



Australian Government

**Department of Regional Australia,
Local Government, Arts and Sport**

Reference: B12/183

Mr Shane Rattenbury MLA
Speaker
ACT Legislative Assembly
GPO Box 1020
Canberra ACT 2601

Dear Mr Speaker

Thank you for your letter to the Hon Simon Crean, Minister for Regional Australia, Regional Development and Local Government and Minister for the Arts, of 20 December 2011 concerning the Australian Capital Territory (ACT) Legislative Assembly review of the Australian Capital Territory (Self-Government) Act 1988 (the Act). Further to Minister Crean's response of 29 February 2012, in which he indicated a submission would be made to the Review, my Department has provided the attached submission (Attachment A).

I note that the views in this submission are not intended to pre-empt parliamentary and legislative processes that would be required to amend the Act. It remains the position of the Australian Government that any changes to self-government in the ACT must take into account the outcomes of broad consultation and consensus across the community.

I wish the Committee all the best with its work. Minister Crean is looking forward to receiving the Committee's report and giving consideration to its recommendations.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Dan O'Brien', written over a horizontal line.

Dan O'Brien
Acting Secretary
Department of Regional Australia, Local Government, Arts and Sport



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Local Government, Arts and Sport

Attachment A

Submission to the ACT Legislative Assembly Standing Committee on Administration and Procedure Review of the *Australian Capital Territory (Self-Government) Act (1988)* (CW)

April 2012

The Department of Regional Australia, Local Government, Arts and Sport is pleased to provide the following submission to the Australian Capital Territory (ACT) Legislative Assembly Review of the *Australian Capital Territory (Self-Government) Act 1988* (Review). The Department notes that the Australian Capital Territory is the national capital and seat of the Australian Government. The ACT became a self-governing territory in 1988 with the passage of the *Australian Capital Territory (Self-Government) Act 1988* (the Act). In the twenty-three years since self-government was enacted, the ACT's population has grown to approximately 360,000 and there have been significant changes to the political landscape and to community engagement. The Department recognises the political maturity and stability that the ACT Legislative Assembly has achieved over this period.

The Government's Enduring Interest

The Department notes that the Australian Government has an enduring interest in the ACT. The Commonwealth is responsible for ensuring that all Australians can be proud of their national capital. It serves as the Seat of Government and as a symbol of national values. The Department notes that the national capital is acknowledged by urban designers in Australia and around the world, to have unique attributes that must be protected. To this end, the Department considers that the Australian and ACT governments act as custodians of the national capital for future generations.

Under the *Australian Capital Territory (Planning and Land Management) Act 1988*, the Commonwealth seeks to 'ensure that Canberra and the Territory are planned and developed in accordance with their national significance'¹. The ACT Government provides 'the people of the Territory with an attractive, safe and efficient environment in which to live and work and have their recreation'².

The Department acknowledges the work of the ACT Government since the advent of self-government and its commitment to the citizens of the ACT. The Department considers that the current provisions of the Act have served both governments well and the ACT has prospered. The Department considers that the self-government framework

¹ *Australian Capital Territory Planning and Land Management Act (1988)*, Part III, Div 1, s 9

² *Ibid*, Part IV, Div 25, s 2

in place for the future should provide for the Commonwealth to retain its involvement in the national capital and for the ACT Government to ensure a strong future for its citizens.

The Department notes the passing of the *Territories Self-Government Legislation Amendment (Disallowance and Amendment of Laws) Act 2011*. These amendments 'make the ACT Legislative Assembly more independent, responsible and accountable by removing the power of the Governor-General to disallow enactments of the Assembly'³. The Australian Government agreed with the objectives of the Disallowance Bill in removing the federal executive's power to override legislation in the ACT and the NT. This reflected the growing maturity of self-government arrangements in the ACT and NT. However, the Department notes that passage of this Act does not remove the power of the Commonwealth legislature, under s122 of the Australian Constitution, to make laws 'for the government of any territory'⁴.

Size of the Legislative Assembly

The Department notes that there has been much discussion regarding the provisions of the Act that set the size of the Legislative Assembly (Assembly) and the process to amend it. The current process requires the Commonwealth to make regulations in accordance with a resolution passed by the Assembly. Any proposal to change the size of the Assembly or the process by which it can be altered would need to be considered by the Australian Government at the conclusion of the Review.

Preamble to the Act

The Department notes that the ACT Government has indicated a desire to include a preamble in the Act. Any preamble to recognise the traditional owners of the land would need to be considered by the Australian Government at the conclusion of the Review. The Department has previously advised the ACT Government that any preamble that might limit the Commonwealth's powers would not be acceptable to the Australian Government.

Technical Amendments

The Australian Government may, in considering the outcomes of the Review, determine that a program of legislative amendments should be undertaken. If so, it may be appropriate for technical provisions in the Act, which have been superseded since self-government, to be removed in that process.

³ Commonwealth of Australia Explanatory Memoranda, *Territories Self Government Legislation Amendment (Disallowance and Amendment of Laws) Bill 2011*

⁴ *Ibid*