

ACT Auditor-General's Office

Performance Audit Report

**Proposal for a gas-fired power station and
data centre - site selection process**

December 2008



ACT AUDITOR-GENERAL'S OFFICE



PA08/13

The Speaker
ACT Legislative Assembly
Civic Square, London Circuit
CANBERRA ACT 2601

Dear Mr Speaker

I am pleased to provide you with a Performance Audit Report titled '**Proposal for a gas-fired power station and data centre – site selection process**', for tabling in the Legislative Assembly, pursuant to Section 17(4) of the *Auditor-General Act 1996*.

Yours sincerely

Tu Pham
Auditor-General
9 December 2008

CONTENTS

List of abbreviations and glossary	1
1. Report summary and audit opinion.....	3
Introduction	3
Background	3
Audit objectives and scope.....	5
Audit opinion	5
Key findings	6
Recommendations and response to the report	9
2. Project initiation and facilitation	13
Introduction	13
Key findings	13
Background	13
Project consideration and facilitation	16
Conclusion	20
3. Site selection and transfer.....	23
Introduction	23
Key findings	23
Background	24
Planning and zoning	25
Site selection and approval.....	28
Land transfer process	34
Conclusion	38
4. Communication and consultation	39
Introduction	39
Key findings	39
Community consultation	40
Communication with the private sector.....	46
Conclusion	48
Appendix A Time line.....	49
Appendix B Audit criteria, approach and methodology	52
Audit criteria	52
Audit approach and methodology	53

LIST OF ABBREVIATIONS AND GLOSSARY

ACT	Australian Capital Territory
ACTEW	ACTEW Corporation Limited
ActewAGL	Joint venture of ACTEW Corporation Limited (ACTEW) with the public companies, AGL Energy Limited and Jemena Limited.
ACTPLA	The ACT Planning and Land Authority
Block 7/21	Block 7 of Section 21, in the suburb of Hume (but in the District of Tuggeranong)
Block 18/23	Block 18 of Section 23, Hume (District of Jerrabomberra)
Block 1671	Block 1671, District of Tuggeranong (This block became known as 1676 when the proposed project and therefore the block was reduced in size)
CBRE	CB Richard Ellis Pty Ltd
CMD	Chief Minister's Department
CPR	Canberrans for Power Station Relocation
CTC Proposal	Canberra Technology City Proposal
DA	Development Application
DHCS	Department of Disability, Housing and Community Services
DI	Disallowable Instrument
EIS	Environmental Impact Study
Land Act	<i>Land (Planning and Environment) Act 1991</i>
LDA	Land Development Agency
LRCC	Land Release Coordination Committee
MLA	Member of the Legislative Assembly
NSW	New South Wales
PA	Preliminary Assessment
PAC	Public Accounts Committee
TAMS	Department of Territory and Municipal Services
Treasury	Department of Treasury
TRE	Technical Real Estate Pty Ltd
UK	United Kingdom

1. REPORT SUMMARY AND AUDIT OPINION

INTRODUCTION

- 1.1 This report presents the results of a performance audit that reviewed the Government decision-making process relating to the selection and offer of a site for the proposed gas-fired power station and data centre.

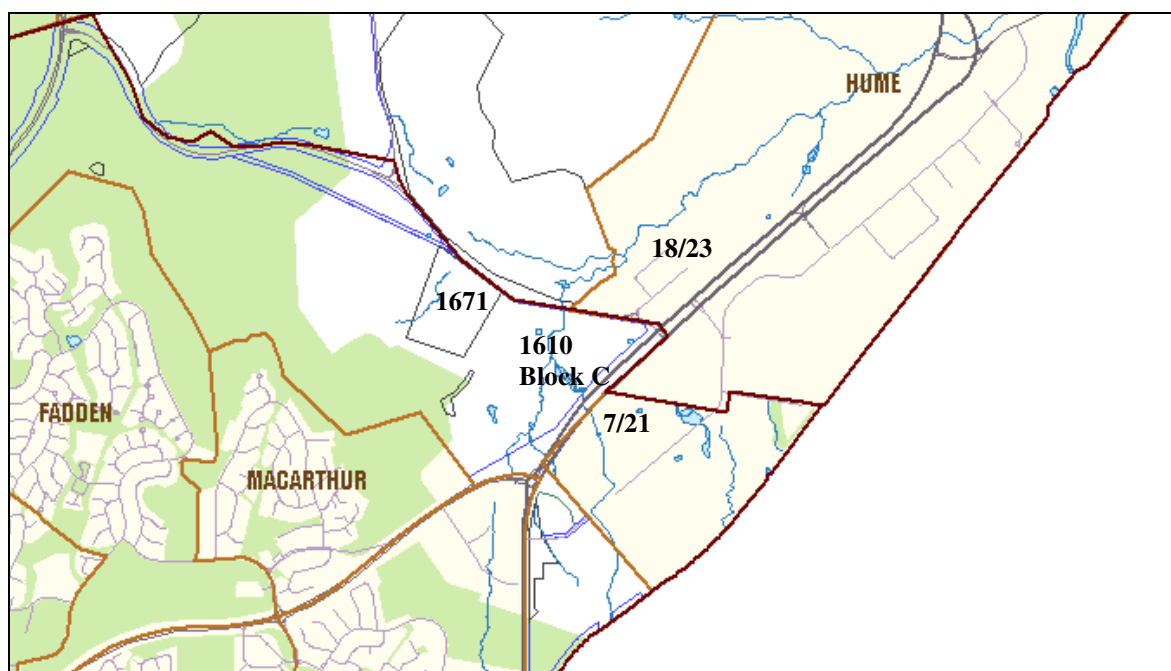
BACKGROUND

- 1.2 ActewAGL consists of two partnerships - a retail joint venture between the ACT Government-owned enterprise ACTEW Corporation Limited (ACTEW) and a public company, AGL Energy Limited, and a distribution joint venture between ACTEW and Jemena Limited, a subsidiary of Singapore Power. This joint venture merged AGL's Canberra region natural gas network and marketing business with the ACTEW owned electricity network and marketing business. Electricity distributed by ActewAGL is purchased from electricity generators outside the Territory and supplied by licensed retailers via high voltage transmission power lines to the ACT.
- 1.3 An objective of the ActewAGL joint ventures had been to develop and construct an alternative power plant that could provide additional security for the supply of electricity to the ACT. Accordingly, in 2002 ActewAGL undertook to investigate the feasibility of establishing a local source of supply and developed a proposal for a gas-fired power station to provide peaking and emergency power supply. The proposed power station would use gas turbines, which are a suitable option as they are easily switched on and off in times of need. A profitable commercial opportunity also existed with the construction of a peaking power station, as the price of electricity to retailers is much higher at peak times.
- 1.4 In 2002, ActewAGL submitted a Preliminary Assessment to the ACT Planning and Land Authority (ACTPLA) for a gas-fired power station of 70MW. The site selection process conducted at this time identified Block 7 of Section 21, in Hume as a suitable location. However, further analysis showed that the proposal was not economically viable.
- 1.5 In 2004, following the 2003 Canberra bushfires and at the request of the ACT Government, ActewAGL gave consideration to a 150MW plant. Further analysis by ActewAGL indicated that the proposal was not cost-effective, and so it was again shelved.
- 1.6 Construction of a power plant remained on ActewAGL's agenda. In early 2007, it identified a demand for high security data centres – being installations that can securely store and transmit data for IT-intensive organisations such as banks, government departments and telecommunications companies. One characteristic of a high security data centre is a dedicated power generation capacity. ActewAGL considered that the combined installation of a power station and a data centre had the potential to be economically viable. Accordingly, ActewAGL, with other parties, created an entity known as 'Canberra Technology City' (the

nature of this consortium is described in Chapter 2). On behalf of this entity, ActewAGL proposed such a development to the ACT Government in May 2007.

- 1.7 The Canberra Technology City proposal (CTC proposal) involves the construction of a gas-fired power station and its associated utility installations, a computer data centre, an overhead high voltage power line and a high pressure natural gas pipeline. The proposal also includes a secondary site for data centre backup.
- 1.8 The site selection process for the primary site commenced with the intention of using the site identified in 2002, Block 7 of Section 21, in the suburb of Hume (but in the District of Tuggeranong). Attention subsequently moved to Block 18 of Section 23, Hume (District of Jerrabomberra), and then to two different parts of Block 1610 (Block 1671 and 1610 Block C), District of Tuggeranong. All these sites were within one kilometre of each other. The parcel of land eventually selected was excised from Block 1610 and named Block 1671. These blocks are depicted in Figure 1.1.

Figure 1.1: Map of sites considered



Source: Map from ACTPLA (ACTMAPi) with annotations by ACT Auditor-General's Office

- 1.9 The proponents also identified a site in Belconnen, part Block 1622, for a secondary site for data centres. This facility would rely on the electricity grid, with diesel generator back-up supply.
- 1.10 The initial CTC proposal was reported in the media in May 2007, at that stage without a specific location. In October 2007, the location of the primary site, to the south of Mugga Lane, was accurately reported, but was described as being in Hume. When the Development Application (DA) was released in April 2008, objections were raised to the development and its location within one kilometre of houses in the suburb of Macarthur. These concerns related to potentially adverse health and environmental impacts and the processes used to select the final location.

- 1.11 In late May 2008, the proponents announced a series of alterations to the DA. The 100MW peaking power station was removed from the proposed development. The gas-fired co-generation power station dedicated to power the data centres was significantly reduced from 110 MW to 28 MW. This reduced but did not eliminate community concerns.

AUDIT OBJECTIVES AND SCOPE

- 1.12 This audit came about following a request from the Public Accounts Committee (PAC) of the Legislative Assembly to the Auditor-General on 24 July 2008.
- 1.13 The Auditor-General considered the various issues raised by the PAC and decided to conduct an audit with the following objective:
- To examine the Government decision-making process relating to the site selection for the proposed gas-fired power station and data centre.
- 1.14 In particular, the audit focussed on whether audited agencies have complied with relevant Government policies and better practices, including community engagement and other consultation requirements, and taking into account economic, social and environment impacts on the community.
- 1.15 The audit did not address the merit or suitability of the CTC proposal, nor current ACTPLA processes to assess development applications for the site. However, for completeness, the audit did consider the early ACTPLA advice on land use, and discussed the completed parts of the consultation process for the DA.
- 1.16 Audit consulted with various stakeholders including Technical Real Estate Pty Ltd, CB Richard Ellis Pty Ltd, Canberrans for Power Station Relocation Inc and the Tuggeranong Community Council. Audit appreciates the assistance and input provided by these parties.
- 1.17 Appendix B provides details of the audit criteria, approach and methodology.

AUDIT OPINION

- 1.18 The Audit opinions drawn against the audit objectives are set out below.

- Government agencies complied with existing Government processes, leading to the agreement to a site for the Canberra Technology City proposal. These processes, however, were not sufficiently robust to give confidence that the public interest was fully taken into account.
- The Government did not have sufficient information on the Canberra Technology City proposal prior to lending strong support to it and committing to an Option for a direct land sale. The Government, however, reduced the risks to the Territory by requiring the consortium to meet a number of conditions, including obtaining an approved Development Application and providing key information about the project, such as a business case, prior to a direct land transfer.
- There is significant scope for improvement in the administrative processes used for consideration and facilitation of strategic projects.

- 1.19 In forming the above opinions, Audit recognises the important role of the Government and its agencies to encourage and support proposals that can create significant employment and other business opportunities to the ACT.
- 1.20 In facilitating any significant commercial proposal, it is important that the Chief Minister's Department (CMD), as the coordinating agency, encourage the timely dissemination of complete and relevant information from the proponents to the public. While noting that under the existing planning law, the proponents are only required to consult during the DA process, Audit considers that for major projects such as the CTC proposal, early community engagement and consultation, prior to the DA process, can increase public confidence in the way commercial projects are facilitated.
- 1.21 Audit acknowledges that the Development Application from the CTC consortium to build the data centre and the power station on Block 1671 Tuggeranong is currently under assessment by ACTPLA. A number of issues raised in submissions to Audit, including those from the interest group, Canberrans for Power Station Relocation (CPR) and members of the Assembly, are assessed as part of the statutory DA process, and are outside the scope of this Audit.

KEY FINDINGS

Project initiation and facilitation

- The Chief Minister's Department is responsible for coordination and facilitation of major projects for community and business development in the ACT. However, no formal policies or procedures for dealing with strategic projects existed within the Chief Minister's Department.
- In response to the commercial needs of, and the urgency communicated by, the consortium, the Government supported the Canberra Technology Centre proposal by committing to an Option over land without sufficient information and key documentation. The government should have prepared a due diligence assessment of the consortium intended to carry out the project, the involvement of ACTEW (a Government Business Enterprise), as well as ensuring that the claims made by proponents were valid and substantiated.
- The Government reduced key risks to the Territory by requiring the consortium to obtain an approved Development Application and to provide key information about the project, such as the business case, as conditions of land transfer.

Planning and zoning

- Permissible uses for broadacre zoned land as set out in the Territory Plan 2002 were not sufficiently clear to determine unambiguously that the Canberra Technology City proposal was a permissible use. The current version of the Territory Plan does not provide further clarification.
- Various legal advice provided conflicting interpretations of permissible broadacre land uses, indicating that the issue had created uncertainty to residents and industry and needed to be clarified.

Site selection and approval

- Government agencies complied with the existing Government processes which led to the agreement on a site for the proposed Canberra Technology City. These processes, however, were not sufficiently robust to give confidence that the public interest was fully taken into account.
- Under the current processes, the proponents have the sole responsibility to assess the best site for the proposed project. Government agencies did not formally assess and rank the relative merits of the proponents' suggested sites against a clear set of criteria. A suitable site that meets the commercial needs of the proponents may not necessarily equate to the optimum site from the Territory's point of view, when taking into account wider public interest criteria.
- A better process of site selection was carried out in 2002 as part of ActewAGL's first attempt to construct an ACT power station. This involved consideration of various sites and a cost-benefit analysis.
- For the current project, ActewAGL first applied for the site at Block 7, Section 21, Hume that it had identified in 2002. Although not formally rejected, government agencies made clear to ActewAGL that this site was not the Government's preferred option because of the planned industrial land release of that area. ActewAGL believed that Block 7/21 remained available for its selection.
- The Land Development Agency responded quickly by offering an alternative site, Block 18 of Section 23, Hume. ActewAGL initially accepted this site, but later rejected it because of potential delays due to archaeological findings on the site.
- ActewAGL later identified and selected the presently proposed site, now known as Block 1671, District of Tuggeranong. ActewAGL strongly considered this site to be the most suitable.
- Government agencies had significant discussions with ActewAGL concerning the site issues, and provided assistance to the consortium by identifying one site and agreeing to a Deed of Option for the sale of Block 1671, District of Tuggeranong.

Land transfer process

- The Government decided to provide ActewAGL with a conditional option over the land, based on consideration of the original Canberra Technology City proposal.
- After the removal of the peaking power station from the proposal, and revision of the project to a smaller scale proposal, neither the Chief Minister's Department nor the Land Development Agency reassessed the merit of the Option for a direct land sale.
- ActewAGL offered to pay a non-refundable deposit to secure a direct sale of an earlier site, Block 18 of Section 23, Hume and acknowledged that LDA may also charge a refundable fee up to 10 percent of the value of the land. The Government agreed to a payment by ActewAGL of \$40 000 to secure the Option over the current site (Block 1671). The justification for the Government decision not to impose a more substantial deposit for a conditional option over the current site was not strong.

- The provision of an Option over land to a consortium is an unusual practice. This was to meet the commercial needs of the consortium for urgent security of land, and reflected the fact that the consortium was not yet in the position to meet the conditions for the direct land sale required under the relevant Disallowable Instrument.
- Consequently, the draft Deed of Option includes conditions that the consortium needs to meet for the direct sale of the land to occur, including having an approved DA and the provision of a business case to demonstrate positive benefits to the ACT. The Government considered that this would enable it to assess the extent to which the proponent has met a range of public benefit conditions before finalising the land transfer.
- Notwithstanding the urgency applied to the Government process of assessing and agreeing to the site, the subsequent preparation of the Deed of Option took over twelve months. At the time of the audit, the Deed of Option had not been signed by relevant parties.

Communication and consultation

- There is currently no legal requirement for the proponents or government agencies to consult with the community prior to the submission of a DA. Audit considers the limited legal requirement for consultation inadequate for significant projects such as the Canberra Technology City proposal.
- Notwithstanding its involvement through facilitating the project and the Government decision to offer an Option for a direct land sale, the Chief Minister's Department did not engage with the community on the site selection decision.
- Government agencies relied primarily on ActewAGL, which acted on behalf of the consortium, for any pre-Development Application consultation, and this did not properly occur.
- ActewAGL did not have a formal policy on community consultation (other than to comply with Development Application requirements).
- Key stakeholders outside the Government were not consulted about the Hume Industrial Planning Study (a separate study covering potential land uses in the area that was considered for the Canberra Technology City proposal).
- The Hume Industrial Planning Study was made available to a planning adviser to the proponents but was not made available to additional interested parties.
- Information on the proposed site was first provided to the community in October 2007 through media releases. The location of the block was accurately described, but the media releases were inaccurate in that they referred to land in Hume, when it was in the District of Tuggeranong. Audit was advised that the proximity of the project to residences was not noticed by Tuggeranong residents because of the reference to Hume.
- ActewAGL offered briefings to all Members of the Legislative Assembly over the period of October to November 2007 and again in February to March 2008. Only a small number of Members of the Legislative Assembly accepted the offer of a briefing on the proposed development. Briefings were not offered to the wider community at this time.

- Following the release of the Development Application and its revision, the proponents attended a number of public sessions and provided additional information at these sessions and through other means such as its website.
- Several stakeholders considered the overall community consultation process inadequate in its timing, content and duration, and raised issues with the completeness and reliability of information provided.
- Government agencies did not always exercise care to ensure arm's length dealings with ActewAGL, and its consultants.

RECOMMENDATIONS AND RESPONSE TO THE REPORT

- 1.22 The audit made five recommendations to address the audit findings detailed in this report.
- 1.23 In accordance with section 18 of the *Auditor-General Act 1996*, a final draft of this report was provided to the Chief Executives of the Chief Minister's Department, the Department of Treasury, the Land Development Agency and the ACT Planning and Land Authority, and also to the Chief Executive Officer of ActewAGL, and the Managing Director of ACTEW, for their consideration and comments.

Response from Government Agencies

- 1.24 Audit received a single whole-of-government response from the Chief Executives of the four government agencies, Chief Minister's Department, Treasury, Land Development Agency and the ACT Planning and Land Authority,
- 1.25 This overall response, forwarded by the Chief Executive of CMD is shown below:
- *There is a clear role for Government in facilitating investment in the Territory;*
 - *It is clear from the proposed report that this function, as it relates to facilitation and site identification of the CTC proposal, has been carried out within the legislative framework of the ACT and in accord with existing Government processes;*
 - *Considerable care needs to be taken in pursuing the Auditor's opinion that Government should assume a greater role in communicating the details of development proposals to the public. There is a risk that the community would interpret this as advocacy on behalf of the developer;*
 - *Whilst improvements in the notification of Development Applications are already in hand, I am pleased you took up our suggestion for seeking community engagement strategies from proponents of complex developments at an early stage of their discussions with Government.*
 - *I remain concerned by the findings of the Proposed Report that there should be some form of Government process prior to a proponent submitting a Development application that would bring the community into a discussion of the merits of a private sector proposal, the full details of which are not fully documents until the Development Application is submitted. Community engagement is essential and it has been very carefully built into the planning and development assessment process. The Development application is the*

means by which the details of the project are put forward for public comment. Any suggested pre-determined process prior to the consideration of the Development Application does not present natural justice to parties who in the end bear the financial risk for their investment proposal.

Response from the Chief Executive Officer of ActewAGL

ActewAGL notes the key findings in relation to the CTC site selection process namely:

- the proposed site for the CTC development was evaluated and selected by the proponents from a range of sites that were available to it. This included block 7, section 21;*
- the proponents adhered to the legal public consultation requirements. The report further notes the extension of the notification period (for a further 15 business days), the extent of material about the project made publicly available and the community briefings conducted by the proponents.*

ActewAGL notes that it is a practical reality that a transaction will adjust as feasibility and other commercial evaluations are undertaken. This does not signify uncertainty or a lack of commitment by the proponents. Rather, it reflects actual commercial practice whereby prudent boards require ongoing discretion to approve, reject or amend a business proposal through its development stage and prior to a final contractual commitment.

Response from the Managing Director of ACTEW

I note the comments previously provided by ACTEW on the extract of the draft report were taken into account when finalising the report and I thank you for considering them.

1.26 In addition, the Chief Executives provided responses to each recommendation, as shown below.

Recommendation 1 (Chapter 2)

To enhance accountability and to provide clarity to the community and private sectors about the requirements associated with a request for strategic project facilitation status, Government should adopt criteria to define a strategic project and the strategic project facilitation process.

In consultation with relevant agencies, the Strategic Projects Facilitation Unit should develop these criteria, which would identify when, how and what is required of proponents in relation to issues such as:

- a business case;
- financial analysis;
- a statement of financial and other risks, with appropriate risk allocation and mitigation measures;
- environmental and health impacts;
- planning approvals;
- a plan for appropriate consultation with the general community and identifiable stakeholders; and

- coordination arrangements.

Government Agencies' response:

Agreed. Government agencies noted the Auditor-General's finding that the Government agencies complied with existing processes in relation to site identification process and that the process followed by Government agencies reduced the risks to the Territory by requiring the consortium to meet a number of conditions, including obtaining an approved Development Application (DA) and providing key information about the project, such as a business case, prior to a direct land transfer.

From the Territory's perspectives, the use of the Deed of Option ensured that the risks of the proposal not going ahead lay with the proponent rather than the Territory

Recommendation 2 (Chapter 3)

To provide greater certainty for the business sector and the broader ACT community, ACTPLA should:

- clarify the purposes for which broadacre land may be used, as defined in the Territory Plan, and
- as far as is practical, ensure definitions are consistent with those in the National Capital Plan.

Government Agencies' response:

Agreed. ACTPLA makes every effort to ensure definitions in the Territory Plan are consistent with the National Capital Plan. However, the latter is part of Commonwealth legislation and hence outside of the jurisdiction of Territory agencies.

Recommendation 3 (Chapter 3)

Government should not depart from the established and sound procedures for direct land sales unless there are compelling reasons. Any case to support departure from these procedures should be clearly documented.

Government Agencies' response:

Agreed. (See further comments at paragraph 3.63)

Recommendation 4 (Chapter 4)

Agencies should ensure their community engagement practices reflect the principles and better practices inherent in the ACT Government Community Engagement Service Charter and Community Engagement Manual. In particular, agencies that are involved in facilitating strategic projects should assess the need for early and appropriate community consultation.

Government Agencies' response:

Agreed. It is the view of Government agencies that consultation on a proponent-driven development proposal is not, nor should be, the responsibility of ACTPLA (as distinct to the consultation on the DA once it is lodged). There is a crucial

distinction between the responsibilities of the proponent for a project and those of Government agencies that may have statutory or other roles in relation to some aspects of the project.

Recommendation 5 (Chapter 4)

Agencies should ensure a high level of probity in dealing with the Territory owned businesses and their commercial partners such as ActewAGL by:

- clearly identifying the status and the nature of business dealings, i.e. whether they are of a commercial or of a government nature;
- adopting an arm's length approach to all business dealings, which recognises that such bodies are generally established to operate in a commercial manner; and
- communicating clear processes to relevant agencies and staff.

Government Agencies' response:

Agreed.

ActewAGL's response:

ActewAGL considers that its dealings with government agencies were conducted professionally and at arm's length.

2. PROJECT INITIATION AND FACILITATION

INTRODUCTION

- 2.1 This chapter describes the Canberra Technology City proposal (CTC proposal) and the consideration and facilitation of the project by Government agencies. Given the involvement of ACTEW, a Government business, in this proposal through its 50 percent ownership of ActewAGL, the audit also considered the activities of ActewAGL in support of the CTC proposal.

KEY FINDINGS

Project initiation and facilitation

- The Chief Minister's Department is responsible for coordination and facilitation of major projects for community and business development in the ACT. However, no formal policies or procedures for dealing with strategic projects existed within the Chief Minister's Department.
- In response to the commercial needs of, and the urgency communicated by, the consortium, the Government supported the Canberra Technology Centre proposal by committing to an Option over land without sufficient information and key documentation. The government should have prepared a due diligence assessment of the consortium intended to carry out the project, the involvement of ACTEW (a Government Business Enterprise), as well as ensuring that the claims made by proponents were valid and substantiated.
- The Government reduced key risks to the Territory by requiring the consortium to obtain an approved Development Application and to provide key information about the project, such as the business case, as conditions of land transfer.

BACKGROUND

- 2.2 In 2002, ActewAGL submitted a proposal to the ACT Government for a gas-fired power plant of 70MW. On further analysis, ActewAGL considered this proposal not financially viable. However, it continued to seek to establish a local power generating capability.
- 2.3 In 2004, at the request of the Government, ActewAGL gave consideration to a 150MW plant, but this was also considered not financially viable.
- 2.4 In late 2006, a further analysis of the economics of gas-fired generation was considered, this time using a more efficient gas turbine design. A consortium, known as the Canberra Technology City consortium was formed, with ActewAGL as a member, which considered combining a peaking power station with a data centre together with a back-up data centre in Belconnen. This was the nature of the initial CTC proposal submitted to the Government in May 2007.

The nature of the consortium

- 2.5 The Canberra Technology City (CTC) consortium consists of:

- Technical Real Estate Pty Ltd; and
 - ActewAGL.
- 2.6 Advisors to the consortium included:
- Galileo Connect Ltd; and
 - CB Richard Ellis Pty Ltd.
- 2.7 Technical Real Estate Pty Ltd (TRE) is a specialist data centre developer and owner, and is a subsidiary of Thakral Holdings Group, a publicly listed company with a reported property portfolio of over \$1.4 billion. The role of TRE in the consortium will be to fund, develop, own and operate the data centres and power station.
- 2.8 Galileo Connect Ltd is a UK-based company providing data centre product development and services. It has developed and proposed a modular ‘pod’ data centre design for the Canberra installation. Galileo Connect owns the intellectual property on the design of the data centres but will not have a share of ownership in the data centres itself.
- 2.9 CB Richard Ellis Pty Ltd (CBRE) is a consultancy firm engaged to advise the consortium on planning and land issues; its involvement will cease once the initial phase of the project has been completed.
- 2.10 Initially, the role of ActewAGL was to provide all of the power generation facilities. However, ActewAGL’s role in the consortium diminished when the proposal was revised to remove the peaking power station. ActewAGL’s role changed to land owner.
- 2.11 ActewAGL advised that it retained a strong interest in the development on the basis that it will gain a significant gas and energy customer and further income from commercial arrangements with Technical Real Estate.
- 2.12 The current draft of the Deed of Option allows the ownership of the land to be transferred to any ActewAGL-related partner.

The CTC proposal - original and revised

- 2.13 From May 2007 to October 2007, various discussions and communications occurred between ActewAGL and government agencies to progress the proposal. By mid-July 2007 the Government had given ‘in principle support to the proposal’ and a commitment to ‘reserve a suitable site of approx 21 hectares in Hume for direct sale at a market value to ActewAGL’. The proposal was seen as a significant initiative to increase security of power supply to the ACT and to generate employment and business opportunities for the ACT.
- 2.14 On 1 October 2007, ActewAGL announced through a media release that a \$2 billion data centre and gas-fired power station would be constructed at Hume. On 15 October 2007, the ACT Government announced it was offering an option for a direct land sale to the consortium.

- 2.15 In December 2007, the ActewAGL Board considered a feasibility study which provided a 'strong positive assessment' that the peaking power station was viable in conjunction with the base load power generation required for the data centres.
- 2.16 However, by January 2008, ActewAGL sought to retain flexibility in the conditions of the lease by removing the specific description of the peaking power station from the option. This caution was also shown by a brief from the Project Facilitation Division at the Chief Minister's Department (CMD), signed off by the Chief Minister on 7 February 2008. The brief stated that:
- ActewAGL are now suggesting that they do not wish to provide any excess power over that needed by the data centre. You will be informed when ActewAGL resolve this issue with their partners and provide a response to the Government.
- 2.17 ActewAGL advised CMD on 7 February that the construction of a gas-fired power station to supply peak demand, while desirable, would be dependent on the successful outcomes of a detailed feasibility study. In particular ActewAGL commented that:
- ... Should the outcome of the feasibility study be that the data centre and dedicated power plant would be a sound financial investment, but the peaking plant was not financial viable, it would not make sense to stop the data centre and dedicated power plant from proceeding. In a similar vein, I do not believe it to be appropriate at this stage to stipulate a definite development timeline.
- ... Until the feasibility study is complete, it is important to retain a degree of flexibility in the conditions of the lease.
- 2.18 In February 2008, the ActewAGL Board called for an independent review on the power generation component of the CTC project. This review, delivered in April 2008, found that the use of small gas turbines may not be optimal for use in a peaking power station.
- 2.19 On 4 March 2008, ActewAGL, on behalf of CTC, also requested an update to the financial modelling of the project. This review reported, on 18 April 2008, that the project was still expected to be financially viable.
- 2.20 ActewAGL's Development Application (DA) for the peaking power station and data centre was lodged on 26 February 2008 and accepted by ACTPLA on 26 March 2008. Submitting a DA at this time allowed ActewAGL to use legislation that was soon to be overtaken by a revised Act (*Planning and Development Act 2007*). The revised Act requires that if a proposal falls under the 'impact tract' category, then the proponents must complete an Environment Impact Study (EIS) before submitting the Development Application. An EIS was not necessary, unless required by the Minister, under the legislation current when the DA was submitted.
- 2.21 ActewAGL commented that its preference to submit its DA under the previous Act (*Land (Planning and Environment) Act 1991*) was because the new Act might complicate the planning aspects, given the CTC development would be one of the first large developments to be dealt with under its new terms.

Project initiation and facilitation

- 2.22 At the time the DA was submitted, there was significant uncertainty within the consortium on whether the proposal would go ahead in its then current form.
- 2.23 After submitting the DA, the consortium reviewed its plans. ActewAGL informed Audit that, following the April 2008 Board meeting, AGL conveyed its position to not proceed with the 100MW peaking power station to ActewAGL via meetings between representatives of the two organisations. AGL's position was also confirmed via discussion between senior AGL and ActewAGL representatives in early May 2008.
- 2.24 On 27 May 2008, the consortium publicly announced that the peaking power station would not go ahead. ActewAGL submitted a revised DA that reduced the power station to 28MW capacity, to be used only to power the data centres.

PROJECT CONSIDERATION AND FACILITATION

The role of the Chief Minister's Department

- 2.25 The Strategic Projects Facilitation Unit was established within the Business and Projects Division of CMD in July 2007. The unit works closely with the Business and Industry Development Branch of CMD to provide across-government coordination and facilitation of strategic government priorities, key private sector initiatives and major projects for community and business development in the ACT. It leads and coordinates the delivery of the Government's Land Supply Strategy amongst other things. In this role, CMD coordinated input from various agencies into a Government submission on the merit of the CTC proposal.
- 2.26 This Unit also provides advice on potential projects within the ACT to the Chief Minister in his role as the Minister for Business and Economic Development. It also provides the chair and secretariat for an interdepartmental panel to assess the eligibility of applicants for the direct sale of land. When assistance is required in identifying or acquiring land for a major project, CMD liaises with the Land Development Agency (LDA).
- 2.27 On 22 May 2007 ActewAGL, on behalf of the consortium, requested the Chief Minister to provide an 'immediate offer of a lease to give certainty over the site and allow ActewAGL to complete commercial arrangements with prospective partners and client'.
- 2.28 ActewAGL advised that 'the timely delivery of land is necessary for the commercial success of this initiative'.
- 2.29 Accordingly, CMD took on the lead role in facilitating this project in response to this urgency, consistent with the Government's strong support and commitment to the project. To facilitate the project, the Chief Minister also took action, as requested by ActewAGL, to indicate in-principle Government support for the CTC proposal. The Chief Minister wrote a letter giving support to the proposal and undertaking to reserve a suitable site of approximately 21 hectares in Hume at market value to ActewAGL for a period of 12 months. This letter was designed to assist the CTC consortium's efforts in attracting co-investors and prospective

clients. The Chief Minister also attended a briefing organised by the consortium for the industry.

- 2.30 When the CTC proposal was first considered, the Policy Division of CMD had no formal policies or procedures for dealing with strategic projects. There was no definition of what constituted a strategic project. Similarly, there were no checklists or guidelines to assist officers in dealing with proponents of strategic projects or to ensure that each project is considered from a Whole-of-Government viewpoint, against consistent criteria.
- 2.31 In assessing the merit of the proposal, one key issue for consideration was the capacity of the proponents to develop the project, which in turn required the composition of the consortium to be finalised and understood. Irrespective of the solidity of the partners, if the partnership itself is not firm, then the management capacity is not established. In this case, the nature of the CTC consortium was not clear at the early stage of the proposal. For example, in July 2007 CMD believed the original proposal appeared to indicate that ActewAGL would own 51 percent of the power station and 25 percent of the data centres as well as providing all of the power generation facilities. ActewAGL stated this ownership structure was incorrect, as there was never any intention for ActewAGL to have an interest in the data centres.
- 2.32 At the end of the Audit, in November 2008, CMD provided Audit with a report outlining procedures and processes for proposed use in facilitating significant new projects. These procedures required, amongst other things:
- an assessment that the project met the criteria for a strategic project;
 - a due diligence assessment to ascertain the proponents' financial strength and experience;
 - that unusual projects be evaluated to ensure they are realistic and appropriate; and
 - an assessment that critically reviewed the proponents' claims to ensure they are valid and substantial.
- 2.33 These proposed procedures for project facilitation represent sound practice, but were not then in place or otherwise followed by CMD for the CTC proposal.
- 2.34 In June 2007, the Department of Treasury (Treasury) expressed caution in relation to the project and noted that 'while the existence of external investors may give some comfort in regards to the merits of the proposal, this was also thought to be the case with the Government's \$60m investment in Transact' (which now had significant diminished value).
- 2.35 ActewAGL prepared an economic impact statement for the initial CTC proposal. Treasury indicated its view that that this document was unreliable, and suggested a cost benefit analysis be included in the CMD brief to the Chief Minister. Treasury and ACTPLA also questioned if the need for a direct land sale had been established. However, Treasury suggested reserving the land for 14 months to enable ActewAGL to put together its business case. CMD advised Audit that this approach was not favoured by the proponents as it would not give sufficient surety

to potential investor partners and customers that the land would become available. CMD further advised that Treasury supported the briefing provided to the Chief Minister in July 2007.

- 2.36 ActewAGL stated the value of the original CTC project to be around \$2 billion,. The Government quoted these figures in various forums without testing them.

Consultation with Government Agencies on the site

- 2.37 The Land Release Coordination Committee (LRCC) is a body that assists in coordination of matters to do with land release, including direct sales. It includes as permanent members several key areas within ACTPLA, as well as relevant areas of Territory and Municipal Services and Environment. Other agencies, such as CMD, Health and Education and Training are involved as necessary.
- 2.38 Following ActewAGL's application for a direct land sale of part Block 1610, District of Tuggeranong on 8 August 2007, the LRCC sought advice from most agencies on 16 August 2007.
- 2.39 The Department of Disability, Housing and Community Services (DHCS) as a landholder of a nearby health facility, was informed later of the direct land sale in September 2007 and sought further details about the plans through the LRCC. The Department was aware a DA would be required, where the proponents would need to address specific issues.
- 2.40 Audit noted that a new building (\$1.8 million) has recently been established to provide important intensive support for people with mental and social disabilities. DHCS sought to have a better idea of what impact the CTC proposal may have on its building and services. This issue was not addressed and subsequently, DHCS stated that it considered moving the respite service if the development proceeded in its current form.
- 2.41 Similarly, the Department of Territory and Municipal Services (TAMS) was concerned the CTC proposal at Block 1610 would adversely affect the proposed cemetery and its ability to meet future burial needs of the ACT. Audit noted that the Minister for Planning had agreed in principle in 2005 to hold this block for the exclusive use of the Public Cemeteries Board for a period of five years.
- 2.42 Most agencies, apart from DHCS, that might have been affected by the proposed project appeared to have been consulted in on a timely manner. Relevant agencies were asked to provide comment on the CTC proposal and Audit observed coordinated gathering of this information by CMD.
- 2.43 Audit also observed an extensive exchange of letters and e-mails, especially between CMD, LDA and Treasury, on this project over several months. Communications were conducted at the appropriate level within agencies and included the Chief Minister where necessary.

Weaknesses in project facilitation processes

- 2.44 CMD does not have a clear definition of what constitutes a strategic project. In addition, there are no formal policies or procedures for dealing with strategic projects that would enable it to better target its limited resources.
- 2.45 The lack of a defined and sound process to facilitate such projects can raise risks such as perceptions of lack of fairness and accountability.
- 2.46 Risk management principles should be applied to the conduct of facilitating strategic projects; risks should be clearly identified by government agencies and measures to reduce these risks documented. Risks to be considered might include time, legislative and budget constraints, financial, social and environmental outcomes, and potential objections by stakeholders.
- 2.47 For this particular proposal, the absence of documented processes to facilitate projects led to actions by CMD, and to a lesser extent, other agencies being significantly driven by the urgent timeframe required by ActewAGL on behalf of the consortium. Very short turn-around times were given to agencies to provide feedback and input on the CTC proposal and site identification issues.
- 2.48 Audit notes that CMD did not seek to clarify issues and conduct some independent checking of information provided by the proponents. For example:
- Audit found that the make-up of the consortium intended to carry out the project changed during the course of the project, and the precise nature of the partners' interests within the consortium was not always apparent to the Government. To protect the public interest, as distinct from private sector commercial interests, Audit considers the Government needs to be fully aware of the composition, roles and responsibilities of the consortium to be in a position to make informed decisions about the capability of the consortium to develop and complete the project.
 - The application by ActewAGL for the direct grant of a Crown Lease of the selected land did not define the members of the consortium, instead stating it was in direct negotiations with prospective partners with regards to the development, management, operations and maintenance of the data centre components.
 - No analysis has yet been conducted by the Government to ensure statements made by the proponents, particularly in regards to benefits to the Territory, were reliable.
- 2.49 CMD did not always adequately address valid issues raised by agencies during the coordination process. For example, CMD addressed a query about whether the final site was the only option by a simple statement that 'ActewAGL has settled on Block 1671'. Treasury and ACPLA's concerns about the lack of reliable details of the CTC proposal were met with the response that significant economic benefit (unquantified) was projected, and that the land option cannot be exercised unless a business case adequately addressed the costs and benefits for the Territory.

Project initiation and facilitation

- 2.50 CMD considered that agency concerns, particularly those about the viability and costs and benefits of the proposal were addressed by the Option Agreement.
- 2.51 The Option for the direct sale of land was contingent on ActewAGL meeting a number of conditions, such as providing a business case that demonstrated the project's viability and adequately addressed the costs and benefits of the proposal for the Territory. This Option would commit the Government to grant a Crown lease of the land, when the consortium meets a number of conditions and the option is exercised by the buyer, (ActewAGL or its nominee).
- 2.52 Additional information was subsequently required to support the revised DA, including an environmental impact statement and an economic impact statement. These documents were released on 17 November 2008.

Involvement of ACTEW

- 2.53 The Government has the role of shareholder of ACTEW. There was no evidence that the shareholders, or ACT Treasury, in its monitoring role of ACT government businesses enterprises, sought advice from the ACTEW Board on its views of the proposal, the business case and any risks this proposal may present to ACTEW. This is despite the fact that in the original proposal (which included the peaking power station), ActewAGL was expected to have significant investment in the proposal.
- 2.54 ACTEW advised Audit that:
- The ACTEW Board was appraised of the project and considered papers on two occasions, in December 2007 and April 2008. The Board only agreed to provide funding of \$300,000 to the development of the business case. There was no decision, and there have not been any since that time, by the ACTEW Board to invest in infrastructure or land.

CONCLUSION

- 2.55 In facilitating the CTC project, actions of CMD seemed to reflect its commitment to progress promptly a proposal that the consortium stated would provide significant employment and business opportunities to the ACT. Similarly, CMD and other agencies acted on advice by the consortium that the risk of losing the project to other interstate and overseas locations was high, due to strong competition in this industry.
- 2.56 Audit acknowledges that opportunities for the Territory should not be missed due to undue procedural delays. However, it is also important that Government decisions to act on these opportunities are made based on proper and early consideration of sufficient relevant information.
- 2.57 On the CTC project, the Government relied on the DA process to deliver the due diligence process. Audit considers that it would be more appropriate for due diligence processes to take place before the Government supports and facilitates a direct land transfer option. No analysis has yet been conducted by the Government to ensure statements made by the proponents, particularly in regards to benefits to the Territory, were reliable.

- 2.58 Audit does not suggest a duplication of the statutory DA process, which assesses in detail the economic, social and environment aspects of the proposal. Rather, Audit considered that as a minimum, certain key information should be obtained in an early due diligence process, to provide a sound basis for Government decision making; in this case to justify setting aside a large block of land for the proponents for 12 months, until the proponents can meet certain conditions.
- 2.59 To improve the current process, CMD should develop a sound framework for project facilitation. This could cover:
- consideration of whether the project meets the ‘strategic project’ criteria;
 - business case requirements to be met by project proponents to support government involvement;
 - consultation and coordination arrangements with relevant Government agencies (including, where appropriate, identification of a ‘lead agency’ for the project);
 - assessment of financial and other risks, that seeks to optimise risk allocation and includes development of appropriate risk mitigation measures; and
 - measures to ensure appropriate consultation with the general community and identifiable stakeholders.
- 2.60 By implementing a sound and established framework for project facilitation, it is more likely the Government will consider and meet the broader interests of the Territory, in addition to meeting the commercial interests of the project’s proponents.
- 2.61 In the case of the CTC project, the current processes led to an offer of a Deed of Option, with conditions to be met by the consortium by the time the Development Application is approved. This approach aimed to accommodate the consortium’s need to gain surety over the site, because the consortium was unable to provide all the information required to meet the conditions of a direct sale.
- 2.62 Setting conditions for a land option reduced the risks of a final land transfer to a non-viable project. This approach, however, is not a substitute for conducting due diligence. A due diligence review should have occurred at an early stage of the project, prior to any government commitment to reserve a large block of land for exclusive right of purchase by a commercial entity.

Recommendation 1 (Chapter 2)

To enhance accountability and to provide clarity to the community and private sectors about the requirements associated with a request for strategic project facilitation status, Government should adopt criteria to define a strategic project and the strategic project facilitation process.

In consultation with relevant agencies, the Strategic Projects Facilitation Unit should develop these criteria, which would identify when, how and what is required of proponents in relation to issues such as:

- a business case;

Project initiation and facilitation

- financial analysis;
- a statement of financial and other risks, with appropriate risk allocation and mitigation measures;
- environmental and health impacts;
- planning approvals;
- a plan for appropriate consultation with the general community and identifiable stakeholders; and
- coordination arrangements.

3. SITE SELECTION AND TRANSFER

INTRODUCTION

- 3.1 This chapter focuses on the consideration given to the planning and zoning of the selected site, and the method by which the site was selected and offered for direct land grant.

KEY FINDINGS

Planning and zoning

- Permissible uses for broadacre zoned land as set out in the Territory Plan 2002 were not sufficiently clear to determine unambiguously that the Canberra Technology City proposal was a permissible use. The current version of the Territory Plan does not provide further clarification.
- Various legal advice provided conflicting interpretations of permissible broadacre land uses, indicating that the issue had created uncertainty to residents and industry and needed to be clarified.

Site selection and approval

- Government agencies complied with the existing Government processes which led to the agreement on a site for the proposed Canberra Technology City. These processes, however, were not sufficiently robust to give confidence that the public interest was fully taken into account.
- Under the current processes, the proponents have the sole responsibility to assess the best site for the proposed project. Government agencies did not formally assess and rank the relative merits of the proponents' suggested sites against a clear set of criteria. A suitable site that meets the commercial needs of the proponents may not necessarily equate to the optimum site from the Territory's point of view, when taking into account wider public interest criteria.
- A better process of site selection was carried out in 2002 as part of ActewAGL's first attempt to construct an ACT power station. This involved consideration of various sites and a cost-benefit analysis.
- For the current project, ActewAGL first applied for the site at Block 7, Section 21, Hume that it had identified in 2002. Although not formally rejected, government agencies made clear to ActewAGL that this site was not the Government's preferred option because of the planned industrial land release of that area. ActewAGL believed that Block 7/21 remained available for its selection.
- The Land Development Agency responded quickly by offering an alternative site, Block 18 of Section 23, Hume. ActewAGL initially accepted this site, but later rejected it because of potential delays due to archaeological findings on the site.
- ActewAGL later identified and selected the presently proposed site, now known as Block 1671, District of Tuggeranong. ActewAGL strongly considered this site to be the most suitable.

- Government agencies had significant discussions with ActewAGL concerning the site issues, and provided assistance to the consortium by identifying one site and agreeing to a Deed of Option for the sale of Block 1671, District of Tuggeranong.

Land transfer process

- The Government decided to provide ActewAGL with a conditional option over the land based on consideration of the original Canberra Technology City proposal.
- After the removal of the peaking power station from the proposal, and revision of the project to a smaller scale proposal, neither the Chief Minister's Department nor the Land Development Agency reassessed the merit of the Option for a direct land sale.
- ActewAGL offered to pay a non-refundable deposit to secure a direct sale of an earlier site, Block 18 of Section 23, Hume and acknowledged that LDA may also charge a refundable fee up to 10 percent of the value of the land. The Government agreed to a payment by ActewAGL of \$40 000 to secure the Option over the current site (Block 1671). The justification for the Government decision not to impose a more substantial deposit for a conditional option over the current site was not strong.
- The provision of an Option over land to a consortium is an unusual practice. This was to meet the commercial needs of the consortium for urgent security of land, and reflected the fact that the consortium was not yet in the position to meet the conditions for the direct land sale required under the relevant Disallowable Instrument.
- Consequently, the draft Deed of Option includes conditions that the consortium needs to meet for the direct sale of the land to occur, including having an approved DA and the provision of a business case to demonstrate positive benefits to the ACT. The Government considered that this would enable it to assess the extent to which the proponent has met a range of public benefit conditions before finalising the land transfer.
- Notwithstanding the urgency applied to the Government process of assessing and agreeing to the site, the subsequent preparation of the Deed of Option took over twelve months. At the time of the audit, the Deed of Option had not been signed by relevant parties.

BACKGROUND

3.2 ActewAGL lodged a Development Application (DA) for the Canberra Technology City proposal (CTC proposal) on Block 1671, Tuggeranong, a broadacre site located off Mugga Lane.

3.3 Concerns have been raised whether the:

- gas-fired power station and data centres fit within the permissible uses of broadacre zoned land;
- site selection and approval process adhered to relevant methodologies and policies;
- Government influenced the proponents selection of the current site; and

- offer of land via direct sale and the use of an option was consistent with Government policy.

PLANNING AND ZONING

3.4 Planning and zoning issues are primarily the responsibility of the ACT Planning and Land Authority (ACTPLA). ACTPLA does not have a direct role in site identification or selection. It provides public information and also advice on requests relating to the Territory Plan, and thereby assists proponents to identify land with suitable zoning.

Broadacre zoning

3.5 The following discussion is based on the 2002 Territory Plan, which applied at the time the initial Development Application was lodged. The Territory Plan has since been revised (in 2008) but contains similar provisions.

3.6 According to the Territory Plan, the objectives of the Broadacre Land Use Policies were:

- to make provision in a predominantly rural landscape setting for a range of uses which require larger sites and/or a location outside urban areas;
- to make provision for activities requiring clearance zones or protection from conflicting development;
- to ensure that development does not adversely impact on the environmental quality of the locality; and
- to ensure where appropriate, that development and the use of land does not undermine the future use of land which may be required for urban and other purposes.

3.7 Table 3.1 shows the permissible uses of broadacre zoned land as set out by the Territory Plan 2002. Permissible uses included major utility installations and communications facilities.

Table 3.1: Purposes for which broadacre zoned land may be used

Agriculture	Educational establishment	Place of worship
Animal care facility	Emergency services facility	Road
Animal husbandry	Health facility	Scientific research establishment
Caravan park/camping ground	Land management facility	Special care establishment
Cemetery	Major utility installation	Special care hostel
Communications facility	Municipal depot	Tourist facility
Community activity centre	Nature conservation area	Transport depot
Corrections facility	Outdoor recreation facility	Veterinary hospital
Defence installation	Parkland	Woodlot

Source: Territory Plan 2002

Advice from ACTPLA

- 3.8 The Chief Minister's Department (CMD) asked ACTPLA in August 2007 to provide input to a Government submission on whether the CTC proposal was consistent with broadacre land use.
- 3.9 ACTPLA advised CMD on 28 August 2007 that the CTC proposal may only be allowable if it was considered a scientific research facility rather than office use. More information was required on the equipment and activities to confirm whether the proposed project met the definitions of the allowable uses contained within the National Capital Plan and Territory Plan.
- 3.10 Audit noted that at this stage, the possibility the data centre was a communication facility was not envisaged by ACTPLA. The ACTPLA response also noted that the Hume Industrial Planning Study had recommended there be a change of land use policy from *broadacre* to *industrial* to support the 2002 proposal for a gas-fired power station.
- 3.11 After this advice was provided, CMD contacted ActewAGL on 30 August 2007 to obtain further information as requested by ACTPLA. ActewAGL responded on 31 August 2007 stating that the data centre was a communications facility, and supported this with a brochure that outlined the nature of the 'communications infrastructure' within the facility. CMD forwarded this additional information to ACTPLA on the same day. In response, advice was provided on 4 September 2007 to the Chief Planning Executive of ACTPLA that:
- From the information we have been provided, it appears that the facility would best be categorised under the Territory Plan as something between a communications facility and a scientific research establishment. Strict classification is complicated by the difference in definitions for a communication facility in the National Capital and Territory Plans... it appears reasonably clear that the proposed use is not inconsistent with the intent as set out by the National Capital Plan.
- 3.12 Part D of the Territory Plan 2002 sets out definitions for a 'communications facility' and a 'major utility installation' as per Table 3.2. It also defines a 'power generation station', which is one type of major utility. Although the definition for a major utility and power generation station appear to fit with the proposed gas-fired power station, the classification of the data centre as a communications facility appears more ambiguous.

Table 3.2: Definitions within the Territory Plan 2002

Communications facility means the use of land for the provision of facilities for postal, telecommunications and other communication purposes including facilities used for receiving and transmitting radiated signals using radio masts, towers, and antennae systems but does not include cabling or ducting used for the carrying of electromagnetic signals.

Examples of communication facilities provided include:

- Mobile phone antenna
- Satellite or microwave dish
- Radar equipment
- Aviation navigation communication
- Space tracking facility
- Telecommunication facility, depot
- Television/radio broadcasting facility
- Australia Post facility, Depot
- Telephone exchange
- Australia Post exchange

Major utility installation means a distribution reservoir; a major electrical sub-station; a major gross pollutant trap; a major pump station; a major service conduit; a power generation station; a sewerage storm tank; a treatment plant; a tunnel; an urban lake, pond and/or retardation basin; or a water storage dam.

Power generation station means equipment and associated buildings constructed for the generation of electricity utilising gas, coal or other fuel sources.

Source: Territory Plan 2002 (Part D)

3.13 The National Capital Plan defines ‘communications facility’ as:

a facility for the purpose of transmitting air-borne signals using radio masts, towers, satellite disks and the like and includes Australia Post and telecommunications facilities, and television/radio broadcasting facilities.

Legal advice

3.14 To further clarify the issue, ACTPLA obtained advice from the ACT Government Solicitor on 14 July 2008 about whether the development of the proposed power station and data centres would be consistent with the permitted broadacre uses under the Territory Plan. The Government Solicitor indicated that it would appear that the use of land would be for the provision of facilities for telecommunications or other communication purposes.

3.15 However, the ACT Government Solicitor went on to indicate that the issue may have to be revisited once further information could be provided. ACTPLA did not volunteer this additional information.

3.16 The community group, ‘Canberrans for Power Station Relocation’ obtained its own legal advice, which indicated the data centres component of the development is not a communications facility within the meaning of the Territory Plan.

3.17 In November 2008, ACTPLA received additional legal advice. Counsel, although commenting on the vague description of data centres available to him, concluded that the data centre was a communications facility. Counsel also suggested that ACTPLA ‘get some clearer understanding of the kinds of activities which may be conducted on the site to give itself some greater comfort that the proposal fits the definition of ‘communications facility’.

Audit comment

3.18 There was differing legal advice provided by the interest group ‘Canberrans for Power Station Relocation’ and the Government on the issue of permissible broadacre land uses for the selected Tuggeranong site. This indicates that the definition of broadacre land is ambiguous, may create uncertainty to residents and industry, and may expose the Territory to potential legal risks and planning delays.

3.19 ACTPLA advised that the Territory Plan is always open to interpretation and cannot be safeguarded from ambiguity in every circumstance, nor can ACTPLA anticipate the nature of all different types of applications that may test the interpretation of definitions.

Recommendation 2

To provide greater certainty for the business sector and the broader ACT community, ACTPLA should:

- clarify the purposes for which broadacre land may be used, as defined in the Territory Plan, and
- as far as is practical, ensure definitions are consistent with those in the National Capital Plan.

SITE SELECTION AND APPROVAL

Site selection processes

- 3.20 In 2002, ActewAGL selected Block 7, Section 21, in Hume (Block 7/21) as the preferred site for a gas-fired power plant. ActewAGL selected this site after a cost-benefit analysis that considered a range of sites in Fyshwick and Hume.
- 3.21 In response to the Audit draft report, ActewAGL advised that the selection criteria applied by the proponents for the CTC proposal were as follows:
- appropriately zoned;
 - adequate availability of land;
 - proximity to key infrastructure, particularly natural gas, water and high voltage power lines;
 - away from flight paths; and
 - likely ability to meet all environmental requirements (such as noise and emissions).
- 3.22 For the current project, ActewAGL outlined to Government agencies on 22 May 2007 that Block 18/23 Hume was selected because the site:
- covered 21 hectares of land;
 - was relatively flat, and close to existing ActewAGL infrastructure;
 - enabled the possible utilisation of existing methane generation from Mugga landfill;
 - had appropriate zoning under the Territory Plan; and
 - had access to a major road network.
- 3.23 Advice provided by CB Richard Ellis Pty Ltd (CBRE), the planning consultant for the consortium, was based on:
- general knowledge of the ACT planning system;
 - knowledge of key planning documents; and
 - detailed knowledge of the site requirements for the CTC development.
- 3.24 Audit was provided with criteria used by ActewAGL's partner in the consortium, Technical Real Estate Pty Ltd (TRE). The site criteria outlined generic

requirements for any data centre, and did not refer to a gas-fired power station. Further, the criteria allowed for the possibility of purchasing an existing building to house a data centre, which was clearly not relevant to the current CTC proposal. Some of the criteria are listed below:

- 10-30km out of the city;
- not within 10km of an international airport (Note: Hume is approximately 10km from Canberra Airport);
- close to multiple fibre optic service providers;
- low flood risk-ratio 1 in 100 year flood zone;
- building is located away from road/rail links, nuclear/chemical facilities/local sources of pollution, separation from adjacent buildings to minimise fire risk;
- development land of more than 2ha;
- planning consent from light industrial, general industrial and communication facilities;
- no electrostatic interference from external sources;
- no restrictions on development as a result of ecological issues; and
- car parking (for up to 20 staff plus visitors).

3.25 None of the criteria listed for selection of land by TRE and ActewAGL explicitly referred to social and environment impact on the community, because they considered that these issues would be addressed by choosing an appropriately zoned parcel of land and through the DA process. Community consultation was not considered as a factor in ActewAGL's risk management assessment, except in the context of a stage to go through to achieve DA approval.

The initial site

3.26 For the CTC proposal, ActewAGL's initial focus, based on its 2002 work on a potential gas-fired power station, was on Block 7, Section 21 Hume (Block 7/21). Consequently, ActewAGL approached the Land Development Agency (LDA) to request this site on 2 May 2007. However, the circumstances relating to this site had changed in intervening years and LDA advised that it planned to release this area for industrial blocks. ActewAGL stated that it considered Block 7/21 remained available up until the final site selection.

3.27 Audit understands from discussions with ActewAGL and TRE that CMD and LDA held discussions with ActewAGL to indicate the planned alternative uses for Block 7/21. However, these meetings were not documented. Although ActewAGL's application for the site at Block 7/21 was not rejected, it was made clear to ActewAGL that this site was not the preferred option of LDA or CMD.

The second site

3.28 LDA then identified an alternative block, Block 18, Section 23, Hume (Block 18/23) for ActewAGL on 2 May 2008. ActewAGL considered this alternative

(but the preference for Block 7/21 was not rescinded) and by 11 May 2007 confirmed that

... this site is 'exceptionally well suited' to the proposed use because:

- it is zoned industrial and so there is no need for a variation to the Territory Plan;
- it is currently held under rural lease that can be withdrawn with 3 months notice;
- it is well located to major Commonwealth Government clients;
- it is readily accessible for gas supply via a new pipe line along the Monaro Highway alignment from Hindmarsh drive;
- it is close to a major substation which will provide secure back-up power supply;
- it is located adjacent to the Commonwealth Government high speed communication cable that runs along the Monaro Highway alignment;
- it is easily accessible via a road off Mugga Lane (through the land earmarked for the recycling estate);
- it is flat and well configured for the intended use; and
- it might be able to utilise methane from the adjacent Mugga landfill site.

3.29 However, this site contained archaeological artefacts, and was therefore subject to delays. The need for archaeological studies was first identified in a Preliminary Assessment completed in September 2002. Works adjacent to the site in 2007 unearthed artefacts, leading to Environment Protection and ACT Heritage requesting an archaeological investigation before any works proceeded. The archaeological study was estimated to take three months at a cost of \$200 000.

3.30 At a meeting on 6 July 2007, ActewAGL expressed major concerns about the impact the archaeological study may have on securing investors to develop the site. ActewAGL stated:

Our review of the draft brief for the archaeological project, and our knowledge of the legislation, tells us that even with the best will in the world site clearance may not be achieved within the suggested timeframe. Without surety on this site the project is at risk and we must explore other opportunities.

3.31 In early July 2007, ActewAGL continued to indicate a preference for Block 7/21 over Block 18/23; an ActewAGL project officer noted in an e-mail to CMD that:

The decision to move to the 18/23 site was initiated by LDA because they had identified 7/21 as part of an industrial land release program... We therefore wish to request the support of the Chief Minister in asking LDA to review the industrial release program with a view to making Block 7/21 available for the natural gas power station/data centre project.

3.32 Subsequent correspondence of 19 July 2008 from the Chief Minister to the ActewAGL's CEO indicated that all three possible sites were being examined by government agencies and ActewAGL, to provide advice to the Chief Minister on their respective merits.

The preferred site

- 3.33 Concurrently with the CTC search for a site, CMD considered the use of the general area of the currently preferred site (Block 1671), as a potential site for a cemetery. On 5 June 2007 (before ActewAGL submitted a request for Block 18/23), CMD identified it as a potential site for the CTC proposal. CMD stated that this information was not presented to the proponents.
- 3.34 CMD's view in June 2007 was that the use of broadacre zoned land for the CTC development was preferable to industrial zoned land:
- We understand that the proposed location has moved from the southeast side of the Monaro highway to the North West side, which is a plus (because it does not affect the short term supply of industrial land at Hume).
- However, this site is still within Industrial land zone and so would effectively mean it would not be available for 'normal' Industrial uses. It would be preferable if the gas station could be sited off Industrial land, say on broadacre land e.g. the land that is south of Mugga Lane (opposite the expanding tip).
- 3.35 CB Richard Ellis (CBRE) advised ActewAGL via e-mail on 27 July 2007 that it had identified a new preferred site, and listed its advantages as follows:
- it is apparently unconstrained by heritage, cultural or conservation issues and is identified for future industrial development in both the Hume Industrial Planning Study and Southern Broadacre Planning Study;
 - it is zoned broadacre in the Territory plan;
 - it is 21 ha in area;
 - it is relatively flat with few trees; and
 - it can be linked to the power line via short easement.
- 3.36 It was not clear from this e-mail whether CBRE considered other factors, including the proximity to residential areas, land reserved for the cemetery and adjacent health facilities. In other words, the selection by CBRE did not appear to be made explicitly against a set of pre-determined selection criteria that would allow a consistent comparison and assessment of all identified sites.
- 3.37 The preferred site, then called Part D of Block 1610 District of Tuggeranong, was subsequently redefined as Block 1671. ActewAGL applied for the site on 8 August 2007. ActewAGL advised that in the weeks leading up to ActewAGL's site selection decision, it was made clear to ActewAGL by the Government that Block 7/21 was available for selection amongst other alternative sites. ActewAGL selected the current site that it had identified and which it believed (and continues to believe) was 'easily the best site available'.
- 3.38 On 15 August 2007, the Chief Minister agreed to prepare a Cabinet Submission seeking agreement to the direct sale of Block 1671.

Alternative sites

3.39 Questions on Notice from members of the ACT Legislative Assembly raised the possibility of a range of other sites, and sought Government responses on whether they were suitable. Responses from the relevant Minister were that they were not suitable, as described in Table 3.3 below.

Table 3.3: Reasons for unsuitability of blocks

Block	Reason for unsuitability
Section 8 Block 3	Part of the Government's land release program in 2009/10.
Section 7 Block 44 in Hume	99 year lease.
Section 19 Block 4 in Hume	Held under lease.
Section 19 Block 3 in Hume.	Held under lease.
Section 3 Block 6 in Hume	The site abuts Monaro Highway, a main approach route under the National Capital Plan and would require National Capital Authority approval.
Section 17 Block 7 in Hume	No road access
Section 18 Block 15 in Hume	The site abuts Monaro Highway, a main approach route under the National Capital Plan and would require National Capital Authority approval.
Section 18 Block 6 in Hume	Held under lease.
Section 24 Block 1 in Hume	No road access
Section 24 Block 7 in Hume	No road access
Section 24 Block 4&5 in Hume	Under agistment lease or license.
Block 2227 in the District of Jerrabomberra	Under Crown Lease until 30 December 2104.
Block 2224 in the District of Jerrabomberra	Under Crown Lease until 30 December 2105.
Block 2228 in the District of Jerrabomberra	No road access.
Block 2229 in the District of Jerrabomberra	Held under lease.
Block 2231 in the District of Jerrabomberra	No road access.
Block 2232 in the District of Jerrabomberra	Property under 25-year Crown Lease.

Source: Questions on Notice, Select Committee on Estimates 2008-09

3.40 Audit noted that some of the reasons cited as determining the blocks to be unsuitable also applied to blocks that were previously under consideration. For

example, there was a current licence on Block 1610, there was a lease on Block 18/23 and road access would have to be built for many of the sites.

Audit comment

Process to select sites by the consortium

- 3.41 From the information available to Audit, the site selection criteria provided by TRE appeared to be well established for a data centre. However, the generic criteria did not address requirements for a peaking power station as included in the May 2007 proposal.
- 3.42 The process used by ActewAGL to choose a site for the CTC proposal was evolving and considered several sites over a short period. The initial site was the site selected in 2002 for a different project. When this site became unavailable, ActewAGL rapidly accepted the alternative offered, Block 18/23, despite its problems. These same problems led ActewAGL to later reject that site in favour of the site currently under application. ActewAGL and its planning consultant believed they have identified and selected the best possible site for the proposed development.
- 3.43 Audit did not find any detailed comparison of the merits of all available sites against a set of criteria. Audit was informed by CBRE that there were few alternatives to the selected site. Audit noted that the selected site appears to have met all the practical criteria sought by ActewAGL.

Site approval by government agencies

- 3.44 Under the existing Government policy and procedures, the selection of the site was the responsibility of the development proponents. Relevant Government agencies then considered the sites identified by the proponents.
- 3.45 There was no clear process for the Government to identify, assess and rank the relative merits of blocks of land suggested by the proponents, to ensure the best possible benefits to the Territory. The advantage of such a process would be to enable a more rigorous and accountable decision to accept or reject a particular block of land proposed by the private sector.
- 3.46 The role of LDA was to provide advice on sites and the direct sale process. LDA had planned to release Block 7/21 as industrial blocks, and was keen to maintain the timely supply of industrial land in accordance with the Government's Land Release Program. Although it did not formally reject ActewAGL's application for that block, LDA then proposed Block 18/23 for ActewAGL's consideration. During discussions with Audit, various stakeholders advised that ActewAGL was clearly discouraged from pursuing its application for Block 7/21.
- 3.47 CMD did not have an active role in proposing sites to the consortium, but was responsible for briefing the Chief Minister and the Government on ActewAGL's position on the various sites, and coordinating comments and recommendations to the Government regarding a preferred site from the Government's perspective.

LAND TRANSFER PROCESS

Policy framework

- 3.48 Most land sales by the Land Development Agency use the auction process, to achieve transparency and receive the best commercial return, generally expected in a competitive sale.
- 3.49 Direct land sales are a method by which the Government can sell land without going through a normal competitive land sales process. Before offering land by direct sale the Government will assess, from a Whole-of-Government perspective, how a proposed direct sale will benefit the community and contribute to the achievement of government policy objectives.
- 3.50 Until 31 March 2008, the power to grant a lease of land by direct sale was provided by section 161(1) (d) of the *Land (Planning and Environment) Act 1991*, (the Land Act) and Disallowable Instrument (DI) 2003-202. The application for a direct land sale was made under this Act.
- 3.51 The provision of a direct land sale, (and by extension, the option for a direct land sale) requires that applicants meet certain criteria, in particular those specified by the Land Act. The criteria include, among other things, that the applicant has financial and non-financial capacity to develop the site, and that there is clear demonstration of positive economic and social impact to the Territory.
- 3.52 At the time of ActewAGL's application for Block 1671, the prime carriage of the land transfer function was with LDA. Policy advice was provided by CMD and Treasury. A direction to LDA from the Government would commence the administrative process for the direct sale.
- 3.53 The process for direct land sales was as follows:
- The proponent identifies a site and it is then considered by the cross-agency Land Release Coordination Committee (LRCC).
 - The proposal then goes to the LDA Board, which drafts a minute to the Minister.
 - The Minister takes this to Cabinet where the proposal gets assessed against the Disallowable Instrument 2003-202.
 - Provided the proposal is compliant, the proponent is requested to submit a DA though to ACTPLA.
 - Preparation for crown lease is then undertaken by LDA.
- 3.54 CMD advised that:
- ... reforms were made to the direct land sale process in mid-2008 that:
- streamline the assessment process
 - establish an inter-agency Assessment Panel to determine whether applicants meet the statutory eligibility requirements, which include demonstrating a viable business case, and

- provide formal advice to the Government on the outcome of this process

This process is led by CMD and has been appropriately resourced to ensure there is improved rigour at the ‘front end’ of the direct sale process.

Decision to use a Deed of Option

- 3.55 Following discussions and consultation with Government agencies, ActewAGL applied in August 2007 for a direct land sale for Block 1671. To mitigate the risk associated with the proposal, Government decided to offer an Option for a direct land sale. Audit notes that the provision by the Government of an option is not normal practice. To date, no options for direct sale have been granted, although there have been some project delivery agreements entered into to allow for complex commercial arrangements. An option was agreed to on this occasion as ActewAGL did not then have sufficient information to comply with conditions for a direct land sale application. However, that very lack of information, together with changes in legislation and to the scale of the project, Ministerial requirement for an EIS and a Health Impact Assessment, led to difficulties and delay in drafting the deed.
- 3.56 The Government set conditions in the latest draft of the Deed that must be met before the sale is completed, including the following:
- LDA to provide comments and concurrence to the Development Application;
 - a Development Application is approved for a data centre and power generation station;
 - evidence of contracts or other arrangements to carry out the development, if required by LDA;
 - undertaking of environmental assessments and planning studies as required by LDA; and
 - evidence that the criteria in Disallowable Instrument DI 2003-220, (if the Land Act applies) or in the *Planning and Development Act 2007* (if that Act applies) have been met.
- 3.57 These conditions reduce the key financial risks to the Territory associated with the direct sale of land.
- 3.58 Audit notes that the draft Deed, however, provides the seller (in this case LDA) the discretion to waive all the seller’s conditions precedent summarised above. As such, the requirement under the Deed may not be as definite and prescriptive as intended by the Government decision that supported the direct sale, consistent with the requirements of the DI 2003-202. The Government decision called for a business case that demonstrated the project’s viability and adequately demonstrates the costs and benefits to the Territory.
- 3.59 Both ActewAGL and LDA advised that it is generally a standard contractual term to allow the party that holds a discretion (i.e. LDA) the ability to waive that discretion.

- 3.60 The draft Deed of Option allows the Direct Sale to be decided either under the Land Act or the *Planning and Development Act 2007*. The two Acts have broadly similar requirements for direct land sales.
- 3.61 Audit also noted that under the draft Deed of Option, the price for the land will be the highest stated value of at least three current market valuations for the land, and that valuations are to be prepared on the basis that works will be constructed and the land will be used in accordance with the DA.
- 3.62 The valuation method specified in the Deed seems to depart from the accepted valuation principles used for determining the market value of the land, which should reflect the optimum usage of the site. Audit notes, for example, that the NSW Valuation of Land legislation requires the land to be valued in relation to its highest practical use. The permitted use of the land must be taken into account in determining the highest practical use. The Australian Valuation Office similarly adopts these valuation principles when valuing land for the Commonwealth and the ACT.
- 3.63 CMD advised that:
- ... it is entirely appropriate for the valuations to be prepared on the basis that the works to be constructed and the use of the land is in accordance with the DA and the Crown lease. Should the lessee, following the grant of the lease, seek to change the purpose for which the land can be used, then the Territory's betterment regime would apply.
- 3.64 Audit considers that for commercial developments, the valuation of land, which is based on the highest practical permissible use, would reduce the risks of the Territory subsidising the private sector through direct land sale.
- 3.65 A competitive sale mechanism, such as an auction, will normally realise a better price than that obtained under a direct sale. Therefore, a direct sale could only be justified if the Government and its agencies are satisfied the proposed project or development can deliver additional economic and social outcomes that would not be otherwise obtained from a competitive land sale.
- 3.66 In this case, ACTPLA commented on the direct sale proposal, expressing concerns about site selection given the lack of information provided in support of this site for the direct sale.
- 3.67 Similarly, the LDA Board expressed concern (as below) that the use of a direct land sale would detract from open competition:
- It is prudent to point out to the Government that an appropriate entity, probably the ACT Government Solicitor should provide confirmation that the proposal was not open to challenge from other energy providers who might take the position that the opportunity to purchase a site to build and provide alternative power sources should be open to competitive tender.
- 3.68 In response, CMD noted that there had been no other proposals to build a power station. In this respect, Audit considers that the need for additional security of electricity supply to the ACT should be first established through a proper study, then the Government could call for expressions of interest and proposals in an

open market, providing justification and transparency for any government assistance such as direct land sale. CMD advised that such a study has been done for the ACT.

- 3.69 Following the removal of the peaking power station from the proposal, the public benefit of increased security of electricity supply no longer applies. Accordingly, the proposal may not warrant the same special consideration by the Government, which was based on the original proposal. After the proposal was revised to a smaller scale, neither CMD nor LDA re-assessed the merit of a direct land sale to the consortium.

Fee paid for Deed of Option

- 3.70 For direct land sales to commercial entities in the ACT, proponents were usually required to pay non-refundable deposits, typically 10 percent of the land value.
- 3.71 On 22 May 2007, ActewAGL wrote to the Chief Minister seeking an immediate lease over Block 18/23, requested that the offer of lease remain open for a period of 12 months, and offered to pay a non-refundable fee, to be determined by LDA, for the exclusive right to take up the offer of the lease any time within this period. ActewAGL acknowledged that LDA may also decide to charge ActewAGL a refundable fee up to 10 percent of the land value.
- 3.72 On 19 July 2007, the Chief Minister advised ActewAGL that the Government would accept ActewAGL's offer to pay LDA a non-refundable fee for the exclusive right to take up the offer of a lease over a suitable site and advised that a suitable fee would be determined once the specific site was selected.
- 3.73 Various internal documents discussed ActewAGL's offer of a deposit, and suggested that a suitable non-refundable deposit of \$1 million would reflect normal commercial terms. However, in agreeing to an option over the selected site (Block 1671), the Government decided that ActewAGL 'payment for this option was \$40 000.
- 3.74 In supporting the option fee of \$40 000, CMD advised that:
- ... the acceptance of a deposit indicates agreement to by the two parties to conclude the sale...Government agencies thought this was premature and should not take place until all the Conditions Precedent had been met by the proponents.
- 3.75 The Deed of Option took a considerable amount of time to prepare. The \$40 000 fee paid is unlikely to fully cover costs including legal fees and the salaries of relevant officers involved in the preparation of the Deed of Option. If ActewAGL does not go ahead with the CTC proposal, the Government will not recover costs incurred in relation to this proposal.
- 3.76 While noting the Option offered to ActewAGL was different from the usual direct land sale, Audit considered that the fee charged by the Government was very low, and did not find the reasons provided persuasive. A more substantial deposit to secure the option over the land for 12 months would be reasonable and would not prevent the Government to set appropriate conditions nor prejudice any final valuation of the land.

3.77 Audit considers that to set aside a large block of land for ActewAGL, even with attached conditions, confers commercial benefits; hence ActewAGL should be required to pay an appropriate deposit, in addition to the administrative costs of preparing the deed.

CONCLUSION

3.78 The Government responded promptly to ActewAGL's request for the provision of security over land to enable it to market the proposal to prospective investors and customers. The offer of an option over the land was subject to a number of conditions before the land could be transferred. These conditions reduced the financial risks to the Territory.

3.79 There were, however, several shortcomings in the site selection and transfer processes. These included:

- ambiguity of permissible uses of broadacre land;
- Government site assessment processes, as currently in place, did not give assurance that the public interest was fully considered; and
- lack of reconsideration of the merits of direct land sale following the removal of the peaking power station.

3.80 It has been 12 months since the Government agreed to support the project with an option for a direct land sale. Although various drafts of the Deed of Option have been prepared, the document has not yet been executed. The Government responded to the urgency expressed by the consortium and attempted to expedite the provision of land, but the delays in completing the option may have negated the benefits of this approach.

Recommendation 3

Government should not depart from the established and sound procedures for direct land sales unless there are compelling reasons. Any case to support departure from these procedures should be clearly documented.

4. COMMUNICATION AND CONSULTATION

INTRODUCTION

- 4.1 This chapter discusses communication and consultation with the community and other parties that occurred during the proposal.

KEY FINDINGS

Communication and consultation

- There is currently no legal requirement for the proponents or government agencies to consult with the community prior to the submission of a DA. Audit considers the limited legal requirement for consultation inadequate for significant projects such as the Canberra Technology City proposal.
- Notwithstanding its involvement through facilitating the project and the Government decision to offer an Option for a direct land sale, the Chief Minister's Department did not engage with the community on the site selection decision.
- Government agencies relied primarily on ActewAGL, which acted on behalf of the consortium, for any pre-Development Application consultation, and this did not properly occur..
- ActewAGL did not have a formal policy on community consultation (other than to comply with Development Application requirements).
- Key stakeholders outside the Government were not consulted about the Hume Industrial Planning Study (a separate study covering potential land uses in the area that was considered for the Canberra Technology City proposal).
- The Hume Industrial Planning Study was made available to a planning adviser to the proponents but was not made available to additional interested parties.
- Information on the proposed site was first provided to the community in October 2007 through media releases. The location of the block was accurately described, but the media releases were inaccurate in that they referred to land in Hume, when it was in the District of Tuggeranong. Audit was advised that the proximity of the project to residences was not noticed by Tuggeranong residents because of the reference to Hume.
- ActewAGL offered briefings to all Members of the Legislative Assembly over the period of October to November 2007 and again in February to March 2008. Only a small number of Members of the Legislative Assembly accepted the offer of a briefing on the proposed development. Briefings were not offered to the wider community at this time.
- Following the release of the Development Application and its revision, the proponents attended a number of public sessions and provided additional information at these sessions and through other means such as its website.
- Several stakeholders considered the overall community consultation process inadequate in its timing, content and duration, and raised issues with the completeness and reliability of information provided.

- Government agencies did not always exercise care to ensure arm's length dealings with ActewAGL, and its consultants.

COMMUNITY CONSULTATION

- 4.2 Two phases occurred in the community consultation process of this proposal. The initial phase occurred around October 2007, when the location proposed for the Canberra Technology City proposal (CTC proposal) was first announced in the media. The second phase involved consultation on the Development Application (DA), which commenced in April 2008. The consultation conducted in relation to the DA was extended as the original application was revised and resubmitted.
- 4.3 A number of community representatives considered the overall consultation process to be inadequate in its timing, content and duration, and that it did not accord with the Whole-of-Government ACT Community Engagement Manual.
- 4.4 Key concerns raised by community representatives included:
- lack of proper signage: the sign erected to notify residents about the CTC development was too small and meant many residents were not aware of the development;
 - health and environmental impacts: the close proximity of the power station potentially put residents' health at risk. No full environmental assessment was requested in the initial stages of the project and no independent review was undertaken of any health-related studies subsequently conducted;
 - land zoning: the project effectively entailed a change of land use from 'broadacre' to 'industrial', without the detailed community consultation required under the relevant legislation;
 - extent of consultation: the legislative requirement to notify adjoining properties was narrowly interpreted, and should have encompassed nearby properties in Macarthur;
 - limited information: information was largely obtained from local media and the information provided by the proponents was not detailed enough; and
 - transparency: the site selection process was not transparent, and given the limited information available, access to additional information was sought under Freedom of Information legislation.
- 4.5 Although some of the issues raised are addressed throughout this report, other issues such as environmental and health concerns are beyond the scope of this audit, and are part of the DA process.

Community consultation policy

- 4.6 Audit noted that there is no specific legislative requirement for community consultation at an early stage of planning, unless there is a need to change the Territory Plan.
- 4.7 The Government has prepared an ACT Government Community Engagement Service Charter. The charter sets out the Government's commitment to engaging

the Canberra community in the development and implementation of government policies, programs, projects, public works and services.

- 4.8 In addition, in 2005, the Department of Disability, Housing and Community Services (DHCS) issued the Whole-of-Government ACT Community Engagement Manual. The manual provides Government employees with practical information on how to effectively engage the community in government decision making processes. It does not seek to override current statutory obligations.
- 4.9 The manual notes that community engagement is usually initiated by Government but is essentially a two way flow of information. It calls for:
- those who conduct the engagement to have no financial vested interest in the outcome, and to include opportunities during the course of the process for people to identify any conflict they may have;
 - the absolute minimum for any community engagement activity to be six weeks. For large projects, policies and strategies, twelve weeks is recommended; and
 - avoidance of engagement activities taken at inappropriate times (e.g. school holidays or over the Christmas and New Year period) or within extremely short timeframes (e.g. less than six weeks).
- 4.10 In July 2008, the Chief Minister's Department (CMD) released a discussion paper on 'citizen-centred governance'. This paper provides an overall framework in which community information, consultation and engagement is discussed. Under this framework, the Community Engagement Manual 2005 continues as a relevant reference document.
- 4.11 The ACT Planning and Land Authority (ACTPLA) encourages proponents of significant developments to consult with the community through relevant Community Councils before lodging a DA. The Community Councils were formed to represent the interests of local residents within the Districts of Canberra.
- 4.12 ActewAGL had no formal policy on community consultation. However, ActewAGL advised that it was aware of the formal planning process which required extensive community consultation and that consideration of the environmental and social impacts were covered by appropriate zoning.

Consultation under planning legislation

- 4.13 The *Land (Planning and Environment) Act 1991* (the Land Act), though repealed on 31 March 2008 and replaced by the *Planning and Development Act 2007*, applies to the DA submitted for this proposal.
- 4.14 The consultation period is constrained by the timeframe required to make decisions on a DA. Interested parties are given at least 15 working days to comment, but the overall DA is determined within 30 days (if there are no objections) or 45 days (if there are objections). This overall period is subject to

extension if there are intervening events, for example, the need to prepare an Environmental Impact Statement.

Consultation on the Hume Industrial Planning Study

- 4.15 Consultation during the preparation of the Hume Industrial Planning Study was limited to Government agencies. No wider consultation was undertaken with the community, either residents or business. Similarly, Audit was not aware of any community consultation regarding LDA's plans for subdivision of parts of Hume, in particular, the area around Block 7/21 Hume, noting that this block is almost as close to the suburb of Gilmore as Block 1671 is to the suburb of Macarthur.
- 4.16 Studies such as the Hume Industrial Planning Study, and other studies such as the Southern Broadacre Study and the Eastern Broadacre Study, can lead to proposed variations to the Territory Plan. When such variations are formally proposed, they generate public consultation provisions. With a view to achieving better public understanding of proposals and hence better planning outcomes, ACTPLA could consider consultation with relevant parties outside Government during these major studies.

Consultation on initial site selection

- 4.17 Information on the proposed site selected for the CTC proposal was first provided to the community in October 2007 through media releases by ActewAGL and the Chief Minister. The existence of the overall project, without any site being specified, was made public in May 2007. No other community engagement activities were conducted at this time.
- 4.18 The 2007 media releases were inaccurate in that they referred to land in Hume, when it was in the district of Tuggeranong. The location of the block was, however, accurately described. Audit notes that the district of Tuggeranong overlaps the suburb of Hume.
- 4.19 Although media releases were available, the reference to Hume meant they went largely unnoticed by Tuggeranong residents.
- 4.20 ACTPLA encourages (see paragraph 4.11) proponents of major projects to consult Community Councils before submitting development applications. The Tuggeranong Community Council informed Audit they had no record of such prior consultation. Early consultation may have helped to avoid or reduce later disputation.
- 4.21 Audit does not consider media releases and articles in the newspaper alone to be sufficient methods of community consultation at this stage. Community consultation should include a two way flow of information, including meetings, briefings and public forums.
- 4.22 CMD stated that community consultation is the responsibility of the proponents. Audit acknowledges that it was in the interest of the consortium to ensure proper community consultation, especially when it had sought to minimise delays in obtaining the land and the approval of its DA.

- 4.23 Nevertheless, it is of concern to Audit that in this case, CMD (as a leading agency in the facilitation of this project) did not seek to be involved to ensure a more effective consultation process in line with government policies and guidelines. The Government's involvement in the facilitation process through CMD should have highlighted the potential community impact of this major proposal.
- 4.24 It appeared that the CTC consortium underestimated community concerns, and did not consider the issue in its planning and development of the proposal. In an ActewAGL board paper regarding the project, the risk of community objections was not considered. An accompanying consultant's report did consider community comment, but only in the context of the DA process.
- 4.25 ActewAGL considered that they exceeded the requirements of the planning legislation and advised that they had conducted the following consultation activities:
- media releases about various aspects of the proposed development commencing from May 2007;
 - ActewAGL offered briefings to all MLAs over the period of October to November 2007 and again in February and March 2008. A number of MLAs accepted the offer of briefings on the proposed development;
 - public sessions were conducted by the proponents on 17 May 2008 and 15 June 2008. Substantial material was made available to the public at these meetings, including site plans, noise and emission information, pictures and/or 3D modelling of visual impact of development and information regarding the functions of a data centre;
 - attendance at a meeting of the Tuggeranong Community Council (on 28 April 2008);
 - creation of a website relevant to the development;
 - media advertising regarding the development; and
 - co-operation in good faith with a number of enquiries relating to the development, including the health impact assessment and the community sessions that assessment entailed.
- 4.26 ActewAGL considered that it did not need to have formal policies and procedures to conduct public consultation.
- 4.27 CMD provided the following comments on the responsibilities of Government agencies with respect to community consultation issues:
- ... were there to be a generalised requirement for community consultation by Government agencies to take place before a DA (or Environmental Impact Statement) could be lodged, the following issues may arise:
- greater uncertainty would be introduced to the planning and assessment process;
 - this may lead to the ACT being perceived as a less attractive place to invest;
 - the public may mistakenly believe the Government has definitely committed to the project; and

- the answers to many matters of detail raised by the public during the consultation process may not be known so early in the process, leading to unnecessary public angst.
- 4.28 Audit considered that it is not satisfactory for the Government to rely solely on the proponent to conduct community consultation prior to the lodgement of the DA. Although the risks of inadequate community consultation for any commercial proposal will be primarily borne by the private sector, any negative outcomes can adversely affect the Government and the Territory through lost business opportunities, damage to its on-going relationship with industry, and a lack of community confidence in the Government's ability to protect the public interest.
- 4.29 Audit considers that better practice would require relevant government agencies to pro-actively consult the community as early as possible regarding significant projects within the Territory. Indeed, the Government has a responsibility to provide accessible, complete (subject to confidentiality requirements) and reliable information to residents who may be affected by the proposal. It is clear that the scale of the CTC original proposal could have had a considerable impact on the community and environment and should have been considered high risk by the Government.
- 4.30 The Government has agreed to the direct land sale of part of Block 1622 in Belconnen for back-up data centres. Audit notes that a DA has not yet been submitted for the Belconnen site. Given the reaction from the community in relation to the Tuggeranong site, Audit considers that early consultation before submission of the DA would be advisable.

Consultation on the Development Application

- 4.31 ActewAGL offered briefings to Members of the Legislative Assembly (MLAs) over the period of October to November 2007 and again from February 2008 to March 2008, prior to its lodgement of the DA. Only a small number of MLAs accepted the offer of a briefing. Audit noted that similar briefings were not offered to the community.
- 4.32 The Chief Planning Executive of ACTPLA commented that in the case of the CTC proposal, it was up to ACTPLA to notify the public, but it was the responsibility of the project's proponents to consult more widely with the community.
- 4.33 The DA and Preliminary Assessment (PA) were lodged by the proponents on 26 February, and were accepted by ACTPLA on 26 March 2008.
- 4.34 Submitting a DA on this date meant that the Land Act would apply to the processing of the PA and DA. The Land Act was not repealed until 31 March 2008.
- 4.35 As required under s.229 of the Land Act, ACTPLA must:
- invite interested parties to provide written comments regarding the DA to the Authority;

- publish a notice of the DA in a daily newspaper; and
 - notify the adjoining properties of the DA.
- 4.36 Public notification included a sign at the site, a newspaper advertisement, letters to immediately adjoining neighbours and a Notifiable Instrument on the ACT legislation register.
- 4.37 ACTPLA informed LDA (as the property owner – ActewAGL did not hold the lease) that neighbours had been informed of the DA. A 15 day notification period commenced on 14 April 2008 - during a holiday period. Some community representatives expressed concerns that the consultation may have been deliberately delayed to fall during this holiday. There was no evidence to support this view, and Audit noted that the period of some two to three weeks from the receipt of the DA by ACTPLA to public notification is typical.
- 4.38 ACTPLA interpreted ‘immediately adjoining neighbours’ as the holders of the rural blocks adjacent to Block 1671, and did not notify residents of Macarthur. In doing so, ACTPLA complied with legislative requirements; however, Audit considers that a broader reading of the legislation to encompass nearby residents would have been a more sensible approach in this particular case, especially with the peaking power station being part of the proposal.
- 4.39 The original closing date for public comment was 15 business days later on 5 May 2008. Due to the extensive public interest in the CTC proposal, the Planning Minister extended the notification period for another 15 business days to 27 May 2008, taking the consultation period to six weeks.
- 4.40 ACTPLA sent a notification letter to the Tuggeranong Community Council on 11 April 2008 advising of the DA. However, as noted earlier, neither the proponents nor the Government engaged the Tuggeranong Community Council before the DA was lodged.
- 4.41 On 8 May 2008, two petitions against the proposed development at Block 1671 were tabled in the Legislative Assembly with a total of 1525 names.
- 4.42 On 17 May 2008, ActewAGL and Technical Real Estate (TRE) held a community briefing at Tuggeranong Vikings Club. Some attendees considered the session of little value as there was too much debate for effective consultation.
- 4.43 The extent of negative community feedback was recognised by ActewAGL who then announced publicly that the DA was revised to address community concerns. The peaking component of the proposed power station (100MW) was removed, and the gas-fired co-generator facility was reduced from 110MW to 28MW to only supply power to the data centres. ActewAGL also stated that it was financial considerations that led to its proposal for a reduction in scale.
- 4.44 On 27 May 2008, the last day of the extended notification period, the proponent requested an alteration to the application (down-scaling the project). The notification period was then reopened from 11 June 2008 and closed on 1 July.

This was for the minimum period of 15 business days as required by the legislation.

4.45 ActewAGL commented that:

- existing planning law requires the proponents to consult with the community regarding the development once a development application has been lodged. There is no requirement for either the proponents or government agencies to commence a consultative process prior to the submission of a development application;
- the consultation process followed by government agencies was in accordance with the existing planning law;
- the consultation process followed by the proponents exceeded the requirements of the existing planning law; and
- as a commercial entity, ActewAGL is not required to apply the Whole-of-Government ACT Community Engagement Manual.

4.46 Audit concludes that the community consultation that occurred as a result of the DA process to date complied with the legal requirements of the Land Act and the minimum requirements of the government community engagement policy. However, Government agencies should consider occasions where community consultation should extend beyond the limited requirements of legislation, to allow for broader coverage and longer time-frames for community feedback. Such occasions could include Development Applications that potentially have a significant social and environmental impact on the community.

COMMUNICATION WITH THE PRIVATE SECTOR

4.47 Audit observed from a number of e-mail and other communications that some government agencies appeared to assume a relationship with ActewAGL similar to that with a government agency.

4.48 This approach was not appropriate for government dealings at arm's length with ActewAGL as part of the private sector consortium, and could expose the agencies to the risk of inadvertently disseminating relevant information that is not normally available to non-government entities. Similarly, government agencies on occasions involved ActewAGL as one of the government agencies in coordinating comments and inputs into government submissions.

4.49 A key document available to assist in the identification of potential sites for the proposal was the Hume Industrial Planning Study, commissioned by ACTPLA. LDA provided a copy of this report to a consultant of the consortium.

4.50 The status of the Hume Industrial Planning Study was not clear. ACTPLA stated that the study was never formally released, but it was not considered a confidential document, and was therefore available to those who requested it.

4.51 Residents indicated that the study was not available to the community. A copy was made available to residents through a Freedom of Information process.

- 4.52 Audit notes that the status of Government documents should be more clearly defined to ensure a consistent approach to the release of documents. Agencies should provide adequate protection to information, including major consultancy work, held by government agencies, by:
- clearly identifying whether consultancy reports can be released or should be kept secure;
 - if it is releasable, the report or advice on how to inspect it should be posted on the agency's website, to allow equitable access; and
 - if it is to be secure, the agency should take measures to prevent that report from being disclosed outside Government.
- 4.53 An ActewAGL report for the CTC consortium included an estimated value by LDA for Block 1671 Hume. This information was based on an LDA valuation, which LDA regarded as confidential and should not have been made available to external parties. ActewAGL advised that it was not aware that the value provided was confidential.
- 4.54 In September 2007, ActewAGL also sought to meet with CMD, LDA and LDA valuers to discuss 'appropriate land valuation methodologies', stating that the project viability was sensitive to land values. To protect the integrity of independent land valuations, it would not be appropriate for the consortium to be involved in this process. On this occasion, LDA did not agree to the ActewAGL request.
- 4.55 ActewAGL commented that:
- ActewAGL considers that its dealings with government agencies were conducted professionally and at arm's length.
- ActewAGL engaged with relevant agencies as it progressed the proposed CTC development through the major projects facilitation group within the CMD, the land transaction through the LDA and undertook the appropriate planning approval process through ACTPLA.
- The proposed CTC development is clearly a commercial (as opposed to government) operation. ActewAGL considers that in progressing the CTC project it did not access confidential information or material that would not have been available to commercial developers generally.
- Specifically, ActewAGL notes:
- it is not responsible for the content or accuracy of e-mails sent within government agencies;
 - the Hume Industrial Planning Study was not made available to the proponents; and
 - ActewAGL was not in receipt of a confidential LDA land valuation.
- 4.56 Audit considers that Government agencies should take more care in dealing with ActewAGL, its partners and its consultants, to ensure the probity of government dealings with all members in the private sector.

Recommendation 4

Agencies should ensure their community engagement practices reflect the principles and better practices inherent in the ACT Government Community Engagement Service Charter and Community Engagement Manual. In particular, agencies that are involved in facilitating strategic projects should assess the need for early and appropriate community consultation.

Recommendation 5

Agencies should ensure a high level of probity in dealing with the Territory owned businesses and their commercial partners such as ActewAGL by:

- clearly identifying the status and the nature of business dealings, i.e. whether they are of a commercial or of a government nature;
- adopting an arm's length approach to all business dealings, which recognises that such bodies are generally established to operate in a commercial manner; and
- communicating clear processes to relevant agencies and staff.

CONCLUSION

- 4.57 Although agencies and proponents were compliant with consultation as required under the planning legislation, there is much scope for improvement in the overall community consultation process, particularly for significant projects.
- 4.58 Audit considers that it was not satisfactory for the Government to rely primarily on the proponent to conduct community consultation, if any, prior to the lodgement of a DA. This is particularly so for this major project with potentially significant impacts on the community or the environment. The Government has a responsibility to ensure that complete and reliable information is provided at the right forums, accessible to people who may be affected by the proposal.
- 4.59 CMD did not engage with the community at an early stage, and did not follow the better practices inherent in the ACT Government Community Engagement Service Charter and Community Engagement Manual. Earlier and wider consultation by the proponents and by Government agencies prior to the DA process would increase the level of public confidence in Government consultation policy.

APPENDIX A TIME LINE

Date	Events
March 2002	The Preliminary Assessment by ActewAGL was finalised for Block 7, Section 21, Hume (Block 7/21), for a gas power station only (without a data centre).
2 May 2007	ActewAGL approached the Land Development Agency (LDA) seeking 21ha of land in Hume (Block 7/21), and also a site in Belconnen (Part Block 1360)
9 May 2007	The CEO of ActewAGL wrote to the Chief Minister outlining his proposal about the gas-fired power station and data centre on unspecified land. He also asked the Chief Minister to facilitate a direct sale.
11 May 2007	ActewAGL wrote to LDA and confirmed that the recommended alternative site, Block 18, Section 23 (Block 18/23), would be suitable for the integrated power station and data centre at Hume.
22 May 2007	The CEO of ActewAGL wrote to the Chief Minister asking him to facilitate the direct sale of land for Block 18/23.
23 May 2007	The Chief Minister released a media release ' <i>Gas-fired power station could help secure supply</i> '. This stated that the Chief Minister asked officials some weeks ago if they could identify land at Hume.
18-26 June 2007	LDA received valuations for Block 18/23 and for part Block 1360 Belconnen.
6 July 2007	LDA was informed that ActewAGL was interested in Block 1610, Tuggeranong.
8 July 2007	ActewAGL requested the support of the Chief Minister in asking LDA to review the industrial release program as their first choice was still Block 7/21.
19 July 2007	After receiving advice from CMD, the Chief Minister sent two letters to ActewAGL. The first letter gave in-principle agreement to reserve a suitable site in Hume at market value for 12 months. The second letter advised that ActewAGL and Government representatives would examine three possible sites and provide advice to the Chief Minister on their merits.
End of July 2007	The handling of ActewAGL's proposal within CMD transferred from the policy area to the Business and Projects division.
2 August 2007	CMD informed the Chief Minister that ActewAGL had identified part D of Block 1610 on broadacre land as the most suitable, given the heritage constraints of Hume industrial area.
6 August 2007	A letter from ActewAGL to LDA ' <i>stated that a section of land within Block 1610, District of Tuggeranong has been identified as the preferred site</i> '.
8 August 2007	ActewAGL formally lodged an application for the direct sale of part Block 1610 District of Tuggeranong. The Chief Minister was informed that Territory Officials preferred this option as it retained the existing and proposed industrial land in Hume.
15 August 2007	The Chief Minister agreed to prepare a Cabinet Submission seeking agreement to the direct sale of part Block 1610, District Tuggeranong.

Time line

17 August 2007	LDA seeks valuations on part Block 1610 Tuggeranong.
End August 2007	Agencies provided advice on issues affecting Block 1610 Tuggeranong.
4 September 2007	ACTPLA provided advice that data centres are seen as ' <i>communication facilities</i> ', which is a permitted use.
September 2007	Hume Industrial Planning Study completed.
10&14 September 2007	CMD and LDA learnt for the first time that there was a Department of Housing and Community Services respite facility on part Block 1610 Tuggeranong.
1 and 2 October 2007	ActewAGL and TRE discussed with the media about the data centre and gas-fired power station proposal at Hume.
10 October 2007	The Government agreed to offer an option for the direct sale of land for part Block 1610 Tuggeranong.
15 October 2007	The Government announced the offer of a direct sale of a block of land in Hume for the CTC proposal.
End October 2007	ActewAGL applied to LDA for the Direct sale of Block 1360 Belconnen.
3 December 2007	CMD, TAMS, Treasury and LDA meet to discuss a site for the cemetery and crematorium, which was originally proposed for Block 1610 Tuggeranong.
10 December 2007	The Chief Minister agreed to circulate a Cabinet Submission on the option for ActewAGL to purchase by direct sale part Block 1622 Belconnen.
17 December 2007	The Government agreed to an option for the direct sale of part Block 1622 Belconnen.
1 February 2008	LDA wrote to ActewAGL and advised it was in a position to confirm in-principle agreement to the direct sale of land.
26 March 2008	The original Preliminary Assessment (PA) and Development Application (DA) were formally accepted by ACTPLA.
11 April 2008	A CTC media release said ACTPLA would shortly announce the assessment process and issue public notice about the development.
12 April 2008	The public was notified in accordance with the <i>Land (Planning and Environment) Act 1991</i> . Notification included a sign, newspaper advertisement, letters to immediately adjoining neighbours and a Notifiable Instrument on the ACT Legislation Register.
28 April 2008	ActewAGL held a public briefing for the Tuggeranong Community Council – there were 300 attendees.
5 May 2008	Original closing date for notification period.
8 May 2008	Petition with over 1500 names tabled in the Legislative Assembly, protesting against the proposed development.
17 May 2008	Community briefing held by ActewAGL and Technical Real Estate at Tuggeranong Vikings club 10am to 3pm.
27 May 2008	Extension of notification period.

Time line

27 May 2008	Proponents requested an alteration to reduce the scale of the development from 210MW to 28MW. This meant the DA must be renotified under the <i>Land (Planning and Environment) Act 1991</i> .
7,9,11 June 2008	7 June 2008 - advertisement in Canberra Times. 9 June 2008 - sign placed on property. 11 June 2008 - formal period for comments begins.
15 June 2008	The consortium held an information day to showcase the revised plans.
17 June 2008	ACT Health Minister Katy Gallagher announced that an independent health committee will be convened to examine community concerns about potential health impacts of the CTC development.
28 June 2008	It was announced that land at Hume rejected by ActewAGL because the site could hold Aboriginal artefacts is now being sold by the Government for an industrial sub division.
1 July 2008	Period for comments closed. The Community group (CPR) lodges 140 page submission.
24 July 2008	The Public Accounts Committee requested the Auditor-General to examine the proposed plan to build a gas-fired power station and data centre at Tuggeranong.
2 August 2008	The Auditor General agreed to conduct audit on power station site.

APPENDIX B AUDIT CRITERIA, APPROACH AND METHODOLOGY

AUDIT CRITERIA

Project initiation and facilitation

- Policy regarding facilitation of major projects is clearly established and promulgated to relevant parties.
- Roles of various agencies in project facilitation are well defined and understood.
- Project facilitation is conducted according to policy.
- Project facilitation decisions are based on sound information and analysis.

Site selection and transfer

- Methodology for considering and analysing sites for major projects is clear and logical.
- The site selection process for the gas-fired power station adhered to the relevant policies and methodologies.
- Coordination between agencies in developing and analysing site options was effective.
- Recommendations for the site selection decision contained complete information that was clearly expressed and communicated to the decision-maker.
- The decision-maker stated the reasons for the decision.
- Any revision to an earlier decision or decision-in-principle was promptly undertaken and based on new facts.
- Changes to project requirements are taken into account in the site selection process.
- Policy regarding choosing between land grants, sales and auctions is clearly established and promulgated to relevant parties.
- The process for recommending the type of land transfer is consistent with policy.
- Coordination between agencies in reaching the recommendation on land transfer was effective.
- Reasons for the recommendation on the type of land transfer were clear, logical and the information presented was complete.
- There was sound justification for the price set for the land.
- The land grant was implemented efficiently and with appropriate conditions attached.

Community consultation

- Policies concerning community consultation with respect to major projects are clearly established and promulgated to relevant parties.
- Required processes for community consultation have been established and are based on the policy.
- Community consultation activities including the organisation of forums followed the established policies and processes.
- Release of information to the community was accurate, timely and, to the extent allowed by confidentiality, complete.
- Coordination between agencies with respect to community consultation was effective.
- Community consultation processes were effective and timely from the point of view of the majority of community members affected.
- Views obtained through community consultation were formally considered and incorporated into the decision-making process

AUDIT APPROACH AND METHODOLOGY

The audit approach and methodology consisted of:

- Audit work was conducted within the following government agencies:
 - Chief Minister’s Department;
 - Treasury;
 - Land Development Agency; and
 - ACT Planning and Land Authority;In addition, Audit examined relevant documents in
 - ActewAGL and
 - ACTEW
- The work conducted in audited agencies included consultation, examination of documents and follow-up discussions and investigation to resolve any uncertainties.
- Consulting and seeking advice and information from representatives of the community group ‘Canberrans for Power Station Relocation’, the companies, Technical Real Estate Pty Ltd and CB Richard Ellis Pty Ltd, and other interested parties.
- Drafting of a proposed report for formal comment by the audited bodies.

AUDIT REPORTS

Reports Published in 2008-09

Report No. 7 / 2008	Proposal for a gas-fired power station and data centre – site selection process
Report No. 6 / 2008	Annual Report 2007-08
Report No. 5 / 2008	Administration of the <i>Freedom of Information Act 1989</i>
Report No. 4 / 2008	Maintenance of Public Housing

Reports Published in 2007-08

Report No. 3 / 2008	Records Management in ACT Government Agencies
Report No. 2 / 2008	Management of Calvary Hospital Agreements
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Report No. 7 / 2007	The Aged Care Assessment Program and the Home and Community Care Program
Report No. 6 / 2007	Annual Report 2006-07
Report No. 5 / 2007	The FireLink Project

Reports Published in 2006-07

Report No. 4 / 2007	Regulation of ACT Liquor Licences
Report No. 3 / 2007	Collection of Fees and Fines
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Report No. 1 / 2007	Credit Card Use, Hospitality and Sponsorship
Report No. 9 / 2006	Sale of Block 8, Section 48, Fyshwick
Report No. 8 / 2006	2005-06 Financial Audits
Report No. 7 / 2006	Annual Report 2005-06
Report No. 6 / 2006	Vocational Education and Training
Report No. 5 / 2006	Rhodium Asset Solutions Limited

Reports Published in 2005-06

Report No. 4 / 2006	Road Safety
Report No. 3 / 2006	Management of Trust Moneys and Other Non-Public Moneys
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Report No. 7 / 2005	2004-05 Financial Audits
Report No. 6 / 2005	Government Procurement
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