular regard shall be given to activities that may:
 - a) adversely affect a site of ecological or scientific significance;
 - b) adversely affect an endangered, vulnerable, protected or special protection status species;
 - c) adversely affect an endangered ecological community;
 - d) adversely affect the habitat of a species or ecological community that has been declared or is being considered by the Flora and Fauna Committee in relation to the making of a recommendation to the Minister under section 21 of the Act;
 - e) adversely affect a species or ecological community being considered by the Flora and Fauna Committee in relation to the making of a recommendation to the Minister under section 21 of the Act;



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- f) be inconsistent with an action plan prepared under section 23C of the Act;
 - g) conflict with the management of an organism declared under section 45AA of the Act to be a prohibited or controlled organism;
 - h) relate to a threatening process that has been declared by the Minister or is the subject of a report of, or submission being considered by, the Flora and Fauna Committee in relation to the making of a recommendation to the Minister under section 21 of the Act.
5. The Conservator may direct the occupier of land to undertake a particular activity on the land to protect or conserve native animals, native plants or native timber on the land or of the Territory, including remedial measures required to rehabilitate the land to achieve nature conservation objectives. Particular regard shall be given to the need to :
- a) protect a site of ecological or scientific significance;
 - b) protect or conserve an endangered, vulnerable, protected or special protection status species,
 - c) protect or conserve an endangered ecological community,
 - d) protect or conserve habitat of a species or ecological community that has been declared or is being considered by the Flora and Fauna Committee in relation to the making of a recommendation to the Minister under section 21 of the Act;
 - e) protect or conserve a species or ecological community being considered by the Flora and Fauna Committee in relation to the making of a recommendation to the Minister under section 21 of the Act;
 - f) reduce the effects of a threatening process that has been declared by the Minister or is being considered by the Flora and Fauna Committee in relation to the making of a recommendation to the Minister under 21 of the Act;
 - g) support an action plan prepared under section 23C of the Act;
 - h) assist with the management of a prohibited or controlled organism.



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6. Before deciding to give a direction, the Conservator shall have regard to:
- a) any management objectives specified in Schedule 1 of the *Land (Planning and Environment) Act 1991* or under sub-section 195(2) of that Act (for the land or for surrounding land);
 - b) any plan of management prepared under the section 197 *Land (Planning and Environment) Act 1991* in relation to the land or for surrounding land;
 - c) any management agreement prepared under section 60AB of the *Nature Conservation Act 1980*,
 - d) any action plan prepared under Section 23C of the *Nature Conservation Act 1980*,
 - e) the precautionary principle as expressed in the InterGovernmental Agreement on the Environment;
 - f) whether there is a feasible alternative to the particular activity being undertaken or activity proposed to be undertaken by the occupier;
 - g) whether potential adverse impacts will be kept to a minimum;
 - h) what effect the activity or proposed activity would have on the survival or recovery of a native species or ecological community;
 - i) whether there is adequate provision for monitoring of the effects of the activity on the conservation requirements of affected species or ecological communities;
 - j) the purpose for which the land is occupied;
 - k) any occupancy conditions that apply to the land including any property management agreement;
 - l) whether an activity affecting protection or conservation requirements is required to be undertaken to protect persons or property;
 - m) the costs likely to be incurred by an occupier in giving effect to the direction
7. A direction may apply to any activity under the occupier's control. It may make a distinction between certain parts of the land, the time frames for parts of a direction to be complied with, and may include standards or guidelines or other conditions relating to protection and conservation as a measure against which compliance can be assessed.



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