

2017

**THE LEGISLATIVE ASSEMBLY FOR
THE AUSTRALIAN CAPITAL TERRITORY**

**GOVERNMENT RESPONSE TO
AUDITOR GENERAL'S REPORT**

**No. 07/2016
Performance Audit Report:
Certain Land Development Agency Acquisitions**

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Government Response to Auditor-General's Report 07/2016: Performance Audit: Certain Land Development Agency Acquisitions

Introduction/Background

On 30 September 2016 the Auditor-General provided to the Speaker of the Assembly the *Performance Audit Report 07/2016: Certain Land Development Agency Acquisitions*. The report made seven recommendations. The Land Development Agency (LDA) has already made significant progress in response to the recommendations of that report, and of a parallel review it commissioned from former Commonwealth Auditor-General Mr Ian McPhee AO PSM of its governance arrangements.

It is critical to public confidence and trust in the work of ACT Public Sector Agencies that their operations are conducted properly and are open to scrutiny. Their governance frameworks play a critical role in ensuring that the people of the ACT can be assured those entities do operate in the public interest, and to the highest standards of probity and accountability.

During the 2016 election campaign, the ACT Government announced its intention to replace the Land Development Agency with two specialist dedicated entities: one to focus on leading and facilitating the critical transformation of Civic and the Northbourne Avenue corridor; and one dedicated to the equally important task of developing vibrant new suburbs to meet continuing demand in our growing city. The Chief Minister made a Ministerial Statement providing further details on the intended approach in the Legislative Assembly on 15 December 2016.

Regardless of the outcomes of that reform process, the work involved in implementing the recommendations made by the Auditor-General in this report and by Mr McPhee will be relevant, and will continue ahead of the establishment of the new governance arrangements. Both will be public sector entities playing significant roles in shaping – physically and socially – the Canberra of the future, and it will be critical to their success that they discharge their responsibilities properly as they assist in delivering the sort of city Canberrans desire and the nation deserves as its capital.

In achieving that end, sound governance frameworks, a positive culture founded on the ACT Public Service values of Respect, Integrity, Collaboration and Innovation, and the application of critical and innovative thought from inside and outside the public sector, will be crucial.

Government Position on Recommendations

Recommendation 1

PURPOSE OF LAND ACQUISITIONS

Government agencies proposing to acquire land should identify the purpose for which the land is to be acquired and the means by which the land is to be acquired, e.g. a market-based transaction or acquisition under the Lands Acquisition Act 1994 (either through negotiation or by compulsory acquisition). The process to be followed should be clearly documented at an early stage.

Government Position – Agreed. A comprehensive review of legislation, policies and procedures relating to land acquisitions is being undertaken. The above requirements will be addressed as part of that review.

Recommendation 2

VALUATIONS FOR LAND ACQUISITIONS

The Land Development Agency, in undertaking land acquisitions, should rely on formal valuations underpinned by appropriate and considered instructions. The instructions should accord with the nature of the acquisition process and be formally agreed and endorsed by an appropriate executive.

Government Position - Agreed. This recommendation is being addressed as part of the review referred to at recommendation 1.

Recommendation 3

INFORMATION FOR THE LAND DEVELOPMENT BOARD

The Land Development Agency should provide the Land Development Agency Board with information prior to acquisitions that allows the Board to authorise acquisitions in accordance with legislation.

Government Position - Agreed. This recommendation is being addressed as part of the review referred to at recommendation 1.

Recommendation 4

COMPULSORY ACQUISITION

The Land Development Agency should develop administrative guidance for the application of compulsory acquisition processes under the *Lands Acquisition Act 1994* to guide staff in determining whether a potential acquisition might meet the criteria in the Act.

Government Position - Agreed. This recommendation is being addressed as part of the review referred to at recommendation 1.

Recommendation 5

DOCUMENTATION OF ACQUISITIONS

The Land Development Agency, when undertaking acquisitions, should fully document the reasons for the acquisition and the rationale for the price paid for the acquisition.

Government Position - Agreed. This recommendation is being addressed as part of the review referred to at recommendation 1.

Recommendation 6

CLARIFICATION OF THE APPLICATION OF THE *LAND ACQUISITION POLICY FRAMEWORK*

The Land Development Agency, in recommending changes to the *Land Acquisition Policy Framework*, should consult with the Minister and other ACT Government agencies on any proposed changes. It would also be prudent to seek legal advice in developing any proposed changes.

Government Position - Agreed. This recommendation will be addressed as part of the review referred to at recommendation 1.

Recommendation 7

PROCUREMENT AND CONTRACTING The Land Development Agency and Economic Development should develop policy and associated procedures with respect to the contracting of former executives and staff through ongoing non- competitive procurement processes. The policy and associated procedures should provide explicit guidance on the circumstances in which it is appropriate for former executives and staff to be employed through on-going non-competitive procurement processes.

Government Position – Agreed. This recommendation will be addressed as part of the review referred to at recommendation 1.