



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

SELECT COMMITTEE ON ESTIMATES 2024-2025

**(Reference: [Inquiry into Appropriation Bill 2024-2025 and
Appropriation \(Office of the Legislative Assembly\) Bill 2024-2025](#))**

Members:

**MS N LAWDER (Chair)
MS S ORR (Deputy Chair)
MISS L NUTTALL**

TRANSCRIPT OF EVIDENCE

CANBERRA

MONDAY, 5 AUGUST 2024

**Secretary to the committee:
Dr D Monk (Ph 620 50129)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

APPEARANCES

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Privilege statement

The Assembly has authorised the recording, broadcasting and re-broadcasting of these proceedings.

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Amended 20 May 2013

The committee met at 8.59 am

Appearances:

Steel, Mr Chris, Minister for Planning, Minister for Transport, Minister for Skills and Training, Special Minister of State

Environment, Planning and Sustainable Development Directorate

Ponton, Mr Ben, Director-General

Engel, Mr Sam, Acting Deputy Director-General, Planning and Sustainable Development

Green, Mr Ben, Executive Group Manager, Planning and Urban Policy

Smith, Mr Jeremy, Executive Group Manager, Development and Implementation

Cilliers, Mr George, Executive Group Manager, Statutory Planning

Magee, Ms Alexandra, Executive Branch Manager, Communications, Engagement and Media

THE CHAIR: Welcome to the last day of public hearings of the Select Committee on Estimates inquiry into the Appropriation Bill 2024-2025 and the Appropriation (Office of the Legislative Assembly) Bill 2024-2025. The committee will today hear from the Minister for Planning, the Minister for Transport, the ACT Ombudsman, the Speaker of the Legislative Assembly, the Aboriginal and Torres Strait Islander Child and Young People Commissioner, the Minister for Housing and Suburban Development, and the Chief Minister and Treasurer.

The committee wishes to acknowledge the traditional custodians of the land we are meeting on, the Ngunnawal people. The committee wishes to acknowledge and respect their continuing culture and the contribution they make to the life of this city and the region. We would also like to acknowledge and welcome other Aboriginal and Torres Strait Islander people who may be attending today's event.

The proceedings today are being recorded and transcribed by Hansard and will be published. The proceedings are also being broadcast and webstreamed live. When taking a question on notice, it will be helpful if witnesses use these words, "I will take that question on notice." This will help the committee and witnesses to confirm questions taken on notice from the transcript.

We welcome Mr Chris Steel MLA, the Minister for Planning, and officials. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered a contempt of the Assembly. Please confirm that you understand the implications of this statement and that you agree to comply with it?

Mr Cilliers: I have read and acknowledge the privilege statement.

Mr Green: I have read and acknowledge the privilege statement.

Mr Ponton: I have read and understood the privilege statement.

Mr Engele: I have read and acknowledge the privilege statement.

Mr Smith: I have read and acknowledge the privilege statement.

THE CHAIR: We will move directly to questions. Minister, can you talk me through what consultation your office and EPSDD conduct with the CFMEU ACT, and on what types of matters do you consult them?

Mr Steel: There might be a range of matters on which we consult them. In relation to planning, if that is what your question is about, specifically, relevant to the session today, they would be consulted, as would other community and stakeholders, as part of any reforms that are taking place within the planning area. I was not here as planning minister when the planning system review was in full swing. The directorate may be able to comment on whether they were involved in the consultations there.

Mr Green: As the minister has outlined, there has been engagement with a variety of stakeholders. I understand that the union were part of that engagement at varying points throughout the process.

THE CHAIR: For example, with the Planning Bill 2023, they would have been consulted?

Mr Steel: I would imagine so. I do not have those specific details. Again, that was before my time—the consultation on the Planning Bill.

THE CHAIR: Perhaps you could take that on notice.

Mr Green: We will take that on notice.

THE CHAIR: Thank you. The Property Developers Bill 2023?

Mr Green: That matter sits outside this portfolio area.

MR CAIN: With any meetings you had with CPSU, would you table for this committee the—

Mr Steel: CPSU, Mr Cain?

MR CAIN: With the CFMEU, would you table for this committee the file notes of those meetings and any other records?

Mr Steel: I cannot recall having a meeting with the CFMEU about planning specifically, but I can check whether we have had a meeting.

THE CHAIR: You will take that on notice?

Mr Steel: Yes, I will take on notice and check whether we have had a meeting.

MR CAIN: Minister, the CFMEU Secretary, Zach Smith, addressed the ACT Labor conference recently and proposed motions on housing and development. Are you

comfortable with your agenda being set by these unions?

Mr Steel: The ACT government sets its agenda. That may be different to what is in the party platform. Not everything got up at that conference in relation to party platform changes.

MR CAIN: Is there anything in particular that you would discuss with the CFMEU that you would not discuss with other relevant stakeholders on planning?

Mr Steel: When we undertake government changes to the Planning Act and regulations that require consultation, we undertake that consultation broadly. We have a range of consultation mechanisms. I recently attended, last week, the planning and environment forum, which is hosted by EPSDD, with a range of different stakeholders across the sector. We were discussing future priorities in the planning space. We continue to consult with the community across a wide variety of matters, and that is often open to the entire, broad community. Sometimes it is more at a stakeholder to stakeholder level, depending on what particular change is being proposed.

MR CAIN: Was the CFMEU present at the planning and environment forum?

Mr Steel: Not that I am aware of, no.

MR CAIN: Could you confirm that; take that on notice to confirm it?

Mr Green: No, they were not.

MR CAIN: They were not. Have there been any particular requests or submissions from CFMEU that have been lodged that you have agreed with and are there others that you have not agreed with?

Mr Steel: In relation to what matter, Mr Cain?

MR CAIN: In relation to planning.

Mr Steel: Planning broadly?

MR CAIN: Planning broadly.

Mr Steel: I am not aware of any particular matter that we have been consulting on where they have been involved.

MR CAIN: With respect to particular matters like the Property Developers Bill or the Planning Bill?

Mr Steel: The Planning Bill was passed before I was planning minister, so I cannot comment on that. I think we have already taken on notice getting some information about that. We might have some for you right now.

Ms Magee: In relation to the Planning Bill, the consultation was approximately 18 months ago. I can confirm that CFMEU were not part of the consultation. They did not

provide a submission on the Planning Bill. However, as always, our consultations are open to all audiences, be they advocacy groups, unions or the general community.

MISS NUTTALL: Minister, the government has just run a four-year planning review and has done a further inquiry into the bill, and has only now started policy work on increasing the diversity of housing options. The documentation provided with the new Territory Plan shows that significant changes have been made to the Territory Plan—just ask some of the landowners in the Phillip service trades area—but there were no significant zone changes or changes to encourage missing middle development systematically. What was the total cost of the planning review?

Mr Steel: We can certainly take that on notice in relation to the costs. In responding to the preamble, and the range of issues you have raised there, in relation to the missing middle, we heard through the planning review from a variety of different stakeholders that they wanted the government to look at reforms to allow different types of housing to be built in existing areas, particularly RZ1.

Some changes were made through the planning system changes, particularly in relation to RZ2. We had consolidation, for example, in subdivisions within that zone. Some changes were made in relation to dual occupancy. But we recognise that the review did not start off as an exercise in missing middle reform. We heard, particularly from the Institute of Architects, that quite substantial work was required to inform future changes to allow missing middle housing on Canberra blocks.

We are now engaged in developing that work. In fact, we have already brought on, through a procurement, a contractor, Urbis, to assist us to develop a draft missing middle design guide, to undertake that detailed work that is necessary to get the design right, before we then make further changes to the Territory Plan to allow that type of housing, particularly on RZ1 blocks. It will also cover a range of other residential zones. I will pass to Mr Green in a moment to talk a little bit about that.

In relation to the Phillip trades area, as planning minister, I am keen to engage in the future with the Phillip traders—not just the landlords but the actual businesses within the Phillip trades area—to understand what their future needs are. The government recognised in the planning system review that changes to zoning in that area to permit housing could result in a loss of businesses in that area, particularly the service-type businesses.

When zoning changes have been made before in those types of areas—and Braddon is a great example of that—a certain type of business basically is no longer able to operate, even if it is still permitted within the mixed-use zoning. The question for the broader community and those businesses is: do they want to see a change in the Phillip area? Do they still want to have those service trades available for the local community to use in that area or do they want them to be forced out onto the fringe of Canberra in, say, Fyshwick or another area like that, where those sorts of services are still permitted?

It is an open question. I appreciate that there are some landlords there that want to build housing—go up and extend on top of the businesses that they have there. But that has an impact on the price of rent for the existing businesses in the area. Of course, when you have residents there, it may impact on the types of things that can occur within the

Phillip business precinct. There are a lot of automotive businesses in the area and a lot of service businesses.

The entire reason why we have land use zoning is to understand the impacts regarding different uses. There is a real question here about whether it is useful, for the broader community and the businesses, to have more mixed-use zoning in that area. It is an open question. I do not have a particular view on it. I am open to hear from them. I want to have a discussion with them about what the impacts might be on their businesses and for the broader community if we see a loss of services there because there is new housing within the Phillip business area. It is not to say that they could not be, but I want to hear from them about what those impacts are.

There have been a number of development applications in that area that have been considered by the independent planning authority, based on the current Territory Plan. With respect to future changes, that is something on which we will need to consult with the community and businesses in that area. You have raised a range of issues. I will hand over to Mr Green to talk a little bit about the missing middle work.

Mr Green: Before I go to the missing middle work, in response, Miss Nuttall, to your first question around the cost of the planning review, in part that was responded to in a question from Mr Cain that was taken on notice on 29 March, in relation to how much government has spent on consultants. There is information with links in there that we can provide to the committee.

The other point I would make is that it is difficult to work through individual staff members' time to be able to provide an overall cost, given there were so many people involved throughout that process. I do not think it would be fair, and I doubt we would be able to give you an accurate costing. Certainly, the money that has been committed by government is in the response to that question taken on notice.

MS CLAY: Minister, the planning review started in 2019. When did you first hear about the need for missing middle reform? We are very pleased that that is now being looked at, but we are a bit concerned that it has taken five years to get to this point.

Mr Steel: It was not the basis for undertaking the review into the planning system. I was not the minister back then, but the whole purpose of this was to move from a rules-based system to an outcomes-based planning system. That was the fundamental basis for the reform. Over recent years, particularly post COVID, we have seen a significant housing supply issue and advocates have been very strongly arguing for this type of reform in a way that we probably have not seen before in the community. We have seen some advocates pushing for missing middle for some time, through various opinion pieces and so forth, but there has certainly been a lot more advocacy.

We acknowledged some of that by undertaking an incremental level of change through the end stages of the planning system review and the changes to the act. We also acknowledge that there is further work to do in this area to get it right, because it is a significant change for the community and we want to show at a very detailed level what that change to a street will look like over a period of 10 years.

The design guides, which is a new mechanism established under the new planning

system, enable us to do that. Now that the foundations of the system are in place, following the planning system review and the new Planning Act, we can use that mechanism to work with architects, planners and the broader community to get the design right. It is about how we enable these types of dwellings in existing suburbs in a way that still makes sure that there is space, trees—all of those sorts of things—but also that allows the community to understand the potential change before we actually go ahead and change the law, through the Territory Plan, to enable these things. There are a range of different planning regulations that are—

MS CLAY: I might just jump in and get back to the question, if that is okay, Minister. Sorry to cut you off. The question was: when did government first become aware that there might be a need for reform in this area? I will just note some of the high points that I remember on this project. I think in 2021 we had a whole lot of advocacy for the need for missing middle reform around the demonstration housing, Manor House in Griffith. In 2023, I think, both the Greens and Labor put up pretty strong policies on their party platform saying that we needed missing middle reform. I would say that the government should have been on notice since 2021. I am interested in knowing, from the planning directorate's point of view, when did you first hear that we might need reform in this area that we are now starting to looking at?

Mr Steel: There have been calls for years.

MS CLAY: Yes.

Mr Steel: I was out doorknocking in Swinger Hill over the last week. That was actually a demonstration housing site for missing middle in Canberra that was built decades ago. It was meant to inform future changes. This is a significant change. It goes back as far as the Garden City variation. That was made, I think, under Simon Corbell, as planning minister, many years ago, which obviously had a chilling effect on this type of housing being built. We are looking at further changes to that, recognising that we need a greater supply of housing and that there is a different view in the community. I think that has built up over time.

I appreciate that you have a different view on this, which is that you wanted to see all RZ1 zones rezoned to RZ2 yesterday. But this requires a significant amount of work and consultation with the community because it is a change to the way that their street could potentially look. That is why I want to bring the community on a journey. For these changes, and to get the social licence that is required for this type of change, we need to bring the community along, talk to the community councils and work closely with planners and architects. That is why we are developing a missing middle design guide, to show exactly what that change will look like and what missing middle houses can be built on a typical Canberra block, whether it is a battleaxe block, a corner block or a standard block, all of varying different sizes.

We have had the demonstration housing project for some time, looking at different models. We will use those learnings to inform this design guide about what we then might permit. The whole idea of the demonstration housing project was that it was allowing missing middle housing types that were not permitted on RZ1 blocks in particular. We are interested in looking at all of those—what has come out of that housing project and what could then be delivered that is high-quality design, sustainable

and also has affordable options.

MS CLAY: Thank you, Minister. Are there any milestones for the Urbis design guide that is in development now? I appreciate the need to take the community along. All of the things that you described sound like the things that happened in the planning review. But we are where we are. Can you give me an idea of the months or years when we might see the next—

Mr Steel: I would like to see the missing middle design guide developed over the next year so that we can then inform changes to the Territory Plan. That would then require its own consultation process, of course, through the committee and the like.

MS CLAY: So maybe 2025 to see that design guide at a point where it is ready to progress to the next stage?

Mr Steel: Yes. Certainly, there is the intention to have a draft version of the guide next year, which will then inform changes to the Territory Plan.

MS CLAY: Great. Thank you, Minister.

MR CAIN: Minister, you have mentioned the Phillip trade area. As you have touched on, there are certain owners who have relied on residential approval to lodge development applications. I am aware of a purchase that was made of land in that space with the intention to develop residential. Now that that is not allowed, are you going to compensate those land owners for the work and money spent on development applications and, indeed, a purchase with an intended residential development?

Mr Steel: No. I can pass to EPSDD to talk about the policy which has been in place since the planning system review.

MR CAIN: It is your responsibility to compensate people.

Mr Steel: I said no, Mr Cain.

MR CAIN: You are not going to compensate people who have relied on the residential allowance, now that it has been withdrawn?

Mr Steel: We undertook a planning system review and consulted on district strategies as part of that. There is an open question for the community about whether they want to see the loss of services in the Phillip trade area. We made a decision—

MR CAIN: But residential was approved. It was allowed; now it has been withdrawn.

THE CHAIR: Mr Cain, you asked the question. Give the minister the opportunity to respond.

Mr Steel: We made a decision, through the planning system, that we would maintain the services in the area. That is not to say that there could not be future housing, should the community want it, but that would require changes to the Territory Plan. It is an open question to the community and the traders about whether they want to see services

move out of the Phillip area.

MR CAIN: You have said “community” and you have mentioned businesses. Some businesses felt disadvantaged. How many businesses actually operate in that trade area?

Mr Steel: That may not be something that we have here. There are obviously a lot of businesses in that area.

MR CAIN: Could you take that on notice?

Mr Green: I think that would require us to go on site and walk through the Phillip trade area to understand the exact figure.

MR CAIN: But if you consulted with the Phillip traders and their businesses you must know how many there are.

Mr Green: I think that changes on a daily basis, Mr Cain. It is fair to say that, through the review process, there were many views expressed. I know in previous hearings my colleagues have spoken about the discussions that they have had with various parties in relation to views around the Phillip trade area and what that should look like. As the minister has outlined, a decision was taken to maintain it as a trade area at this point in time.

MR CAIN: What percentage of the businesses objected to the residential use and what percentage wanted to retain that?

Mr Green: They are not figures that we have, Mr Cain.

MR CAIN: You never consulted with the business community to find out—

Mr Steel: The consultation was open for everyone to participate in, through the planning system review. It was open to any business and any community member to come forward.

MR CAIN: What is your answer to those who have relied upon the residential use, lodged development applications and even purchased land on that basis? What is your answer to them?

Mr Steel: As I understand, a few development applications were lodged under the old planning system, so they would be considered against the old planning system anyway.

THE CHAIR: We need to move on. We have already spent over 15 minutes on this one question.

MS CLAY: Minister, the community and the Greens have long campaigned for the inclusion of Bluetts Block as a nature reserve because of its high ecological and environmental values. I understand that the planning authority can begin the process to declare parts of section 12 and block 403 as a nature reserve. I also understand, from hearings last week, that the conservator has provided an opinion to the planning authority on whether he considers the land worthy of creating a nature reserve. Can you

tell me what work is going on to progress this decision about Bluetts as a nature reserve?

Mr Steel: Yes. I publicly announced that I have asked for advice from EPSDD about protecting, in particular, blocks 402 and 403 Stromlo, as well as the remainder of block 12, section 1, Denman Prospect from future development. We have been seeking advice from the conservator and EPSDD is currently working through the process of what options there are to protect those areas.

MS CLAY: That is great. Do we have any updates on timings or what the next step in that process is?

Mr Green: I would expect, Ms Clay, that during this term of government we will reach a point of making a decision around the Territory Plan elements of that. By way of process, as the minister outlined, the conservator has written to the territory planning authority. We are considering that position at the moment and seeking other advice as part of our normal process. Our intention is to deliver that in this term of government.

MS CLAY: Thank you. That is excellent. Block 402 is in a different situation. It is currently under a short term Crown lease to the ANU. I understand the lease was only renewed recently. What process was undertaken to decide whether that lease should be renewed or not?

Mr Cilliers: That is correct. Block 402 was granted to the ANU for a term of 15 years. That commenced on 1 July 2009.

THE CHAIR: Is that 50?

Mr Cilliers: Fifteen. On 22 February the ANU also applied to grant further a Crown lease for 99 years. While the 99-year lease was not supported, it was agreed that a further lease, for a 15-year term, could proceed.

MS CLAY: From 1 July? I did not quite hear you.

Mr Cilliers: 1 July 2009.

MS CLAY: Okay.

Mr Cilliers: Block 403 is unleased land. Sorry; I meant block 402.

MS CLAY: Yes, block 402.

Mr Cilliers: Yes. It is 15 years. Your question was what consideration—

MS CLAY: What sort of process did the authority go through? I will let you know the framing that I use to look at it. All of those blocks are in one big contiguous area. It is quite likely that if one area has high ecological values the other areas do too. We do not have the conservator's view on that, but it seems quite likely that that is what the experts are saying. We are just trying to work out why a new lease was granted over 402 and what thought process went into that.

Mr Cilliers: The specific process and detail around that I cannot provide you with at this stage because it was a while ago. The term of the lease is extended in consultation with the conservator, so there was a consultation process prior to extending that.

Mr Steel: I understand that the conservator may have provided advice that the environmental values of block 402 were not as significant as block 403.

MS CLAY: Is that a public advice, Minister?

Mr Steel: I do not believe it is at the moment.

Mr Cilliers: We can check that with the Conservator.

THE CHAIR: Nevertheless, the committee could request that that advice be provided to the committee.

Mr Steel: We can take it on notice.

MS CLAY: That would be great. Can you also tell us when that advice was provided?

Mr Steel: Yes.

THE CHAIR: So, basically, you will take that on notice.

MS CLAY: Yes. If there were a decision that that area is a good area to become a nature reserve, given that it is under lease to somebody else, what would be the steps involved in that?

Mr Steel: The tenure arrangements whilst they are important, are not necessarily a consideration formally. There are many examples across the territory where zoning changes happen, and tenure is not one of those elements. Obviously, there will be some discussions of engagement with ANU as that leaseholder, but I think they are probably well aware themselves of the values of that parcel of land. We will need to work through that with them, but zoning changes happen all the time on parcels of land that are leased.

MR CAIN: Minister, if Bluetts Block is a declared nature reserve, what impact would that have on future development of the western edge?

Mr Steel: Certainly, blocks 402 and 403 notionally fit in within the western edge investigation area. We would continue to look at the western edge more broadly. I am not sure whether you are familiar with the geography of it, but this is an area that has a pretty hilly landscape. I am not sure that it would be suitable for future development, but EPSDD might be going to provide some further advice on that. That will certainly be taken into account in any decision that we make—and, of course, a decision has not yet been made.

MR CAIN: It sounds like you are ruling out development on the western edge.

Mr Steel: No; this is a very small section within the western edge.

MR CAIN: If Bluetts Block were redesignated as a nature reserve, what impact would that have on the planned number of residences in that area?

Mr Cilliers: I do not think it is an appropriate time to speculate on a decision that the territory Planning Authority is yet to make. As the minister has outlined, the western edge is a much larger area. Yes, these parcels fall within that, but that does not limit a body's potential in terms of development or other nature reserves. The ACT Planning Strategy 2018 clearly outlines the intent of government around investigations into the western edge for urban development, for nature reserves and other purposes. We are continuing to work through that, and we are funded in this budget round to progress those investigations. So I do not think it is accurate to say at this time that development has been ruled out for the western edge.

MR CAIN: And what impact would that have on infrastructure such as roads?

Mr Cilliers: Infrastructure is part of the studies that need to be undertaken. The studies to date, which appear on our planning website, are focused on environmental, cultural and heritage values right through the western edge. But there are a series of other studies that need to be undertaken that are broadly classified around heritage and environment secondary studies, infrastructure studies and transport studies as well.

MR CAIN: But would it have a significant impact on access to the western edge?

Mr Cilliers: We are not at that point in the planning work, Mr Cain, to be able to provide advice on that.

MR CAIN: When is this investigation due to be completed, Minister?

Mr Steel: This is a long-term piece of work.

MR CAIN: It has been long-term for quite a while.

Mr Steel: The planning that EPSDD does is often 10 to 15 years out before housing is built. So I do not expect to see housing in the next four years in the western edge area. We are undertaking the necessary strategic investigations to support our future decisions.

MR CAIN: Minister, the Indicative Land Release Program 2024-25 and 2028-29 reveals a doubling of the number of dwelling sites to be released in the coming year, with 5,107 dwellings, mostly units, slated for release, which is up from 2,087 in the last year's ILRP. Minister, is this inflated figure simply because we are in an election year?

Mr Steel: No; it reflects the significant amount of work that EPSDD and the government has been doing around identifying opportunities for land release to support more housing supply. We are very pleased that the ILRP identifies land to support up to 21,000 new homes across the ACT in a range of different areas across the five-year program and also identifies a range of land for other uses as well. We will continue to look at those opportunities. It also reflects the significant amount of work and consultation that EPSDD have done through the planning system review in developing the district strategies for each region and the future key sites and change areas within

the ACT.

MR CAIN: Minister, why should Canberrans believe this inflated figure when you have never met your land release targets for dwelling sites?

Mr Steel: I appreciate that you are fundamentally opposed to infill; so I assume that we would have a larger program than you would under—

MR CAIN: That preamble is unnecessary and untrue.

Mr Steel: We will continue to look at opportunities right across the board, from greenfields through to infill sites. Of course, this is an addition to what the private sector may be able to deliver as well. So it has to be seen as a whole in terms of the number of dwellings built for these—

MR CAIN: But you have never delivered on the targets in the past. Why should we believe you are going to deliver on another doubling of the projected dwellings?

Mr Steel: The land release that we have identified through the IRLP will support the private sector, once those blocks are released, to deliver more land. It takes some time between the point that a block is released and then, of course, for buildings and new homes to be actually built on them. There is a lag period, and we certainly recognise that. As the city grows, it is becoming harder and harder to find new sites, and the ones that we do find typically are a higher risk.

We will continue to look at what opportunities there are. But, over time, in the decades ahead, we are going to see that the private sector will have a greater role to play in terms of the development of new housing. That is simply because there is going to be less and less land available for the government to release. So we have an important role, and will continue to do that, in terms of releasing new land. But, of course, we will need to also look at opportunities around zoning reform to support the private sector to be able to deliver more homes in the future as the city grows and densifies.

MR CAIN: Minister, you have given no reason to be confident that you can deliver a larger target when you have never delivered previously.

Mr Steel: No; I do not think that is the case, Mr Cain. I will hand over to ESPDD officials who might be able to talk it through.

MR CAIN: No; I have another question along this line.

Mr Steel: We can also answer that as well, Mr Cain.

Mr Engele: As part of the uplifted program we have been working with the Suburban Land Agency on identifying efficiencies in terms of the work that is undertaken by EPSDD and the agency. This includes a number of due diligence activities. We have transferred a number of those directly to the agency to ensure that things like studies do not become outdated and that no work requires redoing as part of the due diligent process. We expect that these will generate efficiencies in terms of the delivery of sites. Mr Smith may be able to talk for a bit more about de-risking the program on the ILRP.

MR CAIN: I have another supplementary, Chair. I think I have had that answer—or non-answer, I should say. Minister, why are you restricting the choice available for Canberrans on the type of dwelling they can live in by releasing a mere 427 or just eight per cent of the intended dwelling sites for detached housing?

Mr Steel: Of course, we will continue to look at the opportunities for new homes right across the board, both in greenfields areas that includes both detached dwellings and non-detached dwellings, missing middle opportunities in those greenfield areas and multiunit opportunities. Then, of course, in the infill areas—which our government does not have an ideological objection to—we will also look at the opportunities, particularly around multiunit opportunities.

MR CAIN: A point of order, Chair.

THE CHAIR: A point of order.

MR CAIN: Chair, the minister is here in his executive capacity. He is here to answer questions from members of this committee, including visiting members like myself and Ms Clay. He is not here to provide political commentary that has nothing to do with his executive role as a minister in the planning directorate.

THE CHAIR: Thank you, Mr Cain. Technically that is not a point of order, but it is irrelevant to this hearing, Mr Steel.

Mr Steel: It is pretty relevant to what the government's policy is, which is to provide housing right across the board. In the existing urban footprint, where the large majority of the existing residential area zoned for detached dwellings in RZ1 at the moment, over 60,000 blocks across the ACT, we will be looking in those areas at what opportunities there are for other types of housing. The missing middle discussion is part of that. Then, within some of the key sites and change areas, we have identified some other precincts, town centres and shopping centres, there may some opportunities to have further housing of a type that is different to the majority of the housing in the existing suburbs—to provide housing choice. So there is going to be a range of different housing typologies that will be provided within greenfields and infill areas.

MR CAIN: So why so few detached housing? Why so few?

Mr Steel: The majority of blocks in existing suburbs are detached housing, Mr Cain.

MR CAIN: In new releases?

Mr Steel: That is why, through the ILRP, you will see quite a number of multi-unit housing sites that have been developed within the existing urban footprint, because it reflects the fact that there is not significant housing diversity at the moment in those areas. This will provide a range of different choices for Canberrans to make.

MR CAIN: Minister, how is Molonglo Valley expected to accommodate 2,940 new dwellings, in Denman Prospect stage 3 2024-25, when you have failed to deliver the Molonglo River bridge and construction has not even started on the Molonglo town

centre?

Mr Steel: We have not failed to deliver the Molonglo bridge; it is under construction at the moment. You were talking about going political, Mr Cain. I think you are the one that is actually—

MR CAIN: There is no commentary required from you.

MR CHAIR: Mr Cain.

Mr Steel: It is actually on track for delivery at the end of next year and is well under construction, with the bridge footings currently underway. Of course, through the budget, we have also funded some work—that Minister Cheyne can, of course, talk to—around a third connection into Molonglo, with a future east-west arterial road, which will provide access into the new town centre as well. But I will hand over to EPSDD to talk a little bit about Denman stage 3 and also the work that is happening in relation to the Molonglo town centre, which will also provide new housing opportunities.

Mr Smith: With regard to Denman Prospect 3, Mr Cain, work has been occurring with the Suburban Land Agency to look at the dwelling yields in that area and has identified an uplift, which has been identified in the Indicative Land Release Program and will be released to the market. With regard specifically to the timing of the bridge and the construction of Denman Prospect 3, as the land is released, it will require enabling works to occur in Denman Prospect 3, which will allow the bridge to then be constructed as well. At the same time, work will continue on the town centre and work through the Suburban Land Agency as well leading up to releases of those blocks.

Just going back a little bit, with regard to single residential dwellings, there are significant stockholdings over the counter through the Suburban Land Agency for available single dwelling blocks. They are both in Whitlam and Jacka at the moment. Then, through the joint venture, there are single residential dwellings in the Ginninderry area as well.

Mr Green: Ms Lawder, the second part of the question was in relation to the Molonglo town centre. Work has occurred. Some of you may well be aware that we engaged with the National Capital Authority to seek an amendment to the National Capital Plan to change the Molonglo centre from a group centre status to a town centre status. The NCA released their amendment for public consultation on 18 May, and that closed on 26 June. We are still awaiting advice from the NCA. There is a process that they will work through with their board and then commonwealth minister approval to facilitate that.

From there, once we receive advice, assuming that that is supported as a town centre, we will enact a minor amendment to the Territory Plan. There will not be consultation, because that has occurred through the NCA process and the change is simply aligning to the National Capital Plan. We are hopeful that will occur soon. We will happily advise the committee once that has occurred.

MR CAIN: Thank you, Chair.

THE CHAIR: We will move on to a substantive. For the benefit of members, we have about 45 minutes to go, so we will be looking at around nine minutes per question. Minister, second dwellings worth up to a million dollars on RZ1 blocks will be exempt from stamp duty for their first transfer under an extension of the RZ1 Unit Duty Exemption Scheme. How much has this policy been influenced by the extremely low take-up—as well as five DAs since November 2023—of dual occupancies under your RZ1 policy?

Mr Steel: I think it is too early to tell what the impact of that—

THE CHAIR: I am asking you how the policy was influenced by the low take-up.

Mr Steel: I think it is too early to tell what the impact of the changes has been to the Territory Plan. Of course, we are very closely monitoring the development applications that come through in relation to different dwelling types under the new planning system, but it only began at the start of the year, so the sector is still getting used to the changes. Also, we said that we are going to embark on the next stage of planning reform which will be focused on housing supply, looking at the missing middle housing, and making further changes to the Territory Plan to enable a greater range of the type of dwellings, not just dual occupancies of 120 square metres. We are also looking at the options there might be for townhouses, duplexes and row houses—those types of dwellings. Certainly, the broad policy suite across government is looking at future changes as well to enable missing middle housing and how we best support that in Canberra.

THE CHAIR: Can you confirm how many dual occupancy DAs have been submitted up to 30 June?

Mr Steel: We can take that on notice.

Mr Cilliers: I have some numbers. Between 27 November 2023 and 15 July 2024, for RZ1 zones, three lease variation applications were received. For dual occupancies, eight dual occupancy DAs were lodged. That will result in a total net gain of nine units. Another four multi-unit DAs for social and supportive housing were received, which would result in a net gain of 12 dwellings. For RZ2 zones, there were nine dual occupancy DAs lodged, which will result in a net gain of 10 dwellings. That is on top of the existing nine. Two lease variation DAs were received for an additional two to three dwellings per lease, and there were six multi-unit DAs for social and supportive housing, which would result in a net gain of 24 dwellings.

MR CAIN: I have a supp, Chair.

THE CHAIR: So do I, first. Minister, how many dual occupancy DAs do you expect to be submitted this financial year as a result of this policy?

Mr Steel: Because it is a change that has not been made before, or recently, we do not have a baseline to understand—

THE CHAIR: You have not modelled how many you might—

Mr Steel: We do not have a baseline on which to model the expected number of

dwellings, so it is uncertain, and that is why we are closely monitoring what is coming through. We are also looking at future changes to the Territory Plan which may enable a greater number of dwellings to be permitted and built than is currently possible under the changes that we had already made to the Territory Plan around dual occupancies, and also the changes that were made in the RZ2 zones.

THE CHAIR: Thank you. Mr Cain.

MR CAIN: Minister, why will not you remove the prohibitive and arbitrary 120 square metre size restriction on a second dwelling to properly incentivise adoption of dual occupancies?

Mr Steel: As part of my statement of planning priorities, I indicated that housing supply is a priority and that I asked the EPSDD to start work on developing and drafting a missing middle design guide, and that we would look at the range of options to consider further changes, working with architects and planners in the community to get the design right before we make changes to the Territory Plan, having considered those. That work is underway. We have brought on a consultant in Urbis to assist us with developing that guide and that will help us to then consult with the community and consider future changes. We are looking forward to that work being completed over the next year.

Mr Cilliers: Mr Cain, I think it is also important to note that the change to RZ1 zones was not the only change in the recent planning reforms.

MR CAIN: That was the substance of the question. Thank you, Chair. I have no more supps.

THE CHAIR: Thank you. Ms Orr, do you have a question?

MS ORR: I do. Unlike Mr Cain, I do not feel the need to trap the official—

THE CHAIR: I will take that as a comment.

MS ORR: That is a comment. With the transition between the old planning system concluding and the new one, how is the directorate performing in terms of DA statistics under the new system?

Mr Steel: I will hand over to Mr Smith.

Mr Smith: It is important to discern between DAs lodged and DAs determined or decided in that respect. Regarding DAs lodged in 2023-24, we received 788 applications. Of those, 537 were under the old system and 251 were under the new system. For comparison, there were 1,055 DAs in 2022-23, so there was a decrease of 267 applications. That is mostly attributable to a decrease in DAs for single dwellings. There were 282 applications for single dwellings in 2023-24, whereas there were 523 in 2022-23. It is, however, important to note that most old dwellings are DA exempt, so that does not necessarily translate to the corresponding decrease in single dwellings. It could just be that the number is taken up through the exempt pathway.

The construction value of development applications lodged was similar to last year but higher than previous years. In 2023 it was \$2.6 billion, and in 2022-23 it was \$2.73 billion, whereas in 2021-22, if you go back another year, it was \$1.76 billion. That is particularly encouraging. It reflects that the DAs in the system were of a higher value and particularly in the mixed use and multi-unit development categories. The cost of works, the construction value of DAs determined in 2023-24, was \$2.5 billion, compared to the previous year when it was \$2.1 billion, so there is also an encouraging increase.

In terms of DAs decided, 62 per cent of all DAs were decided on time—59 per cent through the old system and 79 per cent through the new system. The DA performance has increased under the new system. I think those sorts of internal efficiencies are mostly attributed to the new system's documentation templates and staff training. We have also provided training to external people. And we put in significant resources, in terms of what is available on our website, so that is not comparable to the previous system. There were also some minor changes to the staged assessment system to reduce the administrative burden and potential duplication of works.

The remaining DAs in the old system are mostly the complex DAs that require more assessment time. There are fewer DAs in the new system to affect the system now. There are just below 70 now, and we anticipate the new system will prevent DAs lingering for extended periods. Actually, what we have seen is that the time frame has significantly improved with the new system. It is important to remember the new system also introduced new statutory time frames for significant DAs. Now it is 60 working days, whereas other DAs remain at 45 days or 30 days, depending on whether there is representation or not. Another factor to keep in mind is the stop-clock provisions that have been incorporated—for example, for further information requests. When it is really not within the control of the authority to control when we get information, the clock is stopped. On 30 July, we had 194 active DAs. It is actually a really good benchmark for us to be below the 200 mark. Of those DAs, 112 are new standard DAs, 12 are significant DAs, 63 are old merit track DAs and seven are old impact track DAs.

MS ORR: There was a big focus on shifting to getting better outcomes under the new system. Granted, it is still quite new, but what early signs are you seeing of improved outcomes, particularly regarding things like greater incorporation of the National Capital Design Review Panel review? How are you actually getting to those better outcomes through the new DA system?

Mr Cilliers: It is difficult to assess outcomes at this point, in terms of the actual built form. That has a far longer tail—because the DA time frame is between three and five years—before we will see the actual constructed results of most of this. We will see benefits and improvements in the actual documentation and the substance of plans submitted. They are far more detailed. There is a positive response that we see in, particularly, design guides. That has been well received, from what I could see. The documentation has also increased significantly. It is much better presented. The information is far clearer. I think the online experience should also be much better in that sense.

We have also seen an improvement in the pre-application process. We are in a better position to discuss genuine outcomes, compared to the previous rule based system

where the discussion was usually around rule compliance: “Does it comply with the criteria? And in what way can we make it comply?” The discussion now is: “How can you get a genuinely better outcome?” That is particularly for things like built form and environmental and amenity outcomes. The meetings I attend are definitely much more focused on that and there is a lot more discussion. What I hear from the Gateway Team, which is our front-facing team that manages the pre-application process, they have the same experience.

Mr Green: Ms Orr, you mentioned the National Capital Design Review Panel as part of your question as well. Certainly over the last 12 months—granted, some of this is prior to the new system coming in—we had 45 design sessions and 33 projects. I think it is fair to say, as Mr Cilliers has explained, that the discussions are now centring around better design, rather than being fixated on a rule that compromises the achievement of good design outcomes. The other thing around time frames in particular for the National Capital Design Review Panel is that the government provided funding in the 2023-24 budget to increase the resourcing for the NCDRP, and that has resulted in some efficiencies for us as well. The wait times were getting close to five to six months, and now that is down to one to two months. We are working a lot closer with proponents.

The other thing to mention is that the panel has been operating under interim arrangements for quite some time. We are now formalising panel membership, and we have a procurement out at the moment to seek formal full-time panel arrangements for members from a variety of different backgrounds. That was released to market in July. It is closing shortly. It is good to see. Some of the feedback that I have been hearing is that there are actually better opportunities now, with the new planning system, to deliver what the community expects, having a focus on design. That is key in explaining to communities, so that they can see what the outcome will be rather than just having to comply with a whole bunch of rules and getting what is built at the end of the day.

Mr Cilliers: I just want to add that we also are encouraging people to have a more plan based response. Previously, it was mostly a documentary sort of response. We are seeing signs of that happening as well. On an environmental level, what has also contributed and is better but not often recognised in the new planning system is the role of the Urban Forest Act and the tree canopy. Targets have been achieved. We see that also making quite a difference.

MS ORR: I have some supps, but the chair has told me that my nine minutes are up.

THE CHAIR: Yes. Miss Nuttall.

MISS NUTTALL: Thank you, Chair. Minister, you have established an evaluation framework for the new planning system. From a quick look at the documentation, it appears that, for the first few years, the focus is on making sure the system outcomes are up to scratch, with issues like design and improved housing options carrying us further down the track. Don't you need to start looking at the long-term matters before then? For instance, not getting open-space areas right in the approvals could adversely affect ecological, biodiversity and amenity outcomes. What will be introduced now to make sure that development approvals being made now will not produce bad outcomes further down the track?

Mr Steel: That was one of the outcomes that we sought to achieve through the planning system reform. What the monitoring and evaluation framework is about is making sure that those outcomes are being achieved. I will hand over to EPSDD officials to provide some information.

Mr Cilliers: I might start responding on that. Our approach is to have an ongoing communication loop between the policy arm of the Territory Planning Authority and the decision-makers—continuously feeding back what we see happening through our decisions to the policy arm for consideration as part of its longer term analysis of the effectiveness of the system.

Mr Green: Thanks for the question, Miss Nuttall. It is important to note that this is a framework; it is not an evaluation plan. The framework aims to establish the roles in the planning system now and, importantly, what that will look like into the future. We need to understand some of the fundamentals of planning system performance, and that is certainly our focus on those first stages around process—things like: “Are we making consistent decisions? Are decisions being made within statutory time frames?” And we need to look at the usability of the system, so it is important that we have ongoing dialogue with industry and the community as well.

You rightly point out that the second part of the framework will look at an evaluation more on the built form outcomes. It is important that those built form outcomes are seen on the ground. The minister mentioned earlier the missing middle work. I think that is really key to taking the community, in particular, on a journey to understand what the planning system is hoping to achieve over the longer term. Mr Cilliers quite rightly points out that this is not a set-and-forget exercise. The framework is looking at establishing the baselines. Discussion around baselines has come up a few times this morning. We need to get the data around the performance of the system first to establish the baseline and then be able to review and analyse the outcomes that we are seeing.

The minister, through his statement on planning priorities, has also targeted the key priorities of planning around housing and their location. Again, whilst we do not have some of the planning outcomes at the moment, when they do start coming online, we will have to set those and look forward. It really is a good opportunity. Rightly, it is the first time a proper evaluation and monitoring framework has been put in place. It is a really good opportunity to set the foundations right and analyse the short term and the longer term, but also report on that. We will report through our annual reporting processes and make sure we have governance established around how we monitor the planning system going forward.

Mr Engele: In relation to the environmental concerns, I would point you to the Biodiversity Sensitive Urban Design Guide, which was part of the planning system review. That is focused on setting the expectations about what good design is and what good development is, as it relates to the environment.

MISS NUTTALL: To double-check: is the Biodiversity Sensitive Urban Design Guide enforceable?

Mr Engele: Yes. That is taken into consideration as part of the DA decision.

MISS NUTTALL: Great.

MS CLAY: The content of the Biodiversity Sensitive Design Guide is great. It had a good airing during the various inquiries into this. I am often asked how do we know it is actually going to deliver what we are after? What on the ground monitoring are we doing of canopy coverage, our LiDAR data, so that we can actually see that site limitation protections and the Biodiversity Sensitive Design Guide are in actual fact giving us the greenspaces that we want them to give us?

Mr Engele: There is definitely LiDAR surveys that are done on a regular basis. I would have to check. I believe there is one coming in the next 12 months, and yes, that is used as part of the government's monitoring of those various targets. Some of that will be captured as part of just normal reporting in annual reports and in other publicly available information. Some of that goes into the baseline information as part of the evaluation framework.

MS CLAY: Mr Engele, can you take on notice when the last LiDAR was—

Mr Engele: Of course.

MS CLAY: When the next one is, and what the usual—

Mr Engele: The cadence, of course. Yes, happy to take that on notice.

MS CLAY: Yes. It is a complicated area. It is a high area of concern, and I think it would be reassuring for people to see when the regular monitoring will come.

Mr Engele: My team has actually just sent me a message that says, LiDAR is being flown in January 2025. I will try and find out when the last survey was scheduled.

MS CLAY: And then maybe the next one after January 2025, because January 2025 might have to act as our baseline, I guess.

Mr Engele: They have also sent me some information that says, 2020 was the previous one and they are undertaken every five years.

MS CLAY: Can I ask why they are only every five years, because that is quite a big period if we are not moving in the right direction and we have let it go for five years. Why would we not do that every year or every two years? It is pretty key data.

Mr Engele: I think it is quite a significant cost to undertake the survey. It is usually done with low flying aeroplanes, but I would have to take on notice about what the—

MS CLAY: Can you take on notice what the reason is and what the cost of the last one is? Like any handy cost information that you can provide.

Mr Engele: Of course.

MS CLAY: Minister, there is a proposal by the Canberra Racing Club that is being

considered by a government established committee, is the planning authority involved in those considerations?

Mr Engele: I can answer that. I guess for context, as everyone knows where Canberra Race Course is, but I would point out that there are a number of other sites that border that area. There is the government owned piece of land to the west that runs along the Barton Highway and there is also the Kamberra Winery site that runs along Northbourne Avenue or the Federal Highway there. I guess the site is well placed for housing. It has a light rail stop around EPIC. It has also been identified in the district strategies for urban intensification. There has been a proposal for a major plan amendment submitted, which is currently being considered by the planning authority.

There is also a parallel process. A government committee that I sit on, chaired by Economic Development, is looking at opportunities for government to combine and better integrate the different sites on that, and also some of the, I guess, limitations or constraints on the site. We know there is a nature reserve to the north-west of that site, which borders up on to the road. There are high voltage power lines running along there and it is also subject to the National Capital Authority's considerations because it sits on an approach route. So there are a lot of different elements in that. We are working with all the different stakeholders involved at the moment.

There has been no decision on that major plan amendment, but there have been entity comments received as it relates to, as I mentioned, bushfire and transport access, which are two of the important considerations for that site, and making sure we get that right. Also the distance from EPIC and the noise considerations, as it relates to the EPIC site, which is used frequently for music festivals. So there is a level and direction of where that noise goes that needs to be considered. All of that is being considered by the committee. As I said, it is a parallel process to the major plan amendment.

MS CLAY: Would it be a good site for an entertainment precinct, given that issue?

Mr Engele: Even though previously I did do a bit of work in relation to entertainment precincts, I think being clear on the noise levels for that site would be beneficial, given its proximity to EPIC. In considering entertainment precincts, I guess the key element is making sure, before you embark on the built form, you have a really clear baseline of what developers and builders are attempting to build to. So that if they need to build in additional acoustic performance that is taken into account early—what is really expensive, obviously, is retrofitting that. I think whether it is declared an entertainment precinct, or whether it is just that clear noise limits are set there, it probably achieves the same outcome. I think it definitely would be beneficial to have clarity on what the acceptable noise levels are.

Mr Green: And of course, quite similarly, the Kamberra Winery site has had an amendment to that in the Territory Plan with noise provisions put in, with a request to the Environmental Protection Authority. That is one way of managing it beyond the entertainment precinct, as Mr Engele mentioned.

MS CLAY: You mentioned a major plan amendment has been submitted, can you tell me what the major plan amendment covers?

Mr Engele: I might pass to Mr Green, who has the specifics. I believe it is in relation to the zoning.

Mr Green: Yes, broadly speaking, Ms Clay, noting that this is an active application under consideration, it is an application—

MS CLAY: Yes, just tell me what you can.

Mr Green: —it is an application that seeks to rezone to allow for mixed-use developments. So that is commercial and residential development.

MS CLAY: We are in a new system now, so I have lost all sense of what normal timings—

Mr Green: The process.

MS CLAY: —and process is. Can you run me through the standard steps that would happen on any major plan variation amendment that has been submitted, and timings that might apply there?

THE CHAIR: Before you start could I just—in response to your previous answer, you said this is an application currently under consideration. So are you claiming confidentiality or?

Mr Green: No, it is just a statutory responsibility of the Territory Planning Authority, not the minister, so not claiming confidentiality.

THE CHAIR: Yes, because parliamentary privilege enables us to ask such questions. Is there a reason why you cannot answer the question?

Mr Green: I believe I answered the question, Ms Lawder, by describing the zoning—

THE CHAIR: Was that a sufficient answer for you?

MS CLAY: Let us see how Mr Green goes on the next bit. Thank you, Chair.

Mr Green: The process under the act for a proponent-initiated application is under division 5.2. So an interested person may apply to the Territory Planning Authority for an amendment to the Territory Plan. The application must include—I will not go into too much detail but tell me if you would like more—it includes the applicant's details, the land that is identified and the description of the change to the Territory Plan that they are seeking, including a supporting report for that proposed amendment.

As part of that consideration, the Territory Planning Authority has three months to make a decision, and the decision is either to accept the application or refuse to accept the application. In considering whether to accept the application, we must have regard to a variety of things: the planning strategy, any relevant district strategy, the statement of planning priorities and anything else the planning authority considers relevant to the amendment. From that time we can request further information and give them 20 working days to provide the additional information if asked.

If we were to accept the application, we would write to the proponent to advise them of that, and then a public consultation process, under section 63 of the act, would commence. Once the public consultation period has completed, we undertake an assessment of that, consider representations, consider the advice from entities and our views as the independent Territory Planning Authority. Then we would make a decision and that would go through the normal major plan process, which could involve a referral to committee and then approval by the Assembly and ministers.

MS CLAY: What was the date that the amendment was submitted?

Mr Green: I am not quite sure what date it was submitted. It was due for a decision on 1 August. We have—

MS CLAY: Can you take on notice the dates?

Mr Green: Yes. I think someone from my team will probably message me with the date very shortly—

MS CLAY: Yes. I believe they will.

Mr Green: —and I will be able to answer that. But a decision was 1 August. As Mr Engele mentioned earlier, we have received representations from some entities, and we have met with the proponent providing them with that entity advice and seeking some further information before we make a decision as to whether we accept or reject the lodgement. The lodgement date was 1 May.

MS CLAY: You have mentioned the public consultation process that happens. Again, I think this will be the first time I have seen it under this process. What will it actually involve?

Mr Green: So, we are required to publish it, and it is not a consultation because it is proponent-led. It is very similar to a development application process where an application has been received; we send out a consultation, public consultation, as a notification period and invite submission. So a pretty standard consultation process. There is nothing further necessarily required of the proponent. There are clear statutory processes in the act that effectively deliver that.

MS CLAY: Can you run me through those notification processes? Do you mean you put it on the website, or do you do letterboxing, or do you—can you just tell me how a member of the community would find out about this?

Mr Green: Yes, absolutely. It would be published on our website, and I would expect that given the prominence of this we would potentially be undertaking a media release to advise the community of it.

MS CLAY: Are you saying, “No, you do not do those?” Not usually? No?

Mr Green: It depends on what the proposal is. If there are minor plan amendments that go through a consultation that do not impact broad numbers of parties, that might not

be the case.

MS CLAY: This one is a major plan amendment, though.

Mr Green: Correct.

MS CLAY: And would affect quite a number of parties, I would imagine.

Mr Green: That is right.

MS CLAY: So, the minimum is that you put it on your website and maybe issue a media release and maybe not.

Mr Green: And letters to the adjoining lessees.

MS CLAY: Can you tell me in this case who would receive those letters? We sometimes hear people are a bit upset as they think they were somebody affected by the development and they did not see that. So can you just explicitly spell out who would get one of those letters?

Mr Green: It might be best I take that on notice and provide a map, potentially, that would show the extent of that for you.

MS CLAY: That would be excellent.

THE CHAIR: Does, Ms Magee, have something you wish to add?

Ms Magee: No, that probably covers most of it now, but just to be clear that all major plan amendments do have that letter box drop for the surrounding area. A good example under the new planning system would be Eastlake. There was a major plan amendment for Eastlake, which obviously had quite a significant letter box drop in that area.

To answer your question, Ms Clay, no, the major and minor plan amendments are not on the YourSay platform. However, we have a link to our DAs and the Territory Plan from the YourSay website to direct community members that might be interested in those two statutory consultations straight to our website. So, there is a link on the YourSay, but the consultation itself is not housed on the YourSay platform.

MR CAIN: Minister, what stage is the direct application of government parcels of land to the Woolworth Group Centre at Hawker currently at?

Mr Steel: It is currently with EPSDD who are assessing that before providing me with advice.

MR CAIN: What assessment—

Mr Steel: Sorry, it might be worth providing some further context.

MR CAIN: Well, I have some particular questions that might be answered.

Mr Steel: Sure, but there is a statutory process that needs to be worked through so I will hand over to Jeremy Smith to talk about that.

Mr Smith: In relation to that application, the proponent has lodged the application. It then needs to go through, as the Minister has identified, some legislative requirements and policy requirements including circulation to impacted parties within government, but also some of the mandatory referral entities, for example, utility providers et cetera. The proponent is also required to do community consultation on a type of direct sale application where there will be significant impact on the community. Woolworths have undertaken that. Post circulation, we will look to go back to the proponent with some feedback in regards to their application and work through that before a submission is formally put to the government in regard to an eligibility for the sale.

Mr Steel: There is a preliminary step before the direct sale application is granted. This is the preliminary step that we are at—

MR CAIN: I understand that.

Mr Steel: —about whether we actually want to sell the block and whether it is a good planning outcome to do that.

MR CAIN: When do you expect to make a decision on this direct sale application?

Mr Steel: I do not expect a decision this term.

MR CAIN: What consultation have you conducted with concerned residents about the direct sale application and the proposed redevelopment of the block?

Mr Steel: Well, we have not, because we are at this preliminary stage. We have not actually made a decision and I have not received advice from—

MR CAIN: So, there is no consultation?

Mr Steel: Well, we have not even made a decision about whether we even want to sell the block. If a decision is made in the future about that, then we would move on to the next stage. I will get Jeremy to explain the next stage.

Mr Smith: So, Mr Cain, in regard to the first part of your question, Woolworths Group have done significant consultation with the community. They have let government know what that consultation is. They have presented, for example, to the Belconnen Community Council and they have provided information via their website, et cetera.

MR CAIN: Minister have you done any consultation from the government?

Mr Steel: Mr Smith needs to finish what the next step would involve should the government make the preliminary decision that we are interested in the direct sale.

MR CAIN: I understand there has been consultation by Woolworths.

Mr Steel: Then we would go through the consultation process, which Jeremy is going

to explain.

MR CAIN: Be brief, please.

Mr Smith: The direct sale process is a two stage process. In the first stage the government would consider whether the proponent is eligible for a direct sale. Post that, we would then enter into some community consultation processes, both potentially ourselves as government, but then also with the proponent as well. The proponent would be required to lodge, for example, development applications. Or if there is a plan amendment required, they would be required to do that as well and go through consultation through those processes, which would be supported by government as well. Government would then consider the feedback. Through that, the proponent may then choose to alter their application and their development, or they may proceed with what they have. It would then move into a second stage or phase of the direct sale application, which would be a further consideration from government to actually then make a sale.

MR CAIN: When is the community consultation expected?

Mr Steel: Well, we have not even made a decision on whether this is eligible for a direct sale.

MR CAIN: Not this term. You will not make a decision this term?

Mr Steel: No, unless I see the advice earlier that the clock is ticking, and these things take time. So, we have not made a decision to sell the block at this point in time. If we do, then there is obviously a process that would include some further consultation and the actual DA being put before the community for them to have their say on what is actually being proposed. But we have not actually got to that point yet.

MR CAIN: You said that Minister.

MS CLAY: Minister, I have written to you and other ministers about this a few times and listed a number of things that people in the community—there are different views of what should happen there, but there is a big core of things that everyone agrees on. These include active travel, a playground, green space and keeping the post office. It is quite a long list of essential services. The other issue that has come up is a question as to why the only proposal on the table at the moment appears to be a direct sale to Woolworths. Is government considering as part of this process whether you would do a public tender or some kind of open proposal to see if there are any other redevelopment ideas in the mix?

Mr Steel: Firstly, thank you for the feedback from the community. I know other members, Tara Cheyne in particular, has been passing some of that feedback on. It is noted and EPSDD are aware of those comments. As they prepare that preliminary advice to me about whether it is a good planning outcome, of course that would be taken into account. As part of the decision-making process, yes, government would then consider eligibility for a direct sale and whether there are other options for potentially releasing the block.

Now that has been done in relation to Kippax Fair most recently, where the government decided that rather than a direct sale to contiguous land originally, we would go out for a competitive process. We went out through that process, but then found that the best way forward was actually to move through a direct sales process after that because it did not deliver the outcome that we had hoped. Yes, it is up to government to decide whether there is another option that might deliver a better outcome. I will hand over to Jeremy Smith, if you want to add anything to that?

Mr Smith: No, I do not think so. As the minister said, the option is open for a recommendation from government to eligible ministers to recommend an expression of interest, for example, as happened at Kippax. That might be around, has the proponent met the objectives of master planning for the area? Are they making other government objectives around housing, the provision of other urban amenity to the community, et cetera. So that is an educated informed decision that would be made at the time of submission to government in regard to any recommendation.

MS CLAY: Given that the government public consultation will happen after the decision to sell the block, which will presumably be after the decision of whether it is an EOI or a direct sale, how would a member of the community now, who has a view about those two issues, how would they put that view to the government?

Mr Steel: Well, they are certainly welcome to and we have already been considering that. I noted that earlier. So we would certainly consider anything put forward. I have received a lot of correspondence from the community directly myself as well, but this is not a fait accompli that we actually want to sell the block. Let us be clear about that. Once we have made that decision, then the next stages of the process would run and there would be a further opportunity for consultation. So we are not going to consult on something that we actually have not made a decision about whether we actually want to go ahead with, if you know what I mean.

MS CLAY: Let me clarify. I did not understand that. So you would decide if you wanted to sell the block and then you would consult, and the consultation would include “do we do a direct sale to Woolies only” or do we do an EOI?

Mr Steel: No. There would be a process—as was described by Mr Smith—around an actual proposal being put up. Well, there might be an EOI. There could be an EOI depending on what the outcome is, and then that would be a different process. If it was determined that the Woolworth’s proposal was supported in terms of their eligibility and there was a good planning outcome, then they would be required to put in a DA, which would then be considered with all the consultation that comes with that. The direct sale decision is made at the end. An EOI process would then lead to that outcome anyway, through a slightly longer journey.

MS CLAY: Should I direct constituents to your email, Minister Steel or to—

Mr Steel: Certainly anyone is welcome to but we have not made a decision yet around the eligibility for a direct sale. I would not assume that it is a fait accompli, and I think that is probably what some people have assumed in the community. In fact, this preliminary stage that is currently under way requires EPSDD to provide me with advice based on the statutory requirements under the act and the regulation.

Mr Engele: Another thing to mention is that the district strategy has identified a range of group and local centres for further investigation. So we are currently doing initial work on looking at those different centres and looking for opportunities to improve them and Hawker is obviously one of those centres. It has been done with consideration that there is a proponent initiated direct sale application out there. It does allow us to look more broadly at the centre and make sure there are good outcomes that can be achieved there. After the initial scan has been undertaken there might be future opportunities to engage with the community.

THE CHAIR: I have a question about Majura Valley farmers where 20 of the 160 total rural leases are short-term leases, mostly in the Eastern Broadacre zone. The government has a withdrawal clause in these contracts. Have you advised these farmers their land will be taken from them in the next couple of years?

Mr Steel: No, and I will hand over to EPSDD to provide an update on where we are. Of course we are in negotiations, which commenced around March, with the Department of Defence. We have been working with the Department of Defence since then on their land tenure arrangement for certain blocks in the Majura Valley, particularly where there was a split block arrangement. We are continuing to seek legal advice through that process to consider. These are very complex land tenure matters, and we really understand that the farmers that currently occupy the split blocks want certainty. Certainty can be provided in a range of ways. The certainty that I am interested in is making sure that we give proper legal effect to any future land tenure arrangements, and that means we need to properly work through what legal requirements there need to be to provide the opportunity for certainty. I will hand over to EPSDD. Ben Green has been directly talking with some of the farmers over recent weeks as well.

Mr Green: Sorry, Ms Lawder, could you repeat the question?

THE CHAIR: Yes. I said have you advised the farmers that their land will be taken from them in the next couple of years?

Mr Green: I think the answer to that question is no, we have not advised farmers of that. As the minister has described, there is yet to be any government decision around that. The work with the Eastern Broadacre, particularly the strategic assessment, got to a point of finalisation of a draft strategic assessment that was submitted to the commonwealth Department of Climate Change, Energy and Water earlier this year, and those are matters under consideration.

As the minister has outlined, there are incredibly complex legal matters with respect to tenure arrangements but there is also obligation on us as a directorate, particularly around the role that we play on behalf of the territory around land. Some of that includes contamination assessments that will be required to take land from the commonwealth if that is the case.

As the minister mentioned, I met with one of the lessees and their representative, a broader representative of the Majura split block lessees, a couple of weeks ago now. I had written to them previously to understand what their intentions are with a view to

inform government as to what options there would be. I know that both the Chief Minister and the minister have indicated that there will be a decision in relation to that in this term of government.

Mr Steel: We want to provide certainty in this term of government, at least in principle as far as we can, in relation to the tenure. I note there will be some legal work that is required which we are actively working through, getting advice from GSO, to make sure we can provide that certainty in a way that is lasting and is not subject to challenge and so forth. It may even potentially require special purpose legislation to enable us to go through that process. We are working through that advice at the moment because the tenure issues here with the split blocks and the commonwealth land are so unique that it is quite different to what has potentially been provided before in terms of leases and the like.

THE CHAIR: I note Senator Gallagher has said it is not a federal issue and you should just get on with it. Take that as a comment.

Mr Steel: It is very much a federal issue because—and I do not actually think that is what she said by the way—there is a split block where there was—

THE CHAIR: A bit of paraphrasing on my part.

Mr Steel:—where there was commonwealth land within these blocks, and so what we are trying to resolve here is the de-gazettal of those blocks so that the ACT government can have control of them in order to then provide certainty to the landholders. Mr Green mentioned the further work that is happening which is a longer-term piece of work looking at the Eastern Broadacre strategic assessment, which is the longer-term use of the land in both Majura Valley and also going down into Symonston as well. We are considering all of these matters. We want to provide as much certainty as we can to the farmers in the Majura Valley about the tenure arrangements but it requires this legal work. I appreciate it is not going as fast as they would like but it is important to make sure we can actually give legal effect to future arrangements.

THE CHAIR: As briefly as possible, why is it that some leaseholders there are given a 20 year lease, unlike the 99 year crown lease that is the standard procedure for most of the ACT?

Mr Steel: These leases are different in nature. They are not like a usual lease for a home that you would see in a suburb in Canberra. It is almost like a rental agreement, but I will hand over to Mr Green.

Mr Green: Yes, I think there are several rural leases that have been issued, and I am not just talking specifically about Majura Valley here, for shorter periods of time, which have different provisions to standard residential leases, if we use that as the comparator. Things like requirements to have land management agreements in place, the potential for some of those leases to have withdrawal clauses, different use provisions as well, depending on the zoning of that rural parcel of land. So they are quite different. I think particularly with the Majura Valley, one thing in my meeting with some of the split block landholders, has been their discussion around their desire to return that to a rural setting. They all have their own business plans and views and opportunities that they

want to capitalise on going forward. Certainly as the minister has explained, the government will make a decision in this term around providing some greater certainty around that.

MR CAIN: Minister, I note Senator Gallagher has been quoted as saying, “Mr Barr needs to get on and resolve the Majura Valley land saga.” Why has your government not responded to those landholders in a timely manner and why are you not listening to your own federal Labor senator?

Mr Steel: Well, we have been engaged directly with defence and this has been going for some years, Mr Cain. We certainly did not get any traction under the old coalition government in relation to this, but we have—

MR CAIN: So you disagree with your Labor senator?

Mr Steel: No, no. We have actually got traction under the federal Labor government and particularly—

MR CAIN: So why would she say what she says—

THE CHAIR: Just wait, Mr Cain.

Mr Steel: If I can just provide an answer, Mr Cain. So we have been working closely of course with Minister Gallagher, but also some of the relevant defence ministers and assistant ministers, to progress this and we have got to a point where we commenced negotiations in March in relation to resolving these split block issues.

MR CAIN: So why would Senator Gallagher be critical of the process?

Mr Steel: Well because as part of the negotiation, of course the ball is going to be in the commonwealth’s court during one part of that negotiation and then of course—

MR CAIN: Not according to Senator Gallagher.

THE CHAIR: Just wait.

Mr Steel: If you do not want to hear the answer, Mr Cain—

MR CAIN: Well you are not answering my question.

Mr Steel: Well, I am actually providing the answer to your question. So if you just listen. As part of—

MR CAIN: I beg your pardon.

Mr Steel: As part of that negotiation—

THE CHAIR: Our time is at an end. It is already one minute past our close time.

Mr Steel: Can I take that on notice, Ms Lawder?

THE CHAIR: You can take that on notice.

Mr Steel: Thank you.

THE CHAIR: I would appreciate that, thank you. On behalf of the committee, I thank our witnesses for your attendance today. If you have taken questions on notice please provide your answers to the committee secretary no later than 5.00 pm Thursday, 8 August. The committee will now suspend proceedings and we will reconvene at 10.45 am.

Short suspension

Appearances:

Steel, Mr Chris, Minister for Planning, Minister for Transport, Minister for Skills and Training, Special Minister of State

Transport Canberra and City Services Directorate

Pryce, Mr David, Director-General

McHugh, Mr Ben, Deputy Director-General, Transport Canberra and Business Services

Sturman, Ms Judith, Executive Group Manager, Transport Canberra

Taylor-Dayus, Ms Sarah, Executive Branch Manager, Planning and Delivery, Transport Canberra

Davidson, Mr Geoffrey, Executive Branch Manager, Development Coordination Branch, City Services

Haraldson, Mr Anthony, Acting Executive Branch Manager, Light Rail Operations,

Major Projects Canberra

Geraghty, Ms Gillian, Director-General

Cahif, Mr Ashley, Deputy Director-General

Doctor, Mr David, Acting Executive Group Manager, Infrastructure

Burton, Mr Ross, Chief Finance Officer

THE CHAIR: We welcome Mr Chris Steel, now appearing in his capacity as Minister for Transport, and we welcome officials who have joined us. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered a contempt of the Assembly. Could you please confirm that you understand the implications of the privilege statement and that you agree to comply with it?

Ms Sturman: I have read and agree with the privilege statement.

Mr Pryce: I understand the privilege statement.

Mr McHugh: I have read and understood the privilege statement.

THE CHAIR: If you take a question on notice, please say, "I will take that question on notice." We will go to Mr Parton to ask the first question.

MR PARTON: Mr Steel, of all the things that have not gone right under your portfolio umbrella, the complete disaster that is the tram to Woden is by far and away the biggest. It is the failure which will see our children, our grandchildren and possibly their children paying it off over generations. Your government promised before the last election to run the first tram to Woden by 2025. It was a clear commitment from the Chief Minister. On the eve of the next election, you have pushed that out to at least 2033. Your predecessor, when asked about the cost of stage 2 of the tram, famously said it would be about the same as stage 1, and we now discover that it will be at least six times more expensive. And all of this to replace an 18-minute bus trip with a 32-minute tram ride. How is it possible that you can so recklessly spend so much of the territory's limited finances on this disastrous white elephant?

Mr Steel: I strongly disagree with the premise of the question. I will not go through all of the different points in your preamble, but I will address some of them. Firstly, we are in 2024 right now. We are certainly not in 2014. In relation to the cost of delivering infrastructure, yes, that changes over time. We have had a major pandemic which has affected a range of different matters. It also led to a decision, which was clearly articulated before the last election, about the timing of stage 2 of light rail, and particularly not wanting to sign contracts during the pandemic. In fact, it was at a time when the CAF factory was closed down due to the pandemic, which was one of the uncertainties at the time.

Since then, of course, we have revised time lines, particularly in relation to 2B, as well as with the contract that we signed on 2A, which is the point when we can give greater certainty to the community about when elements of the project will be delivered. Of course, it is well underway and has been very successful through the enabling project of raising London Circuit. We are showing demonstrable progress in bringing light rail down to Woden.

We are continuing the work to design stage 2B. We have been consulting with the community. There has been fantastic engagement on the project as we work through the approvals processes required for that project, starting with the environmental impact statement process under the EPBC Act and with the department of environment.

We are working through each of the milestones. I appreciate that you have a fundamental ideological objection; you supported light rail last time and have not supported it this time. It is unclear what your position is, sometimes, but we are always committed to getting on with this project and working through the milestones, and we are continuing to do that. Whether it be on stage 2A or stage 2B, we are getting on with the work required to bring light rail down to Woden and expand our light rail system to develop the very successful stage 1 project and extend the benefits to other residents in Canberra, particularly delivering infrastructure on the south side that will benefit not only residents there, but also residents who use stage 1, by enabling them to travel down into the parliamentary precinct, and down to Deakin and Woden as well.

I do not know whether you want to add any further information, Ms Geraghty?

Ms Geraghty: Not in particular, but I can provide further detail. I have read and acknowledge the privilege statement.

Mr Cahif: I have read and acknowledge the privilege statement.

Mr Doctor: I have read and acknowledge the privilege statement.

MR PARTON: How is it possible that we are about to go to our third election debating a tram to Woden and you still cannot even tell us which route it will follow, or even a ballpark on how much it will cost?

Mr Steel: As a further answer to the preamble to your other question, we are building infrastructure that will last for the next 50 years or more in Canberra, that will benefit generations of people to come. We are doing that across hospitals; we are building two

new hospitals that will benefit people in the next 50 years, and in relation to light rail as well.

THE CHAIR: Minister, in the interest of time, we have already had the answer to that first question. The second question is a bit different. Do you need him to restate the question?

Mr Steel: I am happy for you to restate the question.

MR PARTON: How is it possible that we are about to go to our third election debating the tram to Woden, but you still cannot tell us which route it will follow or any idea about ballpark costs?

Mr Steel: We do have a preferred route that we have been consulting on. As we move through the design of the project, we will further refine the design of the route. You would expect that. We had that discussion in another hearing recently about the iterative design process, and the need to consult with the community and stakeholders along the way, to make sure it delivers the best possible benefits to the community, and that is what we are doing. What we have not done is completely rule out building it, which is what other parties have done. That restricts the community's input into an important project.

MR PARTON: Is the route locked away? Are you doing the Barton dogleg or are you building a tunnel? Is it a tunnel or is it a Barton dogleg; which one is it?

Mr Steel: We are working with the technical partners, AECOM, who are our partner in helping to deliver advice, as we go through. We are also responding to stakeholder feedback along the way. I will hand over to MPC to talk about the consultation that we have been doing on stage 2B.

THE CHAIR: The question was about the route rather than the consultation.

Mr Steel: That is exactly what we have been consulting on—the route and how we can maximise the benefits for the community, and consider what impacts there are, as part of the process, particularly around heritage and environment.

Mrs Geraghty: Yes, we have explored the preferred route; as the minister said, it is the State Circle alignment. We have explored, through the EIS, the alternative arrangement, through the Barton dogleg. That is really exploring a backup plan. The consultation that we have undertaken has been quite extensive. I will pass over to my colleague to give a bit more detail.

Mr Doctor: The route for stage 2B is fixed, with the exception of the two-kilometre zone through the parliamentary zone. The EPBC replacement referral contemplated the alternative route through the National Triangle in Barton. We understand that the State Circle route is the preferred position of government, and we are continuing to assess both of those options as part of the EIS. Both of those options will be fully considered, including their impacts and mitigations, as part of the draft EIS which will be submitted later this year.

Mr Steel: It is important to note that both are technically feasible, and we have not committed to a busway that does not work.

MR PARTON: Is it still the government's position that stage 3 of the tram is to Belconnen and stage 4 is to Tuggeranong?

Mr Steel: We have, of course, set out the light rail network plan, which is effectively the master plan for future stages of light rail. Our focus at the moment is on stage 2. The main reason for that is that it establishes the north-south transport spine upon which you have connections to other parts of Canberra, in terms of both rapid bus services in the future and other local routes that may connect with it. That has been an active part of the consultation that we have been doing on the design. There are also those future connections that might stem from the existing north-south alignment, and the integration that may occur through that process.

Stage 2 is obviously the priority. We have been clear that we think it is reasonable to have a focus on one stage each decade, in terms of how we can fit that within the broader infrastructure pipeline. At the moment stage 2 is where the priority is, because it is such a strategic link to support the rest of the network.

MR PARTON: That was not the question, Minister. Is it still the government's position that stage 3 of the tram will be to Belconnen and stage 4 to Tuggeranong?

Mr Steel: I have answered your question.

MR PARTON: You have not.

Mr Steel: It is in the light rail network plan, those future stages, and—

MR PARTON: So that is still the government's position. Can you give me some estimated dates for project completion to both Belconnen and/or Tuggeranong? I am working on 2050 to Belconnen and 2070 to Tuggeranong.

Mr Steel: Under a Liberal government, never; I understand.

MR PARTON: No, I am asking about you and your government.

Mr Steel: Certainly, that will be a decision for a future government, around those timings. As I said, we think that, generally, one stage in a decade, per decade, is a reasonable thing to fit into the infrastructure program at the moment. For this decade, it is stage 2 of light rail.

MR PARTON: Into the next decade as well?

Mr Steel: We have been clear about those delivery time frames. Of course, the alternative is not to deliver it at all, which is your plan—not to deliver better public transport.

MR PARTON: Ask Ryan about it. Thank you, Chair.

MS ORR: Minister, in the context of light rail stage 2, the city to Woden leg, has the government investigated the viability of adding more dedicated bus lanes?

Mr Steel: Yes. When we undertook work, as part of the disruption task force looking at what the disruption would be to the city as a result of major infrastructure projects, both public and private, we examined quite closely what impact there would be for the bus system, while that construction was underway, and what measures might improve or indeed worsen the situation. We have undertaken the ones that have improved the situation, with some signalisation, the Corranderrk roundabout being one of those. There is also the signalisation of Vernon Circle, to enable buses to move around on the alternative route on Commonwealth Avenue.

I will hand over to the team to talk a little bit about some of the issues that we found with providing a busway, particularly around Coronation Drive, and the area that does not currently have a bus lane, on Capital Circle as well.

Mr McHugh: As the minister said, we investigated the opportunity to provide bus priority along the corridor to support the construction activities and construction staging, particularly of raising London Circuit initially, but even looking forward to Commonwealth Avenue bridge construction activities and other works.

There are space constraints, particularly as you get close to Parliament House, around lane widening, for example. You need to look at lane use. Obviously, our modelling took into consideration all of the impacts on travel times for both buses and general traffic. We will continue to look at those as construction staging for those future projects becomes more realistic. We have definitely investigated that.

Mr Steel: We can take on notice of some of the specific modelling that was done in relation to that. It is one of the reasons why we have not committed to a busway that will not work around Capital Circle and Commonwealth Avenue, and why light rail is so critical in providing a dedicated corridor for mass transit that would not interrupt the broader transport network. Some of the solutions that we have been working on, particularly in relation to a cut-and-cover tunnel, moving down from Commonwealth Avenue onto State Circle, do not affect traffic as much as removing lanes on a road. In fact, that solution would still enable there to be an exit for general traffic from Commonwealth Avenue down onto State Circle, which means that traffic can continue to flow while we deliver mass transit.

MS ORR: I know the minister wants two minutes. I am happy to continue with my substantive question.

THE CHAIR: Sure. Good.

MS ORR: Finish what you want to say, Minister, and I will ask my next question.

Mr Steel: Thank you. I will take the modelling on notice in relation to that one.

MS ORR: I think you mentioned the viability of service lines on Commonwealth Avenue Bridge. Did you want to elaborate on that?

Mr Steel: We have been in discussion with the NCA for some time about their bridge-strengthening work, which is due to get underway in the next few years, and the relationship and interface with the light rail project. Light rail will be built in an inset bridge within the existing two spans of Commonwealth Avenue Bridge. That provides a dedicated corridor for light rail, which enables us to deliver increased capacity for the overall transport network. We have some specific figures around that, if the team have them on hand.

Mr Doctor: Not to hand, Minister.

Ms Geraghty: Happy to take it on notice.

Mr Steel: It is thousands more movements an hour—we can provide the specific numbers—than if you had a bus running on Commonwealth Avenue. If there was a busway, that would limit traffic movement across that corridor, which is the major bottleneck to get into the city from the south side. You cannot get over Lake Burley Griffin, directly through the middle of the city, other than going on Commonwealth Avenue Bridge. We have always been focused on delivering extra transport capacity. A busway would remove capacity on that network, potentially, compared to light rail.

MS ORR: What other variables have you considered in determining your current position on the light rail project?

Mr Steel: I think the NCA advice is that they have indicated that they would not necessarily support a busway on Commonwealth Avenue, nor light rail running on the existing spans, because of the impact that would have on the broader traffic network. As we have designed it, we have taken that into consideration, which is why we are now focused on delivering a third span of the inset bridge in between the existing Commonwealth Avenue Bridge spans.

We have also been undertaking some joint work with them on broader landscape planning on Commonwealth Avenue, to fit in with their aspirations for the area and as they undertake their own work on Commonwealth Avenue Bridge and the structural work that is required: widening the spans of the bridge to enable better pedestrian and active travel movements as well. David Doctor might have some further information.

Mr Doctor: Thank you, Minister. Yes. We continue to work very closely with the NCA in understanding their bridge-strengthening project and, indeed, across into the Disruption Taskforce in understanding the impacts of them delivering those bridge-strengthening works. I think the key thing that light rail has tried to do in its delivery is keep the city moving. The side tracks that have been implemented as part of raising London Circuit are just one demonstration of the importance of keeping viable transport in and out of the city. We have always sought to reduce the impact on business and individuals in and out of the CBD.

MS ORR: Minister, when we were figuring out whether we were going to continue this line of questioning or wind it up, you made a comment about being able to turn from somewhere to something. Can you just go back? I did not quite catch all of that.

Mr Steel: The preferred alignment for light rail is Commonwealth Avenue, extending

from Alinga Street over Commonwealth Avenue Bridge and then transitioning down onto State Circle east. I will hand over to David Doctor to provide some information about that transition and what is currently being proposed through the technical advice.

Ms Geraghty: The transition is a cut and cover tunnel.

Mr Doctor: The light rail proposition is in the median, and the intent is that there is a cutting that will allow the transition from Commonwealth Avenue down onto State Circle. That means that the light rail operations are entirely independent of other vehicular movements in the area.

To the minister's earlier point, any other solution would reduce the overall network capacity and would probably introduce signalisation, which would potentially increase journey times as well, in terms of giving light rail the priority it needs to do its on-time service runs. Keeping it entirely separate does two things: it gives light rail the priority it needs unhindered and it retains the existing traffic flow and traffic capacity in terms of vehicular movements.

MR PARTON: You talked about the potential for increased journey times there, Mr Doctor. How much more will the journey time on the tram be than the journey time on the current rapid bus?

Ms Geraghty: We are still working through journey times as part of our detailed design, through the development of the EIS, so I do not think we can answer that question at the moment.

Mr Doctor: We cannot answer it explicitly. However, as part of both our traffic modelling and our modelling of light rail journeys, what we are seeing is that into the future there comes a point at which vehicular traffic will be overtaken by light rail, with its priority through the city. With the additional population growth, the additional traffic growth on the network, there is a break point at which light rail becomes much quicker than any existing rapid service, even ignoring the fact that it will take longer in the future to get into the city on a bus.

MR PARTON: Given the differential at the moment, though, we have all seen the numbers. We all know what differential we are talking about. We are talking about a differential of around 10 minutes. Surely, the time that you speak of, where we get to the point where the traffic has slowed to that level, is decades and decades down the track?

Mr Steel: I think this is the broader point on light rail: it is a future-focused project. We are not building light rail for today. We are building it for the next 50 years and beyond. We know that in 2050 we are going to have a population of over 700,000 in Canberra. If you continue to run a bus service on the existing roads without having further priority measures for the light rail vehicles, for example, then you will see public transport caught up in that congestion and the impact on journey times.

The planning that we do today has to be future focused. It cannot just be what Canberra has been about in the past, when we had a population much smaller than we are going to have in the future. This is about the travel and mode share that future generations

will benefit from. Having a mass transit system is going to be critical to that to move more people through—having larger vehicles running frequently and with dedicated priority.

MR PARTON: So you can promise a faster journey time by 2060, perhaps? That could be a slogan that we go for?

Mr Steel: I think that is a mischaracterisation of the issues. What we are trying to deliver is an accessible mass transit system that provides a sustainable choice for Canberrans. The reality is that the current rapid buses do not stop from south Curtin through to Albert Hall, and there are no stops in between. Currently, none of those suburbs can access the rapid transport that light rail will be able to deliver. There is no access in the parliamentary triangle to many of the government departments, where there will be 40,000 people working. There is no access in the employment hubs of Deakin.

Light rail will deliver that by having stops along the way. It does add to the journey time when you have more stops, and there is a balance to be struck, but what we are seeing when we have delivered that high-quality mass transit solution along the north side is that people are taking it up. Patronage is evident on the north side. We have delivered, in five years, significant benefits in terms of patronage. Forty-three per cent of people who are using light rail had never used a bus before, so it encourages people to use public transport. That helps also to take cars off the road, for those that have to use a vehicle, so it benefits the broader traffic network.

Then there are all the land use benefits on top of that as well. We are looking at what opportunities there are on the south side as part of the development of an integrated land use plan, which is called the southern gateway planning and design framework, which will be developed over the coming years.

THE CHAIR: I think you said State Circle on the eastern side. Can you confirm that you will not be destroying the siltstone and sandstone cutting?

Ms Geraghty: Correct. That is a heritage cutting.

THE CHAIR: Thank you.

MISS NUTTALL: When is funding for the school crossing supervisor program, the Ride or Walk to School program, the It's Your Move Safe Cycle program and the School Safety Program expected to end? I am happy to read out that list again, if need be.

Mr Steel: I will hand over to Geoff Davidson from TCCS.

Mr Davidson: Thank you. I have read and understood the privilege statement. Thank you for the question. Those programs have recurrent funding. The only exception is the school crossing supervisor program, which was expanded from 20 to 25 locations, and the additional funding that was provided for those five extra schools has two more years left to run.

MISS NUTTALL: Thank you very much. To confirm: has this been funding made permanent?

Mr Davidson: The funding for the extra five locations is for another two years. That additional funding was renewed in last year's budget, and it has another two years to go. At the end of that period there will be decisions that need to be made about how to continue to provide funding for those additional five schools.

MISS NUTTALL: But otherwise everything is permanent?

Mr Davidson: That is right; the programs are ongoing.

Mr Steel: We are actively considering, with the school crossing supervisor program, the opportunities around insourcing. That will factor into future decision-making by government about how the funding is delivered, as well as providing continuation of funding for the program.

MS CLAY: Minister, we have currently got 24 electric buses, I think, on the road. In the 2022-23 budget you said we would have 50 electric buses on the road that year. In 2023-24 you said that by the end of 2024-25 we would have 60. Now that target has been revised down to 56 in 2024-25. Why are we constantly bringing that target down? Why are we not able to get electric buses out?

Mr Steel: I will hand over to Ben McHugh shortly. We are in the process of updating the Zero-Emission Transition Plan for Transport Canberra. I am looking forward to releasing that soon. It is just a refresh of the existing plan and a reflection of how the transition is going and what the future holds. We have actually seen quite considerable orders for the electric buses delivered, across a range of different contracts. Mr McHugh can provide an update.

Mr McHugh: Thanks, Minister. Thanks for the question, Ms Clay. There are multiple factors that go into the forecasting of the transition of vehicle types and fuel types. Predominantly, they are the capacity of the depots to house and charge those vehicles and they are the fleet replacement strategy around at what point in time we replace a vehicle that has reached its end of useful life. The third party in there is the contract provision and the delivery time frames of the providers that we have got in place. We are constantly looking at those three variables and how we can get the transition to accelerate and meet the targets that we have set. The targets that are published at the moment will change, potentially, beyond that number, as we get through this financial year.

MS CLAY: I am little disturbed at the use of language like "forecasting". You are not really forecasting this, are you? You are actually setting a government target and then issuing a contract to procure to that target. The government should be taking a more active role in this. What happened in 2022-23? We decided to do this and we went out to market and asked. We got over a hundred respondents in that procurement. Why is it that we are unable to have the buses now that we said we would have in 2022-23?

Mr Steel: The target that we have set, as a government, is to transition the fleet by 2040 or earlier and that is what we set out in the zero emissions transport plan. There are not

any interim targets in that transport plan. As part of the annual reports process there are some indicative targets to track, in the short term, the deliverables under those contracts. We actually have seen quite considerable deliveries from, in particular, Yutong and Custom Denning for the electric buses. We are starting to receive those. In fact, some of them are slightly earlier than expected.

We are on track for what we said we would do in terms of the transition to 2040 and we are providing an update and a refresh on how we are tracking what the future holds in terms of the bus fleet transition. The Australia Institute have been doing some comparative work, tracking the transition of other jurisdictions. Currently, per capita, we are ahead of all of the other jurisdictions, based on their latest report.

MS CLAY: Mr McHugh, you mentioned the zero emissions plan for Transport Canberra. Is that going to be published?

Mr Steel: Yes.

MS CLAY: When will that be published?

Mr Steel: We will make an announcement about that soon, before the end of the term, I expect.

MS CLAY: In the 2023-24 mid-year budget review, the bus procurement payments were scheduled under the title “Better transport infrastructure—Improving our bus network”, but, in this budget, which is just five months later—it is five months since February—you have pushed back a number of the payments to later years. So it looks like, as recently as this year, the goals and the procurement targets we set have been pushed back again. What happened since February this year that led to those payments being pushed back?

Mr McHugh: I am not aware of anything in particular that has affected the delivery of those vehicles as per the contract. I think it is suggesting a reprofiling of funding from the mid-year budget to this budget. I would have to look at that in detail and come back to you on that.

MS CLAY: Could you take on notice to look at the mid-year budget review and the world as it is today and tell me whether there is any difference in delivery compared to what we said in that mid-year budget review, and then provide an explanation as to why that difference is the case or say that there is no difference and we have misread the budget papers?

Mr McHugh: I suspect it may be related to a payment schedule process rather than a bus delivery process, but I will take that on notice and give you that info.

MS CLAY: I do not know what a payment schedule process is, so, if that is the answer, you will have to explain it in long form.

Mr Steel: There is a difference between when payment is due and when the actual product is delivered. The two do not necessarily align all the time.

MS CLAY: Sure. That is fine. An explanation for the difference in the papers would be fine, but also whether that leads to a difference in when we get the buses on the road and, if so, why that is.

Mr Steel: Yes.

MS CLAY: I have one further supp, if that is okay, Chair. We see that there are no targets for electric buses in the budget papers, but on page 13 of budget statements H is a statement that says—and I will read it out directly—

Mr Steel: That is not what I said, by the way.

MS CLAY: My apologies. I will read out the section in the budget statements H. It says:

Due to lead times for construction of additional electrical supply infrastructure, TCCS has revised the target for 56 zero emissions buses to be in operation by 2024-25. TCCS continues to work towards fleet projections set by the Transition Plan.

Was that—

Mr Steel: That is the target that we have set. The overarching target is transitioned by 2040 or earlier, and there are some interim targets between. But the fundamental target that we are trying to meet is the 2040 or earlier target, which is in the transition plan, which is referenced in the papers.

MS CLAY: Can you give me an explanation of the interim target that I have just read out?

Mr Steel: I think we already did.

Mr McHugh: Yes. In the budget papers, Transport Canberra and City Services contribute to the reduction of greenhouse gas emissions. We have put in place a reporting measure in the budget papers as representative of a contribution to that gas emissions reduction, which is effectively the new electric buses coming into the fleet. That is the reason that number is included in the budget papers, rather than an alternative to reporting against our transition plan, which is specifically targeting the gas emissions reporting measure.

MS CLAY: I will just clarify, because we are a little confused on this side of the table. We have targets set for 2040. We have interim targets—is that the correct term—before 2040.

Mr McHugh: No.

Mr Steel: Not under the Zero-Emission Transition Plan. There is a broad government target for the transition of the government fleet of vehicles under the Climate Change Strategy. We are talking about two separate strategies. That is perhaps where the confusion is. We have the broader commitment to transition to net zero emissions by

2045 in the Climate Change Strategy, and we have the Transport Canberra Zero-Emission Transition Plan, which is to transition the Transport Canberra fleet by 2040 or earlier.

MR PARTON: Chair, could I support Ms Clay to some extent here?

THE CHAIR: Yes.

MR PARTON: Mr Steel, on the basis of your response to Ms Clay's question regarding targets—that the only target is 2040—if you were asked this question in December 2039, should you be the transport minister, we would still be on target, irrespective of whether we had the same number of buses as we do now, because it would not yet be 2040.

Mr Steel: We are reporting regularly against the target. We about to—

MR PARTON: But the target is 2040, so we cannot fail. We cannot fail, because you have said there is no interim target. The only target is 2040, so it does not really matter what you do in the next 10 years, you will be on target.

Mr Steel: It does matter, and that is why we are reporting on it through a refreshed Zero-Emission Transition Plan very soon.

MR PARTON: In that regard, how many buses have been retired from the Transport Canberra fleet in the last financial year? I do not know whether anyone is able to tell me that off the bat.

Mr McHugh: Maybe not the exact number, Mr Parton, but we can take that on notice.

MR PARTON: Were any of those buses retired ahead of their scheduled end-of-life date? And was the retirement of those buses at a one-to-one ratio with the new electric buses? There is a bit of detail in that, and I am not expecting anyone to have it, but, if I could have those taken on notice, that would be good.

Mr McHugh: I am happy to take those on notice.

THE CHAIR: Mr Parton, do you have a substantive question?

MR PARTON: Thank you, Chair. I have some questions concerning the line item "Climate action—Supporting the transition to a zero-emissions bus fleet" on page 42 of budget statements H. Regarding the project to augment the electricity infrastructure to provide the charging capacity for all those buses at the Woden depot, Minister, are you able to detail where that project is up to? How much has been spent on those works to date? Have there been any unforeseen circumstances? What is the estimated final cost and the estimated completion date? And how many of those estimates changed since the commencement of the project?

Mr Steel: I will invite Sarah Taylor-Dayus to provide some further information in relation to the question. A range of works have been underway. We are working closely with Evoenergy at the moment around providing high-voltage connections from the

Wanniassa substation—not just to the new Woden depot but also to Tuggeranong. There has been a lot of work occurring on the side of Athllon Drive in particular, Sulwood Drive and other roads. That work is being done to be ready for the drag-through of the cables to the new depots. That is the outside-of-the-fence work. There are also, of course, works required inside the fence at both depots. Tuggeranong already has some chargers which are charging some of the existing bus fleet, but further charging infrastructure will be required as we continue to scale up. That will be matched with the fleet size as it grows to a zero emissions fleet size.

Ms Taylor-Dayus: I have read and acknowledge the privilege statement. In October 2022, cabinet approved \$26 million for us to engage Evoenergy for high-voltage dedicated feeders for both the Woden depot and the Tuggeranong depot. That agreement with Evoenergy progressed with three PWAs—preliminary works agreements—being signed. Those were in December 2022, January 2023 and June 2023. This was for 11-megavolt ampere feeders dedicated for both sites. For that arrangement, two cables are coming through, both at 5.5-megavolt amperes. The estimates that were provided by Evoenergy at the time of engagement have stood. Those cost estimates have not increased. For the Woden depot, the civil works are complete. Evoenergy are just awaiting some infrastructure to be fitted inside the fence to make the connection.

MR PARTON: Excellent. How many buses can currently be charged at the Belconnen depot, and how many are actually being charged there? Is this where the Custom Dennings are being charged?

Mr McHugh: At the moment, four buses can be charged and four buses are being charged, and those are the four Custom Denning buses.

MR PARTON: My understanding is that it is far too expensive to augment the network around the Belconnen depot to the point where more electric buses, at a sensible scale, can be charged at that venue. Is that the case? If so, what are your plans for charging buses on the north side?

Mr McHugh: We have been working with Evoenergy on increasing charging capacity at Belconnen. Initial indications are that the network out there is close to its broader capacity, so significant upgrades would be required for the likes of what we have provided at Woden and Tuggeranong. The costings associated with that would be a question for Evoenergy.

Mr Steel: Nonetheless, we are continuing to plan for a fourth depot in the north of Canberra. There was some funding in the budget to progress some of the associated environmental works, plans and investigations that are required to support that. We are looking at locations where there is broader grid capacity to enable us to charge more buses there as well.

MR PARTON: Sensible. In conclusion, because I keep getting bombarded by emails and messages about this—and I know it has come up in hearings before, but I am compelled to ask because of the number of people who have contacted me—are you in a position to categorically reject the ongoing suggestion that we have electric buses being charged by diesel generators?

Mr McHugh: I can categorically reject that suggestion, Mr Parton.

MR PARTON: Has there ever been an instance when an electric bus has been charged by a diesel generator?

Mr McHugh: I am definitely not aware of one and I do not think it is physically possible. I do not think we have a generator that is connected to our chargers.

MR PARTON: But were there not diesel generators specifically procured for the Tuggeranong depot, seemingly associated with the charging of electric buses?

Mr McHugh: What we have done is procure a potential service for back-up power supply in the case where there is a power outage, but I do not think they have been ordered, procured or used at this stage.

MR PARTON: That is what I tell them. They just keep on coming at me.

Mr Steel: There are a lot of right-wing conspiracy theories—

MR PARTON: Are there?

Mr Steel: that I hear around the general electric vehicle transition of the broader fleet—the private fleet nationally. That is one that constantly comes up. I do not entertain it.

MR PARTON: Thank you.

THE CHAIR: Ms Clay.

MS CLAY: Thank you, Chair. Minister, we just heard that the Woden bus depot civil works are complete. Is that expected to be operational by December?

Mr Steel: That is the high-voltage electricity connection. If you have driven past the Woden depot recently, you will have seen that it is very close to completion. It is still on track for completion by the end of the year and for operations to begin next year.

MS CLAY: That is great. So it will be complete this year and operational next year.

Mr Steel: Yes.

MS CLAY: How many staff will be based there?

Mr McHugh: I will take that question on notice for the exact numbers. There will be the capacity to operate up to 100 buses, so you could calculate the number of drivers based on the capacity of the buses. The workshops will be staffed based around those bus numbers as well. But we can provide some more exact figures on notice. Generally, you would look at around 200 to 250 bus drivers to ultimately service 100 buses. Generally, we work on a requirement for one mechanic per 10 buses, so we have some calculations around the number of mechanics, and there are all the support staff that manage both the daily operations and the workshops.

MS CLAY: Thank you. Do you have an update on the fourth depot for Mitchell?

Mr Steel: We are happy to provide that.

MS CLAY: Chair, feel free to tell me if that is a separate question.

Mr Steel: We will provide some further information as part of the refreshed transition plan about that. We are undertaking some planning work at the moment, part of which was funded in the budget.

Mr McHugh: Yes; the recent budget has allowed us to progress with environmental impact studies of a number of sites in Mitchell that we are looking at at the moment.

MS CLAY: We had the site identified by the LDA in 2014, so will your refresh tell us exactly where the site is?

Mr McHugh: Through the environmental impact assessment process, we will understand whether that is a viable site, and we will lock it in if that is the case.

MS CLAY: Mr McHugh, when is the thing that you are going to publish that will tell us this answer?

Mr Steel: The transition plan refresh will be before the end of the term. That environmental work has to happen over the next year. The exact site will not be able to be determined. What the transition plan will show is the timing—when that is actually needed in terms of network growth. With Woden coming online, we have a lot of extra capacity that we did not have in the network. That will assist us to manage the fleet in the short to medium term.

MS CLAY: Will you be telling us the capacity for charging and the capacity for the storage of buses at Mitchell?

Mr McHugh: That is the intention.

MS CLAY: Is that in the work next year, after the EIS or in the refresh?

Mr Steel: No. We can provide further information once the planning has actually happened—planning and environmental approvals.

MS CLAY: Excellent. Thank you, Chair.

MR PARTON: Minister, I refer to the ACT Notifiable Invoices Register which, at the last update, revealed that the ACT government has paid more than \$834 million to the Canberra Metro Trust. This includes what looks like monthly payments of between \$5 million and \$6½ million. Are you able to provide some information on what this invoice is seeking to pay for the Canberra Metro Trust? What is the return on that payment?

Mr Steel: I will hand over to Anthony Haraldson from TCCS.

Mr Haraldson: I have read and understood the privilege statement. The invoice is prepared monthly for Canberra Metro and is for the delivery of light rail to Canberra.

MR PARTON: Can anyone point us to the publicly available contract that these arrangements are stipulated under? We looked and looked and could not find it. Is there anywhere we can see that?

Mr Haraldson: There is a public text version of the contract on the contract website.

Mr Steel: We have published the information and the availability payments for Light Rail Stage 1 quite a number of times. I will hand over to the team.

Mr Cahif: The stage 1 project agreement with Canberra Metro is available on the public record and on the Contracts Register. We can certainly provide that detail on notice.

THE CHAIR: Through the link?

Mr Cahif: Yes; there is a link. It appears on the Contracts Register.

MR PARTON: All right. I am sure we will look and find it. Are you able to inform the committee, Minister, on whether there has been an estimate of some kind of the total that the ACT government expects to pay the Canberra Metro Trust over the contract period? Given that the total paid to the trust at this stage is almost \$1 billion, with the majority of payments commencing just over five years ago, can we expect that it will be in excess of \$10 billion?

Mr Cahif: There is a publicly available contract summary that was developed and published following the signing of the contract. That gives a forecast on the spending. Whether it is nominal or real is a question of how you express the numbers. I can take on notice exactly what is in there.

MR PARTON: All right.

Mr Steel: There is an operation and maintenance component to the PPP contract. There will be an ongoing cost over the contract term for that element. Of course, as well, variations have been made for various parts of the orientation of the line for stage 2A.

Mr Cahif: When we send through the link to the Contracts Register, you will see that there is also a contract value attached to that. We will incorporate the variations that have been made. For example, the Sandford Street stop was a variation to that contract.

Ms Geraghty: We will also send a link to the contract summary.

MR PARTON: Is that the totality of payments that the ACT government makes to the Canberra Metro Trust or are there other contracts or payments that you are aware of where the government compensates Canberra Metro for any other service?

Mr Cahif: The stage 1 contract is different to the stage 2A contract. Canberra Metro Trust No 1, as we call it, has been set up to deliver stage 1. There is a separate Canberra Metro consortium structure and SPV set up for 2A. I am aware that we entered into

contracts with Canberra Metro in order to develop the original and the follow-on bid for 2A. That would have been under a different structure. It may well have been in relation to the consortium themselves, as opposed to the SPV. Obviously, there are some limits as to what the SPV is allowed to do under their consortium documents. Sometimes we have engaged with the D&C partners within Canberra Metro to undertake certain works.

MR PARTON: In closing, Minister, based on what we have heard today, is it possible or even likely that, at the end of the contract, the payments that have gone to Capital Metro under this contract will be more than the actual construction costs of stage 2 in its entirety to Woden?

Mr Steel: I could not say. I do not have any particular view on that. I think you are conflating a range of different things together, which makes it difficult to answer the question. There is a D&C—

MR PARTON: It is all for light rail. It is all Capital Metro, isn't it?

Mr Steel: There is a D&C component to the contract that we have with Canberra Metro, and there will be an operations and maintenance element to the contract as well, and that may differ, depending on the various stages of the extensions to light rail in the future. Conflating operations and maintenance together with D&C—I appreciate that that might serve your political agenda—

MR PARTON: I am just here trying to get answers to questions, Minister. I am not—

Mr Steel: What we are interested in is delivering a north-south light rail—

MR PARTON: At whatever cost.

Mr Steel: spine for the city—

MR PARTON: At whatever it costs.

Mr Steel: No. We are up-front about the costs of it.

MR PARTON: Are you? What is stage 2 going to cost in its entirety, if you are up-front?

Mr Steel: It is a future focused investment—

MR PARTON: What is it going to cost?

Mr Steel: that we will make, and, at the right decision making points, we will make that transparent.

MR PARTON: Thank you, Chair.

MS ORR: Can I please get an update on the frequency of weekend bus services?

Mr Steel: On 6 April this year, Transport Canberra commenced new Saturday timetables, providing more frequent bus services, particularly in the afternoons. Local bus services were uplifted from a two-hour frequency between midday and 6 pm to an hourly frequency from the first service in the morning until 6 pm. That is for the local routes; the rapid routes are of course more frequent than that. That uplift provided 331 bus services in addition to the existing timetable. I can provide a breakdown by region, if you would like.

MS ORR: If you would not mind.

Mr Steel: I will take that on notice.

Ms Sturman: I can provide that information, Minister. We had 57 additional services for the Belconnen region, 48 for the Gungahlin region, 61 for the central Canberra region, 73 for the Woden, Western Creek and Molonglo regions and 92 in the Tuggeranong region.

MS ORR: When can we expect Transport Canberra to increase bus services on the remaining routes?

Mr Steel: We are continuing to look at the opportunities. The reliability of the network is fundamental to make sure that when buses are scheduled they show up. The work that Transport Canberra is doing, which has been ongoing, to recruit more drivers has been really fruitful. Given that we have had such strong reliability in this first step-up on the Saturday afternoons, it puts us in very good stead to then look at future changes. We will make that decision once we have gone through further rounds of recruitment and can guarantee that we will have the driver workforce to be able to deliver the services. It has been very successful thus far. I will get Ben McHugh to provide some further information on the reliability.

Mr McHugh: Thanks, Minister. As you know, we are committed to providing a reliable public transport system for all of Canberra. That is the primary driver for our decision-making around when the right time is to expand frequency and expand service so that we can guarantee that. We have seen really high reliability rates on weekends. Since we have introduced the additional frequency, we have seen positive responses from a patronage perspective as well. Throughout all this, we will be doing some analysis to look at how to brief an incoming government on what the next opportunities to increase service on the weekends looks like. There are a range of those through both days on the weekends and potentially even later in the evenings during the week.

Mr Steel: The patronage uplift has been around 20 per cent since we introduced the more frequent afternoon services compared to the last financial year. That has been very positive and it shows that, when the services are offered, the community takes them up. They really want those services there. But we need to match that with the reliability of the service, and that means making sure we have enough drivers. I think the work that has been done has been excellent and it puts us in good stead for the next step up.

MS ORR: Thank you.

MS CLAY: Minister, we still have two-hourly buses on a Sunday, which means, for a

lot of people, if they want to run an errand, it is going to take them longer than it would take them to drive up to Sydney to run one errand. What is the actual barrier? Why couldn't the government earlier in the term commit to increasing frequency and then increase frequency?

Mr Steel: Because it is not a decision that we make by ourselves. There are industrial arrangements that are in place that we need to work within—so consultation with the bus driver workforce. There is no requirement to work a shift on the weekend under the enterprise agreement. It has been an ongoing discussion that we have been having with the workforce, including as part of the last enterprise agreement negotiations. What we have committed to is some further work looking at the potential of rosters in the next term of this enterprise agreement and whether that might deliver improved reliability and bus driver availability on the weekend to deliver a further step-up from what may be possible under the current industrial arrangements. We did, of course, get some agreement to some extra incentives for bus drivers to work on the weekend, and we are continuing to monitor how they have actually contributed to reliability.

MS CLAY: The current EBA has the same requirements for Saturday and Sunday—is that not correct?

Mr Steel: In terms of it being voluntary, yes.

MS CLAY: Yes; so Saturday and Sunday are the same. We are doing hourly on Saturday but we are doing two hourly on Sunday. I have had conversations with the TWU. I appreciate that a different EBA might make life easier, but the TWU has said, “If we just had more drivers, we would be able to drive more buses.”

Mr Steel: Sure. The issue is that we can never be assured that we will have the drivers, because it will always be voluntary under the current arrangements. There were varying circumstances, but, when I came into the ministry—and I appreciate that that was in the last term of the Assembly when you were not here—we had a big problem with reliability on the weekends, where we were delivering a high frequency of service during some of these times. We had a situation where 20 per cent of bus trips were not being delivered—and that was unacceptable.

That is why reliability is my absolute focus and why we need to make sure that we have got the exact settings in place—industrial and other workforce attraction and retention initiatives—to make sure that we can deliver a reliable service. We need to be really certain that we can deliver that service, because we do not want to break trust with the community. We have brought back reliability under my tenure as the transport minister. That is why we are being really careful in the further step-ups to make sure that we can deliver the extra services. We have done that with Saturday afternoons, and now we are looking at what the other opportunities might be within the current settings.

We also want to work with and have a discussion with drivers and their employee representatives about what further opportunities there might be to provide greater certainty of availability for drivers on the weekend, noting that large numbers of them work incredibly hard and work very long hours. When you are asking a full-time employee to then go and undertake additional hours on the weekend, that is a big impost on them. That might be okay if they are doing one Saturday shift but, to then ask them

to do another shift on a Sunday, it becomes very challenging. It is a complex industrial area. But the point is that the government does not make the decisions by itself; we have a shared and consultative decision-making arrangement through our industrial arrangement with the Transport Workers Union employee representatives that we have to go through.

MS CLAY: Sure. I understand the EBA limitations. We have done a bit of work on this. Do you have any intention of improving the Sunday frequency under the current EBA, or will you only look at improving frequency.

Mr Steel: That is what Mr McHugh was just saying, yes. We are looking at whether the next step up could—

MS CLAY: That is okay; I was just checking, because we have the same—

Mr Steel: We have not committed to it, but we have said that we will look at a step-up on Sundays or whether it would be better to step up services on the Saturday evenings, for example. We are going to look at that and what the needs of the community might be. But we will need to continue to undertake bus driver recruitment to enable us to take up a further step-up within the service as well.

Mr PARTON: Just briefly in regards this, the table on page 5 of budget paper H refers to staffing at Transport Canberra Operations and it refers to 1,006 FTE positions as of 30 June. Can I get a breakdown—and I am assuming this is an on-notice question—of how many of those were employed as bus drivers and the breakdown between full-time, part-time and casual? I am not assuming that anyone can answer that off the bat.

Mr Steel: For what time period would you like?

MR PARTON: The figure is 1,006 FTE positions as of 30 June 2024. I am referring to that figure, and I am looking for a breakdown on how many were employed as bus drivers and what the breakdown is between full-time, part-time and casual. I would note that, referring to the projection for positions for financial year 2024-25, there is a suggestion that that number will fall from 1,006 to 989. Given that staffing issues, as has been indicated in these hearings, hamper Transport Canberra's ability to deliver a full seven-day network, how is a net loss of 17 FTE going to impact the network?

Mr Steel: There is also a footnote on that page which is worth noting as well. But I will hand over to Transport Canberra.

Mr McHugh: The 1,006 driver number was in response to an initiative that was funded in the previous budget for an extra 25 drivers. Through the recruitment process, I think we recruited 17 of those 25 and had them brought onto the books. There were some that were not needed to deliver the current network reliably and they were handed back. That is effectively how that number is impacted in the representation of the forecast in the outyears.

MR PARTON: Mr McHugh, I am sorry; I do not fully understand. There were 17 drivers that were not required so they were handed back? What do you mean?

Mr McHugh: No; there were 17 drivers that were recruited within that budget initiative and a number of those that were not filled in that recruitment process. We grew our driver numbers by, I think, 17 and the remaining eight were not needed to deliver the current network.

Mr Steel: It does not stop the government from making decisions about further network improvements and to consider what additional drivers might be required through an additional budget appropriation to support extra services in the future. Of course, there are efficiencies within the existing network that may be gained, particularly as a result of the commencement of the new Woden Bus Depot, which may enable us to deliver more services with the drivers and bus fleet that we have.

MR PARTON: Excellent; thank you.

MISS NUTTALL: I have a question on the gender diversity action plan. Who will be consulted as part of the development of the gender diversity action plan? Will you speak to current and former drivers on that?

Mr Steel: I will hand it over to Judith Sturman.

Ms Sturman: The gender diversity action plan is, as you are probably aware, a commitment across the whole of Transport Canberra and City Services. It is a commitment to make sure that we improve the gender balance in the organisation. We are focusing particularly on the bus operations and the fleet maintenance areas of Transport Canberra. The plan goes over a number of years. It is set out to engage directly with staff. Some work has already been undertaken to do that to establish some basic areas of the plan. The next step is to really work very closely to understand, first of all, what our staff need to encourage more females and to address diversity within the depots and then put forward our plans to deliver those in the future.

MISS NUTTALL: Thank you very much. Will you find ways as part of that to determine whether, specifically with respect to bus drivers, that rigid Monday to Friday working week is having a deterrent effect on them applying?

Ms Sturman: Absolutely. It will cover every issue that is felt by women who want to come into our workplace. There are already flexible opportunities for women in driving in Transport Canberra, but we would still look to explore more.

MISS NUTTALL: Just on that, you have spoken about talking to the workforce. Are there ways you can talk to a prospective workforce as well as part of this?

Ms Sturman: You mean future people that might join the workforce?

MISS NUTTALL: Yes. Sometimes the current conditions can be a deterrent and we may not be capturing that, so we are not asking the people that otherwise may have accessed the service if they had been aware of the current conditions.

Ms Sturman: We can absolutely do that. That is probably one of the items that we will review in the plan. As you know, we have Come and Try days and information sessions for people that are interested in driving. At those sessions, people that are prospective

drivers can come along and understand what it is to be a Transport Canberra bus driver. I have a walk-in session for our female drivers to actually come and input into some benefits that they would see us taking on board. That is something that we could do in that piece of work.

MISS NUTTALL: Thank you. Will you also be speaking to former staff as part of this?

Ms Sturman: Former staff?

MISS NUTTALL: Yes.

Ms Sturman: We can do, yes.

MISS NUTTALL: Will there be opportunities along the road to understand who TCCS is speaking to as a result of the survey?

Ms Sturman: Yes. The actual plan is being considered at the moment as to how we go about the items that we have just been talking about. When those items are locked in and we can go public with encouraging people to come forward and provide information, we can make that public.

MISS NUTTALL: That is great to know. If the findings of the gender diversity action plan are that you would get greater diversity of staffing with greater flexibility in permanent working hours, how would you remove that requirement for permanent staff to work mandatory Monday-to-Friday work weeks?

Ms Sturman: That would be a matter for the EBA and negotiations through the next EBA.

MISS NUTTALL: Would that factor into the investigations that we are having in the meantime?

Ms Sturman: Yes.

MISS NUTTALL: Thank you. That is all from me.

MS CLAY: Minister, the Belconnen Busway Feasibility Study work is looking promising. Can you confirm that you will deliver these improvements by 2027, as per the motion we passed in parliament?

Mr Steel: I will bring up representatives from TCCS that might be able to talk to that matter. The first stage of this is to update the feasibility study that was undertaken earlier on the busway opportunities along the corridor, to then determine what can be delivered and in what timeframe. The commitment has been given to undertake some work. We do not know the scope of that work at this particular point in time. We need to actually undertake that feasibility work first and work out the best improvements, what the staging could be as some of that work, what can be done earlier and what can be done later, and then, obviously, factor in a range of other active travel and future light rail opportunities as well.

Mr McHugh: As the minister has explained, before we know exactly what that work is and looks like, we cannot determine exactly how long it would take to deliver or present the government with the opportunity to fund and prioritise those works. The feasibility study that we will complete in the next 12 months will make a series of recommendations for the government to consider in the future about what priorities to deliver and how long they would take to build.

MS CLAY: Will any bus corridor improvements be completed by 2027?

Mr Steel: We will need to consider what those improvements are. But certainly it is our intention to have improvements made to the busway. That is the purpose of doing this updated feasibility study. But it is subject to future budget decision-making. Indeed, there is an election between now and when this feasibility will be finished as well. So I hope that all parties make a commitment to the Belconnen busway as an important project.

MS CLAY: I think all parties have, so it is looking positive on that project. So the feasibility study will be complete next year?

Mr McHugh: Within this financial year.

MS CLAY: So by June 2025 that feasibility study will be complete?

Mr McHugh: Correct.

MS CLAY: In what timeframe after that do you think we would have a clear understanding and the government would have all the information they would need?

Mr McHugh: To the stage that a feasibility study would develop it. It will test it physically to ensure that it can be achieved. It will test its benefits to then inform a prioritisation of what work should and should not be undertaken. It will provide a high-level cost estimate and a high-level delivery timeframe. A future government will decide which ones of those it will progress.

Mr Steel: There is also the broader precinct work that is happening in the AIS, with CIT Bruce, with the North Canberra Hospital precinct and the future Northside Hospital. So there is actually quite a bit of work, and we will need to look at the interface and the risks of undertaking multiple projects at the same time and so forth, which will need to be factored in in terms of sequencing.

MS CLAY: Yes. It is really great to take a holistic approach. That is excellent. So the feasibility comes back in June 2025 for whichever government is in. They probably would not then be looking at business cases and budget funding for construction until the 2026 budget—

Mr Steel: It depends on what it says and how much information can be provided at an earlier enough point. Once it is complete to the extent that it needs to be to inform a business case, I would imagine it would go forward into whatever relevant budget consideration process, whether that be budget or budget review.

MS CLAY: Thank you.

MR PARTON: Minister, on page 17 of budget statement I, the line item, “Better public transport infrastructure: delivering light rail stage 2A” has a total project cost that is some \$400 million less than the four-year investment. I am trying to get my head around why the total project cost \$261.7 million but the four-year investment is \$649 million. I am referring to page 17 of budget statement I and the line item, “Better public transport infrastructure: delivering light rail stage 2A” which has the total project cost at \$400 million less than what is stated as the four-year investment. Why is the total project cost \$261 million but the four-year investment is \$649 million? Can anyone explain that?

Mr Steel: I think that just reflects when the payments are due. I will hand over to MPC.

Ms Sturman: Can I get the page reference again, please?

MR PARTON: Page 17.

Ms Sturman: Yes, the minister is correct. It relates to when the payments are due.

Mr Doctor: That is right. That period takes into account payment at the end of the stage 2A delivery and starts to contemplate future operations and maintenance through the availability payments.

MR PARTON: My understanding is, according to my staff, that it has changed in the digital edition. The suggestion that has been made to me is that the figures are different now in the digital edition. Is there a problem here? Is there something that had to be corrected for some reason?

Mr Doctor: I am not aware of any corrections.

Mr Burton: I have read and understood the privilege statement. That is a discrepancy that was picked up in the printed version and it has been corrected in the digital version.

MR PARTON: Right.

Mr Burton: It has been addressed with Treasury.

MR PARTON: Okay. So the correct figure for light rail stage 2A is a total project cost of \$780.8 million—yes?

Mr Burton: Yes, that is the total value. The last payment in 2026-27 is the final payment for the project.

MR PARTON: These numbers have shifted a little over time. In December last year the ACT and federal government signed a fifty-fifty funding arrangement to the value of \$577 million to cover stage 2A of the tram. How have costs increased by 35 per cent in the space of seven months? How has that happened?

Mr Steel: No, we were very clear at the time that that referred to the delivery phase costs of the project. Again, you are trying to conflate some of the other elements around operations and maintenance, which are generally not considered within the delivery phase. I will hand over to Major Projects Canberra to provide more information.

Ms Geraghty: Yes, the final delivery cost is the \$575 million, and the additional costs relate to the other costs.

MR PARTON: There will not be any revised funding arrangement to cover the \$200 million shortfall; that is just—

Mr Steel: It is not a shortfall. This goes to the broader point. You are referring to changed arrangements with the commonwealth. The commonwealth do not fund operations. They do not fund rolling stock, either, by the way, so they would not fund any new electric buses, for example. They fund the infrastructure. We have set out those arrangements with the commonwealth, fifty-fifty arrangements, for the parts of the project that they can help to deliver.

MR PARTON: You said, at a December press conference, that the first passengers would ride the tram to Commonwealth Park in January 2028, but budget statements H reveals an expected completion date of June 2028. When will the first passengers ride the tram to Commonwealth Park, Minister?

Mr Steel: Again, this goes back to the issue of financial completion versus actual completion and operations. MPC can confirm that.

Ms Geraghty: Yes, that is correct, Minister. Completion will be in January 2028.

MR PARTON: January is when you expect passengers to get off at the stop at Commonwealth Park. Okay; thank you. Raising London Circuit is a project that, depending on which day we ask, is not connected to light rail stage 2A; sometimes it is. In table 9 on page 18 of budget statements I, the line item relating to the project, “better community infrastructure—raising London Circuit and associated works”, the total project cost is just over \$129 million. That is an increase of \$19 million when compared to the 2023-24 budget. Why has the cost of this project increased so dramatically in the last 12 months?

Mr Steel: Firstly, responding to your preamble, this project does deliver a range of benefits for the city, not just in terms of providing a platform for light rail to transition from London Circuit onto Commonwealth Avenue—the public transport benefit—but also in terms of the future land use around the southern part of the city, which is significant. Of course, it provides the opportunity to further realise the vision of connecting the city with the lake and the broader renewal of the Acton waterfront. I will hand over to MPC to answer the specific question in relation to the financials.

Ms Geraghty: Yes, the \$129 million relates to the total budget for the project. We have two contracts under that budget. One was for the utilities work, which has been completed, and the other is with Abergeldie, who are currently completing the works.

MR PARTON: The question was: why has it increased by \$19 million when compared

to the 2023-24 budget? Why is that?

Ms Geraghty: There have been a series of different issues on the project. The amount of asbestos finds on the project has been considerable, which has largely driven the cost pressures on the project.

MR PARTON: In the 2023-24 budget, the estimated completion for this project was December 2024, and now it is not slated for completion until June next year. Why is that, and how can the government so consistently fail to meet its own project targets?

Mr Steel: The government announced earlier in the year the updated time frames for stage 2A and, as part of that, also the 2B completion. The interface between the raising London Circuit project and the light rail stage 2A was factored into that, and indeed the contract signing for 2A factored in the relevant handover dates for that part of the stage 2A precinct.

MR PARTON: Is it asbestos primarily that has pushed back the delivery time?

Ms Geraghty: Canberra Metro will establish their site at the end of the year for the light rail stage 2A works. They will start to move into the raising London Circuit project early in the new year. We are targeting opening London Circuit around April, and the complete financial closure on the project will be June 2025.

MS CLAY: Minister, the current contract for bus advertising concluded in June 2023 with Go Transit. Who is operating the contract for advertising on buses at the moment?

Mr McHugh: Go Transit are continuing to manage that contract on a month-by-month basis whilst we prepare to go to market for a new, longer term contract.

MS CLAY: It has not been extended; they are just going from month-to-month until you have procured?

Mr McHugh: Yes, that is my understanding.

MS CLAY: Where is the procurement up to?

Mr McHugh: I would have to take that question on notice. I am not sure exactly what stage the procurement is up to.

MS CLAY: It would be great if you could take that on notice. Is the contract that they are operating under exactly the same as the current contract?

Mr McHugh: Correct.

MS CLAY: That is on the contracts register?

Mr McHugh: The original contract would be, but I will confirm.

MS CLAY: If somebody looks at it, they will be a bit confused, because they will see that it has expired, but that is in actual fact the current contract?

Mr McHugh: A continuation.

THE CHAIR: You can confirm that you will take that question on notice?

Mr McHugh: I can confirm I will take that question on notice, Ms Lawder.

MS CLAY: Minister, I want to check the language on targets, because we got a little bit confused last time. You said in a previous answer that there are no interim targets within the zero-emission transition plan, but, in our last three budgets, each of them stated a target for how many electric buses would be on the road in a given year, and those budgets used the word “target”. Can I confirm: are the budget targets “targets”?

Mr Steel: Yes. They are reporting against a different target, though—overall target, which is associated with the greenhouse gas reduction target and the climate strategy. It is a different set of targets, yes.

MS CLAY: But they are—

Mr Steel: They are certainly targets, and they have been put in there. Ultimately, the main target that we have set is the transition by 2040 or earlier, and we are providing an update on that soon.

MS CLAY: We have not met the budget targets. I will use the words “budget targets” unless that is a red flag term for anyone. We did not meet the budget targets in the previous years, and we started using words like “forecasting”. Is there any of the evidence you gave earlier—

Mr Steel: That is part of the broader fleet transition across whole of ACT government, yes. That has not been met yet for Transport.

MS CLAY: Yes, and we did not meet them.

Mr Steel: That is correct. There is some work that we are doing at the moment to refresh the plan and look at what we can do against the other target to transition the fleet over the coming years to 2040, based on what has been delivered to date.

MR PARTON: The others were non-core targets, essentially.

Mr Steel: They are different. There is an overall ACT government net greenhouse target, net zero by 2045, and there is the Transport Canberra target of 2040 or earlier for the whole Transport Canberra fleet. It depends on which one you are referring to.

MR PARTON: Pick a target, any target.

Mr Steel: Either way, we are committed to transition to a zero-emissions transport fleet, but there will be different interim targets that are set for each of those. We do not have any interim targets at this stage for the Transport Canberra zero-emissions transport plan. What is in there really reflects the broader transition across whole of ACT government.

MS CLAY: I hear that, but when we fail to meet a target for three years running, and we have intentionally written down and set the target each year and we do not meet it each year, doesn't that mean that we are not delivering our operations in a way to meet that target?

Mr Steel: No, it reflects the contractual circumstances of the procurements that have been undertaken.

MS CLAY: How does it reflect the contractual circumstances of the procurements that have been undertaken?

Mr Steel: The delivery dates in the contracts, I would imagine. If there is further advice from Transport Canberra—

MS CLAY: A target is usually a timing commitment, though, Minister, so if you say it reflects the contractual delivery dates, the target is to do something by a certain date.

Mr Steel: Yes. I do not disagree with that. I am not sure what point you are trying to make.

Mr McHugh: Chair, I can confirm, on Ms Clay's previous question around the procurement of the advertising contract, it has been completed. The decision is with the delegate before the contracts are being signed, so that new contract should be signed imminently and it will be published.

MS CLAY: Excellent. That will be on the contracts register in a month or so?

Mr McHugh: Yes, within a month of the contract being signed; hopefully, very soon.

MR PARTON: I want to touch briefly on the ageing natural gas buses, the Scania L94UB buses. I understand that the gas buses all have a finite end-of-service date, and it is governed by the certification of the tanks. I understand that they are suffering reliability issues as they get older. What is the failure rate of that Scania L94UB fleet?

Mr Steel: We can take that question on notice and see whether we can provide some information.

MR PARTON: Additionally, there is the failure rate of the MAN A69 CNG fleet. How many natural gas buses have been retired from the Transport Canberra fleet since July last year, and how many are scheduled to be retired this financial year?

Mr McHugh: We can share all of that detail.

Mr Steel: It was obviously factored into the transition plan for Transport Canberra. As we acquire more electric buses, they will replace the ageing fleet—the diesel buses that are ageing, as well as the CNG fleet. That was always factored into the transition fleet renewal.

MR PARTON: It was factored in, but you have not kept up with it, have you? Maybe

it was factored in as a non-core—

Mr Steel: No, it has been factored into the transition plan, and it is the reason why we have undertaken the level of procurement that we have. It was always anticipated that those would come to a hard end-of-life date, and that was factored into fleet renewal.

MR PARTON: Have some of them come to that end of life earlier than was expected?

Mr McHugh: Specifically, the gas buses?

MR PARTON: Yes.

Mr McHugh: No, not at this stage. We have two large batches of gas buses. The majority of the first batch has almost been replaced and retired, and the second batch tend to meet their end of life in 2026 or thereabouts. Our procurement of 106 electric buses within that time frame will replace each of those natural gas buses.

THE CHAIR: Can I ask about the coming, new MyWay seniors card to be issued by COTA? A number of constituents have contacted me, saying they were unsure about the transition to MyWay and that both COTA and Transport Canberra were unable to assist in their inquiries because they did not really know, either. Can you explain what will happen to the combined MyWay and seniors card when we transition to MyWay—

Mr Steel: We are still in the process of developing the new MyWay+ system. As part of the design and development, we have been working with NEC and other stakeholders to inform the final design and delivery of the new ticketing system, including how concessions will operate. This is a brand-new card. The old MyWay cards will not be able to be used on the MyWay+ system.

I will hand over to Transport Canberra to talk a little bit about those discussions and where we are at. Also, around the timing, we will be making further announcements for the community to understand how to use the new ticketing system and all of the information that they need to apply for concessions and those sorts of things. We are not quite up to that point in time; the discussions around design have been internal at this point. We will be providing some further information to the community so that they know exactly what to do when the new ticketing system comes online in November.

Mr McHugh: We have been doing a lot of work with COTA to understand what the preferences of our users would be, and they vary. Some people like the traditional “have a card in my wallet so I can tap on and off”, and we will be providing a replacement card for seniors, concession cardholders, free of charge. That card will be made available. There are a number of ways that they will be able to access those, either through Transport Canberra or through our providers out in the community that will be providing those cards. At the moment the card is combined with the seniors card, and the replacement card will not provide that function. It will be a separate card.

Mr Steel: They can still use their seniors card for the various purposes that it has, including to purchase a new transit card, which is a concession-based transit card, to be able to use on MyWay+.

THE CHAIR: There will be two separate cards going forward. Will any credit on their existing account be transferred to the new account?

Mr McHugh: Absolutely.

Mr Steel: Yes. There is a process that is being put in place, and we are already asking the community, in the messaging that we have provided thus far, to start registering their old MyWay cards so that when the time comes we can support the balance transfer to the new MyWay+ system.

Mr McHugh: The benefit of the concession cardholders is that they generally are registered, obviously, to achieve the concession. This will be a demonstration of that. Any existing credit will be transferred across.

THE CHAIR: We might call it quits there. On behalf of the committee, I thank all of our witnesses for your attendance today. If you have taken questions on notice, please provide your answers to the committee secretary no later than 5 pm on Thursday, 8 August. The committee will now suspend the proceedings for lunch.

Hearing suspended from 12.13 pm to 1.01 pm

Appearances:

ACT Ombudsman

Anderson, Mr Iain, ACT Ombudsman, Inspector of ACT Integrity Commission, and
Principal Officer to the Judicial Council
Ramsay, Ms Georgia, Acting Senior Assistant Ombudsman
O’Connell, Ms Erin, Director, ACT Reportable Conduct and FOI Team

THE CHAIR: We welcome Mr Iain Anderson, ACT Ombudsman, who is also the Inspector of the Integrity Commission and Principal Officer to the Judicial Council. We also welcome the officials in attendance. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered a contempt of the Assembly. Could you please confirm that you understand the implications of the privilege statement and that you agree to comply with it?

Ms Ramsay: I have read the statement and agree to comply.

Mr Anderson: I have read the privilege statement and I have no questions about it.

Ms O’Connell: I have read and will comply with the privilege statement.

THE CHAIR: If you take a question on notice, please say, “I will take that question on notice.” We will proceed to questions. I will start with a question about FOIs that have been put in. I have a question about the Ombudsman’s role in reviewing FOI decisions. Looking through your website, there have been 13 decisions that you reviewed in 2024, and around 28 in 2023. Does that sound correct?

Mr Anderson: That sounds roughly correct.

THE CHAIR: I understand you have overturned a number of decisions, this Assembly, from some of my colleagues. I refer specifically to Ms Castley’s FOI about the Digital Solutions Division in Health, where the directorate redacted all of the negative comments and left the positive responses. This is one example where you found that the directorate’s reasons for non-disclosure did not outweigh factors favouring disclosure. Have you seen any general trends in this for FOI decisions?

Mr Anderson: We have been either fully setting aside or varying a number of decisions through the review process. It is not uncommon to see applications where directorates have perhaps not engaged as fully as they need to with the balancing process. Sometimes agencies focus perhaps more strongly on the reasons why it is not in the public interest to disclose, and they do not focus as much as they could on the reasons why it is in the public interest to disclose. To do that balancing exercise properly, you need to give full attention to both sets of reasons. No, I do not think we have seen anything of particular concern; it is really just across a range of directorates. We certainly will tell them if we think that they have got it wrong or we will vary the decision if we think that it could be improved.

MR CAIN: Are you concerned, for example, in the case of Ms Castley's FOI, that the directorate seemed more interested in protecting government and government ministers from embarrassment rather than being pro disclosure?

Mr Anderson: I have not formed the view that that is underlying the decisions by directorates. With Ms Castley's particular application, with the survey material, there was certainly material in there that I agreed should not be disclosed because it could in fact disclose information that was collected in confidence, and that could lead to people being identified.

It is certainly desirable that employees of the Health Directorate are free to fully voice any concerns they have about staffing practices and things like that. I certainly agreed with the directorate that there was sensitive, confidential material that should remain confidential, but at the same time I thought they could nonetheless disclose a much greater volume of material than they did disclose. But I did not, at any point, think that they were motivated by protecting a minister or avoiding embarrassment to a minister.

MR CAIN: Obscuring negative responses to surveys: how would that be covered as an FOI exemption?

Mr Anderson: They were putting a lot of weight on the fact that they had collected the material in confidence and they were erring on the side of not disclosing anything that could potentially identify people. I thought that, with a lot of the material, you could in fact treat it at a higher level. If there were particular statements by an individual that would identify them or identify the person that they were talking about, that could still be maintained as confidential. But if it was higher level material about X number of people having a view as to why, I thought that could certainly be disclosed.

MR CAIN: Even though that logic did not apply to the positive responses that the government had received.

Mr Anderson: As always, when we change or vary a decision, we point out to both the applicant and the directorate where we think the decision should have been heading in the first place. We generally feel that they learn from that. I have met with directors-general of all the directorates; I raised with them FOI as one topic and encouraged them particularly to get into that balancing exercise more and put more emphasis on identifying the reasons why it is in the public interest to disclose.

MR CAIN: As an approximation, how much of the material, on appeal, that had not been disclosed did you decide should be disclosed? Was it about half, three-quarters or whatever?

Mr Anderson: We are talking about a survey that was at least 50 pages. Obviously, there was a lot of material that had been redacted in the initial decision. It is difficult to give a figure for how much more I proposed should be released.

MR CAIN: Just roughly?

Mr Anderson: I would have thought perhaps 30 per cent more.

MR CAIN: You allowed 30 per cent more information to be—

Mr Anderson: To be disclosed, yes.

MR CAIN: In your view, that should have been disclosed in the first place?

Mr Anderson: Yes.

MR CAIN: Do you think this is happening in other directorates and other FOI applications?

Mr Anderson: I can only speak about the ones that we see. There are some categories where it is more prevalent. There were some review matters early on in my term where it involved cabinet-in-confidence material. Again, agencies there were putting too much weight on the fact that it was cabinet material and not focusing on the fact that purely factual material can still be disclosed, even if it is cabinet material. There were some where I did say that a lot more material could be released in that category.

MR CAIN: Is it of concern to you that, in this case, Ms Castley—who is, obviously, an informed and aware member of the community, if I can put it that way—knew she could launch that appeal with the prospect of success? Does it concern you that those who put in FOI applications, given heavily redacted material, might just think that is the end of the story? Does that concern you that they may not, I guess, feel it is worth the effort to contest that FOI decision?

Mr Anderson: There is always going to be a question as to whether people are sufficiently aware of their rights. But I believe that directorates do a good job in telling people what their rights are at each stage. I think we have seen very significant growth in the amount of material released by directorates outside the FOI process as well. My sense is that there is a lot more government material being disclosed proactively by agencies. I think you need to bear that in mind as well when you think about the absolute numbers of FOI applications and FOI review applications.

MR CAIN: But, as you mentioned earlier, it is a pro-disclosure scheme. So, in a way, when they are doing it, they are just doing their job. It is not something commendable, I suppose; it is just doing their job.

Mr Anderson: Yes, but the point is that they are doing it.

MR CAIN: Well, sometimes.

Mr Anderson: It is not always the case that agencies and directorates will willingly comply with the legislation. The fact is that we have seen this steady increase in the volume of material being disclosed, and that is a really positive thing.

MR CAIN: Do you feel there is a role for your office to remind agencies and encourage agencies to be serious about their pro-disclosure obligations?

Mr Anderson: It is absolutely a role. We have an FOI forum, where the FOI staff from all the different directorates come together. We meet with them, we share with them

our views, drawing on particular applications that we have seen, and review decisions we have made. We have good attendance at those forums. So, yes, we do embrace that.

MR CAIN: Thank you.

MISS NUTTALL: I understand the Integrity Commission has now been in operation for a few years. Are you seeing their systems, policies and practices mature, or are we still encountering new and emerging lessons? Is it a bit of both?

Mr Anderson: I think it is fair to say it is a bit of both. For example, with the commission moving to its first public examinations with the inquiry into Campbell Primary School—although that was three years or so into the Integrity Commission’s operation—as a heavy-handed public examination at that point, they had not turned their mind, as far as I could tell, to the question of the wellbeing of witnesses. So I made some suggestions to them that they embraced and they then developed a policy on wellbeing for witnesses—because being a witness in the public examination can be quite traumatic for people. That was something that they just had not had to turn their mind to. There may be other issues they have not needed to turn their mind to yet, because there might be something that they have not engaged in within their operations.

Broadly, I think that they are continuing to mature and the number of investigations continues to grow. We have seen recently that they are continuing to finalise investigations at a good pace as well, in terms of closing down matters. So, broadly, I think it is fair to say that they are continuing to mature with their practices and processes.

MISS NUTTALL: Sorry if this seems like a very basic question, but, within your role, if you observe something, are you able to offer advice before, say, the lesson is learnt? In the same way as the wellbeing of witnesses, would you be able to identify something as a risk rather than when it comes into play? Is that something you can do?

Mr Anderson: Yes, we certainly have the opportunity to raise our concerns whenever we formalise concerns. We get the regular operational reporting from the commission to us. That can help us identify particular things. With the example of the witness wellbeing, we raised that proactively with the commission when we saw that they were moving to do public examinations. That was an opportunity to raise it before the issue had, in fact, eventuated.

MISS NUTTALL: Perfect. Do you find that the commission has been fairly receptive in those cases?

Mr Anderson: I think so. They are very focused on doing the things that they are planning on doing, of course. We have clear lines so we can raise things at a range of different levels as we need to.

MISS NUTTALL: Thank you.

MR CAIN: In November last year you published a special report into the Integrity Commission’s dismissal of referrals titled, *Dismissal of corruption reports by the ACT Integrity Commission*.

Mr Anderson: Yes.

MR CAIN: The commission agreed to all of your recommendations. Are you satisfied with the implementation of those recommendations?

Mr Anderson: I think we are still following up the full implementation. We have a process where we normally follow up around six months later to see whether everything has been fully implemented. I am not sure if I can actually say much at this stage about where they are at.

Ms Ramsay: We have requested information so that we can make an assessment of their implementation, but we are yet to form a view on how the implementation is proceeding. We expect to be able to do to report in the next operational review.

MR CAIN: The commissioner dismissed almost 80 per cent of corruption referrals for 2022-23. Are you satisfied with the number of investigations proportionate to referrals?

Mr Anderson: Certainly that was a case where we looked at a number of different matters, and we were broadly satisfied with the processes that the commission were following. It was really about making sure that they gave appropriate reasons as well. This is not an issue that is isolated to the commission; it is a common issue for integrity commission type bodies. If you do not give reasons when you dismiss a complaint of corruption, then people tend to still be concerned about the thing. Whereas, if you give them sufficient reasons, they can understand that that might help them consider whether to make a future referral or complaint of corruption. If you just do not give them the reasons then they will still think that there was corruption and it will lead to other issues. We certainly encourage the commission to spend some time thinking about what the reasons are and making sure it puts those reasons forward. Our view is that they are engaging with that.

It is not surprising that most of the complaints of corruption are getting dismissed. Again, my understanding is that that is reasonably common. It would be surprising if every complaint of corruption was, in fact, upheld. That would be unusual. I can say, as Ombudsman, for example, that roughly, that 20 per cent to 80 per cent portion, is about the same as we have in terms of complaints of maladministration as opposed to corruption.

MR CAIN: If the commissioner does dismiss a referral or complaint, is the complainant advised? What would be the steps to take if the complainant wants to take it further and does not accept the dismissal?

Mr Anderson: One step is that they complain to us.

MR CAIN: How many have you had?

Mr Anderson: The absolute numbers are not high. We had 21 complaints about the Integrity Commission in the last financial year. So it is not a high volume of complaints. The most complained about issue is dismissal of a corruption complaint.

MR CAIN: Were most of those 21 about complaints being dismissed?

Mr Anderson: Yes, the highest proportion were about the dismissal of someone's report of alleged corruption.

MR CAIN: The report was commissioned through exercise 275 of the Integrity Commissioner Act 2018. Have you exercised this power? Do you plan to do so again?

Mr Anderson: We currently have a matter underway at the moment that we are looking at with the Integrity Commission. We are going through procedural fairness at the moment. Because it may or may not lead anywhere, depending on what comes out of the procedural fairness, I would rather not go into the details of that particular matter. It is an own-initiative investigation and so it may lead to a special report.

MR CAIN: Have you formed a view on the ACT's scheduled reports being stalled by legal proceedings, as in the example of the Director-General of the Education Directorate, Ms Katy Haire, delaying the report into the Campbell Primary School proceedings?

Mr Anderson: I have not formed a view on that; I am particularly monitoring that with interest.

MR CAIN: Do you believe bringing civil action against the Integrity Commissioner sets a precedent for this sort of behaviour from public servants?

MS ORR: Chair, as a point order, is that seeking an opinion?

THE CHAIR: It is, but Mr Anderson is not a member of the Legislative Assembly. Please feel free to decline to answer if you feel it is seeking an opinion rather than facts.

Mr Anderson: Going back to the question, Mr Cain, it was whether this is—

MR CAIN: Do you believe bringing civil action against the Integrity Commissioner would set a precedent for what could be unacceptable behaviour by public servants to stall a report being issued?

Mr Anderson: I think it would be premature to express a view on that. The question is what the Supreme Court is going to do with the application. If the Supreme Court, for example—I am hypothesising here—says, "I am dismissing the application; this application was not well founded," that will actually send a message to people as well.

MR CAIN: Do you have a position on the legal expenses of ACT public servants being funded by ACT taxpayers?

Mr Anderson: No, I do not. That is really a matter for the ACT government in terms of their policies.

MR CAIN: Okay. Thank you.

MS ORR: Mr Anderson, you mentioned that reasons for complaints that you have

received, and dismissal of a claim was the highest one. What were some of the other reasons?

Mr Anderson: Concerns about the decision to dismiss a corruption report are the highest. There are also: concerns about the commission's decision to dismiss a disclosure under the Public Interest Disclosure Act about the same conduct; disagreement with the issuing of confidentiality notices under the Integrity Commission Act; the exercise of the commission's other functions; internal operations of the commission; and the commissions functions under the Public Interest Disclosure Act. Those are the other categories that we have seen.

MS ORR: What would "internal operations" go to?

Mr Anderson: That could be how the commission is administering itself.

MS ORR: Thank you.

MR CAIN: I have a question regarding FOI matters again. I am familiar with the recent FOI matter that involved Ms Leigh that saw significant delays past the deadline. Have you received this FOI request yet, per the agency's obligation under the act, given that it was not answered in time?

Mr Anderson: I am not sure which one that actually is.

Ms O'Connell: Have they asked for a review or is this the processing by the—

MR CAIN: It was a delay in responding. It is about where there is a delay in responding to an FOI. Can you confirm what the process is if there is an unreasonable or unsatisfactory delay in responding to an FOI?

Ms O'Connell: Agencies can request an extension of time. They have timeframes within the legislation and then, if they want, they can ask the applicant for an extension of that time. If the applicant does not agree or it goes past the legislative timeframe, they can approach the Ombudsman's office for a further extension of time. If the application is not made in time and a request for an extension—

MR CAIN: Sorry; who approaches the Ombudsman requesting a further extension of time?

Ms O'Connell: The agency can. If they do not approach either the applicant or us for an extension of time, that becomes a "deemed" application—so it is deemed that a decision has been made. In our experience, most directorates continue to process the application even though it is deemed. However, that gets reported to our office as well.

MR CAIN: Is it standard practice that directorates or agencies will request a 15-day extension without citing a reason, or do they usually provide reasons for that?

Ms O'Connell: Is that from the applicant or from ourselves?

MR CAIN: From the directorates requesting an extension.

Ms O’Connell: From our office?

MR CAIN: Yes.

Ms O’Connell: I will tell you how many extension time requests that we had in 2023-24. We have had 20 extension of time requests.

MR CAIN: Thank you.

Mr Anderson: We do like it if we get reasons, obviously.

MR CAIN: If you do not get provided reasons, do you request reasons?

Mr Anderson: We tend to engage with the directorates to seek reasons, yes.

MR CAIN: Do you get those in writing?

Ms O’Connell: Yes. That is part of the application.

MR CAIN: Is it standard practice for directorates or agencies to ignore calls from applicants when they reject the extension request?

Mr Anderson: We only know about the matters that we see. So I cannot really say whether it is standard practice or not for agencies to engage in that way.

MR CAIN: What is your role when there is a failure to meet the statutory timeframe or an extended timeframe?

Mr Anderson: Again, it depends on whether the matter is actually formally brought to our attention or not in terms of the extension of time process or seeking a review of a deemed decision, for example. I have had discussions with the Director-General of Community Services, for example, because they are a directorate that deals with very large requests, with very high volumes of documents, and they take a long time processing them. I have had discussions with the director-general and the acting director-general about their practices and how they are dealing with those matters and whether they can communicate more with applicants during that process.

In my observation, it is not unusual for applicants to be happy that a matter can take a while, providing that they get releases of tranches of documents during that process and providing that they actually understand why the delay is necessary—because, ultimately, when you put in an FOI application, you do want to receive the documents.

MR CAIN: Do you have a view on the appropriateness of information officers who sign off on the disclosed FOIs also being the person who has the direct oversight of such requests? Is that not a conflict of interest?

Ms O’Connell: Can you say that again?

MR CAIN: Do you have a view on the appropriateness of information officers who

sign off on the disclosed FOIs also being the person who has direct oversight of requests? Is that not a conflict of interest?

Ms O'Connell: I cannot see that that would be a conflict of interest. I think if they were the subject of the FOI, that would be a conflict of interest.

MR CAIN: Did you find very often that it was the case that there was a clear conflict?

Mr Anderson: That would be very rare. I am not sure if I have ever seen that—someone actually signing off and making an FOI decision about something that involves them.

Ms O'Connell: I have never seen that. Mr Cain, I would just add that we also take complaints as well. We can take complaints about the handling of freedom of information processes. We have seen complaints where delays have been raised, and those complaints usually cover the scope and potentially delays as well.

MR CAIN: Okay. I have a question about retirement villages and a rental ombudsman. There seems to be a growing appetite for an ombudsman for retirement villages and rental properties. It has been the topic of past estimates and annual report hearings. Are you aware of the progress of this issue or this proposal?

Mr Anderson: No, I am not aware of where that proposal has got to.

MR CAIN: Okay. Are you are not involved in any discussions or conversations about that?

Mr Anderson: I do not believe so.

MR CAIN: Okay. Are you aware of other ombudsmen around the country who are dealing with the same type of proposal?

Mr Anderson: I am aware that the same issues have arisen in New South Wales, for example. I think there that there is consideration been given to creating a rental ombudsman, but not to giving it as a role to the New South Wales Ombudsman, is my understanding.

MR CAIN: Are you aware of whether that seems to be working to their satisfaction—as much as your experience of cross-ombudsman conversations go? Are there any issues that may inform any potential ACT move in that area?

Mr Anderson: No; I have not had any discussions about whether it is a good idea or a bad idea. It is really just monitoring.

MR CAIN: Okay. Thank you.

MISS NUTTALL: This is very, very broad: within your role, what do you see as the biggest areas of concerns and challenges for the ACT government as a whole?

Mr Anderson: That is a very broad question.

Mr Anderson: We have published, both as Commonwealth Ombudsman and as ACT Ombudsman, some quite general reports over the last two years and two particular reports—one of which we called “Room for improvement” and one of which we called “How do you tell people they owe a government money?” Those are attempts to say: here are the common themes across the public service that all agencies should be thinking about more. That is things like comply with the law; keep proper records of your decisions; communicate more clearly with people; apologise when you have actually done something wrong and had a detrimental impact on people; and train your staff well. It is surprising, in one sense, that I felt it was necessary to put these things out. But I do think that these are common theme that all agencies should be thinking about more.

Similarly, when we did our report on ACT Housing and how they were administering the program by improving the public housing program but by evicting people effectively—mandatorily requiring them to move—we said, “You need to, in fact, be much more people-centric in how you are running your programs.” I think it is easy for agencies to be so focused on delivery that they sometimes lose sight of the fact that its individual community members who are affected by decisions. So I would always say, for the ACT government as well as any government, to make sure your agencies are operating in a people-centric way, that they are communicating in clear simple language, that they are being accountable—so being willing to apologise when they get things wrong—and that they keep better records of decisions.

MISS NUTTALL: Thank you.

MR CAIN: I understand that your office plays a leading role in administering the commonwealth’s responsibility for the National Preventive Mechanism, as one of the participating entities as a monitoring body of the OPCAT.

Mr Anderson: Yes.

MR CAIN: Were you involved in the drafting of the Monitoring of Places of Detention Legislation Amendment Bill 2024?

Mr Anderson: Our office was consulted.

MR CAIN: Would you say that your submission’s recommendations were adopted in the bill, or were there areas that you felt could have been added—or even not added?

Mr Anderson: We are very satisfied and happy that the legislation has been enacted. We think it is a step forward to have clearly legislated the role of NPMs and the powers of NPMs, so we think that is a good step forward.

MR CAIN: How do you compare the ACT’s NPM scheme to those of other jurisdictions? Are there lessons to be learnt from elsewhere?

Mr Anderson: The ACT is to be commended for having legislated. It is to be commended for having set up the three-member NPM that has been set up, with the ACT Human Rights Commission, the Office of the Inspector of Correctional Services

and ourselves.

Resourcing is always something that jurisdictions should turn their minds to, to a greater extent. Neither the Office of the Inspector of Correctional Services nor the Human Rights Commission have received any additional resourcing for their roles as NPMs. My office has received some additional resourcing, which is welcome, but it is not very much. Resourcing is something that all jurisdictions should turn their minds to.

When I look at New South Wales, Victoria and Queensland, which have yet to even appoint a national preventive mechanism, I think that the ACT is certainly far in advance of those jurisdictions.

MR CAIN: Have you identified any vulnerabilities in terms of national sovereignty in the administration of the scheme?

Mr Anderson: No.

MR CAIN: Do you consult with federal defence or intelligence agencies on how to support foreign entities entering Australia to investigate internal affairs?

Mr Anderson: Just to be clear, you are asking about, for example, United Nations subcommittees?

MR CAIN: I am happy for it to be broad; however you feel that you can answer, whether it is particular or general.

Mr Anderson: There was a United Nations subcommittee that came to Australia to visit various places of detention and see how well Australia was complying with the convention against torture and the optional protocol to the convention against torture. I am not sure whether there is a form of vetting process for members of United Nations subcommittees coming to Australia. I am certainly not aware of any other types of bodies that might come to visit places of detention in Australia. I certainly do not see that there is a sovereignty issue, or indeed a significant national security risk, in relation to places of detention being inspected by United Nations bodies.

MR CAIN: Regarding your funding model, the appropriation that your office receives from the ACT government seems to be unique. Unlike other government entities and offices with funding certainty into outer years, the ACT Ombudsman appropriation is limited to the year ahead, it would seem. On page 29 of budget statements B, your appropriation is \$4.7 million, as outlined in output 7. Is that an adequate amount for your operations?

Mr Anderson: I have regular discussions with Ms Kathy Leigh, the Head of Service for the ACT public service. We talk about our operating needs. We also, of course, engage through the Speaker with the budgetary process. I am not sure anyone would ever say that they have as much money as they could use, but I think that the ACT government has been responsive to our concerns from time to time. When we have asked for additional funding, we have been able to receive some additional funding—not a lot, but it all assists. For the work that we do, yes, I think that we are well resourced.

MR CAIN: Would you prefer to move to a funding model where you have a forecasted budget into outer years, or are you content with the current piecemeal approach?

Mr Anderson: I would not describe it as piecemeal. I will not adopt your language. I think that, in one sense, having certainty for the forward estimates, for four years or so, is a nice model. That is the model that we operate with as the Commonwealth Ombudsman. I have never had a concern that the ACT government was going to suddenly change our funding envelope dramatically.

We have had times in the past when we had a significant reduction because we did not get our on-costs paid in one particular year. We raised that with the ACT, and they rectified that the following year. We were able to cope with that for a single year, but we would not have been able to cope with that on a multiyear basis.

MR CAIN: Do you anticipate utilising your talent pool to take on any contractors or search teams to fill any labour limitations?

Mr Anderson: If we needed to, we can do that. The commonwealth has been moving generally to scale down the use of contractors and labour hire. Across my office we are decreasing the use of contractors and labour hire in preference of ongoing and non-ongoing employees. If we are ever in a situation where we need staff to do something and we cannot recruit those staff in other ways, I would turn to contractors and labour hire. The important thing is not to cease delivering our functions.

MR CAIN: Forgive me if I have not spotted it in budget statements B, but did you exceed your allocation in 2023-24?

Mr Anderson: I do not believe we did, no.

MR CAIN: What is your submission for 2024-25 in terms of funding going forward—a similar or same amount?

Mr Anderson: Unless something unexpected happens, same or similar, yes.

THE CHAIR: I would like to thank all of our witnesses for their attendance today. If you have taken any questions on notice, please provide your answers to the committee secretary no later than 5 pm on Thursday, 8 August. The committee will now suspend the proceedings for afternoon tea.

Hearing suspended from 1.36 to 2.15 pm.

Appearances:

Burch, Ms Joy MLA, Speaker of the Legislative Assembly for the ACT

Office of the Legislative Assembly

Duncan, Mr Tom, Clerk

Finlay, Mr Hamish, Deputy Clerk and Serjeant-at-Arms

Skinner, Mr David, Senior Director, Office of the Clerk,

Turner, Ms Rachel, Executive Manager, Business Support Branch

Shashika, Mr Don, Chief Finance Officer, Business Support Branch

Kinsella, Mr Grant, Manager, Security and Building Services

THE CHAIR: Welcome back to the public hearings for the committee's inquiry into Appropriation Bill 2024-2025 and the Appropriation (Office of the Legislative Assembly) Bill 2024-2025. The proceedings today will be recorded and transcribed by Hansard and will be published. The proceedings are also being broadcast and webstreamed live. When taking a question on notice, it would be useful if witnesses use the words, "I will take that question on notice." This will help the committee and witnesses to confirm questions taken on notice from the transcript.

We welcome Ms Joy Burch, the Speaker of the Legislative Assembly, and officials. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered a contempt of the Assembly. Could you confirm that you understand the implications of the privilege statement and agree to comply with it?

Mr Shashika: I have read and acknowledge the privilege statement.

Ms Turner: I have read and understand the privilege statement.

Mr Skinner: I have read and agree to abide by the privilege statement.

Mr Duncan: I have read and agree to abide by the privilege statement.

Mr Finlay: I have read and understand the privilege statement.

THE CHAIR: We will proceed directly to questions. Mr Cain?

MR CAIN: Has OLA drawn any learnings from the matter that saw the resignation of former member for Brindabella Mr Davis?

Ms Burch: I think it was an opportunity to reflect on our existing policies. I would note that it was recognised that we have a good suite of policies in place. Some of those policies were not activated or used to the best of ability by some in the building. We have taken the opportunity to reflect on and, indeed, strengthen our existing processes—to the extent that our child safety and our respect at workplace policies are now signed by the leaders of all political parties, the Clerk and me. I think that they are as strong a set of policies as you would find in any parliament. That positions us well above others, I would suggest.

MR CAIN: Madam Speaker, you mentioned that some of the policies were not activated. Are you referring to OLA staffers, ministerial officers or Assembly MLA officers?

Ms Burch: It was not the OLA staff. The OLA staff activated as they needed to activate.

MR CAIN: Are you able to identify which particular MLA or minister's office you felt could have followed protocol and procedures more accurately?

Ms Burch: We got Lynelle Briggs in to do a review of that process and in that report she commented that we had a sound suite of policies. Some of them were not activated in a timely manner, but that is now history. There is an old saying, "The pen having writ, moves on," and that is what we have done.

MR CAIN: You are happy that the matter has been brought to an adequate conclusion and that the report has ironed out any kinks in any office in this place managing a complaint-handling process?

Ms Burch: I believe so. I think we have it there, and it is really up to individual MLAs, officers or anyone within this building to take advantage of the clear direction and instructions that they have before them.

MR CAIN: Have you received any recent representations regarding MLAs or ministers breaching the members' code of conduct?

Ms Burch: No.

MS ORR: Madam Speaker, would you be the person to receive breaches of the code of conduct? Where would that go to?

Ms Burch: The policy outlines, almost, a decision-making tree. Some would go to the ethics adviser. Some would go to the Commissioner for Standards. Some of them would come to us. If you want to know the detail, I am quite happy to go to Mr Skinner or Ms Turner, who have worked through that quite extensively.

MS ORR: Yes, sure.

Mr Skinner: The way the complaints procedure under the policy currently operates is that the Speaker receives complaints that are pursuant to that policy. It also recognises that there are a whole range of different things that people can complain about, pursuant to other matters.

We know that there are provisions under the Criminal Code, and the policy recognises that those matters need to be referred to the police. As all members would be aware, there is a continuing resolution that establishes a code of conduct for members. That jurisdiction belongs to the commissioner and the Clerk is responsible for receiving those sorts of complaints.

It is true that sometimes the allegation about a matter of conduct or alleged misconduct

could engage several different frameworks and that some discussions need to perhaps happen about how and when the hierarchy of that investigative process would take place.

Much of that is outlined in the policy. In addition there is a framework, which was a recommendation of Lynelle Briggs, that sets out all of the different ways that people can complain, to whom, contact details, along with a range of support services. That is all available on the intranet. It was emailed, I believe, to all staff members and members in the precinct. Everyone should have a fairly good awareness of what their options are if they have a particular matter that they wish to complain about.

MS ORR: If in doubt, see the Clerk?

Mr Skinner: Indeed. The principle really should be, too, that if you happen to walk through the wrong door in making a particular complaint, you will be directed to the right one. It is not a matter of, "Sorry, we can't help." It is a matter of, "Well, the complaint that you're making is maybe best addressed through that mechanism." It may be the wrong door, but you will still end up in the right place.

Ms Burch: There was the work from Lynelle Briggs; there was also a consultative process with the Commissioner for Standards and the Ethics Adviser, and we worked through admin and procedure as well.

There was an outstanding reference or recommendation, and that was to deal with the internal Greens education and information process. It is not a matter for the Speaker, but I will say that, where we could effect change that was under our purview, so to speak, we have completed it.

MS ORR: Madam Speaker, can you run us through what OLA has done, and intends to continue to do, to constantly improve policies, processes and guidelines for how we are a good workplace for the people who work here?

Ms Burch: One is the fact that we have just recently refreshed a quite comprehensive set. Also, OLA have taken it on, with the induction and onboarding. I note that we are less than 100 days out of a whole new set of people potentially sitting here. Certainly, I will not be sitting here. They have certainly taken that on board and are already planning how to make MLAs, new or not so new, aware of their obligations. Many MLAs will come in without that business management experience, and it behoves OLA to make sure that they are pointed in the right direction. I am quite happy to ask Ms Turner or Mr Skinner to add to that.

Mr Skinner: One of the key things around workplace management type issues that we need to attend to in a new Assembly, of course, is the new members. The induction seminar series is an important way of conveying a lot of that sort of material. We are conscious that many people that are elected as new members have not had the opportunity to be a boss, to have PCBU responsibilities, manage workplace conduct issues, performance management issues and so on. That will be, and has been in the past, an important opportunity to continue to provide that education.

Of course, the other side is all the procedural material. Throughout the entirety of last

year and certainly going into the next one, we will be conducting seminar series on procedural matters each month throughout the course of 2025 to keep up to date the awareness of members and their staff of those procedures and practices.

In terms of the broader working environment issues, that is something that Ms Turner can talk about.

Ms Turner: Ms Orr, were you referring to induction or more broadly?

MS ORR: More broadly. I know about little bits that I have been included in—the mandatory training that I have had to do. I wanted to get a broader and more complete overview of the various bits that are in place to support MLAs and other people within the building to make this a good working environment.

Ms Turner: One of the things that we have focused on in the last 12 months is developing online training to enable MLAs to do the training when it is convenient for them, because it is difficult to have face-to-face training and have everyone in the room.

In the past 12 months, we have done the PCBU training; we have done mandatory security awareness training. The work health safety committee is working really effectively together. Over the last year we have met regularly. It is a forum to get feedback from staff and members.

We have established a protective security committee in the last 12 months so that we have a forum that brings together any security concerns that come from any member's office, and we can discuss policy improvements and those types of issues. Protective security is certainly an area that we have focused on and improved greatly to make sure that the working environment is good.

Importantly, as the Speaker said, the Lynelle Briggs review did say that we have really good policies and procedures in place.

Ms Burch: We have amended our standing orders as well, and that makes clear statements under a code of conduct that no sexual harassment, bullying or bad behaviour will be tolerated.

Whilst it remains silent on staff, staff and MLAs are now joined at the hip in that co-responsibility. Staff cannot get up to mischief with the member being oblivious to or forgiving that bad behaviour. It behoves everybody in this place, whether you are a staffer or an MLA, to make sure that that code of conduct is adhered to.

MISS NUTTALL: If possible, I would love an update on the review of the work level standards for LAMS staff.

Ms Turner: That would be a question best directed to CMTEDD because the Chief Minister's office has the lead on that.

MISS NUTTALL: I am grateful that an MOU between the Legislative Assembly and WorkSafe has now been agreed. Are there any updates on this? Has it been used at all? Does this fall under your remit?

Mr Skinner: Yes, that is finalised, Miss Nuttall, and it has been tabled, I believe, in the Assembly by the Speaker. We have had no activations, if you like; the MOU has not been enlivened in any inspections or any other matters since it has come into effect. It is a fairly high-level document that sets out the principles of making sure that all of the measures that need to be put in place as a responsible, healthy and safe workplace are put in place, whilst also recognising that there are some little issues around parliamentary privilege that need to be kept in mind. I think that is a tabled paper on the website, and I think it is also available on the intranet, if members are interested in reading it.

Ms Burch: I was interested in the hearings with the commission last week. With the prohibition notice, they set such a high bar. I still, for the life of me, two years on, do not quite understand the level at which it was sought to prohibit and, indeed, prevent the Assembly from meeting. I note with interest some recent media about their own behaviours and internal commentary. There is to me a little bit of inconsistency about those that can have such power of prevention of business but seem to have very light oversight of themselves. I will leave that as a comment.

THE CHAIR: Did we ever get to the bottom of who, if anyone, made a complaint to WorkSafe?

Ms Burch: It is my understanding that—this, again, is a little bit of history, and I am quite happy to stand corrected—the then estimates committee was seeking to have witnesses attend in person, given that committees had been having witnesses in the building for some months. It was deemed that we did not have enough internal protections in place, which we disagreed with. They came into the building late on a Friday afternoon with very little appetite for looking at the processes and procedures we had in place. There was no formal complaint. There was a question, and their heavy handedness actually saw history play out.

THE CHAIR: Who raised the question with them?

Ms Burch: The then minister's office.

THE CHAIR: Are there any further supplementaries?

MR CAIN: I have a supplementary on that. What are the 24/7 security arrangements for this building, both internally and externally? Obviously, I am particularly interested in out-of-work hours.

Ms Burch: For you coming in and being safe in the building or generally?

MR CAIN: For anyone. Yes—generally.

Ms Turner: Thank you for the question, Mr Cain. There is an attendant onsite between 8 am and 6 pm, Monday to Friday, generally. On the odd occasion perhaps, we shut a little earlier, and then, after-hours, it is undertaken by a security monitoring firm.

MR CAIN: They just occasionally come to the outside of the building? How frequently

does that happen at night and in the early morning?

Ms Turner: Mr Kinsella could probably provide more detail.

Ms Burch: The building is also under constant surveillance through closed-circuit TV. There are incidents when shenanigans at the outside of the building are referred to police and they deal with things.

MR CAIN: Is that in real-time or when someone eventually gets to see the video footage?

Ms Turner: Mr Cain, it is often found by the cleaners when it is outside the building, although, for example, when the glass was broken, we were aware more promptly. Mr Kinsella is at the table and he can answer any questions that you have.

Mr Kinsella: I acknowledge the privilege statement. We have a guard that patrols every day, seven days a week, between 11 pm and 12 am, and he also patrols within the building.

MR CAIN: Just within that one-hour slot?

Mr Kinsella: That is correct. He does not do it ad hoc. It is a set time every day, seven days a week.

MR CAIN: Every night?

Mr Kinsella: Every night, rather.

MR CAIN: Okay. Is the closed-circuit feed monitored or do you just look at it when an incident has occurred?

Mr Kinsella: That is not actively monitored after-hours. We look at it upon review, on permission from the Clerk.

MR CAIN: It is my understanding that other parliaments have virtually 24/7 attendance within and patrols outside. Is the ACT Assembly the only one that has a more limited security approach out of hours?

Ms Burch: Certainly, different parliaments would have different levels. It has been a regular comment, rather than a question, here in the ACT. We respond to need. I have been here for 16 years and I have never had the need to worry about my safety or security. But it is something that certainly the Office of the Legislative Assembly, through Mr Kinsella, would review regularly—what are our needs? There are surveys. There are annual MLA surveys, not only on the products or services of OLA but also more broadly, about how we function within this building. Personally, I would rather be in a building with this level of security rather than have uniforms and armed guards around. I think our community is reflective of the fact that we are in the middle of town. We move about quite freely. Our community is open to us. We are all at mobile offices. That is reflected in the level of security and the safety we should be feeling.

THE CHAIR: And we are not about to arm our Serjeant-at-Arms!

Ms Burch: I have seen him swing the mace!

MR CAIN: As an example, if someone broke into the building outside of the 11 pm to 12 am supervision window, do alarms go off? Do police respond?

Mr Kinsella: We have a class 5 alarm system which is monitored 24 hours. So if, for example, there were a vandalism attack on the doors or the access control system, then I, being on call, would be notified of that straightaway, and I would be able to call the police and escalate the matter. But, if there were a smashed window, for example, like there was a few months back, it is not identified until the patrol discovers it on the weekend or after hours.

MR CAIN: Madam Speaker, some members of the Assembly, particularly ACT Labor members, have made fairly significant comments about casual work and fair work arrangements for workers. Could you confirm or otherwise whether there has been a cut in hours for building attendants?

Ms Burch: I will defer to Ms Turner.

Ms Turner: Mr Cain, we have two full-time attendants and we have around eight casuals. We almost double our workforce on sitting days, and therefore we need a substantially greater number of attendants on those days and not throughout the rest of the year. There were around 40 sitting days. We could not have them all as permanent staff. It is hard to say whether there is a reduction. We only staff when the Assembly is sitting or when a full-time member is away.

MR CAIN: Have there been adjustments which might be looked at as a reduction for certain periods?

Ms Burch: It is more a reflection of the activity. If there are more sitting days, then there is more internal activity and a need for attendants and other staff. If there are more committee hearings, it is similar. The only consistent call, which I have not heard over the last couple of years, is around cleaning staff. This has come up in the past regularly through committee hearings or annual report hearings. Our cleaning staff are employed through a contract. I am on record, and I will remain on record, saying that, once the building next door has in-house staff, there is an opportunity to talk about how we can tag onto those internal staff. That does not seem to be the interest of anyone externally at the moment.

MR CAIN: Who organises that roster and manages it?

Ms Burch: That is through the contractor.

Ms Turner: The attendants or the cleaner?

MR CAIN: The attendants.

Ms Turner: The attendants' roster is put together once a month and it is managed by

Mr Kinsella's team.

MR CAIN: Thank you. Have you had any criticisms from any MLAs about the treatment of casuals, or otherwise, employed by this place?

Ms Turner: No, Mr Cain; we have not.

Mr Kinsella: No.

MR CAIN: Thank you, Chair.

THE CHAIR: This is one of my favourite questions. Has there been any progress on providing Auslan interpreters or closed captioning of Assembly proceedings?

Mr Duncan: As you are aware, Ms Lawder, there was a recommendation in a committee report in the last couple of years. It is fair to say that we have not progressed that any further, other than when members request the presence of an Auslan interpreter. We have always been willing to do that. The last time we had one was in the last few months when a minister was talking about hearing impairment issues and a request came through. The short answer is that there is no substantive progress on that. It was discussed by the Standing Committee on Administration and Procedure, but that is the last time that I think the Assembly formally considered it.

THE CHAIR: Does the OLA produce any of its own videos? If so, do you put closed captions on those videos?

Mr Duncan: Captioning is being trialled. I will pass to Hamish to see whether he has some further details on that.

Mr Finlay: Hansard is trialling a new transcription process—an AI voice recognition system—to see whether it meets standards. That model of trial links with the broadcasting module to be able to provide live captions. We are assessing whether it is suitable or not.

THE CHAIR: There is no capacity to stream it as captions?

Mr Finlay: Potentially, there is. We are trialling it to see whether it will be appropriate.

Mr Duncan: The difficulty we have had when we have looked at this is the standard of accuracy. We would like the accuracy to be 100 per cent if possible, but it is certainly well short of 100 per cent.

THE CHAIR: If you watch TV captioning, you will see it is not 100 per cent either, so you should not let perfect be the enemy of good.

Mr Duncan: No; indeed. I have forgotten what the figure is, but it is well short of 100 per cent.

MR CAIN: I have a supp on that.

THE CHAIR: Mr Cain.

MR CAIN: How many people tune into Assembly streams? Is there any other data or are analytics being tracked?

THE CHAIR: Maybe we should not ask!

Mr Duncan: We will have to take that on notice. I think we do track it.

MR CAIN: Particularly on sitting days and for committee hearings like this one.

Ms Burch: We will get the information we can and bring it back to the committee.

MR CAIN: Thank you. That would be appreciated.

MISS NUTTALL: Have you turned your mind at all to the logistics of having an Auslan interpreter in the chamber more regularly, and similarly for hearings? Is that something that you have looked into?

Mr Duncan: That is part of the recommendations of the committee that I was referring to earlier, Miss Nuttall. It all comes down to two issues: firstly, there is the cost—it will be quite costly—and, secondly, there is the availability of suitably trained interpreters. There is a shortage. When we have gone out, on occasion, to get an Auslan trained interpreter, we have found a shortage in ACT. I do not know whether that has changed in recent times, but, at the time that we were looking at the issue, there was certainly a shortage. It comes down to resources and the availability of trained staff.

Ms Burch: As closed captioning progresses, that will relieve that. We are fairly quick on the turnaround for the *Hansard*. It is not ideal if somebody is following the debate in the real moment, but the transcripts for the *Hansard* are certainly available fairly quickly.

THE CHAIR: Does anyone have a one-minute question?

MR CAIN: Yes.

THE CHAIR: You are going to try, are you?

MR CAIN: I can try. Why not?

MS ORR: I can have a go. Madam Speaker, noting this will be your last appearance at estimates or annual report—

Ms Burch: I am not counting the days, Ms Orr!

MS ORR: That was not my question! Is there anything you would like to say in the one minute you have left?

Ms Burch: Short of a valedictory, and I will have to put my mind to that. Potentially, Ms Lawder will as well. No? You are going quietly? No. I will leave it. But, as members

will come into this building all very confident and strong, being elected as MLAs, I reflect that I have learnt over the years that we rely so much on the backbone of the OLA. I want to thank those who are sitting with me here, but there are more than just those sitting at this table who keep us upright each and every day and make us sound impressive—from cheat sheets on sitting days to committee support at committee hearings. In short, when you welcome the new set of recruits in November, tell them it would be wise to take the counsel of the OLA.

THE CHAIR: Thank you. On that note, on behalf of the committee, I thank witnesses for their attendance today. If you have taken questions on notice, please provide your answers to the committee secretary no later than 5 pm on Thursday, 8 August. Thank you very much.

Short suspension

Aboriginal and Torres Strait Islander Children and Young People's Commissioner
Turnbull Roberts, Ms Vanessa, Commissioner, Independent Office for Aboriginal
and Torres Strait Islander Children and Young People

THE CHAIR: We welcome Ms Vanessa Turnbull-Roberts, Commissioner for Aboriginal and Torres Strait Islander Children and Young People. I remind our witness of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement, the pink sheet. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. Could you please confirm that you understand the implications of the privilege statement and you agree to comply with it?

Ms Turnbull-Roberts: I have read the privilege statement and I acknowledge the lands that we are meeting on here today as well.

THE CHAIR: Thank you. We will go to questions.

MISS NUTTALL: What are the greatest challenges that you are seeing in your role right now? What are the areas of most need for Canberra's young First Nations folks and how can we better support them?

Ms Turnbull-Roberts: Thank you so much, Miss Nuttall, for your question. When it comes to addressing the alarming rates and concerns in relation to Aboriginal and Torres Strait Islander children and young people, we are seeing a significant and disproportionate rate of Aboriginal children and young people be subject to statutory out-of-home care. We are also seeing a pipeline into the youth prison system, which is becoming an alarming concern.

Another thing that my office has been able to capture came from the youth forum, which was when we had the interim advocate. I started in the March period. We were able to speak to young people directly and capture what the issues are around education. One of the most common things that we did hear from our children and young people was that racism is highly prevalent within education. We are starting to see the alarming effects of the intersections of out-of-home care, education and youth prison. These pipelines are incredibly alarming—particularly as a commissioner. I am particularly worried, both personally and professionally, when it comes to the rights and interests of Aboriginal and Torres Strait Islander children here in the ACT.

MISS NUTTALL: Specifically in that education context—and apologies that I am not up to date with the forum—what did people at the forum identify were the main challenges within that education space? Did people identify what inroads would need to be made?

Ms Turnbull-Roberts: It was conducted in a quantitative survey but also allowed for a bit of qualitative feedback, and that is when we were able to pick up that racism was actually a big influence in relation to education and how Aboriginal children, in particular, felt within education. One of the strengths that came out of the survey was that many First Nations children identified that they wanted to pursue further education. That is something that we have taken away as an office and will release to the

directorate at an appropriate time. It talked to the fact that there is a strength and a willingness for support there—and what are we doing to actually provide those means of support for our children and young people?

The challenges were also around children and young people feeling ostracised and often feeling left out and, of course, around the digital realm. There is a world that we are moving into where the implications of the digital world are having a remarkable effect. I see this in other sectors, particularly around out-of-home care, the harms of digital exploitation, sexual exploitation and, in particular, our children and young people in residential care facilities. I really emphasise how much these issues do intersect with each other.

MS CASTLEY: Last year I believe you gave a TEDx talk titled, “A state is not a parent: Why the child welfare system fails”. In this speech you said that “the out-of-home care is family policing”, “It makes absolutely no sense,” “It is designed to harm and should be abolished”. In your role, do you continue to advocate for the abolition of the home care system? Can you expand a bit more on that for us?

Ms Turnbull-Roberts: Absolutely. The statement around defunding statutory child protection systems that do harm is actually about addressing the known fact that we know as an issue here as a country and, in particular, here as a state: that the current system that we have is not actually working—and it is not actually working in the best interests of Aboriginal and Torres Strait Islander children and young people. The term “defunding”, particularly in advocacy, is a commonly known term. We know, particularly from the Productivity Commission, that we see the best results on the ground with community-controlled organisations having the determination and autonomy to utilise those funds in the best interests of the community they are representing.

So, when it comes to that term, it is not necessarily about defunding funds altogether; it is actually about resource provision and getting really creative with the issues that we are facing here as a state. I do stand by the importance of that particular comment. We need to see resources shifted, we need to see community investment and we need to see Aboriginal community-controlled organisations being able to determine the best interests of our children and young people. We just had the Productivity Commission come out and tell us that we need to start re-shifting where we are putting those resources and funds. So that is what that term means.

MS CASTLEY: I have a quote here: “If you are worried a child is not being fed and you are identifying potential drug and alcohol problems going on, why don’t you just go and buy groceries for the family?” You suggest that someone should do this rather than make a report to Child Protection Services. Is that the distribution of resources that you are talking about?

Ms Turnbull-Roberts: And also looking at early intervention and prevention. One of the key common factors that we do see within the office, and where I have had community directly come and access my office for support and advocacy, is around domestic and family and sexual violence. That TED talk that you are quoting was prior to me commencing my role. But even in this role and in a professional capacity, I see the ongoing issues of the way domestic and family and sexual gendered violence is used

and further criminalises parent survivors who are subject to domestic violence.

As a mother myself and also as a commissioner in this role I think the worst thing that can happen is actually removing a child from their survivor parent who has been subject to domestic and family violence. Here in the ACT I continue to see the alarming increase of further punitive measures as opposed to “What is wholistic, what is cheaper and where can we truly put our investments to meet the needs of children, young people and families?”

MS CASTLEY: I know this TED talk was before your current role. How is the government responding to your ideas to do things a little bit differently? Is that part of what you are doing with regard to policy? Is that your advice to the government? They said that you are working on 20 cases with them at the moment. Is that all part of your role?

Ms Turnbull-Roberts: The 20 cases? Can you—

MS CASTLEY: I am unsure. We tried to ask the minister what your role is and how you are working with government and no-one was really able to answer my questions. So they said, “Working on 20 cases at the moment.” I am not quite sure what that means.

Ms Turnbull-Roberts: I am a little bit unsure what that exactly means as well. But, in terms of the response and how government is taking it, I have actually seen a welcoming, from particularly the ministers, and taking it on board in conversation. In terms of my approach in reaching out and wanting to engage further, that has always been approached in a positive way to take on.

I will disclose that I have been in the role for about five and a bit months, and this is all equally a little bit new at the same time. We have a journey and a strategic avenue that we are moving towards. As we start the foundation and building the office for its starting period, that will involve more direct engagement. The particular powers and functions of the legislation give my commission the powers to intervene systemically and individually. So that is quite broad.

Sometimes we do find ourselves as an office reflecting and thinking” “How are we actually going to meet the high demand of a high need within the community?”—because there is such a high need. In terms of numbers and data, I will just stress that, on an individual intervention level, we have worked with over 50 Aboriginal and Torres Strait Islander children and young people impacted by both Child Protection and/or youth prison. I do not know if that is maybe where numbers are getting mixed up. I, fortunately, have the privilege to sit on ministry advisory committees and provide feedback into particularly around the Family Law Reform Act. So that has been taken on board.

In terms of further engagement, particularly Minister Stephen-Smith, who holds a portfolio for Aboriginal and Torres Strait Islander children and young people, whenever my office has actually reached out, she has been more than happy to engage in a conversation around what we can do better. No matter what side you are on, the goal is: “What can we do better to support the rights and interests of Aboriginal and Torres

Strait Islander children?”

MS CASTLEY: On your idea of defunding the out-of-home care system, in this budget the government have allocated \$1.45 million to building new residential care facilities and \$2.4 million to maintain the existing residential care services. Did they consult you on any of this expansion for the out-of-care system to get your thoughts on how that would go?

Ms Turnbull-Roberts: I have not been consulted on that as of yet—not to say that it may not come, but I have not been consulted on it.

MS CASTLEY: You were hired to provide that advice and advocacy. Do you feel like they are reaching out to you seriously to help you fulfil your role?

Ms Turnbull-Roberts: Given that it has been five months, it is still early stages in terms of developing what that looks like. But, no doubt, I know moving forward there will be that engagement—because there has to be. It is written in legislation that there has to be a response provided to my office when we do reach out. But, in terms of whether it is a residential facility being built or a potential expansion of other resources, I trust and expect that my office will be consulted and engaged with when it comes to the rights and interests of Aboriginal and Torres Strait Islander children and young people.

MS CASTLEY: So you are happy that there is additional money to build more homes, more facilities and things like that?

Ms Turnbull-Roberts: Am I happy with it? I do not necessarily know if that is the best investment—to expand residential care facilities.

MS CASTLEY: Where would you like to see the money go?

Ms Turnbull-Roberts: Early intervention and prevention and Aboriginal community-controlled organisations—and, in particular, getting creative. Through my work, particularly on the alarming rates of Aboriginal children subject to residential care facilities, I see the way that these places do not necessarily know the right form of love for our children and young people. When it comes to protecting their rights and interests, community have always had the solutions and community have actually put forward solutions around what it would look like to reimagine community self-determination and autonomy and being able to allow our people to dictate the safety and wellbeing of our children and young people.

MS CASTLEY: Hopefully, that will be part of that information that you do get the chance to share with the minister. Obviously, that is what you are hearing; so, hopefully, you can get that to them.

Ms Turnbull-Roberts: I would love that. And thank you for putting that to me.

MISS NUTTALL: You talked about parent-survivors and the damage you can do by separating children from them. In your view, what would a better solution look like? How do we ensure that parent-survivors and their young people can stay together? What

does that look like in practice?

Ms Turnbull-Roberts: Thanks so much for that question. Whether it is potentially an immediate emergency action about to take place or whether there has been identified a particular risk of domestic and/or family sexual gendered violence, when it comes to children and young people, when we take a trauma-informed approach, the one thing we know is that when we add further separation we are adding further harm to the lives of children and young people—that it does not work in the interests of long-term wellbeing and safety of our kids.

A prime example of that which would be tangible, if resourced and supported, would be in the case of where there is a risk and we have identified that there has been domestic and/or family violence is to speak to the parent-survivor who we have identified is the survivor and then bring them and their child to a safe location or, in fact, remove perpetrators who are perpetrating that harm within the family home. Too often we see both nationally and here in the state the way families, particularly mothers, Aboriginal mothers, are further criminalised when it comes to domestic and/or family violence.

So, if there is a case, can we just reflect for a minute on what it would mean to say, “Actually, I am not going to rip this child with police officers present and put them in a car; I am going to support the parent that has survived and I am going to support the child and we are going to get them help and provide the wraparound supports warranted in this situation and we are going to put the resources there.” It is far more cheaper, it is far more effective and it is less traumatic long term for that child. It actually decreases the likelihood of what we, sadly, see too often in our office with the pipeline from statutory out-of-home care through to imprisonment. It means that we are keeping families together and not further tearing them apart.

MS ORR: I just want to see if I have this correct in my mind. I think Ms Castley has raised a quote, but you said you made that in a TED talk before you had taken on the commissioner role. Did I understand that correctly?

Ms Turnbull-Roberts: I did that TED talk previous to me commencing my role, yes.

MS ORR: So it is fair to say that that was a quote that you were making in your own personal capacity and not necessarily as the commissioner—although, given that your views probably will not be too different. Can I get a bit of a better understanding then, as commissioner, because your role is governed by the legislation, what it is you are actually focusing on? It is a little bit like what Ms Castley was saying, in that she keeps asking people and no-one can say what you are doing. Can you just very easily and quickly spell out for us what your legislated role is?

Ms Turnbull-Roberts: Yes, of course. I have it written here, and I will quote it because it is quite direct. It is to advocate on behalf of Aboriginal and Torres Strait Islander children and young people; to intervene on behalf of Aboriginal and Torres Strait Islander children and young people in relation to decisions that will affect their rights or interests, including in relevant court proceeds; and to inquire in relation to the rights, development, safety and wellbeing of Aboriginal and Torres Strait Islander young people—and it goes on. In brief, we have the powers and functions to intervene systemically and individually.

On an individual basis, I have been intervening in court matters and appearances, in particular when it comes to enduring parental responsibility. I was fortunate enough to receive the data where we are seeing at the moment ex-foster carers at the rate of 27 Aboriginal children be subject to EPR. That is an incredibly alarming number. What that tells us is that we are driving more towards permanency as opposed to restoration, which is the whole objective of statutory out-of-home care: returning our children, where possible and appropriate and safe and, if at some point for that short period, it is not possible, we need to continue to advocate at some point to bring them home, because that is again how we begin to heal those traumas and the impacts of history and the now.

In terms of systemically, there is sitting on advisories and engagement with the Family Reform Act. Also, of course, my office attends the youth prison, also known as Bimberi, regularly every week to capture the real picture of our children and young people. It also builds on consistency. I can proudly say—and touch wood—that every bail applicant that we have supported, who has gone from youth prison and tried to seek bail, has been successful. I am not saying that is on us, but I am really proud to see that our office goes in and is able to capture that full consistent picture of our children and young people.

MS ORR: So we should take your comments very much within the context of your role of advocating for Aboriginal and Torres Strait Islander children, as opposed to perhaps being broad statements as a whole? Is that a fair thing to say—that they are not unrelated but you are not necessarily thinking, “I am going to make a statement every single time I am looking at the Aboriginal and Torres Strait Islander—

Ms Turnbull-Roberts: Absolutely. The context of a lot of my commentary is in relation to Aboriginal and Torres Strait Islander children and young people. I will proudly say this—as a lot of leaders within our communities and across the nation have always said: “When we look at the ways First Nations healing, being and doing practices and works, it is an opportunity for the whole nation to learn.” I really do stress that, particularly around the disproportionate rate of our children and young people impacted.

MS ORR: Thank you. That clears it up in my mind.

Ms Turnbull-Roberts: Sorry, if I was not clear.

THE CHAIR: My question touches a little bit on some of the things you have already said. For many years I have seen the RoGS data and the disproportionate representation of Aboriginal children in out-of-home care and then that link to involvement with the criminal justice system. Does a similar role to yours exist in other states and territories? If so, or even if not so, have you had the opportunity to talk with other states and territories about their views and actions on the similar issues?

Ms Turnbull-Roberts: There are commissioners and some advocates in states and territories across the whole nation, except for New South Wales where there is the advocate. I am proudly part of the Australian and New Zealand Guardian Advocates Commission. We meet regularly and we engage in what the ongoing issues are within

their jurisdictions. We share, we update and, of course, we are open to feedback. We also do collective advocacy. So, when there is a calling from particular commissioners that want assistance or support, we do our best to back those commissioners, advocates or guardians.

What is really special about the legislation here in the ACT is that it was strategically put together to allow for the individual intervention. I think that is an incredible strength to the community that really fought and advocated for that and the co-design that came with governance to push forward the legislation. Quite often we see a history of disempowerment of our people, but we now see that there is a seat at the table for First Nations people to be advocating with mothers who have been subject to particular harms or with children and young people or with fathers or with carers, and I think that is an incredible strength. That is probably one of the most unique things about the commissioner legislation here in the ACT and what makes it stand out across the country. But there are commissioners in different positions that advocate systemically as well and undertake inquiries, which I have the power to do—but which I have not done necessarily yet.

MS ORR: Commissioner, you made reference in some of the previous testimony to the number of cases you have been working on and the support that you have been able to give. Given it is a new role, and something that I think the community has been advocating for for a long time and are quite excited to have, can I just get a bit of an understanding of what you are doing to go out and meet with the various stakeholders, such as the Aboriginal-controlled organisations—I am thinking of, for example, the Our Booris Steering Committee—to build up that initial relationship and make sure that everyone knows who you are and that you know who they are?

Ms Turnbull-Roberts: Thank you so much for your question. I will truthfully acknowledge that, in my five months of being here, it has been quite rapid and quite fast in terms of the handover and the immediate emergency cases that we have had with our children and young people. In terms of engagement, I do speak with Yerrabi a lot and I do speak with the chair of Our Booris, Our Way. In terms of further engagement with other stakeholders, my office is intending on holding roundtable discussions just to really set the strong priorities of our office and where we intend to move forward. That allows for a community invitation that will be offered to all Aboriginal community-controlled organisations, where we can actually hear the feedback to set the priorities and build it together, because there is a significant strength in coming to those agreements on what our goals are together, as opposed to me coming in and saying, “This is what needs to happen.” But I would also say that we do have a bit of an idea of what needs to happen—because this is not only a national issues; it is a significantly alarming issue here in the ACT.

MISS NUTTALL: Speaking of Our Booris, Our Way, would you be able to tell us a little bit more about how your work intersects with Our Booris, Our Way?

Ms Turnbull-Roberts: Sorry; could you say that once more, please?

MISS NUTTALL: Would you be able to talk to us more about how your work intersects with Our Booris, Our Way?

Ms Turnbull-Roberts: The recommendation of a commissioner's role came out of the *Our Booris, Our Way* recommendation—and, if they are watching this, thank you for your strength and your power in advocating for that. They hold their regular once-a-month meetings and on occasion my office is invited. When invited and if available, we will attend the meeting and have that conversation with Our Booris, Our Way and have ongoing dialogue with the committee.

MISS NUTTALL: Thank you. In terms of the recommendations that came out as part of *Our Booris, Our Way*, how do you feel we are sort of tracking against them more generally? Do you think there are any areas that we particularly need to focus on right now?

Ms Turnbull-Roberts: If you do not mind, I would like to take that question on notice, because I would like to really go over that give you a really sound response, if that is okay.

MISS NUTTALL: Thank you very much. I appreciate that.

MS CASTLEY: How much does the government give you to staff your office and how many people have you been able to hire and help you with your work?

Ms Turnbull-Roberts: Thank you so much for that question. The 2022-23 budget provided \$3.592 million for my office over four years. This included my role and four staff members. To be specific, there was a SOG A, a SOG C, an ASO 6 and an ASO 4, as well as some funding for community engagement. In full transparency, the demand within the community is high and the demand with respect to child protection, issues with mental health, education and youth prison is one where I do foresee at some point that we will begin to struggle to meet the demands of the community with only four staff.

At this moment, I have two staff members: one who is a senior case manager and one who is doing policy research and advocacy. They are incredible Aboriginal women doing amazing work. But, in terms of the demand that we are seeing already—and this is me personally with the statutory powers and functions five months in—it is going to be challenging. So there will need to be an urgent request for further funding to fulfil the needs of the community that we represent and the legislation.

MISS NUTTALL: In terms of how many more staff and what further resourcing you think you might need, do you have a view to what that would look like right now or does it really need to be responsive to the demand of the community?

Ms Turnbull-Roberts: I would like to take that on notice to reflect after our conversation with roundtables and priorities.

THE CHAIR: On behalf of the committee, thank you, Ms Turnbull-Roberts, for your attendance today. With the questions you have taken on notice, could you please provide your answers to the committee secretary no later than 5 pm on Thursday 8 August.

Ms Turnbull-Roberts: Thank you all so much for your time. Lovely to meet you all.

Short suspension

Appearances:

Berry, Ms Yvette, Deputy Chief Minister, Minister for Early Childhood Development, Minister for Education and Youth Affairs, Minister for Housing and Suburban Development, Minister for Women, Minister for the Prevention of Domestic and Family Violence, and Minister for Sport and Recreation

Suburban Land Agency

Gordon, Mr Tom, Executive Director, Land Supply Group

Holt, Mr Nicholas, Executive Director, Thriving Communities Group

Lee, Mr Joey, Executive Director, Place Delivery

Wright, Ms Fiona, Chief Executive Officer

Gilbert, Ms Sally, Chief Operating Officer

Syme, Mr Ross, Senior Director Strategic Finance

THE CHAIR: We welcome Ms Yvette Berry MLA, Minister for Housing and Suburban Development, and officials. We have a number of witnesses for this session. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement, which is on the pink sheet on the table in front of you. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. Please confirm that you understand the implications of the privilege statement and that you agree to comply with it.

Mr Gordon: I have read and understood the privilege statement.

Mr Holt: I have read and understood the privilege statement.

Mr Lee: I have read and acknowledge the privilege statement.

Ms Wright: I have read and acknowledge the privilege statement.

Ms Gilbert: I have read and understood the privilege statement.

THE CHAIR: Again, thank you for appearing. As a reminder, please say, "I will take that question on notice," if you take a question on notice. We will move directly to questions. I will pass my question to Ms Lee.

MS LEE: In terms of the evidence that was given on Friday, 26 July, in relation to the contract with Riverview Projects, a number of questions were taken on notice. I will not go through them, because you have taken them on notice.

Ms Berry: I was going to say: I can go through them if I can find them all.

MS LEE: No; that is all good.

Ms Berry: They are almost ready. They are making their way to the committee and will be in your hot little hands in no time.

MS LEE: Fantastic. Following on from those, there was information during that session

that Riverview Projects receives revenue through the joint venture monthly but only reimburses the SLA every three to four years. Why is that?

Ms Berry: There was a question taken on notice about that specific issue, but I can ask Mr Lee to go through some of the detail for you.

Mr Lee: Thank you, Minister. The revenue is actually recognised by both parties. It is not actually received. The revenue is received by Ginninderry Joint Venture as and when the settlements are received. In terms of the costs, there is no capacity to defer costs. I believe that what Mr Parton was referring to in the last session related to the funding agreement, which is effectively the arrangement by which the territory is providing funding to the project. As with funding agreements, you would expect that the repayments are made when the revenue comes back. That is why you see the difference in timing between the revenue that is recognised by the project and the repayment of the funding, which is paid to the project.

MS LEE: You can understand that, from a taxpayer perspective, we are not talking about one-off funding to purchase an asset and then repayments are made. We are talking about a contract for 99 years and we are talking about the taxpayer—through the government—basically holding a lot of the liability and holding on to the risk, receiving payment only every three to four years, while we are paying the contractor monthly. What was the basis of the policy decision for that?

Ms Berry: Perhaps it is better to go back to the start of the joint venture and how it is made up. In the ACT, the Suburban Land Agency is responsible for the development of land for sale. If the land is developed by the ACT Suburban Land Agency, then 100 per cent of the profits come back to the ACT government through the SLA. For a joint venture, it is usually a 50-50 split. The Ginninderry Joint Venture is made up a little bit differently. It has a 60-40 split. If it is through Englobo or developed by a private developer, then 100 per cent of the revenue from sales goes back to the private developer.

In the case of Ginninderry, the repayments are made through equity contributions by the joint venture rather than the Suburban Land Agency or Riverview directly. I think this is what you are getting to, Ms Lee. The Suburban Land Agency contributes equity as a means of funding to the project. As envisaged in the establishment of the joint venture and the agreement, as at the end of 2023-24, the territory had invested a total of \$27 million of net repayments and earned a commercial return on its investment of the funds. The \$88 million that was referred to by the committee reflects the repayments made by the Ginninderry Joint Venture against those equity contributions. The timing of the repayments reflects the timing of cashflow from the revenues and operating costs of the Ginninderry Joint Venture. So it does not operate as just a 50-50 split; it is a joint venture where 60 per cent of the interest is the SLA's and Riverview holds the other 40 per cent of interest. The project costs and risks are shared by each—the ACT government, through the SLA, and Riverview, as the partner in the joint venture.

MS LEE: I understand the 60-40 split. What I am trying to get at, which no-one has still been able to answer is: why is it that, in a joint venture, where the ACT is taking on 60 per cent of the risk as well as 60 per cent of the revenue, taxpayers, through the SLA, are only receiving payments every three to four years, while the revenue from the

sales is being paid to Riverview every month? Is that a contractual thing? Where does that arrangement come from?

Mr Lee: Ms Lee, I will just clarify that the revenue is not actually distributed to the participants. Even though it might be recognised in the books of the individual participants, the revenue is withheld within Ginninderry Joint Venture to pay for project costs, repayment of capital et cetera. I just wanted to clarify that there is not actually a distribution in line with the figures that you are referring to. As the minister mentioned, that is a funding agreement that has been put in place, and it was envisaged from the beginning of the joint venture that the territory would contribute funds by way of equity and that it would earn a commercial return on those funds.

MS LEE: Okay. My follow-up question is: since the joint venture commenced, how much has been transferred to Riverview Projects?

Mr Lee: I might see whether Ross has those figures.

Ms Berry: We will take that on notice.

MS LEE: Okay. That being the case, can someone tell me how much revenue was transferred to Riverview in the last month? Was there any?

Mr Lee: No. There were no distributions in the last month.

MS LEE: And, in terms of the financial year—for the budget that we are talking about—does anyone know?

Mr Lee: We will take that on notice, Ms Lee.

MS LEE: Okay. Thank you. In terms of the large lump sums and expenses on behalf of the joint venture that are paid every three to four years, I note that—in terms of the question on notice, Ms Berry, that you answered, No 1994—in 2021 there was \$70-odd million, and then in 2023-24, there was \$18 million. Again, is this a contractual arrangement? And, if so, where in the contracts are those terms?

Mr Lee: Those figures are actually repayments of equity that the territory contributed to the project. As you can see in the table that we have provided, the figures across 2017-18 to 2019-20 are the contributions that the SLA made to the project. The time when significant settlements came in, in 2021, is when the project repaid that equity to the SLA.

MS LEE: And that is based on revenue.

Mr Lee: Correct.

MS LEE: Regarding the payments that were made to Riverview Group, would that have been at the same time and represents 40 per cent? Is that how it works?

Mr Lee: I will have to look at exactly how much was repaid, if any, because that \$70 million is entirely a repayment back to the Suburban Land Agency. My recollection is

that there were not distributions made at that point because we wanted to ensure that there was sufficient working capital preserved within the project to address any working capital requirements moving forward. But we can provide the detailed figures around any distributions from that point on.

MS LEE: Okay. You are taking that on notice?

Ms Berry: I am confident that we took a question like that on notice last week. I am rummaging around to see if I can find it and might be able to provide you—

MS LEE: If that is the case, we will wait for that, but, if not, can we confirm that you will take that on notice?

Ms Berry: Sure.

MS LEE: Thank you. During the hearing on Friday, 26 August, Mr Davey, who appeared before the committee, in relation to some delay in payments for land acquisitions—that was in reference to page 127 of budget statements E—said: “The reason that the variance is there is because the money has not yet come to us.” Is this a delay from Riverview? What has caused the delay?

Mr Lee: There is no delay. The development rights have not been contributed to the project. When that occurs, there will be a payment from the project to the Suburban Land Agency.

MS LEE: Is there any more detail on which properties the SLA is expected to be reimbursed for in relation to that? And do you have the price and address of the property? This is in relation to a question that was directly asked of Mr Davey.

Mr Lee: Ms Lee, there were four New South Wales’ parcels which were part of the original Ginninderry Joint Venture master plan. The Suburban Land Agency has completed the purchase of one of those parcels, and that is for lot 5—1, 2 and 3—and the price for that was \$8.12 million. Information around that purchase is available in the public domain.

MS LEE: You mentioned four parcels. What is the status of the other parcels?

Mr Lee: There is not a requirement to purchase all the parcels. Discussions are ongoing, but they were envisaged as part of the original master plan. The landholders cannot develop those parcels themselves.

MS LEE: In terms of negotiations, there are no exchanges and there are no contracts on foot or anything like that with the other parcels?

Mr Lee: One other parcel is under a contractual arrangement that has not yet been completed.

MS LEE: Do you have a completion date for that one?

Mr Lee: We are expecting that to occur in the next couple of months.

MS LEE: What would delay that or push that out?

Mr Lee: There are some requirements that need to be met in order for us to finalise that contract. There are some planning requirements. Once those are completed, we will complete the sale.

MS LEE: Thank you. I will continue on the same vein. In relation to the reimbursement that was expected in the budget period, Mr Lee, you said, “That was intended to occur a couple of weeks ago. We are now expecting that to happen in the current weeks or months.” Is that a contractually required time frame? If so, what happens, given that it has not been met?

Mr Lee: It is not a contractually required time frame. It is just the intention of both parties that we would have worked towards the last financial year to get that done. But there are a number of matters that we still need to resolve, and it is expected to occur in the coming weeks and months.

MS LEE: What are some of those issues to be resolved?

Mr Lee: One of the issues that we have been working closely with the other participant on is the funding arrangement for the Ginninderry Joint Venture. Even though the territory elected to provide funding to the project, it is worthwhile for us to reconsider that position at various points in the project, and we have been discussing that proposition for some time with the other participant.

MS LEE: Is that by way of a variation to the contract?

Mr Lee: It would involve changes to the agreement—yes.

MS LEE: This is an agreement that is in place for a period of 99 years. Given how long it goes for, you would obviously expect reviews and changes along the way; that is part of that?

Mr Lee: That is why it has been such an extensive discussion, because it does require changes to the agreement, which will be enduring for some time.

MS LEE: You talked about the four parcels of land that were part of the original master plan; SLA has purchased one, but the other one is in negotiation. It was not contractually required to purchase all four, so there are no issues there in terms of variations in that regard.

There was an article in 2018 in the *Canberra Times* that stated that Corkhill Brothers were going to make \$12 million, on top of the estimated \$139 million, as part of the joint venture. This was actually based on a previous article, which said:

Documents released under freedom of information laws show the joint venture is valued at ... \$1.6 billion, with the ACT government to make ... \$208 million ... Riverview stands to make \$139 million.

Have those figures been updated, particularly given that housing prices have changed significantly?

Ms Berry: Yes, they have. This will come to the committee in answer to a question on notice. With respect to the latest forecast for 2017 to 2055 for the joint venture, it is valued at \$1.2 billion. That does not sound right.

MS LEE: No.

Ms Berry: The shared profits are expected to be \$730.8 million to the ACT government and \$487.2 million to Riverview.

Mr Lee: It is worth clarifying that the \$1.6 billion that was referred to in the *Canberra Times* article is likely referring to revenue, rather than the profit position, because if you put the two profit figures together, it does not equate to \$1.6 billion.

Ms Berry: That makes sense.

MS LEE: So the \$1.2 billion, Minister, that you have stated, is profit?

Ms Berry: Yes; the share of profits.

MS LEE: Of which ACT is—

Ms Berry: \$730.8 million, and Riverview is \$487.2 million.

MS LEE: That represents a 60-40 split?

Ms Berry: Over the lifetime.

MS LEE: There are several contracts with Riverview Projects that seem to relate to Ginninderry which have no published value, when you look at the ACT contracts register. Can you confirm the total amount that has been paid so far by the SLA to Corkhill Brothers and their subsidiaries?

Mr Lee: We have provided those figures previously, until, I believe, April 2023-24, over the life of the project, split across the development management fee and the marketing and sales fee. I do have those figures per year; I just do not have the sum available. I am very happy to provide that previous response that was provided. In terms of the value, because it does not have a fixed value, it was not possible to put a number against it.

MS LEE: Yes, I understand.

Mr Lee: But the agreements were attached to the notification.

MS LEE: Obviously, when you are talking about the land sale, it is hard to know. Has SLA done forecasting in terms of how much you expect to be handed over to Corkhill Brothers and their subsidiaries as a result of these contracts, in terms of the lifetime of the contract? You would have had to do a forecast of some kind.

Mr Lee: We do not have those figures to hand. As part of the regular budget update, it would have provided a view of the development management fee and sales and marketing fees over the life of the project.

MS LEE: When you say you do not have it to hand, do you mean that you have them, but you do not have them here, so you could take it on notice, or do you mean that you do not have them in the sense that it has not been calculated?

Mr Lee: No, the former.

MS LEE: You will take that on notice?

Mr Lee: Yes.

MS LEE: In terms of the joint venture, without going into identity or confidentiality matters, how many conflict-of-interest declarations have been recorded or reported for the joint venture?

Ms Berry: We took that question on notice. I think it was 32.

MS LEE: Did you also take on notice at the time any referrals for investigation of fraud, corruption or misconduct to an external body?

Ms Berry: We did not have that question, but we can take it on notice.

MS LEE: That was my follow-up question.

Ms Moore: We can answer that one. For what period, Ms Lee?

MS LEE: For the life of the joint venture.

Ms Moore: We had better take that one on notice.

MS LEE: Do you have figures for a set period?

Ms Moore: No, I only have active matters currently in the actual SLA, not in the joint venture.

MS LEE: You will take that on notice?

Ms Moore: We will take that on notice.

MS LEE: I was unable to attend the session on Friday. In terms of the questions about the contract with Colliers, they were all taken on notice; is that right?

Ms Berry: Yes.

THE CHAIR: Is the block owned by John Hyles part of the proposal for Riverview?

Ms Berry: It is part of a potential development.

THE CHAIR: Has he sold?

Ms Berry: No.

THE CHAIR: Is it part of the contract that Riverview must deliver that block as part of it?

Mr Lee: No. It is one of the four parcels that I referred to as well.

THE CHAIR: What about in terms of any other requirements—EPBC or anything? Does the Hyles block have to be included for any other reason?

Mr Lee: In terms of the EPBC, there is a requirement for that area to form part of the conservation area. We are working with our colleagues at the Department of Climate Change, Energy, the Environment and Water to look at the requirements under the EPBC.

THE CHAIR: If Mr Hyles does not come to the party, what will that mean?

Mr Lee: That will be considered as part of the discussions with the commonwealth.

THE CHAIR: Has Mr Hyles indicated an indicative sale price?

Ms Berry: I do not know whether we can provide that information. I do not know whether we even have it. I can take it on notice, but I do not think we do. Generally, my understanding about that piece of land is that there is a quarry on the land that still has about a decade of operational life in it. So it is at least 10 years before Mr Hyles might consider this.

The issue with the EPBC is that part of Mr Hyles's land takes in where the conservation trust and the joint venture meet each other. That is the challenge that we are having to overcome with the federal department around the development of any of that land around Mr Hyles's site.

THE CHAIR: I will put my question in a slightly different way. If the Hyles package is not included, what are your contingency plans, especially with respect to the EPBC and the conservation zone?

Mr Lee: There are various considerations underway, but the decision does not rest with us; it rests with the commonwealth around what their approval conditions will be.

MS LEE: Can I ask one clarifying question; then I will move to another topic, away from the joint venture? With the four parcels, Mr Lee, that you referred to, we have purchased one, and there is one negotiating and underway. Can you confirm that one of those blocks—and you can confirm if it is the one that is currently under negotiation—is actually owned by Corkhill Brothers? Is that right?

Mr Lee: None of those four blocks—

MS LEE: None of those four blocks are owned by Corkhill Brothers. I want to move on to a different topic, in relation to the SLA's forecasts around the inventories as a current asset. I note that, on page 124 of budget paper E, it had budgeted as at 30 June 2024 around \$230 million. It is now estimating the outcome to be \$85 million, which is a significant difference. Why is that?

Ms Berry: I will ask Ross Syme, our acting CFO, to answer that one.

Mr Syme: I have read and understood the privilege statement. Would you mind repeating the second number that you referenced there?

MS LEE: \$85,685,000. It is on page 124 of budget paper E. It is in the top table, and it is "inventories". In the first column, the budget at 30 June 2024 is \$230,249,000. It then talks about the estimated outcome being \$85,685,000, which is, of course, a significant difference.

Mr Syme: With the inventory balance that is represented there, there are both the current and non-current portions. The vast majority of our inventory is held within the non-current, meaning that these are costs of our development activities that are expected to be realised by a cost of sales beyond a 12-month period. A really significant proportion of the SLA's entire development pipeline is related to future years and it is related to development activities or sales that will be realised in those future years. I provide that context to compare the difference between the current and the non-current split.

As at 30 June 2024, in the time that the budget was developed for the period when the budget was originally set, this is the \$230 million, which is the budget that was set 12 months or so ago. Looking at the period for the expected sales between 1 July 2024 and 12 months after that date, there was a higher revenue projection, which comes with the higher cost of sale.

The reason why that has significantly reduced in that period relates to the proportion of sales to be realised in that period. We do have a reduction in revenue expected for that period in cost of sales compared to what was assumed when that budget was prepared 14 months or so ago.

MS LEE: Based on that explanation, would we be expecting to see a peak and trough every year?

Ms Berry: I think it depends on the circumstances. We have seen that across land sales by the SLA and other private developers across the last five to 10 years. It has been quite volatile. We are seeing that again now, where people are not purchasing land at the moment. We have land available over the counter with the Suburban Land Agency. I understand that the Ginninderry joint venture put some land out for auction recently, but it is just not selling in the way that we had projected previously.

MS LEE: When you look at the budget as at 30 June 2025, it is back up to \$189,941,000, which is a massive 122 per cent variation. What is the basis for that? What confidence do you have that that will be met?

Mr Syme: That calculation, the \$189 million that is shown there, which is more than double the value in the estimated outcome, the \$85 million, reflects the 12 months subsequent to that, and the expected sales and the associated cost of sales to there. A bunch of projections indicate that that year would have a higher volume of sales and cost of sales going through. The difference or the fluctuations from year to year reflect the timing of the settlements for each of our projects. It is particularly influenced by our greenfield projects, which have a higher development cost associated with those compared to the urban sites.

MS LEE: Just to put some other numbers around it, how does this play out in terms of the land release program, in terms of blocks, compared to the actuals in terms of sales? We know that, in the last couple of years, the SLA has not met its targets in terms of blocks sold. How does that marry up?

Mr Lee: Over the life of the Suburban Land Agency, we have looked at this. The releases actually line up with the ILRP; notwithstanding the fact that we do have some variation, Ms Lee, and that is to be expected. A development program occurs over many years.

In terms of the releases, that does not necessarily translate to sales. What you are seeing here in terms of the financial figures is based on when we expect sales to occur, which is why you see the timing of inventories across current and non-current fluctuation there. As you know, the government has a policy to prepare an Indicative Land Release Program and, irrespective of market conditions, the Suburban Land Agency continues to deliver against that program, rather than potentially what private developers might do, which is hold off or slow development activity when there is a stagnant or subdued market.

MS LEE: With all of the variations and factors that go into showing the lumpiness, the peaks and troughs that we are talking about, surely, that is something that is taken into consideration when you are putting the budget together? It seems pretty stark that the difference is so great.

Ms Berry: You can only go with the data that you have. You cannot be too hypothetical and guess. We only have what we know, to be able to forecast on. What we saw over the last five or so years was an ever-changing market with challenges that were beyond our control, and that has affected the way that people are choosing to purchase or not purchase land.

At the start, five years ago, we had 400 to 600 blocks available over the counter with the SLA. After COVID, they went within a couple of weeks, like hot cakes. We were racing to continue the land release program, to keep up with the demand. Again, overnight, the situation has changed, and we now have blocks available over the counter again. I cannot remember how many there are at the moment.

We can forecast as much as we can, based on the data and what has happened in the past, but we cannot forecast some things that might happen which are beyond our control. We have to try to meet the budget arrangements for which we forecast, based on the data that we have.

MS LEE: That is how the whole budgeting process works. Given that there is such a significant difference, and taking into consideration the time frame between budgeting and the actuals, does that concern you? This is more of a question for Mr Symes, as the acting CFO. Does it concern you that there is such a large difference, and are there factors that you did not take into consideration?

Mr Syme: As the minister said, the budget projections are prepared at that point in time. They reflect the best view that we have as to the timing and value of the settlements, and which projects will come through and settle within a particular financial year. In the vast majority of cases in which the Suburban Land Agency is operating, our inventory is at a very low value, represented on our balance sheet or in our budget statements, compared to what the sale price would be realised at. The inventory is represented at the cost of what the development has been. In the vast majority of cases, the end properties that we are selling are far in excess of those values, which means that the true value of that inventory at the market value is well in excess of what is stated and presented in the financial statements, and representing the profit margins that will be derived from those sales. I am not concerned about those numbers.

MS LEE: With the pricing of the blocks, does that change depending on the market between budgets as well?

Mr Syme: I am sorry?

MS LEE: The pricing of blocks?

Mr Syme: Each year, when we go to prepare our annual budget process, we look at pricing in the market, and we update pricing assumptions based on some third-party reports that we gather to refresh those assumptions, with respect to both single residential estates and more specific blocks in urban and other areas. We do refresh pricing and consider that, and informed by external experts as well, in our budget processes.

MS LEE: More specifically, is it constantly refreshed? It is not a once-a-year thing?

Mr Syme: Typically, for our budget processes, we do that once per year. In our midyear budget review we typically would not refresh those, unless there is a real trigger or a change in the market that we are observing, or our internal experts are advising us that there has been a significant change in the market. We do make updates where a contract has been exchanged or an auction has been completed; we therefore know what the prices are.

Our pricing assumptions in our forecasts can be refreshed for other reasons, such as when we are approaching a release for a particular block. In answer to your question, we are monitoring prices throughout the year for specific blocks, but our large refresh is occurring in line with the budget process.

MS LEE: Mr Syme, are you confident that the SLA is able to meet its current liabilities?

Mr Syme: Yes. When we compare the current assets to the current liabilities in the

budget statements, the current assets are below the current liabilities, as presented in that estimated outcome. We are quite aware of that. We have discussed this and briefed our board. There is quite a bit of attention on this.

There are a few factors that are put into play as to why we expect that the Suburban Land Agency can comfortably pay its debts as and when they fall due. I feel that the Suburban Land Agency is in a very strong financial position, including the factor that I mentioned, where our inventory is likely to be sold well in excess of those carrying values—perhaps double or more of that carrying value, depending on the type of land that is being realised.

In order to pay our debts as and when they fall due, we look at our cashflow forecast and we monitor these each month, to look at the cashflows that are coming in from our sales, depending on those sale cycles, as well as our operating costs and our investment cycle. All of those factors support our view that the Suburban Land Agency is in a strong financial position.

MS LEE: The 2023-24 estimated outcome for the SLA is that current assets sit at \$173 million, compared to current liabilities of more than \$275 million, and that ratio is around 63 per cent. Do you give the SLA board advice about where that ratio should sit?

Mr Syme: We do not provide a specific number that it should sit at. We do monitor that figure. Our auditors have emphasis on this and our board does have a level of attention. There is not a specific target number. There are some benchmarks. Having a ratio of one, having your assets exceeding your current liabilities, is an indicator that you are in a strong position. Your cashflow forecast, as well as your underlying operations, depending on what those cashflows are, how likely they are, how risky they are and what you have got on the short-term horizon—all of those factors—can be used and are used in briefing our executives, as well as our audit committee and our board, on the strength of our financial position.

MS LEE: And that is despite the fact that there was a \$50 million injection that was delivered last year. Are you going to be needing more injections?

Mr Syme: We do not have any projections of obtaining any additional equity similar to that \$50 million investment that you described.

MS LEE: So there is nothing in the works there. The dividend to the ACT government, which you have estimated at \$97.6 million, is on page 128 of budget statements E.

Mr Syme: Sorry; what was the value you were referencing?

MS LEE: It is \$97.6 million, as I understand it. Is that calculated solely within the SLA or is that done in consultation or in conjunction with Treasury?

Mr Syme: The Suburban Land Agency had a new notifiable instrument related to our dividend policy—I believe it came into effect in late May or early June of this year—that was lodged with the Legislative Assembly. The dividend policy for the Suburban Land Agency is that 100 per cent of our net profit after tax is paid in cash as a dividend

to the Treasury, as a default.

The change that occurred for that notifiable instrument a couple of months back was in the timing. The obligation now is for 100 per cent of our net profit to be paid in four quarterly instalments of cash throughout the subsequent financial year. That can be varied, with the approval of the Treasurer, either to defer a dividend or to agree an alternative payment time line. The information that is shown in the budget statements is always based on the consideration of any previous dividends, any arrears dividends from previous financial years that have been deferred, as well as consideration of our available cash throughout that financial year to be able to pay those returns to the Treasury in cash.

MS LEE: Okay. Can you just confirm for me: does this \$97.6 million include any deferred dividends? If so, how much?

Mr Syme: That \$97.6 million is the estimated outcome. That is for the year just prior and finished. That did assume the payment of an arrears dividend. I think it was around \$87 million incorporated into there.

MS LEE: You will not know this necessarily, but the City Renewal Authority also estimated a dividend payment of around \$40 million to the ACT government. This is the background. The budget outlook estimates that the government is going to receive a total of \$96 million from both the SLA and the CRA. That is why I was asking whether you do it in connection with Treasury. They are estimating \$96 million, but the SLA are saying that it is going to be \$97.6 million and the CRA are saying they are \$40 million, so it does not quite match up to what Treasury was expecting.

Mr Syme: I am not aware of the information related to the CRA. Those values are not typically calculated in conjunction with each other. I am happy to take that question on notice, to clarify.

Mr Lee: Ms Lee, the dividend that is reported in the budget outlook is actually a different figure to what is reported by the individual agencies.

MS LEE: Right.

Mr Lee: The figure that is reported by both the Suburban Land Agency and the City Renewal Authority is the total dividend, based on the dividend policy. There is a formula that Treasury work through whereby some of those dividends are taken towards the headline net operating balance and others are considered another economic flow. What you see in the budget outlook papers is not the full dividend that the Suburban Land Agency and the City Renewal Authority report.

MS LEE: Okay. Thank you for that.

THE CHAIR: On behalf of the committee, I thank our witnesses for their attendance today, and especially for being recalled. I appreciate it. If you have taken any questions on notice, please provide your answers to the committee secretary no later than 5 pm on Thursday, 8 August. The committee will now suspend for a short break.

Short suspension

Appearances:

Barr, Mr Andrew, Chief Minister, Treasurer, Minister for Climate Action, Minister for Trade, Investment and Economic Development and Minister for Tourism

Chief Minister, Treasury and Economic Development Directorate

Leigh, Ms Kathy, Head of Service and Director-General

Hocking, Mr Stuart, Under Treasurer

Carmody, Ms Lisa, Deputy Director-General, Office of Industrial Relations and Workforce Capability

THE CHAIR: We welcome Mr Andrew Barr MLA, Chief Minister and Treasurer, along with officials. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. Could you please confirm that you understand the implications of the privilege statement and that you agree to comply with it.

Mr Hocking: I have read and understood the privilege statement.

Ms Leigh: I have read and understand the privilege statement; thank you.

Ms Carmody: I have read and understand the privilege statement.

THE CHAIR: Thank you. If you are taking a question on notice, please say, "I will take that on notice." You would be surprised how many people do not. We will move to questions.

MS LEE: Mr Barr, in evidence that we have heard during estimates, the CIT board representative confirmed that there has been a payout to the former CEO of CIT of \$465,000, which is on top of the two years of salary, at over \$375,000 per annum, and that she accrued leave whilst she was on leave. Given that we have now had a very serious finding of serious corrupt conduct by Ms Cover by the Integrity Commission, in part 1 of the report, is this payout in line with community expectations?

Mr Barr: I believe it would be consistent with the National Employment Standards in relation to entitlements that employees would have under the Fair Work Act. It is, of course, a federally regulated space. We operate under the national industrial relations system. The Integrity Commission will no doubt have further comment and may have further findings in relation to this matter, so I would not speculate on what they may or may not proceed with from here, but unless we are to do away with the presumption of innocence and seek to subvert the national employment law, the matter is as it is.

MS LEE: Do you think that it is within community expectations that the former CEO, who has now been found to have engaged in serious corrupt conduct, was paid for two full years at over \$375,000 a year, whilst on stood-down leave?

Mr Barr: No. I think the community would expect that the Integrity Commission process would be completed in a faster time frame. I suspect that one such area for

reform would relate to a section of the Integrity Commission legislation that would need to be reviewed. That is section 188(5)(a) of the Integrity Commission Act, which provides for a six-week period for a person who has received all or part of a proposed report, to give that person six weeks notice to reply.

MS LEE: Yes. The commissioner has also raised that.

Mr Barr: I suspect that shortening that time frame, as part of a consideration of further amendments to the Integrity Commission Act, would accelerate the process for the commission. Obviously, we are not going to be able to change that in the next two weeks, but the next Assembly should give consideration to that, amongst other issues that the Integrity Commissioner has raised.

MS LEE: Sure, but you can understand that, from the community perspective, six weeks being shortened to whatever it might be, compared to two full years, is probably peanuts and a drop in the ocean in the scheme of things.

Mr Barr: Depending on how many times the commission provides all or part of a proposed report under the act, prolonged periods—

MS LEE: Are you aware of more than twice?

Mr Barr: I am not in a position to comment on the Integrity Commission's investigation.

MS LEE: It is in the public arena that he provided one in November and then he provided another—

Mr Barr: As I said, I am not in a position to comment on that

MS LEE: It is just only because you said “depending on how many times.”

Mr Barr: Indeed; yes.

MS LEE: That was not a specific comment on this. Okay.

Mr Barr: You could save months in referral time with a change to that clause.

MS LEE: Mr Steel has stated publicly that he has asked the CIT board to investigate options to recover public money. I am assuming that that is on everything, including the actual contracts. What has been your role in that? Have you also sought this advice? What is the interaction that you have had with either Mr Steel or the CIT board about that?

Mr Barr: I am aware that Mr Steel has sought that advice and is pursuing matters pertinent to CIT. We made a change to a relevant regulation that affects the totality of the ACT public sector. I have referred to that, and we discussed it in the Assembly several months ago. That highlighted a particular area of regulation that I think was pertinent in the context of a finding by the Integrity Commission of the type that they have found in their part 1 report in relation to the CIT matter, so that has been addressed,

for the totality of the public service.

MS LEE: On those standards, which you provided an answer to when I specifically asked you about this circumstance—about Ms Cover being stood down—you referred me to that instrument, which I think you had signed either that morning or very recently. It was in February this year. Given that that has not prevented Ms Cover from receiving the \$465,000 payout, what effect did that standard have in relation to the ceasing of Ms Cover's employment with CIT?

Mr Barr: If it had not been in place then the balance of the contract period could also have been part of the payout at termination or, in this instance, resignation of employment.

MS LEE: Does Ms Cover's contract not specifically state that, if the board has a reasonable view that Ms Cover has either engaged in misconduct or has not complied with her contract, they could legally terminate her employment, with eight weeks notice?

Mr Barr: That may well be the case for her contract. The particular instrument that I referred to and that has been put in place relates to the totality of the public sector.

MS LEE: That may be so, but I am saying that you have now referenced it in relation to this specific situation. When you first raised it, it was in direct response to a specific question that I had in relation to Ms Cover. What I am trying to get at is: what impact did that have in relation to the ceased employment? I say "ceased" because I know that she was not terminated, if you want to get technical. What impact did it have? Would it have made a difference if she had been terminated?

Mr Barr: I can take that on notice in terms of the issue. There is obviously a degree of privacy around Ms Cover's personal entitlements, but we can certainly take on notice and provide information as to what it would mean in a generic circumstance where someone's employment was ended early, utilising that particular instrument.

MS ORR: Chief Minister, is it fair to say that if the entitlements had not been paid to Ms Cover, or anyone else who had resigned, for that matter, the ACT would be in breach of Commonwealth employment law?

Mr Barr: We certainly have to apply the industrial relations law, as is set by the federal parliament. That applies in our jurisdiction, in the Northern Territory and in Victoria, who referred their IR powers to the Commonwealth several decades ago. We operate under the Fair Work Act.

MS ORR: More broadly speaking—because I know you have already said that it is not ideal to speak specifically to cases—can you run me through the difference between situations where you might resign or be terminated, and what that means for entitlements. Entitlements are different to salary; that is my understanding. Maybe this is one for Ms Leigh or Ms Carmody

Ms Leigh: I just missed a word you used.

MS ORR: Whether you resign or you are terminated, for various reasons, what does that mean for entitlements, as opposed to salary?

Ms Leigh: Under that instrument that was referred to before, there are specific circumstances set down. If you are terminated, normally under that instrument there is a formula for a payout, in recognition that suddenly you are without employment and you need to find further employment. There is a payout in recognition of that. There are then circumstances where that payout is not paid. Those circumstances relate to being terminated for misbehaviour et cetera. The difference is that if you are terminated for reasons other than misbehaviour—it might be convenient or the body might be abolished—then there is a payout, in recognition that you are suddenly deprived of your future employment. If you are terminated for misbehaviour and the like then you are not in receipt of that payout.

MS ORR: Salary and entitlements are different under those instruments.

Ms Leigh: Exactly. Entitlements relate to entitlements that have accrued over the course of one's past employment.

MS ORR: They are the ones that are governed by the national employment law.

Ms Leigh: That is my understanding.

MS LEE: Going back to the line of questioning that I had in relation to the impact of this new notifiable instrument, what impact did it have on Ms Cover's payouts?

Mr Barr: I would need to investigate the specific circumstances and entitlements, because Ms Cover resigned. We would need to see. The measure also puts in place a protection for the territory against a finding of corrupt conduct by the Integrity Commission. We will take that on notice. I think it is easier to do that in writing for you.

MS LEE: What I am getting at is that, in this case, that is exactly what happened. There was a finding of serious corrupt conduct, but it seems that on a practical level that instrument really did nothing to protect the territory.

Mr Barr: That instrument is not designed to strip someone of their superannuation. That instrument does not strip someone of their accrued annual leave. There are processes within the criminal law that could apply, were there to be a further recommendation in this or any other case. I make that observation in the general, rather than in the specific. Ms Lee, you are effectively arguing for a breach of our Human Rights Act and a breach of the Fair Work Act.

MS LEE: Please do not put words in my mouth. That is not what I am arguing. I am asking what the impact of the standards was, given that you were very—to be honest—condescendingly saying to me in February, "This is what I signed. Maybe Ms Lee missed that."

Mr Barr: Yes; we put it in place.

MS LEE: And you made a big show and tell about how you put that into place.

Mr Barr: Yes, and we did.

MS LEE: Let us put it in another way. What would she have been entitled to? What further would she have been entitled to?

Mr Barr: I am not going to debate Ms Cover's entitlements with you in this forum. That is highly inappropriate.

MS LEE: How is it highly inappropriate?

Mr Barr: It relates to a person's work entitlements.

MS LEE: This is public money. You and your minister have stated on the public record that you are doing what you can to recover public money. I am asking questions about public money—

Mr Barr: Yes, but I am not debating—

MS LEE: and you are not responding.

Mr Barr: I am not debating Ms Cover's—

MS LEE: So you are not answering the question?

Mr Barr: No. I am not debating Ms Cover's personal circumstances.

MS LEE: Can I confirm that you are refusing to answer my question?

Mr Barr: No, you cannot confirm that. You are now putting words in my mouth.

MS LEE: Are you going to answer the question or not?

Mr Barr: I have taken it on notice, Ms Lee.

MS LEE: Are you going to answer the question or not?

Mr Barr: I have taken it on notice.

MS LEE: What have you taken on notice, Mr Barr?

Mr Barr: Enough of—

MS LEE: What have you taken on notice?

MS ORR: He cannot even finish. He cannot even get a response in, Elizabeth. Come on!

Mr Barr: Enough of the faux fighting, Ms Lee.

MS LEE: No, excuse me—

Mr Barr: You are endeavouring to create a scene here.

MS LEE: Can you tell me what you have taken on notice?

THE CHAIR: One moment please. Can I ask you to clarify—

Mr Barr: I will take the question verbatim from Ms Lee on notice.

MS ORR: Chief Minister, you mentioned in the previous discussion we have had the importance of the presumption of innocence and the importance of making sure that we still provide for people to have a fair hearing, to be heard within the industrial relations system. What I really want to pick up on is that comment you made about the importance of maintaining integrity in the system and having procedural fairness for people. Why do you see that as important and why wouldn't you necessarily step away from it because of one case?

Mr Barr: Any legislation that comes before this place needs to receive a Human Rights Act compatibility statement or not. It is difficult to see how removing the presumption of innocence would be consistent with the Human Rights Act. It would also be difficult to see how removal of certain accrued work entitlements under the minimum National Employment Standards would be consistent with the national law; indeed it is beyond the legislative capacity of this Legislative Assembly.

It has been tested in the past where territory law is inconsistent with a federal law. The federal law prevails under the Constitution. We cannot seek to legislate away minimum employment entitlements, and nor should we. If a political party wishes to propose removal of the presumption of innocence, as part of their political platform, that is, of course, a matter for that political party.

MS LEE: That is absolutely ridiculous.

MS ORR: Chief Minister, there are a lot of people who have said that, once such a serious allegation was made, perhaps the employment should have been terminated. What would have been the effect for the territory if they had taken action prior to letting due process and fair consideration occur?

Mr Barr: Presumably, without a finding from either a court or the Integrity Commission, unfair dismissal would be triggered. It would be open to the individual to argue that their employment was terminated without a legitimate reason, and you would be in another legal process as a result—presumably, with potential costs not only of the legal process but of a payout for an unfair dismissal. The government must act lawfully.

MS ORR: My understanding of what we have said here is that these were all decisions that the CIT board had to take as opposed to you as Chief Minister or Ms Leigh as Head of Service. Is that correct?

Mr Barr: Yes. To be clear, there is not a role for the Chief Minister under the Public

Sector Management Act, other than the appointment of a Head of Service. Decisions around employment, continuation and termination of employment for public servants, and indeed those employed under other acts, rightly do not sit with politicians. Again, if there is an alternative view, that what we need is a more US-style arrangement for our public sector, people are free to put that policy proposition to the community.

MS LEE: Is that your policy now?

THE CHAIR: Is that your supplementary, Ms Lee?

Mr Barr: I think that was just a rude interjection, Madam Chair. If someone wishes to put that forward, they can. Under the current law, and consistent with the minimum National Employment Standards and the presumption of innocence, that is the basis on which the territory operates its public sector.

MS LEE: If you have a presumption of innocence, Mr Barr, why was Ms Cover stood down?

Mr Barr: That is a matter that the board determined in light of the accusations and the matters that were brought to its attention.

MS LEE: You are able to defend the fact that she was on full pay for two years, but you are quite okay with her having been stood down?

Mr Barr: That is, again, a matter for the board, not a matter that I have a role in, Ms Lee, as you should know, under the law.

MS LEE: In terms of my line of questioning earlier, about the terms of her employment, despite all of the public furore about all of the concerns arising out of her entering into these contracts, with respect to the fact that she was stood down on full pay for two years, you did not ask either Mr Steel or the board to look into whether there were legal options to terminate Ms Cover's employment?

Mr Barr: The ongoing nature of the Integrity Commission investigation was a factor, undoubtedly, in the duration of the period Ms Cover was stood aside.

MS LEE: Given that it has taken two years for this special report—which is part 1—to be finalised and published, are you saying that you would have stood by your position if the report had not come out for three years, four years or five years? Is there a limit?

Mr Barr: That is a hypothetical question, and not in accordance with the standing orders.

MS LEE: In terms of the termination provisions, so that you could legally terminate under her contract, did you at any point talk to Mr Steel and/or the board about those options, given that the Integrity Commissioner has confirmed that his investigation would not have been impacted if CIT were to proceed with exercising their options to deal with Ms Cover's employment?

Mr Barr: That, again, is a matter for the board.

MS LEE: But I am asking: did you seek any advice or have any discussions?

Mr Barr: Again, it is a matter for the board.

MS ORR: I believe the board also answered this question and had a different view from the Integrity Commissioner.

MS LEE: My question is directly about Mr Barr's discussions or otherwise.

Mr Barr: I am not a member of the CIT board, so—

MS LEE: That was not my question.

Mr Barr: I did not play a role in that matter.

MS LEE: I am asking: did you have any conversation with—

Mr Barr: I have answered the question.

MS LEE: Mr Steel or not?

Mr Barr: I have answered the question.

MS LEE: You have not answered the question. Did you have a conversation with Mr Steel about—

Mr Barr: I have answered the question. I had no role in the matter.

THE CHAIR: You cannot direct the Chief Minister as to how to answer your question. He said he has answered the question.

MS LEE: Clearly not, as it was useless.

Mr Barr: I think that is unparliamentary.

MS ORR: Ms Lee, come on!

MS LEE: I am sorry; it was moronic.

THE CHAIR: What was that?

MS LEE: I said it was moronic.

Mr Barr: The Speaker has made a ruling on that matter.

THE CHAIR: Ms Lee, that is unparliamentary language, and I would ask you to withdraw.

MS LEE: I withdraw.

THE CHAIR: Thank you. Is that the end of this line of questioning? Miss Nuttall, do you have a question?

MISS NUTTALL: I do. Would this be the right time to ask about the LAMS agreement?

Mr Barr: It could be, yes.

MISS NUTTALL: I would love an update on the review of the work level standards for LAMS staff, if that is something you are able to provide.

Mr Barr: We will take that on notice.

MISS NUTTALL: Within that, will the review of the work level standards seek to align those work levels of pay with similar work levels in the ACTPS, and how do we expect those changes to be implemented—the time frame?

Mr Barr: I will need to take that on notice for you.

MISS NUTTALL: That is very kind; thank you.

MS LEE: Mr Barr, have you sought any advice as to what changes may need to be made to the Financial Management Act, under which Ms Cover was employed, to ensure that the territory is protected should this type of debacle happen again?

Mr Barr: The Financial Management Act is due for a periodic review. It is heading towards its 30th anniversary. I have asked officials to begin the work to commence a review of the FMA. This matter, together with others, can be part of that review.

MS LEE: Just to clarify, you have requested, as part of this review, to look specifically into this issue?

Mr Barr: The issue that you have raised can be part of the review of the FMA that is due, given the time that the act has been in place.

MS LEE: Have you sought any advice in relation to any changes that may need to be made to the Remuneration Tribunal Act, given that we have had previous discussions about whether or not the tribunal has a role to play regarding the ongoing furore about Ms Cover not only continuing to be paid her salary but continuing to receive her pay rises?

Mr Barr: The Remuneration Tribunal, under its act, does not and should not have a role in this matter, or indeed anything similar. Those issues would be best dealt with under the Integrity Commission Act, the Public Sector Management Act and potentially the Financial Management Act. I think in that order, the Integrity Commission Act would perhaps be the most likely place in which this type of issue should be considered.

More broadly, the Financial Management Act, which was put in place in the mid-1990s, has had amendments made to it over the last 28 years, and it is due for a more

comprehensive review. I have asked officials to prepare the work necessary for that to occur early in the next term of the Assembly.

THE CHAIR: You said that this could be part of that review. How can we be assured that this will be part of that review?

Mr Barr: That decision will need to be taken in the next term of the Assembly, once the review is underway. In light of the committee's interest, you may wish to make a recommendation that this issue be considered in the FMA review. Of course, it would need to be consistent with the Human Rights Act presumption of innocence and the Fair Work Act.

MS LEE: Earlier in this session I asked you about whether it meets community expectations that Ms Cover was on full pay for two years, and you did express some concern about that. What advice, if any, have you sought, either from Ms Leigh or from any other external agency, about what the options are to protect the territory from this type of situation occurring again?

Mr Barr: This is a matter that we will engage and have engaged with the Integrity Commissioner on. He has, quite publicly, in this forum, indicated a possible direction for legislative reform. We will happily engage with the Integrity Commissioner on that matter. I am limited in what I can say in relation to an ongoing Integrity Commission investigation. I think there are opportunities, as I have mentioned several times today, for review of the Integrity Commission Act, to speed up the process of investigation in order to reach findings in a shorter time frame.

MS LEE: So there is nothing outside of the Integrity Commission Act that you are looking at?

Mr Barr: I have also indicated that this matter can be considered as part of a review of the Financial Management Act that is due anyway. If there are any further implications or recommendations in relation to the Public Sector Management Act, that would ensure that it was consistent, as I have said, with the presumption of innocence, with the Human Rights Act and with the Fair Work Act and the minimum National Employment Standards entitlements then those matters can be examined.

MS LEE: When you signed off on the new Public Sector Management Standards, did you anticipate that they were going to cover a situation like the situation that we have with Ms Cover?

Mr Barr: They certainly have some coverage of similar circumstances.

MS LEE: Not naming names, are there other either statutory office holders or members of the senior executive service who are currently before the Integrity Commission?

Mr Barr: I cannot comment on matters before the Integrity Commission.

MS LEE: I said without naming names. Have you got the number?

Mr Barr: No, but the Integrity Commissioner is the person to ask that question to.

MS LEE: All right. Have you been notified—

Mr Barr: I am not able, under law, Ms Lee, to talk about any matter before the Integrity Commission.

MS LEE: In terms of the changes that you have made to the Public Sector Management Standards, whose advice did you seek to make those changes?

Mr Barr: The Head of Service.

MS LEE: And that was it? That was the entirety of it?

Mr Barr: In relation to that matter, I am not sure whether the Head of Service consulted with the Government Solicitor's Office.

Ms Leigh: Yes.

MS LEE: Perhaps this is a question for Ms Leigh, then. What prompted you to advise Mr Barr on that and seek advice from the GSO to make those changes?

Ms Leigh: I need to search my memory to recall precisely. I recall a discussion with the GSO about the operation of the Public Sector Management Act and it being drawn to my attention that there was a difference between the provisions as they related to the executive of the public service and statutory office holders. I was surprised by that and I asked for further information, which then led to that change being made.

MS LEE: Okay. And was that in light of what was happening with—

Ms Leigh: I remember the discussion I had. It was with the Solicitor-General. I am just trying to recall in what context it came up.

THE CHAIR: Could you take that on notice?

Ms Leigh: Yes, I can.

THE CHAIR: Thank you.

Ms Leigh: If I can work out what the context was, I am happy to.

MS LEE: You did not keep notes from that meeting?

Ms Leigh: I would have to have a look. I remember the discussion because I remember the surprise.

MS LEE: Do you recall the date?

Ms Leigh: No.

MS LEE: All right. Can I confirm that you are taking on notice whether you can get

more details about that meeting?

Ms Leigh: Yes, Ms Lee.

MS LEE: Mr Barr, in the first CMTEDD session you were asked when Ms Leigh's contract was renewed, and you took that on notice. I note from your answer that it was renewed on 10 February this year, for a period of five years.

Mr Barr: That is correct.

MS LEE: Ms Leigh was first appointed by your predecessor, Ms Gallagher, back in 2014. With this latest extension, that will make it a period of 15 years.

Mr Barr: That would be correct, yes.

MS LEE: In response to a number of questions put by Mr Braddock during that session in relation to whether you, as the Chief Minister under the act, undertook any sort of evaluation, you said:

Yes. I obviously had to be satisfied that Ms Leigh was performing the task of Head of Service in accordance with the Public Sector Management Act. I concurred that that was the case and that an extension of contract was warranted.

Was that evaluation something that you did on your own—not just what is in the act but what you actually did?

Mr Barr: As I indicated, I consulted with ministerial colleagues for whom Ms Leigh is their director-general, in effect, because they have portfolio responsibilities that are included within the remit of Chief Minister, Treasury and Economic Development. There are a number of cabinet members who work directly with Ms Leigh, so, as part of my consideration, I consulted with them.

MS LEE: This is all part of the public record, but it is a very high position, a very, very strong position in the ACT public service. It is a powerful, influential one, with a salary of over \$460,000. In coming to your conclusion that you thought it was warranted, did you also seek views from senior public servants?

Mr Barr: I do not believe that is appropriate in the context of the employment of one of their peers. So, no, I did not ask public servants for their opinion. The act is clear in relation to it ultimately being an appointment by the Chief Minister. The courtesy that I extended to colleagues, those who have a direct working relationship with Ms Leigh, was to consult them in relation to the appointment.

Continuity is an important element within the ACT public sector. I think it is important that there is corporate knowledge and an understanding across the totality of the service. The Head of Service position is unique within the ACT public sector and the context of the breadth of responsibilities, including the leadership role in the recruitment of directors-general and deputy directors-general across the ACT public sector.

I am very conscious that, over time, we, as a jurisdiction, lose a lot of corporate

knowledge and experience. Senior public servants can come and go, for reasons of further employment opportunities or contracts coming to an end and not being renewed. In the questions I was asked in the last hearing there was an assertion that there was somehow a two-term limit in relation to senior public service appointments. That was not legally correct, nor has it ever been ACT government policy, so I was responding in that context.

To give some further rationale for that, if our directors-general are turning over at a rate of every five years, or sometimes less, that does leave a significant gap within the senior executive service. There was a time in Australian public service history when appointments were permanent and were not contracted. That certainly has been a model that has been in place in the United Kingdom for some time.

In Australia and in the ACT we have five-year maximum contracted periods, with the potential for contracts to be renewed. To be clear: there was no reason for Ms Leigh's contract not to be renewed. On the basis of her performance and her willingness to serve the people of the ACT for a further five years, I think it is entirely appropriate, and that was the view of my cabinet colleagues.

MS LEE: Does the legislation stipulate a minimum contract period?

Mr Barr: I will need to check.

MS LEE: You mentioned the maximum.

Mr Barr: There are arrangements around short-term appointments under the Public Sector Act. There is no minimum.

MS LEE: Does the contract stipulate that the Head of Service must be a five-year contract?

Mr Barr: I think the period generally offered is five years, to give a degree of certainty for—

MS LEE: Sure. I understand that from custom and practice, but is it a legislated period?

Mr Barr: I do not think there is a legislated minimum.

MS LEE: I see Ms Carmody shaking her head.

Ms Carmody: I do not believe it is.

MS LEE: Thank you.

THE CHAIR: Before we go any further, Mr Barr, Ms Lee asked you how many cases may be before the Integrity Commission, and you said that would have to be answered by the Integrity Commissioner. She then asked: were you aware of how many cases. You said you were unable to respond because that information was confidential. My understanding of sub judice is that this is not a matter before the court. There is not a Coroners Court matter; there is not an appellate matter. I believe that you are able to

answer whether you are aware of how many cases are before the Integrity Commission.

Mr Barr: I am not aware of how many cases there are. I am aware of cases before the Integrity Commission.

THE CHAIR: Was that your question, Ms Lee?

MS LEE: My question was: how many cases are before the Integrity Commission that involve senior executive public servants or statutory office holders that Mr Barr is aware of.

MS ORR: I raise a point of order on that. I know you raised sub judice, but I believe the Integrity Commission Act has certain confidentiality requirements around it that would require people in receipt of that knowledge not to share that knowledge.

Mr Barr: It does. That is correct.

THE CHAIR: I just sought some advice and was told that this was okay.

Mr Barr: All I can comment on are the public statements that the Integrity Commission has made in relation to investigations. I refer the committee to the Integrity Commission's website, where they outline public investigations.

MS LEE: If it assists the committee, perhaps I can rephrase that question?

THE CHAIR: Possibly. I am not sure it will help, but give it a go.

MS LEE: Are you notified, as the Chief Minister, when there are Integrity Commission matters that involve senior executive public servants and/or statutory office holders?

Mr Barr: It is a matter for the Integrity Commissioner to determine who he will notify.

THE CHAIR: All right. I think we are done here. On behalf of the committee, I would like to thank the Chief Minister and Treasurer, and our other witnesses, for your attendance today, especially for coming back. We appreciate it. If you have taken any questions on notice, please provide your answers to the committee secretary by no later than 5 pm on Thursday, 8 August.

On behalf of the committee, I would like to thank all of our witnesses who assisted the committee today through their experience and knowledge. We also thank Broadcasting and Hansard for their support. If a member wishes to put questions on notice, please upload them to the parliamentary portal as soon as practicable and no later than 5 pm on Tuesday, 6 August 2024. The hearing is now adjourned. We are done!

The committee adjourned at 4.47 pm.