



**LEGISLATIVE ASSEMBLY**  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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STANDING COMMITTEE ON PUBLIC ACCOUNTS

Elizabeth Kikkert MLA (Chair), Michael Pettersson MLA (Deputy Chair),  
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## Submission Cover Sheet

### Inquiry into Auditor-General Report 1/2021: Land Management Agreements

**Submission Number: 02**

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**Submission to the ACT Assembly's Standing Committee on Public Accounts Inquiry into Auditor General Report: 1/2021 - Land Management Agreements – Georgina Pinkas**

The Committee Secretary  
Standing Committee on Public accounts  
Legislative Assembly for the ACT  
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## **1. Introduction**

The Auditor-General Report (the Report) specifically deals with Land Management Agreements (LMAs) between rural leaseholders and the ACT Government, as required under the *ACT Planning and Development Act 2007* (the Act). My submission's intention is to:

- support the Report's recommendations in general;
- to draw the Committee's attention to the link between the findings of the Report and the situation with respect to non compliance with the statutory provisions for Land Management Plan (LMPs) as specified in Chapter 10 of the Act relating to the management of land identified as 'Public Land' in the Territory Plan; and
- to seek the Committee's agreement to refer the matter of the development and administration of LMPs to the auditor-general for consideration

The Act is a significant piece of legislation which, among other provisions, allows for land use in the ACT and in particular is the main instrument to protect the interest of the Public in respect to certain land uses.

The intent of LMAs for farm management and LMPs, as required for Public Land in the Act, is similar. It is to ensure the land is managed in a manner which achieves the agreed objectives for the land use. Given the unique status of ACT land as leasehold, the agreements and plans together with the Lease, form the basis for the use and management of the land. In particular LMPs serve to protect the public interest in the use of the land and can be either leased to individuals or organisations, licensed or managed directly by ACT Government Custodial Agencies.

## **2. My Relevant Background**

I am in a position to inform the Committee on these matters due to my extensive relevant experience and administrative background in the matters raised in my submission.

Prior to Self Government I worked in the Department of The Interior managing public sport and recreation facilities in the urban environment. I worked on preparing the Territory to become self governing and was responsible for the identification of Urban Public Land on the new Territory Plan and worked on the development of aspects of the new planning and land management legislation which was the basis for the current Act. I also worked in ACT Treasury identifying ACT Municipal, Territorial and National Assets in the Commonwealth/ Territory split. After Self Government I managed Culture, Heritage and Sport in the ACT. I later worked in the then Planning Authority and after retiring from the Public Service, I was employed for 5 years as the advisor to the then ACT Minister for Planning. As a

volunteer I was planning officer for the Woden Valley Community Council and the Friends of the Albert Hall's representative on the Government's Working Group to develop a Plan of Management for the Hall

### **3. Importance of LMPs and Public Land**

At Self Government in 1988 the Territory Plan was established with an overlay identifying certain land as Public Land. Public Land has a number of categories. Chapter 10 of the Act sets out the categories and identifies the statutory provisions for the management of that land. Public Land on the Territory Plan is all that land which has the letter "P" at the beginning of its Zone eg PRZ2

Land Management Plans, as disallowable instruments, are subject to the allowance of the Assembly. Section 325 of the Act requires Draft LMPs to be referred to the Assembly's Committee. The intent of identifying Urban Public Land and establishing LMPs was to ensure that any use of the land and its management would only occur with the consent of the Assembly and that the LMPs would specify how the land was to be managed to achieve the specified management objectives. This was to be an added protection to the process undertaken in respect to Variations to the Territory Plan. The Use Zone under Territory Plan Variations is broad brushed. LMPs are more specific and allow the Assembly greater scrutiny of any proposed changes eg Restricted Access Recreation Zone could allow any sport or recreation activity that is enclosed, without varying the Territory Plan and not being subject to Assembly allowance. However a LMP specifying the use such as a public swimming pool if it was to cease being a public swimming pool and become a football field, would require the Assembly's allowance to change the LMP.

Public Land can relate to Rural Land and Urban Land. Whilst there has been a number of LMPs made in relation National Parks and Reserves and Urban Parks and Sportgrounds, many of these are generic ie token and have not been reviewed or managed in accord with the requirements of the Act. In other specialized areas of Public Land there are no LMPS. In some areas little has been done since Self Government to ensure compliance with Chapter 10 requirements for urban Public Land in the Act. Whilst Custodians of the Land are responsible for the development, compliance and review of the plans, the Minister for Planning, as responsible Minister for the Act, has overall responsibility for compliance with its requirements.

Some land custodians seem unaware of the requirements with respect to Public Urban land. At one stage the then Minister for Planning, Simon Corbell, obtained the then Chief Minister's agreement to include in the Government's Annual Report Guidelines, that Public Land Custodial Agencies report on the status of Land Management Plans for Public Land under their Custodianship. I am unaware if this reporting occurred or if it is still a requirement the Annual Report Guidelines.

Examples of the need for such plans are.

When it was proposed to tender for the management of the Albert Hall, it was not included in the tender document that as "Public Land" the management of the Hall and its land would need to comply with a Land Management Plan agreed by the Assembly. At the time no plan had been developed, however, at any stage of the tender, a successful tenderer could have had to conform to such a plan when developed and allowed by the Assembly. The tender was withdrawn and it took a further 10 years

for a Plan to be agreed. The Hall remains in management by the Government and the Plan protects the public's interest in the land.

Prior to Self Government, I was informed that a lease for a municipal swimming centre, initially funded from the Territorial Account, was sold to the then current short term lessee at a negative value due to the Commonwealth Valuer's assessment that the pools detracted from the land value. This Publicly funded asset was apparently transferred into private ownership without public knowledge and with no compensation to the Territory. It was this action which prompted the identification of the classification Urban Public Land under the new Territory Plan and its supporting legislation. If there had been a Land Management Plan and the current Act had been in place, such action would have required a change to the LMP and the Assembly's agreement to that change. As it was there was no need for any public involvement as there was no change to the precursor to the Territory Plan.

After Self Government, a private school wanted to develop sporting facilities on adjacent Public Land with a view to exclusive use of the facilities and allowing public access when not required by the school. Ignoring the implications of insurance and alienation of a public asset (the park), it was not known initially that a generic Land Management Plan for Urban Parks would need to be complied with unless the Assembly allowed changes to the Plan to allow exclusive use. The proposal has not proceeded.

There are proposals to convert the Olympic Pool into a stadium. The Olympic Pool is Public Land. It does not have a Land Management Plan. This limits the Assembly's power to oversight the use of this public land.

There is growing pressure to convert non residential land into residential land. This is most common in relation to golf courses. Some sites are classified as Public Land on the Territory Plan yet still do not have Land Management Plans. In some areas temporary carparks have been proposed or even built with a view to changing the Territory Plan later to allow such use. This could not happen without Assembly allowance if statutory requirements of the Act were complied with.

Many urban areas with a "P", Public Land Overlay, do not have Land Management Plans 31 years after they were first required. Similar to the findings of the Report with respect to Farm Management Agreements, many of those LMPs in existence have not been reviewed or monitored

Plans need to be developed, managed and monitored to protect the interest of the public in the land.

#### **4. Conclusions**

My comments in relation to the Auditor's findings in the report as they relate also to Chapter 10 as well as the Rural Lessee agreements are:

Most issues identified in the Report apply also to Land Management Plans for Public Urban Land with the exception that for some of that land no LMPs exist.

As identified in the Report, there needs to be dedicated resources to ensure statutory requirements for LMAs are met, similarly such resources need to be dedicated to the management of LMPs. The Directorate should establish resources to ensure the Minister's statutory responsibilities under the Act are met.

With respect to the Report's recommendations:

I agree with recommendations in relation to both land management agreements and land management plans as follows

Recommendations 1, 2,3,4 Agree.

In Recommendation 5 Agree with specific details would vary depending on the type of public land and its management objectives.

Recommendation 6

For Land Management Plans a reporting requirement would be most appropriate for Public Urban Land. The Minister for Planning should give an annual report to the Assembly on the status of agreements and plans required under the Act.

## 5. Recommendations

I recommend:

- that the Committee note the similarity between the need to manage land management agreements and land management plans under the Act;
- that the Committee supports the findings and recommendations of the Report;
- that the Committee note the importance of Land Management Plans for Public Land as outlined above; and
- that the Committee recommend to the Auditor General that a similar review be undertaken with respect to compliance under the Act to the requirements of Chapter 10 and Public Land

I would be pleased to provide any additional comment on this submission.

Georgina Pinkas

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