

# Nature Conservation (Eastern Grey Kangaroo) Controlled Native Species Management Plan 2017

## Disallowable instrument DI2017–37

made under the

**Nature Conservation Act 2014, s 163 (Draft controlled native species management plan—revision) and s 165 (Draft controlled native species management plan—final version and notification)**

## EXPLANATORY STATEMENT

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### Introduction

This explanatory statement relates to the *Nature Conservation (Eastern Grey Kangaroo) Controlled Native Species 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 *Nature Conservation Act 2014* (the Act) commenced on 11 June 2015 and is the primary ACT legislation to protect, conserve and enhance the biodiversity of the ACT. Native plants and animals can cause unacceptable environmental, social or economic damage that requires management. In the ACT, Eastern Grey Kangaroos are capable of reaching densities that have unacceptable environmental impacts on threatened grassland and woodland ecosystems. These impacts arise from high population densities of kangaroos.

The Act provides for the management of those native species causing damage within the strategic context of ensuring the persistence of the species overall. The Minister for the Environment and Heritage may declare a species causing unacceptable environmental, social or economic damage a Controlled Native Species. Once a

species is declared as such, the Conservator for Fauna and Flora (the Conservator) may prepare a Controlled Native Species Management Plan.

The Eastern Grey Kangaroo has a significant impact on the grassy ecological communities of the ACT. As a result of increasingly fragmented landscapes; improved habitat for kangaroos; and loss of predators from the ecosystem, kangaroos have a major top-down influence on ecosystem processes in both grasslands and woodlands leading to loss of condition and function.

The significant impacts from high density populations of Eastern Grey Kangaroos require management of this species on an ongoing basis to reduce impacts to an acceptable level.

The Minister declared the Eastern Grey Kangaroo (*Macropus giganteus*) to be a controlled native species on 6 February 2017 (*Nature Conservation (Controlled Native Species—Eastern Grey Kangaroo) Declaration 2017* [DI2017–13]).

The Conservator prepared a draft *Eastern Grey Kangaroo Controlled Native Species Management Plan* (management plan) and undertook public consultation from 9 February 2017 to 24 March 2017 (NI2017-51).

### **The Disallowable Instrument**

The purpose of the controlled native species management plan is to set out the approach to be adopted in maintaining wild populations of Eastern Grey Kangaroos in the ACT while managing their environmental, economic and social impacts and ensuring their welfare. Particular consideration is given to managing kangaroo grazing pressure on native grassy ecosystems in the context of grazing pressure from all herbivores.

The primary goals of kangaroo management in the ACT are to:

- maintain populations of kangaroos as a significant part of the fauna of the ‘bush capital’ and a component of the grassy ecosystems of the Territory:
- manage and minimise the environmental, economic and social impacts of those kangaroo populations on other biota, grassy ecosystems and primary production.

In order to achieve these goals the management plan provides detail on the circumstances and processes that apply to management of kangaroos on different types of land.

Once the Plan is in place, the Conservator and the Custodian of public or unleased land are required to implement the management plan. The custodian of public land can implement the plan and authorise others, such as contractors, to undertake culling on public land. In preparing the management plan, the Conservator consulted the Director of the Parks and Conservation Service which is the custodian of public land where culling of kangaroos would occur. The management plan does not permit or require landholders to undertake culling without a separate authorisation from the Conservator.

The Conservator would endorse the numbers allowed to be culled each year. Requirements for firearm licences, animal welfare standards and a commitment to ensuring public safety also apply.

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

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 management of Eastern Grey Kangaroos is necessary to protect, maintain and enhance listed threatened species and ecological communities and to provide for ecologically sustainable development through the management of kangaroos to retain the ecological integrity of production and conservation landscapes.

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

No rights, liberties or obligations are directly impacted by the management plan. Access to reserves may be limited during kangaroo culling operations (the Act s 259). This instrument does not change the ability or circumstances of the Conservator to close a reserve.

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

The management plan does not affect rights, liberties or obligations. The plan does not impose liabilities or impact individuals' rights. Once the management plan is finalised, there is an obligation created under the Act for the Conservator and the custodian to take reasonable steps to implement the management plan within their statutory roles. Actions taken to implement the management plan are not reviewable. The management plan itself does not provide any additional obligations on anyone except for the Conservator and custodian to implement the plan.

**(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, finalisation and notification of controlled native species management plans are provided for in the Act.

### **Regulatory Impact Statement**

This disallowable instrument is not likely to impose appreciable costs on the community, or part of the community and therefore a regulatory impact statement is not required (s 34 (1) of the *Legislation Act 2001*). Further, a regulatory impact statement is unnecessary, in accordance with s 36 (1) of the *Legislation Act*, as the disallowable instrument does not operate to the disadvantage of anyone by adversely affecting the person's rights, or imposing liabilities on the person.

### **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**

This section indicates that the final version of the draft Eastern Grey Kangaroo Controlled Native Species Management Plan is scheduled to the instrument.