

2004

LEGISLATIVE ASSEMBLY FOR
THE AUSTRALIAN CAPITAL TERRITORY

GOVERNMENT RESPONSE TO LEGISLATIVE
ASSEMBLY STANDING COMMITTEE ON PLANNING AND
ENVIRONMENT REPORT NO 31 – INQUIRY INTO THE
MATTER OF THE KARRALIKA DEVELOPMENT AND CALL
IN POWER OF THE MINISTER FOR PLANNING

TABLING STATEMENT

Circulated by authority of the
Acting Minister for Planning
Mr Ted Quinlan MLA

Mr Speaker, the Planning and Environment Assembly Committee Report No 31 inquired into planning and consultation issues in relation to the Karralika development. The Inquiry made 10 recommendations that were not specific to the Karralika development, but focussed on broader legislative and consultative issues for planning and development approvals and capital works programming.

In considering the Government's response to the recommendations of the Committee, it is important to emphasise that the Government had already initiated major review of planning with a view to amending the *Land (Planning and Environment) Act 1991*. The planning and land review is a significant project that will, over the next two years, comprehensively examine the effectiveness of the current planning and development approvals regime for the ACT.

It will include a review of the Land Act, and the appropriateness of the existing consultative mechanisms for approvals processes and deliver significant planning reforms.

The Government is conscious of the need to provide protection for confidential services balanced with the need for community input into planning processes. Having said this, consultation should be directed to where it can best add value. It should also provide for those who may be materially affected and operate within an administratively tolerable resource allocation.

In respect of the budget process the Committee report fails to recognise that the Government already undertakes comprehensive community consultation in developing its budget, including capital works. In undertaking major project development, governments will always be challenged to identify the point at which effective community consultation can be undertaken.

It is important to ensure that effective consultation is undertaken on clear and definable projects, in order to avoid misinformation or misunderstanding within the community on the Government's capital works program. That is a goal that this Government will continue to work towards.

It is also important to recognise that the Government's capital works program is developed centrally with proposals brought forward by agencies. It is important to balance a centralised approach with the need to ensure agency ownership of the projects and effective service delivery. The Government response notes that the concept of a rolling program has already been adopted in part, and will be further implemented in the future budgets.

Further refinements to improve the capital works program over its whole cycle, from needs analysis and conception to delivery and post completion review.

While the Committee report does not include recommendations specific to the Karralika development, I would like to take this opportunity to inform the Assembly that ACT Health will soon be commencing a broad community consultation process on the proposed expansion of the Karralika site at Fadden. Demand for residential rehabilitation services in the ACT is growing, and the Government believes that some expansion of the Fadden site is needed to meet this demand. This proposed

expansion will, however, be limited in scale compared to that proposed in May 2003. The consultation process will involve broad community representation, and ACT Health will be seeking feedback from the community on this proposal

Mr Speaker, I now table the Government's Response to report No. 31 of the Standing Committee on Planning and Environment.

2004

Legislative Assembly for the Australian Capital
Territory

ACT Legislative Assembly Standing Committee on
Planning and Environment Report No.31 - Inquiry
into the matter of the Karralika Development and Call
In Power of the Minister for Planning

Government Response

Circulated by the authority of the
Acting Minister for Planning
Mr Ted Quinlan MLA

17 August 2004

Response to Standing Committee – Inquiry into the matter of the Karralika Development and Call In Power of the Minister for Planning

Recommendation 1

The Committee recommends that the Regulations that attend the *Land (Planning and Environment) Act 1991* be reviewed and rewritten to ensure definitional clarity of the interpretation and application of the Regulations.

Government response: Agree in-principle. On 9 December 2003 the Minister for Planning tabled the Statement of Planning Intent under the *Planning and Land Act 2002*. The statement “sets out the main principles that are to govern planning and land development in the ACT”. The Statement outlined the key elements that were expected to be included in any reform agenda, including the streamlining of the development assessment system. A review of the planning and land system was announced as part of the Budget initiatives for 2004-05. One of the key elements is a comprehensive review of the *Land (Planning and Environment) Act 2001*, which contains the statutory requirements for development applications and consultation requirements for those applications, including current exemption provisions. The issue raised in Recommendation 1 will be addressed as part of that legislative review. If changes to the Regulations are identified that could be progressed without compromising the broader reform directions, then the Regulations would be amended at the earliest possible opportunity.

Recommendation 2

The Committee recommends that the *Land (Planning and Environment) Act 1991* be reviewed and rewritten to cater for special projects so that there is the possibility for partial disclosure of floor plans and retention of confidentiality for those areas with special security requirements.

Government response: Agree in-principle. See Government response to Recommendation 1. In addition to the legislative review, the Statement of Planning Intent also highlights the need for any review to include:

- Elevating the status and role of strategic planning and policy instruments in guiding decision making and engaging the community early in the planning process; and
- Providing appropriate safeguards for members of the community most directly affected by policy change and development applications.

In reviewing the statutory requirements for notification of development applications, the possibility of partial disclosure of non-confidential information for special projects will be considered, in consultation with relevant agencies and the community.

Recommendation 3

The Committee recommends that the definition of Regulation 12 and the circumstances when it might be applied be tightly prescribed to encourage improved frameworks of open and transparent decision making by government Ministers.

Government response: Agree in-principle. See the response to Recommendations 1 and 2.

Recommendation 4

The Committee recommends that the ACT Government impress on all of its Chief Executive Officers that prior to giving advice to ACT Government Ministers, they familiarise themselves with all relevant legislation.

Government response: Agreed. In regard to the Karralika development, the Chief Executive of ACT Health was adequately briefed by his staff on the provisions of the relevant legislation and noted ACTPLA's advice prior to forwarding advice to the Minister for Health.

Recommendation 5

The Committee recommends that the ACT Government introduce a new consultative model that will allow participation by the public and key stakeholders in the decision making processes for the approval for sensitive projects.

Government response: Agreed in principle. See response to Recommendation 2. The appropriateness of new consultation requirements for confidential services will be considered as part of a comprehensive review of the statutory consultation activities for the range of activities undertaken by the Planning and Land Authority.

Recommendation 6

The Committee recommends that the definition of call in powers of a Minister and the circumstances when these might be applied, be tightly prescribed, to encourage improved frameworks of open and transparent decision making by Government Ministers.

Government response: Noted. Section 229B of the *Land (Planning and Environment) Act 1991* contains criteria for the use of call-in powers, which limit their use to circumstances where:

- a) the application raises a major policy issue; or
- b) the application seeks approval for a development that may have a substantial effect on the achievement or development of objectives of the Territory plan; or
- c) the approval or refusal of the application would provide a substantial public benefit.

When the ACT Planning and Land Authority was established in 2003, amendments were made to Act, which requires the Minister to obtain the advice of the Authority and the Planning and Land Council in the use of the power. This provides an opportunity for expert and independent advice on the application being considered. While it is recognised that the use of the call in power is sometimes controversial, on balance, the current legislation provides the appropriate safeguards and transparency of process in the exercise of the call-in power.

Recommendation 7

The Committee recommends that the Legislative Assembly give consideration to the establishment of Public Works Committee in the next Assembly to scrutinise the total ACT Government Capital Works Program.

Government response: Noted. This is an issue for the Assembly to consider. Currently Capital Works are already examined by individual portfolio Estimates Committees, linking in with agency service delivery needs. The Government considers that there are strong benefits in maintaining the link between investment in capital works, and agencies' service delivery needs on a portfolio basis.

Recommendation 8

The Committee recommends that the ACT Government and all of its agencies explore ways to involve the wider community during the contemplative stage of any capital projects, before any work is undertaken on feasibility studies, sketch plans, and indicative costs for the proposal.

Government response: Noted. The Government already undertakes comprehensive community consultation in developing its budget, including capital works. The Committee should note that capital works projects may be in response to issues or concerns raised by the community in relation to particular services. Projects also develop from direct proposals from within the community.

This input can be either through the formal budget consultation process, or through the (less formal) consultation undertaken by agencies with their stakeholders.

There is a fine balance to be achieved, as consultation and discussion on significant projects is more effective when adequate information on the project is available. It is important to ensure that effective consultation is undertaken on clear and definable projects, in order to avoid misinformation or misunderstanding within the community on the Government's capital works program. Community consultation will also be complemented by the initiative in the Government's Economic White Paper for pre tender consultations with local industry on significant Capital Works Projects and other procurements above threshold levels.

Recommendation 9

The Committee strongly recommends that the ACT Government review its capital work programming processes and that a consolidated capital works program that covers all ACT Government Departments and agencies be prepared annually in the form of a rolling plan, and that this be scrutinised by a newly created public Works Committee or the Public Accounts Committee.

Government response: Noted. The Government's capital works program is developed centrally with proposals brought forward by agencies. It is important to balance a centralised approach with the need to ensure agency ownership of the projects and effective service delivery. The Government has already adopted in part the concept of a rolling program, which will be further implemented in the future budgets.

The Committee should also note that the capital works projects and programs are currently subject to scrutiny by the Estimates Committee as part of agency budgets, as well as the Public Accounts Committee as part of the scrutiny of Annual Reports. The Government considers it important to maintain the link between investment in capital works, and agencies' service delivery needs. Notwithstanding this, the Government will consider further refinements to improve the capital works program over its whole cycle, from needs analysis and conception to delivery and post completion review.

Recommendation 10

The Committee recommends that the ACT Budget Papers on Capital Works contain full description of the scope of projects and construction details and timelines.

Government response: Noted. The Government will explore options on providing further information to the community on the individual projects,

including the option of further detail papers that may be supplementary to the Budget documents.