LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

QON No. 38

STANDING COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM
JEREMY HANSON MLA (CHAIR), MICHAEL PETTERSSON MLA (DEPUTY CHAIR), MARK PARTON MLA, SUZANNE ORR MLA

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Inquiry into referred 2016–17 Annual and Financial Reports
ANSWER TO QUESTION ON NOTICE

Asked by MR COE MLA:

Chief Minister, Treasury and Economic Development Directorate 2016/17 Annual Report, Financial Management, Output 4.2

In relation to Unsolicited Proposals:

1. Can you please provide an update on how the Aquis Casino bid has progressed through the unsolicited proposal process?
   a. Was the briefing provided by Aquis in May 2015 part of the unsolicited proposal process?
   b. What commercial support has been provided on the assessment of the Aquis proposal?

2. Under what criteria does the Directorate assess and evaluate an unsolicited bid?
   a. Will the directorate release their evaluations on unsolicited proposals?
   b. What percentage of unsolicited proposals are accepted?
   c. What other actions has the directorate taken to improve transparency in the unsolicited proposal process?

3. How many proposals did the Unsolicited Proposal Steering Committee (UPSC) consider in 2016/17?
   a. How many times did the UPSC meet?
   b. How many proposals have progressed through each stage?
   c. How many active proposals is the UPSC considering?

4. What have the reviews of these policies/guidelines already identified as areas for improvement?
   a. Have any improvements been suggested or identified already?
      i. Please list these improvements suggested or identified.
   b. How have they been updated?
   c. Will there be specific reviews undertaken on the policies/guidelines in 2017/18?

5. How are conflicts of interest managed within these frameworks?

Mr BARR MLA: The answer to the Member's question is as follows:–

1. The Aquis Entertainment unsolicited proposal was lodged with the ACT Government on 21 August 2015. It was considered under the Investment Proposal Guidelines, which are managed by Invest Canberra. It has passed through the Phase 1 process and has proceeded to the development of a detailed business case, which is still the subject of exchange and consideration between Aquis Entertainment and the ACT Government. The terms of the Participation Agreement

between Aquis Entertainment and the ACT Government continue to apply and all matters between Aquis and the Territory relating to the unsolicited bid are to remain confidential.

a. No
b. None

2. The criteria to assess and evaluate an unsolicited bid are provided in the Guidelines for Unsolicited Proposals: https://apps.treasury.act.gov.au/__data/assets/pdf_file/0010/886771/Guidelines-for-Unsolicited-Proposals

    a. Evaluations of unsolicited proposals are commercial-in-confidence and therefore will not be released.
    b. No unsolicited proposals have been accepted, in the sense that there has been no commercial agreement signed.
    c. The current Guidelines refer to transparency within the Guiding Principles and include "Maintain accountability and process transparency" as a probity principle. However, as proposals are commercial-in-confidence, transparency is necessarily constrained during the Government's consideration of them.

3. The UPSC considered eight (8) proposals in 2016-17.

    a. The UPSC met six (6) times in 2016-17.

    b. Two agency channels to present unsolicited proposals to Government existed until 1 July 2016. These were:
        1. Investment Proposal Guidelines (Invest Canberra, CMTEDD, 2014); and
        2. The Partnerships Framework - Guidelines for Unsolicited Proposals (Infrastructure Finance and Advisory Division*, CMTEDD, March 2014)

    From 1 July 2016, the two channels were brought together under a Second Edition of the Guidelines for Unsolicited Proposals (July 2016) which replaced the previous First Revision Guidelines for Unsolicited Proposals and the Investment Proposal Guidelines.

    Investment Proposal Guidelines (Invest Canberra, CMTEDD)
    Between February 2014, when the Investment Proposal Guidelines (IPGs) were launched, and 30 June 2016, when the IPGs were merged with the Guidelines for Unsolicited Proposals, 14 unsolicited proposals were lodged.

    - Of these, five (5) unsolicited proposals did not progress beyond sending an initial proposal to the ACT Government. They did not qualify for further consideration under the IPG guidelines and there was no further engagement.
    - For nine (9) of the 14 unsolicited proposals, the Proponents were invited to give presentations to an ACT Government assessment panel as per Phase 1 of the process.
    - Five (5) of the 9 unsolicited proposals progressed to Phase 2, which involves the development of a formal business case for internal evaluation.

- Two (2) of the five unsolicited proposals that had progressed to Phase 2 have been considered by Cabinet. Three (3) proposals did not progress to Cabinet.
- To date, no unsolicited proposals have proceeded to Phase 3 (that is, Cabinet agreement to progress the development of a commercial agreement).

The Partnerships Framework - Guidelines for Unsolicited Proposals (Infrastructure Finance and Advisory Division*, CMTEDD)
Under the Guidelines for Unsolicited Proposals, up until 30 June 2016, nine (9) unsolicited proposals had been lodged.

- One (1) proposal progressed to Phase 2 to develop a business case, and was subsequently considered by Cabinet.
- None progressed to Phase 3.

Second Edition Guidelines for Unsolicited Proposals (Infrastructure Finance and Advisory Division*, CMTEDD)
Since 1 July 2016, six (6) further proposals have been lodged.

- None have proceeded to Phase 2 to develop a business case.
- None have progressed to Phase 3.

c. The UPSC is not currently considering any active proposals.

* From 1 July 2017, Infrastructure Finance and Advisory Division merged with Capital Works to form the 'Infrastructure Finance and Capital Works Division'.

4. The review of the Guidelines currently is ongoing and, consequently, a determination of areas for improvement has not been finalised.
   a. Areas for improvement are yet to be determined.
   b. The Guidelines have not been updated since the release of the First Revision of the Second Edition in September 2016. The revision added some detail around public consultation as well as some superficial changes to wording to the original Second Edition, which was released in July 2016.
   c. A review of the Guidelines for Unsolicited Proposals is currently taking place.

5. Avoiding Conflicts of Interest is identified as a Probity Principal within the Guidelines. Further, ACT Government officials must adhere to the *Public Sector Management Act 1994.* Section 9 of this Act states that:

   1) A public servant must—

(a) take all reasonable steps to avoid a conflict of interest; and

(b) declare or manage a conflict of interest that cannot reasonably be avoided; and

(c) when acting in connection with the public servant's job—

(i) comply with laws applying in the Territory; and

(ii) comply with any lawful and reasonable direction given by a person with the authority to give the direction; and

(iii) if dealing with a member of the public—make all reasonable efforts to help the person to understand the person's entitlements, and any requirement the person is obliged to meet, under a territory law; and

(iv) treat all people with courtesy and sensitivity to their rights and aspirations; and

(d) do the public servant's job with reasonable care and diligence, impartiality and honesty.

Under the "Standing Orders and continuing resolutions of the Assembly", Members undertake that they should "Actively seek to avoid or prevent any conflict of interest, or the perception of such a conflict, arising between their duties as a Member and their personal affairs and interests, [and] take all reasonable steps to resolve any such conflict or perception of a conflict that does arise".

Approved for circulation to the Standing Committee on Economic Development and Tourism

Signature: Andrew Barr

Date: 28.11.17

By the Treasurer, Mr Andrew Barr MLA

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