



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

**STANDING COMMITTEE ON PLANNING AND
ENVIRONMENT**

**(Reference: Draft variation to the territory plan No 285—
Symonston block 17 section 102 extension of broadacre 10E area specific policy)**

Members:

**MR M GENTLEMAN (The Chair)
MR Z SESELJA (The Deputy Chair)
MS M PORTER**

TRANSCRIPT OF EVIDENCE

CANBERRA

TUESDAY, 18 DECEMBER 2007

**Secretary to the committee:
Ms N Derigo (Ph: 6205 0435)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents relevant to this inquiry that have been authorised for publication by the committee may be obtained from the committee office of the Legislative Assembly (Ph: 6205 0127).

WITNESSES

EVANS, DR MURRAY CLEMENT , Senior Wildlife Ecologist, Parks, Conservation and Lands, Department of Territory and Municipal Services	11
McNULTY, MR HAMISH , Conservator of Flora and Fauna, Department of Territory and Municipal Services	11
OSBORNE, DR WILL , Senior Lecturer in Ecology and Conservation Biology, Institute for Applied Ecology, University of Canberra.....	1
SAVERY, MR NEIL , Chief Planning Executive, ACT Planning and Land Authority	11
TOMLINS, MR GEORGE , Executive Director, Strategic Priorities, Chief Minister’s Department	11

The committee met at 2.16 pm.

OSBORNE, DR WILL, Senior Lecturer in Ecology and Conservation Biology, Institute for Applied Ecology, University of Canberra

THE CHAIR: Good afternoon, and welcome to the planning and environment committee's inquiry into the draft variation to the territory plan 285—Symonston block 17, section 102, extension of broadacre 10E area specific policy. This afternoon we will hear first from Dr Will Osborne, from the Institute of Applied Ecology at the University of Canberra. Later we will hear from Mr Hamish McNulty, the Conservator of Flora and Fauna with the Department of Territory and Municipal Services. Appearing with the conservator will be Mr Neil Savery, Chief Planning Executive of ACTPLA, and other Planning and Parks, Conservation and Lands officials.

Welcome, Dr Osborne. I will read the privileges card before we begin. The committee has authorised the recording, broadcasting and rebroadcasting of these proceedings in accordance with the rules contained in the resolution agreed by the Assembly on 7 March 2002 concerning the broadcasting of Assembly and committee proceedings. Before the committee commences taking evidence, let me place on record that all witnesses are protected by parliamentary privilege with respect to submissions made to the committee in evidence given before it. Parliamentary privilege means special rights and immunities attach to parliament, its members and others, necessary to the discharge of functions of the Assembly without obstruction and without fear of prosecution.

While the committee prefers to hear all evidence in public, if the committee accedes to such a request, the committee will take evidence in camera and record that evidence. Should the committee take evidence in this manner, I remind the committee and those present that it is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly. I should add that any decision regarding publication of in camera evidence or confidential submissions will not be taken by the committee without prior reference to the person whose evidence the committee may consider publishing.

I also have a few housekeeping matters which I need everyone in the room to observe. All mobile phones are to be switched off or put in silent mode. When witnesses come to the table they need to state their name and the capacity in which they appear, for the *Hansard*.

I welcome Mr Seselja, my committee colleague, and Dr Foskey from the Greens.

Dr Osborne, you have not yet made a submission to the committee, so this is your chance to let us know how you feel about this draft variation. Would you like to make an opening statement?

Dr Osborne: Thank you for inviting me. I have left my notes in the car but I should be able to proceed. I had prepared a page of notes but I do not really need them.

I have been a zoologist, a biologist with a particular focus in the field of

herpetology—that is, the study of reptiles and amphibians and their biology and conservation—for over 30 years. I was the poor unfortunate scientist who rediscovered *Tympanocryptis pinguicolla*, the grassland earless dragon. About 15 years ago, I rediscovered the species on a New South Wales property called The Poplars, which is not far from Queanbeyan. That was a very exciting rediscovery because we thought the species was extinct. Populations had last been seen in Canberra 30 years prior to that. A population occurred at the site of the ABC building in Northbourne Avenue prior to the building of the ABC studios there. I was involved in many years of survey work and supervised about four postgraduate students who have worked on earless dragons. They are quite an amazing reptile and quite a special species.

I am not sure to what extent I should go into describing the uniqueness of them; I will perhaps give a very short summary, and if the committee feels I am straying too much at any stage, get me on to the topic again. I would welcome that.

I have with me a research flyer from our group, the Institute for Applied Ecology at the University of Canberra, on our work on earless dragons in grasslands. One of my PhD students, Wendy Dimond, is sitting in the public gallery behind me. This is a summary of some of the work she has been doing. I have a few copies of it here. I also prepared a PowerPoint presentation, only to discover that I could not present it, which does not really matter. I have a few PowerPoint presentation notes, and I wonder whether I should pass them forward.

THE CHAIR: That would be great.

Dr Osborne: We can go through those as well. On the front page you can see a couple of photographs of the earless dragon. The one that is shown upside down in the palm of someone's hand is not dead; they tend to play possum. They are pretty quiet little lizards; you can usually get them to sit on your hand. I have a photograph to pass around; there is also a poster. This individual in the photograph was the first one rediscovered, about 15 years ago. It was a male from The Poplars. After that, I had a couple of honours students and we discovered that these earless dragons spend a lot of time living in burrows created by soil dwelling invertebrates like spiders, and the Canberra raspy cricket, *Cooraboorama*, a very rare cricket. This photo shows the face of an earless dragon looking out of its burrow in wintertime. This student lowered a diode on the end of a light hooked up to a nine-volt battery and took the photograph on an old-fashioned SLR camera.

They are fairly small and they have this distinctive striped back pattern and cryptic behaviour. When they are sitting on the grass tussocks, like the individual shown in this photograph, they are extraordinarily hard to see. In fact, on a property that is now part of the Jerrabomberra grasslands, the former Woden grazing property that was with the Campbell family, Wendy Dimond, my PhD scholar, worked out that before the drought there were about 1,000 earless dragons in that paddock, yet you could walk around there and not see them. That was just an estimate.

The distribution of these lizards in Australia is indicated on the next page. This is the complete Australian distribution. There are no other populations anywhere else in the world, other than the two populations in Canberra. One is based near the airport and it

is substantially on military land, the Army training range, and with a small population on the airport, and the other population is in the Jerrabomberra valley, on deep patches of grassland that was unimproved. Perhaps about half or a third of it was never even ploughed. Other parts were ploughed and the pasture improved.

The two dots further south are near Cooma, and there is an unknown distribution of the species in the Cooma region, in the Cooma grasslands—the native, natural grasslands of the Cooma district. It once occurred right throughout parts of Victoria, and it is now believed to be extinct in the Victorian grasslands. In 15 years of survey in Victoria, the dragons have not been found.

The Cooma population is genetically very distinct from the ACT-Canberra region population, to the extent that a taxonomist, a person who assigns names to animals, would be able probably to readily assign a new name to the Canberra population. With respect to the lizard we call *Tympanocryptis pinguicolla*, the first part of the name, *Tympanocryptis*, means “hidden ear” and *pinguicolla* means “fat neck”. Mitchell, who described the species early in the 1900s, described them as the “hidden ear thick necks” in Latin. It is not quite as exotic a name as the grassland earless dragon. That was because they have little fat necks that they store fat in for overwintering.

The Cooma animals are truly a *Tympanocryptis pinguicolla*. It is possible that the ACT animals in fact might be an undescribed species but further work needs to be done on that. Therefore, the comments I make are in the context that we are protecting a population that is unique to the Canberra region but has not been described so taxonomically. But the genetic work has been published for that.

Quite clearly, it is a species at risk. I do not think I need to go through that. It is listed as endangered under legislation here in the ACT which you folk would be very familiar with. It is a special protection status species and endangered in the ACT and New South Wales, and critically endangered in Victoria. That basically means that government permission is required for damage to occur to the lizards or the sites that they occur at. Typically, effort is made to avoid conflicts like that in some creative kind of way. There have been a few cases in the ACT, most notably the Canberra airport, where they have tried to move grasslands around, with varying degrees of success.

Of course, with the construction of the AGSO building, it had another endangered species present, the striped legless lizard. All striped legless lizards in that particular instance were removed from the site by trapping and sent to zoos around Australia. That was about a decade ago. It was not a particularly great win for conservation, in my view. It was a far less threatened species than the earless dragon, so in that instance that trade-off occurred. But I am not suggesting that as a precedent at all because nothing came of it other than these animals sitting in the zoo and not being used for research or breeding but perhaps just for zoo display.

One of the reasons that I think the earless dragons have survived here in the ACT so well relates to the history of ACT land use—because of the early removal of private ownership and the setting aside of leases. Some of the lessees present, if there are any present, may not share my view in this regard. With some of the leaseholders to whom

I have spoken, including the Campbell family, I have often asked them: “Why was this paddock never pasture improved? Why did you never plough it? Why does it still have native grassland on it?” Typically, they won’t say, “Because we love native grasslands and the biota that lives in them.” Some will; others will say, “Because we were interested in fine wool production and the best way to get really fine wool is to have these rough native grassland paddocks that you don’t do much with.” I think the other real reason is that there is far less incentive to spend a fortune on fertiliser and ploughing when the land is leased. If you go over the border into New South Wales, similar landscapes are typically very pasture improved—exotic grasses and agronomic species and perhaps more ploughing and cropping.

So we are pretty lucky in the ACT, and that is well reflected now by the ACT government in the great series of conservation reserves that have been set up around Canberra. They are just brilliant and I think they are of international significance, having regard to a government effort to bite the bullet really early and protect what a lot of people believe is very desirable open space for urban use and those kinds of activities.

Having said that, though, it came to my notice from your secretary that I could provide advice today at the meeting and I am here to do that, to provide that advice. I probably am—and I am not trying to brag—the most knowledgeable person about the earless dragon, ecology and conservation in Australia almost, certainly here in Canberra. I know a lot and I am happy to try and answer any questions you might have for me.

With the issue we have, over about a 10-year period the ACT government, particularly through its wildlife research and monitoring unit, which used to be led by David Shorthouse, a lot of survey work was done in both the Majura valleys and the Jerrabomberra valleys, so between Hume and the airport and then up towards Gungahlin, to determine what were the values of these areas that might be future urban use areas. So there is a lot of very good information on species like the earless dragon. But, having said that, the last work that I know of that was done on block 4, section 102, Symonston was in about 1997, and in fact the last work that was done in the land swap fence zone perhaps was 1995. In 1995 Don Fletcher and others from the parks service, I think very ineffectively, set out traps to ascertain whether or not there were earless dragons on Callum Brae property. They used lines of 10 traps, which we now know to be completely inefficient for surveying for this species.

Jumping ahead slightly, the work that we have been doing, and that Wendy is currently finishing, would indicate that you would probably need about 50 traps in an array to catch the earless dragons when they are in very low numbers. So Dimond and others were very lucky; they must have trapped at a time before the drought when these lizards were still pretty common, and of the five 10-trap lines that they set out through those grasslands they caught earless dragons on only one array. They caught three baby earless dragons within the boundary of the now fenced-off land swap zone. Two years later they caught one more individual on Callum Brae property again—and remember that at that time this was just part of Callum Brae and permission to work on this land would have been given by the property lessees. On one of the other sites they caught an adult, so adjacent to and within the current land swap zone earless dragons were detected.

Based on the proportion that they caught, it is very likely that there were a good number more dragons there and that the very low sampling effort resulted in this low capture. The authors of that report concluded that more work needed to be done, and that work has not been done to this very date, although, to pass credit to the very good work that that group from the ACT government did over the years, they did effectively survey much of the Callum Brae property, and over the years they improved their sampling design and efficiency as they got more and more feedback about how to catch these dragon lizards. I suggest that the work that was done on Callum Brae within and near the land swap zone, right up that northern end, was not good enough to resolve the current issue.

The first point I would make then is that lizards were detected in that zone 10 years ago. We do not know if they are still there, because no more work has been done. I can tell you a few other facts about the land in question which will help the committee get a feel for the importance or otherwise of the area. The area with the earless dragons tends to be on the higher ground, and the current fencing arrangement fences out the best of that higher ground, so of that population that is right up the northern end of the valley, sadly no earless dragons were found in the middle zone of the property, so through the area that is currently being used for model aircraft flying and then up into what is now Jerrabomberra grassland reserves no more earless dragons were trapped until you strike the higher ground up on stony ridges of the Callum Brae property, and particularly one paddock of the Campbell property, most of which had never been ploughed, which had a very high density of earless dragons in the most magnificent stand of native grassland with a lot of forbs and herbs and many threatened species.

That land is all in Canberra nature park now—not yet gazetted I think but to be declared as part of Canberra nature park in the Jerrabomberra grassland reserves. But right down the other end, in the Callum Brae property, there is still native grassland and it has not been resurveyed. It was not assessed as being the high-quality native grassland by the botanists. That is something I cannot comment on; I am not a botanist. But I know that there were earless dragons there; there is still native grassland present. The lessees have made quite an effort to protect that site over the years. It has not been ploughed or overgrazed. They regularly sprayed and removed weeds and cared for the land in the knowledge that it was of some value, even though it did not end up inside the nature reserve.

I personally feel that a lot of these sites should not end up in nature reserves anyway because often that change of land use affects the values of the area, and one of the first things that happen, which should not in my view, is that they often take stock out of them. So sheep were taken out of Mr Campbell's property, and that was fine during the drought, but some form of pasture management will need to go ahead. I am straying so I will stop that sort of side comment I am making at this stage.

The point I tried to make there was that I cannot think of any reason why there has been a change of land use under leased land at Callum Brae that will have affected that earless dragon population negatively. What has really hit them is the drought; the numbers across all sites have been lowered by the drought. So there might still be a viable small population of earless dragons both inside and outside of the land swap

zone, of unknown population size, and it should be a pretty straightforward business to ascertain the status of that population. So I would recommend now that a very thorough survey and assessment, which will take six weeks to do, in February be conducted to ascertain the current population status. They might have disappeared off the site altogether or there might still be a small population there.

The grassland is not high-quality primary high conservation significance grassland as ranked by the botanists, but that may not be such a strong feature with the earless dragons. They seem to be able to hang on in slightly more disturbed grasslands than those in lower abundance. My estimate of the land swap area is that it is about 1/100th of the area of land available for earless dragons in the ACT, so it is a small patch of land. You might say, “Well, it doesn’t matter then if we lose that 1/100th patch,” but it comprises part of that Jerrabomberra valley population. It has never been assessed properly. The earlier trapping techniques I think were inappropriate and inadequate, so a modern survey needs to be done now using the grid-based approach, for example, that the university uses.

There are 130 sites where earless dragons have been trapped, so we have 130 records of earless dragons in the ACT. Two of those are from that part of Callum Brae, so two out of 130, but that does reflect a bit on where trapping has been done. I make the point still that I think Callum Brae has been undersampled, particularly in that area; the middle part of the property has been better surveyed. I would urge the committee to consider that view that the land swap area and adjacent lands have not yet been effectively sampled of that species.

THE CHAIR: Thank you, Dr Osborne. When you started your comments you mentioned that there were perhaps 1,000 lizards there in the early times.

Dr Osborne: Yes, that is on Woden property. That is about 3½ kilometres south of there on what was Mr Campbell’s land, so we had over about three or four years, and particularly the work Wendy Dimond is currently doing with mark, recapture, re-release studies, where we estimate population sizes over many weeks of trapping—that kind of work has not been done, though, in this block under question.

THE CHAIR: That clears that up for me.

MR SESELJA: You said that the next step would be to ascertain the current population. If there is a significant population on the site, what would be your recommendation in terms of how to handle that?

Dr Osborne: It would depend a bit on the population. I do not make these decisions; I am not a government member who can make the decisions, nor a member of the parks and conservation service that might advise the government. But, as a scientist, if a good population was found on site I would be advising some form of protection during development, by buffers and exclusions and linking to Callum Brae property, or even passing it back to Callum Brae property and managing it as a grazing lease. If it was just a small part of that zone, perhaps through some creative management it might be protected during development. Those sorts of things often fail because you cannot predict what is going to happen when there are buildings, roads and fences and cats and dogs nearby. If a substantial population was found there, our legislation binds

us to the protection of the site, and I would certainly support that.

DR FOSKEY: The EPBC Act will be triggered, won't it, only if we find some species? If we do not do the work and do not find any earless dragons, does that mean that we do not trigger the EPBC?

Dr Osborne: I think the EPBC Act can be triggered by the destruction of recognised habitat as well. That is why I think it is important to determine whether they are there or not now still. The lizards may have gone; we do not know. If you can show by a survey that they are no longer there, that act probably would not be triggered, but at the moment the area would be delineated as earless dragon habitat, and I think the act would be triggered, Dr Foskey.

DR FOSKEY: And you are aware that the commissioner for the environment is undertaking an inquiry into grasslands in the ACT? Are you aware whether as part of that she is going to ensure that some surveys happen, as you recommended, in any of the sites?

Dr Osborne: No, I am not aware of that latter point that you made, about surveys. I will be representing our group, the Institute for Applied Ecology, to the commission as experts on some issues to do with these grasslands, and we will strongly recommend that. The main issues that I think the commission is tackling are those issues out towards the airport, but I think there are some other broader issues as well. I have not particularly heard that the commission is looking at this issue.

DR FOSKEY: One of the people that we spoke to about this area did say that, with appropriate development controls, the area could be regarded more as a buffer. I noted when I looked at the diagram that the site has a long rectangular shape and a lot of road frontage, whereas I was hoping it would be a deep one with a narrow road frontage. When I looked at the actual site, I wondered whether there was any way it could be configured with development on a particular part of the site which would enable both uses to go ahead. Could you comment on that?

Dr Osborne: I think that is a great idea. With this next period of development of Canberra, we are seeing evidence out at Gungahlin of it being much more along the lines of a win-win situation for nature conservation. When the AGSO building went in out there, having regard to the striped legless lizard population there, our resolve at that time was simply to move all those lizards off site and put them in the Melbourne Zoo. When you go to that building now and see the acres of manicured grassland that surround the building, you think that we could have been a bit more creative about it.

I share that idea that we can be more creative about having buffers, and they can be incorporated around buildings. The paddock itself is a very good buffer now, so its value as a buffer will be decreased by putting people in caravans and buildings in it. But I agree with you, Dr Foskey, that you can be creative about the use of buffers. That will protect the nearby grassland by having proper mowing regimes, keeping weeds down and not letting cats, for example, cross over into that grassland where they will probably hunt the lizards.

DR FOSKEY: You mentioned there were a number of reserves promised. They were

promised prior to the last election; they still have not been gazetted. It would seem to me to be becoming increasingly crucial—because the airport is another threat to grasslands—that those reserves be gazetted. Do you have any idea what is delaying that process?

Dr Osborne: No, I don't. I made a comment earlier which I will repeat—and I think you have made a very good point: reserves are often needed because of the legislative protection to the land, and it seems to be the case in Canberra. However, I was always of the view that some of these grasslands could be well managed by leaving them in the hands of the community, of the lessees, as wildlife conservation improvement lands. The Campbell place would have been a good example of that, and I am sure Callum Brae is in the same boat, where the lessees are very interested in the nature conservation attributes of their land as well.

We have a dilemma, in a way, once we make a lot of nature reserves across the landscape. Someone has to look after them. Some of these grasslands—and the commission is looking into this—are not being very well looked after at the moment, because of changes in funding priorities for weed control or whatever. I had better not go down that road any further.

DR FOSKEY: I can see where you are going.

Dr Osborne: The other thing that the government will have to think about ultimately is the big picture. Perhaps we can look after other areas a lot better, as a concession to losing some areas. But with this particular species, it is such a highly threatened species that great care is needed in assessing all of those site-by-site situations. Clearly, tiny, non-viable populations—and I am not saying this is one of those—in some instances are really probably not worth protecting, and we would be better off protecting another more substantial population. We do not really know the status of this population so we cannot say that. There could be quite a wide distribution across the northern end of the Callum Brae population. We have permission from the current leaseholder of that area to conduct some university studies, but we are not planning to do work on this particular lease unless we can get support from the present owner of that area to do further work there.

DR FOSKEY: You said the trappings would have to take place in February. How feasible is that? What would we have to start doing now for that to happen?

Dr Osborne: We need to have lead-in time, either to find a consulting firm that might want to take on the project or our group could take on the project as well. As experts, it would fit in with our research program. The lead-in time is needed simply to make these traps. I think we need about 270 traps to put four grids on the property to survey it properly. The grids look like what I am now showing you. Each of those little dots represents a trap, and you saturate the landscape with traps. You need to have a qualified consultant or zoologist to do the work. We have worked out that it takes six weeks trapping to be quite sure that there are no lizards left on the site. We would then probably say there was a 99 per cent chance that the lizards are not there, at the end of that study, or that they are there, if you start catching them.

DR FOSKEY: How many people would need to be involved in the six-week trapping

exercise?

Dr Osborne: Probably two people. We usually hire our own students to help with fieldwork in our case. Consultants often hire our students as well.

DR FOSKEY: The main point is you would have to get on to that absolutely tomorrow.

Dr Osborne: Yes, because towards the end of March, the weather starts to cool and trappability drops off; the lizards stop moving around. And that is when the population is highest: it is when the young of the year reach the trappable population age and they start moving around. That is the best chance to catch them. So you have the old adults still around and then the young of the year around. They have a clutch size of about six eggs. The young are tiny; they fit on a 5c piece curled up when they first hatch. They are these tiny little earless dragons that grow up to an adult that can fit on your hand.

THE CHAIR: How do the traps actually work? Is there an enticement for the dragons to go there?

Dr Osborne: In a way, there is. I and many other colleagues over the years have tried different trap designs. We finally invented a trap that does not really trap them. We imitate the arthropod burrows, the spider burrows that they live in, with a piece of PVC tubing that goes into the ground. Then, sliding inside that is another narrower diameter piece of tubing which makes a pretend burrow. We glue sand to the insides of that so they can climb in and out of it, at their will, and there is a little canvas shelter over the top of it. So the lizards choose to go in those burrows and they basically just start living in them. It takes a few days; we leave them for about a week to familiarise themselves with these new burrows. Wendy's work and radio tracking studies that an honours student of ours did showed that they set up a home range around these traps. So they are totally harmless to the lizards; they are not true traps. They work really well compared to conventional pitfall traps buried in the ground without water in them. The lizards fall in them and they can't climb out. With ours, they can climb out. They work really well.

DR FOSKEY: When do they climb out—after you have counted them?

Dr Osborne: We let them go back in. We photograph them, and that unique pattern of blotches on their body allows us to identify every one. So we catch them week after week; they don't show any weight loss or any ill-health from being handled. They are pretty cute.

DR FOSKEY: How far away is that stony ridge that you mentioned?

Dr Osborne: On the Callum Brae property?

DR FOSKEY: Yes.

Dr Osborne: It is about two kilometres south. It is about 300 metres south-east of Callum Brae homestead. It is a low rise that has a quartz outcropping on it. There is a

small population of earless dragons there, which we have just started studying. We set up our grids there last summer, and we will find out more about it this summer. We have two grids set up on Callum Brae, very close to the land swap fenced area. One almost abuts the fence, and one is nearby.

DR FOSKEY: What is the range of the lizard, as far as you know?

Dr Osborne: They seem to be capable of moving about 50 metres.

DR FOSKEY: Not much.

Dr Osborne: They do not move between our grids, which are 100 metres apart. In six weeks they stay in their own area. Radio tracking found them moving about 50 metres.

DR FOSKEY: You said the other known significant population was on the defence land. Isn't that the land that is being eaten out by kangaroos?

Dr Osborne: It is, and that population has been in serious strife as a result of that. The population crashed to about five individuals.

DR FOSKEY: When?

Dr Osborne: Last summer. The Woden population has also crashed, but not to the same extent. First of all we thought it was entirely kangaroo overgrazing and that predators must be picking them off. The firing range, the training range, ended up looking like a ploughed paddock. It was absolutely shocking. That is why I became a lobbyist for a while and spoke to the press at one stage about our frustration with the commonwealth government, particularly with the military people, and the lack of action on culling, removing or doing something about the kangaroo population. We now think it is a combination of drought and kangaroo grazing that has caused problems. We think that the ground has got so dry that the eggs are not hatching as well. Initially, that population crashed very quickly from the lack of cover. Efforts are well underway to have humane ways of sterilising kangaroo mobs. It may only be a decade before all we need to do is put some hay or something out there that has a chemical in it that will sterilise female kangaroos. But we are not there yet, so action is required there.

DR FOSKEY: Is that long-term sterilisation?

Dr Osborne: Sometimes they might need a follow-up dose every two or five years.

THE CHAIR: Thank you very much for your time this afternoon, Dr Osborne. If members have any further questions, we will get them to you as soon as we can. You will be sent a copy of the transcript as soon as it is available as well.

Dr Osborne: Thanks very much.

Short adjournment.

SAVERY, MR NEIL, Chief Planning Executive, ACT Planning and Land Authority
McNULTY, MR HAMISH, Conservator of Flora and Fauna, Department of Territory and Municipal Services

EVANS, DR MURRAY CLEMENT, Senior Wildlife Ecologist, Parks, Conservation and Lands, Department of Territory and Municipal Services

TOMLINS, MR GEORGE, Executive Director, Strategic Priorities, Chief Minister's Department

THE CHAIR: Welcome to the Assembly planning and environment committee's inquiry into DV 285. We are looking at Symonston block 17, section 102 and the extension of broadacre 10E area specific policy. We have with us now the Conservator of Flora and Fauna, Mr Hamish McNulty; Mr Neil Savery from ACTPLA; and Dr Murray Evans from the department.

Mr McNulty, you were not here earlier when I read the privileges card so I will just read that for you. The committee has authorised the recording, broadcasting and rebroadcasting of these proceedings in accordance with the rules contained in the resolution agreed by the Assembly on 7 March 2002 concerning the broadcasting of Assembly and committee proceedings. Before the committee commences taking evidence, let me place on record that all witnesses are protected by parliamentary privilege with respect to submissions made to the committee in evidence given before it.

Parliamentary privilege means special rights and immunities attach to parliament, its members and others, necessary to the discharge of functions of the Assembly without obstruction and without fear of prosecution.

While the committee prefers to hear all evidence in public, if the committee accedes to such a request, the committee will take evidence in camera and record that evidence. Should the committee take evidence in this manner, I remind the committee and those present that it is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly. I should add that any decision regarding publication of in camera evidence or confidential submissions will not be taken by the committee without prior reference to the person whose evidence the committee may consider publishing.

Mr McNulty, we have not had a submission from you as yet. I gather we are going to hear it this afternoon, so over to you.

Mr McNulty: We are happy to answer any of the committee's questions. We do not have a prepared submission.

THE CHAIR: The only submission we have so far, apart of course from ACTPLA's and the minister's notes on the draft variation, is from our previous witness this afternoon, Dr Will Osborne, who put it to us that there is a concern about the earless dragon in this area and that any development may impede its longevity, I guess. Can I ask for your comments on that?

Mr McNulty: Clearly any loss of habitat of the grassland earless dragon is a concern. However, the area of land covered by the variation is about 1½ per cent of the total

habitat of the Jerrabomberra valley and I guess we would consider it to be secondary habitat, not primary habitat, and on that basis we believe that, as long as the impacts are managed, it is manageable.

MR SESELJA: What assessments, if any, have been done on the population of earless dragons in the area?

Mr McNulty: I will have to ask my colleague Dr Evans to answer that.

Dr Evans: I am an ecologist with the research unit, under Hamish, and am responsible for undertaking surveys for grassland earless dragons. I have been working on them for the last few years. Back in about 1995, 1996 and 1997 there were widespread surveys undertaken for grassland earless dragons throughout the range lands and we trapped in this area up there—I was not part of that at the time, but my former colleagues were—and found grassland earless dragons in the particular patch that I am talking about. I have a map here—I do not know if it is of use to you—to see where the grassland earless dragon habitat is.

THE CHAIR: Yes, certainly.

Dr Evans: The orange part is the subject of the land swap. The light white hatching is grassland earless dragon habitat that we have identified both from the floristics or the grassland composition itself and also from trapping. In 1995, 1996 and 1997 we trapped grassland earless dragons up in that orange triangle. So the idea of those first surveys in the mid-1990s was to broadly establish where the habitat of the species is throughout the Jerrabomberra valley.

THE CHAIR: So has there been any assessment of this particular site in terms of the population of dragons there?

Dr Evans: Not in recent years; only back in the mid-nineties to establish the fact that it was habitat. We do monitor grassland earless dragons at other sites to see how the populations go up and down, but really that is for a different purpose. These broadscale surveys are to establish habitat, and once we have caught the lizard there and we have established its habitat there is no reason for us to think that for any reason it has changed. As long as the habitat looks as though it has not changed—and our recent inspections confirm to us that it still looks like reasonably good habitat for the species—we have no doubt in our mind that that is still habitat.

THE CHAIR: Mr McNulty, what effect would this proposed change of lease now have against the EPBC Act?

Mr McNulty: The proposed development has already triggered the EPBC Act and a management plan is being prepared on behalf of the LDA, I believe, to describe how the impacts of the development can be managed. That piece of work is being undertaken at the moment.

DR FOSKEY: Mr McNulty, has any thought been given to conducting a survey to bring up to date our understanding of how many animals there might be on the site? We were hearing just recently—about 10 minutes ago in fact—that if such a survey

was going to happen it would have to happen in February of a year. What is your opinion in terms of how many Februarys we might have before this development begins?

Mr McNulty: I am not aware of how many Februarys we have until the development begins. In terms of proposals to undertake surveys I will defer to Dr Evans.

Dr Evans: We have not had any plans to do further surveys there because in our mind it does not change the baseline value of the area that is habitat. Even if we went out there now and did not find any animals, that simply could be because it has been a bad few years. We know at the moment that the grassland earless dragon populations, like other lizard populations in the area, are going up and down because of the good and bad years. Right now is a particularly bad year for grassland earless dragons. Hopefully this recent rain will help kick them on, but the last three years have been particularly bad, so if you went out now and did a survey and did not find the species you would not be confident that the species was not there; all you could say was that the populations at this particular time are particularly low.

The thing to keep in mind is that what has caused the grassland earless dragon to become threatened in the first place is all to do with habitat, so it is really about habitat, not necessarily whether we go out there and find in a particular year that there are a lot of dragons or not many dragons. So my bottom line is that we could do more surveys but it would not change the basic premise that this is habitat for the species.

DR FOSKEY: I do not know their life cycle; when would the eggs be laid? What time of year?

Dr Evans: Eggs are generally laid in early spring.

DR FOSKEY: We have had a relatively good season in comparison to the last four or five. Dr Osborne put very strongly that there needed to be a survey; that is why I am exploring it; that you might find that there were certain areas where you did find animals compared to other areas. If the block is going to be developed, it would give a sense of how it should be developed, and that I guess is the concern. Just listening to the various players it sounds to me like a development will go ahead—and then it becomes the conditions on that development and what is allowed to be put there and so on. That is why I want you to argue again against the idea of the survey.

Dr Evans: Sure. We can go and do surveys; there is no problem with that. I am not opposed to doing surveys or anything, but my feeling is that Will may have been responding in terms of “we should not consider it not to be habitat unless it is proved to be not habitat”. Surveys are the only way you might prove that it is not habitat. My feeling is that you could do further surveys but you would need to undertake them over a number of years, and the only value of those surveys would really be to show that if the species was not there over the next four or five years, we had not detected it, maybe something has gone on with the grasslands and it is now no longer viable habitat for the species. But, if we go out there and find juvenile animals, a sign that they are breeding, or adult animals, and we have found that in the past, it simply confirms what we already know: the area is habitat for the species.

I am not sure how surveys influence really our thoughts. At that finer scale whether or not you trap an animal is a probable-istic type of thing; just because you do not catch them in an area does not necessarily mean that they are not there, until you have done repeated surveys over different years. I think that, if a development is going to go ahead—and I am saying “if”—the configuration where it is up against the road would minimise the impact on the rest of the habitat and the connectivity of that habitat to other areas.

I would not like to see someone misinterpret some ecological data—if we went out there and caught dragons exactly where the development is going to go, and not dragons slightly next to it—and want to shift the whole building because of that, because the long term is that you have to look at connectivity and maintaining the largest patch of habitat, minimising the edge effects. So there are some pretty good reasons why, if a development has to go ahead, that is in my view the best place in terms of maintaining viable habitat that remains.

MR SESELJA: Mr McNulty, you said that the management plan has already been triggered, as a result of the proposed change in land use. Could you—and maybe Mr Savery could come in here as well—talk us through: if there is a development application down the track, which presumably there would be if this goes through, is there a separate management plan or is that management plan taking account of potential developments? How does that work?

Mr Savery: The EPBC trigger that has been set by the Land Development Agency covers a number of contingencies, but in the first instance it identifies the potential loss of habitat and damage to this area, so—

MR SESELJA: If there were a development, or—

Mr Savery: If there were a development. Clearly, the intention is that part of the site will be developed—for what we do not know, and when we do not know—and that can only occur, obviously, if the variation goes through. The National Capital Authority has already amended the national capital plan for its part of the process. My understanding is that an advertisement calling for submissions in relation to the EPBC legislative process is occurring right now; submissions can be received until the 21st of this month. Any management plan that is developed under that process would again provide contingencies for different types of development. The key issue is whether or not under that legislation the commonwealth considers it is appropriate for any development to occur on the site.

DR FOSKEY: How long has there been for submissions? Did you say 21 December?

Mr Savery: Yes, that is my understanding. The advertisement commenced on 23 November, so a four-week period.

THE CHAIR: That would be the standard period?

Mr Savery: That is the period set by the commonwealth government, not by the ACT.

DR FOSKEY: Unfortunately, I do not have the conservator’s report here; I do not

know if it was on the web or where, but in our quick look today I could not find it. I would certainly like to see it. I cannot request it on behalf of the committee because I am not a member of the committee but I would be interested if you could give me a summary of that, Mr McNulty, and also to explain where your advice comes from. I am also interested in the heritage issues that were raised; I do not think we have covered those yet.

Mr McNulty: The submission we made to the planning authority covered the fact that the Jerrabomberra-Majura valleys contained the two largest and most significant remaining populations of grassland earless dragons in Australia. The conservation issues pertaining to those species are included in action plan 28 and the southern broadacre planning study. The land subject to the variation is part of a 50-hectare continuous habitat in the northern part of Callum Brae. The 9.4 hectare land swap development will destroy about 1½ per cent of the habitat for the grassland earless dragon in the Jerrabomberra valley. The location and orientation of a land swap minimises fragmentation of remaining habitat.

Based on widespread trapping surveys for the grassland earless dragon in 1997, habitat subject to the land swap development supports lower numbers of the grassland earless dragon than other habitat in the Jerrabomberra valley. This lower quality habitat has the potential to be improved through appropriate management. Spillover effects from the development—soil disturbance, weeds and fires—may result in additional loss of habitat adjacent to the development in the medium to long term. Grassland earless dragon habitat in west Jerrabomberra, which includes habitat on Callum Brae, is identified in action plan 28 as a core conservation area that should be afforded the highest level of protection relevant to its tenure.

We then discussed the southern broadacre planning study, which reported a principle developed by the flora and fauna committee that the protection of all existing known habitat of the grassland earless dragon was of primary importance. Preliminary genetic studies suggest that the Cooma grassland earless dragons are a different species from those in the ACT; hence the ACT populations are likely to represent the entire distribution of this species. Consequently, destruction of any known habitat is likely to significantly impact on the potential for the survival of this species.

In response, the southern broadacre planning study proposes that sites 3 and 4 are recommended for protection in nature reserves. There are other sites in Jerrabomberra. Sites 6 and 7 are to include development land management conditions, as would urban-capable land between Bonshaw and the New South Wales border. Overall, while some existing habitat could be developed with conditions, there is an increase in habitat area that is formally subject to appropriate development controls, land management agreements and reservation. Site 6 referred to above is the grassland earless dragon habitat in the northern part of Callum Brae. The ACT government has previously announced its intention to establish nature reserves over sites 3 and 4, which is Jerrabomberra, western Jerrabomberra and east. I understand they have been withdrawn from lease and that the new territory plan has them in a nature reserve.

Mr Savery: That is correct. In response to an earlier question from Dr Foskey about why action has not been taken for implementation of these areas, they are going to be protected through the restructured territory plan.

Mr McNulty: Grassland earless dragon habitat adjacent to the land swap development and key habitat in the Majura valley are both subject to future road proposals. Given these additional future impacts, the protection of remaining habitat is imperative. If this development proposal proceeds, it is recommended that the remaining area of contiguous habitat in the northern part of Callum Brae be protected from future development and managed for the long-term conservation of grassland earless dragons. Connectivities should be improved between habitat on Callum Brae and on Woden property to the south by managing the land primarily for habitat restoration. The areas proposed for future grassland reserves in the Jerrabomberra valley which also protect grassland earless dragon habitat are given priority for implementation. That is what we have just talked about. Immediately prior to earthworks commencing, the developer must ensure that a search is conducted of arthropod burrows with the aim of salvaging grassland earless dragon individuals. That is the submission we made.

THE CHAIR: For Dr Foskey's benefit, that is available from ACTPLA.

DR FOSKEY: It is not on the website, though. Is there any intention to wait for the commissioner for the environment's report? Is that of any relevance to this process?

Mr McNulty: That is really a question for Mr Savery rather than me.

Mr Savery: We are not waiting for that report. We are acting in accordance with the government policy intention. The period for submissions has closed. We have received the conservator's report. The EPBC process has been triggered and we have made our submission to the minister. If the minister and government elect to await the outcome of the commissioner's report, it is for them to choose to do so.

DR FOSKEY: Is your submission available? You said you had made a submission to the minister.

Mr Savery: The draft variation.

DR FOSKEY: Are you making a submission on the EPBC?

Mr Savery: We won't be. We will wait and see if there are any requirements that come about. The land process that we are going through cannot be completed until we have the outcomes of that EPBC, so the variation is being undertaken in readiness of that.

DR FOSKEY: The draft variation says that various sites were considered and that this was considered to be the most suitable site. What other sites were considered?

Mr Tomlins: A number of sites in the area were considered. They involved sites that overlap with the current site and a site that is formed by the old highway and the new highway to the south of what I believe is a wholesale plant nursery. So it is a triangular site. There were some other sites that were towards Harmon and Bonshaw on Canberra Avenue. Most of the sites that we proposed were unacceptable in terms of the land swap.

DR FOSKEY: So those sites were shown to the developer.

Mr Tomlins: The owner of the caravan park, yes, and many of them were rejected by him. This arrangement was chosen partly because it was acknowledged as being of lesser habitat value than some of the other areas in this vicinity.

DR FOSKEY: Did he reject any of the sites because they were habitats of the earless dragon?

Mr Tomlins: No, I don't think that was the focus of his concern. The other issue that I should mention is that when we were looking at this we were looking at it from the point of view of looking at the social aspects, the economic aspects and the environmental aspects. The social needs of the residents of the former caravan park were very important.

DR FOSKEY: Do you mean of the current caravan park?

Mr Tomlins: The current caravan park, yes. I notice that there are a number of them here today.

DR FOSKEY: There were heritage issues raised as well, and they are not gone into in detail here.

Mr Tomlins: Yes. We did take advice, and there was no major heritage concern that was raised with us. We have also spoken to the commissioner regarding the current inquiry. The informal advice we were given was that she did not think it would have a major bearing on this site because of her knowledge of the advice that was taken when the site was earmarked.

DR FOSKEY: If development approval for the site goes ahead and the draft variation goes ahead, with conditions, as per the conservator's report, what would happen if the developer refused those conditions? Is it up to the government to come up with another alternative?

Mr McNulty: The recommendations that I made in the report here refer to the rest of the land more than the land that would be removed from the habitat. It is about managing the remainder of the habitat. So the developer would not have the ability to either comply or not comply with those conditions. It is a matter for the government as to how it manages the rest of the land.

DR FOSKEY: Of block 17?

Mr McNulty: The rest of the habitat in the Jerrabomberra valley, with the concerns that we raised.

DR FOSKEY: So as far as you are concerned the whole of block 17 could be covered?

Mr McNulty: The report said, "If the proposal goes ahead, here are some

recommendations about how the remainder of the habitat should be managed.”

Mr Savery: Most of your question in terms of development of the site relates to a subsequent stage, which is the development application, not the variation.

THE CHAIR: Yes, currently we are just looking at the overlay.

Mr Savery: So if a development application were to be submitted, at that point we would go back to the conservator, as part of the referral process. We would be referring it to other relevant government agencies for comment. Conditions may arise out of that that would be applied to the development approval process, if we were to approve whatever the development is, and if the developer chooses not to comply then they will be in breach of the development approval.

Mr Tomlins: There are two other issues regarding agreements we have with the developer, and one is in terms of a time frame. It gives us until about 11 February to complete the arrangements. The other issue is an in-principle statement that the arrangement should be a like-for-like swap. In relation to your question about whether the developer would accept conditions, I can't comment on that, but I can comment that the negotiations would travel within the umbrella of that discussion of whether or not it was like-for-like.

DR FOSKEY: With respect to the date of 11 February, the way the process is going, the committee's report may or may not have gone to the Assembly by then, and you may or may not know whether the draft variation has been approved. You certainly won't know whether the development approval has been granted. How will you be able to assess whether it is a like-for-like swap?

Mr Tomlins: Ultimately, the two parties to the negotiation will have to come to a decision. Each party will have to decide what he or she is going to do. In other words, the developer can decide at that point to sign the agreement and accept the new site, to extend the agreement or to walk away and essentially go back to ownership of the existing caravan park. I guess the point is that we have limited time.

DR FOSKEY: Till 11 February.

Mr Tomlins: Yes.

DR FOSKEY: I know that everybody has the interests of the residents in the long-stay caravan park in mind. With respect to the earless dragon, it is a pity that these two issues seem to have come together. I think it is really important that they be made not incompatible. On 11 February we will have a sense of what the future holds.

Mr Tomlins: Yes. We would hope to be able to clarify the situation as soon as possible.

DR FOSKEY: Would the government be prepared to look at other sites if for some reason this does not go ahead?

Mr Tomlins: I can't speak for the government but we did canvass a range of

strategies and a range of sites. We are down, if not to the last option, to one of the very few options left, given that we have to find sites which are acceptable for development and also sites which are acceptable to the developer.

THE CHAIR: Thank you very much for your time this afternoon and for your presentation and answers to questions. If we have any further questions, we will get them to you as soon as possible. We will send you a copy of the transcript as soon as it is available.

The committee adjourned at 3.37 pm.