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

REPORT ON THE REVIEW OF THE UNIVERSITY OF CANBERRA ACT 1989

**Presented by
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Review of the University of Canberra Act

Chief Minister, Treasury and Economic Development
Directorate

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1 Executive Summary

In April 2015, the ACT Legislative Assembly amended the University of Canberra's (UC) enabling legislation, the *University of Canberra Act 1989* (the Act) by passing the *University of Canberra Amendment Act 2015* (the Amendment). The Amendment was primarily intended to provide the UC with greater clarity of purpose and authority in creating and pursuing commercial opportunities and to modernise some of the UC's governance arrangements.

This review, undertaken by the Nous Group (Nous), was commissioned by the ACT Government in accordance with the legislative requirement in the Amendment for the new arrangements to be reviewed after five years (later extended by a year).

The Terms of Reference (Appendix A) for the review required consideration of whether the Amendment facilitated the broadening of the UC's functions as set out in the Act; the commercial development of its property; and the provision of economic and other benefits to the UC and the community in the ACT region. Each of these goals was considered by the review.

The explicit expansion of the UC's functions in the Act to include cultural, sporting, professional, technical and vocational services to the community and the ACT region represented both a codification of an existing role and an emphasis on the importance of these community functions. The review found that the UC has continued and expanded the services it provides to the community and the region since the Amendment across a range of activities. In line with the Amendment, the UC has also continued to strengthen its commitment to reconciliation with Aboriginal and Torres Strait Islander people through education and research.

The amendments to the UC's functions and powers that enabled the UC to commercially exploit or develop its 120 hectares of land put the UC's right to undertake such development beyond doubt. The changes signalled the willingness of the ACT Government to cooperate with the UC to allow the land to be commercially developed in the interests of the Government and the community, as well as the UC. In isolation, the Amendment itself was insufficient to enable the University to commercially develop its real property. It was accompanied by several subsequent additional legislative changes that collectively support the UC to commercially develop its real property, particularly by resolving the complications created by the interaction of the UC's perpetual Crown lease with the titling model.

The UC has made progress on several developments since the Amendment and its associated legislative changes, most notably the Canberra Specialist Medical Centre (CSMC), which was announced in 2016 and opened in 2019. The CSMC is a partnership between the UC, the Integrated Clinical Oncology Network and Cornerstone Building Developments. Other developments, such as the Campus Community Project and the Moran Aged Care and Early Learning Centre are in progress. The UC released its *Campus Master Plan 2020-2040* in March 2021. This plan builds on the UC's previous master plan and extends *The Educated Life* campus development plan, which formed a key initiative of the University's 2018-2022 strategy.

The review encountered a concern that the pace of UC's commercial development has been slower than many Government stakeholders expected and certainly slower than the UC's anticipated timeframes. The Moran Aged Care development, for example, was anticipated to open in January 2018 when the agreement with Moran was signed but is not yet open. The UC has advised that this development was initially held up by delays in the completion of the Draft Precinct Master Plan and the Estate Development Works, and then subsequently delayed pending clarification of the implications of the Australian Government's Royal Commission into Aged Care. The review notes that these kinds of delays are not exceptional in the context of significant commercial developments that involve contractual obligations and due diligence processes.

The pace of development has also been slowed by leadership changes at the UC. At the same time, the capability and capacity of the University has continued to mature, including through organisational restructuring, to ensure an appropriate mix of skills and experience to deliver on current plans.

A key challenge for the UC is that it must source development capital to undertake commercial development. As a Territory Authority, the UC is exempt from ACT Government budget and financial reporting requirements and effectively operates independently. The UC therefore determines how its own development opportunities are financed and structured. However, when contemplating entering into significant commercial financial arrangements with the private sector, the UC must seek approval from the Treasurer. This is to ensure that as a Territory Authority, the UC does not make decisions that expose the ACT Government to any potential future liabilities.

Based on the information available to the review, the Amendment and associated legislative changes have created – and will continue to create – significant economic and other benefits for the UC and the regional community.

While the economic benefits to the community are still largely to be realised, current progress indicates the potential for these to be significant. The CSMC has contributed additional capacity to the ACT health system and the surrounding region it serves. The planned Moran Aged Care and Early Learning Centre will include 150 aged care beds and 120 childcare places. The forthcoming Campus Community Project is expected to have a gross development value of approximately \$1.7 billion and will provide an additional 3,300 residences to the ACT housing market.

In clarifying that the UC has the power to develop and exploit its land, the ACT Government has effectively ensured that the UC has an “endowment” that can be used, in line with its functions under the legislation, for the future benefit of students and the community.

University governance

The review was asked to consider whether the appointments process for the Council ensures a balance of necessary and critical skills for the operation of a university. The review found that the legislated process and requirements are consistent with practices across the sector but there is room for improvements that speed up the appointment process. The UC noted that the time frames have at times created risks to the effective and timely operation of the Council, with one critical appointment taking eight weeks, during which time the UC was exposed to significant risk. According to the ACT Government, existing timeframes are in line with Cabinet and whole of government appointment standards, established in 2015. The review considers that a jointly agreed protocol for the appointments process would improve the efficiency of the Council's operations.

The review notes a limitation in the Act for sub-delegation by the Vice-Chancellor. This limitation was highlighted by the UC Council during consultations for the review, with a specific request that the Act be amended to expressly provide power to the Vice-Chancellor to subdelegate any functions which are within the Vice-Chancellor's area of responsibility. The review notes the administrative burden created by the current Act and the potential of such an amendment to improve the operating effectiveness of the UC.

2 Introduction

This section outlines the purpose of the review and provides relevant contextual information on the UC Act and the Amendment.

2.1 Purpose of this review

In April 2015, the ACT Legislative Assembly amended the UC's enabling legislation, the Act, by passing the Amendment. The Amendment was intended to provide UC with greater clarity of purpose and authority in creating and pursuing commercial opportunities and to modernise some of its governance arrangements.¹

Under Section 43 of the Act, the Amendment mandated that the new arrangements be reviewed in five years² and the responsible Minister present a report to the Legislative Assembly on the outcomes of the review. The review is required to consider the economic and other benefits gained by UC and the community in the ACT region as a result of the Amendment and any other changes to ACT law prescribed by regulation.³

The scope of the review is defined in the Terms of Reference (see Appendix A), which states that the review must consider whether the Amendment has facilitated the goals of:

- expanding UC's functions to include cultural, sporting, professional, technical and vocational services to the community
- permitting the commercial development or exploitation of its property, including any facility, resource, real property or other right or interest
- providing economic and other benefits to UC and the community in the ACT region as a result of the UC Amendment Act.

The ACT Government engaged Nous to conduct an independent review of the Amendment in March 2021. Between March and April 2021, Nous conducted 13 interviews with 26 relevant stakeholders from the UC, the Belconnen community and the ACT Government, and completed a document review. A full list of consultations is included in Appendix B. Following this introductory section, the review addresses the extent to which each of the three goals have been achieved. It then considers any remaining matters included in the Terms of Reference, specifically:

- powers and functions of the University and the University of Canberra Council
- financial and commercial matters related to the university
- development and enactment of statutes.

2.2 The Amendment sought to provide greater clarity of purpose to UC

The 1989 Act established the UC in place of the former Canberra College of Advanced Education (CAE), which had been founded in 1967. The Act defined the UC's functions, values and principles, powers and governance arrangements, including the operation of the University Council and Academic Board. The Act

¹ Explanatory Statement, University of Canberra Amendment Bill 2015 (ACT).

² The UC Act was amended in May 2020 by the COVID-19 Emergency Response Legislation Amendment Act 2020, which delayed the review tabling deadline by one year.

³ Explanatory statement, University of Canberra Amendment Bill 2015 (ACT).

has been amended 10 times since its inception, generally in response to changes in other pieces of ACT legislation.

The primary objective of the 2015 Amendment was to give the UC greater clarity of purpose and authority in creating and pursuing commercial opportunities. This was intended to create a greater range of economic opportunities for the UC, broadening its revenue base and lessening its dependence on government funding and support.⁴ Aligned with this, the Amendment also sought to clarify that the UC may provide services that benefit the broader community, as well as its students. The UC's functions were expanded to include the provision of cultural, sporting, professional, technical and vocational services to the community.

Summary of the 2015 Amendment

The Amendment included the following significant changes:

- The **functions of the university** were amended to give the UC the right to:
 - develop and provide cultural, sporting, professional, technical and vocational services to the community
 - participate in public discourse
 - commercially exploit its property or interests.
- The **values and principles of the university** were amended to include the commitment, through education and research, to reconciliation with Aboriginal and Torres Strait Islander people.
- The **powers of the university** were amended to explicitly provide the example of the UC's ability to enter into contracts with third parties for the purpose of commercially exploiting or developing the university's property.
- The **powers and Constitution of the University Council** were amended to:
 - allow Council to provide remuneration to Council members
 - allow Council to remove the Chancellor or Deputy Chancellor through a special resolution passed by two-thirds of Council members at two consecutive meetings.
- A new section was inserted into the Act to provide for this review.

Other minor amendments were also made, including some changes to specific wording, provisions related to casual vacancies in Council and delegation by Council.

The need for the UC to develop a diversified revenue base as a result of the Amendment was driven in part by the Commonwealth Government's 2014/15 budget, which proposed \$4.7 billion in funding cuts for the higher education sector over four years. The Commonwealth budget also deregulated the university fee system.

⁴ Explanatory Statement, University of Canberra Amendment Bill 2015 (ACT).

3 Achievement of the goals of the Amendment

The Terms of Reference require the review to assess whether the Amendment has facilitated three specific goals:

1. Expanding UC's functions to include cultural, sporting, professional, technical and vocational services to the community.
2. Permitting the commercial development or exploitation of its property, including any facility, resource, real property or other right or interest.
3. Providing economic and other benefits to UC and the community in the ACT region as a result of the UC Amendment Act.

Each of these is discussed in turn below.

3.1 Expansion of the UC's functions, values and principles

This section provides an overview of the changes to the UC's functions, and assessment of the relevance of the UC's functions, values and principles, and a summary of the UC's activities relevant to its amended functions since 2015.

It relates to the following significant changes in the Amendment:

- The **functions of the university** were amended to give the UC the right to:
 - develop and provide cultural, sporting, professional, technical and vocational services to the community
 - participate in public discourse.
- The **values and principles of the university** were amended to include the commitment, through education and research, to reconciliation with Aboriginal and Torres Strait Islander people.

3.1.1 The UC's functions were expanded to include cultural, sporting, professional, technical and vocational services to the community

The UC was engaged in providing services to the community and the ACT region prior to 2015, but the Amendment clarified and encouraged this broader role, in addition to its more specific role towards its student and research population. It was repeatedly noted through stakeholder consultation that the primary reason for these amendments to the UC's functions and powers was to codify the University's role in performing services to the community – a role it was already undertaking.

Prior to the Amendment, the 1989 Act set out the functions of the UC as an "inclusive" list. Generally, where legislation contains a list which "includes" functions or powers (as the Act does), it is interpreted as 'includes without limitation'. This means that the list is not exhaustive, and therefore does not preclude the existence or exercise of other functions. The Act goes further in relation to the powers of the university, explicitly stating that its powers include "but are not limited to" the powers listed. Therefore, by codifying the new powers and functions the Amendment expressly permitted these activities but was not required to allow them.

During consultations, it was noted the inclusion of the broad wording "professional, technical and vocational services" within the Amendment could add a level of ambiguity to UC's functions, specifically in relation to the UC's role in the delivery of vocational education and its relationship with the Canberra

Institute of Technology and other vocational institutions. However, the review found no evidence that suggests the wording has been a source of confusion over the ensuing period.

3.1.2 The UC's legislated functions, values and principles are comparable to those of similar Australian universities

Both Nous and the UC have reviewed the enabling legislation of comparable Australian universities (including the University of Newcastle, the University of Western Sydney and the University of New England) and found that the UC's functions, values and principles are consistent with those of the comparator institutions.

In the view of the UC,

The broad powers of the University set out in the Act (as amended) are adequate for the University to carry out its functions, including those functions which were the subject of the Amendment Act.

The review did not reveal anything to contradict this assertion.

3.1.3 The UC's activities since 2015 have demonstrated the breadth of its functions

This section provides an overview of the UC's activities in several key areas in relation to the community and the ACT region since the 2015 Amendment. It is based on information provided by the UC as well as publicly available information.

Cultural services

The University's wholly-owned subsidiary, UCX Limited, provides non-academic support, services and amenities including sports programs, live music events, clubs and societies, gyms, food outlets and venue hire and catering. The UC hosts over 150 student engagement events each year and these events are often accessible to the broader ACT community. The University holds a range of additional events for the ACT community, including the Shaping our Future forum and annual International Women's Day breakfasts. The UC also contributes to community events as a participant and a sponsor.

Sporting services

The UC's Sports Precinct is home to the ACT Brumbies, University's Research Institute for Sports and Exercise (UCRISE) and the University of Canberra Capitals (owned by the UC's subsidiary, UCX Limited). The precinct also provides community facilities including a sports hall and gymnasium, medical and rehabilitation areas, plunge pools, a sauna, squash courts and six outdoor ovals. The UC has various sports-related arrangements including major sponsorship agreements with elite teams (including the ACT Brumbies and Canberra United Football) and memoranda of understanding (MoU) between its faculties and industry organisations including the Australian Institute of Sport (AIS) and the ACT Academy of Sport. According to the Times Higher Education subject ranking for sport science in 2020, the University's sports science degree ranked third in Australia and seventh in the world for Young Universities.

Professional, technical and vocational services to the community

The University provides professional, technical and vocational services in several ways:

- The UC offers short-term study options for professionals and organisations through "UC Pro". Courses utilise teachers and mentors who are experts in their particular industries.
- The National Centre for Social and Economic Modelling (NATSEM) sits within the University's research Institute for Governance and Policy Analysis. NATSEM undertakes independent technical research that contributes to policy design and analysis through microsimulation, economic modelling and policy evaluation.

- The UC's Health Clinics provide real-world educational opportunities for students while offering affordable allied health services for the ACT and its surrounding regions. Focus areas include physiotherapy, dietetics, exercise physiology, clinical psychology and pharmacy.
- Work-integrated learning (WIL) is offered across a number of UC programs. Participation rates for its students in WIL programs are some of the highest in the Australian higher education sector.
- According to UC data, 100 per cent of pharmacy, optical sciences, rehabilitation therapies, sport and recreation, and architecture and building specialists in the ACT studied at the UC in the past five years; and a significant proportion of all IT information systems, graphic and design, teaching, psychology and nursing professionals in the ACT also studied at the university in the past five years.

Contribution to the ACT public sector workforce

The University, through its portfolio of undergraduate and postgraduate programs, makes a significant contribution to the ACT public sector workforce, most significantly in health and education.

The review heard the ACT Education Directorate employ approximately 80 per cent of UC teaching graduates each year, a proportion only limited by the individual relocation of students from Canberra. The ACT Education Directorate and UC have signed an MoU which encompasses the design and delivery of the UC's undergraduate and postgraduate teaching program and a range of education research projects conducted by UC and funded by the Education Directorate. The agreement and the regular engagement between the UC and the Education Directorate is positively viewed by both parties, and an exemplar of collaboration between the UC and the ACT Government for the benefit of both parties and the community.

Likewise, a significant proportion of nursing graduates are employed by ACT Health, and as noted above, the University provides ongoing professional accreditation in nursing and allied health. The presence of the UC Hospital (UCH) and the access provided to the university is an important contributor to the quality and work preparedness of graduates. ACT Health noted there are opportunities for government to be more systematic in the overall approach to workforce preparation, building off the deep relationships between UC and ACT Health, and working more closely with the University.

While there is strong evidence that the UC has a key role in providing trained workforce for the ACT Government's public services, especially in health and education, the review also heard that the UC could play a greater role in responding to the market for ACT Government public servants in the more centralised policy areas of government.

Commercial development of intellectual property

There are several examples of the UC commercialising its intellectual property since the Amendment:

- **Engage UC:** this is a dedicated team that assists UC researchers to partner with industry, government and communities.
- **EpiAxis Therapeutics:** this start-up was established to commercialise a novel approach to prevent the recurrence of metastasis, with an initial focus on breast cancer. EpiAxis Therapeutics is pursuing preclinical and clinical drug development based on research and intellectual property developed at the UC.
- **AMEDA Device:** UCRISE researchers have developed the AMEDA device to assist research in determining movement functions and balance and identifying concussions. The UC has entered into a collaboration agreement with NASA in the United States to enable the use of the device in research relating to astronauts and walking on Mars.
- **Early Learning STEM Australia (ELSA):** this is a program designed to engage young learners in STEM subjects through play-based methods. More than 11,000 children across remote Indigenous communities, regional towns and urban areas have taken part in the program since its inception in 2018. The program received \$5.7 million in funding from the Australian Government in the 2020-2021 Federal Budget and further investment from an international IT company in 2021.

Contribution to public discourse

The UC has contributed to public discourse in the ACT and nationally through a variety of channels, including:

- **UnCover:** a magazine and a podcast that provides a platform for the University to share and collect stories, ideas, connections and emotions.
- **Future Bright:** in 2020, the UC celebrated its 30th anniversary through a series of online events, including a virtual forum called Future Bright, hosted by Wil Anderson with a panel of University and community experts.
- **Institute for Governance and Policy Analysis (IGPA):** the IGPA sits within the UC's Faculty of Business, Government and Law, and includes NATSEM. The IGPA runs public seminars, public forums and online activities to support informed public discourse in areas of vital interest and importance to the ACT and the broader Australian community.

3.1.4 The Amendment codified the UC's commitment to reconciliation with Aboriginal and Torres Strait Islander people

The Amendment added Section 6A (f), which makes explicit the UC's commitment to reconciliation with Aboriginal and Torres Strait Islander people through education and research. In 2016, the UC established the Office for Aboriginal and Torres Strait Islander Leadership and Strategy (OATSILS) to perform a number of strategic and leadership functions for Aboriginal and Torres Strait Islander peoples, including the development of the UC's Indigenous Strategy 2017-2021 and its Reconciliation Action Plan (RAP).

The UC also operates the Ngunnawal Centre (established in 1985) which aims to help Aboriginal and Torres Strait Islander students achieve their goals, and the Collaborative Indigenous Research Initiative (established in 2014) which seeks to establish new research partnerships and collaborations.

3.2 Permitting the commercial development or exploitation of its property, including any facility, resource, real property or other right or interest

The Amendment made changes to both the functions and powers of the UC to enable it to commercially exploit its property.

- Section 6(g) (Function of university) was amended to specify that the UC may "commercially exploit or develop, for the university's benefit, any property of the university including any facility, resource, real property or other right or interest".
- Section 7 (1) (Powers of university) was amended to include an example of the UC's "power to enter into contracts with third parties for the purpose of commercially exploiting or developing the university's property".

As noted earlier in relation to the expansion of UC's functions, these changes served to clarify and codify the UC's powers and functions to undertake commercial development of its land but were not required to allow them. The Amendment served to put the UC's right to commercially develop its land beyond doubt. In the view of some stakeholders, this increased the confidence of third parties undertaking commercial activities with the UC.

The UC sits on 120 hectares of land, which was largely undeveloped prior to 2015. This was in part due to complications created by the interaction of the UC's perpetual Crown lease with the titling model. The expansion of the UC's functions and powers signalled the willingness of the ACT Government to cooperate with the UC to allow the land to be commercially developed in the interests of the Government and the

community, as well as the UC. The Amendment was accompanied by several associated legislative changes, which are detailed in section 3.2.2 of this report.

The potential for UC land to be used for the benefit of the Territory had already been actioned prior to the 2015 Amendment, with the excise of a portion of the land in the UC's Crown lease back to Government for Government to establish the UCH. Planning commenced for UCH in 2012, involving ACT Health and the University, with construction commencing in late 2015 and being completed in 2018. The land used for the hospital was excised from the UC Crown Lease, and in return the University was given access to approximately 1,000 m² within the UCH in perpetuity for teaching and research purposes.

3.2.1 The UC has progressed several commercial developments of its real property since the Amendment

In the period since the Amendment and associated legislative amendments passed (see section 3.2.2), the UC has progressed several developments. These are summarised in Table 1.

Table 1 | Summary of key developments

Development	Detail	Benefits	Status
University of Canberra Hospital Carpark	<ul style="list-style-type: none"> The ACT Government holds a 96-year lease of 81 per cent of the car park Moran holds a 96-year lease of the remaining 19 per cent 	<ul style="list-style-type: none"> Free parking for UCH patients, visitors, carers and staff 	Operational
CSMC	<ul style="list-style-type: none"> Partnership between the UC, ICON (Integrated Clinical Oncology Network) and Cornerstone Building Developments (CBD) Co-location of Icon Cancer Centre and UC Allied Health Centre 	<ul style="list-style-type: none"> Additional capacity for radiation therapy and chemotherapy treatments 	Operational
Campus Community Project	<ul style="list-style-type: none"> Announced in April 2016 Partnership with CIC Australia, a subsidiary of Peet Ltd 	<ul style="list-style-type: none"> Estimated value of \$1.7 billion Construction of 3,300 residences over 20 years 	In planning
Moran Aged Care and Early Learning Centre	<ul style="list-style-type: none"> Announced in 2015 Initially held up by delays in the completion of the Draft Precinct Master Plan and the Estate Development Works Subsequently delayed as a result of the Royal Commission into Aged Care and the impact of COVID-19 	<ul style="list-style-type: none"> Planned to include 150 aged care beds and 120 childcare places 	In planning
Other	<ul style="list-style-type: none"> Several shops opened: beauty salon, vintage clothing shop, café, supermarket, bar 	<ul style="list-style-type: none"> Increased facilities available to students and community members 	N/A

3.2.2 The UC's legislated powers to commercially develop its property for the benefit of the University and the ACT region are adequate

The Amendment clarified the UC's ability to commercially exploit any property of the university, including intellectual and real property. The review notes that, in isolation, the Amendment was insufficient to enable the University to commercially develop its real property. However, the Amendment was accompanied by several subsequent additional legislative changes that collectively support the UC to commercially develop its real property.

Associated legislative changes

Since the passage of the Amendment, there have been several associated amendments to relevant legislation and regulations which facilitate the achievement of the intention of the Amendment. These include:

- **Planning and Development (University of Canberra) Amendment Regulation 2015 (No 1):** this amended the Planning and Development Act 2007 to remove third-party appeal rights for merit track development applications on the UC's Bruce site.
- **Planning and Development (Plan Variation No 347) Notice 2015:** this variation amended the Territory Plan to align the permitted uses and building limits on the UC's Bruce site with the UC's Campus Master Plan.
- **Planning and Development (University of Canberra and Other Leases) Legislation Amendment Act 2015:** this act created a new leasing model intended to bring the planning controls that apply to the UC closer into line with those that apply to other universities. The new model strengthens subleasing arrangements and expand the UC's ability to hold parcels of land or buildings as unit titles, which it could not previously do in relation to land held under the perpetual lease. The Act involved primary amendments to eight pieces of legislation, secondary amendments to four pieces of legislation and consequential amendments to a further four pieces of legislation.
- **Planning and Development (Lease Variation Charge Exemption) Amendment Regulation 2016 (No 1):** this regulation amended the Planning and Development Regulation 2008. According to the explanatory memorandum for the amendment, it was aimed at exempting variations of perpetual Crown leases held by the UC from the lease variation charge (LVC). The amendment put this exemption beyond doubt.
- **Revenue Legislation Amendment Act 2019:** this act amended the Duties Act 1999 to extend the duty exemption granted to Crown leases to also cover declared land subleases. This had the effect of providing the UC with an exemption from paying duty on sub-leases of its land for development purposes, if the land is sub-leased back to the UC or the owner of the original crown lease.

In consultations for the review, the UC noted that its ability to commercially develop its land is appropriately constrained by the requirement to consider any development in the context of the UC's role and functions as a university as well as its potential benefit to the community and the region. While this represents a limitation on the kinds of development the UC might undertake it is nevertheless considered by UC – and the review – to be an appropriate limitation. In this respect, the Amendment appropriately differentiates the UC from other developers.

Overall, the review did not reveal any inadequacies in the UC's legislated powers to commercially develop its property for the benefit of the University and the ACT region. In the view of the UC,

The University has adequate power and capacity to commercially develop its property for the benefit of the University and the ACT region.

3.2.3 The UC has made some progress in commercially developing its land and ongoing plans are in place

As set out in Table 1, several commercial developments have either been completed by the UC or are in progress. Two developments in particular have been subject to delays.

The Moran Aged Care development was anticipated to open in January 2018 when the agreement with Moran was signed but is not yet open. The UC has advised that this development was initially held up by delays in the completion of the Draft Precinct Master Plan and the Estate Development Works, and then subsequently delayed pending clarification of the implications of the Australian Government's Royal Commission into Aged Care.

The review notes that these kinds of delays are not exceptional in the context of significant commercial developments that involve contractual obligations and due diligence processes.

Several ACT Government stakeholders expressed concern that the pace of the UC's commercial development has been slow and that more results were expected in the time that has elapsed since the Amendment and its associated legislative changes. The review was not made aware of any community concerns about the delays in the realisation of the UC's plans.

UC stakeholders were of the view that, while there have been some significant delays compared to the original timeframes, complex development takes time. According to the UC, several campus developments "have not proceeded for reasons unrelated to the University's power to commercially develop its property." The UC was nevertheless clear that the ability of the University to pursue such opportunities has been facilitated by the 2015 amendments to the Act.

The review notes that future development plans are in place. On 25 March 2021, the UC released the *Campus Master Plan 2020-2040*. This plan builds on the University's previous master plan and extends *The Educated Life* campus development plan, which formed a key initiative of the University's 2018-2022 strategy. The master plan provides development guidance to planners for the next 20 years, structured around six drivers, summarised as:

- connection to the Canberra community
- preserving bush character
- providing for experiential learning
- commitment to reconciliation
- sustainability and resilience to climate change
- connection beyond the Bruce campus.

As the release of the master plan occurred during the timeframe of this review, detailed assessment and consultation regarding the plan was not possible. However, consultation with the Belconnen Community Council following the release of the plan revealed their broad support and desire to engage in more detail with the UC as the plan is implemented over the coming 20 years.

A potential constraint on the UC's ability to undertake future commercial development is the need to raise capital. As a Territory Authority, the UC is exempt from ACT Government budget and financial reporting requirements and effectively operates independently. The UC therefore determines how its own development opportunities are financed and structured. While it is open to the UC to seek financial assistance from the ACT Government to pursue development opportunities, such requests are considered on their merits and evaluated against competing demands for government resources.

Joint venture models are a potential source of development capital available to the UC in pursuing large commercial development opportunities. When contemplating entering into these kinds of significant commercial financial arrangements with the private sector, the UC must seek approval from the Treasurer. This is to ensure that as a Territory Authority, the UC does not make decisions that expose the ACT Government to any potential future liabilities. The UC has identified that in some cases the need for

Treasury approval may act as a deterrent to joint venture partners due to the reluctance of potential partners to have the ACT Treasury examine their finances.

3.2.4 The UC’s organisational capacity to commercially develop its land continues to mature

Since the Amendment, the UC has experienced several leadership changes. Most notably, the Vice-Chancellor has changed twice, and the commercial and financial management roles within the UC’s executive have been restructured. The review recognises that these changes represented a significant disruption to the UC’s capacity and capability to progress major commercial development activities. Despite these limitations, the UC has progressed several property developments (summarised in Table 1) and released a new 20-year campus master plan.

UC stakeholders noted that significant improvements to the University’s capability and capacity to undertake commercial activities have been achieved through the restructuring of commercial and financial management functions, and the introduction of a general counsel capability. In addition, the review notes the current Council members and the Vice-Chancellor bring an appropriate mix of skills and experience to deliver on the campus master plan and associated development.

3.2.5 UC financial position

The UC’s government revenue is primarily derived from Commonwealth funding for supported undergraduate places. As noted earlier, the level of Commonwealth funding for undergraduate places was considered at risk following the 2014/15 Commonwealth budget announcement. This risk was a driver of the Amendment, and the stated intent to broaden UC’s revenue base and lessen its dependence on government funding and support. The Act Government does not provide operating funds to the UC.

Since the Amendment, the UC has maintained an operating surplus for all years from 2015 to 2019 (the most recent data available). The UC’s net operating result is summarised in Table 2, highlighting significant one-off transactions noted in the university’s financial reports.

Table 2 | UC annual net operating result, 2015-2019

Year	Net operating result (\$'000) ⁵	Notes
2015	\$26,443	Including the sale of 51 per cent of the University of Canberra College Pty Ltd.
2016	\$7,306	-
2017	\$1,568	-
2018	\$18,841	Includes the monetary value of the UC’s right to use space at the new UCH, which was valued at \$7.5 million for the long-term lease agreement.
2019	\$19,207	This strong result was due to an increase in international onshore student fees and fee paying postgraduate domestic student fees.

⁵ ‘Finance Publication’, Department of Education, Skills and Employment, 30 November 2020, available at <https://www.dese.gov.au/higher-education-publications/finance-publication>.

3.3 Providing economic and other benefits to UC and the community in the ACT region

The breadth of activity undertaken by the UC and the benefits created for the ACT community have been summarised in section 3.1.3. Through these activities and the UC's commercial developments, the Amendment and associated legislative changes have created – and will continue to create – significant economic and other benefits for the UC and the community.

The UC's commercial development since 2015 (summarised in Table 2) has created economic and non-economic benefits for the University and the ACT region. For example, the CSMC has contributed additional capacity to the ACT health system and the surrounding region it serves. The construction sector and associated industries also benefit from such developments.

The developments in progress will add substantially more benefit. The planned Moran Aged Care and Early Learning Centre will include 150 aged care beds and 120 childcare places. The forthcoming Campus Community Project is expected to have a gross development value of approximately \$1.7 billion and will provide an additional 3,300 residences to the ACT housing market.⁶

More broadly, the UC creates a range of indirect benefits for the ACT economy. For example, according to the UC, 76 per cent of University graduates are employed in the ACT. The ACT Education Directorate employs approximately 80 per cent of UC's teaching graduates each year. The UC's contributions in the areas of sport, culture, professional, technical and vocational services, public discourse and commercial development of intellectual property, noted in section 3.1.3, also create significant economic and other benefits for the University and the community in the ACT region.

A 2017 study undertaken by Deloitte Access Economics on behalf of the UC found that campus development could increase the ACT's Gross Territory Product by \$1.02 billion in net present value terms through to 2039, based on estimates of capital and operational expenditure provided by UC. The report focussed on the economic impact of the following projects:

- The Campus Community Project (anticipated expenditure of \$2.49 billion), including 3,300 dwellings for sale to the public.
- The Moran Health Cluster (anticipated expenditure of \$60 million), including a residential aged care facility and a day care facility.
- The CSMC (anticipated expenditure of \$104 million) operated by ICON as an integrated cancer centre.
- The UCH, specifically the UC development of a 400-space car park (anticipated expenditure of \$15.2 million).

The report predicted that the development proposed by the university at the time could result in the gain of 119 full-time equivalents (FTE) jobs on average in the ACT over the same period⁷.

A separate 2018 study also undertaken by Deloitte on behalf of the ACT Government suggested that the combined economic contribution of universities, students and visitors and research organisations to the ACT in 2017 was \$3.3 billion and 20,000 FTE. The UC and the Australian National University (ANU) together accounted for 87 per cent of the financial value and 80 per cent of the employment.

The 2018 report also noted that the UC opened the 496-bed UC Lodge in 2017. Investment in student accommodation attracts students to the ACT, offsets the impact of student demand on the ACT rental property market and supports employment in the ACT's construction sector and broader economy.⁸

Such benefits are likely to continue as the UC brings its current plans to fruition.

⁶ Claudia Dornan, 'UC signs \$1.7bn residential development agreement', 2016, available here: [https://www.canberra.edu.au/about-uc/media/newsroom/2016/april/uc-announces-\\$1.7-billion-residential-development](https://www.canberra.edu.au/about-uc/media/newsroom/2016/april/uc-announces-$1.7-billion-residential-development).

⁷ The Deloitte 2017 report was supplied to the review by the UC.

⁸ Deloitte Access Economics, *The economic contribution of Canberra's tertiary education and research sector*, 2018.

4 Other matters raised by the Terms of Reference

The Terms of Reference details some specific issues to be addressed in addition to requiring an assessment against the three goals. Whilst these issues have largely been covered in the above sections, they are detailed here and additional information provided where appropriate.

4.1 Powers and functions of UC and the University of Canberra Council

The Terms of Reference require an assessment of the powers and functions of the UC and the Council that includes but is not limited to:

- the relevance of UC's legislated functions, values and principles in the current tertiary education environment
- an assessment of whether the appointments process for the UC Council ensures a balance of necessary and critical skills for the operation of a university.

The consideration of functions has been addressed in the above sections. This section further examines the powers of the Council, including the appointments process and sub-delegations.

4.1.1 The appointments process for the Council supports an appropriate balance of skills but there is potential for process improvement

The review was asked to consider whether the appointments process for the Council ensures a balance of necessary and critical skills for the operation of a university. The Act sets out requirements for a balance of skills, expertise and gender in sections 11A(2) and 11A(3). Members are required to have skills in finance, management, commerce, law or teaching and an "appreciation of the values of a higher education provider, teaching and research, independence and academic freedom and the community's needs". Section 11A(4) of the Act requires a minimum of two appointed members to have a high level of relevant financial expertise and one with a high level of commercial expertise. Both Nous and the UC have reviewed the enabling legislation of various other universities and found that the above legislated process and requirements are consistent with practices across the sector.

In its submission to the review, the UC noted that the Council operates effectively and "the Act specifies an appointment process to ensure an appropriate balance of necessary and critical skills of Council members to enable the University's effective operation".

During consultation with the UC, Nous was advised that reappointments require a competitive process, which adds a significant time delay and process burden to the UC as each Council appointment term expires after three years. Under the Act, a person can be reappointed to the Council if the person is eligible to be appointed to the position. The UC Council noted that it often takes considerable time for Council member appointments and reappointments to be formally approved by the ACT Government (one interviewee recalled an instance where a critical appointment took eight weeks) and that this has at times created risks for the effective and timely operation of the Council⁹. According to the ACT Government, existing timeframes are in line with Cabinet and whole of government appointment standards established in 2015. The review considers that a jointly agreed protocol for the appointments process would improve the efficiency of the Council's operations.

⁹ For example, in the signing of Financial Statements.

4.1.2 The Act does not provide for sub-delegation by the Vice-Chancellor

The review notes a limitation in the Act for sub-delegation by the Vice-Chancellor. Section 17 of the Act permits Council to delegate its functions (other than the power to make statutes) to one of its members, one of its committees, a University employee or any other person approved by Council. However, the Act does not provide for sub-delegation by an appointee, which has the effect of requiring Council to approve all delegations. This means that certain individuals – particularly the Vice-Chancellor – are burdened with excessive delegated authority. According to the UC,

The University would like to take this review as an opportunity to request an amendment to the Act to expressly provide power to the Vice-Chancellor to subdelegate any functions which are within their area of responsibility. There are examples within the enabling legislation of other universities which make express provision for sub-delegation by the Vice-Chancellor. The ability for the Vice-Chancellor to subdelegate will remove some of the governance burden on Council and, particularly, the day-to-day burden on the Vice-Chancellor.

The provision in legislation for sub-delegation by the Vice-Chancellor could improve the operating effectiveness of the UC.

4.2 Financial and commercial matters related to UC

The Terms of Reference require an assessment of financial and commercial matters related to the University, including but not limited to:

- the adequacy of UC's legislated powers to commercially develop its property for the benefit of the University and the ACT region
- the capacity for UC to commercially develop its land, the adequacy of any existing plans for such purpose, and any existing or potential barriers to achieving this.

These questions have been dealt with above.

4.3 Development and enactment of statutes

The Terms of reference require an assessment of:

- whether the existing statutes meet the legislated goals of the UC, including the existence of any gaps
- the adequacy of the review process for statutes.

According to Section 40 of the Act, the University Council may create statutes in relation to a wide range of matters, including the management of the University, the admission and enrolment of students and the establishment or affiliation of residential colleges. There are currently 15 statutes in force in the University, including statutes related to course and awards, liquor licensing and student conduct.¹⁰ Several statutes were updated in 2015,¹¹ but this was not prompted by the Amendment.

The Council has established a Legislation Committee, whose role includes reviewing and advising on Statutes. The Legislation Committee aims to ensure that each statute is reviewed every three to five years, to identify gaps and redundancies. For example, the University of Canberra (University Seal) Statute 2019 was enacted as a result of an identified gap. In the view of the UC, "This internal review process is adequate for ensuring the University's statutes, rules and Council policies are up to date and appropriate".

Further to this, the review was informed that there is a need to update the UC's statutes related to academic governance to ensure that they are aligned with the latest legislative instruments defined under

¹⁰ For a full list of current statutes, see <https://www.canberra.edu.au/about-uc/policy-and-legislation/legislation/statutes>.

¹¹ For a full list of changes, see <https://www.canberra.edu.au/about-uc/policy-and-legislation/legislation/statutes/Key-Changes-to-Statutes-and-Rules-2015.pdf>.

the *Tertiary Education Quality and Standards Agency Act 2011*. The UC reviewed its academic governance in 2020 and will consequently examine the membership and rules of the Academic Board.

Appendix A Terms of reference

Purpose

To conduct a review of the Act and prepare a report of the review that will be tabled before the Legislative Assembly.

Background

The UC Act is the enabling legislation for the UC, the ACT's flagship university.

In April 2015, the UC Act was modified by the Amendment to give UC greater clarity of purpose and authority in creating and pursuing commercial opportunities and to modernise governance arrangements.

In particular, the UC Amendment Act gave UC explicit authority "to commercially exploit or develop, for the University's benefit, any property of the University including any facility, resource, real property or other right or interest".

Other provisions of the UC Amendment Act addressed governance arrangements related to the UC Council and its ability to address vacancies, provide remuneration to members and greater autonomy on certain decisions.

The UC Amendment Act included provisions that:

1. Require a review of the operation of the UC Act and any other law prescribed by regulation.
2. The responsible Minister must "present a report of the review to the Legislative Assembly not earlier than five years after the day the Amendment commences [9 April 2015] but not later than three months after the end of that five-year period."
 - a. In May 2020, the UC Act was amended by the COVID-19 Emergency Response Legislation Amendment Act 2020 to extend the tabling deadline by one year.

The ACT Government is seeking an independent assessment of the UC Act, in keeping with the requirements of the legislation.

Scope

The review must consider how the operation of the UC Amendment Act has facilitated the goals of:

- expanding UC's functions to include cultural, sporting, professional, technical and vocational services to the community
- permitting the commercial development or exploitation of its property, including any facility, resource, real property or other right or interest
- providing economic and other benefits to UC and the community in the ACT region as a result of the UC Amendment Act.

In general, the review and its report should closely follow the sections of the UC Act. These sections are:

- Powers and functions of the University and the University of Canberra Council, including but not limited to:
 - the relevance of UC's legislated functions, values and principles in the current tertiary education environment
 - an assessment of whether the appointments process for the UC Council ensures a balance of necessary and critical skills for the operation of a university.
- Financial and commercial matters related to the university, including but not limited to:
 - the adequacy of UC's legislated powers to commercially develop its property for the benefit of the university and the ACT region

- the capacity for UC to commercially develop its land, the adequacy of any existing plans for such purpose and any existing or potential barriers to achieving this.
- Development and enactment of statutes, including but not limited to:
 - whether the existing statutes meet the legislated goals of the university, to include the existence of any gaps
 - the adequacy of the review process for statutes.

The Terms of Reference acknowledges previous work by the ACT Government and UC as a result of the impact of the COVID-19 pandemic and the Government may consider that work in undertaking its review.

Consultations

The following stakeholders are to be consulted in the first instance:

- The University of Canberra Council
- Office of the Vice-Chancellor, University of Canberra
- Economic Development Division, ACT Government
- Policy and Cabinet Division, ACT Government
- ACT Health
- Education Directorate, ACT Government
- The Environment, Planning and Sustainable Development Directorate
- Treasury, ACT Government.

Additional stakeholders may be identified through research and consultations.

Appendix B Stakeholder interview list

Name	Organisation	Role	Consultation dates
Geoff Rutledge	ACT Government	Deputy Director General, Environment, Water and Emissions Reduction	17-03-2021
Eric Wells	University of Canberra	University Secretary; General Counsel; CEO of the UC Union	18-03-2021 23-03-2021 24-03-2021
Patricia Kelly	University of Canberra	Council Member and Chair of the Legislation Committee	18-03-2021
Lauren Pinkerton	University of Canberra	Deputy General Counsel	18-03-2021
Martin Greenwood	University of Canberra	Director of Government Engagement and Policy	18-03-2021 23-03-2021
Petrina Schiavi	University of Canberra	Associate Director, Policy and Compliance	18-03-2021
Paddy Nixon	University of Canberra	Vice-Chancellor	23-03-2021
Elisa Martinez-Marroquin	University of Canberra	Chair of Academic Board; Professor of Engineering	24-03-2021
Anabelle Pegrum	University of Canberra	Council Member and Chair of the Planning and Development Committee	24-03-2021
Tom Calma	University of Canberra	Chancellor	24-03-2021
Chris Faulks	University of Canberra	Deputy Chancellor	24-03-2021
Glen Hyde	Belconnen Community Council	Chairperson	06-04-2021
Kate Starick	ACT Government	Executive Group Manager, Economic Development Division, CMTEDD	08-04-2021
Ash Balaretnajara	ACT Government	Senior Director, Innovation, Investment and Tertiary Education, Economic Development Division, CMTEDD	08-04-2021
Kareena Arthy	ACT Government	Deputy Director General, CMTEDD	08-04-2021
Rebecca Kelley	ACT Government	Executive Branch Manager, Sport and Recreation Division, CMTEDD	08-04-2021
Jenny Priest	ACT Government	Executive Branch Manager, Innovation, Industry and Investment, CMTEDD	08-04-2021
Vicki Williams	University of Canberra	Vice-President Finance and Infrastructure	08-04-2021

Wilhelmina Blount	ACT Government	A/g Executive Group Manager, Policy and Cabinet Division, CMTEDD	08-04-2021
Damian West	ACT Government	Deputy Director-General, Workforce Capability and Governance, CMTEDD	08-04-2021
Nicole Moore	ACT Government	Executive Branch Manager, Strategic Policy, ACT Education Directorate	08-04-2021
Ross Hawkins	ACT Government	Executive Director, Service Design and Delivery, ACT Education Directorate	08-04-2021
Stephen Miners	ACT Government	Deputy Under Treasurer, Economic, Budget and Industrial Relations, ACT Treasury	09-04-2021
Sue Vroombout	ACT Government	Executive Group Manager Economic and Financial, ACT Treasury	09-04-2021
Kathy Goth	ACT Government	Executive Branch Manager, Economic and Financial Analysis, ACT Treasury	09-04-2021
Meg Brighton	ACT Government	Deputy Director-General, ACT Health	12-04-2021