

2019

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

**IMPLEMENTATION PROGRESS STATEMENT
TO THE AUDITOR-GENERAL REPORT 3/2018
TENDER FOR THE SALE OF BLOCK 30 SECTION 34 DICKSON**

**Mr Mick Gentleman MLA
Minister for Planning and Land Management**

Madam Speaker, in the government response to the Auditor-General Report No. 3/2018 “Tender for the sale of Block 30 Section 34 Dickson”, I agreed to table in the Legislative Assembly an implementation progress statement by 31 October 2018 outlining the actions taken to develop and implement mechanisms to mitigate potential legislative noncompliance, and advise on options for remedying the deficiencies with the tender and contract negotiation processes.

I inform the Assembly that I wrote to the Speaker prior to this date to note that delivery of the Statement would be deferred to allow Cabinet briefing in accordance with the Auditor-General’s recommendation.

In response to Recommendation 1 of the Auditor-General Report the Environment, Planning and Sustainable Development Directorate has now briefed myself, as the Minister administering the *Planning and Development Act 2007*, and Cabinet.

I am now able to provide the implementation progress statement to the Assembly.

Madam Speaker, I firstly advise the Assembly on the potential legislative compliance issues identified in the audit report and covered in Recommendation 1.

At the outset I note there is a legally binding and enforceable contract for the sale of Block 30 Section 34 Dickson (Block 30). This contract was entered into following a tender process for the granting of crown lease as permitted by the *Planning and Development Act 2007*.

The relevant Request for Tender permitted scope for negotiations, which occurred.

I have been briefed on the matters identified in the Auditor-General's report as potentially giving rise to a legislative non-compliance risk. This advice supports the conclusion that those matters were not significant enough to render the tender process invalid. I note that the Auditor-General assessed legislative compliance against the *Government Procurement Act 2001*, however this transaction comes under the *Planning and Development Act 2007*. As I have said, there is an executed and enforceable contract with the Tradies as a result of the tender process.

The advice provided in relation to Recommendation 1 supports the view that the matters of potential legislative non-compliance identified by the Auditor-General's report do not represent a legal barrier to the Planning and Land Authority proceeding to make future decisions under the Planning and Development Act in relation to Block 30.

The decision as to whether to grant a Crown lease for Block 30 is entirely a matter for the independent consideration of the Planning and Land Authority. In exercising its statutory functions, the Planning and Land Authority must comply with the *Planning and Development Act 2007*. This is not a matter for Cabinet or ministerial consideration.

Madam Speaker, I now wish to address the Assembly on the significant consideration which has been given to the report and how Recommendations 2 to 4 have been addressed.

I note that the performance issues identified in the audit report occurred in the former Economic Development Directorate. The Environment, Planning and Sustainable Development Directorate, the Suburban Land Agency and the City Renewal Authority are utilising Recommendations 2 to 4 to review and enhance processes within these land portfolio entities.

The Government has acknowledged and accepts that the management of the tender in relation to Block 30 Section 34 Dickson did not demonstrate the rigorous standards of probity, governance or assurance required of the ACT Public Service.

Today, I can speak to this Assembly on the significant changes in relation to the nature, oversight and governance of the entities tasked with responsibility for urban renewal and suburban development that took effect after the events considered by the audit report.

Importantly, I can speak with confidence that these new arrangements have been informed by the learnings of the audit report and ensure the management of the Territory's land assets in a manner that is consistent with better practice standards of probity and governance.

On 1 July 2017, the Government established two new entities, the Suburban Land Agency and the City Renewal Authority. The enabling legislation puts in place a strong performance framework for the entities to deliver on Government policy with transparency and accountability.

Legislative instruments have been notified to support the work of the new land entities, including declaration of the City Renewal Precinct, the Land Acquisition Directions, the Housing Target Determination, the Payment of Funds to the Territory Directions, the Statement of Expectations and Statement of Operational Intent.

The *Government Agencies (Land Acquisition Reporting) Act 2018* commenced on 1 January 2019, and introduces reporting requirements for all land acquisitions undertaken by ACT Government entities, including all Directorates, Territory Authorities, Territory instrumentalities and Territory owned corporations. The objective of the Act is to increase transparency and accountability about the Government's acquisition of land for various purposes for the benefit of the community, and in doing so makes this information more readily accessible.

This Act builds on existing land transaction reporting, including in the *Lands Acquisition Act 1994*, *Planning and Development Act 2007*, *Annual Reports (Government Agencies) Act 2004* and the *Financial Management Act 1996*.

This Act requires disclosure of the price paid, valuations considered, short and long term use of the land, how the acquisition is in the public interest, consistency with the Territory Plan and other matters.

As part of the work to develop the *Government Agencies (Land Acquisition Reporting) Act 2018*, the Government considered the application of the *Government Procurement Act 2001*. This exercise confirmed the view that the intent of the Government Procurement Act is to exclude grants, acquisitions or sales of Crown leases by the Territory from its operation.

The Directorate continues to take proactive steps to ensure that it has in place a robust and clear suite of guidance material for the land portfolio entities related to the acquisition and sale of the Territory's land assets.

The Directorate, the City Renewal Authority and the Suburban Land Agency have worked collaboratively to address the spirit and intent of the audit report's recommendations and ensure staff involved in land transactions are supported by clear, consistent and robust policy, guidelines and frameworks.

In addition to the initiatives I have outlined above, we have also introduced the following specific initiatives and improvements:

- Creation of the Land Release and Development Governance Framework, which clearly identifies roles and accountabilities across the Portfolio for land release and development activities;
- Creation of the Portfolio Governance Framework, which clearly articulates the roles responsibilities and accountabilities of each entity in the Portfolio and supports the articulation of governance frameworks within each entity;
- Implementation of the Guideline on the Acquisition of Land Under the *Lands Acquisition Act 1994*;
- Development and implementation of clear and shared portfolio policies, including the Valuations Policy and the Purchase of Land By Portfolio Staff, Contracts and Public Sector Members Policy;
- Development and implementation of comprehensive risk management frameworks and fraud and corruption prevention plans;

- Implementation of an Electronic Document and Records Management System to strengthen records management within the Agency and Authority; and
- Delivery of training to staff focussing on records management, procurement, probity, and fraud and corruption prevention.

The Directorate is, in consultation with the land entities, finalising guidance documents on:

- tender processes for the sale and purchase of land, addressing probity, documentation and record keeping, and transparency in decision making requirements; and
- a portfolio Integrity Framework is being progressed, which will outline the integrity management response arrangements, activities and obligation required of members of the ACT Public Service.

It is critical to public confidence and trust in the work of Territory entities that operations are conducted properly and are open to scrutiny. Governance and compliance frameworks play a key role in providing assurance to the community that Territory entities operate in the public interest, and to the highest standards of probity and accountability.

The Government welcomes the opportunity the Auditor-General's report provides the Portfolio to deliver continuous improvement to probity and governance practices in land transactions, and reinforce an organisational culture that promotes integrity.

Madam Speaker, thank you for the opportunity to provide this implementation progress report to the Assembly.