

# Nature Conservation Act Submission: Freshford Landcare Group

## *Executive Summary*

- Freshford Landcare Group is a subsidiary organisation affiliated with the Southern ACT Catchment Group and represents both urban and non-urban users of reserve land in Freshford Valley, the Bullen range and the Murrumbidgee River Corridor. It undertakes active conservation projects and land management programs in conjunction with Greening Australia, and ACT and Commonwealth government funded rural conservation programs. In 2009 our tree planting program was recognised through the ABC rural programs interest in carbon sinking.
- In the opinion of FLG, the current ACT bounded conservation estate with respect to the NCOSS ( as established by the National Capital Plan boundaries at the time of ACT self government) and including Namadgi National Park is unsustainable, inadequately managed, has poor research and awareness of each reserves full ecological and bio-diversity values at the micro level, and lacks govt commitment to appropriately fund and resources for each reserves complete and ongoing maintenance (values protection and augmentation, pests control, public access , trails, bushfire control). As a consequence the existing reserve system needs a complete and comprehensive review of the all the management plans, on a values based assessment, with a view to reduce the estate to match its funding and Govt capacity to manage it . This assessment of the existing reserve asset needs to be carried out before the existing reserves are extended or new reserves created.
- FLG acknowledges and commends the outstanding efforts of the individual Parks and Conservation Rangers and Murrumbidgee River Catchment Group officer's efforts to support the conservation of the reserve estates. These officers are given minimal resourcing and inadequate funding and are expected to achieve results that unrealistic. Their passion and dedication is clear to anyone involved with them in day to day operational commitments to managing the reserves and also inspires many of the community to freely give of their time to assist rural lessees in conservation activities such as tree plantings, riparian restoration works etc.
- The reserve areas themselves though are under threat as they are unfunded, and this is having a long term deleterious effect on the values of each reserve. Invasive weeds species are on the rise, and the individual rangers and officers are insufficient to properly manage the existing estates. There is a need to resolve this current minimal level of reserve management and proactively enhance the capacity of the reserves to protect the biodiversity values.
- It may be that if these reserve are not able to be afforded proper staffing levels , funding and resources to manage them above a survival level that respective areas such as those areas adjoining existing rural leases and actively utilising grazing licences, either be reintroduced to the productive land estate to address food security or special needs development( such as Miorera drug and alcohol rehabilitation centre proposal), or could be handed back to the rural lease holdings were relevant i.e. to those properties that were originally the stewards and

custodians of the environment before the transfer or gazetting of the area for reserve. It is the current rural lessees working hand in hand with NGO's like Greening Australia and with ACT Govt ranger oversight through Land Management Agreements (LMA's) who are a resource who have the commitment and adaptability to integrate these areas with their existing resources. They currently manage their leases as productive land or identified conservation areas under the (existing Govt policy) LMA arrangements. Transferring the responsibility for some of the degraded and former accessible productive land back out of the existing reserve system to an alternative management system will reduce the budgetary stress the whole urban reserve system. We do not propose that National Park be transferred from public land managers to private land managers.

- Reserve areas that could benefit with integration with private land managers (under LMA controls) include the Murrumbidgee River Corridor where there are no public walking or riding trails, areas adjacent to the Tharwa, Paddy's River and Freshford valley rural land managers in the south and Stromlo, Uriarra and the cotter valleys in the north.
- It is understood that the ACT Government is looking at extending the urban estates west of the Murrumbidgee River and into these areas. Therefore the existing reserves are likely to be expanded however it is clear that while expanding the reserves may be desirable the reality is that there is insufficient funding currently so adding to the reserves will create greater demand on declining revenue and this will significantly impact on the value of the reserves as a whole. It is misleading in evaluating the benefits of the reserves, adding connectivity, and protecting biodiversity values if in reality these are all lost by transfer to a management system that fails to adequately fund and staff the management of the land to at least the current rural land managers do.
- With regard to the Rangers FLG requests that Rangers and Parks officer be given regulatory provision to issue infringement notices. It's clear to anyone who lives in rural areas or adjacent to reserves that illegal activities such hunting, trespass, dumping of animals and household waste, fence cutting and camping fires are all occurring on the reserve estate and on other unleased territory land. This enforcement role will require rangers and personnel to be appropriately trained, however to embed the enforcement right under the Nature Conservation Act is inappropriate as enforcement is a duty that should be available to any ranger on any piece of unleased territory land and not just those that are in the non-urban environment or happen to be in a reserve. Illegal dumping including car bodies dumped into rural southern road verges remain problems that the rural police and Tams work collectively to resolve and while reserves are more problematic to police the rangers have to be given appropriate powers to assist policing of unleased Territory land irrespective of reserve status.
- The role of the Conservator and the Commissioner of Sustainability appear to overlap and the proposal to create further duplication and overlapping bureaucracies is not supported. FLG would like to see the Conservator role subsumed with in the Department of the Commissioner and or the roles and bureaucracy budgets combined for the betterment of the estate. The Conservators ACT perspective is too limited in an ecological context and needs to reflect the

regional basis of the Commissioner and have regard to sustainability. Ecological considerations at the local area need to be contextualised in the ACT region which includes NSW adjoining local Council areas. The ACT ecological considerations also need to be consistently appraised with those of the NSW and Commonwealth rather than the current arbitrary political boundaries that do not respect ecological networks, connectivity and populations. The absurdity of contextualising of the ACT as an “island” is simply a political, anthropocentric and self justifying bureaucratic nonsense that is without sound ecological or environmental justification. To attempt to create a biodiversity bubble around the ACT on the basis of a political boundary, thereby excluding a national and regional context, creates arbitrary imbalances in weighting and assessments of what is and what is not critical for protection.

- FLG supports the RLA submission.

## **General Response**

- **Management of national parks and nature reserves.**

The management of parks needs to be fully funded to ensure the ecological values, that underpinned the reserves initial inclusion and contribution to the estate, are being maintained at an optimal level to ensure the ongoing maintenance of those values and with opportunity to enhance each reserves unique value. Such management of each conservation asset should be carried out under a planned framework and set out in updated management plans for each reserve. Each plan should be based on proscribed baseline values and identified scientific research and identified ongoing research priorities.

- **Off reserve management (mechanisms for conservation on privately managed land and connectivity).**

The existing frameworks under planning regulation do not need duplication under the NC Act. Land Management Agreements are already an unwieldy administrative burden to both the Govt and the private citizen but these agreements are being updated. NC Act duplication with a further administrative overlay in tandem with and potentially conflicting with the planning system responsible for development control is unnecessary. Similarly environment protection through the dual frameworks of the local EPA and Commonwealth EPBC already provide adequate protections in the ACT context. There is a perception that the ACT is an island, however it is not and assessing biodiversity and ecological values needs to be placed in a regional context and environmental protections and processes should be the same as for the NSW or Commonwealth.

- **Native animals as pets and wildlife trade.**

The NC Act should facilitate an approach in a manner consistent with NSW native animal pets and wild life trade.

- **Market based approaches to conservation.**

It should be recognised that the ACT cannot continue to afford to fund its current conservation estate and reserve management functions. Funding has been in recurrent reduction for the past 6 years and can be expected to continue to decline as a proportion of Budget allocations. Current territory funding is dependant on

land sales and land supply provision. This is expected to run out within 50 years. Market based solutions are the only viable alternative to securing our current reserves. These need to be protected (particularly the urban area reserves) with a view to their use as conservation assets. Such assets need to be valued and managed as any other infrastructure. When they cease to have the values that determined their inclusion in the estate they will be viewed as a revenue (land sale) source and likely to be sold off. As with any land developer acquiring an asset then running it down to justify redevelopment the Government's failure to fund reserves ensures that this attrition by under funding will provide land sale opportunities. In the longer term. It would be prudent to act now establish the priority estates for protection, lock in their appropriate levels of funding to maintain and enhance the values if each and either remove the unfunded items from the estate for other forms of development (rural health care) or handed back to rural lessees to manage under existing policy settings and the new Land Management Agreements.

- **Community based biodiversity monitoring**

Current community involvement in the urban conservation estate should be encouraged. FLG could not survive as an entity without the 100 or so informal members that freely provide time to conservation works in the valley. However this monitoring needs rigorous scientific methodology and oversight to be of any value in monitoring values. It is also only a subsidiary support to scientific research and reserve management. Encouraging local communities to take community ownership creates many difficulties and cannot be seen as replacement or solution to the issue of proper funding of the reserves to ensure appropriately qualified and trained public service employed officials (e.g. rangers) carry out these duties. Urban community based monitoring on non-urban areas is fundamentally flawed and concerns are raised that rural land owners are already working the land under LMA's that promote conservation. Extending their role to adjoining public land (off lease) would require funding arrangements duplicating the role of the rangers. The adjacent rural lessees could be engaged to extend their current passive surveillance role however most rural lessees are already fully committed in managing their estates without taking on off site unfunded roles.

## **Specific Responses to questions**

**What are the key questions that the review will need to consider and on which public input is sought?**

**The challenge of the NC Act review is to improve on past nature conservation regulation while trying to achieve future conservation objectives as part of the ACT's broader environmental, social and economic objectives. Some key questions for the review are:**

**1. What are desired and realistic objectives for managing and protecting the ACT's native wildlife, vegetation and ecosystems?**

- The key issue here is that the existing reserve areas established under the are not provided with comprehensive land management, funding or staff resourcing to properly manage the resource. There is no detailed holistic integrated or monitored ground truthing of the scientific values, specific to each reserve and to that end planning and land management systems are flawed by a lack on consistent process,

survey and monitoring across all flora and fauna (terrestrial, aquatic and avarian). Instead we have limited and only partial understandings of a few indicator species relationships to individual locations on reprehensive reserves and those are disconnected from a cognitive and holistic view of the entire reserve resource.

## **2. What legislative framework is needed to achieve these objectives?**

- The legislative framework needs to be more flexible for change. Changes to reserve management plans need to be regular ( mandatory review 5 yearly to update changes to each reserve and it values ( increasing or decreasing) and less constrained by statute i.e. territory plan variations are simpler and easier than changing management plans. Management plan creation and amendment are more complex and time consuming than altering the territories primary planning document the Territory plan. Territory Plan variations, which is also a statutory process alter amend or create controls regarding land use, development impacts, and strategic land allocations decisions inclusive of public and government policy responses. All of which is easier than updating a reserve management plan. Consequentially RMP's fail to keep pace with natural changes to the reserves and the community and rangers expectations and needs for reserve management flexibility and adaptability to change.

## **3. What should be the relationship between the ACT's planning and conservation legislation?**

- That's already too much. The question indicates an ignorance of the current planning framework as amended by the government in 2007 and the actual needs of land managers on the ground dealing in day to day operational issues.
- There is already a clear link between development and the environment, through planning legislation and the EIS processes, and duplication with the EPA approvals.
- It is clear that this planning relationship is limited to using NC Act definitions for environmental assessment purposes however ACTPLA is not qualified to do so and instead requires external agency support (EPA, water resources TAMS, Parks, Sport and Recreation) and sub contractors ( ecologists (terrestrial, aquatic avarian) in order to carry this function it has given itself. It would be preferable that ACTPLA wrote its own definitions relevant to its planning needs rather than rely on subsidiary legislation (by virtue of the planning Act and ACTPLA decision making role to override what the intent of the NC Act is).
- The NC and reserve management need to be better integrated, more flexible, subject to transparent review and appeal processes and have mandatory reporting and monitoring of outcomes set against a reporting framework linked to the state of the environment reporting by the Commissioner.
- the Planning Act needs to be separated, as the administrator (ACTPLA) of the Act is not qualified to make the necessary conservation determinations. i.e. on grazing licences it sought to control alpacas numbers to a single alpaca in a sheep herd. This clear lack of knowledge regarding animal welfare and herd management is symptomatic of a bureaucratic administrator process rather than a qualified expertise. ACTPLA's role to assess development applications is quite different from reserve management issues relating to flora and fauna, stock and animal welfare expertise. ACTPLA is not adequately resourced as it is to manage the urban environment why would you want to extend its control through legislation to the reserves particularly given its failure to properly administer planning and development in the urban context (infill development, Kingston foreshore, ) ? The

appropriate land managers of the reserve estate are the rangers and TAMs in conjunction with the rural land holders not urban dwellers with no practical knowledge of the land, livestock or rural land management practise.

#### **4. What can the ACT learn and incorporate from conservation legislation other jurisdictions?**

- Greater flexibility and reliance on the non urban community for guidance. It is notable that the ACT has a disproportionate reserve holding for its urban and non urban areas. It is difficult not to conclude that the ACT is determined to place every piece of land into reserve on the basis that if it doesn't the Govt will develop it for houses. The community and the govt need to accept that they cannot continue to expand the reserve framework in the Act unless a massive investment and ongoing commitment is made to manage the land. Currently the Govt and community can't even manage water supply to keep the existing urban reserves parks and play grounds as functioning viable areas. Extending this lack of or no manage regime to additional reserves and the existing non urban reserve areas is creating conditions for environmental degradation that destroy the values that the areas currently have under existing land management practises.
- Other jurisdiction have already worked out that rural land managers have a much greater interest in promoting diversity and protecting the land when they have personal investment( as owner) and can control it and the conditions on it on a daily basis. The current reserves in non urban areas require aerial over view for assessment purposes it is difficult to see how a fly over at 100 feet once every few months provides any where near the desirable management, monitoring and condition assessment that any rural land holder has every day on their property.
- Other jurisdictions are releasing reserve land back into the productive land bank. The ACT needs to do like wise, to address the impending crisis of food security and reduce our ecological footprint by ensuring that as a urban environment is contained and managed so that non urban producers cans far as practicable grow the food and resources necessary for urban existence.

#### **5. How could ACT and Commonwealth legislative requirements be better integrated?**

- This is a flawed assumption in that they are already integrated and that perhaps they don't or shouldn't be integrated and in fact environmental conservation and biodiversity matters may be better managed if they were completely separate as with the way the NCA operates its planning processes distinct from environment.
- The requirement to assess and respond to environmental matters must be considered and resolved before planning is approved. This to us seems eminently sensible as an approach and separating territory government influence (being the largest land developer) from environmental consideration by an independent Commonwealth body should provide a appropriate separation of power.
- The EPBC Act already provides an appropriate level of impact management so the EIS matters in the planning legislation can be removed as an unnecessary duplication. this is evidenced by the Govts own stripping of EIS by its EIS amendment Bill which removes EIS considerations on future urban land on the basis that the govt wants to grow house a growing population rather than protect existing flora and fauna on the land or provide food security for the current population.

## **6. How can connectivity, resilience and viability of wildlife and ecosystem function best be protected and enhanced across the ACT?**

- Through the objective of the reserve management plans framework. These matters should be set out as objectives, informed by environmental indicators and framed by anticipated outcomes and linked to monitoring for success. One these are in place with the existing reserve network a program of prioritised research study can be set out that extends the scientific knowledge to inform any subsequent alterations to reserves.
- It is inequitable that government land managers are not held to a higher degree of land management control than non urban land holders.
- The flawed assumption here is that rural land holders are not already aware of the connectivity of their land and manage the land accordingly to enhance environmental functioning. The basis for the flawed assumption underpinning the question is evident that interrogation of the many rural programs, such as Greening Australia database of rural programs, that improve productive land capabilities through enhancing environmental values are already well understood by the rural sector ( e.g. the fencing of dams and provision of water tanks and troughs for stock watering ). It appears the urban bureaucrats are uninformed of current land management and rural programs at the national (e.g. NSW fed farmers) and Federal level that the rural land owners currently pursue. The difficulty is that these are not available to the govt land managers so the govt needs to provide additional funding to match the levels invested by the private sector in land management, e.g. weed control in the ACT on Patterson curse weeds amounts to 50 cents a ha while the private sector spends \$5 per ha. Who is doing more to protect the natural environment from weeds? Similarly rural land managers recognise the value of reintroducing native grasses to mix with existing exotic pastures to improve long term pasture management. There is limited re grassing of reserve areas following erosion events such as bush fire, flash flood storm events or over grassing by kangaroos.

## **7. Should the provisions that control public activities in reserved areas apply to other public land or should they continue to just apply to reserves, national parks and wilderness areas?**

- it is unclear that there is any value in doing so. Our experience of public access to adjoining reserve lands over the last 2 years has seen illegal 4 wheel drive excursions , illegal car access, illegal hunting, unlicensed camping and untended cooking fires, (off the track) walkers trespassing through stocked paddocks, and rural police call outs. If the reserves are to be properly managed a higher presence and increased staffing) of rangers is required. It is accepted that increased policing reduces illegal activity in urban environments however the same situation is treated differently in the non urban context and the responsibility for policing illegal activity falls to land holders adjacent to reserves.

## **8. How could voluntary dedication of leased land for conservation occur in the ACT?**

- Such voluntary dedication of land for conservation purposes could replace the overlapping duplications of reserve overlay and or conservation area in a land management agreement. Such a status has impact on land and ratings values which would have to be calculated before any such arrangement would obtain support from the affected land holder. Similarly if ongoing management responsibility were

to be transferred from the Govt and rangers to the land holder then pro rata management costs (time and resources, plant and material etc) would have to be paid by the govt to the manager if the arrangement were to be an equitable one.

**9. Are there particular on- or off-reserve land management issues that require legislative change to effectively address?**

- Private lease areas that are subject to withdrawal clauses for conservation reasons should be revoked after 5 years of their creation if no case is advanced through public participatory processes for their inclusion in a reserve.
- lease withdrawal clause areas, subject to nature conservation reasons, should be separately rated as non rateable unproductive land
- Lease withdrawal clause areas if not taken for conservation purposes after a specified time, should require compensatory lost productive value to be paid to the lessee.
- Off reserve issues are already over prescribed through legislation, regulation and duplication of administration by Govt. At issue is the inability of the govt and the planning agencies to remove regulation and replace it with more flexible and appropriately scaled frameworks. The govt needs to secure separate funding arrangement for reserves so that budgetary constraints in a department aren't disproportionately applied to reserve management funding allocations. Similarly reserve funding must be increased to ensure the current reserve networks are funded for the ongoing conservation management evaluation and monitoring of the values that they were attributed with at the time they were reserved.
- As referred to above, legislation is needed to reduce the statutory blockages to operational management, reserve management plan updating, secure funding and budget allocations and remove planning authority intervention in non urban areas licensing arrangements between rural landholders and Rangers managing the reserve estate.
- Legislation regarding weed species, such as Patterson's curse, needs to be updated and management strategies applied with equal rigor to govt land manager as well as private and commercial lessees, including garden centres.
- Pest control (pigs, foxes, dogs, goats and deer) needs to be a mandatory requirement where reserve status is applied to unleased land (equitably) and that conservation status is reliant on this management tool. This would secure the conservations values that initially contribute to the allocations of reserve status are maintained in the long term. Leased land holders contributions already meets this obligation and per capita investment and funding far exceeds the Govt's current commitments when considering the full range of rural lease activities each farmer carries out on a daily basis on their lease area.
- Legislation should make unfunded conservation estate expansion prohibited.
- Legislation should make forward budget commitment and provision mandatory for each reserve in order for that status to be maintained, and impose revocation of reserve status if after 5 years inadequate or no allocations have been made.

**10. Are the current range of enforcement options and penalties adequate and appropriate?**

- Yes where these are enforced. The difficulty is if they are enforced equitably or used to target individuals or that they are captured for political reasons? I.e. trespass during roo culling operations is a clear risk taking behaviour with high potential for



fatality but for political sustainability reasons is not pursued when it happens for fear of animal rights politicisation.

- There is a clear need for an independent appeal officer and function and for transparent processes for identifying actions, response to complaints and transparent due process and procedures.
- It is not clear what additional crimes this is seeking to address and that other avenues are providing recourse? It is unclear whether there is a concern that the jurisdiction is failing to convict when charges are laid or even if charges are ever laid.

### *What do you consider are the key issues for future nature conservation in the ACT?*

- too much land has already been put into the estate without sound scientific basis e.g. incremental aggregation from the studies that underpinned the River Corridor without going back to assess the currency of the former reports and values.
- that conservation areas are not being managed to sustain the environmental values that they were originally ascribed.
- lack of consistent and comprehensive funding is reducing the ecological values and habitat opportunities to adhoc individual programs.
- the lack of investment in staff resourcing results in limited policing of the areas to protect the values and an over reliance of technological solutions i.e. remote camera or fly over surveillance as opposed to ground based walking patrols,
- lack of staffing resource ensures there is inadequate monitoring of the estate at a park management and operational level.
- the size of the current estate is too great a burden on the ACT economy.
- the size of the estate needs to be rationalised to a size consistent with other states of similar urbanised area.
- The existing management plans are all out of date as are the underpinning research and scientific monitoring and evaluations against values as a whole. Greater investment is required in research and setting of indicators in order to manage the health of the existing estate
- any new additions to the nature conservation estate need to be justified not only in the context of a local and national set of values but in ongoing forward budget commitment for resourcing and management. If there is no budget commitment there should be no addition to the estate.
- the conservation estate needs to be responding to a clearly articulated framework informed by a comprehensive strategic plan and network of management plans at the site specific level that set out monitoring and evaluations for effectiveness of programs and that these are all funded as separate budget line items

### *How do you think conservation concerns can be balanced with social and economic interests?*

- The focus is on rural lessees to protect and conserve their land under external administrative constraints, but the govt management is inequitable due to area, size and budget allocation. Piecemeal budgeting of weed management ensure downstream users are incurring costs in pest control as a result of govt funding failures and this will remain an ongoing problem e.g. the downstream dam wall of Point hut pond has been infested with Patterson's curse since 2007 and every year the seed drop (noting each 30cm plant may produce over 40,000 seeds), flows

straight down into the Murrumbidgee River Corridor for dispersal all the way down the river and through to NSW. While it is not a pest or declared weed it is an exotic and invasive plant that and while it kills horses and there are numerous walking and riding trails and equestrian facilities along the river that are at risk it is also undermining the natural riverside and adjoining grassland ecology. This is just one example of the many threats that are not being addressed comprehensively. Love grass is another with infrequent control being applied. This subversive change in ecological value enables govt action to resume non urban land and convert it to urban land. Similarly, the govt is the biggest developer yet changes to environmental assessment allow it a 100 fold increase in land conversion before triggering and EIS requirement compared to an individual landowner's development. This weighting of the land development systems against the ecological values and the rural lessee's productive value is not fully recognised or supported. The balance is entirely towards economics for urban growth and social benefit of urban lessees and against rural lessees and the environment they are seeking to conserve along side of the reserve system.

- The remaining rural land, and some productive land currently held in reserve, should be encouraged to become the food and resource bowl for the ACT and region as food security becomes a problem. The govt is only concerned about growing the population and ensuring they have housing. It is failing the people by not providing a resource or food basis for that expansion. Until there is a sincere attempt at redressing the balance between non urban land for food and resources and the need for population control and urban sprawl, the ACT will continue to be unsustainable and any sustainability objectives merely political hyperbole.

*How do you think connectivity and ecological sustainability across the ACT can best be protected and enhanced?*

- Stop the Greenfield urban expansion across arable land.
- Farmers already understand connectivity from a natural environmental management perspective. This is not understood in the urban context with govt land development control manufacturing natural outcomes and that these fail for their obvious and unnatural expression. Connectivity of raptor species habitat is equally important as micro habitats of GED, pink tailed worms and the like. There is a propensity for habitat footprints to be reduced to smaller areas and lower order species without recognition that the ecological hierarchy is not just terrestrial and aquatic. Superb parrot issues are a classic proof of failure of govt land development avarice to properly respond to and be prevented from impacting on avian habitat and connectivity. Similarly raptors such as the wedge tail eagle habitat are under severe pressure in the ACT though not so in the NSW context so is it appropriate to off load habitat provision to NSW and not list their protection in the ACT context.?

*What are your views on no net loss of significant biodiversity and its applicability to the ACT?*

- Political hyperbole that is unobtainable and ignorant of the realities of the ACT Govt and treasury's fixation on land development revenue. Already the Govt is considering future urban expansions west of the Murrumbidgee River.
- The ACT is oversupplied with conservation areas but is failing to manage them to ensure such biodiversity is maintained e.g. Molonglo Valley significantly impacts on raptor species but they are not relevant to land development needs and the territory requirements are incompatible with the govt need to expand the land sales

base. A reality test would be to compare the ACT approach and delivery and results to our nearest neighbours (NSW, Vic and SA). If we fair well then there is no need to alter the NC Act and if we are failing then there is need to prohibit further urban extension.

*Does the ACT contribution need to be viewed in the broader regional context, and if so how could cross border offsetting considerations apply?*

- Absolutely yes. That's the key problem, it currently isn't.

*Should the ACT consider a similar approach to NSW biocertification to allow a better interface between the NC Act and the Territory Plan?*

- Yes

*What are your views on including licensing provisions as part of strategic assessments to deliver maintained or improved biodiversity across a planning area?*

- This appears a fundamental confusion of strategic assessments at the macro level with site specific micromanagement of a site specific development control and potential adverse effects from a single source development proposal. Licensing is set a level below strategic approvals as it covers minor or ancillary matters not of themselves warranting the high level strategic consideration. To link the two upwards to the strategic policy level would lose assessment direction in fine grain considerations and inversely downward pressure would see licensing considerations revolving in ill-defined strategic considerations out of scale of the matter at hand.

*Do you think voluntary dedication of leased land for conservation should occur in the ACT?*

- Yes, where the lessee proposes it but only if the Govt can take over all aspects and at the funding levels to maintain it.

*If so, what would be the simplest and most effective mechanism for achieving this?*

- Land swap or lease variation. Anything that does not alter tenure will not be enforceable or economically viable.

*Do you think that private management trusts could be one way to encourage private lease conservation?*

- Yes

*How else do you think private lease conservation could be facilitated?*

- Ensuring a clear legal framework is set out so that mums and dads developers etc can in plain English understand the arrangements they are entering into.
- Insurance industry protections (e.g. providing for ongoing use of land with no increase in premiums as a consequence) would have to be ensured for this to be viable as an option though

*Does existing legislation have sufficient powers to deal with encroachments onto reserve land?*

- Yes, but they aren't enforced effectively, e.g. rubbish and urban waste is constantly disposed of on rural roads and conservation areas. Such criminal activity should require or be linked to a public shaming process to perpetuate the view that it is unacceptable behaviour as opposed to the currently uncontrolled status.

*What, if any, amendments should be made to the NC Act?*

*Are the enforcement options and penalties within the NC Act adequate?*

- Yes

*If not, what could improve them?*

- Additional improvements should include publication of convictions

*Is it appropriate for the NC Act to contain civil penalties similar to that used in other jurisdictions?*

- Yes, but is this necessary? If it is adopted as a principle then the other jurisdictions systems as a whole should be transferrable as well. You can not select the penalties from one jurisdiction and then apply them to another if the circumstances, matters of concern and effects are different by virtue of locations, ecological and legislative frameworks.

*If so, to which matters under the NC Act could these most usefully apply?*

*Are the levels of penalties available under the NC Act appropriate?*

- Yes but is this relevant to the ACT population, activities and current enforcement?

*Is there a case for the expansion of strict liability offences under the NC Act?*

*If so what sort of offences?*

- Isn't this the role of Govt to declare in order for the community to understand the issue and proposed solutions?

*Are the current powers of search and seizure under the NC Act adequate?*

- No, but they need to be consistent with due legal process mindful of human rights and burden of proof being on the enforcement officer.

*Are there further reforms required to better integrate Commonwealth and ACT nature conservation law?*

- Yes. there is a need to strip away the duplication and overlapping of requirements

*Should the provisions that control public activities in reserved areas be extended to public activities in open space and unleased lands generally?*

- Yes. Absolutely why are they not already? This is the critical issue. Rangers need enforcement powers over the community utilising these unregulated spaces. The tone and focus of this document attempts to combine two streams that are related but similarly are not dependant on each other. Enforcement powers for rangers, aka "traffic wardens of the reserves and unleased lands", are entirely supported. Extension of reserves, creation of a "super Conservator" with overarching powers supported in yet another govt silo eating up the scarce budget resource for

bureaucracy sake rather than investing in the current assets is totally opposed. Linking the two components is mudding the waters.

*Should the NC Act indicate how to determine the appropriate uses for reserved lands (or other types of public land)?*

- No. That is the role of the planning system and reserve management plan process. This would create confusion and duplication with overlapping responsibilities.

*Should certain types of activities have regulated management requirements?*

- Yes but only if those “activities” are not “land uses” or “development” or covered by other legislation such as EPBC, EPA, Water resources Act or Planning regulation etc.

*Should the Conservator be able to issue orders for restoration work on reserved land and/or to cover the cost of reserve staff involvement in assessing the activity?*

- No.

*Should objects be incorporated in an objects section in the NC Act?*

- Yes, For clarity of purpose of the Act and implementation.

*What do you consider would be appropriate objects?*

- Those that clearly set out its subservient placement to the Commonwealth environmental legislation, territory planning legislation and how it integrates with other ACT environmental legislation

*Do you think that the current role of the Conservator is appropriate?*

- Yes

*If not, how could it be improved?*

*Is it appropriate that the Flora and Fauna Committee and the Natural Resource Management Advisory Committee be merged?’*

- Yes

*Is there any advantage in the role of the Natural Resource Management Advisory Committee being legally established as a statutory committee?*

- No

*Do you think the role of the Flora and Fauna Committee should be expanded?*

- No

*What would be an appropriate model by which Indigenous groups were engaged under the Act?*

- As per Section 7 and 8 of the Resource Management Act ( NZ legislation) provides a guide. In the absence of a treaty or legal recognition of land right a more appropriate and effective approach /location would be through the Planning legislation.

*Is there a need for a formal community consultation body representing conservation interests?*

- NO, the community is adequately represented as an affected party in planning processes. There is no role in private licensing for community involvement in private treaty.

*Should the NC Act establish a formal mechanism and timeframe for reviews of the Nature Conservation Strategy?*

- Yes

*How could the role of the strategy in defining areas that require landscape-wide consideration be better integrated with the ACT's strategic land use planning process?*

- The first assumption that the NCS should integrate is unproved and appears a grab for planning power duplicating and overlapping red tape. The question is consequentially misleading through this presumption of integration. They should not be integrated as the two function in entirely different spheres of influence.

*Should the NC Act allow for amendments to the strategy?*

- Yes

*If so, given the potential impact on land use planning, should this adopt a transparent public process similar that used for Territory Plan variations?*

- No. Firstly the presumption that the NCS impacts on planning legislation is unfounded so a second presumption that it inherently has the right to frustrate planning processes under the planning legislation is similarly unsubstantiated. All of which fundamentally undermines this questions validity. If anything can be learned from the amendment of territory planning legislation is that the statutory processes are unnecessarily long, politically susceptible to capture by interest groups that do not reflect the community and that attempt the usurpation of Commonwealth prerogatives lead to confusion in outcome and process.

*Should the NC Act allow for some policy documents to be given statutory force? If so, which and why?*

- NO. Even reserve management plans can have no force unless fully compliant with planning legislation and codified to enable their consideration as planning documents in the planning approval process.

*Are any other changes warranted in relation to the declaration of protected and exempt species?*

- no

*Do you think section 38 of the NC Act should be amended to incorporate greater categorisation of threatened status, and should the new categories relate to IUCN categories?*

- Yes, BUT clarification and legal certainty must be foremost in any redrafting of definitions.



*Should the definitions and listing categories in the NC Act and the EPBC Act be better aligned?*

- Absolutely Yes. They should be identical.

*Should the NC Act include the requirement for action plans to have formal monitoring and review provisions?*

- Absolutely yes, otherwise such plans are meaningless, feel good snapshots that are immediately out of date the moment they are adopted. Without monitoring provisions success or failure of policy, regulation and implementation cannot occur. Without feedback loops action plans are not able to be validated tested or measured against the expectation they were created. If the action plan has no review or monitoring provision it is simply a “to do” list which can have not lever to funding provision there by ensuring its own failure.

*How do you think the protection of plants and animals in the ACT should be regulated?*

- Through the EPBC primarily and relevant animal welfare legislation

*Is there a greater role for self-reporting by licensees on compliance?*

- No, self reporting is a waste of time.

*Should fees reflect the full cost of administering licences?*

- No, only the actual cost of administering the process relative to the necessary information sought for the licence to be issued.

*Should the definition of animal and native animal under the NC Act, or specific uses of these terms, be amended and how?*

*How can the origin of a captive wild animal be verified?*

- Tagging, genome sequencing are just two of a range of scientific methods. Depends of funding if this is seriously relevant or being considered.

*Should damage or destruction of known habitat (or identified critical habitat) be sufficient evidence for prosecution of an offence?*

- NO. As with any criminal activity the burden of proof must lay with the prosecuting authority. Appropriate legal training is a mandatory requirement before reserve management personnel are allowed to issue infringements, collection of evidence etc. Due legal processes must be applied. Equally a system must be in place for wrongful prosecution.

*Should a provision be included that the taking of native animals and native invertebrates from reserved land requires a licence?*

- Yes. It would solve the problem of pest destruction waste (pigs and deers etc can't be taken for pet food purposes, or other natural resource material values.

*Should the removal of native timber incur the issuing of an infringement notice?*

- No. It should be licensed where appropriate and appropriate purposes (recycling of native timbers and sustainable management and harvesting of native timbers

consistent with UN and EU conventions. Where these are carried out illegally then infringements should be issued including for not having a licence.

*Should the definition of native plant be changed to encompass only species indigenous to the ACT?*

- No. this would contravene the EPBC framework etc and again loses the regional biodiversity, ecological and habitat contexts. The ACT is just an arbitrary political notion and not an ecological entity in its own right.

*Does the NC Act need to retain provisions relating to pest organisms?*

- Yes

*In what circumstances do you think it would be appropriate for the Conservator to issue conservation directions?*

- Conservation directions are not supported. The questions already determine an outcome and cannot be considered a balanced question. Firstly an existing process can respond to this issue and this would be an unnecessary duplication of and intervention in planning process. Directions, if established, should only be a referral as part of the existing Planning and Development Act (division 7.3.3) provisions, to ACTPLA as part of a DA process or as part of ACTPLA interagency investigations on strategic planning projects.

*What powers should the Conservator be allowed to exercise?*

- Managing the drafting and approval of reserve management plans. Formally endorsing alterations to the reserves.

*Should the Conservator's directions be tied to land title rather than to the landowner?*

- No. This question erroneously assumes titles and owners exist on reserve land. Most reserve land is unleased territory land and therefore there is neither a land owner ( it is public owned land managed by the government on behalf of the Commonwealth interest and the Crown, and that a lease may not have been raised ( i.e. the land is unsurveyed to block and section and no lease created to effect this.
- With regard to rural lessees already owning reserve land under withdrawal clause provisions similarly no. Directions should only be tied to development. If there is no development there can be no change in land status that warrants intrusion on the quiet enjoyment rights of a leaseholder. Such a draconian measure would infringe the Human rights obligations of the government. The appropriate time for consideration of directions would be as submissions on development or at the time of lease creation under the planning system.

*Should the leaseholder be compensated for any loss of amenity or commercial value that results from the directions?*

- Yes, Absolutely. Failure to fully compensate will create unnecessary tensions and be counterproductive in engaging with the community and detrimental to the long term conservation and biodiversity management in ACT.



*Should the owner of a vehicle be held liable for the misdeeds of the driver, within a reserve area?*

- Yes, But only to the extent of application as applied to public roads i.e. reserve areas that are unleased territory land.

*Should the NC Act allow for the restriction of non-motorised vehicles to certain suitable areas?*

- Yes, But Good luck enforcing it, though only viable way would be to fully fence reserve areas to prevent any access.

*Should hunting without a licence be specifically listed as an offence?*

- Yes so long as it relates to culling on unleased lands. In other circumstances there should not be a licence required for hunters to undertake pest destruction on private land. Their presence would be managed under trespass laws.

*Should there be a licensing provision for the taking of non-native animals and pest plants into a reserved area?*

- Yes, but only in the context of livestock for grazing purposes where other alternatives for fire reduction are inadequate. It is noted that horses in association with livestock movement or management should be permissible. There should be no allowance for domesticated cats and dogs. Recreational horse riding on established trails should be permissible but off trail riding prohibited.

*Should the NC Act be amended so that it is clear that it is legal to take animals into a reserve in a way that is allowed by a management plan?*

- Yes, Obviously. Surely this is simply a drafting issue of the RMP though?

*Should the NC Act provide guidance on the issuing of commercial concessions on reserved or possibly other public land and provide for the regulation of such activity as it affects biodiversity values, nature conservation objectives and general public enjoyment?*

- No such leasing sits within other legislation and unnecessarily duplicates and complicates current arrangements and the opportunities for concessions etc sit within the drafting of management plan frameworks already.

*Do you support the provision of clauses in the NC Act that would allow regulation of private or community organisation use of reserved land?*

- Absolutely No. under no circumstances. This duplicates planning approval and leasing processes and could conceivably be contrary to territory planning policy and commonwealth legislation.

*Should the NC Act be amended to allow for the requirement of a restoration plan and/or performance based bond?*

- No

*What wilderness protection or restoration provisions do you think should be included under the NC Act?*

- None. Such wilderness protections requirements relate to controlling development effects and therefore should be applicable only in the context of development approval conditions, or where restoration of damage is required that should form part of a decision of the judicial processes establishing a criminal act and subsequent civil conviction.

*Are the current management plan provisions under the Planning Act sufficient for the provision of wilderness management?*

- Yes, wilderness management is not a development control matter. Management of the asset should sit with reserve management planning. Approval for development is already covered by the planning Act. To be effective RMP should be codified to enable ease of understanding for planning purposes.

*How should damage capable of causing serious or material damage be defined?*

*What thresholds should be used to distinguish between different levels of harm?*

*Should licensing fees reflect cost recovery?*

- No.

*Are the existing appeals mechanisms as they relate to the NC Act adequate?*

- No, they are also not transparent.

*Should the NC Act encompass the concept of royalties for biodiscovery?*

- Yes if these are away in which non urban leased land can be turned into a revenue source as part of tits conservation management.

*Are current royalty provisions for native plants, native animals and timber sufficient?*

### **General comments**

1. Figure 3 - Map critical habitat is lacking in information for a proper assessment of the issue. It shows reserves without any understanding of their values. It adopts a fatally flawed assumption that if it's in a reserve its quality is worthy of being there. A proper consideration of the issue would assess the total environment for its critical status. Without a balanced assessment of the entire nature reserve assets including those in reserves it is impossible to assess what should be, retained, added or returned to productive land. There has been no detailed assessment of private lease land for ground truthing the map. On the basis that the information used is flawed and the mapping consequently this document is very misleading.
2. Section 1.2.1 Territory Plan knowledge is fundfamentally wrong and shows no understanding of basic planning structures or statute. It talks only of the Spatial Plan a subsidiary document that is also inconsistent with the National Capital Plan in many areas.
3. The Territory Plan map of River Corridor is inconsistent with the National Capital Plan boundaries of the river corridor. The reserves with gazettal on this basis are thus flawed by placing reserves over productive national capital plan rural land.