

## REVIEW OF THE *Nature Conservation Act 1980*

A review of the Act is being undertaken by the Department of the Environment, Climate Change, Energy and Water on behalf of the ACT Government.

### **Comments from the Watson Community Association Inc. (WCA) on the Review of the Nature Conservation Act 1980**

February 18 2011

In summary, the WCA considers that current administrative arrangements regarding the Nature Conservation Act do not operate to ensure proper balance between environmental and other considerations.

The Department of Environment Climate Change Energy and Water should have these functions, and be adequately funded to administer them effectively. The ACT Planning Authority should also give more adequate consideration and weighting to long term environmental values in setting planning policies.

### **KEY RECOMMENDATIONS**

1. The NC Act and its associated strategic biodiversity intentions and implementation should be administered as part of an expanded vertically integrated structure within the ACT Department of Environment Climate Change Energy and Water (DECCEW), not the Department of Territory and Municipal Services (TAMS).

Current approaches to environmental assessment and management are puzzling and highly fragmented. For instance, the Report on ACT Lowland Native Grassland Investigation was apparently commissioned by the Minister for TAMS, and then undertaken by DECCEW. The study itself was undertaken by the office of the Commissioner for Sustainability and the Environment and the response to it from the ACT Government were both reported to DECCEW.

Relevant topics listed on the DECCEW website are listed:

- Natural Resource Management
- ACT Weeds Strategy 2009-2010
- 2010-11 ACT Environment Grants
- Government Response to the Report on the ACT Lowland Native Grassland investigation
- Review of the Nature Conservation Act

Strategic studies of environment and biodiversity land values are presently being performed by the Commissioner for Sustainability and the Environment (Commissioner) subject to the *Commissioner for the Environment Act 1993*, not the Conservator of Flora and Fauna under the *Nature Conservation Act 1980* (

*NC Act*). Land use matters are also subject to the *Planning and Development Act 2007*.

The *NC Act* has traditionally focused on low-hanging fruit such as listing endangered species, compliance with licensing and the removal of flora and fauna. An expansion of the role to the Conservator of Flora and Fauna is unlikely to be sufficient to fill the chasm which exists in environmental assessment and land management, including monitoring of plans of management. This needs to be a whole-of-department approach.

2. The Conservator of Flora and Fauna, the Flora and Fauna Committee and ACT Parks and Conservation and Lands (PCL) should be integrated into DECCEW. They are presently in the Department of Territory and Municipal Services (TAMS). We view this as unsatisfactory, reducing lines of communication, and placing these functions within a department which does not have the environment, biodiversity, climate change or water as a primary focus.
3. The roles of the Conservator and the Flora and Fauna Committee in relation to the Nature Conservation Act should remain unchanged, but should be adequately funded for its workload. Any increased work load is likely to work against the primary aims of both bodies.
4. Plans of Management for public lands and off-reserve lands should reside in DECCEW for monitoring regarding compliance purposes and to improve relevance to holistic environmental strategic considerations. At present, land management plans are a component in the *Planning and Development Act 2007*, and their administration is fragmented. Indeed, it is unclear which body is ultimately responsible for land management or land management plans: reading through Appendices 1 and 2 (provided), it can either be the Conservator of Flora and Fauna, or alternatively Parks, Conservation and Lands, which is currently an agency within TAMS.
5. Licensing to remove native flora and fauna should not be bypassed in any way by approval of a Development Application under the *Planning and Development Act 2007*, or by the use of a commonwealth-directed Strategic Environmental Assessment (lower Molonglo, for example). Such an approach encourages the removal of vegetation by unqualified and unsupervised individuals at the expense of the environment.
6. The WCA does not support the use of bonds for commercial concessions or for non-commercial activities (e.g. weddings) on the nature conservation estate, irregardless of whether such bonds would be used to offset restoration or add to the ACT Treasury.
7. The WCA is strongly in favour of any initiatives which would encourage the involvement of Indigenous peoples in maintaining Australia's biodiversity. The

WCA is aware of the success of a program initiated by the Molonglo Catchment Group using Landcare funding.

8. The ACT Planning and Land Authority should give more adequate consideration and weighting to long term environmental values in setting planning policies. Conservation of the environment and maintaining the values of a Bush Capital is important to achieving town planning goals. It is also important to maintaining amenity and land values in the ACT. Current planning and land management policy gives inadequate consideration to the social and economic importance of protecting the environment.

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## APPENDIX 1

### TAMS Annual Report 2007-2008

#### Conservator of Flora and Fauna

##### **Conservator of Flora and Fauna**

The Executive Director of Environment and Recreation, Territory and Municipal Services (TAMS) holds the office of the Conservator of Flora and Fauna.

Established by the *Nature Conservation Act 1980*, the Conservator of Flora and Fauna has additional responsibilities under the *Land (Planning and Environment) Act 1991*, (which was replaced by the *Planning and Development Act 2007* on 31 March 2008) and the *Tree Protection Act 2005*.

##### **Nature Conservation**

The Conservator acts on issues that affect the conservation matters embodied in the *Nature Conservation Act 1980*. This relates in particular to protecting native plants and animals, including the administration of a licensing system for the taking, keeping, selling, importing, exporting, disturbing, displaying and killing of native plants and animals; managing the nature reserve system; and protecting and conserving threatened species and ecological communities.

##### **Land Management**

The Conservator is responsible for managing public land identified in the Territory Plan in accordance with the management objectives specified in Schedule 1 of the *Land (Planning and Environment) Act 1991* (now Schedule 3 of the *Planning and Development Act 2007*).

## APPENDIX 2

### Excerpt from *Action Plan No. 27*

#### ACT Lowland Woodland Conservation Strategy

##### 1.7

##### **Implementation**

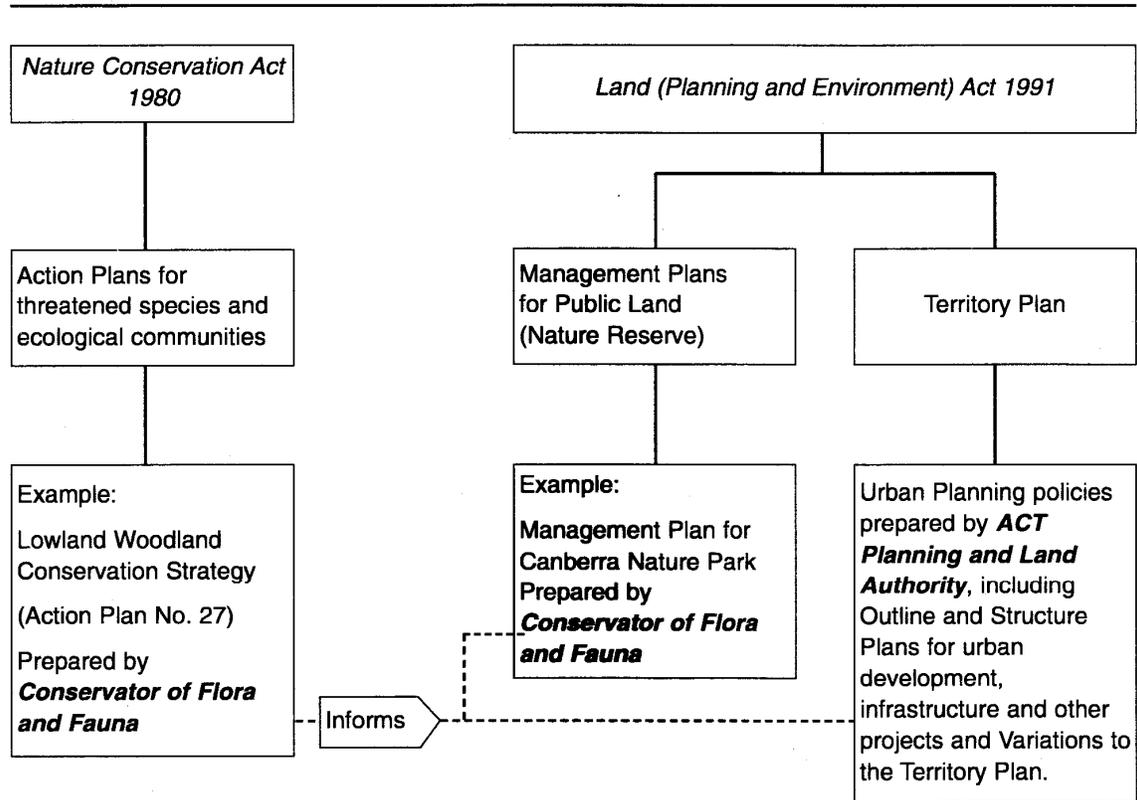
Management of lowland woodland in the ACT is complicated by the nature of land tenures. The Strategy is not a management plan prepared under the *Land (Planning and Environment) Act 1991*, nor does it propose that management plans be prepared for each woodland complex or unit independent from existing management plans and management arrangements. The Strategy is a thematic document i.e. it deals with lowland woodland conservation across all land tenures in the ACT. The goals of the Strategy will be achieved through a variety of means, relevant to the different tenures. The Strategy provides the strategic, ACT-wide and regional context for the consideration of lowland woodland conservation in planning studies for specific areas of the ACT. It is at this stage

that matters such as the buffer between woodland and urban development will be determined.

*Environment ACT* has responsibility for coordinating implementation of this Lowland Woodland Conservation Strategy in partnership with relevant public and private land managers and the wider community. The remaining lowland woodland in the ACT is spread across leased and unleased Territory Land, reserved Public Land (Territory Land) under The Territory Plan, and National Land. Achievement of the objectives of the Strategy will require the participation of the managers of these lands, in particular in undertaking the actions set out in Chapter 6. The cooperation of all stakeholders is necessary if further decline in woodland biodiversity is to be halted.

Primary responsibility for conservation of lowland woodland and component species on reserved Public Land will rest with the ACT Parks and Conservation Service, with the directions of the Strategy expressed through management plans. For example, the Canberra Nature Park Management Plan (ACT Parks and Conservation Service 1999, p. 18) includes an action to provide assistance in the development and implementation of conservation strategies for threatened native plant species and communities and provide for long term monitoring'. Memoranda of Understanding (especially with Commonwealth landholders), Land Management Agreements (with rural leases), and directions by the Conservator of Flora and Fauna under s. 47 of the Nature Conservation Act 1980 in relation to activities on unreserved Public Land in the urban area are also means by which the Strategy may be implemented. Cooperation with NSW agencies, especially the Department of Environment and Conservation is an important element in implementing the Strategy, as part of a growing regional effort to conserve the biodiversity of the ACT and NSW Southern Tablelands.

The place of the Strategy in land use planning and land management in the ACT is shown in Figure 1.1.



**Figure 1.1:**

The Place of the *Lowland Woodland Conservation Strategy* in Land Use Planning and Land Management in the ACT.