

Australian Capital Territory

Nature Conservation (Loss of mature native trees key threatening process) Action Plan 2023

Disallowable instrument DI2023–230

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 (Loss of mature native trees key threatening process) Action Plan 2023* as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the disallowable instrument. 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.

In September 2018, Minister Gentleman in his capacity as Minister for the Environment and Heritage listed the ‘Loss of mature native trees (including hollow-bearing trees) and a lack of recruitment’ as a key threatening process under the Nature Conservation Act 2014 (NC Act) (NI2018-538).

The conservation advice, prepared by the ACT Scientific Committee (SC) and released at the time of listing, described how large mature trees including hollow-bearing trees and standing dead trees play an important role in woodland ecology. The conservation advice also described the impacts of the loss of mature trees on four threatened species: the Superb Parrot, Brown Treecreeper, Glossy Black-cockatoo and Little Eagle. The conservation advice also mentioned threats that may lead to the loss

of mature native trees, including land clearing, dieback, fire and firewood collection. It proposed management actions that reflect current policy.

Under section 101 of the Act, the Conservator is responsible for preparing a draft action plan for a key threatening process. The draft action plan addresses the threats outlined in the conservation advice and expands on proposed management actions. The NC Act requires the SC to be consulted on the preparation of a draft action plan.

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 habitat. 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 Loss of mature native trees key threatening process Action Plan was released for public consultation from 25 March 2022 to 1 June 2022, which was longer than the statutory required 6 weeks. Thirty-three 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 Loss of mature native trees key threatening process prepared under section 104.

The primary objective of this Action Plan is to maintain and improve the contribution of mature native trees to biodiversity in the ACT. In order to achieve this goal, the Action Plan contains management objectives. These objectives are supported by management actions.

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 (other than the Territory) 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 engage with 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 –Action plan

This section provides that the final version of the Action Plan is set out in the schedule to the instrument.