

MEDIA RELEASE**30 November 2016**

Commissioner for International Engagement – position creation and appointment process

ACT Auditor-General, Dr Maxine Cooper, today presented a review report, on **Commissioner for International Engagement – position creation and appointment process**, to the Speaker for tabling in the ACT Legislative Assembly.

Dr Cooper says ‘The creation of the position of Commissioner for International Engagement and appointment of the Commissioner was an Executive Appointment, largely at the discretion of the Chief Minister. While this was consistent with general powers attributed to the Executive under the *Australian Capital Territory (Self-government) Act 1988* there are no prescribed processes or procedures for such appointments.’

‘While some aspects of the process are well documented there is little documentation to indicate how potential candidates were to be identified, what skills, experience or qualifications were desirable, or how candidates were to be assessed. An open selection process was not used and the now Commissioner was approached as the sole candidate’, said Dr Cooper.

In the only recommendation made, Dr Cooper calls on the ACT Government to develop guidelines for significant appointments that, amongst other things, provide general principles for appointments; outline considerations for selecting the method of appointment to be applied, e.g. direct appointment or consideration of a field of qualified candidates; specify reporting obligations for the appointee e.g. are they to publicly report on their work (e.g. in an annual report) and outline requirements for documentation (full documentation is strongly recommended).

While the review provides a more limited assurance than a performance audit it does promote public accountability in the public administration of the Territory.

The Summary of the **Commissioner for International Engagement – position creation and appointment process**, with the conclusion and a recommendation is attached to this media release.

Copies of the **Commissioner for International Engagement – position creation and appointment process: Report No. 9/2016** are available from the ACT Audit Office’s website, www.audit.act.gov.au. If you need assistance accessing the report please phone 6207 0833 or go to 11 Moore Street, Canberra City.

SUMMARY CHAPTER EXTRACT

Overall conclusion

Over many years, ACT governments have developed strategies to develop and broaden the ACT economy and foster business growth. International engagement has been recognised as an important feature of many of the strategies, such as *Growth, Diversification and Jobs* (2012), *The ACT in the Asian Century* (2013), and *Confident & Business Ready* (2015). In this sense, the creation of the position of Commissioner for International Engagement and the Office of International Engagement is in response to an identified need, although no specific business case (or similar) had been prepared to comprehensively present the argument for taking this course of action.

The first documented discussion regarding the creation of the position of Commissioner for International Engagement was on 4 July 2016, and eight days later (on 12 July 2016) the Chief Minister publically announced that the position had been created. This timing was influenced by the Chief Minister's desire to announce the new role at the same time that a new sister city agreement with Wellington, New Zealand was signed.

One day later (on 13 July 2016), government officials recommended the appointment of the now Commissioner as the inaugural Commissioner. The Brief to the Chief Minister made clear there had been extensive consultation with the Chief Minister's office regarding the creation of the Office of International Engagement and the position of Commissioner. The Chief Minister announced the appointment on 15 July 2016 and it was endorsed by Cabinet on 18 July 2016. An Instrument of Appointment was duly made on 29 July 2016, and the now Commissioner commenced in the role on 1 August 2016.

There is a reasonable expectation that significant appointments such as the Commissioner, should adopt a process that is transparent, without bias and fully documented.

The creation of the position of Commissioner for International Engagement and the Office of International Engagement and the selection and appointment of the now Commissioner as Commissioner for International Engagement were consistent with general powers attributed to the Executive under the *Australian Capital Territory (Self-government) Act 1988* (C'th) (the Self Government Act). The appointment was an Executive Appointment, largely at the discretion of the Chief Minister. There are no prescribed processes or procedures for such appointments. The process used was broadly consistent with that used for appointments to ACT Government boards and committees.

In this instance, although some aspects of the process are well documented (such as the formal appointment and the employment arrangements applicable to the Commissioner), there is little documentation to indicate how potential candidates were to be identified, what skills, experience

or qualifications were desirable, or how candidates were to be assessed. An open selection process was not used and the now Commissioner was approached as the sole candidate.

This is not to suggest, in any way, that the now Commissioner is not a suitable appointee.

The general paucity of documentation, however, lacks transparency.

Chapter conclusions

CREATION OF THE POSITION OF COMMISSIONER FOR INTERNATIONAL ENGAGEMENT

The creation of the position of Commissioner for International Engagement and the Office of International Engagement was broadly consistent with sound public administration, in that the position of Commissioner and the Office were created under an appropriate legislative authority in response to an identified need.

However, better practice would have been to prepare a business case (or similar) to comprehensively present arguments for the position of Commissioner and the Office, and which would outline the background, expected benefits and options considered (with reasons for rejecting or carrying forward each option).

ACCOUNTABILITY AND REPORTING ARRANGEMENTS

Accountability and reporting arrangements for the Commissioner for International Engagement and the Office of International Engagement are suitable in the circumstances.

However, better practice would be to clarify the requirements for annual reporting, particularly whether any annual report from the Commissioner is to follow directions, either whole or in-part, issued under the *Annual Reports (Government Agencies) Act 2004*, even if not required by this legislation.

APPOINTMENT PROCESS FOR THE NOW COMMISSIONER

The selection and appointment of the now Commissioner for International Engagement was consistent with general powers attributed to the Executive under the Self Government Act.

The appointment was an Executive Appointment, and there are no prescribed process or procedures for such appointments. To a large degree, the appointment was at the discretion of the Chief Minister, and in the words of the Solicitor-General 'it is open to the Executive to create the role and make the appointment in the manner in which it occurred'.

Significant appointments are often a matter of considerable public interest. For this reason,

better practice would be to ensure that whatever process was adopted was transparent, without bias and fully documented. The community expects that appointees will not only be well qualified, but that the process used will be fair and appropriate.

In this instance, while some aspects of the process are well documented (such as the formal appointment and the employment arrangements applicable to the Commissioner), there is little documentation to indicate how potential candidates were identified, what skills, experience or qualifications were desirable, or how candidates were assessed.

Further, although the seniority (and thus remuneration) level of the proposed position was assessed based on 'the nature of the role', better practice would be to either refer the proposed position and remuneration to the Remuneration Tribunal, or conduct a formal position evaluation based on an accepted method.

Recommendation

RECOMMENDATION

The ACT Government should develop guidelines for significant appointments which amongst other things, set out:

- a) general principles (such as merit and equity) to be followed in filling a vacancy;
- b) requirements for preparing a business case (or similar) to support the creation of significant new positions and supporting business units, setting out the background, expected business benefits, options considered (with reasons for rejecting or carrying forward each option), expected costs, funding arrangements and expected risks;
- c) the need to define the position in terms of role, responsibilities and accountabilities, and any mandatory requirements which apply to potential candidates or nominees;
- d) how to determine remuneration, e.g. is it to be referred to the Remuneration Tribunal, or a formal position evaluation undertaken based on an accepted method;
- e) requirements for assessing the merit of potential candidates, including selection criteria;
- f) the considerations for selecting the method of appointment to be applied, e.g. direct appointment or consideration of a field of qualified candidates;
- g) requirements for performance indicators;
- h) reporting obligations for the appointee including public reporting;
- i) how to prepare an Instrument of Appointment (or similar) to define employment conditions, behaviours and obligations of the proposed appointee; and
- j) documentation requirements (full documentation is strongly recommended for all processes and material).