

Nature Conservation (Pink-tailed Worm-lizard) Action Plan 2017

Disallowable instrument DI2017–67

made under the

Nature Conservation Act 2014, s 104 (Draft action plan—revision) and s 105 (Draft action plan—final version and notification)

EXPLANATORY STATEMENT

Introduction

This explanatory statement relates to the *Nature Conservation (Pink-tailed Worm-lizard) Action 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 *Nature Conservation Act 2014* (the *Act*) is the primary ACT legislation for the protection of native plants and animals. The Act establishes the Scientific Committee as an expert body to advise the Minister about the listing of threatened species in the ACT.

The Pink-tailed Worm-lizard (*Aprasia parapulchella*) was recommended for declaration as a vulnerable species by the former Flora and Fauna Committee, the expert committee established to advise the Minister under the former *Nature Conservation Act 1980* (repealed) (the *1980 Act*). The then Minister for the Environment, Water and Climate Change declared the Pink-tailed Worm-lizard as a vulnerable species on 27 March 2008 (see DI2008-53).

Transitional arrangements ensured that a species declared under the 1980 Act is listed as threatened under the 2014 Act in the same category in which it was originally listed.

Under section 101 of the Act, the Conservator of Flora and Fauna (the Conservator) is responsible for preparing a draft Action Plan for listed species.

Pursuant to section 100 of the Act, an Action Plan must set out proposals to ensure, as far as practicable, the identification, protection and survival of the species. It should identify known critical habitat and propose management strategies to ensure the persistence of the species. Action Plans may state requirements for monitoring the species and its habitats. The Conservator must consider the impact of climate change, specific threats to the species and any connectivity requirements.

Under section 103 of the Act, public consultation on an Action Plan is required before it is finalised. A draft of the Pink-tailed Worm-lizard Action Plan was released for public consultation for six weeks from 25 October 2016 to 6 December 2016. Four written submissions were received. The draft plan was revised in response to the submissions and comments received. The Conservator sought final comment on the revised final draft plan from the Scientific Committee.

Under section 105 of the Act the final version of a draft action plan prepared by the Conservator is a disallowable instrument. This instrument is the final version of draft Action Plan for the Pink-tailed Worm-lizard prepared under s104.

The policy objective of the Action Plan is the conservation of the Pink-tailed Worm-lizard. In order to achieve this goal the Action Plan contains management objectives. These objectives are supported by management actions. The Action Plan also contains information about the Pink-tailed Worm-lizard including a description, conservation status, habitat and threats.

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. The Pink-tailed Worm-lizard is of both regional and national significance as it is a listed threatened species under both the Act and the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999*. The Action 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 Action 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 about management of threatened species and does not directly 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 Action Plans are provided for in the Act.

Regulatory Impact Statement

No regulatory impact statement (RIS) has been prepared in accordance with section 34 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 section 36 (1) (b) of the *Legislation Act* as the matter does not operate to the disadvantage of anyone by adversely affecting a person's rights or imposing liabilities on a person. The Action Plan contains objectives and actions. These provide guidance but do not impose liabilities on anyone or adversely affect anyone's rights.

Human Rights

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

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 – Preparation of an action plan

This section provides that the Action Plan has been prepared. The Action Plan is scheduled to the instrument.