

...it is one thing to decide whether or not to encourage new villages; another to decide whether or not to rebuild for those who lost their homes in existing villages. The first is a question of land use policy and there is no great human cost either way. The second, however, goes directly to the wellbeing of people who lost their homes in the fires.¹

The Options

- 3.1 In considering the future of the Pierces Creek settlement, the Shaping Our Territory Working Group examined a number of options. The options considered by the working group included:
- do nothing;
 - demolition of the settlement;
 - rebuild exactly as before; or
 - revitalise.²

Do nothing

- 3.2 Although theoretically it would be possible to do nothing with the Pierces Creek settlement, the Shaping Our Territory Working Group
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1 Non-Urban Study Steering Committee, August 2003, *Shaping Our Territory, Options and Opportunities for Non-Urban ACT*, ACT Government Publishing Services, Canberra, p. 81.

2 Shaping Our Territory Working Group, May 2004, *Shaping Our Territory, Sustainability Study: Pierces Creek Settlement*, ACT Government Publishing Services, Canberra, p. 147.

rightfully dismissed this option on compassionate grounds.³ The Non-Urban Study Steering Committee emphasised that it is important that the needs and aspirations of previous residents are sympathetically considered.⁴

- 3.3 The Shaping Our Territory Working Group also considered that such a move would be impractical given that one house which was not destroyed by the bushfires remains inhabited, and limited infrastructure items still exist.⁵ Ms Angelie Cheshire's submission encapsulated the former residents' views:

To be forgotten and neglected to the point that there would hardly be a trace this settlement even existed, would be a terrible loss and a shameful mistake.⁶

Demolition of the settlement

- 3.4 This option was also discarded by the Shaping Our Territory Working Group on similar grounds. The working group acknowledged that a policy of relocation, demolition and removal of the villages would be "unconscionable in social policy terms".⁷ The ACT Government also acknowledged that it would incur a number of costs which it would not be able to recover.⁸ Given the history of the settlement, the Committee agrees that the demolition of the Pierces Creek settlement would be unacceptable.

Rebuild exactly as before

- 3.5 The Shaping Our Territory Working Group acknowledged that this option was seriously considered, as it was – in the short term at least – "possibly the 'easiest' solution".⁹ However, the working group stated that this option was not considered feasible because:

3 Shaping Our Territory Working Group, May 2004, *Shaping Our Territory, Sustainability Study: Pierces Creek Settlement*, ACT Government Publishing Services, Canberra, p. 11.

4 Non-Urban Study Steering Committee, August 2003, *Shaping Our Territory, Options and Opportunities for Non-Urban ACT*, ACT Government Publishing Services, Canberra, p. 89.

5 Shaping Our Territory Working Group, May 2004, *Shaping Our Territory, Sustainability Study: Pierces Creek Settlement*, ACT Government Publishing Services, Canberra, p. 11.

6 Cheshire, Submissions, p. 26.

7 Mr Sandy Hollway, *Transcript of Evidence*, 11 August 2004, p. 3.

8 Shaping Our Territory Working Group, May 2004, *Shaping Our Territory, Sustainability Study: Pierces Creek Settlement*, ACT Government Publishing Services, Canberra, p. 11.

9 Shaping Our Territory Working Group, May 2004, *Shaping Our Territory, Sustainability Study: Pierces Creek Settlement*, ACT Government Publishing Services, Canberra, p. 11.

- It would comprise only 13 households, all of which would be (at least initially) Housing ACT tenants. Experience, in Canberra and elsewhere, shows that an enclave of public housing can lead to socially undesirable outcomes. A “pepper and salt” approach of mixing public housing with non public housing has been proven to be far more effective.
- The infrastructure reinstatement and upgrading costs, and the long term services provision costs would be too high for such a small number of dwellings.¹⁰

3.6 The Committee heard evidence from a number of witnesses that there is nothing legally preventing the ACT Government from proceeding with this option. As Mr Tony Powell suggested, this would meet the requirements of the former residents who want their environment to be re-established as closely as possible to what it was prior to the fires and for this to happen as soon as possible.¹¹ Ms Annabelle Pegrum, Chief Executive of the National Capital Authority, stated:

I have to say that the economic position that is put out is still one of choice. Mr Hollway himself is cited in the *Canberra Times*, after appearing before the committee, as saying that meeting the proposal for Pierces Creek that the authority has said is legally permissible now—that is, the 13 houses—would net revenue of only \$1 million for the territory. That is hardly a loss.¹²

Revitalise

3.7 The option which was recommended by the Shaping Our Territory Working Group and ultimately adopted by the ACT Government was for redevelopment and expansion of Pierces Creek, from 13 dwellings to 50. The ACT Chief Minister, Mr Jon Stanhope MLA, acknowledged that the Government was faced with some difficult options, but that essentially, the Government supported the option that “combined economic responsibility with the desire for a rural lifestyle and the need to look after our public housing tenants”.¹³ However, the refusal of the National Capital Authority to support the ACT Government’s

10 Shaping Our Territory Working Group, May 2004, *Shaping Our Territory, Sustainability Study: Pierces Creek Settlement*, ACT Government Publishing Services, Canberra, p. 11.

11 Mr Tony Powell, *Transcript of Evidence*, 13 August 2004, p. 14.

12 Ms Annabelle Pegrum, *Transcript of Evidence*, 13 August 2004, p 38.

13 Jon Stanhope MLA, Media Release, [New ACT rural villages to be world class](#), 3 June 2004.

proposal with regard to Pierces Creek has meant that the ACT Government has been unable to proceed with its plans for the re-establishment and expansion of the settlement.¹⁴

The Committee's Views

- 3.8 The Committee's reasoning for undertaking this particular inquiry was the news that Draft Amendment 34 to the National Capital Plan was to be approved, thereby facilitating an opportunity for Uriarra residents whose homes were destroyed in the bushfires to return home.¹⁵ The Committee sought to understand why this same opportunity was not being afforded to the residents of Pierces Creek. It was put to the Committee that while the National Capital Authority and the ACT Government have been deadlocked over the future of the Pierces Creek settlement, the plight of the residents has been forgotten.¹⁶
- 3.9 The Committee believes that while there are different options being considered for the Pierces Creek settlement, the return of the residents must be the first priority and the bushfires should not be used to determine the future for these residents. The residents have indicated that they simply want an opportunity to return to what they had before the bushfire destroyed their settlement.
- 3.10 The Committee notes the ACT Government's concern that an enclave of public housing will lead to socially undesirable outcomes. However, the Committee has received no evidence whatsoever to suggest that the Pierces Creek settlement prior to the bushfires exhibited any manifestations of socially undesirable outcomes. In fact, quite the contrary, the Pierces Creek settlement appears to have been a socially cohesive and viable community.
- 3.11 The ACT Government is concerned that re-establishing the community as it was would present an economic burden. The ACT Government has a responsibility to the Territory taxpayer and is understandably looking for an option that is financially viable. The Territory has therefore presented a case for the expansion of Pierces Creek from 13 dwellings to 50 dwellings. A comprehensive suite of

14 See ACT Government, Submissions, p. 13.

15 Draft Amendment 34 was tabled in the Senate on 4 August 2004.

16 Mr Tony Powell, *Transcript of Evidence*, 13 August 2004, p. 20.

studies have been conducted which support the ACT Government's position for a sustainable settlement into the future.¹⁷

- 3.12 The Committee is sympathetic to the ACT Government's desire to pursue economically sustainable outcomes. However, the reality is that the unique situation which exists in the ACT means that any substantial expansion of Pierces Creek would defy the long-standing safeguards in place to protect the National Capital Open Space System which gives Canberra its 'bush capital' character. The Committee sees itself as an elected group, representative of the Parliament, with the role of influencing the purist planning tendencies of the National Capital Authority in the development of Canberra as the national capital. In this regard, the Committee notes the view of its predecessor, the Joint Committee on the National Capital, which outlined its commitment to preservation of the open space system:

The Committee is committed to the continued existence of what most people believe is the essential character of the national capital, a bush capital where the open spaces will be protected as the population continues to grow.¹⁸

- 3.13 Expansion of the settlement to the extent being proposed by the Territory would not only see residents returning to new 'homes', but to a whole new community with a different dynamic. In the view of the Committee, the interests of the affected residents – which should be at the forefront of any considerations for the settlement – would be compromised by this course of action. The Committee therefore does not agree that a re-established settlement needs to be to the level of 50 houses, as proposed by the ACT Government.
- 3.14 The Committee's view is that there should essentially be two objectives regarding the Pierces Creek settlement. One, of utmost priority, is the return of the original residents to the settlement. Equally important, however, is the preservation of the National Capital Open Space System. In the Committee's view these are not mutually exclusive of each other. The return of the original residents could potentially be facilitated by the ACT Government rebuilding

17 All reports of the Shaping Our Territory Working Group and the Non-Urban Study Steering Committee are available from the Shaping Our Territory Implementation Group website: <http://www.cmd.act.gov.au/nonurban/index.asp>

18 Joint Committee on the National Capital, 1992, *Our Bush Capital – Protecting and Managing the National Capital's Open Spaces*, Australian Government Publishing Service, Canberra, p. xvii.

the exact number of public housing that existed before the fires. However, the ACT Government has decided it will not do this.¹⁹

- 3.15 One course of action that may provide incentive for the ACT Government to consider facilitating the return of the original residents, without substantial expansion, is if those who had the means to were given the opportunity to purchase their houses. The Shaping our Territory working group acknowledged that some residents had been trying to purchase their homes for 20 years previously.²⁰ However, the ACT Government pointed out that legal home ownership would require statutory changes to the National Capital Plan and Territory Plan, without which the residents' aspirations could never be realised.²¹ This was also conveyed in submissions from the residents:

Some of us really want to buy our homes out there – we do not want to be involved with Housing (ACT) – but we have no hope because of the land problem and who it belongs to. Getting that through would be our main aim.²²

- 3.16 The Committee believes there is scope for the Authority to explore the opportunity to propose a prescriptive draft amendment to the National Capital Plan which changes the land use to provide a means for residents to lease or buy their homes, if desired. The re-established settlement would then involve a mix of rental and ownership, which may necessitate a small increase in the number of houses to be established at the settlement. This would help to achieve the 'pepper and salt' approach which the ACT Government argued will deliver better social outcomes. However, any expansion should be done in the context of the principle of the National Capital Open Space System and the settlement should be kept as small as practicable. The Committee is aware of concerns that the ACT Government would seek to further expand the settlement in the future. However, the potential for the ACT Government to undertake development which would undermine the integrity of the National Capital Open Space System is addressed by Section 26 of the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth).²³ This section requires

19 Jon Stanhope MLA, Media Release, [New ACT rural villages to be world class](#), 3 June 2004.

20 Shaping Our Territory Working Group, May 2004, *Shaping Our Territory, Sustainability Study: Pierces Creek*, ACT Government Publishing Services, Canberra, p. 26.

21 ACT Government, Submissions, p. 42.

22 Mrs Margaret Reardon, *Transcript of Evidence*, 13 August 2004, p. 5.

23 Section 26, *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth).

that the Territory Plan not be inconsistent with the National Capital Plan.

- 3.17 The Committee is not best placed to provide advice as to what would be an appropriate number of houses for the re-established settlement. The Committee believes that this should be negotiated between the National Capital Authority and the ACT planning authorities.
- 3.18 The Committee is also concerned that the returning occupants of public housing may be encouraged to convert their leases and sell in order to achieve a capital gain, which would go against the justification for re-establishing the settlement in the first place. The Committee therefore believes there should be a caveat which prevents returning residents from selling for a minimum period of five years.

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:

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

- 3.19 Given the emphasis that has been placed on facilitating the return of the residents who were displaced by the bushfires, the Committee does not wish to see these residents endure any more uncertainty over their futures while the bureaucracies try to settle on the best way forward. The Committee therefore requests that the National Capital Authority report back to the Committee with an update as to how implementation of the aforementioned recommendation is progressing.

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.

**Senator Ross Lightfoot
Chairman**