



OFFICE OF THE COMMISSIONER
FOR SUSTAINABILITY AND
THE ENVIRONMENT

To whom it may concern

Re: Lawson North Residential Development – EPBC Referral Submission (EPBC 2022/09298)

The Commissioner for Sustainability and the Environment is an independent statutory position established by the *Commissioner for Sustainability and the Environment Act 1993*. My Office embraces transformative change for an environmentally sustainable future and encourages sound environmental practices and procedures to be adopted by the Territory and territory authorities as a basis for ecologically sustainable development.

As such, my Office is calling on the Federal Government to withdraw Defence Housing Australia's (DHA) proposed urban development of Lawson Grasslands. This is a nationally significant and critically endangered Natural Temperate Grassland in the Belconnen region of the ACT. My reasons for calling for the withdrawal are as follows:

1. The Proposed Development has unacceptable impacts on Natural Temperate Grasslands, a critically endangered ecological community

The proposed action would see 23.52 ha of native vegetation cleared, including 15.8 ha of listed Natural Temperate Grassland and 1.31 ha of Box Gum Woodland¹. Both ecological communities are listed as critically endangered under the *Environment Protection and Biodiversity Conservation Act* (EPBC Act) and are thus matters of national environmental significance (MNES). This is not an acceptable destruction of critically endangered ecological communities.

Clearing 15.8 ha of listed Natural Temperate Grasslands would constitute a significant determinantal impact on this ecological community, by furthering fragmentation of the community, reducing the extent of the community, and adversely affecting habitat critical to the survival of the community². It has been estimated that less than 0.2% of the pre-settlement range of Natural Temperate Grasslands is formally protected in reserves. While precise figures are hard to determine, less than 10% of Natural Temperate Grasslands survives today compared with pre-settlement times. The proposal in its current iteration is unacceptable per Division 1A of the EPBC Act as it will have unacceptable impacts on MNES, specifically Natural Temperate Grassland.

¹ Conservation Council ACT, 2021. Briefing Paper: Lawson Grasslands. https://conservationcouncil.org.au/wp-content/uploads/PUBLIC_LAWSON_BRIEF_2021.pdf.

² Department of Climate Change, Energy, the Environment and Water, 2013. Significant Impact Guidelines 1.1 – Matters of National Environmental Significance. https://www.dcceew.gov.au/sites/default/files/documents/nes-guidelines_1.pdf.

Commissioner: Dr Sophie Lewis
GPO Box 158 Canberra ACT 2601
ABN: 66 893 463 785

T: (02) 6207 2626 E: envcomm@act.gov.au W: www.envcomm.act.gov.au

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It is also determined that the destruction of Box Gum Grassy Woodland, while not deemed a significant impact under the EBPC Act, will still be reducing the extent of this critically endangered community in Australia. It is important to consider the cumulative impact of destroying small habitat patches of these communities. Any and all remnants of such critically endangered communities have irreplaceable ecological value and must be protected. The referral has also failed to consider all relevant factors that could impact MNES.

Lawson Grasslands is a stronghold for the Golden Sun Moth and Striped Legless Lizard, both listed as vulnerable under the EPBC Act. The proposal supports clearing of 11.6 ha of habitat of the Golden Sun Moth and 26.53 ha of habitat of the Striped Legless Lizard.

Other rare grassland species are considered to have a moderate or higher likelihood of occurrence in the referral area based on the availability of potential habitat.³ These include the Perunga Grasshopper, and Key's Matchstick Grasshopper. The Grey-headed Flying-fox (Vulnerable under EPBC Act) was also previously recorded here. In addition, the site is likely to support several bird species listed under the EPBC Act, such as the Gang Gang Cockatoo, Superb Parrot and Latham's Snipe. The proposed action will destroy habitat for these species.

The impacts of habitat fragmentation and edge effects are widely recognised concepts among the scientific community⁴ and these are not addressed in the referral documentation. The proposed development will divide the continuous habitat into three parts, two of which are very small areas. This will have negative effects on the ecological communities and threatened species present there and threaten their continued survival.

2. It is not possible to determine whether the proposed offsets site is adequate to achieve no net loss of MNES.

Under the EPBC Act, appropriate avoidance and mitigation measures need to be considered prior to an offset being proposed. The failure of offsets is a significant issue under the current EPBC Act.⁵ While options for avoiding and mitigating impacts to MNES on the site have been outlined, the proposal does not propose alternative sites with less impact on MNES. The referral states that "no other locations offer the historical connection for Defence families or are able to be developed into a viable project, and DHA do not consider the option of an alternative location as feasible."⁶ This reasoning is manifestly insufficient given the significant impact it will have on MNES.

The monitoring undertaken for the biodiversity assessment to support the referral is inadequate to accurately determine which species are present on the site. The surveys were not conducted over multiple years and therefore not able to capture the effect of climatic and seasonal variability on the relevant populations.

³ [Appendix Q - Biodiversity Impact Assessment \(1\).pdf](#).

⁴ Tarabon, S., Dutoit, T., & Isselin-Nondedeu, F. (2021). Pooling biodiversity offsets to improve habitat connectivity and species conservation. *Journal of Environmental Management*, 277, 111425.

⁵ Samuel, G., 2020. *Independent Review of the EPBC Act – Final Report*, Department of Agriculture, Water and the Environment. Canberra, October.

⁶ [Notice summary · EPBC Act Public Portal \(awe.gov.au\)](#).

The 2021 federal State of the Environment Report⁷ highlighted issues with implementation of environmental offsets across the country. The data that is available does not allow the demonstration of successful biodiversity outcomes. Due to the inability to demonstrate effectiveness of environmental offsets, and considering the significant impact proposed on the critically endangered ecological communities and threatened species, the precautionary principle should be applied.

An alternative development site must be found in order to ensure the protection of these MNES, in particular the 0.2% of the pre-settlement range of Natural Temperate Grassland that remains protected in reserves in Australia.

Thank you for your consideration and please do not hesitate to contact me if you have any queries.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S Lewis', with a long horizontal flourish extending to the right.

Dr Sophie Lewis
ACT Commissioner for Sustainability
and the Environment

7 September 2022

⁷ Commonwealth of Australia, 2021. Australia State of the Environment 2021, Biodiversity Offsets. <https://soe.dcceew.gov.au/biodiversity/management/management-approaches#-bio-067-figure-49-proportion-of-approvals-with-offset-conditions-since-the-commencement-of-the-epbc-act>. Accessed on 2 September 2022.