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

TENTH ASSEMBLY

**Standing Committee on Public Accounts - Report 11 - Inquiry the Auditor-General's Report
No.4 of 2020: Residential Land Supply and Release**

Government Response

**Presented by
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Introduction and Background

The ACT Auditor-General lodged the Performance Audit Report No. 4/2020 on Residential Land Supply and Release (the AG's Report) with the Speaker on 26 June 2020.

In summary, the audit report considered the effectiveness of the processes for land release and supply for residential purposes in delivering the ACT Government's Housing Strategy goals. Specifically, the audit reviewed the processes used to develop the ACT Government's Indicative Land Release Program (ILRP) and the delivery of the program against agreed targets and timeframes.

The ACT Government considered the findings of the AG's Report and tabled a response in the Legislative Assembly on 2 December 2020. In its response, the ACT Government agreed (or agreed-in-principle) to all except two of the recommendations and provided an explanation as to why those recommendations were not considered appropriate or practical.

Under its resolution of establishment, the Standing Committee on Public Accounts (PAC) examines all reports of the Auditor-General which have been presented to the Legislative Assembly. Specifically, the resolution requires the Committee to inquire into and report on reports of the Auditor-General which have been presented to the Assembly.

The PAC concluded its inquiry into the AG's Report and released a report with findings and recommendations in October 2022. Under the standing orders for the current Legislative Assembly, the ACT Government is required to respond within four months from the publication of the PAC Report.

Conclusions and Recommendations

The Committee concluded that the AG's report into Residential Land Supply and Release was important in identifying the effectiveness of the processes for land release and supply for residential purposes in delivering the ACT Government's housing strategy goals under the ACT Housing Strategy 2018 and the annual Indicative Land Release Program.

The Committee endorsed all seven of the Auditor-General's recommendations. The Committee has made eighteen recommendations in relation to its inquiry into the AG's Report No. 4 of 2020. A summary detail of these recommendation is provided in the table below.

A response from the ACT Government to these eighteen recommendations has also been detailed as part of this submission below.

No	Recommendation
Recommendation 1	The Committee recommends that the ACT Government implement all of the Auditor-General's recommendations.
Recommendation 2	<p>The Committee recommends that an external, independent review of the Indicative Land Release Program is conducted. The review should take consideration of, but not be limited to, the following:</p> <ul style="list-style-type: none"> • transparency for decisions made in the Indicative Land Release Program including available building envelope and what proportion is allocated to dwellings; • improving accountability with requiring the ILRP to be debated and passed by the Legislative Assembly as part of each budget; and • contributes to the achievement of broader Government objectives.
Recommendation 3	The Committee recommends that the ACT Government debate and pass the ILRP in the Legislative Assembly as part of each budget.
Recommendation 4	The Committee recommends that the ACT Land and Property Reports are published no later than 3 months after the reporting period.
Recommendation 5	The Committee recommends that the ACT Government undertake further reforms to address land speculation and land banking, and report back to the Legislative Assembly by the first sitting week of 2023.
Recommendation 6	The Committee recommends that the ACT Government continue to advocate for tax reform from the Commonwealth Government that will support housing affordability.
Recommendation 7	The Committee recommends that the ACT Government undertake tax reform to support housing affordability in the ACT
Recommendation 8	The Committee recommends that the ACT Government clearly outlines the baseline against which its commitments to increase the number of social and affordable housing dwellings are being measured, and that progress towards these 2025 targets be publicly reported against this baseline on at least an annual basis.
Recommendation 9	The Committee recommends the ACT Government ensure any requirements for a minimum of 15% social and affordable housing for land release are more stringently enforced.
Recommendation 10	The Committee recommends the ACT Government work in partnership with community housing providers to enable them to deliver more affordable and community housing.

Recommendation 11	The Committee recommends that the ACT Government consults with stakeholders to provide a discount on individual plot purchases by community housing providers.
Recommendation 12	The Committee recommends that the ACT Government provide analysis on the number and nature of registrants for recent land ballots and present that analysis to the Assembly by the last sitting day of 2022.
Recommendation 13	The Committee recommends that the ACT Government releases more land.
Recommendation 14	The Committee recommends that the ACT Government re-establish an inventory of serviced land.
Recommendation 15	The Committee recommends that the ACT Government implement the Auditor-General's Recommendation 6 prior to the release of the ACT Land and Property Report encompassing the second half of 2022.
Recommendation 16	The Committee recommends that the ACT Government table, by the last sitting day in 2022, an explanation as to why EPSDD has declined to include reporting in ACT Land and Property reports of land released (including dwelling yield and land not sold) through the Indicative Land Release Program.
Recommendation 17	The Committee recommends that the Indicative Land Release Program provide a clear 'like for like' breakdown of land to be released, by suburb, in the projected reporting period, and for it to include the: <ul style="list-style-type: none"> • number of dwellings and the number of blocks for high-density housing; and • number of dwellings and the number of blocks for detached housing.
Recommendation 18	The Committee recommends that the Indicative Land release program provide clear definitions for different blocks that are referred to in the Program, e.g. definition of 'compact block'.

ACT Government Response to the Standing Committee on Public Accounts - Report 11 - Inquiry the Auditor-General's Report No.4 of 2020: Residential Land Supply and Release

Recommendation 1

The Committee recommends that that ACT Government Implement all of the Auditor-General's recommendations.

Response

NOT AGREED

The ACT Government provided a response to the AG's Report recommendations in 2020. In that response, the ACT Government agreed (or agreed in principle) to all recommendations except for two, which are detailed below.

As stated in the ACT Government Submission to the PAC inquiry in March 2022, the Environment, Planning and Sustainable Development Directorate (EPSDD) has worked with other relevant stakeholders to achieve implementation of all agreed and agreed in principle recommendations with the exception of recommendation 7 from the AG's Report which called for a review of the Affordable Home Purchase Scheme. This review is ongoing and is scheduled to be closed out in 2023.

The two recommendations that the ACT Government did not agree to were:

- Recommendation 2c, calling for the ACT Land and Property Report to include future projections for housing demand and supply; and
- Recommendation 6, calling for the ACT Land and Property Reports to include reporting on land released (including dwelling yield) through the ILRP that has not sold.

An extract of the ACT Government response to recommendation 2c is provided below:

"The Government considers that a forecasting element is beyond the intention of the ACT Land and Property Report, which is to present a snapshot of the activity that has taken place in the Canberra property market over a preceding six month period. There are significant concerns about publishing housing demand and supply forecasts and projections that would be relied upon by industry and community. Other jurisdictions do not undertake this level of analysis or reporting on land and housing matters, which is generally a function of the commercial market."

An extract of the ACT Government response to recommendation 6 is provided below:

"... Reporting or commentary on inventory in the ACT Land and Property Report would be retrospective, 'point in time' and would not include details of when the land was released, and not include analysis of how long particular blocks have been in the inventory. Details of blocks that are available for sale are publicly available on the SLA website and are regularly promoted through digital media platforms."

The ACT Government position on these recommendations is unchanged.

Recommendation 2

The Committee recommends that an external, independent review of the Indicative Land Release Program is conducted. The review should take consideration of, but not be limited to, the following:

- a) transparency for decisions made in the Indicative Land Release Program including available building envelope and what proportion is allocated to dwellings;
- b) improving accountability with requiring the ILRP to be debated and passed by the Legislative Assembly as part of each budget; and
- c) contributes to the achievement of broader Government objectives.

Response

NOTED

There is a range of work being undertaken by the ACT Government to review land release in the ACT and examine land supply in the ACT. This work is ongoing and further changes to the way land supply is delivered in the future may be considered following this work.

Through the Planning System Review and Reform project, consideration of future land development is being extensively explored and considered. It is anticipated that this work will support a future land supply strategy and the land supply pipeline.

In addition to this, the AG's Report provided a recent and thorough review of processes for government land supply which the ACT Government has responded to. The ACT Government will continue to review land supply processes in the ACT and implement changes as necessary.

Recommendation 3

The Committee recommends that the ACT Government debate and pass the ILRP in the Legislative Assembly as part of each budget.

Response

NOTED

The Government notes that the ILRP is indicative in nature and subject to change based on discoveries over the course of the program. This can include changes identified through the site planning, investigation and due diligence prior to release. It would not be appropriate for a program of this nature to be debated and agreed by the Legislative Assembly. The Government considers the current scrutiny process through other mechanisms, including through relevant Committees, to be sufficient.

Recommendation 4

The Committee recommends that the ACT Land and Property Reports are published no later than 3 months after the reporting period.

Response

NOT AGREED

The ACT Government has agreed to release the report on a six-monthly basis as quickly as possible in line with the recommendation in the AG's Report. An earlier date is not practical, as data that informs the report is not available within the Committee's nominated 3-month time frame.

Recommendation 5

The Committee recommends that the ACT Government undertake further reforms to address land speculation and land banking, and report back to the Legislative Assembly by the first sitting week of 2023.

Response

NOTED

Government notes the matters raised about individuals purchasing land with a view to selling it to another party instead of building on the land.

It is noted that the Committee did not outline or detail what reforms they think should occur.

There are existing processes that support the timely development of land through obligations in Crown Leases, and process for lessees to seek extensions of time to their building and development provisions contained within their Crown lease. It is appropriate that there is a fair mechanism for lessees to seek additional time to develop and where consistent with legislative provisions, to sell and transfer their lease to another party.

EPSDD and the Suburban Land Agency (SLA) undertook steps in 2021 to address potential for land speculation and land banking. This included:

- EPSDD clarifying the operation of the lease transfer process and engaging with the ACT Law Society to improve the information provided to their members. This included the following explicit instructions published on its website:

"A purchaser who has exchanged contracts with SLA, but has not completed the contract, cannot obtain the authority's consent under section 298 to transfer the land to a third party. This is because at this point in the process, a lease has not been granted, and the purchaser is not the 'lessee'. An important message here is that a person should not make an application under section 298 with the authority unless that person has first been granted a lease. By the grant of a Crown lease, the authority means that the Crown lease must have

been signed by all parties, and paid for by the purchaser, as well as contain a commencement and expiry date.”

- EPSDD also published further operational guidance to assist lessees in making applications under section 298 of the *Planning and Development Act 2007*. This information is available on the EPSDD website; and
- SLA monitors market behaviour and robustness of its sales processes. The SLA First Grant Contract does not permit anyone other than the buyer(s) named in the contract to be holders of the first grant Crown lease.

EPSDD and SLA will continue to monitor and, where required, take steps to further reduce the opportunities for land speculation and land banking.

Recommendation 6

The Committee recommends that the ACT Government continue to advocate for tax reform from the Commonwealth Government that will support housing affordability.

Response

AGREED

The ACT Government agrees with the Committee’s recommendation to advocate for Commonwealth Government tax reforms that will support housing affordability. The ACT Government has previously indicated support for Commonwealth Government tax changes that will mitigate the effects of prioritising housing as an investment earning asset instead of a fundamental right.

Housing affordability is complex, and the solutions are not simple. Any changes to improve affordability will be undertaken in a holistic manner, where possible, to ensure there are no perverse or unforeseen impacts on the economy, homebuyers and renters. The ACT Government will continue to advocate for reforms that encourage real growth in wages, allowing for improvements in housing affordability.

The ACT Government will also continue to deliver on and expand on its commitments to increase the supply of more affordable homes and supporting Canberrans access the housing market. However, in the absence of the Commonwealth Government addressing the key drivers of house price growth, housing will remain tilted more towards being a wealth generating asset rather than a fundamental right.

The ACT Government will continue to advocate for removing barriers that favour small scale investment in rental properties over institutional investment in Build-to-Rent in Australia, including GST treatment and Managed Investment Trust rules.

Recommendation 7

The Committee recommends that the ACT Government undertake tax reform to support housing affordability in the ACT.

Response

AGREED

The ACT Government is halfway through a program to modernise the Territory's taxation system. Over the past 10 years, the ACT has reduced stamp duty every Budget. As a result of these reforms, owner occupiers in the ACT are subject to the second lowest stamp duty in Australia. For non-owner occupiers, stamp duty is the lowest in comparison to other states. The tax reforms led to between 1,363 to 2,304 additional properties being purchased during 2012 and 2018. First home buyers purchased an additional 1,053 properties post reform (2012 and 2018).

The ACT Government is committed to increasing the supply of affordable homes and supporting Canberrans to access the housing market. The Home Buyer Concession Scheme allows eligible purchasers to pay no stamp duty on the first \$1 million of their property, saving purchasers up to \$34,790 in 2022-21.

The ACT Government also allows deferred stamp duty payment for eligible purchasers reducing the upfront costs when buying a house. The ACT has abolished the stamp duty on off-the-plan unit purchases up to \$600,000 for owner occupiers to encourage new affordable housing construction.

The ACT also has in place the Pensioner Duty Concession Scheme which supports pensioners in downsizing by reducing the amount of stamp duty for eligible purchasers. This will free up the existing freestanding single residential houses that are in high demand. The Pensioner Duty Deferral scheme also enables eligible pensioners to defer the payment of stamp duty.

Most recently, as part of the 2022-23 Budget, the ACT Government increased the lowest duty tax threshold for residential owner occupiers from \$200,000 to \$260,000, which will reduce duty on homes between \$260,000 and \$1,455,000 by \$1,120, when combined with ongoing tax rate reductions.

Recommendation 8

The Committee recommends that the ACT Government clearly outlines the baseline against which its commitments to increase the number of social and affordable housing dwellings are being measured, and that progress towards these 2025 targets be publicly reported against this baseline on at least an annual basis.

Response

NOTED

The ACT Government is continuing to action the commitments in the Parliamentary and Governing Agreement for the 10th Legislative Assembly (PaGA) which aim to increase the amount of social and

affordable dwellings available. The commitment is to strive to deliver 600 additional affordable rental dwellings.

The Government is focussed on adding new affordable and community housing stock as per the commitments in the PaGA. The addition of new stock is measurable and is reported on regularly, PaGA reporting is published annually and is publicly available.

Recommendation 9

The Committee recommends the ACT Government ensure any requirements for a minimum of 15% social and affordable housing for land release are more stringently enforced.

Response

AGREED

Agreed, noting that the ACT Housing Strategy requires that at least 15% of the Indicative Land Release Program is dedicated each year to affordable, community and public housing.

SLA ensures that wherever housing targets are identified, these are applied in the sales documents for the release of land to market. As part of the sales process, SLA uses available contractual mechanisms, such as performance bonds, to enforce the requirements. SLA will continue to apply these mechanisms.

Recommendation 10

The Committee recommends the ACT Government work in partnership with community housing providers to enable them to deliver more affordable and community housing.

Response

AGREED IN PRINCIPLE

The ACT Government will continue to work closely with community housing providers to support them to deliver more affordable and community housing.

As part of the 2022-23 ACT Budget, Treasury was allocated \$250,000 to explore potential future policy directions to address housing affordability in the ACT for low-to-medium income households. A project has commenced to explore cost effective ways to assist the community housing sector in the ACT and attract community housing providers from other jurisdictions. The work will also explore opportunities to leverage Commonwealth Government funding to help boost community and affordable housing supply.

Under the new draft Territory Plan, which at the time of writing is out for public consultation, there is a proposal to allow the development of community housing on CFZ land. However, this would

need to be associated with a place of worship or supportive housing but could enable the delivery of more affordable and community housing.

In addition to this, the ACT Housing Strategy includes a range of actions to support community housing providers to increase affordable rental housing. These set the policy priorities for the ACT Government. For example:

- Action 4A.2 - Engage regularly with the ACT community housing sector to investigate and facilitate options for providing assistance to community housing providers and those in need of community housing, including setting housing targets.
- Action 4A.5 - Work with community housing providers to develop more affordable rental properties.
- Action 4A.6 - Support the development of Aboriginal and Torres Strait Islander managed community housing in the ACT.

The ACT Housing Strategy includes range of initiatives, policies and programs to support community housing providers, including:

- Development of community housing on some underutilised community facility land.
- Expanding the affordable community housing land tax exemption scheme and removing the time limit associated with the program.
- Support to establish an Aboriginal and Torres Strait Islander community housing provider in the ACT.
- Exploring the potential to pilot a shared equity scheme in partnership with a community housing provider.
- A pilot Build-to-Rent project in Turner, which is proposed to include at least 15 per cent affordable rental dwellings.
- Build-to-Rent Lease Variation Charge - provides a time limited Lease Variation Charge discount to eligible Build-to-Rent developments that include a minimum of 15 per cent of dwellings as affordable rental. To be eligible for the discount the dwellings must be owned or managed by a registered community housing provider.
- Market and Community Housing Initiated Build-to-Rent proposals – The ACT Government is developing a process to invite and consider market and community housing proposals for government assistance where the provider already has a site suitable for a Build-to-Rent development with an affordable rental component.
- Review of valuations policy to ensure that any restrictions such as the provision of community housing is factored into land valuations.

Recommendation 11

The Committee recommends that the ACT Government consults with stakeholders to provide a discount on individual plot purchases by community housing providers.

Response

NOTED

Under section 246 of the *Planning and Development Act 2007*, the ACT Government is required to sell land at market value determined by independent valuations. This means that discounts cannot be offered on individual block purchases by community housing providers.

The planning and lease system supports the provision of community housing through a number of mechanisms, including lease conditions, planning restrictions and requirements, and build to rent concessions.

Reforms to the planning system, currently before the Assembly, when passed are intended to make it easier for community housing providers to build and supply housing to vulnerable members of our community. This work is complemented by social policies and programs across the Housing and Homelessness portfolios.

In addition, as stated above in the response to Recommendation 10, Treasury was allocated \$250,000 to undertake work to identify potential future policy directions to address housing affordability in the ACT for low-to-medium income households as part of the 2022-23 ACT Budget.

Recommendation 12

The Committee recommends that the ACT Government provide analysis on the number and nature of registrants for recent land ballots and present that analysis to the Assembly by the last sitting day of 2022.

Response

AGREED

SLA has undertaken some analysis of land ballots for Taylor in November 2021 and Whitlam in March 2022. This analysis is provided at Attachment A, noting that privacy considerations prevent the release of information that could identify specific individuals or parties.

Recommendation 13

The Committee recommends that the ACT Government releases more land.

Response

NOTED

The ACT Government will continue to set an ambitious land release program through the ILRP, and work to prepare land for release as soon as possible.

It is noted that the Committee was unable to describe where this additional land release should occur.

Preparing land for release is a complex process that requires extensive planning, due diligence and site investigations to assess the suitability of land for an appropriate purpose. The process can also involve approvals from relevant ACT and Commonwealth statutory bodies, as well as consultation with the community. These, and many other aspects of preparing land for release can significantly impact timeframes.

While the ACT Government land release program is fundamental to ongoing residential and non-residential development activity, the private sector also plays a critical role in the supply of land for a variety of uses – most importantly residential dwellings. The number of new dwellings supplied through the private sector varies year to year.

The dwellings are generally multi-unit properties located in established suburbs. These may be small developments of two, three or four dwellings, or larger unit blocks. Each contribute to the incremental increases in housing stock available across Canberra through the release of land.

Privately owned land in key urban infill localities outweighs the inventory of ACT Government property holdings in these areas. Within the Planning Strategy framework, private sector development will play an increasing role in delivering residential supply.

Recommendation 14

The Committee recommends that the ACT Government re-establish an inventory of serviced land.

Response

AGREED IN PRINCIPLE

The ACT Government continues to set an ambitious land release program through the ILRP which sets out the intention for land for release over a five-year period.

Prior to COVID-19, due to market conditions SLA had maintained an inventory of land available for purchase over the counter. However, due to increased demand, the full inventory was purchased. The ACT Government will continue to work toward the release of land with an aim of re-establishing an inventory of serviced land.

Recommendation 15

The Committee recommends that the ACT Government implement the Auditor-General's Recommendation 6 prior to the release of the ACT Land and Property Report encompassing the second half of 2022.

Response

NOTED

The ACT Government position provided in response to the AG's Report findings in 2020 has not changed. The response to the AG's report provided the following description:

- a. *"... Reporting or commentary on inventory in the ACT land and Property Report would be retrospective, 'point in time' and would not include details of when the land was released, and not include analysis of how long particular blocks have been in the inventory. Details of blocks that are available for sale are publicly available on the SLA website and are regularly promoted through digital media platforms."*

Recommendation 16

The Committee recommends that the ACT Government table, by the last sitting day in 2022, an explanation as to why EPSDD has declined to include reporting in ACT Land and Property reports of land released (including dwelling yield and land not sold) through the Indicative Land Release Program.

Response

NOT AGREED

Publishing data about land released but not sold at the end of a specific reporting period for the ACT Land and Property Report would not provide a benefit to the community as it would not present the most up to date information. The ACT Land and Property Report is a retrospective review of land and property activity across the ACT. The most current information on land released but not yet sold is made available to the public on the SLA website.

Recommendation 17

The Committee recommends that the Indicative Land Release Program provide a clear 'like for like' breakdown of land to be released, by suburb, in the projected reporting period, and for it to include the:

- number of dwellings and the number of blocks for high-density housing; and
- number of dwellings and the number of blocks for detached housing.

Response

NOT AGREED

This level of information is generally not available at the time the ILRP is published. Sites listed in the ILRP are often at various stages of the planning and development process. Sites are likely to be subject to ongoing planning, due diligence and site investigation processes with market analysis undertaken to assist in determining the final number and type of dwellings that may be appropriate for the site. This means that any dwelling numbers provided in the ILRP are indicative based on the level of detail available when the ILRP is published. The information that is known, such as the zoning of the land under the Territory Plan and the size of the blocks can provide an indication of the number and density type of housing that could potentially be developed on a block.

Further information about dwelling numbers is generally available at later stages of planning, such as at the Estate Development Plan stage (EDPs). EDPs are a part of the planning process that are generally required for proposed land subdivisions under the *Planning and Development Act 2007*.

EDPs set out the proposed subdivision pattern and infrastructure works for an estate and include a range of details such as design and construction requirements for roads, infrastructure, and landscaping. They may also consider other issues such as heritage and environmental values which can impact the development potential of a block.

EDPs are generally undertaken just prior to, or after, land release and provide a better indication of the number of dwellings and the building density that could be developed on a particular site.

Recommendation 18

The Committee recommends that the Indicative Land release program provide clear definitions for different blocks that are referred to in the Program, e.g. definition of 'compact block'.

Response

NOT AGREED

As indicated above, the level of detail that defines residential block by size (such as compact block) is not available at the time the ILRP is published.

The definitions of different block types are defined in the Territory Plan, as the appropriate legislative document. Where used and appropriate, the ILRP publication will define any specific terms used to support audience understanding.