

2017

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

**GOVERNMENT RESPONSE TO THE
STANDING COMMITTEE ON PLANNING AND URBAN RENEWAL
REPORT NO 1**

REPORT ON ANNUAL AND FINANCIAL REPORTS 2015-2016

**Presented by
Mr Andrew Barr MLA
Chief Minister**

Government Response

Standing Committee on Public Accounts Report No 1 – Report on Annual and Financial Reports 2015-2016

Introduction

The Annual Reports of All ACT Government agencies are referred to the Standing Committees of the ACT Legislative Assembly for examination and report.

The Standing Committee on Public Accounts reviewed annual reports for:

- Chief Minister, Treasury and Economic Development Directorate – Policy, Strategy and Infrastructure Delivery – Urban Renewal, Policy, Strategy and Infrastructure Delivery – Land Release, Suburban Development, Architects Board of the ACT, Asbestos Response Taskforce – Loose Fill Asbestos Insulation Eradication Scheme, Public Housing Renewal Taskforce and Affordable Housing
- Environment, Planning and Sustainable Development Directorate – Planning
- Land Development Agency

The Committee made 24 recommendations.

Response to Committee Recommendations

Recommendation 1

2.17 The Committee recommends that the ACT Government releases the final report of the independent inquiry panel reviewing the Foy Group EIS to the public and makes it available on the Environment, Planning and Sustainable Development Directorate's website as soon as practicable in its entirety.

Government Response – Agreed

The inquiry panel report is already available on the Environment, Planning and Sustainable Development Directorate's website.

Recommendation 2

2.18 The Committee recommends that the ACT Government ensures that there is additional community consultation on the Foy proposal for a plastics-into-fuel recycling facility in South Canberra in response to any development application from the proponent and in advance of any decision being made on that application. Such consultations should include engagement with residents across the South Canberra region due to the potential for significant and wide-reaching impacts from the proposal.

Government Response - Agreed

The *Planning and Development Act 2007* already requires consultation in relation to environmental impact statements and notification of development applications. Statutory consultation can be extended in some circumstances. Proponents are encouraged to consult closely with the community if proposals attract strong community attention. The independent Panel engaged to look at the Foy proposal held additional consultation sessions.

Recommendation 3

2.19 The Committee recommends that the ACT Government not provide approval for the proposal if the proponent cannot adequately address the range of concerns raised by the community and any raised by the expert panel. Specific consideration should be given to the long-term harmful environmental, health and climate change impacts arising from the operation of any proposed plastics into-fuel recycling facility in the ACT.

Government Response - Agreed in principle

Development applications are regulated under the *Planning and Development Act 2007*. While it is inappropriate to pre-empt a decision on any DA, in this particular case the planning and land authority would be unlikely to approve a DA based on the completed EIS. The findings of the inquiry panel must be taken into consideration in assessing any development application made by the proponent.

Assessment of DAs includes careful consideration of all public and Government agency comments.

Recommendation 4

2.32 The Committee recommends that the ACT Government inform the Legislative Assembly of ACTPLA's future work plan and the ACT Planning Strategy refresh and Western Broadacre Study once it is finalised.

Government Response - Agreed

The ACT Government will keep the Legislative Assembly and the community informed about any decision to review the ACT Planning Strategy, including information about timeframes, engagement and scope.

Recommendation 5

2.33 The committee recommends that the ACT Government informs the Legislative Assembly of the reasons for the recent rural purchases and how they fit in with the strategic land use planning for the ACT.

Government Response - Noted

The Territory's strategy for planning and sustainable development considers the future growth and development of the ACT and these purchases are consistent with this strategy as it has developed from the Canberra Spatial Plan 2004 to the current ACT Planning Strategy 2012. The recent purchases of rural land by the Land Development Agency will contribute to the Territory's options and uses of land in the coming decades. The land will facilitate economic, social and environmental outcomes for current and future generations in the ACT region.

Recommendation 6

2.54 The Committee recommends that the Development Applications website functionality be updated so that interested members of the public can sign up to receive notifications of development applications in a selected area, consistent with the current smartphone app provided by the ACT Government.

Government Response – Agreed in principle

Work is underway to update the planning website (planning.act.gov.au) to provide an improved user experience. The presentation of Development Application information on the website will be enhanced with mapping capabilities (similar to the DA Finder App 2) at the same time as the planning website refresh. This work is expected to be completed by early 2018. Notification of Development Applications through the website (i.e. SMS or email) will be explored once the planning website refresh is complete. In the interim, members of the public are encouraged to download the DA Finder App 2.

Recommendation 7

2.55 The Committee recommends that the Directorate take necessary measures to make all Development Applications available online permanently with appropriate information as to their status such as: open for comment; under consideration; approved; or rejected.

Government Response – Agreed in principle

EPSDD is working with e-Development in Access Canberra to work towards a solution to this measure taking IT upgrades, costing and storage into consideration.

Recommendation 8

2.56 The Committee encourages the Directorate to continue in its efforts to make DA notices clearer to community members in terms of information presented, size of notices and placement of notices.

Government Response - Agreed

EPSDD is working directly with Access Canberra to improve DA signage including imagery and clearer language.

Recommendation 9

2.75 The Committee recommends that the public be promptly informed of any proposed changes to the Territory Plan Variations as a consequence of the Gungahlin Town Centre Planning refresh.

Government Response – Agreed

Feedback received from the community and stakeholders during the engagement process has been consolidated and analysed. This analysis is informing changes to the precinct code. Currently proposed changes are being tested to ensure their validity. Proposed changes will be made publically available as part of the engagement process on the draft Territory Plan Variation which is expected to commence shortly.

Recommendation 10

2.101 The Committee recommends that the ACT Government provide high quality dispute-resolution and arbitration services in relation to small-scale planning grievances and disputes as an alternative to having recourse to the formal court system.

Government Response – Agreed in principle

EPSDD agrees that the Government should endeavour to provide high quality dispute resolution and arbitration or mediation services. Further, EPSDD agrees that small-scale planning grievances should be attempted to be resolved before formal court action is commenced.

EPSDD has considered this issue in the past and after detailed consideration, it was decided that the current system gave people sufficient avenues to have their grievances considered in the planning notification and approvals process. It is also considered that access to mediation services is best managed through the ACAT system, as evidenced by the following statistics.

From 1 July 2016 to 30 June 2017, there were 31 appeals lodged with ACAT. Of these, 25 were mediated or dismissed, with only 6 proceeding to hearings. These numbers indicate that the mediation process involved with ACAT appeals is producing solid results and assisting in resolving matters before they go to hearing. The planning and land authority and the ACT

Government Solicitor (ACTGS) take the 'model litigant' role seriously, with the result being that significant support, explanation and assistance is provided to other parties (by both the authority and ACTGS).

Further, EPSDD believes that the current planning system facilitates good mediation outcomes. First, the development assessment process allows for representations on planning matters to be made by members of the public. These representations are considered in the assessment and approvals process. Given that some planning matters receive hundreds of representations, it is impracticable for the authority to resolve every grievance raised in every representation.

Therefore, the appeal rights to the ACT Civil and Administrative Tribunal present an opportunity for any representor who feels that their comments or grievances have not been sufficiently dealt with in the assessment and approval process to apply to have that decision reviewed.

As indicated above, the ACAT mediation process has proven to be a successful approach. The number of applications to ACAT is also showing a downward trend, reflecting that less matters are going to formal ACAT or Supreme Court hearings.

Recommendation 11

2.102 The Committee recommends that the ACT Government, in the annual reports of relevant agencies, provide a de-identified list of follow-up actions taken and outcomes in relation to Development Applications.

Government Response – Agreed in principle

EPSDD already maintains a register of all development applications exempt from development approval under Section 1.100A of Schedule 1 of the *Planning and Development Regulation 2008*.

EPSDD agree in-principle with expanding this register to provide a de-identified list of follow-up actions taken and outcomes in relation to development proposals considered to be exempt from development approval. In excess of a 1000 applications for exemption from development approval could be considered in a single year. Due to the volume of applications it is however suggested to limit reporting in the annual report to a summary of outcomes, rather than providing the complete de-identified list.

Recommendation 12

4.10 The Committee recommends that the ACT Government continue to keep working to improve Haig Park.

Government Response - Agreed

The Haig Park Master plan is still being developed. The ACT Government has provided some capital funding to start implementation of the Master plan. Implementation will be iterative and phased.

Recommendation 13

4.20 The Committee recommends that the ACT Government continue to explore and implement iterative consultation processes.

Government Response - Agreed

The EPSDD Communications Unit is ensuring staff are appropriately trained in community engagement specialist areas, seeking new ideas from interstate counterparts and regularly liaising with other directorates within government to explore and implement iterative consultation processes.

Recommendation 14

5.36 The Committee recommends that in responding to the Auditor-General's report on the purchase of land at Glebe Park by the LDA, and in proposing to the Legislative Assembly the legislative provisions guiding the work of the two new agencies which are successors to the LDA, the ACT Government provide strong and clear protocols governing the relationship between government agencies and the private sector.

Government Response – Agreed in principle

The *City Renewal Authority and Suburban Land Agency Act 2017* (the Act) came into effect on 1 July 2017, formally giving effect to the creation of the City Renewal Authority (the Authority) and the Suburban Land Agency (the Agency). In part, the Act includes a requirement for the Government, via the responsible Minister, to issue directions relating to the acquisition of land by either the Authority or the Agency. Any such directions are made via disallowable instruments, providing full transparency for the community and the private sector – ensuring openness and accountability for the basis on which the Authority and/or the Agency can exercise its functions in relation to the purchase of land.

The Act also requires the Authority and the Agency to provide quarterly reports to the relevant Minister, including details of any land acquired during the previous quarter and a copy of all valuations of the acquired land considered in relation to the acquisition. The Minister must present the report to the Legislative Assembly.

The ACT Public Sector – Commercial Engagements with former ACTPS Executives Policy was released in June 2017, providing protocols to manage all actual and perceived conflicts of interest arising from engaging former ACT Public Service (ACTPS) executives in commercial activities with the Territory. The Government will continue to actively support the Authority and the Agency to ensure that its requirements for probity and accountability are operationalised consistently and clearly.

Recommendation 15

5.37 The committee recommends that the ACT Government review the evidence provided to Assembly committees and corrects any evidence as necessary as soon as possible.

Government Response – Agreed

It is standing practice to review evidence provided to Assembly Committees. Where any error is identified, a correction is made. In terms of acquisitions made by the LDA subject to review by the Auditor-General, at that time the Board and management were applying an interpretation of the Land Acquisition Framework which was found subsequently to be erroneous. It has been acknowledged that a misinterpretation of the Framework did exist. This was reflected in the Government's response to the Audit Report and in evidence provided at the 2015-16 Annual Report hearings on 10 March 2017.

Recommendation 16

5.66 The Committee recommends that the Assembly and the public be kept updated, to the extent possible, on any progress in readjusting the NSW-ACT border and on matters relating to the management of a gravel mine close to Ginninderra Falls.

Government Response – Agreed in principle

A decision to relocate the ACT/NSW border requires agreement and legislative amendments from the Commonwealth and NSW Governments. It is agreed that, where appropriate, the Assembly be kept informed of any significant progress on this issue. The gravel mine close to Ginninderra Falls is in NSW and therefore not an issue for the ACT.

Recommendation 17

5.80 The Committee recommends that the ACT Government continue to keep the public informed of its land release program for the next four years, including improvements to documentation and communication processes to allow for greater transparency and access.

Government Response – Agreed

The Government will continue to keep the public informed of its land release program, and will explore opportunities around how best to present and communicate land release information.

Recommendation 18

5.101 The Committee recommends the land release program continue to investigate how land releases can incorporate the 'missing middle'.

Government Response – Agreed

The Government is aware of the importance of promoting a mix of housing, including medium density development, and will be considering a range of options across the spectrum of planning and development.

Recommendation 19

5.112 The Committee recommends that the Assembly and the public be informed of any impact that the CSIRO program may have on land release programs in other areas.

Government Response - Agreed

The Government will inform the Assembly and the public of the impacts of the CSIRO program on land release programs in other areas through its annually published Indicative Land Release Program.

Recommendation 20

5.113 The Committee recommends that the Assembly and the public be informed of any impact of a development not under the planning control of the ACT Government but within urban Canberra.

Government Response – Agreed in principle

The ACT Government will inform the Assembly and public, provided the ACT Government are informed of a development within the commonwealth planning process.

Recommendation 21

5.127 The Committee recommends that the ACT Government clarifies to the Committee which agency is responsible for work on future urban growth areas and provides the Committee reassurance that other agencies are working in close coordination with the lead agency.

Government Response – Agreed

The Agency responsible for work on future urban growth areas is the Environment, Planning and Sustainable Development Directorate. Work on future urban growth areas will be coordinated across Government and include public consultation.

Recommendation 22

5.128 The Committee recommends that the ACT Government clarifies to the Committee when and how the community will be consulted and communicated with on future urban growth areas.

Government Response – Agreed

Consultation with the community about future urban growth will be primarily through the review of the ACT Planning Strategy.

Recommendation 23

6.28 The Committee recommends that the ACT Government commits to affordable and public housing in infill as well as greenfield developments.

Government Response – Agreed

The ACT Government is committed to the establishment of targets to deliver affordable, community and public housing in both new estates and infill/urban renewal areas.

This is a requirement of the *City Renewal Authority and Suburban Land Agency Act 2017*.

Recommendation 24

6.29 The Committee recommends that the ACT Government develop a policy for the quantity of and placement of public housing and communicate this to the community.

Government Response – Noted

The government's 'salt and pepper' approach informs the location of public housing. In particular, the approach guides future decisions about the establishment and renewal of public housing. The objective of the approach is to support diverse and vibrant local communities and achieve positive social and economic outcomes for tenants and the community more broadly. The location of public housing throughout suburbs and town centres also aims to break down barriers to social connection and participation and to link tenants with their surrounding community. The approach is articulated to the community through engagement activities, the Community Services' Directorate and Public Housing Renewal Taskforce's (Taskforce) web pages and communication materials. The ACT Government will continue to communicate the approach to the community.

The ACT Government is also developing a strategic long term asset management plan for commencement in 2019 (on completion of the Asset Recycling Initiative and associated work of the taskforce). The plan is part of the overarching framework for affordable housing and will guide the sales, purchase and redevelopment of the public housing portfolio into the future. The plan will be subject to appropriate community engagement throughout its development and implementation.