

ACT AUDITOR-GENERAL'S REPORT
LAND MANAGEMENT AGREEMENTS
REPORT NO. 1 / 2021

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PA 19/20

The Speaker
ACT Legislative Assembly
Civic Square, London Circuit
CANBERRA ACT 2601

Dear Madam Speaker

I am pleased to forward to you a Performance Audit Report titled 'Land Management Agreements' for tabling in the Legislative Assembly pursuant to Subsection 17(5) of the *Auditor-General Act 1996*.

Yours sincerely



Mr Michael Harris
Auditor-General
4 February 2021

The ACT Audit Office acknowledges the Ngunnawal people as traditional custodians of the ACT and pays respect to the elders; past, present and future. The Office acknowledges and respects their continuing culture and the contribution they make to the life of this city and this region.

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SUMMARY

Land Management Agreements provide a basis for cooperative land management between rural leaseholders and ACT Government agencies responsible for managing non-urban land on behalf of the Territory. The Agreements are unique to the Territory. No other jurisdiction in Australia has a legal agreement with every rural landholder to deliver sustainable management of rural lands including the conservation of natural and cultural values.

Land Management Agreements are intended to facilitate cooperation between ACT Government agencies and rural leaseholders with a view to establishing appropriate sustainable agricultural management practices and good farm biodiversity whilst maintaining the ecological and cultural values of the land and protecting the environment from harm.

This audit examines the management and administration arrangements that are in place for Land Management Agreements including the monitoring, regulation and enforcement of agreement requirements.

Overall Conclusion

Land Management Agreements are legally binding and enforceable agreements required under the *Planning and Development Act 2007*. The overall purpose of a Land Management Agreement is to 'establish appropriate sustainable agricultural management practices and good farm biosecurity for the subject land while maintaining ecological and cultural values present on the land, and protecting the environment from harm'.

While the process of developing Land Management Agreements serves a useful purpose in documenting the current environmental and agricultural state of rural properties the Environment, Planning and Sustainable Development Directorate is not effectively managing Agreements to ensure that they are relevant as an active and ongoing land management tool. A significant proportion of Agreements are out of date and they often lack a depth of information and assessment. There is no overarching risk management framework to guide the development of Land Management Agreements and monitoring and enforcement of rural leaseholders' compliance with the Agreements does not occur. The value of Land Management Agreements is questionable.

Conclusions

DEVELOPMENT OF LAND MANAGEMENT AGREEMENTS

There is no overarching risk management framework to guide the development of Land Management Agreements in the ACT. In the absence of an overarching risk management framework, it is difficult for the Environment, Planning and Sustainable Development Directorate to articulate the risks to rural leasehold land in the Territory to be managed through the

Agreements. It is also difficult for the Directorate to demonstrate the effectiveness of its management and administration of the Agreements in ‘[establishing] appropriate sustainable agricultural management practices and good farm biosecurity for the subject land while maintaining ecological and cultural values present on the land, and protecting the environment from harm’ across the Territory. A risk-based approach to the development and management of the Agreements could also ensure that Directorate resources and activities are appropriately targeted to key areas of risk.

The development of Land Management Agreements could also be improved by documenting roles and responsibilities, implementing regular governance forums and meetings to facilitate intra-agency and cross-agency communication and developing administrative policy and procedural guidance.

UTILITY OF LAND MANAGEMENT AGREEMENTS

The Environment, Planning and Sustainable Development Directorate is not effective in ensuring the currency and utility of Land Management Agreements. Thirty-one of the 63 Land Management Agreements considered as part of the audit had not been reviewed and replaced as required in the past five years. Twenty-four of the Agreements were over ten years old, ten were up to 17 years old and two were up to 19 years old. The Directorate is focused on a program of activity to review and update all Agreements.

A review of the Land Management Agreements considered as part of this audit also showed that there was variability in quality and depth of information and assessment. This compromises their ability to be used as an active and ongoing land management tool and hinders the Directorate’s ability to monitor and enforce rural leaseholder compliance with the Agreements. Rural leaseholders consulted as part of the audit questioned the value and utility of the Agreements.

MONITORING AND ENFORCEMENT OF LAND MANAGEMENT AGREEMENTS

ACT Government agencies are not effectively monitoring and enforcing rural leaseholders’ compliance with Land Management Agreements. There is no regular and systematic program of compliance activity to monitor rural leaseholders’ compliance with their Agreement obligations and there is no evidence of any enforcement activity being undertaken by any ACT Government agency in relation to rural leaseholders and their Agreements.

Key findings

DEVELOPMENT OF LAND MANAGEMENT AGREEMENTS

Paragraph

A range of ACT Government agencies and business units have roles and responsibilities for the development of Land Management Agreements. These include a range of business units within the Environment, Planning and Sustainable Development Directorate, the Environment Protection Authority (Access Canberra)

2.23

and the Emergency Services Agency (ACT Rural Fire Service). In practice the Rural Services and Natural Resource Protection Team within the Resilient Landscapes Branch has primary responsibility for initiating the development of an agreement with a rural leaseholder and working with the rural leaseholder to complete the agreement, thereby ensuring that Agreements are up to date, i.e. reviewed at least every five years. The team needs to do this in close cooperation and communication with the other stakeholders. The roles and responsibilities of the Rural Services and Natural Resource Protection Team and other business units are not specifically and explicitly documented with respect to the development of Land Management Agreements. This increases the risk of uncertainty in the management of Agreements and gaps in responsibilities and accountabilities.

There are no specific governance forums, meetings or other activities to facilitate coordination and cooperation across the number of business units and stakeholders involved in the development of Land Management Agreements. The coordination of effort and cooperation between ACT Government business units and stakeholders is primarily achieved through informal and ongoing communication on an as needed basis for specific Agreements. This presents a potential risk to the effective management and administration of Agreements as there is no formal, regular and systematic opportunity to share knowledge and discuss issues and trends in their management and administration and identify and discuss potential system and process improvements. Periodic meetings do occur between the Rural Services and Natural Resource Protection Team and the ACT Rural Fire Service, where bushfire risks and Agreement priorities are shared and discussed.

The *Land Management Agreement Form* provides comprehensive guidance to ACT rural leaseholders and Environment, Planning and Sustainable Development Directorate officers undertaking the Land Management Agreement process. It provides the most fulsome and explicit guidance on the type and nature of information to be included in an Agreement. A reviewed and revised 2020 version of the *Land Management Agreement Form* provides more guidance than the 2016 version on the information that needs to be included in each of the sections.

There is an absence of practical and useful procedural guidance for the development of Land Management Agreements. A key issue is the absence of procedural guidance to guide Rural Services and Natural Resource Protection Team officers (and other Environment, Planning and Sustainable Development Directorate stakeholders more generally) for the development of the Agreements. Defining and documenting procedural and administrative processes to be followed would provide clarity to Environment, Planning and Sustainable Development business units and their staff and support the achievement of environmental obligations in accompanying Territory legislation. Agreeing on and documenting administrative processes to be followed for the development of Agreements is necessary. Without this guidance there is an increased risk that rural leasehold agreements may be inadvertently overlooked, incomplete, omit technical stakeholder feedback and/or not concluded within the required legislative timeframe.

Neither the Rural Services and Natural Resource Protection Team or Conservator of Flora and Fauna maintains an overarching risk management framework that assists in identifying, assessing and mitigating risks (or opportunities) associated with rural

leasehold land in the Territory and guiding the management and administration of Land Management Agreements. In the absence of an overarching risk management framework, it is difficult for the Environment, Planning and Sustainable Development Directorate to articulate the risks to rural leasehold land to be managed through the Agreements and demonstrate the effectiveness of its management and administration of Agreements in '[establishing] appropriate sustainable agricultural management practices and good farm biosecurity for the subject land while maintaining ecological and cultural values present on the land, and protecting the environment from harm' across the Territory. An overarching risk management framework may also assist in identifying appropriate timeframes for the Agreements. The review and replacement of Agreements within a five year period, which is not a legislative requirement, but is otherwise established through the *Land Management Agreement Form* itself, also establishes a 'one-size fits all' approach that is not based on risk. Longer timeframes for Agreements may be warranted for some rural leaseholds, while shorter timeframes for others may be warranted.

The Rural Services and Natural Resource Protection Team has developed an 'LMA Priorities' tracking spreadsheet to assist in the administration of Land Management Agreements. The tracking spreadsheet was developed and implemented to work through the backlog of rural leaseholds for which Agreements had not been reviewed and replaced within the past five years. Along with a "target" of 40 Agreements to be reviewed each year and additional staffing, the tracking spreadsheet serves a useful purpose in addressing the immediate problem of the backlog of old Agreements. However, no guidance has been developed on how the spreadsheet is to be used or how information is to be documented in the spreadsheet. The spreadsheet is populated by inconsistent and incomplete information in relation to the Agreements. It does not prioritise Agreements taking into account a risk-based framework of rural land where there may be a significant environmental or land management issues that should be addressed as a matter of imminent priority. An intention to synchronise the development of Agreements for collaboration purposes at specific localities has not been progressed through a program of activity by the Rural Services and Natural Resource Protection Team.

2.70

UTILITY OF LAND MANAGEMENT AGREEMENTS

Paragraph

The Environment, Planning and Sustainable Development Directorate does not maintain a single authoritative listing of rural leaseholds and accompanying Land Management Agreements. Separate and inconsistent documentation was maintained by Leasing Services and the Rural Services and Natural Protection Team for different purposes. A single authoritative listing of rural leaseholds and accompanying Agreements by the Directorate would support the Directorate to correctly and easily identify whether rural leaseholds have a current and enforceable Agreement in place.

3.6

Documentation and information supporting the development and conclusion of Land Management Agreements is inconsistently maintained and recorded. Information on the development of an Agreement and any associated issues (including for instance, potential disputes with the leaseholder) is not consistently retained in the Objective document management system together with the final signed Agreement. Comments and feedback from technical stakeholders and their

3.15

input into the development of an Agreement is also not retained with the Agreement itself or, alternatively, in a centralised and coordinated place. This makes it difficult to identify the administrative steps and processes associated with the development of the Agreement and impairs the transparency and accountability of the process.

Land Management Agreements are required to be reviewed and replaced by a subsequent agreement within five years from the date of signing. Of the 63 Agreements considered as part of the audit 31 were more than five years old, demonstrating that they had not been reviewed and replaced in the past five years. Of these Agreements 24 were over ten years old, ten were up to 17 years old and two were up to 19 years old. This shows that the Environment, Planning and Sustainable Development Directorate has not been managing the development of Agreements in a way that ensures they remain current and relevant. This impairs the ability of the Agreements to be used to 'establish appropriate sustainable agricultural management practices and good farm biosecurity for the subject land while maintaining ecological and cultural values present on the land, and protecting the environment from harm' across the Territory. The Directorate is focused on a program of activity to review and update all Agreements, which is estimated to take five years.

3.24

A review of the 63 Land Management Agreements considered as part of this audit showed that, while they are predominately complete and respond to each required site assessment category, they often lack a depth of information and assessment and the information is often of variable quality. This compromises their ability to be used as an active and ongoing land management tool and as a means for '[establishing] appropriate sustainable agricultural management practices and good farm biosecurity for the subject land while maintaining ecological and cultural values present on the land, and protecting the environment from harm' across the Territory. The lack of detail and specific actions and outcomes identified in Agreements also compromises the ability of ACT Government agencies to monitor and enforce compliance with Land Management Agreements by rural leaseholders.

3.43

Farm FireWise Plans are a means to assist in the management of bushfire risks to both the rural leaseholders property and adjoining the Territory. A Farm FireWise Plan serves as a bushfire operational plan for the purpose of the *Emergencies Act 2004* and the Territory's *Strategic Bushfire Management Plan 2019-2024*. The *Land Management Agreement* form states that it cannot be approved without a Farm FireWise Plan. However, the *Strategic Bushfire Management Plan 2019-2024* requires only rural leaseholds within the Bushfire Abatement Zone to prepare a Farm FireWise Plan. A review of the 64 rural leaseholds considered as part of the audit shows: 51 rural leaseholds were supported by a Farm FireWise Plan or another mechanism for addressing the bushfire risks associated with the property; and for a further 12 rural leaseholds Farm FireWise Plans were being developed. (Seven of these leaseholds did not have an existing plan in place because they were new lessees or did not previously require a Plan and there was no evidence of an existing Plan for the remaining five).

3.51

MONITORING AND ENFORCEMENT OF LAND MANAGEMENT AGREEMENTS

Paragraph

In 2009, the then ACT Parks, Conservation and Lands (Programs Coordination) developed and put in place *Land Management Agreement Monitoring and Compliance Guidelines*, the purpose of which is to 'outline procedures for ongoing monitoring and compliance ... of Land Management Agreements (LMAs)'. The Guidelines envisage a need for 'clear, adaptive and technical advice on remedial action/s that may be required' and discuss the need for monitoring and compliance officers to be familiar with rural leaseholds and their specific issues and undertake regular site visits. The Guidelines are high-level and provide little practical administrative or procedural guidance on how to undertake monitoring and compliance activity. The Guidelines have not been reviewed or updated since 2009.

4.20

There is no regular and systematic program of compliance activity undertaken by the Rural Services and Natural Resource Protection Team or Access Canberra to monitor rural leaseholders' compliance with their Land Management Agreement obligations. Feedback from rural leaseholders consulted as part of the audit indicated that, from their perspective, once an Agreement is signed and in place no further monitoring of their compliance with the Management Actions section of the Agreement is undertaken. Rural Services and Natural Resource Protection Team officers engage and interact with rural leaseholders on a regular basis but do not have responsibility for monitoring compliance with Agreements through the *Planning and Development Act 2007*, which is the responsibility of Access Canberra.

4.37

Access Canberra has delegated powers under the *Planning and Development Act 2007*, more specifically the *Planning and Development (Inspectors) Appointment 2019 (No 2)*, to appoint inspectors to all urban and rural land areas, but does not proactively monitor rural leaseholders' compliance with Land Management Agreements. The Rural Services and Natural Resource Protection Team, which interacts with rural leaseholders for the development of Agreements and other rural lands management activities, has not referred any matters to Access Canberra for further review or investigation in relation to rural leaseholders' compliance with their Agreement responsibilities. There is no evidence of any monitoring and enforcement activity being undertaken by any ACT Government agency in relation to rural leaseholders and their Agreements.

4.38

Clause 7 of the *Land Management Agreement Form* provides for the resolution of disputes in relation to Land Management Agreements. To date there have been no disputes in relation to Agreements that have been recognised and managed in accordance with clause 7 of the Agreement. This is despite the fact that Agreements have been in existence since the early 2000s and specific rural leaseholders may have had multiple Agreements during this period.

4.44

Recommendations

RECOMMENDATION 1 ROLES AND RESPONSIBILITIES

The Environment, Planning and Sustainable Development Directorate, in cooperation with other ACT Government agencies involved in the development of Land Management Agreements should:

- a) identify and document roles and responsibilities for the establishment of the Agreements; and
- b) establish an ongoing forum for the discussion and resolution of issues associated with the development of the Agreements and the identification of potential system and process improvements.

RECOMMENDATION 2 POLICY AND PROCEDURAL GUIDANCE

The Environment, Planning and Sustainable Development Directorate should develop policy and procedural guidance for the development and ongoing management and administration of Land Management Agreements.

RECOMMENDATION 3 LAND MANAGEMENT AGREEMENT PRIORITISATION

The Environment, Planning and Sustainable Development Directorate should develop a risk-based framework for the development and administration of Land Management Agreements. The framework could assist in identifying appropriate timeframes for the Agreements as well as consideration of a means to synchronise the development of Agreements for collaboration purposes at specific localities.

RECOMMENDATION 4 DOCUMENTATION AND RECORD-KEEPING

The Environment, Planning and Sustainable Development Directorate should develop and implement policy and procedural guidance for the documentation and record-keeping of Land Management Agreements. The guidance should include principles for the consistent documentation of processes associated with the development of Agreements with rural leaseholders.

RECOMMENDATION 5 LAND MANAGEMENT AGREEMENT DETAIL

The Environment, Planning and Sustainable Development Directorate should identify and prescribe a minimum level of detail for Land Management Agreements that fosters their use as an active and ongoing land management tool. The minimum level of detail should identify specific actions and outcomes that facilitate the monitoring and enforcement of compliance with Agreements by rural leaseholders.

RECOMMENDATION 6

MONITORING AND COMPLIANCE

The Environment, Planning and Sustainable Development Directorate and Access Canberra should develop a risk-based framework for the monitoring and enforcement of Land Management Agreements including processes for:

- a) monitoring rural leaseholders' compliance with their Agreements; and
- b) taking enforcement action in the event of potential non-compliance.

Response from entities

In accordance with subsection 18(2) of the *Auditor-General Act 1996*, the Environment, Planning and Sustainable Development Directorate and the Chief Minister, Treasury and Economic Development Directorate were provided with:

- a draft proposed report for comment. All comments were considered and required changes were reflected in the final proposed report; and
- a final proposed report for further comment.

In accordance with subsection 18(3) of the *Auditor-General Act 1996* other entities considered to have a direct interest in the report were also provided with extracts of the draft proposed and final proposed reports for comment.

No comments were provided for inclusion in this Summary Chapter.

1 INTRODUCTION

Land Management Agreements

- 1.1 Rural land in the ACT provides a distinctive landscape setting for the city, helps to conserve habitats and species and provides for productive and sustainable agriculture and other compatible uses. In some localities the non-urban areas also provide land for future urban uses (uniquely referred to as 'broadacre' in the ACT).

Land Management Agreements

- 1.2 A Land Management Agreement is required for any lease that contains a rural purpose clause. Section 283 of the *Planning and Development Act 2007* provides the authority for the agreements. Section 283 applies to the Territory's granting of rural leases, varying rural leases or consenting to the assignment or transfer of a rural lease. Subsection 283(2) states:

The planning and land authority may take action to which this section applies only if–

- a) the person to whom the lease is to be granted, assigned or transferred, or the person whose lease is to be varied, has entered into an agreement with the Territory about managing the rural land comprised in the lease; and
 - b) the agreement complies with this section.
- 1.3 As at March 2020 there are an estimated 180 Land Management Agreements in existence for a total area of 27,000 hectares.
- 1.4 Land Management Agreements are unique to the Territory. No other jurisdiction in Australia has a legal agreement with every rural landholder to deliver sustainable management of rural lands including the conservation of natural and cultural values.

Purpose and objective of Land Management Agreements

- 1.5 Land Management Agreements are intended to provide the basis for a cooperative land management regime between rural leaseholders and ACT Government agencies responsible for managing non-urban land on behalf of the Territory.
- 1.6 The purpose of a Land Management Agreement is articulated in the agreement document itself as follows:

The principal objective of this Agreement is to establish appropriate sustainable agricultural management practices and good farm biosecurity for the subject land while maintaining ecological and cultural values present on the land, and protecting the environment from harm. This objective is to be achieved by:

- a) agreeing on general management goals and regimes;
- b) documenting the current state of the subject property; and
- c) proposing appropriate action for the management of specific issues or resolving particular problems.

- 1.7 The Environment, Planning and Sustainable Development Directorate specifically notes that Land Management Agreements ‘are a mechanism under the *Planning and Development Act 2007* to facilitate agreement between the ACT government and the leaseholder on the sustainable management of rural lands including the conservation of natural and cultural values’.

Components of a Land Management Agreement

- 1.8 While the format of Land Management Agreements has changed over the years, since at least 2016 the agreements have had two principal components:
- a *Statement of Responsibilities and Dispute Resolution* section; and
 - a *Site Assessment and Management Actions Plan* section. The *Site Assessment and Management Actions Plan* section is supported by maps of the property, showing various features and characteristics.

Statement of Responsibilities and Dispute Resolution section

- 1.9 The *Statement of Responsibilities and Dispute Resolution* section is common to all Land Management Agreements. It describes the general role and responsibilities of the rural leaseholder and the Territory, processes and obligations for review, and processes for dispute resolution.

Site Assessment and Management Actions Plan section

- 1.10 The *Site Assessment and Management Actions Plan* section is the second key component of the Land Management Agreement. In practice it is a template, which rural leaseholders are required to complete according to the circumstances of their property. It is supported by maps of the property, against which key features are identified as well as any issues to be considered and addressed through the Agreement.

- 1.11 In relation to the Site Assessment, the Land Management Agreement document states:

The Objective of the Site Assessment is to:

- a) document the current condition of the subject property and adjoining land where appropriate;
- b) assist in the preparation of appropriate management regimes and private property management plans;
- c) recognise progress towards achievement of environmental management goals by the Lessee;
- d) recognise the existence of previous land management agreements and your achieved environmental goals under that agreement; and
- e) identify issues requiring your further attention, in conjunction with Territory agencies.

- 1.12 In relation to the Management Actions, the Land Management Agreement document states:

The Management Actions describe what you intend to do on your property to:

- a) protect sites of significant environmental value, native vegetation and heritage sites;

- b) manage riparian zones, water quality and any contaminated sites;
- c) manage biosecurity threats including control of pest plants and animals; and
- d) protect against the impacts of droughts and bushfire.

Collaboration and cooperation

1.13 A feature of the Land Management Agreement process is an intention for rural leaseholders to collaborate and cooperate where possible. According to the agreement document:

Lessees are encouraged to collaborate with neighbouring lessees and land managers who are managing similar environmental issues to synchronise their Land Management Agreements (when appropriate) so that resources (e.g.: machinery, chemical, labour) and funding can be strategically targeted at a broader catchment scale.

Introduction of Land Management Agreements

Rural Policy Taskforce review

1.14 Land Management Agreements were an outcome of a 1997 Rural Policy Taskforce review of land management policies in the ACT. In April 1997 the Rural Policy Taskforce produced the *A Way Forward* Discussion Paper. The Discussion Paper proposed 99-year leases be granted for rural leases in certain areas and recommended a range of changes to environment and land management obligations of rural leaseholders.

Property Management Agreements

1.15 At the time of the *A Way Forward* Discussion Paper (1997) Property Management Agreements were a requirement of new rural leases. Leaseholders seeking a new lease were required to complete a Property Management Agreement prior to the execution of the lease. When executed the Property Management Agreement was a condition of the rural lease itself.

1.16 The *A Way Forward* Discussion Paper (1997) noted that ‘as only some 25 lessees have completed Property Management Agreements, there is little information available on their suitability or otherwise’. The Discussion Paper noted that ‘the [Property Management Agreement] was a first attempt to develop an agreement between the lessee and the Territory to manage the land as a ‘partnership’’. While the Property Management Agreement ‘started out life as an agreement directed to sound agricultural management practices’ the Discussion Paper noted ‘in more recent times the environment and conservation areas of the Department have suggested that the basis of the [Property Management Agreement] be broadened to encompass all aspects of rural land management’.

1.17 The *A Way Forward* Discussion Paper (1997) identified the Rural Policy Taskforce’s preference that:

- a form of Property Management Agreement be retained (subsequently to be renamed as the Land Management Agreement);

- agreements be put in place between all leaseholders and the Territory and not just for new leases;
- agreements be broad ranging and address farm management issues as well as properties' environment, conservation and heritages values; and
- agreements be capable of regular review 'to ensure that changing farm practices, environment, conservation and heritage values are encompassed'.

1.18 The *A Way Forward* Discussion Paper (1997) identified the Rural Policy Taskforce's views that Property Management Agreements should not be a condition of the rural lease:

The Taskforce does not agree with the proposition that the [Property Management Agreement] should continue to be a condition of the lease for several reasons. Whilst conservation and land management is fundamental to the ecologically sustainable use of rural land, the Taskforce has formed the view in discussion with a wide range of groups, including the Conservation Council, that this needs to be achieved as a 'partnership' between lessees and the Territory. While sanctions need to be available for recalcitrant lessees, the Taskforce believes that it is not appropriate to have the requirement for a [Property Management Agreement] as a condition of the lease. Its inclusion carries with it the sanction of lease termination at the discretion of the Territory in the breach of the Agreement.

The Taskforce recognises that a Property Management Agreement must provide sufficient flexibility for both parties (the Territory and the lessee) to negotiate amendments to reflect changing farming practices, conservation requirements and land management practices generally. The Taskforce understands that there are legal questions as to whether an agreement or contract forming part of a lease can in fact be changed by either party without a variation to the original lease. Clearly this is not a desirable outcome.

1.19 Accordingly, the *A Way Forward* Discussion Paper (1997) identified that 'to address the concerns and issues outlined above' the Rural Policy Taskforce recommends 'the Property Management Agreement be taken out of the lease document and embodied in legislation':

This legislation should provide a framework for the development and operation of the agreement. It should clearly set out the objectives and content of the agreement, including the lessees and Territory's responsibilities, performance indicators, review periods, sanctions for non compliance ... and, in the event of dispute, the avenues for independent review (the Land and Planning Division of the AAT would be an appropriate forum).

1.20 Recommendation 29 of the *A Way Forward* Discussion Paper (1997) was:

The Taskforce recommends that:

- a) The requirement for Property Management Agreements be removed from the lease document and established in legislation with the following characteristics:
 - all rural lessees to be required to complete agreements, irrespective of whether they are in short or long term lease tenure areas;
 - a clear statement of objectives;
 - clear definitions of what matters relating to farm management, environmental protection, conservation and heritage are to be covered in an agreement;
 - performance measures to enable progress on issues covered by the agreement to be effectively monitored and assessed;
 - an appropriate forum for the consideration of disputes arising in the development and administration of agreements;

- a requirement for the regular review of agreements and an opportunity for either party at any time to propose changes to an Agreement;

...

1.21 A February 2000 *Implementation of the Government Response to the Rural Taskforce Report "Toward a Sustainable Future"* document reported that 'a standard Land Management Agreement (formerly called Property Management Agreements) framework has been developed in consultation with rural lessees and community organisations'. The document further identified:

Placing the requirements for [Land Management Agreements] in legislation will significantly improve the Government's ability to secure delivery of good quality land management and remove the current doubts about the validity and enforceability of [Land Management Agreements].

There are a number of issues which will need further clarification before a legislative amendment can be advanced. This will include:

- the appropriateness of breaking the link to leases;
- review dates;
- penalties for con-compliance; and
- the scope [of] land management issues to be included [in] [Land Management Agreements].

1.22 In due course legislative amendments were made, which have subsequently been reflected in the *Planning and Development Act 2007*.

Previous reviews and reports

1.23 Since at least 2009 there have been a number of reports and reviews that have identified issues with the management and implementation of Land Management Agreements.

Report on ACT Lowland Native Grassland Investigation (March 2009) **(Commissioner for Sustainability and the Environment)**

1.24 In March 2009 the Commissioner for Sustainability and the Environment concluded an investigation into the Territory's lowland native grasslands: *Report on ACT Lowland Native Grassland Investigation*. The report made a number of observations in relation to Land Management Agreements and their use with respect to the management of rural land in the ACT.

1.25 A key finding was made in relation to the apparent lack of monitoring and compliance action undertaken in relation to a Land Management Agreement for a specific rural lease (Cookanulla) that was considered as part of the investigation:

Conditions in land management agreements (attached to rural leases) are potentially a powerful mechanism for protecting lowland native grassland areas on leased rural land. However, for their benefit to be realised the conditions must be implemented. Accordingly, the government department responsible for administering land management agreements

needs to monitor compliance and take enforcement action if needed. In this investigation no information was available that indicated that any action had been taken to monitor compliance with, or enforce conditions in the land management agreement for 'Cookanalla' (JE08), a site that needs land management actions to restore its ecological conditions.

- 1.26 In support of this finding was a broader finding about the lack of monitoring, assessment or auditing processes established by the department for Land Management Agreements:

Land management agreements need to be monitored and assessed in order to ensure the required on-the-ground actions are achieving the desired ecological results. There was no evidence of a formal monitoring, assessment or auditing process being in place. Furthermore, information from such a process could be used to help the ACT Government's Flora and Fauna Committee advise on policy issues and monitor implementation of the ACT Government's, *2005 A Vision Splendid of the Grassy Plains Extended: ACT Lowland Native Grassland Conservation Strategy*, Action Plan No. 28.

- 1.27 The report made four recommendations relevant to Land Management Agreements. Two recommendations of particular relevance were:

Recommendation 16

Foster a strong culture of compliance, monitoring and enforcement within the government department responsible for administering land management agreements.

Recommendation 17

Establish a formal monitoring, assessment and auditing process aimed at ensuring conditions in land management agreements achieve the desired ecological results.

Report on the Review of ACT Land Management Agreements (September 2009) (Parks, Conservation and Lands)

- 1.28 In September 2009, a *Report on the Review of Land Management Agreements* was completed by Rural Programs, Programs Coordination in the former Parks, Conservation and Lands. The objective and purpose of the review was not clearly stated in the report. The report appeared to identify a number of issues and findings with the management and administration of Land Management Agreements, as well as management initiatives planned or underway.

Issues with the management and administration of Land Management Agreements

- 1.29 The report identified a number of issues with the management and administration of Land Management Agreements including:
- the requirement for each agreement to be reviewed every five years was not being met. The report identified that '[Parks, Conservation and Lands] now has a build-up of LMAs that have [passed] their 5 year review date';
 - there was a need to develop procedural guidance for staff. The report identified 'the need to develop guidelines which clearly define procedures and staff responsibilities when processing LMAs, from the time a new application is received; when monitoring a lessee's compliance with the provisions of an existing agreement; to the stage when an LMA needs to be reviewed'. The report noted 'many areas of confusion that staff

have identified’ and an expectation that consistency in approach would lead to ‘a uniform and transparent approach ... for dealing with LMAs’;

- there was a desire for more monitoring activities on the part of the department. The report stated ‘by rangers undertaking regular monitoring activities [the department] would be able to collate details of lessee’s activities and provide appropriate and timely advice to lessees regarding the protection of high conservation value areas that are situated on rural lands’;
- there was a need for ‘a more strategic approach [to] be taken in the early phase of processing new LMA applications or reviewing existing agreements. This would include the involvement of the [ACT Rural Fire Service] in the preparation of a Farm Firewise Plan. Both the LMA and the accompanying Farm Firewise documents could be completed and delivered simultaneously to the Conservator of Flora and Fauna for approval’. This followed a better appreciation and understanding of the Land Management Agreement and the opportunity it provided in assisting in ‘mapping data of endangered habitat types and sites of significant environmental value’ for the ACT Rural Fire Service; and
- a lack of skills and capabilities within the department for the management and administration of the Land Management Agreements. In this respect it was noted ‘many current staff do not possess the appropriate knowledge and experience in agricultural production and associated land management techniques to confidently determine shortcomings in a lessee’s environmental management practices. A lack of awareness of enforcement procedures when a problem was detected was also evident’.

Rural leaseholders attitudes towards Land Management Agreements

1.30 Specifically with respect to rural leaseholders and their understanding and attitude towards Land Management Agreements, the *Report on the Review of Land Management Agreements* (2009) identified:

- ‘the lessees have generally mistrusted the LMA process, considering the agreements a necessary “inconvenience” in order to attain their lease. Their attitude seems to be that the agreement should contain as little detail as possible, which minimises their obligations over the 5 year review period’; and
- ‘the LMA process has received scant regard from lessees in the past due to their awareness that [Parks, Conservation and Lands] staff have not been consistently undertaking compliance and enforcement activities’.

Improvements to the management and administration of Land Management Agreements

1.31 The *Report on the Review of Land Management Agreements* (2009) also identified a number of improvements to the management and administration of Land Management Agreements. The report noted that a database of rural leases had been compiled, including ‘lessees’ contact details, block numbers, districts, lease periods and 5 year LMA review dates’. The

report stated that the 'database will assist PCL in coordinating LMA reviews and the ongoing and timely monitoring of activities that the lessee must undertake to satisfactorily maintain the environmental condition of each rural lease'.

- 1.32 The *Report on the Review of Land Management Agreements* (2009) also identified that improvements had been made to the format of the Land Management Agreement:

... to produce an improved, user-friendly planning document, which will enable sub-catchment management plans to be coupled with projects being conducted across adjoining government managed land. The new LMA will also take on a whole-of-farm planning focus. The agreement will outline the lessees' productivity goals and objectives and provide action plans for on-farm strategies to achieve these goals, whilst still maintaining and improving biodiversity and other natural resources that are situated on their lease.

- 1.33 Coupled with the revised format of the Land Management Agreement the *Report on the Review of Land Management Agreements* (2009) identified a forthcoming focus on the development of Agreements in cooperation with adjoining leaseholders:

In the past LMAs were prepared individually on a property by property basis. Consequently...lessees are managing environmental issues on their properties in isolation, regardless that the issue crosses over onto the adjoining property (e.g. vertebrate pests and weed infestations).

Lessees are being encouraged to review their LMAs in consultation with PCL and their immediate neighbours, where they have one or more common land management issues occurring within their sub-catchment location.

- 1.34 In summary the *Report on the Review of Land Management Agreements* (2009) noted:

This report provides an update of the Land Management Agreement process. Reviewing existing LMAs and changing the LMA proforma should facilitate the implementation of strategic programs to control high priority pest plant and animals, protect high value conservation areas, improve water infiltration and quality, and limit the spread of erosion, on a landscape scale. The review will also assist in meeting the increasing challenges posed by climate change on the rural environment.

Independent Audit of the Gungahlin Strategic Assessment (November 2017) and Independent Audit of the Molonglo Valley Strategic Assessment (April 2018) (Commissioner for Sustainability and the Environment)

- 1.35 In November 2017 the Commissioner for Sustainability and the Environment completed an *Independent Audit of the Gungahlin Strategic Assessment*. The investigation was conducted as a result of a Ministerial Direction to undertake an independent audit of the implementation of commitments in the Biodiversity Plan for the Gungahlin Strategic Assessment as detailed in the *Gungahlin Strategic Assessment Biodiversity Plan*. The investigation found a *Very High Risk* in relation to the failure to develop Land Management Agreements for rural leases that contained offset areas:

Horse Park North, Taylor, Jacka and the Kinlyside offset areas fall within rural leases. The Land Management Agreements have not yet been updated to reflect the inclusion of these lands into offset areas for the Gungahlin Strategic Assessment.

...

The key risk from inaction in updating the Land Management Agreements to incorporate and facilitate management activities consistent with meeting objectives of the offset management plan, is the potential failure to meet the targets required for improvement to the condition of [Matters of National Environmental Significance] within the offset areas.

- 1.36 In April 2018 the Commissioner for Sustainability and the Environment completed an *Independent Audit of the Molonglo Valley Strategic Assessment*. The investigation was conducted as a result of a Ministerial Direction to undertake an independent audit of commitments in the *Molonglo Valley Plan for the Protection of Matters of National Environmental Significance (NES Plan)* for the Molonglo Valley Strategic Assessment. In relation to the protection of Box-Gum Woodland in specific patches the investigation found:

[Specific patches] are managed as a rural lease with a Land Management Agreement, however, evidence suggests that these Land Management Agreements have not been updated since the commencement of the Molonglo Valley Strategic Assessment and therefore it is uncertain that the protection of Box-Gum Woodland is considered under these agreements.

...

Anecdotal evidence indicates that the Land Management Agreements and rural leases may not reflect the inclusion of these lands into offset areas for the Molonglo Valley Strategic Assessment area. Specifically, these Land Management Agreements are unlikely to include land management activities that consider the MNES and do not operate in a manner connected to the areas operated and managed by EPSDD. Key activities such as weed, sediment and feral animal control as well as restorative and enhancement activities need to occur on these areas.

- 1.37 A Corrective Action Request was issued to ‘incorporate actions and monitoring requirements into relevant Land Management Agreements for the protection of the ecological condition of [Matters of National Environmental Significance] within [the specific patches] by 31 December 2018’.

Assembly of rural land west of Canberra (June 2018) (ACT Audit Office)

- 1.38 In June 2018 the ACT Audit Office’s *Assembly of rural land west of Canberra* performance audit report (Report No.8/2018) was tabled in the ACT Legislative Assembly. The report identified that there were no Land Management Agreements in place for six rural properties purchased on behalf of the Territory by the former Land Development Agency. The report stated:

By December 2018, the latest extension time granted for developing the agreements, properties will have been in the ownership of the Territory for a considerable time, including Lands End being owned for over three and a half years, with no executed Land Management Agreement. Not having a Land Management Agreement in place in a timely manner presents a risk of not achieving the principal objective of Land Management Agreements: ‘sustainable agricultural management practices and good farm biosecurity for the subject land while maintaining ecological and cultural values present on the land, and protecting the environment from harm’. Reasons why Land Management Agreements have not been secured need to be examined to identify options for preventing this in the future.

- 1.39 In its response to the report the Suburban Land Agency advised:

Section 286 of the *Planning and Development Act 2007* provides that the interest holder must enter into a Land Management Agreement within six months, and that the Planning and Land

Authority may extend that date. Such an extension was granted by the Planning and Land Authority for the preparation of Land Management Agreements. The former LDA, and subsequently the Suburban Land Agency, therefore acted in accordance with the legislation.

Audit objective and scope

Audit objective

1.40 The objective of this audit is to provide an independent opinion to the Legislative Assembly on the effectiveness of the management and administration of Land Management Agreements.

Audit scope

1.41 The audit considered the activities of ACT Government directorates and agencies in managing and administering Land Management Agreements, including:

- activities for entering into Agreements with rural leaseholders;
- monitoring rural leaseholders' compliance with Agreements; and
- regulating and enforcing Agreement requirements and obligations.

1.42 The audit considered the following key issues:

- whether the legislative and policy framework is designed to ensure all leasehold land with a rural purpose clause in the ACT is subject to a Land Management Agreement and is being applied as required;
- whether the controls and processes to administer and manage Agreements (including monitoring compliance and enforcement) are effective; and
- whether the controls and processes to remedy and resolve any disputes and breaches that may arise are effective.

Audit criteria, approach and method

Audit criteria

1.43 To form a conclusion against the objective, the following criteria were used:

- **Criterion 1** – Are Land Management Agreements complete, comprehensive and applied consistently for all rural leasehold land in the ACT?
- **Criterion 2** – Are there arrangements in place to support the effective implementation of Land Management Agreements?

- **Criterion 3** – Are there arrangements in place to take enforcement action to resolve any disputes that may arise, and to evaluate the effectiveness of Land Management Agreements in achieving their objectives?

1.44 The audit was performed in accordance with *ASAE 3500 – Performance Engagements*. The audit adopted the policy and practice statements outlined in the Audit Office’s *Performance Audit Methods and Practices (PAMPr)* which is designed to comply with the requirements of the *Auditor-General Act 1996* and *ASAE 3500 – Performance Engagements*

1.45 In the conduct of this performance audit the ACT Audit Office complied with the independence and other relevant ethical requirements related to assurance engagements.

Audit approach and method

1.46 The audit method and approach consisted of:

- reviewing previous reviews and evaluations undertaken on Land Management Agreements within the Environment, Planning and Sustainable Development Directorate and externally;
- reviewing legislation, information and documentation (including ACT Government policies and procedures) that relate to the management and administration of Agreements;
- interviews and discussions with key staff in relevant ACT Government entities and other stakeholders who have a role in the management and administration of Agreements;
- interviews and discussions with rural leaseholders, as well as representatives of the the ACT Rural Leaseholders Association;
- identifying and documenting internal controls and procedures in the Environment Planning and Sustainable Development Directorate and Chief Minister, Treasury and Economic Development Directorate (Access Canberra) that relate to the management, administration, review, monitoring and enforcement of Agreements;
- testing a selection of rural leaseholds and associated Agreements to identify the completeness of Agreements, whether Agreements are monitored and reviewed as intended and whether dispute resolution is occurring as intended; and
- reviewing any data, documentation or reports evaluating the effectiveness of Agreements in achieving their stated objectives.

2 DEVELOPMENT OF LAND MANAGEMENT AGREEMENTS

2.1 This chapter discusses roles and responsibilities, and systems and processes, for the development of Land Management Agreements.

Summary

Conclusions

There is no overarching risk management framework to guide the development of Land Management Agreements in the ACT. In the absence of an overarching risk management framework, it is difficult for the Environment, Planning and Sustainable Development Directorate to articulate the risks to rural leasehold land in the Territory to be managed through the Agreements. It is also difficult for the Directorate to demonstrate the effectiveness of its management and administration of the Agreements in '[establishing] appropriate sustainable agricultural management practices and good farm biosecurity for the subject land while maintaining ecological and cultural values present on the land, and protecting the environment from harm' across the Territory. A risk-based approach to the development and management of the Agreements could also ensure that Directorate resources and activities are appropriately targeted to key areas of risk.

The development of Land Management Agreements could also be improved by documenting roles and responsibilities, implementing regular governance forums and meetings to facilitate intra-agency and cross-agency communication and developing administrative policy and procedural guidance.

Key findings

A range of ACT Government agencies and business units have roles and responsibilities for the development of Land Management Agreements. These include a range of business units within the Environment, Planning and Sustainable Development Directorate, the Environment Protection Authority (Access Canberra) and the Emergency Services Agency (ACT Rural Fire Service). In practice the Rural Services and Natural Resource Protection Team within the Resilient Landscapes Branch has primary responsibility for initiating the development of an agreement with a rural leaseholder and working with the rural leaseholder to complete the agreement, thereby ensuring that Agreements are up to date, i.e. reviewed at least every five years. The team needs to do this in close cooperation and communication with the other stakeholders. The roles and responsibilities of the Rural Services and Natural Resource Protection Team and other business units are not specifically and explicitly documented with respect to the development of Land Management

Paragraph

2.23

Agreements. This increases the risk of uncertainty in the management of Agreements and gaps in responsibilities and accountabilities.

There are no specific governance forums, meetings or other activities to facilitate coordination and cooperation across the number of business units and stakeholders involved in the development of Land Management Agreements. The coordination of effort and cooperation between ACT Government business units and stakeholders is primarily achieved through informal and ongoing communication on an as needed basis for specific Agreements. This presents a potential risk to the effective management and administration of Agreements as there is no formal, regular and systematic opportunity to share knowledge and discuss issues and trends in their management and administration and identify and discuss potential system and process improvements. Periodic meetings do occur between the Rural Services and Natural Resource Protection Team and the ACT Rural Fire Service, where bushfire risks and Agreement priorities are shared and discussed.

2.30

The *Land Management Agreement Form* provides comprehensive guidance to ACT rural leaseholders and Environment, Planning and Sustainable Development Directorate officers undertaking the Land Management Agreement process. It provides the most fulsome and explicit guidance on the type and nature of information to be included in an Agreement. A reviewed and revised 2020 version of the *Land Management Agreement Form* provides more guidance than the 2016 version on the information that needs to be included in each of the sections.

2.39

There is an absence of practical and useful procedural guidance for the development of Land Management Agreements. A key issue is the absence of procedural guidance to guide Rural Services and Natural Resource Protection Team officers (and other Environment, Planning and Sustainable Development Directorate stakeholders more generally) for the development of the Agreements. Defining and documenting procedural and administrative processes to be followed would provide clarity to Environment, Planning and Sustainable Development business units and their staff and support the achievement of environmental obligations in accompanying Territory legislation. Agreeing on and documenting administrative processes to be followed for the development of Agreements is necessary. Without this guidance there is an increased risk that rural leasehold agreements may be inadvertently overlooked, incomplete, omit technical stakeholder feedback and/or not concluded within the required legislative timeframe.

2.48

Neither the Rural Services and Natural Resource Protection Team or Conservator of Flora and Fauna maintains an overarching risk management framework that assists in identifying, assessing and mitigating risks (or opportunities) associated with rural leasehold land in the Territory and guiding the management and administration of Land Management Agreements. In the absence of an overarching risk management framework, it is difficult for the Environment, Planning and Sustainable Development Directorate to articulate the risks to rural leasehold land to be managed through the Agreements and demonstrate the effectiveness of its management and administration of Agreements in '[establishing] appropriate sustainable agricultural management practices and good farm biosecurity for the subject land while maintaining ecological and cultural values present on the land, and protecting the environment from harm' across the Territory. An overarching risk management

2.58

framework may also assist in identifying appropriate timeframes for the Agreements. The review and replacement of Agreements within a five year period, which is not a legislative requirement, but is otherwise established through the *Land Management Agreement Form* itself, also establishes a ‘one-size fits all’ approach that is not based on risk. Longer timeframes for Agreements may be warranted for some rural leaseholds, while shorter timeframes for others may be warranted.

The Rural Services and Natural Resource Protection Team has developed an ‘LMA Priorities’ tracking spreadsheet to assist in the administration of Land Management Agreements. The tracking spreadsheet was developed and implemented to work through the backlog of rural leaseholds for which Agreements had not been reviewed and replaced within the past five years. Along with a “target” of 40 Agreements to be reviewed each year and additional staffing, the tracking spreadsheet serves a useful purpose in addressing the immediate problem of the backlog of old Agreements. However, no guidance has been developed on how the spreadsheet is to be used or how information is to be documented in the spreadsheet. The spreadsheet is populated by inconsistent and incomplete information in relation to the Agreements. It does not prioritise Agreements taking into account a risk-based framework of rural land where there may be a significant environmental or land management issues that should be addressed as a matter of imminent priority. An intention to synchronise the development of Agreements for collaboration purposes at specific localities has not been progressed through a program of activity by the Rural Services and Natural Resource Protection Team.

2.70

Roles and responsibilities

- 2.2 A number of ACT Government agencies and business units are involved in the development of Land Management Agreements. This includes business units in the Environment, Planning and Sustainable Development Directorate as well as the Emergency Services Agency, within the Justice and Community Safety Directorate.

Environment Planning and Sustainable Development Directorate

- 2.3 Within the Environment, Planning and Sustainable Development Directorate roles and responsibilities for the development of Land Management Agreements are shared across the Environment Division and Planning Delivery Division.

Conservator of Flora and Fauna (Environment Division)

- 2.4 Subsection 283(3) of the *Planning and Development Act 2007* requires that the Land Management Agreement be signed by the Conservator of Flora and Fauna.
- 2.5 The Executive Director of the Environment Division within the Environment, Planning and Sustainable Development Directorate fulfills the role of the Conservator of Flora and Fauna.
- 2.6 The Conservator of Flora and Fauna is a statutory position established by the *Nature Conservation Act 2014*. The Conservator also has additional responsibilities under the

Planning and Development Act 2007, the *Fisheries Act 2000* and the *Tree Protection Act 2005*. The *Nature Conservation Act 2014* requires the Conservator to develop and oversee policies, programs and plans for the effective management of nature conservation and to monitor the state of nature conservation in the ACT. To do this the Conservator is required to prepare an action plan for each species or ecological community that has been listed as threatened under the Act. Action plans are expected to contain proposals for the identification, protection and survival of the species or proposals to minimise the effect of processes that threaten the species.

Environment (Conservator Liaison) Team

2.7 The Conservator of Flora and Fauna is supported by the Environment (Conservator Liaison) Team. The role and responsibilities of the team is not specifically and explicitly documented with respect to the development of Land Management Agreements. In practice, however, the team:

- responds to Agreements that have been prepared by the Rural Services and Natural Resource Protection Team in the Resilient Landscapes Branch; and
- performs a quality assurance review over the agreements before providing to the Conservator for endorsement.

Rural Services and Natural Resource Protection Team (Resilient Landscapes Branch) (Environment Division)

2.8 The Resilient Landscapes Branch is responsible for the planning and management of the ACT's parks, reserves and forestry plantations. Within the Resilient Landscapes Branch is the Rural Services and Natural Resource Protection Team.

Rural Services and Natural Resource Protection Team

2.9 The Rural Services and Natural Resource Protection Team has primary responsibility for the development of Land Management Agreements with rural leaseholders. It does this within the broader context of its responsibilities for managing:

- programs relating to rural services, vertebrate pest control, invasive weed management and wildlife management; and
- the ACT government's horse agistment paddocks.

- 2.10 The role and responsibilities of the Rural Services and Natural Resource Protection Team is not specifically and explicitly documented with respect to the development of Land Management Agreements. In practice, however, the team has primary responsibility for initiating the development of an agreement with a rural leaseholder and working with the rural leaseholder to complete the agreement. In the process of developing the agreement, Rural Services and Natural Resource Protection Team officers:
- organise technical assessments of ecologically sensitive sites (where required); and
 - obtain and coordinate stakeholder feedback on a proposed agreement (including through the Conservator of Flora and Fauna, ACT Heritage, Nature Protection Unit, Conservation Research, the Environmental Protection Authority and the ACT Rural Fire Service).
- 2.11 In practice, it is the Rural Services and Natural Resource Protection Team that has responsibility for ensuring that Land Management Agreements are up to date, i.e. reviewed at least every five years.

Leasing Services (Planning Delivery Division)

- 2.12 Leasing Services is a business unit in the Planning Delivery Division. It is primarily responsible for:
- the granting of leases (urban and rural) and licences; and
 - the ongoing administration of leases and licences.
- 2.13 Leasing Services has a role in the administration of Land Management Agreements through its responsibility for maintaining Territory lease files where documentation relating to urban and rural leases in the ACT is stored.
- 2.14 The role and responsibilities of Leasing Services is not specifically and explicitly documented with respect to the development of Land Management Agreements. In practice, however, it liaises and communicates with the Rural Services and Natural Resource Protection Team when a new rural lease is developed or when an existing rural lease is varied or transferred, thereby triggering the requirement for an Agreement.
- 2.15 Leasing Services also has a role in preparing and sending correspondence to rural leaseholders reminding them of their legal obligation to comply with the requirement to undertake a Land Management Agreement within six months of a new, varied or transferred lease. There are periodic points in the Agreement development process where Rural Services and Natural Resource Protection Team officers liaise with Leasing Services to initiate the preparation and sending out of reminder letters if the process is delayed due to the rural leaseholder not progressing the development of the Agreement following the initial site visit undertaken by the Rural Services and Natural Resource Protection Team officer.

- 2.16 Following the sending out of reminder letters, rural leaseholders can seek an extension of time to conclude their Land Management Agreement, which Leasing Services has the delegation to grant by virtue of subsection 286(3) of the *Planning and Development Act 2007*.

Other areas of the Environment, Planning and Sustainable Development Directorate

- 2.17 There are a range of technical specialists and business units in the Environment, Planning and Sustainable Development Directorate that have a role in advising on specific land management Site Assessments and Management Actions in Land Management Agreements. These include:
- Conservation Research – responsible for wildlife research, ecological surveying, biodiversity monitoring, and threatened species conservation and the Flora and Fauna Committee;
 - ACT Heritage – administers the heritage provisions of the *Heritage Act 2004* and assists in the conservation of the ACT's heritage assets to facilitate their identification, conservation, preservation, protection, maintenance and enhancement (where appropriate); and
 - the Licensing and Compliance Unit – responsible for licencing and compliance issues for landholders who undertake kangaroo culling on rural leasehold land.
- 2.18 In practice, these technical specialists are provided with an opportunity to comment and provide input into the development of the Land Management Agreement.

Environment Protection Authority (Access Canberra)

- 2.19 The Environment Protection Authority is established under the *Environment Protection Act 1997* (the Act). It is responsible for *inter alia* protecting and enhancing the quality of the environment and preventing environmental degradation and risk of harm to human health. The Environment Protection Authority is administratively located within Access Canberra.
- 2.20 Similar to the other technical specialists and business units in the Environment, Planning and Sustainable Development Directorate, the Environment Protection Authority is provided with an opportunity to comment and provide input into the development of Land Management Agreements.

ACT Rural Fire Service (Emergency Services Agency)

- 2.21 The ACT Rural Fire Service within the Emergency Services Agency has a discrete role in the development of Land Management Agreements with respect to bushfire risk management and the development of Farm FireWise Plans. The Agreement document itself states:

The LMA cannot be approved without a Farm Firewise Plan (FFP) in place therefore each landholder must acknowledge on the LMA Plan and Map that a FFP has already been approved by the ESA. Representatives of the ACT Rural Fire Service (RFS) will assist each rural landholder

to assess bushfire risks and mitigation methods and prepare the Farm Firewise Plan, which the rural lessee will then be required to implement.

- 2.22 In practice the ACT Rural Fire Service assists each rural leaseholder to manage their bushfire risks through the development of a Farm FireWise Plan. The development of the Farm FireWise Plan is undertaken independently of the Land Management Agreement itself and is facilitated through ACT Rural Fire Service officers' site visits with the rural landholder. The completion of a Farm FireWise Plan should be acknowledged before the Agreement can be signed off by the Conservator of Flora and Fauna.
- 2.23 A range of ACT Government agencies and business units have roles and responsibilities for the development of Land Management Agreements. These include a range of business units within the Environment, Planning and Sustainable Development Directorate, the Environment Protection Authority (Access Canberra) and the Emergency Services Agency (ACT Rural Fire Service). In practice the Rural Services and Natural Resource Protection Team within the Resilient Landscapes Branch has primary responsibility for initiating the development of an agreement with a rural leaseholder and working with the rural leaseholder to complete the agreement, thereby ensuring that Agreements are up to date, i.e. reviewed at least every five years. The team needs to do this in close cooperation and communication with the other stakeholders. The roles and responsibilities of the Rural Services and Natural Resource Protection Team and other business units are not specifically and explicitly documented with respect to the development of Land Management Agreements. This increases the risk of uncertainty in the management of Agreements and gaps in responsibilities and accountabilities.

Coordination and cooperation

- 2.24 Given the number of business units and stakeholders involved in the development of Land Management Agreements information was sought as to what governance arrangements were in place to support coordination and cooperation across ACT Government business units with disparate and, at times, potentially competing interests.
- 2.25 The coordination of effort and cooperation between ACT Government business units and stakeholders is primarily achieved through informal and ongoing communication on an as needed basis as specific Land Management Agreements, and their associated issues, are developed and finalised. There are no specific governance forums, meetings or other activities to:
- facilitate coordination and cooperation between business units and stakeholders for the development of Agreements;
 - address priority issues of significance or concern in the development of Agreements more generally; or
 - to identify potential improvements to processes for the development of Agreements.
- 2.26 During the audit it was apparent that processes for the development of Land Management Agreements, and the coordination and cooperation of ACT Government business units and

stakeholders, was not fully effective. Representatives of some technical specialists and business units in the Environment, Planning and Sustainable Development Directorate were not satisfied that advice that they had provided was included in the final signed Agreement.

- 2.27 A formal and regular governance forum may allow relevant business units and stakeholders (including representatives from technical areas) to understand and discuss roles and responsibilities and administrative processes as well as the status of any potentially problematic Land Management Agreements in a more systematic way. It would also provide an opportunity to share knowledge and discuss issues and trends in the management and administration of Agreements and potentially serve as a means for discussing system and process improvements.

Rural Services and Natural Resource Protection Team and ACT Rural Fire Service

- 2.28 Notwithstanding the lack of specific governance forums to facilitate coordination and cooperation across business units and stakeholders, there is a productive and effective working relationship between the Rural Services and Natural Resource Protection Team and the ACT Rural Fire Service in relation to the bushfire risk component of the Land Management Agreement and the associated Farm FireWise Plan.
- 2.29 Periodic meetings occur between the Rural Services and Natural Resource Protection Team and the ACT Rural Fire Service, where bushfire risks and Land Management Agreement priorities are shared and discussed. At these meetings the status of Agreements and Farm FireWise Plans have been discussed. Both the Rural Services and Natural Resource Protection Team and the ACT Rural Fire Service have taken responsibility for scheduling these discussions. These discussions have sometimes led to the conduct of joint site visits to the rural leaseholder.
- 2.30 There are no specific governance forums, meetings or other activities to facilitate coordination and cooperation across the number of business units and stakeholders involved in the development of Land Management Agreements. The coordination of effort and cooperation between ACT Government business units and stakeholders is primarily achieved through informal and ongoing communication on an as needed basis for specific Agreements. This presents a potential risk to the effective management and administration of Agreements as there is no formal, regular and systematic opportunity to share knowledge and discuss issues and trends in their management and administration and identify and discuss potential system and process improvements. Periodic meetings do occur between the Rural Services and Natural Resource Protection Team and the ACT Rural Fire Service, where bushfire risks and Agreement priorities are shared and discussed.

RECOMMENDATION 1 ROLES AND RESPONSIBILITIES

The Environment, Planning and Sustainable Development Directorate, in cooperation with other ACT Government agencies involved in the development of Land Management Agreements should:

- a) identify and document roles and responsibilities for the establishment of the Agreements; and
- b) establish an ongoing forum for the discussion and resolution of issues associated with the development of the Agreements and the identification of potential system and process improvements.

Policy and procedural guidance

2.31 The need to develop administrative policy and procedural guidance for the management and administration of Land Management Agreements was first identified in the September 2009 *Report on the Review of Land Management Agreements* that was completed by Rural Programs, Programs Coordination in the former Parks, Conservation and Lands. The report stated:

[Parks, Conservation and Lands] has identified the need to develop guidelines which clearly define procedures and staff responsibilities when processing LMAs, from the time a new application is received; when monitoring a lessee's compliance with the provisions of an existing agreement; to the stage when an LMA needs to be reviewed. This would eradicate many areas of confusion that staff have identified and ensure a uniform and transparent approach throughout [Parks, Conservation and Lands] for dealing with LMAs.

2.32 Current policy and procedural guidance for the development of Land Managements is embodied in:

- the *Land Management Agreement Form*; and
- a *Land Management Agreement Procedure* for the Environment (Conservator Liaison) Team.

Land Management Agreement Form

2.33 Over the years Land Management Agreements have been developed in accordance with various formats and templates. Land Management Agreement forms have been developed and promulgated by virtue of section 425 of the *Planning and Development Act 2007*. Section 425 states:

- 1) The planning and land authority may approve forms for this Act.
- 2) If the planning and land authority approves a form for a particular purpose, the approved form must be used for that purpose.
- 3) An approved form is a notifiable instrument.

2.34 A 2016 *Land Management Agreement Form* (AR2016-26) was made and notified under the *Legislation Act 2001* on 29 April 2016. In 2020 the Environment, Planning and Sustainable Development Directorate reviewed and revised the *Land Management Agreement Form*. The 2020 *Land Management Agreement Form* (AR2020-36) was made and notified under the *Legislation Act 2001* on 4 May 2020.

2.35 As discussed in paragraphs 1.8 to 1.12, both the 2016 and 2020 *Land Management Agreement Forms* have comprised of a:

- *Statement of Responsibilities and Dispute Resolution* section (Part 1 of the Agreement); and
- *Site Assessment and Management Actions Plan* section (Part 2 of the Agreement).

Site Assessment and Management Actions Plan section

2.36 The *Site Assessment and Management Actions Plan* section of both the 2016 and 2020 *Land Management Agreement Form* provides guidance on the purpose of the part, the information that needs to be documented as part of the Site Assessment and the information that needs to be addressed as part of the Management Actions.

2.37 The *Site Assessment and Management Actions Plan* section requires the input of information in relation to the following sections:

- existing and proposed rural enterprise;
- land management site assessment and actions
 - sites of significant environmental value
 - other native vegetation
 - soil condition
 - contaminated sites
 - drought risk management
 - water resource management and riparian zones
 - bushfire risk management
 - Eastern Grey Kangaroo management
 - pest plant management
 - pest animal management
 - heritage

2.38 The *Land Management Agreement Form* provides the most fulsome and explicit guidance on the type and nature of information to be included in a Land Management Agreement and necessarily serves as a resource that is available to both rural leaseholders and ACT Government officials. In this respect it provides useful guidance to all stakeholders for the development of Agreements. It is also noted that the reviewed and revised 2020 version of the *Land Management Agreement Form* provides more guidance than the 2016 version on the information that needs to be included in each of the sections. The Environment, Planning and Sustainable Development Directorate advised that the review and upgrade of

the document 'was identified as being necessary to streamline the process and make the document more workable than the previous iteration'.

- 2.39 The *Land Management Agreement Form* provides comprehensive guidance to ACT rural leaseholders and Environment, Planning and Sustainable Development Directorate officers undertaking the Land Management Agreement process. It provides the most fulsome and explicit guidance on the type and nature of information to be included in an Agreement. A reviewed and revised 2020 version of the *Land Management Agreement Form* provides more guidance than the 2016 version on the information that needs to be included in each of the sections.

Land Management Agreements Procedure

- 2.40 The Conservator Liaison Team has developed a *Land Management Agreements Procedure*. The procedure is intended to provide guidance and advice to the Conservator Liaison Team for its Land Management Agreement responsibilities.
- 2.41 The *Land Management Agreements Procedure* outlines the quality control and review activities that the Conservator Liaison Team is expected to undertake when reviewing Land Management Agreements for the Conservator of Flora and Fauna's agreement. It is a three-page document that provides high-level guidance on issues that the Conservator Liaison Team should consider when reviewing a draft agreement. For example, in relation to Section 3.1 relating to sites of significant environmental value, the Procedure states:
- Confirm that the ecological values map is consistent with the .jpg that CR has provided and that the legend is complete and readable,
- 2.42 The *Land Management Agreements Procedure* states:
- All other sections – Ensure these are complete and reasonable. Keep an eye out for strange goals (e.g. increasing DSE capacity to an unachievable level) or strange responses e.g. putting wombats as a pest species.
- 2.43 The *Land Management Agreements Procedure* further states 'The LMA must be carefully checked at both draft and final stages to ensure the information is correct and consistent'.

Flowchart of Land Management Agreement responsibilities

- 2.44 In 2020, in response to this performance audit, the Rural Services and Natural Resource Protection Team developed a flowchart titled *Process of undertaking a Land Management Agreement V1.2020*. The flowchart broadly outlines the steps associated with the development of a Land Management Agreement. It identifies various Environment, Planning and Sustainable Development Directorate stakeholders' role in the development of an Agreement and provides an overview of stakeholder points of engagement, approvals processes and the completion process. The flowchart is a high-level document that provides no further guidance on how an Agreement is to be negotiated and concluded. The flowchart was prepared for the purpose of this performance audit and in practice has not been used to guide administrative processes or decision-making.

Rural Services and Natural Resource Protection Team policy and procedural guidance

- 2.45 As discussed in paragraphs 2.9 to 2.11, the Rural Services and Natural Resource Protection Team has primary responsibility for the development of Land Management Agreements. This includes working with the rural leaseholder to complete an Agreement as well as organising technical assessments of ecologically sensitive sites (where required) and obtaining and coordinating technical stakeholders' feedback.
- 2.46 There is no procedural guidance in place to guide Rural Services and Natural Resource Protection Team officers (and other Environment, Planning and Sustainable Development Directorate stakeholders more generally) in the development of Land Management Agreements.
- 2.47 The *Land Management Agreements Procedure* is only for the use and reference of the Conservator Liaison Team and only provides guidance on the quality control and review activities to be undertaken for the approval of Land Management Agreements. The *Land Management Agreement Form*, while providing guidance on the type and nature of information to be included in an agreement, provides no guidance on the administrative processes to be followed and undertaken for the development of an agreement with a rural leaseholder.
- 2.48 There is an absence of practical and useful procedural guidance for the development of Land Management Agreements. A key issue is the absence of procedural guidance to guide Rural Services and Natural Resource Protection Team officers (and other Environment, Planning and Sustainable Development Directorate stakeholders more generally) for the development of the Agreements. Defining and documenting procedural and administrative processes to be followed would provide clarity to Environment, Planning and Sustainable Development business units and their staff and support the achievement of environmental obligations in accompanying Territory legislation. Agreeing on and documenting administrative processes to be followed for the development of Agreements is necessary. Without this guidance there is an increased risk that rural leasehold agreements may be inadvertently overlooked, incomplete, omit technical stakeholder feedback and/or not concluded within the required legislative timeframe.

RECOMMENDATION 2 POLICY AND PROCEDURAL GUIDANCE

The Environment, Planning and Sustainable Development Directorate should develop policy and procedural guidance for the development and ongoing management and administration of Land Management Agreements.

Development of Land Management Agreements

- 2.49 There are approximately 180 rural leaseholds in the ACT that require a Land Management Agreement. Agreements are made for a five year period and, due to the nature and timing of triggering events or previously struck agreements, are due for review at various times.
- 2.50 The audit sought to understand how the Rural Services and Natural Resource Protection Team prioritised Land Management Agreements for development and processing.

Risk-based decision-making

Rural leasehold risks and opportunities

- 2.51 Leaseholds with a rural purpose clause, for which a Land Management Agreement is required, are diverse in their location, size and risk. For example, there are rural leaseholds in all parts of the ACT, including leaseholds within the residential footprint of Canberra, e.g. Pialligo and Symonston, as well as rural leaseholds close to and bordering the Namadji and Tidbinbilla national parks. Some rural leaseholds are for properties as small as a couple of hectares, while other rural leaseholds are for properties as large as 500 hectares. Irrespective of the location and size of the rural leasehold, there is also a diversity of risk deriving from site-specific:
- environmental and ecological considerations;
 - contaminated site considerations;
 - water management considerations; and
 - heritage considerations.
- 2.52 Notwithstanding the diversity of rural leasehold land in the ACT, all rural leasehold land in the ACT is required to have a Land Management Agreement and, by virtue of Clause 6(3) of the 2020 *Land Management Agreement Form*, the Agreement is to be reviewed and replaced every five years. This is a standardised approach that historically has not been achieved. Paragraphs 3.16 to 3.22 identify that Land Management Agreements have not been reviewed and replaced as required and the September 2009 *Report on the Review of Land Management Agreements* by Rural Programs, Programs Coordination in the former Parks, Conservation and Lands identified that this requirement was not being met at the time (refer to paragraph 1.29).
- 2.53 In addition to site-specific considerations, as provided for by section 21 of the *Nature Conservation Act 2014*, the Conservator of Flora and Fauna is required to develop and oversee policies, programs and plans for the effective management of nature conservation. In this respect, the Conservator is required to prepare an action plan for each species or ecological community that has been listed as threatened under the Act. Action plans are expected to contain proposals for the identification, protection and survival of the species or proposals to minimise the effect of processes that threaten the species.

2.54 The diversity of risk associated with rural leaseholds, as well as the opportunities presented by Conservator of Flora and Fauna action plans for species or ecological communities that are listed as threatened under the Act, mean that there is a range of considerations that could be taken into account when developing Land Management Agreements for specific rural leaseholds. The audit sought to understand whether there was an administrative or risk-based framework in place that prioritised actions for the development of Land Management Agreements.

Risk management

2.55 The Environment, Planning and Sustainable Development Directorate, through either the Rural Services and Natural Resource Protection Team or Conservator of Flora and Fauna, does not maintain an overarching risk management framework that assists in:

- identifying, assessing and mitigating risks (or opportunities) associated with rural leasehold land in the Territory; and
- guiding the management and administration of Land Management Agreements.

2.56 In the absence of an overarching risk management framework, it is difficult for the Environment Planning and Sustainable Development Directorate to articulate the risks to rural leasehold land to be managed through Land Management Agreements and demonstrate the effectiveness of the Agreements in '[establishing] appropriate sustainable agricultural management practices and good farm biosecurity for the subject land while maintaining ecological and cultural values present on the land, and protecting the environment from harm' across the Territory.

2.57 In its response to the draft proposed report the Environment, Planning and Sustainable Development Directorate advised that Land Management Agreements are 'in place for all leases with the designated land use as "rural" as is required' and that 'achieving this result is based on a strategic approach tackling the primary risk – that is to have [Agreements] in place'. This does not recognise that many Land Management Agreements have not been reviewed and replaced within a five year period as required (refer to paragraphs 3.16 to 3.22). The review and replacement of Agreements within a five year period, which is not a legislative requirement, but is otherwise established through the *Land Management Agreement Form* itself, also establishes a 'one-size fits all' approach that is not based on risk.

2.58 Neither the Rural Services and Natural Resource Protection Team or Conservator of Flora and Fauna maintains an overarching risk management framework that assists in identifying, assessing and mitigating risks (or opportunities) associated with rural leasehold land in the Territory and guiding the management and administration of Land Management Agreements. In the absence of an overarching risk management framework, it is difficult for the Environment, Planning and Sustainable Development Directorate to articulate the risks to rural leasehold land to be managed through the Agreements and demonstrate the effectiveness of its management and administration of Agreements in '[establishing] appropriate sustainable agricultural management practices and good farm biosecurity for the subject land while maintaining ecological and cultural values present on the land, and

protecting the environment from harm’ across the Territory. An overarching risk management framework may also assist in identifying appropriate timeframes for the Agreements. The review and replacement of Agreements within a five year period, which is not a legislative requirement, but is otherwise established through the *Land Management Agreement Form* itself, also establishes a ‘one-size fits all’ approach that is not based on risk. Longer timeframes for Agreements may be warranted for some rural leaseholds, while shorter timeframes for others may be warranted.

Farm FireWise Plans

- 2.59 In contrast to the approach taken for the development of Land Management Agreements, the ACT Rural Fire Service seeks to adopt a risk-based planning approach for the development of Farm FireWise Plans. The risk-based approach seeks to prioritise rural leaseholds that require specific fuel management actions to reduce risk to the urban area.
- 2.60 The percentage of rural leaseholders within the bushfire abatement zone with a Farm FireWise Plan is an annual strategic indicator for the Justice and Community Safety Directorate, with a target of 100 percent. In 2018-19 the Emergency Services Agency reported a result of 92 percent, with six out of 75 properties in the bushfire abatement zone not having a current Farm FireWise Plan.

Prioritisation

- 2.61 The Rural Services and Natural Resource Protection Team has developed an ‘LMA Priorities’ tracking spreadsheet to assist in the administration of Land Management Agreements.
- 2.62 The ‘LMA Priorities’ tracking spreadsheet was developed and implemented to work through the backlog of rural leaseholds for which Land Management Agreements had not been reviewed and replaced within the past five years. The Environment, Planning and Sustainable Development Directorate identified that it had ‘established a “target” of 40 [Agreements] per annum to reflect resourcing and capacity and has implemented a staged approach so that workflow can be managed appropriately’. Along with additional staffing to work through the backlog the Rural Services and Natural Resource Protection Team prioritised its focus on new Agreements based on land transfers.
- 2.63 The ‘LMA Priorities’ tracking spreadsheet organises Land Management Agreements into years, identifying Agreements for processing and finalisation in the five years between 2018-19 and 2022-23. The tracking spreadsheet also records some Agreements as ‘Problem LMAs’.
- 2.64 The ‘LMA Priorities’ tracking spreadsheet allows for information to be recorded in relation to:
- the status of the Land Management Agreement for the rural leasehold, i.e. its date of completion and expiry date;
 - whether a site visit has been conducted;

- any 'ecological sensitivities' for the rural leasehold;
 - the status of the Farm FireWise Plan for the rural leasehold;
 - any comments from the Environment Protection Authority or ACT Heritage; and
 - the Rural Services and Natural Resource Protection Team officer who is responsible for working with the leaseholder.
- 2.65 No guidance has been developed on how the 'LMA Priorities' tracking spreadsheet is to be used or how information is to be documented in the spreadsheet.
- 2.66 A review of the 'LMA Priorities' tracking spreadsheet (as at March 2020) shows:
- for the column in the spreadsheet relating to the conduct of the site visit, there is no further detail on the date of the site visit, or any outcomes from the visit;
 - for the column in the spreadsheet relating to the 'ecological sensitivities' of the rural leasehold for some Land Management Agreements there may be a brief notation (e.g. 'YES EPBC' or 'YBRG, PTWL habitat') while for most others there is no information at all; and
 - the columns relating to comments from the Environment Protection Authority or ACT Heritage are blank for all Land Management Agreements. This may mean there are no comments or that the comments have not been recorded.
- 2.67 This indicates that the 'LMA Priorities' tracking spreadsheet is yet to be used consistently, and in a way that provides sufficient guidance and explanation as to the status of the Land Management for management decision-making purposes.

Region-specific prioritisation

- 2.68 A feature of the Land Management Agreement process is an intention for rural leaseholders to collaborate and cooperate where possible. According to the agreement document there is an intention to synchronise the development of Land Management Agreements at specific locations for collaboration purposes:
- Lessees are encouraged to collaborate with neighbouring lessees and land managers who are managing similar environmental issues to synchronise their Land Management Agreements (when appropriate) so that resources (e.g.: machinery, chemical, labour) and funding can be strategically targeted at a broader catchment scale.
- 2.69 Notwithstanding this intention, the Rural Services and Natural Resource Protection Team has not yet developed a program of activity that seeks to synchronise the development of Land Management Agreements at specific locations for collaboration purposes.
- 2.70 The Rural Services and Natural Resource Protection Team has developed an 'LMA Priorities' tracking spreadsheet to assist in the administration of Land Management Agreements. The tracking spreadsheet was developed and implemented to work through the backlog of rural leaseholds for which Agreements had not been reviewed and replaced within the past five years. Along with a "target" of 40 Agreements to be reviewed each year and additional

staffing, the tracking spreadsheet serves a useful purpose in addressing the immediate problem of the backlog of old Agreements. However, no guidance has been developed on how the spreadsheet is to be used or how information is to be documented in the spreadsheet. The spreadsheet is populated by inconsistent and incomplete information in relation to the Agreements. It does not prioritise Agreements taking into account a risk-based framework of rural land where there may be a significant environmental or land management issues that should be addressed as a matter of imminent priority. An intention to synchronise the development of Agreements for collaboration purposes at specific localities has not been progressed through a program of activity by the Rural Services and Natural Resource Protection Team.

RECOMMENDATION 3

LAND MANAGEMENT AGREEMENT PRIORITISATION

The Environment, Planning and Sustainable Development Directorate should develop a risk-based framework for the development and administration of Land Management Agreements. The framework could assist in identifying appropriate timeframes for the Agreements as well as consideration of a means to synchronise the development of Agreements for collaboration purposes at specific localities.

3 UTILITY OF LAND MANAGEMENT AGREEMENTS

- 3.1 This chapter considers whether Land Management Agreements are in place and current for all rural leaseholds in the Territory and provide an effective mechanism for the identification and documentation of rural leaseholders' land management responsibilities. The chapter also considers documentation and record-keeping practices generally for the administration of Agreements.

Summary

Conclusions

The Environment, Planning and Sustainable Development Directorate is not effective in ensuring the currency and utility of Land Management Agreements. Thirty-one of the 63 Land Management Agreements considered as part of the audit had not been reviewed and replaced as required in the past five years. Twenty-four of the Agreements were over ten years old, ten were up to 17 years old and two were up to 19 years old. The Directorate is focused on a program of activity to review and update all Agreements.

A review of the Land Management Agreements considered as part of this audit also showed that there was variability in quality and depth of information and assessment. This compromises their ability to be used as an active and ongoing land management tool and hinders the Directorate's ability to monitor and enforce rural leaseholder compliance with the Agreements. Rural leaseholders consulted as part of the audit questioned the value and utility of the Agreements.

Key findings

The Environment, Planning and Sustainable Development Directorate does not maintain a single authoritative listing of rural leaseholds and accompanying Land Management Agreements. Separate and inconsistent documentation was maintained by Leasing Services and the Rural Services and Natural Protection Team for different purposes. A single authoritative listing of rural leaseholds and accompanying Agreements by the Directorate would support the Directorate to correctly and easily identify whether rural leaseholds have a current and enforceable Agreement in place.

Paragraph

3.6

Documentation and information supporting the development and conclusion of Land Management Agreements is inconsistently maintained and recorded. Information on the development of an Agreement and any associated issues (including for instance, potential disputes with the leaseholder) is not consistently retained in the Objective document management system together with the final

3.15

signed Agreement. Comments and feedback from technical stakeholders and their input into the development of an Agreement is also not retained with the Agreement itself or, alternatively, in a centralised and coordinated place. This makes it difficult to identify the administrative steps and processes associated with the development of the Agreement and impairs the transparency and accountability of the process.

Land Management Agreements are required to be reviewed and replaced by a subsequent agreement within five years from the date of signing. Of the 63 Agreements considered as part of the audit 31 were more than five years old, demonstrating that they had not been reviewed and replaced in the past five years. Of these Agreements 24 were over ten years old, ten were up to 17 years old and two were up to 19 years old. This shows that the Environment, Planning and Sustainable Development Directorate has not been managing the development of Agreements in a way that ensures they remain current and relevant. This impairs the ability of the Agreements to be used to 'establish appropriate sustainable agricultural management practices and good farm biosecurity for the subject land while maintaining ecological and cultural values present on the land, and protecting the environment from harm' across the Territory. The Directorate is focused on a program of activity to review and update all Agreements, which is estimated to take five years.

3.24

A review of the 63 Land Management Agreements considered as part of this audit showed that, while they are predominately complete and respond to each required site assessment category, they often lack a depth of information and assessment and the information is often of variable quality. This compromises their ability to be used as an active and ongoing land management tool and as a means for '[establishing] appropriate sustainable agricultural management practices and good farm biosecurity for the subject land while maintaining ecological and cultural values present on the land, and protecting the environment from harm' across the Territory. The lack of detail and specific actions and outcomes identified in Agreements also compromises the ability of ACT Government agencies to monitor and enforce compliance with Land Management Agreements by rural leaseholders.

3.43

Farm FireWise Plans are a means to assist in the management of bushfire risks to both the rural leaseholders property and adjoining the Territory. A Farm FireWise Plan serves as a bushfire operational plan for the purpose of the *Emergencies Act 2004* and the Territory's *Strategic Bushfire Management Plan 2019-2024*. The *Land Management Agreement* form states that it cannot be approved without a Farm FireWise Plan. However, the *Strategic Bushfire Management Plan 2019-2024* requires only rural leaseholds within the Bushfire Abatement Zone to prepare a Farm FireWise Plan. A review of the 64 rural leaseholds considered as part of the audit shows: 51 rural leaseholds were supported by a Farm FireWise Plan or another mechanism for addressing the bushfire risks associated with the property; and for a further 12 rural leaseholds Farm FireWise Plans were being developed. (Seven of these leaseholds did not have an existing plan in place because they were new lessees or did not previously require a Plan and there was no evidence of an existing Plan for the remaining five).

3.51

Documentation and recordkeeping

Listing of Land Management Agreements

- 3.2 For the purpose of the audit the management and administration of Land Management Agreements was considered through a review of a selection of 64 rural leaseholds.
- 3.3 In order to make a selection for review the audit team initially sought to obtain an authoritative listing of all rural leaseholds and their accompanying Land Management Agreements. In doing so the audit found that the Environment, Planning and Sustainable Development Directorate does not maintain a single authoritative listing of rural leaseholds and accompanying Agreements in the ACT. Separate and inconsistent documentation was maintained by Leasing Services and the Rural Services and Natural Protection Team:
- the Rural Services and Natural Protection Team refers to a 'LMA Priorities' spreadsheet (refer to paragraphs 2.61 to 2.67). This spreadsheet is used by the Rural Services and Natural Protection Team to track the status of Agreements, including whether the process for review has commenced; and
 - for the purpose of the audit Leasing Services prepared what was described as an 'original master list' of Agreements. The 'original master list' was provided to the audit team during initial audit fieldwork. During audit fieldwork it became evident that the information it contained could not be relied on to facilitate a selection of Agreements for review due to the information being outdated. The 'original master list' was subsequently updated by Leasing Services to become the 'refined master list'.
- 3.4 From the process undertaken to obtain an authoritative listing of all rural leaseholds and accompanying Land Management Agreements it was evident that there was inconsistency between Leasing Services and the Rural Services and Natural Protection Team with respect to the maintenance of records of Agreements. Different information and data was maintained by Leasing Services and the Rural Services and Natural Protection Team.
- 3.5 The absence of a single authoritative listing of rural leaseholds and accompanying Land Management Agreements by the Environment, Planning and Sustainable Development Directorate gives rise to risks in the management and administration of the Agreements. The most prominent risk is that the Directorate cannot correctly and easily identify whether rural leaseholds have a current and enforceable Agreement in place. Other risks relate to potential double handling of information, which could lead to:
- inefficiency in the management and administration of the Agreements; or
 - Agreements that are overlooked for review, especially at the point of the five-year review period.

- 3.6 The Environment, Planning and Sustainable Development Directorate does not maintain a single authoritative listing of rural leaseholds and accompanying Land Management Agreements. Separate and inconsistent documentation was maintained by Leasing Services and the Rural Services and Natural Protection Team for different purposes. A single authoritative listing of rural leaseholds and accompanying Agreements by the Directorate would support the Directorate to correctly and easily identify whether rural leaseholds have a current and enforceable Agreement in place.

Completeness of Land Management Agreements

- 3.7 In the absence of a definitive listing of Land Management Agreements in the ACT, for the purpose of the audit detailed data cleansing and logic tests were undertaken in order to:
- identify a population of rural leaseholds in the ACT; and
 - identify a selection of 64 rural leaseholds, for which the Land Management Agreement could be assessed.
- 3.8 The Environment, Planning and Sustainable Development Directorate provided Land Management Agreements for 63 out of the 64 rural leaseholds considered as part of the audit. The remaining Agreement had been drafted but was awaiting sign off by the rural leaseholder and was not final.

Land Management Agreement supporting documentation

- 3.9 Supporting information and documentation for the development of Land Management Agreements is not consistently retained in the Objective document management system together with the final signed Agreement. In some instances, supporting information and documentation for the development of an Agreement is retained in Objective together with the final signed Agreement. In other instances, information is not retained, due in part to the limitations of Objective itself, which cannot support some attachments, such as large maps.
- 3.10 Other important information associated with the development of an Agreement including, for example, information on potential disputes with the leaseholder during its negotiation, is similarly not consistently retained in Objective together with the final signed Agreement. This information, if retained, is held by the Rural Services and Natural Resource Protection Team.

- 3.11 Input from technical stakeholders into the development of a Land Management Agreement, including feedback and comments on the draft Agreement, is also not retained with the Agreement itself or, alternatively, in a centralised and coordinated place. This makes it difficult to identify:
- the administrative steps and processes associated with the development of the Agreement; and
 - whether and how technical stakeholders' input into the development of the Agreement was considered and addressed. This compounds the risks of poor administrative processes identified in Chapter 2 of this report, specifically in relation to whether technical stakeholders were effectively consulted for the purpose of developing the Agreement (refer to paragraphs 2.49 to 2.70).
- 3.12 Not retaining technical stakeholders' input into the development of the Agreement also poses a risk to the subsequent administration of the Agreement, as important supporting information and documentation is fragmented and potentially unavailable and inaccessible to responsible officers and other stakeholders.
- 3.13 During the course of the audit it was apparent that the Rural Services and Natural Resource Protection Team retains some supporting information in its own electronic records including:
- correspondence and supporting information associated with the development and conclusion of Land Management Agreements, including input from technical stakeholders;
 - correspondence and supporting information associated with any issue or dispute on the rural allotment or neighbouring allotment; and
 - more detailed mapping of the rural leasehold.
- 3.14 However, this information was inconsistently maintained and was not evident for all rural leaseholds' Land Management Agreements.
- 3.15 Documentation and information supporting the development and conclusion of Land Management Agreements is inconsistently maintained and recorded. Information on the development of an Agreement and any associated issues (including for instance, potential disputes with the leaseholder) is not consistently retained in the Objective document management system together with the final signed Agreement. Comments and feedback from technical stakeholders and their input into the development of an Agreement is also not retained with the Agreement itself or, alternatively, in a centralised and coordinated place. This makes it difficult to identify the administrative steps and processes associated with the development of the Agreement and impairs the transparency and accountability of the process.

RECOMMENDATION 4 DOCUMENTATION AND RECORD-KEEPING

The Environment, Planning and Sustainable Development Directorate should develop and implement policy and procedural guidance for the documentation and record-keeping of Land Management Agreements. The guidance should include principles for the consistent documentation of processes associated with the development of Agreements with rural leaseholders.

Currency of Land Management Agreements

3.16 Land Management Agreements are required to be reviewed and replaced by a subsequent agreement within five years from the date of signing.

3.17 Clause 6(3) of the 2020 *Land Management Agreement Form* states:

The Agreement will be reviewed and replaced by a subsequent agreement within five [5] years from the date of signing, unless a prior review is instigated by:

- a) the renewal, reissuing, variation or transferral of the lease;
- b) a request in writing from either party to the other;
- c) you advising the Territory in writing that you intend to amend the use or to include one or more of the following agricultural uses:
 - horse agistment/equestrian facility (excluding horses used for or in primary production);
 - goat or deer farming;
 - irrigated horticulture;
 - irrigated viticulture; and
 - tourism facility or farm-stay accommodation.

3.18 The same wording was in the 2016 *Land Management Agreement Form*.

3.19 Issues with the currency of Land Management Agreements were identified in the September 2009 *Report on the Review of Land Management Agreements* that was completed by Rural Programs, Programs Coordination in the former Parks, Conservation and Lands. The report that the requirement for each agreement to be reviewed every five years was not being met and that '[Parks, Conservation and Lands] now has a build-up of LMAs that have [passed] their 5 year review date'.

3.20 Of the 63 Land Management Agreements considered as part of the audit:

- 32 were less than five years old, demonstrating that they had been developed in the past five years since 2016; and
- 31 were more than five years old, demonstrating that they had not been reviewed and replaced in the past five years.

- 3.21 Of the 31 Land Management Agreements that had not been developed in the past five years, 24 of these were over ten years old. Ten of the Agreements were up to 17 years old and two of the Agreements were up to 19 years old.
- 3.22 A review of the 'LMA Priorities' tracking spreadsheet used by the Rural Services and Natural Resource Protection Team to manage the development of Land Management Agreements also shows:
- of the 41 Agreements identified for processing in 2019-20, as at March 2020 25 had not been reviewed. Ten were last updated in 2006, five were last updated in 2007 and ten were last updated in 2008;
 - of the 36 Agreements identified for processing in 2020-21, as at March 2020 27 had not been reviewed. Ten were last updated in 2008, two were last updated in 2009, five were last updated in 2010, four were last updated in 2011; five were last updated in 2012 and one was last updated in 2013; and
 - of the 40 Agreements identified for processing in 2021-22, as at March 2020 two were last updated in 2013, seven were last updated in 2014 and four were last updated in 2015. The balance of these agreements had been last updated between 2016 and 2018.
- 3.23 The 'LMA Priorities' tracking spreadsheet, discussed in paragraphs 2.61 to 2.67, was developed and implemented to work through the backlog of rural leaseholds for which Land Management Agreements had not been reviewed and replaced within the past five years. In response to the draft proposed report the Environment, Planning and Sustainable Development Directorate advised that:
- Issues with [Land Management Agreements] have been the focus of [the Rural Services and Natural Resource Protection Team] since 2016 when additional staff were employed. As a result, a strategy has been developed and adopted to ensure that all [Agreements] are current. Due to the number of [Agreements] that were out of date when this process was undertaken it was identified that it would take 5 years to get all [Agreements] up to date. The team has committed to completing 40 [Agreements] a year until all [Agreements] are back in date. They are prioritised through date of expiry, new leases or transferred leases as outlined in the guiding legislation.
- 3.24 Land Management Agreements are required to be reviewed and replaced by a subsequent agreement within five years from the date of signing. Of the 63 Agreements considered as part of the audit 31 were more than five years old, demonstrating that they had not been reviewed and replaced in the past five years. Of these Agreements 24 were over ten years old, ten were up to 17 years old and two were up to 19 years old. This shows that the Environment, Planning and Sustainable Development Directorate has not been managing the development of Agreements in a way that ensures they remain current and relevant. This impairs the ability of the Agreements to be used to 'establish appropriate sustainable agricultural management practices and good farm biosecurity for the subject land while maintaining ecological and cultural values present on the land, and protecting the environment from harm' across the Territory. The Directorate is focused on a program of activity to review and update all Agreements, which is estimated to take five years.

- 3.25 While a program of activity is currently underway to address the backlog of Land Management Agreements that have not been reviewed and replaced in the past five years, the implementation of Recommendation 3, which calls for a risk-based framework for the development and administration of Agreements, may assist in the longer-term management of Agreements.

Utility of Land Management Agreements

- 3.26 The purpose of a Land Management Agreement is articulated in the Agreement document as follows:

The principal objective of this Agreement is to establish appropriate sustainable agricultural management practices and good farm biosecurity for the subject land while maintaining ecological and cultural values present on the land, and protecting the environment from harm. This objective is to be achieved by:

- a) agreeing on general management goals and regimes;
- b) documenting the current state of the subject property; and
- c) proposing appropriate action for the management of specific issues or resolving particular problems.

- 3.27 The audit sought to understand the extent to which Land Management Agreements are capable of contributing to, and achieving, this purpose by:

- reviewing the completeness of the information in the 63 Agreements considered as part of the audit; and
- seeking stakeholder feedback on the usefulness and utility of Agreements.

Completeness of information

- 3.28 The Audit Office sought to understand the completeness of Land Management Agreements by reviewing the 63 Agreements considered as part of the audit. The Agreements were made between the early 2000s to the present. Particular attention was paid to the Agreements that had been concluded since 2016. The form of the Agreements differed over time, with up to four different versions of the Agreement apparent. The information contained within the Agreements also differed over time.

Administrative requirements

- 3.29 A review of the 63 Land Management Agreements considered as part of the audit shows:

- seven Agreements were not signed by both parties with a witness signature; and
- five Agreements were not dated.

- 3.30 These are basic administrative requirements, the absence of which compromises the management and administration of the Agreements and the ability to hold rural leaseholders to account for their actions.

Completeness of sections

3.31 A review of the 63 Land Management Agreements considered as part of the audit also shows:

- 14 Agreements did not have a Heritage Assessment, even though it was marked as a relevant category for action. A Heritage Assessment outlines any known or suspected heritage sites and landholders' action plans to manage such sites. A Heritage Assessment would be a relevant category where any known or suspected heritage sites are recorded on a site map provided to the landholder as part of the Land Management Agreement process;
- three Agreements did not have heritage management obligations included in the Agreement, even though they were recommended by the ACT Heritage Council. This is a result of ACT Heritage comments being received by the Rural Services and Natural Resource Protection Team after the submission due date. The Rural Services and Natural Resource Protection Team progressed and finalised these Land Management Agreements within their stated timeframe which is communicated to stakeholders when the Land Management Agreement is sent out for comment; and
- some sections of the Agreement were not completed. The review noted:
 - eight instances where Annexure 1 of the 2016 *Land Management Agreement Form* was not signed off in full by both the lessee or agent of the lessee and the Conservator of Flora and Fauna; and
 - six instances where the description of the rural enterprise (existing and/or proposed) in the agreement had not been completed, making it difficult to determine what rural enterprises exist on the leasehold land in question (e.g. grazing, cropping, horse agistment, horticulture, viticulture etc). In these instances the description of the rural enterprise was simply to be completed by ticking relevant boxes for descriptions.

Thematic site assessments

3.32 A consistent feature of the different forms of the Land Management Agreements over time is the thematic site assessments. As noted in paragraphs 2.36 and 2.37, the *Site Assessment and Management Actions Plan* section of both the 2016 and 2020 *Land Management Agreement Form* requires the input of information in relation to the following sections:

- existing and proposed rural enterprise;
- land management site assessment and actions
 - sites of significant environmental value
 - other native vegetation
 - soil condition
 - contaminated sites
 - drought risk management
 - water resource management and riparian zones

- bushfire risk management
 - Eastern Grey Kangaroo management
 - pest plant management
 - pest animal management
 - heritage
- 3.33 Two thematic categories – contaminated sites and Eastern Grey Kangaroo management – were not featured across all historical versions of the Agreements prior to the 2016 *Land Management Agreement Form*.
- 3.34 For the Land Management Agreements reviewed, it is evident that for most Agreements and most themes, at least a very basic level of ‘Yes/No’ information had been documented in the Agreement. The assessment could have been actioned through a simple ‘Yes/No’ checkbox response or a more fulsome free text response.
- 3.35 The type of response, i.e. basic checkbox response or more fulsome free text response, was largely dependent on:
- the year the Land Management Agreement was developed and therefore which version of the form was used; and
 - the theme and its particular application to the rural lease.
- 3.36 The more historic Land Management Agreements from the early 2000s required the landholder to complete a Land Action Plan. In comparison to Agreements concluded under the 2016 *Land Management Agreement Form*, the Land Action Plan was a clear way to prompt the landholder to describe an issue, identify and document actions and desired outcomes along with a proposed timeframe. Generally, more descriptive information was included for the thematic site assessments in Agreements concluded in the early 2000s.
- 3.37 For Land Management Agreements that were concluded latterly, including those using the 2016 *Land Management Agreement Form*, there was *generally* less descriptive information was included for the thematic site assessments. In saying this, however, instances were identified where detailed and informative responses were included.
- 3.38 The nature of the rural leasehold means that not all themes are relevant and applicable, e.g. there may be no sites of heritage value or water courses that require water resource and riparian zone management. Some rural leaseholds reviewed were small and located in urban zones and had no sites of significant environmental value or native vegetation identified. Minimal detail in the Agreement itself and very brief descriptions in the Management Actions section was understandable.
- 3.39 However, examples were also identified where sites of significant environmental value and native vegetation were identified, as well as pest plant and animal risks, and there was minimal information in the Management Actions section of the Agreement. By way of example, a Land Management Agreement was signed in 2019 for a property in the Stromlo District of 18 hectares for which the existing and proposed rural enterprise was grazing. The

Agreement identified that the site included sites of Blakely's Red Gum, Box Gum Woodland and native grassland, as well as exotic grasslands.

3.40 The *Soil Condition* component of the Land Management Agreement included the following information:

- Site Assessment: *Completed*
- Desired Outcomes: *To maintain good soil health*
- Management Actions: *Use of fertiliser when required*
- Proposed Timetable for each Action: *Ongoing*

3.41 In relation to the *Pest Plant Management* component of the Land Management Agreement a number of pest plants had been identified on the property including St John's Wort, African Lovegrass, Blackberry and Sweet briar. The Agreement included the following management actions for these pest plants:

- How do you plan to manage the pest plants on your property? *Physical removal and use of chemical*
- What is the desired outcome? *To control the spread of weeds*

3.42 These responses are brief and lacking in detail and do not identify specific actions and outcomes for which the rural leaseholder can be effectively held to account through monitoring compliance and enforcement. Similar responses to these were found in Land Management Agreements concluded through the 2016 *Land Management Agreement* Form that were reviewed as part of the audit, although instances were identified where detailed and informative responses were included. The Agreements do not prescribe the level or depth of information needed and it is therefore up to the judgement of the rural leaseholder and Rural Services and Natural Protection Team officers as to what information is to be included and at what level of detail.

3.43 A review of the 63 Land Management Agreements considered as part of this audit showed that, while they are predominately complete and respond to each required site assessment category, they often lack a depth of information and assessment and the information is often of variable quality. This compromises their ability to be used as an active and ongoing land management tool and as a means for '[establishing] appropriate sustainable agricultural management practices and good farm biosecurity for the subject land while maintaining ecological and cultural values present on the land, and protecting the environment from harm' across the Territory. The lack of detail and specific actions and outcomes identified in Agreements also compromises the ability of ACT Government agencies to monitor and enforce compliance with Land Management Agreements by rural leaseholders.

RECOMMENDATION 5 LAND MANAGEMENT AGREEMENT DETAIL

The Environment, Planning and Sustainable Development Directorate should identify and prescribe a minimum level of detail for Land Management Agreements that fosters their use as an active and ongoing land management tool. The minimum level of detail should identify specific actions and outcomes that facilitate the monitoring and enforcement of compliance with Agreements by rural leaseholders.

Farm FireWise Plans

3.44 A Land Management Agreement cannot be approved without a Farm FireWise Plan. This is a requirement of both the 2016 and 2020 *Land Management Agreement Form* which state:

The LMA cannot be approved without a Farm FireWise Plan (FFP) in place therefore each landholder must acknowledge on the LMA Plan and Map that a FFP has already been approved by the Emergency Services Agency (ESA).

Bushfire risk management

3.45 Farm FireWise Plans are a means to assist in the management of bushfire risks to both the rural leaseholders property and adjoining the Territory. Farm FireWise Plans derive from section 78 of the *Emergencies Act 2004*, which identifies requirements for the preparation of bushfire operational plans and the role of the Emergency Services Agency Commissioner in approving and reviewing plans. According to the Territory's *Strategic Bushfire Management Plan 2019-2024* bushfire operational plans 'detail the specific type, location and timing of fuel reduction, access and infrastructure activities proposed to be undertaken by the landholder'.

3.46 Subsection 78(1) of the *Emergencies Act 2004* requires the preparation of bushfire operational plans by:

- the manager of an area of unleased Territory land or land occupied by the Territory (unless the land is exempt from the operation of the Act by the Strategic Bushfire Management Plan); or
- the owner of an area of land in a Bushfire Abatement Zone (BAZ) if:
 - the Strategic Bushfire Management Plan sets out requirements for a bushfire operational plan for the Bushfire Abatement Zone; and
 - the land is identified in the Strategic Bushfire Management Plan as land for which a bushfire operational plan must be prepared.

3.47 The Territory's *Strategic Bushfire Management Plan 2019-2024* states 'under this plan, all landholders within the [Bushfire Abatement Zone] must prepare a [bushfire operational plan] for that land'. The Plan goes on to state that a Farm FireWise Plan fulfils the purpose of a bushfire operational plan:

The ESA supports and assists rural landholders, through the RFS Farm FireWise program, in their prevention, preparedness, response and recovery actions and capabilities. Under the

program, a risk assessment is completed of the rural property, identifying at-risk assets. Mitigation strategies are then developed to reduce the risk to those assets. Plans developed for rural leases under the RFS Farm FireWise program meet the requirements for a [bushfire operational plan].

Farm FireWise Plans

3.48 A review of the 63 rural leaseholds and their associated Land Management Agreements considered as part of the audit shows 51 rural leaseholds were supported by a Farm FireWise Plan or another mechanism for addressing the bushfire risks associated with the property:

- 34 rural leaseholds had a Farm FireWise Plan in place;
- two rural leaseholds had a draft Farm FireWise Plan prepared and awaiting agreement by the rural leaseholder;
- 12 rural leaseholds were supported by a bushfire management map of the property which identified bushfire risk management measures. The bushfire management map was in place in lieu of a Farm FireWise Plan; and
- three rural leases related to Suburban Land Agency land for which the bushfire risks are identified and managed through a Bushfire Operational Plan that is in place and approved by the Emergency Services Agency Commissioner, and did not need to be supported by a specific Farm FireWise Plan.

3.49 A further seven rural leaseholds were in the process of having a Farm FireWise Plan developed, but did not have an existing plan in place because they were new lessees or did not previously require a Plan.

3.50 A further five rural leaseholds were in the process of having a Farm FireWise Plan developed, and there was no evidence of an existing Plan for the property.¹

3.51 Farm FireWise Plans are a means to assist in the management of bushfire risks to both the rural leaseholders property and adjoining the Territory. A Farm FireWise Plan serves as a bushfire operational plan for the purpose of the *Emergencies Act 2004* and the Territory's *Strategic Bushfire Management Plan 2019-2024*. The *Land Management Agreement* form states that it cannot be approved without a Farm FireWise Plan. However, the *Strategic Bushfire Management Plan 2019-2024* requires only rural leaseholds within the Bushfire Abatement Zone to prepare a Farm FireWise Plan. A review of the 64 rural leaseholds considered as part of the audit shows: 51 rural leaseholds were supported by a Farm FireWise Plan or another mechanism for addressing the bushfire risks associated with the property; and for a further 12 rural leaseholds Farm FireWise Plans were being developed. (Seven of these leaseholds did not have an existing plan in place because they were new

¹ One rural lease was understood to have a Farm FireWise Plan in place, but the ACT Rural Fire Service had identified that a more in-depth Emergency Management Plan was required to fulfil lease-specific requirements. Notwithstanding an intention to commence negotiations on a new Plan, the existing Plan could not be located.

lessees or did not previously require a Plan and there was no evidence of an existing Plan for the remaining five).

Rural leaseholder views

3.52 As part of the audit process, the audit team met with representatives of the ACT Rural Leaseholders' Association, as well as individual rural leaseholders to discuss the development of Land Management Agreements. Through these discussions some feedback was received that:

- the Agreements are not a useful document as they are not routinely monitored or managed after the leaseholder has signed and implemented the Agreement;
- the *Land Management Agreement Form* is heavily bureaucratic and that there are too many ACT Government stakeholders (with different priorities and objectives) involved in the Agreement development and conclusion process;
- the environmental and land management obligations imposed on rural leaseholders through the Agreement process is more onerous than those for ACT Government-managed lands in the Territory; and
- the five-year review period is too frequent because some environmental and land management issues require longer term management and this makes the five-year review period ineffective.

3.53 The information received from rural leaseholders who were consulted as part of the audit is similar to observations made in the Parks, Conservation and Lands *Report on the Review of Land Management Agreements* (2009). Specifically with respect to rural leaseholders and their understanding and attitude towards Land Management Agreements, the report identified:

The lessees have generally mistrusted the LMA process, considering the agreements a necessary "inconvenience" in order to attain their lease. Their attitude seems to be that the agreement should contain as little detail as possible, which minimises their obligations over the 5 year review period.

3.54 The feedback that was received from rural leaseholders was noted for the purpose of the audit. The relevance of the feedback is that it represents the views of some rural leaseholders that have been involved in the development and implementation of Land Management Agreements across the Territory.

4 MONITORING AND ENFORCEMENT OF LAND MANAGEMENT AGREEMENTS

- 4.1 This chapter considers activities to monitor rural leaseholders' compliance with their Land Management Agreement obligations and take enforcement action.

Summary

Conclusions

ACT Government agencies are not effectively monitoring and enforcing rural leaseholders' compliance with Land Management Agreements. There is no regular and systematic program of compliance activity to monitor rural leaseholders' compliance with their Agreement obligations and there is no evidence of any enforcement activity being undertaken by any ACT Government agency in relation to rural leaseholders and their Agreements.

Key findings

In 2009, the then ACT Parks, Conservation and Lands (Programs Coordination) developed and put in place *Land Management Agreement Monitoring and Compliance Guidelines*, the purpose of which is to 'outline procedures for ongoing monitoring and compliance ... of Land Management Agreements (LMAs)'. The Guidelines envisage a need for 'clear, adaptive and technical advice on remedial action/s that may be required' and discuss the need for monitoring and compliance officers to be familiar with rural leaseholds and their specific issues and undertake regular site visits. The Guidelines are high-level and provide little practical administrative or procedural guidance on how to undertake monitoring and compliance activity. The Guidelines have not been reviewed or updated since 2009.

Paragraph

4.20

There is no regular and systematic program of compliance activity undertaken by the Rural Services and Natural Resource Protection Team or Access Canberra to monitor rural leaseholders' compliance with their Land Management Agreement obligations. Feedback from rural leaseholders consulted as part of the audit indicated that, from their perspective, once an Agreement is signed and in place no further monitoring of their compliance with the Management Actions section of the Agreement is undertaken. Rural Services and Natural Resource Protection Team officers engage and interact with rural leaseholders on a regular basis but do not have responsibility for monitoring compliance with Agreements through the *Planning and Development Act 2007*, which is the responsibility of Access Canberra.

4.37

Access Canberra has delegated powers under the *Planning and Development Act 2007*, more specifically the *Planning and Development (Inspectors) Appointment 2019 (No 2)*, to appoint inspectors to all urban and rural land areas, but does not

4.38

proactively monitor rural leaseholders' compliance with Land Management Agreements. The Rural Services and Natural Resource Protection Team, which interacts with rural leaseholders for the development of Agreements and other rural lands management activities, has not referred any matters to Access Canberra for further review or investigation in relation to rural leaseholders' compliance with their Agreement responsibilities. There is no evidence of any monitoring and enforcement activity being undertaken by any ACT Government agency in relation to rural leaseholders and their Agreements.

Clause 7 of the *Land Management Agreement Form* provides for the resolution of disputes in relation to Land Management Agreements. To date there have been no disputes in relation to Agreements that have been recognised and managed in accordance with clause 7 of the Agreement. This is despite the fact that Agreements have been in existence since the early 2000s and specific rural leaseholders may have had multiple Agreements during this period.

4.44

Monitoring and enforcement

- 4.2 The 2016 *Land Management Agreement Form* and revised 2020 *Land Management Agreement Form* outlines the role of the Territory with respect to monitoring rural leaseholders' compliance with their Land Management Agreement:

The Territory recognises that its land management role includes:

...

h) monitoring and auditing compliance with Land Management Agreements which includes access to the lands and the requirement to comply with relevant legislation; and

...

- 4.3 A Land Management Agreement, and the activities described within the Agreement, may be subject to compliance and enforcement action as outlined in:

- sections 339 and 361 and Schedule 2 of the *Planning and Development Act 2007* (relating to controlled activities); or
- other legislation, e.g. the *Nature Conservation Act 2014*.

Compliance and enforcement opportunities

Controlled activities

4.4 Chapter 11 of the *Planning and Development Act 2007* provides for the management and enforcement of controlled activities under the Act. Controlled activities are defined in section 339 with reference to Schedule 2 of the Act. Schedule 2 of the *Planning and Development Act 2007* identifies that a controlled activity includes:

Managing land held under a rural lease other than in accordance with-

...

b) in any other case-the land management agreement for the land.

4.5 Schedule 2 of the *Planning and Development Act 2007* also identifies that ‘failing to enter into a land management agreement as required under section 286’ is also a controlled activity.

4.6 Section 361 of the *Planning and Development Act 2007* states:

- 1) A person commits an offence if-
 - a) The planning and land authority makes a controlled activity order directed to the person; and
 - b) The order requires the person to do, or not to do, something stated in the order; and
 - c) The person is given notice of the making of the order (whether by being given a copy of the order or otherwise); and
 - d) The person contravenes the order.
- 2) An offence against this section is a strict liability offence.

Other legislative requirements

4.7 Land Management Agreements refer to, and otherwise align with, a range of other legislation that is relevant to the management of rural leasehold land. This includes, for example, the *Nature Conservation Act 2014*, the *Pests, Plants and Animals Act 2005*, the *Heritage Act 2004* and the *Emergencies Act 2004* (in relation to bushfire risk management) in addition to any obligations that may be imposed by the *Planning and Development Act 2007*. This legislation provides its own obligations and potential sanctions on rural leaseholders, irrespective of whether an Agreement is in place.

Previous review activity

Report on ACT Lowland Native Grassland Investigation (March 2009) (Commissioner for Sustainability and the Environment)

- 4.8 The September 2009 *Report on ACT Lowland Native Grassland Investigation* from the Commissioner for Sustainability and the Environment discussed the need for monitoring, assessment or auditing processes to be established for Land Management Agreements:

Conditions in land management agreements (attached to rural leases) are potentially a powerful mechanism for protecting lowland native grassland areas on leased rural land. However, for their benefit to be realised the conditions must be implemented. Accordingly, the government department responsible for administering land management agreements needs to monitor compliance and take enforcement action if needed.

...

Land management agreements need to be monitored and assessed in order to ensure the required on-the-ground actions are achieving the desired ecological results. There was no evidence of a formal monitoring, assessment or auditing process being in place. Furthermore, information from such a process could be used to help the ACT Government's Flora and Fauna Committee advise on policy issues and monitor implementation of the ACT Government's, *2005 A Vision Splendid of the Grassy Plains Extended: ACT Lowland Native Grassland Conservation Strategy*, Action Plan No. 28.

- 4.9 The report made two specific recommendations of relevance:

Recommendation 16

Foster a strong culture of compliance, monitoring and enforcement within the government department responsible for administering land management agreements.

Recommendation 17

Establish a formal monitoring, assessment and auditing process aimed at ensuring conditions in land management agreements achieve the desired ecological results.

Report on the Review of ACT Land Management Agreements (September 2009) (Parks, Conservation and Lands)

- 4.10 The September 2009 *Report on the Review of Land Management Agreements* completed by Rural Programs, Programs Coordination similarly noted there was a desire for more monitoring activities on the part of the department. The report stated:

... by rangers undertaking regular monitoring activities [the department] would be able to collate details of lessee's activities and provide appropriate and timely advice to lessees regarding the protection of high conservation value areas that are situated on rural lands.

- 4.11 Specifically with respect to rural leaseholders and their understanding and attitude towards Land Management Agreements, the September 2009 *Report on the Review of Land Management Agreements* noted:

The LMA process has received scant regard from lessees in the past due to their awareness that PCL staff have not been consistently undertaking compliance and enforcement activities. Within PCL business units there has been confusion over whose responsibility it was to monitor compliance with LMA provisions.

In addition, many current staff do not possess the appropriate knowledge and experience in agricultural production and associated land management techniques to confidently determine shortcomings in a lessee's environmental management practices. A lack of awareness of enforcement procedures when a problem was detected was also evident.

4.12 The *Report on the Review of Land Management Agreements* (2009) further identified:

The monitoring of adherence to LMA Action Plans has been identified as being deficient by PCL management and in the findings of the ACT Native Grassland Investigation prepared by [the Commissioner for the Environment and Sustainability]. It has been recognised that PCL ranger staffing resources have been inadequate to include rural land management / LMA monitoring functions in their already heavy workloads. Parks and Reserve management has recognised the need to allocate a dedicated staffing resource to focus on rural land issues, primarily to monitor lessees' adherence to LMA provisions. Rangers have expressed concern about the lack of knowledge on sustainable agricultural practices amongst staff.

Policy and procedural guidance

ACT Parks, Conservation and Lands guidance (2009)

4.13 In 2009 the then ACT Parks, Conservation and Lands (Programs Coordination) developed the *Land Management Agreement Monitoring and Compliance Guidelines*. The purpose of the Guidelines is to:

... outline procedures for ongoing monitoring and compliance by Parks, Conservation and Lands (PCL) staff of Land Management Agreements (LMAs) approved by the ACT Conservator of Flora and Fauna. Other Government/non-Government agencies may use these guidelines for reference purposes.

Need for adaptive and technical advice that acknowledges diversity

4.14 The *Land Management Agreement Monitoring and Compliance Guidelines* (2009) discuss the need for 'clear, adaptive and technical advice on remedial action/s that may be required':

All incidents will need to be managed individually through the provision of clear, adaptive and technical advice on remedial action/s that may be required. Some of this advice may need to be sought from experts/other authorities.

4.15 The *Land Management Agreement Monitoring and Compliance Guidelines* (2009) acknowledge the diversity of rural leasehold land and the nature and type of farming practices:

It should be realised that lessees have differing approaches to land management and conservation management. This may result in conflicting views on the extent of assistance/intervention that may be needed from Government agencies and the interaction within their local communities.

Need for familiarisation and good working relationships

- 4.16 The *Land Management Agreement Monitoring and Compliance Guidelines (2009)* discuss the need for monitoring and compliance officers to be familiar with rural leaseholds and their specific issues:

It is important for rangers to familiarise themselves with the location and condition of each rural lease in their district and the main issues listed in the LMA for that particular lease.

At times, conflict may be avoided and compliance action become unnecessary simply by the lessee having confidence in the rangers advice and undertaking the recommended remedial work to fix an identified land management problem.

- 4.17 The *Land Management Agreement Monitoring and Compliance Guidelines (2009)* acknowledge the need for a good working relationship with rural leaseholders to manage Land Management Agreement obligations:

Rangers should try to develop a rapport and maintain a good working relationship with lessees in their districts as they are the daily point of contact between the ACT Government and the rural community. Lessees need to know who their local rangers are, how to contact them and be assured that they can attain sound, professional advice and support from them.

- 4.18 The *Land Management Agreement Monitoring and Compliance Guidelines (2009)* discuss the need for regular site visits to rural leaseholders to monitor compliance with Land Management Agreements:

Rangers' on-site inspections do not need to be strictly formal or scheduled, as long as personal contact is maintained on a 3 monthly basis. Ideally monitoring of leases should occur as daily/week event as rangers undertake routine duties in their districts. Due to the nature of their employment, rangers are mobile often traversing main and side roads en route to various locations. It's during these regular trips that observations can be made to gauge the standard of land management on rural properties. When driving past a rural lease the ranger should take note of pasture height; vegetation cover and bare areas; weed and pest infestations, including evidence of control activities; the type, numbers and health of stock; kangaroo numbers and any unusual activity occurring on the property.

At the very least, a rural property should be visually inspected and personal contact made with each lessee once every change of season, to assess the management of the property and whether any Government advice/intervention may be required.

The point to stress is that a visit to a property need not take more than five or ten minutes. It could be just a courtesy visit to advise the lessee of a pest/weed control activity that is to be undertaken on adjoining land. There is a concern that other important work commitments could be delayed by lessees who raise issues in relation to the management of neighbouring Territory land. This is to be expected and provides an opportunity to demonstrate that PCL is taking its role and responsibilities as a neighbour seriously.

With regular visits/inspections, a ranger should become familiar with the main issues facing each lessee in their district and be able to detect land management issues that may need to be addressed by the lessee.

- 4.19 The *Land Management Agreement Monitoring and Compliance Guidelines (2009)* are five pages in length and include an introductory 'Background' section, as well as sections on 'Developing an effective monitoring and compliance regime' and 'Building rapport and trust with Lessees'. The Guidelines are at a high-level and provide little practical administrative or procedural guidance on how to undertake monitoring and compliance activity.

4.20 In 2009, the then ACT Parks, Conservation and Lands (Programs Coordination) developed and put in place *Land Management Agreement Monitoring and Compliance Guidelines*, the purpose of which is to 'outline procedures for ongoing monitoring and compliance ... of Land Management Agreements (LMAs)'. The Guidelines envisage a need for 'clear, adaptive and technical advice on remedial action/s that may be required' and discuss the need for monitoring and compliance officers to be familiar with rural leaseholds and their specific issues and undertake regular site visits. The Guidelines are high-level and provide little practical administrative or procedural guidance on how to undertake monitoring and compliance activity. The Guidelines have not been reviewed or updated since 2009.

Roles and responsibilities

4.21 A number of ACT Government agencies and business units may be involved in the monitoring and enforcement of Land Management Agreements, including:

- the Rural Services and Natural Resource Protection Team in the Resilient Landscapes Branch;
- the Licensing and Compliance Unit in the Resilient Landscapes Branch; and
- Access Canberra within the Chief Minister, Treasury and Economic Development Directorate.

Rural Services and Natural Resource Protection Team (Environment Division)

4.22 The Rural Services and Natural Resource Protection Team has a key responsibility for engaging with rural leaseholders with respect to Land Management Agreements. This includes assisting rural leaseholders with the development of Land Management Agreements.

4.23 This places the Rural Services and Natural Resource Protection Team in an appropriate position to identify potential non-compliance with Land Management Agreements and, potentially, broader legislative requirements and initiate enforcement action. However, the role and responsibilities of the Rural Services and Natural Resource Protection Team for the monitoring of compliance is not specifically and explicitly documented.

Licensing and Compliance Unit (Environment Division)

4.24 The Licensing and Compliance Unit within the Resilient Landscapes Branch is responsible for licensing and compliance activities associated with Eastern Grey Kangaroo culling activity on rural leasehold land.

Access Canberra

4.25 Access Canberra is responsible for assessing and investigating complaints about breaches of the *Planning and Development Act 2007*. Access Canberra has delegated powers under the *Planning and Development Act 2007*, more specifically the *Planning and Development (Inspectors) Appointment 2019 (No 2)*, to appoint inspectors to all urban and rural land areas.

Access Canberra is also responsible for assessing and investigating complaints about breaches of the *Planning and Development Act 2007*.

Monitoring and compliance activity

4.26 The *Land Management Agreement Monitoring and Compliance Guidelines (2009)* discuss the need for a strategic program of interaction and support to facilitate the effective monitoring of rural leaseholders' compliance:

When an LMA has been signed by the Lessee and Conservator of Flora and Fauna, a regular strategic program of interaction and support between the lessee and P&R rangers needs to be implemented. This is crucial to enable a lessee's adherence to the provisions of their LMA to be effectively monitored.

4.27 In practice, there is no regular and systematic program of activity undertaken to monitor rural leaseholders' compliance with their Land Management Agreement obligations. Neither the Rural Services and Natural Resource Protection Team, the Licensing and Compliance Unit or Access Canberra have implemented such a program of activity.

4.28 This accords with feedback from rural leaseholders consulted as part of the audit who indicated that, once a Land Management Agreement is signed and in place, from their perspective there is no further monitoring of their compliance with the Management Actions section of the Agreement.

Rural Services and Natural Resource Protection Team

4.29 In its response to the draft proposed report the Environment, Planning and Sustainable Development Directorate advised that it is not responsible for monitoring rural leaseholders' compliance with their Land Management Agreement. The directorate advised that compliance in relation to Agreements 'via the *Planning and Development Act 2007* is the accountability of Access Canberra' and that its staff 'have no delegations under the *Planning and Development Act 2007* and therefore no legal authority to enter or inspect properties'.

4.30 Notwithstanding that the Rural Services and Natural Resource Protection Team does not undertake a regular and systematic program of compliance activity, it is apparent that Rural Services and Natural Resource Protection Team officers do engage and interact with rural leaseholders and provide advice on land management practices at least upon the commencement of a new Land Management Agreement or as Agreements are renewed. Evidence of these interactions is maintained in an ad hoc manner at the discretion of each Rural Services Officer with respect to:

- discussions and/or outcomes of Rural Services and Natural Resource Protection Team members' visits to rural leaseholders; or
- any advice provided, or corrective action recommended, by Rural Services and Natural Resource Protection Team members to rural leaseholders.

Access Canberra

- 4.31 Access Canberra does not deploy its officers to monitor rural leaseholders' compliance with Land Management Agreements. Access Canberra advised that its primary concern is in relation to the 'use of land' as opposed to the 'management of land'. In this respect its primary interest is in ensuring that rural (and other) leaseholders are using the land in accordance with the lease, i.e. for rural and agricultural purposes, but not the manner in which the rural leaseholder is managing the land. An exception to this approach relates to the Environment Protection Authority, which sits within Access Canberra, and matters in which it might become involved in.
- 4.32 Although Access Canberra does not deploy its officers to proactively monitor rural leaseholders' compliance with Land Management Agreements representatives of the Rural Services and Natural Resource Protection Team are a potential source of referrals to Access Canberra for enforcement activity. As discussed in paragraphs 4.29 to 4.30, Rural Services and Natural Resource Protection Team officers routinely engage with rural leaseholders on a range of issues in the course of their activities. However, the Rural Services and Natural Resource Protection Team has not referred any matters to Access Canberra for further review or investigation in relation to rural leaseholders' compliance with their Agreement responsibilities or other legislative obligations. If an issue arises with a rural leaseholder's land management actions as identified in the Agreement, Rural Services and Natural Resource Protection Team officers advised it is generally resolved informally in discussion with the rural landholder.
- 4.33 Representatives of the Rural Services and Natural Resource Protection Team also advised that Land Management Agreements are not particularly useful documents for monitoring compliance and taking enforcement action. Representatives advised their primary value is in building effective relationships and educating rural landholders and identifying systemic land management issues across the rural landscape.
- 4.34 The Audit Office was advised that Access Canberra had only received one complaint from a member of the public regarding rural leasehold land. It involved a rural leaseholder's use of adjoining rural land. This was considered and actioned by Access Canberra as a breach of a condition of the lease, i.e. use of land, as opposed to a breach of the Land Management Agreement, i.e. management of land.

Enforcement action for controlled activities

- 4.35 Access Canberra advised that its opportunity to undertake enforcement action in relation to Land Management Agreements arises from section 361 of the *Planning and Development Act 2007* and the issuing of a controlled order.
- 4.36 To take enforcement action under section 361 of the *Planning and Development Act 2007* a controlled activity order would need to be made and directed to a rural leaseholder. To be in a position to issue a controlled activity order in relation to the Land Management Agreements and its obligations, the management actions identified in the Agreement to be

undertaken by the rural leaseholder would need to be specific and actionable. Access Canberra representatives questioned the specificity of the management actions identified in the Agreements and the ability for these to be enforced through a controlled activity order. The specificity and utility of the management actions outlined in Agreements was discussed in paragraphs 3.42 to 3.43. The *Land Management Agreement Monitoring and Compliance Guidelines* (2009) discuss the need for a strategic program of interaction and support to facilitate the effective monitoring of rural leaseholders' compliance, which is 'crucial to enable a lessee's adherence to the provisions of their LMA to be effectively monitored'. Neither the Rural Services and Natural Resource Protection Team or Access Canberra has developed or documented a strategic compliance program for the management and administration of Agreements.

4.37 There is no regular and systematic program of compliance activity undertaken by the Rural Services and Natural Resource Protection Team or Access Canberra to monitor rural leaseholders' compliance with their Land Management Agreement obligations. Feedback from rural leaseholders consulted as part of the audit indicated that, from their perspective, once an Agreement is signed and in place no further monitoring of their compliance with the Management Actions section of the Agreement is undertaken. Rural Services and Natural Resource Protection Team officers engage and interact with rural leaseholders on a regular basis but do not have responsibility for monitoring compliance with Agreements through the *Planning and Development Act 2007*, which is the responsibility of Access Canberra.

4.38 Access Canberra has delegated powers under the *Planning and Development Act 2007*, more specifically the *Planning and Development (Inspectors) Appointment 2019 (No 2)*, to appoint inspectors to all urban and rural land areas, but does not proactively monitor rural leaseholders' compliance with Land Management Agreements. The Rural Services and Natural Resource Protection Team, which interacts with rural leaseholders for the development of Agreements and other rural lands management activities, has not referred any matters to Access Canberra for further review or investigation in relation to rural leaseholders' compliance with their Agreement responsibilities. There is no evidence of any monitoring and enforcement activity being undertaken by any ACT Government agency in relation to rural leaseholders and their Agreements.

RECOMMENDATION 6 MONITORING AND COMPLIANCE

The Environment, Planning and Sustainable Development Directorate and Access Canberra should develop a risk-based framework for the monitoring and enforcement of Land Management Agreements including processes for:

- a) monitoring rural leaseholders' compliance with their Agreements; and
- b) taking enforcement action in the event of potential non-compliance.

4.39 The implementation of Recommendation 1, which relates to the identification and documentation of roles and responsibilities and the establishment of an ongoing forum for

the discussion and resolution of issues associated with the development of Land Management Agreements, should also assist in the cooperation and coordination of efforts across ACT Government for monitoring compliance and taking enforcement action. Clarification of roles and responsibilities for monitoring and compliance activity may also necessitate consideration and clarification of delegated responsibility and accountability under the *Planning and Development Act 2007*.

Dispute resolution

4.40 Clause 7 of the *Land Management Agreement Form* provides for the resolution of disputes in relation to Land Management Agreements. Clause 7 states:

The parties agree that they will seek to resolve any issue or problem which might arise between them under the Agreement in accordance with the following:

1. Any party claiming that a dispute has arisen under the Agreement must give written notice to the other party, designating as its representative a person with authority to settle the dispute. The other party shall, within 14 days of receiving such notice, give notice to the first party, designating as its representative a person with authority to settle the dispute;
2. Within 14 days of the second notice referred to in paragraph 1 of this clause, the representatives of the parties must meet and in good faith seek to resolve the dispute as quickly as possible;
3. If the dispute is not resolved within the following 14 days (or within such period as the representatives may agree), then the parties will proceed to mediation. Within a further 14 days, the parties will seek to agree upon a mediator as well as a procedure and timetable for any exchange of documents and other information relating to the dispute, and the procedure for mediation. Each party will be responsible for one half of the costs of engaging the mediator;
4. The parties agree that the purposes of any exchange of documents and information, and of any offers which may be made during this process, is to attempt to settle the dispute. Neither party may use any such documents, information or offers for any purpose other than an attempt to settle the dispute; and
5. If
 - (a) a party fails to comply with the timetable set out in this clause; or
 - (b) the parties fail to agree on the appointment of a mediator; or
 - (c) the dispute is not resolved by mediation;

then where paragraph (a) applies the other party may, and where paragraph (b) or (c) applies either party may, refer the dispute to a person who has authority to intervene and direct some form of resolution.

Policy and procedural guidance

4.41 The Environment, Planning and Sustainable Development Directorate, through either the Rural Services and Natural Resource Protection Team or Conservator Liaison Team, has not developed policy and procedural guidance to support effective dispute resolution processes.

Disputes

4.42 To date there have been no disputes in relation to Land Management Agreements that have been recognised and managed in accordance with clause 7 of the Agreement. This is despite the fact that Agreements have been in existence since the early 2000s and specific rural leaseholds are likely to have had multiple Agreements during this period. In its response to the draft proposed report the Environment, Planning and Sustainable Development Directorate noted that:

Given there has been no requirement to enact the dispute resolution process could be seen as an indicator that the relationship between landholders and Government is generally cooperative and therefore issues are resolved through discussion and negotiation through or outside the [Land Management Agreement] process.

4.43 This accords with the intention of the Environment, Planning and Sustainable Development Directorate to use education and capacity building as the first steps in compliance, which is effectively undertaken by Rural Services and Natural Resource Protection Team officers.

4.44 Clause 7 of the *Land Management Agreement Form* provides for the resolution of disputes in relation to Land Management Agreements. To date there have been no disputes in relation to Agreements that have been recognised and managed in accordance with clause 7 of the Agreement. This is despite the fact that Agreements have been in existence since the early 2000s and specific rural leaseholders may have had multiple Agreements during this period.

Audit reports

Reports Published in 2019-20	
Report No. 10 – 2020	2019-20 Financial Audit – Financial Results and Audit Findings
Report No. 09 – 2020	2019-20 Financial Audits Overview
Report No. 08 – 2020	Annual Report 2019-20
Report No. 07 – 2020	Management of care of people living with serious and continuing illness
Report No. 06 – 2020	Transfer of workers' compensation arrangements from Comcare
Report No. 05 – 2020	Management of household waste services
Report No. 04 – 2020	Residential Land Supply and Release
Report No. 03 – 2020	Data Security
Report No. 02 – 2020	2018-19- Financial Audits – Computer Information Systems
Report No. 01– 2020	Shared Services Delivery of HR and Finance Services
Report No. 11 – 2019	Maintenance of ACT Government School Infrastructure
Report No. 10 – 2019	2018-19 Financial Audits – Financial Results and Audit Findings
Report No. 09 – 2019	2018-19 Financial Audits – Overview
Report No. 08 – 2019	Annual Report 2018-19
Reports Published in 2018-19	
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Report No. 04 – 2019	2017-18 Financial Audits Computer Information Systems
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Report No. 02 – 2019	Recognition and implementation of obligations under the <i>Human Rights Act 2004</i>
Report No. 01 – 2019	Total Facilities Management Procurement
Report No. 12 – 2018	2017-18 Financial Audits – Financial Results and Audit Findings
Report No. 11 – 2018	2017-18 Financial Audits – Overview
Report No. 10 – 2018	Annual Report 2017-18
Report No. 09 – 2018	ACT Health's management of allegations of misconduct and complaints about inappropriate workplace behaviour

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