

APPENDIX D

CONSULTATION AND COMMENT

- 1. PRESS REPORT 22 JULY 2002**
- 2. PRESS REPORT 23 FEBRUARY 2004**
- 3. NOTICE OF DISCUSSION PAPER**
- 4. DISCUSSION PAPER**
- 5. WORKSHOP TIMES AND ATTENDEES**
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Probe into changes to leases

By FRANK CASSIDY

Golf clubs selling unwanted land for housing might not be par for the course much longer as the ACT Government launches an official inquiry into concessional land leases today.

Planning Minister Simon Corbell said the inquiry was needed because of community concerns about churches and community groups converting low-cost leases into profitable developments.

"There has been widespread concern that the process for granting and administering these leases is ad hoc," Mr Corbell said.

"Concessional leases are granted to a range of organisations at rates that are less than the market value."

He said the policy failure surfaced when a club or group wanted to change the use or ownership of a lease that had been granted for community purposes.

"The proposal to redevelop part of the Federal Golf Course and proposals to redevelop the former St Anne's Convent in Campbell are recent examples."

Concessional leases had been used to meet community infrastructure needs, help build social capital, provide recreational, sporting and welfare facilities and promote the arts.

Mr Corbell said the review would examine all aspects of the policy and administration of concessional leases.

He criticised the former Liberal government for its handling of concessional lease changes, branding its response inconsistent.

"The Liberals adopted an ad hoc approach to how these is-



Simon Corbell: concerns.

sues have been handled and frequently permitted changes to leases without a clear policy framework," he said.

His criticisms were rejected by Opposition planning spokeswoman Vicki Dunne, who nevertheless welcomed the review.

"Mr Corbell can slag off as much as he likes at the previous government but there has been ongoing concern at how concessional leases operate," Mrs Dunne said.

"There hasn't been consistency for years."

She said the Assembly's Planning and Environment Committee, of which she was chair, called in May for a systematic review of pre-self-government concessional leases.

"I'm every pleased they've taken up that recommendation."

Mr Corbell said an independent external consultant would be contracted to undertake the review, which would be due for completion by the end of the year.

Alan Cooper died serving on HMAS Anzac during the Malayan campaign.

destroyer was operating with units of the Royal Navy's Far East Fleet when it was ship HMAS Anzac.

Corbell seeks input on ACT's cheap-leases scheme

By Frank Cassidy

Public comment is being sought on the vexed question of converting cheap land given to clubs or churches into profit-making projects.

The ACT Government will receive submissions on the matter until March 12.

Planning Minister Simon Corbell is to make the call for community input today, saying feedback would be welcomed on options available to improve the

current system. "Concessional leases are granted to organisations at rates that are less than the market value," Mr Corbell said.



Many concessional leaseholders seek approval to on-sell or redevelop their leases outside the terms of the original grant."

Simon Corbell

He said that conversion raised many different social, economic and legal arguments.

"The Strategic Government has a strong commitment to protecting the community's interest in the leasehold system and the discussion paper currently out for public comment sets out a number of options."

Mr Corbell said the paper asked some fundamental questions.

"For example, should the Government continue to grant leases at less than market value and if

so, at what level should the concession be fixed?

"Should other programs be in place such as financial grants that go towards the cost of purchasing land?"

The discussion paper entitled *Review of Concessional Leases* was available at the ACT Planning and Land Authority's customer service centre and at ACT Government shopfronts. A summary was on the Internet at www.act-pla.act.gov.au under What's New.

REVIEW OF CONCESSIONAL LEASES IN THE ACT

HAVE YOUR SAY

You are invited to comment on a discussion paper on the Review of Concessional Leases to provide feedback on options for improving the current system of grant and administration for concessional leases in the ACT.

A copy of the interim guideline included in the discussion paper provides context to the current administrative arrangements applied by ACT Planning and Land Authority in the administration of concessional leases.

The discussion paper is available from:

- ACT Planning and Land Authority's customer service centre in Dickson;
- ACT Government shopfronts; or
- by visiting www.actpla.act.gov.au.

Please provide submissions in writing through the Authority's website www.actpla.act.gov.au or by mailing to:

Concessional Leases Review
ACT Planning and Land Authority
PO Box 1908
CANNBERRA CITY 2601

Comments are due by **oob 12 March 2004**.

If you have any queries about the review or the consultation process, please contact the ACT Planning and Land Authority on (02) 6207 1718.

1004/000218



ACT GOVERNMENT
ACT PLANNING AND LAND AUTHORITY

actpla

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Transcript

Station: **ABC 666 CANBERRA** Date: **20/01/2004**
Program: **07:45 NEWS** Time: **07:50 AM**
Compere: **NEWSREADER** Summary ID: **C00012812189**

Item: **THE ACT PLANNING AUTHORITY IS REVIEWING THE ACT'S CONCESSIONAL LEASE SYSTEM, SAYING THAT IT IS POTENTIALLY HOLDING BACK CANBERRA'S DEVELOPMENT. THE LEASES ALLOW COMMUNITY GROUPS, CLUBS AND SOME BUSINESSES ACCESS TO DISCOUNT LAND, HOWEVER THEY ARE UNABLE TO SELL, SUBLET OR REDEVELOPED THE LAND. PUBLIC SUBMISSIONS CLOSE IN MARCH, WITH THE REPORT DUE TO BE COMPLETED BY THE MIDDLE OF THE YEAR. REPORT.**

INTERVIEW: NEIL SAVOURY, CHIEF PLANNING EXECUTIVE OF THE ACT.

Demographics:	Male 16+	Female 16+	All people	ABs	GBs
	10800	11500	22300	10600	14200

NEWSREADER: The ACT Planning Authority has begun a review of the Territory's concessional lease system believing it's potentially holding back the city's development.

Ken Wilson reports:

REPORTER: Concessional leases are common around Canberra giving community groups, clubs and some businesses access to discount land. The catch,

The ACT's Chief Planning Executive, Neil Savoury, says it can be a confusing and frustrating system. Mr Savoury says one option may be to limit development restrictions to five years. Another may be to scrap concessional leases altogether.

NEIL SAVOURY: But if that was to take place then Government assistance would need to be considered in other forms.

NEWSREADER: Submissions close on 12 March with a report expected mid year.

* * **END** * *

TRANSCRIPT PRODUCED BY MEDIA MONITORS
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WORKSHOP TIMES AND ACCEPTANCES

Monday 2/2 10.00am

Ravi Chandra	DUS - Roads ACT
Steve Finn	Treasury
Kathryn Maxwell	CMD
Jan Tarbottom	Education
Lyn	Education
Andrew Taylor	RGO
Brain Ashcroft	DUS - Sport
David Williams	DUS - Arts

Monday 2/2 4.30pm

Bruce Norton	Australian Property Institute
Phil Harding	Australian Property Institute
Nick McDonald Crowley	Australian Property Institute
Robert Rickson	Australian Valuation Office
Chris Wheeler	Australian Law Society
Wendy Davies	Australian Law Society
Mallesons representative	Australian Law Society
Mallesons representative	Australian Law Society

Tuesday 3/2 4.30pm

Jim Shonk	Clubs ACT
Bob Samacq	Clubs ACT
Alan Morschel	Housing Industry Association
Claire Middleton	Planning Institute of Australia
Gary Chung	Planning Institute of Australia
David Dawes	Master Builders Association of the ACT

Wednesday 4/2 4.30

Ian Hay	Aged Care Advisory Council
Malcolm Parker	COTA National Seniors (ACT)
Karen Nicholson	ACT Council of Social Services
Bob Smeeton	Archdiocese of Canberra & Goulburn Catholic
Angela Seymour	ACT Shelter
Brett Otgers	Conservation Council of the South East Region and Canberra

Thursday 5/2 4.30

Pat McGinn	Weston Creek Community Council
Jeff Carl	Weston Creek Community Council
Helen Brewer	Belconnen Community Council
Graeme Evans	Belconnen Community Council
Peter Gatey	Belconnen Community Council

Paul Gamp	ACT Council of Cultural and Community Organisations
One person	ACT Council of Cultural and Community Organisations
Joan Kellett	North Canberra Community Council
Stan Bevanda	Narrabundah Community Council
David Menzel	Woden Valley Community Council
Barry Raison	Woden Valley Community Council
Barry Dee	Gungahlin Community Council

Friday 6/2 4.30

Chris Chenoweth	ACT Churches Council
Marry-Ann Rhind	Scout Association of Australia ACT Branch
Cathy Marker	Girl Guides Association
Fiona Langford	Girl Guides Association
Vlad Aleksandric	Archdiocese of Canberra & Goulburn
Grahame Lindsay	Canberra Baptist Church
Herbie O'Flynn	Catholic Education Office
Maureen Hartung	Blue Gum Community School
Graham Carter	ACTSport
Iain Stewart	ACT Churches Council
Bob Carter	Anglicans

Friday 13/2 12.00-1.30

Lindsay Roberts	Canberra Business Council
Peter Conway	Canberra Property Owners Association
Michael Zorbas	Property Council of Australia

Friday 13 Feb 2.00 - 3.00

Henry Parerra	Canberra Police and Citizens Youth Club
Connor	Canberra Police and Citizens Youth Club

Confirmed

Organisation

Monday 16 Feb 2.00 - 4.00

Peter Johns	Land Development Agency
Colette Mackay	Land Development Agency
Graham Mundy	Land Development Agency
Stephen Paterson	Legislation and System Improvement
Kerry Browning	Development Policy
Joyce Rajasekaram	Development Policy
Keith Burnham	Development Policy
Dulce Lander	Leasing and Compliance
Garrick Calnan	Policy and Legislation Branch
Jenny Priest	Legislation and System Improvement

Friday

20 Feb 9.30 - 11.00am

Organisation

David James	DHCS
Sally Gibson	DHCS
John Richards	DHCS
Mark Kendall	Health

Concessional Lease Review Consultation Workshops – Comments Summary

(Whiteboard summary of points raised/discussed in each workshop)

DATE/ TIME	ATTENDEE GROUP	COMMENT SUMMARY
2 Feb 04 10.30am	ACT Government Agencies: Urban Services Treasury Chief Minister's Education Justice & Community Services (Registrar General)	<ul style="list-style-type: none"> • Economic Return to Territory through land sales. • Consider the intention of the Land Act in relation to concessional leases. • Is it possible to identify the number of leases that are concessional? • Costings in relation to options where possible. • Equity between community leases purchased at full market value and those for less. • Indefeasibility of Title – Land Act and Unit Titles Act may be at conflict. • Some support for better transparency and accountability being achieved through financial grants rather than grant of concessional leases. Such arrangement would require govt to agree to provide assistance by other means and involve funding agreements. • Lease renewal process could be used as a vehicle to clarify the status of a lease (concessional or not). • Will concessional leases still be entitled to other concessions (Eg waste collection, stormwater retention)? This is a separate policy issue for relevant administrative agency. • What is the retrospective affect of determining that a lease is concessional?
2 Feb 04 4.30pm	Business, Valuation and Legal: Property Institute Law Society Australian Valuation Office	<ul style="list-style-type: none"> • Timeliness and workability should be added to outcomes. • Identification of whether a lease is concessional and timing is a big issue. • Financial grants opposed to concessional lease grants have other budgetary constraints that cause inflexibility. • Education of the community is necessary in relation to reasonableness of change of use charge (CUC) for increase or change of use rights – relates to removing need to pay out concession. • National Association leases should not be treated as concessional. CUC payment would recoup the cost of adding or varying use rights - support drawing line in the sand. • Natural, market demand driven change should be allowed to happen. • Should be greater recognition of the variance in value of land associated with a change depending on where it is situated (different land use policy). • Should be consistency – all concessional/community use leases should be granted under the same statutory provision. • Disallowable instruments require cleaning up, particularly the grant criteria – recent property council paper has good work in it relating to the public interest and criteria – relates to the application form for land. • Chances of recovering costs otherwise forgone if a line is drawn in the sand are unlikely.
3 Feb 04 4.30pm	Clubs and Industry: Licensed Clubs Housing Industry Association Master Builders Association	<ul style="list-style-type: none"> • Can the different types of concessional lease granted between 1071 and 1992 be identified? • Currently taking at least 3 months to get a government decision on whether a lease is concessional and then longer to get a decision on whether it can be deconcessionalised. • Needs assessments need to be a lot better than they currently are? • There is a large disparity in use between the different types of concessional lease. • How do other jurisdictions handle land distribution to community service providers?

<p>4 Feb 04 4.30pm</p>	<p>Community Groups: Aged Care Advisory Council Council of the Aged (COTA) ACT Council of Social Services Archdiocese of Canberra and Goulburn ACT Shelter Conservation Council of the South East Region and Canberra</p>	<ul style="list-style-type: none"> • How many applications for deconcessionalisation are there on deck at the moment. • It is difficult for governments to set definitions in legislation. • Many community organisations have a long history of community/concessional lease ownership and their record of achievement should be considered in determining priority. • Concessional leases should be restricted by their purpose clause. • Chief Ministers Dept publishes returns on business leases – not all returns have been met as promised and there is poor administration of that by government. • Should be a continuing mechanism for granting leases to community bodies for “community use” purposes. • Concessional leases should be noted on the face of the Crown Lease/Title. • In the social plan, the government identifies community organisations. • Should not be a system where one size fits all – classify various community groups for purpose of “wiping the slate clean” – how would they be classified. • Community consultation should provide administrator with information on the value or not of allowing a change of use (needs assessment?). • Need a system of codifying criteria for assessing leases under a new system and also a case-by-case basis for assessing existing leases. (ie. In a grant situation – from now on particular groupings are now able to get a lease on x, y or z circumstances – and apply criteria into how we administer existing concessional leases).
<p>5 Feb 04 4.30pm</p>	<p>Community Councils: Weston Creek Belconnen North Canberra Narrabundah Woden Valley Gungahlin ACT Council of Cultural and Community Organisations</p>	<ul style="list-style-type: none"> • Community and economic leases are different animals – appropriate to deal with them differently. • There needs to be better grouping and lease types. • Community land no longer required should go back to government eg: golf course. • Economic leases should be regarded as deferred payment leases (eg HECS). • Look at what government is trying to achieve and work backwards. • 163 Leases should be clearly labelled on the face of the title. • Create a level playing field for s.164 leases, capitalised value at a point in time/funding grant. • Promises by government to give recurrent grants/assistance are unreliable. • Community leases should be able to transfer to like organisation or be handed back. • Community clubs going broke where the community use is still needed should be able to on sell to another community group. • Demographics are cyclical – another reason to retain land for community uses. • Territory Plan provision that triggers a proper needs assessment. • Protection/Guarantee of site use (eg Belconnen Pool). • Should be an independent opportunity for review by an independent body of decisions to change from community use. • What are measures for needs assessment. • Certain leases should be restricted by absolute prohibition on transfer. • Should bring back/require surrender in some circumstances (eg Phillip Pool – stagnation since 1989 caused by lease). • Strategic thinking for future needs – flexibility • Provide for a variety of needs in community – eg rental available for those without capital. • Transparent, robust process for needs assessment prior to concessionalisation. • Principles of review – tie closely to social plan. • Further opportunity for community to be consulted?

		<ul style="list-style-type: none"> • Take paper for government back to community? • Do a community facility assessment instead of a community needs assessment. • Don't sell community land for residential development. • Do a Territory Plan overlay for all concessional leases this would trigger a PA to assess community needs. • Have leases that run for one year and that are renewable. • Define how to process changes in legislation. • Set money aside for future compensation. • Retain restriction on transfer for concessional leases.
<p>6 Feb 04 4.30pm</p>	<p>Community Groups: ACT Churches Council Scout Association of Aust (ACT Branch) Girl Guides Archdiocese of Canberra and Goulburn; Canberra Baptist Church Catholic Education Office Blue Gum Community School ACTsport Anglican Church</p>	<ul style="list-style-type: none"> • Option to abolish concessional lease grants not financially viable to community groups. • Transparent process with criteria required for direct grant and deconcessionalisation. • Is certainty in process possible to achieve? • Concessionality of a lease should be reflected on the Title. • Process should include capacity to offer current community land to another community group (eg: school land offered to another school = needs assessment). • Better process of needs assessment needed tied to process of deconcessionalisation – Hungarian Club sited as example. • More rigorous assessment about whether land should be retained for community use. • Review should not throw out baby with bathwater – losing positive aspects of concessional grants. • Timeliness is an issue in processing. • Predictability over certainty to enable financial planning. • Community groups can't raise large amounts of capital to purchase land. • If a financial grant system – need to closely link funding and lease grant process. • Some govt departments are in direct competition with community service providers and may not be prepared to give financial grants (eg education). • Need to spell out principles to allow development of this policy. • Certainty (what is the starting point of a concession?) • What is land being valued for – Valuation mechanisms can be incongruent with affordability (eg aged care) – how is the resolved when there is a need for the service? • Nursing homes valued with a positive value by AVO when it is actually negative – a nursing home targeted at concessional residents cannot be established without going into mult \$M losses over many years. The lease should be with or without restrictions to reflect the actual use. • Equity must be in principles and transparent – aged care and childcare are already an issue of equity. • Where is the current policy for the grant of concessional leases? What are the principles? • Things change over time. • What happens when a lease runs out (eg. Scouts and guides – these groups feel threatened in the current environment of uncertainty). • LDA has a brief to sell land for the maximum value which is in contradiction to giving direct grants to community groups. • Cross-generational equity cannot apply. • The Economic White paper disregards economic value of community contributions • Further opportunity for consultation? • Share dot points of all meetings with all participants. • Need a process of placing a \$ value on economic contribution of the community services sector. • Development encroaching on community lease – ensure protection against this in any changes to legislation.

KL_a RESPONSES TO CONCESSIONAL LEASES PUBLIC CONSULTATION SUBMISSIONS

NO.	RESPONDENT	ISSUES	RESPONSE
01	Registrar-General	<ol style="list-style-type: none"> 1. There is difficulty for persons dealing with land in discovering that a lease is concessional. Searching will not always indicate this as ACTPLA does not always label leases with the restriction. RGO will only label the CT where put on notice by ACTPLA. 2. A major difficulty is that, if ACTPLA has difficulty in identifying a concessional lease how does a person dealing do so, particularly when the transfer is expressed to be of no effect where it is subsequently found to be concessional and the transfer was made without consent? 3. On page 18 there is a reference to a restriction on mortgaging. This is not a restriction under S.164(7). 4. How does the present system of discovery work under the conveyancing enquiry? Is it up to the buyer to identify the restriction or for ACTPLA to do so? 	<ol style="list-style-type: none"> 1. This is understood. A remedy for existing registered leases and also for any future leases will be recommended in the form of a process allowing for the proper identification of concessional leases and their notification in the Land Titles Register. See Recommendations 4 & 16 2. This is understood. The question as to whether the Land Act provision [S.167(5)] might be in conflict with the concept of indefeasibility under s.58 of the <i>Land Titles Act 1925</i> has been noted and will be raised in the report. See Recommendations 4 & 16 3. The reference in dot point 1 of para 4 on Page 18 was a broad brush statement and was not intended to relate specifically to S.164(7). 4. The issue of concessionality or otherwise is not currently raised in the standard conveyancing enquiry to ACTPLA by intending purchasers or mortgagees. This

		<p>5. The Registrar-General is a <i>de-facto</i> "policeman" for ACTPLA. There is no specific provision in the <i>Land Titles Act 1925</i> under which the RGO can refrain from registering transfers, assignments etc. It is purely an administrative arrangement. Needs to be better than merely administrative arrangements. There may be a concern here about the indefeasibility of title at s.58 LTA.</p> <p>6. If it is decided to deconcessionalise concessional leases, how will this be done? Will there be a notation on title?</p> <p>7. If an exemption from the concession was made for specific leases, how will this be noted on title?</p>	<p>issue will be raised in the report.</p> <p>See Recommendations 4 & 13</p> <p>5. s.48B of the <i>Land Titles Act 1925</i> may need to be considered in the context of framing a scheme under the Land Act which extends to declaring whether or not a lease is concessional and therefore subject to restrictions. This issue will be raised in the report.</p> <p>See Recommendation 4</p> <p>The question of indefeasibility has been acknowledged in Response No.2 above.</p> <p>6. If the opportunity to deconcessionalise a lease is retained, the report will recommend the adoption of a statutory scheme under the Land Act involving the declaration of a lease as a concessional lease; a process for its deconcessionalisation; and a process for having the resulting status of that lease noted on the title and/or in the Land Titles Register.</p> <p>See Recommendation 16</p> <p>7. It is not clear whether this comment is intended to relate to categories of lease which may be exempted by definition under the Land Act or to particular leases</p>
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		<p>8. Agree strongly with comments on Page 18 and 19 re RGO and notations on title. The purposes clause often serves as a <i>de facto</i> safeguard here as they are usually highly specific in respect to concessional leases i.e. Bocce Club and a person buying i.e. Bocce Club and a person buying would see the restrictive purpose if they missed the restriction under s.163/164.</p>	<p>where a declaration may be made as per 6, above. In either event it will involve a statutory scheme which would require changes to the law [the (Land Act) and consequential provisions (Land Titles Act)].</p> <p>8. This comment is noted but other respondents have indicated support to less restrictive purpose clauses in such leases to facilitate transfer to eligible parties (like organisations).</p> <p>See Recommendations 4 & 16</p> <p>If the recommended statutory scheme, referred to above, is adopted, continuing to use the purpose clause of a lease as an indicator of the likely concessionality of a lease yet to be granted will be of little importance.</p>
02	Aged Care Advisory Council	<p>21. This comment relates to Concessional Leases used for Accessible and Adaptable Aged Care Housing that will always remain owned by the Lessee who holds the lease.</p> <p>This particular opinion relates to leases held by the Trustees of the Roman Catholic Church and refers particularly to leases given by the Commonwealth Government prior to ACT Self Government.</p> <p>It is held that there is a distinction between land already leased to a not-for-profit body</p>	<p>21. Central to this submission are the efforts of the Church to develop underutilised land leased for “church” related purposes for <i>accessible and adaptable aged care housing</i>. Those efforts are at present stalled because payment is sought of a <i>change of use charge</i> in connection with the value which would be added to the lease by the proposed development.</p> <p>s.184A of the Land Act prohibits the variation of any lease prior to the payment of a <i>change of use charge</i> (where applicable).</p>

		<p>and community land being acquired or sought after by a not-for-profit organisation for the use of Aged Care developments and such allied activities.</p> <p>It is understood that if the not-for-profit organisations were, unable because of cost, to develop these Aged Care facilities then the Government would become responsible.</p> <p>General consensus is that the government should be paying the church to proceed with these developments.</p> <p>It has been said by completely disinterested bodies that this particular endeavour is <u>very much part of 'Church'</u> and as such the imposed <i>change of use charge</i> could be illegal.</p> <p>Finally notwithstanding government thinking by imposing <i>change of use charge</i> the future development of aged care in the ACT will be put back years and surely this is not consistent with the launch of the Social Plan unveiled yesterday by the Chief Minister, Jon Stanhope.</p> <p>The above comments should not in any way prejudice other not-for-profit organisations such as Calvary Hospital, or St Andrews Village who seek community land, (for which they do not already hold a lease), for aged care developments in much the same way as the Catholic Church proposed developments</p>	<p>Presumably, although not stated, the variation of a Crown lease has been made a condition of development approval for <i>accessible and adaptable aged care housing</i> on land leased for “church” related purposes and a <i>change of use charge</i> has been assessed with respect to that particular development proposal.</p> <p>The 2 issues here are that a variation to the lease has been deemed necessary to enable the proposal to proceed and that the requirement to pay a substantial <i>change of use charge</i> has arisen as the result.</p> <p>Appeal rights to the ACT AAT exist against both decisions. The AAT, on reviewing the decisions, is bound to reach a correct and preferable decision in each case. The cost of applying to the AAT is not significant.</p> <p>Consequently, it appears that the prevailing legislation already provides a potential remedy to the perceived problem.</p> <p>While the apparently anomalous situation is noted, for the reason stated above, it probably does not warrant specific provision being made in any new arrangements – other than in a generic sense.</p> <p>In any event, there are other opportunities available to Government to provide subsidies including, the waiver or remission of the <i>change of use charge</i>.</p>
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		on underused church land in the ACT.	<p>It is also open to the Government to introduce policies covering care and housing of the aged independently of the purview of its agencies and authorities responsible for land, planning and Crown leasehold.</p> <p>This issue will be mentioned in the report.</p>
03	Blue Gum School	<p>31. A public consultation period of 8 weeks (including January holiday period) is insufficient time for the community to understand the Issues and respond to them appropriately. Can this period be extended, please?</p> <p>32. The community consultation meetings should have been advertised in The Canberra Times, and opened up to all interested persons/groups not just a select invited list. Our community group has on many occasions publicly declared a strong interest in concessional leases, but was not invited, and only found out about these meetings by</p>	<p>A later submission appears at Submission No. 40. ACTPLA dealt with these comments as a preliminary submission, as follows-</p> <p>31. The respondent's concerns in relation to the timing of consultation on the review are noted. However, the majority of feedback and submissions received to date, indicate that a broad range of stakeholders have been able to come to terms with the issues raised in the discussion paper and are prepared to advance their views in relation to them. Any stakeholder group or individual seeking additional time beyond the 12 March 2004 to lodge their submission is likely to receive favourable consideration for a reasonable extension of a week or two.</p> <p>32. As you are aware, the consultation period and arrangements were advertised in late January and mid February in both the Canberra Times and the Chronicle. The Minister for Planning and the Chief Planning Executive of the Planning and Land Authority also made public statements about the review, and have encouraged the</p>

		<p>accident. Other interested persons/groups missed out. Can a further meeting be held, after it has been advertised in The Canberra Times Public Notices?</p> <p>33. Community groups that are eligible to concessional leases in the form of Direct Grants, e.g. schools, should be directly invited to discuss their specific concerns about the possible options that might apply in the future. Can you please arrange a Focus Group of this nature, and include us among those invited?</p> <p>34. One Option touted - replacing concessional leases with Govt grants - needs to be articulated in more concrete terms. Will all community groups currently entitled to concessional grants, e.g. schools, be guaranteed a Govt grant to achieve the same outcome? What form will this guarantee take e.g. legislation? What appeal process will be offered to groups denied Govt grants? Can you please forward a copy of proposed draft legislation? Will community groups be reliant on political goodwill/largesse for these grants?</p>	<p>involvement of interested parties. There is no plan to formally extend the period for consultation, however, as indicated previously, requests for reasonable extensions will be considered favourably.</p> <p>33. Community groups have been invited to comment on the discussion paper through the public notices and over 100 letters were sent to a range of other stakeholder groups. In addition, a broad cross section of stakeholders was involved in the workshops. That communication between community groups through informal networks resulted in you being involved in a workshop session, was both positive and welcomed.</p> <p>34. If government was to favour an option of replacing concessional leases with government financial grants, the details of such an arrangement would have to be resolved as a next step and would involve further consultation and input from both the relevant government agencies and community stakeholder groups. It is not the intention of this review to formulate detailed policies and implementation strategies around each of the options, but rather to present options with an informed analysis of the pros and cons of those options. The concerns and misgivings raised by yourself and other community representatives in relation to this option are important and will</p>
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		<p>35. Will community facility leases that the Govt considers surplus to government requirements be publicly notified and expressions of interest sought from community groups interested in continuing to use them as community facilities, as originally intended?</p> <p>36. Will any long-term community facility leases be handed over to ACTPLA for public auction, to be sold off to the highest bidder? How can community groups, that might have to wait 12-18 months before knowing the outcome of their grant applications, make a bid or participate in such auctions?</p> <p>37. Will the Refined Options Paper being prepared be circulated to everyone who participated in these meetings (not just Govt Depts), but preferably advertised in the Public Notices of The Canberra Times, and</p>	<p>be considered by government in determining the way forward.</p> <p>See Recommendation 3</p> <p>35. How community facility leases will be managed in the future, including leases where the original purposes is no longer needed or required, is one of the key issues to be resolved by the review. If you have a particular view in relation to how leases considered to be "...surplus to government requirements..." should be managed, then I encourage you to include that in your final submission.</p> <p>See Recommendation 7</p> <p>36. Your query on this point similarly relates to the question of how community facilities should be managed in the future. Your suggestion is not part of a current proposal, however, if you have a particular view, please outline it in your submission so that there can be proper consideration of it in developing the refined options.</p> <p>See Recommendation 7</p> <p>37. At this stage, our intention is to present the refined options to the government, with the benefit of input received during consultation. The government will determine the future direction, including whether and how to</p>
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		final comment invited?	further involve the stakeholders.
04	Christian Missionary Alliance of Australasia Property Trust	<p>41. Firstly, we have noted in recent years that there is an increasing burden on community services. People are not only approaching the traditional non-Government organisations like St Vincent de Paul and the Salvation Army, but are approaching churches for food hand-outs and counseling help with family issues. We have been able for instance, to offer counselling services at a much reduced rate to the community, through the Counselling Centre recently set up at our college in Waramanga. Our churches also provide an invaluable service to the community and we believe that concessional leases are an effective way of recognizing the benefit received by the public.</p> <p>Australia is becoming a more fractured and multi-cultural society and the Christian & Missionary Alliance in the ACT has continued to develop expertise in dealing with many cross-cultural groups in the churches and especially through the work of our National Office in Deakin, which serves all of our churches around the country. We would therefore like to continue to see some sort of concession for our organisation.</p> <p>We would prefer to have the concessional lease system continue as opposed to other forms of assistance. Reduced rates and</p>	<p>41. The perception that there is an increasing burden on community services provided not only by the traditional non-Government organisations but also churches is noted.</p> <p>The Trust's preference for a concessional lease system over other forms of assistance is noted, particularly in the context of it facilitating the construction of buildings.</p> <p>The Trust's support for the continuation of a system of assistance involving the grant of concessional leases is noted.</p> <p>See Recommendation 3</p>

		<p>taxes would not likely offer the same magnitude of concession. To date the concessional lease system has been extremely beneficial, even being the difference between being able and not being able, to construct buildings whereby the work can continue and be obviously in the public eye, prepared to assist the community.</p> <p>We would like to close by expressing once again our sincere appreciation for the concessions our organisation has received through the Concessional Lease system in the ACT.</p>	
05	Allan Doobov	<p>51. My submission relates solely to the restrictions placed on how religious and community groups can use their concessional leases when this use is solely or primarily for the benefit of their own members. It does not relate to the transfer of leases or the other broader issues covered by the Departmental paper on this Review.</p> <p>I will be illustrating my points by referring to my experience when I held discussions with PALM on whether it would be possible for the A.C.T. Jewish Community to build on its site independent living units for its aged members. However this is merely one example, and there will clearly be other religious and community groups with similar issues.</p> <p>Jewish law does not allow Jews to travel in a</p>	<p>51. This submission is akin to Submission No. 2 in that it argues that the concessional lease should not need to be varied and <i>no change of use charge</i> should be required to be paid in connection with the construction on-site of (independent) living units for aged members of the community.</p> <p>See Recommendation 7 and comments thereon</p> <p>The submission explains why aged member of the ACT Jewish Community need to reside in close proximity to the Synagogue and that suitable alternative residential land and premises in the area are not available.</p> <p>The response to Submission No.2 said-</p> <p>The 2 issues here are that a variation to the lease has been</p>

		<p>car or on a bus on the Sabbath or on Jewish Holydays. Hence observant Jews wanting to attend Synagogue services on the Sabbath or on Holydays (the only times services are held in Canberra) must live within walking distance of the synagogue.</p> <p>This was not a great problem when the synagogue was built in 1971 since the Jewish Community, like the general Canberra community of the time, consisted primarily of fairly young people. Now that its members have aged, living within walking distance of the synagogue means living quite close. This will become even more the case as the ageing of the Community continues.</p> <p>Jewish law does not allow Jews to travel in a car or on a bus on the Sabbath or on Jewish Holydays. Hence observant Jews wanting to attend Synagogue services on the Sabbath or on Holydays (the only times services are held in Canberra) must live within walking distance of the synagogue.</p> <p>This was not a great problem when the synagogue was built in 1971 since the Jewish Community, like the general Canberra community of the time, consisted primarily of fairly young people. Now that its members have aged, living within walking distance of the synagogue means living quite close. This will become even more the case as the ageing of the Community continues.</p> <p>The lease purpose clause issued some 50</p>	<p>deemed necessary to enable the proposal to proceed and that the requirement to pay a substantial <i>change of use charge</i> has arisen as the result.</p> <p>Appeal rights to the ACT AAT exist against both decisions. The AAT, on reviewing the decisions, is bound to reach a correct and preferable decision in each case. The cost of applying to the AAT is not significant.</p> <p>Consequently, it appears that the prevailing legislation already provides a potential remedy to the perceived problem.</p> <p>While the apparently anomalous situation is noted, for the reason stated above, it probably does not warrant specific provision being made in any new arrangements – other than in a generic sense.</p> <p>It is also open to the Government to introduce policies covering care and housing of the aged independently of the purview of its agencies and authorities responsible for land, planning and Crown leasehold.</p> <p>This issue will be mentioned in the report.</p> <p>The provisions of the particular Crown lease are not stated and neither are the relevant provisions of the Territory Plan. It is not possible to comment on why the requirement to subdivide the block has arisen.</p>
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		<p>years ago does not allow us to build accommodation on the site. We would therefore be required to:</p> <p>get approval to sub-divide the lease with new lease purpose clauses for the two new blocks. The administrative hassles and costs are virtually prohibitive for a community group;</p> <p>pay a <i>change of use charge</i> which, for our site, would be 100% of the difference in the value of the land in its new and in its current use. In calculating its value in its new use no account would be taken of the fact that we want to use it only for our members. We would pay the same charge as would be paid by a commercial developer providing accommodation for the general market.</p> <p>Because Forrest is the most expensive suburb in Canberra, the value of the land when used for accommodation would be very high. This is reasonable for a commercial developer. Only a small percentage of people could afford to buy the accommodation he would be developing in the most prestigious suburb in Canberra, but his development could be targeted at that group of people. Our purpose is to provide accommodation for our members, but the Government charges would force us to sell for a price that only a small percentage of our members could afford.</p> <p>For these reasons it was not possible for us to proceed, and the needs of our aged</p>	<p>See Recommendation 8</p>
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		<p>members remain unmet.</p> <p>If restrictions are to be retained on how concessional leases can be used, there needs to be a formal distinction between organizations that want to use the lease only for the benefit of their members and those that want to use it for commercial purposes. There needs to be recognition of the fact that the needs of a community group changes over time, and they should be allowed to use their lease to meet the new needs.</p> <p>In the example described above, I believe the ACT Jewish Community should have been able to build the accommodation for our aged members without having to sub-divide our land, go through the administrative hassles or pay a <i>change of use charge</i>.</p>	
06	Goodwin Aged Care Services	<p>61. Goodwin Aged Care Services has three retirement villages located on five leases at three sites. Two of these sites are on multiple leases and in both of these, the sites are located on both a concessional lease and a 'standard' lease. I have therefore based my views on our experience with these concessional leases.</p> <p>62. Goodwin has concessional leases which are quite restrictive with regard to the purpose of the lease. For instance, the maximum GFA that is permissible. Whilst the lease ensures that the original community benefit purpose is observed, it seems to be contrary to the concept of maximising the community</p>	<p>61. The manner in which GACS's property is held is noted.</p> <p>62. Restricting use rights and development rights in Crown leases is fundamental to the ACT Crown leasehold system of land tenure and is a useful town planning and land use control tool which is well understood and has survived the tests of time.</p>

		<p>benefit by restricting the GFA whilst the same lease purpose is being achieved.</p> <p>63. Concessional leases contain a specific lease purpose which can be restrictive of future programs that may evolve over time but not have been contemplated at the time the lease was issued. For instance, supportive housing would most likely be supported as an alternative now on our present leases, whereas this was not a concept when our leases were issued 20 to 40 years ago.</p> <p>64. As indicated above, two of our villages are each on two leases. We are presently looking to replace these ageing villages and it makes sense to all to amalgamate the two leases. However, this will raise change of use issues which will most likely prevent the lease amalgamations. I also understand that it is not possible to build across the boundary of the concessional and 'normal' lease, which limits the built form, even though the purpose is consistent for both leases.</p>	<p>See Introduction and History</p> <p>63. The justification for the grant of a concessional lease includes there being a perceived public benefit from a specific proposal. Some concessional leaseholders have been criticised for <i>reserving</i> parts of their <i>lease holding</i> for some future use and thereby depriving some other organisation or party from a grant of that land. So, limiting the amount of land available to satisfy a demonstrated need is likely to become a regular feature of future land grants as the supply of developable urban land diminishes.</p> <p>See Recommendation 7</p> <p>Any lessee may seek to vary the use and development rights of their lease to meet needs which emerge over time.</p> <p>64. The requirement for consolidation of leases to facilitate expansion proposals does make sense when, presumably, the development and use rights under both leases are restricted in some way.</p> <p>The consolidation of the leases would allow the development and user rights to be aggregated and, if necessary varied to accommodate current needs.</p>
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		<p>65. The paper suggests that direct grants of leases at market value could occur with other forms of financial subsidy being possible, rather than a reduced land price. This is often the argument of Treasury officials, but the fact remains that programs are not adequately resourced to allow for that degree of subsidy. This is certainly the case when dealing with capital funded models. To reduce outlays, current Treasuries tend to look at the least per annum cost and hence look to recurrent models. The other relevant issue here is that the ACT Government does not necessarily fund all programs which are delivered in the ACT. For instance, aged care is funded by the Commonwealth, yet delivered on ACT land. There is no ACT Government program for aged care and adopting the suggested philosophy would mean that there is no financial subsidy available in the ACT for aged care related programs, yet the ACT Government is committed to making the necessary land available for aged care.</p> <p>66. Whilst I would welcome a concept that a credit should be given for the level of community benefit provided, I consider that if the organisation is provided with a concession by the community, then it should only expect that concession to be provided whilst the community benefit is</p>	<p>65. It is agreed that capital funding may be more appropriate to some service providers than others. Some parties/organisations, currently eligible for the grant of a concessional lease, may be better served either by buying or renting commercially available premises.</p> <p>The lack of long term security for a recipient of a recurrent funding subsidy is accepted and understood. So too is the fact that some services provided in a particular area by a particular service provider, are likely to have a limited shelf life. That is to say the day will come when the purpose for which the lease was granted and the service provider (the concessional leaseholder) have outlived their usefulness. That is when the continued use of the land should be reviewed.</p> <p>Other respondents have raised particular concerns about the care and accommodation of the aged and this will receive comment in the report.</p> <p>66. There is some polarisation of views on the question of giving <i>credit</i> for community benefit provided by a concessional lease holder.</p> <p>See Recommendation 6</p>
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		<p>delivered. If the organisation changes its mind about what they later wish to use the land for, the community should expect the land to either be returned or 'paid out'. If land is scarce in that area then the organisation should not have the option of retaining it, even if it pays out the deconcessional amount. The need may be greater for the service to still be provided, albeit by another organisation. I appreciate that this is a different philosophy to that adopted to the economic development argument but would question whether that might be an area where a government subsidy might be more appropriate.</p> <p>67. Dot point 6 of Administration at page 11 asks whether the lessee of a concessional lease be required to pay the current market value of the lease less any capital sum previously paid to 'deconcessionalise' the lease. Why is the amount to be calculated on the current market value? I would contest that the concession was granted on the original market value when granted and hence to 'deconcessionalise' the lease, the adjustment should also be at the original market value, not its present value.</p> <p>68. At page 13 the paper suggests that it may be more appropriate to provide part of a Government building that is surplus rather than a concessional lease. Organisations would be reluctant to make commercial</p>	<p>The view that when a concessional leaseholder changes its mind about what it wishes to use the land for, it should to hand back the lease or pay the market value for it, is considered to be somewhat at variance with the views expressed in Issues Nos. 62, 63 and possibly 64.</p> <p>It also lends support to the practice of restricting development and user rights in Crown leases. In that way the future use of the land is controlled either under the current provisions of the Crown lease or provisions which result from a public, transparent and accountable lease variation process.</p> <p>67. The view that <i>historic market value</i> (market value at the time of the grant) be adopted as the basis for deconcessionalisation is noted. The issues connected with deconcessionalisation will be dealt with in the report.</p> <p>See Recommendation 18</p> <p>68. The discussion paper suggests it desirable to question whether the needs of a potential service provider might be better met by the provision of accommodation in part of a Government owned building rather than</p>
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		<p>decisions without long-term certainty and the capacity to be master over their domain. Eg. make capital improvements to the building or be concerned that the building is not to their standards or requirements yet uncertain when the building will no longer be considered surplus because of a change in the Government of the day or its policy.</p> <p>69. It is not difficult to quantify the value of the community service being provided by the lessee as this is derived from the operating result that is achieved with that level of community benefit. If no community benefit is achieved, then the operating result will be the maximum possible. Financial modelling between the various levels of benefit provided can easily be undertaken which will demonstrate the financial benefit provided to the community by the organisation. The resultant value of the lease will thus be determined as a reasonable yield based upon the operating result with that lease purpose clause. This model was adopted in determining the land value for Community Housing Canberra Ltd with Section 84 at Gungahlin Town Centre where affordable housing was a requirement of the lease. The requirement to provide four units of affordable housing in perpetuity reduced the return to the extent that even with a significantly reduced land value, the return was negligible. That</p>	<p>through the grant of a lease of land.</p> <p>See Recommendation 7</p> <p>Implicit in that suggestion is acceptance of the fact that the provision of such accommodation would not be appropriate for all service providers. The suggestion does however re-iterate the changing needs of the community over time.</p> <p>69. In a concessional leasing arrangement requiring the provision of a number of affordable housing units in perpetuity, credit for community service could be applied after 5 years of service provision in a manner which would remove restrictions on dealing with the land without displacing the requirement for the provision of the number of affordable housing units for the term of the lease (usually for 99 years – not in perpetuity).</p> <p>In such a case there would be no loss of community benefit.</p> <p>See Recommendation 6</p>
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		<p>company is motivated by the community benefit it can generate, not profit, and in return for this direct grant at a much reduce price, the community benefit was locked-in in perpetuity. If it had only been a requirement to retain the affordable housing for a set period, say 5 years, the community benefit would be lost to property speculation at a great expense to the community.</p>	
07	Commonwealth Bank	<p>71. Many concessional leases allow a lender to take a mortgage over the lease, but do not permit the mortgagee to take possession of the leasehold property;</p> <p>72. Many concessional leases are not transferable, by the mortgagee or a receiver & manager appointed by the mortgagee;</p> <p>73. If a concessional lease is surrendered, the compensation payable and the method of calculating it are vague and uncertain; and</p> <p>74. There is no effective search mechanism whereby a lender can readily determine if a lease is a "concessional" lease.</p>	<p>71. The Review of Concessional Leases has brought to notice a number of issues and anomalies including the manner in which dealings in some concessional leases are restricted or prohibited. The report will contain recommendations in connection with those issues.</p> <p>See Recommendations 13 & 15</p> <p>72. Noted – see Response No. 72 above.</p> <p>See Recommendation 13 & 15</p> <p>73. Noted – see Response No. 72 above.</p> <p>See Land Act</p> <p>74. Response No. 1 states- This is understood. A remedy for existing registered leases and also for any future leases will be recommended in the form of a process allowing for the proper identification of concessional leases and their notification on the Land Titles Register.</p> <p>See Recommendation 4</p>

		<p>75. Consequently, the Bank is not in a position to advance funds against concessional leases, where it has no capacity to enforce its mortgage.</p> <p>76. In summary, the Bank needs to be able to take an effective mortgage over the lease, and upon default by the mortgagor be able to take possession of the leasehold property and sell/transfer/assign the lease to recover the secured debt. In essence, it needs the same powers available to it in respect to Crown leases in the ACT that sit outside the scope of your review.</p>	<p>75. Noted – see Response No. 72 above.</p> <p>See Recommendation 13</p> <p>76. Noted – see Response No. 72 above.</p>
08	Association of Baptist Churches of the ACT	<p>81. The Association believes that it is essential for concessional leases to continue to be available to churches, religious organisations and not-for-profit community service organisations. These cannot compete equitably on the open market at auction for land and churches in particular would not be able to receive funding from government for their ongoing costs. In any case, government funding carries a deal of uncertainty about the future.</p> <p>82. The organisations in the categories mentioned contribute greatly and in many ways to the social well being of the ACT and their record of achievement is generally excellent. Accordingly, their value to the whole community should be considered when policy on concessional leases is being developed.</p>	<p>81. The Association’s support for the continuation of the grant of concessional leases for the specified categories of uses and service providers is noted; as are its views on recurrent funding as an alternative.</p> <p>See Recommendation 3</p> <p>82. The Association’s views on the record of achievement of churches, religious organisations and not-for-profit community service organisations in the ACT are noted.</p> <p>See Recommendations 3 & 6</p>

09	Barry Raison	<p>91. The Discussion Paper could over-complicate the issues and a simpler solution may be possible, by applying any new policies to future concessional leases only.</p> <p>92. One criticism is the references to the "Gorton Gift" - the abolition of Land Rent for most Crown Leases in 1971. This would be more accurately described as a "Land Reform". Combined with the earlier creation of tenant rights in the improvements and sale of land for a "premium" (plus land rent) and the later allowance of automatic renewal, by payment of an administrative fee only, this has brought Canberra land as close as possible to the Freehold, or at least Perpetual Leasehold, enjoyed elsewhere. That has enabled Canberra to compete with other cities and to prosper and expand to an extraordinary extent.</p> <p>93. Provision for granting of concessional leases for community purposes should be retained. However, the purpose clauses or their interpretation should be broadened so that compatible uses are allowed without changing the lease. This would avoid some of the delays and uncertainties that have plagued the current planning process, e.g. in these recent cases:</p>	<p>91. Concerns have been raised about difficulties associated with the administration of concessional leases and the Review is required, in part, to deal with those concerns.</p> <p>92. The respondent's support for Perpetual Leasehold system of land tenure in the ACT is well known. Whether the introduction of Section 15 of <i>Ordinance No. 45 of 1970</i> was a <i>good</i> or <i>bad</i> Land Reform is not an issue for debate in the context of this Review. Nevertheless, it did have implications for concessional leases.</p> <p>See Introduction</p> <p>93. The support for the continued granting of concessional lease is noted.</p> <p>Development and use restrictions are generally contained in all Crown leases in the ACT, not just in concessional Crown leases.</p> <p>Additionally, the response to Submission No.2 is also relevant-</p> <p>The 2 issues here are that a variation to the lease has been deemed necessary to enable the proposal to proceed and that the requirement to pay a substantial <i>change of use charge</i> has arisen as the result.</p>
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		<p>(a) A church site in Aranda where much needed elderly citizens' homes cannot be built without changing the Lease Purpose and paying a substantial change of use charge.</p> <p>(b) A temple site in Florey where a clergyman's residence was prohibited unless the Crown lease was changed and payment made (but later allowed by the AAT).</p> <p>Perhaps a more general use such as "community purposes" would suffice in most cases and without limiting the use</p>	<p>Appeal rights to the ACT AAT exist against both decisions. The AAT, on reviewing the decisions, is bound to reach a correct and preferable decision in each case. The cost of applying to the AAT is not significant.</p> <p>Consequently, it appears that the prevailing legislation already provides a potential remedy to the perceived problem.</p> <p>While the apparently anomalous situation is noted, for the reason stated above, it probably does not warrant specific provision being made in any new arrangements – other than in a generic sense.</p> <p>It is also open to the Government to introduce policies covering care and housing of the aged independently of the purview of its agencies and authorities responsible for land, planning and Crown leasehold.</p> <p>This issue will be mentioned in the report.</p> <p>(a) This issue has received comment in the response to Submission No.3.</p> <p>(b) This indicates only that, on review, the decision to prohibit the construction of the residence was not considered to be the correct and preferable one.</p> <p>See Responses Nos. 62, 63, 64 and 67 above.</p>
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		<p>to a specific organisation. This should facilitate minor changes in use and transfers to other eligible bodies.</p> <p>94. Another option would be to implement a fixed and reasonable "augmentation" fee for each additional residential unit (or other appropriate type of use) in these community-based developments. Such a system seemed to work for townhouse developments in the Kingston area in the 1970s.</p> <p>95. An example of an unnecessarily specific purpose clause appears on p.33 of the consultant's report, i.e. "... a school for girls operated by the Canberra Church of England Girls' Grammar School...". It could be merely for "a school" or "educational purposes" or even "community purposes".</p> <p>96. Existing Crown Lessees should not have to pay to "deconcessionalise" their leases, unless there is a significant change of use. It should be assumed that the continued community benefit obtained from their usage offsets any concession that they may have been awarded at the outset. Also, the extent of any concession may be difficult to measure. Limitation to a narrow use and possibly to a specific lessee reduces the value, as does the availability of similar land to other users at concessional prices, even nil.</p>	<p>94. The Kingston/Griffith "augmentation levy" didn't work because its level lost its nexus with augmentation costs. See the Stein Committee Report Recommendation which led to its discontinuance.</p> <p>See notes on Stein in Introduction</p> <p>95. See Responses Nos. 62, 63, 64 and 67 above.</p> <p>96. Deconcessionalisation is a means of removing certain restrictions on dealing with concessional leases and it can also be used to reduce the level of the change of use charge from 100% added value to 75% added value. It is not clear that the respondent understands that once a lease is deconcessionalised, it remains deconcessionalised. The respondent's suggestion would allow a lease to be freed of restrictions on dealings at no cost and subsequently varied substantially at the lower level of <i>change of use charge</i>.</p> <p>See Recommendation 6</p>
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		<p>97. If the final review changes the rules for the future, they should be spelt out in simple terms in the legislation and the Crown Lease document, so that future lessees are fully informed. However, the rights of all existing lessees should be maintained, regardless of whether they were originally subject to Land Rent, after Self-Government, or whatever. Any applications for change or transfer should be handled with similar interpretation and discretion as being applied to date. If there has to be a stricter enforcement, ample notice should be given, e.g. a "sunset" provision of say two or five years.</p> <p>98. Concessional Lessees should not be permitted to exploit the community, but they should not be unduly penalised if the land is no longer required by them. Transfer for other community uses should be allowed, even encouraged. As a last resort, the Government should withdraw the lease or acquire the property and use or sell it for another use. The ongoing controversy over Phillip Oval indicates the need for the Government to step in to ensure that the best use is made of the whole property, while retaining the community purposes.</p> <p>Much of the allegations of profiteering from changes to concessional leases ignore two important factors:</p>	<p>97. Simplicity and clarity will be expected outcomes of the Review.</p> <p>The Review will not be recommending the diminution of existing rights under leasehold other than on just terms. The Review will recommend that Government re-examine the manner in which certain leases granted before 2 April 1992 are fettered by the operation of certain Disallowable Instruments.</p> <p>The report will contain recommendations for the handling of applications for lease variation and transfer under the prevailing law and policy.</p> <p>98. The respondent's views are noted.</p> <p>See Recommendation 7</p>
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		<p>(a) The concessional lessee may have earned any economic advantage by providing a service to the community. A counter argument could be that only a small sector of the community benefits from that particular use. However, overall there would be some advantage to most Canberra residents from the many and varied uses to which concessional and community leases are put.</p> <p>(b) If the existing concessional lessees were prevented from transferring their properties and/or changing the use, they may decide to retain them in an under-utilised form. This would deprive the Government of the opportunity to make the best use of the land and of collecting any <i>change of use charge</i>. It is understood that this is known as "warehousing" and is already occurring.</p> <p>A notable example arose in the 1980s with the Uniting Church property on the corner of Northbourne Avenue and Barry Drive, Civic. A small church occupied a huge central site and could have stayed there forever if the Crown Lessee wished to and continued to comply with the lease conditions. However, that religious body was allowed to sell the lease to a developer and the land use was changed to allow several office buildings and underground car parks. The vendor benefited from a new church/meeting room included in the new development</p>	
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		<p>plus a cash amount. The Government/community gained from a substantial betterment payment, capital investment, construction employment, office space and employment base, associated taxation and a b4. Existing Crown Lessees should not have to pay to "deconcessionalise" their leases, unless there is a significant change of use. It should be assumed that the continued community benefit obtained from their usage offsets any concession that they may have been awarded at the outset. Also, the extent of any concession may be difficult to measure. Limitation to a narrow use and possibly to a specific lessee reduces the value, as does the availability of similar land to other users at concessional prices, even nil.</p> <p>99. A solution for organisations that do not have long term requirements for land would be to grant them shorter term leases, possibly without tenant rights in the improvements. This would minimise compensation on expiry or withdrawal and facilitate re-use of the land.</p> <p>Most existing Crown Leases have a withdrawal clause (for non-compliance or cessation of the intended purpose) which provides for compensation for the added value of the improvements. This is difficult enough to measure (what is the value for an obsolete use?), without the further complication of land value, even on expiry of</p>	<p>99. The prospect of granting shorter term leases has been considered but they are not favoured by service providers or financiers view them as a poor security for raising money to construct improvements.</p> <p>See Recommendation 3</p> <p>The provision in older leases (pre-Land Act) is expressed as the <i>determination</i> provision and in leases granted under the Land Act, it is expressed as the <i>termination</i> provision. In either case, it gives the lessor the power to terminate a lease without payment of compensation (in many cases) for certain breaches of the lease provisions. It is</p>
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		<p>the full term.</p> <p>Now that most Crown Leases can be renewed for a further 99-year term by paying only an administrative fee, there could well be a valuable interest in the land, which also requires compensation. It is believed that this has not been tested yet.</p> <p>The paper points out the difficulty of identifying concessional leases. This should be a feasible project, if it turns out to be necessary. A small task force of experienced staff from Land Titles and Lease Administration aided by consultants should be able to identify them from existing records and further inquiries. For example, even before Self-government, there was a list of all rental leases, to prepare for re-appraisal periods. Excluding rural, there were less than 200 then and many of those may not have been concessional. Some may have paid out their land rent since. However, if the recommendation herein of retaining the status quo for existing leases is accepted, there may be no need to identify concessional leases.</p> <p>The granting of "economic leases" at less than market value to help establish new businesses should cease. The Crown Lease should be sold at normal market value, although time payment over, say, five or 10 years (but not as Land Rent) would be acceptable. Other concessions/incentives such as low interest loans, temporary relief</p>	<p>beyond the scope of this review to recommend change to general leasehold arrangements.</p> <p>The consultants, who comprise staff very experienced in Land Titles and Lease Administration matters, did undertake a sampling exercise prior to the release of the discussion paper using examples of possible concessional leases suggested by (then) PALM staff. That exercise is specifically mentioned elsewhere and suggests that the scale of the task of trying to identify concessional leases from Departmental records, since the Land Titles Register can not be relied on for this purpose, would be enormous and possibly not cost effective. The respondent does not mention the <i>only</i> indicator of whether a lease is a <i>concessional</i> involves a valuation exercise in determining whether the amount paid for the lease represented its <i>market value</i> or <i>market rent</i>. Consequently, competent valuation services would be an essential component required for such a task.</p> <p>The comments about "economic development" leases are noted and will receive attention in the report.</p> <p>See Recommendation 20</p>
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		<p>from Rates and Taxes ere would be up to Government policy.</p> <p>The UK experience of creating "Enterprise Zones", by providing incentives and concessions to attract industries, particularly to New Towns, provides a warning. In some cases, the new venture enjoyed all the economic advantages until expiry, say for 10 years, after which they moved to another area with similar or superior attractions.</p>	<p>The comments about "Enterprise Zones" are noted. The ACT has some experience in such matters.</p>
10	Canberra Racing Club	<p>101. The Canberra Racing Club is concerned that "concessional leases" may include existing leases being those which have already been entered into by both parties, without reservation by Government of the right unilaterally to alter the financial obligations which attach to that particular lease. The Crown Lessee holds the lease with all the benefits of that grant.</p> <p>102. Any proposal which involves retrospectively derogating from that grant is offensive for a number of reasons. It should not be necessary in this submission to detail all the grounds on which legislatures throughout Australia, and indeed the English speaking world, regard retrospective legislation as abhorrent.</p>	<p>101. The rights of a registered proprietor of land or of any interest in land are guaranteed under the provisions of s.58 of the <i>Land Titles Act 1925</i>.</p> <p>The Registrar-General has raised, at Issues Nos. 2 and 5, whether the existing arrangements under the regime of the Land Act which purport to prohibit or restrict certain dealings in concessional leases might not test the provisions of s.58 LTA.</p> <p>See Recommendation 4</p> <p>102. The respondent's comments are noted and will be dealt with in the report.</p> <p>See Recommendation 4 & also note comments in section on transfer of concessional leases</p>

		<p>103. In the particular circumstances of ACT Crown Leases, there are two other fundamental problems. One is legal and the other is commercial.</p> <p>104. The legal objection is that any such legislation is beyond power (see <i>Australian Capital Territory (Self-Government) Act 1988 – Sec 23</i>). It is beyond the power of the ACT legislature to deprive the registered proprietor of an ACT Crown Lease of any benefits of that lease, except on just terms.</p> <p>105. The commercial objection is that, in future, no commercial dealing with the ACT Government could be regarded as final. It is commercially perilous for one party to any commercial transaction unilaterally to change the deal after it has been done. The lack of trust which this engenders is a most serious commercial and political problem.</p> <p>106. At a simple practical level, the possibility of the Government going back to attempt to unwind the financial basis on which the deal was done would necessarily involve</p>	<p>103. Noted.</p> <p>104. It is noted that s.23(1)(a) of the <i>Australian Capital Territory (Self-Government) Act 1988</i> provides-</p> <p>Subject to this section, the Assembly has no power to make laws with respect to:</p> <p>(a) the acquisition of property otherwise than on just terms.</p> <p>It is also noted that s.51(xxxi) of the <i>Commonwealth of Australia Constitution Act 1900</i> empowers the Parliament of Australia with respect to:</p> <p>The acquisition of property on just terms from any State or person for any purpose in respect of which the Parliament has power to make laws;</p> <p>105. The respondent’s comments are noted and will be dealt with in the report.</p> <p>See comments in section on transfer</p> <p>106. At Response 99 above, the following comment was made-</p> <p>The respondent does not mention the <i>only</i> indicator of whether a lease is a <i>concessional</i> involves a valuation</p>
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		<p>retrospective valuations. Is it proposed that those bodies which in retrospect are found to have paid the Government more than the then value will be entitled to a refund?</p> <p>107. Any change to any existing lease is objectionable. This submission is not relevant to future grants.</p>	<p>exercise in determining whether the amount paid for the lease represented its <i>market value</i> or <i>market rent</i>. Consequently, competent valuation services would be an essential component required for such a task.</p> <p>The existing arrangements already appear to require the assessment of either <i>market value</i> or <i>market rent</i> at the time of the grant of the lease. It is recognised that this is problematic. There are other options canvassed in the report to deal with this situation.</p> <p>107. The respondent's comments are noted and will be dealt with in the report.</p> <p>See Introduction</p>
11	Pamela Rutland	<p>111. Concessional leases granted up until now by either the Commonwealth or the ACT should remain with the current owners and should not be available for sale now or in the future. They should remain as community facilities and should not be seen as a source of income.</p> <p>112. No more concessional leases should be granted, unless to schools of a non-denominational nature.</p>	<p>111. The respondent's opposition to the original grantee on-selling a concessional lease to another other party is noted but it ignores the fact that not all concessional leases are granted for the purposes of <i>community facilities</i>.</p> <p>See Recommendation 7</p> <p>112. The view that future concessional leases should only be granted for the purposes of non-denominational schools is noted.</p> <p>See Recommendation 3</p>
12	Guides Australia – ACT Region	<p>121. Guides Australia (formerly the Girl Guides Association) ACT Region, is a community organization, which has given</p>	<p>121. The organisation's record of providing service to the ACT community is noted.</p>

		<p>service to the ACT community since 1927, and continues to do so.</p> <p>(a) There will always be a need for youth organisations such as Guides especially in medium to high density urban developments.</p> <p>(b) We would like continued access to land (with concessional leases) to service the needs of our members now and in the future.</p> <p>(c) There should be a scheme in place to encourage, in the newer areas, joint applications for multipurpose style buildings using concessional lease land.</p> <p>(d) Being a non-profit organisation, we have no resources to pay market values for a lease.</p> <p>(e) As long as a lessee requires a lease for the purpose for which it was given there should be no question of "deconcessionalising" the lease.</p>	<p>(a) Noted.</p> <p>(b) The Guides' support for the continued grant of concessional leases is noted.</p> <p>See Recommendation 3</p> <p>(c) This is more an issue for planning for future community facilities rather than the broader brief of concessional leases but is noted nevertheless.</p> <p>(d) In the context of (c) above, there is support for the prospect of similar organisations sharing facilities.</p> <p>(e) Part of Response No. 96 said-</p> <p>Deconcessionalisation is a means of removing certain restrictions on dealing with concessional leases and it can also be used to reduce the level of the change of use charge from 100% added value to 75% added value.</p> <p>It might also assist a concessional leaseholder to obtain funds to construct a building, using the lease as a security. That prospect has also been addressed elsewhere.</p> <p>See Recommendation 17</p>
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		<p>(f) We have major concerns about the legal limbo in which we find our current leases. A number of leases held by the Guides have expired and are now running on a quarterly basis.</p> <p>(g) For the last twenty years there has been reluctance, by a variety of government departments to renew any of our leases. This uncertainly impedes our planning for the future.</p> <p>(h) Over the last fifty years significant investments in money and volunteer hours have been made towards buildings on our leases.</p> <p>(i) We would like to see all our leases come under the same conditions. Being a voluntary organization, we have a turn over of personnel managing the properties. The current leasing situation makes good governance and/or effective stewardship by volunteers, time consuming and difficult.</p> <p>(j) We need a guarantee that our leases will not disappear because commercial or other interests desire the land for their own purposes.</p>	<p>(f) Your concerns will be drawn to the attention of the ACTPLA.</p> <p>(g) Your concerns will be drawn to the attention of the ACTPLA.</p> <p>(h) Noted.</p> <p>See Recommendation 6</p> <p>(i) The comment is taken to mean that different terms, conditions and provisions contained in leases granted to the organisation over a long period of time (perhaps since 1927) are causing problems and it would be easier if all the Guides' could be in the same format and generally contain the same provisions. The ACTPLA understands the problem.</p> <p>(j) Concessional leases are a legitimate form of land tenure and safeguards relating to the acquisition of property exist, as related elsewhere in these responses. If the issue is concern about the prospect of future concessional leases, that concern is noted.</p> <p>See Recommendation 7</p>
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		<p>(k) We would like to see recognition of community service by current lessees.</p> <p>(l) Leases given for community service should remain as such and we have no problem with restrictions being placed on mortgaging or subletting of leases to community groups.</p>	<p>(k) The proposal aired in the Discussion Paper was made in the context of the <i>deconcessionalisation</i> of a concessional lease. At Issue (e), the Guides appear not to support <i>deconcessionalisation</i>. Consequently, it is not clear what is intended here.</p> <p>See Recommendation 6</p> <p>(l) It is noted that the Guides do not support leases granted for a “community service” being varied to allow the land to be used for purposes other than a “community service”. It is also noted that the Guides support the retention of restrictions on mortgaging and subletting leases to community groups.</p> <p>See Recommendation 13</p>
13	Dennis McNevin	<p>131. I would like to submit the following response to the Review of Concessional Leases in the ACT. I have responded specifically to the threshold questions in the Discussion Paper.</p> <p>I would also like to raise an issue relevant to the Discussion paper which is not mentioned in the Paper. This is the issue of heritage value associated with existing concessional leases. Although it may be argued that some concessional leases no longer fulfil the purpose for which the lease</p>	<p>131.</p> <p>The respondent’s view on the cultural heritage value of some concessional leases is noted. Preservation of a significant building for an alternative use is an example of “recycling” which has been raised elsewhere and which will be raised in the report.</p>

		<p>was originally granted, these leases have often played a significant role in the cultural heritage of the ACT. Many of these leases, for example, were granted to migrant communities. While it may be impractical and expensive to maintain them in their traditional form, some part of them should be retained as a cultural investment. Preservation of the original building, with perhaps a new function, is a good example of how this may be achieved if the concessional lease is to be transferred. The buildings are often associated with the lives and memories of a significant population of the ACT, even those for whom the concessional lease was not originally granted. These associations, though intangible, contribute to what has come to be known as the "social capital" of communities and are very important for their well being.</p> <p>In the same way that maintaining past and existing concessional leases, or some part of their "essence", has delivered us cultural heritage now, the continued granting of such leases will ensure we deliver cultural heritage to future generations.</p> <p>Grants</p> <p><i>1. Should the Government continue to grant leases at less than market value?</i></p> <p>The Government should continue to grant concessional leases at less than market</p>	<p>The respondent's support, on cultural heritage grounds, for the continuation of concessional lease grants is noted.</p> <p>The respondent's support, on urban planning grounds, for the continuation of</p>
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		<p>value. This provides the Government with an instrument for effecting desirable outcomes (whatever they may be) in urban planning which the market may not be able to deliver. Typically, property investment and development is performed to return financial reward in a number of years while urban planning must forecast <i>generational change</i> in a number of decades. The market does not, as yet, adequately account for or put a proper value on environmental and social capital and so these aspects of lifestyle are discounted at the expense of material profit.</p> <p>It has been demonstrated many times to the point of universal truth that urban planning options that are chosen for their cost saving and result in under-resourced neighbourhoods with poor infrastructure only result in a delayed cost to the community and society at large. This cost is manifested decades into the future in terms of increased crime, poor physical and mental health, unrealised education, etc. At present, the market is no better at alleviating these delayed costs because it does not account for them.</p> <p>It is not appropriate to replace the granting of concessional leases with other financial assistance for organisations that would otherwise be eligible for a concessional lease. It removes from the Government the power to specify where concessional activities will occur as this would then be</p>	<p>concessional lease grants is noted.</p> <p>See Recommendation 3</p> <p>The respondent's opposition to replacing future grants of concessional leases with other financial assistance on grounds that it would limit the opportunity for government to determine the location in which desired services would be provided is noted. The grounds stated appear to ignore the fact that</p>
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		<p>highly influenced by the market.</p> <p>2. <i>What organisations or institutions should be able to receive leases at less than market value?</i></p> <p>Eligibility for concessional leases should not be measured against a set of fixed criteria. The criteria will change as the needs of the urban environment change in the ACT. The Government should regularly define criteria that are consistent with planning goals and allocate concessional leases by a tender process. Those organisations that can best meet the criteria at any given time will be awarded concessional leases. There should also be a process by which an organisation can demonstrate a need for a concessional lease that has not hitherto been recognised.</p> <p>3. <i>Should concessional leases (apart from lease renewals) only be granted pursuant to Sections 163 and 164 of the Act?</i></p> <p>Concessional leases should also be granted under Section 161(1)(d). Sections 163 (leases to community organisations) and 164 (special leases) are particular in their application and may not encompass the full breadth of Government planning policy and community needs at any given time. However, an open and transparent process demonstrating community benefit must be</p>	<p>the terms and conditions of any government financial subsidy could require services to be provided in a particular location.</p> <p>See Recommendation 14</p> <p>The concept of eligibility criteria being fixed in perpetuity is not supported by the review. It is recognised that the needs of the community have and will continue to change over time. Eligibility criteria can nevertheless be fixed and reviewed, through an open process, over time to meet emerging needs.</p> <p>See Recommendation 12</p> <p>The respondent's support for continuing to grant concessional leases under s.161(1)(d), s.163 and s.164 of the Land Act are noted.</p> <p>See Recommendation 12</p>
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		<p>associated with the granting of leases under 161(1)(d).</p> <p>4. <i>How does Government identify the uses for which concessional leases should be granted and how; does it determine priorities having regard to the fact that land suitable for urban development is a finite resource?</i></p> <p>The Government should regularly define criteria that are consistent with planning goals and allocate concessional leases by a tender process. Those organisations that can best meet the criteria at any given time will be awarded concessional leases. There should also be a process by which an organisation can demonstrate a need for a concessional lease that has not hitherto been recognised.</p> <p>The criteria upon which concessional leases are granted can be defined in a number of ways. For example:</p> <ul style="list-style-type: none"> ◆ Community consultation. ◆ Modelling of the effects of certain policies. For example, the National Centre for Social and Economic Modelling (NATSEM) at the University of Canberra is a world leader in developing microsimulation models and in undertaking a wide range of social and economic research. ◆ Planning workshops with sociologists, urban planning, public 	<p>The respondent's proposals are noted.</p> <p>See Recommendation 14</p>
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		<p>health, and other professionals.</p> <p>5. <i>How does the government decide which organisation should receive a grant, if a number of organisations can provide the services identified as needed in a particular area?</i></p> <p>See (2) above.</p> <p>Administration</p> <p>1 <i>How is Government to identify existing concessional leases?</i></p> <p>It should be straightforward to identify concessional leases granted under the <i>Land (Planning and Environment) Act 1991</i>. The following leases granted prior to the <i>Land (Planning and Environment) Act 1991</i> should be deemed concessional:</p> <ul style="list-style-type: none"> ◆ Leases for which land rent is currently received by the Government at less than current market value for the unimproved land; ◆ Leases which were not bought from auction or other purchase on the open property market; ◆ Leases granted under the <i>Church Lands Leases Ordinance 1924</i> 	<p>Noted.</p> <p>This has not been the experience of the review.</p> <p>See Recommendations 4 & 16</p> <ul style="list-style-type: none"> ◆ Most Crown leases of urban land granted prior to 2 April 1992, under earlier leasing legislation, would now be subject to the payment of nominal land rent (5 cents per annum) which bears no relationship to the unimproved value of the land, the subject of the lease – so, most leases would be caught. ◆ Many leases have been the subject of a direct grant at market value – those would be caught. ◆ Such leases we granted free of charge.
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		<p>(leases granted under this ordinance were always remarkably favourable to the lessee).</p> <p>2. <i>Should recognition be given to the public benefit provided by the lessees of concessional leases?</i></p> <p>Any recognition given to the public benefit provided by the lessees of concessional leases should not provide a mechanism to allow concessional leases to be "bought out", "deconcessionalised" or sold on the market by the lessee. If the current holder of a concessional lease relinquishes the lease, it should be returned to the Government or passed on to a new lessee that can meet the criteria described in (2) and (4) in the Grants section above. There may be conditions attached to the awarding of a concessional lease which may have to be fulfilled at pre-agreed milestone dates or at the expiry of the lease but these should not be used to "deconcessionalise" the lease.</p> <p>3. <i>Should the lessees of concessional leases be able to vary the lease?</i></p> <p>The lessees of concessional leases should be able to vary the lease at the expiry of the lease as follows:</p> <ul style="list-style-type: none"> ◆ They could apply for an extension of the lease, or 	<p>The respondent's opposition to allowing recognition of the public benefit provided by a concessional leaseholder being used to deconcessionalise a lease is noted. The view that a lease should be returned to the government for allocation to an eligible applicant is also noted.</p> <p>See Recommendation 6</p> <ul style="list-style-type: none"> ◆ s.172 of the Land Act currently provides for the grant further leases for purposes other than residential or rural. Concessional leaseholders may apply to
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		<p>◆ They should be able to change the purpose for which the lease is to be continued provided that is consistent with the criteria described in (2) and (4) in the Grants section above.</p> <p>In either case, they should have to compete with other organisations that are tendering for new leases.</p> <p>4. <i>Are there any reasons in equity and administration to exempt leases from the definition of concessional based on the date of their grant?</i></p> <p>It may be reasonable, from an administrative point of view, to exempt any leases granted before the <i>Land (Planning and Environment) Act 1991</i> and not included in (1) of the Administration section above from the definition of concessional.</p> <p>5. <i>Should concessional leases continue to be subject to restrictions on transfer, assignment, subletting or parting with possession without consent?</i></p>	<p>have their leases “extended” at any time during the term of their leases. The review would not recommend removing that right.</p> <p>◆ The respondent’s support for limited opportunity for concessional leaseholders to vary their leases is noted.</p> <p>See Recommendation 7</p> <p>See response above to the categories proposed.</p> <p>See Recommendations 1 & 2</p>
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		<p>Concessional leases should continue to be subject to restrictions on transfer, assignment, subletting or parting with possession. Furthermore, consent should not be given to lift these restrictions. There should be no mechanism to allow concessional leases, or part thereof, to be "bought out", "deconcessionalised" or sold on the market by the lessee. If the current holder of a concessional lease relinquishes the lease, it should be returned to the Government or passed on to a new lessee that can meet the criteria described in (2) and (4) in the Grants section above.</p> <p>Although it may be argued that some concessional leases no longer fulfil the purpose for which the lease was originally granted, the limited supply of land available for granting of concessional leases requires that this land continue to operate as a concessional lease until it is returned to the Government which may allocate the land as another concessional lease for any new development criteria as described in (2) and (4) in the Grants section above.</p> <p>6 <i>Should the lessee of a concessional lease be required to pay the current value of the lease less any capital sum previously paid to "deconcessionalise" the lease?</i></p> <p>The lessee of a concessional lease should be unable to "deconcessionalise" the lease by any mechanism. These leases were</p>	<p>The respondent's support for an absolute prohibition on transfer, assignment, subletting or parting with possession is noted.</p> <p>The respondent's opposition to any form of deconcessionalisation is noted.</p> <p>The respondent's support for concessional leases to be returned to the government (when they have "outlived their usefulness") for reallocation is noted.</p> <p>See Recommendations 7 & 13</p> <p>Noted.</p> <p>Noted.</p> <p>See Recommendations 18 & 26</p>
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		<p>awarded on behalf of the people of the ACT and belong, at expiry of the lease, to the people of the ACT. They were awarded to improve quality of life and provide community benefit and should remain with this function or returned to the Government. There is a finite supply of land available for granting of concessional leases and if this supply is eroded by the gradual privatisation of this land then it will be at the expense of public benefit.</p>	
14	Margaret Williams	<p>141. As the discussion paper notes this issue is complex. However, assuming that the majority of the concessional leases are <i>a lease of land granted for a community type use</i>, I would like to make some comments and request that in any future dealings with concessional lessees the ACTPLA adopt the general principle of not allowing land which was set aside for "community purposes" to become a source of income or capital gain for organisations, developers or the ACT Government.</p> <p>142. Given the varying nature of current lessees, the difficulties of determining priorities for which concessional leases</p>	<p>141. The respondent's assumption may be based on a false premise. ACTPLA does not know precisely how many concessional leases there are, nor does it know how many of those have been granted for "a community type use".</p> <p>This is not a review of leases for "a community type use", although many respondents have framed their responses in such terms.</p> <p>See Recommendations 7 & 13</p> <p>Land intended to be put to a "community type use" is generally, specifically dealt with under the various Land Use Policies of the Territory Plan, including the <i>Community Facilities Land Use Policies</i>. There are limited opportunities to deal in that land for speculative gain.</p> <p>142. The respondent's opposition to continuing to grant concessional leases is noted.</p>

		<p>should be granted, and the fact that the supply of land suitable for urban development is finite it is my view that it would be reasonable for the Government to determine that it will not continue to grant concessional leases to organisations.</p> <p>143. In the case of existing concessional leases I strongly oppose any moves to vary the original restrictions on transfer, mortgage and subletting without fully assessing the degree of local community support for a specific proposal. Changes to leases should only be allowed in circumstances where there is overwhelming local community support for a proposal to vary a lease. In most cases the ACTPLA should be ensuring that the original lease restrictions are enforced. Community and individual resident decisions have been made on the basis of the current use of concessional lease areas and it would be totally unacceptable for the ACTPLA to allow variations to the purpose for which these concessional leases have been made.</p> <p>144. In the case of the CLLO leases the ACTPLA must ensure that NO Church holding one of these leases is able to vary the original land use restrictions or to sell any portion of the land originally granted for Church purposes. The provisions in the CLLO leases which effectively limit the use of the land to the activities conducted by the original lessee and the consequent public benefit of the use of this type of community</p>	<p>See Recommendation 3</p> <p>143. The respondent's opposition to any moves to vary the original restrictions on transfer, mortgage and subletting are noted but ignore the fact that some existing restrictions <u>were not original restrictions</u> and arose out of the introduction of the Land Act.</p> <p>The respondent's opposition to variations of lease purpose is noted.</p> <p>See Recommendation 7</p> <p>144. Most leases for churches and places of worship would have been granted under the <i>Leases (Special Purposes) Act 1925</i> and, since 2 April 1992, the Land Act. As reported in the discussion paper, only about 50 leases under the <i>Church Lands Leases Act 1924</i> are thought to have been granted.</p> <p>See Recommendation 7</p>
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		land must be maintained.	The respondent's opposition to allowing variation, on-selling or subdivision of leases granted for church purposes is noted but it is also noted that other respondents argue for more flexibility in the use of land leased for church purposes, particularly in the context of providing accommodation for the aged.
15	YWCA – Canberra	<p>151. The YWCA of Canberra welcomes the opportunity to provide input into ACTPLA's review of concessional leases in the ACT. There are a number of points which we would like to raise, particularly in relation to the issue of community services' access to appropriately priced and located accommodation.</p> <p>152. We support the continuation of a lease system that permits community services (that is, as defined at Section 163 of the relevant legislation, "bodies corporate that take as their principal purpose the provision of a service or a form of assistance to persons living or working in the Territory") to access land at less than market value for specific purposes. While we recognise the complexity of administering the concessional lease system as it currently operates, we would stress that the needs of community services should remain a priority in the consultation and review process that is underway.</p> <p>153. Specifically, the YWCA of Canberra wishes to raise the following points:</p>	<p>151. It is noted that the respondent's submission focuses on community service providers' access to affordable and appropriately priced accommodation.</p> <p>See Recommendation 14</p> <p>152. The support of the respondent to the continuation of concessional lease grants to community organisations (as defined in s.163 of the Land Act) is noted.</p> <p>See Recommendation 3</p> <p>153. Noted.</p>

		<ul style="list-style-type: none"> ◆ Leases granted to community organisations at less than the market value reflect the economic and social benefit generated by community services, and remain a useful way for government to support the provision of community service. ◆ The distinction between special leases for the purpose of economic or industry development and concessional leases designed to support the work of community service organisations is of value and the two forms of lease should remain clearly differentiated. ◆ Accessing appropriately located and priced accommodation remains a significant challenge for community organisations. The concessional lease system should act as one among many mechanisms of support to assist a wide range of community organisations to access quality premises, appropriately priced and located. ◆ Where a number of organisations could provide a service but access to concessional leases is limited, the granting of leases should operate according to a clear and transparent tender process. This process should take into account the fundamental principle that a range of community organisations, in particular smaller organisations and those not receiving 	<ul style="list-style-type: none"> ◆ The respondent’s support for continuing concessional lease grants to community organisations is noted. See Recommendation 6 ◆ The respondent’s support for maintaining a distinction between concessional lease grants to community organisations and grants for economic development is noted. ◆ Noted. See Recommendation 14 ◆ The respondent’s support for a clear and transparent tender process where there are competing “bids” for concessional grants. The view that smaller organisations and those not receiving core government funding should be supported to access affordable premises appropriate to specific organisational needs is not well explained.
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		<p>core government funding, should be supported to access affordable premises appropriate to specific organisational needs.</p> <p>154. The YWCA of Canberra, as a provider of community services and as an employer of some 170 staff, generates significant community benefit both economic and social. Accessing appropriate and affordable accommodation remains a significant challenge for our organisation. In this submission to the Review of Concessional Leases, we wish to underscore to ACTPLA that changes to the concessional leasehold system must reflect the community benefit generated by community service organisations and act as one mechanism to support community services to access appropriate premises.</p>	<p>154. The respondent's views are noted.</p> <p>See Recommendation 6</p>
16	W Graham Wright	<p>161. My experience is that whenever the word 'community' is used in connection with a 'use purpose' the end result is always the same: the community suffers because the lessee is interested only in the profit to be made from the development.</p> <p>162. There are now enough churches in the ACT to satisfy the community needs for religious observance. There are enough clubs, sporting, ethnic and politically orientated to meet the needs of the projected community huddled within the 15 kilometre city limits.</p>	<p>161. The respondent's experience is noted.</p> <p>162. The respondent's view that there are already enough churches and clubs to meet the needs of the community are noted.</p>

		<p>163. The time has come to abolish the concessional lease process.</p> <p>164. Leaseholders of concessional leases should be held to the conditions of their Crown Leases or suffer forfeiture. On no account should concessions be made for economic and business development. The amount of retail development in the ACT is sufficient for the next 15 years.</p> <p>165. The ACT Government should realise that it is elected to serve the people not just to come up with bright ideas from time to time. There are some things which only a government can do which left to private enterprise will result in dissatisfaction within the community. Public transport in the ACT is a prime example. Health and fitness is another.</p> <p>166. Government must build facilities and provide finance for on-going maintenance and refurbishment. Day to day management can be leased to the private sector to avoid the 'big brother' concept.</p> <p>167. Existing concessional leases should be re-examined with a view to change through payment, the application of a sunset clause, or forfeiture.</p>	<p>163. The respondent's support to the abolition of the concessional lease process is noted.</p> <p>See Recommendation 3</p> <p>164. The respondent's opposition to the continuation of concessional grants for economic and business development (s.164 Land Act) is noted.</p> <p>165. The comment in conjunction with Issue No. 166 is understood to support the abolition of the concessional lease process in favour of the government becoming involved in building and providing premises and also providing the services that are currently made available by concessional leaseholders.</p> <p>166. See Response No. 165 above.</p> <p>167. The respondent's support for a review of all existing concessional leases, with the object of removing their concessionality by</p>
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			<p>one means or another, is noted.</p> <p>See Recommendations 17 & 18</p>
17	Warwick Pearson	<p>General</p> <p>171. It is clear from the Review that the issue of concessional leases is complicated and that there are no easy solutions that would provide equity to the owners of the land involved i.e. the Canberra community. This brings me to make two fundamental points.</p> <p>First, the land subject to concessional leases belongs to the residents of Canberra. The land does not belong to special interest groups who may covet its use at the expense of the Canberra community.</p> <p>Secondly, the owners of the land vest its stewardship in those elected representatives who form Government. That stewardship should be exercised with care and with the interest of the owners foremost in mind when considering future policy on concessional leases.</p> <p>Comment</p> <p>172. The grant of a concessional lease is in effect a subsidy to the lessee. This subsidy is paid for by Canberra residents through the various taxes and imposts that are levied on them. For this reason the grant of concessional leases should be very restricted. It follows that the ACT Government should clearly define the meaning of a concessional lease and that</p>	<p>171. The ownership of the land in the ACT is vested in the Commonwealth. Under the provisions of the <i>Australian Capital Territory (Planning and Land Management) Act 1988</i> (C'wlth) the ACT Government has the responsibility for managing land designated as <i>Territory land</i>. In a sense, the land belongs to the people of Australia, not just to the residents of Canberra and certainly not to special interest groups.</p> <p>The owner of the land, the Commonwealth, has vested stewardship of the land in the ACT Government, as explained above.</p> <p>172. The manner in which the amount of any subsidy involved in the grant of a concessional lease is accounted for by the government is not an issue falling within the purview of this Review.</p> <p>See Recommendation 14</p> <p>The respondent's support for clear definition</p>

		<p>definition should be based on a narrowly defined community needs basis.</p> <p>173. The Report states that the term "concessional lease" was not used until self-government. While this may be true the concept of a concessional lease i.e. a lease granted at less than market value or with the land rent discounted was well established by the time of self-government.</p> <p>Existing Concessional Leases</p> <p>174. Existing leases should continue to be treated as they are currently. While for administrative reasons it may be cleaner to bring existing concessional leases within the scope of a new policy the question of retrospectivity arises. I do not consider that retrospective legislation/regulation is fair to existing lessees unless of course they voluntarily submit themselves to new legislation/regulation.</p> <p>Concessional Leases for Economic and Business Development</p> <p>175. Given Canberra's vibrant economic growth, high incomes and low unemployment rate I do not believe that it is necessary for the ACT Government to grant concessional leases which are for economic or business development. This policy should cease. Crown leases for economic and business development should</p>	<p>of the term <i>concessional lease</i> based on a narrowly defined community needs basis is noted.</p> <p>173. One school of thought, supported by some valuation professionals, is that the government, through its monopoly over the supply of Crown leases in the ACT, has set the market price and thus <i>market value</i> of leases for the greater part of the ACT's history. The respondent's view is nevertheless noted.</p> <p>174. The review has considered treating future concessional leases differently from existing leases. The reviewers feel that the current arrangements for administering (existing) concessional leases are unworkable. The issues around the introduction of retrospective legislation have been dealt with at Responses 101-107.</p> <p>See Recommendations 1, 2 & 4</p> <p>175. The respondent's support for the abolition of future concessional grants which are for economic or business development objectives is noted.</p> <p>See Recommendation 20</p>
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		<p>always be sold at market value. If private enterprise is to prosper in the ACT it should do so without financial assistance from the Canberra taxpayer.</p> <p>Concessional Leases for Community Purposes</p> <p>176. Concessional leases for community purposes should be retained but the definition of "community need" should be clearly and narrowly defined so that the number of concessional leases granted is minimised for example, requests are sometimes made for concessional leases for aged residential accommodation. The grant of concessional leases for this purpose was probably acceptable when the aged were a smaller proportion of our population than they are now. Today, with a rapidly ageing population, a much greater proportion of our housing stock is destined for use by the aged than it was a few years ago. And this proportion is likely to increase. In this situation it is legitimate to ask why a subsidy is provided for aged residential accommodation through the grant of concessional leases and not to other sectors of our community. This is especially so when there are commercial organisations that can develop and provide aged accommodation without the need for a concessional lease.</p> <p>177. The terms of a concessional lease should always allow the ACT Government to resume a lease when it considers the</p>	<p>176. The respondent's support for continuing concessional grants for "community purposes" subject to a narrow definition of "community need" is noted.</p> <p>See Recommendation 14</p> <p>The respondent's opposition to proposals for providing aged person's accommodation being eligible for a concessional grant is noted but is at variance with the views on a number of respondents.</p> <p>The view that such accommodation can be provided by commercial operations is noted.</p> <p>177. The government has a number of options to "retrieve" a lease. Response No. 99 mentions the <i>termination</i> provision in leases</p>
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		<p>circumstances warrant such a move. The recent resumption of the Philip Oval lease is a good case in point.</p> <p>178. The lessee should not have the power to on sell the lease to others. On selling might give rise to suspicion that a subsidised lease is being sold for the benefit of a particular interest group rather than for the benefit of the Canberra community. If the concessional lease or part of that lease is no longer required then it should be handed back to the ACT Government for disposal as it sees fit.</p> <p>179. Moreover the lease should define the lessee narrowly so that transfer to another "similar" organisation is not possible and credit should not be given to a lessee simply because that lessee was fulfilling a "community" function. Lease variations should be made difficult to achieve, be minor and subject to a "betterment" charge. Moreover if an organisation using a concessional lease becomes more profit orientated than community orientated, then a charge reflecting that profit should be levied.</p> <p>No concessional leases should be "deconcessionalised" without payment to the ACT Government of <i>market value</i> for the</p>	<p>which may be used in cases where certain breaches of the lease have occurred. A lessee may, of its own volition, surrender its lease to the government and the government may compulsorily acquire a lease <i>on just terms</i>. The review will not be proposing removing any of those arrangements.</p> <p>178. The respondent's opposition to allowing the on-selling of a concessional lease in favour of the lease being "handed back" to the government is noted.</p> <p>See Recommendations 7 & 13</p> <p>179. The respondent's opposition to a lease being capable of transfer to another "similar" organisation is noted.</p> <p>The respondent's support for only limited lease variations being possible is noted.</p> <p>The respondent's view on the appropriate level of <i>change of use charge</i> is noted.</p> <p>The respondent's view that deconcessionalisation should only occur upon payment of an amount equivalent to the <i>market value</i> of the lease (land) is noted.</p> <p>See Recommendations 7, 17 and 18</p>
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18	Woden Valley Community Council	<p>General</p> <p>181. The recently distributed report on concessional leases is very comprehensive, so much so that it is difficult to respond in detail for anyone without the expertise of the consultants and the ACTPLA.</p> <p>182. In considering its response to the Review the WVCC makes a basic observation. All, land covered by concessional leases belongs to the residents of Canberra. It follows that ownership of that land does not reside with special interest groups whose stewardship of that land may not always coincide with the interest of the wider Canberra community.</p> <p>183. The grant of a concessional lease is in effect a subsidy to the lessee paid for by Canberra taxpayers. For this reason the number of concessional leases granted should be few.</p> <p>Bearing the above in mind and in an endeavour to simplify the review, the WVCC submits the following:</p> <p>Concessional Leases for Economic and</p>	<p>181. Noted. The discussion paper was, in part, intended to provide sufficient background information to facilitate an understanding of the topic.</p> <p>182. Response No. 171 stated- The ownership of the land in the ACT is vested in the Commonwealth. Under the provisions of the <i>Australian Capital Territory (Planning and Land Management) Act 1988</i> (C'wlth) the ACT Government has the responsibility for managing land designated as <i>Territory land</i>. In a sense, the land belongs to the people of Australia, not just to the residents of Canberra and certainly not to special interest groups.</p> <p>The owner of the land, the Commonwealth, has vested stewardship of the land in the ACT Government, as explained above.</p> <p>See Recommendations 13 & 16</p> <p>183. Response No. 172 stated, in part- The manner in which the amount of any subsidy involved in the grant of a concessional lease is accounted for by the government is not an issue falling within the purview of this Review.</p>

		<p>Business Development</p> <p>184. The grant of concessional leases to establish new businesses at less than fair market value should cease. Given Canberra's strong economic growth the WVCC does not consider that the ACT Government need grant concessional leases for economic and commercial development. The Crown Lease should be sold at normal market value.</p> <p>Concessional Leases for Community Purposes</p> <p>185. Provision for granting of concessional leases for community purposes should be retained, but the definition of "community need" should be clearly and narrowly defined so that the number of concessional leases granted is minimised.</p> <p>186. The terms of a concessional lease should always allow the ACT Government to resume a lease or that part of the lease no longer required for its original purpose. Concessional lessees should not be permitted to exploit the community, but they should not be unduly penalised if they no longer require the land. As a last resort, the government should withdraw the lease or acquire the property and use or sell it for another use. Recent reports about the Phillip Oval support the need for such action.</p>	<p>184. The respondent's support for the abolition of future concessional grants which are for economic or business development objectives is noted.</p> <p>See Recommendation 20</p> <p>185. The respondent's support for continuing concessional grants for "community purposes" subject to a narrow definition of "community need" is noted.</p> <p>See Recommendations 3 & 15</p> <p>186. The government has a number of options to "retrieve" a lease. Response No. 99 mentions the <i>termination</i> provision in leases which may be used in cases where certain breaches of the lease have occurred. A lessee may, of its own volition, surrender its lease to the government and the government may compulsorily acquire a lease <i>on just terms</i>. The review will not be proposing removing any of those arrangements.</p> <p>See Recommendation 4</p>
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		<p>187. Even with a narrow definition for concessional leases there will, undoubtedly, be requests for lease variations. All variations approved should be subject to an appropriate charge.</p> <p>Variations to concessional leases, which change the original purpose, should, in the view of the WVCC, extinguish the original lease. A new lease should be allowed only after a first level examination ensuring community needs criteria are met. The potential economic gain for the lessee following a variation has to be appraised and a new consequential value set upon the lease.</p> <p>188. The concessional lessee should not have the power to on-sell the lease, even to those with "similar" interests. This power should always reside with the ACT Government.</p> <p>189. It is often the case that variation to concessional leases is sought to provide housing for the elderly. The WVCC is of the view that, given the increase in our aged population and the subsequent increase in the proportion of housing stock for the elderly concessional leases should not be granted for accommodation for the elderly. Rather leases for this purpose should be sold at market value.</p>	<p>187. The respondent's support for only limited lease variations being possible is noted.</p> <p>See Recommendation 8</p> <p>The respondent's view on the appropriate level of <i>change of use charge</i> is noted.</p> <p>The respondent's view that major lease variations should extinguish the original lease is, in effect provided for under the existing arrangements whereby the original lease is required to be surrendered in favour of the grant of a "substitute" lease and the holders of concessional leases are required to pay a change of use charge equivalent to 100% of the added value.</p> <p>188. The respondent's opposition to a lease being capable of transfer to another "similar" organisation is noted.</p> <p>See Recommendation 13</p> <p>189. The respondent's opposition to proposals for providing aged person's accommodation being eligible for a concessional grant is noted but is at variance with the views on a number of respondents.</p> <p>The view that such accommodation can be provided by commercial operations is noted.</p> <p>The issue of "deconcessionalisation" will be</p>
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19	M Graham	<p>191. The retention of concessional leases is an absolute necessity in the interests of rational planning in the ACT.</p> <p>Removal of these types of leases would lead to the type of structure and planning to be too greatly influenced by private leaseholders and developers, and this would be a retrograde step.</p>	<p>191. The respondent's support for the retention of concessional lease grants is noted.</p> <p>See Recommendation 3</p>
20	Barton Tennis Club	<p>201. Barton Tennis Club Incorporated is the holder of a concessional lease on a site in Barton. Four tennis courts are on this site, along with a clubhouse. The site is surrounded by vacant land which we</p>	<p>201. The conditions of the club's leaseholding are noted.</p>

		<p>believe is currently zoned residential. Under the lease conditions the club is responsible for the upkeep of the tennis facility and for making it available to the general public for recreational tennis use.</p> <p>202. Some of the conditions of the lease limit the income earning capacity of the club and given the age of the facility (some of the infrastructure having been there since 1932) and its condition at the time of the granting of the lease it is an ongoing challenge to the members to provide funds for the maintenance and upgrade of the facility. Herein is one of the problems facing non-profit making sporting clubs with concessional leases that limit their income earning capacity.</p> <p>203. Where such sporting clubs have the capacity to generate income beyond that of membership fees and fees from the hiring out of their facilities, either through having spare land or being granted additional land under a concessional lease arrangement that could be put to commercial use or through provision of services via vending machines etc then provided that such profits/incomes are directed to the ongoing maintenance and upgrade of the facilities the concessional lease terms should be adjusted so. At the moment a club such as Barton is largely dependent of gaining grants from the government to undertake significant maintenance and upgrade work. If our club could generate more income</p>	<p>202. The need for the club to apply income for the members to provide funds for the maintenance and upgrade of the facility is noted.</p> <p>203. It is not stated whether the club has raised, with government or ACTPLA, the extent to which the provisions of its Crown lease limit its ability to generate income to be spent on the maintenance and upgrade of the government owned facility. Clearly, the December 1990 <i>Lease Allocation Policies for Associations etc</i> were intended to exclude licensed clubs (liquor/and or poker machines) from future concessional grants. It is understood that this philosophy may have extended into limiting the ability of concessional leaseholders to venture into commercial activities for the purpose of generating income. The Review will address this issue.</p>
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		<p>from arrangements that are now precluded by the terms of the lease it would have less need to call on the government for grants. When such grants are not available clubs are faced with letting their facility run down to point that it is no longer a suitable recreational facility for use by the general public.</p> <p>204. Sporting clubs like the Barton Tennis Club are but tenants for the government and whilst they are the recipients of concessions relating to rates etc they are expected to maintain facilities which can be very financially demanding. Often the worth of the concessions falls far less than the costs of complying with the lease conditions, that is, the costs of maintaining the infrastructure of the facility.</p>	<p>204. Other respondents have suggested that concessional leaseholders should surrender their leases when the intent behind their grant becomes no longer needed or no longer viable. In situations such as this, that may not be an option in the community's best interests.</p>
21	Brett Odgers	<p>I am making this submission in my capacity of individual citizen. My standpoint is also that of a member of the Chief Minister's Sustainability Expert Reference Group, although the Review of concessional leases has not been discussed by the Group.</p> <p>211. My purposes therefore are to consider concessional leases in the context of the ACT's policy for sustainability (<i>People Place Prosperity</i> issued March 2003 and embodied in <i>The Canberra Plan</i> issued 11 March 2004) and of Canberra's potential to develop as a great, sustainable and Capital city.</p>	<p>Noted.</p> <p>211. The respondent's purposes to consider concessional lease in the context of sustainability are noted.</p> <p>See Recommendation 14</p>

		<p>212. Whilst the discussion paper (DP) adopts the <u>definition</u> of concession as “capital sum or rent less than market value”, the corollary in any concessional lease is the inclusion of a number of <u>instrumental considerations</u>, ranging from the purpose and period of the lease, through various possible covenants, to provisions for termination, resumption, change of purpose, transfer, level of rates and other contingencies arising from the contractual negotiations.</p> <p>Furthermore, these lease considerations or provisions assume a quantum of “public interest” which in turn derives from many sources: in particular, legislation, policies and estimates of social, economic and environmental benefits and costs.</p> <p>213. The <u>ACT leasehold system</u> is acknowledged in the DP as a cornerstone of National Capital and metropolitan Canberra planning and a vehicle for the realisation of social goals. I wish to emphasise two aspects: (1) the ACT leasehold system has been weakened over Canberra’s 90 years history by partial dismantling, compromises and uneven administration; and (2) the system <i>per se</i>, its potential potency and the array of provisions available for individual leases, continue to constitute <u>the most important of policy instruments</u> for the orderly development of Canberra and the achievement of social, economic and environmental objectives.</p>	<p>212. The respondent’s views are noted.</p> <p>213. The respondent emphasises-</p> <p>(a) the ACT leasehold system has been weakened over Canberra’s 90 years history by partial dismantling, compromises and uneven administration; and</p> <p>(b) the system <i>per se</i>, its potential potency and the array of provisions available for individual leases, continue to constitute the most important of policy instruments for the orderly development of Canberra and the achievement of social, economic and environmental objectives.</p>
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		<p>So-called concessional leases are thus vital for the future development of Canberra. Any suggestion of ceasing to issue concessional leases further and gravely undermines the ACT leasehold system. No set of <u>alternative policy instruments</u>, such as fiscal or planning measures, could be comparably effective.</p> <p>214. I wish to address <u>three other questions</u> asked by the DP: How to categorise potential recipients of concessional leases? What methods are available to measure the public interest embodied in such leases? How to ensure transparency, accountability and compliance?</p> <p>Identification Categories and their characteristics can be drawn from the long history of concessional leases. They can be further defined in the light of current Government goals and policies. The contemporary situation is especially pertinent as the Stanhope Government has issued a comprehensive set of plans and policies for the future development and management of the ACT.</p> <p>A first distinction can be made between <u>economic</u> purposes and social and environmental purposes. In both theory and practice, there is little support for concessional leases for purposes of economic development. Even locational</p>	<p>See Introduction and History - See Recommendations 1 & 2</p> <p>The respondent's view that no set of alternative policy instruments, such as fiscal or planning measures, could be comparably effective is noted.</p> <p>214. Noted.</p> <p>The sampling exercise undertaken by the consultants, which is mentioned in Response No. 99, used examples drawn from the suggestions of experienced (then) PALM staff.</p> <p>See Recommendations 1, 2 & 4</p> <p>The respondent's opposition to continued concessional grants for business and economic development purposes is noted.</p> <p>See Recommendation 20</p>
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		<p>and job creation objectives are better pursued with measures other than concessional premiums and rents. On the other hand, <u>social, community and environmental purposes</u> abound in the current policies for Canberra’s development and market forces alone will not guarantee desired outcomes.</p> <p><i>The Canberra Social Plan</i> illustrates the importance of social capital, community organization and public participation in democratic processes. It exemplifies the shift towards community-based, non-profit and voluntary associations for provision of services, community development, greater degrees of local and sectoral responsibilities and self reliance, social intercourse, justice, equity and the vitality of democratic policy formation.</p> <p><i>The Canberra Spatial Plan</i> exemplifies the continuing spatial dispersion of Canberra and the new moves towards centralizing and intensifying mixed use activities in Civic and other town centres, where land values will increase.</p> <p>The Plans therefore indicate a <u>growing demand</u> from community-based organizations for land, building space or amenities that allow the provision of community and wider public benefits. Particular categories or sectors of public benefit include education, health, housing, environment and the creation of “social</p>	<p>The respondent’s support for the continuation of concessional grants for social, community and environmental <u>purposes is noted.</u></p> <p>See Recommendation 3</p> <p>The respondent’s observations on the <i>Canberra Social Plan</i> are noted.</p> <p>The respondent’s observations on the <i>Canberra Spatial Plan</i> are noted.</p> <p>The respondent’s observations from the Plans of indicators of indicate a growing demand from community-based organizations for land, building space or amenities are noted.</p>
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		<p>capital” in general. <u>Contemporary site examples</u> are Civic West, East Basin Redevelopment and Uriarra village.</p> <p>Techniques for assessing the public interest Reference points for the public interest comprise legislation, government policies and community values and standards. Established and readily available techniques for reliable and consistent evaluation and priorities-setting are generally based on the description and projection of benefits and costs, with appropriate methods for estimating significance and time scales.</p> <p>Transparency, accountability and compliance require a paradigm shift in the executive government and public administration in the ACT. It will require open government and the routine application of and training in established methods for evaluating the locus of public benefits. Of equal importance, lease management authorities must be adequately resourced and professional, commensurate with the diversity and richness of concessional leases.</p> <p>The capacity for systematic identification and evaluation of social goals and benefits <u>encompasses both future and existing concessional leases</u>. The accumulation of data and methods, along with improvement of compliance processes,</p>	<p>The respondent’s views on techniques for assessing the public interest are noted.</p> <p>See Recommendation 14</p> <p>The respondent’s views on what needs to be done, using concessional leases as one means of achieving the intended outcomes from the government’s policy objectives as reflected in the abovementioned plans, are noted, including view that lease management authorities must be adequately resourced and professional, commensurate with the diversity and richness of concessional leases.</p> <p>Noted.</p>
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		<p>should include more refined techniques for assessing community needs and demands and the best uses of particular blocks of land. With the intensification of land use projected by <i>The Spatial Plan</i> the precepts of transparency, consultation and participation will need to be managed more rigorously.</p>	
22	Catholic Archdiocese of Canberra & Goulburn and Anglican Diocese of Canberra and Goulburn	<p>221. The Catholic and Anglican Churches of Canberra are clearly the holders of largest number of “concessional” leases in Canberra. Because of our similar outlook and requirements, this is a joint submission on behalf of both Church organisations.</p> <p>222. We support the need for reform of the system to reduce complexity and to make the system more predictable, manageable and transparent.</p> <p>Conditions for Concessional Leases</p> <p>223. The Churches support the continuation of concessional leases. However we believe that:</p> <p>(a) Leases made for Community Infrastructure be granted at no cost to the lessee. These facilities could be classed as facilities that Government would otherwise have to provide or where substantial Government grants or subsidies are involved in the</p>	<p>221. The respondents’ joint submission is acknowledged.</p> <p>222. The respondent’s support for reform of the system to reduce complexity and to make the system more predictable, manageable and transparent is noted.</p> <p>223. The Churches’ conditional support for the continuation of concessional leases is noted.</p> <p>With the exception of the inclusion of “aged self-care facilities” at (c), the proposal is not dissimilar to the policies announced by the Alliance government in 1990. In recent times, land for aged self-care facilities has been made available to community providers at the rate of 50% of the cost of the land.</p>

		<p>construction or operation. These leases would cover such uses as education facilities (schools, colleges, and universities), hospitals, hospices, medical treatment centres, aged care nursing homes and hostels.</p> <p>(b) Leases made to build Social Capital should be made at the cost of servicing the site allocated. These leases would cover such uses as a place of worship (churches), and other religious associated uses such as presbytery, rectory, manse, church meeting hall, convent, monastery or priory.</p> <p>(c) Leases made to promote Social Objectives should be made at the cost of servicing the site. These leases would cover such uses as Aged Care Self Care Units where units operate on a loan and licence basis.</p> <p>Sunset Clause</p> <p>224. We also propose a sunset clause of fifteen years should apply to all concessional leases. During the fifteen years an embargo on the transfer of the land for any other purpose would apply.</p> <p>Who Should Qualify?</p>	<p>Several respondents do not support the view that providers of aged care housing should be eligible for concessional leases. Observations are that it is already a growing market in which commercial operators are competing. It is noted that recently some concessions have been available to commercial providers of aged self-care facilities.</p> <p>See Recommendations 3 & 5</p> <p>224. The respondents' support for a 15 year prohibition on the transfer of a concessional lease for any other purpose is noted. Presumably that statement includes a similar prohibition on a lease variation. It is also assumed as support for deconcessionalisation at no cost to the lessee after 15 years (this is affirmed at Issue No. 227 below).</p> <p>See Recommendations 6, 7, 8, 13, 15 & 17</p>
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		<p>225. To clearly delineate which organisations should qualify as recipients of such leases, we recommend that only those that have Income Tax Exempt Charities (ITEC) or Deductible Gift Recipient (DGR) status as accepted by the Australian Taxation Office should qualify.</p> <p>Existing Concessional Leases.</p> <p>226. The complexity caused by our inventory of leases, granted over an 80 year period, under a variety of Acts, with a variety of payments made and for a variety of uses, makes variation to meet modern requirements nearly impossible.</p> <p>227. We believe that, in line with the sunset clause proposed above, all concessional leases granted more than 15 years ago should be “deconcessionalised”.</p> <p>228. Additionally we believe that where a variation of use is required, which meets the principles we specified for the granting of concessional leases, similar costs should apply. In other words, if a “church use” was to be varied to include “educational</p>	<p>225. The respondents’ view that eligibility criteria should require the grantee of concessional lease to possess Income Tax Exempt Charity or Deductible Gift Recipient status is noted. That would preclude future concessional grants for business and economic development purposes and possibly many other service providers.</p> <p>See Recommendation 14</p> <p>226. In conjunction with the statement at Issue No. 227 below, this supports the deconcessionalisation of all concessional leases granted before 1989.</p> <p>See Recommendation 6</p> <p>227. The respondents’ support is noted for deconcessionalising, at no cost, all lease granted prior to 1989 and thereafter when 15 years have passed from the date of the grant of later leases.</p> <p>See Recommendation 6</p> <p>228. The respondents’ support for a nexus between the <i>change of use charge</i> regime and the charging regime for concessional leases is novel; at variance with the concept of <i>added value</i>; and at variance with the current arrangement where a concessional</p>
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		<p>use” or “nursing home” then no change of use charge be levied. If a “church use” or “Educational use” was to be varied to include “Aged self care” units then the only costs to be levied would be any costs for increased servicing of the site.</p>	<p>leaseholder is required to pay 100% of added value for a lease variation whereas a non-concessional leaseholder is required to pay 75%. Other respondents have opposed the providers of aged care housing being eligible for concessional leases.</p> <p>See Recommendation 14</p>
23	LCM Health Care	<p>231. This submission deals with two issues relating to the current system of concessional lease administration in the ACT. It is based on our experience to date in progressing the development of housing for the aged, although the issues it raises are generic.</p> <p>Valuation Issues</p> <p>232. The Review Discussion Paper takes for granted the concept of “market value” as being an accurate reflection of “the purpose clause, the term of the lease and other conditions of the lease”. However, there are some areas of the market, where what appears to be the “standard” approach to valuation does not accurately reflect the economic reality of the development that might be proposed. This is particularly so with regard to valuation by the AVO for properties that are being developed for older person’s housing.</p>	<p>231. As indicated in Response No. 228 above, other respondents (Issues Nos. 176, 189 and possibly 166) have opposed the providers of aged care housing being eligible for concessional leases. The respondent’s focus on <i>valuation issues</i> and <i>change of use charge</i> in connection with housing for the aged is noted.</p> <p>232. The respondent opposes the valuation approaches adopted by the government’s valuers in assessing leases permitting the development of aged persons housing of one form or another.</p> <p>There are a number of legitimate approaches to valuation. The government requires its valuers to assess the value of a lease, based on its highest and best use (under the provisions of the lease). If a prospective lessee does not intend to put the land under lease to its highest and best use, it could be argued that does not represent best land</p>

		<p>If we assume that the basic valuation process involves in the first instance determining a potential gross realisation of a particular development, there are a range of factors impact on this, including government policy about what type of development it wishes to encourage. To illustrate this point at its simplest, the gross realization of an aged care facility that contains independent living units that are targeted for low income (i.e. cash poor, asset poor) aged people, may be quite different to a development that targets asset rich superannuants.</p> <p>Factors that will affect the gross realisation in the provision of three tiered residential aged care (ILUs, hostel and nursing home), apart from physical planning restrictions, will include:</p> <ul style="list-style-type: none"> (a) the government’s policy objectives (eg. low income adaptable housing); (b) the ILU tenure arrangements with residents (eg. loan/licence, strata etc.); (c) the mix of hostel and nursing home residents; (d) whether the potential proponent is for-profit or not-for-profit; (e) government legislative requirements and subsidy arrangements. <p>Each of these can have a significant impact on the gross realisation of a development. We believe that without</p>	<p>utilisation practices. Nevertheless to underutilise the land is one choice a lessee may take but it should not expect the lessor to discount the legitimate value of the lease or the legitimate value of a lease variation.</p> <p>If, on the other hand, the government wishes a specific and particular development, a lease containing very specific development and use rights and obligation could be granted. The valuer would then be obliged to have regard to those very specific development and use rights when assessing the value based on highest and best use.</p> <p>Some respondents (Issues Nos. 62, 63 and 93) have argued in support of less restrictive development and use rights in leases particularly where the lessees might feel there is potential for developing housing for the aged.</p> <p>At Issue 94 a respondent proposes an augmentation levy be introduced in <i>lieu</i> of a <i>change of use charge</i>.</p> <p>The issue of appropriate charging levels for leases incorporating aged persons housing will receive comment in the report.</p> <p>See Recommendation 8</p>
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		<p>an understanding of such factors any valuation may be fundamentally flawed.</p> <p>To take this fundamental point further, loan/license arrangements, are the most common title arrangements in older person's housing developments that are operated by not-for-profit organisations. Under loan/license arrangements residents enter into a "licence to occupy" rather than have normal leasehold title (unit title owners are generally free to sell units at market rates). However this typically also involves a deferred management fee of up to 25-30% of entry value of the unit (usually payable over a 10 year period) as well as capital gain retention of up to 100% by the organisation owning the facility. To make these arrangements more "competitive" in the market, the sales price of the units is often set at below market value of comparable strata/unit title developments so as to compensate for the DMF and capital gains arrangements.</p> <p>In addition to this, and as observed by the Allen Consulting Group in their recent report to the ACT Government on economic and policy implications of ageing, it is also typical that in moving to an older person's housing development, older people free up the</p>	
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		<p>some of the value of their home by downsizing to a smaller home, at least in part to accommodate future spending requirements. This implies that there is a “cap” on what older people are willing to spend that is related to the capital value of their current accommodation. This type of “ceiling” does not operate in normal medium density developments, the value of which is driven by a variety of other demand and supply factors.</p> <p>There are also intrinsic differences between nursing home and hostel developments and self care accommodation in terms of the costs of building and operating these facilities. It is simply not possible to break even on the development of a stand alone nursing home or a mixed residential aged care facility with a substantive high care component, particularly where facilities have a high proportion of “concessional” low income residents. This needs to be taken into consideration in any valuation that has a residential aged care facility as a component of an older person’s housing development. In a recent case in point in the ACT, where the net construction and fit-out cost (excluding ongoing interest) of a 100 bed high care/low care facility was \$8m, the AVO valued the land component at a significant positive</p>	
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		<p>value. In cases such as these the fundamentals of the valuation process need first be addressed before consideration be given to the nature of concessional treatment.</p> <p>Change of Use Charge</p> <p>233. With regard to the change of use charge, address the rationale behind the policy and its relationship to the objectives of charitable organisations needs to be fundamentally addressed. We would agree with the observation made in a number of the Review Consultation Workshops that there is a need for the Government to more clearly articulate what its policy objectives are with regard to concessional leases. Without this, issues such as under what circumstances should change of use charges apply or indeed whether to offer a concessional lease in the first place are very difficult to coherently assess.</p> <p>One of the issues is that at present the Government appears to make no distinction between not-for-profit organisations and the for-profit sector with regard to the application of change of use policies. Not-for-profit charitable organisations exist for the primary purpose of the advancement of health, education, social or community welfare, religion, culture or natural environment (as articulated in the recent Commonwealth Charities Bill 2003 exposure draft). By definition their dominant purpose, i.e. to undertake</p>	<p>233. See Response No. 232 above.</p> <p>See Recommendation 8</p>
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		<p>charitable works, puts them into a different category with regard to the way that public benefit considerations need to be viewed. This has long been recognised in land and planning policy settings where the ACT Government provides concessions in the form of direct land grants at peppercorn or less than market rates to a range of community organisations.</p> <p>The ACT Government’s information sheet on change of use charges states that “the purpose of the charge is to give back to the community some or all of the ‘added value’ of the lease that results from the change to your lease”. The direct implication of this is that the organisation or individual that profits from this change in some way, as opposed to the general community profiting. While this may well be a reasonable argument for private individuals or for-profit organisations, it seems inconsistent when applied to not-for-profit organisations (and particularly so for those with a charitable purpose).</p> <p>The test should be whether not-for-profit charitable organisations intend utilise the concessional lease to advance their charitable or public good objectives in line with broad Government objectives.</p> <p>The change of lease purpose, say from a community facility to aged persons accommodation, <u>does not change</u> the organisation’s status as a not-for-profit</p>	
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		<p>community organisation, nor its charitable purpose. Rather it reflects a change of focus in how an organisation sees its resources being deployed most effectively to the benefit the community as a whole. Change of use invariably results from the need to respond directly to some emerging community need, such as the provision of appropriate or alternative housing options for older people. It also reflects the broadening of the scope of activities that charitable organisations are undertaking as governments rely on non government organisations and the private sector to take on board increased social and community responsibility. Presumably the ACT Government is very supportive of more active involvement by the charitable sector in improving the range of housing and care options for older people for instance. Applying a change of use charge in such circumstances certainly sends mixed messages about this.</p> <p>By definition, if there is any technical “value added” gained as result of a change of use, this gain is not directly realised by the not-for-profit charitable sector as the purpose of such an application is not to then sell the land on a speculative basis but rather to utilise it in some “value added” way. Should there ultimately be any financial gain that results indirectly from the change of use this will be retained in the community through the ongoing investment that charitable organisations</p>	
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		<p>make either in the activity on that piece of land, or more broadly in the community through related charitable purposes.</p> <p>For instance it is now common that not-for-profit organisations operating in the residential aged care area are looking to develop facilities that have three or four levels of care. This is happening as a result of the move to a greater reliance on “ageing in place” that can cater for people in their homes for as long as possible and to be able to transition through self care, assisted living, low care and high care without being dislocated from their “community”. Such developments are also happening because Commonwealth policies with regard to funding of nursing homes in particular mean that significant cross-subsidies are needed from self care unit development or from other revenue sources that might be available to the organisation.</p> <p>There is already implicit recognition in the Government’s policy framework that there are circumstances where change of use charges should be remitted in order to achieve specific policy outcomes. For instance, remissions are legislated for the Commissioner for Housing, presumably because of the social objective of that office providing affordable community housing. Similarly, remissions may be granted under certain prescribed circumstances that cover a range of community benefits among which are the promotion of housing for the</p>	
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		<p>frail and disabled and the provision of land for the exclusive use of community organisations. Further potential exists here in providing incentives to the charitable sector to provide components of affordable housing in their developments through perhaps higher remissions than what would normally apply.</p> <p>There are also anomalies between direct grant policies and change of use charge policies. For aged persons accommodation for instance, the Government’s policy of granting leases has a provision for a 50% of market value payment, yet if a lease was being reissued to a community organisation for the purpose of providing such accommodation, and the original lease had say a nominal rent, then the change of use charge would amount to payment of 75% of the market value – two separate financial outcomes related to achieving exactly the same purpose.</p> <p>This does beg the question as to whether concessional leases that facilitate activities considered to be of broad community benefit, should be subject to change of use policies at all, particularly where the new use still falls well within the government’s objectives in terms of allocation of concessional leases.</p> <p>234. A related issue is whether for certain community benefit purposes (eg. schools, churches and aged care facilities) there</p>	<p>234. The respondent’s support for a flexible approach to determining the level of concession reflecting “differences in</p>
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		<p>should be only a nominal payment for the lease. At a minimum the Government should retain a capacity to vary the degree of concession provided on any particular development to allow for differences in circumstances. The important issue of transparency in these cases could be retained through the legislative process involving disallowable instruments.</p> <p>235. Alternatively there is some attraction to the Government considering putting future leases on the same footing as economic development leases (Section 164) as is canvassed in the Review discussion paper. This would allow the government to ensure that the commitment undertaken through the lease agreement is met and that this commitment is considered discharged after a certain period of time. Planning restrictions could still however apply.</p> <p>236. At a minimum, the Government should consider amend the change of use charge to either:</p> <ul style="list-style-type: none"> (a) provide for automatic remissions for not-for-profit charitable organisations as occurs with Regulation 19 for the Commissioner for Housing, or (b) expand the prescribed circumstances (Regulation 20) to encompass policy objectives related to services provided by not-for-profit charitable organisations in line with the Government’s social objectives. 	<p>circumstances” is noted as is the view that <i>transparency</i> in such cases could be guaranteed through the use of Disallowable Instruments (presumably on a site-specific basis).</p> <p>See Recommendation 5</p> <p>235. The respondent’s expression of some support for a sunset deconcessionalisation provision for all concessional leases is noted.</p> <p>See Recommendation 6</p> <p>236. The respondent’s proposals for changes to the <i>change of use charge</i> provisions with respect to not-for-profit charitable organisations are noted.</p> <p>See Recommendation 8</p>
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24	Old Narrabundah Community Council	<p>241. On behalf of the Old Narrabundah Community Council Inc. we would like to make comment on the Concessional Lease Review in brief as a summary of our community's views given at two public meetings.</p> <p>General discussion was held on issues such as:</p> <ul style="list-style-type: none"> (a) Should we have Concessional Leases? (b) Standing on all existing Concessional Leases; (c) What does "leasehold" mean? (d) Government responsibility to communities; and (e) Removing Concessional Leases. <p>242. We contend existing Concessional Leases should be kept in perpetuity to be available to accommodate the changing needs of future generations. We also contend all existing leases should be competently and effectively investigated, analysed, classified and documented and under no circumstances should the existing facilities be written off. Where one organisation wishes to discontinue its association with a particular facility then they should be compensated for their investment in the assets associated with the site and the site and facilities offered to another not-for-profit organisation. This process would include consultation</p>	<p>241. Noted.</p> <p>242. The respondent's support for an arrangement whereby all concessional lease (presumably only for community purposes) should be retained in perpetuity to meet the need of future generations is noted.</p> <p>See Recommendations 6, 7, 13, 15, 16 & 17</p> <p>The respondent's support for a full investigation, analysis, classification and documentation of all existing leases is noted.</p> <p>See Recommendation 4</p> <p>The respondent's support for "reveling" of</p>
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		<p>with the local community to ensure the perceived needs of the community are incorporated in decision making. We believe the sale of such facilities should be an absolute last resort predicated upon some form of approval from the community.</p> <p>243. We are currently experiencing the struggle in retaining an important concessional lease community facility (The Hungarian Australian Club site). This is a select site in the inner suburbs that combines an accessible, substantial building with an outdoor recreation sporting area directly within the community. The current process that is allowing this lease to be changed is, in the opinion of the community, open to corruption. This review must reveal these problems and recommend "closing the door" on any loopholes that defy the original intention of our leasehold system. This system was adopted by our forefathers and should be enforced by preserving these leases to serve future generations.</p>	<p>The respondent's support for "recycling" of concessional leases, involving the payment of compensation, when an organisation wishes to discontinue its service provision is noted.</p> <p>See Recommendations 6, 7, 13, 15, 16 & 17</p> <p>The respondent's views on dispensing with a (presumably community) facility on a concessional lease only as a last resort are noted.</p> <p>See Recommendations 6, 7, 13, 15, 16 & 17</p> <p>243. The respondent's association with the Hungarian Australian Club site is noted.</p> <p>The respondent's expectations that the review will result in an improved process for variation to concessional leases are noted.</p> <p>See recommendation 7</p>
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		<p>244. We as a community, in the ACT context, see the granting and maintaining of Concessional Leases as absolutely vital to the fabric of a fair, compassionate and democratic society. Established inner suburbs are particularly vulnerable to the loss of existing facilities through the relocation of services and facilities to outlying areas, the, conversion to private leasehold and the policy of urban infill. The lack of available land to re-establish facilities mean once gone they will be unable to be replaced.</p> <p>245. With an aging population and environmental issues such as green house gas emissions it is absolutely vital to retain and maintain what facilities exist within established inner areas.</p> <p>246. Concessional Leases should be incorporated into the wider and longer term physical and social planning and development processes within the ACT to ensure citizens of particular suburbs have viable access to aged care, childcare, recreation, clubs, sporting and religious facilities. This may be done through adapting a formula on the percentage or area of land being developed or the expected population of an area. Establishing and developing services and facilities should be considered in a suburb, area and ACT wide context.</p> <p>247. We urge ACTPLA and the reviewers to</p>	<p>244. The respondent's support for the continuation of granting concessional lease is noted.</p> <p>See Recommendation 3</p> <p>The respondent's support for retaining facilities held under concessional lease has been noted at Response No. 242 ("recycling").</p> <p>See Recommendations 6, 7, 13, 15, 16 & 17</p> <p>245. The respondent's concerns about retaining what facilities exist within established inner areas are noted.</p> <p>246. The report will contain recommendations on the need for the ACTPLA to assess and review community needs as a function of concessional leasing.</p> <p>See Recommendations 7 & 14</p> <p>247. Noted.</p>
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		<p>uphold the rights and expectations of the ACT's citizenry and not to be beholden to political influence. The experience of the dismantling of the LAPACs and the complete breakdown of the proposed Community Planning Forums has left the community arguably without voice in the short term. We do not want to live with the legacy of a flawed and undemocratic planning process in the long term.</p> <p>248. The issue of Concessional Leases and the ability of the community to access a range of community-based facilities are vital to our society's wellbeing and is fundamental to the social fabric of our communities. This community totally supports the concept of Concessional Leases.</p> <p>249. The Government has a responsibility to act as the representative of the community and protect the interest of communities/people benefiting through concessional leases. It should not abrogate this responsibility and wash its hands of the longstanding system of concessional leases which has been an asset to Canberra for a long time and it should manage the concessional lease system more assiduously than has been done in the past.</p>	<p>248. The respondent's support for the continuation of granting concessional lease has been noted at Response No. 244.</p> <p>See Recommendations 3 & 14</p> <p>249. The views that the government should not abrogate this responsibility and wash its hands of the longstanding system of concessional leases which has been an asset to Canberra for a long time and it should manage the concessional lease system more assiduously than has been done in the past are noted.</p>
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25	ACT Shelter	<p>Context</p> <p>251. ACT Shelter as the peak housing group advocating on housing issues for low to moderate income earners in the ACT thanks ACTPLA for the opportunity to input into the Concessional Lease review.</p> <p>Due to our limited current resources we have been unable to carry out a thorough consultation with our members, approximately 60 of whom are community service organisations. However, we give this advice informed by issues that have been highlighted to us through our continuing contact with these organisations.</p> <p>Our main target group is residential tenants and it is our understanding from the public consultation that leaseholds held over these tenancies will not be affected by this review.</p> <p>However, the future development of affordable housing by not for profit organisations on land previously, or currently held under a ‘concessional lease’ does fall into the gambit of this review, as does office accommodation occupied by many of our 60 organisational members.</p> <p>Principles</p> <p>252. ACT Shelter believes that in any government transaction or policy the following principles must apply:</p> <ul style="list-style-type: none"> ◆ Certainty 	<p>251. The respondent’s status is noted.</p> <p>The respondent’s limited opportunity for full consultation within its organisation is noted.</p> <p>It is unlikely that existing residential tenants will be affected by the review. The review is concerned with concessionally granted Crown leases.</p> <p>The respondent’s interest as a stakeholder is noted.</p> <p>252. The respondent’s belief that the principles of certainty, equity, accountability and clarity should apply to any government program is noted.</p>
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		<ul style="list-style-type: none"> ◆ Equity ◆ Accountability ◆ Clarity <p>The current concessional leasehold system appears to be lacking in most of these criteria and a review is therefore timely and welcomed.</p> <p>Definition of Concessional Lease</p> <p>253. The definition of a concessional lease must include the purpose for which such a lease is granted. The current narrow definition which is found in sections 163, 164 and 167 of the Land Act – that a concessional lease is ‘one given for less than market value’ – is not sufficient and a purpose clause must be added.</p> <p>The ACT Government has, over the past 3 years, undertaken major strategic planning reviews under the auspice of the ‘Future Canberra’ strategy. This work resulted in the Canberra Plan, incorporating the Social, Spatial and Economic Plans. A further important review undertaken by the ACT Government was that of the supply of affordable housing in the ACT, which resulted in 46 recommendations.</p> <p>ACT Shelter believes that the goals of these strategic documents must be considered in any policy or legislative changes carried out by the ACT Government. Any anticipated changes to concessional lease legislation and policy should therefore be consistent</p>	<p>program is noted.</p> <p>253. The proposal for the definition of a concessional lease to include a <i>purpose clause</i> is problematic. The purposes for which concessional leases are currently granted cover a broad spectrum of land uses. It is not understood what benefit would result from the inclusion of a <i>purpose clause</i>.</p> <p>See Recommendations 1 & 2</p> <p>The respondent’s belief that the goals of the strategic documents <i>the Canberra Plan, incorporating the Social, Spatial and Economic Plans</i> together with <i>the Affordable Housing Review</i> should be considered is noted.</p>
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		<p>with the goals and priorities of the Canberra Plan and the Affordable Housing Review.</p> <p>The Social Plan</p> <p>254. The Social Plan, “Building Our Community” lists actions that the ACT Government has committed to undertake to ensure “sustained improvement in access, equity and participation for the people of the ACT” (p4, Social Plan). The following actions will particularly enhance the position of low income persons in the ACT: 1.1; 3.1; 4.1; 3.9; 4.3; 4.5; 4.7; 5.9; 6.1; 6.2; 6.4; 6.6; 6.9.</p> <p>ACT Shelter would recommend that the granting, varying or extending of concessional lease be assessed by the extent to which the planned development adheres to the Social Plan actions listed above.</p> <p>The Spatial Plan</p> <p>255. ACT Shelter would draw attention to the objective “Achieving housing affordability” in this document:</p> <p>Achieving housing affordability Stable, secure and affordable housing is a critical element of a sustainable community – all members of a community should be able to access housing that meets their needs. In recent years Canberra, like much of Australia, has experienced a sharp</p>	<p>254. The respondent’s reference to the government’s commitment in <i>the Social Plan</i> to “sustained improvement in access, equity and participation for the people of the ACT”.</p> <p>The respondent’s recommendation that the granting, varying or extending of concessional leases be assessed by the extent to which the planned development adheres to the Social Plan.</p> <p>See Recommendation 14</p> <p>255. Noted.</p> <p>The respondent’s view that without appropriate planning, large sections of the community will find it difficult to participate fully in our society and experience the stability and security that flows from affordable housing is noted.</p>
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		<p>increase in housing prices and an escalation in residential rental rates. It is currently the third most expensive city in Australia for housing. Without appropriate planning, large sections of the community will find it difficult to participate fully in our society and experience the stability and security that flows from affordable housing.</p> <p>Principles for managing change</p> <ul style="list-style-type: none"> ◆ All new greenfields development and major redevelopment and urban renewal projects will provide an element of affordable housing. ◆ The land release program will be managed to ensure supply keeps up with demand and thereby minimises the impact of tight supply of land on affordability of housing. ◆ There will be timely release of quality land of sufficient quantity to ensure the delivery of adequate land for the provision of a range of needs for housing. ◆ There will be targeted release of land for affordable housing. (p.20 Draft Spatial Plan, November 2003) <p>ACT Shelter recommends that the purpose clause of any future concessional lease legislation, policy or procedural documentation be inclusive of the above objectives. Any request to obtain, vary, renew, mortgage or sell</p>	<p>The principles for managing change are noted.</p> <p>The respondent's recommendations are noted, particularly with respect to there being no <i>change of use charge</i> levied on a lease variation to allow for the construction of affordable housing.</p>
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		<p>concessional leases must also look at the purpose for which the land will be used. If the application will lead to the provision of affordable housing, then no change of use charge should be levied and a concessional lease should be granted.</p> <p><u>Affordable Housing in the ACT</u></p> <p>256. In December 2002 the ACT Government produced the final report of the Affordable Housing Task Force, a Government/Industry/Community Committee appointed by the ACT Minister for Housing in 2000 to investigate strategies to increase the supply of affordable housing in the ACT.</p> <p>The definition of affordable housing used in this process was: is ‘... People having difficulty in accessing affordable housing if they are in the lowest two income quintiles (lowest 40 per cent of income distribution) and pay 30 per cent or more of their household income in housing costs.’ (Affordable Housing Strategies for Action, December 2002).</p> <p>The Taskforce made 46 Recommendations, many of which pertained to planning outcomes for affordable housing. When making the decision to grant, vary or renew a concessional lease, ACT Shelter urges ACTPLA to particularly consider the following recommendations and the ACT Governments responses outlined in</p>	<p>See Recommendations 6, 7, 8, 13, 14, 15, & 17</p> <p>256. Noted.</p> <p>The stated definition appears to relate to <i>people in need of affordable housing not affordable housing.</i></p> <p>The respondent’s urgings are noted. At the time of writing, the Government’s response to the Taskforce’s recommendations is not known.</p>
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		<p>‘Affordable Housing the Australian Capital Territory, Strategies for Action’:</p> <p>Recommendations 29, 31, 32, 33, 38 and 46, posted at http://www.housing.act.gov.au/hcs/AffordableHousing/GovtResponse.pdf.</p> <p>257. ACT Shelter recommends that ACTPLA should align its purpose clause for concessional leases with the goals of the Canberra Social Plan 2004, the Spatial Plan 2003, and the Affordable Housing Task Force 2002.</p> <p>ACT Shelter would also recommend that a framework be developed in order to ensure concessional lease policy is regularly reviewed and monitored. The framework should include:</p> <ul style="list-style-type: none"> ◆ the legal definition ◆ principles of why the lease is granted ◆ mechanisms for changing, or updating the definition ◆ mechanisms for ensuring viability of the concessional lease system ◆ procedures for tracking, accounting for and reporting on concessional leaseholders ◆ strategies for ongoing locational needs assessments, including in areas of greenfield development ◆ strategies for marketing the availability of concessional leases 	<p>257. The respondent’s recommendation that a purpose clause for a concessional lease should be aligned with the goals of the Canberra Social Plan 2004, the Spatial Plan 2003, and the Affordable Housing Task Force 2002 is noted.</p> <p>The respondent’s recommended framework is noted.</p> <p>See Recommendations 1 & 2 See Recommendation 14</p> <p>See Recommendation 14</p> <p>See Recommendation 14</p>
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		<p>258. Status of Concessional Leases</p> <p><u>Legislative Support</u> In recognizing that the need for transparency and clarity in the control of the leasehold system, ACT Shelter recommends that the ACTPLA include the definition in its over-arching leasehold legislation.</p> <p><u>Current Leases</u> It is our understanding from the consultation held by ACTPLA on 4 February 2004, that current leases granted at concessional rates cannot be easily traced and that any attempt to make new lease regulations retrospective would involve reviewing approximately 150,000 leases.</p> <p>It is our understanding that leases in the past have been granted to a variety of entities, such as businesses, non-government organisations, sporting and recreational clubs and churches, for a variety of reasons.</p> <p>ACT Shelter is of the opinion that unless such an entity wishes to vary its lease in a way that is compatible with a currently defined purpose clause, then it should be treated in the same way for planning purposes as any other nonconcessional lease. This would ensure equity between past, present and future concessional leaseholders and would enable the concessional lease framework (see above), to</p>	<p>258.</p> <p>The respondent's support for a definition of a concessional lease to be included in the Land Act is noted.</p> <p>That understanding is correct. A sampling of potential concessional grants appears in Appendix C to the report.</p> <p>That understanding is correct.</p> <p>The proponent's opinion is not definitively explained.</p> <p>The report will offer some observations on the potential scale and cost of an exercise involving the identification of all concessional leases. The review</p>
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		<p>be effectively implemented. ACT Shelter would therefore recommend that a data base be drawn up and maintained of all past and future concessional leases.</p> <p>259. Variation of Concessional Leases</p> <p>In order to ensure equity between past, present and future concessional leaseholders ACT Shelter would not agree to any kind of sunset clause for existing concessional leases. It is for this reason that it has recommended that all past and future concessional leases be placed on a database (see above).</p> <p>ACT Shelter recommends that if a request from the leaseholder to vary the lease in any way would lead to financial gain for that leaseholder, then a test should be applied to determine whether such a change would lead to the whole of the land over which that concessional lease was granted, will be used for purposes compliant with the new legal definition.</p> <p>If the request to sell, mortgage, or change in any way would result in any part of the land not continuing to be used for purposes compliant with the definition of a concessional lease, then normal leaseholder charges should be levied.</p>	<p>would recommend compiling an appropriate data base to facilitate identification of concessional leases.</p> <p>259. The respondent's opposition to a sunset provision relating to deconcessionalisation is noted.</p> <p>See Recommendation 6</p> <p>This proposal is not clearly expressed.</p> <p>The respondent's proposal with respect to on-selling or mortgaging is not understood but in relation to lease variation, the current arrangements require the payment of 100% added value rather than the 75% applicable to a non-concessional leaseholder.</p> <p>See Recommendations 6, 7, 8, 13, 15, 16, & 17</p>
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<p>26</p>	<p>Weston Creek Community Association</p>	<p>261. The Weston Creek Community Association Incorporated (WCCA) is a major (if not the major) community organisations in Weston Creek. It has now been established for over thirty years and has managed the Weston Creek Community Centre since 1978. In more recent years it has also been responsible for the management of the Weston Creek Children’s Centre. WCCA therefore feel well qualified to comment on the discussion paper on Concessional Lease Review.</p> <p>262. WCCA has held a <i>concessional lease</i> on the Weston Creek Community Centre site since it was opened in 1978. In broad terms that lease, which is at the nominal rent of five cents a year if and when demanded, has been regularly renewed on a five yearly basis since 1978. Initially, for the Community Centre, WCCA received a subsidy from the Government to assist it in providing services to the community, but since 1995, apart from the <i>concessional lease</i> on the Community Centre building, WCCA’s management of the Weston Creek Community Centre has been independent of Government support.</p> <p>WCCA supports the view that <i>concessional leases</i>, such as ours, should be the subject of a community needs and performance assessment at regular intervals.</p> <p>263. Community services, such as those provided by WCCA from its Community</p>	<p>261. The WCCA’s status is noted.</p> <p>262. The respondent’s support for <i>concessional leases</i> being the subject of a community needs and performance assessment at regular intervals is noted.</p> <p>See Recommendation 14</p> <p>263. The respondent’s support for where there is no longer a community need for the</p>
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		<p>Centre, are initially established to meet an assessed community need and it is logical that the ACT Government, in supporting those services, would need to satisfy itself periodically that there is a continuing need for those services to be provided. In our view, if there is no longer a community need for the services intended to be provided from a concessionally leased community facility, the lease on that facility should revert to the Government and the facility should then be applied to some other community purpose.</p> <p>In a letter dated 21 October 2002 to the then Department of Disability, Housing and Community Services WCCA wrote "... lease renewal for community facilities must be based solely on continuing, demonstrated performance." In our view, subject to the establishment of the ongoing need for community services, this should be the only test which community organisations, such as WCCA, should have to meet for their <i>concessional lease</i> to be renewed.</p> <p>264. WCCA rejects entirely, the option that Community Service Concessional Leases be granted on the same basis as Economic Development Leases. Most community organisations operate in areas that are not commercially profitable. It is therefore inappropriate to expect that, after an initial five year period, the community lessee would be in a position to pay <i>market value</i> for their lease. We reject the view that community organisations (such as ours), which operate</p>	<p>services intended to be provided from a concessionally leased community facility, the lease on that facility should revert to the Government and the facility should then be applied to some other community purpose is noted.</p> <p>See Recommendations 6, 7, 8, 13, 15, 16, & 17</p> <p>264. The proponent's opposition to a <i>community lessee</i> being expected to pay <i>market value</i> for their lease after an initial five year period is noted. This was not an option proposed in the Discussion Paper. The reference to the scheme operating for business and economic development leases was meant to explain that after five from the grant of the lease, the restrictions pertaining to concessional leases are automatically lifted without payment of any amount of</p>
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		<p>in areas that are not commercially profitable, may only require a <i>concessional lease</i> for a limited time.</p> <p>265. Similarly, WCCA completely rejects the option that community leases for less than <i>market value</i> be discontinued. Most (if not all) community groups do not have the capacity to fund raise from their own resources to enable them to pay <i>market value</i> for their leases. The only resource they have is the goodwill and enthusiasm of their volunteer members to provide services to the community. Quite appropriately, they rely on the Government to provide them, in the public interest, with a <i>concessional lease</i> to enable them to operate without the overheads of market rents, or without the need to raise capital to purchase a lease, on the facility out of which they propose to operate.</p> <p>266. In our view, <i>concessional leases</i> are a far better option than providing government grants to enable community groups to pay <i>market value</i> for their leases. Granting <i>concessional leases</i> is budget neutral and does not require the administration (albeit from a different Department) that an operational grant would.</p>	<p>money to deconcessionalise that lease.</p> <p>See Recommendation 6</p> <p>265. The respondent's opposition to the discontinuation of the grant of concessional leases for <i>community type purposes</i> is noted.</p> <p>266. The respondent's support for continuing concessional grants as distinct from direct funding is noted. However the comment that concessional leases do not require the administration that a funding grant would is one of the dilemmas raised by the review. That notion is inconsistent with the view expressed at Issue No. 262 that <i>concessional leases</i> should be the subject of a community needs and performance assessment at regular intervals -if so, by whom?</p>
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		<p>267. WCCA does not support the concept that after a period of time (five years) community organisations, such as ours, can be deemed to have in some way “bought back” their lease through community services and therefore the restrictions on their lease would be automatically lifted. In our view the services that community organisations provide to the community during their <i>concessional leases</i> should be seen as their “in kind” contribution towards the rental of the facilities from which they operate. As we see it, any credit for those services would have been used up in their contribution towards rent. In our view, to use them again in deconcessionalising their lease would involve a double counting those services and therefore would be inappropriate.</p> <p>There is also the added problem of being able to measure the value of service provided to the community by concessional lessees. Most of our services are intangible and difficult to measure. How do you measure the value of having exercise classes, squash courts or church services available to the community? In our view, for this reason, and for the doubling counting reason, it is better not to go down that path.</p> <p>268. All of the above comments relate to how <i>concessional leases</i> should be managed in</p>	<p>See Recommendations 3 & 5</p> <p>267. The respondent’s opposition to “automatic” deconcessionalisation after a period of time is noted however the stated rationale is not understood.</p> <p>See Recommendation 6</p> <p>Other respondents believe it is possible to measure the community benefit in monetary terms.</p> <p>268. The respondent’s support to an automatic deconcessionalisation</p>
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		<p>the future. Regarding how past leases should be handled, it is clear that the true situation of past leases will be very difficult, if not impossible, to determine. It is also true that any assessment exercise will be extremely expensive and time consuming. Because of this, WCCA is attracted to the option of a sunset provision whereby leases granted before a certain date could be assumed not to be <i>concessional leases</i>. WCCA is also attracted to the idea that, after some formal determination that certain more recent leases are <i>concessional leases</i>, an appeal mechanism be established whereby the onus of proof is on ACTPA, not the lessee.</p> <p>269. In our view, only by introducing transitional provisions, such as those referred to above, will a clean break from the past be able to be made and will the seemingly intractable problems of <i>concessional leases</i> be resolved.</p>	<p>arrangement for existing concession leases is noted as is support for an arrangement where leases granted before a certain date could be assumed not to be <i>concessional leases</i>.</p> <p>See Recommendation 6</p> <p>269. The respondent's view that only by introducing transitional provisions, such as those referred to above, will a clean break from the past is noted.</p> <p>See Recommendation 6</p>
27	Julie McCarron-Benson	<p>I have only a few brief points to make at this stage.</p> <p>271. A failure of the reviewers to include altruistic purposes for the grant of 'concessional' leases with the focus of the paper seemingly only on whether a lease was granted below market rates and not on the value of the purpose of lease to the community. The community forgoes collecting an income for the lease in exchange for the value of the purpose of the</p>	<p>271. The respondent appears to have overlooked a number of references in the discussion paper, including those in paragraphs 1 and 4 on page 38.</p>

		<p>activities of the lease holder.</p> <p>272. A failure to understand that ‘community purposes’ invariably means ‘not for profit’ eg charity and sporting organisations whereby any funds raised go towards furthering the activities of the sports group or charity, and that this is different to commercial businesses which may carry out a community service such as a child-care facility but are there primarily to make a personal profit for the lease holder.</p> <p>273. I remember a time, ASG (after self government) when ACT Government officers were unable to tell the Government of the time how many ACT public servants it employed because the cost of counting them ‘was prohibitive’, the computers which issued the paycheques ‘were incompatible’ and there ‘was no cost benefit’ to the Government knowing. I would hate to think that this culture of arrogance prevails in ACTPLA. There is no excuse for ACTPLA not knowing how many ‘concessional’ leases exist in the ACT. It is hard to imagine that there was not an up-to-date schedule of all leases handed over to the newly independent planning authority upon self government. Officers of ACTPLA and its predecessor, PALM, have known for some years that a census of some sort is required. The new board of ACTPLA must surely want to know how many leases there are in every possible category. If ACTPLA continues to have problems with working out how to do this – I</p>	<p>272. The respondent appears to have overlooked other references in the discussion paper, including that in paragraph 3 on page 38.</p> <p>273. The respondent’s memories are noted.</p> <p>What the respondent would hate to think is noted.</p> <p>What the respondent finds hard to imagine is noted.</p> <p>The ACTPLA doesn’t have a board but the Land Development Agency does.</p> <p>It is noted that the respondent has some ideas.</p>
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		<p>have some ideas!</p> <p>274. In my reading of the review, it would appear that there is an inadequate grasp by the reviewers of the role, the history and the value of Special Purpose Leases granted BSG (before Self Government). ACTPLA has indicated this lack on previous occasions and has attempted to disguise it by trying to force Special Purpose Leases into one of the 2 categories now defined as ‘concessional’ in the Land Act (1991). Needless to say, they don’t fit and this review seems to go along with this extraordinary attitude of ACTPLA and has taken it further by deciding to get rid of them, somehow.</p> <p>275. The obvious answer is to amend the Land Act (1991) to include the existence of Special Purpose leases and their dispersal. I suggest an addition to go something like this-</p> <p style="text-align: center;">ACT Land Act (1991) Division 2 Leases 160 B Special Purpose leases granted before 1989.</p> <p>(a) Definition Special Purpose leases are those leases granted under the Special Purpose (leases) Ordinance 1925 by successive Federal Government Ministers for specific purposes and for a period not exceeding 99 years.</p>	<p>274. The discussion paper is predominantly the work of consultants who, as indicated in Response No. 99, comprise staff very experienced in Land Titles and Lease Administration matters.</p> <p>Consequently, the criticism of ACTPLA is unwarranted and unfair.</p> <p>The reference to “Special Purpose Leases” requires clarification.</p> <p>275. See Response No. 274 above with respect to “Special Purpose Leases”.</p> <p>It appears that “Special Purpose Leases” are a creation of the respondent.</p> <p>The respondent’s drafting expertise is noted.</p>
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		<p>(b) Dispersal of Special Leases</p> <ol style="list-style-type: none">1. The lease holder must for a period of not less than 6 months publicly advertise the lease's availability for transfer to a Like Organisation.2. in the event that there is no interest the lease holder will relinquish the lease to the ACT Government.3. the lease holder may seek compensation for any assets built by the lease holder on the lease. <p>Having done a census and located all the Special Purpose leases, placed them into a table with a schedule of what they are, the reasons for granting them and the terms their leases have to run, take a mean of these terms.</p> <p>(c) Continuance of lease purpose Lease holders are required to amend their activities in compliance with section 163 and 164 by <i>mean date</i> (see above) except where:</p> <ol style="list-style-type: none">1. Lease holders can show that the original purpose of the lease is being met, but only until the original term of the lease runs out;2. The ACT Planning Authority can demonstrate the need for the continuance of that specific purpose on that lease, and then only until the original term of the lease runs out;	
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		<p>3. The lease holder accepts that the lease cannot be subject to overtures for re-development.</p> <p>4. All special purpose leases must convert to comply with the definitions set out in the Land Act by the end of their original terms.</p> <p>276. The concept of Special Purpose leases is unique to Canberra and they have been instrumental in developing the ethos of the city. It seems a shame to lose them but in realistic world it is better to have certainty. What happens to the social clubs under the new definitions?</p>	<p>276. The concept of “Special Purpose Leases” is unique to the respondent.</p> <p>The definitions suggested in the discussion paper were an attempt to clarify what constitutes a <i>concessional lease</i>, not what constitutes a <i>lease for community purposes</i> or indeed a “<i>Special Purpose Lease</i>”.</p> <p>As stated on a number of occasions, this is a review of <i>concessional leases</i> <u>not</u> <i>leases for community purposes</i>.</p>
28	Scouts ACT	<p>281. The ACT Branch of the Scout Association of Australia (Scouts ACT) is bound by the provisions of the Royal Charter granted to The Scout Association of Australia and operates under a Constitution. Extracts from the Constitution are attached as an example of the definitions that define Scouts ACT, in particular, the ‘Application of Assets’. The organisation has a sound legal basis supporting its objectives and program. Access to land on which facilities can be constructed for that program is essential.</p> <p>Scouts ACT operates as a non-profit, charitable organisation whose income is</p>	<p>281. The respondent’s status is noted. These arrangements are noted and as such the status would qualify the organisation for a concessional lease.</p> <p>Noted</p>

		<p>directed solely to the operation and advancement of Scouting in the ACT. This does not restrict the organisation in terms of operation of commercial activities but the proceeds of those activities are directed solely to Scouting.</p> <p>The organisation must maintain viability and minimise costs in order to maximise the investment in delivery of its program. In return for any concessions and support received from the ACT Government, it provides a social dividend through the action of volunteers and a very limited number of paid staff. In addition to the operation of the organisation's program, it is very aware of ACT Government policy and social plans for community development.</p> <p>In order to keep membership fees to a minimum, both the amount of administrative expenditure and expenditure in other areas has to be carefully controlled. Although there is some Government funding provided to some organisations, there are moves to make access to funding more competitive, not through a tendering process, but by limiting the amount of money available to a defined community sector and then asking organisations to justify their need for a particular level of funding, within that amount of money.</p> <p>This does give the opportunity for the Government to assess the bone-fides of community organisations and to assess their</p>	<p>The funding issues are noted and considered in the review especially in relation to an alternative to a concessional lease.</p> <p>This issue is to be considered in the report in the context of the process for identifying community needs and assessing applicant concessional lessees.</p> <p>Noted</p>
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		<p>continuing commitment to their objective. It may make it difficult for new organisations to seek access to land but there would be the argument that it would be unusual for a new organisation to be granted immediate access to a concessional lease.</p> <p>Volunteer organisations are now required to provide more justification for funding, support and their general existence than was the case in years gone by. Gone are the days when a Scout hall was regarded as a 'given' in a new suburb or area and the ability to provide administrative support, at Branch level, by unpaid volunteers. Similar changes are affecting other community organisations.</p> <p>282. Counter-productive changes to concessional leases would include:</p> <ul style="list-style-type: none"> • Revaluation to market values and rent increases • An assessment process which required each application to be accompanied by justification for the organisations existence • Assessment by an organisation, other than the ACT Government • Competition with other community organisations for access to limited land areas • An increase in administration that continued the move for community 	<p>Noted</p> <p>282. These matters will be taken into account in the report and particularly in the proposals for the Government to establish a plan of community needs and to identify land to be made available for those needs. The capacity of any prospective service provider must be an element in selection of the concessional lessee.</p> <p>See Recommendation 14</p>
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		<p>organisations to have to cover increasing legislative requirements which then have to be covered by increasing fees to members, and moving resources away from our community programs</p> <p>283. This introduction is intended to demonstrate that community organisations, such as Scouts ACT, need to operate in an environment of thrift and limited opportunities to compete in a market where demands on philanthropic dollars from both government and non-government sources is increasing. Community organisations must also consider commercial opportunities to supplement income in order to achieve program aims and to grow.</p> <p>Attachment 2 provides a response to the specific questions raised in the Discussion Paper.</p> <p>Overall, the question of concessional leases being retained is extremely important to Scouts ACT and we are keen to be involved in developing a process whereby the leases are renewed for a significant period (preferably 99 years) and purpose clauses reviewed.</p> <p>REVIEW QUESTIONS</p> <p>284. <i>Grants</i></p> <p>(a) <i>should the Government continue to</i></p>	<p>283. The economies needed to be undertaken by the Scout organisation in the present climate are noted.</p> <p>See Recommendation 3</p> <p>284. The general consensus in both the workshops and the submissions was that the concessional lease program should be</p>
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		<p><i>grant concessional leases?</i></p> <p>Yes. Such leases are essential to the operation of community organisations in terms of:</p> <ul style="list-style-type: none"> ▪ Minimisation of expenditure in terms of initial costs and subsequent on-going costs ▪ Recognition of community groups role in society ▪ Their location within the community in such a way that they are part of that community ▪ Recognition that volunteer-based community organisations do not have the resources to compete on the open market <p><i>(b) which organisations should qualify as recipients of such leases?</i></p> <p>Community organisations who are providing significant support for individuals in society who benefit from the programs offered and who add to the development of those individuals as productive members of society</p> <p><i>(c) should such leases be granted only under section 163 (community) and section 164 (economic) of the Land (Planning and Environment) Act 1991?</i></p> <p><i>(d) given that the supply of land suitable for urban development is finite, how does Government determine the uses for which such leases should be granted?</i></p>	<p>concessional lease program should be retained. The report will consider the matters raised and recommend accordingly. The arguments put are very supportive of retention.</p> <p>See Recommendation 3</p> <p>This comment is helpful in determining the criteria for identifying organisations which qualify for concessional leases.</p>
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		<p>for an established community organisation, its record in providing a continuous and valuable program for the specified group it services</p> <p>for a new community organisation, its objectives, the way it has been set up, the degree of 'self-help' that it has shown prior to seeking a lease, the planned usage of the lease, flexibility in location, willingness to work with other organisations in partnership, timeshare, etc</p> <p>(e) <i>given that the supply of land suitable for urban development is finite, how does Government determine the priority in which such leases should be granted; and</i></p> <p>priority will depend to a large degree on the number of organisations seeking leases in a particular area and the timing for those leases</p> <p>(f) <i>given that the supply of land suitable for urban development is finite, how does Government determine the organisations to which such leases should be granted?</i></p> <p>This could be related to other areas where organisations seek funding from the ACT Government, eg the organisations making up a particular community sector (this has the added advantage, for Government, that there will be an assessment of how well each</p>	<p>The concept of tying community uses to needs assessments was supported in the workshops and the submissions and this will be reflected in the report.</p> <p>See Recommendation 14</p> <p>This comment is noted and is helpful in forming the recommendations.</p> <p>See Recommendation 14</p> <p>See above</p> <p>See Recommendation 14</p>
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		<p>organisation complies with Government objectives)</p> <p><i>(g) what should be the level of concession?</i></p> <p>The level of concession, on a lease related to the primary function of the organisation (given that it is not-for-profit and is meeting the relevant ACT Government social objectives), is a long lease for no initial cost or annual rental to the Government.</p> <p>285. <i>Administration</i></p> <p><i>(a) recognising the history of leasing, by what means are existing concessional leases to be identified?</i></p> <p>For Scouts ACT, this is an easy question as the leases are very definitely defined, with a Scout hall on the lease or the leased land having been used for many years for Scouting activities</p> <p><i>(b) should the community service performed by lessees be recognised as repaying any concession in kind?</i></p> <p>This would mean translating services into a \$ value – an activity fraught with difficulty in order to make such a judgement and ultimately leading to appeals</p> <p><i>(c) should the lessee of such a lease be able to vary their lease?</i></p> <p>However, varying the purpose of a lease</p>	<p>The concept of a continuation of concession being retained at zero cost is the principal response.</p> <p>See Recommendation 5</p> <p>285.</p> <p>It is agreed that the leases for Scout Halls are easily identified as concessional but this may not be the case for other leases.</p> <p>See Recommendation 4</p> <p>Both this view and opposite positions have been expressed and the report will canvass the options in coming to a conclusion.</p> <p>See Recommendation 6</p> <p>Noted.</p>
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		<p>such that the organisation should profit significantly, in a speculative fashion, should require significant proof and justification.</p> <p><i>(d) are there any equitable reasons to exempt particular categories of leases from restrictions attaching to concessional leases (e.g. those leases granted before 1971, when land rent for many leases of urban land was reduced to a nominal level)?</i></p> <p><i>(e) should existing and/or future concessional leases continue to be subject to restrictions on transfer, mortgage and subletting ? and</i></p> <p>Such restrictions have not caused difficulties with Scouting to date.</p> <p><i>(f) should there be a process of “deconcessionalising” a concessional lease by paying an amount based on the current market value of that lease?</i></p> <p>At face-value, this seems to be a good idea. However, it has the negative effect of removing land from the concessional lease pool.</p> <p>From a community organisation point of view, if an organisation with a concessional lease could ‘deconcessionalise’ their lease, for commercial gain, that would be circumventing the purpose of providing such leases in the first place.</p>	<p>See Recommendations 7 & 8</p> <p>Noted.</p> <p>Deconcessionalisation does not automatically change the use of the lease only the restrictions on transfer etc and the right to change the use must be linked to the need for services encompassed by that use.</p> <p>See Recommendations 6, 16, 17 & 18</p>
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<p>29</p>	<p>Austin Lynch</p>	<p>291. It is appropriate that such a review finally takes place, as it was a recommendation of the ACT Legislative Assembly Planning Sub-Committee into the proposed change of land use of the Hungarian Australian Club site in Narrabundah. If natural justice is to prevail, the fate of this site should come within the boundaries of this review and not set a precedent.</p> <p style="text-align: center;">The need for a continuation of Concessional Leases in the ACT</p> <p>292. It is very important that Concessional Leases be granted to community groups for non market value. The benefits community groups do for our society cannot be costed as a balance sheet item, it is beyond bean counting. Our society would be severely diminished if volunteers and paid employees of these undervalued organizations were deprived of land on which to conduct their admirable work. Existing leaseholders need stability in order to maintain their premises on their improved land otherwise many premises will be let run down and turn into eyesores. Existing leaseholders that don't maintain the property must show cause why the state should grant them the privilege of the concessional lease. There must be a policy mechanism in place for another organization to take over the land and property, under existing land use, if a leaseholder is in financial difficulty. Trading</p>	<p>291. This review deals with policy and strategic matters relating to community leases which will affect the specific. The general community issue which arose in the Hungarian Australian Club case are included in the review and a recommendation concerning the change of use of concessional community leases will be made.</p> <p style="text-align: center;">See Recommendations 6, 7, 8, 13, 15, 16, 17, 18 & 19</p> <p>292. These comments are noted and universally support for the concessional lease scheme was expressed in the workshops and submissions. The comments relating to the need to for Government to control the ongoing management of leases is noted and there has been support for tighter controls over change of uses, however this has not been universal. The positions will be reviewed in the report.</p> <p style="text-align: center;">See Recommendation 3 See also Recommendations 6, 7, 8, 13, 15, 16, 17, 18 & 19</p>
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		<p>of Concessional leases must be the role of government not the lessee. Concessional Leaseholders must not be able to sign option contracts with organizations not able to be lessees under the existing land usage. Speculation in public land must be discouraged at all costs. Community land must never be a windfall for directors of organizations who hold concessional leases.</p> <p>293. All Concessional and Special Leases in the Inner South and Inner North of the ACT are coveted by developers to turn into blocks of flats. ACT Treasury and Infrastructure see more revenue from rates and charges from such development and so their interests concur with the development lobby. Increased density in the inner north and south make it increasingly important for retention of concessional leases in these areas. To allow high density residential in these areas, on these leases, is appallingly bad planning. The loss of such land is for perpetuity and will deny future generations amenity. It will wear the smell of corruption in our system.</p> <p>Transparency and Good Governance</p> <p>294. It is imperative that the ACT Government identify and quantify all concessional leases in the ACT as a matter of good governance and competent management. Page 18 of the discussion paper dismisses a review of an</p>	<p>293. These comments are noted and are directed more to planning issues than directly to concessional leases. The issue of change of use for concessional community leases is a vexed one and the opposition to a change expressed in a number of submissions will be considered in the Report.</p> <p>See Recommendations 7 & 14</p> <p>294. Support for a complete review of the leases is noted and the pros and cons of that and alternative positions are reviewed in the report.</p>
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		<p>inventory of Crown leases as being of prohibitive cost benefit. This is an alarming admission and dismissing an inventory is not good enough.</p> <p>Categories of concessional leases must be established and title searches completed even if this project takes 10 years. Public notices must be publicized for organizations to go through their own records to find their leases, new concessional leases to bona fide lessees who cannot locate their lease. Security of tenure should not be imperiled; it will just be an administrative measure to provide an improved way of doing government business.</p> <p>A register of concessional leases must be established and improvements that a leaseholder does on the lease added. All documentation relating to the property must be on the register and value of the property in the organizations accounts noted. If possible a professional valuation of the property should be done. Public land must be available for public scrutiny if we are to strive for transparency of public administration.</p> <p>295. The OECD Report into the ACT recommended the empowerment of community. As various community groups utilize concessional leases and are part of a suburb, the surrounding neighbours must be</p>	<p>See Recommendation 4 and comments in the report at pages 39 to 43</p> <p>The comments on a potential register is noted and whether built up by a review of all leases or over time. The concept should be one of good administration. The creation of such a document will be included in the procedure manual, which will be prepared following the Government decision on the report's recommendations.</p> <p>See Recommendation 4</p> <p>295. An open and accountable system balanced with the rights of the lessees in their relationship with the lessor is one of the aims of this process.</p>
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		informed and have a say in what happens in their district.	
30	Conservation Council of the ACT Region and Canberra	<p>301. In addressing the review, the Conservation Council wishes to express support for <i>'maintaining the status quo but introducing a statutory process to identify whether a lease is 'Concessional' and recognising the level of community service provided'</i>.</p> <p>302. While the Conservation Council does not maintain a concessional lease, we believe that a flexible and differential leasehold system is important for community organisations and that land should be set aside for community use.</p> <p>303. In addition, community-based organisations often struggle to obtain resources required to achieve their objectives. It is therefore beneficial and 'common sense' that these groups operate from central locations, are easily accessible to the community, and contain an adequate working environment including meeting rooms and office space. These organisations are also often best served when clustered with like-minded organisations to assist capitalising on resources.</p> <p>304 While the Conservation Council supports the recognition of the level of community</p>	<p>301. This is understood and while changes are considered necessary to the status quo a better system of identification is proposed and the issue of recognition of community benefit will be reviewed.</p> <p>See Recommendation 4</p> <p>302. The review has highlighted the need to identify and retain land for community use.</p> <p>See Recommendation 14</p> <p>303. This is understood and it is recognised that the grant of land is not the only manner of allowing services to be clustered. The review accepts that the grant of land for community uses should be determined and prioritised against the needs of the community.</p> <p>See Recommendation 14</p> <p>304 If the Government decides to give recognition in some manner to the level of</p>

		<p>service provided to assist in the granting of concessional leases, it is imperative that both quantitative and qualitative measures of significance be assessed. Quantitative measures may include membership, number of volunteers, frequency of activities, and no of environmental issues covered. Qualitative indicators may include the willingness of members to devote time to issues - often complimenting paid work and how busy the work environment is.</p>	<p>community service it is appropriate that both quantitative and, the more difficult to measure, qualitative aspects should be taken into account.</p> <p>See Recommendation 6</p>
31	Brian Rhynehart	<p>311. Do not issue any further concessional leases in any of the current forms.</p> <p>312. Set up a special unit (perhaps 3-5 person;) with adequate resources and the appropriate authority to embark on a two pronged approach {existing and new} to introduce a fair and workable replacement system that permits projects or services that benefit or are prized by the community to be established. The new system should be developed around a standard lease (at market value) supported by a subsidy/grant provided via the most appropriate of the existing grant schemes.</p> <p>313. Establishment of the unit and operation to commence within an appropriate and achievable time frame.</p>	<p>311. This proposition is noted but the complete abolition of concessional leases has not been generally supported in the submissions received.</p> <p>See Recommendation 3</p> <p>312. If the Government accepts the recommendations of this review, it will need to provide resources to enable the implementation of the changes proposed. It is expected that the new system would encompass the principles outlined.</p> <p>313. See Response No. 312 above.</p>

		<p>314. Simultaneously with the development of a new system, examine those existing leases suspected of being 'concessional'. Determine and document how and why the leases are different, attempt to assess their ongoing contribution to the Territory/community. If possible, attempt some form of grouping to facilitate consideration and future planning aimed at conversion to the more stable replacement system.</p> <p>315. Consider commercial and community use applications using the same broad criteria “that the intended use be of benefit to the Territory, residents, its cultural demands or providing a business solution not otherwise economic or provided for”. Structure financial assistance pertaining to the lease into the established grants structure and maintain while ever a recognised service is being provided.</p> <p>316. Simplify future lease purpose requirements such that they embrace a wider range of relevant permitted activities generally consistent with the current land use policy and the reasonable activities of the lessee.</p> <p>317. Rethink current lease conditions/constraints to allow an expanded permitted use consistent with the overall charter /operation of the organisation</p>	<p>314. While this will be canvassed it may be too labour intensive for an outcome which could be achieved by dealing with the individual leases when issues arise.</p> <p>See Recommendations 4 & 14</p> <p>315. This proposal is part of the review but it has not received major support from the community groups.</p> <p>See Recommendations 3 & 5</p> <p>316. This is understood and while not directly part of this review will be considered in the competing responsibilities of the Territory Plan and the lease purpose clause in obtaining the best outcome.</p> <p>317. Noted see Response No. 316 above.</p>
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		<p>holding or operating the lease.</p> <p>318. Consider a sunset provision related to any special conditions/constraints possibly of a specified number of years as applicable to some current concessional commercial leases.</p> <p>319. In special cases, if deemed necessary, a stipulation that the lease be surrendered if the purpose for supporting the lease and any associated funding ceases to be valid (e.g. where the quality of service or other criteria falls below an agreed level or becomes non-viable) would provide a workable partnership between the provider and government to determine the “nuts & bolts” of legislative change and administration requirements a reasonable sized working party drawn from Government, Community Councils, Business Council and community groups normally eligible for concessions and funding support would seem indicated.</p>	<p>318. This is understood and there have been competing comments on the introduction of such a system.</p> <p>319. See Response Nos. 312 and 318.</p>
32	Clubs ACT	<p>321 For various reasons associated with demographic, social, structural (economic) and regulatory changes many clubs have and will cease trading, generating a need for the assets to be realized in an orderly fashion. In previous years it has been Government policy to sanction the sale of such club premises subject to payout of the concessional lease title at current market value of the day, or at such discount to current market value as to complement the original Crown Grant. The policy of the current ACT Government is to</p>	<p>321. The rationalisation process taking place in the Club industry is understood. Where the original grant of a lease for club purposes was concessional, the club is closing and a change of use is proposed there is support for a process which identifies the possible future use for that site and whether the site should be retained for community use. The review will offer options to the Government to resolve this issue.</p> <p>See Recommendations 6, 16, 17, 18 & 19</p>

		<p>require social justification based on policy guidelines that have been in place for some eighteen (18) months, before allowing such sites to be "deconcessionalised" by the above process.</p> <p>322 Rationalisation has been a feature of the club industry (in most jurisdictions) for a substantial number of years and will continue into the next decade at no lesser rate, as the pressures identified above continue to intensify. From a club industry perspective, a key outcome of the Review should be to arrive at a simple, easy to understand government policy that allows clubs to leave the industry in an orderly fashion. There are three (3) equities in the value of a club on a concessional lease, which is considering winding up:</p> <ul style="list-style-type: none"> (a) the value of the Government equity in the land; (b) the value of the registered proprietors equity in the land; and (c) the value of the registered owners equity in the improvements. <p>323 If the Government is serious about "calling in" such properties to government ownership, by what method will compensation be assessed and become payable on (a) and (b), and for how long a period will the process take, while empty properties are vandalised and interest charges continue to accrue.</p>	<p>322. See comment above. If the Government does decide to adopt a concept of buy-back, the various equities are recognised in the legislation.</p> <p>323. See Response No. 322 above.</p>
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33	Housing Industry Association	<p>331 However many of the planning and leasing arrangements established by the Commonwealth Government are unchanged and reflect a bygone era. HIA is on the record for regularly calling on Government to streamline planning processes and establish new legislation and regulations to give a cost effective and timely capacity for a growing City. This is critical to meet the opportunities offered in rapidly changing</p>	<p>331 Clarity, certainty and timeliness are outcomes of this review.</p>

		<p>times.</p> <p>332 There are also currently many leased, and, for that matter, even unleased, blocks of land which are not being used to their maximum potential. The need to change and remove the inflexible concessional leases will be an important component in the realisation of a vibrant city. Therefore, HIA supports the proposal to "wipe the slate clean" by removing the concessions on all existing leases and not entering into any more concessional leases.</p> <p>333 In the future, if the Government wants to provide selected blocks of land at below market value, this decision should not be reflected in the lease conditions because it only continues the current problem.</p> <p>334 Future Government policies may require land prices to be discounted for such as business incentives, affordable housing</p>	<p>332 The limited supply of land is recognised as a major consideration in establishing appropriate Government policies. This impacts on both the commercial and the non-commercial sector. There is a need for Governments to ensure that the best use of land is made to benefit the whole community and this means that both sectors must be catered for. As a scarce resource land should be used to its potential and the Government should be able to support lessees as it deems necessary. Within the comments above the Government should have the ability to continue to grant concessional leases.</p> <p>See Recommendations 3, 6, 16, 17, 18 & 19</p> <p>333 This is understood and it is proposed to establish a clear identification and registration process for concessional leases.</p> <p>See Recommendation 4</p> <p>334 This is understood. There are opposite views as to whether assistance should be provided by reduced land price or direct</p>
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		<p>support or non-profit community organisations, but believes that these should be independent of the lease and should be arranged as a separate Government subsidy or grant. Thus the lease can be later varied to meet unpredictable changes without the additional complication of the original discounted land sale.</p>	<p>grant. This matter will be canvassed in the review.</p> <p>See Recommendation 5</p>
34	Salvation Army	<p>341. Prior to 1992, the Army held numerous leases in ACT under various pieces of legislation. With the introduction of the <i>Land (Planning and Environment) Act 1991</i> ("the Act"), and Disallowable Instrument DI2003-193, the earlier Acts have been repealed and consolidated in the Act. Consequently, most. If not all, of the Army's leases now fall under Ss 163 and 161 of the Act. The Army would be considered the quintessential "community" organisation as defined in s 163 of the Act</p> <p>342. If the Army wished to decrease the minimum total percentage of floor space occupied by it or like associations from 30% to 0% (and consequently increase the commercial component from 70% to 100%), what ramifications would this have? Would it be possible for the Army to maintain its current leasehold and to simply pay out the remaining land rent on the lease to reflect full market value? As there appears nothing in the Land Act or the Executive Summary which deals with this, it is our submission that provision for this in the legislation governing concessional leases is essential to</p>	<p>341. Only those leases granted after the introduction of the <i>Land (Planning and Environment) Act 1991</i> and specifically granted pursuant to sections 163 or 161 are subject to those sections. Leases granted before the Land Act may be affected by section 167 and its subordinate legislation.</p> <p>342. This is a matter outside the ambit of this review. ACTPLA has been asked to provide you with a response.</p>

		<p>remove any doubt.</p> <p>343. <u>Transfer of existing leasehold to:</u></p> <p>(a) <u>a like organisation within the criteria of D12003-193.</u> Given the prohibition on transfers by community organisation in s163(6) of the Act, this needs to be amended and replaced by a provision which permits a transfer as of the right leasehold to a like organization which satisfies the criteria of DI2003-193. This provision should allow for a simple transfer of the lease from one community organization to another and should not attract any Change of Use Charge or the need for Ministerial consent other than in the sense of confirming that the transferee meets the D12003-1 93 criteria. The Ministerial consent should not be discretionary.</p> <p>(b) <u>a non-community organisation that does not meet the criteria of DI2003-103.</u> Section 163(6) of the Act specifically prohibits a community organisation such as the Army from selling its leasehold to anyone.</p> <p>We submit that, particularly in circumstances where lease already provides that up to 70% of the floor space need not be used for purposes prescribed in s 163(1), it is iniquitous to prevent a community organization from</p>	<p>343. <u>Transfer of existing leasehold to:</u></p> <p>(a) <u>a like organisation within the criteria of D12003-193.</u> The proposal is understood, however the Minister must be able to determine if the new organisation is one of like kind. Additionally there is no change of use charge attaching to the transfer. If a change of use is sought then a change of use charge would only apply if the new use added value.</p> <p>See Recommendations 6, 13 & 15</p> <p>(b) <u>a non-community organisation that does not meet the criteria of DI2003-103.</u> As commented above, section 163 only applies to leases specifically granted pursuant to that section. The review will consider whether the restriction contained therein should be retained.</p> <p>See Recommendations 6, 13 & 15</p>
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		<p>transferring that leasehold to a non-community organisation.</p> <p>It is our submission that such a transfer should be permitted as of right in the legislation. Where the lease is sold to another for any use other than that allowed for under S163(1), consent to the sale should be conditional only on the payment out of the remaining land rent component otherwise the Minister should have no role.</p> <p>344. The prohibition on transfer in s 163(6) by community organisations has sent warning signals to banks and funding institutions. The full impact of the prohibition hasn't yet sunk in. Community organizations already stretched do not need bankers telling them they cannot fund a proposal because of this inability to realise on a security because it cannot be transferred.</p> <p>345. All specific purpose leases should be able to be on-sold either to a community organisation to continue the benefit of the concession, or for full market value where the community use is abandoned. The Minister's consent would be confirmatory only as to eligibility of a transferee where a concession is to continue or as to market value where for an open transfer.</p>	<p>344. See Response No 343 above. The position and views of the banks have been made known.</p> <p>345. See Response No. 333(a) above.</p> <p>See Recommendations 6, 13 & 15</p>
35	St. Andrew's Village	351. When the earlier stages of the Village were built, the Commonwealth Government provided substantial capital contributions	351. This comment is understood. The support which the ACT Government might be required to give to aged persons

		<p>towards the cost of construction and this, together with the provision by the ACT Government of the necessary land at little or no cost, enabled the Village to be built and operated for a number of years at a modest profit, sufficient to enable some reserves to be established to meet the costs of depreciation and maintenance. However, Commonwealth capital funding ceased some years ago, while the level of operational funding in recent years has not kept pace with the costs of delivering the increasingly higher standards of service demanded by the community and required by the Commonwealth Government for on-going accreditation.</p> <p>352. In the absence of capital contributions from the Commonwealth, it seems to us highly unlikely that any new facilities will be able to be built by not-for-profit organisations such as the Churches without continuing assistance from the Territory government, especially through the provision of land on a concessional basis. The inadequate level of Commonwealth subsidies combined with the limits imposed on accommodation bonds for high care residents would make it virtually impossible for facilities to meet the costs of delivering quality care and at the same time to accumulate the fund necessary to finance new construction if the full price of the land was charged.</p> <p>353. We therefore strongly support retaining a</p>	<p>accommodation and services is not part of this review except in so far as the providers of those community services have and obtain concessional leases.</p> <p>352. This comment is understood. The question of the subsidy provided by the Government by a reduction from the market value of any land to be leased in the future is directly a policy one for the Government. The review will comment on this issue.</p> <p>See Recommendations 3 & 5</p> <p>353. This is understood and while the review</p>
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		<p>system of concessional leases, but agree that these should be granted against priorities established by a needs assessment. Needless to say, we consider that not-for-profit bodies such as the Churches wishing to construct facilities providing services to the disadvantaged and to the aged should be given the highest priority.</p> <p>354. We would argue that the present level of concession, at 50% of current market value, is the least level of concession that should be considered. We support the option of removing the restrictions on transfer, mortgage or sub-letting of concessional leases after five years, on the basis that the benefit to the community from the activities of concessional lessees will by then have effectively repaid the value of the concession granted. While there is little likelihood that St Andrews Village (and the Church Property Trust) would need to contemplate transfer or subletting or the property, there could be advantages in being able to obtain a mortgage to help finance further developments.</p> <p>355. We do not think that organisations should be able to vary the purpose clause of a concessional lease for new purposes that are not clearly ancillary to the original purpose, without paying an amount equal to the current market value arising from the additional use.</p>	<p>supports the need for a needs assessment the determination of priorities is not part of the review.</p> <p>See Recommendations 3, 5 & 14</p> <p>354. The issue of releasing the restrictions after a period of years will be canvassed although this concept was not universally supported in submissions.</p> <p>See Recommendations 5, 6, 13, & 15</p> <p>355. Any change of use proposed for a concessional lease attracts 100% change of use charge.</p> <p>See Recommendation 8</p>
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<p>36</p>	<p>Australian Property Institute</p>	<p>361. Uncertainty of Title is undesirable in itself and defeats the main purpose of having a Government administered system of Land Titles, to provide confidence and certainty for the community in dealings in real property in the Territory. The existing lack of transparency and certainty regarding the status of a considerable number of ACT leases does not provide a solid platform for land tenure. The legislative and administrative system for concessional leases is ill-defined and records are less than complete. This means that for some leases it is just not possible to know what the original intentions were with regard to those leases. All concessional leases should be clearly identifiable on Title.</p> <p>362. A valid and useful mechanism of government to stimulate economic and community activity is the issue/sale of land on advantageous terms and has been for decades. The rights and obligations need to be in the public arena, fully transparent and easily understood. To date Canberra has been served well with the use of these types of leases. Government should continue to grant leases to promote economic and community activity in the Territory. The Territory should continue to use its discretion to issue concessional leases.</p> <p>363. The Australian Property Institute recognises the significant social benefits that concessional leases have brought to the Territory over the past seventy years. The</p>	<p>361. This is understood. A remedy for existing registered leases and also for any future leases will need to be dealt with in Recommendation 4.</p> <p>362. The organisation’s support for the continuation of the concessional lease arrangements is noted and the review will provide options for the Government to continue with such leases.</p> <p>See Recommendation 3</p> <p>363. The respondent’s comments are understood and the basis for proposing 1992 as a time to “draw a line in the sand” certainly has the effect of clear identification</p>
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		<p>Australian Property Institute does not think it to be inappropriate that some monetary value should flow through to these lessees, who in the most part are still community based organisations. This economic benefit would enhance the whole community if not directly, then indirectly by ensuring that some of the sites do not become under utilised. By recommending that 'a line be drawn in the sand at 1992' the Australian Property Institute recognise that some economic benefit to the Territory may be foregone. It is unlikely however that the Territory would capture any economic benefit if this policy was not implemented because, the reality is that concessional lessees recognise they have tenure over a property and are unlikely to hand this back to the Territory. To the knowledge of the Australian Property Institute no lease has ever been handed back to date and the Australian Property Institute consider it is unlikely to happen in the future. By drawing a line at 1992 greater certainty of land tenure for lessees will be achieved. This is likely to have the flow and stimulus of more progressive activity on those leases. It is important to note that holders of concessional leases have considerable rights to the land in the existing framework. All leases prior to 1992 should be deemed non concessional as currently defined.</p> <p>364. Section 164 of the Land Act provides for the grant of special leases that are generally leased for commercial purposes. A pre</p>	<p>for leases and overcomes to a large extent some of the valuation problems associated with early leases. The concept of drawing a line in the sand has not generated major support from those who have provided submissions. This issue will be canvassed in the review report.</p> <p>See Recommendation 6</p> <p>364. This comment is understood and the retention of this form of concessional lease is under consideration with the concept that</p>
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		<p>requisite for the government granting of a lease under this Section is the need to demonstrate that it is desirable and in the public interest to do so. Under this Section leases are restricted for a period of 5 years to require ministerial consent if they wish to transfer, assign or sublet the lease. This is a concept that the Australian Property Institute think has merit and will seek to ensure that the intended community benefit from the granting of a concessional lease is achieved. The Australian Property Institute considers the use of concessional leases should be continued at the discretion of the Territory.</p> <p>365. The definition of market value in the <i>Land (Planning and Environment) Act 1991</i> is similar to the Australian Property Institute's definition as accepted by the Australian courts.</p> <p>366. The Territory can also use its capacity in drawing up leases to word them to restrict the use of the lease. A possible example could be to limit the use of the premises for a certain time in the initial period of the lease. This would ensure the intention and expectation of the Territory is clearly outlined at the date of issue of the lease and create compliance issues if the lessee did not fulfil those obligations. The lease purpose clause can be used as a restriction on the use similar to the National Association uses that are in West Deakin.</p>	<p>the subsidy in these cases should be by way of grant.</p> <p>365. Noted. It is not intended to change this definition.</p> <p>366. This proposition falls outside the review except in general terms. The information will be provided to ACTPLA.</p>
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<p>37</p>	<p>Department of Disability, Housing and Community Services</p>	<p>371. DDHCS supports the retention of an on-going capacity by Government to be able to release land to particular groups at varying rates of concession. Such releases should be made according to need, capacity to pay, uses for the land and the Government's policy objectives.</p> <p>372. The process by which concessional leases are granted needs to be strengthened in terms of transparency, timeliness and flexibility to meet the needs of both the proponents and the sponsoring government agency. DDHCS understands that ACTPLA is considering developing a process by which applications for such leases are assessed by a panel within government using a comprehensive needs analysis framework. DDHCS supports such a process and considers that it will promote a more cooperative process across agencies, and a higher level of understanding throughout government of leasing and related issues. DDHCS considers that any process developed should aim to provide a more timely and transparent process for community groups, many of whom lack resources and expertise to "negotiate" the current system. As an extension to the process described above, the possibility of an advisor within government similar to that providing planning advice on aged care accommodation proposals could also be</p>	<p>371. The respondent's support for the retention of a concessional lease grants scheme is noted as is its support for varying rates of concession and according to needs etc.</p> <p>See Recommendations 3, 5 & 14</p> <p>372. The respondent's views on the need to strengthen to process are noted and are accommodated in Recommendation 14.</p> <p>The respondent's understanding of what is being considered by the ACTPLA and the LDA in terms of needs assessment is consistent with Recommendation 14.</p> <p>A more timely and transparent process is an expected outcome of the review. The suggestion of a community advisor/advocate within government to support community groups through the application process is noted</p>
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		<p>offered as a support service to such groups.</p> <p>373. DDHCS supports the continuation of granting lease under categories of economic and community as specified under the Land Act, but is concerned that increasingly groups will have uses for the land involving mixed developments and elements of cross-subsidisation of public and community services by the private sector involving contributions of capital. This may result in mixed public/private ownership of the site. The recent grant to Community Housing Canberra Ltd of land in Gunghalin Town Centre is an example of such a proposal.</p> <p>374. DDHCS operates a number of government owned community facilities on land that is leased to the Crown. One possible area of review that could be noted is the value of including such facilities within the concessional lease framework, perhaps with a view as to the appropriateness of similar services being operated by community groups under different leasing arrangements.</p>	<p>373. The respondent's support for the continuation of granting lease under categories of economic and community is noted. Its concerns about the prospect of "mixed ownership" as the consequence the increasing need for "cross subsidisation" are also noted.</p> <p>See Recommendation 3</p> <p>374. It is understood that this reference is to Executive leases. It is believed that sub-leasing and/or tenancy possibilities for community groups under Executive leases already exist but perhaps there is a need for more encouragement.</p>
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38	Property Council of Australia	<p>381. Three imperatives of PCA:</p> <ul style="list-style-type: none"> (a) Certainty - To have certainty in the identifying, administering and dealing with concessional leases in the ACT; (b) Fast and efficient processes - Maintaining and developing fast processes and procedures to deal with concessional leases, including assessing and granting concessional leases, variations, transfers and "deconcessionalisation of concessional leases"; and (c) Unlocking the supply of land - Unlocking land for development by removing unnecessary and archaic restrictions. <p>382. There is no accurate, efficient way to readily identify a concessional lease. For instance, there is no notification or registration requirement on a concessional lease. The process of identifying and noting every Crown lease that should properly be regarded as a "concessional lease" (putting aside for the moment the difficulty of using a retrospective definition) will require enormous resources and is probably an impossible task. There are few if any records or evidence for early Crown leases to establish whether or not they were in fact granted as "concessional leases", using the current general understanding of a concessional lease. Even if evidence surrounding the circumstances of a grant of a crown lease can be found, question marks remain about whether or not evidence as to the market value at the time can be used.</p>	<p>381. The first two imperatives have been generally supported. The third is interconnected with the concepts of land maximisation and the need to continue to ensure there are appropriate sites in established areas for the provision of community services.</p> <p>See Recommendations</p> <p>382. This is understood. A remedy for existing registered leases and also for any future leases will need to be dealt addressed in the report. The difficulties surrounding the certainty and the need for registration of status will be examined both for future and existing leases.</p> <p>See Recommendations 1, 2 & 4</p>
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		<p>another layer of unique and unusual procedures in the ACT which would act as a further deterrent to investment from other States and Territories, or from overseas.</p> <p>386. The current system of concessional leases acts as a deterrent to development in the ACT. The uncertainties and restrictions on concessional land make it unattractive to investors. That means that organisations that no longer require the use of land under a concessional lease have great difficulty in disposing of or redeveloping the land. Many of the organisations which have been granted concessional leases do not have the commercial capacity to redevelop their land, or even substantially refurbish their existing premises. This means that many of their premises will continue to deteriorate over time.</p> <p>387. PCA recommends that all restrictions relating to concessional leases be removed for all concessional leases granted prior to self-government. The proposal to remove all restrictions from concessional leases granted prior to self-government recognises the almost impossible task for the Government to undertake research and make assessments on all of the concessional leases. The benefits of removing restrictions on concessional leases granted prior to self-government include:</p> <p>(a) substantial savings on government resources on Implementing the research</p>	<p>386. Whilst the issue raised is seen from one perspective as a deterrent to development, other submissions have emphasised the need to undertake considerable checking to ensure that land previously identified as necessary to deliver community services is not lost. These possibly competing issues are considered in the review.</p> <p>See Recommendations 4, 6, 13, 15, 16, 17, 18 19</p> <p>387. The “Drawing the line in the sand” at the date of self- government is supported in some other submissions but the application of the provisions to all concessional leases has also been proposed in other submissions. The options will be canvassed in the review and the matter will ultimately be one for the Government.</p> <p>See Recommendations 6, 13, 15, 16, 17, 18 19</p>
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		<p>and assessment process to verify the number of concessional leases granted prior to self-government;</p> <p>(b) instead those resources can be put towards settling an adequate definition of concessional leases, and a program to note concessional leases, in the process outlined in PCA's submissions, without affecting ACT Government's budget;</p> <p>(c) reducing uncertainty in identifying and dealing with concessional leases, which will benefit not <i>only</i> the crown lessees themselves, but also potential buyers, developers, financiers and ACT Government;</p> <p>(d) unlocking potential sites for further development In the ACT, which will contribute to further economic development in the ACT.</p> <p>388. Release concessional leases granted after self-government from any restrictions including the additional change of use charge. In reality the permitted use for a concessional lease is the real restriction. Despite that, PCA accepts that the Government may wish to retain the ability to nominate special categories of concessional leases for community and/or economic development purposes and it will need a range of policies, and special rules to apply for those types of concessional leases.</p> <p>389. A further option that PCA has considered and submits that the Government should</p>	<p>388. Noted and this issue will be canvassed in the report however there has been little support for this proposition in the submissions.</p> <p>See Recommendations 6 & 23</p> <p>389. This proposition is understood and has some support. The opposite position of no</p>
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		<p>also consider implementing is the provision for the termination of restrictions on dealing with concessional leases five years after the date of grant of the concessional lease. The Crown lessee should be required to offer to sell the land back to ACT Government at the market value at the end of five years before doing anything else with it. This means that if (as part of Government policy), ACT Government wishes to ensure that particular land does not go into the public domain; it can do so by buying the land back. The Government would then be free to deal with that land as it wished, either by grant of another concessional lease, an unrestricted crown lease or retaining it. This gives the Government maximum ability to control the system without perpetuating the Crown lease as a concessional lease on that block of land. If the Government chose not to buy back the land from the concessional lessee, the concessional lessee would be free to sell the land on the open market in the usual way. <u>NOTE</u> PCA provided a pros and Con analysis of the approaches outlined in the Discussion Paper and these comments have been taken into account directly in the review of those issues.</p>	<p>release of the restrictions with only buy back or deconcessionalisation as the options. The buy back option is noted and will be canvassed in the review.</p> <p>See Recommendations 6 & 23</p>
39		391. The YMCA of Canberra (the YMCA) is	391. The respondent's experience as a

		<p>providing this submission on the basis that it is the current holder of six different types of concessional or restricted leases and has sold or transferred two concessional leases. These experiences enable the YMCA to speak with some authority on the current concessional lease arrangements and the problems being experienced by community based organizations.</p> <p>This experience has resulted in major costs to the YMCA and reduced its ability to deliver its services to the Canberra community.</p> <p>392. While supporting the consultation process to date, the YMCA would like to express its concern at not being invited to participate in any of the workshops. We believe that the information provided below fully justifies this concern. However, the YMCA is pleased to make this submission and looks forward to participating in the next round of consultation once the results of the current process are published.</p> <p>Fortunately, one of the community groups that participated in the workshops provided us with a copy of the summary of the results of these workshops. These comments have been helpful in preparation of this response.</p> <p>The ACTPLA is encouraged to make this information more widely available by putting it on the ACT Government web site. The YMCA also strongly believes that all groups or individuals that provide comments on the</p>	<p>concessional lease holder is noted.</p> <p>392. The respondent's concerns are noted.</p> <p>The respondent's suggestion will be brought to the attention of ACTPLA.</p>
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		<p>discussion paper should be invited to participate in the next stage of the development of a much needed policy on the management of existing and future concessional leases.</p> <p>393. A summary of the experiences and costs to the YMCA in managing these leases and dealing with successive ACT governments, departments and agencies is provided in Attachment A. Put very simply these experiences have been at a considerable cost to the YMCA in the provision of resources (both staff and dollars). These funds and resources have been lost forever and could have been put to much better use in providing more programs for the community.</p> <p>Definition of a Concessional Lease.</p> <p>394. The current definition is much to complicated and it is suggested that a 'plain English' version should be produced. More details can be included in Explanatory Memorandums and Second Reading speeches when legislation is put before the Assembly. Such information is normally accepted by the Courts when and if clarification is required. The following is suggested that seems to put it pretty simply:</p> <p><i>A lease granted to any individual, organization, company or community group for less than the full market value.</i></p>	<p>393. The respondent's experiences are noted. Its experiences are based on having to pay a change of use charge for a lease variation to a use which would not be a community type use eligible for a concession and therefore having to pay a capital sum to "deconcessionalise" a lease to enable it or part of it to be on-sold.</p> <p>See Recommendations 6, 8, 15, 16, 17, 18 & 19.</p> <p>394. The definition of a concessional lease needs to be robust enough to deal fairly and equitably with existing and future leases. While the precise definition will be determined following instructions to the Parliamentary drafters, see Recommendations 1 & 2.</p>
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		<p style="text-align: center;">Grants</p> <p>395. The government should continue to grant concessional leases to organizations, community or commercial, that are able to demonstrate that such a grant will assist the lessee to make a valuable contribution to the community. The following principles should be considered in making these decisions:</p> <ul style="list-style-type: none"> • Different definitions of community benefit will be required for community and economic development concessional leases; • The difficulty in quantifying the level of benefit to the community by concessional leases granted to community organizations should not be used as a reason for not granting such leases. • The level of the concession granted should be defined by the level of community benefit that it is expected such leases and the time that the delivery of this service is expected to continue. <p style="text-align: center;">Administration</p> <ul style="list-style-type: none"> • Once concessional leases are identified a codicil should be attached quantifying the lease, the level of concession that applies as well as a statement of the basis for the granting of the original lease. • When completing this process for existing 	<p>395. See Recommendation 3</p> <p>The report distinguished between the two categories of concessional lease.</p> <p>The report recommends no immediate changes to level of subsidies. See Recommendation 5</p> <p>The report propose a whole of Government resourced needs assessment process for the provision of community facilities. See Recommendation 14</p> <p>The report proposes a process for identifying a concessional lease; declaring it to be concessional; and registering notice of it. See Recommendation 4</p> <p>This is not an issue raised in the report nor is it an issue specifically related to the grant</p>
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		<p>leases and attempt should be made to identify and quantify the level of benefit the community has received to date.</p> <ul style="list-style-type: none"> • Each request to vary a concessional lease should be assessed on its merits in accordance with a series of very flexible guidelines. • This process should allow leases granted prior to 1971 to be brought into the same administrative process as leases granted since then, provided an assessment is completed on the degree of benefit that has already accrued (or not accrued) to the community. • The government should retain the ability to periodically review such leases to ensure that the original principle for which the lease was granted still applies or that the benefit forgone by the original grant has been repaid. • The onus of proof of a problem identified during these reviews should be on the government. • All costs of any reviews instigated by the government should be met by the government • A percentage of costs, beyond a fixed amount levied to reduce the chance of frivolous reviews, should be met by the government for reviews instigated by the 	<p>or administration of concessional leases.</p> <p>The report proposes circumstances in which it might be possible to vary concessional leases of land in areas to which the Community Facilities Land Use Policies apply.</p> <p>See Recommendation 7</p> <p>The report does not propose attempting to assess the amount of community benefit provided by the holder of a concessional lease.</p> <p>This is an issue relating to the provision of community services and not an issue specifically related to the administration of concessional leases.</p> <p>See above response.</p> <p>See above response.</p> <p>See above response.</p>
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		<p>lessee.</p> <ul style="list-style-type: none"> • All decision by government made as part of this process should be subject to an appeal to the Administrative Appeals Tribunal. • When assessing the level of payment required to remove a concession from a lease, the contribution directly or indirectly contributed by the community organization during the term of the lease to date, should be taken into account. • If this assessment identifies that the amount originally forgone by the government has been fully paid, no payment should be required. [Note: In the case of the YMCA if these polices were in force last year, it is likely that the YMCA would not have been required to pay the majority of the \$255,000 payment required as a condition of the granting of the DA for its Civic site.] • A needs assessment process is required to establish priorities for the granting of concessional leases. The following principles should be considered during the development of the guidelines for this process: <ul style="list-style-type: none"> ○ community organizations should not be responsible for the costs of this process with the onus of proof on the government to justify its decision not to grant a concessional lease; ○ a process that is two 	<p>See above response.</p> <p>This proposition is fairly widely opposed by other respondents. The report deals with “deconcessionalisation” proposals.</p> <p>See Recommendations 6, 16, 17 & 18</p> <p>See above response.</p> <p>A needs assessment process is proposed.</p> <p>See Recommendation 14</p> <p>Traditionally, by law, a decision not to grant a lease has not been reviewable. The report does not propose any change to that situation.</p> <p>Timeliness in dealing with concessional lease</p>
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		<p>bureaucratic, prescriptive and takes too long to process claims and lacks flexibility will be of no use to anybody;</p> <ul style="list-style-type: none"> ○ decisions should be subject to an appeal by the Administrative Appeals Tribunal. <p>Options (page 4)</p> <p>The YMCA supports the principles outlined in the first two dot points. However, the removal of restrictions on transfer, mortgage and sub-letting after say five years should not be automatic. Such decisions should only be made if the organisation has fulfilled its side of the original contract. However, decisions in this case should also be the subject of an appeal to the Administrative Appeals Tribunal</p> <p>A decision to abolish grants of concessional leases will still require the government to establish criteria to provide financial support by way of grants and other subsidies for community and commercial organizations that are able to demonstrate</p>	<p>matters is an expected outcome.</p> <p>Traditionally, by law, a decision not to grant a lease has not been reviewable. The report does not propose any change to that situation.</p> <p>The report proposes concessional community leases become excluded from the definition of a concessional lease after 20 years. In this case, no right of appeal would be warranted.</p> <p>See Recommendation 6</p> <p>The report proposes retaining the ability to continue to grant concessional leases. It is not proposed to impose upon lease administrators any responsibilities beyond those required to be exercised in relation to the provisions of leases and the prevailing law.</p> <p>See Recommendation 3</p>
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		<p>that they can provide a benefit to the community. A similar process to assess whether the lessee is meeting its part of the grant agreement will also be required.</p> <p>396. In summary whatever process is used, concessional leases or financial subsidies or grants, a transparent process will need to be established to justify these subsidies or grants are delivering value for money to the ACT community. One way to do this is to assess the cost to the ACT government if the service would have had to have been provided by the government or its agencies.</p> <p>The YMCA strongly supports the proposal that the onus is on the government to justify its case for granting or not granting a concessional lease, financial subsidy or grant. This process must be open and transparent with appropriate avenues for appeals against government decisions.</p> <p>It is also important to ensure that when any decision is taken on an amount to be paid to remove the concessional nature of a lease, the level of benefit that has accrued to the community over the term of the lease, is taken into account. Naturally, if it can be shown that no benefits have been accrued, these claims should be rejected by the government unless the proposal is in the best interest of the community and the appropriate CUC is levied.</p>	<p>396. This is an issue relating to the broader function of the provision of community services rather than the grant or administration of concessional leases.</p> <p>As indicated earlier, traditionally, by law, a decision not to grant a lease has not been reviewable. The report does not propose any change to that situation.</p> <p>The proposals for deconcessionalisation of a community concessional lease are to be found at Recommendations 6, 16, 17 & 18. It is proposed to retain the level of change of use charge at 100% - See Recommendation 8.</p>
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		<p>However, when such decisions are made it is also important to consider what the effect such a decision might have on that organisation and its ability to continue to deliver its services to the community. Especially if the government decides that the services being provided by the organization are still required and will have to be provided by the government if the organization withdraws for the field.</p> <p>Other issues</p> <p>397. Recent experiences of the YMCA in its dealings with the ACT government and its agencies provide at least two examples of unnecessary charges or other costs levied by the ACT government that would be better utilized by the organisation to deliver its services.</p> <ul style="list-style-type: none"> • A payment of \$2,200 was required before ACTPLA would consider a request to extend the current YMCA Sailing Club lease. • Over \$80,000 in costs to repair the only access to our Camp Sturt lease despite legal opinion that it was the responsibility of the ACT government. <p>The current concessional lease system also restricts the ability of organisations like the YMCA to raise funds to upgrade or redevelop its facilities either on its own in a joint</p>	<p>See above response.</p> <p>397. The two experiences are noted.</p>
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		<p>venture arrangement. The experiences detailed in Attachment A relating to the first attempt to obtain a Development Authority (DA) on the Civic site are an example of this problem.</p> <p>398. The zero value of most concessional leases also restricts the ability of community organizations to borrow sufficient funds to develop and maintain its built assets.</p> <p>399. Finally, when reviewing its paper it is suggested that the terms “Pros & Cons” used in Section 5 appear to be designed to suggest that a certain courses of action is very negative. For example the need to develop effective legislation or provide more resources to ensure that the revised system operates more effectively should be seen as a positive rather than a negative as implied by lumping in with ‘the Cons’. Why not spell them out as opportunities rather than look for the negative side all the time. Surely, the initial costs in establishing a better program is money well spent.</p>	<p>398. Other respondents have raised the same issue.</p> <p>See Recommendations 13 & 15</p> <p>399. The respondent’s views are noted but the discussion paper has served its purpose at this time.</p>
40	Maureen Hartung (2)	<p>401. We submit that any proposal/option to abolish Direct Grants of land through Concessional Leases should be specifically advertised publicly, and subject to a 6-12 month public consultation period (minimum). ACT community groups, such as the Association of Independent Schools and the Catholic Education Office, need to be specifically consulted.</p>	<p>401. The respondent’s comments seeking additional consultation are noted. There was significant support from the workshops and submissions for the retention of the concept of concessional leases and a large number expressed a preference for that process to involve the issue of leases at less than market value. Should the Government consider the abolition of concessional leases,</p>

		<p>Informal discussions we have had with other community groups revealed that community groups are largely unaware that the abolition of Concessional Leases is even being considered. They have assumed this Review is targeting the disposal/sale of Concessional Leases only - the subject of much community concern publicly. Several schools we spoke with recently were unaware that this Review was relevant to them.</p> <p>402 Established ACT schools have been given Direct Grants of land through Concessional Leases for a peppercorn charge. The ACT Government supports schools through Direct Grants of land, free of charge. The Federal Government supports schools through Capital Works grants to build new school buildings or to purchase/refurbish existing school buildings. New schools, especially low income schools, need access to these Direct Grants of property to survive financially - renting space is financially crippling.</p> <p>Blue Gum Community School is a new, low-fee community school that provides a unique educational service in the ACT. A significant number of students have transferred to Blue Gum, because their needs have not been met at other schools. This is an invaluable community service that deserves to be supported and nurtured by the ACT Government and ACT</p>	<p>your request for further consultation will be noted as part of the report.</p> <p>See Recommendation 3</p> <p>402. The respondent's support for a continuing concessional lease program for educational facilities is noted.</p> <p>See Recommendation 3</p>
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		<p>community.</p> <p>403 The proposal that Concessional Leases be abolished, and replaced by ACT Government Grants for the full market value of the land, or by community groups fundraising or entering into a bidding war, suggests that monetary benefit outweighs all other considerations, such as social benefit. Unfortunately, the contribution not-for-profit community groups make to the economy, in both financial and social terms, was largely ignored in the recent ACT Economic White Paper's Discussion Paper. This third sector's contribution needs to be acknowledged and factored into this discussion of Concessional Leases.</p> <p>404 The Discussion Paper talks about a competitive process. We submit that any competitive process for Direct Grants or Concessional Leases should not be seeking the organisation that can generate the highest dollar return for government, but rather the organisation that is best able to serve the greatest community need e.g. by disadvantaged families.</p> <p>405 Concessional Leases granted for a specific purpose e.g. a school, should not be de-concessionalised or transferred for other purposes, unless and until there has been a public Community Consultation process which establishes that there is no longer a need for that site for that purpose e.g. as a school. Similarly with surplus</p>	<p>403. The respondent's objection to the option of supporting community services through cash grants as opposed to grants of land is supported by other submissions and will be reviewed in the report. The comment concerning recognition of the benefit provided to the community through the delivery of services will also be taken into account in the report.</p> <p>See Recommendation 3</p> <p>404. Again, the respondent's comments are noted and the report will favour the selection of organisations to receive a grant of a concessional lease primarily through the needs of the community and the capacity of the organisation to deliver the service.</p> <p>See Recommendation 14</p> <p>405. The respondent's comment is generally in line with the view expressed in some other submissions and reflects a general concern in the community with change of use of community use leases. The consultants are supportive of a resolution of this matter which allows a change of use only after a process which confirms that no other</p>
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		government school sites.	practicable community use is required. See Recommendations 7, 14, 15, 16, 17, 18 & 19
41	Law Society of the ACT	<p>411. The Government should continue to grant concessional leases, but should reform the laws so that the process for the granting and administration of concessional leases is made uniform and transparent.</p> <p>412. The Government should prepare a community needs assessment on which to base clear policy guidelines for determining which organisations should be recipients of concessional leases. Concessional leases of the same kind should be all granted under the same provision. Identification of the uses for concessional leases should not be exhaustive. Priorities for dealing with concessional leases should be a matter for Government policy of the day but at least should be open, transparent and responsive.</p> <p>413. If there are a number of candidates for a particular lease grant then each should be asked to submit an expression of interest outlining their proposal for benefit to the community. The level of concession should be determined on the basis of several clearly specified criteria including: the assets of the applicant organisation; its expected profits; and, the expected value of the benefit to the community. There should not be an ad hoc approach.</p>	<p>411 The respondent's general support for the retention of the concessional lease program is noted. See Recommendations</p> <p>412 The consultants consider that a community needs plan should be in place which identifies what services are required and where and does land need to be set aside to allow those services to be delivered. Grants should be made against the plan and the ability of organisations to deliver those services or facilities See Recommendation 14</p> <p>413 The approach to the choice of lessee is described above. The level of concession should be against set levels for the different services provided. This is the current policy which has been in place since 1990. See Recommendation 5 & 14</p>

		<p>414. Concessional leases should be defined as post-1991 leases granted for less than market value. If all pre-1991 leases are deemed non-concessional then (as long as complementary restrictions in purpose clauses are removed at the same time) this will automatically lift any restrictions which might otherwise have applied.</p> <p>415. Recognition of community service should be regarded as justification for the lifting of the restrictions on pre-1991 (concessional) leases. To limit the possibility of inequities, any policy to deem certain leases as non-concessional should be announced as soon as possible.</p> <p>416. When a lease is “de-concessionalised”, not only should the restriction on transfer be lifted but also any “complementary” restriction in the lease purpose clause should be modified. Apart from this, any change to the purpose clause of a concessional lease should be subject to the standard provisions applicable for a variation of purpose clause</p>	<p>414 “Drawing the line in the sand” concept did not attract much support in submissions. The other end of the spectrum was to review all leases in the ACT to identify concessional leases. The options will be considered and the lifting of restrictions on concessional leases does not mean that purpose clause variations would no longer apply.</p> <p>See Recommendations 1, 2, 6 & 23</p> <p>415 The recognition of service by community lessees by declaring a lease to be non-concessional after a period of time is one which would only remove the requirement to obtain consent to transfer etc. and a reduction in change of use charges from 100 to 75%. It would not affect the change of use process.</p> <p>See Recommendations 6 & 23</p> <p>416 The respondent’s comment is noted but a large number of submissions support a process which reviews the need to retain land for community use before a change of use to non-community occurs.</p> <p>See Recommendations 16, 17, 18 & 19</p>
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		<p>(including a charge of use charge).</p> <p>417. Restrictions on concessional leases may be maintained, provided that these are clearly stipulated in the crown lease or reference is made to the section in the Act which applies to the conditions of the grant.</p> <p>418. The present practice for deconcessionalisation should be enshrined in law with appropriate review and appeal rights.</p>	<p>417 The need for certainty in identification has been recognised and a process to deal with this will be included in the report.</p> <p>418 This is agreed and will be recommended in the report.</p> <p>See Recommendations 16, 17, 18 & 19</p>
42	The Hellenic Club of Canberra	<p>421 The different historical arrangements that have developed the rules governing the granting, valuation and change of use charges that apply to concessional leases are neither consistent nor logical when viewed as a whole. Similarly, the concessional leases granted to Community Groups for religious, recreational and social purposes can be seen as a positive contribution in promoting a diverse, robust social structure in the emerging National Capital and that having achieved and maintained that objective the grantees should not be further obligated under restricted land use requirements of the often narrow concessional lease arrangements of the original grant.</p> <p>422 This submission deals primarily with Concessional lease arrangements for Clubs, social, sporting and recreational organizations and the way in which the</p>	<p>421 The difficulties presently encountered with concessional leases are the basic reason for this review and the matters raised in your submission go to support the review.</p> <p>422 The provisions of the Territory Plan identify large areas of land subject to broad Land Use Policies, while the leasing system is defined to allow a narrowing of land use on a</p>

		<p>community benefit issues of continuing lease arrangements should apply. The Planning hierarchy adopted under both the National Capital and Territory Plans seeks to broadly identify the spatial relationships between different land use without being specific as to the block by block arrangements in similarly defined areas. Land identified for “community” purposes is also similarly defined across the territory with some differentiation for use such as schools, shops and the like with the remainder retained for “general” community use. Some differentiation can also occur with further distinction as to the type of community use such as sporting fields and commercial community services (child care etc). We submit that this process is flawed and has overly complicated the management, maturation and viability of community concessional lease arrangements in the Territory over recent years.</p> <p>423 The simplest way to allow for change to occur is to revert to the land use index as the descriptor of ALL allowable lease uses for concessional leases.</p> <p>424 Eligibility to obtain and retain a concessional lease would not change and the transfer of a lease to a non eligible party would need the Minister’s approval. In theory, we agree that where an eligible lessee becomes defunct or the lessee disbanded or</p>	<p>block by block basis. This review is not of that relationship but rather of how the concessional lease system works within that relationship.</p> <p>423 This has been proposed before but the basis of the land tenure system in the ACT has been to particularly define use relevant to the block and it would be inappropriate to vary that approach for concessional lease only.</p> <p>424 These concepts are in line with the general submissions except for the issue of return of the lease. There is diverse opinion on this aspect and this would run counter to the argument that a lease could automatically include all the permissible</p>
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		<p>financially unable to service the lease then the lease should revert to the Territory.</p> <p>425 All community leases should be converted to the new arrangements without charge and on application after a specified date.</p>	<p>uses in the Territory Plan for that land use policy.</p> <p>425 If the Government accepts the concepts set out above, it will need to consider appropriate transitional arrangements.</p> <p><i>* Minor text amendments have been made in order not to disclose personal information. These amendments do not change the nature or intent of the original text.</i></p>
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