

Australian Capital Territory

# Nature Conservation (Ginini Flats Wetlands Complex Ramsar Site) Management Plan 2017

Disallowable instrument DI2017–36

made under the

**Nature Conservation Act 2014, section 198 (Draft Ramsar wetland management plan—Minister’s approval and notification)**

## EXPLANATORY STATEMENT

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### Introduction

This explanatory statement relates to the *Nature Conservation (Ginini Flats Wetlands Complex Ramsar Site) Management Plan 2017* as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the disallowable instrument and to help inform debate on it. It does not form part of the disallowable instrument and has not been endorsed by the Assembly.

The statement must be read in conjunction with the disallowable instrument. It is not, and is not meant to be, a comprehensive description of the disallowable instrument. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

### Background

The Ginini Flats Wetland Complex is an internationally significant wetland located in the Namadgi National Park. The Ginini Flats Wetland Complex was first listed as a Ramsar wetland of international importance in 1996. In designating a wetland as a Ramsar site, countries agree to establish and oversee a management framework aimed at conserving the wetland and ensuring its wise use. Ginini Flats Wetland Complex is a composite of alpine sphagnum bogs and associated wet heath and wet grassland habitats occupying a series of interconnected wetlands. The site is situated at the northern extreme of the climatic range for sphagnum bog wetlands in the Australian Alps and is one of the largest and best preserved of such complexes.

Australia’s obligations to the [\*Convention on Wetlands of International Importance especially as Waterfowl Habitat \[1975\] ATS 48\*](#) (Ramsar Convention), stated in Schedule 6 of the *Environment Protection and Biodiversity Conservation Regulations 2000* (Regulation under *Environment Protection and Biodiversity Conservation Act 1999*) every Ramsar site needs an individual plan of management in place, to be reviewed at intervals of at least seven years. Under provisions of the ACT *Nature*

*Conservation Act 2014* (the Act), the Conservator of Flora and Fauna may prepare a draft Ramsar wetland management plan for a Ramsar wetland (s193) and must report to the Minister about a Ramsar wetland management plan at least once every 5 years (s203).

The Conservator of Fauna and Flora has prepared a new management plan to replace the existing Ginini Flats Wetland Complex Ramsar Site Plan of Management (2001), a non-statutory plan. When the new Ramsar wetland management plan comes into effect via the disallowable instrument, Conservator, the Parks and Conservation Service and others within the Environment, Planning and Sustainable Development Directorate will implement the plan. The Conservator will monitor its effectiveness.

### **Ramsar management plans**

Under section 191 of the Act a Ramsar wetland management plan, for a Ramsar wetland, means a plan for the wetland notified under section 198 (Draft Ramsar wetland management plan—Minister’s approval and notification). Section 192 of the Act further describes a draft Ramsar wetland management plan for a Ramsar wetland as a plan detailing how the Ramsar wetland, and its surrounding area, is to be managed to preserve and protect the ecological character of the Ramsar wetland; and includes anything required to be included by a conservator guideline; and may apply, adopt or incorporate an instrument as in force from time to time. There is no relevant conservator guideline.

Under section 194 of the Act, in preparing a draft Ramsar wetland management plan, the conservator must consult the Commonwealth Minister responsible for administering the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act); and if the Ramsar wetland is located on unleased land or public land—the custodian of each area of land where the wetland is located. In this case the Minister for the Environment and Energy was consulted, along with the Director of the ACT Parks and Conservation Service as the land custodian.

Under section 195 of the Act, public consultation on a draft Ramsar management plan is required. A draft of the Ramsar wetland management plan was released for public consultation for six weeks from 17 September 2016 to 31 October 2016. Three written submissions from respondents in the Canberra community were received. The draft plan was revised in response to the submissions.

Under section 198 of the Act a draft Ramsar wetland management plan approved by the Minister under section 197 (a) or section 201 (3) is a Ramsar wetland management plan. A Ramsar wetland management plan is a disallowable instrument. This instrument is the approved version of draft plan. It is the result of changes which were made following public consultation.

### **The Disallowable Instrument**

The policy objective of the management plan is to maintain, enhance and restore the internationally recognised ecological and biological assets of the site through informed and appropriate management practices, and ensure the biodiversity, ecosystems and habitats of the wetland complex are conserved and protected in perpetuity. In order to achieve this goal the management plan contains site management objectives. These objectives are supported by management actions. The

plan also contains information about the Ginini Flats Wetland Complex including an ecological character description, limits to acceptable change, and current threats. While the legal authority of the Plan is confined to the ACT, certain management issues and actions are addressed in a regional context.

#### Human Rights

The disallowable instrument does not affect any human rights contained in the *Human Rights Act 2004*.

#### **Scrutiny of Bills Committee Principles**

The disallowable instrument is in accordance with the Scrutiny of Bills Committee's scrutiny principles.

The following addresses the Scrutiny of Bills Committee principles.

##### **(a) is in accord with the general objects of the Act under which it is made;**

The main object of the Act is to protect, conserve and enhance the biodiversity of the ACT. In particular the objects are to be achieved by, protecting, conserving, enhancing, restoring and improving nature conservation, including, *inter alia*, promoting and supporting the management, maintenance and enhancement of biodiversity of local, regional and national significance. As the Ginini Flats Wetlands Complex is internationally significant it meets the object of the Act.

The management plan is in accord with the general objects of the Act.

##### **(b) unduly trespasses on rights previously established by law;**

No rights, liberties or obligations are directly impacted by the Plan. The Plan indicates that restrictions on access to the site may need to be considered during the life of the Plan. However, any access would be restricted under powers provided in the Act, rather than through this management plan.

##### **(c) make rights, liberties and/or obligations unduly dependent upon non-reviewable decisions;**

The action plan does not affect rights liberties or obligations because it provides guidance to the Conservator and the Custodian about management of land within a public reserve and does not impose liabilities on the community.

##### **(d) contains matter which in the opinion of the Committee should properly be dealt with in an Act of the Legislative Assembly.**

It is appropriate that the matter be dealt with in a disallowable instrument rather than an Act of the Legislative Assembly. The preparation, consultation, approval and notification of such management plans are provided for in the Act.

#### **Regulatory Impact Statement**

No regulatory impact statement (RIS) has been prepared in accordance with s34 of the *Legislation Act 2001* as the disallowable instrument is not likely to impose appreciable costs on the community, or part of the community. Further, a RIS is not required, in accordance with s36(1)(b) as the matter does not operate to the

disadvantage of anyone by adversely affecting a person's rights or imposing liabilities on a person.

In addition, the preparation of Ramsar management plans is a matter arising under a territory law that is complementary with legislation of the Commonwealth (EPBC Act) and a RIS is not required (s36(1)(g) of the Legislation Act). The plan does not operate to the disadvantage of anyone. It contains management objectives and management actions. These provide guidance to the conservator and the land custodian but do not impose liabilities on anyone or adversely affect anyone's rights.

## **Outline of provisions**

### **Section 1 – Name of instrument**

This section names the instrument.

### **Section 2 – Commencement**

This section provides for the commencement of the instrument

### **Section 3 – Approval and notification of Ramsar wetland management plan**

This section includes that the Minister has approved the Ginini Flats Wetland Complex Ramsar Site Management Plan. The management plan is scheduled to the instrument.