

ANNUAL AND FINANCIAL REPORTS 2019-2020;  
APPROPRIATION BILL 2020-2021 AND APPROPRIATION  
(OFFICE OF THE LEGISLATIVE ASSEMBLY) BILL 2020-2021

STANDING COMMITTEE ON PUBLIC ACCOUNTS

MARCH 2021

REPORT 1



# THE COMMITTEE

## COMMITTEE MEMBERSHIP

Mr Alistair Coe MLA	Chair until 12 March 2021
Mrs Elizabeth Kikkert	Chair from 17 March 2021
Mr Michael Pettersson MLA	Deputy Chair
Mr Andrew Braddock	Member

## PARTICIPATING MEMBERS

Ms Elizabeth Lee MLA

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## RESOLUTION OF APPOINTMENT

On Wednesday, 2 December 2020 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:

- (e) a Standing Committee on Public Accounts<sup>1</sup>

Committee	Primary Wellbeing Indicator/s	Areas of Responsibility
6. Public Accounts	Governance and Institutions	<ul style="list-style-type: none"><li>· ACT Auditor-General</li><li>· ACT Ombudsman</li><li>· Office of the Legislative Assembly</li><li>· Accounts of the receipts and expenditure of the ACT and its authorities</li><li>· All reports of the Auditor-General which have been presented to the Assembly</li></ul>

In addition the resolution indicated that:

- (6) all reports of the ACT Auditor-General tabled in the Assembly stand referred to the Standing Committee on Public Accounts for inquiry and report;

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 Wednesday, 2 December 2020, the Assembly passed the following resolution in relation to the examination of annual and financial reports:

- (3) calendar and financial year annual and financial reports stand referred to the relevant standing committee for inquiry and report by 31 March of the year after the presentation of the report to the Assembly pursuant to the *Annual Reports (Government Agencies) Act 2004*;

The reports that stand referred to the Standing Committee on Public Accounts were:

- Auditor General of the ACT;
- ACT Ombudsman; and

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<sup>1</sup> Legislative Assembly for the ACT, Minutes of Proceedings No.2, accessible at [https://www.parliament.act.gov.au/\\_data/assets/pdf\\_file/0007/1669030/MoP002F.pdf](https://www.parliament.act.gov.au/_data/assets/pdf_file/0007/1669030/MoP002F.pdf) p. 17-22.

- Office of the Legislative Assembly.

On Wednesday, 2 December 2020, the Assembly passed the following resolution in relation to the examination of the appropriation bills:<sup>2</sup>

- (7) the committees so established are required to examine the expenditure proposals contained in the main appropriation bills for the Territory and any revenue estimates proposed by the Government in the annual budget and prepare a report to the Assembly within 60 days of the presentation of the budget bills;
- (8) funds be provided by the Assembly to permit the engagement of external expertise to work with the Standing Committee on Public Accounts to facilitate the analysis of the budget;

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<sup>2</sup> Legislative Assembly for the ACT, Minutes of Proceedings No.2, accessible at [https://www.parliament.act.gov.au/\\_data/assets/pdf\\_file/0007/1669030/MoP002F.pdf](https://www.parliament.act.gov.au/_data/assets/pdf_file/0007/1669030/MoP002F.pdf) pp. 17-22.

## ACRONYMS

AASB	Australian Accounting Standards Board
ACT	Australian Capital Territory
ATO	Australian Tax Office
CEO	Chief Executive Officer
COVID-19	Coronavirus Disease
CTP	Compulsory Third Party
EOFYU	End of Financial Year Update
GAAP	Generally Accepted Accounting Principles
GGs	General Government Sector
GFS	Government Finance Statistic
GST	Goods and Services Tax
OLA	Office of the Legislative Assembly
PPP	Public Private Partnerships
QoN	Question on Notice
QToN	Question Taken on Notice
RBA	Reserve Bank of Australia
SLA	Suburban Land Agency
UNSW	University of New South Wales
UPF	Uniform Presentation Framework

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# RECOMMENDATIONS

## RECOMMENDATION 1

- 2.18 The Committee recommends that the ACT Government provide economic analysis of the stimulus it provided during the early stages of the COVID-19 pandemic.

## RECOMMENDATION 2

- 2.23 The Committee recommends that the ACT Government publish, on its website, the own-source revenue report.

## RECOMMENDATION 3

- 2.30 The Committee recommends that the ACT Government supply, to the Standing Committee on Public Accounts, any documents that the ACT Government has supplied to the credit rating agency.

## RECOMMENDATION 4

- 2.34 The Committee recommends that the ACT Government publish current and historic credit agency reports, on the ACT Government website.

## RECOMMENDATION 5

- 2.42 The Committee recommends that the ACT Government pursue opportunities for lower cost financing.

## RECOMMENDATION 6

- 2.48 The Committee recommends that the ACT Government provide, to the Standing Committee on Public Accounts, the modelling for determining whether land sales will deliver a surplus, particularly considering a great deal of the revenue associated with the establishment of a new suburb or estate is often re-invested in that suburb or estate.

## RECOMMENDATION 7

- 2.56 The Committee recommends that the ACT Government closely monitor developments in and pressures on supply and demand in relation to land release and land sales and be prepared to make adjustments necessary to avoid unmet demand.

## RECOMMENDATION 8

- 2.63 The Committee recommends that the ACT Government outline the plan, including the timeline, to achieve surplus.

## RECOMMENDATION 9

- 2.72 The Committee recommends that the ACT Government verify the figures, outlined in Fig 11, page 16, of the Pegasus Budget Advisers Report on the 2020-2021 Budget Estimates, and provide them to the Standing Committee on Public Accounts.

#### **RECOMMENDATION 10**

- 2.84 The Committee recommends that the ACT Government explore options to reform the payroll tax system, particularly how it can be modified to incentivise ACT businesses.

#### **RECOMMENDATION 11**

- 2.91 The Committee recommends that the ACT Government continue to seek federal funding in accordance with ACT Government priorities.

#### **RECOMMENDATION 12**

- 2.104 The Committee recommends that the ACT Government simplify the grant application process for community groups and facilitate appropriate supports, feedback, and guidance for less established groups such as:

- such as new categories of grants;
- regular reviews of grant guidelines;
- standardisation of grant application and grant assessment processes across Directorates; and
- regular reviews of frameworks for grant assessments.

#### **RECOMMENDATION 13**

- 2.105 The Committee recommends that the ACT Government consider policy interventions; such as new categories of grants; so as to work towards a more equitable dissemination of funding.

#### **RECOMMENDATION 14**

- 2.108 The Committee recommends that the ACT Government provide greater transparency into business cases developed for policy decisions.

#### **RECOMMENDATION 15**

- 2.114 The Committee recommends that the ACT Government provide clearer disclosure of the key accounting principles it has adopted in its budgets.

#### **RECOMMENDATION 16**

- 2.115 The Committee recommends that the ACT Government implement new accounting standards for Public-Private Partnerships (PPPs), ensuring that relevant historical revisions to key tables and graphs are also made available.

#### **RECOMMENDATION 17**

- 2.123 The Committee recommends that the ACT Government provide more detailed reporting of election commitments and their implementation.

#### **RECOMMENDATION 18**

- 2.125 The Committee recommends that the ACT Government update the page numbers of the electronic version of the Budget Papers to reflect the hard-copy documents.

#### **RECOMMENDATION 19**

- 2.129** The Committee recommends that the duties of the Standing Committee on Economy and Gender and Economic Equality and the Standing Committee on Public Accounts are further clarified in relation to their scrutiny roles, including their examination of annual reports and budget estimates.

**RECOMMENDATION 20**

- 3.9** The Committee recommends that the ACT Ombudsman continue to investigate the reasons for the decrease in decisions 'not to publish' open access information.

**RECOMMENDATION 21**

- 3.20** The Committee recommends that the Auditor-General work with the ACT Government to find ways to improve the financial position of the ACT Audit Office.

**RECOMMENDATION 22**

- 3.25** The Committee recommends that the Auditor-General work with the Standing Committee on Public Accounts to investigate methods to encourage ongoing and consistent engagement with Members of Legislative Assembly, so as to garner information or ideas for inquiry.

**RECOMMENDATION 23**

- 3.31** The Committee recommends that the Auditor-General consult with the Standing Committee on Public Accounts to consider options to facilitate a more systematic approach to highlighting outstanding Audit recommendations.

**RECOMMENDATION 24**

- 4.11** The Committee recommends that the Office of the Legislative Assembly increase staffing for the committee secretariat within Committee Support.

**RECOMMENDATION 25**

- 4.12** The Committee recommends that the Office of the Legislative Assembly provide Committee Secretaries with additional administrative support for each of the committees that they work to.

**RECOMMENDATION 26**

- 4.24** The Committee recommends that the Office of the Legislative Assembly consider, in addition to a bullying and harassment policy, measures that can be taken so as to ensure the Legislative Assembly is a safe working environment.

**RECOMMENDATION 27**

- 4.25** The Committee recommends that the Office of the Legislative Assembly implement an anonymous reporting portal for Members of the Legislative Assembly and staff of OLA, Members, and the Executive, who wish to report bullying and harassment.

**RECOMMENDATION 28**

- 4.26** The Committee recommends that the Office of the Legislative Assembly consider implementing a data collection and reporting mechanism to document the occurrence of bullying and harassment in the ACT Legislative Assembly.

**RECOMMENDATION 29**

- 4.29** The Committee recommends that the Office of the Legislative Assembly finalise the Legislative Assembly Questions on Notice (QoN) database.

# 1 INTRODUCTION

## CONDUCT OF THE INQUIRY

- 1.2 During a series of private meetings the Standing Committee on Public Accounts (The Committee) considered and accepted proposals for a schedule of public hearings during which community groups, government agencies and statutory office-holders would appear before the Committee as part of its inquiry into *Annual and Financial Reports 2019-20* (annual report); *Appropriation Bill 2020-2021* and *Appropriation (Office of the Legislative Assembly) Bill 2020-2021* (the Budget).
- 1.3 The Committee agreed to engage a specialist adviser to provide an independent economic and financial analysis of the Budget 2020-21, as provided for in the Committee's Resolution of Appointment.<sup>3</sup> Pegasus Economics was selected via a competitive tender process to provide the specialist budget adviser services to the Committee. Pegasus provided the Committee with a report on the Budget entitled *Review of the ACT Budget 2020-21*.<sup>4</sup> This report and supplementary documents are available on the Committee website:  
<https://www.parliament.act.gov.au/parliamentary-business/in-committees/committees/pa/inquiries-into-annual-and-financial-reports-20192020-and-act-budget-20202021#tab1704496-8id>
- 1.4 The Committee held public hearings on 24 February 2021 and 5 March 2021. It heard evidence from the Treasurer and Officers of the Legislative Assembly. The list of witnesses who attended can be found in Appendix A.
- 1.5 Hansard transcripts of the evidence provided at the hearings are available on the inquiry webpage: <https://www.parliament.act.gov.au/parliamentary-business/in-committees/committees/pa/inquiries-into-annual-and-financial-reports-20192020-and-act-budget-20202021#tab1704496-3id>
- 1.6 Public hearings can be viewed via the Committee on Demand section of the ACT Legislative Assembly website, a portal of audio-visual recordings of committee hearings:  
<http://aod.parliament.act.gov.au/>

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<sup>3</sup> Resolution of establishment for the committee, <https://www.parliament.act.gov.au/parliamentary-business/in-committees/committees/resolution-for-committees/resolution-establishing-committees-of-the-tenth-assembly> Accessed 4 March 2021.

<sup>4</sup> Pegasus Economics, *Review of the ACT Budget 2020-21*.

- 1.7 A total of 21 questions were taken on notice by the Committee during the hearings. An additional 13 questions on notice were submitted subsequent to the hearings, taking the total number of questions to 34.
- 1.8 The answers to all questions are available on the website:  
<https://www.parliament.act.gov.au/parliamentary-business/in-committees/committees/pa/inquiries-into-annual-and-financial-reports-20192020-and-act-budget-20202021#tab1704496-5id> and <https://www.parliament.act.gov.au/parliamentary-business/in-committees/committees/pa/inquiries-into-annual-and-financial-reports-20192020-and-act-budget-20202021#tab1704496-4id>

## 2 BUDGET MATTERS

- 2.1 Whilst other Legislative Assembly Standing Committees examined the budget by output class, the Standing Committee on Public Accounts (The Committee) examined the structure and presentation of the Budget as a whole, with a primary focus on the Budget Outlook and the commissioned Budget Advisors Report, authored by Pegasus Economics.<sup>5</sup> As such some of the matters that are discussed may also have been addressed under specific outputs relevant to other standing committees.

### MATTERS CONSIDERED

- 2.2 Matters considered by the Committee in relation to the Budget included:

- strategy to return to surplus;<sup>6</sup>
- COVID-19 performance;<sup>7</sup>
- COVID-19 related expenditure;<sup>8</sup>
- COVID-19 vaccine rollout assumptions;<sup>9</sup>
- payroll tax;<sup>10</sup>
- taxation reform;<sup>11</sup>
- credit agency reports;<sup>12</sup>
- general government sector net debt;<sup>13</sup>
- confidence in economic forecast;<sup>14</sup>
- measures to increase revenue;<sup>15</sup>
- own-source revenue;<sup>16</sup>
- vertical fiscal imbalance;<sup>17</sup>
- impact of Commonwealth infrastructure investment in the Territory;<sup>18</sup>

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<sup>5</sup> Pegasus Economics, *Review of the ACT Budget 2020-21*.

<sup>6</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 1 – 6.

<sup>7</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 6 – 8.

<sup>8</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 13 – 15.

<sup>9</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 37 – 38; 39 – 40; 42 – 43.

<sup>10</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 52 – 53; 54 – 55.

<sup>11</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 53 – 55.

<sup>12</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 26 – 30.

<sup>13</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 5 – 6.

<sup>14</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 10 – 13.

<sup>15</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 34 – 36.

<sup>16</sup> *Proof Transcript of Evidence*, 24 February 2021, p. 34; p. 38; pp. 48 – 49.

<sup>17</sup> *Proof Transcript of Evidence*, 24 February 2021, p. 14.

<sup>18</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 8 – 10.

- Capital Works reserve;<sup>19</sup>
- Capital Works in Progress;<sup>20</sup>
- employee expenses;<sup>21</sup>
- APS employment;<sup>22</sup>
- Government staffing distribution;<sup>23</sup>
- community grants;<sup>24</sup>
- Job Seeker and Job Keeper;<sup>25</sup>
- employment levels;<sup>26</sup>
- Government deficits;<sup>27</sup>
- revenue and expenditure growth;<sup>28</sup>
- interest rates and government borrowing;<sup>29</sup>
- Treasury Investment Advisory Board;<sup>30</sup>
- diversity in ACT Economy;<sup>31</sup>
- election commitments - costings;<sup>32</sup>
- technical adjustments;<sup>33</sup>
- project signage expenditure;<sup>34</sup>
- bulky waste collection;<sup>35</sup>
- land valuations;<sup>36</sup>
- CTP Insurance;<sup>37</sup>
- unit titles;<sup>38</sup>

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<sup>19</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 15 – 16.

<sup>20</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 75 – 77.

<sup>21</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 16 – 20.

<sup>22</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 40 – 41.

<sup>23</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 77 – 81.

<sup>24</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 22 – 26.

<sup>25</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 20 – 21.

<sup>26</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 18 – 19; p. 61.

<sup>27</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 10 – 11; pp. 30 – 33.

<sup>28</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 36 – 39.

<sup>29</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 29 – 30; 43 – 45.

<sup>30</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 81 – 82.

<sup>31</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 65 – 66.

<sup>32</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 45 – 48.

<sup>33</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 48 – 50.

<sup>34</sup> *Proof Transcript of Evidence*, 24 February 2021, p. 54.

<sup>35</sup> *Proof Transcript of Evidence*, 24 February 2021, p. 57.

<sup>36</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 62 – 65.

<sup>37</sup> *Proof Transcript of Evidence*, 24 February 2021, p. 67.

<sup>38</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 67 – 68.



- community, roads, infrastructure projects;<sup>39</sup>
- Phase 3 expansion projects;<sup>40</sup>
- Perpetual Care Trust;<sup>41</sup>
- international students;<sup>42</sup>
- divestment of interest in fossil fuels;<sup>43</sup>
- rental market stress;<sup>44</sup>
- UNSW site Parkes/Reid;<sup>45</sup>
- business case justification for policy decisions;<sup>46</sup>
- justification for increase in size of cabinet;<sup>47</sup>
- budget paper discrepancies;<sup>48</sup>
- delineation of scrutiny responsibilities for standing committees;<sup>49</sup>
- property market impacts upon the budget;<sup>50</sup>
- treatment of public-private-partnerships under Australian Accounting Standards;<sup>51</sup>
- disclosure of key accounting policies;<sup>52</sup> and
- financial impact of increased population.<sup>53</sup>

## KEY ISSUES

## COVID-19 PERFORMANCE

- 2.3 The Committee acknowledged that the Budget was more positive when compared to the August economic update. In this context they asked the Treasurer what expectations the government had about the impact of the COVID-19 pandemic on the ACT economy.
- 2.4 The Treasurer told the Committee that ‘we were expecting our economy to shrink.’<sup>54</sup>

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<sup>39</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 82 – 84.

<sup>40</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 82 – 83.

<sup>41</sup> *Proof Transcript of Evidence*, 24 February 2021, p. 74.

<sup>42</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 68 – 70.

<sup>43</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 70 – 71.

<sup>44</sup> *Proof Transcript of Evidence*, 24 February 2021, p. 69; pp. 71 – 72.

<sup>45</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 69 – 70.

<sup>46</sup> *Proof Transcript of Evidence*, 24 February 2021, p. 41.

<sup>47</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 41 – 42.

<sup>48</sup> *Proof Transcript of Evidence*, 24 February 2021, p. 17.

<sup>49</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 70 – 71.

<sup>50</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 63 – 65.

<sup>51</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 61 – 62.

<sup>52</sup> *Proof Transcript of Evidence*, 24 February 2021, p. 62.

<sup>53</sup> *Proof Transcript of Evidence*, 24 February 2021, pp. 3 – 4; p. 9; p. 56; pp. 73 – 74.

<sup>54</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 7.

Certainly when we put together our August economic update and the Under Treasurer, as per the pre-election budget update requirements, provided the PBU, there was a great degree of uncertainty.<sup>55</sup>

- 2.5 The Under Treasurer also noted the unprecedented nature of the economic environment at the time:

Having been involved in economic and budget forecasting for the best part of three decades, this is certainly the toughest time in forecasting that I have seen in that time. One of the key things to note is that at the time when this first hit, I was giving a number of speeches, and by the time I would finish a speech on what I thought was going to happen it would be out of date because things were just moving that quickly through the process.<sup>56</sup>

One of the things that has happened in particular is that at the time of EOFYU when the crisis was first hitting, we were very cognisant of what the downside could potentially be and very worried about what that downside could be. At the time of both EOFYU and the PBU, we produced bands on what we thought might be a range, and those bands had upside and downside ranges in them.<sup>57</sup>

- 2.6 In terms of economic expectation, the Treasurer surmised that:

...the ACT has done better within Australia than we were expecting; Australia has done better than the commonwealth were expecting; and the world has done slightly worse as a result of the public health crisis getting worse in Europe, the US and parts of Asia. That has had a pretty dramatic impact on world growth—the International Monetary Fund and others have been downgrading their expectations on global growth; but Australia and the ACT are faring better, and that is clearly reflected in our update in this budget.<sup>58</sup>

- 2.7 The Treasurer also highlighted the ACT's ability 'to still record economic growth in the calendar year 2020' and told the Committee that 'it is very clear that there is an absolute correlation between managing the pandemic and economic outcomes.' He was adamant that the 2% growth in the ACT economy was 'all about pandemic management.'<sup>59</sup>

- 2.8 The Under Treasurer told the Committee that the ACT is:

...now operating slightly above the upside from what we saw at the time of EOFYU. So, for example, if I look at GSP, the upside forecast for 2019-20 was tracking at about 1.5

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<sup>55</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 6.

<sup>56</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 7.

<sup>57</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 6.

<sup>58</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 7.

<sup>59</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 7.

per cent for 19-20 on the upside. The actual outcome was 2.4 per cent. So we are certainly tracking on that upside.<sup>60</sup>

2.9 He went on to explain that:

As Treasury became more familiar and looked at what the impacts were going to be, we have been surprised on the upside at just how well the ACT economy has weathered it. I think that a lot of that came from, as the Treasurer said, some very positive responses from governments around the country, both in terms of the health response but also an economic response to support the economy. We saw confidence bounce back very quickly right across the country, and the ACT as well, in response to those initiatives. I think those are the factors that have pushed us towards that upside scenario.<sup>61</sup>

2.10 The Treasurer told the Committee that the continuing impacts on the labour market of the COVID pandemic are being monitored:

We are also closely following the labour market—hours worked, total employment levels, unemployment levels and then the longer-term trends.<sup>62</sup>

Because the ABS data sample sizes for ACT, Tasmania and the Northern Territory are so small, there is constant back-casting revision of our data. So we really want to look at this at more on a quarterly, half-yearly and annualised dataset. The ABS and the ATO have been able to provide some further or contemporary data in relation to the single-touch payroll system, for example, that is providing us with an additional set of information on the labour market.<sup>63</sup>

In essence, we lost more than 10,000 jobs out of the 240,000 that we had going into the pandemic. Most of those have come back largely because the job losses were related to public health restrictions rather than an underlying economic issue. So with the easing of restrictions and the management of the pandemic, those jobs have flowed back but not necessarily into exactly the same sectors that were there before. There has been some shift in employment within the territory and we will continue to monitor that.<sup>64</sup>

2.11 In terms of future impacts the Treasurer indicated that he expected:

...the next phase to be a much smaller number of industry sectors still impacted by other health directions, principally at a national level. That is largely international border controls and quarantine requirements that still obviously severely limit

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<sup>60</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 7.

<sup>61</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, pp. 7 – 8.

<sup>62</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 6.

<sup>63</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 6.

<sup>64</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, pp. 6 – 7.

international travel, which impacts on two very big industries for the ACT—international education and national tourism.<sup>65</sup>

## COVID-19 RELATED EXPENDITURE

2.12 In their report, the budget adviser, Pegasus Economics, indicated that:

The available evidence suggests the main source of fiscal stimulus to support the ACT economy during the COVID-19 pandemic came from the Commonwealth Government. It is difficult to discern evidence of any major stimulus provided to the ACT economy by the ACT Government.<sup>66</sup>

In the 2019 calendar year, prior to any impact associated COVID-19, the ACT Government's share of the ACT economy was 10.2 per cent. In the year to September 2020, incorporating three quarters impacted by the COVID-19 pandemic, the ACT Government's share of the ACT economy was still sitting at 10.2 per cent.<sup>67</sup>

2.13 The Committee queried the possible grounds for why such an assessment could have been made. In response the Treasurer indicated that he saw the Pegasus Economics assessment as being only:

...an opinion. There is no actual basis for it. I am not sure that it is going to be particularly productive to be debating Pegasus's opinions. If the view was that we had done nothing, then we would not have forgone hundreds of millions of dollars of revenue and spent hundreds of millions of dollars on both public health and economic support. The impacts of those decisions are there in the territory's bottom line.<sup>68</sup>

I guess what I found was, perhaps, less informed was their view that our share of state final demand was the basis on which they made that assertion. I do not think that that is the best metric with which to be making an assessment. If their preference was that we had not forgone hundreds of millions of dollars of revenue and we had not sought to provide extra expenditure and that none of that counts then fine, they are welcome to that view, but I just disagree.<sup>69</sup>

2.14 In this context the Committee queried what measures would more accurately reflect the impact of steps taken by the ACT Government in response to the COVID pandemic. The Treasurer stated that:

We can put a dollar figure on revenue forgone and expenditure undertaken. There are a range of other things that are not necessarily directly financial, in a budget sense,

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<sup>65</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 7.

<sup>66</sup> Pegasus Economics, *Review of the ACT Budget 2020-21*, p. 8.

<sup>67</sup> Pegasus Economics, *Review of the ACT Budget 2020-21*, p. 8.

<sup>68</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 13.

<sup>69</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 13.

that went to regulatory reform or provision of special circumstances to enable businesses to adapt to the pandemic trading conditions. That would be another example, together with our share of national partnership funding.<sup>70</sup>

I note in the report that they have an interesting academic discussion about whether it is national governments or sub-national governments who should be leading economic responses to shocks. That is, for what it is worth, a useful discussion. Clearly, the commonwealth has more policy levers and a budget that is a hundred times larger than ours with which to deploy, as well as constitutional responsibility in certain areas that are beyond our remit.<sup>71</sup>

2.15 He went on to address the concerns in the report about vertical fiscal imbalance:

If Pegasus's argument was that we should have provided a wage subsidy scheme or we should have increased unemployment benefit or we should have eased income taxing, these are all things that sit with the commonwealth. There was a recurring theme through their report around vertical fiscal imbalance. There is vertical fiscal imbalance in this country. When every state and territory government, as they were then, gave up income taxing powers to the commonwealth around the time of the Second World War, it cemented vertical fiscal imbalance as a feature of our Federation. It is what it is.<sup>72</sup>

Did Malcolm Turnbull float an idea of states and territories having income taxing powers? That lasted a week. Is it frustrating that there is VFI? Yes. Would it be better if there was a greater alignment of where expenditure occurred with where tax revenue was collected? Yes, that would probably be preferable in an ideal world. But it is pretty hard to see the commonwealth giving up income taxing or company taxing powers at this point or handing other revenue streams—for example, excise taxes—to the states and territories.<sup>73</sup>

We have the model that we have, and we have got to operate within that. All the commentary on moral hazard and the hard barriers to increased revenue and expenditure et cetera are wonderful academic thoughts but are not grounded in any practical reality of operating within the Australian Federation. It is interesting commentary but utterly useless in the context of the way the Australian Federation works.<sup>74</sup>

2.16 In looking at what measures had been implemented, the Committee asked which ones had been the most effective and if anything would have been done differently. In response the

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<sup>70</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 13.

<sup>71</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 13.

<sup>72</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 14.

<sup>73</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 14.

<sup>74</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 14.

Treasurer spoke in relation to lessons learnt from previous economic crises, such as the global financial crisis and the Great Depression. He told the Committee that:

I think you could say that, as a general rule, over a century, the Australian government response to economic responses has become more sophisticated and more targeted. We have more data available. I guess at the end of this there will be an assessment of perhaps what worked most effectively. I do not know that there is any single measure that I would say failed, but some obviously did more than others. I think that that sort of assessment will ultimately be undertaken and there will be lessons there for when the next economic shock arrives. I think that both the commonwealth and the states and territories learnt a lot from what worked and what did not in the GFC. We had a contemporary example of a decade ago to apply to our policy approaches this time.<sup>75</sup>

- 2.17 However, the Treasurer also explained that there was a need to ensure that economic responses to crises are tailored to the particular crisis, noting that whilst the COVID-19 pandemic ‘had particularly devastating effects on certain parts of the economy; it was not economy wide.’<sup>76</sup> He explained that:

Your capacity to target assistance to subsectors of the economy that were experiencing an economic shock that was driven by a public health shock was the other thing that was different. It was not that there was something fundamentally wrong with the essentials of the economy. It was that for reasons of protecting public health, certain activities had to be shut down. That required a very different economic intervention than a more general downturn in the economy or an economic impact that was distorting in seeing investment resources shift from one area of the economy to another. This was not technology driven. It was regulatory driven, in that certain activities were regulated to zero, but not necessarily in a planned way, and it had to happen really quickly and, fortuitously, it seemed, for a relatively short period of time.<sup>77</sup>

The longer you have to deal with an adjustment, it is, I think, arguably easier to address the challenges. Probably the next best thing is the short, sharp change because you know that you are in for a certain period of time with a targeted intervention and then you can withdraw it...In all of this, as much certainty as you can give helps too. In the context of a pandemic, there is a lot of uncertainty and it is hard for government policy to fully address every element there.<sup>78</sup>

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<sup>75</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 14.

<sup>76</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, pp. 14 – 15.

<sup>77</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 15.

<sup>78</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 15.

## Recommendation 1

**2.18 The Committee recommends that the ACT Government provide economic analysis of the stimulus it provided during the early stages of the COVID-19 pandemic.**

### OWN-SOURCE REVENUE

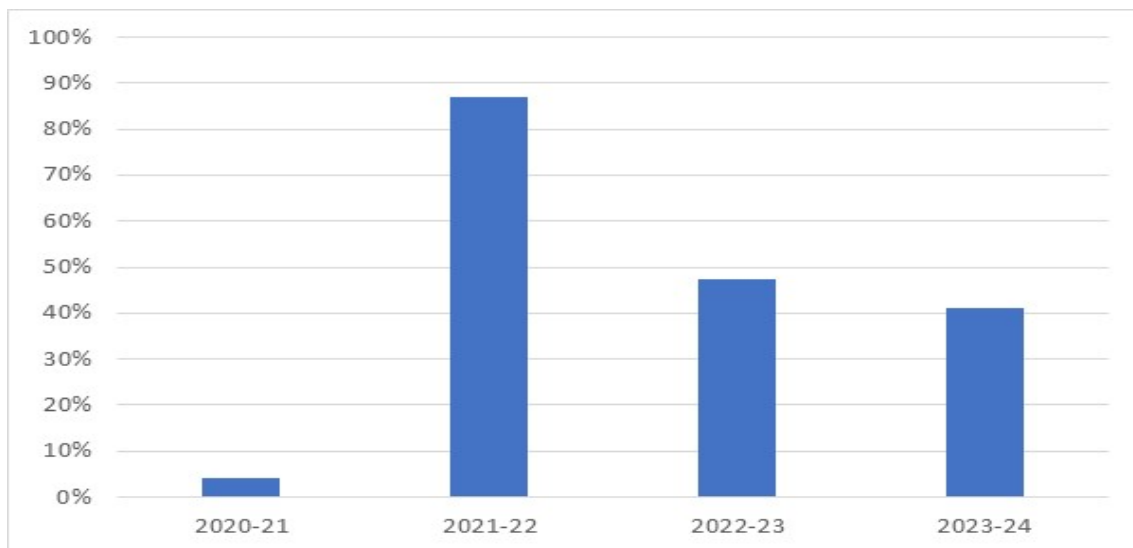
2.19 The Committee noted that the GST is the single largest revenue source for the ACT and queried the other major contributors to revenue that the government was reliant on:

Between GST, the commonwealth partnerships that I have discussed earlier, particularly for health education, housing, community services and the like. Plus our own source of revenue lines, that is, you know, 80, 90 per cent of the territory budget, so there is your revenue, that side of it.<sup>79</sup>

2.20 As illustrated by the schematic below, the Budget Adviser Report indicated that:

...the ACT Government will remain heavily dependent on the Commonwealth Government through GST tax revenue and Commonwealth Government grants in the forward estimates to fund increases in its revenue and may escape the incentives and discipline imposed by a hard budget constraint.<sup>80</sup>

**Figure 1: Percentage of Increased ACT Government Revenue Funded by the Commonwealth Government – 2020-21 to 2023-24<sup>81</sup>**



Sources: ACT Government (2021, p. 136).

<sup>79</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 34.

<sup>80</sup> Pegasus Economics, *Review of the ACT Budget 2020-21*, p. 23.

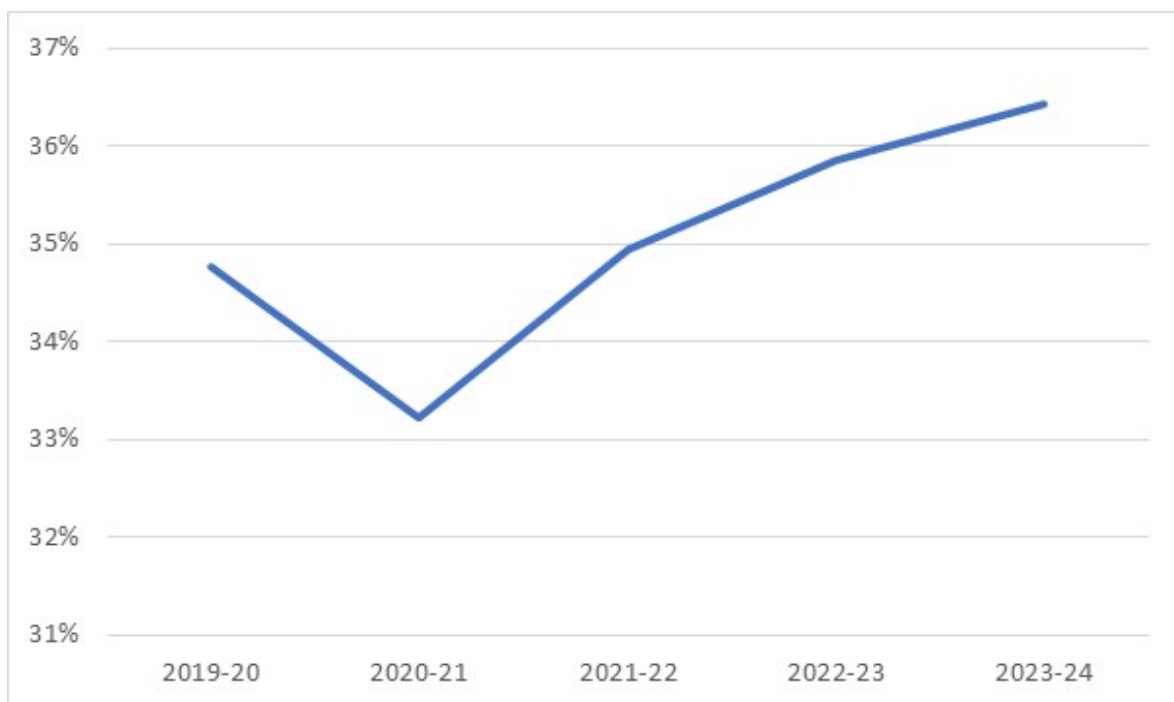
<sup>81</sup> Pegasus Economics, *Review of the ACT Budget 2020-21*, p. 23.

2.21 The Committee were informed that whilst own-source revenue, including taxation; land sales; asset sales; investment income and inflation, was ‘very much tied to economic conditions’ there had been an increase in own-source revenue from what had been projected in the August budget forecast.<sup>82</sup>

2.22 The Budget Adviser Report concurred with this assessment indicating that the below schematic showed that:

Over the course of the forward estimates, the ACT Government is gradually moving towards ameliorating the extent of vertical fiscal imbalance in future years through assuming greater responsibility for raising its own source taxation at the margin...through increasing the percentage of its revenue that it raises through from own-source taxation.<sup>83</sup>

**Figure 2: Percentage of ACT Government Revenue from Own-Source Taxation – 2019-20 to 2022-23<sup>84</sup>**



Source: ACT Government (2021, p. 136)

## Recommendation 2

**2.23 The Committee recommends that the ACT Government publish, on its website, the own-source revenue report.**

<sup>82</sup> *Proof Transcript of Evidence*, 24 February 2021, p. 34.

<sup>83</sup> Pegasus Economics, *Review of the ACT Budget 2020-21*, p. 23.

<sup>84</sup> Pegasus Economics, *Review of the ACT Budget 2020-21*, p. 23.



## DIVERSITY IN ACT ECONOMY

- 2.24 During discussions on own-source revenue, the Committee asked the Treasurer what steps the ACT Government were taking to diversify the ACT economy.
- 2.25 In response, the Treasurer noted that they are not seeking to reduce the commonwealth share of activity in the ACT but seek to 'diversify the non-commonwealth share of the territory economy' and that there had been a great deal of effort in that regard to support a broader range of industry sectors to encourage the growth of internationally tradable services.<sup>85</sup>
- 2.26 In this context the Treasurer informed the Committee that he was:
- ... realistic about the ACT government's share of the economy. Therefore, with our share of economic development funding within our share of the economy, we are not going to be able to make radical shifts in any one year. But it is a clear direction of policy that year on year it is building up our internationally tradeable export sector. It is in services principally but also in some low-volume but high-value advanced manufacturers. We are also seeing, in areas related to research and development, a leveraging of public sector research and commercialising that is generating new income for the territory economy.<sup>86</sup>

## CREDIT AGENCY RATING

- 2.27 There was lengthy discussion about the ACT's credit rating of AAA. During this discussion the Committee queried the accessibility of the ACT Government submission that was provided to the credit rating agency, and whether it was available publicly.
- 2.28 In response, the Under Treasurer indicated that it was not publicly available but that 'it draws on information that is publicly available.'<sup>87</sup> He went on to state that:
- There is nothing we have provided to them. With a lot of what we do, we actually sit down with them. There is actually a presentation to them that draws on the information that is in the budget papers.<sup>88</sup>
- 2.29 The Treasurer went on to clarify that the collated written submission was effectively the budget.<sup>89</sup>

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<sup>85</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 64.

<sup>86</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 65.

<sup>87</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 27.

<sup>88</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 27.

<sup>89</sup> *Proof Transcript of Evidence*, 24 February 2021, p. 27.

## Recommendation 3

**2.30 The Committee recommends that the ACT Government supply, to the Standing Committee on Public Accounts, any documents that the ACT Government has supplied to the credit rating agency.**

2.31 To ascertain further details on the credit rating process the Committee queried the ‘specific fiscal measures that are reviewed and assessed and looked at and discussed in determining the credit rating.’<sup>90</sup> The Committee were advised that the credit agency, Standard and Poors (S&P), reported on these measures in their bulletin which was available on their website.<sup>91</sup>

2.32 In an Answer to a Question Taken on Notice the Treasurer supplied the following access details for the S&P Bulletin:

S&P Global Ratings’ credit ratings research can be accessed at  
<https://www.standardandpoors.com/en AU/web/guest/login>.

A registration process must be completed to access the website.<sup>92</sup>

2.33 The Under Treasurer further indicated that in assessing the viability of the territory, the credit agency would check indicators such as sustainability, liquidity, investment program, projected and the level of headline net operating balance.<sup>93</sup> Other specific indicators included standard metrics used by S&P such as:

- operating revenue;
- operating expenditures
- operating balance;
- operating balance (% of operating revenue);
- capital revenues;
- capital expenditure;
- balance after capital accounts;
- balance after capital accounts (%of total revenues);
- debt repaid;
- gross borrowings;
- balance after borrowings
- tax-supported debt (outstanding at year end);

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<sup>90</sup> Ms Lee MLA, *Proof Transcript of Evidence*, 24 February 2021, p. 27.

<sup>91</sup> *Proof Transcript of Evidence*, 24 February 2021, p. 27.

<sup>92</sup> *Answer to Question Taken on Notice No. 3*, answered 2 March 2021.

<sup>93</sup> *Proof Transcript of Evidence*, 24 February 2021, p. 28.

- tax-supported debt (% of consolidated operating revenue);
- interest; (% of operating revenue); and
- National GDP per capita (single units).<sup>94</sup>

## Recommendation 4

**2.34 The Committee recommends that the ACT Government publish current and historic credit agency reports, on the ACT Government website.**

## INTEREST RATES AND GOVERNMENT BORROWINGS

2.35 The Committee noted that interest rates were historically low, however also noted that this was not necessarily something that could be counted on moving forward. In discussing the impact of rising global debt levels and possible credit tightening and financial instability the Committee queried the impact of rising global interest rates on the ACT budget.

2.36 In response, the Under Treasurer told the Committee that the movement of interest rates:

...is going to be very dependent on both the global and the national situation.

Nationally, the Reserve Bank Governor has come out indicating that interest rates are going to stay low—I am paraphrasing slightly—for at least three years. He has come out and said that quite publicly. We are going to be in for a period of low interest rates for a number of years nationally, subject to other events.<sup>95</sup>

Globally, there is always a risk that, as economies pick up and as pressure moves, that can put upwards pressure on interest rates. The impact for us is really on the forward borrowing program and the costs to borrow. But it also has a flip side in that it flows through our returns as well; there is an increase in returns, potentially, from our investments as well. The borrowings at the moment are locked in; they will not change. This would only have an impact on the new borrowing program.<sup>96</sup>

2.37 The Treasurer further indicated that:

It is probably useful to quote the Reserve Bank Governor from the Reserve Bank Statement on monetary policy, February 2021:

The Bank announced another package of monetary policy measures in November. This included lower rates for the cash rate target, bond yield target, Term Funding Facility and remuneration on exchange settlement balances. It also included a program to purchase \$100 billion of government bonds over a period of about 6 months.

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<sup>94</sup> Global Ratings' Research Update report on the ACT's credit rating released on 10 September 2020 as supplied in *Answer to Question Taken on Notice No. 3*, answered 2 March 2021.

<sup>95</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 43.

<sup>96</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 43.

That bond purchase from the RBA is Australian government bonds, but also state and territory government bonds. We are getting a very small part of that. We are not seeking to borrow \$100 billion, but we are in the market for about \$1 billion. Our population share is 1.7 per cent. These are not absolutes, but as a rule of thumb the RBA might look at 1.7 per cent of a \$100 billion program, that being around \$1.7 billion, as broadly what the ACT would be looking for.<sup>97</sup>

We are not going to be borrowing our population share of that RBA \$100 billion pool, but it indicates that the paper will go through the Australian domestic banks, momentarily, and then be bought by the RBA. They are doing this with a view to making the cost of debt to government—they are giving us three years of certainty and saying that they will continue to intervene in the market to the extent necessary to give us that certainty.<sup>98</sup>

2.38 He went on to explain to the Committee that:

...it is a stated policy objective of the RBA to get some inflation back into our economy. That is why they are doing the quantitative easing. The whole point here is that they want to give confidence to the commonwealth and the states and territories. This is the most surety we have had in the bond market in living memory. It is an unprecedented level of RBA intervention.<sup>99</sup>

We can have a long discussion about modern monetary theory, but that would be a bit dull. Suffice it to say that, whilst they are not saying they can endlessly print money, our government debt is being bought by the Reserve Bank of Australia. It is not as though we are shipping the money off overseas; it is a pretty in-house transaction that is going on at the moment for reasons of economic support.<sup>100</sup>

2.39 During ongoing discussions it was noted that the estimated impact of an increase or decrease of 0.25 percentage point in the interest rate used to calculate interest costs was documented on page 301 of the budget papers Table J.4.<sup>101</sup> It was explained by Treasury that the table illustrated the future borrowing program across the forward years as opposed to covering all borrowings. The Committee was told that:

We have assumed that they will be undertaken at fixed rates, but when we set the budget, we base the fixed rates off the forward-looking curve at that point in time.<sup>102</sup>

If we have an assumed borrowing amount in a couple of years time of, say, \$2½ billion, I have assumed \$2½ billion times a 25 basis point movement, as an example. In the short term, if we had a credit rating downgrade and if, on our estimated cost of funds

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<sup>97</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 43.

<sup>98</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, pp. 43 – 44.

<sup>99</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 44.

<sup>100</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 44.

<sup>101</sup> ACT Budget 2020-21, *Budget Outlook*, p. 301.

<sup>102</sup> Mr McAuliffe, *Proof Transcript of Evidence*, 24 February 2021, p. 32.

today on our billion dollars that we are going to borrow, we get a downgrade, it is likely that, on that particular issue, there may be somewhere in the range of a five to 10 basis point impact...<sup>103</sup>

2.40 It was indicated that a movement of between 5 to 10 basis points would have an impact of several hundred thousand dollars.

2.41 In terms of total external territory market borrowings, it was noted that Figure 3.8.3 and Table 3.8.10 on page 198 of the budget papers illustrated the profile of the issuance and the interest rate on each issuance.<sup>104</sup> The Committee were told that these fixed bond rates have varying maturities that would be re-financed when due:

The prognosis in the short term is that the bond refinancing will lead to lower interest repayments on our market debt...[and] contributes to an improvement in the headline net operating balance and a reduction in expenses.<sup>105</sup>

## Recommendation 5

**2.42 The Committee recommends that the ACT Government pursue opportunities for lower cost financing.**

## ACT GOVERNMENT DEBT AND LAND SALES

2.43 The Committee asked the Treasurer about the government's degree of dependence on land sales to clear the current debt accrual and was informed that the ACT Government considered land sales to be categorised as being in the bottom half of the top ten revenue sources for the territory.<sup>106</sup>

2.44 The Treasurer explained to the Committee that he saw:

...land sales revenue as being a contributor to funding future infrastructure, perhaps more than I would see it as a contributor to paying down any debt. There could be exceptions to that, depending on the nature of the land sale, and I would perhaps distinguish that that is the expansion of residential housing from, for example, land sales associated with major project development within the City Renewal Authority area, for example, or in some of the identified urban infill sites.<sup>107</sup>

That would probably be the best distinction to draw in that, in large part, the revenue from land sales for suburban land, for residential blocks, has to cover the infrastructure

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<sup>103</sup> Mr McAuliffe, *Proof Transcript of Evidence*, 24 February 2021, p. 32.

<sup>104</sup> ACT Budget 2020-21, *Budget Outlook*, p. 198.

<sup>105</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 44.

<sup>106</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 45.

<sup>107</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 45.

costs both below ground and above ground—obviously the roads, schools, parks, all of that. So it will also depend on where the development occurs as to whether there is existing infrastructure you can plug into, and that the development costs of a new estate are more or less than the revenue that is achieved.<sup>108</sup>

- 2.45 It was agreed that a great deal of the revenue associated with the establishment of a new suburb or estate goes into consolidated revenue and is often re-invested in that suburb or estate. However, the Committee sought clarification on whether land sales were actually delivering a surplus or ‘helping the bottom line’.<sup>109</sup>

- 2.46 The Treasurer responded:

Not always, no. No. That is a fascinating question. I have asked Treasury on numerous occasions. It is very complex to model. The assumption that it always does is not correct; it depends very much on where the development occurs. Obviously, the more remote from the rest of the city’s infrastructure and the more expensive or challenging the terrain is in which to develop a new estate, the less likely it is to contribute.<sup>110</sup>

At a macro level that is why we have shifted to 70 per cent infill because clearly that leverages off our existing infrastructure.<sup>111</sup>

- 2.47 The Committee expressed concerns that this would mean that land sales were not, in fact, contributing to surpluses. The Treasurer agreed that land sales were not the key component of surpluses, and explained that:

...the asset sales that I refer to would be in infill sites that attract a particular premium that are on top of what would be considered business as usual. The point here is that I am not expecting new suburban development to cross-subsidise the rest of the city or to be a cash cow for debt repayment. There will be some asset sales and some land sales that could contribute to that task or that, hitting the market at the right time, would also either fully or partially offset an infrastructure investment.<sup>112</sup>

The best example of that, clearly, is light rail, where we have used land sales and the proceeds of those land sales to invest in the transport infrastructure. There is also a question of the initial capital injection from the sale and then also what level of economic activity that then generates in an ongoing revenue stream. I think where you are getting to is that, yes, you cannot rely on land sales exclusively to pay down debt; and that is certainly not the strategy we are pursuing.<sup>113</sup>

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<sup>108</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 2.

<sup>109</sup> Mr Coe MLA, *Proof Transcript of Evidence*, 24 February 2021, p. 2.

<sup>110</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 2.

<sup>111</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, pp. 3 – 4.

<sup>112</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 3.

<sup>113</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 3.

## Recommendation 6

**2.48 The Committee recommends that the ACT Government provide, to the Standing Committee on Public Accounts, the modelling for determining whether land sales will deliver a surplus, particularly considering a great deal of the revenue associated with the establishment of a new suburb or estate is often re-invested in that suburb or estate.**

## LAND RELEASE AND LAND SALES

2.49 The Committee asked the Treasurer about the plan to bring forward some land as part of the Indicative Land Release Program (ILRP) and how significant this would be in terms of dollars and the number of dwellings.

2.50 The Treasurer told the Committee that:

In calendar year 2019 the Suburban Land Agency sold a little over 200 dwelling sites. In calendar year 2020 they sold a little over 1,000, so five times the level of land sales in the last calendar year. They are the quantum figures. I had a briefing with them yesterday and asked the question as to whether that trend is continuing into 2021. In short the answer was yes, moderating slightly but still well above the 2019 figures.<sup>114</sup>

2.51 In terms of dwelling sites he indicated that:

...we are in the process of formulating the forward Indicative Land Release Program, so I cannot speculate at this point on what that quantum will be. But we have traditionally been, with a four-year program, from memory, between about 13,000 and 18,000 dwelling sites—so somewhere in that range. We think it is about 15,000 now.<sup>115</sup>

You have the greatest capacity to add more further out in the program. As you are very well aware, because we have discussed it for 12 years, there is a development pipeline in terms of land zoning, estate development planning et cetera, so you cannot just switch it on. It does take a couple of years to get land to market.<sup>116</sup>

The other obvious contributing factor to the total number of dwelling sites will also be large high-density sites that can go to market, because they are a couple of hundred and it is materially easier, obviously, as, again, we have discussed over the past decade, to get 200 units on the market than 200 single residential blocks, because the quantum of land required is much different.<sup>117</sup>

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<sup>114</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 58.

<sup>115</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 58.

<sup>116</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 58.

<sup>117</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 58.

As a general statement, the government's position was to seek to oversupply against the assessed level of demand. All these models are prepared by various entities and then they spit out a number, and we have intervened to ensure that the number supplied was greater than that number. I intend to continue that approach in the medium term.<sup>118</sup>

- 2.52 In terms of dividends the Treasurer acknowledged the budget papers indicated that this would decrease in 2022-23 and increase again in 2023-24.<sup>119</sup> He told the Committee that there would be both an element of bringing forward some land slated for 2023-24 and a degree of supplementation, i.e. rolling out some additional sites in the short term. In this context he indicated that:

The fact that 82,000 sold in 2019 meant there was quite a lot on the shelf ready to go for when the market rebounded. A lot of that has now been taken up, so we will need to get the supply side back. The SLA chair and CEO briefed me yesterday. This is obviously in Minister Berry's area, so they will be able, in their estimates, to give a lot more detail. But I was advised that there are more land releases coming in the four months that remain in this fiscal year and that work is well underway between the Planning Authority, the Suburban Land Agency and Treasury to provide cabinet with advice on the forward program for the next four years.<sup>120</sup>

I anticipate, in direct answer to your question, that there will be a need to bring some releases that were scheduled in the outyears forward as much as we possibly can. But bringing it forward is done in months: you generally cannot jump a whole year ahead but you might be able to bring something that was due to be released in July of 2023 into June or May of 2023, so it then comes forward a fiscal year. Then we will need to look at what additional land releases would be possible in the forward estimates in the third and fourth years of the four-year program. I will ask the City Renewal Authority to look at its forward land release program as well. That probably will not be exclusively residential but it would be mixed use, so there would be a residential component.<sup>121</sup>

- 2.53 Following on from the discussion on land supply, the Committee queried whether demand had also been brought forward or whether it was built-up demand due to insufficient supply. The Treasurer suggested that:

...the commonwealth's HomeBuilder program, together with our stamp duty concessions, has brought forward some investment decisions from households. That is where it deviates from the supply and demand model that is put together to sort of spit out what the market equilibrium number is. I think there is a bringing forward, but experience over more than a decade tells me that we have peaks and troughs and

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<sup>118</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 58.

<sup>119</sup> ACT Budget 2020-21, *Budget Outlook*, p. 156.

<sup>120</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, pp. 58 – 59.

<sup>121</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 59.



there can be some years when we sell only 200 and another year when we sell 1,000. But right now we have the lowest interest rates ever.<sup>122</sup>

Again, economics is a dismal science. Low interest rates mean asset price inflation, so you will start to see the housing market lift in terms of the value of properties. That would presumably, if supply and demand interact as per our understanding of microeconomics, start to have a dampening effect on demand. The thing that the Reserve Bank have said that possibly counteracts this a little is that investors will come back into the housing market in a big way because the return on housing assets will be stronger than what people are receiving, certainly from bank interest, and may be considered a better investment bet than the share market.<sup>123</sup>

It is hard to piece it all together and get into the mind of your swing investor who might go one way or the other, but I think those trends are there...there has been a little bit of a trend away from big cities and CBDs into smaller cities, regional areas and suburban areas as a result of COVID....In amongst all these market forces there are push and pull factors, as you have correctly identified.<sup>124</sup>

2.54 In relation to the impact of the Suburban Land Agency (SLA) on the market the Treasurer told the Committee that:

I guess the government policy around land release has largely been to have three tranches, three delivery models: the Suburban Land Agency, a joint venture between the SLA and private partners, and then just englobo sales that are released to the market by private developers. The SLA estates are pretty clearly outlined. The joint venture arrangements in Canberra at the moment are in the Ginninderry-west Belconnen precinct. Strathnairn and those suburbs are part of that joint venture arrangement. Then there are suburbs like Denman Prospect in the Molonglo Valley, an englobo sale where they are being released via a private developer.<sup>125</sup>

2.55 The Under Treasurer highlighted that Treasury has a role in ensuring that:

...land releases are being put out in a way that is good for the budget in the long term as well as the short term and keeping pressure on the SLA to meet those objectives, both in terms of the revenue estimates and also the amount of land that goes out.<sup>126</sup>

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<sup>122</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 59.

<sup>123</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 59.

<sup>124</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, pp. 59 – 60.

<sup>125</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 60.

<sup>126</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 60.

## Recommendation 7

**2.56 The Committee recommends that the ACT Government closely monitor developments in and pressures on supply and demand in relation to land release and land sales and be prepared to make adjustments necessary to avoid unmet demand.**

## STRATEGY TO RETURN TO SURPLUS

2.57 Following extensive discussion the Committee noted that asset sales did not appear to be the ‘driving force’ for paying down debt and that ‘cash surpluses’ were key.<sup>127</sup>

2.58 The Treasurer agreed noting that whilst asset sales contributed, cash surpluses were the largest contributor to reducing debt, as well as ‘the inflationary impact over the time value of money.’<sup>128</sup>

2.59 In this context the Committee wanted information as to when a return to cash surplus would occur. The Treasurer drew their attention to the Budget Papers, highlighting that the ACT would:

...return to operating cash surpluses in the next fiscal year. We may even do it in this fiscal year based upon improved revenue. Then those operating cash surpluses increase over the forward period.<sup>129</sup>

As an indicator of the government’s fiscal policy stance, we are not likely to return to a headline net operating balance service ahead of the commonwealth. The commonwealth, I think, have marked out a journey over the rest of this decade. It obviously will depend a bit on their revenue recovery; they will update that in their May budget and they may bring forward their anticipated return to balance and then to surplus. But it is a long journey back for them and given that they contribute about 55 per cent of our budget, what they do obviously has a very big impact on what happens for the territory. I add that announcements like this morning of \$132.5 million towards the light rail extension, help.<sup>130</sup>

2.60 The Under Treasurer told the Committee that:

On page 49 the net operating cash is set out. You can see in table 3.1.4 at the time of the EOFYU we expected to return to surpluses in net cash by 2022-23 as at the budget has come forward to 2021-22.<sup>131</sup>

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<sup>127</sup> Mr Coe MLA, *Proof Transcript of Evidence*, 24 February 2021, p. 4.

<sup>128</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 4.

<sup>129</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 4.

<sup>130</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, pp. 4 – 5.

<sup>131</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 5.

- 2.61 The Committee queried whether this was net operating cash in the GGS or consolidated accounts. The Under Treasurer confirmed that it was net operating cash and that:

The bits that are not in the GGS are set-up as entities that are intended to run and operate on a commercial or semi-commercial basis. They will have boards and are run in a way that will make investment decisions to reach that.<sup>132</sup>

If we focus on GGS as the bit the government is directly controlling, the PTs are set-up to run on that basis, so the government gives them the capacity to do that and make investment decisions on that basis.<sup>133</sup>

They are actually factored into the budget already.<sup>134</sup>

- 2.62 He went on to explain that:

All jurisdictions operate on a GGS basis when they are producing their budget bottom lines, and it is done for a reason because BDEs have a different operating environment. It is not uncommon or inconsistent.<sup>135</sup>

## Recommendation 8

- 2.63 The Committee recommends that the ACT Government outline the plan, including the timeline, to achieve surplus.**

## CONFIDENCE IN ECONOMIC FORECAST

- 2.64 The Committee noted the chart on page 16 of the Budget Advisers Report (as replicated below) and observed that the chart 'plots the previous forecast with regard to the return to surplus, and you can see a bit of a trend there.'<sup>136</sup>

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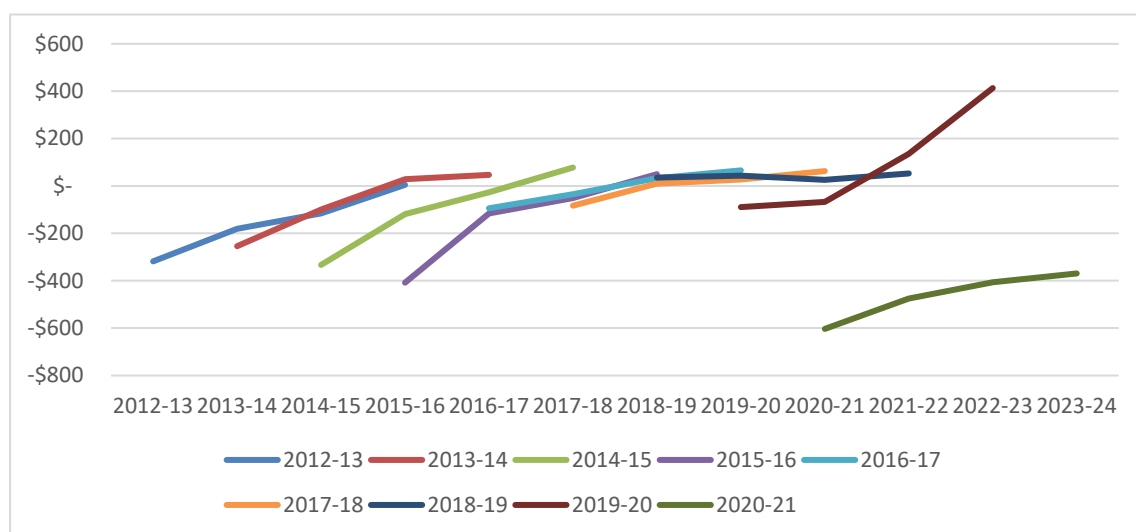
<sup>132</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 5.

<sup>133</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 5.

<sup>134</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 5.

<sup>135</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 6.

<sup>136</sup> Mr Coe MLA, *Proof Transcript of Evidence*, 24 February 2021, p. 10.

**Figure 3: Forecast returns to surplus (\$ million)<sup>137</sup>**

Sources: ACT Government (2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018a, 2019, 2021)

- 2.65 After some debate over the use of the table as a true reflection of the ACT Government's previously forecasted returns to surplus, the Treasurer acknowledged that he had 'not verified whether Pegasus in that table has accurately reflected every forward estimates forecast' and that he did not 'necessarily agree with everything in' the report.<sup>138</sup>

I am happy to answer questions, but I cannot verify someone else's report. If I can verify it and I disagree with it, I can tell you why; but I have not personally gone back and checked through the last 10 years of budget papers to see whether this table accurately reflects Treasury forecasts for that time.<sup>139</sup>

- 2.66 In this context the Committee asked the Treasurer how confident he was in his current forecast to return to surplus considering how difficult it is to forecast in the current climate and with evidence showing that previous forecasts over the past decade had not been achieved.<sup>140</sup>

- 2.67 The Treasurer agreed with the reference to there being a 'very uncertain economic environment.'<sup>141</sup> However, he told the Committee that 'as it has traditionally been, Treasury has been very conservative in its estimates and its forecasting' and disagreed with the Committee's view that previous forecasts were more ambitious and optimistic rather than conservative.<sup>142</sup> He explained that:

<sup>137</sup> Pegasus Economics, *Review of the ACT Budget 2020-21*, p. 16.

<sup>138</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 11.

<sup>139</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 12.

<sup>140</sup> Mr Coe MLA, *Proof Transcript of Evidence*, 24 February 2021, p. 10.

<sup>141</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 10.

<sup>142</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 10; *Proof Transcript of Evidence*, 24 February 2021, p. 10.

I am looking at page 273 of the BP 3, in terms of the history over the last 15 years or so. Two major shocks have contributed to the two largest deficits you see in appendix F on page 273. In 2014-15 it was Mr Fluffy, which I presume—touch wood—is a once-in-a-lifetime issue. As you then see from a deficit of \$479 million in 2014-15, we tracked our way back into surplus in 2017-18 and 2018-19. We then obviously got hit with COVID and you see the deficit figure for 2019-20 and what we are projecting for 2020-21, with an improving position over the forwards.<sup>143</sup>

That is a conservative outlook based upon a degree of caution and a view that we may not necessarily see the GST revenue return to where it would otherwise have been. I think that there is a couple of hundred million dollars a year difference in terms of the pre COVID forecasts to what we have now. The history tends to be that, all things being equal, forecasts at budget time ahead of a fiscal year have slightly overestimated how much the territory will spend both in capital and recurrent.<sup>144</sup>

The territory has somewhat underestimated commonwealth decisions in the period from their budget in May to the end of the fiscal year, where there has traditionally been a rushing out the door or an advance of payments to the states and territories.<sup>145</sup>

2.68 The Committee continued to question what level of confidence could be held for the current budget forecasts as compared with previous budget forecasts, particularly regarding ‘how and when’ the Government would move from a big deficit to surplus.

2.69 The Treasurer emphasised that:

...if you go back and look at forecasts and then actuals—we have achieved this before—coming from \$500 million down to an \$81 million surplus within the space of a forward estimates period. It has been done before in the last five years, so my view is, yes, there is more on the upside.<sup>146</sup>

I am showing you in the actuals from 2014-15 to 2017-18 and 2018-19 that I have done it before as Treasurer and we can do it again<sup>147</sup>.

2.70 The Treasurer denied any knowledge of changes in methodology for forecasting, emphasising that budget estimates and forecasting is ‘not an exact science.’<sup>148</sup> He was supported in this assessment by the Under Treasurer who told the Committee that:

One of the things with forecasts, as the Chief Minister pointed out, is that they are based on information you have at the time and situations change. For example, one of the drivers of changes in budget outcomes versus forecasts was, as the Chief Minister

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<sup>143</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 10.

<sup>144</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 10.

<sup>145</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, pp. 10 – 11.

<sup>146</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 11.

<sup>147</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 13.

<sup>148</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 12.

said, Mr Fluffy. That changed the circumstances and changed the estimates. That will give rise to pushing deficits or increasing deficits. The same with COVID—COVID was not built into our forecasts. When those shocks happen then things will change.<sup>149</sup>

- 2.71 The Under Treasurer went on to indicate that this was why there is an annual budget process which involves looking ‘at the circumstances at the time and [providing] the best advice that we can, using methodologies.’<sup>150</sup> He explained that:

We will change methodologies where we think that is appropriate. For example, in our economic forecasts for EOFYU we had a slight change in methodology. Previously we would build a lot of these things up from the bottom; in EOFYU we looked at a lot of the top-down forecasts for the country as a whole coming out of Reserve Bank and the commonwealth Treasury and leveraged off their forecast to realign our position.<sup>151</sup>

We will change things, but it will always be based on the best information we have at the time. The one thing about forecasts is that I can guarantee you the world will be different in four years and the number will be different, but I cannot tell you exactly how it will be different because I do not have that information at this time.<sup>152</sup>

## Recommendation 9

- 2.72 The Committee recommends that the ACT Government verify the figures, outlined in Fig 11, page 16, of the Pegasus Budget Advisers Report on the 2020-2021 Budget Estimates, and provide them to the Standing Committee on Public Accounts.**

## TAXATION REFORM

- 2.73 It was noted by the Committee that the ACT Government is nearly at the halfway point of its 20 year tax reform program, which began in 2012, and asked the Treasurer how it was progressing.

- 2.74 The Treasurer told the Committee that:

...we wanted to undertake some further reforms that would stimulate activity whilst remaining true to the objective of the tax reforms, which is to transition away from insurance taxes and stamp duties and transition those revenue lines to our broad-based land tax and rates. So the decisions that we took were to accelerate some stamp duty reductions for particular property types, namely purchases of new land and purchases of off-the-plan townhouses, units and the like, with benefits targeted mostly

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<sup>149</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 12.

<sup>150</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 12.

<sup>151</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 12.

<sup>152</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 12.

at the lower half of the market but with some concessions extending up into the midpoint of the unit market.<sup>153</sup>

I guess the principles there were that we would continue to cut stamp duty and that we would ensure that the revenue replacement would occur through our most efficient revenue base. Those principles will continue. What we have done now has been clear in terms of certainty of the level of increase across the entire rates base for the next five-year phase. The difference between that and the wage price index gives us the wriggle room around which stamp duty we cut, because effectively the previous policy setting was that rates went up by the wage price index.<sup>154</sup>

The reform setting is that rates are going up by 3.75 per cent over the next five years. The difference is the money available to cut stamp duty and those decisions around where we go on stamp duty, which areas we will focus on. The next wave of stamp duty reduction will be announced ahead of the August budget.<sup>155</sup>

- 2.75 The Committee highlighted the payroll tax conditions for corporates who have a portion of their workforce in the ACT and queried the threshold arrangements that applied. In an Answer to a Question Taken on Notice the Committee were informed that:

...the proportion of the ACT payroll tax threshold a taxpayer can claim is the proportion of ACT wages to Australia wide wages. For example, a taxpayer which pays 50 per cent of its Australia wide wages to ACT staff could claim 50 per cent of the payroll tax threshold (i.e. \$1 million).<sup>156</sup>

- 2.76 In the same context the Committee queried the portion of payroll tax that came from companies that are almost exclusively ACT based as opposed to national companies that have a relatively small portion of their staff in the ACT.<sup>157</sup>

- 2.77 The number of businesses claiming varying levels of the payroll tax free threshold, for 2019-20, was provided to the Committee in an Answer to a Question taken on Notice.<sup>158</sup> The same table, as per below, also indicated 'the number of taxpayers with a predominantly ACT based workforce.'<sup>159</sup>

Percentage of threshold claimed	No. of Taxpayers
Up to 10 per cent	1207

<sup>153</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 53.

<sup>154</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, pp. 53 – 54.

<sup>155</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 54.

<sup>156</sup> *Answer to Question Taken on Notice No. 6*, answered 12 March 2021.

<sup>157</sup> Mr Coe MLA, *Proof Transcript of Evidence*, 24 February 2021, p. 52.

<sup>158</sup> *Answer to Question Taken on Notice No. 6*, answered 12 March 2021.

<sup>159</sup> *Answer to Question Taken on Notice No. 6*, answered 12 March 2021.

10 to 20 percent	119
20 to 30 percent	76
30 to 40 per cent	40
40 to 50 percent	33
50 to 60 per cent	28
60 to 70 percent	30
70 to 80 per cent	35
80 to 90 per cent	42
90 to 100 per cent	88
100 percent	176

2.78 The 'proportion of payroll tax revenue paid in 2019-20 by the largest 100 payroll tax paying entities' was provided in an Answer to a Question Taken on Notice as per the table below:<sup>160</sup>

<b>Number of entities, ranked by size of payroll tax liabilities</b>	<b>Proportion of 2019-20 payroll tax revenue (per cent)</b>
10 largest	22
20 largest	31
30 largest	37
40 largest	42
50 largest	46
60 largest	49

<sup>160</sup> Answer to Question Taken on Notice No. 6, answered 12 March 2021.



70 largest	51
80 largest	54
90 largest	56
100 largest	57

2.79 The Committee then sought to discuss possible changes to payroll tax, particularly the possibility of moving from a threshold and rate lever model to a more complex banding or multi-tier system, so as to provide an incentive to ACT businesses.

2.80 The Treasurer indicated changes to the payroll tax model had been considered some years ago:

I guess there has been some research done over the years about whether, once ticking over the threshold, you would pay \$6,850 in payroll tax for every new employee—assuming an average employee is on \$70,000 or \$80,000.<sup>161</sup>

I can state that I do recall looking at a tiered system back in 2011-12 or 2012-13. I remember asking a very similar question. It has not been considered since then, so there would no advice prepared since then.<sup>162</sup>

2.81 In an Answer to a Question Taken on Notice the Treasurer further informed the Committee what measures had been considered:

Treasury has provided advice on a range of options for payroll tax rates and tax-free thresholds for the government's consideration, including approaches with multiple marginal tax rates. A key objective of these alternative approaches is to support ACT-based businesses by applying lower average tax rates to employers (or groups) with a higher proportion of their payroll in the ACT and/or with lower Australia-wide wages.<sup>163</sup>

The current payroll tax system, with a variable tax-free threshold on total wages, achieves the same result without the need for a different thresholds and rates. It means that employers (or groups) with the same ACT wages are in fact taxed at different average tax rates based on the proportion of their payroll in the ACT. For example, an employer (or group) with ACT wages of \$4 million and no wages paid outside of the ACT is taxed at an average tax rate of 3.43 per cent (paying \$137,000). An employer (or group) with the same ACT wages but with only 5 per cent of its total

<sup>161</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 55.

<sup>162</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 56.

<sup>163</sup> *Answer to Question Taken on Notice No. 7*, answered 3 March 2021.

wages paid in the ACT (that is, with \$76 million interstate wages) is taxed at a higher average tax rate of 6.68 per cent, paying \$267,150.<sup>164</sup>

2.82 In the same Answer to a Question Taken on Notice the Treasurer surmised that:

The current variable tax-free threshold approach is administratively simpler and less costly for both the government and taxpayers than setting different marginal tax rates or thresholds for different types or sizes of employers.<sup>165</sup>

2.83 The Under Treasurer also indicated that there were a number of areas that needed to be considered when any tax reform was proposed:

All tax reforms are weighed up against fairly standard criteria. Obviously, complexity or simplicity is one; efficiency is another. And when we look at things like simplicity, it is not only for us to collect it and to verify that taxpayers are paying the right amount; it is for the taxpayers to fill out the forms and to understand that. So we weigh it all up.<sup>166</sup>

## Recommendation 10

**2.84 The Committee recommends that the ACT Government explore options to reform the payroll tax system, particularly how it can be modified to incentivise ACT businesses.**

## COMMONWEALTH INFRASTRUCTURE INVESTMENT IN THE TERRITORY

2.85 During discussions about infrastructure development the Committee asked about the impact that Commonwealth infrastructure investment in the ACT has on ACT Government decision making.

2.86 The Committee was informed that projects where the Commonwealth and Territory governments are partnering are mainly in relation to transport and infrastructure.<sup>167</sup> However, in relation to whether the ACT or the Commonwealth is the lead decision maker on jointly funded projects, the Treasurer indicated that it was variable and explained that:

In the case of light rail, we obviously had committed to the project and it was a multi-year advocacy approach from us to get the commonwealth to contribute. Light rail stage 1 is another example where we committed and then found a way utilising a

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<sup>164</sup> Answer to Question Taken on Notice No. 7, answered 3 March 2021.

<sup>165</sup> Answer to Question Taken on Notice No. 7, answered 3 March 2021.

<sup>166</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 56.

<sup>167</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 8.

commonwealth program—the asset recycling initiative—to get a commonwealth contribution.<sup>168</sup>

In other instances, because the commonwealth own the asset but there is a benefit to the territory, they will seek to partner with us but they would be the lead agency. An example is Parkes Way within the parliamentary triangle, so between the two bridges but obviously on the edge of our CBD. That is both a bit of a traffic bottleneck but a commonwealth-owned asset and its alignment is rather important to a future infrastructure project in the CBD.<sup>169</sup>

That is one where we have talked to them and highlighted the issue but said, “This is your asset,” so in their budget they came forward with some funding. They pointed out to us that we would be a beneficiary in that if the road was somewhat realigned and shifted, it would free up some land for us, so they asked, “Can you partner with us,” and we said yes. In other instances, the commonwealth will put up a particular project that we may not be inclined to support, and we may not do it.<sup>170</sup>

but there is collaboration, particularly in the transport and infrastructure areas, where they will talk to our directorate. We will put forward a list of projects through the Infrastructure Australia process. I can make the general observation that it has been harder but not impossible— because we have done it—to get commonwealth co-investment in public transport than it has been in road projects.<sup>171</sup>

2.87 The Committee then sought clarification on whether a Commonwealth announcement or ideological approach in relation to transport or infrastructure, would create a commitment or expectation that the ACT will match the Commonwealth funding and how this would be reconciled.

2.88 In response, the Treasurer indicated that this is always a risk, and gave the example of the Monaro Highway, pointing out that

... if you took either argument to its logical extreme, you would either build no roads ever—which I do not think is feasible—or you just keep on widening every road and ultimately Canberra looks a lot like Los Angeles. Either is valid. We try and find a point that is a reasonable level of infrastructure and then you also have to contemplate infrastructure utilisation.<sup>172</sup>

2.89 However, the Treasurer also observed that:

... there certainly is a policy shift and there is an investment shift as the city has grown away from let’s just add another lane as the approach to addressing increased

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<sup>168</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 8.

<sup>169</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 8.

<sup>170</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 8.

<sup>171</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 8.

<sup>172</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 9.

population, demands on infrastructure, and the smarter utilisation of that infrastructure.<sup>173</sup>

There is certainly more money being invested in public transport infrastructure, in walking and cycling infrastructure.... We have a definite shift in terms of utilising existing infrastructure and seeing transit-oriented development, both commercial and residential, focused on our major transport corridors that are well serviced by public transport.<sup>174</sup>

- 2.90 He further indicated that the while the Commonwealth understandably had a history of focusing on road infrastructure, there was a gradual shift away from this, with Light Rail being a clear example, not only in the ACT but also in Brisbane and the Gold Coast.<sup>175</sup>

If I were to make a general statement, state and territory governments have been doing more investment in this area for longer than the commonwealth.<sup>176</sup>

## Recommendation 11

- 2.91 The Committee recommends that the ACT Government continue to seek federal funding in accordance with ACT Government priorities.**

## COMMUNITY GRANTS

- 2.92 The Committee asked about the possible ‘skewing’ of community grants towards, for example, established groups, English speaking groups or more politically astute groups and how the ACT government was ensuring access to these grants by groups who need them.

- 2.93 The Treasurer acknowledged there is a ‘benefit for being attuned to the process and understanding how things work’ and that more established groups would naturally have a better ‘understanding of a grants process.’<sup>177</sup>

- 2.94 He went on to explain to the Committee that

I think the institutional issues are not so much about a bias against new groups, except perhaps in the context of an assessment criteria for a grant where demonstrating past experience in delivering a program or an outcome would be difficult if you were a brand new group.<sup>178</sup>

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<sup>173</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 9.

<sup>174</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 9.

<sup>175</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 10.

<sup>176</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 10.

<sup>177</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 22.

<sup>178</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 22.

This does put the public servants who are undertaking assessments or the independent panels who undertake assessments for grant projects in a degree of difficulty because, obviously, there is accountability also about where government grants go. There needs to be an appropriate balance struck.<sup>179</sup>

2.95 The Treasurer identified a number of models that were being adopted by directorates to address some of the unintended outcomes of grant processes. He told the Committee that these included:

- having different tiers of grant programs according to a quantum of money or quantum of risk; and
- having an auspicing body who can act as an experienced party to assist the new organisation with governance, acquitting grants, delivering programs and projects and submitting applications.<sup>180</sup>

2.96 The Committee acknowledged these efforts, however queried what the government is doing to further address these 'skews'.

2.97 The Committee was told that, in addition to the above models, steps were being taken:

- to provide early advice to organisations around reasons why they may not be successful or eligible for a particular grant program;<sup>181</sup>
- to benchmark the operation of grants programs in terms their efficiency for an administrative cost to dollars granted perspective;<sup>182</sup>
- to have a whole of government standardisation of application processes that can make it easier for groups to do so;<sup>183</sup>
- to review the guidelines for grants;<sup>184</sup>
- to ensure a framework of assessment;<sup>185</sup>
- to determine policy interventions that will restrict pools of grant money for groups that have been missing out;<sup>186</sup>
- to enable Treasury to advise on best practice;<sup>187</sup> and

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<sup>179</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 22.

<sup>180</sup> *Proof Transcript of Evidence*, 24 February 2021, p. 22.

<sup>181</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 23.

<sup>182</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 23.

<sup>183</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 23.

<sup>184</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 23.

<sup>185</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 23.

<sup>186</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 24.

<sup>187</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 23.

- to support the office of Multicultural Affairs in their work with the wide variety of multicultural groups around access to programs and projects and to address the English as a second language challenge.<sup>188</sup>

2.98 The Treasurer told the Committee that:

.. I do not want you to take from my statement that agencies are not looking at this and there have not been some very successful interventions over time. Can you do more? Of course.<sup>189</sup>

2.99 The Committee then raised the issue of the uncertainty of ongoing funding for community groups, even when grants were awarded, as most grants did not extend past one or two years of funding. They queried the possibility of extensions and longer grant periods.

2.100 After informing the Committee that most information on the amounts and duration of grant funding for programs and projects could be located on individual Directorate websites, the Treasurer explained that:

There are some tenders that involve larger sums that become a five-year or a five-year with an option for extension, in certain directorates. Beyond that it does get very difficult. Those ones, I hasten to add, tend to be where there is a joint ACT-commonwealth government national partnership agreement.<sup>190</sup>

One of the frustrating things in the past has been that those agreements have been kicked on just 12 months at a time, but over the last few years we have resolved a few of them.<sup>191</sup>

I look at Stephen and laugh because this is a standing agenda item for the Treasurers meeting. Treasurers get the frustration that you guys have expressed through their portfolio ministers. That gets bounced up to Treasury to try to resolve. We have been around this merry-go-round a few times; but it is better than it was.<sup>192</sup>

2.101 When pressed on programs that do not have federal government involvement, the Treasurer told the Committee that it was possible to look at three year grants or similar arrangements to keep programs going:

It is conceivable, within the bounds of not binding future governments and then, I guess, the quantum of money and capacity, to have to go back to the market to tender. There are certain procurement rules that are in place as well; no community organisation gets a job for life.<sup>193</sup>

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<sup>188</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 23.

<sup>189</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 24.

<sup>190</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 25.

<sup>191</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 25.

<sup>192</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 26.

<sup>193</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 26.

2.102 However, the Under Treasurer indicated that it was important to note:

... some of these arrangements are much more in procured services or contracts; they are not necessarily grants. We do make a distinction between what is a grant program and what are community services.<sup>194</sup>

2.103 In this context the Committee were told that there had been improvements, particularly in the community services directorate:

There would be many examples where one year has turned into three, three have turned into five and five with an option within the community sector directorate reform program.<sup>195</sup>

## Recommendation 12

**2.104 The Committee recommends that the ACT Government simplify the grant application process for community groups and facilitate appropriate supports, feedback, and guidance for less established groups such as:**

- such as new categories of grants;
- regular reviews of grant guidelines;
- standardisation of grant application and grant assessment processes across Directorates; and
- regular reviews of frameworks for grant assessments.

## Recommendation 13

**2.105 The Committee recommends that the ACT Government consider policy interventions; such as new categories of grants; so as to work towards a more equitable dissemination of funding.**

## BUSINESS CASE JUSTIFICATION FOR POLICY DECISIONS

2.106 The Committee asked how the ACT government justified their policy decisions, and whether a business case was routinely developed for new policy decisions.

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<sup>194</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 26.

<sup>195</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 26.

2.107 In response the Committee was informed that a business case is developed, however, as they are ‘cabinet in confidence’ they are not available to the Committee.<sup>196</sup>

## **Recommendation 14**

**2.108 The Committee recommends that the ACT Government provide greater transparency into business cases developed for policy decisions.**

## DISCLOSURE OF KEY ACCOUNTING POLICIES AND TREATMENT OF PUBLIC-PRIVATE-PARTNERSHIPS (PPPs)

2.109 The report of the Committee’s budget advisors noted that the Budget financial statements are titled “GFS/GAAP HARMONISED FINANCIAL STATEMENTS” which suggests that they were prepared in accordance with Australian Accounting Standard AASB 1049. That standard is the basis of the Australian Heads of Treasuries Uniform Presentation Framework (UPF) and requires compliance with all other applicable standards.<sup>197</sup>

2.110 The report notes that:

Unlike several other Australian jurisdictions, including the Commonwealth, the basis of accounting and the key accounting policies and assumptions adopted in preparing the statements, except in respect to Public Private Partnerships and Concessional Loans, Appendix G, have not been disclosed.<sup>198</sup>

2.111 In relation to Public Private Partnerships (PPPs) the Under Treasurer told the Committee that as there was no standard at the time they were initiated:

The approach that the ACT took was consistent with that being taken by other jurisdictions around at the time. It was a UK standard at that time, and that was the general approach. The new accounting standard that relates to PPPs has now passed through, and we will reflect that fully in our statements.<sup>199</sup>

The difference between the two, at this point, is almost negligible, because the PPPs are already fully on our balance sheet and the new standard will have brought them on. The difference is really around the timing at which you bring them on. One, you can bring them on as they are complete and they come into operation. Two, you can bring them on as they are built. The new standard will have them coming on as the assets

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<sup>196</sup> *Proof Transcript of Evidence*, 24 February 2021, p. 41.

<sup>197</sup> Pegasus Economics, *Review of the ACT Budget 2020-21*, p. 46.

<sup>198</sup> Pegasus Economics, *Review of the ACT Budget 2020-21*, p. 46.

<sup>199</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 62.



are constructed. But at the end of the day they are going to be the same. The impact of that change and bringing the new accounting standard on the ACT's balance sheet for the PPPs is almost negligible.<sup>200</sup>

2.112 When asked when the new standards would be brought on, the Under Treasurer indicated that:

We bring them in at the time the standards actually come in. It started this year. You will see it in our financial accounts. The consolidated financial accounts for this year will be fully reflective of that accounting standard.<sup>201</sup>

## COMMITTEE COMMENT

2.113 The Committee notes the possible difficulties of consolidating different agencies accounting standards but believes that the budget papers could be clearer on the accounting principles adopted, even if simply to highlight that the budget consists of consolidated figures possibly derived from differing standards. A list of AASB standards that were applied to the budget are not included in the Readers Guide to the 2020-21 Budget.

### Recommendation 15

**2.114 The Committee recommends that the ACT Government provide clearer disclosure of the key accounting principles it has adopted in its budgets.**

### Recommendation 16

**2.115 The Committee recommends that the ACT Government implement new accounting standards for Public-Private Partnerships (PPPs), ensuring that relevant historical revisions to key tables and graphs are also made available.**

## ELECTION COMMITMENTS

2.116 The Committee noted that the Treasury has a defined role, as part of the Election Commitments Costing Act, and asked whether Treasury actively works on the election commitments following the election or if the incoming government gave directions that superseded the commitments that had been processed during the campaign.<sup>202</sup>

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<sup>200</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 62.

<sup>201</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 62.

<sup>202</sup> *Proof Transcript of Evidence*, 24 February 2021, p. 45.

**2.117 The Treasurer told the Committee that**

It is a bit of both. Treasury have done costings on all the things that were submitted in the process, so they are aware of those. When they come forward in the budget process, there would be a refresh and an examination of the costings undertaken in 2020 and whether they are still accurate for 2022, 2023 or whatever the time frame is.<sup>203</sup>

Principally, though, the guidance will come from cabinet, based on the advice of the Expenditure Review Committee, based on the letters of authorisation that I as Treasurer provide to ministers to bring forward items that are contained within the parliamentary and governing agreement or are election commitments of the governing parties. That is how the formal process works.<sup>204</sup>

I will write to ministers and say, “I would like you to bring forward business cases for the following parliamentary and governing agreement items or the following election commitments,” noting that in some instances the parliamentary agreement items reflect almost a direct overlap in election commitments from the Labor Party and the Greens. As an example, we both committed to providing, I think, \$2 million to \$3 million in additional expenditure on tourism and marketing—exactly the same commitment. We do not deliver that commitment twice; we deliver it once. Therefore, two election commitments became one business case because they were identical, effectively.<sup>205</sup>

**2.118 The Treasurer noted some additional examples, including when:**

...the Labor Party put forward a policy commitment around the sustainable household scheme. We said we would provide interest-free loans of between \$2,000 and \$15,000 for a variety of products. The Greens party put forward an election commitment that indicated they were happy with our program and wanted to provide some additional benefits for the purchase of some items that were not contained within the Labor Party election commitment. In the parliamentary and governing agreement, we reached a consensus and, within the confines of the fiscal envelope that was the Labor Party commitment, added some of the additional items that the Greens party wanted. The commitments were merged, honouring both agreements.<sup>206</sup>

**2.119 The Committee acknowledged that the Greens and Labor would provide annual updates on the implementation of the parliamentary agreements, however queried the status of the commitments that had been costed by Treasury and what the Treasury process was for tracking and developing election commitments.**

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<sup>203</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 45.

<sup>204</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 45.

<sup>205</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 46.

<sup>206</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 46.

2.120 The Treasurer explained that:

For the parliamentary and governing agreement questions, yes. I can then ask, and I do, how we are tracking against those. We do publish that information. But the list of election commitments is very transparent, and it is there on the Treasury website.<sup>207</sup>

2.121 The Treasurer indicated that in terms of monitoring, 'Treasury would go back there in assessing the business cases as they come forward as budget bids,'<sup>208</sup> however:

The checklist, such as it is, would be the policies that are submitted and are on the costings website. I do not believe Treasury do the monitoring of that; it is done by the Cabinet Office. It is the same directorate, but it is not done by Treasury per se. That is done at my request. I do not have to do that, but I do, in order to keep track of our progress in implementing.<sup>209</sup>

I have mandated Treasury to begin work on the Sustainable Household Scheme and the concessional loans arrangements that relate to Treasury as a portfolio agency. But Treasury is not developing policy or programs for other agencies. They will provide advice to me, as Treasurer, on whether what is coming forward from the directorate as part of a bid from a portfolio minister accords with the election commitment: whether it is what they said they would do and whether it is consistent with the fiscal parameters around the project or program. Treasury have already provided me with advice that a couple of bids were seeking more money than we committed to in the election. I was well armed in that ERC meeting to go, "No, this is more than what we committed to. We are spending only what we committed to."<sup>210</sup>

2.122 The Treasurer explained that the full 'lists are kept more informally at a political level and as requested by cabinet.' As 'not every election commitment has a financial implication' not all election commitments are in in the budget papers. Despite this, he indicated that a number are submitted with zero cost, as part of election costings so as to assess whether there are any financial implications, 'A zero return is not saying that there is a ledger within Treasury.'<sup>211</sup>

## Recommendation 17

**2.123 The Committee recommends that the ACT Government provide more detailed reporting of election commitments and their implementation.**

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<sup>207</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 47.

<sup>208</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 46.

<sup>209</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 46.

<sup>210</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 47.

<sup>211</sup> Mr Barr MLA, Treasurer, *Proof Transcript of Evidence*, 24 February 2021, p. 48.

## BUDGET PAPER DISCREPANCIES

2.124 During the course of the hearing the Committee noticed that the online version of the Budget Papers differed in numbering from the hard-copy version and raised this with the Treasurer.

The Under Treasurer indicated that:

When the first printed versions came out, page 1 skipped the inside pages. The online version starts from page 1, so there will be a two-page difference on everything in the budget outlook.<sup>212</sup>

### **Recommendation 18**

**2.125 The Committee recommends that the ACT Government update the page numbers of the electronic version of the Budget Papers to reflect the hard-copy documents.**

## DELINEATION OF SCRUTINY RESPONSIBILITIES FOR STANDING COMMITTEES

2.126 During the course of the hearing the Committee was informed that there were a number of questions asked of the Treasurer and Treasury officials that had already been asked of them by the Standing Committee on Economy and Gender and Economic Equality (EGEE).

2.127 It was also noted that even when questions differed there was still significant overlap in relation to the topics discussed. As each Assembly committee cannot use evidence asked for by, and given, to another committee (except in certain circumstances and with express permission), this could not be avoided.

2.128 It was discussed that some change or clarification in Committee responsibilities would be needed prior to the next Budget Estimates.

### **Recommendation 19**

**2.129 The Committee recommends that the duties of the Standing Committee on Economy and Gender and Economic Equality and the Standing Committee on Public Accounts are further clarified in relation to their scrutiny roles, including their examination of annual reports and budget estimates.**

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<sup>212</sup> Mr Miners, *Proof Transcript of Evidence*, 24 February 2021, p. 17.

## 3 OFFICERS OF THE LEGISLATIVE ASSEMBLY

### ACT OMBUDSMAN

- 3.1 The ACT Ombudsman's role is to resolve complaints and monitor the actions of government agencies and the police under the *Ombudsman Act 1989* (ACT) and other legislation. In addition to complaint handling, the Ombudsman performs other specialist functions for the ACT in relation to freedom of information, reportable conduct, public interest disclosures and monitoring of police use of covert powers. Most recently the ACT Ombudsman has added the role of Inspector of the ACT Integrity Commission.<sup>213</sup>

### MATTERS CONSIDERED

- 3.2 Matters considered by the Committee in relation to the Ombudsman included:

- increasing levels of complaints;<sup>214</sup>
- increasing number of complaints for Access Canberra;<sup>215</sup>
- complaints in relation to Integrity Commission;<sup>216</sup>
- geographical distribution of complaints;<sup>217</sup>
- marketing of ombudsman function;<sup>218</sup>
- target for closing complaints;<sup>219</sup>
- criteria for investigations;<sup>220</sup>
- resources;<sup>221</sup>
- independence - Commonwealth role vs ACT role;<sup>222</sup>
- reviews of FOI decisions and open access;<sup>223</sup>

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<sup>213</sup> ACT Ombudsman, <https://www.ombudsman.act.gov.au/dev/about-us/who-we-are?a=103812>, accessed 14 March 2021.

<sup>214</sup> *Proof Transcript of Evidence*, 5 March 2021, p. 96.

<sup>215</sup> *Proof Transcript of Evidence*, 5 March 2021, pp. 97 – 98; p. 100.

<sup>216</sup> *Proof Transcript of Evidence*, 5 March 2021, pp. 98 – 100.

<sup>217</sup> *Proof Transcript of Evidence*, 5 March 2021, p. 100.

<sup>218</sup> *Proof Transcript of Evidence*, 5 March 2021, pp. 96 – 97.

<sup>219</sup> *Proof Transcript of Evidence*, 5 March 2021, pp. 102 – 103.

<sup>220</sup> *Proof Transcript of Evidence*, 5 March 2021, p. 103.

<sup>221</sup> *Proof Transcript of Evidence*, 5 March 2021, pp. 103 – 104.

<sup>222</sup> *Proof Transcript of Evidence*, 5 March 2021, p. 104.

<sup>223</sup> *Proof Transcript of Evidence*, 5 March 2021, p. 101; p. 105.

## KEY ISSUES

### REVIEW OF FOI DECISIONS AND OPEN ACCESS

- 3.3 The Committee asked about the reviews undertaken by the Ombudsman in relation to freedom of information (FOI) decisions.
- 3.4 The Ombudsman indicated that all the reviews of FOI decisions were published on the Ombudsman's website and told the Committee that, in relation to outcomes and observations, his office had noted that:

...there are a number of occasions where we have either set aside a decision completely or amended the decision to include, typically, that more be released than had hitherto been released. I think the high-level story is that this Assembly a few years ago passed new FOI laws that were deliberately pro-disclosure in their bias; there is a pro-disclosure emphasis in the laws.<sup>224</sup>

I think it is fair to say that the law requires that directorates be more open with what they release than had hitherto been the case. I think some of them have been on a journey there—that is to say, we have been working closely with them over the last few years around helping them understand what the new laws actually mean and working through the sorts of tests that apply.<sup>225</sup>

Within the law, there are a series of tests. The process that a decision-maker has to go through is to identify from the law what are the tests that support disclosure of information. Then there are a set of tests that have to be considered that do not support it—in effect, public interest tests that say, “It would be better to keep this secret.” They have to identify both and weigh them up.<sup>226</sup>

The other point I would make is that in a number of the instances that we have revisited we have felt that not enough emphasis and not enough effort was placed on really thinking through the pro-disclosure tests and why they ought to be brought to bear. That is a fairly general answer. If you would like us to do some sort of deeper analysis of the dozen or so decisions that fall under these categories, I am happy to take that on notice and send you something.<sup>227</sup>

- 3.5 In an Answer to a Question Taken on Notice the Ombudsman told the Committee that:

When agencies are deciding if information is contrary to the public interest to disclose, they are required to conduct a public interest test, set out in s 17 of the Freedom of Information Act 2016 (the FOI Act). This test requires the decision-maker to identify all

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<sup>224</sup> Mr Manthorpe, ACT Ombudsman, *Proof Transcript of Evidence*, 5 March 2021, p. 101.

<sup>225</sup> Mr Manthorpe, ACT Ombudsman, *Proof Transcript of Evidence*, 5 March 2021, p. 101.

<sup>226</sup> Mr Manthorpe, ACT Ombudsman, *Proof Transcript of Evidence*, 5 March 2021, p. 101.

<sup>227</sup> Mr Manthorpe, ACT Ombudsman, *Proof Transcript of Evidence*, 5 March 2021, p. 101.

factors favouring disclosure, and the factors favouring nondisclosure, and conduct a balancing test to determine if information is in the public interest to disclose.

Through our reviews, we have observed some agencies do not always identify all relevant factors favouring disclosure prescribed in Schedule 2, s 2.1 of the FOI Act. This means that some relevant factors are not considered in deciding whether material should be disclosed. Where all relevant factors have been weighed, agencies do not always give clear or sound reasons for the weight they have given to each factor.

There is no single agency responsible for this trend. We have observed there is room for improvement across ACT agencies generally.<sup>228</sup>

3.6 In later discussions the Committee sought clarification on the decrease in open access information.

3.7 The Ombudsman indicated that there was in fact a decrease in the decisions 'not to publish':

There has been a material increase in the number of decisions to publish open access information in 2019-20. I hope that that continues in 2020-21. I do not have data with me about the number of decisions that have been made in 2020-21, but it was materially more decisions to publish in 2019-20 than in the previous year.<sup>229</sup>

There have been more decisions to publish, which suggests that the agencies are on a journey to putting more out there, which is what the act requires, and I think that is a good thing. There are fewer decisions not to publish.<sup>230</sup>

3.8 The Ombudsman advised that they were looking into this trend:

What was not clear at the time we wrote this report, and it is something we are looking at more closely, was whether the decrease in decisions not to publish means there is less being put in the public domain or whether there is just more material out there that they are not making a decision about at all. I understand the point of your question.<sup>231</sup>

## Recommendation 20

**3.9 The Committee recommends that the ACT Ombudsman continue to investigate the reasons for the decrease in decisions 'not to publish' open access information.**

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<sup>228</sup> Answer to Question Taken on Notice No. 16, answered 15 March 2021.

<sup>229</sup> Mr Manthorpe, ACT Ombudsman, *Proof Transcript of Evidence*, 5 March 2021, p. 105.

<sup>230</sup> Mr Manthorpe, ACT Ombudsman, *Proof Transcript of Evidence*, 5 March 2021, p. 105.

<sup>231</sup> Mr Manthorpe, ACT Ombudsman, *Proof Transcript of Evidence*, 5 March 2021, p. 105.

## AUDITOR GENERAL

### 3.10 The Budget 2020-21, Budget Statements A, states that

The ACT Auditor-General (Auditor-General) is an Independent Officer of the Legislative Assembly. The ACT Audit Office (Audit Office) supports the Auditor-General in carrying out its activities.

The Audit Office aims to promote public accountability for the effective and efficient provision of ACT public services by providing independent, evidence-based audit reports to the ACT Legislative Assembly and ACT community.

The Auditor-General Act 1996 provides the Auditor-General with complete discretion in selecting audit topics and performing audits. The Auditor-General makes recommendations to ACT-Government agencies and ACT Legislative Assembly committees on how improvements could be made to services and programs provided by the ACT public sector.

The Auditor-General also responds to representations and public interest disclosures made by members of the ACT Legislative Assembly and ACT community.<sup>232</sup>

## MATTERS CONSIDERED

### 3.11 Matters considered by the Committee in relation to the Auditor General included:

- engagement with MLAs;<sup>233</sup>
- performance audit costs;<sup>234</sup>
- operating costs and financial position;<sup>235</sup>
- criteria for an audit;<sup>236</sup>
- process of appointing auditor for audit of Audit Office accounts;<sup>237</sup>
- managing contractors assigned to performance audits;<sup>238</sup> and
- implementation of Auditor General recommendations by government.<sup>239</sup>

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<sup>232</sup> ACT Budget 2020-21, *Budget Statements A, ACT Executive, ACT Integrity Commission, Auditor-General, Office of the Legislative Assembly*, p. 19.

<sup>233</sup> *Proof Transcript of Evidence*, 5 March 2021, pp. 87 – 88.

<sup>234</sup> *Proof Transcript of Evidence*, 5 March 2021, pp. 88 – 89.

<sup>235</sup> *Proof Transcript of Evidence*, 5 March 2021, p. 91.

<sup>236</sup> *Proof Transcript of Evidence*, 5 March 2021, pp. 91 – 92.

<sup>237</sup> *Proof Transcript of Evidence*, 5 March 2021, pp. 92 – 93.

<sup>238</sup> *Proof Transcript of Evidence*, 5 March 2021, pp. 93 – 94.

<sup>239</sup> *Proof Transcript of Evidence*, 5 March 2021, p. 94 – 95.



## KEY ISSUES

### FINANCIAL POSITION

3.12 The Committee noted the last paragraph of the Auditor-General's opening statement; which indicated that there were three measures the Audit Office was seeking to employ in order to improve its operating result. These were:

- seeking additional appropriation;
- reviewing the costs to be recovered in financial audit fees; and
- managing the Audit Office's overall operating costs.<sup>240</sup>

3.13 The Committee asked the Auditor-General how these measures were progressing.

3.14 In relation to financial audit fees the Auditor-General indicated that:

...the clients pay the cost of those audits. The Auditor-General Act requires them to do so and also requires me to set the fee for each auditee. We do that on an annual basis. We do a significant costing exercise to understand precisely how much we spend on financial audit. Indeed, we have just gone through that exercise recently. We have just increased the hourly rate that we charge auditees, reflecting the increasing costs that I mentioned a few minutes ago.<sup>241</sup>

3.15 In noting that the increase brought the fees up to an average of \$175/hr from \$145/hr, the Auditor-General told the Committee that the fee charged 'had not changed for quite some time' and there was an imperative to ensure that 'what we are charging our financial audit clients purely relates to the cost of providing that service and is not cross-subsidising any other part of the operation.'<sup>242</sup>

3.16 The Auditor-General indicated that under the current arrangement the Audit Office receives:

...appropriation, by and large, to cover the cost of performance audit and to cover the cost of some of the other services that we provide to the Legislative Assembly and to the community generally—for example, our responsibilities under the Public Interest Disclosure Act representations, and those sorts of things. There are a number of summary reports that we provide to the Assembly on our audits within the computer sphere and the IT sphere, for example, which are essentially summaries of the other work that we do.<sup>243</sup>

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<sup>240</sup> *Proof Transcript of Evidence*, 5 March 2021, p. 90.

<sup>241</sup> Mr Harris, Auditor-General, *Proof Transcript of Evidence*, 5 March 2021, p. 90.

<sup>242</sup> Mr Harris, Auditor-General, *Proof Transcript of Evidence*, 5 March 2021, p. 90.

<sup>243</sup> Mr Harris, Auditor-General, *Proof Transcript of Evidence*, 5 March 2021, p. 90.

- 3.17 He explained where the majority of these monies are directed and noted his intention to focus his efforts on obtaining additional appropriation for these Audit Office functions:

The very large bulk of the money that the Assembly gives us is for performance audit. As I said before, the cost of performance audit is increasing, and that will be the substance of our requests for additional appropriation through the next budget process.<sup>244</sup>

- 3.18 In relation to managing the Audit Office's overall operating costs the Auditor-General indicated that the main objective is to:

..containing our own cost base to try and minimise the cost increases on the financial audit side and minimise the request for appropriation on the performance audit side, given that the Assembly, if you like, is our client for performance audit, as opposed to the directorates. We have gone through an exercise. We had substantial reserves at the beginning of last year and there have been substantial reserves for quite some time. We have been forced to change our IT and our computer methodology on the financial audit side in the last 12 to 18 months, which cost us a bit over half a million dollars, which we have absorbed ourselves.<sup>245</sup>

- 3.19 He concluded by telling the Committee that the Audit Office has:

...gone through an exercise to ensure that we reduce any unnecessary expenditure within the organisation to ensure that our overhead component in our cost structure is as low as it can possibly be, so that our requests for appropriation and our increases in fees are as low as they can possibly be.<sup>246</sup>

## Recommendation 21

- 3.20 The Committee recommends that the Auditor-General work with the ACT Government to find ways to improve the financial position of the ACT Audit Office.**

## ENGAGEMENT WITH MEMBERS OF THE LEGISLATIVE ASSEMBLY (MLAs)

- 3.21 The Committee noted the Auditor-General provides details of the forward program of audits for each year and regularly engages with the Standing Committee on Public Accounts. However, the Committee queried what other steps the Audit Office takes to engage with Members of the Legislative Assembly (MLAs) and were informed by the Auditor-General that:

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<sup>244</sup> Mr Harris, Auditor-General, *Proof Transcript of Evidence*, 5 March 2021, p. 90.

<sup>245</sup> Mr Harris, Auditor-General, *Proof Transcript of Evidence*, 5 March 2021, pp. 90 – 91.

<sup>246</sup> Mr Harris, Auditor-General, *Proof Transcript of Evidence*, 5 March 2021, p. 91.

The process of engagement in normal circumstances—normal being any year other than last year, and hopefully most years from here on in, given COVID—is direct engagement, to the extent possible, by me with members of the Assembly.<sup>247</sup>

Principally, it is my normal practice to have face-to-face meetings with the Chief Minister, the Speaker, the chairman of the public accounts committee, the Leader of the Opposition and the leader of the Greens. In terms of other members of the Assembly, it has not been my practice to meet specifically with them individually at my invitation, although there is a standing invitation from me to any MLA to meet if they so wish.<sup>248</sup>

3.22 The Auditor-General also noted that the Audit Office has:

...direct correspondence, as we are contemplating forward programs, with all MLAs in their capacity as MLAs—as opposed to the Chief Minister or the Leader of the Opposition, for example—by way of invitation to seek their thoughts or views. We also, as I said, have standing invitations to all MLAs. At the commencement of this Assembly, at the invitation of the Clerk, I did a presentation to newly elected MLAs to, in brief, outline the role, function and duties of the Auditor-General and the relationship between the Auditor-General and the Assembly. Of course, there is always an open invitation to expand on that in more detail if any member of the Assembly wants a more detailed briefing about the Auditor-General Act in particular, which is the key piece of legislation governing what I do, why I do it and on whose behalf I do it.<sup>249</sup>

3.23 When queried as to whether feedback or suggestions were regularly forthcoming from MLAs the Auditor-General indicated that:

No is the short answer to that. It is probably more forthcoming from MLAs who are not in government than MLAs who are in government, and that is a completely understandable position. Having said that, the feedback I get from the Chief Minister and ministers in terms of the forward program is positive and it is extensive, in terms of my one-to-one relationships.<sup>250</sup>

3.24 The Auditor-General noted that he was seeking additional ways to encourage engagement by MLAs with the Audit Office but had not yet ‘cracked’ that particular question. He also indicated that he did not believe that any audit office, in any Australian jurisdiction, had either. He told the Committee that he would continue be available for conversations and was of the view that:

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<sup>247</sup> Mr Harris, Auditor-General, *Proof Transcript of Evidence*, 5 March 2021, p. 87.

<sup>248</sup> Mr Harris, Auditor-General, *Proof Transcript of Evidence*, 5 March 2021, p. 87.

<sup>249</sup> Mr Harris, Auditor-General, *Proof Transcript of Evidence*, 5 March 2021, pp. 87 – 88.

<sup>250</sup> Mr Harris, Auditor-General, *Proof Transcript of Evidence*, 5 March 2021, p. 88.

It might be that a conversation is a better way of doing it than written correspondence. There is a certain formality to that which probably does not engender a free flow of information.<sup>251</sup>

## Recommendation 22

**3.25 The Committee recommends that the Auditor-General work with the Standing Committee on Public Accounts to investigate methods to encourage ongoing and consistent engagement with Members of Legislative Assembly, so as to garner information or ideas for inquiry.**

## IMPLEMENTATION OF AUDITOR-GENERAL RECOMMENDATIONS BY GOVERNMENT

3.26 The Committee asked the Auditor-General how the Audit Office monitored the implementation, by government, of recommendations in their reports and was advised that:

It has not been commonplace for us to go back, particularly on the performance audit side, and recheck how many recommendations have actually been implemented.<sup>252</sup>

3.27 However, the Committee was told that in relation to financial audits the Audit Office was:

...much more robust in following up recommendations and audit findings. Indeed, in every subsequent audit, we revisit every finding that is on the books, and annually report whether or not it has been resolved. Sometimes, if it has not, over a long period of time, we will escalate our views and our commentary about that to a higher level. Indeed, we have done that a couple of times recently. The University of Canberra is one that comes to mind. By and large, departments are good and getting better at resolving outstanding audit findings on the financial audit side.<sup>253</sup>

3.28 The Auditor-General explained that with financial audits:

...a large proportion of the outstanding findings relate to computer-related issues. In many instances it is a software upgrade or a hardware upgrade that resolves the problem, rather than a direct action. In some instances an auditee will say to us, "I'm not going to do that until the next iteration of the software upgrade comes through, because that will fix it; otherwise I've got to go to an unreasonable cost or an

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<sup>251</sup> Mr Harris, Auditor-General, *Proof Transcript of Evidence*, 5 March 2021, p. 88.

<sup>252</sup> Mr Harris, Auditor-General, *Proof Transcript of Evidence*, 5 March 2021, p. 94.

<sup>253</sup> Mr Harris, Auditor-General, *Proof Transcript of Evidence*, 5 March 2021, p. 94.

unnecessary cost to fix something that's going to be fixed on its own." So a bit of common sense comes into play.<sup>254</sup>

- 3.29 In relation to performance audits he explained that ascertaining the adoption or implementation of recommendations is not definitive, and is complicated by extended time frames:

On the performance audit side, I would have to say two things. One is that the time frame attached to performance audits is much longer than it is with financial audits, so in many instances the effluxion of time deals with the recommendations, perhaps not in the way that they were originally framed, but they have been dealt with by a change in policy or by a change in technology, frequently.<sup>255</sup>

- 3.30 The Auditor-General agreed that there was a 'knowledge gap' when it came to tracking the successful implementation of recommendations contained in their performance audit reports.<sup>256</sup>

## Recommendation 23

- 3.31 The Committee recommends that the Auditor-General consult with the Standing Committee on Public Accounts to consider options to facilitate a more systematic approach to highlighting outstanding Audit recommendations.**

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<sup>254</sup> Mr Harris, Auditor-General, *Proof Transcript of Evidence*, 5 March 2021, p. 94.

<sup>255</sup> Mr Harris, Auditor-General, *Proof Transcript of Evidence*, 5 March 2021, p. 94.

<sup>256</sup> *Proof Transcript of Evidence*, 5 March 2021, pp. 94 – 95.

## 4 OFFICE OF THE LEGISLATIVE ASSEMBLY

- 4.1 The Office of the Legislative Assembly (OLA) is established by the *Legislative Assembly (Office of the Legislative Assembly) Act 2012*, and provides a statutory basis for its independence from the Executive.

Under Section 6 of the Act, the Office's function is to provide impartial advice and support to the Legislative Assembly and committees and members of the Assembly, including:

- providing advice on parliamentary practice and procedure, and the functions of the Assembly and committees;
- reporting proceedings of the Assembly and meetings of committees;
- maintaining an official record of proceedings of the Assembly;
- providing library and information facilities and services for members;
- providing staff to enable the Assembly and committee to operate efficiently;
- providing business support functions, including administering the entitlements of members who are not part of the Executive;
- maintaining the Assembly precincts; and
- providing public education about the function of the Assembly and committees.<sup>257</sup>

### MATTERS CONSIDERED

- 4.2 Matters considered by the Committee in relation to the OLA included:

- employee expenses and staffing levels – attendants;<sup>258</sup>
- employee expenses and staffing levels – Hansard;<sup>259</sup>
- employee expenses – general reduction;<sup>260</sup>
- COVID arrangements;<sup>261</sup>
- redesign of entrances to Legislative Assembly;<sup>262</sup>
- searchable Questions on Notice;<sup>263</sup>
- Committee Support staffing;<sup>264</sup>

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<sup>257</sup> ACT Budget 2020-21, *Budget Statements A, ACT Executive, ACT Integrity Commission, Auditor-General, Office of the Legislative Assembly*, p. 39.

<sup>258</sup> *Proof Transcript of Evidence*, 5 March 2021, p. 107.

<sup>259</sup> *Proof Transcript of Evidence*, 5 March 2021, p. 115.

<sup>260</sup> *Proof Transcript of Evidence*, 5 March 2021, pp. 107 – 108.

<sup>261</sup> *Proof Transcript of Evidence*, 5 March 2021, pp. 112 – 113.

<sup>262</sup> *Proof Transcript of Evidence*, 5 March 2021, pp. 108 – 109.

<sup>263</sup> *Proof Transcript of Evidence*, 5 March 2021, p. 115.

<sup>264</sup> *Proof Transcript of Evidence*, 5 March 2021, pp. 113 – 114.

- Committee Support structure<sup>265</sup>
- work culture - bullying and harassment;<sup>266</sup>
- work culture – members code of conduct;<sup>267</sup> and
- renovation of ensuites and kitchenettes.<sup>268</sup>

## KEY ISSUES

### COMMITTEE SUPPORT STAFFING

4.3 In a discussion on the work of Committees the Office of the Legislative Assembly (OLA) was asked as to the current staffing arrangements in Committee Support.

4.4 The Speaker told the Committee that:

We have one select committee and seven standing committees and a new standing order that puts all bills to the standing committees. I understand that one bill has been looked at by a committee, but it is a point of meeting activity as to whether they determine there will be a review on it.<sup>269</sup>

4.5 The Clerk, whilst agreeing that the Assembly committees are ‘vitally important’ and undertake a ‘significant amount of work’<sup>270</sup> indicated that:

... in the last Assembly a report was done by the admin and procedures committee recommending a structure for the Tenth Assembly, and largely those recommendations were agreed to. The report recommended seven standing committees plus administration and procedure, and that was followed.<sup>271</sup>

The report also recommended that only in exceptional circumstances should select committees be established. The Assembly, in its wisdom, has decided that there is an exceptional circumstance and has established one select committee into a private member’s bill that has been introduced.<sup>272</sup>

4.6 In addition to articulating a set number of committees he told the Committee that the report also prompted the Assembly to resolve that:

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<sup>265</sup> *Proof Transcript of Evidence*, 5 March 2021, pp. 114 – 115.

<sup>266</sup> *Proof Transcript of Evidence*, 5 March 2021, pp. 109 – 112.

<sup>267</sup> *Proof Transcript of Evidence*, 5 March 2021, pp. 110 – 111.

<sup>268</sup> *Proof Transcript of Evidence*, 5 March 2021, pp. 115 – 116.

<sup>269</sup> Ms Burch, Speaker, *Proof Transcript of Evidence*, 5 March 2021, p. 113.

<sup>270</sup> Mr Duncan, Clerk, *Proof Transcript of Evidence*, 5 March 2021, p. 113.

<sup>271</sup> Mr Duncan, Clerk, *Proof Transcript of Evidence*, 5 March 2021, pp. 113 – 114.

<sup>272</sup> Mr Duncan, Clerk, *Proof Transcript of Evidence*, 5 March 2021, p. 114.

...all bills be referred automatically to committees, and that is happening. I think about six or seven bills have been referred to committees, including, obviously, the Appropriation Bill. Of those six or seven, only one inquiry has been done; that was on the COVID legislation.<sup>273</sup>

- 4.7 The Committee noted these changes, but sought more clarification on staffing levels. They were advised that:

A research officer position is vacant. There are committee secretaries, research officers and administrative staff. There are two research officer positions and one of those is vacant, but an appointment is due imminently. We have just done a selection process and I think Ian has that now. So for all intents and purposes we have a full staff.<sup>274</sup>

- 4.8 In an Answer to a Question Taken on Notice the OLA told the Committee:

The position became vacant on 2 July 2020 but, due to the fact that Assembly committees were winding down at that time due to the approaching Assembly election, the position was not immediately advertised for filling. With the aim of having the position filled by early 2021 to coincide with the commencement of committee activity in the 10th Assembly, the vacancy was advertised on 1 December 2020. A higher than expected number of candidates applied for the vacancy and this has delayed the finalisation of the selection process. However, that process was finalised in the past week and an offer of appointment has been made in recent days.<sup>275</sup>

- 4.9 The Clerk also noted that:

One of the requests from all the committee chairs about the bill referral system was that an additional research officer would be beneficial. I am keeping a watching brief on the number of referrals and I have flagged to Madam Speaker that we may need additional resources for the next budget. I want to be able to go to Treasury with some statistics because Treasury will say, "Why do you need the extra resources?" I want to be able to say, "You can see that the committees have done a lot of inquiries into bills and therefore we need the extra resources." We were knocked back by Treasury last year when we applied for an additional technical officer to allow committees to operate at the same time. You really have to have a good business case to get Treasury funding, and I want to make sure that we have that.<sup>276</sup>

- 4.10 The Committee continued the discussion on staffing and queried the adequacy of seniority in the organisational structure. In response OLA indicated that:

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<sup>273</sup> Mr Duncan, Clerk, *Proof Transcript of Evidence*, 5 March 2021, p. 114.

<sup>274</sup> Mr Duncan, Clerk, *Proof Transcript of Evidence*, 5 March 2021, p. 114.

<sup>275</sup> *Answer to Question Taken on Notice No. 20*, answered 15 March 2021.

<sup>276</sup> Mr Duncan, Clerk, *Proof Transcript of Evidence*, 5 March 2021, p. 114.



We are consulting with staff at the moment to explore changes to the structure. We are consulting with staff and it would be useful for that process to run its course. But there is a proposal on the table that would alter the structure.<sup>277</sup>

We have agreed to engage an external consultant to look at classifications of a couple of positions. That process is due to unfold with some interviews with the staff in a fortnight or so. It would be difficult to put an end date on it at this point.<sup>278</sup>

## **Recommendation 24**

**4.11 The Committee recommends that the Office of the Legislative Assembly increase staffing for the committee secretariat within Committee Support.**

## **Recommendation 25**

**4.12 The Committee recommends that the Office of the Legislative Assembly provide Committee Secretaries with additional administrative support for each of the committees that they work to.**

## **WORKPLACE CULTURE – BULLYING AND HARASSMENT**

4.13 In discussions on current community and workplace concerns about harassment in the workplace, the Committee asked the OLA how all stakeholders in the Legislative Assembly could ensure there is a safe workplace culture for all staff who work in the Legislative Assembly building.

4.14 The Speaker told the Committee that work on a bullying and harassment policy had been undertaken during the Ninth Assembly and indicated that:

We had a policy ready to go within months, but we decided to hold on for that to be signed off. The practice and culture in the Assembly, I am pleased to say, does not reflect anything that goes on up at Parliament House.<sup>279</sup>

4.15 The OLA added that the previous Work Safety Committee (Ninth Assembly) had endorsed a revised bullying and harassment policy and it was expected that with the new Work Safety Committee (Tenth Assembly) meeting in the coming weeks the policy should be finalised for

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<sup>277</sup> Mr Duckworth, *Proof Transcript of Evidence*, 5 March 2021, p. 114.

<sup>278</sup> Mr Duckworth, *Proof Transcript of Evidence*, 5 March 2021, p. 115.

<sup>279</sup> Ms Burch, Speaker, *Proof Transcript of Evidence*, 5 March 2021, p. 109.

consideration by the Speaker and the administration and procedure committee. The Committee was assured that work on the policy was not a recent development:

We want to emphasise that it is not something that has been developed in a kneejerk reaction to things up on the hill; this work has been in development for some time.<sup>280</sup>

4.16 When asked about the details of the policy the OLA indicated that:

The document is pitched at everyone in the Assembly workplace. It seeks to apply to everybody who is working. It would apply to members; it would apply to their staff; it would apply to parliamentary staff. In that sense, the particular mechanisms that might be available to people to bring a complaint would vary, depending on the circumstances and who was involved. If it is a matter that concerns a member, it would be a different process than if it involved a member's staffer or if it was a member's staffer concerned about treatment by an older staff member. The policy attempts to contemplate the fact that there could be varying codes of conduct or mechanisms that need to be used to deal with behaviour, but it tries very hard to make it clear that what would and would not be tolerated applies to everybody in the workplace.<sup>281</sup>

4.17 In relation to the Member's Code of Conduct the Clerk told the Committee that:

You would be aware that the Ethics and Integrity Adviser has been tasked by the administration and procedure committee to review the members code of conduct. It is something we have done a number of times. The Ethics and Integrity Adviser wrote to all members asking for submissions on that review. He also wrote to me and the Commissioner for Standards.<sup>282</sup>

I made a submission to the Ethics and Integrity Adviser. In that submission, I drew his attention to various reviews that have been conducted in the UK parliament—several reviews highlighting the issue of bullying and harassment in that parliament. I also drew his attention to the New Zealand Speaker commissioning an independent review of the New Zealand parliament's bullying and harassment procedures.<sup>283</sup>

I said in my submission that I am not saying that I am aware of any bullying and harassment in the Assembly. I was just drawing his attention to whether we need to look at the code of conduct, to see whether the code of conduct is of a sufficiently robust nature to deal with these issues, should they arise in relation to members.<sup>284</sup>

That report is due back from the Ethics and Integrity Adviser imminently. It will go to the Standing Committee on Administration and Procedure. I would expect the admin and procedure committee to present a report to the Assembly with any possible

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<sup>280</sup> Mr Duckworth, *Proof Transcript of Evidence*, 5 March 2021, pp. 109 – 110.

<sup>281</sup> Mr Duckworth, *Proof Transcript of Evidence*, 5 March 2021, p. 110.

<sup>282</sup> Mr Duncan, Clerk, *Proof Transcript of Evidence*, 5 March 2021, p. 110.

<sup>283</sup> Mr Duncan, Clerk, *Proof Transcript of Evidence*, 5 March 2021, p. 110.

<sup>284</sup> Mr Duncan, Clerk, *Proof Transcript of Evidence*, 5 March 2021, p. 110.

changes to the code of conduct. Then it is up to the Assembly to decide if it wishes to change the code of conduct in light of that.<sup>285</sup>

- 4.18 The Clerk stated that in relation to Members they need to be respectful of staff and are obliged to abide by the code of conduct. If a staff member wanted to make a complaint about a member, the Clerk indicated that:

One option for the staff member would be to make a complaint to the Commissioner for Standards. The Commissioner for Standards would investigate that and report back to the admin and procedure committee. That is one option. There are some safety avenues that Ian might want to speak about.<sup>286</sup>

- 4.19 The OLA further indicated, in addition to a complaint to the Commissioner for Standards about a breach of the code of conduct, that:

...another option for the staff member would be to allege to WorkSafe that they are not being provided with a safe workplace by their employer; there could be an avenue for a complaint of that nature. There are other circumstances that could give rise to a complaint to the Fair Work Ombudsman or the commission about employment obligations being breached.<sup>287</sup>

- 4.20 The Clerk informed the Committee that other jurisdictions, including the UK and New Zealand:

...have put into place independent bodies that would investigate the complaint that Mr Pettersson raised—specifically looking at bullying and harassment. I guess that is the gold standard, but it is quite a costly option. It does mean there is an avenue where any of those complaints can be assessed independently from the legislature. We have something similar with the Commissioner for Standards, but it is not quite the same as what the UK has.<sup>288</sup>

- 4.21 It was noted that the avenues for complaint and resolution depended on the nature, circumstances, and substance of each individual matter. The Speaker confirmed that:

The office is always open, to both staff and MLAs, as a first point of contact for advice about the mechanisms. Some matters, as we have seen roll out over the last couple of weeks, are matters that can be resolved. Other matters have a different resolution aspect. It is about responsible reporting to external bodies and all sorts of things you will need to get advice on.<sup>289</sup>

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<sup>285</sup> Mr Duncan, Clerk, *Proof Transcript of Evidence*, 5 March 2021, p. 110.

<sup>286</sup> Mr Duncan, Clerk, *Proof Transcript of Evidence*, 5 March 2021, p. 111.

<sup>287</sup> Mr Duckworth, *Proof Transcript of Evidence*, 5 March 2021, p. 111.

<sup>288</sup> Mr Duncan, Clerk, *Proof Transcript of Evidence*, 5 March 2021, p. 111.

<sup>289</sup> Ms Burch, Speaker, *Proof Transcript of Evidence*, 5 March 2021, p. 111.

- 4.22 The Committee then queried if there were any internal or public reporting of instances of bullying and harassment that have occurred in the Assembly. In response OLA indicated that:

Reflecting on our experience, there probably has not been. We would not necessarily include in our annual report a report to say that during the year there were two or—<sup>290</sup>

- 4.23 The Speaker indicated that the Administration and Procedure Committee could have some involvement in looking at possible reporting mechanisms:

If we are implementing and signing off on the new workplace policy, we could look at that as an internal mechanism and ask how we get a sense that people are aware of it and that the office is providing good advice. I would say it is something that the admin and procedure committee could look at.<sup>291</sup>

I am happy to take that on, as Speaker and convener of the admin and procedure committee. Once we are through having it signed off by the Work Safety Committee, we can look at that and see what else we can do.<sup>292</sup>

## **Recommendation 26**

- 4.24 The Committee recommends that the Office of the Legislative Assembly consider, in addition to a bullying and harassment policy, measures that can be taken so as to ensure the Legislative Assembly is a safe working environment.**

## **Recommendation 27**

- 4.25 The Committee recommends that the Office of the Legislative Assembly implement an anonymous reporting portal for Members of the Legislative Assembly and staff of OLA, Members, and the Executive, who wish to report bullying and harassment.**

## **Recommendation 28**

- 4.26 The Committee recommends that the Office of the Legislative Assembly consider implementing a data collection and reporting mechanism to document the occurrence of bullying and harassment in the ACT Legislative Assembly.**

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<sup>290</sup> Mr Duckworth, *Proof Transcript of Evidence*, 5 March 2021, p. 111.

<sup>291</sup> Ms Burch, Speaker, *Proof Transcript of Evidence*, 5 March 2021, p. 112.

<sup>292</sup> Ms Burch, Speaker, *Proof Transcript of Evidence*, 5 March 2021, p. 112.

## SEARCHABLE QUESTIONS ON NOTICE

4.27 The Committee sought an update on the project to develop a searchable and central Questions on Notice (QoN) database.

4.28 The OLA indicated that they had:

...engaged a firm that has developed some software that is in use in a number of other Australian parliaments to develop some similar modules for us. Their first cab off the rank was some work that assists with keeping track of committee inquiries and activity and ultimately will help us to publish submissions and committee reports on our website more easily.<sup>293</sup>

The second package of works is the questions database, and the current time line for the development, trialling and testing of that would see that work be completed by about the end of April this year. At that point, if it has all gone well—we should always make some provision for the fact that there might be glitches or things where the users are going, “Well, this is not really working the way I wanted,”—we would then aim to have questions able to be lodged by members through that portal and probably by May-June the back catalogue of questions for this Assembly loaded into the database. That is the plan.<sup>294</sup>

### Recommendation 29

**4.29 The Committee recommends that the Office of the Legislative Assembly finalise the Legislative Assembly Questions on Notice (QoN) database.**

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<sup>293</sup> Mr Duckworth, *Proof Transcript of Evidence*, 5 March 2021, p. 115.

<sup>294</sup> Mr Duckworth, *Proof Transcript of Evidence*, 5 March 2021, p. 115.

## 5 CONCLUSION

- 5.1 The Committee has made 29 recommendations in this report relating to a broad range of topics.
- 5.2 The Committee would like to thank ACT Government Ministers and directorate officials for their contribution this this inquiry.

Elizabeth Kikkert MLA

Chair

March 2021

## APPENDIX A - WITNESSES

### 24 FEBRUARY 2021

- ***Mr Andrew Barr MLA, Chief Minister, Treasurer***
- Mr Stephen Miners - Acting Under Treasurer
- Ms Sue Vroombout - Acting Deputy Under Treasurer Economic, Budget and Industrial Relations
- Mr Patrick McAuliffe - Executive Branch Manager, Asset Liability Management, Economic and Financial, Economic Budget and Industrial Relations
- Mr Kim Salisbury, Executive Group Manager, Revenue Management, Economic Budget and Industrial Relations

### 5 MARCH 2021

- ***Mr Michael Harris, ACT Auditor-General***
- Mr Ajay Sharma, Assistant Auditor-General, Financial Audit
- Mr Brett Stanton, Assistant Auditor-General, Performance Audit
- Ms Erika Hudleston, Acting Chief Operating Officer, Professional Services
- ***Mr Michael Manthorpe, PSM, ACT Ombudsman***
- Ms Penny McKay, Deputy Ombudsman
- Ms Symone Andersen, Acting Senior Assistant Ombudsman, Program Delivery Branch
- ***Ms Joy Burch MLA, Speaker, Legislative Assembly for the ACT***
- Mr Tom Duncan, Clerk
- Ms Julia Agostino, Deputy Clerk
- Mr Ian Duckworth, Executive Manager, Business Support Branch

## APPENDIX B – QUESTIONS TAKEN ON NOTICE/QUESTIONS ON NOTICE

### Questions Taken on Notice – 24 February and 5 March 2021

No.	Hearing date	Asked by	Directorate/ Portfolio	Subject	Answer date
01	24/02/21	Braddock	Treasury	Capital Works Reserve	02/03/21
02	24/02/21	Coe	Treasury	Involuntary redundancies and employee separations	04/03/21
03	24/02/21	Lee	Treasury	S&P Bulletin	02/03/21
04	24/02/21	Lee	Treasury	% expenditure growth	04/03/21
05	24/02/21	Lee	Treasury	Breakdown of technical adjustments	02/03/21
06	24/02/21	Coe	Treasury	Payroll Tax	12/03/21*
07	24/02/21	Coe	Treasury	Payroll Tax Reform	04/03/21
08	24/02/21	Braddock	Treasury	Compulsory Third Party Benefits	04/03/21
09	24/02/21	Coe	Treasury	Breakdown of numbers re complexes and revenue (across the 5 thresholds) with regards to unit title properties	02/03/21
10	24/02/21	Braddock	Treasury	Perpetual Care Trust	02/03/21
11	24/02/21	Coe	Treasury	Capital Works in progress	04/03/21



No.	Hearing date	Asked by	Directorate/ Portfolio	Subject	Answer date
12	24/02/21	Coe	Treasury	Incoming Government Treasury Brief	04/03/21
13	24/02/21	Braddock	Treasury	Breakdown of roads and infrastructure figures	04/03/21
14	05/03/21	Pettersson	Auditor-General	Most Expensive and Cheapest jurisdictions to undertake audits	15/03/21
15	05/03/21	Cain	Ombudsman	Meetings with Access Canberra	16/03/21
16	05/03/21	Braddock	Ombudsman	FOI Decisions – reasons; priorities etc	16/03/21
17	05/03/21	Coe	OLA	Reduction in employee expenses – reasons and total expenses for attendants (last 4-5 FY)	15/03/21
18	05/03/21	Cain	OLA	Cost of measures taken due to COVID- furniture retrofit, sanitiser etc	15/03/21
19	05/03/21	Cain	OLA	School Visits; Public access – Details of what capacity for these are	15/03/21
20	05/03/21	Coe	OLA	Research Officer Vacancy - timeline	15/03/21

No.	Hearing date	Asked by	Directorate/ Portfolio	Subject	Answer date
21	05/03/21	Coe	OLA	Reduction in employee expenses – Reasons and Total expenses for Hansard (last 4-5 FY)	15/03/21

\* Extension granted until this date

#### Questions on Notice – 24 February and 5 March 2021

No.	Hearing date	Asked by	Directorate/ Portfolio	Subject	Answer date
01	05/03/21	Cain	OLA	Digital Payroll Implementation	23/03/21
02	05/03/21	Cain	OLA	Website Upgrade	23/03/21
03	05/03/21	Cain	OLA	Members Entrance	23/03/21
04	05/03/21	Cain	OLA	Members Car Parking	23/03/21
05	05/03/21	Cain	OLA	Library Usage	23/03/21
06	05/03/21	Cain	OLA	Hansard Staff	23/03/21
07	05/03/21	Cain	OLA	Education Office	23/03/21
08	05/03/21	Cain	OLA	COVID-19 Arrangements	23/03/21
09	05/03/21	Cain	OLA	Companion to Standing Orders	23/03/21
10	05/03/21	Cain	Ombudsman	Funding and Complaints Hotline	23/03/21

No.	Hearing date	Asked by	Directorate/ Portfolio	Subject	Answer date
11	05/03/21	Cain	Auditor-General	Budget Forecast	23/03/21
12	05/03/21	Cain	Auditor-General	Independence	23/03/21
13	05/03/21	Cain	Auditor-General	Superannuation Liability	23/03/21