REPORT ON ANNUAL AND FINANCIAL REPORTS 2015-2016

STANDING COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM

MAY 2017

REPORT 1

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RESOLUTION OF APPOINTMENT

On 13 December 2016 the ACT Legislative Assembly (the Assembly) agreed by resolution to establish legislative and general purpose standing committees to inquire into and report on matters referred to them by the Assembly or matters that are considered by the committees to be of concern to the community, including:

> (g) a Standing Committee on Economic Development and Tourism to examine matters relating to economic and business development, small business, tourism, market and regulatory reform, public sector management, taxation and revenue, procurement, regional development, international trade, skills development and employment creation, and technology, arts and culture.[1]

The Assembly agreed that each committee shall have power to consider and make use of the evidence and records of the relevant standing committees appointed during the previous Assembly.

TERMS OF REFERENCE

On 16 February 2017, the Assembly referred the annual and financial reports for the calendar years 2015 and 2016 and the financial year 2015—2016 to Assembly committees for inquiry and report by the last sitting day in May 2017, in accordance with a schedule.[2] The reports were presented to the Assembly pursuant to the *Annual Reports (Government Agencies) Act 2004*.

The reports and parts of reports referred to the Standing Committee on Economic Development and Tourism were:

- Chief Minister, Treasury and Economic Development Directorate – Government Policy and Strategy; Public Sector Management; Coordinated Communications and community engagement, Economic and Financial Management, Revenue and Government Business Management, Innovation, Trade and Investment—Innovate Canberra, Visit Canberra, Property Services, Arts Engagement, Access Canberra, ACT Executive, *Constructions Occupations (Licensing) Act 2004*, ACT Government Procurement Board, Venues and Events, Director of Territory Records*;*
- Commissioner for Public Administration's State of the Service Report; and
- Cultural Facilities Corporation.

[1] Legislative Assembly for the ACT, Minutes of Proceedings No. 2, 13 December 2016, pp. 13-16, accessible at http://www.parliament.act.gov.au/in-the-assembly/minutes_of_proceedings.

[2] Legislative Assembly for the ACT, Minutes of Proceedings No. 7, 16 February 2017, pp. 80-88, accessible at http://www.parliament.act.gov.au/in-the-assembly/minutes_of_proceedings.

ACRONYMS

ACTPS	Australian Capital Territory Public Service
CMTEDD	Chief Minister, Treasury and Economic Development Directorate
DA	Development Approval
ED	Economic Development
EDT	Standing Committee on Economic Development and Tourism
EPA	Environmental Protection Authority
EPIC	Exhibition Park in Canberra
HIA	Housing Industry of Australia
ICC	International Cricket Council
LDA	Land Development Agency
MBA	Master Builders Association
MOU	Memorandum of Understanding
NCA	National Capital Authority
PAC	Standing Committee on Public Accounts
PPP	Public private partnership
TRO	Territory Records Office

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RECOMMENDATIONS

RECOMMENDATION 1

2.10 The Committee recommends that the Standing Committee on Administration and Procedure, with input from Committee Chairs, examine the motion establishing committees with a view to proposing amendments to assist in a balanced allocation of annual report examination responsibilities.

RECOMMENDATION 2

3.8 The Committee recommends that, once the management contract for the street light network is signed, the Treasurer inform the Assembly of the costs, savings and incentives for network upgrades that arise from the contract.

RECOMMENDATION 3

3.18 The Committee recommends that the ACT Government accept properly directed questions in the Assembly about the implementation of the Parliamentary Agreement for the 9th Legislative Assembly of the Australian Capital Territory, in accordance with the public service's monitoring role.

RECOMMENDATION 4

3.21 The Committee recommends that ACT Government directorates and agencies monitor and maintain their website pages, newsletters, event pages, and associated online material to ensure the information is correct and current and that there are no broken links.

RECOMMENDATION 5

3.22 The Committee recommends that ACT Government directorates and agencies ensure that when newsletters or other updates have been or will be ceased, the webpage or last newsletter should reflect this change and the effective date of cessation.

RECOMMENDATION 6

3.29 The Committee recommends that the ACT Public Service review its procedures for misconduct investigations and consider whether parties who have left the ACT Public Service should be able to choose to have such investigations concluded rather than abandoned.

RECOMMENDATION 7

3.33 The Committee recommends that ACT Government directorates and agencies consult with the Territory Record Office when developing or amending their Record Management Program, or altering the Program significantly.

RECOMMENDATION 8

3.34 The Committee recommends that ACT Government directorates and agencies' adherence to their Record Management Programs should be reviewed by the Territory Record Office every three years, and that the results of these reviews be published.

RECOMMENDATION 9

3.35 The Committee recommends that ACT Government guidelines for record keeping should be reviewed every three years to ensure the processes stay current and are integrated with new technology upgrades as they become available.

RECOMMENDATION 10

3.45 The Committee recommends that ACT Government guidelines given to independent assessors undertaking financial assessments of external contractors be reviewed to determine what level of financial deterioration is acceptable before a company is no longer able to be classified as prequalified.

RECOMMENDATION 11

3.46 The Committee recommends that additional or more frequent assessments be undertaken on a pre-qualified entity after it has shown signs of financial deterioration. The additional reviews should be conducted with reference to the length and value of the contract.

RECOMMENDATION 12

3.47 The Committee recommends that the ACT Government evaluate existing procedures to mitigate the risk of contractors engaged by the ACT not paying subcontractors and workers, including evaluating whether financial risk assessments are accurate and current, and whether contractors' statutory declarations are sufficiently reliable or should include some further form of proof from sub-contractors.

RECOMMENDATION 13

3.48 The Committee recommends that the Government develop specific guidelines and policy on how to interact with contractors and subcontractors after an entity is suspected to be financially unstable or goes into administration.

RECOMMENDATION 14

3.50 The Committee recommends that a regular schedule of briefings and updates be implemented between the ACT Government Procurement Board, the Asbestos Response Taskforce, and Procurement and Capital Works (CMTEDD) to ensure the large scale procurement associated with these undertakings is correctly assessed and the risks are appropriately managed.

RECOMMENDATION 15

3.69 The Committee recommends that Access Canberra publish annual statistics on the number of client interactions, the time taken to respond to client queries, and the number of queries that are finalised.

RECOMMENDATION 16

3.77 The Committee recommends that where Access Canberra becomes aware of construction and/or excavation work undertaken not in compliance with development approvals, the initial response from Access Canberra be to halt further work and seek ways in which the work can be rectified so that it is in compliance.

RECOMMENDATION 17

3.82 The Committee recommends that the ACT Government permanently file and archive air quality monitoring reports created during the demolition of loose fill asbestos affected sites.

RECOMMENDATION 18

3.87 The Committee recommends that the Land Development Authority and artsACT consult closely with all arts organisations that are moving to the Kingston arts precinct on all aspects of their moves, including obtaining any necessary specialist technical advice in relation to their individual needs to ensure their accommodation is fully fit-for-purpose.

RECOMMENDATION 19

3.88 The Committee recommends that the Minister for the Arts and Community Events update the Assembly regularly on the progress of the Kingston arts precinct development, including consultation with relevant arts organisations, together with updates on whether the project is meeting agreed timelines and whether it is within budget allocations.

RECOMMENDATION 20

3.90 The Committee recommends that the ACT Government consolidate ownership and management responsibility for all works of public art, including maintenance activity and the cost thereof, into one agency.

RECOMMENDATION 21

3.91 The Committee recommends that the ACT Government establish a contingency fund for unusual or extraordinary maintenance or repair work that may be required for works of public art that could not be anticipated in a recurrent maintenance budget.

1. INTRODUCTION

1.1 On 16 February 2017, the Assembly referred the annual and financial reports for the calendar years 2015 and 2016 and the financial year 2015—2016 to Assembly committees for inquiry and report by the last sitting day in May 2017, in accordance with a schedule. Referral of the reports and public hearings would normally have occurred in the second half of 2016 but were delayed by the ACT Legislative Assembly elections. The reports were presented to the Assembly pursuant to the *Annual Reports (Government Agencies) Act 2004*.

1.2 The following annual reports, or sections of annual reports were referred to the Standing Committee on Economic Development and Tourism (the Committee):

- Chief Minister, Treasury and Economic Development Directorate – Government Policy and Strategy; Public Sector Management; Coordinated Communications and Community Engagement, Economic and Financial Management, Revenue and Government Business Management, Innovation, Trade and Investment—Innovate Canberra, Visit Canberra, Property Services, Arts Engagement, Access Canberra, ACT Executive, *Constructions Occupations (Licensing) Act 2004*, ACT Government Procurement Board, Venues and Events, Director of Territory Records*;*
- Commissioner for Public Administration's State of the Service Report; and
- Cultural Facilities Corporation.

CONDUCT OF THE INQUIRY

1.3 The Committee held two public hearings on 27 and 28 February 2017. At these hearings, the Committee heard evidence from 29 witnesses. Full details of witnesses who appeared are available in Appendix B of this report. Transcripts from the hearings are available at http://www.hansard.act.gov.au/hansard/2017/comms/default.htm#economic.

1.4 A total of 33 questions were taken on notice during the public hearings and 45 questions were placed on notice after the hearings. Please refer to Appendix A for a list of the questions. Answers to the questions are provided on the inquiry webpage: http://www.parliament.act.gov.au/in-committees/standing-committees-current-assembly/standing-committee-on-economic-development-and-tourism/inquiry-into-annual-and-financial-reports-2015-16.

1.5 Most responses to questions taken on notice at public hearings were received promptly. The Committee would like to thank Ministers and directorate staff for their prompt return of responses. References to questions taken on notice are included throughout this report in footnotes.

STRUCTURE OF THE REPORT

1.6 This report presents a summary of the Committee's inquiry into the annual reports listed in paragraph 1.2. In developing this report, the Committee has primarily focused on the issues that were raised at public hearings although some additional material has been drawn from annual reports documents.

1.7 The structure of this report is as follows:

- Chapter 1: Introduction
- Chapter 2: Annual reporting requirements
- Chapter 3: Chief Minister, Treasury and Economic Development Directorate
- Chapter 4: Conclusion

ACKNOWLEDGEMENTS

1.8 The Committee thanks relevant ACT Government Ministers and accompanying directorate officials for providing their time and expertise as witnesses at its annual reports hearings.

2. ANNUAL REPORTING REQUIREMENTS

2.1 The *Annual Reports (Government Agencies) Act 2004* sets the framework for annual reporting across the ACT public sector. In accordance with the *Annual Reports (Government Agencies) Act 2004*, the Annual Reports Directions (the Directions) are issued annually to outline agency reporting requirements.

2.2 As specified in the Directions, annual reports are 'reports from agency heads to their responsible Minister, the Legislative Assembly and the public'. Annual reports enable agencies to provide an account of their performance, through Ministers, to the Legislative Assembly and the wider community.[3]

2.3 The Directions state that an effective annual report will:

- provide clear information about the agency's purpose, priorities, outputs and achievements;
- focus on results and outcomes - communicate the success or shortfalls of the agency's activities in pursuing government objectives in the reporting year, while accounting for the resources used in the process and explaining changes in performance over time;
- discuss results against expectations - provide sufficient information and analysis for the Legislative Assembly and community to make a fully informed judgment on agency's performance;
- clearly identify any changes to structures or functions of the agency in the reporting period;
- report on agency financial and operational performance and clearly link this with budgeted priorities and financial projections as set out in annual Budget Estimate Papers and the agency Statement of Intent and Corporate Plan;
- provide performance information that is complete and informative, linking costs and results to provide evidence of value for money;
- discuss risks and environmental factors affecting the agency's ability to achieve objectives including any strategies employed to manage these factors, and forecast future needs and expectations;
- recognise the diverse needs and backgrounds of stakeholder groups and present information in a manner that is useful to the maximum number of users while maintaining a suitable level of detail; and

[3] *Annual Reports (Government Agencies) Notice 2015* Notifiable Instrument NI2015—207, p. 6.

- comply with legislative reporting requirements including the *Annual Reports (Government Agencies) Act 2004* and the Annual Report Directions.[4]

2.4 Annual reports are public documents and available for use by stakeholders, including educational and research institutions, and the broader community. They provide a valuable tool for public reporting, accountability and transparency.

TIMING AND PRESENTATION OF REPORTS

2.5 The Directions for 2015 required annual reports to be presented to the responsible Minister before the close of business on Tuesday 6 October 2016. Unless an extension of time was granted under section 14 of the Act, annual reports were required to be given to the Speaker's Office by the close of business on Tuesday 13 October 2016.

2.6 All reports examined by the Committee were presented to the Speaker by the required date.

ALLOCATION OF REPORTS TO COMMITTEES

2.7 This is the first set of annual report hearings held since the formation of the Standing Committee on Economic Development and Tourism (EDT). The 13 December 2016 motion that established committees allocated responsibilities to the new EDT that in previous Assemblies had belonged to the Standing Committee on Public Accounts (PAC). The Committee understands that this was at least partially motivated by a desire to lessen PAC's considerable workload.

2.8 Prior to the referral of annual reports to committees by the Assembly the Committee looked at the likely division of responsibilities for examining those reports. It appeared to the Committee that a strict reading of the motion establishing committees would have PAC only examining one or two reports while EDT would have a substantial load of reports, many with a technical nature perhaps better suited to PAC. The Committee discussed the issue, drawing on a conversation the Chair had with the Chair of PAC, and agreed to write to the Manager of Government Business suggesting changes to the allocation of annual report responsibilities.[5] The 16 February motion that referred annual reports to committees incorporated these suggested changes.

2.9 The Committee believes that the referral motion as passed provides a more reasonable split of annual report responsibilities but acknowledges that it does not line up neatly with the

[4] *Annual Reports (Government Agencies) Notice 2015* Notifiable Instrument NI2015—207, pp. 8-9.
[5] This letter was sent by the Chair on 7 February 2017.

responsibilities set out in the motion establishing committees. The Committee believes that the Assembly should re-examine the motion establishing committees with a view to amending it. These amendments would particularly focus on the allocation of responsibilities between EDT and PAC but there are other amendments, such as an explicit responsibility for gaming and racing matters, which could be usefully pursued.

Recommendation 1

2.10 **The Committee recommends that the Standing Committee on Administration and Procedure, with input from Committee Chairs, examine the motion establishing committees with a view to proposing amendments to assist in a balanced allocation of annual report examination responsibilities.**

3. CHIEF MINISTER, TREASURY AND ECONOMIC DEVELOPMENT DIRECTORATE

INTRODUCTION

3.1 In its Annual Report the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) states its responsibilities include the following roles:

- Providing strategic advice and support to the Chief Minister, the directorate's Ministers and the Cabinet on policy, economic and financial matters, service delivery and whole of government issues;
- Providing advice on the Territory's budget and financial management, economic and revenue policy, infrastructure financing, federal financial relations, and workers compensation policy;
- Collecting and managing taxation revenue;
- Managing the Territory's financial assets and liabilities;
- Managing Shared Services across government;
- Providing a one stop shop for ACT Government customer and regulatory services through Access Canberra;
- Facilitating business development and new investment, tourism and events, sport and recreation, and the arts;
- Responsibility for land release, facilitating projects, procurement and capital works; and
- Coordinating the response to the contamination of Canberra houses with loose fill asbestos insulation.[6]

3.2 On 27 and 28 February 2017, the Committee examined the following areas of CMTEDD's 2015-16 Annual Report:

- Government Policy and Reform;
- Public Sector Management;
- Coordinated Communications and Community Engagement;
- Economic and Financial Management;
- Revenue Management;

[6] *Chief Minister, Treasury and Economic Development Annual Report 2015-16*, vol. 1, p. 13.

- Innovation, Trade and Investment—Innovate Canberra;
- VisitCanberra;
- Property Services;
- Venues and Events;
- Arts Engagement;
- Access Canberra;
- ACT Executive (annexed report);
- ACT Construction Occupations (annexed report);
- ACT Government Procurement Board (annexed report); and
- Director of Territory Records (annexed report).

3.3 Others areas of the CMTEDD report were considered by other standing committees.

ECONOMIC AND FINANCIAL MANAGEMENT

3.4 The Committee heard from the Treasurer and officials on 27 February 2017. The Committee discussed the following issues:

- Asset Recycling Initiative;[7]
- Credit rating;[8]
- Human Services Cluster review;[9]
- Street light network outsourcing;[10]
- Operating deficit;[11]
- Own source revenue;[12]
- Australia Forum and readiness for investment;[13]
- Commonwealth Grants Commission process;[14] and
- Audit of headline net operating balance.[15]

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[7] *Proof Transcript of Evidence*, 27 February 2017, pp. 2-3.
[8] *Proof Transcript of Evidence*, 27 February 2017, pp. 3-6.
[9] *Proof Transcript of Evidence*, 27 February 2017, p. 6.
[10] *Proof Transcript of Evidence*, 27 February 2017, pp. 6-9.
[11] *Proof Transcript of Evidence*, 27 February 2017, p. 9.
[12] *Proof Transcript of Evidence*, 27 February 2017, p. 10.
[13] *Proof Transcript of Evidence*, 27 February 2017, pp 10-15.
[14] *Proof Transcript of Evidence*, 27 February 2017, p. 15.
[15] *Proof Transcript of Evidence*, 27 February 2017, pp. 26-28.

STREET LIGHT NETWORK OUTSOURCING

3.5 The Committee asked about the status of the project to outsource the management of the Territory's street light network. The Committee was informed that a request for tender for the ongoing management of the Territory's street light network closed in early 2017. Six parties responded to the request and an evaluation process to be completed in March 2017 should result in a shortlist of two or three tenderers. A new management contract is anticipated to be in place from 1 July 2017.[16]

3.6 The Committee was informed that any upgrades in infrastructure would depend on final offers. The feedback from the market was that a long term contract that covered management of the capital asset as well as day to day management might provide sufficient incentives to bidders to upgrade infrastructure. This may include use of the network to run a "smart city platform".

3.7 The network consists of 79,000 powered sites across the city that have been installed at different times in the city's history and so are of diverse quality and condition. Streetlights account for 25 per cent of the Territory's electricity usage and 18 per cent of its greenhouse gas emissions.

Recommendation 2

3.8 **The Committee recommends that, once the management contract for the street light network is signed, the Treasurer inform the Assembly of the costs, savings and incentives for network upgrades that arise from the contract.**

AUSTRALIA FORUM AND READINESS FOR INVESTMENT

3.9 The Committee asked about work required to get the Australia Forum convention centre investment ready. The Treasurer stated that there had been a provision in the forward estimates of up to $8 million for expenditure on the project. This provision was removed in the budget review.[17]

3.10 The Treasurer noted that the rapid business case outlined a capital cost of about $430 million but the reference design came in close to double that. The next step is further discussion with the Commonwealth about their interest in the project. The Territory government has said that

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[16] *Proof Transcript of Evidence*, 27 February 2017, pp. 6-7.
[17] *2016-17 Budget Review*, released 7 February 2017, p. 27.

it will make available the site within London Circuit and proceeds from the asset sale of the existing convention centre site would be a contribution to the project.[18]

3.11 The Committee asked whether something had changed to prompt the government to remove the $8 million provision for further work on the project. The Treasurer replied, "Yes. I do not believe the commonwealth are fair dinkum about supporting the project."[19] The Treasurer noted that he had raised the matter with successive Prime Ministers and the Territory had raised the matter with the Commonwealth on numerous occasions. The Territory will now raise the project as part of the Commonwealth's City Deals.[20]

3.12 The Committee notes the information provided by the Treasurer. The Committee has announced an inquiry into a new Convention Centre for Canberra and plans to report before the end of 2017.

REVENUE MANAGEMENT

3.13 The Committee heard from the Treasurer and officials on 27 February 2017. The Committee discussed the following issues:

- Tax Reform initiatives;[21]
- Payroll tax;[22] and
- Stamp duty and impact on house prices.[23]

GOVERNMENT POLICY AND STRATEGY

3.14 The Committee heard from the Chief Minister and officials on 27 February 2017. The Committee discussed the following issues:

- Government office building and directorate locations;[24]
- Whole of Government digital strategy;[25]
- Activity based work pilot;[26]
- Reports on progress on Parliamentary Agreement;[27]

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[18] *Proof Transcript of Evidence*, 27 February 2017, p. 11.
[19] *Proof Transcript of Evidence*, 27 February 2017, p. 12.
[20] Information on the City Deals is available at https://cities.dpmc.gov.au/city-deals.
[21] *Proof Transcript of Evidence*, 27 February 2017, pp. 15-16.
[22] *Proof Transcript of Evidence*, 27 February 2017, pp. 16-21.
[23] *Proof Transcript of Evidence*, 27 February 2017, pp. 21-24.
[24] *Proof Transcript of Evidence*, 27 February 2017, pp. 28-30.
[25] *Proof Transcript of Evidence*, 27 February 2017, pp. 30-31.
[26] *Proof Transcript of Evidence*, 27 February 2017, pp. 31-32.

- Annual report requirements;[28]
- Auditor-General's recommendations for CMTEDD;[29]
- Smart parking;[30]
- Ride-sharing;[31] and
- Support for ACT Executive.[32]

REPORTS ON PROGRESS ON PARLIAMENTARY AGREEMENT

3.15 The Committee asked about the public service providing reports on the progress of the Parliamentary Agreement between the ACT Labor Party and the ACT Greens. The Committee was directed to the CMTEDD report where it states that the directorate "had responsibility for monitoring progress of Government priorities as articulated through the Government's election commitments, the Parliamentary Agreement and strategic priorities".[33] The Chief Minister noted that the parties

> "issue annual statements of progress against parliamentary agreement items. More broadly in terms of election commitments, parliamentary agreement items and other strategic priorities, they are reported in the budget, in the midyear update and in the annual reports process."[34]

3.16 The Committee asked whether there was a contradiction between the public service providing advice on the implementation of the agreement but questions in the Assembly on the agreement being ruled out of order because of the agreement being a political document and not the purview of government. The Chief Minister responded that, "when that government is formed and the first cabinet meeting occurs, official government policy is set, and the bureaucracy responds to that."[35]

3.17 The Committee thanks the Chief Minister for his explanation of the public service's role in monitoring the implementation of parliamentary agreements. Given this explanation the Committee hopes that the government will be supportive of questions in the Assembly about progress in implementing the Parliamentary Agreement between the ACT Labor Party and the ACT Greens for the Ninth Assembly.

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[27] *Proof Transcript of Evidence*, 27 February 2017, pp. 32-35.
[28] *Proof Transcript of Evidence*, 27 February 2017, p. 35.
[29] *Proof Transcript of Evidence*, 27 February 2017, pp. 36.
[30] *Proof Transcript of Evidence*, 27 February 2017, pp. 47-48.
[31] *Proof Transcript of Evidence*, 27 February 2017, p. 63.
[32] *Proof Transcript of Evidence*, 27 February 2017, pp. 63-65.
[33] *Chief Minister, Treasury and Economic Development Annual Report 2015-16*, vol 1, p. 27.
[34] *Proof Transcript of Evidence*, 27 February 2017, p. 33.
[35] *Proof Transcript of Evidence*, 27 February 2017, p. 33.

Recommendation 3

3.18 **The Committee recommends that the ACT Government accept properly directed questions in the Assembly about the implementation of the Parliamentary Agreement for the 9th Legislative Assembly of the Australian Capital Territory, in accordance with the public service's monitoring role.**

COORDINATED COMMUNICATIONS AND COMMUNITY ENGAGEMENT

3.19 The Committee heard from the Chief Minister and officials on 27 February 2017. The Committee discussed the following issue:

- Our Canberra monthly newsletter.[36]

WEBSITE MAINTENANCE

3.20 The Committee notes the importance of regular website maintenance. At the time of writing Innovate Canberra has failed to update the News and Events sections of their website for months and have not issued a new newsletter for over a year. Other Government websites have broken links or are poorly designed. The Committee believes if websites are to remain a useful avenue of engaging with the public they must be maintained and contain updated information.

Recommendation 4

3.21 **The Committee recommends that ACT Government directorates and agencies monitor and maintain their website pages, newsletters, event pages, and associated online material to ensure the information is correct and current and that there are no broken links.**

Recommendation 5

3.22 **The Committee recommends that ACT Government directorates and agencies ensure that when newsletters or other updates have been or will be ceased, the webpage or last newsletter should reflect this change and the effective date of cessation.**

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[36] *Proof Transcript of Evidence*, 27 February 2017, pp. 58-63.

PUBLIC SECTOR MANAGEMENT AND STATE OF THE SERVICE REPORT

3.23 The Committee heard from the Chief Minister, the Head of Service, the Commissioner for Public Administration and other officials on 27 February 2017. The Committee discussed the following issues:

- Independent Public Service Commissioner;[37]
- Appointment of Commissioner for International Engagement;[38]
- Appointments made within the Commissioner for International Engagement's office;[39]
- Investigations against people who leave the public service;[40]
- Indigenous employment in the ACT Public Service;[41]
- Ban on fundraising chocolates in ACT Public Service;[42]
- Public Interest Disclosures;[43]
- Executive termination;[44]
- Additional remuneration; and
- Australian Workplace Agreements.[45]

INVESTIGATIONS AGAINST PEOPLE WHO LEAVE THE PUBLIC SERVICE

3.24 The Committee asked questions about the appointment of Mr Farnhill to a temporary position in the Commissioner of International Engagement's office. Mr Farnhill's partner, Mr House, held the position of deputy director-general in CMTEDD and had a role in creating the Commissioner for International Engagement. Media coverage subsequently highlighted the appointment of Mr Farnhill and asked about the process used.[46] Mr House resigned from his position effective 8 February 2017 and Mr Farnhill resigned effective 22 February 2017. The Committee asked whether there had been a conflict of interest, if so how it had been managed, and what had prompted the resignations.

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[37] *Proof Transcript of Evidence*, 27 February 2017, pp. 37-38.
[38] *Proof Transcript of Evidence*, 27 February 2017, pp. 38-39.
[39] *Proof Transcript of Evidence*, 27 February 2017, pp. 38-47, 52-54.
[40] *Proof Transcript of Evidence*, 27 February 2017, pp. 42-43.
[41] *Proof Transcript of Evidence*, 27 February 2017, pp. 48-49.
[42] *Proof Transcript of Evidence*, 27 February 2017, pp. 49-52.
[43] *Proof Transcript of Evidence*, 27 February 2017, pp. 54-55, 57-58.
[44] *Proof Transcript of Evidence*, 27 February 2017, pp. 55-56.
[45] *Proof Transcript of Evidence*, 27 February 2017, pp. 56-57.
[46] "International Engagement Commission Brendan Smyth hired partner of public servant who created his new office", *The Canberra Times*, 1 February 2017.

3.25 The Committee was informed that Mr Farnhill was appointed by a standard recruitment process with the position being advertised, a panel being formed, applicants interviewed and a successful applicant determined.[47] Following this appointment Mr House noted the potential for an actual or perceived conflict of interest and advised senior officials how this would be managed.[48]

3.26 The Committee has no comment to make regarding the individual circumstances in this appointment and subsequent resignations. The Committee asked questions to see whether appropriate processes were followed by the officials involved.

3.27 In the course of discussion at the hearing the Commissioner for Public Administration said that once "individuals leave the public service we do not continue with investigations".[49] The Commissioner when on to say that that did not apply to matters that should be referred to Police. People who have left the public service are not subject to misconduct sanctions unless there is a criminal aspect to them. Officials clarified that events may prompt a review of conflict of interest support materials and recruitment guidance to ensure it is satisfactory.[50]

3.28 The Committee noted during the hearings that there may be circumstances where an incomplete investigation would be unsatisfactory to the parties involved. A hypothetical was raised of a contractor whose contract concluded while an investigation was incomplete. The contractor may wish to have the investigation completed to "clear their name". The Committee notes the Commissioner's assurances that the privacy of individuals under investigation is protected but believes there are circumstances, such as where someone is absent from the workplace due to suspension, where rumours may have an adverse impact on someone's reputation. [51] In such cases the Committee believes it is worth considering giving parties an opportunity to have an investigation concluded if they so wish.

Recommendation 6

3.29 **The Committee recommends that the ACT Public Service review its procedures for misconduct investigations and consider whether parties who have left the ACT Public Service should be able to choose to have such investigations concluded rather than abandoned.**

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[47] *Proof Transcript of Evidence*, 27 February 2017, p. 43.
[48] *Answer to Question taken on Notice No. 13*, 27 February 2017.
[49] *Proof Transcript of Evidence*, 27 February 2017, p. 41.
[50] *Proof Transcript of Evidence*, 27 February 2017, pp. 41-42.
[51] *Proof Transcript of Evidence*, 27 February 2017, p. 42.

TERRITORY RECORDS

3.30 A Question on Notice was asked about the Territory Records Office (TRO) and funding for record digitisation. The Committee was informed that responsibility for compliance with the *Territory Records Act 2002* lies with the Principal Officers of agencies. The TRO produces standards, guidelines and other advice products to help agencies to meet the requirements of the Act. TRO staff also meet regularly with agency staff and provide training and ad hoc advice as necessary. In 2015-16 the TRO's major contribution to agency recordkeeping was the establishment of the whole of government framework for electronic document and records management systems services, which provides a key tool to assist agency record keeping performance. Currently, the TRO is working on a checklist to help agencies assess their recordkeeping maturity, and is developing a new advice service that will help agencies to undertake more in-depth reviews of their record keeping practices.[52]

3.31 In 2015-16 the TRO was allocated $375 000 for a project to establish a whole of government capability for digital record keeping. That project established a governance framework for ACTPS management of electronic document and records management systems and deployed seven sites that demonstrate the effectiveness of the system in a variety of business settings.[53]

3.32 The Committee notes that the 2015-16 annual reporting period was the first time that information about agency records management arrangements was consolidated in the Director of Territory Records' annual report. The Committee welcomes this development. The Committee notes that two entities, the ACT Insurance Authority and the Community Services Directorate, reported Records Management Programs that had not been reviewed in at least four years.[54] The Committee welcomes the efforts by the TRO to accelerate digital record keeping and notes that implementation of this will require monitoring for software updates and innovations in the field.

Recommendation 7

3.33 **The Committee recommends that ACT Government directorates and agencies consult with the Territory Record Office when developing or amending their Record Management Program, or altering the Program significantly.**

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[52] *Answer to Question on Notice 10*, 27 February 2017.
[53] *Answer to Question on Notice 10*, 27 February 2017.
[54] *Chief Minister, Treasury and Economic Development Annual Report 2015-16*, vol 1, pp. 265-266.

Recommendation 8

3.34 **The Committee recommends that ACT Government directorates and agencies' adherence to their Record Management Programs should be reviewed by the Territory Record Office every three years, and that the results of these reviews be published.**

Recommendation 9

3.35 **The Committee recommends that ACT Government guidelines for record keeping should be reviewed every three years to ensure the processes stay current and are integrated with new technology upgrades as they become available.**

ECONOMIC DEVELOPMENT AND PROCUREMENT

3.36 The Committee heard from the Treasurer and officials on 27 February 2017. The Committee discussed the following issues:

- MOU with Unions ACT and stakeholder involvement in procurement;[55]
- Complaints about contractors by employee representative organisations;[56]
- Financial risk assessments of failed construction firm SMI group;[57]
- Cyber security industry in the ACT;[58]
- Canberra free Wifi;[59]
- Commissioner for International Engagement;[60]
- Appointments made within the Commissioner for International Engagement's office;[61] and
- Local Industry Advocate.[62]

STAKEHOLDER INVOLVEMENT IN PROCUREMENT

3.37 The Committee asked how the operation of the ACT Government's Memorandum of Understanding (MOU) with UnionsACT affected government procurement processes. The

[55] *Proof Transcript of Evidence*, 28 February 2017, pp. 66-77.
[56] *Proof Transcript of Evidence*, 28 February 2017, pp. 74-77.
[57] *Proof Transcript of Evidence*, 28 February 2017, pp. 77-80, 94.
[58] *Proof Transcript of Evidence*, 28 February 2017, pp. 80-82.
[59] *Proof Transcript of Evidence*, 28 February 2017, pp. 82-83.
[60] *Proof Transcript of Evidence*, 28 February 2017, pp. 83-84.
[61] *Proof Transcript of Evidence*, 28 February 2017, pp. 84-85.
[62] *Proof Transcript of Evidence*, 28 February 2017, pp. 90-91.

Committee was informed that at the beginning of hiring contractors there were processes of checking prequalification, industrial relations and employment certification. Particular attention was paid to the financial viability of firms and whether they have adverse court rulings against them for illegal practices or offences against workers. These checks reflect the aim of the MOU to ensure that the government uses fair and appropriate work practices and hires firms that do the same.[63]

3.38 Unions are notified about the tender list and of people applying for prequalification. The unions, and members of the public, can comment on the lists. Comments suggesting there are matters such as adverse court rulings against a firm will be further considered.[64]

3.39 The Committee asked about a request by UnionsACT for procurement decisions in excess of $1 million to be suspended until the MOU could be negotiated. Officials told the Committee that they received a request for suspension but informed UnionsACT that this was not practicable.[65]

3.40 The Committee asked about stakeholder input in procurement. The Committee was informed that for big procurements the government takes industry soundings. In the case of the court building refurbishment this produced a clear message that industry was interested in a public-private partnership and so a PPP procurement was advanced. More generally, when policy or process changes are proposed, such as the introduction of active certification for building sites, extensive consultation with stakeholders is undertaken. Procurement and Capital Works, CMTEDD, meet with the Master Builders Association and Consult Australia quarterly and on a more ad hoc basis with unions.[66]

3.41 The Committee was informed that local industry will often inform the government if there are concerns about a new entrant to the market. Established firms may view companies that have non compliant industrial relations and employment practices as having an unfair advantage (for example by underpaying superannuation levies). It was suggested that industry was more likely than unions to raise concerns about competitors' behaviour.[67]

FINANCIAL RISK ASSESSMENT

3.42 The Committee asked about financial risk assessments of ACT-based construction firm SMI, which went into administration on 7 February 2017. The Committee was informed that independent firm Kingsway undertook a financial assessment of SMI on 3 November 2016. The

[63] *Proof Transcript of Evidence*, 28 February 2017, pp. 66-67.
[64] *Proof Transcript of Evidence*, 28 February 2017, p. 67.
[65] *Proof Transcript of Evidence*, 28 February 2017, pp. 68-69.
[66] *Proof Transcript of Evidence*, 28 February 2017, pp. 70-71.
[67] *Proof Transcript of Evidence*, 28 February 2017, pp. 76-77.

report found some deterioration of SMI's accounts but not enough to prevent prequalification.[68]

3.43 The Committee asked what declarations SMI presented to government to advise that subcontractors were being paid. The Committee was advised that for each part or progress payment from government SMI had to supply a declaration that "all due and payable" payments had been made.[69]

3.44 The Committee welcomes the statement from officials that their priority is taking action to protect subcontractors and once the immediate impact of the administration is addressed that they will be looking at whether there are any improvements to processes that should be made.[70]

Recommendation 10

3.45 **The Committee recommends that ACT Government guidelines given to independent assessors undertaking financial assessments of external contractors be reviewed to determine what level of financial deterioration is acceptable before a company is no longer able to be classified as prequalified.**

Recommendation 11

3.46 **The Committee recommends that additional or more frequent assessments be undertaken on a pre-qualified entity after it has shown signs of financial deterioration. The additional reviews should be conducted with reference to the length and value of the contract.**

Recommendation 12

3.47 **The Committee recommends that the ACT Government evaluate existing procedures to mitigate the risk of contractors engaged by the ACT not paying subcontractors and workers, including evaluating whether financial risk assessments are accurate and current, and whether contractors' statutory declarations are sufficiently reliable or should include some further form of proof from sub-contractors.**

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[68] *Proof Transcript of Evidence*, 28 February 2017, p. 94.
[69] *Proof Transcript of Evidence*, 28 February 2017, p. 78.
[70] *Proof Transcript of Evidence*, 28 February 2017, p. 79.

Recommendation 13

3.48 **The Committee recommends that the Government develop specific guidelines and policy on how to interact with contractors and subcontractors after an entity is suspected to be financially unstable or goes into administration.**

Procurement Board and Asbestos Taskforce

3.49 The Committee notes that the Standing Committee on Public Accounts in the Eight Assembly recommended that the ACT Government inform the ACT Legislative Assembly as to whether the Loose Fill Asbestos Eradication Scheme has or will be subject to consideration by the ACT Government Procurement Board. The government response agreed to the recommendation and stated that representatives from the Asbestos Response Taskforce, and Procurement and Capital Works (CMTEDD), had briefed the ACT Government Procurement Board on two occasions. These briefings occurred despite the value of the initial proposed procurements being below the level where Board endorsement was required.[71] Given the size of the procurement involved in the Loose-fill Asbestos Insulation Eradication Scheme the Committee welcomes the Taskforce's interaction with the ACT Government Procurement Board and hopes to see it continue.

Recommendation 14

3.50 **The Committee recommends that a regular schedule of briefings and updates be implemented between the ACT Government Procurement Board, the Asbestos Response Taskforce, and Procurement and Capital Works (CMTEDD) to ensure the large scale procurement associated with these undertakings is correctly assessed and the risks are appropriately managed.**

Visit Canberra

3.51 The Minister for Tourism and Major events appeared before the Committee with officials on 28 February 2017. The Committee discussed the following issues:

- Measuring the success of tourism marketing and arrangements with airlines;[72]
- Average stay and spend of international visitors to the ACT;[73]

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[71] *Chief Minister, Treasury and Economic Development Annual Report 2015-16*, vol 1, p. 111.
[72] *Proof Transcript of Evidence*, 28 February 2017, pp.86-88.
[73] *Proof Transcript of Evidence*, 28 February 2017, p. 88.

- Social media and internet strategy;[74] and
- Canberra Region Visitor Centre.[75]

MEASURING IMPACT OF TOURISM MARKETING

3.52 The Committee asked how the ACT government measured the success of its marketing arrangement with Singapore Airlines. The Minister told the Committee that public data, such as the quarterly international visitor survey on passengers and tourists entering the ACT, was available. In addition there was immigration arrivals data and Singapore Airlines closely monitor its flight loadings. Marketing is focussed on Wellington and Singapore and there are double digit percentage increases in international arrivals from Singapore and New Zealand.[76]

3.53 There is also a freight element to the Singapore Airlines flights and that will be measured. A further indicator is industry interest and the Minister noted the announcement from Qatar Airlines of their interest in flying to Canberra.[77]

3.54 Officials informed the Committee that the ACT attracts approximately 203,000 international visitors annually. The top five markets are China, the US, the UK, New Zealand and Singapore, in that order. There has been significant growth in the last few years in visitor numbers from China. The Singapore Airlines flights have generated growth not just from Singapore but from Malaysia and beyond.[78]

3.55 The Committee asked about how ACT international tourism marketing spend was split between direct and with partners. The Committee was informed that around fifty per cent of expenditure was through the partnership with Singapore Airlines with the majority of the rest with Tourism Australia. As a relatively small jurisdiction the ACT needs partners to get reach in international marketing. The ACT has been targeting Singaporean visitors who have visited Australia a number of times previously and are looking for a new destination. The ACT markets the Canberra region to these travellers with co-contributions from other regional authorities.[79]

CANBERRA REGION VISITOR CENTRE

3.56 The Committee asked about the move of the Canberra and Region Visitor Centre from Northbourne Avenue to Regatta Point. The Committee was informed that, nationally, visitor centre numbers were declining and Canberra had seen a similar trend. One of the advantages

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[74] *Proof Transcript of Evidence*, 28 February 2017, pp. 88-90.
[75] *Proof Transcript of Evidence*, 28 February 2017, pp. 91-94.
[76] *Proof Transcript of Evidence*, 28 February 2017, pp. 85-86.
[77] *Proof Transcript of Evidence*, 28 February 2017, p. 86.
[78] *Proof Transcript of Evidence*, 28 February 2017, p. 86.
[79] *Proof Transcript of Evidence*, 28 February 2017, pp. 86-88.

of moving to Regatta Point is that it is a destination in its own right. The new location makes it easier for visitors to understand Canberra and where key locations are. There is a focus on technology and interactive experiences at the centre. The new centre has increased foot traffic and the length of stay of visitors is considerably longer. There are also more Canberrans visiting the centre, which is important as a third of all visitors are visiting family and friends.[80]

3.57 The Committee asked about the cost of the move. The Committee was informed that the total cost was $4,146,485. This cost included the cost of building refurbishment, the fit out and technology requirements and the new signage.[81]

VENUES AND EVENTS

3.58 Territory Venues managed GIO Stadium Canberra, Exhibition Park in Canberra (EPIC), Manuka Oval and Stromlo Forest Park.[82] CMTEDD also planned, promoted and delivered a suite of community and tourism events and managed the National Arboretum Canberra.[83] The Committee discussed the following issues with the Minister for Tourism and Major Events and officials at a public hearing on 28 February 2017:

- GIO Stadium and Manuka Oval strategic plans.[84]

GIO STADIUM AND MANUKA OVAL STRATEGIC PLANS

3.59 The Committee asked what the plans were for Manuka Oval and GIO Stadium. The Minister informed the Committee that in order to meet the ICC's requirements for test match cricket, Manuka Oval needed certain upgrades prior to the summer of 2018-19. The key upgrade is a new media centre and consultation on that is underway. The preferred location is the southern end of the oval. The ACT Government has committed capital works funding to the project and the National Capital Authority has responsibility for approval. Work at Manuka Oval will follow the master plan work commenced in 2007. This means that work will be confined to within the oval precinct and be related to player, spectator and media amenity. There are no plans to change the planning zones that apply to the area. The hope is that, with the cooperation of hirers, there can be some increase in seating facilities.[85]

3.60 Regarding the Canberra Stadium the Committee was told that it was owned by the Australian Sports Commission and that the ACT Government is a tenant. The government was previously

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[80] *Proof Transcript of Evidence*, 28 February 2017, pp. 92-93.
[81] *Answer to Question taken on Notice No. 5*, 28 February 2017.
[82] *Chief Minister, Treasury and Economic Development Annual Report 2015-16*, Vol I, p. 66.
[83] *Chief Minister, Treasury and Economic Development Annual Report 2015-16*, Vol I, p. 69.
[84] *Proof Transcript of Evidence*, 28 February 2017, pp. 95-97.
[85] *Proof Transcript of Evidence*, 28 February 2017, pp. 95-96.

charged a peppercorn rent. With the Sports Commission's reduced budget the Government is now being charged $350,000 per year in rent. The Government has an annual budget allocation for capital upgrades at the stadium. The Minister stated that he was reluctant to invest a large amount of capital in a venue that the government did not own but that the facility had to be kept operational for the Raiders and the Brumbies.[86]

ACCESS CANBERRA

3.61 Access Canberra is intended to provide a one-stop shop for ACT Government customer and regulatory services to make access for the community to government services easier, simpler and faster. Access Canberra provides over 2,000 different types of services through agencies, shopfronts and online.[87] The Minister for Regulatory Services and officials appeared before the Committee on 28 February 2017. The Committee discussed:

- The structure of Access Canberra;[88]
- Breakdown of Access Canberra staffing;[89]
- Intimidation of WorkSafe inspectors;[90]
- Advice on right of entry to construction sites;[91]
- Improvements to building quality and construction site safety;[92]
- Training for builders;[93]
- Building quality certification and water ingress issues;[94]
- Limitation on rectification period;[95]
- CFMEU action against WorkSafe;[96]
- Telephone wait times for Access Canberra;[97]
- Stop work and rectification notices for non-compliance with planning requirements;[98]
- Air quality monitoring at demolition sites for houses with loose-fill asbestos;[99]

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[86] *Proof Transcript of Evidence*, 28 February 2017, p. 96.
[87] *Chief Minister, Treasury and Economic Development Annual Report 2015-16*, Vol I, p. 86.
[88] *Proof Transcript of Evidence*, 28 February 2017, pp. 99-100, 109-110.
[89] *Proof Transcript of Evidence*, 28 February 2017, p. 100.
[90] *Proof Transcript of Evidence*, 28 February 2017, pp. 100-101.
[91] *Proof Transcript of Evidence*, 28 February 2017, pp. 101-102.
[92] *Proof Transcript of Evidence*, 28 February 2017, pp. 102-104.
[93] *Proof Transcript of Evidence*, 28 February 2017, pp. 104-105.
[94] *Proof Transcript of Evidence*, 28 February 2017, pp. 105-107.
[95] *Proof Transcript of Evidence*, 28 February 2017, pp. 107-108.
[96] *Proof Transcript of Evidence*, 28 February 2017, p. 108.
[97] *Proof Transcript of Evidence*, 28 February 2017, pp. 110-111.
[98] *Proof Transcript of Evidence*, 28 February 2017, pp. 112-114, 125-127.
[99] *Proof Transcript of Evidence*, 28 February 2017, pp. 114-116.

- Ainslie shops "Mr Fluffy" site;[100]
- Parking enforcements on nature strips;[101]
- Encroachment parking;[102]
- Stock piling at recycling operation in Hume;[103]
- Remediation of West Belconnen site;[104] and
- Woden shopfront.[105]

BUILDING QUALITY CERTIFICATION AND WATER INGRESS ISSUES

3.62 The Committee asked about efforts to improve building quality with a particular focus on preventing water ingress issues. The Committee was informed that the process starts with licensing. Class C builders are required to sit a written exam when seeking license renewal. This is intended to ensure builders are applying modern standards. There is also an enforcement scheme with both proactive and reactive inspections. Access Canberra engages with industry, particularly the HIA and MBA, conveying the message about improving quality and the inspection regime. Access Canberra has also recently begun engaging with the independent certifiers to ensure they are clear on what the legislation expects them to be looking at. Water ingress into units has been a particular focus and Access Canberra is developing additional guidelines and possibly a training course for this area.[106]

3.63 Officials informed the Committee that certifiers are being encouraged to take a closer look at plans to ensure the designs make appropriate provision for preventing water ingress. The Committee was informed that the number of buildings constructed with water ingress issues was a relatively small percentage of total construction but had a significant impact upon those affected.[107]

3.64 The Committee asked about when inspections are carried out. The Committee was informed that there are separate plumbing and electrical inspectors. Plumbing inspections happen before the slab is poured. Inspections are largely randomised but there is also targeting on a risk-harm basis. Builders that have a history of compliance issues may be inspected more frequently.[108]

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[100] *Proof Transcript of Evidence*, 28 February 2017, pp. 116-117.
[101] *Proof Transcript of Evidence*, 28 February 2017, pp. 117-119.
[102] *Proof Transcript of Evidence*, 28 February 2017, pp. 119-121.
[103] *Proof Transcript of Evidence*, 28 February 2017, pp. 121-124.
[104] *Proof Transcript of Evidence*, 28 February 2017, pp. 124-125.
[105] *Proof Transcript of Evidence*, 28 February 2017, pp. 127-128.
[106] *Proof Transcript of Evidence*, 28 February 2017, pp 102-103, 105.
[107] *Proof Transcript of Evidence*, 28 February 2017, pp 103-104.
[108] *Proof Transcript of Evidence*, 28 February 2017, p 105.

3.65 The Committee asked about rectification where leaking is discovered. The Committee was informed that litigation is usually long term and while the matter can takes years to progress through the courts the leaking goes unrectified. Access Canberra's first approach is to engage the builder, and usually the certifier, and give them an opportunity to resolve the issue. An audit determines the work that needs doing. Usually with water ingress problems rectification may cause some disruption but is achievable.[109]

3.66 The Committee asked about how water ingress issues in multi-unit developments are handled. The committee was informed that officials worked with bodies corporate. There is a standard 10-year statute of limitations from the finalisation of a building to when a rectification can be ordered. There are also building warranties that last typically five to six years. When water ingress is discovered sometime after completion there is often a claim by the builder that this is caused by improper maintenance. Access Canberra, in association with MBA and HIA, will shortly release guidance for bodies corporate on maintenance.[110]

WAIT TIMES

3.67 The Committee asked about the data recorded indicating the average call length, wait time and whether calls were resolved satisfactorily. The Committee was informed that the average wait time across the Access Canberra contact centre in January 2017 was 129 seconds and in February 2017 was 71 seconds. Access Canberra records the number of calls presented, the number answered and how long it takes to resolve the call. A call may be resolved by referring the call to another part of government.[111]

3.68 The Committee notes that under the Access Canberra budget output the government has targets for the number of interactions with Access Canberra and the average cost of those interactions.[112] The Committee believes that the publication of additional statistics in this area would assist in building public confidence in the organisation.

Recommendation 15

3.69 **The Committee recommends that Access Canberra publish annual statistics on the number of client interactions, the time taken to respond to client queries, and the number of queries that are finalised.**

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[109] *Proof Transcript of Evidence*, 28 February 2017, p. 108.
[110] *Proof Transcript of Evidence*, 28 February 2017, pp. 106-108.
[111] *Proof Transcript of Evidence*, 28 February 2017, p. 111.
[112] *Chief Minister, Treasury and Economic Development Annual Report 2015-16*, Vol I, p. 90.

STOP WORK AND RECTIFICATION NOTICES FOR NON COMPLIANCE WITH PLANNING APPROVALS

3.70 The Committee asked about action taken by Access Canberra when a builder begins construction or excavation in a manner inconsistent with planning approvals.[113] The Committee had examples before it of a boundary fence constructed considerably higher than approved and an excavation that rendered part of the neighbouring yard unsafe.[114]

3.71 The Committee was informed:

> The response to rectify non-compliant building works is generally to request a new Development Approval (DA) or a DA amendment from the lessee. If the new DA or amendment is approved the issue is generally resolved.
>
> Should a new or amended DA be refused, Access Canberra has a range of avenues it can pursue to achieve substantial compliance with the approved plans. The preferred approach is to work with the lessee to reach compliance through engagement. Should this approach fail, Access Canberra can place a hold on the Certificate of Occupancy and Use, until an agreed path to compliance is identified with the certifier.
>
> If these avenues fail to deliver substantial compliance with the approved plans, Access Canberra can issue a rectification notice.[115]

3.72 The Committee asked about the frequency with which stop work notices were issued.[116] Three stop work notices were issued in 2015-16 by the Construction, Environment and Workplace Protection Division within Access Canberra. The notices were issued:

- to stop building works on a home while safety issues were addressed in relation to an excavation on the property. The notice is still in force.
- to stop building works while the Development Application was still under assessment and final approvals had not been provided. The notice is no longer in force.
- where it was reported that unapproved works were being conducted. The notice was revoked following investigation where it was found the works were exempt from requiring building approval.[117]

3.73 The Committee was advised that the difficulty in regulating these kinds of issues is that litigation can take years to resolve through court and that this will delay a solution. Taking a penalty or litigation course can result in the builder walking away from the site at issue. Access

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[113] *Proof Transcript of Evidence*, 28 February 2017, p. 114.
[114] *Proof Transcript of Evidence*, 28 February 2017, p. 112, 125.
[115] *Answer to Question taken on Notice No. 10*, 28 February 2017.
[116] *Proof Transcript of Evidence*, 28 February 2017 p. 113.
[117] Question taken on Notice 9, 28 February 2017.

Canberra's approach in the vast majority of cases is to engage with the builder to get a solution.[118]

3.74 The Committee has concerns about the approach outlined by Access Canberra. While agreeing that engagement with the builder is the best approach the Committee is less convinced that seeking variations to development approvals is the best first step. If the initial response to non-compliant construction is to retrospectively make it compliant then the incentives for initial compliance are lowered, effectively creating a "better to seek forgiveness than permission" mindset.

3.75 In the Committee's opinion seeking amended approvals to address non-compliance should be the first option only when the non-compliance is of a minor technical nature, difficult to rectify and does not have any impact upon neighbours. In other situations rectification to bring the work into compliance should be the first option explored. The Committee believes that community expectations are that the emphasis should be placed on compliance with the approved DAs rather than subsequent amendment.

3.76 The Committee is aware that this issue touches on planning matters and that these issues were further discussed in the annual report hearings of the Standing Committee on Planning and Urban Renewal.

Recommendation 16

3.77 **The Committee recommends that where Access Canberra becomes aware of construction and/or excavation work undertaken not in compliance with development approvals, the initial response from Access Canberra be to halt further work and seek ways in which the work can be rectified so that it is in compliance.**

Air quality monitoring at demolition sites for houses with loose-fill asbestos

3.78 The Committee asked about the Auditor-General reporting that WorkSafe ACT's asbestos team had no air quality monitoring results available from 18 loose-fill asbestos contaminated demolition sites.[119]

3.79 The Committee was informed that regulations required air quality monitoring on every demolition site for the program. The monitoring reports are provided to independent asbestos

[118] *Proof Transcript of Evidence*, 28 February 2017, p. 126.

[119] ACT Auditor-General's Report No. 1, *WorkSafe ACT's Management of its Regulatory Responsibilities for the Demolition of Loose-fill Asbestos Contaminated Houses*, 2017, p. 63.

assessors who are specially licensed contractors. The assessors review the air quality reports each day and report to the Asbestos Response Taskforce, Procurement and Capital works, and WorkSafe about anything outside normal standards.[120]

3.80 The Committee was informed that there have been approximately 175,000 air monitoring reports to date. These are held by the independent assessors and WorkSafe can generally obtain a specific report within 24 hours. Officials advised the Committee that government may take possession of the reports when they are finalising files.

3.81 The Committee notes that asbestos related issues tend to have a long life, with environmental and health impacts being assessed over decades. Given this, the Committee considers it important that air quality monitoring reports from the demolition sites are properly archived by the ACT Government.

Recommendation 17

3.82 **The Committee recommends that the ACT Government permanently file and archive air quality monitoring reports created during the demolition of loose fill asbestos affected sites.**

STOCK PILING AT RECYCLING OPERATION IN HUME

3.83 The Committee asked for an update on stockpiling at the recycling centre at Hume. The Committee was informed that the stockpile at the centre had grown to the size where it required an environmental authorisation issued through the Environmental Protection Authority (EPA) in order to conduct its operations. This was complicated by the need for the centre to have a development application approved for infrastructure to enable it to recycle material. The centre's DA was refused by the planning authority and the owners have sought a review of that decision.

3.84 The Committee was told that the EPA is negotiating with the proponent on the terms of its environmental authorisation. Two key provisions of that authorisation, assuming it gets approved, are that the stockpile limits be substantially less than what is currently present at the site and that a financial bond or surety be provided to cover clean-up of the site if needed. The environmental authorisation requires a DA to be approved first. While an environmental approval is not in place the operator needs to comply with the Environment Protection Act. Access Canberra said that they were constantly working with the operator to prevent material leaving the site due to wind or rain and to reduce the stockpile. Access Canberra is considering whether additional enforcement action is needed to encourage reduction of the stockpile.[121]

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[120] *Proof Transcript of Evidence*, 28 February 2017, p. 116.
[121] *Proof Transcript of Evidence*, 28 February 2017, pp. 121-124.

ARTS ENGAGEMENT AND CULTURAL FACILITIES CORPORATION

3.85 The Minister for the Arts and Community Events and officials appeared before the Committee on 28 February 2017. The Committee discussed the following issues:

- Kingston Arts Precinct;[122]
- ArtSound FM;[123]
- Electrical and fire systems in arts facilities;[124]
- Responsibility for insurance and maintenance of Theatre 3;[125]
- Social and economic contribution of arts engagement;[126]
- Arts promotion and integration with tourism marketing;[127]
- Funding for Canberra Area Theatre Awards;[128]
- Belconnen Arts Centre;[129]
- Maintenance of public art;[130]
- Parking for Canberra Theatre Centre;[131]
- Impact of government office building construction on Canberra Theatre;[132] and
- Capacity constraints on Canberra Theatre Centre.[133]

KINGSTON ARTS PRECINCT

3.86 The Committee asked about progress towards the creation of the Kingston arts precinct. The Committee was informed that the Land Development Authority (LDA) had announced on 8 February that Geocon-Fender-Katsalidis-Oculus won the request for tender process. The consortium was now entering negotiations with the LDA on the final design of the facility. ArtsACT was acting as an intermediary with the arts organisations who will be part of the precinct, the developers and the LDA. Canberra Glassworks and Megalo Print Studio and Gallery are already in the precinct and they will be joined by the Canberra Contemporary Art Space, Craft ACT, PhotoAccess, the Canberra Potters Society, M16 Artspace and ArtSound FM.

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[122] *Proof Transcript of Evidence*, 28 February 2017, pp. 129-132.
[123] *Proof Transcript of Evidence*, 28 February 2017, pp. 132-135.
[124] *Proof Transcript of Evidence*, 28 February 2017, pp. 135-137.
[125] *Proof Transcript of Evidence*, 28 February 2017, pp. 137-138.
[126] *Proof Transcript of Evidence*, 28 February 2017, pp. 139-140.
[127] *Proof Transcript of Evidence*, 28 February 2017, pp. 140-142.
[128] *Proof Transcript of Evidence*, 28 February 2017, p. 142.
[129] *Proof Transcript of Evidence*, 28 February 2017, pp. 143-144.
[130] *Proof Transcript of Evidence*, 28 February 2017, pp. 144-146.
[131] *Proof Transcript of Evidence*, 28 February 2017, pp. 146-147.
[132] *Proof Transcript of Evidence*, 28 February 2017, p. 147.
[133] *Proof Transcript of Evidence*, 28 February 2017, pp. 147-148.

Recommendation 18

3.87 **The Committee recommends that the Land Development Authority and artsACT consult closely with all arts organisations that are moving to the Kingston arts precinct on all aspects of their moves, including obtaining any necessary specialist technical advice in relation to their individual needs to ensure their accommodation is fully fit-for-purpose.**

Recommendation 19

3.88 **The Committee recommends that the Minister for the Arts and Community Events update the Assembly regularly on the progress of the Kingston arts precinct development, including consultation with relevant arts organisations, together with updates on whether the project is meeting agreed timelines and whether it is within budget allocations.**

MAINTENANCE OF PUBLIC ART

3.89 The Committee asked about the maintenance of public art. The Committee was informed that Cultural Canberra has 120 public artworks in its portfolio but that three other directorates also have public art assets. When the government invests in an asset a percentage of the budget is set aside for repairs and maintenance. This budget is allocated by focussing on the safety and structural integrity of public artworks.

Recommendation 20

3.90 **The Committee recommends that the ACT Government consolidate ownership and management responsibility for all works of public art, including maintenance activity and the cost thereof, into one agency.**

Recommendation 21

3.91 **The Committee recommends that the ACT Government establish a contingency fund for unusual or extraordinary maintenance or repair work that may be required for works of public art that could not be anticipated in a recurrent maintenance budget.**

4. CONCLUSION

4.1 The Committee has made 21 recommendations in this report relating to a broad range of areas.

4.2 The Committee would like to thank ACT Government Ministers and directorate officials for their contribution to this inquiry and for their timely return of answers to questions taken on notice.

Jeremy Hanson MLA

Chair

2 May 2017

Appendix A Questions taken on Notice/Questions on Notice

No.	Hearing Date	Asked by	Directorate/ Portfolio	Subject	Answer date
Questions taken on Notice 27 February 2017					
1	27/02/17	Coe	Treasurer	List of all sites subject to the Asset Recycling Initiative and when payments are due, whether in instalments or upon settlement.	08/03/17
2	27/02/17	Orr	Treasurer	When is the Human Services Cluster Review report expected to be finalised?	07/03/17
2a	27/02/17	Coe	Treasurer	What is the current projection for the 2016-17 operating deficit?	10/03/17
3	27/02/17	Pettersson	Treasurer	Has there been any federal government investment in the Canberra Convention Centre?	09/03/17
4	27/02/17	Pettersson	Treasurer	Have there been any negative changes to the ACT budget due to changes in the Commonwealth Grants methodology?	10/03/17
5	27/02/17	Coe	Treasurer	Have there been any listed companies over the last few years that have received a non-compliance notice from the Revenue Office stating that they need to pay more payroll tax due to a grouping?	09/03/17
6	27/02/17	Parton	Treasurer	What are the differences between the New South Wales and ACT payroll taxes?	09/03/17
7	27/02/17	Hanson	Treasurer	How many businesses in the ACT are there with over 50 employees?	07/03/17
8	27/02/17	Hanson	Treasurer	Can you provide evidence of benefits from the reduction of stamp duty?	09/03/17

No.	Hearing Date	Asked by	Directorate/ Portfolio	Subject	Answer date
9	27/02/17	Parton	Chief Minister	When was the directorate first advised that ACT Health was not going to meet the Productivity Commission's deadline for emergency department figures for the annual comparison of the performance of states and territories because of those concerns about the accuracy of ACT Health's data?	08/03/17
10	27/02/17	Coe	Chief Minister	What is CMTEDD's role in the provision of figures to the Productivity Commission for interstate comparison?	08/03/17
11	27/02/17	Coe	Chief Minister	Why, on page 187 of the CMTEDD Annual Report Vol 1, are there no Ministerial and Director-General Directions reported?	07/03/17
12	27/02/17	Dunne	Economic Development	Has new procurement circular and guidance material been finalised, since an exchange of correspondence between the then Speaker and Chief Minister in March 2015, and, if so, how does it address the issues of forced labour and ethical supply chains?	To be asked on notice
13	27/02/17	Hanson	Chief Minister	Can you provide a timeline regarding the employment and subsequent resignations of Mr House and Mr Farnhill that indicates the timing of conversations related to conflict of interest procedures, possible resignations, the prospect of investigations and the release of media reports?	09/03/17

No.	Hearing Date	Asked by	Directorate/ Portfolio	Subject	Answer date
14	27/02/17	Coe	Chief Minister	How many ACT Public Service executives were terminated in 2015-16 and what were the total payouts required for those terminations?	08/03/17
15	27/02/17	Coe	Chief Minister	Are any executive allocations given to a non-executive member?	07/03/17
16	27/02/17	Coe	Chief Minister	Of the 14 Australian Workplace Agreements still in place in the ACT Public Service, what date were they signed and what is the length of them?	08/03/17
Questions taken on Notice 28 February 2017					
1	28/02/17	Coe	Economic Development	When was the last Kingsway assessment of SMI done?	
2	28/02/17	Hanson	Economic Development	Did Mr Dawes have a conversation with that director-general which precipitated his resignation?[Mr Dawes indicated that if, after seeking advice, further information was to be provided it would be done in private to the Committee]	
2a	28/02/17	Wall	Tourism	What is the average stay or spend is tourists coming through or even business people coming through on these international flights in the ACT?	
3	28/02/17	Cheyne	Tourism	How much would Visits ACT normally spend in a financial year on Facebook advertising?	
4	28/02/17	Wall	Economic Development	What is the remuneration for the Local Industry Advocate?	
5	28/02/17	Wall	Tourism	Can you supply a breakdown of the costs of establishing the new Canberra Visitors Centre?	

No.	Hearing Date	Asked by	Directorate/ Portfolio	Subject	Answer date
6	28/02/17	Hanson	Events	How long are the contracts with the Brumbies and the Raiders?	
7	28/02/17	Pettersson	Regulatory Services	Is the training program for building quality run through the MBA available to everyone or just MBA members?	
8	28/02/17	Hanson	Regulatory Services	Can you provide information on the cost and terms of the mediated settlement between the CFMEU and WorkSafe, to the extent permitted by the settlement.	
9	28/02/17	Coe	Regulatory Services	How many stop work notices were issued and for what reasons were they issued?	
10	28/02/17	Hanson	Regulatory Services	Where there has been a breach of a DA or a regulation, that there then has been a follow on order to rectify, physically rectify, rather than just some sort of fine or so on?	
11	28/02/17	Lawder	Regulatory Services	How many stop work notices have been issued for the Gordon site that excavated too close to its neighbour?	
12	28/02/17	Hanson	Regulatory Services	What was the cost of relocating the Woden shopfront?	
13	28/02/17	Hanson	Arts	Regarding the Kingston Arts Precinct how many car parking spaces are now available and how many will be available at the completion of the development?	
14	28/02/17	Dunne	Arts	Can you provide a list of the buildings in the Arts Portfolio and is there work planned on them?	

No.	Hearing Date	Asked by	Directorate/ Portfolio	Subject	Answer date
15	28/02/17	Dunne	Arts	Can you provide a list of the public art that ArtsACT is responsible for and the budget for repairs and maintenance??	
Question on Notice 27 February 2017					
1	27/02/17	Coe	CMTEDD	Loose Fill Asbestos Insulation Eradication Scheme	16/03/17
2	27/02/17	Coe	Public Admin	Australian Workplace Agreements	17/03/17
3	27/02/17	Coe	CMTEDD	Incidents of Fraud	14/03/17
4	27/02/17	Coe	CMTEDD	ACT Executive	20/03/17
5	27/02/17	Coe	CMTEDD	Administrative restructuring	29/03/17
6	27/02/17	Coe	CMTEDD	Annual Reports	17/03/17
7	27/02/17	Coe	CMTEDD	Coordinated Communications	20/03/17
8	27/02/17	Coe	CMTEDD	Communications funding and media monitoring	20/03/17
9	27/02/17	Coe	CMTEDD	Chief Minister's Governance Lecture	20/03/17
10	27/02/17	Coe	Territory Records	Record Management	20/03/17
11	27/02/17	Coe	Treasury	Meeting obligations	15/03/17
12	27/02/17	Coe	Treasury	Project investment/convention centre	22/08/16
13	27/02/17	Coe	Treasury	Credit rating agencies	16/03/17
14	27/02/17	Coe	Treasury	Outsourcing streetlight network	22/03/17
15	27/02/17	Coe	CMTEDD	Employee assistance scheme	17/03/17
16	27/02/17	Coe	CMTEDD	Executive staff	20/03/17
17	27/02/17	Coe	CMTEDD	Engagement of external consultants	20/03/17
18	27/02/17	Coe	Treasurer	2017-18 Budget	15/03/17
19	27/02/17	Coe	Treasurer	Economic growth and fiscal policy	24/03/17
20	27/02/17	Coe	Treasury	Superannuation return adjustment for 2015-16	16/03/17
21	27/02/17	Coe	CMTEDD	Government bill and payment portal	16/03/17
22	27/02/17	Coe	CMTEDD	iConnect	17/03/17
23	27/02/17	Coe	CMTEDD	Parliamentary Agreement	17/03/17
24	27/02/17	Coe	CMTEDD	Relocation of directorates	17/03/17
25	27/02/17	Coe	CMTEDD	Enterprise agreements	17/03/17
26	27/02/17	Coe	Treasurer	Inspectors and land taxes	16/03/17

No.	Hearing Date	Asked by	Directorate/ Portfolio	Subject	Answer date
27	27/02/17	Coe	Treasurer	Land rent contracts	17/03/17
28	27/02/17	Coe	Treasurer	Mr Fluffy properties	
29	27/02/17	Coe	Treasurer	New properties	16/03/17
30	27/02/17	Coe	Treasurer	Payroll tax	21/03/17
31	27/02/17	Coe	Treasurer	Property sales	16/03/17
32	27/02/17	Coe	Treasurer	Revenue Management System	16/03/17
33	27/02/17	Coe	Treasurer	Stamp duty and housing affordability	22/03/17
34	27/02/17	Coe	Public admin	Complaints and bullying	20/03/17
35	27/02/17	Coe	Public admin	Public interest disclosures	14/03/17
Questions on Notice 28 February 2017					
1	28/02/17	Le Couteur	Access	Complaints and action on construction, building and planning matters	17/03/17
2	28/02/17	Le Couteur	Access	Impact of illegal parking on trees	17/03/17
3	28/02/17	Le Couteur	Access	Parking enforcement number plate recognition and disability permits.	17/03/17
4	28/02/17	Dunne	Arts	Former Nolan Gallery at Lanyon	17/03/17
5	28/02/17	Dunne	Arts	Arts Engagement	21/03/17
6	28/02/17	Pettersson	EDD	Stakeholder engagement	
7	28/02/17	Pettersson	EDD	Prequalification for tendering for Government work	24/03/17
8	28/02/17	Dunne	Arts	Public Art	17/03/17
9	28/02/17	Dunne	Property services	Properties leased to the ACT Government	27/03/17
10	28/02/17	Coe	EDD (redirect from ACTION)	Free Wifi on buses	03/04/17

Appendix B Witnesses

MONDAY 27 FEBRUARY 2017

CHIEF MINISTER, TREASURY AND ECONOMIC DEVELOPMENT DIRECTORATE

- Mr Andrew Barr MLA, Chief Minister, Treasurer, Minister for Economic Development and Minister for Tourism and Events
- Ms Kathy Leigh, Head of Service and Director-General, CMTEDD
- Ms Bronwen Overton-Clarke, Deputy Director General, Workforce Capability and Governance, and Commissioner for Public Administration, CMTEDD
- Mr David Nicol, Under Treasurer, CMTEDD
- Mr Patrick McAuliffe, Director, Asset Liability Management Branch, CMTEDD
- Mr Kim Salisbury, Acting Executive Director, Economic and Financial Group, and Commissioner for ACT Revenue, CMTEDD
- Mr Paul Ogden, Chief Finance Officer, Strategic Finance, CMTEDD
- Mr Stephen Miners, Executive Director, Finance and Budget Division, CMTEDD
- Mr Jon Cumming, Chief Digital Officer, CMTEDD
- Ms Sue Hall, Executive Director, Corporate, CMTEDD
- Mr Brook Dixon, Director, Regulatory Reform, CMTEDD
- Mr Russell Noud, Director, Public Sector Workplace Relations, CMTEDD
- Ms Anita Perkins, Director, Communications, CMTEDD

WEDNESDAY 11 NOVEMBER 2015

CHIEF MINISTER, TREASURY AND ECONOMIC DEVELOPMENT DIRECTORATE

- Mr Andrew Barr MLA, Chief Minister, Treasurer, Minister for Economic Development and Minister for Tourism and Events
- Mr David Dawes, Director-General, Economic Development, CMTEDD
- Mr George Tomlins, Executive Director, Procurement and Capital Works, CMTEDD
- Mr Ian Cox, Executive Director, Innovate Canberra, CMTEDD

- Mr Glen Hassett, Director, Programs, Innovate Canberra, CMTEDD
- Mr Ian Hill, Executive Director, VisitCanberra, CMTEDD
- Ms Liz Clarke, Director, Venues Canberra, CMTEDD

Chief Minister, Treasury and Economic Development Directorate

- Mr Gordon Ramsay MLA, Attorney-General, Minister for Regulatory Services, Minister for the Arts and Community Events and Minister for Veterans and Seniors
- Mr David Dawes, Director-General, Economic Development, CMTEDD
- Mr Dave Peffer, Deputy Director-General, Access Canberra, CMTEDD
- Mr Greg Jones, Director, Construction, Environment and Workplace Protection, Access Canberra, CMTEDD
- Mr Josh Rynehart, Director, Customer Coordination, Access Canberra, CMTEDD
- Mr Craig Simmons, Director, Community, Business and Transport Regulation, Access Canberra, CMTEDD
- Mr Adam Stankevicius, Director, Cultural Canberra, CMTEDD
- Mr Ian Hill, Executive Director, VisitCanberra, CMTEDD

Cultural Facilities Corporation

- Ms Harriet Elvin, Chief Executive Officer, Cultural Facilities Corporation