

2010

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY

GOVERNMENT RESPONSE TO THE STANDING COMMITTEE ON
PUBLIC ACCOUNTS

REVIEW OF AUDITOR-GENERAL'S REPORT NO 7 OF 2008:
*PROPOSAL FOR A GAS-FIRED POWER STATION AND DATA CENTRE –
SITE SELECTION PROCESS*

Presented by
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Chief Minister

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**ACT Government Response to Standing Committee on Public Accounts Report No 6:
Review of Auditor General's Report 7/2008
Proposal for a Gas-Fired Power Station and Data Centre – Site Selection Process**

RECOMMENDATION 1

3.7 The Committee recommends that, in the case of strategic projects, a complete business case be prepared before the project is formally submitted to the ACT Government.

Response – Agreed.

This reflects current procedures, whereby business cases are assessed against Department of Land and Property Services criteria for a strategic project or program.

RECOMMENDATION 2

3.14 The Committee recommends that the Government release the strategic criteria and facilitation process policy for public consultation, and that it modify the policy if necessary.

Response – Agreed-in-part.

The criteria used by the Strategic Project Facilitation area of the Department of Land and Property Services to define a strategic project, and an outline of the project facilitation process, have been provided to the Standing Committee on Public Accounts and will be placed on the website of the new Department, once the website has been developed.

RECOMMENDATION 3

4.3 The Committee recommends that the Department of Land and Property Services develop a comprehensive communication plan as a way of informing all stakeholders—internal and external—about its role.

Response – Agreed.

In relation to external stakeholders, a comprehensive communications plan is being prepared by the Department of Land and Property Services and will be published on the Department's web site in the near future. It will reflect the whole-of-Government community engagement policy that is being reviewed by the Chief Minister's Department.

In relation to internal stakeholders, the role of the Department of Land and Property Services has been widely publicised, including by the Chief Executive of the Chief Minister's Department, in an email to all ACT Government staff.

RECOMMENDATION 4

4.4 The Committee recommends that Government clearly defines the respective responsibilities of the Department of Land and Property Services, the Land Development Agency and the ACT Planning and Land Authority in regard to project facilitation to avoid confusing overlap. The Government should also clearly outline how these agencies will interact with each other.

Response – Agreed.

The respective roles of the Department of Land and Property Services, the Land Development Agency and the ACT Planning and Land Authority are clearly defined in relation to project facilitation.

One of the functions of the Department of Land and Property Services is to facilitate and to co-ordinate key property development related projects. In doing so, it will closely liaise with

the ACT Planning and Land Authority which, inter alia, is responsible for administering the Territory Plan; granting, administering, varying and ending leases on behalf of the ACT Executive and deciding applications for approval to undertake development in the Territory.

The Land Development Agency is charged with delivering land, carrying out works for the development and enhancement of land and carrying out strategic or complex urban development projects. The three agencies are working closely to implement the Government's social, economic and environmental policies.

RECOMMENDATION 5

5.9 The Committee recommends that the Government develop guidelines outlining clear processes for all dealings and communications with territory owned businesses and their commercial partners, such as ActewAGL. The issue of who it is appropriate to copy into emails should be addressed in the guidelines.

Response – Noted.

ACT Government public servants are already bound by the probity provisions of the Public Service Management Act 1994. The Code of Ethics under that Act requires ACT public servants to act impartially and this provides sufficient guidance in relation to communications with territory-owned businesses and their commercial partners.

RECOMMENDATION 6

6.18 The Committee recommends that the Government continue to refine community engagement guidelines and to consult the community about them.

Response – Agreed.

CMD is reviewing the guidelines and, after Government agreement, proposes to release them in draft form to peak bodies, community groups and the broader community for further comment and refinement.

RECOMMENDATION 7

6.19 The Committee recommends that, as a minimum, the Government adhere to current community engagement guidelines when consulting with the community on strategic projects.

Response – Agreed. All agencies are expected to refer to the current community engagement guidelines when consulting with the community, pending the introduction of revised guidelines.

RECOMMENDATION 8

6.20 The Committee recommends that the *Chief Minister's 2007–10 Annual Report Directions*, under section B.1, be amended to require the Strategic Project Facilitation Group (or its successor) to report on the number and nature of formal community engagement strategies prepared and submitted in response to sensitive or complex strategic proposals.

Response – Agreed

Section B.1 of the Annual Report Directions requires agencies to include (i) details of major or significant community consultations undertaken during the year (ii) describe those tools used to engage with the community e.g. website, forums, workshops, focus groups, advertisements in the paper (iii) the number of people and organisations who participated in the consultations and (iv) the outcome or results of the consultations.

Accordingly, all formal community engagements involving sensitive or complex strategic proposals conducted by the Strategic Project Facilitation area of the Department of Land and Property Services are the subject of reporting under the Annual Report Directions, including the reporting of the number of matters and the methods of engagement.

RECOMMENDATION 9

6.22 The Committee recommends that the Government report to the Assembly on the last sitting day in March 2011 on the effectiveness of the revised Community Engagement Manual and the new criteria and process for consultation.

Response – Noted.

The Government would need to consider carefully the evaluation criteria, cost and timing of an evaluation to assess the effectiveness of the revised manual.

RECOMMENDATION 10

6.32 The Committee recommends that the status of ACT Government documents should be more clearly defined to ensure a consistent approach to the release of documents. Agencies should provide adequate protection to information, including major consultancy work, held by government agencies, by:

- clearly identifying whether consultancy reports can be released or should be kept secure,
- if it is releasable, the report or advice on how to inspect it should be published on the agency's website, to allow equitable access,
- if it is not releasable, the title of the report and a statement of reasons for non-release should be published on the agency's website, and
- if it is to be secure, the agency should take measures to prevent that report from being disclosed outside of Government.

Response – Noted.

The ACT Government maintains high standards in its treatment of sensitive documents and regularly reviews these practices. In this regard, it is noted that the Public Accounts Committee has announced that it will undertake hearings into the Auditor-General's Report Number 3 of 2008: Record Management in ACT Government Agencies.

RECOMMENDATION 11

6.59 The Committee recommends that the Chief Minister's Department Community Engagement Unit evaluate the adequacy of community consultation requirements for development applications, in particular for larger scale projects. This would include the role of both Government and proponents in the consultation process. The community's understanding of opportunities to provide comment on these processes and the level of information available to the public should also be considered.

Response – Not Agreed.

The CMD Community Engagement Unit provides advice and assistance to agencies in relation to community engagement activities. As the Government has previously stated in its response to the Auditor General's report, it is the responsibility of proponents to consult on any development proposal prior to a development application being submitted.

The ACT Planning and Land Authority publicly notifies development applications where required and in accordance with the provisions of the Planning and Development Act 2007. The ACT Planning and Land Authority actively encourages proponents of development to consult with local communities about their proposals. Where a Territory Plan Variation is

required, this will often be required as part of the Planning Report, depending on the nature of the Variation.

RECOMMENDATION 12

7.14 The Committee recommends that should a proposal requiring the direct sale of land change significantly then the Government should formally reconsider the application.

Response – Agreed.

This reflects current procedures. It is a requirement of the Planning and Development Act 2007 that the Executive approve the grant of a lease by direct sale, which it can only do if the grant is in accordance with criteria set down in regulations under the Planning and Development Act or if one or more specified objectives are met (section 240 of the Act refers). The Government is obliged to reconsider a proposal involving a direct sale of land if the circumstances relating to the Planning and Development Act or Regulations or the specified objectives change.

RECOMMENDATION 13

7.43 The Committee recommends that the Government clarifies which agency chairs the Direct Sales Eligibility Assessment Panel.

Response – Agreed.

The Strategic Project Facilitation area of the Department of Land and Property Services chairs the Direct Sales Eligibility Assessment Panel. It should be noted that the Land Release Co-ordination Committee looks at proposed uses of unleased Territory land that are not necessarily subject to any direct sale application. This panel is chaired by the ACT Planning and Land Authority.

RECOMMENDATION 14

7.45 The Committee recommends that, in the case of strategic projects, a complete cost benefit analysis of the potential land uses for the site (against triple bottom line considerations) be prepared to ensure the most appropriate use and the best return for the people of the ACT.

Response – Not Agreed.

The Strategic Project Facilitation area of the Department of Land and Property Services considers the optimal use of land that is subject to a proposed strategic project, using a triple bottom line analysis. However, a full cost benefit analysis of all potential land uses is not feasible in the absence of detailed information about those potential land uses.

In the case of the gas-fired power station and associated data centre, a cost benefit analysis on the land originally suggested for the facility would have involved analysis of all possible land uses within the existing Broadacre zoning (including the cemetery and community facility) as well as the more intensive uses that might follow any proposal involving a change to the zoning from Broadacre to, for example, Residential, Commercial, Industrial or Community uses. A cost-benefit analysis of this sort would be very difficult and resource-intensive, and is simply not feasible on each parcel of land being considered for development.

RECOMMENDATION 15

7.58 The Committee recommends that the Government create an ACT Planning Strategy as required by the *Planning and Development Act 2007*. The Strategy should be prepared by the Chief Minister's Department and should integrate infrastructure, transport, energy, land use, economic, population, environmental, and social issues. There should be significant community involvement in the strategy.

Response – Not Agreed.

In the design of the Planning and Development Act 2007, the Government was quite deliberate (and was supported by the Assembly) in including the requirement for an ACT planning strategy. For this purpose the Government adopted the Canberra Spatial Plan and companion Sustainable Transport Plan, both of which were subject to considerable community engagement. These documents reflect the ACT's spatial planning strategy that sits within the wider Canberra Plan framework.

As noted in the document (http://apps.actpla.act.gov.au/spatialplan/1_future/index.htm), the Canberra Spatial Plan outlines a strategic direction that will help manage change and provide for growth to achieve the social, environmental and economic sustainability of Canberra. Under the umbrella of the Canberra Plan, it forms part of a comprehensive, integrated strategic plan for Canberra's future, reflecting the community's aspirations for the future of the city and its setting.

Further, the Spatial Plan is intended to guide the Territory in its allocation of resources, such as the use of land and the construction of capital works as well as to inform changes to both the National Capital Plan and the Territory Plan. The Canberra Spatial Plan does not replace the Territory Plan — it is a strategic document to guide more detailed planning. It sets the framework for spatially based decision making in the future and outlines the actions needed to achieve the strategic direction for Canberra over the next 30 years.

The current work on the Sustainable Future program by ACTPLA will lead to an evaluation of the Spatial Plan in 2010-11. This evaluation will include further community involvement and integrate with the Strategic Transport Action Plan and ACT Infrastructure Plan.

CMD is developing the Territory's first ten year Infrastructure Plan, which will be a rolling ten year strategy released each year around the time of the Budget. There has been engagement in preparation of the Plan through a series of Infrastructure Roundtables – this engagement will be enhanced when the first Plan is available to inform development of the subsequent year's update.

The Government will also engage the community in a conversation about how best to integrate land use, environmental, transport, economic and social policy directions in pursuing a sustainable long-term future for Canberra.

RECOMMENDATION 16

7.59 The Committee recommends that, as part of the establishment of the Department of Land and Property Services and the creation of an ACT Planning Strategy, the Government critically examine the current roles played by agencies in strategic planning in the ACT with a view to establishing a sustainable strategic planning framework.

Response – Agreed in part.

As stated in response to Recommendation 15, the ACT has a Planning Strategy.

In establishing the Department of Land and Property Services, the Government has examined the roles played by the respective agencies in strategic planning in the ACT and for the purposes of strategic land use planning, which includes the review and monitoring of the planning strategy. This function remains with the ACT Planning and Land Authority.

Likewise, the responsibility for the strategic oversight of transport planning and the review and monitoring of the Sustainable Transport Plan remains with the Department of Territory and Municipal Services.

The Chief Minister's Department has overarching responsibility for the Canberra Plan framework as well as development and maintenance of the Infrastructure Plan, while other Departments have strategic plans for their own areas of service delivery. This work is brought together by the Chief Executives' Strategic Planning Committee which was formed in 2009 to provide advice to Cabinet on infrastructure and service planning and related issues.

RECOMMENDATION 17

8.17 The Committee recommends that the ACT Commissioner for Public Administration develop good practice guidelines for whole of government working in the ACT Public Service (ACTPS). The Guidelines should encompass the key principles of whole of government working and provide clear direction on the roles and responsibilities of ACTPS employees when working collaboratively on whole of government projects, programs or service delivery. This would include information management, external communications, budget and performance management issues.

Response – Noted.

The values, principles and expected conduct of ACT Public Servants are set out in Part 2, Division 2.1 of the Public Sector Management Act 1994. This covers issues such as the need for responsiveness to the requirements of the Government and the use of best management practices in public administration.

It is recognised that increasingly the roles of public sector agencies across Australia require a greater level of cooperation both within and across governments. ACTPS employees regularly work across agencies, with other jurisdictions and with external stakeholders. The recent success of the ACT Stimulus Taskforce is evidence of the Service's capacity to respond effectively to issues that cut across traditional organisational boundaries. Effective responses have at times included change to structural arrangements, information management practices, communications and performance and accountability reporting.

It is noted that Australian Public Service guidance has been drafted on 'connecting government' and consideration will be given as to whether there is benefit in the production of similar advice by the Commissioner for Public Administration, subject to other priorities.

RECOMMENDATION 18

8.23 The Committee recommends that the Government consider making changes to the budget and accountability frameworks to support cross-agency initiatives. In particular, where possible, agency performance measures should be amended to facilitate whole of government working. This should be done without undermining appropriate accountability and reporting measures for each agency.

Response – Agreed.

Options for strengthening delivery and governance of across-agency initiatives are being examined as part of the Accountability in Government initiative, which was funded in the 2008-09 Budget.

Options agreed by Government will be incorporated into the new ACT Government Performance and Accountability Framework.