

2020

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

**GOVERNMENT RESPONSE TO
STANDING COMMITTEE ON PUBLIC ACCOUNTS REPORT 8**

**Inquiry into Auditor-General's Report No. 7 of 2016
Certain Land Development Agency Acquisitions**

**Presented by
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Government Response to Standing Committee on Public Accounts Report 8 inquiry into Auditor-General's Report No. 07 of 2016: Certain Land Development Agency Acquisitions

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.

On 28 February 2017 the Minister for Housing and Suburban Development tabled the Government Response to the audit report. The response agreed with each of the seven recommendations of the audit report.

On 28 March 2017 the Public Accounts Committee resolved to inquire into the matters in the Auditor-General's Report 7 of 2016. The inquiry report was completed in November 2019 and made 13 recommendations.

Government Position on Recommendations

Recommendation 1

The Committee recommends that the ACT Government commission formal valuations for all purchases of land by the ACT Government, paid for at market rate.

Government Position – Agreed. In April 2017 the ACT Government introduced the Portfolio Valuations Policy which requires formal valuations prior to land transactions. The Portfolio Valuations Policy is reviewed regularly.

Recommendation 2

The Committee recommends the ACT Government obtain at least two valuations current at time of purchase when it seeks to acquire land.

Government Position – Agreed in principle. The Portfolio Valuations Policy does already require two valuations be obtained, one of which may be obtained by the seller. If no valuation is obtained by the seller, then the ACT Government must obtain two.

Recommendation 3

The Committee recommends the ACT Government, when seeking to secure services to government in the property sector other than valuations, such as training and liaison with prospective sellers, obtain these under formal contract.

Government Position – Agreed. The ACT Government does already follow the requirements of the *Government Procurement Act 2001* and the Government Procurement Regulation 2007 when tendering for services and preparing written contracts or work orders.

Recommendation 4

The Committee recommends that the ACT Government conduct all negotiations for acquisitions, or any other contractual matter, in a manner consistent with Clause 3.1 of the Law Officer (Model Litigant) Guidelines 2010 (No 1), and the principles of the Guidelines more generally.

Government Position – Agreed. The ACT Government is already committed to conducting negotiations fairly and in consistency with the principles of the Model Litigant Guidelines.

Recommendation 5

The Committee recommends that the ACT Government apply a consistent approach to dealing with other parties in land acquisitions, applying similar approaches in similar settings while allowing for variations according to documented specific and defensible requirements.

Government Position – Agreed. Where circumstances are sufficiently similar a consistent approach will be applied.

Recommendation 6

The Committee recommends that the ACT Government consider amending the *City Renewal Authority and Suburban Land Agency (City Renewal Authority Land Acquisition) Direction 2017* to provide legislative tests for land acquisitions by the ACT Government.

Government Position – Agreed. The ACT Government will consider whether any further requirements need to be included in the mandatory business case and guidelines for land acquisitions as part of any reviews undertaken in the future.

Recommendation 7

The Committee recommends that wherever possible the ACT Government acquire land for large projects under the provisions of the *Lands Acquisition Act 1994*, or equivalent legislation, and that this be the default setting for such acquisitions in the future.

Government Position – Agreed. The ACT Government already uses the provisions of the *Lands Acquisition Act 1994* where applicable.

Recommendation 8

The Committee recommends that where the 'public purpose' character of an ACT Government project is not clear that the ACT Government either make a declaration to the Assembly under Section 19 of the *Lands Acquisition Act 1994* or present in the Assembly legislation which, if passed, would make specific provision for land acquisitions for that project.

Government Position – Agreed in principle. This is a complex area of law that requires careful consideration.

Recommendation 9

The Committee recommends that the ACT Government review the *Lands Acquisition Act 1994* to determine the suitability of the Act in its present form as a basis for land acquisitions by the ACT Government.

Government Position – Noted.

Recommendation 10

The Committee recommends that any proposals to amend the *Land Acquisition Act 1994* which proceed from a review of the Act be referred to the Standing Committee on Public Accounts for inquiry and report.

Government Position – Noted. Referral of bill for inquiry is a matter for the Legislative Assembly.

Recommendation 11

The Committee recommends that the ACT Government define and apply appropriate sanctions for staff who do not comply with legislatively-defined processes for responding to requests for information under *Freedom of Information Act* requests.

Government Position – Noted. There already exists a range of legislation that applies including the *Public Sector Management Act 1994*, which sets out the public service code of conduct.

Recommendation 12

The Committee recommends that the ACT Government clarify principles and constraints for the hire and retention of contractors so that government agencies will not re-hire recent employees as contractors.

Government Position – Noted. The hire of private sector contractors to provide services to the ACT Government is governed by the *Government Procurement Act 2001* and the *Government Procurement Regulation 2007*. The ACT Government also implemented the ACT Public Sector – Commercial Engagements with former ACT Public Service Executive policy, which introduced additional considerations to manage the potential for conflicts of interest when re-hiring former executive employees.

Recommendation 13

The Committee recommends that the ACT Integrity Commission investigate the four acquisitions and any other matters raised in this report.

Government Position – Noted.