REPORT ON ANNUAL AND FINANCIAL REPORTS 2011-2012

STANDING COMMITTEE ON PUBLIC ACCOUNTS

JUNE 2013

REPORT 3

COMMITTEE MEMBERSHIP

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Mr Brendan Smyth MLA	Member

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RESOLUTION OF APPOINTMENT

The Legislative Assembly for the ACT appointed the Standing Committee on Public Accounts on 27 November 2012 to:

(i) examine:
  (A) the accounts of the receipts and expenditure of the Australian Capital Territory and its authorities; and
  (B) all reports of the Auditor-General which have been presented to the Assembly;

(ii) report to the Assembly any items or matters in those accounts, statements and reports, or any circumstances connected with them, to which the Committee is of the opinion that the attention of the Assembly should be directed;

(iii) inquire into any question in connection with the public accounts which is referred to it by the Assembly and to report to the Assembly on that question; and

(iv) examine matters relating to economic and business development, small business, tourism, market and regulatory reform, public sector management, taxation and revenue;[1]

TERMS OF REFERENCE

Inquire into the 2011-12 annual and financial reports of government directorates and agencies as listed at **Appendix A** according to the schedule determined by the ACT Legislative Assembly.[2]

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[1] Legislative Assembly for the ACT, *Minutes of Proceedings*, No. 2, 27 November 2012, pp. 24–27.

[2] Legislative Assembly for the ACT, *Minutes of Proceedings*, No. 7, 14 February 2013, pp. 81–85.

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RECOMMENDATIONS

RECOMMENDATION 1

3.23 The Committee reminds all ACT Government directorates and agencies that they should provide sufficient information in their statements of performance to explain their achievements. In particular, directorates and agencies should ensure that:

a) each performance measure is clearly defined;

b) sufficient explanatory information is included in each case to enable external users to understand what the activity means and how well it was performed;

c) significant judgements or estimates applied in measuring reported results are adequately disclosed;

d) systems used to record and report performance results provide reasonable assurance that results are reliable;

e) where possible, and appropriate, comparative data with other jurisdictions be supplied;

f) comparative data over previous periods be supplied using the same and comparative statements of performance;

g) they meet the whole-of-government reporting timetable;

h) there be further improvements to the quality of their statements of performance in line with Auditor-General's findings; and that

i) accountability indicators provide meaningful information.

RECOMMENDATION 2

3.29 The Committee recommends that the Chief Minister and Treasury Directorate should, in consultation with other agencies, seek to establish a simple and cost-effective set of performance measures and targets for ecologically sustainable development.

RECOMMENDATION 3

4.12 The Committee recommends that the Chief Minister inform the ACT Legislative Assembly on progress regarding the finalisation of the whole-of-government policy on the management of feedback and complaints, including detail on its implementation and a date for finalisation of the policy.

RECOMMENDATION 4

4.14 The Committee recommends that the Chief Minister inform the ACT Legislative Assembly on progress on, and a completion date for, the consolidation of the whole-of-government feedback process—in particular, the operation and performance of Canberra Connect's triage system to receive, prioritise and direct complaints on behalf of the ACT Public Service.

RECOMMENDATION 5

4.27 The Committee recommends that the two recommendations of the Auditor-General, as contained in report No. 2 of 2013: *Executive Remuneration Disclosed in ACTEW Corporation Limited's (ACTEW) 2010–11 Financial Statements and Annual Report 2011*, should also apply to other territory-owned corporations, and that the full details of the Managing Director's salary including a breakdown of the remuneration package be included in ACTEW annual reports.

RECOMMENDATION 6

4.28 The Committee recommends a full performance audit into the oversight and governance of ACTEW including the setting of executive salaries, reporting to Government Departments and to the Government, hospitality expenditure, and relationship to ACTEWAGL.

RECOMMENDATION 7

4.38 The Committee recommends that in preparation for the 2016 ACT General Election, the Commissioner for Public Administration should review the ACT Government's Guidance on Caretaker Conventions to determine whether specific sections detailing the application of the Conventions when it is not clear who will form the next government to assist with decision-making during that period are required.

RECOMMENDATION 8

4.39 The Committee recommends that in preparation for the 2016 ACT General Election, the Commissioner for Public Administration should review the ACT Government's Guidance on Caretaker Conventions to determine whether specific sections detailing the application of the Conventions arm's length government enterprises and agencies are required.

RECOMMENDATION 9

4.43 The Committee recommends that the ACT Government should develop a Government Business Enterprises Ownership Policy to assist with clarifying and removing any ambiguities as to what standards Government Business Enterprises should be held accountable to.

RECOMMENDATION 10

4.46 The Committee recommends that the ACT Government provide a response, by the last sitting day in August 2013, to the nine recommendations pertaining to the governance of territory-owned corporations as contained within the Sixth Assembly Public Accounts Committee report—Review of Auditor-General's Report No. 5 of 2006: *Rhodium Asset Solutions Ltd.*

RECOMMENDATION 11

5.24 The Committee recommends that the Speaker continue to progress the feasibility of extending the coverage of the DOA for communication related matters such as to maintain and enhance Members' websites to distribute parliamentary or electorate information for the purposes of supporting these responsibilities.

RECOMMENDATION 12

5.61 The Committee recommend that the Minister for Economic Development update the Legislative Assembly by the last sitting day in August 2013 on the outcome of the Economic Development Directorate's discussions with Indigenous representatives to assist with the promotion of tourism and ecotourism opportunities.

RECOMMENDATION 13

5.63 The Committee recommends that the Economic Development Directorate, as part of the Directorate's initiatives supporting indigenous business in the ACT, should give consideration to formalising a linkage with Indigenous Business Australia.

RECOMMENDATION 14

5.107 The Committee recommends that, as further developments arise with regard to the establishment of a single racing industry administrative body and the co-location of the three racing codes at one location, the Minister for Racing and Gaming should make a statement informing the ACT Legislative Assembly.

RECOMMENDATION 15

5.116 The Committee recommends that the Minister for Tourism and Events table in the ACT Legislative Assembly, when finalised, the report of the evaluation of the Centenary of Canberra program, events and activities.

RECOMMENDATION 16

5.118 The Committee recommends that the responsible Minister should update the Assembly on its progress in its negotiations with the Federal Government and co-investment initiatives for a new convention centre.

RECOMMENDATION 17

5.129 The Committee recommends that the Govt regularly update the Assembly on the proposed delivery model and the projected cost of the city to Gungahlin light rail.

RECOMMENDATION 18

5.132 The Committee recommends that the Government table its response to the review of the Land Rent Scheme.

RECOMMENDATION 19

5.163 The Committee recommends that should the release of the report of the review into the future ownership and governance arrangements of ACTTAB be delayed beyond the last sitting day in June 2013, the Treasurer should make a statement out of session informing the ACT Legislative Assembly and providing an explanation for the delay by the end of June 2013.

1 INTRODUCTION

1.1 On 14 February 2013, the 2011-12 annual and financial reports of all government agencies were referred to the relevant standing committees of the Legislative Assembly for the ACT.[3]

1.2 The annual and financial reports for 2011-12, or parts thereof, referred to the Standing Committee on Public Accounts (the Committee) were:

- ACT Auditor-General's Office
- ACT Gambling and Racing Commission
- ACT Insurance Authority
  - Office of the Nominal Defendant
- ACT Legislative Assembly Secretariat
- ACT Long Service Leave Authority
- ACT Ombudsman
- ACTEW Corporation Limited
- ACTTAB Limited
- Chief Minister and Cabinet Directorate
  - ACT Executive (annexed report)
  - Default Insurance Fund (annexed report)
  - Work Safety Council (annexed report)
- Commissioner for Public Administration
- Economic Development Directorate
- Exhibition Park Corporation
- Independent Competition and Regulatory Commission
- Totalcare Industries
- Treasury Directorate
  - ACT Government Procurement Board (annexed report)
  - Director of Territory Records (annexed report)

[3] Legislative Assembly for the ACT, *Minutes of Proceedings*, No. 7, 14 February 2013, pp. 81–85.

CONDUCT OF INQUIRY

1.3 The Committee held public hearings on 21 February; 7, 12 and 26 March; 2, 4 and 23 April; and 10 May 2013. At these hearings the Committee heard from Ministers, accompanying directorate and agency officers, and members of governing boards. Witnesses who appeared before the Committee are listed at **Appendix A**.

1.4 The Committee met on 3 June 2013 to discuss the Chair's draft report. The report as amended was adopted by the Committee at that meeting.

QUESTIONS TAKEN ON NOTICE AND SUPPLEMENTARY QUESTIONS

1.5 At the Committee's public hearings, 78 questions were taken on notice. The Committee also forwarded two supplementary questions following its public hearings. The following two tables summarise these questions by portfolio.

Table 1.1—Summary of questions taken on notice by portfolio

Portfolio	Number of questions taken on notice
Treasury	36
Economic development	6
Office of the Legislative Assembly	8
Chief Minister	17
Tourism and events (tourism matters)	3
Racing and gaming	2
Industrial relations and workplace safety (IR matters)	7
ACT Auditor-General[4]	1

[4] The answer to this question is contained within Auditor-General's Report No. 2 of 2013:*Executive remuneration disclosed in ACTEW Corporation Limited's (ACTEW) 2010–11 Financial statements and Annual report 2011.*

Table 1.2—Summary of supplementary questions by portfolio

Portfolio	Number of supplementary questions
Office of the Legislative Assembly	2

1.6 The Committee thanks directorates and agencies for providing responses to questions taken on notice and supplementary questions following the public hearings. This information assisted the Committee in its understanding of the many issues it considered during the inquiry.

ACKNOWLEDGEMENTS

1.7 The Committee thanks relevant ACT Government ministers and their accompanying directorate and agency officers, and members of governing boards, who assisted the Committee during the course of its inquiry by appearing before it to give evidence and/or providing additional information.

1.8 The Committee sought clarification on a number of issues at public hearings, some of which are expanded on in the following chapters. Full transcripts of public hearings are available on the Legislative Assembly website at: http://www.hansard.act.gov.au/hansard/2013/comms/default.htm

2 PURPOSE AND INTENT OF ANNUAL REPORTS

2.1 Accountability of the Executive to the Legislative Assembly and to the public is a key principle of responsible government. For this to be achieved executive agencies must be fully committed both to accountability and to disclosure of information in a straightforward way that is meaningful and easily understandable without financial or accounting training.

2.2 The provision of meaningful operational and financial information by government to parliament and the public is a fundamental component of the accountability process.[5]

2.3 Annual reports are the principal and most authoritative way in which directors-general and chairpersons account to the Legislative Assembly and other stakeholders, including the public, for the ways in which they have discharged their statutory and other responsibilities and utilised public funds over the preceding 12 months.[6]

2.4 As key accountability documents, annual reports are:

- one of the main ways for agencies to account for their performance, through Ministers, to the Legislative Assembly and the wider community;
- a key part of the historical record of government and public administration decisions, actions and outcomes;
- a source of information and reference about the performance of agencies and service providers; and
- a key reference document for internal management.[7]

2.5 Annual reports co-exist with other annual whole-of-government reporting processes to present an aggregated view of the performance of the ACT public sector as a whole.[8]

REPORTING FRAMEWORK

2.6 Annual and financial reports are prepared by all reporting entities in accordance with the:

- *Annual Reports (Government Agencies) Act 2004*

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[5] Public Accounts Committee, Legislative Assembly of Queensland, December 2001, Report No. 59, *Annual Reporting in the Queensland Public Sector*, p. 1.

[6] ACT Auditor-General's Report No. 1/2003: *Effectiveness of Annual Reporting*, p. 1.

[7] *Annual Report Directions 2011-12*, p. 6.

[8] For information on the role of annual reports relative to other accountability mechanisms, see Chief Minister and Treasury Directorate, *Strengthening performance and accountability: a framework for the ACT Government*, February 2011, available at: http://www.cmd.act.gov.au/__data/assets/word_doc/0003/184602/Strengthening_Prefromance_and_Accountability_-_A_Framework_for_the_ACT_Government.doc.

- Annual Report Directions 2011-12
- *Financial Management Act 1996*
- *Territory-owned Corporations Act 1990*, and
- where appropriate, reporting obligations specific to territory-owned corporations or public authorities as required by enabling or other applicable legislation.

ANNUAL REPORTS (GOVERNMENT AGENCIES) ACT 2004

2.7 The *Annual Reports (Government Agencies) Act 2004* (AR Act) sets the framework for annual reporting across the ACT public sector. This framework identifies which public bodies provide annual reports and outlines the time frame for provision of reports to the Legislative Assembly.[9]

ANNUAL REPORT DIRECTIONS 2011-12

2.8 The *Annual Report Directions* (Directions), which are issued under sections 9, 12 and 16 of the AR Act:

> …apply consistent public accountability and statutory reporting requirements across the public sector. The Directions apply to all administrative units and those government agencies identified as public authorities.[10]

2.9 The Committee plays a consultative role in the process of issuing the Directions. Under the AR Act, the responsible Minister must consult the Committee before issuing an annual report direction. The Committee may make a recommendation to the Minister about any proposed direction.

2.10 The ACT Auditor-General's Office audits the annual reports of all reporting entities for compliance with the Directions.[11]

FINANCIAL MANAGEMENT ACT 1996

2.11 The *Financial Management Act 1996* (FM Act) provides for the financial management of the Government and the scrutiny of that management by the Legislative Assembly, and specifies financial reporting requirements for the Government.[12]

2.12 Directorates and public authorities with financial reporting obligations under the FM Act are required to include audited financial and performance statements in their annual reports.[13]

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[9] *Annual Reports (Government Agencies) Act 2004*, ss13-15.
[10] *Annual Report Directions 2011-12*, p. 6.
[11] *Annual Report Directions 2011-12*, p. 12.
[12] *Financial Management Act 1996*

TERRITORY-OWNED CORPORATIONS ACT 1990

2.13 The *Territory-owned Corporations Act 1990* (ToC Act) provides for the establishment of government enterprises as territory-owned corporations. The financial reporting obligations required of territory-owned corporations under the ToC Act are similar to those specified under the FM Act.[14]

2.14 As Totalcare Industries Limited has been wound up, there are currently only two territory-owned corporations specified in Schedule 1 of the ToC Act—ACTEW Corporation Limited and ACTTAB Limited.[15]

[13] *Financial Management Act 1996*; *Annual Report Directions 2011-12*, p. 6.
[14] *Territory-owned Corporations Act 1990*; *Annual Report Directions 2011-12*, p. 6.
[15] *Territory-owned Corporations Act 1990*, sch. 1.

3 COMPLIANCE WITH ANNUAL REPORT DIRECTIONS

3.1 The Directions state:

> Compliance with the Annual Report Directions is compulsory for all reporting entities. However, not all requirements are relevant or applicable to all entities given the nature of their operations.[16]

3.2 The Committee found that, overall, annual reports generally complied with the Directions.

TIMELINESS OF ACCESS—ELECTRONIC VERSIONS OF ANNUAL REPORTS

3.3 The Directions require agencies to place their annual reports on the relevant internet site on the same day that their annual reports are tabled in the Legislative Assembly. The Auditor-General's Office monitors compliance with this timing requirement.[17]

3.4 The Committee notes the Auditor-General's finding that in 2011–12:

> …all agencies provided their annual reports on the relevant website on time.[18]

3.5 The Committee also notes that agency compliance with this requirement in 2011–12 matches the rate of compliance in the two previous reporting periods, 2010–11 and 2009-10.[19] These results improve upon the compliance rates of preceding years, which were: 89 per cent in 2008-09, 77 per cent in 2007–08 and 76 per cent in 2006–07.[20]

INCLUSION OF CORRECT VERSIONS OF AUDITED DOCUMENTS

3.6 Reporting agencies are required to ensure consistency between the versions of their financial statements and statement of performance made available in their annual report with those on which the audit report and report of factual findings were issued and that the correct versions of these documents are included in the printed and electronic versions of their annual reports.[21]

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[16] *Annual Report Directions 2011-12*, p. 8.

[17] *Annual Report Directions 2011-12*, p. 10.

[18] ACT Auditor-General's Report No. 10/2012: *2011-12 Financial Audits*, p. 31.

[19] ACT Auditor-General's Report No. 5/2011: *2010-11 Financial Audits*, p. 29; ACT Auditor-General's Report No. 10/2010: *2009–10 Financial Audits*, p. 26.

[20] ACT Auditor-General's Report No. 8/2009: *2008–09 Financial Audits*, p. 24; ACT Auditor-General's Report No. 8/2008: *2007–08 Financial Audits*, p. 27; ACT Auditor-General's Report No. 8/2007: *2006–07 Financial Audits*, p. 21.

[21] ACT Auditor-General's Report No. 10/2012: *2011-12 Financial Audits*, p. 32.

3.7 The Committee notes the Auditor-General's finding that in 2011–12:

> All agencies included the correct version of their financial statements and statement of performance in the printed and electronic version of their annual reports.[22]

3.8 This result matches the performance of both 2010-11 and 2009-10 and continues the trend of improvement in the reliability of reporting. The use of incorrect versions of financial statements and/or statements of performance in website and printed versions of annual reports fell from 69 per cent in 2005–06 to 36 per cent in 2006–07. There were two instances in 2007-08, one instance in 2008–09 and no instances in 2009–10, 2010–11 and 2011-12.[23]

3.9 The Committee notes that this enhancement in the reliability of reporting appears to be indicative of a strengthening of agencies' processes for ensuring the correct versions of financial statements and statements of performance are included in both the electronic and printed versions of their annual reports.

TIMELINESS OF FINANCIAL REPORTING PROCESSES

3.10 The Treasury Directorate issues a whole-of-government reporting timetable each year. The Auditor-General states that agencies must comply with this timetable to ensure that:

- they comply with applicable legislative annual reporting deadlines; and
- the Territory's financial statements are completed and audited within the timeframe required by the *Financial Management Act 1996*.[24]

3.11 The Committee notes the Auditor-General's finding that for the 2011-12 reporting period the rate of compliance with the whole-of-government reporting timetable was 90 per cent, which represents a significant improvement over the 74 per cent achieved in 2010-11.[25]

3.12 The Committee further notes the Auditor-General's statement that the three agencies that did not comply with the reporting timetable provided their financial statements to the Audit Office shortly after the due date and that, in most cases, the improvement in the rate of compliance with the timetable over the previous year did not adversely affect the overall quality of financial statements.[26]

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[22] Ibid.

[23] ACT Auditor-General's Report No. 5/2011: *2010-11 Financial Audits*, p. 29; ACT Auditor-General's Report No. 10/2010: *2009–10 Financial Audits*, p. 26; ACT Auditor-General's Report No. 8/2009: *2008–09 Financial Audits*, p. 23; ACT Auditor-General's Report No. 8/2008: *2007–08 Financial Audits*, p. 27; ACT Auditor-General's Report No. 8/2007: *2006–07 Financial Audits*, p. 22.

[24] ACT Auditor-General's Report No. 10/2012: *2011-12 Financial Audits*, p. 28.

[25] ACT Auditor-General's Report No. 10/2012: *2011-12 Financial Audits*, p. 29.

[26] Ibid.

3.13 Whilst the rate of compliance in 2011-12 was a significant improvement over the 2010-11 result, it has not yet returned to the 94 per cent compliance rate achieved in 2009-10.[27] As such, the Committee emphasises the need for all agencies to remain vigilant about meeting the whole-of-government reporting timetable.

Quality of statements of performance

3.14 Pursuant to the FM Act, directorates and authorities are required to prepare statements of performance that set out their results against planned performance targets.

3.15 The Committee notes the Auditor-General's findings that the percentage of agencies that prepared 'good' statements of performance improved from 43 per cent in 2010-11 to 54 per cent in 2011-12 and that the percentage of agencies that prepared 'unsatisfactory' statements of performance fell from 30 per cent in 2010-11 to 18 per cent in 2011-12.[28]

3.16 The Committee also notes the Auditor-General's comment that:

> The improvement in the quality of statements of performance mainly reflects the unusually high percentage of 'unsatisfactory' statements of performance that were submitted for review in 2010-11. In 2010-11, several directorates did not effectively address the effects of a major restructuring of administrative arrangements in preparing their statements of performance.[29]

3.17 In this light, the Committee draws the attention of agencies to the Auditor-General's finding that there is scope for further improvement to the quality of statements of performance, with the following areas requiring particular attention:

- a failure by a few agencies to measure a result for all accountability indicators;
- errors in reported results due to unreliable recording systems;
- failures to ensure that claimed results were supported by sufficient evidence;
- a lack of clear explanatory information about the meaning of accountability indicators and how they were measured; and
- poor explanations for material variances from the target result for accountability indicators. These explanations were often unclear and/or assumed knowledge that a reader external to the reporting agency would be unlikely to have.[30]

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[27] ACT Auditor-General's Report No. 10/2010: *2009–10 Financial Audits*, p. 26
[28] ACT Auditor-General's Report No. 10/2012: *2011–12 Financial Audits*, p. 30
[29] Ibid.
[30] Ibid.

USEFULNESS OF ACCOUNTABILITY INDICATORS

3.18 The FM Act requires that each agency's statement of performance should permit readers to compare the performance of the agency in delivering its outputs to its planned performance by reference to the accountability indicator targets included in that agency's budget or statement of intent. The effectiveness of this reporting framework—that is, the usefulness of the statement of performance—is to a large extent dependent on the quality of the accountability indicators.

3.19 As accountability indicators are determined through the budget process, the Auditor-General's Office does not provide an opinion on the relevance or appropriateness of the targets. However, for the 2011–12 reporting period, the Auditor-General made the following findings regarding the usefulness of these accountability indicators:

> Consistent with previous years, there were several instances in 2011-12 where accountability indicators did not provide meaningful information about the planned and actual performance of agencies. Some accountability indicators only referred to the conduct of an activity, with no explanation of what that activity means or how well it was performed.
>
> The information included in the budget papers or statement of intent did not always provide sufficient insight into the planned levels of performance. Where planned levels of performance are not clearly defined and adequately explained in agencies' budget papers or statements of intent, it is less likely that agencies can be held to account for their performance.[31]

3.20 The Committee notes that the Auditor-General found accountability indicators to be more useful and meaningful when agencies:

- clearly defined and explained their accountability indicators and associated targets in their budget papers or statement of intent;
- provided sufficient information on how actual results were measured; and
- explained significant judgements or estimates applied in measuring the reported results. [32]

3.21 The Committee notes that the Audit Office informs each agency of areas where their statements of performance could be improved and urges agencies to address these deficiencies for the 2012-13 reporting period. The development of relevant and useful accountability indicators, and subsequent reporting on the achievement of these indicators by agencies in their annual statements of performance and annual reports, are critical elements

[31] ACT Auditor-General's Report No. 10/2012: *2011–12 Financial Audits*, pp. 30-31.
[32] ACT Auditor-General's Report No. 10/2012: *2011–12 Financial Audits*, p. 31.

of an effective performance measurement and reporting system. Such a system ensures that agencies are accountable for their performance to the Legislative Assembly and the community. Further, it provides opportunities for agencies to improve performance.

3.22 The Public Accounts Committee of the Seventh Assembly inquired into Auditor-General's Report No. 1 of 2010: *Performance reporting*. The Committee's report considered matters relating to performance measures in detail and is available at the Inquiry homepage.[33]

Recommendation 1

3.23 The Committee reminds all ACT Government directorates and agencies that they should provide sufficient information in their statements of performance to explain their achievements. In particular, directorates and agencies should ensure that:

a) each performance measure is clearly defined;

b) sufficient explanatory information is included in each case to enable external users to understand what the activity means and how well it was performed;

c) significant judgements or estimates applied in measuring reported results are adequately disclosed;

d) systems used to record and report performance results provide reasonable assurance that results are reliable;

e) where possible, and appropriate, comparative data with other jurisdictions be supplied;

f) comparative data over previous periods be supplied using the same and comparative statements of performance;

g) they meet the whole-of-government reporting timetable;

h) there be further improvements to the quality of their statements of performance in line with Auditor-General's findings; and that

i) accountability indicators provide meaningful information.

[33] Standing Committee on Public Accounts, *Review of Auditor-General's Report No. 1 of 2010: Performance reporting*, August 2011— http://www.parliament.act.gov.au/committees/index1.asp?committee=116&inquiry=992.

Reporting on Ecologically sustainable development

3.24 The Directions require agencies to report on ecologically sustainable development (ESD). The statutory basis for this is drawn from section 158A of the *Environment Protection Act 1997* and is further supported by requirements of the ACT's climate change strategy, *Weathering the Change*.[34]

3.25 To assist agencies to meet this statutory reporting requirement, the Directions provide guidance on how Economically Sustainable Development principles can be readily translated to an agency context. This includes reporting on:

- how Agency actions and administration of legislation accorded with the principles of Economically Sustainable Development;
- the contribution of agency outputs to Economically Sustainable Development;
- the effects of the agency outputs to Economically Sustainable Development;
- identification of any measures taken to minimise the impacts of these effects; and
- description of mechanisms used for reviewing and increasing the effectiveness of these measures.[35]

3.26 The Directions require agencies, as part of their direct operations, to report on resource use, including energy use, transport, water consumption, greenhouse gas emissions, resource efficiency and waste.[36]

3.27 On the topic of Economically Sustainable Development reporting requirements under the Directions, Auditor-General's Report No. 1 of 2010: *Performance reporting* concluded that:

> Reporting on ecologically sustainable development is complex, and departments reviewed did not fully comply with the requirement. Audit notes that the data provided by departments is providing useful information on their resource usage.[37]

3.28 To improve this situation, the Auditor-General recommended, in part, that the former Chief Minister's Department should, in consultation with other agencies, seek to establish a simple and cost-effective set of performance measures and targets for ecologically sustainable development. This should be supplemented by improvements to the guidance provided to agencies to assist with completion of the Economically Sustainable Development reporting requirements section of their respective annual report.[38]

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[34] *Chief Minister's Annual Report Directions 2011–12*; *Environment Protection Act 1997*, s.158A.
[35] *Annual Report Directions 2011–12*
[36] *Annual Report Directions 2011–12*
[37] ACT Auditor-General's Report No. 1 of 2010: *Performance Reporting*, p. 45.
[38] Recommendation 8—ibid., p. 46.

Recommendation 2

3.29 The Committee recommends that the Chief Minister and Treasury Directorate should, in consultation with other agencies, seek to establish a simple and cost-effective set of performance measures and targets for ecologically sustainable development.

3.30 The Committee notes that since the 2010 various iterations of the Directions have amended the reporting requirements under the C.19, ecologically sustainable development section to streamline performance measures and targets, and related requirements for Economically Sustainable Development.

4 WHOLE-OF-GOVERNMENT ISSUES ARISING FROM ANNUAL REPORTS

4.1 During discussions over the course of its public hearing program, the Committee sought clarification on a number of whole-of-government issues arising from specific annual reports.

REPORTING ON ECOLOGICALLY SUSTAINABLE DEVELOPMENT

4.2 As noted in chapter three, the Directions require applicable agencies to report on ecologically sustainable development performance in accordance with descriptor—C.19 Ecologically Sustainable Development.

4.3 The Committee appreciates that reporting on Economically Sustainable Development is a complex process and that over previous reporting periods, agencies have provided useful information on their respective resource use. However, the Committee notes that the complexity of reporting is compounded when some aspects of the requirements change, for example, between reporting periods. Further, this can also make it difficult to make comparisons from one year to the next.

4.4 The Committee acknowledges improvements in the streamlining of performance measures and targets, and related requirements for Economically Sustainable Development reporting. The Committee notes, however, the challenges faced by some agencies, attributable to operational circumstances[39], with regard to the achievement of sustainability improvements and Economically Sustainable Development reporting.

4.5 During questioning on reporting and performance against descriptor C.19, whilst all reports referred for examination complied generally with the requirements of Economically Sustainable Development reporting, the Committee found on a number occasions the difficulty faced by agencies[40] that do not occupy a whole building to report meaningfully on many indicators. For example, the Committee sought an explanation for what appeared to be a reported increase in greenhouse gas emissions for the ACT Gambling and Racing Commission by 239 per cent in 2011-12 as compared with 2010–11. The Chief Executive of the ACT Gambling and Racing Commission commented:

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[39] For example, ACTTAB Ltd., non-standard hours of operation and operation of night venues (*Transcript of evidence*, 15 December 2010, p. 226)—7[Th] Assembly PAC inquiry into 2009–2010 referred annual reports.

[40] For example, ACT Gambling and Racing Commission (*Transcript of evidence*, 7 March 2013, p. 54).

> We are a very small part of a relatively large building and these figures are pro rata-ed to us from our—
>
> …
>
> We have a very limited amount of influence over what happens within the building that we occupy. If I could draw your attention to some of the other matters of energy efficiency where we do have control, there are improvements in all of those, in terms of cars and things like that. But in terms of the actual use of fuels and whatever for the building, we do not have much or any influence over that.[41]

4.6 In the context of accountability, the Committee acknowledges the difficulty in holding agencies to account for certain aspects of their Economically Sustainable Development performance when they have limited or no control over specific elements of their resource uses.

COMPLAINTS MANAGEMENT

4.7 The Committee discussed with the Chief Minister, and representatives from the Ombudsman's office, complaints management in the ACT Public Service. The specific detail on these discussions is set out under chapter five.

4.8 As to work taking place to improve complaints management across the ACT public service (ACTPS), the Chief Minister advised:

> We are also looking at the way we handle customer feedback and complaints right across government. The work is being led around—and this actually came from advice from the previous Ombudsman, Allan Asher—different processes and procedures depending on particular agencies for processing feedback and complaints. We have done quite a lot of work on standardising that. I think it is fair to say that all agencies are focused on improving information they can provide to the community.[42]

4.9 The Committee notes that the effectiveness of the complaints handling arrangements in the former Department of Territory and Municipal Services was the subject of an Auditor-General's report in 2010—*Management of feedback and complaints*—which concluded in part that:

> Policies, procedures and guidelines for staff involved in handling complaints and feedback were not adequate, and there were shortcomings in ongoing monitoring, review and analysis of feedback and complaints. These, combined with the limited use and roll-out of the management information system, can impair the ability of TAMS

[41] Mr Greg Jones, *Transcript of evidence*, 7 March 2013, p. 54.
[42] Ms Katy Gallagher MLA, *Transcript of evidence*, 10 May 2013, p. 215.

> and other ACT Government agencies to effectively use information provided through feedback and complaints to improve business practices and services delivered.[43]

4.10 The Seventh Assembly Public Accounts Committee subsequently inquired further into the Auditor-General's report and recommended that:

> …the ACT Government develop and publish a whole-of-government policy for the management of feedback and complaints.[44]

4.11 The Government agreed to this recommendation and, when tabling its response to the Committee's report, the Chief Minister told the Legislative Assembly:

> The government has agreed that a whole-of-government policy on the management of feedback and complaints is to be developed. Indeed, the head of service tells me that one has been drafted and after a period of consultation will be finalised shortly. The policy augments existing systems with high level principles pulled from the Ombudsman's better practice guide as a way to provide a stronger foundation from which procedures can be advanced.[45]

Recommendation 3

4.12 The Committee recommends that the Chief Minister inform the ACT Legislative Assembly on progress regarding the finalisation of the whole-of-government policy on the management of feedback and complaints, including detail on its implementation and a date for finalisation of the policy.

4.13 The Seventh Assembly Public Accounts Committee also made comment about the importance of a whole-of-government approach to complaint handling at an operational level and the benefits that may flow to strengthening of the Government's 'One Service' approach. In tabling the Government response to that Committee's report, the Chief Minister told the Assembly:

> …with regards to whole-of-government approaches to complaint handling at the practical level, I happy to report that the Strategic Board recently looked at the possibility of consolidating the whole-of-government feedback process and it was agreed that a "One Service'' approach was needed. To this end, Canberra Connect has established a triage system to receive, prioritise and direct complaints on behalf of the

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[43] ACT Auditor-General's Office, Report No. 7/2011: *Management of feedback and complaints*, October 2010, p. 5.

[44] Standing Committee on Public Accounts, Review of Auditor-General's No. 7 of 2010: *Management of Feedback and Complaints*, August 2011, p. v.

[45] Ms Katy Gallagher MLA, 'Public Accounts—Standing Committee, Report 17—Government Response', Legislative Assembly for the ACT, *Debates*, 14 February 2012, p. 78.

> service. It is still in an implementation phase, but I am told that at this early stage we have had a positive response and the procedures appear to be working well.[46]

Recommendation 4

4.14 The Committee recommends that the Chief Minister inform the ACT Legislative Assembly on progress on, and a completion date for, the consolidation of the whole-of-government feedback process—in particular, the operation and performance of Canberra Connect's triage system to receive, prioritise and direct complaints on behalf of the ACT Public Service.

4.15 The Committee notes that the ACT Ombudsman's report—*Room for improvement: a proposed 10-point plan to improve ACT Government service delivery*—has also addressed the issue of complaints handling in in the ACTPS. Amongst other things, the Ombudsman recommended that the Government:

> Introduce a consistent complaint-handling structure across the whole of government. Specifically:
>
> a. provide clear information about making and progressing complaints
>
> b. adopt an agreed definition of what constitutes a complaint.
>
> c. introduce consistent ACT Government complaint service standards
>
> d. ensure better processes and IT systems.

4.16 The Committee emphasises the importance of effective management of feedback and complaints. How complaints are handled and feedback is received are key indicators of quality in the public services provided by the ACT Government at both systemic and service-recipient levels.[47]

Governance of territory-owned corporations

4.17 The issue of the incorrect reporting by ACTEW of the remuneration of the Managing Director in its 2010–11 Annual Report raises some matters worthy of consideration with respect to the governance of territory-owned corporations.

4.18 The Committee's discussion with the Auditor-General and ACTEW Corporation concerning the disclosure of executive remuneration in ACTEW's 2010–11 Annual Report, and associated financial statements, is set out under each agency's section in chapter five.

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[46] Ms Katy Gallagher MLA, 'Public Accounts—Standing Committee, Report 17—Government Response', Legislative Assembly for the ACT, *Debates*, 14 February 2012, p. 78.

[47] Brewer, B. (2007) Citizen or customer? Complaints handling in the public sector, *International Review of Administrative Sciences*, **73**, 4, pp. 549–556.

4.19 The Committee is firmly of the view that the misreporting of the Managing Director's salary was an error and was not in any way a deliberate attempt to mislead. The Committee has striven to consider the incident that gave rise to the matter in the wider context of the governance of territory-owned corporations. It has endeavoured to focus beyond the blame game and to be forward looking in its examination of the matter.

4.20 The Committee's comments are framed in this context—first considering the immediate issues associated with how the misreporting was managed after the ACTPS was informed with respect to the corrigendum process, together with the climate that prevailed at the time, followed by the wider context of matters related to the governance of Territory owned Corporations.

4.21 Furthermore, as to the appropriateness of the quantum of current remuneration for ACTEW's Managing Director, the Committee is clear that this is a matter for the Board of ACTEW. This position is consistent with ASX's Corporate Governance Principles and Recommendations which place the board at the centre of a company's corporate governance.[48] Specifically, with respect to remuneration, Principle 8 states:

> Principle 8—Remunerate fairly and responsibly
>
> Companies should ensure that the level and composition of remuneration is sufficient and reasonable and that its relationship to performance is clear.[49]

AUDITOR-GENERAL REPORT—EXAMINING DISCLOSURE OF EXECUTIVE REMUNERATION

4.22 The Auditor-General presented a report to the Speaker on 26 April 2013—*Executive Remuneration Disclosed in ACTEW Corporation Limited's (ACTEW) 2010–11 Financial Statements and Annual Report 2011*[50]—responding to the Committee's request for further information relating to the: (i) the Auditor-General's responsibilities in relation to ACTEW's annual report and financial statements; and (ii) incorrect reporting by ACTEW of the remuneration of ACTEW's Managing Director in its 2010–11annual report.

4.23 The Auditor-General 's key findings were that:

- ACTEW had made errors in reporting the remuneration of its Managing Director in its 2010-11 financial statements and 2010–11 Annual Report
- no other errors were identified in relation to the remuneration of other key management personnel shown in the Remuneration Table in ACTEW's Annual Report 2011;

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[48] ASX Corporate Governance Council. (2010) *Corporate Governance Principles and Recommendations with 2010 Amendments* (2nd edn.).

[49] ASX Corporate Governance Council. (2010) *Corporate Governance Principles and Recommendations with 2010 Amendments* (2nd edn.).

[50] : Auditor-General's Report No. 2 of 2013: *Executive Remuneration Disclosed in ACTEW Corporation Limited's (ACTEW) 2010–11 Financial Statements and Annual Report 2011,* 26 April 2013.

- ACTEW changed its method for disclosing amounts in the Remuneration Table in its annual report and key management personnel remuneration in its financial statements. This is the context in which the errors were made in reporting in 2010-11, the Managing Director's remuneration;
- the issuing of a corrigendum for ACTEW's Annual Report 2011 was not undertaken in a timely manner. ACTEW says it identified the error on 3 October 2012 and the corrigendum was issued on 8 March 2013. More timely provision of advice from the ACT Government may have reduced this time. The communication processes between the ACT Government and ACTEW need to be documented;
- the Auditor-General reviews ACTEW's annual report for consistency with its financial statements. If the Remuneration Table in ACTEW's Annual Report 2011 had been subjected to such a review, ACTEW would have been requested to correct the errors in the Remuneration Table in the annual report or be subject to a negative finding; and
- information in ACTEW's remuneration tables in its annual reports should be consistent with that in its financial statements.

4.24 Importantly, the Committee notes the Auditor-General's finding that ACTEW's key reporting results as presented in its 2010-11 financial statements were not affected by the errors. Its financial statements would not be qualified as the amount involved was not material.

4.25 The Auditor-General made two recommendations to address the aforementioned findings:

- ACTEW should be required to include information provided in remuneration tables in its annual report in its financial statements so that it is audited by the Auditor-General; and
- Communication processes between the Government and ACTEW should be documented.

4.26 The Committee is of the view that these recommendations will promote public accountability by improving transparency with respect to communication processes between ACTEW and the Government; and consistency in relation to financial statement reporting.

Recommendation 5

4.27 The Committee recommends that the two recommendations of the Auditor-General, as contained in report No. 2 of 2013: *Executive Remuneration Disclosed in ACTEW Corporation Limited's (ACTEW) 2010–11 Financial Statements and Annual Report 2011*, should also apply to other territory-owned corporations, and that the full details of the Managing Director's salary including a breakdown of the remuneration package be included in ACTEW annual reports.

Recommendation 6

4.28 The Committee recommends a full performance audit into the oversight and governance of ACTEW including the setting of executive salaries, reporting to Government Departments and to the Government, hospitality expenditure, and relationship to ACTEWAGL.

CARETAKER PERIOD AND GUIDANCE ON THE CARETAKER CONVENTIONS

4.29 The Committee notes that the identification of the error was identified by ACTEW on 3 October 2012 during the Caretaker period and when the caretaker conventions applied. During its inquiry, the Committee established that the ACTPS was informed on 9 November 2012, shortly after the caretaker period, in the context of seeking advice with regard to preparation of a corrigendum. The Committee further notes that the formation of a Government after the 8th ACT General Election on 20 October 2012 took some time due to the need to form a minority government.

4.30 The objective of the Caretaker Conventions is to:

> …guide the conduct of governments and the bureaucracy during election periods (until a new government is sworn in) or in circumstances, for example, where a government has lost its parliamentary majority. These conventions ensure that somebody has a 'hold of the formal levers of power until a new government can be formed' (Laver and Shepsle 1994, pp. 291-292). Boston et al. (1998, p. 631) note that while periods of caretaker government occur in all parliamentary democracies, they tend to be both more frequent and protracted in countries with proportional representation because election outcomes are often less clear cut, and the need to form coalition or minority governments can cause significant delays.[51]

4.31 Within Westminster style systems, the concept of caretaker conventions fall within a specific group of conventions that are focused on ensuring the accountability of the elected Government to the Parliament.[52] The Caretaker Conventions are designed to provide guidance to Ministers, the Opposition and public servants about how the business of government should be conducted during the caretaker period.

4.32 When the caretaker period comes into force, the Government is still the Government, however, the conventions that become effective during such a period are designed to avoid actions that will 'bind an incoming government, and limit its freedom of action'. According to the Australian Public Service Commission, the essential aspects of caretaker conventions:

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51 Tiernan, A. and Menzies, J. (2007) *Caretaker Conventions in Australasia—Minding the Shop for Government*, Co-published with ANZSOG, October, e-book.

52 Tiernan, A. and Menzies, J. (2007) *Caretaker Conventions in Australasia—Minding the Shop for Government*, Co-published with ANZSOG, October, e-book.

> …are that the Government avoids:
>
> - making major policy decisions
> - making significant appointments (for example, of agency heads or to boards or advisory committees), and
> - entering major contracts or undertakings.
>
> Other areas that could also be affected include: international negotiations, advertising campaigns and the content of websites.[53]

4.33 The Committee acknowledges that the application of the Conventions, at times, can be complex because difficult judgements often have to about whether an action may be in breach within the highly charged atmosphere of a general election period. Furthermore, the complexity of these types of decisions is increased when the conclusion of the caretaker period becomes extended due to election outcomes and the time taken to form coalition or minority government.

4.34 The Committee notes that in New Zealand, which has a unicameral parliament, the conclusion of the caretaker period can be difficult to predict:

> …as the MMP voting system means that there is a possibility of a lengthy period before the formation of a new government—as happened in 1996, for example, when the caretaker period lasted for nine weeks.

4.35 As a consequence, the New Zealand caretaker conventions have an extended section on guidance for when it is not clear who will form the next government to assist with decision-making during that interregnum.

4.36 Guidance on how to apply the Conventions is paramount to clarify and remove existing ambiguities as to the coverage of specific actions and the responsibilities of arm’s length government enterprises and agencies. Further, any such guidance should consider the application of the Conventions when it is not clear who will form the next government to assist with decision-making during that period.

4.37 The Committee is of the view that there is merit in reviewing the ACT Government’s Guidance on Caretaker Conventions to determine whether specific sections on the application of the Conventions: (i) when it is not clear who will form the next government to assist with decision-making during that period; and (ii) to arm’s length government enterprises and agencies, are required.

[53] Briggs, L. (2007) ‘Responsibilities in the Caretaker period’, Commonwealth Department of Treasury Seminar Series, 28 August.

Recommendation 7

4.38 The Committee recommends that in preparation for the 2016 ACT General Election, the Commissioner for Public Administration should review the ACT Government's Guidance on Caretaker Conventions to determine whether specific sections detailing the application of the Conventions when it is not clear who will form the next government to assist with decision-making during that period are required.

Recommendation 8

4.39 The Committee recommends that in preparation for the 2016 ACT General Election, the Commissioner for Public Administration should review the ACT Government's Guidance on Caretaker Conventions to determine whether specific sections detailing the application of the Conventions arm's length government enterprises and agencies are required.

GOVERNMENT ENTERPRISES BUSINESS OWNERSHIP POLICY

4.40 During questioning, the Committee established that a government business enterprises ownership policy had not been finalised. Discussion ensued on this matter:

> MR SMYTH: This hearing is also to cover the government business enterprises ownership policy. Does the government have a government businesses enterprises ownership policy?
>
> Mr Barr: We have specific pieces of work in relation to one particular government business enterprise that we discussed previously.
>
> MR SMYTH: Which is?
>
> Mr Barr: I have released terms of reference for a review relating to ACTTAB.
>
> MR SMYTH: So we do not have a whole-of-government enterprise ownership policy?
>
> Mr Barr: We have only got two now. [54]
>
> Ms Smithies: Two territory-owned corporations.
>
> Mr Barr: Two territory-owned corporations, yes.

4.41 Notwithstanding that there remain only two territory-owned corporations, with the future ownership of one[55] currently under review, the Committee is of the view that the finalisation of government business enterprises ownership policy, amongst other things, could provide

[54] *Transcript of evidence*, 12 March 2013, p. 118.
[55] ACTTAB Ltd.

detail with respect to communication processes and responsibilities between such enterprises and the Government.

4.42 The Committee notes that government business enterprises (GBEs), as organisations, can be caught between the two cultures of the private and public sectors, and could be classed as not really satisfying the requirements of either type of organisation. As a consequence, it is not always clear what standards GBEs should be held to. The finalisation of a government business enterprises ownership policy could assist with clarifying and removing any ambiguities as to what standards these types of organisations should be held accountable to.

Recommendation 9

4.43 The Committee recommends that the ACT Government should develop a Government Business Enterprises Ownership Policy to assist with clarifying and removing any ambiguities as to what standards Government Business Enterprises should be held accountable to.

6TH ASSEMBLY PAC REPORT INQUIRING INTO RHODIUM ASSET SOLUTIONS LTD

4.44 The Sixth Assembly Public Accounts Committee report—Review of Auditor-General's Report No. 5 of 2006: *Rhodium Asset Solutions Ltd* (21 August 2008) made a number of recommendations in relation to the governance of territory-owned corporations. The Government response to this report remains outstanding.

4.45 The Committee makes it very clear that it is not suggesting that the matter of misreporting of executive remuneration by ACTEW is in any shape or form comparable to the matters that gave rise to the Sixth Assembly Public Accounts Committee inquiry into Auditor-General's Report No. 5 of 2006: *Rhodium Asset Solutions Ltd*. However, in the interests of accountability, the Committee considers that the recommendations made by the Sixth Assembly Public Accounts Committee concerning the governance of territory-owned corporations should be responded to by the Government.

Recommendation 10

4.46 The Committee recommends that the ACT Government provide a response, by the last sitting day in August 2013, to the nine recommendations pertaining to the governance of territory-owned corporations as contained within the Sixth Assembly Public Accounts Committee report—Review of Auditor-General's Report No. 5 of 2006: *Rhodium Asset Solutions Ltd.*

5 SPECIFIC ISSUES ARISING FROM ANNUAL REPORTS

ACT AUDITOR-GENERAL'S OFFICE

5.1 The Committee heard from the Auditor-General on Tuesday 2 April 2013 to discuss the ACT Audit Office's (the Office) 2011–12 annual report.

FUNDING TO SUPPORT GROWTH IN THE PERFORMANCE AUDIT FUNCTION

BUDGET SUBMISSION FOR 2012–13

5.2 A funding model to support growth in the performance audit function was factored into the Office's 2012–13 Budget and its outyears. The Auditor-General told the Committee that:

> We have 39 staff; 37.9 FTEs. The audit office revenue is $6 million and it consists largely of financial audit fees of $3.7 million and an appropriation of $2.2 million. Consistent with the cost recovery nature of our operations, we expect to generate essentially a break-even operating result.
>
> You may be aware that we did apply for an additional appropriation of $383,000 and we have been successful to the tune of $250,000 for 2012-13. That will allow us approximately one more performance audit.[56]

5.3 The Auditor-General sought an increase of $458 000 to the Office's appropriation funding in 2012–13 to: (i) increase the number of performance audits from six in 2011–12 to eight in 2012–13 ($383 000); and (ii) to meet indexation costs ($75 000). The 7th Assembly Public Accounts Committee endorsed that request and also supported the proposed increases in appropriation over the period of the forward budget estimates from 2013–14 to 2015–16 to facilitate continued growth in the performance audit function.[57]

5.4 However, in 2012–13, the Auditor-General received an additional appropriation of $250 000 in 2012–13 (Budget Policy Adjustment) for increased resourcing for performance audits as opposed to the proposed $383 000. This translates to an increase of one performance audit in 2012–13, i.e., seven in total.

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[56] Dr Maxine Cooper, *Transcript of evidence*, 2 April 2013, p. 152.
[57] ACT Legislative Assembly, Debates, 1 May 2012, pp. 1759–1760.

5.5 It is important to understand the sources of funding for the Office and the various outputs/services to which the annual appropriation received from the Consolidated Fund is used for. In summary, the annual appropriation, in addition to funding performance audits and reports, also funds a range of other services including:

- dealing with disclosures under the *Public Interest Disclosure Act 1994;*
- preparation and printing of the Office's report to the Legislative Assembly on its annual financial audits;
- liaising with the Assembly and its committees, including preparation of submissions and appearing at hearings; and
- examination of representations and submissions to the Audit Office from a range of stakeholders—ACT Legislative Assembly, community groups and individuals.

Role of Auditor-General's Office in relation to the financial statements of ACTEW Corporation Limited

5.6 In the context of the matter of the incorrect reporting of executive remuneration as part ACTEW Corporation Limited's 2010–11 Annual report, the Committee was interested to know the role of the the Audit Office in relation to ACTEW's financial statements and annual report. The Auditor-General advised:

> ...we do not audit the annual report of ACTEW. We certainly do audit their financial statements.[58]

5.7 As to the specifics of the role of the Office in relation to the Corporation's financial statements, the Director of Financial Audits explained:

> In relation to the specific schedule that there has been an error in, we do not audit the line-by-line schedule that appears as a corrigendum to ACTEW's annual report or in ACTEW's annual report. That falls outside the scope of our audit. Our audit is confined just to the financial statements of ACTEW. But given the interest in that area, I am aware that towards the back of ACTEW's financial statements there is a disclosure of a one-line item for management remuneration. I am seeking information from our auditors who do that audit under contract for us as to what work was done in that particular area, because if there is a problem with the front of the report, potentially there is an issue with that one disclosure in the financial statements. So I have asked them to come back to me on that.[59]

5.8 The Auditor-General presented a report to the Speaker on 26 April 2013—*Executive Remuneration Disclosed in ACTEW Corporation Limited's (ACTEW) 2010–11 Financial*

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[58] Dr Maxine Cooper, *Transcript of evidence*, 2 April 2013, p. 152.
[59] Mr Bernie Sheville, *Transcript of evidence*, 2 April 2013, pp. 152–153.

Statements and Annual Report 2011[60]—responding to the Committee's request for further information relating to the: (i) the Auditor-General's responsibilities in relation to ACTEW's annual report and financial statements; and (ii) incorrect reporting by ACTEW of the remuneration of its Managing Director in ACTEW's Annual Report 2010–11.

5.9 The findings and recommendations of this report are discussed in chapter four.

OTHER MATTERS

5.10 Other matters by the Committee included:

- results of the Office's 2012 staff survey—overview of the process, review and evaluation of responses, and the role of the Office's consultative committee[61];
- current powers of the Auditor-General to audit non-public sector entities receiving public money[62];
- challenges for staff recruitment, success of recent recruitment rounds in the current market, turnover and strategies to retain staff[63];
- the Office's undergraduate and postgraduate prizes to top students in auditing and accounting at the University of Canberra to raise awareness of employment opportunities provided by the Office[64];
- circumstances surrounding the Office's inability to issue audit reports on the financial statements and reports of factual findings on the statements of performance of two new territory authorities—ACT Compulsory Third-Party Regulator and ACT Teacher Quality Institute because these authorities did not prepare the financial statements required by the FM Act[65];
- process for selecting audit topics as part of the annual performance audit program and the 2013–14 draft performance audit program[66]; and
- the Office's process for releasing reports of the Auditor-General to the media and the public[67].

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[60] : Auditor-General's Report No. 2 of 2013: *Executive Remuneration Disclosed in ACTEW Corporation Limited's (ACTEW) 2010–11 Financial Statements and Annual Report 2011,* 26 April 2013.

[61] *Transcript of evidence*, 2 April 2013, pp. 154–155.

[62] *Transcript of evidence*, 2 April 2013, pp. 158–159.

[63] *Transcript of evidence*, 2 April 2013, pp. 154–155.

[64] *Transcript of evidence*, 2 April 2013, p. 156.

[65] *Transcript of evidence*, 2 April 2013, pp. 159–160.

[66] *Transcript of evidence*, 2 April 2013, pp. 157–158.

[67] *Transcript of evidence*, 2 April 2013, pp. 164–165.

Office of the Legislative Assembly

5.11 The Committee heard from Madam Speaker on Tuesday 26 March 2013 to discuss the Legislative Assembly Secretariat's 2011–12 annual report.

Website redevelopment project

5.12 The Committee inquired on the status of the website redevelopment project and its cost. Madam Speaker informed the Committee that her recollection of the costs were:

> …in the order of $60,000 for the redevelopment. It is going live probably in about mid-April. I now have access to the website and after Easter members will be given a log-on so that they can use the website and get some familiarity with it and hopefully find any glitches that live action would indicate.
>
> It is a much improved website. It looks and feels quite different. It has a lot more functionality.[68]

5.13 The Committee was interested to know whether the contract for the redevelopment was determined by a tender process and was told:

> We did go to tender for the original design. ZOO Advertising came and did some work with us and helped us with all the consultation to get the design. The reason we used Shared Services is that they are developing the single public face for the ACT government website. For our previous website we had gone to some private developers and we have had problems with ongoing support. So we decided it was safest and best to work with Shared Services, which provides all of our other IT, so that we get some stability and support for the website.[69]

5.14 The Committee queried whether the amount of $60 000 also factored in the design component provided by ZOO Advertising and was told that it did.[70]

Introduction of electronic petitions

5.15 The Committee was interested in an update on the introduction of electronic petitions (e-petitions)—in particular, how much the initiative had cost and how many e-petitions had been lodged since the portal was operational. The Committee was told that it had cost close to $50 000 to implement notwithstanding that the Assembly had been provided with the original software, as a free resource, from the Queensland parliament. The significant cost incurred, together with the lengthy time taken to progress the initiative, was due mainly to a

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[68] Mrs Vicki Dunne MLA, *Transcript of evidence*, 26 March 2013, p. 131.
[69] Ms Val Barrett, *Transcript of evidence*, 26 March 2013, p. 132.
[70] *Transcript of evidence*, 26 March 2013, p. 132.

requirement to ensure compatibility with Shared Services ICT's processes and systems—specifically to address some security vulnerabilities and accessibility requirements as part of the website redevelopment.[71]

5.16 Madam Speaker informed the Committee that the e-petition functionality had been operational for a month. Representatives from the Office of the Legislative Assembly confirmed that no petitions had been received to date. With the petitioning functionality available the Committee sought information as to what the Assembly was doing to raise awareness to which Madam Speaker indicated that she had done a radio interview on the subject. The Clerk added:

> I can tell you that there is a monthly ad that the Assembly puts in the Canberra Times. It featured in last month's advertisement and it is also featuring in the advertisement that is going to press this week, I think; maybe even tomorrow. So we are trying to publish it there. I am intending to write to all members in the coming weeks to remind them of the facility and maybe they will have a lot more interaction with people that might be likely to use petitions. If they are of that mind, members might promote the use of this new facility.[72]

5.17 Madam Speaker further added that she was of the view that there was merit in providing members with:

> … a mini seminar on how it works so that people will feel more comfortable about suggesting it to constituents.[73]

Introduction of electronic document delivery mechanisms

5.18 The Committee was advised that the Standing Committee on Administration and Procedure was looking at options whereby Ministers would table documents electronically as opposed to providing paper documents. Whilst this may lead to a significant decrease in paper usage and associated costs across the Executive, without an appropriate form of redress, it will be a liability transferred to the Assembly.[74]

5.19 The Committee expresses concern that the introduction of electronic document delivery mechanisms may create unintended difficulties, such as making it more difficult to respond to the content of documents immediately after they are tabled. Furthermore, if all documents were to be distributed to Members electronically, the costs of printing those documents would be transferred from the Executive to either the Secretariat or Members.

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[71] *Transcript of evidence*, 26 March 2013, p. 132
[72] Mr Tom Duncan, *Transcript of evidence*, 26 March 2013, p. 147.
[73] Mrs Vicki Dunne MLA, *Transcript of evidence*, 26 March 2013, p. 147.
[74] *Transcript of evidence*, 26 March 2013, p. 141.

Discretionary office allocation expenditure

5.20 The Committee discussed at length with Madam Speaker and officials a number of matters related to discretionary office allowance (DOA) expenditure.[75] This included specific items under a number of MLAs DOA reports and the feasibility of extending the coverage of DOA use to communication related matters such as to maintain and enhance Members' websites.[76] The Member's Guide describes the purpose of the DOA as follows:

> Non-executive members of the Assembly have access to a discretionary office allocation (DOA) to allow them to acquire goods and services that assist them in carrying out their parliamentary and electoral responsibilities, whilst providing some flexibility as to what goods and services are made available.

5.21 In connection with a ruling by the former Speaker that material printed by two MLAs fell outside the DOA guidelines, the Committee confirmed whether the monies had been repaid as instructed. The Speaker confirmed that it had and clarified that one MLA had paid the amount on behalf of both MLAs as they had had carriage of the expenditure.[77]

5.22 Regarding the feasibility of extending the coverage of DOA use to cover communication related matters such as maintaining and enhancing Members' websites, the Speaker informed the Committee that, on behalf of the Administration and Procedure Committee, she had made a submission to the Remuneration Tribunal about the DOA suggesting converting some of the Allowance into a communications type allowance as instituted in other parliaments. The Speaker indicated that she was happy to have a continuing conversation in relation to this matter. Madam Speaker commented:

> I think this is an ongoing and developing area. Once upon a time these things were outside the DOA and they are gradually coming in. I personally do not see that there is any problem with the DOA being used for these purposes, so long as there is a caveat that people can see it is provided for by public funds. I think this is a conversation that in this Assembly we will be having more closely about the use of DOA. [78]

5.23 The Committee notes that an underpinning requirement for use of a proposed communication allowance in this way would require an undertaking by members to ensure that their websites would be used to distribute parliamentary or electorate information.

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[75] *Transcript of evidence*, 26 March 2013, pp. 132–134; 143–144; 148.

[76] In relation to these matters a Member of the Committee put the view, at the Committee's meeting of 3 June 2013, that "open and transparent details of purchases, including services and legal advice, made under the Discretionary Office Allowance should be made available to the Clerk of the Assembly to ensure that the Discretionary Office Allowance is being used according to guidelines."

[77] Mrs Vicki Dunne MLA, *Transcript of evidence*, 26 March 2013, p. 133.

[78] Mrs Vicki Dunne MLA, *Transcript of evidence*, 26 March 2013, p. 133.

Recommendation 11

5.24 The Committee recommends that the Speaker continue to progress the feasibility of extending the coverage of the DOA for communication related matters such as to maintain and enhance Members' websites to distribute parliamentary or electorate information for the purposes of supporting these responsibilities.

OTHER MATTERS

5.25 Other matters discussed by the Committee included:

- service of prayer and worship to mark the opening of the 2013 parliamentary year of the Legislative Assembly held on 11 February 2013—costs incurred, number of invitations issued and to whom invitations were sent[79];
- enhancements to parliamentary education and community engagement programs that Madam Speaker would like to see introduced—for example, increasing outreach processes to raise the profile of the Assembly through community engagement and consideration with regard to increasing the rigour of the parliamentary school debates[80];
- the Legislative Assembly (Office of the Legislative Assembly) Act 2012—update on status and what it means in practice[81];
- why the reintroduction of the Civil Unions Bill warranted its own section in the annual report[82];
- sustainability reporting and performance statistics—explanation for an increase in greenpower percentage of 40 per cent in 2011–12 compared with previous reporting period of 17 per cent[83], and explanation for Increase in paper usage and decrease in recycling for 2011–12[84];
- the roof completion project delivered on time and under budget[85];
- update on the status of the replacement boiler project[86];
- the review of the Latimer House principles—cost of the Review, number of recommendations and status on implementation of the recommendations[87];
- resources received free of charge—explanation for what kinds of resources and basis for free of charge status[88]; and

[79] *Transcript of evidence*, pp.134-135; p. 138.
[80] *Transcript of evidence*, 26 March 2013, p. 134.
[81] *Transcript of evidence*, 26 March 2013, pp. 136–137.
[82] *Transcript of evidence*, 26 March 2013, p. 134.
[83] *Transcript of evidence*, 26 March 2013, pp. 142–143.
[84] *Transcript of evidence*, 26 March 2013, pp. 139–140.
[85] *Transcript of evidence*, 26 March 2013, pp. 141–142.
[86] *Transcript of evidence*, 26 March 2013, pp. 141–142.
[87] *Transcript of evidence*, 26 March 2013, p. 139.

- transition from the 7th to the 8th Assembly—instances of staff provided with incorrect advice in relation to termination/separation payments—explanation for over and under payments and whether these oversights had been rectified[89].

Chief Minister's portfolio

5.26 The Committee heard from the Chief Minister on Friday 10 May 2013 to discuss the 2011–12 annual report, or parts thereof, of the Chief Minister and Cabinet Directorate, the ACT Executive (annexed), the ACT Ombudsman, the ACT Commissioner for Public Administration and the Territory and Municipal Services Directorate (TAMSD) as it relates to the National Arboretum.

ACT Ombudsman

Complaints handling

5.27 The Committee discussed at length with the senior official in attendance on behalf of the Ombudsman's office complaints management in the ACT Public Service. This included matters relating to:

- increases and decreases in complaints concerning ACT Government agencies, in particular that two agencies—ACT Housing and Corrective Services—on the basis of interactions with the public, have the potential to have significant numbers of complaints relative to other agencies[90];
- reasons why complaints may not be investigated—with the approach of the Ombudsman's office to return, as far as possible, complaints back to the agency to attempt to exhaust their complaint-handling processes in the first instance prior to escalation[91];
- breakdown of complaints relating to ACT Housing and Corrective Services—including resolutions in favour of the complainant or whether they were rejected[92];
- community forum held in late June 2012 to discuss complaints and service delivery—further information on attendances and how feedback gleaned was used to improve complaint management and resolution processes[93];

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[88] *Transcript of evidence*, 26 March 2013, p.145.
[89] *Transcript of evidence*, 26 March 2013, pp.137–138.
[90] *Transcript of evidence*, 10 May 2013, p. 210.
[91] *Transcript of evidence*, 10 May 2013, p. 212.
[92] *Transcript of evidence*, 10 May 2013, p. 213.
[93] *Transcript of evidence*, 10 May 2013, p. 213.

- detail on the information sessions provided by the Ombudsman's office as part of the induction process for ACT Corrective Services staff—new recruits and trainee corrections officers[94];
- explanation for why 46 out of 57 complaints received in relation to the Territory and Municipal Services Directorate were not investigated as being attributed generally to matters not suitable for the Ombudsman's office to deal with, the complainant may not have raised it with the agency or the Office may not be able to provide a suitable remedy given what the complainant is seeking[95]; and
- discussion related to a matter concerning basic veterinary checks for impounded dogs and the complaint-handling processes by Domestic Animal Services[96].

COMMISSIONER FOR PUBLIC ADMINISTRATION

UPDATE ON PROGRESS RELATED TO INVESTIGATIONS AT THE CANBERRA INSTITUTE OF TECHNOLOGY

5.28 The Committee sought an update on progress related to investigations into the alleged misconduct and failings at the Canberra Institute of Technology (CIT).[97]

5.29 Following the completion of the Work Safety Commissioner 's review of concerns about work health and safety at CIT, a number of complaints from current and former CIT staff were made to the Commissioner for Public Administration. The Commissioner commented:

> …Following Mr McCabe's report, a number of other current and former CIT staff came forward expressing their concerns.
>
> As a result of that, the Chief Minister and the Minister for Education and Training at the time invited me to continue my investigations into conduct over a period of time at CIT. The mechanism by which we did that was formalised in the terms of reference that I settled with Mr Marron and that were published in the document. In part, the structure that was put in place reflects the fact that under our industrial agreements, including CIT's, to the extent that there need to be decisions made about individuals, the commissioner has no capacity to make those decisions. Decisions going to sanctions for misconduct, where that is proven, rest with the chief executive of the agency concerned.
>
> However, given the nature of the concerns and the time frame over which they had been expressed, there was a sense that bringing the independence of my office to that investigation process would assist in the story being told. Since that process

[94] *Transcript of evidence*, 10 May 2013, p. 214.
[95] *Transcript of evidence*, 10 May 2013, pp. 214–215.
[96] *Transcript of evidence*, 10 May 2013, pp. 215–216.
[97] *Transcript of evidence*, 10 May 2013, pp. 217–219.

> commenced, we have engaged a team of investigators to support me in that process because clearly there are now 61 individuals who have come forward. That is not to say that I have received 61 complaints, but 61 individuals have expressed concern about their experience. That was not something that could be properly done without establishing a special team to proceed.
>
> Through the course of the second half of last year I engaged those investigators. The team at its largest was seven; it is now two, given the flow of work. They went through a very normal process of gathering formal statements from those who had made complaints and drawing an analysis across all of those complaints. I provided my report of those initial investigations to the chief executive, Mr Marron, just before Christmas.
>
> There are also a small number of matters which relate to individuals who, while no longer at CIT, remain employed in the public service. In that context, I have provided a report of an equivalent content and nature to the Head of Service for his consideration.[98]

5.30 The Committee inquired about the action in response to the report and the Head of Service advised:

> The report is awaiting a response from CIT. That is somewhat overdue. We have had a number of follow-up actions as a result of the report being provided to them.[99]

5.31 The Committee also sought information on the total cost of the investigation to the Government to date and was told it was in the order of $500 000.[100] The Commissioner informed the Committee that the costs would be recovered from the CIT:

> The arrangement that we agreed—the Chief Minister accepted my recommendation—as we were setting up the process was that, while the staff have been engaged directly by me to preserve the independence of the process, we are recovering costs from the CIT.[101]

5.32 Other matters discussed by the Committee included:

- ACTPS workplace and planning challenges—including the difficulties of recruiting people other than formal graduates with required skills and expertise and the retention of mature-aged workers—strategies being implemented to respond include: a more integrated and strategic view of workforce planning right across the service, capitalising on the attractiveness of the ACT public service as an employer and specific entitlements

[98] Mr Andrew Kefford, *Transcript of evidence*, 10 May 2013, p. 217.

[99] Mr Andrew Cappie-Wood, *Transcript of evidence*, 10 May 2013, p. 218.

[100] A subsequent answer to a Question Taken on Notice advised the Committee that as of “May 2013, the total expenditure for the 2012-13 financial year for the CIT investigation is $490,115.84”, Katy Gallagher MLA, Answer to Question Taken on Notice,dated 28/05/2013

[101] Mr Andrew Cappie-Wood, *Transcript of evidence*, 10 May 2013, p. 219.

such as the Service's industrial agreements, for example, include specific provisions around grandparental leave and entitlements[102];

- Geographic distribution of the ACT public service, i.e., public servant numbers located in each of the town centres, such as Belconnen, Gungahlin, Woden, Tuggeranong, the inner north, the inner south and Canberra city[103];
- features of the ACTPS graduate program administered by the Chief Minister and Treasury Directorate—with the 2013 graduate program being offered in a range of professional streams across the service with a specific focus on the recruitment of Indigenous graduates as well as people with a disability. The 2013 program received 782 applications, 111 were interviewed, with 36 applicants offered placements[104];
- number of commissioner-initiated investigations during the 2011–12 reporting period[105];
- implementation of the Respect, Equity and Diversity (RED) framework throughout the ACTPS[106]; and
- general issues of workplace culture within the Health Directorate[107].

CHIEF MINISTER AND CABINET DIRECTORATE

5.33 The Committee considered a range of matters that fall within the Chief Minister's portfolio but which have whole-of-government significance, including: complaints management in the ACTPS; and governance of territory-owned corporations. Discussion on these matters is set out in Chapter 4.

CENTENARY OF CANBERRA —HOT-AIR BALLOON SCULPTURE

5.34 The Committee discussed aspects of the Centenary of Canberra celebrations including: the total cost[108]; and specific events and commissioned works, for example, the commissioning of Andrew Schultz to produce new piece of work that is the Canberra centenary symphony and the world premiere of the commissioned ballet in the next month along with other commissions and events.[109]

5.35 The Committee discussed at length with the Chief Minister, officials from the Chief Minister and Treasury Directorate, and the Centenary Creative Director, the Skywhale hot-air balloon

[102] *Transcript of evidence*, 10 May 2013, pp. 219–220.
[103] *Transcript of evidence*, 10 May 2013, pp. 220.
[104] *Transcript of evidence*, 10 May 2013, pp. 221.
[105] *Transcript of evidence*, 10 May 2013, pp. 221–222; 224.
[106] *Transcript of evidence*, 10 May 2013, p. 222.
[107] *Transcript of evidence*, 10 May 2013, pp. 222–224.
[108] *Transcript of evidence*, 10 May 2013, pp. 241–242.
[109] *Transcript of evidence*, 10 May 2013, pp. 241–242.

sculpture—a commissioned piece of work by artist Patricia Piccinini for the Centenary celebrations. This discussion extended to matters related to:

- the total cost of the hot-air balloon sculpture, valuation as an asset, and its operation and ownership[110];
- commissioning process, tender process and contract, and preliminary designs[111];
- licensing and associated costs related to the flying of the balloon throughout the year[112];
- approximate number of flights around Australia and in Canberra during the year and approximate cost per flight as around $3 500 per flight[113]; and
- the hot-air balloon sculpture in the context of other Centenary commissions including relative costs[114].

5.36 The Skywhale is a complex construction. Its features are that itis 34 metres long and 23 metres high. It is approximately twice as big as a standard hot air balloon and weighs half a tonne. Approximately 3.5 kilometres of fabric were used in its creation and it took 16 people seven months to design and construct. The balloon had its first flight in Canberra on the morning of Saturday 11 May 2013.[115]

5.37 The Committee acknowledges that the interpretation of art pieces can generate robust conversation and vigorous opinion. In many ways, the depth and breadth of this conversation and opinion is very much a creation of the art itself.

5.38 The Committee notes that whilst the Skywhale has divided public opinion—with many supporters and equally many detractors—it is important to emphasise that it:

- is a sculpture designed by a renowned artist and former Canberran, Patricia Piccinini;
- has increased awareness of the Centenary and Canberra; and
- has underpinning theoretical and creative linkages to Canberra and the Griffin plan.

5.39 As to the selection of the artist and the sculpture's underpinning theoretical and creative linkages to Canberra and the Griffin plan, the Creative Director explained:

> As to the choice of Patricia, the fact that she was Canberra educated, and very proud of that, was a very high factor in commissioning this, and the fact that she works in organic forms, so we could get something up in the air that looked like a creature in the

[110] *Transcript of evidence*, 10 May 2013, pp. 232–239.
[111] *Transcript of evidence*, 10 May 2013, p. 254.
[112] *Transcript of evidence*, 10 May 2013, p. 233.
[113] *Transcript of evidence*, 10 May 2013, p. 233.
[114] *Transcript of evidence*, 10 May 2013, pp. 241–242.
[115] Canberra 100, 'The Skywhale by Patricia Piccinini', viewed 4/06/13, http://www.canberra100.com.au/programs/the-skywhale-by-patricia-piccinini-/

> air, was central to what we were doing. Also, if you hear Patricia talk about it, she has thought very deeply about that. She talks about having an artificial city made in a natural place, as the Griffin plan was, and placing an artificial creature into a natural landscape, which is why we went to the trouble of commissioning those photographs and the video, which people have responded to extremely well—certainly on a national level so far.[116]

5.40 Other matters discussed by the Committee included:

- the matter of the underreporting of the remuneration for the CEO of ACTEW including the corrigendum process, internal communication within the Chief Minister and Cabinet and Treasury Directorates at the time the ACTPS was informed and the quantum of current remuneration for ACTEW CEO[117];
- organisational articulations and consequential changes—formal relationships between the Chief Minister and Treasurer post the creation of the Chief Minister and Treasury Directorate in November 2013[118];
- variation in and announcement of cost for the enlarged cotter dam project[119];
- reconsideration of allocations for some major capital projects because of the available capital across the budget [120];
- updated Memorandum of Understanding (MOU) with the Commonwealth over Jervis Bay for the provision of services into the commonwealth territory on a fee-for-service basis in accordance with the *Jervis Bay Territory Acceptance Act 1915* [121];
- regional partnership between ACT and the NSW Government in relation to how both parties plan and use available resources to service the region[122];
- membership of the South East Regional Organisation of Councils (SEROC) with first year of membership costing $29 000[123];
- explanation for the increase in a of $117 000 grant to UnionsACT—up about 25 per cent from the year before [124];
- return on grant allocation of $150 000 to Regional Development Australia (RDA) underpinned by an MOU[125]; and

[116] Ms Robyn Archer, *Transcript of evidence*, 10 May 2013, p. 241.
[117] *Transcript of evidence*, 10 May 2013, pp. 245–250.
[118] *Transcript of evidence*, 10 May 2013, pp. 251–252.
[119] *Transcript of evidence*, 10 May 2013, pp. 252–254.
[120] *Transcript of evidence*, 10 May 2013, p. 254.
[121] *Transcript of evidence*, 10 May 2013, pp. 254–256.
[122] *Transcript of evidence*, 10 May 2013, pp. 256–258.
[123] *Transcript of evidence*, 10 May 2013, pp. 257–258.
[124] *Transcript of evidence*, 10 May 2013, p. 258.
[125] *Transcript of evidence*, 10 May 2013, pp. 258–259.

- update on implementation of the recommendations of the Targeted Assistance Strategy—18 have been implemented, eight have been committed to with development underway, and eight remain under further consideration. The eight under further consideration, in the main, have a significant budget impact with regard to implementation[126] .

ACT Executive (annexed report)

Size of the ACT Legislative Assembly

5.41 The final report prepared by the Expert Reference Group on the size of the ACT Legislative Assembly was publicly released on 16 April 2013 after presentation to the Chief Minister on 28 March 2013.[127] The Committee discussed at length the size of the Assembly, reasons for why the 2016 timeline was established, update on its status, recommendations of the Expert Reference Group, whether any further consultation with the ACT community was warranted, timelines, process matters and the role of Electoral Commissioner. [128]

5.42 Other matters discussed by the Committee included:

- executive and non-executive staffing allocation and division of responsibilities between electoral and executive staff for the Greens' Minister[129];
- procedures in place for ensuring that only appropriate staff have access to cabinet documents by Minister Rattenbury's staff and the rules around access[130];
- update on the staffing profile in the Executive—as 34.4 (excluding ministers) at the end of 2011–12. This staffing profile is currently being maintained throughout the financial year for 2012–13 as 39.4 (including Ministers)[131]; and
- changes in valuation of the "Kimono asset"—the encased kimono, which is a gift from the city of Nara has not been previously valued in a way that reflects its true value. The asset has now been valued by experts at $46 000 and is reflected in the assets associated with the Executive[132].

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[126] *Transcript of evidence*, 10 May 2013, pp. 259–260.
[127] http://www.elections.act.gov.au/electoral_boundaries/review_into_the_size_of_the_legislative_assembly
[128] *Transcript of evidence*, 10 May 2013, pp. 292–232.
[129] *Transcript of evidence*, 10 May 2013, pp. 225–227.
[130] *Transcript of evidence*, 10 May 2013, p. 227.
[131] *Transcript of evidence*, 10 May 2013, p. 228.
[132] *Transcript of evidence*, 10 May 2013, pp. 228–229.

NATIONAL ARBORETUM

ORIGINAL VISION OF 100 FORESTS

5.43 The Committee was interested in the original vision of 100 forests and when this would be achieved. On the basis of the annual report, that 87 new forests had been planted, the Committee sought clarification as to when the remaining 13 would be planted. A representative of the TAMS Directorate explained:

> It is 87 new forests, and there are 92. There were some in existence. Those are the new forests that have been created. Correct me if I am wrong.
>
> …
>
> There are 92, because there were forests there. Some survived from the previous fires. Of course, you would be aware of the cork oak forest as well. It is 92 in total, of which 87 have been new plantations.[133]

5.44 As to when the remaining eight would planted, the General Manager of the Arboretum told the Committee:

> We have undertaken a stocktake of the plants that we currently have. We have enough stock to complete probably two forests at the moment. The species that we require to complete the other forests would have to be sourced. At this point in time our major focus is on the assets that we have already planted. At this time of year we are just focusing on the maintenance of those current forests before we commit to any further capital development from the perspective of forests. Most certainly, the area, the land, is obviously set aside for that and we need to do a fair bit of preparation before we commit to those forests.[134]

5.45 Other matters discussed by the Committee included:

- capital and recurrent expenditure for the Arboretum and clarification that all capital spending has been completed or allocated[135] ;
- elements of the insurance arrangements for the arboretum—arrangements for newly established forests in the first 12 month period of consolidation are covered by the contractor. Existing established forests are under the responsibility of TAMS and a final number in terms of what these forests are worth is being confirmed to inform the finalisation of a premium for the existing established forests;

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[133] Ms Fay Steward, *Transcript of evidence*, 10 May 2013, p. 264.
[134] Mr Jason Brown, *Transcript of evidence*, 10 May 2013, p. 264.
[135] *Transcript of evidence*, 10 May 2013, p. 261.

- confirmation that the existing established forests are not insured at the present time, that agreement on a final premium is expected in the near future, and the amount currently being paid for insurance premiums[136];
- opening of the children's themed 'Pod' playground expected to be in June 2013[137];
- opening of the new pavilion—the Margaret Whitlam pavilion—performing dual roles that of providing a spectacular location and venue for ceremonies and events and allowing via bookings for weddings etc. and other types events an income stream for the arboretum[138];
- rates of plant failure as being in the acceptable range and reasons for failure as not through lack of maintenance but being attributable to a range of different causes including vandalism, flooding, insect and vermin damage, and challenging climatic conditions[139]; and
- clarification of the other arboreta under Government ownership and control, and how much has been spent on them in the past couple of years[140].

ECONOMIC DEVELOPMENT PORTFOLIO

5.46 The Committee heard from the Minister for Economic Development on Thursday 7 March 2013 to discuss the parts of the 2011–12 Economic Development Directorate's (EDD) annual report relating to the economic development portfolio (including EDD corporate management and governance) and the annual report of the Exhibition Park Corporation.

RESTRUCTURE OF THE DIRECTORATE

5.47 As the Directorate was established shortly before the end of the 2010–11 reporting period—17 May 2011, the Directorate structure was finalised during the 2011–12 reporting period. This involved significant consultation with staff across the Directorate, applicable unions, and the Directorate Consultative Committee.[141]

5.48 Whilst the Directorate Executive Structure was signed off by the Head of Service in September 2011, the organisational structures of the Divisions were reviewed, consulted on and agreed progressively over the reporting period, with all organisational structures finalised by May 2012.[142]

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[136] *Transcript of evidence*, 10 May 2013, pp. 261–262.
[137] *Transcript of evidence*, 10 May 2013, pp. 262–263.
[138] *Transcript of evidence*, 10 May 2013, p. 263.
[139] *Transcript of evidence*, 10 May 2013, pp. 264–266.
[140] *Transcript of evidence*, 10 May 2013, p. 266.
[141] *Transcript of evidence*, 7 March 2013; EDD. (2012) *2011–12 Annual report*, p. 6.
[142] *Transcript of evidence*, 7 March 2013; EDD. (2012) *2011–12 Annual report*, p. 6.

5.49 The Committee discussed with the Minister and Directorate officials staffing numbers post the restructure of the Directorate, potentially excess staff numbers, process and timeframes for redeployment, and transitional costs in terms of the restructure.[143]

5.50 The Committee also sought an explanation for what appeared to be an increase in staff numbers between the 2010–11 and 2011–12 reporting periods—from 217 to 225. The Committee sought a reconciliation of the transitional costs arising from the restructure related to staffing. On notice, the Minister provided the following information:

> The total costs of Output 1.2 (Business and Industry Development) in 2011–12 were $874,000 higher than the budgeted total cost of $8,339,000. This primarily related to additional employee costs of $988,000 associated with the restructure of the Directorate, offset by $114,000 lower non employee costs. The higher than budgeted employee costs comprised:
>
> (a) direct employee costs $322,000
>
> (b) indirect employee costs $470,000
>
> (c) employee provision adjustments $196,000
>
> The higher than budgeted direct employee expenses related to delays in realising employee savings within the Budget Development Branch. These were not able to be fully realised within the financial year due to restructure and redeployment processes taking longer than anticipated.
>
> The indirect employee costs of $470,000 related to corporate and enabling services employee costs attributed to this output (ie executive management, HR and governance). These attributed costs were not included in the original 2011–12 budgeted employee costs for this output.
>
> The employee provision adjustments of $196,000 relate to the present value determination of employee liability provision balance at 30 June 2012.[144]

5.51 The Committee acknowledges the administrative complexities generated by the introduction of new administrative arrangements and associated organisational structures. The Committee is of the view that in future, the implementation of major alterations to the responsibilities of directorates and agencies should be aligned with the end of a financial year reporting period in order to minimise the complexity of subsequent reporting arrangements.

5.52 Notwithstanding the administrative complexities, for example, in relation to financial reporting and budget forecasts, the Committee also acknowledges that such changes can be disruptive for the organisation involved and can impact on business continuity.

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[143] *Transcript of evidence*, 7 March 2013, pp. 78–79.

[144] Mr Andrew Barr MLA, Response to QToN No. 44, 7 March 2013 (Economic development and tourism and events portfolios).

Business development strategy

5.53 The Committee discussed the development and release of the *Growth, Diversification and Jobs: A Business Development Strategy* for the ACT during the reporting period. The Strategy launched on 30 April 2012 was accompanied by $5 million in new funding over the 2011–12 Budget outyears. Three strategic imperatives or goals underpin the Strategy—creating the right business environment, supporting business investment, and accelerating business innovation—against which 26 initiatives have been prioritised.[145] The Committee was interested in an overview of the 26 initiatives and was told:

> To give you a sense, the right business environment initiatives included payroll tax threshold increases, red tape reduction, small business procurement changes, social media campaigns, the Canberra BusinessPoint program, the Lighthouse innovation and commercialisation centre and a number of business development support portals being redesigned.
>
> The business investment stream has been around investment facilitation and the Canberra branding project. With business innovation, there has been support through the innovation connect program suite, which includes amongst its subprograms clean technology grants. We have the my digital city innovation prize, business incubation work, the collabIT program, the global connect initiatives, part of which I launched this morning with the ACT Exporters Network, the centre for exporting government solutions project. We also in these areas support organisations like ScreenACT, the ACT screen investment fund, the Canberra business development fund, the ANU Connect Ventures discovery translation fund and, of course, NICTA. So that is the broad suite of programs and projects that are supported through the business development strategy. Undoubtedly, in the next hour or so, we will explore those in a little more detail.[146]

New funding agreement with NICTA

5.54 During the reporting period a new four year funding agreement with NICTA was established to the value of $12 million. The partnership with NICTA, and associated funding agreement, is focused on establishing Canberra as a centre for world-class ICT research, commercialisation and business development.[147]

5.55 The Committee noted the significant contribution from NICTA and queried whether the Government had committed any new funding for the initiative. The Minister advised:

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[145] *Transcript of Evidence*, 7 March 2013, pp. 74–75; EDD. (2012) *2011-12 Annual report*, p. 10.
[146] Mr Andrew Barr MLA, *Transcript of Evidence*, 7 March 2013, p. 75.
[147] *Transcript of Evidence*, 7 March 2013, pp. 75–76.

> Yes, we did through the last budget round. It was a key initiative of the business development strategy.[148]

5.56 The Committee was interested in more detail about the Government's partnership with NICTA, the funding elements of the new agreement and what the Territory will be getting for its investment. An official from the Economic Development Directorate explained:

> The ACT government's history with NICTA is now a 10-year commitment. The organisation commenced in 2003. We have been through two five-year funding phases with NICTA. We have just entered into another, which is a $12 million commitment over the next five years. Prior to that the government has contributed, in cash and kind and other forms of support, $26 million. What that has leveraged in direct commonwealth expenditure through the program is around $90 million direct expenditure. On top of that there are significant multipliers that result from NICTA's activities through the community.
>
> ...
>
> In terms of the ACT government, we have changed the nature of our funding relationship with NICTA over the forward funding arrangement, so it is much more locally project linked. In the past the nature of the funding was around payroll tax waiver support, effectively untied grants. We then managed that relationship; we trusted NICTA, as a national association focused on research, to actually pursue its own objectives.
>
> What has changed and what the other states and territories or other funding members have done also is try to skew some of that activity more locally with their funding deeds. So over the next term, for example, there are three major thematics around our support for NICTA going forward. One is NICTA's support for the e-health living lab, which is a physical facility being set up in the Bruce innovation precinct around the University of Canberra and the hospital precinct.
>
> There is significant work being done around transport logistics reform with an environmental carbon emission saving angle. One of the most significant activities of NICTA locally is the establishment of the e-government cluster, which has now been running for a couple of years. Part of our funding arrangement with NICTA going forward is to give, if you like, more energy and life to the work of the e-government cluster.[149]

[148] Mr Andrew Barr MLA, *Transcript of Evidence*, 7 March 2013, p. 75.
[149] Mr Ian Cox, *Transcript of evidence*, 7 March 2013, pp. 75–76.

SUPPORT FOR INDIGENOUS BUSINESS IN THE ACT

5.57 The Committee sought clarification as to what level of support was being provided for indigenous business in the ACT and was told there was support through all of the existing business programs as well as some targeted Indigenous-specific initiatives. At the present time there is particular focus on a microcredit scheme. Whilst the microcredit grants will focus on women initially it will shift to an Indigenous focus in the coming fiscal years.[150]

5.58 The Committee was also told that the Directorate had supported an Aboriginal and Torres Strait Islander economic business development roundtable in November 2012. In conjunction with key stakeholders, the Directorate is working on how to progress the outcomes of this roundtable.

5.59 As to how the Directorate evaluates the effectiveness of the support it provides to indigenous business in the ACT, a Directorate official commented:

> The minister mentioned targeted microcredit programs. There is evaluation that would come through that. In terms of looking at what can we do going forward, I think the important thing is to work in partnership and to see what Aboriginal and Torres Strait Islander people want the ACT government to do to assist them. I think it is more important to put our focus on that than on the evaluation afterwards and to make sure that we are open to listening to opportunities and creating the links across all the broad spectrum of programs that are offered. [151]

5.60 The Committee heard that conversations had taken place with Maurice Walker, a member of the Aboriginal and Torres Strait Islander Elected Body, around what the Directorate might be able to do to assist with tourism and ecotourism opportunities—in particular, the importance of traditional owners being able to show their country to tourists. The Committee was told that meetings were scheduled to discuss further how the Directorate might be able to work collaboratively to assist with progression of these initiatives.[152]

Recommendation 12

5.61 The Committee recommend that the Minister for Economic Development update the Legislative Assembly by the last sitting day in August 2013 on the outcome of the Economic Development Directorate's discussions with Indigenous representatives to assist with the promotion of tourism and ecotourism opportunities.

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[150] *Transcript of evidence*, 7 March 2013, p. 89.
[151] Ms Cathy Hudson, *Transcript of evidence*, 7 March 2013, p. 89.
[152] *Transcript of evidence*, 7 March 2013, pp. 89–90.

5.62 The Committee was also interested, as part of the Directorate's support for indigenous business in the ACT, whether formalising a linkage with Indigenous Business Australia had been considered. An official from the EDD commented:

> There have been some conversations. We are happy to progress that. But the key part in the strategy is that we will work with the elected body around those opportunities. One of them they are keen for us to work in with, and we are, too—it links in with sport and recommendation—is around Boomanulla oval and how much that can be developed as an economic precinct as well as a sporting precinct.[153]

Recommendation 13

5.63 The Committee recommends that the Economic Development Directorate, as part of the Directorate's initiatives supporting indigenous business in the ACT, should give consideration to formalising a linkage with Indigenous Business Australia.

OTHER MATTERS

5.64 Other matters the Committee discussed included:

- the ACT Chief Minister's Export Awards program and winners[154];
- the High resolution plant phenomics centre and return on investment[155];
- the rollout of the National Broadband Network (NBN) and assistance provided by the EDD principally through the digital hub in Gungahlin[156];
- the Red Tape Reduction Panel—membership, work program, focus and initiatives[157];
- accreditation of the Canberra and Region Visitors Centre as a recharge point for electric vehicles under the Better Place network following installation of two charge sockets on site.[158] The cost of installing the charge spot and associated metering (including wiring) was paid for by Better Place.[159] As to confirmation that the electricity supply is renewable, Better Place has committed to purchasing 100% renewable energy to power the Better Place network and electric vehicles in Canberra and as to the uptake—Better Place have advised that the charge spot has not been utilised to date[160];

[153] Ms Cathy Hudson, *Transcript of evidence*, 7 March 2013, pp. 89–90.
[154] *Transcript of evidence*, 7 March 2013, p. 76.
[155] *Transcript of evidence*, 7 March 2013, pp. 76–77.
[156] *Transcript of evidence*, 7 March 2013, pp. 79–80.
[157] *Transcript of evidence*, 7 March 2013, pp. 83–85.
[158] *Transcript of evidence*, 7 March 2013, p. 85.
[159] Mr Andrew Barr MLA, Response to QToN No. 8, 7 March 2013 (Economic development and tourism and events portfolios).
[160] Mr Andrew Barr MLA, Response to QToN No. 8, 7 March 2013 (Economic development and tourism and events portfolios).

- Canberra BusinessPoint program—business and advisory service available to all ACT businesses—explanation for decrease in access to specific advisory services[161];
- ACT Screen Investment Fund—categories of the four projects approved for investment funding in 2011–12 and return on investment[162];
- investment facilitation—status on the InvestACT program including details and initiatives under the program[163];
- detail around an instance of potential fraud identified in the financial year—update on issues and resolution;
- Internal audit committee—detail on membership, internal audits on Stromlo Forest Park and Territory Venues and Events and improvements regarding internal audit arrangements[164];
- specific findings of the Auditor-General in relation to audits of the 2011–12 financial statements and statements of performance concerning mitigation of fraud in financial statements and business plans. Explanation for corrections required to submit financial statements[165]; and
- queries regarding a number of parameters of Economically Sustainable Development reporting as required by the Annual Reports Directions[166].

EXHIBITION PARK CORPORATION

NATIONAL FOLK FESTIVAL

5.65 The Committee discussed the fact that the National Folk Festival had reached the capacity of Exhibition Park and that, in the past year, it had faced increased costs in complying with new government legislation. When asked what had been done to assist the festival to grow and to adapt to new regulatory burdens, the General Manager of Exhibition Park Corporation responded:

> The corporation have provided a lot of assistance, working with WorkSafe and the folk festival to streamline a lot of those processes. Some of those issues that the folk festival had last year were just introducing new processes to meet legislation, for example, dangerous substances. We have to ensure that any additional dangerous substance quantities that are brought onto the venue are all notifiable and we need to inform WorkSafe of the placard quantities that the venue will have in case there is an emergency. So we have worked very closely with the folk festival on helping them get

[161] *Transcript of evidence*, 7 March 2013, pp. 82–83; 87–88; 89–90.
[162] *Transcript of evidence*, 7 March 2013, pp. 88–89.
[163] *Transcript of evidence*, 7 March 2013, pp. 90–91.
[164] *Transcript of evidence*, 7 March 2013, pp. 77–78.
[165] *Transcript of evidence*, 7 March 2013, pp. 85–86.
[166] *Transcript of evidence*, 7 March 2013, pp. 80–82.

> the information to their vendors to ensure that they do have the appropriate information there.
>
> This is not just for the folk festival but across Summernats as well as the Canberra show. All our major events bring in a lot of dangerous substances. So we need to ensure that patrons coming to the venue are safe—as well as, obviously, the event organisers. We recently met with WorkSafe and they are very pleased with the processes that we have put in place.[167]

5.66 When questioned further on what dangerous substances were being used during the National Folk Festival, the General Manager explained that, due to the number of food vendors operating during the festival, large quantities of LPG are brought on site.[168]

Camping and caravan site

5.67 The Committee sought information on the facilities available at the camping and caravan site at Exhibition Park and what occupancy rates it achieved. The General Manager responded:

> We have got over 100 powered sites and about 50 unpowered sites in the main camping area. It is at capacity as of today. We have now opened our second area and we have got about half capacity of caravans there at the moment. Our caravan/camping area is very popular, because it is very low budget. And it is the only pet-friendly camping ground in the ACT. As you would be aware, there are a lot of grey nomads that bring their little puppies. They like coming to us. They like it because it is safe.[169]

5.68 The Committee noted that much of the popularity of the camping and caravan site at Exhibition Park stemmed from its very low cost and its pet-friendly environment. In particular, the ability to accommodate dogs has proved popular with grey nomads.[170]

Low-cost Tourist accommodation on block 799

5.69 As part of its efforts to develop additional revenue streams, Exhibition Park Corporation has been working to establish addition low-cost tourist accommodation on block 799 for several years.

5.70 The Public Accounts Committee of the Seventh Assembly discussed this project in its inquiries into both the 2009–10 and 2010–11 annual and financial reports and expressed its concerns

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[167] Ms Liz Clarke, *Transcript of Evidence*, 7 March 2013, p. 72.
[168] Ms Liz Clarke, *Transcript of Evidence*, 7 March 2013, p. 72.
[169] Ms Liz Clarke, *Transcript of Evidence*, 7 March 2013, pp. 72–73.
[170] Ms Liz Clarke, *Transcript of Evidence*, 7 March 2013, pp. 72–73

over the delays that had been created by the environmental assessment process under the *Environment Protection and Biodiversity Conservation Act (Cwth)*.[171]

5.71 In its *Report on annual and financial reports 2010-11*, the Seventh Assembly Public Accounts Committee recommended that:

> …given the issues raised by the draft environmental assessment, in particular the land offset ratio, the ACT Government may wish to reassess the location of the low-budget tourist accommodation.[172]

5.72 This recommendation was not, however, agreed to by the Government on the following grounds:

> Considerable effort has been expended in getting the site ready for development. Environmental clearances and the accompanying offset package are all but finalised. Construction of the facility is on track to commence in January 2013.[173]

5.73 The Committee sought an update on this project and was informed by the Director-General of the Economic Development Directorate:

> I think I reported to a previous committee about some of the issues and frustrations that we have with the commonwealth EPBC act. We have actually been working through that with them. We are very close to having that resolution finalised—just things that come out at you at the last minute and the last hurdle. We are looking at offsetting that ratio of three to one. We have identified some land, but the commonwealth have come back and said, "No, we want it offset by a four to one ratio." We are just going through and negotiating that at the present time.
>
> We have actually got all of the land in place in an appropriate spot, which is virtually like for like. That is part of the negotiations that I am having with the commonwealth at the moment. If we have to find some additional space, then we have to find that. But that is where we are at at the present time. So we are just about there but they are caught up in these processes.[174]

5.74 The Director-General further informed the Committee that the completion date of the project remains uncertain while negotiations with the Commonwealth Government continue:

> Obviously, that has actually delayed it as well. I get very nervous now, I will be quite honest with you, Mr Smyth, about giving some time frames when I am dealing with the commonwealth. I have done that before and in some cases I am still waiting. So as

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[171] Standing Committee on Public Accounts, *Report on annual and financial reports 2009-10*, April 2011, p. 72; Standing Committee on Public Accounts, *Report on annual and financial reports 2010-11*, May 2012, pp. 66–67.

[172] Standing Committee on Public Accounts, *Report on annual and financial reports 2010-11*, May 2012, p. 67.

[173] ACT Government, Government response to Standing Committee on Public Accounts (7th Assembly) Report No 23: *Report on Annual and Financial Reports 2010-2011*, p. 5.

[174] Mr David Dawes, *Transcript of Evidence*, 7 March 2012, p. 73.

> soon as we get that sort of clearance, and we hope to be able to tidy that up over the course of the next three months, we would be able to come back to you as well, because there is a time frame then that we need to get in. And a number of those sorts of processes can happen in tandem whereby the infrastructure and the sites can be all done as an integrated sort of approach. But I would be able to come back to you more clearly once I know we have got the tick from the commonwealth.[175]

OTHER MATTERS DISCUSSED

5.75 Other matters discussed by the Committee included:

- the strategic management plan and land use master plan and clarification as to when more detailed documents would be available[176]; and
- the identification and implementation of investment and commercial opportunities[177].

INDUSTRIAL RELATIONS AND WORKPLACE SAFETY PORTFOLIO

5.76 The Committee heard from the Minister for Industrial Relations and Workplace Safety on Tuesday 23 April 2013 in his capacity as having responsibility for private sector industrial relations and workers compensation.

5.77 The Committee examined the 2011–12 annual report of the Chief Minister and Cabinet Directorate with regard to industrial relations (IR) matters—specifically IR policy, workplace compensation and IR matters as they related to workplace safety policy. This was followed by the annexed reports of the Work Safety Council and the Default Insurance Fund, and concluded with the 2011–12 annual report of the ACT Long Service Leave Authority.

5.78 IR and workers compensation matters as they relate to the ACT Public Service as an employer fall under the responsibility of the Chief Minister in the context of her responsibilities for the ACT Public Service and ACT Public Sector workers compensation improvement. These matters were considered as part of the Committee's examination of annual reports as they relate to the Chief Minister's portfolio.

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[175] Mr David Dawes, *Transcript of Evidence*, 7 March 2013, p. 73.
[176] *Transcript of Evidence*, 7 March 2013, p. 71.
[177] *Transcript of Evidence*, 7 March 2013, pp. 71–72.

Chief Minister and Cabinet Directorate

Development and operation of the *Work Health and Safety Act 2011*

5.79 The Committee discussed a number of matters relating to the development and operation of the *Work Health and Safety Act 2011* which became effective in January 2012. The Act aims to harmonise work health and safety laws across the country. The Committee was interested in feedback received to date as to the operation of the new Act and whether any problems had arisen during its implementation phase.

5.80 The Minister commented that whilst being relatively new to the portfolio:

> ...in the period of time that I have been responsible for this portfolio I have had no feedback about any significant concerns as to the operation of the new legislation. Obviously, the new legislation beds down a range of nationally agreed reforms around work health and safety. The overall common unified approach to work health and safety arrangements has been generally well accepted across all parts of the relevant sectors that it covers.
>
> There remain broader issues about workplace safety culture in the ACT and there are some issues around strengthening of some provisions of the act that have been identified as a result of Mark McCabe and Lynelle Briggs's investigation into workplace safety in the ACT. So the government is currently considering some further strengthening of the legislation, particularly around the capacity of inspectors to provide for on-the-spot fines in a particular range of circumstances. Those are currently being developed for further consideration by the government.[178]

5.81 The Committee was interested to know whether there had been any prosecutions to date under the Act and was told that there were prosecutions in development, that is, a number of matters had been referred by WorkSafe ACT to the Director of Public Prosecutions.[179]

5.82 The Committee also discussed other matters related to the development and operation of the *Work Health and Safety Act 2011.* This included:

- consideration being given by the Government to some further strengthening of the legislation[180];
- whether relevant stakeholder bodies had been specifically consulted on the potential changes being considered by the Government to strengthen the legislation in response to issues raised by the *Getting home safely* report[181];

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[178] Mr Simon Corbell MLA, *Transcript of evidence*, 23 April 2013, p. 188.
[179] Mr Simon Corbell MLA, *Transcript of evidence*, 23 April 2013, p. 189.
[180] *Transcript of evidence*, 23 April 2013, pp. 188–189.
[181] *Transcript of evidence*, 23 April 2013, pp. 188–189.

- number of prosecutions under the Work Safety Act in relation to failure to pay the workers' compensation premium[182];
- update on the development of nationally harmonised model Codes of practice and guidance in accordance with the Intergovernmental Agreement (IGA) for Regulatory and Operational Reform in Occupational Health and Safety[183]; and
- further detail on the quantum of on-the-spot monetary penalties being considered to get the message across about the need to focus on safety issues[184].

Territory's asbestos management strategy

5.83 The Committee inquired about the status of reforms to the Territory's asbestos management strategy. The Strategy focuses on both legislative policy and regulatory responses to issues around asbestos. The Committee understands that in July 2012, an asbestos coordinator was engaged within the Office of Industrial Relations to improve whole-of-government coordination in terms of its response to asbestos incidents and to related policy issues.[185]

5.84 The Committee welcomes the appointment of an asbestos coordinator and the contribution the position will make to strengthening the Government's capacity to deal with emerging asbestos related policy issues as well as managing incidents as they arise in relation to asbestos in the community.

Review of the Holidays Act 1958

5.85 The Committee was interested in the scope and coverage of the review of the *Holidays Act 1958*, including various proposals being considered. The Committee was told that the Review had a relationship with the review of the Fair Work Act, in particular, suggestions that there be a nationally consistent set of holidays as part of the national employment standards, which would set the minimum number of public holidays across jurisdictions and would prescribe certain days to be public holidays.[186]

[182] *Transcript of evidence*, 23 April 2013, p. 198.
[183] *Transcript of evidence*, 23 April 2013, pp. 189–190.
[184] *Transcript of evidence*, 23 April 2013, p. 189.
[185] *Transcript of evidence*, 23 April 2013, pp. 191–192.
[186] *Transcript of evidence*, 23 April 2013, pp. 192–194.

OTHER MATTERS

5.86 Other matters discussed by the Committee included:

- issues arising from the IGA on the National Workplace Relations System—matters arising out of codes of practice and associated areas to identify particular types of occupational health and safety problems and work concerning the review of the Fair Work Act[187];
- performance and issues arising within the private sector workers compensation scheme—in particular, unrestricted access to common law under the Scheme and its impact on premiums and affordability of the Scheme[188];
- the actuarial review of the ACT workers compensation scheme[189] and that a three per cent increase in claims in the workers compensation sphere was considered to be a relatively stable environment. The review also found evidence for an increase in average claim size for medical and rehabilitation payments. The reason for this was linked to CPI increases associated with medical costs and was not being driven by specific types of injuries but was indicative of general increases in costs for those claim payment types across the country.

ACT INSURANCE AUTHORITY (DEFAULT INSURANCE FUND)

5.87 Matters discussed by the Committee included:

- reasons employers do not have workers' compensation insurance coverage as attributable, in the main, to cost pressures and how the Default Insurance Fund manages these types of claims[190];
- status on uninsured employer fund claims during the 2011–12 reporting period—the number of uninsured employer fund claims opened during the period numbered 20, total claims closed during the period numbered 16, with a total of 35 current open claims[191]; and
- an explanation for the reason income had dropped from $5.9 million to $2.8 million as being attributable, in the main to differences in the levy model from 2011 to 2012 and associated accounting treatments with regard to the Fund's operating statement.[192] A review of the Default Insurance Fund levy revenue model was undertaken in 2009 with a view to moving to a fully funded model over a five year period. In accordance with section 1.5 of the Workers' Compensation (Insurer Contribution Protocol) Approval 2010 (No. 1) and section 168A of the *Workers Compensation Act 1951*, the Fund Manager is

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[187] *Transcript of evidence*, 23 April 2013, pp. 190–191.
[188] *Transcript of evidence*, 23 April 2013, pp. 194–195.
[189] *Transcript of evidence*, 23 April 2013, pp. 194–195.
[190] *Transcript of evidence*, 23 April 2013, pp. 194–195; p. 198.
[191] *Transcript of evidence*, 23 April 2013, pp. 197–198.
[192] *Transcript of evidence*, 23 April 2013, pp. 198–199.

required to undertake a review of the Uninsured Employer Fund to determine the appropriate levy to apply to achieve the objective of a fully funded model. The levy that applied in 2011–12 took into consideration a range of issues including the volatility of the Fund, potential for increases in claim costs and claim numbers in current and future insurance years.[193]

ACT Long Service Leave Authority

5.88 Matters discussed by the Committee included:

- a number of issues related to the Authority's Board profile and appointments to the Board. This included explanations for gaps between appointments and continuity in board service[194];
- under consultation and scrutiny reporting requirements, further detail on community engagement activities and the work of three designated compliance officers[195];
- explanation for how the 21 per cent increase in the number of apprentices registered with the authority was achieved. This was attributed to the relationship fostered by the Authority with the applicable directorate that has carriage for vocational training and apprentices[196]; and
- an update on the implementation of the portable long service leave scheme in the community sector and training industries[197].

Work Safety Council

5.89 The Work Safety Council is established by the *Work Health and Safety Act 2011* which came into effect in January 2012. Prior to this, the Council operated under the former *Work Safety Act 2008*.[198]

5.90 The Council has a guidance role and is tasked with advising the Minister with carriage for industrial relations on work safety, workers' compensation, bullying in the workplace and other workplace psychosocial issues and inquires. It also reports on matters referred to it in relation to these issues.[199]

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[193] CMCD. (2012) 2011–12 Annual report, p. 127.
[194] *Transcript of evidence*, 23 April 2013, pp. 200–201.
[195] *Transcript of evidence*, 23 April 2013, p. 201.
[196] *Transcript of evidence*, 23 April 2013, pp. 201–202.
[197] *Transcript of evidence*, 23 April 2013, pp. 201–202.
[198] CMCD. (2012) 2011–12 Annual report, p. 131.
[199] CMCD. (2012) 2011–12 Annual report, p. 131.

5.91 The Committee discussed with the Minister the formation of a Council subcommittee—an advisory committee to provide advice on workplace bullying and psycho-social hazards.[200] The Committee was interested in the exact date the subcommittee was formed and was told on notice that:

> At its meeting of 1 June 2012, the ACT Work Safety Council agreed to form an Advisory Committee on Bullying and Other Social Issues. The Committee held its first meeting on 15 August 2012.[201]

RACING AND GAMING PORTFOLIO

5.92 The Committee heard from the Minister for Racing and Gaming on Thursday 7 March 2013 to discuss the 2011–12 annual report of the Economic Development Directorate relating to racing and gaming policy and the annual report of the ACT Gambling and Racing Commission.

ACT GAMBLING AND RACING COMMISSION

RESEARCH PROGRAM

5.93 Section 6(2)(c) of the *Gambling and Racing Control Act 1999* includes among the functions of the Gambling and Racing Commission 'monitoring and researching the social effects of gambling and of problem gambling'. The Gambling and Racing Commission's annual report notes that it fulfils this function through:

> …a range of activities and strategies including the sponsoring and funding of research projects through the Centre for Gambling Research at the Australian National University (ANU) as well as contributing to national research projects through Gambling Research Australia.[202]

5.94 The Committee sought an update on the research program of the ANU Centre for Gambling Research and was informed that several studies are currently underway investigating the social context of gambling activities and the stigma attached to problem gambling[203], and that two significant reports had been published in October 2011: *Profiling problem gambling symptoms in the ACT* and *Help-seeking and uptake of services amongst people with gambling problems in the ACT*. With regard to the first of those reports the Committee was informed by the Chief Executive of the Commission:

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[200] *Transcript of evidence*, 23 April 2013, p. 207.
[201] Mr Simon Corbell MLA, Response to QToN No. 7, 23 April 2013.
[202] ACT Gambling and Racing Commission, Annual Report 2011-2012, September 2012, p. 86.
[203] Mr Greg Jones, *Transcript of Evidence*, 7 March 2013, pp. 45-46.

> This study pulled apart in detail a lot of information we got out of the prevalence study in 2009. What it found was that young males that are single or divorced with lower level qualifications—that set of factors was easily the best indicator for predicting problem gambling symptoms. That gives us a very defined target group of the most vulnerable, if you like—the people most likely to take risks, especially in the gambling area. So that, in itself, is extremely useful.
>
> We also found that 30 per cent of people that gamble twice a week—that might be at a club on a Friday night, at the races on a Saturday—had some problem gambling symptoms, which is a reasonably high percentage. We also found, as an indicator of problem gambling areas, that, if someone lost, spent, $100 or more a week in gambling—50 per cent of those people had some problem gambling symptoms. That is an enormous amount. So with $100 a week—if that is what you spend, irrespective of your income, 50 per cent of those people were showing some signs of problem gambling.
>
> That study was really revealing in terms of our target groups and where we can concentrate our assistance or our early intervention. Based on that research, we are just doing some work with OzHelp now in terms of their tune-up program. They target, obviously, apprentices and things like that, in the building industry particularly. We are doing some really useful work about getting some problem gambling messages into their tune-up program, which we are very excited about—and so are OzHelp, because they were not aware of the extent of some of these numbers. That program has assisted really well there.[204]

5.95 With regard to the second report, the Chief Executive explained:

> The second study, which was released in October 2011, dealt with help-seeking and the uptake of assistance services—for example, Mission's counselling service. We found that only eight per cent of people with problem gambling symptoms actually go and seek external help, and that is a surprisingly low percentage: fewer than one in 10 people with problem gambling symptoms are actually seeking help. That is a major concern for us, because one of our aims is to get some sort of early intervention. We want to get to people and give them some advice and some assistance before they actually fall off the cliff and it turns into some sort of crisis, whether it is financial, marital, work related or whatever. That in itself clearly indicates that we have got a lot of work to do with trying to target our early intervention.
>
> Based on that, we have developed a couple of other research studies which will help inform how we get a higher interaction with help-seeking activities. We thought that perhaps there are some attitudes or some beliefs that problem gamblers may have which are preventing them from getting this assistance, so we did a study on the

[204] Mr Greg Jones, *Transcript of Evidence*, 7 March 2013, pp. 44-45.

> beliefs and knowledge that a problem gambler would hold about their gambling activity: maybe they have got not quite a reality view of what is happening. To some degree, those research findings reinforced the fact that a problem gambler typically does not see their activity as the problem; but if they do, they have the view that they do not need external help, that they can help themselves. So the self-help attitude—"I can fix it myself; I do not need anyone else's help"—is very strong with problem gamblers, perhaps more so than with other areas such as alcohol or drugs. That is concerning to us as well, because that makes our job even more difficult in trying to get this early intervention.[205]

5.96 The Committee was concerned to establish whether the research work funded by the Commission and undertaken at the ANU Gambling and Research Centre focussed narrowly on gaming machines or took into account all forms of gambling, including the relatively new forms of online gambling. The Chief Executive of the Commission responded:

> We are very aware that the issues are not just with gaming machines. Even though, of those that actually go to counselling, over 80 per cent have their issue with gaming machines, our prevalence study also showed that a problem gambler is involved with at least four different types of gambling. Typically, they are gaming machines, races and online, where you can do it at home anonymously. So no; we concentrate on the whole gambit of gambling types. We certainly do not just concentrate on gaming machines. You are absolutely right: there is a definite emerging trend that online gambling is becoming problematic, and that is probably one of the most difficult to control.[206]

Implementation of auditor-general's recommendations

5.97 Auditor-General's Report No. 1 of 2012: *Monitoring and minimising harm caused by problem gambling in the ACT* was presented to the Legislative Assembly on 3 April 2012. It contained nine recommendations, eight of which were addressed directly to the operations of the ACT Gambling and Racing Commission.[207] The Seventh Assembly Public Accounts Committee received a submission from the Government on the Auditor-General's report in which it agreed to those eight recommendations. It did not, however, agree to the ninth recommendation concerning the establishment of a date by which it intended to achieve its target of 4,000 gaming machines in the ACT.[208]

[205] Mr Greg Jones, *Transcript of Evidence*, 7 March 2013, p. 45.

[206] Mr Greg Jones, *Transcript of Evidence*, 7 March 2013, p. 46.

[207] ACT Auditor-General's Office, Report No. 1 of 2012: *Monitoring and minimising harm caused by problem gambling in the ACT*, April 2012, pp. 9-16.

[208] ACT Government, Submission to the Standing Committee on Public Accounts on the Auditor-General's Performance Audit Report: *Monitoring and minimising harm caused by problem gambling in the ACT (Report No. 1/2012)*, June 2012.

5.98 The Committee was informed by the Minister that progress had been made on implementing all eight of the recommendations that had been accepted by the Government.[209] The Chief Executive of the Commission provided further detail on the response to recommendations 1 and 7 of the audit report—conducting a review of the Gambling Code of Practice and implementing an electronic exclusion database. With regard to the review of the Gambling Code of Practice, he stated:

> With the code of practice, we are about two-thirds of the way through that review. We had actually started that at about the same time as the Auditor-General came in. They recommended that as a reinforcement of what we are already doing, which is great. We have had one period of public consultation already. We put a discussion paper out in October last year. We got nine submissions back on that, which we have now analysed. We are just finalising a policy paper with recommendations, which we will put out for a second round of public consultation at about the end of March. That will have recommendations for a number of changes to the code of practice. When we get submissions from that, we will analyse that, put a final policy paper together, and provide that to the minister by midyear with recommendations for some changes to the code of practice. That is on target, and going quite well.[210]

5.99 With regard to the establishment of an electronic exclusion database, the Committee was informed:

> … at the moment it is a paper-based system if someone wants to exclude from a club, and it is extremely labour intensive for a club if someone approaches them and says, "I want to exclude from all clubs in the ACT." The administrative burden of that club copying that document 68 times or whatever it is and sending it out to every venue, we acknowledge, is a difficulty and a bit of a deterrent to that sort of thing. This electronic database will allow a very rapid and very easy ACT-wide exclusion network. If someone comes into a venue and says they want to exclude from 10 clubs or all clubs, it is a matter of filling in some detail, clicking the appropriate box and pressing go. Then an email will be sent to all of those venues where they will be excluded, and it is done. It is done in a matter of minutes compared to the fairly tedious process at the moment.
>
> As the minister indicated, just before Christmas last year we let a contract for an IT company to develop that database, which is ongoing. We have a meeting tomorrow to have a look at the progress on that. We have got a draft of the database. We are hoping that that will be tested, debugged and all existing exclusions laboriously loaded into the whole thing so that it is a complete system and ready to run by the middle of

[209] Ms Joy Burch MLA, *Transcript of evidence*, 7 March 2013, p. 47
[210] Mr Greg Jones, *Transcript of Evidence*, 7 March 2013, p. 48.

> the year, including full training, both as a group and individually with each licensee. Our target is midyear for that, and we are right on target at the moment.[211]

5.100 Although the Chief Executive of the Commission reported that licensees in other jurisdictions found electronic exclusion databases easy to use, the Committee raised concerns over both privacy and liability issues that might arise from the operation of such a database. With regard to privacy concerns, the Chief Executive explained the administrative controls that would govern the operation of the database:

> With access to the database, we have very stringent controls within the venues on who has access and who signs off as having appropriate authority. There are extensive behind-the-scenes administrative controls which we have to ensure that access is maintained, which we, in the commission, will monitor regularly. And the fact that the whole database is being stored behind the ACT government firewall will give us a lot of confidence in terms of where it sits and in terms of preventing unlawful access to that. We are confident that we have covered all the privacy issues as best we can.[212]

5.101 Finally, when asked were the liability falls if a club allows an excluded person to gamble on their premises, the Chief Executive responded that it would amount to a breach of the Gambling Code of Practice:

> If the venue allows an excluded person to enter the premises, that is a breach of the code. That has happened, both at gaming venues and at the casino. If that is the case and it is brought to our attention, or we detect it either through audit or through complaint, we will investigate the circumstances. Importantly, we will look at the procedures about what they do to prevent people from coming in. Clearly, if they have adequate procedures and someone has disguised themselves—shaved their hair off, grown a beard, put on a dress or whatever, made considerable effort to disguise themselves—to come into the premises, that is reasonable grounds where you would not necessarily detect them and we would not take any action. Clearly, that would be unreasonable. The main thing is to make sure that they have adequate procedures about appropriate staff checking regularly the list of excluded persons so that they are informed and can make that decision. If there are a lot of excluded persons, such as at the casino, for a range of reasons, it is a difficult task, which we recognise.[213]

5.102 The Committee noted that although some licensees have breached the code by allowing excluded persons to gamble, as mentioned above, the Commission has never imposed a

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[211] Mr Greg Jones, *Transcript of Evidence*, 7 March 2013, pp. 47-48.
[212] Mr Greg Jones, *Transcript of Evidence*, 7 March 2013, p. 49.
[213] Mr Greg Jones, *Transcript of Evidence*, 7 March 2013, pp. 49-50.

penalty on a venue as a result. It has instead issued warnings and required procedures to be updated.[214]

ACT RACING INDUSTRY

5.103 The Committee pursued a number of issues concerning the ACT racing industry that arose from the Independent Competition and Regulatory Commission's Report No. 2 of 2011: *Investigation into the ACT Racing Industry—Final Report*. The ICRC's report included the following recommendation:

> If the ACT Government wishes to explicitly support the ACT racing industry after the current funding arrangements expire, it should continue to provide budgetary funding, inflated yearly at CPI minus 1%, at the 2013–14 Budget level.
>
> If the ACT Government wishes to provide additional certainty to industry, it could consider providing support through a contractual agreement over an extended period.[215]

5.104 In its response to this recommendation, the Government agreed to implement the proposed model of budget funding but to alter the indexation from CPI minus one per cent to CPI minus 0.5 per cent. The Committee asked how much additional revenue the racing industry would receive as a result of this variation of the indexation rate and received the following written response on notice:

> The Government in its response to the recommendation, considered the model of budget funding suggested by the ICRC as appropriate however, the indexation should be set at CPI minus 0.5 per cent from 2014-15.
>
> On the basis that the new funding formula of CPI minus 0.5 per cent would commence from 2014-15, the funding estimate for that year is $8.003 million.
>
> If the recommendations of the ICRC were adopted, that is CPI minus 1 per cent, the funding estimate for the 2014-15 year would be $7.964 million.[216]

5.105 In the same report, the ICRC also made the following recommendation on the governance of the ACT racing industry:

> The ACT Government, in conjunction with the three racing clubs in the ACT, should undertake a detailed investigation into the costs and benefits of replacing existing administrative structures and establishing a single independent administrative body to oversee the management of the three racing codes.

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[214] Mr Greg Jones, *Transcript of Evidence*, 7 March 2013, p. 50.

[215] Independent Competition and Regulatory Commission, Report No. 2 of 2011: *Investigation into the ACT Racing Industry—Final Report*, April 2011, p. ix.

[216] Ms Joy Burch MLA, Response to question taken on notice at 7 March 2013 public hearing, 20 March 2013, p. 2.

Following the outcomes of the above recommendation for an independent administrative body to oversee the management of the three racing codes, the ACT Government, in conjunction with the ACT racing industry, should undertake a detailed investigation into the feasibility of co-locating the three different racing codes at the one location.[217]

5.106 The Minister informed the committee that discussions with the racing industry over both the establishment of a single administrative body and the co-location of the three racing codes at one location were in the preliminary stages.[218] The Director-General of the Economic Development Directorate also stated that the Government had made a commitment prior to the last election to allocate $250,000 to this inquiry. The Director-General further revealed that the Economic Development Directorate had entered a bid for funding in the coming budget specifically for this work but that, as a commitment had already been made by the Government, the Directorate would have to absorb the costs if no specific funding was forthcoming.[219]

Recommendation 14

5.107 The Committee recommends that, as further developments arise with regard to the establishment of a single racing industry administrative body and the co-location of the three racing codes at one location, the Minister for Racing and Gaming should make a statement informing the ACT Legislative Assembly.

OTHER MATTERS DISCUSSED

5.108 Other matters discussed by the Committee included:

- rent and related expenses[220];
- problem gambling support services[221];
- proposed mandatory pre-commitment trial[222];
- structure and level of product fees in the ACT racing industry[223];
- governance arrangements between EDD and the Gambling and Racing Commission for the provisions of strategic and human resources[224]; and

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[217] Independent Competition and Regulatory Commission, Report No. 2 of 2011: *Investigation into the ACT Racing Industry—Final Report*, April 2011, p. x.

[218] Ms Joy Burch MLA, *Transcript of Evidence*, 7 March 2013, p. 51.

[219] Mr David Dawes, *Transcript of Evidence*, 7 March 2013, pp. 51-52.

[220] *Transcript of Evidence*, 7 March 2013, pp. 41–42.

[221] *Transcript of Evidence*, 7 March 2013, pp. 42–43.

[222] *Transcript of Evidence*, 7 March 2013, pp. 43–44.

[223] *Transcript of Evidence*, 7 March 2013, pp. 50–51.

[224] *Transcript of Evidence*, 7 March 2013, p. 53.

- performance against ecologically sustainable development indicators[225].

TOURISM AND EVENTS PORTFOLIO (TOURISM POLICY AND PROGRAMS)

5.109 The Committee heard from the Minister for Tourism and Events on 7 March 2013 to discuss the relevant parts of the Economic Development Directorate's 2011–12 annual report relating to tourism policy and programs (including Australian Capital Tourism).

HUMAN BROCHURE PROJECT

5.110 The Committee discussed the utilisation of social media as a marketing vehicle to promote tourism in the context of the Human Brochure project. This included: risks associated with using social media as a marketing tool (mitigation strategies); engagement with negative comments as valuable communication; and providing credibility to messages promulgated via social media channels. The Committee was informed that spam to the Human Brochure website had been filtered and a risk management plan had been implemented to mitigate risks that may be associated with using social media as a marketing tool.[226]

5.111 The Committee was informed that the Human Brochure project had been a successful social media campaign to promote and advertise Canberra and its special events and programs. Over 30,000 Australians applied to be part of the first Human Brochure project. It attracted a significant number of followers who also shared their experiences and photos[227] via this social media channel.

CENTENARY EVENTS—EVALUATION OF CENTENARY EVENTS

5.112 The Committee sought information on the process used to evaluate the effectiveness of the centenary year—including the criteria for such a review and related process, evidence base for reporting, and post evaluation. In particular, the Committee was interested in how the Territory intended to capitalise on the social capital generated, the legacy infrastructure and the increase in capacity and skill sets within the community over the outyears.

5.113 The Minister told the Committee that there would be assessments in relation to attendance at various events and data would be sought from the marketplace across a number of

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[225] *Transcript of Evidence*, 7 March 2013, pp. 54–55.
[226] *Transcript of Evidence*, 7 March 2013, pp.62–63.
[227] Mr Andrew Barr MLA, *Transcript of Evidence*, 7 March 2013, pp. 60–61.

parameters. Furthermore, there would be an evaluation of particular programs that have received special events funding allocations for the centenary year.[228]

5.114 The Committee was told:

> We will also see significant infrastructure legacy from the year. So we will be able to assess increased levels of participation in particular areas of the community as a result of that new infrastructure. There are a number of areas that you will see across the city where centenary-related infrastructure has been developed and will be open in the centenary year. The arboretum is a good example of a piece of infrastructure that has already attracted hundreds of thousands of visitors and will continue,….
>
> The lights at Manuka Oval are another example of a centenary project that will have ongoing benefits. There are literally hundreds of smaller projects that have been supported through this centenary-year process....[229]

5.115 The Committee was also informed that there would be a post-event evaluation to measure the benefit from extra resources for particular programs.[230]

Recommendation 15

5.116 The Committee recommends that the Minister for Tourism and Events table in the ACT Legislative Assembly, when finalised, the report of the evaluation of the Centenary of Canberra program, events and activities.

National Convention Centre extension

5.117 The Committee was interested to know the progress on the convention centre extension and also the position of the Government in relation to the land donation offer made by the Canberra Casino as part of its 2013–14 budget consultation submission.[231] The Committee was informed further work and analysis was required and this would need to take account of any further Federal Government co-investment together with developments in relation to the Australia forum within the City to Lake Project. The Minister noted that more advice was needed from the Federal Government with regard to any co-investment and that he expected more information as to how such an opportunity may be viewed would be available after the Federal election in September 2013.[232]

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[228] Mr Andrew Barr MLA, *Transcript of Evidence*, 7 March 2013, p. 64.
[229] Mr Andrew Barr MLA, *Transcript of Evidence*, 7 March 2013, pp. 64–65.
[230] *Transcript of Evidence*, 7 March 2013, p. 65.
[231] *Transcript of Evidence*, 7 March 2013, p. 67.
[232] *Transcript of Evidence*, 7 March 2013, p. 67.

Recommendation 16

5.118 The Committee recommends that the responsible Minister should update the Assembly on its progress in its negotiations with the Federal Government and co-investment initiatives for a new convention centre.

OTHER MATTERS

5.119 Other matters discussed by the Committee included:

- visitor numbers for special events[233];
- the Federal Government's funding in major infrastructures—CBD stadium, swimming pool complex and convention centre[234];
- impact of no direct international flights into Canberra on the tourism industry[235];
- Australian Capital Tourism priorities and programs—current financial year 2012–13 and and throughout 2011–12[236];
- development of the next phase of the Territory’s strategic planning in relation to tourism—launch of a new strategic plan for the remainder of the decade—the current five year plan—the 2020 strategic plan, which runs until the end of 2013, and availability of the new plan (expected announcement late 2013 or early 2014)[237];
- maximising tourism opportunities with ACT national sporting teams and the British Lions tour[238]; and
- *Wrapt in Winter* campaign—program, market, objectives, campaign alignment with centenary program activities and how it will be evaluated[239].

TREASURY PORTFOLIO

5.120 The Committee heard from the Treasurer on Thursday 21 February, Tuesday 12 March and Thursday 4 April 2013 to discuss the performance of the treasury portfolio, directorate functions, authorities and territory-owned corporations.

5.121 Specifically, the Committee examined the 2011–12 annual reports of the Treasury Directorate, ACTEW Corporation Limited, ACTTAB Limited, ACT Insurance Authority, ACT Government

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[233] *Transcript of Evidence*, 7 March 2013, pp. 58–59.
[234] *Transcript of Evidence*, 7 March 2013, p. 68.
[235] *Transcript of Evidence*, 7 March 2013, p. 59.
[236] *Transcript of Evidence*, 7 March 2013, pp. 64–66.
[237] *Transcript of Evidence*, 7 March 2013, pp. 64–66.
[238] *Transcript of Evidence*, 7 March 2013, pp. 69–70.
[239] *Transcript of Evidence*, 7 March 2013, p. 70.

Procurement Board, Totalcare Industries Limited[240], the Director of Territory records (annexed report); and the Independent Competition and Regulatory Commission.

TREASURY DIRECTORATE

CURRENT BUDGET POSITION AND FORWARD ESTIMATES

5.122 The Committee discussed with the Treasurer the Government's objective to return the budget to surplus in 2015–16. This discussion extended to the current budget position and forward estimates and the rationale for why the surplus will be achieved using long-term capital gains as opposed to expenses being lower than revenue. The Treasurer responded:

> The territory is in a unique position in relation to its superannuation holdings. We have, in presenting our budget papers, always presented those long-terms gains as part of our overall bottom line. So we are not moving away from that practice. Of course we will update the budget and the forward estimates later this year, as part of the annual process, and it may well be that future surpluses are in fact larger than what is achieved in terms of long-term capital gains. I think the path back to surplus has been outlined as part of our budget plan, and the government intends to pursue that course.[241]

5.123 The Committee notes that the Treasurer presented the 2012–13 Budget Review to the Legislative Assembly on 14 February 2013 which provided an update of the Government's financial performance relative to its financial policy objectives and strategies as detailed in the 2012–13 Budget Papers.[242]

5.124 The 2012–13 Budget Review states that the General Government Sector (GGS) net operating balance is projected to remain in deficit by $362.9 million in 2012–13. The Pre-election Budget Update (PEBU), issued in September 2012, had estimated this deficit to be $381.1 million, whilst the original 2012–13 budget had estimated it to be $318.3 million. The 2012–13 Budget, PEBU and Budget Review all projected a return to surplus for the GGS in 2015–16.[243]

5.125 The Committee understands that the improved projection for the GGS net operating balance is a result of a range of factors, including:

- increased dividend and income tax equivalents associated with goods and services tax (GST) refunds relating to prior years for the Land Development Agency (LDA) and the impact of the Australian Taxation Office policy regarding unbilled water consumption income on ACTEW Corporation (ACTEW); and

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[240] Special purpose financial report for the period 1 July 2011 to 29 February 2012.
[241] Mr Andrew Barr MLA, *Transcript of evidence*, 21 February 2013, pp. 1–2.
[242] Legislative Assembly for the ACT, *Minutes of Proceedings*, No. 7, 14 February 2013, pp. 79, 88.
[243] Chief Minister and Treasury Directorate, *2012-13 Budget Review*, February 2013, p. 4.

- an increase in GST revenue of $26.7 million as a result of higher national GST pool estimates and revised population estimates.[244]

5.126 However, according to the Budget Review, these increases have been:

> ...partially offset by lower taxation revenue due to a softening property market and increased expenditure mainly associated with the impact of appropriation rollovers from 2011-12 to 2012-13.[245]

5.127 Whilst the 2012–13 Budget, PEBU and Budget Review all projected a return to surplus for the GGS in 2015–16, the Committee notes that the outlook for the Territory's long-term financial position depends largely on a substantial reduction in the unfunded superannuation liability in 2012–13.

City to Gungahlin light rail project

5.128 The Committee sought further detail on the projected cost of the City to Gungahlin light rail project, including the role of the Treasury Directorate had in the estimates. Discussion extended to the: cost estimates modelled on the GoldLinQ[246]—the Gold Coast light rail system; feasibility, design, and construction of the Project; and financial and economic appraisals underpinning the decision to commit to deliver the Project. [247]

Recommendation 17

5.129 The Committee recommends that the Govt regularly update the Assembly on the proposed delivery model and the projected cost of the city to Gungahlin light rail.

Land Rent Scheme

5.130 The Committee discussed the operation of the Land Rent Scheme which forms part of the ACT Government's Affordable Housing Action Plan. The Scheme commenced on 1 July 2008 and allows lessees to rent rather than purchase land on which to build a home with the intention of reducing the upfront costs of buying a house.[248]

5.131 The Committee considered the performance of the Scheme as part of its inquiry into Appropriation Bill 2012–13 (No. 2) which provided for a $112 156 million capital injection so

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[244] *Ibid*., p. 5.

[245] *Ibid*.

[246] http://goldlinq.com.au/

[247] *Transcript of evidence*, 21 February 2013, pp. 4–7; 15–16.

[248] EpicDotGov, *Post Implementation Review of the ACT Land Rent Scheme,* April 2012, p. 7; ACT Revenue Office, 'Land Rent', 12 December 2012, accessed 14 March 2013, http://www.revenue.act.gov.au/home_buyer_assistance/land_rent_scheme

that additional land rent blocks can be purchased under the Scheme. When presenting the Bill to the Legislative Assembly, the Treasurer explained that this additional appropriation was being made due to strong demand for the Scheme.[249] As to the performance of the Scheme, the Treasurer told the Committee:

> In the first instance both the two per cent discount rate and the four per cent standard rate have achieved fairly strong interest from those eligible for the discounted rate as well as the broader marketplace on the standard rate. From experience of recent LDA land releases, up to 80 to 85 per cent of blocks have been purchased utilising the land rent scheme. That shows a strong take-up of the scheme. It has been particularly interesting to observe the trends between the discounted two per cent rate and the standard four per cent rate. So we did make some changes that came into effect last month in relation to security deposits, particularly around the four per cent scheme. That is a reflection of some issues that have been raised both in the evaluation of the scheme and by various industry groups. The MBA in particular made representations in relation to that.
>
> Overall the community response and industry and stakeholder response to the scheme have been positive, while recognising that, as it evolves and as market circumstances change, there is a need for some tweaking. We have undertaken some of that work. We have made some announcements and obviously we will have more to say on the scheme in coming budgets.[250]

Recommendation 18

5.132 The Committee recommends that the Government table its response to the review of the Land Rent Scheme.

5.133 As part of its inquiry into Appropriation Bill 2012–13 (No. 2), the Committee noted whilst modifications have been made to the Scheme in order to both discourage land speculation and ensure that lessees are fully committed to building on their blocks, the post implementation review of the Scheme also identified a number of interconnected strategies for maintaining and improving the effectiveness of the Scheme.[251] The Committee welcomes the Government's agreement to prepare a formal response to the post implementation review report as recommended in its report inquiring into Appropriation Bill 2012–13 (No. 2).[252]

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[249] Mr Andrew Barr MLA, 'Appropriation Bill 2012-2013 (No. 2)', Proof *Debates*, 14 February 2013, p. 557.

[250] Mr Andrew Barr MLA, *Transcript of Evidence*, 5 March 2013, pp. 2–3.

[251] EPIC dot gov Consultants. (2012) Post implementation Review of the ACT Land Rent Scheme, April, p. 6.

[252] PAC Report No. 1—Inquiry into Appropriation Bill 2012–13 (No. 2), 9 April 2013, Recommendation 1; Government response to PAC report No. 1, 11 April 2013—available at: http://www.parliament.act.gov.au/in-committees/standing_committees/Public-Accounts/01.-appropriation-bill-2012-2013-no-2?inquiry=438077

UNFUNDED DEFINED BENEFIT SUPERANNUATION LIABILITY

5.134 In the context of its risk to the long-term health of the Budget, the Committee discussed the management of the unfunded Commonwealth (CSS/PSS) defined benefit superannuation liabilities and the target of 100 per cent funding of the liabilities by 30 June 2030. As at 30 June 2012, the liabilities were estimated to be 49 per cent funded compared to 46 per cent funded as at 30 June 2011.[253]

5.135 Given the level of growth in the Territory's superannuation liabilities in respect of defined benefit superannuation schemes (noting that this is not atypical to the ACT—with other jurisdictions also faced with the same challenge), the Committee discussed the risk to the Territory's budget bottom line of the unfunded liability.

5.136 Specifically the Committee was interested in whether the doubling of the unfunded superannuation liability from $2 627 million at 30 June 2011 to $5 242 million at 30 June 2012[254] would require a revision to the Government's target of 100 per cent funding of the liabilities by 30 June 2030. The Treasurer commented:

> It is a moment-in-time snapshot. They will look at the particular rate on 30 June. I think it is important to stress that, in 12, 24 or 36 months time, with a different prevailing long-term commonwealth bond rate, this figure could dramatically improve. If you went back to the long-run average, we would find ourselves in a significantly improved position. So whilst I note this has been the subject of some interest, in terms of our long-term liability, one would not want to draw any conclusions from the current circumstance, given where interest rates are, in terms of their historical position. So this is not a particular cause for panic. It is not a cause to deviate from the longer term strategy for providing for our superannuation in the long term. I am not suggesting any change in policy as a result of this particular circumstance.[255]

5.137 The Committee notes that if the unfunded superannuation liability were to remain at similar levels over the forward years to that which existed at 30 June 2012, the Territory's long-term financial position will continue to be much weaker than previously forecast.

RISK OF SHARED SERVICES NOT MEETING SERVICE LEVEL AGREEMENTS

5.138 The Committee inquired about the risk of Shared Services not meeting service levels as agreed by ACT Government directorates and agencies in light of the following passage in the Treasury Directorate annual report:

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[253] Proof *Transcript of evidence,* 18 June 2012, pp. 175–177; 2012–13 Budget Paper No. 3, p. 233.
[254] ACT Auditor-General. (2012) AF report No. 10 of 2012: 2011–12 Financial Audits, 10.
[255] Mr Andrew Barr MLA, *Transcript of evidence*, 21 February 2013, pp. 31–32.

> The risk of Shared Services ICT, Procurement, Human Resources and Finance not being able to meet the Service Levels as agreed with ACT Government directorates and agencies due to a lack of resources, in particular adequate numbers of appropriately skilled staff. This risk is being addressed through a rigorous recruitment program and extensive training opportunities being made available to staff;...[256]

5.139 The Executive Director of Shared Services explained:

> The ongoing risk of retention and attraction of staff is a real risk for a shared services organisation, mainly because we are tactical and transactional in our processing, and that is not necessarily an attractive career for all public servants.
>
> We have been very successful, though, within Shared Services in having good retention of our staff. In our HR and finance areas we have staff turnover that is within target levels. Where it has been above target levels it has actually been due to deliberate attrition, if you like, related to EREC savings, expenditure review committee savings, that have been required.
>
> It is more challenging in both our procurement business unit and our IT business unit in terms of retention and attraction of staff, and that is because we are talking about highly paid, highly specialised resources, and there is a very competitive market in Canberra for both the areas of capital works and ICT specialist areas.
>
> We have been targeting that through a number of methods. In our capital works area we have been using industry partners on occasions. We have been using contracting resources and we have been increasing our graduate recruitment program so that we can train at the entry level for Shared Services Procurement and actually keep those people for a longer period of time.
>
> In ICT a plethora of options are being used, some of which are, again, graduates. Shared Services has now I think the largest take-out of the graduate program for the ACT government.[257]

OTHER MATTERS DISCUSSED

5.140 Other matters discussed by the Committee included:

- the impact of job losses in the federal public service and uncertainty regarding the Commonwealth Government's consumption expenditure on the ACT economy's growth[258];
- taxation revenue, including reforms to land rates and the lease variation charge[259];

[256] Treasury Directorate. (2012) *2011–12 Annual Report* (Vol. 2), p. 297.
[257] Ms Jill Divorty, *Transcript of evidence*, 12 March 2013, p. 94.
[258] *Transcript of evidence*, 21 February 2013, pp. 8–9.
[259] *Transcript of evidence*, 21 February 2013, pp. 7–9.

- the Territory's AAA credit rating[260];
- the ACT Public Service Employment Strategy for Aboriginal and Torres Strait Islander People[261];
- administrative arrangements within the new Chief Minister and Treasury Directorate—in particular clarification of reporting lines for the Under Treasurer[262];
- the cost of compulsory third party insurance in the ACT[263];
- employment arrangements in Shared Services[264]—in particular, that 32 out of approximately 1150 employees in Shared Services had a special employment arrangement as at 12 March 2013[265] and the average or mean daily payment rate for contractors[266];
- work and functions of ICT teams embedded in directorates and agencies[267]—ESA[268] and ACT Health[269];
- cloud technology strategies as a future direction[270];
- mobile device capability—anticipated timeframe for interoperability of mobile devices with mainstream ICT infrastructure[271];
- Rates Deferral Scheme and extension of eligibility to non-pensioners over the age of 65[272];
- information on unimproved land values from the AVO—reason for why Treasury has not received signed valuation reports and valuation work papers from the Australian Valuation Office to support these valuations[273];
- Homebuyers Concession Scheme and what measures are in place to deal with typical increases in house and/or land prices over time[274];
- strategies for ensuring robust procurement processes and managing risk in the pursuit of value for money[275];
- specific findings of the Auditor-General in relation to audits of the 2011–12 financial statements and statements of performance concerning territory revenue systems[276];

[260] *Transcript of evidence*, 21 February 2013, p. 3.
[261] *Transcript of evidence*, 21 February 2013, pp. 9–10.
[262] *Transcript of evidence*, 21 February 2013, pp. 10–12.
[263] *Transcript of evidence*, 21 February 2013, pp. 18–20.
[264] *Transcript of evidence*, 12 March 2013, pp. 95–97.
[265] Mr Andrew Barr MLA, Response to QToN No. 1, 12 March 2013.
[266] Mr Andrew Barr MLA, Response to QToN No. 2, 12 March 2013
[267] *Transcript of evidence*, 12 March 2013, pp. 98–100.
[268] Mr Andrew Barr MLA, Response to QToN No.'s 4, 5 and 6, 12 March 2013.
[269] Mr Andrew Barr MLA, Response to QToN No. 7, 12 March 2013.
[270] *Transcript of evidence*, 12 March 2013, pp. 100–101.
[271] *Transcript of evidence*, 12 March 2013, pp. 101–102.
[272] *Transcript of evidence*, 12 March 2013, pp. 104–105.
[273] *Transcript of evidence*, 12 March 2013, p. 110; Mr Andrew Barr MLA, Response to QToN No. 9, 12 March 2013.
[274] *Transcript of evidence*, 12 March 2013, pp. 105–106.
[275] *Transcript of evidence*, 12 March 2013, pp. 106–107.
[276] *Transcript of evidence*, 12 March 2013, pp. 109–111.

- policy initiative to introduce a local industry procurement policy aimed at encouraging local content involvement in the delivery of goods and services[277];
- application of the *Payroll Tax Act 2011* across a number of parameters[278];
- the ACT Revenue Office's 2012 Client Survey—estimation of how much time and resources were used in compilation of the Survey[279];
- finalisation and release of the Government Property Strategy and clarification as to whether external expertise had been utilised to finalise the new phase of the Strategy's development[280]; and
- government business enterprises ownership policy[281].

GOVERNMENT PROCUREMENT BOARD

5.141 In the context of the percentage of select tenders and single select tenders accounting for about 20 per cent of all contracts, the Committee was interested as to why these types of tenders accounted for a considerable portion of all contracts let. The Treasurer advised that:

> It would depend on agency business requirements, presumably.[282]

5.142 As to whether the Treasurer was concerned with respect to the percentage, the following discussion ensued:

> **MR SMYTH**: Are you concerned that such a large proportion go out under select or single select tender?
>
> **Mr Barr**: Looking at this data, I do not want to be pedantic about what constitutes a large percentage, but I am seeing-
>
> **MR SMYTH**: Are you concerned that 20 per cent—
>
> **Mr Barr**: I am seeing 74 per cent by public tender. I think that is the largest percentage.[283]

5.143 With respect to breakdown by risk of the projects considered by the Procurement Board during the 2011–12 financial year almost a quarter of the projects were deemed as having a high risk. The Committee was interested in the criteria that must be satisfied to make a project high risk and the following discussion ensued:

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[277] *Transcript of evidence*, 12 March 2013, pp. 111–112.
[278] *Transcript of evidence*, 12 March 2013, pp. 113–114; Mr Andrew Barr MLA, Responses to QToN No. 10, 12 March 2013.
[279] *Transcript of evidence*, 12 March 2013, pp. 115–117; Mr Andrew Barr MLA, Responses to QToN No. 11, 12, 13 and 14, 12 March 2013.
[280] *Transcript of evidence*, 12 March 2013, p. 117.
[281] *Transcript of evidence*, 12 March 2013, pp. 118–119.
[282] Mr Andrew Barr MLA, *Transcript of evidence*, 12 March 2013, p. 129.
[283] *Transcript of evidence*, 12 March 2013, p. 129.

> **Mr Barr**: Presumably either time frames or the nature of a particular project. I can get a more fulsome answer in terms of the different categories and what fits into those, but given that there are 10 of them-
>
> …
>
> **Mr Tomlins**: It is a mix of the likelihood and the consequence. For projects, I think a one in 1,000 likelihood of something like a half a million dollars increase in expenditure is regarded as high risk. So any big project in the construction field in the private sector or the public sector would be regarded as high risk. That does not mean much more than that it is a big project, essentially.[284]

5.144 The Committee notes however, that notwithstanding high risk projects making up 20 to 30 per cent of all projects, the percentage of value for these high risk projects is only 10 per cent. The Acting Executive Director of Procurement commented:

> Yes, 10 per cent of the expenditure. There are some small projects that are high risk because of the nature of the material. If you are handling asbestos or you are working at heights or there are particularly difficult procedures et cetera, they are obviously higher risk, although they may be low-cost projects.[285]

5.145 The Committee was provided on notice with a list of the projects considered by the ACT Government Procurement Board during the 2011–12 financial year as having a high risk.[286]

ACTEW Corporation Limited

5.146 ACTEW Corporation Limited (ACTEW) is an unlisted public company with assets and investments in water, wastewater, electricity and gas. The company is owned by the ACT Government and its voting shareholders are the Chief Minister and Deputy Chief Minister.[287]

5.147 ACTEW was corporatised on 1 July 1995 and has reporting and compliance obligations under the *Corporations Act 2001* and the *Territory-owned Corporations Act 1990*; and other legislation governing the supply of water and sewerage services which includes: the *Utilities Act 2000*, *Water Resources Act 2007*, *Environment Protection Act 1997*, *Water and Sewerage Act 2000* and the *Public Health Act 1997*.[288]

[284] *Transcript of evidence*, 12 March 2013, pp. 129–130.
[285] Mr George Tomlins, *Transcript of evidence*, 12 March 2013, p. 130.
[286] Mr Andrew Barr MLA, Response to QToN No. 21, 12 March 2013.
[287] http://www.actew.com.au/About us/Company Profile.aspx; ACTEW Corporation Ltd. (2012) *2011–12 Annual Report*.
[288] http://www.actew.com.au/About us/Company Profile.aspx; ACTEW Corporation Ltd. (2012) *2011–12 Annual Report*.

DISCLOSURE OF EXECUTIVE REMUNERATION

5.148 The Committee discussed at length with the Treasurer, the Managing Director of ACTEW and the Chairman of ACTEW Corporation, the matter of the incorrect reporting by ACTEW of the remuneration of the Managing Director in ACTEW's 2010–11 Annual Report. This included:

- the process for setting the salary of the Managing Director and the role of the Board's Remuneration Committee. The Committee noted the Memorandum and Articles of Association that applied to ACTEW when it was corporatised in July 1996 included a clause that the approval of the Voting Shareholders was required as part of the process for determining the remuneration for the Chief Executive Officer. In 2000, ACTEW replaced the Memorandum and Articles of Association with a Constitution that was subsequently amended on 28 September 2005, that amongst other changes, removed the requirement to obtain the approval of the Voting Shareholders from the process of determining the remuneration for the Chief Executive Officer[289];
- that the exact date the ACTPS was informed of the error in the reporting of the Managing Director's salary was 9 November 2012[290];
- PricewaterhouseCoopers review of ACTEW's governance, including spending on sponsorships and corporate hospitality. The review is expected to cost approximately $100 000 and is expected to conclude in the next month or thereabouts[291];
- the forthcoming Special General Meeting of the Board and Voting Shareholders[292]; and
- the process the Board used to select the Remuneration consultant—Egan Associates—research relating to review of executive salaries, that Egan Associates had written three reports for ACTEW over the past five years and confirmation as to other large corporations that have used the services of these consultants[293].

5.149 Subsequent to the hearing, the Chairman of the Board announced his resignation which would take effect on 30 June 2013.[294] As previously mentioned, the Auditor-General also presented a report to the Speaker on 26 April 2013—*Executive Remuneration Disclosed in ACTEW Corporation Limited's (ACTEW) 2010–11 Financial Statements and Annual Report 2011*[295]—responding to the Committee's request for further information relating to the : (i) the Auditor-General's responsibilities in relation to ACTEW's annual report and financial statements; and (ii) incorrect reporting by ACTEW of the remuneration of ACTEW's Managing Director in its 2010–11 Annual Report.

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[289] *Transcript of evidence*, 4 April 2013, pp. 167–168; Mr Andrew Barr MLA, Response to QToN No. 1, 4 April 2013.

[290] *Transcript of evidence*, 4 April 2013, p. 172; Mr Andrew Barr MLA, Response to QToN No. 3, 4 April 2013.

[291] *Transcript of evidence*, 4 April 2013, pp. 180–182.

[292] *Transcript of evidence*, 4 April 2013, p. 168.

[293] *Transcript of evidence*, 4 April 2013, pp. 169–170; Mr Andrew Barr MLA, Response to QToN No. 2, 4 April 2013

[294] Towell, N. and Cox, L. (2013) 'ACTEW Chairman John Mackay resigns', *Canberra Times*, 15 April.

[295] Auditor-General's Report No. 2 of 2013: *Executive Remuneration Disclosed in ACTEW Corporation Limited's (ACTEW) 2010–11 Financial Statements and Annual Report 2011,* 26 April 2013.

5.150 The Committee is firmly of the view that the misreporting of the Managing Director's salary was an error and was not in any way a deliberate attempt to mislead. The Committee has striven to consider the incident that gave rise to the matter in the wider context of the governance of Territory owned Corporations. It has endeavoured to focus beyond the blame game and to be forward looking in its examination of the matter. Further discussion on this matter is set out in chapter four.

COMMUNITY ENGAGEMENT ACTIVITIES

5.151 The Committee was interested to know the type of community engagement activities undertaken by ACTEW in relation to water security and water conservation measures and sought clarification as to whether its activities at the National Arboretum could be classified as such. The Managing Director responded:

> It is. This goes to both water security and water conservation measures. At the arboretum, the discovery garden is a very specific measure to assist Canberrans who are interested—and we know they are interested—in having a garden but using less water and how to do it. It lines up with the project we did at Rosary School in terms of turf types and things like that.
>
> On water security generally, Canberrans are very interested in how we are securing the city's water. We have gone from the direct community impact of projects, be it the Burra community down at the Murrumbidgee-Googong pipeline or the Cotter community, out to the general community and having them understand the projects. There is a fascination with projects—and it is good to have a fascination with projects—and how they fit into basically a water grid which protects Canberra and offers it water security for the next 30 to 40 years. So we go from Friends of the Cotter to open days, to information days, to education programs.
>
> The Cotter Dam is the only piece of curriculum accepted in the school systems of Australia around how you build a dam, how you take care of the environmental impacts of it, how you do certain things about it. The spinoff in terms of community engagement in this project has been very high, and the response is basically one which is overwhelming support of what we have been doing.[296]

[296] Mr Mark Sullivan, *Transcript of evidence*, 4 April 2013, p. 180.

OTHER MATTERS DISCUSSED

5.152 Other matters discussed by the Committee included:

- information on the various initiatives ACTEW has been involved with at the National Arboretum and a reconciliation of how much ACTEW has donated both in cash and in kind to the arboretum project since its inception[297]; and
- construction of the Enlarged Cotter Dam and advice that the geological fault was discovered in late May 2011[298].

ACTTAB LIMITED

5.153 ACTTAB operates as a Territory-owned Corporation, under the provisions of the *Betting (ACTTAB Limited) Act 1964* and the *Territory-owned corporations Act 1990*. Wholly owned by the ACT Government, ACTTAB Limited was established as a statutory authority in 1964 to provide a legal off-course betting system and has since been restructured as a territory-owned corporation. The principal activity of ACTTAB is the provision of totalisator wagering services.[299]

5.154 ACTTAB is one of two remaining Government owned betting agencies in Australia and, as the smallest TAB with limited market share, operates in a market with intense competition from corporate book makers and new forms of gambling products and channels.[300]

REVIEW INTO FUTURE OWNERSHIP AND GOVERNANCE ARRANGEMENTS OF ACTTAB

5.155 The Committee discussed with the Treasurer and ACTTAB officials the current review into the future ownership and governance arrangements of ACTTAB.[301]

5.156 The review was announced by the Treasurer on 9 February 2013 and after a select tender process involving a total of five consultancy firms, the Government appointed PricewaterhouseCoopers to undertake the Review.[302] The Review will:

> Identify a range of future ownership options and the issues associated with each. The various options range from retaining full government ownership and possible improvements to existing operational/governance arrangements, or the partial or full transfer of ownership.[303]

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[297] *Transcript of evidence*, 4 April 2013, p. 180; Mr Andrew Barr MLA, Response to QToN No. 5, 4 April 2013.
[298] *Transcript of evidence*, 4 April 2013, pp. 178–179; Mr Andrew Barr MLA, Response to QToN No. 4, 4 April 2013.
[299] ACTTAB. (2012) *2011–12 Annual Report*.
[300] Mr Andrew Barr MLA—Media release: Review of ACTTAB announced, 9 February 2013.
[301] *Transcript of evidence*, 4 April 2013, pp. 184–185.
[302] Mr Andrew Barr MLA—Media release: Consultant announced for review of ACTTAB, 22 February 2013.
[303] Mr Andrew Barr MLA—Media release: Consultant announced for review of ACTTAB, 22 February 2013.

5.157 The Committee confirmed that the Review report was still expected to be finalised in May 2013 and the Treasurer commented:

> I am anticipating that, yes. I will take some further advice on exactly when in that month. Yes, I would be anticipating that time frame, although, again, my preference would be to ensure that all stakeholders have been consulted. If it slips into early June in order to ensure that, I am comfortable with that. I am not suggesting that we want to draw it out any longer, but I do want to ensure that all stakeholders are consulted.[304]

5.158 The Committee was told that the contract amount for the Review was $189,398[305] and the Treasurer confirmed that the Review report would be tabled in the Assembly.[306]

5.159 Given the Treasurer's comment that the Government 'would only consider full private ownership of ACTTAB if it was in the public interest', the Committee inquired as to whether any community representations had been made with respect to government ownership of ACTTAB. The Treasurer told the Committee:

> In the initial feedback, in relation to the terms of reference for the review, it has been very strongly raised that the community benefit and the support that ACTTAB has provided to the Canberra community in a number of different ways, be it in sponsorship at high profile events or support of a number of other organisations over the organisation's history, is an important factor that we need to consider. And we do, because there are a number of organisations and a number of events and activities that simply would not be either at the levels they are now or in existence at all if it were not for the support of ACTTAB. That needs to be acknowledged and it needs to be very much a part of our consideration for the future of the organisation.[307]

5.160 The Committee notes that whilst recent technology upgrades has allowed ACTTAB to offer the same level of service as their larger competitors, ACTTAB has always faced pressures arising from being the smallest player in a national market. This has been accentuated with intense competition generated by the rise of the corporate bookmaker and new forms of gambling products and channels.

5.161 The Committee understands that should ACTTAB be sold, the new holder of the licence would be required to comply with the Gambling and Racing Control (Code of Practice) Regulation, including with respect to the provisions covering problem gambling. Furthermore, the sale of ACTTAB would require changes to the *Betting (ACTTAB Limited) Act 1964* and this would be a matter for the Legislative Assembly.

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[304] Mr Andrew Barr MLA, *Transcript of evidence*, 4 April 2013, pp. 184–185.
[305] Mr Andrew Barr MLA, Response to QToN No. 6, 4 April 2013.
[306] Mr Andrew Barr MLA, *Transcript of evidence*, 4 April 2013, p. 185.
[307] Mr Andrew Barr MLA, *Transcript of evidence*, 4 April 2013, p. 184.

5.162 The Committee is of the view that should the release of the Review report be delayed beyond the last sitting day in June 2013, the Treasurer should make a statement informing the Assembly and provide an explanation for the delay.

Recommendation 19

5.163 The Committee recommends that should the release of the report of the review into the future ownership and governance arrangements of ACTTAB be delayed beyond the last sitting day in June 2013, the Treasurer should make a statement out of session informing the ACT Legislative Assembly and providing an explanation for the delay by the end of June 2013.

OTHER MATTERS DISCUSSED

5.164 Other matters discussed by the Committee included:

- changes for the previous financial year turnover for racing, Keno, Sportsbet and Trackside products[308];
- current valuation on ACTTAB[309]; and
- challenges of competing against large corporate bookmakers eroding the business of traditional wagering operators and the insidious nature of the advertising reach these bookmakers have across multiple communication channels[310].

DISCONTINUED AGENCIES—TOTALCARE INDUSTRIES LIMITED

5.165 The Committee notes that the process of winding up Totalcare, which has been in train for several years, has now concluded. Totalcare Industries Special Purpose Financial Report for 1 July 2011 to 29 February 2012 advised:

> Totalcare's objectives were to meet all outstanding liabilities, particularly superannuation, with the ultimate objective of winding down the Company. These outstanding liabilities have been achieved and the company applied for deregistration on 29 February 2012. We are waiting for confirmation of deregistration at the end of April 2012.[311]

[308] *Transcript of evidence*, 4 April 2013, pp. 182–183.
[309] *Transcript of evidence*, 4 April 2013, pp. 185–186.
[310] *Transcript of evidence*, 4 April 2013, p. 183.
[311] Totalcare Industries Ltd. (2012) *Special Purpose Financial Report for the period 1 July 2011 to 29 February 2012*, p. 3.

5.166 On notice the Committee was told that Totalcare Industries Limited was wound up on 29 February 2012 'with no costs left to the Territory'.[312]

5.167 The Committee discussed matters relating to the outstanding superannuation liabilities[313]—specifically how much superannuation the Territory has paid on behalf of Totalcare in relation to the 424 settled superannuation files as totalling $9 678 450[314]; and what outstanding action has been taken, or needs to be taken, in relation to the remaining 509 unsettled superannuation files[315]. The Committee also sought clarification on Officers' indemnity insurance[316] and detail on the final cost to the Territory of winding up Totalcare[317].

ACT Insurance Authority

5.168 The ACT Insurance Authority (ACTIA) is established under section 7 of the *ACT Insurance Authority Act 2005*. The Authority commenced operations on 1 April 2001 replacing the Insurance Management Account which was introduced from 1 July 1998. ACTIA meets the insurable claims and losses of ACT Government agencies and has no external clients. ACTIA reports to the Treasurer and is financed through risk-based premiums that reflect the asset holdings and liability risks faced by each agency.[318]

Reinsurance premium for 2011–12 and 2012–13

5.169 The Committee noted that ACTIA's annual report states that the cost of reinsurance premiums are expected to increase in the coming years as the insurance market hardens and as the impact of natural disasters in Australia and internationally is factored into liability and property reinsurance premiums.[319]

5.170 Whilst the reinsurance premium for the 2011–12 year was $11.4 million, the Committee was interested in the premium for 2012–13 and was told that the budget for reinsurance in 2012–13 is $13.7 million.[320]

Risk management

5.171 The Committee sought clarification from ACTIA representatives on the nature of ACTIA's risk management activities and the status of its liabilities claims in light of the following passage in

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[312] Mr Andrew Barr MLA, Response to QToN #17, 12 March 2013.
[313] *Transcript of evidence*, 12 March 2013, p. 119.
[314] Mr Andrew Barr MLA, Response to QToN #16, 12 March 2013.
[315] Mr Andrew Barr MLA, Response to QToN #15, 12 March 2013.
[316] *Transcript of evidence*, 12 March 2013, pp. 119–120.
[317] Mr Andrew Barr MLA, Response to QToN #17, 12 March 2013*Transcript of evidence*, 12 March 2013, p. 119.
[318] http://www.treasury.act.gov.au/actia/Documents.htm; ACTIA. (2011) *2009–10 Annual Report*.
[319] ACTIA. (2012) *2011–12 Annual report*, p. 9; *Transcript of evidence*, 12 March 2013, p. 125.
[320] Mr Andrew Barr MLA, Response to QToN No. 20, 12 March 2013.

the annual report with respect to a potential risk that may influence the future financial position of the Authority:

> Escalating claims due to poor risk management in agencies ...[321]

5.172 The General Manager explained:

> I am not sure whether it is a particular issue but our liability is driven by claims made by agencies. So if agencies have poor risk management practices in place, that generates more claims; so then our liability increases.[322]

5.173 The Committee was informed that the volatility of the portfolio arose from medical malpractice (ACT Health) and public liability (TAMS) claims which, in contrast to property claims, take a long time to resolve and it is sometimes very difficult to approximate claims reserves for.[323] The Committee was interested in which agencies during the reporting period had increases in premiums and, where applicable, the reasons for increases in premiums.

5.174 As to reasons why insurance premiums may increase, the Director-General of the Commerce and Works Directorate emphasised:

> Again there would be a lot of reasons why their premiums go up. Partially it would be because of the assets base, what is happening with the weather, how many storm events there have been et cetera. So in itself it is not necessarily a sign of performance.[324]

5.175 A schedule detailing agencies with increased insurance premiums in 2011–12[325] was received on notice. The Treasurer told the Committee:

> The premiums for the provision of medical malpractice insurance increased for agencies providing health related services.[326]

5.176 The Committee was also informed that ACTIA undertakes a variety of risk management activities with ACT Government agencies, in particular with those agencies that generate insurable risks—the Health Directorate, the Territory and Municipal Services Directorate, the Justice and Community Safety Directorate and the Education and Training Directorate.

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[321] ACTIA. (2012) *2011–12 Annual report*, p. 30.
[322] Mr John Fletcher, *Transcript of evidence*, 12 March 2013, p. 122.
[323] *Transcript of evidence*, 12 March 2013, pp. 122–123.
[324] Ms Megan Smithies, *Transcript of evidence*, 12 March 2013, p. 124.
[325] Mr Andrew Barr MLA, Responses to QToN No. 18 and 19, 12 March 2013.
[326] Mr Andrew Barr MLA, Response to QToN No. 18 and 19, 12 March 2013.

OTHER MATTERS DISCUSSED

5.177 Other matters discussed by the Committee included:

- confirmation of the Authority's property insurance program to respond to a catastrophic natural disaster event and continuing eligibility to access funding support under the Commonwealth National Disaster Recovery and Relief arrangements (NDRAA)[327] and detail on expenditure thresholds applicable to the NDRRA[328]; and
- development of better claims reporting and recording practices[329].

DIRECTOR OF TERRITORY RECORDS

5.178 The Committee sought clarification from the Treasurer as to whether an ACT Archives Repository was going to be established in light of the following passage in the annual report:

> Council continues to express firm views on the pressing need for the establishment of an ACT Archives Repository to ensure suitable housing and access for the documentary heritage of the ACT.[330]

5.179 The Director explained the rationale underpinning:

> The pressing need from an archives perspective comes from the ability to curate a collection, to provide better access by having archivists in control of the collection rather than leaving them out with the agencies that store them.[331]

5.180 The Treasurer advised establishment of an archive repository was not under active consideration in terms of it not being critical for the 2013–14 Budget.[332]

5.181 Other matters discussed by the Committee included:

- the preparation of a *Guide to Government Records about the ACT* which the Territory Record Office (TRO) is preparing in conjunction with the National Archives of Australia. The Committee was told that the Office hopes to launch the Guide in October 2013[333]; and
- confirmation that the rewritten Territory Records Standard No. 1 is now complete and available online[334].

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[327] *Transcript of evidence*, 12 March 2013, pp. 124–125.
[328] Mr Andrew Barr MLA, Response to QToN No. 23, 12 March 2013.
[329] *Transcript of evidence*, 12 March 2013, p. 126.
[330] Treasury Directorate (2012) 2011-12 Annual report, p. 153.
[331] Ms Danni Wickman, *Transcript of evidence*, 12 March 2013, p. 128.
[332] Mr Andrew Barr MLA, *Transcript of evidence*, 12 March 2013, p. 128.
[333] *Transcript of evidence*, 12 March 2013, p. 128.
[334] *Transcript of evidence*, 12 March 2013, pp. 128–129.

Independent Competition and Regulatory Commission

5.182 The Independent Competition and Regulatory Commission (ICRC) has responsibilities for 'a range of regulatory matters' under the *Independent Competition and Regulatory Commission Act 1997* (the ICRC ACT), the *Utilities Act 2000*, the *Electricity (Greenhouse Gas Emissions) Act 2004*, and the *Electricity Feed-in (Renewable Energy Premium) Act 2008,* and that Section 7 of the ICRC Act sets out the Commission's objectives as:

- promoting effective competition in the interests of consumers;
- facilitating an appropriate balance between efficiency, environmental and social considerations; and
- ensuring non-discriminatory access to monopoly and near-monopoly infrastructure.[335]

Possible reforms to water price determination procedures

5.183 The Committee noted that on 13 October 2011, the Treasurer referred to the ICRC the making of a price direction for regulated water and sewerage prices provided by ACTEW Corporation Limited for the period 1 July 2013 to 30 June 2018.[336]

5.184 ACTEW Corporation Ltd provided a submission to the ICRC's inquiry in which it argued for annual price determinations rather the five-year determination that ran from 1 July 2008 to 30 June 2013. Part of the rationale for this recommendation was that:

> Importantly, a move to more regular price resets would also limit customer impacts by replacing the uncertainty of large period-to-period bill impacts with the lesser uncertainty of smaller year-to-year bill impacts.
>
> The Commission has acknowledged that forecasting water demand is an uncertain exercise and that this uncertainty increases with the length of the forecasting horizon. A reduction in forecasting horizon from six years to 16 months would improve forecasting accuracy, leading to timelier recovery of the revenue requirement.[337]

5.185 At its 21 February public hearing, the Senior Commissioner of the ICRC was not able to provide the Committee with further information on the direction it proposed to take on water and sewerage pricing as its draft report was not released until 26 February.[338]

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[335] *2011-12 Budget Paper No. 4,* p. 483.

[336] Independent Competition and Regulatory Commission, *Annual Report 2011-12*, September 2012, p. 12.

[337] ACTEW Corporation Ltd, ACTEW main submission to the Independent Competition and Regulatory Commission Inquiry: Regulated water and sewerage services from 1 July 2013, July 2012, pp. viii-ix.

[338] Mr Malcolm Gray, *Transcript of Evidence*, 21 February 2012, pp37-38.

5.186 The Committee notes, however, that the ICRC's draft report and pricing directions, when released on 26 February, proposed that water and sewerage prices be determined at two-yearly intervals within a six-year period and:

> …significant reductions in both water and sewerage service prices from 1 July 2013 with per kilolitre charges for water falling by 16.9% and sewerage charges falling by 24%. The combined bill for the typical household could fall by 19% or $230 per year or $4.42 per week.[339]

OTHER MATTERS DISCUSSED

5.187 The Committee also discussed:

- report on secondary water use in the ACT[340];
- appropriations for the ICRC[341]; and
- comparisons of electricity and water pricing in the ACT and NSW[342].

[339] Independent Competition and Regulatory Commission, Media Release: 'Release of draft report and proposed price direction –regulated water and sewerage services', 26 February 2013; accessed 27 March 2013, http://www.icrc.act.gov.au/__data/assets/pdf_file/0004/262165/MediaRelease_20130226.pdf

[340] *Transcript of evidence*, 21 February 2013, p. 36.

[341] *Transcript of evidence*, 21 February 2013, pp. 36–37.

[342] *Transcript of evidence*, 21 February 2013, pp. 37–38.

6 CONCLUSION

6.1 The Committee has made **15** recommendations in relation to its inquiry into 2011–12 Annual and Financial reports. The Committee would like to thank Ministers and accompanying directorate and agency staff, and members of governing boards, for their time and cooperation during the course of the inquiry process.

Zed Seselja MLA

Chair

6 June 2013

7 Dissenting comments—Ms Mary Porter MLA and Dr Chris Bourke MLA

7.1 We wish the report to reflect that we object to Recommendations 6 and 10 and do not support them.

Appendix A Witnesses who appeared before the Committee

Thursday 21 February 2013

Mr Andrew Barr MLA

Treasurer

Treasury (part 1)

Mr Andrew Cappie-Wood, Head of Service and Director-General, Chief Minister and Treasury Directorate (CMTD)

Mr Dan Stewart, Acting Under Treasurer, CMTD

Mr Neil Bulless, Executive Director, Finance and Budget Division, CMTD

Mr Patrick McAuliffe, Director, Investment Branch, Investment and Economics Division, CMTD

Mr Malcolm Gray, Senior Commissioner, Independent Competition and Regulatory Commission

Thursday 7 March 2013

Ms Joy Burch

Minister for Racing and Gaming

Mr David Dawes, Director-General, Economic Development Directorate (EDD)

Mr Greg Jones, Chief Executive, ACT Gambling and Racing Commission

Ms Louise Gilding, Executive Director, Ministerial, Cabinet and Policy, Economic Development, Policy and Governance Division

Tuesday 7 March 2013

Mr Andrew Barr MLA

Minister for Economic Development

Minister for Tourism and Events

Mr David Dawes, Director-General, Economic Development Directorate (EDD)

Ms Cathy Hudson, Deputy Director-General, Economic Development, Policy and Governance Division, EDD

Mr Ian Cox, Acting Executive Director, Business Industry and Development, EDD

Mr Shane O'Leary, Executive Director, Tourism, Events and Sport Division, EDD

Mr Ian Hill, Director of Marketing, Australian Capital Tourism, EDD

Mr Ian Thomson, Acting Executive Director, Land Strategy and Finance, EDD

Ms Liz Clarke, General Manager, Exhibition Park in Canberra

Tuesday 12 March 2013

Mr Andrew Barr MLA

Treasurer

Treasury (part 2)

Ms Megan Smithies, Director-General, Commerce and Works Directorate (CWD)

Ms Jill Divorty, Executive Director, Shared Services, CWD

Mr Al McLean, Acting Director, Strategic HR and Corporate, CWD

Ms Sarbjit Sidhu, Executive Director, Shared Services ICT, CWD

Mr Grant Doran, Director of Infrastructure, CWD

Mr Ross Burton, Chief Financial Officer, CWD

Mr Kim Salisbury, Director, Revenue Management Division and Commissioner for Revenue, CWD

Mr George Tomlins, Acting Executive Director, Procurement, CWD

Mr John Fletcher, General Manager, ACT Insurance Authority

Ms Dani Wickman, Director of Territory Records, Territory Records Office, CWD

Tuesday 26 March 2013

Mrs Vicki Dunne MLA

Madam Speaker

Office of the Legislative Assembly

Mr Tom Duncan, Clerk, ACT Legislative Assembly Secretariat

Mr Max Kiermaier, Deputy Clerk and Serjeant-at-Arms, ACT Legislative Assembly Secretariat

Mr Ian Duckworth, Manager, Corporate Services, ACT Legislative Assembly Secretariat

Ms Val Barrett, Manager, Hansard, Communications and Library, ACT Legislative Assembly Secretariat

Mr David Skinner, Manager, Strategy and Parliamentary Education, ACT Legislative Assembly Secretariat

Tuesday 2 April 2013

Dr Maxine Cooper

Auditor-General

Mr Bernie Sheville, Director, Financial Audits, ACT Auditor-General's Office

Mr Brett Stanton, Acting Director, Performance Audits and Corporate Services, ACT Auditor-General's Office

Mr Malcolm Prentice, Principal Senior Audit Manager, Financial Audits, ACT Auditor-General's Office

Thursday 4 April 2013

Mr Andrew Barr MLA

Treasurer

Treasury (part 3)

Mr John Mackay, Chairman, ACTEW Corporation Limited

Mr Mark Sullivan, Managing Director, ACTEW Corporation Limited

Mr Con Kourpanidis, Chair, ACTTAB Limited

Ms Kayelene Snowden, Acting Chief Executive, ACTTAB Limited

Tuesday 23 April 2013

Mr Simon Corbell MLA

Minister for Industrial Relations and Workplace Safety

Mr Andrew Kefford, Deputy Director General Workforce Capability and Governance Division, Chief Minister and Treasury Directorate (CMTD)

Ms Meg Brighton, Director, Continuous Improvement & Workers' Compensation Branch, Workforce Capability and Governance Division, CMTD

Mr John Fletcher, Default Insurance Fund Manager, Default Insurance Fund, ACT Insurance Authority

Mr Mark McCabe, Senior Director, Worksafe ACT, Justice and Community Safety Directorate (JACS)

Mr Goran Josipovic, Acting General Manager, ACT Long Service Leave Authority

Friday 10 May 2013

Ms Katy Gallagher MLA

Chief Minister

Mr Rodney Lee Walsh, Senior Assistant Ombudsman, Commonwealth Ombudsman

Mr Michael Hardy, Investigation Officer, Commonwealth Ombudsman

Mr Andrew Cappie-Wood, Head of Service and Director-General, Chief Minister and Treasury Directorate (CMTD)

Mr Andrew Kefford, Commissioner for Public Administration and Deputy Director-General Workforce Capability and Governance Division, CMTD

Mr Paul Ogden, Director, Strategic Finance, CMTD

Mr Jeremy Lasek, Executive Director, Culture and Communications Division, CMTD

Ms Robyn Archer AO, Creative Director, Centenary of Canberra

Ms Fay Steward, Executive Director, Parks and City Services, Territory and Municipal Services Directorate (TAMSD)

Mr Jason Brown, General Manager, National Arboretum, TAMSD