



**LEGISLATIVE ASSEMBLY**  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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STANDING COMMITTEE ON PUBLIC ACCOUNTS

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## Submission Cover Sheet

Inquiry into Auditor-General Report 1/2021:  
Land Management Agreements

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**ACT**  
Government

**ACT Government Submission to the Standing Committee on Public  
Accounts- Inquiry into Auditor-General Report: 1/2021 – Land  
Management Agreements**

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## Introduction

Throughout 2020, the ACT Audit Office conducted a Performance Audit - “*Land Management Agreements*”. The Audit report was tabled in the Assembly on 4 February 2021. The Audit report provided six recommendations mainly of an administrative and procedural nature. The recommendations are summarised below.

| Recommendation | Focus                            | Summary Detail   |
|----------------|----------------------------------|--|
| 1              | Roles and Responsibilities       | Clarify various roles and responsibilities and establish a formal ongoing forum for problem solving and process improvement.                 |
| 2              | Policy and Procedural Guidance   | Develop Standard Operating Procedures (SOPs) for the execution of LMAs.  |
| 3              | LMA prioritisation               | Develop a risk-based approach to prioritisation.   |
| 4              | Documentation and Record Keeping | Develop SOPs for documentation and record keeping including agreed and finalised LMAs and processes associated with the development of LMAs. |
| 5              | LMA detail                       | Prescribe the minimum level of detail for LMAs to be effective.  |
| 6              | Monitoring and Compliance        | Develop policy and procedural guidance for monitoring and compliance of LMAs and take enforcement action where required.                     |

The Audit Office determined that Land Management Agreements (LMAs) were not an effective land management tool as many are out of date; have varying depths of information and assessment; lack of an overarching risk management plan and compliance was limited.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 ACT Government has considered its initial response to the Audit Office Performance Audit Report No 1/2021 and agrees with four recommendations (1,2,3 and 6) and notes two recommendations (4 and 5).

The Government thanks the Audit Office for its Audit and welcomes the opportunity to respond to these matters.

Notwithstanding this, the Environment, Planning and Sustainable Development Directorate (the Directorate) is of the view that the Audit Report did not provide a comprehensive view of the Directorate’s work and its achievements to date.

This Submission provides some additional information for the Assembly Committee to consider, across the six themes of the Audit Report.

## Background

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 in place across the ACT. All rural leases require a 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 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 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* 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 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.

## **Key themes of the Audit**

### **Roles and Responsibilities.**

The Environment, Planning and Sustainable Development Directorate (EPSDD) acknowledges that the LMA process can be complex. A number of business units within EPSDD are involved in the development and management of LMAs, as well as other directorates and rural leaseholders.

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

EPSDD believes that, despite the complexity, there already exists strong collaborative efforts from leaseholders and EPSDD staff for the development, management and administration of LMAs.

EPSDD will establish appropriate governance arrangements to provide oversight on the LMA process, conduct a review of LMAs to determine if they are achieving their desired outcomes and identify and document roles and responsibilities as required. This governance approach will involve Chief Minister, Treasury and Economic Development Directorate (Access Canberra) and Emergency Services Agency (ACT Rural Fire Service) as well as the Conservator, legal, planning, land management and scientific interests within EPSDD.

## **Policy and Procedural Guidance**

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 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.

EPSDD continues to refine policy and procedural guidance for the development and ongoing management and administration of LMAs, including advice from the Office of the Conservator on LMA requirements.

## **Land Management Agreement Prioritisation**

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.

It is appropriate that there not be a mandatory or set timeframe for each LMA, as each LMA will necessarily be different depending on a number of factors, including the land use, its conservation values, bushfire risk, access to waterways and the land use.

The Directorate maintains a risk-based approach to the management of LMAs and will document this approach to support the delivery of LMAs across the Territory. To minimise confusion, the Directorate will spell this out in the revised policy.

## **Documentation and Record-Keeping**

The Directorate uses Objective<sup>2</sup> to store files and information. 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.

EPSDD suggests that, whilst this system is comprehensive, it may not have been intuitive to members of the Audit office, and this may have led to a misunderstanding of the platform that EPSDD uses to share objective files (Objective Connect) with outside parties (in this case the auditors) and the platform used to store files (Objective).

EPSDD takes its responsibilities under the *Territory Records Act 2002* very seriously and will review processes as appropriate.

## **Land Management Agreement Detail**

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<sup>2</sup> Objective is the information management system used by many jurisdictions and corporations to store and retrieve files and records etc.

As mentioned above, 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. This is in part a risk-based approach referred to in recommendation 3.

Some information about ecological and heritage values is 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.

### **Monitoring and Compliance**

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.

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 (such as 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.

## **Conclusion**

The ACT Government hopes that this submission provides the Public Accounts Committee additional information and clarification on the Government's response to Auditor-General Report: 1/2021 – Land Management Agreements.

The Performance Audit provides a good opportunity to review and refine the practices of the Directorate, and the Directorate has already started to make these refinements.