



Legislative Assembly for the ACT

STANDING COMMITTEE ON PLANNING AND
ENVIRONMENT

**Variation to the Territory Plan No 285
Block 17 Section 102 Symonston Extension of
Broadacre 10E Area Specific Policy**

FEBRUARY 2008

Report 32

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Resolution of appointment

On 7 December 2004 the ACT Legislative Assembly agreed to establish general purpose standing committees. The Assembly resolved that:

- (1) The following general purpose standing committees be established and each committee to inquire into and report on matters referred to it by the Assembly or matters that are considered by the committee to be of concern to the community: ...
 - (e) a Standing Committee on Planning and Environment to examine matters related to planning, public works and land management, conservation and heritage, transport services, and environment and ecological sustainability.

The Assembly also agreed that if the Assembly is not sitting when the Standing Committee on Planning and Environment had completed consideration of a report on draft plan variations or draft plans of management referred to the Committee by the Minister under the Land (Planning and Environment) Act 1991, the Committee may send its report to the Speaker, or, in the absence of the Speaker to the Deputy Speaker, who is authorised to give directions for its printing, publication and circulation.¹

Terms of reference

Section 25 of the Land (Planning and Environment) Act 1991 (ACT) states:

The Minister shall, within 28 days of receiving a draft plan variation under section 24, refer —

- (a) the draft plan variation; and
- (b) the documents referred to in section 24(1) that relate to the draft plan variation;

to an appropriate committee of the Legislative Assembly together with a request that the committee report on the draft plan to the Legislative Assembly.

¹ Legislative Assembly of the ACT, *Minutes of Proceedings*, No 2, 7 December 2004, pp12–16.

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RECOMMENDATIONS

Recommendation 1

The Committee recommends that the proposed variation to the Territory Plan proceed.

Recommendation 2

The Committee recommends that ACT Planning and Land Authority include in any lease and development conditions a requirement that the developer is to ensure thorough trappings and searches are conducted of arthropod burrows on the site, prior to any site development, with the aim of salvaging Grassland Earless Dragon individuals.

Recommendation 3

The Committee further recommends that a Grassland Earless Dragon specialist be consulted to assist in the above process.

Recommendation 4

The Committee recommends that ACT Planning and Land Authority and the Department of Territory and Municipal Services adopt the recommendations of the Conservator of Flora and Fauna, particularly in relation to the preservation and maintenance of remaining Grassland Earless Dragon grassland habitat.

Recommendation 5

The Committee recommends that the proposed grassland nature reserves are managed in a way to maintain the Natural Temperate Grassland habitat for Grassland Earless Dragon populations, including appropriate pasture management and weed control.

Recommendation 6

In relation to ongoing management of remaining grasslands in the area, the Committee recommends that the government take into consideration the findings of the Commissioner for Sustainability and the Environment's investigation into the ACT's Lowland Native Grasslands when it is completed.

1 INTRODUCTION

- 1.1 Both Federal and ACT law and policy governs planning in the ACT. The *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth)² establishes the National Capital Authority, which prepares and administers the National Capital Plan. The Act also enables the Legislative Assembly to establish a statutory planning authority – now the ACT Planning and Land Authority – to develop and implement the Territory Plan. The *Land (Planning and Environment) Act 1991* (ACT)³ (the Act) requires the Territory Plan to set out the planning principles and policies for giving effect to its object,⁴ which is:

to ensure, in a manner not inconsistent with the National Capital Plan, that the planning and development of the ACT provides the people of the ACT with an ecologically sustainable, healthy, attractive, safe and efficient environment in which to live, work and have their recreation.⁵

- 1.2 The Plan includes both a written statement and a map. The written statement contains general planning principles (Part A), specific land use policies (Part B), overlay provisions (Part C), and definitions of terms (Part D). The Territory Plan map shows which land use policies and overlays in the written statement apply to particular sections of land in the Territory. The Territory Plan is developed and implemented taking account of other strategic ACT Government policy documents such as *The Canberra Plan* and *People Place Prosperity: a Policy for Sustainability in the ACT*.⁶
- 1.3 Recognising that land use policies may change over time, the Act provides for variations to the Territory Plan. The ACT Planning and Land Authority prepares these for stakeholder comment. There can be a number of versions of a draft variation depending on the consultation program.

² Accessible via

<http://www.comlaw.gov.au/ComLaw/legislation/actcompilation1.nsf/browseview?openform&VIEW=current&ORDER=bytitle&CATEGORY=actcompilation-Au>.

³ Accessible at <http://www.legislation.act.gov.au/a/1991-100/current/pdf/1991-100.pdf>.

⁴ Land (Planning and Environment) Act 1991, sub-section 7(2).

⁵ Land (Planning and Environment) Act 1991, sub-section 7(1).

⁶ Accessible at <<http://www.cmd.act.gov.au/canberraplan/>> and <http://www.sustainability.act.gov.au/policy.html>.

- 1.4 The Minister is required by the Act to refer each draft variation, within 28 days of receiving it, to an appropriate Committee of the Assembly – currently the Standing Committee on Planning and Environment – for consideration and report.⁷ The Minister is required to have regard to the Committee’s recommendations before approving the proposed variation and tabling it in the Assembly (see below), or returning it to the ACT Planning and Land Authority with written directions for further action.⁸
- 1.5 The Territory, the Executive, a Minister or a Territory authority must not do or approve anything that is inconsistent with the Territory Plan, or the proposed draft variation, in relation to land that is subject to a draft variation, for the duration of the relevant period specified in the Act.⁹
- 1.6 Following the Committee’s tabling of its report in the Legislative Assembly, the Minister must take the findings of the Committee into account before making his decision in relation to the draft plan variation.¹⁰ If the Minister approves it, he will table the proposed variation and associated documents in the Legislative Assembly.¹¹ Unless wholly or partially disallowed by the Assembly on a motion for which notice has been given within five sitting days, the variation will commence on the date nominated by the Minister.

⁷ Land (Planning and Environment) Act 1991, section 25.

⁸ Land (Planning and Environment) Act 1991, paragraphs 26(1)(a) and (b), sub-section 26(2).

⁹ Land (Planning and Environment) Act 1991, section 9.

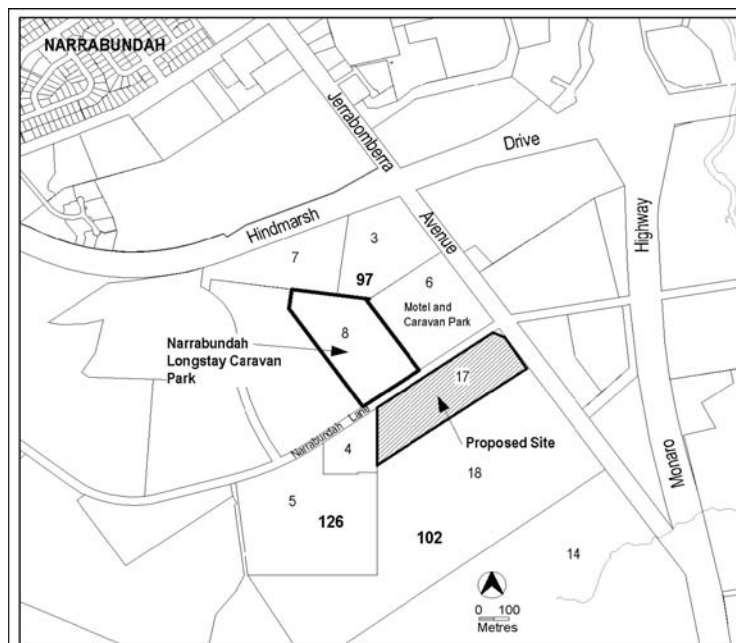
¹⁰ Land (Planning and Environment) Act 1991, sub-section 26(2).

¹¹ Land (Planning and Environment) Act 1991, section 29.

2 THE PLANNING VARIATION

- 2.1 This proposed variation to the Territory Plan (DV285) Written Statement and Map concerns Block 17 Section 102 Symonston. Once approved, the variation would enable the implementation of a land swap agreement between the ACT Government and Dytin Pty Ltd, the lessee of Block 8 Section 97 Symonston (the site of the Narrabundah Long Stay Caravan Park). The agreement is reported to enable the caravan park to continue on Block 8 Section 97, provided land with equivalent development potential is made available to the lessee in a land swap. The new site to be offered to the lessee, Block 17 Section 102, is the subject of this variation and applies the same planning policy arrangements as apply to Block 8, Section 97 to facilitate a like-for-like swap. Block 8, Section 97 will continue as the Narrabundah Long Stay Caravan Park once the land swap has taken place.

Figure 1: Block 17 and adjacent blocks¹²

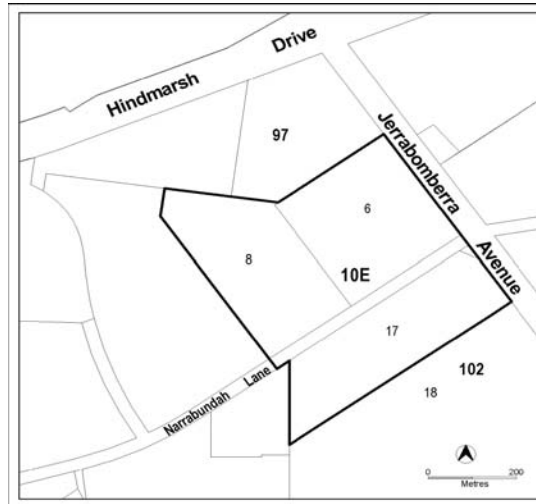


- 2.2 The variation proposes to extend the Broadacre Land Use Policy 10E Area Specific Policy to Block 17 Section 102. It also proposes to amend the Territory

¹² Reproduced from ACT Planning and Land Authority, *Recommended Final Variation No 285: Symonston Block 17 Section 102 Extension of Broadacre 10E Area Specific Policy*, November 2007, p4.

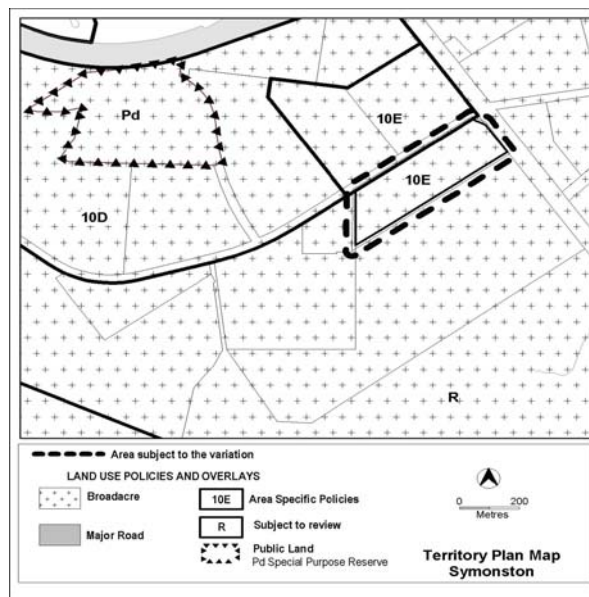
Plan Written Statement by replacing Figure 5 in the Broadacre land use policy with the following Figure 5:

Replacement Figure 5: Area 10E Mobile home park, Symonston



2.3 The proposed change to the Territory Plan Map is explained in Figure 2.

Figure 2: Proposed Land Use Policies¹³



2.4 To ensure consistency with the National Capital Plan, the National Capital Authority developed and progressed to adoption in October 2007, Amendment No 67 to the National Capital Plan. This amendment is due to be

¹³ Reproduced from ACT Planning and Land Authority, *Recommended Final Variation No 285: Symonston Block 17 Section 102 Extension of Broadacre 10E Area Specific Policy*, November 2007, p7.

tabled in the Australian Parliament on the first sitting day of the new Parliament (12 February 2008) and is subject to the statutory disallowance period of 15 sitting days.¹⁴

2.5 The objectives of the Territory Plan Broadacre Land Use Policies are:

- a) to make provision in a predominantly rural landscape setting for a range of uses which require larger sites and/or a location outside urban areas;
- b) to make provision for activities requiring clearance zones or protection from conflicting development;
- c) to ensure that development does not adversely impact on the environmental quality of the locality; and
- d) to ensure, where appropriate, that development and the use of land does not undermine the future use of land which may be required for urban and other purposes.

2.6 Following the appropriate statutory planning and development processes, land described as broadacre may be used for any of the following purposes:

SCHEDULE 1 BROADACRE LAND USE	
<i>Purposes for which land may be used</i>	
Agriculture	Municipal depot*
Animal care facility	Nature conservation area
Animal husbandry	Outdoor recreation facility*
Caravan park/camping ground*	Parkland
Cemetery	Place of worship
Communications facility*	Road*
Community activity centre	Scientific research establishment*
Corrections facility*	Special care establishment
Defence installation*	Special care hostel
Educational establishment	Tourist facility
Emergency services facility	Transport depot*
Health facility	Veterinary hospital
Land management facility	Woodlot
MAJOR UTILITY INSTALLATION*	
* May be subject to mandatory preliminary assessment under the Land Act (see Appendix II)	

2.7 Area specific policy 10E further identifies 'Mobile home park' as a specific objective and an approved broadacre land use within the specified area.¹⁵

¹⁴ Media release: NCA planning for mobile home park finalised, 15 October 2007, accessible at http://www.nationalcapital.gov.au/corporate/media/recent_media_release.asp?media_ID=239.

- 2.8 All broadacre land use is subject to specific development conditions outlined in Appendix B¹⁶

Other studies of the Symonston environment

- 2.9 The Preliminary Assessment of the ACT Prison (Blocks 8, 9 & 10 Section 102 Symonston) was commissioned to provide advice to ACT Government on potential land use variations and the impacts of proposed development in the Symonston area.

Preliminary Assessment ACT Prison (Blocks 8, 9 & 10 Section 102 Symonston)

- 2.10 In 2001 a preliminary assessment was undertaken for Blocks 8, 9 and 10 Section 102 Symonston to consider the suitability of this site for the ACT prison. The study evaluated the impact of any development on the immediate site and surrounding environment.
- 2.11 The main issues discussed in the assessment which may be relevant to Block 17 Section 102 Symonston were site environmental constraints and the potential visual impact of site development on surrounding properties.
- 2.12 Flora and fauna constraints on the eastern and western ends of the study area were likely to severely limit any potential development. Temperate grasslands on the eastern boundary are of particular ecological significance as they form part of a larger grassland habitat in the region for the endangered Grassland Earless Dragon (GED). Any physical development or construction works on the proposed prison site would avoid any infringement on the areas identified as GED habitat, as the assessors considered that an unacceptable environmental impact. Additionally the identified buffer zone around the

¹⁵ Territory Plan Part B10: Broadacre Land Use Policy. Accessible at: <http://apps.actpla.act.gov.au/tplan/index.htm>.

¹⁶ Territory Plan Part B10: Broadacre Land Use Policy.

prison, which would encompass some grassland areas were proposed to be rehabilitated “to enhance native grassland conservation values”.¹⁷

- 2.13 The assessment concluded that the nominated site was “suitable for the proposed development of an ACT prison complex”¹⁸, however, recognised that the development would encroach on the yellow box/red gum grassy woodland at the western end of the site, having a significant impact on the natural environment.
- 2.14 The preliminary assessment also outlined a number of conservation options to manage the heritage values associated with the Callum Brae property. These included a strategy to conserve a minimum ‘heritage curtilage’ surrounding the homestead and outbuilding precinct and maintain a pastoral and grazing function. This curtilage does not extend to Block 17 Section 102 Symonston.¹⁹

Statutory consultations – ACT Planning and Land Authority

- 2.15 The ACT Planning and Land Authority (ACTPLA) released Draft Variation to the Territory Plan number 285 for public comment between 20 July 2007 and 3 September 2007. The Authority received ten written submissions from non-government stakeholders. Seven raised objections and three (including two form letters with a total of 32 signatures) expressed support for the proposal.²⁰
- 2.16 The issues raised in submissions to the Authority, and the Authority’s response, are summarised in Appendix 1
- 2.17 The major issues raised by individuals were:
- The threat to the survival of the GED through potential destruction or fragmentation of GED habitat on the site.

¹⁷ Preliminary Assessment Report, ACT Prison, Blocks 8,9 & 10 Section 102 Symonston, p78.

¹⁸ Preliminary Assessment Report, ACT Prison, Blocks 8,9 & 10 Section 102 Symonston, pIV.

¹⁹ See Appendix C.

²⁰ ACT Planning and Land Authority, *Report on Consultation: Draft Variation No 285: Symonston Block 17 Section 102 Extension of Broadacre 10E Area Specific Policy*, November 2007, p3.

- The need to survey GED distribution on the site to determine their prevalence.
- Concern for the rights and interests of the Narrabundah Long Stay Caravan Park residents if the variation and land-swap do not proceed.
- The unsuitability of the site for a mobile home park due to lack of facilities and essential services.
- The heritage value of the site as a part of the Callum Brae precinct.

2.18 In accordance with the *Land (Planning and Environment) Act 1991* (ACT), ACTPLA sought and considered the views of the ACT Conservator of Flora and Fauna, the ACT Heritage Council, and the National Planning Authority concerning the Draft Variation.

2.19 The Conservator advised ACTPLA on 11 December 2006 that the Jerrabomberra and Majura Valleys contain the two largest and most significant remaining populations of Grassland Earless Dragons in Australia. The Conservator made several recommendations to improve the protection of this habitat, about 1.5% of which would be destroyed by the proposed land swap. He noted that fragmentation would be minimised by the proposed location and orientation of Block 17, and that the ACT Government had proposed to create new grassland reserves in Jerrabomberra Valley. ACTPLA has advised that grassland areas identified as being future reserves have been withdrawn from leasing and have been fenced, as well as being identified as public land in the Draft Territory Plan to ensure their protection as grassland reserves.²¹ Whilst noting that Block 17 seemed to have fewer Grassland Earless Dragons than other parts of the Jerrabomberra Valley, based on 1997 surveys, nevertheless the development of the land could impact on adjacent habitat and result in further soil disturbance, weeds and fires. The Conservator recommended that prior to earthworks commencing, the developer must ensure that searches were conducted of arthropod burrows with the aim of salvaging Grassland Earless Dragon individuals.²²

²¹ Draft Variation to the Territory Plan no.285 July 2007, p12- 13.

²² Letter from the Conservator of Flora and Fauna, Mr Hamish McNulty, to the Chief Planning Executive, ACT Planning and Land Authority, dated 11 December 2006.

- 2.20 The National Capital Authority (NCA) advised on 7 August 2007 that it had no issues with the proposed variation document, but it did propose two minor amendments. One concerned reference to the area for the land swap being under investigation for Urban Use under the National Capital Plan and Broadacre Land Use Policy in the Territory Plan, and the other concerned the use of the abbreviation NCP for 'The National Capital Plan'.²³ The Authority agreed to the latter, but said the former comment had become inapplicable because of the revised text used in the final recommended variation.²⁴
- 2.21 The ACT Heritage Council expressed concern that Block 17 was within the proposed Callum Brae Heritage Precinct (including Block 18 Section 102) which was being assessed for entry into the ACT Heritage Register at the time of the Council's response (January 2007). In the Council's view the heritage value of the precinct may be compromised unless development on Block 17 Section 102 was unobtrusive within significant vistas and was visually screened with plantings of local indigenous species. The Council 'strongly recommended' that the pastoral rural character of the pastoral precinct be conserved by having adjoining land become long-term rural lease.²⁵
- 2.22 The Authority's response to the Heritage Council was that the Broadacre Land Use policy that applies to Blocks 17 and 18, Section 102 (see Figure 1) permits development similar in nature to the Therapeutic Goods Administration building (scientific research establishment) and that all heritage and environmental matters for those sites would be considered prior to development approval being issued. ACTPLA concluded that comments from the Heritage Council could be responded to at that point in time.²⁶

²³ Letter from Mr Todd Rohl, Planning and Urban Design, to the Manager, Planning and Land Policy, ACT Planning and Land Authority, dated 22 August 2007.

²⁴ ACT Planning and Land Authority, *Report on Consultation: Draft Variation No 285: Symonston Block 17 Section 102 Extension of Broadacre 10E Area Specific Policy*, November 2007, p12.

²⁵ Letter from Dr Sandy Blair, Secretary, ACT Heritage Council, to ACTPLA Senior Officer Ms Joyce Rajasekaram, dated 12 January 2007.

²⁶ ACT Planning and Land Authority, *Report on Consultation: Draft Variation No 285: Symonston Block 17 Section 102 Extension of Broadacre 10E Area Specific Policy*, November 2007, p13.

3 CONSULTATIONS BY THE PLANNING AND ENVIRONMENT COMMITTEE

- 3.1 The Minister for Planning, Mr Andrew Barr MLA, referred DV285 to the Committee by letter dated 15 November 2007. The Committee's inquiry was uploaded onto the Committee's website shortly thereafter.
- 3.2 The Committee considered the submissions lodged with ACTPLA in response to the draft variation, and the Authority's response.
- 3.3 The Committee held a public hearing on 18 December 2007 and heard from Dr Will Osborne, of the University of Canberra's Institute of Applied Ecology, the ACT Conservator of Flora and Fauna and other ACT Government officials. The main issues discussed at the public hearing focused on environmental considerations of Block 17 Section 102 Symonston including the conservation of the GED species and GED habitat.²⁷

Conservation of the Grassland Earless Dragon

- 3.4 The Grassland Earless Dragon (*Tympanocryptis pinguicolla*) was rediscovered in the ACT around 15 years ago and is listed as endangered in the ACT and under Commonwealth legislation. The only two remaining Australian populations are both found in Canberra, in Jerrabomberra valley and near the Canberra Airport although there is an unknown distribution of the species in the Cooma region which is genetically distinct from the ACT GED populations.²⁸
- 3.5 GEDs live in burrows created by soil dwelling invertebrates like spiders and the Canberra raspy cricket, and move within a range of around 50 meters from their burrows. The areas with GEDs tend to be on higher ground and GEDs seem able to survive in the more disturbed grassland areas, despite its lower conservation value.

²⁷ The Hansard transcript of Evidence from the public hearing is accessible at <http://www.hansard.act.gov.au/hansard/2005/comms/default.htm>.

²⁸ Transcript of Evidence, 18 December 2007, p2-3.

Loss of habitat

- 3.6 The area of land subject to variation 285 only constitutes around 1.5 per cent of the total GED habitat in the Jerrabomberra valley. Additionally, the grassland within the land-swap zone is classed as native pasture rather than natural temperate grassland and hence not considered as high-quality grassland.²⁹
- 3.7 If a development approval proceeds on Block 17 Section 102 Symonston, The Conservator of Flora and Fauna recommended that:
- ...the remaining area of contiguous habitat in the northern part of Callum Brae be protected from future development and managed for the long-term conservation of grassland earless dragons.³⁰
- 3.8 The Conservator also advised that connectivities should be improved between Callum Brae and the Woden property to the south to expand the GED habitat. Additionally, the impacts of any development on the site must be managed so it does not affect habitat outside of Block 17 Section 102 Symonston.
- 3.9 In reviewing the conservation options and any development that may affect GEDs and GED habitat, each case needs to be assessed on a site-by-site basis as it is a highly threatened species. In considering the bigger picture, however, the government may choose to maintain and conserve some areas of habitat to a higher standard as a concession to losing other areas.³¹ Dr Osborne explained to the Committee that it is potentially not worth protecting tiny, non-viable GED populations when efforts could be concentrated on more substantial populations although that decision can only be made once the size and status of the current GED population has been established.³² Even then, all efforts should be made to preserve maximum habitat regions.

Current Population

- 3.10 Numerous surveys undertaken in both Majura and Jerrabomberra valleys to determine the value and potential future urban use of those areas have also helped to collect ACT GED population information. Those broadscale surveys

²⁹ Transcript of Evidence, 18 December 2007, p11-12.

³⁰ Transcript of Evidence, 18 December 2007, p16.

³¹ Transcript of Evidence, 18 December 2007, p8.

³² Transcript of Evidence, 18 December 2007, p8.

undertaken in the mid 1990s particularly helped to establish habitat areas if not actual population numbers. However, the last survey work within Block 17 Section 102 Symonston was in 1995 and adjacent to the land swap area (Block 4) in 1997. The trapping methods used at that time were also ineffective for surveying GEDs compared to current trapping methods. The current GED population on the site is therefore unknown although the area is still acknowledged as GED habitat and will continue to be unless there are any obvious changes to the nature of the grassland.³³

- 3.11 The size of the GED population is likely to have been severely affected by the drought and in some cases the habitat has been overgrazed by kangaroos, likely resulting in lower population numbers across all sites.³⁴ Dr Osborne recommended to the Committee that a thorough survey and assessment be completed to ascertain current population status. Small viable populations of GEDs may still exist within the land-swap zone as well as the wider grassland area although the Department of Territory and Municipal Services (TAMS) has no plans to do further survey work in the Jerrabomberra valley region. Population numbers are somewhat less important than maintaining their habitat, as the chief threat to the GED is loss of habitat.³⁵
- 3.12 If development on the site was to proceed, 'creative management' measures should be put in place during any site development to maximise protection of the population.³⁶ These measures could include maintaining habitat linkages to the Callum Brae property and configuring any development on the site to enable grasslands to be incorporated as landscape buffers around buildings. Configuring building footprints close to the road, for example, would minimise the impact on the rest of the habitat.³⁷

³³ Transcript of Evidence, 18 December 2007, p13-14.

³⁴ Transcript of Evidence, 18 December 2007, p5 & 10.

³⁵ Transcript of Evidence, 18 December 2007, p31-14.

³⁶ Transcript of Evidence, 18 December 2007, p6-7.

³⁷ Transcript of Evidence, 18 December 2007, p14.

Grassland reserves and reserve management

- 3.13 The ACT Government has previously announced its intention to establish two nature reserves in the Jerrabomberra valley to help protect GED habitat and populations, as well as other threatened flora and fauna specific to the region.³⁸
- 3.14 Whilst reserves are often necessary to protect conservation habitats under land use legislation, Dr Osborne expressed concerns that a lot of grassland sites are not best managed as nature reserves because the change of use can often result in reduced maintenance of the area.³⁹
- 3.15 Pasture management, including mowing regimes and weed control, must be maintained on these reserve sites to properly preserve the native grasslands.

Narrabundah Long Stay Caravan Park Residents

- 3.16 Following the sale of the lease for Block 8 Section 97 (the Narrabundah Long Stay Caravan Park) by Koomari Association ACT Incorporated in February 2006, the ACT Government intervened to resolve the eviction concerns facing Narrabundah Long Stay Caravan Park residents.
- 3.17 In May 2006 the ACT Government established a cross-agency taskforce to investigate options for housing the Narrabundah Long Stay Caravan Park residents, taking into account the aspirations of the new lessee of the park. The taskforce included the CEOs of the Chief Minister's Department, the Department of Territory and Municipal Services, ACT Planning and Land Authority and Housing ACT, in consultation with Koomari (the previous lessees of the caravan park site) and the current lessee.⁴⁰

³⁸ Media Release, 4 May 2004.

³⁹ Transcript of Evidence, 18 December 2007, p8.

⁴⁰ Media Alert, 17 May 2006.

<http://www.chiefminister.act.gov.au/media.asp?section=24&media=1339&id=1339&title=>

- 3.18 In considering the land-swap options, the focus of the review was to consider the social, economic and environmental aspects, particularly the social needs of the long stay caravan park residents ⁴¹
- 3.19 The preferred resolution was a land swap between the new lessee and the ACT Government, enabling the Narrabundah Long Stay Caravan Park residents to remain on the current site, satisfying their concerns about eviction and subsequent relocation and housing needs.
- 3.20 ACTPLA and the current lessee of Block 8 Section 97 Symonston considered alternative sites in the area for the land swap. Some of those potential sites overlap with the current site (Block 17 Section 102 Symonston), or are formed by the old highway. Sites towards Harmon and Bonshaw were also considered. These alternatives proved unacceptable for the land-swap and Block 17 Section 102 Symonston was chosen partly as it was recognised as being of lesser GED-habitat value than other areas in the vicinity.⁴²

⁴¹ Transcript of Evidence, 18 December 2007, p17.

⁴² Transcript of Evidence, 18 December 2007, p16-17.

4 CONCLUSIONS AND RECOMMENDATIONS

- 4.1 The Committee notes that the proposed variation to the Territory Plan is an interim step in the land swap arrangement. This arrangement means that the same land use policy will apply to Block 17 Section 102 Symonston as currently applies to the Narrabundah Long Stay Caravan Park
- 4.2 The draft variation itself does not directly result in disturbance of GED habitat or displacement of Narrabundah Long Stay Caravan Park residents. However, it does facilitate the land swap agreement and enables the lessee of Block 17 Section 102 Symonston to submit a development application for that site. Any future development of the site will be subject to separate statutory development assessment procedures.
- 4.3 The majority of concerns raised in submissions to ACTPLA relate to the impacts of development on Block 17 Section 102 and are therefore outside the scope of the Territory Plan Variation. These issues, including the social and environmental impacts on the locality, amenity of the area and on neighbouring facilities, will be considered through the development assessment process if the lessee submits a development proposal for the site.⁴³ Any development application for this site would also be referred to the Conservator of Flora and Fauna as well as other relevant agencies for comment. That process may lead to conditions being applied to the development approval.⁴⁴
- 4.4 The Committee notes that the ACT Government (Land Development Agency) has already submitted a referral to the Department of Environment and Water Resources under the Environment Protection and Biodiversity Conservation Act 1999 (Cwlth). This was done as part of the process of issuing the lease and in anticipation of the Land Development Agency

⁴³ ACTPLA report on consultation p9.

⁴⁴ Transcript of Evidence, 18 December 2007, p18.

providing essential services to the site if the land-swap goes ahead. The referral was triggered because the site is grassland habitat for GEDs which is listed as an endangered species under that Act⁴⁵ and any development on the site is likely to have a significant impact on that listed threatened species. As a requirement of the Environment Protection and Biodiversity Conservation Act 1999 (Cwlth) a draft management plan is being prepared on behalf of the Land Development Agency⁴⁶ identifying potential loss of habitat and describing how any impacts from development could be managed. The Environment Protection and Biodiversity Conservation Act 1999 (Cwlth) approval process is still in progress.

- 4.5 The Committee understands that any further development or work undertaken on the site would need to comply with the Environmental Protection and Biodiversity Conservation Act 1999 (Cwlth).⁴⁷ It is also possible that a separate referral might need to be completed if a purpose for the site is sought other than a caravan park and camping ground.

Recommendation 1

The Committee recommends that the proposed variation to the Territory Plan proceed.

- 4.6 The Committee appreciates that Block 17 section 102 Symonston is a GED habitat area although it constitutes only 1.5 per cent of GED habitat in the Jerrabomberra valley and is of lesser quality grassland than areas further south. The Committee notes that the current GED population on Block 17 is unknown.
- 4.7 Under the ACT Lowland Native Grassland Conservation Strategy, the site is classified as Native Pasture rather than Natural Temperate Grassland.⁴⁸ This

⁴⁵ Draft Management Plan November 2007 P1.

⁴⁶ The Draft Management Plan (November 2007) is available at http://www.lda.act.gov.au/community_initiatives/index.html.

⁴⁷ ACTPLA report on consultation p5.

⁴⁸ See Appendix B
Action Plan No 28, ACT Lowland Native Grassland Conservation Strategy. Accessible at:

means that the condition of the grassland has been substantially modified and it is not considered an endangered ecological community under the Nature Conservation Act 1980⁴⁹ Native Pasture has a botanical significance rating of 5 (very low) although it provides habitat for some threatened plants and animals such as the GED and may be important as buffers and corridors for native grassland species.⁵⁰

- 4.8 The Committee also notes that ACTPLA, in its response to submissions, highlighted that the requirement for further studies on the presence of the GED will be stipulated in the Lease and Development Conditions prior to any development of the site.⁵¹ The Committee commends ACTPLA on that decision.
- 4.9 The Committee notes that searches of arthropod burrows alone are not proven to be the most effective way of detecting the species⁵² and a more thorough trapping program may have to be undertaken to successfully salvage individuals prior to any site development. To be effective, trappings at arthropod burrows are best conducted between January and March (during the warmer months and the GED breeding period).

Recommendation 2

The Committee recommends that ACT Planning and Land Authority include in any lease and development conditions a requirement that the developer is to ensure thorough trappings and searches are conducted of arthropod burrows on the site, prior to any site development, with the aim of salvaging Grassland Earless Dragon individuals.

Recommendation 3

The Committee further recommends that a Grassland Earless Dragon specialist be consulted to assist in the above process.

<http://www.tams.act.gov.au/live/environment/native_plants_and_animals/threatened_species_and_ecological_communities_in_the_act/grassland_conservation_strategy>.

⁴⁹ Action Plan 28, ACT Lowland Native Grassland Conservation Strategy p21.

⁵⁰ Action Plan 28, ACT Lowland Native Grassland Conservation Strategy p46.

⁵¹ ACTPLA report on consultation p5.

⁵² Submission by Wendy Dimond, Institute for Applied Ecology, University of Canberra.

- 4.10 The Committee notes that Draft Variation number 285 to the Territory Plan regarding Block 17 Section 102 Symonston will enable the use of the site as a mobile home park. The variation will further facilitate a land-swap with the current lessee of Block 8 Section 97 Symonston in order to secure the continuation of the Narrabundah Long Stay Caravan Park on that site.
- 4.11 The Committee appreciates that initial moves by the lessee of Block 8 to evict residents of the Narrabundah Long Stay Caravan Park and potentially redevelop that site were met with public criticism and concern for the wellbeing of the residents. Resident's concerns and the need to conserve wildlife habitat are both relevant considerations for policy makers.
- 4.12 The Committee understands that the concept of sustainable development involves the recognition of and integration of social, environmental and economic considerations in decision making processes.⁵³ In the situation at hand the Committee considers that there is a need to strike a balance between the conservation of GED habitat and the social consideration for the welfare and security of tenure of the Narrabundah Long Stay Caravan Park residents.
- 4.13 The potential future development of Block 17 Section 102 Symonston and associated damage and/or destruction of GED habitat on that site appear to be mitigated to some degree by the establishment of two grassland and woodland nature reserves in the Jerrabomberra valley of around 200 hectares each, which may promote ongoing survival of the GED.⁵⁴
- 4.14 The Committee also notes that the choice of Block 17 Section 102 Symonston for the land swap deal will also minimise the risk of further fragmentation of GED habitat and edge effects.
- 4.15 The Committee considers that the proposed variation to enable the land-swap arrangement to proceed is a reasonable compromise in the application of sustainable development in Canberra.

⁵³ Auditor-General Act 1996.

⁵⁴ Media Release, 4 May 2004.

Recommendation 4

The Committee recommends that ACT Planning and Land Authority and the Department of Territory and Municipal Services adopt the recommendations of the Conservator of Flora and Fauna, particularly in relation to the preservation and maintenance of remaining Grassland Earless Dragon grassland habitat.

Recommendation 5

The Committee recommends that the proposed grassland nature reserves are managed in a way to maintain the Natural Temperate Grassland habitat for Grassland Earless Dragon populations, including appropriate pasture management and weed control.

Recommendation 6

In relation to ongoing management of remaining grasslands in the area, the Committee recommends that the government take into consideration the findings of the Commissioner for Sustainability and the Environment's investigation into the ACT's Lowland Native Grasslands when it is completed.

Mick Gentleman MLA
Chair

February 2008

Appendix A: Summary of Key Issues and ACT Planning and Land Authority Responses⁵⁵

Stakeholder comment	Response by the ACT Planning and Land Authority
Six submissions expressed concern that Block 17 Section 102 Symonston provides habitat for the threatened Grassland Earless Dragon (<i>Tympanocryptis pinguicollis</i>), and that development would further threaten the survival of this species. Three submissions which expressed strong support for the proposal based on the rights and interests of the residents of the Narrabundah Long Stay Park, also noted and supported the recommendations of the Conservator of Flora and Fauna that would help protect the Grassland Earless Dragon and its habitat.	Block 17 is at the edge of the range of the Grassland Earless Dragon and swapping this land will minimise the risk of further fragmentation of habitat and edge effects. Block 17 is part of the much larger former Block 13 which has been grazed by sheep and which has lost much of its ecological diversity. Block 17 is classified as native pasture in Action Plan 28 as it has a low level of botanical significance. The area south of former Block 13 has higher botanical significance and has been reserved in the Callum Brae Nature Reserve where the Grassland Earless Dragon should thrive. The proposal to grant a lease for the site had been referred to the Department of Environment and Water pursuant to the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cwlth) (EPBC Act).
Some submissions suggested that surveys should be undertaken to determine the prevalence and distribution of the Grassland Earless Dragon in the area so that land use policy was based on current information. One noted that the only record of the species on the 50ha site had it within the 9.4ha proposed for the land swap. Submitters noted that the drought would have impacted on the population, and that surveys by trapping at arthropod burrows should be done in January–March	Further assessment of the presence of the Grassland Earless Dragon on this site would be done before the site was developed. This would be required in the lease and development conditions.
Some submissions suggested that environmental agency referrals were required in relation to the proposed land swap. For example any development activity would be a 'key threatening process' under the EPBC Act and the removal of .5ha of remnant native vegetation should require that a Preliminary Assessment be	The Variation does not involve the clearing of any grassland and therefore does not trigger a Preliminary Assessment. Environmental assessments may be triggered when a Development Application is lodged.

⁵⁵ Summarised from ACT Planning and Land Authority, *Report on Consultation: Draft Variation No 285: Symonston Block 17 Section 102 Extension of Broadacre 10E Area Specific Policy*, November 2007, pp3–11.

Stakeholder comment	Response by the ACT Planning and Land Authority
undertaken The comments from the Conservator of Flora and Fauna are supported but Block 17 should be protected from future development and managed for the long term conservation of Grassland Earless Dragons. One submitter did not agree with the Authority's response to the Conservator's comments.	The Draft Variation and subsequent Recommended Final Variation have incorporated the recommendations received from the Conservator of Flora and Fauna.
Some submissions noted the predominantly rural setting of Block 17. It has significant heritage values and falls within the designated Callum Brae precinct which is the subject of a draft Interim Heritage Place Registration. Previous planning studies for the Geoscience Australia building resulted in the relocation of the building. The proposed ACT prison project did not proceed in Symonston because of the environmental sensitivity of the area.	The Heritage Council's comments will be addressed in relation to any future development proposals affecting Block 18 Symonston.
Other environmental assessments of Block 17 concluded that the site was too sensitive for the projects. Therefore this site is unsuitable for the land swap or any other development proposal. Another submitted that the habitat for endangered species should not be reduced and fragmented, even if done gradually.	The environmental impacts of a future development of the site will be assessed as part of the development assessment process. That assessment would consider the specific characteristics of the proposal and its environmental impacts.
The planning process for Block 17 was reactive, appeared opportunistic and was not transparent. This proposal is inconsistent with the Canberra Spatial Plan and planning objectives and principles.	Areas near Block 17 already include a large research facility and the Narrabundah Long Stay Caravan Park. The process is transparent because of the consultation process for Territory Plan variations, and will comply with legislative assessment procedures. The National Capital Plan has been amended to provide for mobile home parks in this area.
Permitting mobile home use on Block 17 is inconsistent with sound planning principles including Broadacre land use policy, and the broader goals and objectives of the Territory Plan. It would impinge on neighbouring land uses which includes a scientific research establishment i.e. the Therapeutic Goods Administration. Broadacre land use policy permits a wide range of developments.	The National Capital Plan has been amended to provide for mobile home parks in this area.
Block 17 is unsuitable as it has few facilities and services; its neighbours may suffer health	Any development application for Block 17 would include a development assessment and

Stakeholder comment	Response by the ACT Planning and Land Authority
impacts and the proposed land use could lead to social problems and crime. Low cost housing should be located in an urban area with good access to services and facilities. More needs to be done to provide accommodation for low income earners and these needs are not met through the provision of a mobile home park. The architecture of the Therapeutic Goods building could be detracted by development permitted under the proposed the land use policy.	consider the social and environmental impact of the development on the locality, as well as its impact on the amenity of the area and neighbouring buildings.
Any development proposal for Block 17 needs to be carefully assessed and it may be that other proposals are put forward, such as a new repository for the National Archives of Australia.	Any development application for Block 17 would include a development assessment and consider the social and environmental impact of the development on the locality, as well as its impact on the amenity of the area and neighbouring buildings.
The proposed land use raises safety issues such as increased traffic volume on Narrabundah Lane, the speed of vehicles travelling along Narrabundah Lane, and it would raise amenity issues for the area.	Safety issues would be considered during the development application process. That would consider any traffic study that was undertaken, as well as incorporate comments received from relevant agencies.
Betterment and Change of Use charges would be affected by the variation, and the land swap may reduce revenue to the ACT.	Betterment and change of use charges are issues outside the variation process and will be considered at development application stage.
Block 8 Section 97 is not ideal for its current use due to risks of flood and it could be developed, with the residents relocated.	The variation was developed to enable residents to stay in their homes, and to provide a site with the least environmental impact and equivalent size and situation.
One submission noted that the variation was confusing, inconsistent with the Canberra Spatial Plan, and that it was not clear that there was a long-term commitment to retain the caravan park.	The proposed variation extends the 10E Area Specific Policy to Block 17 Section 102 which means that 'mobile home park' is a permissible use for both blocks, and residents can remain on Block 8 Section 97.
If the proposed variation does proceed, suggested measures must be put in place to ensure that the impacts on Grassland Earless Dragon habitat is minimised, including that spillover effects are minimised; as much habitat as possible should be protected; effective and formalised management should be put in place to manage remaining habitat over the long term.	Any future development on the site will be assessed, the Development Application would be referred to the Conservator of Flora and Fauna, and comments or recommendations would be incorporated in the final decision for the proposal.

Appendix B: Territory Plan Part B10 Broadacre Land Use Policies – Development Conditions

2.4 Development Conditions

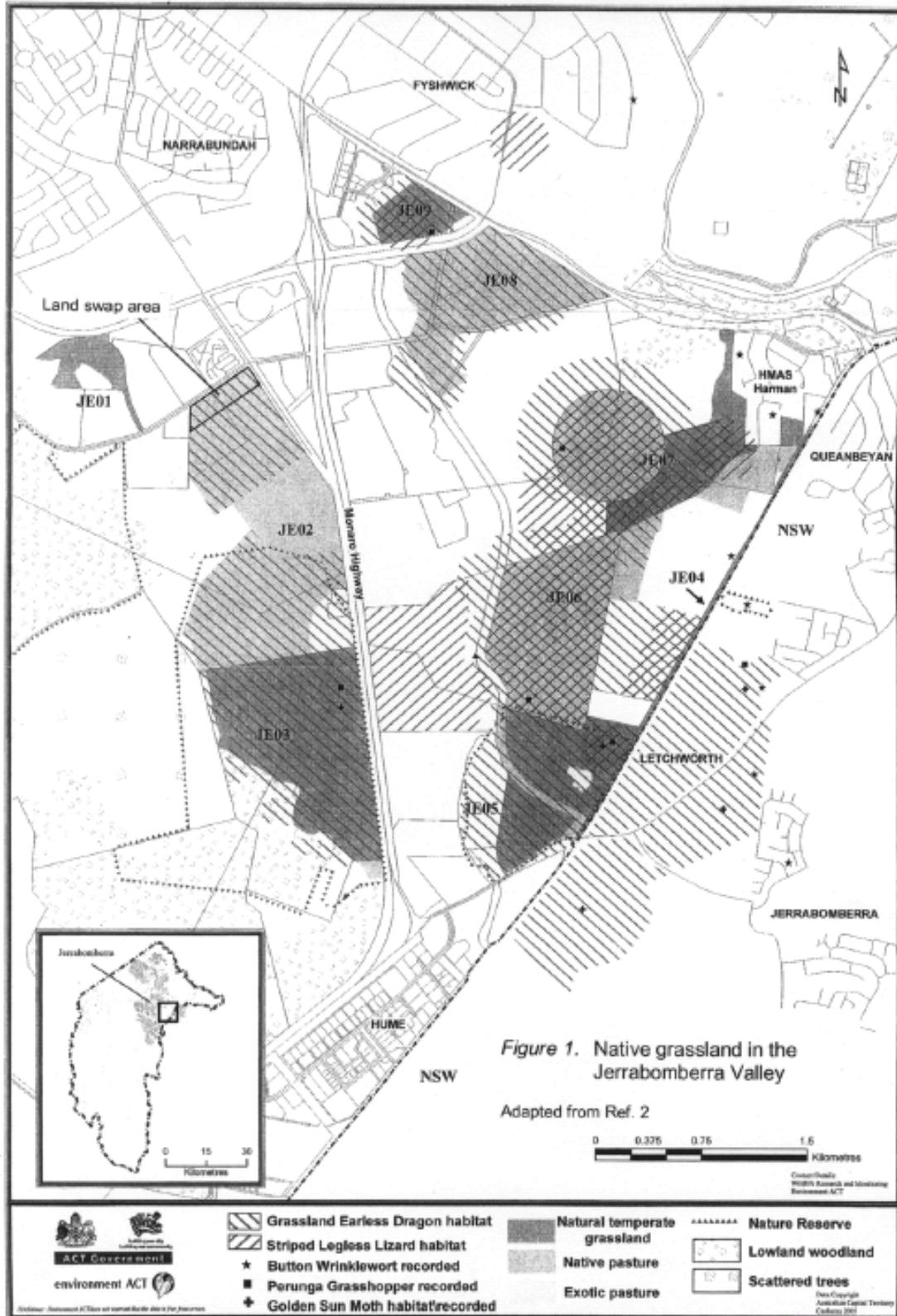
- a) Development approval may be granted in respect of proposed building works where:
 - it is designed in character with its rural setting with external colours of earth tones of low reflective quality; and
 - it does not adversely affect distant views from public places to major regional features.
- b) Conditions may be included in a lease, or in an agreement collateral to a lease.
- c) Conditions may require that a visual assessment of the site is recorded showing the location of existing and proposed buildings and intensity of existing and proposed development and landscaping.
- d) The following matters may be included in conditions:
 - protection of natural site characteristics, visual diversity and the general character of the landscape;
 - protection of woodlands, native grasslands, forests and waterways;
 - retention, regeneration and planting of vegetation;
 - maintenance and strengthening of tree cover along streams and on hills and ridges;
 - reinforcement of a clear definition between urban and rural landscapes so as to avoid diminution of the rural setting at the urban interface;
 - siting of development in a manner which does not adversely impact on the ecology or visually intrude on the landscape character of the locality;
 - the extent of change and nature of landscape works to be carried out as part of the development so as to minimise any adverse impact on adjacent land;
 - provision for environmental and landscape maintenance both during and after development; and
 - provision for fire hazard reduction.
- e) Where a lease of land does not include development conditions, a development approval in relation to proposed building works may be made subject to conditions of a class described in this subclause.

2.5 Special Conditions for Environmental Protection

Special conditions may apply to Broadacre areas adjacent to land in River Corridors and Hills, Ridges and Buffer Land Use Policy Areas. These special conditions may include controls on stocking rates, the use of fertilisers, pesticides and weedkillers, pasture improvement, irrigation and the like. The use of septic systems shall require the approval of the relevant authorities.

Special conditions may apply on land adjacent to the Molonglo River and Woolshed Creek, which has potential for horticultural production to protect their value for horticultural uses.

Appendix C: Jerrabomberra Valley: Lowland Native Grassland and Threatened Species



Appendix D: Submissions and Hearings

List of submissions

Submission No	Author
1	Mr Jack Kershaw

Public Hearing

18 December 2007

Dr Will Osborne, Institute for Applied Ecology, University of Canberra.

Mr Hamish McNulty, Conservator of Flora and Fauna, Department of Territory and Municipal Services.

Mr Neil Savery – Chief Planning Executive, ACT Planning and Land Authority.

Mr Murray Evans - Research and Monitoring, Parks Conservation and Lands.

Mr George Tomlins - Executive Director, Strategic Priorities, Chief Minister's Department.