



CONSERVATION COUNCIL ACT REGION

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REPRESENTATION ON PLANNING, ENVIRONMENTAL, HERITAGE, TRAFFIC, PROCEDURAL AND COMPLIANCE GROUNDS

EXECUTIVE SUMMARY

HIGH-LEVEL CONCERN

The Conservation Council ACT Region has significant concerns about the environmental impacts of the proposal. As has been noted by Friends of Grasslands Inc (FOG) in its comprehensive submission focussing on the ecological risks posed by this proposal¹, the land concerned could contribute to connecting two areas known to be occupied by Canberra Grassland Earless Dragon. This species is critically endangered, occupying only small fragmented pieces of Natural Temperate Grassland. Removing this potential link would be detrimental to its survival, and to the overall health of Natural Temperate Grasslands within the ACT. This land is of very high conservation value that is currently being considered as part of the Eastern Broadacre Strategic Assessment. We support the submission by FOG and offer additional comments set out below.

CRITICAL ASSESSMENT REQUIREMENTS

The Conservation Council ACT Region objects to DA 202544243 on the following grounds, requiring comprehensive assessment before determination:

1. First Peoples' Heritage Assessment Failure – The proponent appears to rely on outdated advice that relates to a small portion of the area to be sub-divided and developed. Absent a contemporary assessment, the significance of the area to First Nations People and Groups, and therefore the potential impact to heritage, is unclear. There is no evidence consultation has been undertaken with organisations representing First Peoples.

¹ <https://www.fog.org.au/Submissions/20250801.htm>

2. Ecological Impact and EPBC Act Non-compliance - Subdivision and earthworks will directly impact 1.53 hectares of an ecological community listed as threatened under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth; **EPBC Act**) and the *Nature Conservation Act 2014* (**NC Act**) ('Critically Endangered' at both levels) and habitat for EPBC Act listed Striped Legless Lizard and Golden Sun Moth. No referral has been published under Part 7 of the EPBC Act.

3. National Capital Authority (NCA) Works Approval Missing - Traffic lights and slip lanes proposed on Canberra Avenue (Designated Area) require mandatory Works Approval from the NCA before the Territory can approve subdivision infrastructure. Cross-jurisdictional approval appears absent.

4. Planning Act 2023 Assessment Failures - Development may constitute "significant development" under s 94 of the Planning Act requiring design review panel consultation (s 100) or Environmental Impact Statement (s 105). Assessment pathway not properly determined.

5. Cross-agency Coordination Failure - Department of Defence consultation inadequate for infrastructure near HMAS Harman. EPA contamination assessment is required before agricultural land earthworks. Multiple agency coordination requirements not met.

DETAILED GROUNDS OF OBJECTION

PLANNING AND PROCEDURAL GROUNDS

Significant Development Assessment Under *Planning Act 2023*

Section 94 of the Planning Act defines "significant development" as development requiring subdivision design application (s 43), design review panel consultation (s 100) or Environmental Impact Statement (s 105). This subdivision's scale, ecological sensitivity, heritage significance, and cross-jurisdictional infrastructure requirements may constitute significant development requiring proper assessment pathway determination under the Planning Act.

Environmental Impact Statement Requirements

Section 105 of the Planning Act requires Environmental Impact Statement (EIS) where prescribed by regulation or where Minister makes declaration under s 106. The subdivision's substantial environmental impacts (1.53 hectares CEEC destruction, 288 tree removal, threatened species habitat impact) and development scale warrant comprehensive EIS assessment under s 105 that has not been undertaken.

Design Review Panel Consultation Requirements

Section 100 of the Planning Act requires design review panel consultation for prescribed development proposals. The development's scale, traffic infrastructure requirements, and community impact may trigger s 100 design review panel consultation requirements not assessed or undertaken.

Application Technical Deficiencies

The application contains critical inconsistencies requiring resolution including gross floor area calculations and infrastructure coordination verification before assessment can proceed.

HERITAGE GROUNDS

First Peoples Cultural Heritage Assessment is absent

The proponent appears to rely on outdated advice that relates to a small portion of the area to be sub-divided and developed, only. Absent a contemporary assessment of the whole of the area to be developed, the significance of the area to First Nations People and Groups, and therefore the potential impact to heritage, is unclear.

The development's location within the culturally significant Jerrabomberra Creek landscape warrants comprehensive consultation with First Nations People to identify any cultural heritage values and ensure appropriate protection measures.

It is understood a Cultural Heritage Assessment was required for Block 5, Section 103, Symonston (immediately adjacent to the current DA site) in 2018. The present development site lies within the same Jerrabomberra Creek cultural landscape. Given the established cultural sensitivity of this area and the extent of proposed ground disturbance, equivalent heritage assessment and First Peoples consultation are warranted for this proposal.

A contemporary assessment is required comprising:

- Qualified archaeological and anthropological assessment
- Comprehensive consultation with all relevant organisations registered as representing First Nations People under ACT Heritage assessment protocols
- Field survey methodology and subsurface testing protocols
- ACT Heritage Council assessment and endorsement.

ENVIRONMENTAL GROUNDS

Threatened Species Habitat Destruction

Subdivision earthworks will directly impact confirmed habitat for *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**) and *Nature Conservation Act 2014* (**NC Act**) listed species:

- Striped Legless Lizard (*Delma impar*) - Vulnerable under both Acts
- Golden Sun Moth (*Synemon plana*) - Vulnerable EPBC Act, Endangered NC Act
- the ecological community Natural Temperate Grassland under the NC Act and Natural Temperate Grassland of the South Eastern Highlands under the EPBC Act – both listed at the level Critically Endangered

Subdivision and earthwork activities will directly impact 1.53 hectares of the Critically Endangered ecological community, eliminate 288 mature trees including 168 protected specimens, and create permanent habitat fragmentation.

EPBC Act Referral Requirement

The confirmed presence of EPBC Act listed threatened species and the Critically Endangered Ecological Community warrants referral under s 68 of the EPBC Act. It is noted Friends of Grasslands Inc has indicated in its submission that they will ask the Federal Environment Minister to call in this proposal under sub-section 70(1)(a) of the EPBC Act.²

Direct impact on 1.53 ha of the Critically Endangered Ecological Community is likely to be a controlled action requiring Commonwealth assessment and approval before proceeding. No referral has been published.

Environmental Impact Statement Triggers

Subdivision activities including 288 tree removals, extensive earthworks, major infrastructure installation, and threatened species habitat destruction may trigger EIS requirements under s 105 or Ministerial declaration under s 106 of the Planning Act. No comprehensive EIS assessment has been undertaken.

TRAFFIC AND INFRASTRUCTURE GROUNDS

National Capital Authority (NCA) Works Approval Requirement

The subdivision proposes traffic lights and slip lane infrastructure on Canberra Avenue, classified as Designated Area under the *National Capital Plan*. NCA Works Approval is mandatory before any infrastructure construction can commence on National Land. It appears no NCA coordination or Works Approval assessment has been undertaken.

Cross-jurisdictional approval must be completed before Territory subdivision approval can authorise infrastructure affecting Commonwealth Designated Areas. Subdivision approval without confirmed NCA Works Approval creates jurisdictional conflicts.

Traffic Impact Assessment Deficiencies

Traffic generation from subdivision's future development capacity (268,310m² GFA potential) requires comprehensive assessment including intersection capacity analysis, traffic safety evaluation, and emergency services access assessment. No adequate traffic impact assessment has been provided.

COMPLIANCE AND COORDINATION GROUNDS

Defence Security Assessment Inadequacy

Subdivision infrastructure development within proximity of HMAS Harman requires comprehensive Department of Defence security assessment. Infrastructure including traffic modifications, utility installation, and major earthworks adjacent to a Defence facility require security impact evaluation and operational coordination protocols. Consultation appears inadequate for the subdivision scale.

² <https://www.fog.org.au/Submissions/20250801.htm>

Environmental Protection Authority (EPA) Assessment Gap

Subdivision earthworks across agricultural land requires comprehensive contamination assessment by EPA-endorsed environmental consultants before ground disturbance activities commence. No EPA-endorsed contamination assessment has been provided.

Cross-Agency Coordination Failure

The subdivision's complexity requires comprehensive coordination with multiple ACT and Commonwealth agencies including:

- ACT: CED, EPA, Conservator of Flora and Fauna, ACT Heritage Council, TCCS, Emergency Services Agency
- Commonwealth: DCCEEW (EPBC Act), NCA (Works Approval), NCDRP (design review), Defence (security)

No evidence of adequate cross-agency coordination has been provided.

SPECIFIC REQUESTS FOR ASSESSMENT ACTIONS

The Conservation Council requests the Planning Authority:

1. halt subdivision processing until a comprehensive compliance review is completed
2. assess the proposal against the significant development criteria in s 94 of the Planning Act to determine the appropriate assessment pathway
3. evaluate requirements for subdivision environmental impacts under s 105 (EIS) provisions of the Planning Act
4. require a comprehensive Cultural Heritage Assessment, carried out with organisations representing First Peoples, before authorising earthworks
5. refer the proposal to the Federal Environment Minister under s 68 of the EPBC Act for impacts to EPBC Act listed threatened species and ecological communities
6. ensure NCA Works Approval for traffic infrastructure on the Designated Area
7. coordinate a comprehensive Defence security assessment for the infrastructure near HMAS Harman
8. require an EPA contamination assessment before agricultural land earthworks
9. establish cross-agency coordination protocols for subdivision infrastructure requirements
10. consider the Impact Assessment track given subdivision scale and cross-jurisdictional complexity.

SPECIALIST ASSESSMENTS REQUIRED

1. comprehensive consultation with organisations representing First Peoples
2. Comprehensive Ecological Impact Assessment for the protection of threatened species and the Critically Endangered Ecological Community
3. Traffic Infrastructure Assessment including NCA Works Approval requirements

4. Contamination Assessment for subdivision earthworks
5. Visual Impact Assessment for landscape and zone compatibility
6. Security and Defence Coordination Assessment
7. Cross-jurisdictional Infrastructure Coordination Assessment.

The subdivision's immediate environmental impact, heritage significance, cross-jurisdictional infrastructure requirements, and procedural non-compliance warrant comprehensive assessment ensuring statutory compliance, environmental protection, heritage conservation, and community consultation before determination can proceed.

The Conservation Council respectfully requests the Planning Authority address all identified assessment requirements and compliance issues before subdivision approval consideration.

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