

Nature Conservation (Scientific Committee) Appointment 2015 (No 1)

Disallowable instrument DI2015–121

made under the

**Nature Conservation Act 2014, s36 (Scientific committee – appointment of members)
and s37 (Scientific committee – chair and deputy chair)**

EXPLANATORY STATEMENT

The ACT Legislative Assembly passed the *Nature Conservation Act 2014* (Act) in December 2014. When the Act commences it will repeal the *Nature Conservation Act 1980* (former Act).

Under the former Act, there was a Flora and Fauna Committee, whose members were appointed by the Minister upon the Minister being satisfied that the member had appropriate expertise in biodiversity or ecology (DI2012-70). The Minister had also appointed a chair and deputy chair of the Flora and Fauna Committee (DI2012-71). But for the commencement of the Act, and the repeal of the provision establishing the Flora and Fauna Committee, the members of the Flora and Fauna Committee would have served their respective terms until 30 June 2015.

This instrument is made under section 36 of the Act. Section 81 of the *Legislation Act 2001* applies to the exercise of a power to make an appointment or statutory instrument given by a law that has been notified but has not commenced. The Act was notified on 11 December 2014.

Section 31 of the Act will establish the Scientific Committee. The Scientific Committee will have the following functions: to advise the Minister about nature conservation; to advise the Conservator of Flora and Fauna about nature conservation; and to exercise any other function given to the committee under the Act or another territory law. The functions of the newly-established Scientific Committee are broader than those of the Flora and Fauna Committee. The categories of scientific expertise of its members are also broader than those of the Flora and Fauna Committee.

Section 36 of the Act provides that the Minister must appoint seven members to the Scientific Committee, and must ensure that at least four members of the committee are not public servants. The Minister must not appoint a person to the committee unless satisfied that the person has appropriate scientific expertise in biology, ecology, conservation science, or conservation management.

This instrument appoints the following to be members of the newly-established Scientific Committee. The appointees have the scientific expertise indicated, were members of the former Flora and Fauna Committee and are not public servants. The appointees are:

- Professor Arthur Georges (Conservation biology of native Australian species, the ecology, evolution and systematics of Australian reptiles and amphibians)
- Dr Penny Olsen (ornithologist, wildlife management, behavioural ecology)
- Dr Richard Schodde (Non-volant mammals, systematics and evolution, population genetics, biodiversity theory)
- Dr Barry Richardson (Endangerment theory, conservation genetics, conservation policy, mammals and invertebrates)
- Assistant Professor Jasmyn Lynch (Conservation biology, plant ecology, rare and threatened plant species, recovery planning and botanical survey work)
- Associate Professor Mark Lintermans (Ecology and management of aquatic systems, fish and waterbirds, wetlands).

This instrument also appoints the following public servant who has the following scientific expertise: Dr Margaret Kitchin (Fire ecology, native vegetation).

This instrument also appoints the chair and deputy chair of the former Flora and Fauna Committee to be the chair and deputy chair of the Scientific Committee, Professor Arthur Georges and Dr Penny Olsen respectively.

The appointment of the members of the Scientific Committee, including the chair and the deputy chair is until 30 June 2015. This would have been the expiry date of the members' respective former appointments on the Flora and Fauna Committee but for the commencement of the Act. New instruments will be prepared to appoint the members of the Scientific Committee from 1 July 2015.

In accordance with section 227(2)(b) of the Legislation Act, Division 19.3.3 of that Act (Appointments – Assembly consultation) does not apply to these appointments as the appointments are of people to statutory positions for not longer than six months. This is the first appointment of members to the Scientific Committee (the Flora and Fauna Committee establishment was repealed by the Act) and therefore the appointments are not for a second or subsequent consecutive period, which is a caveat to the operation of s227(2)(b) of the Legislation Act, displacing the requirement to consult the relevant standing committee of the Legislative Assembly.

Assembly consultation for the appointments of members, the chair and deputy chair of the Scientific Committee from 1 July 2015 will occur in accordance with Division 19.3.3 of the Legislation Act.

Section 36(7) of the Act provides that an appointment is a disallowable instrument. Regulatory impact statements (RIS) are ordinarily required for disallowable instruments under section 34 of the Legislation Act. Further, even if it is contended that s34 does apply then a RIS is still not required in this instance because the instrument is a matter that is not of a legislative nature but is of a machinery or administrative nature and as such falls within the exception indicated in s36(1)(a) of the Legislation Act.