



Legislative Assembly for the ACT

STANDING COMMITTEE ON PUBLIC ACCOUNTS

Review of Auditor-General's Report No 2 of
2005: *Development Application and Approval
Process*

SEPTEMBER 2006

Report 7

Committee membership

Mr Richard Mulcahy MLA	Chair
Dr Deb Foskey MLA	Deputy Chair
Ms Karin MacDonald MLA	

Secretariat support

Secretary:	Andrea Cullen
Administration:	Lydia Chung

Contact information

Telephone: (02) 6205 0136

Facsimile: (02) 6205 0432

Email: committees@parliament.act.gov.au

Post: GPO Box 1020
CANBERRA ACT 2601

Website: www.parliament.act.gov.au/committees

Resolution of appointment

The Legislative Assembly appointed the Standing Committee on Public Accounts on 7 December 2004 to:

- (i) examine:
 - (A) the accounts of the receipts and expenditure of the Australian Capital Territory and its authorities; and
 - (B) all reports of the Auditor-General which have been presented to the Assembly;
- (ii) report to the Assembly any items or matters in those accounts, statements and reports, or any circumstances connected with them, to which the Committee is of the opinion that the attention of the Assembly should be directed;
- (iii) inquire into any question in connection with the public accounts which is referred to it by the Assembly and to report to the Assembly on that question; and
- (iv) examine matters relating to economic and business development, small business, tourism, market and regulatory reform, public sector management, taxation and revenue and sustainability.

TABLE OF CONTENTS

Committee membership	2
Secretariat support	2
Contact information	2
Resolution of appointment.....	3
SUMMARY OF RECOMMENDATIONS	7
Glossary	11
1 INTRODUCTION AND CONDUCT OF INQUIRY.....	13
Referral of the inquiry	13
Terms of reference	13
Conduct of the inquiry.....	13
Structure of the report.....	14
Acknowledgements	15
2 AUDIT FINDINGS	17
Audit objectives	17
Audit opinion	17
Planning system reform project	18
Audit recommendations	20
3 BACKGROUND ON THE DEVELOPMENT ASSESSMENT SYSTEM	37
The ACT jurisdiction	38
4 SIGNIFICANCE OF THE DEVELOPMENT ASSESSMENT SYSTEM	41
Economic vibrancy	41
Environmental enhancement and community well-being	44
Fundamental components of the development assessment system	46

5 DEVELOPMENT ASSESSMENT LEGISLATION AND GUIDELINES	47
Legislation	47
Compliance with legislation	49
Community consultation	55
6 DEVELOPMENT ASSESSMENT PROCESSES	61
Quality control in the development assessment process.....	62
Decision making	66
Integrating the referrals process	72
7 ACTPLA ORGANISATIONAL CULTURE	79
8 ACTPLA RESOURCING	83
Funding.....	83
Recruiting & retaining planning staff.....	84
Staff education, training and professional development.....	89
9 CONTINUOUS IMPROVEMENT OF ASSESSMENT PROCESSES	93
10 ECOLOGICALLY SUSTAINABLE DEVELOPMENT	97
Sustainability principles	97
ESD guidelines & training for development assessment staff	99
Environmental assessments.....	101
Creative design & innovation	102
11 CONCLUSION	105
APPENDIX A: LIST OF SUBMISSIONS	107
APPENDIX B: LIST OF WITNESSES	109

SUMMARY OF RECOMMENDATIONS

RECOMMENDATION 1

5.27 The Committee recommends that ACTPLA collate all AAT decisions and provide these in a clear and concise manifest so that a database of case law is easily accessible on the ACTPLA website for use by staff and proponents.

RECOMMENDATION 2

5.28 The Committee recommends that ACTPLA develop and implement a formal feedback mechanism to allow decisions of the Administrative Appeals Tribunal to guide and inform the improvement of the planning system.

RECOMMENDATION 3

5.29 The Committee recommends that ACTPLA prioritise the development of a more formalised training program to improve staff's understanding of legislative requirements.

RECOMMENDATION 4

5.37 The Committee recommends that ACTPLA investigate the provision of a telephone number for complaint purposes.

RECOMMENDATION 5

5.62 The Committee recommends that ACTPLA ensure that its community engagement practices are consistent with the Government's community engagement initiative.

RECOMMENDATION 6

6.49 The Committee recommends that ACTPLA implement measures to ensure compliance with decisions of the Administrative Appeals Tribunal within reasonable timeframes.

RECOMMENDATION 7

6.56 The Committee recommends that ACTPLA encourage the use of conciliation and mediation processes to resolve disputes and conflicts over development assessment processes, before a matter ends up before the AAT.

RECOMMENDATION 8

6.57 The Committee recommends that the Department of the Territory and Municipal Services should more widely promote the Heritage Advisory Service.

RECOMMENDATION 9

7.15 The Committee recommends, to the extent that work is not already taking place, that ACTPLA embrace an adequately resourced organisational renewal approach/program to build organisational capability to support successful implementation of the Reform Project change effort.

RECOMMENDATION 10

8.25 The Committee recommends that ACTPLA promote the planning profession, job profile and the benefits of planning to school students, those working in associated areas and the community in general.

RECOMMENDATION 11

8.26 The Committee recommends that ACTPLA explore the feasibility of offering traineeships or cadetships which would provide structured supervision and guidance for students in their third year or higher of tertiary study.

RECOMMENDATION 12

8.27 The Committee recommends that the Planning Minister, where appropriate, support the Planning Institute of Australia's efforts to lobby the Commonwealth Government to recognise the planning profession as an Occupation in Demand, to make it easier for overseas planners to work in Australia.

RECOMMENDATION 13

8.36 The Committee recommends that the Government encourage and support the work of the University of Canberra in establishing a professional planning course structure.

RECOMMENDATION 14

8.37 The Committee recommends, to the extent that work is not already taking place, that the Planning Minister initiate discussion with his state and territory colleagues with a view to lobbying the Commonwealth Government to provide greater resources and funding for university planning schools, and increase the number of funded places for planning students.

RECOMMENDATION 15

9.7 The Committee recommends that the Government give consideration to prescribing in the proposed legislation that an independent review of the Act be conducted after three years of operation.

RECOMMENDATION 16

9.13 The Committee recommends, to the extent that work is not already taking place, that ACTPLA investigate the capacity of its customer feedback system to act as a centralised data information system to support continuous improvement of the development assessment system.

RECOMMENDATION 17

10.12 The Committee recommends that the Government prioritise the advancement of the proposed sustainability legislation as a funded initiative in the 2007-08 budget.

RECOMMENDATION 18

10.20 The Committee recommends, to the extent that work is not already taking place, that ACTPLA engage professionals with expertise in environmental management and sustainable development to develop and implement ESD guidance tools for staff.

RECOMMENDATION 19

10.22 The Committee recommends, to the extent that work is not already taking place, that ACTPLA provide formal ESD training, delivered by professionals with expertise in environmental management and sustainable development, for all staff.

RECOMMENDATION 20

11.3 The Committee recommends that the Legislative Assembly implement the recommendations of Auditor-General's Performance Audit Report No 2 of 2005: *Development Application and Approval Process*.

Glossary

AAT	Administrative Appeals Tribunal
Act	statute, passed by a legislative body
ACTPLA	ACT Planning and Land Authority
CFS	Customer feedback system
CMD	Chief Minister's Department (ACT Government)
DAA	Development application and approval process
DA	Development application
DAF	Development Assessment Forum
DARTS system	Data archive and transmission system
DPP	Director of Public Prosecutions
DUS	Department of Urban Services (ACT Government)
EIA	Environmental impact assessment
EIS	Environmental impact statement
ESD	Ecologically sustainable development
Exposure bill	Draft legislation
HIA	Housing Industry Association
HQSD	High quality sustainable design
IDMS	Integrated document management system
MODL	Migration Occupations In Demand List
National Inquiry	National Education Inquiry into Planning Education and Employment
Objective	IT system that enables interoperability between systems and components

Performance audit	an independent systematic examination of all or a part of an entity's activities to assess economy, efficiency, effectiveness and/or compliance with relevant legislation
PA	Preliminary assessment
RAIA	Royal Australian Institute of Architects
RDC	Residential Development Council
Reform Project	ACTPLA Planning Reform Project
Regulations	a form of law, often referred to as delegated or subordinate legislation. They have the same binding legal effect as Acts and usually state rules that apply generally. Regulations are not made by Parliament. Rather, they are made by persons or bodies to whom Parliament has delegated the authority to make them.
RRIF	Regulatory Reduction Incentive Fund (AusIndustry)
TAMS	Department of the Territory and Municipal Services (ACT Government)
UK	United Kingdom

1 INTRODUCTION AND CONDUCT OF INQUIRY

Referral of the inquiry

Auditor-General's Performance Audit Report No 2 of 2005: *Development Application and Approval Process* (the Audit Report)

- 1.1 The Audit Report was presented to the Legislative Assembly on 5 May 2005 and consequently referred to the Committee for inquiry.¹
- 1.2 The Audit Report presents the results of a performance audit that reviewed the development application and approval process (the development assessment process) in the Australian Capital Territory (ACT).²

Terms of reference

- 1.3 The Committee's terms of reference were to examine the Audit Report and report to the Legislative Assembly for the ACT. The Committee's inquiry was limited to the information contained within the Audit Report.

Conduct of the inquiry

- 1.4 The Committee received a briefing from the Auditor-General on the Audit Report.³ The Committee also received a submission from the ACT Planning and Land Authority (the Authority; ACTPLA) in relation to the findings of the Audit Report.⁴

¹ Legislative Assembly for the ACT, Sixth Assembly, Minutes of Proceedings No. 19, Thursday 5 May 2005, p. 172.

² ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 1.

³ 8 June 2005.

⁴ Dated 28 July 2005 and received by the Committee 10 August 2005.

- 1.5 The Committee sought views from a range of people and organisations including: the business community; community councils and residents' associations; building industry organisations; organisations and associations interested in ecologically sustainable development (ESD); and the ACT community.

Advertisement

- 1.6 The Committee invited submissions from a wide range of stakeholders by letter, and public advertisements appearing in the *Canberra Times*, *Chronicle* and *City News* on Saturday 25 June, Tuesday 28 June and Thursday 30 June 2005 respectively.

Submissions

- 1.7 The Committee received twelve submissions. The individuals and organisations that lodged submissions are listed at **Appendix A**.
- 1.8 The Committee notes that there were submissions from a number of individuals who had experienced issues with the development assessment process and industry bodies but only one from community based organisations such as community councils.

Public hearings

- 1.9 The Committee held public hearings on 1 September, 14 September, 2 November, 9 November, 7 December 2005, 1 March, 4 April 2006 and 6 September 2006. Witnesses who attended the public hearings are listed at **Appendix B**.
- 1.10 The Committee met on 29 and 31 August and 18 September 2006 to discuss the Chair's draft report, which was adopted on 18 September 2006.

Structure of the report

- 1.11 The Committee's report examines a selection of the significant issues, including the key findings and recommendations raised by the Auditor-General in relation to the development assessment process. The report also includes comments received from witnesses in relation to these issues.

1.12 The Committee's report is divided into five parts and covers the following main topics:

Part 1 – Background to the inquiry

- Chapter 1 – Introduction and conduct of the inquiry
- Chapter 2 – Audit findings

Part 2 – The development assessment process

- Chapter 3 – Background on the development assessment system
- Chapter 4 – Significance of the development assessment system

Part 3 - Efficiency, effectiveness and economy of the development assessment process

- Chapter 5 – Development assessment legislation and guidelines
- Chapter 6 – Development assessment processes
- Chapter 7 – ACTPLA organisational culture
- Chapter 8 – ACTPLA resourcing
- Chapter 9 – Continuous improvement of development assessment

Part 4 – The development assessment process and sustainability

- Chapter 10 – Ecologically sustainable development and the DA process

Part 5 – Summary and conclusions

- Chapter 11 – Committee summary and conclusions

Acknowledgements

1.13 The Committee thanks all those who contributed to the inquiry by making submissions, providing additional information or appearing before it to give evidence.

2 AUDIT FINDINGS

Audit objectives

2.1 The objectives of the Auditor-General's performance audit were to provide an independent opinion on whether the development assessment processes in the ACT:

- 'are efficient, timely and fair;
- have been applied in a manner consistent with the relevant guidelines and legislation; and
- have regard to the principles of Ecologically Sustainable Development (ESD) (as defined by the *Environment Protection Act 1997*)'.⁵

Audit opinion

2.2 In relation to each of the above objectives, the Auditor-General formed the following audit opinions:

Objective 1 – Efficiency, timeliness and fairness

'That development application and approval (DAA) processes:

- are not efficient, primarily due to complexity of legislation and guidelines, lack of consistent documentation and document management, inadequate compliance activities and shortcomings in the referrals and consultation processes;
- are often timely for single residential developments;
- often fail to meet statutory timeframes for non-residential developments; and
- are fair in most cases'.⁶

⁵ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 2.

⁶ *Ibid.*, p. 3.

Objective 2 – Consistency with guidelines and legislation

‘That DAA processes have generally been applied in a manner consistent with relevant guidelines and legislation. However, there is a need for significant work to be done to improve consistency and transparency of processes across various business areas of the Authority. This includes ensuring the availability of qualitative and standardised guidance material, improved documentation and a formalised staff training program.’⁷

Objective 3 – Application of ESD principles

‘That development approval processes have some regard for the principles of ESD. Although the Authority is one of the leading ACT government agencies implementing the principles of ESD, further work is required to ensure that ESD has clear and measurable impacts on DAA decisions.’⁸

Planning system reform project

2.3 In its submissions and evidence to the Committee, the Authority noted that the Audit Report raised a number of matters that were currently the subject of the Planning System Reform Project (the Reform Project).⁹

2.4 The Reform Project announced in December 2004 by the Minister for Planning aims to investigate reforms that will:

‘...create a contemporary planning and land administration system, processes and practices that will provide greater certainty, clarity and consistency, and which is flexible, timely, less repetitious and administratively manageable’.¹⁰

2.5 As reform of the development assessment system¹¹ is one of the key issues identified for review, the Minister for Planning noted that the Reform Project would address many of the concerns with the development assessment process raised by the Auditor-General:

⁷ ACT Auditor-General’s Report No 2 of 2005: *Development Application and Approval Process*, p. 3.

⁸ *Ibid.*, p. 3.

⁹ Submission No. 7, July 2005, p. 1.

¹⁰ ACTPLA, *Planning System Reform Project – Discussion paper*, May 2005, p. 2.

¹¹ ACTPLA, *Technical Paper No. 3 – Streamlining development assessment and building approval processes in the ACT*.

'I note the Auditor-General's report that raises concerns about the complexity of planning in the ACT and want to reassure the community that the reform program has the development assessment system as one of its priorities'.¹²

- 2.6 The Authority has acknowledged that not all of the proposed reforms arising from the Reform Project will require change to legislation or regulation. Many will involve changes to current policies and practices of ACTPLA and other ACT Government agencies. Further, in some cases, the proposed reforms will require changes in organisational culture within government and changes to community interaction within the planning system.¹³
- 2.7 Since its formation, the Authority¹⁴ has undertaken various reviews, audits, research projects and evaluations with a view to inform decisions on a range of issues affecting the DAA process.¹⁵ The Committee notes, however, that no comprehensive review of the entirety of the planning and land administration system in the ACT has been conducted for more than ten years.¹⁶

Exposure draft of the Planning and Development Bill

- 2.8 The Planning Minister released for public consultation on 13 July 2006 the exposure draft of the Planning and Development Bill (the exposure draft bill) and other material that, purportedly, will deliver a simpler, faster and more effective planning system for the ACT.¹⁷
- 2.9 A central part of the proposed legislation is a simplified development assessment process through a track system that will match the level of assessment and process to the impact of the proposed development.¹⁸
- 2.10 According to ACTPLA this is the most significant and far-reaching change under the exposure draft bill:

¹² Minister for Planning, Media Release: 'Planning Reform to tackle DA processes', 6 May 2005, p. 1.

¹³ ACTPLA, *Planning System Reform Project – Discussion paper*, May 2005, p. 2.

¹⁴ The Authority was established on 1 July 2003 under the *Planning and Land Act 2002* (ACTPLA, 2004-05 *Annual Report*, p. 4).

¹⁵ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 1.

¹⁶ ACTPLA, *Planning System Reform: Directions Paper*, May 2005, p. 3.

¹⁷ Minister for Planning Media Release: 'New Planning Legislation for the ACT', 13 July 2006.

¹⁸ ACTPLA, *Planning System Reform Project – Guide to the ACT Government's proposed planning laws*, July 2006, p. 3.

‘The track system while being simpler, more consistent, and easier to use will mark a move towards national leading practice in development assessment.’¹⁹

2.11 Further, ACTPLA has stated that the proposed legislation will be:

‘...the key tool that the ACT Government will use to make ACT’s planning system simpler, faster and more effective. The Bill will replace the existing Land (Planning and Environment) Act 1991, and the Planning and Land Act 2002’.²⁰

Audit recommendations

2.12 The Auditor-General made twenty-two recommendations to the Authority for future action to address the audit findings in relation to the Territory’s development assessment processes.²¹ A list of these follows, including the Authority’s response.

2.13 The Authority advised the Committee at a public hearing on 4 April 2006 that, of the twenty-two recommendations, fourteen had been implemented in full and eight were in the process of being addressed. Further, the Chief Planning Executive noted that, in the main, responsiveness to the recommendations had occurred through the Reform Project.²²

Recommendation 1 **Records management**

2.14 The Auditor-General recommended that the Authority should improve records management procedures by means such as:

- ensuring that all documents entered into the Objective program²³ are dated and, where appropriate, there is evidence that the document has been signed;

¹⁹ ACTPLA, *Planning System Reform Project – Guide to the ACT Government’s proposed planning laws*, July 2006, p. 3.

²⁰ *Ibid.*, p. 2.

²¹ ACT Auditor-General’s Report No 2 of 2005: *Development Application and Approval Process*, p. 7.

²² *Transcript of evidence*, 4 April 2006, p. 87.

²³ The *Territory Records Act 2002* requires Territory agencies to have policies and procedures to ensure that proper records of all business activities are kept and that an agency’s record keeping is reliable, systematic and well managed. The Authority uses an Integrated Document Management System (IDMS) which uses a program called Objective to provide electronic records management (Auditor-General’s Report No 2 of 05, p. 19).

- where there is no information to be entered into a file on the Objective program, entering 'NIL' (or similar) to indicate that there has not been an omission; and
- ensuring that if hard copy files are to be maintained, they are indexed, documents are filed chronologically, and no loose documents are contained in the files.²⁴

2.15 The Authority agreed with the recommendation.²⁵

Recommendation 2 The pre-application process

2.16 The Auditor-General recommended that the Authority should monitor and record the time and effort taken to move through the pre-application process, where practicable, with a view to identifying where problems are occurring, the reasons for delays, and how improvements can be made.²⁶

2.17 The Authority agreed in part with this recommendation stating that it now administers pre-application processes on a non-mandatory basis which are difficult by their nature to monitor consistently. The abolition of the High Quality Sustainable Design (the HQSD) process²⁷ in the latter part of 2004 had, to a large extent, placed the pre-lodgement process in the hands of proponents. The amount of time and effort invested by an applicant in identifying the requirements that need to be met, to ensure ACTPLA is provided with appropriate information to assess a development application (DA), is largely at the discretion of the applicant.²⁸

2.18 The Committee notes that, when it was in place, the HQSD process was the equivalent of what is now the pre-application process.²⁹

²⁴ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 20.

²⁵ Submission No. 7, July 2005, p. 9.

²⁶ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 21.

²⁷ Before 1 July 2004, the High Quality Sustainable Design process was closely managed by ACTPLA and involved a number of steps that had to be adhered to by applicants in order to prepare a development application for lodgement (Auditor-General's Report No 2 of 05, p. 20).

²⁸ Submission No. 7, July 2005, pp. 3, 9; ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, pp. 20-21.

²⁹ *Transcript of evidence*, 1 March 2006, p. 75.

2.19 Further, the Authority advised that the Reform Project was looking at this issue, particularly the role of private sector certification of documentation prior to lodgement and optional preliminary or 'in principle' approvals.³⁰

Recommendation 3 Fees on lodgement of DA

2.20 The Auditor-General recommended that the Authority should ensure that for fees payable on lodgement of a DA, the individual and total fees due and receipt numbers are clearly recorded for all DAs. Where this information is not recorded on the DA form, a notation on the form should identify that the information is filed in the Objective program.³¹

2.21 The Authority advised that it agreed in part with this recommendation and would ensure that fee receipts were filed correctly on Objective.³²

Recommendation 4 Fast approval of DAs

2.22 The Auditor-General recommended that the Authority should:

- require a greater level of assurance from applicants that they understand legislative requirements, for example, the requirements of the *Tree Protection (Interim Scheme) Act 2001* and their responsibilities under this Act, or a declaration that no other known issues on the site would prevent an approval being granted; and
- work to ensure that action is taken against applicants who provide false or misleading information.³³

2.23 The Government agreed in part with point one, stating that such statements of assurance from an applicant cannot always be relied upon, but, it would further review the recommendation.³⁴

2.24 The Government agreed with the second dot point of the recommendation.³⁵

³⁰ Submission No. 7, July 2005, pp. 3-4, 9.

³¹ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 22.

³² Submission No. 7, July 2005, p. 10.

³³ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 23.

³⁴ Submission No. 7, July 2005, p. 10.

³⁵ *Ibid.*, p. 10.

Recommendation 5

The DA approval process

- 2.25 The Auditor-General recommended that ACTPLA should review the practice of a single officer assessing and approving a DA, based on an appropriate risk assessment. This would improve the consistency and objectivity of assessments.³⁶
- 2.26 The Authority stated that this was already the practice for more complex proposals and a review of the merit of a similar approach for simple DAs, would need to balance simplification against practicality, cost-effectiveness and benefit whilst having regard to resources and impact on timeliness of such approvals.³⁷
- 2.27 The Minister for Planning commented:
- ‘Whilst I accept absolutely that there is a need to ensure that decisions are appropriately documented so people can find reasons for decisions clearly in writing, in the government’s view it is unrealistic to adopt a number of the Auditor-General’s recommendations, because all they do is add additional time, complexity and therefore delay in the development assessment process. For example, the Auditor-General recommends in recommendation 5 that the authority should review the practice of only having a single officer assessing and approving a development application. The authority and the government have recognised – and, in fact, it is already the case – that for more complex applications more than one officer is involved in reviewing, assessing and approving the DA. But I find it difficult to see how there would be any merit in having two or more officers assessing a simple single residence development application. All that would mean is that it would take longer to assess. I do not think that is a good use of the authority’s resources or time and I do not think it adds anything to the process’.³⁸
- 2.28 In clarifying the intention of recommendation five, the Auditor-General stated:
- ‘...that it is not the intention of the recommendation to say that you need two or three people to assess a simple application. What we are saying is that we should have a process to review the assessment – by another officer. You could

³⁶ ACT Auditor-General’s Report No 2 of 2005: *Development Application and Approval Process*, p. 24.

³⁷ Submission No. 7, July 2005, p. 10.

³⁸ *Transcript of evidence*, 1 September 2005, p. 9.

have one officer assess a simple application and the review process could be a very simple checklist to make sure that the officer has gone through the checklist and ticked off all the requirements. It is a matter of checks and balances. It is a matter of ensuring that there is transparency in the decision making process and that there is accountability of the officer involved. So we did not really recommend that two or three people should assess a simple application; we recommended a review process to make sure that the right checks and balances are in the system'.³⁹

Recommendation 6 Notification and objections

- 2.29 The Auditor-General recommended that the Authority should review the current policy for disclosing details of an objector after they have submitted an objection to a DA. Maintaining the confidentiality of objectors, if requested, removes a potential impediment to legitimate objections.⁴⁰
- 2.30 The Authority agreed in part with the recommendation, stating that section 238 of the *Land Act* (the Act) requires it to make a copy of each objection available for inspection by members of the public during office hours until the end of the appeal period. Further, section 239 of the Act, allows ACTPLA, on request of the objector, to exclude the identity of the objector from being made available, subject to it not being in the public interest for that identity to be published. In practice, in accordance with section 239 of the Act, an application for maintaining the confidentiality of an objector would be successful if ACTPLA forms the opinion that 'based on reasonable grounds, it would not be in the public interest for the objector's identity to be published'.⁴¹
- 2.31 The Auditor-General found that ACTPLA forms this opinion in relatively few cases, concluding that the majority of objectors' identities were revealed.⁴²
- 2.32 Further, the Authority advised that elements of the notification and representation procedures were to be reviewed through the Reform Project.⁴³

³⁹ *Transcript of evidence*, 1 March 2006, p. 72.

⁴⁰ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 24.

⁴¹ Submission No. 7, July 2005, pp. 10-11; *Ibid.*, p. 24.

⁴² ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 24.

⁴³ Submission No. 7, July 2005, p. 11.

Recommendation 7

Documenting notification and objections

- 2.33 The Auditor-General recommended that the Authority should formalise and document the consideration of objections to ensure that each objection is considered on its merits.⁴⁴
- 2.34 The Authority agreed in part with this recommendation stating that the documentation attached to its statement of reasons, where required, already includes consideration of objections. Notwithstanding this, the Authority advised that the process for considering objections would be reviewed and improved where necessary.⁴⁵

Recommendation 8

The assessment process

- 2.35 The Auditor-General recommended that the Authority should ensure that comprehensive checklists were developed and used by all staff for development assessments in each development category.⁴⁶
- 2.36 The Authority agreed with recommendation eight stating that comprehensive checklists would be developed and implemented for those categories of development assessment, where such practices are not already commonplace.⁴⁷
- 2.37 Further, the Authority advised that the Reform Project includes an assessment of procedures required for each of the proposed five assessment tracks (exempt, prohibited, code, merit, impact). This assessment will also involve a review of existing checklists and related procedures with further development as necessary.⁴⁸

⁴⁴ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 25.

⁴⁵ Submission No. 7, July 2005, p. 11.

⁴⁶ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 25.

⁴⁷ Submission No. 7, July 2005, p. 11.

⁴⁸ *Ibid.*, p. 11.

Recommendation 9**Assessment process documentation**

2.38 The Auditor-General recommended that the Authority should document the reasons for decisions for all DAs, in order to improve the transparency, fairness and reliability of the development assessment process.⁴⁹

2.39 The Authority agreed in part with this recommendation, stating that it will review assessment documentation, but it was not practicable to provide a detailed statement of reasons for simple approvals and this was not required under the *Land Act*.⁵⁰

2.40 In formal evidence, the Minister for Planning stated:

‘Whilst the government acknowledges that there is a need to ensure that decisions are properly documented; and in my view they are quite comprehensively documented already – the planning authority has to be one of the most paper intensive parts of the ACT government because of the sheer volume of hard paper they deal with every day – it is nevertheless something that must be balanced against adding extra layers of administration for very little improvement’.⁵¹

2.41 In clarifying the intent of recommendation nine, the Auditor-General commented:

‘...the recommendation does not ask them to provide a detailed statement of reasons. In fact, in our report we make it very clear that, depending on the complexity of the application, the documentation of the decision may range from a simple checklist. It doesn’t matter how simple an application is; the person who approves it has to go through a process to say that this application meets some criteria or requirements. The checklist has to be there so there is a document, which says that the authority approved the application because it met all the requirements and criteria. It is a simple process. We do not ask the authority to provide a detailed statement of reasons for every single one’.⁵²

⁴⁹ ACT Auditor-General’s Report No 2 of 2005: *Development Application and Approval Process*, p. 26.

⁵⁰ Submission, No. 7, July 2005, p. 11.

⁵¹ *Transcript of evidence*, 1 September 2005, p. 9.

⁵² *Transcript of evidence*, 1 March 2006, p. 72.

Recommendation 10

***Timeliness of the development assessment
process***

- 2.42 The Auditor-General recommended that the Authority should review the practice of approaching applicants about applying for extensions of time, particularly when the time allowed for completing the assessment is almost over, to ensure the intent of statutory timeframes is not circumvented. The Authority should consider processes such as those used in NSW for this purpose.⁵³
- 2.43 The Authority agreed with this recommendation, stating that the issue of extensions of time, including the suitability of approaches in NSW and other jurisdictions, would be considered in the Reform Project.⁵⁴
- 2.44 Further, the Authority noted that extensions of time related to its requests for more information should occur as early as possible in the process. The Authority recognised that this was not always possible.⁵⁵
- 2.45 The Auditor-General found that the timeliness for development assessments had deteriorated since 2002-03 and noted concern regarding an apparent trend that development assessments not determined within statutory timeframes, often experienced significant delays.⁵⁶
- 2.46 In response, the Authority commented that:
- ‘...I think it is worth noting that the sample the Auditor-General looked at was an extremely small sample...I don’t think that 26 out of something like 5,000 applications per annum can really do justice to determining what the percentage is’.⁵⁷
- 2.47 The Auditor-General commented that Audit’s findings and recommendations were based on an analysis of the whole database and on other information,

⁵³ ACT Auditor-General’s Report No 2 of 2005: *Development Application and Approval Process*, p. 28.

⁵⁴ Submission No. 7, July 2005, p. 12; ACT Auditor-General’s Report No 2 of 2005: *Development Application and Approval Process*, p. 28.

⁵⁵ *Ibid.*

⁵⁶ ACT Auditor-General’s Report No 2 of 2005: *Development Application and Approval Process*, pp. 26-27.

⁵⁷ *Transcript of evidence*, 1 September 2005, p. 6.

documents and discussions with stakeholders.⁵⁸ The Auditor-General further stated:

‘I refer the committee to table 2.2 on page 27 of the audit report. The report indicates a percentage of residential DAs and non-single residential DAs not meeting the statutory timeframe, and that is based on data of 5,000 DAs, and not on the sample of 26. That information is comprehensive in terms of the percentage not meeting the statutory time frame, and that is not based on the sample of 26 but on the whole database of the Authority, as indicated in table 2.2’.⁵⁹

- 2.48 Notwithstanding the sample size, the Authority noted that a possible contributor to approvals exceeding statutory timeframes was the growing complexity of development applications, stating that:

‘...I think we would acknowledge that applications, and the nature of development assessment itself, are becoming increasingly complex year by year as additional matters are required to be taken into consideration’.⁶⁰

Recommendation 11

Data analysis and reporting

- 2.49 The Auditor-General recommended that the Authority should report its performance against statutory timeframes for the determination of development assessments in a more prominent section of its Annual Report and on its website.⁶¹
- 2.50 The Authority advised that it would consider this recommendation, noting that statutory timeframes were not the only performance indicator.⁶²
- 2.51 The Committee notes that the Authority again published information, on the percentage of DAs assessed within statutory timeframes in Appendix A – Financial statements of its 2004-05 Annual Report and notes that this lacks the prominence needed.^{63, 64}

⁵⁸ *Transcript of evidence*, 1 March 2006, p. 71.

⁵⁹ *Ibid.*

⁶⁰ *Transcript of evidence*, 1 September 2005, p. 6.

⁶¹ ACT Auditor-General’s Report No 2 of 2005: *Development Application and Approval Process*, p. 28.

⁶² Submission No. 7, July 2005, p. 12.

⁶³ ACT Auditor-General’s Report No 2 of 2005: *Development Application and Approval Process*, p. 28.

Recommendation 12

Data management

2.52 The Auditor-General recommended that ACTPLA should maintain a central database that has more capabilities than the DARTS⁶⁵ system currently used, with a view to making it easier to analyse and report on data. In addition to recording development assessment information, the database should record relevant information to identify the reasons for delays in the process so that improvement can be made where required.⁶⁶

2.53 The Authority agreed with this recommendation stating that DARTS should be replaced as soon as possible, but this had not been possible to date due to limited availability of funding for IT systems upgrades.⁶⁷

2.54 In evidence, the Authority commented:

‘...the ACT Planning and Land Authority is the pilot for what is known as the integrated document management system, which is a new government-wide electronic data management system, to comply with the Territory Records Act requirements. We have been trialling this technology for close to two years. Fundamentally, it changes the business practices of an organisation. It is not simply a collection and retrieval system of material; it is actually the way in which you practise business. Every other kind of IT system you have has to interface with IDMS’.⁶⁸

2.55 While the Auditor-General noted the significant potential of the Integrated Document Management System (the IDMS)⁶⁹ to overcome many of the procedural problems associated with records management, the Audit also recognised:

⁶⁴ ACTPLA, 2004-05 Annual Report, p. 132.

⁶⁵ DA data collected by the Authority is entered into a system called DARTS.

⁶⁶ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 29.

⁶⁷ Submission No. 7, July 2005, p. 12.

⁶⁸ *Transcript of evidence*, 1 September 2005, p. 9.

⁶⁹ The IDMS uses a program called Objective (together with other supporting programs) and it provides electronic records management (including electronic management of hard copy files); and electronic document management; as well as having the capability to improve workflow and case management (Auditor-General's Report No 2 of 05, p. 19).

‘...the initial costs placed on the Authority during the implementation period, and continuing costs due to dual systems being needed for communication with non-IDMS agencies’.⁷⁰

- 2.56 The Authority advised that it had been experiencing teething problems with the implementation of the IDMS system and in part this included the ability to retire legacy systems such as DARTS. The legacy systems:

‘...need to become redundant sooner rather than later but, as our response indicates, that requires budget allocation. They all have to be designed in a way that they can interface with IDMS. In fact you do not optimise the application of IDMS as a platform if the replacement systems for DARTS, TRIMS and other paraphernalia associated with our operation are not interfaced with it’.⁷¹

- 2.57 The Chief Planning Executive advised:

‘...I am hopeful that we are going to be successful with a commonwealth grant application to demonstrate best practice in reducing red tape for small businesses, we would be hopeful that, within 12 to 18 months, we would be able to retire some of these legacy systems...we have already received a grant of \$100,000 from the commonwealth to start to develop, if you like, the business case and the broad structure of what that IT system would look like’.⁷²

- 2.58 In subsequent evidence, the Authority advised that it had been successful in obtaining a \$2.4 million grant under the Commonwealth’s Department of Industry, Tourism and Resources, AusIndustry Regulatory Reduction Incentive Fund (the RRIF) to generate regulatory compliance reductions to the land development and building small business sector operating in the ACT.⁷³

- 2.59 The Chief Planning Executive stated:

‘Over the next 12 months, which is the timeframe in which we have to develop the system, that will enable us to create a new platform – that is what the information technology engineers tell me – upon which we can construct a range of work flow systems – be they for the territory plan, development applications or leasing applications – that all sit side by side and are able to

⁷⁰ ACT Auditor-General’s Report No 2 of 2005: *Development Application and Approval Process*, p. 19.

⁷¹ *Transcript of evidence*, 1 September 2005, p. 10.

⁷² *Ibid.*

⁷³ *Transcript of evidence*, 4 April 2006, pp. 76-77; correspondence from Minister for Planning to the Committee dated 5 April 2006.

communicate with each other...in the submission we made to seek funding, we estimated that we could save small business somewhere in the order of \$4.5 million per annum in improvements to our practices within the planning system'.⁷⁴

- 2.60 The RRIF will allow the Authority to offer customers online access to a range of previously paper based, manual business processes including DAs. In short, the funding should cut red tape and support service improvements.⁷⁵

Recommendation 13

Consultation with other agencies

- 2.61 The Auditor-General recommended that the Authority should work with key stakeholders to review and improve the referrals process by:

- formalising and standardising methods of referral and the provision of comments on referrals; and
- simplifying and integrating the referrals process.⁷⁶

- 2.62 The Authority agreed with this recommendation, stating that it was a priority issue for the Reform Project.⁷⁷

Recommendation 14

Management of agency consultation

- 2.63 The Auditor-General recommended that the Authority should reply to agency comments, giving an indication of whether it had adopted the comments, and if not, to give reasons. Where ACTPLA proposes changes to the agency⁷⁸ comments (to allow for them to be incorporated into Authority documents), it should ensure that they do not change the original intent of the comments.⁷⁹

- 2.64 The Authority agreed with this recommendation, stating that as part of the administrative reforms of the Reform Project, this measure would be implemented where such comments were specific and directly related to the

⁷⁴ *Transcript of evidence*, 4 April 2006, pp. 76-77.

⁷⁵ Property Council of Australia (ACT Division), Media release: 'Property Council Welcomes News of Funding to ACTPLA to Support Reductions in Red Tape', December 2005.

⁷⁶ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 32.

⁷⁷ Submission No. 7, July 2005, p. 12.

⁷⁸ an administrative unit of government

⁷⁹ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 33.

proposal. The Authority noted that in some cases agency comments were generalised and non-specific to what could be regarded as valid planning considerations.⁸⁰

Recommendation 15

Management of agency consultation

2.65 The Auditor-General recommended that Environment ACT (CMD)⁸¹ and relevant agencies should contribute to improvements in the referrals process by means such as:

- providing formal advice to ACTPLA on the implementation of the referrals process, particularly when difficulties are experienced;
- refining the internal procedure for dealing with referrals, with a view to identifying who is involved and who will provide the response to ACTPLA in each case, within an agreed timeframe;
- including those comments that are relevant to a particular development assessment, rather than general comments; and
- monitoring and reporting performance in relation to timeliness of providing a written response to the Authority or applicants.⁸²

2.66 The Authority agreed with this recommendation, stating that it was being addressed as part of the Reform Project.⁸³

Recommendation 16

Obtaining expert advice

2.67 The Auditor-General recommended that ACTPLA should improve documentation of processes and outcomes when seeking expert advice and comments.⁸⁴

⁸⁰ Submission No. 7, July 2005, p. 13.

⁸¹ Due to new administrative arrangements in April 2006, the functions of Environment ACT are now located in the Department of the Territory and Municipal Services.

⁸² ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 33.

⁸³ Submission No. 7, July 2005, p. 13.

⁸⁴ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 33.

- 2.68 The Authority agreed that this recommendation would be implemented in those circumstances where the documentation of processes and outcomes when seeking expert advice and comment was not occurring.⁸⁵

Recommendation 17 ***Guidelines on processes and procedures to assist stakeholders***

- 2.69 The Auditor-General recommended that the Authority should systematically and holistically review all development assessment guidance material in order to simplify it, reduce discrepancies or overlap, and clarify the status of each piece of guidance material.⁸⁶
- 2.70 The Authority agreed with this recommendation advising that the systematic and holistic review of development assessment guidance material, with a view to simplification, was an intended outcome of the administrative reforms of the Reform Project.

Recommendation 18 ***Consistency and quality of checklists, assessments and approvals***

- 2.71 The Auditor-General recommended that the Authority should develop a more formalised training program to improve staff's understanding of legislative requirements and the principles of ESD, as they apply to individual DAs.⁸⁷
- 2.72 The Authority agreed with this recommendation stating that the determining factor for the development of such a formalised training program would be available financial resources.⁸⁸
- 2.73 In formal evidence, the Auditor-General noted:
- ‘...this is a key issue because the evidence available to us indicates serious concern about the qualifications, expertise and knowledge of staff...we would not like to see this delayed because of lack of funding. The people who make those decisions need to be qualified to make the decisions under the law. If we have to wait for additional resources before we can take up that

⁸⁵ Submission No. 7, July 2005, p. 13.

⁸⁶ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 33.

⁸⁷ *Ibid.*, p. 41.

⁸⁸ Submission No. 7, July 2005, p. 13.

recommendation to train staff, not only in expertise and knowledge but also in other aspects like dealing with client services and being flexible or whatever the case, then I think we would have a concern. So we would like to request that the authority give priority to the training of staff, as this is one of the key issues in the planning system which should not be subject to funding'.⁸⁹

Recommendation 19 Compliance

2.74 The Auditor-General recommended that the documentation of compliance activities should be improved to ensure that:

- all complaints and compliance activities are clearly allocated to either individual staff members or sections of ACTPLA. Where these are passed from one staff member or section to another for follow up, the file should contain evidence that the person or section to which it was referred has taken the responsibility to take action on the issue; and
- where references are made to the work or decisions of other sections of ACTPLA, this is either linked in the Objective program, or full details of the work or decisions are provided.⁹⁰

2.75 The Authority agreed with this recommendation.⁹¹

Recommendation 20 Compliance documentation

2.76 The Auditor-General recommended that ACTPLA should:

- address all complaints and where no action (or no further action) is to be taken, the decision and the reasons supporting it should be documented;
- conduct a risk assessment of non-compliance with development approval conditions, which looks at both the likelihood of non-compliance occurring and the potential impact of non-compliance. Where risks are identified as being too high, the Authority should work to improve compliance; and

⁸⁹ Transcript of evidence, 1 March 2006, p. 73.

⁹⁰ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 45.

⁹¹ Submission No. 7, July 2005, p. 14.

- develop a formal procedure for checking and documenting compliance against the conditions of development approvals. The compliance record should also be clearly linked to the development approval in the Objective program.⁹²

2.77 The Authority agreed with this recommendation, stating that it would be implemented to the extent that the investigation of all complaints would not be possible within the available resources and that prioritisation would be necessary based on potential public health and amenity impacts.⁹³

2.78 Further, the Authority advised that, as part of the Reform Project consideration would be given to new laws for the establishment of a more formal complaints procedure as well as the establishment of a risk analysis approach through administrative reform.⁹⁴

Recommendation 21

Communication and consultation processes

2.79 The Auditor-General recommended that the Authority should revise consultation practices in order to better deal with the contributions made, and issues raised, by stakeholders, such as:

- the timeframe allowed for consultation;
- feedback from contributors; and
- documentation of comments received and considered.⁹⁵

2.80 The Authority agreed with this recommendation stating that it would be considered in the Reform Project and in the implementation of the Community Engagement Manual 2005, *Your Guide to Engaging with the Community* (the Manual).⁹⁶

⁹² ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 47.

⁹³ Submission No. 7, July 2005, p. 14.

⁹⁴ *Ibid.*

⁹⁵ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 48.

⁹⁶ Submission No. 7, July 2005, p. 15.

- 2.81 The Manual⁹⁷ provides a guide for ACT Government employees on how to effectively engage the community in government decision-making processes, when government initiates engagement. The primary purpose of the Manual is to provide advice on mechanisms for enhancing community engagement and does not override statutory obligations.⁹⁸

Recommendation 22 Environmental assessments

- 2.82 The Auditor-General recommended that the Authority should make better use of environmental assessments to assist in their consideration of ESD, by means such as:
- reviewing the requirements for Preliminary Assessments (Division 4.2 of the *Land Act*) and other Assessments (Division 4.3 of the *Land Act*) so that adequate information is obtained on social, economic and environmental issues relevant to a proposal;
 - ensuring that development assessments clearly document their consideration of information contained in Preliminary Assessments and other Assessments; and
 - documenting details of the justification for any decision to waive the requirement to prepare an environmental assessment.⁹⁹
- 2.83 The Authority agreed with this recommendation stating that making better use of environmental assessments to assist its consideration of ESD was a significant matter being reviewed by the Reform Project.¹⁰⁰

⁹⁷ One component of the ACT Government's Community Engagement Initiative.

⁹⁸ ACT Government, Community Engagement Manual, *Your Guide to Engaging with the Community*, 2005, pp. 1-2.

⁹⁹ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 48.

¹⁰⁰ Submission No. 7, July 2005, p. 15.

3 BACKGROUND ON THE DEVELOPMENT ASSESSMENT SYSTEM

- 3.1 There are now widespread perceptions across all jurisdictions that development assessment systems are too complex and costly and not particularly effective.¹⁰¹ According to the Centre for Developing Cities, despite significant improvements in the past decade, few people think that the results of development assessment reflect the billions invested in it.¹⁰²
- 3.2 Planning systems have tried to keep up with increasingly complex expectations by adding confusing layers of processes, which have created uncertainty, inconsistency and complexity in the assessment process.¹⁰³
- 3.3 In its 2005 national survey on development assessment processes, the Royal Australian Institute of Architects (the RAIA) stated that, irrespective of the legislative arrangements in place or whether administration is by local or state government, development assessment systems are not working successfully in any jurisdiction.¹⁰⁴
- 3.4 A recent study carried out for the Development Assessment Forum (the DAF)¹⁰⁵ found consensus that development assessment is characterised by: over-regulation; lack of appropriate skills available to both applicants and councils; and major problems of community consultation.¹⁰⁶

¹⁰¹ Centre for Developing Cities – University of Canberra, *Leveraging the Long-Term: A Model for Leading Practice Development Assessment*, Vol. 1, September 2003, p.13.

¹⁰² *Ibid.*, p. 43.

¹⁰³ *Ibid.*, p. 8.

¹⁰⁴ Royal Australian Institute of Architects & Archicentre, *Development Assessment Survey Report (No. 2)*, 2005, p. 2.

¹⁰⁵ The Development Assessment Forum (DAF) is a combined initiative of Federal, State, Territory and Local Governments, development industry and relevant professional bodies. Its purpose is to reach agreement across Australia on ways to improve the processes for development assessment and cut red tape without sacrificing the quality of the decision-making (DAF website at <http://www.daf.gov.au/index.htm>).

¹⁰⁶ P&A Walsh Consulting and UTS Centre for Local Government, *Comparative performance & measurement & benchmarking of planning and development assessment systems*, 2002.

- 3.5 Further, the results of the 2005 national survey of development assessment processes undertaken by the Royal Australian Institute of Architects and Archicentre (the RAIA Survey) also confirm that:

‘...the development assessment process across Australia operates inefficiently and generates additional costs (both time and monetary) for architects, other building designers and consultants, building developers and constructors, and finally for the building owner, operator and user’.¹⁰⁷

- 3.6 The Committee is of the view that these are symptoms of a system attempting to address increasingly complex expectations by adding confusing layers of processes, all requiring greater degrees of discretion.¹⁰⁸
- 3.7 The Committee believes that the development assessment system is a fundamental piece of government machinery that influences the economic vibrancy, environmental enhancement and well-being of present and future communities in all Australian jurisdictions.

The ACT jurisdiction

- 3.8 In the RAIA Survey, architects rated the ACT as the worst performing state or territory for delays in processing DAs for medium density housing and commercial and large commercial categories. In the RAIA Survey, territory members reported that the time taken to obtain final approval had increased in the past two years.¹⁰⁹
- 3.9 According to the RAIA Survey, in each category it took 44 weeks to process development approvals, compared with 37 to 38 weeks for the next worst state, Victoria.¹¹⁰

¹⁰⁷ Royal Australian Institute of Architects & Archicentre, *Development Assessment Survey Report (No. 2)*, 2005, p. 3.

¹⁰⁸ Centre for Developing Cities – University of Canberra, *Leveraging the Long-Term: A Model for Leading Practice Development Assessment*, Vol. 1, September 2003, p. 8.

¹⁰⁹ Royal Australian Institute of Architects & Archicentre, *Development Assessment Survey Report (No. 2)*, 2005, p. 3; *Transcript of evidence*, 14 September 2005.

¹¹⁰ Royal Australian Institute of Architects & Archicentre, *Development Assessment Survey Report (No. 2)*, 2005, p. 3.

3.10 Many submissions to the Committee, expressed concern that the ACT's planning and land administration system is the worst in Australia. The Property Council of Australia (ACT Division) stated:

‘Currently, we have a planning regime that is the worst in Australia and, as we have heard and as we know, that means business goes elsewhere. When business goes elsewhere, that is not the way forward economically. It is the way backwards’.¹¹¹

3.11 Further, the Housing Industry Association (ACT/SNSW) stated:

‘The current DAA process requires urgent overhaul and major reform. Many stakeholders regard the current DA process as one of the most complex and frustrating systems in Australia’.¹¹²

3.12 Many submissions to the Committee emphasised the potential in the jurisdiction to have an excellent planning and land administration system. The Property Council of Australia (ACT Division) stated:

‘We are in Canberra, though, one jurisdiction. We are not a Sydney, a Melbourne or a Queensland with multiple government authorities, and this is the nation's capital. We should have, not just a good planning system, but an excellent planning system, and I think it is quite an indictment, again, that we currently have the worst planning system’.¹¹³

The development assessment system in the ACT

3.13 In the ACT, before most development activities can be undertaken, an application must be made to the Authority. In accordance with the *Land (Planning and Environment) Act 1991* (the Land Act), the Authority assesses a DA and may approve the application (with or without conditions) or refuse it.¹¹⁴

3.14 The requirement to seek development approval from the Authority is intended to ensure that the development proposal is consistent with the relevant codes of the Territory Plan and associated plans and guidelines, as well as relevant

¹¹¹ *Transcript of evidence*, 14 September 2005, p. 31.

¹¹² Submission No. 2, 2005, p. 1.

¹¹³ *Transcript of evidence*, 14 September 2005, p. 32.

¹¹⁴ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 1.

requirements of other government agencies. In an average year, the Authority approves around \$780 million worth of developments.¹¹⁵

- 3.15 The Committee notes that under the current planning system, simple planning proposals often require the same long application and approval processes and timeframes as complex proposals.¹¹⁶

¹¹⁵ ACTPLA, Technical Paper 3 – *Streamlining development assessment and building approval processes in the ACT*, May 2005, p. 2.

¹¹⁶ ACTPLA, Planning System Reform Project – *Guide to the ACT Government's proposed planning laws*, July 2006, p. 2.

4 SIGNIFICANCE OF THE DEVELOPMENT ASSESSMENT SYSTEM

- 4.1 The Committee believes that the development assessment system contributes significantly to the economic vibrancy, environmental enhancement and well-being of present and future generations in all Australian jurisdictions.

Economic vibrancy

- 4.2 The development assessment system contributes to the economic vibrancy of the ACT community and governs an important industry in the ACT.
- 4.3 Nationally, the annual contribution of the property industry to the economy is estimated to be in excess of \$100 billion dollars.¹¹⁷ The cost of regulation, with approximately 350,000 DAs determined each year in Australia, is a significant proportion of that amount.¹¹⁸ Further, another study carried out for DAF member bodies has estimated the costs of delays and inefficiencies in the process at \$1 billion dollars annually.¹¹⁹
- 4.4 According to ACTPLA, an average of \$774 million dollars worth of developments was approved annually in the ACT between the 1999-00 and the 2003-04 financial years.¹²⁰
- 4.5 The Committee notes that throughout the consultation process for the Government's *Economic White Paper* and the *Canberra Spatial Plan*, the strong relationship between planning policies and economic development policies was repeatedly highlighted.¹²¹

¹¹⁷ P & A Walsh Consulting & UTS Centre for Local Government, *Comparative performance measurement and benchmarking of planning and development assessment systems*, 2002.

¹¹⁸ *Ibid.*

¹¹⁹ RJ Graham Associates, *Unfinished business: A statement of potential cost and other benefits to be derived from the implementation of a harmonised framework for development assessment*, 1998.

¹²⁰ ACTPLA, *Value of DA approvals (with a status of approved or Approval Conditional) from 1999–2004*, in ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, pp. 1-2.

¹²¹ ACT Government, *Economic White Paper for the Australian Capital Territory*, 2003, p. 80.

4.6 In its *Economic White Paper*, the Government stated:

‘A closer relationship is needed between our economic objectives and our planning responses...in short, we need to take a smarter approach to planning and regulation in the ACT to ensure social, economic and environmental issues are properly balanced in planning processes and outcomes’.¹²²

4.7 Further, the structure of the ACT economy differs markedly from other jurisdictions in that it has a narrow government revenue base. The principal origins of own-sourced revenue are transfer payments from the Commonwealth and housing and land related transactions.¹²³

4.8 The Committee believes that this dependence on a narrow economic structure and revenue base carries risk, none more so that the need for the development assessment system to reflect the importance of planning to contemporary economic challenges.

4.9 Many submissions to the Committee expressed the view that the current development assessment system impedes economic growth and business investment in the ACT. The Property Council of Australia (ACT Division) stated:

‘There can be no doubt that the current system up to this point in time has led to the investors of capital going elsewhere. Capital is mobile and goes where the opportunities are. Clearly a number of major institutional investors have not invested in Canberra because of the problems inherent in the current system’.¹²⁴

4.10 Further, the Housing Industry Association (ACT/SNSW) stated:

‘Many stakeholders believe that the cumbersome processes and restrictive planning policies together act as a disincentive for substantial investment in the ACT. The level of regulation has cost impacts, which are passed onto house owners. Since self-government, the level of housing affordability has worsened over time and in step with every regulation’.¹²⁵

¹²² ACT Government, *Economic White Paper for the Australian Capital Territory*, 2003, p. 37.

¹²³ *Ibid.*, pp. 14-15.

¹²⁴ Property Council of Australia (ACT Division), Media release: ‘Planning reform, delivering on promise’, May 2005.

¹²⁵ Submission No. 2, 2005, p. 1.

4.11 The contribution of the development assessment system to housing affordability is also telling. The recent findings of a study¹²⁶ commissioned by the Residential Development Council (the RDC Study)¹²⁷ have revealed that government costs are now the second largest component of the final cost for new housing buyers, even ahead of land.

4.12 The RDC Study found that the time cost of excessive delays in gaining development approval is a significant cost to the new home buyer:

‘The paperwork, reports, audits etc. required to compile applications have skyrocketed over the past ten years and this has led to a significant blow-out in the timeframe to process applications. Holding costs (interest costs, rates, land tax etc) increase in line with the amount of time it takes to prepare and assess development approvals and therefore these place upward pressure on the sale prices to new homebuyers impacting on housing affordability’.¹²⁸

4.13 The RDC study showed a significant rise in government costs during the past five years:

‘...with substantial increases in state and territory based infrastructures, soaring compliance costs associated with increased government regulations, excessively complex development assessment procedures, and the introduction of the GST’.¹²⁹

4.14 In the ACT, government-related charges rose 237% in the past five years from \$32, 047 to \$108, 011. For a new four-bedroom home and land package in the ACT costing \$425, 550, just over \$108, 000 or 25.4% would be government-related charges and compliance costs.¹³⁰

¹²⁶ Residential Development Council, *Summary Report: Residential Development Costs Benchmarking Study*, March 2006, pp. 1-8.

¹²⁷ The Residential Development Council is the Property Council of Australia’s residential advocacy arm, and represents the nation’s leading residential development and housing costs in Australia. The research commissioned by the Council is an Australian-first research.

¹²⁸ Residential Development Council, *Summary Report: Residential Development Costs Benchmarking Study*, March 2006, p. 5.

¹²⁹ *Ibid.*, p. 1.

¹³⁰ Australian Property Council (ACT Division), Media Release: ‘Canberra Suffers Under the Weight of Government Housing Charges’, March 2006.

- 4.15 To reduce the risks associated with residential development and its associated costs, the Committee agrees with the RDC Study's call for a reform of the mechanisms of development assessment.¹³¹

Environmental enhancement and community well-being

- 4.16 The Committee believes that all Australians want sustainable, attractive and safe environments. According to the Centre for Developing Cities:

‘Each development assessment project makes its contributions to those ends, and the regulation of development assessment facilitates it’.¹³²

- 4.17 Further, according to the Centre for Developing Cities, development assessment systems are vital because the change required to achieve the long-term goals of sustainable, attractive and safe environments is driven by development projects. Development projects build cities and regions. Projects are the practical face of policies and the means for implementing plans, through partnerships with the community, agencies and their professional staff.¹³³

- 4.18 In its *Economic White Paper*, the Government acknowledged that:

‘Canberra is a planned city and we view this as a strength. Planning has served us well and many of the facilities and amenities we now enjoy are the direct legacy of the vision of the planners of the past. But circumstances change and our policies and planning arrangements need to adapt in response’.¹³⁴

- 4.19 Further, a unique attribute and asset of the ACT is its international status as a model of urban development:

‘...richly endowed with visionary planning and design’.¹³⁵

- 4.20 An efficient, effective and economical development assessment system is a key driver in making cities and regions better and more sustainable.¹³⁶

¹³¹ Residential Development Council, *Summary Report: Residential Development Costs Benchmarking Study*, March 2006, p. 7.

¹³² Centre for Developing Cities – University of Canberra, *Leveraging the Long-Term: A Model for Leading Practice Development Assessment*, Vol. 1, September 2003, p.12.

¹³³ *Ibid.*, p. 43.

¹³⁴ ACT Government, *Economic White Paper for the Australian Capital Territory*, 2003, p. 37.

¹³⁵ OECD, *Urban Renaissance. Canberra: A Sustainable Future*, 2003, p. 15.

4.21 Further, in its *Economic White Paper*, the Government has articulated the importance of allowing the community to meaningfully oversee and contribute to development assessment goals of sustainable, attractive and safe environments:

‘The Government’s position on this issue is clear. The current and future needs of ACT residents, including their economic aspirations, must shape the prevailing planning regime, not the other way round’.¹³⁷

4.22 Key issues reflected in the document *Towards the Canberra Spatial Plan* challenges the planning system, amongst other things to: protect biodiversity and the unique landscape setting of the ACT; and move to an urban form that minimises resource use and supports more sustainable transport systems.¹³⁸

4.23 The Committee believes that improvements in the development assessment system can make an important contribution towards supporting the changing urbanisation of Canberra, and promoting sustainable development.

4.24 ACTPLA has stated that:

‘The system must not only give the community confidence that it can deliver this vision, but it needs to provide a strong regulatory framework based on sustainability principles to guide ongoing decisions about Canberra’s development’.¹³⁹

¹³⁶ Centre for Developing Cities – University of Canberra, *Leveraging the Long-Term: A Model for Leading Practice Development Assessment*, Vol. 1, September 2003, p.17.

¹³⁷ ACT Government, *Economic White Paper for the Australian Capital Territory*, 2003, p. 80.

¹³⁸ ACTPLA, *Towards the Canberra Spatial Plan*, August 2003.

¹³⁹ ACTPLA, *Planning System Reform: Directions Paper*, May 2005, p. 1.

Fundamental components of the development assessment system

4.25 The Committee is of the view that the efficiency, effectiveness and economy of the development assessment system is underpinned by the following five fundamental components:

- the legislation and guidelines mandating assessment criteria;
- the assessment processes administering assessment criteria;
- organisational culture of the assessment authority;
- resourcing of the assessment authority; and
- continuous improvement of the assessment process.

4.26 Submissions and witnesses appearing before the Committee highlighted areas of concern and issues in connection with each of the above.

4.27 Part three of the Committee's report (chapters five to nine) provides comment on the efficiency, effectiveness and economy of the ACT's current development assessment system. It includes the Committee's examination of significant issues and areas of concern raised with it in relation to each of the fundamental components underpinning functioning development assessment systems.

4.28 Part four of the Committee's report (chapter ten) provides comment on the capacity of the development assessment system to influence the achievement of the goals of sustainable environments chosen by communities.

5 DEVELOPMENT ASSESSMENT LEGISLATION AND GUIDELINES

- 5.1 Legislation and accompanying guidance material are the principal policy documents at the heart of any planning and land system. According to the Centre for Developing Cities:
- ‘...legislating good policies and explicit assessment criteria, developed through community engagement, is the most effective way for politicians and councillors to meet the needs and aspirations of their communities’.¹⁴⁰
- 5.2 A range of laws, regulations, planning rules, plans, guidelines and government policy requirements mandate/determine the criteria for development assessment.
- 5.3 The Committee notes the National Inquiry into Planning Education and Employment calls for state and territory governments to ensure that state/territory legislation, planning schemes and policies minimise ‘red tape’ and complexity, as much as possible.¹⁴¹
- 5.4 In summary, development assessment is shaped by the legislation governing its administration.¹⁴²

Legislation

- 5.5 The Auditor-General found that the legislation governing the development assessment process was very complex and with many layers of information impacting on the process, such as Regulations, planning guidelines, lease requirements, land use policies, the requirements of other agencies, objection processes, and the principles of ESD.¹⁴³

¹⁴⁰ Centre for Developing Cities – University of Canberra, *Leveraging the Long-Term: A Model for Leading Practice Development Assessment*, Vol. 1, September 2003, p. 45.

¹⁴¹ Planning Institute of Australia (NSW Division), *Submission to NSW Standing Committee on State Development*, Aug 2005, p. 6.

¹⁴² Centre for Developing Cities – University of Canberra, *Leveraging the Long-Term: A Model for Leading Practice Development Assessment*, Vol. 1, September 2003, p. 23.

¹⁴³ ACT Auditor-General’s Report No 2 of 2005: *Development Application and Approval Process*, p. 35.

5.6 Many submissions to the Committee highlighted concerns surrounding the complexity of laws, regulations, planning rules, plans, guidelines and government policy requirements that often apply to development assessment. The Property Council of Australia (ACT Division) stated:

‘The problem with ACTPLA is the unwieldy, impossible legislation they have to work with at the moment. It has been around for such a long time that it has created this culture of impotence and indecisiveness’.¹⁴⁴

5.7 The Committee is of the view that the complexity of the current legislation governing the development assessment process generates uncertainty, which may inhibit development, add to proponent and community costs, and exacerbate delays in assessment.

5.8 Further, it also makes it difficult for developers and the general public to understand the rules and assessment criteria that are likely to apply to a development, how it will be assessed, and whether the application is likely to succeed.¹⁴⁵

5.9 The Committee notes that the DAF suggests that decision-making in an overly complex environment can inhibit the achievement of community agreed goals. In particular, inefficient processes and inconsistent outcomes can lead to poor design and assessment decisions, and poor planning outcomes. Further, complexity can mitigate against ESD and other community agreed objectives.¹⁴⁶

5.10 Numerous submissions drew the Committee’s attention to an urgent need to convert current planning policy requirements into explicit rules and objective, largely quantitative criteria.¹⁴⁷

5.11 The Committee notes that the Authority has also recognised this need, stating that it had received expressions of concern:

‘...around the dauntingly complex array of legislation, planning rules, guidelines administered by different government departments in relation to

¹⁴⁴ *Transcript of evidence*, 14 September 2005, pp. 35-36.

¹⁴⁵ ACTPLA Technical Paper 3 – *Streamlining development assessment and building approval processes in the ACT*, May 2005, pp. 3-4.

¹⁴⁶ *Ibid.*, pp. 3-4.

¹⁴⁷ ACTPLA, *Planning System Reform Project: Government response to community comments*, November 2005, p. 36.

development assessment. This complexity inhibits understanding of the rules and processes with the result that some are uncertain about how an application should be tailored, how it will be assessed, and whether it is likely to succeed'.¹⁴⁸

Compliance with legislation

Guidelines & checklists

- 5.12 The complexity of legislative requirements for development assessments is reflected in the legislation that drives the process and the guidance material produced by the Authority for applicants and staff.¹⁴⁹
- 5.13 The Auditor-General found that guidance material available to staff and applicants to assist compliance with legislative processes was so extensive that it can be difficult to understand, and difficult to determine what guidance to follow where a discrepancy exists.¹⁵⁰
- 5.14 While checklists are used to help ensure consistency with legislation and guidelines (such as planning guidelines), the Auditor-General found that they were not used consistently and were not always completed.¹⁵¹
- 5.15 The Auditor-General also found that the quality and availability of guidelines varied across the Authority's development assessment activities. For example, adequate guidance material was not currently available to staff in a number of key areas of the development assessment process, such as the consideration of objections, agency comments and the principles of ESD.¹⁵²
- 5.16 Further, the Audit Report indicated that no guidance material is yet available to ACTPLA staff on how to weight the various aspects of ESD.¹⁵³

¹⁴⁸ ACTPLA, Technical Paper 3 – *Streamlining development assessment and building approval processes in the ACT*, May 2005, p. 2.

¹⁴⁹ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 47; *Transcript of evidence*, 1 March 2006, p. 75.

¹⁵⁰ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 35.

¹⁵¹ *Ibid.*

¹⁵² *Ibid.*, pp. 35-39.

¹⁵³ *Ibid.*, p. 36.

- 5.17 Development assessment must be efficient, matching appropriate processes to different categories of development, allowing assessment to be limited to the impacts that matter, and providing clear tests as to the operations of the system.¹⁵⁴

Staff training

- 5.18 The Auditor-General noted that the Authority should supplement informal, on-the-job, training to educate staff about legislative requirements, with formal training to improve staff knowledge and expertise.¹⁵⁵
- 5.19 The Committee is concerned about statements by the Administrative Appeals Tribunal (the AAT) indicating that Authority staffs appear to have a poor understanding of the legislation they are responsible for enforcing, the powers they are authorised to exercise, and the implications of the exercise of those powers.
- 5.20 In relation to the provision for the amendment of a development approval, the AAT¹⁵⁶ stated:

‘Provision for the amendment of a development approval is, as we have already observed, made by section 247(2) of the Land Act. A decision made pursuant to that subsection is appellable pursuant to section 275(1) and item 8 of Part 4.1 of Schedule 1 of the Land Act.

The Tribunal has made some effort to explain this to representatives of the respondent in earlier decisions¹⁵⁷...The fact that the Tribunal again had to set aside the decision of the respondent...giving what it described as conditional approval to the application for amendment in this case is a matter of concern’.¹⁵⁸

- 5.21 Further, in the same decision, the AAT expressed concern that as the delegate of the respondent persisted in expressing a decision of the kind involved in this case as made pursuant to section 230 of the *Land Act*, this suggested that

¹⁵⁴ Centre for Developing Cities – University of Canberra, *Leveraging the Long-Term: A Model for Leading Practice Development Assessment*, Vol. 1, September 2003, p. 23.

¹⁵⁵ ACT Auditor-General’s Report No 2 of 2005: *Development Application and Approval Process*, p. 36.

¹⁵⁶ Power and ACT Planning & Land Authority & Anor [2005] ACTAAT (17 August 2005).

¹⁵⁷ Unibuild Technology and Minister for Planning & Anor [2003] ACTAAT 20 (15 April 2003), Sbragi and ACT Planning & Land Authority & Anor [2003] ACTAAT 48 (30 October 2003).

¹⁵⁸ Power and ACT Planning & Land Authority & Anor [2005] ACTAAT (17 August 2005).

the respondent's officers had still not developed a good understanding of the legislation which they administer.¹⁵⁹ The AAT stated that:

'Continuing to do so is likely to mislead those who rely upon the expertise of the respondent in dealing with these matters to a view that the criteria necessary to be considered in dealing with an application for approval of a development application under section 230 of the Land Act are required to be considered when reviewing a decision made under section 247 of that Act. Any such misunderstanding may, in turn, give parties involved in such a review, particularly those who are unrepresented, the impression that it is necessary to present evidence that would be relevant to the review of a decision made pursuant to section 230 and involve the parties and the Tribunal in unnecessary cost and delay in resolving challenges to decisions made by the respondent under section 247 of the Land Act'.¹⁶⁰

5.22 In evidence, a witness stated:

'From our experience, it seemed very obvious that the delegates in the ACT planning authority really did not have a good understanding of the legislative requirements...I suppose the legislation is difficult, but that is certainly our experience'.¹⁶¹

5.23 The Committee is of the view that this indicates that ACTPLA staff have received little or no formal training on the legislation they are tasked with administering and a failure by the Authority to implement continuous improvement mechanisms.

5.24 The Committee notes that, in response to the Auditor-General's recommendation for a more formalised training program, the Authority stated that the ability to provide this would be determined by within available financial resources.¹⁶²

5.25 As previously noted in this report, the Auditor-General has expressed concern if more formalised training is delayed due to funding.¹⁶³

¹⁵⁹ Power and ACT Planning & Land Authority & Anor [2005] ACTAAT (17 August 2005).

¹⁶⁰ *Ibid.*, pp. 5-6.

¹⁶¹ Standing Committee on Public Accounts, *Inquiry into Land Valuation in the ACT, Transcript of evidence*, 5 April 2006, p. 3.

¹⁶² Submission No. 7, July 2005, p. 13.

¹⁶³ *Transcript of evidence*, 1 March 2006, p. 73.

- 5.26 As the robustness of decision making by Authority staff underpins the efficiency and effectiveness of the planning system, the Committee is of the view that the Authority should give priority to more formalised training of staff. Further, this decision should not be subject to funding.

RECOMMENDATION 1

- 5.27 **The Committee recommends that ACTPLA collate all AAT decisions and provide these in a clear and concise manifest so that a database of case law is easily accessible on the ACTPLA website for use by staff and proponents.**

RECOMMENDATION 2

- 5.28 **The Committee recommends that ACTPLA develop and implement a formal feedback mechanism to allow decisions of the Administrative Appeals Tribunal to guide and inform the improvement of the planning system.**

RECOMMENDATION 3

- 5.29 **The Committee recommends that ACTPLA prioritise the development of a more formalised training program to improve staff's understanding of legislative requirements.**

Compliance

- 5.30 The Committee is of the view that compliance¹⁶⁴ activities help ensure that the development assessment processes are applied in a manner consistent with guidelines and legislation.
- 5.31 The Auditor-General found that the compliance section did not maintain adequate levels of compliance activity during the period under review. Audit reported that it understood that the section was not fully staffed at the time.¹⁶⁵

¹⁶⁴ Compliance includes a range of measures to investigate complaints and take action on 'controlled activities', which are activities that contravene planning and development legislation.

¹⁶⁵ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 36.

- 5.32 Further, the Auditor-General found that compliance against conditions of development approval was not systematically checked. Compliance checks and inspections were not always well documented and, consequently, the status of a development's compliance was not clear.¹⁶⁶
- 5.33 The Committee believes that enforcing compliance maintains the legitimacy of the development assessment system. It therefore protects the interests of all who have a stake in or may be affected by the development. Further, enforcement also protects the environment from damage, and provides mechanisms for corrective action.¹⁶⁷
- 5.34 The Committee notes with concern that factors that encourage compliance with land use regulation do not apply to development and other actions that damage the environment. Further, there are few incentives to comply with environmental regulations and there are often no immediate economic consequences for those doing the damage. In general, detection is much more difficult.¹⁶⁸

Complaints

- 5.35 The Committee notes that the Authority's compliance activities rely, in part, on complaints from the public. Whilst a number of information brochures and other publications produced by the Authority provide contact phone numbers, the Auditor-General found that no publications specifically identified 'complaints lines' or similar, and nothing of this nature appears on the Authority's Internet homepage.¹⁶⁹
- 5.36 The Committee believes that the Authority should provide a telephone number for the purpose of making a complaint about possible breaches of legislation in the local phone book, and complaints telephone numbers should be more clearly identified on the website.¹⁷⁰

¹⁶⁶ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 36.

¹⁶⁷ Centre for Developing Cities – University of Canberra, *Leveraging the Long-Term: A Model for Leading Practice Development Assessment*, Vol. 1, September 2003, p. 39.

¹⁶⁸ *Ibid.*

¹⁶⁹ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 36.

¹⁷⁰ *Ibid.*, p. 36.

RECOMMENDATION 4

- 5.37 **The Committee recommends that ACTPLA investigate the provision of a telephone number for complaint purposes.**
- 5.38 Further, the Auditor-General found that not all complaints in relation to alleged breaches of development conditions were investigated.¹⁷¹
- 5.39 Evidence to the Committee supported this finding. For example, some submissions cited concern regarding developments that had exploited existing regulations relating to multi use developments and variations to leases. Submissions contended that ACTPLA had not justified why approvals were granted for such proposals.¹⁷²
- 5.40 The Committee notes that the exposure draft bill proposes a new complaints process for controlled activities.¹⁷³ The Committee welcomes the new statutory process, which specifies that the Authority must investigate all complaints (unless they are withdrawn), and notify the complainant of the outcome.¹⁷⁴ The Committee believes that the new process will enhance transparency and accountability whilst making effective use of agency resources.
- 5.41 Further, the Committee agrees with the inclusion in the proposed legislation of tougher penalties for undertaking prohibited development without approval, but it believes that successful enforcement of the penalties will require an improved compliance and complaints regime.

¹⁷¹ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 36.

¹⁷² Submission No. 6, July 2005.

¹⁷³ Controlled activities and associated penalties are set out in Schedule 2 of the Bill and include things like failure to comply with a lease, developments that do not meet approval requirements, developing without an approval, unapproved structures and unauthorised use of unleased Territory land (ACTPLA, *Planning System Reform Project: Guide to the ACT Government's proposed planning laws*, July 2006, p. 28).

¹⁷⁴ ACTPLA, *Planning System Reform Project: Guide to the ACT Government's proposed planning laws*, July 2006, p. 28.

Community consultation

- 5.42 The Auditor-General found a disparity between the Authority's view of its consultation processes and the view held by stakeholders. The Authority considered itself to be performing well and although the Authority does a lot of consultation on a wide range of issues, stakeholders reported that much of this consultation is of reduced value because the Authority fails to provide feedback on comments and input, and it often happens too late in the process to make any real difference to the outcome of a project or issues.¹⁷⁵
- 5.43 According to the Centre for Developing Cities, consultation comprises:
- '...sets of techniques for transparency and for providing and gathering information, for facilitating dialogue, for resolving disputes and for enabling citizens to contribute to changing and protecting their environment'.¹⁷⁶
- 5.44 The Committee is of the view that consultation applicable to development assessment falls into the following categories of decision making:
- decisions about land use which require community consultation on planning policies and objectives; and
 - decisions about whether developments are consistent with land use which require consultation, where applicable, on the merit of individual development proposals.

Community consultation on planning policy development

- 5.45 The ACT has a tradition of robust community debate concerning planning policy, guidelines and objectives.¹⁷⁷ The DAF has suggested that it is essential to seek community input into the development of general planning policy, objectives and guidelines at the start of a planning cycle. Further, such an

¹⁷⁵ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 36.

¹⁷⁶ Centre for Developing Cities – University of Canberra, *Leveraging the Long-Term: A Model for Leading Practice Development Assessment*, Vol. 1, September 2003, p. 37.

¹⁷⁷ ACTPLA, *Planning System Reform Project – Discussion paper*, May 2005, p. 27.

approach is more likely to yield planning rules that are generally understood and agreed to.¹⁷⁸

5.46 This approach is supported by Planning NSW:

‘...consultation matters most in the stages prior to development assessment, when strategic documents are being prepared, when statutory documents are being drafted and when the criteria are being approved: these more than anything else must govern how projects are assessed’.¹⁷⁹

5.47 In evidence, regarding the need for the planning policy debate to occur in public, the Minister for Planning stated:

‘That must be a public process and it must be a process that engages the Assembly in some way and engages the community. But once that is decided, the planning system should not be hijacked as a way of revisiting the policy debate. Individual development applications which are consistent with the land use policy should not be hijacked because someone is unhappy with the policy decision about what land is used for what. We do see that increasingly and the distinction that the government is trying to draw is that decisions about land use are different from decisions about developments that are consistent with land use’.¹⁸⁰

5.48 Several submissions and witnesses at public hearings supported the position for community input into the development of general planning policy, objectives and guidelines at the start of a planning cycle. The Housing Industry Association (ACT/SNSW) stated that:

‘...community consultation is important, but we need to bring the community in in handling policy objectives and when looking at those broad strategic areas, rather than looking at development approvals individually. That is where the problems arise. If the community can come together to look at those broad strategic planning policies and come to an agreement, then an application should be able to proceed with certainty if the proponent has complied with the broad strategic planning policies’.¹⁸¹

¹⁷⁸ ACTPLA, *Planning System Reform Project – Discussion paper*, May 2005, p. 27.

¹⁷⁹ Planning NSW, *Community Engagement Handbook*, February 2003, pp. 6-7.

¹⁸⁰ *Transcript of evidence*, 4 April 2006, p. 83.

¹⁸¹ *Transcript of evidence*, 2 November 2005, p. 105.

Community consultation concerning the merit of individual development proposals

5.49 The ACT also has a tradition of robust community debate concerning the merit of individual development proposals.¹⁸²

5.50 The Committee received a number of submissions highlighting that an over-reliance on community input at a later stage of the planning cycle, such as during the determination of development applications, can lead to unnecessary delays in assessments and inconsistent outcomes that detract from planning legislation. Many submissions and witnesses commented that it was not fair to reopen community debate on agreed planning policy at the development assessment stage.¹⁸³ The Housing Industry Association (ACT/SNSW) stated:

‘...that community input and community consultation are very important. We would like to see it take place more in the process that you are involved in as members of the Legislative Assembly. In other words, get the policies right; get the broad zoning and leasing requirements right; and get the territory plan right, whatever format it takes in the future. It frustrates many of our members that, under the current rules, they can put together a proposal that fully complies, yet still have to go out for neighbourhood consultation and have all the delays and risks. That can be difficult enough if it is just neighbourhood consultation, let alone where it is a little more expansionary as in, say, a dual occupancy. In that case you can be appealed all the way to the AAT, which will delay things for months’.¹⁸⁴

5.51 In evidence, the Chief Planning Executive stated:

‘...When it comes down to the development application, it is our view—I think that is why the legislation is drafted the way it is currently—that all of the preceding work has given people the opportunity to help inform the debate. When you get into an individual development application, you are really looking at what is the effect of this particular application on another individual within a fairly immediate proximity, whereas what we find is that there are people who still want to debate the policy because they never got their way

¹⁸² ACTPLA, *Planning System Reform Project – Discussion paper*, May 2005, p. 27.

¹⁸³ *Ibid.*

¹⁸⁴ *Transcript of evidence*, 2 November 2005, p. 104.

with the policy, so they try to engage themselves through the development application process'.¹⁸⁵

- 5.52 However, some submissions disagreed with this position. A private individual stated:

'Residents need the security of knowing that they will be consulted and their opinions and rights given the same consideration as those of developers. They also need assurance that the original development conditions which attracted them to the suburb will be maintained'.¹⁸⁶

- 5.53 In summary, the Committee is of the view that development assessment systems are about credibility. The legitimacy of the system is reliant on its ability to achieve the community's long-term planning and development goals.¹⁸⁷ The Committee believes that effective consultation at the beginning of a planning cycle is a key factor in the identification and subsequent ownership of the community's long-term planning and development goals.

- 5.54 The Committee also notes that many residents remain unaware of broad planning policy and are likely to only engage with the system when they and their amenity are personally affected. There needs to be mechanisms for their complaints to be expressed.

Improving consultation

- 5.55 While the Auditor-General noted that the Authority does a lot of consultation on a wide range of issues, stakeholders reported that much of this consultation was of reduced value because the Authority failed to provide feedback on comments and input, and often consultation occurred too late in the process to make any real difference to the outcome of a project or issue.¹⁸⁸
- 5.56 Submissions and witnesses at public hearings supported this finding. The RAIA (ACT Chapter) stated:

¹⁸⁵ *Transcript of evidence*, 4 April 2006, p. 83.

¹⁸⁶ Submission No. 10, December 2005, p. 3.

¹⁸⁷ Centre for Developing Cities – University of Canberra, *Leveraging the Long-Term: A Model for Leading Practice Development Assessment*, Vol. 1, September 2003, p. 23.

¹⁸⁸ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 36.

'I think it is an indication that ACTPLA has got a lot of work on; its resources are not sufficient to undertake the amount of work that it has to do...Consequently, that is why you quite often receive very late timing on indications that they are looking for answers on particular issues. At the same time, they have also done things extremely well...it is just an indication of how much work ACTPLA has got on, with not sufficient resources to carry out all of that work, and that leads to a sort of state of constant change for both ACTPLA and for the people that are dealing with them, both as professionals and the community, and leaves a high level of uncertainty at times, which I don't think always leads to the best results'.¹⁸⁹

- 5.57 The Committee recognises that effective community consultation promotes trust and respect between the community and government by facilitating the community to have a say in the decisions that will affect them. Further, it enhances openness and accountability on the part of government.
- 5.58 The Auditor-General recommended that the Authority should revise consultation practices in order to better deal with the contributions made, and the issues raised, by stakeholders.¹⁹⁰ As referred to earlier in this report, ACTPLA agreed with the recommendation, stating that it would be considered as part of the Reform Project and in the implementation of the *Community Engagement Manual 2005*.¹⁹¹
- 5.59 The exposure draft bill released for public comment on 13 July 2006 provided a maximum timeframe of seven weeks for public consultation. The Committee notes, however, that the Community Engagement Manual recommends a timeframe of twelve weeks when seeking comprehensive feedback on large projects, policies and strategies.¹⁹²
- 5.60 The Committee is of the view that the timing of any consultation activity is crucial to its success. Activities undertaken within short timeframes are counterproductive and minimise effective participation.¹⁹³

¹⁸⁹ *Transcript of evidence*, 14 September 2006, p. 23.

¹⁹⁰ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 47.

¹⁹¹ Submission No. 7, July 2005, p. 15.

¹⁹² ACT Government, *Community Engagement Manual, Your Guide to Engaging with the Community*, 2005, p. 6.

¹⁹³ *Ibid.*

- 5.61 Despite the Authority's assurances to increase support for community engagement, including creating a new role of Community Engagement Coordinator, the Committee remains concerned about the consistency between the Authority's practices with the Government's community engagement initiative.¹⁹⁴

RECOMMENDATION 5

- 5.62 **The Committee recommends that ACTPLA ensure that its community engagement practices are consistent with the Government's community engagement initiative.**

¹⁹⁴ ACTPLA, 2004-05 *Annual Report*, p. 30.

6 DEVELOPMENT ASSESSMENT PROCESSES

- 6.1 Whatever the goals of the principal policy documents (legislation and accompanying guidance material) governing development assessment, the assessment processes have to work efficiently. According to the Centre for Developing Cities, once government has approved the detailed policies (the planning, heritage, environmental, social and economic criteria for assessing development) assessment processes are effective only if the policies are applied expertly, accurately and efficiently every time.¹⁹⁵
- 6.2 The Auditor-General found that development assessment processes were very complex to administer and use.¹⁹⁶ In order to make the necessary efficiency and timeliness gains, Audit recommended that the Authority should focus on actions such as: improving documentation and records management; improving monitoring and reporting; and particularly, improving and integrating the referrals process.¹⁹⁷
- 6.3 The Committee notes the National Inquiry into Planning Education and Employment calls for state and territory governments to support models that improve the development assessment process.¹⁹⁸
- 6.4 The Committee notes that the exposure draft bill proposes that development assessment for many proposals will be greatly simplified through a new 'track' system – Exempt, Prohibited, Code, Merit or Impact tracks.
- 6.5 Most submissions and witnesses at public hearings expressed concern regarding the complexity, consistency and efficiency of development assessment processes. This included reservations about quality control, the robustness of decision-making, and the integration of referrals in the

¹⁹⁵ Centre for Developing Cities – University of Canberra, *Leveraging the Long-Term: A Model for Leading Practice Development Assessment*, Vol. 1, September 2003, p. 21.

¹⁹⁶ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 7.

¹⁹⁷ *Ibid.*, p. 34.

¹⁹⁸ Planning Institute of Australia (NSW Division), *Submission to NSW Standing Committee on State Development*, Aug 2005, p. 6.

development assessment process. An examination of these issues and areas of concern follow.

Quality control in the development assessment process

- 6.6 Quality control is about guaranteeing that administrative systems (processes and procedures) ensure that information supporting agency decision-making is timely, relevant and accurate.
- 6.7 The Committee emphasises that administrative systems need to be managed as much as, if not more than, the resources, people and information they are being set up to work for.

Documentation and records management

- 6.8 The Auditor-General found that the quality control of document management was poor, especially hard copy files.¹⁹⁹
- 6.9 The Committee received submissions regarding instances where electronic file properties of letters did not match the hard copy versions of letters, and correspondence where dates on the letters did not match claims made by public officials.²⁰⁰
- 6.10 The Authority has implemented a records management system (IDMS) that integrates the management of electronic and paper records and complies with the *Territory Records Act 2002*.
- 6.11 The Committee notes that the IDMS should assist the Authority in its management of records regardless of the many formats those records can take.²⁰¹
- 6.12 Document and records management will also be enhanced as a result of the \$2.4 million dollar grant under the RRIF, referred to earlier in this report.

¹⁹⁹ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 4.

²⁰⁰ Submission No. 8, July 2005, p. 6.

²⁰¹ ACTPLA, *2004-05 Annual Report*, pp. 62-63.

- 6.13 The Committee notes that the RRIF should cut red tape and support service improvements.^{202, 203} Further, the Committee believes that the ability to align administrative structures with work flow systems provided by the RRIF will substantially facilitate information retrieval and consequently the quality of the Authority's decision making.

Timeliness

- 6.14 The Auditor-General found that performance against statutory timeframes in some cases may have been inappropriately enhanced by procedures such as asking the applicant, close to the statutory due date, to apply for an extension of time.²⁰⁴

- 6.15 In evidence to the Committee, the Auditor-General noted:

'The numbers are not big. However, there are better systems for extending the statutory time line. We give an example of the New South Wales system, where the clock should recommence'.²⁰⁵

- 6.16 The Committee is aware that the ACT is one of the few jurisdictions that do not have a stop-the-clock provision in its legislation. The Chief Planning Executive commented:

'In most other jurisdictions planning authorities, which are typically local government, have the ability to ask an applicant to provide or furnish further information. They have the ability to stop the time frame for processing the application. In the ACT the Planning and Land Authority has to ask the applicant to agree to the clock stopping, which means it is more of a negotiated position. Of course an applicant can decline to do that, which means the authority has to continue to process the application. I think that is an important distinction to make. It is also not a frequent occurrence. On most of the occasions where the authority seeks further information it is part of a continuous process as opposed to formally seeking an extension of time'.²⁰⁶

²⁰² Property Council of Australia (ACT Division), Media Release: 'Property Council Welcomes News of Funding to ACTPLA to Support Reductions in Red Tape', December 2005.

²⁰³ ACTPLA, 2004-05 Annual Report, p. 8.

²⁰⁴ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, pp. 4, 27-28.

²⁰⁵ *Transcript of evidence*, 1 March 2006, p. 76.

²⁰⁶ *Transcript of evidence*, 1 September 2005, pp. 3-4.

- 6.17 In evidence, the RAIA (ACT Chapter), described a situation where performance against statutory timeframes may have been inappropriately enhanced by asking the applicant close to the statutory due date to apply for an extension of time, stating:

‘I experienced that on the Amaroo school development application process. Rather than focus on an individual project, though, the request from the planning office is seen as a conundrum by us, as a profession, because we have no requirement to request an extension of time. We believe there is a statutory period there for the action to be taken and expect it to be taken in that period. We have been frustrated over the years when receiving a request from an ACTPLA officer asking us to stop the clock on this application and requesting further information to support the application two or three days out from the expiry of the period’. ²⁰⁷

- 6.18 The Minister for Planning commented that extensions of time could only be sought at the request of the applicant, and that the Authority cannot compel or require an extension of time. If an extension of time is not granted, the Authority has 45 days to approve a normal, single application. The Minister further stated:

‘Otherwise it has 30 days to determine an application. If the authority does not make a decision in that time frame the legislation states that it is a deemed refusal. That means nothing if the applicant is prepared to wait until there is a decision one way or the other. However, if the applicant is unhappy and wants a decision on that in 45 days, then they have recourse to the Administrative Appeals Tribunal. But a deemed refusal is essentially a technical refusal, simply because no decision has been made on the application’. ²⁰⁸

- 6.19 The Committee notes that under the Reform Project’s proposed planning legislation, a stop the clock mechanism will apply in cases where an amendment to a development assessment is sought, such as the preparation of an amended application and any repeat public notification process.²⁰⁹

²⁰⁷ *Transcript of evidence*, 14 September 2005, pp. 25-26.

²⁰⁸ *Transcript of evidence*, 1 September 2005, pp. 4-5.

²⁰⁹ ACTPLA, *Planning System Reform Project: Government response to community comments*, November 2005, p. 39.

- 6.20 The Committee notes that the Property Council of Australia (ACT Division), in its written submission to the inquiry, strongly opposed legislation that allows a stop the clock mechanism.²¹⁰ The Property Council's view is that the Authority's lack of timeliness, as reported by the Auditor-General, should not be addressed through the use of a stop the clock mechanism, as this simply covers up any problems inherent in the system.²¹¹
- 6.21 Further, the Committee notes that the Authority's performance against statutory time frames may have been inappropriately enhanced by procedures such as asking the applicant, close to the statutory due date, to apply for an extension of time.²¹²
- 6.22 A submission to the Committee suggested that, in order to reduce the level of unrealistic expectations concerning development assessment processing times, better education of the public in development assessment processes was needed. The Property Council of Australia (ACT Division) stated:

‘I think somehow we need to be telling stories of good planning outcomes so that even the community starts to feel more positive about the sorts of decisions that ACTPLA are making. I don't think it relies purely on money’.²¹³

Notifications

- 6.23 The Committee received submissions which contradicted the Auditor-General's conclusion that the Authority's public notification processes were of a high standard. These submissions cited instances of the Authority's failure in the public notification process.²¹⁴
- 6.24 While the Regulations list certain DAs as exempt from public notification, the Committee is of the view that serious inconsistencies can occur if an assessment officer fails to take account of all the criteria applying to a particular exemption, for example the criteria applicable to minor developments.

²¹⁰ Submission No. 4, July 2005, p. 31.

²¹¹ *Ibid.*, p. 35.

²¹² *Transcript of evidence*, 1 March 2006, p. 76.

²¹³ *Transcript of evidence*, 14 September 2005, p. 35.

²¹⁴ Submission No. 3, July 2006, p. 2.

- 6.25 One submission provided an example of a DA to transform a former business premises into a drinks establishment/restaurant alleging that it was not publicly notified because it related to 'minor internal and external changes to the premises'. The Committee notes that the Regulations specifically state that 'minor development' means 'development in relation to land that a reasonable person would consider to be of a minor nature'.²¹⁵
- 6.26 Whether this lack of notification occurred as a result of an assessing officer's unfamiliarity with the Regulations or as a result of administrative discretion, in the Committee's view it suggests a significant error in the process.²¹⁶
- 6.27 The Committee is of the view that notification methods require reassessment and improvement.

Decision making

Consistency

- 6.28 In submissions and evidence at public hearings, stakeholders reported that they had experienced inconsistencies in the development assessment process and that decisions were sometimes very subjective and unreliable.²¹⁷
- 6.29 It was suggested in some submissions received that quality assurance may be compromised where the same ACTPLA officer had also assisted the applicant at the pre-application stage in preparing information to accompany the lodgement of a DA or preparation of a preliminary assessment (PA) and/or when the same officer had been party to the applicant seeking an extension of time.²¹⁸
- 6.30 The Authority's response to the Auditor-General's recommendation addressing the aforementioned concern is unacceptable in that:

²¹⁵ Submission No. 3, July 2006, pp. 2-3.

²¹⁶ *Ibid.*, p. 3.

²¹⁷ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, pp. 23-24.

²¹⁸ Submission No. 3, July 2006, p. 2.

‘...it is not practicable within the resources available, cost effective or necessary for all such decisions to be checked and reviewed before development approval is issued...’.²¹⁹

- 6.31 The Committee believes that such measures are necessary if the Canberra community is to have confidence in the development assessment process.
- 6.32 The implications of the absence of any monitoring or review of assessments will be greater under the Reform Project’s proposed planning legislation, where the number of development assessments exempt from public notification will increase and private certifiers may be given a greater role.²²⁰
- 6.33 The Committee heard evidence from a number of stakeholders who found inconsistency in the advice received from the Authority’s assessment officers because it was provided by different people. The Property Council of Australia (ACT Division) stated:

‘Invariably, the officer that one speaks to up front is not the officer that you are dealing with midway through the process or, indeed, part of the final decision-making process. We expect that there is a hierarchy of decision making but, firstly, we feel we are not getting the best input up front when a proposal is presented and a direction for a process is charted... in a recent example, we had clear correspondence from ACTPLA supporting a scheme, and it will now not be approved. How does one reconcile support and seven months worth of work and consultation only to be stopped at the final hurdle?’²²¹

Decision making layers

- 6.34 Several submissions and witnesses representing developer’s interests at public hearings commented on the role of the Planning and Land Council (the Council) in the development assessment process. These submissions questioned the value of the Council and called for the body to be disbanded. If this was not feasible, recommendations were made for a review of the Council’s role in relation to development assessment.²²²

²¹⁹ Submission No. 7, July 2005, p. 9.

²²⁰ Submission No. 3, July 2005, p. 2.

²²¹ *Transcript of evidence*, 14 September 2005, pp. 31-32.

²²² Submission No. 4, July 2005, p. 29; Submission No. 11, December 2005; *Transcript of evidence*, 7 December 2005, p. 62.

6.35 A representative of the Village Building Company stated:

‘I am unaware of any other planning jurisdictions that have such an expert reference group that major DAs are referred to’.²²³

6.36 Further, stakeholders submitted that developers’ ideas had been through several iterations by the time a project was presented by the Authority to the Council. The Village Building Company further stated:

‘...if we are to work with the Planning and Land Council, and we probably will be, I think that one of the improvements that could be made would be if on major projects the developer were able to have a representative at the meeting to present the project. The current process is that the ACTPLA officer presents the projects and we have had direct experience on one of our projects of that resulting in some misleading or ill-informed opinions or suggestions being put forward by the council. Had the council had the benefit of the developer being able to further elaborate on the proposal and some of the constraints on the project or the site which resulted in the design and siting that we had put forward, those comments would not have been made and the comments probably would have been more helpful’.²²⁴

6.37 The Property Council of Australia (ACT Division) commented that developers and design professionals should be able to present their concepts directly to the Council, as a planning officer is unlikely to know the context in which an application has been submitted.²²⁵

6.38 The Committee notes that there have been a number of times when the Minister has called in developments against the Council’s recommendations. The Committee appreciates that, from a developer’s perspective, the Council might be seen as unhelpful but, with the proposed planning reforms, it concerns the Committee that it is viewed as an unnecessary layer to the development assessment process.

6.39 The Committee notes that the Council was established under the *Planning and Land Act 2002* to provide an independent source of high level planning and land policy advice to the Minister for Planning and the ACTPLA. Regulations

²²³ *Transcript of evidence*, 7 December 2005, pp. 62-63.

²²⁴ *Ibid.*, p. 63.

²²⁵ Submission No. 4, July 2005, p. 29.

under the *Planning and Land Act 2002* described those matters that were referred to it for advice. Further, the Authority was required to refer to the Council any matter that in its view involved significant policy, planning or community issues. Under the Regulations, some matters were considered always to be significant.²²⁶

- 6.40 The Committee is concerned that, despite the Authority's comment in its 2004-05 Annual Report that the Council, '*continued to provide valuable advice to the Authority and the Minister regarding strategic issues, major development proposals and variations to the Territory Plan,*'²²⁷ the Council has been discontinued effective from 1 July 2006.²²⁸

Appeals against decisions

- 6.41 The Auditor-General found that in 2003-04, seventy-one development assessments were appealed out of 5, 339 DAs assessed. This small number of appeals may suggest that the vast majority of participants did not have major objections to the fairness of decisions. This may be because, based on information provided by ACTPLA, the Auditor-General reported that the majority of AAT decisions found in favour of the Authority. The Auditor-General concluded this suggested that ACTPLA's decisions were generally fair, as they could withstand independent scrutiny.²²⁹
- 6.42 Some submissions received by the Committee disagreed with this finding. In a written submission to the Committee, a private individual, who had appealed two decisions in relation to amending their DA, stated:

'...the appeals process is very expensive...in our case, due to the resources available to the ACT Government, particularly through the ACT government solicitor, we needed to expend large amounts of money on legal fees and other costs...we believe the link made in the report (page 17) that decisions of the AAT reflect a view of fairness may have inappropriately forgotten about the

²²⁶ ACT Planning and Land Council, www.planninglandcouncil.act.gov.au

²²⁷ ACTPLA, *2004-05 Annual Report*, p. 6.

²²⁸ ACT Planning and Land Council, www.planninglandcouncil.act.gov.au

²²⁹ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 34.

resource capacity of applicants to mount effective challenges to decisions due to limited financial capacity'.²³⁰

- 6.43 Further, in relation to the Auditor-General's finding that the Authority's decisions are generally fair, another private individual stated:

'This is a huge leap of faith particularly as the Auditor-General 'did not examine whether the appeal process is complex or costly and may discourage applicants to appeal'. The complexity and the cost (both in terms of time and legal representation) at the least 'discourage' and, probably more commonly, put the appeals process out of reach for most ordinary members of the community, regardless of whether they are applicants or objectors'.²³¹

- 6.44 The Committee notes that the Audit did not examine whether the appeal process was complex or costly and may discourage applicants to appeal.²³²

- 6.45 Evidence before the Committee highlighted delays in the Authority implementing and/or complying with AAT decisions. When respondents contacted the AAT to complain, the AAT advised that it did not have the authority to force a government agency to comply with a direction it had given.²³³

- 6.46 On one occasion when asked by the AAT to redetermine in accordance with the *Land Act*, the Authority took eight and a half months to respond. After seven months, the applicant wrote to the AAT complaining about the delay.²³⁴

- 6.47 A number of submissions to the Committee proposed that the AAT should have the power to enforce compliance of its decisions by government agencies.²³⁵

- 6.48 Whilst the Land and Planning Division of the AAT is separate from ACT Government, the Committee is of the view that it is nonetheless an integral part of the ACT planning and land development system.²³⁶ As the right of

²³⁰ Submission No. 8, July 2005, p. 8.

²³¹ Submission No. 3, July 2005, p. 5.

²³² ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 34.

²³³ Submission No. 8, July 2005, p. 52; *Transcript of evidence*, 9 November 2005, p. 52; Submission No. 12, April 2006 p. 1.

²³⁴ Submission No. 8, July 2005, p. 8.

²³⁵ *Ibid.*, p. 12.

²³⁶ *Ibid.*, p. 5.

appeal to the AAT is the primary mechanism available to proponents who wish to challenge the Authority's decision-making, the Committee believes its decisions should be complied within reasonable timeframes.

RECOMMENDATION 6

- 6.49 **The Committee recommends that ACTPLA implement measures to ensure compliance with decisions of the Administrative Appeals Tribunal within reasonable timeframes.**

Mediation

- 6.50 Planning decisions are highly subjective and there is no simple rule of thumb for easily resolving them to the satisfaction of all parties. Mediation can significantly reduce costs to all parties involved, as well as result in more amicable outcomes. The Chief Judge of the NSW Land and Environment Court, Justice Pearlmann, has stated:

'...Councils would better serve their ratepayers by mediating a compromise'.²³⁷

- 6.51 The current *Planning and Land Act 2002* contains provisions compelling the Land and Planning Division of the AAT to consider mediation in all cases.²³⁸

- 6.52 The Committee, however, is of the view that conciliation and mediation processes should be available for resolving disputes and conflicts over development assessment processes, to avoid a matter ending up before the AAT.

- 6.53 The Committee is aware that Environment ACT funds a Heritage Advisory Service. During questioning regarding the role of the Heritage Advisory Service, a representative of Environment ACT stated:

'It is a service that has been running for several years and we have found that that advisory service, from a government perspective and a community perspective, reduces by at least half the number of appeals that end up in the AAT over heritage issues. It is very much an active way of stopping conflicts

²³⁷ Pearlmann in Allan, P., *Secession: A Manifesto for an Independent Balmain*, Balmain Secession Movement, 2001, p. 19.

²³⁸ Standing Committee on Planning and Environment (5th Assembly), *Inquiry into the Planning and Land Bill*, Transcript of evidence, 27 September 2002, p. 5.

and ensuring that we actually end up with good heritage outcomes when people redevelop their housing.²³⁹

- 6.54 In response to a submission documenting a proponent's experience concerning a development assessment in a heritage listed suburb, the Committee believes that a more positive outcome could have been achieved if conciliation and mediation processes had been instigated early in the dispute process.²⁴⁰
- 6.55 Further, the Committee believes that had the above matter been referred to the Heritage Advisory Service, it may have reduced the financial and emotional costs incurred by the proponent and resulted in a more amicable outcome.

RECOMMENDATION 7

- 6.56 **The Committee recommends that ACTPLA encourage the use of conciliation and mediation processes to resolve disputes and conflicts over development assessment processes, before a matter ends up before the AAT.**

RECOMMENDATION 8

- 6.57 **The Committee recommends that the Department of the Territory and Municipal Services should more widely promote the Heritage Advisory Service.**

Integrating the referrals process

Consultation with other agencies

- 6.58 The Committee notes that when the Audit began, almost none of the referral agencies within the Department of Urban Services (DUS), which later moved to the Chief Minister's Department (CMD), had statutory timeframes associated with their responses.²⁴¹

²³⁹ Standing Committee on Public Accounts, *Inquiry into 2004-05 Annual and Financial Reports, Transcript of evidence*, 30 November 2005, p. 135.

²⁴⁰ *Transcript of evidence*, 9 November 2005, p. 52.

²⁴¹ *Transcript of evidence*, 1 March 2006, p. 73.

6.59 Throughout its inquiry, the Committee received oral and written submissions regarding poor integration in the DA process where other agencies' comments were required, exacerbated by the lack of statutory timeframes associated with responding.²⁴²

6.60 The Committee is of the view that the current lack of integration causes significant time delays, frustration and results in significant additional costs to applicants.²⁴³

6.61 In evidence to the Committee, the Property Council of Australia (ACT Division) stated:

'One thing, however, that needs to be mentioned is that difficulties in achieving an efficient planning system are not currently entirely within ACTPLA's control. In particular, development applications are currently subjected to scrutiny from several unconnected agencies with power of veto over projects. Consequently, one of the major reasons that ACTPLA has such a difficult time in administering the system is that planning, land, heritage and environment legislation that affects development assessment and approval is scattered and not harmonised. This is definitely something which we would like to see addressed and which requires a whole-of-government commitment'.²⁴⁴

6.62 In evidence, the Authority stated:

'...in the planning system reform project the role of referral agencies is one of the most important outcomes that we will be seeking. Associated with that, the terminology I would use is to put greater discipline in the referral process, whereas at the moment, it does not necessarily follow a formal structure, in many instances. For instance, there is no time frame on some of the referral processes. Whereas the authority has a time frame in which it has to process an application, a referral is not necessarily bound by a time frame...'.²⁴⁵

6.63 The Auditor-General considers:

'...that the lack of integration in the referrals process combined with the fact that some referral agencies do not have statutory timeframes associated with

²⁴² ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 32.

²⁴³ *Ibid.*

²⁴⁴ *Transcript of evidence*, 14 September 2005, p. 28.

²⁴⁵ *Transcript of evidence*, 4 April 2006, p. 12.

responding to the Authority or applicants on DAs or DA related issues, are some of the most significant contributing factors to problems with the DAA process'.²⁴⁶

- 6.64 The Authority advised the Committee that, under the Reform Project, it would be conducting a detailed review of the decision making processes and associated relationships between ACTPLA and referral agencies, including enforced timeframes and clarity of decision-making. Further, the *Land Act* would be amended to reflect recommendations relating to referral agencies, including a set period for provision of advice by agencies.²⁴⁷
- 6.65 Under the proposed planning reform legislation, a DA referred to another entity²⁴⁸ must be responded to within fifteen working days. Further, a referral entity will be bound to act consistently with its advice when issuing subsequent approvals and undertaking certain other actions.²⁴⁹ In the case of merit assessable developments, where the Authority gives an approval that is consistent with the referral entity's advice, that advice is binding. Any further action by the referral entity must also be consistent with that advice.²⁵⁰
- 6.66 In subsequent evidence, the Minister for Planning advised the Committee:
- ‘The role of referral agencies is a challenge in all jurisdictions and it is a challenge in Canberra. By “referral agencies” I mean those other government entities that have to give approval for things associated with a development—as you say, Actew, roads, waste, trees and so on. The government’s response to that in our planning system reform process is to tie referral agencies into the time frames that apply to ACTPLA and the applicant. Referral agencies must reply on a development application as to the areas where they have responsibility...Our reforms deal with that by putting a time limit on how long referral agencies have to reply, 15 days: once only, 15 days, that’s it. If they do

²⁴⁶ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 32.

²⁴⁷ ACTPLA, *Planning System Reform Project: Government response to community comments*, November 2005, pp. 10-14.

²⁴⁸ An entity may be a government department, statutory body or utility (ACTPLA, *Planning System Reform Project: Guide to the ACT Government's proposed planning laws*, July 2006 p. 13).

²⁴⁹ ACTPLA, *Planning System Reform Project: Guide to the ACT Government's proposed planning laws*, July 2006 p. 13.

²⁵⁰ *Ibid.*, p. 18.

not do it, ACTPLA will make the decision for them. I think that that is a good process and a good discipline to put on referral agencies'.²⁵¹

6.67 The Committee notes that the *Heritage Act 2004* which commenced on 9 March 2005²⁵² contains provisions reflecting the relationship between ACTPLA and the ACT Heritage Council (the Heritage Council) in dealing with land development applications and approvals. These provisions allow the Heritage Council to consider development applications as notified to it by ACTPLA. In accordance with these provisions the Heritage Council must consider a referred DA and notify ACTPLA within fifteen working days of the receipt of the written notice on the DA.^{253, 254, 255}

6.68 The Chief Planning Executive advised the Committee, that the fifteen day referral process put into effect through the *Heritage Act 2004* was working, and ACTPLA has:

'...used that as the benchmark for our planning system reform project for other referral authorities'.²⁵⁶

6.69 In evidence, a representative of the ACT Heritage Unit stated:

'I think ACTPLA picked up the 15-day referral agency process which they have now put into their draft legislation basically from the Heritage Act because our experience in working with ACTPLA was that that was quite workable in almost all cases. The 15-day time line is adequate, as long as we have complete information and council has the complete information before them, for council to consider it, get some advice back and still allow ACTPLA to run its own statutory time lines. So I think that it is helpful to have that aspect of it tightened up in the new package'.²⁵⁷

²⁵¹ *Transcript of evidence*, 4 April 2006, pp. 84-85.

²⁵² Prior to the Act coming into force there was an agreement between ACTPLA and the Heritage Unit that advice relating to DAs referred to it would be provided within a 10-day turnaround, insofar as that was possible (*Transcript of evidence*, 6 September 2006, pp. 1-2).

²⁵³ Legislative Assembly for the ACT, *Heritage Bill 2004*, Explanatory Statement, 9 September 2004.

²⁵⁴ *Heritage Act 2004*

²⁵⁵ *Transcript of evidence*, 1 March 2006, p. 73.

²⁵⁶ *Transcript of evidence*, 4 April 2006, p. 85.

²⁵⁷ *Transcript of evidence*, 6 September 2006, p. 12.

- 6.70 The Housing Industry Association (ACT/SNSW) expressed its concern regarding Heritage's independent legislation, stating:

'Its requirements are not even integrated into the territory plan. In the past, if you were appealing against a decision you didn't like, at least you were arguing against the territory plan. Now you have to argue against the heritage legislation. Possible problems coming out of the revised legislation are still to be shown to us. We have doubts. Their operations could be better, but we don't like their independence from planning. We would like to see them better integrated so that there is one approval that comes from the chief planner or his delegate'.²⁵⁸

- 6.71 The Committee notes that the Government's direction:

'...is not to create a one-stop shop in terms of all the different agencies being within the one organisation but to make sure that behind the counter all the other government agencies respond and give timely advice to ACTPLA so that a decision can be made and the applicant has to deal only with the front counter of ACTPLA and, effectively, what is called a virtual one-stop shop, even though not all of the government agencies are in the one entity'.²⁵⁹

- 6.72 The Committee welcomes the improved arrangements and timing for the referral of development assessments to other agencies, in particular that a referral entity will be bound to act consistently with its advice when issuing subsequent approvals and undertaking certain other actions.

- 6.73 In a case study examined during its inquiry, regarding the level of consistency and transparency in consultation between the ACT Heritage Council and a proponent, the Committee notes that both the Director of Public Prosecutions (the DPP) and the Ombudsman identified a lack of consistency in the advice provided.²⁶⁰ This has since been acknowledged by the referral entity and an apology was forthcoming.²⁶¹

²⁵⁸ *Transcript of evidence*, 2 November 2005, p. 103.

²⁵⁹ *Transcript of evidence*, 4 April 2006, pp. 84-85.

²⁶⁰ *Transcript of evidence*, 6 September 2006, p. 4.

²⁶¹ *Ibid.*, p. 4.

- 6.74 The Committee welcomes subsequent action taken by the ACT Heritage Council to improve its policies and procedures regarding consideration of development applications as notified to it by ACTPLA.²⁶²
- 6.75 The Committee notes that consistency in adherence to policies and procedures involved in the development assessment process is important. Further, it believes that when issues arise due to inconsistency, relevant agencies should demonstrate every effort to work constructively with proponents to seek a resolution.

²⁶² *Transcript of evidence*, 6 September 2006, pp. 5-6.

7 ACTPLA ORGANISATIONAL CULTURE

7.1 The Committee notes that effective organisational performance relies on systems and people working together. The hard systems, processes and data are inseparable from the soft aspects, such as culture, leadership and learning. One cannot work without the other.

7.2 The Committee is of the view that the assessing authority's organisational culture influences the efficiency, effectiveness and economy of the development assessment system.

7.3 Throughout its inquiry, the Committee received several submissions, oral and written, highlighting the need to change the culture within the Authority. The Property Council of Australia (ACT Division) stated:

‘...that Neil Savery has adopted an authority that has endemic cultural issues in terms of the spirit in which it administers this legislation; so to break through that embedded culture will take time and it is going to take some serious will as well...’²⁶³

7.4 Further, a private individual stated:

‘You are reviewing the findings of the development application approval process. The Auditor-General has made recommendations relating to the system of planning in the ACT. My experience tells me that getting the system right is half the battle. The other part of the battle lies in the people who implement the systems. Having an effective rule book does not create an effective system’.²⁶⁴

7.5 Another private individual stated:

‘Cultural change within ACTPLA is needed to implement any reform to the DA process’.²⁶⁵

7.6 Further the Property Council of Australia (ACT Division) stated:

²⁶³ *Transcript of evidence*, 14 September 2005, p. 35.

²⁶⁴ *Transcript of evidence*, 2 November 2005, p. 54.

²⁶⁵ Submission No. 1, July 2005, p. 3.

‘The problem with ACTPLA is the unwieldy, impossible legislation they have to work with at the moment. It has been around for such a long time that it has created this culture of impotence and indecisiveness. There are a couple of things that can be done: firstly, get the legislation right; secondly, change the culture. That is a top down thing that comes from Neil Savery and we understand that is happening already. The third thing is to resource the organisation so it can effectively carry out its job’.²⁶⁶

7.7 The Committee also notes that the Authority stated:

‘...in some cases, the proposed reforms will require changes in organisational culture within government...’.²⁶⁷

7.8 Organisational culture can be described as a sum total of the beliefs, values and behaviours of individuals within a given organisation and it is a means by which norms of acceptable behaviour are established. Because culture is about what people believe and do, it has a significant impact on:

- an organisation’s activities, vision, ambitions, priorities, targets and achievements;
- how people are managed, motivated and supported in their jobs;
- how individuals and groups respond to demands for improved performance; and
- how individuals and the community as a whole view the organisation.²⁶⁸

7.9 The Committee believes that the task of reshaping an organisation’s culture requires the redesign of its structure and its strategy.²⁶⁹ This requires a continual building of organisational capability in order to effectively deliver the new structure and strategy.²⁷⁰

7.10 The Committee notes that to support changes under the Reform Project, the Authority adopted a new organisational structure on 1 August 2005. Further,

²⁶⁶ *Transcript of evidence*, 14 September 2005, pp. 27-28, 35-36.

²⁶⁷ ACTPLA, *Planning System Reform Project – Directions Paper*, May 2005, p. 1.

²⁶⁸ UK Audit Commission, *Performance Management*, June 2006, pp. 30-33.

²⁶⁹ Robbins, S. et al., *Organisational Behaviour* 4th Edn, Pearson, Frenchs Forest, 2004, p. 505.

²⁷⁰ Management Advisory Committee, 2003, *MAC Report 3: Organisational Renewal*, Commonwealth of Australia, p. 10.

as part of the Reform Project, the Authority implemented a range of short term changes, which have included reviewing its own policies, procedures and practices.²⁷¹

- 7.11 A major component of the Reform Project to date has been the reviewing and rewriting of the legislation that governs planning and land administration. The exposure draft bill was released for public comment on Thursday 13 July 2006. The proposed legislation will, in the large part, provide the blueprint for the Authority's future.²⁷²
- 7.12 The Committee believes that while the Authority has embarked on a redesign of its structure and strategy, its intent will only be realised by successful implementation of the various components of the Reform Project.
- 7.13 The Committee is of the view that the determining factor in successful implementation of a new structure and strategy is organisational renewal, a continuing change process that will deliver and resource the reform needed.²⁷³
- 7.14 Organisational renewal, as an important dimension of successful change, focuses on building up the 'software' of an organisation – its culture, behaviour, and attitudes of employees – the goal is to develop organisational capability through individual and organisational learning – the process of changing, obtaining feedback, reflecting, and making changes.²⁷⁴

RECOMMENDATION 9

- 7.15 **The Committee recommends, to the extent that work is not already taking place, that ACTPLA embrace an adequately resourced organisational renewal approach/program to build organisational capability to support successful implementation of the Reform Project change effort.**

²⁷¹ ACTPLA, 2004-05 Annual Report, p. 12.

²⁷² Minister for Planning, Media Release: 'New Planning Legislation for the ACT', 13 July 2006.

²⁷³ Hawke, A., 'The Services in a Changing World', Address to the Chief of Navy Leadership Conference, July 2001, pp. 1-6.

²⁷⁴ Beer, M. & Nohria, N., 'Cracking the code of change', *Harvard Business Review*, May-June 2000, pp. 133-141.

8 ACTPLA RESOURCING

- 8.1 The Committee is of the view that the assessing authority's level of resourcing influences the efficiency, effectiveness and economy of the development assessment system.
- 8.2 Several submissions and witnesses at public hearings drew the Committee's attention to resourcing issues in ACTPLA. An examination of these issues and areas of concern follows.

Funding

- 8.3 Funding for planning reform is essential. The Committee notes that the Minister for Planning announced additional funds would be allocated in the 2005-06 Budget to reform planning and land administration in the ACT. According to the Minister, this would address many of the concerns with the development assessment process raised by the Auditor-General.²⁷⁵
- 8.4 The Committee notes that a number of stakeholder groups have called on the Government to provide additional funding for the implementation of the planning reform process. The Property Council of Australia (ACT Division) stated:
- 'We also encourage the Government to provide additional funding to allow ACTPLA to implement the planning reform process as a matter of priority'.²⁷⁶
- 8.5 The Committee notes that the Authority acknowledged that its response to some of the Auditor-General's recommendations would be determined by available funds.
- 8.6 In its submission, the Property Council of Australia (ACT Division) stated that it:

²⁷⁵ Minister for Planning, Media Release: 'Planning reform to tackle DA processes', 6 May 2005.

²⁷⁶ Property Council of Australia (ACT Division), Media release: 'Planning Reform Essential for Canberra', 3 May 2005.

‘...does not accept any Authority response that cites lack of funding or resources as the reason for non-performance. Such funding and resources should be sought and supported by the ACT Government’.²⁷⁷

- 8.7 Further, in relation to a recommendation that the Authority should develop a more formalised training program to improve staff’s understanding of legislative requirements, the Auditor-General stated:

‘...we would like to request that the authority give priority to the training of staff, as this is one of the key issues in the planning system which should not be subject to funding’.²⁷⁸

- 8.8 The Committee believes that successful implementation of the outcomes of the Reform Project will require additional funding to support the integrated change effort required. The Committee is of the view, however, that the efficiencies generated through improved administration under the proposed reform have the potential to create a more efficient planning system and realise cost savings in the future.

Recruiting & retaining planning staff

- 8.9 Submissions and witnesses at public hearings agreed that the shortage of planners throughout Australia was one of the most significant issues facing the planning profession.
- 8.10 The Committee notes that a National Inquiry into Planning Education and Employment (the National Inquiry) found that a slowdown in development approvals and urban development was attributable to the shortage of planners.²⁷⁹ Further, the National Inquiry found that conditions in the industry were also driving people away.²⁸⁰
- 8.11 According to the National Inquiry, this labour market shortage is now critical in the major cities.²⁸¹

²⁷⁷ Submission No. 4, 29 July 2005, p. 1.

²⁷⁸ *Transcript of evidence*, 1 March 2006, p. 73.

²⁷⁹ Perinotto, T., *Financial Review*, June 2004, p. 65.

²⁸⁰ *Ibid.*

²⁸¹ National Education Inquiry into Planning Education and Employment, *Findings & Recommendations*, June 2004.

- 8.12 The Committee is aware that the National Inquiry was initiated in the wake of increased development activity bringing unprecedented demands on the planning profession.²⁸² Further, the National Inquiry findings expressed alarm at the strength of concerns that arose about the working environments of many planners, particularly those working in development assessment.²⁸³
- 8.13 The Committee acknowledges that planners working in development assessment face enormous pressures from continuing changes to legislation, staff shortages, high volumes of work and pressure from developers, politicians and community organisations and individuals.²⁸⁴
- 8.14 The Committee believes that these issues must be addressed if the profession and planning in general are to be able to manage urban growth in our cities and regions.²⁸⁵

Current demand for planners

- 8.15 According to findings of the National Inquiry, planning employers have the greatest problem in recruiting and retaining experienced planners (ten or more years experience), particularly with skills in development assessment. Further, the National Inquiry found the shortage of experienced planners is due to:
- experienced planners leaving traditional planning areas to work in related areas (such as natural resource management, transport or social planning);
 - experienced planners leaving the profession because of 'burn-out' or morale issues;
 - female planners over 35 years leaving the profession due to family commitments or other reasons and many choosing to work part-time (one in four female planners work part-time); and

²⁸² National Education Inquiry into Planning Education and Employment, *Findings & Recommendations*, June 2004.

²⁸³ Perinotto, T., *Financial Review*, June 2004, p. 65.

²⁸⁴ *Ibid.*

²⁸⁵ National Education Inquiry into Planning Education and Employment, *Findings & Recommendations*, June 2004.

- planners moving out of the technical area and into managerial positions being created to deal with new planning legislation or increased workloads.²⁸⁶

Future demand for planners

- 8.16 The survey of planning employers undertaken for the National Inquiry found that 63% of organisations surveyed will be employing more planners in five to ten years time, 33% will stay the same and only 2.8% say their demand will decrease.^{287, 288}
- 8.17 These findings indicate that there will be a steady increase in demand for planners in the ACT over the next five to ten years.

Impact of planning skills shortage on development assessment

- 8.18 The Committee notes that a shortage of planners can have significant economic, social and environmental impacts. In general, the shortage of planners results in:
- delays in assessing development proposals, which can hinder or even deter economic development and slow growth;
 - inadequate resolution of major issues and concerns with DAs, due to lack of skilled staff with expertise in specialist areas;
 - inability to undertake strategic planning projects to guide development and growth in a sustainable manner; and
 - inability to fully implement some policies, such as native vegetation and catchment management.²⁸⁹

²⁸⁶ Planning Institute of Australia (NSW Division), *Submission to NSW Standing Committee on State Development*, Aug 2005, p. 3.

²⁸⁷ *Ibid.*

²⁸⁸ National Education Inquiry into Planning Education and Employment, *Findings & Recommendations*, June 2004.

²⁸⁹ Planning Institute of Australia (NSW Division), *Submission to NSW Standing Committee on State Development*, Aug 2005, p. 4.

Strategies to address the shortage of planners

8.19 The Committee is of the view that the Authority should take a more active leadership role with education and training, retention of planners and image of planning for the Territory.

8.20 The RAIA (ACT Chapter) stated:

‘One of the issues we raised earlier is to get a better working environment. Some of that is respecting people who work in ACTPLA; providing good in-service education so that they are informed; when they give advice to somebody over the counter, no matter who that is, it is correct advice and is not countermanded in some way, so they don’t look like dills; there is internal respect for everybody who works in ACTPLA, at whatever level. That is one of the issues’.²⁹⁰

8.21 Whilst the Authority understands its own workforce demographics and characteristics, the Committee believes that a systematic approach to workforce planning would benefit the Authority by:

- identifying current and future capability requirements and implementing a human resource management strategy to make sure they are met; and
- implementing effective succession management to develop bench strength for key roles.²⁹¹

8.22 Further, the Committee notes that the National Inquiry found that whilst graduate numbers appear to be adequate, they are insufficient for the large ‘slippage’ out of the profession in Australia, with planners working overseas, moving to related disciplines, women leaving for family reasons or planners leaving the profession.²⁹² In evidence, the Chief Planning Executive stated:

‘In terms of staffing numbers I will give an anecdote that the committee may be interested in. When I was in London earlier this year I was talking with the department of the Deputy Prime Minister, which is responsible for planning at a national level in the UK. They obviously do not have a state-type government

²⁹⁰ *Transcript of evidence*, 14 September 2005, p. 25.

²⁹¹ APSC Management Advisory Committee, 2003, *MAC Report 3: Organisational Renewal*, Commonwealth of Australia, pp. 2-3.

²⁹² National Education Inquiry into Planning Education and Employment, *Findings & Recommendations*, June 2004.

function. They rely very heavily on Australian planners for their activities, both at local council level and in the national government—in the British government. It is quite common, I am told by them, for young Australian planners coming straight out of university to choose to work overseas. They like the complexity and the difference of working in a very big place like the UK, which still has very similar planning traditions and planning structures’.²⁹³

- 8.23 To address the shortage of planners in Australia, the National Inquiry recommended increasing the number of skilled planners immigrating into Australia. This requires the Commonwealth Government to include the planning profession on the Migration Occupations in Demand List (MODL).
- 8.24 In evidence, the Chief Planning Executive advised that the Planning Institute of Australia was pursuing the matter with the Commonwealth Department of Immigration.²⁹⁴

RECOMMENDATION 10

- 8.25 **The Committee recommends that ACTPLA promote the planning profession, job profile and the benefits of planning to school students, those working in associated areas and the community in general.**

RECOMMENDATION 11

- 8.26 **The Committee recommends that ACTPLA explore the feasibility of offering traineeships or cadetships which would provide structured supervision and guidance for students in their third year or higher of tertiary study.**

RECOMMENDATION 12

- 8.27 **The Committee recommends that the Planning Minister, where appropriate, support the Planning Institute of Australia’s efforts to lobby the Commonwealth Government to recognise the planning profession as an Occupation in Demand, to make it easier for overseas planners to work in Australia.**

²⁹³ *Transcript of evidence*, 1 September 2005, p. 8.

²⁹⁴ *Ibid.*, p. 13.

Staff education, training and professional development

- 8.28 The Committee believes that the role of the planner changes as society changes and that planners will be in demand to play an increasing role in managing increasing complexity of urban systems. Skilled professionals who can address these issues and advise governments and the community are critical to the successful delivery of economic vitality, environmental enhancement and community well being.²⁹⁵
- 8.29 The Auditor-General concluded that the Authority's reliance on on-the-job training was not sufficient to upgrade assessment officers' competency levels.²⁹⁶
- 8.30 The Committee notes that skill levels and professional development have been of wide concern for some time. Submissions raised issues including the competence brought to development assessment, and the shortage of development assessment staff.²⁹⁷
- 8.31 A number of submissions drew the Committee's attention to the status of post-graduate training of planners. This has become increasingly important given the ever-changing nature of the job, but, getting time away from work to attend training can be difficult and available training courses can be ad hoc and/or expensive.²⁹⁸
- 8.32 In evidence, the RAIA (ACT Chapter) stated:
- '...in response to an observation on the resourcing of ACTPLA that some years ago the role of an assessment officer within the authority was devolved to people who had qualifications other than qualifications in planning; they may have come from a clerical background and become a development assessment officer. I am not sure that that is the case any more. The notion that we wanted

²⁹⁵ Planning Institute of Australia (NSW Division), *Submission to NSW Standing Committee on State Development*, Aug 2005, p. 4.

²⁹⁶ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 7.

²⁹⁷ Centre for Developing Cities – University of Canberra, *Leveraging the Long-Term: A Model for Leading Practice Development Assessment*, Vol. 1, September 2003, p. 49.

²⁹⁸ National Education Inquiry into Planning Education and Employment, *Findings & Recommendations*, June 2004.

addressed as a profession was that the development applications that we were submitting, prepared by professionals, should be addressed by professionals—whether they were planners in economic planning, strategic planning or any field like that, architectural landscape, architecture. As long as they were somehow qualified in urban, regional and architectural training, we would appreciate ACTPLA having those sorts of resources’.²⁹⁹

8.33 Further, the RAIA (ACT Chapter) advised that the University of Canberra was conducting a feasibility study to investigate a course structure where courses may be delivered at a certificate, a diploma, a bachelor or a masters degree level in various scenarios to address the training needs of planners.³⁰⁰

8.34 In subsequent evidence, the Planning Minister advised:

‘I am very supportive of the efforts to establish some level of training in planning at the University of Canberra. It is a weakness for our city that we do not have a tertiary institution in our city that provides professional education for people to become planners. The University of Canberra recently held a roundtable on the possibility of developing a course. The conclusion reached, I think, was that an undergraduate course was not viable, but some form of postgraduate course may be’.³⁰¹

8.35 Whilst the outcomes of such a course will not be realised for a number of years, the Committee encourages ACTPLA to utilise the course structure that maybe on offer to improve its training and resources.³⁰²

²⁹⁹ *Transcript of evidence*, 14 September 2005, p. 24.

³⁰⁰ *Ibid.*

³⁰¹ *Transcript of evidence*, 4 April 2006, p. 80.

³⁰² *Transcript of evidence*, 14 September 2005, p. 24.

RECOMMENDATION 13

- 8.36 **The Committee recommends that the Government encourage and support the work of the University of Canberra in establishing a professional planning course structure.**

RECOMMENDATION 14

- 8.37 **The Committee recommends, to the extent that work is not already taking place, that the Planning Minister initiate discussion with his state and territory colleagues with a view to lobbying the Commonwealth Government to provide greater resources and funding for university planning schools, and increase the number of funded places for planning students.**
- 8.38 The Committee notes that implementation of planning reform will not only focus attention on system design and operation, but will provide new tools for both designers and operators of these systems and for education and training.³⁰³
- 8.39 The Committee also notes with caution that the advent of digital development assessment in the future will radically alter the tasks of assessment.³⁰⁴ This will require an increased focus on staff education and training.

³⁰³ Centre for Developing Cities – University of Canberra, *Leveraging the Long-Term: A Model for Leading Practice Development Assessment*, Vol. 1, September 2003, p. 49.

³⁰⁴ *Ibid.*

9 CONTINUOUS IMPROVEMENT OF ASSESSMENT PROCESSES

- 9.1 The Committee is of the view that the assessing authority's continuous improvement processes influence the efficiency, effectiveness and economy of the development assessment system.
- 9.2 The Centre for Developing Cities believes that built-in continuous improvement mechanisms or formal feedback loops need to be mandated at specific points in development assessment, for the continuous improvement of the processes of assessment and for the refinement or development of the criteria on which assessment is based.³⁰⁵
- 9.3 Formal feedback processes are vital techniques for monitoring change and for collecting and applying feedback to ensure continuous improvement.³⁰⁶
- 9.4 The Committee believes that the Authority and advice agencies have an obligation to contribute to system improvement and to continuously evaluate their own processes.³⁰⁷

Review of exposure draft bill

- 9.5 The Committee notes that the exposure draft bill does not provide for a review of the Act. As an important continuous improvement process, in the Committee's view, the exposure draft bill should provide for a review of the Act after three years of operation. Further, this should be an independent review.
- 9.6 In evidence to the Standing Committee on Planning and Environment's inquiry into the exposure draft of the planning and development bill, the Property Council of Australia (ACT Division) stated:

³⁰⁵ Centre for Developing Cities – University of Canberra, *Leveraging the Long-Term: A Model for Leading Practice Development Assessment*, Vol. 1, September 2003, p. 46.

³⁰⁶ *Ibid.*, p. 39.

³⁰⁷ *Ibid.*

‘What the bill doesn’t really contemplate in any detail is how the continuous improvement of the bill and the monitoring of it will be ongoing’.³⁰⁸

RECOMMENDATION 15

- 9.7 **The Committee recommends that the Government give consideration to prescribing in the proposed legislation that an independent review of the Act be conducted after three years of operation.**

Customer feedback

- 9.8 Throughout its inquiry, the Committee received a number of submissions relating to ACTPLA’s complaints response process and, subsequently, how quickly and fairly it resolved complaints arising in connection with the development assessment process.
- 9.9 The Committee notes that ACTPLA has a customer feedback system which handles complaints, compliments and suggestions, responding to issues raised by the general public and the Ombudsman’s Office.³⁰⁹
- 9.10 The Committee is of the view that centralised databases such as customer feedback systems (CFS), are powerful continuous improvement tools. CFS are an important technique for obtaining, analysing and reporting on customer views and experiences. The use of such information has the potential to improve an organisation’s service delivery, and consequently improve customers’ willingness to engage with the organisation.
- 9.11 Further, customer feedback may also assist in the identification of systemic problems with agency practices and procedures, which could result in cost savings from the development of better processes.³¹⁰
- 9.12 The Committee is of the view that the Authority could make better use of its CFS to support continuous improvement of the development assessment system.

³⁰⁸ Standing Committee on Planning and Environment, *Inquiry into exposure draft planning and development bill*, 5 September 2006, p. 13.

³⁰⁹ ACTPLA, *2004-05 Annual Report*, p. 27.

³¹⁰ ANAO, *Performance Audit Report: Centrelink’s Value Creation Program*, 9 March 2005.

RECOMMENDATION 16

- 9.13 **The Committee recommends, to the extent that work is not already taking place, that ACTPLA investigate the capacity of its customer feedback system to act as a centralised data information system to support continuous improvement of the development assessment system.**

10 ECOLOGICALLY SUSTAINABLE DEVELOPMENT

- 10.1 The Committee is of the view that the regulation of the development assessment system can influence the achievement of the goals of sustainable environments chosen by communities.
- 10.2 The Auditor-General examined whether development assessment processes had regard to the principles of ESD (as defined by the *Environment Protection Act 1997*).³¹¹
- 10.3 The aim of the Territory Plan is to ensure that planning and development of the ACT provides the people of the ACT with an ecologically sustainable, healthy, attractive, safe and efficient environment in which to live, work and have their recreation. It therefore follows that the Authority needs to consider the principles of ESD when carrying out its functions.³¹²
- 10.4 Further, the Authority is also required to report on its performance against the principles of ESD annually, pursuant to section 158A of the *Environment Protection Act 1997* and the Chief Minister's Annual Report Directions.³¹³

Sustainability principles

- 10.5 The Committee notes that the ACT Government recognises that an emphasis on economic growth³¹⁴ exclusively may not result in the achievement of broader social and environmental objectives.³¹⁵

³¹¹ ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 49.

³¹² *Ibid.*

³¹³ *Ibid.*

³¹⁴ The Economic White Paper suggests that whilst the economic market place is generally the best placed medium for allocating scarce resources, it may fail to give due weight to social, distributional and environmental considerations (ACT Government, *Economic White Paper for the Australian Capital Territory*, 2003, p. 31).

³¹⁵ ACT Government, *Economic White Paper for the Australian Capital Territory*, 2003, p. 31.

- 10.6 To address this the ACT Government has confirmed an overarching commitment to the principle of sustainable development, that is to whole-of-Government:

‘...policies that are economically sound, environmentally sustainable, and which ‘promote equity, inclusion and the development of social capital’.³¹⁶

- 10.7 The Authority has noted that there will be better integration of sustainability objectives into the planning system through the proposed sustainability legislation, the proposed planning legislation, the Territory Plan and its codes, stating:

‘The Government’s definition of sustainability and its sustainability principles, developed under its proposed sustainability legislation, will be incorporated, where appropriate, into the territory’s planning and land administration system, e.g. by comprehensive objectives in new legislation, provisions in the restructured Territory Plan and codes that will foster sustainable development...’.³¹⁷

- 10.8 The Committee notes that whilst the Authority has advised that there will be better integration of sustainability into the planning system, by comprehensive objectives in the proposed legislation, the definition of sustainable development in the exposure draft bill has been carried over from the *Planning and Land Act 2002*.³¹⁸

- 10.9 Further, the Committee notes that the proposed sustainability legislation will not be proceeding at this time. The Chief Minister told the 2006-07 Estimates Committee:

‘In relation to the sustainable legislation project, that is work which has not been proceeding at this stage and I do not believe there is, at this stage, a time frame.

In relation to Office of Sustainability priorities, at some stage earlier this year I indicated to the department that work on sustainability legislation should give way to other office priorities, and most particularly the development of the climate change strategy; that in relation to resources available, the appropriate level of commitment to both projects could not, in my view, be maintained. I

³¹⁶ ACT Government, *Economic White Paper for the Australian Capital Territory*, 2003, p. 31.

³¹⁷ ACTPLA, *Planning System Reform Project: Government response to community comments*, November 2005, p. 15.

³¹⁸ ACTPLA, *Planning System Reform Project Guide to the ACT Government’s proposed planning laws*, July 2006, p. 6.

asked the department to devote the available resources to the climate change strategy at the expense of the sustainable legislation project. So there is no time frame at this stage for the sustainability legislation'.³¹⁹

10.10 In its submissions to the Committee, the Property Council of Australia (ACT Division) noted that sustainable development is essential if Canberra is to grow and prosper, however it was:

'...concerned about another tier of legislation about mandating more sustainable design'.³²⁰

10.11 The Committee expresses its concern that the advancement of the principal document that will mandate the Government's commitment to sustainability, has been put on hold indefinitely. Further, the Committee notes that the Government's progression of the Climate Change strategy, due for completion at the end of 2006³²¹, may also impact on the DA process.

RECOMMENDATION 17

10.12 **The Committee recommends that the Government prioritise the advancement of the proposed sustainability legislation as a funded initiative in the 2007-08 budget.**

ESD guidelines & training for development assessment staff

10.13 The Committee notes that the Auditor-General found that the development assessment process:

'...currently has limited scope to specifically take ESD into account, as there is little qualitative information on how this should be done at the individual DA level...'.³²²

10.14 Whilst the Authority does seek comments on many development assessments from experts, the Auditor-General found:

³¹⁹ Legislative Assembly for the ACT, Estimates Committee 2006-07; *Transcript of evidence*, 22 June 2006, p. 71.

³²⁰ *Transcript of evidence*, 14 September 2005, p. 37.

³²¹ Legislative Assembly for the ACT, Estimates Committee 2006-07; *Transcript of evidence*, 22 June 2006, pp. 70-71.

³²² ACT Auditor-General's Report No 2 of 2005: *Development Application and Approval Process*, p. 50.

‘...there is not yet sufficient guidance to enable staff to weight competing aspects of a proposal to determine its overall merit, with respect to ESD...’³²³

10.15 The Committee also notes that the Auditor-General commented that ACTPLA was a leading Government agency in relation to sustainability and ESD, particularly in relation to building awareness of these concepts and principles.³²⁴

10.16 An example of the Authority’s leadership in sustainability design includes the development of the minimum energy efficiency ratings for new homes. According to the Property Council of Australia (ACT Division):

‘The energy rating system was one of the first to be developed in Australia for residential design and achieving mandatory four-star energy rating is, I think, a good example of leadership in terms of sustainability with residential design’.³²⁵

10.17 Further, the Committee notes that the Government has developed a range of guidelines to facilitate the efficient use of water and has introduced requirements in building legislation to encourage sustainable building. These include the requirement for water efficient taps and fittings, provision for grey water recycling and a range of design and assessment tools.³²⁶

10.18 Whilst ACTPLA has developed, and continues to develop, various measures to improve sustainability in the ACT, in keeping with the principles of ESD, the Committee is concerned, however, that much of this work is yet to be supported by comprehensive guidance material for staff.³²⁷

10.19 While appreciating that there may be difficulties in translating the concept of sustainability to administrative practices and procedures, the Committee believes that ACTPLA should prioritise guidelines and practices for consideration of ESD in the development assessment process.

³²³ ACT Auditor-General’s Report No 2 of 2005: *Development Application and Approval Process*, p. 50.

³²⁴ *Ibid.*, p. 53.

³²⁵ *Transcript of evidence*, 14 September 2005, p. 36.

³²⁶ ACTPLA, *Planning System Reform Project: Government response to community comments*, November 2005, p. 15.

³²⁷ ACT Auditor-General’s Report No 2 of 2005: *Development Application and Approval Process*, p. 7.

RECOMMENDATION 18

- 10.20 **The Committee recommends, to the extent that work is not already taking place, that ACTPLA engage professionals with expertise in environmental management and sustainable development to develop and implement ESD guidance tools for staff.**
- 10.21 Further the Committee is of the view that the development of ESD guidance tools for staff and subsequent training would assist with the consideration of ESD principles in a comprehensive and consistent manner. Experts with formal tertiary qualifications and expertise in environmental management and sustainable development should undertake this task.³²⁸

RECOMMENDATION 19

- 10.22 **The Committee recommends, to the extent that work is not already taking place, that ACTPLA provide formal ESD training, delivered by professionals with expertise in environmental management and sustainable development, for all staff.**

Environmental assessments

- 10.23 Environmental assessments [preliminary assessments (PAs) and environmental impact assessments (EIAs)] are a useful tool and source of information during assessment of a proposal. Despite this, the Committee notes that the Auditor-General observed that the DAs examined did not systematically refer to environmental assessments.³²⁹
- 10.24 The Auditor-General commented that:
- ‘...in their consideration of the principles of ESD, assessment officers would benefit from using the information contained in PAs and other assessments if they were more closely linked to the development assessment process’.³³⁰
- 10.25 The Committee notes, however, that under the Reform Project’s proposed legislation, preliminary assessments will be abandoned.³³¹

³²⁸ Submission No. 3, July 2005, p. 6.

³²⁹ ACT Auditor-General’s Report No 2 of 2005: *Development Application and Approval Process*, p. 51.

³³⁰ ACT Auditor-General’s Report No 2 of 2005: *Development Application and Approval Process*, p. 51.

- 10.26 Further, under the proposed planning legislation, an EIS will now be required for major developments. The Committee notes that the ability to require an EIS for major developments had always existed, but was rarely used. The processes of scoping, preparing an EIS, and referral to the Minister will remain the same.³³² However, the Minister now has the discretion to refer or not to refer an EIS to the Legislative Assembly.³³³
- 10.27 The Committee notes that whilst the abolition of PAs and further assessments in favour of planning studies scoped by ACTPLA and the provision of EIS may well provide developers with 'greater clarity and certainty of process', it has the potential to reduce safeguards for the community.³³⁴
- 10.28 A submission to the Committee suggested that there were strong arguments for separation of the EIS process from the Authority's decision making process to be administered by Environment ACT.³³⁵

Creative design & innovation

- 10.29 It has been argued that improvements to the development assessment process do not of themselves guarantee that planning outcomes will meet community agreed objectives such as ESD.³³⁶
- 10.30 The Authority has noted that meeting or exceeding community objectives requires creative designs and innovative proposals from developers, builders and the wider community. High quality outcomes from the development assessment process require consistent decision making from the Authority in the assessment of development applications.³³⁷

³³¹ ACTPLA, *Planning System Reform Project: Government response to community comments*, November 2005, p. 14.

³³² ACTPLA, *Planning System Reform Project Guide to the ACT Government's Proposed Planning Laws*, July 2006, p. 24.

³³³ *Ibid.*

³³⁴ Submission No. 3, July 2005, p. 7.

³³⁵ *Ibid.*

³³⁶ ACTPLA, *Technical Paper 3 – Streamlining development assessment and building approval processes in the ACT*, May 2005, pp.v-vi.

³³⁷ *Ibid.*

- 10.31 The Committee received submissions highlighting that the current development assessment process obstructed innovation and change and lacked the ability to accommodate continuous improvement.^{338,339}
- 10.32 The Committee notes that, at times, the current development assessment process can impede rather than encourage creative design and innovative proposals from developers, builders and the wider community.³⁴⁰ In evidence to the Committee, the Housing Industry Association (ACT/SNSW) stated:
- ‘...We are aware that leading up to the last election we – a number of industry people – and the community were shown some quite innovative approaches to a number of suburbs in north Canberra. Regrettably, what was finally published, maybe six months ago, is such a pale replica of that innovative process that was on the table...we would like to see, through the planning reforms, the freeing up of a number of restrictions on the planners to be able to offer what I call innovative...opportunities in the market to refresh those suburbs...’.³⁴¹
- 10.33 Further, successive rules and regulations have slowed the development assessment process, making the outcomes of many applications uncertain. The process of delay and uncertainty has resulted in less innovative design and development investment.³⁴²
- 10.34 In the Committee’s view, sustainable design is about educating consumers to make informed choices during the design stage. The Housing Industry Association’s GreenSmart program is a good example. The Program:
- ‘...is about educating the consumers...we have opened up a GreenSmart display village, which is all about trying to promote to consumers what they can do in their homes to make more environmentally friendly and sustainable, so it is certainly something that we see as very important and we will certainly do our best to encourage our members to go down that path’.³⁴³

³³⁸ Centre for Developing Cities – University of Canberra, *Leveraging the Long-Term: A Model for Leading Practice Development Assessment*, Vol. 1, September 2003, p. 23.

³³⁹ *Ibid.*, p.12.

³⁴⁰ ACTPLA Technical Paper 3 – *Streamlining development assessment and building approval processes in the ACT*, May 2005, pp. v-vi.

³⁴¹ *Transcript of evidence*, 2 November 2005, p. 45.

³⁴² Submission No. 2, 2005, p. 1.

³⁴³ *Transcript of evidence*, 2 November 2005, p. 43.

10.35 In connection with regulating for sustainable design, the Housing Industry Association (ACT/SNSW) further added:

‘Our observation is that with a regulatory requirement to include something in a house, say of a sustainable nature, it just gets included; the consumer has little awareness of what it is or how to use it properly. We would argue that, if the consumer were the one asking for or demanding that, they would do the homework and know exactly what they were getting and why they were getting it. We would like to see a lot more lead from the final occupiers of homes’.³⁴⁴

10.36 The Authority has stated that an objective of the Reform Project is to remove any barriers, such as inconsistency in decision-making that may prevent the progression of creative design and innovative proposals.³⁴⁵

10.37 The Committee recognises that the challenges and problems faced by ACTPLA in connection with building capacity for ESD into the development assessment process are not dissimilar from those faced in other jurisdictions.

10.38 Further, the Committee notes that as new and better tools are developed and implemented in other jurisdictions, ACTPLA has stated that it will investigate the suitability of their adoption in the Territory.³⁴⁶

³⁴⁴ *Transcript of evidence*, 2 November 2005, p. 43.

³⁴⁵ ACTPLA Technical Paper 3 – *Streamlining development assessment and building approval processes in the ACT*, May 2005, pp. v-vi.

³⁴⁶ ACT Auditor-General’s Report No 2 of 2005: *Development Application and Approval Process*, p. 49.

11 CONCLUSION

- 11.1 The Committee acknowledges the views presented and conclusions made in the Auditor-General's Performance Audit Report No 2 of 2005.
- 11.2 The Committee notes that submissions received and witnesses at public hearings welcomed the Audit Report and agreed with the majority of the Auditor-General's recommendations.

RECOMMENDATION 20

- 11.3 **The Committee recommends that the Legislative Assembly implement the recommendations of Auditor-General's Performance Audit Report No 2 of 2005: *Development Application and Approval Process*.**
- 11.4 The Committee has made twenty recommendations in relation to its inquiry into Auditor-General's Performance Audit Report No 2 of 2005: *Development Application and Approval Process*.

Richard J Mulcahy MLA

Chair

18 September 2006

APPENDIX A: List of submissions

List of written submissions received by the Committee

No 1	Ms Christine McKenzie, developer
No 2	Ms Caroline Lemezina, Executive Director, Housing Industry Association Ltd ACT/Southern NSW
No 3	Ms Rowan Basil-Jones, private individual
No 4	Ms Catherine Carter, Executive Director, Property Council of Australia (ACT Division)
No 5	Mr Jeff Carl, Chairperson, Weston Creek Community Council
No 6	Mr Robert & Mrs Mary Higgs, private individuals
No 7	Mr Neil Savery, Chief Planning Executive, ACTPLA/Government submission
No 7a	Mr Simon Corbell MLA, Minister for Planning, supplementary ACTPLA/Government submission
No 8	Mr Mark Power, private individual
No 8a	Mr Mark Power, supplementary, private individual
No 8b	Mr Mark Power, supplementary, private individual
No 9	Ms Catherine Townsend, ACT Chapter President, Royal Australian Institute of Architects (ACT Chapter)
No 10	Mr Claus Ducker, private individual
No 11	Mr Bob Winnel, Chief Executive, Village Building Company
No 12	Ms Caroline Ambrus, private individual

APPENDIX B: List of witnesses

List of witnesses who appeared before the Committee at public hearings

Public hearing of Thursday 1 September 2005

- Mr Simon Corbell MLA, Minister for Planning
- Mr Neil Savery, Chief Planning Executive, ACTPLA
- Mr Richard Johnston, Director, Leasing and Building Services, ACTPLA
- Ms Linda Southwell, Principal Officer, Development Application Support Services, ACTPLA

Public hearing of Wednesday 14 September 2005

Royal Australian Institute of Architects (ACT Chapter)

- Ms Marion Reilly, Manager, Royal Australian Institute of Architects (ACT Chapter)
- Mr Andrew Wilson, Fellow, Royal Australian Institute of Architects (ACT Chapter) & Chairperson – ACT Chapter Planning Committee

Property Council of Australia (ACT Division)

- Ms Catherine Carter, Executive Director, Property Council of Australia (ACT Division)
- Ms Joanne Metcalfe, Councillor, Property Council of Australia (ACT Division)
- Mr Alastair MacCallum, Member, Property Council of Australia (ACT Division), Planning Committee

Public hearing of Wednesday 2 November 2005

- Ms Caroline Lemezina, Executive Director, Housing Industry Association (HIA) ACT/Southern NSW
- Mr Alan Morschel, Planning Adviser, HIA ACT/Southern NSW

Public hearing of Wednesday 9 November 2005

- Mr Mark Power, private individual
- Mrs Beatrice Power, private individual

Public hearing of Wednesday 7 December 2005

- Mr Robert Winnel, Chief Executive, Village Building Company
- Mr Terry Shaw, Project Manager, Village Building Company
- Mr Kenneth Ineson, Village Building Company

Public hearing of Wednesday 1 March 2006

- Ms Tu Pham, ACT Auditor-General
- Mr Rod Nicholas, Director, Performance Audits & Corporate Services, ACT Audit Office
- Ms Simone Stimpson, Senior Performance Auditor, ACT Audit Office

Public hearing of Tuesday 4 April 2006

- Mr Simon Corbell MLA, Minister for Planning
- Mr Neil Savery, Chief Planning Executive, ACTPLA
- Mr Paul Lees, Manager, Development Assessment, ACTPLA

Public hearing of Wednesday 6 September 2006

- Dr Michael Pearson, Chair, ACT Heritage Council
- Dr Sandy Blair, Manager, ACT Heritage Unit, Department of the Territory and Municipal Services (TAMS)
- Mr Bob Neil, Director, Environment Protection and Heritage, TAMS