

SELECT COMMITTEE ON THE ELECTION
COMMITMENTS COSTING BILL 2011 EXPOSURE DRAFT

**Inquiry into Election Commitments Costing
Bill 2011 Exposure Draft**

JUNE 2012

Report

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SELECT COMMITTEE ON THE ELECTION COMMITMENTS COSTING
BILL 2011 EXPOSURE DRAFT

Resolution of appointment

On 17 November 2011, the Legislative Assembly for the Australian Capital Territory ('the Assembly') passed the following motion:

- (1) pursuant to standing order 214, the exposure draft of the Election Commitments Costing Bill 2011, tabled on 10 March 2011, be referred to a select committee for inquiry and report by the last sitting day in March 2012;
- (2) the committee shall be composed of:
 - (a) the Treasurer
 - (b) one Member nominated by the Crossbench, and
 - (c) one Member nominated by the Opposition
- (3) nominations must be provided to the Speaker by the end of this sitting day; and
- (4) appropriate resources from the Government and Parliamentary Counsel be provided to assist the committee in the inquiry.

Mr Rattenbury MLA, Mr Smyth MLA and the Treasurer, Mr Barr MLA, were duly appointed as members of the Select Committee on Election Commitments Costing Bill 2011 Exposure Draft.

Mr Rattenbury MLA, Mr Smyth MLA and the Treasurer, Mr Barr MLA, were duly appointed as members of the Select Committee on Election Commitments Costing Bill 2011 Exposure Draft. Mr Smyth was duly elected Chair of the Committee, and Mr Barr was elected Deputy Chair.

On 29 March 2012, the Assembly passed the following motion:

That the resolution of the Assembly of 17 November 2011 relating to the referral of the exposure draft of the Election Commitments Costing Bill 2011 to a select committee be amended by omitting the words "last sitting day in March 2012" and substituting "last sitting day in May 2012".

On 9 May 2012, the Assembly passed the following motion:

That the resolution of the Assembly of 17 November 2011, as amended 29 March 2012, referring the exposure draft of the Election Commitments Costing Bill 2011 to a select committee for inquiry and report be amended by omitting the words "by the last sitting day in May 2012" and substituting "by the last sitting day in June 2012" and inserting a new paragraph 1A:

“(1A) If the Assembly is not sitting when the report is completed the Speaker, or, in the absence of the Speaker, the Deputy Speaker, is authorised to give directions for its printing, publication and circulation.”

Glossary

The Bill	The Election Commitments Costing Bill 2011 Exposure Draft tabled in the ACT Legislative Assembly on 10 March 2011 by the then Treasurer, Ms Gallagher MLA
Explanatory Statement	Draft explanatory statement issued with the Election Commitment Costing Bill 2011 Exposure Draft
Commonwealth PBO	The Parliamentary Budget Officer established pursuant to the Parliamentary Service Act 1999
Draft Guidelines	Draft Guidelines for Costing Election Commitments issued by the ACT Department of Treasury, Canberra January 2011
Electoral Act	ACT <i>Electoral Act 1992</i>
Election	(Pursuant to the ACT Electoral Act 1992) means— (a) an election of an MLA or MLAs; and (b) in relation to an electorate—such an election for the electorate; and (c) for part 16 (Disputed elections, eligibility and vacancies)
Election period	(Pursuant to the <i>ACT Electoral Act 1992</i>) in relation to an election, means the period— (a) beginning on the first day of the pre-election period; and (b) ending when the result of the election is declared
NSW PBO	The Parliamentary Budget Officer established in New South Wales pursuant to the <i>Parliamentary Budget Officer Act 2010</i> (Act 83/2010)
Caretaker period	(Pursuant to the <i>ACT Electoral Act 1992</i>) means the period of 37 days ending on the polling day for an election.
Registered party	(Pursuant to the <i>ACT Electoral Act 1992</i>) means a political party registered under part 7 of the Act - (Registration of political parties).

SELECT COMMITTEE ON THE ELECTION COMMITMENTS COSTING
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RECOMMENDATIONS

RECOMMENDATION 1

3.6 That the Government provide a manual of standard costings, and a briefing to all Members of the Legislative Assembly, as soon as practicable after the enactment of the Draft Bill.

RECOMMENDATION 2

3.18 The Committee recommends that Clause 5 of the Exposure Draft Bill be amended to provide that the pre-election period to which the Bill will apply be from the day following the last sitting day of the Legislative Assembly in an election year until the formation of the new government.

RECOMMENDATION 3

3.27 The Committee recommends that the Draft Guidelines be considered and thoroughly reviewed, following the consideration of the Committee's report.

RECOMMENDATION 4

3.32 The Committee recommends that clause 9 of the Bill be amended, to make election commitment costings exempt from Freedom of Information legislation and, for clarity and certainty this material is not to be released either at the direction of the Government or under any other process until such time as the new Government is formed.

RECOMMENDATION 5

3.35 The Committee recommends that clause 10 of the Draft Bill be amended to provide for the pre-election costing period to be extended from polling day until the new Government is formed.

RECOMMENDATION 6

3.37 The Committee recommends that clause 11 of the Bill not be proceeded with.

RECOMMENDATION 7

3.41 The Committee recommends that clause 13 of the Exposure Draft Bill be amended so as to provide for a review by the Minister of the operation of the election commitments costing scheme provided for in the legislation after the 2012 general election, and that the report of the review be tabled in the Legislative Assembly by the last sitting day in October 2013.

RECOMMENDATION 8

4.15 The Committee recommends that the provision on page 5 in the Draft Guidelines which reads:

This does not preclude the government of the day requesting factual material of a potential election commitment as part of the ordinary business of serving the Government. If the Treasury provides the Government factual material as part of the ordinary business of Government, the provisions of the Act will not apply

be deleted from the Draft Guidelines.

RECOMMENDATION 9

4.16 The Committee recommends the Exposure Draft Bill should be amended to insert a new clause stating:

Unless the requester of the costing, a Minister must not request information from the Under Treasurer or any official, public servant or directorate officer regarding any work performed under this Act.

RECOMMENDATION 10

4.17 The Committee recommends that the Exposure Draft Bill be amended so as to prohibit any officer from informing the Treasurer or any Minister of the Government of the day of a request for costing or details of any such request unless the Minister is the requester of the costing.

RECOMMENDATION 11

4.26 The Committee recommends that the provisions relating to public acknowledgment of costing requests in the Draft Guidelines be deleted.

RECOMMENDATION 12

4.33 The Committee recommends that Part 4 of the Draft Guidelines relating to the process followed in the public release of costings and the delivery of costing reports be amended to increase the time period between an email notification that an election commitment costing is to be publicly released, and release of the costing, from a period of at least 3 hours to a period of at least 24 hours.

1 INTRODUCTION AND CONDUCT OF INQUIRY

Referral of the inquiry

- 1.1 On 10 March 2011, the then Treasurer, Ms Gallagher MLA, presented the following papers in the Legislative Assembly:

Election Commitments Costing Bill 2011—Exposure Draft

Draft explanatory statement

Draft Guidelines for Costing Election Commitments, dated January 2011

- 1.2 By leave of the Assembly, the Treasurer made a statement which noted, *inter alia*, that the tabling of the exposure draft bill and associated documents was directed at providing members of the Assembly, interested parties and the community with an opportunity to scrutinize and comment on the draft. Ms Gallagher noted that:

I have taken this action as the issue of election commitment costings is one that directly affects all members given that it plays a critical role in an election process. So in the interests of introducing a bill that provides a robust and equitable framework that balances the needs of politicians and the electorates in a cost-effective manner I am seeking your feedback.

To date, prior to each election, Treasury has been costing election commitments in accordance with an agreed government process. This bill is a positive initiative for the territory as it formalises and improves the election commitment costing process. It provides transparency of process so that politicians and the electorate understand how costings are requested and the basis for those costings. It provides a degree of third-party review to the election commitment costings and gives assurance to the ACT electorate that the costs are materially correct.¹

¹ Assembly *Hansard*, 10 March 2011, pp. 769-770.

1.3 Ms Gallagher also told the Assembly that:

The bill prescribes the key elements of the election commitment costing process. To support the bill and to provide the underlying details, guidelines have been produced that contain the principles and processes to be followed by the relevant parties, independent MLAs and Treasury when costing election commitments. These draft guidelines ensure that the roles and responsibilities of public servants are clear and unambiguous during the election period and that government departments are objective and non-partisan.²

1.4 In other comments made while introducing the exposure draft and associated documents, the then Treasurer also noted that the views of all members would be sought with a view to introducing the Bill as final legislation later in 2011.

1.5 The Exposure Draft Bill, Draft Explanatory Statement and the Draft Guidelines were referred to the Select Committee for examination and report by the end of March 2012. This requirement was amended, as noted earlier, to the last sitting day of the Assembly in May 2012.

1.6 The Exposure Draft Bill is at Appendix A and is referred to as ‘the Exposure Draft Bill’.

1.7 The Draft Explanatory Statement is at Appendix B and is referred to as ‘the Draft Explanatory Statement’

1.8 The Draft Guidelines issued by the ACT Department of Treasury are at Appendix C and are referred to as ‘the Draft Guidelines’.

Terms of reference

1.9 Pursuant to standing order 214, the exposure draft of the Election Commitments Costing Bill 2011 was referred to the Select Committee for inquiry and report.³

² Ibid.

³ Standing order 214 provides that any paper presented to the Legislative Assembly may be referred to a committee of the Assembly for inquiry and report.

Submissions

- 1.10 The Committee called for submissions by placing a notice on the Legislative Assembly's website, and by advertising for submissions in the *Canberra Times* and the *Chronicle* on 17 December 2011.
- 1.11 The Committee did not receive any written submissions by the due date and has conducted its inquiry by undertaking a detailed analysis of the processes that have been followed in the lead-up to elections in other Australian jurisdictions, particularly at the Commonwealth level and in New South Wales.
- 1.12 In addition, the Committee discussed the implementation of election commitment costing approaches and practices at the Commonwealth level with officials from the Commonwealth Treasury and Department of Finance and Deregulation, as well as discussing the Draft Guidelines with the Under Treasurer and officials of the ACT Treasury Directorate.

Report Structure

- 1.13 **Chapter 2** outlines the background to election commitment costing in the ACT, and the background to recent detailed examinations of costing practices and legislation by the Commonwealth and New South Wales Parliaments.
- 1.14 **Chapter 3** provides a discussion and analysis of the Exposure Draft Bill, including the Committee's conclusions and recommendations on appropriate amendments to the Bill.
- 1.15 **Chapter 4** provides a discussion of the Draft Guidelines issued by the ACT Treasury Directorate, the process for costing election commitments proposed by the Draft Guidelines and the Committee's comments and recommendations on them.
- 1.16 **Chapter 5** acknowledges assistance and contributions made to the Committee's inquiry.

2 BACKGROUND

Election Commitment Costing

- 2.1 Systematic and formal approaches to the costing of election commitments during election periods have been the subject of public debate during general election periods in Australia for some time.
- 2.2 In the past, election commitments made by major parties have been provided to the principal revenue and expenditure agencies of government for costing. These agencies then develop estimates of the impact these commitments, if implemented, would have on the revenue and expenditure position of government.
- 2.3 The *Charter of Budget Honesty Act 1998* (Cwlth) established detailed arrangements under which the secretaries of the Commonwealth Treasury and Department of Finance and Deregulation could be requested to cost Government and opposition election commitments during the caretaker period prior to a general election. Guidelines for the costing of election commitments are issued jointly by the Secretaries of the Treasury and the Department of Finance and Deregulation outlining detailed request and response processes and how the reporting and public release of the resulting costings will be handled.
- 2.4 Under amendments to the *Parliamentary Service Act 1999* (Cwlth) contained in the *Parliamentary Service Amendment (Parliamentary Budget Officer) Bill 2011* (Cwlth), the costing of election commitments at the Commonwealth level will now also be carried out by the Parliamentary Budget Officer ('the Commonwealth PBO').
- 2.5 This practice has been followed, although with differing means and practices, in a number of states in Australia. In New South Wales, the process of election commitments costing is currently conducted by the Parliamentary budget officer, pursuant to the *Parliamentary Budget Officer Act 2010* (NSW).⁴

⁴ New South Wales, *Parliamentary Budget Officer Act 2010* (Act 83/2010), Part 4, ss. 18-27.

Election Commitment Costing – ACT

- 2.6 Whilst the ACT does not presently have any legislation which formalises the process of election commitment costing, the ACT Treasury Directorate has been costing election commitments in accordance with an agreed Government process in the course of the last Assembly election.
- 2.7 The Exposure Draft Bill will enact a formal process for the referral of election commitments to the Treasury for costing, and for the subsequent public release of those costings.
- 2.8 The Draft Explanatory Statement outlines two elements that are central to the aims of the Exposure Draft Bill as follows:

This Bill formalises a robust and equitable framework for the costing of election commitments in the Territory. It allows any party with one or more Members of the Legislative Assembly (MLA), or a *[sic]* MLA who is not a member of a registered party, to request a costing of a publicly announced election costing during the pre-election period of an election of the Legislative Assembly.

While public servants serve the Government of the day during the ordinary business of government, a pre-election period presents unique challenges when other parties have access to the Department of Treasury for costing purposes. This Bill will ensure that during an election process, the Department of Treasury and political parties have a shared understanding of the roles and responsibilities of each body and will allow Treasury to operate with a clearer degree of certainty during the election process. In this way, the Territory will have a transparent costings process that will assist costings to occur in a non-partisan and objective manner.⁵

- 2.9 The Committee considered that the principal elements of the proposed scheme for election commitment costing provided in the Exposure Draft Bill are the process of referring election commitments for costing during an election period, the method by which the costings are carried out and the agency which conducts and scrutinises the costings.

⁵ Election Commitments Costing Bill 2011, Draft Explanatory Statement, p. 2.

Election Commitment Costing – recent Parliamentary reviews

- 2.10 The Committee notes that election commitment costing and its administration and oversight has been the subject of very detailed consideration by two Parliaments within the last year.
- 2.11 The Commonwealth Parliament, through the Joint Select Committee on the Parliamentary Budget Office reported on its inquiry into the proposed Parliamentary Budget Office in March 2011. The joint select committee canvassed a wide range of issues regarding the Commonwealth PBO, including its proposed role in overseeing election commitment costing, machinery for its implementation and both the statutory scope and timing of requests for costings.⁶
- 2.12 The New South Wales Parliament, through its Joint Select Committee on the Parliamentary Budget Office, examined, reported and made recommendations on various aspects of the role the New South Wales PBO played during the period prior to the March 2011 NSW general election.⁷
- 2.13 In the course of its inquiry the Committee referred, when relevant, to matters dealt with in the reports of the New South Wales and Commonwealth joint select committees to illustrate options for a more effective and transparent election commitment costing structure of the ACT.

⁶ Inquiry into the proposed Parliamentary Budget Office, Joint Select Committee on the Parliamentary Budget Office (Chair, Senator the Hon John Faulkner), Parliament of the Commonwealth of Australia, March 2011.

⁷ Inquiry into the Parliamentary budget Office, Joint Select Committee on the Parliamentary Budget Office, (Chair David Elliott, MP), Parliament of New South Wales, (Report1/55) December 2011.

3 ELECTION COMMITMENTS COSTING BILL 2011 EXPOSURE DRAFT

Introduction

- 3.1 The Exposure Draft Bill has three parts: part 1 contains preliminary provisions; part 2 deals with the proposed arrangements and requirements for costing of election commitments (sections 5 -10); and part 3 contains miscellaneous sections relating to fees, regulation making and a review of the legislation by 31 December 2013 (sections 11-13).
- 3.2 This chapter contains an examination of part 2 of the Exposure Draft Bill, which contains sections that determine who may apply for costings, when they may apply, how they may apply, what processes will be followed when dealing with requests for costings and the consequent publication of the resulting of costings.
- 3.3 The Committee notes the Election Commitments Costing Bill 2011 assumes that the responsibility for the handling of costing requests will be with the Under Treasurer. This assumption is then carried through to the Draft Guidelines.
- 3.4 The Committee emphasises that a critical principle in preparing costings of election policies is the separation of the responsibility for this activity from the normal responsibilities of the government of the day.
- 3.5 The Committee considers it would be of value for all Members of the Legislative Assembly and their staff to understand how Treasury determines the costing of new policy, as this is the approach Treasury will take on election commitments costing. The Committee also believes it will be useful for Members of the Assembly and their staff to be provided with a manual providing detail of standard costs for ACT Government activities.

RECOMMENDATION 1

- 3.6 **That the Government provide a manual of standard costings, and a briefing to all Members of the Legislative Assembly, as soon as practicable after the enactment of the Draft Bill.**

The Exposure Draft Bill – Clause 5

- 3.7 Clause 5 of the Exposure Draft Bill provides that a request to cost an election commitment is covered where:
- It arises during the statutory pre-election period, which is referred to as the caretaker period in this report;
 - That request comes from a leader of a registered party under the Electoral Act 1992 for costing of a publicly announced election commitment of that party; or
 - An MLA who is not a member of a registered party may ask for costing of a publicly announced election commitment of those MLAs.
- 3.8 This clause also details requirements that requests be in writing and contain all information relevant to costing. Section 5(3), prohibits an MLA from requesting a costing of a publicly announced election commitment of another MLA or a registered party of which the MLA is not a member.

Clause 5 – Committee comment

- 3.9 The Committee has considered the provisions of clause 5 of the Exposure Draft Bill and concludes that the provisions prescribing who may initiate requests under the legislation are reasonable.
- 3.10 The Committee does wish to comment on one matter, in light of observations and recommendations made by the Commonwealth and NSW parliamentary committees on election costing provisions in those jurisdictions.
- 3.11 Both the Commonwealth and NSW committees were concerned to ensure that the period available for the lodgement of a request for costings be identifiable with the election period. Hence, the joint select committee report on the Commonwealth PBO recommended that the period proposed by legislation as the pre-election period run from the date the writs are issued—rather than the

caretaker period, which commences on the date of dissolution of the House of Representatives—until the result of the election is known, rather than the period ending on polling day.⁸

- 3.12 The New South Wales Committee report noted that the NSW legislation allows requests for costing to be lodged from the date of the last state budget preceding an election to the date of the general election. In the case of the 2011 New South Wales general election, that period extended from 25 January 2011 to 26 March 2011.⁹
- 3.13 The Committee has considered the issue of the period of time during which election commitment costing services should ideally be made available. The period prescribed in clause 5—the election period—is relatively short compared with states where the announcement of an election date precedes the issue of writs by some time. In the ACT the caretaker conventions commence from the beginning of the election period, which is 37 days before the polling day.
- 3.14 The Committee considers that there is merit in considering a longer period of operation for this structure; the principal reason being that a number of announcements and commitments may be made in the period prior to the period to which the section is to apply. For instance, major announcements on commitments by a party regarding policies to be followed after the election could foreseeably be made in the period between the delivery of ACT Budget (5 June 2012 in the current election year) and the beginning of the election period.
- 3.15 To ensure that election commitments costings provide a realistic assessment of election commitments, any alternative date for commencement of the pre-election period must provide a balance. The Committee has considered a number of approaches to this question and considers that, given the relatively short duration of the pre-election period provided for in the Exposure Draft Bill, a period that encompasses the time during which election commitments are most likely to be announced, particularly following the ACT Budget, is preferable.

⁸ Commonwealth Parliament PBO Report, op.cit.,

⁹ NSW Parliamentary Budget Officer Act 2012, S.19.

- 3.16 Accordingly, the Committee considers that the pre-election period should be longer than proposed by the Draft Bill, and that it commence on the day following the last sitting day of the Legislative Assembly in an election year until the government is formed.
- 3.17 The Committee also emphasises that, in practical terms, the budget period adds considerably to the pressures on the Treasury role, and that any pre-election period which extends to the period prior to the Budget would present some difficulties.

RECOMMENDATION 2

- 3.18 **The Committee recommends that Clause 5 of the Exposure Draft Bill be amended to provide that the pre-election period to which the Bill will apply be from the day following the last sitting day of the Legislative Assembly in an election year until the formation of the new government.**

The Exposure Draft Bill – Clause 6

- 3.19 This clause provides for the withdrawal of costing requests. The Committee does not have any comment to make on this clause.

The Exposure Draft Bill – Clause 7

- 3.20 This clause contains provision for guidelines for costing election commitments.
- 3.21 The Committee notes the Draft Guidelines which have been circulated with the Bill incorporate a number of matters of important principle. The Committee notes that clause 7 is intended to set out ‘administrative procedures’ related to the costing process. The way in which the Draft Guidelines are drafted shows that they contain a number of matters of principle.

- 3.22 In Part 1, there is a provision permitting the Government of the day to request factual material of a potential election commitment as part of the ordinary business.
- 3.23 In Part 2, the Under Treasurer is limited in that he or she 'may' request government agencies to provide information to assist in preparing costings.
- 3.24 In Part 3, the Under Treasurer will acknowledge each request received by a public announcement on the Treasury web site.
- 3.25 In Part 4, there are provisions which provide for a very limited time in which requesting persons will have to respond to costing decisions before the costings are released to the public.
- 3.26 In Chapter 4 the Committee discusses in more detail the Draft Guidelines for costing election commitments provided for in clause 7.

RECOMMENDATION 3

- 3.27 **The Committee recommends that the Draft Guidelines be considered and thoroughly reviewed, following the consideration of the Committee's report.**

The Exposure Draft Bill – Clause 8

- 3.28 This clause provides the Chief Executive of the Treasury Directorate the power to request additional information necessary to complete a costing. The Committee does not have any comment to make on this clause.

The Exposure Draft Bill – Clause 9

- 3.29 This clause provides for the costing of election commitments and the publication of those costings by the Under Treasurer.
- 3.30 There is one major issue regarding the process of costing to which the Committee wishes to draw attention. Clause 9 does not provide for the confidentiality of the costing process conducted by public servants. The Committee considers that the process of costing election commitments should be exempt from any form of further inquiry until the Government is formed.

- 3.31 In the Committee's view it is important that the costing process not be subject to review or to Freedom of Information requests. The Committee considers that clause 9 should specifically provide this exemption.

RECOMMENDATION 4

- 3.32 **The Committee recommends that clause 9 of the Bill be amended, to make election commitment costings exempt from Freedom of Information legislation and, for clarity and certainty this material is not to be released either at the direction of the Government or under any other process until such time as the new Government is formed.**

The Exposure Draft Bill – Clause 10

- 3.33 The Committee has considered this provision in the Exposure Draft Bill, and has also considered views on the desirability of the provision which was expressed in the report on the Commonwealth PBO.
- 3.34 The Committee shares the view reached by the Commonwealth joint select committee in its review that ending access to costing of election commitments on polling day prevents costings being undertaken in a period when, as occurred in the period following the 2010 Commonwealth general election, the formation of a new government could be the subject of negotiation by parties and independent members.

RECOMMENDATION 5

- 3.35 **The Committee recommends that clause 10 of the Draft Bill be amended to provide for the pre-election costing period to be extended from polling day until the new Government is formed.**

The Exposure Draft Bill – Clause 11

- 3.36 This clause provides for the determination of fees payable by those seeking election commitment costings. The Committee considers this provision unnecessary and an unreasonable burden on political parties participating in the central test of democracy: the election.

RECOMMENDATION 6

- 3.37 **The Committee recommends that clause 11 of the Bill not be proceeded with.**

The Exposure Draft Bill – Clause 13

- 3.38 This clause provides for the Minister to review of the operation of the legislation by 31 December 2013, or 14 months after the 2012 election.
- 3.39 The Committee considers it appropriate to review the operations of the legislation at an earlier date than the end of 2013 and that an earlier review would act to highlight the effectiveness of the scheme. The Committee notes that both the Commonwealth and New South Wales parliaments acted to review the provision of election commitment costings soon after the Commonwealth general elections of 2010 and the New South Wales general election of 2011 respectively. The Committee believes it is desirable for the ACT to follow these examples.
- 3.40 Accordingly, the Committee considers the Minister's review of the legislation should take place as soon as possible after the 2012 election and that the Minister's report to the Legislative Assembly be tabled in the Assembly by the last sitting day in October 2013.

RECOMMENDATION 7

- 3.41 **The Committee recommends that clause 13 of the Exposure Draft Bill be amended so as to provide for a review by the Minister of the operation of the election commitments costing scheme provided for in the legislation after the 2012 general election, and that the report of the review be tabled in the Legislative Assembly by the last sitting day in October 2013.**

4 DRAFT GUIDELINES FOR THE COSTING OF ELECTION COMMITMENTS IN THE ACT

Introduction

- 4.1 In tabling the Bill in the Assembly on 10 March 2011, the then Treasurer, Ms Gallagher MLA advised the Assembly that:

The bill prescribes the key elements of the election commitment costing process. To support the bill and to provide the underlying details, guidelines have been produced that contain the principles and processes to be followed by the relevant parties, independent MLAs and Treasury when costing election commitments. These draft guidelines ensure that the roles and responsibilities of public servants are clear and unambiguous during the election period and that government departments are objective and non-partisan.

I am providing these guidelines today so that members can fully understand what is being proposed and reach an informed view on the bill.¹⁰

- 4.2 The Draft Guidelines are published by the ACT Treasury Directorate on its website and were the subject of detailed discussion between the Committee and public servants in the Directorate.¹¹
- 4.3 The Draft Guidelines are written on the basis of the Exposure Draft Bill provisions, which, pursuant to clause 7, provide that the Under Treasurer may issue written guidelines setting out the administrative procedures for costing election commitments.

¹⁰ Legislative Assembly, *Hansard*, 10 March 2011, p. 771

¹¹ website

- 4.4 The Introduction to the Draft guidelines notes the aim and function of the Guidelines:

These guidelines provide the principles and processes that will be followed when requesting an election commitment costing, in order to achieve consistency and transparency when costing all election commitments. Accordingly, this document seeks to inform those requesting election commitment costing of the methodology that will be applied, what information will need to be supplied when requesting an election commitment costing, and what will be prepared and published by the Under Treasurer.¹²

- 4.5 As observed above, the Committee notes the Draft Guidelines incorporate a number of matters of important principle which should ideally be contained in the Bill. The Committee re-emphasises the recommendation made above for the Draft Guidelines to be considered and reviewed after the 2012 general election.

- 4.6 The Draft Guidelines have the following principal parts:

Part 1 provides an overview of the costing framework.

Part 2 specifies the commitments and undertakings the Under Treasurer provides to those requesting a costing.

Part 3 details how requests for costing commitments should be made, including the information required for a costing to proceed.

Part 4 outlines the content and timing of election commitment costings and identifies reasons why costings may not be released.¹³

- 4.7 The Draft Guidelines are a very important element in the process of preparing accurate, timely, objective and reliable election costings. The Committee believes it important to emphasise that the usefulness of the costings produced by the election commitment costing process – which is still being developed in Australia – relies on clear understanding by requestors under the scheme that the costings will be predictable, based on clear assumptions and will, if

¹² ACT Government, Department of Treasury, 'Draft Guidelines for Costing Election Commitments'. January 2011, p. 3.

¹³ Ibid.

necessary, be the subject of follow-up questioning of requestors if there is any doubt regarding the basis of the commitment submitted for costing.

- 4.8 Following discussions with public servants from ACT Treasury and with public servants experienced in administration of election commitment costing at the Commonwealth level, the Committee considers the following to be an accurate summary of how costing requests are proposed to be handled under the Draft Guidelines:

A costing request is submitted by a party Leader which is passed on by the Under -Treasurer (in the ACT case) to cost. The Committee notes that this process differs from the Commonwealth practice where requests are directed to the Prime Minister who then forwards requests for costing under the Secretaries' election commitment costing Guidelines in effect at the time.

A costing is to be done within a set number of days – usually five, as provided in the Draft Guidelines. Even if costings are submitted within five days of an election, it is preferable to cost and publish them within the five day period.

As provided in the Draft Guidelines, if further information is required from the requestor, the five-day 'clock' is interrupted until further information is provided.

There is a single point of contact with both the government and the opposition so that all communication is through one person and there are not multiple lines of communication.

Publication and release of costings are timed and arranged to allow a requestor to have prior notice of the release of the costing, to allow the requestor time to review the assumptions made by the Under Treasurer and sees and understand the impact the costing has on the requestor's election commitment. The time between notice and release is three hours in the Draft Guidelines.

Issues Considered by the Committee

- 4.9 Before considering specific aspects of the Draft Guidelines, there is a matter of central importance affecting the process set out in the Guidelines. In Part 1 of the Draft Guidelines, it is stated that

This does not preclude the government of the day requesting factual material of a potential election commitment as part of the ordinary business of serving the Government. If the Department of Treasury provides the Government factual material as part of the ordinary business of Government, the provisions of the Act will not apply.¹⁴

- 4.10 The Committee considers that this provision provides an advantage in the election and pre-election period to the Government of the day. The Government will, on the basis of this clause, be able to carry out, assessment of election commitments – as it may define them – which are not submitted, for whatever reason, under the provisions currently in the Draft Exposure Bill.
- 4.11 The Committee also considers that this provision has the potential to undermine the application and objectivity of the framework in the Draft Guidelines. If the phrase ‘factual material of a potential election commitment’ is intended to apply to matters arising prior to the caretaker period, then the clause need not be in the Draft Guidelines. Similarly, if the clause is only to apply to ‘factual material of a potential election commitment’ arising outside the caretaker period, it need not be in the Draft Guidelines at all.
- 4.12 The Committee makes the observation that an incumbent Government does have the privileged position of requesting such information from public servants outside the period to be covered by the Exposure Draft Bill, but does not consider it is appropriate or necessary for the provision to be in the Draft Guidelines.
- 4.13 If the provision is in the Draft Guidelines to cover a situation where a party refuses to submit election commitments, as defined by the Draft Exposure Bill, for costing, then the party in question clearly runs the risk of being regarded as not deserving of electoral support or credibility for defying the framework established under legislation enacted by the Legislative Assembly, the body to

¹⁴ ACT Draft Guidelines, p.5.

which they seek election. This shows the impractical nature of the Draft Guidelines in this context.

Committee conclusion

- 4.14 The Committee concludes that the paragraph appearing in Part 1 of the Draft Guidelines which allows the Government of the day to request factual material relating to a potential election commitment as part of the ordinary business of serving the Government of the day should not remain part of the Draft Guidelines.

RECOMMENDATION 8

- 4.15 The Committee recommends that the provision on page 5 in the Draft Guidelines which reads:

This does not preclude the government of the day requesting factual material of a potential election commitment as part of the ordinary business of serving the Government. If the Treasury provides the Government factual material as part of the ordinary business of Government, the provisions of the Act will not apply

be deleted from the Draft Guidelines.

RECOMMENDATION 9

- 4.16 The Committee recommends the Exposure Draft Bill should be amended to insert a new clause stating:

Unless the requester of the costing, a Minister must not request information from the Under Treasurer or any official, public servant or directorate officer regarding any work performed under this Act.

RECOMMENDATION 10

- 4.17 The Committee recommends that the Exposure Draft Bill be amended so as to prohibit any officer from informing the Treasurer or any Minister of the Government of the day of a request for costing or details of any such request unless the Minister is the requester of the costing.

- 4.18 The Committee considers that, having assessed the Draft Guidelines and having been able to assess for itself the practical working of a 'guideline-driven' election commitment costing process – particularly at the Commonwealth level, it makes the following observations on the likely working of the Draft Guidelines in practice.
- 4.19 **Part 2** of the Draft Guidelines provides a clear statement of the election costing aims and methodology envisaged under the process set out in the Exposure Draft Bill. The Committee wishes to make one observation in relation to costing assumptions. That is, that the assumptions used by the Under Treasurer – and by costings public servants in other jurisdictions with experience of election commitment costing, are of considerable public interest, especially it must be said, to political parties, which in future will need to have increasingly detailed and comprehensive knowledge of these assumptions if they are to prepare accurate, comprehensive and realistic election commitments.
- 4.20 The Committee does note, however, that rather than proposing that the relevant person 'may' request government agencies to provide any information to assist in costing analyses, there be more formal arrangements in place to ensure that all agencies are fully aware of the requirements for costings to be completed.
- 4.21 The Committee does not have any specific concern regarding the costing assumptions in the Draft Guidelines, but does believe that a serious effort should be made, as soon as possible, to provide some detailed summary or exposition of the assumptions. Whilst it is probable that assumptions will be applicable on a case-by-case basis, the Committee considers that the review of the legislation which is to take place after the 2012 general election should include a review of the Draft Guidelines and, in particular, the costing assumptions in Part 2 of the Guidelines.
- 4.22 The Committee considers that the majority of Part 3 of the Draft Guidelines is satisfactory. The Committee does not agree, however, with the proposals relating to the acknowledgement of costing requests.

- 4.23 To make the position absolutely clear, the Committee has set out in the table the steps which are to take place in relation to the costing of policy commitments:

Step	Action	Reference
1	The leader of a registered party with one or more MLAs publicly announces an election commitment of the party	
2	Once publicly announced, the leader may request that Treasury cost that election commitment	Clause 5(1)(a) of the Draft Bill
3	Treasury acknowledges receipt of the request to the party leader only	As per Recommendation 11 of Committee report
4	Treasury costs the election commitment as soon as practicable after receiving the request	Clause 9(2) of the Draft Bill
5	Once a costing is finalised, Treasury gives the party leader 24 hours advance warning of the costing and the fact it will be released publicly	As per Recommendation 12 of Committee report
6	Treasury releases the costing publicly	Clause 9(1)(b) of the Draft Bill

- 4.24 The Committee uses this table to emphasise that Treasury will only release their costing of a policy after that policy has been released by the leader of a registered party.
- 4.25 The Committee proposes that acknowledgement of a costing would be provided by the Under-Treasurer only to the person who lodged the request.

RECOMMENDATION 11

- 4.26 **The Committee recommends that the provisions relating to public acknowledgment of costing requests in the Draft Guidelines be deleted.**
- 4.27 **Part 4** of the Draft Guidelines currently provides the mechanism and procedure for the public release of election commitment costings. The Committee considers the Draft Guidelines provide a clear and appropriate framework for the public release of election commitment costings.

- 4.28 The Committee recognises that all public servants owe a duty to serve the government of the day and its ministers.
- 4.29 The Committee does consider that it should be possible for public servants who are to be allocated costing requests under the election commitments costing scheme to be identified as a group (in other words 'segregated' in an organisational sense) for the period covered by the legislation.
- 4.30 The other matter raised by **Part 4** of the Draft Guidelines is the process to be followed in the delivery of costing reports, and subsequent public release of those costings.
- 4.31 The Draft Guidelines provide as follows:

By 11: 00 am the requestor will receive an email containing any election commitment costings that will be publicly released that working day. An email will only be sent if an election commitments costing will be publicly released that working day by the Under Treasurer.

At least three hours is provided to the requestor to review the costing before it is publicly released so as to allow the requestor time to review the assumptions made by the Under treasurer and understand the impact it has on their election commitment.¹⁵

- 4.32 The Committee considers that the period of three hours provided by the Draft Guidelines is too short and should be extended to a period of at least 24 hours or one working day

RECOMMENDATION 12

- 4.33 **The Committee recommends that Part 4 of the Draft Guidelines relating to the process followed in the public release of costings and the delivery of costing reports be amended to increase the time period between an email notification that an election commitment costing is to be publicly released, and release of the costing, from a period of at least 3 hours to a period of at least 24 hours.**

¹⁵ Draft guidelines, p.12.

5 CONCLUSIONS

- 5.1 The Committee wishes to thank public servants and individuals who, have contributed to its inquiry, particularly public servants and commentators who have held discussions with the Committee and provided valuable views and suggestions on the Exposure Draft Bill.
- 5.2 The Committee is satisfied that it was able to draw on a broad range of expertise and experience in its deliberations.
- 5.3 The Committee has made twelve recommendations in relation to its inquiry into the Exposure Draft of the Election Commitments Costing Bill 2011.

Brendan Smyth, MLA

Chair

June 2012

**APPENDIX A: Election Commitments Costing
Bill 2011 - Exposure Draft**

EXPOSURE DRAFT

(Prepared by Parliamentary Counsel's Office)

Election Commitments Costing Bill 2011

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EXPOSURE DRAFT

EXPOSURE DRAFT

(Prepared by Parliamentary Counsel's Office)

Election Commitments Costing Bill 2011

A Bill for

An Act to enable costing of election commitments

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Part 1 Preliminary

Section 1

Part 1 Preliminary

1 Name of Act

This Act is the *Election Commitments Costing Act 2011*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition '*polling day*—see the *Electoral Act 1992*, dictionary.' means that the term '*polling day*' is defined in that dictionary and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

4 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

page 2

Election Commitments Costing Bill 2011

EXPOSURE DRAFT

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 2 Costing of election commitments

5 Requests to cost election commitments

- (1) During the pre-election period for an election of the Legislative Assembly—
- (a) the leader of a registered party with 1 or more MLAs may ask the chief executive to cost a publicly announced election commitment of the party; or
 - (b) an MLA who is not a member of a registered party may ask the chief executive to cost a publicly announced election commitment of the MLA.

Example—publicly announced

media release or policy statement published on a party website

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) A costing request must—
- (a) be in writing; and
 - (b) include—
 - (i) a detailed explanation of the election commitment, including its purpose; and
 - (ii) any other information relevant to costing the election commitment.

Example—par (ii)

assumptions to be used when costing the election commitment

Part 2 Costing of election commitments

Section 6

- (3) An MLA must not ask the chief executive to cost a publicly announced election commitment of—
- (a) another MLA; or
 - (b) a registered party of which the MLA is not a member.
- (4) In this section:
- leader*, of a registered party, means the leader of the party in the Legislative Assembly.

6 Withdrawal of costing requests

- (1) An MLA may withdraw a costing request made by the MLA at any time before the costing is made publicly available under section 9.
- (2) A withdrawal of a costing request must be by written notice given to the chief executive.

7 Guidelines for costing election commitments

The chief executive may issue written guidelines setting out administrative procedures for costing an election commitment.

8 Additional information for costing election commitments

The chief executive may ask an MLA, in writing, for additional information to cost an election commitment requested by the MLA under section 5.

EXPOSURE DRAFT

9 Costing of election commitments and publishing costings

- (1) If the chief executive receives a costing request under section 5, and the request is not withdrawn under section 6, the chief executive must—

- (a) cost the election commitment; and
- (b) make the costing publicly available.

Examples—publicly available

- 1 published on the Department of Treasury website
- 2 media release issued by the Department of Treasury

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) The chief executive must cost an election commitment and make the costing publicly available—

- (a) as soon as practicable after receiving the costing request; and
- (b) before polling day.

- (3) However, if the chief executive does not have adequate information or enough time to cost an election commitment and make the costing publicly available before polling day, the chief executive must, before polling day, make publicly available a notice stating—

- (a) that the election commitment cannot be costed before polling day; and
- (b) the reason why.

10 No costing of election commitments after polling day

The chief executive must not begin or continue costing an election commitment on or after polling day for the election.

Part 3 Miscellaneous

Section 11

Part 3 Miscellaneous

11 Determination of fees

- (1) The Minister may determine fees for this Act.

Note The Legislation Act contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

12 Regulation-making power

The Executive may make regulations for this Act.

Note A regulation must be notified, and presented to the Legislative Assembly, under the Legislation Act.

13 Review of Act

- (1) The Minister must review the operation of this Act by 31 December 2013.
- (2) The Minister must present a report of the review to the Legislative Assembly not later than 30 June 2014.
- (3) This section expires on 31 December 2014.

EXPOSURE DRAFT

Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- chief executive (see s 163)
- Executive
- function
- Legislative Assembly.

costing request means a request made under section 5 (1).

election—see the *Electoral Act 1992*, dictionary.

MLA—see the *Electoral Act 1992*, dictionary.

polling day—see the *Electoral Act 1992*, dictionary.

pre-election period—see the *Electoral Act 1992*, dictionary.

registered party—see the *Electoral Act 1992*, dictionary.

EXPOSURE DRAFT

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2011.

2 Notification

Notified under the Legislation Act on 2011.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

EXPOSURE DRAFT

APPENDIX B: Election Commitments Costing Bill 2011 - Draft Explanatory Statement



2011

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

ELECTION COMMITMENTS COSTING BILL 2011

DRAFT EXPLANATORY STATEMENT

**Presented by
Ms Katy Gallagher MLA
Treasurer**

ELECTION COMMITMENTS COSTING BILL 2011

Overview

The Territory does not currently have any legislation to formalise the process for costing election commitments. The costing of election commitments provides a degree of third party review, to provide some assurance to those interested that the costs are materially correct. Although the Department of Treasury has been costing election commitments in accordance with an agreed Government process each election, formalising the costings process with legislation will improve transparency of process during an election.

By formalising election commitment costings, the Territory will strengthen its legislative requirements regarding the provision of financial information to the community during an election. Formal election commitment costings will complement the existing requirement under the *Financial Management Act 1996* for a pre-election budget update to be released.

This Bill formalises a robust and equitable framework for the costing of election commitments in the Territory. It allows any party with one or more Members of the Legislative Assembly (MLA), or a MLA who is not a member of a registered party, to request a costing of a publicly announced election costing during the pre-election period of an election of the Legislative Assembly.

While public servants serve the Government of the day during the ordinary business of government, a pre-election period presents unique challenges when other parties have access to the Department of Treasury for costing purposes. This Bill will ensure that during an election process, the Department of Treasury and political parties have a shared understanding of the roles and responsibilities of each body and will allow Treasury to operate with a clearer degree of certainty during the election process. In this way, the Territory will have a transparent costings process that will assist costings to occur in a non-partisan and objective manner.

Notes on Clauses

Clauses 1 Name of Act

This clause is a formal provision setting out the name of the Act.

Clause 2 Commencement

The Act commences on the day after its notification day.

Clause 3 Dictionary

This clause specifies that the definitions contained at the end of the ACT are part of the Act.

Clause 4 Notes

This clause explains that the notes included in the Act are explanatory only and are not part of the Act.

Clause 5 Requests to cost election commitments

This clause provides that a leader of a registered party with one or more MLAs, or an MLA who is not a member of a registered party, can request the Chief Executive of the Department of Treasury to cost an election commitment. As under the Act it is discretionary whether a costing is requested, it is the responsibility of the leader or MLA to determine whether the commitment in question needs to be costed / verified from the perspective of transparency.

Requests can only be made for publicly announced election commitments. Examples of when an election commitment has been publicly announced, is when a party issues a media release or publishes the election commitment on the party website. This provision does not however preclude the Government of the day requesting costing advice from Department of Treasury on potential election commitments, as part of the ordinary business of serving the Government. If the Department of Treasury provides the Government costing advice as part of the ordinary business of Government, the provisions of this Act will not apply.

Costing requests can only be made during the pre-election period as defined by the *Electoral Act 1992*.

The costing request must be in writing and state the policy to be costed, giving relevant details to be used in the costings and the purpose / intention of the policy. By requiring a written request, total costing transparency is ensured and misunderstandings of details or assumptions are minimised.

A MLA can not ask the Chief Executive to cost a publicly announced election commitment of another MLA or registered party of which the MLA is not a member.

Clause 6 Withdrawal of costing requests

A MLA can withdraw a costing request made by the MLA at any time by writing to the Chief Executive of the Department of Treasury before the costing is made publicly available. This provides flexibility to a party or MLA if their election policies change for any reason.

Clause 7 Guidelines for costing election commitments

The Chief Executive of the Department of Treasury can issue guidelines setting out administrative procedures for costing an election commitment. These guidelines might contain further detail on the process to be followed, proformas for costing requests or specify how the Department of Treasury will cost requests.

Clause 8 Additional information for costing election commitments

If required, the Chief Executive of the Department of Treasury can request additional information to cost an election commitment. The request must be in writing to the MLA who requested the costing. This is consistent with the initial costing request being in writing and ensures total costing transparency.

Clause 9 Costing of election commitments and publishing costings

The Chief Executive of the Department of Treasury must cost each request for an election commitment costing, and make the costing publicly available as soon as practicable. Examples of making a costing publicly available include publishing the costing on the Treasury website or issuing a media release.

However, if the Chief Executive does not have sufficient information or has not had sufficient time to prepare a costing before polling day for the election, the Chief Executive will publicly release a statement to that effect. This ensures the public is

aware of any costing requests for which costings were not able to be completed, and the reasons why.

Clause 10 No costing of election commitments after polling day

The Chief Executive of the Department of Treasury will not begin or continue costing an election commitment on or after polling day for the election.

Clause 11 Determination of fees

The Minister may determine fees for this Act.

Clause 12 Regulation-making power

The Executive may make regulations for this Act.

Clause 13 Review of Act

The Minister must review operation of the Act by 31 December 2013.

APPENDIX C: Draft Guidelines for Costing Election Commitments



DRAFT
Guidelines for Costing Election Commitments

Department of Treasury
January 2011

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Introduction

The *Election Commitments Costing Act 2011* (the Act) specifies the circumstances under which the Under Treasurer may be requested to cost election commitments during the pre-election period prior to the general election.

The Act provides that the Under Treasurer may issue written guidelines setting out the administrative procedures for costing an election commitment (section 7). These guidelines provide the principles and processes that will be followed when requesting an election commitment costing, in order to achieve consistency and transparency when costing all election commitments. Accordingly, this document seeks to inform those requesting election commitment costings of the methodology that will be applied, what information will need to be supplied when requesting an election commitment costing and what will be prepared and published by the Under Treasurer.

The guideline consists of five parts.

- **Part 1** provides an overview of the costing of election commitments framework.
- **Part 2** specifies the commitments and undertakings the Under Treasurer provides to those requesting an election commitment costing, the costing methodology, and the assumptions that will be applied when determining election commitment costings.
- **Part 3** details how requests for costing election commitments should be made, including the information required for a costing to proceed and the method for processing requests.
- **Part 4** outlines the content and timing of election commitment costings and identifies reasons why election commitment costings may not be released.
- **Part 5** defines terms used in the guidelines.

Appendices A to C provide further details on standard costing conventions and proformas for requests and the costings themselves.

Megan Smithies
Under Treasurer

Part 1: Election Commitment Costing Guidelines – Overview

Application of guidelines

Section 9 of the Act specifies the arrangements for costing election commitments.

Importantly, the guidelines for costing election commitments:

- apply only during the pre-election period¹ (section 5(1));
- do not affect other pre-election period conventions that may be issued or administered by the Chief Minister's Department; and
- relate to the costing of publicly announced election commitments of the requestor (section 5(1)). A requestor is the leader of a registered party with 1 or more MLAs² or an MLA who is not a member of a registered party.

Requests for costing of election commitments

The Act, under section 5(2), details how requests for costing election commitments are to be submitted. It is not compulsory to request the Department of Treasury to cost a publicly announced election commitment during the pre-election period.

If the decision is made to request a costing for a publicly announced election commitment, the request:

- must be submitted in writing to the Under Treasurer by the requestor;
- must include the information requested in the proforma at **Appendix B**, outlining fully the election commitment to be costed, the purpose or intention of the election commitment and the assumptions of the election commitment (section 5(2)(b)); and
- should be submitted to the Under Treasurer on a business day during normal business hours (8:30am to 5:00pm).

A request may be withdrawn by the requestor by notice in writing to the Under Treasurer. The notice in writing can be emailed to the Under Treasurer (section 6).

The Under Treasurer will not accept a request to cost a publicly announced election commitment of another MLA or a registered party of which the requestor is not a member (section 5(3)).

¹ The timing of ACT elections is contained in section 100 of the *Electoral Act 1992*, which provides that a general election of the ACT Legislative Assembly must be held on the third Saturday in October in the fourth year after the year in which the last election was held. The official "pre-election period" commences 36 days before polling day.

² Leader of a registered party means the leader of the party in the Legislative Assembly

This does not preclude the Government of the day requesting factual material of a potential election commitment as part of the ordinary business of serving the Government. If the Department of Treasury provides the Government factual material as part of the ordinary business of Government, the provisions of the Act will not apply.

Under Treasurer actions

Upon receiving a request the Under Treasurer:

- will acknowledge the request;
- will apply security arrangements to any information provided, similar to those applied during the preparation of the Territory Budget;
- will seek additional information if unable to prepare an election commitment costing from the details the requestor has submitted (section 8);
- may request a government agency to provide information to assist with the preparation of the election commitment costings;
- will provide the costing of the election commitment to the requestor before it is publicly released;
- will publicly release the costing of the election commitment as soon as practicable after the request was received and before polling day (section 9(2));
- will publicly release a statement just prior to election day if an election commitment is unable to be costed before polling day, either due to insufficient information / data, was withdrawn or time constraints (section 9(3)); and
- is not obliged to take any further action in relation to an election commitment costing request on or after polling day (section 10).

Part 2: Election Commitment Costing Aims and Methodology

Under Treasurer commitments and undertakings

The Under Treasurer will aim to be clear, transparent and timely when costing election commitments. In particular, the Under Treasurer will:

- endeavour to provide the best estimate of the full cost of an election commitment;
- seek additional information from the requestor to enable an election commitment to be accurately costed if the Under Treasurer determines that a costing cannot be prepared based on the information initially submitted;
- cost policies in a manner consistent with methodologies used to prepare the budget papers;
- cost election commitments in a consistent and impartial manner;
- only provide financial costings, and not provide policy advice or assessments of the economic impact of policies;
- produce a self-contained written report on the costing (**Appendix C**); and
- endeavour to complete the costing as soon as possible, generally within **five working days** (noting that where additional information is required, the five working days will exclude the time taken to obtain additional information).

Costing methodology

Election commitment costings will focus on the effect of a commitment on the key budget aggregates (net operating balance, capital requirements and cash surplus / (deficit)) and include both the estimated cost and savings associated with a proposal, encompassing both revenues and expenses. Election commitment costings will be produced in a manner consistent with normal budget costing methodologies. A list of costing conventions is at **Appendix A**.

An individual request is required for each stand-alone election commitment to be costed. For example, if a health election commitment addresses a number of areas for improvement, the requestor must submit a costing request for each stand-alone election commitment as opposed to submitting one costing request incorporating all the stand-alone election commitments.

It is expected that most costings will involve revenue elements only or expense elements only. However, where relevant, the revenue and expense components of an election commitment will be identified separately.

Costing estimates will be provided for the forward estimates period (that is the budget year plus the following three years). Where the revenue or expense is not scheduled to commence, or be fully operational, or cease until after the forward estimates period, it may be necessary to note the expected full year cost when the policy is mature, if feasible to do so. Extensions beyond the forward estimates period will be at the discretion of the Under Treasurer.

If an election commitment includes a capital requirement, the Under Treasurer will include a cost of capital in the costing i.e. interest revenue forgone by using cash or an interest expense for borrowing the funds. All other costings will not generally include an interest expense, unless:

- it is an explicit election commitment objective to affect the level of interest payments; or
- the election commitment involves a financing type transaction where the primary focus is on the level of interest expense paid.

Costing assumptions

Assumptions used in costings will be the most appropriate available. The nature of any assumptions used will be detailed by the Under Treasurer when releasing costings and any caveats associated with the assumptions will be outlined. To maintain consistency, assumptions used in one election commitment costing will generally be also used for costing similar election commitments.

Any economic data or forecasts used in the costing will be consistent with the most recent publicly released estimates. The *Financial Management Act 1996* requires the public release of a pre-election budget update at least thirty days before the polling day. This will be the basis of the economic parameters to be used in costing election commitments.

The Under Treasurer may request government agencies to provide information to assist in the costing. The Department of Treasury will liaise with relevant agencies as a matter of course in producing a costing so as to help ensure the assumptions chosen are the best possible. However, the final responsibility for the assumptions used will remain with the Under Treasurer.

Where a costing has different assumptions to those specified in a costing request, the costing report will explain the reason for using different assumptions.

Where there is a difference between a costing request and the publicly released election commitment an effort will be made to clarify the difference. If that is not possible the costing will be based on information provided in the costing request.

The Department of Treasury may formally notify requestors, before the pre-election period, of particular assumptions that will be used by the Department of Treasury when costing an election commitment e.g. employee cost estimates.

Part 3: Request for Costings and Processing

Procedures and standards for requesting costings

Requests for costings can be made during the pre-election period prior to the general election. In accordance with section 5(1) of the Act, the request must be made by the requestor.

The Under Treasurer is not obligated to take any action on requests unless the requestor has signed the costing request. Requests for costing an election commitment must:

- be in writing and submitted using the proforma located at **Appendix B**;
- outline fully the election commitment to be costed, giving relevant details, including any underlying assumptions; and
- state the purpose or intention of the election commitment.

The provision of full information to the Under Treasurer at the time of submitting the request to cost an election commitment will help minimise unnecessary delays.

Appendix B contains a proforma indicating the information normally required for a costing to be prepared.

A request should fully outline the design features of the election commitment. It will assist in the preparation of costings if detailed information is provided on the assumptions that parties may have used in making their own assessments regarding the cost of election commitments. However, it should be noted that all assumptions used in the costing will be those of the Under Treasurer. Where there is an inconsistency between the stated intention of the election commitment and its design features, the election commitment will be costed on the basis of its design features.

Departmental expenses will be included in costings where analysis of the election commitment shows that these are material. In undertaking the costing of departmental expenses existing policies of a similar nature will be used as a guide.

Submitting requests

Requests for election commitment costings should be submitted to the Under Treasurer on a working day during normal business hours (8:30am to 5:00pm).

Requests may be made by letter or email to electioncosting@treasury.act.gov.au. Requests which are received outside working hours will be taken to be received the next working day.

Acknowledgement

The Under Treasurer will acknowledge each request received by a public announcement on the Department of Treasury website – www.treasury.act.gov.au.

The details provided on the website will be:

- the date the request was received;
- the name of the requestor; and
- the name of the election commitment.

No details of the costing request will be available until the Under Treasurer publicly releases the costing on the Department of Treasury website.

Timelines for provision of costings

The Under Treasurer will endeavour to complete and release a costing within five working days starting from the next working day after receiving the request. However, this may not be possible in the case of complex costing requests where data is difficult to obtain, where more detailed information needs to be provided by the requestor or where the costing request is received less than five working days from the Thursday immediately before polling day for the election.

If that is the case, the Under Treasurer will advise the requestor that the costing cannot be completed within the five working day timeframe. However the Under Treasurer will endeavour to complete and release all costing requests prior to polling day for the general election.

Further information required for completion of costings

If the Under Treasurer considers that further clarification or information is required, he or she may request this information in writing from the requestor. Where additional information is required, the five working days will exclude the time taken to obtain the additional information. The Under Treasurer will endeavour to ask for such additional information within two working days of receiving the costing request. Further information should be forwarded to the Under Treasurer in writing.

A copy of the letter requesting further information can be emailed to the requestor and likewise, the requestor can email the responding letter back to the Department of Treasury - electioncosting@treasury.act.gov.au.

After the receipt of additional information, the Department of Treasury may seek clarification of points relating to the information provided from the requestor or the requestor's appropriate staff. Such requests may be by email or telephone. When the Department of Treasury is seeking additional information, they will make a note of the information sought and responses received, and seek confirmation from the requestor or requestor's appropriate staff of the accuracy of the note. Such requests for clarification will be noted in the final costings advice where the information materially affects the costing outcome.

Withdrawal of request for costing

Section 6 of the Act allows for the withdrawal of a request for a costing to be made at any time up until the Under Treasurer publicly releases the costing. Once the Under Treasurer has publicly released the costing, the costing can no longer be withdrawn. A withdrawal must be in writing to the Under Treasurer by the requestor.

A copy of the signed withdrawal letter can be emailed to electioncosting@treasury.act.gov.au.

When a withdrawal letter is received by the Under Treasurer from the requestor, the Under Treasurer will acknowledge by email if the costing has been successfully withdrawn and the website will be updated accordingly.

Security arrangements

Security arrangements will be similar to those applied at budget time and the confidentiality of election commitment costings will be protected by the Department of Treasury until they are publicly released.

Part 4: Reporting – Public Release of Election Commitment Costings

Release of election commitment costings

The Act requires that election commitment costings be publicly released as soon as practicable after a costing request has been made and before polling day. The Under Treasurer will endeavour to complete and release election commitment costings within five working days on the Department of Treasury website www.treasury.act.gov.au.

From Thursday 10pm immediately prior to polling day for the general election, the Department of Treasury will not publicly release any further election commitment costings.

This will allow time for costings to be publicly scrutinised. The general public, media and candidates require adequate time to review the election commitment costings before polling day so as to make informed decisions.

The Department of Treasury will endeavour to cost all election commitments received and publicly release them on their website by 10pm Thursday immediately prior to polling day for the general election. Due to the Thursday being the final day costings will be released, different reporting arrangements will be in force on this day. The Under Treasurer will send a letter early in the campaign to inform the requestors of the process of publicly releasing election commitment costings on this day.

Any election commitments received by the Under Treasurer but not costed by 10pm on the Thursday immediately before polling day will be advised on the Department of Treasury website. Before polling day (most likely on the Friday immediately before polling day), the Department of Treasury website will provide a statement with the following details:

- the date the request was received;
- the name of the requestor;
- the name of the election commitment; and
- the reason why the costing was not completed and publicly released by 10pm on the Thursday immediately before polling day.

The website statement will not include a copy of the request submitted by the requestor.

Public release of costings and the delivery of costing reports

By 11:00am the requestor will receive an email containing any election commitment costings that will be publicly released that working day. An email will only be sent if an election commitment costing will be publicly released that working day by the Under Treasurer.

At least three hours is provided to the requestor to review the costing before it is publicly released so as to allow the requestor time to review the assumptions made by the Under Treasurer and understand the impact it has on their election commitment.

After 2pm the other registered parties and MLAs not members of a registered party, will receive an email notifying them an election commitment costing has been publicly released on the Department of Treasury website (www.treasury.act.gov.au).

The Under Treasurer requests no media announcements be made by the registered parties or MLAs until the election commitment costings are publicly released on the Department of Treasury website.

Election commitment costing report – contents and protocols

When an election commitment costing is published, the published report will include the request submitted under section 5 of the Act; any request for further information made by the Under Treasurer; and any further information forwarded to the Under Treasurer or obtained in discussions with parties.

Appendix C provides the proforma that will be used by the Under Treasurer when publishing an election commitment costing. Costings will not include policy advice or assessments of the economic impact of election commitments.

The election commitment costing will include:

- an outline of the specific costing methodology and assumptions used in sufficient detail to allow an understanding of how the costing was determined;
- a table setting out the annual budget cost for the budget year and the following three financial years (where the assumptions are particularly uncertain, the Under Treasurer may choose to report costings as a range of likely outcomes); and
- an explanation detailing any significant difference between the assumptions specified in a costing request and those used in the Under Treasurer's costing.

Reasons for non-release of election commitment costings

Where an election commitment costing is not possible, the Under Treasurer will issue a notice on the Department of Treasury website, no later than the close of business on the last working day before polling day, stating reasons why the election commitment cannot be costed.

The non release of an election commitment costing may be due to:

- time constraints that prevent the election commitment being costed before polling day;
- the withdrawal of the request for a costing by the requestor;
- insufficient information about the election commitment to allow the Under Treasurer to properly cost it; or
- insufficient data available to reliably cost the election commitment.

The Under Treasurer will not take any further action in relation to an election commitment costing request that is not signed or received after 10pm on the Thursday before polling day.

Part 5: Definitions

Budget year – the current published budget year. For example, if the general election was the 16 October 2010, the budget year would be 2010-2011.

Forward estimates period – budget year plus the following three years.

Leader of a registered party – the leader of a party in the Legislative Assembly.

Publicly announced – examples of when an election commitment has been publicly announced, is when a party or MLA issues a media release or publishes the election commitment on their website.

Requestor – the leader of a registered party with 1 or more MLAs or an MLA who is not a member of a registered party.

Under Treasurer – the Under Treasurer or a designated Treasury Executive.

Appendix A: Election Commitment Costing Conventions

The following are standard conventions for the preparation of election commitment costings.

- Costings are based on the effect on the budget and produced in a manner that is consistent with the normal budget costing methodologies.
- Economic data and forecasts used in the preparation of costings will be consistent with the Pre-Election Budget Update.
- Costings are provided on a current price basis.
- Costings are provided on an annual basis for the budget year and the following three financial years.
- Full-year, part-year and one-off effects are distinguished.
- Costings are generally to be best point estimates, however, costing ranges are provided if they are considered appropriate.
- Where relevant, the revenue and expense components of an election commitment costing are identified separately.
- Assumptions are reviewed for reasonableness in terms of cost, potential demand and implementation period.
- If no allowance is made for expenses necessary to support the implementation of an election commitment, a costing of such expenses will only be undertaken if the impact is considered by the Under Treasurer to be material in the context of the proposed election commitment. In undertaking the costing of the necessary expenses, existing programs / policies of a similar nature will be used as a guide.
- If a costing of expenses necessary to support the implementation of an election commitment is specifically requested, the written request should clearly specify an assumption as to its absorption or supplementation.
- If no allowance is made for expenses necessary to support the implementation of an election commitment, the Under Treasurer will only assume the expenses can be absorbed by the government agency if the expenses are considered immaterial.
- Assumptions used in costings are based on best professional judgement.

Appendix B: Request for Costing an Election Commitment

Name of election commitment:	
Person requesting costing:	
Date of public release of election commitment, including source:	
Summary of election commitment:	
Intention of election commitment:	
Signature of person requesting costing:	
Date of request for costing:	
Description of the election commitment. What are the key assumptions that have been made in the election commitment including:	
• Please note that where the request to cost an election commitment differs from the publicly announcement, the costing will be on the basis of information provided in the costing request. • Where relevant, is the funding for the policy to be demand driven or a capped amount? • Will third parties, for instance the Commonwealth or other State / Territories, have a role in funding or delivering the election commitment? • Will funding / the cost require indexation? • What are the estimated costs each year (if available)? • What is the likely take up? • What are the capital requirements for this election commitment and estimated costs each year (if available)?	
Note: it will be up to the professional judgment of the Under Treasurer as to whether these assumptions are adopted in the costing of the election commitment.	

Administration of the election commitment.	
• How will the election commitment be administered? • Who will administer the election commitment? • Has an allowance been made for expenses necessary to support the implementation of this election commitment? – If no, will the government agency be expected to absorb expenses associated with this election commitment? – If yes, please specify the key assumptions. • What is the intended implementation date of the election commitment? • Are there transitional arrangements associated with election commitment implementation? • Are there any other assumptions that need to be considered? • When is the election commitment expected to be fully operational? – Please provide further details i.e. start and end dates, the level of commitment during each period etc? • Will the election commitment cease and if so when?	

Appendix C: Public Release of Costing Proforma

Election commitment	
Name of election commitment to be costed:	
Costing request submitted by:	
Date request received:	
Date of public release of the election commitment:	
Additional information requested (including date):	
Additional information received (including date):	

Financial Implications				
Impact on:	Budget Year Year 1	Forward Estimate Year 2	Forward Estimate Year 3	Forward Estimate Year 4
	\$'000	\$'000	\$'000	\$'000
Revenues ^(a)				
Expenses ^(a)				
Net Operating Balance				
Capital Requirement				
Cash Surplus / (Deficit)				
(a) A negative number indicates a decrease in revenue or an increase in expenses.				

Other Information	
Caveats or qualifications to the costing:	
Other comments:	
Costing methodology used:	
- Costing technique - Policy parameters	
Statistical data used:	

Megan Smithies
Under Treasurer
[month] [year]