

Commissioner for Sustainability and the Environment (State of the Environment Report – Reporting Period and Reporting Date) Determination 2016

Disallowable Instrument DI2016–314

made under the

Commissioner for Sustainability and the Environment Act 1993, s 19 (State of the environment report)

EXPLANATORY STATEMENT

Overview

This explanatory statement relates to the *Commissioner for Sustainability and the Environment (State of the Environment Report – Reporting Period and Reporting Date) Determination 2016* as made by the Minister and presented to the ACT 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 is to 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 is a task for the courts.

The disallowable instrument determines the reporting period and reporting day for the next state of the environment report (report). Under the *Commissioner for Sustainability and the Environment Act 1993* (the Act), the commissioner for sustainability and the environment (the commissioner) must give a report to the Minister. A report presents key information on the state of the ACT's environment. It includes an assessment of the condition of the environment, an evaluation of the adequacy and effectiveness of environmental management and an assessment of pressures and sustainability trends. A report must be given for each reporting period and must be given no later than the reporting day.

Section 19 of the Act provides that the commissioner must recommend a reporting period and reporting day to the Minister. The Minister must then consider the recommendation and determine the reporting period and day. The reporting period is determined to be 1 July 2015 to 30 June 2019, and the reporting day is determined to be 21 December 2019.

The reason that 1 July 2015 to 30 June 2019 has been determined to be the reporting period is that this is a period of four years, which is consistent with previous reporting periods. In previous reports this has proven to be an appropriate length as it is short enough to ensure regular reporting but long enough for trends and changes in the environment to be apparent. The Act requires the reporting period to begin immediately after the previous reporting period and to be a maximum of four years. This determination is consistent with those requirements.

The reason that 21 December 2019 has been determined to be the reporting day is that this day will allow sufficient time after the end of the reporting period for the final preparation of the report.

A regulatory impact statement (RIS) has not been prepared. A RIS is not required under s 34 of the Legislation Act because the determination does not impose appreciable costs on the community. Further, a RIS is unnecessary under s 36(1)(b) of the Legislation Act because the determination does not operate to the disadvantage of anyone other than a territory authority by affecting rights or imposing liabilities. The obligations arising from the determination are imposed on the commissioner, who is a Territory authority.

No human rights are affected by this determination. The determination may appear retrospective because the reporting period starts before the date the instrument is made. However, the determination does not have retrospective effect. The period of time determined to be the reporting period extends into the past, but the obligations that exist in relation to the period are prospective. Also, under the Act it is necessary for the reporting period to extend into the past because the determination is made after the previous report and the reporting period begins from the end of the previous period.

Provisions in Detail

Section 1 – Name of instrument

This section names the instrument.

Section 2 – Commencement

This section provides for the commencement of the instrument.

Section 3 – Reporting Period

This section determines the reporting period. This is the period of time covered by the report. The period determined is four years from the end of the previous reporting period.

Section 4 – Reporting Day

This section determines the day that the next state of the environment report must be given to the Minister.

Section 5 – Expiry

This section provides for the instrument's expiry.

Section 6 – Revocation

This section revokes the previous instrument which determined the reporting period and the reporting date for the previous state of the environment report.