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**Subject:** FW: Lake Managers - Legislation review sub committee  
**Location:** Griffin Room, NCA Office

**Start:** Mon 20/06/2016 2:00 PM  
**End:** Mon 20/06/2016 3:30 PM  
**Show Time As:** Tentative

**Recurrence:** (none)

**Meeting Status:** Not yet responded

**Organizer:** [REDACTED] (National Capital Authority)

David

As discussed, I have no background for meeting, I've indicated I'll discuss the review for RBT we considered a number of years ago which didn't progress

Regards

Daniel

-----Original Appointment-----

**From:** [REDACTED] (National Capital Authority)  
**Sent:** Monday, 30 May 2016 11:14 AM  
**To:** [REDACTED] (National Capital Authority); Walters, Daniel; [REDACTED]; Nolan, Patrick; Neylon, Sam; Kelly, Joel; [REDACTED]; Lawrence, Margo; Smith, Brendon; Maconachie, Michael; Sloan, Sean; [REDACTED] Dix, Rodney; Garbode, Julie; Jones, [REDACTED]  
**Subject:** FW: Lake Managers - Legislation review sub committee  
**When:** Monday, 20 June 2016 2:00 PM-3:30 PM (UTC+10:00) Canberra, Melbourne, Sydney.  
**Where:** Griffin Room, NCA Office

You interested in attending

-----Original Appointment-----

**From:** [REDACTED]  
**Sent:** Monday, 30 May 2016 11:11 AM  
**To:** [REDACTED] Nolan, Patrick; Neylon, Sam; Kelly, Joel; [REDACTED], [REDACTED]; Lawrence, Margo; Smith, Brendon; Maconachie, Michael; Sloan, Sean; [REDACTED]; Dix, Rodney; Garbode, Julie; [REDACTED]  
**Subject:** Lake Managers - Legislation review sub committee [SEC=UNOFFICIAL]  
**When:** Monday, 20 June 2016 2:00 PM-3:30 PM (UTC+10:00) Canberra, Melbourne, Sydney.  
**Where:** Griffin Room, NCA Office

Dear Lake Managers,

This meeting is intended for those of you interested in a revision of lakes legislation in the ACT (Lakes Act 1976 and Lakes Ordinance Act 1979). While all of you are welcome, I understand that this may not be relevant to all.

As discussed at the Carillion meeting (18 May 2016), many of us agreed it was overdue to start the conversation about reviewing our respective legislations. I don't have an agenda, but I think at this initial meeting we all bring a shopping list of things we wish to change so that we can compare priorities and discuss how we go forward.

Please see the attachment explaining how to find the NCA offices. Sorry we have paid parking in the Parliamentary triangle, but the best 3 hr parking is the National Library carpark (or free 1 hr parking next to our building on the street). Thanks



NCA entrance  
location map.pdf



**National Capital Authority** | Treasury Building, King Edward Terrace, PARKES ACT 2600  
GPO Box 373, CANBERRA ACT 2601 |  [www.nationalcapital.gov.au](http://www.nationalcapital.gov.au) | Twitter: @NCA\_Media

LoveLBG is a strategy developed by the NCA to encourage social media users to share tips on protecting Canberra's waterways using the hashtag #LoveLBG.



---

**From:** Walters, Daniel  
**Sent:** Tuesday, 21 June 2016 4:29 PM  
**To:** Croser, Sam  
**Subject:** FW: Minutes of Meeting - Lake Managers Legislation Reform sub committee [SEC=UNOFFICIAL]  
**Attachments:** MINUTES OF MEETING 2062016.pdf

Hi Sam

As discussed NCA are setting up a internal working group and I suggested we should have someone from Active Canberra (Sport and Rec), I've attached Minutes of meeting yesterday

Could you please advise who would be the appropriate officer

Cheers

*Daniel Walters*

Senior Manager | Environment Protection Policy  
Environment and Planning Directorate | ACT Government

☎ Ph: (02) 6207 6334

☎ Fax: (02) 6207 6084

✉ [email: daniel.walters@act.gov.au](mailto:daniel.walters@act.gov.au)

🌐 <http://www.environment.act.gov.au/>

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---

**From:** [REDACTED]  
**Sent:** Tuesday, 21 June 2016 3:02 PM  
**To:** [REDACTED]; Nolan, Patrick; [REDACTED]; Neylon, Sam; Kelly, Joel; [REDACTED]; Chris [REDACTED]; Lawrence, Margo; Smith, Brendon; Maconachie, Michael; Sloan, Sean; [REDACTED]; Dix, Rodney; Walters, Daniel; Garbode, Julie; [REDACTED]; Dunstan, David; Bennett, JamesP  
**Subject:** Minutes of Meeting - Lake Managers Legislation Reform sub committee [SEC=UNOFFICIAL]

## Security: Unofficial

Dear Lake Managers and Legislators,

Attached is the draft minutes from the meeting yesterday where we discussed Legislation Reform for the ACT Lakes. Please let me know if I have made any omissions or errors. Thanks

[REDACTED]

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*Love Lake Burley Griffin*



MINUTES OF MEETING

**ACT Lake Managers' Forum  
Sub-Committee on Legislative Reform**

<b>Attendees:</b>	<b>Title</b>	<b>Organisation:</b>
[Redacted]	Manager, Lake and Dam Estate Officer	National Capital Authority
Patrick Nolan	Director Estate and Asset Management, NCA	National Capital Authority
[Redacted]	Manager, Planning Programs	Parks and Territory Services, TAMS
Sean Sloan	Team Leader SRG Maritime	Australian Federal Police
Rodney Dix	SRG Maritime	Australian Federal Police
Daniel Walters	Snr Manager	Licensing and Compliance, TAMS
James Bennett	Manager	Environment Protection, Access CNB
[Redacted]	Manager	Environment Planning Directorate
	Snr Marine Surveyor	Environment Planning Directorate
		Vessel Safety Unit, AMSA
<b>Apologies:</b>		
Sam Neylon	Lakes & Special Projects Officer	Parks and Territory Services, TAMS
Margo Lawrence	Senior Property Officer	ACT Property Group, CMTEDD
Brendan Smith	Senior Property Officer	ACT Property Group, CMTEDD
Julie Garbode		Parks and Territory Services, TAMS

**Date:** Monday 20 June 2016      **Location:** Griffin Room, NCA  
**Time:** 2:00pm (Canberra Time)

**Distribution:** All

**Agenda:**

1. Introductions – who does what and how does that affect each of the other groups
2. Purpose of Meeting
3. Background to Legislative Reform
4. Issues to be raised in future Legislative Workshop
5. Other Business

Item	Description	Action	Action By (Date)
Introductions	<ul style="list-style-type: none"> <li>All members present summaries their roles in respect to lake management and regulation</li> </ul>		
Purpose of Meeting	<ul style="list-style-type: none"> <li>The Lakes Ordinance 1976 (NCA legislation for Lake Burley Griffin) and The Lakes Act 2015 (ACT legislation for remaining waterways in the ACT, including Kingston Harbour) have been previously prepared to govern their respective ACT Waterways. Both legislation requires modernisation and to be made consistent with each other.</li> </ul>		
Background to Legislative Reform	<ul style="list-style-type: none"> <li>Daniel explained to the group that a working group formed in 2011 had commenced preliminary drafting instructions and a draft cabinet submission, for cooperative legislative reform. The Mitchell fire and the closing of Molonglo ski area diverted the working group from completing this work. At that time, the priority for reform was to update boating safety, driving under the</li> </ul>		



Item	Description	Action	Action By (Date)
	<p>influence (DUI), etc. EPA was championing this reform and the NCA was to follow suit.  <i>Action: Daniel will provide the documents to the NCA and they will be distributed to this group for consideration.</i></p> <ul style="list-style-type: none"> <li>█ mentioned his AFP officers have been recently commenting on NSW Boating Safety guidance and suggested that this material be used in the ACT. All agreed it would be prudent to adopt consistent legislation to NSW.</li> </ul> <p><i>ACTION: █ will provide the documents to the NCA and they will be distributed to this group for consideration.</i></p> <ul style="list-style-type: none"> <li>█ mentioned that the Lakes Ordinance ACT is part of 19 other pieces of legislation absorbed into the National Lands Ordinance Act 1986 at the time of self government.  <a href="https://www.legislation.gov.au/Details/F2009B00017">https://www.legislation.gov.au/Details/F2009B00017</a>  Reform of the Lakes Ordinance may potentially require reform of all associated legislation.</li> <li>█ mentioned that AMSA will take over management of commercial boat permits from the states in July 2017. They will be revising fees for services. They will replace state based marine surveyors with accredited private surveyors. █ identified shortfalls in national legislation, in particular oil pollution regulation</li> </ul>	<p>EPD</p> <p>AFP</p>	<p>24 June</p> <p>15 Aug</p>
<p>Issues to be raised in future Legislative Workshop</p>	<ul style="list-style-type: none"> <li>█ identified issues with the existing Lakes Ordinance that the NCA is interested in reforming: <ul style="list-style-type: none"> <li>- Section 12 – unauthorised taking of water – as the ACT has taken responsibility for water resources in December 2014, it is expected that this section is now not required. It has already been removed from the Lakes Act.</li> <li>- Section 26 – Boat permits – potential for charging for boat permits should be considered. The group envisaged resistance but agreed general fee reform was worth consideration</li> <li>- Section 28 – Water skiing – removal of this activity from the Ordinance</li> <li>- Section 29 – Hovercraft - removal of this activity from the Ordinance</li> <li>- Section 32 – Camping in the areas around the lake – consideration of allowing some form of camping in particular areas</li> <li>- Section 33 – Commercial Activities – redraft to utilise existing AMSA legislation. █ said there is still a requirement for administrative explanation under this clause to ensure commercial activities are consistent with the intended uses of the Lake.</li> <li>- Sections 37-47 – Boating rules – harmonisation or adopting identical rules used by National Conventions for Collision Avoidance.</li> <li>- Section 50 – Intoxication – clearer identification of DUI limits and provision for fining or arrest of operators under the influence</li> <li>- Implementing a on the spot fining mechanism for enforcement</li> </ul> </li> </ul>		



Item	Description	Action	Action By (Date)
	<ul style="list-style-type: none"> <li>- General overhaul of boat permit system, including revision of boating policies, requirement for certificates of competency for boat operators, consistent interpretation of DCV regulation across the ACT.</li> <li>• [redacted] identified that there is insufficient legislative power to prosecute boat operators that cause death or injury when on the Lakes. He said this should be a principle reform agenda through this process.</li> <li>• [redacted] mentioned that sensible reform might be the requirement for thermal gear when lake water temperatures are particularly low.</li> <li>• Daniel mentioned that Googong was in a unique situation and would require supplementary reform given its unique situation being in NSW, but ACT managed.</li> </ul>		
Other Business	<ul style="list-style-type: none"> <li>• Public consultation – [redacted] asked when the appropriate time to engage the lake users is. The group agreed that their needs to be consultation to ensure engagement and compliance, but that should be one a revised draft has been prepared.</li> <li>• Future legislative reform working group – All the existing invitees (unless they opt out) + a representative from ACT Sports and Recreation <i>ACTION: Daniel to provide a contact person from S&amp;R</i></li> <li>• The NCA agrees to champion this reform and will coordinate next working group meeting. The Agenda of the next meeting will be to identify reform agenda and re-commence drafting preliminary drafting instructions.</li> </ul>	EPD	24 June
<b>Next Meeting:</b>	2:00pm 30 August 2016 @ NCA office		

#### Contact List

[redacted]	National Capital Authority	[redacted]	
Patrick Nolan	National Capital Authority	<a href="mailto:Patrick.nolan@act.gov.au">Patrick.nolan@act.gov.au</a>	
[redacted]	National Capital Authority	[redacted]	
Sean Sloan	Parks and Territory Services, TAMS	[redacted]	
Rodney Dix	Australian Federal Police	<a href="mailto:Rodnev.Dix@act.gov.au">Rodnev.Dix@act.gov.au</a>	6205 2586
[redacted]	Australian Federal Police	[redacted]	
James Bennett	Licensing and Compliance, TAMS	<a href="mailto:Jamesp.bennett@act.gov.au">Jamesp.bennett@act.gov.au</a>	6205 4877
Daniel Walters	Environment Protection, Access CNB	<a href="mailto:Daniel.Walters@act.gov.au">Daniel.Walters@act.gov.au</a>	62076334
	Vessel Safety Unit, AMSA		
	Environment Planning Directorate		
	Environment Planning Directorate		

---

**From:** Walters, Daniel  
**Sent:** Tuesday, 21 June 2016 4:32 PM  
**To:** [REDACTED]  
**Subject:** RE: Minutes of Meeting - Lake Managers Legislation Reform sub committee [SEC=UNOFFICIAL]

Hi [REDACTED]

Looks fine, just one thing I mentioned previous working group had a member from NSW Maritime, maybe worth considering them for group

Regards

*Daniel Walters*

Senior Manager | Environment Protection Policy  
Environment and Planning Directorate | ACT Government

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☎ *Fax:* (02) 6207 6084

✉ *email:* [daniel.walters@act.gov.au](mailto:daniel.walters@act.gov.au)

🌐 *http://*[www.environment.act.gov.au/](http://www.environment.act.gov.au/)

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**From:** [REDACTED]  
**Sent:** Tuesday, 21 June 2016 3:02 PM  
**To:** [REDACTED] Nolan, Patrick; [REDACTED] Neylon, Sam; Kelly, Joel; [REDACTED]; Lawrence, Margo; Smith, Brendon; Maconachie, Michael; Sloan, Sean; Potter, Matt; Dix, Rodney; Walters, Daniel; Garbode, Julie; Jones, [REDACTED] Dunstan, David; Bennett, JamesP  
**Subject:** Minutes of Meeting - Lake Managers Legislation Reform sub committee [SEC=UNOFFICIAL]

## Security: Unofficial

Dear Lake Managers and Legislators,

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[REDACTED]

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*Love Lake Burley Griffin*

---

**From:** Walters, Daniel  
**Sent:** Monday, 4 July 2016 10:55 AM  
**To:** Lane, Annie; Dengate, Clinton; Bennett, JamesP; Dunstan, David  
**Cc:** Ekelund, Dorte; Carder, Jane; [REDACTED]; Dix, Rodney; Nilsen, Tom; Jones, Greg; Pitt, Leesha  
**Subject:** FW: ACT Coroner - James Horton Finding [SEC=UNCLASSIFIED]  
**Attachments:** CD 8-10 Horton.pdf

Dear All

The Coroner has completed the enquiry into the Molonglo Water Ski area fatality (which occurred in Jan 2010), findings attached. Formally they have been referred to TAMSD.

While a majority of the Coroner's recommendations relate to what was the active area, the areas of concern are now closed due to the flooding later in 2010, a limited area remains open to the Waterski Association in the main basin.

In relation to the recommendation that relates to the legislation (Lakes Act 1976 (ACT)) a group has recently been formed lead by the NCA to review the Lakes Ordinance 1976 which would likely result in consequential amendments to the ACT legislation. EPD are on the working group along with ACT Water Police and TAMSD.

Regards

*Daniel Walters*

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**From:** Court MCT Coroners  
**Sent:** Friday, 1 July 2016 1:28 PM  
**To:** Walters, Daniel  
**Subject:** RE: James Horton Finding [SEC=UNCLASSIFIED]

Dear Mr Walters

As requested, a copy of the Coroner's reasons for findings relating to the inquest into the death of JAMES HORTON is attached.

Kind regards

*Michell Heidtmann*

ACT Coroner's Court  
Magistrates Court Building, Knowles Place,  
Canberra City, A.C.T. 2601

GPO Box 370  
Telephone (02) 6207 1754  
Facsimile (02) 6205 9590  
Email: [courtmtcoroners@act.gov.au](mailto:courtmtcoroners@act.gov.au)

---

**From:** Walters, Daniel  
**Sent:** Friday, 1 July 2016 11:43 AM  
**To:** Court MCT Coroners  
**Subject:** James Horton Finding [SEC=UNCLASSIFIED]

Dear Coroner's Office

Could you please provide a copy of the James Horton Finding

Regards

*Daniel Walters*

Senior Manager | Environment Protection Policy  
Environment and Planning Directorate | ACT Government

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**From:** Dunstan, David  
**Sent:** Monday, 4 July 2016 12:16 PM  
**To:** Ekelund, Dorte  
**Cc:** Walters, Daniel; Lane, Annie  
**Subject:** FW: ACt Coroner - James Horton Finding [SEC=UNCLASSIFIED]

Hi Dorte,

Would also note that EPD could take the lead in the review of the Lakes Act 1976 as Daniel suggests noting that it would need to be coordinated with the national capital authority – the Lakes Ordinance 1976 (Cwth) continues to apply to Lake Burley Griffin (by virtue of the National Land Ordinance 1989) but our Lakes Act applies outside this area as suggested in earlier email.

Would also add that specifically the coroner formally found that the collision did not occur as a result of the nature or management of Molonglo Reach and also found that no matter of public safety arose in connection with the death - but the coroner also made some informal recommendations “in the interests of public health and safety generally” in para 77 including:

“A review of the relevant legislation be carried out to ensure that it is adequate and carries sufficient deterrents for the unlawful use Molonglo Reach and that members of the Australian Federal Police have sufficient powers to enforce relevant legislation, including the issuing of infringement notices and the carrying out of random alcohol and drug testing”

While the review of this legislation is a matter for the EPD, Minister for the Environment, this and other informal recommendations have been forwarded to the Minister for Territory and Municipal Services.

David

---

**From:** Walters, Daniel  
**Sent:** Monday, 4 July 2016 11:46 AM  
**To:** Ekelund, Dorte  
**Cc:** Dunstan, David; Lane, Annie  
**Subject:** RE: ACt Coroner - James Horton Finding [SEC=UNCLASSIFIED]

Hi Dorte

As EPD has responsibility for the Lakes Act 1976 and the waterski area is declared under the Act, the legislation review recommendation is relevant to EPD. It is worth noting the Coroner did not find the management of the waterway was a contributing factor.

Considering the recently established NCA working group and now the Coroner’s recommendations it may be timely that we take a stronger lead on the review of the legislation.

Regards

*Daniel Walters*

Senior Manager | Environment Protection Policy

Environment and Planning Directorate | ACT Government

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**From:** Ekelund, Dorte

**Sent:** Monday, 4 July 2016 11:20 AM

**To:** Walters, Daniel; Lane, Annie; Dengate, Clinton; Bennett, JamesP; Dunstan, David; Kendall, Matt

**Subject:** RE: ACt Coroner - James Horton Finding [SEC=UNCLASSIFIED]

Thanks Daniel,

Are there any particular findings that are most relevant for EPD?

Cheers

Dorte

---

**From:** Walters, Daniel

**Sent:** Monday, 4 July 2016 10:55 AM

**To:** Lane, Annie; Dengate, Clinton; Bennett, JamesP; Dunstan, David

**Cc:** Ekelund, Dorte; Carder, Jane; [REDACTED] (National Capital Authority); Dix, Rodney; Nilsen, Tom; Jones, Greg; Pitt, Leesha

**Subject:** FW: ACt Coroner - James Horton Finding [SEC=UNCLASSIFIED]

Dear All

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In relation to the recommendation that relates to the legislation (Lakes Act 1976 (ACT)) a group has recently been formed lead by the NCA to review the Lakes Ordinance 1976 which would likely result in consequential amendments to the ACT legislation. EPD are on the working group along with ACT Water Police and TAMSD.

Regards

*Daniel Walters*

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**From:** Court MCT Coroners

**Sent:** Friday, 1 July 2016 1:28 PM

**To:** Walters, Daniel  
**Subject:** RE: James Horton Finding [SEC=UNCLASSIFIED]

Dear Mr Walters

As requested, a copy of the Coroner's reasons for findings relating to the inquest into the death of JAMES HORTON is attached.

Kind regards

*Michell Heidtmann*

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Magistrates Court Building, Knowles Place,  
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Telephone (02) 6207 1754  
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---

**From:** Walters, Daniel  
**Sent:** Friday, 1 July 2016 11:43 AM  
**To:** Court MCT Coroners  
**Subject:** James Horton Finding [SEC=UNCLASSIFIED]

Dear Coroner's Office

Could you please provide a copy of the James Horton Finding

Regards

*Daniel Walters*

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**From:** Walters, Daniel  
**Sent:** Monday, 4 July 2016 1:40 PM  
**To:** [REDACTED]  
**Subject:** RE: ACT Coroner - James Horton Finding [SEC=UNCLASSIFIED]

Hi [REDACTED]

Agree this may change priority for us, discussion are occurring, will let group know

Cheers

*Daniel Walters*

Senior Manager | Environment Protection Policy  
Environment and Planning Directorate | ACT Government

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☎ Fax: (02) 6207 6084

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**From:** [REDACTED]  
**Sent:** Monday, 4 July 2016 11:55 AM  
**To:** Walters, Daniel  
**Subject:** RE: ACT Coroner - James Horton Finding [SEC=UNCLASSIFIED]

**Security: UNCLASSIFIED**

Good morning Daniel

Thank you. I note paragraph 77 , sixth dot point, regarding the review of relevant legislation and sufficient powers for the AFP to enforce legislation.

Kind regards

[REDACTED]

National Capital Authority | Treasury Building, King Edward Terrace, PARKES ACT 2600

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**From:** Walters, Daniel [<mailto:Daniel.WALTERS@act.gov.au>]  
**Sent:** Monday, 4 July 2016 10:56 AM  
**To:** [REDACTED]  
**Subject:** FW: ACT Coroner - James Horton Finding [SEC=UNCLASSIFIED]

Hi [REDACTED]

FYI in [REDACTED] absence

Cheers

*Daniel Walters*

Senior Manager | Environment Protection Policy  
Environment and Planning Directorate | ACT Government

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☎ Fax: (02) 6207 6084

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**Cc:** Ekelund, Dorte; Carder, Jane; [REDACTED]; Dix, Rodney; Nilsen, Tom; Jones, Greg; Pitt, Leesha  
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Dear All

The Coroner has completed the enquiry into the Molonglo Water Ski area fatality (which occurred in Jan 2010), findings attached. Formally they have been referred to TAMSD.

While a majority of the Coroner's recommendations relate to what was the active area, the areas of concern are now closed due to the flooding later in 2010, a limited area remains open to the Waterski Association in the main basin.

In relation to the recommendation that relates to the legislation (Lakes Act 1976 (ACT)) a group has recently been formed lead by the NCA to review the Lakes Ordinance 1976 which would likely result in consequential amendments to the ACT legislation. EPD are on the working group along with ACT Water Police and TAMSD.

Regards

*Daniel Walters*

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**Subject:** RE: James Horton Finding [SEC=UNCLASSIFIED]

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Kind regards

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Canberra City, A.C.T. 2601  
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**To:** Court MCT Coroners  
**Subject:** James Horton Finding [SEC=UNCLASSIFIED]

Dear Coroner's Office

Could you please provide a copy of the James Horton Finding

Regards

*Daniel Walters*

Senior Manager | Environment Protection Policy  
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**From:** Walters, Daniel  
**Sent:** Monday, 18 July 2016 1:18 PM  
**To:** [REDACTED]  
**Subject:** Lakes Act and Ordinance Review [SEC=UNCLASSIFIED, DLM=For-Official-Use-Only]  
**Attachments:** Brief to Minister approve Lakes Act amendments 11-16263.doc; Exec\_Submission\_to\_Executive\_Policy\_Committee.doc; Brief to minister agree circulate Cab Sub 11-22906.doc; Simon Corbell MLA letter to Gary Rake CEO NCA.doc

Hi [REDACTED]

Please find attached the previous ACT Briefings regarding amendments to the ACT Lakes Act and work of the previous working group that I committed to provide.

The priority to progress legislative changes has been delayed due to a number of factors including the closure to the public of the only area permitted for power boats (Molonglo Reach) in the ACT, and the fact that the area is unlikely to open to the public due to impacts from flooding events.

Subsequent to the attached the National Maritime legislation has passed and an agreement has these provisions regulated in the ACT with AMSA and SA Maritime and the Kingston Foreshore Harbour has been gazetted as a Lake and the Coroner has recently handed down her findings into the Horton incident in 2010 which recommends the legislation be reviewed.

Of relevance to the above is EPD has recently commenced a review of the Lakes and Ponds plan of management which informs the activities permitted on ACT lakes and ponds (including Molonglo Reach), this may include increased pressure to utilise ACT lakes for public use including power boats.

Please treat the attached as for official use only and for the working group members only.

Regards

*Daniel Walters*

Senior Manager | Environment Protection Policy  
Environment and Planning Directorate | ACT Government

☎ Ph: (02) 6207 6334

☎ Fax: (02) 6207 6084

✉ email: [daniel.walters@act.gov.au](mailto:daniel.walters@act.gov.au)

🌐 <http://www.environment.act.gov.au/>

Please consider our environment before printing this e-mail.



Submission No 11/16263

Schedule No

Rec'd Minister's Office .../.../...

<b>To:</b>	Minister for the Environment and Sustainable Development
<b>From:</b>	Director-General Deputy Director-General Executive Director
<b>Date:</b>	In the normal course of business
<b>Subject:</b>	<i>Lakes Act 1976</i> - amendments

### Recommendation

That you:

- agree to the preparation of a Cabinet Submission seeking agreement to effect amendments to the *Lakes Act 1976* (Lakes Act).

### Critical Times/Urgency

In the normal course of business - noting that the significance of the Lakes Act amendments may increase during, and post, public consultation.

### Background

The Lakes Act is a dated and inadequate statute. It does not provide clear or enforceable provisions in relation to navigation, safety, the classification of waterways, or the reconciliation of ACT waters with those administered by the National Capital Authority (NCA). It is not reflective of comparable legislation in other jurisdictions.

On 20 May 2011, Gary Rake CEO of the NCA wrote to you, (Attachment A), suggesting that the ACT collaborate with the NCA to amend the Lakes Act and the Commonwealth's *Lakes Ordinance 1976* (the Ordinance). On 24 May 2011 you gave instructions to proceed with this project.

A working group (the Lakes Act Working Group) comprising representatives from the NCA, ACT Water Police, Environment Protection Authority (EPA) and NSW Maritime Authority and the Recreational Vessels Advisory Group (RVAG) was established in June 2011 to progress the project.

It is noteworthy that a COAG process is currently underway to harmonise all State and Territory legislation in respect of vessel licensing. This process will have no substantive effect on the Lakes Act amendments proposed by this project as it concerns commercial vessels only.

---

#### Performance Assessment

DUE DATE: ...../...../..... DATE RECEIVED:...../...../.....

SATISFACTORY

UNSATISFACTORY

According to criteria specified in *ACT Government Policy Performance Measures*

Signature ..... / .../....

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## Issues

The substantive legal issues which need to be addressed are as follows:

- Safety of navigation;
- Signals and lighting;
- Speed limits;
- Towing and safe loading of vessels;
- Licensing (including cross-jurisdictional arrangements);
- Personal flotation devices;
- Safety equipment;
- Lake declarations;
  - including the necessity to bring Kingston Harbour and areas of the Murrumbidgee, Cotter and Molonglo Rivers within the regulatory ambit of the Lakes Act); and
- Alcohol and drug testing and alcohol and drug offences.

This list was compiled after consultation with the Lake Users Group (LUG). The LUG is convened by the NCA and comprises recreational lake users as well as ACT and Commonwealth government representatives.

The LUG and the Lake Users Working Group have agreed that, given our geographic location and the affinity Canberrans have with the NSW South Coast, the NSW marine safety legislative framework would be a useful template for the Lakes Act amendments.

This would be the case for all issues except drug and alcohol testing and offences. It would be anomalous for the Lakes Act to adopt NSW rules in relation to drug and alcohol use; rather it is posited that it would be more appropriate to adopt the necessary provisions from the ACT's *Road Transport (Alcohol and Drugs) Act 1977*. The Legislation and Policy Branch of the Justice and Community Safety Directorate confirm that this would be the most appropriate course of action.

Advice from Parliamentary Counsel's Office (PCO) indicates that, with the exception of drug and alcohol testing, the amendments can be made through subordinate legislation. Drug and alcohol testing however will require amendment to the Lakes Act itself, and therefore be subject to a full legislative amendment process.

The Lakes Act Working Group agreed, on advice from PCO, that it would be more expedient for the ACT to amend the Lakes Act, rather than for the Commonwealth to amend its Ordinance. It was also agreed that harmonisation of the two would occur by inserting a provision into the Lakes Act that the amendments and regulations comes into force the same day as the Commonwealth's similarly amended Ordinance.

The Lakes Act Working Group has met approximately every three weeks since July 2011. Through this series of workshops, the group has scoped the amendments with a view to seeking your agreement to the development of amending legislation.



<b>Agenda Item No.</b>	TBC
<b>Date of Meeting</b>	TBC
<b>Subject</b>	<i>Lakes Act 1976</i> - amendments
<b>Branch</b>	Environment Protection & Water Regulation
<b>Presented by</b>	Becky Smith

### **Purpose**

To seek a recommended position of the EPC in relation to the process for amending the *Lakes Act 1976* (the Act).

### **Background**

The Lakes Act is a dated and inadequate statute. It does not provide clear or enforceable provisions in relation to navigation, safety, the classification of waterways, or the reconciliation of ACT waters with those administered by the National Capital Authority (NCA). It is not reflective of comparable legislation in other jurisdictions.

On 20 May 2011, Gary Rake CEO of the NCA wrote to Simon Corbell, Minister for the Environment and Sustainable Development, suggesting that the ACT collaborate with the NCA to amend the Lakes Act and the Commonwealth's *Lakes Ordinance 1976* (the Ordinance). On 24 May 2011 the Minister gave instructions to proceed with this project.

A working group (the Lakes Act Working Group) comprising representatives from the NCA, ACT Water Police, Environment Protection Authority (EPA), NSW Maritime Authority and the Recreational Vessels Advisory Group (RVAG) was established in June 2011 to progress the project.

It is noteworthy that a COAG process is currently underway to harmonise all State and Territory legislation in respect of vessel licensing. This process will have no substantive effect on the Lakes Act amendments proposed by this project as it concerns commercial vessels only.

The Lakes Act Working Group has met approximately every three weeks since July 2011. Through this series of workshops, the group has scoped the amendments and incorporated them into the Cabinet Submission.

The amendments reflect current best practice in maritime safety regulation and ensure the ACT's legislative regime in respect of this area is commensurate with those of other close proximity jurisdictions.

### **Issues**

The substantive legal issues which need to be addressed are as follows:

- Safety of navigation;
- Signals and lighting;
- Speed limits;

- Towing and safe loading of vessels;
- Licensing (including cross-jurisdictional arrangements);
- Personal flotation devices;
- Safety equipment;
- Lake declarations;
  - including the necessity to bring Kingston Harbour and areas of the Murrumbidgee, Cotter and Molonglo Rivers within the regulatory ambit of the Lakes Act); and
- Alcohol and drug testing and alcohol and drug offences.

This list was compiled after consultation with the Lake Users Group (LUG). The LUG is convened by the NCA and comprises recreational lake users as well as ACT and Commonwealth government representatives.

The LUG and the Lakes Act Working Group have agreed that, given our geographic location and the affinity Canberrans have with the NSW South Coast, the NSW marine safety legislative framework would be an appropriate template for the Lakes Act amendments.

This would be the case for all issues except drug and alcohol testing and offences. It would be anomalous for the Lakes Act to adopt NSW rules in relation to drug and alcohol use; rather it is posited that it would be more appropriate to adopt the necessary provisions from the ACT's *Road Transport (Alcohol and Drugs) Act 1977*. The Legislation and Policy Branch of the Justice and Community Safety Directorate confirm that this would be the most appropriate course of action.

Advice from Parliamentary Counsel's Office (PCO) indicates that, with the major exception of drug and alcohol testing, the amendments can be made through subordinate legislation. Drug and alcohol testing however will require amendment to the Lakes Act itself, and therefore be subject to a full legislative amendment process.

The Lakes Act Working Group agreed, on advice from PCO, that it would be more expedient for the ACT to amend the Lakes Act, rather than for the Commonwealth to amend its Ordinance. It was also agreed that harmonisation of the two would occur by inserting a provision into the Lakes Act that the amendments and regulations comes into force the same day as the Commonwealth's similarly amended Ordinance.

### **Corporate considerations**

Clearly there are legislative, and commensurate community communications, requirements associated with the proposed amendments to the Act.

While these requirements will comply with best practice procedure for amending legislation it important to note the following underlying issues informing the amendments.

- There should be no misconception that the proposed regulation to address boating safety issues is of a critical nature. The fact is that the Lakes Act

currently prohibits the use of boats on ACT lakes without permission from the Delegate for lakes.

- The only substantive and pressing safety issue pertains to the Molonglo River. Noting, as a relevant aside, the current coronial inquest into the 2011 fatal jet ski crash on the Molonglo River. The Molonglo Reach Waterski Area is the only ACT waterway on which the Minister (under section 25(2)(b) of the Act) permits the use of power boats. Pursuant to a notifiable instrument made under the Lakes Act there are a number of conditions prescribing the conditions of use for waterskiing in the area. There is no indication from the Coroner that the inquest will recommend amendments to the conditions of use, and, in any case, such amendment would require no change to the Act itself.
- The primary purpose of the Lakes Act amendments is to provide the police with statutory powers to regulate and enforce the use of the drugs and alcohol on ACT waterways. The secondary purpose is to improve legislative consistency and best practice vis a vis boating safety with other jurisdictions, particularly NSW.

### **Branch position**

Environment Protection & Water Regulation

### **Recommendation**

The Executive Policy Committee's recommended position is sought on the process for amending the *Lakes Act 1976*.

---

**Decision by Executive Policy Committee:**

**Date:**



<b>To:</b>	Minister for the Environment and Sustainable Development
<b>From:</b>	David Papps, Director General Penny Farnsworth, Deputy Director General Daniel Walters, A/g Director, Environment Protection & Water Regulation
<b>Subject:</b>	Lakes Act 1976 - amendments
<b>Critical Date:</b>	February 2012

### Recommendation

That you:

- agree to the circulation of the Cabinet Submission Attachment A concerning amendments to the *Lakes Act 1976* (the Act); and
- sign the letter at Attachment B to Gary Rake CEO of the National Capital Authority (NCA).

### Background

The Lakes Act is a dated and inadequate statute. It does not provide clear or enforceable provisions in relation to navigation, safety, the classification of waterways, or the reconciliation of ACT waters with those administered by the National Capital Authority (NCA). It is not reflective of comparable legislation in other jurisdictions.

On 20 May 2011, Gary Rake CEO of the NCA wrote to you, Attachment C, suggesting that the ACT collaborate with the NCA to amend the Lakes Act and the Commonwealth's *Lakes Ordinance 1976* (the Ordinance). On 24 May 2011 you gave instructions to proceed with this project.

A working group (the Lakes Act Working Group) comprising representatives from the NCA, ACT Water Police, Environment Protection Authority (EPA), NSW Maritime Authority and the Recreational Vessels Advisory Group (RVAG) was established in June 2011 to progress the project.

It is noteworthy that a COAG process is currently underway to harmonise all State and Territory legislation in respect of vessel licensing. This process will have no substantive effect on the Lakes Act amendments proposed by this project as it concerns commercial vessels only.

---

#### Performance Assessment

DUE DATE: ...../...../..... DATE RECEIVED:...../...../.....

SATISFACTORY

UNSATISFACTORY

According to criteria specified in *ACT Government Policy Performance Measures*

Signature ..... / .../....

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The Lakes Act Working Group has met approximately every three weeks since July 2011. Through this series of workshops, the group has scoped the amendments and incorporated them into the Cabinet Submission.

The amendments reflect current best practice in maritime safety regulation and ensure the ACT's legislative regime in respect of this area is commensurate with those of other close proximity jurisdictions.

## Issues

The substantive legal issues which need to be addressed are as follows:

- Safety of navigation;
- Signals and lighting;
- Speed limits;
- Towing and safe loading of vessels;
- Licensing (including cross-jurisdictional arrangements);
- Personal flotation devices;
- Safety equipment;
- Lake declarations;
  - including the necessity to bring Kingston Harbour and areas of the Murrumbidgee, Cotter and Molonglo Rivers within the regulatory ambit of the Lakes Act); and
- Alcohol and drug testing and alcohol and drug offences.

This list was compiled after consultation with the Lake Users Group (LUG). The LUG is convened by the NCA and comprises recreational lake users as well as ACT and Commonwealth government representatives.

The LUG and the Lakes Act Working Group have agreed that, given our geographic location and the affinity Canberrans have with the NSW South Coast, the NSW marine safety legislative framework would be an appropriate template for the Lakes Act amendments.

This would be the case for all issues except drug and alcohol testing and offences. It would be anomalous for the Lakes Act to adopt NSW rules in relation to drug and alcohol use; rather it is posited that it would be more appropriate to adopt the necessary provisions from the ACT's *Road Transport (Alcohol and Drugs) Act 1977*. The Legislation and Policy Branch of the Justice and Community Safety Directorate confirm that this would be the most appropriate course of action.

Advice from Parliamentary Counsel's Office (PCO) indicates that, with the major exception of drug and alcohol testing, the amendments can be made through subordinate legislation. Drug and alcohol testing however will require amendment to the Lakes Act itself, and therefore be subject to a full legislative amendment process.

The Lakes Act Working Group agreed, on advice from PCO, that it would be more expedient for the ACT to amend the Lakes Act, rather than for the Commonwealth to amend its Ordinance. The Act's administrators (the Environment Protection Authority) are progressing the harmonisation of the two through consultation with the NCA, the Australian Government Solicitor and PCO.

### **Financial Implications**

There are no direct financial implications.

### **Internal Consultation**

All ACT Directorates and agencies will be consulted.

### **External Consultation**

External consultation has taken place with the LUG and the NSW Maritime Authority.

### **Benefits/Sensitivities**

It is a source of potential sensitiveness that the Lakes Act has been allowed to date so substantially and in terms of comparative and current best practice in marine regulatory safety.

Potentially, the only substantive and pressing safety issue pertains to the Molonglo River. Noting, as a relevant aside, the current coronial inquest into the 2011 fatal jet ski crash on the Molonglo River. The Molonglo Reach Waterski Area is the only ACT waterway on which the Minister (under section 25(2)(b) of the Act) permits the use of power boats. Pursuant to a notifiable instrument made under the Lakes Act there are a number of conditions prescribing the conditions of use for waterskiing in the area. There is no indication from the Coroner that the inquest will recommend amendments to the conditions of use, and, in any case, such amendment would require no change to the Act itself.

### **Media Implications**

The potential media implications concern:

- a) the fact that there is currently negligible public awareness that the ACT Water Police have limited legislative capacity to enforce or regulate in relation to drugs and alcohol on ACT Lakes; and
- b) the fact that, for a substantial period of time, Territory lake users have not been protected, especially in terms of physical safety, by an adequate, let alone best practice, marine safety legislative framework.

**Project/Action Officer:** Becky Smith

6205 0864

**AGREED/NOT AGREED/NOTED/DISCUSS**

**Simon Corbell MLA ..... /.../....**



## Simon Corbell MLA

ATTORNEY GENERAL  
MINISTER FOR POLICE AND EMERGENCY SERVICES  
MINISTER FOR THE ENVIRONMENT AND SUSTAINABLE DEVELOPMENT

---

MEMBER FOR MOLONGLO

Mr Gary Rake  
Chief Executive  
National Capital Authority  
GPO Box 373  
Canberra ACT 2601

Dear Mr Rake

I write with reference to your letter of 20 May 2011 and particularly in relation to your suggestions for dealing with the antiquated legislative regime that regulates safety on the lakes of both Commonwealth and Territory government jurisdictions in the ACT.

I agree that the existing legislative framework, comprising the Commonwealth's *Lakes Ordinance 1976* (the Ordinance) and the Territory's *Lakes Act 1976* (the Lakes Act) is now dated and inadequate. I also note your suggestion, via the Lakes users group (LUG), to amend the existing legislation and to model such amendments on the marine safety laws of NSW.

Since receiving your letter significant progress has been made in relation to rectifying the anomalies in the existing legislative framework.

A working group (the Lakes Act Working Group) comprising representatives from the NCA, ACT Water Police, Environment Protection Authority (EPA), NSW Maritime Authority and the Recreational Vessels Advisory Group (RVAG) was established in June 2011.

Through a series of workshops this group identified the following substantive legal issues:

- Safety of navigation;
- Signals and lighting;
- Speed limits;
- Towing and safe loading of vessels;
- Licensing (including cross-jurisdictional arrangements);
- Personal flotation devices;
- Safety equipment;
- Lake declarations;
  - including the necessity to bring Kingston Harbour and areas of the Murrumbidgee, Cotter and Molonglo Rivers within the regulatory ambit of the Lakes Act); and
- Alcohol and drug testing and alcohol and drug offences.

The Lakes Act Working Group also reached preliminary agreement, on advice from the ACT Parliamentary Counsel's Office, that it would be more expedient for the ACT to amend the Lakes Act, rather than for the Commonwealth to amend its Ordinance. It was also agreed that harmonisation of the two would occur by inserting a provision into the Lakes Act that the

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ACT LEGISLATIVE ASSEMBLY

amendments will come into force on the same day as the Commonwealth enacts its commensurate legislation.

In terms of progression, the proposed amendments to the Lakes Act have been submitted to the Territory's Cabinet process.

I thank you for your interest in this matter and note the fact that your correspondence prompted the instigation of much needed legislative amendment. Amendments which will ensure that users of our wonderful lake assets are protected by a current and best practice regulatory regime.

Yours sincerely

Simon Corbell MLA  
Minister for the Environment and Sustainable Development

---

**From:** [REDACTED]  
**Sent:** Monday, 8 August 2016 4:57 PM  
**To:** Walters, Daniel  
**Subject:** Lakes Ordinance Act reform - request for EPA assistance [SEC=UNOFFICIAL]  
**Attachments:** MINUTES OF MEETING 2062016.pdf

**Security: Unofficial**

Daniel,

[REDACTED], Manager of Parking and Estate Compliance, NCA has been assigned the task of working on the reformation of the Lakes Ordinance Act. I will be organising a meeting with you in the near future, but at the moment I am just getting him up to speed.

At our last meeting, you mentioned that you had prepared some preliminary legislative change documents from the 2011 process. Could you please provide the documents to the me and as discussed at the meeting, I will distribute to the group for consideration. I have received the Coroners material. Thanks



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GPO Box 373, CANBERRA ACT 2601 | [www.nationalcapital.gov.au](http://www.nationalcapital.gov.au) | Twitter: @NCA\_Media

LoveLBG is a strategy developed by the NCA to encourage social media users to share tips on protecting Canberra's waterways using the hashtag #LoveLBG.





MINUTES OF MEETING

**ACT Lake Managers' Forum  
Sub-Committee on Legislative Reform**

**Attendees:**

[Redacted]  
Patrick Nolan  
[Redacted]  
Sean Sloan  
Rodney Dix  
Daniel Walters  
James Bennett  
[Redacted]

**Title**

Manager, Lake and Dam  
Estate Officer  
Director Estate and Asset Management, NCA  
Manager, Planning Programs  
Team Leader SRG Maritime  
SRG Maritime  
Snr Manager  
Manager  
Manager  
  
Snr Marine Surveyor

**Organisation:**

National Capital Authority  
National Capital Authority  
National Capital Authority  
Parks and Territory Services, TAMS  
Australian Federal Police  
Australian Federal Police  
Licensing and Compliance, TAMS  
Environment Protection, Access CNB  
Environment Planning Directorate  
Environment Planning Directorate  
Vessel Safety Unit, AMSA

**Apologies:**

Sam Neylon  
Margo Lawrence  
Brendan Smith  
Julie Garbode

Lakes & Special Projects Officer  
Senior Property Officer  
Senior Property Officer  
Parks and Territory Services, TAMS  
ACT Property Group, CMTEDD  
ACT Property Group, CMTEDD  
Parks and Territory Services, TAMS

**Date:** Monday 20 June 2016  
**Time:** 2:00pm (Canberra Time)

**Location:** Griffin Room, NCA

**Distribution:** All

**Agenda:**

1. Introductions – who does what and how does that affect each of the other groups
2. Purpose of Meeting
3. Background to Legislative Reform
4. Issues to be raised in future Legislative Workshop
5. Other Business

Item	Description	Action	Action By (Date)
Introductions	<ul style="list-style-type: none"> <li>• All members present summaries their roles in respect to lake management and regulation</li> </ul>		
Purpose of Meeting	<ul style="list-style-type: none"> <li>• The Lakes Ordinance 1976 (NCA legislation for Lake Burley Griffin) and The Lakes Act 2015 (ACT legislation for remaining waterways in the ACT, including Kingston Harbour) have been previously prepared to govern their respective ACT Waterways. Both legislation requires modernisation and to be made consistent with each other.</li> </ul>		
Background to Legislative Reform	<ul style="list-style-type: none"> <li>• Daniel explained to the group that a working group formed in 2011 had commenced preliminary drafting instructions and a draft cabinet submission, for cooperative legislative reform. The Mitchell fire and the closing of Molonglo ski area diverted the working group from completing this work. At that time, the priority for reform was to update boating safety, driving under the</li> </ul>		



Item	Description	Action	Action By (Date)
	<p>influence (DUI), etc. EPA was championing this reform and the NCA was to follow suit.  <i>Action: Daniel will provide the documents to the NCA and they will be distributed to this group for consideration.</i></p> <ul style="list-style-type: none"> <li>█ mentioned his AFP officers have been recently commenting on NSW Boating Safety guidance and suggested that this material be used in the ACT. All agreed it would be prudent to adopt consistent legislation to NSW.</li> </ul> <p><i>ACTION: █ will provide the documents to the NCA and they will be distributed to this group for consideration.</i></p> <ul style="list-style-type: none"> <li>█ mentioned that the Lakes Ordinance ACT is part of 19 other pieces of legislation absorbed into the National Lands Ordinance Act 1986 at the time of self government.  <a href="https://www.legislation.gov.au/Details/F2009B00017">https://www.legislation.gov.au/Details/F2009B00017</a>  Reform of the Lakes Ordinance may potentially require reform of all associated legislation.</li> <li>█ mentioned that AMSA will take over management of commercial boat permits from the states in July 2017. They will be revising fees for services. They will replace state based marine surveyors with accredited private surveyors. █ identified shortfalls in national legislation, in particular oil pollution regulation</li> </ul>	<p>EPD</p> <p>AFP</p>	<p>24 June</p> <p>15 Aug</p>
<p>Issues to be raised in future Legislative Workshop</p>	<ul style="list-style-type: none"> <li>█ identified issues with the existing Lakes Ordinance that the NCA is interested in reforming: <ul style="list-style-type: none"> <li>- Section 12 – unauthorised taking of water – as the ACT has taken responsibility for water resources in December 2014, it is expected that this section is now not required. It has already been removed from the Lakes Act.</li> <li>- Section 26 – Boat permits – potential for charging for boat permits should be considered. The group envisaged resistance but agreed general fee reform was worth consideration</li> <li>- Section 28 – Water skiing – removal of this activity from the Ordinance</li> <li>- Section 29 – Hovercraft - removal of this activity from the Ordinance</li> <li>- Section 32 – Camping in the areas around the lake – consideration of allowing some form of camping in particular areas</li> <li>- Section 33 – Commercial Activities – redraft to utilise existing AMSA legislation. █ said there is still a requirement for administrative explanation under this clause to ensure commercial activities are consistent with the intended uses of the Lake.</li> <li>- Sections 37-47 – Boating rules – harmonisation or adopting identical rules used by National Conventions for Collision Avoidance.</li> <li>- Section 50 – Intoxication – clearer identification of DUI limits and provision for fining or arrest of operators under the influence</li> <li>- Implementing a on the spot fining mechanism for enforcement</li> </ul> </li> </ul>		



Item	Description	Action	Action By (Date)
	<ul style="list-style-type: none"> <li>- General overhaul of boat permit system, including revision of boating policies, requirement for certificates of competency for boat operators, consistent interpretation of DCV regulation across the ACT.</li> <li>• [redacted] identified that here is insufficient legislative power to prosecute boat operators that cause death or injury when on the Lakes. He said this should be a principle reform agenda through this process.</li> <li>• [redacted] mentioned that sensible reform might be the requirement for thermal gear when lake water temperatures are particularly low.</li> <li>• Daniel mentioned that Googong was in a unique situation and would require supplementary reform given its unique situation being in NSW, but ACT managed.</li> </ul>		
Other Business	<ul style="list-style-type: none"> <li>• Public consultation – [redacted] asked when the appropriate time to engage the lake users is. The group agreed that their needs to be consultation to ensure engagement and compliance, but that should be one a revised draft has been prepared.</li> <li>• Future legislative reform working group – All the existing invitees (unless they opt out) + a representative from ACT Sports and Recreation <i>ACTION: Daniel to provide a contact person from S&amp;R</i></li> <li>• The NCA agrees to champion this reform and will coordinate next working group meeting. The Agenda of the next meeting will be to identify reform agenda and re-commence drafting preliminary drafting instructions.</li> </ul>	EPD	24 June
<b>Next Meeting:</b>	2:00pm 30 August 2016 @ NCA office		

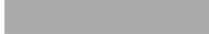
#### Contact List



Patrick Nolan



Sean Sloan  
Rodney Dix



James Bennett  
Daniel Walters

National Capital Authority  
National Capital Authority  
National Capital Authority  
Parks and Territory Services, TAMS  
Australian Federal Police  
Australian Federal Police  
Licensing and Compliance, TAMS  
Environment Protection, Access CNB  
Vessel Safety Unit, AMSA  
Environment Planning Directorate  
Environment Planning Directorate



[Patrick.nolan@act.gov.au](mailto:Patrick.nolan@act.gov.au)



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[Daniel.Walters@act.gov.au](mailto:Daniel.Walters@act.gov.au) 62076334

---

**From:** Walters, Daniel  
**Sent:** Monday, 8 August 2016 5:25 PM  
**To:** [REDACTED] (National Capital Authority)  
**Cc:** Roach, Adam; Bennett, JamesP; Dix, Rodney  
**Subject:** RE: Lakes Ordinance Act reform - request for EPA assistance [SEC=UNOFFICIAL]  
**Attachments:** Lakes Act and Ordinance Review [SEC=UNCLASSIFIED, DLM=For-Official-Use-Only]

Hi [REDACTED]

Look forward to meeting Matthew, I've attached the email I sent to Michelle which includes the documents I mentioned I would provide at our last meeting.

Cheers

*Daniel Walters*

Senior Manager | Environment Protection Policy  
Environment and Planning Directorate | ACT Government

☎ Ph: (02) 6207 6334

☎ Fax: (02) 6207 6084

✉ [email: daniel.walters@act.gov.au](mailto:daniel.walters@act.gov.au)

🌐 <http://www.environment.act.gov.au/>

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**From:** [REDACTED]  
**Sent:** Monday, 8 August 2016 4:57 PM  
**To:** Walters, Daniel  
**Subject:** Lakes Ordinance Act reform - request for EPA assistance [SEC=UNOFFICIAL]

## Security: Unofficial

Daniel,

[REDACTED], Manager of Parking and Estate Compliance, NCA has been assigned the task of working on the reformation of the Lakes Ordinance Act. I will be organising a meeting with you in the near future, but at the moment I am just getting him up to speed.

At our last meeting, you mentioned that you had prepared some preliminary legislative change documents from the 2011 process. Could you please provide the documents to the me and as discussed at the meeting, I will distribute to the group for consideration. I have received the Coroners material. Thanks

[REDACTED]

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LoveLBG is a strategy developed by the NCA to encourage social media users to share tips on protecting Canberra's waterways using the hashtag #LoveLBG.



*Love Lake Burley Griffin*

---

**From:** Walters, Daniel  
**Sent:** Thursday, 20 October 2016 11:38 AM  
**To:** [REDACTED] (National Capital Authority); Iglesias, Daniel  
**Cc:** Dix, Rodney; Chester, Heath; Roach, Adam; Lane, Annie  
**Subject:** Lakes Act Review [SEC=UNCLASSIFIED]

Hi [REDACTED]

Yesterday I had a meeting regarding issuing of permits for electric boats on our Lakes and I raised the idea of regulating these activities rather than issuing permits.

This would remove considerable administrative burden for a low risk activity, subject to appropriate regulations being developed along with an education program, and enforcement provisions for regulators of activity.

We currently issue over 100 permits and I'm sure yours is also high, this would be a administrative saving with resources able to be directed to higher risk activities such as the licenses for petrol powered/ commercial vessels.

Could you add this to the mix for consideration, if agreed we'll incorporate into drafting instructions, this is one we would profile if agreed as meets the ACT Government red tape reduction reform agenda

Regards

*Daniel Walters*

Senior Manager | Environment Protection Policy  
Environment and Planning Directorate | ACT Government

☎ Ph: (02) 6207 6334

☎ Fax: (02) 6207 6084

✉ [email: daniel.walters@act.gov.au](mailto:daniel.walters@act.gov.au)

🌐 <http://www.environment.act.gov.au/>

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**From:** [REDACTED]  
**Sent:** Thursday, 20 October 2016 4:03 PM  
**To:** Chester, Heath; Walters, Daniel  
**Subject:** RE: Lake Manager's Sub Committee on Legislative Reform - Request for comment [SEC=UNOFFICIAL]

## Security: Unofficial

Heath,

I believe we still require the affect of this Section for our purposes as I am not sure what the consequences would be if they weren't in the Act. Happy to discuss though.

On the matter of Section 13(c), I really can't remember if we asked your permission. I didn't have this delegation in 2011.

I will put it on the agenda to discuss. Thanks

[REDACTED] Manager, Lake & Dam

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**From:** Chester, Heath [mailto:Heath.Chester@act.gov.au]  
**Sent:** Thursday, 20 October 2016 3:38 PM  
**To:** [REDACTED]; Walters, Daniel  
**Subject:** RE: Lake Manager's Sub Committee on Legislative Reform - Request for comment [SEC=UNOFFICIAL]

[REDACTED] Daniel

For general discussion at next meeting removal of Sec 13.

The ACT has not in practical effect used this provision of the Lakes Act and the fact that it remains there, means someone could cause mischief. It is by default covered by provisions and administrative practices of the Nature Conservation Act, Environment Protection Act and Water Resources Act.

It may still be necessary for LBG but having it sit over many of the Territories small water bodies is really unnecessary

[REDACTED] was the equivalent of section 13 used during the lowering of LBG while the dam wall repairs occurred ?

### 13 Alterations in flow and water level

(1) For the purposes of the maintenance and preservation of a lake and the maintenance, testing and preservation of associated works, the Minister may authorise—

(a) a raising or lowering, by any means, of the level of water in a lake; or

(b) stopping the flow, or reducing the rate of flow, of water from a lake; or

(c) the flow, or an increase in the rate of flow, of water from a lake.

(2) The Minister must ensure that any action necessary to minimise any detriment, inconvenience and damage that may result from doing something under subsection (1) is taken.

(3) The Minister must not authorise the doing of an act under

subsection (1) without first consulting with the environment protection authority.

**14 Compensation for damage**

(1) Where any land is injuriously affected by the doing of an act authorised by the Minister under section 13 (1), the owner of the land—

(a) must be paid compensation by the Territory; and  
(b) is not entitled to any other remedy or relief;  
in respect of the injurious affection of the land.

(2) Compensation referred to in subsection (1) is to be determined by the Minister.

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**From:** [redacted]  
**Sent:** Thursday, 20 October 2016 3:28 PM  
**To:** [redacted]; Nolan, Patrick; Neylon, Sam; Kelly, Joel; [redacted]  
[redacted] Lawrence, Margo; Smith, Brendon; Maconachie, Michael; Sloan, Sean; [redacted]; Dix, Rodney; Garbode, Julie; 'Jones, [redacted] Chester, Heath; Roach, Adam; [redacted]  
**Subject:** Lake Manager's Sub Committee on Legislative Reform - Request for comment [SEC=UNOFFICIAL]

**Security: Unofficial**

Dear Lake Manager's,

At the last sub-committee meeting (28/9/2016) to discuss legislative reform to the Lakes Ordinance and Lake Act, Daniel requested feed back on what other matters each agency wanted in addition to the list discussed:

- Safety of navigation;
- Signals and lighting;
- Speed limits;
- Towing and safe loading of vessels;
- Licensing (including cross-jurisdictional arrangements);
- Personal flotation devices;
- Safety equipment;
- Alcohol and drug testing and alcohol and drug offences.
- Appropriate compliance and enforcement provisions (eg. caution, fine and court process)
- include provisions to include Googong Dam into the Lakes Act

The one suggestion so far was in regards to issuing of permits for electric boats on our Lakes. It was suggested that we remove the need for permitting this activity and instead regulating these activities.

We are keen to move forward on this matter and would appreciate if you could provide your requests ahead of the next meeting.

Please let me know if there is any concerns with having the next meeting at **2:00pm on Wednesday 2<sup>nd</sup> November 2016 at the NCA**. If this is generally acceptable, I will send out a meeting request. Thanks



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GPO Box 373, CANBERRA ACT 2601 | [www.nationalcapital.gov.au](http://www.nationalcapital.gov.au) | Twitter: @NCA\_Media

LoveLBG is a strategy developed by the NCA to encourage social media users to share tips on protecting Canberra's waterways using the hashtag #LoveLBG.



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**From:** [REDACTED]  
**Sent:** Wednesday, 2 November 2016 4:28 PM  
**To:** [REDACTED]; Nolan, Patrick; Neylon, Sam; Kelly, Joel; [REDACTED]; Lawrence, Margo; Smith, Brendon; Maconachie, Michael; Sloan, Sean; Potter, Matt; Dix, Rodney; Garbode, Julie; [REDACTED]; [REDACTED]; Chester, Heath; Roach, Adam; Anna Wong; Walters, Daniel  
**Subject:** Minutes of Meeting - Lake Managers's Forum - Sub-Committee on Legislative Reform - 2/11/2016 [SEC=UNOFFICIAL]  
**Attachments:** MINUTES OF MEETING 2112016.docx  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged  
**Categories:** Red Category

**Security: Unofficial**

As Attached



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MINUTES OF MEETING

**ACT Lake Managers' Forum  
Sub-Committee on Legislative Reform**

**Attendees:**



Daniel Walters

**Title**

Manager, Lake and Dam  
Estate Officer  
Director, Estate and Asset Management, NCA  
Team Leader SRG Maritime  
Senior Manager

**Organisation:**

National Capital Authority  
National Capital Authority  
Australian Federal Police  
Environment Planning Directorate

**Apologies:**

Heath Chester                      Manager  
Michael Machonachie          Senior Ranger

Environment Protection, Access CNB  
ACT Parks and Conservation Service

**Date:**                      Wednesday, 2 November 2016    **Location:**                      Griffin Room, NCA  
**Time:**                      2:00pm (Canberra Time)

**Distribution:**      All

**Agenda:**

1. Introductions
2. Purpose of Meeting
3. Previously agreed legislative changes
4. Proposed legislative changes
5. Other Business

Item	Description	Action	Action By (Date)
Introductions	<ul style="list-style-type: none"> <li>• 3<sup>rd</sup> meeting of Sub-Committee on Legislative Reform</li> <li>• Minutes of previous meeting (28 September 2016) were noted</li> </ul>		
Purpose of Meeting	<ul style="list-style-type: none"> <li>• The <i>Lakes Ordinance 1976</i> (NCA legislation for Lake Burley Griffin) and the <i>Lakes Act 1976</i> (ACT legislation for remaining waterways in the ACT, including Kingston Harbour) have been previously prepared to govern their respective ACT Waterways. Both legislation requires modernisation and to be made consistent with each other.</li> </ul>		
Previously agreed legislative changes	<ul style="list-style-type: none"> <li>• The committee previously agreed to the following list of legislative changes to used in the subsequent Brief to the Minister::               <ul style="list-style-type: none"> <li>• Safety of navigation;</li> <li>• Signals and lighting;</li> <li>• Speed limits;</li> <li>• Towing and safe loading of vessels;</li> <li>• Licensing (including cross-jurisdictional arrangements);</li> <li>• Personal flotation devices;</li> <li>• Safety equipment;</li> <li>• Alcohol and drug testing and alcohol and drug offences.</li> </ul> </li> </ul>		



Item	Description	Action	Action By (Date)
	<ul style="list-style-type: none"> <li>Appropriate compliance and enforcement provisions (eg. caution, fine and court process)</li> <li>include provisions to include Googong Dam into the Lakes Act</li> </ul>		
Proposed legislative changes	<ul style="list-style-type: none"> <li>█ had previously requested members of the committee to submit additional changes to the above list. The following were received from the group:               <ol style="list-style-type: none"> <li>Daniel suggested removing the issuing of permits for electric boats on our Lakes and regulating these activities rather than issuing permits – this would reduce re-tape to the public and the administrative burden to the agencies. <i>ACTION: To include “Risk Based approach to regulatory boating” to the Brief.</i></li> <li>Heath suggested the removal of the Clause 13 (Alteration in water level, etc.) in both legislations – While the NCA wished to retain this legislation to justify operations at Scrivener dam, it was agreed we could look at the need for this clause in future legislation. Daniel explained other Water Resource legislation removes its relevance in the ACT. <i>ACTION: To include “Explore the consistency of Lakes legislation eg. Clause 13” in the Brief.</i></li> <li>Michael suggested that boat permits limit different classes of boat to particular areas of the Lakes. The committee agreed that this is not to be dealt with through this process, but would be adequately treated in the review of the Plan of Management for ACT Lakes and Ponds.</li> </ol> </li> </ul>	DW	11/11/16
Other Business	<div style="background-color: #cccccc; height: 100px; width: 100%;"></div> <ul style="list-style-type: none"> <li>Daniel will re-draft a Brief to the Minister for the Environment and Planning with the above changes for consideration of a proposal to prepare a cabinet submission seeking agreement to effect amendments to the <i>Lakes Act</i>. Once he receives this approval, he will be commissioning the drafting instruction for the legislative changes.</li> </ul>		
<b>Next Meeting:</b>	Not considered		

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**From:** Balthazar, Michael  
**Sent:** Thursday, 13 July 2017 10:39 AM  
**To:** Bennett, JamesP  
**Cc:** Metcalf, David; Walters, Daniel  
**Subject:** RE: [J2017-246] Lakes Amendment Bill 2017 [DLM=Sensitive: Cabinet]

Hi James

Thanks for the further instructions.

I will discuss these with David and will get back to you.

Regards

Michael

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**From:** Bennett, JamesP  
**Sent:** Thursday, 13 July 2017 10:33 AM  
**To:** Balthazar, Michael  
**Cc:** Metcalf, David; Walters, Daniel  
**Subject:** RE: [J2017-246] Lakes Amendment Bill 2017 [DLM=Sensitive: Cabinet]

Hi Michael

Some further instructions following discussions with NCA:

- Can we please amend s 25A and 33 to give the power to recognise permits and commercial agreements issued by the NCA under the Lakes Ordinance.
  - i.e. a permit or commercial agreement issued by the NCA under the Lakes Ordinance satisfies the requirements of the provisions.
  - For example, a commercial boat mooring in the Kingston Harbour (defined as an ACT lake) but operates on Lake Burley Griffin (NCA-managed lake under the Lakes Ordinance). The operator currently must enter into two separate commercial agreements under s 33, which are for all intents and purposes identical as these agreements relate to the commercial activities only.
  - The same example applies to a commercial operator having an NCA permit to operate a boat on LBG under s 25A, but who wants to take boat into ACT waters, e.g. up the Molonglo River. One permit should be able to be issued and satisfy the requirements of both Acts.
- This would also need a referral power to the NCA for comment prior to the commercial agreement being issued.
  - E.g. insert into s 25A and 33 a pre-condition that says something along the lines of: Prior to an agreement/permit being issued this section, the application must be forward to the NCA for advice.
  - A copy of the approved agreement/permit should also be provided to the NCA.
  - We have similar referral powers in the Planning and Development Act – e.g. s 149
- Please amend the definition of Lake Burley Griffin in the Dictionary
  - The new agreed boundary is the confluence of the Molonglo River and the body of water that is Lake Burley Griffin.
  - This is at the point that is occupied by Clare Holland House.
  - Is it possible to describe this in words?
  - Or should we define it through a line on a map in an instrument?

Thanks  
James