

**2021**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**Government Response to ACT Auditor-General's Report No. 1 of  
2021 - Land Management Agreements**

**Presented by  
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## Introduction

The Territory is currently home to 159 farming families covering 183 rural leases across 40,000ha (15%) of the ACT, with approximately 25,000 ha considered arable. Land tenure in the Australian Capital Territory (ACT) is exclusively leasehold.

There are 168 Land Management Agreements (LMAs) in place across the ACT. All rural leases require an LMA<sup>1</sup>. Each LMA consists of a documented plan and map and includes information on values such as threatened communities and species, riparian areas and wetlands, heritage and risks including weed and fire. LMAs specify the type and number of stock to be held, as well as the requirements for appropriate environmental management and monitoring of conservation assets including identification of pest animal and invasive plant management programs.

The ACT Conservator of Flora and Fauna and individual rural lease holders are cosignatories to LMAs.

Agricultural land use in the ACT is predominantly used for grazing of livestock, with a small area used for egg and chicken production, and horticulture. The gross value of agricultural production in the ACT was \$34 million in 2019, growing from \$21 million in 1990.

The major primary production industries are beef cattle (over 5,500 beef cattle contribute \$2.4 million p.a through livestock sales) and sheep and wool production (approximately 38,000 sheep produce wool worth \$1.2 million and sheep sales of just under \$1 million p.a.). Other agricultural enterprises include egg and chicken production; horse agistment and equestrian enterprises; alpacas and llamas; fruit orchards and vegetable market gardens; nurseries; hay and grain cropping, primarily for on-farm use; wine; and truffles.

In 1996, the ACT Government commenced a review of rural land policy in the Territory which, until this time had been based on short-term leasing arrangements. Following the review, a new rural land policy was introduced in March 2000 incorporating longer term 99-year leases.

As part of the review, the ACT Government also agreed to revise the Property Management Agreements that were in use at the time. The aim was to develop a more flexible agreement that recognised the need to balance environmental objectives against practical issues associated with maintaining a viable rural enterprise. The Land Management Agreement (LMA) that is currently used by the ACT Government was consequently developed.

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<sup>1</sup> Instrument no. 270 of 1999 of the Land (Planning and Environment) Act 1991 provided, amongst other things, an exemption for 15 rural leases at Pialligo with very low environmental risk from the need to have a LMA. The introduction of the Planning and Development Act 2007 (Act) Section 283 requires an LMA to be approved by the Conservator of Flora and Fauna where a rural lease is granted, varied or transferred. As a result, a LMA over those blocks previously exempt is only required when a further lease is granted or the lease is varied or transferred.

Section 186C of the Land (Planning and Environment) Act 1991 (now section 283 of the *Planning and Development Act 2007*) provided the legislative basis for requiring the completion of a Land Management Agreement (LMA) for rural leases.

The main objective of the LMA is to establish appropriate management controls and practices for the subject lease that achieve the land management goals of both the lessee and the Territory.

No other jurisdiction in Australia has a legal agreement with every rural landholder to deliver sustainable management of rural lands including the conservation of natural and cultural values.

An individual, partnership or business cannot attain a Rural Lease within the ACT until they have entered into a LMA with the Territory. LMAs are particularly important for land which is of high conservation value, as this agreement specifies how these areas are to be managed and protected.

Throughout 2020, The ACT Audit Office conducted a Performance Audit titled "*Land Management Agreements*" as per Section 17(5) of the Auditor General Act 1996. The Audit was subsequently tabled on 4 February 2021.

The Audit Office determined that LMAs were not an effective land management tool as many are out of date; have varying depths of information and assessment; lack of an overarching risk management plan and compliance was limited.

The Government thanks the Audit Office for its Audit and welcomes the opportunity to respond to these matters. This response addresses the following six recommendations below. In general, the recommendations are supported, with four agreed and two noted.

## Recommendations

### RECOMMENDATION 1 ROLES AND RESPONSIBILITIES

The Environment, Planning and Sustainable Development Directorate, in cooperation with other ACT Government agencies involved in the development of Land Management Agreements should:

- a) identify and document roles and responsibilities for the establishment of the Agreements; and
- b) establish an ongoing forum for the discussion and resolution of issues associated with the development of the Agreements and the identification of potential system and process improvements.

### RECOMMENDATION 2 POLICY AND PROCEDURAL GUIDANCE

The Environment, Planning and Sustainable Development Directorate should develop policy and procedural guidance for the development and ongoing management and administration of Land Management Agreements.

### RECOMMENDATION 3 LAND MANAGEMENT AGREEMENT PRIORITISATION

The Environment, Planning and Sustainable Development Directorate should develop a risk-based framework for the development and administration of Land Management Agreements. The framework could assist in identifying appropriate timeframes for the Agreements as well as consideration of a means to synchronise the development of Agreements for collaboration purposes at specific localities.

### RECOMMENDATION 4 DOCUMENTATION AND RECORD-KEEPING

The Environment, Planning and Sustainable Development Directorate should develop and implement policy and procedural guidance for the documentation and record-keeping of Land Management Agreements. The guidance should include principles for the consistent documentation of processes associated with the development of Agreements with rural leaseholders.

### RECOMMENDATION 5 LAND MANAGEMENT AGREEMENT DETAIL

The Environment, Planning and Sustainable Development Directorate should identify and prescribe a minimum level of detail for Land Management Agreements that fosters their use as an active and ongoing land management tool. The minimum level of detail should identify specific actions and outcomes that facilitate the monitoring and enforcement of compliance with Agreements by rural leaseholders.

## RECOMMENDATION 6      MONITORING AND COMPLIANCE

The Environment, Planning and Sustainable Development Directorate and Access Canberra should develop a risk-based framework for the monitoring and enforcement of Land Management Agreements including processes for:

- a) monitoring rural leaseholders' compliance with their Agreements; and
- b) taking enforcement action in the event of potential non-compliance.

## **Government Response to ACT Auditor-General's Report No. 1 of 2021 - Land Management Agreements**

### **Recommendation 1 Roles and Responsibilities.**

The Environment, Planning and Sustainable Development Directorate, in cooperation with other ACT Government agencies involved in the development of Land Management Agreements should:

- a) identify and document roles and responsibilities for the establishment of the Agreements; and
- b) establish an ongoing forum for the discussion and resolution of issues associated with the development of the Agreements and the identification of potential system and process improvements.

### **Response**

#### **Agreed**

The Environment, Planning and Sustainable Development Directorate (EPSDD) agrees that the Land Management Agreement (LMA) process can be complex, with a number of business units within the directorate involved in the development and management of LMAs as well as other directorates such as Chief Minister, Treasury and Economic Development Directorate (Access Canberra) and Emergency Services Agency (ACT Rural Fire Service).

In addition to the stakeholders involved, there are also a number of regulatory instruments that are applicable.

EPSDD agrees that there needs to be a systematic approach to support the collaborative efforts of the staff and leaseholders involved in the development, management and administration of LMAs.

A regular ongoing forum will be established to provide oversight on the LMA process and identify and document roles and responsibilities as required.

### **Recommendation 2 Policy and Procedural Guidance**

The Environment, Planning and Sustainable Development Directorate should develop policy and procedural guidance for the development and ongoing management and administration of Land Management Agreements.

### **Response**

#### **Agreed**

EPSDD will develop policy and procedural guidance for the development and ongoing management and administration of LMAs, including advice from the Office of the Conservator on their requirements.

The LMA Agreement Template developed under the *Planning and Development Act 2007* (the Act) s425 and found at <https://www.legislation.act.gov.au/View/af/2016-26/20160430-63367/PDF/2016-26.PDF> provides considerable guidance on the development, management and administration of LMAs.

The document provides direction on the purpose and authorising environment of the LMA, as well as describing the general objectives sought by the LMAs. The document furthermore outlines a general structure for LMAs including advice on site assessments and the responsibilities of the parties involved, being the ACT Government and the rural leaseholders.

Notwithstanding this, it is appropriate that, in collaboration with staff from the Directorate, business units with an interest in LMAs and the rural leaseholders, a review of the LMA Agreement Template will be conducted to ensure that it is meeting the intended outcomes and objectives sought by the LMAs. This review will consider steps to improve the overall effectiveness of LMAs and also address issues raised in the other recommendations below.

The template and other policy guidance material developed will be incorporated into a LMA Conservator Guideline as a notifiable instrument.

### **Recommendation 3 Land Management Agreement Prioritisation**

The Environment, Planning and Sustainable Development Directorate should develop a risk-based framework for the development and administration of Land Management Agreements. The framework could assist in identifying appropriate timeframes for the Agreements as well as consideration of a means to synchronise the development of Agreements for collaboration purposes at specific localities.

#### **Response**

##### **Agreed**

EPSDD has LMAs in place for all leases with the designated land use as "rural", as is required by the Act. The Act does not specify timeframes for renewal of LMAs.

The Directorate has already taken positive action by delivering LMAs on revised templates that are simplified and more easily prepared for each rural lease, providing additional staffing and prioritising new LMAs based on land transfers. The Directorate has adopted a risk-based approach to the management of LMAs and will document this approach to support the delivery of LMAs across the Territory and this will be included in the revised policy.

#### **Recommendation 4 Documentation and Record-Keeping**

The Environment, Planning and Sustainable Development Directorate should develop and implement policy and procedural guidance for the documentation and record-keeping of Land Management Agreements. The guidance should include principles for the consistent documentation of processes associated with the development of Agreements with rural leaseholders.

#### **Response**

##### **Noted**

The Directorate uses Objective to store files. In relation to land, each block and section has a standard hierarchy of sub-folders. This includes provision for rural leases and LMAs. All LMAs are stored on Objective and can be accessed when required.

Notwithstanding this, EPSDD takes its responsibilities under the *Territory Records Act 2002* very seriously and, in the process of implementing Recommendation 2 above, will review processes as appropriate.

#### **Recommendation 5 Land Management Agreement Detail**

The Environment, Planning and Sustainable Development Directorate should identify and prescribe a minimum level of detail for Land Management Agreements that fosters their use as an active and ongoing land management tool. The minimum level of detail should identify specific actions and outcomes that facilitate the monitoring and enforcement of compliance with Agreements by rural leaseholders.

#### **Response**

##### **Noted**

Each LMA is designed specifically for the land to which it applies. Due to ecological, cultural, geographic and lease size differences, each will be different in their content. A risks-based approach is used, incorporating ecological, cultural and land management expertise of staff and rural landholders along with data from a range of sources. For example, some LMAs cover small blocks with few ecological/cultural considerations therefore the amount of information and complexity is less than larger sites with more complex ecological/cultural values.

Some information about ecological and heritage values are not released or published due to conservation and cultural sensitivities.



To improve landscape outcomes, the LMA process provides opportunities for remediation work across multiple and neighbouring properties. This can guide landscape scale land management programs where landholders are engaged in education and advisory programs and build healthy relationships between rural lessees and Government.

Notwithstanding this, in completing Recommendation 2 above, EPSDD will develop policy and procedural guidance documents that provide staff and leaseholders with adequate direction on the appropriate level of detail required to appropriately enunciate monitoring and compliance obligations.

### **Recommendation 6 Monitoring and Compliance**

The Environment, Planning and Sustainable Development Directorate and Access Canberra should develop a risk-based framework for the monitoring and enforcement of Land Management Agreements including processes for:

- a) monitoring rural leaseholders' compliance with their Agreements; and
- b) taking enforcement action in the event of potential non-compliance.

### **Response**

#### **Agreed**

EPSDD and Access Canberra agree to collaborate to develop a strategic framework for monitoring and compliance of LMAs.

The Directorate uses education and capacity building as the first steps in compliance, aligned with best practices approaches in compliance. This is undertaken by the Rural Services and Natural Resource Management teams within EPSDD respectively.

Schedule 2 (7) of the Act establishes that managing land held under a rural lease other than in accordance with the land management agreement is a controlled activity.

Chapter 11 of the Act sets out the actions the authority may take to regulate controlled activities, which includes infringement notices, controlled activity orders, rectification works, prohibition notices, injunctions or terminations.

Chapter 12 of the Act sets out the roles and functions of inspectors appointed under the Act, including powers to enter property, request information and give direction.

It should also be noted that a number of compliance issues have been resolved via the initial lease agreements (rather than the LMAs) whilst issues identified via the LMA process with weeds, pests, heritage etc, can also be managed through other pieces of legislation (*Nature Conservation Act 2014, Pest Plants and Animals Act 2005*, etc).

EPSDD has a number of tools that it uses to monitor effectiveness of programs on public land and the conservation estate such as the Conservation Effectiveness Monitoring Program (CEMP) and the Invasive Plants Monitoring and Mapping program.

The CEMP

([https://www.environment.act.gov.au/\\_data/assets/pdf\\_file/0004/1059241/Conservation-effectiveness-monitoring-program.pdf](https://www.environment.act.gov.au/_data/assets/pdf_file/0004/1059241/Conservation-effectiveness-monitoring-program.pdf)) aims to create a coordinated, systematic, and robust biodiversity monitoring program that will allow us to detect changes in ecosystem condition, evaluate the effectiveness of management actions in achieving conservation outcomes and provide evidence to support land management decisions.

The Invasive Plants Monitoring and Mapping program

(<https://www.environment.act.gov.au/parks-conservation/plants-and-animals/Biosecurity/invasive-plants>) has been applied successfully in the Majura Valley and Clear Ridge to integrate weed control at a landscape scale across all land tenures.

EPSDD will assess the application of the above-mentioned tools to the monitoring of land management outcomes on rural leases.