



Archives ACT Finding Aid Leasehold & land auctions

Introduction

This finding aid is aimed at assisting researchers using Australian Capital Territory Government archives on the topic of the Australian Capital Territory's leasehold system of land tenure. The government files listed in this aid are not necessarily a full listing of records; they indicate the areas of government compiling the records and are older than 20 years and so on open access.

Open access files held by the Australian Capital Territory Government on land management illustrate how single files made in different sections of the government, as a group, over time become valuable sources of information.

Legislation

Commonwealth

Australian Capital Territory (Planning and Land Management) Act 1988
Australian Capital Territory and Jervis Bay (Lands Acquisition) Act 1955
Australian National University (Leases) Act 1967
Australian Constitution s.125
Canberra College of Advanced Education (Leases) Act 1977
Church Lands Leases Act 1924
City Area Leases Ordinance 1936
Land Acquisition Act 1906
Leases Ordinance 1918
Leases (Special Purpose) Ordinance 1925
Mining Ordinance 1930
Protection of Lands Ordinance 1937
Real Property Ordinance 1925
Rates Ordinance 1926
Seat of Government Acceptance Act 1909
Seat of Government (Administration) Act 1910 s9

Australian Capital Territory

Land (Planning and Environment) Act (ACT) 1991
Planning and Development Act 2007

Philosophy of leasehold system of land tenure

Commonwealth

Section 125 of the Constitution states in part that:

The seat of Government of the Commonwealth shall be determined by Parliament and shall be within territory which shall be granted to or acquired by the Commonwealth and shall be vested in and belonging

to the Commonwealth.

Public leasehold of land in the Australian Capital Territory was provided by the *Seat of Government (Administration) Act 1910* Part IV – Disposal of Crown Lands section 9 which begins:

No Crown lands in the Territory shall be sold or disposed of for any estate of freehold...

The Australian Capital Territory was granted self-government on 11 May 1989. In preparation for this new government the issue of public land ownership in the ACT was addressed. The Commonwealth Government passed the *Australian Capital Territory (Planning and Land Management) Act 1988 (Cwlth)* provided for land within the ACT to be 'national' or 'territory' land. Section 29 states that the ACT Executive is responsible for the management of territory land on behalf of the Commonwealth. Section 29(3) provides that the lease term 'shall not exceed 99 years or such longer period as is prescribed, but the estate may be renewed'.

Australian Capital Territory

There were different types of lease granted in the ACT under the various ordinances and subsequently under Division 5.2 of the *Land (Planning and Environment) Act 1991 (ACT (the Land Act))* and then under the *Planning and Development Act 2007*:

Residential leases

Community leases

Rural leases usually granted for up to 50 years. Unlike residential or non-residential leases the *Land Act* does not provide any security of tenure by way of lease renewal for rural leases. The reason for this relates to the gradual resumption of rural lands for residential development as more land was required for the building of Canberra.

Special leases may be granted for a charge that is less than the market value of the lease where the ACT Government is satisfied that it is desirable and in the public interest to do so in order to facilitate economic development or the development of business in the ACT [s164 of the *Land Act*].

Mining leases

Extractive industries including stone, shell, sand, gravels, clay or earth permits were issued under the *Protection of Lands Ordinance 1937*. Quarries and mines were under the *Leases Ordinance 1918*.

The *Leases (Commercial and Retail) Act 2001* was introduced to define leases covering non-residential and non-rural leases for commercial, retail and industrial activities.

ACT Government Archives

There are many files on the leasehold system including ones on single developments, sections or blocks as well as policy and practice files. A sample from the records is listed.

Properties on the NSW boundary

Issues arose where a property was divided by the ACT/NSW boundary. The acquisition of land for the Gudgenby Nature Reserve in 1972 is one example. 72/439 Department of the Capital Territory. Acquired freehold – surrendered leasehold – General 1972

Land rents & betterment tax

Land rents were charged on residential and non-residential leases until 1970 when they were abolished and municipal rates increased. From January 1971 a 'betterment levy' has been charged when a lessee is granted a change in the lease purpose.

The Land Rent and Rates (Deferment) Ordinance 1970 was passed to enable pensioners and persons in necessitous circumstances to have their liability to pay land rent and general rates deferred so as to prevent unnecessary hardship.

In 1973 it was noted that “the exhaustion of land reserves is not far distant and measures to ensure a continuing income to meet the continuing administrative overheads must be contemplated... These overheads are the expense of managing the estate.”

66/3768M Department of the Interior. Finance and Supply. Revenue Section - Land rent procedures and instructions

70/757 Department of the Interior. Land Rent and Rates (Deferment) Ordinance 1970

70/1305 Department of the Interior. Request by the A.C.T. Advisory Council to the Minister for a statement of details on proposal to abolish land rent

70/1659 Department of the Interior. Request by RAPI for an inquiry by Parliamentary Committee into proposal for elimination of rental charges on leasehold land in the ACT

73/3753 Department of the Capital Territory. Land Policy Branch. Ground rent

77/104 Department of the Capital Territory. Land Marketing Branch – Lease provisions covenants and conditions – Sites for industry re appraisals of fair market land rent

77/105 Department of the Capital Territory. Land Marketing Branch – Lease provisions covenants and conditions – Commonwealth owned buildings – Business uses – Rent appraisal

77/107 Department of the Capital Territory. Land Marketing Branch – Lease provisions covenants and conditions – Site for commercial/special purpose. Rent as a percentage of actual surplus

77/1416 Department of the Capital Territory. Land Marketing Branch – Arbitration – Reappraisal of rent

Leasehold system

PC35/30/1 National Capital Planning and Development Committee.
Proposed flats in Canberra (primarily in Section 10, Reid) (Formerly PC 37A)
70/760 Leasehold system review – Leasing Section – Part 4
70/1519 Department of the Interior. Leasehold system review – Lease
Ordinance
70/1520 Department of the Interior. Leasehold system review - (A) Church
Lands Leases Ordinance (B) Australian National University (ANU) Leases
Ordinance (C) Church of England Lands Ordinance
70/1521 Leasehold system review - Leases (S.P.) Ordinance)
70/1522 Department of the Interior. Leasehold system review - CALO
72/439 Acquired freehold – Surrendered leasehold general - 1972
73/2649 Department of the Capital Territory. Leasehold acquisition
73/4208 Department of the Capital Territory. Techniques for release of
business leases
77/805 Department of the Interior. Land Administration Branch – Leasehold
system review - CALO
80/449 Residential Leases Branch – Ministers briefing notes
80/1096 Residential Leases Branch – Annual report 1979-1980
80/1348 Department of the Capital Territory. Lands Division. Parliamentary
questions on notice
80/1841 Residential Leases Branch – Updating & revision of publications
81/1075 Department of the Capital Territory. Business Leases Branch.
N.C.D.C policies for Kingston development
81/2377 Department of the Capital Territory. Business Leases Branch.
Hansard extracts
88/6890 Lands Branch, Policy, Inquiry, ACT Leasehold system
89/633 Legal Services Branch, Press release by Clyde Holding, Letter to
Bernard Collaery - ACT Leasehold System
NC-70/00239#1 Leasehold practices – Miscellaneous documents - Part 1
NC-70/00239#2 Leasehold practices – Miscellaneous documents – Part 2
NC-71/00825#1 Leasehold system in the ACT
NC-71/00825#2 Leasehold system in the ACT
NC-71/00825#3 Leasehold system in the ACT
NC-71/00825#4 Leasehold system in the ACT
NC-71/00825#5 Leasehold system in the ACT
NC-67/00026 History and problems of Canberra leasehold system
NC-88/00587 Proposed perpetual leasehold system
NC-88/01253#1 Leasehold Inquiry 1988
NC-88/01253#2 Leasehold Inquiry 1988
NC-88/01253#3 Leasehold Inquiry 1988
NC-88/01254 Leasehold Inquiry 1988 Agent assistance
NC-88/01361 Leasehold Inquiry Case studies
NC-88/01362 Leasehold Inquiry Media coverage

Lease auctions

The first residential lease auction of blocks at Ainslie, Blandfordia, Eastlake and Red Hill took place on 12 December 1924 on the ground at Camp Hill by auctioneers Richardson and Wrench of Sydney and Woodgers and Calthorpe of Canberra. The date was postponed from 25 October 1924

LA 207 part 2 Department of the Interior. Land Administration. Office equipment, typewriters, dictation equipment, books, stationery

NC60/00954 Auctions of vacant land - City

NC69/01050 Private residential auctions progress

TL70/976-1 Department of the Interior. Auctions conditions of sale - Part 1

TL70/976-2 Department of the Interior. Auctions conditions of sale - Part 2

TL70/976-3 Department of the Interior. General information on residential leases - Part 3

NC71/00502 Land fill on blocks July 71 Auctions

NC71/00504 Land fill on blocks May 71 Auctions

NC72/01358 Restricted land auctions Advisory Council Committee Inquiry 1972

72/1548 Department of the Capital Territory. ACT Advisory Council - Re Inquiry into Restricted Land Auctions - 1972 - Part 1

72/2181 ACT Advisory Council - Re Inquiry into Restricted Land Auctions - 1972 - Part 2

72/2426 ACT Advisory Council - Inquiry into Restricted Land Auctions - 1972 - Part 3

73/3117 Department of the Capital Territory. Auctioning of leases - Part 4

76/2614 Land Marketing Branch - 76/9 Auctions of residential sites (September auction)

77/1210 Land Marketing Branch - Commercial Leasing Section - June auctions of commercial leases 1977

77/382 Land Marketing Branch - Land auctions April 1977

78/1639 Residential Leases Branch - Residential land auctions - February 1979

78/2454 Residential Leases Branch - Residential land auctions - August 1978 Part 2

80/2225 Department of the Capital Territory. Residential Leases Branch - Residential sales - Special projects B1 - monthly reports

80/2932 Department of the Capital Territory. Business Leases Section - Record of land development liaison meetings

81/3372 Residential Leases Branch - Detailed advice to Finance & Supply Branch of blocks sold at residential land auctions

87/11242 Department of Territories. Residential Leases Branch - Residential property sales - monthly report

84/2983 Business Leases Branch - Residential Land Auctions - Provision of shops in general statement

84/4067 Legislation and Legal Policy Branch - Real property law advice - Auctions, leases, licences, building

87/6554 Residential Leases Branch, Land Sales Office, Record of residential land auctions

88/763 ACT Administration. Planning & Co-ordination Branch – ACT land development

88/4093 Development Division. Private enterprise land development – Community facilities

88/4146 Residential Leases Branch, Land Sales Office, Record of residential land auctions

Extractive Leases

81/4476 Department of the Capital Territory. Business Leases Branch. Extractive industries leases – general

Entitlement to bid

The City Area Leases Ordinance 1936 restricted bidding to “the following classes of persons, that is, persons who within the period of four years immediately preceding the day the said auction have not been separately or jointly or whose spouse has not been within that period separately or jointly registered or entitled to be registered as a lessee or lessees of a parcel or parcels or land in the Australian Capital Territory for residential purposes only.”

Section 7 of the City Area Leases Ordinance 1936 provided that a person who was a non-British subject shall not at any time, except with the approval of the minister be capable of being a lessee.

TL64/4903 Restricted auctions – Policies and procedures – Part 1

TL69/2197 Restricted auctions – Policies and procedures – Part 2

68/3813 City Area Leases Ordinance Section 7 (Non British subjects holding leasehold land)

Press clippings

Press clippings were often pasted into files. These usually were annotated with the date and name of the paper from which they were cut. In some cases press clippings collected together in their own scrapbooks.

Leasing Section. Press cuttings books

1 [5 Nov 1971 – 15 Aug 1972];

2 November 1976-30 December 1976;

3 31 December 1976 – 22 February 1977;

4 23 February 1977 – 18 April 1977;

6 9 June 1978 – 15 August 1978.

Websites

<http://www.aph.gov.au/library/Pubs/bd/1997-98/98bd135.htm>

Commonwealth Government Bills Digest No. 135 1997-98. Australian Capital Territory (Planning and Land Management) Amendment Bill 1997

http://www.actpla.act.gov.au/__data/assets/pdf_file/0017/2915/factsheet02.pdf

ACT Planning and Land Authority. Planning System Reform Project. Leasehold administration in the ACT.

<http://www.prosper.org.au/2008/01/16/canberra/>

Canberra's leasehold system by Leo Foley

http://info.anu.edu.au/mac/Newsletters_and_Journals/ANU_Reporter/_pdf/vol_28_no_03/comment.html

Selling off the land: will the ACT find cause for regret? By Julie P. Smith

<http://www.parliament.act.gov.au/downloads/reports/Rpt13stein.pdf>

Legislative Assembly of the Australian Capital Territory. The Stein Report (Report into the Administration of the A.C.T. Leasehold) and the Government's Response to the Report. Report no. 13 of the Standing Committee on Planning and Environment, June 1966.

Published articles, monographs & reports to 1989

[ACTHL](#) at the end of the following citations links to the ACT Heritage Library catalogue.

ACT Administration. *Inquiry into the ACT leasehold system submission*. Canberra: Office of Industry and Development, 1988. [ACTHL](#)

Australia. Department of the Capital Territory. *ACT land development and administration: a general guide to land development and administration in the Australian Capital Territory*. Canberra: AGPS, 1974 [ACTHL](#)

Archer, R. W. A note on the public finance implications of the leasehold system in *Public administration* vol. 24, no. 2, June 1965 pp 154-157

Archer, R. W. Canberra: the public finance implications of the leasehold system in *Progress* no. 679, 1969 pp 4-5

Archer, R. W. *Financing the development of Canberra as a New City, 1958-1971: the use of the public land and leasehold system*. Canberra: Metropolitan Research Trust, 1972

Brammell, B. Observations on the administration of the leasehold system of

land tenure in the A.C.T. in *The second report of the Task Force on the Price of Land*. Canberra: Australian Institute of Urban Studies, 1972: pp 53-58

Brennan, Frank. Frank Brennan review the Canberra land scandal: address at Annual Dinner of the Real Estate Institute, 6th June 1972, in Canberra in *Progress* September 1972: pp 9-10

Brennan, Frank. *History and problems of Canberra residential leasehold system of land tenure*. Canberra, Dalton Publishing Co., 1971. [ACTHL](#)

Brennan, Frank. Origins of Canberra's leasehold title system together with some legal implications. *Valuer* vol. 20 January 1969: pp 345-350

Canberra residential leases: leasing land & building homes in the ACT. Canberra: Department of the Capital Territory, 1973.

Changes to commercial leasehold arrangements in Canberra; report to the Minister for the Capital Territory. Canberra, Department of the Capital Territory, 1980. [ACTHL](#)

City and rural leases in the Australian Capital Territory 1924-1970. Canberra: Department of the Interior, 1970. [ACTHL](#)

Commission of Inquiry into Land Tenures, *First report*, November 1973 (Chair: R. Else-Mitchell), Govt. Printer, Canberra, 1975. [ACTHL](#)

Commission of Inquiry into Land Tenures. Final report. Canberra, The Commission, 1973. Commission Chair R. Else-Mitchell

Committee of Review of the National Capital Development Commission, *Canberra planning and development: report of the Committee of review of the role and functions of the NCDC*, July 1983 (Chair: G.M. White), AGPS, Canberra, 1983. [ACTHL](#)

Department of the Interior. *Restricted auctions: report on restricted auctions for the A.C.T. Advisory Council Sub-Committee Examining Issues Relating to Eligibility to Bid at Such Sales*. Canberra: Department of the Interior, 1972.

Fairhall, A. Canberra leaseholds (notes on the land tenure system of the Australian Capital Territory) in *Standard*, March 1959: 2-4; April 1959: 6-7

Joint Committee on the Australian Capital Territory, *Planning in the ACT: procedures, processes and community involvement*, March 1979 (Chair: J.W. Knight), AGPS, Canberra, 1979.

Joint Sub-Committee on the Canberra Leasehold System, *Report on the*

Canberra leasehold system, (Chair: J. V. Langmore), AGPS, Canberra, 1988.

Land Development Agency publishes a variety of reports on its website
<http://www.lda.act.gov.au/?/home/about/reports>

List of successful bidders: residential land auction; Tuesday 27 October 1987.
Canberra: ACT Administration, 1987. [ACTHL](#)

Mant, John. *A discussion paper on proposed planning system for the ACT*,
Canberra: NCDC, 1986. [ACTHL](#)

Mathieson, R. *Land tenure and agricultural land use in the ACT and Eastern Yarrowlunla Shire* (BA Hons) degree thesis, Department of Geography, Australian National University, 1967.

National Capital Development Commission. *Submission to Commission of Inquiry into Land Tenure: Estate management by leasehold tenure.* Canberra: NCDC, 1973

National Capital Development Commission. *Submission to the Committee of Inquiry into Housing Costs.* Canberra: NCDC, 1977.

National Capital Development Commission. *Supplementary submission to the Parliamentary Joint Committee on the A.C.T.: Inquiry into state and municipal costs and revenues in the A.C.T.* Canberra: NCDC, 1973.

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Neutze, G.M. *A Tale of Two Cities; Public Land Ownership in Canberra and Stockholm*, Urban Research Program Working Paper No. 3. Canberra: Australian National University, 1988. [ACTHL](#)

Raison, B.V. 'Perpetual leasehold tenure sought for the ACT', in *The Valuer*, June 1988, 32

Raison, B.V. 'Proposal for perpetual leasehold in the Australian Capital Territory', *The Valuer*, October 1979, 643.

Wensing, Ed. *Canberra's leasehold system: still in crisis.* Submission no. 2 to the Joint Committee on the A.C.T.