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THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

GOVERNMENT RESPONSE TO THE STANDING COMMITTEE ON PUBLIC ACCOUNTS REPORT NO 24

REPORT ON ANNUAL AND FINANCIAL REPORTS 2014-2015

Presented by
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Chief Minister

Government Response

Standing Committee on Public Accounts Report No 24 – Report on Annual and Financial Reports 2014-2015.

Introduction

The Annual Reports of All ACT Government agencies are referred to the Standing Committees of the ACT Legislative Assembly for examination and report.

The Standing Committee on Public Accounts reviewed annual reports for:

- ACT Audit Office[1]
- ACT Gambling and Racing Commission
- ACT Insurance Authority
- ACT Ombudsman[2]
- Chief Minister, Treasury and Economic Development Directorate—parts thereof relating to the Chief Minister's portfolio:
    - Access Canberra;
    - Government policy and strategy; public sector management; coordinated communications and community engagement;
    - Loose-fill Asbestos Insulation Eradication Scheme; and
    - ACT Executive (annexed report).
- Chief Minister, Treasury and Economic Development Directorate—parts thereof relating to the treasury portfolio:
    - Discontinued agencies;
    - Economic and financial management;
    - Revenue and government business management;
    - Shared Services;
    - Superannuation Provision Account;
    - Territory Banking Account;
    - ACT Compulsory Third Party Insurance Regulator (annexed report);

[1] Effective 1 July 2014—the ACT Auditor-General was designated as an Officer of the Assembly (as a consequence of the Assembly passing the Officers of the Assembly Bill 2013 on 24 October 2013).

[2] Effective 1 July 2014—the ACT Ombudsman was designated as an Officer of the Assembly (as a consequence of the Assembly passing the Officers of the Assembly Bill 2013 on 24 October 2013).

    - Director of Territory Records (annexed report);
    - Lifetime Care and Support Fund (annexed report); and
    - Office of the Nominal Defendant of the ACT (annexed report).
- Chief Minister, Treasury and Economic Development Directorate—parts thereof relating to the economic development portfolio:
    - Innovation, trade and investment;
    - Property services; and
    - ACT Government Procurement Board (annexed report).
- Chief Minister, Treasury and Economic Development Directorate—parts thereof relating to the racing and gaming portfolio—specifically, gaming and racing policy.
- Chief Minister, Treasury and Economic Development Directorate—parts thereof relating to the tourism and events portfolio (tourism matters only)—specifically, Visit Canberra.
- Chief Minister, Treasury and Economic Development Directorate—parts thereof relating to the urban renewal portfolio—specifically, policy, strategy and infrastructure delivery.
- Commissioner for Public Administration—ACT Public Service State of the Service report 2015
- Icon Water Limited [formerly ACTEW Corporation]
- Independent Competition and Regulatory Commission
- Office of the Legislative Assembly

The Committee made 24 recommendations.

Response to Committee Recommendations

Recommendation 1

The Committee recommends that ACT Government directorates and agencies should ensure the provision of complete statements of performance and full disclosure as required by the Financial Management Act 1996*. In doing so, directorates and agencies should ensure the following—the provision of:*

(i) clear definitions for accountability indicators and related targets;

(ii) improved accuracy with regard to reporting of results for accountability indicators;

(iii) more information on how reported results are measured—in particular, explanations of differences between actual results and planned targets; and

(iv) clear and informative explanations for material variances from the planned targets.

Government Response - Noted

The Auditor General concluded that the number of Financial Statements rated satisfactory or good in 2014-15 rose to 88 per cent. However, the quality of Statements of Performance dropped in the same period.

Agencies will continue to prepare Statements of Performance that comply with the *Financial Management Act 1996*. The Chief Minister and Treasury Directorate will issue guidance papers to assist this process.

Recommendation 2

The Committee recommends that ACT Government directorates and agencies should ensure complete reporting with all compliance requirements as specified in the Annual Report Directions.

Government Response - Agreed

Recommendation 3

The Committee recommends that the ACT Government detail to the ACT Legislative Assembly by the last sitting day in May 2016, as to the:

(i) basis for extending the Loose-fill Asbestos Insulation Eradication Scheme (the Scheme) to impacted dwellings in close proximity to affected properties;

(ii) number of affected properties that will be impacted; and

(iii) implications of this amended coverage on the Scheme—for example, financial, eligibility for inclusion and staging considerations.

Government Response - Agreed

Recommendation 4

The Committee recommends that the ACT Government detail to the ACT Legislative Assembly, by the last sitting day in April 2016, the differences between the provisions of the Land Rent Scheme as it applies to land rent leases granted to: (i) former 'Mr Fluffy' home owners (affected residential premises); (ii) those who have owned properties impacted by a 'Mr Fluffy' home (eligible impacted properties); and (iii) other persons/household (non-affected Mr Fluffy leases). This comparison should include information on: (i) applicable land; (ii) eligibility criteria; (iii) requirement to attend an information course; (iv) land rent payable; (v) liability for duty; (vi) cost of conversion to a nominal crown lease; and (vii) availability of option to transfer land rent lease.

Government Response - Agreed

Recommendation 5

The Committee recommends that the ACT Government clarify to the ACT Legislative Assembly, by the last sitting day in April 2016, how the provisions of the Land Rent Scheme as it applies to land rent leases granted to former 'Mr Fluffy' home owners (affected residential premises) is consistent with the affordable housing objectives of the Land Rent Scheme.

Government Response - Agreed

Recommendation 6

The Committee recommends that the ACT Government table the quarterly progress reports on the implementation of the Loose-fill Asbestos Insulation Eradication Scheme within 45 days of the end of each quarter.

Government Response - **Agreed**

Recommendation 7

The Committee recommends that the ACT Public Service State of the Service report as it relates to the whole-of-government reporting descriptor—Public Interest Disclosure—should include statistics as to which public sector entity disclosures pertained to for the applicable reporting year.

Government Response – Agreed

Recommendation 8

The Committee recommends that the ACT Public Service State of the Service report as it relates to the whole-of-government reporting descriptor—Public Interest Disclosure—should, where applicable, detail the grounds pursuant to section 20 of the Public Interest Disclosure Act 2012, that an investigating entity may decide not to investigate a public interest disclosure, or may end the investigation of the disclosure, for the applicable reporting period.

Government Response – Noted
Details of the grounds under which an investigating entity decided not to investigate pursuant to section 20 of the *Public Interest Disclosure Act 2012* were not indicated in the State of the Service Report 2015 to preserve the anonymity of disclosers as prescribed by Section 44 of the *Public Interest Disclosure Act 2012* (Offences – use or divulge protected information). The State of the Service Report already discloses how many Public Interest Disclosures were received, how many were investigated, and how many fall under section 20 of the Act.

Recommendation 9
The Committee recommends that the Commissioner for Public Administration inform the ACT Legislative Assembly, by the last sitting day in May 2016, as to the grounds pursuant to section 20 of the Public Interest Disclosure Act 2012, the relevant investigating entity decided not to investigate a public interest disclosure for the 2014–15 reporting period.

Government Response –Noted
As per response to Recommendation 8, the State of the Service Report already provides the details that ensure that section 44 of the *Public Interest Disclosure Act 2012* is not breached.

Recommendation 10
The Committee recommends, to the extent that work is not already taking place, that the ACT Government take appropriate steps to resolve inconsistencies between directorates in relation to complaints handling under the Respect, Equity and Diversity (RED) Framework.

Government Response - Noted
The *ACTPS Guide to Managing Workplace Behaviour* and the *ACTPS Manager's Toolkit* were developed and released in 2015 to clarify complaints management mechanisms in the ACTPS.

In addition, the *Resolving Workplace Issues* resources were released in December 2015. These resources continue the message of embedding positive work cultures across the ACTPS. They focus on the identification and management of inappropriate behaviour at the local level through to more serious allegations of misconduct that are managed under ACTPS Enterprise Agreements.

All of these resources are available on the ACTPS Employment Framework Portal.

Recommendation 11
The Committee recommends that the ACT Government report to the ACT Legislative Assembly, by the last sitting day in May 2016, on the progress and effectiveness of the Government's implementation of the recommendations, made in the Final report on the review of the Respect, Equity and Diversity (RED) Framework, that have been accepted either in-whole or in-part.

Government Response - Agreed
The Chief Minister will provide the report on the progress and implementation of recommendations from the Respect, Equity and Diversity (RED) Framework Report to the Assembly in the August 2016 sitting period.

Recommendation 12
The Committee recommends that the ACT Government report to the ACT Legislative Assembly, by the last sitting day in August 2016, on the progress and effectiveness of the Government's implementation of the recommendations, made in the KPMG report—Review of the Clinical Training Culture, The Canberra Hospital and Health Services, that have been accepted either in-whole or in-part.

Government Response – Agreed
Note that measuring effectiveness needs a longer timeframe (1 – 2 years) given these recommendations and associated activities are aimed at achieving culture change.

Recommendation 13
The Committee recommends that the ACT Government reconsider funding arrangements for the Office of the Legislative Assembly to develop and resource an appropriate function to support contemporary protective security requirements and emergency procedures in the Assembly precinct.

Government Response – Noted
During the 2016-17 Budget process, the Government will be considering these and other issues in the context of the expansion of the Legislative Assembly following the 2016 ACT election. The outcome of the Government's deliberations will be announced as part of the 2016-17 Budget in June 2016.

Recommendation 14
The Committee recommends that ACT Government directorates and agencies should ensure the following with respect to Statements of Performance and subsequent reporting in respective annual reports—the provision of:

(i) clear definitions for accountability indicators and related targets;
(ii) improved accuracy with regard to reporting of results for accountability indicators;
(iii) more information on how reported results are measured—in particular, explanations of differences between actual results and planned targets; and
(iv) clear and informative explanations for material variances from the planned targets.

Government Response – Noted
Agencies will continue to prepare Statements of Performance that comply with the *Financial Management Act 1996*. The Chief Minister, Treasury and Economic Development Directorate will issue guidance papers to assist this process.

Recommendation 15

The Committee recommends that the ACT Government should ensure that all governing boards are constituted in accordance with membership requirements as prescribed in their respective legislation.

Government Response - Agreed

The Government has (and is) implementing a suite of approaches to ensure that government boards continue to operate effectively. These include the release of an updated Boards and Committees Handbook, a centralised appointments register, and a regular assurance process to confirm all boards are constituted in line with membership requirements and other legislative requirements.

Recommendation 16

The Committee recommends that the ACT Government inform the ACT Legislative Assembly, by the last sitting day in April 2016, as to the revised project parameters for the Expenditure Review of the ACT Concessions program—with particular reference to:

(i) revised Review objectives;
(ii) timeframe for completion of the Expenditure Review of the ACT Concessions program;
(iii) when submissions from the second consultation phase will be publicly available;
(iv) how the Review outcomes will 'advise on the future funding requirements for the program and different funding options for consideration' in the 2016–17 Budget; and
(v) a summary of preliminary findings from the first consultation stage—13 March to 10 April 2015.

Government Response – Noted

The project parameters for the ACT Concessions Review were not changed.

The Review was completed in 2014-15, which included the first stage of consultation that sought community views on priority, targeting and options to constrain growth of the concessions program. Submissions from the first stage of consultation were publically released with the November 2015 discussion paper "Options to Improve the Fairness and Targeting of the ACT Concessions Program".

The discussion paper identified ten options informed by the Review, which the ACT Government chose to consult on further with the community. The discussion paper also contained a summary of submissions from the first stage of consultation.

The latest consultation process ran from 15 November 2015 and 12 February 2016. Views expressed in the consultation have been considered in deciding what options could be adopted and, in turn, the funding requirements beyond 2015-16. These submissions will be publically released following the 2016-17 Budget.

Recommendation 17
The Committee recommends that the ACT Government update the ACT Legislative Assembly by the last sitting day in June 2016 on progress with regard to the finalisation of Icon Water Limited's Debt Management Strategy—in particular, at the time of the update, this should include: detail on the practicalities of how the debt facility off the ActewAGL distribution balance sheet will work; the quantum of debt; gearing ratio; capital structure; and composition of the debt.

Government Response –Agreed
The Treasurer will table a response in the August 2016 sitting period.

Recommendation 18
The Committee recommends that the ACT Government table in the ACT Legislative Assembly by the last sitting day in June 2016, the outcomes of Icon Water Limited's programmed May 2016 Customer Survey, in particular, as it relates to questions concerning brand recall and recognition to allow for an evaluation of the new brand.

Government Response – Noted
The information will be tabled as soon as it becomes available.

Recommendation 19
The Committee recommends that the ACT Government detail to the ACT Legislative Assembly, by the last sitting day in May 2016, as to the basis for shifting reporting responsibilities on the feed-in tariff from the Independent Competition and Regulatory Commission (ICRC) to the Environment and Planning Directorate.

Government Response - Agreed
The Committee should also concurrently consider the response to Recommendation 20 which provides a broader background to the change in FiT reporting requirements, in addition to this response.

The transfer of reporting to EPD was driven by the following:

Increased scrutiny- The transfer enabled greater powers available to the Government under the legislation to incentivise compliance and reporting with the scheme. The transfer was accompanied by new penalties and audit powers to ensure future Governments have adequate powers should significant concerns emerge over the functioning of the scheme which will last for 20 years until 2036.

Increased community transparency – The Minister is now required to publish an annual report on the scheme. While the previous ICRC reports were simple and mainly data based, the Minister's new annual report provides information on the ACT's greenhouse gas emission targets, the large and small FiT schemes implemented to achieve these targets as well as documenting progress towards the ACT's renewable energy target.

This is to ensure a transparent and easily accessible source of information is available to the community on the operation of the scheme. This goes significantly beyond the ICRC reporting and any legislative requirements.

Reduced regulatory burden – For reasons noted in the Government's response to Recommendation 20, the previous reporting arrangements were considered to be redundant and constituted an inefficient regulatory burden on industry due to the scheme now being closed.

Administrative efficiency and streamlining - Previously, industry was required to provide information to both EPD and the ICRC. This was considered to be administratively inefficient and duplicative and the new reporting requirements now sit within a single agency.

Recommendation 20

The Committee recommends that the ACT Government detail to the ACT Legislative Assembly, by the last sitting day in May 2016, as to the basis for the change in frequency—from quarterly to annual—reporting for the feed-in tariff under the new arrangements.

Government Response – Agreed

The ACT Government's rooftop solar Feed-in Tariff (FiT) scheme commenced on 1 March 2009 and closed on 13 July 2011. The 9,950 systems installed under the scheme to date have an installed capacity of 26.2MW. According to the review of the scheme tabled in the Legislative Assembly in September 2015, the scheme fulfilled its objectives and contributed to the significant uptake of rooftop solar in the ACT.

The rate of eligible renewable energy generators connecting to the electricity distribution network under the scheme has fallen as capacity available under the scheme has been taken up. The number of additional renewable energy generators still waiting to be connected is limited and they are required to be installed by 31 December 2016. This will mean that no new generators will be connected after this date.

Consequently the monthly and quarterly reporting requirements were considered redundant. They were useful when significant number of rooftop solar systems were being installed under the scheme every month. With the closure of the scheme, this is no longer the case.

Recommendation 21

The Committee recommends that the ACT Government inform the ACT Legislative Assembly, by the last sitting day in May 2016, as to the basis for contracting to a commercial consultant the preparation of future ACT Greenhouse Gas Inventory reports.

Government Response – Agreed

The preparation of an annual report on greenhouse gas emissions is a requirement of s12 of the *Climate Change and Greenhouse Gas Reduction Act 2010* (the Act).

In June 2011, the Environment and Planning Directorate (as the Environment and Sustainable Development Directorate) signed a Service Agreement with the Independent Competition and Regulatory Commission (ICRC) for the provision of annual greenhouse gas inventories for four reporting periods (2008-09 to 2011-12), and other analytical advice, for a total cost of $835,000.00. The Services Agreement expired on 30 November 2014, as scheduled, with all financial commitments completed.

Following this, and to ensure appropriate transparency and value for money considerations for the Territory, EPD commenced a competitive process, through a Request for Tender (RFT) to procure an independent entity to prepare future greenhouse gas inventories.

The RFT included a requirement for the new independent entity to bring the Territory's future greenhouse gas inventories 'up to date' and avoid an existing two year delay in reporting the Territory's emissions, partly resulting from the preparation of the Australian Government's National Inventory Report. This would require that an inventory for a reporting period (financial year) be released in the months following the end of that reporting period. The existing requirement was for an annual report on emissions to be released by 30 September each year for a reporting period two years previous (s12).

The RFT then required the preparation of an interim inventory for the years 2012-13 and 2013-14, then the preparation of ongoing inventories for the reporting periods 2014-15 to 2017-18.

The RFT was advertised in the Canberra Times on Saturday, 30 August 2014, with prospective tenderers, including the ICRC, being notified independently. The ICRC declined to tender for the future contract.

Recommendation 22
The Committee recommends that the ACT Government inform the ACT Legislative Assembly, by the last sitting day in May 2016, as to how contract arrangements for the preparation of the ACT Greenhouse Gas Inventory by a commercial consultant meets the terms of the Climate Change and Greenhouse Gas Reduction Act 2010 to have the Inventory undertaken by an 'independent entity'.

<u>Government Response</u> –Agreed
Section 12 of the *Climate Change and Greenhouse Gas Reduction Act 2010* (the Act) commits the government to releasing an annual report about greenhouse gas emissions. The Act requires the Minister ask an 'independent entity' to prepare a report about greenhouse gas emissions (an inventory). While the ICRC is specifically mentioned as an example of an independent entity, the Act does not limit this definition to the ICRC.

Specifically, s 12(1) of the Act notes:

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

Recommendation 23

The Committee recommends that the ACT Government table in the ACT Legislative Assembly, by the last sitting day in May 2016, the business case to contract out to a commercial consultant the preparation of the ACT Greenhouse Gas Inventory report. This should include a detailed cost benefit analysis for the provision of this service in terms of unit cost from the Independent Competition and Regulatory Commission and contracting in a similar resource from a private consultant.

Government Response – Agreed

Prior to the Independent Competition and Regulatory Commission (ICRC) being awarded a Services Agreement to prepare annual greenhouse gas emissions reports, the annual greenhouse gas inventories for the three periods 2005-06, 2006-07 and 2007-08 were prepared by consultants pitt&sherry for a total cost of $78,773.00.

In 2010, the ACT Government, represented by the then Environment and Sustainable Development Directorate, entered into a Services Agreement with the ICRC for the provision of annual greenhouse gas inventories for four financial years 2008-09, 2009-10, 2010-11 and 2011-12, and other analytical advice. The Services Agreement amount was for $835,000.00.

Over this period, in addition to preparing four greenhouse gas inventories for the ACT covering the reporting periods 2008-09 to 2011-12, the ICRC provided other analytical advice on two occasions under this Services Agreement:

- an internal discussion paper on a methodology for measuring the proportion of renewable electricity generation that can be attributed to ACT electricity consumption (July 2014), and
- advice to the Office of the Commissioner for Sustainability and the Environment on the development of the Implementation Status Report (2014).

Considering the reports equally, this amounts to a cost of approximately $139,166.00 for each report.

Through the Request for Tender, ten consultancies provided submissions and costing for the preparation of effectively six greenhouse gas inventories for the periods 2012-13 to 2017-18, and ancillary reporting. The costings received ranged from around $100,000.00 to nearly $450,000.00.

The consultants pitt&sherry were selected based partly on their previous experience in preparing greenhouse gas inventories for the Territory and their contribution to the Australian Government's National Inventory Report, and the cost competitiveness of their tender. The agreed value of the Services Agreement signed with pitt&sherry is $133,650.00 over four years (excluding CPI considerations). The costs associated with each annual emissions report can be found on the ACT Government's contracts register at

http://www.procurement.act.gov.au/contracts/contracts_register/contracts_register_functionality/contracts-search, using the contract number 25060.210.

The ICRC declined to tender for the future contract.

Recommendation 24
The Committee recommends that the ACT Government inform the ACT Legislative Assembly, by the first sitting day in April 2016, as to the progress on the appointment of standing commissioners to the Independent Competition and Regulatory Commission.

Government Response – Noted
On 2 May 2016, Mr Joe Dimasi was appointed as a Standing Commissioner of the Independent Competition and Regulatory Commission (ICRC), for a five year term until 1 May 2021. Mr Dimasi will become the Senior Commissioner of the ICRC on 1 June 2016, following the completion of the terms of the current interim ICRC Commissioners.