

**GOVERNMENT RESPONSE  
TO THE REPORT OF THE JOINT STANDING COMMITTEE  
ON THE NATIONAL CAPITAL AND EXTERNAL TERRITORIES**

***DIFFICULT CHOICES: INQUIRY INTO THE ROLE OF THE  
NATIONAL CAPITAL AUTHORITY IN DETERMINING THE  
EXTENT OF REDEVELOPMENT OF THE PIERCES CREEK  
SETTLEMENT IN THE ACT***

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## **Introduction**

The Pierces Creek Forestry Settlement in the ACT was established around 1930. Since that time it grew to a small settlement of thirteen houses until 1970. Initially, these houses were managed by the forestry industry for forestry workers. During the 1980's the houses were transferred to ACT public housing to be managed as part of the general housing stock. However, many of the residents have retained their links with the forestry industry.

In the January 2003 bushfires, approximately 160,000 hectares of ACT land was burnt out including much of the three forestry settlements at Uriarra, Pierces Creek and Stromlo. At Pierces Creek Forestry Settlement, twelve of the thirteen houses were destroyed. No decision to rebuild Pierces Creek has taken place since then as the ACT Government and the National Capital Authority (the Authority) have not agreed about the future of that settlement.

The *Australian Capital Territory (Planning and Land Management) Act 1988* (the Act) established the National Capital Authority (the Authority). The Authority has responsibility for planning with respect to administering, reviewing and amending the National Capital Plan (the Plan). The object of the Plan is to '*ensure that Canberra and the Territory are planned and developed in accordance with their national significance*'. The Act also required that there be a Territory Plan prepared by a Territory planning authority. The Act requires that the Territory Plan shall not be inconsistent with the National Capital Plan. The ACT Government is responsible for the land-use planning and development of Territory land.

The Pierces Creek settlement is located on Territory land within the National Capital Open Space System (NCOSS) under the land use policy of 'Mountains and Bushlands' of the Plan. While the Plan is administered by the Authority, the ACT Government is responsible for planning and development approvals at Pierces Creek, as long as these are consistent with the Plan.

In November 2003 the ACT Government released the report *Shaping our Territory – Opportunities for Non-Urban ACT*. The Authority requested that further detailed sustainability studies be undertaken to assess redevelopment options for all three burnt out forestry settlements. These were published in May 2004. On both economic viability and social grounds, the reports do not favour the option of merely restoring the small-scale villages with replacement public housing as they previously existed. An optimal size for each redevelopment was reached, which for Pierces Creek was initially up to 60 houses. To enable this, the ACT Government requested an amendment to the Plan.

The Authority refused to support expansion of the Pierces Creek settlement and an amendment to the Plan on the grounds that, unlike Uriarra and Stromlo, there was not a compelling case for expansion and that the proposal would erode the values and qualities of that part of the NCOSS. Since February 2004 the Authority has argued that Pierces Creek settlement can be reconstructed exactly as it was before the bushfires without an amendment to the Plan.

## **Committee's Report**

On 4 August 2004 the Joint Standing Committee on the National Capital and External Territories (JSC) resolved that, as an extension of the review of the Annual Report of the Authority for 2002-03, the Committee conduct an inquiry and report on the role of the Authority in determining the extent of redevelopment of the Pierces Creek settlement in the ACT.

The basis for this was to examine the issues which have led to the ACT Government and the Authority reaching a deadlock on the issue of redevelopment of the Pierces Creek settlement. The Committee resolved to examine why the opportunity accorded to Uriarra through an amendment to the Plan was not being afforded to the former residents of the Pierces Creek settlement, and to conduct an inquiry and report on the role of the Authority in determining the extent of redevelopment of Pierces Creek.

The JSC inquired into this issue, and its report, *Difficult Choices: Inquiry into the role of the National Capital Authority in determining the extent of redevelopment of the Pierces Creek Settlement in the ACT* was presented to Parliament on 31 August 2004. In brief, the report recommended: further negotiations be undertaken by the Authority with ACT Government to facilitate the return of the original Pierces Creek residents; the settlement remain as small as practicable; and residents, if eligible, have the opportunity to purchase their houses. It also recommended that the Authority report back to the Committee in December 2004 on the progress of the first recommendation.

## **Current Situation**

Since the Committee tabled its report, the ACT Government has continued to press the Authority for an Amendment to the Plan to allow for expansion of the settlement. It has revised its proposal for expansion of Pierces Creek down to 25 houses but the Authority has remained steadfast in its resolve that no additional houses be constructed.

In May 2005, and more recently in July 2005, the ACT Government challenged the Authority's advice that the houses could be rebuilt without an Amendment to the Plan, and provided legal evidence for its case. This resulted in a re-examination of the issues. Legal opinion has confirmed the National Capital Authority's view that there is no legal impediment to the reconstruction of the settlement precisely as it existed prior to the 2003 bushfires. However, any proposal to expand or change the use of the land would require amendments to both the National Capital Plan and the Territory Plan.

## **THE GOVERNMENT'S RESPONSE**

### **Recommendation 1**

That the National Capital Authority negotiate with the relevant ACT Government authorities to facilitate the return of the original residents of the Pierces Creek Forestry Settlement as soon as possible; and further, that:

- a. The number of houses to be rebuilt at the settlement remain as small as practicable; and
- b. The original residents, if eligible, be given the opportunity to purchase their houses.

Agree.

The Government notes that legal advice confirms that section 13 of the *Australian Capital Territory (Planning and Land Management) Act 1988* (the Act) permits the rebuilding of the Pierces Creek settlement without the need to amend the National Capital Plan.

However, the Government notes that the Committee's recommendation to give the original residents, if eligible, the opportunity to purchase their houses, represents a change to the original arrangements. Hence, the National Capital Plan would need to be amended to enable the residents to purchase their houses. The Government has been advised by the National Capital Authority that it has agreed to the preparation of a Draft Amendment to the Plan to enable the residents of Pierces Creek to purchase their houses once the ACT Government has rebuilt the 12 houses destroyed in the 2003 bushfires. The Government would support such an Amendment.

### **Recommendation 2**

That the National Capital Authority report back to the Committee in December 2004 with an update as to how the implementation of Recommendation 1 is progressing.

Noted.

The Government will ask the National Capital Authority to report back to the Committee in November 2005 with an update as to how the implementation of Recommendation 1 is progressing.